

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

Robert E. Hood, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

GARY WAYNE PRESLEY,

APPELLANT

APPELLATE CASE NO. 2013-002475

RECORD ON APPEAL

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State of South Carolina

Court of General Sessions

County of Richland

2013-GS-40-06484

2013-GS-40-06485

The State of South Carolina

:

:

-VS-

:

TRANSCRIPT OF RECORD

:

Gary Wayne Presley

:

Also known as Gary Wayne

:

November 12 - 14, 2013

Columbia, South Carolina

B E F O R E:

The Honorable Robert E. Hood, Judge, and jury.

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

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Circuit Court Reporter

1 will say, "May I show them to the jury? May I pass them
2 around?" Sometimes they do and sometimes they don't; that's
3 up to them. If you do not get to see something that I have
4 admitted, that has been admitted as an exhibit, don't worry.
5 When you get back to your jury room to deliberate at the end
6 of the case, you will have all the exhibits with you, and you
7 can spend as much time as you like going over those and
8 looking at those exhibits. So sometimes that happens.
9 People want to see things, and don't worry. If it doesn't
10 make it to you, it will make it to you eventually if it's
11 admitted as an exhibit during the trial.

12 At this time we are going to move on to opening
13 statements. Mr. Petrano?

14 **Mr. Petrano:** May it please the Court? Thank you, Your
15 Honor.

16 **The Court:** Yes, sir.

17 **Mr. Petrano:** Good morning, ladies and gentlemen of the
18 jury. This is The State versus Gary Wayne Presley.
19 Mr. Presley is charged with two related offenses. We're
20 going to prove to you that in early June 2010, he falsely
21 asserted the authority of law by filing some sham legal
22 documents within our court systems. This was done so in an
23 attempt to hinder or intimidate the court personnel from
24 properly rendering their normal duties.

25 Second, we allege that and we're going to prove that

1 Mr. Presley conspired with others for the purposes of falsely
2 asserting the authority of law. You are going to hear how
3 there was a foreclosure action pending against a home here in
4 South Carolina. That case -- you're going to hear how that
5 foreclosure case followed this path from the circuit court to
6 our State Court of Appeals and ultimately to our South
7 Carolina State Supreme Court.

8 At issue are some documents that Mr. Presley filed with
9 our appellate courts, and these documents, we're going to
10 demonstrate to you, were designed and drafted to appear as
11 official legal documents. These documents, filed by
12 Mr. Presley, claim that it was they, Mr. Presley and his
13 coconspirators, who represented the real government and that
14 our courts better stop that foreclosure.

15 You're going to hear from Mr. Dan Shearouse who is the
16 clerk of court for our South Carolina Supreme Court. He's
17 going to explain to you some of the background of our court
18 system, a little bit how it works, and some -- and how these
19 documents were received. He will explain the effect that
20 Mr. Presley's sham legal filings had and how the South
21 Carolina Supreme Court ultimately issued an order resolving
22 the foreclosure action itself but also addressing the sham
23 legal documents at issue.

24 You will also hear from S.L.E.D. Captain Mike Prodan.
25 Captain Prodan was assigned this case, and he's going to tell

1 you about what he learned about Mr. Presley and his co-
2 conspirators. Captain Prodan will explain that this is not a
3 misunderstanding, that these people really intend to hinder
4 the normal process of the courts because they actually claim
5 that they represent the quote/unquote real government.

6 After we present our case, the Judge will instruct you
7 on the law. You will have an opportunity to deliberate and
8 to consider and find that we have proven to you beyond a
9 reasonable doubt that it was Mr. Presley who sent these
10 documents with an intent to hinder the normal court process.
11 We ask that you find him guilty of falsely asserting
12 authority of law and that he did so while conspiring with
13 others.

14 As you heard the Judge explain - I'm going to be a
15 little bit repetitive - Mr. Presley's sitting right over
16 there. As he sits over there right now, he is, of course,
17 absolutely innocent. In this great country, everyone is
18 innocent until proven guilty in a court of law. That's what
19 we are here to do today. We're going to present our case
20 through the evidence, both testimonial and some documents,
21 and we ask that you do find that we did prove him guilty
22 beyond a reasonable doubt. Thank you.

23 **The Court:** Thank you, Mr. Petrano. Mr. Stitely?

24 **Mr. Stitely:** May it please the Court, Your Honor?

25 **The Court:** Yes, sir.

1 **Mr. Stitely:** Ladies and gentlemen of the jury, my name
2 is Ben Stitely. I practice law here in South Carolina,
3 specifically over in Lexington. I come over here to Richland
4 every once in awhile to try cases, and I thank you for being
5 here. Jury service is something that I've never got to do,
6 but it's very important. I bet a lot of you think, oh, I
7 have to serve on a jury, and you've heard the Sixth Amendment
8 gives you the right to have a jury trial.

9 I actually want to tell you why you're here as a juror.
10 I'm going to tell you what the Sixth Amendment says. When I
11 went to law school, they gave us this handy pocketbook which
12 is the Constitution, so I'm just going to tell you what the
13 Sixth Amendment says.

14 In all criminal prosecution, the accused shall enjoy the
15 right to a speedy and public trial by an impartial jury of
16 the state and the district wherein the crime shall have been
17 committed, which district shall have been previously asserted
18 by law, to be informed to the nature and the cause of the
19 accusations, to confront the witnesses against him, to have
20 compulsory process for obtaining witnesses in his favor, and
21 to have the assistance of counsel for his defense.

22 That's why we have jury duty. It's because you get to
23 try the cases. This is an interesting case we're here
24 today... You heard what the State told you it's about. It's
25 about a document filed by Mr. Presley, allegedly, to the

1 Court of Appeals in the state of South Carolina. I'm going
2 to tell you a couple of things as we go through this trial as
3 you listen to it, and you have to determine what sham legal
4 process is.

5 I'm going to refer you real quick to one more
6 Constitutional amendment as we go, and that's the first one:
7 Congress shall make no law respecting an establishment of
8 religion or prohibiting the free exercise thereof or
9 abridging the freedom of speech or of the press or of the
10 right of the people to peaceably assemble and to petition the
11 government for a redress of grievances.

12 We've all heard it before. We have a right to free
13 speech. That's the law of the land, the law that's been our
14 law for more than 220 years.

15 One more relevant one I want to get to real quick before
16 I move on is number eight, and that's the Eighth Amendment to
17 the Constitution - I'm sorry - which reads simply: Excessive
18 bail shall not be required nor excessive fines imposed nor
19 cruel, unusual punishments inflicted.

20 And that's important coming back up to my last one of my
21 constitutional speech here which is the Sixth Amendment. And
22 the Sixth Amendment says in all -- I already read the sixth
23 one. I apologize. It's the actual speedy trial motion I was
24 going to read to you, and you already heard it, a speedy and
25 public trial.

1 In this case, Mr. Presley is a resident of Alabama. He
2 lives in a place called Childersburg, Alabama. The documents
3 you've heard about come from a post office in Childersburg,
4 Alabama. Mr. Presley never came to South Carolina; the facts
5 will tell you that. What you'll hear is that upon receiving
6 these documents through a long process that's very
7 complicated, he was extradited from Alabama to South
8 Carolina.

9 Now, what does that mean? That means he was arrested,
10 held, and transported from Alabama to South Carolina. This
11 happened just before the summer of 2011, specifically in May
12 of 2011. You're wondering why we're here today. Mr. Presley
13 was arrested from his home, never stepping foot in the state
14 of South Carolina, and transported to South Carolina where he
15 remained incarcerated until a couple of weeks ago on this
16 charge for mailing a piece of paper to our Supreme Court and
17 Court of Appeals saying he objected to the way they were
18 doing business.

19 Thirty months later we're here in court. We're going to
20 have you listen to the facts. Gary Wayne will testify today,
21 and he'll tell you what his cause is and what it is. You'll
22 see the documents, and you can look at them.

23 At the end of the day, you have to make a determination:
24 Did he commit a crime in the state of South Carolina by
25 objecting to the way things were being done in a foreclosure

1 action? That's the question. Where does the authority come
2 from? Also a question to be answered. Please just listen.
3 Thank you.

4 **The Court:** Thank you, Mr. Stitely. Call your first
5 witness.

6 **Mr. Petrano:** Thank you, Your Honor. May it please the
7 Court? The State calls Mr. Dan Shearouse.

8 **The Court:** All right. Come forward, Mr. Shearouse.

9 Daniel E. Shearouse, after being duly sworn,
10 testified as follows:

11 **The Clerk:** Please have a seat and state your full name
12 for the record.

13 **The Witness:** My full name is Daniel Edward Shearouse,
14 and I'm the clerk of the South Carolina Supreme Court.

15 Direct Examination

16 By Mr. Petrano:

17 Q. Mr. Shearouse, what's your official title? Is it
18 Mr. Shearouse? Is it the honorable? I'm not trying to be---

19 A. Just Dan Shearouse.

20 Q. I'll just call you Mr. Shearouse. Mr. Shearouse, could
21 you please just explain to the jury a little bit about your
22 job and about the South Carolina Supreme Court?

23 A. Okay. I'm the clerk of the South Carolina Supreme
24 Court, and I've been the clerk now for over 15 years; in
25 October it went over 15 years. I've actually been an

1 employee of the South Carolina Supreme Court for over
2 30 years. The Supreme Court of South Carolina is the highest
3 court in our state system, and also involved in this case is
4 the Court of Appeals which is our intermediate appellate
5 court.

6 **Court Reporter:** I'm sorry. Excuse me. Can we back the
7 mic up a little bit?

8 **The Witness:** And you asked -- my job -- as the clerk of
9 the South Carolina Supreme Court, my job is to maintain the
10 records of the Supreme Court to ensure that cases get to the
11 Court in an appropriate manner, that they have the records
12 they need to decide the cases. I'm sort of the gatekeeper
13 that makes sure things are properly filed and -- and get to
14 the Court.

15 By Mr. Petrano:

16 Q. And you've touched on it a little bit, but if you could,
17 if I could back you up and have you elaborate a little bit
18 more on the relationship between the South Carolina Supreme
19 Court and the South Carolina Court of Appeals and how the two
20 relate and, you know, how things go from one to the other.

21 A. All right. I'll start with the Court of Appeals. The
22 Court of Appeals is our intermediate Court of Appeals in
23 South Carolina. It handles only appeals. It only handles
24 direct appeals from the lower courts, such as the circuit
25 court here, and from family court and masters-in-equity and

1 probate in rare occasions. And so they have appeals.

2 The Supreme Court, on the other hand, not only can it
3 handle direct appeals from those courts that I just
4 mentioned, but it can also entertain actions in its original
5 jurisdiction. It also has authority over the admissions of
6 persons to practice law. It also has jurisdiction over the
7 discipline of lawyers and judges. So it has a much broader
8 range of activities that it's involved with, rather than the
9 Courts of Appeals which only handles appeals coming from
10 the -- from the lower courts.

11 Q. All right. And if you could, sir, explain how a
12 court -- a case could wind its way from the circuit court
13 through an ordinary court and end up at the Supreme Court
14 while going through the Court of Appeals. I hope my question
15 is clear.

16 A. Okay. Sure. A lot of different ways that could occur.
17 First, anyone who is dissatisfied with a decision of the
18 circuit court can appeal, and normally those appeals go to
19 the Supreme Court -- I mean go to the Court of Appeals unless
20 it falls in one of eight categories that has to go to the
21 Supreme Court, and I won't bore you with the details on that.

22 An example: One of them is a death penalty case. All
23 death penalty cases where sentences of death are imposed have
24 to come to the Supreme Court. Another example are election
25 cases that have to come to the Supreme Court because they

1 need to decide them quickly. But virtually all other appeals
2 go to the Court of Appeals first where the Court of Appeals,
3 in due course, can decide those cases. They go through the
4 process of filing briefs and hearing argument and ultimately
5 the case and---

6 **The Court:** Mr. Shearouse?

7 **The Witness:** Yes. Yes, sir.

8 **The Court:** Can you slow down just -- just a little
9 bit---

10 **The Witness:** Oh, yes, sir.

11 **The Court:** ---for me?

12 **The Witness:** Be happy to.

13 **The Court:** That's okay.

14 **Court Reporter:** Kind of---

15 **The Court:** Yeah. And -- and actually push that
16 microphone for... Can you hear in the back, ma'am?

17 **Juror:** Yeah.

18 **The Court:** Okay. I want to make sure everybody can
19 hear you, but the reverb is -- is making it a little bit
20 difficult to understand with the cadence. If you would slow
21 down just a little bit for us, please, sir.

22 **The Witness:** Yes, sir.

23 **The Court:** Thank you. I apologize for interrupting.

24 **The Witness:** But, anyway, if the Court of Appeals has
25 made a decision in a case and gone through all the process of

1 hearing the oral argument or not hearing the oral argument
2 and issuing a decision, people can then seek review by what's
3 called a petition for writ of certiorari to the South
4 Carolina Supreme Court, and that's the way most cases get to
5 the Supreme Court is by -- from the Court of Appeals is by
6 that writ of certiorari process.

7 By Mr. Petrano:

8 Q. And---

9 A. It is also possible for a case to come to the Supreme
10 Court by certification. That is, a case that's first filed
11 with the Court of Appeals can be transferred to the Supreme
12 Court. And that occurs either on a motion of the parties or
13 on the Supreme Court on its own motion or sometimes at the
14 request of the Court of Appeals itself. And, indeed, in this
15 case, in these four cases we're about ready to talk about,
16 that's what happened. The Supreme Court certified those
17 appeals for review by the Supreme Court, and the four cases
18 were transferred to the Supreme Court for a decision.

19 Q. And just a little bit of a background as far as the
20 geography -- and I'm not trying to sound silly, sir, but the
21 Court of Appeals and the Supreme Court, sir, are they located
22 in Richland County?

23 A. Yes, they are.

24 Q. Okay. And in the matter at hand, the case regarding
25 Mr. Gary Wayne Presley, I assume you have some familiarity

1 with it?

2 A. Yes, I do.

3 Q. And that's as the clerk of court.

4 A. Correct.

5 Q. All right. And you have access to that file in your
6 ordinary course as the clerk of court. Is that correct?

7 A. Yes. Yes, I do.

8 Q. Is that what you explained?

9 A. Yes.

10 Q. Okay.

11 A. Yes, I do. In this case, these cases were filed
12 initially with the Court of Appeals and then transferred to
13 the Supreme Court, so now the records as -- even as they
14 exist at the Court of Appeals are now a part of the records
15 of the Supreme Court. Additionally, it's -- as you've
16 discussed it with me, the statute also makes me the custodian
17 of the records of the Court of Appeals also, so...

18 **Mr. Petrano:** And may I approach, Your Honor?

19 **The Court:** Yes.

20 By Mr. Petrano:

21 Q. Mr. Shearouse, I'm going to show you what's been
22 pre-marked today as a stack of exhibits, 1 through 9. And
23 are those, sir, part of the file?

24 A. Yes, they are.

25 Q. And, if you could, just describe them. I'm not trying

1 to put words in your mouth, but there appear to be some
2 ribbons and stuff on the front.

3 A. Okay. Well, this is just simply -- I just certified
4 this as the custodian of the records of the Supreme Court
5 that these are true copies of what is on file with the
6 Supreme Court, each one of these -- each one of these
7 documents.

8 Q. All right. And can you tell us a little bit about --
9 can you describe the general background of how a case can go
10 from the circuit court to the Court of Appeals and to the
11 Supreme Court? If you could, sir, specifically describe how
12 this particular case started and wound its way to you. And I
13 know that you touched on that, but if you could...

14 A. Right. Well, there were actually four cases that were
15 involved in these cases. I won't go over the numbers in
16 them, but one was Wells Fargo versus Geary Thomas Dooly, then
17 Deutsche Bank versus G. Thomas Dooly, then a second Deutsche
18 Bank versus G. Thomas Dooly, and finally Lasalle Bank versus
19 G. Thomas Dooly. There were four -- four foreclosure actions
20 that were involved in these matters, and appeals were taken
21 to the -- to the Court of Appeals and all of them taken in
22 2010.

23 Q. All right. And you referenced and you read the parties.
24 Is Mr. Gary Wayne Presley a party to these cases?

25 A. No, sir.

1 Q. Could you explain how he is involved, at least from your
2 perspective, sir, as the clerk of court?

3 A. He signed some of the documents that are involved in
4 this -- in this case.

5 Q. All right. And as far as you know, did he ever come to
6 the actual court?

7 A. Not that I'm aware of, no.

8 Q. How did he submit these documents to you?

9 A. They were all mailed to the South Carolina Supreme Court
10 or the Court of Appeals.

11 Q. And as the clerk of court for the South Carolina Supreme
12 Court, sir, can you tell the jury if mailing a document is an
13 acceptable form of submitting a document? I believe you used
14 the phrase filing a document?

15 A. Yes. Yes. Documents can either be hand-delivered or
16 they can be mailed or -- you know, they can be personally
17 delivered or they can be mailed, and filing is complete upon
18 mailing under our rule at the Supreme Court.

19 Q. And, sir, if a lawyer or a party, or anybody for that
20 matter, mails a document for filing with the Court of Appeals
21 or with the Supreme Court, sir, do they have to be in South
22 Carolina when they mail that or can they be anywhere that
23 accepts service?

24 A. No, sir. They can be anywhere the mail -- the mail
25 goes.

1 Q. All right. Can you describe, sir, at least in your
2 words as the clerk of court, the documents that were received
3 on June 2nd which I believe are marked as Exhibit 1?

4 A. What you've got marked as State's Exhibit 1 is a -- a
5 document that was received by the Court of Appeals on
6 June 7th of 2010, and that was directed to all four of those
7 cases that I talked about earlier. It's got the lower court
8 numbers for all of those cases, and it's composed of letters
9 rogatory, a writ of mandamus, and then a writ of error coram
10 nobis and a restraining order also.

11 Q. And some of the dates are somewhat listed differently,
12 and I believe you touched on this, sir. You said that when a
13 document is mailed, that's one date, and then there's a file
14 date, and that's a different date. Could you explain a
15 little bit about that?

16 A. Correct. In other words, if someone sends something to
17 the Supreme Court and they mail it, as I explained, the
18 filing is complete upon mailing if it's properly addressed
19 with postage. So they'll mail it on one day, and, of course,
20 the postal service takes some time to get letters to us, so
21 the dates I'm using is actually the receive date. The filing
22 date was earlier when it was properly placed in the mail.

23 Q. And so, for example, for this specific item number one,
24 you have listed and categorized it as quote/unquote filed on
25 June 7th, but if you could, sir, just take a look at the

1 mailing date---

2 A. Right.

3 Q. ---and tell the jury that.

4 A. Right. The actual U.S. post -- just, if I can read it,
5 is June 2nd; 2010.

6 Q. And so when it's referenced documents dated June 2nd or
7 June 7th, from your perspective, sir, we're -- we are
8 referring to the same thing.

9 A. Yes, sir.

10 Q. All right. And that would be what's marked as State's
11 Number 1.

12 A. Yes, sir.

13 **Mr. Petrano:** And I would like to, at this point, move
14 this in as State's Number 1.

15 **Mr. Stitely:** No objection to State's Number 1, I guess.

16 **The Court:** State's Number 1, admitted without
17 objection. Now, let Ms. Helms mark it down the way she needs
18 to.

19 (State's Exhibit 1 was received in evidence.)

20 **Mr. Petrano:** Do you want me to bring it to you, Your
21 Honor?

22 **The Court:** No. I'm good.

23 By Mr. Petrano:

24 Q. Sir, could you then go to State's Number 2 and kind of
25 describe that and similarly go through the dates---

1 A. All right.

2 Q. ---that the mail---

3 **Mr. Stitely:** Your Honor, at this time I do have an
4 objection. I think that we can save some time if we deal
5 with this right now before he gets to the rest of the
6 documents.

7 **The Court:** Okay. Do you want to take it outside?

8 **Mr. Stitely:** Yes, sir.

9 **The Court:** All right. Ladies and gentlemen, if you
10 will retire to your jury room. Do not discuss the case and
11 keep an open mind, and we'll be back with you in just a few
12 moments. Thank you very much.

13 (Whereupon, the jury was excused from open court at
14 10:05 a.m.)

15 **The Court:** Yes, sir.

16 **Mr. Stitely:** Your Honor, this -- this may be a little
17 ahead, but I'm guessing the next nine documents - or eight
18 and then one at the back end - are certified copies of
19 documents allegedly received by the Court of Appeals, Your
20 Honor. They have dates on them outside the dates of the
21 indictment, outside the dates of either indictment.

22 Specifically, some of these letters are dated that
23 August 2nd date which are the warrants that was already
24 dismissed by Judge Early. So I'm going to object to any
25 document that is not specifically a document received as per

1 these indictments June 2nd, 2010, or within the dates of the
2 conspiracy alleged which is May until July of 2010. I think
3 it would be inappropriate to use these other documents but
4 especially ones that have already been dismissed---

5 **The Court:** Hold on.

6 **Mr. Stitely:** ---as part of their case in chief today.

7 **The Court:** Tell me what the other document dates are.
8 Let's just go down in order. Exhibit 2 is what date?

9 **Mr. Petrano:** Number 2, Your Honor - and, again, plus or
10 minus a couple of days because of the filing date versus the
11 mailing date - it would be a June 15th, 2010, document.

12 **The Court:** Okay.

13 **Mr. Petrano:** Number 3 would be a July 23rd.

14 **Mr. Stitely:** That's actually a letter from the Supreme
15 Court though; that's not a letter from my client.

16 **Mr. Petrano:** That's correct.

17 **The Court:** Okay. Let's just put them out there, and
18 then we can go back through them; okay?

19 **Mr. Stitely:** Yes, sir.

20 **Mr. Petrano:** Number 4, Your Honor, is August 2nd.

21 **The Court:** Okay.

22 **Mr. Petrano:** Number 5, Your Honor, is September 3rd.

23 **The Court:** Okay.

24 **Mr. Petrano:** Number 6 is September 24th.

25 **The Court:** Okay.

1 **Mr. Petrano:** Number 7 is December 6th.

2 **The Court:** Okay.

3 **Mr. Petrano:** Number 8, December 6th.

4 **The Court:** Okay.

5 **Mr. Petrano:** Number 9, January 27th, 2011.

6 **The Court:** Okay.

7 **Mr. Petrano:** And then out of order is a Number 17 which
8 is January 31st, 2011.

9 **The Court:** Okay. So let's start with the ones that you
10 don't have an objection to.

11 **Mr. Stitely:** Judge, I don't have an objection to
12 Number 1. As stated, I think that's the one that's the basis
13 for the indictment, outside of any other objections
14 previously in general, but that that one is the date on the
15 indictment.

16 **The Court:** All right.

17 **Mr. Stitely:** I don't have a particularized objection to
18 it. I'm not sure what the evidence is going to show on
19 Number 3. That is actually a letter from the Supreme Court.
20 I'm not sure whether or not he is the author of that
21 document. I may have another objection when it comes to it
22 on another basis. I'm going to object to numbers 4, 5---

23 **The Court:** What about Number 2?

24 **Mr. Stitely:** Approach, Your Honor?

25 **The Court:** Yeah. Sure.

1 **Mr. Stitely:** Make sure what I think it is. Do you have
2 Number 2? I'm sorry. Thank you, Mr. Shearouse. I am going
3 to object to Number 2, Your Honor. It's not the date stated
4 in the indictment.

5 **The Court:** What about the conspiracy?

6 **Mr. Stitely:** If they want to allege that that was part
7 of a conspiracy, I think they're going to have to have other
8 individuals involved with that document.

9 **The Court:** All right.

10 **Mr. Stitely:** But that -- that -- so that may be just a
11 question of foundation at this time, Judge.

12 **The Court:** Okay.

13 **Mr. Stitely:** But not on its face, it's a document
14 outside the scope---

15 **The Court:** So 4, 5, 6, 7, 8, 9, and 17 you're saying
16 are all outside the conspiracy or the specific indictment.

17 **Mr. Stitely:** And -- and, specifically, some of these
18 are the ones that were the basis---

19 **The Court:** Were dismissed.

20 **Mr. Stitely:** Yes, sir.

21 **The Court:** May I see the documents?

22 (Mr. Petrano hands documents up to the Court.)

23 **The Court:** So Number 1 is good; right?

24 **Mr. Stitely:** Yes, sir. No objection to Number 1.

25 **The Court:** Okay. Number 3 is a letter from

1 Mr. Shearouse to your client.

2 **Mr. Stitely:** Yes, sir. And -- and, like I said, I
3 think that's just a different foundation standard.

4 **The Court:** Okay. Okay. So let's -- let's really talk
5 about 4 through 9 and 17. Mr. Petrano?

6 **Mr. Petrano:** Certainly, Your Honor. May I isolate one
7 that is kind of outside the category of the rest of the
8 series you just listed? And that would be Number 6.

9 **The Court:** Okay.

10 **Mr. Petrano:** That's simply a court order.

11 **The Court:** Okay. Hold up. Let me get back to that.

12 **Mr. Petrano:** Yes, sir.

13 **The Court:** So Number 6 is a court order? Okay. So 6
14 is a court...

15 **Mr. Petrano:** I'm going to ignore for a moment the
16 awkwardness that Number 6 has attachments which may duplicate
17 some of the items -- other items that are objected to, but if
18 we could just talk about Number 6 proper, if that makes
19 sense.

20 **The Court:** Okay. So what number do you want to talk
21 about? Six?

22 **Mr. Petrano:** Yeah, Number 6. I'm not sure what the
23 objection is, Your Honor. That's a Supreme Court order.
24 That's from the Supreme Court. It regards the June 7th
25 documents that were submitted. It's their analysis. It's

1 how they dealt with it. One of the elements -- several of
2 the elements we have to prove is the harm that was done and
3 what effect this had on the court system. That document does
4 that. It -- it acknowledges it.

5 **Mr. Stitely:** Unless the author of the document intends
6 to come in, it's going to be hearsay, Judge.

7 **The Court:** It's a court order.

8 **Mr. Stitely:** Yes, sir, and a court order from a circuit
9 court judge can't just be relied upon in another court. I
10 know it's the Supreme Court, but in this situation...

11 **The Court:** But the clerk is here to testify to it.

12 **Mr. Stitely:** He could testify that it exists. I don't
13 know that he could testify as to what the -- the purpose is,
14 Judge, unless he's the one who actually created the document
15 for a specific purpose. My second objection - we haven't
16 gotten to it yet - is that's going to be calling to a legal
17 question. We have a jury in the courtroom to ask them what
18 they define as a violation of the law. This document is
19 calling for a legal conclusion.

20 Specifically, they're trying to use a -- a document to
21 find him guilty already in the court -- in the Supreme Court
22 without having a jury try the case.

23 **The Court:** All right. We'll come back to Number 6.

24 **Mr. Stitely:** Yes, sir.

25 **The Court:** All right. So let's talk about 4, 5, 7, 8,

1 9, and 17.

2 **Mr. Petrano:** Yes, sir. Four, 5, 7, 8, 9, and 17, they
3 go to -- well, obviously would probably encompass some sort
4 of limiting instruction. The purpose of those is identity
5 and intent, particularly intent in the sense that this
6 activity continued after notice, and the notice being
7 Number 3, the letter from the Supreme Court to the defendant
8 and his co-conspirators, and so the activity continues on.
9 That's the notice, the intent and the identity elements that
10 we are relying on for the purposes of those listed items,
11 Your Honor.

12 **The Court:** Mr. Stitely?

13 **Mr. Stitely:** Judge, I -- I still don't think that we
14 can use things outside the scope of what they've done. I
15 don't think that there's any question of identity in this
16 situation. If they'd like to reserve the opportunity to
17 perhaps bring those back to impeach if Mr. Presley says he
18 isn't the Mr. Presley who sent the June 2nd letter... I
19 don't think that that's in contest. I think I even said that
20 in opening statement.

21 I mean, I -- I think that maybe that might be a rebuttal
22 if we get up there and challenge identity, but, Your Honor,
23 that's simply using things outside the scope, specifically
24 ones that are -- have been dismissed to try to further their
25 theory of the case. There's been no 403 arguments. There's

1 been no Lyle petition.

2 **The Court:** All right. Anything further, Mr. Petrano?

3 **Mr. Petrano:** Yeah. Just briefly in reply, Judge.

4 Obviously, we have to prove our case, as we explained in the
5 opening statements, whether conceded or not are not evidence,
6 and we don't know if Mr. Presley's going to testify, and
7 we've got to put our case up as if he's not going to, Judge.

8 **The Court:** Okay.

9 **Mr. Petrano:** Again, identity, intent, especially intent
10 after notice. I do have a reply, if you want it, regarding
11 the hearsay and the order itself. I'll save that.

12 **The Court:** Say that one more time.

13 **Mr. Petrano:** I have a reply, if you want, regarding the
14 hearsay objection and the nuances of the admissibility of a
15 court order itself.

16 **The Court:** Talking about Number 6?

17 **Mr. Petrano:** That's correct, Your Honor.

18 **The Court:** Yeah. Go ahead.

19 **Mr. Petrano:** Your Honor, obviously we've covered Number
20 6 in a multiple-layered way. One, it's a court order.
21 That's self-authenticating. It's clearly admissible. It's
22 not hearsay.

23 Number two, we have the clerk of court. As he explained
24 and as the statutes explain it and as our very own court
25 rules explain, he is the custodian. He is the one

1 responsible. In fact, I think -- I'm not going to put words
2 in his mouth, but, you know, he's the one who issues the
3 advance sheets and puts all that stuff out there. He's the
4 clerk of court. This comes in through him. That's just
5 black letter. If we didn't have him, it still comes in.
6 It's still a court order, Judge.

7 **Mr. Stitely:** And, Judge -- may I look at Number 6,
8 Judge?

9 **The Court:** Yes.

10 **Mr. Stitely:** I can't find it in my packet. I
11 apologize.

12 **The Court:** Here you go.

13 **Mr. Stitely:** Thank you, Judge.

14 **Mr. Petrano:** Now, you know, I'd almost -- I'm not
15 trying to sound silly. I'd almost like to qualify him as an
16 expert, and he could probably tell you why the stuff comes in
17 but... And, Your Honor, not to interrupt Mr. Stitely's
18 review...

19 **The Court:** Uh-huh.

20 **Mr. Petrano:** Mr. Presley was, of course, sent a copy of
21 the order, so that's part of the analysis, I would submit.

22 **Mr. Stitely:** Judge, my only -- I -- I would just point
23 out that he is not the author. This is an actual order from
24 the Supreme Court and signed by the Supreme Court judges, not
25 Mr. Shearouse. This wasn't a---

1 **The Court:** I know that.

2 **Mr. Stitely:** Those would be my only positions. If --
3 if Your Honor deems it's appropriate to come in, that's...

4 **The Court:** All right. Here's what we're doing. Okay.
5 Everybody listen as I go through this. Number 1 is in
6 without objection.

7 **Mr. Stitely:** Correct.

8 **The Court:** All right. I'm putting these back up here.
9 Okay. Number 2 -- Number 2 appears to be a document from the
10 defendant in the normal course of this type of materials from
11 the office of the public minister, Gary Wayne, to the state
12 of South Carolina judiciary courts of this state and others,
13 which is during the time frame of the conspiracy that has
14 been alleged, and so I'm going to admit Number 2 over defense
15 objection.

16 Number 3 is a letter from Mr. Shearouse. Of course,
17 you'll need to lay the foundation that he wrote it, drafted
18 it, signed it, that kind of good stuff. Number 4 -- Number 4
19 is out. Number 5 is out. Number 6 is the order of the
20 Supreme Court under South Carolina Rules of Evidence 902. I
21 find that this is a certified copy of a public record under
22 subsection number four, that the appropriate custodian of
23 record is here to testify, and that it has the appropriate
24 seal on it. Therefore, Number 4 -- I mean Number 6 I deem is
25 admissible over defense objection.

1 Number 7, 8, 9, and 17 are all out. They are not directly
2 relational to the -- to the -- to the specific incident
3 charged for the time frame committed in the conspiracy. I'm
4 not saying that the State wouldn't be allowed to present
5 these in rebuttal, you know, if the defendant chooses to
6 testify and exercise his rights to testify and were to say
7 something that would open the door to these coming back in,
8 but at this point in time I find that their prejudicial
9 effect would outweigh their probative value under South
10 Carolina Rules of Evidence 403. And so 4, 5, 7, 8, 9, and 17
11 are not admissible. Everything else that we've been
12 discussing is.

13 **Mr. Stitely:** Thank you, Judge.

14 **The Court:** Has everybody got that?

15 **Mr. Stitely:** Yes, Your Honor.

16 **The Court:** Okay. All right.

17 **Mr. Underwood:** Your Honor, just -- just so that I can
18 clarify, Your Honor. Your Honor, Number 1 is admitted
19 without objection.

20 **The Court:** Yeah.

21 **Mr. Underwood:** Number 2 is admitted over objection.

22 **The Court:** Yes.

23 **Mr. Underwood:** Number 3 is subject to foundation.

24 **The Court:** Yes.

25 **Mr. Underwood:** Number 6 is admitted over objection.

1 **The Court:** Yes.

2 **Mr. Underwood:** And then numbers 4, 5, 7, 8, 9, and 17
3 are excluded pursuant to Rule 403?

4 **The Court:** Yes.

5 **Mr. Underwood:** Thank you, Your Honor. I just wanted to
6 be clear on that.

7 **The Court:** All right.

8 **Mr. Petrano:** And, Your Honor, there was also, similarly
9 to Number 6 -- and I'm not sure if you addressed it and I'm
10 not trying to be combative or anything. There was an
11 objection regarding the issue being an issue for the trier of
12 fact. Do you want to reply to that?

13 **The Court:** Oh, yeah. I find that it -- that -- that
14 it's -- that it's not an issue as to -- this -- this is a --
15 one of the elements that the State has to prove in the
16 prosecution of this case, number one in the conspiracy, is
17 that there was some form of an agreement or tacit
18 understanding with somebody else for the purposes of
19 committing a crime. And on the other charge, they have to
20 prove that there was some level of what it's -- I think it's
21 referred to as hindering.

22 You know, there's this -- this language in that statute
23 about intimidating, harassing, threatening and/or hindering
24 the courts. I believe that court order goes directly - which
25 is State's Exhibit Number 6 - goes directly to that element

1 of the crime. Therefore, I do not find that any prejudicial
2 effect would outweigh the probative value. I think it is
3 directly probative -- probative to an element of the crime
4 which the State is required to prove. Okay. Anything else?

5 **Mr. Stitely:** Nothing from the defense, Your Honor.

6 **The Court:** Okay.

7 **Mr. Petrano:** No, Your Honor.

8 **The Court:** Okay. Then bring the jury back in.

9 **Mr. Petrano:** May I approach and retrieve them?

10 **The Court:** Yeah. Grab all that stuff. Got it?

11 **Mr. Petrano:** Yes, sir.

12 (Whereupon, the jury was brought into open court at
13 10:22 a.m.)

14 **The Court:** Thank you very much, Mr. Bowen and
15 Mr. Addison. Mr. Petrano, you may continue.

16 **Mr. Petrano:** Thank you, Your Honor. May it please the
17 Court?

18 By Mr. Petrano:

19 Q. Mr. Shearouse, we were talking about what's been marked
20 as Number 2, and if you could pick up on that and just
21 describe that for us, and, if you could, tell the jury the
22 dates, the -- the two dates, the one being the mailing and
23 the other being the filing if you could.

24 A. This is a document that was received by the South
25 Carolina Court of Appeals on June 17th of 2010. I believe

1 it's mailed on June the 15th of 2010.

2 Q. And, if you could, just flip through it and describe it
3 as the clerk of court as what you see in there.

4 A. Well, it's a document. It says it's from the office of
5 the public minister of justice, Gary Wayne, and it's -- it
6 says it's a final decree that has come before that -- their
7 forum. The cause has been found in favor of the complaint by
8 the defendant's failure to appear and show cause and defend
9 their position. This was the demand they made earlier that
10 the Court of Appeals establish its jurisdiction and then a
11 bunch of plats relating to the property that's involved.

12 Q. And, just to be clear, sir, those were sent to the Court
13 of Appeals, but ultimately the Supreme Court took the case.

14 A. Yes. Yes. On, I believe, July 19th, 2010, the Supreme
15 Court issued an order transferring all four of the cases to
16 the Supreme Court from the Court of Appeals.

17 Q. Okay. And we will get to it in a little bit,
18 Mr. Shearouse, but ultimately the Supreme Court had to
19 address these issues, and they did address these issues. Is
20 that correct?

21 A. Correct.

22 **Mr. Petrano:** And I'd like to move in Number 2, please.

23 **Mr. Stitely:** Yes, sir.

24 **The Court:** Over the defense objection.

25 (State's Exhibit 2 was received in evidence.)

1 **Mr. Petrano:** Thank you.

2 By Mr. Petrano:

3 Q. And, Mr. Shearouse, what's been marked as Number 3, do
4 you have that at your fingertips?

5 A. Yes, I do.

6 Q. And could you please describe that and, once again, the
7 -- the date and just what it is from your perspective? And
8 tell the jury about that.

9 A. Yes. This is a letter that I prepared as clerk of the
10 South Carolina Supreme Court. It's dated July 23rd, 2010.
11 It's directed to -- to Mr. Dooly, the defendant in these
12 foreclosure actions, along with the counsel in all -- all
13 four of the cases along with the defendant, Gary Wayne, of
14 Childersburg, Alabama. It's relating to all four cases.
15 This is after the case has been transferred to the Supreme
16 Court, and it is asking why, what's effectively State's
17 Exhibit 1 and 2, should not be stricken from the record of
18 the Supreme Court as being sham legal process. And the
19 parties were directed to serve and file a response to this
20 letter within ten days, and the response should indicate the
21 party opposes the striking of these documents.

22 It also advised Mr. -- Mr. Gary Wayne, the defendant
23 here, that he may serve and file a responses if he wants to,
24 even though he's not a party in this matter. And this letter
25 would have been mailed on July 23rd, 2010.

1 Q. And you just touched on it, but did you -- did you go to
2 Alabama and give that to the defendant?

3 A. No, sir. It was mailed.

4 Q. And just through normal U.S. mail. Is that correct?

5 A. Yes, sir.

6 Q. And is that an acceptable means of communication within
7 the court?

8 A. Correct. That's an appropriate way of serving a party
9 with something.

10 Q. Sir, you quoted some of your own language. You said you
11 wrote that. You used the phrase and you read the phrase for
12 the jury - sham legal process. Is that -- did I hear that?

13 A. Yes.

14 Q. What does that mean to you, sir?

15 A. We have two statutory provisions, both enacting the same
16 act that define what sham legal process is and something that
17 purports to be issued by a court or some other official when,
18 in fact, it is not.

19 Q. How do you determine if it is a court or if it is not?
20 And I'm not trying to sound silly.

21 A. Well, of course, in this case what we asked for was a
22 response from -- from the parties along with Mr. -- along
23 with the defendant in this case as to why it shouldn't be
24 stricken as sham legal process. Later, there was an order
25 issued by the Supreme Court finding that it was sham legal

1 process and directing it to be stricken.

2 Q. And, finally, regarding the letter, sir, did you send
3 that letter out on your own course or were you directed to do
4 that? And -- and if I may qualify my question, sir. I'm not
5 trying to ask you to reveal any type of internal confidences
6 or anything like that, so if you can answer... I hope that
7 makes sense.

8 A. I think all I can answer on that is this was a
9 correspondence that was sent out. I don't think I can go
10 into why it was sent out or...

11 Q. Very well, sir. Thank you. And I apologize for the
12 question. I'm going to move on to the order itself, what's
13 been -- oh, excuse me. I'd like to move in Number 3.

14 **The Court:** State's 3 is admitted over defense
15 objection.

16 (State's Exhibit 3 was received in evidence.)

17 By Mr. Petrano:

18 Q. And then if I could move on to Number 6, Mr. Shearouse.

19 A. Yes, sir. This is an order of the Supreme Court dated
20 September 24th -- dated September 24th, 2010, signed by all
21 five members of the South Carolina Supreme Court, dealing
22 with the documents that have been filed in these four cases
23 and striking those documents.

24 Q. And if you could, sir, turn to the third page from the
25 last page, and I'm including the signatures. The first full

1 paragraph begins with, "We find."

2 A. Yes. "We find that all of these filings from the
3 Central Assemblies are sham legal process as defined by both
4 South Carolina code annotated Section 16-17-735, 2003, and
5 South Carolina code annotated Section 30-9-30, 2007, and that
6 they have no force and effect. Accordingly, these documents
7 are hereby stricken from the record in the above cases,"
8 which is the four cases that I referenced earlier.

9 Additionally, these documents have been filed in the
10 circuit court and any of the cases -- any of these cases or
11 in 2010-CP-42-1610 and 2010-CP-42-1641, the circuit court is
12 directed to strike them from the record of the circuit court.

13 Q. And finally, sir, the next two paragraphs.

14 A. All right. The next paragraph is: "That the use of
15 these documents in an attempt to prevent the courts of this
16 state from exercising their lawful authority is reprehensible
17 and is an affront to the authority and dignity of the courts
18 of this state. Their submission to this court, Court of
19 Appeals, and potentially the circuit court is contemptuous.
20 It is clear that appellant" - and that's Mr. Dooly - "has
21 been actively involved in the submission of these documents,
22 and these documents have resulted in a waste of time and
23 resources of this court and respondents.

24 "To compensate respondents, we hereby assess costs of
25 \$1,000 against each appellant in each of these cases. The

1 circuit court shall add these costs as to the judgment in
2 favor of the respondent in each case. This award of costs
3 shall be in addition to whatever other costs may be awarded
4 to the respondents."

5 Q. And just to be clear, sir, as the clerk of court, is it
6 your understanding, sir, that the filings referenced here by
7 this Supreme Court order include what's been marked as
8 State's Exhibit 1?

9 A. Yes, it does.

10 **Mr. Petrano:** At this point I would like to move in
11 Number 6, Your Honor.

12 **The Court:** State's Exhibit 6 is admitted over defense
13 objection.

14 (State's Exhibit 6 was received in evidence.)

15 **Mr. Petrano:** If I could just have one moment, Your
16 Honor. That's all from the State on direct, Your Honor.
17 Thank you.

18 **The Court:** All right. Yes, sir.

19 **Mr. Stitely:** May it please the Court, Your Honor?

20 Cross-Examination

21 By Mr. Stitely:

22 Q. Mr. Shearouse, just -- I don't know if he asked you
23 this, but you're a lawyer as well; correct?

24 A. Yes, sir.

25 Q. Okay. And you practiced before you became the clerk of

1 court.

2 A. In the Army, yes, sir.

3 Q. Yes, sir. And then your job as the clerk is more than
4 just a paper person. You actually have a lot of
5 responsibility in that office in dealing with all of the
6 pleadings and everything pretty much that comes through the
7 door---

8 A. That's correct.

9 Q. ---falls under your...

10 Okay. In this particular case -- I guess I just have a
11 couple of questions specifically. The first one -- do you
12 still have the exhibits in front of you?

13 A. Yes, I do.

14 Q. Number 1---

15 A. Yes.

16 Q. ---I just want to kind of ask you about the pleadings
17 themselves. Are you familiar with what a writ of mandamus
18 is?

19 A. Yes.

20 Q. Could you tell the jury what a writ of mandamus is? Not
21 specifically this one but just law school---

22 A. Right.

23 Q. ---definition.

24 A. Right. A writ of mandamus is simply a -- a -- a writ
25 that compels -- a direction that compels an inferior tribunal

1 to carry out a ministerial act.

2 Q. Okay. So pretty much it's a request for authority
3 questions; correct? Is that a fair way to put it in when---

4 A. Well, a writ of mandamus is a -- is a -- is a demand to
5 the lower court or the tribunal to carry out the ministerial
6 function.

7 Q. To determine authority to deal with a situation.

8 A. Determining if it's a ministerial act that must be
9 performed by that inferior tribunal.

10 Q. Okay. What is writ of coram nobis?

11 A. I'm---

12 Q. Do you know?

13 A. I'm not so sure even I know what that is. It was a --
14 originally a way to challenge, I believe, a criminal
15 conviction.

16 Q. Okay. Dating way back to our common law 1776 and
17 before.

18 A. Right.

19 Q. It's a -- it's an old, archaic United States legal term
20 that we don't use a lot of anymore---

21 A. That's correct.

22 Q. ---is a fair way to put it. And those are the documents
23 filed, two of them filed, in Number 1; correct?

24 A. Correct.

25 Q. Okay. In the actual letter that you sent - I'm

1 referring to Exhibit Number 3 now - it actually asked
2 Mr. Presley to file an answer; correct? You encourage a
3 reply to the Supreme Court within ten days. Is that correct?

4 A. Right. Well, he was not a party to this action. He was
5 invited to file a response as to why these documents should
6 not be stricken.

7 Q. And in the actual order, which is Number 6, there's
8 actually a little footnote at the bottom that says he was
9 never served with that letter. Is that correct?

10 A. I'll have to find that---

11 Q. It's like -- it's footnote number one on like the fourth
12 or fifth page.

13 A. In the order?

14 Q. On the order of Exhibit Number 6.

15 A. I have number one.

16 Q. It's on the fourth---

17 A. Yeah. Number two, the footnote says: "The copy sent to
18 Mr. Wayne was returned as being refused."

19 Q. Okay. So it -- there's -- as far as in our legal
20 system, would it be fair to say he wasn't served?

21 A. No, I believe service was complete upon mailing,
22 properly addressed, and sent to him at his -- at his address.

23 Q. Okay. And where did we come up with that address?

24 A. Off the documents that he had sent to us.

25 Q. Okay.

1 A. Of course, he never included a -- a -- I believe a ZIP
2 code.

3 Q. Okay. Just the Childersburg, Alabama---

4 A. Yes, sir.

5 Q. Okay. Did Mr. Presley ever come and stand in front of
6 the walls of the courthouse and tell people to not come in---

7 A. Not that I'm aware of, no.

8 Q. ---to your knowledge? Did he make any threats of
9 violence or anything of that nature about individual safety
10 or any questions like that in his pleadings?

11 A. Yes, he -- he did. Things that caused me concern, yes.

12 Q. Okay. Specifically in those pleadings that the jury
13 has?

14 A. Not -- not in the documents that you've looked -- that
15 are before me right now---

16 Q. Okay.

17 A. ---the three...

18 Q. In -- in what's in front of you, are there any threats
19 of violence, any threats of force, or simply are they, like
20 you said, a request as to what the jurisdiction of the Court
21 is over an individual?

22 A. There -- there are demands that the Court stop what it
23 is doing.

24 Q. Sure. And in legal terms, when we do a demand, that's
25 what we put in when we want the Court to do something;

1 correct? It's a demand from a plaintiff or a demand from a
2 defendant.

3 A. Yes.

4 Q. That is the legal way we say it. We don't: We would
5 like you to. It's: I demand the Court do this. Correct?

6 A. Well, I think this is a little bit stronger than that.
7 It wasn't demand. It was -- it was an assertion of superior
8 authority to the Court of Appeals in these two documents.

9 Q. Okay. And they didn't like that. Fair enough?

10 A. Well, it's, of course, not the law, so, yes, I'm---

11 Q. Okay.

12 A. ---assuming they did not like it.

13 Q. All right. Could you tell me - and I think you were
14 sitting here during the opening - what does the First
15 Amendment say?

16 A. What does it say?

17 Q. Yes. What is the language of the First Amendment---

18 A. I don't---

19 Q. ---of the United States Constitution?

20 A. I don't have it in front of me. I believe you -- you
21 have a copy.

22 Q. Be happy to hand it up to you. May I approach, Your
23 Honor, the witness? Sorry. This is from the West book.

24 A. Okay. You want the First Amendment?

25 Q. First Amendment, yes, sir.

1 A. Congress shall make no law respecting establishment of
2 religion or prohibiting the free exercise thereof or
3 breaching the freedom of speech or of the press or of the
4 right of the people to peaceably assemble and to petition the
5 government for redress of grievances.

6 Q. The last line is to petition the government for redress
7 of grievances; correct?

8 A. Correct.

9 **Mr. Stitely:** Thank you, Mr. Shearouse. I have no
10 further questions today.

11 **The Court:** Redirect?

12 **Mr. Petrano:** Just one moment, Your Honor?

13 **The Court:** Sure.

14 **Mr. Petrano:** Thank you.

15 Redirect Examination

16 By Mr. Petrano:

17 Q. Just very briefly. Mr. Shearouse, one of the questions
18 on cross-examination a moment ago was: Were there any
19 threats received by you or by the court from the defendant?
20 Sir, what I'm asking regarding that question and that line of
21 questioning is: Did you end up calling the South Carolina --
22 South Carolina Law Enforcement Division?

23 A. Yes. We contacted the South Carolina Law Enforcement
24 Division after it looked -- appeared that this was sham legal
25 process.

1 Q. And did you do so because you received any threats or
2 did you do so simply because of -- well, you tell us.

3 A. Yes. Well, I mean, an attempt to obstruct the Supreme
4 Court and the Court of Appeals from acting and -- and also
5 in -- in one of the documents in particular a -- a perceived
6 threat.

7 Q. And when a lawyer or a party files a pleading and says
8 we demand or I demand or that -- language of that sort, sir,
9 Mr. Shearouse, is that interpreted as a demand in the sense
10 that the requestor actually has authority over the court?

11 A. No, sir.

12 Q. And that's just simply a request that the court do
13 something.

14 A. Correct.

15 Q. And they demand so simply from their perspective.

16 A. That's correct.

17 **Mr. Petrano:** Okay. One moment. Your Honor, we do have
18 a legal issue.

19 **The Court:** Right now?

20 **Mr. Petrano:** Yeah. If we could approach.

21 **The Court:** Okay. Come on up.

22 (Whereupon, a bench conference was held.)

23 **The Court:** Let's take a break to your jury room. We'll
24 be back with you in just a few moments. Do not discuss the
25 case and keep an open mind. Thank you very much.

1 **Mr. Petrano:** Your Honor, we withdraw this.

2 **The Court:** Okay. All right. Let's take -- I know the
3 jury's been out for just a minute, but the court staff needs
4 a break, so let's take about a ten-minute break.. It's about
5 seven before 11:00. Let's start back at about five after
6 11:00.

7 Mr. Shearouse, do not discuss your testimony with
8 anybody. You are allowed to leave the courtroom and do the
9 things that you need to do, but you are not allowed to
10 discuss your testimony with anybody.

11 **The Witness:** Yes, Your Honor.

12 **The Court:** Thank you very much. About 11:05.

13 (Whereupon, a short break was taken.)

14 **The Court:** Come on back up, Mr. Shearouse. Thank you,
15 sir.

16 **The Witness:** Thank you, sir.

17 **The Court:** Okay. Anything before we bring them in?

18 **Mr. Petrano:** I'm sorry?

19 **The Court:** Anything before we bring in the jury?

20 **Mr. Petrano:** No, sir.

21 **Mr. Stitely:** No, Your Honor.

22 **The Court:** Okay. Bring them in, please, Mr. Bowen.

23 (Whereupon, the jury was brought into open court at
24 11:08 a.m.)

25 **The Court:** Thank you. Yes, sir.

1 **Mr. Petrano:** May it please the Court? Thank you, Your
2 Honor.

3 By Mr. Petrano:

4 Q. Mr. Shearouse, as the clerk of court, are there a bunch
5 of rules that govern the activities of the Supreme Court and
6 the appellate courts in South Carolina?

7 A. Yes. We have an extensive set of rules called the South
8 Carolina Appellate Court Rules.

9 Q. All right. And, sir, I'm not trying to put you on the
10 spot, but are you familiar generally with 267(f)?

11 A. Is this serving and filing or---

12 Q. That's correct, sir.

13 **Court Reporter:** I'm sorry. Serving what?

14 **The Witness:** Serving and filing, I believe.

15 By Mr. Petrano:

16 Q. And could you elaborate a little bit about your role as
17 the clerk of court and the 267 rule regarding service and
18 filing and what you do as far as the process in your normal
19 day-to-day activities? Do you screen items if they don't
20 comply?

21 A. Yes. Yes. We -- when items come in, we -- we screen
22 them to ensure that they -- they show that they've been -- if
23 a -- if a party wants to file a document with our court, they
24 have to serve a copy of it on all the opposing parties or
25 their counsel if they're represented by counsel. So we check

1 that to see that we have a proof of service that it has, in
2 fact, been served, if that's what your question is.

3 **Mr. Petrano:** Yeah. And if I could approach the
4 witness, Judge?

5 **The Court:** Yeah.

6 By Mr. Petrano:

7 Q. And I have a copy of the standard issue rules of court.
8 I have not marked anything. If you could, please read for
9 the jury 267(f).

10 A. F., compliance. The clerk of the appellate court
11 shall -- shall ensure compliance with this rule before
12 accepting any papers for filing.

13 Q. And that -- that would be you; correct, sir?

14 A. Yes.

15 Q. And that's what you just alluded to when you explained
16 to the jury a minute ago---

17 A. Right. Of course, the 267 is actually the one about the
18 form of papers, and this is to ensure that papers are
19 properly in the right format.

20 Q. Okay. And there are similar rules regarding what you
21 had mentioned---

22 A. Right.

23 Q. ---copies to other folks and originals---

24 A. Correct.

25 Q. And then finally, sir, you had mentioned previously that

1 you did contact the South Carolina Law Enforcement Division,
2 affectionately referred to as S.L.E.D. Did you give them the
3 originals?

4 A. Yes, I did.

5 Q. And the copies that you have presented here with the
6 seal and everything, are those certified, for lack of a
7 better word, as official documents by you, the clerk of
8 court?

9 A. Yes. I have certified those to be true and correct
10 document -- true and correct with what's on file with the
11 South Carolina Supreme Court.

12 **Mr. Petrano:** Thank you. Nothing further.

13 Recross Examination

14 By Mr. Stitely:

15 Q. That's really confusing if you're not a lawyer.
16 Certified true copy just means since you got them in, you're
17 verifying this is, in fact, what came in.

18 A. Yes.

19 Q. That's what a---

20 A. Yes.

21 Q. ---certified copy is.

22 A. It's a -- it's a---

23 Q. I just wanted to make sure the jury understood that.

24 A. It's a complete copy.

25 Q. You're saying this is what I got.

1 A. Yes, sir.

2 **Mr. Stitely:** Okay. Very good. Thank you.

3 **The Court:** All right. Thank you, sir. You may step
4 down. Any objections to this witness being excused from the
5 subpoena?

6 **Mr. Stitely:** Not at all, Your Honor.

7 **Mr. Petrano:** No, Your Honor. Thank you.

8 **The Court:** Okay. Thank you. Have a nice day, sir.
9 All right. Call your next witness.

10 **Mr. Underwood:** May it please the Court, Your Honor?
11 The State calls Geary Thomas Dooly.

12 **The Court:** All right. Come on forward, Mr. Dooly.

13 Geary Thomas Dooly, after being duly sworn,
14 testified as follows:

15 **The Clerk:** Please have a seat. State your full name
16 for the record.

17 **Bailiff:** State your full name for the record, sir.

18 **The Witness:** My name is Geary Thomas. I'm of the Dooly
19 family.

20 **The Court:** Spell Dooly for us.

21 **The Witness:** D-O-O-L-Y.

22 **The Court:** Thank you.

23 **The Witness:** Just like you spell Dooly County, Georgia.

24 **The Court:** All right.
25

Direct Examination

By Mr. Underwood:

Q. Good morning, sir. Could you please tell the jury a little bit about yourself? What do you do for a living?

A. I'm a retired engineer.

Q. And where did you work while you were working?

A. I worked for R.R. Donnelley & Sons Printing Company. I worked for Union Camp, and I worked for Fiber Industries in Shelby.

Q. And how long ago did you retire?

A. I retired in 1990.

Q. And without giving a proper address, roughly where do you live?

A. I live on (verbatim) Spartanburg County.

Q. And how long have you lived there?

A. Thirty -- since '69.

Q. Okay.

A. Whatever that is.

Q. And do you live alone? Do you have a family? What -- what's your living arrangements?

A. I have a son and a daughter. My son is a scientist, and my daughter is a school teacher.

Q. And are you married, sir?

A. Sorry?

Q. Are you married, sir?

1 A. Yes, I am. Forty -- 40 something years.

2 Q. Congratulations. Mr. Dooly, do you own the home that
3 you live in now?

4 A. If you could not address me as "mister." My mama didn't
5 name me Mister. She named me Geary Thomas. Thank you.

6 Q. Yes, sir.

7 A. Refer to me as Geary or Geary Thomas, and I'd appreciate
8 it. Thank you.

9 Q. Yes, sir.

10 A. Repeat your question.

11 Q. Sir, could you please explain where -- or your living
12 arrangements? Do you own your home?

13 A. Yes, I do.

14 Q. Now, going back several years, were you involved in
15 several different foreclosure actions?

16 A. I was.

17 Q. Could you explain to the jury how many different
18 properties you owned at that time?

19 A. It was about eight different properties. Some of them
20 were multiple-unit, like triplexes and so forth.

21 Q. So were these rental properties?

22 A. That's correct. Yes, sir.

23 Q. Other than your home, how many were rental properties?

24 A. I believe seven. I think that's correct, as far as
25 properties. I don't -- I've never actually counted them.

1 Q. How many -- how many of those rental properties do you
2 still own?

3 A. One.

4 Q. So now you own your home, and you own one rental
5 property.

6 A. That's correct.

7 Q. The properties that were subject to these foreclosure
8 actions, how did you buy those properties? Did you pay cash?

9 A. What? I don't -- how did I buy them?

10 Q. Yeah. Did you -- did you pay cash for them? Did you
11 get a mortgage?

12 A. Oh, these -- these were mortgaged properties.

13 Q. And -- and how many were subject to foreclosure? Four?

14 A. I think it was four at the time that we were talking,
15 and then I took them to the appellate court because of some
16 action in Spartanburg County.

17 Q. Okay. So out of these four, were they all bought with a
18 mortgage?

19 A. Yes.

20 Q. Each -- each one of those four mortgaged properties?

21 A. I don't think any of them was bought by mortgage. I
22 think all of them were refinanced at the request of various
23 people that were, you know, hyping to get refinanced and get
24 lower loan -- lower money and more money out of---

25 Q. Okay. So---

1 A. It was all re -- they were all refinanced.

2 Q. So they all had mortgages on them.

3 A. That's correct.

4 Q. Now, how did you go about the mortgage process? Can you
5 explain that? Did you sign on these mortgages?

6 A. To the best of my knowledge, I did, yes.

7 Q. What caused the properties to go into foreclosure?

8 A. In early 2000 the banks and the mortgage hyper -- I call
9 them hypers or hyping that I could -- would literally call me
10 up and say: Hey, your house on such-and-such a street, I can
11 get you a mortgage for \$80,000 on it. And I'd say: Good
12 gosh; it's only worth 40. Oh, we can get an appraisal, and
13 then they jacked it up, and I fell for it, and I was
14 upsidedown by the time I got all the properties done.

15 As you get into that, you don't realize that it's too --
16 before it's too late, you're in over your head, and then the
17 economy took a dump. And so it was just a consummation of
18 over my head, and I couldn't pay the mortgage.

19 Q. At what point in time did you stop paying your mortgage
20 on those properties?

21 A. It wasn't all at one time. It was just various --
22 various things that I tried to pay what I could and couldn't
23 pay any, and so I only paid what I could.

24 Q. Is it fair to say that by 2008 and then---

25 A. Yeah '8 or '9.

1 Q. All right. 2008, 2009 is when you---

2 A. Somewhere in that---

3 Q. ---started going---

4 A. ---area---

5 Q. ---into foreclosure?

6 **Court Reporter:** Wait, wait, wait. I can't take you
7 both at the same time.

8 **The Court:** Stop. Both -- everybody talks at one time.
9 Don't talk over each other. She's really good, but she can't
10 get---

11 **The Witness:** Can't do that.

12 **The Court:** ---both of you at one time.

13 By Mr. Underwood:

14 Q. And, sir, if you could just -- is it roughly between
15 2008 and 2010 when these properties went into foreclosure?

16 A. I believe that's correct. I -- I haven't checked the
17 numbers, but I believe it was sometime in that area. It
18 could have been '9.

19 Q. Now, sir, you referenced going to appellate courts.
20 Explain to the jury what appeals you took from those
21 foreclosures.

22 A. Without preparing, I'd have to go back and look at it,
23 but the -- the appeals -- the reason I appealed it to the
24 Supreme Court or the appellate court, excuse me -- was in
25 Spartanburg County -- there was no focus on the real issue of

1 what the mortgage was all about and everything. It was just:
2 Have you made the payment? If you haven't, we want the
3 property. It was no issue about the -- the financing
4 arrangements or anything about that. They wouldn't hear
5 anything except, you know, you're behind on your payments.
6 We're going to foreclose on the property. End of story.

7 Q. And if I can ask the question a different way: What
8 procedures did you go through to make this appeal happen?

9 A. I filed -- I noticed Spartanburg County Court that I was
10 going to file an appeal. I think that's a ten-day
11 requirement to do that. And then within 30 days, I filed
12 with the appellate court.

13 Q. And that's the South Carolina Court of Appeals?

14 A. That's correct. Yeah.

15 Q. Did you seek assistance from any other entities in your
16 foreclosure actions?

17 A. No.

18 Q. Sir, are you familiar with a group called the Central
19 Assemblies Union?

20 A. The -- the what union?

21 Q. The Central Assemblies Union?

22 A. Yes, sir. Yes, I am. Yeah.

23 Q. How did you become involved with that group?

24 A. I don't know exactly who introduced me to the -- to the
25 Central Assemblies group, but it was a group in -- in -- in

1 Central America. It wasn't all centered in Alabama. It was
2 all over the eastern -- in fact, it was nationwide, different
3 assemblies. But as we studied the Constitution, we felt that
4 we had the right to assemble, and -- and it seemed to be
5 reasonable and -- and the thing -- and I believe fully in the
6 Constitution and this sovereign country of the United States
7 of America, and so I followed that because it looked good to
8 me. And having served in the military and -- and my time
9 for -- to protect this country, I think the Constitution is
10 something I wanted to be a part of and defend.

11 Q. And can you explain what the Central Assemblies Union
12 was to you? What -- what did that really mean and represent?

13 A. It -- it was an assembly of the people on the soil of
14 this country, and we were -- it -- you know, in different
15 areas of the country, from California to South Carolina, and
16 we -- it was divided up into eastern, central, mountain,
17 different areas. I don't know exactly what the terminology
18 was. But I was in the basically eastern division, if you
19 will, and it was more educational about the Constitution and
20 the rights we had under the Constitution. Some of it was
21 read here today. It was very explicit. So that was what it
22 was meaning to me. It was knowledge about my country and not
23 just what is poured on me by the -- whatever system that we
24 may have that wants to put other kind of statutes on me and
25 not law.

1 Q. And can you explain what you mean by that: Statutes and
2 not law? What do you mean by that?

3 A. Statutes is actually the rules and regulations that the
4 various corporations go by, much like Wal-Mart has rules and
5 regulations. Every entity in our state is a corporation.
6 The State is a corporation, a private corporation. As I
7 pointed out to Lieutenant Dyas in his office, I -- I went to
8 him as a member of the Assembly, and I said, Lieutenant, do
9 you think that you work for the people or -- or a
10 corporation, the Spartanburg County Sheriff Corporation? He
11 said I -- I work for the people.

12 I showed him in black and white where they have a usage
13 number, I mean, a regular, corporate number. It's lists the
14 number of employees they have and so forth. He was amazed.
15 But -- so the statutes -- the statutes is what those
16 corporations -- you work for a corporation. The judge works
17 for a corporation. The judicial system of South Carolina is
18 a corporation, and then there's subsidiary corporations under
19 it. The counties -- different counties are corporations, but
20 the counties' corporations are just working for themselves.
21 They're not all of the people. They're not part of the
22 corporation, part of the United States.

23 Q. Okay. So if I can succinctly restate that, tell me if
24 this is what you're saying---

25 A. Okay.

1 Q. That the State of South Carolina and counties within the
2 State of South Carolina are not the proper government but are
3 actually corporate entities. Is that what you're saying?

4 A. They are corporate entities. I didn't say they were not
5 proper entities; no, sir. You're---

6 Q. No, no. I'm sorry. Proper government. They're
7 corporate entities. Is that what you're saying?

8 A. They are a corporate entity which governs the people.

9 Q. But they're corporate entities.

10 A. That's correct.

11 Q. And is this something you learned through your
12 affiliation with the Central Assemblies Union?

13 A. Not totally but partially. It basically confirmed the
14 fact.

15 Q. Did, at some point, you appeal to the Central Assemblies
16 Union to help you with your foreclosures problem?

17 A. I did.

18 Q. Explain how you did that.

19 A. I -- I just asked what could be done. I -- I knew that
20 the people have the right to assemble and we have the right
21 to have our -- our courts, our judges, and our juries. The
22 Constitution gives us that right. And Gary Wayne is a judge,
23 and he was a judge of the eastern assemblies group, and he
24 said we could convene a jury and hold a trial and ask the
25 banks to come to the trial and hear them on the basis of the

1 Constitution and not just the statute laws. And we held that
2 court and the banks did not show up, and Gary ruled in my
3 favor that the banks were not there to defend their --
4 themselves under the rules that the people go by, but they
5 wanted to only go under the statutes.

6 Q. Okay. And I'm going to rewind just a little bit. Who
7 did you directly contact at first with your foreclosure
8 problem?

9 A. You're going all the way back or are you talking with
10 eastern?

11 Q. With -- with the Central Assemblies Union.

12 A. Okay. That's what I thought you meant. The -- I think
13 the first person I talked with that's on some -- some
14 conference calls that we had -- and I believe it was
15 Michael Donald.

16 Q. Is that Michael Donald also known as
17 Michael Donald Wilsey?

18 A. Is he what?

19 Q. The person you address as -- you refer to as
20 Michael Donald---

21 A. Right.

22 Q. ---is he also known as Michael Donald Wilsey?

23 A. Yeah. That's correct. Yeah.

24 Q. Please continue. I'm sorry. How did you contact him?

25 A. I think I discussed it with him on a conference call. I

1 didn't meet with him at any specific place. He's never --
2 he's never been to my house.

3 Q. But you spoke with him on the telephone?

4 A. That's correct. Yeah.

5 Q. What was his role in the Central Assemblies Union?

6 A. He was the clerk of the general assemblies -- Central
7 Assembly, Gary Wayne's clerk is -- I believe is correctly
8 stated.

9 Q. Okay. Did he also go by the title "scribe"?

10 A. I think he referred to himself as a scribe or a clerk.

11 Q. And that's---

12 A. He used both.

13 Q. And that's the scribe or clerk for the court of which
14 Gary Wayne was a judge. Is that correct?

15 A. That's correct. Yes.

16 Q. Okay. After you contacted Michael Donald, also known as
17 Michael Donald Wilsey, what was the next step?

18 A. I believe we gathered the information about the various
19 banks that we were in contention with that were -- that were
20 at the appellate court, and I gave that information to Gary,
21 and he filed a writ of mandamus and the other documents into
22 the court system. And then later the court was convened, and
23 we had the court. Gary made the ruling, and then he put that
24 final letter, that somebody read here today, to the Supreme
25 Court.

1 Q. Okay. So the -- the information that you gathered, what
2 information was it that you gathered to give to the
3 defendant?

4 A. Just the bank names and the amount owed and the interest
5 amount, the date they were made, and the signatures thereon
6 and that kind of stuff.

7 Q. And, again, you had asked Gary Wayne's court for
8 assistance. Did they come to you or did you go to them?

9 A. I believe I came to them, to the best of my memory.

10 Q. And you asked for -- for help from this court to deal
11 with your foreclosure action.

12 A. Correct.

13 Q. Okay. And you provided this banking information to --
14 did you provide it to Michael Donald or to Gary Wayne?

15 A. I'm rather sure it was all given to Michael Donald,
16 primarily, but none of this was given to anybody with any
17 intent to harm the State of South Carolina. I'd like to say
18 that.

19 Q. And -- and my question is: Now, once you gave that
20 information to Michael Donald, to your knowledge what did he
21 do with it?

22 A. I would have -- they were in Alabama, and I was in South
23 Carolina. I have no idea.

24 Q. Okay. So did you ever meet with Michael Donald or
25 Gary Wayne in person?

1 A. No, not about this. Not -- I don't -- I met them one
2 time at a meeting in Charlotte. I believe they were there
3 for an assembly meeting, and there was also one in -- close
4 to Birmingham, a little town outside of Birmingham.

5 Q. And the person that you met that -- you know as
6 Gary Wayne, is he present in the courtroom today?

7 A. Yes, he is.

8 Q. Could you please point him out for the jury?

9 A. He's the gentleman over there. Right there. (The
10 witness points to Gary Wayne Presley.)

11 **Mr. Underwood:** Your Honor, I'd ask the record to
12 reflect that he identified the defendant.

13 **The Court:** So reflects.

14 By Mr. Underwood:

15 Q. Mr. -- I'm sorry -- Geary Thomas, the trial that you
16 spoke of, how did that take place?

17 A. We assembled a jury in Spartanburg and on -- it was held
18 by phone. We con -- all the banks were notified the time and
19 date of the court hearing. We waited. The banks did not
20 show up. We recessed for 15 minutes and waited for them to
21 come, and I believe Michael Donald, being the clerk or the --
22 whatever, called the names again and did not respond, and
23 then Gary went on with his ruling after that, and then that
24 was it.

25 Q. All right. And -- and just to be clear, where did this

1 trial take place?

2 A. In Spartanburg.

3 Q. Okay. What was the -- the actual building?

4 A. It was a place called Honeybee's Restaurant.

5 Q. So the trial took place at Honeybee's Restaurant?

6 A. That's right. That's a public building. It had --
7 according to Gary, it needed to be a public facility. It
8 couldn't be at my house or, you know, somewhere. It needed
9 to be a public -- normally a restaurant or something like
10 that.

11 Q. Who was actually present for this trial?

12 A. There was six jurors and myself, and I believe one other
13 guy was there.

14 Q. Okay. Was Gary Wayne there?

15 A. No.

16 Q. All right.

17 A. Michael Donald was not there.

18 Q. Was -- I'm sorry?

19 A. Michael Donald was there -- not there either.

20 Q. All right. So Michael Donald or Gary Wayne were not
21 there at the trial.

22 A. They -- to my understanding, they were in Alabama at
23 Gary Wayne's house, I believe, talking on a -- a phone.

24 Q. So they were present by telephone.

25 A. Say that again.

1 Q. They were present by telephone?

2 A. That's correct.

3 Q. Okay. And at that time, that was when they declared
4 that you had won by default?

5 A. That's correct.

6 Q. You mentioned that you had provided some information to
7 Gary Wayne and that he had then filed some paperwork for you.
8 What were -- what were those documents? What was the nature
9 of those documents he filed on your behalf?

10 A. They notified -- I believe the first document -- I
11 didn't know I was going to be queried on all this; I could
12 have reviewed. It's been a couple of years.

13 Q. Just -- just in general terms.

14 A. But, in general, the first thing he did was notified the
15 appellate court that he was taking this court -- this -- this
16 -- these four cases into his court which was a -- is a
17 superior court to the appellate court. The court of the
18 people is superior to the court of the corporation, in my
19 understanding. And so that was the first thing. Then the
20 next document I think he sent to them was the results of the
21 trial.

22 Q. Now, when you say Gary Wayne's court was superior to the
23 South Carolina Court of Appeals, what's the proper name of
24 Gary Wayne's court? I want to make sure I call it by the
25 right name.

1 A. I believe the documents refers to himself (verbatim) as
2 the Eastern Assembly Court. It's on the document.

3 **Mr. Underwood:** May I approach the witness, Your Honor?

4 **The Witness:** I don't recall.

5 **The Court:** Sure.

6 By Mr. Underwood:

7 Q. Sir, I want to show you what's been entered into
8 evidence as State's Exhibits 1 and 2. Can you please take a
9 moment and review those?

10 A. (The witness complies.)

11 Q. All right, sir. Have you had enough time to review both
12 of those exhibits?

13 A. I -- I didn't read word for word, but I had seen the
14 documents before, and I recognized them.

15 Q. Are -- are these the documents that the defendant sent
16 to the South Carolina Court of Appeals on your behalf?

17 A. That's correct. I think one of the documents I actually
18 mailed here from South Carolina. I think that was the final
19 decree after the court hearing because I -- that was an
20 issue. Gary actually mailed them to me, and I -- because
21 that was one of the documents he had said I needed to sign
22 and it was to be -- I was to sign as the clerk of court of
23 South Carolina, so I called -- I called Michael Donald, and
24 then Michael Donald couldn't explain it to my understanding,
25 and so I asked to talk to Gary, and Gary explained it to me

1 very succinctly that we needed to do that because... And I
2 said, "Well, how am I a clerk of court in South Carolina?"
3 And he said, "Because I'm the central judge, and I am
4 appointing you as clerk. You don't have to be elected." And
5 I did remember that as being the way that a judge can appoint
6 a clerk. And that seemed to be logical to me, so I said,
7 okay, I'll sign as the clerk and mail these documents on to
8 whoever he had me to mail them -- I think to the Supreme
9 Court, I believe.

10 Q. So is it fair to say that yourself, Michael Donald, and
11 Gary Wayne worked together to gather up and prepare these
12 documents?

13 A. I don't know if we worked together. We certainly didn't
14 conspire in the state of South Carolina. It was -- I don't
15 think Gary Wayne or Michael Donald had ever been to South
16 Carolina except---

17 Q. Well, I'm just asking -- I'm just trying to figure out
18 how did these documents---

19 **Mr. Stitely:** Judge, I'm going to object and ask that
20 you let him answer his question. He asked a question.

21 **The Court:** You may finish your answer.

22 **The Witness:** What was the question?

23 By Mr. Underwood:

24 Q. What I was asking you, sir, is: How did these documents
25 all get put together as one final product?

1 A. How did they become one final file?

2 Q. One product. I mean, did you prepare everything? Did
3 Gary Wayne prepare everything? Did you---

4 A. No. I prepared nothing except provided the information
5 about the banks, the amounts, as I told you earlier.

6 Q. Okay. So you provided the information which
7 Michael Donald and Gary Wayne put together to produce these
8 documents?

9 A. That's correct.

10 Q. And these documents were prepared at your request?

11 A. Yes.

12 Mr. Underwood: Court's indulgence?

13 **The Court:** Sir, would you spell your first name for us?

14 **The Witness:** Geary, G-E-A-R-Y.

15 **The Court:** Thank you.

16 By Mr. Underwood:

17 Q. Sir, can you explain why the South Carolina Court of
18 Appeals did not have jurisdiction over your foreclosure
19 actions?

20 A. They -- they had jurisdiction until it was moved from
21 one court to the other.

22 Q. And can you -- can you explain how the jurisdiction was
23 removed -- is what I'm asking.

24 A. Gary Wayne sent them a notice to that effect.

25 Q. Okay. And is that those two documents, Exhibit 1 and

1 Exhibit 2?

2 A. I believe that was the one -- the first document that
3 was sent.

4 Q. Okay. So that was removing jurisdiction from the South
5 Carolina Court of Appeals to Gary Wayne's court?

6 A. I believe that's the correct way that things were --
7 were handled in that respect.

8 Q. Now, sir, what is the end result of the foreclosure
9 actions? Do you still have the properties?

10 A. No.

11 Q. Were they foreclosed on?

12 A. Yes.

13 Q. So those properties went back to the banks?

14 A. Yes. The -- the banks still foreclosed on them. They
15 ignored -- ignored this ruling and went right forward.

16 Q. So the -- the documents and rulings from Gary Wayne's
17 court ultimately were not successful?

18 A. They were not what?

19 Q. Successful.

20 A. No. They -- they ignored -- they ignored them. They
21 would not -- they didn't attend the hearing and didn't send
22 anybody, so they just ignored them.

23 Q. Okay. But the -- the rulings from Gary Wayne's court
24 didn't prevent the foreclosure, did they?

25 A. The rulings for Gary Wayne's court what?

1 Q. Did Gary Wayne's rulings in any way prevent the final
2 foreclosure?

3 A. No.

4 Q. Okay. Court's indulgence, Your Honor. Sir, can you
5 explain what the -- what authority Gary Wayne's court had
6 over the South Carolina court? What power did they have to
7 enact their rulings?

8 A. I don't think I could succinctly describe that to the
9 jury. It would be unfair for me to try to give them a
10 description. I -- I will tell you that I have pursued that
11 very hard with Gary and why can you be a judge and so forth,
12 and it was explained to me by Gary and/or Michael Donald by
13 phone and -- and at one of the meetings exactly how he was
14 who he was, and it all made sense to me after thoroughly
15 considering it and reading the Constitution and reading the
16 background of the jury system and what -- the rights that we,
17 the people, have that have actually been taken away from us.
18 It all made sense to me, and, therefore, I went forward with
19 it. I had no intent of harming.

20 Q. Right. And so it's your understanding from what was
21 explained to you that Gary Wayne was a proper judge and that
22 his court was superior to the South Carolina Court of
23 Appeals?

24 A. In my estimation it was, the way I understood it,
25 absolutely, with no disrespect to our court system

1 whatsoever.

2 **Mr. Underwood:** All right. Thank you, sir. That's all
3 the questions I have. Please answer any questions Mr.
4 Stitely has.

5 **Mr. Stitely:** May it please the Court, Your Honor?

6 Cross-Examination

7 By Mr. Stitely:

8 Q. Geary Thomas, Ben Stitely. We actually have never met
9 before. I've seen you a couple of times in the courtroom,
10 but we've never actually met, so I just want to say hello.

11 Let's start at the very end. When we use the word
12 superior, we're not using it as a qualifier to say better or
13 worse. We're talking about in the legal sense of one that
14 has authority, not saying it's better, but one with a
15 different authority; correct?

16 A. Exactly. A higher authority.

17 Q. All right. And that authority is based from the
18 Constitution.

19 A. That's correct.

20 Q. Okay. And the last thing he asked you and you said is:
21 We didn't harm anybody.

22 A. Nobody has been harmed. The State of South Carolina is
23 not even here.

24 Q. And, in fact -- and he asked you this. He said: And
25 the process you went through through this other court, the

1 one that the State has a problem with, it didn't do anything,
2 did it? It didn't impede the foreclosure in any way is what
3 you said; right?

4 A. That's correct.

5 Q. Didn't hinder them from taking away the houses.

6 A. Not at all.

7 Q. Didn't stop the injustice that you felt had been
8 committed upon you by these banks.

9 A. None whatsoever.

10 Q. Didn't do anything.

11 A. No.

12 Q. So y'all didn't stop the courts from working. You
13 didn't stop the banks from taking a house, even though you
14 tried through the powers, as you say, vested from the
15 Constitution; correct?

16 A. Right.

17 Q. Just didn't work, didn't do anything.

18 A. Right.

19 Q. Okay. Let me ask you a couple of questions here,
20 Thomas, if you don't mind. The attorney general,
21 Mr. Underwood, kept calling it Gary's -- Gary Wayne's court.
22 It's not Gary Wayne's court---

23 A. That---

24 Q. Correct?

25 A. That's correct.

1 Q. Okay.

2 A. In here it says Central Assemblies Court, I believe is
3 what they call it.

4 Q. And he is, to your knowledge -- and if you don't know
5 this, you tell me. He is appointed or elected to serve as a
6 judge by the constituents of that agent -- that organization;
7 correct?

8 A. That's totally the way I think it is.

9 Q. Okay. So it's not his court. He is not the grand
10 poobah of the universe. He is appointed to serve.

11 A. Elected.

12 Q. Elected to serve. Okay. And this is an organization
13 that you are a member.

14 A. That's correct.

15 Q. As well as -- do you know how many members in the United
16 States, even if you've got to just approximate?

17 A. Say that again.

18 Q. How many members in the United States, if you had to
19 approximate?

20 A. It's several hundred.

21 Q. Okay. Not -- not the biggest organization ever.

22 A. No, no. Very small.

23 Q. But, as you said, from California to the East Coast.

24 A. Yeah. I -- I know several.

25 Q. Okay. The main purpose of this court organization is to

1 support the United States Constitution; correct?

2 A. That's correct.

3 Q. The agency -- your organization doesn't try to impede
4 the Constitution. It supports the United States of America.
5 Is that fair?

6 A. That's correct.

7 Q. Okay. And it's one, as you said, of the people;
8 correct?

9 A. All the people.

10 Q. Okay. What does that mean to you: Of the people of the
11 United States of America?

12 A. The -- the people of the United States of America are
13 America. The -- it's just like a church. The building is
14 not the church; it's the people.

15 Q. Okay.

16 A. The land is not America. We're America, the people, our
17 spirit, our drive, our love for our God that the country was
18 founded upon. Go to the Constitution. It has God created
19 all through it. And the whole basis for the central's of
20 union assembly court (verbatim) is based on God's law. God
21 taught us to have ten people with one person appointed to be
22 over them in tens -- tens, hundreds, and thousands.

23 That's the way He set it up, and that's basically the
24 way Gary set up his court. When I say Gary's court, that's a
25 bad -- that's a bad term. The Central Assemblies was set up

1 according to Biblical law and the Constitution because the
2 Constitution is a very clear reflection of the Bible.

3 Q. Okay. And the actual organization, the central union,
4 it's a -- it's a Christian organization supporting, as you
5 said, tenets from the Bible; correct?

6 A. Absolutely. If you're not a God-fearing man, you don't
7 become a part of the Assembly.

8 Q. Okay. Are you a threat? Do you intend harm on officers
9 of the State of South Carolina, of our court system, or, as
10 you've referred to the corporation that is our -- has become
11 our court system?

12 A. No. I wish them no harm. I wish them all the success
13 in the world. As -- as I said earlier, as a member of the
14 assembly, I made an appointment with Lieutenant Dyas back
15 there and went to him and said: Here's what we're doing on
16 Spartanburg County. We don't want to be against you; we're
17 for you. And I asked him: Do you realize that the sheriff
18 of this county wears two hats? One hat is the corporate hat,
19 and one hat is the elected hat. He generally goes by the
20 corporate hat because that's the one that writes his check.
21 And -- and we discussed that, and we -- we had about a two-
22 hour meeting. We had a great meeting.

23 Q. Is it your intent to cause him harm?

24 A. None whatsoever. I was---

25 Q. Do you---

1 A. ---wanting to work with him.

2 Q. Do you believe that anything you did in this case in
3 dealing with Mr. Gary Wayne was intended to do harm?

4 A. It was not intended nor did it do any harm.

5 Q. And, in fact, as -- as you said, you weren't even a
6 bump -- put a bump in the road for these banks taking your
7 property.

8 A. Didn't slow it down.

9 Q. Okay. Sorry. I lost my train of thought there for a
10 second. I apologize. And -- and do you know any of the
11 tenets of the federal banking law or the objections to the
12 mortgages as they were written as they came out in those
13 documents? Are you familiar with any of the legal arguments
14 that are based within what's Court's Exhibit 1?

15 A. Yes.

16 Q. Okay. And pretty much the main objection as noted in
17 those is that banks have become embroiled with our federal
18 government; correct?

19 A. That's correct.

20 Q. Specifically that when the government issues federal
21 bonds, it becomes a corporation that is loaning money to
22 banks.

23 A. That's correct.

24 Q. And that the banks now have a commercial relationship
25 with our government; correct?

1 A. That's correct.

2 Q. And the objection stated in those documents is that we
3 as individuals should be able to take our government to task
4 as a corporate partner of these banks.

5 A. That's correct.

6 Q. And pretty much there's a conflict with a State agency,
7 be it -- or any agency that is a corporation now working with
8 its partner, the banks. Is that a fair assessment?

9 A. Can I explain my understanding of that?

10 Q. Absolutely.

11 A. When you -- when I go in to make the mortgage, they sign
12 two different documents. One is a mortgage document which
13 would be adequate, but they get you to sign the promissory
14 note which is much like the one dollar bills that we hold in
15 our pocket. It's merely a promissory note on the strength of
16 the signature. And they take my signature on that promissory
17 note, and mine's the only signature on there. Their
18 signature's not on there.

19 Then they sell that -- that document into the system of
20 the government, and they get the money from the government on
21 my signature and lend me back my money on my signature.

22 That's the way they -- they create money which is totally
23 against the Constitution. And that was part of our argument,
24 but the Spartanburg County court system would not listen to
25 that.

1 Q. And so you -- you tried to make your objection to
2 another forum; correct?

3 A. That's correct.

4 Q. Okay. And in doing that, you relied upon, I take it,
5 the United States Constitution, specifically the First
6 Amendment and your ability to redress grievances you saw with
7 the government; correct?

8 A. That's correct.

9 Q. And you weren't getting any traction in our State court
10 system. They, as you said, wouldn't even let you make your
11 arguments. Is that correct?

12 A. In the -- you're talking about the county's -- the
13 county court.

14 Q. (Nodded head up and down.)

15 A. Correct.

16 Q. And just to clarify, Mr. Gary Wayne -- I call him
17 Mr. Gary Wayne, too. That's a lawyer habit. We call people
18 mister and miss. Sorry.

19 A. That's okay.

20 Q. Gary Wayne never came to -- you never met with him in
21 South Carolina.

22 A. Never.

23 Q. Okay. At these convened panels where you had a jury at
24 this tribunal, he served pretty much through a speaker phone,
25 like you would have a conference; correct?

1 A. That is correct.

2 Q. But he wasn't physically present.

3 A. That's correct.

4 Q. Did you ever -- have you ever seen him in South Carolina
5 aside from court appearances?

6 A. That's the only time I've ever seen him in South
7 Carolina was at this courtroom and one other one---

8 Q. And that was a couple of months ago; correct?

9 A. Yeah, whenever he was up here.

10 Q. This is kind of a personal question. I don't mean it to
11 be an offense here, but you actually got charged by the State
12 of South Carolina with the same offenses: Sham legal process
13 and conspiracy; correct?

14 A. That's correct.

15 Q. Okay. And they ended up taking you to jail; correct?
16 They took you to jail?

17 A. That's another story. Yes, they did.

18 Q. Okay. Told you you had violated this law, whatever --
19 this sham legal process law and criminal conspiracy law;
20 correct?

21 A. Well, when I was arrested, I was jerked out of my house
22 on -- on January the 7th, freezing morning, barefooted, and
23 was in pain because of the vertebra I had harmed in my neck,
24 and -- and I said, "What's going on here?" And I believe the
25 gentleman over here, one of the officers that came, said you

1 have -- somebody has pissed off the Supreme Court of South
2 Carolina. Excuse that word, but that's the words he used. .
3 And -- and it was not -- and I said, well -- well, what did I
4 do? What have I done to have five people here with machine
5 guns and weapons drawn? And my wife with Alzheimer's is
6 standing behind a glass door, and they wouldn't even let me
7 go back in the house to tell her good-bye to tell her where I
8 was going.

9 Q. You served in the military; correct?

10 A. It was not fun.

11 Q. How long did you serve in the military of the United
12 States?

13 A. Six years.

14 Q. Six years? And you worked, paid taxes in the United
15 States your entire life?

16 A. Yes, I have.

17 Q. And they came to your house in the middle of a January
18 morning and pulled you out with five people with machine
19 guns?

20 A. I believe there was two machine guns and two or three
21 weapons. There was five of them that jumped out behind the
22 bush. The Lieutenant Dyas coaxed me out of the house to talk
23 with me, as he had come once before to talk to me, so I went
24 out. I had no idea that I was being arrested. I was
25 barefooted and had blue jeans and I believe this blue jean

1 shirt on. That's all I had on.

2 Q. And -- and the long and the short of what their
3 accusation basis is, is that you filed some papers with the
4 court.

5 A. That I filed some papers and have harmed South Carolina
6 is what I learned later. I didn't---

7 Q. Is what they said you did; correct?

8 A. That's what they said I did.

9 Q. And you ultimately -- you accepted a -- an Alford which
10 is a fancy legal term of you pled no contest for a daytime
11 served -- a time-served sentence in theory; correct?

12 A. That -- that was a bit of trickery on the -- the
13 short---

14 **Mr. Underwood:** Your Honor, I'm going to object to the
15 characterization of trickery.

16 **The Court:** Sustained.

17 **The Witness:** Say that again.

18 **The Court:** Disregard the statement about trickery. You
19 can explain your plea, but don't use words like trickery.

20 **The Witness:** So what's the question?

21 By Mr. Stitely:

22 Q. You entered what we have in South Carolina called North
23 Carolina versus Alford which is a federal case that pretty
24 much says you plead no contest.

25 A. That's correct.

1 Q. Okay. And you did that on the acceptance of a time-
2 served sentence rather than the possibility of going to jail
3 again; correct?

4 A. That's correct.

5 Q. And mainly, as you said in court, you didn't want to go
6 back to jail.

7 A. I -- I care for my wife 24/7.

8 Q. You said earlier, before you were run over, you didn't
9 conspire in South Carolina. It's still your position that
10 you never conspired with Gary Wayne in the state of South
11 Carolina to do any harm to our government. Is that correct?

12 A. I had no intent of harming South Carolina. I did not
13 harm South Carolina.

14 Q. Okay. And it's not that you don't respect -- and --
15 and -- and I -- it's kind of been made fuzzy. It's not that
16 you don't respect the Constitution and the foundation of our
17 country. You support that as well as the Central Union,
18 correct, Central Assembly Union?

19 A. A thousand percent. A thousand percent.

20 **Mr. Stitely:** I have no other questions. Thank you.

21 **Mr. Underwood:** Very briefly, Your Honor?

22 **The Court:** Yeah.

23 Redirect Examination

24 By Mr. Underwood:

25 Q. Sir, what is your understanding of who can become part

1 of the Assembly?

2 A. The -- the basic rule is the integrity of the
3 individual, and -- and it's clearly made that, you know,
4 this -- this is founded on the Bible and the Biblical
5 principles that God is a Superior Being and He's -- He had a
6 Son and that Son gave His life for our sins because we had no
7 way to wash our sins away and He -- His Son gave His life
8 for... If you didn't believe that, you was (verbatim) not a
9 member of the Assembly. You just -- you were not -- we
10 couldn't -- you wouldn't have the same foundation.

11 Q. Can anyone become part of the Assembly?

12 A. With -- with the before -- before-mentioned concepts,
13 yes.

14 Q. Okay. So as long as someone believes that, they can---

15 A. Yes. Yes.

16 Q. Okay. Is that automatic or do they have to ask to be --
17 to become part of it? Excuse me. Are they automatically a
18 member of the Assembly if they just believe these things or
19 do they have to petition someone to become a member?

20 A. No. Anybody is welcome to be a member of the assemblies
21 because it is an assembly of the people, and if you're one of
22 the people that believes in this country -- if you believe in
23 this country, you believe in God. End of story. So if you
24 didn't believe in that, you couldn't be a "we, the people."
25 You're something else; I don't know what.

1 Q. And to explain: When you were talking earlier about
2 promissory notes, so is it -- correct me if I'm wrong. What
3 you stated was that a promissory note means nothing because
4 it is traded based on your signature, so it's now worthless?
5 Is that an accurate -- what you said?

6 A. No, I didn't say that. When you sign a promissory note
7 -- if I say my name and I promise to pay \$10, if one of these
8 people over here know me well enough to know that I'm good
9 for that, you could give it to them and they would accept it
10 for \$10 because they know that I would be good for it. So
11 they would, on my name, do that. The -- the way that the
12 Federal Reserve system works, your signature is worth
13 something based on your birth certificate, and that's the
14 reason they have the all-caps name, and that's the reason a
15 bank will not open a bank out with all -- without the all-
16 caps name. So that signature -- the powers and the people
17 and then their written signature, they monetize that
18 signature, and it's traded on the open market.

19 I even gave the CUSIPS numbers in my paperwork to them.
20 A CUSIPS number, incidentally, is what's on the back side of
21 a stock certificate. It's traded -- right on the back of my
22 note that I signed that made that thing worth a \$100,000, or
23 whatever the mortgage was for, was a CUSIPS number, and it is
24 currently traded on the market actively.

25 Q. So does that mean that you no longer owe the money on

1 the mortgage -- on a promissory note?

2 A. There was no money loaned to me. They loaned me my own
3 money. They took my signature, borrowed money on it, and
4 gave me that money.

5 Q. Okay. So as I understand what you've learned through
6 the -- the Central Assemblies is that when you enter into a
7 promissory note as part of a mortgage, you're really just
8 borrowing your own money, so you don't actually owe anyone
9 anything. Is that accurate?

10 A. If -- if they sold my signature and I didn't -- they
11 didn't disclose what they were going to do with it, it -- it
12 was a fraudulent act from the beginning, and if they sold my
13 signature, that was wrong. They created money. That's
14 against the Constitution, against corporate law, against the
15 Constitutional law. They can't create -- a bank can't create
16 money. Only Congress.

17 Q. So by -- by selling your promissory note, they have
18 created money which nullifies your debt. Is that...

19 A. They -- they voided the contract. It was a fraudulent
20 contract from the word go. I didn't know it.

21 Q. Okay. That's what I wanted to understand.

22 A. Okay.

23 Q. Thank you.

24 A. Okay.

25 Q. Now, you mentioned that the State of South Carolina was

1 not here today. My question to you is: What is my role as
2 the prosecutor for the South Carolina Attorney General's
3 Office if the State is not here today? Can you explain that?

4 A. You're basically working off of hearsay, something that
5 you saw or learned from something that was written that you
6 picked up somewhere. You're not a flesh and -- you don't
7 know it from first-hand experience. You only know it from
8 second-hand experience. I know from first-hand experience
9 what I did, and Gary Wayne -- he did it from first-hand
10 experience, but we are here. The State -- the person -- the
11 person that supposedly was injured is not here.

12 Q. And who is that person?

13 A. South Carolina, the State of South Carolina which --
14 which brings up another controversy. We have a corporation
15 fighting a flesh-and-blood individual which, again, is
16 against the law, Constitutional law.

17 Q. Okay. Now, again, you said that the State is not here
18 because, you know, the person that I guess you're claiming as
19 a party injured... What about Mr. Shearouse, the Clerk of
20 the Supreme Court? Isn't he part of the State?

21 A. He's a representative of the State, and that's the
22 State -- the State would be fine to be suing another state or
23 suing another corporation but not an individual.

24 Q. Well, this isn't a civil case. This is a criminal case.
25 Are you saying that the State doesn't have the ability to

1 prosecute people that commit crimes?

2 A. The -- the State doesn't. The individual that the crime
3 was committed against would.

4 Q. Now, what if the person -- what if the person that --
5 let me rephrase that. What if a crime was committed against
6 the State? Can the State then prosecute someone?

7 A. I don't know enough law to answer that question.

8 Q. That's fine. I just wanted to know what your
9 understanding was.

10 A. Okay.

11 Q. And, finally, you said that the intent of these
12 documents, particularly in Exhibits 1 and Exhibit 2, you
13 weren't trying to harm anyone. Is that right?

14 A. None whatsoever.

15 Q. Okay. Those documents were solely an attempt to take
16 jurisdiction from the South Carolina Court of Appeals to the
17 Central Assemblies court. Is that accurate?

18 A. That's close to accurate, yes, I guess.

19 Q. I'm sorry?

20 A. I guess close enough. I guess.

21 Q. All right. Well, in your own words, is that -- is that
22 what it is? It wasn't an attempt to harm; it was just an
23 attempt to take jurisdiction?

24 A. To take jurisdiction and -- and put it on the record
25 what was actually occurring, that I had not been loaned

1 any -- the money that they loaned me was my money that was
2 based on my signature that was sold, and they got the money
3 from somewhere else and handed it over to me on what I gave
4 them. It's like if I gave them a -- a gold brick and they
5 let -- went and sold it and brought it back and loaned me the
6 money. That's simplistically what it would be.

7 Q. So the bottom line: Those papers are an attempt to take
8 jurisdiction from South Carolina court to Central Assemblies
9 court. Is that the bottom line?

10 A. Correct.

11 Q. Okay.

12 A. That's what I said.

13 **Mr. Underwood:** Thank you. I have no further questions,
14 Your Honor.

15 **Mr. Stitely:** Just like two questions, Judge, I have
16 real quick.

17 Recross Examination

18 By Mr. Stitely:

19 Q. The last sentence you said is to take jurisdiction.
20 Would it be more fair to say shift jurisdiction to an
21 alternate court within the United States of America rather
22 than take jurisdiction but bring it before another court?

23 A. Yeah. Well, when -- you're not -- you're not taking it
24 away maliciously. You're taking it away authoritatively,
25 just like the Supreme Court can take over this case.

1 Q. Right.

2 A. And I don't think anybody would have any argument with
3 it because we recognize it as being superior in that
4 corporate ladder.

5 Q. And that's actually what Mr. Shearouse said, that
6 sometimes they can act on their own and take a case from a
7 lower court and just pull it on up. He -- he told us that,
8 didn't he?

9 A. Correct.

10 Q. Okay.

11 A. And may I make one point?

12 Q. Yes, sir.

13 A. And -- and if you look at the documents, that throughout
14 the documents Gary refrains (verbatim) to the Sovereign Being
15 God. That's the basis of this court. It's actually above
16 the Supreme Court.

17 Q. Okay.

18 A. Because it's people.

19 Q. In support of the Constitution as written back in the
20 1700's; correct?

21 A. In fact, we, the people, formed the Constitution. We
22 formed the Supreme Court. We formed it all. We did. We
23 made it.

24 Q. Okay. And the last thing is: As you said, he asked you
25 about the petition of the -- the union -- the Central

1 Assembly. Anyone who believes in, as you said, the
2 principles of God as based from the Bible and the
3 Constitution of the United States as being based, as it says,
4 we, the people, for the formation of a better union -- if
5 they believe that, they're, as far as you're concerned, a
6 member of the same we, the people, as---

7 A. Absolutely.

8 Q. ---everyone else.

9 A. And they should be. They should be.

10 **Mr. Stitely:** Thank you. No other questions.

11 **The Court:** Okay. Thank you very much. You may step
12 down. Any objection to this witness being excused from his
13 subpoena?

14 **Mr. Underwood:** Please allow him to be excused, Your
15 Honor.

16 **Mr. Stitely:** Yes, sir.

17 **The Court:** Thank you, sir. You are excused from your
18 subpoena. All right. Call your next witness.

19 **Mr. Underwood:** Your Honor, the State calls
20 Michael Prodan.

21 Michael Prodan, after being duly sworn, testified
22 as follows:

23 **The Clerk:** Please have a seat and state your full name.
24
25

Direct Examination

By Mr. Underwood:

Q. Good morning, Captain Prodan.

A. Good morning, sir.

Q. Could you please tell the jury a little bit about yourself? How did you first get involved with law enforcement?

A. I first became involved in law enforcement - excuse me - when I was hired as a -- basically a police dispatcher for the Covina, California Police Department in 1972.

Q. And can you summarize from there how your career has progressed and what brought you to South Carolina?

A. I was offered a position as police officer in the City of Covina. This is Los Angeles County, California. I was promoted to detective in 1979, worked as an investigator for the police department for some time and in 1985 I took a position as a special agent with the California Department of Justice in the San Francisco field office. I was primarily working cases in northern California.

During that time, I was selected to attend a fellowship at the Behavioral Sciences Unit at the National Center For the Analysis of Violent Crime, returned to California as a special agent supervisor with a specialized unit involving basically crime analysis.

In 1998, 15 years ago, I took a position as a special

1 agent with the Behavioral Sciences Unit with the State Law
2 Enforcement Division, and ultimately I am now the special
3 agent in charge of that unit.

4 Q. Okay. And can you explain what that unit is and what it
5 does?

6 A. Generally, two functions: One is crime analysis,
7 basically in criminal investigation -- criminal investigative
8 analysis, generally referred to in the media as criminal
9 profiling. And then the other part of the unit is we're
10 assigned threat assessment and management, threatening and
11 unusual communications. We're asked to do an analysis or
12 assessment of them and then to make a determination how to
13 lower the risk of dangerousness, if possible.

14 Q. And as the agent in charge of the Behavioral Sciences
15 Unit, how did you become involved with this case?

16 A. A request came from the Chief Justice of the Supreme
17 Court to then Director Reggie Lloyd of State Law Enforcement
18 Division. Director Lloyd assigned the case to my unit, and I
19 became the case agent. Even though I am a - quote/unquote -
20 a captain, I actually carry a caseload. The unit is very,
21 very small. We don't have the luxury of just having an
22 administrative captain and then having the agents work.
23 There is -- you're working cases also, even though you're the
24 special agent in charge.

25 Q. And what was the nature of this investigation?

1 A. Twofold. One is the criminal investigation involving if
2 any statutes against the State of South Carolina had been
3 violated and who were the persons responsible. The second
4 part was to assess any dangerousness of an individual or a
5 group of individuals to any---

6 **Mr. Stitely:** I'm going to object. I have a matter of
7 law to take up outside the presence of the jury.

8 **The Court:** All right. Do you want to -- how long do
9 you think his testimony's going to be?

10 **Mr. Underwood:** Maybe---

11 **The Court:** I'm not holding you to it, but ballpark me.

12 **Mr. Underwood:** Maybe 30, 35 minutes, Your Honor.

13 **The Court:** What do you think on cross?

14 **Mr. Stitely:** Oh, it's probably going to take a few
15 minutes, Judge.

16 **The Court:** All right. Let's do this. Let's go ahead
17 and break for lunch. It's about noon. We'll start back at
18 -- let's call it 1:30, and -- and that will give me some time
19 to deal with this legal issue and give everybody time to eat.
20 If you will retire to your jury room, we'll be on a lunch
21 break until 1:30. Do not discuss the case and keep an open
22 mind. Thank you very much.

23 (Whereupon, the jury was excused from open court to go
24 to lunch at 12:05 p.m.)

25 **Mr. Stitely:** Judge, just very succinctly. I'm going to

1 understand that?

2 **Mr. Gary Wayne Presley:** I assure you that I will be
3 here.

4 **The Court:** All right. Thank you very much.

5 **Mr. Stitely:** Thank you, Judge.

6 (Whereupon, a lunch break was taken.)

7 **The Court:** Good afternoon. Take your seats, please.

8 Are you good?

9 **Mr. Underwood:** Yes, Your Honor.

10 **The Court:** Are you good?

11 **Mr. Stitely:** Yes, sir.

12 **The Court:** All right. Let's bring them in.

13 (Whereupon, the jury was brought into open court at
14 1:36 p.m.)

15 **The Court:** All right. Thank you, gentlemen. I hope
16 y'all enjoyed your lunch. We're ready to continue now with
17 Captain Prodan's direct testimony. Mr. Underwood, you may
18 continue.

19 **Mr. Underwood:** Thank you. May it please the Court?

20 By Mr. Underwood:

21 Q. Captain Prodan, we were discussing how you became
22 involved with this case. Can you explain to the jury again
23 from where we started? How did you become personally
24 involved with this case?

25 A. The request came from the Chief Justice of the Supreme

1 Court based on some documents that had been received both at
2 the appellate court and the Supreme Court. The direct --
3 then director of the State Law Enforcement Division assigned
4 the case to my unit, and then ultimately I became the case
5 agent for the case.

6 Q. How did you begin your investigation?

7 A. Primarily reviewing -- you know, obtaining the documents
8 that had been received and reviewing the documents and then
9 trying to identify the individuals whose names or partial
10 names appeared on the documents.

11 Q. Now, when you just say "the documents," what are you
12 referring to?

13 A. There were sets of -- of papers sent to the courts that
14 had basically seals and flags and script and a -- a format
15 which, to me, gave the appearance of some type of formal
16 document that had been set to the court by the United States
17 mail.

18 Q. And roughly how many sets of these documents did you
19 receive?

20 A. Originally, three and then ultimately, as the
21 investigation progressed, there were---

22 **Mr. Stitely:** Judge, objection. He's talking about
23 those things we've already talked about.

24 **Mr. Underwood:** If I can rephrase the question, Your
25 Honor.

1 **The Court:** Please.

2 By Mr. Underwood:

3 Q. Captain Prodan, did you receive more than one set of
4 documents?

5 A. Yes, sir.

6 Q. All right. And who did you receive those documents
7 from?

8 A. From Mr. Dan Shearouse, the clerk of the court.

9 **Mr. Underwood:** Approach the witness, Your Honor?

10 **The Court:** Yes, sir.

11 By Mr. Underwood:

12 Q. Now, I'm now handing you what's been marked for
13 identification as State's Exhibits 10 and 11. Please take a
14 moment and review those.

15 A. (The witness complies.) Yes, sir.

16 Q. Beginning with Exhibit Number 10, can you please explain
17 what that packet of materials is?

18 A. It's a -- it's -- it's entitled "Letters Rogatory,
19 International Judicial Assistance." There are some code
20 numbers that I am not familiar with. It then states the
21 organic South Carolina republic, a foreign nation,
22 Geary Thomas Colin (phonetic) Dooly, a real sovereign man,
23 complainant, versus the foreign corporate agent doing
24 business as South Carolina, the state of, the court of civil
25 appears (verbatim) doing business as the judicial --

1 judiciary courts of the State of South Carolina, Spartanburg
2 County, government, sheriff's department. I may not
3 pronounce it right. Deutsche Bank National Trust Company;
4 Wells Fargo Bank; LaSalle Bank; Rogers, Townsend, and Thomas;
5 Weston and Adams Law Firm, et al., corporate agents involved
6 whose names are otherwise unknown as the defendants and---

7 Q. And how many different documents are in that packet?

8 A. It appears the first document is three pages. The
9 second document is two pages. The third document is three
10 pages, and the fourth document is four pages.

11 **Mr. Stitely:** Judge, just to save -- 11 and 12 are just
12 the originals of what were 1 and 2, so I'm not going to be
13 objecting to 11 and 12 coming in. They're just the originals
14 of what the clerk later certified.

15 **Mr. Underwood:** In that case, Your Honor, I would move
16 to admit Exhibits 10 and 11.

17 **Mr. Stitely:** Oh, I'm sorry, 10 and 11. I apologize.

18 **The Court:** 10 and 11 without objection.

19 **Mr. Underwood:** Thank you, Your Honor.

20 (States Exhibits 10 and 11 were received in evidence.)

21 By Mr. Underwood:

22 Q. So, Captain Prodan, Exhibits 10 and 11, as was just
23 stated, are these the original documents that were received
24 by the Court?

25 A. Yes, sir.

1 Q. And who sent those items?

2 A. The return address on the certified mail states Justice
3 Gary Wayne, general post office, Childersburg, Alabama. And
4 on one of the documents, it is signed Gary Wayne, Public
5 Minister of Justice. Another document is just signed manual
6 of this Public Minister of Justice, Gary Wayne. The third
7 document is signed Gary Wayne, Public Minister of Justice,
8 and the fourth document is signed Michael Donald, Scribe.

9 Q. In addition to the signatures of -- of Gary Wayne and a
10 Michael Donald, are there any other signatures on those
11 documents?

12 A. No, sir.

13 Q. Now, after receiving these documents, what did you do
14 next in your investigation?

15 A. Again, we tried to identify the actual full identifying
16 information of the individuals involved, Michael Donald and
17 Gary Wayne, also the -- the full identification information
18 of Geary Thomas Dooly.

19 Q. Okay. And were you able to identify those three
20 individuals?

21 A. Yes, sir.

22 Q. After you identified them, what did you do next?

23 A. Made arrangements to have Geary Thomas Dooly interviewed
24 by the law enforcement officers, primarily in Spartanburg
25 County: Lieutenant John Dyas and F.B.I. Special Agent Bill

1 Moser. Gary Wayne was identified as Mr. Gary Wayne Presley.
2 Michael Donald was identified as Michael Donald Wilsey. They
3 were also contacted by law enforcement officers in Alabama.

4 Q. And what -- what agencies contacted them in Alabama?

5 A. The Federal Bureau of Investigation, the Birmingham
6 field office.

7 Q. Okay. And without going into anything that was said,
8 were -- were all three of those individuals interviewed?

9 A. Yes, sir.

10 Q. After those interviews, where did your investigation
11 take you next?

12 A. Other information came from the Supreme Court which led
13 to several other individuals identified as claiming to be
14 members of a group of individuals. They were subsequently
15 identified, and they were subsequently interviewed. Another
16 individual in Pickens County, two individuals in Lexington
17 County, and then two other individuals, one in Washington
18 state and one in Oregon state.

19 Q. Now, when you say they were part of a group, what group
20 were they a part of?

21 A. Originally, we thought that the Central Assemblies Union
22 of the Several States was one group, and I was later
23 corrected that the group is the assemblies of the several
24 states, and the Central Assemblies is part of that overall
25 group. In other words, the assemblies union, it covers the

1 entire United States, and then each section of the United
2 States, based on time zones, is a separate entity.

3 Q. Now, after understanding that there are other members of
4 this group or affiliated groups, what did you do next?

5 A. The information was compiled. Affidavits for arrest
6 warrants were -- were sought and obtained for these
7 individuals from the chief magistrate of Richland County, and
8 the individuals were subsequently arrested, either by members
9 of S.L.E.D. or the United States Marshal Service.

10 Q. Now, in total, how many different individuals were
11 charged?

12 A. Seven, sir.

13 Q. And of those seven who were charged, how many were
14 subsequently convicted by one means or another?

15 A. Five.

16 Q. And included in that number, is that -- does that
17 include this defendant, Gary Wayne Presley?

18 A. No, sir. He's -- he is -- is on trial. He is not---

19 Q. I'm sorry. In the total number, the seven.

20 A. Oh, of the total, seven. Mr. Presley is one of the
21 seven.

22 Q. So of those seven, take away Mr. Presley, there's six.
23 Of those six, five have been convicted?

24 A. Correct. And one case is pending.

25 Q. Can you explain to the jury the arrangement of these

1 different individuals in their group as your investigation
2 uncovered?

3 A. One individual was identified and was apparently elected
4 as the president of the delegates. His girlfriend was also a
5 delegate, in other words, a member. The defendant,
6 Mr. Gary Wayne, was elected as the -- the justice minister,
7 the judge. Another individual was elected as -- and he has
8 several titles. One is a delegate, one is ambassador, and
9 one is judicial scribe. And then the other three were --
10 identified themselves as delegates of the assembly or
11 members.

12 Q. The -- the one that you addressed as a scribe that had
13 several titles, who was that?

14 A. Michael Wilsey.

15 Q. Is he the individual that was earlier referred to as
16 Michael Donald?

17 A. Yes, sir.

18 Q. What role did Michael Donald play in this organization?

19 A. A judicial -- he identified himself as both an
20 ambassador and as a judicial scribe. It appears that a
21 judicial scribe is something tantamount to a clerk of a court
22 or at least a record keeper of the assembly of some way,
23 shape, or form. I am not sure what the duties of an
24 ambassador are, only that as an ambassador, on occasion, he
25 would claim similar to an ambassador of a foreign nation.

1 Q. What was the role fulfilled by this defendant,
2 Gary Wayne Presley?

3 A. Justice minister, a judge.

4 Q. And can you explain, based solely on your investigation,
5 what you determined that to mean to this group?

6 A. He had the authority to issue judicial orders and make
7 judicial decisions, in other words, make the determination as
8 to what happens on a case and what does not happen on a case.

9 Q. On behalf of what body or organization?

10 A. The Central Assemblies and by default -- the way it was
11 explained to me in the investigation -- outside of the
12 Central Assemblies, if another district of the assemblies did
13 not have a justice minister -- in other words, if the
14 eastern -- Eastern Assemblies Union did not have a justice
15 minister, those delegates could seek assistance from a
16 justice minister of another section, in this particular case,
17 the Central Assemblies Union.

18 Q. Okay.

19 **Mr. Underwood:** Your Honor, may we approach for just one
20 moment?

21 (Whereupon, a bench conference was held.)

22 By Mr. Underwood:

23 Q. Captain Prodan, did you have an opportunity to take Mr.
24 Presley into custody?

25 A. Yes, sir, I did.

1 Q. How did that take place?

2 A. Mr. Presley was in custody in Alabama in the Etowah
3 County Jail, and pursuant to a governor's warrant and
4 extradition, myself and another agent and my crew went to
5 that county and brought him to South Carolina.

6 Q. How did you bring him to South Carolina?

7 A. We drove, sir.

8 Q. Okay. How long of a drive was it?

9 A. About four and a half hours.

10 Q. Did you have a chance to have any conversations with
11 Mr. Presley?

12 A. Yes, sir, I did.

13 Q. Did you -- since he was obviously in your custody at
14 that time, did you advise him of his Miranda rights?

15 A. Yes, sir, I did.

16 Q. How did you do that?

17 A. I referenced a card that I carry, and then I explained
18 it to him on -- on top of the reading of the card.

19 Q. Okay. And can you summarize what those rights were that
20 you advised him of?

21 A. Basically the summary, as I explained it: He had the
22 right to remain silent. In essence, he did not have to talk
23 to us at all. That was strictly his choice. However, if he
24 chose to speak to us and answer any questions, they would be
25 used against him in court. He had the right to have an

1 attorney present before and during any times that we asked
2 him any questions, and then if he did not have the -- the
3 funds to hire an attorney, one would be given to him free of
4 charge. He had the right not to answer any question at all.
5 In other words, if there was a specific question that he --
6 if he wanted to speak to us but wanted to refuse a specific
7 question, he has every right to do so.

8 Q. And after you advised him of those rights, what was his
9 response?

10 A. He agreed to answer our questions and -- and basically
11 enlighten us as to the circumstances of what was going on.

12 Q. Okay. So did he waive his Miranda rights?

13 A. Yes, sir, he did.

14 Q. What was his explanation for his position as a justice
15 minister?

16 A. He said that he was - and I don't remember if it was
17 elected or selected or both - as the justice minister because
18 of his training and education in the law and the common law.

19 Q. And did he explain what that meant?

20 A. There was some explanation as to that he had been a law
21 clerk at one time for a -- and I don't know what -- whether
22 it was a magistrate's court or a justice court and I believe
23 in Alabama.

24 Q. Did Mr. Presley go to law school, to your knowledge?

25 A. Not to my knowledge.

1 Q. Was he an attorney, to your knowledge?

2 A. Not to my knowledge.

3 Q. All right. What was his explanation for how he became
4 involved in the present case?

5 A. Members of the Assemblies Union of the Several States in
6 South Carolina did not have a justice minister. The
7 organization was too small. They had yet to select someone
8 or elect someone to be a justice minister. So, therefore,
9 they were allowed to seek assistance from one of the justice
10 ministers, and that would be Mr. -- I mean, Gary Wayne and
11 that they -- they would be allowed to do that.

12 Q. In this particular case involving the foreclosure
13 actions of Mr. Dooly, did he explain to you what role he
14 played in that?

15 A. He said that he had prepared the documents and that he
16 had sent the documents to the courts here in South Carolina
17 or he had prepared documents for Mr. Dooly to send to the
18 courts here in South Carolina.

19 Q. Was that "or" or "and"?

20 A. And.

21 Q. Okay. So both documents that Mr. Dooly sent and
22 documents that Mr. Presley sent.

23 A. Correct.

24 Q. Did the defendant ever explain where his authority came
25 from as a justice minister?

1 A. Yes, sir.

2 Q. To the best of your ability, please summarize that
3 explanation.

4 A. An individual, by Mr. Presley's explanation, as best as
5 I can explain it, is that an individual is born sovereign
6 based on their birth and by God. Mr. Presley also explained
7 that in particular to him, his sovereignty also came because
8 of his lineage of his family traced to the -- the American
9 colonies prior to the revolution. And there was some
10 sovereignty granted by the King of England. This
11 sovereignty, this individual, as a flesh-and-blood person is
12 different than the de facto corporate individual that was
13 established beginning -- well, I shouldn't say -- which was
14 established after the Civil War, the war between the states.

15 When the 13 states seceded from the Union, those seats
16 in Congress remained vacant and they remain supposedly vacant
17 today. Therefore, Congress is not a full-fledged Congress.
18 It's -- it's some kind of other entity. Then when the
19 federal government went off the gold standard and established
20 the Federal Reserve, when an individual is born in the United
21 States, as indicated by their birth certificates, the name is
22 written in all capital letters. That is not the true flesh-
23 and-blood person. That is the beginning of a -- of a
24 corporate person, a corporate entity, which then the federal
25 government leverages that individual's potential income

1 somehow to print money and affect the national debt.

2 In other words, this person that -- this corporate
3 entity that an individual accepts, they accept unknowingly,
4 unwittingly. However, if you are aware of your sovereignty,
5 you can separate yourself from the corporate entity, and once
6 you are separated from the corporate entity, those corporate
7 rules and regulations don't apply to you.

8 Q. Okay. And---

9 A. The -- I'm sorry.

10 Q. And just to clarify a little bit of this -- I know it's
11 a lot to try to wrap your head around and explain. What did
12 Mr. Presley say about the legitimacy of the federal
13 government and the state government of South Carolina?

14 A. Mr. -- Mr. Presley insisted that he was not anti-
15 government, but the government that we are operating under is
16 a false government, a de facto government, and that his
17 efforts -- and his is the true government and that we are --
18 we are acting in some kind of -- of false corporate entity
19 that we are unaware of and that his system and interpretation
20 of the Constitution and history is the actual true government
21 which was abandoned at one time.

22 Q. Okay. So that I understand what you're saying,
23 Mr. Presley wasn't telling you that the United States
24 government or the State of South Carolina government as we
25 recognize -- he wasn't saying those don't exist, just that

1 they weren't legitimate. Is that accurate?

2 A. Yes, sir, as best as I can understand it.

3 Q. So he wasn't delusional to say these bodies don't exist;
4 he just didn't agree that they were valid.

5 A. Correct. They -- they are a -- they are a corporate
6 entity as indicated because the federal government and state
7 governments and indi -- will -- will have an identification
8 number by Dun & Bradstreet, for whatever reason that they
9 have that number, and that is some kind of indication that
10 these are corporate entities rather than original, true
11 governmental entities as established based on the
12 Constitution in the 1700's.

13 Q. Okay. Now, did he use the term de jure court or de jure
14 government with you?

15 A. Yes. That is the true government, and the de facto is
16 the false, scam-type of organization.

17 Q. So is it fair to say that, according to Mr. Presley, he
18 was part of the de jure justice system?

19 A. Yes, sir.

20 Q. Did Mr. Presley advise you whether or not he was ever
21 approved by the United States Congress to be a judge?

22 A. He did not indicate that he was.

23 Q. Where did he say that he was given his authority to be a
24 judge from?

25 A. From God and his knowledge and education of the law and

1 the common law and being -- again, I don't remember if it was
2 selected or elected by the delegates.

3 Q. By the delegates of this Central Assemblies Union?

4 A. Yes, sir.

5 Q. Court's indulgence. How did Mr. Presley explain the
6 connection between his court and position as a justice
7 minister to the State of South Carolina's courts?

8 A. His court was superior because it was the true court.

9 Q. Did he explain what his purpose was in sending the
10 documents we've already discussed to the South Carolina
11 courts?

12 A. It was, in essence, to transfer the jurisdiction from
13 a -- from a false court to his court which was the true
14 court.

15 Q. And did Mr. Presley admit to you that he did, in fact,
16 send those documents?

17 A. Yes, sir.

18 Q. And that the purpose of those documents was to take
19 jurisdiction to his court?

20 A. Yes, sir.

21 Q. And from the court of South Carolina?

22 A. Yes, sir.

23 **Mr. Underwood:** Okay. Thank you, Captain Prodan.

24 That's all I have for you. Please answer any questions the
25 defense may have.

1 **The Court:** Yes, sir.

2 **Mr. Stitely:** May it please the Court, Your Honor?

3 **The Court:** Yes, sir.

4 Cross-Examination

5 By Mr. Stitely:

6 Q. Captain Prodan, how are you today?

7 A. Fine, sir. Thank you.

8 Q. Good. And -- and we've met before.

9 A. Yes, sir.

10 Q. Okay. Sorry. I was going to introduce myself. Now,
11 you -- I guess going back, you don't by chance happen to have
12 the audiotape here as evidence for the jury. The car ride
13 all the way back from Alabama was recorded; correct?

14 A. Yes, sir.

15 Q. And do you know if y'all are offering that today or not?

16 A. I beg your pardon, sir?

17 Q. Do you know if it's being offered as an exhibit today?

18 A. I don't know if it is or not, sir. . .

19 Q. Okay. But it would be fair to say that Mr. Presley was
20 willing to talk to you, cooperative, answered all of your
21 questions, no problems with him in that respect; correct?

22 A. Mr. Presley was -- was affable; yes, sir.

23 Q. Okay. And actually you've said that he went and talked
24 to the F.B.I. He had actually spoken with the F.B.I. before
25 y'all came down a few times; correct?

1 A. Yes, sir.

2 Q. Willingly walked in and talked to them?

3 A. That's my understanding; yes, sir.

4 Q. Did he give you any trouble as far as combative, hard to
5 restrain, keep in your custody?

6 A. No, sir.

7 Q. Okay. Did he ever do anything threatening to you
8 personally physically? Was he aggressive or anything like
9 that?

10 A. No, sir.

11 Q. In fact, you asked him a question about whether or not
12 the organization which he belongs to is militant, and he
13 responded in the negative; correct?

14 A. That's correct.

15 Q. He said that pretty much they used paper to -- you know,
16 these filings to try to explain to the courts their position
17 and -- or, as you said, to divest our courts, being the State
18 of South Carolina, from its jurisdiction through the use of
19 the documents which are in evidence.

20 A. I'm sorry. I---

21 Q. They used the papers---

22 A. ---lost the train of thought---

23 Q. They used the papers that you have in evidence as their
24 means of communicating with our courts and speaking their
25 disagreements with our government.

1 A. Yes, sir.

2 Q. Okay. Now, when y'all had your conversations, I guess,
3 it was a long conversation. It was a good five, six hours of
4 conversation; correct?

5 A. I think it was closer to four and a half.

6 Q. Okay.

7 A. But...

8 Q. With some stops. But it was a long talk.

9 A. Yes, sir.

10 Q. Okay. And -- and when you were asking him these
11 questions to explain where he came from, it wasn't just
12 blanket statements. He actually references cases and
13 everything, correct, like federal laws and federal cases
14 stating his positions?

15 A. There was -- there was some references to federal cases
16 that I was not familiar with. There was some references to
17 the federal commercial code. I think there was some
18 references to British common law. There was references to
19 the Bible. There was references to interpretation of
20 history.

21 Q. The U.S. Constitution?

22 A. Yes, sir, as he explained it.

23 Q. Specifically, he talked for awhile about the Fourteenth
24 Amendment - do you remember that - where he's talking about
25 individuals and states and sovereignty from the government?

1 A. If I recall, that was the part having to do with the war
2 between the states, the Civil War, where Congress had -- was
3 not a full Congress because those seats had been vacated and
4 that the Fourteenth Amendment made a distinction between
5 individuals who were true Americans and individuals who were
6 some type of other entity -- entity under the Fourteenth
7 Amendment. In other words, Fourteenth Amendment citizens
8 were somehow different than other citizens.

9 Q. And -- and I'm just going to -- and if you don't mind,
10 I'm going to see if this is what he was talking -- he was
11 talking about in section one where it says, "All persons born
12 or naturalized in the United States and subject to the
13 jurisdiction thereof are citizens of the United States and
14 the states in which they reside. No state shall make or
15 enforce any law which shall abridge the privileges or
16 immunities of the citizens of the United States nor shall any
17 state deprive any person of life, liberty, or property
18 without due process or deny any person within its
19 jurisdiction the equal protection of laws." That's the
20 section, and it goes on to say things like Indians who don't
21 pay taxes aren't citizens. Those -- it has a couple of
22 qualifiers as to who aren't citizens; correct?

23 A. Well, that -- and, again, he was referencing the
24 Fourteenth Amendment, but he made a distinction between
25 individuals who were citizens after the Fourteenth Amendment

1 as opposed to individuals who were somehow sovereign.

2 Q. And his position on that was when the states split, we
3 never reunified back and had all three-quarters of the states
4 ratify the reunion documents, and pretty much any law after
5 the fact he claims has problems.

6 A. Correct. In other words, there was also a reference to
7 marshal law being declared by President Lincoln and that the
8 federal government really only has jurisdiction in the
9 District of Columbia.

10 Q. Right, because he -- he said that when you have marshal
11 law, you're, in theory, in wartime, which we were, and that
12 was his problem with that as well.

13 A. Correct.

14 Q. Any laws passed were wartime acts.

15 A. Yes, sir.

16 Q. Never ratified by the 13 states that seceded from the
17 Union.

18 A. Because those -- those -- those seats in Congress were
19 still vacated and, according to Mr. Presley, are still
20 vacated today.

21 Q. All right. And -- and I know this sounds kind of
22 confusing. I just want the jury -- this was the kind of
23 conversations you had with Mr. Presley while you were
24 driving?

25 A. Yes, sir.

1 Q. Okay. And one of the cases he talked to you about -- do
2 you remember -- you guys talked about banking, and
3 specifically this case is around forfeiture law --
4 foreclosure law, excuse me, and banking, and you asked him
5 about that. Do you remember him talking about a case called
6 Bank of the United States versus The Planters Bank of
7 Georgia? I don't know if you -- specifically where it talks
8 about if a bank uses government bonds, it becomes the -- the
9 government agency can -- it becomes a corporation in theory?
10 Do you remember that whole argument or discussion?

11 A. Vaguely. It was -- it was -- it was very hard to
12 follow. It -- it seemed to be part of the explanation of
13 governments are corporations because they have a corporation
14 Dun & Bradstreet code number and, therefore, they are not
15 true governments and that this was part of -- this was part
16 of some kind of -- of plan by individuals unnamed -- well, I
17 shouldn't say unnamed. Planned individuals for -- bent on
18 world domination.

19 Q. And -- and in that he -- he -- I -- he specifically
20 talked to you about a bunch of things and he was -- and tell
21 me if you remember this. If you don't, that's fine. This
22 was in that case he was talking about. He says that when the
23 government becomes a cooperator, it lays down its sovereignty
24 so far as the respects of the transactions of that
25 corporation and exercises no power or privilege which is

1 derived from the charter, being our old federal charter, and
2 this was an 1824 case that he kept talking about.

3 A. No, sir.

4 Q. Similar stuff?

5 A. Well, again, there -- he mentioned some cases that,
6 again, I was not familiar with, and I did not challenge
7 Mr. Presley about any of his belief systems. I just listened
8 and tried to understand.

9 Q. And asked a lot of questions.

10 A. Yes, sir.

11 Q. Okay. Let me ask you this -- and -- and you've been a
12 law enforcement officer for a long time, and you're the one
13 who ultimately brought probable cause to get a warrant;
14 correct?

15 A. Yes, sir.

16 Q. Okay. Had Mr. Presley -- if he walked out today and
17 sent more of these pleadings to the Supreme Court, would you
18 feel you had probable cause to go get another warrant, if he
19 sent more things like Exhibit 1 or 11, whatever they're
20 numbered?

21 A. It would -- it would depend on the context. If the --
22 if the documents were a declaration of sovereignty or a
23 declaration of a membership, no, sir, I would not seek
24 warrants to arrest anyone for that. However, if the
25 documents were sent in some way to hinder a legal process of

1 the State or of a court or of a State or government official,
2 yes, I would.

3 Q. To claim authority over a case would be an example;
4 correct?

5 A. Again, if they were trying to hinder some kind of lawful
6 action by a state, government agency, or county -- a county
7 agency or official, yes, sir. But if it was just a
8 declaration -- in other words, I'm a member of fill-in-the-
9 blank, I would not seek a warrant to arrest those
10 individuals.

11 Q. Okay. It's the actual assertion of authority that
12 causes the problems.

13 A. With the -- with the intent to hinder.

14 Q. Okay.

15 A. Or delay or obstruct.

16 **Mr. Stitely:** Your Honor, may it please the Court? One
17 second.

18 (Whereupon, an off-the-record discussion takes place
19 between Mr. Stitely and Gary Wayne Presley.)

20 By Mr. Stitely:

21 Q. Just as a -- a question, Mr. Underwood brought up the
22 other individuals. We met one of them today. The other
23 individuals: Two more pled and also got credit for two-day,
24 time-served sentences under no-contest pleas a couple of
25 months ago; right?

1 A. Yes, sir. I believe so.

2 **Mr. Stitely:** Okay. Those are the only questions I
3 have. Thank you.

4 Redirect Examination

5 By Mr. Underwood:

6 Q. Very briefly, Captain Prodan. The tape recording of the
7 conversation you had on the ride back from Alabama to South
8 Carolina, how long was that?

9 A. I would say it was approximately four and a half hours,
10 maybe a little -- maybe a little bit longer or maybe a little
11 bit less.

12 Q. Was the only thing you discussed during that entire car
13 ride things relevant to this case?

14 A. No, sir.

15 Q. So would there be things on that recording that are not
16 relevant to this specific case?

17 A. Yes, sir.

18 Q. And, Captain Prodan, did Mr. Presley ever claim to be an
19 officeholder of any office recognized by the United States
20 government, the State government of South Carolina, or the
21 State of Alabama?

22 A. No, sir. He -- it -- it appeared that that recognition
23 was -- that recognition was not necessary to him.

24 Q. Why not?

25 A. Because his -- his authority came from his sovereignty

1 which was by his birth and by God.

2 Q. Now, Captain Prodan, are you aware of -- after

3 Mr. Presley was arrested if he was ever...

4 **Mr. Underwood:** Your Honor, may we briefly approach?

5 (Whereupon, a bench conference was held.)

6 By Mr. Underwood:

7 Q. During your conversations with Mr. Presley, did he ever
8 say anything to you or, by his behavior, indicate to you that
9 he was not mentally competent?

10 A. No, sir.

11 Q. So to the best of your ability, although he has some
12 interesting beliefs, there was nothing to indicate that he
13 was not competent or comprehensive of what was going on?

14 A. No, sir. Mr. -- Mr. Presley gave every -- every --
15 every -- every indication that he was aware of who he was,
16 who I was, and the circumstances surrounding him.

17 **Mr. Underwood:** Thank you. No further questions, Your
18 Honor.

19 Recross Examination

20 By Mr. Stitely:

21 Q. Just one question. And -- and everything you asked him,
22 he answered willingly and what you would assume is the truth
23 as he believed it.

24 A. If you add the -- if you add the "as he believed it,"
25 yes, sir.

1 **Mr. Stitely:** Okay. Nothing further.

2 **The Court:** Okay.

3 **Mr. Underwood:** Your Honor, at this time the State
4 rests.

5 **The Court:** All right. Ladies and gentlemen, the State
6 has rested its case. That means that is the conclusion of
7 the evidence that you will hear from them at this time. I
8 have a couple of matter of law -- a couple of matters of
9 law - excuse me - that I need to take up outside of your
10 presence. If you will please return to your jury room.
11 Remember to not discuss the case and keep an open mind, and
12 we'll have you back in just a few minutes. Okay? Thank you.

13 (Whereupon, the jury was excused from open court at
14 2:15 p.m.)

15 **The Court:** All right. Mr. Stitely?

16 **Mr. Stitely:** Your Honor, at this time the defendant
17 would make -- go ahead. Sorry.

18 **Mr. Underwood:** Your Honor, just one thing I did want
19 to -- need to put on the record from our sidebar. As it
20 regards to the voluntariness of Mr. Presley's statements to
21 Captain Prodan: That we did have a bench conference and
22 discussed that Mr. Stitely had talked with Mr. Presley who
23 agreed that the statements were willfully and voluntarily
24 given, and they passed the Jackson v. Denno test. I just
25 wanted the Court to make that inquiry here on the record .

1 **Mr. Stitely:** The defendant agrees, Judge. Your Honor,
2 at this time the defendant would make a motion for a directed
3 verdict. I'm going to have a couple, so I'll just go one at
4 a time, I suppose. The first being a -- the State has failed
5 to reach a burden that there was an actual mens rea of
6 criminal intent. In any case, Your Honor, you have to prove
7 not only that there was some actus reus but some mens rea,
8 that being you have to have a criminal act, but you also have
9 to have a criminal mind.

10 I'm going to state to McKnight v. State which is a South
11 Carolina case, 378 South Carolina 33, 661 Southeastern Second
12 at 354. It's 2008. Pretty much talking -- you can't get
13 there unless you have some kind of actual criminal intent.
14 It is an actual mental state and a conscious wrongdoing.

15 Through the State's own witness, Geary Thomas, he said
16 it was never the intent of anyone to cause any harm, not to
17 break the law, simply to say what their position was. That,
18 in fact, through their own witness that they called to the
19 stand to testify as a conspirator to this conspiracy said it
20 was never their intent to violate the laws of the State of
21 South Carolina. The fact that they did is an argument out
22 there, but you have to prove that Mr. Gary Wayne had the
23 intent to commit a criminal crime.

24 Even through the testimony of Captain Prodan, there's
25 been no testimony that he, in fact, had the intent to commit

1 a crime, so much as he did something that he thought was okay
2 based on what -- you know, we've argued some of the federal
3 law, you know, and through the U.S. Constitution. There was
4 never an intent to commit a crime in the State of South
5 Carolina. That would be our first motion.

6 **The Court:** Where is the intent part of it by?

7 **Mr. Stitely:** I'm sorry?

8 **The Court:** You referenced the McKnight case. I'm
9 trying to find what headnote the -- yeah, the criminal intent
10 is that...

11 **Mr. Stitely:** There looks to be a quote: Criminal
12 intent is a mental state, a conscious wrongdoing. It is up
13 to the judge to determine what extent the defendant intended
14 upon the circumstances shown to have existed. Criminal
15 intent can arise from actions or failure to act. They may
16 arise from negligence, recklessness, or indifference to duty.

17 **The Court:** Hold on. I got it right here.

18 **Mr. Stitely:** Sorry, Judge.

19 **The Court:** I'm sorry. I just -- I didn't want -- I
20 wanted to make sure I was looking at what you wanted me to
21 look at.

22 **Mr. Stitely:** Yes, sir. I don't have the case right
23 here; I'm sorry.

24 **The Court:** Okay. That's okay. I just -- I found what
25 you're talking about now. Let me -- let me just read through

1 it real quick. (Pause while the Court reads.) Okay.

2 **Mr. Stitely:** All right.

3 **The Court:** I got you now.

4 **Mr. Stitely:** Do you want to respond to that one real
5 quick?

6 **Mr. Underwood:** Did you want to go one by one, Your
7 Honor, or...

8 **The Court:** Oh, just keep going, and then we'll let them
9 respond.

10 **Mr. Stitely:** Judge, the second would be a motion to
11 dismiss or a directed verdict on the grounds that the State
12 has failed to comply with the evidence required of the
13 statute in the light most favorable to the State at this
14 point. Specifically through, once again -- I guess through
15 everyone who's testified, there was no actual hindrance upon
16 the courts. And the Chief Justice's actual -- sorry -- in
17 Mr. Shearouse's letter, he actually asks him to respond, and
18 there is no response, and they pretty much throw the case
19 out. I think we had a question about what's been responded
20 to and what hasn't, but the State Supreme Court asked him to
21 keep filing things. It's in the letter. It's in evidence,
22 Exhibit Number 3.

23 Our court asked Mr. Gary Wayne to file more documents.
24 And I asked Officer Prodan what the situation would be there,
25 and he said, yeah, if he filed more things asserting his

1 authority, I would have gone and gotten him. That's the
2 Supreme Court asking to entrap him. As the officer even
3 said, if he would have kept filing that same kind of stuff, I
4 could have got more warrants. Our Supreme Court asked him
5 to, and in their order, they went ahead and threw it out.
6 There was no hindrance, actual or perceived. They, in fact,
7 invited more.

8 **The Court:** So your argument is they haven't met the
9 element of the statute?

10 **Mr. Stitely:** No, sir. And I -- and I think through,
11 once again, their witnesses' testimony, they did nothing.

12 **The Court:** No. I said that wrong or is that---

13 **Mr. Stitely:** Yeah. You're right.

14 **The Court:** Okay.

15 **Mr. Stitely:** Sorry.

16 **The Court:** No. I was---

17 **Mr. Stitely:** I apologize.

18 **The Court:** I was just making sure that I -- your
19 argument is that they haven't met that element of the
20 statute---

21 **Mr. Stitely:** Yes, sir.

22 **The Court:** ---because of---

23 **Mr. Stitely:** Yes, sir.

24 **The Court:** ---the way they responded in their order.

25 **Mr. Stitely:** Yes, and specifically in the letter where

1 they -- they asked him to send more.

2 **The Court:** That's what I meant. In the letter that
3 Shearouse writes, they explained to me why this shouldn't be
4 stricken. Is that what you're talking about?

5 **Mr. Stitely:** Yes, sir.

6 **The Court:** Okay.

7 **Mr. Stitely:** And -- and then followed up by the captain
8 from S.L.E.D. saying if he would have kept filing things that
9 he called hindering, which would have been more reasons why
10 they couldn't go forward, I could have got more warrants
11 where it was invited and requested specifically by our own
12 Supreme Court.

13 **The Court:** Okay.

14 **Mr. Stitely:** The final would be a -- once again, I
15 would renew all previous motions dealing with jurisdiction in
16 persona, personal, and subject matter. I think now that
17 you've heard all the evidence, it is absolutely clear that
18 Mr. Gary Wayne was never present in the State of South
19 Carolina during any of these times. These were mailings done
20 through the mail. I would reaffirm the argument, now that
21 you've heard it, that there was no time he was here. Their
22 testimony is -- nowhere shows he fled from the State of South
23 Carolina.

24 The testimony from Geary Thomas was that there was a
25 phone conference and then he received the letters from

1 Mr. Gary Wayne which he then signed and he then forwarded to
2 the court, he being Geary Thomas. Those would be our motions
3 in sum, Your Honor.

4 **The Court:** Okay.

5 **Mr. Underwood:** Your Honor, if I can go in inverse
6 order.

7 **The Court:** Whichever order you want to. Just tell me
8 where you're going.

9 **Mr. Underwood:** As to the jurisdictional arguments, Your
10 Honor, again the State has met its burden to show that an
11 act, although conducted in another state, was conducted with
12 the intent of that act to have a detrimental effect in South
13 Carolina, that detrimental effect being the sham legal
14 documents being presented to our courts to take jurisdiction
15 away from those courts that did, in fact, hinder our courts
16 in that it wasted the Court's time in having to address these
17 moot and sham legal documents.

18 And I would cite again, Your Honor, the State versus
19 Dudley which very clearly states that, you know, if a person
20 commits acts in one state and it comes into this state with
21 the intent for it to have an effect here and it does have an
22 effect here, then the State has jurisdiction over that, Your
23 Honor.

24 As to the second argument presented by the defense in
25 that the State failed to present sufficient evidence to meet

1 the crime, Your Honor, the statute reads that it's unlawful
2 for a person falsely to assert authority of law in an
3 attempt - emphasis on the word "attempt" Your Honor - to
4 intimidate or hinder a State or local official, et cetera,
5 and that includes by use of sham legal process.

6 By sending these documents to the South Carolina courts
7 in an attempt to take jurisdiction from the courts, that
8 hinders the Court from doing its job. If the Court suddenly
9 loses jurisdiction, obviously that would be a hindrance upon
10 the Court.

11 Now, whether these documents have the ability to
12 actually do that is irrelevant. There was an intent to
13 hinder the Court, and, in fact, it did hinder the Court
14 because time, again, had to be wasted addressing all these
15 documents.

16 **The Court:** Okay. But what he's saying is they wrote
17 him a letter and told him to write them something else.

18 **Mr. Underwood:** Your Honor, that -- that would be a
19 great argument if we were talking about the letters that
20 happened -- or the documents filed after that letter. Those
21 aren't what we're dealing with here today. Today we're
22 dealing with the original charges before that letter. So the
23 Court did not entrap Mr. Presley, and it didn't invite these
24 documents.

25 Further, Your Honor, even if the Court -- even if we

1 were talking about situations after that, the Court requested
2 a response as to why the documents shouldn't be stricken. If
3 Mr. Presley simply gave one response, just one, explaining
4 why they shouldn't be stricken, I don't know that that would
5 be an issue. But -- although, it wasn't presented to the
6 jury, Your Honor, as we've seen, there were numerous
7 responses after that which were not in response to any letter
8 from the Supreme Court. So that argument would again fail.
9 And, again, Your Honor, that does deal with stuff that does
10 not pertain to these documents that we put into evidence.

11 As to the mens rea, Your Honor, the first argument that
12 was made, the intent that's here, Your Honor, is that
13 Mr. Presley, Mr. Dooly, Mr. Wilsey, and others did intend to
14 try to take jurisdiction away from the South Carolina courts.
15 They did not have to have an intent to cause violent or
16 physical harm to any member of the courts. All that's
17 required is that they have an intent to hinder or intimidate
18 State officials by sham legal process.

19 That's -- it's a very light burden, if you will, Your
20 Honor. When you view all of this evidence in the light most
21 favorable to the non-moving party, in this case the State,
22 the State has more than met its burden.

23 **Mr. Stitely:** Just -- just very briefly. I know you're
24 reading. I'll give you a second, if you like.

25 **The Court:** I wanted to find -- make sure I had the

1 rule.

2 **Mr. Stitely:** The code section, Judge?

3 **The Court:** No, the -- I think directed verdict is Rule
4 19. I just wanted to make sure I had it right.

5 **Mr. Stitely:** I'll wait until you're ready, Judge.

6 **The Court:** Okay. Yes, sir.

7 **Mr. Stitely:** Judge, in quick response to the way
8 Mr. Underwood phrased that, he kind of, I think, makes my
9 second argument have a little bit more weight. He said we're
10 not talking about the things after the fact. And it's -- I
11 don't think we had the right witness here to get into it, and
12 this question's never been addressed. But when the Court
13 says keep on sending it, I think you acquiesce to the fact
14 that you want him to send you some stuff.

15 I think had -- and I think it almost works to the
16 contrary the way he's arguing it. He sent the documents
17 which are what we're here for today, the June -- the two
18 documents that came in, one on June 2nd, one on June 15th.

19 After that, the Court says: We've got them; we want you
20 to send us a response as to why you think they're valid. The
21 Court in rule -- Exhibit 6 says we never got a response, for
22 whatever it's worth. They encouraged the mailing of more
23 documents before seeking warrants on these.

24 I would say that that affirms that they acquiesced the
25 fact that we got them. They issued in their order: You

1 obviously didn't hinder us; we're ignoring it; we're striking
2 it from the record. I don't think "hinder" means cause them
3 to think about something. It means impede their ability to
4 act. They apparently had no problem in acting. They issued
5 an order saying we're striking it from the record completely.
6 They weren't hindered, and they asked him to keep filing.

7 If we were going to say that hindering means stopping
8 them from doing what they, in theory, want to do and they
9 pretty much say we'll -- we're striking them all from the
10 record; the cases go back to the circuit courts, this doesn't
11 exist. There is no actual hindrance. There's been no
12 criminal intent to prove that this hindrance actually
13 happened, and they requested more. I think that
14 acquiescence, in and of itself, defeats the argument that
15 these were a criminal act to begin with.

16 **The Court:** Yeah, but the statute says in an attempt to
17 hinder.

18 **Mr. Stitely:** By authority and to actually have it.
19 Then we go back to my first argument. If they're going to
20 assume he never had authority, why would they even send the
21 letter asking him for more authority? I mean, it's -- and
22 that's what they did. They said you claim -- we want -- we
23 want you to keep on telling us why you think... So it's
24 not -- and it's kind of a cyclical argument that I think we
25 keep coming back to: They said, well, we don't think you

1 have authority, but go ahead and send us more authority. I
2 mean, it's them requesting him to break the law. I mean,
3 that -- that would be the argument. The Supreme Court in
4 their letter said: Please break the law.

5 **The Court:** Yeah, but that's not what he's charged with.
6 Under the charges we're going forward on now, what he's
7 charged with is the filings from June, not for the conduct
8 past the letter from Mr. Shearouse which is State's Exhibit
9 Number 3.

10 **Mr. Stitely:** From July 20 something.

11 **The Court:** Right.

12 **Mr. Stitely:** I agree, Judge, but I think the problem is
13 by doing that, they have -- had it been the position that he
14 had committed this crime back then, he had hindered justice
15 in some way, the warrants could have been sought then.
16 Instead, the Supreme Court says: We have your things; we
17 want you to send us more.

18 **The Court:** Yeah, but just because the Supreme Court
19 says, "We want you to send us more," doesn't mean that you
20 just have carte blanche to send whatever you want to.

21 **Mr. Stitely:** They -- they asked for---

22 **The Court:** Well, you could -- I mean -- so the Supreme
23 Court, through the clerk's office, says whatever State's
24 Exhibit Number 3 says. You know, respond to this within so
25 many days as to why this isn't sham legal process. Okay.

1 Just because they've said "respond to that" doesn't mean
2 he can just send whatever he wants to. I mean, that --
3 that's like you doing a guilty plea and your client looks at
4 you and says, "Appeal it," and you say, "There's no basis to
5 appeal it." He says, "Appeal it anyway," so you send -- you
6 file the notice of appeal, and you get a letter from the
7 Court of Appeals or the Supreme Court that says: Tell us
8 what the basis in appeal is. I mean, you just can't file
9 your whole brief right then. The -- the response from the
10 letter has to be responsive to what they asked for, and --
11 and he's not charged with any of that right now.

12 **Mr. Stitely:** The basis---

13 **The Court:** I understand he was but...

14 **Mr. Stitely:** The basis for his alleged authority,
15 Judge, is one of those documents that come straight to him.
16 That's his declaration of why he is who he is. So one of the
17 actual documents contained in the pleadings from June that he
18 mails says: I am Gary Wayne -- Gary Wayne. This is my
19 authority. This is why I'm here. He sent them that.

20 So what -- what you're just asking - where does your
21 authority come from - is one of the documents they're saying
22 is sham legal process. So if he would have just re-mailed
23 the same thing that he had already mailed them, it would fall
24 into what they've defined as sham legal process. That's what
25 that first page is. It says, "I am Gary Wayne, a minister of

1 justice through this authority."

2 **The Court:** All right.

3 **Mr. Stitely:** I mean, so I think we have to look at the
4 documents that he filed, too, because he states on the face:
5 This is where my authority comes from. So I don't know how
6 else you would expect someone to answer that.

7 **The Court:** All right. Anything further?

8 **Mr. Stitely:** Oh, one other motion, Judge, just briefly.
9 I would ask Your Honor to determine that this statute in and
10 of itself is unconstitutional as it violates the Tenth and
11 Fourteenth Amendments where the State's putting a burden on
12 an individual who is a citizen of the United States from
13 pretty much filing anything in contrary to our State
14 government's recognizing something that could be considered
15 sovereign citizens under the United States Constitution.

16 **The Court:** Okay. All right.

17 **Mr. Stitely:** Thank you, Judge.

18 **The Court:** You're welcome. Okay. Let's take these in
19 order. As to the argument number one on the mens rea and the
20 criminal intent, Mr. Stitely corrects -- correctly cites the
21 law as to intent of the State, actually the quote that he
22 reads. I knew that I had heard it because it's the criminal
23 intent quote in the charge book which was quoted from in
24 McKnight. And I -- I think there -- the standard that's
25 before me right now is Rule 19, the South Carolina Rules of

1 Criminal Procedure which is the rule on directed verdict.

2 I'm required to view the evidence in the light most
3 favorable to the -- to the State. I'm also required to view
4 the evidence not in the weight of the evidence but in the
5 existence of the evidence. And based upon that, I think
6 the -- the documents that I have reviewed, taken in the light
7 most favorable to the State and taken in the -- looking at
8 the existence or nonexistence of the evidence and not its
9 weight, a directed verdict motion on that ground would be
10 inappropriate. These documents, based upon my review of them
11 and what -- in the light most favorable to the State are
12 purported to undo a foreclosure that was occurring in South
13 Carolina and that was on appeal to the appellate courts.

14 As to the issue of the motion for a directed verdict on
15 being able to comply with the elements of the crime of
16 hindrance, I think the statute is very clear in 16-17-735:
17 It is unlawful for a person falsely to assert authority of
18 law in an attempt to intimidate or hinder a State or local
19 official or employee. Certainly, the Supreme Court and the
20 Court of Appeals and the clerk's office all fall into those
21 categories, and whether or not they were actually hindered, I
22 don't believe that we -- that I have to get to in this stage
23 of it because the law requires only an attempt to hinder.
24 Therefore, that motion is denied.

25 All your previous motions that I've previously ruled on,

1 my rulings are the same. I have not heard anything
2 sufficient enough to change my mind.

3 As to your arguments that this statute is
4 unconstitutional, under the Tenth and Fourteenth Amendments
5 I'm going to find that it is not, and I find that it clearly
6 sets out what the person is charged with, what they are
7 facing, what they're going forward, and it's not so overly
8 broad as to make it unable for him to answer or respond to.

9 Okay. Mr. Gary Wayne, stand up for me. Okay? All
10 right. Do you swear or affirm or what -- what do you do?

11 **Mr. Stitely:** He affirms, Judge.

12 **The Court:** Okay. Do you affirm that the information
13 you're about to provide me is the truth?

14 **Mr. Gary Wayne Presley:** Absolutely. My yea's will be
15 yea, and my nay's will be nay.

16 **The Court:** In -- in the -- in the words of Scripture,
17 may your yes be yes and may your no be no.

18 **Mr. Gary Wayne Presley:** Yes, sir.

19 Gary Wayne Presley, after affirming to tell the
20 truth, testified as follows in camera:

21 Examination by the Court

22 By The Court:

23 Q. Okay. Now, at this time, what I have to do is I have to
24 explain some of your rights to you. If you don't understand
25 anything I say, just tell me. If you want me to explain

1 you for your patience. Don't forget when we take these
2 breaks that we stay in here and work for a little while and
3 everybody -- then all of us still have to take a break, too,
4 so I apologize for the delay.

5 At this point in the trial, the State has rested its
6 case. That means that's all the evidence that you're going
7 to hear from them at this point. Now, as I've told you
8 before, Mr. Presley doesn't have to prove anything. He
9 doesn't have to say anything because the burden of proof lies
10 solely with the State of South Carolina, and that proof is
11 proof beyond a reasonable doubt. However, if he chooses to
12 present a defense, he may, and that's solely his decision.

13 Mr. Stitely, do you care to call any witnesses on Mr.
14 Presley's behalf?

15 **Mr. Stitely:** We will, Judge. We're going to call
16 Gary Wayne to the stand.

17 **The Court:** All right. Please come forward, Mr. Gary
18 Wayne. Right up here, sir.

19 Gary Wayne Presley, after affirming to tell the
20 truth, testified as follows:

21 Direct Examination

22 By Mr. Stitely:

23 Q. Gary, would you please state and spell your name for the
24 record?

25 A. My one true Christian appellation is Gary Wayne, G-A- --

1 capital G. small A-R-Y. Capital W. lower case A-Y-N-E.

2 Q. All right. Gary, you talk plenty loud. I'm going to
3 pull that microphone away from you completely, if that's all
4 right with the clerk.

5 A. All right.

6 Q. Okay.

7 A. My family's name is Presley, capital P. lower case
8 R-E-S-L-E-Y.

9 Q. Gary Wayne, how old are you?

10 A. My physical body is 66 years old, but I was born again
11 into the Kingdom on the 28th day of July, 1993. My spiritual
12 age is 20.

13 Q. Okay. And where were you born, physically?

14 A. Physically, I was born in the town of Anniston, Alabama.

15 Q. Okay. And you grew up in Alabama?

16 A. Yes, sir.

17 Q. Okay. Did you go to high school in Alabama?

18 A. Yes, sir.

19 Q. What did you do immediately after graduating high
20 school?

21 A. I enlisted in the United States Navy.

22 Q. Okay. When was that?

23 A. December of 1964.

24 Q. Okay. Did you take an oath when you enlisted in the
25 Navy?

1 A. Absolutely.

2 Q. Do you happen to recall what it is?

3 A. Yes, I do.

4 Q. Could you tell the Court?

5 A. I took an oath to support, protect, and defend the
6 Constitution of the United States of America against all
7 enemies, foreign and domestic, and to obey all lawful orders
8 from the officers appointed over me.

9 Q. Okay. How long did you serve in the Navy?

10 A. Six years.

11 Q. Where were you? What did you do?

12 A. Oh, well, I was -- I went to boot camp in San Diego. I
13 went to specialty tech school in Key West, Florida, a sonar
14 technical school for anti-submarine warfare, graduated third
15 in my class, which took a top-secret clearance from the
16 government to do the job that I was assigned to do.

17 I was assigned to a ship home ported in Newport,
18 Rhode Island, the U.S.S. Mary, and I served aboard her for
19 quite some time.

20 Q. Okay. And you were a sonar officer?

21 A. A sonar technician.

22 Q. Okay.

23 A. Petty officer.

24 Q. And you were honorably discharged at the end of six
25 years?

1 A. Yes, sir.

2 Q. Okay. Where did y'all go while you were on the ship?

3 A. My goodness. We went to a lot of places.

4 Q. Active em -- active deployment?

5 A. Oh, yes, sir.

6 Q. What was your battle group?

7 A. The Ninth Air Wing, the -- actually, the first active
8 nuclear-powered combat task force in history which consisted
9 of the U.S.S. Enterprise, the U.S.S. Bainbridge. Those were
10 the two nuclear-powered ships, and then the conventional
11 ships was The Roberts and my ship, The Barren.

12 Q. Okay. And while you were in the Navy and afterwards,
13 did you attend college?

14 A. Yes.

15 Q. And where did you go?

16 A. I started at Northeastern University in Boston. From
17 there I went to the University of Montevallo. I transferred
18 from there and did a short stint at the University of
19 Alabama, and there I went to the University of Alabama at
20 Birmingham. And from there I went back to the University of
21 Montevallo.

22 Q. And what did you graduate with a degree in?

23 A. Bachelor of Science Degree in Sociology.

24 Q. Okay. And you say that -- when you left the military,
25 what did you do next in your life?

1 A. Attended college shortly thereafter.

2 Q. Then what after that?

3 A. Worked various jobs, mostly for myself, and then
4 attended college again, and then when I graduated college, I
5 struck out in the business world on my own.

6 Q. Okay.

7 A. And basically it was -- given the opportunity to be
8 exposed to the study of law for -- from some very prominent
9 people.

10 Q. Okay. Let's get to the meat and potatoes of what we're
11 here for today. Gary Wayne, as you said when you swore that
12 oath when you joined the military, do you believe in our
13 Constitution of the United States government?

14 A. Absolutely, and still do. That oath is still binding on
15 me.

16 Q. Okay. And you believe in that still.

17 A. I swore it before my Father in Heaven.

18 Q. Okay. Can you tell us a little bit about what the
19 organization we've heard to referred -- why don't you tell
20 us, because you're the one who can explain it best?

21 A. All right. The -- the assemblies union, which consists
22 of all the assemblies nationwide, is an assembly of Christian
23 men and women in basically an ecclesiastical society
24 operating under the Christian common law, and we support the
25 Constitution, the Constitution of the States, and the rights

1 and liberty of the men and women involved.

2 Q. Okay. Is it a peaceful organization?

3 A. Absolutely. We serve the Prince of Peace. How can we
4 be violent?

5 Q. The Prince of Peace being?

6 A. Jesus the Christ.

7 Q. Now, you were here earlier when Geary Thomas testified.

8 A. Yes, sir.

9 Q. And he -- he kind of explained if anyone could be an
10 individual, could be a member of the assembly, how would you
11 be a member of the assembly of the...

12 A. By accepting Jesus the Christ as your Lord and Savior
13 and understanding the principles and concepts of His
14 teachings.

15 Q. And the basis, as far as it relates to our government,
16 would be the "of the people"; correct?

17 A. Absolutely.

18 Q. Would you explain to the jury what that means in
19 relationship to the First Amendment in the United States
20 Constitution?

21 A. All right. We, the people, are the authors and the
22 beneficiaries of the United States Constitution, and under
23 the First Amendment it guarantees us the right to peacefully
24 assemble and to worship our God as we see fit, now not just
25 Christians, but everyone who intends to worship a god as they

1 see fit. But we choose the God which is Jesus the Christ and
2 His glorious Father.

3 Q. When you say "right to assemble," what does that mean to
4 you?

5 A. That means the right to peacefully gather.

6 Q. Okay.

7 A. At any point and at any time.

8 Q. Okay. Would you say that you have ever been combative
9 towards our government and non-peaceful in any manner?

10 A. No, sir.

11 Q. Towards the State of South Carolina?

12 A. No, sir.

13 Q. Towards Mr. Shearouse as the clerk of court?

14 A. Absolutely not.

15 Q. Now, it's been referenced that you were a minister of
16 justice or I guess we keep calling a judge through -- for the
17 eastern or central district?

18 A. Central.

19 Q. Okay. Could you explain what that means and how you
20 came upon that title?

21 A. I came upon that title by election from the men and
22 women in the Central Assemblies Union because I had held
23 myself out for the office to be elected. There were others
24 that ran, and it just turned out that I was the one with the
25 most qualifications.

1 Q. How many members are there, as far as the ones that you
2 know as active participants in your assembly?

3 A. Just in the Central Assembly or nationwide?

4 Q. Nationwide.

5 A. Thousands.

6 Q. Okay. How about the Central Assembly?

7 A. I would say maybe 700, somewhere around in there.

8 Q. Specific to this case and how we got here today, you
9 were approached - I say approached - contacted by Gary
10 Thomas. Is that correct?

11 A. Yes, sir.

12 Q. And he explained to you that he was having a problem
13 dealing with several banks.

14 A. Yes, sir.

15 Q. Okay. And we've heard through him and probably more
16 articulately through Officer Prodan at S.L.E.D. that you had
17 a problem or your -- any citizen could have a problem with
18 banks and the way we do business with the United States
19 government currently.

20 A. Yes, sir.

21 Q. Now going to fraud on that. Where does the United
22 States derive their ability to create money?

23 A. From the United States Constitution.

24 Q. Okay. Do you know specifically where?

25 A. I believe it is Article 1, Section 10.

1 Q. That's correct. And in Article 1, Section 10, I can
2 either show it to him or read it.

3 Article 1, Section 10 says: No state shall enter into
4 any treaty, alliance, or confederation, grant letters of
5 marquis and reprisal, coin money, emit bills of credit, make
6 anything other than gold or silver coin a tender of payment
7 in (verbatim) debts, pass any bill of attainder, ex -- ex
8 post facto law or law impairing the obligations of contracts
9 or the titles of nobility. Correct?

10 A. Correct.

11 Q. We heard some comments earlier about what a promissory
12 note is.

13 A. Yes, sir.

14 Q. And -- and anyone who has ever had to take a loan for
15 anything probably knows what a promissory note is. What is
16 your understanding of what a promissory note is?

17 A. A promissory note is basically -- in a mortgage
18 situation, it is a signatory note that is given to the,
19 quote, lender to create the funds to fulfill the obligation
20 of the note.

21 Q. It's a promise on your signature---

22 A. Uh-huh.

23 Q. ---to some entity that you will make good---

24 A. Uh-huh.

25 Q. ---on what you're promising to do. Correct?

1 A. Right.

2 Q. And they give you funds, in whichever form, based on
3 that promise.

4 A. Well, actually they don't give them to you. They create
5 the money by issuing an assessment in their ledger as your
6 promissory note as an asset on their bank.

7 Q. All right.

8 A. They petition the Federal Reserve for those funds which
9 issues the funds to the bank.

10 Q. Do you know the act of Congress or the act of the United
11 States that created the Federal Reserve?

12 A. That would be the Federal Reserve Act of 1913.

13 Q. And pretty much, just for the jury's edification, if you
14 look at a Federal Reserve note, what we typically call bills,
15 what does it say, as far as on it?

16 A. On the very top of it, it says, "Federal Reserve note."

17 Q. Okay. And what is -- what is your understanding of what
18 that is?

19 A. That is an indication that the United States of America
20 owes to the Federal Reserve one dollar---

21 Q. Okay. And the federal---

22 A. ---or however many dollars are printed on the
23 denomination.

24 Q. And the Federal Reserve is an entity that's not the U.S.
25 government. Is that correct?

1 A. Absolutely not. It's a private banking entity.

2 Q. Okay. And there are a number of branches throughout the
3 country.

4 A. Twelve.

5 Q. Okay. One in each major region.

6 A. Uh-huh.

7 Q. Okay. And that's why when we see Brian (sic) Bernanke
8 go up in front of Congress, he, as the leader of a
9 corporation, telling the Congress what his corporation is
10 going to do...

11 A. Right.

12 Q. Okay. The question, when it came to these foreclosures
13 that were the bases of Gary Thomas's problems with the State
14 of South Carolina and these banks, just to sum up what you've
15 put in there, is that the banks sold on the open market his
16 signature or a promissory note.

17 A. Oh, they -- they sell them sometimes more than once.

18 Q. Okay. And in -- in laymen's terms, if we think about
19 that, if -- if you've ever had -- you paid your mortgage to
20 one company, and then all of a sudden you get a letter in the
21 mail saying now you owe U.S. Bank and not Bank of America.

22 A. Right.

23 Q. Okay. That would be your promissory note being sold to
24 some other entity.

25 A. Uh-huh.

1 Q. Fundamentally, what is the problem with that under
2 federal law?

3 A. The problem with that under federal law is that you are
4 discharging a debt with a debt instrument which cannot pay
5 the debt in itself.

6 Q. Are you familiar with the case - and this is a case you
7 talked to Officer Prodan about - which is the Bank of the
8 United States versus The Planters Bank of Georgia? It's a
9 Supreme Court case coming from March 20th of 1824.

10 A. Yes, sir. I'm familiar with it.

11 Q. And that pretty much stands for the premise that you've
12 just said.

13 A. Uh-huh.

14 Q. And in pertinent parts, the government becomes a
15 cooperator when it lays down its sovereignty so far as the
16 respects and transactions of the corporation and exercises no
17 privilege which is not derived from the charter.

18 A. Exactly.

19 Q. So your petitions, which the jury will get a chance to
20 look at, pretty much say: When they sold his name for
21 uncertified funds not accountable under those in our treasury
22 act, our bill that created money---

23 A. Right.

24 Q. ---they breached this contract.

25 A. Uh-huh. And committed fraud.

1 Q. Okay.

2 **Court Reporter:** I'm sorry. They what?

3 **The Witness:** Ma'am?

4 **Court Reporter:** I didn't understand.

5 **Mr. Stitely:** And committed fraud.

6 **The Witness:** And committed fraud.

7 By Mr. Stitely:

8 Q. When you served -- and -- and I'm going to ask you
9 straight out. The documents that have been entered as
10 numbers -- State's Exhibit Number 1 and State's Exhibit
11 Number 2---

12 A. Uh-huh.

13 Q. ---the original copies of which are State's Exhibits 10
14 and 11, all in evidence---

15 A. Uh-huh.

16 Q. I'm going to show them to you and make sure you've seen
17 them. I know we looked at them earlier.

18 A. Oh, yes.

19 Q. Is there any question that you mailed Number 10 and/or
20 created Number 11?

21 A. No, sir.

22 Q. You admit to that.

23 A. Absolutely. My signature is on it.

24 Q. Okay. Go ahead and...

25 **The Court:** What did you...

1 **Mr. Stitely:** I published -- sorry, Your Honor. I
2 apologize. That was Numbers 10 and 11, the originals.

3 **The Court:** Thank you.

4 **Mr. Stitely:** Sorry.

5 **The Court:** That's okay.

6 By Mr. Stitely:

7 Q. You're charged with filing sham legal process.

8 A. Yes, sir.

9 Q. And conspiring to file sham legal process. In your
10 opinion, did you commit a crime?

11 A. No, sir. I fulfilled the obligations of my elected
12 office.

13 Q. Okay.

14 A. I -- I did not corroborate with these people. I took
15 the facts and the evidence and the presentation that were
16 given to me as an officer of the court. I studied them. I
17 listened in on the hearing that was to be held, and when the
18 defendants failed to show up, there is no other alternative.
19 but to issue an order by default.

20 Q. I'm going to hand you something that we pre-marked as
21 Defendant's Exhibit Number 1. I'm going to ask if you
22 recognize it.

23 A. Yes, sir. That's my oath of office.

24 Q. Is that the one you, in fact, took?

25 A. Yes, sir.

1 Q. Fair and accurate representation?

2 A. Yes, sir.

3 Q. Your name is affixed to the bottom---

4 A. Yes, sir.

5 Q. ---by way of signature?

6 **Mr. Stitely:** Your Honor, I'd offer that as Defendant's

7 1.

8 **Mr. Underwood:** Without objection.

9 **The Court:** Defendant's 1 without objection.

10 (Defendant's Exhibit 1 was received in evidence.)

11 By Mr. Stitely:

12 Q. Gary Wayne, what is the oath you took as a minister of
13 justice for---

14 A. What is it? Do you mind if I read it?

15 Q. I will. Go ahead.

16 A. It says, "I, public minister of justice, Gary Wayne, do
17 solemnly aver that I will hear the disputes between my
18 brothers and judge righteously and fairly between a man and
19 his brother or a man and a stranger that is with him. I will
20 not show partiality in judgment, that I will listen to the
21 small man as well as the mighty man, and I will not be afraid
22 in any man's presence, for the judgments that I render is the
23 judgments of the Father. Bring to me any case too hard for
24 you and I will hear it, so help me, Father God."

25 Q. Okay. In the pleadings filed through your court I --

1 once again, I'm not -- I'm calling it your court, the court
2 of which you sit as a judge.

3 A. Right. It's not mine.

4 Q. Did you serve by way of service, like Mr. Shearouse
5 talked about, each and every party being the banks---

6 A. Yes, sir.

7 Q. ---the lawyers?

8 A. (Witness nodded head up and down.)

9 Q. Are those service documents included in those packets
10 the jurors are looking at?

11 A. I would think that they should be; yes, sir.

12 Q. And -- and you mailed them to everybody through the
13 United States postal mail.

14 A. Right.

15 Q. Did anyone respond to them?

16 A. No, sir.

17 Q. Okay. Is that pretty much the same allegation the State
18 made in their letter, that you had a right to respond in
19 kind?

20 A. Uh-huh.

21 Q. Had a bank shown up, had a representative from these law
22 offices shown up, had a representative of the Court of
23 Appeals shown up, would they have been offered an opportunity
24 to speak?

25 A. Absolutely.

1 Q. Would they have been encouraged to do so?

2 A. Yes.

3 Q. Is it your position that under no circumstance does a --
4 does a court like the South Carolina court have authority or
5 is it specific to each individual situation?

6 A. Specific to each individual situation.

7 Q. Okay. Can anyone, being me, one of these jurors,
8 Mr. Underwood, Judge Hood, bring a case before your court?

9 A. According to my oath of office, if you believe in the
10 precepts and concepts of Jesus the Christ, yes, you can.

11 Q. Where in the -- beyond that, does the Constitution give
12 right to say that you can hold a tribunal in front of a
13 member of your peers?

14 A. Well, the first one is at Article 3 which establishes
15 the courts, and the one that gives me or the people the right
16 to hold a tribunal is -- right off the top of my head I can't
17 -- it's -- I'm sorry. I can't remember offhand but...

18 Q. That's all right.

19 A. I have it on the table over there.

20 Q. That's okay. There was some mention when you were --
21 when Officer Prodan was -- and you remember speaking to
22 Officer Prodan on that car ride up here; correct?

23 A. Oh, yes, sir. We had a most enjoyable conversation.

24 Q. Okay. And you answered everything he asked; correct?
25 Gave him---

1 A. As truthfully as I could.

2 Q. ---quite a history lesson as far as -- and I -- I -- and
3 we talked about it, too, about the foundation of our country.

4 A. Uh-huh.

5 Q. One of the things referenced and -- and the State
6 brought up is a problem with why you think that we have a
7 de facto government situation at hand in South Carolina as
8 well as in Alabama. What is the legal basis for that?

9 A. The legal basis of that is the de facto government was
10 declared such by the Alabama Supreme Court decision in the
11 case of Irwin's Executors versus the Mayor, Council and
12 Alderman of the City of Mobile which was tried before the
13 Supreme Court of Alabama in 1876. And it recorded as such in
14 the Constitutional Convention of Alabama of 1875 as the day
15 of usurpation, and that day in Alabama is recorded as the
16 13th day of July, 1868.

17 Q. What about the South Carolina...

18 A. It has been noted in the State of South Carolina as the
19 6th day of July, 1868.

20 Q. And what exactly is that?

21 A. That's the day that the lawful governments were seized
22 by the military authorities and runk (phonetic) legislators
23 set in place of the lawfully-elected legislators, and the
24 elected legislators were removed and placed under arrest.

25 Q. Pretty much, that's when the -- during, I guess we want

1 to call it a reunification or whatever -- that's the usurping
2 of power which several of the states didn't recognize. In
3 fact, South Carolina, being one of them, noted it---

4 A. Uh-huh.

5 Q. ---that they disagreed with the power---

6 A. Right.

7 Q. ---being, as you put it, usurped.

8 A. Right. That's the way the court of Alabama put it,
9 usurped. The day of usurpation it's called.

10 Q. Did you mean -- and I think I already asked you: Did
11 you conspire to commit a crime in the State of South
12 Carolina?

13 A. Absolutely not. I just simply fulfilled my office.

14 Q. Have you been to South Carolina before you became a
15 guest of the State?

16 A. No, sir.

17 Q. Let's talk about that briefly. What happened as far as
18 -- initially, were you contacted by the F.B.I.?

19 A. We were the ones that contacted the F.B.I.

20 Q. We being?

21 A. Myself and Michael Donald.

22 Q. Okay. And who did you speak to?

23 A. Agent Melissa Dunning.

24 Q. And she was one of the listed witnesses. You haven't
25 seen her around today though, have you?

1 A. No, sir. And believe me, if she were here, you would
2 notice.

3 Q. Okay. Have -- how many times did you meet with
4 Agent Dunning?

5 A. Many, many times.

6 Q. Okay.

7 A. Either by personal or speaking with her on the
8 telephone. We conversed with her quite regularly.

9 Q. Okay. Did you ever avoid her, refuse to take her call
10 or refuse to come to see her?

11 A. Oh, no, sir.

12 Q. Okay. When were you made aware that the State of South
13 Carolina had the intention for arresting you?

14 A. I believe it was on the 7th day of January of 2011.

15 Q. Okay. And when you ultimately were arrested in
16 Alabama---

17 A. Uh-huh.

18 Q. ---how did that happen?

19 A. Agents of the Alabama Bureau of Investigation forced
20 themselves upon myself by disguising themselves as agents of
21 the railroad company doing surveys on the railroad that runs
22 in front of my house. And I was sitting on the porch, and
23 they came up and started asking me about -- first of all,
24 about the accident that had taken place there and then they
25 told me that they were agents of the Alabama Bureau of

1 Investigation and that they had warrants for my arrest from
2 South Carolina.

3 Q. Did you fight with them physically?

4 A. Absolutely not.

5 Q. Had they simply called you and said, "Gary Wayne, we
6 need you to come down to the office to submit to some
7 warrants," would you have done it?

8 A. I certainly would have.

9 Q. Okay. What happened once you got locked up in Alabama?
10 When was that? Do you remember?

11 A. That was on the 7th day of January.

12 Q. Okay.

13 A. Of 2011.

14 Q. How long did you sit incarcerated in Alabama?

15 A. From those warrants, seven -- approximately seven days.

16 Q. Okay. And then ultimately South Carolina sought to
17 extradite you; correct?

18 A. Yes, sir.

19 Q. And extradite is a fancy legal term meaning to take
20 someone from one place and bring them to another by force.

21 A. Uh-huh.

22 Q. When were you arrested and held in Alabama for
23 extradition?

24 A. I was served the extradition warrants -- I have it
25 written on -- on my copy of it.

1 Q. You can ball-park it.

2 A. It was sometime in April.

3 Q. Okay. Of 2011.

4 A. Yeah.

5 Q. When were you brought up to Richland County, South
6 Carolina?

7 A. On the 20th day of May, 2011.

8 Q. Was that the first time you've been to South Carolina?

9 A. Yes, sir.

10 Q. Okay. Where did you go once you got to the State of
11 South Carolina?

12 A. Well, I went to the holding facility at the
13 Alvin S. Glenn Detention Center here in Columbia.

14 Q. Okay. How long did you stay there?

15 **Mr. Underwood:** Objection, Your Honor. Relevance.

16 **Mr. Stitely:** Judge, I think we can talk about the path
17 he took to get here. Especially relevant, I'm going to ask
18 him what happened to his previous charges. I think the jury
19 has a right to hear all of it.

20 **Mr. Underwood:** I would object to that as well, Your
21 Honor.

22 **The Court:** Y'all approach.

23 (Whereupon, a bench conference was held.)

24 By Mr. Stitely:

25 Q. Okay. Ultimately, the charges -- the arrest warrants

1 you brought -- that brought you here were for some other
2 mailings on August 2nd; correct?

3 A. Yes, sir.

4 Q. Similar of nature, these were...

5 A. (Witness nodded head up and down.)

6 Q. And -- and I guess they're going to come in in a moment.
7 Also mailed by the same way, service of process and
8 everything like that?

9 A. Uh-huh.

10 **The Court:** Why don't you just move them in?

11 **Mr. Stitely:** He said they're State's -- I don't mind
12 doing that.

13 **Mr. Underwood:** Your Honor, if I can kind of jump in to
14 his side and---

15 **Mr. Stitely:** He can offer them all in.

16 **Mr. Underwood:** I would move that those exhibits be
17 entered in.

18 **The Court:** Why don't we just stipulate that those are
19 coming in?

20 **Mr. Stitely:** I'll -- I'll do that, Judge.

21 **The Court:** Okay. Do you -- do you have any objection
22 to that?

23 **Mr. Underwood:** No, Your Honor. I agree to the
24 stipulation on these. We'll put on the record the exhibit
25 numbers that are being entered.

1 **Mr. Stitely:** Yeah. I'll do it right now.

2 **The Court:** All right. Ladies and gentlemen, we're
3 going to put some documents in by stipulation. This means
4 that both parties agree that you should be able to see the
5 documents. That's State's Exhibit Number 4, State's Exhibit
6 Number 5, State's Exhibit Number 7, State's Exhibit Number 8,
7 State's Exhibit Number 9, and State's Exhibit Number 17.

8 **Mr. Stitely:** Yes, sir.

9 **The Court:** Okay. I'm trying to speed things up a
10 little bit, so that's why we're doing that as opposed to the
11 State just having to call another witness just to put those
12 in. Okay. Go ahead.

13 (State's Exhibits 4, 5, 7, 8, 9, and 17 were received in
14 evidence.)

15 By Mr. Stitely:

16 Q. Ultimately, it was some documents, specifically State's
17 Exhibit Number 4---

18 A. Uh-huh.

19 Q. --which was an August 2nd mailing of a similar nature
20 that brought a warrant about that brought you to South
21 Carolina; correct?

22 A. I believe so; yes, sir.

23 Q. And when were you brought to South Carolina?

24 A. On May the 20th of 2011.

25 Q. Okay. When did I go to trial with you on those

1 documents?

2 A. The 27th of August of 2013.

3 Q. How long had you been in Alvin S. Glenn Detention
4 Center?

5 A. At that time, 27 months.

6 Q. Okay. Constantly incarcerated?

7 A. Always.

8 Q. Not able to leave on your own free will?

9 A. Absolutely not.

10 Q. Had you asked the Court to try your case earlier than
11 that?

12 A. Many times.

13 Q. Specifically, how many?

14 A. To the best of my recollection, it was between four and
15 five times.

16 Q. Did we, in fact, have a hearing on the record about
17 that?

18 A. Yes, we do (verbatim).

19 Q. And ultimately was the case dismissed for failure to
20 grant that speedy trial?

21 A. Yes.

22 Q. At that time they served two more warrants on you for
23 similar mailings---

24 A. (Witness nodded head up and down.)

25 Q. ---to the master-in-equity in Lexington County. Is that

1 correct?

2 A. Yes, sir.

3 Q. On the face of those, it alleged that you mailed them
4 back in 2010 when you mailed all of these documents; correct?

5 A. Right.

6 Q. And then at some point subsequent to that, you were
7 brought back over to Richland County when these indictments,
8 the ones we are here for today, were served upon you
9 personally.

10 A. Yes, sir.

11 Q. And you remained incarcerated in Lexington County until
12 when?

13 A. It was -- I don't remember the date. November. I'm
14 only---

15 Q. Two weeks ago on a Thursday?

16 A. Yes.

17 Q. Okay. Was when you -- when you finally got out of jail.
18 All said and -- how long were you held by the State of South
19 Carolina?

20 A. Approximately 29 to 30 months.

21 Q. And in these documents, specifically in State's Exhibit
22 Number 3, that was a letter - and I'm going to hand it to you
23 so you're not working without looking - a letter from
24 Mr. Shearouse, the Clerk of Court, saying that he received
25 your documents filed on June 2nd and the ones filed by Mr.

1 Thomas on June 15th.

2 A. Uh-huh.

3 Q. Okay. And it invites you to file more. What -- what
4 does the last little bit of that say?

5 A. It says, "Failure to serve and file a response may be
6 deemed as consent to the striking of these documents."

7 Q. Is that encouraging you to respond within ten days?

8 A. That's what it says in the sentence above it.

9 Q. Read that one to the jury, please.

10 A. It says, "Additionally, Mr. Gary Wayne is advised that
11 he may serve and file a response to this letter within ten
12 days of the date of this letter."

13 Q. Okay. And that was dated the end of July.

14 A. July the 23rd, 2010.

15 Q. And State's Exhibit Number 4, also in evidence, was
16 filed by you on August 2nd of 2010; correct?

17 A. Yes, sir.

18 Q. Clocked into the Supreme Court on August 5th of 2010 it
19 appears.

20 A. Uh-huh.

21 Q. And the very first line of it is a response saying: I
22 respond saying it's not sham legal process; correct? I'll
23 let you look at it, and then I'll hand it to the jury.

24 A. Thank you, sir. All right. It says the service and not
25 filing.

1 Q. Oh, sorry.

2 A. The service and not filing upon all concerned coming
3 from this de jure forum is not sham legal process.

4 Q. They asked you specifically in the letter, Exhibit
5 Number 3, to file a response within ten days. You did that,
6 didn't you?

7 A. I believe so.

8 Q. In State's Exhibit Number 6 which is the actual order
9 signed by the five judges on our Supreme Court, in relevant
10 parts on the fifth page or -- I apologize. On the sixth page
11 in the second paragraph indicates -- and I'm going to -- I'm
12 going to show it to you, and I'm going to ask you to read it.
13 It's the second -- first full paragraph on that page.

14 A. The first full paragraph?

15 Q. Yes.

16 A. It says, "In response, this Court sent the parties a
17 letter dated July 23rd, 2010, and advising the parties that
18 these documents appeared to be sham legal process and
19 directing each to file a response indicating if the party
20 opposes the striking of the above documents." End of
21 sentence. "Additionally, Mr. Wayne was advised that he could
22 file a response. Neither appellant nor Mr. Wayne filed a
23 response." End of paragraph.

24 Q. What -- what is Exhibit 4 that the jury is looking at
25 right now that was filed within ten days?

1 A. Their response.

2 **Mr. Stitely:** Publish Number 6 to the jury.

3 **Mr. Underwood:** Your Honor, may we approach?

4 (Whereupon, a bench conference was held.)

5 By Mr. Stitely:

6 Q. You filed an answer; correct?

7 A. I served an answer; yes, sir.

8 Q. I'm using my words wrong. You served that answer on all
9 necessary parties---

10 A. Yes, sir.

11 Q. ---including the Supreme Court?

12 A. Yes, sir.

13 Q. A clocked copy is, in fact, in evidence right there
14 showing that the Supreme Court got it?

15 A. Yes, sir.

16 Q. Do you know why they didn't comment about your reply and
17 said you didn't respond at all?

18 A. No, sir. I have no idea.

19 Q. As a reasonable person, when they asked you to file
20 answers, what did you do?

21 A. I served an answer upon them.

22 Q. And they arrested you for it.

23 A. Yes, sir.

24 Q. They asked you to do something, and then they arrested
25 you when you did it.

1 A. (Witness nodded head up and down.)

2 Q. Is that fair?

3 A. Absolutely correct.

4 Q. That's what happened.

5 A. Right.

6 Q. Our Supreme Court sent you a letter saying we want you
7 to file an answer, but you filed the answer, and they got a
8 warrant saying: Arrest this man; he filed an answer.

9 A. (Witness nodded head up and down.) Yes.

10 Q. Have you ever held arms against the State of South
11 Carolina?

12 A. Have I ever done what?

13 Q. Held up arms, tried to---

14 A. No, sir.

15 Q. In your conversations with Mr. Prodan, Captain Prodan,
16 on the drive up, did you explain whether your -- the Central
17 Assemblies or the Assemblies Union was any militant
18 organization or a peaceful one?

19 A. We serve the Prince of Peace who is Jesus the Christ,
20 and we are peaceful.

21 Q. Is your intent to harm anyone in the State of South
22 Carolina?

23 A. Absolutely not.

24 Q. What do you see as your sworn oath to do as far as the
25 Constitution of the United States?

1 A. To support, uphold, and defend it against all enemies,
2 foreign and domestic.

3 Q. By filing these documents, are you in compliance, in
4 your opinion, with the Constitution of the United States?

5 A. Absolutely. Correct.

6 Q. Has anyone called you before a tribunal to show you, to
7 have argument against that specifically?

8 A. Other than this.

9 Q. Did they give you an opportunity to speak at a
10 preliminary hearing, a probable cause hearing, before the
11 warrants?

12 A. No, sir.

13 Q. So this is the first time you've had an opportunity to
14 tell the Court, the judge, the attorney general your
15 position.

16 A. Other than the documents that I submitted to the Court
17 through the clerk's office.

18 Q. Which would be through motions and the like.

19 A. Right.

20 Q. Is there anything I've forgotten that you specifically
21 have to testify about, Mr. Gary -- Gary Wayne?

22 A. Not that I can recall at this time.

23 Q. Please answer any questions the Attorney General's
24 office has for you.

25 A. I will be happy to.

1 **Mr. Underwood:** Court's indulgence, Your Honor?

2 Cross-Examination

3 By Mr. Underwood:

4 Q. Mr. Presley -- excuse me. Mr. Gary Wayne, is that what
5 you go by?

6 A. Yes, sir, Gary Wayne.

7 Q. Sir, you acknowledge that the documents in State's
8 Exhibit Number 1, you did send those to South Carolina;
9 correct?

10 A. I sent them via registered or certified mail.

11 Q. And you sent them to the South Carolina Court of Appeals
12 here in Richland County?

13 A. Yes, sir.

14 Q. And you did that intentionally?

15 A. Yes, sir, to give them notice.

16 Q. Okay. And that was to give them notice that the court
17 in which you're a judge -- or I think you used the term
18 justice minister?

19 A. Uh-huh.

20 Q. Was taking jurisdiction of the underlying cases;
21 correct?

22 A. Acquiring jurisdiction, not taking it. Acquiring.

23 Q. That your court was acquiring jurisdiction over these
24 cases.

25 A. Right.

1 Q. And you intended for that to -- that document to take
2 effect to the court. For them to acknowledge that and take
3 effect of it?

4 A. Just to give them notice, yes.

5 **Mr. Underwood:** No further questions, Your Honor.

6 **Mr. Stitely:** I do have one thing just -- just briefly,
7 Judge, and I don't know if it would be proper to call it a
8 redirect or if I can re-call him. I wanted to actually show
9 him a copy of the warrant that brought him here and -- and
10 put it in as a defendant's exhibit. This is the one I've
11 been referencing that talks about the August 2nd events which
12 is specifically Exhibit 4.

13 **Mr. Underwood:** I would object to that, Your Honor.

14 **The Court:** Yeah. I don't think we need -- I mean, I
15 think -- you've set it out very clearly, in my opinion,
16 before them for them to follow.

17 **Mr. Stitely:** I have nothing further from Mr. Gary
18 Wayne.

19 **The Court:** All right. You may step down, Mr. Gary
20 Wayne.

21 **The Witness:** Thank you.

22 **The Court:** You're very welcome. All right. Mr.
23 Stitely?

24 **Mr. Stitely:** That's the defense's case, Your Honor.

25 **The Court:** Okay. Ladies and gentlemen, if you will

1 retire to your jury room, and I'll be back with you in just a
2 few minutes. Do not discuss the case and keep an open mind.
3 Thank you.

4 (Whereupon, the jury was excused from open court at
5 3:36 p.m.)

6 **The Court:** Okay. Let's talk about the scheduling for
7 just a second. Are you putting on any reply?

8 **Mr. Underwood:** No, Your Honor.

9 **The Court:** All right. Now, Ms. Helms needs to leave at
10 4:45 which kind of puts us in this quandary because I don't
11 know -- I know how long the charge will be. I don't think
12 either one of you are going to be standing up there for an
13 hour, based on the way you've presented everything else, but
14 I think it's very conceivable that the jury could get the
15 case and then she could be gone, which could be an issue.

16 So option number one is to push through tonight, and she
17 make childcare arrangements. Option number two is to go
18 ahead and stop and come back and argue and charge first thing
19 tomorrow morning. Do you have a preference?

20 **Mr. Underwood:** Your Honor, I'd defer to our court
21 reporter, Your Honor.

22 **The Court:** Okay. Do you have a preference?

23 **Mr. Stitely:** Judge, I'm at the Court's leisure. I -- I
24 mean, I -- I can't guess that it's going to be super long,
25 but with a 30-minute charge and say we went 20 minutes each,

1 we're going to be...

2 **The Court:** Yeah. I mean, we're going to push. I mean,
3 it's going to be 5:00 before they get it and they may -- they
4 may say let's just work through but... All right.

5 **Mr. Stitely:** I'm all right with coming back if that's
6 what Your Honor wants to do. I know my kids always enjoy
7 when I get home, too.

8 (Pause in proceedings.)

9 **The Court:** Let's go ahead and make motions, your
10 motions and everything that you need to make right now for
11 the record, and then we'll start tomorrow morning at 9 with
12 argue and charge and let's -- we'll -- we'll talk about the
13 charge, too, real quick before we go. Do you want to renew
14 your motions?

15 **Mr. Stitely:** I would, Judge. I renew all motions. And
16 as far as the directed verdict, now that all of the evidence
17 is in, in the light most favorable to the State we feel it's
18 insufficient on all previously-stated bases.

19 **The Court:** All right. Do you want to respond to that?

20 **Mr. Underwood:** Your Honor, again I just disagree with
21 that conclusion, Your Honor. Viewing it in the light most
22 favorable to the State, there's sufficient evidence for this
23 case to go to the jury.

24 **The Court:** Okay. All right. I'm going to deny your
25 motions for a directed verdict at this time. I think this

1 case -- I think both sides have presented sufficient evidence
2 for this case to go forward to a jury, and I think both sides
3 have done a good job of trying the case and getting all the
4 facts out there so that they can make the appropriate
5 decision.

6 Okay. So here's how the charge goes. The first thing
7 I'm going to tell them is these are the indictments; they're
8 not evidence. I can go through their duties -- their duties
9 and my duties. I then immediately go into presumption of
10 innocence. I go from presumption of innocence to reasonable
11 doubt. I charge Victor versus Nebraska. I then go into
12 direct and circumstantial evidence.

13 On the credibility of witnesses charge, I will take out
14 the part of the charge that says "several witnesses over one"
15 since the defendant just presented one. I will -- I'm going
16 to cut that part of it out. I don't want anybody weighing
17 who had more witnesses, and that's what I -- and that's what
18 I typically do in cases where there's just one witness on one
19 side. There were -- there was no expert testimony in this
20 case. I need what is not evidence. I then go into what is
21 not evidence.

22 I will then go into the statement of the defendant. I
23 then go into intent, and then I will read the conspiracy
24 charge and the persons impersonating officials statute.
25 There is nothing in the charge book on 16-17-735.

1 right to voice our objections, to peaceably assemble, and
2 I'll take any of your cases just the same.

3 Did he commit a crime? That's what you have to
4 determine: Criminal intent. Was his intent to conspire to
5 commit a crime in the State of South Carolina by voicing an
6 objection to a foreclosure process? At the end of the day,
7 that's it.

8 You're reasonable people. You bring different things
9 into this box. We all think differently. That's why we're
10 in America. Thank you.

11 **The Court:** Thank you, Mr. Stitely.

12 **Mr. Underwood:** May it please the Court, Your Honor?

13 **The Court:** Yes, sir.

14 **Mr. Underwood:** Good morning. When it comes right down
15 to it, this case boils down to three questions and three
16 questions only. First, did Gary Wayne Presley send this
17 packet of documents to the South Carolina Court of Appeals?
18 Second, is it sham legal process, the documents in that
19 packet? And, third, is Gary Wayne Presley guilty? That's
20 really the three questions you have to consider when you boil
21 it down.

22 I'll give you a spoiler alert. All three questions have
23 the same three-letter answer. Those documents that Gary
24 Wayne Presley sent to the South Carolina Court of Appeals,
25 they're not an objection to anything. They aren't a simple

1 declaration of someone's ideas or ideals. This isn't a First
2 Amendment issue.

3 You heard Captain Prodan testify yesterday: If all he
4 was sending was declarations of what he thought, that's not a
5 crime. He never would have been charged. That's what the
6 officer told you because that's not what these documents are.

7 What is sham legal process then? Now, the judge is
8 going to instruct you in more detail after my argument, but
9 just one or two little things to think about. Sham legal
10 process is - one of the definitions; there's more than one -
11 is documents that assert jurisdiction or authority over a
12 legal process in South Carolina.

13 Now, you heard yesterday: I only asked Mr. Presley a
14 few questions. You know, did he send this stuff? Yes, he
15 did. Was this about -- were these documents about taking
16 authority or jurisdiction from the South Carolina Court of
17 Appeals to his quote/unquote court that meets by telephone in
18 a restaurant? And that's what he said it was for. These
19 weren't documents just trying to take my point of view and
20 put it out to the world -- Mr. Presley's point of view. They
21 were documents that were trying to get in the middle of a
22 valid legal dispute. It wasn't about a personal ideal
23 objection. He was getting in the business of our courts.

24 Now, something you need to ask yourself: Was he doing
25 this totally by himself? Because he's not only charged with

1 sending this sham legal process; he's charged with
2 conspiracy. Well, conspiracy is when two or more persons
3 come together to complete a criminal objective or to complete
4 something that is lawful but doing it in a criminal way.

5 Gary Wayne Presley didn't do this all by himself.
6 Geary Dooly came to him, came to his organization, asked for
7 their help, said: Hey, I've got this foreclosure problem; I
8 need your help. He provides all the information to a
9 Mr. Wilsey who then gives it to Mr. Presley. And you can
10 look at the documents. Both Wilsey and Presley's signatures
11 are on them. This is a group of people, at least three - if
12 you look at the documents closely, possibly more - working
13 together.

14 We've already established - and the judge will instruct
15 you - what sham legal process is and what falsely asserting
16 authority of law is. They came together for that goal, to
17 falsely assert this authority of law that they are this
18 superior court to our courts here in South Carolina even
19 though this court for this Central Assemblies Union is not
20 anything I ever learned about in middle school or high school
21 civics class because it's not a government. The documents
22 that Mr. Presley filed claim that it's a foreign nation.

23 It's important to realize that Mr. Presley's not insane.
24 He just has these ideas that he's putting out, not because
25 he's crazy but because he's a con artist. His group makes up

1 all these documents with crazy, confusing legal-sounding
2 ideas to try to avoid things like paying their debts. You
3 heard testimony that these people think that your mortgage
4 isn't real because it was always your money that the
5 government borrowed against your birth certificate because
6 your name was written in capital letters. That's just a
7 scam.

8 You heard testimony that this case wasn't meant to hurt
9 anybody, that there's no victims, but that's not correct.
10 Our entire justice system is a victim. The time and energy
11 and effort that has to be spent dealing with documents like
12 this is taking away from time that our courts and personnel
13 need to be spending on real cases, on real disputes that
14 affect real people.

15 And not only is Geary Thomas Dooly a co-conspirator.
16 When you really think about it, he's a victim in all this.
17 He got pulled into this scam thinking that he could not pay
18 his mortgages and keep his rental properties. But since this
19 is all a scam, he ended up losing his properties because of
20 these crazy scams. So not only is he a co-conspirator, he's
21 a victim when you really think about it.

22 Now, there was a lot of talk about how, well, Mr.
23 Presley never came to South Carolina until he was arrested.
24 Well, the judge is going to instruct you that that doesn't
25 really matter. What matters is if someone commits an act,

1 even if it's in another state, if that act is intended to
2 have a detrimental effect here in South Carolina and it has
3 such an effect here, then they are subject to being
4 prosecuted in this state, even if they never stepped foot
5 here. When you think about it, that really does make sense.

6 Think about the Unabomber. If you could say, oh, well,
7 the Unabomber can't be prosecuted for blowing up these bombs
8 because he was never there; he just sent it in the mail,
9 well, that's ridiculous. He put those bombs in the mail
10 hoping to have an effect where those bombs ended up, and
11 that's why he could be prosecuted. So that really does make
12 sense.

13 The judge is going to tell you that you need to find
14 that Gary Wayne Presley is guilty beyond a reasonable doubt
15 and, again, that it was our burden, the State of South
16 Carolina's burden, to prove that to you. When you go in your
17 jury room, you'll have a chance to look at all of these
18 documents. You can look at them for yourself and realize you
19 don't need to be a lawyer to look at this and be able to tell
20 that it's a bogus sham.

21 Take a little bit of time if you want and read some of
22 these documents and particularly State's Exhibit Number 10
23 which is the documents in question in one of the indictments.
24 You don't have to be a lawyer to figure out that this is a
25 sham when you start reading where it's talking about how this

1 superior court of the Central Assemblies is taking
2 jurisdiction and telling our courts what they need to do.

3 Well, you can think about: Was it a mistake? Did he
4 really mean to be doing all this stuff? He didn't think it
5 was a crime; he just thought it was his First Amendment
6 right. Don't forget you've also got in there -- you've got a
7 letter from the Supreme Court clerk of court in July saying:
8 Hey, this stuff looks like sham legal process. You're going
9 to have an opportunity if -- if we're wrong, if we're missing
10 something, you can tell us.

11 So what does Mr. Presley respond with in State's Exhibit
12 Number 4? More sham legal process, basically where he's
13 saying that the South Carolina courts aren't real, that the
14 real jurisdiction is with his again quote/unquote court.
15 And, I mean, if you just read this, I mean, it's clear that
16 this is not a valid response to anything. This is just more
17 sham legal process.

18 Now, I'm not going to waste time reading this to you,
19 ladies and gentlemen. You'll have an opportunity to look at
20 it. But, okay, let's say he still didn't know any better.
21 It's just innocent First Amendment talk.

22 Well, then in September there's an order from the
23 Supreme Court that gets sent to Mr. Presley, an order from
24 our Supreme Court that clearly says these documents, the
25 documents in Exhibit Number 10, are sham legal process. That

1 order says that clear as day. It's sham legal process. It
2 hinders our courts.

3 So what's Mr. Presley's response? He sends more stuff
4 in December and more stuff in January, and those are in
5 evidence. And that's just the materials that pertain to this
6 case, not to the other charges in other counties that
7 Mr. Presley was facing.

8 Ladies and gentlemen, Mr. Presley is part of a group of
9 scam artists that make up these bogus documents to interfere
10 with our courts to try to get away with things that they're
11 not legally entitled to. It messes up our judicial system
12 and it affects people with real problems and real disputes.

13 When you just look at these documents and think of the
14 testimony that you heard, there's only one thing that you can
15 conclude: That's that the State has proven Gary Wayne
16 Presley guilty of criminal conspiracy and guilty of falsely
17 asserting authority of law with this sham legal process.
18 Thank you.

19 **The Court:** All right. Ladies and gentlemen, we've now
20 reached the point of the trial where I will tell you what the
21 law is in this state as it applies to the case that you have
22 heard. This takes a few minutes, so stay with me. As I go,
23 sometimes I will change the cadence of my speech or slow down
24 or speed up just a little bit, really more than anything just
25 to make sure that you're staying with me because it does take

1 a few minutes for me to explain everything.

2 The indictments in this case have charged the defendant
3 with criminal conspiracy and falsely asserting authority of
4 law. I remind you that the fact that the defendant was
5 arrested, charged, and indicted in this case is not evidence
6 in this case of anything, and it cannot be considered by you
7 as evidence of guilt in this case nor does it create any
8 presumption or inference of guilt. These documents, being
9 the indictments, are simply the formal written instruments
10 which contain the charges made against the defendant. They
11 are the formal documents by which this case is brought before
12 this Court.

13 I remind you that during this trial you and I have
14 certain duties to perform. As the trial judge, it is my
15 responsibility to preside over the trial of the case, and I
16 also have the duty of ruling on the admissibility of the
17 evidence that was offered during this trial. You are to
18 consider only the competent evidence before you. If there
19 was any testimony that I ordered stricken from the record,
20 you must disregard that testimony. You are to consider only
21 the testimony which has been presented from this witness
22 stand and any exhibits which have been made a part of the
23 record in this case or any of the stipulations of counsel.

24 I have the additional duty to charge you the law
25 applicable to this case as the presiding judge. I am the

1 sole judge of the law in this case, and it is your duty as
2 jurors to accept and apply the law as I give it to you. If
3 you already have an idea as to what the law is or what the
4 law ought to be and it does not agree with what I now tell
5 you, you must abandon your own idea because you are sworn to
6 accept the law and apply it exactly as I state it to you.

7 In every case in this court tried before a jury, the
8 jury becomes the sole and exclusive judge of the facts. A
9 trial judge cannot state, comment on, or make any statement
10 to a trial jury about the facts in a case. Since you, the
11 jury, are the sole judge of the facts, you are not to infer
12 from anything that I have said during the progress of this
13 trial in ruling upon the admissibility of evidence or
14 otherwise or anything that I say now during the course of
15 this instruction that I have any opinion about the facts.
16 The law does not allow me to have an opinion about the facts
17 in this case. This is a matter solely for you to determine.
18 As jurors, it is your duty to determine the effect, the
19 value, the weight, and the truth of the evidence presented
20 during this trial.

21 The defendant has pled not guilty to the indictment, and
22 that plea puts the burden on the State to prove the defendant
23 guilty. A person charged with committing a criminal offense
24 in South Carolina is never required to prove himself
25 innocent. I charge you that it is an important rule of law

1 that the defendant in a criminal trial, no matter what the
2 seriousness of the crime or the charge may be, that person
3 will always be presumed to be innocent of the crime for which
4 the indictments were issued unless guilt has been proven by
5 evidence satisfying you of that guilt beyond a reasonable
6 doubt. This presumption of innocence does not end when you
7 begin your deliberations, but it accompanies the defendant
8 throughout the trial until you reach a verdict of guilt based
9 on evidence satisfying you of that guilt beyond a reasonable
10 doubt.

11 This presumption of innocence is like a robe of
12 righteousness placed about the shoulders of the defendant
13 which remains with the defendant until it has been stripped
14 from the defendant by evidence satisfying you of his guilt
15 beyond a reasonable doubt. This presumption of innocence is
16 not a mere legal theory. It is not just a legal phrase.
17 It's not something that you've heard on T.V. or seen in a --
18 read in a book or seen on a movie. This is a substantial
19 right to which every defendant is entitled unless you, the
20 jury, are satisfied from the evidence of the defendant's
21 guilt beyond a reasonable doubt.

22 The State has the burden of proving the defendant guilty
23 beyond a reasonable doubt. Now, some of you may have served
24 as jurors in civil cases where you were told that it is only
25 necessary to prove that a fact is more likely true than not

1 true or what they call the greater weight or the
2 preponderance of the evidence.

3 In criminal cases, the State's burden of proof must be
4 more powerful than that. It must be proof beyond a
5 reasonable doubt. Proof beyond a reasonable doubt is proof
6 that leaves you firmly convinced of the defendant's guilt.
7 There are very few things in this world that we know with
8 absolute certainty, and in criminal cases the law does not
9 require proof that overcomes every possible doubt.

10 If, based on your consideration of the evidence, you are
11 firmly convinced that the defendant is guilty of the crimes
12 charged, you must find the defendant guilty. If, on the
13 other hand, you think there is a real possibility that the
14 defendant is not guilty, you must give the defendant the
15 benefit of the doubt and find him not guilty.

16 There are two types of evidence which are presented
17 during a trial: Direct and circumstantial. Direct evidence
18 is testimony of a person who claims to have actual knowledge
19 of a fact, such as an eyewitness. It is evidence which
20 immediately establishes the fact to be proved.

21 Circumstantial evidence is proof of a chain of facts and
22 circumstances indicating the existence of a fact. Example:
23 You go home tonight. It's late. It's cold. It's 10:00.
24 You're getting ready to go to bed. You look out across your
25 front lawn. Your grass is brown, and there's nothing on it.

1 Tomorrow morning, you wake up and there -- your front lawn is
2 covered in snow, and there are footsteps leading up to your
3 front porch.

4 Now, did you see it snow? No. Did you hear it snow?
5 No. Can you infer through circumstantial evidence that it
6 snowed during the night? Yes.) And you could also infer that
7 somebody walked through your yard during the middle of the
8 night. That's an example of circumstantial evidence.

9 The law makes absolutely no distinction between the
10 weight or the value to be given to either direct or
11 circumstantial evidence nor is a greater degree of certainty
12 required. You should weigh all of the evidence in this case.
13 After weighing all of the evidence, if you are not convinced
14 of the guilt of the defendant beyond a reasonable doubt, you
15 must find the defendant not guilty.

16 You must determine the credibility of the witnesses who
17 have testified in this case. Credibility is just a big word
18 for believability. And it becomes your duty as jurors to
19 analyze and to evaluate the evidence and determine which
20 evidence convinces you of its truth.

21 You may believe a part of the testimony of a witness and
22 reject another part of the testimony of the same witness.
23 You may believe the testimony of a witness in its entirety or
24 reject the witness's testimony in its entirety. You may
25 consider whether any witness has exhibited to you any

1 interest, bias, or prejudice or other motive in this case.
2 You may also consider the appearance and manner or demeanor
3 of a witness while on the stand.

4 The evidence from which you are to decide the facts
5 consists of the sworn testimony of the witnesses, both on
6 direct and cross-examination, regardless of who called the
7 witness; the exhibits which have been received into evidence;
8 and any facts which all the lawyers have agreed are
9 stipulated that I have told you about.

10 Some things are not evidence, and you may not consider
11 them. I will list them for you. Number one, the arguments
12 and the statements by the lawyers are not evidence. Number
13 two, the questions and the objections by the lawyers are not
14 evidence. Attorneys have a duty to their client to object
15 when they believe a question is improper, and you should not
16 be influenced by the objection or my ruling on the objection.
17 Number three, any testimony that I have told you to
18 disregard. Number four, anything you may have seen or heard
19 when court was not in session is not evidence. You are to
20 decide this case solely on the evidence received at this
21 trial.

22 A statement alleged to have been made by the defendant
23 has been admitted into evidence in this case. While the
24 Court has determined that the statement is admissible, I
25 instruct you that you make the ultimate decision on whether

1 or not the defendant made the statement. If the defendant
2 did make the statement, you must determine whether the
3 statement was made by the defendant voluntarily and of his
4 own free will. This means that the statement was not caused
5 by pressure, force, fear, threats, coercion, or intimidation
6 or by hope of any promise or leniency or reward.

7 In determining whether the statement was voluntary, you
8 should consider both the characteristics of the defendant and
9 the details of the questioning. Some of the factors are the
10 age of the defendant, the defendant's education level, the
11 defendant's mental ability, the defendant's intelligence or
12 I.Q., the defendant's background and environment, the place
13 and the length of the detention, the nature of the
14 questioning, and the advice or lack thereof, including his
15 constitutional rights, including the right to remain silent,
16 the right to have a lawyer, the right that he could stop
17 making a statement at any time. You must carefully consider
18 all of these surrounding circumstances before you give any
19 weight to the alleged statement of the defendant.

20 The State has the burden of proving beyond a reasonable
21 doubt that the alleged statement was made voluntarily. If
22 you determine it was, you may give the statement any further
23 consideration that you deem proper. You must decide what
24 weight, if any, should be given to the alleged statement. If
25 you determine the alleged statement was not the free and

1 voluntary statement of the defendant, you should not consider
2 the statement at all.

3 Now, intent. In order to establish criminal liability,
4 criminal intent is required. For example, the mental state
5 required to be proven by the State for a particular crime
6 might be purpose, intent, knowledge, recklessness, or
7 criminal negligence. Criminal intent must be proven by the
8 State beyond a reasonable doubt. Criminal intent is always a
9 matter that must be determined by the jury from the
10 circumstances surrounding the situation.

11 There is no way to prove intent to a mathematical
12 certainty. There is no way medical science can dissect a
13 person's brain and determine what the person had in mind. So
14 the law says that criminal intent may be inferred from
15 circumstances shown to have existed. This is how you make a
16 determination of whether or not the element requiring intent
17 was present. It is not necessary to establish intent by
18 direct and positive evidence, but intent may be established
19 by inference in the same way as any other fact: By taking
20 into consideration the acts of the parties and all the facts
21 and circumstances of the case.

22 Criminal intent is a mental state, a conscious
23 wrongdoing. It is up to you to determine what the defendant
24 intended to do based on the circumstances shown to have
25 existed. Criminal intent can arise from an action or a

1 failure to act. It may arise from negligence, recklessness,
2 or an indifference to duty or to consequences that is
3 considered by the law to be the equivalent of criminal
4 intent.

5 Now, the indictments in this case allege two separate
6 offenses. In the first indictment - and there is no order to
7 these; I have to read one first - is for criminal conspiracy.
8 The second indictment is for falsely asserting authority of
9 law. Each indictment charges a separate and distinct
10 offense. You must decide each indictment separately on the
11 evidence and the law applicable to it, uninfluenced by your
12 decision on any other indictment. The defendant may be
13 convicted or acquitted on any or all of the offenses charged.
14 You will be asked to write a separate verdict of guilty or
15 not guilty for each indictment.

16 Now, what is conspiracy? The defendant is charged with
17 conspiracy. The State must prove beyond a reasonable doubt
18 that the defendant combined with one or more persons for the
19 purpose of committing an unlawful act or committing a lawful
20 act unlawfully. There must be a mutual understanding,
21 agreement, or common intention and plan. Mere passive
22 knowledge of or consent to the criminal conduct of another is
23 not enough to making a person a conspirator. There must be
24 guilty knowledge and participation.

25 Similarly, the mere fact that the defendant may have

1 associated with another person or met with another person and
2 discussed common aims and interests does not necessarily
3 establish proof of the existence of a conspiracy or that the
4 defendant was involved in a conspiracy. On the other hand,
5 it is not necessary that the agreement between the parties be
6 a formal one, that it be in writing, that the persons hold a
7 meeting and expressly state the terms of their common plan or
8 that the agreement be stated in words between them.

9 The agreement of a criminal conspiracy may come into
10 being through an implied mutual understanding. The willful,
11 intentional, and knowing adoption by two or more persons of a
12 common plan is sufficient. No overt acts need to be shown to
13 establish a conspiracy. A conspiracy may be shown by
14 circumstantial evidence and the conduct of the parties. In
15 order to convict the defendant of conspiracy, the State must
16 prove beyond a reasonable doubt not only that the defendant
17 knew of the unlawful conduct but that the defendant agreed to
18 combine with other persons or person for the purpose of
19 accomplishing the unlawful conduct.

20 The second charge is falsely asserting authority of law.
21 The law states: It is unlawful for a person falsely to
22 assert authority of law in an attempt to intimidate or hinder
23 a State or local official or employee or a law enforcement
24 officer in the discharge of official duties by means of
25 threats, harassment, physical abuse, or use of a sham legal

1 process.

2 State or local official or employee is defined in the
3 law. That means an appointed or elected official or an
4 employee of a State agency, board, commission, department in
5 a branch of State government, institution of higher
6 education, other school district, political subdivision or
7 other unit of government of this state.

8 Sham legal process is also defined in our statute. Sham
9 legal process means the issuance, display, delivery,
10 distribution, reliance on as lawful authority, or other use
11 of an instrument that is not lawfully issued, whether or not
12 the instrument is produced for inspection or actually exists,
13 which purports to Section A: Be a summons, subpoena,
14 judgment, lien, arrest warrant, search warrant, or other
15 order of a court of this State, a law enforcement officer or
16 a legislative executive or administrative agency established
17 by State law.

18 Section B: Assert jurisdiction or authority over or to
19 determine -- or determine or adjudicate the legal or
20 equitable status, rights, duties, powers, or privileges of a
21 person or property. Or Section C: Require or authorize the
22 search, seizure, indictment, arrest, trial, or sentencing of
23 a person or property.

24 The term "lawfully issued" is also defined in the
25 statute, and it means adopted, issued, or rendered in

1 accordance with the applicable statutes, rules, regulations,
2 and ordinances of the United States, a State agency -- a
3 state and agency or a political subdivision of a state.

4 Amendment Number One to the Constitution of the United
5 States of America states that Congress shall make no law
6 respecting an establishment of religion or prohibiting the
7 free exercise thereof or abridging the freedom of speech or
8 of the press or the right of the people peaceably to assemble
9 and to petition the government for a redress of grievances.

10 A defendant does not need to be physically present in
11 this state in order to commit a criminal offense here. The
12 State's jurisdiction extends to those who have performed acts
13 intended to produce and producing detrimental effects within
14 the boundaries of this state.

15 All right. I'm almost done. Let me say something to
16 you about your deliberations. Deliberations are defined as
17 careful consideration, weighing up with a view to decision.
18 The genius of our jury system is that it allows 12 good men
19 and women from 12 totally different backgrounds, life
20 experiences, and perspectives to consider the evidence, talk
21 about it, and ultimately reach a verdict. We call them
22 deliberations for a reason. You are to consider the evidence
23 in this case carefully and deliberately and discuss it in a
24 calm, thorough, and courteous manner.

25 Remember: You are not partisans or advocates for either

1 side, favoring one side over the other. You are judges. You
2 are a judge of the facts. Your sole interest in this case is
3 to find the truth from the evidence you have heard in this
4 courtroom.

5 Listen to the views of your fellow jurors. Consider
6 other peoples' points and points of view and remember: Talk
7 through and discuss the evidence. If you are doing something
8 deliberately, you are not in a big hurry, and you should not
9 be in a hurry here. This is a very important case to both
10 sides, and this is their only day in court.

11 When you retire to your jury room, you should discuss
12 the case. Your verdict must be unanimous. Each of you must
13 decide the case for yourself, but you should do so only after
14 you have impartially considered all the evidence, discussed
15 it, and listened to your -- the views of your fellow jurors.
16 Do not be afraid to change your opinion if the discussion
17 persuades you that you should, but do not come to a decision
18 simply because other jurors think it is right.

19 It is important that you attempt to reach a unanimous
20 verdict, but, of course, only if each of you can do so after
21 having made your own decision. Do not change an honest
22 belief about the weight and effect of the evidence simply to
23 reach a verdict. In other words, do not change your opinion
24 solely for the sake of reaching a unanimous verdict.

25 Okay. One other thing I need to tell you and then I

1 have a few short instructions, and then we'll be finished.
2 You can only deliberate if all 12 of you are in the room. So
3 if somebody smokes, if somebody needs to go to the restroom,
4 if somebody needs to go out and call a family member,
5 deliberations have to stop. Deliberations only occur when
6 all 12 people are in the room. That's the first thing.

7 This is your verdict form. Okay? I'm going to hand
8 this to you, Mr. Foreman. All right. Now, we've typed this
9 up, and everybody's seen it. I have to put these in one form
10 or the other, so there is no meaning to the fact that not
11 guilty is first and guilty is second. I simply have to put
12 one first.

13 So you can decide as to the charge of criminal
14 conspiracy whether Mr. Presley is not guilty or guilty. You
15 have to separately decide whether he is guilty or not guilty
16 of the second charge, falsely asserting authority of law.
17 They do not both have to be the same. They do not -- they
18 can be different. There is no -- you do not need to consider
19 the charges together. You need to consider the charges
20 separately because they carry separate elements of the crime.

21 Your verdict must be unanimous. That means that all 12
22 of you must agree on each verdict for each charge. When you
23 have an agreement, Mr. Foreman, you'll fill out the form and
24 sign it, knock on the door, and one of the bailiffs will come
25 and get me, and we'll bring you back in the courtroom to

1 receive your verdict.

2 Now, I'm about to send you to your jury room. Do not
3 begin deliberating until the exhibits come back to you.
4 Okay? So I have one more matter of law that I have to
5 discuss with the jurors (verbatim). Then all the lawyers
6 will come and look at the exhibits to make sure all of the
7 right exhibits come back to you. Once the bailiffs bring you
8 the exhibits, then you may begin deliberating on your case.

9 Now, this is my practical experience. If, during your
10 deliberations, you need to communicate with me, do not tell
11 me your count. Okay? So jurors for some reason like to tell
12 the judge their count while they're deliberating. I don't
13 need to know your count. Your count is for you to decide.
14 It doesn't have anything to do with me. I only need to know
15 when you've reached a unanimous decision. Okay? If you need
16 to communicate with me, then you need to do so in writing to
17 the bailiff, and then we'll deal with any of those issues
18 that may come up.

19 At this point in time, I want to say thank you again for
20 your service. I appreciate you being willing to start at 9
21 this morning, and I appreciate everybody being on time.
22 Thank you very much. You may retire to your jury room. Do
23 not begin deliberating until you see the exhibits, and keep
24 an open mind about the case. Thank you.

25 (Whereupon, the jury was excused from open court at

1 **The Court:** Very well.. Sentence of this Court on the
2 falsely asserting authority of law is that you be committed
3 to the State Department of Corrections for a period of three
4 years. I'm going to suspend that upon the 30 months that you
5 have served. I'm going to run these concurrent. The
6 sentence on the conspiracy is exactly the same thing.

7 I do not believe even if I were to give you a
8 consecutive sentence on this that you would do any additional
9 time in the South Carolina Department of Corrections due to
10 the amount of time that you have already done. I find that
11 the charges that you served, the approximately 30 months, on
12 were part -- essentially part of the same course of events.

13 I'm not going to say they were the same crime because I
14 do not believe that they were the same crime. I believe that
15 every act could be designated as a separate crime, but they
16 were in the same course of events that led up to your
17 eventual incarceration and your eventual being convicted upon
18 this charge nor do I believe that anything that a -- going to
19 the Department of Corrections for a mere 30 or 45 days and
20 being turned around would have any more deterrent effect on
21 you from this type of behavior than the 30 months that you as
22 a 50-plus-year-old man had to serve at the Alvin S. Glenn
23 Detention Center and the Lexington County Detention Center.

24 Now, there are court costs associated with this, and you
25 have 90 days to pay those court costs. They will be written

WITNESSES

Captain Mike Prodan – SLED

ARREST WARRANT NUMBER

Direct Presentment

WARRANT NO. DP13261

ACTION OF GRAND JURY

TRUE BILL

Valencia Morton

Foreperson of Grand Jury

Date:

SEP 13 2013

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2013-GS-40- 06484

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2013

THE STATE

vs.

**GARY WAYNE PRESLEY
A/K/A GARY-WAYNE**

**Indictment for
CRIMINAL CONSPIRACY**

SC Code: 16-17-410

CDR Code: 0049

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

**CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Jeannette W. McBride
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA**

STATE OF SOUTH CAROLINA)

INDICTMENT
CONSPIRACY

COUNTY OF RICHLAND)

VIOLATION OF SECTION 16-17-410

At a Court of General Sessions, convened on September 11, 2013,
the Grand Jurors of Richland County present upon their oath:

That in Richland County, on or about the period between May 1, 2010 and July 31, 2010, Gary Wayne Presley (A/K/A Gary-Wayne), did willfully and unlawfully combine, conspire, confederate, agree, and have tacit understanding with one or more persons for the purpose of committing the crime(s) of unlawfully asserting authority of law in an attempt to intimidate and/or hinder a state or local official and/or employee in the discharge of their official duties by means of threats, harassment or use of a sham legal process.

This is in direct violation of Section 16-17-410 of the South Carolina Code of Laws (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

OFFICE OF THE ATTORNEY GENERAL



ALAN WILSON (jru)
ATTORNEY GENERAL

WITNESSES

Captain Mike Prodan – SLED

ARREST WARRANT NUMBER

Direct Presentment

Warrant NO. DP 13260

ACTION OF GRAND JURY

TRUE BILL

Valencia Morton

Foreperson of Grand Jury

SEP 13 2013

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2013-GS-40- 06485

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2013

THE STATE

vs.

**Gary Wayne Presley
A/K/A "Gary Wayne"**

Indictment for

**FALSELY ASSERTING
AUTHORITY OF LAW**

SC Code: 16-17-735(D)

CDR Code: 2604

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

**CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Jeannette WM Brude
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA**

STATE OF SOUTH CAROLINA)	INDICTMENT
)	FALSELY ASSERTING AUTHORITY OF LAW
)	
COUNTY OF RICHLAND)	VIOLATION OF SECTION 16-17-735(D)

At a Court of General Sessions, convened on September 11, 2013,
the Grand Jurors of Richland County present upon their oath:

That in Richland County, on or about June 2, 2010, Gary Wayne Presley (A/K/A "Gary Wayne"), did willfully and unlawfully assert authority of law in an attempt to intimidate and/or hinder a state or local official or employee in the discharge of their official duties by means of threats, harassment, or use of a sham legal process.

To wit: The defendant issued, delivered, distributed, filed, or caused to be issued, delivered, distributed, or filed documents that were not lawfully issued and purported to be from and on behalf of the "Central Assemblies Union of the Several States" with the South Carolina Court of Appeals in an effort to intimidate, harass, threaten and/or hinder the courts of South Carolina in the discharge of their official duties.

This is in direct violation of Section 16-17-735(D) of the South Carolina Code of Laws (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

OFFICE OF THE ATTORNEY GENERAL


 ALAN WILSON (jru)
 ATTORNEY GENERAL



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

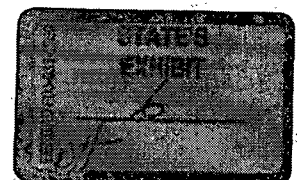
BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499

I, Daniel E. Shearouse, Clerk of the Supreme Court of South Carolina, hereby certify that the attached is a true and correct copy of an order of the Supreme Court dated September 24, 2013, and is part of the official record of the Supreme Court. The attachment is composed of twelve (12) pages.

Daniel E. Shearouse
Clerk
Supreme Court of South Carolina

Columbia, South Carolina
August 26, 2013



The Supreme Court of South Carolina

Deutsche Bank National Trust
Company, as Trustee for IXIS
Real Estate Capital Trust 2006-
HE3,

Respondent,

v.

G. Thomas Dooly a/k/a Geary
Thomas Dooly, Equity Trust
Company Custodian FBO Rose
Roye IRA,

Defendants,

Of whom G. Thomas Dooly
a/k/a Geary Thomas Dooly, is Appellant.

The Honorable Gordon G. Cooper
Spartanburg County
Trial Court Case No. 2008-CP-42-05271

And

Deutsche Bank National Trust
Company, as Trustee in Trust
for the Benefit of the
Certificateholders for Argent
Securities Trust 2004-W11,
Asset Backed Pass-Through
Certificates, Series 2004-W11,
Under the Pooling and
Servicing Agreement Dated
October 10, 2004,

Respondent,

v.

Geary Thomas Dooly; Eleanor
S. Dooly; First Federal Savings
and Loan Association of South
Carolina;

Defendants,

Of whom G. Thomas Dooly
a/k/a Geary Thomas Dooly, is Appellant.

The Honorable Gordon G. Cooper
Spartanburg County
Trial Court Case No. 2010-CP-42-00891

And

LaSalle Bank National
Association, as Trustee, on
Behalf of the Holders of the
GSAMP Trust 2006HE4
Mortgage Pass-Through
Certificates, Series 2006-HE4, Respondent,

v.

G. Thomas Dooly, Appellant.

The Honorable Gordon G. Cooper
Spartanburg County
Trial Court Case No. 2008-CP-42-05774

And

Wells Fargo Bank, N.A. as
Trustee under Pooling and
Servicing Agreement dated as
of November 1, 2004 Asset
Backed Pass-Through
Certificates Series 2004
WHQ2,

Respondent,

v.

Geary Thomas Dooly a/k/a G.
Thomas Dooly,

Appellant.

The Honorable Gordon G. Cooper
Spartanburg County
Trial Court Case No. 2008-CP-42-03445

ORDER

These appeals involve mortgage foreclosures in Spartanburg County. While all four appeals have been dismissed and the remittitur sent, this Court must determine if certain documents filed in these matters should be stricken from the record.

Prior to these appeals being certified for review by this Court, the South Carolina Court of Appeals received two sets of documents from an organization know as the Central Assemblies Union of the Several States

(Central Assemblies). The first was received by the Court of Appeals on June 7, 2010, and contains a Letters Rogatory, a Writ of Mandamus, a Writ of Coram Non Judice and a Restraining Order. Each of these documents bears one or more of the following:

- (1) A seal showing the outline of the State of South Carolina and its counties in the center with Spartanburg County highlighted with the words "seventh judicial district assembly of tens on the county of Spartanburg" on its circumference.
- (2) A seal with the words "Office of Judge" and a map of the United States in its center with the words "Central Assemblies Union United States of America as amended A.D. 1791" on its circumference.
- (3) A seal with the words "Judicial Scribe" and a map of the United States in its center with the words "Central Assemblies Union United States of America as amended A.D. 1791" on its circumference.
- (4) A seal containing the words "Great Registry" and Hebrew letters and symbols in its center with the words "The gathered men and women of the yisra'el nation on the counties at large" on its circumference.

All of these documents are signed by Gary Wayne and show his title as "Public Minister of Justice." The Writ of Mandamus and Writ of Coram Non Judice both state that they are issued by the "the de jure Supreme Court of the first judicial district of tens, fifties, hundreds and thousands for

the central union of assemblies of the several counties at large for the union of states of the united States of America."

The Letters Rogatory states that it is seeking the assistance of the Court of Appeals in serving documents and obtaining evidence. Among other things, it directs the Court of Appeals to "follow the dictates contained with the Lawful Writs issued forth by this superior de jure court."

The Writ of Mandamus purports to compel the State of South Carolina and its Courts to produce certain documentation. It also indicates that if these documents are not produced the above entities are to "cease and desist your unlawful actions and withdraw any existing administrative 'process' issued forth by your de facto corporate administrative agency."

The Writ of Coram Non Judice demands a termination of the civil actions or the production of a statement of jurisdiction. Finally, the Restraining Order purports to restrain the State of South Carolina, the Courts of this State, the County of Spartanburg, the Sheriff of Spartanburg County, and respondents and their lawyers from taking any further action in these civil cases, and directs each to maintain a distance of one thousand feet from appellant, and lands and property under his care, custody and control.

The second set was received by the Court of Appeals on June 17, 2010. It is composed of a document entitled Final Decree and several attachments. The Final Decree contains all of the seals referenced above and is again signed by Mr. Gary Wayne as a "Public Minister of Justice." Its introductory paragraph states that it is from the "Office of the Minister of Justice, Gary Wayne . . . Justice for the Central Assemblies Union of the Several States of the Union of States of the united States of America, under the original jurisdiction as amended 1791 Anno Domini. Organic law for South Carolina 1776 Anno Domini." The attachments to this Final Decree are six documents all having the title "Land Survey." Each of these documents bears the signature of appellant along with two of the seals described above.

The Final Decree states that the State of South Carolina, the Courts of South Carolina, the County of Spartanburg, the Sheriff of Spartanburg County, and respondents and their lawyers failed to appear and show cause or defend, that the cause is found in favor of appellant, and that the decision by this de jure forum is final, res judicata, binding and perpetual. This document directs the above listed entities and their agents and officers to cease any further actions under color of law and directs each to maintain a

distance of one thousand feet from appellant as ordered in the Restraining Order. In addition to referring to the lower court case numbers involved in these appeals, the document also references two circuit court cases that are not on appeal to this Court or the Court of Appeals.¹

In response, this Court sent the parties a letter dated July 23, 2010, advising the parties that these documents appear to be sham legal process and directing each to file a response indicating if the party opposes the striking of the above documents. Additionally, Mr. Wayne was advised that he could file a response. Neither appellant nor Mr. Wayne filed a response.²

On September 7, 2010, this Court received a Decree, Writ of Replevin and Replevin Affidavit, and Writ of Judgment in Dentinue and Dentinue Affidavit. Except for the Writ of Replevin that is signed by another individual as a "Public Minister of Justice or Judge," these documents are signed by Mr. Wayne as a "Public Minister of Justice." Unlike the earlier documents, which were sent to the Court of Appeals in envelopes bearing the return address of Mr. Wayne in Alabama, this document was sent in an

¹ Chase Home Finance v. Elenor Dooly, 2010-CP-42-01610 and Chase Home Finance v. Elenor Dooly, 2010-CP-42-01641.

² The copy sent to Mr. Wayne was returned as being refused.

envelope bearing the return address of appellant in Spartanburg, South Carolina.

In these documents are all of the seals described above, and the Decree indicates that it is from the "Office of the Minister of Justice, Gary Wayne . . . Justice for the Central Assemblies Union of the Several States of the Union of States of the united States of America, under the original jurisdiction as amended 1791 Anno Domini. Organic law for South Carolina 1776 Anno Domini." Additionally, the phrase "Court at Common Law Depository" is included on some of these documents.

The Decree recites that the cause has been determined against the State of South Carolina, the Courts of South Carolina, the County of Spartanburg, the Sheriff of Spartanburg County, and respondents and their lawyers based on their failure to appear and show cause or defend, and that the "resolution of this conflict by this de jure forum is final and is res judicata." It demands that the above entities "cease and desist your unlawful/illegal actions " and that "[a]ction shall be brought against you for your criminal activity." It directs the above listed entities and their agents and officers to maintain a distance of one thousand feet from appellant as previously ordered in the Restraining Order.

The Writ of Replevin directs "any lawful officer, Commander of militia, or county Ranger of this Spartanburg county judicial district" . . . "to take charge/control of the chattel/property named in the affidavit . . ."³ The writ also purports to summon the State of South Carolina, the Courts of South Carolina, the County of Spartanburg, the Sheriff of Spartanburg County, and respondents and their lawyers "to appear before Gary Wayne judge of this judicial district" on October 4, 2010, "to answer for the unlawful claim and/or detention of said chattel/property." The Writ of Judgment in Detinue directs these same entities or persons to deliver the property to appellant or to give a bond.

By their format, language, and use of seals and titles such as judge, justice and judicial scribe, these documents are intended to create the belief in the reader that they are being issued by a court authorized to exercise judicial power and authority. This is misleading and false since the Central Assemblies is not a court of any state of the United States or of the Federal Government. Further, it is clear that the purpose of these documents

³ The affidavit references filings that have been made with "The Great Registry." Also attached are six documents all having the title "Land Survey." Each of these documents bears the signature of appellant along with two of the seals described above.

is to prevent or impede the courts of the State from proceeding with these legal actions.

We find that all of these filings from the Central Assemblies are sham legal process as defined by both S.C. Code Ann. § 16-17-735 (2003)⁴ and S.C. Code Ann. § 30-9-30 (2007),⁵ and they have no force and effect. Accordingly, these documents are hereby stricken from the record in the above cases. Additionally, if the documents have been filed in circuit court

⁴ This criminal statute, among other things, makes it "unlawful for a person falsely to assert authority of law, in an attempt to intimidate or hinder a state or local official or employee or law enforcement officer in the discharge of official duties, by means of threats, harassment, physical abuse, or use of a sham legal process." Section 16-17-735(D). For this statute, "sham legal process" includes "the issuance, display, delivery, distribution, reliance on as lawful authority, or other use of an instrument that is not lawfully issued, whether or not the instrument is produced for inspection or actually exists, which purports to: . . . assert jurisdiction or authority over or determine or adjudicate the legal or equitable status, rights, duties, powers, or privileges of a person or property" Section 16-17-735(E)(3). Additionally, South Carolina Code Ann. § 15-75-60 (2005) provides for civil remedies (including actual damages, punitive damages, costs and attorneys fees) for a person who may be injured by sham legal process as defined by the criminal statute.

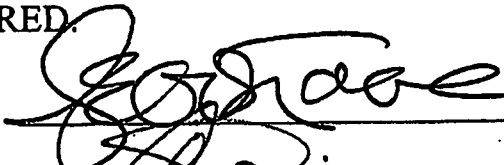
⁵ This section states that "'[s]ham legal process' means a document that is not issued lawfully and that purports to be a judgment, lien, or order of a court or appropriate government entity, or otherwise purports to assert jurisdiction over or determine the legal or equitable status, rights, duties, powers, or privileges of a person or property." Section 30-9-30(B)(4)(a). This section provides that sham legal process will not be accepted for filing in the public record, provides for the removal of sham legal process, and provides civil remedies (including actual damages, punitive damages, cost and attorney's fees) against those who file sham legal process. Section 30-9-30 (A)-(D).

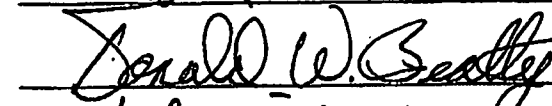
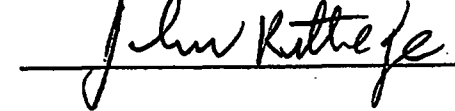
in any of these cases or in 2010-CP-42-1610 and 2010-CP-42-1641, the circuit court is directed to strike them from the record of the circuit court.

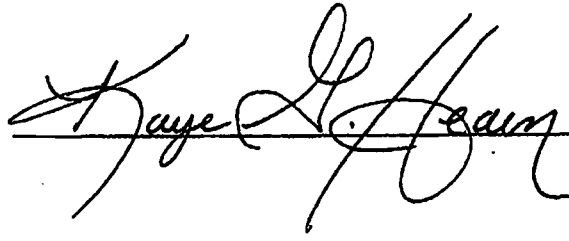
The use of these documents in an attempt to prevent the courts of this State from exercising their lawful authority is reprehensible, and is an affront to the authority and dignity of the courts of this State. Their submission to this Court, Court of Appeals and potentially to the circuit court is contemptuous.

It is clear that appellant has been actively involved in the submission of these documents, and these documents have resulted in a waste of the time and resources of this Court and respondents. To compensate respondents, we hereby assess costs of \$1,000 against appellant in each of these cases. The circuit court shall add these costs to the judgment in favor of respondent in each case. This award of costs shall be in addition to whatever other costs may be awarded to respondents.

IT IS SO ORDERED.


C. J.

J.

J.

J.



J.

Columbia, South Carolina

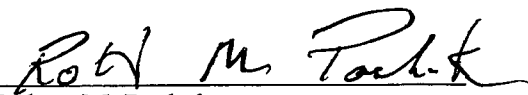
September 24, 2010

cc: Mr. G. Thomas Dooly
Ashley M. Zarrett, Esquire
Michael Kevin McCarrell, Esquire
Samuel C. Waters, Esquire
Robert Wood, Esquire
The Honorable Tanya Gee
The Honorable M. Hope Blackley
Mr. Gary Wayne

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

February 19th, 2015


Robert M. Pachak
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

RECEIVED

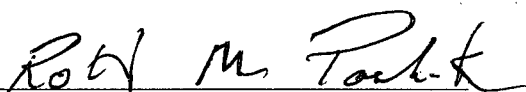
FEB 19 2015

SC Court of Appeals

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February 19th, 2015


Robert M. Pachak
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

RECEIVED

FEB 19 2015

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County

Robert E. Hood, Circuit Court Judge

ORIGINAL

RECEIVED

FEB 19 2015

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

GARY WAYNE PRESLEY,

APPELLANT

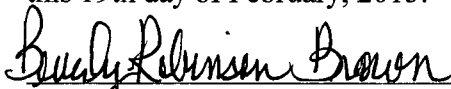
APPELLATE CASE NO. 2013-002475

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Jennifer Ellis Roberts, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Gary Wayne Presley, c/o King Jesus Ministry of Reconciliation, 5560 Surrey Lane, Meadowbrook, Alabama, 35242, this 19th day of February, 2015.


Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 19th day of February, 2015.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: December 9, 2024.