

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SPARTANBURG COUNTY
COURT OF COMMON PLEAS
R. Keith Kelly, Circuit Court Judge

Appellate Case No. 2017-002526

Janice Pitts, Appellant,

v.

Gerald Pitts, Respondent.

RECORD ON APPEAL

RECEIVED

NOV 16 2018

SC Court of Appeals

Gerald Pitts
311 Wilkie Ford Road
Inman, SC 29349
Respondent

J. Falkner Wilkes, 12893
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292
Counsel for Appellant

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SPARTANBURG COUNTY
COURT OF COMMON PLEAS
R. Keith Kelly, Circuit Court Judge

Appellate Case No. 2017-002526

Janice Pitts, Appellant,

v.

Gerald Pitts, Respondent.

RECORD ON APPEAL

Gerald Pitts
311 Wilkie Ford Road
Inman, SC 29349
Respondent

J. Falkner Wilkes, 12893
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292
Counsel for Appellant

Index

Order Form 4	1
Magistrate Return	5
Summons Claim Delivery Complaint Affidavit	7
Transcript Magistrate Court	12
Transcript Circuit Court	95
Certificates	last

FORM 4

**STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG
IN THE COURT OF COMMON PLEAS**

**JUDGMENT IN A CIVIL CASE
CASE NUMBER 2017CP4202897**

Janice Pitts		Gerald Pitts	
---------------------	--	---------------------	--

PLAINTIFF(S)	DEFENDANT(S)
Submitted by:	Attorney for: ☐ Plaintiff ☐ Defendant ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit)
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☒ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☒ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order: _____

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

For Clerk of Court Office Use Only

Janice Pitts [REDACTED]

Gerald Pitts [REDACTED]
Gerald Pitts [REDACTED]

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

SIGNATURE PAGE TO FOLLOW



Spartanburg Common Pleas

Case Caption: Janice Pitts VS Gerald Pitts

Case Number: 2017CP4202897

Type: Order/Form 4

It is so Ordered.

s/ R. Keith Kelly - 2165

Electronically signed on 2017-11-03 15:07:23 page 3 of 3

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG

GERALD PITTS
Plaintiff

v.

JANICE PITTS
Defendant

MAGISTRATE'S RETURN
2017-CP-42-2897
2017CV4210700092

2017 SEP -1 PM 1:55
CLEANED
SPARTANBURG COUNTY

Constable James Venczel served the defendant on August 4, 2017 at 8:30 pm.

This matter was before the Court on August 15, 2017 as a claim and delivery action. The plaintiff claims the defendant is holding a Harley Davidson motorcycle and tools belonging to the plaintiff. He claims they had a verbal agreement and she is now trying to go back on the agreement and make him pay more to get the motorcycle back.

The plaintiff, Mr. Pitts was the first to testify. Mr. Pitts stated that Ms. Pitts evicted him and when he returned to his building to get his "stuff" it wasn't in the building. Mr. Pitts was referring to his tools. He stated he went to prison and when he got out he put the motorcycle in the shop to get it "road ready". He didn't have the money to get it out so he asked Ms. Pitts if she would get the motorcycle out of the shop for him. He told her he would repay her. Mr. Pitts stated that Ms. Pitts said she would get the motorcycle out of the shop if Mr. Pitts would put it in her name until he paid her back for the repair bill. He said he would do that and signed the title over to her. He said the bill was around \$1120. Mr. Pitts stated when he got ready to pay her back Ms. Pitts told him she couldn't find the title. He said this went on and on. He said she had him served with eviction papers and that he had to pay her \$5000 before he would get the motorcycle back. After that he moved out. Mr. Pitts stated this was a verbal agreement and the agreement was for him to sign the title of the motorcycle over to Ms. Pitts until he got the money to reimburse her for the repair bill but when he got his money together Ms. Pitts would not let him have the motorcycle back until he paid her \$5000. He said she told him the extra money he owed was for money she sent him while he was in prison. The tools were left in her building and she told him she put them in his building but when he went to move his building, they were gone.

Carla Pitts was the next witness for Mr. Pitts. This is his and Ms. Pitts daughter. Mr. Pitts asked Carla if she was familiar with the agreement about the motorcycle. Carla stated she did know about the agreement. She said when Mr. Pitts got out of prison Ms. Pitts agreed to get the motorcycle ready for him but Carla did not know the specific about of the repairs but she knew they both made the agreement and the motorcycle would be put in Ms. Pitts name as a guarantee the Mr. Pitts would pay Ms. Pitts back. After Mr. Pitts moved out Carla went back to Ms. Pitts house and noticed the motorcycle was gone and asked Ms. Pitts where the motorcycle was and Ms. Pitts told her it wasn't any of her business. Carla stated that when they were there with the police officer Mr. Pitts tried to pay Ms. Pitts again for the motorcycle but Ms. Pitts told him he had to pay her \$5000 but that was never mentioned when they were getting the motorcycle fixed.

Ms. Pitts began questioning Carla by asking her if she has always favored her father. Carla stated that he has always been there for her. Ms. Pitts said haven't I been there for you and Carla said yes. Ms. Pitts asked Carla what was the only way for Mr. Pitts to get out of prison. Carla said he had to have a place to

live. Ms. Pitts said did I want him to live with me? Carla stated Ms. Pitts said he could live with her until he got back on his feet. Ms. Pitts said she did it for her children. Ms. Pitts asked Carla if she was around when the agreement was made about the motorcycle or does she only know what her father has told her. Carla stated that she has lived in that house with them and knew what agreement was. Carla stated she did not know what the amount was but it was for whatever it took to get the motorcycle "road ready". I asked Carla if she understood the agreement to be a loan for getting the motorcycle ready or for all of the money Ms. Pitts had spent on Mr. Pitts. Carla stated it was just for the repairs to the motorcycle. There was testimony about Ms. Pitts hiring lawyers for Mr. Pitts. Carla went on to say that her father paid \$700 a month rent and that Ms. Pitts told her that she had a list of things for Mr. Pitts to do around the house to pay back the money she had spent on him and for his attorney fees.

Ms. Pitts began testifying by trying to enter into evidence Mr. Pitts criminal history. I would not look at it nor accept it into evidence explaining to Ms. Pitts that would be prejudicial towards Mr. Pitts and had nothing to do with the case before me. Ms. Pitts stated Mr. Pitts put the motorcycle in her name to pay her back for all she had spent on him. She said she spent more than \$5000 but stopped at \$5000. She presented copies of check stubs for attorneys. One was for Keith Kelly for \$600 but he couldn't represent Mr. Pitts and referred them to Scott Talley. She said Mr. Kelly ran a criminal history but she didn't get any of her money back. She paid Scott Talley \$500 but he couldn't represent him due to conflict of interest and that she didn't get any of that money refunded. She paid Turnipseed and Brannon \$250. Ms. Pitts showed a copy of the motorcycle invoice for \$1160. Ms. Pitts said she paid fines plus \$1300 reinstatement fees and insurance for Mr. Pitts to get his license back. Ms. Pitts stated Mr. Pitts agreed to pay her back all of the money she spent on him to get the motorcycle back.

Others testified but there was nothing relevant to add to the case concerning the motorcycle.

The agreement that Mr. and Ms. Pitts entered into was a verbal agreement so I had to decide based on testimony and who was the most credible. After reviewing the testimony of all witnesses, I believed the testimony of the Carla Pitts, the plaintiff and defendant's daughter to be credible. I believe the original agreement was for Ms. Pitts to pay to get the motorcycle "road ready" and Mr. Pitts would put the title into Ms. Pitts name until he could pay her back for getting it "road ready". I believe Ms. Pitts, after evicting Mr. Pitts, wants him to pay her back for everything she spent on him, however, I don't believe that was the original agreement. Carla Pitts was put in the middle of something I don't believe she wants to be in the middle of, an agreement between her parents. This was one word against the other except for the daughter, who lived in the home during some of this time when the agreement was made and testified that both parents talked to her about the specifics of the agreement.

I ruled that Ms. Pitts return the motorcycle back to Mr. Pitts and for Mr. Pitts to pay Ms. Pitts \$1160 repair fee plus \$100 tag and tax fee Ms. Pitts paid. He was to have \$1260 in cash and she was to deliver the motorcycle the following Tuesday morning. I told Ms. Pitts I understood that she has spent more money on Mr. Pitts and if she wanted to sue him for all she has spent on him she could file a summons and complaint but I had to rule on what the agreement was for the motorcycle. I explained the tools were gone and no one really knew what happened to the tools so I could not order them to be returned.

I have attached a copy of the recorded proceedings in this matter. If you need anything else from this office, please contact me at 864-457-7245.

Respectfully submitted,

Tina G. McMillan

August 29, 2017
Spartanburg, South Carolina

Tina G. McMillan
Magistrate Judge

CLERK OF COURT
SPARTANBURG COUNTY
2017 SEP -1 PM 1:55
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

2017CV4210700092

CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT

SUMMONS
CLAIM AND DELIVERY

Gerald Pitts
140 Mcmillan Lane
Campobello, SC 29322
(864) 205-3881
PLAINTIFF(S)

Vs

Janice Pitts
27 Lude Johnson Blvd
Campobello, SC 29322
DEFENDANT(S)

TO THE DEFENDANT(S) NAMED ABOVE:

YOU ARE SUMMONED to be and appear personally in the

Landrum Magistrate
104 East Tucker Street, Suite A
Landrum, SC

on August 15, 2017 at 3:00 PM.

Failure to Appear at the time and place herein mentioned will result in the Plaintiff being granted judgment for the possession of said property, or if possession cannot be had, for judgment in the amount of 7500.00, together with the cost and disbursement of the action.

Given under my hand:


JUDGE

August 2, 2017

CLERK OF COURT
SPARTANBURG COUNTY
2017 AUG 18 PM 1:17
M. HOPE BLACKLEY

Wed 4-9
Thur -

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

2017CV4210700092
CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT
ORDER RESTRAINING DAMAGING
CONCEALING OR REMOVING
PROPERTY PENDING TRIAL
CONSUMER CREDIT TRANSACTION

Gerald Pitts
140 Mcmillan Lane
Campobello, SC 29322
(864) 205-3881

PLAINTIFF(S)

Vs

Janice Pitts
[REDACTED]

DEFENDANT(S)

To the Defendant(s):

Janice Pitts

In the attached Complaint, Plaintiff seeks to enforce a security interest by seizure and sale of certain personal property to collect a debt. The property is described as follows:

1998 Harley Davidson soft tail motorcycle
see attached list of tools

Plaintiff is not demanding a pre-trial immediate seizure of the property, therefore, the property shall remain in your possession and this Order shall remain in effect pending a final trial on the claims of the Plaintiff as set forth in the Complaint.

IT IS THEREFORE ORDERED THAT:

YOU ARE RESTRAINED FROM DAMAGING, CONCEALING OR REMOVING THE PROPERTY FROM ITS PRESENT LOCATION AS PROVIDED IN SEC. 22-3-1370, SC CODE OF LAWS. VIOLATION OF THIS ORDER SHALL SUBJECT YOU TO A FINE OF \$100.00 PLUS COSTS OR A TERM OF IMPRISONMENT UP TO THIRTY (30) DAYS.

Dated: August 2, 2017

2 Mcmillan
JUDGE

Landrum Magistrate
104 East Tucker Street, Suite A
Landrum, SC 29356
Phone: (864) 457-7245
Fax: (864) 457-7245

5962565

IN THE LANDRUM MAGISTRATE
INSTRUCTIONS FOR TRIALS

1. It is the responsibility of each party to bring any witnesses and other evidence which they wish the Court to consider.
2. The Court does not accept written statements or estimates, even notarized ones.
3. The Court does not telephone witnesses to take testimony.
4. The Court cannot continue a case because a witness isn't present unless the witness is under subpoena.
5. The Court will issue subpoenas to witnesses if you advise the Court of the name, address and phone number of the witnesses at least four (4) working days before the trial date. **THERE IS AN ADDITIONAL FEE OF \$3.00 FOR THE MAGISTRATE TO PREPARE AND MAIL THE SUBPOENA. IF THE SUBPOENA MUST BE SERVED BY A DEPUTY, THERE IS AN ADDITIONAL \$8.00 FEE THAT MUST BE PAID TO THE COURT FOR SERVICE OF THE SUBPOENA.**
6. The parties should meet 15 minutes before Court time to exchange copies of any documents they plan to use; to show each other any photographs and/or exhibits they plan to use and to discuss possible settlement of their differences.
7. If an emergency arises (not mere inconvenience) and you cannot be in Court on the scheduled date, you must notify the Court immediately.
8. Proper attire is required to enter the Courtroom. **NO SHORTS, HATS, FLIP FLOPS, CUT OFF SHIRTS, TANK TOPS, PAJAMAS, OR SAGGING PANTS. CELL PHONES MUST BE TURNED OFF.** All bags and purses are subject to be searched. You must check in before entering the Courtroom. Identification will be requested if you intend to enter the Courtroom.
9. If you are a business and are going to be represented by a Non-Lawyer, a Non-Lawyer Authorization Form must be filed with the court. (See 33-1-103 SC Code of Laws)
10. Any evidence on an electronic device should be converted to a format (written, CD, etc.) for the court to keep in evidence. If you present your electronic device with evidence on a device, it may be kept by the court during trial and pending any appeals.

CLERK OF COURT
SPARLAND COUNTY
2017 AUG 18 PM 1:17
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

2017CV4210700092
CIVIL CASE NUMBER
IN THE MAGISTRATE'S COURT

Gerald Pitts

FF(S)

AFFIDAVIT AND COMPLAINT
(Claim & Delivery)

VS.
Janice Pitts

ANT(S)

Plaintiff, Gerald Pitts personally appearing before me, who being duly sworn, states the following

- \$ 1,000
- The plaintiff is the owner, or is entitled to possession, of the property described below. (Give detailed description of each item)
1998 Harley Davidson, Soft-tail vin# 1HD1BRL42WY02441 + See attached
 - The property described above is being wrongfully withheld by the defendant
 - To the best knowledge of the plaintiff, the property is being withheld by the defendant because:
Claims Gerald owes her \$5,000 for Harley. Claims she does not have to
 - The property was/was not taken from the ownership or possession of the plaintiff due to any tax, fine or assessment (and if so seized, it should not have been by virtue of its exempt status)
 - The actual value of the above described property is: (Itemize and give total if more than one item involved)
*TOTAL \$ 7,500.00

That this amount has been determined in the following manner, to wit:

- That the Notice of Right to Cure as required by Section 37-5-110 and Section 37-5-111, Code of laws of South Carolina, as amended, has been given on _____ (is not required)

DATED _____

Sworn to before me,
this 2nd day of August, 2017

Magistrate or Notary Public for South Carolina

My Commission expires _____

Gerald Pitts
Plaintiff (or his attorney or agent)

FOR COURT USE ONLY
ENDORSEMENT OF DISPOSSESSION

Based upon the showing of plaintiff made by affidavit and

(☐ "hearing held and date" or ☐ "no other")

the court hereby directs the constable to immediately take possession of the above described personal property from the defendant and to

- ☐ retain protective possession of the personal property until otherwise instructed by the Court
☐ deliver possession of the personal property to _____

IT IS SO ORDERED

Magistrate

Dated _____

26 (Amended 05/2008)

value

\$

These I do not have

150.00 porter cable Set: Impact ^{drill} ~~Set~~, Saw, light

\$150.00 craftsman impact 1/2 inch 18.5 volt

↓ Craftsman impact 18.5 volt

\$25.00 Battery charger

I had a charger that was left by
Gid was not his.

\$40.00 True temper wheelbarrow - Belong to me

\$200.00 Murray Wide Body - green (lawn mower) Belong to me

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2017 AUG 18 PM 1:17
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA) 2017CV4210700092
) Civil Case Number
 COUNTY OF SPARTANBURG)
) IN THE MAGISTRATE COURT
 GERALD PITTS)
 [REDACTED])
 [REDACTED])
 Plaintiff,)
 Vs.)
 JANICE PITTS)
 [REDACTED])
 [REDACTED])
 Defendant.)

HEARING TRANSCRIPT

A Hearing taken in the aforementioned matter was heard before the Honorable Judge Tina Mcmillan, at Landrum Magistrate, 104 East Tucker Road, Suite A, Landrum, South Carolina, on the 15th day of August, 2017.

LEGAL EAGLE
 Post Office Box 5682
 Greenville, South Carolina 29606
 864-587-7050 or 864-467-1373
 depos@legaleagleinc.com

APPEARANCES:

Gerald Pitts,

[REDACTED]

[REDACTED]

Plaintiff,

Janice Pitts,

[REDACTED]

[REDACTED]

Defendant.

Witnesses On Behalf of Gerald Pitts:

Randy Grigg, Gene Blackwell, Carla Pitts

Witnesses on Behalf of Janice Pitts:

Cindy Turner, Rebecca Greenway

INDEX

	Page
STIPULATION OF THE COURT.....	4
TESTIMONY OF GERALD CARL PITTS	
Examination by The Court.....	6
Cross-Examination by Ms. Pitts.....	10

TESTIMONY OF GENE BLACKWELL

Direct Examination by Mr. Pitts.....	12
Cross-Examination by Ms. Pitts.....	13
Redirect Examination by Mr. Pitts.....	15

TESTIMONY OF RANDY GRIGG

Direct Examination by Mr. Pitts.....	17
Cross-Examination by Ms. Pitts.....	18

TESTIMONY OF CARLA PITTS

Direct Examination by Mr. Pitts.....	19
Cross-Examination by Ms. Pitts.....	21
Examination by The Court.....	24
Recross-Examination by Ms. Pitts.....	26
Redirect Examination by Mr. Pitts.....	29
Re-Recross Examination by Ms. Pitts.....	29
Re-Re-Recross Examination by Ms. Pitts.....	60
Re-Examination by The Court.....	64

TESTIMONY OF JANICE PITTS

Examination by The Court.....	31
Cross-Examination by Mr. Pitts.....	40
Re-Examination by The Court.....	42

TESTIMONY OF REBECCA GREENWAY

Direct Examination by Ms. Pitts.....	45
--------------------------------------	----

TESTIMONY OF CINDY TURNER

Direct Examination by Ms. Pitts.....	47
Certification of Court Reporter.....	83

1 THE COURT:

2 This is case number 2017CV4210700092, Gerald Pitts
3 seeking a Claim & Delivery against Janice Pitts for
4 a 1998 Harley-Davidson Softail motorcycle and
5 attached a list of tools. Okay. Mr. Pitts, you
6 filed this suit so the burden of proof is going to
7 be on you that she has your stuff. Okay. You'll
8 testify first. After you testify Ms. Pitts will
9 get a chance to ask you any questions. I'm going
10 to tell everybody who plans on testifying in here
11 there will be no disrespect in this Court. If you
12 disrespect each other you're still disrespecting
13 this Court. As soon as that happens I'm going to
14 find you in contempt and you're going to either
15 give me \$1,087 or you're going to spend 30 days in
16 jail. You don't have to like what the other person
17 says, but you're not going to call them names.
18 You're not going to call them liars. You're just
19 going to let me decide who is telling the truth and
20 who's not. You don't have to like the end results
21 of this, but if you smart off and act ugly you're
22 going to jail. Okay. I understand there's hard
23 feelings or you wouldn't be here if everybody got
24 along, so we're going to get along in here for the
25 next little while anyway. All right. So, Mr.

1 Pitts, after you testify Ms. Pitts is going to get
2 a chance to ask questions. When it's question and
3 answer time I need you to understand it's
4 questions; who, what, when, where, and why
5 questions. It's not time to make accusations.
6 It's not time to tell each other you're not telling
7 the truth or you don't like each other. It's time
8 to simply ask questions. When she asks you a
9 question answer the question. After that's over
10 with you'll get a chance to call any of these
11 witnesses you want to testify. After you've asked
12 them their questions, Ms. Pitts, you'll get a
13 chance to ask them questions. Okay. After you
14 finish your side, Ms. Pitts, it will be your turn
15 to testify then. What happens a lot of times when
16 it's your question time that's when you'll want to
17 testify and I'm going to stop you because that's
18 going to be your question time. And I understand
19 most of you haven't been in a court and these
20 proceedings before so we're going to talk through
21 it. And it's okay. I don't mind interrupting and
22 saying let's just ask questions. That's fine.
23 We'll get through it. Next it will be your turn to
24 testify. After you testify Mr. Pitts will get to
25 ask you any questions. I need everybody to

1 understand you're under oath when you're up here so
2 tell the truth. Mr. Pitts, again, when it's time
3 to ask questions ask questions. Okay. And after -
4 - Ms. Pitts, after you've finished you'll get a
5 chance to call any witnesses if you have any.
6 Okay. Any witnesses Mr. Pitts will get a chance to
7 ask you any questions when Ms. Pitts is finished.
8 If you get confused on any of this we'll get
9 through it together. So, Mr. Pitts, do you
10 understand the rules?

11 MR. PITTS:

12 Yes, ma'am.

13 THE COURT:

14 Ms. Pitts, do you understand the rules?

15 MS. PITTS:

16 Yes, ma'am.

17 THE COURT:

18 Okay. Mr. Pitts, if you will raise your right
19 hand.

20 GERALD PITTS, being duly sworn to tell the truth, the
21 whole truth, and nothing but the truth of his own
22 knowledge concerning the matter herein, testified as
23 follows:

24 Examination by The Court:

25 Q. Okay. Stand up and tell me what's going on.

- 1 A. Well, I got an eviction notice from Ms. Pitts and I
2 went to move with The Court and all and I'm moving
3 my stuff out. And part of my -- well, my Dewalt
4 tools are gone. They was gone. My motorcycle. I
5 didn't get it. I've got a lawn mower. I didn't
6 get it. I've got several different things I didn't
7 get and I don't know where they're at. They was
8 supposed to have been in my building and they
9 wasn't in there.
- 10 Q. Okay. Tell me about the motorcycle.
- 11 A. Well, the bike when I was -- I did some time. When
12 I did the time I got out and put the motorcycle in
13 the shop.
- 14 Q. Not her shop, a repair shop?
- 15 A. No, a repair shop.
- 16 Q. Okay.
- 17 A. They put tires, tuned it up and first one thing and
18 then another. They got it road ready. I didn't
19 have the money to get it out. I asked Janice, I
20 said, "You know if you want to get the bike out for
21 me I'll repay you," and she said, "If you'll put it
22 in my name until you pay me back." And so that's
23 what I did. And --
- 24 Q. And how much was that?
- 25 A. It was 1,120 some odd dollars if I ain't mistaken.

1 Anyway when I got ready to pay her back she said
2 she could not find the title. So it went on and
3 went on and she never did find the title and when I
4 got served the papers to move she said that I owed
5 her more than that. I owed her \$5,000. And I went
6 from there and I just moved everything -- what I
7 had left I moved it out from over there.

8 Q. Okay. So you had a verbal agreement?

9 A. Yes, ma'am.

10 Q. Okay. And tell me the agreement one more time.
11 What was the agreement?

12 A. The agreement was she would get my motorcycle out
13 of the shop and I put it in her name until -- she
14 told me when I had reimbursed her that she would
15 give me my motorcycle back.

16 Q. Okay. You're here for a Claim & Delivery. So did
17 you reimburse her?

18 A. No, she said I -- she said she didn't have the
19 title. And I tried to reimburse her two or three
20 times. I've got witnesses to that. And the last
21 time I tried -- when I was moving my stuff the
22 officer was over there and I told her I had her
23 money if she would give me my bike. And she said,
24 "No, you owe me more money than that. You owe me
25 \$5,000."

- 1 Q. Do you know what the 5,000 was for?
- 2 A. She said it was for when I was in prison what money
- 3 she had sent me.
- 4 Q. Okay. But the repair to the bike was 11 to \$1,200?
- 5 A. 11 -- 1,120 some odd dollars if I ain't mistaken.
- 6 Q. Okay. Now, tell me about the tools. You just know
- 7 they were left --
- 8 A. Yes.
- 9 Q. -- when you moved out?
- 10 A. They were in the shop down there in her middle
- 11 building and she had moved everything over into my
- 12 storage building that I have -- you know, that's
- 13 supposed to have been mine, but it wasn't in the
- 14 storage building. The tools weren't in there. I
- 15 had a spare tire I was needing for my daughter's
- 16 truck. It wasn't in there. Several different
- 17 things. I've got two china cabinets. They're
- 18 still gone. I didn't put them on that paper. Just
- 19 --
- 20 Q. So when you were evicted you were allowed to keep
- 21 your building there with stuff in it?
- 22 A. Yeah. Uh-huh (affirmative).
- 23 Q. Okay. Okay. But you don't know where the stuff
- 24 is?
- 25 A. No, ma'am.

1 Q. Okay. But was it in her building or your building
2 when you left?

3 A. It was in her building and she took -- she said she
4 took it out and put it in my building.

5 Q. Okay. So she had a key to your building?

6 A. Yes, ma'am.

7 Q. Okay. All right. What else?

8 A. That's all.

9 THE COURT:

10 All right. Ms. Pitts, do you have any questions
11 for Mr. Pitts?

12 MS. PITTS:

13 Yes.

14 Cross-Examination by Ms. Pitts:

15 Q. When you -- when we went to court with Judge Dover
16 just a few -- prior to this month the Judge gave
17 you to the 24th to get out. That was like two
18 weeks and then you said you needed more time and I
19 willingly told the Judge --

20 THE COURT:

21 Okay. What's the question. You're testifying.
22 What's the question?

23 Q. How do you get that it wasn't in there and that
24 tire wasn't in there?

25 A. I don't have them. It wasn't in there. The

1 officer seen it. Carla saw it.

2 Q. Okay.

3 THE COURT:

4 Do you have any more questions?

5 MS. PITTS:

6 No, ma'am.

7 THE COURT:

8 And what are you asking about what wasn't in there,
9 the tools?

10 MS. PITTS:

11 The tools and the tire.

12 THE COURT:

13 Okay.

14 MS. PITTS:

15 Yeah.

16 THE COURT:

17 Okay. All right. Any other questions?

18 MS. PITTS:

19 No, ma'am.

20 THE COURT:

21 Okay. Mr. Pitts, call your next witness.

22 MR. PITTS:

23 Gene Blackwell.

24 THE COURT:

25 Mr. Blackwell, come on up please.

1 GENE BLACKWELL, being duly sworn to tell the truth, the
2 whole truth, and nothing but the truth of his own
3 knowledge concerning the matter herein, testified as
4 follows:

5 THE COURT:

6 Have a seat and answer any questions from Mr.
7 Pitts, please.

8 Direct Examination by Mr. Pitts:

9 Q. Gene, the lawn mower that she won't let me have,
10 it's a Murray lawn mower. Can you tell the Judge
11 when I bought the lawn mower and all from you? Do
12 you remember it?

13 A. It's been probably a year and a half, two years
14 ago, something like that. It was a Murray. I
15 think 12.5 horsepower or something like that.

16 THE COURT:

17 Okay. You're asking about a lawn mower. Do we
18 have a lawn mower on the list?

19 MR. PITTS:

20 Yes, ma'am.

21 THE COURT:

22 Okay. And you purchased it from him?

23 MR. PITTS:

24 Yes, ma'am.

25 THE COURT:

1 Okay. There it is. All right.

2 MR. PITTS:

3 That's all. That's all I have.

4 THE COURT:

5 Okay. Ms. Pitts, do you have any questions?

6 Cross-Examination by Ms. Pitts:

7 Q. Gene, you are correct, you did sell him a lawn
8 mower.

9 THE COURT:

10 Questions.

11 Q. But did I not give you--all two riding -- push
12 mowers and a riding lawn mower in trade -- well, I
13 didn't you, him.

14 THE COURT:

15 Okay. What's the question?

16 Q. Did I not give you -- him two -- you handed him two
17 push mowers and a riding lawn mower?

18 A. I don't recall it.

19 Q. You don't recall going to Hendersonville, North
20 Carolina?

21 A. Oh, yeah.

22 Q. Okay.

23 MS. PITTS:

24 That's all, Your Honor.

25 THE COURT:

1 So you're saying for the Murray lawn mower you gave
2 three lawn mowers in trade for that?

3 MS. PITTS:

4 Yes, ma'am. Yes, ma'am.

5 THE COURT:

6 Okay.

7 MS. PITTS:

8 Or \$125 and he repairs lawn mowers, so I give him a
9 brand new -- just -- all he had to do with two of
10 them is just put a carburetor on it and a brand new
11 carburetor.

12 THE COURT:

13 Okay. We'll let you testify to that in a minute.

14 MS. PITTS:

15 Okay.

16 THE COURT:

17 Okay. So your question to him was did you trade
18 those three lawn mowers in for it; is that what
19 your question to him was?

20 MS. PITTS:

21 No, because he wasn't there when me and Gerald did
22 the trade.

23 THE COURT:

24 Okay. What's your question to him?

25 MS. PITTS:

1 Did he not get two push mowers and --

2 THE COURT:

3 Did he get two push mowers?

4 MS. PITTS:

5 Him and Gerald get two push mowers and a riding
6 lawn mower?

7 THE COURT:

8 Okay. And your answer to that was?

9 MR. BLACKWELL:

10 Yeah.

11 THE COURT:

12 Okay. Okay. Any more questions?

13 MS. PITTS:

14 That's all, Your Honor.

15 THE COURT:

16 All right. Any more questions?

17 MR. PITTS:

18 Yes, ma'am.

19 Redirect Examination by Mr. Pitts:

20 Q. Gene, the lawn mowers that we went to
21 Hendersonville and got they weren't nothing but
22 scrap; right?

23 THE COURT:

24 what's your question?

25 Q. They wasn't no new lawn mowers?

1 A. No, there wasn't none of them new.

2 MR. PITTS:

3 They had been sitting up there, Your Honor, for 15
4 or 20 years.

5 THE COURT:

6 Okay. Just ask him questions right now.

7 Q. Yeah, 15 or 20 years or something like that, scrap?

8 A. They was old lawn mowers, yeah. Two push ones and
9 a riding mower. The riding mower it was -- it had
10 been sitting a long time. I don't know how long,
11 but it had been sitting a long time.

12 THE COURT:

13 Okay. All right. Any more questions for this
14 witness on either side?

15 MR. PITTS:

16 That's it.

17 THE COURT:

18 All right. You may step down. Mr. Pitts, call
19 your next witness, please.

20 MR. PITTS:

21 Randy Grigg.

22 THE COURT:

23 State your name for the record, please. What's
24 your name?

25 MR. GRIGG:

1 Randy Grigg, G-r-i-g-g.

2 RANDY GRIGG, being duly sworn to tell the truth, the
3 whole truth, and nothing but the truth of his own
4 knowledge concerning the matter herein, testified as
5 follows:

6 THE COURT:

7 All right. Answer any questions from Mr. Pitts,
8 please.

9 Direct Examination by Mr. Pitts:

10 Q. Randy, do you know Janice?

11 A. Yeah.

12 Q. How long have you known Janice?

13 A. Probably 20 year.

14 Q. Twenty year. Was you married to Janice?

15 A. Yeah.

16 Q. What kind of -- when you-all separated what kind of
17 ordeal did you have to go through, Randy?

18 A. I had to go through a good bit.

19 Q. Huh?

20 A. I sure did. I had to go through a good bit.

21 Q. Did she keep any of your stuff?

22 A. Yeah.

23 Q. Quite a bit?

24 A. Do what?

25 Q. Quite a bit of it; right?

1 A. Yeah.

2 Q. Okay.

3 MR. PITTS:

4 That's all, Your Honor.

5 THE COURT:

6 Any questions, Ms. Pitts?

7 MS. PITTS:

8 Yes, ma'am.

9 Cross-Examination by Ms. Pitts:

10 Q. Randy, we got married; correct?

11 A. Yeah.

12 Q. And when we got married you left and I never heard
13 from you again for ten years; correct?

14 A. Yeah.

15 Q. And you remarried to another woman; correct?

16 A. I am now.

17 Q. You had to get it annulled; correct?

18 A. Yeah.

19 Q. Okay.

20 MS. PITTS:

21 That's all, Your Honor.

22 THE COURT:

23 Okay. Any more questions from either side.

24 MR. PITTS:

25 No, ma'am.

1 THE COURT:

2 All right. You can step down. Mr. Pitts, call
3 your next witness.

4 MR. PITTS:

5 Carla Pitts.

6 CARLA PITTS, being duly sworn to tell the truth, the
7 whole truth, and nothing but the truth of her own
8 knowledge concerning the matter herein, testified as
9 follows:

10 Direct Examination by Mr. Pitts:

11 Q. Carla, when we was emptying the storage building
12 out do you recall seeing any kind of impact tools
13 or anything like that there?

14 A. No.

15 Q. A spare tire, an aluminum wheel and tire for the
16 Dodge truck?

17 A. We asked her for it and I actually went over there
18 to look for stuff that daddy was wanting me to get
19 and she can say that I did call her and I went over
20 there and looked and I never did find the tire.
21 And then after I left from looking for about 15
22 minutes she called me and she said, "That tire is
23 right where I told you where it was." And by this
24 time that building was almost cleared out, so you
25 can see everything in it. And there was no tire to

1 be found.

2 Q. About the bike or my motorcycle, Carla, do you know
3 -- do you know what kind of arrangement we had on
4 it?

5 A. I do. Like daddy said when he got out of prison he
6 wanted to get his bike ready. Momma agreed to get
7 it ready for him. I don't know the specific
8 amount. I never did see that amount, but I do know
9 that they both agreed to the agreement for her to
10 get it ready and she'd put it in her name. That
11 way it would guarantee he to pay her back and then,
12 you know, she wanted him to be evicted. So he did
13 all he could to get his stuff out of the house.
14 Like she said I think the Judge gave him like two
15 weeks because he didn't have much in the house. We
16 did have an outside building and then he also had
17 stuff stored in one of her buildings. A bunch of
18 tools and odds and ends. And when daddy left her
19 and her sister and other people, you know, were
20 moving stuff around trying to get the rest of his
21 stuff in his building, going through what they
22 wanted to. But once daddy moved out I had rode by
23 there one day and the bike usually sit under the
24 carport up front in front of her house. I had
25 asked her where the bike was and she said it wasn't

1 none of our business where it was. Daddy has had
2 that bike since I was a kid.

3 Q. About nine years?

4 A. I was probably, yeah, seven or eight years old.
5 That's been his bike forever and the agreement was
6 for her to get it ready for him, put it in her
7 name, and whenever he was able to give the money
8 back to her she would sign the title back over to
9 him. I was there plenty of times. Like he said
10 there was an officer there when he was getting his
11 stuff out that day. He said, "Janice, I've got
12 your money today. Do you want your money?" She
13 said, "No, you owe me 5,000." And like he said
14 this goes back to, "Oh, you owe me money for court.
15 You owe me money for just odds and ends while you
16 were in prison." And that was never mentioned when
17 they were getting the bike fixed.

18 MR. PITTS:

19 That's all, Your Honor.

20 THE COURT:

21 Okay. Any questions -- wait a minute. Hold on,
22 hold on, hold on. Ms. Pitts, any questions?

23 MS. PITTS:

24 Yeah.

25 Cross Examination by Ms. Pitts:

1 Q. When we went to court prior to this here the Judge
2 told Gerald to set up an appointment. Did you-all
3 set up an appointment with me the first time that
4 you-all came?

5 A. We tried. That's another thing. We tried to set
6 up --

7 Q. The first time you came did you-all set up an
8 appointment?

9 A. We were told not to come while you wasn't there.

10 Q. Did you-all set up an appointment with me --

11 A. No, we were told not to come.

12 Q. Who told you not to come?

13 A. You did unless we had an officer with us.

14 Q. You already knowed (sic) that. Okay. Let's go on
15 to the next question. Haven't you always favored
16 your father?

17 A. What -- what do you mean?

18 Q. Favored your father and --

19 A. Yeah, he's been there for me and done for me all my
20 life.

21 Q. So have I not done for you?

22 A. I didn't say that.

23 Q. That's just a question I'm asking.

24 A. You have.

25 Q. Okay. And the only way your daddy could get out of

1 prison was what?

2 A. while he was in there me, you, and Terry sent him

3 money.

4 Q. That ain't the question.

5 A. what are you -- what are you --

6 Q. The only way for him to get out of prison, what was

7 the condition for where he had to live?

8 A. With you. With you I guess.

9 Q. And what did I say?

10 A. About?

11 Q. Him living with me?

12 A. I'm not sure what you're asking.

13 Q. what did I say about him living with me? Did I

14 want him to live there or did I not want him to

15 live there?

16 A. You said he could live there until he needed to to

17 get up on his feet and find him a place.

18 Q. Because why?

19 A. I'm not sure what you're asking.

20 Q. Because I was helping him only out for you-all kids

21 asking me to?

22 A. Okay.

23 Q. Okay. And as far as being around and knowing the

24 specifics of this bike you really don't have no

25 clue, do you; other than what your dad has told

1 you?

2 A. What do you mean I don't have a clue about it?

3 Q. Other than what your dad has told you?

4 A. What about it?

5 Q. On anything of it? Anything?

6 A. I've been around the bike all my life. I mean I
7 know it's his. I've ridden on it with him. I've
8 been there and lived with you at that house since
9 you had it fixed and watched him ride it up and
10 down the road. I mean I -- I know.

11 Q. So the amount, can you determine the amount that he
12 is saying is correct?

13 A. That he owes you for?

14 Q. Yeah.

15 A. I just said earlier I do not know the specific
16 amount, but I do know that he owed you money for
17 the bike and you agreed to get it fixed and put it
18 in your name until he was able to give you the
19 money back.

20 Q. Of what he owed me?

21 A. That's right.

22 Q. Okay.

23 MS. PITTS:

24 That's all.

25 Examination by The Court:

1 Q. Okay. Is it owed for repairs or for --

2 A. To get it road ready. The bike?

3 Q. Yeah. What did you understand the agreement to be?

4 A. That -- if I'm not mistaken it needed tires. I
5 want to say it possibly needed a battery, just
6 because it had been sitting a while. So just
7 whatever to get it ready. Like I say I don't know
8 an amount, but I know there was certain things that
9 he had to have on the bike to get it ready and
10 that's something that they agreed to.

11 Q. Okay. Was the agreement -- and this is just her
12 opinion. Was the agreement that you understood for
13 repairs for the bike or for money you owed in
14 general?

15 A. No, for the bike.

16 Q. Okay.

17 A. That's the only reason.

18 Q. Okay. So it's your understanding that he's to
19 reimburse for the repairs of the bike to get the
20 bike back?

21 A. Yes, ma'am.

22 Q. Okay. Now, that she's answered that for me do you
23 have any more questions?

24 MS. PITTS:

25 Yes.

1 THE COURT:

2 I thought you might. Go ahead.

3 Recross Examination by Ms. Pitts:

4 Q. So you're saying -- okay. Did I hire lawyers for
5 your daddy?

6 A. We tried. There was --

7 Q. We?

8 A. Well, you tried and Terry. I'm assuming Terry
9 helped with the lawyer fees, but you-all tried.

10 Q. But who done the --

11 THE COURT:

12 Okay. Hold on. Let her answer. Okay.

13 MS. PITTS:

14 Oh, I'm sorry. I'm sorry.

15 THE COURT:

16 Okay. You can answer.

17 A. I don't think any of them was able to go for
18 anything to help him out in any kind of way.

19 Q. But did --

20 A. Due to short notice of court dates or -- I think
21 one time it was what do you call it when you know
22 somebody? when the lawyer or something knows
23 somebody? Brannon you couldn't use him one time.
24 You tried to use several lawyers and you couldn't.

25 Q. Did I not pay these attorneys except for one and he

1 was the one for parole to get him paroled and then
2 at the last minute it was a conflict of interest?

3 A. Yes. That was what I was just referring to was
4 Brannon.

5 Q. Okay. That wasn't Doug Brannon.

6 A. All right.

7 Q. It was the one that you went to court with with
8 your ex for child -- for custody of your child; is
9 that not correct? And he said -- you don't know?

10 A. Who are you referring to?

11 Q. The one that was a conflict of interest?

12 A. Who are you referring to?

13 Q. Brad Pruitt.

14 A. The lawyer?

15 Q. It was Summer.

16 A. The lawyer?

17 Q. Yes.

18 A. Who are you referring to? I'm not sure.

19 Q. The lawyer.

20 A. What's the lawyer's name?

21 Q. So you don't know the lawyer's name?

22 THE COURT:

23 Okay. Hold on. What's the question?

24 MS. PITTS:

25 The question is was it not a conflict of interest

1 that he was the only one that --

2 THE COURT:

3 Okay. The lawyer she tried to hire for you is the
4 one

5 -- no.

6 MS. PITTS:

7 They already had a lawyer, her and her fiancé.

8 THE COURT:

9 Okay. well, give me a lawyer's name.

10 MS. PITTS:

11 Talley. Scott Talley.

12 THE COURT:

13 Okay. Was Scott Talley the one that there was a
14 conflict with; is that what you're asking?

15 MS. PITTS:

16 Yes, ma'am.

17 THE WITNESS:

18 I have no knowledge about that.

19 THE COURT:

20 Okay.

21 MS. PITTS:

22 That's all, Your Honor.

23 THE COURT:

24 That's it. No more questions?

25 MS. PITTS:

1 No, ma'am.

2 THE COURT:

3 Okay. Any more questions?

4 MR. PITTS:

5 Yes, Your Honor.

6 Redirect Examination by Mr. Pitts:

7 Q. Carla, when I went to prison I had a public
8 defender; right?

9 A. Uh-huh (affirmative).

10 Q. Okay. When I went up for parole Doug Brannon came
11 down there and handled my case with no charge;
12 right? Doug is a good friend of mine. Terry
13 talked to him and Doug come down there and handled
14 my parole?

15 A. Right.

16 Q. Which I didn't get out, but Doug come down there
17 and handled it for me; is that right or wrong?

18 A. That is right.

19 Q. And that's the only lawyers I've had.

20 THE COURT:

21 Any more questions?

22 MS. PITTS:

23 Yes, Your Honor.

24 Re-Recross Examination by Ms. Pitts:

25 Q. Who was the first attorney that was hired to go for

1 his bond?

2 A. Keith Kelly maybe.

3 Q. Correct.

4 A. which he couldn't do. That's why I was saying it
5 was too short of a notice. He never did get to
6 represent him.

7 Q. Because he was fixing to become a judge himself; is
8 that correct?

9 A. So he never represented him.

10 Q. Right. Right. So Doug Brannon I paid him to go
11 over and do it at the last minute?

12 A. I don't know about you paying him, but he did come
13 down there for a parole date.

14 Q. Yes. And he fussed about it; correct?

15 A. I just know he was there for a parole date.

16 Q. Okay.

17 MS. PITTS:

18 That's all, Your Honor.

19 THE COURT:

20 Okay. Anything else for this witness?

21 MR. PITTS:

22 No, Your Honor.

23 THE COURT:

24 Okay. You can step down. Mr. Pitts, anything else
25 right now?

1 MR. PITTS:

2 No, ma'am.

3 THE COURT:

4 Okay. Ms. Pitts, it's your turn. Raise your right
5 hand for me.

6 JANICE PITTS, being duly sworn to tell the truth, the
7 whole truth, and nothing but the truth of her own
8 knowledge concerning the matter herein, testified as
9 follows:

10 Examination by The Court:

11 Q. Okay.

12 A. Your Honor, this goes back to probably about 2006
13 originally. And the bike was Gerald's. Was. And
14 he's rode it only. And over the period of time,
15 I've got a record here that I would like to present
16 to The Court if I could.

17 THE COURT:

18 You have to show it to Mr. Pitts first and make
19 sure he doesn't object to me seeing it.

20 MS. PITTS:

21 Do you object?

22 MR. PITTS:

23 I don't know where you got that from.

24 A. Your Honor, this is what Keith Kelly had run, a
25 report on his background record.

1 Q. Okay.

2 A. It shows a list of what he -- his past history is.

3 Q. Okay. And why do you want me to see this?

4 A. Because he's saying this is the stuff that I've
5 taken from him and I have not took from him.

6 Q. Okay. What does his criminal have to do with why
7 you're here today?

8 A. Because --

9 Q. I don't want to see his criminal record.

10 A. Okay.

11 Q. I don't want to prejudice him in any way.

12 A. Okay. All right.

13 Q. He's admitted he's been in prison. That doesn't
14 have anything to do with why we're here today.

15 A. Okay. All right. But as far as the motorcycle
16 goes he put it in my name because I had hired
17 lawyers for him. And I had -- he had a truck in
18 pawn. I got the truck out of pawn, which was
19 \$1,500. I had to bail him out of jail, bondsmen.
20 And, actually, the bill goes on up to \$8,400 what
21 he owes, but I stopped at 5,000. I let him come
22 into my home. The first year that he was there he
23 did not pay nothing.

24 Q. Do you have any proof of what he owes you with you
25 today?

- 1 A. Yes, ma'am.
- 2 Q. Let me see what you've got. Receipts and stuff.
- 3 And I understand the agreement was for repairs. Do
- 4 you have the bill for the repairs?
- 5 A. Yes, ma'am.
- 6 Q. Okay. But she's saying it's more than the repairs.
- 7 A. Right here is the copies of checks and stuff.
- 8 Q. You paid Keith Kelly \$600 and he didn't represent
- 9 you?
- 10 A. Yes.
- 11 Q. Did he give it back to you?
- 12 A. He run the SLED report and he -- he referred me
- 13 over to Scott Talley.
- 14 Q. And he kept \$600 for that?
- 15 A. Yes, ma'am.
- 16 Q. Okay. You marked that one. You've got that one
- 17 for \$250 for attorney's fee to Brannon?
- 18 A. Yes, ma'am.
- 19 Q. Talley Law Firm for \$500. What did he do?
- 20 A. He was going to represent him for -- they turned
- 21 him down on the parole hearing that he went to
- 22 where Doug done it.
- 23 Q. But he didn't represent him?
- 24 A. Scott Talley couldn't represent him because of a
- 25 conflict of interest.

1 Q. And he kept \$500?

2 A. Yes.

3 Q. I'm going to call and verify that because most
4 people don't keep your money if they can't
5 represent you.

6 A. well, they told me there on that that they would
7 send the check back, but the -- he had done so many
8 months of it and like the day before I get a letter
9 because they were in court with her and he found
10 out that I was kin to her and he said it was a
11 conflict of interest and he dropped it -- had to
12 drop the case that day. The day before the court
13 hearing.

14 Q. But he did work up until that point?

15 A. Yes, ma'am.

16 Q. Okay. Repairs. You covered that up.

17 A. It was 1,160 I think. I didn't mean to cover that
18 up either.

19 Q. So the repairs is actually the 1,120 or something?

20 A. No, I think it was 1,160.

21 Q. There it is. Okay. 1,160. That's what I wanted
22 to know.

23 A. Yeah.

24 Q. Okay. Go ahead.

25 A. Gerald, did I not --

1 Q. No, wait, wait, wait. You don't get to ask him
2 questions.

3 A. Oh, okay.

4 Q. You're testifying to me. You're talking to me
5 right now.

6 A. All right. So telling what I'm -- so he stayed in
7 my home and he did not have a license. And so I
8 helped him with the conditions of him paying me
9 back. That's why that's included, that's included
10 in that. And he told me that he would pay me back
11 and he didn't. He has not paid me back

12 Q. What are you saying he told you he would pay you
13 back?

14 A. He had \$1,300 in restitution fees that he had to
15 reinstate and he had fines that he had to pay.

16 Q. And it's your testimony under oath that he agreed
17 to pay all -- everything you've paid for him back
18 for the bike, not just the repairs?

19 A. Now, say that again.

20 Q. You're saying he's supposed to pay everything
21 you've ever spent on him back, not just for the
22 repairs of the bike?

23 A. Right.

24 Q. Because that's where the conflict here is
25 beginning.

1 A. Right.

2 Q. And that's why I'm reminding everybody you're under
3 oath, because somebody doesn't remember correctly
4 or somebody is not telling the truth.

5 A. Right. Your Honor, we're not together.

6 Q. I understand that. I understand you evicted him.
7 You've already --

8 A. Yes, ma'am, I had. He had stayed there so long and
9 I tried to do it nicely and I give him two -- I
10 heard that you could give verbal and written five-
11 day notice to get him out and he would crumble them
12 up and throw them in the trash. Then I had to go
13 to Judge Dover and ask Judge Dover would he handle
14 it.

15 Q. Okay.

16 A. And then Judge Dover said we'll do a paper that's
17 called quit premises meaning --

18 Q. Notice to Quit.

19 A. Notice to Quit, yes, ma'am. And that you don't
20 want him on the premises no more because I started
21 having things missing from my home. And so Judge
22 Dover gave him till the 24th of August to get out
23 and Gerald said, "I cannot have everything I have
24 out by then." And I told Judge Dover, I said,
25 "I'll be more than glad to give him more time to

1 get his building and his stuff out of the house,
2 but I want him out of the house." And then, you
3 know, my stuff continues to get gone in this time.
4 Judge Dover told him, "Mr. Pitts, you are to set up
5 a time with Ms. Pitts when you can pick up your
6 stuff." Well, he never followed any of the rules
7 the Judge give him. I had some wire to get gone
8 that I had bought to go from my house down to the
9 building so it would have power. And I knew that
10 he was the only one that could have got it, because
11 we was the only two there. And then when I
12 confronted him with it he told me I was crazy and
13 he said, "If you can prove it that you bought
14 wire," he said, "I'll buy you a whole new wire."
15 And I said, "Well, we'll call the person I did it."
16 But it was at nighttime, around 10:00, 10:30 and I
17 said, "I'm not going to call them this late." The
18 next morning Gerald gets up, goes and gets the
19 wire, takes it to the people, which is my two
20 brothers that I bought the wire from, and asked
21 them was that the wire that I bought. And my
22 brothers said, "That wire there, yes, it's the wire
23 that Janice bought from us." Gerald brings it back
24 to the house, throws it down on the ground and
25 says, "You're crazy. I told you this was your

1 wire." well, I didn't look at it. I called my
2 brother and I said, "Did you tell Gerald this is
3 the wire that I bought from you?" He said,
4 "Janice, the wire that he brought down to the house
5 this morning is the wire that you bought from me."
6 So I looked at the wire and the wire was different.
7 He had switched out the wire. And I have the name
8 of the people that he sold the wire to, Rick Green
9 and his girlfriend, Pam Gilbert. So he brought me
10 back that wire. And I'm assuming, and I know I
11 shouldn't assume, he brought that wire back because
12 I was -- it doesn't matter, you're stealing from
13 somebody that has helped you. Done nothing but
14 help you. And, you know, selling it, you know,
15 when I worked and paid for it. You're taking from
16 me. You know, so. And then the girl called and
17 verified it. And she told me I had some more stuff
18 missing. And it just so happened that's my stuff
19 that was missing that she -- that she said she
20 bought. And Mr. Pitts and Mr. Gene Blackwell, she
21 said she bought it from them.

22 Q. Okay. what else about this stuff do you want to
23 tell me? Anything?

24 A. well, as far as what he says the tools. when he
25 come over there and got all -- the first day that

1 they came and was looking in there they was
2 grabbing this and grabbing that. And I told the
3 officer, I said, "You know there'll be an
4 argument," because we went through this when we --
5 we had a nasty divorce. We had a nasty divorce.
6 And I went against my judgment of helping him but I
7 did it because of my kids and grandkids. And so
8 basically I was crazy for helping him knowing that
9 I was going to have to go through this again.

10 Q. Okay. Tell me about your agreement with the bike,
11 with the motorcycle.

12 A. The agreement with the bike was that he knowed
13 (sic) that he owed me the amount of money for the
14 lawyers and everything and that the bike was in
15 pawn with Tim Hughes. I took him backwards and
16 forth to work every morning before I went to work.
17 He worked with Tim Hughes to pay back what he owed
18 for that.

19 Q. Okay. So he worked to get it out of pawn?

20 A. He worked to get it out of pawn, but he cannot get
21 insured and license because he had so many fines
22 against him and I give him the money for that, so
23 he could get his license and his fines and
24 insurance. And he told me that I could have the
25 bike for what he owed me or he'd pay me back, you

1 know.

2 Q. And what is your understanding he was supposed to
3 pay back?

4 A. The money that I had done for him while he was in
5 prison, hiring the lawyers, the truck that was in
6 pawn, the repairs on the bike.

7 Q. The truck was in pawn, not the motorcycle?

8 A. The truck was in pawn before. This was before.
9 And he still owed me for that.

10 Q. Okay.

11 A. You know I don't have the letters with me, but --
12 in some of the letters -- I might have it over
13 there. In some of the letters he wrote from prison
14 he said, "I can't thank you enough that you're
15 helping me. When I get out of here I will repay
16 you."

17 Q. Okay. All right. What else?

18 A. That's all, Your Honor.

19 Q. Okay. Mr. Pitts, do you have any questions for Ms.
20 Pitts?

21 MR. PITTS:

22 Yes. Yes.

23 Cross-Examination by Mr. Pitts:

24 Q. Janice, the truck that you're talking about was a
25 '79 Chevrolet truck, four-wheel drive; right?

1 A. Correct.

2 Q. Okay. It was to be given to Carla when she
3 graduated; right?

4 A. Correct.

5 Q. When you sold the truck you said that you was
6 having the truck painted; correct?

7 A. No. The truck was in pawn. You'd done pawned it
8 and lost it.

9 Q. What did you do with the truck then?

10 A. What did I do with it?

11 Q. Uh-huh (affirmative).

12 A. I had to pawn it when you wanted -- I sold it when
13 you wanted a lawyer to help you.

14 Q. Who signed my name to that title then?

15 A. It was in my name. You lost it.

16 Q. Okay.

17 MR. PITTS:

18 Okay. I have no more questions, Your Honor.

19 MS. PITTS:

20 You had it in pawn to David Ridings and you was
21 supposed to get it back a certain time and if you
22 don't get it back within that certain time he loses
23 it. So I asked him, I said, "Hey, do you mind if I
24 go and pay David Ridings and get the truck?" And
25 he said, "Yeah, sure." So I went and paid David

1 Ridings the money to get the truck.

2 Re-Examination by The Court:

3 Q. How did you get it in your name?

4 A. Gerald had lost it because it was in pawn.

5 Q. Okay. I do judicial sales all the time. I
6 understand. Did somebody do a judicial sale
7 because that's the only way I understand it to get
8 in your name. How did --

9 A. Okay. He had signed the title to David.

10 Q. who did?

11 A. Gerald did.

12 Q. Okay. He signed the title when he put it in pawn?

13 A. Yes. David held it. David had the title.

14 Q. Talk to me.

15 A. Oh, I'm sorry. David had the title.

16 Q. Okay.

17 A. And then I went to him and I asked him, I said,
18 "David, can I get the truck?" He said, "It's past
19 time for him." I said, "I'm not getting it for
20 him." I said, "The truck was supposed to be given
21 to the daughter," like he said, but he pawned it
22 and lost it and I went and got it out of pawn from
23 David.

24 Q. And then you sold it?

25 A. I turned around --

- 1 Q. So David put it in your name --
- 2 A. Yes, ma'am.
- 3 Q. -- when you got it out of pawn? Okay.
- 4 A. Yes, ma'am.
- 5 Q. Okay. And then you sold it?
- 6 A. I sold it --
- 7 Q. Okay.
- 8 A. -- when he asked for me to go and get a lawyer for
- 9 him and help him get out of prison.
- 10 Q. Okay. So his truck paid for the lawyer?
- 11 A. No. I paid to --
- 12 Q. How much did you pay to get it out of pawn?
- 13 A. \$1,500.
- 14 Q. To get it out of pawn?
- 15 A. Yes, ma'am.
- 16 Q. And how much did you sell it for?
- 17 A. I got -- got 1,200 I think it was out of it.
- 18 Q. So you lost money?
- 19 A. Yes, ma'am.
- 20 Q. Okay. All right.
- 21 A. It needed new tires on it.
- 22 Q. Okay.
- 23 THE COURT:
- 24 Questions?
- 25 MR. PITTS:

1 Did she say I signed that title?

2 MS. PITTS:

3 No, I didn't.

4 THE COURT:

5 You did.

6 MS. PITTS:

7 I mean, yeah, you signed it with David.

8 MR. PITTS:

9 No, I did not.

10 THE COURT:

11 Okay. Don't argue. You don't have to like the
12 answer, but she answered it.

13 MR. PITTS:

14 Can you call these people and have that verified,
15 Judge?

16 THE COURT:

17 Huh-uh (negative).

18 MR. PITTS:

19 What about Judge Kelly? Okay.

20 THE COURT:

21 I don't know that's relevant. I would if she were
22 suing you for that money I would probably go into
23 it, but we'll get into that in just a little bit.

24 Do you have any questions?

25 MS. PITTS:

1 No, ma'am.

2 THE COURT:

3 All right. Ms. Pitts, do you have any more
4 witnesses?

5 MS. PITTS:

6 Yes, Your Honor. I would like to call Rebecca
7 Greenway.

8 THE COURT:

9 Ms. Greenway, come forward please.

10 REBECCA GREENWAY, being duly sworn to tell the truth, the
11 whole truth, and nothing but the truth of her own
12 knowledge concerning the matter herein, testified as
13 follows:

14 THE COURT:

15 Have a seat and answer any questions for Ms. Pitts,
16 please.

17 Direct Examination by Ms. Pitts:

18 Q. Rebecca, do you know Mr. Pitts?

19 A. Yeah, I know him through you. Yes.

20 Q. And you come to my house for what reason?

21 A. To get my hair done and to visit and fellowship.

22 Q. And has Mr. Pitts ever been around us when you come
23 to get your hair cut?

24 A. Yeah, he's in the house. He's lived there.

25 Q. Okay. Have you ever heard us discuss things and

1 about stuff that we're discussing here?

2 A. Not really I haven't. I know that you've discussed
3 with me when you was cutting my hair how you've
4 helped Gerald trying to help get him on his feet.
5 You know helping him get his life started back
6 over. You know me and you talked about it and
7 you're just like -- I'm like, "Boy, you sure are a
8 good-hearted woman," because I wouldn't do what you
9 do. I just wouldn't. But you said you're doing it
10 because, you know, you want to see him succeed.
11 You're doing it for his children and his
12 grandchildren. So I think it's pretty good what
13 you did for him, so I don't know how grateful -- I
14 would be grateful to her. You know I wouldn't
15 nitpick this little stuff. I would be grateful.

16 THE COURT:

17 Okay. Don't talk to him. Answer her questions
18 right now.

19 A. Yeah, I would be -- yeah, so.

20 MS. PITTS:

21 Okay. That's all, Your Honor.

22 THE COURT:

23 Okay. Mr. Pitts, do you have any questions?

24 MR. PITTS:

25 No, ma'am.

1 THE COURT:

2 All right. You can step down. Do you have any
3 more witnesses?

4 MS. PITTS:

5 Yeah, Cindy Turner.

6 THE COURT:

7 Ms. Turner, come forward please.

8 CINDY TURNER, being duly sworn to tell the truth, the
9 whole truth, and nothing but the truth of her own
10 knowledge concerning the matter herein, testified as
11 follows:

12 THE COURT:

13 Okay. Have a seat. Are you related?

14 MS. TURNER:

15 No, friends.

16 THE COURT:

17 Okay. All right.

18 Direct Examination by Ms. Pitts:

19 Q. Cindy, how do you know Mr. Pitts?

20 A. I've known him for years.

21 Q. Did you leave a lawn mower with me?

22 A. Yes, I did. When I lived on Highlands Hills right
23 off of Prison Camp Road in Campobello I had a
24 riding lawn mower, which was taken from her home.
25 Rick Green's wife had text messaged Janice and said

1 that she had bought the riding lawn mower from
2 Gerald.

3 THE COURT:

4 Are you referring to the lawn mower that's on here?

5 MS. PITTS:

6 No, ma'am.

7 THE COURT:

8 Okay. A different lawn mower?

9 MS. PITTS:

10 A different lawn mower.

11 THE COURT:

12 All right.

13 A. I'm sorry. I had bought it from my mother because
14 she got her a new one. And when I moved from
15 Highlands Hill because the guy I paid my insurance
16 with took all my trailer payments. He wasn't
17 fixing the damage into my trailer, so I moved to my
18 father's house up in Landrum and I asked Janice, I
19 said, "Can I store it here because I don't have
20 much yard to cut?" And she said yes. She said,
21 "Yeah, you can leave it here." well, I went down
22 there to get it two months ago, maybe three, the
23 lawn mower was gone. So Rick Green's wife, Pam,
24 texted Janice and said that Rick -- that she had
25 bought the lawn mower and the wire.

1 THE COURT:

2 Okay. But is this lawn mower and wire on this list
3 anywhere?

4 MS. PITTS:

5 No, I made a police report on that.

6 THE COURT:

7 Okay. Okay. I'm trying to stick to the list, but
8 go ahead. We've got a different lawn mower and
9 different wire.

10 MS. PITTS:

11 Yes, ma'am.

12 (Inaudible.)

13 THE COURT:

14 Okay.

15 Q. But you have been around the house when me and Mr.
16 Pitts have discussed him paying me back?

17 A. Yes. Yes, ma'am.

18 MS. PITTS:

19 That's all, Your Honor.

20 THE COURT:

21 You're not going to ask her what? I mean I don't
22 have a clue what she's heard.

23 Q. Did you hear Mr. Pitts say that he would pay me
24 back for the money that I have give him for the
25 things that you heard mentioned in the courtroom

1 today?

2 A. Yes, ma'am.

3 MS. PITTS:

4 That's all, Your Honor.

5 THE COURT:

6 Okay. Mr. Pitts, do you have any questions for
7 this witness?

8 MR. PITTS:

9 No, ma'am.

10 THE COURT:

11 Okay. You may step down. All right, Mr. Pitts,
12 what else do you want to tell me?

13 MR. PITTS:

14 I have nothing further, Your Honor.

15 THE COURT:

16 Ms. Pitts, anything else you want to tell me?

17 MS. PITTS:

18 Your Honor, you know, I don't want nothing that's
19 not mine. All I want is what is mine. And I have
20 made out a report, but I haven't got by and caught
21 up with Chad in Campobello yet to be able to give
22 him this report.

23 THE COURT:

24 The report for the stuff you're saying he stole?

25 MS. PITTS:

1 stuff that is stolen or tookeen (sic) from my house,
2 stolen, whichever one that you want to call it.

3 THE COURT:

4 well, if it's taken without permission the law
5 calls it stolen.

6 MS. PITTS:

7 Right. And when asked -- when he came to the house
8 to begin with to get his stuff to begin with I --
9 the Judge gave him till the 24th to get out. And I
10 felt so uncomfortable being him in the house that,
11 you know, I went back and I got -- purchased my
12 gun, and that's against his probation to have a gun
13 in the home, but I let the officer know that I had
14 a gun in the home. I was going to protect myself,
15 you know. Did I think -- he told me, "You will pay
16 and you'll pay dearly." And I don't know exactly
17 what that meant. I can look at it several
18 different ways, but due to the past things that we
19 have went through it can be left out there in the
20 air, you know.

21 THE COURT:

22 Okay.

23 MS. PITTS:

24 And I did what I had to do and I feel like Mr.
25 Pitts, you know, ought to pay what he owes to me.

1 THE COURT:

2 Okay.

3 MS. PITTS:

4 I'm his ex of probably 15 or longer years and I
5 don't know anybody else that would have took
6 somebody in and tried to help them get on their
7 feet and then him turn around and try to lie on me
8 and say I took. I do have in my possession, and
9 it's not mine, I don't know if it's his, but
10 somebody told me it wasn't a battery charger, it
11 was a jump starter. I do have that in my
12 possession. It's not mine. And I do have a wig in
13 my possession that was in his closet that is not
14 mine. And there's a pair of shoes.

15 THE COURT:

16 A wig?

17 MS. PITTS:

18 A wig.

19 THE COURT:

20 Like a hair wig?

21 MS. PITTS:

22 A hair wig in my possession. And I have a pair of
23 shoes of his. They're in the truck and I do have
24 his diabetes needles and that stuff he uses to
25 check his diabetes. I do have that. If it's his

1 he can have it, because it surely ain't mine. But
2 this other stuff --

3 THE COURT:

4 You don't have anything on this list?

5 MS. PITTS:

6 No, ma'am. I put everything -- when he came the
7 first time he got pretty much all of his good
8 stuff. I told the police then I said, "Here's what
9 I'll do so we don't argue." I said, "I'll get
10 somebody to help me move my stuff out of his
11 building," because I stored his stuff for the whole
12 time that he was in prison. "I'll move his stuff
13 out -- my stuff out of his building. His stuff out
14 of my building over to his building and mine over.
15 And when he comes all he has to do is have a
16 loader, pull it off the property and be gone." And
17 that's what I did to the best --

18 THE COURT:

19 Is the building still there?

20 MS. PITTS:

21 No, ma'am, he got it the last day. But I had an
22 entertainment center, which was mine from the first
23 marriage. It was in the daughter's room, but I had
24 it in the building and it was too heavy for me and
25 my sister to move. And I hadn't heard from Mr.

1 Pitts about what day exactly he was going to be
2 there, so, you know, I hadn't got nobody to help
3 me. You know it's so heavy that we could not move
4 it ourselves.

5 THE COURT:

6 Okay. I don't know -- is the entertainment center
7 -- what's the entertainment center got to do with
8 this?

9 MS. PITTS:

10 well, it's --

11 THE COURT:

12 You're saying you have that that belongs to him?

13 MS. PITTS:

14 I have that. I did have that and it was in his
15 building and he said he had to empty his building
16 out completely to be able to move it. well, those
17 two things --

18 THE COURT:

19 Okay.

20 MS. PITTS:

21 -- entertainment center and a fireplace rock
22 mantel, was in the building because we could not
23 lift them up.

24 THE COURT:

25 So those are yours?

1 MS. PITTS:

2 Those are mine.

3 THE COURT:

4 Okay.

5 MS. PITTS:

6 And he told the police they was his.

7 THE COURT:

8 Okay.

9 MS. PITTS:

10 And he took those with him. And as far as the tire
11 that they're talking about. Carla knows -- I
12 called her right back. What it was she didn't want
13 to move all the stuff that was in the way to get to
14 the tire because they didn't mention it no more,
15 you know, when it got cleaned out. That she
16 mentioned earlier.

17 THE COURT:

18 Uh-huh (affirmative).

19 MS. PITTS:

20 It was in the building.

21 THE COURT:

22 There's not a tire on this list either though.

23 Okay. You-all's daughter wants to say something
24 else. Any objection to her saying anything?

25 MR. PITTS:

1 No, Your Honor.

2 THE COURT:

3 Come on up.

4 MS. CARLA PITTS:

5 Okay. So from the time that he had got out of
6 prison all these fees that she's saying that he
7 owes, I was there the majority of the time. I
8 lived with her until she wanted to kick me out as
9 well, so now I have my own place. But from the
10 time that he's been out of prison he has worked
11 there in that house. That's what she wanted him to
12 do. Is fix her basement up, work in the basement,
13 work out in the yard. He cleaned up shrubs in the
14 yard, miscellaneous stuff that she wanted him to do
15 when he got out of prison. You know he can repay
16 me back by helping me fix the rest of my house up.
17 So that's what --

18 THE COURT:

19 Okay. He can repay her back for what?

20 MS. CARLA PITTS:

21 All the -- for him helping --

22 THE COURT:

23 The attorney fees?

24 MS. CARLA PITTS:

25 Yeah, or sending him money while he was in jail and

1 whatever she spent while he was in prison.

2 THE COURT:

3 And he was supposed to work that off?

4 MS. CARLA PITTS:

5 Right. He had to -- he helped her finish up her
6 basement some. Put wooden walls up, cleaned up the
7 yard. You know just miscellaneous stuff.

8 THE COURT:

9 Ma'am, I'm asking you to quit shaking your head
10 over there. You don't have to like what she's
11 saying. You don't have to hear it. You're welcome
12 to leave, but stop shaking your head. Okay. Go
13 ahead.

14 MS. CARLA PITTS:

15 And there's so much. And if I'm not mistaken when
16 she first said that we initially went over there to
17 get his stuff she said we didn't bring the officer
18 and then she said that there was an officer the
19 first time we come out. There was an officer the
20 first time we come out because he followed us up
21 the steps and in every room in that house to get
22 his clothes, what he had upstairs, his bath stuff,
23 everything in there. She said we didn't go by what
24 the Court said. He's done everything that he's
25 supposed to have done. He has done all that house.

1 But he can't afford to go back to jail and I know
2 he's done a lot of bad stuff, but this time she's
3 evicted him and he has done nothing wrong. I've
4 been there. I called the police to come out there
5 because I'm trying to look out for him. I don't
6 have to lie. That's my momma and that's my daddy
7 and I love them both, but what's right is right and
8 wrong is wrong.

9 THE COURT:

10 what do you -- how do you know what the agreement
11 as far as the motorcycle? That's all I care about
12 from here on out. The tools are gone. You're not
13 going to get them. Okay. I want to hear just
14 about from anybody from this point on the
15 motorcycle. Okay.

16 MS. CARLA PITTS:

17 I was there. Like I said I rode that motorcycle
18 with my daddy.

19 THE COURT:

20 I understand. But tell me how do you know the
21 agreement?

22 MS. CARLA PITTS:

23 I've heard her say it. Daddy has mentioned paying
24 her back several times. I've heard it come out of
25 her mouth, "You owe me money for fixing it and

1 getting it road ready." He's offered. Like he
2 said I've heard him say it without an officer there
3 and I've heard him say it with an officer there.
4 She won't take the money for what it was worth to
5 get it road ready. She wants him to repay her for
6 all the -- whatever fees, lawyers, money sent,
7 whatever it is while he was in prison and that was
8 never mentioned all the time that he was staying at
9 the house because he was working and doing stuff to
10 help her out or do whatever in her terms to repay
11 her back for helping him.

12 THE COURT:

13 Okay. So tell me what the agreement was as far as
14 just the motorcycle.

15 MS. CARLA PITTS:

16 The agreement was he was to put the title in her name.
17 That way it would guarantee her to have her money paid
18 back to her.

19 THE COURT:

20 what money?

21 MS. CARLA PITTS:

22 The money that was -- for the tires, to get it road
23 ready. To get his motorcycle road ready.

24 THE COURT:

25 Okay. She's actually testified again so I'm going

1 to let you-all ask questions again. Mr. Pitts, any
2 questions?

3 MR. PITTS:

4 No, ma'am.

5 THE COURT:

6 Ms. Pitts?

7 Re-Re-Recross Examination by Ms. Pitts:

8 Q. Carla, you say road ready. Mr. Pitts couldn't even
9 ride the bike when it first got road ready, could
10 he?

11 A. I mean he had his license. I don't know what you
12 mean he couldn't ride it.

13 Q. He didn't have his license at the time until all
14 his fines and reinstatement fees was repaid?

15 A. Okay.

16 Q. Okay.

17 A. But once he -- he was legally riding his bike on
18 the road once it was ready.

19 Q. Yeah, that wasn't the question. The question was
20 Mr. Pitts could not ride his bike without getting all
21 his -- getting his license reinstated back to him;
22 correct?

23 A. Correct. The agreement as far as that I have no
24 idea. I didn't hear no agreement as to paying you
25 back for helping him with his license or whatever.

1 All I know is the agreement was for the bike that I
2 seen when I was staying there.

3 Q. Okay. Do you think that I should help him, just
4 give him money?

5 A. I don't think you should just give anybody money,
6 but I do know when I was there at that house
7 staying there that you agreed to help. And even
8 when he was in prison you, out of the kindness of
9 your heart, agreed to help him. You sent him
10 money. You -- you wanted to help him. Do I think
11 he should repay you in some sort of way? Sure.
12 But that was when I got to he has worked in your
13 house, out in the yard, or whatever he could do to
14 help you. That was what you asked him to do in
15 return to help paying you back.

16 Q. And what did he do in the house?

17 A. He's helped you in the basement. He's helped you
18 in the yard. He's bought stuff for you.

19 Q. What did he do in the basement?

20 A. He helped you finish up the walls and the stairway,
21 build different stuff down there.

22 Q. Did he not just put the door in the garage?

23 A. And, yes, he also done that.

24 Q. But that's all he done. I done the rest.

25 THE COURT:

1 what's the question?

2 Q. what else did he do?

3 A. That's all that I'm aware of that he done.

4 Q. Okay. Let's see. why did I have you -- why did I
5 make you leave the home?

6 A. Because you wanted me to pay a certain amount of
7 money when you was also getting about \$700 from him
8 a month. That's another thing. He paid her rent.
9 He didn't live there for free. He had her about
10 \$700 a month. If I'm not mistaken five, just
11 giving her towards rent and probably \$200 more
12 dollars as far as the power bill. And you wanted
13 me to pay a full power bill and along with more
14 money to help you pay.

15 Q. That's incorrect.

16 THE COURT:

17 Now, you don't have to agree.

18 Q. Right. When you come back to the house to live
19 with me the third time what was the condition that
20 I give you for you to live there?

21 A. To help pay the power bill.

22 Q. To do what?

23 A. To help pay a power bill.

24 Q. And what?

25 A. And at that time I was trying to save money to get

1 my own place.

2 Q. And do you not feel like that I helped you with
3 attorney fees and --

4 MS. CARLA PITTS:

5 Your Honor, is this relevant? Is this relevant to
6 what we're doing?

7 THE COURT:

8 Not really, but did she help you with attorney
9 fees?

10 A. It's for Summer?

11 Q. For any attorney?

12 A. You helped me one time with Summer.

13 THE COURT:

14 She's just trying to prove how much she helped you.
15 I mean you kind of put yourself back up here again,
16 so just answer the questions.

17 A. Yeah, you did help one time for Summer, to go to
18 court for Summer.

19 Q. Just for Summer?

20 A. Yes.

21 Q. I didn't help you with another attorney?

22 A. No.

23 Q. And did I not borrow the money from someone to help
24 you with that attorney?

25 A. I'm not sure where you got the money from. I was

1 in Florida at that time.

2 Q. And you did not tell the attorney that you would
3 pay me back just as soon as your taxes came?

4 A. You paid the attorney.

5 Q. Correct. But did you not say that you would pay me
6 back just as soon as your taxes came in?

7 A. Yes, and I did.

8 Q. You did?

9 A. Yes.

10 Q. When I called you did you not say not to call you
11 no more that you hadn't got your taxes back yet?

12 A. Before I got my taxes, yes, because you were
13 bugging me every day to get your money back.

14 Q. Okay.

15 THE COURT:

16 Anything else?

17 Re-Examination by The Court:

18 Q. How did you know what the agreement was? As far just
19 the motorcycle, how do you know what the agreement
20 was?

21 Did you hear it? Did he tell you what the agreement
22 was? Did she tell you what the agreement was?

23 A. I heard them both.

24 Q. And what you heard both of them say the agreement for
25 the motorcycle is?

1 A. That daddy said, "I'll put that bike in your momma's
2 name to get it ready for me." He said, "And I'm
3 going to pay her back."

4 Q. Okay. This is what he told you?

5 A. Right.

6 Q. Has she told you anything?

7 A. The same thing.

8 Q. Okay. Any questions?

9 A. And that was just like -- and prior to him moving out
10 and this is where -- and this why -- and prior to him
11 moving out that bike it sat under the carport the
12 whole time. He had asked her for the title for it
13 and she said, you know, "I want my money back. I
14 want my money back." Well, when it come time to
15 giving her her money back the title got gone. Then
16 once he was out of the house a few days later the
17 motorcycle got gone. He's tried to get it back.
18 He's tried to pay her what she has spent on that
19 bike. I've -- I've witnessed it and she will not
20 take it and she says that he owes her more money for
21 court fees and previous IOUs.

22 MS. PITTS:

23 Carla --

24 THE COURT:

25 Just a minute. Okay. Question?

1 MS. PITTS:

2 Yes. First of all I want to say she is correct about
3 me saying that he owed me money. And she is correct
4 about him trying to give me what he wanted to give
5 back on the motorcycle. She is not correct about the
6 agreement that me and him had on what --

7 THE COURT:

8 You never told her --

9 MS. PITTS:

10 No, ma'am, never. And what you're saying here in The
11 Court is that not the same way that you do with the
12 second time owing money to me that I just wanted you
13 to grow up and take responsibility for your choices
14 you choose.

15 THE COURT:

16 What's your question? I don't know what you're
17 asking.

18 MS. CARLA PITTS:

19 May I speak?

20 THE COURT:

21 well, let me see if she's going to ask a question. I
22 don't know what the question is.

23 MS. PITTS:

24 I guess my question is is she not -- are you not mad
25 at me?

1 MS. CARLA PITTS:

2 For what?

3 MS. PITTS:

4 For making you get your place?

5 MS. CARLA PITTS:

6 No, I'm not.

7 MS. PITTS:

8 Because why?

9 MS. CARLA PITTS:

10 Because I want to do my own stuff.

11 MS. PITTS:

12 But why did you really want to move out?

13 MS. CARLA PITTS:

14 (Inaudible.) Because I wanted a place to raise my
15 children.

16 MS. PITTS:

17 And you didn't want to pay me anything to live there?

18 MS. CARLA PITTS:

19 I wasn't willing to pay you a whole power bill that
20 you were two months behind on. I wasn't willing to pay
21 you over \$300 when I watched him give you the money
22 he got -- that he gets monthly. Plus do everything else
23 in the house where you could get off scot-free. No, I
24 was not willing to do that.

25 MS. PITTS:

1 Do you not have to pay to live in life?

2 MS. CARLA PITTS:

3 Absolutely.

4 MS. PITTS:

5 Huh?

6 MS. CARLA PITTS:

7 Yes, I do.

8 MS. PITTS:

9 Nothing's free; is it?

10 MS. CARLA PITTS:

11 No, it's not.

12 MS. PITTS:

13 Okay.

14 THE COURT:

15 Do you have any questions about this agreement?

16 MS. PITTS:

17 No, ma'am.

18 THE COURT:

19 Okay.

20 MS. PITTS:

21 You never one time heard me talk to your daddy about
22 the agreement?

23 MS. CARLA PITTS:

24 Are you asking me or are you telling me?

25 MS. PITTS:

1 I'm asking you.

2 THE COURT:

3 What are you asking again?

4 MS. PITTS:

5 She never did hear me talk to her daddy one time
6 about the agreement. You're under oath.

7 MS. CARLA PITTS:

8 Yes.

9 MS. PITTS:

10 You're under oath.

11 MS. CARLA PITTS:

12 I was there.

13 MS. PITTS:

14 You're under oath.

15 MS. CARLA PITTS:

16 I was there.

17 THE COURT:

18 Ms. Pitts, every time you say that you're telling her
19 she's lying and I think I told you at the beginning
20 of this we're not going to play that game in here.

21 MS. PITTS:

22 Okay. I'm sorry, Your Honor.

23 THE COURT:

24 She's answering your question. You didn't have to
25 like it, but quit asking it if you don't like it.

1 MS. PITTS:

2 Okay.

3 MS. CARLA PITTS:

4 I don't think that daddy would have made that
5 agreement to put the motorcycle in your name and
6 agree to just let you keep his bike. He done that
7 because you agreed -- because you wanted your money
8 back. I know you want your money back. The only
9 reason he done that was to guaranteed and that was
10 the deal, "I'm going to put the title in my name."
11 And, you know, he offered to give you your money
12 back. I witnessed that. Two officers have witnessed
13 that.

14 THE COURT:

15 Okay. Let me interrupt here. You keep saying "your
16 money back." They've both agreed that money is owed.
17 He's saying all he owes is the bike fees. She's
18 saying he owes all this other. So when you say get
19 her money back, what money?

20 MS. CARLA PITTS:

21 The money owed to the bike.

22 THE COURT:

23 And has your mom ever told you that's all, the bike
24 was put up -- given to her for?

25 MS. CARLA PITTS:

1 No.

2 THE COURT:

3 So why do you think she wouldn't expect all her money
4 back?

5 MS. CARLA PITTS:

6 All the money back for?

7 THE COURT:

8 Everything. Why do you think she wouldn't expect all
9 her money back for the bike as far as getting it
10 repaired, the attorneys? Why do you think she
11 doesn't want all her back to give the bike back?

12 MS. CARLA PITTS:

13 well, the whole time he's been living there she's
14 never asked for a dime. The only thing that she's
15 asked of him is help her to fix up her basement, fix
16 up the house, work in the yard or, you know, help her
17 around the house.

18 THE COURT:

19 For the other stuff, for the other things?

20 MS. CARLA PITTS:

21 For -- for like as far as him being in prison she
22 wanted him to help her fix her place up, work there in --
23 in order to repay her back. The license and all
24 that stuff like that I'm not aware of that. But I
25 lived in that house and I heard her talk about it.

1 I mean there's been arguments. There's been times
2 about -- I mean her about wanting to him repair
3 stuff around the house and because of the money
4 that she put forth while he was in prison.

5 THE COURT:

6 Okay. Anything else?

7 MS. PITTS:

8 No, ma'am.

9 THE COURT:

10 Anything else, Mr. Pitts?

11 MR. PITTS:

12 No, ma'am.

13 THE COURT:

14 Anything else? Anything else from anybody? Do you
15 still have the 1,160?

16 MR. PITTS:

17 Yes, ma'am.

18 THE COURT:

19 Where is the motorcycle?

20 MS. PITTS:

21 Your Honor, I took it -- I had the motorcycle moved
22 off the property before these papers was ever served
23 on me, because I knew that he had a lock on it and he
24 owed me this money and I knew he would come and steal
25 it. So I had it moved off the premises.

1 THE COURT:

2 where is it?

3 MS. PITTS:

4 It's in Charlotte.

5 THE COURT:

6 Charlotte?

7 MS. PITTS:

8 Yes, ma'am.

9 THE COURT:

10 It was towed to Charlotte?

11 MS. PITTS:

12 No, ma'am. Well, I guess you could say -- I didn't

13 pay no tow fee, no, ma'am.

14 THE COURT:

15 So somebody --

16 MS. PITTS:

17 Yes, come and picked it up for me to store it because

18 Mr. Pitts is bad to steal.

19 THE COURT:

20 okay.

21 MS. PITTS:

22 And, you know, I did it because, you know, for

23 protection. All I want is my money and the agreement

24 was, you know --

25 THE COURT:

1 well, that's the problem, what the agreement actually
2 was.

3 MS. PITTS:

4 Yes, ma'am.

5 THE COURT:

6 I don't doubt he owes you this money. I believe the
7 agreement was for you to get it ready. I think he
8 signed it over to you for you get it road ready. I
9 think it's sad your daughter is in the middle of all
10 this. I'm going to order he pay you the 1,160 that
11 you paid to get it road ready. I think that was the
12 verbal agreement and I think you need to stick to it
13 and you need to return it back to him. If you want
14 to sue him for the other money that's a whole
15 different suit, but I believe that the original
16 agreement was for you to get it ready and he would
17 sign it over to you. That's just what I believe.

18 MS. PITTS:

19 Okay. I understand, but that was not the agreement.

20 THE COURT:

21 I think things might have gotten worse as time went
22 on. You know again I hate your daughter is up here.
23 I believe her. I don't think she -- I don't think
24 she is against either one of you. She sat here and
25 cried filling out the paperwork. You know it's sad.

1 She don't want to be here.

2 MS. PITTS:

3 I know. And I don't either.

4 THE COURT:

5 Exactly.

6 MS. PITTS:

7 I don't either.

8 THE COURT:

9 I don't think of any of you want to be here. And I'm
10 going to order him to pay you the 1,160. Do you have
11 your license?

12 MR. PITTS:

13 Yes, ma'am.

14 THE COURT:

15 Can you drive the motorcycle?

16 MR. PITTS:

17 Yes, ma'am.

18 THE COURT:

19 Okay. Next Tuesday morning at 10:00 have the
20 motorcycle here. You be here to pick it up. Have
21 her cash.

22 MR. PITTS:

23 Can I pay you now?

24 THE COURT:

25 Huh-uh (negative).

1 MR. PITTS:

2 I've got to pay her?

3 THE COURT:

4 No, you've got pay her. I can't take the money.

5 MR. PITTS:

6 How am I going to get a receipt?

7 THE COURT:

8 No, we'll make sure you get a receipt, but it's just
9 going to be the exchange. I'm going to be here.

10 I'll make sure I have some law enforcement here if I
11 need to. But you have your money. Do you have the
12 title?

13 MS. PITTS:

14 Yeah.

15 THE COURT:

16 You're going to sign it over and he's going to give
17 you the cash for the bike and if you want to sue him
18 for the other cash you can for the other repairs that
19 you can.

20 MS. PITTS:

21 But when this is over and done with just like the
22 stuff he took of mine he never brought it back and he
23 ain't going to bring it back.

24 THE COURT:

25 I think you have a complaint where you're going to

1 have him arrested for stealing the stuff.

2 MS. PITTS:

3 Well, you know, I don't know if he took it. I'm
4 assuming he took it because he's the only person
5 there.

6 THE COURT:

7 Well, this you're going to have prove because people
8 break in and steal stuff all the time.

9 MS. PITTS:

10 Right. Right. But why would I give him this amount
11 of money to help him?

12 THE COURT:

13 Did you sign the bike over before or after? Not that
14 it matters, I've already made my ruling, but before
15 you went to jail or after?

16 MR. PITTS:

17 After.

18 THE COURT:

19 After. Okay. I think you did that because you love
20 your children and your grandchildren. And I don't
21 necessarily think that you wouldn't eventually --

22 (Off Record Comments.)

23 MS. PITTS:

24 You think that I did it for the children?

25 THE COURT:

1 I do. I don't think you had any idea when you were
2 doing that that he was going to sign the title over
3 to you. I think you were doing it to help him out
4 and like the lady said out of the goodness of your
5 heart. And I don't think -- I don't disagree that he
6 should pay you back, but I don't think that was part
7 of the original agreement, which is what I have to
8 focus on what was a verbal contract for this bike. I
9 think the verbal contract was you get it ready and
10 I'll pay you back for it.

11 MS. PITTS:

12 No, ma'am.

13 THE COURT:

14 That's what I believe for it.

15 MS. PITTS:

16 That was not what the agreement was.

17 THE COURT:

18 Okay. So however you have to get it back here next
19 Tuesday have it back and I'm going to make him pay
20 you the 1,160. That's how much you paid to get it
21 out; correct? That's how much you have in the bike.
22 What do you have in the bike?

23 MS. PITTS:

24 I have --

25 THE COURT:

1 1,160; correct? That's what the check is for?

2 MS. PITTS:

3 That's the check and then I had to get it insured. I
4 had to pay taxes on it. That ain't even included in
5 it.

6 THE COURT:

7 Why did you have to get insurance? Who was driving
8 it?

9 MS. PITTS:

10 He was driving it, but it was in my name. The title
11 and --

12 THE COURT:

13 Oh. How much was the insurance?

14 MR. PITTS:

15 Your Honor, I had insurance on the bike.

16 THE COURT:

17 Okay. So the insurance is in your name?

18 MR. PITTS:

19 Yes, ma'am.

20 THE COURT:

21 Okay. You paid for it?

22 MR. PITTS:

23 Yes, ma'am.

24 THE COURT:

25 Okay. Did you pay the taxes on it when you

1 transferred it into your name? How much?

2 MS. PITTS:

3 No, it's been in my name.

4 THE COURT:

5 How much did you get when you transferred it in your
6 name?

7 MS. PITTS:

8 This year's taxes on it was \$36 and then the tag.

9 Last year's taxes on it was a little higher.

10 THE COURT:

11 Okay. I'm going to give you an extra hundred for the
12 taxes and tag. So bring her 1,260 next Tuesday.

13 That's the money she's going to be out for the bike.

14 That's all we're concerned with here today. The

15 tools are gone. We don't know where they are, don't
16 know who took him.

17 MS. PITTS:

18 He's got them, Your Honor.

19 THE COURT:

20 Okay. She says you've got them. I don't know who
21 has them, but they're not part of this case anymore.

22 I want everybody here at 10:00 next Tuesday morning
23 with the bike and with the cash and with the title.

24 And that's my Order. Anybody that doesn't do it will
25 be in contempt of court. Okay. Any questions?

1 10:00 here Tuesday morning.

2 MR. PITTS:

3 You said 10:00?

4 THE COURT:

5 10:00 Tuesday morning.

6 THE COURT:

7 Any questions.

8 MS. PITTS:

9 Yes, Your, Honor.

10 THE COURT:

11 Yes, ma'am.

12 MS. PITTS:

13 Your response to the agreement just because Carla
14 does the crying and I do get upset myself, too. You
15 know I do. I really get upset a bit. You know the
16 agreement was that he would pay me the full amount
17 for the bike. That's why it's been so many years and
18 I hadn't charged interest. And, you know, I said,
19 "All I want is the money that you owe me."

20 THE COURT:

21 And I believe that the original agreement was for the
22 bike.

23 MR. PITTS:

24 It was for me to hold the bike, you know, for what he
25 owed me.

1 THE COURT:

2 well, that's what happens when we have verbal
3 agreements. He actually brought a witness, a
4 credible witness I feel like.

5 MS. PITTS:

6 Mr. Grigg?

7 THE COURT:

8 No, your daughter that heard -- that heard each of
9 you talking about owes money for the bike. Owes
10 money for the bike. I believe her. That's the
11 order. So everybody be here at 10:00 Tuesday
12 morning. I don't want to have send the police for
13 anybody to have them arrested. Okay. Everybody is
14 free to go.

15 MR. PITTS:

16 Thank you, Your Honor.

17 (THERE BEING NO FURTHER QUESTIONS, THIS HEARING CONCLUDED.)
18
19
20
21
22
23
24
25

CERTIFICATE

I, the undersigned, Rachel H. Wood, Notary Public
in and for the State of South Carolina do hereby certify
that:

The foregoing tape was transcribed at the request of
Janice Pitts;

A court reporter was not present at the proceedings
and therefore cannot guarantee that every word of
testimony could be heard or that the speaking parties are
properly identified;

I further certify that I am neither counsel nor
solicitor to any of the parties in said suit, nor
interested in the event of the cause.

In witness whereof, I have hereunto set my hand and
seal this 12th day of April, 2018.

Rachel H. Wood, Reporter
Notary Public for South Carolina
Commission Expires: 03/25/19

1 STATE OF SOUTH CAROLINA
2 COUNTY OF SPARTANBURG

IN THE COMMON PLEAS
7th JUDICIAL CIRCUIT

3 JANICE PITTS,

4 Appellant,

5 vs.

CASE NO. 2017-CP-42-02897

6
7 GERALD PITTS,

8 Respondent.

ORIGINAL

9
10 HEARING BEFORE: HONORABLE R. KEITH KELLY

11 DATE: October 18, 2017

12 TIME: 9:49 AM

13 LOCATION: Spartanburg County Judicial Center
14 180 Magnolia Street
15 Spartanburg, SC 29306

16 REPORTED BY: LORA L. MCDANIEL,
17 Registered Professional Reporter

18
19 APPEARANCES:

20 FOR THE APPELLANT
21 JANICE PITTS, PRO SE

22 FOR THE RESPONDENT
23 GERALD PITTS, PRO SE
24
25

1 THE COURT: Janice Pitts and Gerald Pitts. Let me
2 say this: Both of you know that I know both of you, and I've
3 done some legal work for both of you. Do you want me to hear
4 this, or do you want some other judge to hear it?

5 MS. PITTS: I have no problem.

6 MR. PITTS: I ain't got no problem.

7 THE COURT: Okay, all right.

8 (A pause transpired.)

9 THE COURT: I've read the appeal of Ms. Pitts and
10 I've read the return from the magistrate this morning before
11 I've come to the bench. I've read that.

12 Both of you understand I'm not re-trying the case.
13 I sit as -- you have to tell me what the magistrate did wrong.
14 Yes, ma'am.

15 MS. PITTS: Your Honor, she took the credibility of
16 the daughter, which is bias to the father; favors the father
17 more. And the mother and the daughter lied, and that's
18 basically what she focused her decision on is the daughter's
19 decision and the daughter crying.

20 She did not take into consideration of the evidence
21 that I had, all the paperwork of stating the facts of what was
22 owed to me versus what's owed to him.

23 THE COURT: Did the magistrate prevent you from
24 putting in any evidence?

25 MS. PITTS: I asked her would she take the

1 paperwork into evidence, and she told me no, that was
2 irrelevant.

3 And then I had paperwork showing that the bike had
4 been in my name since 2015, and the daughter didn't live with
5 us at the time, and she did not take it into consideration.

6 THE COURT: Anything else?

7 MS. PITTS: That will be all.

8 THE COURT: Yes, sir. Mr. Pitts.

9 MR. PITTS: I have nothing, Judge.

10 THE COURT: Do both of you have an e-mail address?

11 MS. PITTS: I do.

12 MR. PITTS: I do not.

13 THE COURT: You do not?

14 MR. PITTS: I do not.

15 THE COURT: Let me ask this. Are you still at 140
16 McMillan Lane, Campobello?

17 MR. PITTS: I'm at 311 Wilkie Ford Road, in Inman.

18 THE COURT: I can't hear you.

19 MR. PITTS: 311 Wilke Ford Road, in Inman.

20 THE COURT: Wilkie Boyd?

21 MR. PITTS: Wilkie Ford.

22 THE COURT: Inman?

23 MR. PITTS: Yes, sir.

24 THE COURT: Are you still at Lude Johnson
25 Boulevard?

1 MS. PITTS: Yes, sir.

2 THE COURT: 27 Lou Johnson, Campobello?

3 MS. PITTS: Yes, sir.

4 THE COURT: Watch your mail. Usually we do it by
5 e-mail. Since both of you don't have e-mail, we will have to
6 mail it to you.

7 MR. PITTS: Thank you.

8 MS. PITTS: I have an e-mail.

9 THE COURT: He doesn't, so I'm not going to --

10 MS. PITTS: Right.

11 THE COURT: The Rules of the court are I have to
12 communicate at the same time with both of you. If he doesn't
13 have one, we'll just mail it to both of you.

14 MS. PITTS: Okay.

15 THE COURT: Thank you both. Good to see you.

16 (The hearing was concluded at 9:54 a.m.)

17

18

19

20

21

22

23

24

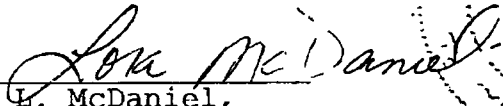
25

CERTIFICATE OF REPORTER

I, Lora McDaniel, Registered Professional Reporter
and Notary Public for the State of South Carolina at Large, do
hereby certify that the foregoing transcript is a true,
accurate, and complete record.

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

Witness my hand, I have hereunto affixed my official
seal this 9th day of January, 2018 at Spartanburg, Spartanburg
County, South Carolina.


Lora E. McDaniel,
Registered Professional Reporter
My Commission expires:
August 9, 2026

