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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

Honorable J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CARLON EUGENE WEATHERS, JR.

APPELLANT

APPELLATE CASE NO 2018-000470

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA)
 2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS
 3
 4 The State,)
 5 -vs-) TRANSCRIPT OF RECORD
 6 Carlon Eugene Weathers,) 2017-GS-42-4163
 7 Defendant.) March 13 - 14, 2018
 8) Spartanburg, South Carolina
 9
 10

11 B E F O R E:
 12 HONORABLE J. DERHAM COLE, JUDGE; and a jury
 13

14
 15 A P P E A R A N C E S:
 16 ELIZABETH HOLLAND MCFARLAND, ESQUIRE
 17 Attorney for the State
 18 MICHAEL DAVID MORIN, ESQUIRE
 19 Attorney for the Defendant
 20

21
 22
 23 Linda D. Moffitt
 24 Circuit Court Reporter
 25

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1 (Proceedings March 13, 2018)

2 THE COURT: All right. Next is the State vs. Carlon
3 Weathers.

4 Mr. Morin, you represent him?

5 MR. MORIN: I do, Your Honor.

6 THE COURT: Does he wish to have a jury trial or plead
7 guilty?

8 MR. MORIN: He wants a jury trial, Your Honor.

9 THE COURT: Have there been any offers in the case?

10 MR. MORIN: There have, Your Honor.

11 THE COURT: And you've relayed those to Mr. Weathers?

12 MR. MORIN: I have, Your Honor.

13 Mr. Weathers has a series of charges that totaled --
14 well, I don't know how much you want to know, but,
15 basically, there's a cap of half of what he could get on
16 this charge plus some other charges if he pled at one time.

17 THE COURT: All right. Mr. Weathers, do you
18 understand what the offer was made to you by the
19 prosecutor?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Mr. Morin has relayed that offer to you?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And that's something that you're not
24 interested in?

25 THE DEFENDANT: No, sir.

1 THE COURT: So you're rejecting their offer and you
2 wish to go to trial on this charge of breach of trust?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: There are other charges that will be tried
5 later?

6 MR. MORIN: Yes, Your Honor.

7 MS. MCFARLAND: Yes, Your Honor.

8 THE COURT: Okay. All right. And you've had plenty
9 of time to talk to Mr. Morin about your decision to reject
10 the offer?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Okay. All right. Any other matters we
13 need to address before the panel is brought around?

14 MS. MCFARLAND: Do you want to handle any pretrial
15 motions now?

16 THE COURT: Well, we'll pick the jury and then we'll
17 handle pretrial motions.

18 MR. MORIN: Your Honor, I believe on this charge it's
19 ten and five.

20 THE COURT: It is.

21 MR. MORIN: Thank you, Your Honor.

22 THE COURT: Bring the jury around, please.

23 (The following takes place in the presence of the jury
24 venire.)

25 THE COURT: Good afternoon, ladies and gentlemen.

Jury qualification

1 We are ready to begin with jury selection in the next
2 case that's going to require some of your participation.

3 The title of that case is the State vs. Carlon Eugene
4 Weathers. Mr. Weathers has been accused by the prosecutor
5 by way of this indictment with the crime of a breach of
6 trust. The state alleges that Mr. Weathers did commit that
7 offense in Spartanburg County on or about January the
8 16th of 2017.

9 They allege in the indictment that he was entrusted by
10 Marcus and Kelle Jones with the care and keeping and
11 possession of certain property that belonged to them that
12 was valued at more than \$2,000 but less than \$10,000 and
13 that after they entrusted that property to Mr. Weathers for
14 care and safekeeping that he converted that property to his
15 own use and purposes. In other words, he stole it with a
16 fraudulent intent and to deprive the owner of the use and
17 possession of their property.

18 Now, as to those allegations and as to that charge
19 Mr. Weathers has entered a plea of not guilty. As you
20 know, that plea of not guilty has placed upon the state the
21 burden of proving the allegations that they have made by
22 way of this indictment, the burden of proving each of the
23 essential elements of the crime charged -- in this case a
24 breach of trust -- and therefore the burden is upon the
25 state to establish the defendant's guilt to the

Jury qualification

1 satisfaction of 12 jurors beyond a reasonable doubt. So
2 we'll be selecting a number of you to participate. Before
3 we select that panel I'll be asking you some questions and
4 introducing some folks to you.

5 First of all, I'll introduce the defendant, the person
6 who is accused of having committed the crime, and that is
7 Carlton Eugene Weathers.

8 Mr. Weathers, if you will, stand and face the jury
9 panel.

10 (Whereupon, the defendant stood.)

11 THE COURT: Thank you. Be seated.

12 Mr. Weathers is represented by Michael Morin. Mr.
13 Morin is his lawyer. He'll assist him in the trial of the
14 case.

15 (Whereupon, Mr. Morin stood.)

16 THE COURT: The persons who are alleged to be the
17 victim of the breach of trust are Marcus and Kelle Jones.

18 And I'll ask if you will if you're present, please
19 stand and face the jury panel so that they may see who you
20 are.

21 (Whereupon, Marcus and Kelle Jones stood.)

22 THE COURT: Thank you. Be seated.

23 Presenting the case on behalf of the state are
24 Elizabeth McFarland and Abel Gray. They are both assistant
25 solicitors for the Seventh Judicial Circuit.

Jury qualification

1 (Whereupon, Mr. Gray and Ms. McFarland stood.)

2 THE COURT: Potential witnesses include Thomas Heyde
3 with the sheriff's department; Nathan Sorota with the
4 sheriff's department.

5 MS. MCFARLAND: He's not present, Your Honor.

6 THE COURT: Garrett Cash.

7 I have already introduced Marcus and Kelle Jones.

8 I also have Kenneth Dean Robbs.

9 Is Mr. Robbs present?

10 MR. MORIN: No, Your Honor.

11 THE COURT: Candice Turner; Jennifer Stafford.

12 They're not present. They'll be here. But if you know
13 anybody by that name but you're not sure if it's the same
14 one, you let me know, and I'll have that identification
15 narrowed down for your benefit.

16 All right. So does anybody know anybody who's just
17 been introduced, have any connection with anybody --
18 family, social, school, church, any connection whatsoever.
19 If so, please stand.

20 All right. Your name and number.

21 JUROR NO. 22: Shaun Carr, No. 22.

22 THE COURT: Who do you have a connection with?

23 JUROR NO. 22: Mr. Morin.

24 THE COURT: How do you know him?

25 JUROR NO. 22: A couple of years ago in a case I had.

Jury qualification

1 THE COURT: All right. Would that have any bearing on
2 your decision in this case?

3 JUROR NO. 22: No, sir.

4 THE COURT: Thank you. Be seated.

5 Yes, ma'am.

6 JUROR NO. 17: No. 17, Lekeisha Byers.

7 THE COURT: Who do you know?

8 JUROR NO. 17: Abel Gray.

9 THE COURT: How do you know him?

10 JUROR NO. 17: A family member.

11 THE COURT: He's related to your family?

12 JUROR NO. 17: Yes.

13 THE COURT: And what connection?

14 JUROR NO. 17: My husband is his cousin.

15 THE COURT: Okay. Would that have any bearing in your
16 decision?

17 JUROR NO. 17: No.

18 THE COURT: Thank you. Be seated.

19 Anybody else?

20 (No response.)

21 THE COURT: I read the allegations in the indictment.

22 Mr. Weathers is accused of breaching the trust, taking
23 property that was entrusted to him and converting it to his
24 own use and purposes.

25 Does anybody know anything about the case? Have you

Jury qualification

1 heard anything about it from any source? If so, please
2 stand.

3 (No response.)

4 THE COURT: Has any member of the jury panel ever been
5 the victim of a theft or breach of trust, or have you ever
6 been accused of having committed a breach of trust or a
7 theft of property? If so, please stand. If you've ever
8 been the victim or been accused of a theft or a breach of
9 trust, please stand.

10 All right. Name and number.

11 JUROR NO. 108: Juanita Martin, 108.

12 THE COURT: Were you the victim or accused?

13 JUROR NO. 108: I was a victim.

14 THE COURT: All right. And was somebody charged?

15 JUROR NO. 108: Yes, sir.

16 THE COURT: Has the case been disposed of?

17 JUROR NO. 108: I'm sorry?

18 THE COURT: Has the case been disposed of?

19 JUROR NO. 108: Yes, sir.

20 THE COURT: Was it here or somewhere else?

21 JUROR NO. 108: Spartanburg County.

22 THE COURT: In Spartanburg County. How long ago?

23 JUROR NO. 108: Ten years.

24 THE COURT: Would that have any bearing upon your
25 decision in this case?

Jury qualification

1 JUROR NO. 108: No, sir.

2 THE COURT: Thank you. Be seated.

3 Juror 108.

4 Anybody else?

5 (No response.)

6 THE COURT: I think I asked this question yesterday,
7 but I don't have my list for some reason. So I need to ask
8 you again about connection with law enforcement.

9 If you or a family member has ever been employed as a
10 law enforcement officer, I would ask that you please
11 provide me with that information again.

12 All right. I'll start to my right and work to my
13 left.

14 Your name and number.

15 JUROR NO. 152: 152, Brianna Riffey. I have an uncle
16 who's a sheriff's deputy in Greenwood; an uncle who's a
17 sheriff's deputy in Union; a former uncle who was a
18 sheriff's deputy in Union; and a papa who was a sheriff's
19 deputy in Union. He's former also.

20 THE COURT: Any bearing on your decision in this case?

21 JUROR NO. 152: No, sir.

22 THE COURT: Thank you. Be seated.

23 JUROR NO. 22: Shaun Carr, 22. I was a military
24 policeman and my brother was a sheriff's deputy in
25 Wisconsin.

Jury qualification

1 THE COURT: Any bearing in this case?

2 JUROR NO. 22: No, sir.

3 THE COURT: Thank you. Be seated.

4 Yes, sir.

5 JUROR NO. 142: Gerald Pettit, 142. I have a cousin
6 that works with the coroner's office.

7 THE COURT: Any bearing upon your decision in this
8 case?

9 JUROR NO. 142: No, sir.

10 THE COURT: Thank you. Be seated.

11 JUROR NO. 55: Kyle Flynn, No. 55. My dad's currently
12 a magistrate's constable here in Spartanburg County.

13 THE COURT: Would it have any bearing in this case?

14 JUROR NO. 55: No, sir.

15 THE COURT: Thank you. Be seated.

16 JUROR NO. 179: Kelvin Thompson, 179. I served as a
17 military police and also have a close relative that is with
18 Spartanburg County deputies.

19 THE COURT: Would that have any bearing in this case?

20 JUROR NO. 179: No, sir.

21 THE COURT: Thank you. Be seated.

22 Yes, ma'am. Either one.

23 JUROR NO. 81: Dana Hipp, No. 81. My husband over 20
24 years ago, about 22 years, was a detention officer with
25 Spartanburg County.

Jury qualification

1 THE COURT: Would it have any bearing in this case?

2 JUROR NO. 81: No, sir.

3 THE COURT: Thank you. Be seated.

4 JUROR NO. 63: No. 63, Nichole Gilder. I was a
5 special police officer, industrial security officer. My
6 daughter is a N.Y.P.D. crime analyst currently. My
7 positions were over 20 years ago. She's current. My uncle
8 was on Job Core 30 years ago.

9 THE COURT: Would any of that have any bearing in this
10 case?

11 JUROR NO. 63: No, sir.

12 THE COURT: Thank you. Be seated.

13 Yes, sir.

14 JUROR NO. 87: Galen Israel, No. 87. My dad was a
15 Spartanburg County Sheriff's Deputy.

16 THE COURT: And would that have any bearing in this
17 case?

18 JUROR NO. 87: No, sir.

19 THE COURT: Thank you. Be seated.

20 All right. I've introduced everybody and I've asked
21 the questions I want to ask.

22 Does any juror know of any reason at all why you think
23 you could not be fair and impartial if you were selected to
24 participate as a juror in this particular case? If you
25 have any reason at all why you think you could not be fair,

Jury qualification

1 I would ask that you please stand.

2 (No response.)

3 THE COURT: None have responded.

4 Any other questions requested by the state?

5 MS. MCFARLAND: Nothing from the state, Your Honor.

6 THE COURT: By the defendant?

7 MR. MORIN: No, sir.

8 THE COURT: Draw the jury.

9 You know how it works. You'll come forward when your
10 name is called.

11 I'll try to maintain possession of my list of law
12 enforcement connections so I don't have to ask you that
13 question again.

14 THE CLERK: Juror no. 144, Jacob Plemmons.
15 what say the state?

16 MS. MCFARLAND: Please present this juror.

17 THE CLERK: what say the defense?

18 MR. MORIN: Please swear the juror.

19 THE CLERK: Juror No. 128, Nettie Musselman.
20 what say the state?

21 MS. MCFARLAND: Please present this juror.

22 THE CLERK: what say the defense?

23 MR. MORIN: Please swear the juror.

24 THE CLERK: Juror No. 24, Chase Cash.

25 what say the state?

Jury qualification

1 MS. MCFARLAND: Please present this juror.
2 THE CLERK: What say the defense?
3 MR. MORIN: Please swear the juror.
4 THE CLERK: Juror No. 119, Derrick Miller.
5 what say the state?
6 MS. MCFARLAND: Please present this juror.
7 THE CLERK: What say the defense?
8 MR. MORIN: Please swear the juror.
9 THE CLERK: Juror No. 140, Katherine Pedersen.
10 what say the state?
11 MS. MCFARLAND: Please present this juror.
12 THE CLERK: What say the defense?
13 MR. MORIN: Please swear the juror.
14 THE CLERK: Juror No. 198, Tammy Woods.
15 what say the state?
16 MS. MCFARLAND: Please present this juror.
17 THE CLERK: What say the defense?
18 MR. MORIN: Please swear the juror.
19 THE CLERK: Juror No. 186, Chelsea Walker.
20 what say the state?
21 MS. MCFARLAND: Please present this juror.
22 THE CLERK: What say the defense?
23 MR. MORIN: Please swear the juror.
24 THE CLERK: Juror No. 201, Amy Tucker.
25 what say the state?

Jury qualification

1 MS. MCFARLAND: Please present this juror.

2 THE CLERK: What say the defense?

3 MR. MORIN: Please excuse the juror from service in
4 this case.

5 THE CLERK: Juror No. 60, Jerry Gaines.
6 What say the state?

7 MS. MCFARLAND: Please excuse this juror.

8 THE CLERK: Juror No. 88, Artencia Jackson-Williams.
9 What say the state?

10 MS. MCFARLAND: Please present this juror.

11 THE CLERK: What say the defense?

12 MR. MORIN: Please swear the juror.

13 THE CLERK: Juror No. 81, Dana Hipp.
14 What say the state?

15 MS. MCFARLAND: Please present this juror.

16 THE CLERK: What say the defense?

17 MR. MORIN: Please excuse the juror from service in
18 this case.

19 THE CLERK: Juror No. 147, Jeffrey Quinn.
20 What say the state?

21 MS. MCFARLAND: Please present this juror.

22 THE CLERK: What say the defense?

23 MR. MORIN: Please swear the juror.

24 THE CLERK: Juror No. 179, Kelvin Thompson.
25 What say the state?

Jury qualification

1 MS. MCFARLAND: Please present this juror.

2 THE CLERK: What say the defense?

3 MR. MORIN: Please excuse the juror from service in
4 this case.

5 THE CLERK: Juror No. 124, Kristi Moon.
6 what say the state?

7 MS. MCFARLAND: Please present this juror.

8 THE CLERK: What say the defense?

9 MR. MORIN: Please swear the juror.

10 THE CLERK: Juror No. 9, Nadia Bengali.
11 what say the state?

12 MS. MCFARLAND: Please present this juror.

13 THE CLERK: What say the defense?

14 MR. MORIN: Please swear the juror.

15 THE CLERK: Juror No. 110, Sarah Mayfield.
16 what say the state?

17 MS. MCFARLAND: Please present this juror.

18 THE CLERK: What say the defense?

19 MR. MORIN: Please swear the juror.

20 THE CLERK: Juror No. 142, Gerald Pettit.

21 THE COURT: This is for the alternate.

22 THE CLERK: What say the state?

23 MS. MCFARLAND: Please present this juror.

24 THE CLERK: What say the defense?

25 MR. MORIN: Please excuse the juror.

Jury qualification

1 THE CLERK: Juror No. 164, Nathan Smith.

2 what say the state?

3 MS. MCFARLAND: Please present this juror.

4 THE CLERK: what say the defense?

5 MR. MORIN: Please swear the juror.

6 THE COURT: This will be for the second alternate.

7 THE CLERK: Juror No. 51, Julie Eubanks.

8 what say the state?

9 MS. MCFARLAND: Please present this juror.

10 THE CLERK: what say the defense?

11 MR. MORIN: Please swear the juror.

12 (whereupon, a jury was impaneled.)

13 THE COURT: Those who've been selected, please go with
14 the bailiff to a jury room. I'll bring you back in just a
15 few minutes.

16 (The following takes place outside the presence of the
17 jury.)

18 THE COURT: Are there any matters that need to be
19 addressed recording jury selection by the state?

20 MS. MCFARLAND: Nothing from the state, Your Honor.

21 THE COURT: By the defense?

22 MR. MORIN: No, sir.

23 (whereupon, the remaining members of the jury venire
24 were excused.)

25 THE COURT: Bring the jury back.

1 (The following takes place in the presence of the
2 jury.)

3 THE COURT: Ladies and gentlemen, I have some other
4 matters I need to address before lunch, so we're going to
5 excuse you for lunch. And you'll come back at 3:00 o'clock
6 this afternoon at which time we'll begin the trial of the
7 case.

8 Keep in mind now that you have been selected you're
9 not permitted to discuss the case in any fashion with any
10 person whatsoever. You can't conduct your own research;
11 you can't do your own investigation into any issue.

12 You've got to base your decision upon what you see and
13 hear during the trial. You're not to be influenced by any
14 outside extraneous information. So no discussions, no
15 research.

16 Do have a good lunch. Please report to your jury room
17 this afternoon at 3:00 o'clock, at 3:00 o'clock this
18 afternoon. Have a good lunch.

19 (The following takes place outside the presence of the
20 jury.)

21 THE COURT: Now we'll begin with the motion. Which
22 one is first?

23 MS. MCFARLAND: Which would you like to be first?

24 THE COURT: Well, I don't care, either one of them.
25 So if y'all want to have them heard --

Thomas Heyde (In-camera)
Direct examination by Ms. McFarland

1 MR. MORIN: I would like to do Biggers first, Your
2 Honor.

3 THE COURT: Biggers first?

4 MR. MORIN: Yes, Your Honor.

5 THE COURT: All right. There was an out-of-court
6 identification --

7 MR. MORIN: Yes, Your Honor.

8 THE COURT: -- which you believe was unnecessarily
9 suggestive?

10 MR. MORIN: Yes, Your Honor.

11 THE COURT: And resulted in an identification of the
12 defendant as the perpetrator?

13 MR. MORIN: Yes, Your Honor.

14 THE COURT: All right. Ms. McFarland.

15 MS. MCFARLAND: The state calls Investigator Thomas
16 Heyde.

17 (Affidavit marked State's Exhibit No. 1 for
18 Identification.)

19 THOMAS HEYDE, having been
20 first duly sworn, testified as follows:

21 DIRECT EXAMINATION BY MS. MCFARLAND

22 Q Investigator Heyde, can you please tell us where you
23 are employed?

24 A Yes. Spartanburg County Sheriff's Office,
25 Spartanburg, South Carolina.

Thomas Heyde (In-camera)
Direct examination by Ms. McFarland

1 Q And during your employment at the sheriff's office did
2 you become involved in the investigation of this case?

3 A Yes, I did.

4 Q And during that investigation did you present a photo
5 lineup to a witness in this case?

6 A I did.

7 MS. MCFARLAND: Permission to approach the witness.

8 THE COURT: Yes, ma'am.

9 Q I'm showing you what's marked as State's Exhibit 1.
10 Can you please tell me the date and location of that photo
11 lineup?

12 A Yes. The date is January the 23rd of 2017, 8045
13 Howard Street, Spartanburg, South Carolina, which is the
14 address of the Spartanburg County Sheriff's Office.

15 Q And about how long from the incident did that photo
16 lineup occur?

17 A I'm going to refer to my report if that's okay for
18 reference.

19 (Pause.)

20 A The report was made on January the 17th of 2017. I
21 picked up the investigation. I'm going refer to the date
22 on my lineup. It says January 17th of 2017.

23 Q And can you please describe the process for creating
24 that photo lineup?

25 A Yes. Again, I'd like to refer to my notes just due to

Thomas Heyde (In-camera)
Direct examination by Ms. McFarland

1 the time span.

2 On January 17th I originally, I made telephone contact
3 with Mr. and Mrs. Jones, the victims, and they reiterated
4 what was already indicated on a report that they entrusted
5 Mr. Carlton Weathers to a trailer. Urged them to keep in
6 contact, provided them with my information. However, what
7 was kind of intriguing is they provided me a phone number of
8 [REDACTED]-3435.

9 I ran it through a system that we call T.L.O.
10 Basically, it's a reverse directory, if you will, that can
11 trace phone numbers and dates of birth.

12 And upon doing so I came upon the name of first a
13 Reggie Eugene Weathers who told me and referred me to his
14 brother who is Carlton Weathers.

15 So through that process I developed Mr. Weathers,
16 Mr. Carlton Weathers, as a viable suspect. And upon doing so
17 I followed up and got the exact first name from the brother.
18 He spelled it for me C-A-R-L-O-N.

19 Let's see. And on January the 20th I went to [REDACTED]
20 Cowpens-Clifton Road in Glendale, and I did speak to
21 Mr. Weathers in person at his address.

22 The nickname given me was Gator before I even developed
23 a name. So I asked him if his nickname was Gator. He said
24 yes.

25 I did provide him my business card for contact

Thomas Heyde (In-camera)
Direct examination by Ms. McFarland

1 information, and I informed him of what he might know about
2 the case. I also informed him that if he were picked out of
3 a photo lineup he'd be a viable suspect that could
4 potentially be charged.

5 I encouraged him to stay in touch with me should he
6 know anything further, and as he was not very forthcoming.

7 On January the 23rd of 2017 the victims, Mr. and Mrs.
8 Jones, showed up at the sheriff's office. And this is when
9 I presented the photo lineup to the victims. And State's
10 Exhibit 1 and a photo lineup will indicate photograph No. 6
11 they chose of their own free will. It's Carlton Eugene
12 Weathers.

13 I had Mr. Marcus Jones circle and initial and date the
14 photograph and had him sign the affidavit. So that was he
15 was developed as a suspect and that's how he was
16 additionally charged. I did charge him.

17 Q What was your -- how did you select which photos were
18 in -- how was the lineup generated?

19 A It's random. Basically, you've got a random
20 selection. However, you -- you pick from a pool of
21 photographs, prior booking photographs, of individuals who
22 had closely physically resembled -- not exact of course and
23 not exact age -- but within a variability of physical
24 makeup, race, height, weight, etc.

25 Q And how were the photos displayed on that lineup?

Thomas Heyde (In-camera)
Direct examination by Ms. McFarland

1 A There are six photographs and displayed top to bottom,
2 left to right, if that's what you're asking.

3 Q Yes.

4 A Okay.

5 Q Did you or anyone else influence Mr. Jones on which
6 picture to select from the lineup?

7 A Absolutely not.

8 Q And then did it take Mr. Jones very long to select the
9 photo that he did from the lineup?

10 A No, it did not.

11 Q And then did Mr. Jones seem certain of his selection
12 of the defendant from the lineup?

13 A Yes, he did.

14 Q Is there an affidavit that goes along with that photo
15 lineup?

16 A There is right on the front page of Exhibit No. 1.
17 There is an affidavit that we -- when we develop these,
18 routine, in our investigations that we have the victim sign
19 stating that they are positive about the picture of the
20 photograph.

21 However, it also indicates an oppressiveness that --
22 and I'd like to read this because I feel this is important
23 to all investigations. "That the suspect may or may not be
24 among the subjects in the lineup. Witness is not compelled
25 to make an identification. The suspect may not appear

Thomas Heyde (In-camera)
Cross-examination by Mr. Morin

1 exactly as they did in the incident due to changes in
2 hairstyle, facial hair, quality of photograph, etc.

3 So we do make that known to everybody we present them
4 to.

5 Q And Mr. Jones did sign that affidavit?

6 A Yes, he did. I'm looking at his signature right now.

7 Yes, he did.

8 Q That's all the questions that I have.

9 CROSS-EXAMINATION

10 BY MR. MORIN

11 Q When this call came in and investigations started did
12 either Mr. or Mrs. Jones use the name Carlton Weathers?

13 A May I refer to my notes?

14 Q Certainly.

15 (Pause.)

16 A They told me the nickname was Gator.

17 Q Okay. So you started out the investigation looking
18 for Gator.

19 A And a phone number.

20 Q And a phone number.

21 A Uh-huh.

22 Q Okay. Now, you contacted the Joneses and gave a
23 description of a suspect on the phone on -- on or about
24 January 17th, is that correct?

25 A Yes.

Thomas Heyde (In-camera)
Cross-examination by Mr. Morin

1 Q Okay. So they got a phone call, and you said is this
2 what this person looks like, because at that point they
3 hadn't given you a name, but you had the phone number. And
4 then you gave them a description of him, correct?

5 A Yes, sir.

6 Q Okay. And then when that occurred did you present
7 them with a lineup at that point with that suspect?

8 A No. I -- as I said, I checked the phone number,
9 called his brother, did the reverse directory, came up with
10 the name Reggie Weathers who referred me to Mr. Carlton
11 Weathers. And at that point I developed a photo lineup.

12 Q Okay. Now, then you called the Joneses to come to the
13 sheriff's office to look at a photo lineup.

14 A That's correct.

15 Q And that was after you had already described someone
16 you believed to be the suspect.

17 A That's correct.

18 Q Now, you testified that Mr. and Mrs. Jones looked at
19 the lineup, is that correct?

20 A That's correct.

21 Q Did Mrs. Jones pick anybody out of a lineup?

22 A She did not.

23 Q So it was just Mr. Jones, is what you're saying.

24 A Yes. He had the face-to-face dealing with the
25 transaction initially.

Thomas Heyde (In-camera)
Redirect examination by Ms. McFarland

1 Q Right. In fact, isn't it true that Mrs. Jones told
2 you that he would have to be the one to pick someone out
3 when you called to ask them to come to the sheriff's office
4 to look at the lineup?

5 A Yes. I do remember that.

6 Q Okay. So isn't it fair to say that when you called
7 them and asked them to come to pick someone out of a lineup
8 you had already told them you had a suspect? In fact, you
9 described them, correct?

10 A That's correct.

11 Q Okay.

12 MR. MORIN: That's all the questions I have, Your
13 Honor.

14 REDIRECT EXAMINATION

15 BY MS. MCFARLAND

16 Q Investigator Heyde, you were not the first person to
17 respond at this case, were you?

18 A No. I was not.

19 Q You took over as investigator after the initial
20 report?

21 A That's correct.

22 Q Did you have access to any of the prior report?

23 A You mean the initial narrative by the responding law
24 enforcement?

25 Q Yes.

Thomas Heyde (In-camera)
Recross-examination by Mr. Morin

1 A Yes. I did.

2 Q And he was given the name Carlon Weathers by
3 Mrs. Jones?

4 A Initial report says C-A-R-L-I-N, not L-O-N. And
5 that's what threw me and why I had to pursue a further
6 investigation and use physical description to make sure we
7 were talking about the same person, as well as with the
8 photo lineup.

9 Q So you did have his -- his actual name and his
10 nickname. It's just his name was misspelled.

11 A Yeah. Actual name. It was misspelled. I can say was
12 his actual name of C-A-R-L-I-N, but it gave me something to
13 start with if that's answer the question.

14 Q That's all I have.

15 RECROSS-EXAMINATION

16 BY MR. MORIN

17 Q So you had a name Carlon Weathers.

18 A Carlin.

19 Q Carlin.

20 A Yes.

21 Q But you contacted someone named Reggie Weathers.

22 A When I did a reverse directory of the phone number,
23 that's correct. Apparently, they must have used the same
24 phone number being brothers, is what I assumed.

25 Q Okay. So when you contacted Reggie you didn't ask him

Thomas Heyde (In-camera)
Recross-examination by Mr. Morin

1 if he had a brother or knew Carlon, did you?

2 A I have to refer to my notes because I don't recall,
3 yes or no.

4 (Pause.)

5 A No. I told him I was asking about somebody with a
6 nickname of Gator who may or may not have this phone
7 number. He says, no, that's my brother Carlon. And then
8 shortly after that he spells it out for me, C-A-R-L-O-N,
9 which is the correct spelling of his first name. Does that
10 answer?

11 Q Correct. But when you're talking to Reggie --

12 A Uh-huh.

13 Q -- you don't say do you know Carlon -- C-A-R -- you
14 say Gator.

15 A That's right.

16 Q But you're saying you knew Carlon was the name you
17 were looking for. But you don't know the nickname. Is
18 that your testimony?

19 A Actually, I didn't know what name I was looking for.
20 This is in the preliminary part of the investigation, so I
21 wanted to be absolutely sure with the spelling.

22 Q Sure.

23 A Okay.

24 MR. MORIN: That's all the questions I have.

25 THE COURT: Step down.

Marcus Jones
Direct examination by Ms. McFarland

1 MS. MCFARLAND: State is going to call Marcus Jones.

2 MARCUS JONES, having been
3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION BY MS. MCFARLAND

5 Q Mr. Jones, how do you know the defendant?

6 A A friend of mine was telling me about his vehicle. So
7 I went to look at it and bought a truck from him, is
8 originally how I met him. And he was saying he needed some
9 work.

10 THE COURT: Let's get closer to that microphone,
11 please.

12 A I was at his house looking at buying a vehicle, and he
13 told me he needed some work. He gave me his number. So
14 that's how I originally ended up calling him, to give him a
15 place to work.

16 Q And how many times would you say you had been able to
17 observe, like how many times have you met with the
18 defendant? You went to his house.

19 A Twice.

20 Q Twice.

21 A Twice.

22 Q And you had plenty of opportunity to see his
23 appearance?

24 A Yeah.

25 Q I'm going to show what I've already marked as State's

Marcus Jones
Cross-examination by Mr. Morin

1 Exhibit 1. Is that the photo lineup that Investigator
2 Heyde showed you at the sheriff's office?

3 A I don't remember what the photo lineup looks like but
4 I remember what his face looks like.

5 Q Is that your signature on the affidavit on the first
6 page?

7 A Yes, it is.

8 Q Okay. And do you recall going to the sheriff's office
9 and meeting with Investigator Heyde about the photo lineup?

10 A Yes. It was.

11 Q And you remember you identified the photograph?

12 A Yes.

13 Q I believe it's No. 6 of the defendant, Carlton
14 Weathers.

15 A That's correct.

16 Q Now, did the officer do anything to suggest to you
17 which photo that you should pick?

18 A No.

19 Q And how long did it take you to select the photo that
20 you did?

21 A Not as long as it took me to sit down up here.

22 MS. MCFARLAND: No further questions.

23 CROSS-EXAMINATION

24 BY MR. MORIN

25 Q Mr. Jones, initially did you call the police or did

Marcus Jones
Cross-examination by Mr. Morin

1 Mrs. Jones call the police, or do you know?

2 A I don't really recall if it was me or her. Probably
3 me.

4 Q Okay. Do you remember talking to Officer Heyde on the
5 phone?

6 A No, sir.

7 Q So you don't remember him calling you and...

8 A I remember him calling me later on but not originally.

9 Q Right. Okay. well, later on he called, correct?

10 A Correct.

11 Q Do you remember the part where he was describing
12 someone to you?

13 A No, sir.

14 Q You don't?

15 A No.

16 Q Okay.

17 MR. MORIN: I have no further questions, Your Honor.

18 MS. MCFARLAND: No further questions.

19 THE COURT: Step down.

20 MS. MCFARLAND: I have no further witnesses.

21 THE COURT: Mr. Morin.

22 MR. MORIN: Your Honor, the defense's position is
23 that, is when a law enforcement officer calls the witness
24 and says this is -- and starts describing physical
25 characteristics of a witness, which he says he did, he

1 tells the witness there is a suspect.

2 And then later when they call and say can you come
3 down and look at a lineup the witness expects he's going to
4 see a -- the suspect that was described to him on the
5 phone.

6 I would argue that the calling of a witness and
7 describing his physical characteristics tells the witness
8 we have a suspect.

9 And then later calling and saying can you come down
10 and pick the person out of the lineup is -- overrides their
11 affidavit, which if I may approach -- which is the
12 statement.

13 I understand he's testified today that that's his
14 signature. It was referred to as an affidavit -- the
15 statement at the time -- but, nonetheless, I would submit
16 that that calling and describing of physical
17 characteristics similar to both Mr. Weathers -- his brother
18 implies there is a suspect, and that taints the
19 identification when they later call and ask him to come
20 down and look at a lineup.

21 MS. MCFARLAND: Your Honor, I believe that the
22 defendant's due process rights were protected in this case
23 and the lineup was not suggestive.

24 Investigator Heyde followed the procedures, the
25 standard procedures, for creating and showing the lineup to

1 Mr. Jones. Mr. Jones had plenty of opportunity --

2 THE COURT: Excuse me for interrupting. It's not the
3 lineup that Mr. Morin is complaining about. It's the
4 suggestiveness of the officer describing a potential
5 suspect to be put in a lineup with the victim in order to
6 confirm the -- in other words, instead of asking the victim
7 what this person looked like, he's telling the victim what
8 the person looks like. And they're either confirming it or
9 rejecting it. But I think that's what Mr. Morin's
10 complaining about, not the lineup itself. Is that --

11 MR. MORIN: That's correct, Your Honor.

12 MS. MCFARLAND: Yes, Your Honor. And Mr. Jones stated
13 on the stand that he did not recall any conversation with
14 Investigator Heyde where Investigator Heyde described his
15 appearance. He did not recall that.

16 And he -- when he identified Mr. Weathers from the
17 photo lineup he was going solely on, you know, his prior
18 opportunities to see Mr. Weathers' appearance and his own
19 personal dealings with Mr. Weathers and not -- he didn't --
20 he doesn't even recall hearing that description on the
21 telephone with Investigator Heyde.

22 THE COURT: Okay.

23 MR. MORIN: Well, Your Honor, my point is, is we're
24 talking about in-court identification. Now that we're here
25 in court and he's standing there -- sitting on the stand --

1 and says, yes, I know Carlon and I know him from before and
2 he's been told since Carlon's arrest he's -- he's the
3 person who's done this, now we're getting into a situation.

4 My point of it is once that identification has been
5 tainted where the officer's giving physical descriptions to
6 the witness, slash, victim, it's tainted.

7 Now, they can come back and go, well, we told them
8 this but the -- he went to the sheriff's office expecting
9 to pick out a suspect, and then he's come into court and
10 says, well, yeah, I know him now. But that's what we're
11 talking about.

12 So to say he testified today that he knows him now --
13 and he didn't remember any of the phone conversation.
14 That's all off of Officer Heyde's testimony and what he
15 did.

16 THE COURT: All right. Well, it's clear from the
17 testimony that the officer had a telephone number that the
18 victim had provided in order to contact the person that
19 we're dealing with here, whether it be Mr. -- this
20 Mr. Weathers or somebody else.

21 He had contact -- I mean, he had -- he knew the person
22 he was dealing with went by the nickname Gator. He
23 discussed it with Mr. Weathers' brother apparently. That's
24 how he got onto Mr. Carlon Weathers. Apparently, he had a
25 name too.

1 But, in any event, he had the information. He had
2 dealt with Mr. Weathers. It's not like -- not like
3 Mrs. Jones who apparently didn't have the same contact or
4 observations of Mr. Weathers as did Mr. Jones.

5 And so I don't find that the lineup was suggestive at
6 all. But even if it were somewhat tainted by the
7 conversation between the detective and the -- Mr. Jones
8 about the description in order to confirm a potential
9 suspect, I find without question in my mind in this case
10 that Mr. Jones is basing his identification upon his own
11 knowledge and contact and observations of Mr. Weathers at
12 the time that this transaction took place. And therefore I
13 decline to suppress the in-court identification of
14 Mr. Weathers by Mr. Jones. And I understand there is no
15 in-court identification by Mrs. Jones. Is that what I'm
16 understanding?

17 MS. MCFARLAND: That's correct, Your Honor.

18 THE COURT: Okay. Anything else?

19 MR. MORIN: Your Honor, if I can just have a moment we
20 may not need a Jackson vs. Denno.

21 THE COURT: Okay.

22 (Pause.)

23 MR. MORIN: Your Honor, we're not going to need a
24 Jackson vs. Denno hearing in this case.

25 THE COURT: Okay. There is a statement that's going

1 to be introduced?

2 MS. MCFARLAND: Yes, Your Honor.

3 Just so we're clear, there's two pieces of testimony
4 by the defendant that I intend to offer.

5 One is the written statement that he gave at the
6 detention center on January 31st of 2017, and the second is
7 statements that he made to Detective Heyde on January
8 20th when Detective Heyde came to the defendant's home to
9 speak with him.

10 THE COURT: Mr. Morin, you've been provided with those
11 statements?

12 MR. MORIN: Yes. I'm aware of both of those, Your
13 Honor.

14 THE COURT: And is it your and your client's position
15 that those were made by the defendant and that they were
16 not in any way involuntarily provided?

17 MR. MORIN: No, Your Honor.

18 The second one to which the state's referred, he
19 wasn't in custody. He was at his own home and the officer
20 asked him a few questions and left. So that's not even an
21 issue. The written statement we've seen and we're okay.
22 We understand it may be introduced.

23 THE COURT: Okay. All right. Court is in recess
24 until 2:30.

25 (Whereupon, a recess was taken.)

1 THE COURT: Any matters that need to be addressed
2 before the jury panel is brought in?

3 MS. MCFARLAND: Nothing from the state, Your Honor.

4 MR. MORIN: No, sir.

5 THE COURT: All right. Bring them in.

6 Ask Mr. Quinn -- that's Juror 147, Mr. Quinn -- to
7 take the foreperson's seat.

8 (The following takes place in the presence of the
9 jury.)

10 THE COURT: Ma'am, if you'll come to the front row.
11 Yes, ma'am. Everybody else move down one. Thank you..

12 All right. Good afternoon, ladies and gentlemen. We
13 are ready to begin with the trial of the case for which
14 each of you have been selected.

15 Mr. Quinn, I'm going to ask you to serve as the
16 foreperson of the jury. As the foreperson you're going to
17 have three specific duties that none of the other jurors
18 will have.

19 First of all, you'll be asked to serve as the
20 spokesperson for the jury. And that just means if during
21 the trial something arises that needs to be brought to my
22 attention that you or a fellow juror has some difficulty,
23 problem or question, you'll be the person to let me know of
24 that fact directly if you're in the courtroom, through the
25 bailiff if you're outside of the courtroom.

1 Secondly, you'll be called upon to preside over jury
2 deliberations when that time comes at the trial's
3 conclusion after all of the evidence has been received and
4 I have instructed you on the law that's applicable.

5 When the jury goes back to begin deliberations you
6 will preside over that process in the jury room simply to
7 ensure that those deliberations are carried out in some
8 orderly fashion.

9 And, thirdly, you'll be asked to actually write the
10 decision or the verdict of the jury, and you'll do that on
11 a verdict form that I'll provide you at the trial's
12 conclusion on which you will indicate the jury's unanimous
13 decision.

14 The foreperson has those specific duties that I've
15 just indicated. That does not, however, mean that he is
16 any more important than any of other jurors, and that's
17 because the decision of a jury is the unanimous consensus
18 opinion of all 12 jurors. And so each of you will have an
19 equal say and an equal vote in what the ultimate decision
20 will be in the case, because the verdict has to be
21 unanimous. All 12 of you must be in agreement.

22 But somebody has to be delegated those
23 responsibilities that I've just indicated, and I have
24 delegated those to Mr. Quinn in appointing him as the
25 foreperson. But all of you 12 jurors are equally important

1 so far as the decision is concerned.

2 Now, Mr. Smith and Ms. Eubanks, each of you have been
3 selected as alternate jurors, and the function of an
4 alternate juror is to take the place of one of the original
5 12 jurors.

6 If during the trial one or two of these jurors could
7 not continue to serve for some reason, then one or both of
8 you would be called upon to participate as the 12th juror.

9 So it is important that you pay just as careful
10 attention as we ask of all of the jurors in the case
11 because it does occur from time to time for one reason or
12 another one of these original 12 may be unable to continue.

13 And if that occurs, then one or both of you would be
14 called upon to become the 12th. And if that were to
15 happen, then you would participate throughout the trial
16 including the jury deliberations at the trial's conclusion.

17 If, however, when the time does come for jury
18 deliberations if the original 12 are able to do that, then
19 your service ends. And that's because the decision of a
20 jury is that of 12, and no more than 12 can participate in
21 that deliberation process.

22 But, as I say, it is important for you to pay just as
23 careful attention as we ask of all of the jurors because it
24 very well may happen that you would be called upon to serve
25 as the 12th juror.

Jury sworn

1 You may swear the panel.

2 (Whereupon, the jury was duly sworn.)

3 THE COURT: Ladies and gentlemen, as you know, you
4 have been selected to decide the verdict in the case of the
5 State vs. Carlon Eugene Weathers.

6 As you also know, Mr. Weathers has been accused by the
7 prosecutor by way of this indictment with the crime of
8 breach of trust with a fraudulent intent.

9 The indictment is the charging paper. It's not
10 evidence of anything; it's not proof of anything. But it
11 is the manner by which any person charged with a crime
12 where the jurisdiction lies in this court, is brought to
13 this court. It has to be done by way of that indictment.

14 But other than -- and it will be in the jury room when
15 you go back to deliberate because, Mr. Foreman, it's on the
16 back of the indictment that you're going to indicate the
17 jury's decision. So for your purposes the indictment is
18 going to serve as the verdict form. But other than serving
19 as the verdict form it serves no purpose so far as you
20 jurors are concerned.

21 The defendant is charged with a breach of trust. The
22 state is required, because they brought the charge, to
23 prove the defendant guilty beyond a reasonable doubt.

24 The defendant has entered a plea of not guilty, and
25 therefore that burden now passes to the state to present

1 sufficient evidence in the trial of this case to convince
2 you beyond a reasonable doubt that the defendant has
3 committed the crime that they allege he committed.

4 Every person who is charged with a crime is presumed
5 to be innocent, and that presumption of innocence remains
6 with every defendant, as it does with this defendant, from
7 the time he is placed under arrest and throughout the
8 course of the criminal process and even throughout the
9 course of the actual trial in the case.

10 That presumption of innocence will be with
11 Mr. Weathers even when you go back at the trial's
12 conclusion to begin with your deliberations in the case.

13 That presumption of innocence will be with him in that
14 jury room, and it'll be with him forever unless you 12
15 jurors determine that he's no longer entitled to the
16 presumption of innocence.

17 In other words, after you have carefully considered
18 all the evidence presented during the trial of the case and
19 after you have determined, where you can, what the facts
20 are as they relate to the allegations that have been made
21 against Mr. Weathers, and after deciding the facts you
22 apply the law that I will have provided you, if you 12
23 jurors unanimously determine that his guilt has been proven
24 beyond a reasonable doubt, then he would no longer be
25 entitled to that presumption of innocence. But it is only

1 if, unless and until you are satisfied of his guilt beyond
2 a reasonable doubt based upon the evidence presented that
3 the presumption of innocence would no longer be applicable.

4 Now, the way the trial will proceed is that in a
5 moment the lawyers are going to address you in what are
6 called opening statements.

7 There are two occasions in the trial of a case where
8 lawyers are permitted to address the jury, and that is at
9 the beginning of the trial before any evidence has been
10 introduced, then again at the conclusion of the trial after
11 all of the evidence has been received.

12 But keep me mind, as I've just indicated, the evidence
13 upon which you will base your decision comes in during the
14 trial, and that's between the opening and the closing
15 statements of the lawyers.

16 And therefore whatever the lawyers tell you in their
17 statements is not to be considered by you as any evidence
18 upon which you will base your decision, and that's because
19 the lawyers aren't witnesses to anything.

20 They don't know anything about this case of their own
21 personal knowledge or perception like witnesses will be
22 testifying to when they take the witness stand and are
23 subjected to examination. And the lawyers aren't going to
24 take the witness stand. They're not going to be placed
25 under oath. They're not going to be subjected to an

1 examination like witnesses are. And therefore what they
2 tell you in their statements is not to be considered by you
3 as any evidence upon which you will base your decision.
4 But you should listen to what the lawyers have to say
5 because those statements do serve a purpose.

6 The opening statements serve to provide you with a
7 basic understanding as to what this case is about from both
8 the perspective of the state and of the defense so that
9 you'll have some context in which to place the evidence
10 that we will be receiving shortly thereafter.

11 The closing statements occur after all of the evidence
12 has been received. But keep in mind, as I told you, that
13 that's still not evidence, but it does afford the lawyers
14 an opportunity to discuss with you the evidence that you
15 have seen and heard during the course of the trial. And
16 that gives that lawyer the opportunity to try to persuade
17 you or to convince you that the evidence in the case does
18 or does not support a particular decision.

19 And it's in between the opening and closing statements
20 accomplished by the lawyers that we actually receive the
21 evidence upon which you will base your decision.

22 As you know, the state has brought the charge. The
23 state has the burden of proof. The state has to establish
24 the defendant's guilt to your satisfaction beyond a
25 reasonable doubt. And so the state will go forward first

1 in its presentation of evidence.

2 Once the state has concluded with that presentation
3 any defendant in a criminal trial has an opportunity to
4 take the witness stand and testify or to call a witness or
5 introduce evidence. But a defendant in a criminal case has
6 no burden.

7 Unlike the state who does have a burden, a defendant
8 in a criminal trial has no burden and therefore is under no
9 obligation to testify or call a witness or present any
10 evidence.

11 The burden is not upon a defendant to prove that they
12 are not guilty or to prove that they are innocent because
13 in some cases that might not even be possible.

14 The burden is on the state because they've made the
15 accusation -- they brought the charge -- to establish the
16 defendant's guilt beyond a reasonable doubt.

17 And so in a criminal trial the defendant may not
18 testify or introduce any evidence. And if that happens in
19 this case that's not something that you can consider even
20 in the slightest degree against the defendant. You can't
21 consider it in any way during your deliberations or in your
22 determination as to whether or not his guilt has been
23 proven beyond a reasonable doubt.

24 But every defendant in a trial is afforded an
25 opportunity to present evidence if he or she wishes to do

1 so.

2 So after all of the evidence is received and you hear
3 the final summations of the lawyers, I will then instruct
4 you fully on the law as it relates to the criminal law
5 generally and as it relates to the crime of breach of trust
6 specifically.

7 Then you'll be asked to go back and to begin with your
8 deliberations. And through that process and in the
9 exercise of good judgment and common sense conscientiously
10 applied to the testimony and evidence in the case you're
11 going to be asked to determine where you can what the facts
12 are as they relate to these allegations.

13 If you're able to do that you determine those facts.
14 And once you do you apply the law that I provided to you,
15 and then you determine whether or not the defendant has
16 been proven guilty of breach of trust beyond a reasonable
17 doubt.

18 If he has, then your verdict is guilty. And if he has
19 not, then your verdict is not guilty.

20 Now, all that we're going to ask for you to do is to
21 pay careful attention throughout the course of the trial.
22 There's going to be a lot going on. Several witnesses may
23 be called to testify.

24 And you never know when the most important,
25 significant or material evidence is going to be presented

1 or testimony is going to be received. So you have to give
2 every witness the same degree of attention.

3 That of course doesn't mean you're going to give every
4 witness' testimony the same degree or weight, because you
5 might find a witness' testimony not to credible. And
6 because you are the persons who have been chosen to be the
7 judges of the facts it's your prerogative to decide the
8 credibility of witness testimony.

9 And so when a witness testifies you can believe
10 everything that they say; you can believe none of what they
11 say; you can believe part of what they say and reject some
12 other part of what they say.

13 But in order to be in a proper position to carefully
14 evaluate a witness' credibility and believability as to
15 testimony you've got to give them the same degree of
16 attention as they testify so that when you do go back into
17 the jury room at the trial's conclusion to begin with your
18 deliberations you'll be a proper position to be able to
19 fairly evaluate each witness' testimony in light of not
20 just their own testimony but in light of all of the
21 testimony and all of the evidence received during the
22 course of the trial.

23 And it's also important that you not begin making up
24 your minds or formulating your opinions as to what you
25 think the ultimate decision ought to be until all of the

Opening statements

1 evidence has been received and until you've been instructed
2 as to the law and until you've been asked to begin with
3 your deliberations.

4 That is the process that has been designed over the
5 last 240 years to ensure that you can arrive at a fair
6 decision in any case that you might be called upon to
7 participate in. And for today that is this one.

8 So I do want to thank you in advance for
9 participation, as well as for your careful attention. I
10 would ask that you please give the lawyers your attention
11 now as they give you their opening statements.

12 Ms. McFarland.

13 MS. MCFARLAND: Ladies and gentlemen of the jury, we
14 are here today because the defendant, Carlon Weathers, is
15 charged with breach of trust.

16 Around Christmas of 2016 the victims, Marcus and Kelle
17 Jones, hired the defendant to load some trash and take it
18 to the landfill. They let him use their utility trailer
19 that they had purchased a few months before for about
20 \$4,600.

21 They allowed him to use their trailer. He rode off
22 with the trash and never came back. And they've never seen
23 their trailer again.

24 Now, you're going to hear about the law from the judge
25 at the end of this case, but just to go briefly go into it,

Opening statements

1 he's charged with breach of trust. The victims entrusted
2 their property to him as part of that trust relationship.
3 They had hired him to haul off the trash. And then he
4 converted that property to his own use and deprived them of
5 the use of that trailer permanently. They've not seen the
6 trailer again.

7 So you're going to hear from both Marcus and Kelle
8 Jones about the trailer and their dealings with the
9 defendant, and you're also going to hear from two officers
10 in this case that had a chance to talk with the defendant
11 during the investigation.

12 After you hear all of the testimony and evidence I'll
13 speak to you again at the end of this trial and ask you to
14 find the defendant guilty of breach of trust. Thank you.

15 THE COURT: Mr. Morin.

16 MR. MORIN: Good afternoon. My name's Michael Morin.

17 I've got -- it's been a while since I've had any
18 children at my house. I used to have two very young
19 daughters, and one of them would say from time to time,
20 "Daddy, I sniff a sniff." And what that usually meant was
21 she smelled something bad. She wasn't sure what it was.
22 It might have been broccoli; it might have been her younger
23 sister's baggage.

24 The reason I tell you this story is because I've had
25 an opportunity to look at the reports and the statements in

Marcus Ronald Jones
Direct examination by Ms. McFarland

1 this case. And when I got done the only thing I could
2 think of was is a sniff is a sniff.

3 So during the time, during this trial, what I'm going
4 to be doing is asking questions and testing the evidence
5 that's before you, because I'm not sure what it is, but I
6 definitely sniff a sniff.

7 When I get up at the end and talk to you about the
8 evidence I'm pretty sure I'm going to be able to point to
9 those. And those sniffs are going to be the grounds for
10 reasonable doubt in this case about what happened to that
11 trailer.

12 I appreciate your paying attention, and attention in
13 this case. I know this isn't your first option of what
14 you'd like to be doing today, but that's what I'm going to
15 be doing during the course of trial. And I look forward to
16 speaking to you at the end. Thank you.

17 THE COURT: Ms. McFarland.

18 MS. MCFARLAND: The state calls Marcus Jones.

19 MARCUS RONALD JONES, having
20 been first duly sworn, testified as follows:

21 THE COURT: Let me ask you to please get close enough
22 to the black microphone to be sure it picks up your voice
23 so everybody can hear.

24 THE WITNESS: Yes, sir.

25 THE COURT: Look towards your lawyer, the prosecutor.

Marcus Ronald Jones
Direct examination by Ms. McFarland

1 DIRECT EXAMINATION BY MS. MCFARLAND

2 Q Mr. Jones, can you please state your full name for the
3 record?

4 A Marcus Ronald Jones.

5 Q And where do you live?

6 A Campobello.

7 Q Is that in Spartanburg County?

8 A Yes.

9 Q And do you know the defendant in this case?

10 A Yes, I do.

11 Q Can you please describe how you know him?

12 A Through the buying of an automobile from him.

13 Q And did you -- did you hire the defendant to do some
14 work for you?

15 A Yes, I did.

16 Q Can you please describe that for us?

17 A He was supposed to meet at the shop. When he finally
18 showed up I told him what to do because I'd already loaded
19 the trailer. And gave him the money to take it out to the
20 landfill. He was supposed to come back and haul one more
21 load. And I said okay. And we switched it all out on the
22 vehicle he was driving and they took off and that's the
23 last I seen of my trailer.

24 Q And about that trailer, when -- tell me about the
25 trailer.

Marcus Ronald Jones
Direct examination by Ms. McFarland

1 A I bought it from another friend of mine, and I sent it
2 off and had a lot of work done to it because it was a tilt
3 trailer. And I went and sandblasted and had it painted and
4 a winch and all kind of stuff for it. It was ready for
5 anything, and it just meant a lot to me. I could do a lot
6 with it.

7 Q And how much did you purchase that trailer for?

8 A I don't remember what I purchased it for. It wasn't
9 that much. But I spent a couple of thousand dollars having
10 stuff done to it.

11 Q So after the defendant drove off in the trailer --
12 with the trailer -- did you make any efforts to get the
13 trailer back from him?

14 A I made several phone calls, like, I gave him a little
15 while. I said, okay, once he got done with that might
16 he -- might be tired.

17 So I called. He didn't answer calls. So I got up the
18 next morning and called to lunchtime. And finally I got a
19 call back, and it was saying that they had a flat tire on
20 the trailer. And I said, okay, well, fix it and come on
21 back. And I didn't hear nothing back.

22 And I called again. I rode up to his house and didn't
23 see nobody. I rode up to his house. And then finally he
24 called me about two times of riding up there and said my
25 truck's got a flat tire on it. I said, okay, so it must've

Marcus Ronald Jones
Direct examination by Ms. McFarland

1 been the truck instead of the trailer. I said, well, I want
2 to get the trailer back. He said -- he said it ain't here.
3 It's a friend of mine's.

4 Okay. So that just went on. And then once he said
5 that right there just I knew something wasn't right. So
6 that's when I went up there and filed a report.

7 Q So about how many attempts do you think you made to
8 try and get the trailer back from him?

9 A About four phone calls and about five rides to his
10 house looking for him -- him and the trailer.

11 Q And --

12 A And I never seen the trailer there at his house.

13 Q So about when was it that he -- you hired him and he
14 took the trailer?

15 A Around January or something like that. And it was
16 about the 23rd that he took it.

17 MS. MCFARLAND: And permission to approach.

18 Q I'm going to show you what's been marked as State's
19 Exhibit 1.

20 Now, after you reported this incident when you were
21 talking with law enforcement did they show you a photo
22 lineup?

23 A After I gave a description of who -- of what he looked
24 like and what they call it?

25 Q And so they had showed you a photo lineup. And do --

Marcus Ronald Jones
Direct examination by Ms. McFarland

1 did you select the defendant out of that lineup?

2 A Right away.

3 Q And then did you sign an affidavit --

4 A I did.

5 Q -- stating that you selected the defendant? And when
6 you hired the defendant did he -- where -- where did you
7 meet with the defendant about the trash?

8 A I called him and another guy that I knew, and they
9 come -- down to my business, K.R.S. Enterprise, and that's
10 when I showed them the trailer and everything. They was
11 supposed to load it up, but it was already loaded. So
12 that's when I explained everything to him and he went off
13 with it.

14 Q So where is your business? Where is it located?

15 A [REDACTED] North Blackstock Road.

16 Q And that's in Spartanburg County?

17 A Yes, ma'am.

18 Q And then how -- I know you mentioned you paid him.
19 How much did you pay him to move that trash?

20 A A hundred dollars to give him for where he'd have a
21 little bit of cash and pay for the landfill cost.

22 Q I have no further questions. Answer any questions
23 Mr. Morin might have for you.

24

25

Marcus Ronald Jones
Cross-examination by Mr. Morin

1 CROSS-EXAMINATION

2 BY MR. MORIN

3 Q Mr. Jones, do I understand correctly that you
4 contacted him?

5 A That's correct.

6 Q Now, during your testimony you used the word "they" on
7 several occasions -- they came up, they did this, they did
8 that. Who's they?

9 A Danny.

10 Q Danny who?

11 A Just Danny. They call him Big D.

12 Q Big D.

13 THE COURT: Please use that microphone.

14 Q So when you say Mr. Weathers came and got the trailer
15 and Mr. Weathers did these things, Danny was with him
16 during those times, isn't that correct?

17 A I don't know if he was with him during the time that I
18 called him for him to come up there, but he had him with
19 him when he showed up.

20 Q Okay.

21 A And he was driving.

22 Q And when you say he called and said he had a flat
23 tire, was that Carlton or was that Danny?

24 A That was Carlton.

25 Q Okay. Let me ask you this. Do you remember giving a

Marcus Ronald Jones
Cross-examination by Mr. Morin

1 written statement to the police?

2 A Yeah.

3 Q Okay.

4 A Bits and pieces it's been so long.

5 Q Okay. I'm going to show you a copy of it and ask you.

6 MR. MORIN: Can I have this marked, Your Honor?

7 (Voluntary statement marked Defendant's Exhibit No. 1
8 for Identification.)

9 Q I'm going to show you what's been marked for
10 identification as State's Exhibit 1 -- Defense Exhibit 1.
11 Can you look at that and tell me if you recognize, in
12 particular, the signature at the bottom of the page? You
13 can hold it.

14 A Yeah. That's my signature.

15 Q Okay. Do you want to hold that?

16 A No.

17 Q I'm going to lay it right there because I'm going to
18 ask you something about it.

19 Isn't it true in here you wrote Big D called me and
20 said he had a flat tire? If you want to --

21 A Yeah. The day they took it off, not the day that I
22 got called about he had the flat tire.

23 Q Okay. Again, isn't it true in here that you wrote,
24 "The night up to the lunchtime the next day, then Big D
25 called me and said he had a flat tire"?

Marcus Ronald Jones
Cross-examination by Mr. Morin

- 1 A On the trailer, not on the truck.
- 2 Q Right.
- 3 A Right, like I just said.
- 4 Q But you were having that conversation with Big D the
5 next day about the trailer.
- 6 A On a completely different phone number where the
7 number shows up on my phone.
- 8 Q I understand that. But Big D was with him when they
9 came out to get the trash, correct?
- 10 A Yes. That's correct.
- 11 Q And when your trailer drove off, the two of them drove
12 off.
- 13 A With my hundred dollars in his pocket.
- 14 Q Okay. And then later, the next day, you had a
15 conversation with Big D about the trailer, correct?
- 16 A Yes, I did.
- 17 Q Okay.
- 18 A Because I was calling everywhere trying to figure out
19 where my stuff went.
- 20 Q All right. Now, since we've got this up here, did you
21 write this statement, or did your wife?
- 22 A It's got my signature on it. I guess I wrote it.
- 23 Q Well, I understand you signed it saying it was yours.
24 I'm just asking if you remember if that's your handwriting.
- 25 A I don't remember if it's my handwriting, because, like

Marcus Ronald Jones
Cross-examination by Mr. Morin

1 I said, it's been what, eight months? But I can look at it
2 and tell that's my writing.

3 Q That's your writing.

4 A Yeah.

5 Q Okay. I'm just checking.

6 All right. Now, the trailer, does it belong to you or
7 does it belong to your wife?

8 A It belongs to our company together.

9 Q Okay. Did you buy the trailer, or did your wife?

10 A The company did.

11 Q Okay. And what's the name of the company?

12 A K.R.S. Enterprise.

13 Q Okay. And how much did K.R.S. Enterprises pay for the
14 trailer?

15 A I bought so much stuff between now and then, I don't
16 remember.

17 Q Okay.

18 A But we have our paperwork and our bill of sale if
19 you'd like to see it.

20 THE COURT: would you use that microphone, please?

21 A We have our bill of sale and paperwork if you'd like
22 to see that though if that'd help you.

23 Q Yes, sir. I have it right here.

24 A Okay.

25 MR. MORIN: Ask to mark this, Your Honor.

Marcus Ronald Jones
Cross-examination by Mr. Morin

1 (Bill of sale marked Defendant's Exhibit No. 2 for
2 Identification.)

3 Q Okay. I'm going to show you what's been marked as
4 Defendant's No. 2 for Identification. Here you go. Now,
5 who signed as the purchaser on this vehicle?

6 A Kelle Jones which -- who owns 50 percent of this
7 company.

8 Q I understand. Does K.R.B. Enterprises appear anywhere
9 on this bill of sale?

10 A No, sir.

11 Q Okay. Now, you testified that you had a lot of work
12 done to the trailer, correct?

13 A I had testified, just said I did, yeah. I have
14 receipts for that too.

15 Q Sure. According to this bill of sale how much was the
16 trailer sold to that Ms. Morgan signed on behalf of?

17 A How much what, now?

18 Q How much did the trailer sell for?

19 A It says \$4,600.

20 Q \$4,600. Thank you, sir.

21 A You can hold that. Thank you.

22 Q So after you paid \$4,600 you had significant work done
23 to the trailer on top of that, is that correct?

24 A I did.

25 Q Okay. Now, can you tell me when you finally couldn't

Marcus Ronald Jones
Cross-examination by Mr. Morin

1 get the trailer, did you call the police or did Kelle call
2 the police -- Mrs. Jones?

3 A We called the police.

4 Q Called them together. Okay. And did you tell the
5 police that the trailer was owned by your company?

6 A I said we -- we had a trailer stole, as we both are --
7 own the company.

8 Q What does your company do?

9 A Recycle plastics.

10 Q Okay. What was it that you needed hauled off?

11 A Some rolls of polypropylene that was bad that we had
12 purchased.

13 Q Okay. So it couldn't be recycled?

14 A No.

15 Q Okay. And about what time of day or night did
16 Mr. Weathers and, as you say, Big D come by the house or
17 the business to get the trailer?

18 A I think it was about 3:00 o'clock. I think they was
19 supposed to be there at lunch and was about three hours
20 late.

21 Q Okay. So around 3:00.

22 A I'm guessing, yes.

23 Q Okay. When Carlton and Big D came to the house -- I'm
24 sorry. I keep saying house. Came to your business to haul
25 this off for you, was your wife present then?

Marcus Ronald Jones
Cross-examination by Mr. Morin

1 A Yes.

2 Q Okay. Did she know you were calling carlon?

3 A I had told her I had someone that was going to come
4 down that was going to work, I was going to let them haul
5 it off.

6 Q Okay. You knew carlon from buying the truck, but she
7 didn't really know carlon, did she?

8 A That's correct.

9 Q And then it's my understanding -- you can correct me
10 if I'm wrong -- but this is, like, late December or early
11 January when this is going on. I think right around
12 Christmas, give or take.

13 A I'm good with that.

14 Q Does that sound right?

15 A Yes, sir.

16 Q Okay. So ten or twelve days goes by. Now it's the
17 first of the year and you haven't seen it. You've been
18 talking to different people. And then another couple of
19 days, ten or twelve more days, go by. Now it's
20 January 10th.

21 A I think we was out -- outta town for two weeks before
22 Christmas, something like that. And when I got back I got
23 caught back up on the situation trying to adjust it without
24 having to involve anybody else.

25 Q Okay. Now, when you went and talked to the police the

Marcus Ronald Jones
Cross-examination by Mr. Morin

1 first time did you tell them who it was -- Big D and
2 Carlon -- that come and got the trailer?

3 A I told them that -- what happened and described what
4 it looked like to them, and this and that and the other,
5 just because I wasn't sure what his last name was. I just
6 told them what they go by.

7 Q Okay. So what did he go by?

8 A The description I gave him of Gator.

9 Q You had a nickname?

10 A Yeah.

11 Q Okay. And you called him that and-but you didn't
12 know --

13 A I told them about the area he lived in and all that
14 right there where I bought the truck from.

15 Q Right. You told the police that where? I mean, were
16 you at the sheriff's office; did you tell them over the
17 phone, do you remember?

18 A I know I told them at the sheriff's office. I don't
19 know if I told them anywhere else or not.

20 Q Right. Because you went to the sheriff's office to
21 file the initial report, correct?

22 A That's correct.

23 Q And at that time you said Carlon or Gator is the one
24 who used it, is that right?

25 A Yes, sir.

Marcus Ronald Jones
Redirect examination by Ms. McFarland

1 Q Okay. And you told them about where he lived.

2 A Uh-huh.

3 Q But you -- did you say you weren't sure of his last
4 name?

5 A No, sir. I wasn't --

6 Q Okay.

7 A I didn't know his last name. I didn't know him.

8 Q Okay.

9 MR. MORIN: Just one moment, Your Honor.

10 (Pause.)

11 MR. MORIN: That's all the questions I have, Your
12 Honor.

13 REDIRECT EXAMINATION

14 BY MS. MCFARLAND

15 Q Mr. Jones, to clarify, who specifically did you call
16 or contact about hauling the trash off for you?

17 A The man I bought the truck from -- Gator -- or
18 whatever his name is.

19 Q So the person you contacted is sitting in the
20 courtroom today?

21 A Yes, ma'am.

22 Q Can you please describe what he's wearing for me and
23 where he's sitting?

24 A A black t-shirt and tennis shoes and blue jeans.

25 Q Now, did you ever contact Big D about hauling off

Marcus Ronald Jones
Redirect examination by Ms. McFarland

1 trash for you?

2 A No.

3 Q Now, who did you pay the money to?

4 THE COURT: Use the microphone, please.

5 A Who did I give the money to?

6 Q Yes.

7 A Gator's who I contacted about it.

8 Q So you didn't give any money to Big D?

9 A No.

10 Q So as far as you are concerned who were your dealings
11 with?

12 A The only person I knew -- Gator -- at the time.

13 Q And Mr. Morin asked you about the couple of weeks in
14 between when they had your trailer and when you reported
15 it. During that time were you making efforts to get your
16 trailer back?

17 A I had rode up there a couple of times. And then we
18 went on vacation for Christmas, something. And I come back
19 and then I made a few more attempts. And that's when I
20 realized that the whole story had changed. And I never
21 could see my trailer in his yard. So I said, okay, I
22 better go to the police about this.

23 Q So you've never saw your trailer again?

24 A Never since he drove off with it.

25 MS. MCFARLAND: No more questions from me.

Kelle Grace Jones
Direct examination by Ms. McFarland

1 THE COURT: You may step down.

2 MS. MCFARLAND: The state calls Kelle Jones.

3 KELLE GRACE JONES, having been
4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION BY MS. MCFARLAND

6 Q Mrs. Jones, could you please state your full name for
7 the record?

8 A Kelle Grace Jones.

9 Q And are you married?

10 A Yes.

11 Q Are you married to Mr. Jones?

12 A Yes.

13 Q All right. And where do you live?

14 A In Campobello.

15 Q And were you aware of the dealings with the defendant
16 in this case?

17 A Marcus told me about it when I was at work.

18 Q And I'm going to show you what's been previously
19 marked as State's Exhibit 2. Can you please tell me what
20 this is?

21 A This is a trailer that we had purchased.

22 Q And what is that piece of paper exactly?

23 A The bill of sale, the person we purchased it from, and
24 in August of 2016.

25 Q And how much did you purchase it for?

Kelle Grace Jones
Direct examination by Ms. McFarland

1 A \$4,600.

2 Q And is that a true and accurate copy of the bill of
3 sale that y'all filed to make the transaction official?

4 A Yes.

5 MS. MCFARLAND: The state moves to admit Exhibit No. 2
6 into evidence.

7 MR. MORIN: No objection.

8 THE COURT: It's admitted.

9 (Bill of sale marked State's Exhibit No. 2.)

10 Q So you are aware of the defendant and the trailer.
11 What do you know about the efforts to get that trailer
12 back?

13 MR. MORIN: Your Honor, I have an issue. May we
14 approach?

15 THE COURT: Okay.

16 (Bench conference held off the record in the presence
17 of the jury but out of the hearing of the jury.)

18 Q I'll rephrase my question for you, Mrs. Jones.

19 What efforts were you specifically a part of to get
20 the trailer back?

21 A I asked my husband what was going on, you know, that
22 we had given him the money, the trailer hadn't come back.
23 And I was aware when he was making phone calls because he
24 would be in the room with me, and as far as hearing the
25 conversation.

Kelle Grace Jones
Direct examination by Ms. McFarland

1 And so then I know he told me a couple of times, said
2 I'm just going to drive up there and see if I can -- I can
3 get it. I did not go with him.

4 And then, like he said, the holidays came. My daughter
5 was getting married, and that's when we had some time off.

6 And when we came back it was kinda just like one of
7 those days. I said, hey, we're not doing anything, why
8 don't we just drive up there.

9 So we got in the truck together and we started driving
10 up there. And as we got closer he told me to text him and
11 tell him that we're on the way, we'd like to pick up the
12 trailer. And Gator is the only way I know him.

13 Didn't text back, didn't text back. So we got there.
14 My husband got outta the vehicle. He went and knocked on
15 the door, and she said Gator wasn't there.

16 So we texted him and said we're at your house, where's
17 the trailer, we're just going to pick it up now and go home.

18 And he texted back the trailer got gone. And it was,
19 like, it was gone. And so we said what do you mean it's
20 gone. He goes it's got gone, man, it's gone and I'll have
21 to make it up to you. Something like that. And that was
22 the texting back and forth to us on the phone.

23 Q No further questions. Answer any questions that Mr.
24 Morin might have.

25 A Okay.

Kelle Grace Jones
Cross-examination by Mr. Morin

1 CROSS-EXAMINATION

2 BY MR. MORIN

3 Q Ma'am, what's the name of the company that you and
4 your husband own?

5 A K.R.H. Enterprise.

6 Q Okay. And you purchased the trailer, is that correct?

7 A I purchased the trailer, yes.

8 Q Okay. And it was at your place of employment, your
9 business.

10 A Yes.

11 Q But you didn't work there.

12 A Yes. I own the company. I work there. I started the
13 company.

14 Q Okay. Well, was your testimony that while you were at
15 work somebody -- he came and got the trailer? At work
16 would have been there, right?

17 A Well, we have a 27,000-square-foot warehouse, so I'm
18 not always where my husband is.

19 Q I understand.

20 A And my husband runs the fork truck and does all of the
21 other work, and I do the office work.

22 Q Okay.

23 A And so he came to me and said I need to get that
24 hundred dollars to pay Gator, he's going to run this stuff
25 off to the landfill. And so I came outside and gave him

Kelle Grace Jones
Cross-examination by Mr. Morin

1 the hundred dollars.

2 Q You did, or your husband?

3 A I gave the hundred dollars to my husband.

4 Q Oh.

5 A I don't make the tractions.

6 Q Okay.

7 A I make the transactions with my husband.

8 Q All right. These text messages, can I see them?

9 A We don't have them any longer. The police officer
10 asked for them when we had them, but we didn't have them
11 then.

12 Q You didn't have them when the police officer asked for
13 them?

14 A No.

15 Q Do you remember going to the sheriff's office with
16 your husband at which time he gave the statement?

17 A Yes.

18 Q Do you -- did you write the statement for him, or did
19 he write it?

20 A He dictated it.

21 Q So you actually wrote down what he was saying.

22 A Yes.

23 Q Is there a reason why that was done?

24 A Because he doesn't like his handwriting, and so he
25 asked me. And so he dictated. And I asked the police

Kelle Grace Jones
Cross-examination by Mr. Morin

1 officer if it was okay if I wrote it, what he said, and the
2 police officer said that would be fine.

3 Q Okay.

4 A And he signed it.

5 Q Okay. Now, you also initially called the police,
6 correct?

7 A Yes. My husband and I were standing there together,
8 and I said I think we need to take this -- call the police,
9 we've tried, we're not getting any response.

10 Q Right. Well, after you did that did you go to the
11 sheriff's office to say -- to fill out the report? They
12 didn't -- they didn't take an incident report over the
13 phone did they?

14 A I don't recall honestly. I remember speaking to
15 someone, but I don't recall giving any reports on the
16 phone.

17 Q Okay. Well, do you know if the officer you gave that
18 statement, that first report, is he here in the courtroom?

19 A The officer that I met at the sheriff's office is
20 here.

21 Q Okay.

22 A Yes.

23 Q So how many times do you remember going to the
24 sheriff's office?

25 A Just once.

Kelle Grace Jones
Cross-examination by Mr. Morin

1 Q Okay. How about the sheriff's office coming out there
2 to where -- after you made the phone call? Deputy come out
3 there to the business?

4 A I don't recall. Unfortunately, we've been broken into
5 a few times, and so I've had to have deputies come out
6 there. And I can't really honestly say if one came out for
7 this particular event or it was a different particular
8 event a deputy came out for. So I don't remember.

9 Q Now, you didn't -- prior to this you didn't have any
10 business dealings or any kind of dealings with
11 Mr. Weathers, did you?

12 A To?

13 Q Well, your husband knew him from buying the truck.

14 A Right. My husband buys and sells vehicles on the
15 side.

16 Q Right. So, I mean, it was your husband and him. You
17 weren't really involved, you said, in the transaction.

18 A No. The first I saw him was when he had the trailer
19 loaded up with the plastics to go to the landfill. And my
20 husband was standing there talking to him at the vehicle.
21 And it was brief. I just said here's the money and I
22 walked back in.

23 Q Okay. When you purchased the trailer, what was the
24 condition of it?

25 A It needed work. The tilt and all of that needed to be

Kelle Grace Jones
Redirect examination by Ms. McFarland

1 hemmed up. I mean, I don't know trailers. This is what my
2 husband does. He showed it to me. He was excited about
3 it. He had to get it sandblasted, had to get it painted,
4 had to do some things to it, put a winch on it. These are
5 things that he does. Like I said, I run the office. He
6 shows me the toys he wants to fix up and make things better
7 for our work, and I just smile and say go for it, honey.

8 Q Okay. And then when you purchased it he's the one
9 that said that's an okay amount.

10 A Yes.

11 Q And we're not talking about an enclosed trailer.

12 A No.

13 MR. MORIN: That's all the questions I have.

14 REDIRECT EXAMINATION

15 BY MS. MCFARLAND

16 Q I have just one more question for you, ma'am.

17 A Okay.

18 Q So I want to ask you.

19 Have you ever seen your trailer again after the
20 defendant drove off with it?

21 A No.

22 Q No further questions.

23 THE COURT: You may step down.

24 MS. MCFARLAND: State calls Investigator Heyde.

25

Thomas Heyde
Direct examination by Ms. McFarland

1 Q And did you identify the defendant as a suspect in
2 this case?

3 A Yes, I did.

4 Q And can you please describe how you did that?

5 A Yes. On the 17th of January I initially made a
6 telephone contact with Mr. And Mrs. Jones. And they
7 reiterated what was in the report.

8 In addition, I asked for a little bit more information
9 such as what was the phone number of the person whom you're
10 dealing with. So they gave me a phone number
11 of [REDACTED]-3435.

12 So initially in the investigation, amongst a couple of
13 other things, I didn't have much to go on. So I took that
14 phone number and ran it through a reverse directory that we
15 have in our system, and it came back to a Reggie Eugene
16 Weathers. So that was the only thing I had to work with.

17 So I called Mr. Reggie Eugene Weathers and indicate
18 that I'm investigating a case and I have possible nickname
19 of Gator. He says that's my brother. And he says, you
20 know, I don't have a lot of dealings with him. But he set
21 me straight on how to spell the name C-A-R-L-O-N Weathers as
22 opposed to what was originally given in the report,
23 C-A-R-L-I-N.

24 In the process of that on the 20th of January I went to
25 go visit Mr. Weathers at his address. This is Carlo

Thomas Heyde
Direct examination by Ms. McFarland

1 weathers, his brother, at [REDACTED] Cowpens-Clifton Road, and made
2 contact with him and asked him a few questions. I asked him
3 what he knew about the utility trailer in question that was
4 missing. And I asked him what he knew about it, and he said
5 nothing. I said okay.

6 well, I went over the incident report with him seeing
7 if I could refresh his memory. And shrugged his shoulders
8 and said, no, didn't, don't know nothing about this
9 Mrs. Jones. I said okay. I said is your nickname Gator.
10 He says, yes, it is. I said okay.

11 So I basically just shot straight with him and said,
12 well, here's my business card if you know anything about
13 this. I'm going to investigate this case a little bit
14 further. If there's anything you need to tell me, you need
15 to call me. So shortly after that I left the premises.

16 On January 23rd of 2017, per prior arranged meeting, I
17 had the victims, Mr. and Mrs. Jones, show up at the
18 sheriff's office. And I conducted a phono lineup. And it
19 did have in the lineup Mr. weathers' photograph in it. And
20 within a matter of a few seconds --

21 MR. MORIN: Your Honor, at this time I'd like to
22 object on my previous motion.

23 THE COURT: All right. That objection is still
24 overruled.

25 You may continue.

Thomas Heyde
Direct examination by Ms. McFarland

1 THE WITNESS: Thank you, Your Honor.

2 A Within a matter of seconds he picked out Mr. Weathers
3 on a photo lineup, photograph No. 6 according to State's
4 Exhibit 1. And that is how I developed the assailant.

5 MS. MCFARLAND: Permission to approach the witness.

6 THE COURT: Yes, ma'am.

7 Q State's Exhibit 1 you've got right here. Let's go
8 into more detail about that.

9 Can you please describe for me what that birthdate it?

10 A Yes. And if it please the Court, I'd like to read
11 verbatim.

12 This is an affidavit of photograph lineup. We do this
13 with every victim, witnesses. And we use this. It's a
14 great tool to help us develop potential assailants or
15 suspects in cases. And we start it by saying that this is
16 exactly what it says verbatim. I'll read it to you.

17 "Prior to the presentation of the photographs that I'm
18 about to present I've instructed the witness as follows:
19 The suspect may or may not be among the subjects in the
20 lineup."

21 The witness, whoever it may be, is not compelled to
22 make an identification. The suspect may or may not appear
23 exactly as they did in the incident due to changes in
24 hairstyle, facial hair, quality of the photograph. And the
25 witness is not to discuss the procedure results with other

Thomas Heyde
Direct examination by Ms. McFarland

1 witnesses.

2 So we take that first measure to make sure it's not
3 tainted. And I read this to everybody.

4 So I went over this with Mr. Jones, and this is his
5 signature. I witnessed his signature right here on the
6 state's exhibit or the affidavit. And that's really what it
7 is.

8 MS. MCFARLAND: The state moves State's Exhibit 1 into
9 evidence.

10 MR. MORIN: Objection as previously stated.

11 THE COURT: It's admitted over objection.

12 (Affidavit marked State's Exhibit No. 1.)

13 Q And just to go back to when you -- when you talked to
14 the defendant at his house on January 20th, the person you
15 spoke with is in the courtroom today?

16 A Yes, he is.

17 Q And can you please point out for me and kinda describe
18 what he's wearing?

19 A Yes. That gentleman over there, short crewcut, black
20 long-sleeve t-shirt, blue jeans, shoes and goatee.

21 Q And then when you talked to him on the 20th he denied
22 knowing anything about this incident?

23 A Yes, at that time he did.

24 Q Just got one more thing. The person sitting right
25 there is also the person that goes by Gator?

Thomas Heyde
Cross-examination by Mr. Morin

1 A Yes.

2 Q That's all the questions I have. Answer any questions
3 Mr. Morin has.

4 CROSS-EXAMINATION

5 BY MR. MORIN

6 Q On the day that Mr. Jones came to your office to see
7 this photo lineup --

8 A Uh-huh.

9 Q -- why did he come down there? Did you call him and
10 ask him to come down?

11 A I did.

12 Q And did you tell him you wanted him to look at a photo
13 lineup, or did you tell Mrs. Jones that's what you wanted?

14 A That's a good question because I don't remember. It
15 has been almost a year.

16 Q Okay. Do you have a copy of your report?

17 A I do. I'll read it to you if you would like.

18 Q well, if you need to refresh your memory you can read
19 it.

20 A I do. I do need to refresh my memory.

21 Q Okay.

22 (Pause.)

23 A It's not in the report, but I remember speaking with
24 Mrs. Jones, jogging my memory right now.

25 Q well, if you look at page five, paragraph one, toward

Thomas Heyde
Cross-examination by Mr. Morin

- 1 the bottom of the second paragraph, it might help you some.
- 2 A where is that, now?
- 3 Q Page --
- 4 A Five?
- 5 Q Well, mine -- mine says deputy report, page five.
- 6 THE COURT: Just show him where it is.
- 7 MR. MORIN: Yes, Your Honor.
- 8 A It's a lengthy report.
- 9 Q I believe it's in the pink, but if you'll look at that
- 10 and tell me if that helps.
- 11 A Okay.
- 12 Q That is your report, correct?
- 13 A Oh, it absolutely is.
- 14 Q Okay.
- 15 A Says -- so you have highlighted January 23rd,
- 16 approximately 1300 hours. Mr. Jones picked out photograph
- 17 No. 6 of Carlton Eugene Weathers. Is that --
- 18 Q Prior to that.
- 19 A Okay. Let's see. I instructed Mrs. Jones to have her
- 20 husband call me.
- 21 Q And?
- 22 A And set up an appointment on January 20th of 2017 to
- 23 conduct a photographic lineup with him.
- 24 Q Okay.
- 25 A Is that what you're --

Thomas Heyde
Cross-examination by Mr. Morin

- 1 Q Yes.
- 2 A Does that answer your question?
- 3 Q That answers my question. You called Mrs. Jones. You
- 4 spoke to Mrs. Jones and told her that you'd like for her
- 5 husband to come down and see a photographic lineup.
- 6 A Yes, sir.
- 7 Q And she said okay or whatever. And then they both
- 8 show -- they both came in.
- 9 A Uh-huh.
- 10 Q Correct?
- 11 A That's correct.
- 12 Q Can I see the photographic lineup you showed
- 13 Mrs. Jones?
- 14 A It's right here, State's Exhibit 1.
- 15 Q And Mrs. Jones, not Mr. -- Mrs.
- 16 A I showed it to both of them.
- 17 Q Okay. And Mr. Jones circled it.
- 18 A That's correct.
- 19 Q Where -- what did Mrs. Jones say? Because she's
- 20 not -- that's his.
- 21 A That's correct.
- 22 Q That's Mr. Jones.
- 23 A We had the direct dealings with him, not her.
- 24 Q Right. So she didn't pick him out.
- 25 A That's right.

Thomas Heyde
Cross-examination by Mr. Morin

1 Q Because she didn't really know him.

2 A That's correct.

3 Q When you went to Mr. Weathers' home why didn't you say
4 Marcus Jones or Marco? Why did you say Mrs. Jones? Did
5 Mrs. -- Mrs. Jones said she didn't know Carlton. Was there
6 some reason Carlton would know her?

7 A No. The way I view the report, they're married. They
8 have mutual property by South Carolina law. I felt it
9 didn't matter if I addressed Mr. or Mrs. Jones. It's both
10 their property. I felt it was a moot point.

11 Q Well, do you have any evidence that Mr. Weathers would
12 have known if Mr. Jones was married? Do you have any
13 evidence that Mr. Weathers knew Mr. Jones' last name?

14 A I don't have an educated answer to see how he would
15 think about the relationship.

16 Q Well, both of them have testified they didn't know his
17 last name. So?

18 A Yeah. That's right.

19 Q So, when he says I don't know Mrs. Jones, there's more
20 than one reason he might say that, isn't there?

21 A That's possible. For all I know he could be telling
22 me he did or did not owe him. I don't know if he's lying
23 or not.

24 Q Right.

25 A You know, there's that possibility as well.

Thomas Heyde
Cross-examination by Mr. Morin

1 Q well, when you went to the business where it was --

2 A I didn't go out to the business. I went only to his
3 house. Law enforcement went to the business. Are you
4 talking about North Blackstock Road?

5 Q Yes.

6 A I didn't go there. uniform patrol went out there.

7 Q Okay.

8 A Yeah.

9 Q How about the photographic lineup with Big D, the
10 other gentleman that was there that took the trailer and
11 drove off? Did you do one for him?

12 A No. I didn't hear anything about Big D until I got a
13 statement from -- it was Investigator Cash that got a
14 statement from him. And at that point he brought those
15 names up. And that's when he decided to come forth and
16 give a little bit more information after Miranda, after
17 he'd been arrested.

18 Q Mr. Jones came in and gave a statement though, a
19 written statement.

20 A He did.

21 Q And in that he said Big D called him about a flat on
22 the trailer, didn't he?

23 A Yes, he did.

24 Q And that was before Mr. Weathers was interviewed again
25 or anything else.

Thomas Heyde
Redirect examination by Ms. McFarland

1 A That's right.

2 Q So my question is was anything followed up to see if
3 he had the trailer.

4 A No.

5 MR. MORIN: That's all the questions I have.

6 REDIRECT EXAMINATION

7 BY MS. MCFARLAND

8 Q Investigator Heyde, when you went to speak with the
9 defendant at his house on the 20th you gave him enough
10 information about what you are investigating --

11 MR. MORIN: Objection. Calls for speculation. "You
12 gave him."

13 THE COURT: Well, I haven't heard the --

14 MR. MORIN: That's what she said though. "You gave
15 him." She's asking him to --

16 MS. MCFARLAND: I'll rephrase it.

17 THE COURT: Do you want her to say did you give him?

18 MR. MORIN: She's asking for his opinion about --

19 THE COURT: Well, I don't know what she's asking yet
20 because you stopped the question. Let me hear the
21 question, and then I'll decide if it's objectionable.

22 Q Investigator Heyde, you gave the defendant more
23 information than just the name of Mrs. Jones when you were
24 describing the case, didn't you?

25 A Yes. In fact, as a matter of fact, I read the

Thomas Heyde
Recross-examination by Mr. Morin

1 narrative off to him, so he knew what I was talking about,
2 because when I went out there I really at that point was
3 not a hundred percent it was going to be him. I was going
4 off on a hunch. I was going on a nickname and the
5 information from his brother. So, you know, I always do
6 that. I always read the narrative so you can know where
7 I'm coming from, why am I here, etc. Does that answer your
8 question?

9 Q Yes.

10 MS. MCFARLAND: I have no further questions.

11 RECROSS-EXAMINATION

12 BY MR. MORIN

13 Q Please correct me if I'm wrong.

14 You went out there and told him you were investigating
15 a stolen trailer that belonged to Mrs. Jones.

16 (Pause.)

17 A Yes.

18 Q Thank you.

19 MR. MORIN: That's all the questions I have.

20 THE COURT: You may step down.

21 THE WITNESS: Thank you, Your Honor.

22 MS. MCFARLAND: May this witness be excused?

23 THE COURT: He may be.

24 (whereupon, the witness was excused.)

25 MS. MCFARLAND: The state calls Investigator Garrett

Garrett Cash
Direct examination by Ms. McFarland

1 Cash.

2 GARRETT CASH, having been
3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION BY MS. MCFARLAND

5 Q Investigator Cash, will you please state your full
6 name for the record?

7 A Garrett Cash.

8 Q And where do you work?

9 A The Spartanburg County Sheriff's Office.

10 Q And how long have you worked there?

11 A I first became employed by the sheriff's office in
12 2007. Approximately ten years.

13 Q And can you please describe your duties at the
14 sheriff's office?

15 A I work as an investigator in the property crimes
16 division.

17 Q And in the course of your duties did you become
18 involved in the investigation of this case?

19 A I did.

20 Q And can you please describe that involvement for me?

21 A On January the 31st of 2017 I interviewed Mr. Carlton
22 weathers and took a statement from him regarding this case.

23 MS. MCFARLAND: Permission to approach the witness.

24 THE COURT: You may.

25 Q I'm going to show you what's been marked as State's

Garrett Cash
Direct examination by Ms. McFarland

1 Exhibit 3. Can you please tell me what that is?

2 A The first page here is what's called a
3 pre-interrogation waiver form. It's a form commonly filled
4 out by persons who are being questioned about a crime in
5 which they may be involved in.

6 Q Does that form go over his Miranda rights?

7 A It does.

8 Q And then did he sign -- did he sign on that form
9 acknowledging those rights?

10 A There are two places for Mr. Weathers or for any
11 person to sign who may be being questioned.

12 Mr. Weathers' signature is in the first section that
13 identifies that he does understand the rights which were
14 explained to him both verbally and in writing. And then
15 there's a second place where he also signed stating that he
16 waives or gives up those rights and is willing to speak with
17 myself, being the investigator that day.

18 Q And so after signing and knowing and waiving those
19 rights did he give a statement to you?

20 A He did. He gave a written statement.

21 Q And is that statement --

22 A That would be the second page here.

23 Q And so is that a true and accurate copy of the rights
24 form and both the statement?

25 A It is.

Garrett Cash
Direct examination by Ms. McFarland

1 MS. MCFARLAND: State moves to admit Exhibit No. 3
2 into evidence.

3 MR. MORIN: No objection.

4 THE COURT: It's admitted.

5 (Pre-interrogation waiver form and statement marked
6 State's Exhibit No. 3.)

7 Q And can you please read the defendant's statement for
8 us?

9 A Mr. Weathers wrote, "Back in December of 2016 I,
10 Carlton Weathers, did some work for a guy named Marco, and
11 he paid my cousin \$100 for us to haul off some cloth. When
12 we got to the landfill it was closed, so we took the
13 trailer and the stuff back and dropped it at his place on
14 Blackstock Road. Dean Robbs, Candice Turner was with me
15 when this happened. E.O.S.," which is an abbreviation for
16 end of statement.

17 Q Did he sign that statement?

18 A Yes, he did sign that statement.

19 Q Is the person that gave the statement to you, that
20 written statement, in the courtroom today?

21 A He is.

22 Q And can you please point, kinda point, him out and
23 describe what he's wearing for us?

24 A Be the gentleman seated to my right wearing blue
25 jeans, long-sleeve, dark shirt, tattoo under his right eye,

1 crewcut haircut.

2 Q I have no further questions. Answer any questions Mr.
3 Morin might have for you.

4 MR. MORIN: I have no questions of this witness.

5 THE COURT: You may step down.

6 MS. MCFARLAND: May the witness be excused?

7 THE COURT: He may be.

8 (Whereupon, the witness was excused.)

9 MS. MCFARLAND: And the state rests.

10 THE COURT: All right. Ladies and gentlemen, that is
11 all of the testimony or other evidence to be offered by the
12 state, at least in their case in chief.

13 Before we go further I've got some legal matters I'll
14 need to address with the lawyers. It should take only a
15 few minutes. And then I will bring you back to continue.

16 So please retire to your jury room, but do not discuss
17 the case in any fashion. I'll bring you back shortly.

18 (The following takes place outside the presence of the
19 jury.)

20 THE COURT: Any motions or other matters?

21 MR. MORIN: Your Honor, at this time the defense would
22 make a motion for a directed verdict.

23 Our motion is based on the fact that in the light most
24 favorable to the state the only thing they've been able to
25 show so far is that the trailer was linked to my client.

1 And they've presented evidence to his -- of his statement
2 saying that he returned it on that day.

3 Nobody else has seen him with it. They have also
4 admitted that there's testimony that another person called
5 about the trailer after my client says he returned it. So
6 for that reason we move for a directed verdict.

7 THE COURT: Ms. McFarland.

8 MS. MCFARLAND: Thank you, Your Honor.

9 We have put forth enough evidence of each of the
10 elements to go forward to a jury. We put forth that he was
11 hired, paid the \$100 to haul off the trash for them. He
12 did not bring the trailer back. They testified to the
13 value of the trailer.

14 We have his conflicting statement, but there is enough
15 evidence of each element that we have -- we have evidence
16 of each element of the breach of trust.

17 THE COURT: How many elements are there in a breach of
18 trust?

19 MS. MCFARLAND: Depends on how you break them up.

20 THE COURT: How do you break them up?

21 MS. MCFARLAND: The property that was entrusted to
22 Mr. Weathers and that the defendant converted to his own
23 use to deprive the victims in this case. And we have put
24 forth evidence.

25 THE COURT: And?

1 MS. MCFARLAND: And permanently converted the -- the
2 victims permanently of that property.

3 THE COURT: And the value.

4 MS. MCFARLAND: And the value of that property, which
5 we did put forth evidence of that.

6 THE COURT: All right.

7 MR. MORIN: The only other thing I would say is
8 there's no evidence that he converted it to his own use.

9 He -- there is evidence that he returned it they put
10 in, and nobody seen my client with the trailer after that
11 day.

12 THE COURT: well, and there's also at least
13 circumstantial evidence -- substantial circumstantial
14 evidence that he did convert it to his own use, because
15 Mr. Jones says the trailer never came back and he ain't
16 seen it since. He put it, entrusted it, into Mr. Weathers'
17 possession. Conflicting factual information. The jury has
18 to resolve those conflicts --

19 MR. MORIN: Yes, Your Honor.

20 THE COURT: -- if you want them to.

21 MR. MORIN: I do.

22 THE COURT: All right. Motion for a directed verdict
23 is denied.

24 MR. MORIN: At this time I would ask for about five
25 minutes to confer with my client about what we're going to

1 do with our side of the case.

2 THE COURT: Okay. We'll take ten minutes.

3 (Whereupon, a recess was taken.)

4 THE COURT: All right. Mr. Morin, have you talked
5 with Mr. Weathers about his right to testify or not?

6 MR. MORIN: I have, Your Honor.

7 THE COURT: Has he indicated to you he has a
8 preference?

9 MR. MORIN: Yes, sir.

10 THE COURT: What's his preference?

11 MR. MORIN: That he is not going to testify, is what
12 he's indicated to me after discussing it.

13 THE COURT: All right. Mr. Weathers.

14 THE DEFENDANT: Yes, sir.

15 THE COURT: You know you're charged with a crime.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Your case comes to court and you go to
18 trial. You've got a right to testify and tell the jury
19 whatever you want to. You also have a right not to
20 testify, and they can't hold that against you. You heard
21 me tell them they can't hold it against you if you don't
22 testify.

23 If you choose to testify you'll have to answer not
24 just your lawyer's questions, but you've got to answer the
25 prosecutor's questions even if the answers might tend to

1 prove you guilty of the crime they say you committed.

2 If you elect not to testify I'll tell the jury again
3 they can't hold it against you. They can't consider it.

4 Have you and Mr. Morin talked about the advantages and
5 disadvantages of testifying, as well as not testifying?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And do you appreciate what those
8 advantages and disadvantages are?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And have you had time to reflect upon your
11 decision?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And have you made one?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: What is it?

16 THE DEFENDANT: Not to testify.

17 THE COURT: Okay. Is that a decision that you made of
18 your own free will and accord?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Anybody force you into it?

21 THE DEFENDANT: No, sir.

22 THE COURT: You made it on your own?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: You're satisfied with it?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Do you have any other witnesses you want
2 to call to testify in the trial?

3 THE DEFENDANT: No, sir.

4 THE COURT: Mr. Morin handed me a list of witnesses,
5 and I see we've got Dean Robbs on here.

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Is that Big D?

8 THE DEFENDANT: Yeah.

9 THE COURT: We've got Jennifer Stafford and Candice
10 Turner.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Do you want them to testify?

13 THE DEFENDANT: No, sir.

14 THE COURT: No.

15 Okay. All right. We'll argue and charge in the
16 morning.

17 MR. MORIN: Do you want me to rest in front of the
18 jury, Your Honor?

19 THE COURT: Yes. I'm going to bring the jury back.

20 MR. MORIN: Yes, sir. I knew you would.

21 THE COURT: Bring them back.

22 (The following takes place in the presence of the
23 jury.)

24 THE COURT: All right. Ladies and gentlemen, as you
25 know, the state has concluded with their presentation. So

1 we'll now proceed with any, if any, to be offered by the
2 defense.

3 Mr. Morin, do you have any additional evidence you
4 wish to present?

5 MR. MORIN: No, sir. At this time the defense rests.

6 THE COURT: All right. That's all of the testimony
7 and that's all the evidence to be presented.

8 what remains to be done are the lawyers' final
9 summations, after which I'll instruct you on the law. Then
10 you'll begin jury deliberations. We will do that starting
11 in the morning at 9:30.

12 So during the overnight recess don't talk about the
13 case, don't allow anyone to discuss it with you. Don't do
14 any research; don't do any investigation. Don't talk about
15 it when you come back in the morning. You'll start talking
16 about it when you're instructed to begin deliberations.

17 With that, have a good evening. I'll see you in the
18 morning at 9:30, 9:30 in the morning. Please report to
19 your jury room. Have a good evening.

20 (The following takes place outside the presence of the
21 jury.)

22 THE COURT: Mr. Morin, who's on Mr. Weathers' bond?

23 MR. MORIN: He's presently on an electronic monitor,
24 Your Honor. He's been that way for four or five weeks.

25 THE COURT: Who is on the bond?

1 MR. MORIN: All Bail Bonding.

2 THE COURT: Has he got a monitor on?

3 MR. MORIN: He does. He's presently wearing it.

4 THE COURT: All right. Any objection to him remaining
5 on bond?

6 MS. MCFARLAND: No objection.

7 THE COURT: All right. The weathers matter is in
8 recess until 9:30 in the morning.

9 If y'all have charge requests, let me have them.

10 MR. MORIN: I don't have any special requests, Your
11 Honor.

12 THE COURT: It doesn't matter if they're special or
13 not. Even nonspecial requests will be accepted if you have
14 any.

15 MR. MORIN: I understand.

16 THE COURT: You don't have those.

17 MS. MCFARLAND: None here.

18 THE COURT: All right. Well, weathers is in recess
19 until 9:30 in the morning.

20 END OF PROCEEDINGS MARCH 13, 2018

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25

Closing arguments

1 (Proceedings March 14, 2018)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: Good morning. Are there any matters that
5 need to be addressed before the jury is brought in?

6 MS. MCFARLAND: Nothing from the state, Your Honor.

7 MR. MORIN: No, sir.

8 THE COURT: All right. Bring them in, please.

9 (The following takes place in the presence of the
10 jury.)

11 THE COURT: Good morning, ladies and gentlemen.

12 As you know, when we recessed yesterday all of the
13 evidence had been received, and therefore what remained to
14 be done were the lawyers' final summations, after which
15 I'll instruct you on the law, and then you can begin
16 deliberations.

17 So please give the lawyers your attention now as they
18 give you their final summations.

19 Ms. McFarland.

20 MS. MCFARLAND: Ladies and gentlemen, we're at the end
21 of the case. You've heard all of the evidence and
22 testimony, and I'm back before you again to ask you to find
23 the defendant, Carlton Weathers, guilty of breach of trust.

24 Yesterday you heard from Marcus and Kelle Jones. They
25 told you that they had hired the defendant around Christmas

Closing arguments

1 of 2016 to haul off some trash for them and they paid him
2 one hundred dollars.

3 Mr. Jones identified the person that he hired in a
4 photo lineup. He identified the person he hired as the
5 defendant.

6 He also identified the defendant as the person he
7 hired in the courtroom yesterday. He made clear that the
8 person that he contacted about the work and the person he
9 paid the one hundred dollars to was the defendant.

10 To complete the work the Joneses allowed the defendant
11 to use their utility trailer. This was a trailer that
12 Mrs. Jones told you they had purchased just a few months
13 before for \$4,600.

14 So they allowed the defendant to use a \$4,600 trailer
15 to haul off some trash to the landfill, and he never
16 returns. They never saw the trailer again. All of their
17 dealings with the defendant, they entrusted their trailer
18 to the defendant and he never came back.

19 Over the next several weeks the Joneses made several
20 attempts to get their trailer back. They called him. They
21 went to his house. Didn't get in.

22 Mr. Jones told you he thought he made about nine
23 attempts to get the trailer back. The trailer never came
24 back. Mrs. Jones reiterated the same attempts but also
25 described one final attempt where she and Mr. Jones went

Closing arguments

1 together to the defendant's home and texted him they were
2 on their way. No response. Get to his house, aren't able
3 to talk to him.

4 And finally the defendant texted Mrs. Jones that the
5 trailer got gone. And he also said something along the
6 lines of he'd have to make it right. So after weeks of
7 evasiveness finally the trailer got gone.

8 At that point the Joneses reported this to law
9 enforcement. Investigator Heyde goes to the defendant's
10 home to speak with him.

11 At that time he denied knowing anything about the
12 trailer. Investigator Heyde told you that he gave the
13 defendant kind of a rundown of the case, what they had so
14 far. Asked him about a trailer. Doesn't know anything
15 about it.

16 Then he's arrested, speaks with the Investigator Cash
17 at the detention center. At that time the defendant gets
18 another statement. In this statement he admits having the
19 trailer, but he says he took it back.

20 So he spends weeks making excuses to the Joneses about
21 the tire's flat. Finally says it got gone. Then he tells
22 Investigator Heyde he doesn't know anything about the
23 trailer. And then finally he says he does know about the
24 trailer but he gave it back.

25 why would he have told the Joneses that it got gone if

Closing arguments

1 he'd taken it back? And why would he have denied knowing
2 anything about the trailer when he did?

3 The defendant lied to everyone every step of the way,
4 and the fact is, is that the Joneses entrusted their
5 trailer to the defendant and they never saw it again.

6 Now, the defendant is charged with breach of trust.
7 And in a few minutes you're going to hear from the judge
8 the elements you're going to apply. And we have to prove
9 this to you beyond a reasonable doubt.

10 There was personal property of value in this case, the
11 \$4,600 trailer that the Joneses let the defendant use to
12 complete work for them. That was put in the defendant's
13 possession in trust. They entrusted that trailer to the
14 defendant to complete the work for them.

15 Then that property was used by the defendant for some
16 other purpose other than what it was supposed to be used
17 for. He was supposed to haul off the trash to the landfill
18 and then bring the trailer back. Their trailer never came
19 back, so we know he didn't do that. He did not use the
20 trailer for the purpose that he was supposed to.

21 And then finally the property was converted by the
22 defendant with a fraudulent intention to use it as his own
23 or to permanently deprive the owner of the use and
24 possession of that property. So that second part, that the
25 owner's permanently deprived of his property, is what we

Closing arguments

1 have here. The Joneses never saw their trailer again, and
2 they were permanently deprived of the use of that trailer.

3 so we have the defendant here who lied every step of
4 the way to everyone that he could about this trailer and
5 where it went, and we have the Joneses who entrusted their
6 trailer to the defendant, paid him a hundred dollars to do
7 work for them and then took the trailer and never came
8 back.

9 Because of all of that I'm asking you today to please
10 find the defendant guilty of breach of trust. Thank you.

11 THE COURT: Mr. Morin.

12 MR. MORIN: Yesterday when I stood before you I
13 said -- I looked at this evidence and I said dismissed.
14 And the reason I said that is because the first thing I
15 found out about this case was that the Joneses alleged that
16 they gave a \$5,000 piece of equipment to a person who they
17 didn't know the last name. That seemed strange to me right
18 off the bat.

19 The Joneses have a business. They called my client
20 and say we have a trailer. And the state says they allowed
21 him to use it. They didn't allow him. They said this is
22 the job we have. And then when they asked -- when my
23 client is asked did you do this work, he goes, oh, you're
24 talking about the work I did for Marco. And you'll see in
25 the statement that they presented it says for a guy named

Closing arguments

1 Marco.

2 Now, they want to say that he lied to Officer Heyde
3 when he came out to the house. Keep in mind Mrs. Jones
4 never knew his first or his last name, couldn't pick him
5 out of a lineup, didn't have any dealings.

6 Mr. Jones didn't know his last name. But when Officer
7 Heyde gets out there and he says do you know anything about
8 a missing trailer that belonged to a Mrs. Jones, he says
9 no, I don't know Mrs. Jones. And they're asking him about
10 some work he did for Marco a month before.

11 So who did he take it with? Who was with him? Dustin
12 was with him. And Mr. Jones calls him Big D or Dustin.
13 Says in his statement -- and Mr. Jones -- and I didn't mean
14 to, but Mr. Jones didn't like some of the questions I
15 asked.

16 But one of the things he said was the next day after
17 they had it Dustin called me and said it had a flat tire.

18 Well, the state's theory is that my client must be
19 guilty because he had it last. But their evidence is
20 Mr. Jones talked to somebody the next day who said, hey,
21 the tire's flat. Now, how could Dustin know the tire's
22 flat if he didn't have it? Where is Dustin?

23 Well, Officer Heyde said I didn't talk to him because
24 I didn't know -- initially said I didn't talk to him
25 because I didn't know about that until after I talked with

Closing arguments

1 Mr. Weathers. However, he then corrected himself and said,
2 well, actually Dustin's name was brought up by Mr. Jones.

3 This text message, the Joneses say that they were
4 repeatedly trying to contact my client to find out about
5 the missing trailer. And Mrs. Jones says that this
6 text-messages thing went on and then right after that they
7 went to the police.

8 I said can I see the text message. Because, mind you,
9 we're talking about Mr. Jones' phone that she was using to
10 text, allegedly text, Mr. Weathers. But they didn't know
11 that number because the officer told you he had to do a
12 reverse phone number to even find it. So I don't know who
13 they were texting.

14 I don't know if there was a text, because if that
15 occurred and if they went straight to the police where
16 would that text message go? Isn't that the first thing you
17 would say, look, see, right here I was talking to him at
18 this number?

19 I don't know if they were talking to Dustin or where
20 the text message went, but she said right after that we
21 went to the police. So we're not talking about a long
22 time. It's not like I sent a text a long time ago.

23 The state says, well, he had the trailer. He says he
24 brought it back, but it's not here, so therefore he must
25 have taken it. Mrs. Jones -- what did she say? We have

Closing arguments

1 all kinds of theft out there. The police are out there all
2 of the time.

3 Mr. Weathers -- not counting her that time -- gives a
4 statement to the police saying I dropped it back off where
5 I got it.

6 The state repeatedly tells you no one ever saw the
7 trailer, no one ever saw the trailer, no one ever saw the
8 trailer. But they want to say that he had it after he
9 returned it.

10 He must have because he was the last person they saw.
11 But you can't have Dustin calling the next day saying it's
12 a flat tire and you can't say we have all of this stuff
13 being taken from us, but this, we know where it was taken
14 from.

15 And I know about this lineup. Mr. Jones knows Carlton
16 and his Gator, and I don't -- he doesn't need any photo
17 lineup. It's somebody he knows by that name. But he
18 doesn't know. And I asked each one of them and they both
19 said they didn't know the Weathers.

20 And I asked the officer. I said you heard them
21 testify that they didn't know his last name. He said yes.
22 But when they came in and said did you do work for Marco
23 last month, he said, yeah, I took the trash up there and I
24 returned the trailer. And who was with you? Dustin. And
25 who called the next day? Dustin. And what did Dustin say?

Closing arguments

1 Trailer's got a flat tire.

2 They have to prove beyond a reasonable doubt, ladies
3 and gentlemen, that my client didn't -- not that he took
4 the trailer when they asked him to and paid him in cash to
5 go up there -- and I know it's cash, because he said I gave
6 them money to pay for the landfill fee and the work. They
7 have to prove that after that my client had possession of
8 it or disposed of it in some way.

9 And when you go back and deliberate, I want to ask one
10 question. What evidence do they have that my client had
11 that trailer at any time after that?

12 The only shred of evidence that you have is the
13 missing, disappearing text. But Mr. Jones says I talked to
14 somebody else the next day and they clearly had to have it
15 because that's how they knew it was a flat tire. Right?
16 So if that's the case, how can my client be guilty of
17 taking it? He can't.

18 The state's whole case is he was the last person the
19 Joneses saw, although Dustin was with him then too, because
20 they say he saw Dustin with -- with Mr. Weathers before he
21 left. Mr. Weathers says Dustin was with him when he
22 brought it back. So Dustin knew where it was and all of
23 that kind of stuff.

24 I submit to you that that's reasonable doubt. I think
25 it's even past reasonable doubt.

Jury charge

1 There's another person out there who had it. They
2 know it. It was their evidence; it was their witnesses.

3 A lot of times people say, well, you just try to twist
4 their words. And many times you heard me say please
5 correct me if this isn't right. No. That's right.

6 So for that reason I submit to you my client is not
7 guilty of using this for his own use. Thank you.

8 THE COURT: Mr. Foreman, ladies and gentlemen, you of
9 course have heard and seen all of the evidence in the case.
10 You've now heard the final summations of the lawyers. And
11 therefore it now becomes my duty and obligation to instruct
12 you on the law that's applicable in the case, and then
13 you'll be asked to go back and begin with your
14 deliberations. And through that process and in the
15 exercise of good judgment and common sense conscientiously
16 applied to the testimony and evidence in the case you'll
17 determine the facts if you can.

18 Once you determine those facts you'll apply the law
19 that I will have given you, and you'll determine whether or
20 not the defendant has been proven guilty of the crime of
21 breach of trust with a fraudulent intent.

22 It is your exclusive prerogative to determine what the
23 facts are. You do that through your own common sense
24 examination and evaluation of all of the testimony and
25 other evidence received during the course of the trial.

Jury charge

1 You 12 jurors alone will decide what weight, value and
2 effect to give to any particular witness' testimony or
3 other evidence in the case.

4 Your sole objective is to simply render a fair and
5 impartial decision based upon your evaluation of the
6 testimony and evidence, your determination of fact and then
7 your application of the law as I will have provided it to
8 you.

9 Now, as you know, in this case the defendant is Carlon
10 weathers. Mr. Weathers has been accused by the prosecutor
11 by way of this indictment with the crime of a breach of
12 trust, the state alleging that occurring on January the
13 16th of 2017, or on or about that day.

14 They allege that Mr. weathers was intrusted by Marcus
15 and Kelle Jones with the care, keeping and possession of
16 certain property, that property being described as a
17 utility trailer.

18 They allege that that trailer was valued at more than
19 \$2,000 and that after Mr. weathers was entrusted with the
20 possession of that trailer that he did convert it and
21 appropriate that property to his own use and purposes with
22 a fraudulent intent and with an intent to deprive the true
23 owner of the use and possession of their property.

24 Now, as to those allegations and as to that charge
25 Mr. weathers has entered a plea of not guilty. And as you

Jury charge

1 know, that plea of not guilty has placed upon the state the
2 burden of proving the allegations that they have made by
3 way of the indictment, the burden of proving each of the
4 essential elements of the crime of breach of trust with a
5 fraudulent intent; and therefore the burden is upon the
6 state to establish the defendant's guilt to the
7 satisfaction of you 12 jurors beyond a reasonable doubt
8 before any verdict of guilty could be returned.

9 The burden is never upon a defendant or a person
10 accused of a crime to prove that they are not guilty or to
11 prove that they are innocent because in some cases that
12 might not be possible.

13 The burden is always upon the state because they
14 brought the charge to establish the defendant's guilt
15 beyond a reasonable doubt.

16 It is a vital, important and cardinal rule of law that
17 every defendant in a criminal trial -- and it doesn't
18 matter how serious the offense might be for which that
19 person stands charged -- a person charged with a crime is
20 always presumed innocent of that charge.

21 That presumption of innocence remains with any
22 defendant, as it does with this defendant, from the time
23 that he is placed under arrest and throughout the course of
24 the criminal process and even throughout the course of the
25 trial.

Jury charge

1 As I told you, that presumption of innocence will be
2 with Mr. Weathers even as you go back into your jury room
3 to begin with your deliberations at this trial's
4 conclusion.

5 That presumption of innocence will be with him in the
6 jury room, and it'll be with him forever unless you 12
7 jurors determine that he's no longer entitled to that
8 presumption of innocence.

9 In other words, after you have carefully considered
10 all of the testimony and evidence in the case, and from
11 that evidence you have been able to determine what you
12 believe the facts are as they relate to these allegations,
13 and once you decide those facts you apply the law that I
14 will have provided you, if you 12 jurors unanimously
15 determine that his guilt has been proven beyond a
16 reasonable doubt, then he would no longer be entitled to
17 that presumption of innocence. But it is only if, unless
18 and until you are satisfied of his guilt beyond a
19 reasonable doubt that the presumption of innocence would no
20 longer be applicable.

21 Now, the state does have the burden of proving the
22 defendant's guilt to your satisfaction beyond a reasonable
23 doubt. That does not mean however that the state has to
24 prove his guilt beyond all doubt or beyond any possible
25 doubt. But it does require the state to prove his guilt to

Jury charge

1 your satisfaction beyond a reasonable doubt.

2 The term reasonable doubt should be given its plain
3 and ordinary meaning. A reasonable doubt is the kind of
4 doubt that would cause a reasonable person to hesitate to
5 act upon the information that's been provided.

6 The defendant is entitled to any reasonable doubt that
7 arises from the evidence or lack of evidence in the case,
8 and if, upon any factual issue essential to a finding of a
9 verdict of guilty, you have some reasonable doubt as to how
10 that issue should be resolved, it would be your duty to
11 resolve that reasonable doubt in favor of the defendant.

12 Now, while there are various forms of evidence such as
13 testimony, photographs, documents, charts and other types
14 of physical exhibits, there are really only two types of
15 evidence. Either or both of those types of evidence may be
16 used independently or in combination to prove a fact in
17 issue. But the two types of evidence are direct evidence
18 and circumstantial evidence.

19 Now, direct evidence is the testimony of a person who
20 testifies from actual knowledge of a particular fact. It
21 is testimony by a person who has perceived the existence of
22 a fact by means of their senses, and then they come into
23 court and they testify as to what they have previously
24 seen, heard, or felt for that matter.

25 Direct evidence proves the existence of a fact

Jury charge

1 directly and does not require any deduction or inference in
2 order to establish that fact.

3 Circumstantial evidence, on the other hand, is the
4 proof of some other fact or set of facts which taken singly
5 or collectively may prove the existence of a fact in
6 question as a necessary consequence. That is by deduction
7 or through an inference.

8 An inference is simply a deduction of fact that may
9 logically and reasonably be drawn from the proof of some
10 other fact or set of facts. It is a fact which is not
11 proven by the direct testimony of a witness based upon that
12 person's personal perception, but it is a conclusion which
13 might reasonably be drawn from the proof of other facts.

14 In other words, you may infer that a particular fact
15 exists or that a particular event occurred based upon
16 sufficient factual circumstances which would reasonably
17 warrant your arriving at a particular conclusion.

18 The commission of a crime and any particular element
19 necessary to establishing that crime may be proven by
20 direct evidence or by circumstantial evidence or by a
21 combination of direct and circumstantial evidence.

22 The law makes no distinction between the weight or the
23 value to be given to direct evidence or circumstantial
24 evidence. However, to the extent that the state relies
25 upon circumstantial evidence in order to establish the

Jury charge

1 commission of a crime or any particular element of that
2 crime, all of the circumstances proven must be consistent
3 with each other and point conclusively to the guilt of the
4 accused beyond a reasonable doubt.

5 If these circumstances merely portray the defendant's
6 behavior as suspicious the proof is insufficient and it
7 fails.

8 The burden rests with the state, regardless of whether
9 the state relies upon direct evidence or circumstantial
10 evidence or some combination of both types of evidence, in
11 order to prove the defendant guilty beyond a reasonable
12 doubt.

13 Proof beyond a reasonable doubt is proof that leaves
14 you firmly convinced of the defendant's guilt. There are
15 very few things in the world that we know with absolute
16 certainty, and in criminal cases the law does not require
17 proof that overcomes every possible doubt. But if, based
18 upon your consideration of the evidence in this case, you
19 are firmly convinced that the defendant is guilty of the
20 crime for which we stands charged, then you must find the
21 defendant guilty of that charge.

22 And if, on the other hand, you think there is a real
23 possibility that the defendant is not guilty of the crime
24 for which he stands charged, then you must give him the
25 benefit of that doubt and find him not guilty.

Jury charge

1 Now, the same law that provides that you are the
2 judges of the facts also provides that I am the judge of
3 the law. And that simply means nobody's going to tell you
4 how to arrive at your determination of the fact in this
5 case.

6 But you must under your oath as a juror accept the law
7 as I provide it to you as being the law that you are to
8 apply in the case. Then you simply take that law and you
9 apply it to the facts as you 12 jurors determine those
10 facts to be in order to arrive at your decision.

11 Now, in arriving at your decision, as I told you
12 earlier, it's your prerogative to evaluate the credibility
13 and the believability of witness testimony. And there are
14 a number of factors which you should consider in arriving
15 at your assessment as to a particular witness' credibility.

16 You should consider the demeanor of the witness, that
17 is how the witness appeared to you when the witness
18 testified from the witness stand.

19 Was the witness straightforward in responding to
20 questions, or was the witness hesitant or evasive in
21 responding to questions that were asked of the witness.

22 Simply put, did the witness appear to you to be
23 telling the truth and to have knowledge of the facts to
24 which that witness has testified.

25 You should also consider whether or not the testimony

Jury charge

1 of a witness is consistent, or is it inconsistent, with
2 that witness' own testimony in contrast to statements made
3 by the witness, whether in court or outside of court.

4 You should also consider the opportunity and the
5 ability that the witness had to perceive some fact to which
6 they've testified and then be able to come into court and
7 testify as to what they have previously perceived.

8 You should also consider any bias or prejudice or
9 interest that a witness might have in regard to the case.
10 In other words, do you find some reason that a particular
11 witness would testify one way or another to help or hurt
12 one side or the other.

13 And you may consider any interest that the witness
14 might have in the outcome if you determine that that --
15 that the witness does have an interest and you find that
16 that interest would bear upon that particular witness'
17 credibility.

18 You should also consider whether or not the testimony
19 of a witness is strengthened, or is it weakened by other
20 evidence received during the course of the trial.

21 So you as the finders of the fact and you as the
22 judges of the credibility of each witness are permitted to
23 believe as much or as little of what a witness has
24 testified to as you deem is appropriate.

25 And so as I previously said, you can believe

Jury charge

1 everything that a witness testified to, you may choose to
2 believe none of it. You may believe some portion of it and
3 reject some other portion of it.

4 Again, your sole objective is to simply render a fair
5 and impartial decision based upon the evidence presented,
6 your determination of fact from that evidence and then your
7 application of the law as I provide it to you.

8 Now, in this case, as you know, the defendant is
9 charged with the crime of breach of trust. Breach of trust
10 is a statutory crime, and that just means that it's
11 codified in those books that you see over there.

12 Every year the legislature meets. They're in session
13 now. They meet from January to June. During the course of
14 those sessions they pass a number of laws and rules and
15 regulations that govern our conduct in a variety of ways.
16 Some of those statutes that they pass are criminal penalty
17 statutes, and that just means that they prohibit us in
18 engaging in certain types of conduct. Where we engage in
19 that conduct it constitutes a crime. Where you're
20 convicted of a crime it subjects you to some form of
21 punishment or penalty.

22 But please understand that you are never to be
23 concerned with punishment or penalty as a result of any
24 decision that you make. That's not something that you
25 decide.

Jury charge

1 Your sole obligation and duty under your oath is to
2 determine whether or not the defendant has been proven
3 guilty beyond a reasonable doubt. And you do that without
4 any consideration of any consequence of that decision.

5 But the statute passed by the legislature that the
6 defendant is alleged to have violated is set forth in
7 section 16-13-230, and that defines the crime of breach of
8 trust.

9 The statute provides that any person committing a
10 breach of trust with a fraudulent intention is guilty of
11 larceny.

12 Larceny is defined in the law as the taking, stealing
13 and assuming possession of money or other property of
14 another person without their consent and with the intent to
15 permanently deprive the rightful owner of the use and
16 possession of his or her property with the intent to steal
17 it and to convert it to the taker's own use and purposes.

18 A breach of trust with a fraudulent intent arises
19 where one person comes into lawful possession of another
20 person's property and after having been entrusted with that
21 property the person in possession of the property breaches
22 that trust by a misappropriation of the other person's
23 property with a fraudulent intent.

24 It may simply be described or defined as a larceny
25 after trust.

Jury charge

1 The primary distinction between a larceny and a breach
2 of trust is that in the case of larceny the possession of
3 the property is originally obtained unlawfully, while in
4 the case of a breach of trust the possession of the
5 property is originally obtained lawfully. In other words,
6 with the consent of the owner.

7 In each case the property is unlawfully converted to
8 the taker's own use and purposes to the exclusion of the
9 owner's rights to it.

10 Now, there are four essential elements which must be
11 proven beyond a reasonable doubt before the defendant can
12 be proven guilty of a breach of trust with a fraudulent
13 intent.

14 First, it must be shown that there was a relationship
15 of trust existing between the defendant and the person or
16 persons alleged to be the victim and the owners of the
17 property and therefore the victim of the breach of trust.

18 The term trust refers to an obligation or a
19 responsibility imposed upon the person arising out of a
20 mutual relationship, whereby confidence or authority is
21 placed by one person in another obligating that person in
22 whom the confidence or authority is placed to act on behalf
23 of and in accordance with the directions and the interest
24 of the person granting the confidence or authority. In
25 other words, the person entrusting the property to another.

Jury charge

1 Secondly, it must be shown that there has been a
2 breach of that trust by the defendant. A breach of trust
3 occurs when the person in whom a trust or confidence has
4 been placed violates the terms of the trust by
5 misappropriating the property which is the subject of the
6 trust by making an appropriation of the property to some
7 other purpose than for which it was entrusted by the owner.

8 Thirdly, the breach of trust must be accompanied by a
9 fraudulent intent on the part of the defendant. A
10 fraudulent intent means an intent to defraud the true owner
11 of his or her property with the intent to steal it and to
12 convert that property to the defendant's own use and
13 purposes.

14 The term intent refers to the state of a person's mind
15 which directs his actions towards a specific object or
16 goal.

17 Intent is a condition of mind beyond the reach of the
18 senses often kept secret and therefore may often only be
19 proved by unguarded expressions, conduct and circumstances
20 shown to exist at the time of the event in question.

21 The intent or a fraudulent intent may be inferred from
22 evidence of acts, conduct or declarations of the defendant,
23 as well as any other circumstances established by the
24 evidence in the case which would reasonably warrant your
25 arriving at a particular conclusion and inferring such an

Jury charge

1 intent.

2 The term fraudulent refers to any act or unfair
3 dealing or any deceitful practice employed by a person
4 which is designed to wrongfully deprive another person of
5 his property by means of some artful device, plan or scheme
6 contrary to the known rules of common honesty and decency.

7 In order for a breach of trust with a fraudulent
8 intent to be made out it must be shown that the property
9 was misappropriated by the defendant with a fraudulent
10 intent to wrongfully convert the money, or property in this
11 case, to the defendant's own uses and purposes to the
12 exclusion of the rights and interest of the true owner with
13 intent to steal it.

14 And, fourthly, in this particular case it must be
15 proven that the value of the property which was stolen or
16 converted and which was the subject of the breach of the
17 trust by the defendant was valued at more than \$2,000.

18 You are instructed further, and I emphasize to you,
19 that the fact that a defendant does not testify during the
20 course of a criminal trial is not a circumstance or a fact
21 that may be considered by the jury in any way whatsoever
22 during your deliberations or in your determination as to
23 whether or not his guilt has been proven beyond a
24 reasonable doubt.

25 As I've stated, the burden is always upon the state

Jury charge

1 because they make the charge to prove a defendant's guilt
2 beyond a reasonable doubt. The burden is never upon a
3 person accused of a crime to prove that they are not guilty
4 or to prove they are innocent because in some cases that
5 might not be possible.

6 And therefore you shall not draw any conclusion nor
7 draw any inference from the fact that a defendant does not
8 testify during the trial, nor may such fact be considered
9 by you in any way, nor may such fact even be discussed by
10 you while you are involved in your jury deliberations.

11 Now, Mr. Foreman, as I told you, the indictment will
12 be in the jury room with you. It's not evidence of
13 anything, but it does contain the charge. But it's on the
14 back of the indictment that you'll see in the lower
15 left-hand corner the word verdict. It's beneath that word
16 that you're going to indicate the jury's unanimous
17 decision.

18 In this case you have two possible verdict forms.
19 Those two verdict forms are guilty and not guilty. So
20 whatever that decision is, it has to be unanimous. All 12
21 have to be in agreement.

22 So once you have come to that decision, Mr. Foreman,
23 indicate the verdict in the space provided, sign your name
24 as the foreperson. You're the only juror that needs to
25 sign the verdict form. Also, put the applicable date,

Jury charge

1 which today is the 14th of March.

2 Now, during deliberations there may come a time where
3 you have some question about the facts of the matter or you
4 have some question about evidence.

5 You might even ask about something else that hasn't
6 been introduced, could you have it, it might help you.

7 Please understand that all of the evidence that's
8 going to be introduced in this case has been introduced.
9 Even if there's something out there that you think might be
10 helpful, it cannot be introduced now. No additional
11 evidence can be received now that the case has been closed
12 and is going to be submitted to you for your consideration.

13 If however you do have a question about a witness'
14 testimony and you believe that rehearing that witness'
15 testimony in whole or in part will assist you in resolving
16 the question, we can bring you back into the courtroom to
17 have a witness' testimony replayed.

18 I do not have transcripts of the witnesses' testimony,
19 and they're not available. But if you wish to hear a
20 witness' testimony replayed in whole or in part if you'll
21 let me know we'll bring you back into the courtroom and
22 have the testimony replayed.

23 If at any time you have a question about the law
24 that's applicable that I provided you, if you need a
25 reinstruction or you need an additional clarification or

Jury charge

1 explanation as to some point of law, I am always permitted
2 to answer those questions.

3 So, Mr. Foreman, if at any time you have -- you or a
4 fellow juror has some question or issue you need to address
5 to me, if you'll write it on a piece of paper, give it to
6 the bailiff, he or she will provide it to me, and then I'll
7 respond accordingly.

8 I don't know if we smokers on the jury. If you want
9 to smoke, you can, but you can't smoke in the courthouse
10 even though it might be helpful if it did burn down. But
11 you can't smoke in the courthouse. You have to go outside
12 to accomplish that purpose. So if you want to smoke let
13 the bailiff know, and they'll take you out to accomplish
14 that purpose.

15 Understand, however, that deliberations can only take
16 place when all 12 jurors are present so that all may
17 participate. So if anybody's absent for an authorized
18 purpose the deliberations have to stop. They may only
19 resume when all are present to participate.

20 Don't have any way of knowing how long your
21 deliberations will take, nor do you. So I just give you
22 this advice in advance.

23 If you get to a point in deliberations where you wish
24 to have lunch ordered, it usually takes about an hour,
25 maybe a little more than that, to have it ordered, prepared

Jury charge

1 and brought to the jury room for your benefit. So it's not
2 lunchtime now, but if you get to a point where you need to
3 order lunch, just understand that's how long it takes. So
4 keep that in mind as you make that decision if you need to.

5 After you've reached the decision, Mr. Foreman, you're
6 going to knock on the jury room door, tell the bailiff
7 you've reached a decision. And you'll hold on to the
8 verdict form. Don't give it to the bailiff. I will
9 receive it from you after you and your fellow jurors come
10 back when we receive your verdict.

11 I think that covers everything, but in the event it
12 does not I'm sure one of these lawyers will remind me that
13 I have neglected to provide you with some information that
14 they feel I should have. And if that's the case -- and I
15 agree -- I'll bring you back in order to provide you with
16 that additional information.

17 If I do not need to bring you back I'll simply send
18 word by way of the bailiff that you may begin with your
19 deliberations. In that event he'll bring to the jury room
20 any exhibit, as well as the verdict, the indictment, which
21 serves as the verdict form.

22 So let me ask the 12 primary jurors to please retire.
23 Looks like everybody's in good shape to deliberate. So
24 those primary 12, I'll ask you to go with the bailiff to
25 the jury room.

Jury charge

1 Two alternates, I'll ask you to remain here in the
2 courtroom with me.

3 But don't begin deliberations until I send you word to
4 do so.

5 (Whereupon, the jury retired to deliberate at
6 10:20 a.m.)

7 (Whereupon, the alternate jurors were excused.)

8 THE COURT: Are there any exceptions taken to the
9 instruction or requests for additions to the instruction by
10 the state?

11 MS. MCFARLAND: No, Your Honor.

12 THE COURT: By the defendant?

13 MR. MORIN: No, sir.

14 THE COURT: All right. No exceptions, no additions.
15 Tell the jury to begin deliberations.

16 (Whereupon, a recess was taken.)

17 THE COURT: The jury wants to rehear some testimony,
18 so we're going to bring them back for that purpose.

19 MR. MORIN: Yes, sir, Your Honor.

20 (Whereupon, the jury returned to the courtroom at
21 11:23 a.m.)

22 THE COURT: All right. Ladies and gentlemen, I
23 understand you want to hear the testimony -- was it
24 Detective Heyde and Detective Cash, both?

25 THE FOREMAN: Yes, sir.

1 THE COURT: The court reporter has located that. She
2 is going to play it now. She will play it all the way
3 through unless you stop her.

4 If you hear what you want to hear and you want to stop
5 it, just tell us to stop and we will stop it. Otherwise,
6 it will play all the way through.

7 And we have those speakers, but sometimes they are
8 helpful and sometimes they are not so helpful necessarily.
9 But if you can't hear for any reason, let me know. Just
10 raise your hand if you can't hear and we will turn it up or
11 do something. Okay.

12 (Whereupon, the testimony of Thomas Heyde and Garrett
13 Cash was replayed for the jury.)

14 THE COURT: Okay. That's it. Please retire to your
15 jury room and continue with your deliberations.

16 (Whereupon, the jury retired to deliberate at
17 11:42 a.m.)

18 THE COURT: We will continue to be at ease while the
19 jury is deliberating.

20 (Whereupon, a recess was taken.)

21 (Question from the jury marked Court's Exhibit No. 1.)

22 THE COURT: The jury wants to hear more testimony. I
23 am going to bring them back. Bring them in.

24 (Whereupon, the jury returned to the courtroom at
25 12:30 p.m.)

Verdict

1 THE COURT: I understand the jury wishes to hear the
2 testimony of Marcus Jones replayed. So we will replay it,
3 and you let me know if you can't hear. We will try to make
4 other arrangements.

5 (Whereupon, the testimony of Marcus Jones was replayed
6 for the jury.)

7 THE COURT: All right. Please retire to your jury
8 room and continue with your deliberations.

9 (Whereupon, the jury retired to deliberate at
10 12:50 p.m.)

11 (Question from the jury marked Court's Exhibit No. 2.)

12 THE COURT: We will be at ease while the jury is
13 deliberating.

14 (Whereupon, a recess was taken.)

15 THE COURT: I am told the jury has reached a decision.
16 Are we ready to receive it?

17 MR. MORIN: Yes, sir.

18 MS. MCFARLAND: Yes, sir.

19 THE COURT: All right. Bring them in.

20 (Whereupon, the jury returned to the courtroom at
21 2:10 p.m. to report its verdict.

22 THE COURT: Mr. Foreman, have you and your fellow
23 jurors reached a unanimous decision?

24 THE FOREMAN: Yes, sir.

25 THE COURT: Have you reflected that on the back of the

Verdict

1 indictment as requested?

2 THE FOREMAN: Yes, sir.

3 THE COURT: Did you sign your name and date it?

4 THE FOREMAN: I did, sir.

5 THE COURT: If you will, please hand that up by way of
6 the bailiff.

7 You may publish the verdict.

8 THE CLERK: State of South Carolina, County of
9 Spartanburg, Indictment No. 2017-GS-42-4163, the State vs.
10 Carlon Eugene Weathers, indictment for breach of trust, we,
11 the jury, unanimously find the defendant guilty. Signed by
12 the foreperson, Jeffrey Quinn, March 14th of 2018.

13 Ladies and gentlemen of the jury, if this is your
14 verdict and still your verdict, please raise your right
15 hand.

16 (whereupon, all jurors responded in the affirmative.)

17 THE CLERK: So say you all.

18 THE COURT: Does the defendant wish to have the jury
19 polled?

20 MR. MORIN: No, sir.

21 (whereupon, the trial jury was excused.)

22 THE COURT: Okay. Any other matters we need to
23 address prior to the imposition of sentence?

24 MR. MORIN: No, sir.

25 THE COURT: Okay. Mr. Morin, while y'all are doing

Sentence

1 that -- have you talked to Mr. weathers about -- I know he
2 has other cases. I don't know if he wants to address those
3 at all or not, but I guess you need to talk to him about
4 that just in case.

5 MR. MORIN: Yes, Your Honor, I just briefly did that.

6 He --

7 THE COURT: Y'all take some time if you need to.

8 MR. MORIN: Okay.

9 (Pause.)

10 MR. MORIN: We are just going to do this, Your Honor.

11 THE COURT: Okay. All right. What else on behalf of
12 the state?

13 MS. MCFARLAND: Your Honor, the victims in this case,
14 Marcus and Kelle Jones, are asking for \$4,600 in
15 restitution for the trailer. And I do have the defendant's
16 prior record if you would like to hear it.

17 THE COURT: Yes. I would.

18 MS. MCFARLAND: 1994, grand larceny. That was a
19 Y.O.A.

20 2000, grand larceny and burglary second degree.

21 2003, two forgeries, operating an uninsured motor
22 vehicle, two D.U.S.s and no vehicle license.

23 2004, possession of less than one gram of ice or crack
24 cocaine and receiving stolen goods.

25 2005, chop shop, vehicle with tampered I.D.,

Sentence

1 possession of less than one gram of ice or crack cocaine
2 and receiving stolen goods.

3 2006, a forgery and F.T.C. theft and then a conspiracy
4 to counterfeit U.S. currency out of North Carolina and a
5 counterfeiting out of North Carolina.

6 And then 2012, a burglary second degree.

7 THE COURT: All right. Mr. Morin.

8 MR. MORIN: Your Honor, to begin, there's a drug
9 charge in 2006 he disputes because he says he was in prison
10 at the time.

11 He is 43 years old. Your Honor, he's got four
12 children, five grandchildren, lives with his wife.

13 He spent about ten days in jail on this. He's now
14 been on electronic monitor for four weeks. He's done odd
15 jobs.

16 THE COURT: why has he been on a monitor for four
17 weeks?

18 MR. MORIN: There was two new charges that they gave
19 him about four or five weeks ago and in lieu of --

20 THE COURT: All right. That was part of the bond?

21 MR. MORIN: Yes, Your Honor.

22 He does odd jobs like hauling trash for people, and
23 he's also been working for Freedom Auto.

24 He and his wife have been contacted over the phone
25 quite a bit on this, and I think he wants to stand by what

Sentence

1 he had told in his written statement.

2 THE COURT: Okay. Well, I understand.

3 MR. MORIN: Yes, sir.

4 THE COURT: But the jury's found him guilty beyond a
5 reasonable doubt.

6 MR. MORIN: Yes, sir.

7 THE COURT: And he has a horrible record. So, I mean,
8 what do you want to tell me about it, Mr. Weathers?

9 THE DEFENDANT: I'm just sorry they lost their
10 trailer, Your Honor. And, you know, I was found guilty of
11 it, but, you know, I didn't take the trailer. I know I was
12 found guilty, and I understand that, but I didn't -- I
13 didn't.

14 THE COURT: You didn't pick up the trailer to go to
15 the landfill?

16 THE DEFENDANT: Yes, sir. But I took the trailer
17 back. I did.

18 THE COURT: You took it back to who?

19 THE DEFENDANT: To his place on Blackstock rolled.

20 THE COURT: Who did you give it to?

21 THE DEFENDANT: I left it setting outside where he
22 told us to leave it at. I'm sorry they lost it.

23 THE COURT: On Indictment 2017-04163, State vs. Carlton
24 Eugene Weathers, Jr., charged with breach of trust enhanced
25 pursuant to 16-1-57, wherein the jury has found you guilty

Sentence.

1 of that offense, the Sentence of the Court is you be
2 confined to the South Carolina Department of Corrections
3 for a period of ten years.

4 Also recommend that restitution be required as a
5 condition of any parole or early release. That amount is
6 \$4,600.

7 You have a right to appeal the verdict of the jury and
8 the Sentence of the Court. You must do that within ten
9 days of today's date.

10 END OF REQUESTED TRANSCRIPT OF RECORD

11

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Spartanburg County Sheriff's Office

CHUCK WRIGHT, SHERIFF

PRESENTATION INSTRUCTION AND AFFIDAVIT OF IDENTIFICATION OF PHOTOGRAPH

Case Number: 17010738 Date: 01-23-17
Time: 1:10 PM Location: 8045 HOWARD ST. SPARTANBURG SC 29303

Prior to the presentation of the photographs, I have instructed the witness as follows:
the suspect may or may not be among the subjects in the lineup; the witness is not compelled to make an identification; the suspect may not appear exactly as they did in the incident due to changes in hairstyle, facial hair and/or quality of the photograph and the witness is not to discuss the procedure or results with other witnesses.

Presenting officer initials TWH

I, MARCUS RONDALE JONES, have viewed a group of 6 photographs this 23 day of JANUARY, 2017, from which I have positively identified photograph number 6 displayed to me by DETECTIVE HEYDIE of the Spartanburg County Sheriff's Office as the person who USED MY BLACK UTILITY TRAILER AND DID NOT RETURN IT NOR WAS GIVEN PERMISSION TO OWN IT on the 16 day of JANUARY, 2017

Signature: Marcus R Jones

Print Name: MARCUS JONES

Address: [REDACTED] N. BLACKSACK RD. SPARTANBURG SC 29301

Phone: (864) 809-8298



SWORN to before me this _____ day of _____, 20____

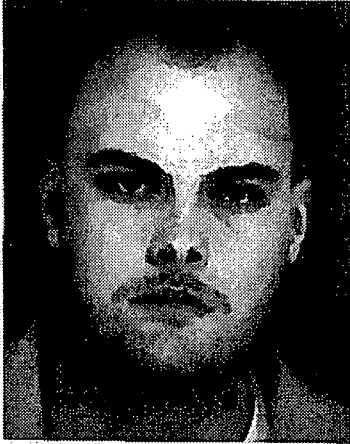
Notary Public for South Carolina

My commission expires; _____

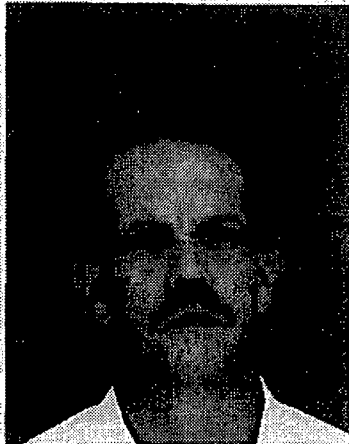
Revised 9/24/13 jdp

Lineup: 3525

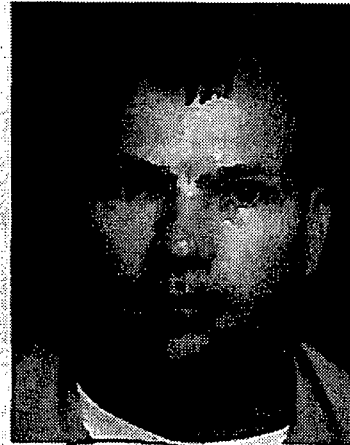
1/20/2017 12:55:29 PM



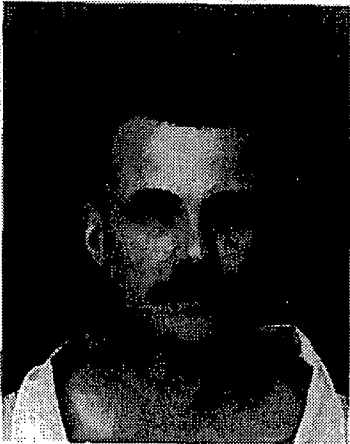
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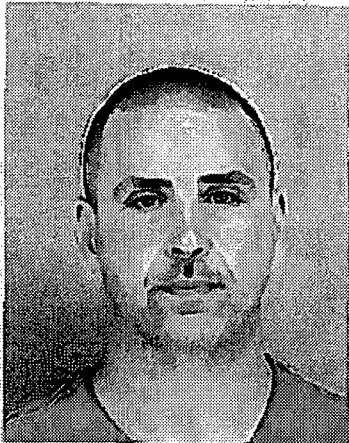
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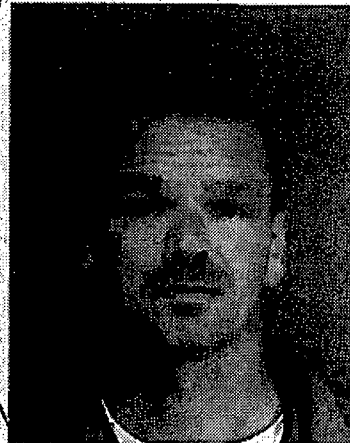
3



4



5



6

1-23-17
MRJ



South Carolina Department of Motor Vehicles

BILL OF SALE

(Must be Typed or Printed in Black Ink)

4031
(Rev. 6/15)

FOR DEPARTMENT USE ONLY

Check One:

Purchase License Plate

Transfer License Plate

1. Jennifer Stafford

Seller

[Redacted] Country Side Dr Parolet SC 29372
Street City State Zip Code

state that on the 20 day of August Yr. 2016 The following vehicle:

MAKE Trailer MODEL 6x42' BODY TYPE TRAILER YEAR 2016/8/21

VEHICLE IDENTIFICATION NO. 016KMJ21 LICENSE PLATE NO. _____

was sold to Kelle Jones

Buyer

[Redacted] N Blackstock Rd Spartanburg SC 29301
Street City State Zip Code

And the above vehicle is free of all liens and encumbrances in the buyer's name except:

(List here any mortgages, liens, or encumbrances)

Sale price of vehicle \$ 4600
Less trade-in \$ _____
Taxable Total \$ _____

I state that the odometer now reads _____ (no tenths) miles and to the best of my knowledge that it reflects the ACTUAL MILEAGE of the vehicle described herein, UNLESS one of the following statements is checked.

STOP! DO NOT check one of the following unless it applies.

- The mileage stated is in excess of its mechanical limits.
(the odometer started at zero again)
- The odometer reading is not the ACTUAL mileage. WARNING: ODOMETER DISCREPANCY.

WARNING: Federal and state law requires that you state the mileage in connection with the transfer of ownership. Failure to complete or providing a false statement may result in fines and/or imprisonment.

Kelle Jones 8-21-16
Signature(s) of Buyer(s) Date

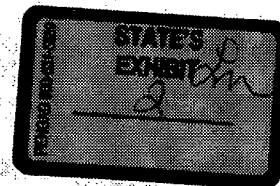
Jennifer Stafford 8-21-16
Signature(s) of Seller(s) Date

Kelle Jones 8-21-16
Hand Print Name(s) of Buyer(s)

Jennifer Stafford
Hand Print Name(s) of Seller(s)

Return to: South Carolina Department of Motor Vehicles
PO Box 1498
Blythewood, SC 29016-0024

ANY ALTERATIONS OR ERASURE VOIDS THIS DOCUMENT.
ORIGINALS MUST BE SUBMITTED TO THE DEPARTMENT.



SPARTANBURG COUNTY SHERIFFS DEPARTMENT
Spartanburg, South Carolina

CASE NUMBER
17 01 0735

PRE-INTERROGATION WAIVER FORM

Name Carlton Weatheris Address [Redacted] Compens Clifton Rd

Age 42 Date 1/31/17 Time 1:25pm

Location 950 California Ave

- 1. I have the right to remain silent.
- 2. Anything I say can and will be used against me in a court of law.
- 3. I have the right to talk to a lawyer and to have him present with me while I am being questioned.
- 4. If I cannot afford to hire a lawyer, one will be appointed to represent me before any questioning, if I so wish.
- 5. I have the right to stop answering questions at any point in the questioning.

The above rights have been read to me by Det + G. Cash

I have read same and I understand my rights fully.

Witness [Signature] Signed Carlton Weatheris

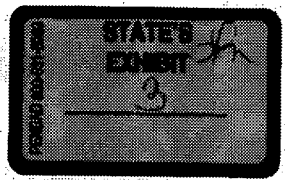
I waive (give up) my rights as explained above and agree to talk to officer G. Cash
in reference to Traffic / Breach of Trust
(CASES OR CHARGES) and my statement that I may make is of my own free will, without fear, threat or promise or favor or reward of any kind.

I am able to read and write the English Language and finished 9 years in school.

Witnessed [Signature] Signed Carlton Weatheris

Notarized _____

Expiration Date _____



CASE#	17210735	VOLUNTARY STATEMENT	PAGE	of 1
STATEMENT OF:	Carlton Weathers	AGE:	42	DATE: 1/31/12
ADDRESS:	[Redacted] Compens Clifton			
PHONE #	[Redacted] 6374	DOB:	[Redacted] -74	SSN:

Back in December 2012 I Carlton Weathers did some work for a guy name Marko and he paid my Cousin \$100 for us to haul off some cloth. When we got to the land filed it was closed so we took the trailer and the stuff back and dropped it at his place on black stick Rd. Dean Robbs & Candice Turner was with me when this happened
 L.O.S.

I have read this statement consisting of 1 page(s), and I swear that the statement that I have just given is the truth, the whole truth, and nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement.

This statement was completed at 1:45 P M. on the 31st day of Jan 20 12.

WITNESS: [Signature]

[Signature]
 Signature of person giving voluntary statement

SWORN to before me this _____ day of _____, 20__.

(Seal)
 Notary Public of South Carolina
 My Commission expires: _____

CASE# 17010735 VOLUNTARY STATEMENT PAGE 1 of 1
 STATEMENT OF: MARCUS RONDAUL JONES AGE: 46 DATE: 01-23-17
 ADDRESS: PHONE # DOB: SSN:

I, MARCUS JONES, AM GIVING DETECTIVE HEYDIE A WRITTEN STATEMENT AT 8045 HOWARD ST. SP688

I contacted Gator & ^{asked} if him & Big D would come haul off some big bates that needed to go to the landfill and I would let him use my tilt trailer. They were 3 hours late but finally showed up. I had already loaded the trailer & I gave them \$100 and they left. All that night & up to lunch time the next day he avoided my calls. Big D (Dustin) called me & told me they had a flat tire on the trailer so Gator took him home. After a week or so he finally gives me a call & said his vehicle had a flat tire. I had attempted to collect the trailer from him at his home several times but everytime I showed it wasn't there he said it was at a friends house & too late to get. My wife & I drove up a couple days later to collect trailer & said we were close he texted & said trailer "not here"

I have read this statement consisting of 1 pages(s), and I swear that the statement that I have just given is the truth, the whole truth, and nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement.

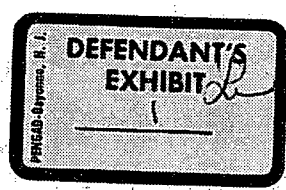
This statement was completed at 1:30 P M. on the 23 day of JANUARY 2017

WITNESS: _____

Marcus R Jones
 Signature of person giving voluntary statement

SWORN to before me this _____ day of _____, 20____

(Seal)
 Notary Public of South Carolina
 My Commission expires: _____





South Carolina Department of Motor Vehicles

BILL OF SALE

(Must be Typed or Printed in Black Ink)

4031
(Rev. 6/15)

FOR DEPARTMENT USE ONLY

Check One:

Purchase License Plate

Transfer License Plate

I, Jennifer Stafford

Seller

[Redacted] Country Side Dr Pawlet SC 29372

Street City State Zip Code

state that on the 20 day of August Yr. 2016 The following vehicle:

MAKE Trailer MODEL 6x12' BODY TYPE tilt YEAR 2016/8/2

VEHICLE IDENTIFICATION NO. 016KMJ21 LICENSE PLATE NO. _____

was sold to Kelle Jones

Buyer

[Redacted] N Blackstone Rd Spartanburg SC 29301

Street City State Zip Code

And the above vehicle is free of all liens and encumbrances in the buyer's name except:

(List here any mortgages, liens, or encumbrances)

Sale price of vehicle _____ \$ 4600

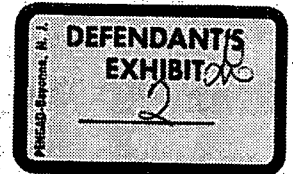
Less trade-in _____ \$ _____

Taxable Total _____ \$ _____

I state that the odometer now reads _____ (no tenths) miles and to the best of my knowledge that it reflects the ACTUAL MILEAGE of the vehicle described herein, UNLESS one of the following statements is checked.

STOP! DO NOT check one of the following unless it applies.

- The mileage stated is in excess of its mechanical limits.
(the odometer started at zero again)
- The odometer reading is not the ACTUAL mileage. WARNING: ODOMETER DISCREPANCY.



WARNING: Federal and state law requires that you state the mileage in connection with the transfer of ownership. Failure to complete or providing a false statement may result in fines and/or imprisonment.

Kelle Jones 8-21-16

Signature(s) of Buyer(s) Date

Jennifer Stafford 8-21-16

Signature(s) of Seller(s) Date

Kelle Jones 8-21-16

Hand Print Name(s) of Buyer(s)

Jennifer Stafford

Hand Print Name(s) of Seller(s)

Return to: South Carolina Department of Motor Vehicles
PO Box 1498
Blythewood, SC 29016-0024

ANY ALTERATIONS OR ERASURE VOIDS THIS DOCUMENT.
ORIGINALS MUST BE SUBMITTED TO THE DEPARTMENT.

MAY WE HEAR THE DETECTIVES
TESTIMONY AGAIN? (BOTH)

JQ

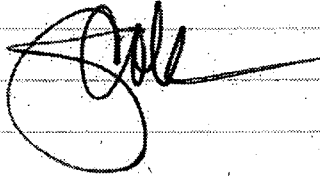
any more of
a reasonable
question?

h
Court's
Exhibit
1

THE JURY WOULD LIKE TO
SEE THE REPORTS FROM BOTH
DETECTIVES.

JQ

The reports were
not introduced as
evidence.

A handwritten signature in black ink, consisting of a large, stylized initial 'S' followed by a horizontal line extending to the right.

THE JURY WOULD LIKE TO READ THE
TESTIMONY OF MARCUS JONES. IF NOT
POSSIBLE, WE WOULD LIKE TO HEAR IT
AGAIN.

JQ



STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

AUG 18 2017

At a Court of General Sessions, convened on _____, the Grand Jurors of Spartanburg County present upon their oath:

BREACH OF TRUST

That Carlon Weathers did in Spartanburg County on or about January 16, 2017, having been entrusted by the owners, Marcus and Kelle Jones, with the care, keeping, and/or possession of certain property, described as follows: a black utility trailer valued at more than Two Thousand Dollars but less than ten thousand dollars, convert and/or appropriate such property to his or her own use and purposes, with the fraudulent intent to deprive the owner of the use thereof, in violation of §16-13-230 (B)(2) and 16-01-0057, THE CODE OF LAWS OF SOUTH CAROLINA (1976), as amended.

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


 ASSISTANT SOLICITOR

WITNESSES

Spartanburg County Sheriff's Office

Kevin [Signature]

ARREST WARRANT NUMBER

2017A4210100276

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date:

VERDICT

GUILTY

Foreperson of Petit Jury
Date: MARCH 14, 2018

DOCKET NO.

17-CC-42-4163

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 21 2017

TERM

THE STATE

vs.

Carlton Eugene Weathers

Indictment for

BREACH OF TRUST

SC Code: 16-13-0230 (B)(2)

CDR Code: 3590

Class: FELJE

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS.

INDICTMENT/CASE#: 2017GS4204163

Carlton Eugene Weathers Jr.

A/W#: 2017A4210100276

AKA:

Date of Offense: 1/16/2017

Race: WHITE Sex: M Age: 43

S.C. Code §: 16-13-0230(A)

DOB: [REDACTED] SS#: [REDACTED]

CDR Code #: 3590

Address: [REDACTED] Coupons Clifton Rd

City, State, Zip: Spartanburg, SC 29307

DL#: 004173739 SID#: [REDACTED]

*CDL Yes No CMV Yes No Hazmat Yes No

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

CONVICTED OF or PLEADS

TO: Breach of trust with fraudulent intent, value more than \$2,000 but less than \$10,000 (Enhancement per 16-1-57)

in violation of § 16-13-0230(A) of the S.C. Code of Laws, bearing CDR Code # 3590

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury (defendant's initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State

A. MCFARLAND, ELIZABETH H. SC Bar# 101753 *Carlton Weathers* Defendant *Elizabeth H. MCFarland* Attorney for Defendant SC Bar# 65074

WHEREFORE, the Defendant is committed to the: State Department of Corrections, County Detention Center,

for a determinate term of 10 ~~days~~ months/years or under the Youthful Offender Act not to exceed ___ years

and/or to pay a fine of \$ ___ provided that upon the service of ___ days/months/years and/or payment

of \$ ___ plus costs and assessments as applicable*; the balance is suspended with probation for ___

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of

probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: *recommend restitution as a condition*

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied

by the State Department of Corrections;

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

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic

Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Forfeited Def. Waives Hearing Ordered

Total: \$ 4600 plus 20% fee: \$

Payment Term: Set by SCDPPPS

Recipient: _____

*Fine:	\$	\$
14-1-206 (Assessments 107.5%)	\$	\$
14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
14-1-211(A)(2) (DUI Surcharge)	\$100	\$
56-5-2995 (DUI Assessment)	\$12	\$
56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
14-1-213 (Drug Court Surcharge)	\$150	\$
50-21-114(DUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
1% to County (if paid in installments)		\$ 3.75
TOTAL		\$ 128.75

PTUP _____ day/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund.

Other: _____

Appointed PD or appointed other counsel,

Proviso 61.6 requires \$500 be paid to Clerk

during probation and shall be collected before

any other fees.

Clerk of Court/Deputy Clerk: *C. Poole*

Court Reporter: *Moffitt*

SCCA 217 (07/2016)

Presiding Judge: *[Signature]*

Judge Code: 2053

Sentence Date: 3/14/18

CERTIFICATE OF COUNSEL FOR APPELLANT

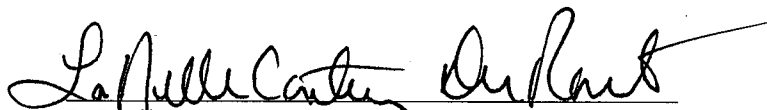
Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

NOV 20 2018

SC Court of Appeals



LaNelle Cantey DuRant
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 20th day of November, 2018.