

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Spartanburg County

Honorable R. Ferrell Cothran, Circuit Court Judge

JAMES TINSLEY,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-002428

APPENDIX

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

3 The State,)
4 -vs-) TRANSCRIPT OF RECORD
5 James Tinsley, Jr.,) 2007-GS-42-5030; 5031
6 Defendant.) April 13, 2010
7 Spartanburg, South Carolina

8
9
10 B E F O R E:

11 HONORABLE J. DERHAM COLE, JUDGE
12

13
14 A P P E A R A N C E S:

15 JOSEPH PATRICK ANDERSON, ESQUIRE
16 Attorney for the State

17 ANDREA LEAH PRICE, ESQUIRE
18 Attorney for the Defendant
19

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21 Linda D. Moffitt
22 Circuit Court Reporter
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Motion -- page 3.

No sworn testimony; no exhibits entered into evidence.

1 THE COURT: All right. This is James Tinsley's case.

2 MS. PRICE: Yes, Your Honor.

3 THE COURT: Ms. Price, you represent him.

4 MS. PRICE: Not exactly, Your Honor, and that's why
5 we're here today.

6 THE COURT: Okay. Mr. Anderson is sitting there.

7 MS. PRICE: Oh, okay. I'm sorry.

8 Your Honor, back last February the 9th Mr. Tinsley
9 argued a motion in front of Judge Couch to proceed with
10 hybrid representation. At that point the judge ordered
11 from the bench --

12 THE COURT: Excuse me just a minute. Let me be clear
13 on that.

14 Proceed with hybrid representation or to proceed pro
15 se -- to proceed pro se with you providing advice if
16 requested.

17 (Interruption by defendant.)

18 THE COURT: Just a minute.

19 MS. PRICE: Well, Your Honor, here's exactly what he
20 ordered from the bench.

21 I was to subpoena witnesses at Mr. Tinsley's request,
22 interview his witnesses and to perform his legal research
23 that he wanted me to perform. But officially I was not his
24 attorney.

25 THE COURT: Okay.

1 MS. PRICE: That was my role in this case.

2 THE COURT: So it's not hybrid representation. He's
3 representing himself.

4 MS. PRICE: Sort of, yeah.

5 THE COURT: You were there to assist.

6 MS. PRICE: Yes.

7 THE COURT: Okay. And why are we here now?

8 MS. PRICE: We're here now because I received a letter
9 stating that Mr. Tinsley actually did want me to represent
10 him.

11 However, I received a phone call from Mr. Kendall
12 yesterday -- and, as Your Honor knows, Mr. Tinsley is on
13 the trial docket for this week.

14 THE COURT: True.

15 MS. PRICE: Mr. -- however, that order from Judge
16 Couch was still in effect. It's never been rescinded or
17 modified in any way. So officially Mr. Tinsley is still
18 pro se.

19 I got a package -- and Mr. Kendall called me
20 yesterday -- of motions that Mr. Tinsley intends to file
21 with the Court on his own behalf.

22 He filed these with the clerk of court and also sent a
23 copy to Mr. Kendall and also sent a copy to me. I just got
24 these this morning. They were received by my office
25 yesterday afternoon in the afternoon mail. So I just had a

1 chance to read over these.

2 The reason we're here before the Court is that I'm a
3 little concerned that Mr. Tinsley wants both benefit of
4 counsel and to proceed as his attorney. He's done this in
5 several other cases, most recently in Oconee County.

6 Your Honor, it would be my request that Your Honor, in
7 effect, put this to bed. Either Mr. Tinsley is going to
8 proceed as his own attorney or he is -- needs to have an
9 attorney, period. It just seems to me that he does want
10 the best of both worlds, Your Honor.

11 THE COURT: So the reason we're here now is because
12 you want me to make a determination as to whether he's
13 going to represent himself or have you do it?

14 MS. PRICE: That's correct, Your Honor.

15 THE COURT: All right. Mr. Tinsley, you heard what
16 your lawyer -- or, excuse me, you've heard what Ms. Price
17 just told me.

18 THE DEFENDANT: I did, Your Honor.

19 THE COURT: All right. And right now you are
20 representing yourself?

21 THE DEFENDANT: Yes, and --

22 THE COURT: That's your request.

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Okay.

25 THE DEFENDANT: And nothing's changed. I just -- I

1 still want to represent myself.

2 I just -- I've had trouble. I filed back February a
3 year ago for some additional discovery, and I filed
4 motions, and I haven't gotten -- well, it went to Brian
5 Kelly -- is that right? He was the solicitor back then, I
6 believe. I think maybe somebody else has the case now.

7 But for all of this time for the last year I haven't
8 got any response to that request for discovery, haven't had
9 any hearings on the motions that I needed, you know, so
10 that I could go ahead and prepare for trial.

11 So that's basically what I was asking counsel to do
12 for me, is to kind of mention that to the solicitor and see
13 if we could get some of that stuff taken care of before
14 trial.

15 THE COURT: All right. Well, that's fair enough.

16 Well, let's make one thing clear. Ms. Price is what's
17 referred to, I guess, as stand-by counsel.

18 THE DEFENDANT: That's correct.

19 THE COURT: In other words, she's here while this
20 trial is in progress or whatever to answer questions if you
21 have. But she's not representing you. She doesn't work
22 for you.

23 THE DEFENDANT: I understand.

24 THE COURT: In other words, if you want a witness
25 subpoenaed, you've got to get a witness form, you've got to

1 subpoena a witness.

2 You send it to the sheriff or whatever you've got to
3 do.

4 Ms. Price doesn't work for you. She's not your
5 employee. She's here to answer questions for you if you
6 have one -- legal questions. She's not working for you.

7 THE DEFENDANT: Well, my understanding of the law,
8 Your Honor, is that I am entitled to assistance, to have
9 someone help me subpoena witnesses and things of that
10 nature. Because of my incarceration I'm unable to do that.

11 THE COURT: That's right. The Court will help you do
12 that.

13 In other words, you give me a list of people you want
14 subpoenaed and I'll -- you get the subpoenas listed, and
15 I'll give it to the sheriff.

16 THE DEFENDANT: Okay. That's fine.

17 THE COURT: Ms. Price is not doing that. She doesn't
18 work for you.

19 THE DEFENDANT: I agree. That's fine. I agree I
20 don't have the right to dictate which method is provided to
21 me. If the Court will do that, that's fine with me.

22 THE COURT: All right. Have you have a list of
23 witnesses you want subpoenaed?

24 THE DEFENDANT: I can get them.

25 THE COURT: What other motions have you got that you

1 filed that need to be heard?

2 MS. PRICE: Your Honor, if I may, I can give these to
3 the Court.

4 THE COURT: Okay.

5 MS. PRICE: Your Honor, the first page appears to be a
6 cover letter and certificate of service, and then the
7 motions start.

8 THE COURT: All right. Mr. Tinsley, other than these
9 motions that Ms. Price has just handed me that you gave to
10 her that I guess you filed --

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: -- are there any other outstanding motions
13 that have not been heard?

14 THE DEFENDANT: I believe there's others that were
15 filed like back in February a year ago. And I think
16 there's another one that might still be in the mail. But
17 most of them I think require a hearing because I need to
18 introduce evidence. But the few -- the few little ones can
19 be taken care of on the day of trial except for I'd like to
20 have the discovery request that I've asked.

21 MS. PRICE: And, Your Honor, that discovery request is
22 in that package.

23 THE DEFENDANT: Right.

24 THE COURT: Okay. All right. We'll probably address
25 these motions tomorrow.

1 Mr. Anderson, if you will, let Mr. Kendall know.

2 MR. ANDERSON: Yes, sir.

3 THE COURT: Mr. Tinsley, you served Mr. Kindall with
4 these motions?

5 THE DEFENDANT: We did, Your Honor.

6 THE COURT: Mr. Anderson, just be sure Mr. Kendall has
7 these motions.

8 MR. ANDERSON: Yes, sir.

9 THE COURT: And we'll probably schedule these sometime
10 tomorrow to address those.

11 Okay. All right. Thank you.

12 END OF REQUESTED TRANSCRIPT OF RECORD

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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 13th day of April 2010.

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

December 31, 2015

s/Linda D. Moffitt

Linda D. Moffitt
Circuit Court Reporter

1 STATE OF SOUTH CAROLINA
2 COUNTY OF SPARTANBURG } COURT OF GENERAL SESSIONS

3
4 STATE OF SOUTH CAROLINA,)
5 PLAINTIFF,)
6 VS.)
7 JAMES TINSLEY, JR.,)
8 DEFENDANT.)
9

TRANSCRIPT
OF
RECORD
07-GS-42-5031

10
11 November 8th and 9th, 2010
12 Spartanburg, South Carolina

13 B E F O R E:

14 THE HONORABLE ROGER L. COUCH, Judge.

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

16 MATT KENDALL and RYAN MCCARTY
17 ASSISTANT SOLICITORS
18 Attorneys for the State

19 JAMES TINSLEY
20 Pro se

21 ANDREA PRICE
22 ASSISTANT PUBLIC DEFENDER
23 Sitting as standby counsel

24
25 PAMELA E. GREEN
Circuit Court Reporter
Seventh Judicial Circuit

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P R O C E E D I N G S

(WHEREUPON, the following takes place outside the presence of the jury venire.)

THE COURT: All right. We're on the record in the case of State versus Tinsley.

Mr. Kendall, if you would, please call the case for me, the indictment you intend to charge.

THE COURT: Your Honor, the State calls State versus James Tinsley on Indictment 07-5030 true billed for one count of receiving stolen goods in excess of \$5,000, Your Honor.

THE COURT: All right. Would you pass up the indictment for me please, sir?

Is this the indictment?

SOLICITOR KENDALL: Oh, I'm sorry, Your Honor. It's -- I'm sorry, Your Honor. It's 5031. I'm apologize, Your Honor.

THE COURT: All right.

All right. Mr. Tinsley, if you'll please stand for me. (Defendant complies.)

THE COURT: Now, Mr. Tinsley, you're going to be representing yourself today, is that correct?

MR. TINSLEY: Yes, Your Honor.

THE COURT: All right. Now, Mr. Tinsley, let me go

1 over just a couple things with you to be sure that we're
2 able, in a position to go forward, and I would ask the clerk
3 to please swear Mr. Tinsley for me.

4 (WHEREUPON, Mr. Tinsley was placed under oath at this
5 time.)

6 THE COURT: Mr. Tinsley, let me explain, the reason I
7 had you sworn was the people appearing in front of me as
8 attorneys are always under oath before this Court.

9 MR. TINSLEY: I understand.

10 THE COURT: The people who are appearing not as
11 attorneys are not always under oath before this Court. So,
12 that's the reason for me to do what I just did.

13 Now, Mr. Tinsley, I would suspect that you have already
14 been arraigned on this charge. In other words, you appeared
15 in front of a judge, he went over the indictment with you
16 and determined what your plea was.

17 Is that true?

18 Do you remember having been arraigned on the charge?

19 MR. TINSLEY: I don't believe that I have, do you?

20 I don't, I don't believe that I have.

21 THE COURT: Then what we'll you do is we'll do that at
22 this point in time.

23 Now, an arraignment is just that. You're -- the charge
24 is explained to you, and you will have the right, when I
25 complete going over the charge with you, to plead either

1 guilty or not guilty and then you have the right to, if you
2 wish to, demand a trial by a jury. But we'll go over that
3 as the steps go through. I'll just explain to you what this
4 is.

5 You'll also have the right to tell me if you intend to
6 plead guilty if you choose to, but I don't believe that's
7 the case. But, but we'll see how that works out once we get
8 to that point, and you have the right to be tried without a
9 jury if you choose to do so. You have a Constitutional
10 right to a jury trial, but we'll go over that in just a
11 moment.

12 Sir, the indictment that's been handed up to me by the
13 solicitor is in Case Number 07-GS-42-5031. That is
14 receiving stolen goods. I'm going to read the body of this
15 indictment to you at this time. It says that James Tinsley,
16 Junior did, in Spartanburg County, on or about
17 October 11th of 2006, receive or possess stolen goods of
18 Hoilday Camper described as follows: A camper, of the value
19 of more than \$5,000. Such goods having been feloniously
20 taken and carried away with the intent to deprive the owner
21 thereof permanently of such goods, and that the said
22 defendant knew or had reason to believe that such property
23 had been stolen in violation of Code Section 16-13-180 (or
24 subparagraph 3) of the Code of Laws of South Carolina, 1976
25 as amended, against the peace and dignity of the State, and

1 contrary to the statute in such case made and provided.

2 Now, my first question, Mr. Tinsley, did you understand
3 the indictment that I just went over with you?

4 MR. TINSLEY: I, I do, Your Honor.

5 THE COURT: You have the right to plead either guilty
6 or not guilty to that charge.

7 How do you wish to plead?

8 MR. TINSLEY: Not guilty.

9 THE COURT: And how do you wish to be tried, sir?

10 MR. TINSLEY: By a jury.

11 THE COURT: Okay, sir. God grant you a speedy delivery
12 and that completes the, the arraignment on that charge.

13 Now, Mr. Tinsley, it's my understanding that perhaps
14 you have some matters that you want the Court to go over or
15 motions perhaps that you'd like for me to consider before we
16 go through jury selection.

17 MR. TINSLEY: I do, Your Honor.

18 THE COURT: All right, sir. This is your opportunity
19 to raise those issue. You may proceed.

20 MR. TINSLEY: Basically, Your Honor, I've filed a
21 motion and I'm asking again now to move to suppress the
22 camper that was searched and seized without a warrant in
23 violation of Fourth Amendment. Basically what we have here,
24 we have a couple of detectives that went to Greenville,
25 South Carolina to [REDACTED] South welcome Road to search a camper

1 that, to determine whether or not it was a, one stolen from
2 this jurisdiction. They went there without a warrant and
3 they did a walk around inspection of the camper. They were
4 unable to locate a public V.I.N. number or, and were unable
5 to determine whether or not it was a stolen camper.

6 My father lived next door at [REDACTED] South Welcome Road.
7 He went out into the yard to inquire of their presence and
8 they asked my father if he would consent to allow them to
9 search the interior of the camper. My father instructed
10 them that it wasn't parked on his property, that he didn't
11 have a key to it, that he had never looked inside of it or
12 been inside of it, he had idea what was inside, and that he
13 didn't believe that he had the authority to consent to a
14 search.

15 The detectives informed him that they believed that he
16 did have the authority to consent to a search, and my
17 father's not a lawyer, and he figured that they know more
18 about the law than he does being that they're police
19 officers. And, so, he relied upon their advice and
20 statements that he did have the authority. And, so, he went
21 ahead and signed a statement that he really or a consent
22 form that he really didn't have the authority to sign in the
23 first place.

24 My father wasn't wearing his glasses at the time, and
25 as a result, the police officers had to fill out the form

1 for him, and in doing so they deceptively listed his address
2 as [REDACTED] welcome Road when they knew full well that he did
3 not live at that address. Because he didn't have his
4 glasses on, he didn't notice it at the time, he went ahead
5 and signed it.

6 They called out Greenville Pop-A-Lock who came out.
7 They took a side grinder and cut a lock off the tongue of
8 the camper. I think they picked the lock or somehow got
9 inside. The police were able to go inside and they did a
10 search of the interior and the inside cabinet door they were
11 able to locate a V.I.N. number that did link it to one
12 stolen from this jurisdiction.

13 And based upon that information, and what occurred, I
14 believe that that was an unlawful search. I'm not
15 complaining of the seizure, just the search, that the search
16 was unlawful, and for that reason I've asked that it be
17 suppressed.

18 THE COURT: All right. I'll hear from the State on
19 that issue.

20 SOLICITOR KENDALL: Your Honor, first off, Mr. Tinsley
21 lacks standing to challenge this. It's not his camper. The
22 camper belongs to Holiday Camper from which it was
23 originally stole. There's no expectation of privacy within
24 the confines of stolen property.

25 Additionally, the officers were, in fact, given

1 consent, both by Mr. Tinsley, Senior, who is on the
2 property, and Mr. Tinsley, Senior actually controlled the
3 area in which that camper was parked. In fact, to move that
4 camper in Mr. Tinsley actually had to move I believe it was
5 a boat or something along those lines out of the way.

6 Accordingly, as Mr. Tinsley clearly had control of that
7 area, officers were rightful in asking for his consent. He
8 didn't -- excuse me. He did, in fact, file a consent to
9 search form. Moreover, I believe officers actually asked
10 the woman who owns that property, who is Mr. Tinsley's
11 mother I believe or grandmother, if he could search and they
12 also agreed, Your Honor.

13 Finally, as Mr. Tinsley is not contesting the seizure,
14 merely the search, I'll argue inevitable discovery. We're
15 taking a camper into custody at some point that's going to
16 be found well along with an inventory search, Your Honor.

17 THE COURT: All right. Do you intend to present any
18 testimony on the issue?

19 SOLICITOR KENDALL: Your Honor, we call Detective
20 White.

21 THE COURT: Come forward, sir.

22 BRIAN WHITE, having been first duly
23 sworn, testified as follows:

24 THE COURT: Sir, have a seat in the witness stand.

25 (Witness complies.)

Brian White - Direct examination
by Solicitor Kendall

1 THE COURT: State your name please.

2 WITNESS: Brian White.

3 THE COURT: Mr. Kendall, your witness.

4 DIRECT EXAMINATION

5 BY SOLICITOR KENDALL:

6 Q Mr. White, where are you currently employed?

7 A Spartanburg County Sheriff's Office.

8 Q And what do you do at the Spartanburg County Sheriff's
9 office?

10 A I work in property crime, burglaries, grand larcenies,
11 auto theft, malicious damage to property.

12 Q And how long have you worked there, sir?

13 A Nine years.

14 Q In 2006, early 2007, were you working cases trying to
15 determine the whereabouts of a series of campers that had
16 been stolen from Holiday Camper in Spartanburg County?

17 A Yes.

18 Q And over the course of that investigation did anybody
19 call you indicating there may, in fact, be one of those
20 stolen campers---

21 A Yes.

22 Q And, and who was that?

23 A I received notification by another detective that was
24 working with me a Mr. Tinsley had called the Sheriff's
25 Office and requested us to come out to his property because

Brian White - Direct examination
by Solicitor Kendall

1 he had questions about a camper his son had left on the
2 property.

3 Q So, so, to clarify, this is Mr. Tinsley, Mr. Tinsley,
4 Senior?

5 A Mr. Tinsley, Senior called us.

6 Q Okay. And over the course of that investigation, did
7 you, in fact, go out there?

8 A We did.

9 Q And did you have a, an opportunity to speak with Mr.
10 Tinsley, Senior?

11 A We did.

12 Q Now---

13 A And he, he was there when we arrived. He was already
14 in his yard, and we spoke with him and we spoke to Mr.
15 Tinsley, Senior's mother.

16 Q And, and what did both indicate to you---

17 A They gave us---

18 Q ---regarding the camper?

19 A They give us consent, verbal and written consent, on a
20 consent form.

21 Q I'm gonna pass up what has, has not been marked, what
22 I'd like to mark as State's Exhibit 1. I'm sorry.

23 (WHEREUPON, the consent form was marked as State's
24 Exhibit No. 1 for identification purposes only at this
25 time.)

Brian White - Direct examination
by Solicitor Kendall

1 SOLICITOR KENDALL: I'll hand it to Officer White
2 please.

3 THE COURT: You can look at it.

4 Yes, sir, Mr. Kendall, go ahead.

5 Q Officer White or Detective White, do you recognize
6 what's on, on the confines of that paper?

7 A Yes, sir, I do.

8 Q And what is that?

9 A This is a Spartanburg County Sheriff's Office
10 permission to search form.

11 Q And do you recognize that particular form?

12 A I do.

13 Q And what is that?

14 A This is the, the form that we had explained and, and
15 let Mr. Tinsley, Senior read that day. Apparently it was at
16 9:39 a.m. on the 13th day of December, 2006, at [REDACTED] South
17 Welcome Road, Greenville, South Carolina.

18 Q And that was the form he gave or---

19 A Yes, he did.

20 Q ---he gave, he gave consent on that form?

21 A Uh-huh. (Affirmative).

22 Q Okay. Once that trailer was discovered, once you
23 ascertained the V.I.N. number, what were you able to
24 determine about that V.I.N. number?

25 In other words, who did it belong to?

Brian White - Direct examination
by Solicitor Kendall

1 A Once, once we found the V.I.N. number we were able to
2 determine it had been reported stolen. After checking the
3 N.C.I.C., National Crime Information Center, that it was
4 listed as stolen, was, in fact, the stolen trailer reported
5 in Spartanburg County.

6 Q And were you able to determine who is rightfully, who
7 rightfully owned that, that trailer?

8 A Yes, it was Hoilday Camper.

9 Q And did you return said trailer to Holiday Camper?

10 A Yes.

11 Q Okay. Now, let's go into something a little bit, a
12 little bit different. Let's talk about what you knew before
13 going to that house.

14 Had other campers been stolen kind of along this area?

15 A Yes.

16 Q And up until that point were you able to link any of
17 those campers to Mr. Tinsley?

18 A Yes, during the course of investigation I've been told
19 that the stolen camper from Hoilday Camper was now marked
20 with decals that said James Tinsley's Racing, Dirty South
21 Racing --

22 Q Okay.

23 A -- various other identifiers.

24 Q But were there, were there other campers that were
25 discovered at a warehouse or something along those lines

Brian White - Direct examination
by Solicitor Kendall

1 nearby that, that also had belonged to Mr. Tinsley?

2 A Not nearby. Greenville County. But where he was
3 living in Spartanburg County at the time.

4 Q But to be clear, they were linked to Mr. Tinsley?

5 A Yes.

6 SOLICITOR KENDALL: Okay. I've got no further
7 questions for Detective White, Your Honor.

8 THE COURT: Do you wish to ask any questions of the
9 witness, Mr. Tinsley?

10 MR. TINSLEY: I do, Your Honor.

11 THE COURT: Yes, sir.

12 CROSS-EXAMINATION

13 BY MR. TINSLEY:

14 Q Detective, do you believe my father to be an honest
15 person?

16 SOLICITOR KENDALL: Objection or---

17 THE COURT: The objection?

18 SOLICITOR KENDALL: My bad, my bad.

19 A I do.

20 THE COURT: All right. He's withdrawn the objection.

21 Q Okay. Did you file a police report in this case?

22 A No, sir.

23 Q You didn't file a police report?

24 A Follow a police right?

25 Q File a police report.

Brian White - Cross-examination
by Mr. Tinsley

1 A No, I investigated the, the report that had been filed.
2 You know, for something -- a victim files a report when
3 something's stolen.

4 Q I'm not talking about that report. I'm talking about a
5 document that's nine or ten pages long that you typed up.

6 Did you type that up that's explaining how you went out
7 there to the---

8 A Yes, I did.

9 Q Okay. And in that report did you admit that you went
10 to a [REDACTED] South Welcome Road to look for this stolen camper?

11 A I did. I went to your house and your grandmother's
12 house.

13 Q Did, did you do a walk around inspection of the camper?

14 A Only after we had talked to your dad and your
15 grandmother.

16 Q Do you -- did you state in the report that you were
17 unable to do, to find a public V.I.N. number?

18 A At first, yes. We were given consent to go further
19 with the search, and that's when we found it in the cabinet.

20 Q I asked specifically public V.I.N. number. That means
21 not one that would be hidden inside the camper.

22 You were unable to find a public V.I.N. number when you
23 did a walk around inspection, correct?

24 A Correct.

25 Q And you called the Greenville Pop-A-Lock to come out

Brian White - Cross-examination
by Mr. Tinsley

1 and break into the camper?

2 A I, I -- well, we could of taken the camper at that
3 point. But yes, I did.

4 Q I'm talking about how -- I'm talking about---

5 A Pop-A-Lock came to, to unlock the camper.

6 Q You said you could of taken the camper, but I'm talking
7 about you called, you called Greenville Pop-A-Lock before
8 you entered the camper, correct?

9 A Correct.

10 Q Okay. So, you couldn't have taken the camper before
11 then if you hadn't went inside the camper, correct?

12 A Well, we could of, but we had called Pop-A-Lock to get
13 us in.

14 Q How, how could you of taken the camper before if you
15 hadn't seen the V.I.N. number yet?

16 A Because it didn't have a public V.I.N. number.

17 Q You said you couldn't find one. That doesn't mean that
18 it don't have one---

19 A Well, we looked---

20 Q Correct?

21 A ---and we didn't see one.

22 Q Did you also have a, Greenville Pop-A-Lock have to cut
23 the, a lock off the tongue of the trailer with a side
24 grinder?

25 A I don't, I don't remember---

Brian White - Cross-examination
by Mr. Tinsley

1 Q You don't remember?

2 A ---a lock being cut off. I just remember them going in
3 the trailer door.

4 Q All right. Now, why did you call Pop-A-Lock to break
5 in the camper?

6 why didn't you just open it with a key?

7 A Because at the time we had called -- we were just
8 trying to determine the true identity of the camper.

9 Q Okay. But why didn't you just open it with a key?

10 A Cause no one had a key.

11 Q My dad didn't have a key?

12 A No, sir.

13 Q He told you he didn't have a key?

14 A Yes, sir.

15 Q At some point I assume that you tried to get my father
16 to consent to the search of the camper, is that correct?

17 A He, he, he invited us there. He, he had called us
18 there, and while we were there we did ask him, and I read
19 him this document. He read it himself and we read it to him
20 and he read it himself and he signed it.

21 Q Just because somebody invites you to the property to
22 look at something doesn't mean that it's okay to search it,
23 isn't that correct?

24 There's a difference between standing outside and
25 looking at something and to entering a closed confined

Brian White - Cross-examination
by Mr. Tinsley

1 space, isn't it?

2 A Well, it was part of our investigation.

3 Q In other words, you did, at some point, ask him to sign
4 a consent form?

5 A I did.

6 Q Okay. And why did you want a consent form signed?

7 A To show we were there and that he was giving us
8 permission.

9 Q Okay. So, since you were trying to get a consent form
10 signed, I guess it's fair to say that you couldn't determine
11 that it was stolen until after you searched it and saw the
12 V.I.N. number inside, is that correct?

13 A Well, we could determine that it was stolen based on
14 the description that we had talked to people in the, in the
15 course of the investigation.

16 Q Because it had stickers on it?

17 A Yes.

18 Q Did you know my enclosed race trailer had those
19 identical stickers on it?

20 A Yes.

21 Q Well then how did you know it wasn't my enclosed race
22 trailer that the description that you're talking about?

23 A Because I was told by people that your enclosed race
24 trailer was stolen and that I---

25 Q No.

Brian White - Cross-examination
by Mr. Tinsley

1 A ---that it had those stickers on it.

2 Q You were told the camper was stolen or you believed the
3 camper was stolen. The enclosed race trailer is not the
4 same as the camper. One was a camper. One was a race
5 trailer, enclosed race trailer. It also had those same
6 stickers on it.

7 Do you know that?

8 A I'm not sure I -- you know, the stickers were on the
9 outside of the, the camper, which is the trailer that you're
10 talking about.

11 Q So, if something matches a description and there's more
12 than one of them, you can say for certain that one of them
13 is stolen?

14 A That's why we went in to determine the V.I.N. number
15 to, to---

16 Q Right. So---

17 A ---show who it belonged to.

18 Q So then you're saying you weren't able to determine
19 that it was stolen until after you went in to look at the
20 V.I.N. number. That was the question I asked you earlier.

21 A I could determine that it was stolen.

22 Q Well, then---

23 A We went to, to the, to confirm what, what we were told,
24 that it was, in fact, the stolen camper.

25 Q And I asked you how you could determine that, that one

Brian White - Cross-examination
by Mr. Tinsley

1 from another camper/trailer that had the identical stickers
2 on it.

3 A Well---

4 Q You said the only way you could do that was by going
5 inside and looking at the V.I.N. number.

6 A Well, that did -- it did show it belonged to Hoilday
7 Camper. We didn't know whether it was a North Carolina
8 camper or the Hoilday Camper.

9 THE COURT: Let me ask a question, officer---

10 WITNESS: Yes, sir.

11 THE COURT: ---from the Court's position.

12 The property on which the trailer was located belonged
13 to who?

14 Whose, whose real estate was that?

15 WITNESS: Mr. Tinsley, Senior---

16 THE COURT: All right.

17 WITNESS: ---or his mother. It was right on the line.
18 We, we couldn't determine -- Mr. Tinsley, Senior told us it
19 was on his property, and he moved his boat for us that day
20 and---

21 THE COURT: Okay. Well, but now---

22 WITNESS: ---he, he's the one---

23 THE COURT: Where did Mr. Tinsley, Junior live as far
24 as you knew at that time?

25 WITNESS: At his father's house.

Brian White - Cross-examination
by Mr. Tinsley

1 THE COURT: Okay. Thank you.

2 You can go ahead.

3 Q So, isn't it true that you filled out the consent form
4 and my father's statement for him because he didn't have on
5 his glasses?

6 A I only witnessed it after your father had signed it.

7 Q You knew my father lived at [REDACTED] welcome Road. He told
8 you he lived next door?

9 A He -- when we got there the trailer was parked right
10 next to his house, and he told us that he lived in this
11 house.

12 Q Right.

13 A And we asked if, which of the trailers that he wanted
14 us to look at, and he showed it to us, and we, we asked if
15 we could look at it, and look inside of it, and if he had a
16 key, and he didn't have a key.

17 Q Okay. Isn't it true that even if a person does have
18 mutual use or common authority over a particular plot of
19 land that that doesn't necessarily mean that they have the,
20 the right or authority to consent to the search of a
21 confined space or a locked container that's found on that
22 same piece of property?

23 A Well, it didn't have a public V.I.N. on it, and we
24 needed to determine that it was, and we were given
25 permission.

Brian White - Cross-examination
by Mr. Tinsley

1 Q Was it, was it going down the road at the time?

2 A No.

3 Q Was it parked on private property?

4 A Yes.

5 Q Was it unoccupied?

6 A Yes.

7 Q Did you, did you have a consent form signed by my
8 grandmother?

9 A No.

10 Q You claimed that you suspected that the, the camper was
11 stolen before you went there?

12 Is that what you---

13 A Yes.

14 Q Okay. If you anticipated that the camper that was at
15 my grandmother's was gonna be stolen, why didn't you obtain
16 a warrant before you went there?

17 A Cause your father invited us there to look at it and
18 we---

19 Q I'm not, I'm not mad at you for looking at it.

20 A We, we called Greenville County while we were there
21 too, but they, they couldn't respond to us.

22 Q Right. But I'm not mad at you for looking at it. I'm
23 mad at you for searching it. So, if you suspected that---

24 THE COURT: It's not, it's not a question whether
25 you're mad at him or not. Now question him about it.

Brian White - Cross-examination
by Mr. Tinsley

1 MR. TINSLEY: Okay.

2 THE COURT: Ask some questions, Mr. Tinsley.

3 MR. TINSLEY: Oh, Lord. I'm, I'm struggling with him.

4 THE COURT: Well, sometimes when you ask questions they
5 don't always give the answer you want them to give, but they
6 give their answers.

7 MR. TINSLEY: I understand.

8 THE COURT: You may proceed.

9 Q If you suspected that the, that the camper was gonna be
10 stolen or might be one stolen before you went there, why
11 didn't you obtain a warrant before you went there?

12 A Well, we wanted to go there and see if it was there and
13 what it was first.

14 SOLICITOR KENDALL: This is just irrelevant.

15 Objection, Your Honor, to relevance. It's why he didn't get
16 a warrant beforehand.

17 THE COURT: Sustained.

18 Q Can you point out the facts and describe the facts that
19 would call a reasonable person to believe that this camper
20 was stolen or that my father had mutual use and common
21 authority to authorize the consent?

22 A Yes, because when we got there he told us that he had,
23 that you had brought it there and left it, and that you had
24 moved and were living in an R.V. in Cherokee, and I had been
25 told by several other people that you had been living in

Brian White - Cross-examination
by Mr. Tinsley

1 this camper when you were in Spartanburg, and that this
2 camper was, in fact, a camper that was stolen from Holiday
3 Inn or I mean Hoilday Campers over on John Dodd Road, and
4 that you had put stickers on it to make it your racing
5 trailer.

6 Q Let me ask the question again. Listen real careful.

7 Can you point out the facts or describe the facts that
8 would cause a reasonable person to believe that my father
9 had mutual use or common authority to consent to a search of
10 the camper?

11 Do you understand the question?

12 A Yes.

13 Q Point out for us what it was.

14 A That you, that you abandoned it there and he wanted to
15 know if it was stolen property on his property.

16 Q It was abandoned on my private property?

17 A Yeah, by you, on his property.

18 Q All right. Once you gained entry to the camper, were
19 you able to locate a V.I.N. number?

20 A I was.

21 Q Okay. And you determined that that, it was the one
22 stolen from your county?

23 A Yes.

24 MR. TINSLEY: Okay. No further questions, Your Honor.

25 THE COURT: Mr. Kendall, any further questions of the

Brian White - Cross-examination
by Mr. Tinsley

1 witness?

2 SOLICITOR KENDALL: I don't, Your Honor.

3 THE COURT: Did you want to put that into evidence?

4 SOLICITOR KENDALL: I would, Your Honor.

5 THE COURT: Do you object to the consent form going
6 into evidence for this hearing?

7 MR. TINSLEY: No, Your Honor.

8 THE COURT: All right. It will be received into
9 evidence as marked.

10 (WHEREUPON, State's Exhibit No. 1 was received into
11 evidence for purposes of this hearing only.)

12 THE COURT: You may step down, sir.

13 Mr. Kendall, do you wish to call any other witnesses?

14 SOLICITOR KENDALL: Your Honor, I call Mr. James
15 Tinsley, Senior.

16 THE COURT: Come forward, sir. Sir, come forward over
17 here. She will administer the oath.

18 JAMES TINSLEY, SENIOR, having been first
19 duly sworn, testified as follows:

20 THE COURT: Have a seat please. Once you're seated,
21 state your name please.

22 WITNESS: I'm sorry, judge?

23 THE COURT: State your name please.

24 WITNESS: James D. Tinsley, Senior.

25 THE COURT: Thank you, sir.

James Tinsley, Senior - Direct examination
by Solicitor Kendall

1 Your witness, Mr. Kendall.

2 DIRECT EXAMINATION

3 BY SOLICITOR KENDALL:

4 Q Mr. Tinsley, where do you currently reside?

5 A [REDACTED] South Welcome Road, Greenville, South Carolina.

6 Q And I believe it was late 2006, did anyone call -- did
7 your son call you and ask if he could bring by a trailer?

8 A He did.

9 Q And for him to do that did you have to move anything?

10 In other words, to get that trailer moved in, did he
11 ask you to move anything out of the way?

12 A Yes, I had to move my aluminum boat.

13 Q Aluminum boat.

14 So, to be clear, you had had a boat there for some
15 time?

16 A Yeah, I had had a boat there for some time because I
17 had had two boats at the time. I had a fiberglass boat. I
18 had that in my driveway, and I had an aluminum boat sitting
19 on [REDACTED].

20 Q So, it's fair to say you're allowed to keep stuff in
21 this space where Mr. Tinsley's trailer, Mr. Junior's or the
22 second's trailer eventually ended up?

23 A Yes.

24 Q Now, some time later you received some indications that
25 property might be stolen, is that correct?

James Tinsley, Senior - Direct examination
by Solicitor Kendall

1 A I---

2 Q Potentially.

3 A I was told that it would be good if I inquire whether
4 it was or not, yeah.

5 Q And, and what did you do with that information?

6 Who did you, who did you talk to?

7 A I was instructed that the proper person to call was the
8 Detective Beck who works for Spartanburg County, and I
9 called -- I, I went and talked to my mother, and I told her
10 what information I had been given, that it would be good to
11 inquire concerning that camper, and I said we probably need
12 to do that and just to make sure. And she said well, her
13 words was, oh, Lord, yes, you know, find out because if
14 there's something wrong with it I don't want it in my yard,
15 you know---

16 Q And, and---

17 A I went---

18 Q I'm sorry.

19 To be clear, about how far apart do you and your mother
20 live?

21 Is this miles and miles or just some pretty---

22 A No, it's about -- I, I live on a 50-foot lot, and she
23 lives on a hundred foot lot, and her house is about the
24 middle. It's about probably, from front door to front door,
25 is probably about 75 or 80 feet.

James Tinsley, Senior - Direct examination
by Solicitor Kendall

1 Q And where was the, where was the camper located?
2 Imagine this is, this is your house. This is your, her
3 house.

4 Where would the camper be located?
5 Would it be over here, over here, or in here?

6 A It, it was in-between the houses.

7 Q Okay. In, in a space that would appear to be in
8 potentially either one of yours?

9 You're essentially just drawing a property line between
10 those two?

11 A Well, I guess---

12 Q Let me rephrase. That was a terrible way to ask that
13 question.

14 When officers came out, did you speak with them?

15 A I did.

16 Q And at some point did they ask if they could search the
17 trailer?

18 A Yeah, they asked if they could look at it.

19 SOLICITOR KENDALL: Your Honor, may I approach the
20 witness with State's Exhibit 1?

21 THE COURT: You may.

22 Q Do you recognize this for us, Mr. Tinsley?

23 A I do.

24 Q And is that your signature at the bottom?

25 A It is.

James Tinsley, Senior - Direct examination
by Solicitor Kendall

1 Q And could you please just tell the Court what this,
2 what this form indicates?

3 A I'll have to read it.

4 Do you want me to read it to you?

5 Q You don't have to read it out loud. Just, just kind of
6 the heading would be fine.

7 A It's a consent to search at [REDACTED] South Welcome Road.

8 Q Okay. Now, when you, when you, when the officers came
9 out and conducted this search, where was your son at that
10 time?

11 Was he, was she living with you or was he sometimes
12 living other places?

13 Was he kind of in-between?

14 A He -- well, he, for the previous, I'm trying to think
15 maybe, for the previous few, two or three weeks, he had been
16 living with his grandmother.

17 Q Okay. And the day the police came out, where was he
18 then?

19 A He was in the Henderson County North Carolina Detention
20 Center.

21 Q Oh, okay. Okay. Okay. And, so, to be clear, the
22 officers came out and you gave them the consent to search
23 the trailer?

24 A Yes, I was asked to, to sign the consent form, and
25 after some discussion with Detective White about it I signed

James Tinsley, Senior - Direct examination
by Solicitor Kendall

1 it.

2 SOLICITOR KENDALL: Okay. No further questions, Your
3 Honor.

4 THE COURT: Your witness, Mr. Tinsley.

5 CROSS-EXAMINATION

6 BY MR. TINSLEY:

7 Q All right. You stated that you lived at [REDACTED] welcome
8 Road, is that correct?

9 A That's correct.

10 Q And my grandmother, she lives at where?

11 A [REDACTED] south welcome.

12 Q All right. Was the camper on her property?

13 A The camper was on [REDACTED].

14 Q Did you tell the detectives that?

15 A Yes, I stepped down to the bank where the dividing line
16 between the lots is and said this is [REDACTED] and this is [REDACTED]
17 where the camper is.

18 Q It was mentioned that I lived with you at [REDACTED] welcome
19 Road.

20 Is that true?

21 A No.

22 Q I lived at [REDACTED] with my grandmother?

23 A Correct.

24 Q Was this camper, was it locked?

25 A Yeah, they had to get somebody to unlock the door. So,

James Tinsley, Senior - Cross-examination
by Mr. Tinsley

1 yeah, it was---

2 Q Did the tongue also have a lock on it?

3 A Yeah, it had one of those -- I think they call it a
4 tongue lock.

5 Q All right. Did you have any belongings inside this
6 camper?

7 A I did not.

8 Q Did you have a key to it?

9 A No.

10 Q Did you have mutual use of the camper?

11 A I never used the camper or been inside the camper or
12 anything.

13 Q Did I tell you that it was okay for you to let somebody
14 search it?

15 A No.

16 Q Did the detectives show up and walk around the
17 camper---

18 A Yes.

19 Q ---and look at it?

20 And they didn't find a public V.I.N. number?

21 A According to what they were saying back and forth
22 between themselves in my presence, I don't, I don't think
23 they did, no.

24 Q And that's when they asked you if you would consent to
25 the search?

James Tinsley, Senior - Cross-examination
by Mr. Tinsley

1 A I'm not sure if, if that occurred before I was asked
2 about a key or after. I'm not sure. But at some point not
3 too long after they had looked around. Detective White, who
4 actually -- Detective White was the one I had the most
5 contact with during that time. Detective White said I need
6 for you to sign this, and that's when he, he produced the
7 paper.

8 Q And when he asked you to sign that, did you tell him --
9 is that when you showed him that you or told him you didn't
10 think that it was on your property or that you didn't have
11 any consent?

12 A Well, when, when he, we were standing there at one of
13 those big garbage cans, and he was kind of like using the
14 top of that to write on. And at -- when he showed it to me,
15 I wasn't wearing my glasses, and I was kind of standing
16 there moving it back and forth like this trying to see what
17 it, what it said. And I -- when he told me -- he told me
18 what it was, and I just said well, detective, I, you know,
19 this is not my property, and, you know, I, I don't know, I
20 don't think -- I don't know if I should sign this or not
21 because it's not, you know, it's not my property and it's
22 not on my property.

23 Q Is that when you pointed out the property line?

24 A No, I had pointed that out prior to that.

25 Q Okay.

James Tinsley, Senior - Cross-examination
by Mr. Tinsley

1 A But he, he just said, and there, and there was writing
2 on there about searching everything, you know, the houses
3 and buildings and everything. And he said well, we're not
4 gonna search everything. We're just gonna search the
5 trailer, and then he just said well, you have like common
6 use. And, so, based on that, him, you know, assuring me
7 that I had the authority to sign it, I signed it.

8 Q So, you didn't personally think that you had authority,
9 but you relied on what he told you?

10 A I relied on what I was told, yes, sir.

11 Q Right.

12 And you did specifically tell them that you didn't have
13 a key to it?

14 A They asked me if I had a key and I told them no, I
15 don't have a key.

16 Q Okay. And after you signed the consent form, that's
17 when they called out a locksmith?

18 A A locksmith came out and he took a side grinder and cut
19 the tongue lock thing. Detective White and I stood there
20 and watched him do it, and I think one of us commented to
21 the other we could of probably done that ourself, you know,
22 because I guess I was thinking they was gonna come with some
23 sophisticated thing and just unlock it. But they took a
24 side grinder and cut it off, and then the person from the
25 locksmith company went around to the door and unlocked the

James Tinsley, Senior - Cross-examination
by Mr. Tinsley

1 door.

2 Q All right. Did they have a search warrant?

3 A It wasn't shown one.

4 Q And I was in jail at the time?

5 A Yes.

6 Q You said it had a lock on the tongue.

7 Did you have -- did you have a key to that?

8 A No.

9 Q Okay. Without a key, could it be connected, connected
10 to your vehicle?

11 A No, that's what that thing does is keeps it---

12 SOLICITOR KENDALL: Your Honor, I believe we're dealing
13 with the search of it, not the seizure of it, yet
14 Mr. Tinsley has already said we're not gonna be discussing
15 the seizure of it.

16 MR. TINSLEY: That's not what I'm going for. I'm going
17 for it's not mobile.

18 Q Was it mobile?

19 A No, I don't---

20 THE COURT: I've got to rule on the objection.

21 MR. TINSLEY: I'm sorry, judge.

22 THE COURT: I am still here.

23 You wish to continue with the motion, the objection
24 since he says the point he's trying to reach is whether it
25 was mobile at the time?

James Tinsley, Senior - Cross-examination
by Mr. Tinsley

1 SOLICITOR KENDALL: I would, Your Honor. He's already
2 said he's not contesting the seizure of it. The fact that
3 it's mobile or not mobile deals with whether or not it could
4 be moved, not whether the fact it's hooked to the ground.

5 THE COURT: Well, also, it might deal with warrant or
6 not a warrant might be required or not cause, you know, we
7 get into that with cars and things like that.

8 So, I'll allow you to ask the question. Go ahead.

9 Q So, with the tongue lock on it and me in jail, was it
10 mobile?

11 A No.

12 Q Okay. And had you ever looked inside the camper
13 before?

14 A No.

15 Q You had looked at the outside of it before?

16 A Yes.

17 Q Were you able to tell that it was stolen just by
18 looking at it?

19 A No, just looked just like a trailer to me.

20 Q You didn't recognize it's stolen character when you saw
21 it?

22 A No.

23 Q Once the locks were breached, the detectives entered
24 the camper and searched its interior?

25 A I'm sure Detective Beck went in. I don't know if

James Tinsley, Senior - Cross-examination
by Mr. Tinsley

1 Detective White actually went in or not. I don't, I don't
2 have a recollection of seeing Detective White actually go
3 in. I do remember Detective Beck going in.

4 Q Okay. And once inside, the detectives, they found the
5 V.I.N. number?

6 A Detective Beck came back out some short time later, a
7 few minutes later, and indicated to Detective White that he
8 had found a V.I.N. number that identified it as the trailer
9 that they were looking for.

10 Q All right. And you said you weren't wearing your
11 glasses when you signed the consent form?

12 A No, I wasn't.

13 Q You weren't able to read it?

14 A I was trying to read it by -- I'm, I'm in -- my eye
15 situation is I, for about ten years, I've had glaucoma, and
16 I'm right at the point to where I have to have bifocals to
17 read or see anything up close. My, my far vision is, is
18 much better than my close-up vision. And I, according to my
19 optometrist, I'm at the point where I actually need
20 trifocals.

21 So, when -- I didn't know what it, the paper was when
22 Detective White told me that he needed for me to sign that,
23 and I was just standing there moving it in and out, you
24 know, like this trying to find a place where I could, could
25 read it, and, of course, I think Detective White realized I

James Tinsley, Senior - Cross-examination
by Mr. Tinsley

1 was having problems with that, and at that point we started
2 talking or he started telling me about what it said, and he
3 just said don't pay any attention to that about where it
4 says search everything on the property. We're not gonna do
5 that. We -- we're -- just want to search the camper.

6 Q Right.

7 Did he tell you that he had put [REDACTED] Welcome Road on it
8 rather than [REDACTED]?

9 A No, I don't remember anything about it.

10 Q And you didn't, you didn't notice that when you signed
11 it?

12 A I did not, no.

13 Q Did you do anything that would of led the detectives to
14 believe that I lived with you or that you had the consent or
15 that I had left the camper with you as a bailee or anything
16 like that?

17 A The conversation I had with them was that we were
18 concerned, particularly my mother, because she was
19 concerned -- she was 86 years old at the time. She had
20 just, a couple days, couple, three days before, turned 86
21 years old, and she's, she'll be 90 next month. But at the
22 time she was 86 years old, and she was concerned, and I said
23 there's one thing I would like for one of you to do before
24 you leave is assure my mother that if this does turn out to
25 be stolen property that no one's going to blame her for it,

James Tinsley, Senior - Cross-examination
by Mr. Tinsley

1 and at some point later on during this, the time that the
2 officers was there, Detective Beck came over to me and said
3 that he would speak to my mother about that, and he did go
4 in and speak to my mother and assure her that, you know,
5 regardless of what happened, that she wouldn't be blamed.

6 But I, I'm, you know, and I'm, I'm not the judge of, of
7 what was right or wrong about this. What I can tell you for
8 a certainty is that I did everything that I possibly could
9 to make sure that the officers understood where they were,
10 what property the camper was sitting on, and as I stated
11 earlier, there's a little bank about a foot, foot and a half
12 high above my driveway, and I stepped down to that bank,
13 which was 15, 20 feet, whatever, away from where the trailer
14 was parked, and said from here down is [REDACTED] South Welcome
15 Road, and from here up is [REDACTED].

16 I wanted them to understand exactly the lay of the
17 land, and at the time I didn't really know that it made that
18 much difference. But I wanted them to understand where we
19 were and where the trailer was sitting. But I never, I
20 never did tell them that he lived with me, and I thought, at
21 least, that I had made it clear that it was sitting in [REDACTED],
22 which was my mother's property.

23 And when I, if I may, the day before, when I had called
24 Spartanburg County Sheriff's Department, I spoke with
25 Detective Beck, and I asked Detective, I told Detective Beck

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by Mr. Tinsley

1 that I had received some information that it was possible
2 that a trailer of that type might be being sought by
3 Spartanburg County and I told him. He, he said, well, we're
4 looking for one that's one of those kind of trailers. It's
5 kind of like this, and I said to him well, there's one that
6 basically fits that type description sitting in my mother's
7 yard, and he asked me -- the first thing he said was have
8 you found a V.I.N. number, does it have a public V.I.N.
9 number on it, and at the time I didn't know what public
10 V.I.N. meant.

11 But I later, in talking with them, learned that that
12 was one that could be seen, and he asked me and I said no, I
13 have, I have already looked for that because I figured that
14 would be something that you would need to know that if I
15 could tell you that, then you would, you would know whether
16 it's one you're interested in or not. But I've looked and I
17 can't find one, and Detective Beck said to me well, they can
18 be kind of hard to find sometime, and then he asked me if it
19 would be all right if he came over the next morning or came
20 over with his partner the next morning and took a look at it
21 and see if they could determine, you know, if maybe they
22 could find it.

23 Q Okay.

24 A And they came and called me before they arrived, and I
25 went outside and, and waited for them. And when they

James Tinsley, Senior - Cross-examination
by Mr. Tinsley

1 arrived, I said there, you know, there it is and this is
2 where we are and that's how it happened.

3 Q And did you ever see anybody get a consent form from my
4 grandmother?

5 A No.

6 MR. TINSLEY: Okay. No further questions, Your Honor.

7 THE COURT: Yes, Mr. Kendall.

8 SOLICITOR KENDALL: Just a couple, Your Honor.

9 REDIRECT EXAMINATION

10 BY SOLICITOR KENDALL:

11 Q Is it fair to say that you enjoyed at least a, some use
12 of the property at [REDACTED] South Welcome Road?

13 In other words, you were able to keep stuff there, your
14 boat, things like that on this property?

15 A Well, I live at [REDACTED]. [REDACTED].

16 Q [REDACTED]?

17 A Yeah.

18 Q Okay.

19 A Yeah, it was not uncommon at all for me, Mr. Kendall,
20 to park one of my cars or one of my boats in my mother's
21 yard.

22 Q Okay. And did you have any possessory interest at all
23 in that trailer that got dropped off, the one your son
24 dropped off?

25 A Please would you---

James Tinsley, Senior - Redirect examination
by Solicitor Kendall

- 1 Q The camper. I'm sorry.
- 2 A Would you define possessory interest for me?
- 3 Q You didn't own it?
- 4 You didn't have anything to do with it?
- 5 A Oh.
- 6 Q You didn't use it never?
- 7 A No, sir.
- 8 Q Had you ever seen your son utilizing that camper
- 9 before?
- 10 Is that the camper you'd seen him using in the past?
- 11 A The only time I ever saw my son around that trailer was
- 12 when he had called me and asked me if I would move my boat
- 13 so he could back it in, and he, he backed it in there, and I
- 14 never saw him go around it or touch it again.
- 15 Q And to be clear, when, when officers came out, he was
- 16 not living in that trailer---
- 17 A No, sir.
- 18 Q ---with grandma?
- 19 A Well, no, he -- no, he was not. He was, he was living
- 20 in -- he -- actually he was in Hendersonville County Jail.
- 21 Q But before that was he living with your mother?
- 22 A Yes.
- 23 Q Okay. And you called the police because you thought it
- 24 was stolen or at the very least that he would not be coming
- 25 back to the property?

James Tinsley, Senior - Redirect examination
by Solicitor Kendall

1 A I called the police because when I had taken him to
2 Henderson County Jail where he went to surrender himself, I
3 spoke with a Detective or Officer Galloway.

4 Q Uh-huh. (Affirmative).

5 A And I asked Detective or Officer Galloway if they had
6 any interest or any concerns over a trailer that matched
7 that description. He told me no and he suggested that I
8 call Detective Beck. He gave me Detective Beck's name
9 because he thought that there was a similar trailer missing
10 in your jurisdiction. That's how I come to call Beck.

11 Q Okay.

12 All right. I have no further questions, Your Honor.

13 THE COURT: Any follow-ups to those questions?

14 MR. TINSLEY: No, Your Honor.

15 THE COURT: You may step down, sir.

16 WITNESS: Thank you, judge.

17 THE COURT: State wish to call any other witnesses?

18 SOLICITOR KENDALL: Your Honor, the State would not.

19 THE COURT: Mr. Tinsley, you have the right to call
20 witnesses on this issue.

21 Do you wish to call any witnesses on the issue?

22 MR. TINSLEY: No, sir, Your Honor.

23 THE COURT: All right. I'll hear from you,
24 Mr. Kendall.

25 SOLICITOR KENDALL: Your Honor, I would, again, kind of

1 reassert my previous arguments. With regard to the consent
2 to search, even if Mr. Tinsley, Senior was not the property
3 owner, he certainly acted without reckless, without reckless
4 disregard. The good faith exception to the Fourth Amendment
5 would clearly apply in this case.

6 He went out there. Somebody called him to go look at a
7 trailer. He went out there. He talked to both Mr. Tinsley,
8 Senior as well as Mr. Tinsley, Senior's mother. The
9 automobile was in-between the two properties. Mr. Tinsley,
10 Senior was clearly allowed to use both that property, and he
11 had both the, both parties on both sides of that camper
12 content to his search of that camper.

13 Additionally, I think that Carney applies in this case,
14 Your Honor, in which case probable cause is needed to search
15 the mobile home. I think that falls under a number of this.
16 It's very clear, from the questions that have been elicited
17 and that Mr. Tinsley is attempting to argue, that because
18 the trailer was locked that somehow precludes it being
19 searched. I would respectfully disagree with that.

20 This is clearly a mobile trailer.

21 Had do we know it's mobile?

22 Because it just got moved there, and, in fact, very
23 very recently.

24 Finally, Your Honor, I think there's probable cause to,
25 to make that search.

1 THE COURT: Now, what, what exception did you say, the
2 car exception?

3 SOLICITOR KENDALL: I believe it's Carney.

4 THE COURT: Carney?

5 THE COURT: Yes, sir.

6 SOLICITOR KENDALL: I believe it's---

7 THE COURT: Oh, okay.

8 SOLICITOR KENDALL: I could be wrong about that, but I
9 believe it's California versus Carney.

10 THE COURT: Is that U.S.---

11 SOLICITOR KENDALL: It's a Supreme Court case from the
12 late 70's I believe.

13 THE COURT: Is that, is that a, U.S. Supreme Court?

14 SOLICITOR KENDALL: I believe so, Your Honor.

15 THE COURT: You want to give me a citation?

16 SOLICITOR KENDALL: Let me see. California Supreme
17 Court. I believe it's 471 U.S. 386, 1985.

18 THE COURT: All right. We'll take a look at that one
19 in just a second. Go ahead.

20 SOLICITOR KENDALL: Make sure I have that right. Well,
21 make sure I got the right statute on mobile homes. I
22 believe that's---

23 MR. TINSLEY: It's 105 Supreme Court 2056.

24 SOLICITOR KENDALL: I believe that would apply to
25 mobile homes, which I believe in this case it was. In

1 addition, Mr. Tinsley was clearly not living in there at
2 that time. Moreover, even assuming that, that there's not
3 probable cause for this search, which I think there was
4 based on what the father says, the father clearly thinks
5 it's stolen. In fact, he had been caught with other stolen
6 trailers from this N.R.V., specifically from this Holiday
7 Camper place, then he shows up with a camper that he's never
8 seen before. I think they're all -- it matches the
9 description of the stolen trailer, oh, there -- I think that
10 constitutes probable cause in this case.

11 Moreover, again, Your Honor, he doesn't have a right to
12 standing to challenge this. This isn't his camper. It's --
13 this camper belongs to Holiday Camper. There's no right to
14 privacy in stolen property. This still isn't his camper
15 today. He can't -- he's essentially---

16 THE COURT: Well, I'm gonna ask him about that in just
17 a minute.

18 Anything else?

19 SOLICITOR KENDALL: Nothing further, Your Honor.

20 THE COURT: Mr. Tinsley, you may make your argument.

21 MR. TINSLEY: Your Honor, with regard to the California
22 versus Carney, they did say that the police could go ahead
23 and, and conduct a search if a vehicle was mobile. In that
24 particular case the gentleman was living inside the camper
25 in a parking lot, and, so, he could easily have driven off.

1 And, and, so, it doesn't really apply to a situation like
2 this where it's on private property. It wasn't, it wasn't
3 readily mobile, had a lock on it. I couldn't move it. I
4 was in jail at the time. I didn't -- I don't believe that
5 applies in, in this particular case.

6 From my understanding---

7 THE COURT: Would it depend on who had the key to the
8 lock?

9 MR. TINSLEY: I had it.

10 THE COURT: Well, I don't know if they knew that.

11 MR. TINSLEY: Well, they know---

12 THE COURT: The question is whether it's capable of
13 being moved.

14 MR. TINSLEY: Well, they could of simply had a police
15 officer stand there and, and wait, you know, while they went
16 to get a warrant or something if, if they wanted to search
17 it.

18 THE COURT: But if he had no right to search it, you
19 could still take off with it. He can't -- he can't seize
20 it. That would be a seizure if he stopped you from moving
21 it---

22 MR. TINSLEY: Well, he could---

23 THE COURT: ---or somebody from moving it.

24 MR. TINSLEY: Well, he could, he could, he could follow
25 the person that was moving it I guess until they, until they

1 obtained a warrant. But I don't believe that that applies
2 in this situation because it, it wasn't, it wasn't on the
3 open road, you know, and you can look at the California
4 versus Carney case.

5 THE COURT: I'm, I'm probably going to.

6 MR. TINSLEY: But basically I think what this calls,
7 falls under is State versus Brockman, and there -- in there
8 the, the -- really the only issue, in most cases, the police
9 show up somewhere and someone would claim that, that they
10 have a mutual use or a common authority to, to conduct a
11 search, and they allow someone to do so, and then the police
12 can stand back and say well, this person said they lived
13 here, they told me they had clothes in there, they opened
14 the door with a key. And, so, we had apparent, apparent
15 belief that they had the authority to consent to a search.

16 In this, in this case, the police asked the detective
17 could he point to, you know, what factors that a reasonable
18 person would suspect that my father had mutual use or common
19 authority to consent to the search and he couldn't point to
20 any. Here---

21 THE COURT: Just one thing, Mr. Tinsley. Now,
22 they're -- the evidence that I've heard thus far is that
23 your, that your grandmother also consented to the search of,
24 verbally.

25 MR. TINSLEY: No. No, Your Honor. She didn't sign no

1 consent.

2 THE COURT: I didn't say that she -- I said verbally.

3 MR. TINSLEY: Well, here's, here's the problem, Your
4 Honor, and I'll, and I'll get to that. I'll get, about to
5 get to that.

6 They seem to think that if my grandmother or my
7 daddy -- let's say the camper was on my daddy's property and
8 not her property. He could allow -- he, he can't allow them
9 to search it if he don't have a key because he, he can't
10 establish that he has authority over the, the confines of
11 the camper itself.

12 THE COURT: What, what case says that?

13 MR. TINSLEY: What now?

14 THE COURT: What case says that?

15 MR. TINSLEY: State versus Brockman. I, I was about to
16 get to that. In fact, I've got a motion with all the State
17 case law. I have a copy -- one for the State and one for
18 you too, and you may want to read it and give them an
19 opportunity---

20 THE COURT: If you'll pass it up I'll take a look at
21 whatever you've got.

22 MR. TINSLEY: ---opportunity to respond to it. But
23 basically, if the, if the camper had been left say with my
24 father as a bailee, he certainly suspected that it was
25 stolen, he would have a right to call the police out to look

1 at it to protect himself. But in that case, they said even
2 a bailee or the police can not rely upon, upon apparent---

3 THE COURT: Talking about a bailor, a bailor/bailee
4 relationship?

5 MR. TINSLEY: Right. Can't rely upon apparent
6 authority if the bailee doesn't have a key to the camper or
7 to any locked container. And, so, in this case, even if,
8 had my grandmother consented, she wouldn't have authority to
9 allow them to, to go into it.

10 THE COURT: Well, now, the point that they're making
11 that might -- and I'm just, just hitting the -- I'm gonna
12 read the Brockman case in detail, but the point they're
13 trying to make is -- I would imagine, in the Brockman case
14 from what I've read so far, that the moped in question
15 belonged to the defendant.

16 MR. TINSLEY: I believe so.

17 THE COURT: In this case they're saying that the
18 property in question did not belong to you.

19 MR. TINSLEY: Well---

20 THE COURT: And he's saying it was stolen property.

21 MR. TINSLEY: Well, I have---

22 THE COURT: The argument they made was that you can't
23 claim a, a right to privacy in items that don't belong to
24 you.

25 MR. TINSLEY: Well, I believe what the law says is that

1 if you know that it's stolen you don't have a right to.

2 THE COURT: Well, the question probably is gonna boil
3 down to probable cause, and they're saying that there was
4 no -- let me ask both sides.

5 I take it that generally in the case of mobile homes or
6 campers, I'll call, let's get down to what we're talking
7 about, that there is normally an outside V.I.N. number,
8 something that you can see from the outside is, cause
9 it's -- we've talked a lot about that, but I didn't hear, I
10 didn't hear specifically that that is normally the case.

11 Is that normally the case?

12 SOLICITOR KENDALL: I'm not sure, Your Honor. I
13 believe that, that typically take them into custody, take
14 them -- they seize them if they believe that they can't
15 identify who the vehicle belongs to. Again, today, it
16 wasn't a vehicle, but that---

17 THE COURT: Well, in this case I did hear testimony
18 that it fit a description, that it was the right kind,
19 but -- and there was no outside V.I.N. number, but then I
20 didn't hear well, normally there'd be one in the front
21 window, normally there'd be one under the fender, and that
22 was filed off or just cut out, just disappeared. I didn't
23 hear any testimony about that. So, it left me a little
24 bit -- I don't own a camper. Never owned one. I don't know
25 whether they have V.I.N. numbers on the outside or not.

1 So---

2 MR. TINSLEY: I, I don't know about that either. I
3 know, I know they didn't -- nothing appeared to be filed off
4 or removed from it. My enclosed trailer, it didn't -- it
5 doesn't have a V.I.N. number on it, public V.I.N. number.
6 So, I don't know if, if they have them on the outside or
7 not.

8 THE COURT: Well, automobiles do because I see those
9 all the times.

10 MR. TINSLEY: Yeah, right. But in this case I don't
11 think that they were, and I think it probably had a V.I.N.
12 number on it somewhere. They're just hard to -- you know,
13 as Detective Beck told my father, I think they're just hard
14 to find sometimes. You have to get underneath them or
15 something. I don't know.

16 But---

17 THE COURT: Yes, sir, anything else?

18 I didn't mean to cut you off. You were making your
19 argument.

20 SOLICITOR KENDALL: I believe that, according to
21 Detective White, they're usually on the tongue or on the
22 back of it. They, they couldn't find one at all. In fact,
23 there's the absence of any identification on the outside of
24 a very very expensive trailer I think in and of itself goes
25 to probable cause, Your Honor. If you see a Ferrari driving

1 down the street, it doesn't have anything identifying on it,
2 on it, that raises some suspicion.

3 THE COURT: Well, it's not a Ferrari. It's a camper.

4 SOLICITOR KENDALL: It is, Your Honor.

5 THE COURT: So, let's talk about---

6 SOLICITOR KENDALL: But still---

7 THE COURT: Let's don't confuse apples and, and
8 oranges. But I would---

9 SOLICITOR KENDALL: Yes, sir, but it definitely meets
10 the description of the one that was taken. They've already
11 found a whole bunch of other ones. I mean I think---

12 THE COURT: Well, now, that's, that's -- I don't know
13 if I can use that, and that's not evidence in this case.

14 SOLICITOR KENDALL: And I---

15 THE COURT: It's just whether the search---

16 SOLICITOR KENDALL: I guess---

17 THE COURT: ---the search is valid in this case.

18 MR. TINSLEY: And that wasn't clear and convincing
19 either.

20 SOLICITOR KENDALL: On top of that, Your Honor, the
21 punch line would be it ended up not, being not his camper.
22 It wasn't his. He's -- at the end of the day, asserting a
23 privacy right---

24 THE COURT: We don't always, we don't -- you know, we
25 don't always determine the validity of the search to the,

1 based on the results of the search. The search has to be
2 legal when it was done. So, let's, let's -- that's the way
3 we're gonna look at it. I realize it turned out not to be
4 his. The question is, at the time the search was done,
5 whether there was a reason, there was a reason to do it,
6 whether the law allowed it, and that's the issue that we're
7 talking about.

8 SOLICITOR KENDALL: Respectfully, Your Honor, I would
9 argue that, that would all go to probable cause. What we're
10 arguing is that he doesn't have standing at all. To
11 establish -- to get to the door of standing, he has to
12 establish it's actually his trailer.

13 THE COURT: Well, I've got, I've got to that point and
14 I'm not sure I got a real good answer from Mr. Tinsley as to
15 your standing in this case.

16 MR. TINSLEY: I believe that I have standing as long as
17 I didn't know that it was stolen, and that, you know,
18 that -- and I didn't have any reason to know that it was
19 stolen. I don't, I don't, I don't believe that that's the
20 way that it works exactly. But I'm not real sure. You
21 might want to check on that.

22 THE COURT: Well, I'm gonna check on it.

23 MR. TINSLEY: But, but I don't think that applies here,
24 and, and there was a case, and it escapes me right now, a
25 U.S. Supreme Court case where they went to a person's house

1 and they searched his car that fit the description of, of,
2 of a girl that had been found murdered on the side of the
3 street, and people had witnessed this particular car or one
4 like it there. And, so, they went to the house to search it
5 and they didn't have a warrant or anything, and, and they
6 said that there was probable cause, but the U.S. Supreme
7 Court said that you can't go in on private property and, and
8 search something. Even if you think that there's probable
9 cause like that, you can't go in and search an unoccupied
10 vehicle that's been, that parked on the property at that
11 time. It just doesn't work that way.

12 THE COURT: Well, here's how I'm kind of viewing this
13 right now, Mr. Tinsley, is that I'm gonna take as a fact
14 that it was on your mother's property. I'm gonna take as a
15 fact that you were a guest there until you got incarcerated.
16 I didn't hear any evidence that you were a tenant on the
17 property paying rent. So, it appears that it was a family
18 situation where a family member was allowed to live on the
19 property and without rent. So, that takes it out of the
20 line of cases that have to do with landlord and tenant.

21 MR. TINSLEY: Right. Yeah.

22 THE COURT: Yes, sir.

23 MR. TINSLEY: And you're exactly, you're exactly right.
24 I was living there, and this case deals with that that's in
25 here. Where---

1 THE COURT: What I -- but the real issue, but the real
2 issue I'm getting back to is whether or not you have a
3 reasonable expectation of privacy in property that doesn't
4 belong to you.

5 MR. TINSLEY: I believe you do.

6 THE COURT: And that's, and that's, that's---

7 MR. TINSLEY: I believe you do.

8 THE COURT: That's a real concern of mine.

9 MR. TINSLEY: I believe that you do if you don't know
10 that it's stolen. If you, if you go buy something and you
11 don't know that it's stolen, then I would think you would
12 have a, you know, a reasonable expectation of privacy in it.

13 THE COURT: Well, you, you may think that. The
14 question is whether the law recognizes that.

15 MR. TINSLEY: Well, that's a good issue and I have to
16 admit that I'm not 100 percent sure on it.

17 THE COURT: Okay.

18 MR. TINSLEY: But---

19 THE COURT: I think I---

20 MR. TINSLEY: I believe I've read before that if, if
21 you, if, if you, if you don't have knowledge or the case law
22 says that if you have knowledge it's stolen, then you don't
23 have a reasonable expectation.

24 THE COURT: You got a case that you want to cite on
25 that?

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1 SOLICITOR KENDALL: I don't, Your Honor.

2 THE COURT: You raised the issue. So, I want you---

3 SOLICITOR KENDALL: That, that would be the point of
4 the, the entire trial. That's effectually like saying you
5 can't be -- we can't search for stolen goods unless we can
6 convict you for stolen goods. That's, that's, that's not
7 the same standard. At the end of the day the issue is
8 whether or not he has standing to challenge a search that
9 took place on property that wasn't his in a vehicle that
10 wasn't his.

11 THE COURT: Well, he was a guest there, and it did
12 require an entry into the property, the other piece of
13 property, the trailer apparently. But there was testimony,
14 and I recognized that there was a reasonable suspicion on
15 the part of the police and perhaps that rises to the point
16 of at least offering probable cause to believe that it was
17 stolen. Let me go do a little research. We'll take a brief
18 recess.

19 Thank you very much.

20 MR. TINSLEY: Thank you, judge.

21 (WHEREUPON, a short recess was taken at this time.)

22 THE COURT: Mr. Tinsley, one thing I want you to
23 clarify for me please, sir. A couple of times during your
24 argument you made a point of or drew my attention to the
25 fact that your objection is to the search, not the seizure.

1 Tell me exactly what that means.

2 MR. TINSLEY: Well, I say that because when we were
3 talking -- I guess you're trying to get to the standing
4 thing. Like in Arizona versus Hicks the police went into
5 the house and they searched the stolen turntable, and the
6 person didn't have a right to possessory interest in it
7 because it was stolen just like I wouldn't have possessory
8 interest in the camper. But the Supreme Court said that
9 when they picked that up, the turntable up and looked
10 underneath it, that constituted an independent search and it
11 revealed it's probated value and that that constituted an
12 unlawful search. So, even though it was stolen, he had no
13 right to possess it, he had a privacy interest in it.

14 And, so, that was kind of why I was saying that, that
15 I'm mainly complaining that they searched it because had
16 they not searched it they wouldn't have been able to
17 determine that it was stolen to seize it. I'm not exactly
18 sure, sure we're on the same page.

19 THE COURT: Well, no, I think we are on the same page
20 because then the State raised the point of inevitable
21 discovery of the V.I.N. number.

22 Is that right?

23 SOLICITOR KENDALL: That's correct, Your Honor.

24 THE COURT: What, Nix v. Williams?

25 SOLICITOR KENDALL: I believe that's correct, Your

1 Honor.

2 MR. TINSLEY: My point is that they would never be able
3 to discover it. If they hadn't of searched it, they
4 wouldn't of had, they wouldn't of known, had the probated
5 information that it was to seize it, and, so, therefore,
6 they wouldn't of never knew that it was---

7 THE COURT: well, other than it was identified to them
8 by independent, independent parties as a potentially stolen
9 item, and it fit the description of a stolen item they were
10 looking for.

11 MR. TINSLEY: I understand that. But there was also an
12 enclosed trailer that they, that I owned that had those same
13 exact stickers on it. So, it could of been that. Everytime
14 it's, a Ford Explorer gets seized, there's a bunch of them
15 out there that fit that description. It doesn't necessarily
16 mean that that particular one -- and I asked the officers
17 that and---

18 THE COURT: All right. So, so, you're -- well, let me
19 get -- I want to be sure I understand specifically what
20 you're saying. So, if, if the police had not popped the
21 lock, but had simply taken the trailer and left with it?

22 MR. TINSLEY: I would complain about that because they
23 wouldn't have known that it was stolen and, you know, they
24 wouldn't have known---

25 THE COURT: well, they may of had, the question is,

1 probable cause whether they knew it was stolen or not.

2 MR. TINSLEY: Right. But I'm saying my---

3 THE COURT: In here there's no exterior V.I.N. number.
4 We don't know whether that's a, determinative or not. But
5 it's -- obviously raises some suspicion.

6 MR. TINSLEY: Right. Well, I'm---

7 THE COURT: And, and then you got, my understanding
8 was, that you were looking for that make, model?

9 SOLICITOR KENDALL: That's, that's correct, Your Honor.

10 THE COURT: Not just the stickers. They were looking
11 for that trailer. Now, the other one you talked about was
12 your racing trailer I guess you haul a car in.

13 MR. TINSLEY: Well, go-carts and stuff. It wasn't---

14 THE COURT: Okay.

15 MR. TINSLEY: ---wide enough.

16 THE COURT: Whatever you race. I don't know what you
17 race, but that's obviously not what they were looking for.
18 They were looking for that kind of trailer. They were
19 looking for a camper, one you could live in.

20 MR. TINSLEY: Right. But where they got the
21 information from was people told them that I had that camper
22 and a trailer with those kind of stickers and graphics on it
23 at Bill Dotson's shop in Spartanburg and that I---

24 THE COURT: But your argument to me just a minute ago,
25 Mr. Tinsley, said you had another trailer with the same kind

1 of stickers, but that other trailer you told me earlier was
2 the one that you hauled your racing vehicles in.

3 MR. TINSLEY: Right.

4 THE COURT: And it wasn't a residential trailer.

5 MR. TINSLEY: Right. But, but what, what I'm saying --
6 but they look about the same. But what I'm saying is they
7 got their information from somebody saying I saw James
8 staying at Bill Dotson's shop in this trailer with these
9 stickers and graphics on it.

10 THE COURT: Well, all that evidence didn't come in. I
11 have to go with what's on, in this particular case.

12 MR. TINSLEY: I understand.

13 THE COURT: I can't get into trying the whole case---

14 MR. TINSLEY: I understand.

15 THE COURT: ---that didn't come in during this hearing.

16 MR. TINSLEY: I understand.

17 THE COURT: So, I'm confining myself to what I heard
18 during this hearing.

19 MR. TINSLEY: I understand.

20 THE COURT: And, and if your objection is not to the
21 seizure of the item, but to the popping of the lock and
22 getting the V.I.N. number in that fashion, they have given
23 me a case, Nix versus Williams, that indicates that the
24 police said they seized that item and taken it with them to
25 some other location. They would of inevitably, inevitably

1 discovered that it was the missing vehicle since it was and
2 the owner was looking for it. And that case says was the
3 police would of discovered that anyway, through legal means
4 eventually, then the fact that they got it this way,
5 interesting, but, but---

6 MR. TINSLEY: Well, my, my point is that, that I don't
7 think they had the right to seize it unless they conducted
8 the search first because it was a search that led them to
9 the probated value, value of it and allowed them to
10 determine that it was stolen, and had they not done that, I
11 don't believe they had a right to seize it. So, it never
12 would of gotten seized.

13 THE COURT: Well, I'll hear from you on that point.

14 SOLICITOR KENDALL: Your Honor, if, if that's the case,
15 this is a person who had -- we're talking about a legal
16 right to have, take possession of that trailer. That is
17 clearly Hoilday Camper and the Spartanburg Sheriff's Office
18 and we know who owns this trailer. There's a whole dating
19 process and everything else determinative of who owns the
20 trailer. We're talking about who has the right to
21 physically take the trailer.

22 THE COURT: Well, but the issue's not after you pop the
23 lock and found the V.I.N. The question is, at the time that
24 you were on the property or your clients, the State is on
25 the property, did they have probable cause or reason, a

1 sufficient reason to know that that was a stolen item to
2 have taken possession of it. That's the question.

3 MR. TINSLEY: And I say that I don't believe that they
4 did.

5 THE COURT: Well, I know you don't believe they do.
6 I'm asking him. I've given you a chance. Let me give him a
7 chance.

8 SOLICITOR KENDALL: I would, again, Your Honor, going
9 back to the standard set forth in probable cause, they had a
10 vehicle description. They had Mr. Tinsley having taken a
11 bunch of other trailers. They had his father calling---

12 THE COURT: Now, that didn't come in during this
13 hearing. I -- you know, you've argued that a couple of
14 times. But that's interesting. But---

15 SOLICITOR KENDALL: I believe---

16 THE COURT: ---I'm gonna discount that fact.

17 SOLICITOR KENDALL: I believe his father called and
18 testified he had not seen that trailer before.

19 THE COURT: Well, I think the testimony was he thought
20 that it might be stolen.

21 SOLICITOR KENDALL: Yes, sir.

22 THE COURT: Okay. Go ahead.

23 SOLICITOR KENDALL: And I think all these, all these
24 tendencies -- the standard put upon us is not prove this
25 beyond a reasonable doubt for the purpose of them to search

1 the camper. It's probable cause. I think, based on that,
2 based on what the officers knew at that time, based on what
3 his own parents told them, based on the reports of a missing
4 trailer that meets that exact description, the fact there's
5 no external V.I.N. numbers on the vehicle all led to, I
6 think, a very very reasonable action by the police officers
7 who certainly acted in good faith.

8 This was not a situation they're tricking anybody or
9 doing wrong. They thought dad was the one who was speaking
10 for the household. They went to the other one. They went
11 to grandma. All this leads to a very reasonable action by
12 the police officers that, at worse, even assuming there's
13 probable cause, that clearly falls under the good faith
14 exception of the Fourth Amendment.

15 THE COURT: Well, I'm not gonna go that far.

16 MR. TINSLEY: I, I -- granted I believe that it is
17 suspicious, but I don't think that it's probable cause.

18 THE COURT: Anything else you want me to consider?

19 I'm going to take a look at this Nix case one more time
20 as soon as he gets it up.

21 SOLICITOR KENDALL: Again, Your Honor, we would
22 reassert the argument that you don't have standing to
23 contest the search of stolen property.

24 THE COURT: You know, I looked into some cases and the
25 ones you've cited and the ones I looked at all involved

1 motor vehicles that wouldn't, let me finish, that when they
2 walked up and looked at them they knew they were stolen when
3 they looked at them. And that's, that's the reason I'm
4 getting to the point that I'm getting to about this trailer
5 is that when they walked up, did they have -- were they
6 pretty certain that it was stolen?

7 was there enough to, for them to, in their mind, say we
8 got the stolen trailer here. I know they wanted to confirm
9 it and they went and got the V.I.N. number, but the question
10 that I have is that when they first walked up on it, just
11 like those police officers that walked up on stolen
12 vehicles, once they determined it was a stolen vehicle,
13 you're right. He has no right to any privacy expectation.
14 The police could of searched it.

15 But the question is I don't know what his expectation
16 of privacy was cause I don't know under what circumstances
17 he came into possession of that trailer. He may of bought
18 it from a guy and paid him fifty. I didn't hear any of that
19 in this hearing. So, let me finish now. I know you want to
20 argue with me, but give me a second.

21 I heard nothing about how, the circumstances under
22 which he came into possession of it. He may of had a
23 perfectly reasonable expectation that it was a, a,
24 heads-up deal, straight-up deal when he bought it. He put a
25 lock on his own trailer, got arrested. I realize he's gone.

1 But he locked it, left it on private property, and it was
2 chained down so it couldn't be hauled off.

3 So, I mean it wasn't mobile at that point in time. You
4 had, you -- your guys cut the chain off of it. So, it
5 became mobile. So, I'm not going there.

6 But where I -- I understand what you're saying about it
7 being a stolen item. But in all the cases you've given me
8 thus far, the police, when they walked up on it and looked
9 at the V.I.N. number and ran it through their computer,
10 whatever they did, they knew it was stolen right then,
11 without having to break into it or search it or whatever you
12 want to call it. So, that's a little different circumstance
13 than we've got here, and that's the reason I was getting
14 into the questions I was getting into about when they walked
15 up on it and saw it, would they have had a reasonable
16 expectation or probable cause to believe that was a stolen
17 item, in which case, if the police had that belief and knew
18 that, he has no expectation of privacy in a stolen item. I
19 agree with you.

20 But the cases you gave me all involve things where the
21 police knew, when they went in and searched it, it was
22 stolen, and in this case it's a little bit cloudy and I was
23 asking some questions along those lines for a reason.

24 You understand why I was asking the questions?

25 SOLICITOR KENDALL: Yes, sir.

1 THE COURT: All right. I'll hear from you on it and
2 I'll let you have your say too. We, we need to get off of
3 this in just a minute.

4 I'll hear from you again.

5 SOLICITOR KENDALL: Your Honor, Your Honor, two points.
6 First, with probable cause, again, the father testified he'd
7 never seen it before. He had to move the boat to put it in
8 there. It matched the description of a vehicle or trailer
9 that had been stolen previously from Holiday Camper.

10 In addition, Your Honor, I believe that all that would
11 go to the probable cause of the search, the fact there was
12 also no, no V.I.N. number exposed on the exterior of the
13 vehicle, the fact they conducted their search for the very
14 limited purposes of ascertaining a V.I.N. number. That's
15 ultimately the only thing that's going to be used in the
16 context of this search. But on top of that -- and I believe
17 all that establishes probable cause. I believe, at the time
18 they went out there, they had probable cause to search that
19 camper.

20 With respect to standing though, Your Honor, I don't
21 believe what the officers knew is relevant to standing
22 respectfully, Your Honor. Standing is ultimately whether or
23 not he has a possessory interest or a privacy interest. He
24 hasn't presented any evidence or any testimony demonstrating
25 any sort of probable---

1 THE COURT: I found, I found several cases that say you
2 don't have any privacy expectation in contraband. Now,
3 contraband is different from a stolen item. Contraband is
4 something that's illegal to have at anytime by anybody. A
5 stolen item is an item that you can legally own and possess.
6 It just happens to be stolen, and you, you don't, don't have
7 legal possession of it. But it's not an item that's illegal
8 per se. Contraband's a little different.

9 But go ahead.

10 SOLICITOR KENDALL: Yes, sir, but with respect to the
11 standing to challenge it, if he's, if he's making an
12 argument that takes the stand and establishes that he
13 brought this good faith purchase and everything else, that's
14 a little different. We're talking about standing, whether
15 or not he can actually challenge it. The person who can
16 actually challenge the search of it would be the owner of
17 it. Without the establishment that he bought this in good
18 faith and all that other stuff that comes along with it,
19 there's absolutely no standard for standing. He hasn't put
20 that forth at all.

21 THE COURT: So, you're saying if it's stolen it's
22 stolen regardless, regardless of whether he knows it was
23 stolen or not.

24 SOLICITOR KENDALL: Well, I would first say, Your
25 Honor, that stolen is stolen. The person has the consent to

1 search or the right to, to argue about a search is the owner
2 of that property.

3 Second, even assuming the Court wanted to have, take a
4 step back and say good faith purchaser, good faith purchaser
5 also has a reasonable expectation of privacy. We haven't
6 heard anything about a good faith purchaser up here.

7 THE COURT: No, that evidence didn't come up either.

8 SOLICITOR KENDALL: And, and, so---

9 THE COURT: As I said, I heard no evidence concerning
10 how he bought it, under what circumstances it was purchased.

11 SOLICITOR KENDALL: And, so, to cure---

12 THE COURT: Either way.

13 SOLICITOR KENDALL: Purely the standing issue, as far
14 as from the context, the limited context of this hearing,
15 all we've heard is there's a camper, it doesn't belong to
16 him, and now he's challenging the search of it. And I
17 understand where he's going with this as far as well, I, you
18 know, I could prove that there's somebody else coming in
19 there, that I bought this, I have a reasonable expectation
20 of privacy, we haven't heard any of that. All we've heard
21 is, you know, items -- living in a camper. That camper
22 turned out to be stolen. We know there's no reasonable
23 expectation---

24 THE COURT: He, he actually wasn't living in it.

25 SOLICITOR KENDALL: I'm sorry. That was incorrect.

1 THE COURT: He was taking it on trips. He was living
2 in grandma's house.

3 SOLICITOR KENDALL: Yes, at the, at the time of the
4 search, that's correct, Your Honor. I'm sorry. I'm getting
5 ahead of myself.

6 THE COURT: And he actually had other living
7 circumstances when he was, it was searched.

8 SOLICITOR KENDALL: Yes, sir.

9 THE COURT: All right. Mr. Tinsley, anything you want
10 to tell me?

11 MR. TINSLEY: I specifically asked him, you may not
12 have heard it, but I specifically asked him, the detective,
13 what it was, was he able to determine, just by looking at
14 it, whether it was stolen and he said no, that he had to go
15 inside and look at the V.I.N. number, and that's the reason
16 that he went inside.

17 THE COURT: Well, you kind of pinned him down on that.
18 What you did is could you tell for sure, you kept asking
19 him, and, and the question here is probable cause,
20 reasonable, and that's not for sure. Probable cause is you
21 got enough suspicion to bring a charge, you got enough
22 suspicion to take some action. That's not beyond a
23 reasonable doubt, and, yeah, I can prove it you know.

24 So, you kind of pinned him, I was listening, you kind
25 of pinned him down on that, and you, you were trying to

1 make, could you tell for sure that it was stolen till you
2 got that.

3 MR. TINSLEY: It's stolen---

4 THE COURT: I understand.

5 MR. TINSLEY: Was it immediately apparent.

6 THE COURT: I understand the distinction.

7 Okay. Just one second.

8 (Pause.)

9 THE COURT: So, Mr. Tinsley, and let me be sure again.
10 I started off asking this question, I'm gonna ask you one
11 more time, then I'm through. The -- you're not objecting to
12 the seizure of the item. You're objecting to the search of
13 the item.

14 MR. TINSLEY: I object to the seizure of it if, if
15 they're saying they had probable cause to seize it, but---

16 THE COURT: Well, now, wait. Woe, woe, woe.

17 MR. TINSLEY: But I'm saying that---

18 THE COURT: You told me earlier---

19 MR. TINSLEY: I'm saying that the reason that I'm
20 objecting to the search is because they learned, they
21 learned that it was -- they didn't know that it was stolen,
22 wasn't, wasn't sure that it was stolen until they conducted
23 the search. And, so, they would, they would never have
24 seized it unless they learned that information or they may,
25 may have went and got a warrant if they had probable cause

1 to get one, and could of come back, but I don't think that
2 they had probable cause to get one.

3 THE COURT: Well -- okay. But now your position, you
4 told me, was you objected to the search, not the seizure,
5 and then you start telling me about the photograph, the
6 phonograph or the recording thing, that they looked under
7 the bottom of it, and that case.

8 You remember arguing that case to me?

9 MR. TINSLEY: Yes, Your Honor.

10 THE COURT: Okay. Wasn't that your position?
11 Didn't I hear you right?

12 MR. TINSLEY: Right, that -- well, basically that they
13 said that because the, the police had no -- they had -- they
14 was suspicious that the stereo system was stolen.

15 THE COURT: The stereo system, yes, sir.

16 MR. TINSLEY: They had a reasonable suspicion for it to
17 have, but they said that that didn't go to probable cause,
18 and that when they looked, looked underneath it, touched it,
19 moved it, or, in this case, entered the camper, even though
20 it was stolen, the Court apparently still believed that they
21 had standing to be free from that search and they never
22 would have seized it had they not conducted that illegal
23 search. So, I was focusing the Court's attention on the
24 search so that it would understand that, you know, that,
25 that that's the way that it worked. And even in here they

1 were talking about when you leave something with a bailee
2 that, that they don't have the ability to let somebody seize
3 something like that. So, that was---

4 THE COURT: That, that goes to a whole different issue.
5 That's who has the---

6 MR. TINSLEY: I understand.

7 THE COURT: ---right to consent.

8 MR. TINSLEY: I understand.

9 THE COURT: That's, that's a different issue
10 altogether.

11 Well, are you objecting to the seizure and the search
12 or are you objecting to---

13 MR. TINSLEY: I guess I am, yes, sir, Your Honor.

14 THE COURT: Okay. Thank you. We'll take a brief
15 recess.

16 (WHEREUPON, a short recess was taken at this time.)

17 THE COURT: All right. After considering this
18 thoroughly, Mr. Tinsley, I'm gonna grant your motion and
19 suppress the, the seizure of the V.I.N. number. It's my
20 finding that the item in question was not mobile. It was
21 chained, locked. The keys were not present, were not on the
22 premise. Even the people that controlled the premises did
23 not have the keys to unsecure the item.

24 They gave permission to search the item, but the item
25 was locked, and they did not possess the keys, and didn't

1 have the right to grant the breaking of the locks. And up
2 until that point in time, while there may of been a
3 suspicion that this was a stolen item, there was no
4 confrontation until the time that the, the V.I.N. number was
5 obtained.

6 Since he finally objected to both the search and the
7 seizure, the question, the question doesn't present itself
8 any longer than whether or not the State would have found
9 that out in, in due time because the only way they could of
10 found it out was to go inside and get that V.I.N. number to
11 be, have, have the right to seize it at that point in time.
12 So, I think the State had an obligation at that point in
13 time to obtain a search warrant. It was not on -- you know,
14 all the cases that I read involved movable vehicles on roads
15 or highways. This was on private property, chained to the
16 ground. It wasn't about to go anywhere at that point in
17 time.

18 So, I'm gonna grant your motion. I'll suppress the
19 V.I.N. number.

20 The State wish to proceed with the prosecution?

21 SOLICITOR KENDALL: Can I have a little while to look
22 at this, Your Honor?

23 THE COURT: Yes, sir, I'll give you about ten to
24 fifteen minutes. I'll stay on the bench. We're in recess
25 for that period of time.

1 (WHEREUPON, a short recess was taken at this time.)

2 SOLICITOR McCARTY: Your Honor, this may assist---

3 THE COURT: Yes, sir.

4 SOLICITOR McCARTY: ---and Mr. Kendall and I,
5 understanding your ruling---

6 THE COURT: Uh-huh. (Affirmative).

7 SOLICITOR McCARTY: ---Your Honor, with the suppression
8 of a trailer---

9 THE COURT: Now, I, I am suppressing the obtaining of
10 the V.I.N. number, and the manner that it was done. The
11 physical characteristics of the trailer itself were readily
12 available. He had permission to go out and look at the
13 outside of the trailer, get a description of it. And, so,
14 the -- what I suppressed was the V.I.N. number that was
15 seized by the search.

16 Wasn't that what your, your motion was, Mr. Tinsley?

17 MR. TINSLEY: Well, I'm sorry. I moved to, I moved to
18 suppress the entire camper, but, and any testimony about it
19 or anything like that.

20 THE COURT: Well, as to what -- and my ruling, I'll
21 tell you, my ruling is everything that was in plain view
22 that they saw while they were there---

23 SOLICITOR KENDALL: Yes, sir.

24 THE COURT: ---would give them a right to bring a case
25 if they wished to---

1 SOLICITOR McCARTY: Yes, sir.

2 THE COURT: ---based on the, their observations. The
3 actual taking of the vehicle, I'm not suppressing the taking
4 of the vehicle. I am suppressing them going inside of it in
5 the manner in which they did at that location.

6 SOLICITOR McCARTY: So, your ruling would only concern
7 testimony regarding their entry into it, and the subsequent
8 production of a V.I.N. number from inside the vehicle?

9 THE COURT: Exactly.

10 SOLICITOR McCARTY: Yes, sir.

11 THE COURT: They did not have the right to go inside
12 that vehicle---

13 SOLICITOR McCARTY: Thank you.

14 THE COURT: ---under those circumstances at that time.

15 SOLICITOR McCARTY: Thank you.

16 THE COURT: I've suppressed that.

17 SOLICITOR McCARTY: But nothing with regard to that
18 testimony or---

19 THE COURT: But the physical description of the, of the
20 trailer -- yes, ma'am.

21 MS. PRICE: Just so I'm clear as standby counsel,
22 anything that the officers could have seen in plain view,
23 whether it be from the road or from Mr. Tinsley, Tinsley
24 senior's yard---

25 THE COURT: Exactly.

1 MS. PRICE: ---that, that's, that's fine?

2 THE COURT: They have a right---

3 MS. PRICE: Okay.

4 THE COURT: They had a right to be on the premises---

5 MS. PRICE: Under a plain view analysis. Okay.

6 THE COURT: ---and get a description of the vehicle,
7 its make, model, whatever else they could get without
8 breaking into it.

9 MS. PRICE: I, I understand.

10 THE COURT: Now, when they went into it, anything that
11 they got when they went into it I'm suppressing.

12 SOLICITOR MCCARTY: Yes, sir.

13 THE COURT: They did not have the right to go into it,
14 it in any fashion without getting a warrant. But they were
15 invited on the premise and they were allowed to view the
16 trailer, its description, what it looked like, its make and
17 model.

18 SOLICITOR MCCARTY: Yes, sir, I understand. Yes, sir,
19 thank you.

20 THE COURT: All of that information---

21 SOLICITOR MCCARTY: May I indulge you for just one more
22 minute while we talk outside for just one second---

23 THE COURT: Certainly.

24 SOLICITOR MCCARTY: ---based on that ruling, your
25 clarification.

1 SOLICITOR KENDALL: Your Honor, I've got one more quick
2 question as well.

3 THE COURT: All right.

4 SOLICITOR KENDALL: It's also the, the seizure of that
5 trailer is also been suppressed. So, from the point they
6 got out there, that's essentially---

7 THE COURT: Not the seizure of the trailer. The
8 seizure of the V.I.N. number on the inside I have
9 suppressed.

10 (Pause.)

11 SOLICITOR KENDALL: All right. Your Honor, based on
12 that clarification, we are ready to proceed.

13 THE COURT: All right, sir. Any other motions from the
14 defense at this time?

15 MR. TINSLEY: Yes, Your Honor. I'd like to clarify
16 something that I'll try to be as quick, quick with it as I
17 can with you. I've addressed it before on the record, and
18 I've even filed a written objection to it, but I want to
19 make it a part of this record for appellate purposes. I
20 know appellate attorneys, they don't like to argue stuff
21 unless it's presented to the trial judge on the record.

22 THE COURT: I don't think they can. But go ahead.

23 MR. TINSLEY: Right. Thank you.

24 So, basically, I would move that the charges be
25 dismissed because I've had my due process and equal

1 protection rights violated.

2 THE COURT: I'll be happy to hear from you on that.

3 MR. TINSLEY: At this time I wouldn't be able to
4 receive a fair trial or a fair opportunity to defend against
5 the State's accusations. From the very beginning I've
6 maintained that I've wanted to waive my right to an attorney
7 for purposes of conducting the defense for me, and that I
8 wanted to retain the right to standby counsel to assist me
9 in conducting legal research and, and subpoenaing witnesses
10 and talking to witnesses and things like that. And now I
11 made that motion before you actually, and I maintained that
12 the reason I needed that was because that I was in jail and
13 being transferred from jail to jail and in prison and stuff
14 without access to a law library and I had no way to conduct
15 legal research of my own into possible defenses and was
16 unable to communicate with witnesses and things of that
17 nature to prepare for trial, and that I needed some method
18 to do that.

19 I didn't demand that it be done that way. It could be
20 conducted some other way and Federal Courts have addressed
21 the issue and have said that a person doesn't actually have
22 an absolute right to access to a law library provided that
23 the Court provides some other means or method that they can
24 conduct their legal research into possible defenses, and
25 they said that the standby counsel would be one acceptable

1 way.

2 And when I made the motion I suggested to you that,
3 that I would be happy and satisfied with standby counsel
4 that could help me do that, and I, I didn't think that the
5 Court would, you know, order the jail to provide me with
6 access to a Court because they don't have a law library, and
7 and, and I didn't think the Court would take tax dollars,
8 monies, and build me my own private one. So, I figured that
9 would be the easiest and cheapest way to do it, and I
10 maintained that all I wanted assistance for was for
11 conducting the legal research and, and subpoenaing witnesses
12 and talking to my witnesses and things like that.

13 THE COURT: Yes, sir, I, I am well aware of that.

14 MR. TINSLEY: And that, that, that provided her or her
15 assistance outside of the courtroom wouldn't actually
16 constitute co-counsel. And, so, you seemed to understand
17 that perfectly. In fact, you're the only judge or lawyer
18 that I've ever talked to that seemed to understand what I
19 was asking for.

20 Ms. Price, for whatever reason, she raised the issue,
21 again, before another judge, Judge Cole, and she didn't
22 believe that she should have to assist me that way, and, and
23 she thought that it was hybrid representation, and Judge
24 Cole apparently didn't understand it either, and she agreed
25 and told her that she didn't have to assist me in conducting

1 legal research, and she didn't have to subpoena witnesses.
2 she didn't have to talk to any witnesses or help me get the
3 information together for that, that all she had to do was
4 come into Court and answer questions for me during the
5 trial, and that's something that I had never asked for
6 really in the first place at all. All I had asked for was
7 the ability to conduct research for possible defenses prior
8 to trial. So, that assistance could come too little too
9 late to do me any good.

10 So, now I'm going to trial and I've never even been
11 able to talk to my witnesses. I have a rough idea of what
12 they might know and how it might benefit me. But I'm not
13 sure. It's been so long, four years. They might have
14 memory problems. They might of, might not remember things,
15 and I, and they might have exculpatory testimony that would
16 help me that I'm not even aware of, and I have no way of
17 knowing what they know and how it would benefit me or what
18 questions that I could even ask.

19 THE COURT: Have they been subpoenaed?

20 MR. TINSLEY: Yes, Your Honor.

21 THE COURT: Okay.

22 MR. TINSLEY: And, and Judge, Judge Cole, he did offer
23 an alternative method for subpoenaing. He said that I could
24 just provide a list of, to the clerk and she could do that
25 for me. But he didn't provide me -- he didn't offer me a

1 suggestion of how I could get an alternative method of
2 conducting legal research or interviewing or talking to my
3 witnesses.

4 THE COURT: Well, now, let me interrupt just a minute,
5 Mr. Tinsley. You just presented me about a five or six page
6 legal brief that was very effective and very well
7 researched.

8 How did you produce that if you don't have access to
9 legal research?

10 MR. TINSLEY: Well, because, from notes that I had
11 before, experiences that I had before, I'm aware of that.
12 But what I'm wanting research into possible defenses into is
13 for defenses for this particular charge.

14 THE COURT: Such as?
15 Give me some specifics.

16 MR. TINSLEY: Well, what kind of directed verdict
17 motion could I have or, you know, that type of thing.

18 THE COURT: She's available to help you with that.

19 MR. TINSLEY: But only during trial. Not, not, not in
20 pretrial research, and I, and I need to, access to that.

21 THE COURT: About what?

22 Give me something specific. I mean I can't -- we,
23 we---

24 MR. TINSLEY: I haven't---

25 THE COURT: Let me talk for a second.

1 MR. TINSLEY: Okay. Go ahead.

2 THE COURT: We will have this argument generally every
3 time we call your case for trial unless there's some,
4 something specific that you can tell me. You can just stand
5 up and say well, I haven't had a chance to have research and
6 talk generally about that and not give me any specifics, and
7 I'm not gonna rule in your favor on that.

8 MR. TINSLEY: I understand, but I'm saying without
9 access to be able to research into possible defenses, I
10 don't know what defenses even exist for this kind of crime,
11 and how they would apply to my case and unless I get---

12 THE COURT: I've got a feeling Ms. Price can answer
13 those questions.

14 MR. TINSLEY: Well, the judge told her that she didn't
15 have to. Judge Cole did. And, so, that's the reason I'm---

16 THE COURT: Well, if---

17 MR. TINSLEY: ---thinking of it.

18 THE COURT: If you ask her what defenses you might be
19 able to present I'll tell her to answer that question.

20 MR. TINSLEY: Okay. Well, also---

21 THE COURT: In fact, I just did.

22 MR. TINSLEY: And also I haven't been able to interview
23 my witnesses.

24 THE COURT: Well, they're under subpoena?

25 MR. TINSLEY: Right.

1 THE COURT: During the trial, course of the trial,
2 we'll make them available to you.

3 MR. TINSLEY: Okay. Well, they're here. So, that,
4 that, that was one of them, and---

5 THE COURT: In fact, I'll instruct them that the
6 subpoena that they're under, if they're present and in the
7 sound of my voice, would require, if you request them, to
8 come to the jail and talk to you before they go, or go, or
9 put on the stand.

10 MR. TINSLEY: I understand.

11 THE COURT: We're not gonna start the trial this
12 afternoon.

13 MR. TINSLEY: I understand. The problem is that, you
14 know, the jail won't let them come see me or whatever. I
15 mean I don't know how to arrange that. They got me on
16 lockup over there. I can't even use the phone. I don't
17 have a pencil to write with or paper or nothing and they
18 took my documents and evidence from me and put me on lockup
19 because of some---

20 THE COURT: You don't have you -- where did you -- you
21 just gave me a brief. They don't have your papers.

22 MR. TINSLEY: Not all of them. They took some
23 photographs and stuff like was at, that are, is exhibits in
24 the trial. They took them from me because I was on lockup.
25 And, so, I can't go to the canteen and buy paper to write

1 with, envelopes. I'm not able to write anything.

2 THE COURT: Ms Price?

3 MS. PRICE: Yes, sir.

4 THE COURT: Instruct the jail that if they have any of
5 his papers or documents to give them to him immediately.

6 MS. PRICE: Yes, sir, I will call over there.

7 THE COURT: That's an, that's an order from the bench.

8 MS. PRICE: I will call over there this afternoon.

9 THE COURT: Thank you.

10 SOLICITOR KENDALL: I may be able to address that as
11 well, Your Honor.

12 THE COURT: Yes, sir.

13 SOLICITOR KENDALL: There is another witness that's up
14 here, potential witness that's up here in this case.

15 THE COURT: Yes, sir.

16 SOLICITOR KENDALL: He's in the same pod. So, they're
17 trying to -- they're having to separate them. That, that
18 would be one of the witnesses.

19 THE COURT: Oh, I understand. That makes sense to me.
20 I don't have any problem with that other than I'm going to
21 allow you to speak with him before he's put on the stand.

22 MR. TINSLEY: Can we instruct the jail to allow that as
23 well?

24 THE COURT: Well, what I'll probably do is let that
25 happen right here at the courthouse.

1 MR. TINSLEY: That's fine. That's fine. Either way.

2 THE COURT: If they -- I'm not gonna tell them to put
3 somebody in a different pod, no, sir.

4 MR. TINSLEY: Okay.

5 THE COURT: What I'll do is, before that person
6 testified, if you'll step into the jail room and interview
7 them, I'll give you a right to do that.

8 MR. TINSLEY: Okay. My other motion, I would just
9 simply move that the charges be dismissed for the fast and
10 speedy trial violation. We were up here last term, and the
11 State---

12 THE COURT: Overruled.

13 MR. TINSLEY: ---asked for a continuance.

14 THE COURT: Overruled.

15 MR. TINSLEY: And I have a motion in limine about prior
16 bad acts and character evidence and---

17 THE COURT: Well, I'm gonna, I'm gonna make an
18 observation. I want you to make your motions, but I have --
19 it's stretches my, your credibility with me to tell me that
20 you haven't had an opportunity to consider the case or do
21 research and you're about to present me with motions in
22 limine and things of that nature. So, it appears to me
23 you've had an opportunity to look into your case.

24 But go ahead and make your motions. I may make a
25 different opinion after I hear them.

1 MR. TINSLEY: I'm not, I'm not stupid. I have a little
2 bit of knowledge. You know, I've read the law before.

3 THE COURT: Yes, sir.

4 MR. TINSLEY: And I have some notes that, you know,
5 but---

6 THE COURT: Exactly the point I'm trying to make.
7 Go ahead.

8 MR. TINSLEY: But I don't have specific ability to
9 access, you know, conduct research into specific things that
10 might affect me in this case. Just so happens some of the
11 case law and stuff that I'm aware of had something to do
12 with this case, but I---

13 THE COURT: So, you're indicating to me that the brief
14 that I received, all those citations with specific citations
15 in case numbers and dates you took out of your memory?

16 MR. TINSLEY: No, I had, I had some notes in a case
17 that quoted---

18 THE COURT: Okay.

19 MR. TINSLEY: Most of that came out of the, that one
20 state versus whatever it was, the main case that we were
21 talking about.

22 THE COURT: But you had access to that case?

23 MR. TINSLEY: My father sent it to me.

24 THE COURT: Okay. But you had access to the case?

25 MR. TINSLEY: Yeah.

1 THE COURT: Okay. You can get it?

2 MR. TINSLEY: Well, I did get that one.

3 THE COURT: Go ahead.

4 MR. TINSLEY: But I'm not able -- he can't, you know,
5 send me---

6 THE COURT: Make your motions in limine if you're gonna
7 make them.

8 MR. TINSLEY: Okay. The State intends I think to call
9 Ben Lindler, and he, I think, is gonna testify about some
10 prior bad acts or something that I haven't been convicted
11 of. And, so, they're not clear and convincing, and I want
12 to make sure that they don't---

13 THE COURT: Any prior bad acts that will come in
14 through that -- what's that witness' name?

15 MR. TINSLEY: Ben Lindler I think or Bill Dotson, but I
16 think that Ben---

17 SOLICITOR KENDALL: Unless this door's open, Your
18 Honor, I intend to keep Mr. Lindler on topic describing what
19 happened specific to this case and his involvement in this
20 case.

21 THE COURT: Okay.

22 SOLICITOR KENDALL: And along those lines, as that
23 relates to---

24 THE COURT: You don't intend to introduce any prior bad
25 acts through that testimony unless somehow that becomes an

1 issue in the case?

2 SOLICITOR KENDALL: If the defense starts asking about
3 stuff, I'm gonna ask about their relationship and that
4 crimes they relate to stolen campers and R.V.'s.

5 THE COURT: Beg your pardon?

6 SOLICITOR KENDALL: As, as they relate to this.

7 THE COURT: This R.V.?

8 SOLICITOR KENDALL: Yes.

9 THE COURT: Okay, sir. He says he'll limit himself.
10 You have the right to make those objections that you just
11 made contemporaneously with his asking those questions.

12 MR. TINSLEY: All right.

13 THE COURT: I see no reason to rule on it since he says
14 he's not gonna do it.

15 MR. TINSLEY: All right.

16 THE COURT: But if you find, during the trial, he
17 attempts to do so, what I'm saying is you have the right to
18 make an objection at that time as well.

19 MR. TINSLEY: Right.

20 THE COURT: Go ahead.

21 MR. TINSLEY: And I want to -- the State intends to
22 allow either the statements or testimony from Detective
23 Henry Beck that was obtained against me, and I want to limit
24 that because it doesn't have anything to do with this case.
25 Our conversation was about a completely different thing.

1 That's a statement---

2 THE COURT: Well, let me ask if you're gonna use a
3 statement that was given to a Detective Beck or Officer
4 Beck?

5 SOLICITOR KENDALL: Yes, Your Honor. To the extent
6 that he, Mr. Tinsley discusses not knowing anything about
7 any campers, I think that will be something I'm gonna
8 discuss.

9 THE COURT: All right, sir. And what is the basis for
10 your objection?

11 MR. TINSLEY: Well, it was obtained through threats and
12 coercion, and it was -- and I didn't voluntarily sign it,
13 and it really doesn't have any -- it's not inculpatory at
14 all, and it had to do with other campers. I was never even
15 asked about this camper. I was asking questions -- I was
16 asked questions about campers in North Carolina, which I
17 have been cleared of. I said I didn't know anything about
18 those campers and I was cleared of those campers. I was
19 found not guilty. They investigated them, dropped the
20 charges, expunged them from my record.

21 I had nothing to do with that. And, and, so, I don't
22 think that that statement or any conversations we had should
23 come into this trial because it might influence the jury to
24 make a decision on that.

25 THE COURT: Well, I haven't seen the statements. So,

1 let me see if it---

2 SOLICITOR KENDALL: Your Honor, first off, we're not
3 gonna be introducing the written statement. We're gonna be
4 introducing what, what he told the detective.

5 THE COURT: About what?

6 SOLICITOR KENDALL: About a, the theft of campers.
7 This occurred, I believe, kind of in the gap between when
8 campers went missing and when campers got found, and Mr.
9 Tinsley's sitting there in the middle saying he doesn't know
10 nothing about the camper.

11 MR. TINSLEY: No, I would---

12 SOLICITOR KENDALL: Let me find the actual quotation of
13 it, but I think it pretty clearly relates to campers.

14 MR. TINSLEY: I was asked specifically, Your Honor,
15 about an R.V. stolen and campers from North Carolina.
16 That's all the conversation was about.

17 THE COURT: Let me see the statement.

18 MR. TINSLEY: In fact, at the time---

19 THE COURT: Just, just wait a minute, Mr. Tinsley. I
20 want to look at the statement.

21 MR. TINSLEY: Okay.

22 THE COURT: Thank you.

23 (Pause.)

24 THE COURT: All right. Mr. Tinsley, I have now read
25 the statement and am aware of what it contains.

1 Your objection is that it was not given voluntarily?

2 MR. TINSLEY: Yes, Your Honor, and that it's, it is not
3 relevant to the charges that I'm on trial for. At the time
4 that that, I believe it was December 5th when that was
5 given, this camper hadn't even been seized by the police. I
6 didn't even know that it was stolen at that time. So, they
7 asked me specifically about campers stolen from North
8 Carolina. They said we have stolen campers from North
9 Carolina, what do you know about them, and I said I don't
10 know anything about them. And, and, so, nobody ever asked
11 me about this camper. I didn't even know that it was
12 stolen.

13 THE COURT: Yes, sir.

14 SOLICITOR KENDALL: Your Honor, I don't have it right
15 in front of me, but I believe that it references campers at
16 Bill Dotson's. Part of the testimony that's gonna come out
17 in this case, obviously having campers in Greenville is not
18 illegal in Spartanburg County or that would be a huge
19 jurisdiction problem. But one of the thing we're gonna
20 prove, of course, in this trial is they're campers at Bill
21 Dotson's place of business here in Spartanburg County. Now,
22 as part of this crime we have to know that he knows that,
23 that the property is stolen.

24 In that statement he seems to suggest that he doesn't
25 know anything about any campers. That's a little odd thing

1 to say when we're talking about him finding him in a camper
2 about ten days later. Additionally, we'll present evidence
3 to the Court that we, that there's a camper at Bill Dotson's
4 that matched the description that we talked about earlier
5 today that Mr. Tinsley was living in and attempting to sell
6 at some time.

7 So, I think it's highly relevant that he's denying any
8 knowledge of any camper at Bill Dotson's when we knows he's
9 got it before and we know he's got it after.

10 MR. TINSLEY: Your Honor, the camper that, that were at
11 Bill Dotson's was from North Carolina. They were brought
12 from North Carolina, and they asked me about them. That
13 camper doesn't, didn't have any, hadn't even been discovered
14 at that time. So, I didn't even know that it was -- I
15 wasn't even aware that it---

16 THE COURT: When you say that camper, you're talking
17 about the one at your grandmother's home?

18 MR. TINSLEY: Correct. It had not -- it wasn't
19 discovered by the police until the 13th I think. And, so,
20 it was after that when they told me that it was stolen. So,
21 I wasn't even asked about that. They didn't ask me do you
22 know anything about a camper that came from the Holiday
23 Camper or something. They said, they said North Carolina
24 police is the one that arrested me. You know, I was here.

25 THE COURT: Well, just a second. I'm having a little

1 bit of a problem understanding the relevance between these
2 campers that disappeared from North Carolina---

3 SOLICITOR KENDALL: Your Honor?

4 THE COURT: ---and the one that was located in this
5 case.

6 SOLICITOR KENDALL: Your Honor, what essentially
7 happened was a bunch of campers got stolen from North
8 Carolina in a warehouse some place else. That's it as it
9 relates to this case. In this case, a camper was stolen
10 from Holiday Camper. We have---

11 THE COURT: Which is where?

12 SOLICITOR KENDALL: It's in Spartanburg County.

13 THE COURT: All right.

14 SOLICITOR KENDALL: And we believe that, that we'll be
15 able to prove to the Court that it went to Mr. Tinsley at
16 his place of abode until he was evicted from that, and then
17 he went to Bill Dotson's house. The fact that he's not
18 seeing any campers, and I believe the line, I could have it
19 now in front of me, but it don't have anything to do with
20 any campers is a little odd. We know -- I can place that
21 camper at Mr. Dotson's place of business---

22 THE COURT: That camper, that camper, you guys are
23 talking---

24 SOLICITOR KENDALL: The one that matches the
25 description and has the stickers all over it -- the one

1 that's in question---

2 THE COURT: The one that's involved in this case?

3 SOLICITOR KENDALL: Yes, sir, Your Honor.

4 THE COURT: All right.

5 SOLICITOR KENDALL: I can put it there in early
6 December, and I can put it there obviously in Greenville
7 when it was seized or when a camper matching that
8 description was seen in Greenville. The fact that he, in
9 the mean time---

10 THE COURT: So, you're saying that this goes to
11 credibility?

12 SOLICITOR KENDALL: I would say this goes to the mens
13 rea requirement of him knowing it's stolen. He's given
14 false, fraudulent statements to police officers about the
15 existence of a camper. Now, if that's a camper, which as he
16 claims he, he lawfully purchased and everything else, that
17 would be something he would know about at that point. He --
18 it's not that he says I have a camper, but it doesn't relate
19 to this. His thing is I don't know anything about any
20 campers.

21 THE COURT: All right. How many more motions do you
22 have, Mr. Tinsley?

23 MR. TINSLEY: Just one or two. Short ones.

24 THE COURT: Well, I'm trying to decide whether to turn
25 the jury loose and bring them back in the morning or not

1 cause it looks like to me this is gonna take a while cause
2 he's challenging the, challenging the voluntariness of the
3 statement. We got to take testimony concerning the
4 statement.

5 SOLICITOR KENDALL: Yes, sir.

6 THE COURT: Okay. So, I mean it's gonna take a while.
7 I'm gonna ask you to release the jury, ask them to be
8 back in the jury room unless -- I don't know of another
9 judge that's holding jury trials. I think I'm it. Release
10 them, ask them to be back in the jury room at 9:30 in the
11 morning. Tell them thank you. Sorry we couldn't get
12 started.

13 All right. You may call your first witness.

14 SOLICITOR KENDALL: Your Honor, we need to track down
15 Detective Beck very quickly.

16 THE COURT: All right.

17 (Pause.)

18 THE COURT: Sir, come forward to be sworn. Right over
19 here to my left. Thank you.

20 HENRY BECK, having been first duly
21 sworn, testified as follows:

22 THE COURT: Have a seat please, sir. State your name.

23 WITNESS: I'm Investigator Henry Beck for the
24 Spartanburg County Sheriff's Office.

25 THE COURT: Your witness.

Henry Beck - Direct examination
by Solicitor Kendall

1 SOLICITOR KENDALL: Your Honor, may I approach and grab
2 that?

3 THE COURT: Yes, sir, here's the statement.

4 DIRECT EXAMINATION

5 BY SOLICITOR KENDALL:

6 Q Detective Beck, where are you currently employed?

7 A I'm with the Spartanburg County Sheriff's office
8 Narcotic's Unit.

9 Q And how long have you been with, with that unit?

10 A Four years.

11 Q And prior to that did you ever work on stolen property
12 crimes, specifically a stolen camper?

13 A I did.

14 Q In, in December of 2006?

15 A Yes.

16 Q Over the course of this investigation, did you have the
17 opportunity to question Mr. Tinsley?

18 A I did.

19 Q Prior to that questioning, was he served or was he
20 given his Miranda rights?

21 A He was.

22 (WHEREUPON, the pre-interrogation waiver form was
23 marked as State's Exhibit No. 2 for identification purposes
24 only at this time.)

25 SOLICITOR KENDALL: Your Honor, I'm gonna, I'm gonna

Henry Beck - Direct examination
by Solicitor Kendall

1 approach with State's Exhibit 2. I think it will be two
2 right now.

3 THE COURT: All right, sir.

4 Q Detective Beck, can you identify what that piece of
5 paper is?

6 A This is a copy of a pre-interrogation waiver form that
7 the Spartanburg County Sheriff's Office uses.

8 Q And what does that indicate?

9 What's the purpose of that form?

10 A It's to advise, to advise someone who is a suspect in a
11 criminal investigation of their Miranda rights, the right to
12 remain silent, the right to advise them that anything they
13 can say will be used against them in a court law, the right
14 to have an attorney and to have them present with you while
15 they're being questioned, and if they can not afford to hire
16 an attorney one will be appointed to represent him for any
17 questioning if they so wish.

18 Q And where did you share that to Mr. Tinsley?

19 A The Spartanburg County Sheriff's Office.

20 Q All right. Where, where did you give him that, that,
21 that form, those waiver of those rights, at the Sheriff's
22 office?

23 A I believe we had -- he was in custody, but we had
24 brought him to the Sheriff's Office.

25 Q Okay. And about how long did that, did that, or excuse

Henry Beck - Direct examination
by Solicitor Kendall

1 me, did you then have a chance to offer to talk to him about
2 the nature of this case?

3 A Yes.

4 Q And was he willing to talk to you?

5 A Yes, he was.

6 Q Did he sign a statement in this case?

7 A He did not sign a statement.

8 Q But to be clear, he, he had, he had, in fact, you guys
9 did have a prolonged conversation about the events that
10 happened as relates to this camper and other, other
11 incidences?

12 A Yes.

13 Q About how long did this, this, this conversation last?

14 A Probably about an hour and a half.

15 Q About an hour and a half?

16 A (Witness nods affirmatively.)

17 Q At anytime was Mr. Tinsley coerced, threatened?

18 A No, he was not.

19 Q Over the course of this investigation was he ever
20 deprived of sleep, food?

21 Were there dogs or any, any conditions that may have
22 made it more stressful on Mr. Tinsley?

23 A No.

24 Q When he declined to sign the statement, did you make
25 any threats to him at that point?

Henry Beck - Direct examination
by Solicitor Kendall

1 A No, sir, I just simply wrote refused to sign. He did
2 sign his waiver or rights, but when I went over the
3 statement with him that I wrote at his request he did not
4 sign that. He refused to sign the actual statement.

5 Q During -- over the course of this investigation were
6 there any medical ailments that you could visibly see Mr.
7 Tinsley suffering from?

8 Was he openly bleeding or anything along those lines?

9 A No, he was, seemed to be in fine health.

10 Q And how would you describe his attitude over the course
11 of those things, over the course of that interview?

12 A He was somewhat sarcastic. Probably being, trying to
13 be deceptive, trying to be careful as to what he said, as
14 he, to answer any questions that I would ask him being
15 careful to try not to implicate himself. Probably trying to
16 figure out what I knew.

17 Q At anytime over the course of that questioning did he
18 ever express to you any fear?

19 Did he, did he appear fearful of anybody or anything?

20 A No.

21 Q Were there any events or activities surrounding Mr.
22 Tinsley that would make a normal person scared or gave the
23 appearance to Mr. Tinsley that he was scared?

24 In other words, was he projecting fear to you?

25 A No.

Henry Beck - Direct examination
by Solicitor Kendall

1 Q Did he ever -- did he ever make any representations to
2 you that he was afraid?

3 A No, he did not.

4 Q Did yourself or anyone else around make any physical
5 threats towards Mr. Tinsley, Mr., towards Mr. Tinsley?

6 A No.

7 Q Did you make any legal threats to Mr. Tinsley?

8 That is to say did anybody say you better tell me this
9 or you're gonna go to jail the rest of your life or anything
10 along those lines?

11 A No.

12 Q Was there anything else that you can think of, as a law
13 enforcement officer, that would tend the conclusion that Mr.
14 Tinsley was coerced in any way to talk to you?

15 A No, he was, gave a statement of his own free will. He
16 just refused to sign---

17 Q At some---

18 A ---the statement.

19 Q At some point that questioning stopped.

20 What, what stopped the questioning ultimately?

21 A His refusal to continue to cooperate.

22 Q So, at some point he just said I'm done?

23 A I don't remember if he specifically said that. I
24 remember we wrapped the statement up, and he just -- that
25 was the end of the interview and he refused to sign the

Henry Beck - Direct examination
by Solicitor Kendall

1 statement, and that pretty much ended the interview.

2 Q Okay. But he was not coerced in any way throughout
3 these entire proceedings?

4 A No.

5 SOLICITOR KENDALL: I've got no further questions, Your
6 Honor.

7 THE COURT: Your witness, Mr. Tinsley.

8 CROSS-EXAMINATION

9 BY MR. TINSLEY:

10 Q Detective Beck, on, on this, on this day that I was
11 arrested, you weren't the one that arrested me, were you?

12 A I don't think, think so, no.

13 Q Someone -- I believe you may of been at the Sheriff's
14 Department and they brought me and you---

15 A Right.

16 Q ---met them outside and got me out of the car and took
17 me in the Sheriff's Office?

18 A I think that's the way it happened.

19 Q Is that -- okay. On that day, all I had been accused
20 of was an Advance Auto robbery in Woodruff I believe?

21 That was the reason that I had been arrested, is that
22 correct?

23 A I think so. I---

24 Q And I hadn't been arrested for the campers in North
25 Carolina yet, but you knew about them, is that correct?

Henry Beck - Cross-examination
by Mr. Tinsley

1 A I think so. I think we did---

2 Q They had been recovered or something. So---

3 THE COURT: Now, Mr. Tinsley, let him finish his
4 answers. Okay. You're cutting him off.

5 MR. TINSLEY: I'm sorry.

6 THE COURT: He's got a right to finish his answer.
7 Go ahead.

8 Q At -- so, at this time all you were questioning me
9 about was the camper and maybe an R.V. that was found in
10 Cherokee, North Carolina, is that right?

11 A I think we were interested in you for multiple camper
12 and R.V. thefts.

13 Q From---

14 A There were several incidents.

15 Q From North Carolina and---

16 A And Spartanburg.

17 Q And Spartanburg, the R.V. that was found in Cherokee?

18 A I think so, yes.

19 Q So, when you questioned me you asked me that did I know
20 anything about campers in North Carolina and an R.V. that
21 you had in Cherokee, is that about right?

22 A Yes.

23 Q Something along those lines?

24 A That's, that's fair to say, yeah.

25 Q And I told you, and you -- I told you that I, all I

Henry Beck - Cross-examination
by Mr. Tinsley

1 knew is that I had seen three campers or something like that
2 at Bill's shop, and that I didn't know where they came from,
3 that he said he was retrofitting them or something like
4 that, right?

5 A That's correct.

6 Q I didn't say that I didn't know, had never seen any
7 other campers or didn't have a camper at my home?

8 I just said that I didn't know anything about those
9 campers?

10 A You never mentioned the campers, any campers that you
11 personally had. You just mentioned seeing campers at Mr.
12 Dotson's house.

13 Q And that I didn't know nothing about those campers
14 other than what was said about them, Bill saying that he was
15 retrofitting them and was---

16 A That's what you said, yes.

17 Q Something like that, yeah.

18 Okay.

19 THE COURT: Now, sir, your objection went to the
20 voluntariness of the statement. Are we gonna get to that in
21 this?

22 MR. TINSLEY: Yes, that's what I was about to go to.

23 THE COURT: That would be a good idea.

24 Q Above my signature on the waiver form, can you read
25 that?

Henry Beck - Cross-examination
by Mr. Tinsley

1 A There's something written there. I'm not exactly sure
2 what that is.

3 Q Does it look like U.C.C. 1-207?

4 A It could be. That's kind of what it looks like. I
5 mean---

6 Q Do you know what that means?

7 A I do not.

8 MR. TINSLEY: I have no further questions for him, Your
9 Honor.

10 THE COURT: Anything further?

11 SOLICITOR KENDALL: Nothing further on redirect, Your
12 Honor.

13 THE COURT: All right. You may step down.

14 The statement's been put in?

15 SOLICITOR KENDALL: The statement itself is not gonna
16 be put in, Your Honor. Just any---

17 THE COURT: Okay.

18 SOLICITOR KENDALL: Detective Beck testified to the
19 things---

20 THE COURT: Any other testimony on this matter?

21 SOLICITOR KENDALL: Nothing further, Your Honor.

22 THE COURT: Do you wish to call any witnesses?

23 MR. TINSLEY: I would testify myself, Your Honor.

24 THE COURT: Come forward. You've already been sworn.
25 I'll, I'll take his swearing earlier. You're under oath

James Tinsley - Direct examination
by Mr. Tinsley

1 still, sir. Have a seat and I'll allow you to give your
2 testimony in narrative form.

3 MR. TINSLEY: That's fine.

4 JAMES TINSLEY, having been previously
5 sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. TINSLEY:

8 THE COURT: Yes, sir.

9 MR. TINSLEY: Basically on that night I'd been accused
10 of, I don't know the detective's names, they were from North
11 Carolina actually. They had picked me up at, at Bill's
12 shop, and they, they asked me about an R.V. Apparently
13 through some kind of discovery, investigation or something,
14 they discovered some campers that Bill and Hugh had, and
15 they asked me about those, and they asked me about the R.V.
16 they had discovered it in, in Cherokee, and I told them
17 that, that Hugh had had the R.V., and that I'd seen Hugh
18 and, and Bill discussing and talking about the campers,
19 three campers that were at his shop.

20 And, so, I was taken from there back to the police
21 station and Detective Beck met the officer outside, and on
22 the sally port or deck or something out there, and picked me
23 up and he took me upstairs, and, you know, he, he said that,
24 I don't remember, you know, you think you're a smart aleck
25 or something like that, and he patted his gun and he said

James Tinsley - Direct examination
by Mr. Tinsley

1 we're gonna get to the bottom of it.

2 So, we went in there and I didn't really want to talk
3 to him at first, and -- but he kept acting kind of
4 aggressively with me and cocky with me and he said, you
5 know, we can sit here all night long if you want to. I've
6 sat in here for 24 hours before so if you don't talk to me.

7 So, I didn't know what else to do, and, so, I didn't
8 want, I didn't want to sign anything. So, I knew that
9 one -- I didn't know how I would be able to show to a judge
10 later on, you know, that I, that it wasn't voluntary, that,
11 that -- so, I knew that if you signed U.C.C. 1-207, that
12 means that you're signing something under duress or
13 coercion, and I thought well, if I signed that above my
14 signature later on, if I ever get to Court, the judge can
15 see that and he will notice that, who would put that on
16 there if they weren't trying to secretly let the judge know
17 that he had signed something under duress and coercion and
18 threats.

19 So, that's the reason I put it on there, and then
20 later, as I talked to him, I didn't, I didn't write the
21 statement. He wrote it for me as we were talking. So, I
22 was just telling him, you know, very little really about the
23 case, and, and nothing about this case, and all I, all I
24 told him was what I had seen. Basically the same things
25 that I had told the officers from North Carolina who first

James Tinsley - Direct examination
by Mr. Tinsley

1 picked me up, that I had seen the three campers. He
2 specifically asked me what do you know about this R.V. and
3 what do you know about these three campers, and he, and he
4 said that they're stolen. And I said well, I don't know
5 anything about any stolen campers. All I know is that I saw
6 three campers at Bill's, and he said he was retrofitting
7 them and that's all I knew about it, and that I had seen --
8 Hugh had a camper in, in Cherokee, North Carolina or an R.V.
9 rather, and that's all I was asked about.

10 I was never asked anything about this case. I wasn't
11 asked whether I had any other campers or knew of any other
12 campers that might be stolen or anything. I was just
13 specifically asked about those campers, and they didn't ask
14 me if I thought those campers were stolen. He told me that
15 those, those three campers that they had found that had been
16 at Bill's were stolen. And, so, I told him that I had seen
17 them there at the camper, at Bill's shop and that's all.
18 And it has the -- none of those three campers is the campers
19 that are in this case by the way.

20 And, so, finally he kind of gave up and he wanted me to
21 sign it, but I, I refused cause he seemed to calm down then
22 and cause he was kind of liking what I was saying I guess.
23 I don't know. But he kind of calmed down a little bit, and,
24 so, I didn't sign it. And he took me over to the jail. And
25 that's the end of it. End of it.

James Tinsley - Direct examination
by Mr. Tinsley

1 THE COURT: You wish to question, Mr. Kendall?

2 SOLICITOR KENDALL: I have a couple of them, Your
3 Honor.

4 THE COURT: Yes, sir.

5 CROSS-EXAMINATION

6 BY SOLICITOR KENDALL:

7 Q Just to be clear, to be clear on the front, were you
8 given Miranda warnings?

9 A He read them out or something, yeah.

10 Q So, you did, in fact, receive warnings from Miranda?

11 At any point did anybody physically touch you or were
12 any dogs available?

13 A No, he didn't, he didn't touch me, no.

14 Q And a moment ago Detective Beck testified that the, the
15 total time period was about an hour and a half.

16 Is that fairly accurate?

17 A Yes, but to begin with he said that we would be
18 there -- before I started talking he said that we would be
19 for, you know, like 24 hours or something if I didn't tell
20 him something, that he would just sit there with me until I
21 told him what he wanted to hear because he was gonna get to
22 the bottom of it.

23 Q Once you argued that -- excuse me.

24 Once you declined to sign the statement, he didn't
25 force you in anyway?

James Tinsley - Cross-examination
by Solicitor Kendall

1 A No, I think he had already figured that he had what he
2 wanted. So, at that time he was all right.

3 SOLICITOR KENDALL: I've got no further questions; Your
4 Honor.

5 THE COURT: You may step down.

6 Mr. Tinsley, you can argue the issue.

7 MR. TINSLEY: Basically, Your Honor, I didn't want to
8 talk to him, and he was telling me that I was gonna be there
9 for a while if I didn't talked to him. And I, I, you know,
10 he was kind of threatening me when he was patting his gun.
11 I didn't know what he was gonna do. There wasn't any other
12 officers around. So, I was a little bit worried. We were
13 upstairs by ourself.

14 And, so, I didn't want to sign it. I didn't really
15 want to talk to him, but I figured I better tell him
16 something or I'll be there forever. And I wanted to get to
17 the jail so I could call and, and get out bond. And I
18 didn't want to sit there. And, so, I thought to myself, you
19 know, what is it that I can do to show the Court that, that
20 I didn't want to sign this and didn't want to talk to him
21 and that I was doing it because I felt like I, I never get
22 out of there or I might get harmed if I didn't. So, I put
23 the U.C.C. 1-207 above my signature.

24 THE COURT: Tell me, tell me what's that suppose to
25 mean.

1 MR. TINSLEY: Well, it just means that the document's
2 not admissible, admissible in Court---

3 THE COURT: Under what?

4 MR. TINSLEY: ---if it's signed without prejudice under
5 the Uniform Commercial Code, U.C.C. 1-207. That any
6 document that's signed without prejudice under U.C.C. 1-207,
7 it means that the document was signed under threats, duress,
8 or coercion, and it's not admissible in Court.

9 THE COURT: The Uniform Commercial Code applies to a
10 confession or a statement given to the police?

11 MR. TINSLEY: Any negotiable instrument or document
12 like that.

13 THE COURT: That's not a negotiable instrument.

14 MR. TINSLEY: Well, a document like that I believe,
15 that if you, if you're forced to sign it. And even if it
16 didn't apply, I didn't know whether it did or not. I was
17 just thinking in my head---

18 THE COURT: Mr. Tinsley, did you ever---

19 MR. TINSLEY: ---the fact that I put that there---

20 THE COURT: Did you ever exercise your Miranda rights
21 by saying I don't want to talk to you?

22 MR. TINSLEY: Oh, I, I told them to him, to the, to
23 the, from the beginning and that's what he, that's why he
24 kept saying well, we'll be here for 24 hours. I said, you
25 know, I don't want to talk to you. I would---

1 THE COURT: Did you tell him you wanted to see your
2 lawyer?

3 MR. TINSLEY: I didn't tell him that, no. But I did
4 say that I didn't want to talk to him.

5 THE COURT: And just, and then just don't say a word.

6 MR. TINSLEY: Well, he said that we were gonna be there
7 for 24 hours, that he wasn't gonna let me go---

8 THE COURT: That's the first time I've heard 24 hours.

9 MR. TINSLEY: Take me to the jail until we were -- he
10 wasn't -- he wouldn't take me to jail.

11 THE COURT: All right. I'll hear from you.

12 SOLICITOR KENDALL: Your Honor, I've got a couple
13 things. First, obviously, we would strongly be opposed to
14 the use of the Uniform Commercial Code as alleged here that
15 preempts Miranda waivers, and second---

16 THE COURT: I don't intend to apply it to Miranda
17 waivers.

18 SOLICITOR KENDALL: I would also like to point out to
19 the Court with respect to Mr. Tinsley's previous argument
20 that he's been given inample time for legal research, he's
21 come up -- he's been very thorough. Moreover, that a
22 Miranda warning, in and of itself, issues whether there's a
23 warning. Whether the statement comes in or not is just
24 evidence of, of a warning.

25 Going straight to this appears that the coercive threat

1 is that a guy in custody has to stay in a slightly different
2 room for a period of time at worst. There were never, at
3 any point, was there any sort of physical violence or threat
4 against him. He was not deprived of food, sleep, anything
5 along those lines, and more to the point, he didn't actually
6 sign the statement. It's a little bit hard to believe that
7 he was coerced into doing something when he hasn't confessed
8 and he didn't sign the statement. That's not typically how
9 you would view a coercive statement. That, that seems
10 largely illogical. I don't believe anything's presented
11 here that even comes close to a level of a coercive
12 statement.

13 THE COURT: I agree with the State's argument. I
14 overrule the motion, the motion.

15 MR. TINSLEY: I also have a motion to limit my prior
16 convictions. They were all overturned on PCR, and except
17 for a couple misdemeanors or something from 20 years ago.

18 THE COURT: Do you intend to use any prior convictions?

19 SOLICITOR KENDALL: I was under the impression there
20 was one outstanding from Anderson County for which he's
21 currently incarcerated.

22 MR. TINSLEY: No, that's Oconee.

23 SOLICITOR KENDALL: Oconee County, yes, that's correct.
24 I'm sorry.

25 MR. TINSLEY: That's a different one. There is one

1 conviction from -- yeah, I'm separating the ones that were
2 overturned cause, and over ten years old.

3 THE COURT: He didn't say he intended to use those.

4 MR. TINSLEY: Right. And as far as the other one,
5 there is one from 2008, and it was kind of connected to all
6 this actually, but it was obtained without benefit of
7 counsel, and it was my understanding that that conviction
8 can't be used to enhance a sentence or to impeach a person's
9 testimony or anything like that, attack their character or
10 credibility.

11 SOLICITOR KENDALL: I would like to address that, Your
12 Honor, cause I've been on the phone with Oconee County a
13 couple of times on this. Mr. Tinsley was offered testimony.
14 It was a receiving stolen goods case.

15 THE COURT: Offered testimony or counsel?

16 SOLICITOR KENDALL: Offered counsel. I'm sorry, Your
17 Honor. He was offered counsel. It is a case relatively
18 similar to this. On the last day, prior to or the day of
19 trial, he then suddenly decided he wanted counsel. The
20 judge told him no. Essentially he had numerous
21 opportunities. He was told no. I believe that he had -- it
22 is currently on appeal. I don't believe the fact that this
23 case is trying to appeal it would actually prevent us from
24 using it for, you know, I don't know what purpose yet,
25 but---

1 MR. TINSLEY: That's not exactly correct. It happened
2 about just like this. I, I asked for counsel. You gave me
3 some standby counsel, but in that case they wouldn't give me
4 anything. They didn't give me any kind of counsel at all.
5 And, so, so, it's a little different in this case, but it
6 was similar to that. I was, I was never, never offered
7 counsel at all. I begged and filed motions and briefs and
8 everything requesting it. They wouldn't give me one. It
9 wasn't just the day of trial. I've done it for months
10 before that.

11 SOLICITOR KENDALL: My, my conversations about this
12 come exclusively from Oconee County folks who said they had
13 tried, tried to raise his right to counsel in the, before
14 that---

15 THE COURT: At this time I will, I will exclude those.
16 I'll do some more research. We've got some time. I'll take
17 a look at that. But at this time I'll tell you we will
18 exclude them.

19 MR. TINSLEY: I previously filed a motion to sever the
20 two trials because I wanted to testify in one trial and not
21 in the other, and I -- this hearing -- apparently some type
22 of hearing took place, I wasn't in the courtroom, but
23 apparently they agreed, either a judge ruled, maybe you, or
24 the attorneys agreed to just do it that way, that they would
25 sever the two trials. And -- but in the motion I mentioned

1 that---

2 THE COURT: Let me explain to you. I don't know of any
3 hearing that took place.

4 Do you know of any hearing, Mr. Kendall?

5 SOLICITOR KENDALL: I believe, I believe we can -- we
6 brought Mr. Tinsley in front of Judge Cole, and one of the
7 motions he had filed was to sever the trials and we said
8 that's fine.

9 THE COURT: So, he granted his motion?

10 SOLICITOR KENDALL: Yeah, but we consented to it, Your
11 Honor.

12 THE COURT: Well, he granted your motion.

13 MR. TINSLEY: He did and that's not---

14 THE COURT: So, what's the issue?

15 MR. TINSLEY: That's not where I'm going. In the
16 motion I mentioned that that -- I suggested that maybe the
17 state, to solve that problem, would just want to dismiss the
18 receiving stolen goods charge and that would solve it. Wait
19 a minute. Wait a minute. And that if they didn't that
20 there would be a venue issue at trial. So, now I'm moving
21 that, that the Court that -- I'm exercising my privilege and
22 right to be tried in a county and state where the crime
23 occurred basically. And, so, I'm just reasserting what I
24 mentioned previously in that motion about venue.

25 THE COURT: Then tell me -- you're talking about this

1 receiving of stolen goods?

2 MR. TINSLEY: Right. I suggested that had they just
3 dismissed it there would be no venue problem. But if they
4 chose to go to trial, even if they severed them, there would
5 still be a venue problem. And, so, that's what I'm raising
6 now, the venue, the venue issue.

7 THE COURT: On what basis?

8 MR. TINSLEY: On, on the, the grounds it didn't
9 occur -- that I, any receiving or possession occurred in a
10 different state and county.

11 THE COURT: Well, it's not possession. It's receiving.

12 MR. TINSLEY: Well, possession's been added to, to the
13 receiving statute.

14 THE COURT: I'll hear from that, on that.

15 SOLICITOR KENDALL: Your Honor, I would agree that's
16 something we're definitely gonna have to prove at trial.
17 There's definitely an issue of jurisdiction and venue that's
18 gonna have to be proven before the Court. I guess my
19 argument would be, Your Honor, is that we are going to prove
20 that before the Court.

21 THE COURT: Okay.

22 MR. TINSLEY: And, and I'm---

23 THE COURT: Your motion's been made and it's preserved.
24 If you want to raise it later on---

25 MR. TINSLEY: Exactly. Okay.

1 THE COURT: ---you have the right to do so.

2 MR. TINSLEY: That's what, that's what I was looking
3 for, Your Honor.

4 THE COURT: Yes, for a gentleman that had no access to
5 the legal system---

6 MR. TINSLEY: Oh.

7 THE COURT: ---you're pretty astute.

8 MR. TINSLEY: My, my---

9 THE COURT: I'll make that observation again in
10 standing by my previous ruling.

11 MR. TINSLEY: My, my cousin, Robert Batton, was a
12 federal judge down in Atlanta, Georgia. And, so, I spent a
13 lot of my life studying the law and stuff, but it's mostly
14 civil stuff. But I have a pretty good memory about how some
15 things work.

16 THE COURT: Again, my, my observation is that you're
17 pretty astute with what you're presented to the Court, and
18 I'll just make that observation again and stand by my
19 previous ruling on that issue.

20 Any other motions?

21 MR. TINSLEY: I believe that would do it for today,
22 Your Honor.

23 THE COURT: Anything from the State?

24 SOLICITOR KENDALL: We've got nothing, Your Honor.

25 THE COURT: All right. I'm taking a guilty plea in the

1 morning at nine o'clock. So, we'll be in a position to
2 begin the trial at 9:30.

3 Those witnesses who are present at this time that you
4 would like to speak to, can you give me their names?

5 MR. TINSLEY: Danny McKeenan, Hugh Justice, and Doug
6 Tinsley, and Cindy Reed.

7 THE COURT: All right. I'm gonna order that he be
8 taken to the jail room and they will be asked that they stay
9 under their subpoena until they've had an opportunity to
10 talk with him this afternoon.

11 MR. TINSLEY: Oh, and I'm sorry, Your Honor, a Tobias
12 Stump, and---

13 THE COURT: I'm sorry. What did you say?

14 MR. TINSLEY: A Tobias Stump.

15 THE COURT: Is that person present?

16 MS. PRICE: Your Honor, he's in the D.O.C. I think
17 he's already in the jail room.

18 THE COURT: Well, he, if he's -- what's the issue, Mr.
19 Kendall?

20 SOLICITOR KENDALL: I, I would probably need to
21 approach on this, Your Honor.

22 THE COURT: Well, he's gonna have to come up here too.
23 Let's put it on the record.

24 MR. TINSLEY: I've already figured it out. Go ahead.

25 THE COURT: Put it on the record.

1 SOLICITOR KENDALL: Well, we have, we have a individual
2 who is going to be able to testify that Mr. Stump's
3 testimony may be perjured. And, so, we would ultimately, as
4 you said, separate that individual, Mr. Tinsley and
5 Mr. Stump.

6 THE COURT: The testimony he may offer in this case---

7 SOLICITOR KENDALL: Yes.

8 THE COURT: ---could be perjured?

9 SOLICITOR KENDALL: No, I haven't had a chance to talk
10 to Mr. Stump. So, I'm not accusing anybody of anything or
11 accusing anybody.

12 THE COURT: Well, I don't know what -- he hasn't
13 offered any testimony at this point in time. So, I don't
14 think I can make a ruling on that issue at this point in
15 time. I'm gonna give him a chance to talk to his witnesses.

16 SOLICITOR KENDALL: Oh, of course, and I'm---

17 THE COURT: That's all I'm saying.

18 SOLICITOR KENDALL: I would -- I'm not objecting to
19 that, Your Honor. I would just say that I guess you
20 probably addressed this earlier, once they get to jail, that
21 there's probably gonna be some safety considerations.

22 THE COURT: Well, again, I'm not ordering the jail to
23 do anything. I'm saying here at the jail room if he's here.
24 I don't know if he's here or not.

25 SOLICITOR KENDALL: He's here.

1 THE COURT: All right. I'm directing that those people
2 be made available to him that are on his witness list today
3 to talk to him because that was one of his objections, he
4 hadn't had a chance to talk to his witnesses, and he's gonna
5 get his chance. We're gonna let him talk to him.

6 Court's in recess until 930.

7 Thank you very much.

8 (WHEREUPON, the brief was marked as Court's Exhibit No.
9 1 for identification purposes only at this time.)

10

11 (WHEREUPON, Court was in recess for the evening.)

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1 Tuesday, November 9th, 2010

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3 THE COURT: All right. We're on the record again in
4 the case of the State versus James Tinsley, Junior.

5 Mr. Tinsley, yesterday afternoon I ordered that the
6 witnesses that you had subpoenaed were to remain at the
7 courthouse and meet with you.

8 Did you get an opportunity to meet with your witnesses
9 on yesterday?

10 MR. TINSLEY: I did, Your Honor.

11 THE COURT: All right. And have you completed those
12 discussions with them?

13 MR. TINSLEY: I would like, at some point, to interview
14 one of them a little more, but---

15 THE COURT: All right. Well, can you tell me
16 specifically who that might be?

17 MR. TINSLEY: Hogan Hugh Justice.

18 THE COURT: All right. I'm sorry?

19 MR. TINSLEY: Hogan Hugh Justice, III.

20 THE COURT: All right. Is that person present in the
21 courtroom today?

22 MR. TINSLEY: I don't believe so, Your Honor.

23 THE COURT: All right. If you would please let me know
24 if you have any problems in that regard. I don't know how
25 soon you'll be putting your case up or how soon that person

1 would be called as a witness. But I will certainly give you
2 an opportunity to talk with them.

3 About how much time do you think you're gonna need to
4 talk with that person?

5 MR. TINSLEY: Probably about 30 minutes.

6 THE COURT: All right. We'll do what we can to work
7 that in around the lunch hour or something like that and see
8 if we can't get that taken care of for you.

9 All right, sir. We're going to begin this morning with
10 jury selection.

11 Do you -- have you had an opportunity to discuss that
12 with Ms. Price or do you need the Court to explain the
13 process to you?

14 MR. TINSLEY: I understand the process, Your Honor.

15 THE COURT: All right, sir. Now, do you have a list of
16 proposed witnesses, Mr. Kendall?

17 SOLICITOR KENDALL: Yes, sir, Your Honor, I believe we
18 handed that up yesterday.

19 THE COURT: I don't know that I have seen that. I need
20 to see that if I could, and if there's any requested voir
21 dire, I need to receive that from you at this time.

22 MS. PRICE: Mr. Tinsley has indicated he doesn't have
23 any.

24 THE COURT: Any requested voir dire?

25 MS. PRICE: No, Your Honor.

1 THE COURT: All right. Do you have a list of his
2 potential witnesses?

3 MR. TINSLEY: Yes, sir.

4 THE COURT: Pass it up please.

5 Okay. All right. Mr. Tinsley, have you had an
6 opportunity to review the requested voir dire by the State?

7 MR. TINSLEY: No, Your Honor.

8 THE COURT: All right. I'll give you a moment to read
9 those questions and see if you have any objections to them.

10 (Pause.)

11 MR. TINSLEY: They're fine, Your Honor.

12 THE COURT: All right. Have you received information
13 concerning the jury panel?

14 MR. TINSLEY: I believe we have, Your Honor.

15 THE COURT: All right, sir. That's available to you,
16 and, Mr. Tinsley, if you would, please identify for me the
17 witnesses or potential witnesses that you might have in the
18 case.

19 MR. TINSLEY: Just a moment, Your Honor.

20 (Pause.)

21 MR. TINSLEY: May I approach and give it to you?

22 THE COURT: You can let the clerk make a copy of that
23 and I'll have a copy and you'll have a copy.

24 MR. TINSLEY: Thank you.

25 THE COURT: Yes, sir.

1 THE COURT: Mr. Tinsley, you can have yours back.
2 There you go.

3 All right. I'm gonna read the names to be sure that I
4 can read them. They're in your handwriting or someone's
5 handwriting and I want to be sure that I pronounce,
6 pronounce them correctly.

7 Hogan Hugh Justice, III. Tobias Allen -- is that
8 Stump?

9 MS. PRICE: Mr. Stump will not be testifying.

10 THE COURT: All right. He'll not be testifying?

11 MS. PRICE: No, Your Honor.

12 THE COURT: All right. So, I will strike that name
13 from the list.

14 The next one is Danny McKeenan?

15 MS. PRICE: Yes, sir.

16 THE COURT: Is that right?

17 The next one is Danny Shields?

18 MS. PRICE: Yes, sir.

19 THE COURT: Paul Thomas?

20 MS. PRICE: Yes, sir.

21 THE COURT: Tim Tucker?

22 MS. PRICE: Yes, sir.

23 THE COURT: And Cindy Reed.

24 MS. PRICE: Yes, sir.

25 THE COURT: All right. And have you had a chance to

1 look over that voir dire, Mr. Tinsley, the questions the
2 state wishes for me to ask of the jury?

3 MR. TINSLEY: Yes, Your Honor.

4 THE COURT: Do you object to them, me asking any of
5 those questions?

6 MR. TINSLEY: No, Your Honor.

7 THE COURT: All right.

8 Now, is there -- yes, sir, Mr. Kendall.

9 SOLICITOR KENDALL: I'm a little embarrassed, Your
10 Honor. I have a correction to mine. It's Paul Thomas and
11 not Paul Turner. I believe I have a typographical error on
12 that.

13 THE COURT: Thomas?

14 SOLICITOR KENDALL: Yes, sir.

15 THE COURT: All right. I'll make that change.

16 All right. Any other information from the state before
17 we start jury selection?

18 SOLICITOR KENDALL: Nothing further, Your Honor.

19 THE COURT: Anything further from the defense?

20 MR. TINSLEY: No, Your Honor.

21 THE COURT: All right. Bring the jury panel in.

22 (Pause.)

23 THE COURT: Before the jury panel comes in, the
24 bailiff's informed me that four potential jurors have not
25 appeared. We're 15 minutes past the time that they were

1 summoned to be here. I'll proceed with the panel as we now
2 have it, and we'll place the names of those not present on
3 the record once I receive them, and then I'll check on those
4 folks.

5 (WHEREUPON, the following takes place within the
6 presence of the jury.)

7 THE COURT: All right. Mr. Hayes, is the panel
8 present?

9 Mr. Hayes?

10 BAILIFF: Sir?

11 THE COURT: Is that the panel?
12 Are they present?

13 BAILIFF: Yes, sir.

14 THE COURT: Thank you very much.

15 Good morning, ladies and gentlemen. I did not have the
16 pleasure of meeting you yesterday. My name is Roger Couch,
17 and I am a Circuit Court judge here in the Seventh Judicial
18 Circuit. It's my pleasure, along with Judge Hayes, to be
19 serving during this week of General Sessions Court, and, of
20 course, this morning we are here concerning jury selection
21 in the case of The State versus James Tinsley.

22 The first thing I'm going to do is to have you sworn in
23 this matter. It is necessary that we assure ourselves that
24 the answers that you're about to give to the questions that
25 I'm going to ask that pertain to this case must be

1 truthful, honest, and complete. And for that reason it is
2 necessary that you be sworn for purposes of jury
3 qualification in this case.

4 So, at this time, Madam Clerk, please swear the
5 prospective jury panel for me.

6 (WHEREUPON, the jury panel was placed under oath at
7 this time.)

8 THE COURT: Now, if there was any member of the jury
9 panel who either failed or refused to take the oath just
10 administered by the clerk I'd ask that you now stand.

11 (No response.)

12 THE COURT: All right. The record will reflect then
13 that all prospective jurors have been sworn for purposes of
14 my questioning this morning.

15 I've indicated to you that we're about to begin the
16 trial of the case of The State versus James Tinsley, Junior.
17 The first thing that I'm going to do is to go over with you
18 the indictment in this case. I will explain to you that an
19 indictment is the document that brings the case before this
20 Court. It informs this Court of the charge that's to be
21 tried. It informs the defendant of the charge that's been
22 lodged against him, but it is simply the document that
23 brings the charge before this Court.

24 It is not evidence and can not be used by you as
25 evidence of either guilt or innocence of a defendant in a

1 case. It is simply the document that brings it before the,
2 brings the case here for trial. The reason I'm going over
3 it with you is so that you can understand what the case is
4 about to a certain degree, and put you in a better position
5 to answer some questions that I'm about to answer so you'll
6 know what this is basically about.

7 The indictment in this case is in Case Number
8 2007-GS-42-5031. The indictment is for the offense of
9 receiving stolen goods. The indictment states, in its body,
10 that James Tinsley, Junior did, in Spartanburg County, on or
11 about October 11 of 2006, receive or possess stolen goods of
12 Hoilday Camper described as follows: A camper of the value
13 of more than \$5,000, such goods having been feloniously
14 taken and carried away with the intent to deprive the owner
15 thereof permanently of such goods, and the said defendant
16 knew or had reason to believe such property had been stolen
17 in violation of Code Section 16-13-183 of the Code of Laws
18 of South Carolina, 1976 as amended, against the peace and
19 dignity of the State and contrary to the statute in such
20 case made and provided.

21 Now, again, that is simply the document that brings the
22 case before this Court, and it informs the, the parties
23 involved of the charge that's, that is to be tried.

24 Now, before I begin to ask you some questions I'm going
25 to ask that, in this case, the attorney for the State

1 identify himself.

2 If you would please, sir.

3 SOLICITOR KENDALL: My name is Matt Kendall.

4 THE COURT: Thank you.

5 And, Mr. McCarty, are you assisting?

6 SOLICITOR MCCARTY: Just down here for a little bit of
7 assistance.

8 But my name is Ryan McCarty. I'll be assisting Mr.
9 Kendall if he should need any help.

10 THE COURT: All right. And both of those individuals
11 are, work with the Seventh Circuit Solicitor's Office.

12 Now, in this case, the defendant, Mr. James Tinsley,
13 Junior, is representing himself.

14 Mr. Tinsley, if you would, stand and face the jury
15 panel so they can place a face with a name.

16 (Defendant Tinsley complies.)

17 THE COURT: Thank you very much.

18 I have appointed an attorney to be of counsel to him
19 and assistance to him in the case.

20 Ms. Price, if you would, stand and introduce yourself.

21 MS. PRICE: Good morning, ladies and gentlemen. My
22 name is Andrea Price and I practice here in Spartanburg.

23 THE COURT: And Ms. Price is with the Seventh Circuit
24 Public Defender's Office.

25 Now, ladies and gentlemen, those are the attorneys that

1 are involved in this case.

2 Now, I'm going to ask a series of questions of you that
3 apply to this case, and if you have a response to any of my
4 questions I'll be asking that you stand. I'll need to get
5 your name and your juror number on the record before I
6 receive your response so that we can identify on the Court
7 record who's responding to the questions that I'm about to
8 ask.

9 Now, the first question I have, has any member of the
10 jury panel ever been related by marriage or are you related
11 by blood to the defendant, James Tinsley, Junior, if that's
12 true, please stand.

13 (No response.)

14 THE COURT: Has any member of the jury panel ever had a
15 close personal or a social relationship with the defendant,
16 James Tinsley, Junior, if that's true, please stand.

17 (No response.)

18 THE COURT: Now, has any member of the jury panel ever
19 been represented by any, any of the attorneys that are
20 involved in the trial of this case or have they ever
21 appeared on the other side of some legal matter from you, if
22 that is true, please stand.

23 (No response.)

24 THE COURT: Is there any member of the jury panel who
25 is ever been related by marriage or are you related by blood

1 or have you had a close personal or a social relationship
2 with any of the attorneys that are involved in this matter,
3 if that is true, please stand.

4 (No response.)

5 THE COURT: Now, I'm going to go over with you a list
6 of individuals that have been identified to me as potential
7 witnesses in this case. I would ask if any of them are
8 present in the courtroom, when I call their name, if they
9 would stand and face the jury panel so that the jury panel
10 can place a face with that name.

11 The list of potential witnesses I have, I have been
12 supplied with is Brian Wright.

13 (Witness stands.)

14 THE COURT: Thank you, sir.

15 Paul Thomas.

16 (Witness stands.)

17 THE COURT: Thank you.

18 Tim Tucker.

19 (Witness stands.)

20 THE COURT: Thank you.

21 Mr. James Tinsley, Senior.

22 I don't believe he's in the courtroom.

23 Thomas Lindler.

24 (Witness stands.)

25 THE COURT: Thank you.

1 Henry Beck.

2 (Witness stands.)

3 THE COURT: Thank you.

4 Hogan Hugh Justice, II. Don't believe he's in the
5 courtroom.

6 Dan, Danny McKeenan. Not in the courtroom.

7 Danny Shields. Not present.

8 (Witness stands.)

9 THE COURT: Paul Thomas.

10 wait a second. Is that Mr. Shields?

11 MR. TINSLEY: That is Mr. Shields, Your Honor.

12 THE COURT: If you'll turn around. He is seated in the
13 back of the courtroom.

14 Thank you, sir.

15 Paul Thomas.

16 (Witness stands.)

17 THE COURT: Thank you.

18 Again, Tim Tucker.

19 (Witness stands.)

20 THE COURT: Thank you.

21 Cindy Reed. Not present.

22 Now, as to those individuals that I just identified as
23 potential witnesses in the trial of the case, is there any
24 member of the jury panel whose ever been related by marriage
25 or are you related by blood or have you had a close personal

1 or social relationship with any of the individuals that I
2 just identified as potential witnesses in this case, if
3 that's true, please stand.

4 (Juror responds.)

5 THE COURT: Ma'am, your name and number?

6 JUROR: Rebecca Pack. I'm Juror Number 119.

7 THE COURT: And which of the witnesses might you have
8 some relationship with?

9 JUROR: Tim Tucker.

10 THE COURT: Yes, ma'am, and can you tell me in what
11 context that occurred?

12 JUROR: His daughter went to high school that I
13 taught, and I coached her with softball.

14 THE COURT: All right. Is that, is that relationship
15 no longer the case?

16 Is the daughter moved on or---

17 JUROR: She has.

18 THE COURT: That's not going on right now?

19 JUROR: No, sir.

20 THE COURT: All right. Would the fact that you had
21 that contact with that person in the past, would that affect
22 your ability to be fair and impartial in the trial of this
23 case?

24 JUROR: I don't believe so.

25 THE COURT: Well, I have to know for sure.

1 JUROR: No, sir.

2 THE COURT: All right. Thank you very much. Please be
3 seated.

4 Anyone else?

5 (No response.)

6 THE COURT: Thank you.

7 Has any member of the jury panel or a close relative of
8 yours or a very close friend of yours ever been prosecuted
9 by the Seventh Circuit Solicitor's Office, if that's true,
10 please stand.

11 (No response.)

12 THE COURT: Has any member of the jury panel or a
13 member of your immediate family ever been arrested for,
14 charged with, or convicted of any crime, if that's true,
15 please stand.

16 (Juror responds.)

17 THE COURT: Yes, sir, your name or number, and number.

18 JUROR: James Irby, 74.

19 THE COURT: And your situation, sir?

20 JUROR: My brother, he has been arrested and convicted
21 of the crime he did.

22 THE COURT: All right, sir. Would that affect your
23 ability to be fair and impartial in this matter?

24 JUROR: No.

25 THE COURT: All right. Thank you.

1 Yes, ma'am, your name and number?

2 JUROR: Donna Lancaster, 92.

3 THE COURT: Your situation, ma'am?

4 JUROR: A niece was charged with a drug offense.

5 THE COURT: All right. And has been convicted of that
6 crime?

7 JUROR: Yes, sir.

8 THE COURT: Would that affect your ability to be fair
9 and impartial in this trial?

10 JUROR: No.

11 THE COURT: Thank you, ma'am. You can be seated.
12 Sir, your name and number?

13 JUROR: My name is Kendall. My number is 50.

14 THE COURT: Yes, sir.

15 JUROR: And I have two brothers in -- I'm not sure.

16 They're not convicted of crimes that are going on now. But
17 they have been convicted.

18 THE COURT: In the past?

19 JUROR: Yes.

20 THE COURT: All right. Would that affect your ability
21 to be fair and impartial in this case?

22 JUROR: No, sir.

23 THE COURT: Thank you, sir. You can be seated.

24 Ma'am, your name and number?

25 JUROR: Logan Fowler, Number 49. My niece was charged

1 with drugs.

2 THE COURT: Been charged?

3 JUROR: Yes, sir.

4 THE COURT: But not yet convicted?

5 JUROR: Yes, sir.

6 THE COURT: All right. Would that affect your
7 impartiality in this matter?

8 JUROR: No, sir.

9 THE COURT: Thank you, ma'am. You can be seated.
10 Ma'am, your name and number?

11 JUROR: Evelyn Justice, 86.

12 THE COURT: Yes, ma'am.

13 JUROR: My son, he was convicted.

14 THE COURT: He has been convicted of a crime in the
15 past?

16 JUROR: Right, in the past.

17 THE COURT: All right. Would that affect your
18 impartiality in this trial?

19 JUROR: No, sir.

20 THE COURT: Thank you, ma'am. You can be seated.
21 We keep having people standing up.

22 Your name and number?

23 JUROR: Stephanie Post, 125.

24 THE COURT: Yes, ma'am.

25 JUROR: I had an acquaintance that come through the

1 system.

2 THE COURT: So, by acquaintance, that's not a family
3 member?

4 JUROR: No, sir, it's just a friend.

5 THE COURT: A close personal friend?

6 JUROR: Yes, sir.

7 THE COURT: All right. Would that affect your
8 impartiality in this matter?

9 JUROR: No, sir.

10 THE COURT: Thank you, ma'am.

11 Anyone else?

12 (No response.)

13 THE COURT: Has any member of the jury panel ever had
14 an experience with a police officer, a state trooper, a
15 federal agent, a state or federal law enforcement agency
16 that might, in some way, affect your ability to be fair and
17 impartial in the trial of this case, if that's true, please
18 stand.

19 (No response.)

20 THE COURT: Has any member of the jury panel ever been
21 convicted of a property crime?

22 That would include such things as burglary, receiving
23 stolen goods, or larceny.

24 If that's true, please stand.

25 (No response.)

1 THE COURT: Has any member of the jury panel received
2 or gathered any information outside of this courtroom such
3 that it would of caused you to form or express an opinion
4 about any matter or issue that might be involved in the
5 trial of this case, if that's true, please stand.

6 (No response.)

7 THE COURT: Is there any member of the jury panel who
8 is aware of any bias or prejudice that you might have either
9 for or against the State or the defense in this case, if
10 that's true, please stand.

11 (No response.)

12 THE COURT: Is there any member of the jury panel who
13 is a member of or a contributor to any group which has as
14 its primary concern the promotion of law enforcement or
15 victims rights?

16 These groups would include, but not be limited to such
17 groups as Mothers Against Drunk Driving, Students Against
18 Drunk Driving, Citizens Against Violent Crime, the South
19 Carolina Troopers Association, the South Carolina Sheriff's
20 Association, or similarly oriented, oriented organizations.

21 If that's true, please stand.

22 (Juror responds.)

23 THE COURT: Ma'am, your name and number?

24 JUROR: I'm Evelyn Goss, 154.

25 THE COURT: Yes, ma'am.

1 JUROR: Well, I, I partake with Mothers Against Drunk
2 Driving.

3 THE COURT: All right. Would that affect your ability
4 to be fair and impartial in the trial of this case?

5 JUROR: No, sir.

6 THE COURT: Thank you, ma'am. You can be seated.
7 Anyone else?

8 (No response.)

9 THE COURT: Does any member of the jury panel know of
10 any reason whatsoever why he or she should not serve as a
11 juror in this case with particular emphasis being placed on
12 your ability to be both fair and impartial to the State and
13 to the defense, if that's true, please stand.

14 (No response.)

15 THE COURT: Any further questions requested by the
16 State?

17 SOLICITOR KENDALL: Nothing further, Your Honor.

18 THE COURT: Any further questions requested by the
19 defense?

20 MR. TINSLEY: Nothing, Your Honor.

21 THE COURT: Thank you.

22 Now, I will note for the attorneys and, and for Mr.
23 Tinsley that Juror Number 15 I don't believe has appeared,
24 is that right, Mr. Hayes?

25 BAILIFF: Yes, sir, that's correct.

1 THE COURT: All right. Yes, sir.

2 BAILIFF: Your Honor, do you have Juror Number 155 as
3 not being here?

4 She was -- she came in late. She's been here for the
5 entire qualification---

6 THE COURT: Yes, ma'am.

7 BAILIFF: ---and swearing, but I didn't know if Jim had
8 turned her name in to you or not.

9 THE COURT: He, he had. But she answered one of my
10 questions and I realized she had arrived.

11 BAILIFF: That's good.

12 THE COURT: So, ma'am, would you stand?

13 (Juror 155 stands.)

14 THE COURT: You were here for the entire process, is
15 that right?

16 JUROR: Yes, sir.

17 THE COURT: Okay. You can be seated. Thank you.

18 So, the only juror who is not present and we'll ask the
19 clerk to check on is Juror Number 15.

20 All right. At this time I'm going to instruct the
21 clerk to prepare a list of potential jurors in this case.

22 Let me explain to you what we're doing at this point in
23 time. We have a computer program that will randomly select
24 names from those of you who are eligible to serve in this
25 case and prepare a list. We will then be going down that

1 list and calling the names of those people in the order in
2 which they appear on the list starting with number one, and
3 you'll be assigned a number on that list according to the
4 number that the computer selects you as we go down the list.

5 I tell people that back when I first started practicing
6 law in the mid 70's we use to have a little barrel that we
7 put everybody's name in and we actually, by law, had to have
8 a blind person select the names out of that barrel. I guess
9 we assume the computer is blind. So, we don't have to have
10 that anymore. But at any rate, we do that by computer now.
11 And once that list has been prepared, it will be supplied to
12 the, to the court reporter and to myself and, and my clerk,
13 and to the clerk, and we will begin to call names off of
14 that list.

15 Now, when your name is called, I'll ask that you come
16 forward. Bring with you your pocketbooks or whatever you
17 have with you because if you're selected to serve on a jury,
18 on the jury, you will immediately go to the jury box.
19 You'll not be returning to your seat. So, bring with you
20 whatever personal belongings you have when your name is
21 called. I'll ask that you'll be coming down the aisle
22 directly in front of the clerk here, stop, and face the back
23 of the courtroom, and the parties should be in a position to
24 select the jury at that time.

25 Now, in this case there will be four strikes for the,

1 excuse me, five strikes for the state and five strikes for
2 the defense. We'll select one alternate, State having one
3 strike, defense having two.

4 All right. Madam Clerk, you can begin the jury
5 selection process.

6 (WHEREUPON, a jury panel was selected at this time.)

7 THE COURT: All right. We'll now be seating the
8 alternate. Again, the State has one strike. The defense
9 has two.

10 (WHEREUPON, an alternate juror was selected at this
11 time.)

12 THE COURT: Thank you, Madam Clerk.

13 Any objections to the jury selection process from the
14 State?

15 SOLICITOR KENDALL: Nothing from the State, Your Honor.

16 THE COURT: Any objections to the process from the
17 defense?

18 MR. TINSLEY: None, Your Honor.

19 THE COURT: All right.

20 (Pause.)

21 THE COURT: All right. Ladies and gentlemen, you've
22 been selected as jurors in this case. We're gonna take a
23 short break at this point in time. I'll allow you to step
24 back to the jury room. The bailiffs will be of assistance
25 if you have any matters that need to be taken care of.

1 I will caution you, before you step back to the jury
2 room, not to begin any discussions about the case. I
3 realize you know very little about it at this time. But
4 you've been selected as fair and impartial jurors with open
5 minds concerning the matters that are involved in this
6 trial, and I'm going to ask that you keep that open mind
7 throughout the trial until such time as I ask you to begin
8 your deliberations in this case. Even the most innocent
9 conversation you might have among yourselves about the
10 charges that are before the Court or the matters that we're
11 about to consider might begin to color your decision later
12 on, and, again, I want you to keep a fair and an open mind
13 until you've heard all the evidence, all the arguments, and
14 I've charged you concerning the law in this case.

15 So, every time that you step outside the courtroom I'm
16 going to give you instructions not to discuss this case even
17 among yourselves or any portion or aspect of the case at
18 this time. When you return to the courtroom. You'll be
19 taking an oath concerning your duties and responsibilities
20 as jurors in this matter, and that is to decide the case
21 solely based on the law and the evidence presented in the
22 trial during the trial. So, again, don't discuss anything
23 outside of the courtroom that has to do with this particular
24 case until I've advised you to do so.

25 At this time you may retire to the jury room. We'll be

1 beginning shortly.

2 (WHEREUPON, the following takes place outside the
3 presence of the jury.)

4 THE COURT: All right. Mr. Tinsley, I do want to go
5 over with you the procedure that we'll be following. You
6 may be aware of this already. But I want to be sure, on the
7 record, that you understand what we're about to do.

8 When the jury returns to the courtroom they'll be sworn
9 concerning their duties and responsibilities as jurors in
10 this case. Thereafter I will give them a, an opening
11 statement concerning their, their duties and
12 responsibilities in this case, and when I've completed that
13 opening, my opening comments to them, I will be allowing
14 both sides to make a opening statement or argument to the
15 jury.

16 The State has the burden of proof in the case. You
17 have no burden of proof since you're presumed to be innocent
18 in this trial. For that reason the State will be going
19 first in the opening statements followed by any opening
20 statements that you would like to make, and, thereafter, the
21 State will also begin with the presentation of its evidence
22 first during which time you will be allowed the opportunity
23 of confrontation or cross-examination with each witness who
24 might testify in the case.

25 Mr. Tinsley, once that process is been completed I will

1 receive any motions that you might wish to make in the
2 middle of the trial. You will be given an opportunity to
3 present your case, but I'll go over those matters with you
4 that pertain to that once we get to that stage of the
5 proceeding.

6 Once all the evidence has been presented they'll be
7 closing statements. If you have presented no evidence in
8 the trial you would be allowed to go last. However, if you
9 have presented evidence during the trial the State would be
10 given the opportunity for the last argument.

11 Now, Mr. Tinsley, do you understand how we are going to
12 proceed?

13 MR. TINSLEY: I do, Your Honor.

14 THE COURT: And once all the arguments are done I'll
15 charge concerning the law to the jury, and then we'll get
16 the case.

17 Any questions that you have of the Court at this time?

18 MR. TINSLEY: None. None, Your Honor.

19 THE COURT: All right. We'll take a short recess. If
20 you need to step back they will allow you to do so, Mr.
21 Tinsley.

22 I'll stay on the bench at this time, but it will be
23 about a ten minute recess.

24 Anything -- Mr. Kendall, something you want to take up
25 with the Court?

1 SOLICITOR KENDALL: Yes, Your Honor. Just a quick
2 administrative thing. We have a projector to set up.

3 Would you like for me to go ahead and do that now?

4 THE COURT: Go ahead and do that during this time if
5 you don't mind.

6 So, we're in a short recess at this time. I'll stay on
7 the bench at this time. Thank you very much.

8 (WHEREUPON, a short recess was taken at this time.)

9 THE COURT: All right. Is the State ready to go
10 forward?

11 SOLICITOR KENDALL: State's ready, Your Honor.

12 THE COURT: Defense ready?

13 MR. TINSLEY: Yes, Your Honor.

14 THE COURT: All right. Let's bring the jury in.

15 (WHEREUPON, the following takes place within the
16 presence of the jury.)

17 THE COURT: All right. The record will reflect that
18 the jury has returned to the courtroom.

19 Ladies and gentlemen, I told you that when you came
20 back into the courtroom you'd be taking an oath concerning
21 your duties and responsibilities as jurors in this case, and
22 at this time I'm going to ask that the clerk please swear
23 the jury panel.

24 (WHEREUPON, the jury panel was placed under oath at
25 this time.)

1 THE COURT: Now, if there was any juror who either
2 failed or refused to take the oath just administered by the
3 clerk I'd ask that you now stand.

4 (No response.)

5 THE COURT: The record then will reflect that all
6 jurors have been sworn for purposes of this trial.

7 Before we begin the trial of this case I want to go
8 over some matters with you that are primarily for those of
9 you who may not have served on a jury prior to this time. I
10 know some of you may have. But then there may be some of
11 you who have never been in the position that you find
12 yourself in, and I'll go over with you some matters that I
13 think that are important for you to understand concerning
14 your service in this case, and the procedure and the, the
15 rules that we will follow in the trial of the case.

16 For those of you who have not been on the jury before
17 probably most of what you know about the system that you're
18 involved in at this time you would, you would of learned
19 from either television shows or movies that you've watched
20 or books that you've read, sources such as that. And while
21 those are interesting and entertaining, they always have
22 interesting story lines and plots and good acting and things
23 of that nature. It never ceases to amaze me that, in
24 television, you can have a crime committed, the case tried,
25 and a verdict reached in the space of an hour and they even

1 have time to stop for the commercials. So, obviously they
2 take some license with the stories and the way they tell it,
3 and don't always follow the rules that we're required to
4 follow in the actual trial of a case.

5 That's because those forms of information, those are
6 intended for your entertainment. What you're engaged in
7 today is intended for anything but your entertainment.
8 You're engaged in a fundamental part of our democracy, and I
9 hope you understand that. Because in most systems of
10 justice that exist in the world today citizens are not
11 allowed to come forward and directly participate in the
12 important decisions that take place between the litigants
13 that are involved in cases in Courts. So, again, our system
14 is somewhat unique in the world because we do require that
15 citizens come forward, participate in those decision making
16 process, processes.

17 I want to thank you very much for your willingness to
18 come forward and serve. I realize you got a subpoena and
19 are required to be here. But you came forward willingly,
20 willingly without being required to do so. So, again, thank
21 you very much for your willingness to come forward and serve
22 in this case.

23 What we're engaged in is a search for truth. It's an
24 effort to see that justice is done between the parties that
25 are before this Court. Searching for the truth and making

1 sure that justice is done is sometimes a slow process. It's
2 going to be deliberate. Sometimes it may be repetitive.
3 It's -- it will be the, exactly the opposite of what you may
4 have seen in television or in the movies.

5 This courtroom, you see, is a place of honor. It's
6 dedicated to the preservation of citizens rights that are
7 guaranteed under the Constitution of the United States and
8 under that of the States. It's, again, an effort to see
9 that justice is done between the parties, and I will tell
10 you that our system is not a perfect system. It's one
11 that's designed by man and run by man, and, as such, it will
12 not be a perfect system. But it is an effort to see that
13 justice is done under the Constitution of the United States
14 and the United States.

15 Now, the parties and the attorneys that are appearing
16 before you are here to represent their interest. You can
17 expect from them that they act in a reasonable and a
18 professional manner in the presentation of their cases. In
19 the cases of the attorneys, they have appeared before this
20 Court in the past and taken an oath to assist you in your
21 search for the truth, and I'll remind you too that you have
22 now come before this Court and you've taken an oath. You're
23 expected to act in a reasonable and a professional manner in
24 the execution of your duties as jurors in this Court, and,
25 again, thank you for accepting this important

1 responsibility.

2 It's my personal belief that service on a jury is the
3 second highest service that a citizen can render to your
4 government. Of course, the first being service in the
5 military. So, thank you very much for your willingness to
6 serve.

7 what I'm telling you now is not intended to be a charge
8 concerning the law in this case. I'll do that at the close
9 of the trial. It's merely an explanation at this time of
10 the procedure that we'll follow and the roles and
11 responsibilities that we all have in this case.

12 Now, a little while ago I read to you the indictment in
13 this case. The indictment is for the crime of receiving
14 stolen goods. That indictment brings the case before this
15 Court and informs us of the charge to be tried. But it is
16 simply the charge that brings the case before this Court,
17 and is not, in any sense, evidence of the allegations
18 contained in the indictment.

19 To the indictment the defendant has pled not guilty,
20 and by that plea, and under the law and the Constitution of
21 this state, that places the burden of proof upon the State
22 to prove each and every element of the crime that's charged
23 in the indictment by proof beyond a reasonable doubt, and it
24 will be your duty, ladies and gentlemen, at the close of the
25 trial, to determine or decide whether or not the State has

1 met its burden of proof in this case, and I'll give you
2 further instructions concerning that at the close of the
3 trial when I charge you concerning the law.

4 Therefore, ladies and gentlemen, it's your purpose here
5 to find and determine the facts in this case. Every case
6 that's tried in this Court in this manner the jury is the
7 sole and exclusive judge of the facts in this case. You are
8 to determine the facts in this case from the testimony that
9 you hear and the other evidence that's introduced during the
10 trial of this case, and it's up to you to determine what
11 inferences can be properly drawn from the evidence that you
12 will hear during the trial.

13 It's especially important that you perform your duty,
14 as the fact finders in this case, both diligently and
15 conscientiously. Because, under our system of justice,
16 ordinarily there's no means by which an erroneous
17 determination of facts made by a jury can be corrected.

18 Now, the same law that makes you the sole judges of the
19 facts in this case makes me the sole judge of the law in
20 this case, and at the close of the trial I will charge you
21 concerning the law that you're to apply in this matter. The
22 law that I give to you at the close of the trial is the only
23 law that you can use in determining the facts in this case
24 because, you see, the law doesn't allow me to disagree with
25 you concerning the facts as you determine them to be, and

1 the law doesn't allow you to disagree with me concerning the
2 law to be applied to those facts.

3 If you came into the courtroom with any notion or idea
4 as to what the law is or what it ought to be, you should
5 leave those notions outside of the jury room. It's your
6 responsibility to take the law exactly as I give it to you,
7 apply it to the facts as you determine them to be. That
8 should put you in a position to reach a true and a just
9 verdict in this case.

10 I told you earlier and I'll tell you throughout the
11 trial, until I advise you to begin deliberations, you should
12 not discuss this case with anyone. Also, I have, will tell
13 you throughout the trial that you should not attempt to
14 gather any information about this case from any source
15 outside of this courtroom for, you see, you've taken an oath
16 to decide this case based upon the evidence and the law
17 that's presented to you. The only evidence that you're
18 going to hear in this trial will be testimony from witnesses
19 who've been sworn to tell the truth who will be testifying
20 from this witness stand, any documents or evidence that I
21 allow into the record through that testimony. That's the
22 evidence that you will hear.

23 So, it would be highly improper for you to try to
24 gather information. It would be a violation of your oath to
25 try to gather any information outside of this courtroom

1 concerning this matter. So, therefore, you should not
2 listen to, watch, or read any media reports, not gather
3 information from any source such as the Internet or any
4 other source. You should decide the case, again, solely
5 based on the evidence under your oath and the law as I give
6 it to you, and that will occur in this trial of, of this
7 case.

8 Now -- excuse me. Now, after the case has been
9 submitted to you it will be your responsibility to decide
10 the case through your discussions and deliberations with
11 your fellow jurors in this jury room. Now it's important
12 that -- in the jury room.

13 It's important that you keep an open mind about this
14 case, and not decide any issue until all the evidence has
15 been presented, the parties have made their arguments, and
16 I've instructed you concerning the law. It's your solemn
17 responsibility, at the close of this trial, to determine the
18 guilt or the innocence of the defendant based solely upon
19 the evidence as presented to you during the trial and the
20 law as I give it to you.

21 Now, when we begin the trial I'm going to allow the
22 attorneys to make what's called or in the case of the, Mr.
23 Tinsley, the defendant, to make what's called an opening
24 statement. During that statement they will explain to you
25 what the case is about and perhaps what they expect to prove

1 or to show during the trial. That will be up to them as to
2 how they do that opening statement.

3 But I will tell you that opening statements are not
4 evidence in this case, and can not be used by you as
5 evidence in this case. I'll tell you the same thing about
6 the closing statements at the close of the trial made by
7 either the attorney or by the defendant in this case. The
8 only evidence, again, is the testimony of witnesses who've
9 been sworn to tell the truth who will be testifying from the
10 witness stand and whatever comes into the record through
11 that testimony.

12 Now, during the trial there may be issues that will
13 come up concerning the admissibility of evidence or the
14 appropriateness of questions that are being asked, and it's
15 my job, as the presiding officer of the trial, to make
16 rulings concerning those issues. Now, if I decide that the
17 discussion that I'm going to have concerning those questions
18 might involve a discussion of something that's not properly
19 admissible under the rules of evidence that govern the
20 courts, I may ask you to step outside the courtroom while I
21 discuss those matters with the parties involved.

22 Please don't take from the fact that I've asked you to
23 step outside the courtroom that I have any opinion as to how
24 you determine the facts in this case. You see, it's me
25 doing my job. My job is to see that you decide the case

1 solely upon evidence that is properly admitted under the
2 rules of evidence that govern the courts.

3 So, I'll have those discussions with the parties that
4 are involved concerning those issues, I'll make whatever
5 rulings need to be made as to the appropriateness of the
6 questions or the evidence that's sought to be admitted, and
7 then I'll bring you back into the courtroom, announce my
8 decision, and we'll move on. But, again, I'm -- it's my
9 effort to see that you only consider properly admitted
10 evidence in reaching your verdict in this case. So, don't
11 take any inferences from the fact that I may ask you to step
12 outside of the courtroom at anytime during the trial.

13 Now, in determining the facts of this case it's going
14 to be necessary that you determine the credibility or
15 believability of the witnesses who will be testifying, and
16 credibility simply means that, believability. In doing that
17 I'm going to ask you to use your own good common sense. You
18 make decisions everyday as to what you choose to believe and
19 what you choose not to believe using your own good common
20 sense, and you are not required to leave your common sense
21 outside of the courtroom.

22 So, as you make those determinations concerning
23 credibility or believability of the evidence that you will
24 hear, use your common sense in doing so because, in deciding
25 credibility or believability, you, as the sole judges of the

1 facts, have the right to believe all of what a witness tells
2 you, part of what a witness tells you, or none of what a
3 witness tells you. You have the right to believe one
4 witness against all the others who testify or all the others
5 against one. You're the sole judges of the credibility of
6 the witnesses. You're the sole judges of the facts. You
7 also determine what inferences might be reasonably made from
8 the evidence that you will hear.

9 So, listen carefully to the testimony as it goes on.
10 You have the right to consider such factors as whether or
11 not a witness might have a stake in the outcome of the case,
12 whether or not a witness might be biased or prejudiced one
13 way or the other, whether or not the witness actually has
14 the ability to know the facts about which the witness
15 testifies, and some people think it's very important, you
16 have the right to observe the demeanor of the witness, the
17 way they testify, how they speak, the way they deliver their
18 testimony. Again, use those factors in, in such a way that
19 your common sense dictates and make a determination as to
20 the credibility or believability of the witnesses that you
21 will hear during the trial.

22 So, again, try not to let your thoughts wonder. Pay
23 close attention to what the witnesses are saying. That will
24 put you in a position, at the close of the trial, to be able
25 to discuss the testimony that you've heard with your fellow

1 jurors during your deliberations. You have the right to
2 consider anything that's in the record that will help you
3 evaluate the testimony of the witnesses that testify during
4 this trial.

5 Now, I am not appointing a foreperson of the jury. I
6 don't do that until I charge you concerning the law. For
7 that -- the reason I do that is because the foreperson
8 really has no function to serve until you begin your
9 deliberations. At that time the foreperson would, would
10 preside over the deliberations, would communicate with the
11 Court if there's questions that you'd like to ask of the
12 Court during your deliberations, and the foreperson is the
13 person responsible for writing the verdict. But at the
14 close of the trial I will explain to you that your verdict
15 must be unanimous. Each and every one of you must agree
16 upon the verdict before it becomes the verdict of the jury.
17 For that reason there's no juror that has any greater say in
18 the outcome of the case than any other juror. So, I don't
19 appoint a foreperson until the close of the trial, and I'll
20 do that before I ask you to begin your deliberations in this
21 case.

22 Now, I want to be sure that I haven't violated anyone's
23 rights from my opening, in my opening statements, does the
24 State have an objection to my opening comments?

25 SOLICITOR KENDALL: No objections, Your Honor.

1 THE COURT: Defense have any objection to my opening
2 comments?

3 MR. TINSLEY: None, Your Honor.

4 THE COURT: As I indicated to you, we will now begin
5 the trial with the opening statements, and because the State
6 has that burden of proof that I've explained to you, they'll
7 be allowed to go first.

8 Mr. Kendall.

9 SOLICITOR KENDALL: Thank you very much, Your Honor.

10 THE COURT: Yes, sir.

11 SOLICITOR KENDALL: Good morning, ladies and gentlemen,
12 and thank you for coming here today.

13 This case is based on one very simple principle. You
14 don't get a pass simply because you have somebody do your
15 dirty work for you.

16 Now, the property in question in this case, ladies and
17 gentlemen, is a camper. It's a camper that was stolen from
18 Hoilday Camper here in town in 2006, in October of 2006.
19 That camper ended up at the home, or excuse me, the place
20 where Mr. Tinsley was living a couple months later, and
21 there's a couple things that are very important about this
22 camper you need to know straight from the get go.

23 The first one is it's very very valuable. One of these
24 campers ranges anywhere from around \$20,000 on up depending
25 on the options. It's what they call a toy hauler in the

1 business, and what this really is is a dual purpose camper.
2 In the front is a living area where you obviously like.
3 It's like a regular camper. In the back is a maintenance
4 area or a storage area. The purpose of this is for, is for
5 driving around in go-carts or things along that. You can go
6 on trips. You have a storage space and a living quarters.

7 Now, most of these dual purpose campers, those toy
8 haulers are what are called fifth wheel campers, and those
9 are kind of set up a little bit like horse trailers. I
10 don't know if you've ever seen a hitch on a horse trailer.
11 It kind of usually sits right square in the middle of the
12 back of a pickup truck bed. That's a very very stable way
13 of transporting because at the end of the day this is a very
14 very big camper.

15 This one was a little bit special because it was a
16 trailer hitch. It hooked right to the back like you hook up
17 a boat or jet ski or anything else you can tow. Because of
18 that there aren't very many of these that are in existence.
19 In addition, ladies and gentlemen, we're gonna show that Mr.
20 Tinsley bought this camper, or excuse me, took possession of
21 this camper and that he knew this camper to be stolen.

22 Now, how on earth am I gonna prove to you that he knew
23 it to be stolen?

24 Well, ladies and gentlemen, Mr. Tinsley took some steps
25 over the course of this police investigation to allude

1 police, to keep the police away from the camper. When
2 they'd come close and start asking questions he'd start
3 doing other stuff, and he'd tried to actively conceal this
4 camper until he was ultimately caught up with him on, in
5 December of 2007, 2006 when his father called and
6 essentially told the police that he suspected there was a
7 stolen camper on the property.

8 Now, ladies and gentlemen, that's what I'm gonna prove
9 to you today on this charge of receiving stolen goods, and
10 at the end of this trial I'm gonna ask for you to return a
11 verdict of guilty.

12 Now, there are three things I'd like you to do over the
13 course of this trial. The first is please listen to all
14 directions of the judge. That's the most important thing.
15 Regardless of what happens here today, the procedure in
16 America is, by far, the best in the world and something we
17 all have stick to.

18 Second, please listen to all the evidence. These days
19 tend to get long, kind of tend to get frustrating. Please
20 go and just really try and focus on what you're hearing and
21 what's going on.

22 And, finally, in making your deliberation, don't be
23 afraid to use common sense. You'll find it takes you a very
24 long way.

25 May name is Matt Kendall. I represent the State of

1 South Carolina. Thank you-all for being here today.

2 THE COURT: Mr. Tinsley, you may make your statement to
3 the jury.

4 MR. TINSLEY: Good morning, ladies and gentlemen of the
5 jury. My name is James Tinsley, and I'm the defendant in
6 this case. I'm also going to be representing myself. I may
7 seem a little nervous and I ask that you bear with me.

8 Self-representation is not all together unusual in
9 these days in the courtroom. However, many of the cases
10 that I've witnessed where defendants have represented
11 themselves the defendant seemed to have some mental
12 problems. They thought that they knew enough about the law
13 to represent themselves yet they'd never even picked up a
14 law book. Some of them even thought that they were God, and
15 their decision to represent themselves was based upon
16 delusion.

17 My decision to represent myself is based upon 20 years
18 of experience. I spent a good portion of my life in civil
19 rights litigation, and because of these experiences, over
20 the years, I've learned a thing or two about the law.
21 Although my background is been civil law rather than
22 criminal law, when you get right down to it, it really is
23 all just common sense.

24 But knowing and interpreting the law is only a small
25 part of being an effective litigator. For instance, I'm not

1 any good at speaking in front of people. You may think that
2 I'm doing pretty good right now. But, to be honest with
3 you, I'm dying up here.

4 I'm a very shy quite person. I never speak to anybody
5 unless they speak to me first, and I'm very much out of my
6 element being required to stand up here and speak like this
7 in front of you. I tried all the home remedies for stage
8 fright. I've tried picturing y'all in diapers, but that
9 doesn't seem to help any.

10 I'm also not any good at cross-examination. That's a
11 very important part of a jury trial. I've never even read a
12 book on how to do cross-examinations, and because of these
13 short comings I'm forced to resort to notes to keep up with
14 things that I want to say or questions that I want to ask
15 and I just ask that you bear with me.

16 Now, when I was a little boy my grandmother and I use
17 to watch Perry Mason and Matlock on television, and we
18 would, we would complain everytime an attorney would come on
19 and start talking. We reasoned that everything that
20 attorneys had to say was gibberish.

21 When I became older, and I started studying the law, I
22 began to realize that what attorneys were trying to say
23 meant everything. They were simply trying to explain the
24 elements that constitute a crime. Now, they don't always do
25 a very good job of this, and hence the reason I want to

1 represent myself. But that's what they are trying to do.

2 Now, what are elements?

3 Well, elements are a set of facts or circumstances that
4 the State must prove in order to establish that a particular
5 crime has occurred. The State carries the burden of proving
6 those elements and that burden is beyond a reasonable doubt.
7 The burden of proof never shifts to the defendant during the
8 trial process. The defendant does not have to say anything
9 or do anything.

10 Now, in most criminal trials the defense attorney will
11 stand up and give an opening or a closing argument. Much
12 like I'm doing right now, but he doesn't have to. In almost
13 every criminal trial a defense attorney will ask the State's
14 witnesses questions on cross-examination, but he doesn't
15 have to. In some cases the defendant himself will testify
16 in his own behalf. But he doesn't have to.

17 Now, in this case I've been charged with receiving
18 stolen goods and the State stood up here a minute ago and I
19 think they mentioned a few of the elements that they must
20 prove in order to establish these crimes. However, the
21 State failed to mention all of the elements that they must
22 prove in order to commit, in order to prove this crime.

23 Now, I don't want to mention what those missing
24 elements and at this point in the trial either because
25 frankly I don't want to tip the State off to the flaws in

1 their case, but I would like to mention that the, the
2 elements that they're aware of and that being that they must
3 prove that some goods were stolen. They must prove that I
4 possessed those goods or received those goods and they must
5 prove that I knew or had knowledge that the goods were
6 stolen.

7 Now, what we have here is a camper that is allegedly
8 stolen, and the evidence is going to demonstrate that what I
9 thought were friends of mine turned out to be a group of
10 criminals involved in a multi-state enterprise. The
11 evidence is going to demonstrate that these so called
12 friends were very very smart. So smart, in fact, that they
13 misled the police to looking the other way so that they
14 could steal \$60,000 worth of property from me. The evidence
15 is going to demonstrate that they misled the police into
16 focusing their attention onto me and away from them so that
17 they could get away with other crimes they had committed,
18 and so that they could get away with the property they were
19 trying to steal from me.

20 The evidence is going to demonstrate that a friend of
21 mine, Bill Dotson, who owned Upstate Signs & Graphic here in
22 Spartanburg, and that I met him through the go-cart racing
23 industry, bought a go-cart from him, that his business
24 wasn't doing very well. The evidence will show that he was
25 only making a couple hundred dollars a month and that his

1 rent on the building was \$550 a month.

2 The evidence will demonstrate that he had a family
3 member that owned a lake property on Lake Davis in Tennessee
4 I think, and that he thought that, if he could get himself a
5 camper, he would be able to move to that lake and live for
6 free, no rent, just have to pay a power bill and phone bill.
7 And, so, he thought that he could get himself a camper with
8 a let down rear door and that he could take it to the flea
9 markets on the weekends and sell his sign and graphics stuff
10 out of the back of the camper to make some money to pay for
11 his living expenses.

12 So, he obtained a camper from somewhere. I'm not
13 saying that it's stolen. I'm not saying that it's this same
14 camper. I'm just saying that it's one that looks similar to
15 it, and after a while he decided that he maybe made a
16 mistake because he realized that he would have to unhook
17 this camper every weekend in order to take it to a flea
18 market. He'd have to take it down off the block and unhook
19 it from a septic tank and all that kind of stuff, and he
20 decided that what he really needed was a separate camper
21 that he could just leave hooked up and then a separate
22 enclosed trailer in which he could go to the flea markets
23 with.

24 The evidence will demonstrate that he knew that I was
25 racing go-carts and that I had an almost brand new and

1 enclosed trailer, and he was wanting an enclosed trailer.
2 And he knew that I had recently separated from my fiancé,
3 and that I really wanted to let my house go back. I wasn't
4 happy being there.

5 And, so, he approached me and asked me whether or not I
6 would be interested in trading in my enclosed trailer for
7 his camper. A deal was struck where I would trade him the
8 enclosed trailer plus \$10,000 for his camper.

9 Now, I didn't have \$10,000. The evidence will
10 demonstrate that I did, however, have some machines. I had
11 a machine shop in my garage, and that I could sell those
12 machines to raise the \$10,000. The evidence will show that
13 I did find someone to buy those machines. He went ahead and
14 took possession of the machines, but the evidence will
15 demonstrate that I wasn't having to wait a couple months to
16 get the money because it was Christmas time.

17 The evidence will demonstrate that Bill Dotson became
18 restless. He couldn't wait and, to, to get the money, and I
19 suggested to him, to him that maybe he should try to make,
20 try to find somebody else that would be interested in buying
21 it from him if he's in a hurry, and that, that I wouldn't be
22 mad at him if he did that.

23 So, I think the evidence will show that he put out the
24 word that he had this camper for sale, and as a result, a
25 couple police officers show up, show up at his, at his shop

1 here in Spartanburg and they ask questions about it. Well,
2 they didn't suspect that it was stolen or anything. They
3 were actually looking for it wanting to buy a camper. But
4 Bill, the evidence will show, immediately recognized them as
5 police officers, and he denied to them that he owned it. He
6 tried to blame it on me and say that I owned it, and he --
7 the evidence will show that he, that they didn't, that he
8 didn't even give the police officers a way to contact me,
9 and I think the evidence will show that the reason for that
10 is that, that he didn't want these officers talking to me
11 because the first thing out of my mouth would be I don't own
12 it, I was trying to buy it from Bill.

13 The evidence will demonstrate that -- the evidence will
14 demonstrate that as soon as these police officers left his
15 property, that my phone lit up like a Christmas tree, and he
16 called me back to back to back to back to back ten times in
17 a row trying to reach me. And the evidence will show that's
18 very unusual for him to call me that often like that. The
19 evidence will show that what he wanted, when he finally did
20 get in touch with me, was he told me that he was moving,
21 didn't have a place to put the camper, and he wanted me to
22 go ahead and take it early.

23 In fact, the evidence will demonstrate the real reason
24 he was wanting it off the property is because the two police
25 officers said they were going to return the next day to ask

1 about it again and he wanted it off the property. The
2 evidence will show that he called me and we made
3 arrangements that he would drive it down. I was in
4 Greenville at the time or headed to Greenville, and he would
5 drive it down and meet me on White Horse Road in Greenville.
6 We did that. I took it from him and took it to my
7 grandmother's house in Greenville.

8 The evidence will demonstrate that I got the camper
9 from Bill Dotson, was buying it from him for \$10,000 plus my
10 enclosed trailer, and he did not tell me that it was stolen
11 if, in fact, it was stolen. I'm not really sure about the
12 evidence is gonna be able to establish that or not.

13 But the evidence will also demonstrate that this is a
14 very sad and troubling fact about the criminal justice
15 system, and that is that criminals often implicate innocent
16 people to get themselves out of trouble. They're willing to
17 go to great lengths to lie and make-up stories and fabricate
18 things to get themselves out of trouble, and that's a problem
19 for juries because when witnesses lie in a trial, it's so,
20 you know, hinders, hinders and clogs up the truth that makes
21 it difficult for you to find, to determine whether somebody
22 is guilty beyond a reasonable doubt.

23 The evidence will demonstrate that the State star
24 witness burglarized my home, and that I caught him, and had
25 to threaten him a little bit to get him to confess, but he

1 did confess and he returned my property. But he did so by
2 dropping it off at a mutual friend of ours which just
3 happened to be Bill Dotson, the same person I was buying the
4 camper from. He dropped my property off at his shop. The
5 evidence will demonstrate that the State star witness is
6 tried to justify the reason for burglarizing my home was
7 because that he did some work for me on my car and all he
8 got in exchange for it was a \$2,000 set of rims from me, and
9 that he thought he got screwed over on the deal. And, so,
10 he wanted to burglarize my home to get some more money or
11 something.

12 so, this gives you a little insight in the way his mind
13 works, that he believes that it's justifiable to burglarize
14 somebody's home if, you know, if it, in order to get
15 something that he thinks is owed to him, and the evidence
16 will demonstrate that, that, that Bill Dotson believed that
17 he was about to be arrested after the police came by there
18 and that he wanted to get out of town. He wanted to leave
19 immediately.

20 The evidence will demonstrate that he and Ben Lindler
21 came up with this plan to implicate me to get me arrested so
22 that they could separate me from my property and so that he
23 could steal the property that was there at his shop and
24 that's exactly what happened. The day I was arrested, the
25 next, very next day, everything was gone. He was gone with

1 everything I had, \$60,000 worth of property.

2 The evidence will demonstrate that the police didn't do
3 a very good job of investigating this case. They, they
4 thought they knew the answer to the riddle I guess. They
5 closed the file, got a pat on the back, at-a-boy, and they
6 didn't want to hear anything else about it. And even when
7 other exculpatory evidence came out that would exonerate me,
8 they hid it. They swept it under the rug. They didn't even
9 mention it in the police reports. And as a result, the
10 solicitor himself is not even aware of this exculpatory
11 evidence.

12 In this case I would ask that you refrain from making a
13 decision about the case until all the evidence is in.
14 Obviously, if you were to only hear the State's version of
15 the case, everyone would seem guilty. But there is another
16 version of the case. There is other exculpatory evidence
17 that exonerates me. There's a reasonable alternative
18 hypothesis for how I came to possess the camper without
19 knowing that it was stolen, and you should be aware of that
20 information before you form an opinion about the case.

21 The criminal justice system is set up with several
22 safeguards in place to protect innocent defendants from
23 wrongful convictions. One of those safeguards is a Grand
24 Jury proceeding. A case goes before the Grand Jury, they
25 look at the evidence, and they determine whether probable

1 cause exist to true bill the indictment. They may look at
2 that information and say you know what, looking at all the
3 exculpatory evidence, we don't believe this defendant is
4 involved in this crime, and we're gonna refuse to true bill
5 the indictment.

6 The solicitor himself is a safeguard. When he gets
7 assigned a case, he opens the file, he goes over the
8 witnesses statements and the evidence, and he may say to
9 himself, you know what, there's something fishy about this
10 case. The statements don't make sense. Some of this stuff
11 they're claiming is not even humanly possible, and look at
12 all this exculpatory evidence that exonerates this guy. I
13 don't believe he's guilty and I'm not gonna prosecute him.
14 The prosecutor has the ability to dismiss the charges
15 himself. In fact, it's inappropriate for a prosecutor to
16 prosecute someone that he knows or believes to be actually
17 innocent.

18 Now, I'm not suggesting that the prosecutor is doing
19 anything wrong. Excuse me. He may be, may very well
20 believe that he's doing the right thing by prosecuting me.
21 But he's come to that decision because he's not been made
22 aware of this exculpatory evidence that exonerates him.

23 In this case, the first two safeguards that protect
24 innocent defendants from wrongful conviction were
25 essentially bypassed because the Grand Jury and the

1 solicitor were not made aware of this exculpatory evidence.
2 The mere fact that there's exculpatory evidence that
3 exonerates me, is material to the outcome of the case under
4 the governing law, it demonstrates a reasonable alternative
5 hypothesis of how I came to possess the goods without
6 knowing they were stolen, and the fact that the solicitor's
7 unaware of all this is all the more reason why you should be
8 aware of it before you form an opinion, excuse me, about the
9 case.

10 For that -- it is for that reason that I'm asking that
11 you not begin deliberating until you've heard all the
12 evidence. When it's all said and done, I'm sure you're
13 gonna find that I did not act, act suspiciously. I did not
14 know the camper was stolen if, in fact, it was stolen, and
15 that I should be found not guilty.

16 With that said, I would like to thank each of you for
17 being here. It's a very very important role that you have,
18 and without which the system would not work to protect the
19 safeguards of innocent citizens from wrongful convictions.

20 Thank you.

21 THE COURT: The State may call its first witness.

22 SOLICITOR KENDALL: Your Honor, the State calls

23 Mr. Paul Thomas.

24 THE COURT: Come forward to my left, sir, and be sworn
25 be.

Paul Thomas - Direct examination
by Solicitor Kendall

1 PAUL THOMAS, having been first duly
2 sworn, testified as follows:

3 THE COURT: Have a seat in the witness stand, sir.
4 (Witness complies.)

5 THE COURT: State your name please.

6 WITNESS: Paul Thomas.

7 THE COURT: Mr. Kendall, your witness.

8 SOLICITOR KENDALL: Thank you very much, Your Honor.

9 THE COURT: Yes, sir.

10 DIRECT EXAMINATION

11 BY SOLICITOR KENDALL:

12 Q Mr. Thomas, how are you today?

13 A Good.

14 Q Mr. Thomas, where are you currently employed?

15 A Holiday Camper or Camping World R.V. Sales.

16 Q How long have you been with this company?

17 A Twelve years.

18 Q And what do you do there?

19 A I'm the service manager.

20 Q And in the course of your work do you deal with a lot
21 of trailers?

22 A Yes, sir.

23 Q Can you just kind of briefly describe what it is you do
24 at Holiday, at Camp Holiday, Camp Holiday?

25 A I'm over the service department and take care of all

Paul Thomas - Direct examination
by Solicitor Kendall

1 the repairs and inventory.

2 Q So, it would be fair to say you are aware of the
3 campers that are on the lot at any given time?

4 A Yes, sir.

5 Q And were you working for this employer on October
6 11th, 2006, the night of October 11th leading to
7 October 12th, 2006?

8 A Yes, sir.

9 Q Did anything odd happen that night?

10 A Yes, sir, we came in the next morning to work and found
11 the lock cut on the gate, the gate kind of crushed open.

12 Q Were any of the campers missing?

13 A Yes, two.

14 Q And let's deal with the dual purpose camper.

15 I guess my first question would be was a dual purpose
16 camper missing?

17 A Yes, sir.

18 Q Could you please describe that camper to us?

19 A It was a 2007 Fleetwood Nitrous toy hauler.

20 Q And could you please just kind of discuss the
21 specification of that Fleetwood hauler that make it unique?

22 A It was a bumper poll, which you don't see a whole lot
23 of them.

24 Q Now, when you say you don't see a whole lot of them,
25 you testified you've been there for six years, is that

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by Solicitor Kendall

1 right?

2 A Right.

3 Q And how many of those have you sold over the last six
4 years approximately?

5 A Approximately five.

6 Q So, it is, it is fairly, fairly uncommon?

7 A Right.

8 Q Okay. What else about this camper is unique?

9 A The front end of it, it has a design on the top of it
10 that is also a design on the L.P. cover and---

11 Q Okay.

12 A ---it's a reverse design.

13 Q Okay. Well, I'm gonna ask that you point that out to
14 the jury.

15 (WHEREUPON, six photographs were marked as State's
16 Exhibit Nos. 3 through 8 for identification purposes only at
17 this time.)

18 SOLICITOR KENDALL: Your Honor, I'm gonna approach the
19 witness with State's Exhibits 3, 4, 6, and 8.

20 THE COURT: You may do so.

21 Q Now, Mr. Thomas, would you mind pointing out to the
22 jury what it was your were just talking about with respect
23 to the --?

24 A Okay. Well, this right here, you see that the designs
25 are the same, and one is upside down from the other.

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1 Q And to clarify, that is, in fact, the tailer that we're
2 talking about?

3 A Yes, sir.

4 Q Okay. I'm gonna put that up on the overhead.

5 THE COURT: You want to put that into evidence?

6 SOLICITOR KENDALL: I do, Your Honor.

7 THE COURT: Any objection to that photograph going into
8 evidence?

9 Let me take a look at all the photographs so he knows
10 what you're referring to.

11 MS. PRICE: Your Honor, Mr. Thomas is rather soft
12 spoken.

13 Can he speak more directly into the microphone?

14 THE COURT: I'll ask him---

15 MS. PRICE: He's a little hard to hear over here.

16 THE COURT: To move a little closer so everybody here
17 can -- or speak up. One of the two.

18 (Pause.)

19 MR. TINSLEY: No objection, Your Honor.

20 THE COURT: Any objections?

21 MR. TINSLEY: No.

22 THE COURT: All right. Then you wish to admit all the
23 photographs?

24 SOLICITOR KENDALL: I do, Your Honor.

25 THE COURT: And the numbers are again?

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by Solicitor Kendall

1 SOLICITOR KENDALL: They are 7, 6, 3, 4, 5, and 8.

2 THE COURT: All right, sir. They'll be admitted as
3 marked.

4 (WHEREUPON, State's Exhibit Nos. 3 through 8 were
5 received into evidence at this time.)

6 THE COURT: You may proceed.

7 Q Now, a moment ago you were talking about offsetting
8 designs.

9 Could you please just point out to the jury on the big
10 screen here, here what it was you were talking about?

11 A Okay. This design down here and this design up here is
12 pretty much what this trailer is identified by. It was a
13 Nitrous made by Fleetwood and it is a toy hauler.

14 Q Toy hauler, now, what exactly does that mean?

15 Would you mind please just explaining what that means?

16 A That's where the back of it opens up and you're
17 allowed -- the front part of it is a living area. The back
18 is for storage where you can put motorcycles, golf cart,
19 go-carts, stuff like that.

20 Q Okay. Now, a moment ago you testified this was a
21 bumper hitch trailer, correct?

22 A Right.

23 Q And what does that mean?

24 Could you show us up, up there where the, where the
25 bumper hitching type equipment is?

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by Solicitor Kendall

1 A Right here. It attaches to the back on the bottom of a
2 truck instead of in the bed.

3 Q And the alternative to that would be a five wheel or
4 what would you---

5 A Fifth wheel.

6 Q And what would that look like?
7 Would that, would that, would that be different than
8 what you just pointed to up there?

9 A Yes, sir.

10 Q Now, you testified that on the night of
11 October 12th and October 13th, one of these trailers was
12 stolen, is that correct?

13 A Correct.

14 Q And did you do an inventory to make or how did you make
15 that determination?

16 A We did an inventory that morning.

17 Q Okay. And what did you determine from that inventory?

18 A That we had a motor home and this travel trailer
19 missing.

20 Q The travel trailer was missing.

21 Now, at some point that trailer was returned to you, is
22 that correct?

23 A Yes, sir.

24 Q Do you know where that was picked up?

25 A White Horse Road in Greenville.

Paul Thomas - Direct examination
by Solicitor Kendall

1 Q Okay. But you, to be clear, you didn't pick that up?
2 Somebody just, just---

3 A Correct.

4 Q One of your people went over there to pick it up from
5 Greenville?

6 A Yes, they sent a driver to pick it up.

7 SOLICITOR KENDALL: Okay. Again, I'm gonna approach
8 with State's Exhibit 6.

9 THE COURT: You may do so.

10 Q Would you take a look at this photo, please?

11 A (Witness complies.)

12 Q Is that or with 6, 4, if I just or essentially all the
13 ones we just introduced into evidence.

14 Are these pictures an accurate description of the
15 trailer you received back?

16 A Yes, sir.

17 Q All right, sir. And how were you able to make that
18 determination?

19 A Because of the decals that were changed on it.

20 Q The decals that were changed?

21 A Correct, and we looked through the trailer.

22 Q Okay. Now a moment ago you testified to decals.
23 would that be -- is that what you're referring to?

24 A Yes, sir.

25 Q Okay. And it appears there are a couple different

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by Solicitor Kendall

1 sets.

2 was that decal right there on the trailer when it was
3 returned to you?

4 A Yes, sir.

5 Q was that decal on the trailer when it was returned to
6 you?

7 A Yes, sir.

8 Q was that decal on the trailer when it was returned to
9 you?

10 A Yes, sir.

11 Q So, to be clear, the decal -- the, the trailer in this
12 picture was the one that was, in fact, returned to you?

13 A Yes, sir.

14 Q And that was one you were able to determine was the
15 stolen trailer from your property?

16 A Yes, sir.

17 Q And how certain are you that that's the same trailer
18 that was stolen from your property?

19 A Because of the uniqueness of the front end, being a toy
20 hauler, excuse me, and the back end opening up, and it was
21 only one of the toy hauler that we had on the lot that was a
22 bumper pull.

23 Q Well, but how certain -- if -- were you to say a scale
24 of one to a hundred, how certain are you that that's the
25 exact same trailer that was taken?

Paul Thomas - Direct examination
by Solicitor Kendall

1 A I'm a hundred percent certain.

2 Q A hundred percent certain that that right there was the
3 trailer that was taken from you?

4 A Yes.

5 Q Is Holiday Camper a business located in Spartanburg
6 County?

7 A Yes, sir.

8 Q Was the camper in question taken from Holiday Camper?

9 A Yes, sir.

10 Q How much would a trailer like this go for?

11 You were in the 2006, October time frame, if you were
12 to sell one, give us a range on how much it would go for.

13 A Depending on the option, options and new one, we're
14 looking between twenty-two and thirty thousand dollars.

15 Q So, this is a twenty-two to thirty thousand dollar---

16 Are there any big ticket items in there, I mean
17 really -- I mean that's a pretty big range, any big ticket
18 items that would sway that one way or the other?

19 A Yes, like a generator.

20 Q How much does a generator typically run?

21 A Excuse me?

22 Q How much does a generator typically run?

23 A Anywhere from 3,500 to \$6,500.

24 Q Okay. So, it depending on really whether or not it has
25 a generator really between that twenty-two hundred, 22,000

Paul Thomas - Direct examination
by Solicitor Kendall

1 and 3,000.

2 Now, at some point in time that trailer was, was or
3 what eventually became of that trailer?

4 A It was with, eventually sold.

5 Q And prior to sell did you take actions to, to -- did
6 you do anything to it?

7 A Yes, we replaced a missing stereo system and removed
8 the decals from it.

9 Q Okay. And did you-all do that in-house or did you have
10 someone else do that?

11 A We did it in-house.

12 SOLICITOR KENDALL: Okay. Your Honor, may I approach?

13 THE COURT: You may.

14 Mr. Tinsley, you're gonna need to come up please, sir.

15 (WHEREUPON, a bench conference was held out of the
16 hearing of the jury at this time.)

17 THE COURT: Ladies and gentlemen, this is one of those
18 occasions where I'm going to ask you to step to the jury
19 room while I take up a matter concerning the evidence. I
20 will instruct you, as I always will, not to begin any
21 discussions about the case until I advise you to do so.

22 You may retire to the jury room.

23 (WHEREUPON, the following takes place outside the
24 presence of the jury.)

25 THE COURT: Yes, sir, Mr. Kendall.

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by Solicitor Kendall

1 SOLICITOR KENDALL: Your Honor, yesterday this Court
2 ruled that, that the officer search of that trailer was
3 invalid. That trailer was then taken out back to Holiday
4 Camper, as you've heard in testimony today, and became, just
5 went back to the property of Holiday Camper. At some point
6 they went and sold that trailer, and as part of that sale
7 they cleaned it all up, and checked the V.I.N. number and
8 things along those lines.

9 The State's position is that the, that that checking of
10 the V.I.N. number does not constitute any police action,
11 police action. In fact, it's related specifically to the
12 sale, not to any searches or any seizures. It's private
13 property conduct completely unassociated with that.
14 However, based on that, I wanted to kind of clear that with
15 the Court before I---

16 THE COURT: Well, I'm not sure exactly in what context
17 you intend to put that in. So, maybe you ought to tell me.

18 SOLICITOR KENDALL: Yes, sir.

19 THE COURT: Because I, I'm not sure what the resale of
20 it has to do with whether or not it was received as stolen
21 goods by this defendant.

22 SOLICITOR KENDALL: Well, Your Honor, we would use that
23 as, as to establish the V.I.N. number. The resale property
24 itself identifies that it has some decals, the unit was --
25 actually has unit was stolen and has different decals on it.

Paul Thomas - Direct examination
by Solicitor Kendall

1 They did that. This was something that was not attached to
2 police conduct, and, therefore, it would still be admissible
3 as private party conduct, and, in fact, it's not even a
4 private party search. It's just simply the trailer got
5 returned, life went on.

6 This would not have any bearing on that, and the fact
7 it shows the sale of it is to really get around the argument
8 this is, is at police request. This has nothing to do with
9 the police. This was sold on April 19th, 2007, months after
10 this thing all got all wrapped up.

11 THE COURT: Well, my ruling yesterday was that the
12 police would of been justified in seizing the trailer itself
13 based on the external evidence that's been testified to
14 today, what they were looking for, the uniqueness of it, and
15 how it had been described by witnesses from the decals that
16 were on it and things of that nature without ever entering
17 the -- cause all that was in plain view on property they had
18 been invited to go on. The actual entry into taking of the
19 V.I.N. number to confirm it, I ruled it was not properly
20 done.

21 SOLICITOR KENDALL: Yes, sir.

22 THE COURT: Now, you're wanting to get into the fact
23 that the V.I.N. number later on was discovered and used in
24 the resale of this item?

25 SOLICITOR KENDALL: Yes, sir, Your Honor. The, the---

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1 THE COURT: All right. Well, I'll hear---

2 SOLICITOR KENDALL: The fourth---

3 THE COURT: I'll hear from the defense on that.

4 MR. TINSLEY: Your Honor, wouldn't just say, you know,
5 it's relevancy. It's not relevant to whether or not I
6 received it, and---

7 THE COURT: What is, what is it -- I mean if you're---

8 SOLICITOR KENDALL: Oh, Your Honor, I'm not, I'm not---

9 THE COURT: This gentleman is already testified just by
10 looking at the outside he could tell, he was a hundred
11 percent sure it was the stolen vehicle.

12 SOLICITOR KENDALL: Well, the relevance is that we can
13 establish the V.I.N. this way. What got tossed out
14 yesterday, as I understand it, was the search and seizure of
15 that V.I.N. number on that vehicle. This -- and what the
16 Fourth Amendment would apply is officer conduct to that
17 search and seizure. This is another search and seizure that
18 was done that is private conduct and is, just falls outside
19 the prong of the Fourth Amendment. Because of that, that is
20 not a Fourth Amendment activity and we can still use that
21 V.I.N. number.

22 I think -- I mean the State's position, to be quite
23 honest with you, is Your Honor, it gets back a lot. We can
24 use that inventory search to establish the V.I.N. number.
25 The reason I'm using the resale time is not for the resale.

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by Solicitor Kendall

1 But I don't -- we're, we're not trying to get in the amount
2 we sold for, but that is the point we can, as a Court, be
3 absolutely certain had nothing to do with police conduct.
4 You can't make a colorful argument that when he resold that
5 trailer it was at the behest of the police department, and
6 that's why we chose that point as opposed to right when it
7 came back. But the second that they searched that trailer,
8 on our own private search, I believe it is a valid search
9 and to the extent that it's not covered under the Fourth
10 Amendment at all.

11 THE COURT: Mr. McCarty, you wish to comment?

12 SOLICITOR MCCARTY: If, if I may, Your Honor. I may be
13 able to help Mr. Kendall out a little bit here. Officer
14 White knew, going into this, that he had a V.I.N. number as
15 reported by Holiday Camper of a, stolen. As you heard
16 yesterday through his testimony, he ultimately did discover
17 and match that V.I.N. number up.

18 THE COURT: He also had a description of the, of the
19 stolen vehicle.

20 SOLICITOR MCCARTY: Yes, sir, he did. But going into
21 that investigation and going down there, he knew he had a
22 V.I.N. number that, if located, he could match and determine
23 if it was indeed that trailer. I think the State would
24 offer to say that I had a V.I.N. number available, here's
25 what that V.I.N. number was, and not go into testimony about

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1 actually having found that. Mr. Kendall's argument, I
2 believe, would be the production or the resale of this and
3 the check of their records and the verifying of, and the
4 clearing of the title does have that same V.I.N. number on
5 it. It kind of, in a round about way, says hey, we went
6 down there, we knew this trailer specifically was stolen,
7 and the stolen trailer was the one that was resold.

8 THE COURT: Talking about Nix v. Williams?

9 SOLICITOR MCCARTY: I'm sorry, Your Honor?

10 THE COURT: Talking about Nix v. Williams?

11 SOLICITOR MCCARTY: Well, I don't know if it's specific
12 to that. It would just be getting around the search done by
13 Investigator Wyatt. It would just be saying that we did
14 sell this trailer, here's the V.I.N. number on that, and you
15 can make the argument that look, it was reported this V.I.N.
16 number was stolen, this, the gentleman from Holiday
17 Camper---

18 THE COURT: All right.

19 SOLICITOR MCCARTY: ---has testified it was.

20 THE COURT: All right. Mr. Tinsley, I'll hear from you
21 on that if you'd like to be heard.

22 MR. TINSLEY: I'm just thinking he's just trying to
23 circumvent your ruling yesterday.

24 THE COURT: Well, no, what they're saying is that, that
25 the later resale would confirm that the, confirm the V.I.N.

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by Solicitor Kendall

1 number. I was saying that the police -- the information
2 they gathered at the time they popped the lock was an
3 illegal entry, and, therefore, the police could not use
4 that.

5 SOLICITOR MCCARTY: That, that would be correct, Your
6 Honor, that the police were aware of a V.I.N. number going
7 into it, not testifying about what they found therein, but
8 allowing this gentleman to testify that---

9 THE COURT: Well, my ruling was that they had
10 sufficient information concerning what they were looking
11 for, it had been reported stolen, that they had a right to
12 seize the trailer. Now, now they're wanting to talk about
13 the V.I.N. number when it was ultimately sold, what V.I.N.
14 number was on it when they sold it. A little bit different
15 situation. If you have something you want to be heard on,
16 this is your chance to talk to me about it.

17 MR. TINSLEY: I'll leave that to your discretion, Your
18 Honor.

19 THE COURT: All right. I'll -- let me go back and take
20 a look.

21 Sir, I'm gonna take a brief break. I'm gonna let you
22 step down. I will caution you not to discuss your testimony
23 with anyone during the break. We'll take about a ten to
24 fifteen minute break.

25 Court's in recess.

Paul Thomas - Direct examination
by Solicitor Kendall

1 SOLICITOR McCARTY: Thank you, Your Honor.

2 SOLICITOR KENDALL: Thank you, Your Honor.

3 (WHEREUPON, a short recess was taken at this time.)

4 THE COURT: All right. Yesterday my ruling was that
5 the State could not go into the V.I.N. number that was
6 retrieved when they broke the lock and went into the
7 trailer. My ruling was, however, that the seizure of the
8 trailer would of been legal based on the fact that, upon
9 entering property that they had permission to enter from
10 both owners, they were able to, from the information they
11 had, determine that the vehicle or, or the camper in
12 question was the stolen camper based on the make, model of
13 the description, the type of the camper, the stickers that
14 they had been described to them, as to where it was located,
15 it was in the possession or on the property occupied by the
16 defendant and still under his control. Given all of those
17 factors it was my determination that the, the State was
18 justified in seizing the item as stolen property at that
19 time without ever having gone into the trailer and gotten
20 the V.I.N. number.

21 In this case the State is attempting to put the V.I.N.
22 number in through testimony from the owner of the property
23 to which it had been returned as not being State action to
24 which the Fourth Amendment does not apply. I'm going to
25 allow them to do that based on the fact that they were not

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by Solicitor Kendall

1 acting as agents of the State, but were acting as private
2 individuals. This goes back -- the case I've read is U.S.
3 versus Jacobson that I make that determination. Also, this
4 is information which yesterday I indicated may have been
5 discoverable legally based on the seizure that I have found
6 to be legal, the seizure of the trailer itself. Not of the
7 V.I.N. number.

8 So, I'll allow the testimony.

9 MR. TINSLEY: Please, please note my objection, Your
10 Honor.

11 THE COURT: Yes, sir, your objection is noted and I
12 understand this is a question that will probably be decided
13 by someone else.

14 MR. TINSLEY: Can I put the reasons on the record?

15 THE COURT: Sir?

16 MR. TINSLEY: Can I put the reason on the record?

17 THE COURT: Oh, absolutely.

18 MR. TINSLEY: Just in case that -- I don't believe that
19 the information they had did authorize the seizure of the
20 camper.

21 THE COURT: I realize that that would be a question to
22 be decided at a later time.

23 THE COURT: Right. And, and, and, so, that, that's the
24 reason for it and we'll never know whether a magistrate
25 would have believed that that information was sufficient for

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by Solicitor Kendall

1 probable cause cause they didn't go to one. So, that would
2 be my objection. Thank you.

3 THE COURT: I understand that. But, again, it's, it's
4 my finding, however, that, and I'll state my finding again,
5 that the police went there with a description of the trailer
6 in question, that -- my understanding is that informants had
7 indicated the, the description of the trailer, location of
8 stickers, numbers, names on them, on the trailer, that this
9 trailer fit that description. They're several cases in
10 which people in stolen vehicles, and, of course, in those
11 cases, however, there's an exterior V.I.N. number that it's,
12 that it's 100 percent conclusive that the vehicle was
13 stolen. The cases state that the driver of that vehicle,
14 the possessor of that vehicle has no expectation of privacy.

15 Didn't quite go that far in this case, although I
16 probably should have, which would of justified them going
17 into the vehicle at that or the trailer at that time because
18 of the fact that it was a stolen item, and based on the
19 visible description of the vehicle could of been determined
20 as such. I didn't go that far, perhaps I should have, and
21 just allowed them to go ahead and put the V.I.N. number in
22 at that point in time. In an abundance of caution I made
23 the ruling that I made, and in this particular case it's my
24 finding that once the item has been returned to the owner,
25 the owner's actions, thereafter, are not State actions, and,

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1 therefore, not subject to the Fourth Amendment, and,
2 therefore, I'll allow the owner to testify that later on,
3 after the item had been returned to them, that they
4 determined that the V.I.N. number was the V.I.N. number of
5 the stolen item.

6 That's my ruling.

7 SOLICITOR KENDALL: Thank you, Your Honor.

8 THE COURT: All right. Let's bring the jury back.
9 Sir, you may resume the witness stand.

10 (Witness returns to the stand.)

11 (WHEREUPON, the following takes place within the
12 presence of the jury.)

13 THE COURT: All right. The jury has returned to the
14 courtroom.

15 I have ruled in favor of the State on the question
16 presented.

17 You may proceed, Mr. Kendall.

18 THE COURT: Thank you very much, Your Honor.

19 CONTINUED DIRECT EXAMINATION

20 BY SOLICITOR KENDALL:

21 Q Mr. Thomas, a few moments ago we were talking about
22 what you-all did in the course of getting this thing
23 prepared for sale.

24 Did you keep any documentation about that?

25 A Just the work order that was printed up of the work

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by Solicitor Kendall

1 that was done to it.

2 (WHEREUPON, a work order was marked as State's Exhibit
3 No. 9 for identification purposes only at this time.)

4 SOLICITOR KENDALL: Okay. I'd like to approach with
5 Exhibit 9, Your Honor.

6 THE COURT: Is that the documents from the sale?

7 SOLICITOR KENDALL: Yes, sir, Your Honor.

8 THE COURT: Subject to your previous objection?

9 MR. TINSLEY: Yes, Your Honor.

10 THE COURT: I'll admit it subject to the previous
11 objection. The ruling stays the same.

12 (WHEREUPON, State's Exhibit No. 9 was received into
13 evidence at this time.)

14 Q Do you recognize the document that's in front of you
15 now?

16 A Yes, sir.

17 Q And what is that?

18 A It's an actual work order prepping the unit to be sold.

19 Q And on that work order, are there any identifying marks
20 particularly to this camper?

21 In other words, is there a V.I.N. number?

22 Is there a special identification number that was
23 particular to this camper?

24 A Yes, sir, there's a V.I.N. number and a model number.

25 Q Would you mind reading those to the jury please?

Paul Thomas - Direct examination
by Solicitor Kendall

1 A Yes, the model number is 260FSX 2007 Nitrous. Serial
2 number, which is the same as the V.I.N. number, is 4, C as
3 in Charley, P as in Paul, 7, F as in Frank, 262572900569.

4 Q And is that the same number as the camper that was
5 taken from you in early October of 2006?

6 A Yes, sir.

7 Q So, without a doubt, to clarify, to make absolutely
8 sure we understand this, how many vehicles have the same
9 V.I.N. number?

10 A Just one.

11 Q Just one vehicle?

12 A Right.

13 Q And the vehicle, the V.I.N. number that was missing was
14 the same as the one that you, that went out, the stolen one?

15 A Yes, sir.

16 Q So, we can be absolutely certain the one you got back
17 was actually the stolen vehicle?

18 A Yes, sir.

19 Q I've got no further questions -- oh, I -- is that a
20 fair and accurate representation of that work order that
21 which you had?

22 A Yes, sir.

23 Q And are those ordinarily kept in the ordinary course of
24 business?

25 A Yes, sir.

Paul Thomas - Direct examination
by Solicitor Kendall

1 SOLICITOR KENDALL: We would offer that into evidence,
2 Your Honor, State's Exhibit 9.

3 THE COURT: Subject to your prior objection?

4 MR. TINSLEY: Yes, Your Honor.

5 THE COURT: All right. Subject to prior objection it
6 will be admitted.

7 SOLICITOR KENDALL: I've got no further questions, Your
8 Honor.

9 THE COURT: You may cross-examine and your
10 cross-examination will be subject to your prior objections,
11 sir.

12 MR. TINSLEY: Thank you.

13 THE COURT: Yes, sir.

14 CROSS-EXAMINATION

15 BY MR. TINSLEY:

16 Q Who is this Hoilday Camper fellow?

17 That's a rather unusual name.

18 Who is that?

19 A Holiday Camper?

20 Q Yeah, that's a wierd name for someone.

21 Who, who is that?

22 A That's an R.V. dealership.

23 Q It's a, it's a---

24 A It's a name of a dealership.

25 Q Is it a corporation?

Paul Thomas - Cross-examination
by Mr. Tinsley

1 A It was, yes.

2 Q Does it have joint owners, more than one owner?

3 A Yes, sir.

4 Q It does?

5 A (Witness nods affirmatively.)

6 Q Who are those owners?

7 A Right now it's Freedom Roads and Camping world.

8 Q You said that this was a 2001, that you had stolen, was
9 a 2007 Nitrous, right, 2007?

10 A Right.

11 Q And I believe that you claimed that when you received
12 it it did not have a stereo in it, is that right?

13 A When it came back to us the stereo and the amplifier
14 system was the only thing missing besides the decals had
15 been removed.

16 Q Okay. So, the, the stereo system and the amplifier was
17 missing, and you said -- did you say that it did come with a
18 generator?

19 Is that what you're saying?

20 A I'm not positive on the generator. But by the looks of
21 this work order, no, it didn't because it's not listed on
22 here.

23 Q That work order lists the, the radio and amplifier
24 missing?

25 A Yes, sir.

Paul Thomas - Cross-examination
by Mr. Tinsley

1 Q Are you aware that -- well, did, did your -- did, did
2 your employees or coworkers or whoever it was go pick up the
3 camper from the police?

4 A Yes, sir.

5 Q Are you aware that the, that the stereo and, and radio
6 and stuff is in photographs taken by the police at that time
7 and that the stereo and amplifier and everything is still in
8 the camper?

9 A No, sir.

10 Q You're not aware of that?

11 A No, sir.

12 Q Is it possible that you would be alleging that the,
13 that it was stolen in order to collect some extra money or
14 something for it?

15 A I could not answer that, sir.

16 Q Are you the only company that sells this type of
17 camper?

18 A No, sir.

19 MR. TINSLEY: No, no further questions, Your Honor.

20 Thank you.

21 THE COURT: Anything further?

22 SOLICITOR KENDALL: No redirect, Your Honor.

23 THE COURT: All right. You may step down.

24 You may call your next witness.

25 SOLICITOR KENDALL: Your Honor, at this time the State

Paul Thomas - Cross-examination
by Mr. Tinsley

1 would call Mr. James Tinsley, Senior.

2 THE COURT: Come forward, sir, to my left to be sworn.

3 SOLICITOR KENDALL: Your Honor, I'd request that this
4 witness be excused from the subpoena.

5 THE COURT: Any objection to the prior witness being
6 excused?

7 MR. TINSLEY: No, Your Honor.

8 THE COURT: Sir, you're free to go if you'd like.

9 You may swear the witness.

10 JAMES TINSLEY, SENIOR, having been first
11 duly sworn, testified as follows:

12 THE COURT: Have seat please.

13 (Witness complies.)

14 THE COURT: Sir, state your name.

15 WITNESS: James D. Tinsley, Senior.

16 THE COURT: Your witness, Mr. Kendall.

17 DIRECT EXAMINATION

18 BY SOLICITOR KENDALL:

19 Q How are you, Mr. Tinsley?

20 A Fine.

21 Q Mr. Tinsley, where do you currently reside?

22 A [REDACTED] South Welcome Road in Greenville, South Carolina.

23 Q And what is your current relation to the defendant?

24 A He's my son.

25 Q Your son.

James Tinsley - Direct examination
by Solicitor Kendall

1 Are y'all close?

2 A Yeah, pretty much, yeah.

3 Q Have you known your son to race go-carts at all?

4 A Yes.

5 Q Good. That's good.

6 Now, did you receive a call from your son on
7 December 2nd, 2006?

8 A The 2nd?

9 Q Yes, sir.

10 A That, that date doesn't ring a bell with me.

11 Q Did you recall, receive a call from your son in early
12 2000, in early December of 2006?

13 A Yeah, it was a lot of days that he called me, but I
14 don't, I don't know what exactly you're referring to.

15 Q At anytime did he ever call you to ask if he could
16 bring by a camper to your house?

17 A Yes, he did.

18 Q And when was that, sir?

19 A I'm not sure of the exact date, but it was -- I know it
20 was a Saturday afternoon.

21 SOLICITOR KENDALL: Okay. One second, Your Honor.

22 THE COURT: Yes, sir.

23 (Pause.)

24 Q Mr. Tinsley, did you give a statement to the police
25 about this case?

James Tinsley - Direct examination
by Solicitor Kendall

1 A I did.

2 Q Do you think looking at that statement would help you
3 remember some of the dates and things like that?

4 I understand it's a long time ago---

5 A I think so.

6 Q ---and it's probably---

7 A It's been a while.

8 (Pause.)

9 A Yes, sir, I remember this statement.

10 Q Yes, sir.

11 And in that statement you said that your son gave you a
12 call on December 2nd, is that correct?

13 A That's correct.

14 Q And where was he living at that time?

15 A He was living over here in Spartanburg County over near
16 I guess they call that---

17 Q Do you know who he was living with?

18 A ---Inman.

19 Q Do you know who he was living with?

20 A Well, I'm not quite sure. I think his fiancée had
21 already -- I think they had already separated by that time.
22 I, I assume he was living by himself.

23 Q Okay. When he called you on the 2nd, what did he want?

24 A He wanted to know if it would be all right if he came
25 by and dropped off a travel trailer type thing in the, in

James Tinsley - Direct examination
by Solicitor Kendall

1 the yard between my house and my mother's house.

2 Q And did he come by with that travel trailer?

3 A He did.

4 Q Did you have to do anything in order to get that travel
5 trailer in?

6 Did you have to remove anything or anything along those
7 lines?

8 A Yeah, I had an aluminum boat parked up there in my
9 mother's yard, and I had to move that boat so that he could
10 back his trailer in.

11 Q And what did you do with the boat?

12 Did you put back in front of the, in front of the, put
13 it front in of the---

14 A Yes, sir, after he, after he backed the trailer in, I
15 told him to back it back as far as he could because I didn't
16 want it to block the view of my, my mother's house so I
17 could, you know, she's elderly, so I could see. So, I told
18 him to back it back up as far as he could, and then once he
19 did that and got his vehicle out of the way, then I, I put
20 my boat back in the place where it was in front of the
21 travel trailer.

22 Q Now, is this the same trailer -- had you ever seen him
23 use, use a trailer before?

24 A I hadn't never seen that trailer before, no.

25 Q But he had had other, other campers?

James Tinsley - Direct examination
by Solicitor Kendall

1 I'm sorry. I keep saying trailer, but it's actually
2 camper.

3 Had you seen him ever use another camper?

4 A Well, he had, he had the trailer that he had all of
5 his, of his go-cart stuff.

6 Q Okay. But that was different than the trailer he
7 brought out on December 2nd?

8 A Yeah, that was, that was different. I, I didn't, I
9 didn't realize that at first. In, in my mind it was the
10 same trailer that I had seen before him come by and drop off
11 there. It was only a little bit later that I realized it
12 was different.

13 Q And do you remember what was different about it?

14 A Well, it -- the trailer that he had was, I don't know
15 whether you call it a utility trailer or a hauling trailer
16 or what, but it had, it had some improvements in it that he
17 had done after he purchased it, but it was basically just a,
18 a straight shell like, you know, eight feet wide and
19 eighteen feet long, however it was, you know, with a roof on
20 it, and it had cabinets and shelving, and I think it had a
21 microwave and a few things like that in it, but it didn't
22 have living quarters in it.

23 Q Okay. Okay. I'm gonna show you some pictures, Mr.
24 Tinsley. This is State's Exhibit 6. Essentially the same
25 ones, 5 through 8 I believe, 3 through 8. I'm gonna show

James Tinsley - Direct examination
by Solicitor Kendall

1 you some exhibits. These are some exhibits that you
2 previously have seen.

3 MR. TINSLEY: No objection.

4 Q Do you recognize what's in this picture, sir?

5 A Yes, sir, I do.

6 Q Okay. And how are you able to recognize that, sir?

7 A Well, it's the same type trailer that James came by
8 with on December the 2nd and it's got all his racing
9 stickers from his, from his, where he raced his go-carts.
10 Plus it's got the Dirty South Motor Sports stickers on it,
11 plus his name and his telephone number.

12 Q Okay. Okay. That's a pretty good, pretty good reason.

13 A Yeah.

14 Q Did he leave with you the keys or anything or were you
15 ever, ever on the inside of that trailer at all?

16 A I was never in it, never saw in it.

17 Q Okay. And, so, to be clear and kind of wrap up, he, he
18 brought this by on December 2nd, is that correct?

19 A Yes, sir, that's correct.

20 Q And you had not seen this trailer before?

21 A No, sir, I had not.

22 Q Okay. And that was, in fact, the trailer from the
23 pictures and documents that showed up to your house on
24 December 2nd?

25 A That's correct.

James Tinsley - Cross-examination
by Mr. Tinsley

1 SOLICITOR KENDALL: I've got no further questions, Your
2 Honor.

3 THE COURT: Your witness.

4 CROSS-EXAMINATION

5 BY MR. TINSLEY:

6 Q Were you present, were you present when the camper that
7 they testified about being stolen was stolen?

8 A No.

9 Q So, you don't have any firsthand knowledge of who stole
10 the camper that they're talking about?

11 A No.

12 Q Were you present when I obtained this camper?

13 A No.

14 Q So, you have no idea of what was, information was given
15 to me at that time?

16 A I do not.

17 Q Is it unusual for me to leave things at my
18 grandmother's?

19 A No, that's a common occurrence.

20 Q So, I often leave my Bass boat or enclosed race trailer
21 there?

22 A Yeah.

23 Q Did I tell you that the, the trailer that I, or camper
24 that I had left there, did I tell you that I thought it was
25 stolen or that it was stolen?

James Tinsley - Cross-examination
by Mr. Tinsley

1 A No.

2 Q Could you tell that it was stolen by looking at it?

3 A No, it just looked like a trailer to me.

4 Q Did, did Bill Dotson come by your house one night and
5 discuss the fact that Ben Lindler had burglarized my home
6 that he---

7 SOLICITOR KENDALL: Objection.

8 May we, we approach on this?

9 THE COURT: I'll ask the jury to step back to the jury
10 room. Don't begin any discussions until such time as I
11 advise you to do so.

12 (WHEREUPON, the following takes place outside the
13 presence of the jury.)

14 THE COURT: Yes, sir.

15 SOLICITOR KENDALL: First off, with respect to that
16 question, Your Honor, that's hearsay. He asked what, what
17 he and Mr. Dotson were testifying to in regards to a
18 burglary. Second, that does touch on an issue which was, is
19 gonna have to kind of get touched on at some point. Mr.
20 Tinsley, in his opening, has accused Mr. Lindler of
21 committing the crime of burglary.

22 THE COURT: Accused, accused who?

23 SOLICITOR KENDALL: Thomas Lindler. He's one of our,
24 one of our witnesses, Your Honor.

25 THE COURT: Yes, sir.

James Tinsley - Cross-examination
by Mr. Tinsley

1 SOLICITOR KENDALL: He was never convicted of this
2 crime, and, so, it would fall under Rule 608 as to specific
3 instances of conduct. Now, that would be impermissible to
4 bring that in. There was never a conviction in this case.
5 In fact, I believe Mr. Tinsley initially told Detective Beck
6 that he did not want to proceed on this.

7 On top of that, there's a bunch of other information
8 that occurred over the course of that burglary. I think
9 perhaps the reason Mr. Tinsley did not want to proceed along
10 the lines of that burglary was that he remedied that problem
11 by taking a gun and allegedly putting it in Mr. Lindler's
12 face. At that point that, that seemed like the parties just
13 sort of went their separate ways. In any event, Mr. Lindler
14 was never charged with that burglary. There's no criminal
15 conviction of him getting that burglary. And, so, our
16 position is that, under Rule 608, it's entirely
17 inadmissible.

18 THE COURT: Yes, sir.

19 MR. TINSLEY: He confessed to it in a statement, Your
20 Honor. He confessed to burglarizing my house.

21 SOLICITOR KENDALL: Again, Your Honor, that would be,
22 under Rule 608, a specific incident of conduct. The fact
23 that there was no, there's no conviction. This does not go
24 to Mr. Lindler's truthfulness or untruthfulness. It's
25 largely irrelevant whether or not Mr. Lindler burglarized

James Tinsley - Cross-examination
by Mr. Tinsley

1 his house.

2 THE COURT: Well, what's the relevance?

3 MR. TINSLEY: It goes to motivation. It goes to
4 motivation for implicating me. He implicated, implicated me
5 in a crime and he told the police that he was looking for a
6 way to get me back. That's in his police statement. And,
7 so, I'm saying it's the motivation was because he was in
8 trouble for first degree burglary, facing life in prison,
9 and, so, he implicated me to try to get himself out of
10 trouble.

11 THE COURT: Maybe I don't know enough about what we're
12 talking about here.

13 SOLICITOR KENDALL: Yes, sir.

14 THE COURT: I don't know what statement were given. I
15 don't know who said what---

16 SOLICITOR KENDALL: Yes, sir, Your Honor.

17 THE COURT: ---about who and when.

18 SOLICITOR KENDALL: Yes, sir, Your Honor.

19 THE COURT: Let's, let's back up a little bit.

20 Tell me what Mr. Lindler's involvement in this case is.

21 SOLICITOR KENDALL: Mr. Lindler worked with Mr.
22 Tinsley, and the night that's in question -- first off,
23 prior to the night that's in question, October 12th or
24 11th and 12th, when the trailer was stolen---

25 THE COURT: Yes.

James Tinsley - Cross-examination
by Mr. Tinsley

1 SOLICITOR KENDALL: ---Mr. Tinsley had asked
2 Mr. Lindler to, to, if he would be willing to take the
3 trailer. Mr. Lindler said no. But then Mr. Tinsley talked
4 to him a bunch of how he was gonna steal the trailer, gonna
5 have somebody else steal his camper. He described the
6 camper. Mr. Tinsley left work earlier that night.

7 Mr. Lindler went by his house to take by his badge, his
8 keys, his sunglasses or glasses maybe, glasses, regular
9 glasses and saw people there who, who had dropped off the,
10 dropped off the trailer. That, that would be the extent of
11 his testimony.

12 What Mr. Tinsley is referring to is a separate
13 incident, and the date of which, quite frankly, I'm not
14 really sure of, in which there's a disagreement between Mr.
15 Lindler and Mr. Tinsley about some, I believe some work that
16 was done on a truck, is that, is that right?

17 Some work that was done on a truck and Mr. Lindler
18 cheated. And, so, he remedied that problem by going to Mr.
19 Tinsley's house and taking some of his stuff. Mr. Tinsley
20 filed a police report, found out Mr. Lindler did it, went by
21 Mr. Lindler's house, and allegedly took out a gun, and stuck
22 it in his face and said give me my stuff back. Mr. Lindler
23 obliged. Nobody was charged with anything. Detective Beck
24 went out and I believe talked to Mr. Tinsley.

25 We have a police report where I believe it was turned

James Tinsley - Cross-examination
by Mr. Tinsley

1 over the other day in discovery where Mr. Tinsley said he,
2 he did not wish to prosecute that I suspect because, though
3 Mr. Lindler committed burglary first, Mr. Tinsley pointed
4 and presented a firearm. On top of that, and this goes
5 back---

6 THE COURT: well, arguably committed an armed robbery
7 and Lord only knows what all went on in there. That's what
8 O.J. Simpson got convicted of, recovering his property by
9 self-help. Anyway. Interesting.

10 SOLICITOR KENDALL: Yes, sir. In any event, nobody was
11 ever convicted of anything in this case. It was completely
12 non-conviction. I think what he's trying to use is this
13 specific incident of conduct to attack the character of Mr.
14 Lindler, which I believe, under Rule 608, is inadmissible.
15 If he wants to ask Mr. Lindler -- or 806 I believe. 608 or
16 806. 608. If he wants to ask Mr. Lindler if he likes him
17 he's more than welcome to do that. I think that would go
18 fairly -- I mean I don't think these two particularly like
19 each other. He's more than willing to ask that question. I
20 think that's perfectly relevant.

21 THE COURT: what does this gentleman know about the
22 Lindler---

23 SOLICITOR KENDALL: And that was the, an additional
24 objection I have with this is that Mr. Tinsley asked if he
25 overheard he and Bill Dotson talking about this in front of

James Tinsley - Cross-examination
by Mr. Tinsley

1 him, which I believe falls under -- is just hearsay.

2 THE COURT: Tell me what the purpose of the question
3 was.

4 MR. TINSLEY: The purpose is that, to show that Bill
5 had been to my father's house before.

6 THE COURT: Mr. Dotson.

7 MR. TINSLEY: Yes, when we discussed, when -- and we
8 discussed that conversation about the, about him stealing,
9 stealing my stuff or, well, returning my stuff is what we
10 actually talked about, and the fact that my stuff ended up
11 at, at Bill Dotson's shop. And just for the record, I, I
12 never, I never pointed a gun at anybody, and, and, and I
13 never said---

14 THE COURT: We're not gonna try that case.

15 MR. TINSLEY: ---and I didn't---

16 THE COURT: I hope not.

17 MR. TINSLEY: ---and I didn't, and I, and I didn't tell
18 the police that I didn't want to prosecute it. I, I
19 filed -- I got police reports and everything where I asked.
20 I sent certified letters to the Sheriff's Office and
21 everybody asking them to prosecute him, and they wouldn't
22 prosecute him because he's a star witness against me. And,
23 so, that goes to the motivation of the police as well for
24 trying to prosecute him.

25 THE COURT: What does this gentleman know about all

James Tinsley - Cross-examination
by Mr. Tinsley

1 that other than what he heard in a conversation between
2 someone else?

3 MR. TINSLEY: All I'm trying to show that Bill Dotson
4 had been to his house.

5 THE COURT: Well, no, you're going further than that.

6 MR. TINSLEY: Well, that we had talked about the
7 other---

8 THE COURT: Yes.

9 MR. TINSLEY: ---about the robbery.

10 THE COURT: I'm gonna sustain the objection as to that.

11 MR. TINSLEY: Okay.

12 THE COURT: Whatever Mr. Dotson may of said in that
13 conversation, this gentleman can't testify about it. It
14 would be hearsay.

15 MR. TINSLEY: Okay.

16 THE COURT: So, don't need to go there.

17 MR. TINSLEY: All right.

18 SOLICITOR KENDALL: Thank you.

19 THE COURT: Now, where do we go after that on this
20 issue we'll find out.

21 SOLICITOR KENDALL: Yes, sir, Your Honor. Mr. Lindler
22 would be the next one I'd probably put up.

23 THE COURT: Well, we're probably gonna take a break for
24 lunch before we get there.

25 SOLICITOR KENDALL: Yes, sir, that's what I was gonna

James Tinsley - Cross-examination
by Mr. Tinsley

1 suggest.

2 MR. TINSLEY: I'm, I'm not finished with him.

3 THE COURT: I didn't say you were.

4 MR. TINSLEY: Okay. Okay. Just making sure. He
5 put---

6 THE COURT: I didn't say that.

7 MR. TINSLEY: He -- okay. I'm sorry.

8 THE COURT: Okay. Bring the jury in.

9 (WHEREUPON, the following takes place within the
10 presence of the jury.)

11 THE COURT: I have sustained the State's objection.

12 The jury has returned.

13 You may proceed with your cross-examination, Mr.
14 Tinsley.

15 CONTINUED CROSS-EXAMINATION

16 BY MR. TINSLEY:

17 Q At, at any point had Bill Dotson ever been to your
18 home?

19 A Once.

20 Q After I was arrested did Bill ever come by your house
21 or call concerning getting my property back to me?

22 A Not me, no.

23 Q Did I try to get the detectives to recover my property?

24 A I---

25 SOLICITOR KENDALL: Objection.

James Tinsley - Cross-examination
by Mr. Tinsley

1 THE COURT: Sustained.

2 Q Did you go with me to file a police report?

3 A I took you.

4 Q And, and as part of that police report did I ask that
5 they find my property and return it to me?

6 SOLICITOR KENDALL: Objection. That would be hearsay.
7 On top of that, Your Honor---

8 THE COURT: I'm not sure---

9 SOLICITOR KENDALL: ---it's not relevant.

10 THE COURT: You have not established a foundation for
11 this witness knowing anything about what was in a police
12 report that you filed with the police, and what action was
13 taken on that.

14 MR. TINSLEY: And---

15 THE COURT: Let me finish my ruling.

16 MR. TINSLEY: Okay. Okay.

17 THE COURT: You have to establish that he has some
18 knowledge or basis to have that information before you can
19 ask him about it because the basis for his knowledge could
20 be a reason to make that information inadmissible. So,
21 you've not set that foundation and I'll sustain the
22 objection.

23 You may proceed.

24 Q Did you ever read a police report that I filed?

25 A Yes.

James Tinsley - Cross-examination
by Mr. Tinsley

1 Q And in the police report that I filed did I ask the
2 police---

3 SOLICITOR KENDALL: Objection. That's hearsay.

4 THE COURT: Overruled.

5 Q In, in, in the report that I filed, did I ask the
6 police to find Bill and Ben and recover my property?

7 A Yes.

8 Q Did they ever return it to me?

9 A Not to my knowledge.

10 Q When the police called wanting to arrest me, did I go
11 down to the police station and turn myself in?

12 A I drove you there, yes.

13 Q Before all this occurred did I have a very good job?

14 A That's what -- I, I would consider it to be a very good
15 job.

16 Q Made about \$50,000 a year?

17 A Yeah.

18 Q Because, because of this investigation and things
19 which, that were said at my job, did I lose, end up losing
20 my job?

21 THE COURT: That's gonna---

22 SOLICITOR KENDALL: Objection.

23 THE COURT: I'm gonna, I'm gonna sustain the
24 objection---

25 MR. TINSLEY: Okay.

James Tinsley - Cross-examination
by Mr. Tinsley

1 THE COURT: ---unless you can lay---

2 MR. TINSLEY: Okay.

3 THE COURT: ---some foundation that he has information
4 from your work that is an admissible basis for him to state
5 that, that, an answer to that question. I'll sustain the
6 objection.

7 Q Did I ever tell you that I had lost my job?

8 SOLICITOR KENDALL: I have an objection. Withdrawn.

9 WITNESS: Can I answer, judge?

10 THE COURT: Yes, sir, he withdrew the objection.

11 WITNESS: Okay.

12 Yes, you did tell me that you lost your job.

13 Q And because that the police detectives went down there
14 and talked to my employer?

15 A That's what you told me.

16 Q Okay.

17 A Yes.

18 Q Okay. At some point prior to this you said that, that
19 I did buy an enclosed trailer for go-cart racing?

20 A Yes.

21 Q Was it white in color and have a white, a rear let down
22 door?

23 A It did.

24 Q Because of the cost of the trailer did I end up having
25 to make a partial down payment on the trailer?

James Tinsley - Cross-examination
by Mr. Tinsley

1 A According to the paperwork that I've seen, that's how
2 it was purchased, yes.

3 Q And I also had to finance the remaining portion?

4 A Correct.

5 SOLICITOR KENDALL: Objection. What, what -- I'm
6 curious as to what foundation he has for this. We're
7 talking about financing trailers when Mr. Tinsley did the
8 purchase of the trailer.

9 THE COURT: I'm gonna ask you to lay a foundation for
10 this witness' knowledge of that information. That -- my
11 understanding is this is a transaction that he did not
12 directly participate in.

13 MR. TINSLEY: Right.

14 Q Did I, at some point, ask you to obtain the
15 documentation showing where I had purchased this camper and
16 who financed it for me?

17 A You did.

18 A I---

19 THE COURT: And when you're referring to this camper,
20 we're talking about the---

21 MR. TINSLEY: I'm---

22 THE COURT: Not the camper in question here, but some,
23 some other camper?

24 MR. TINSLEY: The enclosed trailer to be specific.

25 THE COURT: Thank you, sir.

James Tinsley - Cross-examination
by Mr. Tinsley

1 Q So, because of the cost of this trailer did I end up
2 having to make a partial down payment according to that
3 paperwork?

4 SOLICITOR KENDALL: Objection.

5 THE COURT: The objection?

6 SOLICITOR KENDALL: There's no relevance to this. The
7 objection is relevance to this. We're talking about -- and
8 a 403 objection. We're talking about multiple trailers that
9 he's financing. This has nothing to do with the trailer
10 that was, that we're alleging was stolen.

11 MR. TINSLEY: I---

12 SOLICITOR KENDALL: I don't understand.

13 MR. TINSLEY: I'm saying it's relevant, Your Honor,
14 that it was worth a certain amount of money and it's what
15 I'm gonna later allege that I traded in to Bill Dotson for
16 the camper. In fact -- well---

17 THE COURT: I'll overrule the objection.

18 Let's, let's try to be -- I'm concerned about confusion
19 for the jury, and when you're referring to the trailer that
20 we're talking about now, which is not the trailer that's in
21 question---

22 MR. TINSLEY: Right.

23 THE COURT: ---as far as being stolen property---

24 MR. TINSLEY: Right.

25 THE COURT: ---refer -- you want to refer to it how?

James Tinsley - Cross-examination
by Mr. Tinsley

1 MR. TINSLEY: It's an enclosed trailer.

2 THE COURT: It's an enclosed trailer.

3 Does not have living quarters in it?

4 MR. TINSLEY: No.

5 THE COURT: Okay. Thank you. I just want to be sure
6 the jury -- it's somewhat confusing if we just refer to it
7 as that trailer.

8 You may proceed.

9 MR. TINSLEY: I, I would -- may I approach the witness?

10 THE COURT: Yes, you may.

11 (WHEREUPON, eight photographs were marked as
12 Defendant's Exhibit Nos. 1 through 8. A title was marked as
13 Defendant's Exhibit No. 9. Payment documents were marked as
14 Defendant's Exhibit No. 10. All of the above exhibits were
15 for identification purposes only at this time.)

16 Q I'm gonna show you what's been marked for
17 identification as Defendant's Exhibit 9 and 10.

18 Can you identify those?

19 A This is a certificate of origin for a vehicle and
20 details of payment sheet along with a check payable to
21 T.R.T. Trailer Sales in the amount of 300, \$3,895, and it's
22 on American General Financial Services letterhead and---

23 Q Have you seen those documents before?

24 A Yes, I've seen them before.

25 Q Where did they come from?

James Tinsley - Cross-examination
by Mr. Tinsley

1 A When I was asked to get documentation concerning the
2 enclosed trailer I contacted the people at T.R.T. Trailer
3 Sales in Lincolnton, North Carolina and asked them what
4 information they could provide you with concerning a trailer
5 that you had purchased from them sometime before. And they
6 told me that, that the, the proper thing to do would be to
7 go to the nearest office of American General Finance, which
8 there was one in my hometown of Greenville, and to go there
9 and show proper identification and that they would send the
10 information that they had along with information the
11 financier had, American General, to that location and that I
12 could pick it up there, and I could go to that place in
13 Cherrydale Point in Greenville and pick up these two
14 documents.

15 Q After I bought this enclosed trailer, did I invest more
16 money into it after that?

17 A Yes, sir.

18 Q Can you tell us what I did to invest more money into
19 it?

20 A Well, it just so happened that my next door neighbor
21 was, did cabinet work and home refurnishings, and he liked
22 to work with wood, and he, you -- I don't know exactly what
23 your arrangements were with him, but you made some
24 arrangements with him to do the work for you to remodel the
25 inside of the trailer. I think there was some, some of that

James Tinsley - Cross-examination
by Mr. Tinsley

1 I think fancy black and, and white checker flooring put
2 down. There was lighting installed. I think it was, had
3 some additional sheeting of some type put up on the inside.
4 There was a counter put in the front with shelves and
5 cupboards and stuff up in the very nose of the trailer, and
6 I think there was a space there he, he built in for I think
7 had a microwave in there, and then a bunch of shelving,
8 steel shelving sitting along the walls for tires and gears
9 and motors and all kind of parts that goes along with
10 go-cart racing.

11 Q And, so, I had a great deal of money tied up in this?

12 A Well, you had a considerable amount of money. I don't
13 know the exact dollar amount.

14 Q All right. Later when I -- later did I tell you that I
15 had gotten rid of this enclosed trailer and traded it in or
16 gotten this camper?

17 SOLICITOR KENDALL: I object. That's hearsay.

18 THE COURT: He's, he's asking what he---

19 SOLICITOR KENDALL: I told him.

20 THE COURT: ---he said to him. He's the defendant.

21 SOLICITOR KENDALL: Yes, sir, I believe he can take the
22 stand and testify to that. He's using his own statement.

23 THE COURT: Overruled.

24 You can answer that question.

25 A Yes, at, at the time that you brought the trailer over

James Tinsley - Cross-examination
by Mr. Tinsley

1 on December the 2nd or shortly after, perhaps the next day,
2 you had told me that you had -- cause when I noticed -- what
3 prompted this was when, in my mind, I was accustomed to
4 seeing you back your enclosed trailer in your grandmother's
5 yard. So, when you called me and asked me if I would move
6 my boat so you can put it in there, in my mind I'm expecting
7 to see this enclosed trailer.

8 well, after I watched for you to help you back it into
9 the place in your yard where you put it, and as you were
10 unhooking it, I realized this is not the same trailer. This
11 is a different trailer, and I said what did you do with your
12 trailer, and at that point is when you told me that you had
13 made some sort of a deal. I'm not sure of the details. I
14 don't know any details about it. The only answer you gave
15 me was that you had transferred that to Bill, that trailer
16 was going to Bill Dotson and you was getting this trailer.
17 That's all the details I know.

18 Q So, so, at first you didn't realize the difference
19 between the camper and my previously owned enclosed trailer?

20 A Well, no, at first I, I didn't notice. I was expecting
21 to see the enclosed trailer, and I just, at first, it just
22 didn't dawn on me that it was a different trailer. I didn't
23 notice that it was not the one that I was expecting to see.

24 Q Could someone else also make that same mistake?

25 A I, I assume it's possible. I don't know.

James Tinsley - Cross-examination
by Mr. Tinsley

1 MR. TINSLEY: One moment, Your Honor.

2 THE COURT: Yes, sir.

3 (Pause.)

4 MR. TINSLEY: All right. Your Honor, we would move to
5 have those exhibits placed into evidence.

6 SOLICITOR KENDALL: Without objection.

7 THE COURT: Without objection they'll be received into
8 evidence as marked.

9 The numbers you're putting in are?

10 What numbers?

11 MR. TINSLEY: Nine and ten I believe.

12 THE COURT: All right. Thank you.

13 (WHEREUPON, Defendant's Exhibit Nos. 9 and 10 were
14 received into evidence at this time.)

15 MR. TINSLEY: No further questions, Your Honor.

16 THE COURT: Redirect?

17 SOLICITOR KENDALL: Just a couple of real short
18 follow-up.

19 THE COURT: Yes, sir.

20 SOLICITOR KENDALL: I'd like to approach the witness
21 with Exhibits 9 and 10 please, Your Honor.

22 THE COURT: You may.

23 SOLICITOR KENDALL: Defense exhibits. Excuse me.

24 THE COURT: You may.

25 REDIRECT EXAMINATION

James Tinsley - Redirect examination
by Solicitor Kendall

1 BY SOLICITOR KENDALL:

2 Q Could you please explain to the jury what those are
3 again?

4 A The first one is, across the top says certificate of
5 origin for a vehicle, and then underneath that it says
6 Homesteader Incorporated, and apparently it's got all the
7 information specific to that trailer like Homesteader, 2006
8 model, series or model, the serial or vehicle identification
9 number or whatever, the place that sold it, which was T.R.T.
10 Trailer Sales, Incorporated, 3302---

11 Q That last thing, the person who sold it, so, when you
12 sell or buy a trailer they give you pieces of paper that
13 shows some form of ownership, correct, or at least these
14 people did on that last trailer that Mr. Tinsley purchased?

15 Is that a fair and accurate observation?

16 A All I -- I don't know what they gave him. All I know I
17 was able to get this when I inquired for it.

18 Q Okay. All right. Now, Mr. Tinsley testified here --
19 you testified, I'm sorry, Mr. Tinsley, you had some
20 conversations about your son about where this new trailer
21 came from.

22 Did you believe him?

23 A I didn't have any reason not to believe it. I just
24 said what went with your, what went with your other trailer
25 and he said --.

James Tinsley - Redirect examination
by Solicitor Kendall

1 Q But you called the police, didn't you?

2 A I didn't call the police at that time. I did later
3 call the police.

4 Q And did you call the police because you believed the
5 trailer that was on your property could potentially have
6 been stolen?

7 A I called the police because I wasn't sure of the origin
8 of the trailer.

9 SOLICITOR KENDALL: No further questions, Your Honor.

10 THE COURT: Recross.

11 RE CROSS EXAMINATION

12 BY MR. TINSLEY:

13 Q Do you believe that I would of brought the camper to
14 the house had I known that it was stolen?

15 Would I have taken it to my grandmother's home?

16 SOLICITOR KENDALL: Objection. Calls for your
17 speculation.

18 THE COURT: Sustained.

19 MR. TINSLEY: No further questions.

20 THE COURT: You may step down, sir.

21 WITNESS: Thank you, judge.

22 THE COURT: All right. Ladies and gentlemen of the
23 jury, we're going to break for lunch at this time. I will
24 caution you, as I always will, not to gather any or attempt
25 to gather any information about this case from any other

1 source. Don't listen to, watch, or read any media reports.
2 I don't know that this case will be reported in the media,
3 but should that occur, turn it off, don't listen to it, and
4 if anyone attempts to contact you about your service during
5 the break on the jury, please report that upon your return.
6 Jury tampering is a serious matter in this state. Should
7 that occur I will assure you I'll begin the appropriate
8 investigations.

9 Again, don't discuss the case with anyone, even among
10 yourselves, and at this time you're free to go. It's
11 your -- the jury, the bailiffs will show you the jury room
12 that you're to report back to. Come directly there. Don't
13 go back to the assembly room. Come to the jury room.

14 We'll resume the trial at two o'clock. Be back in the
15 jury room prior to that time.

16 Thank you very much.

17 (WHEREUPON, the following takes place outside the
18 presence of the jury.)

19 THE COURT: All right. Court is in recess until two
20 o'clock.

21 The defendant remains in custody. Thank you very much.

22 MR. TINSLEY: Your Honor?

23 THE COURT: Sir?

24 MR. TINSLEY: During, during the break, early this
25 morning I mentioned that I'd like to speak to one of my

1 witnesses a little more.

2 Could we do that during the break?

3 THE COURT: Is he present?

4 MR. TINSLEY: Yes, Your Honor.

5 THE COURT: Okay. Yes, sir, you -- I'll direct the
6 jailor to allow you to speak with him during the break.
7 Thank you very much.

8 (WHEREUPON, Court was in recess for the lunch hour.)

9 THE COURT: All right. Is the State ready to proceed?

10 SOLICITOR KENDALL: The State is ready to proceed, Your
11 Honor.

12 THE COURT: Defense ready?

13 MR. TINSLEY: Yes, Your Honor.

14 THE COURT: All right. Let's bring the jury in.

15 SOLICITOR KENDALL: Your Honor, before we---

16 THE COURT: Just one second.

17 SOLICITOR KENDALL: I'm sorry. Before we bring the
18 jury in, we're gonna put up Mr. Lindler next. I suspect, I
19 guess we'd like to file a motion in limine or offer a motion
20 in limine to exclude evidence related to this unconvicted
21 burglary as well as an unconvicted -- it's any other
22 unconvicted actions Mr. Lindler may have done. We touched
23 on that earlier. But I think it's, it's relevant to do now
24 because it's gonna be, come up pretty much instantly when he
25 takes the stand.

1 THE COURT: All right. So, are you saying you're gonna
2 offer it---

3 SOLICITOR KENDALL: I would, Your Honor---

4 THE COURT: ---testimony about that?

5 SOLICITOR KENDALL: I'm not offering evidence about
6 this prior bad act, this prior burglary. But we would try
7 to -- we would make a motion to exclude that evidence when
8 it's presented. I believe that, under Rule 608(b), it
9 specifically includes, excludes prior bad acts as a, as a
10 means to impeach.

11 THE COURT: Just one second. I had that up a while ago
12 looking at it, but I'll do it again.

13 (Pause.)

14 THE COURT: I'll hear from you, sir.

15 MR. TINSLEY: Your Honor, on both the confrontation
16 clause and Rule 608(c), the defendant's suppose to allow, be
17 allowed to ask and confront the, and cross-examine the
18 witness against bias and motivation. And my position is
19 that he burglarized my house and I caught him, and he said,
20 in his police statement, that he was looking for a way to
21 get me back, and he was in trouble facing life in prison.
22 And, so, he implicated me to get himself out of trouble, and
23 I believe I should be able to cross-examine him about that.

24 SOLICITOR KENDALL: I would agree there's stuff in his
25 statement that shows bias, Your Honor, but it's not the

1 burglary. Bias isn't created when you get away with a crime
2 even assuming that to be the case. Bias is created when
3 somebody does something to you. If Mr. Tinsley wants to get
4 bias in, he can do that, but the portion of that statement
5 that's relevant to bias is him putting a gun in Mr.
6 Lindler's face. That establishes bias.

7 For him to establish it this way as he suggested, what
8 he would have to be able to do is establish a nexus between
9 him committing burglary with this case, and there's simply
10 nothing in there. There's been, there's been no evidence
11 presented by anybody, in fact, it's not the case at all,
12 that there was anything at all done to suggest that we let
13 Mr. Lindler off of anything.

14 In fact, there is a, in the police report that was
15 taken by Detective Beck on December 5th, he said that he
16 interviewed Mr. Tinsley on a separate case involving Mr.
17 Lindler. During the interview Mr. Tinsley told him that Mr.
18 Lindler broke into his house, that he got all his property
19 after he threatened to kill Mr. Lindler, Mr. Lindler. Mr.
20 Tinsley stated he did not have, would not hurt Mr. Lindler.
21 He just told him that he, to scare him. Mr. Tinsley stated
22 that he was not worried about this case. Based on the
23 circumstances of this case, this case is unexceptionally
24 cleared with no prosecution.

25 That doesn't sound like any sort of bias to me. For

1 bias to be created Mr. Lindler would have to some, some sort
2 of stake in the outcome of this. There'd have to be some
3 influence that Mr. Lindler would get.

4 Mr. Lindler's not being charged with anything. There's
5 nothing over his head. There's nothing he's getting away
6 with at this point. I'm not gonna put Mr. Lindler up and
7 ask him to testify to his own statements. I'm gonna put him
8 up and ask him to testify what happened. For him to
9 establish bias -- I would agree there's, there's lots of
10 stuff in here that can be used to establish bias. The stuff
11 that's in here to establish bias would be threats to Lindler
12 and his girlfriend. That would establish bias.

13 THE COURT: Well, now it seems that there might be some
14 bad blood between these folks.

15 SOLICITOR KENDALL: Oh, absolutely, Your Honor. I
16 don't, I don't think they like each other at all at this
17 point, and I think that's because, in this case, the gun to
18 the face I think was a, was a, pretty much a deal breaker as
19 far as friendships go.

20 THE COURT: Yes, sir.

21 SOLICITOR KENDALL: If he wants to put that in, I don't
22 have any objection to that. That's where the bias comes
23 from. The burglary doesn't create a bias. It's what -- I
24 guess the relationship would go this way. What Mr. Tinsley
25 does to Mr. Lindler would create a bias. Not the other way

1 around. And, so, I think---

2 THE COURT: What, what do you intend to ask him about?

3 SOLICITOR KENDALL: Your Honor, I'm gonna ask Mr.

4 Lindler -- Mr. Lindler worked for Mr. Tinsley, and over the
5 course of that relationship Mr. Tinsley asked Mr. Lindler to
6 steal him this very type of trailer. Mr. Lindler declined.
7 The night that the trailer was taken Mr. Tinsley told Mr.
8 Lindler that he was, had some people get a trailer for him.
9 He left early that night. Mr. Lindler brought him his, I
10 think, his badge and his glasses to his house where he saw
11 the gentleman that had taken the trailer. He did not see
12 the trailer at that point.

13 THE COURT: And you're gonna ask him about what?

14 MR. TINSLEY: Well, about whether he burglarized my, my
15 house and---

16 THE COURT: Well, now, does that -- how does that,
17 how -- I'm not gonna let you ask if he burglarized your
18 house.

19 MR. TINSLEY: Well, if he broke into my house.

20 THE COURT: I'm not sure how that goes to his
21 credibility. In looking at the rule, specific instances of
22 the conduct of a witness for the purpose of attacking or
23 supporting a witness' credibility, other than the conviction
24 of a crime as provided in 609, may not be proved by
25 extrinsic evidence. They may, however, in the discretion of

1 the Court, if probative of truthfulness or untruthfulness,
2 being inquired into on cross-examination of the witness,
3 one, concerning the witness' character for truthfulness or
4 untruthfulness. That's talking about whether they generally
5 tell the truth or don't generally -- you know, their, their
6 character or concerning the character for truthfulness or
7 untruthfulness of another witness whose character of the
8 witness being cross-examined has testified about character.

9 How does that fit within this rule?

10 MR. TINSLEY: Well, I don't -- all, all I know is if
11 somebody breaks into my house, and, and they're claiming
12 that I did it because I owed them money, when clearly the
13 evidence that's gonna come in is that, that he wasn't
14 screwed over or got a bad deal, he actually got a good end
15 of the deal, and that he's fabricating this information to
16 try to get out of that charge, and, and he keeps saying, the
17 solicitor does, that, that, that I wanted to drop that
18 charge or whatever. I didn't. The police reports were
19 filed that will come in at some point during the trial that
20 shows---

21 THE COURT: Maybe.

22 MR. TINSLEY: ---that shows that I, you know, asked
23 them specifically to prosecute him for this crime, and he
24 was in trouble, facing a life sentence on first degree
25 burglary, and he implicates me to get himself out of

1 trouble.

2 THE COURT: Well, now, do you have any evidence that
3 there's some kind of a deal between the prosecutor and the
4 state on this?

5 MR. TINSLEY: Well, the evidence is he ain't got
6 convicted of. It didn't never -- they refused to prosecute
7 him.

8 THE COURT: You got any evidence---

9 MR. TINSLEY: There's got to be some motivation. You
10 just don't go testify for the State for no reason. He's got
11 to be getting something out of it.

12 THE COURT: Well, maybe it's his civil duty.

13 MR. TINSLEY: Well, but I mean he, at the time, he was
14 being questioned about criminal activities. You know, he
15 wasn't questioned about do you got a civil duty to do, you
16 know, to testify or to give this information. He, he was
17 being investigated for these criminal activities.

18 SOLICITOR KENDALL: Your Honor, I'm not gonna try to
19 get his statement in. The statement that was given at the
20 time, we're not gonna try to get that in or anything like
21 that. The fact---

22 THE COURT: The statement about what?

23 SOLICITOR KENDALL: He's got---

24 THE COURT: There's a statement that's apparently been
25 given about---

1 SOLICITOR KENDALL: He's got statements -- and this is,
2 this is, I guess, problem number two, and this is why we're
3 not trying to put it in. This statement like encompasses a
4 large block of activity that implicates all sorts of people
5 in all sorts of things. I don't think it would be
6 admissible in this case without doing a whole lot of
7 redaction. So, I'm not gonna try to admit it.

8 What I'm gonna try to do is just ask the guy what he
9 saw and what he heard within the confines of the rules of
10 evidence and he can testify to that without that being a
11 written statement. There's nothing over his head now. If
12 Mr. Tinsley's argument is he was remotely, if -- even
13 assuming that the police were trying to make a wheel and
14 deal with them, that, that -- there's nothing hanging over
15 his head. There's just no -- he can leave right now. I
16 realize he's under subpoena.

17 But he -- there's no -- he could take the stand and say
18 I don't know nothing and we couldn't do anything to him.
19 There's nothing, there's -- when we make deals with people
20 we hold stuff over their head. Not give them free stuff and
21 then say all right, credit. It's -- that's just simply not
22 how that, that works. There's no evidence of that in this
23 case, in this case. It appears that, that both of them
24 commit crimes. Everybody gets the property back. There's
25 other stuff the officers were dealing with. So, they didn't

1 pursue it.

2 MR. TINSLEY: Your Honor, they're simply trying to
3 circumvent the fact that I'm trying to bring out his
4 motivation for accusing me in this crime. They want to, him
5 to get on the stand and say that he witnessed or saw or
6 heard something or I said something to him and that he's
7 squeaky clean and just the greatest witness on the world and
8 he's not.

9 SOLICITOR KENDALL: They'll be no mention of his
10 character by the prosecution, Your Honor.

11 THE COURT: No mention about what?

12 SOLICITOR KENDALL: They'll be no mention of his
13 product, of his character at all. I'm not gonna mention him
14 being -- not one. I'm just gonna put him on the stand and
15 ask him the questions and he can sit back down.

16 MR. TINSLEY: But by not allowing me to introduce
17 evidence that he is not squeaky clean the jury will infer
18 that he is.

19 THE COURT: Well, now, let me explain something to you.
20 Whether or not you've accused him of a crime, it's probably
21 the, the, what happened, is probably not going to come in.
22 Now, if you want to get into the fact that y'all don't like
23 each other, if you want to get into the -- and you have the
24 right to ask him if the police have made any deal with him.

25 MR. TINSLEY: It's not, it's not so much the deal.

1 It's the fact that he, he's, he burglarized my home. That's
2 not the behavior of a law abiding citizen.

3 THE COURT: Well, let's go back and look at the rule
4 again. 608(b).

5 Do you have 608(b) there?

6 MR. TINSLEY: Yes, Your Honor.

7 THE COURT: 608(b) says specific instances of the
8 conduct of a witness for the purpose of attacking or
9 supporting the witness' credibility, other than the
10 conviction of a crime as provided in Rule 609, may not be
11 proved by extrinsic evidence. So, if you're trying to use
12 the instances that you've accused him of breaking into your
13 house, that rule says it doesn't come in.

14 Now, if you're trying to prove his general character
15 for telling the truth, this rule allows you to do that. But
16 specific instances of conduct of a witness, I'm just reading
17 what the rule says. I'll give you a minute to study it and
18 you can talk to your, your adviser.

19 MR. TINSLEY: Well, what about under 404, Your Honor?

20 THE COURT: Well, let's look at 404. Evidence of a
21 person's character or trait of character is not admissible
22 for the purpose of proving action and conformity therewith
23 on a particular occasion except. Number three has to do
24 with the character of a witness. Evidence of the character
25 of a witness, as provided in Rule 607, 608, and 609. We

1 were just looking at 608.

2 MR. TINSLEY: Now I'm referring to B.

3 THE COURT: Evidence of other crimes, wrongs, or acts
4 is not, not admissible to prove character of a person in
5 order to show action in conformity therewith. However, it
6 may be it -- however, it may be admissible to show motive,
7 identity, existence of a common plan or scheme, absence of
8 mistake or intent.

9 How does that apply here?

10 MR. TINSLEY: I don't know, Your Honor. I don't
11 understand. This is new to me and I haven't had a chance to
12 talk with---

13 THE COURT: I just told you to talk to her.

14 MR. TINSLEY: Well, I mean in detail where she could
15 explain it to me cause it's a little bit over my head. I
16 don't really understand why I shouldn't be allowed to bring
17 up something when somebody does something like that.

18 THE COURT: Well, again, because the fact that I sped
19 down the road this morning coming to work doesn't mean that
20 I sped two weeks ago when they're trying to convict me of
21 it. The fact that I do something today doesn't mean I do
22 something like that on another day. You can't take a
23 specific act or a wrong and try to prove everything conforms
24 to that.

25 MR. TINSLEY: Right. But he did it, he did it

1 specifically to me.

2 THE COURT: You're not listening to me. I'm not going
3 to let you go into the specific wrong you're talking about.
4 Whether he broke into your property or you put a gun in his
5 face to get your property back is not an issue in this case.
6 Now, if you want to ask him have we had arguments in the
7 past, have we had disagreements in the past, do you not like
8 me, I'll let you ask about that. That's talking about his
9 general character. Not specific instances that try to show
10 something happened because of that specific instance.

11 Do you see the difference?

12 MR. TINSLEY: I'm, I'm -- not really. I'm having kind
13 of a struggle with it, understanding it.

14 THE COURT: Well, talk to your lawyer about it, and if
15 she has some argument that she thinks you should advance,
16 I'll listen to it.

17 (Pause.)

18 MR. TINSLEY: All right. Your Honor, under 404(b),
19 motive, I would think it should be able to come in because
20 he specifically said in his statement that he was looking
21 for a way to get me back.

22 THE COURT: Let me see that. Show me the statement
23 where he says he was looking for a way to get you back.

24 MR. TINSLEY: You want to see the whole, the whole
25 statement?

1 THE COURT: Yes, sir, pass it up. Hand it to this
2 gentleman right hear.

3 MR. TINSLEY: It's on Page 2 of, the first sentence.

4 THE COURT: All right. How about that, Mr. Kendall?

5 SOLICITOR KENDALL: Your Honor, this is, this is him
6 saying he was trying essentially to resolve this difference
7 in property. He was not -- he read before and after. He's
8 talking about how they got in this disagreement over
9 property, he was gonna screw him. And if you continue
10 reading on that, Your Honor, screwing him involved going to
11 his house and taking his stuff and all the things that he's
12 alleged, and that, that, you know, that -- he hasn't ever
13 stopped --.

14 THE COURT: Well, now, he's saying that fit within Rule
15 404(b) where it says, it shows actions, actions and
16 conformity therewith may be shown to show a motive.

17 SOLICITOR KENDALL: In this case, it would be a motive
18 of what, Your Honor?

19 Mr. Lindler did not---

20 THE COURT: A motive, a motive to tell a lie about him
21 or get him in trouble.

22 SOLICITOR KENDALL: He didn't tell a lie in this case,
23 in this instance.

24 THE COURT: I'm talking about in the story he's fixing
25 to tell.

1 SOLICITOR KENDALL: Well---

2 MR. LINDLER: It's not a story, Your Honor.

3 THE COURT: I'm talking to the lawyer.

4 MR. LINDLER: I apologize.

5 THE COURT: Whatever testimony he's going to offer.

6 SOLICITOR KENDALL: Your Honor?

7 THE COURT: And the jury decides whether or not he's
8 telling the truth.

9 SOLICITOR KENDALL: And, again, if, if what Mr. Tinsley
10 wants to argue about is a, the motive here would be whether
11 or not they had this -- the motive is what he's referring to
12 is him screwing---

13 THE COURT: No, sir, he's saying that this gentleman
14 might get on the stand and tell something about him to get
15 back at him.

16 SOLICITOR KENDALL: And he can offer evidence that they
17 had disagreements. But he can't offer burglary. What
18 that -- what he's essentially alleging is that -- this just
19 goes back to something he was doing before. He's making the
20 argument that because they had this altercation, which they
21 did and everybody admits to it, that now he's going to lie
22 on the stand.

23 THE COURT: That he may have a motive to do so.

24 SOLICITOR KENDALL: But I guess there is still no --
25 there's an absence of motive there, Your Honor. It's,

1 it's -- this discussion is done. He's got his property
2 back. If what he'd like to testify is that we have an issue
3 over property, I'm okay with that.

4 THE COURT: I don't know when this gentleman gave that
5 statement and what the circumstances were at that time. I
6 know it might be today.

7 What happened when, when this witness whose about to
8 testify first gave this statement?

9 SOLICITOR KENDALL: This was on 12/1/2006.

10 THE COURT: That's been back when all this was going
11 on.

12 SOLICITOR KENDALL: Uh-huh. (Affirmative).

13 Yes, sir.

14 THE COURT: Okay.

15 SOLICITOR KENDALL: And we're not gonna -- I'm not
16 gonna ask him anything about in the confines of this
17 statement.

18 THE COURT: Well, you're gonna ask him to testify in
19 conformity to it, aren't you?

20 He's not gonna tell a different story, is he?

21 SOLICITOR KENDALL: Not in relating to this. He's
22 gonna---

23 THE COURT: Okay.

24 SOLICITOR KENDALL: And I agree that, Your Honor, he
25 could testify to a general dislike. He can testify as to

1 any property disputes they had.

2 THE COURT: All right. Here's gonna be -- I'm gonna
3 let you ask him about your prior disagreements. Any effort
4 to characterize it as a burglary I'm going to tell you now
5 that that's not proper because it seems -- are you listening
6 to me, Mr. Tinsley?

7 MR. TINSLEY: Yes, I'm, I'm---

8 THE COURT: Well, you need to look at me when you're
9 listening to me.

10 MR. TINSLEY: I'm sorry.

11 THE COURT: I want you to be clear on this. If you
12 characterize this as a burglary because right now I'm not
13 sure it was. I don't know what it was, and I don't want to
14 get in -- I really don't want to try that case today.
15 That's not the issue. What you're trying to do is establish
16 his motive or the bad blood that's between you two, and I --
17 it's apparent to me that there is, that there's
18 disagreements as to who screwed who or who screwed somebody
19 how, and -- but I'm not gonna let you characterize it
20 necessarily as a burglary.

21 I don't have any problem with you asking him have we
22 had disagreements over property in the past, have we had,
23 have we had problems where, that involved even a police
24 investigation. But he's never been charged, never been
25 convicted, and for you to characterize it as a crime for

1 which he's been convicted is incorrect at this time.

2 MR. TINSLEY: Well, I'm not trying to characterize it
3 as a crime. I'm just wanting to ask did he come break into
4 my house to, to steal the stuff.

5 THE COURT: Well, he thinks he was getting stuff back
6 that belonged to him. Here we are trying the case again.

7 MR. TINSLEY: Well, I am---

8 THE COURT: You're not listening to me, Mr. Tinsley.

9 MR. TINSLEY: I'm trying, Your Honor.

10 THE COURT: Well, no. I'm saying that I'm going -- I'm
11 trying to allow you to do what you want to do without going
12 where you shouldn't go.

13 MR. TINSLEY: I think the problem is I don't understand
14 the difference between what I can and I can't do. Can---

15 THE COURT: I'm trying to tell you.

16 MR. TINSLEY: I know, but it's not, it's not -- I'm not
17 understanding it.

18 Could, could my attorney -- may we take a break and let
19 her try to explain it?

20 THE COURT: I'll take a moment and let you talk to her.
21 Maybe she can explain the difference.

22 (Pause.)

23 MS. PRICE: Your Honor, can I privately go with him---

24 THE COURT: Yes, you may.

25 MS. PRICE: ---to a place to talk to him?

1 THE COURT: That will be fine.

2 MS. PRICE: Thank you.

3 THE COURT: Yes, ma'am.

4 (WHEREUPON, a short recess was taken at this time.)

5 THE COURT: All right. My ruling on this issue is as
6 follows:

7 Mr. Tinsley, I'm going to allow you to cross-examine
8 this witness under Rule 608(c). That rule says that bias,
9 prejudice, or any motive to misrepresent may be shown to
10 impeach a witness either by examination of the witness or by
11 evidence otherwise deduced. What I will not allow you to do
12 is to characterize the conduct of the witness as a crime
13 since it is never been determined to have been a crime.
14 What I will allow you to do is ask him about prior disputes
15 that you've had and disagreements.

16 In reading the statement that you referred to me, it,
17 it appears that he felt like that you had done him wrong in
18 the past and that he was trying to get property back to be
19 even, and you apparently disagreed with that and looked at
20 it as a theft. There has not been a charge and no
21 conviction on any, any, any charge thus far. I will allow
22 you to ask him if he has any arrangements with prosecuting
23 authorities as to his testimony today. If you have evidence
24 to show otherwise I'll allow you to present that at the
25 appropriate time. But I will not allow you to characterize

1 his actions as a crime or criminal in any fashion.

2 It appears to be a property dispute to me, a fight over
3 who screwed who when, and I realize that may have created a
4 bad blood, bias, or prejudice, which is what this rule
5 addresses. It says bias, prejudice, or any motive to
6 represent may be shown to impeach a witness either by
7 examination of the witness or by evidence otherwise adduced.
8 So, I'll allow you to ask him about your disagreements, your
9 fights, the bad blood that you have. But if you try to
10 characterize it in some fashion other than I've described
11 and has been shown to me, I'll rule that out of order and
12 take the appropriate action.

13 Do you understand my ruling?

14 MR. TINSLEY: I believe so, Your Honor.

15 Does that mean that I can't ask him about him doing the
16 work on my vehicle and the exchange and all that?

17 THE COURT: Well, I'm not sure I understand how that
18 ties in. That's the first time I've heard about a vehicle.
19 What's that got to do with it?

20 MR. TINSLEY: Well, that what he claims that he did
21 work on that---

22 THE COURT: Yes, sir, we're, we're not gonna -- I don't
23 want to try that case here today.

24 MR. TINSLEY: All right, Your Honor.

25 THE COURT: Now listen to my ruling.

1 MR. TINSLEY: I, I understand.

2 THE COURT: You have the right to bring out the fact
3 that you've had a disagreement over property matters. You
4 have. He acknowledges that in the statement that I've seen
5 that he felt like you had done him wrong. Obviously you
6 felt like he did you wrong. Y'all don't like each other,
7 he's mad at you. In his statement he said he was trying to
8 find a way to get back at you. You can ask him about that.
9 That shows bias or prejudice. That's what the rule allows
10 you to do.

11 But if you try to prove specific instances of conduct
12 to prove his truthful, credibility, the rule says you can't
13 do that. Now had accepted he's been convicted of a crime.
14 He's not been convicted of a crime in this case. So, we're
15 not gonna try that, that issue. We're not gonna try whether
16 he engaged in burglary or didn't engage in burglary. That's
17 not the point of this trial.

18 Do you understand my ruling?

19 MR. TINSLEY: Yes, Your Honor, and I will abide by it.

20 THE COURT: But you, you have every right to ask him
21 why he might not like you. You have every right to ask him
22 if he made a statement in the past and he was gonna try to
23 get back at you. You got a right to ask him about those
24 things. I'm not preventing you from asking about his bias,
25 prejudice, or motives. I am not going to allow you to

1 characterize what happened as some type of a crime that's
2 never been charged or convicted.

3 MR. TINSLEY: Okay. I'll abide by your ruling, but
4 just would like---

5 THE COURT: Well, I'm sure Mr. Kendall will keep you in
6 line with the ruling if that becomes necessary.

7 MR. TINSLEY: I just wanted to note my objection for
8 the record, Your Honor.

9 THE COURT: Oh, you have every right to object to every
10 ruling I make and I'll allow you to do that.

11 MR. TINSLEY: Okay.

12 THE COURT: No problem.

13 All right. Are we ready to proceed?

14 SOLICITOR KENDALL: State's ready, Your Honor.

15 THE COURT: All right. Bring the jury in.

16 (WHEREUPON, the following takes place within the
17 presence of the jury.)

18 THE COURT: All right. The record will reflect the
19 jury has returned to the courtroom.

20 I apologize to you for getting a late start, but we had
21 some issues that had to be resolved and I have resolved
22 those at this time, and I've made some rulings concerning
23 evidence. So, we've been working on the case. Sorry you
24 had to wait for that.

25 Mr. Kendall, you may call your next witness.

Thomas Linder - Direct examination
by Solicitor Kendall

1 SOLICITOR KENDALL: Your Honor, the State calls Mr.
2 Thomas Lindler, please.

3 THE COURT: Come forward, sir, to my left to be sworn.

4 THOMAS LINDLER, having been first duly
5 sworn, testified as follows:

6 THE COURT: Have a seat please, sir.

7 WITNESS: Yes, sir.

8 THE COURT: State your name please.

9 WITNESS: Thomas Benjamin Lindler.

10 THE COURT: Your witness, Mr. Kendall.

11 DIRECT EXAMINATION

12 BY SOLICITOR KENDALL:

13 Q How are you this afternoon, Mr. Lindler?

14 A I'm doing well, Mr. Kendall.

15 How are you?

16 Q Good. Good.

17 For the record, could you please state where you
18 currently reside?

19 A I reside at [REDACTED] Rocky Ridge Road, Enoree, South
20 Carolina, 29335.

21 Q How long have you lived at this address, sir?

22 A Almost five years now.

23 Q Okay. Now, Mr. Lindler, have you ever met the
24 defendant?

25 A Yes, sir, I have.

Thomas Linder - Direct examination
by Solicitor Kendall

1 Q And in what capacity?

2 How did you guys meet?

3 A We met through work.

4 Q And where were, where were you guys working back in
5 2006?

6 A We were employed at Ina Bearing U.S.A. in Spartanburg
7 right off New Cut Road.

8 Q And what shift did you work during that time?

9 A Third shift, sir.

10 Q And what shift did Mr. Tinsley work on that time?

11 A Third shift as well.

12 Q So, over the course of that, of working together, did
13 you guys -- how would you -- could you describe your
14 relationship pre-November of 2006?

15 A Just co-workers. We would chit-chat on smoke breaks
16 and that was it.

17 Q Did you guys -- did you ever go to the defendant's
18 home?

19 A Yes, sir, I'd been there a time or two.

20 Q So, you would, guys would hang out on occasion?

21 A Rarely, yes, sir, but, yes.

22 Q Okay. Over the course of your relationship with Mr.,
23 Mr. Tinsley, over the, over the time that you-all were
24 friends, did he ask you a, solicit any information from you
25 about campers or trailers?

Thomas Linder - Direct examination
by Solicitor Kendall

1 A Yes, sir.

2 Q And what would he ask you?

3 A The first night I was at work he asked me if I knew how
4 to hot wire an R.V., which I told him no, and then he had
5 asked me on another occasion if I'd be interested in
6 stealing a camper for him.

7 Q Did he ever mention a dual purpose camper?

8 A Yes, sir.

9 Q And what did, what did he have to say about that?

10 A That was what he wanted for his go-cart racing so he
11 could travel to, I guess, out-of-state to race and have
12 somewhere to stay at the same time.

13 Q Now, did you, in fact, steal that camper for Mr.
14 Tinsley?

15 A No, sir.

16 Q Do you know if he ended up getting a dual purpose
17 camper?

18 A I believe so, yes, sir. Yes.

19 Q And do you know if he obtained that by lawful means?

20 A No, sir, it was not by lawful means.

21 Q And how do you know that?

22 A Because he told me that he was having two gentlemen
23 steal it for him. He revealed this to me one night while we
24 were at work.

25 Q He mentioned that, at work, while at work he was going

Thomas Linder - Direct examination
by Solicitor Kendall

1 to have somebody steal a trailer for him?

2 A Yes, sir that it was happening that night.

3 Q Did anything else particularly odd happen that night?

4 Did Mr. Tinsley work his entire shift?

5 A No, sir, he left early to go handle some kind of matter
6 related to, I guess, that camper.

7 Q And is that the last time you had any interaction with
8 Mr. Tinsley or his home that evening?

9 A Sir?

10 Q Is that the last time you had any interaction with Mr.
11 Tinsley or---

12 A No, sir, that was not the last time.

13 Q And I guess to be clear then, did you, did you say talk
14 to him?

15 Did you go to his house?

16 Did you have coffee with the guy?

17 A Yes, sir.

18 Q Which one of those?

19 A I'm not a coffee drinker, but we did have -- I had gone
20 to his house to perform work on vehicles and spoke to him at
21 work and especially on smoke breaks, lunch breaks, that sort
22 of thing.

23 Q Okay. Okay. Now, the night that he, that you said he
24 had two gentlemen take the camper for him, do you know what
25 became of those gentlemen?

Thomas Linder - Direct examination
by Solicitor Kendall

1 Did you ever hear or see from them?

2 A I saw them when I went to his house that morning after
3 getting off work to take his glasses and keys and badge to
4 him, which he had left at work, and he had called and
5 requested me to bring them to him. I took them to his
6 house, and came in through the door, and that's where the
7 two gentlemen were inside. Mr. Tinsley was not there, but
8 the two gentlemen were, who I had never seen before, and I
9 just informed them that I'm just dropping off his stuff and
10 then I left.

11 Q Okay. To be clear, what house is that?

12 what county is that home located in?

13 A It was in Spartanburg County.

14 Q And the gentlemen that dropped off that camper were
15 actually in that home in Spartanburg County?

16 A Yes, sir, they were at the home.

17 Q Could you point out Mr. Tinsley, the gentleman you know
18 as Mr. Tinsley in the courtroom today?

19 A Yes, sir, that's Mr. Tinsley sitting there at the
20 defendant's table.

21 SOLICITOR KENDALL: Okay. I've got no further
22 questions, Your Honor.

23 THE COURT: Mr. Tinsley, your witness.

24 CROSS-EXAMINATION

25 BY MR. TINSLEY:

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 Q Have we had any prior disagreements over property or
2 money?

3 A Prior to which event, sir?

4 Q Well, till today. Prior till today.

5 A Yes, sir, I believe we have.

6 Q Can you explain to me what that is, what that was over?

7 A What that was over?

8 Q Uh-huh. (Affirmative).

9 A I believe it was a property dispute, sir.

10 Q Can you tell me about it?

11 A What would you like to know about it?

12 Q What -- why were you disputing over it?

13 A Why were we disputing over it?

14 Q (Nods affirmatively.)

15 A I believe I may of felt like I was done wrong after
16 performing some services for you, automotive repairs
17 services for you.

18 Q Well, what was it that you did for me?

19 A Let's see. I rebuilt the front end of a Chevrolet
20 pickup truck for you along with maybe a tune-up. I'm not
21 exactly sure of everything that I did. I just remember
22 replacing the ball joints specifically because that was the
23 most, the hardest task to perform on it.

24 Q Isn't, isn't it true that what you really did was
25 change a tie rod in and Pitman arm?

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 A I'm pretty sure I did in the course of working on the
2 front end of the vehicles since that is all part of the
3 steering components.

4 Q Isn't it true those were the only things you changed on
5 the front of that vehicle?

6 A I'm not exactly sure to be honest, sir.

7 Q Okay.

8 A That's been four years ago.

9 Q So, why did you feel that you had, you know, been
10 cheated somehow by this work that you did for me?

11 A Why did I feel like I had been cheated?

12 Q Uh-huh. (Affirmative).

13 A Because, from my services, I was given four rims with
14 bad tires in exchange for doing all the work and giving you
15 four rims with brand new tires, and you did not deliver with
16 other goods, which you had promised, as part of the prior
17 arrangement.

18 Q Isn't it true that you were the one that wanted the
19 wheels because they were 20-inch wheels and you didn't have
20 20-inch rims on your Dodge truck?

21 A Of course, cause you had a Dodge and I had a Dodge and
22 I liked the factory style rims that were 20-inches in size.

23 Q And you also wanted the grill off of the vehicle?

24 A I would of liked to have the grill, but it would not
25 retrofit to my vehicle.

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 Q Okay. So, so, you knew a head of time that you were
2 gonna get the wheels?

3 A I knew -- yes, I knew a head of time.

4 Q Do you, do you have any idea what the labor might be
5 for, for installing those Pitman arms and tie rod ends on a
6 vehicle?

7 A Depends on which shop you have it performed at, sir.

8 Q Would you believe that around a hundred dollars would
9 be a fair amount of labor for something like that?

10 A If you only paid a hundred dollars, then you got a good
11 deal for having that kind of work done.

12 Q I'm speaking of labor only.

13 You understand that?

14 A Labor only?

15 Q Labor only.

16 A I could possibly understand that.

17 Q Okay. And didn't I go with you and pay for the parts
18 myself?

19 A That was four years ago. I don't remember.

20 Q Do you have any idea what a set of, a replacement set
21 of cost for a Dodge set of rims, 20-inch rims for a Dodge
22 truck would cost?

23 A Depends on if you buy them on-line or go to the
24 dealership.

25 Q Would you believe that the dealership is over \$2,000

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 for that set of rims alone?

2 A That's possible.

3 Q Okay.

4 A I have not checked for that recently.

5 Q So, once you -- so, you received the wheels and you're
6 saying that you felt that that wasn't good enough?

7 A Well, I received the wheels and then had to pay to have
8 them removed from your truck, put on my truck. The wheels
9 removed from my truck, put on yours, and then I had to pay
10 for a brand new set of tires to go along with the wheels as
11 well.

12 Q Okay. And, so, because of that you were upset with me?

13 A I wasn't happy, but I believe there may of been
14 something else that wasn't paid or somehow the matter was
15 not fully resolved.

16 How does that relate to why we're here today?

17 Q I'm just curious. You're the one that, you know,
18 mentioned that.

19 So, what did you do after that?

20 A What do you mean what did I do after that?

21 Q What did you do after you received the wheels and you
22 weren't happy about it?

23 A I went home.

24 Q Did you ever come to my house?

25 A Yes, sir, I did.

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 Q Did you come to my house to, and tell me that you
2 wanted to get on the Internet?

3 A I doubt that. I have Internet at home.

4 Q Do you remember saying in your statement that you told
5 me that you had came to my house or that you had asked me
6 could you come to my house and get on the Internet?

7 A I don't remember from any statement. But I may have.

8 Q Do you remember saying in your statement that, that
9 you, while using the Internet, that I left the room and that
10 you unlocked the windows on my door, on my bedroom window?

11 A Unlocked the windows on your window?

12 Q No, unlocked the lock on the windows in the bedroom.

13 A I do remember that from the statement, yes.

14 Q Why were you doing that?

15 SOLICITOR KENDALL: Your Honor, I'm gonna object. This
16 is getting kind of on what was previously discussed.

17 THE COURT: Overruled.

18 A Repeat the question again for me, sir.

19 Q Why would you be unlocking the windows to my house when
20 I'm, when I'm out of the room?

21 A To come back to retrieve property that had previously
22 been promised to me, but not delivered.

23 Q What property was promised to you that wasn't
24 delivered?

25 A A compound bow.

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 Q So, do you know what the compound bow was worth?

2 A I have idea.

3 Q And, so, you're saying that compound bow was promised
4 to you for this work on this vehicle?

5 A It was part of the deal.

6 Q Do you remember -- did you -- do you remember that
7 that's not what you said in your statement at the time?

8 A I don't remember, sir. This was four years ago.

9 Q If you don't remember, how do you remember that you
10 were coming back to get a compound bow that was owed to you?

11 A Because I remember I liked the compound bow a lot. So,
12 it's really sticks out in my head.

13 Q If it sticks out in your head then you should of
14 remembered that you didn't mention that in your statement to
15 the police.

16 A Say that again please.

17 Q I said if it sticks out in your head so well, then you
18 should have remembered that you and put it in your statement
19 to the police.

20 why didn't you do that?

21 A I do not know, sir.

22 Q Did you take anything else other than a compound bow
23 while you were there?

24 A I think there may of been a vacuum cleaner and I
25 don't---

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 Q Do you remember giving a statement where you said you
2 actually took a compound bow, a vacuum cleaner, some
3 furniture, and pictures, and television, and surround sound
4 system, and a whole list of things that you took, a bunch of
5 tools?

6 Do you remember saying that?

7 A I don't remember saying it, but I may have. I would
8 have to view my statement that I wrote, sir.

9 Q Did you take more than one truckload full of stuff off,
10 out of the house?

11 A No, sir.

12 Q Did I somehow find out that you had done this?

13 A Yes, sir, you did.

14 Q Did I confront you about it?

15 A Yes, you did.

16 Q Do you remember admitting that, that you had done that?

17 A Yes, I do remember admitting it.

18 Q Do you remember how -- do you remember asking me how I
19 figured out that it was you?

20 A I do remember.

21 Q Do you remember what I told you?

22 A Yes, I do remember.

23 Q What did I tell you?

24 A I believe it was a footprint.

25 Q Two sets of footprints, correct?

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 A Two sets?

2 I only have one set of feet.

3 Q Do you not remember telling Bill Dotson and myself that
4 you had a friend help you do this, but you didn't want to
5 say who he was because you were scared of him?

6 A I don't remember saying that. I don't think Bill
7 Dotson was anywhere. If I remember correctly, it was just
8 you and I sitting inside of that shop.

9 Q Are you aware that the police report shows two sets of
10 footprints taken from the house and prints?

11 A I'm unaware. I would imagine my prints would be there
12 since I visited you in your home before.

13 Q Was it your prints?

14 It was the prints of somebody else.

15 A Whose prints were they?

16 Q I don't know. The person that was with you.

17 A I don't---

18 THE COURT: At this time, ladies and gentlemen---

19 Q So, no, nobody helped you---

20 THE COURT: At this time, ladies and gentlemen, I'm
21 gonna ask you to step back to the jury room. Don't begin
22 any discussions concerning this matter until I've advised
23 you to do so.

24 (WHEREUPON, the following takes place outside the
25 presence of the jury.)

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 THE COURT: Now, Mr. Tinsley, stand up.

2 (Mr. Tinsley complies.)

3 THE COURT: We're not gonna try this case in this case,
4 that case in this case. You've gone through every detail of
5 this matter. I let -- I gave you some latitude as you
6 started down that path. But he's admitted that he had a
7 dispute with you. He's admitted that he disagreed with you.
8 He has admitted that he thinks you cheated him.

9 As to how many sets of footprints there might of been
10 outside of the window, I'm not sure whether, what that has
11 to do with his bias. The only reason I'm allowing you to
12 inquire about this, this line of questioning is to establish
13 the fact you've had a disagreement, that he disagreed with
14 you about how he was treated. You're trying the case, which
15 is exactly what I said I wouldn't let you do, and I realize
16 this is close to you and you're upset about it. I realize
17 that. But the point is, the whole purpose of me even
18 letting you talk to him about this is, under the rule, for
19 you to be able to show, as the rule allows you to, the fact
20 that he's mad at you, biased or prejudiced in some fashion.
21 You've gone beyond that.

22 MR. TINSLEY: Okay, Your Honor.

23 THE COURT: You understand what I'm saying?

24 MR. TINSLEY: Yes, Your Honor.

25 THE COURT: We're not gonna try that case, and who he

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 might of talked to when you confronted him about it, I'm not
2 sure what importance that has about it. The number of
3 footprints, how many loads he took, I'm just going through
4 the questions you've been asking, which all go to try to
5 prove that case. He's already acknowledged that he was mad
6 at you, that he disagreed with you, that he felt like you
7 did him wrong. We've gotten to where you wanted to go if
8 you're, if all you wanted to do was prove bias or prejudice.

9 So, I'm gonna again tell you what my ruling is. That
10 is that we're not going to try that case or try to establish
11 that he committed a crime or wherever you're going with that
12 line of questioning. That's not what this trial is about.
13 You have every right to go into his biases or prejudices.
14 You've already gone there. Anything else now may be
15 cumulative. He's admitted he thought you did him wrong.

16 Do you understand what I'm saying, Mr. Tinsley?

17 MR. TINSLEY: Yes, Your Honor.

18 THE COURT: If we're ever gonna get this case tried, we
19 need to get on this case. So, if there's something else
20 that you want to ask him about that goes to his bias,
21 prejudice, or things allowed in that rule, I'll allow you to
22 ask that. But we're not going to go through every detail of
23 him going through your house and retrieving property that he
24 felt like he was owed.

25 MR. TINSLEY: Okay.

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 THE COURT: So, I'm trying, I'm trying to narrow this
2 down to what I'm gonna allow you to do.

3 You understand what I'm doing?

4 MR. TINSLEY: Yes, Your Honor.

5 THE COURT: All right. Bring the jury back.

6 (Pause.)

7 THE COURT: I am informed that a juror, Tracy Roper,
8 she would of been the last juror seated, has informed the
9 bailiff that she may have some knowledge or know the witness
10 who's on the stand, that she wasn't aware of that when I had
11 him stand up and answer the questions earlier, and she wants
12 the Court to be aware of it. What I'm going to do is bring
13 her in and inquire about her relationship and what it might
14 be. If it appears that it would affect her ability to be
15 fair and impartial, I'll make a ruling as to whether she can
16 continue on the jury or not.

17 I will tell you, Mr. Tinsley, that once I have
18 completed asking the questions that I wish to ask, I will
19 give you an opportunity to suggest other questions if you
20 wish for me to ask other questions so you can be thinking
21 along those lines.

22 Bring Mrs. Roper in.

23 (WHEREUPON, Mrs. Roper comes into the courtroom at this
24 time.)

25 THE COURT: All right, ma'am. I'll remind you you're

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 still under oath from the earlier questioning of you.

2 Do you remember that?

3 JUROR: Yes, sir.

4 THE COURT: Your name is Tracy Roper?

5 JUROR: Yes, sir.

6 THE COURT: One of the bailiffs indicated to me that
7 you had told the bailiff that you, you had some knowledge of
8 the witness who's on the stand, is that correct?

9 JUROR: Yes, sir.

10 THE COURT: Tell me what you know of him or about him.

11 JUROR: He's my baby sister's, my half sister's first
12 cousin.

13 THE COURT: He's your -- so, is he some relation to you
14 cause she's a half sister. She may be on the other side of
15 the family. I don't---

16 JUROR: Yeah, that's why I'm, I'm---

17 WITNESS: Dana or Angie?

18 THE COURT: Now, ma'am, sir, don't talk to the witness.

19 WITNESS: I'm sorry.

20 THE COURT: So, you don't know exactly what
21 relationship he would be to you?

22 JUROR: Not really, sir. Like I said, he's my, my baby
23 sister's -- I've known him since he was in diapers.

24 THE COURT: All right. So, so, he is of relation to
25 you?

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 JUROR: Yes, sir.

2 THE COURT: Had you known that earlier and responded
3 to -- let me finish my question.

4 JUROR: I'm sorry.

5 THE COURT: Had you known that earlier and responded to
6 my question if I had asked you would that affect your
7 ability to be fair and impartial in this trial, how would
8 you of responded?

9 JUROR: No, sir.

10 THE COURT: So, you can be fair and impartial even
11 though this witness is testifying in the case?

12 JUROR: Yes, sir.

13 THE COURT: When was the last time you had contact with
14 the witness?

15 JUROR: I haven't actually seen him in probably about
16 three or four years.

17 THE COURT: And in what -- how, how often did you see
18 him even before that?

19 JUROR: I seen him quite often when, back when we were
20 growing up.

21 THE COURT: Well, it's been -- that may of been a while
22 back.

23 JUROR: No, I mean I seen him, you know, in the---

24 THE COURT: How often have you seen him in the last
25 five years?

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 JUROR: I see him like at stores and stuff, but
2 actually stopping and talking to him, I hadn't stopped and
3 talked to him in several years.

4 THE COURT: More than five?

5 JUROR: Yes, sir.

6 THE COURT: All right. So, you're telling me that the
7 fact that he's testifying in this case would not affect your
8 ability to be fair and impartial, is that correct?

9 JUROR: Yes, sir.

10 THE COURT: Does the State wish to ask any questions of
11 the witness?

12 SOLICITOR KENDALL: The State doesn't have any
13 questions, Your Honor.

14 THE COURT: Do you wish to ask any questions,
15 questions, the Court to ask any questions?

16 MR. TINSLEY: No, Your Honor.

17 THE COURT: All right. Ma'am, I'll allow you to return
18 to the jury room. Thank you very much.

19 (WHEREUPON, Mrs. Roper leaves the courtroom at this
20 time.)

21 THE COURT: Does the State wish to make a motion in
22 regards to this juror?

23 SOLICITOR KENDALL: The State does not, Your Honor.

24 THE COURT: Defense wish to make a motion in regard to
25 this juror?

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 MR. TINSLEY: I would like for you to be released and
2 replaced with the alternative, Your Honor.

3 THE COURT: All right. I'm gonna grant the motion.

4 All right. Bring Mrs. Roper back in.

5 (WHEREUPON, Mrs. Roper comes into the courtroom at this
6 time.)

7 THE COURT: Mrs. Roper, I have granted a motion that
8 you be excused from the jury at this time. So, we're gonna
9 seat the alternate. If you would, call in after 6:00 p.m.
10 There should be additional instructions concerning your
11 service. But at this time the bailiffs will show, show you
12 out. Thank you very much.

13 JUROR: Thank you.

14 (WHEREUPON, Mrs. Roper leaves the courtroom at this
15 time.)

16 THE COURT: All right. Anything further before we
17 bring the jury back in from the State?

18 SOLICITOR KENDALL: Nothing further, Your Honor.

19 THE COURT: Anything further from the defense?

20 MR. TINSLEY: No, Your Honor.

21 (WHEREUPON, the following takes place within the
22 presence of the jury.)

23 THE COURT: All right. You can go all the way down.
24 There's no assigned seatings. Just fill all the way down.
25 There we go.

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 Ms. Pasley, you were the alternate. I have excused a
2 juror from the jury, and that means that you are now a part
3 of the regular jury.

4 Do you understand, ma'am?

5 (Juror nods affirmatively.)

6 THE COURT: All right. You may proceed with
7 cross-examination, Mr. Tinsley.

8 CONTINUED CROSS-EXAMINATION

9 BY MR. TINSLEY:

10 Q All right. You admitted that there was a disagreement
11 between us over property and that there was some bad blood
12 between us.

13 Did you also say in your statement that you were
14 looking for a way to get me back?

15 A Yes, sir, I did.

16 Q What made you give this statement to the police?

17 A This particular statement?

18 Q Yeah.

19 A They---

20 SOLICITOR KENDALL: Your Honor, I'm gonna object. We
21 need to see the statement.

22 THE COURT: You're gonna have to show him the statement
23 that you're talking about.

24 MR. TINSLEY: I'll, I'll come back to that.

25 THE COURT: If you'll show him -- if you want him to

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 confirm or disaffirm the statement, you have to present it
2 to the jury so he knows what you're talking about.

3 MR. TINSLEY: Okay.

4 THE COURT: You may approach.

5 MR. TINSLEY: Thank you. Sorry.

6 Q There you go.

7 A Thank you.

8 Q Do you recognize that statement?

9 A Yes, sir, I do.

10 Q What may you gave that, give that statement to the
11 police?

12 A Because they asked me to give it to them.

13 Q Why would they---

14 A Due to an unrelated incident.

15 Q Okay. So, there was some other unrelated incident that
16 you were being questioned about?

17 A Yes, there was.

18 Q And they asked you about, to give this statement?

19 A Yes, and I believe I voluntarily gave it after being
20 given or after being asked.

21 Q In that other incident, incident, at the time, did you,
22 did you feel like you were in trouble?

23 A I -- it wasn't a feeling. I knew I was in trouble.

24 But there was also a sense of fear involved for myself and
25 the well being of others.

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 Q And, so, so, you gave this statement for that reason?

2 A That's not the reason I gave the statement. I give the
3 written statement because I was asked to.

4 Q Right.

5 How long, how long -- this happened in 2006, the end of
6 2006, is that correct?

7 A (Witness nods affirmatively.)

8 Q About how long, prior to that, had you worked at Ina
9 Bearing?

10 A Not long. Maybe just -- I believe I started working---

11 SOLICITOR KENDALL: Objection. What relevance is his
12 working at some place have to do with anything?

13 THE COURT: Well, the testimony -- the witness
14 testified that they had numerous conversation on breaks and
15 things of that nature. So, I'll allow the question.

16 A I believe I started working there at Ina in possibly
17 May. I'm not exactly sure of the date.

18 Q Isn't it true that you worked there for nearly a year?

19 A A little over a -- before?

20 Q Right.

21 A I'm not gonna say if that's true or not cause I'm not
22 exactly sure of the date, sir, without looking back at my
23 resume.

24 Q When you say on the first night that you worked that I
25 just walked up to you out of the wild blue yonder and said

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 would you hot wire a car or can you hot wire a car or steal
2 a camper for me or something like that?

3 A It wasn't out of the wild blue yonder. Me and another
4 associate that we worked with were smoking a cigarette out
5 on the back dock, and you happened to come out there and be
6 present, and I believe you brought it up that first just as
7 casual, maybe jokingly conversation. But I don't think you
8 would of asked me if you hadn't already known about my prior
9 expensive automotive background.

10 Q But still you're saying that on the first night that I
11 ever met you I just came out and asked you to, to---

12 A Yes, you did.

13 Q ---do this?

14 So, somebody you barely know just comes up to you and
15 starts asking you about hot wiring and stealing?

16 A You asked me if I knew how to.

17 Q Didn't you -- why didn't you call the cops or report
18 this to your employer?

19 A Because it's talk at work on break.

20 Q Did you see this camper at my grandmother's house?

21 A I've never been to your grandmother's house, sir.

22 Q If we had bad blood between each other, why would I
23 come to you and ask you to steal something for me or get
24 involved?

25 A There was no bad blood at the time.

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 Q All right.

2 A I don't really feel like there's much bad blood now.

3 I'm a forgive and forget type of person.

4 Q I can tell.

5 A I may not like you, but I'm not---

6 Q I can tell.

7 THE COURT: Sir, I'm not gonna allow you to comment
8 back to people. I'll allow you to ask questions.

9 MR. TINSLEY: I'm sorry.

10 THE COURT: But you're not gonna badger the witness.

11 MR. TINSLEY: I understand.

12 THE COURT: Thank you.

13 Q Do you, do you know what firsthand knowledge means?

14 A I'm -- if you explain the definition to me I would
15 comprehend it then.

16 Q Well, that you actually witnessed something with your
17 own two eyes, your firsthand knowledge.

18 A Okay.

19 Q Were you present when the camper was stolen from this
20 Holiday Camper?

21 A No, sir, I was at work.

22 Q You didn't witness its theft?

23 A No, sir, I did not.

24 Q Did you witness when it was allegedly handed over to me
25 or received by me or anything like that?

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 Were you there?

2 A No, sir, I was at work.

3 Q How do you, how do you know that you were at work?

4 A Because I was there.

5 Q But how do you know---

6 A I have a time card.

7 Q How do you know if you were at work if you don't know
8 when I received it or where I received it?

9 A I'm sorry. Repeat that again.

10 Q Are you at work on Sunday morning?

11 A No, sir, not on Sunday morning.

12 Q Okay. Well, how do you know that I didn't receive it
13 on Sunday morning in California?

14 A The only information---

15 Q How do you know you were at work that day?

16 A I don't know when exactly you received it because I was
17 not there. All I know is when you told me you were
18 receiving it and who or that you were receiving it. Not
19 who. But that you were receiving it. And then once I
20 showed up at your house, and then you're not there, your
21 truck's not there, and there's two strange people in there,
22 and I believe even a child---

23 Q This is---

24 A ---could see something suspicious.

25 Q This is the day the camper was stolen you're saying?

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 A I, I don't know the day the camper was stolen. I
2 wasn't -- I did not write a police report. I did not hear
3 anything on the T.V.

4 Q So, you went to my house and my vehicle wasn't there.
5 And, so, you're assuming that that's when the camper was
6 stolen or something.

7 A But you had told me that these men were taking this
8 camper for you, and then when I arrived at your house to
9 drop off your personal possession you're not there. I don't
10 know---

11 Q So, you're assuming it was that day?

12 A I would assume it would have been that day.

13 Q Okay. So, since this wasn't, the camper wasn't there
14 at my house---

15 A No, I was not there.

16 Q ---when you came by?

17 So, you had no idea where I, where I, where I received
18 the camper if I received the camper?

19 You don't know where that took place at, do you?

20 A No, I do not.

21 Q Have you ever given any false statements before or
22 false police reports before?

23 SOLICITOR KENDALL: Your Honor, I'm gonna object. Ask
24 to be able to approach on this.

25 THE COURT: Beg your pardon?

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 SOLICITOR KENDALL: I'm gonna ask to approach on this.

2 THE COURT: I'll, I'll just ask the jury to step back
3 to the jury room, and do not begin any discussions at this
4 time.

5 You may retire.

6 (WHEREUPON, the following takes place outside the
7 presence of the jury.)

8 THE COURT: Yes, sir.

9 SOLICITOR KENDALL: Your Honor, this stems from an
10 incident that happened also unrelated to this charge. I
11 believe it happened before or after this charge. But it
12 involved Mr. Tinsley and it alleged auto parts and robbery
13 that involved Mr. Lindler who gave a report to the police.
14 That charge---

15 THE COURT: He did what?

16 SOLICITOR KENDALL: He gave a false report to the
17 police. That has since been sealed. It has gone through --
18 he completed or expunged, I'm sorry, the entire thing as
19 part of a pretrial intervention program, which I believe
20 makes it non, say -- nobody can ask about it now. I also
21 add that Mr. Tinsley was a, was brought into that cause I --
22 oh, yeah, it was -- he was alleged in the plot I believe as
23 a codefendant, and they didn't charge him with that either.

24 THE COURT: Well, let's find out what Mr. Tinsley's
25 referring to.

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 MR. TINSLEY: He gave a false -- he, he robbed his own
2 store or something and gave a false police report and said
3 that a Mexican robbed him, and then the police later
4 investigated the case and found out that that wasn't true,
5 and he changed his story then and this was right after this
6 burglary took place when he was looking for a way to get me
7 back. So, he implicates me in it. At the same time he's
8 implicating me for this thing. And then the police
9 investigate it and I was cleared of the charges down there.
10 But I'm, was wanting to question him about it because it
11 shows, you know, that he made -- he's untrustworthy. He's
12 untruthful.

13 SOLICITOR KENDALL: Your Honor, this is -- he was not
14 convicted of this.

15 MR. TINSLEY: Right.

16 SOLICITOR KENDALL: He went through pretrial
17 intervention, which I believe, by the definition of pretrial
18 intervention, I believe that is undiscoverable. I can
19 double-check that. I believe that's in the statute.

20 THE COURT: Well, he's not asking to discover anything.
21 He's just asking if he's ever given a false statement to the
22 police.

23 SOLICITOR KENDALL: But, again, that would be specific
24 conduct for which he's not been, been convicted of. It's --
25 there's been no conviction of that or anything. I think

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 that puts it back in the same place we're at before.

2 THE COURT: Was he convicted of this?

3 MR. TINSLEY: I don't know if he was or not. All I
4 know is that he, that he admits that he did it. It's in the
5 police report. And, so, you know, I don't know if he -- my
6 position is that because he's helping the police in
7 implicating me in all this stuff, all that stuff got
8 dismissed and expunged from his record and all that kind of
9 stuff. That stuff just don't magically happen. I'm saying
10 that it happened because he was, he was---

11 THE COURT: Well, now, people that, people that go
12 through P.T.I., they get their record expunged. I sign
13 hundreds of them a day.

14 MR. TINSLEY: Well, I want to sign up for that then,
15 judge.

16 THE COURT: Well, it just happens. The law allows
17 that. That's what the law -- and, and going through P.T.I.
18 is not a dismissal. You got to go through a program. It's,
19 it's---

20 MR. TINSLEY: I understand. I know what P.T.I. is.

21 THE COURT: Well, for you to comment that that's
22 just---

23 MR. TINSLEY: Well, that's the way I look at it because
24 this -- everything that he's alleging and trying to include
25 me in he, he got off the hook for all of it. You know, he's

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 squeaky clean all, all of a sudden and I'm saying that
2 that's his motive for implicating me was to get out of all
3 of it.

4 SOLICITOR KENDALL: To clarify something, Your Honor,
5 Mr. Tinsley got off on all this too.

6 MR. TINSLEY: I did---

7 SOLICITOR KENDALL: It's gone either way on this.
8 We've been very consistent. There was no -- I've, I've
9 double-checked with Mr. Lindler and Detective Woodruff. I
10 don't believe there was any -- this was not these officers
11 here dealing with this case. There was not any you testify
12 we'll send you to P.T.I. In fact, as the Court knows, we
13 make those kind of deals, and we do on, on the back end.
14 You testified first and then you get whatever -- it doesn't
15 work the other way around where we give you all the goodies
16 and then hope we get it.

17 THE COURT: He hasn't asked him whether he has a deal
18 or not. I've noticed he stayed away from that question.
19 But any way, he may get there. He's not through with his
20 cross-examination.

21 Let's get back to what we're talking about.

22 Did you go through the same P.T.I. program, Mr.
23 Tinsley?

24 MR. TINSLEY: No, I, I was cleared. They, they
25 investigated the case and determined that on the night that

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 the Advance Robbery occurred I was in another state and
2 couldn't have done it, and I was cleared of it and the
3 charges. He also accused me of stuff in North Carolina. I
4 was cleared of that as well. So, my whole point is -- and I
5 wasn't cleared because of any kind of deal. I was cleared
6 because the investigation showed that I wasn't involved and
7 that he's lying.

8 SOLICITOR KENDALL: Well, some of the stuff in North
9 Carolina, it was not -- it's still on the docket. It's
10 coming up next. I'm not so sure I agree with that, that
11 classification. I would also say that---

12 THE COURT: Are those charges still pending, Mr.
13 Tinsley?

14 MR. TINSLEY: No, sir, Your Honor. They've been
15 dismissed and -- well, they haven't been expunged.

16 SOLICITOR KENDALL: I've got the indictment right here.

17 MR. TINSLEY: That has nothing to do with a stolen
18 camper in North Carolina. That has to do with an R.V. in
19 South Carolina. It just happened to be in North Carolina.

20 SOLICITOR KENDALL: It was discovered in North Carolina
21 in the Cherokee campground.

22 MR. TINSLEY: I ain't charged in North Carolina with
23 it. I'm charged here with it, right?

24 SOLICITOR KENDALL: They're so many other campers that
25 we're talking about here.

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 MR. TINSLEY: Ask him. He's the one that knows
2 everything.

3 THE COURT: All right, sir. Let me, let me, let me
4 tell both of you. If y'all are gonna argue with each other
5 I'll throw you both out of the courtroom and let you go
6 argue.

7 MR. TINSLEY: I apologize.

8 THE COURT: You can talk to me or you can't talk.
9 You understand, Mr. Tinsley?

10 MR. TINSLEY: Yes, sir, Your Honor.

11 THE COURT: You understand?

12 SOLICITOR KENDALL: Yes, sir.

13 THE COURT: Don't do that again. It's contempt of
14 Court.

15 Now, let's get back to what we're talking about. He
16 apparently gave a false statement to a police officer at
17 some point in time.

18 SOLICITOR KENDALL: Yes, sir.

19 THE COURT: I'll let him ask him about it.

20 Anything else we're gonna go while we're, while we're
21 out?

22 I try not to pop the jury in and out too much, but I'm
23 doing a lot of that so far.

24 MR. TINSLEY: I think, I think that's it, Your Honor.

25 THE COURT: All right. Bring the jury in.

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 Just one second. Ask them to step out and close the
2 door. Close the door.

3 Let me caution you about one thing, Mr. Tinsley. If
4 you ask him that he had given a statement in the past to the
5 police that was false and he acknowledges it, that's the end
6 of the inquiry.

7 MR. TINSLEY: Does that mean that---

8 THE COURT: We won't go into it any further.

9 MR. TINSLEY: Does that mean I can't even ask him why
10 he gave the false statement?

11 Is that what you're saying?

12 THE COURT: No.

13 MS. PRICE: No.

14 THE COURT: You want to---

15 MS. PRICE: He's saying that you can't prove it by
16 extrinsic evidence.

17 THE COURT: You can't---

18 MS. PRICE: Like a police report. If you ask him did
19 you make a false statement to the police and he says yes,
20 that's the end of that discussion.

21 MR. TINSLEY: I can't say why -- I can't ask him why I
22 can't---

23 THE COURT: Look at me.

24 MS. PRICE: No, that's not what I said.

25 THE COURT: No, you just can't go into the context of

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 the statement or what it was about.

2 MR. TINSLEY: Okay.

3 THE COURT: Or what it said. If he acknowledged he
4 made a false statement, that's it. Now, you can ask him his
5 motivation for doing that.

6 MR. TINSLEY: Right.

7 THE COURT: But you can't go into the statement any
8 further.

9 MR. TINSLEY: Yes, sir.

10 THE COURT: He's acknowledged he's told a falsehood to
11 the police. You've gotten that point out. You can't get
12 into well, exactly what did you say and what was the truth.

13 Do you follow what I'm saying?

14 Do you follow what I'm saying, Mr. Tinsley?

15 MR. TINSLEY: Yes, Your Honor. Yes, sir, Your Honor.

16 THE COURT: But you can't ask his motivation for having
17 done so.

18 Bring the jury in.

19 (WHEREUPON, the following takes place within the
20 presence of the jury.)

21 THE COURT: All right. The jury has returned to the
22 courtroom.

23 You may resume your cross-examination, Mr. Tinsley.

24 CONTINUED CROSS-EXAMINATION

25 BY MR. TINSLEY:

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 Q All right. Mr. Lindler, did you give a false police
2 report in the past?

3 A Yes, sir, I did.

4 Q Were you trying to cover-up for any involvement?

5 Is that the reason that you gave a false---

6 A No, I gave a false report out of fear since I knew you
7 and what you're capable of.

8 Q Did you have any deals with the police for any of the,
9 these things that we've talked about?

10 A No, I've had no deals. No pats on the backs, no easy
11 rides, nothing.

12 Q You're saying that you, that you, that you feared me?

13 A Yes, I feared you.

14 Q Why didn't you go to the police?

15 A I don't know why. I didn't think they could help me.
16 I assumed -- I was a lot younger then and naive, possibly
17 ignorant.

18 Q Do you remember telling Hugh Justice that the police
19 told you if you would implicate me they promised not to
20 charge you?

21 A No.

22 Q Isn't it true that you and Bill Dotson came up with
23 this plan to get me arrested and out of the picture so the
24 two of you could make off with my property and store it at
25 Bill's shop, the same property that you---

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 A No.

2 Q No?

3 A If I remember correctly, after I got out of jail and
4 went to work the next day or the next night or that night,
5 got off the next morning, and went by Bill, Bill Dotson's
6 shop to see what was going on, he was gone, vamoose. I
7 never saw him, you, or Mr. Justice ever again.

8 Q And every, everything, and everything had, was, had
9 disappeared the next day when you went by there?

10 A What do you mean everything?

11 Q Bill and whatever.

12 A Bill was not there. The door was locked. I don't know
13 if everything or what. But there -- I never saw him ever
14 again.

15 Q Why, if you're, if you're the one giving these
16 statements to the police, why would you need to go by Bill's
17 shop to find out what was going on?

18 A Because I would like to have known what was going on.
19 I don't know what I was thinking at the time. This was four
20 years ago.

21 Q How would you not know what was going on---

22 A I was scared and panicked and didn't know.

23 Q How would you not know what was going on if you're the
24 one, one writing the statements and doing it all?

25 A I know what's going on with me, but I didn't know what

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 was going on with you or anyone else.

2 Q Your statements are talking about me.

3 You know what's going on with me, don't you?

4 A I believe you have me confused. I don't, I don't
5 understand what you're asking me.

6 Q Please explain to the jury how your testimony can be
7 trusted that I was involved in this stuff when, when you
8 told prior false statements to police?

9 SOLICITOR KENDALL: Objection.

10 THE COURT: Sustained.

11 A It's not my place---

12 THE COURT: Sir, you don't answer the question if I
13 sustained the objection.

14 WITNESS: Oh, I'm sorry, Your Honor.

15 THE COURT: I've ruled that an improper question.

16 Q Isn't it true that you and Bill Dotson smoked crack,
17 crack cocaine in his shop?

18 SOLICITOR KENDALL: Objection.

19 A No.

20 THE COURT: Ladies and gentlemen of the jury, at this
21 time I'll ask you to step back to the jury room. Again,
22 don't begin any discussions until I've advised you to do so.

23 (WHEREUPON, the following takes place outside the
24 presence of the jury.)

25 THE COURT: Mr. Tinsley, I asked you a little while ago

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 if there was some new matters that you were gonna go into
2 with this witness, and you indicated that there were no
3 other new matters.

4 MR. TINSLEY: I didn't realize that that would qualify
5 as something -- I'm, I'm having a very difficult time---

6 THE COURT: You, you, you---

7 MR. TINSLEY: ---understanding what's allowed and
8 what's not.

9 THE COURT: You know more, you know more than that.

10 MR. TINSLEY: I really don't, Your Honor. I'm not -- I
11 don't have any kind of experience with what flies and what
12 don't, and I apologize. I know I'm in a lot of trouble.

13 THE COURT: It's not a question of being in trouble.
14 It's a question of being straight up with me.

15 MR. TINSLEY: There's -- I'm not trying to play games
16 with you. I'm, I'm, I'm honestly believe that I'm allowed,
17 you know, was allowed to do this. I didn't, I didn't
18 understand that it's not okay. The---

19 THE COURT: It's not a question of whether it's okay.
20 I said are there any new matters that you're going to take
21 up with this witness.

22 MR. TINSLEY: I agree to that.

23 THE COURT: That doesn't have to do with whether you
24 can or you can't. Is there something else that you're gonna
25 bring up with this witness so we can get it out of the way

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 so I wouldn't have to send the jury in and out.

2 MR. TINSLEY: I wasn't---

3 THE COURT: And you indicated to me no, that's it.

4 MR. TINSLEY: I did and I didn't realize this would be
5 considered a different matter.

6 THE COURT: Then why would you ask about it?

7 MR. TINSLEY: Well, this---

8 THE COURT: I'll hear from you.

9 SOLICITOR KENDALL: Well, Your Honor, we argued this
10 was irrelevant and also falls under the same 608(b)
11 exception as before, and obviously smoking crack cocaine is
12 not gonna attribute -- I actually believe there's a case
13 that---

14 THE COURT: Well, I've got a feeling that the
15 prejudicial effect outweighs its probative value too if he
16 can show me there's some probative value to it and that's
17 where we're going next.

18 MR. TINSLEY: He, he, he -- I'm trying to get him---

19 THE COURT: You're trying to discredit him any way you
20 can.

21 MR. TINSLEY: Well, you -- showing that he. Yes, sir,
22 you know, attacking his character basically.

23 THE COURT: You're not allowed to attack character.
24 You're to attack -- you're allowed to attack truthfulness.

25 MR. TINSLEY: I apologize.

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 THE COURT: You're allowed to attack his, his
2 reputation or his character for truthfulness.

3 MR. TINSLEY: Well, that's what I was trying to show.
4 If he denied that---

5 THE COURT: Tell me how that applies to that.

6 MR. TINSLEY: Well, if he denies that, and then someone
7 else testifies that he did, then it shows that he was
8 untruthful.

9 THE COURT: You don't get to go on a fishing -- you
10 know, you can't ask a witness everything they may of done
11 wrong in their life and then bring in witnesses to try to
12 show that they didn't tell the truth about that. That's not
13 the way this system works.

14 MR. TINSLEY: I know, I know -- you're right, Your
15 Honor. I'm mean, you know, I just don't have the
16 understanding. I understand you're saying that's not
17 admissible, and that was my last question anyway. But I'm
18 not -- I don't know what I'm doing and trying to act like
19 that I don't. That's not what's going on here. I promise
20 you that. I honestly believe I was allowed to do that.

21 THE COURT: Well, Mr. Tinsley, if I ask you if there's
22 something new coming up with a witness, and you're gonna ask
23 him about use of crack cocaine that I -- I've not heard the
24 words crack cocaine mentioned in the two days of this trial
25 yet. That's the first time I've heard those two words.

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 Have you heard them at any other time during this
2 trial?

3 MR. TINSLEY: No, Your Honor, I have not.

4 THE COURT: Wouldn't that be a new matter?

5 MR. TINSLEY: I guess, Your Honor.

6 THE COURT: The State wish to move for a mistrial?

7 SOLICITOR KENDALL: I don't think we'd want a mistrial,
8 Your Honor. We would request an instruction to the jury.

9 THE COURT: Well, I'll grant that.

10 SOLICITOR KENDALL: And ask that the question be
11 stricken.

12 THE COURT: Absolutely.

13 Unless you can show me that it has some probative value
14 in this case. I'll ask that one more time.

15 Does it, in any way, go to the witness' credibility?

16 MR. TINSLEY: One moment, Your Honor.

17 (Pause.)

18 MR. TINSLEY: I guess not, Your Honor.

19 THE COURT: All right. Does it -- okay. Then I'm
20 going to rule it out of order. I'll give a corrective
21 instruction.

22 Bring the jury back.

23 (WHEREUPON, the following takes place within the
24 presence of the jury.)

25 THE COURT: All right. Ladies and gentlemen of the

Thomas Lindler - Cross-examination
by Mr. Tinsley

1 jury, I have granted the State's motion to strike the last
2 question from the record and let me explain to you what that
3 means.

4 When a matter is stricken from the record, that means
5 it is removed from the record and you do not have the right
6 or the, you, nor can you use that information in anyway in
7 reaching a verdict in the case. I'll give you further
8 instructions concerning what it means to strike a matter
9 from the record when I charge you concerning the law. My
10 ruling is that the prejudicial effect of that question
11 outweighs it's probative value in this case. Therefore, I
12 have stricken it from the record and you should disregard,
13 disregard the last question in its entirety.

14 Mr. Tinsley, you may proceed with your
15 cross-examination.

16 MR. TINSLEY: No further questions, Your Honor.

17 THE COURT: Redirect.

18 SOLICITOR KENDALL: Just briefly, Your Honor.

19 THE COURT: Yes, sir.

20 REDIRECT EXAMINATION

21 BY SOLICITOR KENDALL:

22 Q Mr. Lindler, after you gave that statement to the
23 police that was false, did you later correct that?

24 A Sir?

25 Q After you gave that statement to the police that was

Thomas Linder - Redirect examination
by Solicitor Kendall

1 false, did you later correct that?

2 A Yes, sir, I did correct that.

3 Q And has anything resulted from that whole debacle of
4 rims and front ends and all that mess?

5 Has anyway that affected you to tell the truth in Court
6 here today?

7 A No, sir.

8 Q And have you, in fact, told the truth here in Court
9 here today?

10 A Yes, sir, I have, to the best of my ability.

11 SOLICITOR KENDALL: Okay. No further questions.

12 THE COURT: You may recross.

13 MR. TINSLEY: Nothing, Your Honor.

14 THE COURT: You may step down, sir.

15 WITNESS: Thank you, Your Honor.

16 THE COURT: Thank you, sir.

17 The State may call its next witness.

18 SOLICITOR KENDALL: The State would request Danny
19 shields or call Danny Shields, Your Honor.

20 THE COURT: Sir, come forward to my left to be sworn.

21 DANNY SHIELDS, having been first duly
22 sworn, testified as follows:

23 THE COURT: Have a seat please, sir.

24 (Witness complies.)

25 THE COURT: State your name please.

Danny Shields - Direct examination
by Solicitor Kendall

1 WITNESS: Danny Shields.

2 THE COURT: Your witness, Mr. Kendall.

3 DIRECT EXAMINATION

4 BY SOLICITOR KENDALL:

5 Q How are you, Mr. Shields?

6 Could you please tell the jury where you're currently
7 employed?

8 A Spartanburg County Sheriff's Office.

9 Q And how long have you been employed there, sir?

10 A Twenty-seven years.

11 Q And what is, what is your rank?

12 what do we call you?

13 A I'm a sergeant.

14 Q Sergeant Shields.

15 All right. Now, Sergeant Shields, have you ever before
16 been assigned to this investigation?

17 were you the investigating officer on it?

18 A No, sir, not at all.

19 Q So, how did you become associated with this case, the
20 trailer, and the defendant?

21 A A friend of mine had, had told me about a trailer.

22 I'm -- I drag race. So, I'm in the kind of racing business

23 myself. A friend of mine told me that he knew of a trailer

24 that a guy was supposedly wanting to sell, and he knew I was

25 looking for like an enclosed trailer for my car, gave me the

Danny Shields - Direct examination
by Solicitor Kendall

1 information where it was at, and told me the guy was hard up
2 for money, wanted to sell it. It was a good price.

3 So, I found out where it was at. I talked to Tim
4 Tucker. We rode over off of Fairforest Road behind the
5 business over there and looked at it by -- I was met by a
6 guy that I only knew as Bill, went around back, looked at
7 the trailer, and Bill had said that he thought it was
8 already sold, it belonged to James Tinsley, and -- I'm
9 sorry.

10 Q What kind of trailer was this?

11 Was this a, was this a, like a, just a, just a totally
12 enclosed trailer.

13 Was this a dual purpose trailer?

14 A It was a dual purpose trailer.

15 Q So, that was---

16 A It -- actually it wasn't what I was looking for because
17 it wasn't made to put a vehicle in. It was made more for
18 go-carts and, and motorcycles and what have you. But the
19 guy that told me about it didn't, wasn't aware of that.

20 Q Do you recall what color it was?

21 A White.

22 Q Did you recall if it had any markings on the side?

23 A It had James Tinsley Racing on the side.

24 Q Okay. And to be clear, you, you were unable to, to --
25 you were unable to purchase -- okay. And what county was

Danny Shields - Direct examination
by Solicitor Kendall

1 this in, did all this take place in?

2 A Spartanburg.

3 Q And after you, after you saw the trailer, did you talk
4 to anyone at, with the police department that was
5 investigating this case?

6 A Later on I was contacted by a detective, but then he
7 asked me about looking at the, did I go over and look at a
8 trailer and I told him yeah, I did.

9 Q And when you left, when you left this, this, this
10 Bill's place, did you leave any contact information,
11 anything along those lines?

12 A I did. I left, I left one of my business cards, and I,
13 I told this Bill if, if the guy, you know, if it had been
14 sold, to, to give me a call. But I never heard anything
15 from them.

16 Q And your business card, what kind of business does that
17 have on there?

18 A Spartanburg Sheriff's Office.

19 Q So, you left a, you left a card indicating you were
20 from the Spartanburg Sheriff's Office---

21 A Yes, sir.

22 Q ---here with this trailer?

23 A Yes, sir.

24 Q Ask you turn down the lights for a second.

25 I'm gonna put up State's Exhibit No. 6 please, sir.

Danny Shields - Direct examination
by Solicitor Kendall

1 Would you mind taking a look at that?

2 A Yes, sir, that appears to be the same trailer.

3 Q That appears to be the same trailer, the same trailer
4 you saw at, at Bill Dotson's house or Bill Dotson's
5 business?

6 I'm sorry.

7 A It, it was a business over on Fairforest Road.

8 Q And that, to be clear, is within Spartanburg County?

9 A It is.

10 Q Okay. And do you recall seeing this image there as
11 well?

12 A I do.

13 SOLICITOR KENDALL: Okay. Your Honor, I've got no
14 further questions.

15 THE COURT: Bring the lights back up please.

16 Mr. Tinsley, your witness.

17 CROSS-EXAMINATION

18 BY MR. TINSLEY:

19 Q Okay. So, when you went to Bill Dotson's shop, this
20 was sometime in late November, December 2006?

21 A Yeah, I think it was in -- I think it was in
22 December 2006.

23 Q Okay. Did -- and you say Tim Tucker went with you?

24 A He did.

25 Q When you arrived there, were you -- you were able to

Danny Shields - Cross-examination
by Mr. Tinsley

1 Locate the camper where?

2 A It was around back.

3 Q Can you kind of describe for us the layout of the, the
4 shop or business and the road and---

5 A Well, the -- you turned off of Fairforest Road on a
6 side street and went down. The best of my memory is the
7 business was on the right. It was a parking lot in the
8 front, and the trailer was pulled in the back of the
9 business I think facing the back of the business.

10 Q Okay. How long were you there?

11 A Probably no more than fifteen minutes or so.

12 Q What time do you think it was when you left?

13 A Sir, I wouldn't have any idea.

14 Q You don't remember if it was in the evening before you
15 were about to get off work or before lunch or---

16 A Honestly, sir, I don't, I don't remember if it was in
17 the morning or the afternoon. I do, I do not.

18 Q When you first arrived did you think no one else was
19 around?

20 A Did I think no one else was around?

21 I only saw one person.

22 Q I mean before you saw him did you think nobody was at
23 home?

24 The reason I asked is I think in the police reports it
25 was mentioned that you called the phone number on the sign

Danny Shields - Cross-examination
by Mr. Tinsley

1 out front or something like that and Bill answered.

2 Do you remember that?

3 A I could possibly have done that, yes.

4 Q And you, you asked who it was or something and, and
5 Bill identified himself and you told him that you were out
6 back wanting to look at the camper and asked him to come out
7 back and speak with you?

8 A That's possibly so, yes.

9 Q And he walked around the corner of the building to talk
10 to you?

11 A Yes.

12 Q When he walked around the building, were you in your
13 police uniform or police car?

14 A I, I, I don't wear a uniform per se, a blue uniform.
15 At that time I would of had a shirt on that had the
16 Spartanburg County logo on it. So, I mean it, it was
17 obvious who I was.

18 Q He, he, he would of immediately recognized you as being
19 a police officer?

20 A If he knows the logo he would, yes, sir.

21 Q Have you ever met me before today?

22 A No, sir.

23 Q Did I -- have I ever told you that I owned the camper?

24 A No, sir.

25 Q Have I ever told you I was the one selling it?

Danny Shields - Cross-examination
by Mr. Tinsley

1 A No, sir.

2 Q So, you just assumed that I owned it because Bill told
3 you that I did and because my name was on the side of the
4 camper, is that correct?

5 A Yes, sir.

6 Q When Bill came around the building and realized that
7 you were a police officer, did he make any excuses why you
8 couldn't look at the camper?

9 A He, he said that he thought it was already sold. He,
10 he said that you were hard to get in touch with. So---

11 Q Did he say he didn't have a key to it?

12 A I don't remember.

13 Q Let's assume for a minute that if Bill were the one
14 that stole the camper and that he knew that it was stolen---

15 SOLICITOR KENDALL: Objection. Calls for speculation.

16 Q ---and he was confronted---

17 THE COURT: I, I haven't heard exactly where he's going
18 with this. So, let me let him finish his question, and then
19 you can make your objection if it's---

20 Q Let's assume that, that Bill was the one who stole the
21 camper and he knew it was stolen, and that he walked around
22 the building and sees two police officers who are asking
23 questions about it, do you recognize that a person in that
24 position might try to make up excuses to get rid of you?

25 SOLICITOR KENDALL: That calls for speculation, Your

Danny Shields - Cross-examination
by Mr. Tinsley

1 Honor. The question started let's assume.

2 THE COURT: Sustained.

3 Q I'll rephrase it and just -- do you recognize that a
4 person in that position might try to get, make excuses to
5 get rid of you?

6 A Do I recognize that, that a person in that position may
7 make excuses to, to get rid of me at the time?

8 Q Right.

9 A Yeah, it's possible that could happen, yes.

10 Q A person in that position might claim that the camper
11 belonged to someone else?

12 Is that possible?

13 A Yes, sir, that's absolutely possible.

14 Q I mean if you're a police officer, they're not gonna
15 say yeah, I own it if they know it's stolen, right?

16 A (Witness nods affirmatively.)

17 Q A person, a person in that position might say that it
18 belongs to somebody else or that there's no keys or that the
19 person's hard to get in touch with?

20 All those things are something that somebody might tell
21 you, isn't it?

22 A It's possible, yes.

23 Q Let me ask you this.

24 If the camper were truly mine and Bill did not know it
25 was stolen, why wouldn't Bill have just had you call me?

Danny Shields - Cross-examination
by Mr. Tinsley

1 why wouldn't, why wouldn't he just say well, there's
2 James' number right on the side of it, why don't you call
3 him, you had your cell phone, you called him inside?

4 So, why wouldn't he have done that?

5 A I have no idea.

6 Q Is it possible that the reason that he wouldn't have
7 wanted you to call me is that if you asked me about the
8 camper I could of told you that it wasn't mine, that I
9 didn't have anything to do with it, that I was just thinking
10 about buying it from him, and that would of made you
11 suspicious of it?

12 A That is possible.

13 Q would you have immediately thought something was wrong
14 if Bill told you that he didn't own it and then you talked
15 to me and I told you that he did own it?

16 would that have made you suspicious?

17 A Absolutely.

18 Q And did you ever see this camper at my grandmother's in
19 Greenville?

20 A No, sir.

21 Q Okay. And, again, you, you never saw me around that
22 camper period?

23 A Never seen you before this trial.

24 MR. TINSLEY: No further questions. Thank you, sir.

25 THE COURT: Redirect.

Danny Shields - Redirect examination
by Solicitor Kendall

1 REDIRECT EXAMINATION

2 BY SOLICITOR KENDALL:

3 Q Whose name is written on the side of that camper?

4 A James Tinsley.

5 SOLICITOR KENDALL: No further questions, Your Honor.

6 THE COURT: Recross.

7 MR. TINSLEY: None, Your Honor.

8 THE COURT: You may step down.

9 Do you wish to excuse the witness?

10 SOLICITOR KENDALL: Yes, Your Honor.

11 THE COURT: Any objection?

12 MR. TINSLEY: No, Your Honor.

13 THE COURT: You're free to go if you'd like to go, sir.

14 WITNESS: Thank you.

15 THE COURT: You're free to stay if you'd like to stay.

16 WITNESS: Thank you.

17 THE COURT: All right. You may call your next witness.

18 SOLICITOR KENDALL: The State would call Mr. Tim Tucker
19 please.

20 THE COURT: Come forward to my left, sir, to be sworn.

21 TIM TUCKER, having been first duly
22 sworn, testified as follows:

23 THE COURT: Have a seat, please. Once you're seated,
24 state your name.

25 WITNESS: Tim Tucker.

Tim Tucker - Direct examination
by solicitor Kendall

1 THE COURT: Your witness, Mr. Kendall.

2 DIRECT EXAMINATION

3 BY SOLICITOR KENDALL:

4 Q Mr. Tucker, where are you employed?

5 A Spartanburg County Sheriff's Office.

6 Q And how long have you been employed there?

7 A Twenty years.

8 Q Mr. Tucker, did you ride out with Investigator Shields
9 at some point to look at a trailer?

10 A I did.

11 Q Do you recall when approximately that was?

12 A December. It's been about approximately four years
13 ago.

14 Q Okay. And where did you go look at this trailer?

15 A It's off of New Cut Road.

16 Q And what county is that located in?

17 A Spartanburg County.

18 Q I have put up State's Exhibit 8.

19 Do you recognize that, that trailer?

20 A That looks familiar. As that -- it looks familiar as
21 that camper.

22 Q And do you recognize this right here?

23 A I do.

24 Q And how are you able to recognize it?

25 A It was on the side of the camper that was sitting off

Tim Tucker - Direct examination
by Solicitor Kendall

1 of New Cut Road.

2 Q A moment ago you just heard Sergeant Shields testify
3 you were with him at that time.

4 Is everything he said, did you, correct?

5 A It is, sir.

6 Q As a result of this did you contact Officer White or
7 any of the other investigators in this case?

8 A Like I say, I think we were contacted---

9 Q Okay.

10 A ---by them later on.

11 SOLICITOR KENDALL: Okay. No further questions, Your
12 Honor.

13 THE COURT: Mr. Tinsley, your witness.

14 CROSS-EXAMINATION

15 BY MR. TINSLEY:

16 Q Are you aware that Bill Dotson lived at that location?

17 A I'm not.

18 Q It wasn't just a business?

19 A I'm not.

20 Q whose property was that camper on?

21 A I have no idea.

22 Q Was it at [REDACTED] South Welcome Road in Greenville?

23 A No. No, sir.

24 Q Have you ever seen my enclosed trailer?

25 A I have not.

Tim Tucker - Cross-examination
by Mr. Tinsley

1 Q Are you aware that it had identical stickers to the
2 ones that are on this trailer?

3 A No, sir.

4 Q Are you aware that Bill Dotson made the stickers that
5 went on both of those trailers?

6 A I'm not.

7 Q But you are aware that he had a sign and graphics
8 business where he does that type of work?

9 A When we, when we approached the building, I -- to be
10 honest with you, it was shut. I don't -- I couldn't tell
11 you what he done.

12 Q Wasn't there a sign out front that said---

13 A I don't recall that sign.

14 Q You don't recall?

15 A I don't recall that sign.

16 Q Okay. But you had nothing to add to what---

17 A I did not.

18 Q ---Danny Shields said?

19 A I do not, no, sir.

20 MR. TINSLEY: No further questions.

21 THE COURT: Redirect.

22 SOLICITOR KENDALL: I do just have one real quick
23 follow-up.

24 REDIRECT EXAMINATION

25 BY SOLICITOR KENDALL:

Tim Tucker - Redirect examination
by Solicitor Kendall

1 Q Did you guys ever go back to this place?

2 A I did not.

3 SOLICITOR KENDALL: Okay. We have nothing further for
4 this witness.

5 THE COURT: Do you wish to ask him any questions, Mr.
6 Tinsley?

7 MR. TINSLEY: No, Your Honor.

8 THE COURT: You may step down.

9 The State may call its next witness.

10 SOLICITOR KENDALL: The State would call Detective
11 Brian White.

12 THE COURT: Come forward, sir, to be sworn.

13 BRIAN WHITE, having been first duly
14 sworn, testified as follows:

15 THE COURT: Have a seat please, sir.

16 (Witness complies.)

17 THE COURT: State your name please.

18 WITNESS: Detective Brian White.

19 THE COURT: Mr. Kendall, your witness.

20 DIRECT EXAMINATION

21 BY SOLICITOR KENDALL:

22 Q Detective White, where are you currently employed?

23 A The Spartanburg County Sheriff's Office.

24 Q And how long have you been employed with the sheriff's
25 office?

Brian White - Direct examination
by Solicitor Kendall

1 A Nine years.

2 Q And have you been involved in the investigation of this
3 case?

4 A Yes, I have.

5 Q How did you become involved in the investigation of
6 this case?

7 A It was assigned to me after Hoilday Camper reported it.

8 Q Over the course of your investigation in this matter
9 did you ever have any contact with Sergeant Shields or
10 Officer Tucker?

11 A I did.

12 Q And what did they advise you of?

13 A They had told me that they went to a location,
14 Fairforest Road, and they looked at a trailer that was being
15 for, for sale, and it matched the description of the report,
16 the, the trailer or camper that was reported stolen.

17 Q About how long after they went to this, to this place
18 did you go check that out?

19 A Immediately.

20 Q About, about how many days would you say that was?

21 A It was within five days probably.

22 Q Was it in---

23 A Somewhere around in there. I can't remember exactly.

24 Q Was the camper there at that point?

25 A No, it wasn't.

Brian White - Direct examination
by Solicitor Kendall

1 Q So, the camper had been moved from that location?

2 A Yes.

3 Q Where's the next place you saw that camper?

4 A At Mr. Tinsley's grandmother's property.

5 Q I'm gonna put up State's Exhibit, State's Exhibit 6.

6 Do you recognize what's in this picture?

7 A Yes, sir.

8 Q And what is in this picture?

9 A That's the, the trailer from Hoilday Camper.

10 Q And how were you able to---

11 A The camper.

12 Q How are you able to tell that?

13 A Well, it matched the description that they provided us
14 when they reported it, and then it has some other
15 information that I obtained.

16 Q Looking at how -- looking at the side of that camper,
17 is what's in that picture an accurate description of what
18 you saw when you went out to James Tinsley's grandmother's
19 house?

20 A Yes.

21 Q And how do you know that?

22 A Because I was there when that picture was taken.

23 Q Okay. When you were looking at that camper, do you
24 recognize this?

25 A I do.

Brian White - Direct examination
by Solicitor Kendall

1 Q And how are you able to recognize that?

2 A Because I was told before going to the location where
3 this camper was found that these, these stickers had been
4 put on it.

5 Q But to be clear, when you got to James Tinsley's
6 grandmother's house, that sticker was on the back of the
7 R.V. or on the back of the camper?

8 A Yes, it was.

9 Q So, you can be fairly accurate that what's depicted in
10 these pictures is actually the camper that was at, that was
11 at James Tinsley's grandmother's house?

12 A Yes.

13 Q Did you have -- what kind of -- what aroused your
14 interest in the camper?

15 why did you, what did you go out to James Tinsley's
16 grandmother's house?

17 A Well, at the time Henry Beck received a phone call from
18 Mr. Tinsley's father explaining that he had a camper on his
19 property and that he would like for us to come and look at
20 it to check it out.

21 Q Do you know why he called and asked that?

22 A He thought it could be possibly stolen.

23 Q And when you got out and looked at that camper, did it
24 match any descriptions you previously had?

25 A Yes, it matched, it matched all the descriptions I was

Brian White - Direct examination
by Solicitor Kendall

1 told.

2 Q And what did you do with it once you, once you found
3 the camper?

4 who did you -- I mean did the Sheriff's Office keep the
5 camper?

6 A No, we called Holiday Camper and told them what we had
7 found, and they sent a representative and they identified
8 the camper. I released the camper to them.

9 SOLICITOR KENDALL: I've got no further questions, Your
10 Honor.

11 THE COURT: Your witness, Mr. Tinsley.

12 CROSS-EXAMINATION

13 BY MR. TINSLEY:

14 Q Detective, were you the lead investigator in this case?

15 A In this particular one, yes.

16 Q Did you interview the State's witnesses in this case?

17 A Yes.

18 Q What was the value of the camper stolen from Holiday
19 Camper?

20 A I believe it was around 20, 23,000, some, some dollars.

21 Q What about Bill Dotson, isn't it true that Bill denied
22 having anything to do with campers?

23 A Yes, when I spoke to Bill he, he denied having anything
24 to do with the---

25 Q Isn't it true that Bill claimed that, that this camper,

Brian White - Cross-examination
by Mr. Tinsley

1 that I brought the camper there and it just magically had
2 these stickers already on it when it arrived, that he didn't
3 make the stickers and put it on there?

4 A No, I believe he did tell me that he made the stickers
5 for you, and he had met you at a race, and you were in this
6 camper, and had those stickers on the camper at that time.
7 And then he said that you later came to his business and
8 lived in the camper.

9 Q Are you aware that I had a lot of property stored at
10 Bill's shop?

11 A No, I wasn't aware of what property you had there.

12 Q You never -- you or other detectives never went by
13 there to inquire on whether or not that property was stolen
14 because you had arrested me?

15 A What, what property are you referring to?

16 Q All the property that was removed from my house and
17 returned to me that was put in storage or stored at Bill's
18 shop.

19 A I, I was not involved in that investigation.

20 Q After my arrest did I file a complaint that Bill had
21 disappeared with all my property and asked you to try to
22 recover it or prosecute anyone?

23 SOLICITOR KENDALL: I'm gonna object, Your Honor, to
24 the relevance of what happened after this thing was
25 discovered involving somebody that's not here and has

Brian White - Cross-examination
by Mr. Tinsley

1 nothing to do with this.

2 THE COURT: Ladies and gentlemen of the jury, I'll ask
3 that you step back to the jury room. Don't begin any
4 discussions until I advise you to do so.

5 (WHEREUPON, the following takes place outside the
6 presence of the jury.)

7 THE COURT: Mr. Tinsley, can you tell me where we're
8 going on this?

9 MR. TINSLEY: The detective said that Bill testified
10 that he or told him that he had absolutely nothing to do
11 with the camper, and another witness is going to testify
12 that he saw Bill with the camper. I was about to ask the
13 detective that when he asked me where the camper came from,
14 didn't I tell him that I got it from Bill Dotson. So,
15 the---

16 THE COURT: Well, you were asking about what property
17 you had stored at Bill's place and whether or not---

18 MR. TINSLEY: Right.

19 THE COURT: ---Bill had taken it and whether you had
20 filed a police report or---

21 MR. TINSLEY: Well, my position, my position---

22 THE COURT: Let me finish.

23 MR. TINSLEY: Okay.

24 THE COURT: That's what I recall you were asking him
25 about at that time, and I'm not sure what other property you

Brian White - Cross-examination
by Mr. Tinsley

1 may of had or whether Bill took that property. He, he
2 objects to relevance and I guess I have a problem connecting
3 the dots. So, tell me how that connects up.

4 MR. TINSLEY: Well, basically I bought the camper from
5 Bill and my property was stored there at the shop, and Ben
6 and Bill were friends, and the property that I had recovered
7 from him ended up there at the shop along with other
8 property. After that break-in we removed the rest of my
9 property to his shop, everything I owned, about \$60,000
10 worth of stuff. And I get arrested and that very same day
11 Bill disappears with all my property.

12 And, so, I'm saying that Bill disappeared because he
13 knew that he had sold me the camper. And, so, he got scared
14 and he took that opportunity to, to steal my property and
15 disappear with it. And, so, I think it goes to show that,
16 you know, his involvement, that he's the one that had the
17 knowledge that it was stolen. Not me.

18 SOLICITOR KENDALL: I guess my problems with it, Your
19 Honor, will be, first off, that Mr. Dotson is not here and
20 not testifying. He essentially is impeaching someone who's
21 not going to testify, who lacks the ability to, to raise any
22 sort of response to this. I mean if this was us asking the
23 questions it would be a Crawford challenge pretty much
24 instantly.

25 Moreover, I'm not so certain that that's relevant, the

Brian White - Cross-examination
by Mr. Tinsley

1 fact that there was stuff there that got taken and Detective
2 White couldn't find it. I don't think it goes to anything
3 in this case. It involves somebody who's not here, hasn't
4 been charged with anything. He's essentially, again, using
5 specific conduct to try to, to challenge somebody, but in
6 this case it's even more absurd cause the person's not here.
7 It's, it's---

8 THE COURT: Well, is this witness gonna testify that he
9 looked for Bill and never was able to find him?

10 SOLICITOR KENDALL: Well, he got a statement from Mr.
11 Dotson. We just can't -- we, we -- I couldn't find him when
12 we tried to do subpoenas this time. But I don't even think
13 that that's -- I don't understand how that would possibly be
14 relevant to whether or not this trailer was stolen.

15 MR. TINSLEY: Yes, sir.

16 THE COURT: Well, the question, the questions,
17 sometimes in these cases, is not whether it was stolen or
18 whether somebody knew or should of known it was stolen.

19 SOLICITOR KENDALL: It was---

20 THE COURT: It might go to whether or not Mr. Dotson
21 knew it was stolen.

22 SOLICITOR KENDALL: Respectfully, Your Honor, I don't
23 understand how the location of Mr. Tinsley's stuff
24 establishes---

25 THE COURT: Well, I, I -- I'm not sure his stuff --

Brian White - Cross-examination
by Mr. Tinsley

1 whether or not Mr. Dotson can be found might indicate some
2 involvement. You know, that -- you can argue that flight
3 from a scene or flight from a location---

4 SOLICITOR KENDALL: And, and that---

5 THE COURT: ---is, is evidence that somebody might have
6 something to do with it.

7 SOLICITOR KENDALL: And, and that's fine, Your Honor.
8 I guess my point would be he was asking about what happened
9 to his stuff.

10 THE COURT: Well, I have a little problem with what
11 happened to his property. I'm gonna try to talk about that.
12 I'm -- do you follow the distinction?

13 I'm not sure whether or not your items disappeared or
14 not---

15 MR. TINSLEY: Well---

16 THE COURT: I'm not sure what that has to do with this.

17 MR. TINSLEY: Well, the question was did he, did I ask,
18 did I file a complaint asking him to investigate it, and
19 then he, of course, did not investigate it. And, so, I'm
20 saying also not only what we had just been discussing, how
21 it ties in that showing that Bill's the one that had
22 knowledge, and his flight indicates he did so. But it also
23 shows that the police kind of have a bias and motivation,
24 motivation because they didn't try to prosecute him or help
25 me get my property back because they were thinking at the

Brian White - Cross-examination
by Mr. Tinsley

1 time he was gonna be a witness against me in this case.

2 It's kind of twofold.

3 THE COURT: Well, I'm gonna allow you to ask about
4 Mr. Dotson's whereabouts, where he might of gone, that he
5 was, became unavailable.

6 MR. TINSLEY: But not whether or not he investigated
7 the case, that---

8 THE COURT: Well, he's already said that he didn't
9 investigate that case, didn't he?

10 MR. TINSLEY: I don't -- I think that was the question
11 he objected to. I didn't think -- I don't think he got that
12 far.

13 SOLICITOR KENDALL: I believe we were, we were on the
14 road and talking about what happened, investigating, Mr.
15 Tinsley filing reports, and Detective White to investigate
16 his stuff, and the loss of stuff and that's where my concern
17 was because we really can't try Bill Dotson here for, for
18 taking Mr. Tinsley's stuff.

19 THE COURT: Again, I'm going to let you get into the
20 fact that Mr. Dotson, about the time that the trailer was
21 recovered, disappeared and can't be found. Now, as to
22 whether or not you filed a police report, whether or not
23 he's been located for prosecution, I'm not sure what that
24 proves in this case.

25 Tell me again what that proves.

Brian White - Cross-examination
by Mr. Tinsley

1 MR. TINSLEY: I'm not sure, I'm not sure. I think that
2 the State's motive for, for, you know, I, it shows that they
3 were trying to protect one of their witnesses.

4 THE COURT: Well, is he available to be prosecuted?
5 Does anybody know where he is today?

6 MR. TINSLEY: No.

7 THE COURT: Okay.

8 MR. TINSLEY: But he did give a statement to---

9 THE COURT: Well, I know he gave a statement. But he
10 just short -- that was before the -- is that before the
11 thing was recovered, the thing, the trailer?

12 SOLICITOR KENDALL: I don't know the answer to that,
13 Your Honor.

14 MR. TINSLEY: I believe it was by a day or two.

15 THE COURT: All right. I'm, I'm thinking it was.

16 SOLICITOR KENDALL: He gave, he gave that statement on
17 12/6/2006. I believe, if I'm not mistaken, it happened on
18 12/7.

19 THE COURT: And this thing was recovered when?

20 SOLICITOR KENDALL: 12/13, yes, sir.

21 THE COURT: Now. So, I mean -- I'm not sure you can
22 have your cake and eat it too here. The guy -- if you're
23 saying he left because he was involved and knew it was
24 stolen, and then you're trying to hold it against the
25 prosecutor because they didn't prosecute him when nobody

Brian White - Cross-examination
by Mr. Tinsley

1 knows where he is, he's gone, I'm not sure -- the fact that
2 they don't prosecute somebody they can't find is not unusual
3 I wouldn't think.

4 MR. TINSLEY: Well, I wasn't asking if, really if they
5 prosecuted him. I was asking did I ask them to prosecute
6 him and did they try to locate because I'm trying to
7 demonstrate that he has disappeared.

8 THE COURT: Well, that's not what you told me a minute
9 ago. You shifted your argument just a little bit.

10 MR. TINSLEY: Well, I'm, I'm -- there's kind of two
11 arguments, and you got me all lost now. I'm not---

12 THE COURT: Well, I'm gonna let you get into the fact
13 that he gave a statement, and then when it was recovered
14 they haven't been able to locate him. And you can even --
15 I'll even let you ask whether you filed a claim that he took
16 some of your property when he left. I'll let you ask that.
17 But let's don't go any further. I don't understand --
18 unless you've got some evidence that the police know where
19 he is and can prosecute them and they're holding off and
20 hiding him somehow.

21 MR. TINSLEY: That's not what I'm trying to suggest.
22 I'm just trying to suggest that I---

23 THE COURT: Well, you referred to some nefarious---

24 MR. TINSLEY: ---that I have---

25 THE COURT: Well, you referred to some nefarious claim

Brian White - Cross-examination
by Mr. Tinsley

1 that the police were protecting him and didn't want to find
2 him or didn't want to prosecute him or something. I'm not
3 sure what---

4 MR. TINSLEY: Well, what I was---

5 THE COURT: ---what you were trying to say the police
6 were up to.

7 MR. TINSLEY: What I'm, what I'm suggesting is that I
8 had property there, he took it, the police know about it,
9 and that I'm not after -- and I complained about it wanting
10 them to try to get him and prosecute him and that I'm not,
11 after the fact, trying to blame it on Bill, you know, to get
12 out of this crime. I'm trying to show that---

13 THE COURT: I told you that I'd let you get into the
14 fact that you filed a claim.

15 MR. TINSLEY: ---at the time I immediately
16 contemporaneously---

17 THE COURT: But I don't know that we're going to go so
18 far as to say that's indicative of the fact that the police
19 have let the real bad guy go and are just, for some reason,
20 going after you. I don't know that I can go that far.

21 Do you follow what I'm saying?

22 MR. TINSLEY: Did I go that far?

23 THE COURT: Yeah, you indicated that.

24 MR. TINSLEY: Okay. Well, I think you understand
25 better than I do, and if I do something wrong, and if it's

Brian White - Cross-examination
by Mr. Tinsley

1 in---

2 THE COURT: Again, I'm gonna let you ask about his
3 disappearance.

4 MR. TINSLEY: Right.

5 THE COURT: That they haven't been able to talk to him
6 since then, that they haven't been able to subpoena him
7 since then. I don't have any problem with you asking about
8 that, and I don't have any problem with saying that you're
9 asking him if he's aware that you filed a complaint that the
10 gentleman left with some of your property. But other than
11 that, we're -- I think that's as far as I'm gonna let you go
12 on that point unless there's something more to it, and I
13 don't hear any more to it.

14 All right. Do you understand where we are?

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

16 THE COURT: Okay. Well, let's, let's move you then.
17 Bring the jury in.

18 (WHEREUPON, the following takes place within the
19 presence of the jury.)

20 THE COURT: Mr. Tinsley, you may continue with your
21 examination or cross-examination.

22 CONTINUED CROSS-EXAMINATION

23 BY MR. TINSLEY:

24 Q Again, after my arrest, did Bill disappear with some
25 property that was stored at his shop?

Brian White - Cross-examination
by Mr. Tinsley

1 A I don't know what property you're referring to.

2 Q Well, did he come up missing or disappear and no, no
3 longer anybody's able to find him?

4 A As far as I know we have not been able to locate him.

5 Q Did I file a complaint asking that someone try to find
6 him and locate my property?

7 A We've been trying to find him and I explained to you
8 that I don't, I don't know what property you're talking
9 about.

10 Q I, I understand that you may not know every item. I
11 understand that. I'm just, in general, I'm claiming to you
12 that I have property there that I said you may not be able
13 to substantiate that, but I claimed, in a sworn statement to
14 the police, the Sheriff's Office, that I had property there,
15 such as an enclosed trailer, and other items like that, and
16 go-cart equipment and stuff like that and property from my
17 house, and that, the day that I was arrested it all
18 disappeared and, and Bill did too, and that I filed a
19 complaint asking the Sheriff's Office, under oath, I filed a
20 complaint asking y'all to try to locate him and locate my
21 property.

22 A I don't understand the question.

23 Are you asking me---

24 Q Did I file a complaint?

25 A I don't know. I, I never got that complaint to

Brian White - Cross-examination
by Mr. Tinsley

1 investigate.

2 Q Did I send you a certified legal letter asking you to
3 prosecute him?

4 A I don't remember it, but we have not been able to find
5 Bill Dotson, again, to even be able to question him or I
6 don't, I don't know where he is.

7 Q For subpoena for this trial or anything you haven't
8 been able to find him?

9 Is that what you're saying basically?

10 A Yeah, I don't know where he is.

11 Q Okay. I accept that.

12 When, when you first interviewed me, did you ask me
13 where I had obtained a camper that was at my grandmother's?

14 A You're talking about me personally, the first time you
15 were interviewed?

16 When I, when I first interviewed---

17 Q The first time you asked me about this camper. It may
18 not of been the first time you talked to me, but the first
19 time you asked me about this particular camper, did you ask
20 me where I had obtained it?

21 A Yeah.

22 Q And did I not tell you and did you not put in your
23 police report that I told you that I had traded my enclosed
24 trailer in to Bill Dotson for that camper?

25 A You did, and I, I asked about bill of sales and stuff

Brian White - Cross-examination
by Mr. Tinsley

1 too.

2 Q Okay. And, and did I tell you that Bill had not yet
3 gave me the bill of sale because I had not paid him the
4 other \$10,000?

5 A At, at the first time we talked, no.

6 Q But later I did, I explained that I had sold my
7 machine?

8 A No.

9 Q You don't recall that?

10 A No, not about machines.

11 Q When I told you that I had gotten it from Bill, you
12 didn't believe me though, did you?

13 A I didn't know what to believe. I, I just asked the
14 question. We were in a preliminary stage of the
15 investigation at that point, and there was a lot further
16 investigation that needed to be done, and I, I'd asked you
17 and you told me that you had traded an old trailer for it.
18 Q Did you investigate Bill as a possible suspect with the
19 theft of the camper since I told you that I had obtained it
20 from him?

21 A I haven't been able to talk to Bill.

22 Q So, he just disappeared in your -- and you have no idea
23 what he would say about this?

24 A Well, last time I talked to Bill I believe it was
25 before we talked to you, and he had mentioned something

Brian White - Cross-examination
by Mr. Tinsley

1 going to his sister's house or something like that, and that
2 was, that was the last time I had any contact with Bill.

3 Q Did you happen, since he just disappeared and I was
4 telling you that I had obtained it from him, did you happen
5 to just investigate his criminal record?

6 A I can't, I can't remember if I, what his criminal
7 record is though.

8 Q Might it be just grand larcenies and receiving stolen
9 goods?

10 SOLICITOR KENDALL: Objection.

11 THE COURT: Ladies and gentlemen of the jury, at this
12 time I'll ask you to step back to the jury room. Don't
13 begin your discussions until I advise you to do so.

14 (WHEREUPON, the following takes place outside the
15 presence of the jury.)

16 SOLICITOR KENDALL: Your Honor, first off, I don't
17 believe that he can testify to this. Second off, Detective
18 White can't testify to what his criminal history was.
19 Third, I'm not so sure what he -- he's now impeaching
20 somebody who's not here using a criminal history, which I'm
21 pretty sure you can't do. I don't believe this is
22 admissible. I don't think this is the individual that would
23 make it admissible even assuming it could be. He's
24 essentially testifying as to what he thinks Mr. Dotson's
25 criminal history is, and asking Detective White to say yes.

Brian White - Cross-examination
by Mr. Tinsley

1 THE COURT: Mr. Tinsley.

2 MR. TINSLEY: I'm not really trying to attack Bill
3 Dotson's criminal record. I'm basically trying to
4 demonstrate that the police didn't do a very good job of
5 investigating the, the case. That's the point that I'm
6 trying to make. Had they investigated the case more---

7 THE COURT: Well, you asked him whether or not he was
8 aware of his criminal record and he said he wasn't sure.

9 MR. TINSLEY: That's true, Your Honor.

10 THE COURT: Then you started asking about specific,
11 specific charges. If he does, not sure of his record, then
12 what was the purpose of the next question?

13 MR. TINSLEY: I guess I don't know, Your Honor.

14 THE COURT: Well, I think it's what the solicitor just
15 said. You're trying to impeach someone who's not here, not
16 even testifying.

17 MR. TINSLEY: Okay, Your Honor.

18 THE COURT: Do you follow what I'm saying?

19 MR. TINSLEY: Yes, Your Honor.

20 May I ask her a question?

21 THE COURT: Certainly.

22 (Pause.)

23 MR. TINSLEY: All right.

24 THE COURT: So, I'm going to strike the last question
25 and ask the jury to disregard it. Again, this witness says

Brian White - Cross-examination
by Mr. Tinsley

1 he's unaware of that particular individual's criminal
2 record. Anything after that would be speculation on his
3 part.

4 MR. TINSLEY: Right. I understand.

5 THE COURT: I don't allow him -- I would not allow him
6 to speculate, and I don't believe that record is even
7 admissible at this point in time for any other purpose that
8 I'm aware of. So, I'm gonna -- I assume you would like for
9 that to be stricken---

10 SOLICITOR KENDALL: Yes, sir, Your Honor.

11 THE COURT: ---in this regard?

12 All right. We'll take about a five minute break.
13 We've been going for a while. Court will be in recess for
14 that length of time.

15 You can step down. Don't discuss your testimony with
16 anyone during the break.

17 WITNESS: Thank you, Your Honor.

18 THE COURT: Thank you.

19 (WHEREUPON, a short recess was taken at this time.)

20 THE COURT: Bring the jury in.

21 (WHEREUPON, the following takes place within the
22 presence of the jury.)

23 THE COURT: All right. The record will reflect that
24 the jury has returned to the jury room.

25 You may proceed.

Brian White - Cross-examination
by Mr. Tinsley

1 CONTINUED CROSS-EXAMINATION

2 BY MR. TINSLEY:

3 Q Isn't it true that, following notification that I had
4 been charged with this crime, that I came down to the police
5 station and turned myself in?

6 A Yes.

7 Q Isn't it true that I gave you the name of Danny
8 McKeenan and his, and his phone number and told you that you
9 should contact him, that he may have some relevant
10 information?

11 A I don't remember that specifically.

12 Q Do you remember you or any other detective contacting
13 Danny and talking to him on the phone?

14 A I don't, I don't remember it.

15 Q Okay. Isn't it true that you were not present at
16 Holiday Camper on the night the camper was stolen?

17 A Yes.

18 Q So, you did not witness a camper theft?

19 A No.

20 Q Isn't it true that you had no firsthand knowledge as to
21 who stole the camper?

22 A Yes.

23 Q And you said you're the lead investigator in the case?

24 A Yes.

25 Q And you interviewed the State's witnesses in this case?

Brian White - Cross-examination
by Mr. Tinsley

1 A I did.

2 Q You talked to them in detail?

3 A I did.

4 Q Which witnesses claim to have been present when the
5 camper was stolen?

6 A None.

7 Q None.

8 So, no one saw the camper being stolen?

9 A No.

10 Q No one has firsthand knowledge of who stole the camper?

11 A What do you mean?

12 Q That they saw somebody stealing it.

13 A No one I talked to saw the camper being stolen from the
14 location it was stolen from.

15 Q Isn't it possible that I could of stolen the camper
16 myself?

17 A It is possible.

18 Q I mean the camper was at my grandmother's in
19 Greenville, is that not correct?

20 A It is.

21 Q Isn't it true that the possession of stolen goods
22 raises an inference that the possessor is a thief?

23 A That if you possess it?

24 Q Uh-huh. (Affirmative).

25 A That you're a thief?

Brian White - Cross-examination
by Mr. Tinsley

1 Q If you possess it it raises an interference or
2 presumption that the possessor is a thief?

3 A Well, that's why I investigate it further.

4 Q But you're saying I could have stolen it myself?

5 A Yes, you could of.

6 Q After my arrest isn't it true that you or other
7 detectives -- well, I done asked you that, didn't I?

8 The fact -- were you aware or any of the other
9 detectives that you've spoken to, did any of you discuss or
10 were you aware that, of, of the friction and the things that
11 was going on between me and Ben Lindler?

12 A I wasn't -- when I spoke to Ben Lindler, I never, I
13 never spoke to him or he never told me about any friction at
14 the time. We never discussed that.

15 Q You never, you never discussed the fact that he had---

16 A We discussed a lot, but we never -- I never discussed
17 that he had friction with you about a car or anything. I
18 don't, I never---

19 Q Or property or anything?

20 A (Witness nods negatively.)

21 Q And you never read that in the police reports or
22 anything?

23 A I, I became aware of another incident, but I was not
24 investigating that incident. I was investigating this
25 camper incident.

Brian White - Cross-examination
by Mr. Tinsley

1 Q But you, you, you did, at some point, see it in the
2 records or police reports or something, some mention, maybe
3 you read his statement or something, that told you that
4 there was friction between us?

5 A Eventually I, I had---

6 Q Did you -- go ahead if you're not finished.

7 A Yeah, eventually, yes, I did.

8 Q Did you or the other detectives ever consider that that
9 might be a motivation or bias as to, to implicate me or say
10 something towards me?

11 Did you ever look into or consider that?

12 A No, I never considered it a bias. I simply asked him
13 to tell me the truth and what he knew about this incident---

14 Q Well---

15 A ---and he, and he did.

16 Q Were you aware that he had given previous false
17 statements to the police?

18 A He to -- I was aware that he had given statements to
19 the police and, and corrected statements and told the truth
20 about an incident that he had filed with another law
21 enforcement agency.

22 Q Isn't it true that he only corrected that mistake after
23 he got caught?

24 A I, I, I don't know. I wasn't directly involved in that
25 investigation. So, it -- I, I really don't know those

Brian White - Cross-examination
by Mr. Tinsley

1 details.

2 Q Okay. Thank you. No further questions.

3 THE COURT: Redirect.

4 SOLICITOR KENDALL: I've got nothing further, Your
5 Honor.

6 THE COURT: You may step down.

7 The State may call its next witness.

8 SOLICITOR KENDALL: Your Honor, may I ask that, that
9 any of the witnesses that are gone may be excused?

10 THE COURT: Any objection to any of the witnesses who
11 have already testified leaving?

12 MR. TINSLEY: I do not, Your Honor.

13 THE COURT: Okay. They're free to go if they'd like.

14 SOLICITOR KENDALL: At this time we call Detective
15 Beck.

16 THE COURT: Come forward, sir, to my left to be sworn.

17 HENRY BECK, having been first duly
18 sworn, testified as follows:

19 THE COURT: Sir, have a seat in the witness stand.

20 Once seated, state your name for the record please.

21 WITNESS: I'm Henry Beck.

22 THE COURT: Your witness, Mr. Kendall.

23 DIRECT EXAMINATION

24 BY SOLICITOR KENDALL:

25 Q Mr. Beck, what do you do for a living?

Henry Beck - Direct examination
By Solicitor Kendall

1 A I'm currently employed at the Spartanburg County
2 Sheriff's Office. At this time, to the narcotics unit for
3 the last four years.

4 Q How long have you been employed with the Sheriff's
5 office?

6 A Nine years, about nine and a half.

7 Q In late 2006, where were you working?

8 A I was assigned to the property crimes division. I was
9 working burglaries, larcenies, things of that nature.

10 Q And were you investigating this case?

11 A Yes, I was assisting Investigator White with the thefts
12 of several campers in Spartanburg County.

13 Q And over the course of your investigation did you get a
14 call from Mr. James Tinsley, Senior?

15 A I did.

16 Q And what was the content of that call?

17 what did he, what did he ask you then or tell you?

18 A Mr. Tinsley, Senior got a phone call, obtained my phone
19 number, and gave me a phone call informing me that there was
20 a camper on his property in Greenville that he thought we
21 needed to come look at. Possibility that it could be
22 stolen. He wasn't sure. But he just wanted us to come and
23 check it out.

24 Q And do you recall -- after, after -- did you, did you
25 go out and check it out?

Henry Beck - Direct examination
By Solicitor Kendall

1 A Yes, we did. On -- I got the phone call on December
2 the 12th of 2006 from Mr. Tinsley, Senior. Made
3 arrangements to go out to his residence on December the
4 13th, 2006, and on December the 13th, 2006, Investigator
5 White and I went out there and looked at the camper.

6 Q I'm gonna show you what's been marked as State's
7 Exhibit 8.

8 Do you recognize what is in this picture?

9 A Yes, that is the camper that we located on the property
10 of Mr. Tinsley, Senior. I believe it was actually on his,
11 his mother's lot in the Welcome Community of Greenville.

12 Q And I'll offer you this as State's Exhibit No. 4.

13 Do you recognize that?

14 A Yes, that is where the stickers that have been placed
15 on the camper with Mr. Tinsley, Tinsley's, the defendant's
16 name, and I guess his race car number and go-carts.

17 Q And after you went out there, did you release this
18 property to anyone?

19 A We did. We contacted the Holiday Camper and they sent
20 a representative out, identified it as being the camper that
21 they had reported stolen back in October of 2006, and they
22 towed it off with a truck that they have that tows campers.

23 Q Now, while you were out there or shortly thereafter,
24 you took a statement from James Tinsley, Senior, correct?

25 A Yes, either me or Detective---

Henry Beck - Direct examination
By Solicitor Kendall

1 Q Or, or witnessed it anyway?

2 A Either me or Detective White took one.

3 Q In any event, you've heard or are you familiar with
4 that statement?

5 A Yes.

6 Q And when did he say his son dropped off that trailer?

7 A December the 2nd of 2006.

8 Q So, December 2nd, 2006, dropped off. Picked up
9 December 13th, 2006.

10 A Yes.

11 Q Did you have any interaction with Mr. Tinsley anytime
12 between those two points?

13 A Mr. Tinsley, the defendant, I conducted an interview
14 with him at the Spartanburg County Sheriff's Office on
15 December the 5th of 2006.

16 Q December 5th.

17 Now, during that interview, did you ask about campers?

18 A I did.

19 Q And did you inquire if he knew anything about any of
20 the campers at Bill Dotson's?

21 A I did. The only information that he gave me about any
22 campers at Bill Dotson's was that he had seen them there.

23 Q Did he ever mention to you that he had purchased a
24 trailer or a camper from Mr. Dotson?

25 A The only thing he told me that he purchased from Bill

Henry Beck - Direct examination
By Solicitor Kendall

1 Dotson was a go-cart. He never mentioned to me that he
2 purchased a camper from Mr. Dotson or that he had one stored
3 at any location.

4 Q Was there any talk at that time of some sort of a
5 camper swap?

6 A No, sir, he never mentioned the, about any trading of
7 campers or trailers.

8 Q So, the statement he gave you on what was December 7th?

9 A It was December the 5th.

10 Q I'm sorry. December---

11 A December the 5th.

12 Q December 5th was that he had no idea and nothing to do
13 with any of the campers at Bill Dotson's?

14 A Correct.

15 Q But that his father had told you he had actually moved
16 one of, his camper to his house on December 2nd, 2006?

17 A Yes.

18 SOLICITOR KENDALL: May I approach the witness, Your
19 Honor?

20 THE COURT: You may.

21 Q Now, you also were a witness to a statement given by
22 Bill Dotson, isn't that correct?

23 A I was.

24 Q And I don't want to go into the content from -- you
25 can't.

Henry Beck - Direct examination
By Solicitor Kendall

1 But what is the date on there?

2 A December the 6th---

3 Q December the 6th.

4 A ---of 2006.

5 Q So, on December 2nd, the trailer shows up at dad's
6 house, correct?

7 A Yes.

8 Q December 6th, Bill Dotson's still in town because he's
9 given this?

10 A Yes.

11 Q And how many days is that between?

12 A Between?

13 Q Between the 2nd and the 6th.

14 A Oh, one or not even quite a day.

15 Q Between the 2nd and the 6th. I'm sorry.

16 A I'm sorry. I'm not a math major. Four.

17 Q And right around that time Mr. Tinsley gave you a
18 statement that he didn't know anything about these trailers
19 or anything about these campers?

20 I'm sorry.

21 A Correct.

22 SOLICITOR KENDALL: I've got no further questions, Your
23 Honor.

24 THE COURT: Mr. Tinsley.

25 CROSS-EXAMINATION

Henry Beck - Cross-examination
by Mr. Tinsley

1 BY MR. TINSLEY:

2 Q What day was it that you interviewed me?

3 A December the 5th.

4 Q Okay. You were not interviewing me or questioning me
5 about this particular camper at that time, were you?

6 A I was interviewing you about any and all stolen campers
7 that you may know of because we were investigating the theft
8 of multiple campers.

9 Q Did you -- did you not tell me that three campers had
10 been recovered in North Carolina?

11 A There had been one recovered in North Carolina, and two
12 recovered in Spartanburg County not counting the one we
13 recovered at your grandmother's house.

14 Q Not including that one?

15 A Correct. Not including that one.

16 Q All right. And did you not, did you not tell me that
17 those campers, that somebody had reported seeing those
18 campers, not including this one, the three others that you
19 were investigating at that time, that somebody said that
20 they had seen them at Bill's shop?

21 A I -- well, no, cause one of them was an R.V. and, and I
22 know that you told me that you saw three campers at Bill
23 Dotson's, but I don't remember telling you about anybody
24 else telling me that they saw other campers at Bill Dotson's
25 other than you if that makes sense.

Henry Beck - Cross-examination
by Mr. Tinsley

1 Q I'm not referring to an R.V. I understand you may of
2 been investigating that as well. I'm referring to three
3 campers that had been recovered at the time you talked to
4 me, is that right?

5 A The only campers that I remember being recovered when I
6 interviewed you were two that had been recovered in
7 Spartanburg County, and then an R.V. cause you asked me
8 about the campers being recovered in North Carolina. The
9 only camper that I remember being recovered in North
10 Carolina was an R.V.

11 Q I thought you learned about this from a North Carolina
12 investigator that they had informed you that they had
13 recovered campers in Marion, North Carolina or something
14 like that?

15 A I think that that came after I interviewed you, but I
16 do remember I was contacted by Hendersonville Town, County
17 North Carolina, the deputies, and they were requesting our
18 assistance because of information they had about two stolen
19 campers from North Carolina being stored in Spartanburg. I
20 don't remember specifically the three campers in Marion
21 County.

22 Q When you interviewed me, you were questioning me about
23 three stolen campers. You asked me specifically did I know
24 anything about any stolen campers that may of been at Bill
25 Dotson's shop.

Henry Beck - Cross-examination
by Mr. Tinsley

1 A And you said no, you had only -- you saw three campers
2 at Bill Dotson's house and that's all you knew about them.

3 Q That's correct.

4 You said I never mentioned to the police of any kind of
5 swap of, between me and Bill for my enclosed trailer, but
6 did you hear Detective White testify earlier that, and that
7 have you seen in the police reports where it actually says
8 that I did tell him and he says that I did tell him that I
9 had traded the camper, an enclosed trailer in on the, on the
10 camper?

11 A You asked me if you told me that on December the
12 5th, and on December the 5th, you never mentioned any deals
13 between you and Bill Dotson and campers. You only mentioned
14 three campers that you saw at Bill Dotson's house, shop or
15 whatever.

16 Q I'm not asking if I told you. I'm asking if I told the
17 police meaning anybody else.

18 A I believe, from what Investigator White testified to,
19 you told him that at some point after I interviewed.

20 Q And it's in the police reports, is it not?

21 A If he testified to it I guess it is.

22 MR. TINSLEY: No further questions.

23 THE COURT: Anything further?

24 SOLICITOR KENDALL: Nothing further, Your Honor.

25 THE COURT: You may step down.

1 The State may call its next witness.

2 SOLICITOR KENDALL: State has no witnesses, Your Honor.

3 The State rests.

4 THE COURT: All right. Ladies and gentlemen, that
5 completes the presentation of evidence by the State. At this
6 time I have to take up some matters with the attorneys
7 before we proceed in this matter and the defendant and I
8 also note that we're at fifteen minutes till 5:00.

9 So, I'm going to release you for the evening. I will
10 tell you, as I will everytime you leave the courthouse, not
11 to try to gather any information from any source. Don't
12 listen to, watch, or read any media reports. Don't discuss
13 the case with anyone and don't allow anyone to discuss the
14 case with you.

15 I'll ask that you be back in the jury room in the
16 morning at nine o'clock. The one that's in use for this
17 trial. We should be in a position to begin shortly
18 thereafter. You're free to go for the evening. Thank you
19 very much.

20 (WHEREUPON, the following takes place outside the
21 presence of the jury.)

22 THE COURT: All right. Any motions from the defense?

23 MR. TINSLEY: I do have some, Your Honor.

24 Could I have a few minutes to talk to the attorney
25 about it or do it in the morning?

1 Is that possible?

2 THE COURT: I'll let you talk with her right now for a
3 couple of moments.

4 (Pause.)

5 MR. TINSLEY: Well, Your Honor, I have a couple of
6 directed verdict motions on different reasons.

7 THE COURT: I'll hear from you.

8 MR. TINSLEY: I would move for a directed verdict on
9 acquittal, of acquittal. Taking the evidence in a light
10 most favorable to the State, I think the State has failed to
11 establish that the goods were received from somebody else
12 who stole them. The detective testified that I could have
13 stolen the camper myself, and I believe that in State versus
14 Dewitt, South Carolina established that the recent
15 possession of stolen goods raises a presumption that the
16 possessor is the thief. I believe the State could have and
17 should have charged me also with larceny. Instead they
18 opted to indict me for receiving stolen goods, and having
19 chosen to charge me for receiving stolen goods, the State
20 would then be required to prove that the goods were received
21 from someone else who stole them.

22 All the witnesses testified that they weren't present
23 when anything was stolen or, excuse me, when anything was
24 stolen or when it was received. So, the State's been unable
25 to establish that I was not the thief, and under State

1 versus Hamilton, where a larceny's been committed, the
2 principal thief, that is the one who is guilty of the actual
3 capture and asportation, can not be adjudged guilty of
4 criminally receiving the thing stolen for the reason that he
5 can not receive from himself.

6 It is sometimes argued that the State was amended in
7 1993, and that one can be convicted, but in State versus
8 McNeil, the Court extended that principle to the possession
9 of stolen goods in general, and held that while one may be
10 the possessor, he is also the taker, not the receiver, and
11 thus, in the Court's eyes, it is how the item came to be in
12 the defendant's possession is paramount. The focus of the
13 statute is that the goods must have been stolen and the
14 larceny complete at the time the accused bought them,
15 received them, or possessed them. One guilty of larceny can
16 not be convicted of receiving or possessing goods he stole
17 himself.

18 I would also suggest that in Ulford County, Court
19 versus Allen, the Supreme Court addressed the question of
20 when a jury may infer an element of the crime based upon one
21 or more evidentiary or basic facts. The Court noted that
22 this is a different question than that involving Jackson
23 versus Virginia. The Courts have held that in some cases a
24 permissive inference might be invalid even though there is
25 sufficient evidence otherwise to uphold the verdict.

1 The presumption or inference is irrational and
2 arbitrary and hence unconstitutional unless the presumed
3 fact is more likely than not to flow from the proof of fact
4 on which it is made to depend. If the evidence gives an
5 equal or nearly equal circumstantial support to a theory of
6 guilt and a theory of innocence, then a reasonable doubt
7 must necessarily entertain or, entertain a reasonable doubt.

8 In this case, as I've, as I've already mentioned, the
9 doctrine of recent possession raises a presumption that the
10 possessor is a thief, and the law in South Carolina is that,
11 is unique in that it prevents a defendant who is guilty of
12 the theft of stolen goods from being convicted of receiving
13 stolen goods. Therefore, the presumption of guilt that
14 arises from the recent possession of stolen goods points
15 equally to a theory that I am a thief and equally to a
16 theory that I have knowledge of the goods stolen character
17 and thus points equally to both guilt and innocence of the
18 indicted charge.

19 It can not be said that it is more likely than not that
20 I am the receiver rather than the thief since no one was
21 present when it was stolen and since no one was present when
22 it was received. And I believe that because there's an
23 equal inference to be drawn from that that it would be
24 arbitrary and unconstitutional and prevents the case from
25 being submitted to the jury

1 THE COURT: I'll hear from the State.

2 SOLICITOR KENDALL: I believe this issue was raised
3 almost identically in State versus Tinsley in Oconee County.
4 In talking to those guys I believe the judge there said no,
5 on the basis that as I'm not so sure there is an inference
6 of theft anymore from the fact that he possessed the stolen
7 goods. I don't think he realized the presumption of theft.
8 I think that's incorrect. Moreover, the statute does
9 provide possession is a valid point.

10 In this instance we have shown that Mr. Tinsley -- we
11 have heard the testimony from Mr. Lindler in a light taken,
12 in the light most favorable to the State that he had
13 somebody else steal it for them. It showed up again. Those
14 individuals showed up at Mr. Tinsley's house. That property
15 showed up again at Mr. Dotson's place of business here in
16 Spartanburg County. Based on that, looking in a light most
17 favorable, we think there's plenty to go to the Court.

18 THE COURT: Motion's denied.

19 MR. TINSLEY: We also move for directed verdict, Your
20 Honor, on the ground that there's insufficient evidence.
21 The, the State hasn't been able to show really that I
22 possessed the camper. Everyone who saw it in Spartanburg at
23 Bill's shop said they never saw me there, that it was only
24 Bill. It was on his property. Even if I did go to his
25 property, that doesn't mean that I have dominion, dominion

1 and control over the camper. Others had equal access to it.
2 I don't believe that they, anybody showed that I had
3 exclusive control over it.

4 The -- it was parked out back of Bill Dotson's shop.
5 Bill Lindler says he was probably at work when it was
6 received and when it was stolen. So, he doesn't, can't
7 really say either way where it was received, by whom it was
8 received, in what county it, it was received, under what
9 circumstances or information was given to whoever received
10 it, and no one else has been able to verify that for the
11 State either. And even if I did ask Ben to steal a camper
12 for me a year prior to this camper being stolen, that
13 doesn't mean that I would of known that this camper was
14 stolen.

15 So, I, I believe the State is attempting to stack
16 inferences on top of inferences, and I believe, in State
17 versus Gunn, they said the State can not do that. They're
18 trying to infer that I possessed the camper because I was
19 merely present at Bill Dotson's shop on occasion or because
20 it had stickers on it, that I must had dominion and control
21 on it, over it, and then on top of that they're sticking,
22 they're drawing inferences that I must of known it was
23 stolen based upon that alleged possession, which I don't
24 even think that they've established in Spartanburg.

25 THE COURT: Yes, sir.

1 SOLICITOR KENDALL: Your Honor, I believe we
2 established that the camper was found in Mr. Tinsley's
3 grandmother's home, in fact, belonged to Holiday Camper. At
4 that time we heard testimony from his father who testified
5 his son brought it there. You heard the testimony of two
6 police officers who said they saw it here in Spartanburg
7 County parked at Bill Dotson's house. On top of that, that
8 certainly was Mr. Tinsley's name written on the side of the
9 camper. In a light taken most favorable to the State, I
10 think that's sufficient evidence to move forward in this
11 matter.

12 THE COURT: Anything further on that point?

13 MR. TINSLEY: I may have. The fact, the fact that it
14 was at my grand, grandmother's house is in a different
15 county. That doesn't mean that they showed that I possessed
16 it in Spartanburg. When it was at, in Spartanburg, if it
17 was the same camper, it was -- no one ever saw me in
18 possession of it there. No one says that James was there.
19 He had the keys to it. He opened the door in it, in
20 Spartanburg or any, any of that. And, and, and, again, they
21 still haven't established where it was received.

22 Receiving does not follow a person from county to
23 county the way larceny does. And, so, they've been unable
24 to say where it was received. It may have been received
25 somewhere else and taken to Spartanburg by whoever. Whether

1 it was me or somebody else, they haven't been able to
2 establish where it was received, when it was received, by
3 who it was received.

4 All of those things, the indictment requires them to
5 establish, and I do not believe that they've done that.
6 It's just -- the State's case is based on pure speculation
7 and conjecture, the mere suspicion of guilt, which is
8 insufficient, as a matter of law, to submit the case to the
9 jury.

10 THE COURT: Anything further?

11 SOLICITOR KENDALL: Again, Your Honor, we were able to
12 track that trailer from Spartanburg County to Bill Dotson's
13 shop. We know it was stolen from Spartanburg County. We
14 have the guise that somebody requested him to steal it from
15 Spartanburg County and it turned up in Mr. Tinsley's or
16 Mr. Dotson's shop. I think that gives a strong rise, the
17 very strong inference that property was possessed, at a bare
18 minimum, within the confines of Spartanburg County. We also
19 know that Mr. Tinsley moved that piece of property from Mr.
20 Dotson's shop to grandma's house in Greenville County.

21 THE COURT: Well, how do we know that---

22 SOLICITOR KENDALL: On top of that---

23 THE COURT: How do we know that he moved it from that
24 location to grandmother's house?

25 SOLICITOR KENDALL: Well, we certainly know that he

1 moved it, Your Honor. In fact, we know when it was last
2 seen there and we know that Mr. Tinsley was moving it. I
3 think that is a very strong inference that Mr. Tinsley did,
4 in fact, receive that property or possess that property in
5 Spartanburg County. He also---

6 THE COURT: Well, now, when it was at Mr. Dotson's shop
7 it had the stickers on it that indicated---

8 SOLICITOR KENDALL: Yes, sir.

9 THE COURT: ---Tinsley's Racing---

10 SOLICITOR KENDALL: Yes, sir.

11 THE COURT: ---Team and it was believed the gentleman
12 approached Mr. Dotson about purchasing it, and he said it
13 has already been told, sold or was spoken for---

14 SOLICITOR KENDALL: Yes, sir, that's right.

15 THE COURT: ---at that point in time?

16 SOLICITOR KENDALL: And here's -- I'm going to part
17 with it without talking to Mr. Tinsley first. I think that
18 shows some sort of control over that, over that property.

19 THE COURT: What about that, Mr. Tinsley?

20 MR. TINSLEY: Again, again, Your Honor, it's stacking
21 inferences upon inferences. And, and even if it wasn't
22 Bill's, as you pointed out, no one has said that I came to
23 that location, and, in fact, I didn't. But as far as the
24 evidence is concerned in this case, no one was able to say
25 that I came to that location and moved it to my

1 grandmother's. So, there's -- the, the fact that it had
2 stickers on it even in, in Spartanburg doesn't mean that I
3 possessed it. That's stacking inferences on inferences.

4 THE COURT: Well, now, what I said though is when the
5 gentleman approached Bill about purchasing it, he said he
6 couldn't do that unless he talked to you.

7 MR. TINSLEY: That's true. I---

8 THE COURT: Isn't that the evidence that's in the case?

9 MR. TINSLEY: I believe so. But I believe that---

10 THE COURT: Denied. Denied.

11 Any other motions?

12 MR. TINSLEY: Directed verdict based on the, the venue
13 issue, Your Honor.

14 THE COURT: I just ruled on that, that, that, that
15 there was evidence in the record that indicated that you
16 have had control or possession, effective control of the
17 camper while it was in Spartanburg County.

18 MR. TINSLEY: Okay. Your Honor.

19 THE COURT: I don't weigh the sufficiency of the
20 evidence. I just determine if there is evidence.

21 MR. TINSLEY: I understand. But I, I -- never mind.

22 THE COURT: Now, Mr. Tinsley, have -- I need to discuss
23 with you your situation concerning your own testimony in
24 this case.

25 MR. TINSLEY: Yes, Your Honor.

1 THE COURT: Please swear the defendant for me.

2 (WHEREUPON, the defendant was placed under oath at this
3 time.)

4 THE COURT: You can be seated, Mr. Tinsley.

5 At this time I'm going to explain to you certain of
6 your Constitutional rights. If you do not understand my
7 explanation, when I finish, I'll give you an opportunity to
8 ask any questions you'd like to ask.

9 As you're aware, we've reached the stage of the trial
10 where you have the right to present a defense. You also
11 have the right to claim the protections which are given to
12 you under the Fifth Amendment to the United States
13 Constitution. That amendment reads, in part, that no person
14 shall be compelled, in any criminal case, to be a witness
15 against himself. The meaning of that phrase is that you can
16 not be required to testify in this case. You have the right
17 to do so. However, no one can make you testify. This --
18 it's a personal right that you have, and no one can give up
19 this right to remain silent except yourself.

20 I will advise you that if you decide to testify that
21 your testimony will be governed by the same rules that
22 govern the testimony of any other witness. That means that
23 you will be allowed to give direct testimony yourself, and
24 then the State would have the right to cross-examine you
25 concerning that testimony.

1 Also, I will advise you that should you have
2 convictions on your record which involve dishonesty or false
3 statements or for crimes which were punishable by the, by
4 imprisonment for more than one year, and this Court makes a
5 determination that the probative value of admitting that
6 evidence outweighs its prejudicial affect to you, then the
7 solicitor, in that circumstance, would be able to introduce
8 a criminal record to attack your credibility.

9 Now, if you decide to testify, the decision on your
10 part must be made freely and voluntarily and intelligently.
11 That means with knowledge of the protections given to you by
12 the Fifth Amendment and the consequences of your decision to
13 testify. If you decide not to testify in this case I will
14 advise you that I am obligated to instruct the jury that
15 they can not give the fact that you did not testify any
16 consideration whatsoever, and that there can be absolutely
17 no prejudice to your case because you did not testify.

18 The decision as to whether or not to testify is left
19 entirely up to you. You have the right to discuss that with
20 anyone, that decision with anyone that you'd like to discuss
21 it with. But the final decision is entirely left up to you.

22 Mr. Tinsley, do you understand the right that I just
23 explained?

24 MR. TINSLEY: I do, Your Honor.

25 THE COURT: Do you have any questions about what I've

1 explained to you?

2 MR. TINSLEY: I think you would -- I think you
3 mentioned yesterday or I mentioned yesterday and I think you
4 either ruled on it or the State had agreed that they
5 wouldn't bring up anything older than ten years. I think
6 that's kind of settled.

7 But I mentioned also that there was a 2008 conviction
8 that was obtained without counsel, and that I believe that
9 it couldn't be used against me as well. I think you wanted
10 to see if I could obtain a document or something about that.
11 The State says that I have went to trial and asked for an
12 attorney on the day of trial and that's not true.

13 As I said, I had previously asked for a, counsel. The
14 Court specifically denied it. I then later filed another, a
15 second motion trying to explain that they denied it because
16 they thought that it would be hybrid representation or
17 something. And, so, I filed another motion again asking for
18 it, counsel, and explaining why I didn't think that it would
19 constitute hybrid representation in that case. And, again,
20 they never scheduled a hearing or ruled on it.

21 On the day of trial I didn't move, I didn't make a
22 motion for counsel again. We already had the motion. What
23 I asked for was a continuance so the Court could give me,
24 assign me standby counsel to assist me in conducting
25 research into possible defenses and interviewing my

1 witnesses and things of that nature, and the Court denied
2 that.

3 So, I was never offered nor was I given counsel for
4 that trial, and I have motions and the motion for the
5 continuance that was filed in that case if you'd like to
6 read over that.

7 THE COURT: Have you shown that to the State?

8 MR. TINSLEY: No, I haven't.

9 THE COURT: Well, show---

10 MR. TINSLEY: But I only have one copy.

11 THE COURT: Well, show it to him.

12 MR. TINSLEY: And they're welcome to look at it.

13 (Pause.)

14 SOLICITOR KENDALL: Your Honor, I'll pass this up. Our
15 position on that is, is reading the first couple paragraphs,
16 Mr. Tinsley is still seeking to proceed pro se. He, he --
17 that's the issue. That way he gets an attorney to try his
18 case for him. But whether or not he gets a, a standby
19 counsel. It basically constitutes -- it's similar to a law
20 clerk. No offense to Ms. Price. I think that constitutes a
21 waiver of the right to counsel.

22 THE COURT: It doesn't indicate that you're asking for
23 a lawyer. It indicates to me that you are seeking someone
24 to act in an advisory position, but not to represent you.

25 MR. TINSLEY: I was asking for standby counsel and

1 because I was claiming that I couldn't receive a fair trial
2 and due process and equal protection on law without the
3 ability to conduct legal research into possible defenses.

4 THE COURT: Yes, sir, but you didn't want this person
5 to be your lawyer.

6 MR. TINSLEY: I want them to assist me and South
7 Carolina---

8 THE COURT: No, no, no. Let's don't parse words. You
9 didn't want this person to make arguments for you, or to
10 examine witnesses, or to represent you during the trial of
11 the case. I'm reading what it says.

12 MR. TINSLEY: Right.

13 THE COURT: You wanted them to do the stuff outside,
14 the leg work on subpoenaing witnesses and doing legal
15 research and things of that nature.

16 MR. TINSLEY: To help me prepare for trial.

17 THE COURT: Yes, sir, but not to be your lawyer.

18 MR. TINSLEY: Well, the South Carolina Supreme Court
19 said that even when you represent yourself pro se you're
20 still entitled and have the right to the assistance to
21 standby counsel to represent you even if you want to
22 represent yourself.

23 THE COURT: But the question is whether or not you
24 wished to proceed pro se.

25 MR. TINSLEY: I wanted both.

1 THE COURT: Well, see, you can't have both.

2 MR. TINSLEY: Well, the South Carolina Supreme Court
3 says you can. That's what I'm saying.

4 THE COURT: No, no, no, you can't have a lawyer and not
5 have a lawyer. You can have someone, just like I, I
6 appointed someone in this case, to sit by your side. But
7 she's not participating as your lawyer in this case. You're
8 representing yourself in this case.

9 MR. TINSLEY: Right, but the Supreme Court says or the
10 South Carolina Supreme Court says that you're still entitled
11 to that even if you---

12 THE COURT: But my question is---

13 MR. TINSLEY: ---want to represent yourself.

14 THE COURT: That's not that you were denied counsel.
15 I'm trying to find out what affect that has on whether or
16 not that conviction can be used against you in this case
17 where you wanted to proceed pro se.

18 MR. TINSLEY: I wanted -- there's, there's two rights.
19 There's the right to -- three rights actually. There's the
20 right to proceed with the assistance of counsel to, to
21 conduct your entire defense for you.

22 THE COURT: Yes, sir.

23 MR. TINSLEY: The way most counsel, most cases are, and
24 then there's the defense to proceed pro se with counsel and
25 the right to proceed pro se without counsel. So, I was

1 trying to invoke the second one, to proceed pro se with
2 counsel, and that the failure to provide that denied me an
3 opportunity to prepare for trial. It didn't -- without
4 counsel, all my other rights---

5 THE COURT: Is there a case directly on that point?

6 MR. TINSLEY: Excuse me?

7 THE COURT: Is there a case directly on that point?

8 MR. TINSLEY: There is. It's -- there's two actually.
9 It's -- I have it. One's the State, I want to say Bailey.
10 It's a fairly new case. 2008 I think or something.

11 THE COURT: South Carolina case?

12 MR. TINSLEY: Yeah, and the other, Sanderson or
13 something like that, and it's a, a little bit older. But
14 it's the stare decisis on it, and I'm, I'm sure I have it
15 somewhere. I may have it out in that room in a box with
16 legal stuff. But I can look.

17 SOLICITOR KENDALL: Your Honor, my understanding of
18 it -- make kind of two arguments along that line that needs
19 to go on the record is that, that inability to use things --
20 it's not -- it involves cases where you would not have had
21 the right to counsel. In other words, magistrate level
22 courses. I don't think that you can somehow parse the right
23 to counsel, which he had, was given that opportunity to have
24 counsel, and somehow like include that in these additional
25 standby rights that he also wants.

1 I don't believe I've ever heard of, of anything
2 suggesting that you can like piggyback the right to counsel
3 with the, the usage of access to witnesses and law libraries
4 and whatnot. I think that would take a monster inferential
5 leap, and, quite frankly, I don't know what he's citing that
6 says you can't use convictions when they were pertaining
7 without counsel.

8 THE COURT: What are you citing for that proposition?

9 MR. TINSLEY: It was -- it's in my motion in limine.
10 It's filed with the Court. Those cases I think are listed.

11 SOLICITOR MCCARTY: I know, in drug, which I deal
12 primarily with, we have the situation where we have bond
13 forfeiture style cases on simple possession, not contested
14 cases, and those can't be used for any enhancement or
15 impeachment purposes. But I would assume that, given his
16 conviction in Oconee County, and the sentence he received,
17 it would be a felony level charge that would certainly be an
18 impeachable offense under 609.

19 THE COURT: Uh-huh. (Affirmative).

20 SOLICITOR MCCARTY: And I think what he's trying to
21 argue is because he didn't have a standby attorney like Ms.
22 Price is in this situation that that case would somehow be
23 covered under the umbrella of a not represented case such
24 like as a bond forfeiture style case.

25 THE COURT: Well, I'm gonna have this particular

1 document that you submitted to me from Oconee County made an
2 exhibit to this hearing cause I think it clearly states in
3 there that you, you didn't want a lawyer to represent you.
4 You wanted someone to serve as an adviser.

5 MR. TINSLEY: I don't have the case law in the
6 courtroom with me, Your Honor. But I have both case law
7 concerning, you know, keeping the information out and I also
8 have the case law on, on, from South Carolina, about---

9 THE COURT: You say it's in the next room?

10 MR. TINSLEY: I believe so. It, it's wherever the---

11 THE COURT: Well, let's---

12 MR. TINSLEY: Somebody should have the motion, the, the
13 motion in limine where I asked to keep it out. It's two or
14 three U.S. Supreme Court cases.

15 THE COURT: Do you have that?

16 MR. TINSLEY: It's part of the record, but the other
17 case law I believe is---

18 THE COURT: Just one second. I've got her busy, the
19 court reporter.

20 (Pause.)

21 THE COURT: Mr. Tinsley, the only motion that I have
22 that I made it a Court's Exhibit, written motion, was to
23 suppress the search of the camper, and I had that made an
24 exhibit so you would have a record of it.

25 MR. TINSLEY: Right. It's -- it hasn't been -- I'm

1 talking about it's introduced in the courtroom. I'm saying
2 that it was filed in the clerk's office.

3 THE COURT: All right. Well, let's, let's---

4 MR. TINSLEY: It's a motion in limine.

5 THE COURT: ---the clerk's -- let's check the clerk's
6 file and see if they have a motion a limine that was filed.

7 (Pause.)

8 THE COURT: Give that to Pam have that marked. That
9 will be a Court's Exhibit.

10 (WHEREUPON, the motion was marked as Court's Exhibit
11 No. 2 and received into evidence for purposes of this
12 hearing only.)

13 CLERK: Your Honor, I didn't see it on the computer,
14 but I'm having Kim to bring the actual file down.

15 THE COURT: Okay. Good.

16 What she's saying, Mr. Tinsley, is that a review of the
17 documents filed in this case does not indicate that it was
18 filed. But we'll check the file itself and be sure.

19 (Pause.)

20 MR. TINSLEY: I believe, I believe, Your Honor, it was
21 a defendant's motion in limine Part 2 is what's on -- it is
22 a two of five.

23 THE COURT: The only case I have found in prior
24 convictions from 2008 is State versus, Robinson versus
25 State, which is a PCR.

1 Is that the case you're talking about?

2 MR. TINSLEY: No, sir, Your Honor.

3 THE COURT: You're saying it's a Bailey case?

4 MR. TINSLEY: It's State versus Sanders, Sanderson, and
5 I think another is Bailey.

6 THE COURT: State versus Sanders?

7 MR. TINSLEY: That might be it, something like that.
8 It's from the 90's I think it is, and I think it was---

9 THE COURT: No, that's, that's 2003. Excuse me, 2004.

10 MR. TINSLEY: I think it might of been from the---

11 THE COURT: That's not that issue.

12 MR. TINSLEY: Your Honor, may the officer take me,
13 allow somebody to get my box out of the, the---

14 THE COURT: Yes, sir, take him in and let him get his
15 box.

16 (Pause.)

17 MR. TINSLEY: It's State versus Brewer, 492 S.E.2d 97.
18 The State versus Sanders.

19 THE COURT: You want to pass that up to me?

20 MR. TINSLEY: Okay.

21 SOLICITOR KENDALL: 429 S.E.2d 97?

22 SOLICITOR MCCARTY: 492?

23 SOLICITOR KENDALL: Uh-huh. (Affirmative).

24 THE COURT: Yes, sir.

25 SOLICITOR KENDALL: Your Honor, I would ask that he

1 cites Sanders in that, but that section of that opinion, I
2 believe that the next line pretty well sums it up. The
3 provision he cites, citing Sanders and the Court passage,
4 but it says although the State points at appellate's request
5 for standby counsel as evidence the appellate did not
6 knowingly and intelligently waive his right to counsel, the
7 defendant has a right to the assistance of counsel even if
8 he represents himself. Therefore, the fact that the
9 appellate represented, excuse me, requested standby counsel
10 does not, does not render the waiver of counsel invalid.

11 In other words, his waiver of counsel is still valid.
12 Just because he requested standby counsel, that, that
13 provision does exactly opposite of what he's saying. That,
14 that, that waiver is still a valid waiver of a
15 constitutional right.

16 MR. TINSLEY: But in that case, Your Honor, he waived
17 the right to standby counsel. He -- they said do you want
18 to represent yourself and he said yes, and they said well,
19 you know, that's dangerous, why don't you allow us to
20 appoint you counsel to assist you, and, and, and he said no,
21 I don't want that either. So, he is waived -- the Court
22 offered the person every, every reasonable method of
23 providing access and assistance of counsel and he turned
24 down it all. He didn't want nobody to help him.

25 THE COURT: Is that true?

1 SOLICITOR KENDALL: I'm still reading it, Your Honor.

2 THE COURT: I'm talking to him. Give me a second.

3 SOLICITOR KENDALL: But it would appear that, that
4 the -- it appears that the trial judge denied the motion to
5 proceed pro se. In this case I believe that was denial of a
6 capital defendant preceding pro se, and I think the issue is
7 whether or not, in fact, the trial judge, not being, failed
8 his decision to represent himself in a death penalty case
9 would be a good decision, the decision can be made
10 intelligently with an understanding of the consequence
11 without the decision itself being a wise one. I don't see
12 anything in the case that would establish that, that you
13 have any right to standby counsel somehow---

14 MR. TINSLEY: I believe the stare decisis, Your Honor,
15 the older case is, is a better one explaining different --.

16 SOLICITOR MCCARTY: My understanding of the ruling,
17 Your Honor, is that the trial judge in that case, because it
18 was a capital case, appointed counsel to him over the
19 objection of the defendant who wished to proceed with pro
20 se.

21 THE COURT: That's Brewer?

22 SOLICITOR MCCARTY: That's Brewer, Your Honor, and in
23 that Court case the Court said they violated his right to
24 proceed under the Sixth Amendment to deny counsel and
25 proceed pro se because he was appearing to make a knowingly,

1 understanding the consequences, that he could make that
2 decision. However unwise as it may be, that he could do it.
3 So, that, that's where I think the case is. They're,
4 they're saying that -- it wasn't a denial of that. It was
5 because the Court went ahead and, over his objections---

6 THE COURT: Appointed an attorney.

7 SOLICITOR McCARTY: ---appointed an attorney.

8 THE COURT: That's the way I'm reading the ruling.

9 MR. TINSLEY: The, the older case, the Sanders case, it
10 wasn't a capital case. It was actually I think obtaining
11 this through false pretenses or something. I think it's a,
12 maybe, maybe a little more on point.

13 THE COURT: Brewer, Brewer's a death penalty case as
14 well?

15 MR. TINSLEY: The Sanders is, is the, is the stare
16 decisis, the older one.

17 THE COURT: What?

18 MR. TINSLEY: The, the other case that it's quoting.

19 THE COURT: Yes, sir.

20 SOLICITOR McCARTY: Have you had the opportunity to
21 read Sanders yet, Your Honor?

22 THE COURT: No, I haven't.

23 SOLICITOR McCARTY: Sanders is a case from 1977, I
24 believe that's the proper year, Your Honor, which it appears
25 they were going forward on a property crime and the day of

1 trial the defendant wanted to act kind of as a hybrid
2 counsel with an already appointed public defender. The
3 public defender -- the court had some concern about who
4 would actually be lead counsel at that point. The defendant
5 acquiesced to the point that the public defender could
6 represent him, but he also wanted to stand up, and after the
7 public defender was done with cross-examination, also ask
8 himself questions, and the judge stopped it and said you
9 have two choices, the public defender is your attorney and
10 represent you or you proceed pro se with the advice of
11 counsel in this position. He chose to represent himself
12 with the advice of two public defenders.

13 His argument, again, that he wasn't, his defense wasn't
14 allowed to be heard by him and his counsel at the end even
15 though he had elected to proceed pro se. I don't know that
16 that case or the Brewer case is necessarily at all on point
17 regarding the issue of a prior uncounseled or somewhat
18 uncounseled or pro se representation case being, not being
19 able to be used for the purposes of impeachment.

20 In this case it is a conviction that has not yet been
21 overturned on appeal and, and that conviction was still a
22 valid conviction. It is a crime of larceny or, or a theft
23 crime, which would go towards a proper impeachment for a
24 crime involving a theft or a larceny or receiving stolen
25 goods, whatever that may be, whatever the official charge,

1 and I honestly don't know what the official charge might be,
2 but I believe it's something like that.

3 Your Honor, I just don't believe that either one of
4 these cases are on point, that the---

5 THE COURT: Well, I would agree they're not on point.
6 They go to the question of representation.

7 How does that tie into whether or not this conviction
8 can be used for cross-examination purposes, Mr. Tinsley?

9 MR. TINSLEY: Well, I believe that the, they say that I
10 have a right to the assistance of counsel and I wasn't given
11 any even though---

12 THE COURT: Well, now, again, I've looked at your
13 motion, and you definitely wanted to proceed pro se. You
14 just wanted standby or the assistance of someone on the side
15 for specific purposes.

16 MR. TINSLEY: Right, and, and that---

17 THE COURT: For research -- let me -- hand that back up
18 and let me read exactly what you said you wanted the
19 attorney for. Pass that back up. It's a Court Exhibit.

20 MR. TINSLEY: I agree with you, Your Honor. In that
21 case though, the Court, the Court went on to note that in
22 that case, in the Sanders case, that was, in fact, hybrid
23 representation, what he was trying to do. But the Court
24 went on to say and said, but he still had the right to the
25 assistance -- every defendant has the right to assistance of

1 standby counsel even if he's representing himself.

2 So, my point is if I didn't have it then I couldn't
3 have had a fair trial, and, you know, all the other rights
4 that come start with the, the right, that right, you know,
5 and that's the reason I say that it, that the conviction
6 should not be a, be allowed to be used against me.

7 THE COURT: You say that you wanted that person to
8 assist with legal research, locating and procuring witnesses
9 for trial, and obtaining expert testimony. Those are the
10 three things you indicated you wanted someone to be a
11 standby counsel for, and the Court denied the motion in this
12 case.

13 MR. TINSLEY: Yes.

14 THE COURT: For standby counsel.

15 MR. TINSLEY: Right.

16 THE COURT: This case is on appeal?

17 MR. TINSLEY: Yes, but not on, not on, not on that
18 issue. But, yes.

19 THE COURT: You didn't appeal it on this issue?

20 MR. TINSLEY: Well, I asked that it be.

21 SOLICITOR MCCARTY: It would be a moot point at this
22 point, Your Honor. It's not an, it's not an issue for which
23 he's raised on appeal if he's attacking the facts or some
24 other circumstances for the appeal. If he's not challenging
25 the Court's order, then it would be a moot issue, issue for

1 this purpose to try and argue it now in this respect. It's
2 been an adjudicated matter, which there's been a judicial
3 finding.

4 MR. TINSLEY: I asked, what happened, I asked counsel
5 to argue it and they, and they didn't and I tried to argue
6 it myself, and the Appellate Court wouldn't allow me to do
7 that. And, and, so, I complained to the Appellate Court
8 that that's, you know, the denial of, of a Appellate Court
9 counsel for not being effective assistance of Appellate
10 Court counsel for not arguing that issue for me. So, it
11 probably will get addressed in the future if, if the
12 conviction isn't overturned on the grounds that they have
13 raised.

14 But I'm not sure whether it was challenged or not has
15 anything to do with whether or not, how it affects, affects
16 me. The whole purpose of an attorney is so you can have
17 representation and your rights don't get violated and your
18 due process and equal protection rights don't get violated.
19 And, so, I don't have that in preparing for trial, then that
20 is a due process and equal protection violation and the
21 whole trial, you know, it wasn't a fair opportunity to
22 defend myself and that's what the whole basis is not being
23 able to use it against you so you didn't have a fair
24 opportunity to defend yourself. Whether you do it yourself
25 or with an attorney, it would still be, you know, if your

1 due process is violated, then you're, you've not been given
2 a fair opportunity to defend yourself.

3 THE COURT: So, it's your position, let me be sure I
4 understand your position, that where you are charged with a
5 crime, you choose to represent yourself in that crime, and
6 you make a knowing and intelligent waiver of counsel, your
7 right to counsel, that, then that makes those convictions,
8 whatever convictions, unavailable for the prosecution to use
9 for impeachment purposes?

10 MR. TINSLEY: If, if the person also asks for standby
11 counsel and, and isn't given any.

12 THE COURT: But that issue you -- well, you, by your
13 own statement, is either been abandoned or is not going
14 forward in your case?

15 MR. TINSLEY: Well, it's---

16 THE COURT: So, the law of the case is you've got good
17 representation?

18 MR. TINSLEY: Excuse me?

19 THE COURT: The law of your case at this point in time
20 in Oconee County is you had good representation?

21 That's no longer on appeal you just told me.

22 MR. TINSLEY: No.

23 THE COURT: They didn't let you argue it, and they said
24 it'd been abandoned I guess. I haven't read, I haven't read
25 what you -- I'm asking you -- I guess I can call the

1 Appellate Court and see where it stands.

2 MR. TINSLEY: They didn't say that.

3 THE COURT: I'll be happy to do that.

4 MR. TINSLEY: They didn't say that it was abandoned. I
5 tried to file it myself. The Court said we can't receive
6 this on appeal. You have to do it through an attorney. So,
7 I sent it to the attorney and said these are the issues I
8 want raised.

9 well, they -- it took three years to get the transcript
10 and she had a deadline, and she said that she wasn't able to
11 do but one issue. So, I immediately filed an objection with
12 the Court that the Court forced me to take assistance of
13 counsel, which I didn't want, on appeal, and, and now my
14 issues haven't, haven't been raised. So, now they're gonna
15 have to go back and give me another, you know, belated
16 appeal. I may have to do a PCR to get back to the, that
17 issue in the future. But it hasn't exactly been abandoned.
18 But not by me anyway. In a round about way I was kind of
19 forced to abandon it, but I haven't abandoned it. I made
20 every opportunity to assert the motion.

21 THE COURT: Well, where the case stands today, that's
22 no longer an issue where it stands today.

23 MR. TINSLEY: Today that's true.

24 THE COURT: Okay. Then it would, might be my ruling
25 that that could be used against you in this case. You can

1 be asked about that.

2 MR. TINSLEY: Note my objection, Your Honor.

3 THE COURT: Oh, absolutely, yes, sir.

4 SOLICITOR KENDALL: Thank you, Your Honor.

5 THE COURT: Now, we were back to talking about your
6 right to testify.

7 So, you understand the position that I'm taking
8 regarding that conviction?

9 MR. TINSLEY: Yes.

10 THE COURT: Now, do you wish to consult with anyone
11 about your right to testify in this matter?

12 MR. TINSLEY: Yes, sir.

13 THE COURT: All right. So, will you be in a position
14 to announce whether you intend to testify in the morning?

15 MR. TINSLEY: I believe so if I can meet with a witness
16 and attorney again, yeah.

17 THE COURT: Okay, sir. Then we'll inquire of that in
18 the morning.

19 Court's in recess until nine o'clock.

20

21 (WHEREUPON, Court was in recess for the evening.)

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C E R T I F I C A T E

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I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 8th and 9th day of November, 2010

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

January 21st, 2011



PAMELA E. GREEN, Court Reporter

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

3 The State,) TRANSCRIPT OF RECORD
4 -vs-) 2007-GS-42-5031
5 James D. Tinsley, Jr.,)
6 Defendant.) November 23, 2010
7 Spartanburg, South Carolina
8
9

10 B E F O R E:

11 HONORABLE ROGER L. COUCH, JUDGE; and a jury
12
13

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

15 GEORGE MATTHEW KENDALL, ESQ.
16 RYAN F. MCCARTY, ESQ.
17 Attorneys for the State

18 PRO SE
19 Defendant

20 ANDREA LEAH PRICE, ESQ.
21 Standby Counsel for the Defendant
22
23

24 ORIGINAL

25 Margaret A. Woods
Circuit Court Reporter

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
D-1	Photograph	--	14
D-2	Photograph	--	15
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D-4	Photograph	--	14
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(D-12 was withdrawn on Page 33 and D-13 was
withdrawn on Page 35.)

MOTIONS AND MATTERS

1 (Proceedings November 10, 2010)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: Alright, Mr. Tinsley, yesterday afternoon
5 when we broke we were discussing the use of a conviction
6 against you should you decide to testify. I wanna be sure
7 that ruling on that is clear to you before you complete your
8 decision as to whether or not to testify. My understanding
9 fr -- about the case in Oconee County is that you were
10 convicted in Oconee County in a trial in which you claimed to
11 have requested standby counsel but made the choice to proceed
12 pro se. I understand that the question of whether or not
13 standby counsel should have been appointed is not under
14 appeal, it's your allegation that you had requested that it be
15 appealed but it is currently not under appeal in the case and
16 there currently is not pending a PCR in that matter. Am I
17 correctly stating the status of that case?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Alright. Obviously, to this court there was
20 a finding by that court that you had knowingly and
21 intelligently waived your right to counsel and exercised your
22 right to proceed pro se. The issue you maintain that it's
23 still viable, although this court does not see it as currently
24 viable, is whether or not standby counsel shoulda been
25 appointed, for that reason it is my decision that the

MOTIONS AND MATTERS

1 conviction since it does involve a matter of dishonesty, I
2 understand it's another receiving stolen goods case is that
3 correct, ---

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: --- is -- excuse me, that that case can be
6 used in your cross-examination. I will instruct the State
7 however that because of the the fact that it is the same
8 charge that is being tried in this case I will not allow them
9 to refer to it by name simply you can ask him if he has a
10 prior conviction. You understand that ruling?

11 MR. KENDALL: Yes, sir, Your Honor. Yes, sir.

12 THE COURT: In other words, you can't ask him if he's
13 been previously convicted of receiving stolen goods; you can
14 ask him if he has a prior conviction on his record.

15 MR. KENDALL: Yes, sir.

16 THE COURT: You understand what I -- my ruling?

17 MR. KENDALL: I do yes, sir.

18 THE COURT: Alright. You understand that, sir?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Alright. Now, Mr. Tinsley, have you had an
21 opportunity to fully discuss with whoever you choose to
22 discuss it with your decision as to whether or not to testify
23 in this matter?

24 MR. TINSLEY: Not really, Your Honor. I I got to speak
25 with Ms. Price for just a minute but I would like to speak,

MOTIONS AND MATTERS

1 uh, with Mr. Justice as well.

2 THE COURT: Alright, then I'm going to give you a few
3 minutes to do that. If you wanna step to the jur -- jail
4 room, I'll allow you to do that.

5 UNIDENTIFIED MAN: Your Honor, I have his notes. Are --
6 am I allowed to give those to him? I think they have some
7 prohibition against that.

8 THE COURT: I'll let you loo -- show it to the jailer.
9 He, as long as he sees that it's not a problem, I'll let him,
10 let him see it.

11 UNIDENTIFIED MAN: Thank you, Your Honor.

12 THE DEFENDANT: Can I, can I inter -- interview my father
13 as well for just a minute as well?

14 THE COURT: We -- we're supposed to start at nine
15 o'clock, it's 15 after ---

16 THE DEFENDANT: I know.

17 THE COURT: --- and I allowed you, I allowed you to see
18 your witnesses yesterday afternoon.

19 THE DEFENDANT: I I know but things change. I I think
20 I've just decided that I don't wanna testify so things have
21 changed ---

22 THE COURT: I'll allow you to speak to him but it's gonna
23 be short.

24 THE DEFENDANT: Okay, and and and there's not gonna be
25 but two witnesses.

MOTIONS AND MATTERS

1 THE COURT: Well I'll allow you to step to the jail room.

2 (Whereupon, a discussion was held off the record.)

3 THE COURT: Ms. Price, you may step back and speak with
4 him.

5 MS. PRICE: Certainly.

6 (Whereupon, the defendant exited the courtroom.)

7 (Whereupon, the defendant returned to the courtroom.)

8 THE COURT: Alright, Mr. Tinsley, you have returned to
9 the courtroom. Have you had an opportunity to consult with
10 those that you wish to consult with?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: And are are you ready to make a decision
13 concerning whether or not you will testify?

14 THE DEFENDANT: I do not believe I'm going to be
15 testifying no, Your Honor.

16 THE COURT: Alright. Thank you very much. Anything
17 further from the State before we resume the case?

18 MR. KENDALL: Nothing further, Your Honor.

19 THE COURT: Anything further from the defense before we
20 resume the case?

21 THE DEFENDANT: No, Your Honor.

22 THE COURT: Alright. You ready to call your first
23 witness?

24 THE DEFENDANT: I was, Your Honor, but she's not here.

25 MS. PRICE: Your Honor, I called her last night and left

MOTIONS AND MATTERS

1 a message on her machine at home and I have not seen or heard
2 from her.

3 THE COURT: Who who is her?

4 THE DEFENDANT: Cindy Reed.

5 THE COURT: Well you wanna step outside and call her
6 again?

7 MS. PRICE: I I can, sir.

8 THE COURT: Alright. She is under subpoena?

9 MS. PRICE: She is under subpoena, Judge.

10 THE COURT: Alright.

11 (Pause.)

12 THE COURT: Did she indicate the length of time for her
13 she arrives?

14 MS. PRICE: I told her to get down here immediately so
15 she -- and she lives in Boiling Springs so...

16 THE COURT: Alright, so that's gonna take a little while.
17 Is there another witness we can take up, Mr. Tinsley, while
18 that witness is in route?

19 THE DEFENDANT: Uh, ---

20 MS. PRICE: Yes, there is.

21 THE DEFENDANT: Yes, yes, I guess so.

22 THE COURT: Well is is is that person present and are you
23 ready to go forward with that person?

24 MR. TINSLEY: Yes, if I can just have a couple things
25 marked real quick, ---

MOTIONS AND MATTERS

1 THE COURT: Sure. Certainly.

2 MR. TINSLEY: --- you know.

3 (Defendant's Exhibit No. 11, incident report, No. 12,
4 Voluntary Statements, and No. 13, letter, marked for
5 identification.)

6 THE COURT: Alright. Bring the jury in.

7 (The following takes place in the presence of the jury.)

8 THE COURT: Good morning, I trust everyone had a good
9 evening. I I know you've noticed the courtroom temperature
10 seems to vary every day. They're they're putting in a new
11 system, a new boiler and a new control system, and obviously
12 all the bugs have not been worked out of it yet so it may get
13 hotter today, it may get colder, I apologize to you for that
14 but it's it's kinda beyond our control. We've requested that
15 they bring the temperature up, we'll see how that works.

16 Alright, when we finished the day yesterday the State had
17 completed the presentation of its evidence. The defendant has
18 the right to present evidence at this time if he so chooses.
19 Mr. Tinsley, do you wish to call a witness?

20 THE DEFENDANT: I do, Your Honor. I call James Douglas
21 Tinsley, Sr.

22 THE COURT: Come forward, sir.

23 MS. PRICE: And, Your Honor, can we get the prosecutor to
24 turn on the overhead projector please ---

25 THE COURT: Would you take care of that for me,

1 Mr. Kendall? Come forward, sir.

2 (Whereupon, the witness complied.)

3 MS. PRICE: After I touched it and it went off once I
4 don't touch it anymore.

5 THE COURT: Alright, thank you.

6 JAMES DOUGLAS TINSLEY, SR.,
7 having been first duly sworn, testified as follows:

8 THE COURT: Have a seat, please. State your name,
9 please.

10 MR. TINSLEY, SR.: James Douglas Tinsley, Sr.

11 THE COURT: Mr. Tinsley, it's your witness.

12 DIRECT EXAMINATION BY THE DEFENDANT:

13 Q. Mr. Tinsley, are you aware of my selling my machines for
14 \$10,000?

15 A. Yes, I'm aware of that.

16 Q. Did you drive me out to Donaldson Center to meet Rick
17 Jackson and collect the money?

18 A. I did.

19 Q. Did that occur approximately a month after the dis -- the
20 discovery of this camper?

21 A. It did.

22 Q. I would like to show you a defense exhibit marked for
23 identification only as ---

24 MR. KENDALL: And I would inquire as to the relevance.

25 We're talkin' about somethin' that happened late, it happened

1 a month after ---

2 THE DEFENDANT: I pu ---

3 MR. KENDALL: --- the sale of the machines. I I, you
4 know, ---

5 THE DEFENDANT: I sold, I sold 'em before the camper. It
6 took two months to collect the money to pay Bill for for it,
7 that ---

8 THE COURT: Well if he's indicating he sold 'em before
9 I'm not sure how it ties in but I'll allow him to pursue it
10 and we'll see if it ---

11 THE DEFENDANT: You wanna ---

12 THE COURT: --- works out.

13 THE DEFENDANT: --- see it?

14 (Whereupon, the State examined the exhibit.)

15 MR. KENDALL: Okay.

16 THE DEFENDANT: May approach the witness?

17 THE COURT: You may.

18 (Whereupon, the defendant approached the witness.)

19 BY THE DEFENDANT:

20 Q. Now can you identify those machine -- or those
21 (indicating) pictures?

22 A. I can.

23 Q. Do you know where they are located in the photograph?

24 A. They are located in your garage shop at I believe the
25 address was ■■■ Nettie Drive in Inman.

1 Q. Okay, and can you tell us what the the items are that's
2 in the photograph?

3 A. Well, there's a bunch of welding equipment, metal cutting
4 saws, a level table, I believe there's a -- 1 -- an engine
5 lathe and a very large milling machine with a bunch of tools
6 and accessories that you'd normally expect to find in a, in a
7 machine shop.

8 Q. Has -- have I -- has -- have we owned or our family owned
9 machine shops in the past?

10 A. Yes, my dad was a machinist and had his own machine shop
11 just about his whole adult life.

12 Q. Did you pretty much grow up in that machine shop and
13 around it?

14 A. I grew up in it and around it yes, I did.

15 Q. Are you aware of the type of value that those machines
16 are worth?

17 A. I'm pretty well aware. I I know that there's some
18 expensive machinery in those photographs. I I couldn't put an
19 exact dollar amount on 'em because I never bought a machine
20 like that myself but I have seen 'em and and known of other
21 people buyin' 'em so it, yeah, it's -- it was nice new
22 equipment.

23 Q. And that -- that's the machine that I was selling ---

24 A. That -- that's ---

25 Q. --- and for the ---

1 A. --- that's the machines that that was sold to the
2 gentleman that you collected the money from.

3 THE DEFENDANT: Alright, Your Honor, I would ask that
4 these be placed into evidence.

5 MR. KENDALL: Without objection.

6 THE COURT: Without objection it'll be received as
7 marked. You indicated it was Defendant's ---

8 THE DEFENDANT: Three, four and one. One, three and
9 four.

10 THE COURT: Alright, they'll be received as marked.

11 (Defendant's Exhibit Nos. 1, 3, and 4, photographs,
12 admitted into evidence.)

13 THE DEFENDANT: May I also publish them, Your Honor?

14 THE COURT: You may.

15 (Whereupon, the defendant publishes the exhibits to the
16 jury.)

17 BY THE DEFENDANT:

18 Q. And it -- can you identify what's in the photograph?

19 A. Well I can -- well the large blue machine there on on
20 kinda on the right-hand side against the wall that's a, that's
21 milling machine and I see some tool cabinets and other odds
22 and ends, machining tools and things of that nature that were
23 in those cabinets the last time I was in that room.

24 Q. Okay. Can you identify what's in this (indicating)
25 pho -- photograph ---

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1 A. Well there's some welding equipment I see there in the
2 background along with a metal cutting saw and I believe
3 they're in the foreground at the the left bottom corner.

4 THE DEFENDANT: Your Honor, I left out a photograph that
5 was supposed to go with it, ---

6 THE COURT: Wanna show it ---

7 THE DEFENDANT: --- I would like ---

8 THE COURT: --- to the State see if ---

9 THE DEFENDANT: Yeah.

10 THE COURT: --- there's an objection?

11 (Whereupon, the State examined the exhibit.)

12 MR. KENDALL: No, no objection.

13 THE COURT: And the number of that one is, Mr. Tinsley?

14 THE DEFENDANT: This one is 2.

15 THE COURT: Alright, it'll be received into evidence as
16 marked as well.

17 (Defendant's Exhibit No. 2, photograph, admitted into
18 evidence.)

19 THE DEFENDANT: You don't need me to -- him to identify?

20 THE COURT: He's he's consented to it going in.

21 THE DEFENDANT: Okay.

22 BY THE DEFENDANT:

23 Q. What about this (indicating) photograph? Do you
24 recognize what that is?

25 A. Yeah, it's an engine lathe.

1 Q. And this (indicating) one?

2 A. That I don't know exactly the proper name for that but
3 what that is is a huge slab of I believe it's granite and it's
4 supposed to be perfectly flat and level and I think machinists
5 use that to take measurements and get measurements when
6 they're, when they're measuring something else so that they'll
7 know that they're working off of a perfectly flat and level
8 surface.

9 Q. Okay. You testified yesterday, and everybody bear with
10 me today, you testified yesterday that you did not think that
11 I would bring a camper to my grandmother's home if I had known
12 that it was stolen, is that correct?

13 MR. KENDALL: Objection.

14 THE COURT: That that that question I believe was ruled
15 improper.

16 THE DEFENDANT: It was, okay.

17 THE COURT: It was asking for a speculation ---

18 THE DEFENDANT: Okay.

19 THE COURT: --- was the, was the objection and I sustain
20 it.

21 BY THE DEFENDANT:

22 Q. Alright, well you also testified that you called the
23 police because you were suspicious of the camper and this
24 sounds a lot like that you're sayin' that you were suspicious
25 of me. I want you to explain what took place that caused you

1 to be suspicious of the camper.

2 A. Well, we had some conversation with a law enforcement
3 officer in another jurisdiction and the the question came up
4 about the camper and it was that officer that told me that I
5 should get in contact with Detective Beck and ask him. You
6 you and I talked about that and I told ya that I felt like we
7 needed to find out for sure, you know, the provenance or or
8 whatever you wanna call it of that camper and you agreed with
9 that and after I had the discussion with the the other officer
10 I told you what the officer had relayed to me that I should
11 contact Detective Beck about it and you told me well go ahead
12 and do whatever you need to do and that's how I came to call
13 Detective Beck, that's how I knew that Detective Beck existed
14 is because I learned it from another source.

15 Q. Alright. When or do you, do you recall when when when I
16 was arrested for this?

17 A. Yes, I do.

18 Q. What what date was it or do y -- roughly?

19 A. I'm sorry I I really don't remember the date.

20 Q. Do you remember the date that you said the camper was
21 brought to your house that you talked about yesterday?

22 A. Yes, that was, I remember after Mr. Kendall refreshed my
23 memory with that, that that camper was brought to my mother's
24 house on December the 2nd 2006.

25 Q. 2006. So it was a few days after that but we're talkin'

1 still December 2006 frame?

2 A. Yes.

3 Q. Okay. When did I start racing go-carts?

4 A. My best recollection is it was in the spring or summer
5 preceding that December.

6 Q. Okay, so I hadn't been racin' very long.

7 A. No.

8 Q. Okay. Ben Lindler testified that on the first night he
9 ever worked at Ina I walked up to him and asked him to steal a
10 camper for me. Are you and I related?

11 A. Yes.

12 Q. How long have you known me?

13 A. Since your birth, forty years.

14 Q. And have you had the opportunity to observe my
15 behavior?

16 A. Yeah.

17 Q. Am I a very shy, quiet person?

18 A. Yes, you really are very shy, it's difficult for you to
19 meet people.

20 Q. So the statement that Ben made is that consistent with
21 the type of person that I am?

22 A. Not based on my experiences over the last forty years
23 with you, that seemed out of character.

24 Q. Ben Lindler claimed that this conversation took place
25 approximately a year prior to this December 6 arrest so that

1 would have been roughly December 2005 when I allegedly asked
2 him to steal a camper. Did I race go-carts at that time?

3 A. No, not to my knowledge. You did not have a go-cart or
4 race go-carts at that time.

5 Q. Did I have any other need for a camper at that time?

6 A. Not to my knowledge.

7 MR. KENDALL: Objection. That's calling for speculation.

8 THE DEFENDANT: Okay.

9 THE COURT: Sustained.

10 BY THE DEFENDANT:

11 Q. Did I ever discuss with you that I needed a camper or was
12 wanting to get a camper at that time?

13 A. No, you did not.

14 Q. In December 2005 did I even have a truck to tow a camper
15 with?

16 A. No, not to my knowledge. You did not have your truck at
17 that time, that was purchased later.

18 Q. What did I drive at that time?

19 A. One of those little Mazda cars. I think it's depicted in
20 one of the photographs that you showed of your shop equipment.
21 I think it's sittin' right outside your garage door.

22 Q. Okay, I'd I'd like to show you another exhibit thing.

23 THE DEFENDANT: May I approach? Can I approach, Your
24 Honor?

25 THE COURT: You may.

1 (Whereupon, the State examined the exhibit.)

2 BY THE DEFENDANT:

3 Q. I'm showing you what's been marked as Defense Exhibit 5
4 for identification only. Is that (indicating) the photograph
5 you're talkin' about?

6 A. That's it, ---

7 Q. And that that ---

8 A. --- that's, that's the car.

9 Q. --- that's my vehicle?

10 A. Yes.

11 Q. That's what I owned back at that time?

12 A. That's correct.

13 THE DEFENDANT: Your Honor, I would ask that this be
14 placed in evidence.

15 THE COURT: It's already in evidence.

16 THE DEFENDANT: This is not.

17 THE COURT: Oh, it's not?

18 THE DEFENDANT: No, ---

19 MR. KENDALL: Without objection.

20 THE DEFENDANT: --- they're they're ---

21 THE COURT: Alright show it to the, show it to the ---

22 THE DEFENDANT: I've already showed him. He didn't
23 object.

24 THE COURT: Any objection?

25 MR. KENDALL: No objection.

1 THE COURT: Alright.

2 THE DEFENDANT: I'd publish it as well.

3 THE COURT: It'll be admitted as marked, now you may.

4 (Defendant's Exhibit No. 5, photograph, admitted into
5 evidence.)

6 BY THE DEFENDANT:

7 Q. That's the vehicle you're speaking of?

8 A. That's it.

9 Q. And that's taken, that picture was taken near my home?

10 A. Yes, in the cul-de-sac in front of your house.

11 Q. Okay. In December, in December 2005, was I able to go
12 out and buy things on credit?

13 MR. KENDALL: Objection, need a foundation for that.

14 THE COURT: I will ask that you set some foundation so
15 that this ---

16 THE DEFENDANT: I understand.

17 THE COURT: --- gentleman might have knowledge of your
18 credit status at that time.

19 BY THE DEFENDANT:

20 Q. Are you aware of whether or not I had bought things
21 around this time on credit?

22 A. Yes.

23 Q. Can you give me some examples of things that I'd
24 bought?

25 A. Well it hadn't been too long at that time I don't think

- 1 that you'd purchased your home and also the --
2 some -- sometime later I'm not sure exactly how much later,
3 sometime shortly after that you you purchased a car that was
4 depicted in the photographs that we just looked at
- 5 Q. And yesterday you testified and -- about American General
6 financing a trailer as well?
- 7 A. That's correct, that was, I don't remember it right now
8 exactly what the date of the purchase was on that agreement
9 that I looked at here on the stand yesterday, but it was along
10 sometime shortly after that within I don't, I don't know,
11 maybe within six months or a year but I'm not sure.
- 12 Q. Based on your observations would you, would you believe
13 that I would have had decent credit?
- 14 A. The only thing I can -- could could judge that on would
15 be the fact that you seemed able to buy the things that you
16 wanted to purchase on credit.
- 17 Q. So had I wanted a A camper you believe that I coulda went
18 out and purchased one on credit?
- 19 A. I don't know, it's not anymore -- not even as expensive
20 as some of the other things you bought. I I I assume you
21 could have if you had chosen to. I don't really know.
- 22 Q. Ben Lindler says that I told him I had two black men
23 steal a camper for me. Do you know of two black men that I
24 associate with or have as friends?
- 25 A. Not to my knowledge, no.

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1 Q. Do you know of anybody that I hang out with?

2 A. No, we lived -- I I lived in Greenville and I saw you
3 occasionally. I talked to ya on the phone more than what I
4 saw ya but when I saw you you were, you were always by
5 yourself or you were with your fiance or with her two
6 children. I don't recall seeing you with anyone.

7 Q. Had you ever been to my home?

8 A. I had on several occasions.

9 Q. And did you go inside the home?

10 A. I did.

11 Q. Are you familiar with the furniture and belongings and
12 property that I had in the home?

13 A. It was a nice well-furnished home.

14 Q. I would like to show you some photographs.

15 MR. KENDALL: Yeah, I'm gonna object to photographs of
16 his house.

17 THE DEFENDANT: It's uh, ---

18 THE COURT: The objection, basis of the objection is?

19 MR. KENDALL: They have relevance? We're talkin' about
20 house pictures ---

21 THE DEFENDANT: It's, uh, so -- inside ---

22 MR. KENDALL: --- before before we enter anywhere near to
23 this time frame. We're talkin' about him living in a house at
24 some point.

25 THE DEFENDANT: This this is the -- some of the

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1 belongings that was taken from me from from Ben Lindler.

2 MR. KENDALL: I thought we addressed that, Your Honor.

3 THE COURT: Ladies and gentlemen of the jury, I'll ask
4 that you step back to the jury room. Don't begin any
5 discussions until I've advised you to do so.

6 (The following takes place outside the presence of the
7 jury.)

8 THE COURT: What relevance does that have to whether or
9 not you might have received or possessed stolen goods in this
10 case?

11 THE DEFENDANT: Well I I wanted to show the the reason
12 that there was a dispute between the two of us.

13 THE COURT: That's acknowledged. There's no need for
14 further proof on it.

15 THE DEFENDANT: So the the window that he climbed through
16 and all that is not ---

17 THE COURT: That that would be cumulative. He
18 acknowledged that he unlocked the window.

19 THE DEFENDANT: I understand. Okay.

20 THE COURT: He acknowledged that he came in and took
21 items. Once its proven we're just addin' -- pilin' on.

22 THE DEFENDANT: I gotcha, cumulate.

23 THE COURT: It's cumulative ---

24 THE DEFENDANT: Okay.

25 THE COURT: --- and so I'm not going to allow you to

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1 continue especially what -- in light of my prior ruling that
2 the details of that particular matter aren't real important.
3 The issue there was whether or not ---

4 THE DEFENDANT: Might ---

5 THE COURT: --- he had some animus against you, bad
6 feelings, bad blood. He acknowledged all those things and
7 that's in the record. You can argue that to the jury at the
8 appropriate time.

9 THE DEFENDANT: Okay.

10 MR. KENDALL: Your Honor, for the sake of just judicial
11 efficiency of the jury out now, I'd like to bring up somethin'
12 else.

13 THE COURT: Yes.

14 MR. KENDALL: He asked, he asked his father about a call
15 he got from law enforcement outside from another jurisdiction.
16 My position is I've got the right to explore that. That's
17 gonna bring up some stuff that might not be particularly
18 wonderful for Mr. Tinsley but my position is that door is
19 open. He's talked about law enforcement callin' his dad as a
20 basis for him callin' the police; I think I've got a right to
21 ask him about that conversation.

22 THE COURT: Well I'm gonna allow you to ask him about
23 that conversation. He did bring it up. I don't know how far
24 we'll go down that road ---

25 MR. KENDALL: Yes, sir.

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1 THE COURT: --- but we'll see how far that road takes us.

2 MR. KENDALL: Yes, sir.

3 THE COURT: I don't even know what that's about
4 necessarily but he did ask about a call from other law
5 enforcement, that was the response he received. In regards to
6 investigation of other matters, that door has been opened.
7 Bring the jury back.

8 THE BAILIFF: Okay.

9 THE DEFENDANT: Your Honor, may we approach your ---

10 THE COURT: Just one second. Leave the jury out.

11 THE BAILIFF: 0:01:13.6(3)

12 THE COURT: No, sir, I don't want you to approach.
13 Whatever we're gonna talk about will be on the record.

14 THE DEFENDANT: Okay. I just want to do this try to save
15 time. I believe and and, you know, I don't know what he's
16 gonna testify to, but I believe what the conversation is about
17 is either an RV or a camper.

18 THE COURT: Which conversation you talkin' about?

19 THE DEFENDANT: That he's wantin' to question my father
20 about the the conversations ---

21 THE COURT: The question you questioned, the conversation
22 you asked him about.

23 THE DEFENDANT: Right, but he said he wants to
24 cross-examine on that subject.

25 THE COURT: Well I'll allow him to cross-examine on

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1 anything you bring up in your examination.

2 THE DEFENDANT: That's fi -- that's fine. I just wanted
3 to let the Court know that I have been cleared of those
4 charges, I was found not guilty and, uh, and the charges were
5 expunged and if it's the camper, Mr. Justice has pled; of the
6 RV Mr. Justice has pled guilty to that so I haven't been
7 convicted of that so I just want the Court to know that if
8 that's where they're goin' ---

9 THE COURT: Well I don't know where they're goin' because
10 see all of us didn't participate in that trial ---

11 THE DEFENDANT: Okay.

12 THE COURT: --- but you brought up the fact by asking him
13 how he learned or how he came to believe that that might be a
14 stolen trailer. He, in response he brought up the fact that
15 he talked to other law enforcement about another investigation
16 and that's, to to the extent that it's relevant, that opens
17 the door to them to inquire into matters that otherwise I
18 probly woulda kept 'em out of.

19 THE DEFENDANT: I I don't have a problem with 'em, you
20 know, asking ---

21 THE COURT: Well I don't, and again, I don't know for
22 what purpose he's gonna ask and I wasn't involved in that case
23 and don't know how far that goes, that's the reason for my
24 comment, I don't know how far we'll go down that road cuz' I
25 don't know where that road goes but we'll make rulings as we

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1 go along once we see to what extent or use they intend to put
2 it and whether or not that's permissible given the door that
3 has now been opened.

4 THE DEFENDANT: Right.

5 THE COURT: Bring the jury back.

6 (The following takes place in the presence of the jury.)

7 THE COURT: The jury has returned to the courtroom. You
8 may proceed, Mr. Tinsley.

9 BY THE DEFENDANT:

10 Q. Mr. Tinsley, did you take me to file a police report to
11 get the police to recover my property that was taken from Bill
12 or by Bill?

13 A. I did take you.

14 Q. Have you ever seen those police reports before?

15 A. Yes, I sat beside you while you filled it out and wrote
16 it out then later you asked me to look look at and read over
17 the, I guess the copy they gave you back when they took it
18 there, yes I have seen it, yes.

19 Q. And and and you've also mailed copies of that to the
20 detectives and things like that for me in the past?

21 A. Yes, I I have done mailings for you, yes.

22 Q. I would like, I'd like to show you defense exhibits
23 marked for -- 11, 12 and 13.

24 THE COURT: You may.

25 THE DEFENDANT: I'm sorry, I have to show him.

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1 THE COURT: Thank you.

2 (Whereupon, the State examined the exhibits.)

3 MR. KENDALL: Yeah, we're we're gonna object to this,
4 Your Honor.

5 THE COURT: I'm not sure what it is. You wanna pass it
6 up ---

7 MR. KENDALL: This would be ---

8 THE COURT: --- and let the Court take a look at it.

9 MR. KENDALL: --- we're gonna object to all of this as
10 hearsay.

11 THE COURT: Ladies and gentlemen, there's several, of the
12 jury, there's several documents here I'm going to have to
13 review, might as well take a short morning break. If anyone
14 wants to smoke, let the bailiffs know. I'm gonna ask you to
15 step back in the jury room, don't begin any discussions until
16 such time as I've advised you to do so. Thank you very much.

17 (The following takes place outside the presence of the
18 jury.)

19 THE COURT: Alright, let's take these in the numerical
20 order that they're in. The date of the recovery of the
21 trailer was December ---

22 MR. KENDALL: December 13th, Your Honor.

23 THE COURT: --- 13th? The first document, No. 11, has to
24 do with an incident date of November the 1st of 2006 and then
25 there's a second incident report, that's the first incident

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1 report in this stack, the second incident report in that stack
2 has an incident date of October 26th of 2006. Do these have
3 to do with the alleged Linder [sic] burglary?

4 THE DEFENDANT: It has to do with the property that was
5 at -- stored at Bill's and I, you know, my position is that he
6 took my property ---

7 THE COURT: I thought this was yours.

8 THE DEFENDANT: --- when whe ---

9 THE COURT: I thought your allegation was that once the
10 trailer got recovered, cuz' he was interviewed the day or so
11 before that time, that shortly after the trailer was recovered
12 he disappeared and your property disappeared as well.

13 THE DEFENDANT: That's right.

14 THE COURT: These incident dates are months before the
15 trailer was recovered.

16 THE DEFENDANT: They they they can't be.

17 THE COURT: Well take a look at 'em.

18 (Whereupon, the defendant examines the exhibits.)

19 THE DEFENDANT: Where where's the date ---

20 THE COURT: Incident date is about halfway up on the left
21 side, halfway up.

22 THE DEFENDANT: Okay, Your Honor, this this one you're
23 correct about ---

24 MR. KENDALL: I'm gonna go ahead and withdraw the
25 objection with respect to that one, Your Honor.

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1 THE DEFENDANT: This one you're correct about. This one
2 is about Ben Lindler and it's not about Bill, it's about Ben
3 first took the property from him then it ended up ---

4 MR. KENDALL: If that is of Ben Lindler, I'd I'd offer
5 the same thing we had before.

6 THE COURT: Well it's the same, it's the same ruling I'd
7 made before.

8 THE DEFENDANT: Right.

9 THE COURT: The issue is whether or not he had hard
10 feelings and was tryin' to get even with you ---

11 THE DEFENDANT: Right, I -- this was ---

12 THE COURT: --- and we're not gonna try his burglary
13 case ---

14 THE DEFENDANT: I'm -- I ---

15 THE COURT: --- or whatever it is.

16 THE DEFENDANT: --- I agree. I -- this here is not
17 supposed to be in it.

18 THE COURT: Alright, well let's go to the next one.

19 THE DEFENDANT: It's supposed to be about Bill.

20 THE COURT: The next one has a date of a voluntary
21 statement that was given on September the 17th of 2007 by
22 you.

23 THE DEFENDANT: Um-hum.

24 THE COURT: Again, it's has to do with someone breaking
25 into your house and that you recovered the stolen property

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1 from Ben Lindler.

2 THE DEFENDANT: Well it may mention that. I mean, we can
3 redact that or somethin'.

4 THE COURT: Well this is still months before ---

5 THE DEFENDANT: No it's after. That's that's 2007. It's
6 2006 is when when that happened.

7 THE COURT: Alright, well the whole ---

8 MR. KENDALL: That's that's ---

9 THE COURT: --- first page states, My home is located at
10 Net -- my home located at 16 -- [REDACTED] Nettie Drive in Inman was
11 broke into on or about October 26th of '06, that's before ---

12 THE DEFENDANT: I understand but then the -- then when
13 the property ---

14 THE COURT: Then it says, A few days later following
15 Mr. Lindler's attempt to sell my property at work, we were
16 both employed, property being stolen, this still talkin' about
17 Lindler. And, Mr. Tinsley, if you wanna introduce a statement
18 that you gave, I'm not sure you can do that and not testify.
19 You might wanna talk to your lawyer about that.

20 THE DEFENDANT: I think you might be right..

21 THE COURT: I think I might be right.

22 THE DEFENDANT: The whole purpose for this, Your Honor,
23 was just to show that that ---

24 THE COURT: Again, do you wanna, ---

25 THE DEFENDANT: --- that I didn't make it up after ---

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1 THE COURT: --- do you wanna attempt to introduce this
2 statement or do you wanna assert your right to remain silent?

3 THE DEFENDANT: Hold on a minute, Your Honor.

4 (Whereupon, the defendant had a discussion with standby
5 counsel off the record.)

6 THE DEFENDANT: We'll withdraw it, Your Honor.

7 THE COURT: Thank you. If you'll pass this back, please.

8 THE DEFENDANT: Is that ---

9 THE COURT: That was marked as Defendant's Exhibit No. 12
10 and I'm gonna have these things turned over to the court
11 reporter, they're been marked for identification purposes.

12 THE DEFENDANT: Okay. Okay.

13 THE COURT: They've been identified in Court and you
14 presented them in front of the jury. I'm ruling them
15 inadmissible. I want 'em in the record to show why I ruled
16 'em inadmissible.

17 THE DEFENDANT: Okay.

18 THE COURT: So those will be handed to the court
19 reporter.

20 (Defendant's Exhibit No. 12, voluntary statements,
21 withdrawn.)

22 THE DEFENDANT: Um, ---

23 THE COURT: The next document, No. 13, is a letter from
24 you to the sheriff, again, a statement that you made that
25 you're wishing to introduce, same situation.

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1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Do you wish to place it in or you wish to
3 withdraw it?

4 THE DEFENDANT: We'll withdraw it.

5 THE COURT: Alright, it'll go into the record as an
6 identified document but not admitted into evidence.

7 (Defendant's Exhibit No. 13, letter, withdrawn.)

8 THE COURT: Alright, I indicated to the jury we'd take a
9 short break, we'll take about a five minute break at this
10 time. I'll caution the witness you're in the middle of your
11 testimony; at this time you cannot discuss your testimony with
12 anyone. Court's in recess for about five, ten minutes.

13 (Whereupon, the witness left the stand.)

14 (Whereupon, a recess was taken.)

15 THE COURT: Alright, yes.

16 MR. KENDALL: Your Honor, may I request while the jury's
17 out just to save effic -- we're gonna have other
18 cross-examination but in light of what Mr. Tinsley we talked
19 about earlier about Mr. Tinsley that conversation that his
20 father had with law enforcements from the jurisdiction I'd
21 like to proffer testimony before the Court just two very quick
22 questions to make sure that we're not steppin' on any lines
23 here cuz' I I I don't wanna do anything, invoke a mistrial.

24 THE COURT: Of the witness that's on the stand now?

25 MR. KENDALL: Yes, sir. Yes, sir.

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1 THE COURT: Mr. Tinsley, Sr., if you'll resume the stand
2 for me, please.

3 (Whereupon, the witness returned to the stand.)

4 THE COURT: Alright, Mr. Kendall, I'll allow you to
5 proffer some testimony concerning that matter.

6 DIRECT EXAMINATION BY MR. KENDALL:

7 Q. Mr. Tinsley, Sr., a moment ago you testified you received
8 a call from out of or from out-of-state law enforcement, is
9 that correct?

10 A. Yes.

11 Q. And what was that regarding, sir?

12 A. It was regarding an investigation in North Carolina
13 Henderson County, North Carolina concerning some trailers or
14 RVs and my -- anyone looking for James Tinsley calls me cuz'
15 I -- I'm the only one in the phone book I get every James
16 Tinsley's call and the best of my recollection the officer
17 that initially spoke with me was an Officer McClain and he
18 asked me who I was and when we had a little information back
19 and forth I realized that he was actually trying to reach my
20 son and I told him that he wasn't there at the time that he
21 was living next door with his grandmother but that he wasn't
22 there at the time so the officer asked me to when he returned
23 to have him call back and ask for him or either Officer
24 Galloway.

25 Q. Okay, and based on the conversation with those officers

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1 did you suspect the trailer that was parked in your mother's
2 yard could potentially be stolen?

3 A. Well at that time I began to to wonder about it. I I
4 wasn't quite sure what was goin' on and naturally they didn't,
5 you know, they did realize they weren't talkin' to the right
6 person so they weren't gonna give me a lotta information.

7 Q. But based on this conversation did you ultimately call
8 Detective Beck with the Spartanburg Sheriff's Office?

9 A. Actually it was, it was based on a later conversation
10 that I had with Detective Galloway ---

11 Q. Okay.

12 A. --- and Detective Galloway told me that I should
13 ta -- call Detective Beck and and I discussed that with James
14 and ---

15 Q. But but to be clear, based on these conversations with
16 law enforcement you suspected the trailer that was parked in
17 your mother's yard to be potentially stolen.

18 A. Yes, I suspected -- my words to my son were, We need to
19 find out for sure, ---

20 Q. Okay.

21 A. --- and that that was the conversation, sir.

22 Q. Okay. That -- that's all I'm gonna ask on that, Your
23 Honor, ---

24 THE COURT: You wish to ask any questions on that point,
25 Mr. Tinsley?

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1 THE DEFENDANT: I I would probably ask if if I ha -- was
2 cleared of any, of any a that mess or had anything to do with
3 it or was charged or convicted of any a that stuff, anything
4 to do with that.

5 THE COURT: Do you have any knowledge of the results of
6 the North Carolina investigation?

7 MR. TINSLEY, SR: I do, sir.

8 THE COURT: And what's that knowledge?

9 MR. TINSLEY, SR: The knowledge is that those charges
10 were dismissed without leave.

11 THE COURT: Alright.

12 MR. KENDALL: Your Honor, we would, we would object to
13 that line of testimony. First off, it's it's irrelevant.
14 We're asking why he found out about this but the other thing
15 is we also have an open charge against Mr. Tinsley stemming
16 from an RV that was recovered in North Carolina and that's one
17 of the reasons I wanted to proffer this testimony is I I have
18 no way of knowing what what RVs and campers, there were lots
19 of RVs and campers stolen, some of them from North Carolina,
20 some of them from Spartanburg, some of them ended up in North
21 Carolina, some of them ended up in Greenville via Spartanburg.
22 My concern is is that, you know, we're getting dangerously
23 close to a lot of lines, that's why I wanted to proffer this
24 testimony.

25 THE DEFENDANT: Well well I I will clarify this for him

MOTIONS AND MATTERS

1 it -- so it will help him understand. The RV which is the
2 charge that you have that you're talkin' about was stolen from
3 this very same camper lot, Holiday Kamper here in Spartanburg,
4 it ended up in Cherokee North Carolina, not Hendersonville,
5 North Carolina and Mr. Justice is the one that stole it and
6 took it up there, he pled guilty to its larceny here in
7 Spartanburg. There were three campers or four campers, I
8 believe, that were stolen from the Hendersonville, North
9 Carolina and it's my understanding that Ben, Bill and Hugh
10 were involved in stealing those and brought them back to
11 Greenville that ---

12 THE COURT: You wanna use some last names.

13 THE DEFENDANT: I'm sorry, that Hugh Justice, Ben
14 Linder [sic] and Bill Dotson brought them back to Greenville.
15 They -- Bill Dotson then stole one from them and so then Hugh
16 Justice when he realized one was missing, took the three other
17 remaining ones to Marion, North Carolina and they were
18 recovered in Marion and somehow somebody had seen them in
19 Spartanburg at Bill's shop, Bill Dotson's shop, and so that's
20 what the detective was telling me or asking me or Detective
21 Beck about the three campers where I told him yes I had seen
22 three campers at Bill's shop and it was those campers because
23 they had been recovered in Marion and somehow somebody had
24 seen them there and they knew that they'd been there at that
25 location and that when they, when they questioned me about it

MOTIONS AND MATTERS

1 they asked ---

2 THE COURT Let ---

3 THE DEFENDANT: --- me ---

4 THE COURT: --- me stop right there. Mr. Kendall, do you
5 have any evidence that this inquiry from North Carolina had
6 anything to do with the charges that are pending against ---

7 MR. KENDALL: Against him? Oh, I I don't believe that
8 they even realized that this ti -- and that -- that's -- that
9 was why I was kinda again tryin' to proffer this as testimony.
10 What we're trying to establish in this line of questioning is
11 not, and that -- that's why this is kind of a delicate issue
12 for us, is not that Mr. Tinsley is guilty of stealing all
13 these trailers, I -- this was done across a lot of law
14 enforcement and a lot of agencies, whether or not this stolen
15 RV that we also have in Spartanburg County, which is not
16 before the Court in this case, is somehow tied into that I
17 have no -- absolutely no way of knowing. We have law
18 enforcement from Hendersonville, from Spartanburg, from
19 Greenville from ---

20 THE COURT: Well, no, ---

21 MR. KENDALL: --- Cherokee ---

22 THE COURT: --- I'm leanin' towards just saying we won't
23 go down that road.

24 MR. KENDALL: What I would like to ask Mr. and Ms. ---
25 and the reason I I again brought this up, Your Honor, is Mr.

MOTIONS AND MATTERS

1 Tinsley has elicited testimony essentially saying that he
2 went and checked this out because law enforcement told him to
3 and I'm not tryin' to put words in his mouth but law
4 enforcement called and that's why he went out and checked.
5 What I'd like to get at is law enforcement called about things
6 that are outside the jurisdiction and that led Mr. Tinsley,
7 Sr. to get suspicious about the unknown RV he'd never seen
8 before in his yard, that's all I'm tryin' to get at. I I I
9 quite frankly don't wanna go down the road, that's that's kind
10 of why I've been ---

11 THE COURT: Okay, well we'll see how what's your -- what
12 you ask him. You can object if he goes too far but I I don't
13 intend to get into the North Carolina investigation. I probly
14 ruled in your favor, Mr. Tinsley, ---

15 THE DEFENDANT: Yeah.

16 THE COURT: --- if you'd like to sit down.

17 THE DEFENDANT: Thank you.

18 THE COURT: Now anything further before we bring the jury
19 in?

20 MR. KENDALL: Nothing further, Your Honor.

21 THE COURT: Alright, bring the jury in.

22 (The following takes place in the presence of the jury.)

23 THE COURT: The record will reflect the jury has
24 returned. I have ruled the tendered documents as not
25 admissible or they have been withdrawn by the defense. You

JAMES D. TINSLEY, SR. - CROSS-EXAMINATION BY MR. KENDALL

1 may proceed, Mr. Tinsley.

2 THE DEFENDANT: No further questions, Your Honor.

3 THE COURT: Your witness, Mr. Kendall.

4 CROSS-EXAMINATION BY MR. KENDALL:

5 Q. Good morning, Mr. Tinsley.

6 A. Good morning.

7 Q. I just have a couple real quick questions for ya.

8 Mr. Tinsley, do you know the difference between an RV and a
9 camper? Alright, let me ask you a little different way.

10 Which one of those two things has a motor in it?

11 A. I think the RV's the one with the motor in it.

12 Q. Sir, are you able to hot-wire a camper?

13 THE DEFENDANT: Objection, Your Honor, relevancy, it's
14 prejudicial. I've not been convicted of any of this. I've
15 been cleared of it.

16 MR. KENDALL: I -- I'm not bringin' ---

17 THE COURT: I don't know he has ---

18 MR. KENDALL: --- it up. I don't know anything about
19 anything else.

20 THE COURT: He hasn't raised any charges so what is the
21 objection?

22 THE DEFENDANT: That he's talkin' about RVs and
23 campers.

24 MR. KENDALL: That ---

25 THE COURT: That that has been testified to in the past

1 by other witnesses about one of the witnesses did testify
2 concerning the question about hot-wiring a vehicle.

3 THE DEFENDANT: That's correct, Your Honor.

4 THE COURT: So I'm going to allow him to go into that. I
5 don't know what extent this witness has knowledge of that but
6 we're gonna find out, he's on cross-examination. You may
7 proceed.

8 BY MR. KENDALL:

9 Q. So when you're talkin' about hot-wirin' a vehicle, that's
10 somethin' with a motor, correct?

11 A. That's my understanding from a TV shows I've watched.

12 Q. Alright. So so you wouldn't hot-wire a camper, that --
13 that's correct?

14 A. The only, the only wiring I know of in campers are the
15 electrical services and things like that that ---

16 Q. And from your common s ---

17 A. --- make it function.

18 Q. Alright, and from your common sense experience of living
19 in the world RV gets driven, campers get towed, correct?

20 A. Correct.

21 Q. And so you wouldn't need a pickup truck to get around
22 with an RV, correct?

23 A. No, not if you could drive it.

24 Q. Okay. I bring that up because yesterday you were in the
25 courtroom, correct, ---

1 A. Yeah.

2 Q. --- and you heard Mr. Lindler testify that that your son
3 had asked him to hot-wire an RV for him about a year before.

4 A. I heard that.

5 Q. Yes, sir. And at that time he didn't have a truck,
6 correct?

7 A. He did not.

8 Q. Alright, but he wouldn't need a truck to get around in an
9 RV, correct, he would just be driving the RV?

10 A. You could drive an RV, yeah.

11 Q. Okay, I just wanted to, I wanna clear that up cuz' that
12 was, that was very confusing earlier and I I just wanna make
13 sure we all understood that you wouldn't need a truck for an
14 RV. Now let's talk about this truck. He did not have a truck
15 at that point but what was he driving the day he brought over
16 that camper to your house?

17 A. He had I believe that was a, I believe it was 2002 or
18 2003 Dodge Ram pickup.

19 Q. So at the time when all this is actually happening, he
20 does have a truck, isn't that correct?

21 A. He had a truck in December 2006.

22 Q. And a moment ago you testified that he had a home,
23 that -- that's correct

24 A. Yes.

25 Q. Did he bring this camper to his house?

1 A. I I don't know where it, I don't know where it came from.
2 All I know is he brought it to 1000 ---

3 Q. Well it didn't end up at his house, correct?

4 A. Not ultimately, no.

5 Q. No. Who -- whose house did it end up at?

6 A. My mother's.

7 Q. And it was -- and was it just sittin' out in the open or
8 was it behind a boat? Where's ---

9 A. No, my my boat was in front of it. It was sittin' behind
10 my boat.

11 Q. Okay, so to clarify here your -- the testimony earlier
12 was your son did in fact have a house, correct?

13 A. Yeah.

14 Q. But it didn't go to that house, correct, that the camper
15 didn't end up at that house it went to your house, isn't that
16 correct?

17 A. Yeah, to my mother's house, yeah.

18 MR. KENDALL: I've got no further questions, Your Honor.

19 THE COURT: Redirect, Mr. Tinsley?

20 THE DEFENDANT: None, Your Honor.

21 THE COURT: You may step down, sir.

22 (Whereupon, the witness left the stand.)

23 THE COURT: Mr. Tinsley, you may call your next
24 witness.

25 THE DEFENDANT: Cindy Reed, Your Honor.

CYNTHIA REED - DIRECT EXAMINATION BY THE DEFENDANT

1 THE COURT: Come forward please, ma'am, to my left and be
2 sworn.

3 CYNTHIA REED, having been
4 first duly sworn, testified as follows:

5 THE COURT: Have a seat please, ma'am. Once you're
6 seated I'm going to ask that you state your name.

7 MS. REED: Cynthia Reed.

8 THE COURT: Mr. Tinsley, your witness.

9 DIRECT EXAMINATION BY THE DEFENDANT:

10 Q. Ms. Reed, how do you know me?

11 A. I'm your ex-fiance.

12 Q. And how long have you known me?

13 A. Since 2001.

14 Q. Did we used to live together?

15 A. We did.

16 Q. How l -- for how long?

17 A. Five years.

18 Q. Have you had the opportunity to observe my behavior?

19 A. Oh, yes.

20 Q. Do you know about as much about me as anyone would?

21 A. Yes.

22 Q. Ben Lindler testified that on the first night he ever
23 worked at Ina I walked up to him ---

24 MR. KENDALL: Objection. She wasn't here to hear any
25 testimony on this.

1 THE COURT: Well as long as he correctly states it.
2 We'll find out what the question is. I don't know what it is.

3 MR. KENDALL: Okay.

4 BY THE DEFENDANT:

5 Q. Ben Lindler letter testified that on the first night he
6 ever worked at Ina I walked up to him and asked him to
7 hot-wire an RV or steal a camper for me is that consistent ---

8 MR. KENDALL: Again, I I'm ---

9 THE DEFENDANT: --- with my behavior?

10 MR. KENDALL: --- gonna object to that, that's -- we we
11 contest that.

12 THE COURT: Alright, what's the objection?

13 MR. KENDALL: The objection is that's not what he
14 testified to. I believe the testimony was the first night he
15 asked him to hot-wire an RV that evolves to a long discussion
16 about auto parts and stuff. He later asked him to steal a
17 trailer or a camper as I understand it and that's where we
18 went from there then he found somebody else to do it.

19 THE COURT: Well, ladies and gentlemen of the jury, this
20 is again an occasion I'll ask you to step to the jury room
21 while a have a discussion with the parties. Don't begin your
22 discussions until I tell you to do so.

23 (The following takes place outside the presence of the
24 jury.)

25 THE COURT: Now I assume what you're attempting to do is

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1 place your character into controversy, is that correct?

2 THE DEFENDANT: Uh, I I guess.

3 THE COURT: Well you tell me what the purpose of the
4 question is.

5 THE DEFENDANT: Well just for her to, you know, explain
6 that I'm not the type of person that would do that.

7 THE COURT: That would be your character.

8 THE DEFENDANT: Yeah.

9 THE COURT: Alright. Now your objection is?

10 MR. KENDALL: My objection would be in this case that
11 he's he's essentially testifying for Mr. Lindler, that
12 testimony is being remembered and what we believe to be
13 incorrectly. I believe, based on my recollection and that's I
14 guess why we have transcripts, that Mr. Lindler testified the
15 first night he asked you to hot-wire an RV. I then asked
16 later questions about a camper and then he said Mr. Tinsley
17 asked him to steal it. I don't believe, and in
18 Mr. Tinsler's [sic] statement maybe maybe I just presented
19 this incorrectly, but in Mr. Lindler's statement I believe in
20 the questions I asked first night he's just talkin' about
21 stealin' RVs. I don't believe he mentioned on that first
22 night stealin' any campers, any dual pur -- dual-purpose. I
23 thought that was a separate incident when asked separate
24 questions about that.

25 THE COURT: Well well let's just get to what I think is

MOTIONS AND MATTERS

1 the larger question here. There are certain ways that you can
2 prove character. Under Rule 405 he has the right to ask her
3 concerning specific instances involving his character or his
4 reputation or traits of character and in this case he's simply
5 asking -- I think what we're gonna have to do is you're gonna
6 ha -- need to lay a foundation. You said that she knew you
7 well, you're gonna have to ask her if she's aware of your
8 reputation or your character traits in the community and how
9 you act in the community and then you can ask about a specific
10 incidence -- instances to prove instances of a person's
11 conduct. I'm gonna allow you to do that. Now the issue that
12 the State is raising is whether or not you're properly
13 characterizing the testimony. Could you phrase the question
14 in such a fashion that we don't get into the specifics?

15 THE DEFENDANT: I believe he is correct ---

16 THE COURT: I think he is too.

17 THE DEFENDANT: --- that I -- that he said two different
18 things. I don't understand what the difference would be
19 really, for the outcome because the answer's the same either
20 way but I do believe that he mentioned ---

21 THE COURT: Well ---

22 THE DEFENDANT: --- the hot-wire ---

23 THE COURT: --- well the the the difference is the point
24 he just made of the last witness and that is that that at the
25 time that the incident occurred, the conversation, first day

MOTIONS AND MATTERS

1 of work conversation with Mr. Lindler you didn't own a truck
2 and he's saying that at that first conversation that you asked
3 him to hot-wire an RV which is consistent with somebody who
4 doesn't have a truck. You raised the issue about the kinda
5 vehicle you had and what you might have been wanting, you
6 brought that up through your father's testimony.

7 THE DEFENDANT: But I I think he's trying to establish
8 that maybe I was trying to get him to steal this RV that
9 Mr. Justice ---

10 THE COURT: No, ---

11 THE DEFENDANT: --- has stolen.

12 THE COURT: --- that's not the point.

13 THE DEFENDANT: Okay.

14 THE COURT: Am I, am I right? Is my ---

15 MR. KENDALL: Oh, yeah, I I don't want anything to do
16 with any RVs, Your Honor.

17 THE COURT: The -- you made a a point with your father
18 about when you had a car, when you had a truck and whether you
19 would need a RV or a ---

20 THE DEFENDANT: So they're tryin', ---

21 THE COURT: --- trailer.

22 THE DEFENDANT: --- they're tryin' to do the opposite.

23 THE COURT: You started that issue up ---

24 THE DEFENDANT: Okay.

25 THE COURT: --- and and it's it's a -- I -- I'll let you,

MOTIONS AND MATTERS

1 it's a legitimate issue.

2 THE DEFENDANT: Well ---

3 THE COURT: The point is though that he's saying you're
4 not allowed to mischaracterize the testimony that's in the
5 record in your questions to insert your question to her was
6 whether or not you -- if you had asked Mr. Linder [sic] to
7 hot-wire an RV or steal a trailer whether that would fit
8 within her knowledge of your character, that's basically what
9 you were asking.

10 THE DEFENDANT: So if I take out the camper part ---

11 THE COURT: I was asking you to rephrase the question so
12 that it fits the testimony, the testimony being, Mr. Lindler
13 testimony I think was you asked him whether or not he -- if he
14 knew how to hot-wire an RV. I don't recall him testifying
15 about you asking him to steal a trailer at that time, that
16 was at a later ---

17 THE DEFENDANT: That's correct.

18 THE COURT: --- conversation.

19 THE DEFENDANT: That's correct.

20 THE COURT: That's my understanding of the testimony. So
21 if you want to ask her, you can ask her well if -- does it fit
22 within your knowledge of my reputation and character for me to
23 be inquiring about hot-wiring cars or or stealing trailers
24 cuz' tho -- there were two different conversations. You
25 could ask it in that fashion. Do you see what I'm saying?

MOTIONS AND MATTERS

1 THE DEFENDANT: No, what was that one more time?

2 THE COURT: Well I can't advise ya as to how to ask
3 questions but I can say that as long as it fits within the
4 testimony that's been presented I'll allow you to ask it and
5 you are allowed to prove character under Rule 405 by asking
6 her; number one, and I think you've establ -- you need to
7 listen to me, Mr. Tinsley, if you want me to talk to you about
8 this.

9 THE DEFENDANT: I hear you.

10 THE COURT: Thank you. That you are allowed to ask her
11 whether that she's aware of your reputation and character and
12 now by putting your character into evidence you understand
13 that you're allowing the State to go into other traits or
14 matters within your character. Do you understand that or have
15 you talked to your adviser about that?

16 THE DEFENDANT: Let me do that.

17 THE COURT: Okay.

18 (Whereupon, the defendant had a discussion with standby
19 counsel off the record.)

20 THE COURT: Now the point I'm trying to make to you, sir,
21 I'm referring you to rule 405, Mr. Tinsley. Let me read that
22 rule to you so that you have an understanding of Rule 405.

23 MS. PRICE: He has a copy of it right here, Your Honor.

24 THE COURT: We'll I I wanna be sure he understands where
25 he's goin', what what he's doin' by going down this line of

MOTIONS AND MATTERS

1 questioning. "In all cases in which evidence of character or
2 a trait of character of a person is admissible, proof may be
3 made by testimony as to reputation or by testimony in the form
4 of an opinion." What I'm referring to is the next sentence,
5 "On cross-examination," that would be by the State of this
6 witness, "inquiry is allowable into relevant specific
7 instances of conduct." Now I will assume that one of the
8 things that entered into your decision not to testify in this
9 case was your prior conviction of a crime. The State will be
10 allowed to cross-examine this witness as to other prior
11 instances of conduct under that rule if you put your character
12 into controversy in this case.

13 THE DEFENDANT: She would have to have knowledge of that
14 though to testify about it wouldn't she?

15 THE COURT: I'm just gonna tell you they can ask the
16 questions and that certainly puts -- but if you think that's
17 okay to put in front of the jury, that's your business not
18 mine ---

19 THE DEFENDANT: Okay.

20 THE COURT: --- but I just want you to be aware of what
21 the entire rule says and I will enforce the rule. Do you want
22 a moment to talk with your advisor about that?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Alright.

25 (Whereupon, the defendant had a discussion with standby

CYNTHIA REED - DIRECT EXAMINATION BY THE DEFENDANT

1 counsel off the record.)

2 THE COURT: Mr. Brannon?

3 MR. BRANNON: May I approach, Your Honor?

4 THE COURT: Yes, sir, c'mon up.

5 (Whereupon, a discussion at the bench was held off the
6 record.)

7 THE COURT: Alright, Mr. Tinsley, have you had a chance
8 to talk with your lawyer about the situation that we find
9 ourselves in?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Alright, you wish to proceed with this
12 witness?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Okay, bring the jury back.

15 (The following takes place in the presence of the jury.)

16 THE COURT: The record will reveal that the jury has
17 returned to the courtroom. I've asked the -- Mr. Tinsley to
18 rephrase the question. You may proceed.

19 BY THE DEFENDANT:

20 Q. Ms. Reed, in -- back in 2005 did you live with me back
21 then?

22 A. I believe I did for a half a year, ---

23 Q. Um, ---

24 A. --- four months actually.

25 Q. Even after you left did you come over all the time or

1 visit?

2 A. I did occasionally visit.

3 Q. Did I even race go-carts back then?

4 A. Did that in '05, no.

5 Q. Did I have any need for a camper back at that time in
6 2005?

7 A. No.

8 Q. Did I ever discuss with you at that time that we should
9 get a camper?

10 A. No.

11 Q. In December of 2005 did I even have a truck to tow a
12 camper with?

13 A. I'm not sure if you still had the truck or not.

14 Q. In 2005. When when when was it that -- what did I have
15 before I got the truck?

16 A. An RX-8.

17 Q. When did I get rid of it and get the truck?

18 A. In 2005.

19 Q. You sure about that?

20 A. It was -- well it was after I was gone that you got the
21 truck. When I left you had the RX-8.

22 Q. And when, and when did you leave?

23 A. In 2005.

24 Q. Okay. But you're not sure about when ---

25 A. In April.

CYNTHIA REED - CROSS-EXAMINATION BY MR. KENDALL

1 Q. --- I got the truck?

2 A. April was when I left. I'm not sure when you got the
3 truck.

4 Q. Okay. In 2005 did you ever see me before or after with
5 any kind of a motorized RV?

6 A. No.

7 THE DEFENDANT: No further questions, Your Honor.

8 THE COURT: Mr. Kendall.

9 CROSS-EXAMINATION BY MR. KENDALL:

10 Q. Did you have any -- this -- you moved out 2005, that's
11 correct? that's your testimony?

12 A. Yes. Yes.

13 Q. And so you were not living with Mr. Tinsley in 2006, is
14 that correct?

15 A. Correct.

16 Q. How much contact did you have with Mr. Tinsley between
17 2006 or 2005 when you moved out? How often do you guys hang
18 out?

19 A. Almost every week.

20 Q. Okay. And that's continued until now?

21 A. No, ---

22 Q. Okay.

23 A. --- it was for like a year.

24 Q. Now let's talk about this house in Inman he lived in.

25 A. Um-hum.

CYNTHIA REED - REDIRECT EXAMINATION BY THE DEFENDANT

1 Q. Could one conceivably have put an RV there or excuse me,
2 mark that, a camper there?

3 A. It's in a cul-de-sac so it be very difficult.

4 Q. But there's a driveway, correct?

5 A. There is.

6 Q. And he can park it in the driveway, correct?

7 A. You could.

8 Q. Okay. Alright.

9 MR. KENDALL: I've got no further questions, Your Honor.

10 THE COURT: Redirect?

11 REDIRECT EXAMINATION BY THE DEFENDANT:

12 Q. Did you ever see a RV or a camper parked in the driveway
13 or anywhere else on that property?

14 A. I saw -- a camper is the one you pull right?

15 Q. Well camper's one that you live in.

16 A. Oh no. No.

17 Q. Okay, no further questions.

18 RECROSS-EXAMINATION BY MR. KENDALL:

19 Q. Wait a second, just one on redirect. Yes, ma'am, a
20 camper is the one you pull behind a car. Did you ever see one
21 of those on the property?

22 A. Yes.

23 Q. Okay. No further questions.

24 REDIRECT EXAMINATION BY THE DEFENDANT:

25 Q. I wanna clarify this. Do you know the difference between

CYNTHIA REED - RECROSS-EXAMINATION BY MR. KENDALL

1 a camper and an enclosed trailer?

2 A. Yes.

3 Q. What you saw that you pull with a bumper, co -- was it
4 something you live in or was it something you haul equipment
5 or motorcycles or things like that in?

6 A. You haul equipment in.

7 Q. So it wasn't something that you live in?

8 A. No, it's not livable.

9 Q. Okay. Thank you.

10 THE COURT: Mr. Kendall.

11 MR. KENDALL: I'm just gonna do one more to clarify.

12 RECROSS-EXAMINATION BY MR. KENDALL:

13 Q. This is to to be clear ---

14 A. Um-hum.

15 Q. --- what was on your property when you were living with
16 Mr. Tinsley was some sort of big wheeled thing that attaches
17 to the back of a vehicle basically?

18 A. Yes, sir, that you put ---

19 Q. Okay.

20 A. --- equipment in.

21 Q. And and that was on the property that they could fit on
22 the property?

23 A. Yes, sir.

24 Q. Okay, I've got no further questions.

25 THE COURT: You may step down, ma'am.

MOTIONS AND MATTERS

1 (Whereupon, the witness left the stand.)

2 THE COURT: Any reason for this witness not to be
3 excused, Mr. Tinsley?

4 THE DEFENDANT: No, Your Honor.

5 THE COURT: State?

6 MR. KENDALL: No, Your Honor.

7 THE COURT: Ma'am, you're free to go. Thank you for
8 coming today. Mr. Tinsley, you may call your next witness.

9 THE DEFENDANT: The defense rests, Your Honor.

10 THE COURT: State wish to call any witnesses in reply or
11 rebuttal?

12 MR. MCCARTY: May we have just one minute to conference
13 right here, Your Honor?

14 THE COURT: Yes, sir.

15 (Whereupon, a discussion was held off the record.)

16 MR. KENDALL: Nothing in rebuttal, Your Honor.

17 THE COURT: Alright, ladies and gentlemen of the jury, at
18 this time we'll take a short a break. I'll ask you one more
19 time step back to the jury room. Don't begin any discussions
20 until such time as I've had an opportunity to tell you to do
21 so. You may retire.

22 (The following takes place outside the presence of the
23 jury.)

24 THE COURT: Alright, any matters to be taken up from the
25 State?

MOTIONS AND MATTERS

1 MR. KENDALL: Nothing further, Your Honor.

2 THE COURT: Any for the defense?

3 THE DEFENDANT: I have a motion.

4 THE COURT: Yes.

5 THE DEFENDANT: I would like to -- the defense would like
6 to renew m -- all my prior motions for a directed verdict on
7 all the previous arguments and I would like to add to that
8 that that the, that the State has failed to establish that the
9 camper was received or possessed in Spartanburg County on the
10 particular date mentioned in the indictment and the Court
11 previously ruled that because Bill Dotson told an officer that
12 the camper belonged to me and that that would somehow suggest
13 that I had dominion and control over the camper at that time.
14 That officer testified that Bill Dotson told him that on
15 December the 2nd or 3rd I believe. The indictment says that I
16 did possess, receive the property on October 10th.

17 THE COURT: It says on or about.

18 THE DEFENDANT: On or about October 10th approximately
19 two months prior to that so therefore even if Ben -- Bill
20 Dotson were tellin' the truth and I did possess it on that
21 date, that does not necessarily mean that I possessed it on
22 the date alleged in the indictment, that's sufficient enough
23 time that it could have exchanged hands many different times
24 between that time and the later and because of that I believe
25 the State has failed to establish that I possessed it on ---

MOTIONS AND MATTERS

1 THE COURT: I'll hear from the State.

2 THE DEFENDANT: --- the date in the indictment.

3 MR. KENDALL: Your Honor, I believe the indictment's a
4 notice document, it gave Mr. Tinsley reasonable notice of what
5 we were charging in this case. We allege the camper was
6 stolen from Holiday Kamper, we even put up a witness that
7 testified that the night it was stolen that he had requested,
8 he knew it was stolen, he was going to pick it up from
9 somebody else and he left work early for that purpose. Now I
10 understand it doesn't specifically say but I don't believe
11 it's the State's obligation to come up with an exact date,
12 time or whatever. We've we've given Mr. Tinsley sufficient
13 notice of what he's being charged with. The indictment as
14 we've stated is a charging document.

15 THE COURT: Alright. Anything further?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: Well the indictment does does state not just
18 a specific date but on or about October 11th 2006. It is a
19 notice document and it's my belief that it gives sufficient
20 notice of the charge, I'll allow it to go forward. Anything
21 further from the defense?

22 THE DEFENDANT: No, Your Honor.

23 THE COURT: Alright. Now the State waiving opening and
24 simply will close?

25 MR. KENDALL: Yes, sir.

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1 THE COURT: Alright, that means you'll be going first
2 with your closing statement. Are you ready to go forward?

3 THE DEFENDANT: I I I could use a break, Your Honor,
4 to ---

5 THE COURT: Well we'll take a short one. Also are there
6 any specific requests for charge from the defense?

7 THE DEFENDANT: I do, Your Honor.

8 THE COURT: Pass it up.

9 (Whereupon, the document was handed to the Court.)

10 THE COURT: Any specific requests for charge from the
11 State?

12 MR. KENDALL: Well we've got none, Your Honor, we have
13 not seen that however. I wonder if we could just take a quick
14 look at that.

15 THE DEFENDANT: Take your time.

16 THE COURT: You have a copy for the State?

17 THE DEFENDANT: I don't but I I had ---

18 THE COURT: Let's make a copy.

19 THE DEFENDANT: --- it, I lost it.

20 THE COURT: Just a second.

21 THE DEFENDANT: He he ---

22 THE COURT: We'll we'll make a copy, during the break
23 I'll give him a chance to review it.

24 MR. KENDALL: Yeah, we we ---

25 THE DEFENDANT: Your Your Honor, I also have some some

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1 others ---

2 THE COURT: Another what?

3 THE DEFENDANT: Some some other requests for charge.

4 THE COURT: Okay.

5 THE DEFENDANT: I don't have an extra copy of that.

6 (Whereupon, a discussion was held off the record.)

7 MR. KENDALL: Your Honor, the State is also gonna have
8 one that we are gonna request, it just kind of occurred to me.

9 MR. MCCARTY: Yes.

10 THE COURT: Alright, well tell me what that is.

11 MR. KENDALL: Your Honor, we're gonna request the jury
12 just this is a kind of a standard charge I believe the Court
13 may assume. We'd like to have a beefed up version that
14 statements made during the closings and openings are not
15 evidence and I say that cuz' it puts us in ---

16 THE COURT: That's that's already been explained to the
17 jury ---

18 MR. KENDALL: Okay.

19 THE COURT: --- at the beginning of the trial.

20 MR. KENDALL: Yes, sir. Yes, sir. Would it be possible
21 to add that in at closing as well? The reason I ask that is
22 Mr. Tinsley has invoked his right to remain silent but it puts
23 us in kind of an awkward position cuz' at this point he can
24 stand up there and say whatever he wants to without any ---

25 THE COURT: It it is the law of the state and I have no

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1 problem again saying the statements or the statements. I
2 mean, I'm not gonna make it part of my charge of the law ---

3 MR. KENDALL: Okay.

4 THE COURT: --- but I will explain to the jury that
5 statements made at the beginning and the close of trial are
6 not evidence.

7 MR. KENDALL: Yes, sir.

8 THE COURT: I I made that point at the beginning of the
9 case.

10 THE DEFENDANT: I was plannin' on sayin' it myself ---

11 THE COURT: Okay. Well we'll -- we've got an agreement
12 on that.

13 MR. KENDALL: Good, good, good.

14 THE COURT: Now any other request from the State?

15 MR. KENDALL: No other request from the State, Your
16 Honor.

17 THE COURT: Alright, now as to the defense request,
18 rekest -- request No. 1, the State have a position?

19 MR. KENDALL: That the defendant has not presented
20 another reasonable hypothesis for how the crime occurred, I
21 don't believe that is a proper instruction. For that to be
22 true he'd have to put up a defense and though he did present
23 witnesses, none of the witnesses testified to anything
24 involving a stolen trailer, they testified to car, things
25 along those lines.

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1 THE COURT: Your your request starts off with with the
2 citation of *State vs. Langston* as to the State depending
3 entirely on circumstantial evidence. I plan to give an
4 instruction on circumstantial evidence. Now as to whether or
5 not the jury cannot convict a defendant if the defendant has
6 presented any other reasonable hypothesis, I do not intend to
7 charge that to the jury.

8 THE DEFENDANT: Note, note, note my objection for the
9 record.

10 THE COURT: Absolutely. Request No. 2 ---

11 THE DEFENDANT: Uh, ---

12 THE COURT: --- State's position?

13 THE DEFENDANT: --- one thing. If you won't charge it to
14 the jury, am I allowed to argue it to the jury?

15 THE COURT: Well you you can argue that you have
16 presented another reasonable hypothesis. You you can argue
17 the facts and the strength of the facts and whether or not
18 something else could have occurred. You can argue those
19 things ---

20 THE DEFENDANT: Can can I argue that that ---

21 THE COURT: --- as long as you stay within the evidence
22 presented.

23 THE DEFENDANT: Can I argue that that the law suggests
24 that the jury should not convict someone?

25 THE COURT: No, sir, you're not allowed to argue the law

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1 to the jury.

2 THE DEFENDANT: I can't mention ---

3 THE COURT: You can argue, you can argue concerning the
4 facts and you can argue the law as it exists. I don't see
5 any -- is that -- you have a quote around that that you're
6 asking me to charge. Does that come from some case?

7 THE DEFENDANT: That come I believe it comes from
8 *Horne*.

9 THE COURT: Does it or does it not?

10 THE DEFENDANT: I believe so.

11 MS. PRICE: This is a yes or no question. Yes or no.

12 THE COURT: Do do you know that for sure?

13 THE DEFENDANT: I'm not one hundred percent sure. I ---

14 THE COURT: Well I wondered, it's got quotes around it
15 and I'm tryin' to figure that out but I can get *Horne* up
16 pretty quick but ---

17 THE DEFENDANT: I think ---

18 THE COURT: --- let's ---

19 THE DEFENDANT: I think ---

20 THE COURT: --- see if it's in *Horne*.

21 THE DEFENDANT: --- it's from my notes.

22 THE COURT: Sir?

23 THE DEFENDANT: I believe it's from a note that was given
24 to me and and that it it ---

25 THE COURT: A note?

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1 THE DEFENDANT: You know, where somebody copied it out of
2 a law book or somethin' ---

3 THE COURT: Oh, ---

4 THE DEFENDANT: --- and and that was their quotes that
5 they put around it so I'm assumin' that that came from the
6 book. I believe that's what it says though. I musta
7 evidently -- I ---

8 (Pause.)

9 MR. KENDALL: Your Honor, I would again point out that
10 there was never a presentation of any evidence. Mr. Tinsley
11 attacked my witnesses. He on his, on his case in -- his case
12 he brought up a witness to testify, I I won't to say to his
13 character cuz' that's not correct, but just generally about
14 him and about their relationship but he's never presented a
15 case. There's never been an alternative hypothesis presented
16 to the Court.

17 THE DEFENDANT: I I disagree with that, Your Honor. I I
18 I asked the detective did I tell him that I had received the
19 the camper from Bill Dotson and was that in a police
20 statement, he said yes. And I asked him and my father had I
21 also told 'em that I was selling the machines to pay Bill
22 Dotson for the camper and he said yes. And my father said
23 that he had went to collect the money that was supposed to pay
24 for the machine but it had already been discovered that it was
25 stolen by that -- by the time we got paid. And the the fact

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1 that Bill Dotson up and split town the day after I was
2 arrested so that suggests that it was obtained from him and no
3 one told me anything that would, you know, suggest that I knew
4 it was stolen. My father said that -- he testified that that
5 that he asked me that did I know that if it was stolen and I
6 told him I didn't believe so when he asked me and that ---

7 THE COURT: You're not -- don't -- you're not arguing the
8 case right now.

9 THE DEFENDANT: Excuse me.

10 THE COURT: Yes.

11 MR. KENDALL: I I don't believe he's ---

12 MR. MCCARTY: Your Honor, I I would just suggest that his
13 alternative hypothesis I I would suggest goes towards third
14 party guilt in the situation that Bill Dotson he's tryin' to
15 pass the buck to Bill Dotson who's not here, no testimony
16 regarding Bill Dotson's whereabouts or anybody who may have
17 even actually seen him skip town as Mr. Tinsley alleges the
18 very next day. I I think we're getting into that realm where
19 we're not saying the State's evidence is insufficient, we're
20 saying he's actually somebody else, I'm here to try that
21 person and that's, Your Honor, if I may be frank, what I felt
22 has been the nature of his cross-examination as well as his
23 case in chief throughout.

24 THE COURT: Well and and I agree that what he is
25 attempting to do approaches third party guilt.

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1 MR. MCCARTY: Yes.

2 THE COURT: Are you tryin' to pin it on somebody else?

3 THE DEFENDANT: I'm I'm I'm not saying that he's
4 guilty an -- well, I am saying that he -- his behavior
5 suggests that he was guilty. I don't know whether he
6 specifically stole it or or not.

7 THE COURT: See I have to, I have to view the question in
8 this as as to the sufficiency of the evidence you've
9 presented. Now the question is whether or not you possessed
10 it or, I get to the right wording, you received it or
11 possessed it is the question and you've never denied that you
12 had it in your possession. The question is whether you
13 reasonably knew or should have known it was stolen it would
14 seem to me. Now you denied whether you had it in possession
15 in Spartanburg County and I realize that's an issue that they
16 have to prove and that's something that has to be proven but
17 you have never denied that you had possession of it.

18 THE DEFENDANT: That's correct.

19 THE COURT: I mean, it was in the -- in your
20 grandmother's yard ---

21 THE DEFENDANT: I I ---

22 THE COURT: --- under your control parked there by you.

23 THE DEFENDANT: And ---

24 THE COURT: That that was not in Spartanburg County I
25 realize that. So I guess the real issue or the hypothesis

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1 that you're presenting and I'm just saying as it seems to me
2 that your hypothesis is that you had no knowledge that it was
3 stolen or that you had reason to believe that you purchased it
4 and it was not stolen.

5 THE DEFENDANT: That's correct.

6 THE COURT: Okay, so I I think that's the hypothesis
7 we're talkin' about.

8 THE DEFENDANT: Right.

9 THE COURT: Now let's get back to what we were talkin'
10 about. The quote from *Horne* is not the way you put it in your
11 request. What they're talking about in *Horne* is the trial
12 judge's standard for submission of a case to a jury is
13 distinguishable from the standard applied by the jury in
14 evaluating circumstantial evidence. There was an attempt in
15 that case to mix the two standards, that a ju -- in other
16 words, a jury has a higher standard for making a finding on
17 circumstantial evidence than a judge has for submitting a
18 circumstantial evidence to a jury that's what *Horne* is about
19 and what *Horne* says is in contrast to the standard for the
20 jury's deliberation is that it may not convict the defendant
21 unless every circumstance relied upon by the State has been
22 proven beyond a reasonable doubt and all of the circumstances
23 so proven are consistent with each other and taken together
24 point conclusively to the guilt of the accused to the a -- to
25 the exclusion of every reasonable hypothesis, that's what

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1 Horne says, that's not what you have in quotes here.

2 THE DEFENDANT: Okay. Well could we have it charged the
3 way that they have it?

4 THE COURT: Any objection to my charging what Horne says
5 as far as the standard that a jury should follow?

6 MR. KENDALL: No, sir, Your Honor.

7 THE COURT: It's a 1996 case. I'll have my law clerk
8 check and see if it has been overturned or overruled.

9 (Whereupon, a discussion was held off the record.)

10 THE COURT: Your request No. 2 sta -- seeks to have the
11 jury charge that they may not convict the defendant if the
12 evidence raises only a mere suspicion. I'm gonna charge proof
13 beyond a reasonable doubt and the charge of proof beyond a
14 reasonable doubt requires that a jury cannot find you guilty
15 unless the State has proven every element of the crime charged
16 beyond a reasonable doubt. I think that takes care of issues
17 concerning mere suspicion cuz' I will charge them as to what
18 reasonable doubt is and what that means and I think that takes
19 care of that particular issue so I'm not gonna charge the
20 specific language that you've requested, I will charge the
21 jury, however, that they may not convict unless they find that
22 the State has proven its case in every element of the crime
23 beyond a reasonable doubt and I will define what that means
24 and that will I think take care of the fact that they can't
25 convict on a suspicion.

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1 THE DEFENDANT: And just note my objection, Your Honor.

2 THE COURT: I note your objection. Request No. 3 talks
3 about Ben Lindler's accomplice confession. Now an accomplice
4 is someone who acts in concert with someone in committing a
5 crime. Mr. Lindler never indicated he committed any crimes or
6 acted in any way to further the commission of a crime so
7 therefore Mr. Lindler never testified in the case that he was
8 an accomplice to anything that you did.

9 THE DEFENDANT: I I agree with that, Your Honor.

10 THE COURT: So I'm not gonna charge accomplice
11 confession. Request No. 4 has to do with your objection to
12 the fact that the camper was discovered in Greenville and has
13 to do with dominion and control. Now I'm gonna ask the State
14 about this.

15 MR. KENDALL: Your Honor, we don't have any problem with
16 the spirit of this but we ask that this be included in the
17 elements of the offense as in the affirmative. In other
18 words, the State must prove that the defendant or took
19 dominion or control of this camper within the confines of
20 Spartanburg County ---

21 THE COURT: Well I'm gonna, I'm gonna read the indictment
22 to the jury. The indictment has in it that James Tinley [sic]
23 did in Spartanburg County, and I will tell the jury that they
24 have to prove the indictment and the elements alleged in the
25 indictment beyond a reasonable doubt. Now this raises an

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1 interesting question concerning constructive possession. I
2 know that's the case in drugs, is the State alleging that's
3 the case in this, in in this case as well cuz' he raises the
4 issue in this of a charge concerning the dominion and control
5 and he cites *State vs. Williams*. I'll get *State vs. Williams*
6 up, we'll take a look at that.

7 MR. KENDALL: What's the cite?

8 THE COURT: 468 S.E.2d 626.

9 MR. KENDALL: Your Honor, we were just, we're bringin' up
10 just actual possession. He actually possessed it here in
11 Spartanburg.

12 THE COURT: Beg your pardon?

13 MR. KENDALL: We were -- we're just focusing on actual
14 possession, Your Honor. He actually possessed the property
15 here in Spartanburg.

16 THE COURT: I'm not finding a *State vs. Williams* at that
17 citation.

18 THE DEFENDANT: Maybe I missed it.

19 (Whereupon, a discussion was held off the record.)

20 THE COURT: *Williams* case is a murder case that you
21 cited.

22 THE DEFENDANT: Is it talkin' about, is it talkin'
23 about ---

24 THE COURT: It's talkin' ---

25 THE DEFENDANT: --- venue?

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1 THE COURT: --- about venue.

2 THE DEFENDANT: Is it talkin' about venue? It may be a
3 m -- it may be I may have gotten the wrong cite. I got it
4 outta the South Carolina Digest.

5 THE COURT: Well it talks about, it says, Venue, like
6 jurisdiction in a criminal case case, need not be
7 affirmatively approved and circumstantial evidence of venue,
8 although slight, is sufficient to establish jurisdiction,
9 that's what it says.

10 THE DEFENDANT: And that just means if that if there's
11 any evidence that it coulda tooken place in Spartanburg,
12 you -- you're not required to grant directed verdict ---

13 THE COURT: Exactly, which is what ---

14 THE DEFENDANT: --- but ---

15 THE COURT: --- I, which is what I've done.

16 THE DEFENDANT: --- what you just -- what you did.

17 THE COURT: Um-hum.

18 THE DEFENDANT: But that then it becomes a question for
19 the jury, you submit it to the jury ---

20 THE COURT: Well again, that's fine, ---

21 MR. MCCARTY: Absolutely, yes, sir.

22 THE COURT: --- that's one of the elements of that I'm
23 gonna charge. I'm gonna read the indictment again and tell
24 them it alleges it occurred in Spartanburg County and the
25 State has the burden of proving the elements of the crime

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1 alleged in the indictment by proof beyond a reasonable doubt.
2 You have the right to argue that to the jury all you would
3 like to but I'm going to charge that this is the indictment,
4 it alleges it occurred in Spartanburg County, they've got a
5 duty to prove that beyond a reasonable doubt ---

6 THE DEFENDANT: Well ---

7 THE COURT: --- but the standard by which I'm still
8 supposed to submit it to the jury is is right here, that's the
9 venue, like jurisdiction in a criminal case, may may not be
10 affirmatively prove -- proved and circumstantial evidence of
11 venue, though slight, is sufficient to establish jurisdiction.
12 I've already ruled on that. That's that's not something I
13 charge to the jury, that's just a standard by which I submit
14 it to the jury.

15 THE DEFENDANT: Well well note my objection.

16 THE COURT: Mr. Kendall, my law clerk, points out to me
17 that he, and I'll read what it says to you in *Williams*, Where
18 some acts material to the offense and requisite to its
19 consummation occur in one county and some in another county,
20 venue is proper in either county.

21 MR. KENDALL: Your Honor, we would request that as an
22 instruction.

23 (Laughter.)

24 THE COURT: Well I'm -- the jury's not decidin' venue.
25 I've already decided I'm not instructing the jury on that so

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1 I've determined venue's okay here, sir, and jurisdiction is
2 okay here, that's not for the jury to decide, that's a matter
3 of law, I've done that. Now let's move on. You talk about
4 the doctrine of recent possession. I have not -- I I I don't
5 intend to charge recent possession in the case because that
6 has to do with generally in criminal cases we've got a theft,
7 somebody's caught in possession of some recently stole
8 goods -- stolen goods, that makes 'em -- that's evidence that
9 they actually stole it, you're not charged with stealing,
10 you're charged with receiving.

11 THE DEFENDANT: The doctrine of recent possession also
12 goes to the knowledge element of receiving and possession.
13 The doctrine of recent possession says that ---

14 THE COURT: Well that that kinda goes against ya. You
15 want me to charge that? You wanna talk to your lawyer about
16 me chargin' that?

17 THE DEFENDANT: Uh, well ---

18 THE COURT: You wanna talk to the lawyer about me
19 chargin' that?

20 THE DEFENDANT: Just just read the re -- the rest of it.
21 it -- it's not that I'm so much requesting I think what you
22 think that I'm requesting.

23 THE COURT: Well ya'll wanna talk about mere presence and
24 we can talk about mere presence but recent possession's a
25 whole different matter. He wants me to charge mere presence.

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1 The State have an objection?

2 MR. MCCARTY: No.

3 THE COURT: Alright, then I'll charge mere presence.

4 MR. MCCARTY: I think what he wants to do with the recent
5 stolen goods is the same thing he tried to do at directed
6 verdict yesterday and say that the State in and of itself has
7 made the improper charge. I think that's what he's attempting
8 to do is saying they should have charged him with stolen
9 vehicle or possession of a stolen vehicle or possession ---

10 THE COURT: Well I I ---

11 MR. MCCARTY: --- of stolen goods.

12 THE COURT: --- again, I I don't have a problem with the
13 charge on mere presence and I'll charge that. You understand
14 what I'm saying, Mr. Tinsley?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: That means that mere presence or your your
17 being in the proximity of stolen goods doesn't make you guilty
18 of receiving them, possessing them just because you're
19 present.

20 THE DEFENDANT: Correct.

21 THE COURT: Alright. And I don't intend to charge recent
22 possession. The State hasn't requested that have you?

23 MR. KENDALL: No, sir, Your Honor.

24 THE COURT: So they're they're not, they're not
25 requesting, I don't intend to charge it. Now if you want me

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1 to charge it again, I think that that may not be in favor of
2 your case but I can't try your case for you. If you really
3 want me to charge it, I'll consider it, I'm -- what's your
4 position?

5 THE DEFENDANT: We can leave it out.

6 THE COURT: You wanna leave it out, ---

7 THE DEFENDANT: Yeah.

8 THE COURT: --- is that right?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Okay. I think that covers your your request.
11 I received this document you also said is jury charge but this
12 has, this has stuff in it that has to do with impeachment.
13 Sir, this I -- this is not -- this is just a a copy of
14 somethin' out of a book or somethin'.

15 THE DEFENDANT: No, it's a ---

16 THE COURT: It covers several -- talks about flight,
17 evidence of flight. There's no evidence of flight in in this
18 case that I'm aware of.

19 THE DEFENDANT: There's evidence that that that other
20 people fled the area.

21 MR. MCCARTY: Your Honor, I looked at this. It tends to
22 be just lifted from the general jury charges from ---

23 THE COURT: Yeah.

24 MR. MCCARTY: --- some book or some order. I don't know
25 if he cut and pasted into it. Specifically, I would say that

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1 impeachment at this purpose if the Court intends to charge it
2 but I don't necessarily know there was impeachment in their
3 evidence regarding character, that's not applicable, prior
4 record didn't seem to come in, I don't think that would be
5 applicable, defendant's character, again, that was a charge on
6 it. I know he tried to elicit some testimony with regard to
7 his character for being shy from his father. Again, I don't
8 necessarily know that that's applicable in this situation,
9 flight as Your Honor stated I don't believe that's applicable
10 in this situation, there's no evidences or testimony that
11 Mr. Tinsley was in flight and again, that would tend to go
12 towards third party guilt and the situation alleging not that
13 the State's ---

14 THE COURT: I'll I'll just give my standard charges and
15 this this appears to be something brought out of a book or
16 just a compilation of some charges that that may apply and may
17 not apply so I intend to give my standard charge on that. Now
18 as to -- I will advise the parties, I'm assuming that *State*
19 *vs. Horne* checks out and we're checking on that, that that it
20 may not, that a jury may not convict the defendant unless
21 every circumstance relied upon the State has been proven
22 beyond a reasonable doubt and that all circumstances so proven
23 are consistent with each other and taken together point
24 conclusively to the guilt of the accused to the exclusion of
25 every other reasonable hypothesis, I will charge that.

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1 Alright. And I note your exceptions to my my rulings on the
2 charge. Alright, you asked for a few minutes to think about
3 your closing?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Are you ready yet, Mr. Tinsley?

6 THE DEFENDANT: Just a couple more.

7 THE COURT: Alright.

8 THE DEFENDANT: Um, ---

9 THE COURT: Oh, while you're doing that it appears that
10 we're about to go into that phase of the trial and I'm going
11 to go ahead and ask that the clerk take lunch orders from the
12 jury so that we can go directly into to our arguments and
13 deliberations. I will ask that you only communicate with the
14 jury about their lunch orders ---

15 THE CLERK: Yes, sir.

16 THE COURT: --- and Chick-fil-A's probly the quickest at
17 this point in time and this hour.

18 THE CLERK: Yes, sir.

19 (Whereupon, a discussion was held off the record.)

20 THE COURT: I have reviewed the charge on circumstantial
21 evidence and based on the decision of the Court in *State vs.*
22 *Grippon* and upon the decisions of the Court more recently I'm
23 going -- not going to charge the reasonable hypothesis charge
24 requested by the defendant. I don't believe that's proper and
25 therefore I will not be charging that.

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1 THE DEFENDANT: Just note my objection, Your Honor.

2 THE COURT: I will. Now the State ready proceed?

3 MR. KENDALL: State's ready, Your Honor.

4 THE COURT: Defense ready to proceed?

5 THE DEFENDANT: I guess so, Your Honor.

6 MS. PRICE: No, this is ---

7 THE COURT: Can't guess.

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Thank you. Check and see if the clerk's
10 ready for me to proceed.

11 (Whereupon, a discussion was held off the record.)

12 THE COURT: The other case that I'm using with *Grippon* on
13 that ruling is *State vs. Cherry*, 2004 Supreme Court case.
14 Alright. Now the State ready to go forward?

15 MR. KENDALL: The State's prepared, Your Honor.

16 THE COURT: And the defense?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Bring the jury in.

19 (The following takes place in the presence of the jury.)

20 THE COURT: Alright, the record will reflect the jury has
21 returned to the courtroom. I told you that when we reached
22 this stage of the proceedings I would allow the attorneys to
23 make a closing or argument or a summary and in the case of
24 Mr. Tinsley, Mr. Tinsley will be allowed to do that as well.
25 I've indicated to you that the comments made both in opening

CLOSING ARGUMENTS

1 and closing are not evidence in the case and can't be used by
2 you as evidence of guilt or innocence, they are simply
3 intended to sum up the evidence that you've heard from the
4 perspective of both sides. In this case Mr. Tinsley will be
5 allowed to go first with his closing argument or statement.
6 You may proceed, sir.

7 THE DEFENDANT: Ladies and gentlemen of the jury, in
8 every criminal trial the State always carries the burden of
9 proof and that burden of proof is beyond a reasonable doubts.
10 The burden of proof never shifts to the defendant during the
11 trial process. In this case I've been charged with receiving
12 and possessi -- or possession of stolen goods. Now this title
13 was very misleading because the receiving or possession of
14 stolen goods is not even a crime in the State of South
15 Carolina. Only the receiving or possession of stolen goods
16 having knowing that they have been stolen is a crime. I've
17 seen a number of cases where people have been convicted simply
18 because they admitted that they possessed some item that later
19 turned out to be stolen. The fact finders in those cases
20 apparently thought that it was the law, that their hands were
21 tied, they had no choice, they had to convict the guy. The
22 problem is they didn't understand that the, that the defendant
23 must also have knowledge that the goods were stolen. For
24 example, if you were to go to a flea market and purchase
25 something and it turned out to be stolen, you wouldn't be

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1 guilty of receiving or possession of stolen goods because you
2 didn't know that the item was stolen. On the other hand, if
3 you were to go to a flea market to purchase somethin' and a
4 guy said to you, Hey, by the way this thing's hotter than a
5 firecracker and you say, I don't care, I wanted one of these
6 my whole life, they cost a hundred dollars in the stores, I
7 can't afford that, you want \$10 for this one, I can afford
8 that, I've got to have it. In that case you would be guilty
9 because you had guilty knowledge: you knew the item was stolen
10 and you made a conscious decision to receive it or possess in
11 anyway, that's what makes it a crime. In this case the
12 defense has demonstrated that I had obtained the camper from
13 Bill Dotson for \$10,000 plus my enclosed trailer and that I
14 had told everyone: the police my father everybody that asked,
15 that I didn't know that it was stolen. There is no credible
16 evidence in this case that suggests that I did know that it
17 was stolen.

18 Now the State's version of the case, and there's two
19 version of the case: the State's version of the case and the
20 defense's version of the case, and obviously the defense
21 believes that in his claiming that the State's version of the
22 case is not accurate and it's not the truth and it's entirely
23 based upon the lies and theories and speculation of someone
24 who's motivated to get back at me and so I'm gonna talk about
25 the State's case but I wanna put that to the side because the

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1 defense is demonstrating that it's actually the defense's case
2 that is the truth and the most accurate and so I wanna spend
3 most of my time talkin' about the defense's case.

4 Now there are a number of circumstances that can take
5 place in a case in which a jury might infer or presume that
6 the defendant must have known this -- the camper was stolen.
7 They might say look at that circumstance right there, how can
8 anybody know that circumstance and not know that something's
9 stolen. Now I'm sure the State's gonna get up here and argue
10 some of those circumstances to you when they give their final
11 closing arguments so I wanna take the time to talk with you
12 about those circumstances as well because under the unique
13 facts of this case I do not believe that the circumstances
14 rise to the level of proof beyond a reasonable doubt. Simply
15 put, I do not believe that the circumstances suggest that I
16 should have known that the camper was stolen. For example,
17 the appearance of the camper does not suggest that I should
18 have known that it was stolen. If you were to go to buy a car
19 outta the Iwanna and you went to look at it and the steering
20 column was busted out of it and the guy was usin' a
21 screwdriver to start it with, well its appearance might
22 suggest to you that it might be stolen and in this case we
23 don't have that problem. The windows were not busted out of
24 camper, the doors were not pried open or damaged, the locks
25 were not tampered with and there was nothing about the

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1 appearance of the camper that woulda suggested to me that it
2 might be stolen. The purchase price was not so far under
3 value that you might suspect that it was stolen. If you go to
4 buy a car worth \$10,000 and the guy wants \$200 for it, well
5 that fact might suggest to you that it could be stolen but in
6 this case the evidence demonstrated that I was going to give
7 a a -- an enclosed trailer worth approximately \$10,000 plus
8 \$10,000 in cash that I was receiving from the sale of a
9 machine in exchange for the camper and I, and I believe the
10 evidence would show -- I believe the evidence demonstrated
11 that the camper was \$23,000 and and so for all practical
12 purposes Bill Dotson was to receive approximately \$20,000
13 worth of property and cash in exchange for the camper. Now
14 the camper was slightly used, I don't know what the
15 depreciation value is of a camper is once you drive it off the
16 lot, I don't know if it's similar to that of an automobile,
17 but I would think that it might be in that same category and I
18 do not believe that \$3,000 less than a brand new purchase
19 price would be so far under value that a person should
20 automatically assume that somethin's stolen. In fact, if you
21 had a \$20,000 camper and a \$23,000 camper parked side by side,
22 most people wouldn't know the difference, probably couldn't
23 pick out which camper is the \$23,000 camper because of the
24 additional \$3,000 it's probably hidden in some electronic
25 device or somethin' that you can't even see so I don't believe

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1 that \$3,000 less than a brand new purchase price is so far
2 undervalue that a person's supposed to automatically assume
3 that it's stolen. Now in this case I didn't have \$20,000, I
4 didn't even have \$10,000, but I did have some machines that I
5 could sell to raise the \$10,000 and I had an enclosed trailer
6 that I'd recently invested \$10,000 in and and and and Bill had
7 agreed to accept that in exchange so therefore I do not
8 believe that the purchase price was so far under value. Now
9 my behavior doesn't suggest that I should've known that it was
10 stolen. If you are drivin' down the road in a car with a
11 trunk fulla stolen goods and the police pull you over and you
12 jump outta the car and run off into the woods, well the fact
13 that you fled from the police might suggest that you did so
14 because you knew that there were stolen goods in the car. In
15 this case I didn't behave that way. The police called me up
16 on the phone, I came down to the police station turned myself
17 in. I didn't hide the camper in a building or under a tarp,
18 it was parked right beside my grandmother's in plain view of
19 the entire world. There was nothin' suspicious about it bein'
20 there. I often take equipment and and my race trailer and and
21 bass boat and all that stuff and leave it at my grandmother's
22 so there's nothin' really suspicious about that. I certainly
23 wouldn't allow someone to put stickers or somethin' on the
24 side of it if I thought it was stolen where if it ever did get
25 discovered they'd have my phone number and know exactly who to

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1 come look for, that's not the behavior of somebody who is
2 tryin' to hide out with somethin' that's stolen but there's
3 something else about my behavior that suggests that I didn't
4 know that it was stolen. If you're a criminal or a little bit
5 shady, I can imagine that, even if you were tryin' to buy
6 somethin' that was worth \$20,000, I could imagine you givin'
7 \$200 for it or \$500 for it or maybe even a thousand dollars
8 for it but I don't believe that you would give much more than
9 that for somethin' if you knew it was stolen because if you
10 knew it would stolen you would also know that you could be
11 subject to lose it at any time. The police could discover it
12 tomorrow and it would be gone. You would lose it and you
13 would also lose anything that you invested it -- had invested
14 in it so I don't believe you would give very much for
15 somethin' if you knew it was stolen and you certainly wouldn't
16 do what I did: you wouldn't give up machines that are that
17 valuable, you wouldn't give up an enclosed trailer that's that
18 valuable, all of it's paid for, it took several years of hard
19 work to earn the money to acquire that stuff. You're not
20 gonna give up that amount of value and property that you've
21 invested that much time and effort into acquiring in exchange
22 for somethin' that you know is stolen or and and that you
23 could lose at any time; that's not the behavior of somebody
24 who is tryin' to buy stolen goods, that's the behavior of
25 somebody who thinks he's buying somethin' that's lawfully

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1 owned property.

2 Now now the State may suggest that that I should have
3 known that the camper was stolen or or that simply because it
4 has these stickers and graphics on it but there's nothin'
5 really suspicious about that. The camper was gonna be used in
6 the go go-cart racing industry and people often put stickers
7 on on trailers in the go-cart racin' industry, that
8 doesn't -- if we were to go to a race track, you know
9 everybody there is gonna have it, they're not all tryin' to
10 hide stolen campers so I don't believe there's anything really
11 suspicious about that. The State may suggest that I shoulda
12 known that the camper was stolen when Bill Dotson didn't give
13 me the title to the camper. There's nothin' really suspicious
14 about that under the facts of this case. I was sellin' my
15 machines to Rick Jackson, he hadn't given me the \$10,000 at
16 this point and therefore I wasn't able to pay Bill Dotson ---

17 MR. KENDALL: I object.

18 THE DEFENDANT: --- \$10,000.

19 MR. KENDALL: I'm gonna object. I don't know if we need
20 a minute, ---

21 MR. MCCARTY: There's just no testimony.

22 MR. KENDALL: --- but there's not testimony to this
23 and ---

24 THE COURT: I'm ---

25 MR. KENDALL: --- there's nothing ---

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1 THE COURT: --- gonna ask the ---

2 MR. KENDALL: --- in the record about ---

3 THE COURT: --- jury jury to step back to the jury room.

4 Don't begin any discussions until I've advised you to do so.

5 (The following takes place outside the presence of the
6 jury.)

7 MR. KENDALL: This is along a long stream of things
8 dealing with deals Bill Dotson made and things like that that
9 are just not into evidence. Mr. Tinsley has has offered into
10 evidence he told people about this. He just mentioned a deed
11 that he apparently got from Bill Dotson which is not in
12 evidence, which has never been mentioned in evidence. We've
13 never seen, we don't, we don't have that. We have a deed for
14 his original trailer. He's essentially is offering which this
15 kinda broad speculation of how he entered into this contract
16 with Bill Dotson but no contract's ever been established.

17 THE DEFENDANT: That -- that's what I was sayin' that
18 there -- that's what I was sayin' that I didn't have one. I'm
19 saying the act opposite of what he says I'm sayin'.

20 THE COURT: You didn't have one what?

21 THE DEFENDANT: I didn't have a title or paperwork.

22 THE COURT: Well there's been a great deal of your
23 argument though based on arrangements or contracts or
24 agreements that quite frankly I don't recall being in the
25 testimony.

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1 THE DEFENDANT: Well they asked -- the the police asked
2 me where I got it and I told 'em that I'd gotten it from Bill
3 Dotson.

4 THE COURT: You didn't testify.

5 THE DEFENDANT: Well but I asked the officers did I tell
6 'em that and they said yeah.

7 MR. KENDALL: If he wants to te --- if he wants during
8 closing arguments say, I told people I entered into a contract
9 with Bill Dotson, that's a little bit different than the the
10 details of this exotic exchange of property and goods that
11 apparently took place. I don't believe Bill Dotson ever got
12 any money. We don't have any evidence suggesting that that he
13 stole or he sold his machinery in order to get the money to
14 pay Bill Dotson that was part of the exchange. In fact, I
15 believe that his father never even got to that. I think he
16 was asked about sellin' property ---

17 THE COURT: Well he did, he did cross-examine the police
18 officers as to whatever arrangement he told them about and
19 they acknowledged that he did tell them that. I'm not sure it
20 went into the detail that he -- you're going into at this
21 point in time. We can go back and review that testimony if we
22 need to do so.

23 THE DEFENDANT: Can I think about this for a minute?

24 THE COURT: Yes, sir.

25 THE DEFENDANT: Let me think about this for a moment.

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1 THE COURT: Okay, but you're confined in your argument to
2 the evidence that has been presented before the jury, can't
3 argue outside of that evidence.

4 (Whereupon, the defendant and standby counsel had a
5 discussion off the record.)

6 THE DEFENDANT: I'm ready, Your Honor.

7 THE COURT: Alright, sir. Now you understand now you're
8 confined to the testimony that's in the record. Do you
9 understand that, Mr. Tinsley?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: You can comment on on inferences that can be
12 drawn from that testimony but you cannot comment outside of
13 the testimony. You understand what I mean by that?

14 THE DEFENDANT: No, that's interesting, uh...

15 MS. PRICE: What don't you understand about that?

16 (Whereupon, the defendant and standby counsel had a
17 discussion off the record.)

18 MR. KENDALL: See exhibit just real fast, Your Honor.

19 THE COURT: Alright, we ready to proceed?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Alright, bring the jury back.

22 (The following takes place in the presence of the jury.)

23 THE COURT: You may continue your argument in accordance
24 with the Court's instruction.

25 THE DEFENDANT: Now if we didn't know where the camper

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1 came from you might infer that my possession of the camper in
2 Greenville supports the finding that I also possessed it in
3 Spartanburg because Bill Dotson claimed when the officer was
4 looking at the camper he told the, he told the officer that I
5 owned it and when it wa -- even though he said that I owned it
6 even though it was in Spartanburg but this case is very
7 different because here we do know where the camper came from,
8 the defense has demonstrated that it came from Bill Dotson
9 because I told the police and my father when I was questioned
10 about it that I traded my camper and and sold my machines to
11 buy it and to purchase it from Bill. Bill is a person who has
12 acted very suspiciously and with a culpable state of mind when
13 he fled the area with \$60,000 worth of my property that was at
14 his shop. That said, in this case you're also gonna have to
15 ask yourselves whether Ben Lindler, the State's witness,
16 whether he was credible so let's talk about Ben Lindler for a
17 minute. Ben Lindler admits that he took property from me that
18 didn't belong to him. He deceptively went into my home under
19 the guise that he wanted to use the computer, the internet,
20 and he unlocked my window when I went out of the room, he
21 returned and entered my home without my consent, without my
22 knowledge with the intent to take the property, he armed
23 himself with a deadly weapon when he stole a compound bow and
24 he, and he tries to justify it by saying that he had done some
25 work for me and that that he felt like he di -- he he got

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1 screwed over on but he admits that the work that he did was
2 only worth a hundred dollars and he admits that I gave him a
3 \$2,000 setta wheels for it but yet he's got the audacity to
4 come in here and and try to convince you that he was the one
5 that got screwed over on the deal. Ya know, be honest with ya
6 I don't even feel like I got screwed over on it and I don't,
7 normally if you came to ask me I'm not gonna give you \$2,000
8 but in this case I just happened to be gettin' ridda the truck
9 so it didn't matter to me what rims was on it. He was a young
10 guy, he had a little kiddie boy truck with the little wheels
11 and the V6 engine and the two seats and mine was the big boy
12 one with the 20-inch wheels and he wanted to have the big
13 wheel. I figured I'd look out for him, help him out, let him
14 have the wheels. I figured that whole karma thing, you know,
15 help him out and maybe it come back to me. But instead of
16 appreciatin' it he comes back and takes stuff from me and then
17 he twists stuff and in his mind he's justified, he's tryin' to
18 convince you that it's okay for him to come into my house and
19 take stuff under the guise that he thinks I owe him somethin'.
20 Even even if I did owe him somethin', you don't do that.
21 Another example of his deceptiveness: He tried, he tried to
22 play off in front of ya'll that that well all he did was break
23 in, come in the house and all he took was a little compound
24 bow, that's what he said to begin with, I don't know if you
25 caught it or not, he said, All I took was a little compound

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1 bow, not much. He's tryin' to, he's tryin' to make it look
2 like he's a little angel, like he, like he's Snow White but
3 when I questioned him about it I said, Wait a minute, didn't,
4 didn't you give a police statement and in that statement
5 didn't you say that you took a compound bow, a vacuum cleaner,
6 leather couches and seat, a big screen TV, surround sound
7 system, a buncha tools outta the shop; air tools, pneumatic
8 tools, a whole truckload fulla stuff? Well then he realized
9 that he was caught he said, yeah, yeah, he did take all that
10 stuff but to begin with he was tryin' to convince you that he
11 didn't take very much because he knew if you knew that he took
12 a whole buncha stuff, thousands and thousands of dollars
13 wortha stuff, that his theory that it was somehow justified
14 wouldn't fly but he got caught. But the way he tries to
15 justify everything he tries to turn it into somebody else's
16 fault. It was my fault, he tried to blame me for it and
17 that's the way his mind works and and and and and if he will
18 try to justify comin' into your home and taking your property
19 then how big of a step away from that is it for him to try to
20 justify a a -- implicating an innocent person in somethin' to
21 get back at 'em cuz' they're mad at 'em? He admits that what
22 we had a a a heated dispute over property between us and that
23 he wanted to get me back. He said he told the police he
24 wanted to get me back. He set right there (indicating) and
25 told us that he wanted to do that. There's your motive and

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1 and and your bias right there in this case. Me and him don't
2 like each other. He ain't on my Christmas list at all. He
3 admits that he lied to the police and and to beat all he he
4 says he lied to the police cuz' he's scareda me. That big old
5 farm boy is scared of a old man like me. Do you buy that?
6 The State tried to whitewash that. They said, Well, yeah, he
7 gave a false statement but but he he he cleared it up. Well I
8 don't know, I don't know if he, I don't know if he cleared it
9 up. He may have changed what his original story is. I don't
10 know how much -- whether he cleared anything up and he
11 certainly didn't clear anything up in good faith. He didn't
12 clear it up before he got caught, he got caught and then he
13 changed his story there's a big difference. That's an example
14 of another lie and deceptiveness that he does. He claims I
15 helped him, he claims I helped him -- asked him to steal a
16 camper a year before this happened which would have been in
17 2005. The camper's a 2007. It's it's physically impossible
18 to ask somebody to steal somethin' before it was even
19 manufactured, it didn't even exist, but when you lie and you
20 make up stuff you make mistakes, you don't think of all those
21 things, you don't cross all the t's and dot all the i's and
22 that's how you figure out when somebody's lyin' because when
23 you find those things you know that they made it up.

24 Now let's talk about the State's case for a while. I
25 wanna talk about this, see if I can simplify this. First of

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1 all, we'll -- let's let's talk about, let's talk about the
2 elements of the crime. The State has to prove that some goods
3 were stolen, that I received them or possessed them in
4 Spartanburg County with knowledge or that I knew that they
5 were stolen so the best way to do this is let's let's simplify
6 this because what happens there's only two kinda lawyers: the
7 the ones that muck up a case and the ones that clear up a
8 case, and and the prosecution wants to muck up this case and
9 and I'm gonna clear it up for you startin' right now. Now I
10 wanna separate this (indicating) for a minute, this
11 (indicating) bein' Spartanburg stuff, this (indicating) bein'
12 Greenville. There was some testimony and information
13 concernin' a a camper bein' in Spartanburg and there was some
14 information concerning a a camper bein' in Greenville so let's
15 talk about the Greenville first. You saw photographs and
16 pictures and stuff that the detectives went there and they
17 took pictures of stuff that was in Greenville, my father
18 testified that I brought the camper by there and dropped it
19 off at my grandmother's in Greenville and so there's really a
20 good bitta evidence that I possessed it in Greenville. Now we
21 don't know exactly where it was received and I wanna explain
22 that to ya. Receiving is when somebody hands you something
23 and as soon as you take it the receiving ends. It starts and
24 stops at that very moment. Possession is when you take a step
25 away from that and anywhere else you go from thereon you're in

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1 possession of it but the receivin's over with, it don't follow
2 you around. So we don't really know based on the evidence
3 where it was received from but we do know that it was
4 possessed in Greenville. The problem with and we -- even
5 though it's possessed, you gotta remember you still have to
6 know that it's stolen so even if I did possess it in
7 Greenville, it wouldn't be a crime if I didn't know that it
8 was stolen. And on top of that State has to prove it was
9 possessed in Spartanburg County, not Greenville County so all
10 that information, testimony, photographs and all that stuff
11 dealin' with Greenville County don't have anything to do with
12 this case as far as your comin' to a decision in this case.
13 Now what's left over is what's in Spartanburg, that's what you
14 have to base your decision on so I'm gonna separate this in
15 two too. I wanna separate Ben cuz' I just can't stand him and
16 we're gonna put him over here (indicating) cuz' I'm sayin' to
17 begin with everything he says is lie, can't be trusted, he's
18 not credible. I'll talk about it, you know, I'll talk about
19 it in a little bit but I wanna start with everybody else that
20 was involved in Spartanburg, all the detective, the owner or
21 the worker, employer whatever from the camper place, the two
22 police officers that went by there and I wanna talk about that
23 so let's talk about possession first cuz' that possession and
24 there's receivin', we'll talk about the possession first. I
25 asked all the police officers, all the detectives when they

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1 got on the stand I said, Were you there when the camper was
2 stolen, all of 'em said no. I said, Did you ever see me at
3 Bill Dotson's shop around this camper, all of 'em said no. I
4 said, Did you ever see me with a key to the camper at Bill
5 Do -- everybody said, No, never seen you there. We talk about
6 Ben. Ben never said, if you believe his testimony, we'll
7 pretend like I believe it for a minute, even if you believe
8 his testimony, I asked him, Were you there when it -- when the
9 camper was stolen? do you, do you know who stole it or who saw
10 who stole it or who -- and he said, No, but I was at work,
11 what he said, so he don't know. None of the other officers
12 ever put me in Spartanburg at that camper place or at Bill
13 Dotson' place with a camper. That's Bill Dotson's property.
14 It was on his property. He's the one that had dominion and
15 control of it if it's on his property. Let's go to the -- so
16 as far as the possession's concerned everybody that was
17 involved in the case even the one that you can't trust, even
18 if you believe him for the heck of it, nobody said anything
19 about me possessin' anything in Spartanburg.

20 Let's look at receiving. Well, I asked all the police
21 officers were they present and all the people in the room, the
22 man that owned the store and everything worked at the camper
23 store I said, All ya'll, was you there when it was received?
24 do you know where it was received? did you see who it was
25 received from? do you know where they was standing? was they

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1 in Spartanburg or was they in Cherokee County or York County
2 or Pickens? where were they? Everybody said they weren't
3 there when it was received, they don't know where it was
4 received at, everybody in the case. We'll go back to Ben. I
5 asked Ben, I said, Ben, were you there when the camper was
6 received by whoever? He said, No, I wasn't there, I was at
7 work when it was received is what he said. Well even if you
8 believe him so everybody's testimony in this entire case comes
9 down to nothin'. They can't show that I received it, they
10 can't show that I possessed it in Spartanburg County and so
11 Ben's testimony don't really mean anything even if you believe
12 it so we'll throw that out. Everybody else can't establish
13 that I possessed it in Spartanburg except for one thing, one
14 thing, you ain't gonna believe it, when one of the police
15 officers that was lookin' at the camper went there to inquire
16 about it, he met Bill, Bill was there with the camper, he
17 said, I wasn't there didn't see me, but when he inquired about
18 it Bill said that it belonged to me and that that that if he
19 wanted to find out about it, ya know, he he couldn't sell it
20 without talkin' to me is what he said and so that implies that
21 maybe I have some kind of dominion and control over it if he
22 has to talk to me first. Of course the officer did note and
23 testify that he did realize that a person who did know that it
24 was stolen and had it and was standin' there in front of a
25 police officer is likely to blame it on somebody else, he's

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1 not gonna say, Well yeah, it's mine when a police officer's
2 standin' in front of him if he knows it's stolen. So the
3 officer recognized that that coulda been probably made up,
4 that it was at least possible that it ain't true. So here's
5 the problem: we got to find out whether or not Ben's
6 tellin' -- Bill Dotson's tellin' the truth when he says that
7 the camper belonged to me. How we gonna do that? Bill Dotson
8 didn't testify in this trial, didn't nobody get to
9 cross-examine him, ya'll didn't get to see what his
10 demeanyor [sic] would be, can't weight his character and
11 credibility see what -- how he would react to certain
12 questions, ya'll didn't get to see him do any a that so how in
13 the world are you gonna be able to determine whether he's
14 tellin' the truth or not? Well, remember I told you a moment
15 ago that flight, when you run from the police or you take off
16 that that can raise an inference or suggest that the person
17 has a culpable state a mind ---

18 MR. KENDALL: I'm gonna object, Your Honor. He's he's
19 raising conclusions about flight.

20 THE COURT: I'll overrule the objection.

21 THE DEFENDANT: So we have to watch his behavior, what
22 does he do. I said I bought it from him, that's what I told
23 all the detective. I get arrested, he knows I'm arrested
24 apparently, he disappears the very next day, took off, nobody
25 can find him. For four years they've been tryin' to find him,

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1 can't nobody find him what the detective said. That suggests
2 a culpable state a mind. And not only did he just take off,
3 while he was at it he decided he was gonna take \$60,000 wortha
4 property that was -- belonged to me that was in his shop.
5 Regardless of whether anything about that is important, we do
6 know that that was the takin' of my property, that that didn't
7 belong to him, that wasn't a legal thing to do so if he did
8 that that was illegal he probably lied to the officer when he
9 said that it belonged to me. He knew that it was stolen or
10 else he woulda just had the officer call me if he, if he
11 thought it -- if he, if he really thought that it belonged to
12 me. So Bill Dotson's testimony or or or the evidence
13 concerning that doesn't it -- well taking all the credible
14 evidence in the trial to be true, my knowledge of the camper's
15 stolen character remains a matter of speculation and
16 conjecture. There is a a reasonable hypothesis, alternative
17 hypothesis, for how I came to possess it. I said I bought it
18 from Bill Dotson and and and sold my machines to buy it from
19 him and I said that I didn't know that it was stolen. Now the
20 State wants you to believe that I knew it was stolen because
21 two black men allegedly sold -- stole it for me or, you know,
22 whatever or because Bill said that it belonged to me or
23 because I simply possessed it in Greenville which doesn't have
24 anything to do with the possession in Spartanburg. My father
25 testified I told everyone that I didn't know it was stolen and

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1 and my father testified that we even had a conversation about
2 it and that I told him that that I didn't believe it was
3 stolen. It's -- this is ju -- it's just a mere suspicion a
4 guilt that the State's trying to twist around to conform to
5 their own theory of the case. Now such theories taken in the
6 strongest view adverse to a defendant may incite suspicion in
7 your mind that I'm guilty, it may point an accusing finger at
8 me, somewhat strongly perhaps, but such view is far from
9 excluding the rational conclusion that Bill Dotson's the
10 guilty party and that I did not know it was stolen. He's the
11 only one who's acted with a a a culpable state a mind. He's
12 the only one that's fled the scene. Simply put, it leaves too
13 much to surmise or assumption to support a conviction.

14 In this state the ca -- the State is going to try to get
15 you to convict me on a mere speculation. They want you to
16 speculate that that I possessed it in Spartanburg or that I I
17 picked picked it up in Spartanburg and took it to Greenville
18 and they want you to speculate that I must've known it was
19 stolen. Speculate -- speculation is insufficient as a matter
20 a law to convict someone. Don't fall for the the foggin' of
21 the case routine.

22 Now the rules do not allow me to go back in the room to
23 deliberate with you. I won't be back there when you start
24 discussing the case or arguin' over who said this or who said
25 that, I won't be back there to stand up for myself. Each of

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1 you have the power and ability to protect me from a wrongful
2 conviction. I'm asking each of you if you believe that I'm
3 innocent or if you believe that the State's evidence only
4 raises a mere suspicion that I might be guilty, which is
5 insufficient as a matter of law to convict someone, I'm asking
6 you to stand up for me, don't allow the real criminals to use
7 this opportunity to steal my property and and get me back
8 simply because I caught them takin' property from me. Number
9 one -- well as guardian, as guardians of the Constitution and
10 guardians of justice you mustn't allow the State to convict me
11 simply because I possessed somethin' in Greenville that later
12 later turned out to be stolen; number one, because it ain't
13 even a crime to possess somethin' if you don't know that it's
14 stolen and if it's not in the same county; number two, because
15 it would be completely un -- unfair for the government to hold
16 me criminally responsible for somethin' that I didn't even
17 know had occurred. A a criminal trial is not a a game in
18 which the State's function is to try to outwit a defendant.
19 The State's pursuit should be justice, not a victim. For
20 those reason I'm askin' that you go back and return a verdict
21 of not guilty and I appreciate your time and effort that you
22 put into this and I'm sure the whole court does and and and I
23 appreciate it. Thank you.

24 THE COURT: Just one second. Ms. Camp. I'm informed
25 that your lunch order has arrived. That that took a little

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1 longer than I thought it would be, he has every right to make
2 his argument, but I'm gonna stop at this point in time let you
3 have your lunch so it won't be cold. I'm gonna ask you not to
4 begin any discussions concerning this matter until such time
5 as I've advised you to do so. You've only heard part of the
6 arguments, there's some more to go so I'll let you retire to
7 the jury room for you to have lunch at this time. Once
8 everyone's completed lunch, Ms. Paslay, if you'll knock on the
9 door tell the bailiff that you're ready to resume, we'll get
10 started as quickly as possible. You can retire to the jury
11 room.

12 (The following takes place outside the presence of the
13 jury.)

14 THE COURT: Alright, we'll be in recess until the jury's
15 ready to resume. I'll give at least thirty minutes if
16 somebody wants to go grab something quick so let's say that it
17 be, everyone should be ready to resume at fifteen after one.
18 Court's in recess.

19 (Whereupon, a recess was taken.)

20 THE COURT: State ready to proceed at this time?

21 MR. KENDALL: Yes, sir, Your Honor.

22 THE COURT: Defense ready for the State to proceed?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Bring the jury in.

25 (The following takes place in the presence of the jury.)

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1 THE COURT: Alright, the record will reflect that the
2 jury has returned to the courtroom. Ladies and gentlemen, it
3 is now the State's opportunity to offer his closing argument.
4 Mr. Kendall, you may proceed.

5 MR. KENDALL: Thank you, Your Honor. Ladies and
6 gentlemen of the jury, thank you again for coming back this
7 afternoon. In a minute I'm gonna get in the facts of this
8 case but right now I'd like to just take a second and thank
9 you for serving and to apologize for all the breaks in this
10 case. Over the course of the case a lotta things come up and
11 sometimes that has to be done outside your presence. It
12 wasn't done to try to trick anybody or to be bad or anything
13 like that but it was just done because it had to be done
14 because often what we're dealing with is a very very important
15 kind of thing. I know that there's probly inconvenience in
16 going from freezing cold to an entirely different temper
17 --temperature's probly not the most fun but it's part of the
18 progress -- part of the process and to the extent we had
19 anything to do with it apologize.

20 I was talkin' to my dog last night sittin' on the couch,
21 I realized this was a very very simple case. At the end of
22 the day all that's really happened here is we have a trailer
23 that we know to be stolen that we found at the home of
24 Mr. James Tinsley, Sr., it was brought there by his son that
25 has racing stickers stuck all over the side of it, we were

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1 able to confirm that trailer was stolen but somehow in the
2 meantime that's all gotten blurred where a bunch of other
3 stuff has happened so now it's hard to see the forest through
4 the trees so I'd like to take a second and walk through all
5 the elements to this crime and all the things that have
6 happened and how we've established how each element has been
7 met and after that we're gonna go and address some of these
8 trees, some of the muck that's been thrown around here on
9 issues that I'm not entirely certain really have anything to
10 do with much of anything or at least nothin' to do with what
11 we're here today.

12 Now, ladies and gentlemen, this is a case against
13 Mr. James Tinsley where he's being accused of receiving stolen
14 goods. There are, as I told you at the beginning of this
15 trial, about four things we're going to prove. The first
16 thing is I'm gonna prove to you those goods were stolen. Now
17 how do we go 'bout doing that? Ladies and gentlemen, you've
18 heard testimony from Mr. Paul Thomas. Mr. Thomas was the
19 inventory guy at Holiday Kamper. He was able to to determine
20 what camper was stolen after he did an inventory of a break-in
21 on October 11th and 12th in 2006. When they got that camper
22 back and they're reselling it, he was able to determine that
23 VIN number matched. You heard testimony from him that two
24 trailers don't have the same VIN number. Of all the trailers
25 in the world, the one that was stolen and the one that they

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1 got back from the home of Mr. Tinsley were exactly the same.
2 You also heard they met the same description. Ladies and
3 gentlemen, I think this has been clearly established: The
4 trailer that was stolen was the one that turned up at
5 Mr. Tinsley's house. I don't think that was even particularly
6 debated.

7 Now the next issue that's before us is whether or not
8 this occurred in Spartanburg or excuse me, was whether or not
9 this was in the possession of Mr. Tinsley. In addition to
10 proving this trailer was stolen, we have to be able to prove
11 to you that Mr. Trinsey [sic] in fact possessed the trailer or
12 that he received the trailer. Now how have we gone about
13 doing that? Well you've heard testimony from his father that
14 Mr. Tinsley came and dropped off, dropped off the trailer.
15 You've heard testimony from two officers who both saw that
16 trailer at Bill Dotson's place with the markings it, it looked
17 exactly like this (indicating), it had Mr. Tinsley's name
18 written clearly across the top of it or excuse me, across the
19 side of it and you heard from this amongst his testimony
20 Mr. Dotson could not sell this trailer without Mr. Tinsley's
21 permission, that he was waitin' till Mr. Tinsley came back in
22 order to sell the trailer.

23 Now the next thing we have to prove is that the receiving
24 or possession occurred here in Spartanburg County. Now,
25 ladies and gentlemen, we are able to prove this by using

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1 circumstantial evidence. You heard testimony from two
2 officers, two law enforcement officials, who were not involved
3 in the investigation of this case, were just guys out tryin'
4 to find a camper, and there are two things that's very
5 important about both of their testimony; first, the trailer in
6 question was the trailer that ended up being stolen, they were
7 able to look at it and identify it. And how were they able to
8 look at it and identify it? because the defendant's name was
9 written right across the side of it. Now, ladies and
10 gentlemen, I suspect some of you have purchased automobiles or
11 purchased items before; in the course of your experience of
12 purchasing something like this, has the person ever written
13 your name across the side of it or custom detailed it prior to
14 you actually buying it, prior to you possessing it? I think
15 common sense would dictate that's not something that usually
16 happens. Mr. Tinsley isn't exactly Calvin Klein. It's not
17 like this trailer's a brand name here. At that point you had
18 both officers testify that that was the trailer with those
19 decals that they saw at Bill Dotson's shop which is here in
20 Spartanburg County. Moreover, Mr. Dotson asked or excuse me,
21 they asked about, they inquired about the trailer, potentially
22 purchasing the trailer, and Mr. Dotson explained to them that
23 he could not sell it, that was something he had to talk to
24 James Tinsley about. In fact, you actually heard Mr. Tinsley
25 say that he bought it from Mr. Dotson in Spartanburg County

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1 but I guess that's neither here nor there.

2 Now, ladies and gentlemen, the big issue in this case,
3 the thing that is --

4 THE DEFENDANT: Well, Your Honor, I, the evidence didn't
5 say that I, that I bought it from him in Spartanburg County.

6 THE COURT: Sustain the objection. Strike the comment.

7 THE DEFENDANT: Thank you, Your Honor.

8 THE COURT: You may proceed.

9 MR. KENDALL: Okay. Ladies and gentlemen, the big
10 question before this is how he knew it to be stolen, what on
11 earth would have happened that led him to believe this is
12 stolen. Well there's a couple things, ladies and gentlemen,
13 the first is that he used stickers to disguise this trailer.
14 You heard testimony from Mr. Thomas that that trailer does not
15 come with stickers like that, that is something that was put
16 on there after the fact. Second off, this trailer was moved
17 almost immediately after law enforcement came out there to
18 look at it. You heard testimony from both officers who claim
19 they went and looked at the trailer, you heard testimony that
20 they called Brian White and you heard testimony that when
21 Brian White went out there, very shortly after within a few
22 days that trailer was long gone and where did it turn up? on
23 December 2nd 2006 it turned up at the home of James Tinsley's
24 grandmother behind a boat. They had to actually move a boat,
25 move the trailer in and then block it with the boat but what's

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1 more interesting is the fact that Mr. Tinsley was asked about
2 this a few days later, I believe it was December 7th by
3 Officer Beck. He was inquiring about trailers that had been
4 at Bill Dotson's place and what did Mr. Tinsley say? he didn't
5 know anything about any trailers, knew nothin'. Ladies and
6 gentlemen of the jury, you just heard Mr. Tinsley get up here
7 and criticize Mr. ---

8 THE DEFENDANT: Objection, Your Honor, he was
9 mischaracterizing the evidence.

10 THE COURT: Overruled. You may proceed.

11 MR. KENDALL: You heard Mr. Tinsley and during his
12 closing criticize Mr. Lindler. For once he's caught, he's
13 changin' his story. Now, ladies and gentlemen, when he gave
14 that statement to Detective Beck, there's nothin' in there
15 about trailer swap agreements with Bill Dotson, not mentioned,
16 there's nothin' in there about sellin' tools to get things to
17 buy it from Bill Dotson, not mentioned and keep in mind all of
18 this happened after he had already moved the trailer. This
19 isn't something that that he later decided to buy this
20 trailer, this is something that he was thinking about buying
21 this trailer. He at that point already had possession of that
22 trailer, when asked about possession of that trailer, I dunno.
23 He didn't know anything. He specifically misled law
24 enforcement, ladies and gentlemen, and that is one way we know
25 that Mr. Tinsley had some knowledge that this trailer was

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1 stolen.

2 THE DEFENDANT: Objection, Your Honor. Again,
3 mischaracterizing the evidence. I specifically told him that
4 I had seen three campers at at Bill Dotson's shop, that was
5 the testimony.

6 THE COURT: Overruled. He's -- he is commenting on
7 inferences that can be drawn from the evidence. I'll allow
8 him to do so. You may proceed.

9 MR. KENDALL: Thank you, Your Honor. Finally, ladies and
10 gentlemen, you heard from Ben Lindler who testified that he
11 was a friend of Mr. Tinsley's and that while at work
12 Mr. Tinsley told him that he was gonna get somebody to steal a
13 trailer for him or excuse me, a camper and this camper was a
14 dual purpose camper much like the one that was ultimately
15 discovered. You heard testimony from Mr. Lindler
16 Mr. Tinsley left early and that Mr. Lindler actually brought
17 him his stuff at his home where he saw the people who had done
18 it.

19 Now, ladies and gentlemen, Mr. Tinsley has attempted to
20 cloud this up by a lot of different stuff and one of the
21 things we're even talking about here is his disagreements with
22 Mr. Lindler and I find that particularly interesting because
23 it's not. What Mr. Lindler or what Mr. Tinsley have argued
24 about in the past it doesn't matter here today, this is a
25 discussion about rims from 2006. I think their over it and

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1 you actually heard Mr. Lindler testify didn't any way affect
2 it. Yes, Mr. Lindler and Mr. Tinsley got in an argument over
3 rims in 2006. You've heard this allegation that he changed
4 his story to police but he's not the only one in the room that
5 did that. Mr. Tinsley did the same thing. It's true
6 Mr. Lindler did in fact, and I believe he admitted to it, gave
7 a statement to police, later had to change it, check, that
8 happened. That also happened with Mr. Tinsley.

9 Now, ladies and gentlemen, what do we know about
10 Mr. Lindler? Well we at least he's known as a good enough
11 friend to Mr. Tinsley as he lives by his house, he works with
12 the man, he was working with the man that night and he claims
13 that Mr. Tinsley told him he was havin' somebody steal an RV
14 for him or excuse me, a camper for him. What's particularly
15 interesting about this is he's been right, he did have a
16 stolen camper, that happened. We're not talking about a
17 tractual camper, we're not talking about something that is out
18 there in the ethos; at the end of the day the punch line here
19 is Mr. Tinsley had a stolen camper. That camper was proven to
20 be stolen, it was possession of -- or is the property of
21 Holiday Kamper, it went out, when they brought it back they
22 were able to confirm. If you're lookin' for credibility, how
23 'bout does it check out.

24 Now, ladies and gentlemen, you've also heard a whole
25 bunch of other testimony that's really designed to kind of

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1 cloud the issue here and one of those things he's discussed is
2 is this purported arrangement he's made with Bill Dotson: the
3 trailer swap agreement where he was going to get some -- he
4 was gonna give him a trailer and he was gonna give him some
5 money and he was selling some equipment to get the thing to
6 get the money and there's two things I'd like to talk to you
7 about that first; number one is we haven't actually seen any
8 evidence or heard any testimony establishing that's the case.
9 Now Mr. D -- Mr. Tinsley's not responsible for producing
10 evidence in this case, he doesn't have to prove himself
11 innocent, but at the same time evidence that he told people
12 that he was entering into agreement is not the same thing as
13 an agreement sittin' in front of you. The only thing that's
14 been produced by the Court were statements he made to his
15 father and statements he made to Detective White and let's
16 look at those, what he had produced. The first thing he did
17 was talk to Detective White about this. He mentioned that
18 after this trailer had been recovered. This wasn't something
19 that happened at the same time, this wasn't something that
20 happened before it was discovered, this happened after it.
21 Mentions he talked to Detective Beck, he's got no idea,
22 nothin' goin' on with any of these trailers. He talks to
23 Detective White, Ah, yeah, that was all part of this
24 agreement, it was, it was a real honest transaction. We've
25 never seen any of this. We've never seen any documentation

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1 going to this. Nobody's produced a deed, a contract, a
2 financing agreement with particularly this trailer which I
3 found particularly odd because Mr. Tinsley did produce one for
4 his other trailer. Ladies and gentlemen, I'd like to make
5 something very very clear to you because I think it's
6 important. This documentation right here (indicating) is not
7 for the trailer in question, it's just for another trailer he
8 bought. This shows you two, this is really two important
9 parts to it; number one, it's largely irrelevant. Him
10 producing a deed to another trailer doesn't exactly show
11 anything in this case but more to the point he's already
12 gotten a deed to a trailer, shouldn't he know he's supposed to
13 get a deed? Isn't that something that happens in a trailer
14 transaction? We're talking about the buying and selling of a
15 trailer that's \$20,000. He claims he's gonna give this guy
16 \$10,000 cash and another trailer; shouldn't there be something
17 like this? Shouldn't one of these exist? And what have you
18 heard more to the point that he's told his father? well he's
19 mentioned to his father he was entering into this agreement
20 where he was gonna sell some stuff and he was gonna get the
21 machinery and get some cash and he was gonna use that cash to
22 buy the trailer. Ladies and gentlemen, all this cash stuff
23 happened, all the selling of this machinery and all these
24 pictures and stuff like that happened after, we're not talkin'
25 about before, we're talking he gets arrested for having a

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1 stolen trailer, he takes steps to make it look like he's in
2 the process of purchasing this trailer and there's been no
3 evidence outside of what Mr. Tinsley says. He's
4 telling -- the only evidence in this case is what he's told
5 other people, that's it, what he's told other people. The
6 entire basis of what he has offered right now that he is --
7 was in a deal with Bill Dotson is that he told people he was
8 in a deal with Bill Dotson and those people were the police
9 who were out there trying to investigate him and his parents.
10 Ladies and gentlemen, sometimes people tell lies to their
11 parents and there's a lotta reasons for that, usually they're
12 just ashamed and you know what from my experience is that
13 parents generally can kinda see through that and they call the
14 police and that is exactly what happened here. This wasn't a
15 case of of them happening upon it, the defendant's father got
16 on the phone and called the police and said, I've got a
17 trailer which I think might be stolen, can you guys come and
18 check it out. They came out, sure enough it actually was
19 stolen.

20 Now, ladies and gentlemen, that is the the evidence I've
21 produced to you today and I'd like to make clear that there
22 are different kinds of evidence, there's different kinds of
23 things we could use to do it. Now as a jury, and I told you
24 this at the beginning, you're allowed to use some common sense
25 in this matter. If when you went to bed last night there was

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1 nothin' on the ground, when you woke up this morning it was
2 snowing or excuse me, there was snow on the ground, you could
3 be relatively certain it was snowing or it had snowed over the
4 course of the night, that's an inference you're allowed to
5 draw, that's it. I would ask you to use a little bit of
6 common sense in this case and there's times you're gonna have
7 to do that and you're allowed to do that. For example, we
8 have at the end of the day a trailer, that trailer is at James
9 Tinsley's mother's house in Greenville County, it was brought
10 there by James Tinsley. We know that he brought it there on
11 December 2nd, it had all the same markings which are pretty
12 particular as they have his name across the side of it, we
13 know that it ended up being stolen and we know that it ended
14 up matching the exact trailer that was at Bill Dotson's house
15 which oh, yeah, also had the exact same markings. Ladies and
16 gentlemen, I don't think that's a big far step to say that the
17 exact same super rare trailer as you heard from Mr. Thomas
18 that had the exact same markings, which was the defendant's
19 name, that was at Bill Dotson's and is now at -- as -- at
20 James Tinsley's mother were the same trailer, I think that's a
21 pretty reasonable deduction for you to draw.

22 Now, ladies and gentlemen, as you go back in the jury
23 room you're gonna deliberate and I hope at the end of the day
24 what you really look at is what actually happened. There have
25 been a lot of sideshows in this cases. We spent the bulk of

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1 this morning talking about a Mazda which I don't know why
2 Mazda from 2005 is even remotely relevant. The testimony that
3 Mr. Lindler gave was that he had asked a year before if he
4 knew how to hot-wire an RV and as you heard from the
5 defendant's father you don't need to drive an RV, you don't
6 need a car to tow an RV. Oh, and one more point I'd like to
7 bring up cuz' I thought this was a little bit interesting when
8 I heard this. You heard a buncha testimony about Mr. Tinsley
9 havin' this house where he lives and everything and you've
10 heard that there have been in the past I believe it was a
11 closed some sort of closed trailer bay sort of thing, I
12 don't -- they think it was a mechanics trailer or something
13 like that, something he kept, somethin' along those lines in
14 his house from his former fiance, he didn't take this trailer
15 back to his house, this camper back to his house, he went and
16 hid it at dad's. Ladies and gentlemen, I think that itself
17 goes to his knowledge this thing was not good, this was a bad
18 bad, a bad trailer that had been wrongfully taken.

19 Ladies and gentlemen, at the beginning this trial I just
20 asked you to use some common sense, that's all. Listen to the
21 evidence, listen to judge and use common sense. At the end of
22 the day, we've got a trailer which we know to be stolen at the
23 house of James Tinsley's grandmother with his name written on
24 the side of it, this very same trailer was seen at Bill
25 Dotson's shop here in Spartanburg County a few days before.