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ORIGINAL

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

Roger L. Couch, Circuit Court Judge

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JUN 12 2013

THE STATE,

RESPONDENT, SC Court of Appeals

v.

CARLOS LAMONTE MCJIMPSEY

APPELLANT

APPELLATE CASE NO. 2012-213007

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

COURT OF GENERAL SESSIONS
2012-GS-42-01448

THE STATE OF SOUTH CAROLINA,

-vs-

CARLOS LAMONTE MCJIMPSEY,

Defendant.

TRANSCRIPT OF RECORD

August 15, 2012
Spartanburg, South Carolina

Ordered: September 4, 2012

Delivered: November 5, 2012

B E F O R E:

THE HONORABLE ROGER COUCH, Presiding Judge.

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

MS. JENNIFER JORDAN, Esquire
Assistant Solicitor Appearing for the State

MR. ROGER POOLE, Esquire
Public Defender Appearing for the Defendant

PROBATION AGENT, Spartanburg County Department of
Probation, Pardon, & Parole

Pamela Faucette
Circuit Court Reporter

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VOIR DIRE

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1 August 15, 2012

VOIR DIRE

9:38 A.M.

2 (Off-the-Record Comments)

3 (Whereupon, State's Exhibit Numbers 1 through 4 were
4 marked for identification.)

5 THE COURT: Good morning, ladies and gentlemen. We
6 are about to begin the trial of the case of *The State of*
7 *South Carolina vs. Carlos McJimpsey*. It's case number
8 2012-GS-42-1448.

9 The charge in this case and on this indictment is for
10 the offense of habitual traffic offender. The indictment
11 states that, "The Defendant, Carlos McJimpsey, did in
12 Spartanburg County, on or about February 14 of 2012
13 operate a motor vehicle after having being declared an
14 habitual offender by the South Carolina Department of
15 Public Safety in violation of Section 56-1110 of the Code
16 of Laws of South Carolina, 1976 as amended, against the
17 peace and dignity of the State and contrary to the statute
18 in such case made and provided."

19 Now, ladies and gentlemen, that is the indictment
20 that brings the case before the Court. And as I've
21 indicated to you previously -- (coughs) excuse me -- that
22 indictment is not evidence in the case and cannot be used
23 by a jury in any fashion in determining the guilt or the
24 innocence of the Defendant.

25 Now, before we begin the jury selection process, I'm

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1 going to ask that the attorneys that are involved in the
2 trial of the case introduce themselves to you; first of
3 all, for the State.

4 MS. JORDAN: Thank you, Your Honor. My name is
5 Jennifer Jordan. I am an assistant solicitor here in the
6 Seventh Circuit Solicitor's Office. I prosecute cases for
7 Solicitor Barry Barnett.

8 Seated at the table beside me is Susan Reese, who is
9 also an assistant solicitor with the office.

10 THE COURT: Thank you very much. And for the
11 Defense?

12 MR. POOLE: Good morning, ladies and gentlemen. My
13 name is Roger Poole and I represent Mr. Carlos McJimpsey.
14 Mr. McJimpsey, would you stand?

15 (Witness complied with the request.)

16 THE COURT: Face the jury panel for me, sir.

17 (Witness complied with the Court's request.)

18 THE COURT: Thank you. Thank you very much. Now,
19 as always, when we start a new case, it's necessary that
20 you be sworn to answer the questions in this case
21 truthfully. So, I will ask the clerk to, please, swear
22 the potential jury panel for me.

23 (Whereupon, the jury panel was sworn.)

24 THE COURT: All right. Ladies and gentlemen, we
25 will follow the same procedure that we have followed in

1 the past. I'll ask you questions. If you have any
2 response, I'll be asking you just to stand. And I do need
3 to get your name and number before we discuss any response
4 that you might have to my questions.

5 The first question: Has any member of the jury panel
6 ever been related by marriage or are you related by blood
7 or have you ever had a close personal or social
8 relationship with the Defendant, Carlos McJimpsey? If
9 that's true, please, stand.

10 (No Response)

11 THE COURT: Has any member the jury panel ever been
12 represented by either of the attorneys or any of the
13 attorneys that are involved in this case or have they ever
14 appeared on the other side of a legal matter from you? If
15 that's true, please, stand.

16 (No Response)

17 THE COURT: I am going to read a list of people that
18 have been identified to me as possible witnesses in the
19 case. If they are present in the courtroom, I'll ask, when
20 I call their name, that they stand and face you so that
21 you can place a face with the names.

22 First of all, Officer Brendall Mathis with the
23 Spartanburg Public Safety Department.

24 (Witness stands.)

25 THE COURT: Thank you, sir. Next Officer

VOIR DIRE

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1 Christopher Layton with the Spartanburg County -- excuse
2 me -- Spartanburg Public Safety Department.

3 (Witness stands.)

4 THE COURT: Thank you. Next is Officer Jonathan
5 Lawson with the Spartanburg Public Safety department.

6 (Witness not present.)

7 THE COURT: And finally is Marie Wearing with the
8 South Carolina Department of Motor Vehicles.

9 (Witness not present.)

10 THE COURT: Next Eleanor Martin. Ma'am, if you'll
11 stand and face the jury.

12 (The witness complied with the request.)

13 THE COURT: Thank you very much. Now, ladies and
14 gentlemen, as to the individuals that I have identified as
15 potential witnesses in this case, has any member of the
16 jury panel ever been related by marriage or you related by
17 blood or have you ever had a close social or personal
18 relationship with any of the individuals that I've
19 identified as potential witnesses in this case? If that's
20 true, please, stand.

21 (No Response)

22 THE COURT: Has any member of the jury panel or a
23 member of your immediate family or a close personal friend
24 of yours ever been investigated, accused of, or charged
25 with a traffic violation such as driving under suspension,

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1 driving under the influence, or habitual traffic offender?
2 If that's true, please, stand.

3 (No Response)

4 THE COURT: Has any member of the jury panel or a
5 member of your immediate family or a close personal friend
6 of your own ever been investigated by, accused of, or
7 charged with a crime that was prosecuted by the Seventh
8 Circuit Solicitor's Office? If that's true, please,
9 stand.

10 (Potential juror stands in response.)

11 THE COURT: Name and number, please ma'am?

12 POTENTIAL JUROR: Brenda Harris, Number 70:

13 THE COURT: Yes, ma'am?

14 POTENTIAL JUROR: I have a family member who has a
15 pending case.

16 THE COURT: All right. Would that affect your
17 ability to be fair and impartial in this case?

18 POTENTIAL JUROR: I don't think so.

19 THE COURT: Well, I have to know for sure

20 POTENTIAL JUROR: No, sir.

21 THE COURT: Okay. Now, ma'am, the nature of that
22 case is? What is the charge or do you know?

23 POTENTIAL JUROR: I don't know.

24 THE COURT: Okay. Thank you, ma'am. You can be
25 seated.

VOIR DIRE

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1 (Witness complied with the Court's request.)

2 THE COURT: Anyone else?

3 (No Response)

4 THE COURT: Has any member of the jury panel or a
5 member of your immediate family or a close personal friend
6 of yours ever been investigated, accused of, or charged
7 with a crime by the Spartanburg Public Safety Department?
8 That's what we commonly call the Spartanburg City Police,
9 or the Spartanburg County Sheriff's Office if you're aware
10 of that? If that's true, please, stand.

11 (No Response)

12 THE COURT: Has any member the jury panel formed or
13 expressed an opinion about any issue or matter that might
14 be involved in the trial of this case? If that's true,
15 please, stand.

16 (No Response)

17 THE COURT: Is there any member of the jury panel
18 who is aware of any bias or prejudice either for or
19 against either the State or the Defense? If you are aware
20 of any such prejudice or bias, please, stand.

21 (No Response)

22 THE COURT: Is there any member of the jury panel
23 who might -- who may have served as a member of the grand
24 jury that issued the indictment in this case? That
25 occurred on March 29th of 2012. If that's true, please,

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1 stand.

2 (No Response)

3 THE COURT: Is there any member the jury panel who
4 is a member of or a contributor to any group which has as
5 its primary concern the promotion of law enforcement or
6 victims rights? The groups would include, but not be
7 limited to, Mothers Against Drunk Driving, Students
8 Against Drunk Driving, Citizens Against Violent Crime, the
9 South Carolina Sheriffs Association, the South Carolina
10 Troopers Association, or Safe Homes, Rape Crisis, or other
11 similarly oriented organizations? If that's true, please,
12 stand.

13 (No Response)

14 THE COURT: Does any member of this jury panel know
15 of any reason whatsoever why he or she should not serve as
16 a juror in the case with particular emphasis being placed
17 upon your ability to be both fair and impartial to both
18 the State and the Defense? If that's true, please, stand.

19 (No Response)

20 THE COURT: Any additional questions from the State?

21 MS. JORDAN: No, sir, Your Honor.

22 THE COURT: Any from the Defense?

23 MR. POOLE: No, sir.

24 THE COURT: All right.

25 (Brief Pause)

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JURY SELECTION

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1 THE COURT: Mr. Hipp, I'll need the number of the
2 two jurors who were the last ones to come in, please.

3 (Off-the-Record Comments)

4 THE COURT: If you could, tell the clerk for me so
5 those numbers can be taken out of the list. They weren't
6 here for qualification.

7 BAILIFF: Thirty-six (36) and nineteen (19) and
8 twenty-eight (28) hasn't shown up.

9 (Brief Pause)

10 THE COURT: All right. I'll declare then that the
11 jury, as I've qualified, is qualified to serve in this
12 case. And at this time we will begin the jury selection
13 process. If you'll, prepare the list, Madam Clerk.

14 (Pause while the computer generates the jury list.)

15 THE COURT: In this case the State will have five
16 (5) strikes; the Defense will have five (5) strikes.
17 We'll pick one alternate. The State having one strike;
18 the Defense having two.

19 (Brief Pause)

20 THE COURT: All right. Ladies and gentlemen of the
21 jury, we will follow the same process. If your name is
22 called, come forward to the front, stand facing the back
23 door of the courtroom. And the parties will be in a
24 position to exercise their strikes.

25 Madam Clerk, you can begin the jury selection

JURY SELECTION

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process.

MADAM CLERK: Juror 102, Kelvin Lyles.

(Potential juror stepped forward.)

MADAM CLERK: What say the State?

MS. JORDAN: Please present this juror.

MADAM CLERK: What say the Defense?

MR. POOLE: Please swear the juror.

MADAM CLERK: Juror 38, Latonya Davis.

(Potential juror stepped forward.)

MADAM CLERK: What say the State?

MS. JORDAN: Please present this juror.

MADAM CLERK: What say the Defense?

MR. POOLE: Please swear the juror.

MADAM CLERK: Juror 180, Jason Zdyb.

(Potential juror stepped forward.)

MADAM CLERK: What say the State?

MS. JORDAN: Please present this juror.

MADAM CLERK: What say the Defense?

MR. POOLE: Please swear the juror.

MADAM CLERK: Juror 169, Daniel Welch.

(Potential juror stepped forward.)

MADAM CLERK: What say the State?

MS. JORDAN: Please present this juror.

MADAM CLERK: What say the Defense?

MR. POOLE: Please swear the juror.

JURY SELECTION

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1 MADAM CLERK: Juror 133, Jimmy Reynolds.
2 (Potential juror stepped forward.)
3 MADAM CLERK: What say the State?
4 MS. JORDAN: Please excuse this juror.
5 MADAM CLERK: Juror 71, Tiffany Harris.
6 (Potential juror stepped forward.)
7 MADAM CLERK: What say the State?
8 MS. JORDAN: Please present this juror.
9 MADAM CLERK: What say the Defense?
10 MR. POOLE: Please swear the juror.
11 MADAM CLERK: Juror 182, James Britt.
12 MADAM CLERK: What say the State?
13 MS. JORDAN: Please present this juror.
14 MADAM CLERK: What say the Defense?
15 MR. POOLE: Please swear the juror.
16 MADAM CLERK: Juror 88, Ronald Januebowski.
17 (Potential juror stepped forward.)
18 MADAM CLERK: What say the State?
19 MS. JORDAN: Please present this juror.
20 MADAM CLERK: What say the Defense?
21 MR. POOLE: Please swear the juror.
22 MADAM CLERK: Juror 70, Brenda Harris.
23 (Potential juror stepped forward.)
24 MADAM CLERK: What say the State?
25 MS. JORDAN: Please present this juror.

JURY SELECTION

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1 MADAM CLERK: What say the Defense?
2 MR. POOLE: Please excuse this juror.
3 MADAM CLERK: Juror 53, Anthony Fernandez.
4 (Potential juror stepped forward.)
5 MADAM CLERK: What say the State?
6 MS. JORDAN: Please present this juror.
7 MADAM CLERK: What say the Defense?
8 MR. POOLE: What was the number again please?
9 MADAM CLERK: Fifty-three (53).
10 MR. POOLE: Please swear the juror.
11 MADAM CLERK: Juror 156, Brandon Spake.
12 (Potential juror stepped forward.)
13 MADAM CLERK: What say the State?
14 MS. JORDAN: Please present this juror.
15 MADAM CLERK: What say the Defense?
16 MR. POOLE: Swear the juror.
17 MADAM CLERK: Juror 92, Christie Koons.
18 (Potential juror stepped forward.)
19 MADAM CLERK: What say the State?
20 MS. JORDAN: Please excuse this juror.
21 MADAM CLERK: Juror 129, Whitney Pollard.
22 (Potential juror stepped forward.)
23 MADAM CLERK: What say the State?
24 MS. JORDAN: Please present this juror.
25 MADAM CLERK: What say the Defense?

JURY SELECTION

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1 MR. POOLE: Please swear the juror.
2 MADAM CLERK: Juror 63, Glenn Gowan.
3 (Potential juror stepped forward.)
4 MADAM CLERK: What say the State?
5 MS. JORDAN: Please presented this juror.
6 MADAM CLERK: What say the Defense?
7 MR. POOLE: Please swear the juror.
8 MADAM CLERK: Juror 31, Lillian Cheatham.
9 (Potential juror stepped forward.)
10 MADAM CLERK: What say the State?
11 MS. JORDAN: Please present this juror.
12 MADAM CLERK: What say the Defense?
13 MR. POOLE: Please swear the juror.
14 MADAM CLERK: And for the alternate, juror 134,
15 Melissa Roberts-Adams.
16 (Potential juror stepped forward.)
17 MADAM CLERK: What say the State?
18 MS. JORDAN: Please present this juror.
19 MADAM CLERK: What say the Defense?
20 MR. POOLE: Please swear the juror.
21 MADAM CLERK: Jury selection has been completed.
22 THE COURT: Thank you. Any objection to the jury
23 selection process by the State?
24 MS. JORDAN: None from the State, Your Honor.
25 THE COURT: Any objection by the Defense?

JURY SELECTION

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1 MR. POOLE: No, sir.

2 THE COURT: All right. Ladies and gentlemen of the
3 jury panel, those of you who have not been selected, I'm
4 going to ask that you go back around to the assembly
5 room. I have received a message this morning that Judge
6 Cole may be interested in picking a jury in his courtroom
7 shortly.

8 So we're going to ask that you stay around to see if
9 that's going to come to pass. So thank you very much for
10 your cooperation this morning.

11 The two ladies that came in late, if you'll remain
12 seated for me. The others may retired to the jury
13 assembly room. Thank you very much.

14 (Whereupon, the jury panel exited the courtroom at
15 9:56 A.M.)

16 (Off-the-Record Comments)

17 THE COURT: All right. Those of you who have been
18 selected on this jury, there are some matters that I'm
19 going to need to take up with the attorneys before I
20 began the actual trial of the case.

21 It shouldn't take but a moment or two, so, I'm going
22 to ask you to step back to the jury room while I get
23 those preliminary matters out of the way.

24 I caution you now -- and I'll talk to you about this
25 in more detail, but please don't begin to talk about

JURY SELECTION

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1 anything that may concern this case or the people who are
2 involved until such time as I instruct you to begin your
3 deliberations.

4 We've gone to a lot of trouble to pick people with
5 an open mind about this case, and any discussion you may
6 have among yourselves that has to do with this case might
7 begin to color your judgment or your thinking involved in
8 this matter.

9 And, again, I want keep you -- you to keep an open
10 mind until I turned the case over to you for your
11 deliberations.

12 So don't discuss anything about the case. You can
13 toggle anything else, just don't talk about this matter.
14 You can retire to the jury room. Thank you very much.

15 (The jury exited the courtroom at 9:57 AM)

16 (Off-the-Record Comments)

17 THE COURT: If you two ladies will come down front
18 for me, please.

19 (Potential jurors complied with the Court's
20 request.)

21 (Off-the-Record Discussion)

22 THE COURT: Mr. Poole, I did not inquire of your
23 client before the jury was sworn. I assume he has been
24 arraigned on the charge and has requested a trial by
25 jury; is that right?

1 MR. POOLE: That's correct.

2 THE COURT: And is that still his position in
3 regard to the case?

4 MR. POOLE: That's correct.

5 THE COURT: All right. I don't believe there's
6 anything else we need to take up before we begin.
7 Anything from the State to take up?

8 MS. JORDAN: No, sir, Your Honor. I would just
9 like to let the Court know one of the -- the officer,
10 Officer Mathis, I do intend to ask him a question if he
11 had -- if he knows the defendant based upon prior
12 dealings with him.

13 I do want to ask that question because that's part
14 of his identification. And I wanted to make the Court
15 aware that I was going to ask that question, but we're
16 not going into any specifics with the prior dealings of
17 how he has specific knowledge of him.

18 THE COURT: Okay. Any -- Mr. Poole, any problem
19 with that extent of questioning?

20 MR. POOLE: I don't have a problem with that, but I
21 would like for her just to -- just to keep it real simple
22 like, "Do you know -- Do you know Mr. McJimpsey?" Not
23 from prior dealings.

24 THE COURT: Well, if we do that, then, perhaps she
25 need to -- she would go into how well he knows him.

MOTIONS & MATTERS

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1 MR. POOLE: Well, I wanted it to be limited -

2 THE COURT: I don't know if you wanted to go down
3 that road.

4 MR. POOLE: Well, I just want one question asked,
5 and, if that's the option, then ---

6 THE COURT: Well, I don't find that, that gets into
7 any prior bad acts, the fact that the police officer may
8 have dealings with somebody;

9 It could've been as a witness. It could've been as
10 a victim. It could've been as lots of different things.

11 MR. POOLE: Okay.

12 THE COURT: So, I mean, I'm not going to let her
13 get into what -- if there were prior bad acts, if that's
14 what it was, I would not allow her to go there because I
15 find that to be prejudicial; the prejudicial effect would
16 outweigh the probative value in that case.

17 But, if this gentleman, this officer, has dealt with
18 him in the past, in some fashion personally and knows him
19 that well, that would get into how well he might be able
20 to identify him. And I think that's an issue in the
21 Court -- in the case from what I heard in some pretrial
22 discussions we've had.

23 There was a drive-by identification; is that the
24 best way to put it? They passed each other on the street
25 and he identified him by that pass by?

1 MS. JORDAN: Yes, sir. And, Your Honor, in
2 addition to the identification, he also had prior
3 knowledge that the Defendant's license was suspended and
4 may still be suspended. Which led to the turn around.

5 THE COURT: Okay. Were you going to ask about
6 that?

7 MS. JORDAN: I think I need to do if there's any
8 issue with the probable cause as to why he came upon or
9 why they turned around and came back to the Defendant.

10 THE COURT: Well, you have to establish probable
11 cause. He was aware that his license had been suspended?

12 MS. JORDAN: Yes, sir, that he had had issues with
13 his license.

14 THE COURT: Mr. Poole, that -- that goes a little
15 further, but also would estab -- is there any other
16 probable cause other than that? Is that the reason he
17 made the stop?

18 MS. JORDAN: Your Honor, once -- once they turned
19 around on the vehicle and came back and found the
20 vehicle, it was parked -- it was parked on the wrong side
21 the road.

22 THE COURT: Well, that wouldn't have been a reason
23 for a stop though.

24 MS. JORDAN: And actually the vehicle was already
25 stopped when they came upon it.

MOTIONS & MATTERS

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1 THE COURT: So they didn't actually pull him over?

2 MS. JORDAN: No, sir. They pulled in front of him.

3 THE COURT: Okay. I see. All right. Mr. Poole?

4 MR. POOLE: I understand. And given the nature of
5 the type of Defense we have in this case, if it's just
6 those two questions I don't think ---

7 THE COURT: All right. So I'll -- I'll allow those
8 questions. We won't get into the reasons for the
9 suspension or any other complaints that may have been
10 lodged against him or investigated about.

11 MS. JORDAN: Correct, Your Honor.

12 THE COURT: Okay. Very good. Be sure to caution
13 your witness about that because that could be grounds for
14 a mistrial if we go there.

15 MS. JORDAN: Yes, sir. We -- we discussed that and
16 also having him present here in the Courtroom when I put
17 it on the record.

18 THE COURT: Okay. Very good. All right. Anything
19 further before we bring the jury in?

20 MS. JORDAN: No, sir.

21 THE COURT: Defense's position?

22 MR. POOLE: No, sir.

23 THE COURT: All right. Let's bring the jury in.

24 (The jury entered the Courtroom at 10:06 A.M.)

25 PRELIMINARY INSTRUCTIONS

1 THE COURT: All right. The record will reflect the
2 jury has returned to the Courtroom. And at this time the
3 clerk is going to administer another oath to you. And
4 this oath has to do with your responsibilities as jurors
5 in this action. Madam Clerk?

6 (Whereupon, the jury was impaneled.)

7 THE COURT: If there was any member of the jury
8 panel who either failed or refused to take the oath that
9 the clerk just administered, I'd ask that you, please,
10 stand.

11 (No Response)

12 THE COURT: It appears that all jurors have been
13 sworn concerning your duties in this case. Now, before
14 we begin the actual trial of this case, there are some
15 matters I want to go over with you.

16 You know, about this time in the week I start seeing
17 faces on the jury that I've seen before. And for some of
18 you, you've heard this before, but bear with me; there's
19 a few people here who haven't heard this before. And I
20 want to be sure that everyone is on the same page when we
21 get started in the case.

22 For those of you who are on the jury for the first
23 time, perhaps this may be your first experience in
24 serving on a jury. I would suspect that most of what you
25 know about jury service you would've learned -- most of

PRELIMINARY INSTRUCTIONS

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1 us learn that from television or movies, things like
2 that.

3 And I always tell juries that it's a -- it's a clear
4 tipoff on TV that things can happen such as someone be
5 arrested, tried, and the whole case ended in an hour.
6 And they stop for commercial six times. It's probably a
7 tipoff that, when people write their stories, they take
8 what's called literary license with what goes on in
9 courtrooms.

10 In other words, they bend the stories or bend the
11 Courtroom procedure to fit the story so it's
12 entertaining. It grabs your attention. It makes you
13 watch. So, that you'll watch those commercials when they
14 come up.

15 And, so, those sources of information about
16 courtroom and courtroom drama are -- are interesting
17 sources of information, but I'm going to caution you,
18 those sources of information are intended, again, to
19 entertain you.

20 And what we're engaged here in this courthouse is
21 intended for anything but your entertainment. What
22 you're engaged in is a fundamental part of our
23 democracy.

24 Our system is one of the few systems in this world
25 that allows direct participation by citizens in the

1 decision-making process that goes on in -- in the
2 courtrooms in this country.

3 It's a tradition that's been handed down to us from
4 England. It stems from a document called the Magna Carta
5 that was signed in a place called Runnymede (phonetic)
6 back in the year 1215.

7 So, in about three years it'll be 800 -- it will be
8 an 800-year old tradition of citizens making decisions in
9 important cases involving other citizens and the
10 government.

11 So I want to thank you very much for your
12 willingness to participate in the system and be involved
13 in it for this short time this week.

14 What we are engaged in here is not, again, for your
15 entertainment, but it's a search for the truth. It's an
16 effort to see that justice is done between the parties
17 that are before this court.

18 And this case, we've got the State of South Carolina
19 that's brought a charge against one of its citizens, the
20 Defendant in this case.

21 Searching for the truth and trying to do justice
22 will be a slow process. It's going to be a deliberate
23 process. It's going to involve certain rules and certain
24 ground rules that must be followed for the -- for the
25 trial to proceed.

PRELIMINARY INSTRUCTIONS

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1 And, if I were to ask you what you would expect a
2 search for the truth to be like, I would expect you to
3 think it would be a deliberate process, not a hasty one.
4 Sometimes it'll be repetitive. And I would think that's
5 what you would expect from a search for the truth, a
6 slow, sometimes deliberate, process trying to make sure
7 that justice is done in this case.

8 Our system I think is one of the better ones ever
9 devised on the face of this earth. It's not perfect
10 because nothing that is operated by men or devised by men
11 will ever be a perfect system. But it is an honest and a
12 sincere effort to see that justice is done between the
13 parties that are appearing before this Court.

14 And this courtroom is a place of honor. It's
15 dedicated to the preservation of citizens' rights,
16 through the laws and the Constitution both of this state
17 and of the United States of America.

18 Now the lawyers who are going to appear before you
19 in this case are here to represent their client's
20 interest and present their cases to you during this
21 trial. And I don't expect this to be a very long trial,
22 but it will be an important trial to the parties that are
23 involved in it.

24 And you can expect from those lawyers that they are
25 going to act in a reasonable and a professional manner in

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1 the presentation of their client's cases before you
2 during this trial.

3 One reason for that is they are officers of this
4 Court. And, at some point in time they appeared before a
5 Court in this state, they took an oath at that time. And
6 that oath was prescribed by law.

7 Part of that oath is that they will assist you in
8 your search for the truth. I will remind you that you
9 have become before this Court today and you've taken an
10 oath in this case. That oath is also prescribed by law.

11 You are expected to act in a reasonable and
12 professional and an ethical manner in the discharge of
13 your duties as jurors in this case.

14 I thanked you several times this week. I'll thank
15 you again because, if it weren't for good citizens such
16 as yourselves who are willing to come forward and serve
17 on juries, our system couldn't function as it was
18 designed to function.

19 So I want to thank you for your willingness to
20 accept the responsibility that you've accepted ==
21 accepted by jury service in this case.

22 I've gone over the indictment with you. And I'm not
23 going to do that again. I will mention again that the
24 charge is that the Defendant was driving a motor vehicle
25 while classified as an habitual traffic offender by the

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1 Department of Public Safety.

2 I will read the indictment to you when I charge you
3 concerning the law again. And we'll go over that
4 document at that time.

5 But, again, I'll remind you that, that is simply the
6 document that brings the case before the Court. Every
7 case that comes before this Court has a similar document.

8 It is not evidence in this case and cannot be used
9 by evid -- cannot be used by you as evidence in
10 determining the issue of guilt or innocence in this case.

11 You see because the Defendant has pled not guilty to
12 that indictment. That plea places the burden of proof
13 solely and exclusively upon the State of South Carolina;
14 that is to prove the allegations contained in the
15 indictment by proof that satisfies you of that guilt
16 beyond a reasonable doubt.

17 And I'll talk to you about that standard of proof
18 and what that means later on when I charge you concerning
19 the law. But it will be your responsibility, when this
20 trial has ended, to determine whether or not the State
21 has met its burden of proof; that is, to prove the
22 allegations by proof beyond a reasonable doubt.

23 Therefore, it is your purpose as jurors in this case
24 to find and determine the facts in this case. Every case
25 that's tried before this Court, in which a jury is

1 participating, the jury is the sole and exclusive judge
2 of the facts in this case.

3 I will be presiding over the trial and it will be my
4 responsibility to rule on questions of evidence that may
5 come up or whether or not the questioning that is going
6 on is appropriate under the Rules of Evidence and the
7 Rules of Procedure that govern those things.

8 And it will be my job to see that those rules are
9 enforced through the process of the trial.

10 Now please don't take from anything that I do, in
11 the discharge of those duties, to somehow indicate to you
12 that I have an opinion as to how you determined the facts
13 in this case. I've already told you, you're the sole and
14 exclusive judges of the facts. So don't take from
15 anything that I say to indicate that I have an opinion on
16 that subject whatsoever.

17 The law doesn't allow me an opinion on the facts.
18 And I can assure you I have no opinion as to how you
19 determined the facts in this case.

20 Now, on the other hand and with equal emphasis, I'm
21 going to tell you that the same law that makes you the
22 sole judges of the facts makes me the sole judge of the
23 law in this case.

24 At the close of the trial, once you've heard all of
25 the evidence and all of the arguments, I will charge you

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1 concerning the law that to be applied to the facts as you
2 find those facts to be.

3 Just as the law doesn't allow me to disagree with
4 you concerning your determination of the facts, the law
5 doesn't allow you to disagree with me concerning the law
6 that to be applied in this case.

7 So, under the oath that you taken as jurors, the law
8 that I give you at the close of the trial is the only law
9 that you can use in making a determination in this case.

10 So, if you came into the courtroom today with a
11 notion as to what the law is or what it ought to be, you
12 should leave those notions outside of the jury room
13 before you began your deliberations. It's your
14 responsibility as jurors to take the law as I, the Court,
15 gives it to you and apply it to the facts as you find
16 those facts to be.

17 That should put you in a position to render a just,
18 a true, and a fair verdict in this case.

19 (Brief Pause)

20 THE COURT: I've cautioned you already about
21 discussing this case and about keeping an open mind. And
22 let me share one other caution with you or one main
23 caution about this:

24 Your oath is to decide the case based on the
25 evidence and the law. The only place you're going to

1 hear evidence in this case is in this courtroom.

2 The only evidence in this case will be testimony of
3 witnesses. That testimony will be sworn testimony given
4 from this witness stand (indicating).

5 The other evidence in this case will be whatever
6 documents or other objects that might come into the
7 record case through that sworn testimony. So that's the
8 only evidence in this case.

9 For that reason, it would be highly improper and it
10 would be a violation of your oath for you to try to
11 gather information about this case outside of this
12 courtroom.

13 We may break for lunch a little later on and you may
14 be allowed to leave the courtroom. And, during that
15 period of time, you shouldn't try to gather any
16 information on your own outside of the courtroom because
17 your oath is to decide the case based on the evidence.
18 And there is no evidence outside of this courtroom.

19 So don't try to gather information on your own;
20 don't any Internet searches about the persons or the
21 individuals involved and the charges that are involved
22 or anything of that nature.

23 Don't allow anyone to discuss the case with you.
24 Don't discuss the case with anyone. Don't watch, listen
25 to, or read media reports.

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1 I can assure you that the Internet information,
2 media reports almost always contains information that
3 cannot be used by a jury under the rules that govern the
4 -- the operation of our courts in reaching a verdict in a
5 case.

6 It contains information that would not be admissible
7 into evidence in this matter. For that reason, you
8 should not consider that information at all in reaching a
9 verdict in this case.

10 Now it will be your solemn responsibility, as I've
11 told you, at the close of the trial to determine the
12 guilt or the innocence of the Defendant. And it's
13 important that your discussions, your deliberations, and
14 your decision be based upon what you've seen and heard
15 during the trial.

16 For that reason, I going to ask you: Try not to let
17 your thoughts wander during the case. Try to pay
18 attention to what goes on in the courtroom and how the
19 courtroom is proceeding and how witnesses testify, things
20 of that nature, so, that you'll be in a position, at the
21 close of the trial, to recall the testimony, discuss it
22 with your other jurors during deliberations.

23 So, again, pay close attention to what goes on in
24 the courtroom. And, again, try not to let your thoughts
25 wander during the case.

1 In a few minutes, we'll start the trial and I'll
2 allow the attorneys to make open comments to you. There
3 are two occasions during this trial that I'll allow
4 attorneys to directly address you, the jury.

5 That is at the beginning of the trial, during
6 opening statements, and at the close of the evidence,
7 that's during closing arguments or statements.

8 I'm going to caution you now that the statements
9 made by lawyers on both occasions do not constitute
10 evidence in this case. It is not sworn testimony. It
11 has not been entered into the record as evidence.

12 What it serves to do is to give you an overview of
13 the case when it begins. And it gives you an opportunity
14 to hear a summation of the evidence that you've heard
15 from their client's perspective.

16 But, again, statements made by lawyers themselves do
17 not constitute evidence and can't be used by a jury in
18 reaching a verdict in the case. The only evidence is the
19 testimony of the witnesses and what comes into the record
20 through that testimony or perhaps matters put into the
21 record by agreement of counsel.

22 Now I'm going to caution you or explain to you that,
23 as the sole judges of the -- of the facts in this case,
24 it will be necessary for you to determine the credibility
25 or the believability of the testimony that you are about

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1 to hear.

2 That's what credibility means; it means
3 believability. I am going to ask you to use your common
4 sense in making that determination. Every single day of
5 your life you make commonsensical decisions as to what
6 you choose to believe and what you choose not to believe.
7 And today is no different than any day in your life.

8 Use your common sense in evaluating the evidence
9 that you are about to hear, the testimony that you're
10 about to hear. As the sole judges of the facts, you have
11 the right to believe all of what a witness tells you,
12 part of what a witness tells you, or you have the right
13 to believe none of what a witness tells you.

14 You have the right to believe one witness against
15 the others or the others against one. You are the sole
16 judges of the facts and that makes you the sole judge of
17 the credibility of the evidence that you hear.

18 Consider such factors as whether or not a witness
19 might have a stake in the outcome of the case; whether or
20 not a witness might express or have some bias or
21 prejudice one way or the other;

22 Whether or not a witness actually has the ability to
23 know the facts about which the witness is attempting to
24 testify.

25 And they always put the witness chair right in front

1 of the jury box. And that's so that you can observe the
2 witnesses as they testify, how they speak; the way they
3 deliver their -- their testimony.

4 You have the right to consider anything that's in
5 the record in making a determination of credibility or
6 believability of witnesses. So, again, try not to let
7 your thoughts wander, evaluate the evidence that you
8 hear.

9 Listen to it and you assign the weight that you
10 think each piece of evidence you hear deserves; again,
11 using your own good common sense and a determination as
12 to the credibility or the believability of the evidence
13 that you might hear during the trial.

14 Let me caution you about one other thing that might
15 come up during the trial. If there is an objection or if
16 there's an issue being raised concerning some matter in
17 the procedure of the trial or the admission of evidence,
18 and it's my belief that my discussion with the lawyers
19 about that particular matter may go into matters that
20 would not be admissible and should not be considered by
21 you, under the Rules of Evidence that govern those
22 things, if I believe the discussion is going in that
23 direction, I will ask you to leave the courtroom while I
24 have those discussions.

25 Please don't take from the fact that I've ask you to

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1 step outside of the courtroom while those discussions
2 take place to somehow indicate that I've got an opinion
3 about the facts. I've already told you it's my job to
4 see to it that proper evidence is admitted under the
5 rules that govern that sort -- those sorts of things.

6 So what I will do is, is I'll make a ruling in your
7 absence. And, then, we'll bring you back into the
8 courtroom, I'll announce the ruling; we'll proceed with
9 the trial.

10 But don't take from the fact that I've asked you to
11 step out of the courtroom to have those discussions,
12 again, to show somehow that I've got an opinion about how
13 you determine the facts. Again, it's just me doing my
14 job in that situation.

15 Now I do not appoint a foreperson of the jury until
16 the deliberations are about to begin. That's when I
17 charge you concerning the law. I know on television they
18 do that differently, but I haven't forgotten about the
19 fact that I have not appointed a foreperson.

20 And I do that for one reason; I like to stress to
21 juries or explain to juries, at the close of the trial,
22 your verdict must be unanimous.

23 All of you must agree upon the verdict before it's
24 the verdict of the jury. Therefore, none of you has a
25 greater say in the outcome of the case.

1 And it's also important that all of you be in a
2 position to equally discuss the case once the case goes
3 to trial [sic]. So the foreperson is no more important
4 than any other juror.

5 And I don't want you to get the feeling that I have
6 some idea that someone is more important or that they'll
7 take responsibility to listen to the testimony more
8 carefully. Each of you has a duty to do that. And each
9 of you has an equal say in the outcome of the case.

10 At the close of the trial, I will appoint that
11 person. And their only job is to preside over the
12 deliberations, write questions back to the Court if
13 that's necessary, and to fill out the verdict form once
14 the verdict has been reached.

15 But I'll make that appointment at the close of the
16 trial; I don't do that at the beginning of the trial.

17 I want to make sure I have not violated anyone's
18 rights in my opening comments to you. Does the State
19 have an objection to my opening comments?

20 MS. JORDAN: No, sir.

21 THE COURT: Does the Defense have any objection?

22 MR. POOLE: No, sir.

23 THE COURT: All right. Now, ladies and gentlemen,
24 I've explained to you that the Defendant has pled not
25 guilty. That places the burden of proof upon the State.

1 Defendant, knew the Defendant, turned around, and went
2 back to the Defendant;

3 Found the defendant parked on the wrong side of the
4 road on Ayden Street here in Spartanburg County, got out
5 with him. He was in the driver's seat and spoke to him.

6 Ladies and gentlemen, this will be a brief case.
7 But please don't let the brevity of the case mock or take
8 away any of the importance the case has to the State and
9 to the Defense.

10 One of the things I love about the jury system in
11 our country is that no one asks you, as the judge has
12 mentioned, to check your common sense at the door. It's
13 a great thing that all twelve (12) of you get to come
14 here and to apply the common sense that you have in your
15 everyday life to what you're going to hear from the
16 witness stand and what you may see up on the screen.

17 So I just ask that you pay attention; that you look
18 at the credibility and the believability of the
19 witnesses. And I'll be back at the end of the case to ask
20 you for a verdict of guilty. Thank you.

21 (Ms. Jordan's opening statement ended at 10:26 a.m.)

22 THE COURT: Mr. Poole for the Defense?

23 MR. POOLE: May it please the court?

24 (Mr. Poole's opening statement began at 10:27 a.m.)

25 MR. POOLE: It's only the third day of the court

1 week and there are already veterans sitting right here.
2 Thank you. I know you don't have a choice, but thank
3 you. This case will be brief, but it is important to
4 Mr. McJimpsey. The -- every case is different. There is
5 -- sometimes the jurors we sitting in judgment of a
6 defendant have to make a lot of findings of fact, whether
7 "A," "B," "C," and "D" have been proved.

8 This case is going to be brief because there's only
9 one issue that you will have to decide. And that is
10 whether Mr. McJimpsey was in fact driving the automobile
11 on the day in question, February 14th of this year.

12 Now we will present evidence that he was not
13 driving. You are the deciders of fact. You all will be
14 the ones to decide whether or not he was in fact driving
15 this car on this date at this time. And that's the only
16 fact you'll have to decide probably.

17 And I just ask you for your -- your continued
18 attention that you've exercised throughout the course of
19 this week and throughout the course of this trial.
20 Appreciate it.

21 (Whereupon, the opening statements concluded at
22 10:27 a.m.)

23 THE COURT: The State may call its first witness.

24 MS. JORDAN: Thank you, Your Honor. The State
25 calls Officer Brendall Mathis.

1 THE COURT: Sir, come forward to my left and be
2 sworn, please.

3 (Witness complied with the Court's request.)
4 (Whereupon,

5 OFFICER BRENDALL MATHIS
6 first being duly sworn, testified as follows:)

7 THE COURT: Once you're seated, sir, state your
8 name for me.

9 THE WITNESS: Brendall Mathis.

10 THE COURT: Ms. Jordan, your witness.

11 MS. JORDAN: Thank you.

12 THE COURT: Yes, ma'am.

13 DIRECT EXAMINATION by MS. JORDAN: 10:28 A.M.

14 Q. Officer Mathis, please tell the jury where you are
15 currently employed.

16 A. I'm employed with Spartanburg Public safety
17 Department.

18 Q. How long have you been employed there?

19 A. Four and a half (4 ½) years.

20 Q. What have been your duties in the four and a half (4
21 ½) years you've been the Public Safety Department?

22 A. I was on patrol when I first started. I'm currently
23 assigned to the violent crimes task force, which is a group
24 under our neighborhood improvement team.

25 Q. Okay. Were you on that neighborhood improvement

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1 team on February the 14th of 2012?

2 A. Yes, ma'am, I was.

3 Q. Okay. Could you tell the -- the jury where you were
4 on February the 14th of two thousand and twelve (2012) when you
5 encountered the Defendant?

6 A. Myself and Officer Layton were patrolling the Howard
7 Street area around Arch Street (phonetic) and Pearl Street
8 (phonetic).

9 Q. Okay. Who was driving your vehicle?

10 A. I was.

11 Q. Where -- what did you notice first?

12 A. As we turned off of Howard Street onto Pearl Street,
13 the -- there was a blue Chevrolet that we passed that was
14 coming in the opposite direction from us.

15 I was the driver of -- of our vehicle, clearly noticed a
16 subject that I recognized as Mr. McJimpsey in the driver's
17 seat of the other vehicle that I passed on the road. And at
18 that point we turned around and tried to catch up with him.

19 Q. Okay. You mentioned that you had prior knowledge of
20 the Defendant. You did know the Defendant previously?

21 A. Yes, ma'am.

22 Q. Okay. Did you also know at the time the Defendant
23 had his license suspended?

24 A. Yes, ma'am.

25 Q. Okay. I'm going to show you what's been marked

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1 previously as State's 3 and 3. And I'm going to start out by
2 showing you State's Number 3 and ask you if you know that --
3 or if you can identify that picture?

4 A. Yes, ma'am, I can. It's the vehicle that was
5 stopped on Ayden Street that Mr. McJimpsey was driving when we
6 got out to it.

7 Q. Okay. Does that vehicle -- or does that photograph
8 accurately depict the vehicle as it was back on February the
9 14th of 2012?

10 A. Yes, ma'am.

11 MS. JORDAN: Your Honor, at this time we would move
12 State's Exhibit Number 3 into evidence.

13 THE COURT: Any objection?

14 MR. POOLE: No, sir, Your Honor.

15 THE COURT: Without objection, it will be admitted
16 into the record as marked. You may proceed.

17 (Whereupon, State's Exhibit Number 3 was admitted
18 into evidence without objection.)

19 MS. JORDAN: Okay. May I publish it to the jury?

20 THE COURT: Yes, you may.

21 (State Exhibit 3 placed on overhead.)

22 Q. (By Ms. Jordan) Officer Mathis, I just want to
23 spend a few minutes talking about the vehicle. When you
24 passed the vehicle, were there -- were there any objects that
25 were obstructing your view into the car?

1 A. No, ma'am. The windows weren't tinted. As you can
2 see from the -- the picture, it's very clear to see into the
3 vehicle.

4 That was probably 20 minutes -- the picture was
5 taken 20 minutes after I saw Mr. McJimpsey. You can see it is
6 daylight outside. It was sunny. There was -- it was a very
7 clear view of him.

8 Q. Okay. About what time of day was this?

9 A. It was 10:55 when I initially saw him.

10 Q. Okay. And that's in the morning?

11 A. Yes, ma'am.

12 Q. Okay. Did you notice anyone else in this vehicle
13 when you passed it?

14 A. Yes, ma'am. When we came by, Mr. McJimpsey was in
15 the driver's seat and there was a female occupant in the
16 passenger side front seat.

17 Q. Okay. Which County was the Defendant driving in
18 when you passed him?

19 A. Spartanburg County.

20 Q. Okay.

21 (Brief Pause)

22 Q. I'm going to pass you what was previously marked as
23 State's Exhibit Number 4 and ask you if you can identify this?

24 (Brief pause while the witness examines document.)

25 A. Yes, ma'am. It's a Google map of the Howard and

1 Ayden Street area also showing Pearl where I initially saw Mr.
2 McJimpsey and showing Ayden Street where we found him sitting
3 on the side of the road.

4 Q. Okay. Does this map, from Google maps, does it
5 fairly and accurately depict that area of Spartanburg County?

6 A. Yes, ma'am.

7 MS. JORDAN: Your Honor, at this time we would move
8 to admit State's Exhibit Number 4 into evidence.

9 THE COURT: Any objection?

10 MR. POOLE: None.

11 THE COURT: Without objection, it will be admitted
12 as marked. And you may publish it.

13 MS. JORDAN: Thank you.

14 (Whereupon, State's Exhibit Number 4 was admitted
15 into evidence without objection.)

16 (State's exhibit number 4 placed on overhead.)

17 MS. JORDAN: Your Honor, at this time I would ask
18 if the witness can approach the ELMO stand to point out
19 to the -

20 THE COURT: Sir, you can step down. Sir, you can
21 step down to the projector there.

22 (The witness step down from the witness stand.)

23 Q. (By Ms. Jordan) Since you're not near a microphone,
24 speak loud enough so that everyone can hear you.

25 A. Okay.

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1 Q. But, if you could, just point to the jury the
2 initial place that you spotted Mr. McJimpsey driving.

3 A. As you can see right here (indicating), this is
4 Howard Street.. This is running down the -- basically the
5 center of the north side.

6 We came down Howard Street and we turned onto Pearl
7 Street right here (indicating). Right in this area is where I
8 passed Mr. McJimpsey driving the -- the blue Chevrolet car.

9 Mr. McJimpsey went past us, turned right onto Howard
10 Street here (indicating), came up to where you can see the --
11 the red "A." And he actually turned into -- onto Ayden
12 Street, which is a road that runs down the side of Oakview
13 Apartments.

14 We turned around. There were several cars that was
15 behind his car as we went past him. By the time I got turned
16 around, he had gone through the intersection.

17 Myself and Officer Layton went up and turned onto
18 Howard Street, went up and actually noticed the vehicle
19 sitting on the opposite side of the road facing -- if it was
20 -- if you're coming down the right-hand side of the road, it
21 was parked on the left-hand side of the road facing that same
22 direction. It was not parked with the flow of traffic like it
23 needed to be.

24 As we went down, he was parked right here
25 (indicating) just in front of Broad Street, on the side of

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1 Ayden.

2 As I went past him, I noticed that Mr. McJimpsey was
3 still sitting in the driver's seat. The female was in the
4 passenger seat. And there was another male subject now in the
5 back passenger seat.

6 I went past the car, basically did a three point
7 turn in the road and pulled back in front of him and got out
8 to speak with Mr. McJimpsey.

9 Q. Thank you. You may have a seat.

10 (Witness returned to the witness stand.)

11 Q. Just to take you back briefly. When you passed Mr.
12 McJimpsey, how fast were you traveling?

13 A. We were not going fast at all. We were -- they were
14 approaching a red light and we had just turned onto Pearl
15 Street. So we were -- we might be going 10, maybe 15 miles an
16 hour at the -- at the most.

17 Q. Okay. And I believe you previously stated who was
18 in the driver's seat when you came upon the parked vehicle?

19 A. Mr. McJimpsey was still in the driver's seat when we
20 came up and the black female was in the passenger seat.

21 Q. Okay. I'm going to show you finally -- or not
22 finally, but I'm going to show you State's Exhibit Number 2
23 and ask if you can identify that photograph.

24 A. Yes, ma'am. That's the same Chevrolet car that also
25 shows my patrol car sitting in front of it at the intersection

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1 of Broad and -- and Ayden that we just looked at on the map.

2 Q. So, just for the record, this picture fairly and
3 accurately depicts the vehicle as it was parked on Ayden
4 Street?

5 A. Yes, ma'am.

6 MS. JORDAN: Your Honor, at this time we would move
7 to admit and publish State's Exhibit Number 2.

8 THE COURT: Any objection?

9 MR. POOLE: None.

10 THE COURT: Without objection, it'll be admitted
11 into the record. You may publish.

12 (Whereupon, State's Exhibit Number 2 was admitted
13 into evidence without objection.)

14 (State's Exhibit Number 2 placed on overhead.)

15 Q. (By Ms. Jordan) Officer Mathis, is your vehicle --
16 or was your vehicle at that time equipped with a video camera?

17 A. No, ma'am, it is not.

18 Q. Okay.

19 (Brief Pause)

20 MS. JORDAN: Your Honor, if we may have just a
21 moment?

22 THE COURT: Yes, you may.

23 (Brief Pause)

24 Q. (By Ms. Jordan) Officer Mathis, I'm going to
25 approach with State's Exhibit Number 1 and ask if you can

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1 identify what is enclosed in that packet.

2 (Brief Pause while the witness examines exhibit.)

3 A. It's a certified copy from the South Carolina
4 Department of Motor Vehicles for Carlos Lamonte McJimpsey. It
5 shows that he has three prior driving under suspensions.

6 It's -- it's a letter that the DMV mails out to them
7 letting them know that their license are suspended, advising
8 them that they -- you know, that their driving privileges have
9 been suspended.

10 MS. JORDAN: Your Honor, at this time the State
11 would move to admit State's Exhibit Number 1 into
12 evidence based on a prior stipulation that we put on the
13 record with the Defense attorney that enclosed in State's
14 Number 1 is a certified copy of the Defendant's habitual
15 traffic offender letter notice, a certificate of mailing,
16 along with a copy front and back of the certified mail
17 return receipt.

18 THE COURT: Any change in your stipulation, Mr.
19 Poole?

20 MR. POOLE: No, sir.

21 THE COURT: All right. Ladies and gentlemen, let
22 me explain to you stipulations -- let me explain what
23 that is. It's an agreement between Counsel that certain
24 facts are true.

25 In other words, if both sides agree that certain

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1 facts are true, then, there's no need to put witnesses to
2 prove things that everybody agrees are true.

3 These documents have been reviewed by both sides.
4 Both sides have agreed that they are authentic copies of
5 official records.

6 They are certified copies of official records and
7 have been stipulated to their truthfulness. So,
8 therefore, those documents will be admitted into the
9 record by way of what we call a stipulation.

10 So it's a part of the record, Ms. Jordan. You may
11 proceed.

12 (Whereupon, State's Exhibit Number 1 was admitted
13 into evidence by stipulation.)

14 MS. JORDAN: Thank you, Your Honor.

15 Q. (by Ms. Jordan) Officer Mathis, just to be clear, from
16 the initial time that you saw Mr. McJimpsey driving until the
17 time you found his car parked on Ayden Street, did you stop --
18 did you do -- do anything else other than turn around and look
19 for his vehicle?

20 A. No, ma'am.

21 Q. Okay. Did you make any stops?

22 A. No, ma'am.

23 Q. Okay.

24 MS. JORDAN: Judge, may we have one moment?

25 THE COURT: Yes, ma'am.

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1 (Brief Pause)

2 MS. JORDAN: Please answer any questions Mr. Poole
3 may have.

4 THE COURT: Mr. Poole, your witness.

5 MR. POOLE: Thank you.

6 THE COURT: Yes, sir.

7 CROSS EXAMINATION by MR. POOLE: 10:37 AM

8 Q. First off, in your report I think -- well, do you
9 have a copy of your report with you?

10 A. Yes, sir, I do.

11 Q. You stated in your report that it was -- that this
12 was February 14th, of 2012 -

13 A. Yes, sir.

14 Q. --- at approximately 1045 hours?

15 A. I've got -- yes, sir. I've got 1055 was the time I
16 stepped out of the vehicle on Ayden street, but when I
17 observed him it was 1045, yes, sir.

18 Q. Ten, forty-five (10:45)?

19 A. Yes, sir.

20 Q. Which is almost the same time that it is right now?

21 A. Pretty much.

22 Q. And so it was 10:45 when you saw this car?

23 A. Yes, sir.

24 Q. Okay. And also in your report, on the second
25 sentence, you said that you, "...observed a blue 1989

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1 Chevrolet with a paper tag drive past us down Pearl Street"?

2 A. Yes.

3 Q. Is that right?

4 A. Yes, sir.

5 Q. Okay. Now, as you can see on that tag, the date is
6 March 1, '12, right?

7 A. The tag on the car?

8 Q. Right.

9 A. Yes, sir.

10 Q. So the tag was okay?

11 A. Yes, sir.

12 Q. Is that right?

13 A. Yes, sir.

14 Q. All right. And, if you would, would you mind coming
15 -- coming down here once more?

16 A. Sure.

17 (Witness steps down from the witness stand.)

18 Q. And could you get -- I can't work this thing. I
19 don't know anything about it. But can we get back to that
20 map?

21 A. Yes, sir.

22 Q. There we are. Would you once again trace your route
23 for us?

24 (Witness complied with the request.)

25 A. Myself and Officer Layton turned off of Howard

1 Street onto Pearl here (indicating). As we turned onto Pearl,
2 this is where we saw Mr. McJimpsey driving that blue Chevrolet
3 right there (indicating).

4 Q. Okay. And this was at 10:45?

5 A. Yes, sir.

6 Q. All right. Then what -- what did you do
7 then?

8 A. At that point, I came down, turned around after the
9 traffic cleared.

10 Q. Uh-huh (affirmative).

11 A. Went back, turned onto Howard Street and began
12 looking for his vehicle.

13 Q. Okay. And what route did you take?

14 A. The best I recall we came back up Howard Street.
15 There's a parking lot right in here (indicating) for Victoria
16 Gardens Apartments (phonetic).

17 Q. Yes, sir.

18 A. We looked in that apartment parking lot to see if
19 the vehicle was there. We did not see it. As you come up
20 you can see it; we also past Preston Street.

21 Q. Right.

22 A. We went down Preston Street and did not see the
23 vehicle there.

24 At that time, we turned onto Ayden Street and began
25 to go down Ayden Street. On Ayden Street, as you can see,

OFFICER MATHIS - CROSS by MR. POOLE

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1 there are several roads here that cut across.

2 Each of those are in the center of Oakview
3 Apartments; did not notice the vehicle down through there.
4 And then observed the vehicle sitting down there at the
5 intersection of Ayden and Broad.

6 Q. Okay. And, when you saw the vehicle there, it was
7 on the wrong side of the road?

8 A. Yes, sir.

9 Q. And that was a violation, wasn't it?

10 A. That -- that was the other reason that we got out of
11 the vehicle.

12 Q. Okay. So it was a violation the -- by the way that
13 car was parked as we saw in the previous photograph?

14 A. Yes.

15 Q. Okay. A violation of a city ordinance or --

16 A. It was -- it's just improper parking.

17 Q. Improper parking?

18 A. Yes, sir.

19 Q. All right. And so, at that point in time, it was
20 10:55?

21 A. Somewhere -- somewhere around that, yes, sir.

22 Q. Okay. You want to check your --

23 A. Yeah, I'll go look.

24 Q. Yeah, check your record.

25 A. Sure.

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1 (Brief pause while the witness examines documents.)

2 A. I've got 10:45 where I saw him.

3 THE COURT: Mr. Poole, are you through with the
4 overhead?

5 MR. POOLE: Yes, I'm -- I'm through with it.

6 THE COURT: If you would, bring the lights up,
7 please, ma'am.

8 (Bailiff complied with the Court's request.)

9 THE COURT: All right. There we go. All right.
10 You may continue.

11 MR. POOLE: Thank you.

12 THE COURT: Yes, sir.

13 A. It was 10:45 when I saw him -- when we saw him on
14 Pearl Street. And, then, in my initial report where my dates
15 and stuff are, I put 10:55, which was the approximate time
16 that we got out with him and began to talk with him after
17 that.

18 Q. Okay. So there was a 10-minute lapse?

19 A. Probably not that long, but that's what I estimated
20 we were on the scene.

21 Q. Okay. Well, I mean, in -- in the course to your
22 business, you are always looking at your watch and ---

23 A. Most the time.

24 Q. --- noting the dates, times, and place because
25 that's what you're trained to do, right?

OFFICER MATHIS - CROSS by MR. POOLE

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1 A. Yes, sir.

2 Q. So, when -- it's fair to say it was ten (10) minutes
3 then?

4 A. Like I say, it was an approximate time, when we saw
5 him at 10:45, by the time that I stopped him, we got out and
6 began to talk with him.

7 When I checked my watch again after that, it was about
8 10:55. And that was the time that I used for the report, yes,
9 sir.

10 Q. And, then, I think your testimony was that it was
11 about twenty (20) minutes after your first view that the
12 picture was taken?

13 A. It was probably around twenty (20) minutes, yes,
14 sir.

15 Q. All right. And we don't have any notation of that
16 time in your report when the photo was taken, do we?

17 A. No, sir. I don't believe there's any of that.

18 Q. All right. Could I ask you why is there no video in
19 your patrol vehicle?

20 A. My car is not equipped with a camera when they gave
21 it to me. It does not have the -- the video equipment, so...

22 Q. Okay. Do you have one now?

23 A. No, sir, I still don't. I still have the same car,
24 still no video.

25 Q. Did you ever have ---

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1 A. No, sir.

2 Q. --- A car with dash cam?

3 A. When we -- when we were on patrol, we used the cars
4 that came out of fleet. Those cars have videos. The car that
5 they gave me there is my take-home vehicle. And it's not
6 supplied with a video.

7 Q. Okay.

8 (Brief Pause)

9 MR. POOLE: I ask the Court's indulgence for one
10 moment.

11 THE COURT: Yes, sir.

12 (Off-the-Record Discussion)

13 MR. POOLE: That's all the questions I've got.

14 THE COURT: Redirect, Ms. Jordan?

15 MS. JORDAN: No, sir, Your Honor.

16 THE COURT: All right, sir. You can step down.

17 Thank you.

18 THE WITNESS: Would you like me to leave this here?

19 THE COURT: Yes, sir. Leave it with the court
20 reporter.

21 A. Okay.

22 (Witness complied with the Court's request.)

23 THE COURT: Leave it right there and she'll take
24 care of it. Thank you very much.

25 Ms. Jordan, the State may call its next witness.

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1 MS. JORDAN: Your Honor, the State calls Officer
2 Christopher Layton.

3 THE COURT: Sir, come forward to my left and be
4 sworn, please.

5 (Witness complied with the Court's request.)

6 (Whereupon,

7 OFFICER CHRISTOPHER LAYTON

8 having been duly sworn, testified as follows:

9 THE COURT: Once you are seated, sir, state your
10 name for me.

11 A. Yes, sir. Christopher Layton.

12 THE COURT: Ms. Jordan, your witness.

13 DIRECT EXAMINATION by MS. JORDAN:: 10:45 A.M.

14 Q. Officer Layton, where are you currently employed?

15 A. With the city of Spartanburg Police Department.

16 Q. How long have you been employed there?

17 A. Approximately six (6) years.

18 Q. And what are your duties there in the past -

19 A. I'm currently -- currently assigned to the violent
20 crimes task force with Officer Mathis. And, whenever I first
21 got hired, I was on patrol.

22 Q. Okay. And you've been there how many years? I'm
23 sorry.

24 A. Six (6) years.

25 Q. Okay. Were you with Officer Mathis on February the

1 14th of 2012?

2 A. Yes, ma'am.

3 Q. Okay. During your time there, did you come -- did
4 you all notice or did you end up at a traffic stop with a blue
5 Caprice?

6 A. Yes, ma'am.

7 Q. Okay. Could you tell the Court or tell the jury
8 about that day?

9 A. Officer Mathis and myself were patrolling Howard
10 Street, the North Side area. We were coming down Howard
11 towards Pearl Street, turn left onto Pearl Street.

12 I was sitting on the passenger side of the vehicle.
13 Commonly whenever we're in a two-man unit like that, I'm going
14 to be looking at a different area from what he is.

15 I'm not going to observe his side of the road so to
16 speak. And he advised that he saw Mr. McJimpsey driving a
17 vehicle. And we turned around the vehicle to go and try to
18 locate his.

19 Q. Okay. Did you eventually locate Mr. McJimpsey?

20 A. We did.

21 Q. Okay. When you located him, where was he at?

22 A. He was in the driver seat.

23 Q. Okay. Still inside the vehicle?

24 A. Yes, ma'am.

25 Q. Okay. Was anyone else in the vehicle at that point

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1 in time?

2 A. There was a black female in the passenger seat of
3 the vehicle and there was another black male in the back
4 passenger seat of the vehicle.

5 Q. Okay. During the time that Officer Mathis stated he
6 saw the defendant driving, and the time that you all stopped
7 on Ayden Street, what happened during that time period?

8 A. We searched the parking lots in the surrounding area
9 for that vehicle seeing if we could locate it.

10 Q. Okay. Did you make any other stops that -- during
11 that time frame?

12 A. No, ma'am.

13 MS. JORDAN: Please answer any questions that Mr.
14 Poole may have.

15 (Off-the-Record Discussion)

16 MR. POOLE: No questions of this witness, Your
17 Honor.

18 THE COURT: All right. Thank you, sir. You may
19 step down.

20 A. Thank you, sir.

21 (Witness complied with the Court's request.)

22 THE COURT: The State may call its next witness.

23 MS. JORDAN: Your Honor, at this time the State
24 rests.

25 THE COURT: All right, ladies and gentlemen, that

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1 completes the presentation of evidence by the State. At
2 this point in time, I need to take up some matters with
3 the attorneys.

4 So I'm going to ask you to step back into the jury
5 room. Don't begin any discussions until I've asked you
6 to do so.

7 (Whereupon, the jury exited at 10:46 a.m.)

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9 THE COURT: Anything from the State at this point
10 in time?

11 MS. JORDAN: No, sir, Your Honor.

12 THE COURT: Anything from the Defense?

13 MR. POOLE: No, sir.

14 THE COURT: All right. Mr. Poole, I do not know if
15 your client has made a decision as to whether or not to
16 testify in this matter. I do want to advise him of his
17 right to remain silent if he chooses to do so.

18 So, please, swear the defendant for me.

19 MADAM CLERK: Yes, sir.

20 (Whereupon,

21 CARLOS MCJIMPSEY

22 first being duly sworn, testified as follows:)

23 THE COURT: You may be seated, sir.

24 (Mr. McJimpsey complied with the Court's request.)

25 THE COURT: Mr. McJimpsey, at this point in time,

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1 we've reached the stage of your trial where you have the
2 right to present your case. As part of your case, you
3 have the right to testify in this matter on your own
4 behalf.

5 However, I do want to make you aware of your rights
6 as contained in the Fifth Amendment to the United States
7 Constitution. That amendment states in part that, "No
8 person shall be compelled in any criminal case to be a
9 witness against himself."

10 Now what that means is that, while you have the
11 right to testify, you also have the right to remain
12 silent. And no one can force you or make you testify in
13 this case.

14 Now there are some things I need to make you aware
15 of in connection with your decision in this matter.
16 First of all, your testimony will be treated like the
17 testimony of any other witness.

18 What that means is, is that you would be examined by
19 your lawyer on the stand and then you'd be cross examined
20 by the State's attorney.

21 Now I don't know about your criminal record, at this
22 time point in time, but I would advise you that as part
23 of that cross examination, should you have criminal
24 convictions on your record, in matters involving
25 dishonesty or false statements or matters involving

1 imprisonment for a period of more than one year or a
2 possibility of imprisonment for more than one year, and
3 that they occurred within the last ten (10) years;

4 And I make a determination that the introduction of
5 that record, on the question of credibility, that the
6 probative value of that information outweighs its
7 prejudicial effect to your case, if I were to make that
8 ruling, the State would be allowed to use your record to
9 -- to attack your credibility.

10 Now I also need to make you aware that, if you
11 decide not to testify, I will advise or instruct the jury
12 that they are to give the fact that you did not testify,
13 that they can give that no consideration in their
14 deliberations.

15 In other words, I would advise or instruct them that
16 they could not even discuss that question during their
17 deliberations in your case. So that there should be
18 absolutely no prejudice to your case should you decide
19 not to testify.

20 Now the decision as to whether or not to testify is
21 yours and yours alone. And only you have the right to
22 make that decision. You have the right to consult with
23 your lawyer, family, friends, anybody you'd like to talk
24 to about the decision, but the final decision is yours
25 and yours alone.

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1 Now first of all I need to ask you, do you
2 understand the right that I've explained to you?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: You have any question about that right?

5 THE DEFENDANT: No, sir.

6 THE COURT: Have you had an opportunity to discuss
7 this issue with your attorney or whoever else you want to
8 discuss it with?

9 THE DEFENDANT: No, sir.

10 THE COURT: Would you like to talk this over with
11 your lawyer at this time?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. I'll take a short break and
14 we'll be back shortly once you've made that decision.
15 Let me inquire of the State before you start those
16 discussions, any record that you might intend to use
17 against the Defendant?

18 MS. JORDAN: Yes, sir, Your Honor.

19 THE COURT: All right. You want to put that on the
20 record for us?

21 MS. JORDAN: Yes, sir. Your Honor, he has a
22 conviction for burglary second degree from -- the
23 conviction is actually from 2000. However, under the
24 statute as I've read it and know it, it's based upon
25 their release of any type of confinement or supervision.

1 THE COURT: That's right, if the release date was
2 within the last 10 years.

3 MS. JORDAN: And his release date for that burglary
4 second, Your Honor, he did two different stints on
5 violations. It appears one was in '04 and, then, he had
6 another one in '06.

7 THE COURT: All right.

8 MS. JORDAN: So we believe it falls within the
9 statute.

10 THE COURT: I understand your position. And I'll
11 let Mr. Poole be heard on that before I make a ruling.

12 MS. JORDAN: Yes, sir. He has a 2005 giving false
13 information, which we believe goes to truth or
14 dishonesty.

15 He has other convictions that we agree do not fit
16 within the category, including a driving under suspension
17 '05, a malicious injury in '07 that's Magistrate Court
18 level;

19 A CDV in '07 that's Magistrate level. He does have
20 a fraudulent check in 2009, along with convictions in
21 2011 for habitual traffic offender and criminal domestic
22 violence third or subsequent offense.

23 THE COURT: All right. Mr. Poole, do you
24 understand what his record ---

25 MR. POOLE: Yes sir, I do.

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1 THE COURT: --- is?

2 MR. POOLE: Yes, sir.

3 THE COURT: All right. We'll take a short break
4 while you discuss your decision with your client.

5 MR. POOLE: Oh, may I be heard on the ---

6 THE COURT: Oh, yes, sir.

7 MR. POOLE: On the record issue?

8 THE COURT: Yes, sir.

9 MR. POOLE: So I can be sure to convey to him what
10 we're looking at. The 2000 conviction on the burglary, I
11 would argue that, that is too remote, albeit that there
12 is a release date involved that -- that falls maybe
13 within the 10-year frame.

14 The -- the driving under suspension I would imagine
15 is -- has already been entered into the record as a
16 result of the stipulated document. And we would not want
17 any mention of that. And also ---

18 THE COURT: Well, that doesn't go to credibility,
19 so, I wouldn't let him be cross examined. But, as you've
20 mentioned, his record is -- or his driving record is in
21 the record already.

22 But again, in this regard, as far as cross
23 examination, I would not let him be cross examined on
24 that conviction.

25 MR. POOLE: Okay.

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1 THE COURT: As to credibility.

2 MR. POOLE: The fraudulent -- was the fraudulent
3 check ---

4 MS. JORDAN: Yes, sir.

5 MR. POOLE: The fraudulent check was what year?

6 MS. JORDAN: In 2009.

7 MR. POOLE: 2009? Was that a 30-day offense?

8 MS. JORDAN: Yes, sir, it was. Your Honor, I agree
9 on the DUS that does not come in. ---

10 THE COURT: All right. That -- she's saying that
11 doesn't come in.

12 MR. POOLE: And, the fraudulent check, it's not a
13 year ---

14 THE COURT: From what I've heard, you would be
15 looking at the burglary and the question is whether it's
16 within the ten (10) years.

17 MR. POOLE: Uh-huh (affirmative).

18 THE COURT: And it would be the false statement to
19 police officers was within the ten (10) years; does
20 involve making a false statement.

21 MR. POOLE: Well, but see now, I think the false
22 statement, if I'm reading the record right ---

23 (Off-the-Record Discussion)

24 MR. POOLE: What I'm looking -- what we're looking
25 at, on the false information -

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1 THE COURT: Uh-huh (affirmative).

2 MR. POOLE: --- it's false information/age to
3 purchase beer or wine. And I don't think that's his.

4 THE DEFENDANT: It's my son's.

5 MR. POOLE: That would -- he has a son by the name
6 of Carlos McJimpsey, Jr.

7 THE COURT: Well, I want -- I want to be sure the
8 conviction is against him. So you need to check it out
9 further if you need to do that. It's on his NCIC, isn't
10 it?

11 MS. JORDAN: It is, Your Honor, on his NCIC. And I
12 actually also have his son's NCIC if I may just have one
13 moment.

14 THE COURT: Certainly.

15 (Brief Pause)

16 MS. JORDAN: Your Honor, his son shows no
17 conviction in regard to -- or no arrest from 2005 in
18 regard to giving false information or driving under
19 suspension, which is what those two charges are. They're
20 together.

21 His son was also born in 1992, which would only
22 placed him as being 13 -- roughly 13 at the time in 2005,
23 when this would have alleged to have been occurred.

24 THE COURT: Well, I mean, the records were right in
25 here, aren't they, in Spartanburg County?

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1 MS. JORDAN: Your Honor, it probably was downstairs
2 it's Magistrate level in Spartanburg County. I can have
3 someone check on that and see if we can pull it.

4 THE COURT: Do you need it pulled? I mean it's on
5 his record. I have to go by what's on the record.

6 MR. POOLE: I understand.

7 THE COURT: If you are questioning it, I'll
8 certainly hear from you if it's not on the record.

9 MR. POOLE: Well I think in the big scheme of
10 things personally, you know, it's relatively a small
11 charge. But, you know ---

12 THE COURT: Well, I agree, but ---

13 MR. POOLE: --- to be honest with the jurors -

14 THE COURT: --- it's directly involved making a
15 false statement, so, it would qualify under the -- under
16 the Rules to come in.

17 MR. POOLE: Yes, sir.

18 THE COURT: And unless I hear something that would
19 indicate it's not his conviction ---

20 MR. POOLE: Okay. Well ---

21 THE COURT: --- or see some records that would
22 indicate it's not his conviction, it's probably going to
23 come in.

24 MR. POOLE: Can you bear with me just a second?

25 THE COURT: Yes, sir.

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1 (Off-the-Record Discussion)

2 MS. JORDAN: Your Honor, I just informed Mr. Poole
3 that Ms. Searcy with the clerk's office has pulled up the
4 ticket number in question, which is 23068CO on the
5 clerk's computer screen.

6 And the date of birth listed on that computer screen
7 for Carlos McJimpsey, for the false information, is 1974,
8 which is this Defendant's as opposed to his son, who was
9 born in 1992.

10 THE COURT: I understand.

11 (Off-the-Record Discussion)

12 THE COURT: Do you want to take a look at that
13 ticket? It's on -- it's on the screen right here
14 (indicating).

15 MR. POOLE: Well ---

16 MS. JORDAN: And, Your Honor, just for also -- for
17 further clarification, he has a companion DU -- DUS
18 charge from that same arrest. And his certified driving
19 record shows that he see also convicted of that ticket
20 number 23067CO, which is the companion ticket for the
21 giving false information. That conviction shows on his
22 certified 10-year record and on his NCIC printout.

23 THE COURT: All right. Evidence is mounting, Mr.
24 Poole.

25 MR. POOLE: I have enough information right now to

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1 have a conversation with my client as to whether or not
2 he wishes to testify.

3 THE COURT: I think we can assume, at this point in
4 time, it's going to come in ---

5 MR. POOLE: I understand.

6 THE COURT: --- as part of your discussion with
7 him.

8 MR. POOLE: I understand.

9 THE COURT: Unless you can come up with
10 something to show ---

11 MR. POOLE: I've -- I've been trying, and I don't
12 think I can come up with anything else.

13 THE COURT: (Laughs) Court is in recess for about
14 five (5) minutes.

15 MR. POOLE: May we approach?

16 THE COURT: Please do.

17 (Whereupon, a bench conference was had with both
18 attorneys present.)

19 (Whereupon, a recess was taken from 11:01 AM until
20 11:09 a.m.)

21 (Brief pause while the Defendant is brought into the
22 courtroom.)

23 (Off-the-Record Discussion)

24 MR. POOLE: May we approach?

25 THE COURT: Please do.

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1 (Whereupon, a bench conference was had with both
2 attorneys present.)

3 THE COURT: All right. We're back on the record in
4 the case of *The State vs. Carlos McJimpsey*. Mr.
5 McJimpsey, we took a break so that you could discuss your
6 decision as to whether or not to testify in this case
7 with your attorney or with anyone else you'd like to
8 discuss it with. Have you had an opportunity to do that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And are you ready to make a decision on
11 that issue?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you plan to testify in this case?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Okay. Thank you very much. Is the
16 State ready to proceed?

17 MS. JORDAN: Yes sir, Your Honor.

18 THE COURT: Is the Defense ready to proceed?

19 MR. POOLE: Yes, sir.

20 THE COURT: Call the jury in.

21 (Whereupon, the jury was summoned.)

22 (The jury entered the Courtroom at 11:22 A.M.)

23 THE COURT: All right. The record will reflect
24 that the jury has returned to the courtroom. And, at
25 this time, the Defense has the right to call its

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1 witnesses. Mr. Poole?

2 MR. POOLE: Our first witness, Your Honor, will be
3 Mr. Carlos McJimpsey.

4 THE COURT: Come forward, sir, and be sworn.

5 (Witness complied with the Court's request.)

6 (Whereupon,

7 CARLOS MCJIMPSEY, SR.

8 first being duly sworn, testified as follows:)

9 THE COURT: Have a seat, sir. Once you're seated,
10 state your name, please.

11 THE DEFENDANT: My name is Carlos McJimpsey, Sr.

12 THE COURT: Mr. Poole, your witness.

13 DIRECT EXAMINATION by MR. POOLE: 11:18 A.M.

14 Q. Would you repeat your name, please?

15 A. Carlos McJimpsey.

16 Q. Okay. You need -- you're going to need to speak up
17 a little for everybody to hear.

18 A. Yes, sir.

19 Q. Okay. And if you need to pull your chair up a
20 little bit, that'll be fine.

21 (Witness complied with the request.)

22 Q. And can you hear me?

23 A. Yes, sir.

24 Q. Are you the defendant in this case?

25 A. Yes, sir.

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- 1 Q. You're charged with violating the habitual traffic
2 law?
- 3 A. Yes, sir.
- 4 Q. Okay. You know -- you know you're not supposed to
5 drive in this state, right?
- 6 A. Yes, sir.
- 7 Q. Okay. Now how old are you?
- 8 A. Thirty-seven (37).
- 9 Q. What kind of work do you do or have done?
- 10 A. Carpentry.
- 11 Q. Pardon me?
- 12 A. Carpentry.
- 13 Q. Carpentry?
- 14 A. Yes, sir.
- 15 Q. Are you a carpenter?
- 16 A. Yes, sir.
- 17 Q. Okay. How did you learn that skill?
- 18 A. From my uncles.
- 19 Q. Okay. Are you currently employed?
- 20 A. Yes, sir.
- 21 Q. Okay. And with whom do you work?
- 22 A. I work at McJimpsey Painting.
- 23 Q. Okay. McJimpsey painting?
- 24 A. Yes, sir.
- 25 Q. And who owns that company?

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1 A. My uncle.

2 Q. All right. And do you live here in Spartanburg
3 County?

4 A. Yes, sir.

5 Q. Are you married?

6 A. I'm engaged.

7 Q. Okay.

8 A. I got my marriage license, but we haven't had the
9 ceremony done yet.

10 Q. All right. And do you have any children?

11 A. Yes, sir.

12 Q. How many?

13 A. Five (5).

14 Q. All right. Now you know what you're charged with?

15 A. Yes, sir.

16 Q. You're charged basically with driving when you're
17 not supposed to drive?

18 A. Yes, sir.

19 Q. On Valentine's Day, February 14th of this year; is
20 that right?

21 A. Yes, sir.

22 Q. Okay. Now tell us what happened on that day at
23 around -- going from 10 o'clock that morning till 11:30.

24 A. Well I had assisted -- I mean, I had assisted my
25 fiancée to the eye doctor. And, on the way back from the eye

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1 doctor, my oldest son had called her and asked her would she
2 come pick him up.

3 So she went and picked him up. And, on our way back
4 from picking him up, she was -- I was on -- basically I was
5 getting ready to go back to work.

6 I was on my lunch -- on a lunch break. Took my
7 lunch break to take -- to go with her to the eye doctor.

8 So we picked my oldest son up and we're coming back
9 and I stopped in front of my cousin's house to call my boss,
10 which is our -- our mutual uncle; we both work for him,
11 waiting on my cousin to come back, you know, from lunch. And
12 I was going to get a ride back to work with my cousin.

13 When we got -- when we all got out of the car to go
14 to the apartment, when we got out the car she slid -- slid
15 over to the passenger side. And she was fooling with her
16 contact. She was, you know, I guess straightening her
17 contacts out or whatever.

18 So my cousin wasn't back from lunch yet. And so he
19 told me to just stay there he would pick me -- me and him were
20 going to go back to work together.

21 So, I just sat in the car because the car -- I just
22 sat -- sat in the car. You know, I didn't think I was
23 breaking the law, sitting in a -- you know, I've heard of
24 driving under suspension, but I've never heard of parking
25 under suspension.

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1 You know, she was on the passenger side adjusting
2 her contacts. I just sat in the car.

3 Q. In the driver's seat?

4 A. Yeah, in the driver's seat.

5 Q. But it was stopped?

6 A. The car was stopped. The car had been parked for --
7 when they had got there, the car had been parked like -- we
8 had been there for fifteen (15), twenty (20) minutes when they
9 got -- when they pulled up.

10 Q. Okay. Were you driving that car at any point in
11 that -- that day?

12 A. No, sir.

13 Q. Okay. Now you -- go ahead.

14 A. And another thing about it was, when they got us out
15 of the car -- well -- well, you know, they -- they got us out
16 of the car and searched the car or whatever they do with the
17 dog or whatever. But in the car, they got the keys.

18 She told them automatically that she was driving.
19 She had the car keys on her. It's her car. The car is
20 registered -- it's her car.

21 She had the car keys on her. I didn't know it was
22 against the law for me to sit in a car without the -- if the
23 car's not crunk [sic], no keys in the ignition.

24 I didn't know is against the law for me to sit under
25 -- just to sit, you know, on the -- the driver's side of the

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1 car, a parked car.

2 Q. Okay.

3 A. I didn't know that.

4 Q. All right. Now, let me ask you this: You have been
5 in trouble with the law before, haven't you?

6 A. Yes, sir.

7 Q. You have some convictions on your record, don't you?

8 A. Yes, sir.

9 Q. Okay. And I believe one of them is a burglary?

10 A. Yes, sir.

11 Q. Is that right?

12 A. Yes, sir.

13 Q. And you know your records got giving a false
14 statement, a Magistrate Court offense?

15 A. Yes, sir.

16 Q. --- something like that ---

17 A. Yes, sir.

18 Q. --- that's on your record?

19 A. Yes, sir.

20 Q. You have a fraudulent check charge on your record?

21 A. Yes, sir.

22 Q. Okay. Are you telling the truth today?

23 A. Yes, sir.

24 Q. Okay. You were not driving that car on February 14th
25 of this year; is that right or -- or not?

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1 A. That's right.

2 Q. Okay.

3 A. I wasn't driving.

4 MR. POOLE: Answer any questions that the solicitor
5 may have for you.

6 A. Yes, sir:

7 THE COURT: Ms. Jordan?

8 MS. JORDAN: Thank you, Your Honor.

9 CROSS EXAMINATION by MS. JORDAN: 11:25 A.M.

10 Q. Mr. McJimpsey, isn't it also true that you have two
11 additional convictions for felonies that carry more than one
12 year from two thousand and eleven (2011)?

13 A. Yes, ma'am.

14 Q. All right. Mr. McJimpsey, explain to me what your
15 fiancée's appointment was that day?

16 A. She had an eye appointment.

17 Q. Okay. Do you know what she had done at the eye
18 doctor's?

19 A. I don't know. I wasn't back there with her, but the
20 doctor dealing with it, I know he had dilated her eyes or
21 whatever. You know, I'm not -- I'm not sure.

22 Q. Okay. So, she had her eyes dilated that morning?

23 A. Yes, yeah.

24 Q. Okay. What time was her appointment?

25 A. I think it was like nine o'clock (9:00).

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1 Q. Okay. And you used your lunch break to go with her?

2 A. Yeah. I used my -- I used my lunch -- you know, I
3 work with my uncle. I get an hour -- I get an hour to eat my
4 lunch, you know.

5 And I just took my -- I just, instead of taking my
6 lunch break at twelve (12:00), I took my hour to ride with her
7 to see that she was all right.

8 Q. Okay. What time did you go to work that day?

9 A. Eight o'clock (8:00).

10 Q. Okay. How did you get there?

11 A. My uncle picks me up.

12 Q. Okay. When did you pick up your son? And I believe
13 your son's name is Carlos Junior?

14 A. Yes.

15 Q. When was he picked up?

16 A. We picked him up on the way back from the eye
17 doctor.

18 Q. About what time was that?

19 A. I think it was about nine-forty-five (9:45),
20 somewhere around in there.

21 Q. Okay. Where did you pick him up from?

22 A. From his house.

23 Q. Where does he live or where did he live back in
24 April -- I'm sorry, February?

25 A. He was staying with a girl. He stayed like off like

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1 Number 9, Highway 9.

2 Q. Okay.

3 A. I don't know the exact address. I couldn't give you
4 the address. I know it's like by -- it's by Spartanburg
5 Regional.

6 Q. Okay. Where was your -- Ms. Martin, your
7 girlfriend's, eye appointment?

8 A. The at North Grove Building Eye (phonetic) -- I mean
9 Carolina Medical Center. It's a building -- it's got the
10 veterans building behind it. It's on -- I think it's North
11 Roseland (phonetic)?

12 Q. Okay. How did -- how did you end up on Ayden Street
13 that morning?

14 A. She -- well, she picked my son up. That's I -- I'm
15 guessing -- you know, I told you all my cousin works with me,
16 Thomas Sullivan (phonetic), he works with my uncle too. And I
17 had stopped by his house.

18 I was going to just go back -- get a ride back to
19 work with him. And I was waiting on him to come back. He was
20 on his lunch -- on his lunch break.

21 And he was going to come back and pick me up and
22 take me to work. I was just basically waiting on him to pull
23 up so I could get a ride to work, back to work.

24 Q. Okay.

25 A. So my uncle wouldn't have to stop what he was doing

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1 to come and get me.

2 Q. Okay.

3 MS. JORDAN: Your Honor, if I may have one moment
4 to locate a photograph?

5 THE COURT: Yes, ma'am.

6 (Brief Pause)

7 Q. (By Ms. Jordan) You stated that Ms. Martin slid
8 over in the vehicle?

9 A. Yes, ma'am.

10 Q. Okay. Why did she slide over?

11 A. Because in the car that's the only place that -- the
12 only visor with the mirror on it.

13 Q. Is which one?

14 A. On the passenger side.

15 Q. Okay. But is there a rearview mirror?

16 A. Yes.

17 Q. Okay. So she could have used that instead?

18 A. Yeah, but -- yeah, she could have -- she could have
19 used that I guess, but for some reason she slid over to the
20 passenger side to -- to use the visor mirror.

21 Q. Okay. And you had gotten out of the vehicle?

22 A. Yes, I got out of the vehicle.

23 Q. Okay.

24 MS. JORDAN: Nothing further, Your Honor.

25 THE COURT: Redirect?

1 MR. POOLE: No, sir.

2 THE COURT: You may step down.

3 (No Response)

4 THE COURT: Step down, sir.

5 A. Thank you.

6 THE COURT: Thank you.

7 (The witness complied with the request.)

8 THE COURT: The Defense may call its next witness.

9 MR. POOLE: I call Ms. Martin.

10 (The witness stepped forward to be sworn.)

11 THE COURT: Come forward, please, ma'am, to my left
12 and be sworn.

13 (Whereupon,

14 ELEANOR MARTIN

15 first being duly sworn, testified as follows:)

16 THE COURT: Have a seat, ma'am. Once you're
17 seated, state your name.

18 A. My name is Eleanor Ann Martin (phonetic).

19 THE COURT: Mr. Poole, your witness.

20 DIRECT EXAMINATION by MR. POOLE:

11:31 A.M.

21 Q. Ms. Martin, where do you live?

22 A. I currently live at

23 (phonetic).

24 Q. Who do you live with?

25 A. Myself and my four boys and Mr. McJimpsey sometimes.

1 Q. Are you all married?

2 A. We're engaged. We're going through marriage
3 counseling.

4 Q. Okay. How long have you all known one another?

5 A. I've been with Mr. McJimpsey for eighteen (18) years
6 now.

7 Q. All right. What you're going to need to do is speak
8 up louder, okay?

9 A. It's been eighteen (18) years that he's been going
10 with me (phonetic).

11 Q. Okay. Just like I told Mr. McJimpsey -

12 A. I'm sorry.

13 Q. --- lean forward if you need to. Now going back to
14 Feb -- first of all, this car that we're talking about, who
15 does it belong to?

16 A. It belongs to me.

17 Q. Okay. It's your car?

18 A. Yes, sir.

19 Q. Do you still have this car?

20 A. Yes, sir.

21 Q. All right. And on February 14th, 2012, tell us what
22 was going on that morning.

23 A. That morning I went to an eye -- eye doctor
24 appointment at the North Grove Medical Park. While I was
25 there, Carlos Junior, he called and asked would I come and

1 pick him up.

2 Q. All right. I'm going to -- I'm having a hard time
3 understanding you. And, if I am, I imagine others are.

4 A. I'm sorry.

5 Q. Could you repeat that last sentence and -- and try
6 to, you know ---

7 A. Okay.

8 Q. --- be a lot louder and enunciate properly.

9 A. Okay. While I was there, Carlos Junior asked if I
10 would come out and pick him up on my way back towards the
11 house -- well, I was taking Carlos back toward the house.

12 I didn't know that -- at the time I didn't know that
13 he was going to ride back to work with his cousin because I
14 was thinking that I was going to take him back to work.

15 Q. Okay. All right. Did he drive the car?

16 A. Not that day at all. Not one time did he ever drive
17 that car that day.

18 Q. Okay. All right. So where did you go -- well, did
19 you drive the car?

20 A. Yes, I was driving.

21 Q. All right. Where did you go with Mr. McJimpsey,
22 this man might over here, the father -

23 A. We went to -

24 Q. --- that day?

25 A. We went to pick his son up. Then, we went to

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1 Oakview Apartments where we got out -- we all got out of the
2 car and knocked on the door. Thomas still wasn't there, so,
3 we all got back in the car.

4 I got in on the driver's side. And I don't know why I
5 didn't used the rearview mirror. I mean, I really don't know
6 why I didn't.

7 And I just slid over to the other side. And the
8 door was still cracked open, so, Carlos got in and just sat on
9 the driver's side.

10 Actually, when they pulled up, the door was still
11 cracked open where he had one of his legs propped outside of
12 the door and the other one was in the door.

13 And I was fixing my contact because my eye was
14 irritated because they had just -- they put like a lens in my
15 eye and sometimes it rubs my eyeball.

16 And it had my eyes irritated, so, I -- all day that
17 day I would pull my contact out because my eyes -- you know,
18 like I say, they was irritated all day. And I was over there
19 just constantly putting eye drops in.

20 And they just swung in and they were like, "What are
21 you all doing parked here?" "What's going on?" You know,
22 "You all look suspicious."

23 And that's kind of what was going on when the
24 officer pulled up to us or whatever.

25 Q. Okay. All right. So, as I understand it, you were

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1 driving that day?

2 A. Yes.

3 Q. Is that right?

4 A. That's true.

5 Q. And you went to pick up Carlos Junior from
6 somewhere?

7 A. That's true.

8 Q. And that Carlos Senior was working that day?

9 A. That's true.

10 Q. And that you went to an eye doctor?

11 A. That's true.

12 Q. Is that right?

13 A. Yes, sir.

14 Q. And that Carlos Senior, at no point in time, was
15 driving; is that right?

16 A. No, sir.

17 Q. Is that right?

18 A. No, sir, he wasn't. I was driving.

19 Q. You were driving the entire time?

20 A. Yes.

21 Q. Okay. Did he get -- and he got out of the car after
22 the car was stopped at this place that we saw a while ago?

23 A. Right.

24 Q. And why did he get out the car?

25 A. Because we was going to the cousin's house where he

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1 was going to go back to work with his cousin. And we all got
2 out the car because I normally visit the cousin's girlfriend
3 whenever he goes to work with him. And sometimes I go in with
4 her and just chitchat, you know.

5 And his son was in the car the whole time. I was
6 wondering why the officer didn't see the son in the back seat
7 when we passed because he had noticed that Carlos was
8 supposedly had been driving.

9 Q. Well, now, and how did you end up on the passenger
10 side one more time?

11 A. I got in on the driver's side. I just pulled over
12 to the other side because I normally -- you know, ladies
13 always put the visor down. This is a '89. It doesn't have a
14 visor on the driver's side.

15 Q. Okay.

16 A. And I just went over to the passenger side, which is
17 now is just a habit, and was messing with my contact. You
18 know, taking it out, wetting it up, putting it back in.

19 And I don't know what happened from there. I -- I
20 really don't understand what happened from that morning. It
21 was just everything happened so quickly.

22 And, then, after they came to the car, got everybody
23 out of the car, they asked me to go to the officer's car. And
24 I was standing in front of the car and he asked for the keys.

25 He said, "Well, I want to search the car because of

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1 some things that he said had been." And I was like, "That's
2 fine. You can search the car" He said, "Where the keys?"

3 And I was standing there and I went in my back
4 pocket and gave him the keys. And he went in the trunk and
5 searched the whole car; for what I don't know.

6 Q. Okay. All right. Answer any questions that the
7 solicitor may have for you.

8 A. Okay.

9 THE COURT: Ms. Jordan?

10 MS. JORDAN: Thank you, Your Honor.

11 THE COURT: Yes, ma'am.

12 CROSS EXAMINATION by MS. JORDAN: 11:35 A.M.

13 Q. Ms. Martin, so you were wearing contacts that day?

14 A. I was wearing contacts after this, yes.

15 Q. Okay. I'm going to show you a photograph after I
16 have it marked. I apologize

17 (Whereupon, Plaintiff's Exhibit Number 5 was marked
18 for identification.)

19 Q. Ms. Martin, I'm going to show you what's been
20 previously marked as State's Exhibit Number 5 and ask you what
21 that's a photograph of.

22 A. This is a photograph of me with my glasses on.

23 Q. Okay. When was that photograph taken?

24 A. This was when I was standing at the car.

25 Q. Okay. Does that fairly and accurately depict how

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1 you were that day?

2 A. Yes.

3 MS. JORDAN: Your Honor, the State moves State's
4 Number 5 into evidence.

5 THE COURT: Any objection? {

6 MR. POOLE: No rejection.

7 THE COURT: It will be admitted as marked. You may
8 publish it:

9 (Whereupon, State's Exhibit Number 5 was admitted
10 into evidence without objection.)

11 (State's Exhibit 5 placed on overhead.)

12 Q. (By Ms. Jordan) What are you wearing in that
13 picture?

14 A. I am wearing glasses in that picture.

15 Q. Okay. Now, Ms. Mc -- not Ms. McJimpsey, Ms. Martin.
16 I'm sorry.

17 THE WITNESS: May I make a statement?

18 THE COURT: You have the right to explain your
19 answer if you feel that it needs to be explained.

20 A. Yes, sir, yes. I'm wearing glasses in that picture
21 right there, but I don't know why it's not showing, but in
22 that picture it is one lens missing on the opposite side of
23 the glasses. So I have a contact in my eye where the other
24 lens is missing.

25 Q. Okay. So you're wearing contacts and -- and

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1 glasses?

2 A. Yes, because the -- the glasses, my dog had bit the
3 end and the contact -- I mean the glasses, and they're all
4 chewed up. And he also knocked the lens out of that side. If
5 you look at it carefully, there's only one lens in those
6 glasses.

7 Q. Okay. Do you normally wear two contacts or one?

8 A. I wear one. My eye condition only is for one
9 contact.

10 Q. Okay.

11 A. I wear one. In this eye right here (indicating) the
12 vision is like real good. You know, I'm only prescribed to
13 wear one, but with better vision I myself put two contacts in.
14 I put one in this one (indicating).

15 But, if you get at my eye statement, I'm only
16 supposed to wear one contact in my eye.

17 Q. But you normally wear two?

18 A. I were two, you know, because I think it helps me.
19 But the doctor don't want me to wear two.

20 Q. Okay. Ms. -- Ms. Martin, you were talking about the
21 fact that you slid from the driver's seat to the passenger
22 seat?

23 A. Uh-huh (affirmative).

24 Q. And you had already gotten out of the vehicle at
25 that point in time?

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1 A. Yeah, we did.

2 Q. Okay. And you chose to get in the driver's seat and
3 slide over?

4 A. Well, yeah, I mean -- well, we had been sitting
5 there. We had been sitting there at least for about five (5)
6 minutes after we parked.

7 And so, when we were sitting there like five (5)
8 minutes, I just slid over because he was standing outside the
9 car just standing and waiting I guess. And I just slid over.

10 I didn't even know he was going to sit down on the
11 driver's side.

12 Q. Did you have any -- I apologize. Continue.

13 A. It was just I guess he wanted to sit on the driver
14 side.

15 Q. Okay. Did you have -- did you have any trouble
16 sliding over from the driver side to the passenger side?

17 A. I mean, you know, there's a little armrest right
18 there, yes, but I just slid over it.

19 Q. Okay. How -- how long do you estimate -- and I know
20 you probably weren't looking at a watch, but how long do you
21 estimate that you were seated in the passenger side after
22 sliding over?

23 A. Probably five (5) minutes or more.

24 Q. How many minutes?

25 A. About five (5) minutes or more.

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1 Q. Okay. I'm going to show you what is about to be
2 marked State's Exhibit Numbers 6 and 7.

3 (Whereupon, State's Exhibit Number 6 and 7 were
4 marked for identification.)

5 Q. (By Ms. Jordan) Ms. Mc -- or Ms. Martin, I'm going
6 to show you State's 6 and 7 and ask you if you can identify
7 those photographs?

8 A. Yes. This is the inside of the car.

9 Q. Okay. And can you also identify the other
10 photograph?

11 A. This is the car.

12 Q. Okay. Do those photographs fairly and accurately
13 depict the car as it was that day when you were stopped by law
14 enforcement?

15 A. No. The driver's side door was open. And I -- I
16 would guess that this is what was in -- in the seat.

17 Q. Okay.

18 MS. JORDAN: Your Honor, at this time the State
19 moves to admit State's 6 and 7 into evidence and would
20 ask to publish them.

21 THE COURT: Any objection?

22 MR. POOLE: No objection, Your Honor.

23 THE COURT: Without objection, they'll be placed
24 into the record as marked. You may publish the photos.

25 (Whereupon, State's Exhibit Numbers 6 and 7 were

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1 admitted into evidence without objection.)

2 MS. JORDAN: Thank you.

3 THE COURT: Yes, ma'am.

4 Q. (By Ms. Jordan) Ms. Martin, as to State's Number 6,
5 is this the seat that you're claiming to have slid over on?

6 A. Yes, but those pictures was taken after we was out
7 of the car. If you'll notice, no one is in the car when those
8 pictures were taken.

9 Q. Yes, ma'am. Okay. And State's Number 7, is that
10 also just an outside picture of the car?

11 A. Yes.

12 Q. And is there items standing up or -- or in the
13 middle of the front passenger seat?

14 A. Yes, there's a bag there.

15 Q. Okay. Ms. McJimp -- or Ms. Martin, does Mr.
16 McJimpsey support you financially?

17 A. He, you know, take care of his part and does what he
18 needs to as far as what he needs to (phonetic) ---

19 THE COURT: Do you need the overhead any further?

20 MS. JORDAN: No, sir.

21 THE COURT: All right. Bring the lights up. You
22 may continue with your examination. I'm sorry I
23 interrupted, but I just...

24 MS. JORDAN: No problem.

25 Q. (By Ms. Jordan) Does he provide for you

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1 financially?

2 A. He -- he take care of his half of whatever, like if
3 the kids need anything. Financially like as giving me money
4 to my hand, no, he does not.

5 Q. Okay. And -- and I had trouble hearing at the very
6 beginning. I know that Mr. McJimpsey has five children and
7 you also have children?

8 A. I have four with him.

9 Q. Four with him?. And how old are your children with
10 Mr. McJimpsey?

11 A. I have -- I have a 17-year-old; I have a twins that
12 are 14, and I have a 12-year-old.

13 Q. Okay. Are any of those children still financially
14 dependent upon you or Mr. McJimpsey?

15 A. Yes. I have a 17-year-old that's in a wheelchair
16 that's actually in surgery right now as we speak.

17 Q. Okay.

18 A. But I have to be here.

19 Q. Okay. Do you have -- do you work outside of the
20 home?

21 A. Not right now. I'm disabled with diabetes and I
22 have --

23 Q. Okay. Were you working outside the home in
24 February?

25 A. I was not because I'm under a doctor's care.

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1 Q. Okay. Ms. McJimpsey, have you -- I'm sorry, Ms.
2 Martin, I -- I apologize. Ms. Martin, have you ever
3 previously given a statement to law enforcement that you later
4 changed?

5 A. Yes.

6 MS. JORDAN: Your Honor, if I may just briefly have
7 a moment?

8 THE COURT: Yes, ma'am.

9 (Off-the-Record Discussion)

10 MS. JORDAN: Nothing further of this witness, Your
11 Honor.

12 THE COURT: Mr. Poole, you may redirect.

13 MR. POOLE: No redirect, Your Honor.

14 THE COURT: Ma'am, you may step down.

15 A. Thank you.

16 (The witness complied with the request.)

17 THE COURT: The Defense may call its next witness.

18 MR. POOLE: There are no more witnesses or
19 evidence.

20 THE COURT: Does the State wish to call any
21 witnesses in reply?

22 MS. JORDAN: No, sir.

23 THE COURT: All right. Ladies and gentlemen of the
24 jury, that completes the presentation of evidence in this
25 case. Again, I'll have to take a short break before we

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CHARGE CONFERENCE

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1 enter the next phase of the trial, and that will be
2 arguments by counsel.

3 So I'm going to ask you to step back to the jury
4 room briefly. Do not begin any discussions until I've
5 asked you to do so. You may retire to the jury room.

6 (The jury exited the Courtroom at 11:44 a.m.)

7 THE COURT: Anything from the State at this time?

8 MS. JORDAN: No, sir, Your Honor.

9 THE COURT: Anything from the Defense?

10 MR. POOLE: No, sir.

11 CHARGE CONFERENCE

12 THE COURT: Any specific requests for charge from
13 the State?

14 MS. JORDAN: Nothing beyond the Court's usual
15 charges and I guess with the -- also the exception about
16 a -- a witness with a prior record.

17 THE COURT: All right. I intend to charge that.
18 And I don't believe you introduced any prior record as to
19 Ms. Martin.

20 MS. JORDAN: No, sir.

21 THE COURT: But you did as to the Defendant?

22 MS. JORDAN: Yes, sir.

23 THE COURT: Okay.

24 THE COURT: She had two fraudulent checks, but I --
25 I chose not to go into those and -

CHARGE CONFERENCE

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1 THE COURT: I didn't hear any prior record ---

2 MS. JORDAN: Yes, sir.

3 THE COURT: --- so I will not charge concerning
4 witnesses, but I will charge as to the Defendant.

5 MS. JORDAN: Yes, sir.

6 THE COURT: Any specific requests from the Defense?

7 MR. POOLE: No, sir.

8 THE COURT: All right. The Defense has placed
9 evidence into the record, and so, therefore, the Defense
10 will be going first with closing followed by the State.

11 MR. POOLE: Your Honor, if I may speak to the
12 solicitor?

13 THE COURT: Certainly. Sure, go ahead.

14 MR. POOLE: We might be able to speed things up.

15 THE COURT: Yes, sir.

16 (Off-the-Record Discussion)

17 MR. POOLE: We're ready to go ahead, Judge.

18 THE COURT: All right. Let's bring the jury in.

19 (Whereupon, the jury was summoned into the
20 courtroom.)

21 (Jury entered the Courtroom at 11:46 a.m.)

22 THE COURT: All right. The record will reflect
23 that the jury has returned to the courtroom. And I told
24 you that we would proceed with closing arguments at this
25 point in time.

1 As far as closing arguments are concerned, the
2 Defense is allowed to go first followed by the State.
3 Mr. Poole?

4 MR. POOLE: Thank you.

5 (Brief Pause)

6 CLOSING ARGUMENTS

7 MR. POOLE: You see there is only one fact before
8 you that you need to decide: Whether or not Mr.
9 McJimpsey was driving.

10 The State has presented its case. And basically the
11 State's -- the State's main witness is the officer who
12 brought the charge that stated that he saw Mr. McJimpsey
13 driving down a particular street.

14 However, Mr. McJimpsey has taken the witness stand
15 and given you ample reasons to believe that he was the
16 driver. Also Ms. Martin has taken the witness stand and
17 has given you ample reasons to further believe that Mr.
18 McJimpsey was not the driver of that -- of this car.

19 She answered a lot of questions regarding movement,
20 placement of a contact, wearing glasses, going back to
21 the front from the car, or moving about within it.

22 There is no reason to disbelieve her. She gave a
23 reasonable answer to every question that was asked of
24 her.

25 And it's our position that Mr. McJimpsey was not the

1 driver of the car. It's as simple as that. And the
2 State has to prove that he was the driver of the car
3 beyond a reasonable doubt.

4 The officer -- the first officer that testified
5 stated there was a 10-minute lapse, between when he first
6 saw this car -- which by the way is owned by Ms. Martin
7 -- and when he saw the car, which was illegally parked by
8 the way, over there at another place on another street.

9 And the car door was open. Mr. McJimpsey was seated
10 in the driver's seat. Now that was because at that time
11 he had gotten out to make a telephone call or try to find
12 a cousin or somebody like that, that he worked with the
13 best way I've understood it.

14 And Ms. Martin stated that she got over to this
15 car to use the cosmetic mirror, the ones that open up
16 that has the light, so, you can see what you're doing, so
17 that she could do something with a contact. Why
18 disbelieve her? Why disbelieve Mr. McJimpsey?

19 Now you heard Mr. McJimpsey state that he had had
20 prior convictions in his past. But the Court is going to
21 instruct you with particularity as to how you should
22 treat that type of evidence. You should treat that type
23 of evidence as it goes toward the credibility of a
24 witness.

25 He was forthright. He told the truth. He was not

1 evasive. And the same with Ms. Martin; forthright, told
2 the truth, and not evasive.

3 So has the State met its burden, which is proving
4 that Mr. McJimpsey was driving this car beyond a
5 reasonable doubt? No. No, it's not a fact.

6 The fact is Ms. Martin was the driver and that's all
7 there is to it...

8 So, what do you do? You go back and talk about it.
9 You all make a decision.

10 It's your hallowed ground. It's your hallowed heart
11 (phonetic) and that's the determination of facts. And
12 the verdict that speaks the truth in this case against
13 Mr. McJimpsey is a verdict of not guilty. And I'm asking
14 you to bring back that type of verdict. Thank you.

15 **THE COURT:** Ms. Jordan, you may proceed for the
16 State.

17 **MS. JORDAN:** Thank you, Your Honor.

18 **THE COURT:** Yes, ma'am.

19 **MS. JORDAN:** Ladies and gentlemen, verdict does
20 mean to speak the truth, and I think in this case the
21 only truth that's out there is that the Defendant was
22 driving the vehicle on February the 12th -- on February
23 the 14th of 2012.

24 If you -- I am a firm believer that the truth is
25 always going to seep through. Regardless of what someone

1 is trying to tell you, the truth is going to seep
2 through.

3 Think back to what you heard a few minutes ago when
4 Mr. McJimpsey was seated on that stand. He made two
5 statements that stuck in my head; he said, "I stopped in
6 front of someone's house."

7 And, then, later on when he was talking about
8 looking for a ride, he said "I stopped there." From his
9 own mouth the truth came through. He may not have meant
10 for that to come through, but it did.

11 "I stopped." Ladies and gentlemen, he stopped there
12 because he was the driver of that vehicle.

13 That was a new vehicle. You've seen in the pictures
14 that it had a tag on it. We don't dispute that the
15 vehicle belonged to Ms. Martin. We don't dispute that at
16 all.

17 The officers -- officer Mathis didn't know that
18 vehicle. It was new to them. The paper tag still on the
19 vehicle still had some time on it actually.

20 He looked, saw Mr. McJimpsey driving, turned around,
21 and went to look for him.

22 You heard him say he had prior knowledge of the
23 Defendant, prior knowledge of his driving status. He
24 turned around and he found him in the driver seat.

25 No one contests that, that when they stopped on

1 Ayden Street at the intersection of Raleigh, that the
2 Defendant was in the driver seat.

3 Now, they've given you other reasons why he was in
4 the driver seat. The State stated he was the one who was
5 driving. Officer Mathis passed him, knew the Defendant,
6 saw him in the driver's seat and turned around.

7 Mr. McJimpsey has given you the story along with Ms.
8 Martin has given you the story that "Well, what happened
9 was, we went to the eye doctor."

10 He stated, "I assisted her to the eye doctor."
11 Ladies and gentlemen, truth again. He assisted her
12 because he drove her. He assisted her to the eye doctor
13 that day.

14 She says she went to the eye doctor at nine o'clock
15 (9:00); had her eyes dilated. Funny thing is at no point
16 in time did she ever mention wearing glasses until I
17 showed her a photograph that was taken that morning where
18 she's wearing glasses.

19 And, then, she backtracked a little and says, "Well,
20 sometimes I wear one contact. And besides the one
21 sometimes I wear one and sometimes I wear two." "You
22 look and my glasses were messed up that day."

23 She never mentions her glasses until she's
24 confronted with the photograph of herself wearing them
25 that day after she has left the doctor's office where he

1 assisted her.

2 And my -- my -- my only conclusion from all that
3 we've heard today is his assistance is he drove her. Her
4 eyes are dilated.

5 If you've ever had your eyes dilated before you know
6 the one thing that hurts is when you step out of the eye
7 doctors and go into the sun. You don't see her with any
8 sunglasses on in the pictures.

9 She's never mentioned any sunglasses. She's never
10 even mentioned those little flimsy sunglasses they give
11 you if you don't have any.

12 Ladies and gentlemen, Mr. McJimpsey was driving that
13 day. I understand Ms. Martin got up on the stand and
14 claimed that she was the one who was driving.

15 She's dependent upon him. They've been together for
16 many years. They have four children together; what, 17
17 and under?

18 She doesn't work. He does. He's the financial
19 support in that home. He's also the emotional support
20 that she has.

21 The judge is going to talk to you about the
22 believability and credibility of the witnesses. There's
23 a lot to look at with her and with him in regard to the
24 believability and credibility.

25 And you can look at the financial support that he

1 provides to her and why would she get up here and say
2 this?

3 You can even look at the fact that she even admitted
4 to herself that she's given a prior inconsistent
5 statement to law enforcement.

6 Ladies and gentlemen, Officer Mathis has told you he
7 passed them on the city streets here in Spartanburg going
8 at a low rate of speed, knew the Defendant, saw the
9 Defendant driving.

10 Mr. Poole made a big deal about the fact that there
11 apparently was ten (10) minutes in between the time he
12 saw him driving, according to the incident report, and
13 the time that he pulled -- that he was able to find them
14 illegally parked on Ayden street.

15 But, if you listen to what he says in the report, it
16 says at approximately 10:45. And, then, we have the
17 officer who testified who said it was approximately about
18 that time: "We got out of the car, spoke with them, I
19 looked at my watch and it was 10:55."

20 It's not a game of time here, ladies and gentlemen.
21 Both officers stated that from the minute -- or from the
22 moment that they -- that Officer Mathis saw Mr. McJimpsey
23 driving the vehicle, that they turned around, and at that
24 point in time they just went to find him driving or find
25 him in that vehicle.

CLOSING ARGUMENT - MS. JORDAN

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1 They didn't stop anywhere else. They didn't stop to
2 investigate anything else or deal with any other issues.
3 They drove straight to find him and were able to find him
4 not that far way.

5 And you can tell by the map that this is a small
6 location. And, if you've ever been in that area, you
7 know it's -- everything is close by and everything is
8 tight in that area.

9 Ladies and gentlemen, the proof in this case is that
10 the State has proved that the Defendant was driving while
11 being declared an habitual traffic offender, which is in
12 the record. You'll see -- you can read the notice right
13 there.

14 We're not contesting that. No one is contesting
15 that; that he was the one who -- who was driving. The
16 State has to prove that beyond a reasonable doubt.

17 The judge is going to tell you that any -- that a
18 reasonable doubt is any type of doubt that would cause
19 you to hesitate to act. One thing that the judge isn't
20 going to tell you is that it's beyond any and all doubt.
21 It's just beyond a reasonable doubt.

22 Look at each one of the witnesses who have
23 testified. Look at the reasons as to why they said what
24 they said, the credibility and believability of these
25 witnesses.

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JURY CHARGE

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1 Ladies and gentlemen, Carlos McJimpsey was driving
2 the vehicle in Spartanburg County on February 14th of
3 2012. Thank you.

JURY CHARGE

4
5 THE COURT: Ladies and gentlemen, that completes
6 the closing statements made by Counsel. And I told you
7 that, when we reach this stage of the proceeding, it
8 would be my responsibility to charge you concerning the
9 law in this case.

10 The indictment in this case, again, I will go over
11 with you at this time. It is in case number 2012-GS-42-
12 1448. The indictment states that, "The Defendant, Carlos
13 McJimpsey, did in Spartanburg County, on or about
14 February 14th of 2012, operate a motor vehicle after
15 having been declared an habitual offender by the South
16 Carolina Department of Public Safety, in violation of
17 section

18 56-1-1100 of the Code of Laws of South Carolina, 1976 as
19 amended, against the peace and dignity of the State and
20 contrary to the statute in such case made and provided."

21 Now, again, I will caution you and will charge you
22 that the fact that a defendant has been arrested,
23 charged, and indicted, is not evidence in this case. And
24 it can't be used by you as evidence of guilt in this
25 case.

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JURY CHARGE

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1 Nor does it create any inference of guilt. It is
2 simply the document that brings the case before the
3 Court.

4 However, it is the document that came -- contains the
5 charge that must be proven by the State in this case.

6 This indictment will be given to you to take back
7 into your -- into the jury room for you to review during
8 your deliberations.

9 The Defendant has pled not guilty to the indictment.
10 That plea places the burden upon the State to prove the
11 Defendant's guilt.

12 And I will tell you that a person who has been
13 charged with the commission of a crime in this State, no
14 matter what the seriousness of that crime may be, is
15 never required to prove himself innocent.

16 I charge you that is an important rule of law that a
17 defendant in a criminal matter, no matter what the
18 seriousness of that crime might be, will always be
19 presumed to be innocent of that charge until such time
20 and unless guilt has been proven to you, the jury, by
21 evidence that satisfies you of that guilt beyond a
22 reasonable doubt.

23 Now the presumption of innocence doesn't end when
24 you begin your deliberations. It continues into your
25 deliberations.

JURY CHARGE

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1 Some people describe the presumption of innocence
2 that a jury -- that a defendant has in this State
3 somewhat like the robe that I wear into the courtroom.
4 That presumptions of innocence or that robe remains about
5 the Defendant's shoulders into the trial and throughout
6 the trial.

7 It accompanies the Defendant into your deliberations
8 in the jury room. It remains about the Defendant's
9 shoulders until such time as it has been stripped from
10 him by evidence that satisfies you of the Defendant's
11 guilt beyond a reasonable doubt.

12 The presumption of innocence is not just a legal
13 theory. And it's not just a legal phrase. It's an
14 substantial right that every defendant is entitled to,
15 until such time as guilt has been proven to you by
16 evidence that satisfies you of that guilt beyond a
17 reasonable doubt.

18 Now you've heard me use the term or the phrase
19 "proof beyond a reasonable doubt" a couple of times
20 already. And you may be asking yourself, "Well just what
21 is the legal definition of a reasonable doubt?"

22 A reasonable doubt has been defined as that kind of
23 doubt that would cause a reasonable person to hesitate to
24 act. And the State has the burden of proving the
25 Defendant's guilt beyond a reasonable doubt.

JURY CHARGE

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1 Now I want to caution you about one thing here. If
2 any of you have ever been involved in the civil side of
3 the court, where civil cases are being pursued, there's a
4 different standard of proof in those cases and I don't
5 want you to be confused by that.

6 In a civil case the standard of proof that's
7 required
8 to be presented before one side or the other can win, is
9 by the greater weight or the preponderance of the
10 evidence.

11 That has been described as the scales of justice.
12 And all of you have seen lady justice holding aloft those
13 scales, tipping ever so slightly one way for the
14 plaintiff or the other way for the defendant. And that's
15 what is meant by the greater weight or the preponderance
16 of the evidence.

17 That's not the standard of proof in a criminal case.
18 The standard of proof is more powerful than that in a
19 criminal case.

20 I will tell you that proof beyond a reasonable doubt
21 is that kind of proof that leaves you firmly convinced of
22 the Defendant's guilt.

23 I'm going to tell you also there's very few things
24 that go on in this world in human intercourse or
25 discourse that can be proven beyond any doubt whatsoever.

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1 And that's not the standard of proof to which the State
2 is placed in this case.

3 They're not required to present proof that overcomes
4 every possible doubt. Again, the standard of proof is
5 proof beyond a reasonable doubt.

6 I will tell you that, if after your consideration of
7 all the evidence in the case, if you are firmly convinced
8 of the Defendant's guilt, again, beyond a reasonable
9 doubt, you must find the Defendant guilty.

10 However, on the other hand, if you think there's a -
11 -a real possibility that the Defendant is not guilty,
12 then, you must give the Defendant the benefit of that
13 doubt and find the defendant not guilty.

14 I explained to you, at the beginning of the trial
15 and I want to emphasize again, you and I have different
16 duties in this case. Your job is to find the facts. And
17 my job is to preside over the case.

18 Don't think from anything that I do in the discharge
19 of my duties, either during the trial or during this
20 charge, somehow to indicate to you that I have an opinion
21 one way or the other on the facts.

22 The law doesn't allow me such an opinion and I do
23 not have an opinion concerning how you determine the
24 facts in this case.

25 If there was -- and I don't believe there was

JURY CHARGE

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anything that I struck from the record, but if there was anything that was not placed into the record that someone sought to put -- to put in the record, you must disregard anything that did not go into the record of the case.

You must only consider what is in the record in this case in reaching a verdict.

It's my duty to charge you concerning the law now, and I told you earlier under your oath it's your obligation to accept the law as I give it to you and then apply to the facts as you find those facts to be.

Again, any notions that you might have about what the law is or what it ought to be should not be taken into the jury room with you and should not be used in deciding the case at all.

Now I told you earlier you're the sole and exclusive judges of the facts. And, in ruling on the -- on the facts in this case, it will be your responsibility to determine the credibility and the believability of the witnesses who testified during this trial.

Again, that is what credibility means; it means believability. I'll emphasize to you again to use your good common sense in doing that analysis.

Again, as the sole judges of the facts, you have the right to believe all of, part of, or none of what a witness has told you. You have the right to believe one

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1 against all the others or all the others against one.

2 It's your job to evaluate the evidence and determine
3 the weight and the value and the effect of any testimony
4 that you've heard in this case and the credibility/
5 believability of that witness.

6 Again, you have the right to consider factors of
7 whether or not a witness might have a stake in the
8 outcome of the case, a bias or prejudice one way or the
9 other, the ability to know the facts about which the
10 witness testifies.

11 And you've observed the witnesses as they've
12 testified; the way they spoke, how they presented their
13 testimony.

14 Again, apply your good common sense to those
15 factors, make a decision as to the credibility or
16 believability of the testimony that you've heard in this
17 case.

18 Now there's two types of evidence which you have the
19 right to consider. And you may say, "Well what do you
20 mean by two types of evidence?" And let me be sure I try
21 to explain this to you.

22 The law classifies evidence is either direct
23 evidence or circumstantial evidence.

24 Direct evidence is when a witness testifies about
25 facts which they claim to have direct knowledge of. That

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1 means something that they've seen, experienced, felt,
2 touched, whatever. It's something they're testifying
3 about that somehow they have direct knowledge of those
4 facts. That's what we mean by direct evidence.

5 Now circumstantial evidence is different from that.
6 Circumstantial evidence is proof of a chain of facts or
7 circumstances that somehow indicate from which you could
8 reasonably infer the existence of another fact.

9 It has been described under the law as proof of
10 collateral facts from which a main fact might be
11 reasonably inferred.

12 Now that's some fancy language and I use a very
13 simple example to try to explain to you what might be
14 mean -- meant by proof of a fact by circumstantial
15 evidence.

16 Let's say last night before you went to bed you
17 looked outside the window of your bedroom and the stars
18 were shining, the moon was out. It was a beautiful
19 evening; in fact it was last night. And you went to bed
20 and you slept well all night, didn't wake up at all.

21 The next morning you got up, the sun is up. You get
22 up and you look at that very same window, but when you
23 look out the window, there's water dripping from the
24 trees. The grass is wet. The driveway at your house is
25 wet. There's puddles in it.

JURY CHARGE

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1 Now, you slept well all night, so, you didn't
2 directly experience the fact that it rained overnight.
3 But from collateral facts that you know to be true, you
4 could reasonably infer that at sometime during the night
5 it rained.

6 That's what we mean by proof by a chain of facts or
7 circumstances or proof of collateral facts from which you
8 could reasonably infer the existence of some other fact.

9 So circumstantial evidence is not proof -- it's not
10 based on direct knowledge. It's based on inference
11 reasonably drawn from certain facts that you perhaps know
12 to be true.

13 Now the law doesn't make any distinction between the
14 weight or value that you the jury can give to either
15 direct or circumstantial evidence. And there's not a
16 greater degree of certainty required of circumstantial
17 evidence than of direct evidence. You the jury weigh the
18 evidence and decide the effect that it ought to be given,
19 both direct and circumstantial evidence.

20 And, again, I'll repeat to you that should you weigh
21 -- should you weigh all of the evidence and, if after
22 weighing all of the evidence, you are not convinced of
23 the Defendant's guilt beyond a reasonable doubt, you must
24 find the Defendant not guilty.

25 And, on the other hand, if you're firmly convinced

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1 of the Defendant's guilt, beyond a reasonable doubt, you
2 must find the Defendant guilty.

3 Now during the trial, you may have heard evidence
4 that the Defendant had been convicted of a crime other
5 than the one for which the Defendant is on trial. This
6 evidence may be considered by you if you conclude it is
7 true only in deciding whether the Defendant's testimony
8 is believable and for no other purpose.

9 You must not consider the Defendant's prior record
10 as any evidence of the Defendant's guilt in the charge
11 that we're trying in this case.

12 Now the charge that's before the case [sic] I told
13 you is driving a motor vehicle on the State or County
14 roads while classified by the Department of Public Safety
15 has an habitual traffic offender.

16 In this case, the State must prove, beyond a
17 reasonable doubt, that the Defendant was operating a
18 motor vehicle in this state.

19 Operating a motor vehicle does not necessarily mean
20 driving it. Driving it means that the vehicle is however
21 in motion. However in order to operate a vehicle, there
22 does not need to be any motion.

23 Operating means starting the engine, using
24 mechanical or electrical parts of the vehicle which may
25 set a vehicle into motion.

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1 The State must prove also, beyond a reasonable
2 doubt, that, at the time the Defendant was operating the
3 motor vehicle, that the Department of Public Safety had
4 found the Defendant to be an -- an habitual traffic
5 offender and had revoked the Defendant's license to drive
6 based on that finding.

7 So that is the charge of driving a vehicle while
8 classified as an habitual traffic offender.

9 (Brief Pause)

10 **THE COURT:** Mr. Welch, I'll ask that you raise your
11 hand, please.

12 (The juror complied with the Court's request.)

13 **THE COURT:** You're going to be the foreperson of
14 the jury. That means that you should be the person who
15 presides over the deliberations of the jury.

16 It also means that, if the jury has any questions
17 during deliberations, you will write that question down.
18 And I ask the jury to agree on the question, but write it
19 down, knock on the door, and give it to the bailiff. And
20 it will be submitted to me for a response.

21 And I will caution the jury; I cannot answer each
22 and every question you might ask during the
23 deliberations. As I've told you, I can't get involved in
24 your decision concerning the facts in this case. That is
25 for you to decide.

JURY CHARGE

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1 However, I can answer questions about the law that
2 I've charged for the procedures that we've followed, or
3 limited questions about the evidence, but Mr. Foreman,
4 I'm not going to ask you to edit any question the jury
5 has; just submit them to me. And I'll decide what the
6 appropriate response ought to be.

7 Also it will be your job to record the verdict once
8 the verdict has been reached. And I'll be giving you a
9 form in just a moment for you to -- to record that
10 verdict on, and I'll explain it to you.

11 It's fairly simple, but I want to be sure you
12 understand it before you go back. And you'll be
13 conducting the deliberations and will be responsible for
14 seeing that those move forward.

15 Other than that, all jurors have an equal say in the
16 outcome of this case. Your verdict must be unanimous.
17 Each and every one of you must agree upon the verdict
18 before it becomes the verdict of the jury.

19 Now, at this point in time, I'm going to ask you to
20 step back to jury room one more time. Mr. Foreman, don't
21 let the jury start deliberations right now. I want to go
22 over some things with the lawyers.

23 We're going to get the evidence together and be sure
24 that we only have the proper evidence. And you can have
25 that back in the jury room with you during your

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1 deliberations. But I don't want something to go back
2 there that hasn't been put into the record.

3 So we'll check that. There are just some
4 housekeeping things I have to take care of. So I'll ask
5 you to come back one more time. And, then, I'll give you
6 final instructions.

7 So don't start your deliberations now. But please
8 retire to your jury room. Thank you very much.

9 (The jury exited the Courtroom at 12:11 p.m.)

10 THE COURT: Any objections to my charge from the
11 State?

12 MS. JORDAN: No, sir, Your Honor.

13 THE COURT: Any from the Defense?

14 MR. POOLE: No, sir.

15 THE COURT: All right. If you'll come forward,
16 let's get the exhibits together and be sure we have an
17 agreement on those, please.

18 (Counsel complied with the Court's request.)

19 (The attorneys checked the exhibits admitted into
20 evidence.)

21 THE COURT: She's printing the form right now.
22 It'll be ready in just a second.

23 (Brief Pause)

24 THE COURT: All right. You want to take a look at
25 the verdict form and see if you have any objections?

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1 (Attorneys complied with the Court's request.)

2 (Off-the-Record Discussion)

3 THE COURT: Any objections to the exhibits that
4 have been gathered from the State?

5 MS. JORDAN: No, sir.

6 THE COURT: Any from the Defense?

7 MR. POOLE: No, sir.

8 THE COURT: And they've been put on the corner
9 right there? Is that where they are?

10 MS. JORDAN: Yes, sir.

11 THE COURT: Why don't you put them up here on this
12 bar so we'll know where they are. Thank you.

13 (The attorneys complied with the Court's request.)

14 THE COURT: Any objection to the verdict form from
15 the State?

16 MS. JORDAN: No, sir.

17 THE COURT: Any from the Defense?

18 MR. POOLE: No, sir.

19 THE COURT: Bring the jury in.

20 (The bailiff stepped out to summon the jury.)

21 (The jury entered the Courtroom at 12:15 p.m.)

22 THE COURT: All right. Mr. Foreman, the first
23 thing I'm going to hand you, these are the exhibits in
24 the case. And you can take those back to the verdict --
25 to the jury room with you. And they will need to be

PAMELA FAUCETTE, CVR - 864-574-9534 or 336-260-2864

1 returned once the verdict has been reached.

2 This is the indictment in the case. And this is the
3 verdict form in the case.

4 Now let's look at the verdict form briefly so I'm
5 sure that we have an understanding once you get your
6 glasses on. There we go.

7 All right. At the top you'll see the court and the
8 state and county that we're in. Below that is the name
9 of the case, *The State vs. Mr. McJimpsey*.

10 Below that it indicates that it's the body of the
11 verdict and there is one question, and that is the
12 question concerning the indictment that I've given you as
13 to the charge of driving a car while classified as an
14 habitual traffic offender. And those choices are either
15 not guilty or guilty.

16 There's a blank line right in front of those
17 choices. And you'll either put an "x" or a check on the
18 appropriate line once a verdict has been reached.

19 I'll caution the jury: Don't take from the fact
20 that I've placed those choices in any order on that form
21 to indicate a preference.

22 I've -- every verdict form I've ever prepared is
23 just like that one. It's not guilty is first and guilty
24 a second. So that doesn't indicate a preference; that's
25 just the way I do it.

JURY CHARGE

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1 Now, once the -- the jury has reached a verdict,
2 again, check the appropriate blank and put an "x" there
3 and you'll sign it, knock on the door, let the bailiff
4 know that a verdict has been reached.

5 Now I am not unmindful of the fact that we're at
6 about 12:15. I will tell you, if -- if you believe, if
7 the jury believes that the deliberations may take
8 considerable time, or a fairly lengthy time, then, we can
9 order lunch for you.

10 If you would, let the bailiff know outside of the
11 jury room that you feel like lunch will be necessary. If
12 that is necessary, we'll send a clerk's officer in to
13 take in order.

14 It takes about 45 minutes to get lunch here once we
15 order it. So -- because we had to send somebody to pick
16 it up and bring it back. So but certainly, if you're in
17 your deliberations and it's going to take through lunch
18 to complete -- and take whatever time you need -- but let
19 us know and we'll come in and take the order.

20 The only thing I'd caution you about, when there's
21 someone in the room that's not a member of the jury, stop
22 the deliberations. Don't discuss the case until that
23 person has left the room. Do you understand, Mr.
24 Foreman?

25 MR. WELCH: Yes, sir.

JURY QUESTION

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1 THE COURT: All right. Now I'm going to ask the
2 jury, then, to retire and begin deliberations. Ma'am,
3 I'm going to ask that you remain seated. You're the
4 alternate; you'll remain seated.

5 So you may retire and begin your deliberations.
6 Thank you very much.

7 (The jury exited the Courtroom and began
8 deliberations at 12:17 p.m.)

9 (Whereupon, the alternate was excused.)

10 THE COURT: Any objection to my final instructions
11 from the State?

12 MS. JORDAN: No, sir.

13 THE COURT: From the Defense?

14 MR. POOLE: No, sir.

15 THE COURT: All right. We'll be in recess until
16 such time as a verdict is reached. The Defendant remains
17 in custody.

18 (Off-the-Record Discussion)

19 (Whereupon, court was in recess in the case until
20 the jury had a question at 12:54 p.m.)

21 (Brief pause while the Defendant is brought into the
22 courtroom.)

23 THE COURT: All right.. I've received a question
24 from the jury. If you would, please bring the jury in so
25 I can respond.

JURY QUESTION

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1 (The jury was summoned at 12:54 p.m.)

2 (The jury entered the Courtroom at 12:55 p.m.)

3 THE COURT: Mr. Foreman, I've received three
4 questions from the jury. Let me go over these with you.
5 The first question: "Was there a K-9 unit at the scene?"

6 Let me explain to you, again, your obligation is to
7 decide this case based upon the evidence that's been
8 placed into the record. I cannot and no one can
9 supplement that record at this point in time.

10 So, the testimony is what it is. I won't directly
11 respond to that question. Your recollection of what the
12 testimony was would be the answer to that question.

13 The next question: "Did the officer's report state
14 that the officer saw a second male in the backseat at the
15 initial sighting of the Defendant?"

16 An officer's report is generally used for purposes
17 of refreshing one's memory. The -- I do not believe the
18 report was placed into the record. So, again, it's not a
19 part of the evidence that's been introduced. And,
20 therefore, cannot be supplemented at this point in time.

21 Another question is, "Clarification of why they, the
22 Defendant and witness, were at Ayden Street." Again,
23 they testified concerning their comings and goings that
24 day.

25 I realize that. That's in the record. I can't

JURY QUESTION

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1 comment on what they may have said or may not have said
2 in that regard.

3 Again, I can't enter into your decision concerning
4 the facts. I will tell you that the jury is entitled --
5 if the jury decides to review the evidence, we can replay
6 testimony if that became necessary in your deliberations.

7 But, again, I can't comment on what they said in
8 that regard. So, I can't clarify that for you. I can't
9 respond directly to that question.

10 Does that respond to your questions, sir?

11 MR. WELCH: It does.

12 THE COURT: All right. You may retire and continue
13 your deliberations.

14 (Whereupon, the jury exited the Courtroom at 1:00
15 p.m.)

16 THE COURT: Any objection to my responses from the
17 State?

18 MS. JORDAN: No, sir.

19 THE COURT: Any from the Defense?

20 MR. POOLE: No, sir.

21 THE COURT: All right. The questions will be made
22 in exhibit, a court exhibit for the trial, and we'll be
23 in recess until a verdict is reached. Thank you very
24 much.

25 MS. JORDAN: Thank you.

VERDICT

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1 (Whereupon, Court's Exhibit Number 1 was marked for
2 identification and admitted.)

3 (Whereupon, court was in recess until the verdict
4 was reached at 1:16 p.m.)

5 THE COURT: I have been informed that a verdict has
6 been reached. Is the State ready to receive the verdict?

7 MS. JORDAN: Yes, sir.

8 THE COURT: Is the Defense ready?

9 MR. POOLE: Yes, sir.

10 THE COURT: Bring the jury in.

11 (The jury was summoned into the Courtroom.)

12 (The jury entered the Courtroom at 1:20 p.m.)

13 THE COURT: All right. Mr. Foreman, I have been
14 informed that a verdict has been reached in the case; is
15 that correct?

16 MR. WELCH: Yes, Your Honor.

17 THE COURT: If you'll that pass that to the
18 bailiff, please.

19 (The Foreman complied with the Court's request.)

20 THE COURT: Thank you. All right, Madam Forelady,
21 you may publish the verdict -- or Madam Clerk. I'm
22 sorry. MADAM CLERK: That's fine.

23 (Verdict form handed down to the clerk for
24 publishing.)

25 MADAM CLERK: "As to indictment number 2012-GS-42-
PAMELA FAUCETTE, CVR - 864-574-9534 or 336-260-2864"

VERDICT

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1 1448, for the offense of habitual traffic offender, we
2 the jury unanimously find the Defendant, Carlos Lamonte
3 McJimpsey, guilty." Signed by the foreperson dated
4 August the 15th of 2012.

5 Ladies and gentlemen of the jury, is this your
6 verdict in still your verdict? If so, please, raise your
7 right hand.

8 (All hands were raised.)

9 MADAM CLERK: So say you all.

10 THE COURT: Thank you. Anything further from the
11 State before I release the jury?

12 MS. JORDAN: No, sir.

13 THE COURT: Anything further from the Defense?

14 MR. POOLE: No, sir.

15 THE COURT: All right. Ladies and gentlemen of the
16 jury, this completes your service in connection with this
17 case. And I want to thank you very much for that
18 service.

19 I've asked you not to talk about the case up until
20 now. I will tell you, you have a right to do so at this
21 point in time.

22 You also have a right not to discuss it. A juror
23 owes no one an explanation for your service on a jury.
24 And you're not required to discuss this matter with
25 anyone.

PAMELA FAUCETTE, CVR - 864-574-9534 or 336-260-2864

SENTENCING

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1 MR. POOLE: May it please the Court, Your Honor?

2 THE COURT: Yes, sir.

3 MR. POOLE: I think the Court already knows some
4 biographical information for Mr. McJimpsey as he has
5 testified in his own defense; 37 years of age.

6 He's got several children. He does work and he has
7 been found guilty. He knows his exposure in this case.
8 He asked for a trial and put up the best defense possible
9 forward. We would ask the Court to consider any leniency
10 that you possibly could consider in sentencing him.

11 And, in that regard, ask you not to sentence him to
12 the maximum, but to what the Court feels necessary
13 tempered with mercy.

14 THE COURT: Thank you. Mr. McJimpsey, anything you
15 would like to say?

16 THE DEFENDANT: Your Honor -

17 THE COURT: You don't have to bend over, sir. You
18 can look straight up at me as long as you speak up.

19 THE DEFENDANT: Your Honor, I would like to, you
20 know, apologize for what I did. And all I would like to
21 say is I put myself at the mercy of the Court, Your
22 Honor.

23 THE COURT: Let's go over his record again. I know
24 we did briefly, but I'd like to kind of put it in a
25 package so I can understand it.

SENTENCING

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1 MS. JORDAN: Yes, sir. He has a 1993 use of the
2 vehicle and DUS; '94, DUI second, simple possession of
3 marijuana, false information; a '96 unlawful carrying of
4 a pistol;

5 The 2000 burglary second that had the two violations
6 that we discussed in the trial, a grand larceny,
7 possession of controlled substance; an '04 a hit-and-run
8 with property damage; an '05 DUS, false information; an
9 '07 malicious injury, CDV, and DUS times two;

10 The '09 fraudulent check. And in 2011 he has a DUS,
11 a CDV third, and an habitual traffic offender. And, at
12 the time of his arrest, he was on home detention for the
13 habitual traffic offender.

14 He had pled before Judge Hayes on August 24th of 2011
15 to the CDV third and the habitual traffic offender,
16 received a five-year sentence suspended to one-year home
17 detention and twenty-four (24) months probation.

18 He had a hundred and thirty (130) days credit
19 according to the sentencing sheet that I have. The home
20 detention did expire. He is currently now on probation
21 for the HTO and the CDV.

22 THE COURT: So this conviction would be a violation
23 of that probation?

24 MS. JORDAN: Yes, sir.

25 THE COURT: I mean the probation?

1 MS. JORDAN: Yes, sir.

2 THE COURT: All right. Do you want to handle the
3 probation violation at the same time as I issue the
4 sentence in this matter?

5 MR. POOLE: Yes, sir.

6 THE COURT: All right. We'll probably need to get
7 a probation officer in here. Can you check and see if we
8 can get one? We'll just stand him down for a second and
9 let's see if we can get one and take care of everything
10 at one time.

11 (Brief pause while probation agent is summoned.)

12 MR. POOLE: I saw Ms. Mannigan leave Judge Cole's
13 courtroom a moment ago.

14 THE COURT: All right. Well, you know, I can stand
15 him down, which is probably what I should do, and then at
16 2:30 we'll bring him back and we'll finish the sentencing
17 at that time.

18 MR. POOLE: Yes, sir.

19 MS. JORDAN: Yes, sir.

20 THE COURT: Because that way we can handle
21 everything at one time.

22 MS. JORDAN: Yes, sir.

23 MR. POOLE: Yes, sir.

24 THE COURT: All right. We'll stand down Mr.

25 McJimpsey, and, then, once probation is present, we'll

SENTENCING

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1 handle both the probation violation as well as this
2 conviction. Thank you, sir.

3 MR. POOLE: Thank you, Your Honor.

4 MS. JORDAN: Thank you.

5 (Whereupon, a lunch recess was taken from 1:25 p.m.
6 until 2:30 p.m.)

7 THE COURT: All right. We're are on the record in
8 the case of Carlos Lamonte McJimpsey. I was in the
9 process of going through his sentencing when I learned
10 that Mr. McJimpsey was on probation apparently at the
11 present time. And perhaps this conviction would
12 constitute a violation of that probation.

13 I will ask the probation officer, if you would, to
14 put on the record the status of Mr. McJimpsey's probation
15 at this time. Thank you, ma'am.

16 (No Response)

17 THE COURT: Yes, ma'am?

18 PROBATION AGENT: Mr. McJimpsey has an absconded
19 warrant. It's failure to report as instructed by missing
20 scheduled report on July 2, 2012.

21 He has not reported since May 2, 2012. Failure to
22 refrain from changing residence without the knowledge or
23 consent of the supervising agent per a home visit on
24 8/1/2012. The Defendant does not reside at the reported
25 residence.

SENTENCING

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1 The Defendant's whereabouts are unknown, therefore,
2 he is considered absconded from supervision; failure to
3 submit to urinalysis as ordered by The Honorable Judge
4 Hayes on 8/24/2011. The Defendant has failed to report
5 and absconded; therefore, cannot be drug tested.

6 Failure to work diligently at a lawful occupation in
7 that the Defendant has remained unemployed; failure to
8 notify the supervising agent of arrest or questioning by
9 law enforcement in that the Defendant was arrested for
10 DUS first under ticket 69644FX on 5/24/2012 by
11 Spartanburg Public Safety Department;

12 Failure to pay a supervision fee by being one
13 hundred dollars (\$100) in arrears; failure to pay fines
14 as instructed by being a hundred, twenty dollars (\$120)
15 in arrears; failure to pay a drug test fee as instructed
16 by being twenty dollars (\$20) in arrears;

17 Failure to follow the advice and instructions of the
18 supervising agent; failure to comply with special
19 condition, batterers treatment, as ordered by The
20 Honorable Judge Hayes on 8/24/2012.

21 The defendant has failed to go to Renaissance
22 Therapy (phonetic) for batterers treatment after being
23 referred.

24 **THE COURT:** Thank you, ma'am. Now he was sentenced
25 by -- the sentence that's he is on probation for, can you

PAMELA FAUCETTE, CVR - 864-574-9534 or 336-260-2864

SENTENCING

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1 give me that sentence? What it was?

2 PROBATION AGENT: Well, it's five (5) years
3 suspended to one year and twenty-four (24) months
4 probation.

5 THE COURT: So has he served the one year and was
6 on probation at this time?

7 PROBATION AGENT: Yes, sir.

8 THE COURT: Okay. All right. Now, at this time,
9 Mr. Poole, I'll take up both matters, the probation
10 matter, as this would constitute a violation of that
11 probation, independent of the other allegations, and also
12 the potential sentence in this case.

13 We've spoken about it briefly but not the probation
14 aspect of it.

15 MR. POOLE: Yes, sir.

16 THE COURT: In that regard, would you like to speak
17 on his behalf?

18 MR. POOLE: Well, Your Honor, this is new
19 information to me. I am hearing it just as everybody
20 else is hearing it.

21 It appears that if he -- if he could did either --
22 any one of these things it would be a violation of his
23 probation.

24 THE COURT: Uh-huh (affirmative).

25 MR. POOLE: So I really can't say anything in

SENTENCING

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1 defense.

2 THE COURT: All right. Well this is Mr.
3 McJimpsey's opportunity to speak. Anything you would
4 like to tell me either about this conviction or about the
5 probationary status?

6 THE DEFENDANT: Your Honor, I ---

7 THE COURT: You don't have to bend over, sir. You
8 can talk straight to me.

9 THE DEFENDANT: Your Honor, when I came home on my
10 probation, it took me awhile -- it took me awhile to
11 start back working.

12 I made mistakes and I want to throw myself upon the
13 mercy of the Court. And I apologize to the Court.

14 THE COURT: Well, as to the allegations that they
15 just read, the fact that you have not reported for some
16 time --

17 THE DEFENDANT: It's been about --

18 THE COURT: --- the fact that you moved without
19 telling the agent where you're moving; is that
20 information correct?

21 THE DEFENDANT: I just moved from
22 (phonetic) a couple of days ago, I mean, on the 14th or
23 whatever.

24 THE COURT: Well what about -- when was the last
25 time you reported to your probation officer?

SENTENCING

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1 (Brief Pause)

2 THE DEFENDANT: In may I think.

3 THE COURT: So you haven't reported since May?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Okay. All right. Now let's go over
6 his prior record one more time. And I know you told me
7 the last time, but I want to be sure I got all in a ---

8 MS. JORDAN: Yes, sir. He has a '93 use of the
9 vehicle and DUS; '94, DUI second, simple possession of
10 marijuana, false information; a '96 unlawful carrying of
11 a pistol;

12 The 2000 burglary second, grand larceny, possession
13 of a controlled substance; an '04 hit-and-run with
14 property damage; an '05 DUS, false info; in '07 malicious
15 injury to personal property, CDV, DUS times two; '09
16 fraudulent check, in 2011 the habitual traffic offender
17 and the CDV third, which are the subject of the
18 probationary cases, and a DUS.

19 THE COURT: Thank you, ma'am.

20 (Brief Pause)

21 THE COURT: Mr. McJimpsey, I don't think I need to
22 comment on the record that I've heard. It speaks for
23 itself.

24 THE DEFENDANT: Yes, sir.

25 THE COURT: In this particular case, it does not

SENTENCING

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1 appear that you are a candidate or a good candidate for
2 probation from what I've heard already. You're on
3 probation and have not complied apparently with -- with
4 the requirements, specifically and by your own admission,
5 failing to report for an extended period of time.

6 There was an outstanding warrant at the time that
7 your probation is being revoked by this conviction.

8 So, I don't find that you are a -- a good candidate
9 for probation. You failed and refused to cooperate with
10 probation thus far.

11 For that reason, I'm going to revoke probation in
12 full. In this case, the sentence is five (5) years. I
13 have run that consecutive to your probation revocation.

14 I have given you credit for any time that you may
15 have served. And that will be determined by the
16 Department of Corrections; whatever they figure is what
17 you'll get. Good luck to you, sir..

18 MS. JORDAN: Thank you, Your Honor.

19 (Whereupon, the proceeding concluded at 2:38 p.m.)
20
21
22
23
24
25

CERTIFICATION

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REPORTER'S CERTIFICATE

I, the undersigned **PAMELA FAUCETTE**, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that I acted as the Court reporter at the foregoing proceeding; that the foregoing pages, numbered 1 through 136, were transcribed by me and represent a complete and accurate transcription of said proceeding to the best of my knowledge and belief.

I do further certify that I am not of counsel for or in the employment of either of the parties to this action, nor am I interested in the results of this action.

November 2, 2012



Pamela S. Faucette
Official Court Reporter
Seventh Judicial Circuit

PAMELA FAUCETTE, CVR - 864-574-9534 or 336-260-2864

Computer

COUNTY OF SPARTANBURG
 STATE VS.
Carlos Lamonte Mejimpsey
 AKA: _____
 Race: B Sex: M Age: 37
 DOB: _____ S#: _____
 Address: _____
 City, State, Zip: Spartanburg, SC 29306-4058
 DL#: _____ SID#: _____

INDICTMENT/CASE#: 2012GS4201448
 A/W#: 68118FX
 Date of Offense: 2/14/2012
 S.C. Code §: 56-01-1100
 CDR Code #: 0057

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was
 TO: Traffic / Habitual Traffic Offender 0-5 years

CONVICTED OF or PLEADS

in violation of § 56-01-1100 of the S.C. Code of Laws, bearing CDR Code # 0057
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45
 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: _____ § 69423 _____ § 4499
JORDAN, JENNIFFER A SC Bar# _____ Defendant _____ Attorney for Defendant SC Bar# _____

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.
 CONCURRENT or CONSECUTIVE to sentence on: _____ probation revocation continues
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
 Total: \$ _____ plus 20% fee: _____ \$ _____
 Payment Terms: _____
 Set by SCDPPPS _____

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 3.90
TOTAL		\$133.90

_____ days/hours Public Service Employment
 Obtain GED
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling
 Random Drug/Alcohol testing
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____
 Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Clerk of Court/ Deputy Clerk: A. Isaac
 Court Reporter: P. Franette
 SCCA/217 (03/2011)

Presiding Judge _____
 Judge Code: 2135
 Sentence Date: 8.15.12

139

WITNESSES

Sheriff's Office

12-GS-42-1448

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

FILED
CLERK OF COURT
SPARTANBURG, SC

2012 APR -5 PM 3:50

M. HOPE BLACKLEY

COURT OF GENERAL SESSIONS

APR 09 2012

TERM

ARREST WARRANT NUMBER

68118FX

THE STATE

vs.

ACTION OF GRAND JURY

Carlos McJimpsey

True Bill

MAR 29 2012

Foreperson of Grand Jury

Date:

VERDICT

Indictment for

HABITUAL TRAFFIC OFFENDER

SC Code: 56-1-1100

CDR Code: 0057

Class FEL/F

Foreperson of Petit Jury

Date:

Handwritten mark

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG.)

INDICTMENT

MAR 29 2012

At a Court of General Sessions, convened on _____, the

Grand Jurors of Spartanburg County present upon their oath:

HABITUAL TRAFFIC OFFENDER

That the defendant, Carlos McJimpsey, did in Spartanburg County on or about February 14, 2012, operate a motor vehicle after having been declared an Habitual Offender by The South Carolina Department of Public Safety, in violation of §56-1-1100, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976)*, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


Assistant Solicitor

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

June 12th, 2013



Carmen V. Ganjehsani
Appellate Defender

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

ATTORNEY FOR APPELLANT

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

Roger L. Couch, Circuit Court Judge

RECEIVED

JUN 12 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

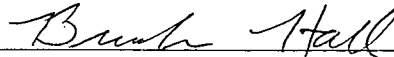
v.

LAMONTE MCJIMPSEY,

APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 and Mr. Lamonte McJimpsey, at Allendale Correctional Institution PO Box 1151, Hwy. 47, Fairfax, SC 29827, this 12th day of June, 2013.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 12 day of June, 2013.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: October 2, 2013.