

 ORIGINAL

RECEIVED

MAR 16 2015

SC Court of Appeals

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY

D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

PERNELL BYAS,

APPELLANT

APPELLATE CASE NO. 2014-000673

RECORD ON APPEAL

TIFFANY L. BUTLER
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

Attorney for Appellant

ALAN WILSON
Attorney General

MEGAN HARRIGAN JAMESON
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3727

ISSAC MCDUFFIE STONE, III
Solicitor, Fourteenth Judicial Circuit
Post Office Box 1880
Bluffton, SC 29910
(843) 255-5880

Attorneys for Respondent

INDEX

INDEX.....	i
TRIAL TRANSCRIPT (MARCH 18, 2014).....	1
MOTION TO QUASH INDICTMENT BY MS. SAXON.....	9
RULING BY THE COURT.....	13
MOTION TO DECLARE SEX OFFENDER REGISTRY STATUTE UNCONSTITUTIONAL.....	14
RULING BY THE COURT.....	22
MOTION TO SUPPRESS JAIL CALL BY MS. SAXON.....	22
RULING BY THE COURT.....	24
WAIVER OF JURY TRIAL.....	26
RULING BY THE COURT.....	32
TESTIMONY	
LASANDRA YOUNG	
Direct Examination by Ms. Prinsen	35
ARTHUR MURRAY	
Direct Examination by Ms. Prinsen	38
Cross Examination by Ms. Saxon	42
Redirect Examination by Ms. Prinsen.....	44
TYRONE HICKS	
Direct Examination by Ms. Prinsen	46
Cross Examination by Ms. Saxon	53
Redirect Examination by Ms. Prinsen.....	63
Recross Examination by Ms. Saxon	64
Examination by the Court.....	66
MOTION TO SUPPRESS STATEMENT.....	67
RULING ON MOTION TO SUPPRESS.....	68

TESTIMONY CONTINUED

KATRINA LIGHT

Direct Examination by Ms. Prinsen	69
Cross Examination by Ms. Saxon	76
Redirect Examination by Ms. Prinsen.....	79
Examination by the Court.....	79

RENEWAL OF MOTIONS AND MOTION FOR A DIRECTED VERDICT

BY MS. SAXON	81
--------------------	----

RULING BY THE COURT	82
---------------------------	----

COLLOQUY REGARDING DEFENDANT'S RIGHT TO TESTIFY	88
---	----

STATE'S WAIVER OF CLOSING ARGUMENT BY MS. PRINSEN	92
---	----

CLOSING ARGUMENT BY MS. SAXON	93
-------------------------------------	----

VERDICT	97
---------------	----

SENTENCING	111
------------------	-----

STATE'S EXHIBIT #1 (CERTIFIED COPY OF INDICTMENT)	113
---	-----

INDICTMENTS	116
-------------------	-----

CERTIFICATE OF COUNSEL.....	122
-----------------------------	-----

STATE OF SOUTH CAROLINA
14TH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT
COURT OF GENERAL SESSIONS
CASE NO. 2013-GS-07-01580

STATE OF SOUTH CAROLINA

PLAINTIFF

VERSUS

MARCH 18, 2014
TRANSCRIPT OF PRETRIAL HEARING
AND BENCH TRIAL
BEAUFORT, SOUTH CAROLINA

PERNELL DETROIT BYAS

DEFENDANT

B E F O R E:

HON. D. CRAIG BROWN, JUDGE

WANDA H. ROWE, CVR-M
OFFICIAL COURT REPORTER

A P P E A R A N C E S

ON BEHALF OF THE STATE:

HON. SAMANTHA PRINSEN
HON. PATRICK A. HALL
ASSISTANT SOLICITORS
BEAUFORT COUNTY SOLICITOR'S OFFICE
POST OFFICE BOX 1880
BLUFFTON, SOUTH CAROLINA 29910-1810
TELEPHONE 843-255-5880

ON BEHALF OF DEFENDANT
PERNELL DETROIT BYAS:

HON. JESSICA SAXON
HON. LAUREN CARROWAY
BEAUFORT COUNTY PUBLIC
DEFENDERS OFFICE
1905 DUKE STREET
BEAUFORT, SOUTH CAROLINA 29902
TELEPHONE 843-255-5805

INDEX

Caption.....	1
Appearances.....	2
Index.....	3
By The Court.....	9

PRETRIAL MOTIONS

Defense Motion to Quash Indictment by Ms. Saxon.....	9
State's Response to Defense Motion To Quash Indictment By Ms. Prinsen.....	12
Ruling on Motion to Quash Indictment By the Court.....	13
Defense Constitutional Challenge to Statute Motion, By Ms. Saxon.....	14
State's Response to Constitution Challenge to Statute Motion, By Ms. Prinsen.....	18

Defense Response to State's Response to Constitutional Challenge To Statute Motion, By Ms. Prinsen.....	19
---	----

Ruling, By the Court.....	22
------------------------------	----

Defense Motion to Suppress By Ms. Saxon.....	22
---	----

Ruling, By the Court.....	24
------------------------------	----

PERNELL DETROIT BYAS

Examination By the Court.....	26
----------------------------------	----

Finding By the Court.....	31
------------------------------	----

BEGIN BENCH TRIAL

By the Court.....	34
-------------------	----

MADAM CLERK LASANDRA YOUNG

Direct Examination By Ms. Prinsen.....	35
---	----

ARTHUR MURRAY

Direct Examination By Ms. Prinsen.....	38
---	----

Cross-examination	
By Ms. Saxon.....	42

Re-direct Examination	
By Ms. Prinsen.....	44

AGENT TYRONE HICKS

Direct Examination	
By Ms. Prinsen.....	46

Cross-examination	
By Ms. Saxon.....	53

Re-direct Examination	
By Ms. Prinsen.....	63

Re-cross-examination	
By Ms. Saxon.....	64

Examination	
By the Court.....	66

ARGUMENT JACKSON V. DENNO ISSUE

Argument <i>Jackson v.</i>	
<i>Denno</i> on Behalf	
of the Defendant	
By Ms. Saxon.....	67

Ruling <i>Jackson v.</i>	
<i>Denno</i> ,	
By the Court.....	68

STAFF SERGEANT KATRINA LIGHT

Direct Examination	
By Ms. Prinsen.....	69
Cross-examination	
By Ms. Saxon.....	76
Re-direct Examination	
By Ms. Prinsen.....	79
Examination	
By the Court.....	79
STATE RESTS.....	80
OFF THE RECORD	
BACK ON THE RECORD	
By the Court.....	80
Defense Motions	
By Ms. Saxon.....	81
Ruling on Defense	
Motions	
By the Court.....	82
Defendant's Rights	
And Finding	
By the Court.....	88
State Waives	
Closing Argument	
By Ms. Prinsen.....	92

Closing Argument on Behalf of Defendant By Ms. Saxon.....	93
---	----

OFF THE RECORD

BACK ON THE RECORD

Finding of Guilty By the Court.....	97
--	----

Defendant's Prior Record By Ms. Prinsen.....	105
--	-----

By Ms. Carroway.....	106
----------------------	-----

Sentence By the Court.....	111
-------------------------------	-----

ATTACHMENTS

Certificate of Reporter.....	112
------------------------------	-----

Keyword Index

EXHIBITS

State's:

1 Item Identified as Certified Copy of Indictment and Sentencing Sheet Regarding Pernell Detroit Byas.....	37
--	----

2 Item Identified as
GSP Tracking record.....49

3 Item Identified as
Copy of Sex Offender
Registration Form
Regarding Pernell Detroit Byas.....72

Court's:

1. Item Identified as
Certified Copy of
Sentencing Sheet Dated
August 15, 2007.....105

2. Item Identified as
Certified Copy of
Sentencing Sheet Dated
January 20, 2009.....105

3-18-14 STATE V BYAS

1 BEGINNING 9:35 A.M.

2 BY THE COURT:

3 BAILIFF: All rise. Court is now in session, the
4 Honorable D. Craig Brown presiding.

5 THE COURT: Thank you. Be seated. Do we need
6 somebody here from the Clerk's Office?

7 BAILIFF: Yes, sir. I'll get somebody right now.

8 THE COURT: Good morning. How are you?

9 COURT REPORTER: Good.

10 THE COURT: All right, then. Madam Clerk, are you
11 ready to proceed?

12 MADAM CLERK: Yes, sir.

13 THE COURT: Okay. State ready to proceed?

14 MS. PRINSEN: Yes, your Honor.

15 THE COURT: Defense counsel ready to proceed?

16 MS. SAXON: Yes, your Honor.

17 THE COURT: All right. It's my understanding
18 Defense counsel has some pretrial motions that they want
19 to address.

20 MS. PRINSEN: Yes, your Honor.

21 THE COURT: Please go ahead.

22 DEFENSE MOTION TO QUASH INDICTMENT,

23 BY MS. SAXON:

24 MS. SAXON: Thank you, your Honor. Our first
25 pretrial motion is going to be a motion to quash the

3-18-14 STATE V BYAS

1 indictment based upon the insufficiency and the
2 supporting case law of *State v Gentry* and *State v Means*,
3 which I have copies for your Honor if you would like to
4 see them. I'm sure you are familiar with those cases.

5 THE COURT: Seeing as this is the third motion to
6 quash this week and it's on Tuesday, yes, ma'am, I am.

7 MS. SAXON: Certainly. So, I just want to briefly
8 go into the argument for -- argue the case off the
9 record.

10 THE COURT: All right.

11 MS. SAXON: And then, I'll present my argument.

12 THE COURT: First of all, tell me what the problem
13 is with the indictment.

14 MS. SAXON: Certainly, your Honor. We felt that
15 the indictment does not meet the standards of notice and
16 sufficiency that are required. The indictment -- the
17 language of the indictment in the body states that Mr.
18 Pernell Byas did fail to register as a sex offender with
19 Beaufort County, which is not actually the offense he
20 was charged with.

21 It also references *Section 23-400*, which is a
22 rather lengthy piece of legislature that involves
23 numerous violations of which, off the top of my head, I
24 can name failure to register, living near a school, not
25 registering properly in another county, not changing

3-18-14 STATE V BYAS

1 your address within the county or not changing your
2 address outside of the county, which are all different
3 offenses within this statute, and we feel our offenses,
4 that are separate in nature, fall under the general
5 heading of a sex offender registry violation, but are
6 specific enough to need to be enumerated as to alert the
7 defendant what he would be called upon to answer in a
8 court of law.

9 The specified section that is noted in the
10 indictment, *Section 23-03-470*, that isn't not anymore
11 important, your Honor. It is a section that is a broad
12 sweep of the prior section that preceded it, so anything
13 from 400 to 470 simply lays out the penalties for a
14 violation of any one of those five or six different
15 offenses.

16 And we also feel, your Honor, that, based on the
17 language in this indictment, if we were to move forward
18 on it as the indictment says, the only thing that would
19 have to be proved is whether or not Mr. Byas was
20 actually registered as a sex offender at the time of his
21 arrest. We don't feel the indictment addresses the
22 challenge that the State has since made that it is a
23 failure to change his address, which is a very different
24 set of facts and circumstances.

25 THE COURT: I understand.

3-18-14 STATE V BYAS

1 MS. SAXON: And it's a very different code section,
2 as well.

3 THE COURT: Are you through? I'm sorry.

4 MS. SAXON: Yes.

5 THE COURT: Okay. Thank you, ma'am. I'd be happy
6 to hear from the State. And you all, please, I know
7 your faces, but you all have got to help me with names a
8 little bit. Okay?

9 MS. SAXON: Sorry, your Honor. Jessica Saxon from
10 the Public Defender's office.

11 THE COURT: Last name?

12 MS. SAXON: Jessica Saxon.

13 THE COURT: Saxon? Thank you, Ms. Saxon. Yes,
14 ma'am?

15 MS. PRINSEN: Thank you, your Honor. Samantha
16 Prinsen.

17 THE COURT: All right. Yes, ma'am.

18 STATE'S RESPONSE TO DEFENSE MOTION

19 TO QUASH INDICTMENT, BY MS. PRINSEN:

20 MS. PRINSEN: Your Honor, when you look at the
21 indictment, it does quote Section 23-3-400, but it also
22 goes on to say 20 -- to specify Section 23-3-470, which
23 I say is not very broad, because if you read Section 23-
24 3-470, it says:

25 *It is the duty of the offender to*

3-18-14 STATE V BYAS

1 *contact the sheriff in order to register and*
2 *provide notification of change of permanent*
3 *or a temporary address.*

4 Which is why we are here today, your Honor, for
5 that specific, which is laid out in the first line of
6 that statute.

7 THE COURT: All right. Thank you, Ms. Prinsen.

8 MS. PRINSEN: Thank you, your Honor.

9 THE COURT: Prinsen?

10 MS. PRINSEN: Yes, your Honor. Prinsen. No T.

11 THE COURT: Madam Clerk, could you -- my microphone
12 up here is not working.

13 OFF THE RECORD BRIEFLY REGARDING

14 COURTROOM MICROPHONES.

15 RULING ON MOTION TO QUASH INDICTMENT,

16 BY THE COURT:

17 THE COURT: All right. Based upon arguments of
18 counsel, based upon my review of the indictment, as well
19 as the statutory law for which the defendant has been
20 charged or indicted for, in violation of *Section 23-3-*
21 *470*, I am going to respectfully deny Defense counsel's
22 motion to quash the indictment.

23 I believe that the indictment more than adequately
24 notices this defendant as to the charge he would have to
25 meet. *Subsection (a) of 23-3-470*, states that it is the

3-18-14 STATE V BYAS

1 duty of the defendant to contact the sheriff in order to
2 register and provide notification of change of permanent
3 or temporary address.

4 And I know that it was brought to the Court's
5 attention back in chambers yesterday about this issue of
6 whether or not he, in fact, changed address, whether it
7 be permanent or temporary, and that is an issue in this
8 case, or at least that's what I was told in chambers
9 yesterday. But whether or not this defendant has been
10 properly noticed of what he has, the defendant, I
11 believe that the indictment more than adequately
12 addresses that issue, but your objection is so noted for
13 the record.

14 MS. SAXON: Thank you, your Honor.

15 BAILIFF: We've got a maintenance man looking at it
16 now, Judge, so we can figure out what's wrong.

17 THE COURT: Next matter? Any other motions?

18 DEFENSE CONSTITUTIONAL CHALLENGE TO

19 STATUTE MOTION, BY MS. SAXON:

20 MS. SAXON: Thank you, your Honor. The next motion
21 I have is a constitutional challenge to the statute of
22 which we spoke briefly in chambers about, your Honor.

23 I did contact Sally Elliot with the Attorney
24 General's Office about their need for notice, and they
25 only need notice in civil matters where a prosecutor who

3-18-14 STATE V BYAS

1 represents the State is not present at the trial to
2 speak on behalf of the State. But in criminal matters,
3 the solicitor for the county suffices.

4 THE COURT: I came to that conclusion after.

5 MS. SAXON: Yeah. So, your Honor, this is an ex
6 post facto challenge wrapped in with an over-broadness
7 challenge. And our courts have addressed ex post facto
8 issues in these matters, but I don't think they've
9 addressed them recently enough to consider the changes
10 that have been made in this sex offender registry law.

11 As you are aware, an ex post facto challenge, the
12 two prongs are that a law must be retro-active and apply
13 to events taking place prior to its enactment, and it
14 must work to the advantage of the offender. But before
15 we reach that test, we need to address whether or not we
16 feel the statute at issue, which is the entire *Sex*
17 *Offender Registry Act*, is whether it is criminal or
18 penal in nature in purpose, or civil.

19 When you look at the original intent of the
20 legislature when this was enacted in 1994, it was to
21 protect the public from the sex offenders who may re-
22 offend, and to aid in law enforcement in solving sex
23 crimes.

24 Again, our jurisprudence has held that these are
25 non-punitive measures, but I believe that, when you add

3-18-14 STATE V BYAS

1 in the additional penalties and punishments that have
2 been added to the sex offender registry, that the
3 sanctions become increasingly punitive, especially when
4 applied to someone who was convicted of a crime in 1986,
5 who had no actual notice of these possible consequences.

6 Some of the changes that have been added in 2005:
7 the General Assembly began applying GPS monitor for life
8 for offenders convicted of certain felonies, including
9 lewd act or attempted lewd act. They also now are
10 requiring further registry. It was registry not only
11 where you reside, but where you work, where you go to
12 school, where you own property, and those could be any
13 number of counties within the state, so it required
14 multiple registrations.

15 And then, the registration duty to actually show up
16 and register has changed twice since the enactment of
17 the law. The first time was to require bi-annual
18 registration with the implementation of the federal *Adam*
19 *Walsh Act*, it now requires quarterly registration. And
20 because based solely on the crime, no other evidence
21 taken, Mr. Byas is required to register every 90 days.
22 That's without looking at any chance of recidivism,
23 without looking at the offense, just what he was charged
24 and convicted under.

25 It's just a broad sweep of the law that we feel is

3-18-14 STATE V BYAS

1 -- it targets a class of people without giving them any
2 mechanism for any sort of constitutional review of their
3 due process rights to be free from this government
4 intrusion and to be free from this unending duty to show
5 up to a sheriff's office every 90 days, and as that
6 applies to him.

7 But also, what if -- if he has property in another
8 county, he has to show up in two counties every 90 days,
9 or if he works in a third county, he has to show up in
10 all three counties every 90 days. And to say that, at
11 this point the monitoring, the GPS monitoring, as well
12 as the additional reporting penalties, are no longer
13 punitive, I feel is disingenuous.

14 The legislature has not ever re-affirmed that
15 initial civil intent, but they have tacked on all these
16 other penalties throughout the years as this law has
17 grown. And when you look at all of that, I think you
18 realize that it does become more punitive; that it
19 clears that burden of getting over the intended original
20 civil intent; and that it is an ex post facto issue that
21 should bar not only my client's participation in the
22 registry in lifetime division, but prosecution of this
23 charge.

24 THE COURT: Anything else, Ms. Saxon?

25 MS. SAXON: I think that is all, your Honor, for

3-18-14 STATE V BYAS

1 that motion.

2 THE COURT: All right.

3 MS. SAXON: Thank you.

4 THE COURT: Ms. Prinsen.

5 STATE'S RESPONSE TO DEFENSE CONSTITUTIONAL
6 CHALLENGE ON STATUTE MOTION, BY

7 MS. PRINSEN:

8 MS. PRINSEN: Thank you, your Honor. On this
9 issue, I would just like to point out, all statutes are
10 presumed constitutional, and a statute will not be
11 declared unconstitutional, that it is repugnant to the
12 *Constitution*, clear, beyond a reasonable doubt, and I
13 don't feel that is the case.

14 I have a case. It's in the interest of *Justin B.*
15 It's a 2013 Supreme Court of South Carolina case, if
16 your Honor would like a copy. This case is not exactly
17 on point, but they go over the sex offender registry.

18 In this case, a 17-year-old, who was convicted of a
19 sex crime and also had to undergo the electronic
20 monitoring, brought this case, arguing that it was
21 unconstitutional. I guess that's a little bit
22 different.

23 But in this case, the Supreme Court again goes into
24 that the specific intent of 23-3-400, which is the sex
25 offender registry statute:

3-18-14 STATE V BYAS

1 *It is the State's fundamental right to*
2 *provide for the public health, welfare, and*
3 *safety of its citizens.*

4 This is -- and again, and they say in this case
5 that Section 23-400 is nothing other than a civil scheme
6 designed to protect the public from the harm.

7 And the case also goes on to talk about that the
8 electronic monitoring is also nothing more than a civil
9 scheme. And for those reasons, I do not think that the
10 statute is unconstitutional, your Honor.

11 MS. SAXON: Your Honor, if I may reply briefly?

12 THE COURT: Hold on just a minute, please.

13 MS. SAXON: Okay.

14 THE COURT: All right, Ms. Saxon. I'd like to hear
15 from you.

16 DEFENSE RESPONSE TO STATE'S RESPONSE
17 TO CONSTITUTIONAL CHALLENGE TO STATUTE
18 MOTION, BY MS. SAXON:

19 MS. SAXON: Thank you, your Honor. Just briefly,
20 in response, in the case that the solicitor, Ms. Prinsen
21 handed up, it does deal with a small part in the GPS
22 monitoring and the holding in *Dykes*, which actually did
23 find that lifetime requirement of GPS monitoring without
24 chance for review was an unconstitutional violation of
25 substantive due process rights. Pardon my tongue-tied.

3-18-14 STATE V BYAS

1 We would argue that none of our courts have yet to
2 consider the way that amendments to the Act have
3 compiled to effect the intent and the actual affect it
4 has on an offender; and that, when you are placed on a
5 registry with absolutely no mechanism for review, with
6 no chance to even come before a court and ask to be
7 reconsidered, but placed there simply because of your
8 crime, you're not given -- it's a very large
9 constitutional issue, because it is too broad. And
10 then, when you look back at the fact that it's affecting
11 someone from 1970 -- whose conviction was from 1986,
12 you're dealing with an ex post facto issue.

13 We also feel, your Honor, that in -- sorry. When
14 you talk -- when I speak about the law being over-broad,
15 is that, the legislative intent was to affect people who
16 are a high chance of re-offending, but there is no
17 mechanism in the statute to determine who those people
18 are. It is, again, essentially, just based upon the
19 crime that they are charged with, without any cause
20 given to whether or not they are likely to re-offend.

21 THE COURT: Ms. Saxon, have you read *State v Walls*?

22 MS. SAXON: Yes, I have, your Honor.

23 THE COURT: How is this case different from *State v*
24 *Walls*, wherein that particular offender was required to
25 register 25 years after his last offense?

3-18-14 STATE V BYAS

1 MS. SAXON: I would argue that this is different
2 from *State v Walls* because the Court doesn't consider
3 the amendments that are made to the law that, particular
4 in this case, require quarterly registry every 90 days.
5 They require registration, as well as the institution of
6 the lifetime GPS monitoring, to which, only until
7 recently, there was no recourse against.

8 THE COURT: Has he pursued any recourse, as far as
9 review?

10 MS. SAXON: He has been incarcerated.

11 THE COURT: Hold on a second. As far as review is
12 concerned.

13 MS. SAXON: As far as review of his GPS monitoring,
14 he has not, your Honor. He was unaware of that change
15 in the law until just recently, when I spoke to him
16 about it.

17 THE COURT: All right. Anything else, Ms. Saxon?

18 MS. SAXON: Just in speaking briefly with co-
19 counsel, I would also say I believe that, in *State v*
20 *Walls*, that was a criminal sexual conduct in the first
21 degree. The charge for what Mr. Byas was placed on the
22 registry for was attempt to commit a lewd act on a minor
23 under the age of 16, which is today's version of
24 criminal sexual conduct in the third degree.

25 Also, I think you have to look at the severity of

3-18-14 STATE V BYAS

1 the crime, which is part of the issue, I think, in the
2 statute, that it doesn't take any of that into account.
3 It just targets sex offender as a broadness, and applies
4 it to anyone whenever they were convicted.

5 THE COURT: Well, I'm looking at *State v Walls*
6 right now. In that case, a fellow was convicted in
7 1973, on the charge of assault with intent to ravish,
8 and sentenced to three years in prison. So, it was not
9 CSC first degree.

10 MS. SAXON: I apologize, your Honor. I must have
11 confused my cases.

12 RULING, BY THE COURT:

13 THE COURT: I am going to, based upon my review of
14 *In Re the Interest of Justin B*, 405 S.C. 391, as well as
15 the Court's review of *State v Walls*, 348 S.C. 26, the
16 Court is going to respectfully deny defendant's motion.
17 But certainly, it is noted for the record for any
18 appellate purposes.

19 MS. SAXON: Thank you, your Honor.

20 DEFENSE MOTION TO SUPPRESS, BY

21 MS. SAXON:

22 THE COURT: Thank you. Anything else at this time?

23 MS. SAXON: I have one last motion, your Honor, and
24 that would be motion to suppress the jail call that the
25 State intends to introduce as evidence. You just want

3-18-14 STATE V BYAS

1 me to go into the motion?

2 THE COURT: Yeah, let's hear it.

3 MS. SAXON: Okay. Thank you, your Honor. My first
4 issue with this is that the phone call is purely
5 hearsay. It is a conversation between the defendant and
6 one of his friends. However, it is a one-sided
7 conversation of the friend speaking.

8 The friend has -- states -- lectures Mr. Byas on a
9 number of things. But the point is, is that is an out-
10 of-court statement. It is being entered for the truth
11 of the matter asserted, which, at some point, is that
12 the friend said that Mr. Byas should not lie; that he
13 should not lie to him; that he's on his side.

14 I feel that if you -- to admit that call without
15 bringing in the friend to testify to it is hearsay and a
16 confrontation issue.

17 I have further problems, your Honor, under the
18 relevance in 403 rules, as well as a character evidence
19 issue. Again, the defendant makes no real statements.
20 during the conversation. If memory is serving
21 correctly, the most that he says is something to the
22 effect of I'm going to be in here for a long time, in
23 response to how are you doing. And then, we proceeded
24 to this lecture, this lecture that a parent would give a
25 child about how you shouldn't tell lies and how we're on

3-18-14 STATE V BYAS

1 your side and don't lie to me about things.

2 That, your Honor, we feel, is inadmissible
3 character evidence, and feel that, under a balance of
4 testimony of 403, there is nothing probative about the
5 call; that it's purely prejudicial to my client, as it
6 is a one-sided lecture from a hearsay party.

7 THE COURT: All right. Well, anything further, Ms.
8 Saxon, on that?

9 MS. SAXON: We're good, your Honor. Thank you.

10 THE COURT: Ms. Prinsen, anything? Does State
11 intend to introduce that?

12 MS. PRINSEN: As of right now, your Honor, but it's
13 not definitive whether or not we're going to be
14 introducing the jail call.

15 RULING, BY THE COURT:

16 THE COURT: Well, let me say this. Each of you,
17 and we haven't put it on the record yet, each of you
18 have conveyed to the Court in chambers that -- each of
19 you conveyed back in chambers that this was --
20 yesterday, that this was going to be a bench trial,
21 rather than a jury trial. Is that correct?

22 MS. PRINSEN: Yes, your Honor.

23 MS. SAXON: Yes, your Honor.

24 THE COURT: First of all, under Rule 14(b), which
25 addresses waiver, it says:

3-18-14 STATE V BYAS

1 The defendant may waive his right
2 to a jury trial only with the approval of
3 the solicitor and the trial judge.

4 Does the Solicitor consent to the defendant waiving
5 his right to a jury trial?

6 MS. PRINSEN: Yes, your Honor.

7 THE COURT: All right. Sir, I want you to -- I'm
8 going to address this, and this kind of plays in part.
9 You are objecting to it coming in, but I've still got to
10 listen to it to determine whether or not it's
11 admissible.

12 MS. SAXON: I understand that, your Honor.

13 THE COURT: Okay? And so, --

14 MS. SAXON: Right. I -- I --

15 THE COURT: I'm going to listen to the tape, and if
16 they intend to put it in, I'm going to listen to it to
17 determine whether or not I think it would be admissible.

18 MS. SAXON: Correct.

19 THE COURT: So, if the defendant will stand, I'm
20 going to go over some issues before we go any further.
21 I will listen to the tape. I'm not going to rule on
22 your motion right now, Ms. Saxon. I'm going to listen
23 to the tape before I make a ruling on it.

24 MS. SAXON: Certainly, your Honor.

25 THE COURT: It may not even come to the necessity

3-18-14 STATE V BYAS

1 of me even listening to the tape if the State decides,
2 for whatever reason, they don't want to introduce it.
3 Okay?

4 MS. SAXON: Thank you.

5 THE COURT: So, I will wait until the State makes
6 that decision. The State says, Judge, at this time
7 we're going to introduce this telephone conversation or
8 play it or whatever, then, I'll step off the Bench and
9 I'll go listen to it, and I'll make a decision on it.
10 All right?

11 MS. SAXON: Thank you, your Honor.

12 THE COURT: All right. Hold on just a minute. If
13 you'd swear the defendant, Madam Clerk.

14 MADAM CLERK: Yes, sir. Would you raise your right
15 hand for me, please. Do you solemnly swear to
16 truthfully answer all questions asked of you by this
17 Court, so help you God?

18 DEFENDANT BYAS: Yes, ma'am. Yes, ma'am.

19 DEFENDANT PERNELL DETROIT BYAS

20 EXAMINATION BY THE COURT:

21 Q All right. Sir, you are Pernell Byas?

22 A Yes, sir.

23 Q All right. There are some questions I want to ask
24 of you to determine whether or not you are -- (1)
25 whether or not you want to waive your right to a jury

3-18-14 STATE V BYAS

1 trial; and (2), whether or not you're doing so freely,
2 voluntarily, knowingly, and intelligently. Okay?

3 A Yes, sir.

4 Q Your lawyer, Ms. Saxon, yesterday afternoon, told
5 me back in chambers, back in my office, along with the
6 Solicitor, that they wanted to do a bench trial in this
7 case. Okay?

8 A Yes, sir.

9 Q However, it's the Court's responsibility to first
10 advise you of your constitutional rights to a trial by
11 jury and make a determination as to whether or not
12 you're knowingly, intelligently, freely, and voluntarily
13 waiving that right. Okay?

14 A Yes, sir.

15 Q How far did you go in school?

16 A Tenth grade.

17 Q Have you ever been treated for any alcohol abuse,
18 drug abuse, or mental illness?

19 A No, sir.

20 Q Within the last 24 hours, have you taken any
21 medication, drugs, or alcohol?

22 A No, sir.

23 Q Are you aware of any physical, emotional, or
24 nervous problem that would prevent you or keep you from
25 understanding what's going on here?

3-18-14 STATE V BYAS

1 A No, sir.

2 Q Okay. Now, you understand that you have a right --
3 you've been charged with a crime, and you have a right
4 under our constitution to have a jury trial. You have a
5 right to have twelve people sit in that box over there
6 and determine your guilt or innocence as to this
7 particular offense. Do you understand that?

8 A Yes, sir.

9 Q In fact, you have a right in front of this jury for
10 your lawyer to question any witnesses against you in
11 front of a jury. Your lawyer -- you could remain
12 silent, and if you did remain silent, I would tell the
13 jury that they couldn't hold that against you.

14 A Yes, sir.

15 Q You'd have a right to present any defense you have
16 to the charge against you, and your lawyer's already
17 made one motion here today about suppressing some
18 evidence.

19 A Yes, sir.

20 Q And you heard me tell her, even though she's made
21 that motion, if it's being tried in front of me, I've
22 still got to listen to it.

23 A Yes, sir.

24 Q And I'll put on the record, for instance, if I say
25 it's not admissible, I won't take it into consideration

3-18-14 STATE V BYAS

1 in my determination; but if you went forward on a jury
2 trial, the State would have to convince twelve people in
3 that box over there that you violated -- they'd have to
4 convince twelve people beyond a reasonable doubt --

5 A Yes, sir.

6 Q -- that you violated this particular law. Do you
7 understand that?

8 A Yes, sir.

9 Q Now, if I go along with what your lawyer has said,
10 that you want a bench trial as opposed to a jury trial,
11 you know how many people the State's got to convince of
12 your guilt?

13 A Twelve?

14 Q Sir? If you give up your right to a jury trial of
15 twelve people in that box over there deciding your fate
16 or guilt or innocence, if you give that right up, do you
17 know how many people the State now has to convince
18 beyond a reasonable doubt that you're guilty of this
19 offense? Sir?

20 A Just the judge?

21 Q One. Me.

22 A Yes, sir.

23 Q And you understand that?

24 A Yes, sir.

25 Q So, what you're asking this court to do is allow

3-18-14 STATE V BYAS

1 you to proceed here today, giving up your right to a
2 jury trial and letting one person decide your guilt or
3 innocence, as opposed to twelve. Do you understand
4 that?

5 A Yes, sir.

6 Q Is that what you want to do?

7 A Yes, sir.

8 Q And you've had enough time to talk with your
9 lawyers about that? There's two lawyers there. Ms.
10 Saxon. Please tell me your name again.

11 MS. CARROWAY: Ms. Carroway, with the Public
12 Defender's Office.

13 Q Ms. Carroway. You've got two lawyers standing
14 there with you. You've talked with them about that?

15 A Yes, sir.

16 Q At length?

17 A Yes, sir.

18 Q Okay. Anybody forcing you, threatened you, in any
19 way put any pressure on you to waive your right to a
20 jury trial here today?

21 A No, sir.

22 Q Has anybody promised you anything or held on any
23 hope of any kind of reward to get you to proceed in
24 giving up your right to a jury trial and letting me
25 decide? Anybody made any promises to you or held on any

3-18-14 STATE V BYAS

1 hope of reward to get you to make that choice here
2 today?

3 A No, sir, they haven't.

4 Q Have you understood all of my questions?

5 A Yes, sir.

6 Q Do you have any questions you want to ask me?

7 A Concerning the case?

8 Q Sir?

9 A Concerning my case?

10 Q Concerning your right to a jury trial, of anything
11 that I have told you here today, do you have any
12 questions about that?

13 A No, sir.

14 Q All right. Do you need anymore time to talk to
15 your lawyers about this issue, as to whether or not you
16 want a jury trial, or whether or not you want to give up
17 your right to a jury trial and have this case heard by
18 me? Do you need anymore time to talk to your lawyers
19 about that?

20 A No, sir.

21 FINDING, BY THE COURT:

22 THE COURT: Anything from the State?

23 MS. PRINSEN: No, your Honor.

24 THE COURT: Anything further from Defense counsel?

25 MS. SAXON: No, your Honor."

3-18-14 STATE V BYAS

1 THE COURT: All right. Based upon my observations
2 of the defendant, based upon my questioning of this
3 defendant on his right to a jury trial, this Court finds
4 that he is waiving his right to a jury trial, and he is
5 doing so freely, voluntarily, knowingly and
6 intelligently; and after full consultation with his
7 counsel, that nobody has promised him anything or held
8 out any hope of reward to get him to relinquish his
9 right to a jury trial; nor has anybody used any threats,
10 force, pressure, or intimidation to get him to
11 relinquish his right to a jury trial; that he has made
12 this decision, again, freely, voluntarily, knowingly,
13 and intelligently, after consultation with his counsel.

14 Therefore, the Court will allow him to proceed here
15 today, waiving his right to a jury trial. The State has
16 consented, pursuant to the rules. The Court is
17 consenting, as well. All right. Anything further, Ms.
18 Saxon?

19 MS. SAXON: No, your Honor.

20 THE COURT: Anything further, Ms. Prinsen?

21 MS. PRINSEN: Your Honor, the only thing I would
22 like to bring to your attention would be I do have a
23 witness I plan on asking about statements that the
24 defendant made. I know this isn't a jury trial, so I
25 don't know whether you want him to go through that or

3-18-14 STATE V BYAS

1 address it as it comes up.

2 THE COURT: We'll just address it if it comes up.

3 MS. PRINSEN: Thank you, your Honor.

4 THE COURT: Any *Jackson v Denno* issues, or --

5 MS. PRINSEN: That would be my *Jackson v Denno*
6 issue, your Honor.

7 THE COURT: Mr. Hall, you're over there shaking
8 your head. You want to tell me something?

9 MR. HALL: No, thank you, your Honor.

10 THE COURT: All right. We can do it all in one
11 sort of sweep, so to speak, and then, I'll make a
12 determination after those questions. I'll elicit any
13 cross-examination of this particular witness of this
14 particular witness as to whether or not the statement
15 was freely, voluntarily, knowingly, intelligently made,
16 or whatever else needs to be dealt with on that issue.

17 There's no need to put this witness on the stand.
18 solely for that purpose and then turn right around,
19 depending upon my ruling, and have him say the same
20 thing.

21 I will say this. I will give the witness some
22 latitude in their -- in your direct examination. For
23 instance, during a typical *Jackson v Denno* hearing, the
24 issue is limited solely to that, whether or not it was
25 voluntarily, knowingly, and intelligently made, after

3-18-14 STATE V BYAS

DIRECT - LASANDRA YOUNG

1 having been advised of his rights. So, I'm going to let
2 you bring out anything else that this witness may have
3 to testify about, again, subject to the rules of
4 evidence, but giving some latitude in whatever his
5 testimony may be. If there are other issues that he has
6 knowledge about that's relevant to this case, would
7 certainly allow them to testify as to those issues, as
8 well. Am I clear on that? Do you understand that?

9 MS. PRINSEN: Yes, your Honor.

10 MS. SAXON: Yes, your Honor.

11 THE COURT: All right. Anything else before we
12 begin?

13 MS. PRINSEN: Nothing from the State.

14 MS. SAXON: Nothing from the Defense, your Honor.

15 BEGIN BENCH TRIAL:

16 BY THE COURT:

17 THE COURT: Do you all wish to do any opening
18 statements?

19 MS. PRINSEN: The State will waive their opening,
20 your Honor.

21 THE COURT: Defense counsel?

22 MS. SAXON: I will waive the opening, as well, your
23 Honor.

24 THE COURT: Call your first witness.

25 MS. PRINSEN: Thank you, your Honor. The State

3-18-14 STATE V BYAS

DIRECT - LASANDRA YOUNG

1 calls LaSandra Young.

2 MADAM CLERK: Do you solemnly swear or affirm the
3 testimony you give to this court in this trial shall be
4 the truth, so help you God?

5 MADAM CLERK LASANDRA YOUNG: I do. LaSandra G.
6 Young.

7 THE COURT: Go ahead, Ms. Prinsen.

8 MS. PRINSEN: Thank you, your Honor.

9 MADAM CLERK LASANDRA G. YOUNG

10 DIRECT EXAMINATION BY MS. PRINSEN:

11 Q Ms. Young, could you please tell us what you do for
12 a living.

13 A I'm the judicial clerk for the Clerk of Courts
14 Office for Beaufort County.

15 Q And what are your responsibilities?

16 A We're the record -- we keep the records, and I do
17 the intake of the indictments and the warrants.

18 Q So, you're a custodian of criminal records?

19 A Yes.

20 Q And where are those records stored?

21 A If the case is disposed of, they're on the wall.
22 If they're not, we have the indictments in a container.
23 It's like a bin.

24 Q And are these records kept in the normal and
25 ordinary course of business?

3-18-14 STATE V BYAS

DIRECT - LASANDRA YOUNG

1 A Yes.

2 MS. PRINSEN: Your Honor, may I approach the
3 witness?

4 THE COURT: Yes.

5 BY MS. PRINSEN:

6 Q Ms. Young, I'm handing you what has been pre-marked
7 as State's Exhibit 1 for identification purposes.

8 A Yes.

9 Q Do you recognize this?

10 A Yes, I do.

11 Q Can you tell us what it is?

12 A It's a sentencing sheet and -- and an indictment.

13 Q Can you tell us who that sentencing sheet is for?

14 A It's kind of hard to read, but it's for Pernell
15 Detroit Byas.

16 Q And are you able to read what the charge is?

17 A Lewd act upon a child. That's what it looks like.

18 Q And has this been certified?

19 A Yes, it has.

20 MS. PRINSEN: Your Honor, the State requests to
21 move State's Exhibit 1 into evidence.

22 THE COURT: Any objection?

23 MS. SAXON: No, your Honor.

24 THE COURT: Without objection, State's Exhibit
25 Number 1 admitted into evidence. May I see that?

3-18-14 STATE V BYAS

DIRECT - LASANDRA YOUNG

1 A Yes, sir.

2 DOCUMENT IDENTIFIED AS CERTIFIED
3 COPY OF INDICTMENT AND SENTENCING
4 SHEET REGARDING PERNELL DETROIT BYAS
5 MARKED STATE'S EXHIBIT NUMBER 1,
6 ADMITTED AS EVIDENCE.

7 THE COURT: Do you have anymore questions of her
8 regarding this document?

9 MS. PRINSEN: No, your Honor. The State has no
10 more questions for this witness.

11 THE COURT: All right. Cross-examination.

12 MS. SAXON: We have no questions for this witness.

13 THE COURT: Ma'am, you may step down for me.

14 A Okay.

15 THE COURT: Call your next witness, please.

16 MS. PRINSEN: The State calls Arthur Murray.

17 MADAM CLERK: Would you place your left hand on the
18 Bible and raise your right hand for me, please. Do you
19 solemnly swear to truthfully answer all questions asked
20 of you by this Court, so help you God?

21 ARTHUR MURRAY: I do.

22 MADAM CLERK: Please be seated. State your name
23 and spell it for the Court, please.

24 ARTHUR MURRAY: I am Arthur Murray. It's
25 A/r/t/h/u/r, M/u/r/r/a/y.

3-18-14 STATE V BYAS

DIRECT - ARTHUR MURRAY

1 THE COURT: Go ahead, Ms. Prinsen.

2 ARTHUR MURRAY.

3 DIRECT EXAMINATION BY MS. PRINSEN:

4 Q Thank you, your Honor. Mr. Murray, what do you do
5 for a living?

6 A Do construction work.

7 Q Construction work? Are you familiar with Pernell
8 Byas?

9 A Yes, I do.

10 Q Can you please tell us how you know him.

11 A I knew him for a quite a few years, and he came by
12 me -- one of his, I guess, detective, the guy sitting
13 over in the corner over there, and he had been in some
14 trouble, and they needed a -- he's been in some trouble.
15 They needed --

16 Q Mr. Murray, it's a little bit hard hear you.

17 A Okay.

18 Q Can you --

19 A Okay.

20 Q Can you speak up.

21 A He needed a place.

22 Q I'm sorry. He needed a place?

23 A To stay within the county, and if he --

24 Q Did you provide him with a place to stay, Mr.
25 Murray?

3-18-14 STATE V BYAS

DIRECT - ARTHUR MURRAY

1 A I did.

2 Q Were you the defendant's landlord?

3 A Yes.

4 Q And when was this that you were his landlord?

5 A I think it was back in July of 2013. June, July,
6 that time frame, I think.

7 Q June, July of 2013?

8 A Yeah.

9 Q How long did the defendant -- how long was the
10 defendant your tenant?

11 A About two-and-a-half months, something like that.

12 Q Did you have an agreement that the defend -- did
13 the defendant pay you rent?

14 A No.

15 Q Was the agreement for the defendant to stay rent-
16 free?

17 A No.

18 Q Did you do anything because of that?

19 A I talked to the officer over there, and I talked to
20 him, and --

21 Q Why did you talk to him?

22 A Because he -- he used to say that he was going to
23 get with me that weekend, or he was going to give me a
24 call, and we didn't connect like that. It never
25 happened.

3-18-14 STATE V BYAS

DIRECT - ARTHUR MURRAY

1 Q Did you take any legal steps?

2 A Yes.

3 Q For the not paying the rent?

4 A Yes.

5 Q And what were those?

6 A I went to file eviction against him.

7 Q Did you ever complete the eviction process?

8 A I couldn't complete it. I filed it, but then he
9 moved, and they said that I needed another address, I
10 need the correct address to have him served. And I
11 couldn't come up with the address during the time that
12 the case was coming up, so I kind of dropped it.

13 Q When was the last time you had contact with the
14 defendant, with Mr. Byas?

15 A About a month after that.

16 Q Did you have the electricity cut off on the home
17 where Mr. Byas was staying?

18 A Yeah.

19 Q And Mr. Murray, is Mr. Byas here today?

20 A Yes, he is.

21 Q Could you please point him out to us.

22 A He's sitting right over there.

23 MS. PRINSEN: Let the record reflect he pointed to
24 the defendant.

25 THE COURT: So noted for the record.

3-18-14 STATE V BYAS

DIRECT - ARTHUR MURRAY

1 MS. PRINSEN: Beg the Court's indulgence, your
2 Honor.

3 BY MS. PRINSEN:

4 Q Mr. Murray, you stated earlier that you let him
5 know that you were planning on evicting the defendant,
6 the officer. Could you please tell us who that officer
7 is, or who that officer was that you spoke with.

8 A Mr. Hicks, I think it is.

9 Q I'm sorry, I can't hear you.

10 A He's over there. Mr. Hicks, I think it is.

11 Q Mr. Hicks?

12 A I think that's -- I'm not sure.

13 Q And could you also tell us, what was the address of
14 the trailer that you were renting to the defendant?

15 A It was [REDACTED], [REDACTED] -- [REDACTED]

16 Q [REDACTED], [REDACTED]?

17 A Yes.

18 Q Is that in Beaufort County?

19 A Yes.

20 MS. PRINSEN: Thank you, Mr. Murray. The State has
21 no further questions.

22 THE COURT: Cross-examination.

23 MS. SAXON: Thank you, your Honor. May it please
24 the Court?

25 THE COURT: Yes, ma'am.

3-18-14 STATE V BYAS CROSS-EXAMINATION ARTHUR MURRAY

1 ARTHUR MURRAY

2 CROSS-EXAMINATION BY MS. SAXON:

3 Q Mr. Murray, my name is Jessica Saxon. I'm with the
4 Public Defender's Office. I'm for Mr. Byas. I wanted
5 to ask you a few questions about the testimony you just
6 gave.

7 You noted that you filed eviction papers. Do you
8 have any actual proof of those, the beginning of the
9 process?

10 A I don't have them with me, but I can get it.

11 Q But you would say you actually have eviction papers
12 somewhere?

13 A Yes.

14 Q Okay. When you went to turn off the electricity to
15 the trailer, was that an attempt to evict Mr. Byas?

16 A Not really. What happened is, the power company
17 usually notify me when somebody is trying to get power
18 to a trailer to live, and they called me and told me
19 that the light bill has not been paid.

20 The reason they did that, because I turned the
21 lights on for him when he was moving in, and I told him
22 to go there and pay them, but he never followed through
23 on it. So, they told me they were turning it off,
24 because I had a elderly person living there before, and
25 I asked them just to let me know if something happened

3-18-14 STATE V BYAS CROSS-EXAMINATION ARTHUR MURRAY

1 between them.

2 Q Did you change the locks on the trailer door?

3 A Not right then.

4 Q Did you take Mr. Pernell Byas' keys?

5 A I think he gave me one key, I think. I'm not sure.

6 Q And what about his personal belongings that were in
7 the trailer?

8 A He really had nothing, other than -- the guy
9 sitting in the back over there in the black had gave him
10 some furniture and they put them in the trailer.

11 Q Um-hmm.

12 A And after I couldn't get the address to where he
13 had moved to, the magistrate told me that just to leave
14 the furniture in there, and if they came back there, to
15 come and let him know. And Mr. Donaldson told me that
16 he wanted the furniture back, because he gave it to Mr.
17 Byas.

18 Q But the furniture was left in the trailer.

19 A Yes.

20 Q And Mr. -- you never saw Mr. Byas attempt to move
21 it to a new location.

22 A No, he didn't -- he never said nothing to me.

23 Q Okay. You said you provided him a place to stay
24 for about two months. Is that correct? Two to two-and-
25 a-half months?

3-18-14 STATE V BYAS

RE-DIRECT - ARTHUR MURRAY

1 A Two-and-a-half months, yeah.

2 Q So, anytime starting in June or July, continuing
3 through roughly --

4 A Um-hmm.

5 Q -- mid-September, then. Is that correct?

6 A Yeah. Yeah.

7 COURT REPORTER: Is that yes? I need you to speak
8 up, please.

9 A Yes.

10 COURT REPORTER: Thank you.

11 MS. SAXON: Beg the Court's indulgence for a
12 moment.

13 BY MS. SAXON:

14 Q And just one more question, Mr. Murray. Your
15 testimony is that you attempted to start the eviction
16 procedure -- or started the eviction process, but hadn't
17 -- did not complete it, correct?

18 A Yes.

19 MS. SAXON: Thank you.

20 THE COURT: Any re-direct?

21 MS. PRINSEN: Yes, your Honor, just briefly.

22 ARTHUR MURRAY

23 RE-DIRECT EXAMINATION BY MS. PRINSEN:

24 Q Mr. Murray, do you remember when you called Officer
25 Hicks?

3-18-14 STATE V BYAS

RE-DIRECT - ARTHUR MURRAY

1 A No, I don't, but I called him several times.

2 Q Do you remember if that was before or after the
3 electricity had been turned off?

4 A It was -- he came out there after they cut it off,
5 and I talked to Mr. Hicks, and I had called him before
6 that, because I was trying to find out if they know
7 where he was living. And he didn't -- he said not at
8 that time; he was looking for him. So, I didn't talk to
9 him since.

10 MS. PRINSEN: Thank you, Mr. Murray. No further
11 questions.

12 THE COURT: Any re-cross?

13 MS. SAXON: No, your Honor.

14 THE COURT: All right, sir. You may step down.
15 Call your next witness.

16 MS. PRINSEN: Thank you, your Honor. The State
17 calls Tyrone Hicks.

18 MADAM CLERK: Would you place your left hand on the
19 Bible and raise your right hand for me, please. Do you
20 solemnly swear to truthfully answer all questions asked
21 of you by this Court, so help you God?

22 AGENT TYRONE HICKS: I do.

23 MADAM CLERK: Please be seated. State your name
24 and spell it for the court reporter, please.

25 AGENT TYRONE HICKS: My name is Agent Tyrone Hicks,

3-18-14 STATE V BYAS

DIRECT - AGENT TYRONE HICKS

1 T/y/r/o/n/e, H/i/c/k/s.

2 AGENT TYRONE HICKS

3 DIRECT EXAMINATION BY MS. PRINSEN:

4 Q Thank you. Agent Hicks, can you please tell us who
5 you work for.

6 A Yes, ma'am. I am a field agent with the South
7 Carolina Department of Probation, Parole, and Pardon
8 Services.

9 Q And as part of that, do you do any GPS monitoring?

10 A Yes, I do.

11 Q Can you tell us a little bit about that.

12 A We have a team of about five agents that respond to
13 alerts and violations that occur on a population of our
14 offenders that are being GPS monitored. These agents
15 take calls after hours. It's approximately 5:00 p.m.
16 that are triaged first by our GOC, which is a operating
17 center in Columbia. These calls come to us if they're
18 -- if they are alerts that are of a community safety
19 matter.

20 Q And were you in charge of GPS monitoring for Mr.
21 Pernell Byas?

22 A Yes.

23 Q And do you see Mr. Byas here today?

24 A I do.

25 Q Could you please point him out to us.

3-18-14 STATE V BYAS

DIRECT - AGENT TYRONE HICKS

1 A He's there, with the tie on and the white shirt.

2 Q And what specifically is your role with Mr. Byas?

3 A Mr. Byas was a GPS-tracked offender, meaning he was
4 only being tracked under the GPS device. He was not on
5 a probation, probationary sentence or a parole sentence.
6 He was being GPS monitored.

7 Q So, you were -- were you his probation agent?

8 A Yes, ma'am. I was the supervising agent for Mr.
9 Byas.

10 Q And Mr. Byas -- would Mr. Byas regularly come in
11 and check with you, check in with you?

12 A No, ma'am. Because he was being GPS tracked, he
13 was not under the standard conditions of probation,
14 which would require him to have what we call a progress
15 report. He was not required to report to the office for
16 a regular progress report.

17 Q How are you able -- how do you access the
18 monitoring?

19 A We use a surveillance company. We're currently
20 using a different company than the one that Mr. Byas was
21 being supervised on. We currently use monitoring
22 company called B.I. Software. Mr. Byas' surveillance
23 company was a company called OmniLink.

24 Q And were you able to access these records at any
25 time?

3-18-14 STATE V BYAS

DIRECT - AGENT TYRONE HICKS

1 A Yes, ma'am. I still have my user name and
2 password, which -- which enables me to login to the
3 system. We do not have any active clients currently on
4 that software. In order for me to obtain information
5 regarding to clients that we previously supervised on
6 that software, I would have to contact a tech, but I'm
7 still able to logon and have access to those techs.

8 Q And from the dates of September 1st, through
9 September 15th of 2013, were you able to access those?

10 A Yes, I was.

11 Q And are those records kept in the normal and
12 ordinary course of your business?

13 A Yes, ma'am.

14 MS. PRINSEN: Your Honor, may I approach the
15 witness?

16 THE COURT: You may.

17 BY MS. PRINSEN:

18 Q Agent Hicks, I'm showing you what has been pre-
19 marked as State's Exhibit 2. Do you recognize this?

20 A Yes, I do.

21 Q Could you please tell us what it is.

22 A These are GPS tracking points with the beginning
23 date of September 1, 2013, and an ending date of
24 September 15, 2013. These were taken from the OmniLink
25 website.

3-18-14 STATE V BYAS

DIRECT - AGENT TYRONE HICKS

1 Q And who do those records pertain to?

2 A Pernell Byas.

3 Q And have they been altered in any way?

4 A No, ma'am.

5 MS. PRINSEN: Your Honor, the State requests to
6 move State's Exhibit 2 into evidence.

7 THE COURT: Any objection?

8 MS. SAXON: No objection, your Honor.

9 THE COURT: Without objection, State's Exhibit
10 Number 2 is admitted into evidence.

11 MS. PRINSEN: Thank you, your Honor.

12 ITEM IDENTIFIED AS GSP TRACKING

13 RECORDS MARKED

14 STATE'S EXHIBIT NUMBER 2,

15 ADMITTED AS EVIDENCE.

16 BY MS. PRINSEN:

17 Q Agent Hicks, can you please tell us on those
18 records, at any time, does it show Mr. Pernell Byas at

19 [REDACTED]?

20 A No, ma'am.

21 Q And what were the dates? That's from -- the dates
22 of those records are for?

23 A September 1, 2013, until September 15, 2013.

24 Q Thank you, Agent Hicks. Now, I'm going to go back
25 and ask you, the phone call you received from the

3-18-14 STATE V BYAS

DIRECT - AGENT TYRONE HICKS

1 landlord.

2 A Um-hmm.

3 Q Do you remember when that was?

4 A Yes, ma'am. Well, we -- as Mr. Murray stated, we
5 had several conversations during that period in
6 reference to Mr. Byas and his address. We spoke on
7 August the 19th, which was the last conversation, and we
8 spoke in reference to Mr. Murray initiating an eviction
9 process for Mr. Byas.

10 Q And what was the address that Mr. Murray was
11 referring to as the -- for evicting?

12 A [REDACTED].

13 Q And what is the address that the defendant had been
14 registered with your office?

15 A [REDACTED].

16 Q What did you do after you found out the landlord
17 was planning on evicting Mr. Byas?

18 A I -- I really didn't do anything after that. I
19 attempted to make contact with Mr. Byas, and that was
20 prior to our subsequent encounter when I was off duty.

21 Q When was the next time you actually made contact
22 with the defendant?

23 A It was September 2, 2013. I was off duty at
24 Walmart.

25 Q And why were you at Walmart, Agent Hicks?

3-18-14 STATE V BYAS

DIRECT - AGENT TYRONE HICKS

1 A I was off duty, and I was actually planning on
2 going on a bike ride in Colleton County, and I was there
3 to get a bike seat for my son.

4 Q And where did you see the defendant?

5 A I was parked on the side entrance. I was entering
6 on the right side of Walmart. They have two entrances.
7 Mr. Byas was seated on the curb, and as I was entering
8 into that right side, he was sitting on the curb, and we
9 crossed paths.

10 Q And what happened next?

11 A We began conversating. I mentioned to him the
12 conversation I had with Mr. Murray on August the 19th,
13 and the fact that Mr. Murray was in the process of
14 evicting him.

15 Q Was there anybody else present when you had this
16 conversation?

17 A I believe there was a woman and a small child. I
18 do not know if they were with Mr. Byas or not.

19 Q And about how long were you speaking with him?

20 A It was approximately 15 minutes. It wasn't long.

21 Q And you told him that you had spoke with Mr.
22 Murray. What happened next?

23 A He mentioned to me that he had already moved. He
24 had already secured an address. I asked him what that
25 address was. He was not able to give me a numerical

3-18-14 STATE V BYAS

DIRECT - AGENT TYRONE HICKS

1 address. He stated it was on Broad River.

2 Q Did he tell you anything else about where?

3 A No, ma'am.

4 Q And what happened next?

5 A I gave him two implicit instructions. First, I
6 told him that he needed to contact the Sheriff's
7 Department in reference to his address change, because
8 they have strict requirements in terms of if they change
9 their address they have to notify the sex offender
10 representative from the Sheriff's Department of that
11 change. I also told him to come by my office so I can
12 update the address.

13 Q And did he do that?

14 A No, ma'am.

15 Q So, what did you do after this encounter that you
16 had with Mr. Byas on September 2nd of 2013?

17 A It was approximately a week later it came to my
18 mind, September 12th, actually, and I called Sergeant
19 Light from the Sheriff's Department to verify if Mr.
20 Byas -- excuse me -- had followed through with those
21 instructions.

22 She stated he did not. And she stated at that time
23 that they could initiate a warrant for Mr. Byas' arrest
24 because of that. I advised her that I could check first
25 to make sure that it was, you know, just maybe he didn't

3-18-14 STATE V BYAS

CROSS - AGENT TYRONE HICKS

1 have a ride or something of that sort.

2 So, I attempted to make contact with him. I looked
3 for him for awhile and was not able to find him at that
4 moment. I terminated my search for him and called back
5 Sergeant Light and advised her that she could initiate
6 that process.

7 Q And were you involved in the actual arrest of Mr.
8 Byas?

9 A I was.

10 Q And when did that occur?

11 A That was September 18th.

12 Q And where did that occur?

13 A Broad River Road. Excuse me, Broad River
14 Boulevard.

15 Q And is Broad River Boulevard in Beaufort County?

16 A Yes, ma'am.

17 MS. PRINSEN: Beg the Court's indulgence for one
18 second, please.

19 Thank you, Agent Hicks. The State has no more
20 questions for you.

21 THE COURT: Cross-examination.

22 MS. SAXON: Thank you, your Honor.

23 AGENT TYRONE HICKS

24 CROSS-EXAMINATION BY MS. SAXON:

25 Q Good morning, Agent Hicks. How are you?

3-18-14 STATE V BYAS

CROSS - AGENT TYRONE HICKS

1 A Good morning.

2 THE COURT: Let me ask you something, Ms. Saxon,
3 before you go any further.

4 MS. SAXON: Certainly.

5 THE COURT: Is this the witness that *Jackson v*
6 *Denno* pertains to?

7 MS. SAXON: This is, your Honor.

8 THE COURT: All right.

9 MS. SAXON: Thank you.

10 BY MS. SAXON:

11 Q Okay. I'm going to kind of go in the same order
12 that Ms. Prinsen went with you, and we'll go down from
13 there, so. You testified that Mr. Byas was not on
14 supervision, correct?

15 A That's correct.

16 Q And he did not have a duty to report outside of his
17 registration duty, correct?

18 A That's correct.

19 Q Okay. You also testified that you managed the
20 pings for the GPS system, correct?

21 A Excuse me?

22 Q The GPS pingging system, you managed that, in part
23 with other officers?

24 A I do not. The GOC handles all the non-community
25 safety violations and calls first.

3-18-14 STATE V BYAS

CROSS - AGENT TYRONE HICKS

1 Q Um-hmm.

2 A They triage that. We only respond to the community
3 safety issues.

4 Q Okay. So, you only see a portion of it.

5 A Yes.

6 Q Okay. Do you know how often the GPS pings?

7 A I do not.

8 Q You do not.

9 A No.

10 Q Okay. So, would it surprise you to know that it
11 isn't constant on the GPS information that we have?

12 A There's a, I think, a few minutes in between each
13 point.

14 Q Um-hmm.

15 A I'm aware of that.

16 Q And does the GPS always resolve an address?

17 A Excuse me? Can you repeat that?

18 Q Do you know if the GPS always resolves an address?

19 A No, ma'am. Sometimes there are drift points.

20 Q Um-hmm.

21 A The satellite -- it's essentially a wireless
22 device, so just -- just like you have a cell phone, when
23 you have a dead spot, sometimes the GPS does have that.

24 Q Okay. Staying on the GPS for a moment, you said
25 you were not able to find him, but he was still on GPS

3-18-14 STATE V BYAS

CROSS - AGENT TYRONE HICKS

1 at the time, correct?

2 A Yes.

3 Q Was there a reason you could not find him through
4 the GPS?

5 A The last point led to a tree line. It was a
6 heavily wooded area, and the point landed on that wooded
7 area. So, I -- he could have been anywhere within that
8 wooded area.

9 Q Okay. Did you review this GPS information in
10 preparation for today?

11 A I did.

12 Q In your review of it, would you say that there is
13 any one address that you've seen Mr. Byas at with
14 regularity and for extended periods of time? I would
15 say longer than maybe four hours.

16 A His Broad River address, that is the only address
17 that I see that consistently he's at after hours.

18 Q Do you see him anywhere for an extended period of
19 time?

20 A Excuse --

21 Q An extended period of time. So, if you're looking
22 at the pings, is he there for 45 minutes, or is he there
23 for four hours? Do you see anything that shows him
24 there for an extended period of time?

25 A When you say *extended*, what do you mean?

3-18-14 STATE V BYAS

CROSS - AGENT TYRONE HICKS

1 Q I would say more than four hours.

2 A I am not aware of that. I can only testify to the
3 fact that --

4 Q To what you know. That's fine.

5 A -- that, after hours, he's at -- consistently at
6 Broad River Boulevard.

7 Q Okay. Turning to your phone call with Mr. Murray,
8 you said you spoke with him, and he indicated he was
9 initiating eviction procedure, correct?

10 A Yes, ma'am.

11 Q He never indicated to you that he actually evicted
12 Mr. Byas.

13 A Correct.

14 Q Okay. And now turning to the Walmart conversation,
15 did you identify yourself when you saw Mr. Byas out?

16 A When you say *identify*, what do you mean, ma'am?

17 Q Did you say, you know, oh, hello, Agent Hicks with
18 Department?

19 A No. I mean, he has -- he'd been on GPS monitoring
20 up until that point for several months, so we -- we were
21 aware of who -- of each other.

22 Q Okay.

23 Q And you say you spoke to him as you were entering
24 into Walmart?

25 A Yes, ma'am.

3-18-14 STATE V BYAS

CROSS - AGENT TYRONE HICKS

1 Q Okay. So, as you were going in to do your
2 shopping.

3 A Um-hmm.

4 Q Okay. On a given day when you're on duty, roughly
5 how many probationers do you think you speak to?

6 A When I'm off duty?

7 Q On duty.

8 A On duty?

9 Q Um-hmm.

10 A Well, I supervise over a hundred offenders. You
11 calculate, on a report day, there are two other agents
12 in the office that also have about that amount. It
13 depends on the day, really.

14 Q Right. But could you estimate in a ten-day period,
15 roughly how many people you think you talk to?

16 A On a -- on a report day, on a duty day, I'd say
17 probably anywhere from 20 to 40.

18 Q Okay. And how often do you have duty days?

19 A I work Monday through Friday, 8:30 to 5:00 p.m. We
20 have report days where the offenders report in for a
21 progress report on Tuesdays.

22 Q Okay. So, is that every Tuesday?

23 A Yes, ma'am.

24 Q Okay. So, this conversation occurred on the 9th --
25 or the 2nd, I'm sorry, of September, correct?

3-18-14 STATE V BYAS

CROSS - AGENT TYRONE HICKS

1 A Yes, ma'am. It was Labor Day. I was off.

2 Q Okay. And then, but you didn't record it in any
3 measure until ten days later, correct?

4 A Yes, ma'am.

5 Q Okay. Just one second.

6 MS. SAXON: The Court, beg your indulgence.

7 BY MS. SAXON:

8 Q Okay. Just to clarify, do you have the copy of the
9 GPS reporting in front of you?

10 A I do.

11 Q Okay. I would like to, and this is -- I don't --
12 this is going to be a little bit painful. I apologize.
13 But I'd like to actually go through briefly, if we can,
14 and you know, they're saying this Broad River address.

15 A Um-hmm.

16 Q There are, by my estimation, a number, so I would
17 like your opinion of that.

18 A Sure.

19 Q So, if you could look at the document that you have
20 in front of you and see how many different addresses on
21 Broad River Road report.

22 A There are one, two -- about five different numbers,
23 which is not uncommon for that area. It's kind of a
24 coalition of trailers.

25 Q Right. Would you know if the monitor was sensitive

3-18-14 STATE V BYAS

CROSS - AGENT TYRONE HICKS

1 enough -- it reports different addresses, so is it
2 sensitive enough to know if someone's at a different
3 trailer, as to the lot?

4 A Yes, ma'am. If that -- if that trailer is with --
5 on a street that has been mapped.

6 Q Okay.

7 A And identified.

8 Q So, Broad River Road, according to this, has been
9 mapped. So, and if it says the offender was at 80 Broad
10 River, and then at 90 Broad River, or at 95 Broad River,
11 those are separate and distinct places on a map where
12 Mr. Byas could have been found at that time?

13 A Yes, ma'am. Um-hmm.

14 Q Okay. If you would look at the first page of the
15 document you have in front of you.

16 A Um-hmm.

17 Q Could you tell me what the first few lines there
18 say, what addresses are noted, and roughly how long the
19 offender was noted at each address?

20 A 92 Broad River Road, 12:37 a.m. The next point
21 reads 88 Broad River Boulevard -- excuse me -- 02:02:24
22 a.m. 86 Broad River Boulevard, 04:22:30 a.m. 98 Broad
23 River -- Broad River Boulevard, 04:04:24, 9:00 a.m.

24 Q And just to interject, I'm sorry.

25 A Okay.

3-18-14 STATE V BYAS

CROSS - AGENT TYRONE HICKS

1 Q Could you state the date that this is.

2 A That's September 1, 2013.

3 Q Okay. Thanks. Can you skip down to the 2nd, and
4 see if you see any Broad River Road pings on the 2nd.

5 A Yes. 97 Broad River Boulevard, 02:16:26 a.m.

6 There's a *unable to resolve address* at 03:23 a.m.

7 Another *unable to resolve address* at 03:45 a.m. And 88

8 Eastern Road at 05:48 a.m. And a 88 Broad River

9 Boulevard at 06:46 a.m. 88 Broad River Boulevard at

10 08:21 a.m.

11 Q Okay. And if you would continue in that day until
12 you see any other Broad River Boulevard addresses.

13 A 83 Broad River Boulevard, 10:26 a.m. There's an 80
14 Parris Island Gateway at 10:28 a.m.

15 Q Could you flip to the date of the 3rd, September
16 3rd. I think the pages -- my pages are out of order.

17 A Okay.

18 Q So, that's why I --

19 THE COURT: Can you tell him what date you're --

20 MS. SAXON: The 9-3. Your Honor, it's on my third
21 page, because one of my pages was out of order.

22 A Is there a specific time?

23 Q I'm looking at the beginning. Let's see. It looks
24 like mid-afternoon. I think the first thing I see is
25 around 10:00 to 11:00 a.m.

3-18-14 STATE V BYAS

CROSS - AGENT TYRONE HICKS

1 MS. SAXON: May I approach?

2 THE COURT: Yes, ma'am.

3 MS. SAXON: Thank you, your Honor.

4 BY MS. SAXON:

5 Q It might be easier, to help you.

6 A Um-hmm.

7 Q These right here, at the top.

8 A The first point reads September 3, 2013, 05:35 a.m.
9 at Parris Island Gateway. The next point reads 81 Broad
10 River Boulevard, September 3rd, 09:14 a.m. September
11 the 3rd, 10:16 a.m., at 81 Broad River Boulevard.
12 September the 3rd, 2013, 11:44 a.m., 88 Broad River
13 Boulevard. And September the 3rd, 2013, 12:00 o'clock
14 p.m., 90 Broad River Boulevard.

15 Q Okay. So, as we're going through this, --

16 A Um-hmm.

17 Q -- would you agree that he, that Mr. Byas, is not
18 at any one Broad River Boulevard location for any sort
19 of extended period of time?

20 A Yes. And that's understandable, due to the fact
21 that it's a section of -- there's -- that's a grouping
22 of trailers, so.

23 Q Right. But he's bouncing -- it appears that he is
24 moving around the trailers, from trailer to trailer.

25 A Yes, ma'am.

3-18-14 STATE V BYAS

RE-DIRECT - AGENT TYRONE HICKS

1 Q And it is true that he has to charge his GPS
2 bracelet every single night, correct?

3 A Yes, ma'am. For two hours.

4 Q For at least two hours, and it has to be a
5 continuous two hours, correct?

6 A Correct.

7 Q And he has to have electricity for that, correct?

8 A Correct.

9 Q So, he couldn't do it at the [REDACTED] trailer
10 where his electricity had been cut off; could he?

11 A He could not charge without electricity.

12 Q Okay. Great. Thank you.

13 MS. SAXON: Beg the Court's indulgence. I believe
14 that's all I have. That's all I have, your Honor.
15 Thank you.

16 THE COURT: Any re-direct?

17 MS. PRINSEN: Yes. Just quickly, your Honor.

18 AGENT TYRONE HICKS

19 RE-DIRECT EXAMINATION BY MS. PRINSEN:

20 Q Agent Hicks, you testified that, on this GPS
21 report, there are several different addresses
22 corresponding to the Broad River Boulevard, correct?

23 A Correct.

24 Q To your knowledge, did Mr. Byas ever report any of
25 those addresses as his own?

3-18-14 STATE V BYAS

RE-CROSS - AGENT TYRONE HICKS

1 A No, ma'am.

2 Q And again, in that GPS report, are any of those
3 addresses listed [REDACTED]?

4 A No, ma'am.

5 Q And is there any doubt in your mind that, when you
6 were at Walmart, it was Mr. Byas that you were speaking
7 to?

8 A No doubt at all.

9 MS. PRINSEN: Thank you, Agent Hicks. The State
10 has no further questions.

11 THE COURT: Any re-cross?

12 MS. SAXON: Just briefly on re-direct, your Honor.

13 THE COURT: Re-cross?

14 MS. SAXON: Pardon me. I mean, re-cross, your
15 Honor. Sorry.

16 AGENT TYRONE HICKS

17 RE-CROSS-EXAMINATION BY MS. SAXON:

18 Q We spoke briefly about how the GPS doesn't always
19 resolve. Is there any possibility that he could have
20 been near or at [REDACTED] and it not resolve?

21 A The GPS always tracks. When you say resolve --

22 Q To the pings. To the pings that are recorded.

23 A The GPS is always communicating with the satellite.

24 Q Okay.

25 A There are times when the exact location does not

3-18-14 STATE V BYAS

EXAMINATION - BY THE COURT

1 come up.

2 Q Okay.

3 A But the GPS is always communicating.

4 Q Right. But it doesn't always resolve an address,
5 correct?

6 A Well, it -- it does. When it's unable to -- when
7 there's an unable to resolve address, --

8 Q Um-hmm.

9 A -- what that means is, it's not able to pull up a
10 specific street number and street address, because -- a
11 number of reasons. The satellite could be communicating
12 or moving. The device could be -- or the person could
13 be in a heavily wooded area. It could be that the
14 street is not mapped.

15 It comes down to the accuracy number, and the
16 accuracy number is the verification that that person is
17 within several meters of that number.

18 Q Okay. And the accuracy number, okay. I see that
19 over here. I see what you're saying. Okay. But it's
20 safe to say that, when we have something that says
21 *unable to resolve address or street*, that means we don't
22 know exactly where he was, Mr. Byas was?

23 A It -- it means that the last point, for whatever
24 reason, that person has moved into an area that has been
25 either unmapped, the GPS satellite is moving, and it's

3-18-14 STATE V BYAS

EXAMINATION - BY THE COURT

1 not able to pull up that specific address.

2 Q Okay.

3 A But the accuracy number states that he was -- he is
4 within several meters of the last point.

5 MS. SAXON: Okay. Okay. That's all I have. Thank
6 you.

7 AGENT TYRONE HICKS

8 EXAMINATION BY THE COURT:

9 THE COURT: I've got a question for you. How far
10 is [REDACTED] to the Broad River, as the crow flies?

11 A Oh, it's -- it's several miles.

12 THE COURT: Does [REDACTED] run into Broad River
13 Road -- or Boulevard?

14 A No. [REDACTED], sir, is a -- it's a trailer park
15 that is off of Joe Frazier Road.

16 THE COURT: And I'm not from here, so I'm just
17 trying to get an idea of where it is.

18 A Yes, sir.

19 THE COURT: Does Parris Island Gateway have
20 anything to do with [REDACTED]e?

21 A No, your Honor.

22 THE COURT: How far is that from [REDACTED]?

23 A That's also a distance of several miles. You're
24 talking a distance of about maybe two miles.

25 THE COURT: Okay. All right. You may step down.

3-18-14 STATE V BYAS

1 Thank you.

2 With regards to the *Jackson v. Denno* issue, I will
3 give you a chance at this time if you want to argue
4 anything on that legal issue.

5 MS. SAXON: Thank you, your Honor.

6 THE COURT: And then, I'll let the State call their
7 next witness. How about that? Hold on a minute.

8 A Thank you.

9 THE COURT: Anything else you want to argue on
10 that?

11 ARGUMENT JACKSON V. DENNON ON

12 BEHALF OF DEFENSE BY MS. SAXON:

13 MS. SAXON: Your Honor, I just want to put briefly
14 on the record that we would oppose the voluntariness of
15 the statement. We would say that, based on the
16 relationship between the parties, Mr. Hicks being the
17 probation and agent in monitoring Mr. Byas, as well as
18 Mr. Byas being an offender, that, when there is
19 incidental contact, that, the dynamics of the
20 relationship require the defendant to comply with any
21 questions that are asked of him, as well as engage in
22 any conversation that would be brought to him.

23 It wouldn't be -- I don't think -- it clearly would
24 be custody in the sense of handcuffs and in the back of
25 a police car, but based on the relationship between the

3-18-14 STATE V BYAS DIRECT - STAFF SGT. KATRINA LIGHT

1 parties, we feel that Mr. Byas had no right not to
2 respond, that he was compelled to speak because of the
3 distinction between them.

4 THE COURT: Anything in response by way of
5 argument?

6 MS. PRINSEN: No, your Honor.

7 RULING JACKSON V. DENNO ISSUE:

8 THE COURT: All right. Based upon what I've heard,
9 the testimony that's been elicited from the stand, and
10 certainly, taking into consideration that Defense
11 counsel has argued, but will note for the record, as
12 already in the record, this was an incidental contact,
13 as referenced by Defense counsel, at Walmart, while this
14 probation agent was off duty.

15 He was not in custody. Was not required to provide
16 random warnings to this defendant. In fact, the
17 defendant was not even taken into custody that day. It
18 was some time after, at least a week after, from my
19 recollection of the testimony, before the probation
20 agent recalled and subsequently followed up with the
21 Sheriff's Department.

22 So, it's not a situation, based on what I've heard
23 here and the testimony that's been elicited from this
24 witness that any statement was given that wasn't
25 voluntary, wasn't voluntarily given. Therefore, the

3-18-14 STATE V BYAS DIRECT - STAFF SGT. KATRINA LIGHT

1 Court will allow the statement, but your objection is so
2 noted for the record.

3 MS. SAXON: Thank you, your Honor.

4 THE COURT: All right. Call your next witness,
5 please.

6 MS. PRINSEN: Thank you, your Honor. The State
7 calls Staff Sergeant Katrina Light.

8 MADAM CLERK: Do you solemnly swear to truthfully
9 answer all questions asked of you by this court, so help
10 you God?

11 STAFF SERGEANT KATRINA LIGHT: I do.

12 MADAM CLERK: Please be seated. State your name
13 and spell it for the Court, please.

14 STAFF SERGEANT KATRINA LIGHT: Staff Sergeant
15 Katrina Light, K/a/t/r/i/n/a, L/i/g/h/t.

16 STAFF SERGEANT KATRINA LIGHT

17 DIRECT EXAMINATION BY MS. PRINSEN:

18 Q Staff Sergeant Light, can you please tell us who
19 you work for.

20 A I'm employed with the Beaufort County Sheriff's
21 Office.

22 Q And what do you do for them?

23 A I work under the Northern Enforcement Investigation
24 Branch. I am the victims' advocate, and I manage of the
25 sex offender registry for Beaufort County.

3-18-14 STATE V BYAS DIRECT - STAFF SGT. KATRINA LIGHT

1 Q And what are some of your responsibilities for
2 monitoring the sex offender registry?

3 A I register them when they come in on their due
4 date. Each offender has a different due date. I take
5 their information; verify that they're still living at
6 the same address. I print out a contract for them to
7 sign, and they initial and date several areas that they
8 understand all the rules and requirements of the sex
9 offender registry.

10 If, at any time, the rules of the sex offender
11 registry are violated, it is my responsibility to obtain
12 a warrant for the arrest of the offender.

13 Q Can you tell me a little bit about this offender
14 information form. Do you do that with every individual
15 who must register?

16 A I do.

17 Q And did you do one with Mr. Byas?

18 A Yes.

19 Q And is Mr. Byas here today?

20 A Yes, he is.

21 Q Could you please point him out to us.

22 A He's sitting at the table with the white shirt and
23 gray tie.

24 Q Do you remember the last time you did a sex
25 offender registration form on Mr. Byas?

3-18-14 STATE V BYAS DIRECT - STAFF SGT. KATRINA LIGHT

1 A I believe it was July 2nd of 2013.

2 Q And are these forms, are they -- do you keep them?

3 A We do. We keep -- we scan everything into the
4 system, but in the file, we keep the last paper copy.

5 Q So, are these forms kept in the normal and ordinary
6 course of you business?

7 A Yes, they are.

8 MS. PRINSEN: Your Honor, may I approach the
9 witness?

10 THE COURT: Yes.

11 MS. PRINSEN: Thank you, your Honor.

12 BY MS. PRINSEN:

13 Q Staff Sergeant Light, I'm handing you what's been
14 pre-marked as State's Exhibit 3. Do you recognize this?

15 A Yes, I do.

16 Q Could you please tell us what that is.

17 A This is the offender information form, essentially,
18 the contract that they sign every time that they come in
19 to register, and this -- they acknowledge everything,
20 all of the information is still correct and up-to-date,
21 basically.

22 Q And who is that form for?

23 A This is for Mr. Pernell Detroit Byas.

24 Q And were you present when Mr. Byas filled this form
25 out?

3-18-14 STATE V BYAS

DIRECT - STAFF SGT. KATRINA LIGHT

1 A I was.

2 Q Is your signature on that document?

3 A It is.

4 Q Is Mr. Byas'?

5 A Yes, it is.

6 Q And how did you obtain this document?

7 A I print it out from the management system of the
8 computer when the offender comes in, and they sign the
9 form at that time.

10 Q And is that form in the -- substantially the same
11 condition now as it was when you first reviewed it with
12 Mr. Byas?

13 A Yes, it is.

14 Q Has it been altered in any way?

15 A No, it has not.

16 MS. PRINSEN: Your Honor, the State requests to
17 move State's Exhibit 3 into evidence.

18 THE COURT: Any objection?

19 MS. SAXON: None, your Honor.

20 THE COURT: Without objection, State's Exhibit
21 Number 3 admitted into evidence.

22 MS. PRINSEN: Thank you, your Honor.

23 ITEM IDENTIFIED AS COPY OF SEX

24 OFFENDER REGISTRATION FORM REGARDING

25 PERNELL DETROIT BYAS MARKED

3-18-14 STATE V BYAS DIRECT - STAFF SGT. KATRINA LIGHT

1 STATE'S EXHIBIT NUMBER 3, ADMITTED
2 AS EVIDENCE.

3 BY MS. PRINSEN:

4 Q Staff Sergeant Light, in this form, does it state
5 the defendant's registered address?

6 A Yes, it does.

7 Q Can you please tell us what that is.

8 A On the second page, it says his address is [REDACTED]

9 [REDACTED]

10 Q And can you also -- and what else does this
11 offender form tell us?

12 A The offender form has their name, their identifying
13 height, weight, hair color, eye color, any scars, marks,
14 tattoos, any aliases, address, employer, phone number.

15 Q Are the offenders required to go through every page
16 of this?

17 A They are.

18 Q And how do you --

19 A They acknowledge every page.

20 Q I'm sorry?

21 A They acknowledge every page by initialing and
22 dating the bottom.

23 Q And does this form lay out the requirements for
24 registration?

25 A Yes, it does.

3-18-14 STATE V BYAS DIRECT - STAFF SGT. KATRINA LIGHT

1 Q And does this form also indicate to the offender
2 that they have to provide notification of a change of
3 address?

4 A Yes, on Page Number 6 of the form.

5 Q Could you please tell us what it says.

6 A It says:

7 *Provide written notice in person*
8 *within three business days of establishing*
9 *a new residence or requiring real property*
10 *in the same county to the Sheriff's Office*
11 *of the offender's primary county of registration.*

12 *South Carolina Code 23-3-460.*

13 Q And did the defendant acknowledge and initial this
14 page?

15 A He initialed it, yes, ma'am.

16 Q Did the defendant indicate that he understood?

17 A Yes, he did.

18 Q And how do you know that?

19 A Because, after we are finished signing all of the
20 entire contract, I ask them do they have any questions
21 about what they have signed today.

22 Q And did Mr. Byas indicate that he had any questions
23 about that requirement?

24 A He said, no, he did not.

25 Q Staff Sergeant Light, did you have a conversation

3-18-14 STATE V BYAS

CROSS - STAFF SGT. KATRINA LIGHT

1 with Agent Hicks?

2 A I did.

3 Q Do you remember when that was?

4 A I -- I'm sorry, I don't recall the exact date. I
5 know it was in -- within the month of September.

6 Q And what was the basis of that conversation?

7 A Mr. Hicks called to advise me that Mr. Pernell Byas
8 had been evicted and is no longer living at his last
9 reported address of [REDACTED].

10 Q And what did you do as a result of that
11 conversation?

12 A I made note in his file. And Mr. Hicks said that
13 he would try to get information off the GPS monitoring
14 device to see if he could locate him at this time.

15 Q And was he able to do so?

16 A He was able to give me a vicinity. He was not able
17 to give me an exact address. He says he's pinging
18 somewhere on Broad River Boulevard, but we were not able
19 to -- to narrow down an exact address.

20 Q So, what did you do next?

21 A I obtained a warrant for violation of the sex
22 offender registry.

23 Q And Staff Sergeant Light, what would you do in a
24 situation of an offender being homeless?

25 A We -- because of the management system, we are

3-18-14 STATE V BYAS

CROSS - STAFF SGT. KATRINA LIGHT

1 required to put in the address, and I was advised by
2 SLED to put in the address of our office, and there's a
3 caveat where you can list them as homeless.

4 Q So, are those offenders still required to register?

5 A Yes, they are.

6 MS. PRINSEN: Beg the Court's indulgence for one
7 moment, please.

8 BY MS. PRINSEN:

9 Q Staff Sergeant Light, this form was filled out on
10 July 2, 2013, correct?

11 A Yes.

12 Q And you testified that the address was [REDACTED]
13 [REDACTED]. At any point after that, did Mr. Byas come to
14 your office and register a different address?

15 A No, he did not.

16 Q Did he come in and register as homeless?

17 A No, he did not.

18 MS. PRINSEN: Thank you, Staff Sergeant Light. I
19 have no further questions.

20 THE COURT: Cross-examination.

21 MS. SAXON: Thank you, your Honor.

22 STAFF SERGEANT KATRINA LIGHT

23 CROSS-EXAMINATION BY MS. SAXON:

24 Q How are you doing, Sergeant Light?

25 A Good, thank you.

3-18-14 STATE V BYAS

CROSS - STAFF SGT. KATRINA LIGHT

1 Q At the time of his arrest, I just want to be
2 perfectly clear, as far as his duty to register goes, he
3 was in compliance, correct? As far as the actual --
4 from the 9-2, or from the 7-2 date, I'm sorry, was his
5 registry report date.

6 A He was in compliance as far as coming in to
7 register.

8 Q Right. And his next one was, based on the
9 information in your sex offender registry report, was
10 October 2nd, correct?

11 A That is correct.

12 Q Okay. And because of his risk level, he's required
13 to show up every 90 days. Is that correct?

14 A That is correct.

15 Q Okay. Talking about the Page 6 of 15 that Ms.
16 Prinsen had you read, it says:

17 *Provide written notice within three*
18 *business days of establishing --*

19 Correct?

20 *-- a new residence or acquiring real property*
21 *in the same county.*

22 Correct?

23 A Yes.

24 Q It mentions nothing about a temporary address,
25 correct?

3-18-14 STATE V BYAS

CROSS - STAFF SGT. KATRINA LIGHT

1 A Well, a temporary address would be considered a
2 change of address.

3 Q Does that portion of the statute reference a
4 temporary address change?

5 A No, just establishing a new residence or acquiring
6 property.

7 Q And do you have a copy of the arrest warrant in
8 your file? Or I can -- I have a copy I can pass up to
9 you.

10 MS. SAXON: May I approach, your Honor?

11 THE COURT: Yes.

12 BY MS. SAXON:

13 A Thank you.

14 Q Thank you. Could you read for the Court the
15 address of Pernell Byas that is listed on the arrest
16 warrant.

17 A [REDACTED].

18 Q Thank you.

19 MS. SAXON: One moment, your Honor.

20 THE COURT: All right.

21 MS. SAXON: That's all I have for this witness.

22 Thank you.

23 THE COURT: Any re-direct?

24 MS. PRINSEN: Just one moment, your Honor.

25 THE COURT: Can I see that exhibit, please, ma'am.

3-18-14 STATE V BYAS

RE-DIRECT - STAFF SGT. KATRINA LIGHT

1 STAFF SERGEANT KATRINA LIGHT: Yes, sir.

2 THE COURT: Anything further?

3 MS. PRINSEN: Yes, your Honor. I'm sorry. Just
4 one quick question.

5 STAFF SERGEANT KATRINA LIGHT

6 RE-DIRECT EXAMINATION BY MS. PRINSEN:

7 Q Staff Sergeant Light, you testified that the
8 address on the warrant is [REDACTED]. How do you
9 determine which address to put on the warrants?

10 A We use the last reported address. I -- I didn't
11 know where he was, so that was the last address that I
12 had for him.

13 MS. PRINSEN: Thank you, Staff Sergeant Light. No
14 further questions.

15 THE COURT: Anything further?

16 MS. SAXON: Nothing further.

17 STAFF SERGEANT KATRINA LIGHT

18 EXAMINATION BY THE COURT:

19 THE COURT: I've got a question for you. On the
20 State's Exhibit Number 3, on Page 2, it has current
21 address or addresses. Why are there three separate
22 addresses on here? Can you tell me that?

23 A Those were just prior addresses.

24 THE COURT: Prior addresses?

25 A Prior address, and the current address comes up on

3-18-14 STATE V BYAS

1 top.

2 THE COURT: Okay. Is Burton, South Carolina in
3 Beaufort County?

4 A Yes, sir, it is.

5 THE COURT: I learned something new today. All
6 right. Anything further from the State?

7 MS. PRINSEN: No, your Honor.

8 THE COURT: I've already asked that question. You
9 may step down.

10 A Yes, sir.

11 THE COURT: Sorry. How many more witnesses does
12 the State have?

13 STATE RESTS.

14 MS. PRINSEN: Your Honor, the State will be resting
15 at this time.

16 THE COURT: You said you had a witness at 1:00
17 o'clock yesterday.

18 MS. PRINSEN: That would be for the jail calls, but
19 we're not going to go ahead with that, your Honor.

20 THE COURT: All right. I'm going to step down for
21 a minute and take a break. We'll resume when I come
22 back.

23 OFF THE RECORD 11:13 A.M.

24 BACK ON THE RECORD 11:24 A.M.

25 BY THE COURT:

3-18-14 STATE V BYAS

1 THE COURT: All right. Please be seated again.
2 All right. Before I stepped out, the State indicated
3 that they were resting. Is that right, Ms. Prinsen?

4 MS. PRINSEN: Yes, your Honor. The State rests.

5 THE COURT: All right. Any motions from Defense
6 counsel?

7 DEFENSE MOTIONS, BY MS. SAXON:

8 MS. SAXON: Yes, your Honor. At this time, I would
9 renew my earlier motions and objections in this case,
10 and also have a directed verdict motion on a number of
11 grounds I'd like to bring up to the Court's attention.

12 THE COURT: All right. Let's hear them.

13 MS. SAXON: Thank you. Your Honor, my first issue
14 and the first basis of my directed verdict motion is
15 that this penalty is indicted as a third or subsequent.
16 And therefore, because it is a part of the indictment,
17 it is an element of the offense which the State is
18 required to prove beyond a reasonable doubt. And when
19 you review the record in the light of what's most
20 favorable to the State, there has been no testimony and
21 no evidence presented as to any prior registry
22 violations.

23 And we feel that, because of that, there's been
24 nothing to prove that this is the third or subsequent.
25 And therefore, we would move that without that proof,

3-18-14 STATE V BYAS

1 the State has failed to meet its burden, and this case
2 should be a directed verdict motion of not guilty.

3 THE COURT: Ms. Prinsen?

4 MS. PRINSEN: Your Honor, the third and subsequent
5 is a penalty enhancement for sentencing purposes for
6 which the State does have the prior convictions at the
7 appropriate time.

8 RULING ON DEFENSE MOTIONS,

9 BY THE COURT:

10 THE COURT: Based upon what I've heard, I'm going
11 to deny your motion at this time. That issue comes into
12 play if I find the defendant guilty. The State would
13 then have to show the Court whether that comes into play
14 with regards to sentencing. Just like a drug offense,
15 if it's a second offense, third offense, or whatever,
16 that is not something that goes before a jury,
17 ordinarily. Unless there is some exigent circumstances
18 that would bring it out, that is not something that goes
19 before a jury during a trial of a case.

20 That is for penalty purposes only, and for the
21 Court to make a decision on. The State has provided
22 sufficient evidence of whether it's a second, third, or
23 subsequent offense, same with shoplifting, third; that's
24 not something to go before the jury. Therefore, the
25 Court is not -- excuse me -- the State is not required

3-18-14 STATE V BYAS

1 in the case in chief to put up evidence of two prior, at
2 least two prior failure to register offenses, but your
3 objection is so noted for the record.

4 MS. SAXON: Thank you, your Honor. I do have a few
5 other grounds I'd like to address.

6 THE COURT: All right.

7 MS. SAXON: The next one, your Honor, is in line
8 with my prior motion to quash the indictment. The
9 language of both the indictment and the sentencing
10 penalties of 23-470 are that it is the duty of the
11 offender to contact the sheriff in order to register or
12 provide notification of change of permanent or temporary
13 address, or a notification of change to employment or in
14 attendance of employment enrollment, voluntary sentence,
15 interim sentence, or vocation status at any public or
16 private school, and so it continues. That is a broad
17 swath of requirements.

18 And if you go back to the indictment, it lists
19 specifically that the defendant has failed to register
20 as a sex offender. And when it comes to that point,
21 testimony from the State's witness, Sergeant Light,
22 stated that the defendant was registered on the 2nd of
23 July, 2013, in compliance with his registration orders,
24 and that he was not due to register again until December
25 -- or October 2nd -- excuse me -- of that same year.

3-18-14 STATE V BYAS

1 Because the law doesn't specify what out of the
2 laundry list in the penalty section we're supposed to be
3 defending against, we would argue that the State has
4 disproved its own case in its testimony in case in
5 chief, and that this also be grounds for directed
6 verdict of not guilty.

7 THE COURT: Ms. Prinsen?

8 MS. PRINSEN: Your Honor, the State would just have
9 the same argument that as stated before; that the
10 statute says it is the duty of the offender to register
11 and provide notification of change of permanent or
12 temporary address, which is the very first sentence of
13 that statute in the indictment.

14 THE COURT: All right.

15 MS. PRINSEN: That was what the testimony was
16 today, your Honor.

17 THE COURT: Based upon the testimony that's been
18 elicited, and based upon the Court's previous ruling
19 with regards to defendant's motion to quash the
20 indictment, the Court is going to respectfully deny
21 defendant's motion for a directed verdict, but your
22 objection is so noted for the record.

23 MS. SAXON: Thank you, your Honor. One more.

24 THE COURT: Okay.

25 MS. SAXON: When you get down to the crux of it,

3-18-14 STATE V BYAS

1 and when you look at the sex offender registration
2 information that was made an exhibit, the point in the
3 statute actually at issue in this matter is 23-3-460,
4 Section (c). And that section reads, in pertinent part:

5 *If a person required to register*
6 *pursuant to this article changes his*
7 *address within the same county, that*
8 *person must send written notice of the*
9 *change to the Sheriff within three*
10 *business days of establishing the new*
11 *residence.*

12 This does not -- first and foremost, that section
13 of the act does not speak to a temporary address. The
14 only time a temporary address is mentioned is in when an
15 offender changes counties.

16 But more to the point, your Honor, we feel that
17 this case hinges on the idea of what is establishing a
18 new residence, and there is absolutely no testimony that
19 is offered to the record that he established a new
20 residence. In fact, the GPS tracking that was provided
21 to the Court is all over the place.

22 There is nothing that would rise to a standard of,
23 in my opinion, that meets the standard beyond a
24 reasonable doubt when you look at the fact that, to
25 establish something, is to settling it; it is to be

3-18-14 STATE V BYAS

1 accepted and recognized that it is a permanent change.
2 The State has offered no evidence that this has
3 occurred.

4 In fact, the testimony from the State, quite
5 honestly, sounds like the defendant was homeless, and
6 there's nothing in that section of the statute that says
7 that an offender must register if he is homeless. It
8 says he only must register a change in address that is
9 established by a permanent -- and that has not been
10 proven by the State.

11 THE COURT: Ms. Prinsen?

12 MS. PRINSEN: Thank you, your Honor. Under this
13 interpretation that you would have to have a permanent
14 change of address, as opposed to a temporary, this would
15 allow for an offender to just continuously move from
16 house to house and never be required to register.

17 It has been established through the testimony that
18 the defendant was not at the address that he was
19 registered at. That would constitute a change, as well
20 as the fact that Staff Sergeant Light testified that
21 homelessness is a change of address, because he is not
22 at the address he was registered.

23 Thank you, your Honor.

24 MS. SAXON: Your Honor? Your Honor, if I may reply
25 briefly to that.

3-18-14 STATE V BYAS

1 THE COURT: Yes, ma'am.

2 MS. SAXON: In fact, the testimony has shown that
3 the eviction process was started, but never completed.
4 Mr. Byas' belongings were still in the [REDACTED]
5 trailer. That was his home.

6 The GPS data that we have is not complete. There
7 are numerous instances of unresolved addresses. And
8 furthermore, there is no address on there where he is at
9 for an extended period of time. If your Honor reviews
10 it, at most, he is at one place for maybe an hour or
11 two.

12 And the statute is very clear in its language, and
13 our jurisprudence has stated that we must take a statute
14 on the face of this language unless we look at it by the
15 face of this document that it is ambiguous.

16 It's not ambiguous. It is that he must change his
17 address with the Sheriff's Office within three days of
18 establishing a new residence within the same county.
19 There's no evidence of establishment of a new residence,
20 your Honor.

21 THE COURT: All right. Based upon my review of
22 *Section 23-3-470*, the Court is respectfully denying
23 defendant's motion for directed verdict. Based upon the
24 testimony, based upon the defendant's own admission,
25 testimony from Officer -- or Agent Hicks, the defendant

3-18-14 STATE V BYAS

1 told him he had moved. While he did not provide a
2 specific address as to him moving, there's been no
3 testimony, whether it be on direct or cross-examination,
4 that this defendant ever, ever contacted the Sheriff's
5 Office with regards to his residence issue. And
6 therefore, I'm respectfully going to deny your motion
7 for a directed verdict.

8 MS. SAXON: Thank you, your Honor.

9 MS. PRINSEN: Thank you, your Honor.

10 THE COURT: Anything further? Any other motions?

11 MS. SAXON: No other motions, your Honor.

12 DEFENDANT'S RIGHTS AND FINDING,

13 BY THE COURT:

14 THE COURT: All right. At this time, I'm going to
15 advise the defendant of his right to testify. Mr. Byas,
16 would you please stand. I'll remind you that you are
17 still under oath.

18 We have reached the stage of the trial where you
19 may present your defense. You have the right to claim
20 the protections given to you by the *Fifth Amendment* to
21 the *Constitution of the United States*, and that
22 amendment states in part that no person -- no person
23 shall be compelled in any criminal case to be a witness
24 against himself. This means that you cannot be required
25 to testify in this case.

3-18-14 STATE V BYAS

1 You have the right to testify on your own behalf.
2 However, however, no one can make you testify. This is
3 a personal right, and no one can waive this right except
4 you.

5 If you decide to testify, you will be subject to
6 the same rules that govern other witnesses, and you may
7 be examined and cross-examined on any relevant issues in
8 this case.

9 In addition, if you have any convictions involving
10 dishonesty or false statement, or for crimes punishable
11 by imprisonment for more than one year, and this Court
12 determines that the probative value of admitting the
13 evidence outweighs its prejudicial effect to you, the
14 Solicitor will be able to introduce your record to
15 attack your credibility.

16 If you decide to testify, this decision on your
17 part must be freely, voluntarily, and intelligently
18 made, with knowledge of the protections given to you by
19 the *Fifth Amendment* and the consequences of your
20 decision to testify.

21 If you decide not to testify, I will instruct the
22 jurors that they cannot -- well, we don't have any jury
23 here today. But I will not take into consideration the
24 fact that you did not testify. Do you understand that?
25 I would not take into consideration at all whatsoever.

3-18-14 STATE V BYAS

1 I want you to clearly understand that whether or
2 not you testify, that decision is left entirely up to
3 you. You may talk to your attorneys, your family, your
4 friends, or anyone else that you want to talk to about
5 it, but the final decision as to whether or not you will
6 testify is up to you. Do you understand that?

7 DEFENDANT BYAS: Yes, sir.

8 THE COURT: Do you have any questions about what
9 I've just gone over, with regards to your right to
10 testify?

11 DEFENDANT BYAS: No, sir.

12 THE COURT: All right. Do you need anymore time to
13 talk to your -- have you talked to your lawyers about
14 it?

15 MS. CARROWAY: Your Honor, I think we might need a
16 minute, if you don't mind.

17 THE COURT: All right. I'm going to give you a
18 minute to talk with your lawyers about that.

19 MS. CARROWAY: Thank you.

20 DEFENSE COUNSEL TALKING WITH DEFENDANT.

21 THE COURT: All right, Mr. Byas. Have you had an
22 opportunity to talk with your lawyers?

23 DEFENDANT BYAS: Yes, sir.

24 THE COURT: About whether or not you want to
25 testify?

3-18-14 STATE V BYAS

1 DEFENDANT BYAS: Yes, sir.

2 THE COURT: And do you wish to testify in the trial
3 of your case?

4 DEFENDANT BYAS: No, sir.

5 THE COURT: All right. Now, is that your decision
6 and your decision alone, solely after your -- after
7 consulting with your lawyers?

8 DEFENDANT BYAS: Yes, sir.

9 THE COURT: All right. Anybody threatening you,
10 forcing you, putting any pressure on you to not testify?

11 DEFENDANT BYAS: No, sir.

12 THE COURT: Anybody promised you anything or given
13 you any hope of reward for not testifying?

14 DEFENDANT BYAS: No, sir.

15 THE COURT: All right. All right. Based upon what
16 I've heard here today and my questioning of this
17 defendant, I do find his decision to not testify, to not
18 testify, is being made freely, voluntarily, knowingly,
19 and intelligently, without any promises or hope of
20 reward, or any threats, pressure, or coercion upon him;
21 that he has certainly understood why I advised him of;
22 and this is his decision and his decision alone, after
23 consultation with his lawyers.

24 You may be seated, sir. Thank you.

25 Well, let me ask this now. While the defendant is

3-18-14 STATE V BYAS

1 not testifying, I will recognize the Defense as to any
2 witnesses they intend to call.

3 MS. SAXON: Your Honor, we do not intend to call
4 any witnesses.

5 THE COURT: All right. Therefore, Defense gets the
6 last argument if you all so desire, to make any
7 arguments.

8 MS. SAXON: Yes, your Honor. I would definitely
9 like to make a closing argument.

10 THE COURT: Ms. Prinsen?

11 MS. PRINSEN: May I have a second, your Honor?

12 THE COURT: Yes, ma'am.

13 MS. SAXON: And your Honor, I just want to, also,
14 just renew all prior motions and objections for the
15 record.

16 THE COURT: Yes, ma'am. So noted for the record.

17 MS. SAXON: Thank you.

18 THE COURT: And the Court's ruling remains the same
19 on those. Ms. Prinsen?

20 STATE WAIVES CLOSING ARGUMENT.

21 MS. PRINSEN: Your Honor, the State will waive
22 their closing.

23 THE COURT: All right. All right, Ms. Saxon. It's
24 all you. Happy to hear from you.

25 MS. SAXON: Thank you, your Honor.

3-18-14 STATE V BYAS

1 CLOSING ARGUMENT ON BEHALF OF

2 DEFENDANT BY MS. SAXON:

3 MS. SAXON: Your Honor, in this case, the State
4 has simply failed to meet its burden of proving the
5 elements of the crime beyond a reasonable doubt. The
6 evidence and the testimony has shown that Mr. Byas was
7 not actually evicted from the [REDACTED] trailer; that
8 all of his personal belongings in the world were there;
9 and to his knowledge, are still there; that he was under
10 GPS monitoring, but had no electricity at the [REDACTED]
11 trailer, and therefore, could not charge his bracelet,
12 which would have resulted in a violation of his sex
13 offenders register status. Therefore, he had no other
14 option but to go other places to charge his bracelet.

15 Your Honor, when we look back at the evidence in
16 this case, look at the GPS tracking. You will see that
17 it is all over the board; that there is no one place
18 where Mr. Byas is located for any extended period of
19 time.

20 You will also see that -- and if you further look
21 back on the testimony, you'll see that there is no
22 allegation of a new address for Mr. Byas to register.
23 They have not said that he should have registered at X
24 Broad River Road or at B Port Royal Island Gateway.
25 They haven't given us this address that he is alleged to

3-18-14 STATE V BYAS

1 have lived at.

2 Upon further review of the record, your Honor, I
3 implore you to take into consideration 24-3-460(c),
4 which is the part of the statute that specifically
5 addresses changing -- offender's responsibility to
6 report a change of address within a county. The
7 temporary language that the State has relied on
8 throughout its argument only applies when you are
9 looking at moving outside of the current county that you
10 are in.

11 So, if Mr. Byas had moved from Beaufort to Jasper
12 and not reported any sort of change, this would be a
13 valid claim against him. But he hasn't moved, and he
14 maintains that he never left the [REDACTED] trailer; he
15 just could not sleep there and charge his bracelet
16 there, because there was no electricity. He had a key.
17 He had a way in.

18 I would also point to the fact that, if you read
19 the statute in total, both 24-3-460, as well as the
20 penalty phase that the State has placed in its
21 indictment, there's no mention of homelessness. There's
22 no mention of a duty of an offender to let the State
23 know it's homeless. And from the evidence that they
24 rely on in this sex offender registry packet, it doesn't
25 specifically say that an offender must report a change of

3-18-14 STATE V BYAS

1 a temporary address.

2 In fact, just like the statute says, it states, and
3 Mr. Byas saw, read, and signed that written
4 notification, in person, within three days of
5 establishing a new residence or acquiring real property
6 in the same county, is what is required. Mr. Byas has
7 not done that. He has not established a new residence.
8 He has not left the trailer at [REDACTED]. All of his
9 items are there.

10 When Mr. Hicks testified that he couldn't find him
11 during the day; that he wanted to speak to him on the
12 12th; that was because he was in the woods on a wood
13 lot, in a heavily-wooded area where there are no homes.

14 He doesn't meet the requirements of the statute to
15 require reporting. He has an established home. There
16 has been nothing permanent about what has occurred here.
17 He was simply forced to find a place to charge his
18 bracelet wherever he could, and that was simply an
19 attempt on his part to actually maintain compliance with
20 the statute that he's under, requiring lifetime GPS
21 monitoring. Because if that bracelet fails, he is
22 certainly in violation of his statute. Or of his
23 statutory requirements, I should say.

24 The portions again, your Honor, the State has
25 relied on, such as a temporary address or reporting

3-18-14 STATE V BYAS

1 habitually living in an area, all of that is specific to
2 *Section (d) of 24-3-460*. And again, that argument would
3 only apply if Mr. Byas had moved into another county in
4 South Carolina.

5 The legislature is very clear in this statute.
6 There is no ambiguity that exists. He has not violated
7 his duties to register as a sex offender. In fact, he
8 was compliant at the point of his arrest, and not due to
9 re-register until October 2nd.

10 The State has shown no establishment of a new home.
11 They have not shown that *Section (d) of 24-3-460* would
12 apply. They are not alleging that he changed counties.
13 They have not met the very high burden of proof that is
14 placed upon them in criminal matters.

15 I firmly believe, in this matter, your Honor, in
16 reviewing the testimony, and I believe that you will
17 come to this conclusion once you review the testimony,
18 as well as the evidence that's been submitted to you,
19 including the GPS tracking, as well as the sex offender
20 packet information that the offenders are subject to,
21 that you will come to the conclusion that the right
22 course of action is a verdict of not guilty.

23 Thank you.

24 THE COURT: All right. I'm going to step off for a
25 minute and review, look at all this once again.

3-18-14 STATE V BYAS

1 OFF THE RECORD 11:58 A.M.

2 BACK ON THE RECORD 12:23 P.M.

3 FINDING OF GUILTY, BY THE COURT:

4 BAILIFF: All rise.

5 THE COURT: Thank you. Be seated, please. All
6 right.

7 I didn't specifically say this on the record, and I
8 just want to, with regards to Defense counsel's motion
9 for a directed verdict. Under the law, the trial court
10 must view the evidence in the light most favorable to
11 the State. And while I denied your directed verdict
12 motions, I want to put this on the record.

13 The Court must look at the evidence, review the
14 evidence in the light most favorable to the State, and
15 the case, under ordinary circumstances, in a jury trial,
16 would be submitted to the jury. We're not having a jury
17 trial here. Certainly, for my consideration, when there
18 is any direct or substantial circumstantial evidence
19 reasonably tending to prove the guilt of the accused,
20 that's the case, and the case goes to the jury.

21 Here, I believe that there is direct or substantial
22 circumstantial evidence reasonably tending to prove the
23 guilt of the accused. And therefore, that is why the
24 Court denied your directed verdict motion.

25 Now, with regards to the case at hand, the State

3-18-14 STATE V BYAS

1 has established that the defendant is required to
2 register as a sex offender, as evidenced by Exhibit 1,
3 which has been admitted, and was admitted without
4 objection. There's no question that the defendant in
5 this particular case was required to register as a sex
6 offender.

7 The defendant was charged by an indictment, which
8 was true-billed on October 31, 2013, charging the
9 defendant by indictment, failing to register as a sex
10 offender, third or subsequent offense. Defense counsel
11 previously made a motion to quash the indictment,
12 alleging that the defendant was not properly noticed of
13 what he had to defend here.

14 The Defense asserted that defendant -- and correct
15 me if I misstate this, but the defendant should have
16 been indicted under *Section 23-3-460(c)*. Is that
17 correct?

18 MS. SAXON: Correct, your Honor.

19 THE COURT: All right. The indictment indicted
20 this defendant under *Section 23-3-470*, of the code of
21 laws of South Carolina.

22 My ruling with regards to Defense counsel's motion
23 to quash the indictment remains the same. The State
24 indicted him for violating *23-3-470*, not violating *23-3-*
25 *460(c)*.

3-18-14 STATE V BYAS

1 In reading Section 23-3-470, which is entitled
2 *Failure to Register or Provide Required Notifications*
3 *and Penalties*, Subsection (a) of 23-3-470 reads in part
4 that:

5 *It is the duty of the offender to*
6 *contact the sheriff in order to register,*
7 *provide notification of change of permanent*
8 *or temporary address.*

9 And it goes on referencing other notifications of
10 change.

11 In interpreting or in looking at the statutes,
12 first of all, questions of statutory interpretation are
13 one, is one of law for the Court to decide. The
14 Cardinal Rule of statutory interpretation on
15 construction is to ascertain and effectuate the
16 legislative intent. The legislative intent of this line
17 of statutes under Section 23-3-400, et seq., in Section
18 400 -- excuse me -- 23-3-400, states the purpose.

19 This statute reads:

20 *The intent of this article is to*
21 *promote the State's fundamental right to*
22 *provide for the public health, welfare,*
23 *and safety of its citizens. Notwithstanding*
24 *this legitimate State purpose, these*
25 *provisions are not intended to violate the*

3-18-14 STATE V BYAS

1 *guaranteed constitutional rights of those*
2 *who have violated our nation's laws.*

3 The statute goes on to read that:

4 *The sex offender registry will provide*
5 *law enforcement with the tools needed in*
6 *investigating criminal offenses. Statistics*
7 *show that sex offenders often pose a high*
8 *risk of re-offending. Additionally, law*
9 *enforcement's efforts to protect communities,*
10 *conduct investigations, and apprehend*
11 *offenders who commit sex offenses are*
12 *impaired by the lack of information about*
13 *these convicted offenders who live within*
14 *the law enforcement agency's jurisdiction.*

15 Section 23 -- well, Section 23-3-470, in abiding by
16 the plain meaning of the words of this statute, the law
17 requires that courts not resort to subtle or forced
18 construction to limit or expand the statute's operation.
19 While Defense counsel has argued that the applicable
20 statute here is 23-3-460(c), he has been indicted for
21 23-3-470, which requires certain notifications. And
22 this notification under Subsection (a) of 23-3-470
23 requires notification of a change of a permanent or
24 temporary address.

25 Defense counsel has argued that such notification

3-18-14 STATE V BYAS

1 is not required until the defendant establishes
2 residence, establishes residence, within the county,
3 under 23-3-460(c).

4 It is evident by -- and Defense counsel went on to
5 argue in her closing argument that the defendant was not
6 at [REDACTED], but asserted that he was elsewhere, more
7 specifically, on Broad River Boulevard, for the purposes
8 of charging the GPS bracelet, since he had no power at
9 [REDACTED].

10 In reviewing State's Exhibit Number 2, which is a
11 collection as evidenced by the testimony of Officer
12 Hicks, Agent Hicks, is a collection of GPS information
13 from September the 1st of 2013, through September 18,
14 2013, while Defense argued that the defendant was simply
15 elsewhere to charge his bracelet, GPS bracelet, at no
16 time, at no time, was this defendant, as evidenced by
17 State's Exhibit Number 2, was he ever or did he ever
18 return to [REDACTED], which would evidence a change
19 of temporary -- excuse me -- or permanent or temporary
20 address.

21 There was a change there of which this defendant
22 never notified the Sheriff's Department as required by
23 statute.

24 Taking into consideration what Defense counsel had
25 argued here, and that being that the defendant was not

3-18-14 STATE V BYAS

1 required to notify anyone until he established residence
2 under 23-3-460(c), would lead to an interpretation that
3 a defendant could list an address not being his
4 permanent or temporary address and be allowed to move
5 from place to place within a county and never, ever have
6 to notify anyone until he established a residence.

7 Such an interpretation, this Court believes, should
8 be rejected, because it does not, the Court does not
9 believe that this was the intent of the legislature as
10 evidenced in the statutes and would defeat the plain
11 legislative intention here.

12 Certainly, taking or understanding Defense
13 counsel's argument, these are two specific and separate
14 statutes of which defendant failed to abide by Section
15 23-3-470(a) in failing to notify the Sheriff of any
16 change, of a change of permanent or temporary residence.

17 Therefore, the Court finds the defendant -- finds
18 that the State has proven beyond a reasonable doubt that
19 the defendant has committed a violation of this statute;
20 and therefore, the Court does find him guilty as
21 indicted.

22 Anything further from the State at this time?

23 MS. PRINSEN: No, your Honor.

24 THE COURT: Defense counsel?

25 MS. SAXON: Just to renew all the objections and

3-18-14 STATE V BYAS

1 motions before, your Honor, and that's all.

2 THE COURT: So noted.

3 SENTENCING:

4 THE COURT: Does the State have a sentence sheet?

5 MS. PRINSEN: Yes, your Honor. I have it right
6 here.

7 THE COURT: Is that a sentencing sheet?

8 MS. SAXON: Yeah.

9 THE COURT: He doesn't have to sign that.

10 MS. SAXON: I'm just going to go over it with him
11 so he's aware.

12 THE COURT: Okay. All right. I will note for the
13 record, I know the record reflects the fact or the time
14 that I stopped, or after I denied Defense counsel's
15 motions and went back in chambers to review the
16 exhibits, as well as the applicable statutory law in
17 this case, that my decision certainly is based upon a
18 thorough review.

19 I don't know how long I was out. Court reporter,
20 can you indicate on the record?

21 COURT REPORTER: I can, your Honor. Just a second,
22 please.

23 THE COURT: Ma'am?

24 COURT REPORTER: I can indicate. Just a second,
25 please.

3-18-14 STATE V BYAS

1 THE COURT: Okay.

2 COURT REPORTER: We went off the record at 11:58
3 a.m., and we went back on the record at 12:23 p.m.

4 THE COURT: And I'd also state that I looked at
5 this, these statutes, last night and yesterday
6 afternoon, when it was brought to my attention that this
7 case was coming to trial today. And I thoroughly
8 reviewed the statutes, along with applicable law as it
9 pertains to statutory interpretation, as well, in making
10 my decision here today. All right.

11 Yes, ma'am?

12 MS. PRINSEN: Thank you, your Honor. I have the
13 other sentencing sheet for Indictment 2013-1580, along
14 with the two prior convictions for failure to register,
15 first and second.

16 Your Honor, the State would be recommending the max
17 sentence of five years.

18 THE COURT: Let the record reflect, and I will make
19 as Court's Exhibit 1 and 2, that on August 15, I think
20 of 2007, defendant was sentenced for failure to register
21 as sex offender. It appears to be a first offense.

22 That on January 20, 2009, he was again sentenced
23 for failure to register as a sex offender, second
24 offense. These are certified true copies -- appear to
25 be certified true copies from the Clerk of Court's

3-18-14 STATE V BYAS

1 Office in Beaufort County.

2 Anything from Defense counsel with regards to these
3 prior sentence sheets for failure to register?

4 MS. SAXON: No, your Honor. I reviewed them and
5 find they're fact.

6 ITEM IDENTIFIED AS CERTIFIED COPY
7 OF SENTENCING SHEET DATED AUGUST
8 15, 2007, MARKED COURT'S EXHIBIT
9 NUMBER 1.

10 ITEM IDENTIFIED AS CERTIFIED COPY
11 OF SENTENCING SHEET DATED JANUARY
12 20, 2009, MARKED COURT'S EXHIBIT
13 NUMBER 2.

14 THE COURT: The Court does find that such
15 conviction here today is a violation of a failure to
16 register as a sex offender, third or subsequent offense.
17 And therefore, --

18 Does the State have anything? You've already
19 stated what you all were asking for as far as sentence.
20 Does the State have anything else to add?

21 DEFENDANT'S PRIOR RECORD, BY

22 MS. PRINSON:

23 MS. PRINSEN: The defendant does have a prior
24 record, if your Honor would like to hear it.

25 THE COURT: I would.

3-18-14 STATE V BYAS

1 MS. PRINSEN: Thank you, your Honor. Defendant's
2 prior record starts in 1980 with assault and battery.
3 1984, shoplifting; as well as a shoplifting third
4 offense; simple possession of marijuana.

5 1980 states lewd act upon a child. 1992, a DUI and
6 assault and battery. 1993, receiving stolen goods.
7 1994, petty larceny and receiving stolen goods. '95,
8 receiving stolen goods. 1996, a DUI second.

9 1997, receiving stolen goods, possession with
10 intent to distribute crack. 2001, shoplifting; the
11 failure to register that you're already aware of, your
12 Honor.

13 2003, shoplifting times two, larceny of items over
14 a \$1,000.00, and breaking and entering into autos, as
15 well as public drunk, petty larceny, and trespass.

16 2004, defendant had malicious injury to personal
17 property, as well as shoplifting and petty larceny.
18 2005, trespassing. 2007, failure to register. 2008,
19 giving false information. A 2009 property offense
20 third, as well as the failure to register as a sex
21 offender.

22 2011, sex registration false information, first
23 offense, as well as shoplifting. A 2012, shoplifting
24 charge. And a 2013 assault and battery third.

25 BY MS. CARROWAY:

3-18-14 STATE V BYAS

1 THE COURT: All right. All right, Ms. Saxon. I'd
2 be happy to hear from you.

3 MS. CARROWAY: Your Honor, I'm going to briefly
4 address mitigation if that's okay.

5 THE COURT: Yes, ma'am.

6 MS. CARROWAY: I've known Mr. Byas for a number of
7 years. He is polite, soft-spoken, and is always
8 respectful in all of my dealings with him.

9 I will say that Pernell was born and raised here in
10 Beaufort County. He is a simple man of very limited
11 means. And while no stranger to the system, as your
12 Honor can see by his record, he has not re-offended --
13 or any risk for re-offending in anything of a sexual
14 nature, your Honor.

15 I would also say that your Honor has heard the
16 facts in this case. I believe the statute allows for
17 the five years to be suspended down to a minimum of
18 three. I believe, in light of the minimal violation
19 that he's been found guilty of here today, that a three-
20 year sentence would be more than appropriate.

21 I do believe that Mr. Byas was doing his best to be
22 compliant with the statute. He obviously knows what
23 happens if he's not, but he is an impoverished man who
24 doesn't have any way to pay his landlord, and then his
25 lights got turned off, and then things kind of

3-18-14 STATE V BYAS

1 snowballed. He was doing his best to keep the GPS
2 charged, because he knew that's what he had to do, and I
3 think that's what lead us here today.

4 He was registered. As you heard Ms. Light say, he
5 had all intent to going back to register in October,
6 which he's been incarcerated, so he hasn't been able to
7 do. But we would ask your Honor to sentence him to the
8 five suspended to the three, and give him credit for the
9 time that he's been in.

10 THE COURT: How long has he been in?

11 MS. SAXON: Since -- seven.

12 MS. CARROWAY: Almost seven months.

13 MS. SAXON: Almost seven months. Seven motions,
14 yes. Just at seven -- just over seven.

15 THE COURT: All right. Give me the exact -- I want
16 to know the exact number of days. When was he arrested?

17 MS. PRINSEN: He was arrested on September 18th,
18 your Honor.

19 MS. SAXON: Do you have the exact number of days?

20 AGENT TYRONE HICKS: 181.

21 MS. CARROWAY: 181, your Honor.

22 THE COURT: 181?

23 MS. CARROWAY: Yes, sir.

24 THE COURT: 181 days? I'm sorry.

25 MS. SAXON: Yes, your Honor.

3-18-14 STATE V BYAS

1 MS. CARROWAY: Yes, your Honor.

2 THE COURT: Mr. Byas, anything you want to tell me,
3 sir?

4 DEFENDANT BYAS: Just that I -- I just feel that --

5 MS. CARROWAY: Just real quick.

6 DEFENDANT BYAS: I just want to --

7 THE COURT: Again, and I could kind of hear what
8 your lawyer was saying. I don't want you to say
9 anything that could in any way effect your appellate
10 rights, but I certainly will give you an opportunity to
11 say anything if you so desire.

12 DEFENDANT BYAS: Yes, sir. The only thing, I just
13 wanted to say that -- that bothers me a lot is that I
14 got sentenced back in '86, and I had a ten-year bit, and
15 I maxed the bit out with -- with -- with no paperwork or
16 parole or nothing behind it. And I came home, was
17 working, this and that. I didn't have no second
18 registry or nothing to hide from no judge or nothing,
19 and I came home. I was working and taking care of my
20 business until up to around 2006.

21 I'd maxed out in 2090 [sic], my ten-year bit. And
22 around 2006, I still haven't seen no judge. But they --
23 they just picked me up and say I got to register and
24 wear a monitor. And I asked them why I got to wear the
25 monitor and stuff. And he told me, he said -- I don't

3-18-14 STATE V BYAS

1 know the man's name, Mr. Michael or something, say I got
2 to wear it. And I say I never went in front of a judge
3 to wear a monitor, and I don't know nothing about it,
4 you know.

5 MS. CARROWAY: Your Honor, I think, obviously, Mr.
6 Byas' issues are his frustration with the fact that,
7 much later in life, after he had served his time and
8 whatnot, they came back and now he's required to wear
9 the GPS.

10 MS. SAXON: And to register.

11 MS. CARROWAY: And to register, which wasn't in
12 effect when he was sentenced.

13 THE COURT: Well, I think that's certainly
14 something that he can take up and --

15 MS. CARROWAY: Yes, sir.

16 THE COURT: -- something that may need to be re-
17 visited at some point.

18 MS. CARROWAY: Yes, sir.

19 THE COURT: Prior to this offense, when was his
20 last charge? Not failure to register second, but
21 between the time that he, in 2009, when he pled guilty
22 and got time, and when he was arrested on this charge,
23 did he have anything on his record?

24 MS. PRINSEN: Well, he was arrested in 2009 for the
25 failure to register for the year.

3-18-14 STATE V BYAS

1 THE COURT: Right.

2 MS. PRINSEN: In 2011, he was convicted for sex
3 registry false information, first; shoplifting; and then
4 2012, shoplifting; and then, 2013, assault and battery.
5 third between those two charges. I'm sorry, shoplifting
6 enhancement charges.

7 THE COURT: Anything further from the State?

8 MS. PRINSEN: Nothing further from the State.

9 THE COURT: Defense counsel?

10 MS. CARROWAY: No, your Honor.

11 SENTENCE, BY THE COURT:

12 THE COURT: All right. On Indictment 2013-GS-07-
13 1580, the defendant will be committed to the State
14 Department of Corrections for a period of four years.
15 Give him credit for 181 days.

16 Good luck to you, Mr. Byas.

17 MS. CARROWAY: Thank you, your Honor.

18 MS. SAXON: Thank you, your Honor.

MS. PRINSEN: Thank you, your Honor.

END PROCEEDING 12:48 P.M.

CERTIFICATE OF REPORTER

MARCH 18, 2014 TRANSCRIPT OF PRETRIAL

HEARINGS & BENCH TRIAL

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

I, Wanda H. Rowe, CVR-M, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing March 8, 2014 Transcript of Pretrial Hearing and Bench Trial is a true, accurate, and complete record of the proceedings had on said date and exhibits admitted in the case of State versus Pernell Detroit Byas, Beaufort County, South Carolina, Court of General Sessions, Case Number 2013-GS-07-01580.

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

The original of this transcript, nor any copy of same, is not certified, nor authorized for use by me, to be true, accurate, and complete without my original signature and stamp affixed hereto.

Witness my signature June 9, 2014.


Wanda H. Rowe, CVR-M
Official Court Reporter

ORIGINAL

EXHIBIT
State
1000
3-17-94

THE STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)
THE STATE)
VS.)
_____)
_____)

COURT OF GENERAL SESSIONS
NO. 86-GS-7 1539

PLEA WAIVING GRAND JURY PRESENTMENT

1539

THE PRISONER James Earl Ray IS PUT TO THE BAR AND
ARRAIGNED AND UPON HIS/HER ARRAIGNMENT PLEADS GUILTY TO THE CHARGE OF
first degree murder AND CONSENTS TO SO PLEAD WITHOUT
INDICTMENT BEING SUBMITTED TO THE GRAND JURY AND A TRUE BILL RETURNED THEREON,
AND SPECIFICALLY WAIVES HIS/HER RIGHT TO HAVE THE SAID INDICTMENT SUBMITTED
TO THE GRAND JURY BEFORE HE ENTERS THE SAID PLEA.

CLERK OF COURT _____
DATE _____ DEFENDANT _____

GUILTY PLEA

THE PRISONER _____ IS PUT TO THE BAR AND
ARRAIGNED AND UPON HIS/HER ARRAIGNMENT PLEADS GUILTY TO THE CHARGE OF _____
ON THE WITHIN INDICTMENT.

CLERK OF COURT _____
DATE _____ DEFENDANT _____

SENTENCE

THE DEFENDANT James Earl Ray IS COMMITTED TO THE STATE
DEPARTMENT OF CORRECTIONS/COUNTY FOR A TERM OF 10 MONTHS/YEARS
AND/OR TO PAY A FINE OF \$ _____; PROVIDED UPON THE SERVICE OF
10 MONTHS/YEARS AND/OR PAYMENT OF \$ _____, PLUS PAY/WAIVE
COSTS AND ASSESSMENTS AS APPLICABLE*, THE BALANCE SUSPENDED WITH PROBATION
FOR _____ MONTHS/YEARS.

RESTITUTION FOR PHYSICAL INJURY \$ _____
YES/NO PROPERTY DAMAGE \$ _____
TO BE PAID
TO CLERK FOR
OTHER CONDITIONS _____

DATE 11-11-86 PRESIDING JUDGE _____

*COSTS AND ASSESSMENTS
NON-WAIVABLE \$ _____
NOT WAIVED \$ _____
TOTAL \$ _____

**PAY TO VICTIM'S COMPENSATION FUND SUBROGATED.

Certified - A True Copy

Kristy Taylor
Jari Ann Roseberry - Clerk of Court
Beaufort County, SC - Kristy Taylor

Warrant No. B 413195

12/30/85

Witnesses

Debbie Byas

Sadie Augusto

William E. Rapp

Verdict

Foreman

The State of South Carolina

County of BEAUFORT

COURT OF GENERAL SESSIONS

APRIL Term, 19 86

THE STATE

VS.

Pernell "Detroit" Byas

INDICTMENT FOR

CRIMINAL SEXUAL CONDUCT - 1ST DEGREE
(16- 3-652)

True Bill
Charles F. DeHart
Foreman of Grand Jury

1535

1536

The State of South Carolina

County of BEAUFORT

INDICTMENT FOR

CRIMINAL SEXUAL CONDUCT - FIRST DEGREE
(16-3-652)

At a Court of General Sessions, convened on the 7th day of April,
19 86, the Grand Jurors of Beaufort County present upon their oath:

That Pernell "Detroit" Byas

did in Beaufort County on or about the 8th day of December,
19 85, wilfully and unlawfully engage in criminal sexual conduct in the first
degree in that Pernell "Detroit" Byas engaged in criminal sexual battery, to wit:
sexual intercourse, with Minor and did use aggravated force to accomplish
such sexual battery, and that the said Minor was of the age of 2 years old,
and that the defendant, Pernell "Detroit" Byas is of the age of 25 years.

Against the peace and dignity of the State, and contrary to the statute in such case made and
provided.

Donald M. McDaniel, Jr.

Solicitor

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

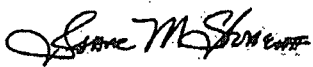
INDICTMENT

At a Court of General Sessions, convened on July 26, 2007, the Grand Jurors of Beaufort County present upon their oath:

FAILURE TO REGISTER AS SEX OFFENDER

That Pernell Detroit Byas did in Beaufort County, on or about June 5, 2006, wilfully and unlawfully fail to register with the Sheriff of this county as provided in Section 23-3-470, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ISAAC M. STONE, III, SOLICITOR

✓
WITNESSES

Katrina L. Griffith/BCSO

ARREST WARRANT NUMBER

J-331028

ACTION OF GRAND JURY

True Bill

A. Nguyen
Foreperson of Grand Jury
Date: JUL 2 6 25

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2007-GS-07-01157

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

JULY TERM 2007

**THE STATE
vs.**

PERNELL DETROIT BYAS

Indictment for

**FAILURE TO REGISTER
AS SEX OFFENDER**

SC Code: 23-3-470(B)(1)
CDR Code: 2606
Class MIS-UNC

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.

WITNESSES

Dep. Kathy Giffith-BCSO

DOCKET NO. 2008GS0702036

The State of South Carolina

County of Beaufort

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

September Term 2008

Hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

J334370

THE STATE

vs.

Pernell Byas

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date:

OCT 23 2008

VERDICT

Indictment for

Sex / Sex Offender Registry Violation, fail to register - 2nd Offense

SC Code: 23-03-0470(B)(2)
CDR Code: 2607

Defendant

Witness:

Foreperson of Petit Jury
Date:

INDICT.

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

INDICTMENT
2008GS0702036

At a Court of General Sessions, convened on September 25, 2008, the Grand Jurors of Beaufort County present upon their oath:

Sex / Sex Offender Registry Violation, fail to register - 2nd Offense

That in Beaufort County, South Carolina, on or about since December 8, 2007, the Defendant, Pernell Byas, did fail to register as a sex offender with the Beaufort County Sheriff's Department after being instructed to do so, and having failed to register one time prior on August 15, 2007, as required by Section 23-3-400, et. seq. of the Code of Laws of South Carolina, (1976, as amended); in violation of Section 23-3-470 of the Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


Solicitor General

WITNESSES

K Light - BCSO

ARREST WARRANT NUMBER

2013A0710400320

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date:

OCT 31 2013

VERDICT

Foreperson of Petit Jury
Date:
INDICT

DOCKET NO. 2013GS0701580

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

October Term 2013

THE STATE

vs.

Pernell Byas

Indictment for

Sex Offender Registry Violation, Fail to Register
- 3rd & Sub.

SC Code: 23-03-0470(A)
CDR Code:2435

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

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.

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

INDICTMENT
2013GS0701580

At a Court of General Sessions, convened on October 31, 2013, the Grand Jurors of Beaufort County present upon their oath:

Sex Offender Registry Violation, Fail to Register - 3rd & Sub.

That in Beaufort County, South Carolina, on or about September 12, 2013, the Defendant, Pernell Byas, did fail to register as a sex offender with the Beaufort County Sheriff's Department after being instructed to do so, as required by Section 23-3-400, et. seq. of the Code of Laws of South Carolina, (1976, as amended); in violation of Section 23-3-470 of the Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the 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."

March 16, 2015

A handwritten signature in black ink, appearing to read 'T. Butler', written over a horizontal line.

Tiffany L. Butler
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

MAR 16 2015

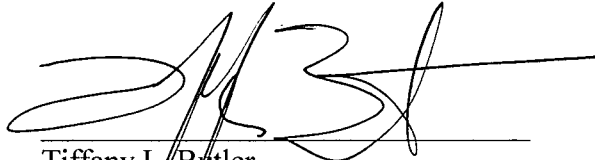
122

CERTIFICATE OF COUNSEL FOR APPELLANT

SC Court of Appeals

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."

March 16, 2015



Tiffany L. Butler
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