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ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY

Edward W. Miller, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KENNETH S. BOLDEN,

APPELLANT

APPELLATE CASE NO. 2011-196686

RECORD ON APPEAL

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SC Court of Appeals

INDEX

INDEX.....i

TRIAL TRANSCRIPT (JULY 19, 2011).....1

JACKSON V. DENNO HEARING

OPENING STATEMENT BY MS. BENTLEY6

OPENING STATEMENT BY MR. PATEL.....8

TESTIMONY

 JIMMIE MAHAFFEY

 Direct Examination by Ms. Bentley9

 Cross Examination by Mr. Patel13

 TIMOTHY MAHAFFEY

 Direct Examination by Ms. Bentley15

MOTION TO SUPPRESS THE VIDEO.....26

 MICHAEL JACKSON

 Direct Examination by Ms. Bentley30

 ROBERT DAVIS, JR.

 Direct Examination by Ms. Bentley35

 DANNY SCOTT NELSON.

 Direct Examination by Ms. Bentley44

CLOSING ARGUMENT BY MS. BENTLEY.....49

CLOSING ARGUMENT BY MR. PATEL54

CHARGE ON THE LAW.....58

VERDICT65

SENTENCING66

INDICTMENT74

CERTIFICATE OF COUNSEL.....76

**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE’S EXHIBIT #3 (VIDEO)**

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
 -VS-)
)
 KENNETH S. BOLDEN,)
)
 DEFENDANT.)
 _____)

2010-GS-23-01481
TRANSCRIPT OF RECORD

JULY 19, 2011
GREENVILLE, SOUTH CAROLINA

BEFORE:

THE HONORABLE EDWARD W. MILLER

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

LISA A. BENTLEY, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

NIHAR M. PATEL, ESQUIRE

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

INDEXWITNESSPAGE NO.JACKSON V. DENNO HEARING

ROBERT DAVIS, JR.

DIRECT BY MS. BENTLEY ----- 12

CROSS BY MR. PATEL ----- 19

DANNY SCOTT NELSON

DIRECT BY MS. BENTLEY ----- 21

CROSS BY MR. PATEL ----- 27

OPENING STATEMENTS

MS. BENTLEY ----- 53

MR. PATEL ----- 55

JIMMIE MAHAFFEY

DIRECT BY MS. BENTLEY ----- 56

CROSS BY MR. PATEL ----- 60

TIMOTHY MAHAFFEY

DIRECT BY MS. BENTLEY ----- 62

CROSS BY MR. PATEL ----- 73

MICHAEL JACKSON

DIRECT BY MS. BENTLEY ----- 83

CROSS BY MR. PATEL ----- 87

INDEX

<u>WITNESS</u>	<u>PAGE NO.</u>
ROBERT DAVIS, Jr.	
DIRECT BY MS. BENTLEY -----	90
CROSS BY MR. PATEL -----	98
DANNY SCOTT NELSON	
DIRECT BY MS. BENTLEY -----	103
CROSS BY MR. PATEL -----	110
CLOSING ARGUMENTS	
MS. BENTLEY -----	118
MR. PATEL -----	123
CHARGE OF THE COURT -----	127
VERDICT OF THE JURY -----	134
SENTENCE OF THE COURT -----	135
CERTIFICATE OF REPORTER -----	143

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
S-1	WAIVER OF RIGHTS FORM -----	12	108
S-2	MAP -----	12	86
S-3	VIDEO (Video of Investigative -- Detention from Patrol Unit - Not Transcribed)	12	94

EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
C-1	FOREPERSON SELECTION -----	83	

OPENING STATEMENTS - MS. BENTLEY

1 Now that same law makes me the sole judge of the law.
2 So if you think you have any idea as to what the law is or
3 what the law should be as it applies to this case, then
4 you've sworn an oath to set aside your own opinion and apply
5 the law precisely as I will state it to you.

6 From time to time throughout the course of the trial I
7 may ask the lawyers to come up and talk to me or I may have
8 to ask you all to leave so that we can discuss a legal point
9 or some piece of evidence. We're not trying to deceive you.
10 We may be trying to keep something from you. And it's just
11 to ensure that you all don't hear something that shouldn't
12 be before you. We want to make sure that everything you
13 hear passes constitutional scrutiny. So that's why we might
14 ask y'all to leave or I might have a bench conference up
15 here.

16 With that, ladies and gentlemen, I am going to -- I'm
17 done. And I'm going to turn it over to the attorneys for
18 their opening statements. Thank you. All right.

19 **MS. BENTLEY:** May it please the Court?

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

21 **MS. BENTLEY:** Centuries ago the Scottish coined a term
22 that we still use today, red-handed. In the fifteenth and
23 sixteenth century they used the term when dealing with
24 criminals accused of stealing meat. It was not enough that
25 one was caught with stolen meat, they actually had to have

OPENING STATEMENTS - MS. BENTLEY

54

1 blood on their hands to be tried or convicted from that --
2 for that crime. Today we use the term not that literally.

3 As I told you a few minutes ago, my name is Lisa
4 Bentley. And I am the attorney for the State today. That
5 means I'll be presenting evidence that the defendant,
6 Kenneth Bolden, committed the crime, the crime of
7 autobreaking. It means that you will hear first from me and
8 then from Mr. Bolden and his attorney.

9 The evidence will prove that on December 10th, late
10 that night, 2009, Kenneth Bolden was caught red-handed
11 inside the car of the victim, Timothy Mahaffey. You'll hear
12 from Mr. Mahaffey and his wife, who observed a crime taking
13 place. You will next hear from the officers who responded
14 within minutes. Fountain Inn is a small City and that's
15 where this occurred.

16 And the evidence will show that this defendant did not
17 -- was not forthright about his identity and that he may
18 have misled police a little bit about that. The evidence
19 will also show that he was the man inside the car on
20 December 10th, 2009.

21 Now being the State's attorney means that I have the
22 burden of proof in today's case. Perhaps you've all heard
23 beyond a reasonable doubt. It is my duty to prove Mr.
24 Bolden's guilt beyond a reasonable doubt.

25 Now Judge Miller will explain what that means to you at

OPENING STATEMENTS - MR. PATEL

55

1 the end of the trial. But there are things that you need to
2 do during the trial to ensure that you understand what that
3 means and to determine whether or not I've met that burden.
4 I ask that you listen to the witnesses, that you look at any
5 evidence and that you use the one tool, the most important
6 tool which you all brought with you today, your common
7 sense.

8 Ladies and gentlemen, I expect this trial to be very
9 brief because this case is very straightforward. I thank
10 you for your time. I thank you for your patience so far.
11 And I thank you for your service.

12 **THE COURT:** All right. Mr. Patel.

13 **MR. PATEL:** Judge, may it please the Court? Ms.
14 Bentley? Good afternoon, ladies and gentlemen. My name is
15 Nihar Patel. I told you that earlier. I represent Ken.
16 Ken is charged with autobreaking. I'm not going to
17 take too much of your time here because it is a pretty short
18 case. This case is going to boil down to one thing and one
19 thing only, and that's intent, criminal intent.

20 This is not a who done it case or a misidentification
21 case or you've got the wrong guy case. It was Ken. It was
22 Ken at Mr. Mahaffey's car. It was Ken there. It's going to
23 be your job to figure out what he was doing there though.
24 And that's what the bottom line is on this case. Think
25 about all that. And I'm going to have a chance to talk to

JIMMIE MAHAFFEY - DIRECT EXAMINATION BY MS. BENTLEY

56

1 you at the end of this trial.

2 THE COURT: All right. Call your first witness.

3 MS. BENTLEY: The State calls Jimmie Mahaffey.

4 THE COURT: All right.

5 Jimmie Mahaffey,

6 being duly sworn testifies as follows:

7 MADAME CLERK: Please state your name for the record.

8 MRS. MAHAFFEY: Jimmie Johnson Mahaffey.

9 MADAME CLERK: Thank you.

10 Direct Examination by Ms. Bentley:

11 Q. Hi, Mrs. Mahaffey. How are you doing today?

12 A. I'm nervous.

13 Q. That's okay. Mrs. Mahaffey, where are you from
14 originally?

15 A. I'm from Belton.

16 Q. Belton, South Carolina?

17 A. Um-hum (affirmative).

18 Q. And where do you live now?

19 A. At [REDACTED] Fountain Inn.

20 Q. Fountain Inn. And how long have you lived in Fountain
21 Inn?

22 A. Off and on for about three years.

23 Q. Okay. And do you have children, Mrs. Mahaffey?

24 A. Yes, I do.

25 Q. How many children do you have?

JIMMIE MAHAFFEY - DIRECT EXAMINATION BY MS. BENTLEY

1 A. I have four.

2 Q. Are they boys, girls?

3 A. I have two girls and two boys.

4 Q. A good mix. Mrs. Mahaffey, where were you living in
5 December of 2009?

6 A. I was living on 3rd Street.

7 Q. The house that you're in ---

8 A. Yes.

9 Q. --- right now? And, Mrs. Mahaffey, do you remember the
10 evening, late evening of December 10th, 2009?

11 A. Yes, I do.

12 Q. And, Mrs. Mahaffey, what were you doing that evening
13 about 11:00?

14 A. I was watching TV.

15 Q. And were you alone in the house?

16 A. I had my grandson on the couch and my husband was in
17 the bed.

18 Q. Was he asleep?

19 A. Yes.

20 Q. Okay. Do you remember what you were watching on TV?

21 A. It was -- I don't know.

22 Q. That's okay. You don't have to.

23 A. Probably Nancy Grace or something.

24 Q. Now did anything happen to attract your attention that
25 distracted you from the TV?

JIMMIE MAHAFFEY - DIRECT EXAMINATION BY MS. BENTLEY

58

1 A. Yes. This happened -- I had my blinds open. And I
2 looked out and seen the light on in the car. And I thought,
3 who's that in the car?

4 Q. Now you said the light on the car. Which light was it?

5 A. Well, we got a street light right there. And the
6 headlight -- when you open up the door that light comes on.

7 Q. The dome light?

8 A. Um-hum (affirmative).

9 Q. And what did you do when you saw that?

10 A. I kind of thought, well, who's that in the car? And
11 then I just went and got Tim out of the bed.

12 Q. Okay. Now did you look out of the blinds?

13 A. Yeah, I seen a man digging in the car.

14 Q. Okay. Was he partially in the car, all the way in the
15 car?

16 A. He wasn't -- he was partially, you know, just like
17 leaned over digging, like rambling through the car.

18 Q. Did you figure out what part of the car he was looking
19 into from that angle? It's okay if you can't.

20 A. Yeah, he was like in the driver's side. And he was
21 like -- we got a console in the middle. So he was kind of
22 like in the middle of the car.

23 Q. Okay.

24 A. Not his whole body, just part of him.

25 Q. That's okay. Now and what did you do, did you say

JIMMIE MAHAFFEY - DIRECT EXAMINATION BY MS. BENTLEY

1 after you saw him in the car?

2 A. I went and got Tim. I said, "Tim, somebody's in the
3 car."

4 Q. Okay. And what did he do?

5 A. He got up and he opened up the door.

6 Q. Okay.

7 A. And he said something to that man.

8 Q. Okay. And how long was that man inside the car before
9 you called your husband?

10 A. When I seen him, just for, you know, like for a second
11 I was like, who's that in the car? And I went and got Tim.

12 Q. Okay.

13 A. And I started dialing 911.

14 Q. You called 911?

15 A. Um-hum (affirmative).

16 Q. And did you -- what did you tell them?

17 A. I told them that somebody's in my -- in our car.

18 Q. Okay. And did they ---

19 A. They come right out.

20 Q. Okay. Do you recall about how fast they came out?

21 A. Everything was happening so fast. I had a grandbaby
22 there that had woke up screaming and, you know, everything
23 going on in the house.

24 Q. Okay. I have no further questions, Mrs. Mahaffey. Ask
25 -- answer anything that Mr. Patel has for you.

JIMMIE MAHAFFEY - CROSS EXAMINATION BY MR. PATEL

60

1 A. Okay.

2 THE COURT: All right. Mr. Patel.

3 MR. PATEL: Judge, may it please the Court?

4 Cross Examination by Mr. Patel:

5 Q. Mrs. Mahaffey, just briefly. You said you saw the
6 light come on -- the dome light of your car from inside your
7 house?

8 A. Um-hum (affirmative).

9 Q. Okay. And you never went outside the house, right?

10 A. No, I didn't go out.

11 Q. Okay. As soon as you saw this you woke up your husband
12 and went to tell your husband, correct?

13 A. Um-hum (affirmative).

14 Q. Okay. And he was in the back bedroom?

15 A. No. He was in the front room, front bedroom. The
16 livingroom, and then our bedroom is right beside our
17 livingroom.

18 Q. Okay. I'm sorry.

19 A. We live ---

20 Q. He ---

21 A. We live in ---

22 Q. --- was in the bedroom ---

23 A. He was, yes.

24 Q. Okay. And he came immediately out to the door?

25 A. Our bedroom is right there at the door, I mean, where

JIMMIE MAHAFFEY - CROSS EXAMINATION BY MR. PATEL

1 our bed is. He just got right up and went to the door.

2 Q. Okay. He's the one who opened the door, correct?

3 A. Yes.

4 Q. And he's the one who went outside and talked to Ken, is
5 that correct?

6 A. Yes.

7 Q. Okay. And all this took a matter of seconds, you said?

8 A. It didn't take long.

9 Q. Okay. And you never went outside, correct?

10 A. I did when the police got there.

11 Q. After the police had gotten there?

12 A. Yes.

13 Q. Okay. And you said that from what you could see
14 through your blinds was that someone was looking inside --
15 looking inside the car with the door open?

16 A. They was rambling in the car, yeah.

17 Q. Okay. But they weren't sitting inside the car or
18 anything like that? They were partially in the ---

19 A. Yes.

20 MR. PATEL: Judge, I beg the Court's indulgence.

21 THE COURT: Yep.

22 (Pause)

23 MR. PATEL: No further questions, Judge.

24 THE COURT: All right. Any ...

25 MS. BENTLEY: No, no redirect.

TIMOTHY MAHAFFEY - DIRECT EXAMINATION BY MS. BENTLEY

62

1 THE COURT: All right. Thank you, ma'am. You may
2 stand down.

3 MS. BENTLEY: The State calls Timothy Mahaffey to the
4 stand.

5 THE COURT: Okay.

6 Timothy Mahaffey, being
7 duly sworn testified as follows:

8 MADAME CLERK: Please state your name for the record.

9 MR. MAHAFFEY: Timothy Wayne Mahaffey.

10 MADAME CLERK: Thank you. You may be seated.

11 Direct Examination by Ms. Bentley:

12 Q. Hi, Mr. Mahaffey. Where are you -- how are you doing
13 today?

14 A. I'm okay. How about you?

15 Q. I'm all right. Are you nervous?

16 A. Yes, I am.

17 Q. Okay. Mr. Mahaffey, tell us a little bit about
18 yourself. Where are you from originally?

19 A. Fountain Inn.

20 Q. Okay. So you've lived there your whole life?

21 A. My whole life, yes, ma'am.

22 Q. How old are you?

23 A. Forty-seven.

24 Q. Forty-seven?

25 A. Uh-huh (affirmative).

TIMOTHY MAHAFFEY - DIRECT EXAMINATION BY MS. BENTLEY

1 Q. And where in Fountain Inn do you live?

2 A. [REDACTED] It's off -- on the Mill Hill.

3 Q. Okay. And do you have children?

4 A. Yes, ma'am.

5 Q. How many?

6 A. I have two -- two boys.

7 Q. Two boys. And are you married to Jimmie Mahaffey?

8 A. Yes, ma'am, I am.

9 Q. How long have y'all been married?

10 A. Thirty years.

11 Q. Thirty years. Were y'all living together on December

12 10th, 2009?

13 A. Yes, ma'am.

14 Q. And do you recall what you were doing that evening?

15 A. I was sleeping.

16 Q. Okay. What time did you go to bed?

17 A. Usually around nine, no later than 9:30 every night.

18 Q. Okay. At any point were you woken up that evening?

19 A. Yes, ma'am. I had woke up and went to the bathroom.

20 Q. Okay.

21 A. And had come back. I don't know around what time it

22 was, but it was around twelve, 12:30, 11:30, 12:30, I don't

23 know. I had got up to use the restroom. And I had come

24 back to bed to lay down. And I did lay down. And it was

25 just a minute, my wife had hollered, Tim, there's somebody

TIMOTHY MAHAFFEY - DIRECT EXAMINATION BY MS. BENTLEY

64

1 in the car.

2 Q. Okay. Now, Mr. Mahaffey, how long have you lived on

3 [REDACTED]?

4 A. Approximately around two years.

5 Q. Before this happened?

6 A. Yes, ma'am.

7 Q. Okay. Now are you familiar with your neighbors?

8 A. Yes, ma'am, I am.

9 Q. Do you remember who lived in the house before you?

10 A. Yes, my uncle did.

11 Q. Okay. And are you familiar with what cars were

12 typically around on your street?

13 A. Yes, ma'am, pretty much.

14 Q. What kind of car do you drive, Mr. Mahaffey?

15 A. At that time I was driving a '97 Honda Accord.

16 Q. Okay. What color was it?

17 A. White.

18 Q. Are there any other Hondas on your street?

19 A. Not as I'm aware, no, ma'am.

20 Q. Okay. And are there street lights on your street?

21 A. Yes, ma'am.

22 Q. And they work?

23 A. Yeah.

24 Q. All right. Going back to December 10th, 2009 you said

25 your wife woke you up. What did she say?

TIMOTHY MAHAFFEY - DIRECT EXAMINATION BY MS. BENTLEY

1 A. She said somebody's in your car.

2 Q. What did you do?

3 A. I come up out of the bed and went to the window. The
4 way my house sits, if y'all are familiar with Mill Hill
5 houses, they're facing each other. I went to the front
6 window in the bedroom, kind of pulled on the curtain and
7 looked towards my car.

8 Q. Okay.

9 A. And you couldn't see through the car. There was a
10 blockage. That was telling me something was in it. So I
11 had went to the front door, jerked open the front door.

12 Q. Okay. And were you in pajamas at this time?

13 A. I was in shorts.

14 Q. Okay. And what did you see when you opened the door?

15 A. I don't know his name.

16 Q. But -- that's okay.

17 A. This defendant sitting at the next table was in my car.

18 Q. Okay. Was your dome light on?

19 A. No.

20 Q. The light inside the car wasn't on?

21 A. It was not.

22 Q. Was the car door open or shut when you went outside?

23 A. It was open.

24 Q. Okay. At any point did you see anyone inside your car?

25 A. Yes, ma'am. Him.

TIMOTHY MAHAFFEY - DIRECT EXAMINATION BY MS. BENTLEY

66

1 Q. Okay. But when did you see that?

2 A. When I jerked open the door. I seen it from the
3 bedroom, but I could see something -- somebody was in my
4 car.

5 Q. Okay.

6 A. And when I jerked open the door I was confronted --
7 there was somebody in my car.

8 Q. Okay. And what was that person doing when they were in
9 your car? Could you tell?

10 A. Well, the console -- he was bent over in the car, might
11 have had a knee in the car. A Honda is very low to the
12 ground. He was bent over going through the console.

13 Q. Okay. Now, Mr. Mahaffey, was your car locked that
14 night?

15 A. No, ma'am.

16 Q. Okay. And do you keep anything in your car of value?

17 A. There wasn't that night, no, ma'am.

18 Q. Okay. And what did -- did you confront the man?

19 A. Yes, ma'am.

20 Q. Did you -- what did you say to him?

21 A. What in the hell are you doing in my car?

22 Q. Okay. Did he respond?

23 A. Yes. He come back out. And in the meantime I hollered
24 for her to get my gun.

25 Q. You hollered to who?

TIMOTHY MAHAFFEY - DIRECT EXAMINATION BY MS. BENTLEY

1 A. To my wife, Jimmie, to get my gun.

2 Q. Did you have a gun?

3 A. No.

4 Q. Okay. Why did you say that?

5 A. I didn't know what he might do. And I was trying to
6 get this thing taken care of.

7 Q. Okay.

8 A. To see what was going on out there.

9 Q. So did the man that was inside your car, did he answer
10 you?

11 A. Yes. The defendant come out of the car with his hands
12 up, said, "I'm sorry, man, I'm sorry." Said, "I thought
13 this was my girlfriend's car."

14 Q. Okay. Was that all the contact that you had with him?

15 A. We had a few words. He kept telling me he was sorry,
16 don't have me locked up, don't have me locked up. Several
17 more words of don't put me in jail. In the meantime she's
18 still on the phone with the Fountain Inn Police.

19 Q. Okay. So your wife called the police?

20 A. Yes, ma'am.

21 Q. Approximately how long did it take for them to respond?

22 A. It was just a couple of minutes.

23 Q. Just a couple of minutes? Now did the man that you
24 saw, did he stay inside the car or after he put his hands up
25 what did he do?

TIMOTHY MAHAFFEY - DIRECT EXAMINATION BY MS. BENTLEY

68

1 A. He stood at the back. He had come around to the back
2 with his hands up talking to me.

3 Q. Okay.

4 A. Please don't lock me up. I thought it was my wife's
5 car. I was looking for the keys. Still -- he was around at
6 the back of the car.

7 Q. Okay.

8 A. Still, you know, pleading with me not to call the law,
9 it was a mistake and starting to drift off.

10 Q. Starting to drift off, what does that mean?

11 A. Starting to walk backwards.

12 Q. Okay.

13 A. From the car.

14 Q. Walks backwards.

15 A. Backwards down the street.

16 Q. Down the street in which direction?

17 A. Would be towards Woodside Avenue.

18 Q. Okay. And how -- what happened when the police
19 responded?

20 A. The police responded. When they turned the corner,
21 y'all know how a Mill Hill is, it's one through six streets.

22 Q. Okay.

23 A. When they come in off of Woodside, they come onto 3rd
24 Street, the street that I live on. I live on one end. And
25 they come in on the other end. Approximately one house from

TIMOTHY MAHAFFEY - DIRECT EXAMINATION BY MS. BENTLEY

69

1 the other, ain't but two houses from the other end is where
2 I guess -- my wife had told them that, you know, the guy was
3 walking down the street. And I guess they thought that they
4 knew that was him or a good idea that was him. So they
5 stopped. And they brought him back to my house.

6 Q. You saw them stop ---

7 A. Bring him back to my house, yes, ma'am.

8 Q. Okay. At any point did you go back in the house or
9 lose a visual?

10 A. I went back in and put on a shirt when they pulled --
11 they had done closed the car up, headed to my house. And I
12 went inside the house and went back out and sat down on the
13 porch.

14 Q. Okay. And how many officers responded? Do you recall?

15 A. Yes, ma'am. There was three.

16 Q. Okay. And do you recall which ones you spoke to?

17 A. I think it's Officer Moore.

18 Q. Okay.

19 A. I don't know that he's in the back.

20 Q. Okay. That's okay.

21 A. I was talking to those two.

22 Q. Okay. Now, Mr. Mahaffey, did you go inside your car to
23 determine if anything had been taken?

24 A. Yes, ma'am, I did.

25 Q. Had anything been taken?

TIMOTHY MAHAFFEY - DIRECT EXAMINATION BY MS. BENTLEY

70

1 A. No, ma'am, it wasn't.

2 Q. Was the car in the same condition, you know, everything
3 closed that had been closed, everything was open?

4 A. The console was open.

5 Q. Okay. Could you tell -- but you knew that nothing was
6 missing from it?

7 A. No. I knew I had a couple of packs, two packs of
8 cigarettes. I had stopped earlier, I got three packs.
9 Stopped earlier at the store at the Enmark right up, you
10 know, it's right on Jones Street. It's not too far from
11 Woodside Avenue. I stopped and got three packs of
12 cigarettes. And I had left two in the truck, I mean, in the
13 console.

14 Q. Okay. And they were still there?

15 A. Yes, ma'am.

16 Q. Now, Mr. Mahaffey, you've been on both sides of the
17 law, haven't you?

18 A. Yes, ma'am, I have.

19 Q. You're a victim now?

20 A. Yeah.

21 Q. But you've been convicted of a crime in the past,
22 haven't you?

23 A. I've been sitting where he's sitting, yes, ma'am.

24 Q. Okay. And some of those were property crimes, is that
25 true?

TIMOTHY MAHAFFEY - DIRECT EXAMINATION BY MS. BENTLEY

1 A. Yes.

2 Q. And when was your last -- when was your last
3 conviction? Do you recall?

4 A. 2005.

5 Q. And what happened with that case?

6 A. I had -- I done a forty month sentence.

7 Q. Okay. Did you plead guilty? Did you have a trial like
8 this?

9 A. I done a plea, yes, ma'am.

10 Q. Okay. And what prompted that criminal behavior that
11 you had?

12 A. Drugs.

13 Q. And when did you clean up?

14 A. In 2005.

15 Q. When you went ---

16 A. To prison.

17 Q. --- down the road?

18 A. Yes, ma'am.

19 Q. Are you ---

20 A. Done forty months.

21 Q. --- clean today?

22 A. Today?

23 Q. Um-hum (affirmative).

24 A. Been sober five years August the 1st.

25 Q. Okay. Were you sober on the evening of December 10th,

TIMOTHY MAHAFFEY - DIRECT EXAMINATION BY MS. BENTLEY

72

1 2009?

2 A. Yes, ma'am.

3 Q. Are you sure of everything that you saw?

4 A. Everything, yes, ma'am.

5 Q. And have you ever met Mr. Bolden before?

6 A. Now that I look, I do, I believe I know his brother.

7 Q. Okay. But had you ever -- were you acquaintances with
8 him at all?

9 A. No.

10 Q. Had you ever seen him ---

11 A. Maybe in school. Maybe in school.

12 Q. Okay. But had you ever seen him along your street
13 before?

14 A. No. It's been years since I've seen him. Years and
15 years. I'm talking fifteen or twenty.

16 Q. Had -- are you familiar with anyone that might be his
17 girlfriend on your street?

18 A. No.

19 Q. Okay. And do you have any animosity towards Mr.
20 Bolden?

21 A. No, ma'am.

22 Q. No dealings with him in the past ---

23 A. No, ma'am.

24 Q. --- except for possibly school?

25 A. No.

1 else before we get started?

2 MR. PATEL: Judge, I believe they're going to try to
3 introduce a videotape. This is the first that we've heard
4 of this videotape. I understand -- I've talked to the
5 Solicitor. And she said that it was uploaded back in
6 February of 2010. We have -- this file was open for us in
7 May of 2010, so after the videotape had already been
8 uploaded.

9 We requested discovery on this case. And we received
10 discovery June 15th of 2010. And I'm looking through it
11 just to make sure I didn't miss anything, but I don't think
12 there's any mention of any videotape that's been uploaded.
13 I've looked.

14 There's a property report. There's nothing -- I don't
15 have a P&E sheet that shows any type of videotape that was
16 introduced. Now I've had a chance to kind of view it
17 quickly. I think it's a twenty minute long videotape.

18 But I've talked to her about what she's trying to get
19 out of it. And Ms. Bentley wants to use the tape to show --
20 one, the tape has my client in the backseat of a police car.
21 The police car's there, there's other officers around and
22 are talking to the -- maybe the victim. All these officers
23 are just talking in the videotape. And I believe they're
24 trying to introduce it to show that my client gave a false
25 name. Is that ---

1 **MS. BENTLEY:** To give the scene of the crime, to show
2 the false name, to show the police actions, you know,
3 there's three officers. One, Mr. Bolden, just to make sure
4 that nobody thinks he was railroaded in any way.

5 It gives the jury a perspective of the actual scene of
6 the crime. It shows the car, where the car was on the
7 street in relation to the house, in relation to the field
8 across from the house.

9 **MR. PATEL:** It's dark. I didn't see all that. I just
10 saw a car and a fence and some officers that are talking.
11 The problem is there's officers that are editorializing.
12 And I believe one quote that I -- they're talking about the
13 keys and it was, yeah, he was looking for keys. Some of
14 those -- stuff is going to come out.

15 I think if they want to get out the fact that he gave a
16 false statement, they're going to put in his waiver of
17 rights. I think they can get that in through the officer.

18 **THE COURT:** Well, what's wrong with showing them the
19 tape and turning down the volume?

20 **MS. BENTLEY:** And I'm -- well, I would ---

21 **THE COURT:** I mean, you know, is there -- officers are
22 speculating on it, is that right?

23 **MS. BENTLEY:** There's some comments back and forth.
24 It's listing the victims, basically what they already said.
25 He was looking for some keys. Yeah, he said he was looking

1 for some keys.

2 THE COURT: The victim said that?

3 MS. BENTLEY: The victim told the officer that. The
4 officer repeats it. The officers -- there's a little bit of
5 talk amongst themselves. They're just kind of showing the
6 scene, seeing what's happening.

7 And Mr. Patel was notified on June 15th in the
8 discovery request that our video recordings are all uploaded
9 and pursuant to every other case that we have.

10 THE COURT: Yeah. Okay.

11 MR. PATEL: Judge, I have no problem with it if you
12 want to mute it.

13 THE COURT: Well, I don't know what they say. I mean,
14 what do you -- we don't want to put anything inflammatory in
15 front of the jury. Wouldn't want to create some issue ---

16 MS. BENTLEY: No.

17 THE COURT: --- that doesn't need to be there.

18 MS. BENTLEY: And being that it is a video, I'd just
19 stand in front of the jury and just kind of mandatory --
20 manually turn it down every time. So ---

21 THE COURT: Well, is there any reason why it couldn't
22 just be muted for the whole thing? I mean, I'm just, you
23 know. I'm just asking.

24 MS. BENTLEY: I think you lose a lot of respect of when
25 you're just watching a muted video. You know, you're not

1 seeing the victims move back and forth and kind of what's
2 happening. They have no idea what's being said. You know,
3 they don't know if somebody's yelling at Mr. Bolden or ---

4 THE COURT: Well, can you get to the part where there's
5 this allegedly inflammatory verbiage?

6 MR. PATEL: I think it's at the very beginning of it
7 where we started it.

8 (Whereupon the videotape was being viewed by the Court,
9 but was not transcribed)

10 THE COURT: You're just concerned because the police
11 officer's opinion is ---

12 MR. PATEL: Exactly.

13 THE COURT: What's wrong with that?

14 MR. PATEL: I just think it's -- it's the jury's --
15 Judge, it's the jury's job to form their own opinions.

16 (Whereupon the video was reviewed again)

17 THE COURT: All right. What rule does that violate?

18 MR. PATEL: Judge, I would base it on a 403 argument,
19 again.

20 THE COURT: Well, I just can't see that. I mean, you
21 can get up and argue that that -- he's expressing his
22 opinion. I mean, and it's sort of -- I think it fits in
23 sort of the *res gestae* of the event. So I don't find it's
24 overly prejudicial.

25 MR. PATEL: Thank you, Judge.

MICHAEL JACKSON - DIRECT EXAMINATION BY MS. BENTLEY

1 THE COURT: Okay. All right. Let's get 'em. I want
2 to know who said this case would be over in an hour.

3 MS. BENTLEY: Almost.

4 THE COURT: And your foreperson is David Hagins, number
5 73.

6 (Whereupon Court's exhibit 1 was marked)

7 (Whereupon the jury entered the courtroom at 2:31 pm)

8 THE COURT: All right. Mr. Hagins, thank you for
9 agreeing to serve.

10 MR. HAGINS: Not a problem.

11 THE COURT: And we are prepared to go forward.

12 MS. BENTLEY: The State calls Officer Jackson.

13 Michael Jackson, being
14 duly sworn testified as follows:

15 MADAME CLERK: Please state your name for the record.

16 MR. JACKSON: Officer Mike Jackson, Fountain Inn Police
17 Department.

18 MADAME CLERK: Thank you. You may be seated.

19 Direct Examination by Ms. Bentley:

20 Q. Officer Jackson, how long have you been employed by
21 Fountain Inn?

22 A. A little over three years.

23 Q. And where were you before that?

24 A. I was truck driving. I also was previously employed at
25 Laurens City Police Department.

MICHAEL JACKSON - DIRECT EXAMINATION BY MS. BENTLEY

84

1 Q. The Laurens City Police Department?

2 A. Yes, ma'am.

3 Q. And were you working on December 10th, 2009?

4 A. I was.

5 Q. What shift were you working?

6 A. It was night shift. So it would have been the delta
7 shift.

8 Q. Okay. And was there a particular area in Fountain Inn
9 you were patrolling that night? How does that work?

10 A. We patrol part of Laurens County and Greenville County.

11 Q. Okay. At any point were you dispatched to [REDACTED]

12 [REDACTED] within Greenville County?

13 A. I was.

14 Q. At what time was that?

15 A. I don't remember the exact time.

16 Q. Okay.

17 A. I want to say before midnight. A little after eleven,
18 before midnight somewhere.

19 Q. Do you recall why you were dispatched to that address?

20 A. I got dispatched to a call where there was someone
21 trying to break into an automobile.

22 Q. Okay. Were you the first one to arrive on the scene?

23 A. I was.

24 Q. And what did you observe -- actually, tell me first,
25 what direction did you approach 3rd Avenue?

MICHAEL JACKSON - DIRECT EXAMINATION BY MS. BENTLEY

1 A. I was coming from the direction of the Law Enforcement
2 Center where -- which was going south on South Main, turning
3 right onto [REDACTED] which would be west on [REDACTED]
4 [REDACTED], turning south on Woodside Avenue and turning back
5 west on [REDACTED] Street.

6 Q. Okay. And did you see anyone on [REDACTED] as you
7 approached [REDACTED]?

8 A. I did see a subject traveling my direction as I was
9 checking the numerics on the house to make sure I approached
10 the right residence.

11 Q. Okay. And did you see anyone else?

12 A. No, ma'am.

13 Q. I'm showing you what's been marked as State's exhibit.

14 2. Do you recognize this?

15 A. I do.

16 Q. What is it?

17 A. It's a map of what we call the Mill Hill section of
18 Fountain Inn. And it's 1st through 4th. And it starts
19 toward Shaw Street up there.

20 Q. Okay. And does this fairly and accurately represent
21 the area of [REDACTED] and Woodside in Fountain Inn?

22 A. It does at that time.

23 Q. At that time? Have any modifications or changes been
24 made to this, to this particular image?

25 A. No.

MICHAEL JACKSON - DIRECT EXAMINATION BY MS. BENTLEY

86

1 Q. Okay.

2 MS. BENTLEY: Your Honor, at this time the State wishes
3 to seek exhibit -- wishes to admit exhibit 2 into evidence.

4 MR. PATEL: Without objection.

5 THE COURT: Okay.

6 (Whereupon State's exhibit 2 was admitted into
7 evidence)

8 Q. Officer Jackson, is the victim's residence that you
9 responded to on this map?

10 A. Yes, ma'am, it is.

11 Q. And is it -- what signifies the victim's residence?

12 A. Well, I know the location. And, of course, you have it
13 blown up on the map. So ...

14 Q. All right. And is the call-out -- is that the victim's
15 address?

16 A. That is correct.

17 Q. With the yellow box?

18 A. Yes.

19 Q. And is that where you responded?

20 A. It is.

21 Q. And what did you do first when you responded to 3rd
22 Avenue?

23 A. Like I said, once I approached the residence and the
24 numeric I exited my patrol unit and -- followed by Officer
25 Davis, which came up from my rear patrol unit.

MICHAEL JACKSON - CROSS EXAMINATION BY MR. PATEL

1 Q. Okay. Did you speak to the individual that you saw
2 walking down [REDACTED] ?

3 A. I don't remember being the first one to initiate
4 contact with the subject.

5 Q. Who did you initiate contact with?

6 A. With the victims.

7 Q. And what did they tell you?

8 A. They described a subject and what they were doing
9 before they called the police department and what the
10 subject was doing.

11 Q. What did they say the subject was doing?

12 A. They said the subject was ---

13 MR. PATEL: Objection, Your Honor.

14 THE COURT: Yeah, don't

15 MS. BENTLEY: Okay..

16 Q. No further questions. Please answer any questions Mr.
17 Patel may have.

18 A. Thank you.

19 Cross Examination by Mr. Patel:

20 Q. Officer Jackson, ---

21 A. Yes, sir.

22 Q. --- bear with me just for a second. Did you write a
23 police report in this case?

24 A. No, sir, I did not.

25 Q. Okay. Now on December 10th you said you were working

ROBERT DAVIS, JR. - DIRECT EXAMINATION BY MS. BENTLEY

90

1 Robert Davis, Jr., being
2 duly sworn testified as follows:

3 MADAME CLERK: Please state your name for the record.

4 MR. DAVIS: Officer Robert C. Davis, Jr.

5 MADAME CLERK: Thank you. You may be seated.

6 Direct Examination by Ms. Bentley:

7 Q. Officer Davis, how long have you been employed by the
8 City of Fountain Inn?

9 A. A little bit over three years.

10 Q. And what are your duties there?

11 A. I'm a patrolman with the City of Fountain Inn.

12 Q. Did you do anything before working for Fountain Inn?

13 A. I worked at the Greenville County Detention Center for
14 two years.

15 Q. Okay. And were you working on December 10th, 2010?

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

17 Q. What shift were you working?

18 A. I was on the night shift.

19 Q. At any point during your shift were you called out to
20 [REDACTED], 3rd Street in Fountain Inn?

21 A. Yes, I was.

22 Q. At what time?

23 A. It was approximately somewhere between 11:20, 11:30.

24 Q. Were you the first to arrive?

25 A. No, ma'am, I wasn't.

ROBERT DAVIS, JR. - DIRECT EXAMINATION BY MS. BENTLEY

- 1 Q. At what point -- who was first on the scene?
- 2 A. Officer Jackson.
- 3 Q. And how long did it take for you to pull up after him?
- 4 A. I was approximately five seconds, ten seconds behind
- 5 him.
- 6 Q. Did you observe anything as you were coming down or
- 7 coming up 3rd Street?
- 8 A. I did.
- 9 Q. What direction did you approach 3rd Street?
- 10 A. West, going west.
- 11 Q. Going west on 3rd Street?
- 12 A. (Affirmative nod).
- 13 Q. What did you observe as you drove down that street?
- 14 A. I observed a black male on the right hand side of the
- 15 road walking away from the victim's house.
- 16 Q. What did you do at that point?
- 17 A. At that point I stopped my car and got out and I spoke
- 18 with the black male who was walking down the street.
- 19 Q. And is the male that you spoke to that night, is he in
- 20 the courtroom today?
- 21 A. Yes.
- 22 Q. Could you please point him out?
- 23 A. The defendant.
- 24 Q. Is that Kenneth Bolden?
- 25 A. Yes, it is.

ROBERT DAVIS, JR. - DIRECT EXAMINATION BY MS. BENTLEY

92

1 Q. All right. Now what did you do when you approached Mr.
2 Bolden?

3 A. At that time I got out, I spoke with him asked him what
4 he was doing in the area. At that time I put him in the
5 backseat of the car, drove him down to the incident location
6 and trying to find out what was going on.

7 Q. Okay. Did he -- what information did you get from Mr.
8 Bolden on December 10th with your first interaction?

9 A. He stated that he was looking for some keys that
10 belonged to a friend of his.

11 Q. Did he -- did you ask him his name?

12 A. I did. He gave me ---

13 Q. What did he respond?

14 A. He gave me Jeffery Cecil Bolden.

15 Q. That was his name? Did he provide you a date of birth
16 or any other identifying information?

17 A. He did.

18 Q. And what information did that -- whose identity did
19 that information belong to?

20 A. His brother.

21 Q. Who is? Whose name was that?

22 A. That was his brother's name. It was not his name.

23 Q. And the date of birth and the social that he gave you,
24 who did those go back to?

25 A. His brother as well.

ROBERT DAVIS, JR. - DIRECT EXAMINATION BY MS. BENTLEY

1 Q. And that would be Jeffery Bolden?

2 A. Jeffery Bolden.

3 Q. Okay. Did you ask him for an ID?

4 A. I did ask him for ID. He stated he didn't have one.

5 Q. He said he didn't have one? Is your car equipped with
6 audio? Do you have recording equipment?

7 A. It is.

8 Q. And was it operable on December 10th, 2009?

9 A. Yes, ma'am.

10 Q. Do you recognize what I am showing you marked as
11 State's exhibit 3?

12 A. I do.

13 Q. And what is it?

14 A. It's a VH cassette out of the patrol unit 101 that I
15 was driving that night.

16 Q. And how do you know that?

17 A. 'Cause it has my initials on it.

18 Q. And so have you watched this tape?

19 A. Yes, ma'am, I have.

20 Q. Does it fairly and accurately represent the events of
21 December 10th through 11th, 2009?

22 A. Yes, ma'am.

23 Q. Have any additions, modifications, deletions been made
24 to this recording?

25 A. No, ma'am.

ROBERT DAVIS, JR. - DIRECT EXAMINATION BY MS. BENTLEY

94

1 Q. It's exactly the same -- it shows the exact depiction
2 of ---

3 A. Yes, ma'am.

4 Q. --- the events?

5 **MS. BENTLEY:** Your Honor, at this time the State wishes
6 to admit exhibit 3 into evidence and publish it to the jury.

7 **THE COURT:** All right. Subject to all previous
8 objections.

9 **MR. PATEL:** Thank you, Judge.

10 (Whereupon State's exhibit 3 was admitted into
11 evidence, but was not transcribed)

12 Q. At what point did you begin your recording equipment,
13 Officer Davis?

14 A. Moments after Mr. Bolden was in the patrol car.

15 Q. And where was he in the patrol car?

16 A. He was in the backseat.

17 (Whereupon the video was being played for the jury)

18 **MR. PATEL:** And, Judge, once again, I want to object to
19 the publication of this to the jury.

20 **THE COURT:** Same ruling.

21 (Whereupon the video continued to be played for the
22 jury)

23 Q. Officer Davis, the voice that we hear predominantly,
24 the loudest on that videotape, whose voice is that?

25 A. That would have been my voice.

ROBERT DAVIS, JR. - DIRECT EXAMINATION BY MS. BENTLEY

1 Q. That was your voice? And were you the only person left
2 on the scene that spoke to Mr. Bolden?

3 A. At first, yes, ma'am.

4 Q. Okay. After you finished your investigation at the
5 scene how much longer were you out there at that time?

6 A. I believe we were approximately out there about thirty
7 minutes.

8 Q. Okay.

9 A. Total.

10 Q. Did you have anymore interaction with Mr. Bolden at
11 that point?

12 A. We did.

13 Q. On scene or later?

14 A. On the scene I asked him several more times for his
15 name.

16 Q. Okay. And did his response ever change?

17 A. No, ma'am.

18 Q. Okay. What did you do after you completed your time
19 with the victims and looking at the car?

20 A. I transported him to the Fountain Inn Law Enforcement
21 Center where we asked him to come into the conference room
22 and read him his Miranda rights.

23 Q. Were you alone when you did that?

24 A. No, I wasn't.

25 Q. Okay. I'm showing you what's previously been marked as

ROBERT DAVIS, JR. - DIRECT EXAMINATION BY MS. BENTLEY

96

1 State's exhibit 1. Do you recognize this form?

2 A. I do.

3 Q. What is it?

4 A. What that is is our Fountain Inn Police Department
5 Miranda rights. It's where we read out their rights and ask
6 them if they understand. Then they initial beside each one.

7 Q. Is your name or signature anywhere on that paper?

8 A. Yes, ma'am.

9 Q. Where is it?

10 A. It's the last one at the bottom as a witness.

11 Q. Okay. So did you -- were you the one that read Mr.
12 Bolden his rights?

13 A. I was not.

14 Q. You were not? Did you write down any of his primary
15 information at the top?

16 A. I did not.

17 Q. Did you hear the rights being read?

18 A. I did.

19 Q. Did you see the information being written down at the
20 top?

21 A. Yes, ma'am.

22 Q. Were you present during the entire interrogation?

23 A. Yes, ma'am.

24 Q. Okay. Officer Davis, after -- who else did you say was
25 in the room with you when you were ---

ROBERT DAVIS, JR. - DIRECT EXAMINATION BY MS. BENTLEY

1 A. It would be Sergeant Nelson.

2 Q. After you and Sergeant Nelson finished speaking to Mr.
3 Bolden what did you do next? After you finished talking to
4 him.

5 A. After we finished talking to him we transported him to
6 Greenville County.

7 Q. You both did?

8 A. Just myself.

9 Q. Okay. And what was the purpose of that?

10 A. He was being charged with autobreaking. And at that
11 time we couldn't get a Judge. So he was put in on a
12 temporary hold.

13 Q. Okay. So the Law Enforcement Center that you took him
14 to, was it the one in Fountain Inn?

15 A. No, ma'am, it was the one in Greenville.

16 Q. Which is?

17 A. Over here on McGee Street.

18 Q. Okay. And were you present during the booking process?

19 A. Yes, ma'am, I was present when we brung him in.

20 Q. And did anything happen that led you to figure out that
21 he was not Jeffery Cecil Bolden?

22 A. It did.

23 Q. What happened?

24 A. Prior to search of the defendant they took his shoes

25 off. And as they took his shoes off a ID, picture ID, South

ROBERT DAVIS, JR. - CROSS EXAMINATION BY MR. PATEL

98

1 Carolina, did fall out of his shoe, which matched the
2 defendant.

3 Q. Okay. And what name was on that?

4 A. The name on it is Mr. Kenneth Bolden.

5 Q. Kenneth Bolden? Okay. And is the man that you first
6 encountered on 3rd Street and ended up with at the Law
7 Enforcement Center in this courtroom today?

8 A. Yes, ma'am.

9 Q. Just the one person that you spoke to?

10 A. Yes, ma'am.

11 Q. And who was that person?

12 A. The defendant, Kenneth Bolden.

13 Q. Thank you. No further questions. Please answer any
14 questions Mr. Patel may have.

15 THE COURT: All right. Cross.

16 MR. PATEL: May it please the Court?

17 **Cross Examination by Mr. Patel:**

18 Q. Officer Davis, you were the second officer on the
19 scene?

20 A. I was.

21 Q. You said about five seconds after Officer Jackson?

22 A. Yes, sir.

23 Q. Okay. And you were the one that stopped the subject
24 that was walking down the street, correct?

25 A. I was.

1 And if they needed any assistance, assist in any way
2 possible.

3 Q. Did you talk to the suspect, the man who was the
4 suspect at that time, Mr. Bolden, on the scene that night?

5 A. He was.

6 Q. Did you speak to him there?

7 A. I did not. I spoke to him later.

8 Q. When did you speak to him?

9 A. I spoke to him once he was transported back to the Law
10 Enforcement Center, Fountain Inn Law Enforcement Center,
11 where he was brought into the conference room. And that's
12 where I encountered him.

13 Q. Do you recognize what's been marked as State's exhibit
14 1?

15 A. Yes, ma'am, I do.

16 Q. What is it?

17 A. This is the Miranda rights that was read to him the
18 night of the incident.

19 Q. Who filled out the top portion of that form?

20 A. I filled out that.

21 Q. And what -- why did you fill it out as you did?

22 A. On the top part it basically tells us who we're
23 interrogating, the date and time.

24 Q. Okay.

25 A. We fill out all their information, date of birth,

DANNY SCOTT NELSON - DIRECT EXAMINATION BY MS. BENTLEY

107

1 social security, height, weight, eyes, telephone, address
2 and also the educational level.

3 Q. And from whom did you obtain that information that's
4 written on that form?

5 A. I obtained it from -- at the time it was Jeffery Cecil
6 Bolden.

7 Q. And it was from the man you spoke to?

8 A. That is correct.

9 Q. And who was that man? Is that man that you spoke to
10 that night, is he in the courtroom today?

11 A. That is correct. He is the defendant.

12 Q. Okay. And please tell us the rights that you read to
13 him that night.

14 A. It starts off, it says, before we ask you any questions
15 you must understand your rights. You have the right to
16 remain silent. Anything you say can be used against you in
17 the court of law..

18 You have the right to talk to a lawyer for advice
19 before we ask you any questions, to have a lawyer with you
20 during questioning. If you do not have the money to pay a
21 lawyer's fee, the court will appoint one to represent you
22 without cost if you wish.

23 If you decide to answer questions now without a lawyer
24 present, you will still have the right to stop answering at
25 any time. You also have the right to stop answering at any

1 time until you talk to a lawyer.

2 Q. And did Mr. Bolden indicate that he understood those
3 rights?

4 A. Yes, he did.

5 Q. And how did he indicate that?

6 A. After I read the whole page to him, I returned this
7 sheet back to Mr. Bolden at which time I instructed him to
8 read back through and if he understood each right to initial
9 out beside each one of them.

10 Q. And did you witness him do that?

11 A. Yes, I did.

12 Q. And is your signature on that page?

13 A. Yes, ma'am, it is.

14 Q. Where is it?

15 A. It's the lower left hand corner as the interviewer.

16 Q. Okay.

17 **MS. BENTLEY:** Your Honor, at this time the State wishes
18 to admit exhibit 1 into evidence.

19 **MR. PATEL:** Without objection, Your Honor.

20 **THE COURT:** Okay. No objection.

21 (Whereupon State's exhibit 1 was admitted into
22 evidence)

23 Q. Sergeant Nelson, did Mr. Bolden agree to speak to you a
24 little bit that night?

25 A. Yes, ma'am, he did.

DANNY SCOTT NELSON - DIRECT EXAMINATION BY MS. BENTLEY

109

1 Q. Did he tell you where he had been prior to y'all
2 finding him on 3rd Street?

3 A. Yes, ma'am.

4 Q. Where did he say he was located?

5 A. At the location of [REDACTED] [REDACTED] which is
6 located within the city limits of Fountain Inn, County of
7 Greenville.

8 Q. Okay. And is that location -- can you see it on this
9 map?

10 A. That exact location is not on the map. It is just
11 prior to this picture here, just off to the left a little
12 bit.

13 Q. Okay. Make sure the jury can still see you and see the
14 map. Now [REDACTED] [REDACTED] you said those are some
15 apartments?

16 A. Yes, they are.

17 Q. What would be the most direct route from those
18 apartments to 3rd Street, Sergeant Nelson? Do you know?

19 A. The most commonly used path of people that are
20 traveling from one location to another in that area is a
21 path that comes through the wooded area through a field.

22 Q. Is that path -- is that viewable on this map?

23 A. The path is on the map.

24 Q. Would you draw it out for us?

25 A. Yes, ma'am.

DANNY SCOTT NELSON - CROSS EXAMINATION BY MR. PATEL

110

1 (Whereupon Sergeant Nelson stepped down from the
2 witness stand and drew on the map)

3 Q. Now, Sergeant Nelson, looking at this map, what's the
4 approximate distance from those apartments to 3rd Street?

5 A. It's probably going to be no more than three hundred
6 yards through there.

7 Q. Three hundred yards. How long do you think it would
8 take you to walk at an average pace from 3rd Street to those
9 apartments?

10 A. Probably no more than two to three minutes at the most.

11 Q. Two to three minutes at the most. You can have a seat.
12 Thank you. After you finished speaking to Mr. Bolden in the
13 conference room did he have anything else really to add to
14 the story?

15 A. Nothing whatsoever.

16 Q. Okay. And did you escort him to the Law Enforcement
17 Center with Officer Davis?

18 A. No, ma'am. He was transported by Officer Davis from
19 our facility to the Greenville County Detention Center.

20 Q. Okay. And I don't have any further questions.

21 A. Thank you.

22 Q. Please answer any questions Mr. Patel may have.

23 Cross Examination by Mr. Patel:

24 Q. Your encounter with him -- your -- when you spoke to
25 Mr. Bolden it was at the Fountain Inn Police Department?

CLOSING ARGUMENTS - MS. BENTLEY

118

1 So all the evidence is in.

2 And we are ready now to move to the third part, which
3 is the closing arguments of the attorneys. So I ask you to
4 pay close attention as they advocate their positions to you.
5 Thank you.

6 **MR. PATEL:** Your Honor, may we approach really quickly?

7 **THE COURT:** All right. We'll start that third part in
8 just a minute.

9 (Whereupon a bench conference was held off the record
10 in the presence of the jury, but out of their hearing)

11 **THE COURT:** All right. We have not quite concluded the
12 second part. All right. Mr. Patel.

13 **MR. PATEL:** Judge, the defense rests.

14 **THE COURT:** Now we've concluded the second part. And
15 it's good to be, you know, it's always good to have a smile.
16 But we now get down to the serious business when the
17 attorneys advocate their positions to you. So thank you.
18 Please give them your kind attention. All right.

19 **MS. BENTLEY:** May it please the Court? Mr. Patel?
20 Ladies and gentlemen, I told you at the beginning of the
21 trial, not very many hours ago, that I would have a
22 straightforward case for you today and at the end I would
23 have proven Mr. Bolden's guilt, his red hands beyond a
24 reasonable doubt. The testimony of witnesses, a brief in-
25 car video and a demonstrative map, that's exactly what I've

CLOSING ARGUMENTS - MS. BENTLEY

119

1 done.

2 Now the Judge will instruct you on the law and the
3 exact elements of the crime and evidence that you may
4 consider and may not consider in just a few minutes. But
5 there's a few things that I want to point out. There's a
6 few things that I want you to concentrate on in your
7 deliberations, a few elements that I had to and did prove.

8 First and most importantly that it was Kenneth Bolden
9 that the Mahaffeys and law enforcement found on 3rd Street
10 on December 10th, 2009. Now Mr. Patel told you at the
11 beginning of trial, they're not really contesting that.
12 They're going to go ahead and say that it was Mr. Bolden.
13 And we've also proven it today. So I won't bore you with
14 all that evidence that it was, in fact, Mr. Bolden.

15 Secondly, I had to prove the car Mr. Bolden was found
16 inside did not belong to him and that he had no right to be
17 in it. You heard from Mr. Mahaffey and his wife who both
18 testified that it was their vehicle, it was the only Honda
19 on the street, that there were street lights, that they had
20 no knowledge of Mr. Bolden except for perhaps a brief
21 altercation of the seventh grade in the case of Mr. Mahaffey
22 and that they had never given him permission to be inside
23 their car.

24 The house has been in Mr. Mahaffey's family for years.
25 He told you that before he lived there his uncle lived

CLOSING ARGUMENTS - MS. BENTLEY

120

1 there. And that you heard the tape, he didn't know whoever
2 this alleged friend was that might have said Mr. Bolden
3 could go inside a car somewhere and get some keys. They had
4 no idea what any of that was about. The car was theirs, it
5 was in front of their house, their family home. So that
6 this clearly established that Mr. Bolden had no right to be
7 in that car.

8 Third, and kind of where the crux of this case lies is
9 proving that Mr. Bolden entered that car unlawfully, that he
10 either had the intent to take the car or something --
11 anything of value from inside or that he entered the car as
12 a result of an unreasonable mistake, that it wasn't
13 reasonable that he would enter that car looking for keys.

14 And that's what I want to focus on right now. Let's
15 think about the evidence that we heard, the testimony you
16 heard and figure out why it is beyond a reasonable doubt
17 ridiculous to consider Mr. Bolden was in that car looking
18 for his friend's keys.

19 Both Mr. and Mrs. Mahaffey told you that they saw Mr.
20 Bolden in the driver's side half in, pawing around through
21 the center console of the car. The car was unlocked. So
22 immediately the car's unlocked it would seem odd for
23 somebody to be pawing around in the center console.

24 Why would anyone do that in the middle of the night?
25 Why would anyone approach a car on a residential street?

CLOSING ARGUMENTS - MS. BENTLEY

121

1 They see lights on inside. They see a TV on. Why wouldn't
2 they knock on the door and say, hey, I'm going to go find
3 those keys? Or, hey, you know, I'm here, I'm getting those
4 keys. No, Mr. Bolden just goes in the car and starts pawing
5 around looking for whatever he can find.

6 Second, you heard that Mr. Bolden lied repeatedly on
7 the evening of December 10th, 2009. You heard him lie to
8 police about who he was. You heard that he gave the
9 information of his brother, social security number, date of
10 birth, exact name, would not tell the truth. Even after
11 he's under arrest he still does not tell the truth.

12 It's not until they actually find his ID in his shoe
13 that it's figured that he, you know, that it's clearly
14 Kenneth Bolden. If he was scared about the child support
15 warrant that Mr. Patel brought up, well, it's too late after
16 he's under arrest. I mean, what's -- why continue to lie
17 there? If he was innocently looking for a friend's car, why
18 not just be completely truthful the whole time?

19 Third, you hear where Mr. Bolden was that night. He
20 was at the 500 Fairview Apartments. They're right across
21 the field. He's in an apartment complex visiting his
22 friends, an apartment complex with presumably a parking lot
23 and cars.

24 If he's at the [REDACTED] Apartments why would he
25 cross that field that leads directly to Mr. Mahaffey's house

CLOSING ARGUMENTS - MS. BENTLEY

122

1 and paw around in that car? Why would his friend's car be
2 on 3rd Street across the field? It makes no sense that he
3 reasonably believed that car belonged to his friend and that
4 his friend's keys that he could take would be found inside.
5 It's ridiculous.

6 I had to prove this crime beyond a reasonable doubt. I
7 had to prove Mr. Bolden went inside that car unlawfully and
8 without a good excuse, without a reasonable mistake. And I
9 had to do it beyond a reasonable doubt.

10 Now, Mr. Patel, the Judge, they were both talking about
11 reasonable doubt. And if I say anything incorrect, the
12 Judge will correct it at the end.

13 Beyond a reasonable doubt does not mean proof beyond
14 any doubt. I did not and I could not have provided you with
15 some sort of brain scan or insight into what Kenneth Bolden
16 was thinking on December 10th. I could not do that. I had
17 to prove to you intent through his actions. And that's what
18 I did.

19 Proof beyond a reasonable doubt is proof that leaves
20 you firmly convinced of his guilt, a proof that does not
21 make you hesitate to act. You don't have a genuine concern
22 that Mr. Bolden was really looking for his friend's keys in
23 Mr. Mahaffey's car. If you do not have a genuine concern,
24 if you are firmly convinced, then that is proof beyond a
25 reasonable doubt, ladies and gentlemen.

CLOSING ARGUMENTS - MR. PATEL

123

1 You brought with you the most important tool, the one
2 thing that you needed when you walked in that courtroom
3 today. And that's your common sense. This was a crime of
4 opportunity that Mr. Bolden attempted to seize, an unlocked
5 car, late at night, right where he exits that field. Ladies
6 and gentlemen, I ask you to return a verdict that speaks the
7 truth, a verdict of guilty. Thank you.

8 **MR. PATEL:** Judge, may it please the Court?

9 **THE COURT:** Yes. Yes, sir.

10 **MR. PATEL:** Ladies and gentlemen, I'm going to start by
11 just the fact that Ken gave the wrong name because I know
12 the State is harping on it and I know the witnesses did.
13 Ken gave a wrong name because he knew he had a bench
14 warrant. He had a warrant for unpaid child support. And if
15 he would have gave that name he would have been --
16 immediately went to jail. He knew that.

17 Ken didn't run from the police. He didn't run from the
18 Mahaffey's. He didn't run from Officer Jackson when Officer
19 Jackson came, which was the first officer on the scene. He
20 didn't run from Officer Davis, who was the second officer on
21 the scene. In fact, he walked up to Officer Davis and
22 complied with him and talked to him, got in the car with
23 him.

24 So you guys need to be aware of that. He had a reason
25 to -- to lie. And it was because he knew that if he gave

CLOSING ARGUMENTS - MR. PATEL

124

1 his right name he would have been going to jail right then.

2 Now at the beginning of the case -- at the beginning of
3 the trial when we first talked I talked about the fact that
4 this case is going to be about criminal intent. And it
5 still is. It's your job to decide what was Ken doing at
6 that car. Was he actually mistaken that that could have
7 been his friend's car?

8 And the Solicitor is correct, and that is it's the
9 State's burden of proof to prove beyond a reasonable doubt
10 that it was Ken's intent to steal something from that car or
11 steal that car. So let's talk about that.

12 The evidence that the State has presented to you is
13 that Ken was at that car, Ken had opened up that car door
14 and when the lights came on and when Tim Mahaffey came out
15 of the house Ken walked back and said, "oh, I'm sorry, I'm
16 sorry, I thought it was a friend's car. I thought it was a
17 friend's car. I'm looking for some keys in there."
18 Immediately came up to him, got out of the car and that was
19 it. That was it. Didn't have anything in his pockets,
20 didn't have anything from any other cars that if he's out
21 there walking around at night trying to break into cars,
22 they didn't find anything on him.

23 Mr. Mahaffey even testified that there was two packs of
24 cigarettes in there. Those cigarettes were still in there.
25 Nothing was touched. The State was talking about he was in

CLOSING ARGUMENTS - MR. PATEL

125

1 the car rooting around. Well, if you're looking for keys
2 they're going to more than likely be in the center console.
3 So that's what he was doing. He wasn't inside the car, but
4 the car door was open and he was looking around in it.

5 The State's right about one thing. During her closing
6 she said why would anyone go through a car where there's
7 street lights on, there's house lights on? Why would
8 anybody do that? Well, somebody would do that if they were
9 actually mistaken about that car, if they actually think
10 that they weren't doing anything wrong. And that's what --
11 that's what Ken was doing.

12 Now as I said just a second ago, nothing was taken from
13 Mr. Mahaffey's car. They base this arrest -- and Mr.
14 Mahaffey even said that he immediately came out, came out
15 and said, I'm sorry, I've got the wrong car, sorry. Mr.
16 Mahaffey didn't say that he tried to run from him, didn't
17 try to -- as soon as Mr. Mahaffey said I'm calling the cops
18 and I've got a gun, Ken didn't take off running 'cause Ken
19 didn't think he had done anything wrong at that time.

20 Now I drive a Toyota 4Runner. And it's a pretty
21 popular SUV. And there are many times I've gone out to a
22 parking lot and thought this might have been the car --
23 might have been my car, but it wasn't. And that's my car.
24 We're talking about Ken. It's not Ken's car if he's talking
25 about a friend of his, a car that he's not even that

CLOSING ARGUMENTS - MR. PATEL

126

1. familiar with.

2. As a matter of fact, my wife, she does it a whole lot
3. more than I do. Every time she goes out to the parking lot
4. she uses her panic button to make sure that she's got her
5. right car. So it's not that uncommon.

6. The question is is it unreasonable that Ken could have
7. gotten the wrong car? No, it's not unreasonable. As I
8. said, this is a car that's not his, he's not that familiar
9. with. He knows that it's a white color, Honda like car.
10. And that's where he -- he saw one and it was in the street
11. light, street lights were on, TV's on inside, lights in the
12. house are on and he goes to it because he doesn't think that
13. he's doing anything wrong.

14. Now the Judge, as the Solicitor said, I'm going to tell
15. you the Judge is going to instruct you on the law. And he's
16. going to instruct you that it's the State's burden to prove
17. beyond a reasonable doubt that he had the intent to steal
18. the car or something in that car when he was there. The
19. only evidence that we've heard is that he was at that car.
20. No evidence of stealing at all.

21. The State, when they started their closing argument to
22. you, Ms. Bentley said that they had proven their case by
23. showing you a map, a video and the evidence and the
24. testimony. Well, that map doesn't really show you anything.
25. The video doesn't show you anything.

CHARGE OF THE COURT

127

1 The only thing that shows you anything is the evidence
2 that you heard from that witness stand, and that's the
3 evidence of Mr. and Mrs. Mahaffey. Think about what they
4 said.

5 This guy, as soon as the lights came on, whoa, whoa,
6 whoa, I'm sorry. As soon as Mr. Mahaffey said, hey, what
7 are you doing? It's, oh, I'm sorry. I've got the wrong
8 car. I'm so sorry. I thought it was my friend's car.
9 Looking for some keys. That's what he told -- that's what
10 Ken told Officer Davis and Officer -- Sergeant Nelson.

11 Now the State is also assuming that when Ken said that
12 he was looking for a friend's car that, oh, it had to have
13 been the friend that he was over at [REDACTED]
14 just had to be. That's really not the case. It could have
15 been any friend. So I ask that you keep that in mind.

16 And I think based on all the evidence, just their case
17 is that he was at the car, and the car door was open and he
18 was looking inside it. Nothing was found on Ken. No
19 cigarettes were taken or anything. And because of that I
20 ask that you find him not guilty.

21 **THE COURT:** All right. Mr. Foreman, ladies and
22 gentlemen of the jury, during this trial you and I have
23 certain duties to perform. And as the trial Judge it is my
24 responsibility to preside over the trial of the case and to
25 rule on the admissibility of the evidence that's offered

CHARGE OF THE COURT

128

1 during the trial.

2 It's also my duty to charge you the law applicable to
3 the case. And it is your duty as jurors to accept and apply
4 the law as I now state it to you. I would remind you that
5 if you have any idea as to what you think the law is or what
6 the law ought to be and it differs from what I now tell you
7 the law is, you have sworn an oath to set aside your own
8 opinion and apply the law precisely as I state it to you.

9 Now I would also remind you that in every case tried in
10 this court before a jury, the jury is the sole and exclusive
11 judge of the facts. And a trial judge is not allowed to
12 have an opinion about the facts of the case. So don't think
13 by anything I may have said or done throughout the course of
14 the trial that I have an opinion. You are the sole judges
15 of the facts.

16 I also would remind you that the fact that the
17 defendant was arrested, charged and indicted in this case is
18 not evidence of guilt. Nor does it create any presumption
19 or inference of guilt. These documents are simply the
20 formal written instruments which contain the charge made
21 against a defendant. And they serve as the formal documents
22 by which the case is processed and brought into court.

23 Now necessarily part of your job as the judges of the
24 facts is for you to determine the credibility or
25 believability of the witnesses who have testified in the

CHARGE OF THE COURT

1 case. And it becomes your job as jurors to evaluate the
2 evidence and determine which evidence convinces you that it
3 is true.

4 And in determining the believability of the witnesses
5 you may believe one witness over several or several over
6 one. You may believe a part of the testimony of a witness
7 and reject the remaining part. You may believe the
8 testimony in its entirety or you may reject that same
9 testimony in its entirety.

10 And you may take into consideration whether the witness
11 has an interest in the result of the trial, whether the
12 witness is prejudiced towards either the State or the
13 Defense, the opportunity for the witness to have seen the
14 matters and things about which that witness has testified
15 and the way a witness acts on the witness stand or what we
16 call a witness' demeanor.

17 Now I also instruct you and I emphasize that the fact
18 that the defendant did not testify is not a factor to be
19 considered by you in any way in your deliberations on the
20 question on the guilt or innocence of the defendant. It
21 must not be considered by you in any manner whatsoever.
22 Every citizen has the constitutional right to remain silent.
23 And the assertion of this right must not be considered by
24 you in your deliberations.

25 Now the defendant has pled not guilty to the

CHARGE OF THE COURT

130

1 indictment. And that plea puts the burden on the State to
2 prove the defendant guilty. A person charged with
3 committing a criminal offense in South Carolina is never
4 required to prove themselves innocent. I charge you that it
5 is a cardinal and an important rule of the law that a
6 defendant in a criminal trial will always be presumed
7 innocent of the crime for which an indictment has issued
8 unless and until guilt has been proven by evidence
9 satisfying you of guilt beyond a reasonable doubt.

10 Now reasonable doubt is the kind of doubt which would
11 cause a reasonable person to hesitate to act. And
12 reasonable doubt may arise from the evidence in a case or
13 from the lack or absence of evidence in a case. And you,
14 the jury, must determine whether or not reasonable doubt
15 exists as to the guilt of the defendant.

16 I'll remind you, the State has the burden of proving
17 each and every element of a crime beyond a reasonable doubt.
18 And any reasonable doubts that you have in your deliberation
19 should be resolved in favor of the defendant.

20 Now, ladies and gentlemen, the defendant is charged
21 with breaking into a motor vehicle or also autobreaking. In
22 order to prove this crime the State must prove beyond a
23 reasonable doubt that the defendant broke or attempted to
24 break into a motor vehicle or its compartment with the
25 intent to steal the vehicle or anything of value from the

CHARGE OF THE COURT

1 vehicle, anything attached to the vehicle or anything used
2 in connection with the vehicle or in the commission of any
3 criminal offense.

4 Breaking is any act of physical force however slight by
5 which any obstruction to entering is forcibly removed. The
6 breaking does not need to be by means of great force because
7 any force which is necessary to make an opening is
8 sufficient. For example, if the car door is closed, even
9 though it is not locked, an opening of that door would
10 constitute a breaking.

11 Intent means intending the result which actually
12 occurs, not accidentally or involuntarily. Intent may be
13 shown by acts and conduct of the defendant and other
14 circumstances from which you may naturally and reasonably
15 infer intent.

16 I would tell you that the defendant has raised the
17 defense of mistake of fact. And the State must prove beyond
18 a reasonable doubt that the defendant intended to commit
19 autobreaking. However, where a person in ignorance or
20 honest mistake as to a fact commits an act which but for the
21 mistake would be a crime, there is no criminal intent
22 and the person cannot be found guilty of the crime. An
23 example of a possible mistake of fact would be if I took
24 someone's umbrella mistakenly thinking that it was my
25 umbrella.

CHARGE OF THE COURT

132

1 And I tell you the mistake of fact must be reasonable
2 and cannot be due to the defendant's carelessness. The
3 defendant must have been honestly mistaken after using
4 reasonable diligence to determine the truth. And you must
5 determine whether the defendant's mistake of fact was
6 reasonable based on the facts as they appeared to the
7 defendant at the time of the alleged crime.

8 Mr. Foreman, there are two possible verdicts you may
9 reach in this case, and they are guilty or not guilty. No
10 significance whatsoever of the order in which I state them.
11 One's got to be stated first.

12 I want to tell you that all twelve of you must agree on
13 your verdict and it must be unanimous. Your verdict cannot
14 be based on sympathy, passion, prejudice, emotion or any
15 other consideration that's not in the evidence in the case.
16 You have no enemies to punish. You have no friends to
17 reward.

18 Now, Mr. Foreperson, when you all have reached your
19 verdict, and I prepared a verdict form, which we'll send
20 back there with you. It's pretty self-explanatory. And you
21 check which box reflects the unanimous verdict of the jury,
22 sign it and date it. And today's the 19th of July. Signal
23 to the bailiff, and we'll receive you back to take your
24 verdict.

25 I need to -- I'm going to excuse you now to your jury

CHARGE OF THE COURT

1 room. Don't start deliberating just yet. I need to go over
2 my charge, make sure I didn't misstate something or omit
3 something. But when the verdict form comes back along with
4 the evidence in the case, y'all can begin your
5 deliberations. Okay. Thank you.

6 (Whereupon the jury exited the courtroom at 3:46 pm)

7 **THE COURT:** All right. Any exceptions or objections to
8 the charge?

9 **MS. BENTLEY:** None from the State.

10 **MR. PATEL:** None from the defense.

11 **THE COURT:** Okay. Y'all examine both those pieces of
12 evidence, make sure they're both there. You want to look at
13 the verdict form?

14 (Pause)

15 **THE COURT:** All right. We'll be at ease.

16 (Whereupon the jury began deliberating at 3:47 pm)

17 (Whereupon court was in recess at 3:47 pm)

18 (Whereupon court resumed at 3:58 pm)

19 (Whereupon the jury entered the courtroom at 3:59 pm)

20 **THE COURT:** All right. Mr. Foreman, I understand
21 you've reached a verdict?

22 **MR. FOREMAN:** Yes, sir, we have.

23 **THE COURT:** All right. Would you hand it to the
24 bailiff for me, please? All right. Would you publish the
25 verdict, please?

VERDICT OF THE JURY

134

1 **MADAME CLERK:** Your Honor, this is case number 2010-GS-
2 23-1481 in the matter of the State of South Carolina versus
3 Kenneth Bolden. As to the charge of breaking and entering a
4 motor vehicle, we, the jury, find the defendant guilty. I
5 certify this decision was the unanimous decision of the
6 jury, signed, David E. Hagins, foreperson, July 19th, 2011.
7 If this is your verdict, so say you all. Please signify by
8 raising your right hand.

9 (Whereupon all jurors raised their right hand)

10 **THE COURT:** All right.

11 **MADAME CLERK:** Thank you.

12 **THE COURT:** Anything further from the jury?

13 **MS. BENTLEY:** Nothing from the State, Your Honor.

14 **MR. PATEL:** Nothing from the defense, Your Honor.

15 **THE COURT:** All right. Mr. Foreman, ladies and
16 gentlemen of the jury, thank you very much for your service.
17 Unfortunately, I can't say you're done for the week. But I
18 know y'all probably want ---

19 **MR. FOREMAN:** That's okay.

20 **THE COURT:** All right. Well, you probably want to come
21 back and serve again. We'll just have to ask you -- you're
22 excused at this time. Would ask you to call back after six
23 to find out when you next need to report. All right. Thank
24 you very much.

25 **MR. FOREMAN:** You're welcome.

SENTENCE OF THE COURT

1 (Whereupon the jury exited the courtroom at 4:01 pm)

2 THE COURT: Okay. Any motions?

3 MS. BENTLEY: None from the State.

4 MR. PATEL: Motion for a new trial, Judge.

5 THE COURT: All right. Denied. You got a sentencing
6 sheet?

7 MS. BENTLEY: Yes, Your Honor.

8 MR. PATEL: I do, Your Honor. I just got one.

9 THE COURT: He doesn't have to sign that. He doesn't,
10 get any choice in the matter.

11 MS. BENTLEY: Oh, okay.

12 THE COURT: He can if he wants to, but he doesn't have
13 to.

14 MS. BENTLEY: Sorry about that.

15 THE COURT: That's all right. All right. Come on
16 around. All right. Did he spend any time in jail?

17 MS. BENTLEY: Eight days, Your Honor.

18 THE COURT: And does he have a criminal history?

19 MS. BENTLEY: He does. 1992, resisting arrest, '93,
20 concealed weapon, 1994, assault and battery, 2003,
21 harassment, 2005, false info to police, resisting arrest,
22 2000, a shoplifting from Georgia and 1997 a grand larceny
23 from Florida. And there's two pending crack charges in our
24 office.

25 THE COURT: All right.

SENTENCE OF THE COURT

136

1 MS. BENTLEY: But, of course, are not convictions.

2 THE COURT: All right. Is that true and correct to the
3 best of your knowledge, Mr. Bolden?

4 MR. BOLDEN: I'm not sure. I would like to see ---

5 MS. BENTLEY: Sure, Sure.

6 MR. BOLDEN: Because I didn't -- I don't know if I was
7 convicted. I think I may have pled.

8 MR. PATEL: That's still a conviction.

9 MR. BOLDEN: I mean, Your Honor, I'm not going to sit
10 up here like I -- I didn't really try to tell any lies about
11 what happened. I had some problems in the past. And, you
12 know, my intent was not to break in that vehicle. And I was
13 actually looking -- seriously looking for keys. But neither
14 here nor there, I guess by me being in the vehicle, that was
15 enough to get a conviction.

16 But I know I can't really say much right now, but I do
17 have a contract with Collins Communication where -- is there
18 any way I could bring this up ---

19 THE COURT: No, I don't need to look at that.

20 MR. BOLDEN: Okay.

21 MS. BENTLEY: Is that an employment contract?

22 MR. BOLDEN: Yeah, for AT&T and Charter. And these are
23 my work order pay stubs and all for the jobs and all I've
24 done.

25 MR. PATEL: Judge, I can summarize all that.

SENTENCE OF THE COURT

1 **THE COURT:** Yeah, okay. Tell me about it.

2 **MR. PATEL:** Judge, he has his own company. You've seen
3 the insurance on that, on the last few months preparing for
4 this trial I've had him come in and out. He has had some
5 conflicts with his work.

6 Basically his company subcontracts to -- through Carter
7 Communications or Collins Communications who then gets
8 contracts from AT&T and Charter. Basically his company goes
9 out there with the equipment and digs the trenches and
10 whatnot to bury the cable.

11 **THE COURT:** Are you appointed on this case?

12 **MR. PATEL:** I am, Your Honor.

13 **THE COURT:** How did that happen? Man owns his own
14 business.

15 **MR. BOLDEN:** When I first actually started -- when this
16 first actually happened I -- I wasn't working, sir. I was
17 out trying to find a job. And, you know, I got this
18 opportunity probably about six to seven months ago. And the
19 guy that gave me the contracts, he really helped me get on
20 my feet and get my life straightened out.

21 **MR. PATEL:** I think what he's trying to say is he's
22 doing good working. He's got some people that work
23 underneath him. He tells me he's got three employees that
24 work for him. And I've looked at some of the contracts that
25 he's had. He's working fairly regularly.

SENTENCE OF THE COURT

138

1 MR. BOLDEN: I mean, I know -- I know ---

2 THE COURT: Let me talk to the lawyers up here.

3 (Whereupon a bench conference was held off the record)

4 THE COURT: Mr. Bolden, now you told me that you were
5 doing all this to help Fountain Inn. I understand you
6 participated one time and then you disappeared.

7 MR. BOLDEN: Participated as far as doing some work ---

8 THE COURT: In some other matters, yeah.

9 MR. BOLDEN: Oh, yeah, yeah. I mean, but, I mean, I've
10 been talking to Keith, I mean, actually I did something --
11 something else just recently. There was a guy -- there was
12 a guy locked up in the detention center.

13 (Whereupon Mr. Patel was conferring with Mr. Bolden)

14 MR. BOLDEN: Oh, yeah, I'm willing to do whatever I can
15 ---

16 THE COURT: Well, I tell you what I'm going to do.

17 MR. BOLDEN: I'm willing to ---

18 THE COURT: When's that case coming up?

19 MS. BENTLEY: We could ask Ms. Monts. I would hope
20 August or September. I mean, it's older as well.

21 THE COURT: I'm going to defer the sentence. I'm going
22 to take him into custody, defer the sentence, hold him at
23 the jail.

24 MR. BOLDEN: Could I say one ---

25 MS. BENTLEY: Okay. Go ahead. Sorry.

SENTENCE OF THE COURT

1 THE COURT: What do you want to say?

2 MR. BOLDEN: I was going to ask you if -- and I'm only
3 asking you guys that if you're going to ask to defer is
4 there any kind of way, you know, ---

5 THE COURT: She doesn't get to pick the sentence.
6 You're talking to me on that, Bolden.

7 MR. BOLDEN: I'm talking about maybe stay out on bond.

8 MS. BENTLEY: Oh, oh, oh, well, you were already
9 convicted.

10 THE COURT: No. Take him into custody. If he wants to
11 help, good. He'll get credit for any time while he's in
12 there.

13 MS. BENTLEY: Okay.

14 THE COURT: If he decides he does not want to help,
15 then we'll bring him back and I'll sentence him.

16 MR. BOLDEN: When will this case be brought?

17 THE COURT: They'll let you know.

18 MR. PATEL: And, Judge, Mr. Bolden has asked me to ask
19 Your Honor for an appeal bond while he appeals this case.

20 MR. BOLDEN: I'm asking ---

21 THE COURT: I haven't sentenced him yet. I'm going to
22 defer that. We'll ---

23 MR. BOLDEN: If I go ahead and just say that I want to
24 go ahead and get sentenced today and go ahead and ask for an
25 appeal bond, could -- I mean, I'm just asking if that's

SENTENCE OF THE COURT

140

1 possible?

2 MR. PATEL: No. It's better for you to do it this way.

3 THE COURT: I may rethink this.

4 MR. PATEL: Your Honor, ---

5 THE COURT: What are we doing here?

6 MR. BOLDEN: I'm just trying to not, you know, I'm just
7 trying to get to a situation where I can ---

8 THE COURT: Yeah, I know what you're trying to do.

9 MR. BOLDEN: So I don't lose my ---

10 THE COURT: Do you want me to sentence him now, Mr.
11 Patel? I'm tired of messing with him. He's -- I'll defer
12 sentence. We'll hold him at the jail.

13 MR. PATEL: Thank you, Judge.

14 MS. BENTLEY: I'll be in contact with Mr. Patel
15 regarding Ms. Monts' trial.

16 THE COURT: Yeah.

17 MS. BENTLEY: We'll make sure that you're communicated
18 with.

19 MR. BOLDEN: Okay.

20 (Whereupon court was in recess at 4:09 pm)

21 (Whereupon court resumed at 4:15 pm)

22 THE COURT: All right. Yes, sir.

23 MR. PATEL: Judge, I've spoken with him. He wants to
24 go ahead and get sentenced, Judge. But he also has informed
25 me that he is still going to testify for the State if they

SENTENCE OF THE COURT

1 need him.

2 THE COURT: Well, that's good. Okay. Anything else
3 you want to tell me?

4 MR. BOLDEN: I'm just going to say that I'm still going
5 to testify for the State. And I don't know if that's going
6 to still help me in any kind of a way.

7 THE COURT: Well, I don't know. Anything else you want
8 to tell me? What's the longest you've been down the road?

9 MR. BOLDEN: On the last charges that I had that I
10 appealed, it might have been like two years.

11 THE COURT: Yeah.

12 MR. BOLDEN: And then I've done a year in child
13 support, for child support.

14 MS. BENTLEY: Do you want to go into that?

15 MR. PATEL: Yeah.

16 MS. BENTLEY: One of his trepidations at the beginning
17 of trial was that he was convicted of armed robbery,
18 possession of a weapon during the commission of a violent
19 crime and something else that was quite serious. It was
20 overturned on appeal. And I guess Mr. Harpootlian and
21 Delgado helped him with that. So he's been down the road
22 before, but ---

23 MR. BOLDEN: Not for anything other than that.

24 THE COURT: Yeah, well, ...

25 MR. PATEL: Not for a long period of time.

SENTENCE OF THE COURT

142

1 THE COURT: All right. Well, record's not terrible.

2 MR. BOLDEN: Sir?

3 THE COURT: Yeah..

4 MR. BOLDEN: I mean, I didn't hear what you ---

5 THE COURT: I said your record is not terrible, but
6 it's not great. I'll just give him thirty months. Good
7 luck.

8 MR. BOLDEN: Thirty months?

9 THE COURT: Yeah. Good luck.

10 MR. PATEL: Thank you, Judge.

11 MR. BOLDEN: Is that non-violent?

12 THE COURT: Good luck.

13 (HEARING ENDED AT 4:16 PM)

14 (END OF REQUESTED TRANSCRIPT OF RECORD)

WITNESSES

DOCKET NO. 2010-GS-23-
LAB

001481

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

January TERM 2010 201

THE STATE

vs.

KENNETH STEPHONE BOLDEN

ARREST WARRANT NUMBER

1556315

ACTION OF GRAND JURY
TRUE BILL

Robert Davis
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Indictment for

0258

BREAKING AND ENTERING A MOTOR VEHICLE

VIOLATION § 16-13-0160

Foreperson of Petit Jury

Date:

RECEIVED

FEB 26 2010

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

INDICTMENT FOR
 BREAKING AND ENTERING A MOTOR VEHICLE

At a Court of General Sessions, convened on **JAN 19 2011** the Grand Jurors of Greenville
 County present upon their oath:

That KENNETH STEPHONE BOLDEN did in Greenville County, on or about the 11th day of December, 2009,
 unlawfully break or attempt to break into a motor vehicle belonging to TIMOTHY MAHAFFEY, to wit: a 1998
 Honda Accord, with the intent to steal the same or anything of value therefrom. This is in violation of §16-13-
 160 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.

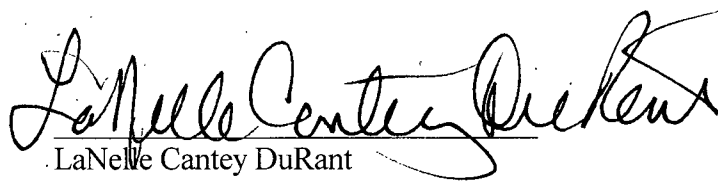
Lucile Boutley
 SOLICITOR

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CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

January 18th, 2013



LaNelle Cantey DuRant
Appellate Defender

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

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

 ORIGINAL

IN THE COURT OF APPEALS

Appeal from Greenville County

Edward W. Miller, Circuit Court Judge

RECEIVED

JAN 18 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

KENNETH S. BOLDEN,

APPELLANT

APPELLATE CASE NO. 2011-196686

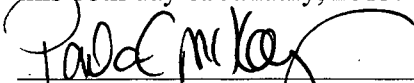
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon William M. Blich, Jr., Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 18th day of January, 2013.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 18th day of January, 2013.

 _____ (L.S.)

Notary Public for South Carolina
My Commission Expires: July 24, 2022.