

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Bentley Price, Circuit Court Judge

RECEIVED

May 27 2020

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

BERNARD EMMANUEL JACKSON,

APPELLANT

APPELLATE CASE NO. 2019-001412

RECORD ON APPEAL

ADAM SINCLAIR RUFFIN
Appellate Defender

ALAN WILSON
Attorney General

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

WILLIAM M. BLITCH, JR.
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBIT NO. 1-B AND STATE’S EXHIBIT NO. 3 (VIDEOS)**

STATE OF SOUTH CAROLINA.	)	COURT OF GENERAL SESSIONS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	
State of South Carolina,	)	CASE NO. 2016-GS-10-00196
	)	2016-GS-10-00197
PLAINTIFF,	)	2016-GS-10-00198
	)	2018-GS-10-04844
	)	
Vs.	)	TRANSCRIPT OF RECORD
	)	
Bernard Jackson,	)	ORIGINAL
	)	
DEFENDANT.	)	
	)	

August 14 - 15, 2019

Charleston, South Carolina

B E F O R E:

The Honorable Bentley D. Price, and a Jury.

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

Mr. Lemuel C. Zeigler, Esquire
For the Plaintiff

John Whitney Sowards, Esquire
For the Plaintiff

Stephen Bowden, Esquire
For the Defense

Teresa Norris, Esquire
For the Defense

Phyllis Norton, CVR-Master, Nationally Certified Verbatim Court Reporter
636 Long Point Road, Unit G, #74, Mt. Pleasant, South Carolina 29464
PNorton@sccourts.org

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(DW) - DENOTES DEFENSE WITNESS

(IC) - DENOTES IN CAMERA

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If you need an additional copy of this transcript or a sealed transcript or if opposing counsel requires a copy of the transcript, you should contact the court reporter.

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1 (WHEREUPON, 8/14/19, 1:32 p.m., pretrial issues.)

2 THE COURT: All right. I want to briefly just go over a
3 couple of pretrial issues before we get the jury up. They are
4 here. They are supposed to be here at 1:30. They say they
5 have got a couple missing. They should be here in just a
6 little bit.

7 I am going to formally arraign the defendant, and then I
8 am going to inquire as to whether he is going to allow Mr.
9 Bowden and Ms. Norris to continue his representation.

10 And then I will take up any pretrial motions. And then
11 that will put us into a couple of minute break -- we still
12 haven't had lunch yet. They still haven't brought it, so all
13 of, everybody you see here, still haven't eaten yet.

14 So what I am going to do is take a break, let us eat,
15 bring the jury up. We can select a jury, and depending upon
16 where we are we may or may not just let them go. We will have
17 to just wait and kind of see.

18 I would like to go ahead and start of course. But
19 everybody else has to -- we all have to eat. So all right.
20 All right.

21 Mr. Jackson, if you will stand, please

22 THE DEFENDANT: Mr. Jackson isn't present.

23 THE COURT: All right. Bernard Emmanuel Jackson, you
24 have been indicted, Docket Number 2015-GS-10-00196, 197, and
25 198; also Indictment Number 2018-GS-10-04844; for failure to

1 stop for a blue light, unlawful carrying of a pistol,
2 resisting arrest, and child endangerment.

3 How do you wish to plead to the charges; do you wish to
4 plead not guilty or guilty?

5 THE DEFENDANT: I am the man -- one of the people here
6 ex relatione to Bernard Emmanuel Jackson. It has not been
7 proven by this court that is my identity. I have challenged
8 the court's jurisdiction, and I do not wish to plead nor
9 testify on behalf of Mr. Jackson.

10 This court is looking to hold a proceeding without giving
11 me proper notice or without notifying the proper authority.
12 In regard to this authority I would like to have this court
13 place the delegation of authority into the court's record as
14 far as what jurisdiction it is claiming to have authority to
15 exercise. And, like I said, I have no testimony in regard to
16 Bernard Emmanuel Jackson.

17 THE COURT: All right. I will take that ---

18 THE DEFENDANT: I do have an affidavit in regard to
19 anything else that I would want to be said here. And that is
20 all I am want to say for the day.

21 THE COURT: All righty. I will take that as a not
22 guilty. All righty. What pretrial motions do we have on
23 behalf of the State?

24 THE DEFENDANT: You have my affidavit.

25 THE COURT: I have your affidavit.

1 MR. ZEIGLER: Nothing from the State, Your Honor.

2 THE COURT: All right. And from the defense what would
3 you like to go ahead and address?

4 THE DEFENDANT: You have my affidavit.

5 THE COURT: I have it.

6 THE DEFENDANT: That is what I would like to address. He
7 does not speak for me.

8 THE COURT: All right. That is the next question. Are
9 you going to allow Mr. Bowden and Ms. Norris to represent you?

10 THE DEFENDANT: You are calling me Bernard Jackson ---

11 THE COURT: I didn't call you Bernard. I said, sir, are
12 you going to allow Mr. Bowden and Ms. Norris to represent you?

13 THE DEFENDANT: No one represents me. I am who I am. I
14 don't need a representative. I am who I am. This court has
15 not proven the identity which the State has presumed. And I
16 have challenged that. The State needs to present evidence to
17 actually prove who I am in this court's record.

18 The judge cannot assume just because the State has made a
19 claim that I am who the State says. Everything has to be
20 proven. And the burden of proof is on the State to prove
21 that. So this court is violating my rights by moving forward
22 on the State's presumption.

23 So do not start adjudicating and prosecuting without
24 giving me my right to due process, which is what you are
25 doing, sir.

1 THE COURT: All righty.

2 Mr. Bowden, what would you like to do?

3 MR. BOWDEN: I have -- I have motions to present on
4 behalf of the defendant. I am comfortable proceeding despite
5 that. I think my mandate here is clear to present a factual
6 defense, and that is what I intend to do.

7 THE COURT: All right.

8 THE DEFENDANT: Mr. Bowden has not advocated. I object
9 to that. Mr. Bowden has not advocated for me. He is trying
10 to allow the State to move forward with me as the defendant
11 when I have made it clear to him that I wish that he would
12 object and he would advocate that I am not the defendant and
13 cause the State to prove that fact or whatever.

14 And so this court is violating my rights, and I object to
15 these proceedings. I am here under duress.

16 THE COURT: All right.

17 THE DEFENDANT: You are forcing me to move forward in a
18 matter where you are violating my rights under color of state
19 law.

20 THE COURT: All right. If you don't want Mr. Bowden to
21 represent you and you want the State to proceed with all
22 it ---

23 THE DEFENDANT: The State's charging documents do not
24 name me, sir. The State's charging documents name that which
25 I have given to you in that affidavit.

1 You need to read it before you move forward because you
2 are violating my rights, and you are warring against the
3 Constitution. And you are right now, sir, committing treason
4 by doing what you are doing.

5 I am here in a calm capacity, as calm as I can be under
6 these circumstances, and you want to force this identity on me
7 so that you can assume jurisdiction.

8 You are assuming that I am Bernard Jackson so that you
9 can have jurisdiction and move forward with what you are
10 doing. You are trying to charge me under what seems to be the
11 conformity of a presentment, called an indictment, which is a
12 bill of exchange; and you are trying to charge me as a
13 secondary party and enforce my conformance. But you have not
14 done what you need to do in order to do so, so you are
15 violating my rights. And this is fraud.

16 So I object to these proceedings and I -- that is all I
17 have to say.

18 THE COURT: Well, you keep saying that is all you have to
19 say and then you always have more ---

20 THE DEFENDANT: Yeah, because -- but I -- I get the
21 chance to speak when you add something else that I need to
22 object to. So that is what I am doing, I am advocating for my
23 right. Which I have a right to peacefully petition and
24 redress the government for grievances, and that is what I am
25 doing.

1 THE COURT: Okay.

2 THE DEFENDANT: All of this is in your Constitution. You
3 have an ultimate Constitution of South Carolina which you are
4 not following.

5 You are a public servant. You are the public servant. I
6 am one of the people. And this protects my rights. You are
7 violating my rights right now, and so I am standing up for my
8 rights which is what I have a right to do according to this
9 document here, this thing that you have sworn an oath to
10 protect, defend and preserve. You are not doing that. You
11 are violating your right now. You are committing treason.

12 THE COURT: All right.

13 Well, Mr. Bowden, I am not going to force you ---

14 THE DEFENDANT: What jurisdiction is this?

15 THE COURT: --- to do it.

16 THE DEFENDANT: What jurisdiction is this?

17 THE COURT: I am talking to Mr. Bowden.

18 THE DEFENDANT: I don't care who you are talking to; I am
19 talking to you right now.

20 THE COURT: All right. Take him away. I am not
21 going ---

22 THE DEFENDANT: What juris- -- what jurisdiction is this?

23 THE COURT: Take him away.

24 THE DEFENDANT: I would like to have my stuff, please.

25 THE DEPUTY: Let's go.

1 THE DEFENDANT: Can I have my stuff, please.

2 THE DEPUTY: I will bring it to you.

3 THE DEFENDANT: I am not an officer of this court.

4 (WHEREUPON, defendant escorted from the courtroom by deputies,
5 8/14/19, 1:38 p.m.)

6 THE COURT: All right. So as I indicated to you earlier,
7 Mr. Bowden, I am not going to force you to represent him. He
8 has rights and he has options.

9 His first option is to represent himself. He has a
10 constitutional right to do it. I will allow him to do it. I
11 don't think that that is really going to be beneficial to the
12 proceedings, but he has that right and I will afford him that
13 right.

14 If he doesn't recognize you as an officer of the court
15 and doesn't feel like you have -- you are zealously advocating
16 in his best interest then I don't -- I am not going to make
17 you do it. All right. I mean I will relieve you as his
18 counsel and you can sit back in the back and if there is an
19 issue whereby I may need you we will grab you. And if not, I
20 am not going to let him abuse his right to a -- you know, he
21 is afforded a free attorney. I am not going to let him abuse
22 you for it, okay. It is just not going to happen.

23 So we have two choices. Option-A is let you represent
24 him while he is not here and essentially have a trial in
25 absentia. There is case law that indicates that if a

1 defendant can't abide by the proper decorum of the courtroom
2 he can be removed and the case can proceed with his or her
3 absence. And so that is Option-A.

4 Option-B is I will let y'all two go to lunch and I will
5 just have to deal with what I have got to deal with and he can
6 represent himself.

7 He is not going to answer.

8 (WHEREUPON, defense counselors confer.)

9 MR. BOWDEN: Can we have just a few minutes to discuss it
10 and ---

11 THE COURT: What I think I would do, Mr. Bowden -- and it
12 is up to you. Is I can make sure that I know exactly the case
13 law that they are referencing concerning the trial in absentia
14 and we can just have his trial without him. If he is not,
15 again, going to participate in his representation. Because he
16 is not.

17 Of course the only reason that they are afforded a right
18 to confront their accusers is so they can, you know, be
19 afforded due process which is to confront their accuser,
20 cross-examine them, all of those things.

21 But if he is not going to accept any of those rights
22 because he doesn't acknowledge the Constitution and he doesn't
23 feel like those rights are afforded him to begin with, we are
24 not doing anything; we are not getting anything accomplished.

25 So I think that what will be in our best interest is just

1 to try -- I can make his affidavit a part of the court record.
2 I can make it Court's Exhibit 1. It will be in the record.
3 And then I think that we would just try him in his absence.

4 MS. NORRIS: Your Honor, could we have just a couple of
5 minutes to explain to him those options?

6 THE COURT: Yes. So those are his options. Option-A is
7 he can sit there and allow you to represent him. All right.
8 Any outbursts, any I don't recognize this jury, any of that,
9 gone. All right.

10 Option-B is I will allow y'all to sit back there and he
11 can represent himself. Very easy options. All right.

12 MR. BOWDEN: Thank you, Your Honor. Understood.

13 (WHEREUPON, recess 8/14/19, 1:42 p.m.)

14 (WHEREUPON, resume 8/14/19, 1:43 p.m.)

15 MR. BOWDEN: Your Honor, he refuses to speak to us. So
16 in -- without being able to conduct a Faretta hearing I think
17 the appropriate option is to proceed with us as counsel
18 whether he chooses to, you know, remain present or not.

19 THE COURT: Okay. All right. I agree. I think that is
20 what the appropriate action is. He has a constitutional right
21 to a jury trial. He has asked for it. He will get it. He
22 has competent counsel and representation. And if he can't
23 adhere to the decorum of the court then unfortunately he will
24 just have to be absent from his trial. All right.

25 All right.

1 (WHEREUPON, break to discuss whether jury is ready and status
2 of lunch delivery.)

3 THE COURT: While they are coming up we will eat. Okay.
4 And so the court -- we can just go eat for a couple of
5 minutes ---

6 THE COURT REPORTER: Okay.

7 THE COURT: -- and we will wait -- just let me know
8 whenever the jury is all here.

9 (WHEREUPON, break 8/14/19, 1:45 p.m.)

10 (WHEREUPON, 8/14/19, 2:04 p.m. to 2:10 p.m., hear matters on
11 unrelated trial.)

12 (WHEREUPON, resume with current trial 8/14/19, 2:18 p.m.)

13 THE COURT: Bernard Emmanuel Jackson I have sent the
14 deputies back to escort him to the courtroom to give him the
15 option to participate in the defense of his case. He has
16 refused to speak to his attorneys in the interview room. And
17 the deputies have just informed me that he has refused to be
18 brought to court, so therefore we will proceed in his absence
19 on this case.

20 So do y'all want to go ahead -- oh, we lost Cameron
21 (deputy clerk). I was going to say we could bring the jury up
22 and go ahead and pick the jury. But we will just wait here
23 and when Cameron comes back he can go get them and we can pick
24 the jury. All right.

25 THE DEPUTY: Just to make it very clear.

1 THE COURT: Yes, sir.

2 THE DEPUTY: In his refusal he wants you to call him King
3 something, and that was a discussion I thought should end.

4 THE COURT: Well, his issue is is that he says he is
5 going to sit quietly if I call him King something?

6 THE DEPUTY: Yes, sir, from what I caught. Now I don't
7 know about the sitting quietly. He wasn't even going to come
8 out unless you call him King.

9 THE COURT: Tell him to come -- tell King to come on out.
10 (WHEREUPON, 8/14/19, 2:19 deputy exits to speak with
11 defendant.)

12 (WHEREUPON, deputy returns to courtroom.)

13 THE DEPUTY: He does not wish to proceed.

14 THE COURT: All right. Okay. For the record, I was
15 going to call him by his pseudonym or nickname, and he has
16 refused to participate in the defense of his trial so it will
17 proceed without his presence. All right.

18 MR. BOWDEN: Your Honor, if you would like to proceed
19 with pretrial motions ---

20 THE COURT: All right.

21 MR. BOWDEN: --- I will be more than happy to do that.

22 THE COURT: Let's do that while we are waiting on
23 Cameron.

24 MR. BOWDEN: Okay. So I guess the first one is that --
25 well, I will just do the simple one first, motion to sequester

1 the State's witnesses.

2 THE COURT: All right. Any objection to that?

3 MR. ZEIGLER: No objection, Your Honor.

4 THE COURT: All righty. And you have an officer that
5 wishes to remain in the courtroom?

6 MR. ZEIGLER: No, sir. My investigator Chuck Joliff is
7 going to remain with us just to grab witnesses and stuff.

8 THE COURT: All right.

9 MR. ZEIGLER: I don't plan on calling him.

10 THE COURT: All right. That sounds great. I will grant
11 that motion and then all of the witnesses will stay
12 sequestered.

13 MR. BOWDEN: Thank you, Your Honor. All right. And then
14 went to -- we made a motion to suppress the statement of
15 Bernard Jackson's as involuntary.

16 So the question comes up in one of the deputies his
17 personally owned body camera. As they are doing a felony
18 traffic stop after the -- after the chase concluded they asked
19 -- they asked -- I am going to refer to him as King as well
20 for the record purposes. They asked King to get out of the
21 car, walk backwards, lay on the pavement, as they do during a
22 felony traffic stop. Guns -- several officers guns trained on
23 him in the car. They do the same with the passenger who in
24 this case was King's wife.

25 And while the -- while the guns are trained on them the

1 officer who initially approached the car was aware that there
2 were people in the backseat, wasn't sure who it was. So he
3 asked who was in the backseat. He asked both King and his
4 wife.

5 And King responded approximately 22 hours, 35 minutes and
6 30 seconds on the video, that there were two people in the
7 backseat and they were kids, they were 11 and 16 years old.

8 The basis of the motion is it is not voluntary. The test
9 there being, you know, whether King's will was overborne by
10 the circumstances.

11 You know, as this isn't an interrogation it is not quite
12 the typical -- the typical place that this might come up. But
13 there was a question asked to him. He was clearly under
14 arrest at this point. Clearly detained on the ground.

15 He -- any parent in this situation -- and they were his
16 step-children. But any parent in this situation, anybody that
17 cares for kids, would have felt that they needed to say
18 whatever the officers needed to hear to lower their guns, to
19 cool the situation down. And for that reason him saying the
20 ages of the kids, it wasn't voluntary. It wasn't -- it wasn't
21 a knowing confession. It was simply for the purposes of the
22 officers lowering that gun in that moment. It was an act of
23 pure desperation from a person who cares deeply about them,
24 about the children.

25 THE COURT: And you essentially are indicating that that

1 is one of the elements of the crime of child endangerment?

2 MR. BOWDEN: Absolutely.

3 THE COURT: All right. What is y'all's position as to
4 that?

5 MR. ZEIGLER: Your Honor, as Mr. Bowden stated, this
6 isn't your standard, I'm sorry, interrogation. It is not an
7 interrogation at all. They are just asking for their own
8 safety more or less. You know, are the people in the back
9 seat 17, 18 year old kids; are they literally kids, or are
10 they ---

11 THE COURT: My kids?

12 MR. ZEIGLER: Yeah. I mean, you know, ---

13 THE COURT: What does he -- what does he state; does he
14 state their ages?

15 MR. BOWDEN: He states their ages. And that is
16 specifically the problem. It is a confession that had to have
17 been made under those circumstances so the police didn't take
18 it any farther than they were taking it.

19 The context for this was that the vehicle had -- had
20 words all over it, all over the windows basically. It was an
21 advertisement for -- I guess what they were doing for living
22 at this point. And so and the windows were very dark.

23 So it wouldn't have been possible basically for the
24 officer to look in the window and see who was back there. So
25 as far as they knew I think -- they were concerned that they

1 were adults in the back of the car. They were concerned for
2 like -- there was a dog in the back of the car too. But they
3 were really worried about the people. And it was -- it is
4 simply an issue of just like Mrs. Jackson who is going to come
5 up in another motion the -- they were parents. They were
6 going to say what they needed to say.

7 THE COURT: Well, what is the problem with just allowing
8 the statement to come in up until the point where it says he
9 says my children are in the car and then the officer asks how
10 old are your children and he says 16 and 11 and then they say
11 how old are they? The defendant says 10, I mean 11 and 16,
12 they can only exit through the passenger side. Backseat
13 passengers hands out the window. They are -- the defendant
14 says they are kids.

15 What if we just take that part out?

16 MR. BOWDEN: The part that mentions their names?

17 THE COURT: Sure.

18 MR. BOWDEN: Yeah, ---

19 THE COURT: No, their ages.

20 MR. BOWDEN: Yeah -- yeah, oh, yeah, their ages. Yeah,
21 that ---

22 THE COURT: I mean it is essentially an element of the
23 crime that you have to prove. How -- I mean how is ---

24 MR. ZEIGLER: Your Honor, first of all they are not
25 asking to incrim- -- to make the defendant make this statement

1 to incriminate himself. They are asking for their own safety
2 and for the safety of everybody around them.

3 Second of all, in Rhode Island versus Innis statement
4 exactly like this where an officer asks the age of the
5 children in the backseat after the defendant freely states
6 that his kids are in the backseat they are normally attended
7 to in arrest and custody and are excepted -- excepted, not
8 with an "A", with an "ex" - excepted from consideration as an
9 interrogation. So it is not an interrogation at all. And
10 that is the ---

11 THE COURT: It is an inquiry. Which is I guess is the
12 same thing potentially?

13 MR. BOWDEN: Well, this isn't a Miranda analysis.

14 THE COURT: Sure.

15 MR. BOWDEN: Absolutely. I mean in any way the question
16 was asked for whatever purpose the circumstances still make it
17 an involuntary response to make this situation go from
18 potentially deadly to simply getting the kids out of the car
19 safely.

20 THE COURT: All right. I will take that one under
21 advisement until we get close to that point. All right.

22 MR. BOWDEN: Thank you.

23 THE COURT: What is next?

24 MR. BOWDEN: It is probably best to just take up -- well,
25 I want to make a motion to exclude any mention of the phrases

1 sovereign citizen, Moorish nation, Moore, or really any
2 variant label that anybody wants to put on King's beliefs.

3 THE COURT: All right. Are you planning on bringing up
4 any of that?

5 MR. ZEIGLER: I wasn't going to personally bring it up in
6 questioning. However, I think Mr. Bowden referring to the
7 dash cam of Officer Brandon Wade and the body worn of Officer
8 Trey Wade, both of which the defendant is speaking with them
9 through a window, I think Mr. Bowden's motion is based off
10 relevance. We argue that it is completely relevant to
11 everything that he is charged with, especially the failure to
12 stop and resisting arrest considering ---

13 THE COURT: But are the words -- are the words used by
14 the defendant, I am a sovereign citizen?

15 MR. ZEIGLER: He never says that specifically.

16 THE COURT: Okay.

17 MR. BOWDEN: One of the -- one of the officers in an
18 incident report, I think Deputy Trey Wade, says -- says that
19 he through training and experience has come to understand
20 these beliefs to be associated with the sovereign citizen
21 movement.

22 THE COURT: Right, that was in the pretrial packet. All
23 right. So if they are not planning on saying it then I will
24 grant your motion and just advise the deputies to not ---

25 MR. ZEIGLER: Okay. I will talk to them.

1 THE COURT: --- indicate that. Because if he is not
2 going to be here and so we don't need to create that issue.

3 MR. ZEIGLER: But ---

4 THE COURT: I don't want them thinking that that is why
5 he is not here.

6 MR. ZEIGLER: Just to be clear, I don't have to go redact
7 any portions of the -- of that part of the video?

8 THE COURT: No, because he doesn't say the words.

9 MR. ZEIGLER: Okay.

10 THE COURT: Yeah. All right.

11 MR. BOWDEN: And now we will get to that motion which is
12 kind of a big one that might be a little difficult to
13 administer. But there are long stretches in the video that
14 don't inform anything about whether Bernard Jackson left the
15 scene. They simply are -- it is minutes on end of arguing
16 over whether King was going to produce his license, and it is
17 full of the type of argument that essentially we have heard
18 here today.

19 And, first of all, it is irrelevant. His political
20 beliefs don't inform why he left the scene. He actually makes
21 a comment on the body -- on the video, the Deputy Wade's dash
22 cam, about why he left the scene. And it has nothing to do
23 with his political beliefs.

24 But more importantly it is just going to confuse the
25 jury. The jury once they hear these beliefs they are not --

1 they are not beliefs that a person who doesn't work in the
2 criminal justice arena or in Family Court hear often. And
3 they are shocking. And they lend themselves to the jury
4 making a decision on something other than the evidence.

5 So in that way they are extremely prejudicial. And to
6 the extent that they are probative at all, which I don't
7 believe that they are, it is substantially outweighed by the
8 prejudice created by just frankly the strangeness of the
9 beliefs.

10 THE COURT: All righty.

11 What is your position, Mr. Zeigler?

12 MR. ZEIGLER: We think this is certainly relevant. I
13 mean he argues with the officers for 20 minutes while they are
14 standing out in the rain, pouring rain. He refuses to
15 cooperate, refuses to cooperate, and then all of a sudden
16 speeds away.

17 And the last thing the officers say before he speeds away
18 is I am going to have to smash your window to conduct this
19 arrest, and then he drives away.

20 So all they are going to hear if we reject this is the
21 officers asking questions, him not saying anything, and then
22 all of a sudden the officer saying I am going to bash your
23 window in. Which to me makes it seem like the defendant did
24 nothing wrong and this is a completely egregious and even
25 racially motivated stop and attempt at an arrest. Because

1 they are not going to hear any of what he is doing which is
2 what forces them to initially tell him that he is under
3 arrest.

4 THE COURT: All right.

5 MR. BOWDEN: And I understand that concern. Basically
6 the last -- the last couple of minutes before he takes off is
7 essentially at the point that second Deputy Wade arrives. It
8 is -- they kind of -- they kind of rehash the whole situation.
9 So I would be -- I would be perfectly fine with the point
10 in the video were Deputy Wade arrives, they kind of discuss
11 what is going on, they -- the second Deputy Wade goes up to
12 talk to King, kind of confirms what first Deputy Wade told
13 him, and then they -- then they escalate to the point of,
14 okay, well, now it is maybe an arrest, now we are going to
15 have to drag you out of the car.

16 So it is clear -- it will be clear from that portion of
17 the video that there is an argument going on, he is not
18 listening to what they have to say, and they go to do
19 something else and he takes off.

20 THE COURT: Okay. Well, it is under -- you are just -- I
21 mean you are making the argument under the 403 analysis of it
22 is more prejudicial than probative?

23 MR. BOWDEN: Right. I don't think his political beliefs
24 are really relevant. You know, at the end of the day it is an
25 argument that they are having. It doesn't really matter what

1 the argument is.

2 THE COURT: Well, I think that goes to -- he is charged
3 with resisting arrest.

4 MR. BOWDEN: Right.

5 THE COURT: All right. He is charged with child
6 endangerment, which is going 100 miles an hour down the road
7 with your kids in the backseat, failure to stop for a blue
8 light. I think if this isn't just a simple speeding ticket
9 which is what he was originally going to get I think that the
10 jury needs to hear the preface behind why they then initiated
11 the -- or why they chased him, which is of course what he is
12 charged with was failure to stop for a blue light; why they
13 went so far as to initiate the stop sticks and actually get
14 him stopped. I am with the State on that. I mean if we
15 simply just say, hey --- Cameron, do you need anything or do
16 they have a question?

17 (WHEREUPON, break 8/14/19, 2:34 p.m., to discuss jury
18 deliberation from another trial in progress.)

19 THE COURT: And so I think it is -- I mean I don't --
20 under that analysis I don't think it is prejudicial. And if
21 he -- I mean if he doesn't say the word sovereign citizen or I
22 am a sovereign citizen, so I think it is -- I think it is
23 definitely probative to the case, and so I will deny the
24 motion and we will allow the video to play itself out.

25 MR. BOWDEN: Just about maybe one last thing.

1 THE COURT: Yes, sir.

2 MR. BOWDEN: I think that all -- and I agree, but I think
3 all of it can come out through testimony where the person on
4 the stand will be more careful after speaking with the
5 solicitor to not bring up the kind of nature of his arguments.

6 If for no other reason than that the witness won't
7 understand it. The witness will say something along the lines
8 of he asked for probable cause, he asked for me to produce a
9 victim, I was just there for a speeding ticket.

10 So the jury will get -- the jury can still get the
11 context, just through testimony where we are being more
12 careful not to make this so much about his political beliefs,
13 just provide what context is necessary for the jury to
14 understand.

15 THE COURT: What is your position as to that, Mr.
16 Ziegler; do you want to play the video?

17 MR. ZEIGLER: Yes, sir, Your Honor. I think the video
18 speaks for itself, and I don't think it is prejudicial at all.
19 I mean it is this is just how things happened that night, and
20 I think the jury needs to see everything.

21 THE COURT: All right. And how is the video coming in,
22 through ---

23 MR. ZEIGLER: The body worn will come in through Officer
24 Trey Wade. He is our last witness. The dash cam will come in
25 through Brandon Wade who is our first witness.

1 And he -- Brandon Wade was the initial stop officer.
2 Trey Wade was called for backup. Trey Wade -- Trey Wade
3 arrives about 10 or 15 minutes into the initial stop. And
4 then they talk for another 10 or 15 minutes, and then the
5 defendant drives away. And that is when the failure to stop
6 was initiated or the charge I guess.

7 THE COURT: All right. I will take it under advisement
8 before we start the trial and I will let you know. Because
9 obviously you are going to need to have it queued up if I am
10 going to deny the motion. All right. All right.

11 MR. BOWDEN: Thank you.

12 (WHEREUPON, Court has discussions with the clerk regarding
13 another trial in progress.)

14 MR. BOWDEN: Your Honor, I do apologize. I do -- I do
15 have one more quickly.

16 MR. ZEIGLER: It is very similar to the statements about
17 the children from the defendant. It is just regarding the
18 wife of the defendant. She says the same thing, they are 16
19 and 11.

20 MR. BOWDEN: And that objection is that it is hearsay.

21 THE COURT: How is she -- she is not going to be here to
22 testify; she is not a defendant?

23 MR. ZEIGLER: No. No, sir.

24 THE COURT: No. How is it not hearsay? It is an out-of-
25 court statement offered to prove the truth of the matter which

1 is that they are 16 and 11.

2 MR. ZEIGLER: Okay. Yeah, then I don't -- that is fine.

3 THE COURT: All right. I will grant your motion. And --
4 and we will have to either mute that portion or redact it all
5 together, and because I agree it is hearsay. All right. All
6 right.

7 (WHEREUPON, break 8/14/19, 2:38 p.m. for Court to play video
8 for deliberating jury in another trial.)

9 (WHEREUPON, resume 8/14/19, 3:15 p.m. for jury voir dire.)

10 (WHEREUPON, jury panel members enters.)

11 THE BAILIFF: The panel is complete, sir.

12 THE COURT: Thank you so very much. Good afternoon. I
13 appreciate everyone's patience. As you are going through this
14 process you will see that not everything runs smoothly -- as
15 smoothly as we had hoped. We had every intention of getting
16 here today at 1:30 so as to not have you here on Friday. And
17 I still think we can accomplish that goal. So I appreciate
18 everyone being here and being here on time.

19 We are now going to pick a jury for the next case this
20 week. This is as I indicated earlier this is a criminal case.
21 This is the State of South Carolina versus Bernard Emmanuel
22 Jackson. Docket Number -- Indictment Number 2018-GS-10-04844
23 he has been charged with the crime of resisting arrest. As to
24 Indictment Number 2016-GS-10-00196 he has been charged with
25 the offense of failure to stop for a blue light. Indictment

1 Number 2016-GS-10-00197 he has been charged with the crime of
2 unlawful carrying of a pistol. And in 2016-GS-10-00198
3 charges Mr. Jackson with the charge of child endangerment.

4 All right. At this time, ladies and gentlemen of the
5 jury, I am going to have the parties introduce themselves and
6 then I am going to go through again as we did also on Monday a
7 series of questions to determine everyone's qualifications,
8 and then we will essentially regenerate another pool and we
9 will begin to pick the jury. All right.

10 But real quickly, one of the qualification questions or
11 exemptions that I failed to mention on Monday that I wanted to
12 ask everyone now: Is anyone here any form of law enforcement;
13 if so, please stand.

14 (WHEREUPON, no one standing.)

15 THE COURT: And is anyone here employed within the walls
16 of a courthouse in any capacity, please stand.

17 (WHEREUPON, no one standing.)

18 THE COURT: All right. Let the record reflect that there
19 are none.

20 All right.

21 MR. ZEIGLER: Hi, my name is Lem Zeigler. I am an
22 assistant solicitor. I work for Scarlett Wilson. This is my
23 co-counsel Whit Sowards and my investigator in the office
24 Chuck Joliff.

25 MR. BOWDEN: Good afternoon. My name is Stephen Bowden.

1 I am a lawyer in the Public Defender's Office. And this is my
2 co-counsel Teresa Norris.

3 THE COURT: All righty. Thank y'all so very much. All
4 right. If any of these questions apply to you if you will
5 please stand and give us your juror number, I would be
6 appreciative:

7 Is anyone related to either of these parties or have a
8 close personal relationship with them?

9 (WHEREUPON, no one standing.)

10 THE COURT: All right. Let the record reflect there are
11 none.

12 Does anyone based on the information I have given you
13 concerning Bernard Emmanuel Jackson's case has any interest
14 already in this case; if so, please stand.

15 (WHEREUPON, no one standing.)

16 THE COURT: There are none.

17 Based on the information I have given you has anyone
18 expressed or formulated an opinion about this case; if so,
19 please stand.

20 (WHEREUPON, no one standing.)

21 THE COURT: Or has anyone any bias or prejudice against
22 these crimes, please stand.

23 (WHEREUPON, no one standing.)

24 THE COURT: All right. Let the record reflect there are
25 none.

1 All right. Are any member or your family or close
2 personal friends employed by a law enforcement agency, not
3 just you respectively; any close friends or relatives; if so,
4 please stand.

5 (WHEREUPON, jury panel member standing.)

6 THE COURT: Yes, sir. Your juror number?

7 JUROR PANEL MEMBER: Two forty-two.

8 THE COURT: All righty. And in what capacity?

9 JUROR PANEL MEMBER: My aunt is a victim's advocate for
10 the Cherokee County Sheriff's Department.

11 THE COURT: All right. Does that in any way affect your
12 ability to be fair and impartial in this trial?

13 JUROR PANEL MEMBER: I don't think so.

14 THE COURT: You don't think so, or no or yes?

15 JUROR PANEL MEMBER: No.

16 THE COURT: Thank you, sir. Have a seat.

17 All righty. Anyone else?

18 (WHEREUPON, no one standing.)

19 THE COURT: All right. Are you or any member of your
20 immediate family employed by or have close personal friends
21 employed at the Charleston County Solicitor's Office?

22 (WHEREUPON, no one standing.)

23 THE COURT: There are none.

24 Have you or any of your relatives or close personal
25 friends been a victim of a crime, please stand.

1 (WHEREUPON, jury panel member standing.)

2 THE COURT: Yes, ma'am, juror number?

3 JUROR PANEL MEMBER: One thirty-nine.

4 THE COURT: All right. We will start at the front. All
5 right. Yes, ma'am, Ms. Kennedy.

6 JUROR PANEL MEMBER: My brother was murdered less than
7 two years ago. That case is pending in the Solicitor's
8 Office.

9 THE COURT: Which Solicitor's Office, which County?

10 JUROR PANEL MEMBER: Charleston County.

11 THE COURT: All right. You are excused. You can have a
12 seat.

13 JUROR PANEL MEMBER: Okay.

14 (WHEREUPON, jury panel member standing.)

15 THE COURT: All right.

16 JUROR PANEL MEMBER: Number 91. My mother-in-law was
17 murdered.

18 THE COURT: And that was your mother-in-law?

19 JUROR PANEL MEMBER: Yes.

20 THE COURT: All right. And how long ago was that?

21 JUROR PANEL MEMBER: Probably about 25 years ago.

22 THE COURT: All right. Would that in any way affect your
23 ability to be fair and impartial in this case?

24 JUROR PANEL MEMBER: No, sir.

25 THE COURT: All right. All right. Thank you very much.

1 (WHEREUPON, jury panel member standing.)

2 THE COURT: Yes, sir.

3 JUROR PANEL MEMBER: Juror 96.

4 THE COURT: Yes, sir.

5 JUROR PANEL MEMBER: I was held up at gunpoint in an
6 office and tied up and

7 THE COURT: All right. How long ago was that?

8 JUROR PANEL MEMBER: Twelve years ago.

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

11 JUROR PANEL MEMBER: No.

12 THE COURT: You hesitated.

13 JUROR PANEL MEMBER: I did -- I was a foster parent as
14 well, so it kind of

15 THE COURT: All righty.

16 JUROR PANEL MEMBER: That is -- that hesitation is --
17 somewhat involves that as well.

18 THE COURT: I understand. All right. Thank you very
19 much.

20 (WHEREUPON, jury panel member standing.)

21 JUROR PANEL MEMBER: Juror Number 93. My brother was
22 murdered in 2010.

23 THE COURT: All righty. Would that affect your ability
24 to be fair and impartial?

25 JUROR PANEL MEMBER: Yes.

1 THE COURT: All right. You are excused.

2 (WHEREUPON, jury panel member standing.)

3 THE COURT: Yes, ma'am?

4 JUROR PANEL MEMBER: Juror Number 25.

5 THE COURT: Yes, ma'am.

6 JUROR PANEL MEMBER: My neighbor -- my next-door
7 neighbor's and friend's daughter was kidnapped last year.

8 THE COURT: Right, we discussed this with the other jury
9 panel. That is correct. And did I excuse you for that?

10 JUROR PANEL MEMBER: No.

11 THE COURT: I did not. All right. Would that affect
12 your ability to be fair and impartial in this trial?

13 JUROR PANEL MEMBER: No.

14 THE COURT: All right. Thank you, ma'am.

15 (WHEREUPON, jury panel member standing.)

16 THE COURT: Yes, ma'am?

17 JUROR PANEL MEMBER: Juror Number 244. I was attacked
18 and sexually assaulted in my home.

19 THE COURT: All righty. And we discussed this in the
20 other one previously didn't we?

21 JUROR PANEL MEMBER: Yes.

22 THE COURT: Did I excuse you?

23 JUROR PANEL MEMBER: No.

24 THE COURT: All right. Does that in any way affect your
25 ability to be fair and impartial in this trial?

1 JUROR PANEL MEMBER: No, not in this trial.

2 THE COURT: And your juror number?

3 JUROR PANEL MEMBER: Two forty-four.

4 THE COURT: All righty. Thank you, ma'am.

5 (WHEREUPON, jury panel member standing.)

6 THE COURT: Yes, ma'am?

7 JUROR PANEL MEMBER: Juror 184.

8 THE COURT: Yes, ma'am.

9 JUROR PANEL MEMBER: My good friend was murdered in
10 February.

11 THE COURT: All righty. And would that affect your
12 ability to be fair and impartial?

13 JUROR PANEL MEMBER: No.

14 THE COURT: All righty. Thank you, ma'am. All right.

15 MR. BOWDEN: Your Honor, may we ask where that case is
16 pending?

17 THE COURT: Which one?

18 MR. BOWDEN: The last one, Number 184.

19 THE COURT: Ms. Moore, were -- I'm sorry, what was your --
20 -- what did you indicate?

21 JUROR PANEL MEMBER: A good friend of mine was murdered
22 in February in Mt. Pleasant.

23 THE COURT: All right. And is that case pending?

24 JUROR PANEL MEMBER: Yes.

25 THE COURT: All right. And it is a good friend of yours?

1 JUROR PANEL MEMBER: Yes.

2 THE COURT: All right. Is it being prosecuted by the
3 Solicitor's Office?

4 JUROR PANEL MEMBER: Yes.

5 THE COURT: All right. And does that in any way affect
6 your ability to be fair and impartial?

7 JUROR PANEL MEMBER: No.

8 THE COURT: All right. All right. Thank you, ma'am.
9 Anything further on that one?

10 MR. BOWDEN: No, Judge.

11 MR. ZEIGLER: No, Your Honor.

12 THE COURT: All right. We can discuss it when we are
13 done.

14 Do you have any particular opinions, experiences, or
15 feelings about the crime of failure to stop for a blue light
16 or child endangerment, resisting arrest, or unlawful carrying
17 of a gun which would make it difficult to serve on a jury
18 where the defendant is charged with these crimes; if so,
19 please stand.

20 (WHEREUPON, no one standing.)

21 THE COURT: All right. Let the record reflect there are
22 none.

23 Have you seen any publicity regarding this case or does
24 anyone recall any television or newspaper publicity regarding
25 this case?

1 (WHEREUPON, no one standing.)

2 THE COURT: There are none.

3 Has any member of the jury panel formed an opinion
4 already about this case -- I already asked that one. No one
5 stood.

6 Is there any reason whatsoever why you could not be fair
7 and impartial to the defendant or to the State in this case;
8 if so, please stand.

9 (WHEREUPON, no one standing.)

10 THE COURT: There are none.

11 Is there anyone who believes that the defendant must
12 prove his innocence; if so, please stand.

13 (WHEREUPON, no one standing.)

14 THE COURT: There are none.

15 Is there anyone who does not understand that the State
16 has the burden of proof and must prove the defendant guilty?

17 (WHEREUPON, no one standing.)

18 THE COURT: There are none.

19 Are you or any member of your family affiliated with a
20 victim's rights organization or organization which promote law
21 enforcement such as Citizens Against Violent Crimes, People
22 Again Rape, or any other like organization; if so, please
23 stand.

24 (WHEREUPON, no one standing.)

25 THE COURT: All right. There are none.

1 All right. We will be in recess for about two minutes.

2 Okay. We just have to regenerate the thing.

3 Did you have anything that you wanted to talk to me
4 about?

5 MR. ZEIGLER: May we approach?

6 THE COURT: Sure.

7 (WHEREUPON, bench conference 8/14/19, 3:25 p.m.)

8 THE COURT: Juror Number 139, Ms. Kennedy.

9 JUROR PANEL MEMBER: Yes.

10 THE COURT: I failed to mention based on the victim
11 question that I asked you could you still remain fair and
12 impartial?

13 JUROR PANEL MEMBER: Yes.

14 THE COURT: All right. Thank you. I failed to
15 apparently ask you that. And I apologize.

16 And one further question that we need to ask in a
17 different manner is: Is any member of the panel or your
18 immediate family member close personal friends with the
19 solicitor for Charleston County, Scarlett Wilson; if so,
20 please stand.

21 (WHEREUPON, jury panel member standing.)

22 THE COURT: Yes, sir?

23 JUROR PANEL MEMBER: Number 276.

24 THE COURT: All right, 276. Yes, sir.

25 JUROR PANEL MEMBER: I am a cousin of Scarlett Wilson.

1 THE COURT: You are her cousin?

2 JUROR PANEL MEMBER: Yes.

3 THE COURT: All right. Would that in any way impair your
4 ability to be fair and impartial in this trial?

5 JUROR PANEL MEMBER: No, sir.

6 THE COURT: All right. Thank you very much. Anything
7 else further from the State?

8 MR. ZEIGLER: Nothing further.

9 THE COURT: From the defense?

10 MR. BOWDEN: No, Your Honor.

11 THE COURT: All right.

12 All right, ladies and gentlemen, in just a moment the
13 clerk is going to call your name. If you hear your name
14 called if you will just come and please stand right in front
15 of this podium. We can move it back some if you want. And
16 bring your belongings along with you, okay.

17 All right. Do y'all agree it is five and five?

18 MR. ZEIGLER: Yes, sir.

19 MR. BOWDEN: Yes, Your Honor.

20 THE COURT: All righty. When you hear your name called
21 come on up, please.

22 THE CLERK: Juror Number 30, Brandon Browning.

23 (WHEREUPON, a white male comes forward.)

24 THE CLERK: What say you for the State?

25 MR. ZEIGLER: Please present this juror.

1 THE CLERK: What say you for the defendant?
2 MR. BOWDEN: Please seat this juror.
3 THE CLERK: You may have a seat in the jury box.
4 THE CLERK: Juror Number 187, Rhett Myers.
5 (WHEREUPON, a white male comes forward.)
6 THE CLERK: What say you for the State?
7 MR. ZEIGLER: Please present this juror.
8 THE CLERK: What say you for the defendant?
9 MR. BOWDEN: Please strike this juror.
10 THE CLERK: Sir you may have a seat back in the audience.
11 Juror Number 186, Sherry Munn.
12 (WHEREUPON, a white female comes forward.)
13 THE CLERK: What say you for the State?
14 MR. ZEIGLER: Please present this juror.
15 THE CLERK: What say you for the defendant?
16 MR. BOWDEN: Please seat this juror.
17 THE CLERK: You may have a seat in the jury box.
18 THE CLERK: Juror Number 3, Valerie Agnew.
19 (WHEREUPON, a black female comes forward.)
20 THE CLERK: What say you for the State?
21 MR. ZEIGLER: Please present this juror.
22 THE CLERK: What say you for the defendant?
23 MR. BOWDEN: Please seat this juror.
24 THE CLERK: You may have a seat in the jury box.
25 THE CLERK: Juror Number 151, Ebony Lewis

1 (WHEREUPON, a black female comes forward.)
2 THE CLERK: What say you for the State?
3 MR. ZEIGLER: Please excuse this juror.
4 THE CLERK: Ma'am, you may have a seat in the audience.
5 THE CLERK: Juror Number 299, Amy Winget.
6 (WHEREUPON, a white female comes forward.)
7 THE CLERK: What say you for the State?
8 MR. ZEIGLER: Please present this juror.
9 THE CLERK: What say you for the defendant?
10 MR. BOWDEN: Please seat this juror.
11 THE CLERK: You may have a seat in the jury box.
12 THE CLERK: Juror Number 96, John Graham.
13 (WHEREUPON, a white male comes forward.)
14 THE CLERK: What say you for the State?
15 MR. ZEIGLER: Please present this juror.
16 THE CLERK: What say you for the defendant?
17 MR. BOWDEN: Please excuse this juror.
18 THE CLERK: Sir, you may have a seat back in the
19 audience.
20 THE CLERK: Juror Number 53, Johnathan Crisp.
21 (WHEREUPON, a white male comes forward.)
22 THE CLERK: What say you for the State?
23 MR. ZEIGLER: Please present this juror.
24 THE CLERK: What say you for the defendant?
25 MR. BOWDEN: Please seat this juror.

1 THE CLERK: You may have a seat in the jury box.
2 THE CLERK: Juror Number 77, Lauren Ford.
3 (WHEREUPON, a white female comes forward.)
4 THE CLERK: What say you for the State?
5 MR. ZEIGLER: Please present this juror.
6 THE CLERK: What say you for the defendant?
7 MR. BOWDEN: Please seat this juror.
8 THE CLERK: You may have a seat in the jury box.
9 THE CLERK: Juror Number 174, Steven Meassick.
10 (WHEREUPON, a white male comes forward.)
11 THE CLERK: What say you for the State?
12 MR. ZEIGLER: Please present this juror.
13 THE CLERK: What say you for the defendant?
14 MR. BOWDEN: Please excuse this juror.
15 THE CLERK: Sir, you may have a seat back in the
16 audience.
17 The defense has exhausted three of their five strikes.
18 THE CLERK: Juror Number 148, Narasha Lawrence.
19 (WHEREUPON, a black female comes forward.)
20 THE CLERK: What say you for the State?
21 MR. ZEIGLER: Please present this juror.
22 THE CLERK: What say you for the defendant?
23 MR. BOWDEN: Please seat this juror.
24 THE CLERK: Ma'am, you may have a seat in the jury box.
25 THE CLERK: Juror Number 54, Dianne Daltorio.

1 (WHEREUPON, a white female comes forward.)
2 THE CLERK: What say you for the State?
3 MR. ZEIGLER: Please present this juror.
4 THE CLERK: What say you for the defendant?
5 MR. BOWDEN: Please seat this juror.
6 THE CLERK: You may have a seat in the jury box.
7 THE CLERK: Juror Number 182, Jonathan Moore.
8 MR. MOORE: Your Honor, if I may?
9 THE COURT: Well, they will have to come up. Hang right
10 there.
11 MR. MOORE: Yes, sir.
12 THE COURT: Mr. Zeigler.
13 MR. ZEIGLER: Please present ---
14 THE COURT: No, no. Come on up. He wants to talk to me.
15 MR. ZEIGLER: Okay.
16 THE COURT: Sir, if you will come over here.
17 MR. MOORE: Yes, sir.
18 (WHEREUPON, bench conference as follows:)
19 THE COURT: Yes, sir.
20 MR. MOORE: I am terribly sorry. I didn't know this
21 Monday, but I have a scheduling conflict that will present
22 itself tomorrow due to the self-employed nature of my job.
23 THE COURT: Okay. And what job do you have?
24 MR. MOORE: I am a self-employed realtor. I have an
25 out-of-state client. We are closing on 15 homes tomorrow and

1 things are blowing up and I am going to literally be required
2 to have full attention almost all day tomorrow. I just
3 learned of this today.

4 THE COURT: All right. Any objection to excusing him?

5 MR. MOORE: I am so sorry guys.

6 THE COURT: All right. Juror number?

7 MR. MOORE: One eighty-two.

8 THE COURT: All right. For the record, Juror Number 182
9 is excused.

10 MR. MOORE: Thank you, sir. I am really sorry, guys.
11 (WHEREUPON, end of bench conference.)

12 THE CLERK: Juror Number 291 Priscilla Wendt.
13 (WHEREUPON, a white female comes forward.)

14 THE CLERK: What say you for the State?

15 MR. ZEIGLER: Please present this juror.

16 THE CLERK: What say you for the defendant?

17 MR. BOWDEN: Please excuse this juror.

18 THE CLERK: Ma'am, you may have a seat back in the
19 audience.

20 THE CLERK: Juror Number 184, Mary Moore.
21 (WHEREUPON, a white female comes forward.)

22 THE CLERK: What say you for the State?

23 MR. ZEIGLER: Please present this juror.

24 THE CLERK: What say you for the defendant?

25 MR. BOWDEN: Please excuse this juror.

1 THE CLERK: Ma'am, you may have a seat back in the
2 audience.
3 THE CLERK: Juror Number 91, Lisa Gillie.
4 (WHEREUPON, a white female comes forward.)
5 THE CLERK: What say you for the State?
6 MR. ZEIGLER: Please present this juror.
7 THE CLERK: What say you for the defendant?
8 THE COURT: The defense has exhausted its five strikes.
9 THE CLERK: Oh ---
10 THE COURT: Ms. Gillie, you can take a seat in the jury
11 box. Thank you very much.
12 THE CLERK: Juror Number 242, Andrew Shook.
13 (WHEREUPON, a white male comes forward.)
14 THE CLERK: What say you for the State?
15 MR. ZEIGLER: Please excuse this juror.
16 THE CLERK: Sir, you may have a seat back in the
17 audience.
18 THE CLERK: Juror Number 262, Stephanie Sturdy.
19 (WHEREUPON, a white female comes forward.)
20 THE CLERK: What say you for the State?
21 MR. ZEIGLER: Please present this juror.
22 THE CLERK: Any challenges from the defense?
23 MR. BOWDEN: No, Your Honor.
24 (WHEREUPON, juror seated in the jury box.)
25 THE CLERK: Juror Number 11, Dominick Bataller.

1 (WHEREUPON, a white male comes forward.)

2 THE CLERK: What say you for the State?

3 MR. ZEIGLER: Please present this juror.

4 THE CLERK: Any challenges from the defendant?

5 MR. BOWDEN: No, Your Honor. No.

6 THE CLERK: You may have a seat in the jury box.

7 THE CLERK: Juror Number 47, Whitney Cooper.

8 (WHEREUPON, a white female comes forward.)

9 THE CLERK: What say you for the State?

10 MR. ZEIGLER: Please present this juror.

11 THE CLERK: Any challenges from the defense.

12 (WHEREUPON, juror seated in the jury box.)

13 THE COURT: Do y'all want one -- do y'all want one or two
14 alternates?

15 MR. BOWDEN: I think one is probably fine.

16 MR. ZEIGLER: One is fine.

17 THE COURT: I would agree. It is one and two on the
18 strikes.

19 THE CLERK: Juror Number 119, Paige Hetherington.

20 (WHEREUPON, a white female comes forward.)

21 THE CLERK: What say you for the State?

22 MR. ZEIGLER: Please excuse this juror.

23 THE CLERK: Ma'am, you may have a seat back in the
24 audience.

25 THE CLERK: Juror Number 160, Edward Maher.

1 (WHEREUPON, a white male comes forward.)

2 THE CLERK: What say you for the State -- oh ---

3 MR. ZEIGLER: Yeah, no ---

4 THE CLERK: Any challenges from the State?

5 MR. ZEIGLER: No challenges.

6 THE CLERK: What say you for the defendant?

7 MR. BOWDEN: Please seat this juror.

8 THE CLERK: You may have a seat in the jury box.

9 THE COURT: All right. Ladies and gentlemen, you are
10 excused for the day. You were not called for the service of
11 this trial. If you could call back -- what time is it
12 Cameron?

13 (WHEREUPON, deputy clerk confers with the Court.)

14 THE COURT: This is going to be a one-day trial that is
15 going to occupy all of tomorrow's time. And we do not expect
16 to be pulling a jury on Friday as we don't have anymore one-
17 day trials, so this will probably conclude your jury service.
18 But if you will call back in at 6:00. You can be excused at
19 that time.

20 You won't get to see me anymore. I won't get to see you.
21 So I hope you have a wonderful week and a wonderful weekend.
22 And again we cannot thank you enough for answering the call to
23 jury duty. It is one of the highest services and we
24 appreciate everything. And sorry about the delay. We
25 apologize for that.

1 And congratulations. You all get another paycheck from
2 us, and you have gained a three-year exemption. So enjoy
3 that. All right. Thank you so very much. Have a wonderful
4 evening.

5 (WHEREUPON, jury panel members exit courtroom 8/14/19, 3:44
6 p.m.)

7 (WHEREUPON, bench conference with counselors.)

8 THE COURT: I asked this question in a broader sense
9 earlier, and so I wanted to condense it down a little bit
10 more. I asked the panel if anyone has any close personal
11 friends with anybody in law enforcement. No one stood up as
12 to that. But I will narrow that scope.

13 If anyone is close personal friends or related to any of
14 these individuals please stand: Charleston County Sheriff's
15 deputy Brandon Wade, Charleston County Sheriff's deputy Trey
16 Wade, Charleston County Sheriff's deputy Christopher Saunders.
17 A Lisa Bloodworth or a Bennie Steel.

18 MR. ZEIGLER: Your Honor, it is actually Loretta Mitchum,
19 not Lisa Bloodworth.

20 THE COURT: Okay. A Loretta Mitchum.

21 (WHEREUPON no one standing.)

22 THE COURT: All right. Let the record reflect that there
23 are none.

24 Cameron, do you want to go ahead and swear the jury.

25 (WHEREUPON, the jurors were duly sworn.)

1 THE COURT: All right. Ladies and gentlemen of the jury,
2 as I indicated, we have another jury that is deliberating
3 currently, and so we are essentially all full in the jury
4 deliberation room in the back and our deputy -- I mean our
5 bailiffs are pretty much tied up. So I am going to allow you
6 to go for the day.

7 This case is going to last just tomorrow. It is a one-
8 day trial. There's only five witnesses. So just expect on
9 being here for the day. And I don't believe it will go into
10 Friday. That is just for planning purposes just so you can
11 let your employers and others know.

12 These guys are going to take you out to the back now.
13 They are going to show you how -- or where to meet in the
14 morning. We are going to start at 9:30 sharp. And so if
15 y'all could be here around 9:15 that would be wonderful.

16 Every single evening I have told the jury we are going to
17 start at 9:30, and it is yet to happen. But tomorrow is going
18 to be my day. We are not going to have anything come up; no
19 issues, no nothing. So just try to be here around 9:15, and I
20 promise we will try to get it started right at 9:30. All
21 right.

22 Thank y'all so very much. And they will escort you out
23 this way, show you how to get back in the morning. And we
24 will see you then. Have a wonderful evening.

25 (WHEREUPON, jury exits 8/14/19, 3:45 p.m.)

1 THE COURT: All right. Thank y'all so much. So just be
2 prepared. Go ahead and have -- well, for the record, I am not
3 going to exclude portions of Deputy Wade's dash cam. I am
4 going to agree that the video will speak for itself.

5 I appreciate the concern, but I just think it is very
6 probative to the case as to why they went to such lengths to
7 try to arrest this person over what essentially -- stopped as
8 a simple speeding ticket. And I believe that the manner in
9 which he was speaking and all of that plays a part into why
10 they took it upon themselves to go through the lengths that
11 they have. And I just think if we just do exactly kind of
12 what the State had indicated.

13 And I agree that we can kind of do maybe just the dash
14 cam -- I mean the body cam of the other deputy. But at that
15 point in time the jury is just not going to get the full
16 breadth of what was actually transpiring here.

17 So have that geared up first thing in the morning.

18 MR. ZEIGLER: Yes, sir.

19 THE COURT: Well, you are going to be -- well, no, you
20 are not going to be here for the other case because that one
21 is going to be done today.

22 But have it all geared up ready to go right at 9:30
23 because that is your first witness is the dash cam one,
24 correct?

25 MR. ZEIGLER: Yes, sir.

1 THE COURT: All right. And just have everybody here
2 tomorrow at 9:30.

3 MR. ZEIGLER: Okay.

4 THE COURT: All right. And we will go through them.

5 MR. BOWDEN: Can we discuss how we are going to handle
6 explaining to the jury his presence ---

7 THE COURT: We are not.

8 MR. BOWDEN: --- or lack of presence? Okay.

9 THE COURT: That is your decision. This is your case to
10 try. The court is not going to bring any light to that. What
11 I have discussed with a fellow judge was that in trials in
12 absentia you simply just say in your jury charge as to why the
13 defendant did not testify, in that same charge you add a line
14 in there saying and the fact that the defendant was not
15 present is not to be taken into any consideration whatsoever.
16 And I will be very ---

17 (WHEREUPON, Court confers with law clerk to pull up charge.)

18 THE COURT: So in the failure of the defendant to
19 testify, you know, the instruction says I instruct you and
20 emphasize that the fact that the defendant did not testify --
21 and I am going to add in there and -- and was not present is
22 not a factor to be considered by you in any way in your
23 deliberation and in your consideration on the question of the
24 guilt or the innocence of the defendant; it must not be
25 considered by you in any manner whatsoever; a defendant has

1 the constitutional right to remain silent and the assertion of
2 the right must be -- not be considered by you in your
3 deliberation.

4 And then it goes on and it says I repeat under your oath
5 you are to draw no conclusion whatsoever from the fact that
6 the defendant in this case did not testify and was not
7 present; the fact that this -- the fact that this defendant
8 did not testify or was not present should not even be
9 discussed whatsoever in the jury room and the burden of proof
10 as I have stated to you is on the State and the defendant is
11 not required to prove his or her innocence and the burden of
12 proof remains on the State to prove the guilt beyond a
13 reasonable doubt.

14 I am going at it in there like that. I am just letting
15 you know ahead of time that is what I am going to do on the
16 charge. So however you want to address it, it is your case to
17 try and it is up to you. But that is how I am going to
18 address it.

19 MR. BOWDEN: Thank you.

20 THE COURT: Fair enough?

21 MR. BOWDEN: Yes, sir.

22 MR. ZEIGLER: Yes, sir.

23 THE COURT: All right. We will see y'all at 9:30.

24 (WHEREUPON, recess for the evening 8/14/19, 3:52 p.m.)

25 (WHEREUPON, resume 8/15/19, 9:30 a.m.)

1 (WHEREUPON, Premark State's Exhibit 1, disk of in-car video,
2 marked for identification.)

3 (WHEREUPON, Premark State's Exhibit 2, map, marked for
4 identification.)

5 (WHEREUPON, Premark State's Exhibit 3, disk of body cam,
6 marked for identification.)

7 (WHEREUPON, Premark State's Exhibit 4, handgun and ammo,
8 marked for identification.)

9 (WHEREUPON, Premark State's Exhibit 5, disk of jail calls,
10 marked for identification.)

11 (WHEREUPON, Premark State's Exhibit 7, license plate report,
12 marked for identification.)

13 (WHEREUPON, Premark State's Exhibit 8, copy of driver's
14 license, marked for identification.)

15 (WHEREUPON, Court's Exhibit 1, affidavit of defendant, was
16 marked for identification.)

17 THE COURT: All right. Good morning everyone. I hope
18 everyone is doing well. We are going to go ahead and continue
19 with the call of this case. Is there anything from the State
20 before we begin?

21 MR. ZEIGLER: No, sir. We are having trouble with the
22 video on this computer. We have got one coming. But we have
23 got to do other things before that anyways.

24 THE COURT: All righty.

25 Yes, sir, anything from you, Mr. Bowden?

1 MR. BOWDEN: Yes, Your Honor, I do have a couple of
2 issues. The first one is a motion that I didn't take up
3 yesterday. But it is a motion to dismiss for lack of
4 jurisdiction.

5 THE COURT: Okay.

6 MR. BOWDEN: I would like to incorporate the -- all of
7 what is in Court's Exhibit Number 1 for purposes of the
8 record. And that is the basis for that motion. And we just
9 want to make sure that we got a ruling on the record.

10 THE COURT: All right. Thank you so very much. Mr.
11 Bowden, I have received the affidavit. It is here currently.
12 I have had -- the court reporter as you can see she has marked
13 it as Court's Exhibit Number 1.

14 I have actually read the affidavit and I will entertain
15 your motion to dismiss for lack of jurisdiction based on the
16 affidavit itself, but I will deny your motion and we will
17 proceed forward.

18 MR. BOWDEN: Thank you, Your Honor

19 THE COURT: All right.

20 MR. BOWDEN: And then I would also ask that the court
21 stands in recess until tomorrow morning. King has indicated
22 to me that he feels that he hasn't had an adequate chance to
23 review the discovery. He hasn't seen the video in this case.
24 And he has become aware of some case law that he thinks that
25 we need to discuss at length in order for him to have an

1 opportunity for a fair trial.

2 THE COURT: All right. I will deny that motion.
3 Anything further?

4 MR. BOWDEN: Yes, he is currently -- has handcuffs on.

5 THE COURT: Okay.

6 MR. BOWDEN: We would ask for at a minimum to have the
7 handcuffs removed so that he is able to take notes.

8 THE COURT: All righty. King, if I remove your handcuffs
9 are you going to be okay with that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: All righty. Just the one so he can take
12 notes and assist with his attorney.

13 (WHEREUPON, handcuff removed by deputies.)

14 THE COURT: All righty. King, just so you know, your
15 parents were here yesterday. Your attorney picked the jury.
16 He did an excellent job. He actually exhausted every one of
17 his strikes, and so he was doing the best that he had and the
18 jury was excused. And that is all that transpired yesterday.

19 All right. So we are going to go ahead and proceed
20 forward with the calling of the case.

21 If you will go get the jury. We are ready to go.

22 (WHEREUPON, break 8/15/19, 9:39 a.m., awaiting jury panel.)

23 (WHEREUPON, resume 8/15/19, 9:42.)

24 THE COURT: Good morning. I hope everyone is doing well
25 and had a good evening. Thank you for being here at 9:30

1 sharp. We started as close as we could. Ten minutes isn't
2 that bad for government work. So we are going to get started.

3 Just to introduce you to kind of let you know what is
4 going on. As I indicated to you before, this is a criminal
5 trial. This is the State of South Carolina versus Bernard
6 Emmanuel Jackson. He is charged with resisting arrest,
7 failure to stop for a blue light, unlawful carrying of a
8 pistol, and child endangerment. All right.

9 In just a few minutes the State is going to give an
10 opening statement. They have the burden of proof in this case
11 of proving Mr. Jackson guilty beyond a reasonable doubt.

12 I am not sure if the defense will give an opening
13 statement. They don't have to. They don't have to actually
14 do anything. They can just sit there. That's what the
15 Constitution allows for. If they do they will give an opening
16 statement.

17 Those opening statements are not evidence and it is just
18 simply what they believe that the evidence is going to show in
19 this case. That's all it is. All right.

20 And, yes, ma'am, if you will give me your juror number.

21 THE JUROR: One forty-eight.

22 THE COURT: Your number -- juror number what?

23 THE JUROR: One forty-eight.

24 THE COURT: All right. Juror Number 148, I am going to
25 appoint you as madam forelady. Your job will be later told to

1 you what you need to do later for the course of the jury, but
2 for the purposes of just going in and out if you will just sit
3 in that seat. If we have any questions we will refer to you,
4 okay. So you will just stay in that seat. All right.

5 All righty. Are you ready to proceed? Oh, real quickly
6 I just want to let you know you will see a lot of moving parts
7 going on a lot of times.

8 These two fine young gentleman here those are our
9 deputies -- I mean our bailiffs, and they will escort you in
10 and out and they will take care of lunches and your parking
11 vouchers and keep watch over the room, your cell phones. They
12 kind of -- they do it all for us. All right. Obviously the
13 Sheriff's deputies you see in here as well, court deputies.

14 This is my administrative assistant who is acting as my
15 law clerk today. My law clerk is in training. So if you see
16 her going in and out don't be alarmed. She is just doing
17 whatever I have asked her to do.

18 And this is our fine court reporter. She takes
19 everything down. So if you hear her say something or, you
20 know, tell somebody she didn't hear them, it is just because
21 she has to take everything down. She actually talks into it
22 as opposed to typing. And then this is the clerk over here
23 that keeps everything going.

24 That is everybody you will see kind of coming in and out.
25 And the bailiffs will come in and out. And you will see the

1 deputies kind of rotating.

2 So it is kind of a moving part. So I just didn't want
3 you to be worried about as to why people are getting up and
4 moving around. All righty.

5 Are you ready to proceed?

6 MR. ZEIGLER: Yes, Your Honor.

7 THE COURT: All right.

8 MR. ZEIGLER: May it please the court.

9 THE COURT: Yes, sir.

10 MR. ZEIGLER: Mr. Bowden.

11 OPENING BY MR. ZEIGLER:

12 Ladies and gentlemen, I want to start by saying that I
13 appreciate you being here. This should be a very short trial
14 which should be done by this afternoon. It is a simply case
15 where you will get physical evidence, you will get to watch
16 some videos, hear testimony, and use your common sense to come
17 to a conclusion at the end.

18 Bernard Jackson, the defendant, is charged with failure
19 to stop for a blue light, resisting arrest, unlawful carrying
20 of a pistol, and child endangerment.

21 The elements are pretty simple, but regarding unlawful
22 carrying of a pistol I just want to let you know that it
23 doesn't have to be on the person. So in South Carolina that
24 can mean on or about the person, which includes in South
25 Carolina under the seat of the driver or on the floor board in

1 the front seat.

2 Child endangerment just means that a defendant violates
3 the failure to stop statute and while they did that somebody
4 under the age of 16 was also in the car.

5 I just want to quickly go over the facts so you know a
6 little bit about the case. First of all this isn't a crazy
7 high-speed case. The defendant actually goes under the speed
8 limit after he is initially stopped.

9 He is stopped for speeding, 72 in a 55, out in
10 McClellanville by Deputy Brandon Wade. About 20 minutes later
11 he continues to refuse to give officers his driver's license
12 and vehicle information and he drives away.

13 So for 10 minutes, 10 miles down Highway 17 towards
14 Charleston, they chase him at 55 miles an hour the whole way.
15 Eventually they get ahead of him. They use stop sticks.

16 Stop sticks are just little spiky things that officers
17 can set on the roadway and then it is pulled away after the
18 suspect car crosses them and their tires get popped so that
19 the other officers behind him don't get stopped as well.

20 After they searched the car -- well, they get the
21 defendant out and they searched the car, and they find a gun
22 under the seat and children in the back seat.

23 So I think it is pretty simply. And you know his
24 charges. At the end of the trial today I am going to ask you
25 to find him guilty of each of those charges. Thank you.

1 THE COURT: All right. Thank you so very much.

2 Mr. Bowden.

3 OPENING BY MR. BOWDEN:

4 Good morning. I will bet that none of y'all thought that
5 I was about to stand up here and basically agree with
6 everything the government just said. But, it's what I intend
7 to do. Because it is all on video. You are going to have it.
8 And there is no reason for me to argue with the facts, because
9 the question is why.

10 I want to add some context though. In 2015 if you had
11 turned on whatever national news station you like you would
12 have been likely to see on any random day a story about a
13 police officer killing an unarmed black man during a traffic
14 stop.

15 It was so pervasive during that time that it crept into
16 the NFL on Sunday. We couldn't watch football without being
17 presented with it.

18 But here in Charleston we didn't need the national news.
19 We didn't need the NFL. We could turn on Live-5 or open the
20 pages of the Post and Courier and see the name Walter Scott.

21 Walter Scott was killed by a North Charleston police
22 officer in cold blood on video during a routine traffic stop
23 with a busted tail light.

24 Walter Scott's tragic death hung over this community like
25 a shadow. It was a shadow on every interaction between police

1 officers and members of the community.

2 Sitting here four years later you may be tempted to think
3 about this case in today's terms now that passions have cooled
4 and memories have faded and it just seems like so long ago.

5 In 2015 passion hadn't cooled. Memories were fresh and
6 the thirst for justice was real. And in 2015 Charleston
7 County Sheriff's deputies pulled over King in the middle of
8 the night, in the middle of nowhere. And they escalate it.
9 And they threatened. And they brandished a weapon.

10 So you need to put yourself back in 2015 when the local
11 and national news were filled with those headlines, that
12 tragedy. When our African-American friends and neighbors
13 didn't even feel safe in their churches worshiping God.

14 Put yourself back in 2015 so you can probably consider
15 King's action and so you can also consider the actions of
16 these officers.

17 Because in the shadow of Walter Scott each action that
18 these officers took carried the weight of life and death in
19 King's mind.

20 And they knew that. And you will see that. Because one
21 of these officers purchased his own body camera and was using
22 it that night. You will see that video.

23 Had anybody ever heard the term body camera before we
24 started seeing those videos?

25 You will see that these officers had opportunities to de-

1 escalate, to prevent what happened from happening. And you
2 will see that at every opportunity to de-escalate they choose
3 the path of most resistance.

4 At one point they decided that it was necessary to
5 forcefully smash open King's window and drag him out of that
6 car. And God knows what would have happened from there.

7 But you won't see that in the video. Because King left
8 the scene of that-- of that-- of that traffic stop.

9 And to be clear, I am not putting the police on trial
10 here. I would never want any of y'all to think that. They
11 are hard-working public servants. They do a difficult job,
12 and they deserve our respect. But they were wrong here. And
13 we shouldn't be afraid to say that.

14 If cooler heads had prevailed - and you will see this -
15 if they had followed their own policies we would not be
16 standing here. They failed to live up to their own standards.
17 And plain and simple, they were wrong.

18 But, yeah, King left the scene of a traffic stop. And
19 you will notice that I am calling him King. And that is
20 because every single element of this crime, even to the extent
21 that it was him in the driver's seat, the State has to prove.
22 But, yeah, he left the scene of a traffic stop. And I am not
23 here to dispute that.

24 But if there were mitigating circumstances, if there was
25 a compelling reason for him to leave that traffic stop, our

1 law allows for it.

2 And the evidence will show that in the shadow of Walter
3 Scott, in the middle of the night, in the middle of nowhere,
4 faced with police threats and police weapons, King left the
5 scene of that traffic stop to protect his own life and the
6 lives of his family members. And that is the best reason
7 there is.

8 THE COURT: All right. Thank you very much, Mr. Zeigler.
9 Call your first witness.

10 MR. ZEIGLER: Your Honor, may we approach real quick?

11 THE COURT: Sure.

12 (WHEREUPON, bench conference 8/15/19, 9:52 a.m.)

13 (WHEREUPON, end of bench conference.)

14 MR. ZEIGLER: Your Honor, the State calls Deputy Brandon
15 Wade, ---

16 THE COURT: All right.

17 MR. ZEIGLER: --- Charleston County Sheriff's Office.

18 (WHEREUPON, the witness was duly sworn.)

19 THE DEPUTY CLERK: Please state your name and spell your
20 last name for the record, please.

21 THE WITNESS: Brandon J. Wade. W-A-D-E.

22 **DIRECT EXAMINATION BY MR. ZEIGLER OF BRANDON WADE:**

23 Q. Good morning.

24 A. Good morning.

25 Q. Where do you work?

1 A. Charleston County Sheriff's Office.

2 Q. And what is your current position?

3 A. I am currently a sergeant.

4 Q. And when did you start as a sergeant?

5 A. I have been there about a month now.

6 Q. Okay. So what was your position before that?

7 A. I was a master deputy with the Warrant's Office.

8 Q. In September 2015 what was your position?

9 A. I was basic deputy on patrol.

10 Q. Okay. And what were your duties as a patrol deputy at
11 the Sheriff's Office in 2015?

12 A. At the time as a patrol deputy we patrol our given
13 assignment of that -- the evening. Do patrol logs, traffic
14 stops, and respond to 911 calls. Basically just assist with
15 anything that the citizens of Charleston County need our
16 assistance.

17 Q. Okay. In what area of the County do you -- did you work
18 in at that time?

19 A. At the time I was in the -- they called it the District
20 Five and Six, which is Mt. Pleasant all the way to the
21 Georgetown County line covering Awendaw and McClellanville.

22 Q. Okay. I want to draw your attention to September 18,
23 2015, specifically. Were you working that evening?

24 A. Yes, I was.

25 Q. Okay. And what kind of car were you driving?

1 A. I am trying to remember -- I think I was in a Crown Vic
2 that evening.

3 Q. Was it a marked officer vehicle?

4 A. Yes, it was.

5 Q. Okay. With the decals on the sides and the lights on the
6 top or ---

7 A. Correct.

8 Q. --- on the inside at least? Okay. And were you involved
9 in a traffic stop with the defendant Bernard Jackson?

10 A. Yes, I was.

11 Q. And where did you stop him?

12 A. Initially we stopped him in the Town of McClellanville.

13 Q. Okay. And is that area in Charleston County?

14 A. Yes,

15 Q. Okay. And why did you stop them?

16 A. We -- I was doing a routine traffic control in the Town
17 of McClellanville just outside of the change -- the speed
18 change was from 60 to 50 miles per hour. And I initiated a
19 traffic stop for a speeding violation.

20 Q. Okay. And did he stop?

21 A. Yes, he came to a stop in the Town of McClellanville.

22 Q. Okay. What part of the roadway did he stop?

23 A. In the median.

24 Q. Okay. Were there curbs blocking the median on -- from
25 the other side of traffic and people coming from behind you,

1 or was it just an open median where you could kind of just
2 cross over and make left and right turns?

3 A. Yeah, it was just an open median that kind of was ---

4 Q. Okay. Just the painted lines?

5 A. Painted lines that keep them from in the middle.

6 Q. Okay. Did you identify yourself upon approach?

7 A. Yes, I did.

8 Q. Okay. And can you just explain what happened once you
9 identified yourself and approached the vehicle?

10 A. Let's see, I think I approached the driver -- not the
11 driver, the passenger side or the right side. Because
12 normally I try to approach the -- because most people expect
13 you on the left, so I approached from the right.

14 Then I identified myself as the Charleston County
15 Sheriff's Office. And I attempted to at first since I
16 identified myself I tried to identify the -- at least the
17 driver of the vehicle. They are required by law to identify
18 this -- identify themselves.

19 Q. Okay. And what uniform were you wearing that day?

20 A. Similar to this one but more of the subdued with the what
21 we call Class B's. So it just has a sewn-on badge instead of
22 the actual metal badge.

23 Q. It is the official County Sheriff's Office uniform,
24 correct?

25 A. Yes.

1 Q. Okay. And once he began to not cooperate with you what
2 did you do next; did you call for backup or anything?

3 A. Yes. After -- for -- I made several attempts to talk to
4 him, to be civil about it. But, yeah, eventually I had to --
5 yeah, of course I started calling backup especially when
6 somebody won't identify themselves.

7 MR. ZEIGLER: Your Honor, may I approach the witness?

8 THE COURT: Sure.

9 Q. I am handing you what has been marked for identification
10 purposes as State's Exhibit 7. Do you recognize that report?

11 A. Yes, I do.

12 Q. When you conduct a traffic stop how do you pull
13 information on the vehicle or the people who own the vehicle?

14 A. Well, usually -- usually go over the radio and identify
15 it out to Dispatch and ask them to run the tags.

16 Q. Okay. And that is part of your normal duty as an officer
17 with the Sheriff's Office?

18 A. Yes. Initially we ---

19 Q. And you do that on a daily basis?

20 A. Oh, yeah. Initially -- and especially any vehicle I give
21 out I have to give out some kind of identification to at least
22 to let them know who I am out with.

23 Q. Do you recognize that specific report?

24 A. Yes. I do remember looking at it afterwards and the type
25 of vehicle make and model.

1 Q. Okay. And who does it say the vehicle belongs to?

2 MR. BOWDEN: Objection. Hearsay.

3 I am happy to approach. He is just reading off of a
4 record.

5 THE COURT: Just ask him if he recalls who the car was
6 registered to.

7 Q. Do you recall who the car was registered to?

8 A. I do remember that Dispatch came back to a Bernard
9 Jackson.

10 Q. Okay. Do you see Bernard Jackson today?

11 A. Yes, I do.

12 Q. Did you see him in the car that day?

13 A. Yes, I did.

14 Q. Can you please point out the individual who was driving
15 the vehicle that day?

16 A. The gentleman in the blue -- dark blue and light blue
17 striped.

18 Q. Okay. So what did you do while waiting for backup?

19 A. Still carried on a conversation. Still make every
20 attempt I can to notify him why we made the traffic stop,
21 what -- the reasons why I needed to identify him, the state
22 law especially as far as the driver does have to identify
23 himself before I allow him to go back on the roadway. I need
24 to make sure he has a driver's license.

25 Q. And why is that; is that part of your protocol and

1 training as an officer?

2 A. Yeah, not just protocol, it is also state law you have to
3 have a driver's license to be able to operate on the roadway.

4 Q. Okay. And so was he eventually placed under -- was told
5 that he was under arrest?

6 A. Yes, he was.

7 Q. Do you remember why he was under arrest?

8 A. For failing to identify as a -- his driver's license.

9 Q. Okay. What did he do once -- let's go back. What did --
10 eventually right before he pulled away what did you tell him?

11 A. Told him we are going to have to remove him from the
12 vehicle -- or escort him from the vehicle by any means
13 necessary. Which at the time we were probably going to have
14 to break out the window.

15 Q. Because he wouldn't comply at all, correct?

16 A. No. He kept rolling down the window every time he wanted
17 to speak and then rolled it back up.

18 Q. And he never produced a driver's license or anything?

19 A. No.

20 Q. Okay. When he sped away how many officers gave chase?

21 A. Initially there was two of us. There was another deputy
22 Wade - no relations as far as family or anything - another
23 Deputy Wade. He -- Trey Wade. He followed in pursuit with me
24 until the other -- I think there were other officers that came
25 on the scene after we stop-sticked him.

1 Q. Okay.

2 A. But that was later on.

3 Q. How fast was he traveling or driving?

4 A. I would have to look at the exact numbers on my report,
5 but I think we got up to speeds of 60, 70. I know he
6 accelerated pretty quickly.

7 Q. Okay. Do you remember the conditions that night?

8 A. I don't remember them -- it was dark. This was at night
9 in the evening. There were no adverse road conditions like
10 what -- rain or anything like that. Everything seemed to be
11 dry.

12 Q. It wasn't raining?

13 A. I don't remember. I would have to look at my report for
14 the exact.

15 Q. Okay.

16 A. It might have rained -- if it rained, it rained before;
17 but ---

18 Q. Okay.

19 A. --- it wasn't raining -- currently raining at that time.

20 Q. Okay. And you had your blue lights activated the entire
21 time from the first stop?

22 A. Correct.

23 Q. Okay. Until the end?

24 A. Correct.

25 Q. How did you eventually get him to stop?

1 A. Eventually we had to make the decision of how we are
2 going to approach as far as when we are following behind him.
3 We have to make -- because usually we are going to wait for
4 backup. But we needed to make a decision because I mean there
5 is so much time and what goes on and loss of possible evidence
6 in the vehicle.

7 We did make the decision through the supervisor's
8 approval of one of us -- I did; I was able to get around the
9 vehicle and come up ahead of it at I think it was at Steed
10 Creek and 17 at the bridge. And I deployed my County issued
11 stop sticks and which was able -- which were effective.

12 I can't remember how many tires. I know it was the right
13 side. One side of it was I remember being deflated, the
14 tires. And he came to a stop and -- upper Doar Road. We
15 consider it Upper Doar because Doar Road is ---

16 Q. What town is that in?

17 A. That is Awendaw.

18 Q. Okay. So from McClellanville to Awendaw he drove off?

19 A. It was about ten miles I think.

20 Q. Okay. Ten miles. And do you know how long in minutes it
21 lasted?

22 A. I can't remember.

23 Q. Okay.

24 A. To me at that time it seemed short. But I'm pretty sure
25 it took longer.

1 Q. Okay. Did he have ample opportunity to pull over? I
2 mean ---

3 A. Yes.

4 Q. --- safe places all over the road?

5 A. Safe places. And I don't -- McClellanville was the
6 safest place with all the lights and everything.

7 Q. Was there a gas station on the left side when you first
8 made that stop?

9 A. Yes. There is a gas station on the left. There is
10 another restaurant on the left.

11 Q. He never pulled into that?

12 A. There's multiple -- there's another restaurant on the
13 right. There's multiple -- in the Town of McClellanville
14 there were multiple -- there's even -- well, that's right,
15 even a fire station and the courthouse is right there, the
16 magistrate courthouses.

17 Q. So if he was in fear for his safety he could have pulled
18 into there?

19 A. Correct.

20 Q. Okay.

21 MR. ZEIGLER: Your Honor, may I approach the witness?

22 THE COURT: Sure.

23 Q. I am handing you what's been marked State's Exhibit 1 for
24 identification purposes. Do you recognize that disk?

25 A. Yes, it has my initial on it.

1 Q. Okay. And how -- do you know what is on the disk?

2 A. No, it should be my in-car video.

3 Q. Okay. And that is from that night, ---

4 A. Correct.

5 Q. --- September 18, 2015?

6 A. Correct.

7 Q. Okay. Does it fairly -- does the content on the video
8 fairly and accurately represent the events that took place
9 that day?

10 A. Yes, from what I remember when we reviewed it and I
11 initialed it.

12 Q. Okay.

13 MR. ZEIGLER: Your Honor, at this time I would like to
14 offer State's 1 into evidence.

15 THE COURT: All right. Any objection?

16 MR. BOWDEN: No objection.

17 THE COURT: All right. State's 1 without objection.
18 (WHEREUPON, State's Exhibit 1 was admitted into evidence.)

19 MR. BOWDEN: Your Honor, I apologize, I would actually
20 continue my objection pre-trial.

21 THE COURT: All right. It is noted for the record.

22 MR. ZEIGLER: May I approach the witness again?

23 THE COURT: Sure.

24 Q. I am handing you what has been marked as State's
25 Exhibit 2. Can you please identify that?

1 A. There is a map of McClellanville and Awendaw.

2 Q. Okay. Does that map fairly and accurately represent the
3 area of this stop and chase?

4 A. Yes, it does.

5 Q. Okay.

6 MR. ZEIGLER: Your Honor, at this time I would seek to
7 admit State's 2 into evidence and publish it for the jury.

8 THE COURT: All right. Without any objection?

9 MR. BOWDEN: Let me just take a look. Yeah. Sorry.

10 (WHEREUPON, counselors confer.)

11 THE COURT: Any objection?

12 MR. BOWDEN: No, Your Honor.

13 THE COURT: All right. State's 2 is admitted without
14 objection.

15 (WHEREUPON, State's Exhibit Number 2 was admitted into
16 evidence.)

17 Q. It is hard to see on the screen but can you just point
18 out the names of those two towns that are highlighted there?
19 You can't read it but ---

20 A. McClellanville is up here in the top in the corner
21 (pointing).

22 Q. Okay.

23 A. McClellanville. And that is -- well, the top of Awendaw.
24 Awendaw does have further down. But that is the area where we
25 placed the stop sticks down here (pointing).

1 Q. Okay. So just highlight the path that the defendant
2 took, please.

3 A. Where the first dot is that is about where I was
4 (drawing) -- it was more south of it, just inside (drawing).
5 And it followed all the way down (drawing). Stop sticks about
6 right there at the bridge (drawing). And went a little bit
7 further. Just about -- just past the houses. I remember
8 there was a wooded area.

9 Q. Okay. Thanks. Let's see. Can you just explain how stop
10 sticks work? I touched on it in my opening, but you know way
11 better than I do.

12 A. Stop sticks are a way of -- it is a form of being able to
13 stop a vehicle safely without having further harm to the
14 public or themselves.

15 Usually the ones we use for our vehicles come in three
16 different sections. They are about two or three feet long
17 little sections and they fold up and they are in a bag. And
18 then they also have a string with a handle on it like a dog
19 leash, the one that rolls up.

20 And each stop sticks has spikes in them. And the spikes
21 are about -- varies -- I think about an inch or so long. But
22 they are like a tube-type stop stick, so when they puncture a
23 tire they will slowly allow it to leak so it safely stops a
24 person. Instead of just like blowing it out or anything it
25 provides a safe manner.

1 So I am able to safely just deploy the stop sticks across
2 the street. Come back and then I am able to pull them safely
3 in front of the vehicle, and then I can pull them out of the
4 way.

5 In this manner that is how I approached it. And also
6 I -- that is why I chose the -- chose the bridge because it
7 also gives me a safe place to be. And then also it is safe
8 for everybody else. So I was able to pull it back out of the
9 roadway once the tires went over.

10 In this manner, yeah, I was -- pull out the roadway. He
11 ran over stop sticks that deployed the spikes into the tires
12 which safely alleviated the air out of the tires.

13 Q. Thanks. What happened once the vehicle came to a stop?

14 A. I do remember he -- he had first tried to drive
15 without -- with the tires. But then I guess he had too -- he
16 had way too many tires out. I mean usually if they have got
17 one they can go further. But he eventually had to pull over
18 and stop for us until further command.

19 Q. Was he eventually apprehended?

20 A. He did -- after -- well after verbal, loud verbal
21 commands through the loud speaker he eventually exited the
22 vehicle.

23 Q. Is that -- do you have a special name for that type of
24 stop?

25 A. That -- oh, yeah, a felony traffic stop.

1 Q. Okay. And who did you identify as the driver?

2 A. Later after finding driver's licenses in the vehicle we
3 identified Bernard Jackson as the driver. The same gentleman
4 that I remember seeing at the traffic stop before, came out on
5 the driver's side.

6 Q. Okay. And that is the defendant in this case?

7 A. Yes.

8 Q. Okay.

9 MR. ZEIGLER: May I approach the witness, Your Honor?

10 THE COURT: Absolutely.

11 (WHEREUPON, counselors confer.)

12 Q. I am handing you what has been marked as State's Exhibit
13 8 for identification only. Do you recognize that document?

14 A. Yes. It is a copy of the driver's license that was
15 located in the vehicle.

16 Q. Okay. And are -- I mean, like you said, you can't drive
17 in South Carolina without one; right?

18 A. Correct.

19 Q. Okay. And does the name of the individual on that
20 represent the individual that you saw on the vehicle report,
21 familiar ---

22 A. Yes.

23 Q. Okay. And does he appear in the courtroom today?

24 A. Yes, he does.

25 Q. Okay.

1 MR. ZEIGLER: Your Honor, at this time I would like to
2 offer State's 8 into evidence.

3 THE COURT: All right. Any objection?

4 MR. ZEIGLER: No objection.

5 THE COURT: All right. State's Number 8 is in evidence
6 without objection.

7 (WHEREUPON, State's Exhibit Number 8 was admitted into
8 evidence.)

9 MR. ZEIGLER: And I would just like to publish that for
10 the jury very quickly.

11 THE COURT: All right.

12 Q. Was your vehicle -- oh, I don't need to go over that.

13 Your vehicle was equipped with a camera system, correct?

14 A. Yes, it was.

15 Q. And you were trained on how to operate it and everything?

16 A. Yes, I am.

17 Q. Okay. When did you guys first start putting in-car
18 cameras into marked vehicles?

19 A. They have been -- I would have to check with the County.
20 It has always been there since I started with them in 2014.

21 Q. Okay.

22 A. We were always required to have a camera.

23 Q. And how does that system work?

24 A. It has got a dual camera system. There is one that goes
25 out the back, and then there is one in the front. And clearly

1 it is a little box. It clearly identifies and shows the
2 vehicles and what is going on in front of it and in front of
3 you.

4 And it has the night vision that enhances the light at
5 night, in the evening. And then it has a box in the back that
6 keeps recording. That box is locked, which has a little key I
7 think you have to have to be able to get the -- the card in
8 there out.

9 So I am not -- no -- the only people that have that is I
10 think supervisors and the logistics. So it is locked from the
11 back with a memory card.

12 And then you have to go -- if you want to download the
13 video you have to go and -- any -- we have stations. We
14 usually go to the office or you can go in the jail. They have
15 the download is over Wi-Fi. You will download it into a
16 secured file for later use.

17 Q. Okay. And you -- so you can't alter it once it is
18 taken, ---

19 A. No.

20 Q. -- once it's -- okay. Are you familiar with how it, you
21 know, starts and stop; does it start at any particular time or
22 do you do some- -- do you engage like a button or switch that
23 makes it start?

24 A. There's actually multiple ways. The primary way which we
25 use is when you turn your lights on.

1 Q. Is that what you used here?

2 A. Yeah, that is what was used here in this case. Usually
3 if I wait -- once you turn the lights on it is going to turn
4 on automatically. I can't control that.

5 Q. Okay.

6 MR. ZEIGLER: Your Honor, at this time I would like to
7 publish State's Exhibit 1 for the jury.

8 THE COURT: All right.

9 MR. ZEIGLER: It is just the video from that night.

10 MR. BOWDEN: And I will just renew my objection.

11 THE COURT: All righty. Noted for the record.

12 MR. ZEIGLER: Beg the court's indulgence.

13 THE COURT: Take your time.

14 MR. ZEIGLER: Technology.

15 While that loads I will just ask -- I will ask questions
16 I have for him if that is okay, Your Honor?

17 THE COURT: Absolutely.

18 Q. Regarding the felony stop what triggers that?

19 A. Triggers a felony stop?

20 Q. Yeah, what would -- what's usually what are the
21 circumstances where you conduct a felony traffic stop?

22 A. Any traffic stop such as -- of course failure to stop for
23 blue lights, anything that might impose a danger to a deputy
24 or to the public. Especially -- failure to stop for blue
25 lights or just a felony. So that would be -- that would be

1 the normal approach of the vehicle because he has already
2 expressed a desire not to follow what your rules are.

3 Q. Okay. And I just want to make sure I have got this.
4 What happens during a felony traffic stop?

5 A. During a traffic stop normally we would not approach a
6 vehicle like a normal traffic stop like I initiated when I
7 would approach the driver's side. We would bring the
8 occupants of the vehicle to us or at least in a safe area away
9 from it. That way we are creating a safe zone for all of us.

10 So at this time -- I remember at that time we had through
11 our County policy we clearly identified us using the loud
12 speaker and notifying who we are, asking the occupants of the
13 vehicle to exit the vehicle with their hands -- with --
14 usually their hands shown, and have them step back from the
15 vehicle if possible or at least have in a secure manner where
16 we are safe, they are safe, and we are not -- there's too
17 many ---

18 Q. Is there anything -- I'm sorry, you can finish.

19 A. There's too many danger zones. Especially in that
20 vehicle I do remember it being the windows tinted highly and
21 there was markings all over the vehicle, so I could not
22 observe what is going on in the vehicle ---

23 Q. Okay.

24 A. --- in order to safely approach.

25 Q. And do you have anything -- is there anything special

1 about a felony traffic stop and -- are guns drawn or anything
2 like that prior ---

3 A. Yeah. Yes, normally we would have our weapons drawn due
4 to the heightened security and nature of the stop.

5 Q. Okay.

6 A. There is a worry that something might elevate.

7 Q. Okay. And you already said that the initial stop was in
8 Charleston County, but I just want to make sure that the
9 second stop and the entire chase was done in Charleston
10 County?

11 A. That is affirmative.

12 Q. Okay. Thanks.

13 MR. ZEIGLER: Your Honor, if we could have a couple of
14 minutes.

15 THE COURT: Sure.

16 MR. ZEIGLER: The disk isn't loading properly.

17 (WHEREUPON, pause.)

18 MR. ZEIGLER: We have got it, Your Honor.

19 (WHEREUPON, pause.)

20 MR. ZEIGLER: Your Honor, can we take a brief recess to
21 address this?

22 THE COURT: Sure. Ladies and gentlemen of the jury, we
23 will just take this as an opportunity to stretch our legs for
24 about five minutes and use the restroom. So if you will just
25 adjourn to the jury room and get a quick sip of water and use

1 the restroom and we will bring you right back out.

2 (WHEREUPON, jury exits 8/15/19, 10:29 a.m.)

3 THE COURT: All right. Deputy Wade, you are still under
4 oath. Feel free to stretch your legs or get some water or
5 something.

6 THE WITNESS: All right. Thank you.

7 (WHEREUPON, break 8/15/19, 10:30 a.m.)

8 (WHEREUPON, resume 8/15/19, 10:44 a.m.)

9 MR. ZEIGLER: We have the same exact video on a separate
10 disk that uses a different player. That is what we are going
11 to play.

12 THE COURT: Okay.

13 MR. ZEIGLER: We can just do it -- do it as one feed. I
14 think that the defense is just going to renew their previous
15 objection. But no objection to the new disk as a Part B.

16 MR. BOWDEN: That is correct, Your Honor.

17 THE COURT: So the disk as in evidence you are not going
18 to be playing is what you are saying?

19 MR. ZEIGLER: Yes, sir.

20 MR. BOWDEN: We can enter a new ---

21 MR. ZEIGLER: Going to enter a B ---

22 THE COURT: Right, that is what I was going to say, you
23 are going to have to enter a new one in because that is going
24 to have to go back to them if they want to watch it again.

25 MR. ZEIGLER: Okay. Do you want me to do it the same ---

1 THE COURT: No, I mean if he has no objection to just
2 supplementing it, ---

3 MR. ZEIGLER: Yeah.

4 THE COURT: --- that is fine.

5 MR. ZEIGLER: Okay.

6 THE COURT: Just put it back in -- well, at the close of
7 that you will need to ask him does that reasonably depict what
8 was on your dash cam at the night of the incident because it
9 is going -- because he has initialed another one. Because he
10 has reviewed another one. So you will need to make sure that
11 you qualify does that mirror ---

12 MR. ZEIGLER: Okay.

13 THE COURT: --- exactly what happened that evening. He
14 is just going to have to say that -- qualify that it is the
15 same.

16 MR. ZEIGLER: Okay.

17 MR. BOWDEN: If it makes it easier I am comfortable
18 stipulating that it is the same video.

19 THE COURT: All right. Sounds good. Problem solved.
20 All right.

21 THE COURT REPORTER: So we are stipulating 1B is going to
22 be admitted versus 1, ---

23 THE COURT: Is that how ---

24 THE COURT REPORTER: --- admitted into evidence?

25 THE COURT: Okay.

1 THE COURT REPORTER: So 1B ---

2 MR. ZEIGLER: Yes.

3 THE COURT REPORTER: --- has been admitted into evidence?

4 MR. ZEIGLER: You can put them both in. They are not
5 going to be able to play the other one now.

6 THE COURT: Then just put 1B in as evidence and 1A will
7 just come out.

8 MR. ZEIGLER: Okay.

9 THE COURT REPORTER: Okay.

10 (WHEREUPON, State's Exhibit Number 1B marked for
11 identification and admitted into evidence. State's Exhibit
12 Number 1A re-labeled for identification only.)

13 THE COURT: All right.

14 (WHEREUPON, pause awaiting jury.)

15 (WHEREUPON, jury enters 8/15/19, 10:47 a.m.)

16 THE BAILIFF: Your Honor, the jury is complete.

17 THE COURT: All righty. Mr. Zeigler.

18 MR. ZEIGLER: Your Honor, at this time I would like to
19 publish State's 1B for the jury.

20 THE COURT: All righty.

21 (WHEREUPON, begin publication of State's Exhibit 1B.)

22 (WHEREUPON, pause publication of the video.)

23 Q. Just real quick. Are those his hands out there by the
24 car?

25 A. Yes, they are.

1 Q. So he is finally complying with your orders?

2 A. He is.

3 Q. Okay.

4 (WHEREUPON, resume publication of video in courtroom 8/15/19,
5 11:25 a.m.)

6 (WHEREUPON, end of video in courtroom 8/15/19, 11:26 a.m.)

7 Q. Mr. Bowden said in his opening that you violated policy
8 by drawing your weapon and conducting a felony traffic stop.
9 Were you ---

10 MR. BOWDEN: Objection. Mischaracterizes.

11 THE COURT: He didn't say that.

12 MR. ZEIGLER: Okay.

13 Q. Did you do anything that day that violated your policy?

14 A. No, sir.

15 Q. No department policy was violated that day?

16 A. No, sir.

17 Q. Okay. You weren't reprimanded in any way?

18 A. No, sir.

19 Q. Okay.

20 MR. ZEIGLER: Your Honor, may we approach real quick?

21 THE COURT: Absolutely.

22 (WHEREUPON, bench conference 8/15/19, 11:32 a.m.)

23 (WHEREUPON, court reporter requested to join bench conference,
24 as follows:)

25 THE COURT: All right. So the State wants to ask the

1 officer if the statement of the defendant that the children
2 were in the car and their ages. The defense is objecting to
3 that, that based on earlier objections that he was under
4 duress and that was an involuntarily given statement?

5 MR. BOWDEN: Correct.

6 THE COURT: All right. And I am going to rule that he
7 was not under duress and I don't find -- I think it is a
8 statement of the defendant and I certainly think it is an
9 exception to the hearsay rule and it comes in.

10 MR. BOWDEN: Thanks, Judge.

11 (WHEREUPON, end of bench conference.)

12 Q. Okay. After getting him out of the car and getting him
13 on the ground was there anything the defendant specifically
14 said regarding two passengers in the back seat of the vehicle?

15 A. I do remember there being two passengers that came out of
16 the back of the vehicle.

17 Q. Do you remember how old the defendant said they were?

18 A. I would have to look at my notes. I know they were
19 underage.

20 Q. Okay.

21 A. I don't know the exact age. I remember them being
22 underage; eleven, for- --

23 MR. ZEIGLER: Beg the court's ---

24 A. I would need to see my notes to see the exact ages.

25 MR. ZEIGLER: Your Honor, may I approach the witness?

1 THE COURT: Absolutely.

2 Q. Do you recognize this document?

3 A. Yes, it is a Charleston County incident report.

4 Q. Are you able to identify that incident report as the
5 incident report from this incident?

6 A. Yes.

7 Q. Okay. And how are you able to do that?

8 A. The dates and times, the incident location. My name is
9 at the bottom, my badge number. It has got the subjects
10 listed in the vehicle, and it also has the OCA at the top.

11 Q. Okay.

12 A. And it says original copy.

13 Q. Is that able to refresh your memory as to the ages of the
14 children in the car?

15 A. Yes, because they are listed in here.

16 MR. BOWDEN: Objection.

17 THE COURT: Based on?

18 MR. BOWDEN: May we approach?

19 THE COURT: Sure.

20 (WHEREUPON, bench conference 8/15/19, 11:35 a.m.)

21 (WHEREUPON, end of bench conference.)

22 THE COURT: All right.

23 MR. ZEIGLER: May I approach the witness?

24 THE COURT: Sure.

25 Q. As to what the defendant specifically told you and not

1 what you found out later through your investigation was that
2 able to refresh your memory?

3 A. Yes, it was.

4 Q. And how old were the children in the back seat of the
5 car?

6 A. My documentation of 12 and 16.

7 Q. Okay.

8 MR. ZEIGLER: Nothing further, Your Honor.

9 THE COURT: All right.

10 Mr. Bowden.

11 MR. BOWDEN: Thank you, Your Honor.

12 THE COURT: Yes, sir.

13 **CROSS-EXAMINATION BY MR. BOWDEN OF BRANDON WADE:**

14 Q. Good morning, Deputy Wade. How are you doing today?

15 A. I am doing good, sir. How are you?

16 Q. I am outstanding. So I am going to jump around on you a
17 little bit.

18 A. Okay.

19 Q. So I am going to try to tell you what I am talking about
20 before I really get into things so you and the jury will have
21 an understanding of that. So I want to first talk about this
22 issue of whether -- of whether King was under arrest.

23 And I explained to the jury earlier that I am going to be
24 calling him King. That is what he has gone by to me.

25 A. All right.

1 Q. So when you arrest somebody you make it clear to
2 them, ---

3 A. Yes.

4 Q. --- right? And it shouldn't be confusing to them?

5 A. No, it shouldn't.

6 Q. And that is because there is a crime associated with
7 refusing to be arrested ---

8 A. Correct.

9 Q. --- or resisting an arrest, and so you give clear
10 directions?

11 A. Correct.

12 Q. For example, put your hands behind your back?

13 A. Correct.

14 Q. And you tell them that they are under arrest?

15 A. Correct.

16 Q. And generally you would also tell them what they are
17 under arrest for?

18 A. Correct.

19 Q. And once somebody is arrested you don't unarrest them,
20 right?

21 A. No.

22 Q. You make it -- you make a clear decision ---

23 A. Correct.

24 Q. --- and you go with that?

25 A. Correct.

1 Q. So somebody is either under arrest or they aren't?

2 A. Correct.

3 Q. And in this case and in the video we heard somebody tell
4 King that he was under arrest?

5 A. Correct.

6 Q. But that was Deputy -- that was the other Deputy Wade,
7 Deputy Trey Wade?

8 A. I believe I also talked to him about being -- he was
9 going to be arrested for instead of a citation for the ---

10 Q. Okay. But you had some -- you spoke to King last before
11 he left the scene; is that correct?

12 A. Correct.

13 Q. Okay. And you told him that you were going to smash his
14 window out?

15 A. Correct.

16 Q. Before you told him that, you said something else?

17 A. I can't fully recall. I know we were telling him he was
18 under arrest and that we were going to have to forcibly remove
19 him from the vehicle due to his lack of compliance.

20 Q. Well, you said right now you are just about to get a
21 green ticket?

22 A. Correct.

23 Q. And a green ticket isn't an arrest necessarily?

24 A. It is a form of arrest; but, yes.

25 Q. Well -- okay, let's back up then. A green ticket is a

1 uniform traffic ticket?

2 A. Correct.

3 Q. Ninety-nine-point-nine percent of the time people don't
4 get arrested on uniform traffic tickets?

5 A. They are not taken to the jail and processed, no.

6 Q. But it is not an arrest, it is a citation?

7 A. Yeah, it is a form of it; yes.

8 Q. Okay. And so if you tell somebody that they are getting
9 a green traffic ticket you mean that they are getting a
10 citation, not that they are going to jail?

11 A. Correct.

12 Q. Okay. So let's agree then that when I say arrest I mean
13 going to jail.

14 A. Correct.

15 Q. So you told King that he was just about to get a green
16 ticket?

17 A. Correct, if he had identified himself.

18 Q. But you didn't clarify it that way; you just said you are
19 just about to get a green ticket but I am about to smash out
20 your window, I am about to forcefully smash out your window?

21 A. Correct, since I was not able to identify him.

22 Q. And then he left?

23 A. And because I couldn't complete a green citation so ---

24 Q. Right. But that was the last thing you said to him
25 before he left?

1 A. Yeah, that we were going to have to forcibly remove him
2 from the vehicle; yes.

3 Q. Okay. All right. Let's -- just we are going to retread
4 on some ground here. But the video was long, so that was a
5 little bit of a time ago.

6 Let's talk about the video in this case. So that came
7 from your dash cam?

8 A. Correct.

9 Q. And you testified earlier there's a couple of ways that
10 that can start?

11 A. Correct.

12 Q. And one of those is manual, and the other is that it
13 automatically starts when the blue lights come on?

14 A. Correct.

15 Q. And but the dash cam always records, right?

16 A. It has got a 30-second delay.

17 Q. Right.

18 A. So that is why you see the camera at first without the
19 lights and then when I turn it on usually there is no audio if
20 there is video -- there is video for about -- there is a 30-
21 second delay.

22 Q. Perfect. You anticipated my next question.

23 A. Yeah.

24 Q. So that doesn't always save, if the blue lights don't
25 come on or you don't act -- or you don't manually activate

1 the ---

2 A. Yeah. Right.

3 Q. --- camera? Okay.

4 Q. And in this case they activated -- or the camera started
5 saving because of the blue lights, right?

6 A. Correct.

7 Q. And in fact you were able to see the exact moment that
8 your blue lights came on in that video?

9 A. Yes.

10 Q. And before the blue lights came on you were in the
11 process of catching up to King, ---

12 A. Correct.

13 Q. --- right? And the video shows that you were -- you were
14 close to King before the lights came on?

15 A. Yes.

16 Q. And at the point that you were close to him before your
17 lights had come on you were in a well-lit area of
18 McClellanville?

19 A. Yes, that area is.

20 Q. And there's gas stations; there's like a Dollar General
21 store in that area; there's some other things; but generally
22 on that stretch of 17 that is the most well-lit area?

23 A. Yes.

24 Q. And beyond that is Francis Marion National Forest?

25 A. Correct.

1 Q. Behind that is basically nothing all the way to
2 Georgetown?

3 A. You have got that other section down there, the bridge.
4 There is a little business park off to the right.

5 Q. Okay.

6 A. And then you have got on down to McClellanville.

7 Q. Sure, but until you get to that point; and that is
8 several miles down the road?

9 A. Correct. I think there is -- there's a couple of areas
10 they have that is more lit. But, yes, for the most part.

11 Q. But generally at night it is dark out there?

12 A. Correct.

13 Q. And you continued driving through this well-lit area?

14 A. Correct.

15 Q. And then you activated your lights?

16 A. Correct.

17 Q. And that entire time you were at a close distance?

18 A. Yeah, I got to a close distance before I initiated my
19 lights; yes.

20 Q. And you already knew that you were going to pull him over
21 for speeding?

22 A. Correct.

23 Q. So knowing that you were going to pull him over for
24 speeding and being close enough to make the stop you went
25 through that well-lit area?

1 A. You mean the -- what do you mean, driven through the
2 well-lit area?

3 Q. Yeah, he -- the video showed that he went past a well-lit
4 area into a less well-lit area?

5 A. No, he was in the town almost the entire -- for the
6 initial stop, yes.

7 Q. Well, not debating whether he is in the town limits or
8 anything like that. I am just saying that in part of that
9 video at the beginning you were close to his car, you had
10 already decided that you were going to make a traffic stop?

11 A. Correct.

12 Q. And you were close enough to make a traffic stop but you
13 let him continue past a well-lit area into a less well-lit
14 area?

15 A. No, I -- at first I was out -- I was in the non-well-lit
16 area when I was catching the speed violation. But when we
17 entered the town limits, yes, there was -- I did catch up. I
18 try to get close enough to them to get their tag first, and
19 then I light them up with the lights.

20 But if I had started my lights back -- because he was a
21 good distance ahead of me. I had to catch up to him. If I
22 had started my lights way back in the corner it is a big
23 distance. He could have -- easily given him ample opportunity
24 to pull off -- really not -- well, speed off, go down 41, pull
25 back into McClellanville.

1 So I try to catch up -- I try to gain my -- close that
2 gap before I -- and then I identify the vehicle and then I am
3 able to turn the lights on and then I start notifying
4 Dispatch.

5 Q. Certainly. And that makes perfectly good sense. Maybe I
6 am not asking the question well. You passed several -- an
7 area with two to three gas stations that are extremely well
8 lit, right?

9 A. They are all pretty close -- they are pretty close
10 proximity to all of that right there.

11 Q. Let's talk about the area where that traffic stop
12 happened. Maybe that will make it easier. It is on Highway
13 17 South between Georgetown and Mt. Pleasant?

14 A. Correct.

15 Q. Like we talked about, the National Forrest?

16 A. Correct.

17 Q. Nothing out there?

18 A. Correct.

19 Q. Okay. Nothing up to that industrial park in Georgetown.
20 And there -- but right in that stretch there are gas
21 stations, ---

22 A. Correct.

23 Q. --- right? And there's I think you mentioned a
24 restaurant?

25 A. Quite -- yeah, the restaurants, the buildings. There is

1 a gas station up to his left. There is a fire station that is
2 well lit and these always occupied.

3 Q. And these are right there on 17?

4 A. They are right there on 17 just down from where he was.

5 Q. Those weren't on that map or anything, right?

6 A. We weren't zoomed in close enough to -- on the map. That
7 is it right there (pointing).

8 Q. But those gas stations close early?

9 A. They what?

10 Q. Those gas stations close early?

11 A. Some of them do. Most of them stay open all night long
12 or have light -- or they were lit.

13 Q. Okay. The one that you finally pulled him over near,
14 that one was closed?

15 A. As soon as I got -- I caught up to him, yes.

16 Q. Okay.

17 A. Because by the time I caught up to them ---

18 Q. Okay. Okay.

19 A. --- he was right there on it.

20 Q. And it is rural. There's -- so there is really no need
21 for that restaurant to stay open late, right; so it closes
22 early?

23 A. Sometimes.

24 Q. Okay.

25 A. They have stayed late before.

1 Q. Do you know whether it was open this night?

2 A. I cannot remember.

3 Q. Okay.

4 A. That was four years ago.

5 Q. Okay. There is no -- on 17 there is really no street
6 lights?

7 A. There are street lights -- yeah, there are in certain
8 areas.

9 Q. Okay. There are lights coming from the business; we can
10 stipulate that, ---

11 A. Yes.

12 Q. --- right? Okay. And that spot where you pulled over,
13 do you know how far it is from Mt. Pleasant?

14 A. Where we pulled over?

15 Q. Where you pulled King over in the median ---

16 A. That -- I am not sure how -- the distance from that.

17 Q. Okay. If I told you it was 20 miles would you have any
18 reason to disagree with that?

19 A. I think it was -- it was further than 20 miles ---

20 Q. Okay.

21 A. --- I think it is.

22 Q. There you go. And that stretch of road at night it is
23 not heavily traveled, right; that is not -- the video showed
24 cars going by?

25 A. No, there were multiple cars going by. You saw ---

1 Q. Okay.

2 A. The thing about technology.

3 MR. ZEIGLER: Your Honor, he is not letting the witness
4 finish answering the question.

5 THE COURT: Ask him a question. You can lead him, and
6 just give him an opportunity to say yes or no and then explain
7 his answer.

8 MR. BOWDEN: Okay.

9 Q. There was more than one car that passed, right?

10 A. Yes.

11 Q. But you wouldn't say it was heavy traffic?

12 A. For the area. I mean I was preoccupied, ---

13 Q. Okay.

14 A. --- yes.

15 Q. There we go. Let's talk about what happened at that
16 traffic stop. You got a lot of -- a lot of pushback from
17 King, let's say?

18 A. Yes.

19 Q. And that is probably a euphemistic way to put it. And he
20 challenged you on the reason for that stop?

21 A. Yes.

22 Q. He demanded that you produce probable cause?

23 A. I think he was talking about the victim, the violation,
24 there was no jurisdiction.

25 Q. Sure. And he had debate about whether he was driving or

1 traveling?

2 A. Yes.

3 Q. Did you really follow any of that?

4 A. Yes. I mean by his definition he was trying to say that
5 he was traveling, not driving.

6 Q. Okay. And he told you he didn't need a license?

7 A. Well, he didn't identify or say anything -- I don't
8 remember him saying anything about having a license.

9 Q. He told you he didn't need a license to travel, right?

10 A. Yes, you need a license to drive; yes.

11 Q. But all in all it took a while but it was a calm
12 conversation?

13 A. Yes. Well, I was trying to keep it calm to wait for my
14 partner mostly.

15 Q. Nobody really raised their voices?

16 A. He seemed to be agitated. I do remember that.

17 Q. And it is pretty normal for drivers to be agitated during
18 a traffic stop?

19 A. Not like that one.

20 Q. Nervous?

21 A. Most people -- they can be nervous, but to not
22 identify -- it is abnormal for people to not identify
23 yourselves and to be very ---

24 Q. Sure.

25 A. --- argumentative.

1 Q. But it is normal for people to be nervous?

2 A. Normal -- yeah, people are nervous.

3 Q. Okay. People manifest nervousness in different ways?

4 A. Yes.

5 Q. And you were trying to convey that he needed a -- that he
6 needed to produce a license or you couldn't let him drive
7 away?

8 A. Correct.

9 Q. And you said that you needed to verify that he was
10 legally allowed to drive?

11 A. Yes.

12 Q. You know, and you were just trying to do your job?

13 A. Correct.

14 Q. And this was a frustrating account for you?

15 A. Well, normal day. But, yeah, the urgency of a
16 conversation that I

17 Q. This -- you said this was a normal day?

18 A. Well, I am just saying it would be normal -- I was on
19 normal patrol. What I am saying is that the urgency when he
20 stopped the conversation and the lack of providing his
21 information and -- it started -- it did create a lot of alarms
22 in the back of my head.

23 Q. Okay. But you actually had King's name, didn't you?

24 A. The tags came back to his name, yes.

25 Q. Okay. And so you had already run those tags, Dispatch

- 1 provided you with his name?
- 2 A. Correct.
- 3 Q. Let's -- and you said -- you could hear it on the video;
- 4 you said, Bernard, Bernard, Bernard?
- 5 A. Yes.
- 6 Q. And he didn't respond?
- 7 A. Correct.
- 8 Q. And you told Dispatch that he wasn't responding?
- 9 A. Correct.
- 10 Q. Let's talk a little bit about the information that you
- 11 have at your disposal when you are at a traffic stop.
- 12 A. Yes.
- 13 Q. So part of it comes from what you call into Dispatch, ---
- 14 A. Correct.
- 15 Q. --- right? You have a computer in your car as well?
- 16 A. Yes.
- 17 Q. And you can pull up some information on that?
- 18 A. Yes.
- 19 Q. What kinds of information are you able to pull up on that
- 20 computer?
- 21 A. DMV, CAD.
- 22 Q. When you say DMV do you mean a DMV driving report?
- 23 A. Yes.
- 24 Q. And that is the one that shows three years worth of
- 25 records?

1 A. Yes.

2 Q. Okay. And it shows something else on that?

3 A. Yes.

4 Q. It has got a picture?

5 A. Yes.

6 Q. And so you can -- you can -- to just kind of trace this
7 process, you can take the tag, report it to Dispatch, and they
8 will give you the name that that tag is registered under
9 assuming it is registered?

10 A. Yes.

11 Q. And so then you can take that name and you yourself
12 without Dispatch can pull up a three-year driving record that
13 includes a picture?

14 A. Yes.

15 Q. And you can view that?

16 A. Yes.

17 Q. And you can compare that to the human being that you are
18 looking at?

19 A. To a degree.

20 Q. Well, not only to a degree; I mean you looked at King and
21 you identified him earlier today; right?

22 A. Yes, after ---

23 Q. And so nothing prevented you from doing that at the
24 scene?

25 A. Sometimes you can't always assume everything as far as it

1 could be his brother, not a ---

2 Q. Okay.

3 A. --- brother but a parent or somebody ---

4 Q. But it ---

5 A. To the picture, yes.

6 Q. Okay. But it is the same picture that is on your
7 driver's license?

8 A. Yes.

9 Q. And you said earlier that that man is the same man that
10 was in the driver's license picture?

11 A. Yes.

12 Q. Okay. So you would have been able to identify him at the
13 scene that night?

14 A. Yes.

15 Q. But you decided not to do that?

16 A. What do you mean, identify him?

17 Q. You did not do that?

18 A. We -- we through the dispatcher identified a Bernard,
19 yes.

20 Q. But this whole confrontation was over you not being able
21 to identify him?

22 A. Yes.

23 Q. Okay. But you could identify him?

24 A. Not without him giving me full -- his full information.
25 I mean there are people, plenty of people that we have had

1 before where we thought it was their -- people look alike.
2 People -- I don't know what his family. Everybody. I mean
3 there are twins. There are certain things I am not able to
4 identify at the time. That is why we need full identification
5 of that person.

6 Q. Just tell me this. If I was on my way to court today ---

7 A. Yes.

8 Q. --- and I remembered to grab my keys and I remembered to
9 grab my cell phone and I walked out of the door ---

10 A. Yes.

11 Q. --- and I got pulled over on the way here for
12 speeding ---

13 A. Yes.

14 Q. --- but I forgot my wallet, ---

15 A. Yes.

16 Q. --- I don't have my driver's license, ---

17 A. Yes.

18 Q. --- would you take me to jail?

19 A. If you don't have your driver's license? If you provided
20 other information. There's things I can verify. There is
21 your Social Security number, your date of birth. If you give
22 me information of who you are, your name, I am able to start
23 from there. But usually the first part would be you telling
24 me your name.

25 Q. So if you knew who I was you would not arrest me?

1 A. If I knew who you was? Yeah, if I was able -- if you
2 start off from the basics of your name - which I wasn't given
3 by him by his name - then I would go from there and fully
4 identify him and give him the benefit of the doubt. In this
5 case there was not even a name.

6 Q. All right. Let's talk about some of the Sheriff's Office
7 rules and regulations. You are obviously familiar with those?

8 A. Yes.

9 Q. I mean you have had God knows how many hours worth of
10 training at this point?

11 A. Yes.

12 Q. And, you know, you went to the -- you went to the
13 Academy; you have been working now for years?

14 A. Yes.

15 Q. And you have to re-familiarize yourself with these things
16 every so often?

17 A. Yes.

18 Q. So you know there is some language in there that talks
19 about what happens when you are dealing with extreme
20 provocation?

21 A. In which way?

22 Q. It uses the words extreme provocation, the actual policy;
23 it talks about how officers are expected to act even in the
24 case of extreme provocation?

25 A. How we are supposed to control our demeanor and -- yes.

1 Q. And it uses the language that you should use the utmost
2 discretion?

3 A. Yes.

4 Q. And it requires patience?

5 A. Yes.

6 Q. And utmost discretion can require some creative
7 problem-solving?

8 A. Yes.

9 Q. And sometimes the first thing you try just doesn't work?

10 A. Yes.

11 Q. And you have got to find other solutions?

12 A. Correct.

13 Q. And generally the emphasis is on de-escalation?

14 A. Yes.

15 Q. Make this quick on you. So I only have one last topic
16 that I would like to talk about. You were -- when did you
17 start as a deputy?

18 A. This department or ---

19 Q. Yes, sir.

20 A. I have been with Charleston County since 2014.

21 Q. Okay. And so you were working as a police officer in
22 Charleston throughout 2015?

23 A. Yes.

24 Q. And so you are familiar with the name Walter Scott?

25 A. Walter Scott -- yes.

1 Q. And he -- he was shot by a North Charleston police
2 officer in 2015?

3 MR. ZEIGLER: Your Honor, irrelevant -- relevance.

4 THE COURT: All right, come up here real quick.

5 (WHEREUPON, bench conference 8/15/19, 11:58 a.m.)

6 (WHEREUPON, end of bench conference.)

7 THE COURT: I will overrule the objection. You can
8 answer the question, do you know who Walter Scott is. And
9 your answer was?

10 THE WITNESS: I know the name of Walter Scott, yes.

11 THE COURT: Okay.

12 THE WITNESS: It is referring to somebody else.

13 THE COURT: All right.

14 Q. Okay. And you were aware of the circumstances of how
15 Walter Scott was killed?

16 A. Yes.

17 MR. BOWDEN: I don't have any further questions, Your
18 Honor.

19 THE COURT: All right.

20 Anything, Mr. Zeigler?

21 MR. ZEIGLER: Briefly, Your Honor.

22 THE COURT: Okay.

23 **REDIRECT EXAMINATION BY MR. ZEIGLER OF BRANDON WADE:**

24 Q. Before you said you were going to smash the window in do
25 you recall how long in time -- I mean you watched the video.

1 About 30 minutes standing in the rain waiting for somebody to
2 just provide a driver's license or even a name ---

3 A. Yeah.

4 Q. --- before?

5 A. I remember going back and forth even to the passenger.

6 Q. Okay. And the area of the initial stop was well lit; as
7 we went over you said - correct me if I am wrong - that there
8 were gas stations to the left that he could have pulled into?

9 A. Yes, one to the left and to the right. There was another
10 one -- well, yeah, another one that just passed him.

11 Q. Okay.

12 A. Multiple businesses.

13 Q. And you even told Dispatch on that video that you
14 believed he was pulling into one of those gas stations before
15 he stopped in the median, correct?

16 A. I think so,

17 Q. Okay. And the tag report referenced by Mr. Bowden that
18 you guys run or Dispatch runs, that comes back to the owner of
19 the car, not the person who is specifically driving in that
20 instance; correct?

21 A. Correct.

22 Q. Okay.

23 MR. ZEIGLER: Nothing further, Judge.

24 THE COURT: All right. Anything along those lines, Mr.
25 Bowden?

1 MR. BOWDEN: No further questions.

2 THE COURT: All righty. You are excused. And I hope you
3 have a wonderful day, and thank you so very much for being
4 here.

5 THE WITNESS: Thank you, Your Honor.

6 THE COURT: All right. Ladies and gentlemen of the jury,
7 it is noon and so I am assuming everybody is ready for a quick
8 break and lunch. And so we will go ahead and take lunch
9 break.

10 There's a couple of restaurants as you may know kind of
11 close. Unfortunately I still think it puts you on a little
12 bit of a time constraint. So what do y'all think, about 1:15
13 back in the jury room give you plenty of time?

14 All right. We look forward to seeing you then.

15 (WHEREUPON, jury out 8/15/19, 12:02 p.m.)

16 (WHEREUPON, scheduling discussions off record.)

17 THE COURT: So here is what I am going to do. I am going
18 to go ahead and email y'all the jury charges. I have already
19 done them. Take a look at them, and if you have any objection
20 to them we will talk about it when you get back. Because of
21 course we are going to need to keep moving. So I will submit
22 them to both of you right now. The only one that may not be
23 in there we may have to put in later is obviously I will have
24 to talk to King as to whether he plans on testifying. We will
25 go through that. And then I will add that one if he decides

1 not to at that time.

2 MR. BOWDEN: Sure.

3 THE COURT: Give me one second.

4 (WHEREUPON, attorneys provide email addresses to the Court.)

5 (WHEREUPON, break for lunch 8/15/19, 12:08 p.m.)

6 (WHEREUPON, resume following lunch, 8/15/19, 1:15 p.m.)

7 THE COURT: Before I bring the jury out, I submitted over
8 the jury charges. I have them in the order in which I am
9 going to read them to the jury. Did y'all have any objection
10 or find anything that was wrong with that?

11 MR. ZEIGLER: No, sir.

12 THE COURT: All right. I am going to read it like this:
13 For the sake of the defendant I am going to read presumption
14 of innocence. If he doesn't testify I am going to read
15 failure of defendant to testify, duties of jury and trial
16 judge, circumstantial and direct evidence, reasonable doubt -
17 and I have kept both of them in there - credibility of
18 witnesses, multiple charges; and then the four charges,
19 resisting arrest, unlawful carrying of a pistol, unlawful
20 conduct towards a child, and failure to stop for a blue light.

21 Also, Mr. Bowden, you weren't here ---

22 (WHEREUPON, counselors confer.)

23 THE COURT: Oh, that is right, I put -- what did I put,
24 unlawful conduct toward a child?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: All right. Hold on. Let me see. All right.
2 I will go get the charge for child endangerment. And, Mr.
3 Bowden, you weren't here yesterday (at unrelated trial). He
4 may have seen something that was unique, copy of the charges
5 into the jury room.

6 As I told those guys the other day, it is a new school,
7 old school kind of disconnect between us and the old school
8 guys. The old-school guys say don't see any real harm in it,
9 we have just never done that way, which is kind of a stupid
10 way of looking at something. If it is helpful and beneficial
11 let's do it.

12 So we added five questions yesterday in the trial, and
13 not one single one of them was about the law. It was all
14 about evidence.

15 And so as I keep saying, it works. So if you have an
16 objection you can certainly put it on the record. But if not
17 I am -- regardless of your objection. If you want to put it
18 on there, that is fine; but I am sending it back.

19 MR. BOWDEN: No, I think it is a great idea.

20 THE COURT: All right. Thank you so very much. Bring me
21 the jury, please.

22 Also I have the verdict form here that I have prepared.
23 It simply is read as this: As to the charge of failure to
24 stop for a blue light we the jury unanimously find the
25 defendant not guilty or guilty. And it goes for all four

1 charges. So it is the same verdict form that we always use.

2 (WHEREUPON, jury enters 8/15/19, 1:18 p.m.)

3 THE BAILIFF: Your Honor, the jury is complete.

4 THE COURT: All right. Ladies and gentlemen of the jury,
5 I hope you had a wonderful lunch and it wasn't too hot out
6 there and you had ample time to get somewhere and get back. I
7 know it can be tricky sometimes.

8 But at this point in time we are going to resume the
9 trial of the case. All right.

10 Mr. Zeigler, call your next witness.

11 MR. ZEIGLER: The state calls Officer Chris Sanders,
12 please.

13 (WHEREUPON, the witness was duly sworn.)

14 THE DEPUTY CLERK: For the record will you please state
15 your full name and spell your last name.

16 THE WITNESS: Christopher Aaron Sanders. S-A-N-D-E-R-S.

17 **DIRECT EXAMINATION BY MR. ZEIGLER OF CHRISTOPHER SANDERS:**

18 Q. Good afternoon, Officer Sanders. Where are you currently
19 employed?

20 A. Isle of Palms Police Department.

21 Q. Okay. And when did you start there?

22 A. March of this year.

23 Q. Where were you before that?

24 A. Charleston County Sheriff's Office.

25 Q. And how long did you work at Charleston County Sheriff's

1 Office?

2 A. Since December of 2010 until March of this year.

3 Q. What were some of the positions you held in Charleston
4 County?

5 A. I was patrol, and I did investigations for the forensics
6 unit.

7 Q. In September of 2015 what was your position?

8 A. I was on patrol at that time.

9 Q. Okay. And what are some of your duties involved in
10 patrol?

11 A. Basically traffic stops, you know, detect, deter, and
12 prevent crime, get out in the community. Just being police.

13 Q. Okay. Just explain how you became involved in this
14 specific incident ---

15 A. So there was a pursuit down East Mt. Pleasant, Awendaw
16 and McClellanville. It is what we used to call East. Came
17 over the radio. And I guess I believe it started in
18 McClellanville I believe. I am trying to remember. But it
19 ended up stopping on 17, and I ended up getting involved
20 helping to take the suspect into custody.

21 Q. Did you search the car?

22 A. I did.

23 Q. What did you find?

24 A. I found a loaded firearm underneath the driver's seat.

25 Q. Okay.

1 MR. ZEIGLER: Your Honor, may I approach the witness?

2 THE COURT: Absolutely.

3 Q. I am handing you what has been marked State's Exhibit 4.
4 Can you please open that up and tell me if you can identify
5 it.

6 A. Would you like me to take it out?

7 Q. You can keep it in for now.

8 A. Okay.

9 Q. And then -- do you recognize that?

10 A. I do.

11 Q. What is it?

12 A. It is a M and S firearm.

13 Q. How are you able to recognize it?

14 A. I remember it being the one that I actually located
15 underneath the seat.

16 Q. Okay. And what else is in the box?

17 A. It looks like we have got some ammo and some magazines.

18 Q. Okay. What did you do with the gun and bullets after the
19 event?

20 A. I know if I remember correctly, definitely, you know,
21 protocol is always to secure it and make it safe obviously. I
22 believe I unloaded all the rounds.

23 And with the -- always my thing is that I always take a
24 gun and magazine, and I lay everything out. That way we can
25 kind of see -- it kind of gives us a visual of what we are

1 dealing with as far as evidence. Because everything has to be
2 put in separately.

3 Q. Okay. And where specifically in the car did you find the
4 gun?

5 A. Underneath the driver's seat.

6 Q. Okay. Is the -- are those items in substantially the
7 same condition they were when you ---

8 A. Yes, sir.

9 Q. --- took them? Okay.

10 MR. ZEIGLER: Your Honor, at this time I would like to
11 offer State's 4 into evidence and publish it for the jury.

12 THE COURT: Any objection?

13 MR. BOWDEN: No objection.

14 THE COURT: All right. State's 4 without objection.

15 (WHEREUPON, State's Exhibit Number 4 was admitted into
16 evidence.)

17 Q. So what caliber is this handgun right here?

18 A. I believe that is ---

19 Q. I can give it back to you if ---

20 A. Yeah.

21 (WHEREUPON, exhibit provided to witness.)

22 Q. I know it has been four years.

23 A. Yeah, it's -- it looks like a nine mil.

24 Q. Okay.

25 A. Yeah. Yeah, it is a nine.

1 Q. Do you off the top of your head know how many rounds fit
2 into a 9mm handgun like this?

3 A. If I had to take a guess, like 15, 16.

4 Q. Okay. Do you recall how many rounds there were in that
5 box of ammo?

6 A. I don't.

7 Q. Okay.

8 MR. ZEIGLER: I have got nothing further, Your Honor.

9 THE COURT: All right.

10 Mr. Bowden.

11 MR. BOWDEN: I don't have any questions for this witness.

12 THE COURT: All righty. Thank you so very much for being
13 here. You are free to go, and I hope you have a wonderful
14 day.

15 THE WITNESS: Take care.

16 THE COURT: All right. Mr. Zeigler, call your next
17 witness.

18 MR. ZEIGLER: Your Honor, the State calls Deputy Trey
19 Wade.

20 (WHEREUPON, the witness was duly sworn.)

21 THE DEPUTY CLERK: Please state your name for the record.

22 THE WITNESS: Tracy Quinn Wade.

23 THE DEPUTY CLERK: And spell your last name.

24 THE WITNESS: W-A-D-E.

25 **DIRECT EXAMINATION BY MR. ZEIGLER OF TRACEY "TREY" WADE:**

1 Q. Good afternoon, Officer Wade. Where are you currently
2 employed?

3 A. Charleston County government.

4 Q. What do you do there right now?

5 A. I work for the IT Services Division in communications
6 technology.

7 Q. When did you start there?

8 A. In October of 2016.

9 Q. Okay. And what do you do in that position?

10 A. Maintain all of the communication systems for Charleston
11 County government.

12 Q. Okay. And what did you do before that?

13 A. I was a deputy sheriff.

14 Q. Were you assigned to a particular role in the Sheriff's
15 Office?

16 A. I was a patrol deputy with Charleston County Sheriff's
17 Office.

18 Q. Was there a particular region you were assigned to in the
19 County or just anywhere?

20 A. My primary region was the East District which was Mt.
21 Pleasant all the way up through the county line.

22 Q. Okay. And what were some of your duties as a patrol
23 officer?

24 A. Received calls for service, patrolled the county looking
25 for criminal activity, traffic enforcement.

1 Q. Okay. Did you have any prior law enforcement experience
2 before Charleston County?

3 A. Yes, sir.

4 Q. Okay. Can you please explain that?

5 A. I worked for Dorchester County for ten years prior to
6 coming to Charleston County.

7 Q. Okay. Were you on duty on September 18, 2015?

8 A. Yes, sir, I was.

9 Q. And what happened when you heard the call for backup from
10 Brandon Wade?

11 A. I proceeded up to his location in McClellanville. I was
12 down in Awendaw, and his call for assistance seemed fairly
13 urgent so I proceeded up there to back him up on a call.

14 Q. Okay. And what did you do when you first arrived?

15 A. When I first pulled up I activated a body-worn camera as
16 I exited my vehicle.

17 Q. Okay. And what were you wearing when you exited your
18 vehicle and approached the suspect vehicle?

19 A. My uniform.

20 Q. From the Sheriff's Office?

21 A. Yes, sir.

22 Q. Okay. Did you identify yourself as a deputy to the
23 defendant?

24 A. I did.

25 Q. Okay.

1 MR. ZEIGLER: Your Honor, may I approach the witness?

2 THE COURT: Absolutely.

3 Q. I am handing you what has been marked as State's 3 for
4 identification purposes only. You probably have to take it
5 out of there. I have it backwards.

6 Do you recognize that disk?

7 A. Yes, sir, I do.

8 Q. What -- how are you able to recognize it?

9 A. This is a DVD copy of the video footage that was taken by
10 my body cam that I copied to -- for evidence sake.

11 Q. Okay. And you said your body camera. That is your
12 personal body camera, correct?

13 A. Yes, sir, that is correct.

14 Q. Okay. Is -- were body cams not normal for officers to
15 have around September of 2015?

16 A. While some agencies were issuing them, the Charleston
17 County Sheriff's Office at that point in time was not issuing
18 any body cameras.

19 Q. Okay.

20 A. So I had my own that I would use from time to time for
21 the provided calls for service.

22 Q. Okay. Was there any particular reason why you wore a
23 body camera; I mean just ---

24 A. On that particular night?

25 Q. Just in general I mean.

1 A. Absolutely. Any time I was on a call for service that I
2 felt that, you know, was I needed evidence other than my own
3 testimony, video evidence, I would wear it.

4 And also at this point in time there was a big push among
5 other agencies and globally for police officers to wear body
6 cameras. And since I had one it made sense for me to wear it.

7 Q. How did you obtain that; did you buy it?

8 A. I actually won it in a raffle at a law enforcement
9 network conference.

10 Q. What kind of -- is it a Go-Pro or is it like a -- is
11 there a name for it?

12 A. It is called a Muvi, M-U-V-I. It is a standard
13 wide-angle ---

14 Q. Okay.

15 A. --- action camera similar to a Go-Pro.

16 Q. So just generally what is a body cam?

17 A. General speaking, a body camera is a device; it is a
18 video camera that is worn on a police officer on their
19 uniforms. And by policy now the Sheriff's Office any time you
20 are out of the vehicle on a call you have to activate the
21 camera. We didn't have a policy at that point in time.

22 But ---

23 Q. So you took it upon yourself?

24 A. Yes, sir, I did.

25 Q. Okay. Had you used it prior to this occasion?

1 A. On many occasions, yes, sir.

2 Q. Okay. So you are very familiar with how it works?

3 A. Correct.

4 Q. Okay. Does the content on the body cam video fairly and
5 accurately represent the events from September 18th, 2015?

6 A. Absolutely.

7 Q. And to your knowledge has the content on the video been
8 altered in any way?

9 A. In no way.

10 Q. Okay.

11 MR. ZEIGLER: Your Honor, at this time I would like to
12 offer State's 3 into evidence.

13 THE COURT: All right. Any objection?

14 MR. BOWDEN: No objection, Your Honor.

15 THE COURT: All right. Without objection.

16 MR. BOWDEN: Or, excuse me, subject to previous
17 objections.

18 THE COURT: All right. Your objection is noted for the
19 record.

20 (WHEREUPON, State's Exhibit 3 was admitted into evidence.)

21 Q. Okay. So what happened -- fast forward back to the
22 event. What happened after you turned on your body cam and
23 approached the car?

24 A. I identified myself to the driver.

25 Q. Okay. Was he able to identify himself?

1 A. He refused to identify himself.

2 Q. Do you recall how long you specifically were outside of
3 the vehicle in the rain asking him to identify himself?

4 A. Several minutes.

5 Q. Okay.

6 A. Deputy Brandon Wade had approached the passenger, the
7 passenger in the vehicle. And so he had attempted to speak to
8 her. So he asked me to speak with the driver while he was
9 talking to the passenger.

10 Q. Okay. And what did you tell the defendant over and over
11 again after Brandon had already told him; what specifically
12 did you tell the defendant?

13 A. Once the decision was made to place him under arrest I
14 repeated seven times to him that he was under arrest for
15 speeding which is a violation of 56-5-15-20 South Carolina
16 code of laws.

17 Q. And did he still refuse to comply?

18 A. He did not comply.

19 Q. Okay. And do you often place people under arrest for
20 speeding?

21 A. You can in the State of South Carolina. And by all means
22 this is an absolute speed law state. So you can go to jail
23 for speeding.

24 Q. Okay.

25 A. When there is an egregious speed -- I think his speed was

1 70 in a 50. That is pretty fast for that particular area. So
2 the decision was made to place him under arrest not only for
3 the speeding but for the failure to produce an identification
4 and being resistant to the arrest.

5 Q. Okay. And do you recall that area pretty well -- were
6 there businesses on each side that were well lit?

7 A. Yes.

8 Q. Okay. Now after you told him for the seventh time that
9 he was under arrest for speeding what did he do?

10 A. He still did not comply. Deputy Brandon Wade had come
11 over to the side of the vehicle where I was located. And
12 Deputy Brandon Wade pulled out his issued baton and informed
13 the driver that if he did not exit the vehicle we were going
14 to break the window out and physically remove him from the
15 vehicle.

16 Q. Okay. And that was a baton, not a firearm; right?

17 A. Correct. That was he issued ASP baton.

18 Q. Okay. And then what happened once he did that, once Wade
19 did that?

20 A. He tapped on the glass, and the defendant put the vehicle
21 in drive ---

22 Q. Okay.

23 A. --- and took off.

24 Q. How close to the vehicle were you and Officer Wade when
25 he sped off?

1 A. I was in arms length from the window.

2 Q. He ---

3 A. And Brandon was even closer than that.

4 Q. He didn't run over your feet or anything, did he?

5 A. No, sir, he didn't.

6 Q. Do you recall how long the chase lasted in minutes and
7 miles?

8 A. Approximately 12 minutes, not factoring in the stop stick
9 deployment. And then the stopping and going on the side of
10 the road. So approximately 12 minutes. And the distance was
11 about 11 or 12 miles.

12 Q. Okay.

13 MR. ZEIGLER: Your Honor, at this time I would like to
14 publish State's 3.

15 THE COURT: All righty. Any objection?

16 MR. BOWDEN: No objection.

17 (WHEREUPON, begin publication of State's Exhibit Number 3.)

18 (WHEREUPON, pause publication.)

19 Q. What did he just say about driving?

20 A. He was traveling, not driving.

21 Q. Okay.

22 (WHEREUPON, resume publication of State's Exhibit Number 3.)

23 (WHEREUPON, pause publication.)

24 Q. At this time he hasn't said anything about being scared
25 or frightened of the police, has he?

1 A. No. No, sir, not any.

2 (WHEREUPON, resume publication of State's Exhibit Number 3.)

3 (WHEREUPON, pause publication.)

4 MR. ZEIGLER: Just for the record, I am going to skip
5 ahead.

6 THE COURT: Okay.

7 (WHEREUPON, resume publication of State's Exhibit Number 3.)

8 (WHEREUPON, pause publication.)

9 Q. Do you recall what you were referring to?

10 A. So what we were conducting was a felony traffic stop. So
11 what would normally happen is you would order someone out and
12 a person who was being compliant would follow your verbal
13 commands. So they would walk back to the sound of the voice
14 or take a step left or right.

15 But the defendant in this case exited the vehicle and
16 then laid down in the middle of the roadway and refused to
17 comply with anything beyond that.

18 And so what I didn't like about that was knowing there
19 was another person in the vehicle we don't know what is going
20 on in that vehicle. So in my mind I was thinking is this an
21 attempt to get us to come to him and possibly be involved in a
22 some other altercation or something else at the vehicle.

23 Q. Okay. And just real quick while we are on that subject,
24 felony traffic stop why did you conduct a felony traffic stop
25 in this situation?

1 A. Because you had someone that took off from a traffic stop
2 and did not stop for 12 some odd miles.

3 Q. Okay.

4 (WHEREUPON, resume publication of State's Exhibit Number 3.)

5 (WHEREUPON, pause publication.)

6 Q. As far as you are aware at this time is there anybody
7 other than the front seat passengers still remaining in the
8 vehicle?

9 A. Not to my knowledge at that point in time.

10 Q. Okay.

11 MR. BOWDEN: Your Honor, I am going to object. Can we
12 approach?

13 THE COURT: Sure.

14 (WHEREUPON, bench conference 8/15/19, 1:44 p.m.)

15 (WHEREUPON, end of bench conference.)

16 PLAINTIFF ATTY: I am just going to restart at 22:30:20.

17 (WHEREUPON, resume publication of State's Exhibit Number 3.)

18 (WHEREUPON, pause publication.)

19 Q. Okay. It wasn't on the video, but do you recall the
20 defendant stating to you the age of the children that were in
21 the back seat of the car?

22 A. Yes, sir.

23 Q. Please tell me what those ages were.

24 A. He stated that one was 16 and one was 11.

25 Q. Okay.

1 MR. BOWDEN: Your Honor, I am going to object and renew
2 my objection from the pre-trial.

3 THE COURT: All righty. We will note your objection for
4 the record.

5 MR. ZEIGLER: We have got nothing further, Your Honor.

6 THE COURT: All ---

7 MR. ZEIGLER: Please answer anything that Mr. Bowden has.

8 THE COURT: And for the record, I am overruling your
9 objection because it is a hearsay exception as a statement by
10 the defendant.

11 MR. BOWDEN: Thank you.

12 THE COURT: All right.

13 **CROSS-EXAMINATION BY MR. BOWDEN OF TRACEY "TREY" WADE:**

14 Q. Good afternoon, Deputy Wade; how are you?

15 A. Fine.

16 Q. I guess I should clarify for the record Deputy Trey Wade.
17 I just want to spend just a minute talking about arrests in
18 general. And I went over this with Deputy Brandon Wade
19 earlier. But you asked Deputy Brandon Wade whether King was
20 under arrest. And, for the record, I am going to be calling
21 who you have called Bernard Jackson I am going to call him
22 King.

23 A. Okay.

24 Q. So you asked Deputy Brandon Wade whether King was under
25 arrest?

1 A. Uh-huh.

2 Q. And that is because ---

3 THE COURT REPORTER: I'm sorry, I didn't hear his answer.

4 THE WITNESS: Yes, ma'am.

5 THE COURT REPORTER: Thank you.

6 Q. And that is because it was his traffic stop?

7 A. That is correct.

8 Q. And if somebody was going to be making an arrest there it
9 was him?

10 A. He would be the primary officer, yes, sir.

11 Q. Okay. So ultimately it is his decision whether King was
12 under arrest or not?

13 A. Yes, sir.

14 Q. Okay. And you told King that he was under arrest?

15 A. Yes, sir.

16 Q. And you told him several times to get out of the car?

17 A. Yes, sir.

18 Q. But you didn't have the last word before -- before King
19 took off from the traffic stop, did you?

20 A. No, sir.

21 Q. Okay. And so Deputy Wade told him that he was just going
22 to get a green ticket at that point, but he was going to
23 forcibly smash out his window?

24 A. He told him that if he didn't get out of the car that is
25 where he was going to go. It was just get a speeding ticket.

1 Q. I mean it wasn't quite that clear though, right? He kind
2 of used some shorthand for that?

3 A. As in?

4 MR. ZEIGLER: Your Honor, speculation.

5 Q. I mean his literal words were right now you are about --
6 you are just about to get a green ticket, but I am about to
7 smash out your window, I am about to forcibly smash out your
8 window?

9 A. Well, that is what he said on the tape, yes, sir.

10 Q. Okay. And when police officers are arresting somebody
11 they don't unarrest somebody?

12 A. Not typically.

13 Q. And so you are either under arrest or you or not?

14 A. Correct.

15 Q. Deputy Wade, you were -- you mentioned that you weren't
16 at the stop at the beginning, you are elsewhere in the county?

17 A. That is correct.

18 Q. Do you recall where you were?

19 A. Yes, I do.

20 Q. Was it -- it was Mt. Pleasant?

21 A. I was actually right in the Dollar General in Awendaw.

22 Q. Okay.

23 A. I had just checked the front of the building.

24 Q. Okay. So that's -- that's not too far outside of Mt.
25 Pleasant, right?

1 A. It is probably six or eight miles out of Mt. Pleasant.

2 Q. Okay.

3 A. It is in the county.

4 Q. But I just want to kind of talk about where the stop
5 actually was. You mentioned that you thought there was some
6 urgency to the radio call?

7 A. Yes, sir.

8 Q. Okay. So you needed to get out there as quick as
9 possible?

10 A. Correct.

11 Q. And so you were driving at a high rate of speed?

12 A. Correct.

13 Q. And it is not necessarily a problem because that road is
14 not that heavily traveled, is it?

15 A. It is not. And the sergeant on the shift directed me to
16 step up my response.

17 Q. Sure. And certainly, you know, you would have slowed
18 down had there been a lot of traffic; but you could basically
19 proceed at a very high rate of speed?

20 A. Correct. Other than the deer on the road.

21 Q. You said other than the deer on the road?

22 A. Other than wildlife in that area, yes, sir.

23 Q. And do you recall what speed you reached during -- when
24 you are trying to get out there?

25 A. I was focused on the roadway, not necessarily on the

1 speedometer.

2 Q. Okay. Would you agree that it was over 100 miles an
3 hour?

4 A. Quite likely, yes, sir.

5 Q. Okay. And would you agree that it was over 120 miles per
6 hour?

7 A. There is a possibility of, yes, sir.

8 Q. And do you recall how long it took you to get to that
9 stop?

10 A. It would be on my in-car video.

11 Q. Okay.

12 A. It would have taken probably five minutes, maybe eight
13 minutes. I am not sure exactly how far.

14 Q. Okay. But consistently driving at speeds of upwards of
15 100 miles per hour it took that long to get out there?

16 A. It wouldn't have taken too long; that is correct.

17 Q. Okay. So this is -- we are talking quite a distance
18 from ---

19 A. Yes, sir.

20 Q. --- from what we would -- most of us would consider town?

21 A. Correct.

22 MR. BOWDEN: I don't have any other questions. Thank you
23 for being here.

24 MR. ZEIGLER: Briefly, Judge.

25 **REDIRECT EXAMINATION BY MR. ZIEGLER OF TRACEY "TREY" WADE:**

1 Q. As an officer you are permitted to go as fast as
2 necessary to either help another officer or address the
3 situation that may need addressing, correct?

4 A. That is correct.

5 Q. Okay. And this situation it sounded urgent enough on the
6 radio that you felt it necessary with your experience as an
7 officer to speed to get there?

8 A. That is exactly right. Deputy Wade, Brandon Wade, had
9 taken me over to a side talk channel along with the duty
10 sergeant that night and described the situation and the issues
11 that were going on as a part of his traffic stop.

12 And based on my training and experience and the things he
13 was telling me it felt quite urgent to get there. Also it is
14 important to note that there is no other law enforcement
15 anywhere near McClellanville other than the two deputies on
16 shift. The nearest backup would be Mt. Pleasant or Georgetown
17 City which is 22 miles from McClellanville.

18 Q. And that is another county, right?

19 A. That is an entirely different county, yes, sir.

20 Q. Okay. Do you recall what you were doing when you got the
21 call? I'm just curious.

22 A. Yes, sir.

23 Q. Were you eating, were you ---

24 A. No, actually I had just gotten fuel at the fuel pumps
25 which was just right behind the Dollar General. And as I left

1 I was planning on meeting him to do traffic enforcement in
2 McClellanville but I noticed some individuals milling around
3 the Dollar General and it was closing. So I felt it was
4 important to swing by and check on the clerks and make sure
5 they were okay.

6 Q. Okay.

7 A. So I had stopped in and was busy with them when he made
8 the call for assistance.

9 Q. Okay.

10 MR. ZEIGLER: So I have got nothing further, Your Honor.

11 THE COURT: All righty. Anything?

12 MR. BOWDEN: None from us, Your Honor.

13 THE COURT: All right. Deputy Wade, thank you so very
14 much for being here. You are excused and free to go. I hope
15 you have a wonderful day.

16 THE WITNESS: Thank you, Your Honor.

17 THE COURT: Thank you, sir.

18 All right. Mr. Ziegler, call your next witness.

19 MR. ZEIGLER: The State calls Loretta Mitchum.

20 (WHEREUPON, the witness was duly sworn.)

21 THE CLERK: Please state your name and spell your last
22 name for the record, please.

23 THE WITNESS: Loretta Mitchum. M-I-T-C-H-U-M.

24 **DIRECT EXAMINATION BY MR. ZEIGLER OF LORETTA MITCHUM:**

25 Q. Good afternoon, Ms. Mitchum.

1 A. Hello.

2 Q. Good seeing you again in the same week. Where are you
3 currently employed?

4 A. Charleston County Sheriff's Office. And I work at the Al
5 Cannon Detention Center.

6 Q. Okay. So the Detention Center is run by the Sheriff's
7 Office?

8 A. Yes.

9 Q. Okay. How long have you been there?

10 A. Two years.

11 Q. Okay. And what units or jobs have you had while there?

12 A. I work in the security threat group, administrative
13 assistant.

14 Q. Okay. And what is the purpose of the security threat
15 group?

16 A. They monitor the gang high-profile cases, phones, videos,
17 visits.

18 Q. Okay. And what does your -- one of your main duties at
19 the Detention Center regarding subpoena compliance?

20 A. All the subpoenas, warrants, search warrants and things
21 like that come to me for records.

22 Q. Okay. Did you or someone with your office receive a
23 subpoena from our office requesting a copy of Bernard
24 Jackson's jail calls?

25 A. Yes.

1 Q. Okay. Let's explain how those work. Obviously they have
2 the ability to make calls. But do you keep a record of those?

3 A. Yes.

4 Q. Okay. And how are those records kept?

5 A. On a server.

6 Q. Okay. And are inmates given access to anything that
7 specifically they are supposed to use to get those ---

8 A. Yes, when they come in they are given a pin number. They
9 use that to make phone calls.

10 Q. Okay. And in all fairness that could be switched with
11 another inmate; obviously it is not encouraged, correct?

12 A. It is not encouraged. But, yes, they continue with that
13 pin number as they come and go. But that is their pin number.
14 It is assigned just to them.

15 Q. Forever?

16 A. Yes.

17 Q. Okay. And those calls are still stored?

18 A. Yes.

19 Q. Are they stored at or near the time that the call is
20 made?

21 A. At the time.

22 Q. Okay. And does the Detention Center maintain those call
23 in the normal and ordinary course of business?

24 A. Yes.

25 Q. And so when I sent you a request for this defendant's

1 jail calls how did you retrieve them and serve him?

2 A. By looking up his name, birth date, going to his inmate
3 number, and retrieving from the date that you requested any
4 calls and then recorded to a CD.

5 Q. Okay. And that is one of your main duties, correct?

6 A. Yes.

7 Q. Okay.

8 MR. ZEIGLER: Your Honor, may I approach the witness?

9 THE COURT: Absolutely.

10 Q. I am showing you State's 5. Could you please identify
11 that?

12 A. It is the phone calls for Jackson on 9/21/2015.

13 Q. Okay. And what's on those?

14 A. It is two phone calls that he made while in jail.

15 Q. How do you know that?

16 A. Because it is my writing and the information on the disk.

17 Q. Okay.

18 MR. ZEIGLER: Your Honor, at this time I would like to
19 offer State's 5 into evidence and publish it for the jury.

20 THE COURT: All right. Any objection?

21 MR. BOWDEN: No objection.

22 THE COURT: All right. Without objection.

23 (WHEREUPON, State's Exhibit number 5 was admitted into
24 evidence.)

25 (WHEREUPON, begin publication of first call on State's Exhibit

1 Number 5.)

2 (WHEREUPON, pause publication.)

3 (WHEREUPON, begin publication of second call on State's
4 Exhibit Number 5.)

5 MR. ZEIGLER: Nothing further, Judge.

6 THE COURT: All righty. Mr. Bowden.

7 MR. BOWDEN: I don't have any questions for this witness.
8 Thank you for being here.

9 THE COURT: All right. Thank you so very much. Thanks
10 for

11 being here. Good to see you again. Have a wonderful day.

12 All right. Call your next witness.

13 MR. ZEIGLER: The State rests, Your Honor.

14 THE COURT: All right. Ladies and gentlemen of the jury,
15 there is a matter of law that I need to take up with the
16 attorneys at this point in time. If you will just take a
17 quick five or ten-minute break we will get you right back here
18 in just a couple of minutes.

19 (WHEREUPON, jury exits 8/15/19, 2:12 p.m.)

20 THE COURT: All righty. Yes, sir, be happy to hear from
21 you.

22 MR. BOWDEN: Thank you, Your Honor. I would make a motion
23 for a directed verdict on all charges. But on the child
24 endangerment charge in particular there is no evidence
25 presented about -- about how Mr. Jackson may -- or how King

1 may have known and about the ages of the children. No
2 evidence about his relations to them.

3 He is in fact their stepfather and there has been no --
4 that he even celebrated birthdays with them. So at this point
5 I don't think the State has presented any evidence on that
6 charge and I would ask for a directed verdict on the other
7 charges as well.

8 THE COURT: All righty. By the defendant's own admission
9 that -- indicating that the children were I think they said 11
10 and 16 but later someone testified they thought he said 12 and
11 16. Regardless, I am going to deny your motion. And I
12 believe that there is enough evidence material fact to go to
13 the jury. And so I will allow it, so.

14 Yes, sir?

15 MR. BOWDEN: And I would ask the resisting arrest as
16 well. The testimony from the -- from Deputy Trey Wade was
17 that it is Deputy Brandon Wade's call to make. And Deputy
18 Brandon Wade said if you get out of this car right now you are
19 getting a traffic ticket.

20 Never -- never gave him the clear command that he was
21 under arrest. In fact he stuck on that and he said either you
22 are under arrest or you are not. In this case it was clear
23 that he was not under arrest, so you can't resist an arrest
24 that didn't happen.

25 THE COURT: All right. For purpose of a directed verdict

1 motion it is not the weight but the - I am blanking on the
2 word - whether there is evidence there or not but not the
3 weight. The jury can certainly consider that as well. And I
4 will allow you to make that argument at closing arguments.

5 Anything else?

6 MR. BOWDEN: Nothing else, Your Honor.

7 THE COURT: All righty.

8 Do you plan on putting up a defense?

9 MR. BOWDEN: If so it would just be King's testimony.
10 And if it is okay with the court we would like a few minutes
11 just to discuss that with him.

12 THE COURT: All right. King, at this time I am going to
13 explain to you certain of your rights. If you do not
14 understand anything I say please let me know. If you want me
15 to explain anything in more detail please let me know. Do you
16 understand that?

17 THE DEFENDANT: I don't want to disrespect the court or
18 you, but my comprehension of the language that you are using
19 is unclear. When you say understand are you meaning do I
20 stand under your authority?

21 Because up to this point I object and I feel that I am
22 under duress and I don't feel that I stand under your
23 authority. So are you asking me if I stand under your
24 authority or are you asking me if I comprehend what you were
25 saying?

1 THE COURT: Do you comprehend what I have been saying?

2 THE DEFENDANT: I comprehend what you have been saying.

3 THE COURT: Thank you very much.

4 We have now reached the stage of the trial where you may
5 present your defense. You have the right to claim the
6 protections given to you by the Fifth Amendment to the
7 Constitution of the United States.

8 This amendment states in part, no person shall be
9 compelled in any criminal case to be a witness against
10 himself. This means that you cannot be required to testify in
11 this case. You can have the right to testify on your own
12 behalf; however, no one can make you testify. This is a
13 personal right and no one can waive this right except for you.

14 If you decide to testify you will be subject to the same
15 rules that govern other witnesses and you may be examined and
16 cross-examined on any relevant issue in this case.

17 In addition, if you have any convictions involving
18 dishonesty or false statement or for crimes punishable by
19 imprisonment for more than one year and this court determines
20 that the probative value of admitting this evidence outweighs
21 its prejudicial effect to you the solicitor will be able to
22 introduce your record to attack your credibility.

23 If you decide to testify this decision on your part must
24 be freely, voluntarily, and intelligently made with knowledge
25 of the protections given to you by the Fifth Amendment and the

1 consequences of your decision to testify.

2 If you decide not to testify I will instruct the jurors
3 that they cannot give the fact that you did not testify any
4 consideration whatsoever and that there is to be absolutely no
5 prejudice to you because you did not testify.

6 It is left entirely up to you whether or not to testify.
7 You may talk with your attorney, your family and friends, or
8 anyone else. But the final decision will be left ultimately
9 up to you.

10 All right. Take five minutes to discuss it and just let
11 me know what your decision is.

12 MR. BOWDEN: Thank you, Your Honor.

13 THE COURT: All right. We will be in recess.

14 (WHEREUPON, break 8/15/19, 2:16 p.m.)

15 (WHEREUPON, resume 8/15/19, 2:34 p.m.)

16 THE COURT: All right. Have you made the determination
17 of whether you are going to put up a defense or not?

18 MR. BOWDEN: He has, Your Honor.

19 THE COURT: All right. And your decision is?

20 MR. BOWDEN: I believe that he is not going to testify.
21 I'm sorry, Your Honor, he is going to testify.

22 THE COURT: He is? All right. All right. For the
23 record, I changed the jury charge to child endangerment to --
24 I essentially just quoted the statute. A person 18 years of
25 age or older is guilty of child endangerment when the person

1 violates Section 56-5-750, which is failure to stop for a blue
2 light and the person has one or more passengers younger than
3 16 years of age in the motor vehicle when the violation
4 occurs.

5 So that is the child endangerment charge. Because we had
6 the wrong one in there.

7 All right. Anything before we call -- get the jury out?

8 MR. ZEIGLER: Not from the State, Judge.

9 THE COURT: All right. From the defense?

10 MR. BOWDEN: I would just -- sort of I guess a motion in
11 limine to exclude any cross-examination of his beliefs. The
12 beliefs themselves are not relevant. The video, as they have
13 said throughout this trial, speaks for itself. His -- the
14 beliefs to the extent that they need to be, are out there.

15 THE COURT: Okay. I am tending to agree with him. What
16 is your argument?

17 MR. ZEIGLER: Our position would be that if he testifies
18 as to his belief ---

19 THE COURT: If he opens the door ---

20 MR. ZEIGLER: --- I should be able to ask him that.

21 THE COURT: All day long. He opens it up, you can walk
22 right through it; all right. Do you understand that, Mr.
23 Bowden?

24 MR. BOWDEN: Yes, Your Honor.

25 THE COURT: He opens the door ---

1 MR. BOWDEN: Certainly.

2 THE COURT: --- I am letting him through it.

3 All right. Will you get the jury for me, please.

4 (WHEREUPON, jury enters 8/15/19, 2:37 p.m.)

5 THE BAILIFF: Your Honor, the jury is complete.

6 THE COURT: All right. Thank you so very much.

7 Mr. Bowden.

8 MR. BOWDEN: The State calls Bernard -- or calls King.

9 THE COURT: All righty. Come on up, please.

10 (WHEREUPON, the witness affirmed.)

11 THE CLERK: Please state your name and spell your last
12 name for the record, please.

13 THE DEFENDANT: I am called by King. And that is all I
14 choose to be recognized as. That is all I answer to.

15 THE COURT: All right. Mr. Bowden.

16 **DIRECT EXAMINATION BY MR. BOWDEN OF BERNARD JACKSON, a/k/a**
17 **"KING":**

18 Q. King, how are you doing this afternoon?

19 A. I am doing well.

20 Q. And King is what you initially introduced yourself to me
21 as; is that correct?

22 A. Yes, I have never allowed you to call me anything
23 different.

24 Q. And why don't you just tell the jury what happened in
25 your own words.

1 A. I want to -- I was advised to not get on the stand and
2 testify because it would open the door to clouding your minds
3 as far as the argument that I think my attorney has made which
4 I think he has done a great job, but we are all human. I have
5 a lot of criticisms of the job that he has done even though I
6 think that he has done a great job.

7 But there were some things that weren't said that he
8 couldn't possibly tell you because he hasn't had enough time
9 to gather my opinions. He hasn't had the full extent of my
10 reasoning.

11 And, frankly, like I have yelled at him a lot. And we
12 disagreed on the things that I asked him to argue for me.
13 And -- I mean this has been a small amount of time that we
14 have been together, and he hasn't spoken to you about all of
15 it.

16 And so I decided to get on the stand because despite the
17 warnings -- and I got outvoted by my family as well, but at
18 the end of the day I have to go with my gut. And I wanted to
19 tell the truth so that you can understand me.

20 At the end of the day I believe in this country's justice
21 system as far as the checks and balances that are there. I
22 believe in the Constitution of South Carolina. I believe in
23 the Constitution of the United States. I believe in the oath
24 that the judges take which says that they will preserve,
25 protect, and defend the Constitution of this state and the

1 State of South Carolina.

2 I believe in the fact that in the preamble of the
3 Constitution of South Carolina it says that the people of
4 South Carolina created this Constitution to ordain -- they
5 ordained and established - I'm sorry - this Constitution to
6 preserve for the preservation -- for -- the preservation and
7 the perpetuation of the liberties that were given to them by
8 God.

9 And so that is important to me. And that is what this
10 country is founded on. And that is what people have died and
11 fought for. And that is why I did some of the things, in a
12 nutshell.

13 But I am sure of my intelligence, and I am sure that I
14 have a sound mind. I went to the College of Charleston. I
15 went to Florida State University. I have a degree from
16 Tallahassee Community College. I have two degrees from the
17 College of Charleston.

18 And so if I can't rely on that education to be able to
19 sit up here in front of you and tell the truth and explain to
20 you why I did what was made to look like an erratic behavior -
21 which it was not; it was not founded on anything erratic. It
22 was founded on a sound belief and principles in believing that
23 truth and love has more power than hate and lies.

24 And so I am not -- my mother is a Sheriff's officer. She
25 is still working for Palm Beach County Sheriff's Department in

1 South Florida. She is a lieutenant at that particular jail.

2 I would have been very embarrassed if -- you know,
3 regardless of the circumstances if I had been arrested and
4 went into the jail. She is a no-nonsense type of a woman.
5 And, you know, people, even friends of mine, that have been
6 arrested and been in jail they will say you don't want to play
7 with Ms. Bell.

8 You know, she believes in the rules; and she is by the
9 book. And she taught me those same principles. And she is
10 the reason why I started studying the law. She gave me a
11 particular document to read. And she left it at that document
12 as far as her understanding. But I continued to study. And
13 this was almost four years ago.

14 And so never been arrested, only having traffic tickets,
15 no record, no violence, no anything on my record. Even to
16 this day there is nothing outside of those things.

17 I was shocked at what I found in regard to what the law
18 says and what we customarily do. So my mother always taught
19 me like -- and a lot of your mothers probably said the same
20 thing, when you know better you what? You do better.

21 And so it is like I couldn't unknow what I know now in
22 regard to the law. And I want to try to keep this short, so I
23 will just kind of read off of my notes.

24 Like talking about beliefs, one of the most important
25 things in regard to these beliefs that I believe in is God or

1 supreme being, as the Constitution of South Carolina calls
2 him. And I know the Judge and these officers also believe in
3 God or supreme being because Article 1 -- I mean, I'm sorry,
4 Article 4 of the South Carolina Constitution which they have
5 sworn an oath to defend says that in Section 2 no person who
6 denied the existence of a supreme being shall hold office
7 under this Constitution.

8 Now these are some of the same things that I began
9 studying and becoming more aware of. And like it has been a
10 journey for me the last four years. I mean and I was forced
11 to learn even more than I had even dreamed of. Because now I
12 am trying to defend myself with these things.

13 But before becoming an officer it required that they
14 swear the oath under the same section, to preserve, protect,
15 and defend the constitution of this state and of the United
16 States so help me God.

17 And so those things are important. As one of the people
18 I am grateful to God for my liberties. Which with these
19 liberties -- the Constitutions were created to protect these
20 liberties. To -- it said that -- the Constitution was
21 ordained and established to -- for the preservation and the
22 perpetuation of our liberties that were given to us by a God.

23 So when somebody gives you something you -- you want to
24 show your appreciation. You value it. You protect it. You
25 fight for it. And sometimes you might even do the most like

1 incredible or death-defying things or against-all-odd things
2 or unthinkable things to protect those things of which you
3 value very -- you know, near and dear that are yours like your
4 children or -- I mean your freedom; you know, that sort of
5 thing.

6 Or you may simply do, you know, just what is common, or
7 even uncommon things in my case. So that is what is great
8 about, you know, my God-given liberty and yours as well.

9 And the constitutions, you know, they affirm the
10 importance of these things. Because we have a right to
11 choose. You know, like the very first section of the South
12 Carolina, you know, I call it a policy for government
13 officials, but it is the Constitution. It is the same thing.
14 That document does not limit what the people can do; it limits
15 what their public servants, their public officials, can do to
16 the people.

17 When you have corrupt public officials then they can
18 start doing things to the people that end up being unfair. I
19 mean it is important that we as people study these things for
20 ourselves instead of relying on our attorneys.

21 Like my attorney he advised me not to get up here and
22 speak. But why did I go to school and get an education, why
23 did I do all of these different things and study in this
24 information if I can't even trust my own self as far as what I
25 read.

1 So what I am doing is standing on the truth. Political
2 power -- this is the beginning of Section 1. Article 1,
3 Declaration of Rights, Section 1, political power and people.
4 It doesn't say and judges. It doesn't say and attorneys. It
5 doesn't say and police officers. It says political -- this is
6 the South Carolina Constitution, the very first article, very
7 first section, very first article which is the Declaration of
8 Rights, and the very first section says political power is in
9 people. You (pointing), you (pointing), you (pointing), you
10 (pointing), you (pointing), you (pointing), all of you as
11 people. Not the position you hold. The positions don't give
12 you the power.

13 MR. ZEIGLER: Your Honor, relevance.

14 THE COURT: All right. Ask a question.

15 Q. Let's -- let's move ahead to the traffic stop. What was
16 going on that night?

17 THE DEFENDANT: Your Honor, may I ask a question?

18 THE COURT: You can't ask me a question.

19 THE DEFENDANT: Well ---

20 THE COURT: If you need to speak to your attorney you
21 need to speak to your attorney.

22 THE DEFENDANT: Can I speak to my attorney?

23 THE COURT: Yes.

24 (WHEREUPON, witness and Mr. Bowden have bench conference at
25 witness stand.)

1 MR. BOWDEN: Thank you, Your Honor.

2 THE COURT: All right.

3 Q. All right, King, I really only have one additional
4 question. Why did you leave Deputy Brandon Wade's traffic
5 stop?

6 A. I mean the basic question about it is that I feared for
7 my life. I feared for the safety of my children. That glass
8 was -- my daughters were right there next to the glass. The
9 dog was in the back seat, whatever. He was going to break
10 the glass. I feared for him shattering the glass and that
11 cutting -- so cutting the children. And I mean I didn't know
12 how the situation would end up.

13 Q. And so how did you decide to protect your life and the
14 lives of your family members?

15 A. To flee. I mean that's -- that was the best option to
16 me. I mean I did have another option, but it wasn't the type
17 of situation where I wanted to harm the officer. I just
18 wanted to protect myself.

19 I mean they testified where my gun was. It was under my
20 seat.

21 Q. And at what point during the traffic stop did you make
22 the decision to flee?

23 A. When he says okay -- because I thought that he was going
24 to eventually just give up his pressing his question and just
25 give me the tickets, you know, and then I could -- figured I

1 could fight that in court, you know, and put my arguments, you
2 know, on paper or fight it in a different way at that point in
3 time.

4 But when I saw him take out his baton -- took out his
5 baton and kind of -- you know, how people went like almost
6 like a baseball player and he was getting ready to bat. And
7 he does that.

8 So he was aiming. You know, getting ready to come back
9 and swing. And that is when I just reacted and drove off.

10 Q. And if -- if they had not brought out that baton how long
11 would you have sat at that traffic stop discussing probable
12 cause?

13 A. I mean I am not unreasonable. I had set -- at a certain
14 point I kind of -- I mean I am -- I am thorough. I talk a
15 lot. I ask a lot of questions. And I am pretty persistent.
16 I am kind a pain sometimes like because I just won't let
17 things go.

18 Like you and I have had our battles or whatever. I would
19 have eventually like after I seen that he was not going to
20 give in -- I mean I asked him to call his sergeant. But I
21 was under the impression that the guy that originally
22 responded wasn't his sergeant, so I felt like he was tricking
23 me. He said he was going to call his sergeant and then the
24 guy that came pretending to be a sergeant but he wasn't. And
25 so that alarmed me a little bit, and so that is why I kind of

1 thought -- I kind of continue to go back and forth.

2 But eventually I would have -- I mean I have got
3 children, you know, my wife. So eventually I would have just
4 conceded defeat in that regard. But I -- you know, when it
5 escalated to what is going to be violence, you know, I kind of
6 got a little scared.

7 Q. And you heard your jail call just a few minutes ago,
8 right?

9 A. Yeah.

10 Q. And you said that you were aware of what was going on in
11 the news. What was going on in the news?

12 A. You have a lot of black men getting shot. I mean a
13 number of -- like at that time I think it was upwards of 600
14 being killed by police shootings.

15 Q. Are there any examples that stand out in your mind?

16 A. Walter Scott ---

17 MR. ZEIGLER: Objection to this testimony, Your Honor. I
18 think at this point it is relevant.

19 MR. BOWDEN: He is testifying about a state of mind at
20 the time.

21 THE COURT: I think he can do it.

22 A. Yeah, I mean I am a pretty active person when it comes to
23 being up on social events and what is going on in the
24 government and news. I see it. I study it.

25 And so, you know, you had the Black Lives Matter

1 situation going on. There was a lot of, you know, protests
2 and the different things like that or whatever you had. The
3 whole St. Louis incident with Mike Brown. There's a lot of
4 things.

5 But like for it to hit so close at home in Charleston. I
6 mean at that point in time we had moved -- we moved back to
7 Conway to live in my wife's house because her grandmother was
8 sick and we went back there to help care for her.

9 But we lived in Charleston. My wife she met me in
10 Charleston. We got married in Charleston. We were going back
11 to visit friends in Charleston. We went back as much as we
12 can. So Charleston is home to me.

13 And so for that to hit home and be that type of situation
14 of course that is -- you know, that is on my mind. I am a
15 big, black man. Like I am skinny now. But I was 300 pounds
16 at once.

17 And so have I looked in the rearview mirror? Yes, almost
18 my whole life, you know, wondering if -- like, you know, you
19 have got to straighten up when you see a police officer and
20 that sort of thing. So of course that was on my mind.

21 I talked to my mom. She is not here. I called her and
22 told her, Mom, I am scared that -- that is after I pulled off.
23 They are behind me or whatever, I am scared for my life. I
24 called Julian, but he didn't answer his phone. The same
25 things.

1 So that is why I left. That's -- I mean that is what I
2 was doing, I was protecting my life.

3 Q. An in that jail -- or in the officer's body cam that we
4 saw it looked like you were making a call at that time. Was
5 that what you were doing?

6 A. Yes, I was -- was on the phone.

7 Q. Okay. And that was one of the calls you were just
8 describing?

9 A. That was my mom on the phone.

10 Q. King, I don't have any further questions. Thank you.

11 THE COURT: All right. Mr. Sowards.

12 MR. SOWARDS: Thank you, Your Honor. Just briefly.

13 THE COURT: All righty.

14 **CROSS-EXAMINATION BY MR. SOWARDS OF BERNARD JACKSON, a/k/a**
15 **"KING":**

16 Q. Mr. Jackson, you have had the opportunity to watch the
17 video now, right?

18 A. I am not aware that you are speaking to Mr. Jackson.
19 That hasn't been proven in this court of record, so you will
20 have to address me as King to let me know that you are
21 speaking of me.

22 Mr. Jackson is a complete separate entity. That can be
23 proved. So that I know that you mean me and not the defendant
24 you will have to refer to me as King otherwise I am not --
25 that is a jurisdictional question that diminishes my rights.

1 Q. Okay. But you have had the opportunity ---

2 A. Who ---

3 Q. --- to watch the video?

4 A. Who are you referring to?

5 Q. The physical form in front of me.

6 A. Which would be?

7 Q. Bernard Jackson.

8 A. Fifth Amendment.

9 Q. You had a driver's license at the time, correct?

10 A. That hasn't been proven in this court's records.

11 Q. Was it renewed in 2017 two years after this incident?

12 A. These questions diminish my right. They have ---

13 MR. BOWDEN: Objection, Your Honor. It is irrelevant.

14 THE COURT: What is the relevancy of having a driver's
15 license?

16 MR. SOWARDS: I think it is relevant to he would not
17 provide his identification. It was contained within his
18 vehicle at the time. And he is now claiming he doesn't know
19 who Bernard Jackson is.

20 THE COURT: All right. I will overrule your objection.

21 Q. You stated at the time that you were in fear for your
22 life and that is why you drove off, right?

23 A. Yes.

24 Q. And we have now watched the video and we have seen that
25 you were on the side of the road for 20 minutes before you

1 drove off, right?

2 A. Yes.

3 Q. And the first thing that Deputy Wade did, Brandon Wade,
4 when he approached your vehicle was he said his name, who he
5 works for; and do you recall what he said next?

6 A. No, I don't. Can you refresh me?

7 Q. He asked you what your name was.

8 A. Okay, what is your question in regard to that?

9 Q. That is what he asked, right?

10 A. I mean somewhere in there he did. Just so that you don't
11 think I am trying to be difficult just for the sake of it,
12 like I want to answer these questions as honestly as I can so
13 if we can be specific about what he asked. I am not 100
14 percent sure the succession as far as him asking me the
15 question, but he did ask me somewhere in there what my name
16 was.

17 Q. It was the first question out of his mouth.

18 A. Okay.

19 Q. Do you have your license, do you have you registration,
20 do you have your insurance. Did you provide any of that to
21 him?

22 A. No.

23 Q. Did you tell him in that moment I am not going to speak
24 with you because I am a black man and you are a white police
25 officer?

1 A. No.

2 Q. You weren't scared, were you?

3 A. Not at that particular time. I felt I could reason with
4 him.

5 Q. Well, wouldn't the reasonable thing to do wouldn't that
6 have been just to show him your driver's license?

7 A. That could be debated.

8 Q. Okay.

9 A. That is your opinion.

10 Q. Which side of that do you fall on?

11 A. I fall on the side that says that someone who doesn't
12 have the authority in my belief to telling me to do something
13 doesn't have the right to tell me to do something I don't have
14 to do it.

15 So I didn't -- I didn't -- I gave him an option. I
16 didn't say that I am completely unwilling to comply with you.
17 I said that I will do this if you will do this. He wasn't
18 complying with me at all, so why should I be required to
19 comply with him when I am actually stating my reason in law as
20 to why?

21 Q. Now in that stop you -- when he said you are driving on a
22 public highway, you are speeding, you responded that you
23 weren't driving, that you were what?

24 A. That I was traveling.

25 Q. And could you tell us what that means?

1 A. Well, you know, just tried -- I was trying to explain
2 earlier, which I wasn't allowed to let finish that, when you
3 know better you do better. Up until that particular point or
4 about a year or so before that, you know, we have all been
5 taught that you get 16 or 15 you apply for a permit to drive
6 and then you when you turn 16 or sometime after that you get
7 your driver's license.

8 And so when I started studying the law I learned that
9 there was a difference in the Supreme Court of this state
10 which you have taken an oath to defend and -- not the Supreme
11 Court of this state. I am sorry, the Supreme Court of the
12 United States which you have taken an oath to defend as well
13 has upheld over 50 cases where the people have a right to
14 travel on the freeways and the state cannot attach a license
15 or a tax to it and call it a crime.

16 And so the state honestly has reason to uphold its
17 legislation, but the supreme law of the land actually
18 overrules the state; and so that is why when people appeal
19 these type cases at the Supreme Court level they get
20 overturned. When obviously the state has -- it generates
21 revenue for upholding the state's right to tell the people
22 when they are traveling on the freeways that they are driving
23 and charge them for it.

24 So I was traveling, and I have a right to do that. And
25 the Constitution says that at any -- South Carolina that the

1 power is in the people and the people have a right to modify
2 their form of government at any time, and so governing a
3 person on the street -- on the streets for driving is what the
4 state is doing; and I chose to do the uncommon thing which was
5 to modify that form of government and say that okay I am no
6 longer going to drive, I am going to travel, which is a free
7 thing and which the state cannot infringe upon. So and the
8 Supreme Court of the United States upholds that right.

9 Q. So I just want to make sure that I understand correctly.
10 That if I drive home I am required to follow the speed limit.
11 I am required to stop when the light is red, slow down when it
12 is yellow, free to go when it is green, but if I am traveling
13 home I don't have to do any of that?

14 A. Well, you are marginalizing the difference between the
15 two as if it is just a difference of the use of a word. There
16 is a legal difference in the use of the word, but when you
17 drive then you are in -- you are committing a commercial act.
18 And when you are engaged in commerce the state has a right to
19 tax you.

20 But when you are just traveling you are just exercising
21 your free right to move about and it doesn't matter what type
22 of conveyance you use to do so.

23 So driving being a commercial acts means that you are
24 charging passengers. So taxi drivers are drivers. But like
25 delivery truck drivers, they are drivers. You name it.

1 Someone who is using the freeways to make money or earn
2 revenue for their companies or for themselves then they are
3 considered drivers and they have to have a commercial driver's
4 license.

5 But the driver's license that we are told to get is still
6 a commercial license, and the state unfortunately uses our
7 ignorance of the law against us in that regard.

8 Q. So really the reason why you didn't provide your name
9 Bernard Jackson to the deputy is because you believe that you
10 are not required to provide any information at all to a law
11 enforcement officer when you are traveling on a roadway?

12 A. No. The reason that I didn't provide it to him is
13 because I know that the Supreme Court and the supreme law of
14 this land has -- which it doesn't give us a right. All it
15 does is protects the rights that we already have. It has
16 protected, and it has verified. It has backed me in my
17 knowledge that I didn't have to.

18 It is not about a belief. Belief requires some other
19 form of proof or some type of something to back up what you
20 think of. But you can pull it up. Even though I know you
21 won't do it or, you know, it won't be allowed.

22 But when these people go home, regardless of what they
23 choose to vote on in regard to my innocence or guilt right now
24 they will be able to look up the right to travel and they will
25 be like that man is right. And I will sit back in my cell or

1 I might be home chilling, and I will be like I know I was.

2 And that is not arrogance. That is just confidence. And
3 that is just me being willing to stand on the truth for what I
4 know.

5 Q. I notice something on the window of the car that you were
6 traveling in. And it said -- I think it said -- and you can
7 correct me if I am wrong. But I think it said I lost over 100
8 pounds the healthy way, ask me how; and then it provided a
9 phone number; right?

10 A. Sure.

11 Q. And was that just a solicitation where people would call
12 you and you would just out of the goodness of your heart tell
13 them how to do that, or ---

14 MR. BOWDEN: Objection. Relevance.

15 Q. --- was that a business?

16 THE DEFENDANT: I want to answer that question.

17 THE COURT: Go ahead.

18 A. My wife and I have a nonprofit website. You can still
19 look it up on Facebook called your daily dread. And it gives
20 health information for free to anybody that wants to cure
21 diseases, illness, or lose weight the natural way. So that is
22 what that was about.

23 And there is somebody I understand in the court right now
24 who we have helped in this regard. His mother was 90 years
25 old and she, you know, had some diminished capacity because

1 of, you know, using medicines and different things over the
2 years. Where so we actually put together a plan and actually
3 we were going to his house to -- it was going to be our first
4 time coming there and cooking for him for no charge.

5 Q. So if I embrace your belief of traveling versus driving I
6 will never get a speeding ticket, and if I call that number I
7 will never get sick; do I have it right?

8 MR. BOWDEN: Objection. He is badgering.

9 THE COURT: Do you want to answer that question?

10 A. Yeah, I will answer the question. Because -- just
11 because I embrace what I know to be the truth -- am I not in
12 cuffs right now? So you have got to be willing to stand on
13 what you believe regardless of what, you know, the
14 circumstances end up.

15 That does mean that -- I have also given this information
16 of in regard to the health for free to some people who weren't
17 willing to stop eating certain things.

18 So, no, just because you embrace it that doesn't mean
19 that you are not going to get arrested and that you are not
20 going to spend four years of your life fighting to get free,
21 you know. Four years behind this? It is really worth not you
22 looking up what I am telling you to verify whether or not what
23 I am saying is true? No, you refuse to look. Because when
24 you know better you are expected to do better. And you don't
25 want to do better, you want to keep doing what you are doing.

1 So it doesn't mean that you are going to not get a ticket
2 or lose weight or not get sick.

3 Q. Well, I will take that into consideration. You refused
4 to respond to me when I refer to you -- refer to you as
5 Bernard Jackson, right?

6 A. Correct.

7 Q. But when you called the bondsman you told her your name
8 was Bernard Jackson, right?

9 A. Correct.

10 Q. And you avail yourself of public streets and highways,
11 right?

12 A. Can you ask the question in a different way?

13 Q. You travel on roads, highways, bridges, etc.; right?

14 A. Yes. Freeways is what they are called.

15 Q. You use it to benefit yourself?

16 A. Say that -- I'd say that in a different way.

17 Q. You use it to benefit yourself, right; when you need it
18 you use it?

19 A. Yes.

20 Q. And when the road -- when the street sign said the speed
21 limit was 50 you disregarded that and you drove faster --
22 traveled faster?

23 A. Was that a question or is that just a rhetorical
24 statement?

25 Q. It is a question. I mean you -- you drove faster than

1 the speed limit, right?

2 A. Travel, there is no -- when I am telling you I have a
3 right to move about freely as I choose then that means that
4 the government cannot infringe upon that right.

5 So when I didn't know any better or when I chose to allow
6 the government to govern me on the highways I did as such. I
7 paid the tickets, the fines. I obeyed the rules.

8 But in regard to me traveling it has nothing to do with
9 the government. This is my free will. This is my free will.
10 And, like I said, the people, you, whoever else wants to know,
11 will be able to look up what I am saying and verify what I am
12 saying is true as far as what the government upholds.

13 So you can continue to try to twist this some kind of way
14 instead of just say, hey, we have got an internet here, do
15 y'all mind if we pull up and see if what he is saying is true.
16 You are not going to do that, because you are going to find
17 that I am right.

18 Why won't you do that? Will you do that?

19 Q. It is my job to ask the questions and your job to answer
20 them.

21 A. Right.

22 Q. I will just give you some easy questions. Did you see
23 the blue lights?

24 A. Yes.

25 Q. Did you hear the sirens?

CROSS-EXAMINATION BY MR. BOWDEN OF BERNARD JACKSON,
a/k/a "KING"

1 A. Yes.

2 Q. Did you stop the car?

3 A. Yes.

4 Q. Did you notice the Charleston County deputy at your
5 window speaking?

6 A. Yes.

7 Q. Did you instead of giving him the information that he
8 requested did you drive away?

9 A. No.

10 Q. Did you travel away?

11 A. No, that is not what I did instead.

12 Q. Did the car move in a direction away from where the
13 deputy was standing?

14 A. You are disregarding so much information in between.
15 That is not what I did instead of his question. I didn't do
16 that instead of his question. I did that as a response to his
17 action.

18 And in regard to his question I asked him a question. I
19 asked him to verify to me in the law. I asked for him to show
20 me where I was bound by his authority. Because what I say and
21 what I read and learned over the last four years has verified
22 what I am saying, that I have a right to do what I did.

23 And you are trying to make me a driver. Let's say that I
24 am a driver and I am required to show my license on the
25 street. Fine. All right. You are an officer of the law, so

1 you say; show me your license. I don't have to just assume.
2 There's people who have dressed up and pretended to be
3 officers of the law or whatever.

4 So I am not saying that he did that, but I am just trying
5 to make the point to you that if we are going to be equal
6 under the law if you are requiring me to identify myself
7 specifically by law -- he pulled the tag. He did all this
8 stuff or whatever. And if he knew that he had jurisdiction
9 and authority over me then why didn't he just go ahead and
10 give me the ticket? Why escalate it? Why like, you know,
11 show that his machismo was bigger than mine.

12 Like he didn't have to do that. He could have just gave
13 me that ticket and the extra ticket. He knew that there was a
14 driver's license existing with that name.

15 So why escalate it to the point when you know the turmoil
16 or the climate of society and especially in Charleston is what
17 it is why not be the bigger person and just say, all right,
18 Mr. Jackson, I want to give you this ticket, I am going to
19 give you the other ticket for resisting or whatever. So like
20 next time like -- like why do you take that long? My children
21 are crying in the back. My wife is over there. To add insult
22 to injury they drag my wife out of the car and charged her.
23 And she spent two days in suicide watch -- add insult to
24 injury because we are made to look like people who we are not.

25 She is a school teacher. She has probably taught your

1 child. She -- this -- I mean that -- watching that video,
2 that is what made me tear up and cry. Like my children and my
3 wife was put through this because he wanted to prove something
4 to me. He could have just gave me a ticket. I paid them in
5 the past. Like

6 Q. You would agree that he stood at your window for 20
7 minutes in the rain with trucks whizzing past ---

8 THE DEFENDANT: What is the relevance of this, Your
9 Honor?

10 Q. --- asking you to identify yourself, right?

11 MR. BOWDEN: Objection. This has been asked and answered
12 in various forms.

13 THE COURT: Let's -- let's move along. I will sustain
14 the objection as asked and answered.

15 Q. You would agree that he told you don't turn this into an
16 arrest, it is just a citation; you watched the video; you
17 would agree with that, right?

18 A. I don't remember what you are talking about, to be
19 honest. I watched the video. But I mean to be more specific
20 about like what you are asking me.

21 Q. I just have one more question. You didn't stop your car,
22 right?

23 A. I did stop my car.

24 Q. You stopped your car when they had put stop strips --
25 stop sticks in the roadway and you could not travel any

1 farther, right?

2 A. Why are you disregarding the immediate, immediate stop,
3 knowing that I had a right to travel? Maybe the officer had
4 an emergency. I stopped for him immediately.

5 I spoke with him with kind words. I tried to reason with
6 him like in the best way I could initially. But wouldn't you
7 get annoyed after someone refuses to listen to you for 20, 30
8 minutes or whatever over the same thing.

9 He ran the license plate. He called me by the name. You
10 know, well, if you already know and you have already
11 identified me why don't you just write the ticket and stop
12 trying to be, you know, like -- you know, why did he do that?
13 Like he had -- he could have just ended that whole thing.
14 He -- like he -- he escalated that. He escalated that.

15 Okay, let's say that this court and the Supreme Court of
16 this land finds that I was wrong. I am willing to be held
17 responsible for my wrongdoing.

18 But like what about the officer's policies? What about
19 like his -- he has to be the bigger person. They -- like he
20 has a greater responsibility to not -- he put himself in
21 danger at the same time. What if I wasn't someone of sound
22 mind and who didn't -- who didn't believe in not harming him,
23 you know. My gun was under my seat. You know, what -- there
24 are people out there who were looking to do that to officers.
25 I am not one of them.

1 So it is like he could have just gave me the ticket. For
2 him to escalate it, now I have got the child endangerment, now
3 I have got these other charges.

4 And I had a right to have my firearm. The Constitution
5 of South Carolina says that that right can't be infringed
6 either. It is no different than the right to drive.

7 So you are trying to win a case, but you -- right now you
8 are not advocating for truth and justice, you are just trying
9 to win a case and you are not having any compassion about the
10 fact that this is a man's life. This is a man that had his
11 young children he was raising. This is a man that has a wife
12 and a family that he hasn't been able to take care of in a
13 consistent way for the last four years. My wife wasn't
14 working. She had to go back to work.

15 I understand that I made decisions. I made decisions
16 based on the law. I read it. I leaned on my education. And
17 I want to stand on that. And I may have to answer to some
18 prison time or whatever if the jury finds me guilty. But I
19 believe in the system and the process of review in regard to
20 judicial review which I will get, and I will be upheld in what
21 I am saying right now because so many other people have. And
22 it's only like 40 or 50 cases. So that is what I was talking
23 about the uncommon thing.

24 Not many people are willing to travel down that road less
25 traveled. But when they do they are rewarded, and I will be

1 one of those people. So I mean that is all I have got to say.

2 I mean have you got anymore questions?

3 Q. No, that is it.

4 THE COURT: All right. Thank you so very much.

5 Mr. Bowden, do you have anything briefly?

6 MR. BOWDEN: I do not, Your Honor.

7 THE COURT: All right. You are free to step down.

8 All right. Mr. Bowden, call your next witness.

9 MR. BOWDEN: The defense rests, Your Honor.

10 THE COURT: All right. Ladies and gentlemen, that will
11 conclude the trial of this case. At this point in time does
12 anyone need a break -- we are going to go straight into the
13 opportunity that the parties have to give closing arguments.
14 Do y'all need a quick break before we go into that?

15 All right. Mr. Bowden, are you prepared to go?

16 MR. BOWDEN: Yes, Your Honor.

17 THE COURT: All right. Mr. Zeigler?

18 MR. ZEIGLER: Yes, Your Honor.

19 THE COURT: All right.

20 (WHEREUPON, bench conference 8/15/19, 3:18 p.m.)

21 (WHEREUPON, end of bench conference.)

22 MR. ZEIGLER: May it please the court.

23 THE COURT: Yes, sir.

24 **CLOSING BY MR. ZEIGLER:**

25 Ladies and gentlemen, thank you for being here. Again, I

CLOSING BY MR. ZEIGLER

1 told you in the morning we would hopefully get out of here
2 this afternoon, and hopefully we still will. I just want to
3 say first things first, in this day in age with police in the
4 spotlight at all times officers have to go by the book with
5 everything. And in this case they did.

6 You saw in that video them standing out in the pouring
7 rain for over 20 minutes asking him just to provide his name,
8 Bernard Jackson, or a driver's license or anything.

9 They couldn't see in the backseat. The windows were
10 tinted. Writing all over the back. They have no idea what is
11 in the backseat of that car. But for over 20 minutes they do
12 exactly what they are told and go about their business as
13 officers of the law and treating him with respect.

14 Police are always in the spotlight. In this situation I
15 just covered these three things: But they stood in the rain
16 for over 20 minutes. They followed a safe distance for ten
17 miles going the speed limit that he was going before
18 performing a stop-stick traffic stop, which as you heard from
19 Brandon Wade is the safest possible way to go about stopping
20 the vehicle in that situation. They didn't run him off the
21 road. They didn't pull out their guns and start shooting the
22 tires out.

23 It is our opinion that they did an outstanding job. And
24 I wish they were here to hear this. We commend officers like
25 this. And this could have ended way worse.

CLOSING BY MR. ZEIGLER

1 The judge is going to instruct you on the law after we
2 both present our arguments. But I just want to touch on
3 reasonable doubt. It doesn't mean beyond all doubt. That is
4 almost an impossible burden. It just means that you are
5 firmly convinced. And you have to be firmly convinced of each
6 element of each of these four crimes to find him guilty.

7 This is the elements on failure to stop for a blue light:
8 Bernard Jackson drove a motor vehicle on a public road,
9 Highway 17. He was signaled to stop by law enforcement. And
10 he did at first. Twenty-five minutes later he proceeded down
11 the highway and he didn't stop for ten to twelve miles.

12 He says you cannot stop me from driving, sir. He doesn't
13 think the laws apply to him. In body cam he is seen in the
14 driver's seat speeding away. And you saw that. We know that
15 is a public road. And you heard from Brandon Wade about where
16 this happened.

17 So he was obviously signaled to stop, and he didn't. He
18 knew that he was being signaled to stop, because he stopped at
19 first. And he admitted on the stand that he saw the blue
20 lights. Therefore, I submit that you must find him guilty of
21 failure to stop for a blue light.

22 He resisted arrest because he knew when they told him
23 multiple times - both officers told him multiple times - that
24 he was under arrest.

25 I know at the end they may have said you are about to or

CLOSING BY MR. ZEIGLER

1 you were about to get a speeding ticket. But he turned it
2 into an arrest. And both officers told him that, clearly.

3 He knew they were law enforcement officers. They were
4 wearing their police gear. They identified themselves, and he
5 still resisted and drove away.

6 Unlawful carrying a pistol, I mean you heard him. He
7 said the gun was under the seat. That right there is
8 admission of guilt.

9 In South Carolina if you have a concealed weapons permit
10 I suppose you could conceal it somewhere in the car, but he
11 doesn't have one of those. And I don't have to prove that to
12 you. He carried it about the person, under the seat of his
13 car, a handgun with 31 rounds of ammunition. I think that is
14 enough to take down a lot of people.

15 The gun, I showed to all of you.

16 MR. ZEIGLER: Can I see it, please, Madam Court Reporter.
17 (WHEREUPON, exhibit provided to counsel.)

18 MR. ZEIGLER: I am not too familiar with firearms, but I
19 know this is a firearm. It looks pretty deadly to me. It is
20 pretty heavy. And 31 rounds.

21 It is dangerous. He is driving around with a gun in the
22 car and two kids in the backseat. The ages of the children
23 were told to you by the officers. One of them was 16. And I
24 think Brandon Wade said the other was 12. Trey Wade said she
25 was 11.

CLOSING BY MR. ZEIGLER

1 I submit to you it doesn't matter. Either way she is
2 under 16, and therefore he is guilty of this if you find him
3 guilty of the failure to stop for a blue light.

4 That is her (pointing). You saw her. You can use your
5 common sense. You tell me is she scared because of a traffic
6 stop or is she scared because this man took her on a wild
7 goose chase down Highway 17 for 12 minutes. Therefore she is
8 guilty of that.

9 The evidence in this case will show you -- well, you saw
10 no evidence in the body cameras of that night that he was
11 scared. He never says that. He doesn't tell the officer I am
12 concerned for the safety of me and my family. He doesn't tell
13 them that he has got children in the backseat. He doesn't
14 pull into the well-lit gas stations right there on his left or
15 right. Instead he drags on.

16 I get it. You know, three days later after being in
17 basically solitary confinement in the jail he says I was
18 scared because I am a black man. And I get it. Things have
19 happened, and we are all sympathetic towards that. But this
20 is not that case.

21 You know, if he had just complied he would have gotten a
22 ticket. And we all know that. According to him there is no
23 law against traveling. But I submit to you that is not the
24 case.

25 I covered these admissions. But, again, he admitted to

CLOSING BY MR. ZEIGLER

1 fleeing. On the stand he said that he drove away -- or
2 traveled away. He admitted that he drove off, and he admitted
3 the gun was under his seat.

4 So I am asking you to find him guilty of failure to stop
5 for a blue light, resisting arrest, unlawful carrying of a
6 pistol, and child endangerment.

7 Thanks.

8 THE COURT: Mr. Bowden.

9 **CLOSING BY MR. BOWDEN:**

10 Based on the news and a lot of what is going on, the
11 black man usually ends up choked or shot. That is what you
12 heard in the jail call. You heard it directly from his mouth.

13 That is what I prepared to tell you. And then he got up
14 there and testified and told you exactly why he left that
15 traffic stop. He left because those police officers broke out
16 a baton and tapped on his window. If that had never happened
17 he might have sat there all night arguing with them. I don't
18 know, and you don't know.

19 Because the police intervened in a way that was reckless
20 and unnecessary. And though the State had their opportunity
21 to take their best shot, call him a liar for why he was -- why
22 he left scene and they repeatedly insinuated that, well, if he
23 was there for 20 minutes of course he would have said he was
24 scared. That's not the way life works.

25 They insinuated that he maybe premeditated that this jail

1 call would come in at trial four years later? It is absurd.
2 He told you everything you need to know, that the shadow of
3 Walter Scott changed everything.

4 Four years later I am sure you can all remember that
5 footage. But here an African-American in Charleston County
6 that was a real reminder for you that there is no such thing
7 as a routine traffic stop. That is the context for King
8 leaving that traffic stop. Pitch black, rural McClellanville,
9 closed gas station providing the only light.

10 Deputy Wade acknowledged that his blue lights came on
11 after they passed this first set of gas stations. At about
12 ten o'clock on that night King was detained. No lights for
13 miles around except for the police car behind him.

14 If you are not terribly familiar with that area let me
15 remind you that Trey Wade said that he drove at speeds of up
16 to 130 miles per hour, at least over 120, for it could have
17 been eight minutes. He is not real sure. We are talking
18 remote.

19 And, nevertheless, King stopped. If he intended to evade
20 police would he have stopped? But, as you have heard, King
21 has a unique set of beliefs. As you heard directly from his
22 mouth, we have had battles over it. I will confirm that. You
23 might have seen me smiling when he testified about it.

24 He asserted those beliefs from the time that traffic stop
25 started until the time he left. Do you think anything would

1 have stopped him but that baton? I sure don't.

2 But no matter how much the government wants this trial to
3 be about King's beliefs, it's not. The question is why he
4 left that traffic stop.

5 You heard all you needed to hear. It doesn't matter what
6 he did or didn't say at the time; it matters what he knew in
7 his heart, what he felt in his head he needed to do to protect
8 himself and his family.

9 And the video and testimony were clear. He tried to
10 explain himself to police until the point that he no longer
11 felt safe being there.

12 And in the dead of night and in the middle of nowhere
13 Deputy Wade pulled out that baton. That was the fateful
14 decision. That was the unnecessary escalation. That is why
15 we are standing here today.

16 If Bernard Jackson -- I'm sorry, if King had intended to
17 evade police he never would have stopped in the first place.
18 He said that. But when he left that traffic stop would he
19 have gone 60 miles per hour or less? The speed limit is more
20 than that.

21 I mean of course to the government you don't even believe
22 in anything if you disobey the speed limit. He stayed under
23 it, and he kept going in a straight line uninterrupted towards
24 well-lit heavily populated Mt. Pleasant.

25 Now Deputy Wade testified that he had all the places in

1 the world to stop. Did you see any? I didn't. I saw a
2 little church. I don't know too many churches that are open
3 at 10:00 p.m. on whatever night that was.

4 Now each one of you have a choice to make. We picked
5 each of you and carefully considered because we believed that
6 you can handle the profound responsibility that you are about
7 to be given.

8 The judge is going to read you the law. And then you
9 have the serious responsibility of applying the facts to that
10 law. You may -- each of you has to reach an independent
11 decision. You may have to stand up to that decision in the
12 face of criticism. That is your responsibility. That is why
13 you took that oath.

14 Very simply, you were asked to determine why King left
15 that traffic stop, whether there were mitigating
16 circumstances. That is what the law allows and whether given
17 all the circumstances that we have discussed today he had a
18 really good reason for leaving. It is up to you determine
19 whether saving his own life and the lives of his family
20 members was a really good reason. Personally I can't think of
21 a better one.

22 And if you believe him -- and really there is no test- --
23 there is no evidence to suggest that he is lying to you. Then
24 you don't have any choice but to find him not guilty on the
25 failure to stop for a blue light and the child endangerment.

1 Those two go hand-in-hand.

2 Again, you have heard from Bernard Jackson multiple times
3 in multiple ways what was going through his mind. You don't
4 need me to tell it to you again.

5 But I do want to turn briefly to the resisting arrest
6 charge. And I do mean briefly. Because that one is common
7 sense. You don't need to go to law school. You really don't
8 need anything. You heard that testify -- you heard that
9 officer testify either you are under arrest or you are not.
10 In fact both of them.

11 You don't arrest somebody and then unarrest them. He
12 said you are about to get a green ticket. If you think I am
13 wrong about that, you will have the video at your disposal. I
14 encourage you to watch it. Because the last thing that
15 happened before King left, that officer said you are about to
16 get a green ticket but I am about to smash out your window.
17 And he left.

18 If there is a shred of doubt in your mind, a shred of
19 doubt about whether he was under arrest then there was nothing
20 to resist. He is not guilty. That one's easy.

21 In the shadow of Walter Scott, like I said at the
22 beginning of this trial, those officers have a responsibility
23 to do better. They didn't. And because they didn't you don't
24 have any choice but to find King not guilty.

25 Thank you.

1 MR. ZEIGLER: Briefly, Judge.

2 THE COURT: Yes, sir.

3 **REBUTTAL BY MR. ZEIGLER:**

4 Mr. Bowden, talks a lot about what -- about why. But he
5 doesn't talk about what happened. And if he does -- he
6 admits, Mr. Jackson sped away and failed to stop for blue
7 lights.

8 He -- he mentions not a shred of doubt. That is not what
9 the law says. The law says beyond a reasonable doubt, which
10 is firmly convinced that Mr. Jackson is guilty of each four of
11 those crimes.

12 He mentioned in particular the resisting arrest charge.
13 And we can watch that video as many times as you want; but
14 both officers told him, Bernard Jackson, that he was under
15 arrest. And, yes, I conceded in my closing as well that at
16 the end right before he drove off it is hard to tell what he
17 says, but I think he says you were about to get a green ticket
18 or I am going to smash your window in.

19 That doesn't matter because he was already told several
20 times by Officer Trey Wade that he was under arrest.

21 Thanks.

22 **CHARGE ON THE LAW:**

23 THE COURT: All right. Ladies and gentlemen, now is the
24 time for me to give you and charge you on the law of which you
25 are to apply to the facts of this case.

1 As I indicated before the trial began that I am the judge
2 of the law and you are the judge of the facts, and I will give
3 you that law for you to apply.

4 At the close of that, Madam Forelady, I will instruct you
5 on how to go through the verdict form and what your duties and
6 procedures will be and what y'all will be able to do in
7 deliberations. Okay.

8 Also, this is a lot of information, a lot of material.
9 It comes at you fast and it comes at you a lot. Don't worry
10 about that. I am going to give you this in the jury room. So
11 if there are any concerns or issues that you may have had as
12 to what the law is in this case you will be able to reference
13 this, okay. All right.

14 Ladies and gentlemen of the jury, the defendant has pled
15 not guilty to this -- to these indictments, and that plea puts
16 the burden on the State to prove the defendant guilty.

17 A person charged with committing a criminal offense in
18 South Carolina is never required to prove himself innocent. I
19 charge you that it is an important rule of the law that the
20 defendant in a criminal trial no matter what the seriousness
21 of the charges or charge may be will always be presumed to be
22 innocent of the crime for which the indictment was issued
23 unless guilt has been proven by evidence satisfying you of
24 that guilt beyond a reasonable doubt.

25 This presumption of innocence does not end when you begin

1 your deliberations but it accompanies the defendant throughout
2 the trial until you reach a verdict of guilt based on evidence
3 satisfying you of that guilt beyond a reasonable doubt.

4 The presumption of innocence is like a robe of
5 righteousness placed about the shoulders of the defendant
6 which remains with the defendant until it has been stripped
7 from the defendant by evidence satisfying you of the
8 defendant's guilt beyond a reasonable doubt.

9 The presumption of innocence is not mere legal theory.
10 It is not just a legal phrase. It is a substantial right to
11 which every defendant is entitled unless you the jury are
12 satisfied from the evidence of the defendant's guilt beyond a
13 reasonable doubt.

14 I remind you that during this trial you and I have
15 certain duties to perform. As the trial judge it is my
16 responsibility to preside over the trial of this case. And I
17 also have the duty to rule on the admissibility of the
18 evidence offered during this trial.

19 You are to consider only the competent evidence before
20 you. If there was any testimony ordered stricken from the
21 record in this case during this trial you must disregard that
22 testimony. You are to consider only the testimony which has
23 been presented from this witness stand, any exhibits which
24 have been made a part of the record in this case, and any
25 stipulations by counsel.

1 I have the additional duty to charge you the law
2 applicable to the case. As the presiding judge I am the sole
3 judge of the law of this case, and it is your duty as jurors
4 to accept and apply the law as I now state it to you.

5 If you already have any idea as to what the law is or
6 what the law ought to be and it does not agree with what I now
7 tell you the law is, you must abandon this idea because you
8 are sworn to accept the law and apply the law exactly as I
9 state it to you.

10 In every case tried in this court before a jury the jury
11 becomes the sole and exclusive judge of the facts in the case.
12 A trial judge cannot intimate, state, comment on, or make any
13 statement to a trial jury about the facts in a case.

14 Since you the jury are the sole judge of the facts in
15 this case you are not to infer from what I have said during
16 this progress of this trial in ruling upon admissibility of
17 evidence or otherwise or anything that I say down during the
18 course of this instruction to you that I have an opinion about
19 the facts in this case. The law does not allow me to have an
20 opinion about the facts in this case. This is a matter solely
21 for you, the jury, to determine. As jurors it is your duty to
22 determine the effect, value, weight, and truth of the evidence
23 presented during this trial.

24 There are two types of evidence which are generally
25 presented during a trial. There is direct evidence and

1 circumstantial evidence. Direct evidence is the testimony of
2 a person who claims to have actual knowledge of a fact such as
3 an eye witness. Circumstantial evidence is proof of a chain
4 of facts and circumstances indicating the existence of a fact.

5 The law makes absolutely no distinction between the weigh
6 or value to be given to either direct or circumstantial
7 evidence. Nor is a greater degree of certainty required of
8 circumstantial evidence than of direct evidence. You should
9 weight all of the evidence in this case. After weighing all
10 of the evidence if you are not convinced of the guilt of the
11 defendant beyond a reasonable doubt you must find the
12 defendant not guilty.

13 Crimes may be proven by circumstantial evidence. The law
14 makes no distinction again between the weight or value to be
15 given to either direct or circumstantial.

16 However, to the extent the State relies on any
17 circumstantial evidence all of the circumstances must be
18 consistent with each other and when taken together point
19 conclusively to the guilt of the accused beyond a reasonable
20 doubt. If these circumstances merely portray the defendant's
21 behavior as suspicious the proof has failed.

22 The State has the burden of proving the defendant guilty
23 beyond a reasonable doubt. This burden rests with the State
24 regardless of whether the State relies on direct evidence,
25 circumstantial evidence, or some combination of the two.

1 You ask yourself what is reasonable doubt. A reasonable
2 doubt is the kind of doubt that would cause a reasonable
3 person to hesitate to act. The State has the burden of
4 proving the defendant guilty beyond a reasonable doubt.

5 Some of you may have served as jurors in a civil case
6 where you were told that it is only necessary to prove that a
7 fact is more likely true than not true, such as by the greater
8 weight or preponderance of the evidence.

9 In criminal cases, however, the State's proof must be
10 more powerful than that. It must be beyond a reasonable
11 doubt. Proof beyond a reasonable doubt is proof that leaves
12 you firmly convinced of the defendant's guilt.

13 There are very few things in this world that we know with
14 absolute certainty, and in criminal cases the law does not
15 require proof that overcomes every possible doubt. If based
16 on your consideration of the evidence you are firmly convinced
17 that the defendant is guilty of the crime charged you must
18 find the defendant guilty. If on the other hand you think
19 there is a real possibility that the defendant is not guilty
20 you must give the defendant the benefit of the doubt and find
21 him not guilty.

22 Necessarily you must also determine the credibility of
23 witnesses who have testified in this case. Credibility simply
24 means believability. It becomes your duty as jurors to
25 analyze and to evaluate the evidence and to determine which

1 evidence convinces you of its truth.

2 In determining the believability of witnesses who have
3 testified in this case you may believe one witness over
4 several or several witnesses over one witness. You may
5 believe a part of the witness testimony and reject the
6 remaining part of the testimony of that same witness. You may
7 believe the testimony of a witness in its entirety or reject
8 the testimony of a witness in its entirety as well. You may
9 consider whether any witness has exhibited to you any
10 interest, bias, prejudice or other motive in this case. You
11 may also consider the appearance and manner of a witness while
12 on the witness stand.

13 The indictments in this case allege several different
14 offenses against the defendant. Each indictment charges a
15 separate and distinct offense. You must decide each
16 indictment separately on the evidence and the law applicable
17 to it uninfluenced by your decision as to any other
18 indictment.

19 The defendant may be convicted or acquitted on any or all
20 of the offenses charged. You will be asked to write a
21 separate verdict of guilt or not -- guilty or not guilty for
22 each of the indictments.

23 The defendant has been charged with resisting arrest.
24 The State must prove beyond a reasonable doubt that the
25 defendant resisted a lawful arrest being made by a person

1 the defendant knew or reasonably should have known was a
2 law-enforcement officer.

3 Resist means to oppose, strive against or obstruct.
4 Obstruct means to impede, hinder or interfere with. Even
5 peaceful, nonviolent, indirect obstruction of an arrest or the
6 service or execution of process is considered resisting
7 arrest. If the means used are sufficient to prevent the
8 officer from making an arrest the defendant is guilty of
9 resisting arrest.

10 The defendant is also charged with unlawful carrying of a
11 pistol. The State must prove beyond a reasonable doubt that
12 the defendant carried a pistol about his person whether
13 concealed or not.

14 A weapon is about the defendant's person if it is readily
15 accessible and convenient for immediate use. The pistol need
16 not be actually touching the person of the defendant.

17 The defendant is also charged with failing to stop for a
18 blue light. In order to prove this crime the State must prove
19 beyond a reasonable doubt that the defendant was driving a
20 motor vehicle, that the defendant was driving the motor
21 vehicle on a road, street or highway of this state, that the
22 defendant was signaled to stop by a law-enforcement vehicle by
23 means of a siren or flashing light, and that the defendant did
24 not stop.

25 In determining whether or not there are mitigating

1 circumstances which would justify the defendant's failure to
2 stop for the blue light you may consider actual road
3 conditions, actual roadside conditions, other conditions such
4 as lighting and weather; officer, driver and/or passenger
5 safety; and any other circumstances you believe to be
6 reasonably mitigate the alleged violation.

7 An official signal requiring a motorist to stop may be a
8 siren or flashing lights, but both are not required. An
9 attempt to increase the speed of a vehicle or in some other
10 manner avoid the pursuing law enforcement vehicle when
11 signaled by siren or flashing light may be considered as
12 evidence of failure to stop for a blue light; however, it is
13 merely an evidentiary fact to be taken into consideration by
14 yourselves along with all of the other evidence in this case
15 and to be given the weight that you decide it should receive.

16 Lastly, the defendant has been charged with child
17 endangerment. And a person 18 years of age or older is
18 guilty of child endangerment when the person violates Section
19 56-5-750, which is failure to stop for a blue light, and the
20 person has one or more passengers younger than the age of 16
21 and in the motor vehicle when the violation occurs.

22 Ladies and gentlemen of the jury, I want to remind you
23 that the indictment charges the defendant with resisting
24 arrest, failure to stop for a blue light, child endangerment,
25 and unlawful carrying of a pistol.

1 I remind you that the fact that the defendant was
2 arrested, charged and indicted in this case is not evidence
3 and cannot be considered by you as evidence of guilt in this
4 case nor does it create any presumption or inference of guilt.
5 This document is simply the formal written instrument which
6 contains the charges made against the defendant and is the
7 formal document by which this case is brought into this court.

8 Ladies and gentlemen of the jury, I am going to give you
9 a copy of these instructions in writing. During your
10 deliberations you may refer to the instructions to guide your
11 decision-making. You must consider the instructions as a
12 whole and not follow some and ignore others. Please return
13 the instructions to the court at the time your verdict is
14 rendered.

15 All right. Madam Forelady, this is the verdict form
16 here. All righty. It just simply says as to the charge of
17 failure to stop for a blue light we the jury unanimously find
18 the defendant not guilty or guilty. And it is the same for
19 all four charges.

20 As it indicates in there, your decision must be unanimous
21 as to all four counts. All right.

22 Madam Forelady, I also charge you with the duty of
23 allowing everyone to speak. Everyone is to have -- to be
24 heard and to participate in the deliberation.

25 So in doing so if someone needs to take a phone call or

1 somebody needs to exit the room if you could please just stop
2 the deliberations, as everyone needs to participate fully.

3 All right.

4 If you have a question you simply just you write it on a
5 note, hand it to the bailiffs who will be outside of the door.
6 They will bring it to me. I will address the question with
7 the attorneys. I will bring you back out, and I will answer
8 your questions.

9 At the point at which you have a verdict simply just fill
10 out the verdict form. Madam Forelady, you will sign it and
11 date it. You will give it to the bailiffs. They will
12 instruct us and we will bring you in for the verdict. All
13 right.

14 At this point in time I want you to retire to the jury
15 room please. Do not begin deliberations. We have got to get
16 all of the evidence together and make sure that there's no
17 objections.

18 And once we bring you back all of the evidence we will
19 inform you and instruct you to begin your deliberations. But
20 as I said previously, please don't begin until we bring you
21 all of the exhibits. All right.

22 Thank you so very much.

23 (WHEREUPON, jury exits 8/15/19, 3:48 p.m.)

24 THE COURT: Any objection from the State as to the
25 charges?

1 MR. ZEIGLER: No, sir.

2 THE COURT: Any objection from the defense as to the
3 charges?

4 MR. BOWDEN: No objection, Your Honor. At this time I
5 would like to renew all of my previous objections including
6 the directed verdict.

7 THE COURT: All right. Absolutely. Noted for the
8 record.

9 Will y'all please come up and check and make sure that
10 all of the exhibits are there before we send them back.

11 MR. ZEIGLER: Yes, Your Honor. I was going to point that
12 out, we can't send back Numbers 1 and 3 because that has the
13 admissions of the wife's -- as to the age of the children. So
14 if they want to play those I can do that in here.

15 THE COURT: Well, we should have told them that.

16 MR. ZEIGLER: Yeah, I didn't think about it until you
17 said send the evidence back there.

18 THE COURT REPORTER: Well, if it is not redacted and
19 then -- it is going to go with the Clerk's Office, so if it is
20 under appeal or anything they are going to see the whole thing
21 when it is under appeal and they are going to think they (the
22 jury) saw the whole thing. They won't see the redacted
23 version of it. So you really need a redacted version to be
24 admitting into evidence.

25 MR. BOWDEN: Well, I think the record most probably is

1 clear enough about what we actually ---

2 THE COURT REPORTER: That is up to y'all.

3 MR. BOWDEN: That is nothing -- that is no ---

4 THE COURT: Well, I guess we need to inform the jury that
5 if they want to -- what it is, number -- which numbers?

6 MR. ZEIGLER: Number 1.

7 THE COURT REPORTER: Well 1, we have 1B. So is 1B okay,
8 or there is more in it ---

9 MR. ZIEGLER: 1B. It is 1B.

10 THE COURT: It is okay?

11 MR. ZIEGLER: It just needs to be stopped right before
12 the end.

13 THE COURT REPORTER: Okay. So 1B has the child's age and
14 you would want them to play it in the courtroom, because it
15 has the age?

16 MR. ZIEGLER: Yes.

17 THE COURT REPORTER: So 1B. Okay.

18 MR. BOWDEN: Well, three was the only one that had it in
19 it actually.

20 MR. ZIEGLER: Three was the one that had -- yeah.

21 THE COURT REPORTER: So 1B is okay?

22 MR. BOWDEN: Yeah, 1B was good in its entirety. All that
23 ended up coming in.

24 MR. ZEIGLER: Okay.

25 THE COURT REPORTER: Okay.

1 MR. ZEIGLER: And then -- okay, so yeah, three is the
2 body-worn. And that is just there is that gap where ----

3 MR. BOWDEN: Is it 30 seconds?

4 MR. ZEIGLER: Yeah, it is like a 30-second gap where she
5 is coming towards -- the wife is coming towards the car and
6 she says the ages of the children. And that is what we wanted
7 to redact but couldn't get that done.

8 THE COURT: We just fast-forwarded it?

9 MR. ZEIGLER: Yes.

10 MR. BOWDEN: I mean how long would that take to ---

11 MR. ZEIGLER: Are you able to do that pretty quickly; do
12 you have to play the whole thing (speaking with audio tech)?

13 AUDIO TECH: No, I would have to do it from the time that
14 it begins to the time.

15 MR. ZEIGLER: Can we cut it -- can you just cut it
16 off ---

17 MR. BOWDEN: I mean I am comfortable with it going into
18 evidence as is just if -- as long as they -- if they have a
19 question they come in here to review it.

20 THE COURT: Then we have to keep it out and they are
21 going to know why we kept the DVD out.

22 MR. ZEIGLER: Should we bring them back in and just tell
23 them?

24 THE COURT: You are just going to have to tell them that
25 it would ---

1 THE COURT REPORTER: That we just have equipment out
2 here. You can tell them the equipment is out here instead of
3 back there. We have done that before.

4 THE COURT: Let's just do that. So just, Mr. Robinson
5 (bailiff), we are going to keep the CD's up here. And just
6 say if you need to see any of the DVD testimony just let me
7 know because we have the equipment in here to play it for
8 them.

9 MR. ROBINSON: Very good.

10 THE COURT: All right. Everything else ready to be sent
11 back?

12 (WHEREUPON, court reporter review exhibits with attorneys.)

13 (WHEREUPON, exhibits, verdict form, and jury charge sent to
14 the jury 8/15/19, 3:54 p.m.)

15 (WHEREUPON, alternates released by the court 8/15/19, 3:55
16 p.m.)

17 (WHEREUPON, resume trial, 8/15/19, 4:53 p.m.)

18 THE COURT: Get the jury for us, please.

19 (WHEREUPON, jury enters, 8/15/19, 4:53 p.m.)

20 THE COURT: All righty. Thank you so very much. Y'all
21 may be seated.

22 Madam Forelady, it is my understanding y'all have a
23 verdict.

24 MADAM FORELADY: Yes, sir.

25 THE COURT: If you will give it to the bailiff to pass

1 up, please.

2 (WHEREUPON, verdict forms provided to the Court.)

3 THE COURT: Thank you, sir.

4 THE BAILIFF: You are quite welcome.

5 THE COURT: All right. Madam Clerk.

6 (WHEREUPON, verdict forms presented to the Clerk.)

7 THE COURT: All right. If you will stand, please.

8 (WHEREUPON, defendant complied.)

9 THE CLERK: On Indictment Number 2016-GS-10-00196 as to
10 the charge of failure to stop for a blue light we the jury
11 unanimously find the defendant guilty.

12 As far as Indictment 2016-GS-10-00197 as to the charge of
13 child endangerment we the jury unanimously find the defendant
14 guilty.

15 And for GS Number 2018-GS-10-04844 as to the charge of
16 unlawful carrying of a pistol we the jury unanimously find the
17 defendant guilty.

18 THE COURT: There is one more in the back.

19 THE CLERK: Thank you, Your Honor.

20 And as to the charge of resisting arrest we the jury
21 unanimously find the defendant guilty.

22 THE COURT: All right. Do you want the jury polled?

23 MR. BOWDEN: Please.

24 THE COURT: All right.

25 THE CLERK: Jurors, whenever I call your number if

1 you will please stand and repeat after me. Is this your
2 verdict -- I will ask you the question is this your verdict
3 and it this still your verdict, and you either say yes or no.
4 Juror Number 148, is this your verdict?
5 THE JUROR: Yes.
6 THE CLERK: Is this still your verdict?
7 THE JUROR: Yes.
8 THE COURT: Thank you.
9 Juror Number 77, is this your verdict?
10 THE JUROR: Yes.
11 THE CLERK: Is this still your verdict?
12 THE JUROR: Yes.
13 THE COURT: Thank you.
14 Juror Number 47, is this your verdict?
15 THE JUROR: Yes.
16 THE CLERK: Is this still your verdict?
17 THE JUROR: Yes.
18 THE COURT: Thank you.
19 Juror Number 53, is this your verdict?
20 THE JUROR: Yes.
21 THE CLERK: Is this still your verdict?
22 THE JUROR: Yes.
23 THE COURT: Thank you.
24 Juror Number 3, is this your verdict?
25 THE JUROR: Yes.

1 THE CLERK: Is this still your verdict?
2 THE JUROR: Yes.
3 Juror Number 186, is this your verdict?
4 THE JUROR: Yes.
5 THE CLERK: Is this still your verdict?
6 THE JUROR: Yes.
7 Juror Number 262, is this your verdict?
8 THE JUROR: Yes.
9 THE CLERK: Is this still your verdict?
10 THE JUROR: Yes.
11 Juror Number 91, is this your verdict?
12 THE JUROR: Yes.
13 THE CLERK: Is this still your verdict?
14 THE JUROR: Yes.
15 Juror Number 54, is this your verdict?
16 THE JUROR: Yes.
17 THE CLERK: Is this still your verdict?
18 THE JUROR: Yes.
19 Juror Number 30, is this your verdict?
20 THE JUROR: Yes.
21 THE CLERK: Is this still your verdict?
22 THE JUROR: Yes.
23 And Juror Number 299, is this your verdict?
24 THE JUROR: Yes.
25 THE CLERK: Is this still your verdict?

1 THE JUROR: Yes.

2 THE COURT: There is one more.

3 THE CLERK: Juror Number -- I have 160?

4 THE COURT: What is your juror number?

5 THE JUROR: Number 11.

6 THE COURT: Please stand.

7 THE CLERK: Juror Number 11. Sorry about that, sir. I
8 wasn't quite sure who the alternate was. Juror Number 11, is
9 this your verdict?

10 THE CLERK: Yes.

11 THE CLERK: Is it still your verdict?

12 THE JUROR: Yes.

13 THE CLERK: Your Honor, the jury has been polled and the
14 verdict stands.

15 THE COURT: All right. Ladies and gentlemen of the jury,
16 that concludes your jury service. Again, as I indicated to
17 you on Monday this process could not be done without y'all.

18 And again, I appreciate y'all being here on time and
19 diligently working through this case. And at this point in
20 time you are free to go. And if you will just go back to the
21 delib- -- I mean to the deliberation room and retrieve your
22 stuff and the deputy -- I mean the bailiffs will make sure you
23 are seen out. Okay.

24 All right. Thank you again for your service, and I hope
25 you have a wonderful rest of your evening.

1 (WHEREUPON, jury exits 8/15/19, 4:57 p.m.)

2 (WHEREUON, bailiff, Mr. Robinson, confers with court as to
3 whether jurors can stay for the verdict.)

4 THE COURT: All right. We are going to go directly to
5 sentencing. If you will pass up the sentencing sheets. I am
6 just going to tell the forelady not to leave without signing
7 the indictments, and I will be right back in.

8 (WHEREUPON, recess 8/15/19, 4:58 p.m.)

9 (WHEREUPON, resume 8/15/19, 5:01 p.m.)

10 THE COURT: Anybody want to, Mr. Robinson?

11 THE BAILIFF: Yes.

12 THE COURT: Okay. You can bring them on in.

13 (WHEREUPON, several jury members are seated in jury box prior
14 to sentencing.)

15 THE COURT: All right. What would the State like to tell
16 me as to sentencing?

17 MR. ZEIGLER: Your Honor, while the defendant has no
18 prior criminal record I would like to point out the complete
19 and utter disrespect he has had for this court. I am
20 respecting -- or requesting consecutive sentencing on these
21 charges.

22 He has acted out. He has assaulted deputies. He has
23 made this process as difficult as possible for everybody,
24 including himself.

25 He has failed to appear. He was on the run for a year.

1 He was charged with arson and resisting arrest while he was on
2 the run last year in Horry County. Those charges are pending.
3 He also failed to appear for those charges. Those will be
4 reactivated once he is sentenced.

5 And every single time he has been in front of a judge he
6 has made a scene. And it is so disrespectful from the State's
7 perspective to allow that to happen. And I would like you to
8 send a message in this case. And that is all, Your Honor.

9 THE COURT: All righty. All right. Mr. Bowden, what
10 would you like to tell me?

11 MR. BOWDEN: Thank you, Your Honor. He has served 146
12 days as of today. I would point out that I think it is widely
13 inappropriate to bring up pending charges at this stage in the
14 proceedings. I disagree that -- and the case law supports
15 that.

16 But I think - you know, as to the disrespect that he has
17 shown, he has sat here respectfully all day. He has strongly
18 held beliefs. I don't think it is right to punish him for
19 having strongly held beliefs, you know, in some effort to send
20 a message to others who may hold those beliefs I think -- I
21 think would be the purpose of that.

22 To say he has shown utter disrespect, you know, I just
23 think is a mischaracterization. There -- he spoke to an
24 incident that occurred here. Wasn't charged with anything for
25 that. That would be inappropriate to consider anyway.

1 But he also has several knee injuries. He has had many,
2 many knee surgeries that contributed to at least the falling
3 in that incident.

4 But most importantly, he doesn't have a record. He has
5 lived this -- to this stage of his life without -- without
6 breaking the law. He -- he went to and ---
7 (WHEREUPON, Mr. Bowden confers with the defendant.)

8 MR. BOWDEN: He graduated from the College of Charleston.
9 He was a standout basketball player there. He has all the
10 ability in the world to contribute to society.

11 And obviously there is going to be accountability for
12 what has happened here today, but I don't think consecutive
13 sentences are necessary to provide that accountability. I
14 think -- I think -- certainly something less than consecutive
15 sentences. You know, I would just point out that I don't
16 necessarily see even a max being necessary given that he just
17 doesn't have a record.

18 THE COURT: All right. Anyone else like to address the
19 court?

20 MR. BOWDEN: Mr. -- Mr. Julian Chisholm would like to.

21 THE COURT: All right. Mr. Chisholm, what is your name?

22 MR. CHISOLM: Julian Chisholm.

23 THE COURT: Yes, sir. Be happy to hear from you.

24 MR. CHISOLM: Okay. Yeah, I just basically wanted to
25 make reference to being a minister as well and praying over

1 Bernard, which I call King, just for the record.

2 I have known him for 11 years, okay. At no time has
3 he -- and his wife. At no time has he ever done anything to
4 put anyone in jeopardy. He has always been loving, always
5 being truthful for what he stands for. And everything that he
6 has actually expressed today actually highlights that.

7 And he is not the kind of person that the crimes are
8 being, you know, said for him to have committed. He -- as --
9 even as I have seen, you know, on the video, you know, I am
10 kind of shocked that they came back with a guilty verdict
11 because everything was always in his favor, you know, in
12 everything that was taking place in lieu of the situation.

13 But anyway, he is a stern person. He is a loving, kind
14 person. He stands by what he affirms. He never would put his
15 children in harm unless there was something that any black man
16 or any person of color would see based on the things that were
17 basically taking place inside of the country today.

18 So he did everything that he did from his heart and he
19 did based on his knowledge. His wife, you know, is a
20 schoolteacher of course. For him to be outside of her
21 presence, because of like the gentleman made reference to in
22 terms of running it consecutive, it would be -- it would be an
23 injustice.

24 He is not a threat to anyone. He is not a threat to
25 himself. He is a -- he is a person of character. And I

1 believe the court has seen that, you know.

2 Yes, sometimes people get agitated, you know, and they
3 basically may say things and when other persons don't quite
4 understand them; but that is something all of us actually go
5 through.

6 He should be given the opportunity to be with his family.
7 And, however, you know, the universe, however the creator
8 would actually align that, he should be able to do that. He
9 has been through a lot, you know.

10 I am pretty sure of all the stuff that he has been
11 through it has taken a toll on him, it has taken a toll on his
12 wife. And these aren't things that any person should go
13 through, whether they are a person of color or whether they
14 are a person of any other ethnicity.

15 So, you know, I just, you know, petition the court, you
16 know, that they would consider, you know, all that has taken
17 place. You know, he is not a criminal. You know, he is not a
18 criminal. He is a person that has his convictions, and his
19 convictions he holds by them.

20 And as you have heard him -- you know, he spoke. You
21 know, he spoke very candidly and eloquent, you know,
22 concerning the things that he affirms.

23 And I am just -- and I am affirming that you will do the
24 right thing in a fair sentencing or whether there should be a
25 sentencing at all. I mean you have the authority to do that.

1 And, you know, I just -- you know, I pray the Lord, you know,
2 that your decision would be, you know, under those coverings.

3 And I appreciate the opportunity, you know, allowing my
4 person to share information about someone that I love, someone
5 that I know, and someone that I care deeply about.

6 THE COURT: All right. Thank you very much.

7 Mr. Bowden, any -- anyone else like to address the court?

8 MR. BOWDEN: No, Your Honor.

9 THE COURT: All right.

10 I am a little confused. Let me make sure I am correct in
11 this: Resisting arrest carries one year. Failure to stop for
12 a blue light carries a minimum of 90 days, maximum of three
13 years. Unlawful carrying carries one year. Child
14 endangerment carries half of the underlying offense of which
15 they are convicted, which is half of three years. And failure
16 to stop for blue lights is one-and-a-half years.

17 MR. BOWDEN: And I ---

18 MR. ZEIGLER: And also mandatory 45 based on that 90.

19 MR. BOWDEN: But the 90 is suspendable on both ---

20 MR. ZEIGLER: Not on -- not with the child endangerment.

21 THE COURT: Okay. But I am right that child endangerment
22 is one-and-a-half years because it is half of the three?

23 MR. ZEIGLER: Yes, Your Honor.

24 MR. BOWDEN: That is correct.

25 THE COURT: So I can give him three, four, five -- I can

1 give him 6 1/2 years?

2 MR. ZEIGLER: That is correct.

3 THE COURT: All right. And you said 145 days that he has
4 been incarcerated. But from what the pretrial brief said,
5 that he was FTA'd; you know, he didn't show. They finally
6 bench warranted him.

7 It looks like he got picked up on the bench warrant
8 February 24th of 2017.

9 MR. ZEIGLER: That was the first bench warrant, Your
10 Honor.

11 THE COURT: But nobody -- it didn't say that it was ever
12 rescinded.

13 MR. BOWDEN: So that time he was in -- it looks like -- I
14 am sorry, I can't tell -- my colleague handed me these notes.
15 I think he wasn't in jail for very long that time. He did --
16 he was released on that. And I know that there was another
17 time that he was held because of a -- the -- a certain lack of
18 jurisdiction in front of Judge Dennis and Judge Dennis ---

19 THE COURT: Oh, so Judge Dennis he just revoked his bond
20 and put him back in?

21 MR. BOWDEN: It was -- I think it was a contempt order.

22 MR. ZEIGLER: It was a contempt order. The first -- in
23 2017 that one I believe is because he told the judge, Dennis,
24 that he was going to get an attorney and he never did.

25 But he was released under the assumption that he was

1 going to, based off of what he told Judge Dennis, that first
2 time. And then he was out, and then that second one came up.
3 And then we FTA'd it last August because -- or we were
4 supposed to try him last August but he didn't show up so it
5 was contin- -- or a bench warrant was issued and he was picked
6 up in May.

7 THE COURT: May of this year?

8 MR. ZEIGLER: Yes. So the majority of those days are
9 from May 6th I believe or 4th until today.

10 THE COURT: He doesn't get credit for those if he is
11 in -- if he is under contempt. He is only going to get credit
12 for the ones that he is pending awaiting trial on these
13 charges. If he is sentenced under contempt he doesn't get
14 those days.

15 MR. BOWDEN: I ---

16 THE COURT: That is a separate thing.

17 MR. BOWDEN: I think -- I think the case law has embraced
18 the position that they give credit for all days no matter what
19 reason they are being -- for example, there is a new res
20 decision dealing with somebody who served some time being
21 committed under the -- under a probate court order.

22 THE COURT: Okay. All right. I will give him the 146
23 days. I am just saying that -- I don't know if they're --
24 what they are going to do about it.

25 MR. ZEIGLER: And, Your Honor, I would like to point out

1 that these are all, you know, 35 percent offenses. They are
2 not 85 percent offenses. So he is not going to be doing all
3 six-and-a-half years if you were to sentence him to that.

4 THE COURT: Let me just -- for purposes of everybody, you
5 understand -- I mean it doesn't matter what I give him, it is
6 essentially a time-served sentence. Because if I give him six
7 years and he serves thirty-three percent of it he has only got
8 sixty more days.

9 MR. BOWDEN: Sixty- -- sixty-five percent.

10 THE COURT: Oh, it is just 65 percent?

11 MR. BOWDEN: Yes. Right, he has got ---

12 THE COURT: Under which one?

13 MR. BOWDEN: --- to serve 35 percent.

14 MR. ZEIGLER: I thought it was just the regular -- I mean
15 those charges, which is regular.

16 MR. BOWDEN: Yeah, 65.

17 MR. ZEIGLER: Yeah, but the credit that -- I mean good
18 time ---

19 THE COURT: Yeah, it doesn't -- all right. All right,
20 King, if you will stand.

21 MR. BOWDEN: Your Honor, I apologize. King would like to
22 address the court.

23 THE COURT: All right. Yes, sir, be happy to hear from
24 you.

25 THE DEFENDANT: Yeah, I just want to say that I do --

1 despite, you know, what the solicitor might believe or what,
2 you know, any of my perceived actions show, I do respect the
3 process. I do respect it very much.

4 I think what has been the issue was that we strongly
5 agree on the rules to the process. And the one thing I did
6 say was that I appreciate the fact that I have judicial
7 review, and so I mean that's -- you know, I am not mad at
8 anyone in the court for doing what they affirm, just like I
9 don't want anyone to if they were to ever see me in the street
10 thinking I am a bad person because I affirmed my beliefs and I
11 stood for them.

12 I have disagreed with the jurisdiction of this court. I
13 know the court feels it has grounds to exercise jurisdiction,
14 but the law says that the court must prove it in all
15 proceedings. So that means that in the proceeding there
16 should be proof of the jurisdiction. So that hasn't been
17 done.

18 The burden of proof of everything that is claimed from
19 the other side is on those guys. And I disagree with them in
20 regard to the identity of the defendant and myself. And they
21 didn't prove that.

22 So there are some things that I disagreed with with the
23 court, but I tried to in my best ability respect the process
24 and do things. I sent a lot of notices. I tried to file some
25 things to get me heard on my stance. And I -- it is apparent

1 that I haven't been able to be heard by the court, you know,
2 which means address these things in court with evidence and
3 that sort of thing.

4 So the one last thing that I -- a couple of last things I
5 would like to say is that I feel that I have been here under
6 duress because due process has not been allowed to me, so I
7 don't feel like I have been given a fair chance at due process
8 to take care of some of the pre-adjudicated issues which would
9 have allowed me to have some remedy in the court without
10 having to go through this situation, without having to waste
11 the State's money.

12 And also as a part of my belief I do believe that this
13 was a proceeding that was held under the guise of a maritime
14 Admiralty jurisdiction whereas the judge is the trustee,
15 whereas the person from the Clerk's Office would be a
16 declarant and I would be the beneficiary.

17 And so I have given notice of fiduciary duty to those
18 particular people and asking for this matter to be settled as
19 per a function of the law. And it hasn't been. So I will be
20 appealing in regards to that as well.

21 But I am asking if this was a commercial settlement, a
22 commercial presentment. Which when you arraigned me
23 personally the other day, yesterday, saying informally that
24 was a presentment under the UCC Article 3 in which you was
25 looking for acceptance, if that is the case I would still like

1 to accept that for value. But if that is not the case then
2 that is all I have to say.

3 THE COURT: All right. All right. Mr. Jackson, a lot of
4 this -- I am not going to get into it with you, but a lot of
5 this you unfortunately -- I understand you have beliefs, and I
6 am not going to pass judgment on that at all. I never would.
7 I don't ask anybody to do that to me, and I wouldn't do that
8 to anyone else.

9 But you have created a lot of these issues for yourself,
10 not showing up to court and doing some other things and some
11 issues that you have had in court.

12 I will thank you for coming here today and abiding by
13 what I asked you yesterday, which is to come in here and
14 participate and participate in your defense and not lash out.
15 And I think I have been fair to you in allowing you to express
16 your values and your beliefs and create your record.

17 And so but a lot of this could have been avoided. I
18 agree a lot of State's money has been utilized for something
19 that it probably didn't need to be utilized for.

20 But I am going to give you credit for the fact that this
21 is your first time being in trouble, that you have no prior
22 record. That does go a long way for your age.

23 But again, this probably could have been avoided. I hate
24 that, again, you have had to kind of suffer some of the
25 things; but it is a consequence of the actions.

1 (WHEREUPON, sentence of the Court as follows:)

2 But as to 2016-GS-10-00196, failure to stop for a blue
3 light, I sentence you to the State Department of Corrections
4 for a term of three years.

5 2016-GS-10-00197, unlawful carrying of a pistol, I commit
6 you to the State Department of Corrections for a term of one
7 year.

8 2016-GS-10-00198, for child endangerment, I commit you to
9 the State Department of Corrections for one year.

10 And 2018-GS-10-04844, resisting arrest, I commit you to
11 the State Department of Corrections for one year.

12 However, since this is your first offense I am going to
13 run them concurrent. All right.

14 THE DEFENDANT: Thank you.

15 THE COURT: Good luck to you.

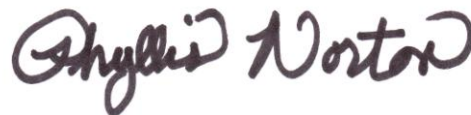
16 (WHEREUPON, end of trial, 8/15/19, 5:16 p.m.)

(NOTE: Please contact the court reporter for additional copies or certified transcripts.)

CERTIFICATE

I, the undersigned Phyllis Norton, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all proceedings had and evidence introduced in the captioned case, relative to appeal, in the court for South Carolina, on August 14 to August 15, 2019.

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

A handwritten signature in dark ink, reading "Phyllis Norton". The signature is written in a cursive, flowing style.

PHYLLIS NORTON, CVR

Date: November 4, 2019

Certified Transcript Provided For: SCCID
Certification Reference #2019-1104 Original

DOCKET NO. 2016-GS-10-00196

The State of South Carolina

County of Charleston

FILED

1/20/2016 8:45:46 AM
JULIE J. ARMSTRONG
CLERK OF COURT

COURT OF GENERAL SESSIONS

JANUARY TERM 2016

THE STATE

VS.

BERNARD EMMANUEL JACKSON

B/M DOB: [REDACTED]-1980

Indictment for

FAILURE TO STOP FOR A BLUE LIGHT

SC Code: § 56-05-0750(B)(1)
CDR Code: 0065

CMC/0309090
WITNESSES

Charleston County Sheriff Office

AGENCY CASE NUMBER

2015-015220

ARREST WARRANT NUMBER

2015A1010204169

DATE OF ARREST

09/18/2015

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury  Date: JAN 20 2016

VERDICT

Foreperson of Petit Jury Date:

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

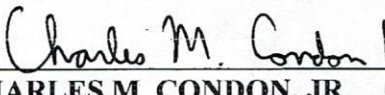
INDICTMENT

At a Court of General Sessions, convened January 2016, the Grand Jurors of Charleston County present upon their oath:

FAILURE TO STOP FOR A BLUE LIGHT

That in Charleston County, South Carolina, on or about September 18, 2015, the Defendant, Bernard Emmanuel Jackson, while driving a motor vehicle on a road, street, or highway of the State did, in the absence of mitigating circumstances, knowingly fail to stop after being signaled to do so by a law enforcement vehicle by means of flashing light and/or a siren, in violation of Section 56-5-750 of the South Carolina Code of Laws (1976) as amended.

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



CHARLES M. CONDON, JR.

ASSISTANT SOLICITOR

DOCKET NO. 2016-GS-10-00197

The State of South Carolina
County of Charleston

FILED

1/20/2016 8:45:47 AM
JULIE J. ARMSTRONG
CLERK OF COURT

COURT OF GENERAL SESSIONS

JANUARY TERM 2016

THE STATE

VS.

BERNARD EMMANUEL JACKSON
B/M DOB: [REDACTED]-1980

Indictment for

UNLAWFUL CARRYING OF A PISTOL

SC Code: § 16-23-0020
CDR Code: 0044

CMC/0309090
WITNESSES

Charleston County Sheriff Office

AGENCY CASE NUMBER

2015-015220

ARREST WARRANT NUMBER

2015A1010204170

DATE OF ARREST

09/18/2015

ACTION OF GRAND JURY

TRUE BILL

For person of Grand Jury

2015-05-23-15
Date:

VERDICT

Foreperson of Petit Jury Date:

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

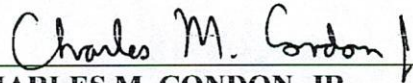
INDICTMENT

At a Court of General Sessions, convened January 2016, the Grand Jurors of Charleston County present upon their oath:

UNLAWFUL CARRYING OF A PISTOL

The defendant, Bernard Emmanuel Jackson did in Charleston County, on or about September 18, 2015, willfully and unlawfully carry about his person a handgun, whether concealed or not, in violation of §16-23-20 of the South Carolina Code of Laws (1976) as amended.

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



CHARLES M. CONDON, JR.

ASSISTANT SOLICITOR

DOCKET NO. 2016-GS-10-00198

The State of South Carolina

County of Charleston

FILED

1/20/2016 8:45:47 AM
JULIE J. ARMSTRONG
CLERK OF COURT

COURT OF GENERAL SESSIONS

JANUARY TERM 2016

THE STATE

VS.

BERNARD EMMANUEL JACKSON

B/M DOB: [REDACTED]-1980

Indictment for

CHILD ENDANGERMENT

SC Code: § 56-05-2947
CDR Code: 2395

CMC/0309090
WITNESSES

Charleston County Sheriff Office

AGENCY CASE NUMBER

2015-015220

ARREST WARRANT NUMBER

2015A1010204171

DATE OF ARREST

09/18/2015

ACTION OF GRAND JURY

TRUE BILL

JAN 5 2016

Date:

For person of Grand Jury

VERDICT

For person of Petit Jury Date:

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

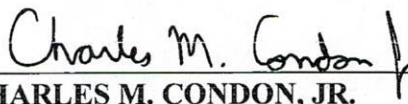
INDICTMENT

At a Court of General Sessions, convened January 2016, the Grand Jurors of Charleston County present upon their oath:

CHILD ENDANGERMENT

The defendant, Bernard Emmanuel Jackson, on or about September 18, 2015 in Charleston County, being 18 years of age or older, did drive a vehicle with one or more passengers who were under the age of 16, and did commit the offense of failure to stop when signaled by a law enforcement vehicle in violation of Section 56-5-750 of the SC Code. This is in violation of Section 56-5-2947 of the South Carolina Code of Laws, (1976), as amended.

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



CHARLES M. CONDON, JR.
ASSISTANT SOLICITOR

MEB/0309090
WITNESSES

Charleston County Sheriff Office

AGENCY CASE NUMBER

2015-015220

ARREST WARRANT NUMBER

2018-GS-10-04844

DATE OF ARREST

09/18/2015

ACTION OF GRAND JURY

TRUE BILL

Jennifer Lucas
Foreperson of Grand Jury
AUG 06 2018
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2018-GS-10-04844

The State of South Carolina

County of Charleston

FILED

8/13/2018 12:48:22 PM

JULIE J. ARMSTRONG

CLERK OF COURT

COURT OF GENERAL SESSIONS

AUGUST TERM 2018

THE STATE

VS.

BERNARD EMMANUEL JACKSON

B/M DOB: [REDACTED]-1980

Indictment for

RESISTING ARREST

SC Code: § 16-09-0320(A)

CDR Code: 0326

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

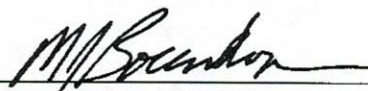
INDICTMENT

At a Court of General Sessions, convened August 2018, the Grand Jurors of Charleston County present upon their oath:

RESISTING ARREST

That in Charleston County, South Carolina, on or about September 18, 2015, the Defendant, Bernard Emmanuel Jackson, knowingly and willfully did oppose or resist Officer Brandon J. Wade, a law enforcement officer, while the officer was serving, executing or attempting to serve or execute a legal writ or process; or did resist an arrest being made by said officer who the Defendant knew or reasonably should have known was a law enforcement officer, in violation of Section 16-9-320(A) of the South Carolina Code of Laws (1976) as amended.

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


MARK J. BOURDON
ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled “Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.”

Respectfully Submitted,

RECEIVED
May 27 2020
SC Court of Appeals

s/AdamRuffin

Adam Sinclair Ruffin
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 26th day of May, 2020.