

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County
Honorable John C. Hayes, Circuit Court Judge

THE STATE,

RESPONDENT,

v.

DEAN ALTON HOLCOMB,

APPELLANT

APPELLATE CASE NO 2017-001659

RECORD ON APPEAL

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1 complex; is that correct?

2 A I called the numbers on the brochure and then I
3 called the apartment complex.

4 Q Okay. All right. So, basically, what it looks like
5 -- the work was done. You remember the testimony of Mr.
6 McGinn and Jared Richardson and you saw the statement from
7 Will Byrd that he said three days worth of work was done;
8 is that correct? You heard those things?

9 A Yes.

10 Q And you saw the scope of work, which was 10 pages
11 more than what you had when you got the warrant; is that
12 correct?

13 A Yeah.

14 Q All right. Did you hear Mr. McGinn say that windows
15 were painted?

16 A He said some of the windows were painted.

17 Q Some of the windows were painted. On the proposal,
18 does it mention windows?

19 A I don't remember what --

20 Q Would you take a look at it, please?

21 A This says stain siding and deck.

22 Q Paint door, correct?

23 A Yeah, paint door.

24 Q Yeah, they're all right there together, correct?

25 A Yeah..

1 Q Would you read them all together again, please?

2 A Stain siding and deck, paint door.

3 Q Exterior repairs, stain siding, paint door, correct?

4 A Correct.

5 Q That's what I wrote or somebody wrote. Jared wrote
6 it or somebody, correct?

7 A Correct. I don't know who wrote it.

8 Q Okay. Great. Great. So somebody on that contract
9 to Mr. McGinn that you got the arrest warrant, and that's
10 the evidence that you have is a check at that time, a
11 statement from someone that was in prison. So, basically,
12 at this point -- now, you heard -- now, wait a minute, are
13 windows listed on that proposal?

14 A I didn't see windows.

15 Q You didn't see windows. But windows were painted,
16 according to testimony of Mr. McGinn; is that correct?

17 A The pictures I saw --

18 Q No, no, not about the pictures, I'm asking about the
19 proposal, sir?

20 A So you're asking me did all the windows get painted,
21 is that what you're asking me?

22 Q No, I'm not asking you that, sir.

23 THE COURT: Let me stop you there. The question was
24 did Mr. McGinn say that the windows were painted?

25 THE WITNESS: I don't remember.

1 THE COURT: Okay. Go on to something else.

2 BY MR. HOLCOMB:

3 Q Okay. I believe you just said he did, but I'll let
4 the jury decide that. All right.

5 JUROR: I thought this case has already been tried?

6 THE COURT: I'm sorry?

7 JUROR: I apologize.

8 MR. HOLCOMB: Move for a mistrial, sir.

9 THE COURT: All right. Let me let you go to the jury
10 room just for a minute.

11 (WHEREUPON, the jury exits the courtroom at
12 approximately 3:30 p.m.)

13 THE COURT: Can anybody tell me what she said? One
14 of the jurors, what did she say?

15 MR. GHENT: What she said was -- and it was
16 apparently a spontaneous reaction. I thought this case
17 had already been tried.

18 MR. HOLCOMB: I made a motion, sir.

19 MR. GHENT: I understand that. His question to me
20 was did anybody hear what she said.

21 MR. HOLCOMB: And the question wasn't to you, it was
22 to anybody.

23 MR. GHENT: And so, I answered it.

24 Your Honor, he's made his motion to mistrial. I will
25 now let him state his grounds.

1 MR. HOLCOMB: All right. I think that the juror has
2 already decided because I was convicted by a jury by false
3 statements on a false police report, which we've already
4 established has four false sentences in it that are not
5 accurate. That the company is not correct, that the
6 deposit is not correct, that the -- that he has evidence,
7 that the check is not evidence, and that work -- never did
8 any of the work. That's four false statements that got me
9 convicted and he's testified to that. He swore in that
10 warrant those are four false sentences that are not
11 accurate. And she's already decided that I'm guilty.
12 This case had already been tried. And that's relevant to
13 these videos. So this juror shows that she doesn't have
14 an open mind.

15 And what I would say on that is she's already
16 predetermined that she doesn't understand the concept.
17 And I don't believe she's going to listen to your
18 directive and she's going to give me a fair chance because
19 she's already determined that a jury has found -- she
20 doesn't know the details of that case. She doesn't
21 understand that it's on appeal, that there are a number of
22 appellate issues. She doesn't understand about the 88
23 false statements that have been put into the record.

24 But that is -- that right there is four false
25 statements that he just testified to. They should give me

1 a chance. And for her to make out -- I don't think jurors
2 are allowed to scream out like that. So that's my motion
3 for a mistrial.

4 MR. GHENT: May I, Your Honor?

5 THE COURT: Yes.

6 MR. GHENT: First of all, this has been a day of
7 badgering the witness. Let me just go through this one at
8 a time. I didn't interrupt him.

9 Please sit down, sir.

10 Your Honor said, I'll let the jury decide. She then
11 said I thought this case had already been tried. Your
12 Honor previously ruled that we could go into the
13 investigation, but not into the trial and conviction.
14 Mr. Holcomb, on his own, brought in all of this other
15 stuff early. At that point, Mr. Holcomb undid Your
16 Honor's ruling.

17 This gentleman has been patient, but it's clear he's
18 getting exasperated. He still is a professional. He
19 still is to be expected to conduct himself as that. It's
20 clear he's getting frustrated, but I believe he has
21 remained professional.

22 The juror was -- it was a spontaneous response not to
23 the case on which he is being tried, but on the case that
24 Mr. Holcomb insisted on driving a bus into this case.
25 It's his doing. He brought it about. We strongly object

1 to a mistrial.

2 THE COURT: All right. Well, I'm going to deny the
3 motion for a mistrial. I don't find any manifest
4 necessity --

5 MR. HOLCOMB: Can we ask the juror --

6 THE COURT: You can certainly argue to the jury
7 whatever you want, whether the case that was tried was
8 tried improperly, but everybody in the courtroom,
9 including the jury, has been told -- you may have even
10 told them yourself in opening statement. I didn't take
11 notes on it. But there's no question that the jury knows
12 you've been convicted of breach of trust. So what she
13 said was a statement of the facts and she shouldn't have
14 said it. But this jury, it's not they've got a
15 preconceived idea that you were guilty of that. They know
16 that you were found guilty of that. And what you're
17 trying to do, and doing a very good job of it, is
18 undermine the earlier verdict.

19 I still, from my perspective, earlier ruled that that
20 was not important because the question is whether or not
21 you intimidated these people, not whether you were guilty
22 or not guilty. And had ruled, I thought, favorably to you
23 that we wouldn't go into that. So I'm going to find that
24 it's not a manifest necessity for a mistrial. And you're
25 on record. That will be another ground for an appeal.

1 MR. HOLCOMB: Thank you. Is there any chance we can
2 question the jury and ask if they're discussing this in
3 the back?

4 THE COURT: I'm going to ensure nobody has been
5 discussing it. I will ask that.

6 MR. HOLCOMB: If they're discussing it with each
7 other, that would be relevant.

8 THE COURT: It would be. I can't --

9 Get the forelady in here just a minute. Ms. Swaim,
10 just the forelady.

11 (WHEREUPON, the Forelady enters the courtroom.)

12 THE COURT: Just stand right there. I hate to put
13 you on the spot, but I appointed you as liaison. When we
14 started, I instructed the jury not to discuss the case.

15 THE FORELADY: Yes, sir.

16 THE COURT: Has the jury, in fact, discussed the
17 case?

18 THE FORELADY: We are not discussing the case, sir.

19 THE COURT: Thank you.

20 (WHEREUPON, the forelady exits the courtroom.)

21 THE COURT: All right. You ready to go forward?

22 MR. HOLCOMB: Well, I'd like to put on the record
23 that I think it should be a mistrial because she has
24 poisoned the jury by that expletive and that statement.
25 Because this is --

1 THE COURT: You're on the record. You're on the
2 record.

3 MR. HOLCOMB: Okay. The jury panel has been
4 poisoned.

5 THE COURT: Well, I don't think the jury panel has
6 been poisoned, if I did, I would -- it would manifest
7 necessity. So your position is well taken and well
8 understood.

9 MR. HOLCOMB: All right.. Great.

10 THE COURT: Bring in the jury.

11 I tell you what, before you bring the jury in, ask
12 the little -- that's a bad way to put it. Ask the young
13 lady that did blurt out, ask her to come in just a minute.

14 MR. HOLCOMB: Your Honor, could I ask for another
15 Foreperson to be appointed? Because she's the leader.

16 THE COURT: She's not the one who said it.

17 (WHEREUPON, juror enters the courtroom.)

18 THE COURT: Are you the one who --

19 THE JUROR: I apologize.

20 THE COURT: Okay. Well, I've got to ask, have you
21 already determined in your mind whether Mr. Holcomb is
22 guilty of the offenses on which he's now on trial?

23 THE JUROR: Honestly, I don't feel like we've heard
24 enough about what he's actually -- when you explained the
25 charges, I don't know that we've heard a whole lot. So I

1 have not. No, I have not.

2 THE COURT: So you haven't reached a decision or
3 opinion on your own. And I'm told by the Foreperson y'all
4 haven't been discussing it.

5 THE JUROR: No, sir.

6 THE COURT: But you haven't prejudged Mr. Holcomb as
7 to whether or not he is guilty or not guilty of the
8 charges today, obstruction of justice and tampering?

9 THE JUROR: No, sir, I have not.

10 THE COURT: And your name?

11 THE JUROR: Christina Bowling.

12 THE COURT: Okay, thank you.

13 THE JUROR: I apologize.

14 THE COURT: I understand. Apology accepted.

15 THE JUROR: Thank you.

16 (WHEREUPON, the juror exits the courtroom.)

17 THE COURT: You can bring them in now.

18 (WHEREUPON, the jury enters the courtroom at
19 approximately 3:39 p.m.)

20 THE COURT: You may proceed.

21 MR. HOLCOMB: Thank you.

22 BY MR. HOLCOMB:

23 Q Mr. Martin, thank you for your patience. Just a few
24 more questions. It appears that was -- based on the
25 discovery that I've seen and what went to trial and all

1 that kind of thing, that was the last report that you
2 made. Is that accurate?

3 A What are you talking about?

4 Q On the breach of trust investigation, did you do any
5 more work on investigating the case after you took
6 statements from Mr. McGinn?

7 A Just entered other information and pictures and stuff
8 like that, the extra pictures and stuff.

9 Q But you pretty much stopped investigating in June of
10 2013; is that accurate, July?

11 A I don't know.

12 Q Would you have filled out a report to that effect?

13 A I don't know what you're asking.

14 Q I'm asking you when did you stop finding evidence on
15 this case? How much more evidence was there to find on
16 this case?

17 A Just the pictures, the extra pictures I had.

18 Q The two pictures?

19 A No, the extra pictures.

20 Q And who took those pictures?

21 A Mr. Hanks.

22 Q And how long ago was that after this charge?

23 A I don't know.

24 Q Would you please take a look at the pictures?

25 A Two years.

1 Q What year is it?

2 A 2015.

3 Q And what year was the contract?

4 A 2012, wasn't it?

5 Q Yes, sir. 2012 to 2015 is how many years?

6 A Three.

7 Q Okay, so three years later, Mr. Hanks takes the
8 pictures?

9 A Right.

10 Q And do you recall if Mr. Hanks said SLED took over
11 the case?

12 A No.

13 Q You don't recall if he said that?

14 A (The witness shook his head.)

15 Q Okay. So I was arrested in North Carolina and I came
16 down -- I called you on the phone and I recorded the call.
17 And we've mentioned -- that's already been -- well, did I
18 call you from North Carolina -- I got arrested on a
19 fugitive warrant according to your reports in North
20 Carolina, all right. Whenever I -- I made bond and I
21 called you on the phone and I asked you about this thing
22 and offered to send you. Do you remember that phone call?

23 A I don't.

24 Q You don't remember that phone call?

25 A I vaguely remember you calling me. And I was telling

1 you you had to turn yourself in.

2 Q Do you remember me offering you any evidence,
3 cancelled checks, statements, things like that?

4 A I do remember you saying something about that.

5 Q Do you remember me asking you to contact
6 Mr. Richardson and Mr. Byrd?

7 A I did.

8 Q You talked to --

9 A Which one is Jared? Is it Jared Richardson?

10 Q Uh-huh.

11 A Yeah, I talked to Jared. I took a statement from
12 him.

13 Q Okay. And that's Mr. McGinn's son-in-law?

14 A Yeah.

15 Q But you didn't talk to Mr. Byrd?

16 A I don't think so.

17 Q Did you make an effort to talk to Mr. Byrd?

18 A No.

19 Q So pretty much, your investigation style is you just
20 wait for information to come to you from the outside?

21 A No. I asked Jared how I could get in touch with him
22 and he said he didn't know at the time how to get in touch
23 with Mr. Byrd. Because I wrote it down on my notes.

24 Q As a police officer, do you not have access to
25 massive amounts of databases and the ability to find

1 information like that? Driver's licenses, things like
2 that for identification purposes?

3 A I do.

4 Q You don't use these resources?

5 A I do..

6 Q Did you use them in this case?

7 A I did.

8 Q And you didn't find Will Byrd or me?

9 A Not you.

10 Q Okay. All right. So I come down and turn myself in
11 a few days after I got out of the Gaston County jail. And
12 I gave you a statement. And at that time, I told you that
13 there were 10 more pages to that scope and that this was
14 incomplete; is that correct?

15 A I remember that.

16 Q And that was on May 16th; is that correct?

17 A If that's what you say, it's correct?

18 Q Well, I'm asking you.

19 A I don't remember everything that happened.

20 Q Right. Right. But I turned myself in after the
21 warrant was issued. I told you that the statement was not
22 correct and you just read it, the 5/20 statement. That I
23 told you the scope was not complete and that work was done
24 and asked you to look into it. And that's when you called
25 Mr. McGinn; is that correct? You found out about the

1 \$300?

2 A Yes.

3 Q Okay. So it would have been more accurate in the
4 warrant if you would have said Carolina -- Dean Holcomb is
5 a part of Carolina Home Renovators, that InCorp Services
6 is the registered agent and that he took a check from Mr.
7 McGinn and deposited the check. And that he did do some
8 work -- Carolina Home Renovators did do some work. They
9 didn't do the roof, but they did paint windows, doors,
10 stain siding --

11 MR. GHENT: Your Honor, again --

12 MR. HOLCOMB: I'm asking if this is accurate.

13 MR. GHENT: No, this is a compound question.

14 BY MR. HOLCOMB:

15 Q Okay. The question is never did any of the work. Is
16 it okay for you to leave out pertinent information on a
17 warrant?

18 A Three hundred dollars worth according to the victim,
19 I'm still going to go with it.

20 Q Mr. Martin, that's not the question. Is it okay for
21 you to leave out pertinent information in a warrant?

22 A I don't leave out pertinent information in a warrant.
23 It may not be the way you want it to read --

24 Q Mr. Martin, that's not the question --

25 MR. GHENT: He has answered the question, Your Honor.

1 Q The pertinent information is this. You had a
2 contract that mentioned a roof and exterior repairs, okay?

3 A Go ahead.

4 Q And you mentioned the roof, but you leave out the
5 exterior repairs. And they're both a part of the
6 contract, they're both a part of the insurance scope,
7 correct?

8 A Correct.

9 Q And in the warrant, you left out a significant amount
10 of that work, correct?

11 A No. \$300 worth.

12 Q We have no evidence of that, sir?

13 A That's what I was told.

14 Q But that's hearsay, isn't it?

15 A Not when I'm dealing with a victim and that's what
16 the victim tells me. And then they show me these
17 pictures.

18 Q Because -- and I don't understand, but in the
19 business -- in an investigation -- I don't think so.

20 MR. GHENT: Your Honor, he's arguing with the
21 witness.

22 THE COURT: I think we should move on.

23 MR. HOLCOMB: All right.

24 BY MR. HOLCOMB:

25 Q So I turn myself in, I tell the work was done and --

1 okay, so you heard at the trial that a day and a half
2 worth of work was done by two men. How much do you think
3 two men make a day at that rate?

4 A I don't know.

5 Q You think it's \$300?

6 THE COURT: Well, he said he didn't know.

7 MR. HOLCOMB: All right. Great. Fine.

8 This is condition of bond. There's also a copy up
9 there. I'll just put it up here as part of the evidence.

10 MR. GHENT: I've seen it. I would ask that it be
11 shown, the entire --

12 MR. HOLCOMB: All right. Fine. May I see the
13 State's Exhibits -- I don't need that.

14 Mr. Bailiff, may I see the State's Exhibits, please?

15 Well, they're labeled individually, but I just want
16 to go over this one right here.

17 THE COURT: What number?

18 MR. HOLCOMB: State's Exhibit No. 20.

19 Would you hand that to Mr. Martin, please?

20 BY MR. HOLCOMB:

21 Q What is that, Mr. Martin?

22 A Looks like some type of bond.

23 Q What does it say at the top center, bail something?

24 A Special condition release.

25 Q No, no, at the top?

1 A Acknowledgement by Defendant, that's what it says at
2 the top.

3 Q Are we looking at this page here?

4 A I can't see that.

5 Q What I'm looking for, top center -- can you turn it
6 to me, please?

7 A (The witness complied.)

8 Q Oh, you've got the wrong document. I'm sorry.
9 That's my fault. I'm sorry, Mr. Martin. I apologize.

10 THE COURT: What number you want?

11 MR. HOLCOMB: I'll have to look. I think it may be
12 18. It's No. 19. I'm sorry.

13 THE WITNESS: Bail proceeding form.

14 BY MR. HOLCOMB:

15 Q Okay. And that's a typical bail? I mean, somebody
16 comes in, goes to jail, they offer them bond, that type of
17 thing; is that correct?

18 A Yes.

19 Q And on this thing, it says -- down there, there's a
20 special condition of bond. What does it say down there
21 under the condition of bond?

22 A Must maintain contact with Investigator Martin one
23 time per week, may leave State of South Carolina.

24 Q All right. Have you ever heard a condition of bond
25 like that?

1 A No.

2 Q Okay. Why would that only apply to me?

3 A I have no earthly idea why the judge did that.

4 Q Did you not say earlier that you discussed that
5 condition with the judge and came up with an idea to do
6 that?

7 A We discussed it. And the only reason was because he
8 did not want to allow you to have a bond because you lived
9 out of state. And I was trying to accommodate you.

10 Q Do you arrest other people from out of state, from
11 Charlotte or Georgia and things like that, and you don't
12 offer them a bond?

13 A No, they do that. I don't have any control. He made
14 the decision to do that. He and I discussed it, but he
15 did it. He ultimately did it.

16 Q You had some influence on him?

17 A Not necessarily. We discussed it, then he did it.

18 THE COURT: You use the word he, I guess you --

19 THE WITNESS: The judge, the magistrate. Magistrate
20 Hudson.

21 BY MR. HOLCOMB:

22 Q But normally, you don't discuss bond conditions with
23 the judge when somebody's arrested, do you?

24 A Oh, yeah. They always ask us our opinion.

25 Q Have you ever said they should maintain weekly

1 contact with you?

2 A No.

3 Q So this is the first time you've done that?

4 A Yes.

5 Q Have you done it since?

6 A No.

7 Q Are you familiar with the Fifth Amendment?

8 A I am.

9 Q What does it say?

10 A Talking about searches and seizures?

11 Q Right to remain silent.

12 A Right.

13 Q What does it say?

14 MR. GHENT: Objection, Your Honor --

15 THE COURT: I sustain the objection.

16 BY MR. HOLCOMB:

17 Q Does this in your opinion violate --

18 MR. GHENT: Objection, Your Honor.

19 THE COURT: We're not going to go into his opinion

20 about --

21 BY MR. HOLCOMB:

22 Q Okay. So you've never heard of anybody in that

23 position --

24 THE COURT: Mr. Holcomb, when I'm talking -- the

25 court reporter has got to take it down. I try to be quiet

1 when you're talking. You try to be quiet when I'm
2 talking.

3 MR. HOLCOMB: Yes, sir.

4 BY MR. HOLCOMB:

5 Q So the investigation pretty much ended, acquiring
6 paperwork and statements, around late May, a year after
7 the contract was done, almost a year to the date; is that
8 correct? On documents, statements, everything but the
9 pictures taken three years later; is that correct?

10 A Technically, a case does not end until it goes to
11 trial.

12 Q No, I'm talking about your fact-finding --

13 A It --

14 Q It ended around May 28th, 2013; is that correct?

15 A Okay.

16 Q Okay. Then David Hanks ended up taking the pictures
17 because we had a conflict between us on the matters at
18 hand, correct?

19 A Correct.

20 Q And that's why David Hanks went and took the pictures
21 instead of you, correct?

22 A Correct.

23 Q But normally, pictures are taken of an alleged crime
24 earlier than that, we've already established that. So
25 some time in July 2013, about two months after the

1 fact-finding mission, you contacted my sister's landlord.
2 Why did you do that?

3 MR. GHENT: Objection.

4 THE COURT: I sustain the objection. Let's don't go
5 into that.

6 MR. HOLCOMB: Well, now --

7 THE COURT: No, we're not going into it. You're not
8 going into it, so go on to your next question.

9 BY MR. HOLCOMB:

10 Q Okay. All right. Going into the statements of the
11 -- okay, now we're going to go into the alleged --

12 MR. HOLCOMB: May I have the blue -- the documents
13 from -- I'll give you this back. I've got it. I've got
14 it right here.

15 BY MR. HOLCOMB:

16 Q All right. Okay. This is Exhibit No. 7, State's
17 Exhibit No. 7. It's a police report --

18 THE COURT: It looks like a blue sticker on it to me.

19 MR. HOLCOMB: Oh, Defendant's Exhibit, I'm sorry.

20 BY MR. HOLCOMB:

21 Q So in the course -- over the course of me making
22 weekly contact, I ended up sending some cartoons and
23 videos and audio clips of conversations that we had; is
24 that correct?

25 A Correct.

1 Q In one of those conversations, did you say that if
2 you had been told by McGinn or Megan that any work had
3 been done at the house, of shingles or any kind of
4 material put down that you would have probably backed away
5 from it? Do you remember saying that?

6 A What's that got to do with this?

7 Q We're not --

8 THE COURT: Just answer the question.

9 THE WITNESS: I don't remember saying anything to you
10 about that.

11 BY MR. HOLCOMB:

12 Q Do you remember me asking you that if work was done,
13 \$300 worth of work done, it would have been a civil matter
14 if it had been written that way; is that correct?

15 A I don't remember that.

16 Q If, in your opinion, a dispute over dollars and cents
17 on something, is it a civil matter or a criminal matter?

18 A It's a fine line. And I have to make that decision
19 along with the sheriff's office.

20 Q All right. And you went to the Grand Jury and you
21 testified that no work was done. You mentioned nothing
22 about the siding and exterior repairs; is that correct?

23 A It was presented to the Grand Jury.

24 Q Without the exterior repairs?

25 A It was presented to the Grand Jury. I don't

1 necessarily have to do it. An officer presented it to the
2 Grand Jury. Okay. That's all I can tell you.

3 Q All right. But the indictment still mentioned
4 nothing on the exterior repairs; is that correct?

5 A I didn't see the indictment.

6 Q Okay. All right. So right here, we've got a report
7 of going into -- Defense Exhibit with the documents going
8 into -- go to the scope that we went to, the first three
9 documents and the insurance paperwork that you went into.
10 You remember the insurance paperwork that Megan Baucón
11 brought into you? Remember insurance had the sample and
12 had the State Farm thing --

13 A Yes. Which one?

14 MR. GHENT: Your Honor, he's already been over this.

15 THE COURT: Yes, I --

16 MR. HOLCOMB: No, no, I've got another thing I want
17 to show them. And I haven't pointed that out.

18 MR. GHENT: This is repetitive.

19 MR. HOLCOMB: Can I show the video now then?

20 THE COURT: Yes, sir.

21 MR. GHENT: That's fine. Great.

22 Can the witness come down where he can see?

23 THE COURT: Yes.

24 One of the things we did while you were waiting on me
25 was deal with this issue as to what would be admissible.

1 And I ruled and I think the State agreed that these
2 particular videos were admissible. So that was one of the
3 things we did this morning was work on that. So these are
4 in evidence. You're not going to hear any testimony from
5 anybody about, I don't think, how they were generated.
6 You might hear some -- because they're in evidence and
7 they are what they are.

8 Mr. Sims, would you hand his that disk, CD -- or, I
9 guess, it's a DVD.

10 Let us know what you're putting in.

11 MR. HOLCOMB: This will be Defendant's Exhibit No. 8.

12 THE COURT: Mr. Miller, you want to help since it's
13 your computer?

14 (WHEREUPON, Defendant's Exhibit No. 8 was played for
15 the jury.)

16 BY MR. HOLCOMB:

17 Q Mr. Martin, you testified that you received this
18 video --

19 MR. GHENT: Objection, he asked to show the video.

20 THE COURT: Let's see the video. You can't do
21 testimony and video.

22 MR. HOLCOMB: Thank you.

23 THE COURT: So play the video without anybody making
24 any comments about it. No questions.

25 (WHEREUPON, Defendant's Exhibit No. 8 was continued

1 for the jury.)

2 MR. HOLCOMB: Thank you. I'd like to ask Mr. Martin
3 some questions about that.

4 THE COURT: Mr. Martin, take the stand.

5 Leave it up for right now.

6 BY MR. HOLCOMB:

7 Q In that video, do you see any threats upon your life?

8 A Yes.

9 Q How so?

10 A The sound of the guns in the background.

11 Q Did you hear the part where it was the drum roll?

12 A I did.

13 Q All right. And can you see where the evidence
14 appears that it was manipulated and reduced to three
15 different rates?

16 A That's what you put and that's what you sent.

17 Q Okay.

18 A I saw it.

19 MR. HOLCOMB: One moment. I'd like to enter these
20 into evidence.

21 MR. GHENT: No, sir, the videos.

22 MR. HOLCOMB: Well, these are --

23 MR. GHENT: No, sir. I object.

24 MR. HOLCOMB: -- hard copies of the actual video from
25 it.

1 THE COURT: No, the videos speak for themselves.
2 Those don't have sound. The video has sound. You can
3 make that a Court's Exhibit. I'm not allowing it into
4 evidence.

5 MR. HOLCOMB: Make it a Court's Exhibit, but not for
6 the jury to see?

7 THE COURT: Correct.

8 MR. HOLCOMB: Okay. I'd like to do that.

9 (WHEREUPON, Court's Exhibit No. 7 was marked for
10 identification only.)

11 BY MR. HOLCOMB:

12 Q So the sound of a gun makes you fear for your life?
13 Just the sound of a gun in a video --

14 MR. GHENT: Asked and answered, Your Honor. Could we
15 move on?

16 BY MR. HOLCOMB:

17 Q Regarding an allegation about a doctored document?

18 A A picture of me sitting on the floor and guns going
19 off. I'm not a dumb person, okay?

20 Q I did not say you were dumb, sir --

21 MR. GHENT: Asked and answered, Your Honor. He's
22 arguing..

23 THE COURT: Yeah --

24 BY MR. HOLCOMB:

25 Q Are you offended by the pasting comment that was made

1 on Facebook?

2 A No. I didn't even know it was there until you
3 brought it up.

4 Q Wes Smith, the head of internal affairs?

5 A Yeah.

6 Q Made a comment about getting you crayons and paste,
7 that's offensive?

8 A No. Him and David Hanks -- I never knew that existed
9 until you brought it up.

10 Q Okay. And whenever -- so we were talking earlier
11 about the investigation and Wes Smith whenever I reported,
12 this to internal affairs that, you know, there were a lot
13 of inconsistencies in the warrant and statements had been
14 taken and things like that, and that this evidence had
15 been modified --

16 MR. GHENT: Objection, Your Honor. Has he entered
17 this in? I think he has --

18 MR. HOLCOMB: The question is --

19 MR. GHENT: The documents he wanted to enter, I
20 agreed to. This is repetitive.

21 BY MR. HOLCOMB:

22 Q All right. Let's go to the police report that we
23 just had right there, the GCSO report from 8/30 that I
24 just asked the bailiff to give you. Can you do that,
25 please?

1 A I see it right there.

2 Q All right. Would you please pick that up and read it
3 into evidence?

4 THE COURT: Has this not already been done?

5 THE WITNESS: It has.

6 MR. HOLCOMB: No, this is the Wes Smith, the
7 threatening, that's what we're here on trial for. He
8 hasn't done it and I was going to ask him about it.

9 BY MR. HOLCOMB:

10 Q Who is the --

11 MR. GHENT: Objection, Your Honor. Again, this is
12 repetitive. It's into evidence. He does not have to read
13 everything. The jury has established they can read and
14 understand English. It's a question for the jury.

15 THE COURT: I'll allow the question, but let's don't
16 keep going over and over.

17 BY MR. HOLCOMB:

18 Q Mr. Martin, who is the alleged victim in this
19 investigation when it started up?

20 A It's me listed as victim number one.

21 Q Okay. And on the second page?

22 A It shows Wes Smith.

23 Q Okay. And is that the -- that's the police report
24 that started what we're on trial for currently. The
25 warrants that were issued were based off of that police

1 report; is that correct?

2 MR. GHENT: Objection. That's a misstatement. There
3 are two indictments we're on trial for in this case.

4 THE COURT: Okay. Well, just ask the question and
5 see what the answer is. What's the question?

6 BY MR. HOLCOMB:

7 Q Is that the police report that is tied to this case
8 that we're on currently?

9 A No.

10 Q All right.

11 MR. HOLCOMB: May I see the Defendant's Exhibits,
12 please?

13 Apparently, one of them wasn't entered into evidence
14 that I discussed with Ms. Harrison. I'm looking for the
15 document on when she did the discovery.

16 THE COURT: Well, it's either in evidence or not. If
17 it's not in evidence, it's not in evidence.

18 MR. HOLCOMB: Well, she read it. She did put it in
19 there. She read it -- she talked about it on the stand.
20 I mean, is that -- the document wasn't put in?

21 THE COURT: I have no idea. I can't keep up with it.

22 MR. HOLCOMB: Okay. Thank you.

23 BY MR. HOLCOMB:

24 Q So based on your investigation in all of this, you
25 didn't take any more pictures and your testimony is that

1 you quit investigating and actually getting hard copies of
2 stuff on 5/20, 5/28, somewhere in there? You felt
3 threatened and you felt intimidated by that video; is that
4 correct?

5 A Yes, sir.

6 Q And what evidence did you have that you needed to
7 contact my sister about a breach of trust case?

8 A No, I think it was not about the breach of trust as
9 much as it was about all the crazy stuff that was coming
10 through on these e-mails. I was trying to find somebody
11 that might be close to you to calm you down. Because you
12 were getting very close to threats on these e-mails.

13 Q And when my sister called, did you return her call?

14 A I don't think we made contact again. I told
15 Investigator Kindley that I had tried to make contact, but
16 I was unsuccessful. Now, if he made contact, I don't
17 know.

18 Q And you contacted -- when did Mr. Connelly -- you
19 started talking to Mr. Connelly about this case?

20 A Mr. Kindley.

21 Q Kindley.

22 A When they took over the investigation.

23 Q With SLED; is that correct, Lieutenant Kindley?

24 A Correct.

25 Q What date was that? Was that about the time this

1 police report happened?

2 A It would have been after this.

3 Q A month, two months, three months?

4 A This was in August.

5 MR. GHENT: Your Honor, the witness could not be
6 competent to testify to that because it was sent by the
7 solicitor's office to the attorney general. The attorney
8 general turned it over to our office. All that is a part
9 of the record. It's in the record. He's not competent.

10 BY MR. HOLCOMB:

11 Q All right. Let me ask you this question. On
12 8/30/2013, Ramon Rivera took a police report saying that
13 that video that you just saw was a threat upon your life
14 and you interpreted it that way, so did Wes Smith; is that
15 correct?

16 A Correct.

17 Q Okay. On 8/30/2013, officially, you became an
18 alleged victim; is that correct?

19 A Correct.

20 Q Okay. On 8/30/2013, should you have recused yourself
21 on the breach of trust case because can you be a victim of
22 a crime and also be the investigating officer?

23 A This is two different cases.

24 Q I understand. But you're a victim, alleged victim
25 and -- three months after you arrested me, or two and a

1 half months later, you're the alleged victim and you're
2 still investigating the case; is that correct?

3 A I'm not a victim in the breach of trust.

4 Q No, no, in the --

5 THE COURT: Let me try.

6 He's asking you if because you are a victim in the
7 current cases, should you have continued being involved in
8 the breach of trust case?

9 THE WITNESS: Yes, I can do that. I have nothing --

10 THE COURT: No, no, you've answered the question.

11 THE WITNESS: Okay.

12 BY MR. HOLCOMB:

13 Q So you think it was proper as an alleged victim to
14 still handle the breach of trust case?

15 A I wasn't a victim when the breach of trust came
16 about.

17 Q That's not what I'm talking --

18 THE COURT: Let me ask it again.

19 THE WITNESS: Yes.

20 THE COURT: Go ahead.

21 MR. HOLCOMB: Can I clarify because I don't
22 understand what he said yes to?

23 THE COUR: Well, ask the question again.

24 BY MR. HOLCOMB:

25 Q On 8/30/2013, whenever this video was received?

1 A Correct.

2 Q An e-mail, a weekly check-in, that was required as a
3 condition of bond?

4 A Right.

5 Q That if I didn't make that condition of bond, that I
6 would be violated and put in jail without bond, correct?

7 A Correct.

8 Q And in that video -- and at that time, I had been
9 trying to send out tapes and all this kind of thing. So
10 at that time, 8/30/2013, you felt like I had threatened
11 your life with that video, correct?

12 A Correct.

13 Q And that was the first threat that you felt like,
14 correct?

15 A Correct.

16 Q Okay. At that point in time, do you feel -- is it
17 proper that you were still handling the breach of trust
18 case as of 9/1/2013, the next day --

19 MR. GHENT: Objection, asked and answered.

20 THE COURT: I'm going to let him answer yes or no.

21 THE WITNESS: Yes.

22 BY MR. HOLCOMB:

23 Q So you did not conflict it out and SLED did not take
24 --

25 THE COURT: He's already answered that.

1 MR. HOLCOMB: Okay. Great. All right.

2 BY MR. HOLCOMB:

3 Q Did you do any other investigation on the breach of
4 trust case after 9/1/2013? Did you gather any other
5 evidence, take any more statements, take any pictures at
6 all?

7 A I don't remember. If I did, I don't remember.

8 Q If there's none in the file, would that indicate that
9 you didn't do anything?

10 A Again, I tell you, I don't write everything down that
11 I do on these reports.

12 Q What else as an investigator could you have looked
13 into at that point?

14 A Well, I did get the whole full scope after it was all
15 done, the insurance scope.

16 Q And when was that?

17 A That was the second time I got with Mr. McGinn.

18 Q Would a date stamp of June 13th -- or June 14th, 2013
19 sound correct?

20 A I don't know. Whatever was on the paper.

21 Q So June 14, 2013, is when you got the complete scope.
22 So that was last bit of documentary evidence that you had?

23 MR. GHENT: Your Honor --

24 BY MR. HOLCOMB:

25 Q That was the last statement you had --

1 MR. GHENT: -- that's not in evidence. He is
2 referring to a matter --

3 MR. HOLCOMB: I'm asking a question, sir.

4 MR. GHENT: I understand, but he's asking from
5 something that's not in evidence. I object.

6 THE COURT: Objection overruled. He can ask
7 questions and ask dates.

8 BY MR. HOLCOMB:

9 Q Okay. So you just testified that the last document
10 you got was date stamped June 14th, 2013, and the last
11 statement you got from Mr. McGinn was 5/28/2013, correct?

12 A Uh-huh.

13 Q Okay. No further questions.

14 MR. GHENT: Can we go to the next video?

15 MR. HOLCOMB: Yes, I'll go to the next video.

16 I do have some more questions on the videos, I'm
17 sorry. No further questions on this.

18 MR. GHENT: I understand, but could we limit the
19 questions to the videos.

20 MR. HOLCOMB: Let's do that. We're going to limit it
21 to the videos. We're going to do some more videos.

22 THE COURT: I know nobody is listening to me, but
23 don't two people talk at a time. This poor court reporter
24 has been beat up by the way y'all -- probably me, too.
25 And it's not fair to her. And just in case this case goes

1 further, she needs to type it up and be accurate. So let
2 her do that.

3 MR. GHENT: Yes, sir. I apologize.

4 MR. HOLCOMB: This is Defendant's Exhibit No. 9, the
5 disk. It's got several videos on it.

6 THE COURT: Okay.

7 (WHEREUPON, Defendant's Exhibit No. 9 was played for
8 the jury.)

9 THE COURT: Was that the last one?

10 MR. HOLCOMB: That's it.

11 THE COURT: All right. Let's take a refresher break.
12 We'll take about a five to 10-minute break just to get
13 refreshed.

14 BAILIFF: Please remain seated for the jury to leave.

15 (WHEREUPON, the jury exits the courtroom at
16 approximately 4:53 p.m.)

17 THE COURT: We're getting close to the end of the
18 day.

19 MR. HOLCOMB: Yes, sir, and I'm almost done. And I
20 didn't mean to dismiss him as a witness. What I was going
21 to do is show the videos and I've got a few more questions
22 on that and I'm almost done. So would you like for him to
23 be the last witness for the day?

24 THE COURT: Yes, I think this is going to be the last
25 witness for the day.

1 MR. HOLCOMB: May I ask Mr. Ghent if he has any more
2 witnesses for tomorrow?

3 MR. GHENT: Yes.

4 THE COURT: We'll take care of that.

5 Let's bring in the jury and finish up with Mr. Martin
6 and we'll try to get you back and get you some rest.

7 MR. GHENT: Your Honor, as a matter of redirect, I
8 will be brief. As a matter of fact, Your Honor, you can
9 put me on a stopwatch, 15 minutes max.

10 THE COURT: 15, you're on it.

11 MR. GHENT: I didn't think you would take me so
12 seriously, but I'm stuck.

13 THE COURT: Well, I wish you had said 10, then we
14 could have negotiated.

15 (WHEREUPON, a short break was taken.)

16 THE COURT: Bring the jury in.

17 (WHEREUPON, the jury enters the courtroom at
18 approximately 5:01 p.m.)

19 THE COURT: You may continue.

20 BY MR. HOLCOMB:

21 Q Mr. Martin, you saw the videos. So those are some of
22 the videos that I sent you during weekly contacts?

23 A Yes, sir.

24 Q Did you find any of them offensive other than the one
25 showing the tampering of evidence?

1 MR. GHENT: Objection, the word was not offensive, it
2 was threatening.

3 THE COURT: Well, it was his question. I overrule
4 the objection.

5 BY MR. HOLCOMB:

6 Q Do you find any of them offensive other than the
7 tampering with evidence video?

8 A More harassing type thing, but that was to me.

9 Q But I was required to contact you weekly, correct?

10 A Right.

11 Q And in America, we can say what we want as long as we
12 don't hurt anybody, correct?

13 A If that's what you think.

14 MR. GHENT: I would object, Your Honor. That is an
15 issue of law. He is not in a position to say that.

16 MR. HOLCOMB: I'm asking his opinion.

17 MR. GHENT: Well, again --

18 THE COURT: He's not here to give his opinion. He's
19 here to testify to facts.

20 BY MR. HOLCOMB:

21 Q So you considered it harassment. Did you give me any
22 terms or conditions of how I was to respond to you once a
23 week?

24 A No. No.

25 Q So there were no terms set for that?

1 A No. I thought it was just going to be checking in.
2 That's it.

3 Q Well, since it was the first time you've ever done it
4 and it's never been done before that you're aware --
5 you've never heard of anybody else having that condition
6 of bond, correct?

7 A Correct.

8 Q So it was a novel thing, kind of breaking new ground,
9 correct?

10 A Yes.

11 Q Okay. And you testified that you contacted my sister
12 to get her to keep me from sending videos and e-mails,
13 correct?

14 A To ask her could she assist me in talking to you
15 about this.

16 Q But that had nothing to do with your investigation
17 of --

18 A No.

19 Q And my sister says she called back. Did you return
20 her calls?

21 A I don't remember getting a call from her, to be
22 honest with you, I don't. Now, if somebody talked with
23 her, it must have been someone else, another officer, but
24 not me, because I never really talked to her.

25 Q But you make it a habit of going to landlords first,

1 correct?

2 A I don't know how that came up, to be honest with you.
3 I don't know if I was trying to reach out to find a number
4 for her. I think that's what it was. I needed a number
5 for her and I located the landlord and I asked could he
6 provide a number for her. That's the reason that I
7 contacted him.

8 Q Okay. Did you try to get ahold of her again later
9 on?

10 A No, because SLED came in and I was told to leave it
11 alone.

12 Q That was July of 2013?

13 A Yeah.

14 Q Is that correct?

15 A (The witness nodded his head.)

16 Q SLED told you to leave it alone?

17 A (The witness nodded his head.)

18 Q Okay. So July 2013, SLED told you to leave it alone.
19 And you didn't return a call because you said that you
20 don't know that she left a message?

21 A Correct.

22 Q Okay. Great. Have you read pretty much the SLED
23 file on the intimidating and threatening? Are you
24 familiar with the file that SLED's put together?

25 A I have read some of it, a copy of. I don't know if

1 it's everything.

2 Q Did you read the interview with Rhonda Jane Cole?

3 A No.

4 Q Did you date Ronda Jane Cole, a woman named Ronda
5 Jane Cole in the 90's?

6 A Yes.

7 Q Do you remember dating Ronda Jane Cole in the 80's?

8 A No. She never said anything about you.

9 Q In '88?

10 THE COURT: He said she never said anything about
11 you.

12 MR. HOLCOMB: Okay. Great.

13 BY MR. HOLCOMB:

14 Q I was 17 in '87, how old were you in '87?

15 A I was in my 30's because that's when I started law
16 enforcement.

17 Q All right. Based on the totality of this and the
18 fact that the warrant is over 75 percent incorrect, if not
19 more, can you see how I could get upset on that?

20 A I can see where you can get upset.

21 Q Okay. And do you -- looking back now, do you feel
22 like -- do you still investigate things in this manner?

23 A Yes.

24 Q So you take statements from people that don't know
25 anything and direct knowledge and arrest folks?

1 A No. I didn't take a statement from her. I got one
2 from Jared and I got one from Mr. McGinn.

3 Q After the arrest warrant?

4 A The only thing that she did was provide me with the
5 initial paperwork.

6 Q Right. And the check was evidence of a crime, okay.
7 But -- and you're still conducting -- is this policy of
8 the Greenville County Sheriff's Department? Is this the
9 way they train people to investigate?

10 A What example are you using?

11 Q What I'm saying is, is it Greenville County Sheriff
12 Department's policy for you not to leave and go to look at
13 a location? People talked about them being sick. I was
14 never aware of them being sick. But people talked about
15 that. Is it Greenville County Sheriff's police not to go
16 and take a look at the actual crime scene if it's an
17 allegation?

18 A It's according to what kind of investigation you've
19 got going on. We take in 20 and 30 cases a day. We don't
20 have time to move from our computer, just to be blunt with
21 you. So we have to spread stuff out. Now, if I have a
22 million dollar case, I'm probably going to go out and do
23 something. But right now, with these small cases, they
24 get as much as I can give them and that's it.

25 Q So the reason that you didn't investigate this

1 case --

2 A I did investigate it. I just didn't go out to the
3 house.

4 Q Okay. What was the reason for you leaving out the
5 exterior repairs? Because you wrote work began in July,
6 worked started in July --

7 A Because he told me it was less than \$300.

8 Q Well, just to be clear, didn't they tell you that
9 after you wrote the warrant, but you knew about work being
10 done in July and you wrote it on the contract in January,
11 correct, when you got --

12 A I knew it had been done, yeah.

13 Q You knew work had been done?

14 A After I talked to Jared. Jared told me what they did
15 and did not do. And I just didn't include it.

16 Q And I'm sorry, we're trying to get consistent on
17 this. But you didn't talk to Jared until after the arrest
18 warrant?

19 A No, I talked to him on the phone. But I got them in
20 there to put everything on paper the date you saw it on
21 the bottom of the statement.

22 Q All right. So if you talked to Jared on the phone
23 and it was \$300 worth of work, that would be work done.
24 So shouldn't the warrant have read to be more accurate and
25 not to have someone, a layperson such as myself, look at

1 it as perjury, the warrant should have said the Defendant
2 didn't replace victim roof, only did \$300 worth of work
3 according to the guy that worked there a day and a half?

4 A Yes, sir. You're right.

5 Q And so --

6 A But we've been over this five times.

7 Q I understand. I understand. But at \$20 an hour, or
8 whatever it is, even at minimum wage, \$10 an hour, that's
9 \$300 in labor based on Mr. McGinn's own testimony,
10 correct?

11 A If that's what you say, yes.

12 Q Well, I'm doing the math. He said a day, day and a
13 half, two men, correct?

14 A Okay.

15 Q Okay. So a day is considered eight hours?

16 A Okay.

17 Q Twelve hours would be 24, that would be times \$10,
18 would be \$240, correct?

19 A Okay.

20 Q All right. So stain was purchased, that would have a
21 fee, correct?

22 A You said what?

23 Q Stain was purchased --

24 A Oh, stain, I thought you said steel.

25 Q So, basically, what I'm saying is, wouldn't it be

1 fair to me -- and since it's not a million-dollar case --
2 so only million-dollar cases need to be fully
3 investigated, where you actually take your time and go
4 take pictures and, actually, talk to witnesses before
5 warrants are issued, it has to be a certain amount. At
6 what point do you feel the dollar amount of somebody's
7 life is worth for you to go and actually do a full
8 investigation?

9 A I did a full investigation on yours. And that's all
10 I'm going to say.

11 Q Okay. So you do a better --

12 MR. GHENT: Your Honor --

13 THE COURT: Let me hear the question, but I think
14 that's been gone over several times.

15 BY MR. HOLCOMB:

16 Q All right. So finally, is the warrant and the
17 indictment that was presented at trial, are they accurate?

18 A Yes.

19 Q No work was done?

20 A The roof was not put on according to the warrant.

21 Q Okay. But work was done?

22 A Work was done.

23 Q All right. So the sentence never did any of the work
24 is incorrect?

25 THE COURT: I think he's already acknowledged that.

1 MR. HOLCOMB: Thank you. No further questions for
2 this witness.

3 And I need to put the State's evidence back.

4 THE COURT: Yes, we need to keep up with the
5 exhibits.

6 MR. HOLCOMB: Yes, sir. Thank you.

7 THE COURT: Mr. Ghent.

8 MR. GHENT: May it please the Court?

9 THE COURT: Yes, sir.

10 MR. GHENT: I've agreed to 15 minutes. I've given
11 instructions to my assistant to tap.

12 THE COURT: I didn't say you had to go 15 minutes.

13 MR. GHENT: I volunteered.

14 REDIRECT EXAMINATION

15 BY MR. GHENT:

16 Q The pictures, do you have the photographs? Where are
17 the photographs?

18 A They're in here.

19 Q Okay. Defendant's photographs, Defendant's Exhibits,
20 let's go to, first of all, this talk about what was done.
21 Defendant's Exhibit 15, dated 5/28/13. RHS, does that
22 appear to be right-hand side?

23 A Yes.

24 MR. HOLCOMB: Objection, he has no knowledge. He's
25 never been to the home. He can't verify whether that's

1 the house or not.

2 MR. GHENT: Your Honor, he's already put them in.

3 MR. HOLCOMB: No, but I didn't --

4 MR. GHENT: That's --

5 THE COURT: One at a time.

6 MR. GHENT: Yes, sir.

7 THE COURT: Hand it to him and ask him a question and
8 let's see what he says.

9 MR. GHENT: Yes, sir.

10 BY MR. GHENT:

11 Q You have been asked about these pictures with respect
12 to the house?

13 A Correct.

14 Q There are two sides that are shown. One appears to
15 have stain on it. The date is May 18th --

16 A 28th.

17 Q May 28th, 2013; is that correct?

18 A Correct.

19 Q The other one is another side, correct?

20 A Yes.

21 Q Does it appear that stain is on one, but not the
22 other?

23 A Yes, sir.

24 MR. HOLCOMB: Objection.

25 THE COURT: Well, he's asking about what the

1 photograph shows. You put the photographs in.

2 MR. HOLCOMB: Yes, sir, I did.

3 MR. GHENT: Publish them to the jury.

4 BY MR. GHENT:

5 Q Next, photographs that mistakenly have a date -- are
6 you aware of whether or not cameras have to be adjusted in
7 terms of the date stamp?

8 MR. HOLCOMB: Objection.

9 THE COURT: Wait just a minute.

10 Take your hand down from your mouth, Mr. Martin.

11 MR. GHENT: Please speak loud, sir.

12 THE WITNESS: They do.

13 THE COURT: And if he has knowledge, then he can
14 testify to that.

15 BY MR. GHENT:

16 Q They have to be adjusted, correct?

17 A Yes.

18 Q So for this to say -- what is the date on these?

19 A 1/1/207.

20 Q 207. That's absurd, is it not, if it shows these
21 pictures of this house in this case?

22 A Correct.

23 Q This, again --

24 THE COURT: This what?

25 BY MR. GHENT:

1 Q Are these photographs of the house as you understand
2 it?

3 A Yes, sir.

4 MR. HOLCOMB: Objection. He's never been to the
5 house. He can't verify that this was the house.

6 BY MR. GHENT:

7 Q Do these photographs appear to show a house that he
8 has shown to you representing it as the house without
9 stain on them?

10 MR. HOLCOMB: Objection, I didn't do that.

11 MR. GHENT: Yes, he did.

12 THE COURT: I sustain the objection.

13 THE WITNESS: Yes.

14 THE COURT: I sustained the objection, so disregard
15 that question and answer.

16 BY MR. GHENT:

17 Q With respect to the photographs that are in evidence
18 --

19 MR. HOLCOMB: Objection, Your Honor. If he has no
20 knowledge of the house, he really shouldn't be speaking on
21 --

22 THE COURT: He can testify to what the photographs
23 show because they've in evidence.

24 MR. HOLCOMB: Okay.

25 BY MR. GHENT:

1 Q Is there stain on virtually any part of whatever
2 house this is?

3 A No, sir.

4 Q Is there a new roof on this house as far as you can
5 see?

6 A No, sir.

7 MR. GHENT: Offer these to the jury.

8 I'm sorry, sir. I was given 15 minutes, I have to
9 move.

10 BY MR. GHENT:

11 Q Again, appear to be the same house, wherever the
12 house is?

13 A The house in this picture, yes.

14 Q And that would show again, no green roof on top?

15 A Correct.

16 Q Now, with respect to all that you've been asked about
17 in, were you at the last trial?

18 A Yes, sir.

19 Q All these videos that have been shown, did they --
20 first of all, you testified earlier that the e-mails, you
21 felt threatened by them and as if they were intended to
22 intimidate you?

23 A Yes, sir.

24 Q And you did feel, as I understood intimidated?

25 A Yes.

1 Q Did the videos alarm you more?

2 A Yes, sir.

3 Q Set off alarm bells more?

4 A Yes, sir.

5 Q With respect to the trial, you sat through the entire
6 trial? You were a witness?

7 A Yes, sir.

8 Q He was found guilty?

9 A Yes, sir.

10 Q Over and done?

11 A Yes, sir.

12 Q Now, with respect to that then, you heard the
13 testimony through the whole trial, did you not?

14 A Yes, sir.

15 Q You heard Mr. McGinn testify about the color of the
16 roof he wanted?

17 A Correct.

18 Q Was it green?

19 A Yes, sir.

20 Q Did he ever get it?

21 A No, sir.

22 Q You heard a number of insurance agents explain the
23 documents, did you not?

24 A Yes, sir.

25 Q They explained that the deductible has nothing to do

1 --

2 MR. HOLCOMB: Objection.

3 THE COURT: I sustain the objection.

4 BY MR. GHENT:

5 Q You heard John Greentree --

6 MR. HOLCOMB: Objection.

7 THE COURT: Let me hear the question.

8 Don't answer until I rule.

9 BY MR. GHENT:

10 Q You heard John Booth of Greentree Roofing come from
11 Georgia to testify?

12 A Yes, sir.

13 MR. HOLCOMB: Objection. Your Honor, it's already
14 established that there was a trial and conviction. He
15 doesn't need to --

16 MR. GHENT: No, sir. He went into it and I can
17 clarify.

18 MR. HOLCOMB: May I be heard on this, please?

19 THE COURT: Well, I sustained the objection. I don't
20 know -- I don't want to go through all the testimony.

21 MR. GHENT: I'm not. All I'm going to do is
22 summarize very quickly, Your Honor. Because he has taken
23 an entire day badgering this man. I can --

24 THE COURT: That's editorial stuff, we don't do that.

25 I'll allow him to go into the trial. The prior trial

1 has been interjected into this trial and he's got a right,
2 except for the fact that you've got to have some reference
3 for it as opposed to just -- you've got to have a
4 foundation for asking the question. I'm not questioning
5 your inference or anything like that, or your
6 recollection. But the questions have to be on what I call
7 firm footing.

8 BY MR. GHENT:

9 Q The whole question had to do with the roof not being
10 put on, correct?

11 A Correct.

12 Q There was a house --

13 MR. HOLCOMB: Objection.

14 BY MR. GHENT:

15 Q Was there a house in question with respect to --

16 MR. HOLCOMB: Objection, not relevant.

17 THE COURT: Well, I haven't heard the question yet,
18 so I can't rule without a question.

19 MR. HOLCOMB: He's about to bring up another house
20 that has nothing to do with this case. And the reason --

21 MR. GHENT: It's essential to it.

22 MR. HOLCOMB: It is not.

23 I'm sorry, he interrupted me. The reason I brought
24 up things is because it had to do with the videos. I was
25 laying the foundation for the videos and the warrant.

1 What all these videos were in reference to and the arrest
2 warrant, this is all relevant directly to what I'm on
3 trial for. Mr. Clark's house has nothing to do with it.
4 Mr. Clark was a happy customer.

5 MR. GHENT: No, he was not.

6 MR. HOLCOMB: He was. He said that.

7 THE COURT: I'm going to allow the question. The
8 earlier trial has been interjected into this trial,
9 therefore, I think it's fair game for both sides.

10 Mr. Holcomb, you've gone into it in great detail and
11 I'm going to allow the redirect of Mr. Ghent to present
12 evidence as relates to your cross-examination.

13 BY MR. GHENT:

14 Q Very quickly. Mr. McGinn wanted a green roof,
15 correct?

16 A Yes.

17 Q A green metal roof?

18 A Yes.

19 Q Mr. Clark and his wife wanted a blue metal roof?

20 A Blue, yes.

21 Q All of this was against a background that a huge
22 hailstorm had blown through the upstate, correct?

23 A Yes.

24 MR. HOLCOMB: Objection.

25 THE COURT: I overrule --

1 MR. HOLCOMB: There's no --

2 THE COURT: I overrule the objection. I've overruled
3 the objection.

4 MR. HOLCOMB: But there's no evidence of a huge
5 hailstorm.

6 THE COURT: I overrule the objection.

7 BY MR. GHENT:

8 Q With respect to Mr. Booth, he testified regarding the
9 house -- rather, the roof, the pale blue roof, do you
10 recall that?

11 A Yes.

12 Q You were questioned over and over and over again
13 about this cash as opposed to deposit. Were you in court
14 when a Ms. Jones from the Bank of Travelers Rest testified
15 about the check being written by Mr. McGinn?

16 A Yes, sir.

17 Q Did, also, bank records of this Defendant show that
18 they -- the check was deposited?

19 A Correct.

20 Q Did Mr. --

21 MR. HOLCOMB: Objection. The reason I'm objecting is
22 Mr. Martin testified that he didn't know it was deposited.
23 Now, he's --

24 THE COURT: Well, in one of the videos, you said it
25 was deposited.

1 MR. HOLCOMB: No, but Mr. Martin, when I was asking
2 him if it was cashed or deposited --

3 THE COURT: I overrule the objection.

4 MR. HOLCOMB: Thank you.

5 BY MR. GHENT:

6 Q Did the Defendant's Wells Fargo bank account show
7 that he then deposited the check in his account?

8 A Yes, sir.

9 Q Did the proof show that he used that money to put the
10 roof -- pay for the pale blue roof that went on --

11 MR. HOLCOMB: Objection. And the reason I object is
12 it's Carolina Home Renovators was the account. It didn't
13 go into my personal account and it wasn't me personally.
14 The check was written to Carolina --

15 MR. GHENT: He endorsed it.

16 MR. HOLCOMB: We've established that it was a
17 corporation with other owners.

18 THE COURT: I understand your position. I overrule
19 the objection.

20 BY MR. GHENT:

21 Q It was deposited?

22 A Yes, sir.

23 Q It was then used to pay for Kenneth Clark's roof?

24 A Yes, sir.

25 Q Were you in court when Mr. Clark testified about how

1 long they had been waiting and asking about it?

2 A Yes, sir.

3 Q And were you in court when Mr. McGinn said I never
4 got my roof?

5 A Correct.

6 Q That he attempted to follow up?

7 A Yes.

8 Q Do the pictures speak for themselves?

9 A Yes.

10 Q Do you consider Mr. McGinn and his wife -- did you
11 see his wife?

12 A I did a brief time, yes, sir.

13 Q Did you see the pitiful condition she is in?

14 A Yes, sir.

15 Q Would you describe them as trashy people?

16 A No, sir.

17 Q Would you describe them as trash and garbage?

18 A No, sir.

19 Q You were asked about registered agent. Are you aware
20 that that's a registered agent for a corporation for
21 service of civil process?

22 A I didn't know that, but I know now.

23 Q Okay. So in terms to that making a difference with
24 respect to the bond, the bond is, basically, a means --
25 would you know whether or not it is a means of backing up

1 a claim against Mr. Holcomb and his corporation? Would
2 you know that?

3 A No, sir.

4 Q Would you be aware that you sometimes have to file
5 suit and that is the reason why we have designated agents
6 of process for corporations in this case?

7 A Okay, yes, sir.

8 Q And who was it that endorsed the back of that check?

9 A Mr. Holcomb.

10 Q And it was deposited and the money was used for
11 something else, correct?

12 A Yes, sir.

13 Q And we have spent an entire day --

14 MR. HOLCOMB: Objection.

15 THE COURT: Overruled.

16 MR. HOLCOMB: The money was also used for staining
17 and such.

18 THE COURT: Now, you're testifying.

19 Overruled.

20 BY MR. GHENT:

21 Q Would you agree that the pictures speak for
22 themselves about what kind of staining was done?

23 A Yes, sir.

24 Q And again, these videos were posted on YouTube?

25 A Yes, sir.

1 Q And you felt that this showed, again, the type of
2 individual that you were dealing with?

3 A Yes, sir.

4 Q When you say that the breach of trust was not turned
5 over or you were disqualified -- not disqualified, did you
6 contact anyone after Mr. McGinn, all those individuals who
7 I've just been over, were you the one who contacted those
8 individuals?

9 A I don't quite understand.

10 Q Did you contact Mr. Kenneth Clark about his roof, the
11 individual? Did you ever do that? Did your investigation
12 --

13 A Yes.

14 Q No, my question is did your investigation end after
15 --

16 MR. HOLCOMB: Objection.

17 Q -- after the Attorney General's Office got in?

18 THE COURT: I overrule the objection.

19 BY MR. GHENT:

20 Q Does anything in your file indicate that you
21 contacted Mr. John Booth of Greentree?

22 A The metal man, yes, we did contact him.

23 Q Did you contact Mr. Kenneth Clark?

24 A Yes.

25 Q Was all that then taken over by Jeff Kindley of SLED?

1 A (There was no response.)

2 Q Did we handle the investigation and prosecution of the
3 breach of trust?

4 A Yes.

5 Q Who was the prosecutor?

6 A You.

7 Q Who was on that case with me? Jeff Kindley?

8 A It was me.

9 Q You were on the case as a witness, were you not?

10 A Okay. I'm so confused all these trials. I don't
11 know.

12 Q Did you ever go down and talk to anybody at
13 Greentree?

14 A No, we talked to somebody on the phone and they sent
15 records to us.

16 Q Did you ever talk to Mr. Kenneth Clark?

17 A I don't remember.

18 Q Well, let me ask you this, did you look him eye to
19 eye?

20 A No.

21 Q That's because he's blind, is it not?

22 A Right.

23 MR. GHENT: Thank you.

24 THE COURT: Any brief recross?

25 MR. HOLCOMB: I would like to recross, Your Honor,

1 but I'm looking for the check for Mr. Clark where he said
2 thanks for his roof. He was not an unhappy customer.

3 THE COURT: It's restricted only to things brought
4 out by --

5 MR. HOLCOMB: Should we continue this tomorrow
6 because everybody seems to be upset?

7 THE COURT: Well, no, we're going to finish with this
8 witness. Your questions must be limited to what was
9 brought out in redirect. You can't start over.

10 MR. HOLCOMB: I can ask questions regarding the
11 trial.

12 THE COURT: As they relate to questions asked by Mr.
13 Ghent.

14 RECROSS-EXAMINATION

15 BY MR. HOLCOMB:

16 Q Okay. So Mr. Martin, sorry about you being so
17 frustrated there.

18 A Okay.

19 Q All right. During the trial, how many witnesses did
20 I present?

21 A I don't remember.

22 Q But you remember everything that Mr. Ghent asked you?

23 A Pretty much.

24 Q But you don't remember anything concerning the
25 defense?

1 A No.

2 Q Would it be accurate that no witnesses were
3 presented?

4 MR. GHENT: Your Honor, this does not go to my
5 cross-examination.

6 THE COURT: I disagree. I overrule the objection.
7 Go ahead. Ask the question again.

8 THE WITNESS: I don't know.

9 BY MR. HOLCOMB:

10 Q You don't remember that no witnesses were called for
11 the defense?

12 A I don't remember.

13 Q Were you there for any of the motion hearings and all
14 that? Did you sit through the whole process?

15 A I think I did, but I don't know. I might have gone
16 to the bathroom or something. But I was here the majority
17 of that trial, yes.

18 Q Okay. Did Mr. Will Byrd testify?

19 A I don't remember everybody that got up here and
20 testified.

21 Q Well, Will Byrd would have been for me, so if don't
22 remember any defense witnesses, of course, you wouldn't
23 remember Mr. Will Byrd, correct?

24 A Correct.

25 Q But work -- so some of the money -- the monies that

1 were applied -- do you remember any of the motion hearings
2 where the subpoenas for the -- the subpoenas were quashed
3 because they were filed in the wrong county?

4 MR. GHENT: Objection, Your Honor.

5 THE COURT: I'll overrule the objection. Let's move
6 on.

7 BY MR. HOLCOMB:

8 Q So whenever the money went into the bank, okay, it
9 goes in Carolina Home Renovator's account, okay? If Mr.
10 McGinn would have gone and taken that money out of the
11 account somehow, if he figured out some way of getting
12 into Carolina Home Renovator's account, could he have
13 taken that \$4,295.03 out?

14 A Anything's possible.

15 Q No, would it be legal? Once Mr. McGinn wrote a check
16 to Carolina Home Renovators, LLC, and I signed it in my
17 capacity as one of the four principals of that corporation
18 and deposited it into a bank account with Wells Fargo, and
19 Mr. McGinn signed a check from Travelers Rest, okay, and
20 it went to Carolina Home Renovators. And Carolina Home
21 Renovators took that check and put it in the bank. Okay?

22 A The only way that could happen is stop payment.

23 Q No, no, but if it was in the bank and it's sitting
24 there in the bank at Wells Fargo, under your logic and Ms.
25 Harrison's logic and under y'all's logic, it's McGinn's

1 money, okay. Would Mr. McGinn lawfully have been able to
2 go into Carolina Home Renovator's money and take that
3 money back?

4 MR. GHENT: Objection, that's not the issue.

5 THE COURT: I overrule the objection. Let's move on.
6 He's answered that.

7 BY MR. HOLCOMB:

8 Q All right. So since staining was done and we're
9 still in dispute, Mr. McGinn said -- did you hear him say
10 yesterday that \$400 worth of work was done? It went from
11 400 to 300, did you hear that difference?

12 A I didn't pay that much attention to it, no.

13 Q Do you find it interesting that you only hear the
14 State's questions and not mine --

15 THE COURT: That's not an appropriate question.

16 BY MR. HOLCOMB:

17 Q I've got this question for you, on -- so the money,
18 the \$4,295.03, it is uncontested that, at least, \$300 or a
19 day and a half's worth of work was done by two people at
20 that home and monies were paid out for those people; is
21 that correct?

22 A That's correct, I don't contest that.

23 Q So the money that was converted allegedly was not all
24 converted for my purposes; is that correct?

25 A I don't know how much was converted. I just know

1 that the roof was not put on that house. That was my big
2 concern.

3 Q Right. And you decided to just put that section in
4 your case, correct?

5 A Yes.

6 Q And you decided to ignore the rest of it, correct?

7 A No. We can always haggle over dollar amounts when
8 you got to trial. A lot of times, we don't know the exact
9 dollar amount when we go to trial.

10 Q No, no, but whenever you filled out the warrant, you
11 knew work was done and you left out that sentence?

12 A I left it out, yes.

13 Q Okay. Great. All right. So SLED -- so you didn't
14 go take care of the Clark home, the blind man's roof, the
15 gentleman that he was just referring to, you didn't have
16 anything to do with that investigation, SLED was taking
17 care of that at that point, correct?

18 A That's correct.

19 Q But earlier you testified that you handled the case
20 all the way to trial?

21 A We've got two cases. They're all intermingled. I
22 don't know what all I've been involved in. So I'm getting
23 confused myself. But I'm not.

24 Q All right. So when did SLED take over the case?

25 A I don't know, do not know.

1 Q Would it have made sense that they would have taken
2 over the case whenever you were supposedly a victim of a
3 crime? Would it have made sense for you to discharge
4 yourself?

5 A No.

6 Q Did anybody ask you any questions about the tampering
7 of evidence video? Did anybody come to you -- did SLED,
8 Wes Smith or anybody go Mr. Martin, did you modify this
9 document in any way? Was this photo shopped in any way?
10 Why are these three stamps and why is this thing turned
11 one-quarter turn and all three of those stamps modified
12 and there's no page number on that? Did anybody ask you
13 that?

14 A No.

15 Q So no one in internal affairs asked you about the way
16 you handled this case?

17 A No.

18 Q In 30 years, have you ever been written up by
19 internal affairs?

20 A No.

21 Q Has David Hanks been written up that you're aware of?

22 MR. GHENT: Objection.

23 THE COURT: I sustain the objection.

24 BY MR. HOLCOMB:

25 Q So in 30 years, you've never had any discipline

1 problems?

2 MR. GHENT: Objection.

3 THE COURT: I sustain the objection.

4 BY MR. HOLCOMB:

5 Q But on this case, SLED didn't investigate any of
6 this? They didn't investigate you or any of the pattern
7 of behavior on this?

8 MR. GHENT: Objection. That has nothing to do with
9 this case.

10 THE COURT: Well, I --

11 MR. HOLCOMB: It does. It has to do --

12 THE COURT: Well, I sustain the objection. That
13 wasn't gone into on redirect anyway. You're limited.

14 MR. HOLCOMB: Okay. Thank you very much. I guess
15 I'm done --

16 BY MR. HOLCOMB:

17 Q Well, let me ask you a couple more questions. Do you
18 remember whenever I had the order to get a lawyer and you
19 were standing with Sylvia Harrison when Don Smith was
20 dismissed, do you remember that?

21 A I don't.

22 Q You weren't there whenever I was ordered to get a
23 lawyer?

24 A Oh, yeah, when we had the -- you were on TV in the
25 courtroom, right?

1 Q Maybe. It had to do with when Letitia Verdin ordered
2 me to get a lawyer, do you remember that hearing? Let me
3 find that document.

4 MR. GHENT: Your Honor, that was not covered.

5 THE COURT: I sustain the objection. That was not
6 covered. That is not related to the redirect.

7 MR. HOLCOMB: Okay. Can I reserve the right to
8 recall the witness after we've had further testimony for
9 rebuttal?

10 MR. GHENT: Objection, he's under out subpoena and we
11 will ask the Court that he be released.

12 MR. HOLCOMB: Can I issue a new subpoena?

13 THE COURT: We'll worry about that when we're through
14 with the jury.

15 MR. HOLCOMB: Thank you. No further questions at
16 this time.

17 THE COURT: All right. We're going to stop for the
18 day and start back at 9:30 in the morning. Keep in mind
19 do not make up your own mind or not discuss the case, not
20 to do any research through Google or the Cloud, avoid any
21 news coverage if there is any. I haven't seen any, but I
22 don't read all the papers. Don't let yourself be exposed
23 to any coverage and don't let anyone discuss this case
24 with you outside the courtroom. If anyone does try to
25 talk with you about this case, report that back to me.

1 That person will be in contempt of court and I'll have to
2 take action against them.

3 Anything else from the State before I dismiss the
4 jury?

5 MR. GHENT: No, sir.

6 THE COURT: Mr. Holcomb, anything else?

7 MR. HOLCOMB: No, sir.

8 THE COURT: See you at 9:30 in the morning.

9 Thank you.

10 You can step down.

11 THE WITNESS: Thank you.

12 (WHEREUPON, the jury exits the courtroom at
13 approximately 5:36 p.m.)

14 THE COURT: What do we have starting in the morning,
15 Mr. Ghent?

16 MR. GHENT: I intend to call Investigator Kindley. I
17 don't anticipate he should take too long, but I can see
18 now that what I anticipate and what happens are two
19 different things. And then I intend to call Captain Mike
20 Prodan the SLED threat assessment expert. I notice Mr.
21 Smith is in court. Has he been subpoenaed? I mean, I'm
22 just asking.

23 THE COURT: I don't know.

24 MR. SHEALY: He was subpoenaed, Your Honor. And
25 actually, we do need to take up if he needs to be back and

1 when he needs to be back, that kind of thing.

2 If I may approach?

3 THE COURT: So you have two witnesses tomorrow?

4 MR. GHENT: Yes, sir.

5 THE COURT: That will probably take us to lunch. And
6 then --

7 MR. HOLCOMB: The State is going to rest after those
8 two witnesses?

9 THE COURT: That's my understanding.

10 MR. GHENT: That's the plan depending upon the
11 Defendant. But our intention is to go with two witnesses
12 tomorrow.

13 THE COURT: Okay.

14 MR. HOLCOMB: Just remind the group to my right not
15 to contact my sister or mother in any form or fashion.

16 THE COURT: Anybody within the sound of my voice is
17 not to contact his sister, Ms. Teso, I believe it is, or
18 his mother, Ms. Holcomb. Either themselves or through any
19 other agent that they are associated with or anyone that
20 they have any control over. Just don't contact them at
21 all.

22 All right. Now, before we stop, anything else we can
23 do today to make things go smoother tomorrow?

24 Well, let's deal with -- you've got a subpoena for
25 who?

1 MR. SHEALY: Don Smith, that was his first lawyer,
2 Judge.

3 MR. HOLCOMB: And I've got just a piece of
4 evidence --

5 THE COURT: I'm assuming that's him sitting on your
6 side back there?

7 MR. SMITH: Yes, sir.

8 THE COURT: I can't see very good.

9 All right.

10 MR. GHENT: He said he's got a single piece of
11 evidence he wants to get in through Mr. Smith.

12 MR. HOLCOMB: Yes, sir. It was in the 28-page motion
13 against me representing myself as a part of your packet.

14 THE COURT: I'll let y'all work that out. If
15 Mr. Smith is not needed, let's don't have him come all the
16 way back.

17 MR. HOLCOMB: Oh, I think he's needed, so I'd like
18 for him to be here tomorrow, if that's all right.

19 MR. SHEALY: Judge, I do want it put on the record
20 that I advised Mr. Holcomb about privilege and problems
21 with calling people who represented you before and things
22 of that nature. So I do want to put on the record that I
23 made that clear.

24 THE COURT: Okay. All right.

25 MR. HOLCOMB: I asked Mr. Smith to come see me at the

1 jail so we can discuss just what I have discussed with him
2 before I ask him to take the stand.

3 THE COURT: All right. Well, I've got no control
4 where Mr. Smith goes once he leaves this courtroom. If
5 y'all can work -- the more y'all can work out, the better
6 so we can get this to the jury maybe midday Friday. If we
7 can finish the testimony tomorrow and have arguments and
8 charge on Friday morning.

9 Mr. Ghent.

10 MR. GHENT: Your Honor, he has given me a list,
11 amended witness list. He did not, I don't think -- may I
12 approach and --

13 THE COURT: Yes, sir.

14 MR. GHENT: -- provide the Court with this list?
15 Could I ask that it be passed up?

16 THE COURT: So what's the issue?

17 MR. GHENT: This is the first I've heard of these
18 witnesses. And the Court did not canvas the jury
19 regarding those witnesses.

20 MR. HOLCOMB: Your Honor, I had a list of 50
21 witnesses that we were planning on and he saw those and we
22 had the list of subpoenas.

23 MR. GHENT: We went through the motion to quash. We
24 didn't -- nothing was given --

25 MR. HOLCOMB: So I can't have witnesses at this trial

1 either?

2 THE COURT: I understand that. I did not announce to
3 the jury that list of 46, 47 witnesses because we had the
4 motion pending and I did not want to go over a whole lot
5 of names that were not going to be pertinent. So I
6 intentionally did not go over that list. I have found
7 over my years of doing this, if a witness gets on the
8 stand and there's some connection between the witness and
9 a juror, the jurors are going to let us know.

10 MR. GHENT: Yes, sir.

11 THE COURT: So I don't know any of these people
12 personally, I don't think. And to the extent that they've
13 been subpoenaed, we'll see what we can do tomorrow.

14 MR. GHENT: May I?

15 THE COURT: Yeah, I'd like somebody to give me a
16 list.

17 MR. SHEALY: I may need a copy as well, Judge. I
18 guess I'll have to contact those people.

19 THE COURT: All right. We'll be at ease until 9:30
20 in the morning.

21 MR. GHENT: Thank you, Your Honor.

22 (WHEREUPON, Court was adjourned for the day to be
23 reconvened on Thursday, June 15, 2017.)

24 THURSDAY, JUNE 15, 2017

25 THE COURT: Good morning. I've had a brief meeting

1 in chambers and I can see that Mr. Smith is now seated
2 beside Mr. Holcomb. I was told that Mr. Holcomb wishes to
3 relieve Mr. Shealy as standby counsel and have Mr. Smith
4 appointed in his stead as standby counsel, am I right on
5 that?

6 MR. HOLCOMB: No, sir, I'd like him to represent
7 me because of the medications.

8 THE COURT: Well, I can tell you up front, I'm not
9 going to put him in the position of coming in the middle
10 of a trial. There's no way he can argue for the jury
11 because he hasn't heard the evidence. Not that he would
12 do anything that's not appropriate, but there's no way he
13 could --

14 MR. HOLCOMB: Well, I --

15 THE COURT: Let me finish. In my opinion argue this
16 case to the jury because he doesn't know the evidence.
17 He's not going to have an opportunity to have a
18 transcript. I'll appoint him standby counsel, but I am
19 not going to appoint you an attorney. You chose to go pro
20 se. We're halfway through the trial -- I hope we're
21 closer than halfway. But I'm not going to allow you to --
22 don't take this the wrong way, but this is my observation,
23 kind of manipulate the system where you now have an
24 attorney after you've decided to proceed pro se and me
25 allowing you to do it. So I'll let him replace Mr. Shealy

1 as standby counsel, but I'm not going to --

2 Mr. Smith, I'll be glad to hear from you, hear your
3 side of the situation, but I don't think you can convince
4 me anyway. But go ahead.

5 MR. SMITH: May it please the Court. Your Honor, I
6 had represented Mr. Holcomb when this began -- or I had
7 been affiliated with him in the beginning. And I feel
8 confident regarding my knowledge to the facts.

9 However, at present, Mr. Holcomb has been off of his
10 medications since he went to SCDC. And it's my
11 understanding that Dr. Sutton says that he's competent
12 when he's medicated. SCDC took him off his medication
13 when he left Greenville. He just started his medication
14 again this week. So the idea of him being competent
15 enough to try a case is questionable at best. I recognize
16 that he seems competent and so forth, but at the same
17 time, I had an opportunity to interact with him last
18 night. And I know his accelerated manner is such that
19 it's an episode in my explanation.

20 So his representing himself is impossible. It's
21 certainly not fair to him. And I recognize he made the
22 choice, but when did he make the choice? Was it a choice
23 that he made under the influence of his episodic
24 situation? I don't know that. And I would suggest that
25 the psychiatrist had said that he's not competent when

1 he's not medicated. And he's not been medicated while
2 he's been in SCDC for seven or eight months.

3 THE COURT: Well, if he's been that way for seven or
4 eight months, then Monday of this week is seven, eight
5 months into the process. So I don't know that things have
6 changed dramatically in four days than they have from
7 seven or eight months.

8 MR. SMITH: Well, the point is he's not been on
9 medication for seven or eight months and the doctor
10 specifically states that he's not competent unless he's on
11 medication. So he's doing well, so to speak, but I don't
12 believe he's of the right mind to make legal decisions or
13 anything related to his representation.

14 THE COURT: Well, I'm not just going to allow it. I
15 think he's made his choice. He's participated for four
16 days -- three days. We're in the fourth day.

17 And again, Mr. Holcomb, you can get Mr. Shealy before
18 he leaves.

19 Is he still here?

20 MR. SHEALY: I am, Judge.

21 THE COURT: To do another supersedeas and see if the
22 appellate court would make any change to my ruling.

23 I also -- I don't have any research on this, this is
24 all off the top of my head because I've never had this
25 happen before. But I just know that once we start into a

1 trial, it's very problematic for the State --

2 I'll hear from Mr. Ghent.

3 Mr. Ghent.

4 MR. GHENT: Your Honor, when we discussed it briefly
5 in chambers, I understood that what Mr. Smith was
6 proposing is exactly what he's arguing now. I have no
7 problem with the substitute of standby counsel. I mean,
8 that's not the same as putting somebody in when we're
9 almost three-quarters of the way through the trial.

10 I'll be brief. First of all, Mr. Smith was in the
11 gallery yesterday and he was whispering loudly, object,
12 object, object and the Defendant would object. I assume
13 that's where this came from.

14 On top of that, I'll run through quickly. I won't be
15 but a moment, Your Honor. Number one, he fired him. It
16 is my understanding, it's the understanding from the
17 record. It's not a personal opinion. He fired previously
18 Mr. Smith because he was not satisfied with his services.
19 He fired another public defender because he was not
20 satisfied with his services. He has now fired Mr. Shealy
21 because he is not satisfied with his services. Over and
22 over again he has stated, I want to represent myself.

23 There is no right to a particular lawyer case in a
24 case, that's Caplin and Drysdale, that is clear. You
25 don't have that right. He is building a PCR should this

1 attorney take over and act as his counsel.

2 There is another conflict, I will tell the Court.
3 Mr. Smith's Facebook posts commenting in a very
4 inappropriate fashion on rulings of a Spartanburg judge to
5 Solicitor Barnette in Spartanburg in a case they had and
6 rather, the rulings of a Spartanburg Judge and Solicitor
7 Barnette in Spartanburg. I will simply say that matter
8 will be addressed fully at some point so that Mr. Smith
9 also has a conflict in terms of our office. So I would
10 simply say standby counsel, but I hope it gets clearly
11 understood so that I don't have two individuals who are
12 doing things outside the rules. Thank you.

13 THE COURT: All right. We will do some further
14 research on it. I'll have my clerk do some further
15 research. But armed with the knowledge that I have now
16 and my understanding of how we proceed, I'm going to
17 relieve Mr. Shealy as standby and appoint Mr. Smith as
18 standby, but not fully participate.

19 THE COURT: Yes, sir.

20 MR. SHEALY: Your Honor, just so I can be clear, I am
21 relieved. I'm going to take all of my things. I have
22 left the file that I have for Mr. Smith. I have also left
23 all of the CDs that were provided by the State. So I
24 think that I have provided everything that I've got to
25 Mr. Smith, and through Mr. Smith, now Mr. Holcomb. I

1 believe I have provided it to Mr. Holcomb previously as
2 well, but I have now provided to Mr. Smith. And with your
3 permission, I will go back to Spartanburg.

4 THE COURT: Yes, sir, Mr. Holcomb?

5 MR. HOLCOMB: Just for the matter of time, could he
6 do the supersedeas before he leaves?

7 THE COURT: No, you either have one or the other. I
8 can't just give you two standbys. So you take your
9 choice, it's either Mr. Shealy or Mr. Smith.

10 MR. HOLCOMB: I'll take Mr. Smith.

11 I'd ask you to reconsider allowing Mr. Smith to
12 represent me because the medication -- I can barely stand
13 right now. Dr. Martin is going to be here in about three
14 hours, at GCDC for me to see him. He can write a
15 statement and have you review it if I'm competent or not
16 under these conditions.

17 Mr. Ghent has gone over about -- Ms. Harrison's
18 testified that I need a mental health evaluation, have
19 sent her letters that I have some issues on that. You're
20 well aware of that, you've seen the reports. Mr. Ghent
21 was on Tuesday talking about me getting mental health
22 counseling and requiring it as a condition of probation.
23 Just how crazy I can be without it.

24 And the reason I terminate I lawyers is the paranoia
25 and I just paranoid of everybody. And he talks about oh,

1 the whole world conspires against me. Mr. Ghent has
2 acknowledged that I think the whole system is against me.
3 That all the police, the judges, the prosecutors, my
4 attorney, my family, I get to the point where I think the
5 entire world is against me. And that's kind of where I'm
6 at now. And I can't sleep. And I just now got the
7 medications. The medications weren't even ordered till
8 then.

9 And the reason I wasn't taking medication at SCDC was
10 the first round that I got made me sick. That was eight
11 months ago. I got sick off that medication. I requested
12 to see a doctor -- that's one of the reasons I tried to
13 subpoena SCDC was to show Your Honor that every month I
14 was sending out requests on the kiosk asking for mental
15 health medications. I asked for Lithium and just had my
16 blood levels checked and they wouldn't provide it. So I
17 come back here and it takes three weeks for me to get my
18 medication. And it just came in on this past -- last
19 week, came in on Wednesday. But I knew that I'd have
20 problems on it. I put that in the record, that I needed
21 to see Dr. Martin again. I put that in the record.

22 And this is my mental health records for -- this is
23 the records that we subpoenaed. This is my mental health
24 records. And that's an inch thick for 26 months. So it's
25 -- I mean, could I submit this into Court's evidence,

1 copies of these to put into evidence?

2 THE COURT: Yeah, we can make those a Court's
3 Exhibit.

4 MR. HOLCOMB: Get those back from Mr. Smith.

5 THE COURT: Well, we're going to move forward over
6 your -- yes, sir.

7 MR. HOLCOMB: Well, I'd like to go ahead -- before we
8 put the gentleman on the stand because it's going to be
9 embarrassing for the State and it's going to look kind of
10 -- the jury is going to wonder why all these police
11 officers sit up there and they don't get to say anything.
12 I'd like to go ahead and address the issue of Captain Mike
13 Prodan being a witness or an expert in this case. He has
14 no specific knowledge. And his opinion of what a Bible
15 verse says is irrelevant under State v. Huckabee.

16 THE COURT: Well, let me hear from Mr. Ghent. I'm
17 inclined to agree. I have some concerns about an expert
18 on threats. That's what I understand -- let's pull up
19 that case, pull up Huckabee, I'm not familiar with it.

20 Mr. Ghent, I've already done a little research
21 because I have some concern about an expert on threats,
22 quite frankly.

23 MR. GHENT: Your Honor, Mr. Prodan is an expert on
24 threat assessment. He has testified in courts of this
25 state. May I have his CV marked as a Court's Exhibit?

1 THE COURT: Yes, sir.

2 (WHEREUPON, Court's Exhibit No. 8 was marked for
3 identification only.)

4 THE COURT: Let's move on. We've got to move on.

5 MR. GHENT: He is qualified to testify as to the
6 nature of the threat, whether or not the threat is, in
7 fact, serious based upon the evidence, based upon the
8 nature of the threat, based upon the individual --

9 THE COURT: Isn't that what the jury's here for?

10 MR. GHENT: Well, Your Honor, the whole purpose of an
11 expert is to assist the trier of fact in a matter that
12 might be beyond its kin.

13 THE COURT: Threats are beyond the kin of someone? I
14 think a threat --

15 MR. GHENT: I said assist, Your Honor, I didn't say
16 to determine. I'm not asking that it take it away from
17 the jury.

18 THE COURT: I understand, but I've done some research
19 on this myself, and I've looked at 702. And the first
20 determination under the three-prong test is the Court must
21 determine whether the subject matter is beyond the
22 ordinary knowledge of the jury. Whether somebody has been
23 threatened or not is a question of impact on the person
24 that threatened. And I don't believe an expert is
25 qualified to testify as to that. Not because they don't

1 have maybe the qualifications, but I don't think that's a
2 necessary piece of evidence for the jury. For me to find
3 a witness competent to testify, the witness must be better
4 qualified than the fact finder, i.e. the jury, to form an
5 opinion on a particular subject of testimony. It's got to
6 be beyond the jury's good judgment and common knowledge.

7 Again, I anticipated this. I worked on this a little
8 bit this morning. I've looked through the different types
9 of experts that have been allowed. We have medical
10 experts. We have legal experts. We have engineering
11 experts. They all testify as to the standards of care and
12 causation. We have fingerprint experts. We have dog
13 experts. They testify to things that are definitely
14 outside the kin of the lay people. We have criminal
15 sexual conduct cases where experts testify has to the
16 characteristics of a child who is a minor regarding
17 characteristics of abused children. I have not found any
18 area wherein it is parallel to the type of testimony
19 sought from Officer Prodan.

20 I'll be glad to hear from you further. But this
21 crossed my mind this morning while I was taking a shower
22 and I came in early and researched it. But it did give me
23 an amount of concern.

24 MR. GHENT: Sounds to me like Your Honor's ruled?

25 THE COURT: I'm ruling that there's no need -- for

1 this case, I'm not going to allow an expert, regardless of
2 who it is, to testify as to whether or not certain words
3 constitute a threat and whether certain words, what impact
4 they would have on the hearer or reader thereof.

5 MR. GHENT: Yes, sir.

6 THE COURT: Yes, sir, Mr. Holcomb. You won on that
7 one.

8 MR. HOLCOMB: Thank you, Your Honor, I appreciate
9 that. I appreciate you thinking about it this morning.

10 THE COURT: I tell you, I'm slow sometimes, but it
11 crossed my mind.

12 MR. HOLCOMB: Certainly.

13 THE COURT: Go ahead.

14 MR. HOLCOMB: So it appears the State has one more
15 witness, Mr. Lieutenant Jeff Kindley, with SLED. And last
16 night, I didn't do any preparation. I just took the
17 medications and went to sleep as I was having a little bit
18 of a moment. I spoke to Don Smith for a few hours -- or
19 about an hour or so, and took the medications. I was kind
20 of under the assumption that he would be handling this.
21 I'd like a few minutes to kind of prepare.

22 I do have the information here regarding Mr. Kindley
23 and the impeachment evidence. Just take a minute.
24 Because I put this together for Mr. Smith here. I'm just
25 so disorganized because I'm in jail and I'm handcuffed

1 most of the time. I can't really organize this. Can I
2 have a few minutes to get this together?

3 THE COURT: I'll give you five. But we really --
4 you've got a wealth of knowledge about this case.

5 MR. HOLCOMB: I do.

6 THE COURT: You've gone into minutia about things.
7 So I know you've got a lot of paperwork. I'll give you
8 about five minutes along with Mr. Smith's help as standby
9 to see if you can isolate those things that you think you
10 need.

11 MR. HOLCOMB: Thank you.

12 THE COURT: I'm going to step out for those five
13 minutes, but I'll be back right at five minutes because we
14 need to move along.

15 MR. GHENT: Yes, sir.

16 (WHEREUPON, a short break was taken.)

17 THE COURT: I'm going to order the jury lunch again
18 today. I do believe this case will take today and two
19 more days. I'm going to give the jury the option of
20 finishing on Friday or Monday. So I want to let everybody
21 know that I'm going to give them the option.

22 MR. GHENT: Yes, sir.

23 MR. HOLCOMB: Can we adjourn a little bit after lunch
24 because Dr. Martin is supposed to be here this afternoon?

25 THE COURT: Well, when Dr. Martin gets here, we will

1 let the jury go out at the appropriate and I'll find out
2 what Dr. Martin intends to do, what time he needs and all
3 of that. I don't want to block out a whole afternoon if
4 he's going to meet with you for 20 minutes. So we'll try
5 to accommodate that.

6 MR. HOLCOMB: Thank you.

7 THE COURT: Bring in the jury.

8 (WHEREUPON, the jury enters the courtroom at
9 approximately 10:09 a.m.)

10 THE COURT: Good morning. We're going to order lunch
11 again today. We've been working for a while, but we're
12 now ready to go forward with the next witness.

13 I'm going to give you the option, I'm going to let
14 y'all discuss it and report back to me. I don't believe
15 we'll finish this case tomorrow like I thought we might at
16 one time. But I think one day in addition to Friday. I'm
17 going to let the jury determine whether they would rather
18 come back and finish on a Saturday if need be or wait and
19 come back on Monday if we need that extra day. Saturday
20 or Monday for the extra day. I'm going to let the jury
21 make that decision because it's your time. It really kind
22 of doesn't matter to us other than we'd like to get the
23 case concluded. So I'm going to let you discuss that and
24 let me know later today.

25 All right. Call your next witness.

1 MR. GHENT: Your Honor, the State calls Lieutenant
2 Jeff Kindley from SLED.

3 THE CLERK: Lieutenant Kindley, please place your
4 left hand on the Bible and raise your right hand.

5 JEFFREY KINDLEY, after being duly
6 sworn, testified as follows:

7 THE CLERK: Please be seated and state your name for
8 the record.

9 THE WITNESS: Jeffrey, J-E-F-F-R-E-Y, Kindley,
10 K-I-N-D-L-E-Y.

11 MR. GHENT: May it please the Court?

12 THE COURT: Yes, sir.

13 DIRECT EXAMINATION

14 BY MR. GHENT:

15 Q You are a lieutenant with SLED?

16 A Yes, sir.

17 Q Lieutenant Kindley, please explain to the ladies and
18 gentlemen of the jury briefly what SLED or South Carolina
19 Law Enforcement Division is and does?

20 A State Law Enforcement Division is the investigative
21 branch of the state police. New York has the New York
22 State Police and they have investigators, whereas we have
23 troopers and SLED is separate. We maintain the State
24 crime lab. I work in the investigative division. Split
25 the state into four separate regions. I work in the

1 Piedmont region, which encompasses the 12 upstate counties
2 of South Carolina, including Greenville County.

3 Q Right. And you have other law enforcement
4 background?

5 A Yes, sir.

6 Q Would you tell them that?

7 A I started with the Greenville Sheriff's Office in
8 1988. I worked in the patrol division, then
9 investigations until 1999, when I left and went to SLED.

10 Q How long are you been with SLED?

11 A Since 1999, so 18 years.

12 Q And did SLED at some point take over the
13 investigation handling of this case?

14 A Yes, sir.

15 Q Yes or no, was this after or around the time the
16 threats, the messages were sent to Officer Tim Martin and
17 Assistant Solicitor Sylvia Harrison?

18 A Yes, sir.

19 Q Did you continue the investigation?

20 A Yes, sir.

21 Q Did you investigate the circumstances of the threat?

22 A Yes, sir.

23 Q Threats. Did you coordinate with witnesses?

24 A Yes, sir, I did.

25 Q Did you, I believe it's liaise with law enforcement

1 in North Carolina?

2 A Yes, sir, I did.

3 Q Various parts of North Carolina?

4 A Yes, sir.

5 Q Work with them in the investigation in North
6 Carolina?

7 A Yes, sir.

8 Q Did you also --

9 MR. HOLCOMB: Objection. Leading questions.

10 THE COURT: All right. Don't lead.

11 BY MR. GHENT:

12 Q Please tell us what you did with respect to
13 continuing with the investigation in South Carolina.

14 A In South Carolina, I helped with service of
15 subpoenas, obtaining documents, making contacts with
16 individuals in South Carolina and Georgia and in North
17 Carolina as well.

18 Q Did those contacts in South Carolina and Georgia also
19 include aspects of the breach of trust case?

20 A Yes, sir, they did.

21 Q Did you arrange and assist me in meetings with Brit
22 Dove?

23 MR. HOLCOMB: Objection, leading.

24 MR. GHENT: I'll rephrase.

25 BY MR. GHENT:

1 Q Did you arrange and assist me with meetings with SLED
2 agents?

3 A Yes, sir, I did.

4 Q And did you attend those meetings?

5 A Yes, sir.

6 Q In general, you coordinated with me, would it be fair
7 to say?

8 A Yes, sir.

9 Q Throughout?

10 A Yes, sir.

11 Q Thank you.

12 MR. GHENT: I have no further questions, Your Honor.

13 THE COURT: Okay.

14 Cross.

15 CROSS-EXAMINATION

16 BY MR. HOLCOMB:

17 Q Mr. Kindley, have you been here for the whole trial?
18 Have you heard the testimony for the past three days?

19 A I've been here for the majority of it, yes, sir.

20 Q Did you hear Ms. Sylvia Harrison testify?

21 A Yes, sir.

22 Q Did you hear her say she didn't receive any messages
23 after the letters that were sent by me? That she blocked
24 me on e-mail?

25 A I heard her say that she blocked you, yes, sir.

1 Q So Ms. Harrison received no threatening e-mails from
2 me; is that correct?

3 A I heard her say that she blocked you.

4 Q Right. But did she testify that she received any
5 kind of threat or any kind of ugly language or anything
6 like that? Did she testify to that fact?

7 MR. GHENT: Objection, Your Honor. I think it was
8 clarified in the testimony.

9 THE COURT: Well, it's cross. I'll let him -- either
10 he has an answer or he doesn't have an answer.

11 BY MR. HOLCOMB:

12 Q Well, the reason I'm asking, Mr. Kindley, just a
13 moment ago when Mr. Ghent was asking you questions, you
14 said that Mrs. Harrison had received e-mails. Which
15 messages were those?

16 A You're asking me to recall which messages she
17 received?

18 Q Yes, sir, the ones that you just testified to.

19 A Off the cuff, I wouldn't be able to tell you. I know
20 that she received an e-mail, the one that contained the
21 109 verse that we talked about.

22 Q She received that from me, is that what you're
23 testifying to?

24 A I'm not testifying to that, no, sir. I'm saying that
25 she received it.

- 1 Q How did she receive it?
- 2 A I was told that it was sent to her.
- 3 Q By whom?
- 4 A It was given to her.
- 5 Q By whom?
- 6 A A member of law enforcement.
- 7 Q Would that be Tim Martin?
- 8 A It could be, yeah. I believe so.
- 9 Q Do you have any notes or a file on this case?
- 10 A Yes, sir, I do.
- 11 Q Do you have it with you?
- 12 A I don't have it with me, no, sir.
- 13 Q Okay. Do you think that it would be good when you go
14 to trial -- what are the purposes of the notes then?
- 15 A What are the purpose of the notes?
- 16 Q In your case file, yes, sir.
- 17 A The purposes of the notes or the investigative file?
- 18 Q You have those in case you go to trial, correct?
- 19 A Yes, sir.
- 20 Q And we are at trial, correct?
- 21 A Yes, sir.
- 22 Q Wouldn't it be appropriate to have this file here
23 today?
- 24 A Yes, sir, I have a file available.
- 25 Q All right. Would you like to get that and we can go

1 over it?

2 A Which file would you like me to get?

3 MR. GHENT: Objection, Your Honor. He didn't testify
4 using the file. Counsel has the file.

5 THE COURT: I overrule the objection. If he wants
6 him to look at the file.

7 Someone retrieve the file.

8 Mr. Ghent has it in his hand. Let me Mr. Sims bring
9 it up to the witness.

10 BY MR. HOLCOMB:

11 Q Can you please tell me what -- can you find the
12 e-mail in there? It's your file.

13 MR. GHENT: Your Honor, can we have it marked as
14 exhibit for identification.

15 THE COURT: Well, I'll mark them as Court's Exhibits
16 at this stage.

17 MR. GHENT: Yes, sir.

18 THE COURT: Mr. Sims, if you'll hand them to the
19 court reporter.

20 (WHEREUPON, Court's Exhibit Nos. 9 and 10 were marked
21 for identification only.)

22 BY MR. HOLCOMB:

23 Q Mr. Kindley, the Psalm 109 e-mail is the real issue,
24 isn't it?

25 A In what?

1 Q In this -- why we're at trial. The Psalm 109 e-mail
2 is the one concerning Ms. Harrison; is that correct?

3 A No, sir, I disagree.

4 Q Okay.

5 A I think it was a pattern of behavior including the
6 Psalm 109.

7 Q Are you aware that Magistrate Hudson ordered me to
8 contact Tim Martin once a week?

9 A Yes, sir.

10 Q Okay. Have you ever heard of a condition of bond
11 such as that?

12 A Yes, sir, I have.

13 Q You have? That you contact the arresting officer?

14 A Yes, sir, I've heard of individuals being required to
15 wear ankle bracelets. I've heard --

16 Q Excuse me --

17 A You asked me a question, sir. I'd like to finish it.
18 I've heard of people wearing ankle bracelets, having
19 conditions on bond of people who come in from out of
20 state. I was told -- in my investigation, I was told that
21 initially you didn't come in voluntarily to begin with.
22 So there was hesitation about setting bond. So to make a
23 condition of the bond was to check in and make sure that
24 you would be available and called.

25 Q Okay. And people that are put on ankle monitors, is

1 that through a service or does the officer handle that?

2 A Sir, I'm not sure.

3 Q You're not sure?

4 A No.

5 Q Have you ever had a suspect or a person that's of
6 interest or any of that to have to contact you weekly?

7 A Not to my recollection.

8 Q Do you have any officers that you work with that
9 you're aware of that they have to do that?

10 A I'm not sure.

11 Q One of their responsibilities?

12 A Not that I know of.

13 Q Okay. Generally, it's typically the bonding company
14 that's concerned with that, isn't it?

15 A I don't know.

16 Q Whenever a person makes bail --

17 MR. GHENT: Objection. Please let him answer.

18 THE COURT: All right. You asked him whether it was
19 the bonding company that handled that and --

20 MR. HOLCOMB: I was trying to clarify it.

21 THE COURT: Let him answer.

22 THE WITNESS: Are you asking me does the bonding
23 company handle what?

24 BY MR. HOLCOMB:

25 Q Normally, it's the bail bonding company that's

1 concerned with whether someone goes to court, correct?

2 A If a bail bonding company post bond, they're
3 concerned, yes.

4 Q And if a person doesn't show up to court, they have
5 to pay the money, correct?

6 A If a bail bonding company is used, yes.

7 Q Okay. All right. So what date did you take over the
8 breach of trust case, sir?

9 A I don't know if I can give you a specific date. We
10 were notified -- State Law Enforcement Division was
11 notified about this case around August of 2013 because of
12 communications that were coming in.

13 The arrest had already been made. The initial
14 investigation was being conducted. And because of the
15 communication that was coming in, I was contacted. I work
16 in the Greenville office, and was presented with some of
17 the e-mails and videos that had been made.

18 Q Okay. So it's your testimony that you, as SLED, took
19 over the case because it conflicted with Tim Martin
20 handling the case because of these alleged threats, the
21 video with the sound of the gunshots, that type thing; is
22 that correct?

23 A Ask me that again, I'm sorry.

24 Q The initial report -- so Greenville County Sheriff's
25 Office, Ramon Rivera, took a statement from Wes Smith and

1 Tim Martin concerning the video with the sounds, the
2 explosion on the tampering with evidence video. That's
3 the case file from the Greenville County Sheriff's Office,
4 the first threat.

5 A Okay.

6 Q Allegedly. And did you hear Ms. Harrison testify
7 that they contacted SLED after the sound of that video?
8 Everything was fine until the report was made on that
9 video with the sounds that you guys call gunshots; is that
10 correct?

11 A Sir, I'm not trying to be evasive, but I'm not sure
12 what you're asking.

13 Q Okay. Here's what I'm asking, so a police report --
14 MR. HOLCOMB: Maybe I should get that. May I get the
15 Defendant's Exhibits, please?

16 THE COURT: All right.

17 MR. HOLCOMB: The blue ones, just the paper ones,
18 please.

19 May I approach the witness, please?

20 THE COURT: No, you can give it to Mr. Sims.

21 MR. HOLCOMB: All right. Would you give this to Mr.
22 Kindley?

23 BY MR. HOLCOMB:

24 Q That's State's Exhibit -- which number is that?

25 A It's Defendant's Exhibit No. 7.

1 Q Defendant's Exhibit No. 7, okay. And could you tell
2 me what that is? What does it say? Read the narrative on
3 that, it's one sentence, please?

4 A At the top, the header?

5 Q Yes, sir.

6 A Threatening the life of a public official.

7 Q Okay. Have you seen that before?

8 A Yes, sir.

9 Q Did you make a copy of that report?

10 A I may have. Maybe.

11 Q Okay. But that's the initial report for the
12 threatening and intimidating. It has to do with the
13 video. You know the video I'm talking about, correct?

14 A No, sir.

15 Q You were here yesterday when we played it, the
16 tampering with evidence video and it's got the sound
17 effects that everybody is so upset over; is that correct?

18 A I'm under oath, so I don't want to tell you I do or
19 don't. I know the videos that you're talking about, but I
20 don't know if that's the specific --

21 MR. HOLCOMB: Your Honor, may I show the video again
22 to refresh his memory, please? It's 30 seconds. I think
23 it's 30, 40 seconds. May I show it again? It's where he
24 took over the case. He doesn't remember it. It was
25 played yesterday.

1 THE COURT: I'll allow it.

2 MR. HOLCOMB: Thank you.

3 THE COURT: That Defendant's Exhibit, which number?

4 MR. HOLCOMB: There's two disks there. I'm not sure
5 which Defendant's Exhibit, but it's one of the two disks
6 there. It's the one that's tampering with evidence.

7 MR. GHENT: Your Honor, I object to him continuing to
8 reference to that. I've allowed him leeway on that.

9 THE COURT: All right. Well, it's the first one
10 shown yesterday if I remember correctly.

11 MR. HOLCOMB: Yes, sir, it is the tampering with
12 evidence video, yes, sir.

13 MR. GHENT: His characterization, Your Honor.

14 MR. HOLCOMB: This is Defendant's Exhibit No. 8.

15 THE COURT: Okay. Thank you.

16 (WHEREUPON, Defendant's Exhibit No. 8 was played for
17 the jury.)

18 THE COURT: You can come back up and have a seat.

19 BY MR. HOLCOMB:

20 Q Mr. Kindley, would you read the first sentence in the
21 narrative section of the report there, please?

22 A Okay.

23 Q No, that's the second page.

24 A Say again.

25 Q What's the date of the first page, the first page

1 with the sticker on it?

2 A 6/13/17. You're talking on the Defendant's Exhibit
3 page or are you talking about the date it was written?

4 Q The date it was written?

5 A The date it was written says 8/20/2013.

6 THE COURT: What number is that?

7 THE WITNESS: Defendant's Exhibit No. 7.

8 BY MR. HOLCOMB:

9 Q And who is the officer on that?

10 A The officer is Ramon Rivera.

11 Q What does that first -- something in the narrative,
12 what does it say on that first page, please?

13 A Narrative on the first page says, I arrived at the
14 incident location under response to threats.

15 Q Okay. Great. Go to next page, please.

16 A (The witness complied.)

17 Q Would you read that narrative, please, starting with
18 the first paragraph? Just read the first paragraph,
19 please.

20 A Okay. It says, overflow. Then it has Holcomb, Dean
21 Alton, Jr., subject one, subject is colon suspect.

22 Q Pardon me one second. Who's the victim on there --
23 listed as the victim?

24 A Wesley Smith is victim two.

25 Q Okay. Great.

1 A You want me to continue?

2 Q Please.

3 A It says primary and has a telephone number

4 [REDACTED], DOB 5/3 --

5 Q We're really just looking for the story. I'm sorry.

6 A Okay. It says narrative, colon, it says on
7 1/31/2013, a breach of trust incident report 1-13-011973
8 was filed by this office. The victim in this case was
9 Robert McGinn and the Defendant was a Dean Alton Holcomb,
10 Jr. An arrest warrant, and there's a long arrest warrant
11 number --

12 Q Okay. You don't have to do all that. May I see
13 that, please? I don't have a copy of that with me. May I
14 see that?

15 THE COURT: Mr. Sims will hand it.

16 MR. HOLCOMB: I'm trying not to waste everybody's
17 time here.

18 Okay, I'm sorry. Could you hand that back to him?

19 BY MR. HOLCOMB:

20 Q It's the third page of State's Exhibit No. 7. It's
21 the last paragraph. I'm sorry, I'm having some issues
22 with medications, so my apologies. Would you read the
23 last paragraph? I'm sorry. I'm so sorry.

24 A Last paragraph on Page 3?

25 Q Yes, sir.

1 A Since then, Mr. Holcomb has both sent lengths of
2 existing YouTube videos to Investigator Martin or made
3 videos and posted them on YouTube. The latest video,
4 which was posted today, 8/19/2013, is a slide show, which
5 is pretty quiet, except for clicks and a photo of
6 Investigator Martin with comments from Investigator Smith
7 and photos of the complainant appear, the sound of
8 gunshots.

9 Q Okay. Please stop right there.

10 A You want me to continue or stop here?

11 Q Stop right there. The same sound effects were used
12 with Ms. Baucom, correct? Did you just see that?

13 A On this video?

14 Q Yes, sir, that we just had. Yes.

15 A Yes.

16 Q Where it had her arrest and some of her things like
17 that where she was in prison and she had the newspaper
18 articles and such, correct?

19 A Yes, sir.

20 Q But it's not mentioned in the police report? You
21 don't see Ms. Baucom's name, do you?

22 A I'd have to continue reading --

23 Q Okay, go ahead. Please continue reading.

24 A These sound effects, coupled with the photos posted
25 on the video as well as previous correspondence led

1 Investigator Martin and Investigator Smith to believe
2 threats were being made against their life. Since photos
3 of the complainant are also shown on this video during the
4 gunshots, it appears an attempt -- it also appears an
5 attempt to intimidate the complainant, who is also a
6 witness for the State, is being made.

7 Q Okay. Let's stop right there. You've heard the
8 testimony and you saw the video. Ms. Baucom wasn't -- she
9 was in the prison at the time the work was done, correct?

10 A I heard testimony to that, yes.

11 Q So would that make her a witness to anything?

12 A If she was in prison when the report was made?

13 Q No, if she was in prison when the work on the house
14 was done on the breach of trust? Would that make her a
15 witness in that case?

16 A It could.

17 Q How?

18 A How could it make her a witness?

19 Q What could she testify to regarding the breach of
20 trust and the work that was done on her parents' home?

21 A You're asking me for speculation on my part?

22 Q I'm asking you how is Ms. Baucom a witness in that
23 case that you took over, that's your case at that point?

24 A She could have knowledge. She could have seen things
25 afterwards. I don't have to be present at a crime to have

1 witness information.

2 Q I understand. But she was not an actual witness to
3 the work being done on the home, correct?

4 A Not from what I've heard.

5 Q She couldn't be, could she?

6 A Not from what I've heard.

7 Q Okay. Thank you. So -- but that's the threat that
8 was posted on 8/20/2013 in the -- the case -- that's when
9 you came in and took over the case was because of that
10 threatening video, correct, the one that threatened them?

11 A When -- the words take over, we became involved at
12 that point. I was notified. I responded to the LEC, the
13 law enforcement center. I met with investigators and I
14 viewed a battery of videos, culmination of e-mails, things
15 like that. We became involved at that point.

16 Q Okay. I'm just asking for a date, sir?

17 A We became involved around this time, yes, sir.

18 Q Okay. That's all I'm asking is the date.

19 A Okay. And I'm trying to answer you. At that point,
20 we -- I, as a SLED agent, began to give some advice to the
21 individuals involved about limiting contact and how I
22 thought we would be best to proceed at that point.

23 Q Okay. Did anyone think to e-mail me at that point
24 and say hey, please stop sending us videos, please stop
25 talking to us, we're scared, please stop it, on 8/19/2013?

1 A Are you asking did I think that or what someone else
2 thought?

3 Q Did anybody come up with that in all your
4 conversations with these alleged victims, Mr. Smith and
5 Mr. Martin and -- speaking of that --

6 THE COURT: Well, let's finish one question before
7 you get to another, please.

8 MR. HOLCOMB: I'm sorry.

9 BY MR. HOLCOMB:

10 Q At any point, did anybody think to just e-mail me and
11 say hey, please stop?

12 MR. GHENT: Object to what anybody might have
13 thought.

14 BY MR. HOLCOMB:

15 Q Was there any discussion on it?

16 A The discussion that we had was to limit contact at
17 this point hoping that unwanted contact would subside.

18 Q And you're aware that I had to maintain weekly
19 contact, correct?

20 A I'm aware that you had to make contact that you were
21 not a flight risk.

22 Q Okay. And that if I wouldn't have maintained
23 contact, that would have been a violation of the
24 conditions of bond, correct?

25 A If you had not said that you were there -- I'm not

1 going to say -- the other contact that you had to, but if
2 you had not contacted and called, then you could be ruled
3 as a violation of condition, yes, sir.

4 Q Yes or no, if I would not have made weekly contact, I
5 would have been in violation of the bond conditions?

6 A You're asking me for a yes or no question --

7 Q I'm asking you yes or no, if I had not maintained
8 weekly contact, I would have been in violation of the bond
9 condition?

10 A Yes.

11 Q Okay. Thank you. Yes or no, in your investigation,
12 did you find out if I dated Ronda Cole? Yes or no?

13 A I don't like the yes or no questions.

14 Q Well, that's certainly not my concern. I'm asking
15 you do you -- did you -- during your investigation, did
16 you learn that I had a relationship with Ronda Jane Cole,
17 yes or no?

18 A Yes.

19 Q Did you learn that Tim Martin later had a
20 relationship with Ronda Jane Cole, yes or no?

21 A I was told that, yes.

22 Q And who were you told that by?

23 A Ms. Cole.

24 Q Thank you. Okay. Back to the police report. And
25 that's the only police report I've seen, State's Exhibit

1 No. 7. Are there any other reports besides your -- did
2 you make an actual report, something like Greenville
3 County Sheriff's Office makes?

4 A An incident report?

5 Q Yes, sir.

6 A Our office doesn't do an incident report. We do
7 investigative files.

8 Q Okay.

9 A So I didn't do one of these.

10 Q Okay.

11 A What you asked me to look at is my investigative
12 file.

13 Q Great. On the video, did you notice it was talking
14 about the videos tampering with evidence? The page had
15 been modified, three items had been reduced at separate
16 rates --

17 MR. GHENT: Objection, Your Honor, those are
18 self-serving statements.

19 THE COURT: Just ask him.

20 BY MR. HOLCOMB:

21 Q Did you notice that it was a tampering with evidence
22 video?

23 A Yes, sir.

24 Q Did you investigate -- did you look at my claims on
25 that?

1 A Did I look at the videos?

2 Q Did SLED open an investigative file on false
3 imprisonment that I made with Paul Grant and Captain
4 Robbie Hendricks?

5 A No, sir. And I need to expand on that.

6 Q Well, I'd rather not.

7 THE COURT: No, he's got a right to explain his
8 answer.

9 THE WITNESS: When an arrest has been made, it is
10 SLED's, not a written policy, it is our protocol that when
11 someone has been arrested, because of the amount of people
12 who are arrested and say that I was falsely imprisoned, we
13 normally tell them to let the court process go through,
14 the grand jury, the trial process before we will adopt a
15 case. If we didn't, that's all we would ever do is review
16 cases for people who felt that they were unfairly
17 arrested.

18 BY MR. HOLCOMB:

19 Q Okay. Well, the video that they considered
20 threatening was -- the sounds effects were on the actual
21 documentation of concern, correct?

22 A I'm not sure what you're asking me.

23 Q The videos about tampering with evidence, and that's
24 where the explosion sound happens, where the evidence
25 changes; is that correct?

1 A No, sir. I saw sounds whenever the investigator was
2 there.

3 Q Okay. And that's -- okay. So -- but there's no gun
4 pointed at his head or anything like that or a bomb or
5 anything like that? There's nothing like in the video, is
6 there?

7 A As far as a graphic or a sound?

8 Q A graphic.

9 A None that I can recall, no, sir.

10 Q Can you see how that the intent of the video was to
11 show that this is a big deal, that this evidence has been
12 tampered, click, click, click?

13 MR. GHENT: Objection.

14 THE COURT: I sustain the objection.

15 BY MR. HOLCOMB:

16 Q Can you see how some people would not take that video
17 as threatening?

18 MR. GHENT: Objection, Your Honor.

19 THE COURT: I sustain the objection. You can't
20 testify about some people.

21 BY MR. HOLCOMB:

22 Q I'm trying to narrow down -- based on your
23 investigative file, would you please look at that and tell
24 me what date you started that file?

25 A This one says on August the 19th of 2013, the

1 Greenville County Sheriff's Office notified SLED.

2 Q When did you start? When they notified, it became
3 your case, correct?

4 A That's this one. Give me just a second. I'd have to
5 speculate, around that time.

6 Q Okay. So at that point, you also became involved in
7 the breach of trust case, correct?

8 A To a degree, yes, sir.

9 Q Do you recall being at trial for the breach of trust
10 case?

11 A Yes, sir.

12 Q Do you recall Tim Martin saying that SLED had taken
13 over the case?

14 A Yes, sir.

15 Q Do you recall David Hanks saying that SLED took over
16 the case?

17 A No, sir. But I -- not off the cuff, no, sir, I
18 don't.

19 Q Okay. Did you say that SLED had taken over the case?

20 A I'm saying it today, yes, sir.

21 Q Okay. You also said it at trial?

22 A To my knowledge. I'm under oath, so I'm being
23 careful about --

24 Q I understand and I appreciate that. Back to the
25 police report.

1 MR. HOLCOMB: I'd like to put this into evidence.

2 BY MR. HOLCOMB:

3 Q Well, I'm just going to have you take a look at this.

4 THE COURT: Let Mr. Ghent look at it first.

5 MR. GHENT: It's highlighted, Your Honor.

6 MR. HOLCOMB: It is highlighted. We can make a copy
7 of it and I'll hand it up there --

8 MR. GHENT: May I see it again just to move things
9 along?

10 MR. HOLCOMB: The last page of the report.

11 MR. GHENT: Objection to relevance, objection to --

12 MR. HOLCOMB: It has to do --

13 THE COURT: Well, he's going to explain that to me
14 right now. Just hand it to Mr. Sims and let's see if the
15 witness can identify it to begin with.

16 THE WITNESS: Thank you, sir.

17 BY MR. HOLCOMB:

18 Q Who's the investigating --

19 THE COURT: Wait a minute. See if the witness can
20 identify it.

21 THE WITNESS: Have I seen this before?

22 BY MR. HOLCOMB:

23 Q Yes, sir.

24 A I don't know if I've seen this one before.

25 Q What -- would it appear that it's the fourth page in

1 Exhibit No. 7? Would it be a part of that case file?

2 Same case number, same officer?

3 A This has the same case number as Defendant's Exhibit
4 No. 7.

5 Q Okay. Does it have the same officer?

6 A Yes, sir.

7 Q Would you mind reading the narrative, please?

8 THE COURT: It's not in evidence.

9 MR. HOLCOMB: Your Honor, I'd like to put that into
10 evidence. I don't have access to a copier to take the
11 highlight --

12 THE COURT: Let's do one thing at a time. Let me see
13 it.

14 Mr. Ghent, what's your -- you object?

15 MR. GHENT: Yes, sir.

16 THE COURT: On relevance?

17 MR. GHENT: The case has already been tried, Your
18 Honor.

19 MR. HOLCOMB: No, this is on the --

20 THE COURT: Just -- I tried to control this
21 yesterday. Y'all talk to me when you got reason to talk,
22 not between each other.

23 All right. I'll make this a Court's Exhibit. I find
24 it's not relevant. We'll make it a Court's Exhibit. I
25 will not allow you to introduce it into evidence.

1 MR. HOLCOMB: You will not allow it into evidence?

2 THE COURT: Right.

3 (WHEREUPON, Court's Exhibit No. 11 was marked for
4 identification only.)

5 THE COURT: All right.

6 MR. HOLCOMB: Your Honor, I would like to have a
7 discussion on the record about that issue.

8 THE COURT: All right. I'll let the jury go to the
9 jury room. It won't be a long break, just get refreshed
10 while we take care of this.

11 BAILIFF: Please remain seated until the jury leaves
12 the courtroom.

13 (WHEREUPON, the jury exits the courtroom at 10:44
14 a.m.)

15 THE COURT: Yes, sir.

16 MR. HOLCOMB: Yes, sir. Your Honor, State's Exhibit
17 No. 7 is the same file. It's got the same warrant numbers
18 on the indictment. It's the same exact -- it's the case
19 that got the indictment started.

20 Now, the threatening the life of a public official
21 had been dismissed, but they added intimidation, so it was
22 four charges total. Two threatening the life, which is
23 the one we just showed the video on. This is the incident
24 report -- that's the incident report for it. That's the
25 last page of that incident report. In discovery, I was

1 given four pages from Greenville County Sheriff's Office
2 on that. And it's relevant because he just testified that
3 SLED took over, yet, they were still working on it. And
4 they were working together, he testified they were still
5 working together. And it goes to the credibility of the
6 case. And it is relevant because that's what I'm on trial
7 for. And I'm not trying to be disrespectful, but it is
8 relevant, is it not?

9 THE COURT: Well, I'm looking at it now.

10 Mr. Ghent, at the top, it says, incident type,
11 threatening the life of a public official. I did not see
12 that earlier. So it does have something to do with this
13 case.

14 MR. GHENT: Your Honor, the individual who is
15 referred to in that report, that report is hearsay within
16 hearsay and it does not have to do with the case because
17 the indictment was brought by the solicitor's office. I
18 then went back and independently reindicted, so that has
19 nothing to do with the decision on this case. This case
20 was brought by the solicitor -- the indictment was
21 submitted to the Grand Jury by the solicitor's office for
22 the Seventh judicial circuit. New indictments, one for
23 obstruction of justice, one for threatening a public
24 official. The gentleman -- that document has nothing to
25 do with it.

1 MR. HOLCOMB: Your Honor --

2 THE COURT: I'm going to allow it in with a clean
3 copy because it does say incident type, threatening life
4 of public official. This, quite frankly, gets a little
5 murky at times. So out of an abundance of caution, I'm
6 going to allow it in over objection.

7 MR. HOLCOMB: Thank you, Your Honor.

8 MR. SMITH: May it please the Court?

9 THE COURT: Yes, sir.

10 MR. SMITH: May I be heard?

11 THE COURT: Well, not really, not as standby counsel,
12 unless it's something procedurally.

13 MR. SMITH: Yes, sir.

14 MR. HOLCOMB: I'd like to point out that Mr. Ghent
15 made a false statement. He didn't reindict me. He
16 omitted the indictment based on a motion from Mr. Shealy.

17 MR. GHENT: It wasn't false, Your Honor.

18 THE COURT: I'm not going to stand for this arguing.

19 MR. HOLCOMB: Yes, sir. May I go ahead and have it
20 copied --

21 THE COURT: Mr. Holcomb, I've told you before, you
22 have those type issues at other forums.

23 MR. HOLCOMB: You're right.

24 THE COURT: And to sit here and bicker back and
25 forth.

1 MR. HOLCOMB: You're right.

2 THE COURT: It's not going to be tolerated.

3 All right. Let's bring the jury back in.

4 Mr. Smith, just so you know, as standby, you can't --
5 except for maybe when the jury is outside, procedural
6 matters. I'm not being rude, but I'm not going to allow
7 you to address the Court on subjective issues. That's for
8 Mr. Holcomb.

9 MR. SMITH: Yes, sir.

10 MR. HOLCOMB: May we go ahead and make a copy so we
11 can put a sticker on it. So it doesn't have the highlight
12 on a clean copy and put a sticker on it.

13 THE COURT: We'll go ahead and mark it. Before it
14 goes to the jury, we'll get a clean copy.

15 MR. HOLCOMB: Well, I was going to have them look at
16 it like Mr. Ghent does when it puts it for the jury to
17 review.

18 THE COURT: All right. If you want to be like
19 Mr. Ghent, I'll let you.

20 MR. GHENT: I'm sorry?

21 THE COURT: He wants to be like you, he said, and
22 hand it to the jury. So I'm going to let him get a clean
23 copy. I don't know how we're going to get the
24 highlighting off. It will show dark. It will still be
25 highlighted, but I'm going to allow it.

1 MR. GHENT: Yes, sir.

2 (WHEREUPON, the jury enters the courtroom at
3 approximately 10:50 a.m.)

4 THE COURT: Actually, it didn't show up on the copy.

5 I'm going to ask that the clean copy be handed to the
6 court reporter and have it admitted as whatever the next
7 Defendant's Exhibit is.

8 (WHEREUPON, Defendant's Exhibit No. 20 was admitted
9 into evidence.)

10 THE COURT: All right. You may proceed.

11 BY MR. HOLCOMB:

12 Q So you got involved in the breach of trust case and the
13 intimidating, threatening -- the cases involved, you got
14 involved with those August 19th, 2013, August 20th, 2013; is
15 that correct?

16 A Around that time, yes, sir.

17 Q Okay. And at that time, you started doing the
18 interviewing process, how did you contact Ms. Cole?

19 A How did I contact her? By telephone.

20 Q So that was one of your witnesses, Ms. Cole, in this
21 case?

22 A In the breach of trust or the --

23 Q Either one?

24 A Yes.

25 Q Okay. And Greentree Metal out of Hartwell, Georgia,

1 how did you contact them?

2 A By phone and met with them later.

3 Q Okay. All right. Did they come to the office or?

4 A I believe so.

5 Q Okay. Great. Do you recall any other witnesses you
6 may have spoken to in these cases?

7 A I spoke to many.

8 Q Many?

9 A Yes, sir. I spoke to --

10 Q Okay. That's great. I'll take that as an answer.

11 Since you were investigating the breach of trust case, did
12 you talk to Mr. McGinn?

13 A Yes, at some point, yes, sir.

14 Q You did?

15 A Yes, sir.

16 Q Okay. Did you testify different than that at trial?

17 A I don't recall.

18 Q I'm going to hand you --

19 MR. HOLCOMB: I like to enter this as evidence. This
20 is the trial transcript, Page 266.

21 MR. GHENT: No objection.

22 BY MR. HOLCOMB:

23 Q Okay. So you just testified that you spoke with
24 Mr. McGinn. When was that?

25 A I couldn't give you an exact date.

1 Q All right. I'm going to hand you Page 266 of the trial
2 transcript. It's the cross-examination of you, Mr. Kindley.

3 A Okay.

4 Q And take a look at -- I want you to read Line 20,
5 please, all the way to the end of the page.

6 A Thank you, sir.

7 Q This is your testimony at trial. Mr. Shealy's
8 question, please, is number 20.

9 A Okay. The question number 20, All right, now in the
10 course of you getting this case, did you speak with the
11 principal? Did you speak with Mr. McGinn and those folks?

12 Answer: I spoke with individuals, but not Mr.
13 McGinn, no, sir.

14 Q Thank you.

15 A I can explain that. You ask if I -- I didn't take
16 statements from Mr. McGinn --

17 Q No, sir, the question is --

18 MR. GHENT: Objection, he's allowed to explain.

19 THE COURT: Well, go ahead and explain your answer.

20 THE WITNESS: You asked me if I spoke to Mr. McGinn.

21 Yes, sir I spoke to Mr. McGinn throughout this process.

22 It's gone on for a while. I can't give you the dates, but

23 I've spoken to the individuals involved in these trials,

24 sir.

25 I didn't say I took a statement from him or went back

1 through and reinvestigated what had been done by the
2 sheriff's office. But yes, I had contact with these
3 individuals.

4 BY MR. HOLCOMB:

5 Q You had contact without speaking to them? You
6 testified at trial that you had not spoken to these folks.

7 A I think what my answer in here had to do with is
8 reinvestigating the case.

9 MR. HOLCOMB: I'd like to enter that as Exhibit No.
10 21, please.

11 MR. GHENT: Objection, Your Honor, that's not the way
12 it's done. It's cross-examination. He can confront him
13 and ask him about it, but it's not admissible.

14 THE COURT: Mr. Holcomb, you used it for impeachment,
15 so it's not an exhibit.

16 BY MR. HOLCOMB:

17 Q How about this, I'd like to hand you Page 267 that
18 you just reviewed. And I'd like for you to -- all right,
19 it's Line 20 again. You can read the question before Line
20 20. Line 20 is your answer. Read the question before
21 from Mr. Shealy. Testimony at trial.

22 A Starting at Line 16, the question is, Is that right,
23 okay? So the individuals that you spoke to and the
24 investigation of this breach of trust case throughout your
25 investigation, did they -- did they claim to have gotten

1 these various documents?

2 The answer is, the, then a pause, I interviewed
3 people. I didn't interview Mr. McGinnus, and it's got a
4 sic, nor Mr. Richardson, so I didn't have the opportunity
5 for them to ask if they got that right.

6 Do you want me to continue?

7 Q No, we can stop right there. That's fine. So once
8 again, how do you reconcile the fact that you just
9 testified that you had statements from them, but you never
10 interviewed them? And you testified at trial that you
11 never interviewed them. How do we reconcile, Mr. Kindley?

12 A You're asking me how do I reconcile --

13 Q The question is, you don't have a statement from
14 these folks that we can present to the Court. You
15 testified that you did not speak to them at trial just
16 now. At trial, you said you didn't speak with them. You
17 said it several times in the trial transcript that you
18 never spoke with them, that you didn't speak with Jared
19 Richardson that worked there or Will Byrd that worked at
20 that home or Mr. McGinn, you didn't on the breach of
21 trust, the investigation. So you may have called somebody
22 on the phone, is that what you're saying? But you still
23 didn't interview them. I think that's what you said at
24 trial; is that correct?

25 A I'm not sure which question you're asking.

1 Q All right, here's the question, did you say at trial
2 that you did not interview those folks? Did you just read
3 that?

4 A I did.

5 Q Do you believe that's an accurate description of what
6 happened at trial?

7 A I do.

8 Q Okay. So you're saying you did not interview them.
9 Okay. Great. I'm going to hand you -- well, let's take a
10 look at the next page.

11 THE COURT: Mr. Sims, hand it up to him.

12 BY MR. HOLCOMB:

13 Q Page 268, starting at Line 1, please.

14 A 268, Line 1, the question is, Did you have those
15 copies or copies that were substantially similar to these
16 items?

17 The answer is, I can't recall. I didn't take the,
18 there's a pause, telling you the kind of -- tell you kind
19 of how the process works is we took the investigative file
20 and reviewed the entire file. I didn't take a copy of it
21 and keep it. I didn't interview the McGinnus [sic]
22 family. I didn't interview Mr. Richardson, nor did I
23 interview Mr. Holcomb.

24 Q Thank you.

25 A You want me to finish?

1 Q No, that's fine. So you didn't interview -- once
2 again, you said you didn't interview them, you didn't make
3 a copy of the file. So is it -- SLED is the top -- is
4 SLED not the top law enforcement agency in the State of
5 South Carolina? You're like the FBI for the State,
6 correct?

7 A Yes, sir, similar.

8 Q I mean, if we're making a comparison, you're,
9 basically -- you investigate police officers, officials
10 you do statewide investigation, not just county, correct?

11 A Yes, sir.

12 Q You have extremely qualified people in your office,
13 correct? You don't really hire just everybody. I mean,
14 you have to have a lot of credentials and training and
15 college education, things like that, correct?

16 A We're state police, so I like to think we have very
17 qualified people.

18 Q When you take over a case -- you testified that you
19 take over a case and whenever -- and you heard Tim Martin
20 testify that you took over the case, and when you don't
21 make a copy of the file, does that seem unusual to you to
22 not take a copy of the file that you've taken over?

23 A No, sir.

24 Q Okay. All right. Would you read page -- looking at
25 Defendant's Exhibit No. 20, please. The last page of the

1 narrative that we were just discussing.

2 A I'm sorry?

3 Q Defendant's Exhibit No. 20. Would you please take a
4 look at that and read the narrative into the record,
5 please?

6 A This is from the case file from the threatening the
7 life of a public official, the Greenville County Sheriff's
8 Office --

9 Q Which this case morphed into. Once again, on Page 2
10 of Exhibit No. 7, who's the alleged victim on that?

11 A On Page 2?

12 Q Uh-huh.

13 A Wesley Smith.

14 Q Okay. Thank you.

15 MR. HOLCOMB: I'd like for the jury to have Exhibit
16 No. 7 for them to take a look at those.

17 BY MR. HOLCOMB:

18 Q So in your file, you've got your folders there, can
19 you show me an e-mail that I actually sent to Ms. Harrison
20 or anything in that file at all that went directly to Ms.
21 Harrison during the course of your investigation, that I
22 sent?

23 A Would you like me to check and see?

24 Q Sure. Would you like me to sit down?

25 A It's up to you, sir. All right.

1 Q You found an e-mail from me to Ms. Harrison?

2 A I found an e-mail that was sent to Andrew
3 Culbreathson at the solicitor's office that was forwarded
4 to her, but not directly to --

5 Q Okay. That's --

6 MR. GHENT: Objection, he's answering the question.

7 THE COURT: He answered the question.

8 You can ask him. So ahead and ask the question by.

9 BY MR. HOLCOMB:

10 Q I'm not asking for e-mails that were forwarded to
11 her. I'm asking did you have a copy of an e-mail or
12 letter that I sent directly to Ms. Harrison?

13 A Not in this file, no, sir.

14 Q Do you have other files?

15 A No, sir.

16 Q So the answer is no, correct?

17 A I do not have a copy, that's the answer.

18 Q So no e-mails were sent to Ms. Harrison that you're
19 aware of or letters that were threatening in any way?

20 A I don't have any, no, sir.

21 Q Okay. So there's no evidence in that file for any
22 threats made to Ms. Harrison directly, or indirectly,
23 actually?

24 A You're going have to say that again.

25 Q So based on your file, I didn't send any e-mails or

1 letters to Ms. Harrison, correct?

2 A Directly, no, sir.

3 Q In any of those files, did I say forward this to
4 Ms. Harrison?

5 A Not that I recall.

6 Q In any of those e-mails, did I say I was going to
7 hurt Mrs. Harrison directly?

8 A I would have to go back through these again.

9 Q Do you recall seeing any e-mails that I made any
10 threats to Ms. Harrison?

11 A Not that I recall.

12 Q Okay.

13 MR. HOLCOMB: Can we enter those Defendant's Exhibit
14 Nos. 21 and 22?

15 THE COURT: Any objection?

16 MR. GHENT: I'm not sure what he's wanting to enter
17 in. We've already put in the e-mails.

18 MR. HOLCOMB: I want to enter the file, the
19 investigative file.

20 THE COURT: He wants the files.

21 MR. GHENT: The entire investigative file?

22 THE COURT: Yes.

23 MR. GHENT: Both files?

24 MR. HOLCOMB: Correct. Yes, please.

25 MR. GHENT: Your Honor, has ruled on one of the files

1 previously, I thought. We keep doing this. I have no
2 objection. If he wants to put the investigative file in,
3 that's fine.

4 THE COURT: Well, that's all you have to say, no
5 objection. Any objection?

6 MR. GHENT: No, sir, no objection.

7 THE COURT: All right. Both will be put in. Let the
8 court reporter mark them.

9 (WHEREUPON, Defendant's Exhibit No. 22 and 23 were
10 admitted into evidence.)

11 MR. GHENT: Your Honor, I --

12 THE COURT: All right, Mr. Ghent.

13 MR. GHENT: If I may before that's done?

14 THE COURT: Yes, sir.

15 MR. GHENT: That second file is directly related to
16 Your Honor's earlier ruling. Let the record reflect that
17 I tried to caution the Court. Earlier ruling this
18 morning.

19 THE COURT: I have no idea exactly what you're
20 referring to, but the next time the jury is out, we'll
21 talk about it.

22 MR. GHENT: Yes, sir.

23 BY MR. HOLCOMB:

24 Q Okay. So you testified on 8/19/2013, the case is
25 only a year old at that point -- or the incident is a year

1 old, 14 months since the stain was put on the home, and
2 painted windows and doors and such, the breach of trust
3 case. You took the case on 8/19/2013 and Mr. Martin
4 stopped investigating at that point, correct? The
5 investigation on the breach of trust -- the incident at
6 Mr. McGinn's home, all the statements that were used at
7 trial were stopped at that point, correct? Just the
8 breach of trust, not the threatening the life, that type
9 thing, but on the breach of trust, did you take any more
10 statements at that point?

11 A Sir, I don't know which question you want me to
12 answer.

13 Q All right. I'm sorry. Did you take any statements
14 from the breach of trust when you took the case?

15 A Written statements, no, sir.

16 Q Okay. So doesn't it make it hard to remember and
17 recall? Isn't that the purpose of taking a statement from
18 someone, to recall?

19 A There's several reasons, but yes, that would help.

20 Q Why would you not take a statement when you talk to
21 someone?

22 A Statements had already been taken and an arrest had
23 already been made. We don't go back and reinvestigate
24 what's already been done.

25 Q Even if you're taking --

1 THE COURT: Let him finish.

2 THE WITNESS: We pick up the case from where it was
3 and we continue on.

4 BY MR.. HOLCOMB:

5 Q Okay. And the fact that I complained to SLED about
6 the case being bad and Tim Martin and I had a conflict
7 involving a girl 25, 30 years ago, you don't see any
8 problem with that at all?

9 A Are you asking my opinion?

10 Q I'm asking did you -- did you take statements -- did
11 you take the statement from Ronda Cole?

12 A Yes, sir, I did.

13 Q Was it written?

14 A No, sir, it was over the telephone because Ronda
15 Cole.

16 Q That's --

17 A Sir, you asked me the question. Ronda Cole was
18 afraid to meet with me. The only way that she would
19 contact me was by telephone.

20 MR. HOLCOMB: He's testifying --

21 THE COURT: You asked him a question. You asked him
22 a question. Go ahead, answer the question.

23 THE WITNESS: Thank you, Your Honor.

24 MR. HOLCOMB: It's hearsay. It's hearsay, Your
25 Honor. Objection, hearsay.

1 THE COURT: You asked the question --

2 MR. HOLCOMB: He's about to testify -- that's his
3 interpretation and we don't have Ronda Cole here to rebut
4 it.

5 THE COURT: I sustain the objection. Let's move on.
6 He talked to her by telephone for whatever reason.

7 MR. HOLCOMB: Thank you.

8 BY MR. HOLCOMB:

9 Q In your investigation of the breach of trust case,
10 did you notice -- did my sister have anything to do with
11 the roof company or Mr. McGinn's roof?

12 A Not to my knowledge.

13 Q Why do you think Mr. Martin had the necessity to
14 contact my sister?

15 A Why do I think --

16 Q Did Mr. Martin have any reason to contact my sister?

17 A I have no idea, sir.

18 Q Can you see how it would be considered intimidation
19 that they contacted my sister on something that's
20 completely unrelated?

21 A Okay, you're asking for my opinion?

22 Q Right.

23 A To what I consider intimidation, if they meaning --

24 Q If Tim Martin -- it's not if. Tim Martin testified.
25 Did you hear Mr. Martin testify that he had contacted my

1 sister?

2 A I did.

3 Q And the first part of it is the Psalm 109, the crazy
4 bipolar e-mail says contact my sister again, family or
5 friends, yada, yada, yada, is that -- why would Tim Martin
6 need to contact my sister if she wasn't involved in the
7 breach of trust case?

8 A I can tell you what he testified to.

9 Q Okay. Can you see how that would be considered
10 intimidation by someone else?

11 A Based on what I heard, no, sir.

12 Q Contacting her landlord?

13 A I didn't hear him say he contacted her landlord.

14 Q Okay. Can you see that Tim Martin was letting me
15 know as well as my sister know that he knows where she
16 lives?

17 A Ask me the question again.

18 Q Withdrawn on that. Okay. So we only have your word
19 for the conversation with Ronda at this point, correct?

20 A Yes, sir.

21 Q If you were involved -- if you had a romantic rival
22 involved in a case, say a murder case, or whatever -- do
23 you handle murder cases? What types of cases do you
24 normally handle?

25 A All types, but yes, sir, I do murder cases as well.

1 Q And you ran into somebody that you had some conflicts
2 with in the past, would you -- is it policy at SLED to not
3 allow -- do you have a conflict of interest policy at
4 SLED?

5 A Yes, sir.

6 Q All right. Would it be proper for you to investigate
7 someone that you may have had police reports involving --
8 should you investigate someone that you've had personal
9 conflict with?

10 A It would depend. Our policy is it would depend on
11 the amount of conflict, what the relationship is with the
12 person.

13 Q And that call would be made by the officer?

14 A No, normally by a supervisor.

15 Q Okay. Thank you. Doesn't it sound as if Mr. Martin
16 is rubbing it in my face that he finally got me by
17 requiring me to contact him once a week?

18 MR. GHENT: Objection, Your Honor.

19 THE COURT: I sustain the objection.

20 BY MR. HOLCOMB:

21 Q In your investigation -- and you were here for
22 Mr. Martin's testimony yesterday, correct?

23 A Yes, sir.

24 Q Okay. Did you notice that every single sentence of
25 the arrest warrant for the breach of trust, except for one

1 -- well, it's not the Defendant, it's Carolina Home
2 Renovators. Actually, every single sentence in the
3 warrant was incorrect. Did you hear that testimony?

4 MR. GHENT: Objection, Your Honor.

5 THE COURT: I sustain the objection. The warrant
6 speaks for itself. You examined the witness on it
7 yesterday.

8 MR. HOLCOMB: Okay.

9 THE COURT: He didn't draw -- the witness did not
10 draw the warrant.

11 BY MR. HOLCOMB:

12 Q So you didn't interview -- so in your course of
13 investigation in the breach of trust case, you didn't
14 interview anybody involved, the two gentlemen that worked
15 there, the homeowner, nor me; is that correct?

16 A Did I take statements from them, no, sir.

17 Q Did you interview them?

18 A At some point during the process, I spoke with them.
19 I didn't do a formal interview and rehash the things that
20 were on their statements, no, sir.

21 Q So all the stuff we see on television about going out
22 and talking to people in the course of a criminal
23 investigation is pretty much -- is that passe now --

24 MR. GHENT: Objection, this is not TV.

25 THE COURT: I sustain the objection. TV is TV. This

1 is real life.

2 BY MR. HOLCOMB:

3 Q But, normally, on a criminal investigation, you do
4 most of your footwork on the phone?

5 A No, sir.

6 Q Why did you do that in this case?

7 A Sir, my investigation, I did field work and phone
8 work. Again, I did not go back and reinterview everybody
9 who had been interviewed on the initial breach of trust
10 case.

11 Q So you just took the word of Tim Martin, correct?

12 A I took the word of the police report, the arrest
13 warrant and the investigative file.

14 Q Tim Martin's word, correct, his interpretation of the
15 events, correct?

16 A I wouldn't say that, no, sir.

17 Q Are you Facebook friends with Tim Martin?

18 A Probably was at some point, yes, sir.

19 Q How long have you known Tim Martin?

20 A I've been in police work 29 years, so.

21 Q And you've known him that whole time? Y'all kind of
22 have come up the ropes, so to say, right?

23 A I beg your pardon?

24 Q You guys came up through the ranks. In 1988, Tim
25 Martin was working for the Greenville County Sheriff's

1 Office and so were you; is that correct?

2 A We worked at the same agency, yes, sir. I've never
3 seen Tim Martin off duty. We don't go to dinner. He's
4 not my fishing buddy --

5 Q Correct, but you're colleagues --

6 MR. GHENT: Objection, he's answering the question.

7 MR. HOLCOMB: Thank you. Sorry.

8 THE WITNESS: I have a lot of people involved in law
9 enforcement that I've known through the years.

10 BY MR. HOLCOMB:

11 Q If Tim Martin modified that page, Page 13, okay, if
12 he modified it, twisted it and everything at three
13 different productions, those three numbers and it's
14 twisted one-quarter turn, would that be a criminal act?

15 A I don't know where the page came from.

16 Q No, I'm asking you if Tim Martin modified, like in
17 the video that you find threatening --

18 MR. GHENT: Objection, calls for speculation.

19 THE COURT: I sustain the objection.

20 MR. HOLCOMB: Well, I'd like to ask him that as an
21 expert and 30 years as a police officer.

22 THE COURT: I sustain the objection.

23 MR. HOLCOMB: Okay. Great.

24 BY MR. HOLCOMB:

25 Q The sound effects, would it be reasonable to say that

1 the sound effects were an analogy to Mr. Martin's career
2 blowing up?

3 A In my opinion?

4 Q Yes.

5 A No, sir.

6 Q But you can't see how somebody would interpret that
7 that way?

8 A In my opinion?

9 Q Yes.

10 A No, sir.

11 Q So your only explanation is is that was a threat on
12 somebody's life?

13 A If I saw a picture of myself with gunshot in the
14 background, I would interpret that as being fired at me or
15 a threat towards me.

16 Q And you can see how other people would take it
17 different? The context of the video is tampering with
18 evidence.

19 MR. GHENT: Objection.

20 THE COURT: He can't testify what other people
21 determine.

22 THE WITNESS: Okay, great.

23 BY MR. HOLCOMB:

24 Q Let's take a look at Exhibit No. 20, please.

25 A Yes, sir.

1 Q Would you read the narrative in the record, please?

2 A Complete narrative?

3 Q That's Page 20, right. -- no, that's the one with two
4 sentences, right?

5 A It's got a little header section. It's the
6 supplemental report to an earlier police report.

7 Q Correct, that's the policy report that's involving
8 the case what we're on trial for?

9 A This is an addition or a supplemental report.

10 Q Correct. That's the last police report on it.
11 That's No. 20. Please read the narrative.

12 A It goes overflow. It has Holcomb, Dean Alton --

13 Q No, we don't need that, just the sentences.

14 MR. GHENT: Objection, Your Honor. He has to, at
15 least -- he can't parse words.

16 THE COURT: The State is insisting you read the whole
17 document in context. Go ahead.

18 THE WITNESS: Subject type, listed suspect, address

19 [REDACTED], Bessemer City, North Carolina, out of state.

20 It goes through ethnicity, resident, race, age, DOB,
21 social security number, physical injury, no blocks to fill
22 in there.

23 It says narrative: This case was erroneously cleared
24 by arrest after warrant, it's a long number,
25 2013A2330202932, was served on the suspect, which was for

1 case number 1-13-011973.

2 Q That's the breach of trust case?

3 A I'm not sure.

4 Q Okay. Go ahead.

5 A This case was presented to Assistant Solicitor Howard
6 Steinberg, who advised no charges would be filed, whereas
7 disposition of this case is exceptionally declared no
8 prosecution.

9 MR. HOLCOMB: Okay. I'd like for that to be -- is it
10 published to the jury or Exhibit No. 20 given to the jury,
11 please?

12 THE COURT: Mr. Sims will get it.

13 MR. HOLCOMB: I have no further questions for this
14 witness.

15 THE COURT: Redirect?

16 MR. GHENT: Your Honor, there is a matter that we
17 need to take up real quick.

18 THE COURT: I'll let the jury go for a real quick
19 refresher break, it won't be a long break, while we take
20 up the matter.

21 BAILIFF: Please remain seated until the jury leaves
22 the courtroom.

23 (WHEREUPON, the jury exits the courtroom at
24 approximately 11:20 a.m.)

25 THE COURT: Give all those exhibits to the bailiff as

1 you go out.

2 THE COURT: Yes, sir.

3 MR. GHENT: Your Honor, in terms of what I was
4 beseeching the Court --

5 THE COURT: I think I know where you're going, so get
6 there and we'll deal with it. But I think I know where
7 you're headed.

8 MR. GHENT: Exhibit 22 has Captain Prodan's report in
9 it.

10 THE COURT: I figured that's what -- but he put them
11 in.

12 MR. HOLCOMB: Well, I have no objection to taking
13 both of those out.

14 THE COURT: No, they're in evidence now.

15 Okay. I knew that. I knew that.

16 MR. GHENT: I was just -- I didn't want Your Honor to
17 get mad at me.

18 THE COURT: No, no, you didn't put it in.

19 All right. Tell the jury we're ready for them.

20 MR. GHENT: Does that mean I can call Captain Prodan
21 or does it just speak for itself?

22 THE COURT: It speaks for itself.

23 MR. GHENT: Okay.

24 (WHEREUPON, the jury enters the courtroom at
25 approximately 11:22 a.m.)

1 THE COURT: All right. You may proceed.

2 MR. GHENT: May it please the Court?

3 THE COURT: Yes.

4 REDIRECT EXAMINATION

5 BY MR. GHENT:

6 Q Lieutenant Kindley, is this the first threat against
7 a public official case you have investigated?

8 A No, sir.

9 Q Have you worked other cases with members of the FBI,
10 Secret Service, any number of agencies?

11 A Yes, sir.

12 Q You're familiar with the nature of threats and the
13 law concerning threats?

14 A Yes, sir.

15 Q You're familiar with threats, cases where threats
16 have been made against public officials?

17 A Yes, sir.

18 Q If the threat is conveyed to someone and it is sent
19 on to the public official, is that sufficient?

20 A Yes, it is.

21 MR. HOLCOMB: Redirect just concerning those, Your
22 Honor?

23 THE COURT: You can have recross.

24 RECROSS-EXAMINATION

25 BY MR. HOLCOMB:

1 Q In those investigations that you were involved with
2 the FBI and Secret Service, did you take statements?

3 A No, sir.

4 Q Did you actually see or interview with those people?

5 A Yes, sir.

6 Q But you didn't take a written statement?

7 A In those cases with federal agencies, normally, we
8 were an assisting agency, so I didn't take the statement,
9 no, sir.

10 Q If it's a State case, do you take statements?

11 A Yes, sir, sometimes.

12 Q Would you say most of the time?

13 A No, sir. I would say every case has a different
14 dynamic, so it depends on the investigation.

15 Q So we're relying upon your memory on most cases,
16 correct?

17 A For?

18 Q To recall something? In the course of an
19 investigation, you may need it in trial, which is going to
20 happen, in this case, five years after the incident.
21 Wouldn't it make sense to -- or breach of trust is five
22 years old, the work that was done at that home. Isn't
23 that the reason you have written statements so you can
24 recall what happened on that date?

25 A Or for the witness to recall, yes, sir.

1 Q And you didn't do that in my case, correct?

2 A In which case, sir?

3 Q In either of them?

4 A Did I take statements?

5 Q Yes, sir.

6 A I can't recall. It's been a while. In your breach
7 of trust case, no, sir, I did not go back and take
8 statements. I did not.

9 Q But you didn't take -- I have made a number of
10 complaints to SLED about --

11 MR. GHENT: Objection, Your Honor.

12 THE WITNESS: I sustain.

13 MR. HOLCOMB: Thank you.

14 THE COURT: All right. You can step down.

15 THE WITNESS: Thank, sir.

16 THE COURT: All right. Call your next witness,
17 Mr. Ghent.

18 MR. GHENT: The State calls Howard Steinburg.

19 MR. HOLCOMB: Objection, Your Honor.

20 THE COURT: Yes, sir.

21 MR. HOLCOMB: He's not on the witness list.

22 THE COURT: Let me let the jury go out just a minute.

23 (WHEREUPON, the jury exits the courtroom at
24 approximately 11:28 a.m.)

25 THE COURT: Mr. Ghent, he's right. He wasn't listed

1 on your list of potential witnesses.

2 MR. GHENT: No, sir, he wasn't. But the Defendant
3 put a document into evidence that relates to Mr.
4 Steinburg, I should be allowed to allow Mr. Steinburg to
5 explain the document. I didn't put it in. I didn't
6 anticipate it. This is his doing. There are exceptions
7 under which --

8 THE COURT: Well, that would be more like reply than
9 it would case in chief.

10 MR. GHENT: Well, actually, I'm -- Your Honor, it is
11 -- it is immediately responding to his cross-examination.
12 He opened the door. He went into it. It is a matter --
13 the only reason why he wasn't on the witness list for me
14 was because I did not intend to go there.

15 THE COURT: Let's just stop it right there.

16 All right. Mr. Holcomb, he's correct. I did look at
17 the document that you kept out and then you convinced me
18 to put it in. It does reference Mr. Steinburg.

19 MR. HOLCOMB: Okay. Yes, sir.

20 THE COURT: All right. I'll allow you to call him.
21 Bring the jury back in.

22 MR. GHENT: Thank you, Your Honor.

23 THE COURT: Is that your last witness?

24 MR. GHENT: Yes, sir, it is.

25 Your Honor, Mr. Hollister is here from the detention

1 center. I didn't subpoena him.

2 THE COURT: That's okay.

3 Okay. We'll deal with that later.

4 MR. GHENT: Yes, sir.

5 (WHEREUPON, the jury enters the courtroom at
6 approximately 11:32 a.m.)

7 THE COURT: You ready to call your next witness?

8 MR. GHENT: Yes, sir. The State calls Howard
9 Steinburg.

10 THE COURT: Please step up, put your left hand on the
11 Bible and raise your right.

12 HOWARD STEINBURG, after being
13 duly sworn, testified as follows:

14 THE CLERK: Please be seated and state your name for
15 the record.

16 THE WITNESS: My name is Howard Steinburg.

17 MR. GHENT: May it please the Court?

18 THE COURT: Yes, sir.

19 DIRECT EXAMINATION

20 BY MR. GHENT:

21 Q Mr. Steinburg, where are you employed?

22 A I'm an assistant solicitor at the solicitor's office
23 in Greenville.

24 Q Thirteenth circuit?

25 A Yes, sir.

1 Q How long have you worked there?

2 A Since 2001.

3 Q All right. First of all, I would provide you with
4 what has already been marked as State's Exhibit No. 3,
5 letters having to do with the transfer of the case. You
6 don't have to read them, but I would like the dates, who
7 they're from and who they go to?

8 A The date is October 13th of 2014. It is sent from
9 Betty Strom, who was one of the supervisors at the
10 solicitor's office, it was sent to John McIntosh, who is a
11 -- was the second in charge at the Attorney General's
12 Office.

13 Q Again, what was the date?

14 A October 13th of 2014.

15 Q Please turn to the next one.

16 A Yes, sir. That is dated March 3rd and is from Barry
17 Barnette, who is the solicitor from the Spartanburg
18 Solicitor's Office, Seventh circuit, to Betty Strom.

19 THE COURT: What year?

20 THE WITNESS: March 3rd of 2015.

21 Next page. March 3rd of 2015.

22 MR. HOLCOMB: Objection.

23 THE COURT: What's the objection?

24 MR. HOLCOMB: Is there a question here?

25 THE COURT: Well, he asked him -- no, the question

1 has been answered. So let's move on to a question.

2 THE WITNESS: The next two pages appear to be
3 identical. The next page after that is October 16th --

4 THE COURT: Wait and let him ask you the question.

5 BY MR. GHENT:

6 Q Who is that from?

7 THE COURT: Who is what from?

8 BY MR. GHENT:

9 Q Who is the last letter from?

10 A Well, the last letter -- there's another letter
11 before that.

12 Q Yes, sir.

13 A You want the last letter?

14 Q Well --

15 THE COURT: Just answer the question.

16 MR. HOLCOMB: Objection, hearsay.

17 THE WITNESS: The last letter is October 13th of
18 2014. It is from Betty Strom to Barry Barnette, the
19 Solicitor in Spartanburg.

20 BY MR. GHENT:

21 Q So all of these letters were in 2014?

22 A 2014 or 2015.

23 Q Thank you. And the last letter in 2015 is what date?

24 A Well, the last letter in 2015 is March 3rd of 2015?

25 Q Thank you.

1 MR. GHENT: May I approach the witness, Your Honor?

2 THE COURT: No, you can give it to Mr. Sims.

3 What number is that?

4 MR. GHENT: Defendant's -- the one he just put in,
5 I'm sorry.

6 THE WITNESS: This is Defendant's Exhibit No. 20,
7 Your Honor.

8 BY MR. GHENT:

9 Q What is the date on that incident report?

10 A That is June 17th of 2015.

11 Q And if you would, would you please read that report?

12 A All right. There's some numerical information I
13 don't think anybody is interested in, but the narrative
14 says, This case was erroneously cleared by arrest after
15 warrant ending in 932 was served on the suspect, which was
16 for case ending in 973. I'm cutting out the first part.
17 This case was presented to Assistant Solicitor Howard
18 Steinburg and advised no charges would be filed. The
19 correct disposition of this case is exceptionally cleared,
20 no prosecution. This is a sheriff's office case.

21 Q Sheriff's office case?

22 A Yes, sir.

23 Q Would you explain to the jury your involvement?

24 A Unfortunately, I don't remember anything about this
25 case until after the incident. But I was the law

1 enforcement advisor for about 15 years, 14 years or so,
2 and they would run cases past me. I would tell them to
3 either charge, no charge, investigate, to handle it some
4 other way. That was my role at that time. I, actually,
5 do not remember this case until, frankly, the alleged
6 threats came up.

7 Q All right. So the bottom line is, you got that case
8 well after the original charges -- someone talked to you
9 about that well after the original charges were filed, he
10 was arrested and indicted?

11 A Yes. Pursuant to this date, it was already resolved
12 so we would not have handled it.

13 Q So you have no clue how that happened?

14 A I don't know anything about how or why it would have
15 happened?

16 MR. GHENT: Thank you.

17 THE COURT: Mr. Holcomb.

18 MR. HOLCOMB: May it please the Court?

19 THE COURT: Yes, sir.

20 CROSS-EXAMINATION

21 BY MR. HOLCOMB:

22 Q Based upon the document, did you dismiss this case,
23 yes or no?

24 A No. Obviously, I did not dismiss the case. It was
25 never a warrant for me to dismiss.

1 Q Yes or no, does say that you dismissed the case? Yes
2 or no?

3 A No, I think you're confused on the word. It does not
4 say dismissed. I never had this case to dismiss it.

5 Q Based on the police report, would you please read it
6 again?

7 A I don't want to be --

8 THE COURT: Just read that sentence that he's
9 concerned about.

10 THE WITNESS: This case was presented to Assistant
11 Solicitor Howard Steinburg, who advised no charges would
12 be filed. The correct disposition of this case,
13 exceptionally cleared, no prosecution.

14 Q Okay. So it was your judgment there were no threats,
15 yes or no?

16 A No, that is not my judgment. It said exceptionally
17 cleared. Had I --

18 Q I'm asking you yes or no, sir.

19 MR. GHENT: Objection. He's allowed to explain it.

20 THE COURT: He's answering.

21 THE WITNESS: If I had reviewed this case to
22 determine if there had been a threat and there had been no
23 threat, the proper language used in all agencies in South
24 Carolina would have been unfounded. I did not find this
25 to be unfounded. Every agency, sir. It says

1 exceptionally clear. I did not write this report. This
2 was written by someone else. They ran it past me.
3 Exceptionally cleared means, I did not need to be charged.
4 That means another agency may have handled this. It may
5 mean there's economic factors, we don't need to do this.
6 It may mean that a victim won't cooperate. It may mean
7 any number of things. In this case -- and again, this is
8 relatively new for me, this whole trial. I was excused on
9 Monday. I'm still here. I don't know much about this
10 case.

11 I can tell you that if this case was being handled by
12 another agency, I would most assuredly tell Greenville
13 County not to get a warrant. That's why they used
14 exceptionally cleared as opposed to unfounded.

15 Q Well, there was already a warrant issued. The report
16 was written a year after the warrant was issued.

17 A Then the case was possibly taken up by SLED. I did
18 see SLED Agent Kindley testifying, so, obviously, another
19 agency took this case over.

20 Q But as the assistant solicitor, you told someone that
21 the case was not going to be prosecuted based on that --
22 based on that, it says no prosecution, does it not?

23 A It says no prosecution.

24 Q Thank you.

25 A If you will allow me to answer.

1 MR. HOLCOMB: I have no further questions.

2 MR. GHENT: He can explain.

3 Go ahead and explain your answer.

4 MR. HOLCOMB: Mistrial.

5 THE COURT: Go ahead and explain the answer.

6 MR. HOLCOMB: Mistrial.

7 THE COURT: All right. I'm going to allow him to
8 answer the question.

9 MR. HOLCOMB: Okay.

10 THE WITNESS: This is not my report. This is a
11 report done by an officer. I do not recall the
12 conversation. I do not remember saying exceptionally
13 cleared or no prosecution. I can tell the officer whether
14 it's a good case or a bad case. I cannot tell him or her
15 not to charge. They get to make their decision, even
16 against my decision, if they wish. I did not dismiss the
17 case. And by this timeline, there's no reason for it to
18 have been pursued any further by the solicitor's office in
19 Greenville, the Greenville Solicitor's Office.

20 BY MR. HOLCOMB:

21 Q Read the last sentence again, please.

22 THE COURT: I think that's in evidence. It's a part
23 of the record.

24 MR. HOLCOMB: No further questions.

25 THE COURT: Any redirect?

1 MR. GHENT: No, sir.

2 THE COURT: All right. You can step down.

3 THE WITNESS: Thank you, Your Honor.

4 THE COURT: Call your next witness.

5 MR. GHENT: The State rests, Your Honor.

6 THE COURT: All right. Members of the jury, the
7 State is resting. That means it's presented its case. We
8 now have to take up some legal matters outside your
9 presence. I'm going to let you go. This will probably be
10 a 10 to 15-minute break and then we'll see where we are
11 and I'll send for you then. I don't think lunch is here
12 yet. That will be later. So take this break and we'll
13 send for you as promptly as we can.

14 BAILIFF: Please remain seated until the jury leaves
15 the courtroom.

16 (WHEREUPON, the jury exits the courtroom at
17 approximately 11:47 a.m.)

18 THE COURT: Mr. Holcomb, I heard you at one time say
19 mistrial, so I want to find out what you've got on your
20 mind about that.

21 MR. HOLCOMB: I'm sorry, I thought that's what he was
22 saying on that.

23 THE COURT: Okay.

24 MR. HOLCOMB: And I apologize.

25 THE COURT: That's okay. I just wanted to make sure

1 you weren't ignored.

2 MR. HOLCOMB: If it please the Court -- and I'm sorry
3 I'm not saying that and appear rude. I'm really not
4 trying to be.

5 THE COURT: I understand.

6 MR. HOLCOMB: May I go back to the cell and get some
7 information? I didn't think that we would be done this
8 soon.

9 THE COURT: We'll take a short break, but first let
10 me go over -- did you have any motions to make?

11 MR. HOLCOMB: Motion for a directed verdict.

12 THE COURT: All right. I deny that. I believe there
13 is ample direct and circumstantial evidence to support a
14 jury's finding on both of these. That's not to say the
15 jury will find that, that's not my business. But I just
16 find that the evidence is sufficient.

17 MR. HOLCOMB: Well, okay.

18 THE COURT: And we've reached the point in the trial
19 where you have the right to call witnesses. As you know,
20 you don't have to. You're presumed innocent of the
21 charges and that presumption of innocence attaches at the
22 time you were arrested and remains with you and will
23 remain with you as the jury deliberates and is removed if
24 and when the jury decides the State has proved your guilt
25 beyond a reasonable doubt. So you need not prove your

1 innocence. The State must prove your guilt beyond a
2 reasonable doubt. But you can call witnesses.

3 You can testify or right remain silent. If you
4 exercise your right to remain silent, I will tell the jury
5 that you have done so. I will tell them they cannot hold
6 that against you. That they cannot discuss that among
7 themselves, nor can they factor into their own
8 determination of the verdict you exercising your
9 Constitutional right to remain silent.

10 I will remind them that you are innocent under the
11 law, you have the presumption of innocence. That you do
12 not have to prove your innocence and the State has to
13 prove your guilt beyond a reasonable doubt.

14 Do you understand all that?

15 MR. HOLCOMB: Yes, sir.

16 THE COURT: Do you have any question about any of it?

17 MR. HOLCOMB: Well, will we do lesser included at
18 this point, motion for a lesser included?

19 THE COURT: Well, that will be taken up -- when we
20 get to the charge on the law officer and the verdict form,
21 the question then will become whether or not there are any
22 lesser included. Right now, I've not even thought about
23 that because I've looked at the statute and I don't know
24 that there are any lesser included. My law clerk and I
25 will research that. And I'm sure your standby counsel

1 with, also.

2 So I'm going to give you about until noon, that's 15
3 minutes, to go back and get ready to start calling your
4 witnesses.

5 Yes, sir.

6 MR. SMITH: May it please the Court?

7 THE COURT: Yes, sir.

8 MR. SMITH: Your Honor, I must vehemently object to
9 the idea that he's not allowed to have counsel represented
10 interest. If the Court is concerned about the appellate
11 process or something of that nature, the idea that he is
12 clearly -- he clearly has a mental condition and has not
13 been medicated, raising the same issue. So the idea of
14 having an attorney seemingly is more important than
15 whether he has the mental health issue.

16 I mean, there's two possibilities of appeal if that's
17 what the Court is concerned about. He should have the
18 ability to have representation, especially given the
19 circumstances of his medication. We're not asking for a
20 continuance.

21 THE COURT: I know. He's not entitled to hybrid
22 representation, which is, ultimately, what it would be.

23 But one of my main concerns -- two. Number one, he
24 wanted to proceed pro se. He had a competency hearing.
25 This was a while back. I have forgotten when it was, but

1 it's several years old. He told me Monday he was
2 competent. He appears to me -- he appears to me to meet
3 the qualifications. Obviously, he knows what he's charged
4 with. He, obviously, understands the judicial process.
5 He has the ability to work with counsel, although he
6 doesn't have counsel, but he can work with standby
7 counsel, so he's certainly competent. And that's what I
8 have to look for.

9 But Mr. Smith, I just don't see how -- and I'm not
10 invading -- and I don't want to impose on your conscious,
11 don't get me wrong, but I don't know how in the world
12 someone who has missed three days of the testimony can
13 argue effectively for Mr. Holcomb, because you have no
14 idea what those witnesses testified to. And I don't want
15 to put you in the position, whether you invite yourself
16 into it or not, of standing before the jury and making
17 some comment that is not supported by the evidence. And
18 you say that won't happen, but it could. And that's my
19 concern.

20 MR. SMITH: The mental health evaluation you speak of
21 was done when he was in the Greenville County Detention
22 Center, I believe. He was medicated at that time. So
23 that is not the same as who he is today.

24 THE COURT: I'm not commenting to that. I just made
25 the comment that we've had a Blair hearing and he didn't

1 -- Mr. Holcomb didn't contest it. I asked him about --
2 and I understand that's old, that's why I referenced it as
3 being old. I don't recall all of it, I have it in my
4 hand, whether he was or was not medicated at the time.

5 There's no question -- and I'm not finding fault with
6 Mr. Holcomb because I'm really concerned about mental
7 illness and the fight that those who suffer from mental
8 illness, very concerned about that. And there's no
9 question from his presentation and the things I've read
10 that he has some mental issues. There's no question in my
11 mind about that, but he appears to me to be competent in
12 spite of that. And that's where we are.

13 I'll let you put anything else on the record keeping
14 in mind that you are standby counsel and I'm not changing
15 that status.

16 MR. SMITH: Yes, sir. With that in mind, you say
17 he's competent and he's competent to say he needs legal
18 counsel and recognizes that my understanding and abilities
19 -- or understanding of the case and abilities to take in
20 all of the things that have been presented to this Court
21 are sufficient to allow me to represent his interest.

22 THE COURT: Well, he's competent to ask for that. He
23 asked for it. And I don't find that's an incompetent
24 request. I just find that I'm not going to grant it.

25 MR. HOLCOMB: If it please the Court? One thing. I

1 subpoenaed Dr. Martin.

2 THE COURT: Well, you've got 15 minutes to go --

3 MR. HOLCOMB: Well, I subpoenaed Dr. Martin. That
4 subpoena has not been quashed. He's at Greenville County
5 Detention Center. He's supposed to be here around 12:30,
6 1:00, somewhere in there. I'd like to put him on the
7 stand.

8 Because here's the thing on the mental health issue,
9 is that it's altering my brain chemistry at the moment. I
10 feel drunk. I feel like I've drank a lot of bourbon or
11 something, or a bunch of alcohol or did some kind of drugs
12 that would alter your mind. I wouldn't drive a car in
13 this condition.

14 THE COURT: Well, I hate to cut you short --

15 MR. HOLCOMB: Can we call Dr. Martin in to get his
16 opinion?

17 THE COURT: He's listed. He's here. I'll certainly
18 entertain him either in camera or on the record -- I mean,
19 it will all be on the record, either in camera or before
20 the jury, depending on what the issue is that you wish to
21 present. So I'll allow -- at this stage, I have no
22 problem with Dr. Martin testifying and telling us where he
23 sees you.

24 MR. HOLCOMB: Well, he's my next witness. Would you
25 please have someone bring him in here.

1 THE COURT: I can't cart him in here. Let's see if
2 we can find him. Because I don't know him. I've given
3 you time -- we're going to take a break. We're going to
4 take a little bit of a break because you asked for it. So
5 five minutes after 12:00, we'll start back up.

6 (WHEREUPON, a short break was taken.)

7 THE COURT: Let's bring in the jury.

8 (WHEREUPON, the jury enters the courtroom at 12:09
9 p.m.)

10 THE COURT: Madam Foreperson, members of the jury,
11 remember I told you the State has rested. Mr. Holcomb now
12 has a right to call witnesses if he wishes. He has no
13 obligation to do so, but he may call witnesses if he so
14 desires.

15 Mr. Holcomb.

16 MR. HOLCOMB: Thank you. Defense calls Sergeant
17 Michael Jarvis.

18 THE COURT: Please come up and be sworn.

19 THE CLERK: Mr. Jarvis, please place your left hand
20 on the Bible and raise your right hand.

21 MICHAEL JARVIS, after being duly
22 sworn, testified as follows:

23 THE CLERK: Please be seated and state your name for
24 the record.

25 THE WITNESS: Michael Jarvis.

1 MR. HOLCOMB: Your Honor, may I ask the bailiff if he
2 would get Defendant's Exhibit No. 20 for the jury to look
3 at, please?

4 THE COURT: Yes, sir.

5 MR. HOLCOMB: I also need to get the arrest warrant.

6 THE COURT: What number is that?

7 MR. HOLCOMB: I'm trying to find that on the list
8 here.

9 THE COURT: The State's or the Defendant's?

10 MR. HOLCOMB: I believe it's the State's -- no,
11 probably the Defendant's.

12 THE COURT: Just hand the blue ones to Mr. Holcomb
13 and let him find what he's looking for.

14 MR. HOLCOMB: Thank you.

15 DIRECT EXAMINATION

16 BY MR. HOLCOMB:

17 Q All right. Mr. Jarvis, where do you work?

18 A I work at the Greenville County Sheriff's Office?

19 Q In what capacity?

20 A I'm a sergeant in the criminal investigations
21 division.

22 Q What does the criminal investigations division do?

23 A We investigate different types of crimes, from
24 murders, armed robberies. My particular area is economic
25 crimes.

1 Q Okay. Is Tim Martin in that division?

2 A Yes, he is.

3 Q Do you remember in 2013, we had some calls that were
4 made and I spoke with you about some of the problems I had
5 with the warrant?

6 A I remember talking to you, yes.

7 Q Okay. Great. This is Defendant's Exhibit No. 10,
8 this is the arrest warrant. Before we go over that, have
9 you been here throughout the trial?

10 A I have.

11 Q You have, okay. Did you hear Tim Martin explain that
12 he did not, actually, leave the office, he took a phone
13 call?

14 MR. GHENT: Objection, Your Honor.

15 THE COURT: Yeah, you can't pit one witness against
16 the other.

17 MR. HOLCOMB: Okay.

18 THE COURT: So Mr. Martin's testimony stands on its
19 own. This witness cannot -- you can't pit two witnesses
20 against each other.

21 MR. HOLCOMB: Okay. All right. Let me rethink this
22 thing.

23 BY MR. HOLCOMB:

24 Q Okay. Going over the warrant. If the warrant --
25 would you take a look at the warrant, please?

1 A Sure.

2 Q Let's read them by sentence by sentence. I'd like to
3 go over them individually. Where it says, The affiant has
4 evidence implicating the Defendant in this --

5 MR. GHENT: Objection, Your Honor, this has already
6 been done.

7 MR. HOLCOMB: But it hasn't been gone through --

8 THE COURT: This is his case, I'm going to allow him
9 to do it. Overruled.

10 MR. HOLCOMB: Thank you, Your Honor.

11 THE WITNESS: Okay. The first sentence says, Affiant
12 has evidence implicating the Defendant in this crime.

13 BY MR. HOLCOMB:

14 Q And you saw the evidence that was presented that was
15 brought to Mr. Martin by Megan Baucom; is that correct?

16 A I'm not sure what the question is.

17 Q Okay. Let's go ahead and do that. This is
18 Defendant's Exhibit No. 3. Okay. That's part of the
19 file. That's the actual contract and proposal that was
20 given to Mr. Martin by Ms. McGinn, testified to that,
21 okay. This was in the file. This is the licensing board.
22 This is Defendant's Exhibit No. 4. This is Defendant's
23 Exhibit No. 11, the A+ BBB rating with no complaints.
24 Defendant's Exhibit No. 19, which is the check.
25 Defendant's Exhibit No. 12, which is three pages of the

1 scope. And Defendant's Exhibit No. 13, which is the
2 registration.

3 Can you look at the date stamps on -- look at the
4 stamp on the contract. We're going to go over the
5 contract. That's what I would like to go over first. On
6 the date stamp on the top right, right above Mr. Martin --

7 A I don't know which one is the contract.

8 Q Defendant's Exhibit No. 3, that's the proposal. That
9 says Robert McGinn, Jared Richardson, Dean Holcomb, that
10 kind of thing. You see at the top there above Mr.
11 Martin's writing, work started in July. Do you see a case
12 number right in there?

13 A I do.

14 Q Then if you look down on the right-hand side of that
15 page, there's a date stamp; is that correct? Where you
16 stamped it into evidence. It's got a date whenever you
17 receive it on the right-hand side, do you see that?

18 A Yes.

19 Q What's the date on that?

20 A February, looks like 5th, 2013. I'm not sure if I'm
21 reading that right.

22 Q It is. It's February 5th, 2013. Thank you. So the
23 case began with that, that was in there. Just set that
24 off to the side if you would. Not all of them, just that
25 one contract.

1 Okay, so that's in the file. Which one do you have
2 next on there? What does that page say?

3 A I have Defendant's Exhibit No. 11, the BBB business
4 review.

5 Q Okay. What does it say in there, who it's a review
6 of?

7 A Carolina Home Renovators, LLC.

8 Q And that's a corporation, correct?

9 A I'm assuming so.

10 Q Great. So let's talk about corporations for a
11 second. There's a difference between sole proprietorship
12 and a corporation, as an expert in white collar crimes; is
13 that correct?

14 A I believe so, yes.

15 Q Okay. And if there's four partners in it, they would
16 all equally share in the responsibilities of that
17 corporation, correct?

18 A Yes.

19 Q How many complains does the BBB show?

20 A I don't know where on this report it would say that.

21 Q It would be directly underneath the LLC, maybe, oh,
22 I'd say an inch down on the left-hand side. How many
23 complaints in the past three years?

24 A I still don't see where you're talking about.

25 Q Okay. Let me grab my copy here. Actually, my

1 mistake. Customer complaint summary, right here in this
2 last little section. Zero complaints right there. Right
3 here.

4 A Are we looking at the same -- are you looking at 11?

5 Q Yes, sir, I am. Says customer complaint summary in
6 big bold letters in that last bottom section.

7 A Okay, I see where you're talking about.

8 Q And it says zero complaints --

9 MR. GHENT: Objection, could he ask a question?

10 BY MR. HOLCOMB:

11 Q Okay. What does it say in that bottom section under
12 customer complaint summary? What is that sentence?

13 A It says zero complaints closed with BBB in last three
14 years. Zero closed in the last 12 months.

15 Q And then underneath that, what are those? It shows
16 zero, correct?

17 A It has the different types of complaints. And total
18 closed complaints zero.

19 Q Okay. Great. Set that to the side. That's evidence
20 of a good company, isn't it?

21 MR. GHENT: Objection, Your Honor.

22 THE COURT: I sustain the objection.

23 BY MR. HOLCOMB:

24 Q What's the next page you have, sir?

25 A I have a check.

1 Q A check?

2 A It is Defendant's Exhibit No. 19.

3 Q Is that evidence of a crime?

4 A It can be.

5 Q But just looking at the check, is that evidence of
6 anything other than it being a check?

7 A It's a check.

8 Q Okay. Great. Let's just set that off to the side.
9 Does that have the same date stamp on there as well?

10 A Yes, February 5th, 2013.

11 Q And up at the top left, it has a case number and the
12 February 5th is on the right; is that correct?

13 A The case number on the top right.

14 Q The top right. And then down on the right side of
15 the middle, it's the same as the contract proposal, right?

16 A Yes.

17 Q And the BBB has it in the top right and the date
18 stamp on the right. They're all pretty much -- those
19 three documents have the same stamps on them; is that
20 correct?

21 A Yes, sir.

22 Q In the same places. Okay. Let's go to the next
23 document. Just set that to the side. What do you have
24 there?

25 A I have the State Farm structural damage claim policy.

1 Q Okay. And how many pages are there on that?

2 A Three.

3 Q Okay. The last page -- the second and the third
4 page, do they have the date stamp on the -- the bate stamp
5 at the top and date stamp on the right?

6 A They do.

7 Q Okay.

8 A Well, the second one does.

9 Q Okay. Where is the date stamp -- where is the case
10 stamp on the third page, sir.

11 A On the third page, it's on the bottom.

12 Q Can you see where the page is reduced? It's been
13 reduced. The whole page has been reduced. It doesn't
14 look the same as the other two pages there?

15 A Yeah, it looks a bit smaller.

16 Q You can see where the dog ear -- whenever you fold
17 over a page, do you see where it's dog eared? You've
18 taken a copy and it's got the black part in the corner
19 there?

20 A On which page?

21 Q On the second page.

22 A Yes.

23 Q Do you see it on the third page?

24 A Yes.

25 Q Okay. Going back to the second or first page, are

1 there page numbers on those?

2 A On the first page, it says Page 1. On the second
3 page, it says Page 2.

4 Q What does the third page say?

5 A It does not say.

6 MR. HOLCOMB: At this time, I'd like to publish the
7 file he's got there to the jury.

8 THE WITNESS: I haven't learned how to do that very
9 well.

10 MR. HOLCOMB: No, no, I want to stick with those for
11 a minute. From the check down, what you've got in your
12 hand, I want you to keep it.

13 THE WITNESS: Keep this?

14 MR. HOLCOMB: Yes, sir.

15 THE COURT: All right.

16 BY MR. HOLCOMB:

17 Q So going to the third page that's in there -- or
18 maybe it's Page 12 from the scope. Would you go to the
19 third page in that? The third page back?

20 A On the State Farm one?

21 Q Yes, sir. Do you remember me complaining about that
22 document being altered?

23 A I do not.

24 Q Okay. If an officer did alter a document, would that
25 be considered a crime?

1 A It depends.

2 Q So officers are allowed to alter documents in
3 evidence?

4 A No.

5 Q If that piece of evidence was altered in some fashion
6 by the officer, would that be considered a criminal act?

7 A It depends, again, in the context of how they altered
8 it. If they're just making a copy and it's a smaller copy
9 than the original copy, it may look altered, but did they
10 alter it for what reasons.

11 Q Right. Well, can you explain how three different
12 case numbers got reduced to three different -- you saw the
13 video and you're looking at it?

14 A No, sir.

15 Q You can't explain that?

16 A No, sir.

17 Q Okay. If that was altered by an officer and they
18 took out the --

19 MR. GHENT: Objection, Your Honor.

20 THE COURT: I sustain the objection. There's no
21 evidence it was altered.

22 BY MR. HOLCOMB:

23 Q Okay. Does that page look different than the first
24 two pages in style or content, the way it's presented?

25 A It looks smaller, yes. The third page looks smaller

1 than the first two.

2 Q Okay. As a supervisor, it's your job to review what
3 Tim Martin did in this particular case; is that correct?

4 A Correct.

5 Q Did you go over the tape recordings where I played
6 that Tim Martin said this was a civil case, did you hear
7 this clip?

8 A The one that was played earlier?

9 Q Did you hear it whenever I sent it to you four years
10 ago?

11 A Where Tim Martin said what?

12 Q That if any work had been done, it was considered a
13 civil matter?

14 A I don't remember that conversation.

15 Q Okay. Would you like for us to play something on
16 that?

17 A Sure.

18 Q Okay. Great.

19 MR. HOLCOMB: May I?

20 THE COURT: Sure.

21 MR. HOLCOMB: We're going to play a video.

22 THE COURT: Okay.

23 MR. HOLCOMB: Thank you.

24 (WHEREUPON, partial video was played for the jury.)

25 MR. HOLCOMB: My apologies, I don't believe I have

1 the whole clip in there. I don't believe I want to play
2 the whole video.

3 THE COURT: Turn that off.

4 Come back up and have a seat.

5 MR. HOLCOMB: I'm going to play the Jarvis video.
6 Let's go ahead and do this real quick while we're here.

7 (WHEREUPON, video was played for the jury.)

8 MR. HOLCOMB: Thank you.

9 BY MR. HOLCOMB:

10 Q Is that your voice on the recording?

11 A Yes.

12 Q What else is in the file that we haven't gone through
13 here? I'll ask you questions about that in a minute. I
14 just did that for expediency since we already had it up.

15 MR. GHENT: Objection, Your Honor. What else is in
16 the file? This is not discovery. He ask specific
17 questions.

18 BY MR. HOLCOMB:

19 Q Okay. What do you have in your hand there, sir?

20 A Still have the State Farm.

21 Q Well, set that over to the right, your left. What's
22 next in the file?

23 A Business entities online.

24 Q And who's the corporation listed on there?

25 A Carolina Home Renovators, LLC.

1 Q And down below that, it's going to have a registered
2 agent, what does that say? It's down about the middle of
3 the page. It's going to say InCorp Services, correct?

4 A Yes. Agent, InCorp Services, Inc.

5 Q Does it say registered agent?

6 A It has registered agent and then below that it says
7 agent, InCorp Services.

8 Q Okay. Great. Would you put that to the right,
9 please? Yeah, my right, your left. What else do you have
10 in your hand there?

11 A Registration number for Carolina Home Renovations.

12 Q Are you sure it's a registration for Carolina Home
13 Renovations or is it for Dean Holcomb?

14 A Yeah, it says Dean A. Holcomb. Underneath it, it
15 says Carolina Home Renovations.

16 Q Okay. Great. And what does it say about a bond?
17 Does it say there's a bond on there?

18 A It says bond on file.

19 Q Okay. Great. From what you've heard, I always
20 bonded as an individual whenever this contract was signed
21 and up until that date six months later; is that correct?

22 A That's what I understand, yes.

23 Q Okay. Great. And that's the license number for me,
24 is the 54107 or whatever it is, right?

25 A That's what this says, yes.

1 Q Okay. Great.

2 MR. HOLCOMB: I'd like to publish that to the jury as
3 well, if that's all right.

4 BY MR. HOLCOMB:

5 Q Based on those documents as an investigator, would
6 you consider that -- no, no. Based on those documents
7 right there with those date stamps at the time, would you
8 consider a crime may have happened based just off those
9 documents?

10 MR. GHENT: Objection, speculation.

11 THE COURT: I sustain the objection.

12 BY MR. HOLCOMB:

13 Q As an investigator, do you leave the office in most
14 cases to actually investigate a crime or do you stay at
15 the office?

16 A Well, I actually supervise the investigators --

17 Q If you were an investigator?

18 A If I was an investigator, it would depend.

19 Q In this particular situation, would you have driven
20 the five, six miles to Travelers Rest to take a look?

21 A Again, it would depend on the case.

22 Q On this case, if you were handling this case? Megan
23 Baucom came into the office and spoke to you, would you --

24 MR. GHENT: Objection, Your Honor.

25 THE COURT: I sustain the objection. He can't

1 speculate as to what he would do. That's a hypothetical.

2 BY MR. HOLCOMB:

3 Q Let's go ahead and go with the warrant.

4 A Sure.

5 Q Affiant has evidence implicating Defendant in this
6 crime. Is it okay for someone to take a complaint from
7 someone that doesn't know anything about an event? Would
8 they be a witness to something if they weren't there?

9 A We routinely take complaints from people that maybe
10 were not present.

11 Q Okay. Great. But they really don't have a lot of
12 evidence. I mean, they're just passing along hearsay
13 information that may not be correct; is that true?

14 A It could be or it could not be true. That's why they
15 come in and file a complaint and we investigate the case
16 and determined whether what they said is true or not.

17 Q Okay. And investigate a case, what does that mean?
18 What do you then?

19 A We follow up on the complaint and the information
20 that we received from the initial person that came in and
21 gave the report.

22 Q Okay. And that's -- as you're building a case,
23 generally, before you get a warrant, you have a lot of
24 evidence and you take your statements before you actually
25 get a warrant, correct? From an actual victim in those

1 cases, you kind of find out what happened?

2 A Generally, but not in every case.

3 Q But generally, would you say that's within the
4 policies and procedures of the Greenville County Sheriff's
5 Office, to actually talk to an alleged victim on
6 something?

7 A Yes, generally. But not in every case.

8 Q Correct. So generally, you take a statement from the
9 alleged victim before you get the arrest warrant; is that
10 correct?

11 A Again, it depends on each case.

12 Q But generally, in most cases --

13 MR. GHENT: Objection, Your Honor.

14 MR. HOLCOMB: Okay. Fine. Fine.

15 BY MR. HOLCOMB:

16 Q Let's go to the next sentence. The next sentence in
17 the warrant, would you please read that?

18 A Oh, I was waiting for a question.

19 The Defendant is the registered agent for Carolina
20 Home Renovations located in Greenville. That's the second
21 sentence.

22 Q The contract, does it say Carolina Home Renovations
23 or Renovators and BBB and other things like that? Is it
24 Carolina Home Renovators, LLC?

25 A I think they have it.

1 Q Right. But do you remember it being Carolina Home
2 Renovators and BBB --

3 A This one says Carolina Home Renovations.

4 Q Well, that's the license. But the --

5 A I don't know if it says renovators or renovations.

6 Q What does the State regulation say?

7 MR. HOLCOMB: Well, may I see the Defendant's
8 Exhibits again, please?

9 I'm having a hard time finding the contract. Do you
10 have the contract up there?

11 THE COURT: I thought you passed it around.

12 MR. HOLCOMB: Oh, passed it around. Okay. I'm
13 sorry.

14 BY MR. HOLCOMB:

15 Q Assuming, based on that -- and we'll go over the
16 contract --

17 MR. HOLCOMB: Or should we wait until they finish?

18 THE COURT: No. Go ahead.

19 BY MR. HOLCOMB:

20 Q If the contract is written for Carolina Home
21 Renovators, shouldn't that be on that document?

22 MR. GHENT: Objection, Your Honor, that's
23 speculation.

24 MR. HOLCOMB: Okay. Okay.

25 BY MR. HOLCOMB:

1 Q Okay. So Tim Martin wrote that it was -- he got the
2 company wrong based off the State registration and that
3 contract; is that correct?

4 A It appears that he put on the warrant Carolina Home
5 Renovations.

6 Q It says Carolina Home Renovators based on the
7 contract?

8 A Yes, sir.

9 Q So that sentence is technically not correct?

10 A Correct.

11 Q So the second sentence is not correct. Read the
12 third sentence, sir.

13 A Defendant took a payment of \$4,295.03 in the form of
14 a Bank of Travelers Rest check number 1040 from victim.

15 Q Okay. If it wasn't a victim, if you changed the word
16 to customer, it could be -- it's possibly that could
17 happen, too? That sentence could be correct if it said
18 customer, correct?

19 A Are you asking me to speculate?

20 Q No, sir.

21 MR. HOLCOMB: There's nothing on that. All right.
22 So please present that to him.

23 BY MR. HOLCOMB:

24 Q Is that Carolina Home Renovators?

25 A Yes.

1 Q It's not Renovations?

2 A It's not Renovations.

3 Q Is it possible for two corporations to exist at the
4 same time that have similar names?

5 A Absolutely.

6 Q Okay. Great. With different ownership, that kind of
7 thing?

8 A Correct.

9 Q What's the fourth sentence, sir?

10 A Defendant was going to replace victim's roof.

11 Q Okay. Based on the contract, do you see any other
12 repairs -- are you familiar with what we've been talking
13 about on -- that that contract includes other things?
14 Down at the bottom there, it's handwritten. It talks
15 about exterior repairs and such?

16 A Correct.

17 Q Okay. So that fourth sentence should have -- it left
18 out a substantial amount of what was written there,
19 correct?

20 MR. GHENT: Objection.

21 BY MR. HOLCOMB:

22 Q Does that sentence leave out information in the
23 contract?

24 A That sentence talks about the victim's roof.

25 Q Okay. But it leaves out the Defendant was going to

1 replace victim's roof and exterior repairs?

2 A On the contract, it says exterior repairs, stain
3 siding and deck and door.

4 Q Okay. And in the sentence and in that contract -- in
5 that sentence, the Defendant was going to replace the
6 victim's roof and do exterior repairs. Would that be
7 accurate? So the sentence is not exactly -- it left out
8 information? It left out pertinent information?

9 A It did not include the stain siding and deck and
10 paint door.

11 Q So the Defendant -- the corporation that he
12 represented did more than just not replace the roof? They
13 actually did some things, correct?

14 MR. GHENT: Objection.

15 THE WITNESS: I don't know. I did not investigate
16 the case. I don't know.

17 BY MR. HOLCOMB:

18 Q Would the fourth sentence be more complete if it had
19 and exterior repairs?

20 A It appears that it would, yes.

21 Q So the fourth sentence is probably incomplete.

22 What's the next sentence, sir?

23 A The Defendant signed the back of the check and cashed
24 the check.

25 Q Okay. Is there a difference between cashing a check

1 and depositing a check?

2 A I don't think so.

3 Q Well, did you see where it says cashing a check --
4 did you see where Tim Martin testified that you sign the
5 back of it and you get cash in return?

6 A I did.

7 Q And that check was deposited, we've established that,
8 correct?

9 A I don't recall whether it was deposited or not.

10 Q If it was deposited and we had evidence of it, would
11 that make that sentence incorrect if it was deposited?

12 A If it was deposited, it would appear to be incorrect.

13 Q Okay. Thank you. And the next sentence?

14 A Defendant never did any of the work.

15 Q Okay. Looking at the contract at the top right-hand
16 side, the handwriting, do you remember Mr. Martin
17 testifying who put that -- what does it say there
18 handwritten?

19 A It says work started in July.

20 Q Okay. And we've had testimony that it was actually
21 started in May and June, but -- so that would be
22 incorrect, correct?

23 MR. HOLCOMB: Objection, Your Honor.

24 BY MR. HOLCOMB:

25 Q If work started in May and in June, would that be

1 correct?

2 MR. GHENT: Speculation.

3 THE COURT: I'll overrule the objection.

4 THE WITNESS: Could you ask it again?

5 BY MR. HOLCOMB:

6 Q If work started in May and June, the first week of
7 June, it's a three-day period, would that be correct in
8 the July statement?

9 A If it started in May and June and this says work
10 started in July, that would not be correct.

11 Q Okay. Great. So the sixth sentence based on Tim
12 Martin saying that he wrote that there -- did you hear him
13 say that?

14 A I don't recall him saying that.

15 Q Okay. But you've heard testimony that work was done?

16 A I've heard testimony that some work was done, yes.

17 Q Is the last sentence correct of that warrant?

18 A It would not appear to be.

19 Q Appear? Read the last sentence again, please.

20 A The Defendant never did any of the work.

21 Q So that's not correct?

22 A Look back at the previous sentence where it talks
23 about the victim's roof --

24 Q All right. So an officer has --

25 A -- it could mean that he's referring to the victim's

1 roof.

2 Q Here's my question, is an officer allowed to leave
3 out facts? Is that something within the policies and
4 procedures of the Greenville County Sheriff's Office?

5 A No, we like to include facts. But this is a warrant,
6 we don't have to include all of the facts. We just have
7 to include enough facts to have probable cause to obtain a
8 warrant. We don't have to include our whole case in
9 there.

10 Q Well, I understand. But that's not true, is it, the
11 Defendant never did any of the work?

12 A Again, it depends on if you look at the previous
13 sentence in the same warrant where it talks about --

14 Q Correct --

15 A -- to replace the victim's roof. Could he be
16 referring to that? I don't know. I didn't obtain the
17 warrant.

18 Q All right. Well, I disagree on that because there
19 was work done.

20 MR. GHENT: Objection, Your Honor.

21 THE COURT: Yeah, I sustain the objection.

22 MR. HOLCOMB: That's fine. That's fine.

23 BY MR. HOLCOMB:

24 Q So -- but based on the contract that's in reference
25 and the \$4,295, some of the \$4,295 went to the exterior

1 repairs; is that correct?

2 A I have no idea.

3 Q Based on the contract and the money taken. It was
4 \$4,295 issued, correct?

5 A There was a check written for \$4,295, yes.

6 Q And there was a proposal that mentions \$4,295,
7 correct?

8 A Correct.

9 Q And some of that monies applied to those exterior
10 repairs, correct?

11 A I have no idea where that money went to.

12 Q But it wasn't all allocated to the roof? There's no
13 line that says roof, spend \$4,295 to buy the materials,
14 correct?

15 A I don't know.

16 Q Is the contract for more than just the roof?

17 A Yes.

18 Q Okay. And logically, would some of that money go to
19 exterior repairs?

20 A It would appear so, yes.

21 Q Okay. Great. So if that's true, then the sentence
22 is not correct when it mentions the \$4,295? It's a bit
23 misleading. Can we say that looks misleading?

24 A Which sentence?

25 Q The last sentence, The Defendant never did any of the

1 work?

2 A I don't know whether it's misleading or not. Again,
3 you're looking at it -- if you look at that previous
4 sentence where it's talking about the roof and he's making
5 mention of that. I don't know.

6 Q Okay. All right. Do you have any idea how long
7 stain lasts?

8 A No, sir.

9 Q Have you ever stained a deck?

10 A No, sir.

11 Q Do you have a deck?

12 A No, sir.

13 Q Okay. Is it normal to take pictures three years
14 later of an incident that's weather related in such a case
15 as this? You know, you take a police report and you file
16 a warrant and then go on about -- you wait three years to
17 take pictures. Is that normal?

18 A I mean, I've never seen that happen before, no. Not
19 in any of the cases that I've been involved in.

20 Q Just in this case is the only one you're aware of
21 that happening?

22 A That I've been involved in, yes.

23 Q So just me? I'm the only one that you've ever seen

24 --

25 A I mean, I've been involved in other cases where --

1 Q Normally, the first initial pictures where the
2 officers actually go out and take pictures of an alleged
3 crime scene. I'm the first one that they don't, right?

4 A Well, my understanding there was already pictures
5 taken that were received by --

6 Q Well, that's --

7 THE COURT: Don't interrupt the witness.

8 MR. HOLCOMB: Sorry.

9 BY MR. HOLCOMB:

10 Q But I'm the only one that's had that done in three
11 years. How about the condition of bond, have you ever
12 heard of someone having to maintain contact with their
13 arresting officer after getting arrested?

14 A Not with the investigating officer, no.

15 Q It probably violates the Fifth Amendment, the right to
16 remain silent, actual contact, in your opinion?

17 A In my opinion?

18 Q Yes, sir.

19 A How would that violate the Fifth Amendment?

20 Q Well, you have a right to remain silent --

21 MR. GHENT: Objection, Your Honor.

22 THE COURT: I sustain objection.

23 MR. HOLCOMB: Okay. Great.

24 BY MR. HOLCOMB:

25 Q All right. But you've never heard of that condition

1 of bond, right?

2 A Not me personally, no.

3 Q So that's two things that I'm unique on and no one
4 else has ever had happen, right?

5 A No, I said that didn't happen to me. I didn't no one
6 else.

7 Q Right. Right. But you've never heard of those two
8 things happening. How long have you been in law
9 enforcement?

10 A Nineteen years.

11 Q Nineteen years. That's kind of an interesting
12 precedent, isn't it?

13 MR. GHENT: Objection.

14 THE COURT: Stick with the facts, not theory.

15 MR. HOLCOMB: Yes, sir.

16 BY MR. HOLCOMB:

17 Q Do you recall me making you aware that Tim Martin and
18 I had a history that went back and asked you to look up
19 some police reports?

20 A No, I don't remember much of the conversation that we
21 had, to be honest with you.

22 Q Do you guys have a conflict of interest policy in
23 your division?

24 A It depends on what type of conflict you're talking
25 about.

1 Q Can an ex-husband arrest his ex-wife?

2 A It would probably not be wise.

3 Q Okay. How about family members, should you
4 investigate a white collar crime of a family member?

5 A No, you shouldn't.

6 Q Your next door neighbor?

7 A No.

8 Q How about an ex-romantic rival where there was some
9 serious issues?

10 MR. GHENT: Objection, Your Honor.

11 THE COURT: I'll allow the question.

12 Go ahead.

13 THE WITNESS: I mean, if we were aware up front --
14 like in my work, I assign cases, so if I was aware of
15 something up front of any type of conflict of interest
16 that particular investigator might have, I would assign it
17 to a different investigator, yes.

18 BY MR. HOLCOMB:

19 Q Would you like to hear an audio that I told you that
20 Tim Martin and I were in a conflict in that manner?

21 A If you have an audio, I'm sure that I probably said
22 that. It's been four years, I can't remember our
23 conversations specifically.

24 Q Okay. Great. But Tim Martin probably should have
25 been taken off this case? And it is transferred to SLED,

1 correct?

2 MR. GHENT: Objection, Your Honor.

3 BY MR. HOLCOMB:

4 Q Was this case transferred to SLED? Did SLED take
5 over this case?

6 A I don't know.

7 Q It was in your division. You don't know if it was
8 transferred to SLED or not?

9 A No, sir. Because after you complained, made the
10 videos calling me a liar, it was forwarded to the office
11 of professional standards. So after it went to the office
12 of professional standards, I really didn't have any
13 involvement with that case.

14 Q So whenever something goes to the office of
15 professional standards, is it normally -- at that point,
16 is the officer supposed to be taken off of it? If
17 somebody complains that they got beat up, should the
18 officer still be on that case?

19 A It depends on -- case by case, it depends.

20 Q Well, can you see how the officer would get upset if
21 they're reported to internal affairs? That's, basically,
22 what we're talking about, right?

23 A (There was no response.)

24 Q Office of professional standards is known as internal
25 affairs?

1 A Internal affairs, correct.

2 Q All right. And what do they do?

3 A They investigate -- if there's any complaints on
4 deputies on how they handle a case or any type of
5 impropriety, they would investigate that. Anything that's
6 not minor and couldn't be handled by his immediate
7 supervisor.

8 Q Okay. Would altering of evidence, that would be
9 considered a problem, would it not?

10 A If somebody altered evidence, yes.

11 Q Okay.

12 MR. HOLCOMB: I'd like to publish the three pages of
13 the scope to the jury, please.

14 BY MR. HOLCOMB:

15 Q Have you ever been investigated by internal affairs
16 --

17 THE COURT: Wait just a minute.

18 MR. HOLCOMB: The three pages there.

19 THE COURT: Tell Mr. Sims which --

20 MR. HOLCOMB: That one. Yes, sir.

21 Thank you, Mr. Sims.

22 BY MR. HOLCOMB:

23 Q Have you ever been investigated --

24 MR. GHENT: Objection.

25 THE COURT: I sustain the objection.

1 BY MR. HOLCOMB:

2 Q Did you find anything wrong with Tim Martin not
3 taking pictures in this case? As a supervisor, has this
4 case been handled the way you like cases to be handled?

5 A I reviewed it at the time we talked. I spoke with
6 Tim Martin and I was satisfied with the investigation to
7 that point.

8 Q But after the videos, were you still satisfied?

9 A Yes.

10 Q So you think this case has been handled well?

11 A Yes.

12 Q You think it's okay that someone conflicts what they
13 say on the stand whenever they make testimony at one point
14 and then it changes --

15 MR. GHENT: Objection, Your Honor, pitting.

16 THE COURT: I sustain the objection.

17 BY MR. HOLCOMB:

18 Q What crime is it whenever there's -- there's a crime
19 that's committed, if you swear to something and it's not
20 correct, what do you call that?

21 A You talking about perjury on the stand?

22 Q Define it to me.

23 A What you just said, if you lie under oath.

24 Q Or mislead?

25 A That could be considered perjury, also, yes.

1 Q Have you ever seen an officer commit the crime of
2 perjury?

3 A No, sir.

4 Q In 19 years, you've never seen an officer commit
5 perjury?

6 A No, sir.

7 Q Okay.

8 MR. HOLCOMB: I'd like for the rest of these items to
9 be published to the jury.

10 And no further questions.

11 THE COURT: Cross?

12 MR. GHENT: Weighing possibilities, no.

13 THE COURT: You can step down.

14 THE WITNESS: Thank you, Your Honor.

15 THE COURT: You can be excused from subpoena. We
16 appreciate your time.

17 THE WITNESS: Thank you, Your Honor.

18 THE COURT: Has lunch gotten here yet?

19 BAILIFF: Yes, sir.

20 THE COURT: All right. We'll break for lunch. We'll
21 take about a half an hour and -- probably closer to 40
22 minutes. It's 10 till 1:00. We'll try to start back
23 about 1:30. When you come back, be prepared to tell me
24 whether you would like to, if necessary, work Saturday or
25 Monday. If necessary.

1 BAILIFF: Please remain seated until the jury leaves
2 the courtroom.

3 (WHEREUPON, the jury exits the courtroom at
4 approximately 12:48 p.m.)

5 THE COURT: Is Dr. Ernest Martin in the courtroom?

6 MR. HOLCOMB: He is not.

7 May I ask a question, if it please the Court?

8 THE COURT: Yes, sir.

9 MR. HOLCOMB: How am I going to handle testifying in
10 this case. Is he going to ask me questions?

11 THE COURT: No, here's the way I usually handle that
12 pro se. You simply will be on the stand under oath and --

13 MR. HOLCOMB: Just tell a narrative?

14 THE COURT: Just tell a narrative. You know, it's
15 not exactly the best way to put it, but a narrative and
16 then you would be subject to cross-examination. If you
17 stray somewhere, I'm sure, just like any other witness,
18 Mr. Ghent may object. But, basically, you just testify.
19 You just tell us your story is the best way for me to
20 describe it to you.

21 MR. HOLCOMB: Thank you.

22 THE COURT: Okay.

23 MR. GHENT: With respect to Dr. Martin, Israel
24 Hollister, deputy director, was here earlier, along with
25 Ms. Laura Miller. Mr. Hollister advised me that he has

1 tried to get in touch with Dr. Martin, so far has not been
2 able to contact him.

3 THE COURT: Continue to try to contact him.

4 We'll take a break and Mr. Smith, on your behalf, if
5 he can, maybe follow any leads on that.

6 But we'll break until 1:30. And then if we have Dr.
7 Martin available, if not, we'll go forward with any other
8 further witnesses.

9 MR. GHENT: Thank you, Your Honor.

10 MR. HOLCOMB: Thank you, Your Honor.

11 (WHEREUPON, a lunch break was taken.)

12 THE COURT: State ready?

13 MR. GHENT: Yes, sir.

14 THE COURT: Are you ready?

15 MR. HOLCOMB: Yes, sir.

16 THE COURT: All right. Bring the jury in.

17 (WHEREUPON, the jury enters the courtroom at
18 approximately 1:30 p.m.)

19 THE COURT: Call your next witness.

20 MR. HOLCOMB: The Defense calls Wes Smith.

21 THE CLERK: Please come up to be sworn. Place your
22 left hand on the Bible and raise your right hand.

23 WES SMITH, after being duly sworn,
24 testified as follows:

25 THE CLERK: Please be seated and state your name for

1 the record.

2 THE WITNESS: My name is Wesley Smith.

3 THE COURT: Yes, sir.

4 MR. HOLCOMB: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MR. HOLCOMB:

7 Q Where are you employed?

8 A I work for the Greenville County Sheriff's Office.

9 Q What kind of education background do you have?

10 A I have an Associate's in Criminal Justice from
11 Greenville Technical College, a Bachelor's Degree in
12 Criminal Justice Administration from the Bellevue
13 University in Nebraska and, also, a Master's in Public
14 Administration from Bellevue University in Nebraska.

15 Q Okay. Have you been teaching college here in the
16 upstate?

17 A I teach at USC-Upstate.

18 Q What do you teach there?

19 A Criminal justice classes.

20 Q Okay. Great. What documents did you bring with you
21 today?

22 A I brought a stack of letters that I wrote to you and
23 e-mail communications and other documents that you have
24 sent to the sheriff's office.

25 Q Have you requested that -- did I also request

1 anything on statistics on internal affairs or office of
2 professional standards?

3 A Not in my subpoena.

4 Q Not in your subpoena. I certainly wanted that,
5 though. So your department, the office of professional
6 standards, is that also known as internal affairs?

7 A It is one component of the office of professional
8 standards, which is not what it's called anymore.

9 Q The office of professional standards, what's it
10 called now?

11 A Office of professional responsibilities.

12 Q Nice. What does that office do? Can you describe
13 your duties?

14 A We conduct unit inspections to ensure policy
15 conformance by the units and components of the sheriff's
16 office. We conduct administrative reviews and complaints
17 of employee conduct. And we also provide proper control
18 services and comply with legal process that's sent to the
19 sheriff's office.

20 Q Okay. So basically, you're auditing behavior and
21 making sure it's within the policies, they're hitting a
22 high level performance; is that correct?

23 A Not a high level of performance, but a level of
24 performance in compliance with the policies and standards
25 by which we are accredited.

1 Q Okay. Are you accredited on a national level?

2 A We are, by the Commission for Accreditation of Law
3 Enforcement.

4 Q What does that mean?

5 A What does it mean?

6 Q Yes, sir. That you follow standards that are the
7 same as Los Angeles Police Department or Chicago or
8 Atlanta, Charlotte, that type of thing, that are other
9 major cities?

10 A There are other major cities that are accredited by
11 CALEA, yes. And we follow those same standards.

12 Q And pretty much the standards for investigation are
13 the same everywhere; is that correct?

14 A No, they're based on local statutes and law and
15 regulations in those states and jurisdictions.

16 Q Okay. Are you personal friends with Mr. Tim Martin?

17 A I've known Mr. Martin since his first day at the
18 sheriff's office.

19 Q When was that?

20 A I think it was sometimes in the 1990's.

21 Q Possibly the 80's?

22 A Maybe.

23 Q Okay. How long have you been with Greenville County
24 Sheriff's Office?

25 A Over 30 years.

1 Q Thirty years. Great. So you guys are Facebook
2 friends, you hang out a little bit?

3 A No, we don't hang out.

4 Q But your Facebook friends?

5 A Yes.

6 Q Do you recall whenever -- do you recall that I've
7 made complaints against Tim Martin about the manipulation
8 of evidence?

9 A Yes.

10 Q Did you take a look at that?

11 A I did.

12 Q You found it not to be warranted.

13 A It's not. It's not evidence tampering.

14 Q Okay.

15 MR. HOLCOMB: If you don't mind, may I get the top
16 document there, please?

17 I'd like to submit three pages of the McGinn scope.

18 BY MR. HOLCOMB:

19 Q Take a look at this, please. That's a scope that has
20 no marking from the police department, except for the case
21 number. It doesn't have a bates stamp on it. You see
22 that?

23 A Yes.

24 Q And this is Defendant's Exhibit No. 12. Would you go
25 to the third page on there, please.

1 A (The witness complied.)

2 Q All right. Go to the third page on the other one and
3 compare them side by side, please?

4 A (The witness complied.)

5 Q Can you see where the page number is missing on it?

6 A Yes.

7 Q Okay. And can you see that it's been altered, that
8 it's turned clockwise one turn, one-quarter turn? The
9 case number, the date stamps have been turned one-quarter
10 turn, can you see that?

11 A I do.

12 Q So there's evidence that that page was changed in
13 some fashion; is that correct?

14 MR. GHENT: Objection, Your Honor --

15 THE COURT: I'll allow the question. Overruled.

16 THE WITNESS: What that indicates is that somebody
17 put a time and date stamp on it and made a photocopy of
18 it. Obviously, scanned it, because there's a scan mark at
19 the top. And the case number was put on the side of the
20 page because you can no longer see it at the top on the
21 documented that's admitted into evidence. It's
22 substantially the same document except for the addition of
23 those recordkeeping and identification marks.

24 Q Well, it's missing a page number, for one thing

25 A Well, that's because it's -- it appears to be a

1 photocopy of this document that's been reduced.

2 Q Reduced by the sheriff's office?

3 A I don't know who reduced it.

4 Q Well, that's the way it came in the discovery, so.

5 A Well, if it came from discovery, then it came from
6 the solicitor's office and not the sheriff's office.

7 Q Okay. Thank you. If those numbers on the
8 Defendant's Exhibit on the right, on your left --

9 A Yes.

10 Q Go ahead and go back to Page 3.

11 A Okay.

12 Q Do you recall me sending you pictures with a quarter
13 for reference and a scale for those three stamps? Do you
14 recall that?

15 A I do.

16 Q Can you explain why those three stamps have been
17 reduced to different rates, 27 percent, 31 percent, where
18 they're different?

19 A I have no explanation.

20 Q Okay. Does that seem odd to you?

21 A No.

22 Q That a document on a page that was -- if it's been
23 reduced down that stamps would be at three different rates
24 of reduction, that doesn't seem odd to you?

25 A No.

1 Q Could you see how a layperson might see --

2 MR. GHENT: Objection, Your Honor, speculation.

3 THE COURT: I sustain the objection.

4 BY MR. HOLCOMB:

5 Q So in your -- what is Greenville County's policy on
6 conflicting out a case, I mean, on relationships with
7 somebody? At what level do you decide that you're not
8 supposed to be handling a situation such as that kind of
9 investigation? So you can't investigate your wife or an
10 ex-wife or an ex-husband or your brother as an
11 investigator; is that correct?

12 A That would be correct.

13 Q Okay.

14 A But there's no legal prohibitions.

15 Q We're not talking prohibitions. We're talking about
16 professional standards and what your office would consider
17 correct behavior and not correct behavior. Is that fair
18 to say?

19 A There's not a policy against it, no.

20 Q There's not a policy against it, okay.

21 Did you consider some of the e-mails that were sent
22 to you a little nutty, a little quirky?

23 A Yes.

24 Q Crazy, if you will, mentally ill?

25 A Yes.

1 Q And you found one of those, in particular, to be
2 threatening; is that correct?

3 A I was disturbed by the content of it, yes.

4 MR. HOLCOMB: May I put that scope into evidence,
5 those three pages, please?

6 Do you have any objection?

7 MR. GHENT: No objection. Can we clip them together?

8 MR. HOLCOMB: Yes, sir.

9 I'd like to publish those two sets of documents for
10 the jury to go over.

11 MR. GHENT: Without objection.

12 THE COURT: In without objection.

13 (WHEREUPON, Defendant's Exhibit No. 23 was admitted
14 into evidence.)

15 MR. HOLCOMB: Thank you.

16 Mr. Bailiff.

17 MR. GHENT: Can I see them?

18 BY MR. HOLCOMB:

19 Q Let's go over the arrest -- do you handle training
20 classes for officers? Do you do like continuing education
21 classes? I mean, I know you're teaching at the
22 university, USC-S, I don't know what it's called now.

23 What's it called now?

24 A University of South Carolina Upstate.

25 Q Upstate, that's right. Do you also do training at

1 the Greenville County Sheriff's Office?

2 A I train in the post-academy class. I conduct a
3 course on civil discovery -- excuse me, on discovery and
4 also on civil liability.

5 Q Wow. So what is the process -- so are you the
6 supervisor of this division?

7 A No, I'm not.

8 Q Who is the supervisor of this division?

9 A Now, it's Lieutenant James Beaver.

10 Q Okay.

11 A At the time all of this was taking place, it was
12 Lieutenant Brad Stepp. He's no longer with the sheriff's
13 office.

14 Q You're saying that -- let me clear on that. You're
15 saying that -- so James Beaver was not -- who was the
16 supervisor at that time?

17 A As I recall, if I've got my time frame correct, it
18 would be Lieutenant Brad Stepp.

19 Q Okay. He's also on this e-mail. Okay. I wasn't
20 sure. I just wanted to make sure that that was accurate.
21 Thank you. So someone calls in -- did you bring them in
22 to look at this case?

23 A No.

24 Q You didn't bring in the lieutenants?

25 A No.

1 Q Was information forwarded to them?

2 A They were briefed on it.

3 Q But they didn't go over it?

4 A No.

5 Q Okay. Who supervises your material whenever you do
6 things?

7 A I have a sign off by the lieutenant for the reports
8 that I write that are related to part of my job.

9 Typically, my job dealt with a personal contact with the
10 sheriff or the chief deputy on a daily basis about my
11 portion. My responsibilities are limited in most cases.

12 Q So you don't normally investigate officer misconduct?

13 A That's right.

14 Q Why would you come in on this case in particular?

15 A Because they were asking me -- when I was first
16 brought in on it, they were asking me the process
17 involving getting a governor's warrant for extradition for
18 somebody from another state.

19 Q But you do those on a regular routine basis, don't
20 you?

21 A No.

22 Q You don't do fugitive warrants on a routine basis?

23 A The support division does, but not the office of
24 professional standards.

25 Q Okay. But you came in and investigated your friend,

1 Tim Martin?

2 A No, I didn't do an investigation. I looked at what
3 you had complained on in your letter to Investigator Laura
4 Jones.

5 Q So you didn't --

6 MR. GHENT: Objection, let him finish.

7 MR. HOLCOMB: I'm sorry.

8 THE WITNESS: And after I reviewed what you were
9 stating about the case, I wrote you a letter where I
10 informed you that we had been in contact with the
11 governor's office and we were proceeding with the
12 extradition on the charges. And as far as we could tell
13 at this point, the matters that you were bringing up,
14 there was no violation of any policy or law.

15 BY MR. HOLCOMB:

16 Q Okay. And I turned myself in a few days after that,
17 correct?

18 A Yes. You told me never mind with the governor's
19 warrant, you would turn yourself in the next day.

20 Q And I did?

21 A Yes, as far as I know.

22 Q Okay. So I wasn't trying to evade service on this
23 issue?

24 A Prior to the letter I wrote to you, I think you were.

25 Q Was it a few days after I had been released from the

1 jail in North Carolina?

2 A I'm not sure exactly.

3 Q To the best of your knowledge? Okay. All right. So
4 this warrant here, we're going to go over this warrant.
5 You've reviewed this warrant?

6 A I've seen it before, yes.

7 Q Whenever I made a complaint with the internal affairs
8 --

9 MR. GHENT: Your Honor, at this time, I would object
10 Rule 403. This is, basically, matters that are
11 consideration -- that are outweighed because of
12 considerations of undue delay, waste of time, needless
13 presentation of cumulative evidence. We're reploting the
14 same field.

15 THE COURT: Well, I overrule the objection.

16 MR. GHENT: Yes, sir.

17 MR. HOLCOMB: Thank you, Your Honor.

18 BY MR. HOLCOMB:

19 Q Did you give a -- whenever you do an internal affairs
20 investigation, does that get a case number?

21 A Not all the time, no.

22 Q Why would it not?

23 A Because we -- in the manner in which you made your
24 complaint, we reviewed it, we talked to the officer --

25 Q I'm not -- I'm sorry. I'm not asking you --

1 A Sorry, I'm trying to answer your question.

2 Q I understand, but you're not. The question is -- the
3 question is this. Do you -- whenever you investigate a
4 case, not mine in particular, do you generally give it a
5 case number?

6 A If we conduct an investigation, we do, yes.

7 Q So in my case, you did not conduct an investigation?

8 A It depends on how you want to define what an
9 investigation is. You never came in and filed a formal
10 complaint. You wrote a letter complaining about a
11 process. We looked into your complaint -- the process and
12 we found out -- or determined based on what you were
13 complaining of at that time that there was not a violation
14 conducted by our investigator in this case.

15 Q What is -- define investigation?

16 A A person comes in and files a formal complaint, signs
17 their complaint, gives a statement, then we proceed from
18 there.

19 Q Okay. But in the course of an investigation, you
20 want to talk to an alleged victim -- or a victim?

21 A Generally, we do that when they make their complaint.

22 Q Okay. And in this case, that wasn't done until after
23 the arrest warrant, correct?

24 A This arrest warrant had been issued prior to you even
25 filing -- trying to make your complaint.

1 Q Right.

2 A That's right.

3 Q Pardon me for just one moment, please. If Mr. Martin
4 had not spoken with the alleged victim in this case and
5 had spoken with the complainant that was in prison -- are
6 you familiar with my grievance on that?

7 A To a limited degree.

8 Q So Mr. Martin took a statement from someone that was
9 not an actual party to anything and she was in prison when
10 work was done on her parents' house. And if he didn't go
11 any further than that, didn't drive over there, even if he
12 lives just like is mile or so, or whatever, five miles
13 away --

14 MR. GHENT: Objection, Your Honor, that assumes facts
15 that aren't --

16 THE COURT: All right. Start over.

17 BY MR. HOLCOMB:

18 Q So if Mr. Martin took a complaint from someone that
19 had nothing to do with the case, nothing whatsoever to do
20 with what he's doing at that point, but he took a
21 statement from her. She's doing it on behalf of her
22 parents for whatever reason, and he did not go and
23 investigate this over the course of four or five months.
24 And he had plenty of time, there was no rush. Didn't take
25 the time to get in the car -- which the car is provided

1 for him to go out into the field, not to just sit in
2 office, correct?

3 A Yes, he has a car.

4 Q And the car is provided for investigative purposes,
5 correct?

6 A That's correct.

7 Q All right. And in order to do a thorough job on
8 something, you really should get as many facts as possible
9 before you, shouldn't he?

10 A Well, you should have enough evidence to where you
11 could go to the Magistrate and present your case for a
12 warrant and a judge determine whether or not you have
13 probable cause.

14 Q Okay.

15 A Can I finish? It doesn't require that you do every
16 step of an investigation before you seek a warrant. There
17 are many occasions where somebody is arrested on probable
18 cause and then the investigation continues --

19 Q Well, I'm not asking about probable cause --

20 MR. GHENT: Objection, Your Honor, he's interrupting
21 the witness.

22 THE COURT: Sustained. Let him answer.

23 THE WITNESS: There are many cases where you will get
24 to the point where you've obtained probable cause. And
25 then after the arrest, continue to investigate your case

1 until you've established proof beyond a reasonable doubt.

2 Q Okay. All right. Is it okay to leave out pertinent
3 facts in a case?

4 A At what point?

5 Q At any point? Is it okay to look at something and be
6 like well, I'm not interested in this information, I'm
7 interested in that information?

8 A It depends on what you're looking at at the time.

9 Q Well, we're talking about this case, in particular?

10 A This is a broad stroke on the brush to answer your
11 question that way. It depends on what part of the
12 investigation you're looking at at the time whether or not
13 you want to focus on a particular fact or not.

14 Q All right. What I'm asking now is -- I just lost
15 that thought. So minimum standards is what you're
16 interested in. If they drop below that, what happens on a
17 minimum standard? What happens if -- so this is the
18 lowest standard that you can possibly run off of. This
19 warrant right here is probably the lowest standard for
20 internal affairs or for your office? Or is there
21 something below this? I guess, the next step would be to
22 issue a warrant without even talking to a complainant.
23 Would that be lowest standard?

24 MR. GHENT: Objection, Your Honor, the question is
25 totally confusing.

1 MR. HOLCOMB: Okay.

2 BY MR. HOLCOMB:

3 Q You're talking about minimum standards on probable
4 cause. And in this case here, he took a complaint from
5 someone that had never met anyone involved other than her
6 parents. And that's okay within the policies and
7 procedures of the Greenville County Sheriff's Office,
8 correct? And you're saying that probable cause was met,
9 correct?

10 A I'm saying that if you have sufficient evidence,
11 facts, evidence, circumstances that would lead a
12 reasonable person to believe that the person accused has
13 committed a crime and you present those facts to the
14 Magistrate and the Magistrate finds that you have
15 sufficient evidence to support probable cause, then you've
16 conducted a proper investigation up to that point.

17 Q Okay. Talking to a complainant without actually going
18 there, is that -- is that not the minimum it can be?

19 MR. GHENT: Objection, Your Honor.

20 THE COURT: I overrule the objection.

21 MR. HOLCOMB: Overrule?

22 THE COURT: Go ahead. Answer that.

23 THE WITNESS: You can talk to a complainant and not
24 go to a scene or go to a specific location. And in
25 talking to the complainant develop enough evidence to

1 support probable cause.

2 BY MR. HOLCOMB:

3 Q But if the victim is available, shouldn't you talk to
4 them?

5 A You don't have to.

6 Q So this is the minimum standard? This is the lowest
7 standard possible, correct?

8 MR. GHENT: Objection, argumentative.

9 THE COURT: I'm allow the question. Go ahead.

10 THE WITNESS: To prosecute a person the lowest
11 possible standard is probable cause. Whatever establishes
12 that evidence to support probable cause is the minimum
13 standard. All you have to do to establish probable cause
14 is establish facts, evidence and circumstances that would
15 lead a reasonable person to believe that the person
16 accused committed a crime. And that's the lowest
17 standard. It doesn't matter who you talk to. That's the
18 lowest standard.

19 BY MR. HOLCOMB:

20 Q Okay. So what would be below that standard, issuing an
21 arrest warrant without talking to anybody?

22 A There are times when you have probable cause without
23 talking to anyone?

24 Q But you have to see something in order to do that,
25 correct?

1 A Yes.

2 Q But in this situation, there is no standard below
3 this?

4 MR. GHENT: Objection, Your Honor. In any situation,
5 there is no lower standard in the law. Probable cause is
6 it.

7 THE COURT: I sustain the objection.

8 MR. HOLCOMB: Okay.

9 BY MR. HOLCOMB:

10 Q Do you obtain arrest warrants?

11 A Not anymore.

12 Q But in the past -- how many arrest warrants do
13 Magistrates generally review and decide that there's not
14 probable cause on?

15 A I don't know.

16 Q Would you say most of the -- would you 99 percent are
17 approved or would you say 25 percent are approved or
18 50 percent were approved? Whenever you were an officer,
19 how many warrants were turned down?

20 MR. GHENT: Objection, Your Honor, speculation. He
21 just said I don't know.

22 THE COURT: I'll allow the question.

23 THE WITNESS: And the answer again is I don't know.

24 BY MR. HOLCOMB:

25 Q But they do turn them down based off the face of it?

1 A Sometimes, yes.

2 Q Is it rare?

3 A It depends on the warrant and depends on the judge.

4 Q I'm talking about in general -- so you have judges
5 that are more lenient on doing that than others?

6 A Every judge has a different interpretation of what --
7 you may present evidence to one Magistrate and then this
8 Magistrate will say no, you don't have probable cause.

9 And you can also submit that same affidavit and evidence
10 to another Magistrate and he would find that there was
11 probable cause. The question is, is there enough evidence
12 to convince a reasonable person to believe it. And that's
13 a subjective opinion of a judge.

14 Q Okay. All right. But some judges just rubber stamp
15 everything, don't they?

16 MR. GHENT: Objection.

17 THE COURT: I overrule the objection.

18 THE WITNESS: I would never say that a judge rubber
19 stamps a warrant.

20 BY MR. HOLCOMB:

21 Q But it happens?

22 A I would never say that a judge rubber stamps a
23 warrant.

24 Q All right. Fair enough. Fair enough. All right.
25 I'd like to go over this warrant with you line by line?

1 A All right.

2 MR. GHENT: Your Honor, objection, Rule 403.

3 THE COURT: I overrule the objection.

4 BY MR. HOLCOMB:

5 Q All right. Starting with affiant has evidence
6 implicating the Defendant in this crime?

7 A Okay.

8 Q What is the next sentence?

9 A The Defendant is a registered agent for Carolina Home
10 Renovations located in Greenville.

11 Q Okay. In that packet, the last page, what is that --
12 so the things that I handed you. That's State's Exhibit,
13 two pages stapled together?

14 A Right.

15 Q And that's from the Secretary of State, correct?

16 A That's what it says?

17 Q It's exhibit what?

18 A Thirteen.

19 Q Thirteen. And what does that say -- what does that
20 say, basically? What is that?

21 A It's a search of -- file search to retrieve documents
22 of the economy of the business and entities online.

23 Q Okay.

24 A For Carolina Home Renovators, LLC.

25 Q Okay. Great. And an LLC is generally more than one

1 person running an LLC. Isn't it legal or your
2 understanding that an LLC has to be two or more people?

3 A No.

4 Q So you think an LLC can be one person only?

5 A Yes, it can.

6 Q Okay. Well, that's not what I've been told. But a
7 corporation has its own rights and its own
8 responsibilities and it's a separate entity than a person;
9 is that correct?

10 A I don't understand your question.

11 Q A corporation has personhood. Have you heard that
12 before?

13 A Yes.

14 Q So that corporation also has a personhood. Carolina
15 Home Renovators is not exempt from that, correct?

16 A It's a corporation.

17 Q So it has personhood?

18 A It's a corporation.

19 Q Thank you. And who's the registered agent for that?

20 A InCorp Services, Inc.

21 Q Okay. So the sentence number two is not correct in
22 that warrant; is that right?

23 A If this is the document that this warrant was based
24 on, then it's incorrect. That's if this document is what
25 this warrant was based on.

1 Q Well, the warrant has two errors in it. It's
2 Carolina Home Renovators and not Renovations --

3 MR. GHENT: Objection, Your Honor.

4 THE COURT: Ask him the questions, don't -- you're
5 testifying now. Just ask him questions.

6 MR. HOLCOMB: Okay.

7 BY MR. HOLCOMB:

8 Q Is there a difference between -- go to the -- find
9 the contract or the proposal. There it is. What's the
10 name of the company on there?

11 A Carolina Home Renovations.

12 Q Are you sure?

13 A It says here at the top, Carolina Home Renovators.

14 Q Renovators?

15 A Yes.

16 Q Not Renovations?

17 A I misspoke. I apologize.

18 Q Okay. Great. So that means the second sentence in
19 that warrant is incorrect in reference to this contract?
20 Carolina Home Renovations has nothing to do with that
21 contract.

22 A All this says is that you're a registered agent of
23 the contract. This is just a heading on a contract.

24 Q It says I'm registered agent for Carolina Home
25 Renovations?

1 A That's what the warrant says.

2 Q Correct. And does Carolina Home Renovations have
3 anything to do with Carolina Home Renovators?

4 A No. Well, if you're going to be that way, no.

5 Q So second sentence is incorrect?

6 A Right.

7 Q As it stands. Go to the next sentence, please.

8 A Defendant took payment of \$4,295.03 in the form of a
9 Bank of Travelers Rest check, number 1040 from the victim.
10 The Defendant was going --

11 Q Okay. Is that a sentence? Is that where the period
12 is?

13 A That is where the period is, yes.

14 Q So the Defendant took a check in the form of -- a
15 check, \$4,295.03 from this alleged victim, is that what
16 that says?

17 A That's what it says?

18 Q Is there anything illegal -- take the word victim out
19 of it. Is there anything illegal about taking a check
20 from someone?

21 A No.

22 Q Okay. So number two, there's no evidence at that
23 point on that. So the next sentence, number three? The
24 next sentence after that.

25 A Yeah, but what you just said is not accurate.

1 Q How is it not accurate?

2 A That doesn't have anything to do with the warrant.

3 Q No, no, what I'm asking is, that sentence, if you
4 take the word victim and you change it with the word
5 customer?

6 A Yeah.

7 Q Defendant took a check for \$4,295.03 from the
8 customer?

9 A Yes.

10 Q Okay. If his role with Carolina Home Renovators,
11 which he had 25 percent interest -- so the Defendant took
12 a check of \$4,295.03 from a customer, would that also be a
13 fair way of looking at this situation?

14 A Yes, but that is part of this warrant.

15 Q Correct.

16 A And it is part of the --

17 Q What I'm saying is, is there evidence of a crime in
18 that sentence?

19 A It's part of evidence of a crime.

20 Q Okay. But the sentence by itself is not a crime?

21 A The sentence by itself is not a crime, but it's a
22 component of the offense.

23 Q Okay. Next sentence, please.

24 A The Defendant was going to replace the victim's roof.

25 Q Okay. Taking a look at the contract, the roof is a

1 part of that contract, correct?

2 A Yes.

3 Q All right. Is there anything written down at the
4 bottom? In handwriting?

5 A In handwriting?

6 Q Yes, sir.

7 A Well, there's signatures in handwriting.

8 Q No, above that.

9 A And then there's total due on completion.

10 Q No, no, in handwriting. Go on up, the extra work.

11 A This?

12 Q Yes.

13 A SC54106, license and registration.

14 Q No, is there something about exterior repairs, paint
15 doors, stain siding?

16 A Yes.

17 Q Would you read that, please?

18 A Exterior repairs, stain siding and deck and paint the
19 door.

20 Q Okay. Have you ever hired a professional contractor
21 on your home?

22 A I have.

23 Q And you've dealt with a lot of contractors in your
24 career, things like this, situations like this?

25 A No.

1 Q You haven't?

2 A No.

3 Q Okay. You understand that if a home has -- if a
4 contractor is out working on something and something comes
5 up that they can't foresee, that that work has to be
6 addressed. For instance, someone taking shingles off the
7 roof and the --

8 MR. GHENT: Objection, he's testifying.

9 MR. HOLCOMB: No, I'm --

10 THE COURT: You're giving him a hypothetical now.
11 Sticks to the facts to this case. No hypotheticals.

12 MR. HOLCOMB: All right.

13 BY MR. HOLCOMB:

14 Q All right. Let's go to the next sentence.

15 A Defendant was going to replace the victim's roof.
16 Then it says, the Defendant signed the back of the check
17 and cashed the check.

18 Q All right. Is there a difference between cashing a
19 check and depositing a check?

20 A Semantics, yes.

21 Q Wouldn't it be converting it to cash? If it says
22 cashed, it would be cash?

23 A It depends on your term of art and how you want to
24 write it.

25 Q But it's not as accurate as deposited a check,

1 correct?

2 A Depends on your term of art.

3 Q If that check was deposited, which we've had
4 testimony to it, would that make that sentence not as
5 accurate?

6 A It would be less accurate.

7 Q Okay. Great. And the next sentence?

8 A The Defendant signed the back of the check and cashed
9 the check. The Defendant never did any of the work.

10 Q All right. Let's take a look at the contract real
11 quick. Top right-hand corner, handwriting above the date
12 and the two salespersons' names?

13 A Right.

14 Q What does it say?

15 A Work started in July.

16 Q Have you been here to hear that Tim Martin testified
17 that he wrote that?

18 A No.

19 Q Okay. If Tim Martin wrote that, that work started in
20 July, would that make the last sentence of that warrant
21 accurate?

22 A What Tim wrote on that document at the time he was
23 doing his investigation doesn't have any effect on the
24 accuracy of this warrant.

25 Q It does. Never did any of the work and work began in

1 July. How can work begin if there never was any work? So
2 does that make the last sentence incorrect? Without going
3 into speculating what Tim Martin does.

4 A On its face, it makes it look less accurate.

5 Q So it's not accurate?

6 A On its face, it makes it look less accurate.

7 Q All right. So your testimony is that four things do
8 not look accurate?

9 A No.

10 Q Okay. Do you remember filing a complaint with Ramon
11 Rivera about allegations of a threat on 8/20/2013?

12 A My name is listed as a victim in the report, yes.

13 Q Because of a video?

14 A Because -- well, that and an e-mail, I think, that
15 was sent to University of South Carolina Upstate.

16 Q It doesn't say anything in the report about an
17 e-mail. Do you have the e-mail? I haven't heard about an
18 e-mail from that time.

19 A I know about an e-mail that you sent to Upstate
20 involving me.

21 Q You mean to work?

22 A Yeah.

23 Q Okay. And it was threatening?

24 A You made disparaging words about my character.

25 Q Slander?

1 A Yes.

2 Q But no threats?

3 A No, I didn't take it as a threat.

4 Q But you took this video as a threat?

5 A I was told to give my information to Rivera for the
6 purpose of documenting it in the report. They had to list
7 me one way or the other and I think I'm listed as a
8 victim.

9 Q Okay. And did you find the video threatening?

10 A I found it very concerning.

11 Q But not necessarily threatening or intimidating?

12 A I didn't like it.

13 Q Okay. Threatening or intimidating?

14 A You could see it that way, yes. Depends on -- if
15 you're asking me, yeah, I can see it that way. But
16 generally, I'm not a scared person.

17 Q Right. I, certainly, hope police officers aren't
18 scared. That's a good thing that they don't scare easily.
19 I'm sorry, I shouldn't have gone into that.

20 Let's finish up with the evidence that was in there.
21 All those documents were dated the same date outside the
22 contract -- I mean, the warrant, the contract. What other
23 documents are there from the same -- and look at the time
24 stamp date on there, February 5th. 5-February on the
25 right-hand side. No, no, not on the warrant, on the

1 contract?

2 A It doesn't look like it's 5 February to me -- oh,
3 there's a dash by it. Yeah, 5-February.

4 Q And the check, what date is that?

5 A Five February.

6 Q And the next one?

7 A Five February.

8 Q What is that next one?

9 A That next document is a business review from the
10 Better Business Bureau.

11 Q What exhibit is that?

12 A Eleven.

13 Q Okay. Let's stick with that for a second, the BBB.
14 Which company is listed there?

15 A Carolina Home Renovators, LLC.

16 Q Does it have my name specifically written on it -- I
17 mean, printed with the review, not written, but is my name
18 in there for the BBB?

19 A No.

20 Q Okay. Go on down a little bit towards the bottom
21 there. You're going to see a customer summary section
22 there at the bottom section?

23 A Right.

24 Q What does it say about complaints?

25 A Zero complaints closed with the Better Business

1 Bureau in the last three years.

2 Q Okay. So don't you think that a customer that was
3 upset should have gone to the Better Business Bureau or
4 the licensing board or somewhere before they went to a
5 police office to get a warrant?

6 A No, they don't have to.

7 Q I know they don't have to. We're still talking about
8 minimum standards here. I mean, the lowest possible place
9 you could start. What I'm asking is --

10 MR. GHENT: Objection, Your Honor. He's arguing.

11 MR. HOLCOMB: I'm not. I don't --

12 THE COURT: Just rephrase.

13 BY MR. HOLCOMB:

14 Q All right. Go ahead and go to the next document past
15 the BBB.

16 A Okay.

17 Q Which one is that?

18 A This is the --

19 Q No, is there a licensing document in there?

20 A Secretary of State is all.

21 Q We don't have the licensing on there? The LLR?

22 A Yes, I do, right here, Exhibit No. 4.

23 Q Okay. What does that say, basically?

24 A It says, Dean A. Holcomb, Carolina Home Renovations.

25 Q Does it say I was licensed at the time of this

1 contract?

2 A It says a registration number. And it says licensee.

3 Q Does it say that I was bonded and licensed at the
4 time of the contract?

5 A It says bond on file.

6 Q Okay. On 5/25/2012, I was licensed and bonded; is
7 that correct?

8 A I imagine. I think. I don't know.

9 Q That's what it says.

10 A No, it doesn't say that. It says your bond expires
11 on November 14th, 2012.

12 Q Of 2012, six months later, it expires?

13 A That's correct.

14 MR. HOLCOMB: I'd like to publish those to the jury
15 once again, please, all those.

16 BY MR. HOLCOMB:

17 Q So in your opinion, there's also evidence of an
18 excellent company, isn't there?

19 MR. GHENT: Objection, Your Honor.

20 THE COURT: I sustain the objection. That's asking
21 for a conclusion.

22 BY MR. HOLCOMB:

23 Q Okay. So in the video of the tampering with evidence
24 video -- so at no point did you investigate the tampering
25 of evidence? You didn't look at the sizes and things

1 reduced? You didn't open a file on my complaint? Do you
2 know about the girlfriend connection that I complained
3 about? Did you go into any part of that?

4 A Yes, I do know about that.

5 Q Okay. You didn't think that was relevant?

6 A No. Because at the time you made that complaint,
7 this investigation was concluded.

8 Q So by 8/20/2013, the investigation had been
9 concluded?

10 A That led to your arrest, as far as I know, yes.

11 Q When was Tim Martin taken off the case? Do you know
12 if SLED got involved? When was Tim Martin taken off the
13 case?

14 A I don't know that SLED -- to say that Tim was taken
15 off the case is correct. I would say that the case was
16 turned over to the SLED at the solicitor's office request.

17 Q Okay. Do you know about what time that was?

18 A I don't remember.

19 Q Was that about the time that this threat report was
20 filed? SLED was involved in the threat afterwards, right?

21 A I don't remember exactly when. I can't testify to
22 something I don't remember exactly.

23 Q Okay. Okay. In the course of an investigation, when
24 is the best time to take pictures?

25 A Depends on your investigation and where you are at?

1 Q Well, in the beginning of an investigation when a
2 complaint is filed, when is the best time to take
3 pictures?

4 A It depends on when you get to the point where you can
5 take pictures or if it's a possibility for you to take
6 pictures.

7 Q So that's the best time to do it?

8 A Yeah, you would want to take them as soon as you can
9 as soon as you get to that point, yes.

10 Q Would three and a half years be too long for taking
11 pictures of something in most cases?

12 A If that's when you got to the point from where the
13 complaint was brought to you or when the evidence was
14 brought to you, then you have no choice but to take it
15 when it's brought to you. And if that's three and half
16 years after an event occurred, then that's when you take
17 the pictures.

18 Q Okay. What I'm asking is, in this particular case,
19 Tim Martin got the case in January of 2013 and the
20 pictures were taken in June of 2016, three and a half
21 years later. Does that seem like a long time on stain on
22 a house to take pictures? I mean, would you tell your
23 college students that they should take pictures three and
24 a half years later on a house -- on a home improvement
25 project three years later, three and a half years later?

1 Is that something you would --

2 A It depends on what I was trying to prove when I took
3 the pictures.

4 Q Do you know how long stain last on a home?

5 A I have no idea.

6 Q Would one year surprise you?

7 MR. GHENT: Objection.

8 THE COURT: I sustain the objection.

9 MR. HOLCOMB: All right. Sorry, Your Honor. I don't
10 mean to be so difficult on this.

11 BY MR. HOLCOMB:

12 Q What part of the video did you find so upsetting?

13 MR. GHENT: Objection, Your Honor, he's already been
14 over that.

15 THE COURT: I'll allow it. Just don't go over the
16 same thing.

17 BY MR. HOLCOMB:

18 Q What part of that video did you find upsetting?

19 A That it was a comedic attempt to deal with a serious
20 matter by ridiculing -- what I remember about it,
21 ridiculing a court of its authority and by ridiculing the
22 serious nature of an investigation.

23 Q Is that against the law?

24 A It's not.

25 Q So mocking you is not against the law? Freedom of

1 speech.

2 A It is not. It is freedom of speech.

3 Q But it just kind of made you mad.

4 A I would have appreciated you much more if you had
5 taken it more seriously and not published a cartoon of the
6 incident.

7 Q Okay. But it does come across a little crazy,
8 doesn't it?

9 A It comes across as mocking.

10 Q But most sane people wouldn't do that, would they?

11 MR. GHENT: Objection, Your Honor.

12 BY MR. HOLCOMB:

13 Q In that police report, it talks about a video with
14 gunshots. And you found that threatening? Do you recall
15 that video?

16 A Yes, I do.

17 Q All right. And you didn't see any reason to find
18 that disturbing?

19 A To me --

20 Q That Tim Martin did something wrong? You saw nothing
21 possible that Tim Martin did wrong on that?

22 A That's two different questions.

23 Q Okay. I take the question back. After watching the
24 video, did you examine this thing and go into it and go
25 Tim, why is this reduced at this percent and this one

1 reduced at this percent and this one reduced at this
2 percent?

3 A No, I did not.

4 Q Why not?

5 A Because you didn't come and renew your complaint.
6 And you did not -- in the manner in which you chose to
7 publish this or to make an issue with it, it didn't seem
8 to me that you were taking your complaint seriously
9 either.

10 Q How many complaints go through internal affairs a
11 year?

12 A A lot.

13 Q How many -- on your website, there's a certain number
14 published of how many complaints you actually issue. How
15 many is that, do you know?

16 A Don't know.

17 Q Would 34 be surprising to you?

18 A No, it would not.

19 Q So out of all the hundreds of complaints, 34 which
20 you actually open cases on, correct?

21 A Well, that's not an exact -- an accurate statement of
22 information that's there, what you just said.

23 Q In 2013, 34 complaints is what it says on the
24 website, correct?

25 A I don't know what it says.

1 Q About that number?

2 A I don't know what it says.

3 Q Okay. How many officers have been penalized for
4 committing perjury in the past year?

5 MR. GHENT: Objection, Your Honor.

6 THE WITNESS: I don't know that either.

7 THE COURT: He said he didn't know.

8 MR. HOLCOMB: No further questions.

9 THE COURT: Cross?

10 MR. GHENT: No, sir. Please come down.

11 THE COURT: All right. You can step down and be
12 excused from your subpoena.

13 Call your next witness.

14 MR. HOLCOMB: Thank you, Your Honor.

15 The Defendant calls Dr. Martin.

16 THE CLERK: Dr. Martin, please come forward. Place
17 your left hand on the Bible and raise your right hand.

18 EARNEST MARTIN, M.D., after being
19 duly sworn, testified as follows:

20 THE CLERK: Please be seated and state your name for
21 the record.

22 THE WITNESS: Earnest Martin.

23 MR. HOLCOMB: At this time, I'd like the courtroom
24 cleared to discuss matters with Mr. Martin before we --

25 THE COURT: I'll allow the jury go to the jury room

1 for a few minutes while we take up some preliminary
2 matters.

3 BAILIFF: Please remain seated until the jury leaves.

4 THE COURT: Spectators will need to leave, also.)

5 (WHEREUPON, the jury exits the courtroom at
6 approximately 2:22 p.m.)

7 MR. GHENT: Your Honor, you mean everybody in the
8 gallery?

9 THE COURT: That's what spectator's means.

10 MR. GHENT: Yes, sir.

11 THE COURT: Everybody, but security.

12 (WHEREUPON, the courtroom was cleared.)

13 MR. HOLCOMB: And my mom and my sister could stay.

14 MR. GHENT: I would object to that. Everybody means
15 everybody.

16 MR. HOLCOMB: Well, they already know these things.

17 MR. GHENT: Well, that's fine, but everybody --

18 THE COURT: I'll allow his mother and sister to stay
19 in here.

20 All right. The courtroom is clear, except for
21 security and your sister and mother.

22 MR. SMITH: Your Honor, the case that the State used
23 to say that he couldn't have an attorney specifically
24 talks about how the attorney is paid. It doesn't overrule
25 the Sixth Amendment saying that he can have an attorney

1 representing him.

2 THE COURT: All right. Let me see the case.

3 MR. GHENT: That's not what I said. I said it
4 includes the statement, proposition that you do not have a
5 right to a specific attorney.

6 MR. HOLCOMB: For indigent defense, correct?

7 MR. GHENT: No.

8 THE COURT: Well, let me see the case.

9 MR. HOLCOMB: If my sister hired --

10 THE COURT: Whoa, whoa, whoa.

11 This is a Supreme Court case?

12 MR. GHENT: Yes, sir.

13 MR. SMITH: Yes, sir.

14 THE COURT: It still doesn't ask the question about
15 changing midstream. You still want to take over the case?

16 MR. SMITH: Yes, sir.

17 THE COURT: That's with the understanding that if I
18 grant it, there will be no continuance and you will take
19 over with this witness and go forward?

20 MR. SMITH: That's correct.

21 THE COURT: Keeping in mind -- I'm not preaching at
22 you, keeping in mind the parameters, the restrictions, for
23 lack of a better word, of your ability to argue to the
24 jury because you can only to the jury facts that are
25 within your purview.

1 MR. SMITH: Yes, sir, I understand that.

2 THE COURT: All right. I'll allow you to take over
3 then.

4 This is without any continuances. This is going
5 forward with the case.

6 MR. GHENT: Your Honor, there is authority for the
7 proposition --

8 THE COURT: I'm concerned about somebody's Sixth
9 Amendment right. I feel like -- I'm being very candid.
10 I've tried to be as candid as I can with Mr. Smith, but I
11 think this is a dangerous proposition for a lawyer to do,
12 to come in the middle of the trial, but that's his choice.
13 He's not asking for a continuance. I'm concerned about
14 closing arguments. But I'm going to allow Mr. Smith to go
15 forward at this time.

16 MR. GHENT: Yes, sir.

17 THE COURT: Okay. Mr. Smith, this is your witness.
18 When the jury comes in, I'll explain to them how you got
19 where you are.

20 MR. SMITH: Yes, sir, I'd like to proffer some
21 testimony.

22 THE COURT: Yes, sir.

23 DIRECT EXAMINATION (IC)

24 BY MR. SMITH:

25 Q Dr. Martin, what current position do you have?

1 A I'm a psychiatrist for the Greenville County
2 Detention Center.

3 Q And how long have you been a psychiatrist?

4 A 30 years.

5 Q Where did you go to undergrad?

6 A Wayne State University.

7 Q And your Doctoral?

8 A Michigan State University.

9 Q What was your degree in? Do you have a
10 specialization?

11 A Right. I have a degree from Michigan State
12 University and I did a four-year residency in psychiatry
13 at Detroit Medical Center. And I did a one-year
14 fellowship in forensic psychiatry at the State of Michigan
15 Center for Forensic Psychiatry.

16 Q Are you currently licensed by the state?

17 A Yes, I am.

18 Q Do you belong to any professional organizations?

19 A American Psychiatric Association, National Medical
20 Association.

21 Q Over the course of your 30 years -- where do you
22 currently practice? In Greenville, right?

23 A Well, I have an office in Anderson and an office in
24 Greenville. And I'm at the Greenville County Detention
25 Center --

1 Q How long -

2 A -- Medical Center and Patrick Harris Psychiatric
3 Hospital. I'm on staff at those two facilities.

4 Q Yes, sir. Sorry for that interruption. How long you
5 been in the upstate?

6 A Since 1991.

7 Q Have you had the opportunity to testify in court
8 before?

9 A Yes, I have.

10 Q When you did so, were you an expert in psychiatry?

11 A Yes, I was.

12 MR. SMITH: I have nothing further, Your Honor.

13 THE COURT: Any voir dire?

14 MR. SMITH: With regard to --

15 THE COURT: No, no, I mean his qualifications from
16 Mr. Ghent.

17 MR. GHENT: No questions.

18 THE COURT: I find he's qualified as a psychiatrist.

19 BY MR. SMITH:

20 Q In regard to Dean Holcomb, have long have you known
21 or treated him?

22 A On and off since 2014.

23 Q What have you treated him for?

24 A I've treated him during periods of time that he was
25 in the Greenville County Detention Center. He has a

1 diagnosis -- primary diagnosis of bipolar disorder, also,
2 posttraumatic stress disorder and obsessive compulsive
3 disorder.

4 Q What are the characteristics of being bipolar?

5 A Extremes of mood primarily. Highs, sometimes
6 reaching being manic or hypomanic, and lows of being
7 depressed. A lot of times you have grandiosity when
8 they're on a high. Very narcissistic fantasies. They
9 know more than everyone else. They think they can do
10 things that no one else can do. When they're in a
11 depressed phase, sometimes they actually get suicidal or
12 want to withdraw from society.

13 Q With regard to Mr. Holcomb, have you seen these
14 characteristics?

15 A Yes, I have.

16 Q In your treatment of him, has it allowed you to form
17 an opinion -- or did it allow you to form an opinion as to
18 his competency?

19 A Yes, during the periods of time that I've seen it,
20 yes.

21 Q Was he competent during those times?

22 A Yes, he was.

23 Q Was he medicated at that time?

24 A Yes, he was.

25 Q The medication distribution, how did it change? Is

1 it a gradual thing to get them to a level or how did that
2 work?

3 A If the person is unstable when you first start
4 working with them, oftentimes, it takes a few weeks to get
5 their medications figured out to get them more stable.
6 And once they're on a good combination and they're fairly
7 stable, they may have periodic episodes where they're a
8 little more depressed or a little more elevated mood.

9 Q It's just not a drastic change?

10 A Usually not unless there's some major stressor in
11 their life or they interject drugs or alcohol, which will
12 make some change in their brain chemistry.

13 Q Do you know how long it took you to get Mr. Holcomb
14 to a plateau?

15 A I can't remember exactly. As I recall, when I had
16 him in 2016, April, he was fairly stable on a combination
17 of Oxcarbazepine, and I believe Luvox.

18 Q So if he's leveled or balanced at that point and then
19 he goes away and no longer getting the same medication,
20 what would that entail?

21 A If he's still on medication, he could still be
22 stable. Depends on which categories of medicines he's on.
23 Usually, they have to be on a mood stabilizer or medicine
24 in that category. So one doctor may prefer one mood
25 stabilizer over another. As long as the person is on a

1 drug in that category, usually, they'll do pretty good and
2 what other accompanying medication is felt to be
3 appropriate.

4 Q Yes, sir. Fanapt?

5 A Fanapt?

6 Q Yes, sir. You did you prescribe that to him?

7 A No, I didn't.

8 Q What is Fanapt?

9 A It's a typical antipsychotic medication.

10 Q With regard to the medications that you were
11 prescribing, where does that fall? Is it similar to
12 something you were prescribing?

13 A I had him on Seroquel, which is a typical
14 antipsychotic when I had him several times, including most
15 recently.

16 Q So if he's on Seroquel, what's the necessity of
17 Fanapt?

18 A You usually wouldn't need Fanapt with Seroquel unless
19 the person actually had some psychotic symptoms, like
20 hallucinations or paranoid delusions and Seroquel wasn't
21 adequately stabilizing, you might add another
22 antipsychotic that's more potent. But usually, you
23 wouldn't have to add that necessarily.

24 Q If he started Seroquel this week, how would that
25 affect him -- he has to get up to a certain level, right,

1 you build up to a plateau? What it's like in the
2 beginning when you start something like that?

3 A With that category of medicine, the antipsychotics,
4 they usually work rather quickly, but it may take several
5 days to a couple of weeks to get their dose worked out
6 where they're stabilized and not having any side effects,
7 like drowsiness or that sort of thing.

8 Q So the characteristics or traits in the first week,
9 what would it be likely that he would be dealing with?

10 A It would start helping him to have a more level,
11 stable mood. And usually a larger dose will help the
12 person to quieten down and sleep better at night. So he
13 would see those things happen right away. Whereas, the
14 antipsychotic effect, if the person was paranoid or having
15 mood issues, it would take a little longer and a little
16 higher dose usually before those symptoms would resolve.
17 But it would start helping them to sleep because usually
18 they have sleep disturbances. You also have improvement
19 in their mood from having the highs and lows once you
20 start them on Seroquel.

21 Q The bipolar disorder, how does that affect -- if
22 you're not on medication, what are the characteristics of
23 that, the manic and so forth?

24 A You can have extremes of mood, yeah, high highs to
25 low lows. But that has different patterns. Some people

1 cycle into lows mostly and very seldom have a high or
2 manic episode and others have more highs and very seldom
3 have the lows.

4 MR. SMITH: Beg the Court's indulgence.

5 Q If Mr. Holcomb had been on Fanapt and had changed to
6 Seroquel, would that be a significant change
7 medication-wise?

8 A Somewhat depends on the dose change. If you had a
9 comparable dose of Seroquel that you changed him over to,
10 it would stabilize or equilibrate fairly rapidly. But if
11 you went from say a little higher dose of Fanapt to a less
12 comparable dose of Seroquel to start with, you may see
13 some exacerbation of recurrence of symptoms.

14 Q So possibly result in psychotic behavior?

15 A That's possible, yes. Not necessarily, but that's
16 possible. Because the medicine that they're changing from
17 is an antipsychotic that's fairly potent to another
18 antipsychotic that's not as potent.

19 MR. SMITH: I offer -- you said Dr. Martin is an
20 expert, but that's what we would offer to the jury.

21 THE COURT: You want to examine him outside the
22 presence or you want to wait until he comes in front of
23 the jury.

24 MR. GHENT: Your Honor, under the circumstances,
25 Kansas vs. Cheever, we're totally sandbagged by this,

1 totally.

2 THE COURT: Well, what do you want to do?

3 MR. GHENT: The government, the State, Kansas vs.
4 Cheever, we are allowed to prepare for this. And we
5 haven't been. So this is totally unfair to us. I would
6 like to ask him some questions.

7 THE COURT: Well, now is the time.

8 MR. GHENT: Yes, sir.

9 CROSS-EXAMINATION

10 BY MR. GHENT:

11 Q Doctor, how long have you worked with the Defendant?

12 A On and off since 2014.

13 Q And during that period of time, have you been the one
14 who's been controlling the dosage and the medicine?

15 A During the times that he was at the Greenville County
16 Detention Center, yes. But he's gone out to SCDC and back
17 and other doctors made changes in his medicine.

18 Q When did he come back?

19 A Last time he came back was this May, the 24th, I
20 believe.

21 Q So he has been here for two or three weeks?

22 A Approximately, yes.

23 Q What drugs was he on? What drugs was he on when he
24 came back?

25 A He was on Seroquel, Oxcarbazepine, Bupropion and

1 Fluvoxamine.

2 Q And now he's on Seroquel?

3 A He's still on Seroquel, yes, and the other
4 medications as well.

5 Q Was he psychotic when he returned to Greenville?

6 A No.

7 Q Is he psychotic now?

8 A No.

9 Q Are you testifying he is not competent to stand
10 trial?

11 A He is competent to stand trial.

12 Q Are you testifying that he is insane?

13 A No, I'm not. I said he's competent to stand trial.

14 Q No, two different things.

15 A Well, he's not insane. According to M'Naghten rule,
16 he's not insane.

17 Q Okay.

18 THE COURT: Have a seat.

19 MR. GHENT: Yes, sir.

20 THE COURT: Bring in the jury.

21 You can just keep your seat up here.

22 MR. GHENT: May we bring in the spectators?

23 THE COURT: Yes, bring in the crowd.

24 MR. GHENT: Your Honor, I have made clear my
25 objections.

1 THE COURT: I understand.

2 MR. GHENT: Your Honor, if I may, it is clear that
3 this was never raised as a defense at all. He never
4 complied with the Rule 5 requirements regarding this and
5 expressly did not want this to go there.

6 MR. SMITH: I didn't ask for insanity.

7 THE COURT: I don't think he has to give --
8 Hold the jury just a minute.

9 What requires him to give notice of --

10 MR. GHENT: Rule 5.

11 THE COURT: The discovery rule?

12 MR. GHENT: Yes, sir.

13 THE COURT: All right. What particularly under Rule
14 5?

15 MR. GHENT: The last part regarding -- please allow
16 me a moment, Your Honor.

17 THE COURT: Rule 5(f) has to do with insanity of --

18 MR. GHENT: Mental health. Like I said, we're
19 totally sandbagged.

20 THE COURT: What rule are you talking about as far as
21 --

22 MR. GHENT: The last one regarding the requirement
23 that we be served notice --

24 THE COURT: That's insanity or guilty, but mentally
25 ill.

1 MR. GHENT: Yes, sir.

2 THE COURT: He's made clear that's not his defense.

3 MR. GHENT: At this point then, what's this relevant
4 to?

5 THE COURT: Mr. Smith, what's the relevance?

6 MR. SMITH: That's his condition and he's on
7 medication. Those are the facts relating to his mindset
8 and, clearly, they affected him some way.

9 MR. GHENT: That's the issue -- I'm sorry, the issue
10 is how it was at the time he did this.

11 THE COURT: Bear with me just a minute.

12 (Pause.)

13 THE COURT: What's this relevant to the charges back
14 in -- the dates of the indictment, May 13th to June 2014?

15 MR. SMITH: He was bipolar through that whole period
16 and he was medicated through that whole period.

17 THE COURT: He didn't testify to that. I don't think
18 he was seeing him back then.

19 THE WITNESS: I wasn't, Judge.

20 MR. SMITH: Right, he wasn't.

21 THE COURT: Well, I'm going to disallow the testimony
22 then.

23 MR. GHENT: Thank you, Your Honor.

24 THE COURT: It's in the record, but I'm not going to
25 allow him to testify just to the fact -- he found him

1 competent. He doesn't give him any mental defense. Not
2 even -- I know you weren't in here, but at one time, your
3 client indicated this was an approach to intent. If he
4 was testifying at that time period, I might give that some
5 consideration, but I can't as to the times he's testified
6 to.

7 MR. SMITH: He hadn't been properly -- properly is
8 not a very good word, but properly medicated at the time
9 Dr. Martin got to him. I mean, he became -- he got to a
10 plateau.

11 THE COURT: I'm not going to allow Dr. Martin --
12 Nothing you did.

13 THE WITNESS: I know. It's a different period in
14 time that I wasn't dealing with him and I understand.

15 THE COURT: Correct. And obviously, you couldn't
16 testify to what was going on then.

17 THE WITNESS: Correct.

18 MR. SMITH: Your Honor, he can't testify to the fact
19 of what bipolar is and what bipolar --

20 THE COURT: In order to do that, it would only be
21 relevant if there was testimony he was going through
22 bipolar experiences at that time. The testimony so far
23 has been when he's on medication, at least, I understood
24 it, it didn't quite say it like this -- well, what I was
25 getting ready to say, I'm not sure I can justify saying

1 it. But I'm not going to allow his testimony. You've got
2 the proffer for later on, if need be.

3 MR. SMITH: Right. The only thing I was meaning is
4 the witnesses that have testified, they've all agreed or
5 said that the e-mails were crazy or different and forth
6 so.

7 THE COURT: I think the jury can assess that as well
8 as anybody else, whether was coming from a mind that was
9 stable or a mind that had some other issues going on.

10 Thank you, Dr. Martin. I'm going to excuse you and
11 let you get back to your patients.

12 THE WITNESS: Thank you, Your Honor.

13 MR. GHENT: Thank you, Doctor.

14 Thank you, Your Honor.

15 THE COURT: Bring in the jury.

16 (WHEREUPON, the jury enters the courtroom at
17 approximately 2:45 p.m.)

18 THE COURT: Call your next witness.

19 Let me -- the scenery has changed a little bit.
20 We've had Mr. Holcomb representing himself. He's had an
21 attorney who was kind of assisting appointed by me. He
22 was assisting, but not representing him. Mr. Holcomb has
23 now exercised his Sixth Amendment right under the
24 constitution to bring in an attorney. So for the
25 remainder of this trial, Mr. Holcomb will be represented

1 by Smith. Mr. Smith will be examining witnesses and
2 making closing argument and doing those types of things.
3 So that's why all of a sudden it's changed. He's
4 exercised his right under the Sixth Amendment and I've
5 granted that.

6 Call your next witness.

7 MR. SMITH: The Defense calls Dean Holcomb.

8 THE CLERK: Mr. Holcomb, please place your left hand
9 on the Bible and raise your right hand.

10 DEAN HOLCOMB, after being duly
11 sworn, testified as follows:

12 THE CLERK: Please be seated and state your name for
13 the record.

14 THE WITNESS: My name is Dean Alton Holcomb, Jr.

15 DIRECT EXAMINATION

16 BY MR. HOLCOMB:

17 Q Mr. Holcomb, prior to this case, where did you live?

18 A Here in Greenville -- in North Carolina -- before I
19 got arrested?

20 Q Yes, sir.

21 A I was living in North Carolina, Bessemer City, North
22 Carolina.

23 Q Did you reside in Greenville?

24 A I have. I grew up here.

25 Q Who did you grow up here with? Your family consisted

1 of what?

2 A My sister, my mother, my father, he's passed now.

3 Q Do you have any children?

4 A No, sir.

5 Q Do you have -- what's your educational background?

6 A High school, some college.

7 Q Do you have any certificates or licenses or anything
8 of that sort?

9 A The home improvement contracting license. I also
10 have an honorary degree in theology, but I didn't go to
11 school for that.

12 Q Can you tell us a little bit about your occupational
13 background?

14 A Primarily home improvements. My first job, it was
15 with my father. He had an air conditioning company. I
16 did door-to-door sales when I was in Boy Scouts and did
17 really well. And I've been selling home improvements for
18 a long time, roofing, siding, windows.

19 Q And the -- who did you work for for the breach of
20 contract thing?

21 A It was Carolina Home Renovators. I'm one-fourth of
22 the company. I handle the -- I don't normally deal with
23 the crews because -- I sell the jobs, I focus on the
24 sales. That's the thing I'm good at. I'm not -- so Kenny
25 took care of the crews, him and his wife, basically, took

1 care of the crews. And Claudia Whitt took care of the
2 paperwork in the office. And I focused on sales. You try
3 to stay as positive as possible when you go from job to
4 job. So that's what I did there.

5 Q When did the business incorporate?

6 A 2011.

7 Q When did you get licensed?

8 A Well, I was working in North Carolina -- we had two
9 offices. We had one in Charlotte at South Park, and then
10 we had one down here. And it was going from the apartment
11 on Rocky Creek, which is on Woodruff, about a mile from
12 where I went to high school, which was South Side
13 Christian.

14 Right before this accident happened -- well, right
15 before my accident happened, we had an office that we
16 rented over on Congaree Road, right there at Haywood Mall.
17 But we had two offices, one in Charlotte and one in
18 Greenville. And I had a place in Charlotte as well, so.

19 Q The business that you ran from what, 2011 -- it was
20 incorporated in 2011 until -- you stopped doing that
21 business when?

22 A The McGinn home, the one we're talking about now, the
23 one this investigation involves, was the last home I sold.
24 I haven't sold a home improvement project since. I fell
25 off a roof and fractured my skull. I'm missing a fibular

1 in my left leg. But that was the last job I sold.

2 Then whatever -- just the company fell apart.

3 Mainly, without sales, you don't have a company.

4 Q In the time between 2011 and the time you fell down,
5 how was business?

6 A It was good. I mean, we had 50 -- 54 five-star
7 reviews on -- I think you've got a stack of the reviews
8 over there -- from Service Magic and Home Advisor and
9 Angie's List and things like that. One of them, we had 54
10 five-star reviews.

11 And one thing we did different was Carolina Home
12 Renovators, we tried to do things from my marketing point
13 -- can I tell you a little bit about that?

14 Q Certainly may.

15 A We usually videotaped things. We put up a camera and
16 I liked to do time lapse on the jobs. But our guys wore
17 uniforms. We weren't trying to be your typical home
18 improvement company. We had uniforms with embroidered --
19 or the guys on the crews had, you know, stenciled shirts.
20 I wanted to bring in things like bring in tarps and put
21 them on the ground so that the oil from their truck didn't
22 leak on somebody's driveway, that kind of thing. Tried to
23 just take it to a higher level of service is what I was
24 trying to do. And videotaping all the jobs so that not
25 only -- and I used that as a marketing strategy, you know,

1 don't take my word for it, look at the video. And we
2 didn't have any complaints, we really didn't. And I had a
3 policy of we'd give you the job before we'd have you
4 complain.

5 But most of the time, we didn't take the money. And
6 the only reason the money came up front was because once
7 the metal's cut, you can't take it back. So 99 percent of
8 our jobs were not money up front.

9 Q Heard a little bit about your relationship with
10 Mr. Martin. Can you tell us about when that began?

11 A In 1988, my father took -- as I said in the video, we
12 decided to -- my father wanted to be in the poker machine
13 business at that time, or the gaming business and found
14 that -- you know, he started that. And he had a little
15 restaurant and bar and he called it D's. And it had pool
16 tables in it and all this kind of thing. But mainly --
17 you know, he named it after me and I got to work there
18 some. I was going to Tech at the time. But it was on the
19 west side -- it was over there on the south side of
20 Greenville, which is Augusta Road, 85. Right there on
21 Augusta Road.

22 But Tim Martin was a patrol deputy down there. And I
23 was dating a girl named Ronda Cole. And Tim Martin was
24 kind of sweet on her. I was 17 at the time. Ronda was
25 about our age and Mr. Martin is about 13 years older than

1 we are. But he was kind of -- he would go to her job.
2 She had a job at a chemical company in Dawson Center. And
3 I remember he would stop by there a lot and talk to her.
4 And he flirted with her a lot. I think they may have went
5 to church together, but he knew her somehow.

6 But we were dating and I -- he'd come in the
7 restaurants enough. We fed the police officers for free.
8 We gave out free sodas. I kind of picked on him about it.
9 We kind of had an argument. I kind of got mad at him for
10 chasing my girlfriend, you know. I kind of got hassled a
11 little bit. He'd follow me around and other officers
12 would follow me around. We ended up filing a complaint
13 with the Greenville County Sheriff's Office on it. And
14 Curtis Elmore is the attorney that got involved in it.
15 And I felt like he was intimidating me, harassing me over
16 Ronda.

17 Q So what year is that?

18 A 1988, '88, '89.

19 Q Did Ronda go to your house?

20 A Sure.

21 Q Did Ronda know your family?

22 A Yes.

23 Q Ronda ever hang out with your sister?

24 A She did.

25 Q Ultimately, that relationship ended, right?

1 A It did. But not badly.

2 Q Yes, sir. With regards to Mr. Martin, what about
3 that relationship? What happened there?

4 A Well, we had a conflict. Once the attorney called
5 Greenville County Sheriff's Office, he stopped coming
6 around the restaurant, quit following me around. He left
7 Ronda alone from what understand.

8 In this situation here when I saw that it was Tim
9 Martin that arrested me, I tracked down Ronda. I actually
10 went through the effort to find her. I asked her next
11 door neighbor, who I knew well enough over there on the
12 south side of Greenville, I knew the area well enough and
13 just started talking to people and they told me where to
14 get ahold of her parents. And I called her and said hey,
15 did you date Tim at some point? Was there something going
16 on there at this point? He arrested me and it's like come
17 back 25, 30 years later.

18 Q So you were arrested by Mr. Martin for what?

19 A Breach of trust.

20 Q Breach of trust. And we've gone over the warrant a
21 couple times. With regard to the fact of whether there
22 was work done. Had work been done?

23 A It had. It had.

24 Q So that was a misstatement?

25 A I'm sorry?

1 Q That was a misstatement?

2 A Yes.

3 Q All right. Did you -- the check that you were given
4 as corporate officer, did you take that and just cash it
5 and put the money in your pocket?

6 A I did not.

7 Q Is that -- I mean, the way the warrant is written --
8 what did the warrant say?

9 A Said Defendant took a check for \$4,295.03. Defendant
10 signed the back of the check. The Defendant cashed the
11 check.

12 Q With regard to the work that you were doing at the
13 home, what stage were you at?

14 A What happened was Jared Richardson, and it's Mr.
15 McGinn's son-in-law or common law son-in-law. He's dating
16 the other daughter. And I mentioned her in the video, but
17 -- when I talked to Mr. Martin. But what happened was
18 Jared sold the -- he was behind on his rent on a place and
19 he needed a commission. Well, he got a job. I said on
20 that video where he was trying to learn -- I did
21 door-to-door iPad presentation thing. And -- not just on
22 storms, but I'd go door-to-door with it.

23 And he sold his ex-girlfriend one and he sold the
24 McGinns one. And I gave him the commission -- and that's
25 what it is, it's 10 percent off the top. So right off the

1 bat, he got \$400, over \$400 for commission of the \$4200.
2 And if the back check would have come in, he would have
3 gotten that.

4 So Jared sold the job and he dealt with the insurance
5 company that came out. And the original estimate was
6 about \$3,000, maybe it was 2,000 -- it was higher than
7 that amount based on the metal pricing and our margins at
8 that time. We're shooting for maybe -- after you pay
9 commissions and everything, maybe a 20 percent margin, 23
10 percent whenever things are really good. Any deviation in
11 that, we can lose money. On that number there, we're
12 talking \$800 would be the difference whether making a
13 profit or not on 4,000.

14 Q So, Mr. Martin -- at what point in the process did
15 you get approached with the fact that you had committed a
16 crime?

17 A Oh, seven months, eight months later -- no, a year
18 later, exactly a year later, like a couple days before my
19 birthday, I was picked up. They came to my home in North
20 Carolina and just arrested me and held me for a while. I
21 talked my way out.

22 Q But that was -- you were picked up in North Carolina
23 based on a warrant in South Carolina?

24 A The warrant we've been going over, yes, sir.

25 Q That, of course, was signed by Mr. Martin?

1 A It was.

2 Q All right. So that process is over. But when you
3 came back to South Carolina, you were out on bond; is that
4 right?

5 A Yes, sir. I made bond in North Carolina. I made
6 bond in Gaston County.

7 Q What were the conditions of bond?

8 A I think just show up in court when they ask you to.

9 Q All right. At what point does your interaction with
10 Mr. Martin swell or get --

11 A Well, what I did was -- whenever I got out of jail,
12 the first thing I did was -- I felt like I was being set
13 up and the warrant was kind of bogus and -- well, I
14 thought it was. So the first thing I did was I went to
15 Radio Shack and I bought a recorder and an ear bud.

16 And the Greenville County good old boy system kind of
17 sometimes -- things were a lot different in the 80's than
18 they are now in Greenville. But I got a recorder and I
19 called Tim Martin -- I tried to call Tim Martin. I went
20 on about listen, we've got checks where people were paid.
21 Staining was done. We took pictures. So we did more work
22 than what was there. And I wanted to point that out. And
23 Mr. McGinn testified to that just yesterday or day before
24 that windows were painted. Those aren't on the contract
25 and they exceed the scope. Three doors were painted. He

1 testified to that at trial. But I wasn't there. I bought
2 the stain and left it there. They had a Lowe's card to
3 where they could go get things.

4 And what, basically, happened, if I remember
5 correctly, is that they started work, they started
6 staining the porch and the door and then Mr. McGinn or
7 something wanted -- Mr. McGinn said they wanted the rest
8 of the work done. I have credit card receipts that shows
9 I was in Charlotte running a lead on, I don't know if it
10 was Angie's List or Yahoo, or one of them. But I had
11 leads, they come in off the internet and I have to drive
12 to where they're at. But I dropped off the stain. I made
13 three or four trips to try to match it exactly. And I
14 went down to Lowe's on Pleasantburg. So I was driving
15 quite a bit to get that stain done.

16 Q So when you left that job, did you believe it to be
17 complete?

18 A No. What happened was we sent him a bill on how much
19 we thought the extra work was worth at that point. And
20 there was some debate over the coupons and how we were
21 going to use coupons. But that was -- I should have put
22 in there no further discounts, all discounts included.
23 But I didn't and I can't remember why. It was probably a
24 rush. I didn't think it would come up. But the work
25 exceeded what the original agreement was. If we would

1 have given him that work, we would have ended up losing
2 money on doing the home.

3 So there was a debate on -- and that happens quite a
4 bit in the home improvement business. You know, we like
5 this, that, this. Or you tear something out and you find
6 -- if we're doing as shingle roof, we tear off the
7 shingles and you might find -- it's generally maybe one
8 piece of plywood that needs to be replaced and sometimes
9 it's 20 pieces of plywood that needs to be replaced. And
10 you don't know until you get in there.

11 Same thing in this case, we didn't know exactly what
12 we were getting into. And once the job started -- and
13 that's what I paid for. I've got a statement from Will
14 Byrd, he worked there three days is our side of it.

15 Q So you thought the job was done, didn't you?

16 A Well, I thought that had been paid and if they wanted
17 to pay for the rest of the roof, this would be how much it
18 would cost for the roof. I didn't think anything else
19 about it.

20 Q And so it took a year before the breach of trust
21 came?

22 A Correct.

23 Q And breach of trust came and you got arrested and you
24 came down to South Carolina?

25 A Correct.

1 Q When did you start sending e-mails?

2 A After I was told to -- as soon as I was released from
3 Gaston County jail, I was like hey, what's going on here.
4 You tell me -- and I wasn't in any condition to drive.
5 I'm not allowed to drive now. Since the roofing accident,
6 I have seizures and I'm not allowed to drive at all now on
7 certain medication, on these medications. I was on a cane
8 at the time, so.

9 Q All right. So you explained to Mr. Martin that, in
10 fact, you had done work. At this point, had you seen the
11 warrant?

12 A I had.

13 Q So you told him you'd done work on it and --

14 A He got the name wrong on the company, work had been
15 done and so on. I asked him to contact Will Byrd and
16 Jared Richardson.

17 Q And you recorded --

18 A Everything.

19 Q -- conversations?

20 A Yes, sir.

21 Q What was the thing that you were driving at with regard
22 to Mr. Martin and if he knew something that would be an
23 important fact? The work on the home?

24 A Yes.

25 Q All right. What is your understanding that if there

1 was knowledge that work had been done on the house, how
2 that affected, according to your recollection?

3 A You mean how it would affect it legally?

4 Q Yes.

5 A Well, if he would have told the full truth --

6 Q No, no. What did you understand from your
7 conversation with him how he saw work being done on the
8 home?

9 A Mr. Martin chose to just see the roof. He chose --
10 whenever he got the warrant, he had actually not -- or he
11 told me that he had spoken to them, but he didn't actually
12 speak to them -- the actual Mr. McGinn and Richardson
13 until two weeks after I was arrested.

14 So about five months after he took the report, he
15 actually spoke to somebody. So I was a little upset. But
16 what upset me was he took a statement from someone who was
17 in prison. But they told him work had been done, but he
18 structured the language of that warrant to incarcerate me.
19 Because it would look -- I don't think a Magistrate would
20 have given him a warrant if he said and did the following
21 work, but the homeowner disputed how much it was. So it's
22 gone from \$50 as Ms. Harrison said, to \$300 in the report
23 and \$400. And it's substantially more than that. Three
24 days work by two guys is a lot more than commissions and
25 so on.

1 Q So the point is work had been done and the warrant
2 said that it had not been done.

3 A Correct. And everybody agrees to that.

4 Q At what point did you get put in jail for the conduct
5 which is believed to have been a threat?

6 A It was a little over a year later I'm still making
7 contact. What happened on that was, the threatening
8 behavior, kind of crazy. Well, my psychiatrist was just
9 in here. I have bipolar with psychotic features and
10 posttraumatic stress disorder. Then you take in the
11 roofing accident. I was using the recording to try to
12 keep up with the memories of it or whatever.

13 But I maintained this weekly contact with Martin as a
14 condition of the bond. No one has ever heard of it, so
15 I'm being treated special, unlike anybody else. It kind
16 of bothered me and I felt like he was picking on me, just
17 poking at me like, yeah, I got you now, buddy. I can lie
18 and I can falsify. I handled it crazy, but I didn't mean
19 to be -- I didn't mean for it to be threatening. But
20 after a year, though, but I sent probably 70 that were not
21 threatening or intimidating or could even be construed of
22 it in the slightest way.

23 Q So you sent probably 70 e-mails?

24 A I would say, probably 70 weeks. But I had been
25 asking for a speedy trial. I wanted preliminary and

1 things like that.

2 Q And in the 75 e-mails, of the 75 e-mails, which -- I
3 mean, how many did they say were threatening?

4 A I'm not really sure. I mean, the warrants have been
5 pretty vague. It just says there were threatening e-mails
6 sent. I know one that they read into the record. And it
7 uses the worst word possible, I guess.

8 Q Right. I understand. Is that threatening?

9 A I don't think so. It was more of a cry for help.
10 Because I was going back to work at that point, or trying
11 to. The arrest was on my record and I couldn't go -- Home
12 Depot was trying to get me go do consulting and they
13 wouldn't let me go in. I kind of got really depressed
14 just about that time.

15 Q Out of the -- considering the timeline of the 75
16 e-mails, where would the one with the songs be, where
17 would that be found?

18 A About 75 weeks. It's way, way -- it's one of the
19 last one. Towards the end of it.

20 Q So that was the straw that broke the camel's back?

21 A Yeah, I was arrested about a month later, I think.

22 Q How many times -- how many weeks had you contacted
23 Mr. Martin at that point?

24 A About 65, something like that.

25 Q And did it say specifically in the conditions of bond

1 what exactly you were suppose to tell him or say or what
2 time to call?

3 A No. What happened on that was is I came in and
4 turned myself in. And I walked in -- walked into the law
5 enforcement center. The guy drove me around. He was
6 really nice about it. And I went inside and then Tim
7 Martin came in. I think Wes Smith came in and a few other
8 guys came in. And they sat me in a little room and I
9 explained it to him. And he made a comment -- and that's
10 taped. He said it makes sense when you explain it. And I
11 said -- I went through it and I'm like, There's only three
12 pages of this scope. There's supposed to be more. You
13 know, it's a lot thicker than that. The insurance
14 paperwork is not complete.

15 After we went over that discussion, I explained that,
16 you know, Jared Richardson and Will Byrd worked there a
17 few days and they were paid. Last job I sold in South
18 Carolina before I fell.

19 And went to the bond hearing. And there's this glass
20 wall there. And Tim Martin come around and he's
21 whispering in the judge's ear. And I was just told I had
22 to maintain weekly contact with him. The judge came
23 around and actually handed it to me. I said I need a
24 preliminary hearing. She gave it to me. I was hoping to
25 get rid of it in 10 days, you know, as a preliminary

1 hearing. At that point, if I wouldn't have made weekly
2 contact, I would have been put in jail again, so.

3 Q All right. So the contact that you made, did it get
4 progressively more comedic, as Wesley Smith testified to?

5 A Apparently. I mean, whenever I look back on it, I'm
6 kind of ashamed of this. I can't help the bipolar thing.
7 And I do do odd things. So I think some of it progressed.
8 And you have different days. I mean, it's up and down.
9 So some days, it's just not a flight risk and some days it
10 is a flight risk kind of thing.

11 Q At this point, you had already fallen, so you're
12 unable to get employment, would that be accurate?

13 A Right. For a year, I was pretty messed up.

14 Q So you had free time?

15 A Yes.

16 Q And free time was creating your own South Park
17 videos?

18 A I guess. I just -- I thought I would poke back at
19 him because I felt like he was oppressing me and I didn't
20 want to comply in a nice way about it. Just after it got
21 to a point -- I didn't get my preliminary hearing because
22 I was indicted, like the next week or something like that.
23 You handled that, so you were there.

24 Q So you're directly indicted without getting a
25 preliminary hearing?

1 A Correct.

2 Q And who were the victims in the threatening
3 situation? The intimidation of a witness, who's the
4 witness we're talking about?

5 A You mean, --

6 Q Who are you here for?

7 A Ms. Sylvia Harrison, which they said I haven't sent
8 anything to. You know, letters, but I didn't send
9 anything odd or anything to her that I'm aware of. And
10 Tim Martin.

11 Q All right. Did you -- what were the sounds in that
12 video? Were they gunshots?

13 A No, no. On YouTube -- on the video that I -- and if
14 you'll notice, the clicks are way off. I was new to this.
15 And I was just trying to show and demonstrate -- because I
16 felt like I was being set up, not being taken care of. I
17 was concerned with notices going to the wrong address
18 because I couldn't get the clerk of court to change the
19 address. I couldn't the clerk of court to change -- for
20 them to change anything that's incorrect on there. So I
21 was worried about having a trial in my absence for failure
22 to appear or some other dirty trick.

23 So I put these videos up, the manufacturing --
24 manipulation of evidence. But when you're watching the
25 video, the click sounds comes from YouTube where I was

1 trying to make each page a click to show that it was just
2 normal, normal, normal. And then the explosion sound,
3 that's the only thing they have. But like all this is a
4 bombshell in evidence. Like, oh, there you are, you did
5 set the guy up. Oh, there it is tampering with evidence.
6 But it wasn't I'm going to hurt you in any way. I've
7 showed it to a bunch of people. Nobody thought that I was
8 threatening the police.

9 Q So the explosion sounds, that's just from YouTube?

10 A Yes, sir.

11 Q And that was not meant to do anything other than to
12 show your belief that this was significant enough to blow
13 up his career?

14 A Yes, sir. I really had a lot of faith in internal
15 affairs. I have a lot of faith in -- I contacted SLED and
16 I was like this page has been manipulated. And my theory
17 was that in the evidence, he just had the Pages 1 and 2,
18 which was the sample of the front page and left out the
19 rest of the scope. Then after I raised so much sand about
20 it, he took Page 3 and put it in there with just numbers
21 and crops and data on it. I'm looking at it and I had it
22 on a CD as well.

23 I obsessed over things. I can't turn it off at that
24 point. And I thought that was -- the YouTube thing only
25 had maybe 20 sound effects and that was the one that

1 seemed to be the most appropriate, like, look at this,
2 look at this.

3 Q How many times did you talk to Ms. Harrison?

4 A Once. Well, now, I saw her in court and I talked to
5 her on the phone one time. And I recorded that
6 conversation as well.

7 Q So you spoke to her twice?

8 A Yes, sir, I believe so.

9 Q How many e-mails did you send her?

10 A Maybe three or four.

11 Q The e-mail that's at issue here, did you send that
12 e-mail to her?

13 A No.

14 Q Did you tell -- who did that go to, Mr. Martin?

15 A Did I what?

16 Q Did that go to Mr. Martin?

17 A Were they addressed to Mr. Martin?

18 Q Yes.

19 A Yes.

20 Q Was it your intent for Ms. Harrison to see any of it?

21 A No.

22 Q Did you have her e-mail address?

23 A Yes, I think so. Yes, I did. Yeah, I got it.

24 Q Could you have sent her a letter if that was your
25 intention?

1 A I could have sent it if I wanted to send it. In my
2 crazy state, I could have probably pulled that off.

3 Q When you told internal affairs, what did they do?

4 A Nothing.

5 Q They didn't give it a number, according to what
6 Mr. Smith said, I believe, correct?

7 A Correct. Neither did SLED, nor did the FBI.
8 Whenever he contacted my sister -- and that's in that
9 e-mail that's in question. Whatever I'm talking to --
10 about two months later, I can't get a preliminary hearing.
11 It's here. And everybody tells me to bring it up at
12 trial. But I look at the numbers and less than one
13 percent of all cases go to trial. And I'm like so it's
14 just messing me up. I can't get work. I'm going to have
15 a hard time getting my license renewed and bonded and such
16 things as that just over this craziness. And I think it
17 was malicious and mean. That was the issue. That was the
18 issue.

19 But he contacted my sister's landlord. And Tiffy's
20 got 2000 Facebook friends. Her phone number is listed on
21 Facebook. There's other ways of getting ahold of her, but
22 she -- when he contacted her, I just -- because I don't
23 have a lot of family. We have a tiny little family.
24 She's got an autistic son and me and my mother and my
25 father just passed away. We don't have a big family. And

1 I don't have -- I've got four good friends.

2 Q So with regard to the video with Mr. Martin, did you
3 have an any intention of threatening anyone?

4 A No. And it's crazy. And I hate to talk about my
5 insanity. It's really embarrassing. It says my only
6 weapon is prayer, ritual and Kabbalah, but it's my only --
7 and that's one of the things that happened to me, was I'll
8 get all -- see everything that's not -- see it as fascist
9 and depression. I fight with everybody, including my
10 sister and my mother whenever I get in those states. It
11 usually has to do with my medications being off.

12 And when I fell off the roof, it got a little bit
13 worse for a while there. And there is no reports of that.
14 I was at Wal-Mart one day and I just started preaching,
15 you know what I mean, just kind of talking crazy about the
16 end of the world kind of thing. But I didn't say I was
17 going to hurt anyone. I didn't want to pray anybody to
18 that. That was the threat, I'm going to start praying to
19 hurt you, but I never made the prayer. I didn't pray that
20 way.

21 Q Officer Smith testified that he found that your
22 materials were mocking. Would that be a safe assessment?

23 A Yes, sir.

24 Q So your intention was to mock everyone that you
25 could?

1 A Well, everyone that was doing -- at Greenville County
2 that I think that it was a joke, a bad joke that I got
3 arrested on, you know, a statement from somebody that was
4 in prison. I think my mindset at that -- I was not
5 stable. I'm more stable right now than I was at that
6 time, at different times. But I'm on medication right
7 now.

8 Q With regards to this case, how long you been
9 representing yourself?

10 A Less than a month.

11 Q Did you have discovery? Did you have your counsel
12 give you the discovery that had been received?

13 A Yes, sir.

14 Q Do you still have that discovery?

15 A I do. I've had to replace it. It's been seized four
16 times.

17 Q Who seized it?

18 A Jeff Kindley seized it one time in Greenville County
19 jail. He seized my books, my law books, my letters, my
20 mail. It was seized when I went to prison over this
21 breach of trust. I had four boxes. They would only let
22 me bring one of the boxes. I had this stuff organized. I
23 had my books in there. I've been doing my best on it. I
24 didn't have any faith in the public defender's office.

25 Then I get to Greenville County jail, they say the

1 stuff I have in the one box has to be reduced down. I
2 consider that a seizure. Then another one in Greenville
3 County jail, they said it was a fire hazard to have a
4 stack higher than this. So it's been pretty rough, I
5 mean, on that.

6 Seems like nobody wants me to come to court. And
7 they don't want me to have any witnesses either at trial.
8 I didn't have any witnesses. That's why I wanted to
9 represent myself. The attorney filed the paperwork, the
10 guy that was sitting there second chair, the standby
11 counsel, he filed subpoenas in Spartanburg County. And I
12 didn't have any witnesses at the trial. He made some
13 false statements at trial. So I was thinking if I can
14 handle the case myself, at least, I'll make sure
15 everything's in the right county. I may have fumbled, but
16 I did my best. I wanted to, at least, put up a fight.

17 Q Can you think of anything else that you want to tell
18 the jury?

19 A I don't normally use language like that. I didn't
20 mean to hurt anyone. I've tried to apologize. Work was
21 done on this home. Will Byrd will testify -- he would
22 testify to three days. There's a statement on that. We
23 will put that into evidence if we can. But it's been
24 awful. It's been an awful, awful experience, that you
25 just be accused of -- they say you threaten someone and

1 they label you a terrorist or something awful just by
2 saying it. And what bothers me is that rules don't apply
3 if I've got 25 people over here --

4 THE COURT: Hold on just a minute.

5 MR. HOLCOMB: Sorry.

6 THE COURT: You've got to answer questions dealing
7 with facts.

8 MR. SMITH: Thank you, Mr. Holcomb. Please answer
9 any questions Mr. Ghent may have.

10 THE COURT: Cross.

11 MR. GHENT: May it please the Court?

12 THE COURT: Yes, sir.

13 CROSS-EXAMINATION

14 BY MR. GHENT:

15 Q Mr. Holcomb, would you agree that your testimony
16 presents a question of which Dean Holcomb is on the stand?

17 A Dean Holcomb, Jr. My father has passed away.

18 Q No, sir, I mean the Dean Holcomb that we have been
19 through absolutely the Battle of Gettysburg with in terms
20 of being difficult or the one that's up here testifying
21 what a reasonable individual he is, how badly he's been
22 misunderstood, how the system's been out to get him, how
23 -- and you would agree that's been the approach you've
24 taken to everyone, hasn't it?

25 A I'm Dean Holcomb on stable medication currently.

1 Q Well, what about during the week? I mean, you
2 attacked everybody. You focused on parsing sentencing in
3 a warrant. This gentleman right here --

4 A If I may?

5 Q Yes.

6 A To break down a warrant where all but two sentences
7 are incorrect is what this case was about. That's what I
8 did and I did it more than once. All the State players
9 talked about a minimum standard. And if there's something
10 wrong with that, I don't understand.

11 MR. GHENT: Your Honor, I'm on cross. Could the
12 Court instruct him not to give speeches, but to answer the
13 question.

14 THE COURT: You opened the door. When you open the
15 door, I mean, you can walk right through it, so.

16 MR. GHENT: Okay.

17 BY MR. GHENT:

18 Q Has this individual been on this case before?

19 A Yes.

20 Q He was your first lawyer, right?

21 A And I had a psychotic moment where everybody was
22 against me. And I have no friends in that state. And
23 whenever that happens -- including my mother and my
24 sister. I can't do it. At that time, I was on a
25 different medication. There's documentation to a Fanapt

1 that had a reverse reaction. I went into the hospital
2 over it. At the time, I fired Don Smith. There's
3 documents right there. There's a whole stack of them.

4 Q Your sister, I believe, has known him for 15 years?

5 A Probably longer than that, but she has known him some
6 time.

7 Q And he shows up yesterday?

8 A She used to date his best friend.

9 Q He shows up yesterday, correct?

10 A I subpoenaed him.

11 Q He shows up yesterday. He's here. He's --

12 A Because my sister paid him.

13 Q Please allow me. Yes or no, he shows up yesterday?

14 A Correct.

15 Q He also then -- you ask that he be allowed to become
16 your standby counsel instead of Mr. Shealy, correct?

17 A Correct.

18 Q You also yesterday refused to come out of your cell,
19 which is why --

20 A I did not. Mr. Ghent.

21 THE COURT: I --

22 THE WITNESS: I went to medical yesterday.

23 THE COURT: Just a minute just a minute.

24 I'm going to object to that myself. I don't think
25 that's relevant to the facts of whether or not he

1 committed this offense. So I'm not going to argue about
2 it.

3 MR. GHENT: Yes, sir.

4 THE WITNESS: I was in medical yesterday.

5 THE COURT: I'm not going to argue about it. Leave
6 that out.

7 BY MR. GHENT:

8 Q What are we to make of all of this -- have you or
9 have you not been claiming to be Dr. Rabbi Dean Holcomb
10 over the entire period of this?

11 A I have also claimed Magus and different other -- a
12 magician name and other things. Whenever I'm not in my
13 right mind, all kinds of personalities pop out with
14 different aspects and attributes. All right. That does
15 happen. And I can't do anything about that. If I could
16 change it, I would.

17 Q But you express it, refuse to let Mr. Shealy raise a
18 defense of insanity or mental health and you have been
19 found competent.

20 MR. SMITH: Objection.

21 THE COURT: I sustain the objection. That's a matter
22 for the Court. That's a matter for me and I've already
23 ruled on all that.

24 BY MR. GHENT:

25 Q You have basically today come in and presented an

1 individual for the jury to consider who is decidedly
2 different from the individual who is seen on the videos?

3 A Once again, Mr. Ghent, bipolar with psychotic
4 features is the diagnosis I've had my whole life. And
5 I'll move up and down, up and down, up and down. But I
6 will say this, Greenville County Detention Center's
7 doctor, who was just here, is the best doctor I've ever
8 seen. Out of 16 hospitalizations, he is absolutely the
9 best by far.

10 Q And you brought no other documentation or support for
11 those documentations, the hospitalization from falling
12 from a roof, your prior incident --

13 A You've seen the x-rays. You've seen the x-rays.

14 MR. SMITH: Objection, Your Honor, you've already
15 ruled on that.

16 THE WITNESS: You've seen those reports.

17 MR. GHENT: No, I haven't.

18 THE COURT: Let's ask one question at a time. Back
19 up and ask the question, Mr. Ghent.

20 BY MR. GHENT:

21 Q You have never provided any of that documentation,
22 have you?

23 A Well, I can't because I was in jail and you guys
24 seized everything from my home.

25 Q You were not there, were you?

1 A I was not.

2 Q You were some place else?

3 A I was in jail. You locked me up without bond.

4 Q Well, what about Bessemer City? What about Dallas,
5 North Carolina?

6 A That's not relevant.

7 Q Excuse me?

8 THE COURT: Ask the question. What about Dallas is a
9 pretty open-ended question. Ask him a question that has
10 some way to be answered.

11 BY MR. GHENT:

12 Q Were you arrested in Dallas, North Carolina?

13 MR. SMITH: Your Honor, we need to take up a matter?

14 THE COURT: Do I need to let the jury go out while we
15 take up the matter?

16 MR. SMITH: No, we can approach, if that's all right.

17 THE COURT: Well, I'd rather have everything on
18 record. Is it something you want to follow up on?

19 MR. GHENT: I simply would like to know if he was
20 arrested in Dallas, North Carolina.

21 THE COURT: Regarding these charges?

22 MR. GHENT: No, sir.

23 THE COURT: Well, I sustain the objection.

24 BY MR. GHENT:

25 Q When you were taken into custody, was it a female who

1 took you into custody?

2 MR. HOLCOMB: Your Honor, I mean, he's going into --
3 that has nothing to do with this case.

4 THE COURT: Well, you let me decide that.
5 Custody for what, these charges?

6 MR. GHENT: No, sir.

7 THE COURT: Let me let the jury go out while we
8 clarify something.

9 MR. HOLCOMB: Those charges were dismissed --

10 THE COURT: No, just don't be talking until you're
11 asked a question.

12 (WHEREUPON, the jury exits the courtroom at
13 approximately 3:28 p.m.)

14 THE COURT: While the jury is out, make a proffer on
15 where we're going with this Dallas stuff.

16 BY MR. GHENT:

17 Q Dallas, North Carolina, were you arrested for DUI?

18 A I was.

19 Q At that time, did you give difficulty to the
20 officers, you were handcuffed and taken to the jail?

21 A On advice of counsel, I plead the Fifth Amendment.

22 Q Did you send e-mails, letters, whatever --

23 A I plead the Fifth Amendment.

24 MR. GHENT: Your Honor, I would submit this entire
25 thing.

1 MR. HOLCOMB: That's --

2 MR. GHENT: No, sir. No, sir.

3 THE COURT: Well, he's pleading the Fifth Amendment.

4 Do you have charges pending on --

5 MR. HOLCOMB: I do.

6 THE COURT: Well, he's got a right --

7 Let me finish, Mr. Ghent. I see you shaking your
8 head.

9 If he's got charges pending regarding that Dallas
10 incident, then he's protected from testifying because he
11 might be incriminated.

12 MR. GHENT: I'm not asking him to say whether or not
13 he was drunk. I'm asking him whether or not he sent
14 letters akin to what he did here threatening Chief Buckner
15 in Dallas, North Carolina?

16 MR. SMITH: That would be character and not part of
17 this case. And it's --

18 MR. GHENT: It would show pattern and it would
19 impeach his testimony and the performance that's being --

20 THE COURT: Mr. Ghent.

21 MR. GHENT: Yes, sir.

22 THE COURT: One at a time. One at a time.

23 Well, I'd have to have clear and convincing evidence
24 before I could let in a non-conviction to impeach with.

25 You got clear and convincing evidence?

1 MR. GHENT: That would be if it was a 404(b). This
2 is an impeachment, Your Honor. He's on the stand.

3 THE COURT: He's on the stand, but you're using it as
4 Lyle testimony in my opinion. And for Lyle testimony for
5 a non-conviction, there has to be clear and convincing
6 evidence. That's the first hurdle you've got to get over
7 before you can go into that.

8 MR. GHENT: Yes, sir.

9 BY MR. GHENT:

10 Q Let me ask you this, do you recall when you were
11 picked up by the officer who came in and testified about
12 you being picked up and brought back to South Carolina?

13 A I don't recall that.

14 Q You don't recall the testimony in this courtroom?

15 A He didn't testify. He was excused because the only
16 thing -- he was in uniform. Remember, I objected and he
17 was relieved. He didn't testify to anything. Your --

18 Q He testified to picking him up and bringing him back
19 from North Carolina, yes, he did.

20 THE WITNESS: Okay. That's all he testified to.

21 BY MR. GHENT:

22 Q Did -- I'll ask, did you not tell him that you have
23 tried --

24 A I did not. {

25 THE COURT: Let him finish the question so I'll know

1 what we're talking about.

2 BY MR. GHENT:

3 Q Did you not tell him that you had been prosecuted 26
4 times and never been convicted?

5 A I talked about I had been detained as a protestor 26
6 times, anti-abortion protest and other events,
7 anti-gambling protest, Mr. Ghent. I've been detained 26
8 times. This will be the 26th time. But all of those were
9 over protesting things that I oppose politically. But I
10 have no convictions. There's no arrest for these things.
11 But I've been detained 26 times, yes. This is my 26th
12 time I've been locked up by the police department, but
13 those were all protest.

14 MR. GHENT: That's relevant, Your Honor.

15 THE COURT: Well --

16 MR. HOLCOMB: That's not relevant.

17 THE COURT: Let me be the judge in this case. It's
18 been awful hard for me to do that.

19 Again, I'm not saying you have to have clear and
20 convincing evidence he committed that, but he's got a
21 right to freedom of speech. And if he's been arrested for
22 protesting --

23 MR. GHENT: That's his version. That's for the jury,
24 Your Honor.

25 THE COURT: No, it's not, not if you -- an arrest is

1 different than a conviction. If he's got convictions for
2 something, but simply being arrested for, quote,
3 protesting, end quote, I find is his exercising his
4 Constitutional right to free speech. And he can't be
5 impeached on that.

6 MR. GHENT: But that's his version. That's up to the
7 jury.

8 THE COURT: That's his version, but have you got the
9 other version?

10 MR. GHENT: No, sir, and he has nothing.

11 THE COURT: Well, it's left for speculation. I'm not
12 going to allow you to go into it.

13 MR. GHENT: Yes, sir.

14 BY MR. GHENT:

15 Q With respect to originally being represented by Mr.
16 Smith, the e-mail that he sent to you, do you recall that?

17 A I do.

18 Q What did it say?

19 A It said the solicitor's office is coming after you.

20 Q What else did it say?

21 A It says that I was slandering Tim Martin and sent a
22 threatening e-mail to the governor. They falsely accused
23 me and you falsely accused me a number of times.

24 Q Aren't you leaving out part of that?

25 A I mean, he's got it. Would you like to bring it up

1 here?

2 Q Yes, sir.

3 THE COURT: Is this something for the jury?

4 MR. GHENT: Yes, sir, it is. But I would like to
5 show it to him before we get into it?

6 THE COURT: All right.

7 MR. GHENT: And this is critical.

8 (Pause.)

9 MR. GHENT: And if he can't find it, Your Honor,
10 again, we're back to square one because I would ask leave
11 to call Mr. Smith as a witness.

12 You received it. It's already been conceded. There
13 is aligns in that e-mail.

14 THE COURT: Let's take it one at a time. I've seen,
15 I think, the e-mail. I may have it in this big thick
16 binder somebody gave me one time. So I'm looking for it
17 myself.

18 MR. HOLCOMB: May I use the restroom and get that
19 e-mail for him?

20 THE COURT: Let's take a short break and let him use
21 the restroom. We'll all take a break while we look for
22 that.

23 Tell the jury we'll start back about 10 till 4:00.

24 (WHEREUPON, a short break was taken.)

25 THE COURT: You may proceed.

1 MR. GHENT: Your Honor, first of all, we have been
2 totally blind-sided with counsel being brought in. It's
3 the end of the day, could I, at least, have until tomorrow
4 morning to complete preparations for my cross-examination?

5 THE COURT: I'm not sure how his presence changes
6 things. That's your decision, not mine. We're going to
7 move forward with this case. The only way I would do that
8 would be that if you allow Mr. Holcomb to step down
9 subject to being cross-examined tomorrow by you, give you
10 time to prepare tonight and go forward with his other
11 witnesses.

12 MR. SMITH: Your Honor, I would strongly object. The
13 idea that he's not ready for cross-examination of the guy
14 who was getting on the stand regardless of me, that's --
15 that's disingenuous.

16 MR. GHENT: It's not that, Your Honor. Your Honor
17 knows what I'm talking about. That's fine. I'll withdraw
18 the motion.

19 THE COURT: All right. Go ahead. Are you ready for
20 the jury or have you got some more before the jury comes
21 in?

22 MR. GHENT: Let's go forward.

23 THE COURT: All right. Bring in the jury.

24 (WHEREUPON, the jury enters the courtroom at
25 approximately 3:50 p.m.)

1 THE COURT: All right. You may proceed with cross.

2 MR. GHENT: Thank you.

3 BY MR. GHENT:

4 Q Mr. Holcomb, you have talked about the statement you
5 gave to Mr. Martin?

6 A Uh-huh.

7 Q Where did you go to high school?

8 A South Side Christian.

9 Q South Side Christian Academy right here in
10 Greenville. Do you recall appearing in court/May 15th of
11 this year?

12 A Yes, sir.

13 Q Do you remember representing yourself as Dr. Holcomb?

14 A Yes, sir. I have an honorary degree from Universal
15 Life Church.

16 Q Actually, you have a degree that you sent off for and
17 paid what, 10 dollars?

18 A No, there's a whole course on those things.

19 Q Okay. And you --

20 A Once again, I wasn't on medication as you tried to
21 point out at that hearing. Remember you were going to
22 subpoena the people --

23 MR. GHENT: Your Honor, I'm on cross-examination. No
24 lectures.

25 THE COURT: You just answer the questions. That's

1 all we do at this stage.

2 BY MR. GHENT:

3 Q That's a sly grin, is it not?

4 THE COURT: Let's just ask questions and answer them
5 like we're supposed to.

6 BY MR. GHENT:

7 Q You also have repeatedly identified yourself as a
8 Rabbi, have you not?

9 A Once again, psychotic features.

10 Q Repeatedly, even when on medication have claimed you
11 were a Rabbi, have you not?

12 A I have some issues with psychotic futures.

13 Q And that is an excuse?

14 A It's not an excuse. It's just the way it is. I
15 can't help the fact that different personalities come out
16 at different times.

17 Q And --

18 A And you can ask my doctor. Would you like to bring
19 my doctor in here and ask him?

20 THE COURT: I'm trying to control. He's going to ask
21 you a question and you're going to answer it. You're not
22 going to challenge him. You're not going to talk about
23 other witnesses.

24 THE WITNESS: Okay.

25 BY MR. GHENT:

1 Q You have not claimed you're insane, correct?

2 A No.

3 Q You have not claimed that you're mentally ill?

4 A I have.

5 Q No, sir, I -- have you not claimed that you have
6 mental issues?

7 A I have.

8 Q Mental health issues?

9 A I have.

10 Q You have not entered a plea of insanity, have you?

11 MR. SMITH: Objection, Your Honor.

12 THE COURT: I sustain the objection.

13 BY MR. GHENT:

14 Q The South Side Christian Academy is, certainly, not
15 an institution for Judaism, is it?

16 A It's not.

17 Q And you were incarcerated after the e-mails were sent
18 for a number of months, correct?

19 A It's going on 34 months.

20 Q Okay. You just said it, 34 months. That's not just
21 awaiting trial. That's after trial, too, correct? You
22 were convicted, correct?

23 A Correct.

24 Q So all of this stuff that you're testifying to, this
25 is the first time you've ever told this story?

1 A I did not testify at trial, nor did I have witnesses.
2 And you made 88 false statements.

3 Q That is your claim.

4 A That's a lot.

5 Q That is your claim. Because you always attack
6 everybody else, don't you? It's their fault, isn't it?
7 Yes or no?

8 A I've got a lot of power against me here, sir.

9 Q Okay, well, let's go through the power. You start
10 with Megan the meth-making mom, the young woman who has an
11 addiction problem. You go on YouTube blasting her and her
12 family --

13 A What's your question?

14 THE COURT: Yeah --

15 BY MR. GHENT:

16 Q Did you not do that?

17 A She's mentioned in the video.

18 Q You wouldn't consider that to be an attack?

19 A No, I was attacking Mr. Martin's investigation, not
20 Megan Baucom.

21 Q Okay. And Tim Martin, and the videos that you posted
22 on YouTube, those would not be indicative of your
23 aggressive tendencies when you feel that you are being --

24 A A cartoon is aggressive?

25 Q I'm asking you, are they not an attack on the

1 Greenville County Sheriff's Office because they arrested
2 you?

3 A I was arrested for sending a cartoon?

4 Q No, sir! I asked why you posted these on YouTube?
5 Was it not an attack on the Greenville County Sheriff's
6 Office in as broad of form as you could get?

7 A I attacked -- are you asking me if I attacked the
8 Greenville County Sheriff's Office with a cartoon and my
9 version of events? Is that what you're asking me?

10 Q Yes, sir.

11 A Yes. You saw the videos.

12 Q On YouTube?

13 A Yes.

14 Q And those facial gestures and the hand signs and the
15 attacks on the family of Megan Baucom, those were not an
16 attempt --

17 A I did not attack --

18 Q -- to deter the prosecution of this case?

19 A I've wanted a speedy trial since this thing happened.
20 This is my first time in court on this matter.

21 Q On this matter?

22 A Seriously, for me to speak, this is the first time
23 I've had a chance to speak.

24 Q Okay. With respect -- well, you had a chance to
25 speak at trial, did you not? Your first trial, did you

1 not?

2 A You're going to hold that against me?

3 Q No, sir.

4 THE COURT: He had a Constitutional right to remain
5 silent at trial. He exercised it. It can't be held
6 against him.

7 MR. GHENT: He said this is the first time. Yes,
8 sir.

9 BY MR. GHENT:

10 Q Okay. Going back to the matter of the attacks on the
11 McGinn family.

12 MR. SMITH: May it please the Court --

13 THE COURT: Yes, sir.

14 THE WITNESS: I never attacked the McGinn --

15 MR. SMITH: The term attacked is a
16 mischaracterization.

17 THE COURT: Well, it's his cross-examination. He can
18 characterize it --

19 BY MR. GHENT:

20 Q You called them trash?

21 A I was a little upset. I referenced them, but I
22 didn't attack them.

23 THE COURT: Just answer the question. He asked did
24 you call -- I don't remember who it was.

25 BY MR. GHENT:

1 Q Trash?

2 A Who?

3 Q The family.

4 THE COURT: The McGinns?

5 MR. GHENT: Yes.

6 THE COURT: Did you call the McGinns trash? That was
7 the question.

8 THE WITNESS: It's in the video.

9 BY MR. GHENT:

10 Q With respect to --

11 A Is that illegal?

12 Q With --

13 THE COURT: Just questions, answers, questions,
14 answers, not --

15 BY MR. GHENT:

16 Q All right. Let's go through --

17 MR. GHENT: If I may, Your Honor.

18 BY MR. GHENT:

19 Q I would show you --

20 THE COURT: Now, remember, we're utilizing Mr. Sims.

21 MR. GHENT: He was the one who gave it to me at the
22 break, Your Honor.

23 THE COURT: Mr. Sims is carrying stuff from you to
24 the witness.

25 MR. GHENT: Oh, yes, sir. I'm sorry, Your Honor.

1 THE COURT: That's okay.

2 MR. GHENT: For a while I was up there closer.

3 BY MR. GHENT:

4 Q You recognize that?

5 A Yes, sir.

6 Q Did you send that e-mail?

7 THE COURT: All right. Keep in mind --

8 BY MR. GHENT:

9 Q Did you receive that e-mail?

10 A I did.

11 MR. GHENT: I'm sorry, Your Honor.

12 Could it be returned?

13 Your Honor, at this time, I'd ask that it be marked
14 and we would offer it into evidence.

15 THE COURT: Has Mr. Smith seen it?

16 MR. GHENT: Yes, sir.

17 MR. SMITH: Without objection.

18 THE COURT: In without objection.

19 (WHEREUPON, State's Exhibit No. 33 was admitted into
20 evidence.)

21 BY MR. GHENT:

22 Q Is that an e-mail Mr. Smith sent to you June 6th,
23 2013?

24 A It is.

25 Q You received it?

1 A I did.

2 Q Please publish it to the jury.

3 A You want me to read it?

4 Q Yes.

5 A The subject is strategy ideas. It's from Attorney
6 Donald Smith to Dean Holcomb. The solicitor's office is
7 going to come after you. They called my office and this
8 is what my assistant understood them to say. Your client,
9 Dean Holcomb, is in big trouble with the solicitor's
10 office. Sylvia just called and said he is posting YouTube
11 clips slandering Tom Martin, threatening e-mails to Mr.
12 Martin and the governor. She is e-mailing you what she
13 has, but wanted to give you a heads up they intend to
14 prosecute on these new charges they are filing.

15 Q Now, read the next paragraph.

16 A I would strongly suggest that you take that stuff in.
17 Don't be hated worse than the wrongdoer. You will hurt
18 the civil case because the jury won't feel as bad for you.
19 I'm calling the chick that made these statements now.
20 Sent from my iPhone.

21 MR. GHENT: Please publish that to the jury.

22 BY MR. GHENT:

23 Q In short, from almost day one, there was an idea in
24 your mind of a lawsuit, yes or no?

25 A Yes.

1 Q As a matter of fact, when you were in custody at the
2 Greenville County Detention Center awaiting trial on your
3 obtaining money, breach of trust charges, there was a
4 search conducted of your cell, was there not, yes or no?

5 A It wasn't a cell, I was in a dorm.

6 Q In your dorm? In the area that you shared with other
7 inmates?

8 A And you seized -- or Kindley --

9 THE COURT: Just answer the question.

10 THE WITNESS: Yes.

11 BY MR. GHENT:

12 Q As a result of that --

13 MR. GHENT: Please stand, Lieutenant Kindley.

14 Q -- did you sue him before the trial started?

15 A I did.

16 Q Is it not your approach to things in the name of free
17 speech or anything else, even when you're incarcerated, to
18 sue people and try to intimidate them?

19 A Yes, I exercise my rights in jail.

20 MR. GHENT: Thank you, sir.

21 BY MR. GHENT:

22 Q The videos that you sent, they were put on YouTube,
23 correct?

24 A Yes.

25 Q The cartoons were put on YouTube, correct?

1 A Correct.

2 Q Again, it is because you like to attack and embarrass
3 people, is it not?

4 A And what do you do for a living, Mr. Ghent?

5 THE COURT: All right. Just answer the question.

6 THE WITNESS: No..

7 BY MR. GHENT:

8 Q Well --

9 A Partially, it was meant to embarrass.

10 Q It wasn't?

11 A It was meant to embarrass them, yes.

12 Q Now, with respect to State's Exhibit No. 1, you have
13 admitted you sent this. I would like for you having said
14 that this is a misunderstanding, that you were upset, that
15 you were -- I'm not sure --

16 THE COURT: Mr. Sims, I'm going to let you move back
17 just a little bit more. I think you're blocking the
18 jury's view of the witness.

19 BY MR. GHENT:

20 Q Please read that e-mail --

21 MR. SMITH: May I see that?

22 Q -- please publish it.

23 MR. GHENT: Your Honor, I'm sorry. I just now got
24 counsel on the case.

25 THE COURT: Keep -- your rule.

1 MR. GHENT: Yes, sir. It's the Court's rule.

2 THE COURT: Well, it was requested and it was a good
3 one.

4 MR. GHENT: Yes, sir.

5 I'm sorry, Mr. Sims. I'm afraid we're wearing you
6 out again.

7 THE COURT: He's okay. I'm not worried about him.

8 MR. GHENT: I would ask that he read that to the
9 jury.

10 THE COURT: That's number what?

11 MR. SMITH: Your Honor, I would object and ask that
12 the jury get the statement themselves and read it.

13 THE COURT: I'm going to allow it. Both sides have
14 been reading all sorts of things off of documents. And it
15 is in evidence, so.

16 THE WITNESS: All right. From a tax generator,
17 millions and millions, to J. T. Martin, a civil service
18 sucking the public teat. Timmy, be warned, contact my
19 sister, family or friends again in an effort to intimidate
20 me and you will regret it. I promise you in the name of
21 the most high that my responses will be swift, well
22 planned and irreversible. This is your final warning.
23 Your 25-year-plus crusade and campaign is now over to hurt
24 me.

25 Never again will I submit to fascist with kindness or

1 respect for your offices. You, your cunt whore advocate
2 and your Facebook buddies in blue are about to be exposed
3 for all to see. Worldwide media coverage, I guarantee it.
4 Your web and media history is about to embarrass you even
5 more than your couple of blurbs from the past. What a
6 career. Skimmers emptying Greenville county bank accounts
7 is the link.

8 What are you trying to accomplish in the above
9 article, encouraging crime? For bigger budgets?
10 Overtime? Justify your existence? Have you considered
11 suicide? You should and will. I am so dangerous, my
12 enemies kill themselves. Research Young Road, Bessemer
13 city, North Carlina suicide in June or July of 2013 for
14 one example. My only weapon is prayer, ancient rituals
15 and the Kabbalah. My Monday morning song dedicated to you
16 and your friends.

17 You're keeping in step in the line, police action.
18 Got your chin held high and you feel just fine. Shameful
19 for breaking the 9th Commandment. Perjury, forgery, false
20 statements, violator of many state and federal laws. What
21 you have done is a hate crime. Cause you don't do what
22 you're told by poker machine operators, but inside your
23 heart is black and it's hollow and it's cold. Your faith
24 is empty and without fruits, is it not? Want proof? What
25 is yours, Sylvia, the lying cunt, whore, Smith, etc, God's

1 name? God's name as a title. Christ is a title. What is
2 the Creator of the Universe's name? How many letters in
3 the first name that spoke the first word that created
4 existence? Hint, it is not Jehovah, Yeway, et cetera, et
5 cetera.

6 I have forgotten more about your religion than you,
7 your asshole friends, your ministers or the national
8 leaders will ever know and can be prove mathematically
9 with sacred math and theomatics and Kabbalah, et cetera.
10 Plaintiff considers you and your ministries like children
11 playing with matches, however, extremely well armed and
12 dangerous, I declare your time is now over. Even South
13 Carolina is waking up. The good old boy system time is
14 forever, forever amen, so may it be, amen.

15 Just how deep do you believe? Plaintiff does not
16 question yours and your friends devotion to God as you
17 understand him. Will you bite the hand that feeds you?
18 Obviously. Will you chew until it bleeds? Obviously, it
19 has been one year, shitheads.

20 Can you get up off your knees? Stay their servant,
21 dare not stand before your masters with pride. You were
22 born to serve. I'm your superior in every way except
23 before our South Carolina Courts. Are you brave enough to
24 see? I don't think so or you would confess and officially
25 apologize to me and others. Do you want to change it?

1 Confess to your crimes and your cunt bitch Facebook buddy
2 have and are committing against me or you will regret it,
3 Psalm 109, last warning.

4 What is this whole crusade's a charade? Antiemetic,
5 evangelizing. Fuck you and all your butt buddies in blue.
6 And behind it all, there's a price to be paid, Psalm 109.
7 For the blood which we dine. Justified in the name of the
8 holy and the divine. You assholes believes you are right.
9 So did Hitler's minions and their actions were all within
10 the policy and procedures, quote, unquote, of the German
11 government and it was all fucking legal.

12 Did Professor Wes Smith not say that it was legal to
13 forge evidence and take a complaint from a meth head who
14 was in prison at the time the word was done on her
15 family's home. Megan owns nothing of value, nor ever paid
16 taxes, except sales taxes, she is now pregnant with her
17 fourth ward of the state.

18 Just how deep do you believe? Will you bite the hand
19 that feeds? Will you chew until it bleeds? Can you get
20 up off your knees? Are you brave enough to see? Do you
21 want to change it? Inaudible. Inaudible. Inaudible. So
22 naive, I keep holding onto what I want to believe. I can
23 see, but I keep holding on and on and on and on. Will you
24 bite the hand that feeds you?

25 There's four stanzas of that. Do you want me to read

1 all four of them?

2 Q Not necessary.

3 A Song by Trent Reznor --

4 Q No, I said not necessary.

5 MR. GHENT: I'd ask again that that be given to the
6 jury for publication.

7 BY MR. GHENT:

8 Q Now, I'll ask you if you can say these two words. No
9 big deal. Can you?

10 A I can.

11 Q Please say it.

12 A No big. You said two words.

13 Q Deal.

14 A Deal.

15 Q Three words. Would you say that the tone in which
16 you just read that e-mail, you sent to a prosecutor just
17 screamed the words --

18 A I did not send it to a prosecutor. It was sent to
19 Tim Martin, who is not a prosecutor?

20 Q Sent to an investigator, who was involved and working
21 with the prosecutor.

22 THE COURT: Make that a question.

23 BY MR. GHENT:

24 Q Would you agree that that screamed the words no big
25 deal? The way you read that just now, as if it is no big

1 deal?

2 A No.

3 Q Do you consider the way you just downplayed all of
4 this to be telling this jury this is no big deal? This is
5 our fault, not your fault?

6 A The forging of evidence and perjury is not your
7 fault?

8 Q What else would you like to blame on us?

9 A Well, you heard the testimony of the State actors. I
10 blame all of them.

11 Q And I guess me, too? Do you recall writing me a
12 letter threatening me, suggesting me and asking me --

13 MR. SMITH: Objection, Your Honor.

14 THE WITNESS: What letter is this? And how do I
15 threaten everybody? I threaten governors. I threaten
16 you. I threaten Wes Smith.

17 THE COURT: I sustain the objection.

18 BY MR. GHENT:

19 Q I would show you State's Exhibit No. 31. Would you
20 please read that to the jury?

21 MR. GHENT: Your Honor, again, I've just had a lawyer
22 come on the case, I apologize.

23 THE COURT: That's okay.

24 MR. GHENT: Let me give it to your lawyer first.

25 BY MR. GHENT:

1 Q First page, is what I'll ask.

2 A You want me to read just --

3 Q The first page.

4 THE COURT: What number is that?

5 THE WITNESS: 31.

6 THE COURT: State's?

7 MR. GHENT: Yes, sir.

8 THE WITNESS: July 27, 2014, about 14 months after
9 the arrest. Alton Holcomb sent Tim Martin and
10 Rabbimagus.guruupstateforjews@aol.

11 BY MR. GHENT:

12 Q By the way, who is that?

13 A Oh, that's probably me. It is me. Not a flight
14 risk, Jerusalem posted this writing about you and Nazi
15 Greenville calling your superiors civil. Go fuck
16 yourself. Executing an action soon to have you and Sylvia
17 cunt whore and Professor Wesley Smith investigated for
18 hate crimes.

19 That was -- I filed a federal suit asking for the FBI
20 to assist and they won't. I asked them to help
21 investigate this.

22 Top that, you fucking retard. If you're not
23 retarded, watch this. And that's Court's okay barring
24 high IQs for cops story on ABCnews.com. Believe in Jesus,
25 watch if you dare. Your whole life is a lie. Your faith

1 is a joke. But you keep the Sabbath -- and then there's
2 probably, I don't know. Found a video from 1989. You're
3 so fucked, your moron, not macho moron. Enjoy prison, you
4 fucking lying piece of shit.

5 MR. GHENT: I would ask that be published to the
6 jury.

7 THE WITNESS: You want to go into the perjuries and
8 all that --

9 MR. GHENT: No, sir.

10 THE COURT: He'll ask you questions.

11 THE WITNESS: Okay. Sorry.

12 BY MR. GHENT:

13 Q The claim that you're a Rabbi, do you get special
14 privileges in jail or prison if you are Jewish in terms of
15 your diet?

16 A You do.

17 Q Do you get a special diet that is in line with Jewish
18 culture and tradition?

19 A My mother is a Messianic believer. I'm a Messianic
20 believer. We maintain kosher. I believe Christ
21 maintained kosher.

22 Q My question is --

23 A I believe the Last Supper was kosher.

24 Q As you have claimed to be a Rabbi throughout this --

25 A I've also claimed to be magus and other things

1 whenever I'm psychotic.

2 Q So now you're saying you are not a Rabbi?

3 A That's correct.

4 Q Are you claiming you're not Jewish?

5 A No, I'm Jewish.

6 Q You have through the course of the e-mails kind of
7 evolved this Jewish thing, have you not?

8 A I object to going into my religion. And I'm a
9 Cabalist and it's a very rare thing.

10 Q Okay.

11 A Would you like to discuss it?

12 THE COURT: No, no, we're not. Going to save that
13 for a later time.

14 BY MR. GHENT:

15 Q The individual who actually paid you the money, the
16 check that you've quibbled over and over deposited as
17 opposed to cashed, he was paying you for a green roof,
18 correct?

19 A He paid Carolina Home Renovators a check and not me.
20 You understand the difference between corporate and --

21 Q Yes, sir, I do. I do. He gave the check to you and
22 it was deposited in your account, was it not?

23 A It was deposited in Carolina Home Renovators'
24 account, not my account.

25 Q Who endorsed the check on the back?

1 A I signed the back of the check.

2 Q Okay. So we won't --

3 A And deposited it into Carolina Home Renovators, LLC's
4 account.

5 Q Okay.

6 A Which Kenny Sawyer --

7 THE COURT: Whoa, that's enough of an answer.

8 BY MR. GHENT:

9 Q When the check was deposited in Carolina Home
10 Renovators' account, within almost a day or two, did you
11 write -- did you contact Greentree Roofing and order a
12 roof?

13 A I did.

14 Q Was it green?

15 A No.

16 Q It was blue, was it not?

17 A It was.

18 Q That was Kenny Clark's roof, correct?

19 A Yes.

20 Q That was the man you joked about only a blind man
21 would order a Hawaiian blue roof?

22 MR. HOLCOMB: Your Honor, I would object based on
23 that's another case.

24 THE COURT: Well, I overrule the objection.

25 THE WITNESS: It was an odd-colored roof, okay. And

1 let me -- do you mind if I explain?

2 BY MR. GHENT:

3 Q I don't think that requires any explanation. Did the
4 money go to pay for someone else's roof, yes or no?

5 A The money --

6 Q Then you can explain, yes or no?

7 A It went into Carolina Home Renovators' account where
8 other income comes in. All right. And as you know --

9 MR. GHENT: Your Honor, he has not answered the
10 question.

11 THE COURT: Well, I think he's trying to answer.

12 THE WITNESS: Let me explain. As you look at those
13 scopes, you have a back end check and a front end check,
14 okay. And when the job is done -- in most cases on
15 shingles, we pick up the first check when the shingles go
16 on the roof. And we buy that on credit from the shingle
17 companies. That first check goes in there and that check
18 usually just covers the shingles and we have to cover the
19 labor.

20 Now, in Mr. McGinn's case, that first check would
21 cover the metal. But we had other checks. And if you
22 look at the account, the other checks came in from other
23 companies. And a lot of times, it took companies -- a lot
24 of times it took up to 16 weeks for checks we did four
25 months before. It has to go to the mortgage company and

1 comes through the insurance company --

2 BY MR. GHENT:

3 Q Wait a minute. Wait a minute. Wait a minute. You
4 testified you --

5 A You're not listening --

6 THE COURT: Just a minute.

7 Let him finish up that answer.

8 THE WITNESS: His second is coming in and another
9 check was about to clear at the same time that came in
10 from another customer, which was the second check we had
11 been waiting on for about 16 weeks. It takes months. If
12 we had finished McGinn's roof, at that point, it would
13 have taken about three months for us to get that second
14 check. So those checks flow in weeks. It's about cash,
15 flow and money did go out.

16 BY MR. GHENT:

17 Q Yes or no --

18 A You were at trial. And not --

19 MR. GHENT: Your Honor, he's giving a speech.

20 THE COURT: Well, please don't interrupt him.

21 You've told us enough on that issue. Let's see what
22 the next question is.

23 BY MR. GHENT:

24 Q Immediately on the heels of that check being
25 deposited, you paid for Kenny Clark's roof, did you not?

1 A The company paid for Kenneth Clark's roof.

2 Q Okay. Fine. The green roof that Mr. McGinn ordered
3 was never purchased, was it? Yes or no? Then you can
4 explain. Yes or no?

5 A No. Now, I can --

6 Q Sure, go right ahead.

7 A All right. Whenever you exceed the amount of work
8 that was originally agreed to, the painting of the door
9 and the staining of the deck would be worth about \$400.
10 Whenever guys spent three days there, and as Mr. McGinn
11 testified to, a day, day and a half two men were there
12 working, you take into account insurance, you take into
13 account a commission being paid, the minute you exceed the
14 work that was done on the contract -- in the first
15 sentence at the bottom in the fine detail talks about how
16 things change. I've got case law on this. Once you add
17 work to a job --

18 Q You've got case law on this?

19 A Well, we've got some -- once you change the contract,
20 you have a right to get paid on that. If he had not paid
21 for that, Carolina Home Renovators would have lost money
22 on that work. So he says two men working there a day and
23 a half, which is not disputed, we say three days, is only
24 worth \$400. And those guys make a lot more money than
25 that. And you take out commission, you take out

1 materials, it exceeded \$400. Which should have been held
2 in civil court.

3 MR. GHENT: Your Honor, where did the pictures go?
4 I'm looking for the pictures. They were put into
5 evidence.

6 THE COURT: I don't know.

7 THE COURT REPORTER: All the exhibits are on that
8 table, except for Court's Exhibits.

9 MR. GHENT: Could I ask what their numbers are?

10 THE COURT REPORTER: Photos were Defendant's 15 and
11 Defendant's 16.

12 BY MR. GHENT:

13 Q You ever heard the expression a picture's worth a
14 thousand words?

15 A Sure.

16 Q And again, you've made a big deal about how long it
17 took to take pictures, have you not?

18 A Yes.

19 Q Are those not pictures of the house?

20 A Yes.

21 Q It is?

22 A Well, it appears to be the house. I mean, I was only
23 there once besides the time that I dropped off the
24 materials, so I was there two days.

25 Q The house, I'll ask reference, Mr. McGinn's house?

1 A So I believe it is.

2 MR. GHENT: Your Honor, at this time, I would ask
3 again that they be published to the jury.

4 THE COURT: All right. Fine.

5 BY MR. GHENT:

6 Q You're saying that that house had stain put on all
7 over it, it was stained -- excuse me, let me finish the
8 question. It was stained and three days work was done and
9 you are the only one here to say that, correct?

10 A We've been trying to get Will Byrd here. Okay. I
11 got ahold of Will Byrd. Mr. Martin didn't even try to get
12 ahold of Will Byrd. But here's what I can say. I wasn't
13 there, but people were paid for three days work.
14 Materials were bought for that home. There are receipts.
15 You've seen them.

16 Q No, I haven't.

17 A You have.

18 THE COURT: All right. Don't be arguing.

19 Just move to the next question, please.

20 BY MR. GHENT:

21 Q The gunshots which appear and you say -- are they or
22 are they not gunshots?

23 A No, they're explosive sounds.

24 Q Explosive sounds, gunshots. With respect to --

25 A It could be firecrackers.

1 Q -- Megan Baucom and Tim Martin, you do realize that
2 putting those in a YouTube video you post, you don't
3 think that is suggestive of danger, a threat to the
4 individuals on that?

5 A No. I think it's explosive in the sense of this is
6 liability. You manufactured evidence. You twisted it.
7 You reduced things at three different rates. You took a
8 page number out. I think that's what's explosive, that
9 Greenville County can falsify documents and internal
10 affairs will look at something and say listen, this
11 doesn't matter. This is okay for our officers to
12 manipulate evidence. It's okay for our officers to lie on
13 warrants. I find that explosive. I find it threatening
14 to their career. Or it should.

15 THE COURT: Just wait until the next question.

16 MR. GHENT: Your Honor, if I may have a moment?.

17 (Pause.)

18 MR. GHENT: The e-mail, may I? The first one. Thank
19 you.

20 BY MR. GHENT:

21 Q Just to be absolutely clear --

22 MR. GHENT: I'm getting the hang of it, Your Honor.

23 BY MR. GHENT:

24 Q State's Exhibit No. 1, which you read to the jury?

25 A Yes, sir.

1 Q It does talk about your enemies killing themselves,
2 doesn't it?

3 A It does.

4 Q It also talks about how dangerous you are, doesn't
5 it?

6 A With my mind, I'm going to blow you up with my
7 mind --

8 Q It is --

9 A -- that's what it's talking about.

10 Q If I may?

11 A Sure.

12 Q Does it begin with words be warned?

13 A Contact my sister again, yes.

14 Q You will regret it, yes?

15 A Yes.

16 Q My responses will be swift, well planned,
17 irreversible, yes?

18 A Yes.

19 Q This is your final warning, yes?

20 A Yes.

21 Q Would you consider the word cunt to be about as
22 dehumanizing a word -- allow me to finish. As can be used

23 --

24 MR. SMITH: Objection, Your Honor.

25 BY MR. GHENT:

1 Q -- with respect to a woman?

2 A It's a ugly word, yes.

3 Q You disagree that is a dehumanizing word

4 A As all profanity is. As the N word is. As Heeb is.
5 As any other derogatory word, it is bad.

6 Q Psalm 109 is referenced in this e-mail, is it not?

7 A Well --

8 Q Is it not, yes or no?

9 A It is referenced.

10 Q And Psalm 109 references leaving someone's children
11 fatherless, does it not?

12 A Asking God to interfere and to help you.

13 Q I did not ask that. It references leaving someone's
14 children fatherless, does it not?

15 MR. SMITH: Your Honor, I ask that he be allowed to
16 answer --

17 THE COURT: Answer the question.

18 BY MR. GHENT:

19 Q Yes or no?

20 A It does.

21 Q You don't --

22 A Let them be vagabonds.

23 Q You don't consider any of this to have been
24 threatening? It was your right as free speech to make
25 those threats?

1 A Once again, everybody is asking for me to have a
2 mental health evaluation on this e-mail, Ms. Harrison, Tim
3 Martin, you. You've stressed it. You've tried to have be.
4 evaluated three times.

5 MR. GHENT: Your Honor, at this time --

6 THE COURT: Just answer the question.

7 BY MR. GHENT:

8 Q It is your testimony that these could not be
9 reasonably construed as threats against the life of these
10 individuals?

11 A No, it says if you do it again, I'm going to pray it
12 is what it says. I didn't pray it. It says if you do it
13 again, I will pray it.

14 Q That's because limiting it in that fashion in your
15 testimony takes it out of the realm of it being a threat,
16 yes or no?

17 A Yes. And I didn't pray it. You're upset that I
18 would pray something?

19 Q No, sir.

20 A And making cartoons?

21 Q No, sir.

22 THE COURT: All right. Now, you --

23 MR. GHENT: He asked me.

24 THE COURT: You're the lawyer in this.

25 MR. GHENT: Yes, sir, I know that, but somebody is

1 having a problem remembering that.

2 BY MR. GHENT:

3 Q You do understand this is not about prayer, no matter
4 what you say? It's about what you send to officials who
5 are enforcing the laws. You do understand that?

6 A Do the laws apply to them?

7 Q Yes, they do.

8 THE COURT: Any redirect?

9 MR. SMITH: No, sir.

10 THE COURT: All right. You can step down and have a
11 seat with your counsel.

12 Call your next witness, Mr. Smith.

13 MR. SMITH: The Defense would call Tiffany Teso.

14 THE COURT: Ms. Teso, please come up and be sworn.

15 THE CLERK: Ms. Teso, please place your left hand on
16 the Bible and raise your right hand.

17 TIFFANY TESO, after being duly
18 sworn, testified as follows:

19 THE CLERK: Please be seated and state your name for
20 the record.

21 THE WITNESS: Tiffany Jane Holcomb Teso.

22 DIRECT EXAMINATION

23 BY MR. SMITH:

24 Q Ms. Teso, how are you?

25 A I recently turned 40.

1 Q How long have you known me?

2 A Since '94.

3 Q I had hair then?

4 A You did have hair.

5 Q With regard to Mr. Holcomb, what's your relationship?

6 A He's my brother and best friend.

7 Q Are you married?

8 A I am.

9 Q Do you have any children?

10 A I do.

11 Q Where do you currently reside?

12 A I live in Brevard, North Carolina.

13 Q How long have you been in Brevard?

14 A Eight years now.

15 Q You live there with your husband and your son?

16 A I do.

17 Q How long have you known -- I withdraw that. What are
18 you currently doing?

19 A I work as a music manager and a bartender at a
20 restaurant. I've been there for seven years.

21 Q What is your educational background?

22 A I have a Master's in media arts from the University
23 of South Carolina.

24 Q What's your undergrad degree?

25 A I was a double major, art and theater.

1 Q Is that USC as well?

2 A USC Spartanburg Upstate, then I went to Columbia.

3 Q You ever seen Mr. Martin before?

4 A Yes.

5 Q How did you have that opportunity?

6 A Ronda Cole took me out on a date when I was 12 years
7 old.

8 Q 12 years old, that's a couple years ago. How do you
9 have such a good memory?

10 A My memory is very good. I'm pretty photographic,
11 actually.

12 Q Where were you at when you saw him?

13 A We were at the food court at Haywood Mall.

14 Q And as a result of -- did you know Tim Martin before
15 that event?

16 A No, sir.

17 Q As a result of seeing him, where did you and Ronda
18 go?

19 A We did not finish our lunch, we left.

20 Q That was after Mr. Martin's arrival or noticing him?

21 A Yes.

22 Q Are you a witness or do you have any knowledge
23 whatsoever about the breach of contract that your brother
24 was charged with?

25 A No. Besides being at trial and everything.

1 Q Have you ever talked to Mr. Martin?

2 A To?

3 Q Tim Martin, you ever talked to him?

4 A No, he contacted my landlord and my landlord said
5 that he would not admit or deny he knew me, but gave me a
6 phone number. I returned his call and he never called me
7 back.

8 Q Where is -- your landlord is living in North Carolina
9 as well?

10 A Yes.

11 Q So Tim Martin called your landlord and because of
12 that, you returned his call?

13 A Yes, sir.

14 Q Did he ever call you back?

15 A No, sir.

16 Q Did you know anything about threats or breaches of
17 contract?

18 A No, sir.

19 Q To this day, do you have any knowledge as to why
20 Mr. Martin would call your landlord?

21 A Just to intimidate, to get to me. He has a history
22 with my brother.

23 MR. HOLCOMB: Nothing further, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. GHENT:

1 Q Ms. Teso.

2 A Yes, sir.

3 Q You have said nothing negative about Mr. Kindley?

4 A No, sir.

5 Q Do you have any axe to grind against him?

6 A No, sir.

7 Q Against SLED?

8 A No, sir. Well, SLED has been to my house numerous
9 times concerning my father.

10 Q As a matter of fact, now that you've answered that, I
11 will --

12 MR. GHENT: Leave to approach?

13 THE COURT: Is that in evidence?

14 MR. GHENT: No, sir. I'm asking if she can identify
15 it.

16 THE COURT: Have you shown it to Mr. Smith?

17 MR. GHENT: I will give him a copy.

18 THE COURT: Okay.

19 BY MR. GHENT:

20 Q Can you identify your handwriting?

21 A I'm sorry. I'm know this is my handwriting, but I
22 don't remember writing this. I'm not sure. Can I read
23 all of it?

24 Q Absolutely. Take your time.

25 MR. SMITH: Your Honor, may we do this outside of the

1 jury?

2 THE COURT: Let's see where we go.

3 MR. HOLCOMB: I've never seen this before. I don't
4 know what it is.

5 THE COURT: Let me let the jury go to the jury room
6 just a minute while we take up a matter.

7 (WHEREUPON, the jury left the courtroom at
8 approximately 4:37 p.m.)

9 THE COURT: Mr. Ghent, while she's reading it, I
10 don't think it will interfere with her reading, you tell
11 me what it is and why it's relevant to the case.

12 MR. GHENT: I received it yesterday. It is a report
13 August 1st, 2007, in which a SLED agent, Bradley Godfrey,
14 and a Lieutenant Waldrip interviewed Ms. Teso and provided
15 a written statement about an argument she had with her
16 brother, Dean. He goes into the threats Mr. Holcomb made
17 against her. It goes towards two things. It goes, number
18 one, towards her credibility. Number two, yes, she's
19 already opened the door that SLED has been to her door
20 several times in this investigation and, most importantly,
21 it goes towards the efforts to play down a significance of
22 threats. She called SLED to her home.

23 THE WITNESS: No, sir.

24 MR. GHENT: Please allow me.

25 THE COURT: Ma'am, ma'am.

1 MR. GHENT: The statement she wrote said she
2 contacted SLED.

3 THE COURT: In 2007, correct?

4 MR. GHENT: Yes, sir.

5 THE COURT: And the intimidation is in 2013?

6 MR. GHENT: Yes, sir.

7 THE COURT: All right. I find it too remote.

8 MR. GHENT: Yes, sir.

9 THE COURT: All right. Bring the jury back in.
10 Hand it to Mr. Sims.

11 (WHEREUPON, the jury entered the courtroom at
12 approximately 4:39 p.m.)

13 THE COURT: Yes, sir.

14 MR. GHENT: No further questions.

15 THE COURT: Any redirect?

16 MR. SMITH: No, sir.

17 THE COURT: You can step down. Have a seat back
18 there. Thank you, Ms. Teso.

19 Call your next witness.

20 MR. SMITH: Can we have a five-minute break?

21 THE COURT: Yeah, we'll take a five-minute break and
22 see where we are.

23 Any of all y'all wear a Fitbit? If you do, you've
24 probably maxed it out today. I'll let you go back to your
25 jury room for a minute.

1 (WHEREUPON, the jury exits the courtroom at
2 approximately 4:41 p.m.)

3 (WHEREUPON, a short break was taken.)

4 THE COURT: Yes, sir, Mr. Ghent.

5 MR. GHENT: I'd simply like this marked as a Court's
6 Exhibit so it's in the record.

7 THE COURT: That's the SLED matter with Ms. Teso?

8 MR. GHENT: Yes, sir.

9 (WHEREUPON, Court's Exhibit No. 12 was marked for
10 identification.)

11 THE COURT: Mr. Smith, what's your proposal?

12 MR. SMITH: Your Honor, I never received that until
13 now.

14 THE COURT: It's not going back to the jury.

15 MR. SMITH: Yes, sir. My suggestion would be based
16 on the late time, the need for charges and closing, might
17 take a while, I ask you take into consideration that we
18 start tomorrow first thing.

19 THE COURT: Any more witnesses for the Defense?

20 MR. SMITH: No, sir.

21 THE COURT: All right.

22 Anything in reply?

23 MR. GHENT: Is it clear the Defense has rested?

24 THE COURT: That's what he's telling me, yes.

25 MR. GHENT: All right. We'll argue and charge in the

1 morning.

2 THE COURT: All right. Let me get the jury back in
3 and tell them they don't need to make that decision about
4 --

5 MR. GHENT: Can I get everybody else back in?

6 THE COURT: Yeah, round them up:

7 And that's what we'll do, let's just --

8 We're back on the record.

9 Mr. Holcomb, any further witnesses?

10 MR. SMITH: The Defense rest, sir.

11 THE COURT: Anything in reply?

12 MR. GHENT: Nothing in reply, Your Honor.

13 THE COURT: Well, I'm going to get the jury in and
14 we'll let them go. Tell them to be back at 9:30. We'll
15 get together around 9:00. Before you leave, if we could
16 have a brief charge conference. I've got a charge ready.
17 We'll give copies to both sides. Certainly, we will ask
18 anybody overnight to hand me up any request to charge.
19 Let's let the jury go ahead and go and we'll do that in
20 chambers.

21 MR. GHENT: Your Honor, could I ask one question?

22 THE COURT: Yes, sir.

23 MR. GHENT: And I've always done it this way anyway,
24 but as I understand the new rule on closing, the State
25 opens on the law and the facts, the Defense then responds

1 and I can only response if there is anything I respond to
2 on the facts; is that correct?

3 THE COURT: That's the way I read the Beatty case.
4 That case, I understand, is under request to reconsider,
5 but that is the way it now works, much more like civil.
6 So you will be required to open in full, Mr. Smith, on
7 behalf of Mr. Holcomb, then you can reply to any new
8 matter.

9 MR. GHENT: Thank you, Your Honor.

10 THE COURT: Bring in the jury.

11 (WHEREUPON, the jury enters the courtroom at
12 approximately 4:48 p.m.)

13 THE COURT: Mr. Smith, I understand the Defense has
14 rested?

15 MR. SMITH: Yes, sir.

16 THE COURT: There's no reply?

17 MR. GHENT: None.

18 THE COURT: Members of the jury panel, we have moved
19 a little quicker than we thought we would. So the Monday
20 or Saturday question is now moot. We will start back at
21 9:30 in the morning. And the order of business will be
22 the attorney's closing arguments, my charge and we should
23 have this case in your hands if not before, pretty close
24 to lunchtime. We'll order lunch again.

25 So don't make up your mind yet. We're not quite to

1 that point. You haven't heard the closing arguments. You
2 haven't heard my charge on the law, so you don't know what
3 law to apply. Keep in mind my admonition about not making
4 up your mind or talking to anyone about the case. You
5 still don't have all the tools you need to reach a fair
6 and reasonable decision.

7 Have a pleasant evening and we'll see you at 9:30.

8 (WHEREUPON, the jury exits the courtroom at
9 approximately 4:50 p.m.)

10 THE COURT: Anything from the State for the record
11 before we quit?

12 MR. GHENT: Yes, sir. First of all, I must say for
13 the record, give the devil's due, I have never seen
14 something like that. I would like clarification that
15 there is no mental health, guilty, but mentally ill or not
16 guilty by reason of insanity ploy play charge that is
17 possible to be argued or charged by the Court.

18 THE COURT: I'm not charging anything about any
19 mental conditions because they have not been given notice.
20 There hasn't been any evidence to support it.

21 MR. GHENT: What about what Mr. Smith can argue?

22 THE COURT: Well, I think he can argue what the
23 evidence has shown and what his client says about his
24 mental condition. Not anything about what Dr. Martin said
25 because Dr. Martin's testimony was not for the jury's

1 consumption. He can certainly argue to the jury his
2 client's understanding of what his mental situation is,
3 but as far as sort of morphing into some sort of defense,
4 I don't think there is a comparable defense based on the
5 evidence that's in the record now.

6 MR. GHENT: For the record, Your Honor, I love it
7 when I don't underestimate the adversary. I've never seen
8 anything like this.

9 THE COURT: You're young. You'll see a lot more
10 things.

11 MR. GHENT: Yes, sir, I know. I will when I grow up.

12 THE COURT: All right. If I can see Mr. Smith and
13 Mr. Miller, Mr. Ghent back in chambers.

14 (WHEREUPON, court was adjourned for the day to be
15 reconvened on Friday, June 16, 2017.)

16 FRIDAY, JUNE 16, 2017

17 THE COURT: I received a call from the jury
18 coordinator this morning and was told that one of the
19 jurors, according to her, another juror had been talking
20 about the case. It's the same one who blurted out some
21 time during the trial. I've gone over that situation with
22 counsel and I intend to follow the procedure that I have
23 followed before. I understand -- without doing any
24 research on it this morning, I understand the proper
25 procedure is to bring that juror in. I'll definitely

1 dismiss her and seat the remaining alternate, which I'll
2 have to find out who that is. Then see if the remaining
3 12 have been tainted or can still be fair and impartial.

4 Comments from the State?

5 MR. GHENT: None, Your Honor.

6 THE COURT: Defense?

7 MR. SMITH: May it please the Court. I want to make
8 a motion, but I guess it's best to follow the procedure
9 first.

10 THE COURT: Okay. Let's bring in Ms. Bowling.

11 (WHEREUPON, Juror No. 21 enters the courtroom.)

12 JUROR: Yes, Your Honor.

13 THE COURT: You're Ms. Bowling?

14 JUROR: Yes.

15 THE COURT: I received word from our juror
16 coordinator that a bunch of jurors said you've been
17 discussing the case or commenting about the case in the
18 jury room; is that correct?

19 JUROR: No, sir, I have not.

20 THE COURT: You have not?

21 JUROR: No. The majority of our trial has been spent
22 talking about food and vacations.

23 THE COURT: Well, I also understand from the same
24 juror that you talked to standby counsel in the parking
25 lot after court one day.

1 JUROR: That is absolutely not true. Not at all.

2 THE COURT: Have you made up your mind on this?

3 JUROR: No, sir, I have not. No. I've joked with
4 bailiffs coming in just because I recognize them, but
5 nothing about this case.

6 THE COURT: You haven't discussed anything about the
7 case?

8 JUROR: No.

9 THE COURT: Okay. I'll let you go back.

10 JUROR: Thank you.

11 THE COURT: Ask Ms. Huffstetler to come in.

12 (WHEREUPON, Juror No. 118 enters the courtroom.)

13 THE COURT: Ms. Huffstetler, you can stand right
14 there. The jury coordinator tells me you told her that
15 Ms. Bowling has been talking about the case.

16 JUROR: Yes, a lot.

17 THE COURT: A lot?

18 JUROR: So, I mean, I just -- I kind of weighed on it
19 a few days if I should say something, but yes, a lot. She
20 says she just blocks things out. She doesn't listen
21 because it's just repetitive. She even mentioned talking
22 to one of his -- the younger guy that was sitting beside
23 him the first few days, outside of here.

24 THE COURT: She did mention that.

25 JUROR: She didn't go into details of the

1 conversation, but, yes, sir, she mentioned they spoke as
2 they were walking out of the building.

3 THE COURT: Okay. I'll let you go back in there.
4 You're still the alternate.

5 JUROR: Thanks.

6 THE COURT: Now, let me see Ms. Swaim, the Forelady.

7 (WHEREUPON, Juror No. 216 enters the courtroom.)

8 THE COURT: Hey, Ms. Swaim. I hate to put you on the
9 spot, but this is very important. Ms. Huffstetler had
10 reported to the jury coordinator that Ms. Bowling had been
11 talking about the case and saying she was blocking it out
12 because it had already been decided or something to that
13 effect.

14 JUROR: I have absolutely no idea how people are
15 thinking on this case.

16 THE COURT: But has Ms. Bowling made any comments
17 that you've heard?

18 JUROR: I have not heard any comments made, no, sir.

19 THE COURT: All right. Ms. Huffstetler also said
20 that Ms. Bowling said she had talked to Mr. Shealy, the
21 standby counsel, did you hear any conversation about that?

22 JUROR: No. Which one is Ms. Bowling?

23 THE COURT: The one sitting on the end who blurted
24 out the other day.

25 JUROR: Said she talked to Mr. Shealy?

1 THE COURT: Yes.

2 JUROR: I've not heard anything about that.

3 THE COURT: Well, she called him the young lawyer
4 sitting -- the young lawyer --

5 JUROR: She spoke directly to Mr. Shealy?

6 THE COURT: Beg your pardon?

7 JUROR: Are you asking me if she spoke to directly to
8 Mr. Shealy?

9 THE COURT: Ms. Huffstetler said Ms. Bowling said
10 that. Did you hear --

11 JUROR: I have not heard that, sir, no.

12 THE COURT: Well, where we are in the trial, are you
13 still of fair and open mind?

14 JUROR: I'm still of fair and open mind, yes, sir.

15 THE COURT: You still could base your verdict solely
16 on the law and the evidence that's developed during the
17 trial -- as has been developed during the trial and the
18 arguments?

19 JUROR: Yes, sir.

20 THE COURT: And the charge on the law, you can still
21 be fair and impartial?

22 JUROR: Yes, sir.

23 THE COURT: Okay. Thank you. You may go back. You
24 may have return to the jury room.

25 JUROR: Thank you.

1 THE COURT: Bring in next Ms. Campbell.

2 (WHEREUPON, Juror No. 26 enters the courtroom.)

3 THE COURT: I need to ask you a couple of questions.
4 You can stand right there. Have you heard Ms. Bowling
5 discuss anything about this case in the jury room?

6 JUROR: In the jury trial, I mean --

7 THE COURT: Well, I need to know. It's very
8 important. Has she talked about this case?

9 JUROR: No, no. I mean, the only thing is like we
10 were trying to figure out who the person was with
11 Mr. Holcomb, if he was a lawyer or an assistant or case
12 manager, but that was cleared up yesterday.

13 THE COURT: All right. Did you hear any information
14 that Ms. Bowling said she had talked to Mr. Shealy, the
15 young man?

16 JUROR: No, I didn't hear that.

17 THE COURT: Has anything happened in the jury room
18 that would prevent you from being fair and impartial in
19 the trial of this case?

20 JUROR: No.

21 THE COURT: Can you still have an open mind and base
22 your verdict solely on the law and the evidence that has
23 been developed and the arguments and the charge?

24 JUROR: Yes, sir.

25 THE COURT: Thank you. You may return to the jury

1 room.

2 All right. Next is Suzette Cornish, No. 49.

3 (WHEREUPON, Juror No. 49 enters the courtroom.)

4 THE COURT: Ms. Cornish, have you heard anybody,
5 particularly, Ms. Bowling, discussing the facts of this
6 case in the jury room?

7 JUROR: No.

8 THE COURT: Have you heard her say anything about
9 having talked to Mr. Shealy, the young man who was seated
10 earlier this week with Mr. Holcomb?

11 JUROR: No.

12 THE COURT: Okay. Has anything happened, any
13 discussion taken place in the jury room about the facts of
14 this case at this point?

15 JUROR: No, that I'm aware of, no.

16 THE COURT: Could you still be fair and impartial in
17 this trial?

18 JUROR: Yes.

19 THE COURT: And base your verdict on the law and the
20 evidence?

21 JUROR: Yes.

22 THE COURT: Thank you. You may go back to the jury
23 room.

24 Okay. David Fillion.

25 (WHEREUPON, Juror No. 75 enters the courtroom.)

1 THE COURT: Mr. Fillion, you can just stand right
2 there. Have you heard Ms. Bowling, the young lady sitting
3 in the front row -- I don't know if you know everybody by
4 name. Have you heard anybody, particularly, Ms. Bowling
5 discussing the facts of this case back in the jury room?

6 JUROR: No.

7 THE COURT: Have you heard anybody, particularly
8 Ms. Bowling, saying she talked with Mr. Shealy, who was
9 seated at counsel table for a while?

10 JUROR: No.

11 THE COURT: All right. Would you be, in spite of --
12 not in spite, but do you still have an open mind on this
13 trial?

14 JUROR: I have an open mind.

15 THE COURT: Can you still be fair and impartial to
16 the State and to Mr. Holcomb in deliberations in the
17 determination of what verdict to render?

18 JUROR: I will be fair.

19 THE COURT: Thank you. You may go back to the jury
-20 room.

21 Daisy Cretsinger.

22 (WHEREUPON, Juror No. 51 enters the courtroom.)

23 THE COURT: Have you heard anybody, particularly Ms.
24 Bowling, discuss anything about the facts of this case
25 there in the jury room?

1 JUROR: No, sir, not to my knowledge.

2 THE COURT: You don't remember anybody making any
3 comments about the facts of the case?

4 JUROR: Not the facts, no, sir.

5 THE COURT: Have you heard anybody comment,
6 particularly Ms. Bowling, make a comment that she had
7 talked with defense counsel -- or not counsel, but Mr.
8 Shealy, the young man seated at the table?

9 JUROR: Not that I know of, no, sir.

10 THE COURT: We've reached the point in the trial
11 we're about to go forward. Are you still -- do you still
12 have an open mind on this case?

13 JUROR: Yes, sir.

14 THE COURT: Can you still be fair and impartial to
15 the State and Mr. Holcomb?

16 JUROR: Yes, sir.

17 THE COURT: All right. Thank you.

18 Now, Ms. Childers.

19 (WHEREUPON, Juror No. 38 enters the courtroom.)

20 THE COURT: Ms. Childers, I hate to put you on the
21 spot, but I need to ask you, have you heard anybody
22 discuss in the jury room anything about the facts of this
23 case, particularly Ms. Bowling? Have you heard anybody
24 comment about the facts on the case?

25 JUROR: No facts, no, sir.

1 THE COURT: Have you heard anybody say anything about
2 someone, particularly Ms. Bowling, talking with Matthew
3 Shealy, the young man who was seated with Mr. Holcomb
4 through most of the trial?

5 JUROR: No, sir.

6 THE COURT: Do you still have an open mind on this
7 case?

8 JUROR: Absolutely.

9 THE COURT: Can you still be fair and impartial?

10 JUROR: Yes, sir.

11 THE COURT: All right. Thank you.

12 Ms. Harris.

13 (WHEREUPON, Juror No. 102 enters the courtroom.)

14 THE COURT: Hey, Ms. Harris. Have you heard anybody
15 talking about the facts in this case up to this point in
16 the jury room?

17 JUROR: No, sir.

18 THE COURT: Have you heard anybody say anything about
19 anybody, particularly Ms. Bowling, talking to Mr. Shealy,
20 who was the young man seated with Mr. Holcomb?

21 JUROR: No, sir.

22 THE COURT: Do you still have an open mind on this
23 case?

24 JUROR: Yes.

25 THE COURT: Can you still be fair and impartial to

1 the State and to Mr. Holcomb?

2 JUROR: Yes.

3 THE COURT: Thank you. I'll let you go back to your
4 jury room.

5 Nathan Steelman.

6 (WHEREUPON, Juror No. 211 enters the courtroom.)

7 THE COURT: Mr. Steelman, have you heard anybody talk
8 about the facts in this case? You know I instructed you
9 at the first of the week not to talk about the case. Have
10 you heard anybody talking about the facts in the jury
11 room?

12 JUROR: No, sir, I have not.

13 THE COURT: Have you heard anybody comment that they
14 or somebody else has talked to the young standby attorney,
15 the young man, Mr. Shealy, who was seated with Mr.
16 Holcomb? Have you heard anybody say they --

17 JUROR: No, sir, I have not.

18 THE COURT: All right. Do you still have an open
19 mind about this trial?

20 JUROR: Yes, sir.

21 THE COURT: Can you still be fair and impartial to
22 both the State and to Mr. Holcomb?

23 JUROR: Yes, sir.

24 THE COURT: Okay. Thank you.

25 Ms. Batson.

1 (WHEREUPON, Juror No. 15 enters the courtroom.)

2 THE COURT: Hey, Ms. Batson. Have you heard anybody
3 -- you or anybody else talk about the facts in this case
4 in the jury room?

5 JUROR: No, sir.

6 THE COURT: Have you heard anybody say anything about
7 somebody talking to Mr. Shealy, who was the young man who
8 during the early part of the week was seated with
9 Mr. Holcomb?

10 JUROR: No, sir.

11 THE COURT: Do you still have an open mind on this
12 case?

13 JUROR: Can you still be fair and impartial in this
14 trial?

15 JUROR: I can.

16 THE COURT: Okay. Thank you.

17 Kimberly Richmond.

18 (WHEREUPON, Juror No. 165 enters the courtroom.)

19 THE COURT: Hey, Ms. Richmond. I hate to be calling
20 you in by yourself, but have you heard anybody or you
21 discuss the facts in the jury room at this point?

22 JUROR: No, sir.

23 THE COURT: Do you know anything about or heard
24 anything about one of the jurors talking to Mr. Shealy,
25 who was seated with Mr. Holcomb through most of this

1 trial?

2 JUROR: No, sir.

3 THE COURT: Do you still have an open mind on this
4 case?

5 JUROR: Yes, sir.

6 THE COURT: Can you still be fair and impartial?

7 JUROR: Yes, sir.

8 THE COURT: Thank you. You may go back into the jury
9 room.

10 Desmond Foster.

11 (WHEREUPON, Juror No. 81 enters the courtroom.)

12 THE COURT: Mr. Foster, have you heard anybody talk
13 about the facts in this case? Anybody been talking about
14 the facts in this case in the jury room to this point?

15 JUROR: No, sir.

16 THE COURT: Have you heard anybody say anything about
17 a juror talking to standby counsel, the young man who was
18 seated with Mr. Holcomb, did you hear anybody say anything
19 about that?

20 JUROR: No, sir.

21 THE COURT: Do you still have an open mind about this
22 case?

23 JUROR: Yes, sir.

24 THE COURT: Can you still be fair and impartial in
25 deciding this case?

1 JUROR: Yes, sir.

2 THE COURT: Thank you. You may return to the jury
3 room.

4 I believe that's all of them?

5 MR. SMITH: Shouldn't there be one more, Your Honor?

6 MR. GHENT: One got sick.

7 THE COURT: No, one -- I made a mistake with Ms.
8 Thompson, 222. I told her that I would excuse her because
9 this coming Monday, she had sole care and custody of her
10 daughter's children and they had medical appointments. I
11 told her I would excuse her and somehow, my mistake, we
12 overlooked it and sat her. So when I realized it was my
13 mistake, that I had excused her, I excused her. So that's
14 why she's not here anymore.

15 MR. GHENT: Your Honor, may I comment?

16 THE COURT: I'm going to ask both of you to comment.
17 Now is as good a time as any.

18 MR. GHENT: First of all, I'm concerned that the
19 alternate -- she's not a juror, the alternate reported
20 something that has now independently, without any
21 consultation, anything, been denied by the 12 jurors
22 seated. I am extremely concerned of even the possibility,
23 understood these circumstances, with these people, 12
24 people who has sat through this trial, independently
25 refuting what was said, that this girl made this

1 allegation. Particularly, the one about talking to
2 jurors, et cetera.

3 Maybe I've seen too many John Grisholm movies, maybe
4 -- but -- or read too many books. I have real problems
5 with the fact that 12 people who have paid close attention
6 and have been in a jury room together -- I mean, there's
7 no way this could be a ad hoc conspiracy. So I have
8 questions about what in the world that alternate was up to
9 reporting that. So I would ask that she be relieved as an
10 alternate and we just proceed with 12.

11 THE COURT: All right. Mr. Smith.

12 MR. SMITH: May it please the Court? So
13 Ms. Thompson's gone, so that means it's what, 12 people
14 are here?

15 THE COURT: No, 13.

16 MR. SMITH: Well --

17 THE COURT: I caught it. It dawned on me before we
18 finished. So we had 14. We had another juror -- I may be
19 getting them confused. But I excused one because I made a
20 mistake. I excused the second one because we got a call
21 that her grandmother was in ICU, so I excused that juror.
22 We drew lots. The lots came up with Desmond, I can't
23 remember his last name, as the alternate. So we're down
24 to 12 jurors and one alternate, which we started with 12
25 jurors and two alternates.

1 MR. SMITH: Yes, sir. Your Honor, Mr. Ghent has made
2 a valid point. This case needs to be mistried. The
3 reason that is, is at the very least, we have two
4 individuals who have totally conflicting stories and that
5 leaves us with 11 people. We don't know -- the people
6 going back to that jury room, are they -- are they just
7 looking at each other? Are they talking? The
8 contamination was done, in my estimation, I wasn't here,
9 when that lady stood up and said something. I mean,
10 that's what she told the jury. That's what the jury
11 heard. And so the case continues.

12 And now we have an understanding from someone that
13 there's something going on outside the presence of the
14 Court. I mean, talking about the case, talking to Mr.
15 Shealy. I mean, I have no idea if it happened, as Mr.
16 Ghent said, but the idea of going forward with
17 Mr. Holcomb's life on the line.

18 THE COURT: Well, he's not -- this isn't an LWOP --

19 MR. SMITH: I understand that. Figuratively, sir.
20 20 years. The idea of proceeding when he never got a
21 preliminary hearing in this case or the last case. And
22 now we're having a situation with the jury that's
23 questionable at best. I mean, there's no getting around
24 that. There's no getting around that. The lady, the very
25 first day or whenever she said it, contaminated the jury,

1 in my estimation, then. Now, we have ongoing
2 contamination.

3 And bringing them in here and talking to them. Your
4 Honor has never seen it. I've never seen it. And the
5 idea of putting him, or the State for that matter, we both
6 deserve a clean jury and a fresh start. Because there's
7 no way of calculating or measuring what has happened to
8 this point.

9 THE COURT: Bring Ms. Bowling back in one more time.
10 I forgot to ask her one question.

11 MR. GHENT: Your Honor, may I point out, if anything,
12 this is prejudicing the case against us, not him. It's
13 causing questions among the jurors.

14 (WHEREUPON, Juror No. 21 enters the courtroom.)

15 THE COURT: Ms. Bowling, I hate to bring you back in
16 here, but I forgot -- could you still -- you commented the
17 other day out in front of the jury?

18 JUROR: And I'm sorry. Yes.

19 THE COURT: Are you open minded about what verdict
20 should be rendered in this case? That is, are you still
21 willing to listen to the arguments of the attorneys, my
22 charge on the law, give Mr. Holcomb the benefit of any
23 reasonable doubt in the case, which I will tell you to do
24 as a juror, and still return a fair and impartial verdict,
25 understanding that he, as we sit here now, is presumed

1 innocent? He need not prove his innocence. Do you still
2 have an open mind to approach your deliberations with that
3 understanding?

4 JUROR: Yes, sir.

5 THE COURT: Could you still be fair and impartial?

6 JUROR: Yes, sir.

7 THE COURT: I want to make sure what you're telling
8 me. You're telling me you have not made up your mind as
9 to what verdict should be rendered in this case?

10 JUROR: No, sir, I have not.

11 THE COURT: Okay. Thank you. You may leave.

12 (WHEREUPON, Juror No. 21 exits the courtroom.)

13 THE COURT: All right. I find that the 12 jurors --
14 I hate -- this is always hard to deal with because I don't
15 like to question the credibility of the jurors, but based
16 on all 12 jurors -- the seated jurors telling me they
17 could still be fair and impartial, regardless -- they say
18 they've had no discussion, but regardless, all 12 tell me
19 they could be fair and impartial. I am going to excuse
20 the alternate because we have 12 jurors. This is
21 hopefully the last day of this case. When the jury -- in
22 just a minute, before we bring the jury in, I'll bring Ms.
23 Huffstetler in and excuse her.

24 Before we do that, any motion or comments -- let me
25 back up just a minute.

1 First, any motion by the State.

2 MR. GHENT: Yes, sir, Your Honor. In light of
3 counsel's concerns about the report that he has expressed
4 and in light of the fact that I don't think he was here
5 when that came in and I expressed concern -- I agree to
6 withdraw the reports of SLED. I didn't put them in.

7 THE COURT: That's the Prodan report?

8 MR. GHENT: Yes, sir, the entire SLED report,
9 everything.

10 THE COURT: Any objection to that?

11 MR. SMITH: May it please the Court? It's my
12 understanding it was published to the jury.

13 MR. GHENT: No, it was not.

14 MR. SMITH: It was not?

15 MR. GHENT: I stayed away from it for the exact
16 reasons that I objected.

17 MR. SMITH: I'm not talking about Mr. Ghent. My
18 client was publishing things through the bailiff. And I
19 believe he published all the things he put in.

20 MR. GHENT: No, sir, he did not publish that report,
21 either of those reports.

22 THE COURT: I'm going to allow it to be withdrawn
23 unless Mr. Holcomb objects. Now, he put it in. Does he
24 want to stand by it or does he want to withdraw it?

25 MR. HOLCOMB: I want to withdraw it.

1 THE COURT: All right. We'll withdraw that.

2 For the record, we'll find out in a minute -- kind of
3 catch our breath. The issue on that was that when
4 Mr. Smith yesterday asked to be counsel and I denied him
5 that opportunity until later, still we've done some
6 research and I still haven't found a clarifying answer to
7 whether I was right or wrong, quite candidly. I believe I
8 was right based on the hybrid representation and also on
9 the fact that he went through all the based litany of
10 Faretta and Mr. Holcomb chose to go forward. So I may be
11 later turned to be wrong on that, but right now, I'm
12 comfortable with that ruling. I would be comfortable,
13 quite frankly, if I had not later reversed myself and let
14 M. Smith come into the trial.

15 But again, I think my law clerk researched it and we
16 cannot find any definitive answers as to whether or not I
17 was right or wrong. But based on my understanding of the
18 law, I'm comfortable with that ruling. So that will be
19 withdrawn. We'll do that over the break, make sure we get
20 that taken care of.

21 Now, anything else from the State?

22 MR. GHENT: No, sir.

23 THE COURT: The Defense?

24 MR. SMITH: May it please the Court? We are once
25 again renewing our motion for mistrial based on jury

1 contamination. I mean, the unknown here is not fair to
2 Mr. Holcomb. Who knows who's talking here? The idea of
3 someone talking to themselves, I mean, that's what it
4 sounds like. I didn't talk about it. I didn't talk about
5 it. But one person's talking about it. I mean, I don't
6 know what the situation is there and neither do you. And
7 because you don't know that, we have no idea what's going
8 on. He deserves a fresh start. The State deserves a
9 fresh start.

10 MR. GHENT: We don't want a fresh start.

11 MR. SMITH: I bet.

12 THE COURT: I deny the motion for mistrial. I do not
13 find it manifest necessity. This, again, just popped up
14 this morning, so I haven't had time to do any research.
15 But I've done this in, at least, one other trial. I don't
16 know whether that case has been upheld. It's fairly --
17 it's been several years, but the way our Court of Appeals
18 and Supreme Court --anyway, I don't know that that case
19 has been decided. But I do recall there are cases that
20 sanction the methodology I used in that trial and sanction
21 the methodology I have used in this trial.

22 MR. SMITH: Your Honor, the only thing I would point
23 out is that someone's lying. We're not even talking about
24 just talking. It sounds like someone's lying, which is
25 beyond chat.

1 THE COURT: Well, I agree with that because that does
2 give me grave concern. Although, I quizzed each of the 12
3 that are remaining about whether they could be fair and
4 impartial. And we have -- and this is some unplowed
5 ground, quite candidly, but I'm comfortable with the way
6 I've resolved it.

7 MR. SMITH: Can you tell me which one you think lied?

8 THE COURT: I --

9 MR. SMITH: That's my point, Your Honor. Is it Ms.
10 Bowling or is it the alternate?

11 THE COURT: I'm not going to try to tell which one
12 lied. All I know is that I asked all 12 if they could be
13 fair and impartial and they said they could.

14 Anything else on behalf of Mr. Holcomb?

15 MR. SMITH: No, sir.

16 THE COURT: You want to make a directed verdict
17 motion?

18 MR. HOLCOMB: Motion to dismiss counsel. And I have
19 reason and cause. I have evidence. I have evidence. May
20 I be heard?

21 THE COURT: No.

22 MR. HOLCOMB: I may not be heard?

23 THE COURT: No.

24 MR. HOLCOMB: He showed up at the jail --

25 THE COURT: Well, let's start over. I'll hear your

1 motion.

2 MR. HOLCOMB: Okay. Thank you.

3 THE COURT: Mr. Smith don't leave yet. Don't leave
4 yet.

5 MR. HOLCOMB: My sister has the audiotape with her.
6 The reason I dismissed Mr. Smith originally -- and I have
7 an audio of the conversation, was he was messed up on
8 drugs or alcohol four years ago, 2013, whenever he was
9 hired. I never actually hired him. All I asked for was a
10 preliminary hearing. I have that in a recording as well.
11 My sister has it on tape.

12 I'm going to go ahead and say on the record he was --
13 he's been drinking. He is a drug addict. He's admitted
14 that he's a drug addict. He attends meetings. I've been
15 to a meeting with him. I've been to numerous meetings
16 with him. You can look up regarding Don Smith with the
17 Supreme Court, he was disbarred for a time on that.

18 The reason he was hired last night -- or this week,
19 he's breached our trust. So there's a couple of things
20 I'd like to point out that's in the law here.

21 Misconduct, engaging conduct that is prejudicial to
22 the administration of justice. He appeared last night two
23 and a half hours late for his appointment that he agreed
24 to show up. He showed up at 8:30 last night. And we
25 didn't go over this timeline. So he sits in this room for

1 10 minutes. We had 10 minutes just now to go over the
2 timeline for him to work on that board. But he was not
3 lucid yesterday to have that discussion. We can call in
4 the officer that was there, the CO, the corrections
5 officer that was with me at the place.

6 Mr. Smith, and this is my testimony, he had white
7 substance around his nose right here, just a few flakes.
8 I asked him to take care of that. We can simply have him
9 drug tested and find out if that's the case. But I have
10 been prejudiced on that. And that's Rule 8.4 of the
11 Appellate Court rules and it's number E, engaging in
12 conduct that's prejudicial to the administration of
13 justice. Don Smith has fallen off the wagon. I didn't
14 pull him and I didn't push him.

15 But he's also breached our trust. My sister has
16 agreed to pay him money and she may have already paid him.
17 But he was supposed to -- this is what we were told. And
18 the reason she brought this up -- I didn't hear him and
19 Mr. Ghent --

20 THE COURT: Let me stop you.

21 Mr. Smith, you want off the case?

22 MR. SMITH: Your Honor, I really have no comment. I
23 don't want to hurt my client.

24 MR. HOLCOMB: Thank you.

25 THE COURT: Go ahead.

1 MR. HOLCOMB: Well, my sister was telling me that he
2 was talking about the leading questions that Mr. Ghent was
3 doing. Mr. Ghent was leading Mr. Kindley throughout that
4 process and a lot of things got into the record that
5 probably shouldn't have, which was unfair to unrepresented
6 counsel, which is also in the rules.

7 Mr. Ghent has been completely vicious towards me in
8 every way. Because what I would say --

9 THE COURT: Mr. Ghent's not the issue.

10 MR. HOLCOMB: I understand. I understand. What I'm
11 talking about is it's more prejudicial behavior, talking
12 about how I refused to get out of my cell. Actually, I
13 was on medical and we had a doctor testify to that fact.
14 I'm having a hard time with medication. And I'm actually
15 fairly stable right now. I've been taking the medication
16 for a few days and I feel like I'm doing okay. But I am
17 still -- I feel kind of drunk, a little bit dizzy at
18 times. I have a hard time standing up, my blood pressure
19 changes.

20 But for Mr. Smith to prepare for the timeline when we
21 could have done it last night, but he was still just kind
22 of out there and he wouldn't listen. And he came in there
23 in that condition at that late hour. You can listen to
24 the phone calls of me and my sister trying to get ahold of
25 him.

1 But he breached the trust. The trust the way it was
2 set up is he agreed -- what we were told is I can't take
3 the stand and question myself. I'd have to make a long
4 series of statements. And I wanted him to put in about 25
5 pages of internet reviews for them to go over, like --
6 well, up until about a week before this case -- before
7 this breach of trust issue on May 25th, I had a five-star
8 review. And as a matter of fact, the blind man, Mr. Clark
9 --

10 THE COURT: Don't go into the testimony and all that

11 --

12 MR. HOLCOMB: I understand. I understand.

13 THE COURT: The question is, if you want to relieve
14 him, just tell me specifically the reason.

15 MR. HOLCOMB: He breached the trust. He was supposed
16 to put in evidence. He sent my sister to get an audio
17 recording that had a little bit clearer of Mr. Martin
18 saying it was a civil case. He sent her out. When he put
19 her on the stand, he just asked her one minute's worth of
20 questions. I can't get by with that type of behavior as a
21 contractor, but the lawyers can, apparently.

22 I'd like to cite Rule 413, rule one, rules for
23 lawyers disciplinary enforcement. An incapacity is a
24 mental or physical condition that adversely affects a
25 lawyer's ability to practice law. I would ask if he -- if

1 you would ask him if he was drinking last night --

2 THE COURT: I'm not going to ask that. He's an
3 officer of the court. He knows better than to appear in
4 court -- I'm not saying that he -- and I met with him this
5 morning. He made lucid and well-founded arguments. And
6 this pattern of yours is over. He's going to remain as
7 your attorney. You'll have another ground for appeal.
8 This case has probably got more grounds for appeal than
9 the White House Christmas tree has on it. But he's going
10 to stick around as your attorney.

11 MR. HOLCOMB: I'm not trying to --

12 THE COURT: I don't care what you're trying or not
13 trying. I can't -- and I don't want to be cold and harsh,
14 but it's 10:10 on the fifth day of trial. You had him
15 once. You had Mr. Bannister at one time -- I know you say
16 you don't, but the records reflect that he has been
17 involved -- just a minute. Listen to me. That he has
18 been involved. There's an order releasing him as an
19 attorney. Mr. Bannister's somehow name's pops up, Jim
20 Bannister, an attorney here. Mr. Shealy has been on the
21 case, off the case, on the case, off the case. And with
22 your consent and your good wishes yesterday, you wanted
23 him on the trial.

24 And we're not -- this is the end of it. He's going
25 to represent you for the rest of this trial. And if you

1 have any bones to pick with him from an ethical
2 standpoint, I've told you many times during this trial
3 that there are ways to deal with that.

4 MR. HOLCOMB: I understand.

5 THE COURT: And if you have grounds for appeal, that,
6 certainly -- I wouldn't be offended whatsoever. Mr. Smith
7 is going to remain as your attorney.

8 MR. HOLCOMB: The reason Mr. Shealy was dismissed was
9 filing motions in the wrong county --

10 THE COURT: I don't care about all that. We are
11 where we are and we're going to stay where we are.
12 Mr. Smith is going to represent you through the remainder
13 of this trial. That's the option you exercised yesterday.

14 MR. HOLCOMB: All right. Well, it's my understanding
15 that I have to bring that up in order to argue ineffective
16 assistance before. If I would have argued it after, it
17 would have been kind of moot and they would have said I
18 didn't --

19 THE COURT: You've laid your groundwork.

20 Yes, sir.

21 MR. GHENT: And Your Honor, after whatever happens,
22 I'll put on the record the response.

23 THE COURT: What do you mean whatever happens?

24 MR. GHENT: After the jury is done. After the case
25 is concluded.

1 THE COURT: All right.

2 Mr. Smith, you're still on the case. We're going to
3 take a short break.

4 MR. HOLCOMB: I've just been thrown under the bus.
5 May I put this on the record, please?

6 THE COURT: For the record, Mr. Holcomb just stated
7 that he had just been thrown under the bus. I want the
8 record to make sure that reflects his comment on my
9 ruling, which is fine.

10 MR. HOLCOMB: I'm sorry, Your Honor.

11 THE COURT: I'm not finding fault with you. I'm
12 helping you. I want the record to show that, that that --

13 All right. We're going to take a short break.

14 (WHEREUPON, a short break was taken.)

15 THE COURT: Is the State ready?

16 MR. GHENT: The State's ready, Your Honor.

17 THE COURT: Defense ready?

18 MR. SMITH: Yes, sir.

19 THE COURT: Anything before the jury comes in?

20 MR. GHENT: No, sir.

21 THE COURT: When the jury comes in, I'm going to
22 dismiss the alternate and have her go ahead and leave.

23 Bring in the jury.

24 THE COURT REPORTER: Judge, could we go ahead and
25 clarify about the exhibits?

1 THE COURT: Oh, yes, I'm sorry.

2 Somebody hold them up.

3 (Pause.)

4 THE COURT: They can go ahead and come on in.

5 (WHEREUPON, the jury enters the courtroom at 10:25
6 a.m.)

7 THE COURT: Ms. Huffstetler, I appreciate your coming
8 and telling us what you did. And that was right, not
9 wrong. And not because of that, but because we still have
10 all 12 jurors, we're not going to need the alternate. So
11 I'm going to allow you to leave at this time because we've
12 got all 12 jurors and don't need the alternate.

13 JUROR: Thank you so much.

14 THE COURT: Thank you.

15 (WHEREUPON, Juror No. 118 was released.)

16 THE COURT: All right. The State ready to proceed?

17 MR. GHENT: The State's ready.

18 May it please the Court?

19 THE COURT: Yes, sir.

20 CLOSING ARGUMENT BY MR. GHENT

21 MR. GHENT: Madam Forelady, ladies and gentlemen of
22 the jury, two words as we now conclude the case. Thank
23 you again. Thank you for your attention to the evidence,
24 for your patience with us and with the system. And thank
25 for taking this matter seriously. Because I've been able

1 to tell watching your attention that you have done just
2 that. You have shown yourselves so far to be what we call
3 the conscience of the community in your performance. I
4 hope that you will focus on not some of the occasions,
5 strange time-outs, but rather on the facts, the evidence,
6 the testimony, the documents that we have presented in
7 this case.

8 I'm going to try to be brief because there's a maxim
9 for lawyers to remember. He who talks by the mile thinks
10 by the inch should be kicked by the foot. So I'm going to
11 be as short as I can. I would like to say first, remind
12 you of three words as you prepare for your deliberations.
13 No big deal. The way the Defendant read that document to
14 you, his attempt, his effort in the very reading of yes,
15 this threat in conjunction with this verse, you could read
16 it through. Be warned, it says. This is the evidence.
17 Contact my sister, family or friends again and you will
18 regret it. I promise you that my responses will be swift,
19 well planned and irreversible. This is your final
20 warning. I'm not going to read the rest.

21 That one word that I've had to use twice in these
22 proceedings, it is the crudest, most dehumanizing word
23 that can be used with respect to a woman. And it's
24 significant in this case because it objectifies, it takes
25 out the human factor of who and what they are, what they

1 are doing and it turns them into nothing but a crude
2 anatomical thing. Not a person, not a human, not a woman,
3 who has worked her way up and through the system and has
4 been a dedicated professional for years.

5 This case to this Defendant, it is all about him.
6 Others are at fault. Everybody's to blame, but him. It's
7 Assistant Solicitor Sylvia Harrison's fault. So much so
8 that she can be delegitimized as a human and as a
9 professional. It's Investigator Tim Martin's fault, the
10 Greenville Sheriff's officer, who supposedly, they dated
11 the same girl 20 to 30 years ago. And this is his chance
12 to get even. It is Lieutenant Jeff Kindley's fault for
13 taking over and investigating. SLED's fault, the
14 Magistrate's fault because the bond had a contact
15 provision to get in touch with Mr. Martin because the man
16 was being let -- he was being allowed to leave the state
17 and we would not have jurisdiction. It was, whether he
18 wants to concede it or not, something special that was
19 being done for him.

20 He attacks the system, the cops, the words in the
21 warrant. I mean, with every witness he called, back over
22 it again, with everything during the State's case, over
23 and over, with Tim Martin, over and over, parsing the
24 words into miniscule unimportant matters, as was explained
25 to him repeatedly.

1 The issue for arresting him is probable cause. Would
2 a reasonable person looking at what was before them have
3 reason to believe that a crime has been committed? That
4 is what was explained to him, the lowest of all the
5 standards in terms of proof. Whether or not a reasonable
6 person would believe a crime had been committed. That's
7 what it takes to get the process started.

8 In a civil case, it can be a standard of
9 preponderance of the evidence, more likely than not. It
10 can be clear and convincing evidence, a bit more than
11 that. But in the criminal justice system, what I have
12 been required to show you is proof beyond a reasonable
13 doubt.

14 And please, I hope you understand that my emphasis,
15 my passion, my being so emphatic is you don't get to look
16 this old, doing this this long without caring about what
17 you're doing and about the cases and about the people you
18 serve and represent. Sylvia Harrison cares. Jeff Kindley
19 cares. Investigator Martin cares. All those who appeared
20 and testified cared.

21 In a very real sense, this case is all about the
22 Defendant, Mr. Holcomb. But that's because it is a very
23 big deal what he did, what he intended. And you, ladies
24 and gentlemen of the jury, you are the judges of that, the
25 facts of what happened.

1 The burden of proof, we have made clear from the
2 beginning. In my opening statement, I said it's on me.
3 It is on us to prove guilt beyond a reasonable doubt. We
4 also explained that you, as judges of the facts, make the
5 determination of what happened. Judge Hayes is the judge
6 of the law. Objections, he rules. When he tells y'all
7 this is what the law is, this is what the law says, you
8 don't take a vote on whether or not you like the law. You
9 don't take a vote on whether or not it says that. He
10 tells you what it says. You vote on who you believe, what
11 you believe and whether or not you are persuaded.

12 The Judge will tell you that guilt beyond a
13 reasonable doubt, that there are few situations in this
14 world where you can say I'm absolutely certain. That is
15 not our burden. You are not required to be persuaded by
16 proof that is absolutely certain. Because His Honor will
17 tell you, there are few things in this world that we know
18 with absolute certainty. We are not required to prove our
19 case beyond possibilities. His Honor will tell you that.

20 As when the Defendant chose to browbeat our own
21 witnesses and kept wanting to suggest in your presence,
22 well, couldn't it have been possible? No, that's not what
23 this case is about. The Judge will tell you that our
24 burden is not to overcome every possibility that you might
25 be able to think of. The Judge will tell you that if you

1 are firmly convinced, the 12 of you, in your
2 deliberations, discussing the evidence together with one
3 another, if you are firmly convinced of his guilt, the
4 Judge will tell you it is your duty, your sworn duty, the
5 oath you took, to then -- if the crimes charged have been
6 proved beyond a reasonable doubt to your satisfaction,
7 then, you must find him guilty.

8 It is too late to say I'm uncomfortable with having
9 to be a judge, with having to be a juror. You are only
10 charged with finding the facts. You have now sworn to us
11 and represented to us that you could and would do that.
12 If you think he is not guilty after discussing the
13 evidence charged, you must find him not guilty.

14 As to the charges, there are two charges which he has
15 come into this court facing. One, threatening a public
16 official; and two, obstruction of justice. The Defendant
17 is charged with obstructing Mr. Martin in his efforts to
18 investigate and his investigation.

19 Now, I'm going to go ahead and point out, it's
20 already been revealed, that in another life, I was a
21 prosecutor, then I was a defense attorney, now I'm a
22 prosecutor again. There's an advantage to that. I can
23 tell you where he's going. I can tell where counsel is
24 going with respect to each of the charges.

25 With respect to the obstruction of justice, the

1 Defendant, Mr. Holcomb, has tried to muddle at what point
2 the case was no longer Tim Martin's and at what point it
3 became Mr. Kindley's. Ladies and gentlemen of the jury,
4 it was explained to you that there is not some clear line
5 of demarkation. The dates, the events that the Defendant
6 chose to bring out have shown you why this case has taken
7 as long as it has. It has not been because we are lazy or
8 indifferent.

9 Obstruction of justice, His Honor will explain, the
10 State must prove beyond a reasonable doubt that the
11 Defendant committed an act or attempted to obstruct --
12 prevent, obstruct, impede or hinder the administration of
13 justice. He either actually did it or he attempted to do
14 it. Well, in this case, he did both. He attempted and he
15 succeeded. He did both with respect to the e-mails, which
16 are now in evidence. Clearly, the chain of moving the
17 case from one body to another in government shows that he
18 was successful in getting Tim Martin and the Greenville
19 County Sheriff's Office off the case. He sends an e-mail
20 that he tries to get up on the stand and says it was a
21 sound like firecrackers, blowing up career and all of
22 that.

23 Ask yourself this, I suppose y'all know how YouTube
24 works. I haven't got clue one, that's why this guy's
25 here. I'm a dinosaur, okay, when it comes to tech stuff.

1 But when that appeared on YouTube, the cartoons attacking
2 the Greenville County Sheriff's Office. And how did he
3 even slip it in that -- I'll concede it, I missed that
4 one. And throughout, he kept referring to it as the
5 tampering with evidence CD. I didn't write that, he did.
6 It was yet another last attempt to put it off on somebody
7 else.

8 And these YouTube videos that he put up, they weren't
9 just sarcasm. They weren't just a little fun and games.
10 They were a threat. They became a threat when e-mails --
11 if you look through the course, the progression of the
12 e-mails, he begins to get angrier and angrier and angrier
13 that he can't have his way. Because that is what this man
14 is all about, having his way. Control. Intimidation.
15 Pushing people around. He is a bully. And he chose the
16 wrong county, the wrong people, the wrong investigator in
17 terms of Mr. Kindley. And I will say, the wrong
18 prosecutor to simply say oh. However, I did not receive
19 an e-mail that had -- on YouTube that was posted that had
20 a picture of me in my office working --

21 MR. SMITH: Objection, Your Honor.

22 THE COURT: I sustain the objection.

23 MR. GHENT: Mr. Martin received an -- saw a YouTube
24 that you saw. That video on YouTube that was sent out for
25 everyone to see shows Mr. Martin and Megan Baucom -- and

1 y'all heard it, it wasn't firecrackers. It wasn't -- it
2 was the sound of gunshots. It was the sound of gunshots
3 over and over and over. He was not talking about
4 Mr. Martin blowing up his career. That was a threat.
5 I'll tell you what it wasn't, it was not a Hallmark
6 greeting card. It was a threat pure and simple.

7 Defendant has been charged with, also, intimidating
8 an assistant solicitor in the discharge of her duties. In
9 order to be found guilty of intimidation of a court
10 official, we must prove beyond a reasonable doubt, and we
11 have, that Mr. Holcomb, by threat, force, intimidation,
12 impeded any official of any court in the discharge of
13 their duty.

14 Under South Carolina law, a solicitor is an officer
15 of the court who occupies a quasi judicial position. His
16 Honor will charge you that. Sylvia Harrison testified
17 that she felt threatened by the e-mails and by the videos.
18 The defense for Sylvia Harrison is going to be oh, but I
19 didn't send it directly to her.

20 As I have previously mentioned, if you send a threat,
21 it does not have to go directly to President Obama. You
22 threaten an official and it becomes public, it becomes
23 subject to investigation if you intended to disseminate
24 it. If you intended for it to get out, especially if you
25 intended for it to go to an investigator working with Ms.

1 Harrison, you can't say I didn't mean to threaten her.

2 That is a threat to her. Intended to her.

3 I've told you that Judge Hayes is the judge of the
4 law. What he says about the law, you must follow. The
5 judge will also tell you, again, that you are the judges
6 of the facts. Your sworn duty is to be true to your oaths
7 that you can well and truly try this case. That you will
8 be fair and impartial to the State, to the victims as well
9 as to the Defendant. And that you will decide the facts
10 and then you will not vote on what the law is, you will
11 vote on whether the facts that you find to be the evidence
12 in the case has proven the Defendant guilty beyond a
13 reasonable doubt. If you make that finding, then he is
14 guilty.

15 Several times, some or all of y'all have been put on
16 the spot in the course of these proceedings. Do not let
17 that deter you. Do not let that in any way impair your
18 ability to now do your job, a sworn duty that you have as
19 judges.

20 How do we get from evidence to saying it's a fact?
21 Well, the evidence is witnesses, and the judge will tell
22 you that. And it documents, the judge will tell you that.
23 Pictures are worth a thousand words. I will say it flat
24 out. Mr. Holcomb is a con man. What you've heard are his
25 attempts to con you. Just like he conned Mr. McGinn and

1 took over \$4,000. That's not this case. But he wants
2 this to be all about that case. Because he is still hell
3 bent on attacking Mr. McGinn and attacking the system.
4 This case is about intimidation of an official trying to
5 do her job. Threats against that official in trying to do
6 her job. She was threatened. She felt intimidated, so
7 much so that she felt a need to get out of town, go see
8 relatives in Texas. When she came back, she moved her
9 brother in and she slept with a gun.

10 We can all have different reactions to threats.
11 There are people who are trained in combat, who have a
12 higher resistance to a threat than others. There are
13 people who naturally, maybe physical attributes, whatever,
14 nothing frightens me. That's not the point. The point is
15 whether or not a reasonable person, a reasonable
16 prosecutor or a reasonable individual would have felt
17 threatened. You saw her testimony. You think she was
18 putting on a performance? Absolutely not. It was clear
19 she took this very seriously. She took it very, very
20 seriously.

21 With respect to witnesses, the judge will tell you in
22 determining the believability of witnesses who have
23 testified in this case, you may believe one witness over
24 several witnesses, or several witnesses over one witness.
25 You may believe a part of the testimony of a witness and

1 reject the remaining part of the testimony of that same
2 witness. You may believe the testimony of a witness in
3 its entirety, or reject the testimony of a witness in its
4 entirety. You can use your common sense, your sense of
5 reason and your experiences in life in analyzing the
6 evidence and judging the credibility of witnesses. You
7 can use those things that you find in your day to day life
8 to be indicative of believability of a person. You can
9 use life experiences, in other words. You may also use
10 evaluation of believability, such as a witness's demeanor,
11 how they acted on the stand. Look at the witness's
12 testimony, are they hesitate or straightforward?

13 What you saw was a performance. And I ask, you know,
14 which Dean Holcomb are they supposed to believe? The one
15 who was fumbling around and apologizing and all? Or the
16 shrew fast talking individual who took the stand, who
17 acknowledged, you know, how that's just one of my things
18 when I'm out of my mind? He's Jewish, but he went to
19 South Side Christian Academy. He conceded that. He says
20 his mother is, I think, Kabbalah. He's Kabbalah.

21 Howard Steinburg, a Jew, came into court. He gave
22 testimony, but he went like that and explained to the
23 judge, that's not his Bible. Ask yourselves, what about
24 when the Defendant went under oath?

25 I listened and watched as Robbie McGinn briefly told

1 you about the events that started this all. I had to
2 watch as he was attacked again and again and yet, again.
3 His daughter was attacked. Yes, she's a methamphetamine
4 addict. It is one of the plagues of this country, this
5 generation.

6 A big deal was made about she was not there when the
7 repairs were made. Well, I let that go. Mr. McGinn
8 explained he and his wife -- and I had him describe her
9 for you -- were having serious physical conditions.
10 Ms. Baucom got out of prison. The work had not been done.
11 Her parents were ill. Mr. McGinn asked her to go down and
12 she did. Because someone has gone to jail does not mean
13 that they cannot go in and make an incident report. You
14 may lose certain rights, but you do not become a
15 noncitizen of this country or this state. Because you
16 have served your time after committing a crime.

17 There was enough there, over and over Mr. Holcomb was
18 told, for probable cause. How did Mr. Holcomb refer to
19 these people in his video? His self-interviews slashed
20 over and over. You saw how -- you know, this and that,
21 this and that. He referred to these people as trashy
22 people, trash, garbage. In short, people not even worthy
23 of caring about. So what if they get ripped off? They're
24 small people. They're poor people.

25 They're not trashy people. He told you, he works as

1 a contractor for a living. Megan is his stepdaughter. He
2 has to take care of a crippled wife and his stepdaughter's
3 three children regularly. You saw the anger, the emotion
4 well up in him. That was not a performance. He was
5 ripped off. Cheated. Robbed.

6 Tim Martin, the investigator on the case, explained
7 there was a hailstorm. That's background on how all this
8 got started. Roofs all over area got plastered, like
9 recently. He told you about the investigation. He
10 thought it was a relatively simple case, a basic case.
11 Reviewed it, probable cause. It was reviewed by somebody
12 else. Yes, take out the warrant.

13 The claim that he went up on the bench, whispered in
14 the judge's ear about the contact provision is nonsense.
15 And again, I would point out that was done for
16 Mr. Holcomb's benefit. Otherwise, he would have had to
17 stay in jail or post a much higher bond, if a bond at all.
18 If anything, Tim Martin's mistake was seeing it as what it
19 was, a relatively basic routine breach of trust case.

20 And the notion that he would remember going back 20
21 or 30 years -- and again, we don't know. Mr. Holcomb
22 didn't bring anybody, other than his sister, who tried to
23 corroborate. She had ridden in a car with someone and
24 Ronda Cole, I think was her name, at some point. Nothing
25 to back that up. It's all about a girl 20 or 30 years

1 later? That's absurd.

2 The e-mails that were sent over and over and over
3 again to Mr. Martin until they finally cross the line.
4 And once they crossed, they stayed on it. He started
5 calling him names, f'ing retard, this and that, everything
6 in the book. Suddenly, he's no longer human.

7 There is no way that the matter of guilt or innocence
8 of Mr. Holcomb should hinge in this case on a question of
9 whether or not a warrant for his arrest, which then led to
10 an indictment, and you know the rest, and how it turned
11 out. There is no way that this case for threatening a
12 veteran assistant solicitor and obstructing the
13 investigation of a veteran detective with the Greenville
14 County Sheriff's Office should hinge on whether or not the
15 check was cashed or deposited. This is Mr. Holcomb's way
16 of sitting here just trying to split hairs right and left.
17 The question there was did he take his money and not put a
18 green roof on it? Did he take his money and use it to pay
19 for another job that he had to do and then -- it's kind of
20 like musical chairs. The music stopped, the money stopped
21 and Mr. McGinn doesn't get a roof.

22 But again, that's not what this case is about. It's
23 about the threats. We didn't bring all that in. That was
24 previously brought it. He did, requiring us to respond
25 and explain.

1 By the time Jeff Kindley took the stand, my interest
2 was trying to get this case moved this week. I put
3 Mr. Kindley up. I had him tell about his investigation,
4 go through it. Again, cross-examination. Mr. Martin was
5 up there for a day. More badgering, more attacks, more
6 about when did you take over, more about the warrant.
7 Nothing that was in any way a defense against this charge,
8 these charges, just on and on.

9 The Defendant called Sergeant Mike Jarvis to go over
10 and over and over and over again details regarding the
11 warrant, probable cause, cashed or deposited. He called
12 Wesley Smith, the same sort of thing. Mr. Holcomb
13 attacked Smith and, at that point, really was going whole
14 hog into the notion that it's now a conspiracy. It is a
15 conspiracy.

16 The Defendant's sister testified briefly, make an
17 appearance, note someone else to put up on the stand.
18 Nobody called to back up his claims of someone he dated,
19 it being a valid girl, any of that.

20 The Defendant -- and again, I recognize the burden of
21 proof is on the State to prove the elements. But there's
22 no way with somebody who is a pitch man like this that you
23 can go out and find all of the things that don't exist, or
24 are not like he claims they are.

25 Mr. Holcomb testified, you saw his testimony. You

1 will see that on his e-mails, he started calling himself
2 Rabbi, magus, other things. It was a game to him. He
3 started claiming that it was about his First Amendment
4 rights. Well, freedom of religion is in the First
5 Amendment, too. So he's trying to get both of those
6 together in there. Oh, I'm being treated badly because
7 I'm a Jew. No, actually, you went to South Side Christian
8 Academy. You claim that you are Jewish. He acknowledged
9 when I asked him if you get special privileges on food if
10 you're Jewish when you're locked up. It was kind of a
11 smirk yes. He went through his notion of what it was that
12 Tim Martin had against him. He went on and on about the
13 Greenville County apparatus going after him.

14 Ladies and gentlemen of the jury, I will get to talk
15 to y'all briefly, but it's going to be limited one more
16 time, to responding to the facts that I dispute or believe
17 I should dispute. So I want you to listen, please, if you
18 would to this. You are the judges of the facts. You're
19 the conscience of this community of Greenville. You, as
20 conscience of the community, have the duty to do the right
21 thing. The right thing is to look at the facts and
22 acknowledge, all working as one, listening to each other,
23 showing respect for one another, but listening to each
24 other and talking about the facts proven in this courtroom
25 and doing what you believe. And if you really do that,

1 there is only one verdict you can reach as to both those
2 charges, is guilty. Guilty as charged. Obstruction of
3 justice, threatening a court official, guilty.

4 Now, that's what I say. The question in this case it
5 boils down to is, is people doing their sworn duty? Sworn
6 to be the conscience of this community based on the
7 evidence. What are you going to say?

8 Thank you.

9 THE COURT: All right. We'll take a short refresher
10 break and then we'll hear from Mr. Smith on behalf of Mr.
11 Holcomb. Just a quick in, refresh and be ready to come
12 back out. We'll be at ease about 10 minutes.

13 BAILIFF: Remain seated until the jury leaves.

14 (WHEREUPON, the jury exits the courtroom at
15 approximately 11:06 a.m.)

16 THE COURT: All right. We'll get back at about a
17 quarter after.

18 (WHEREUPON, a short break was taken.)

19 THE COURT: State ready?

20 MR. GHENT: Yes, sir, Your Honor.

21 THE COURT: Mr. Smith?

22 MR. SMITH: Yes, sir.

23 THE COURT: Bring in the jury.

24 (WHEREUPON, the jury enters the courtroom at
25 approximately 11:15 a.m.)

1 THE COURT: Mr. Smith.

2 CLOSING ARGUMENT BY MR. SMITH

3 MR. SMITH: May it please the Court, Mr. Ghent.

4 Ladies and gentlemen, obviously, this is my
5 opportunity to speak on evidence that has been submitted
6 by both sides.

7 MR. GHENT: Objection, Your Honor, that's not in
8 evidence.

9 THE COURT: Well, if he's using it for visual aid,
10 I'll allow him.

11 MR. GHENT: Yes, sir.

12 MR. HOLCOMB: Mr. Ghent is concerned about
13 Mr. Holcomb going to a Christian school. I went to a
14 Catholic school for a year, I don't know what means
15 because I'm not Catholic. There's a lot of that
16 irrelevance throughout this proceeding. One of the big
17 things that's irrelevant is the person that is Dean
18 Holcomb. Obnoxious, nasty, funny. The cartoons, the idea
19 of taking the time to create cartoons to illustrate what
20 he's talking about. Is he a violent person? No. No.

21 You guys are all intelligent, that's why you're
22 sitting there. We recognized -- or they recognized when
23 they chose you as jurors that your common sense, your
24 educational background and so forth will allow you to
25 recognize, to see the truth.

1 Threat. What is a threat? A threat is when you tell
2 someone that I'm going to do something. You're going to
3 hit them, for instance. Now, he called Ms. Harrison that
4 nasty horrible name, okay. That's where it ends. He
5 didn't call it to her. In passing, he said that to
6 Mr. Martin. Yeah, you and the rest of them, butt boys in
7 blue, whatever he used, all very crude statements.

8 He's not on trial for being an unpleasant individual.
9 He's on trial for threatening a state official and
10 impeding progress or obstructing justice or investigation.
11 How did he do that? How did he do that? Because he
12 called her a name, that's a threat to her? No, it's not a
13 threat. A threat is an action verb, an action verb. He
14 doesn't talk to her. And while Mr. Ghent says that's
15 irrelevant, it is relevant. He didn't say he was going to
16 do anything to her. She's the one that took issue with
17 it. He's not talking to her. He's not talking about what
18 he's going to do to her, even to Mr. Martin. Not doing
19 that. Not doing that.

20 We you start thinking about how this case played out,
21 the idea of Mr. Holcomb's statement regarding Ronda Cole,
22 all right, the woman from 1990's, somewhere around 1990.
23 That is undisputed that both of them had a relationship
24 with Ms. Cole in some capacity at that time. Undisputed.
25 Mr. Kindley saw that. He talked to her, all right. So

1 there is no doubt that occurred.

2 Then we fast forward to 2012, 2013, Mr. Martin gets
3 another opportunity. And while grassy knoll and things of
4 that nature are something the State wants you to look at.
5 You look at the facts. The facts are there's four law
6 enforcement officials, Mr. Kindley, Mr. Martin, Mr. Smith,
7 Mr. Jarvis. Four people. They've been together, been in
8 law enforcement for, at least, 19 years, all of them.
9 They know each other. They're Facebook friends. The
10 nature of the beast is if you attack one of mine, you
11 know, we ought to together, right? Strength in numbers
12 and so forth.

13 So if we're just saying that, that sounds like poppy
14 cock, all right. But when you look at the facts, then you
15 start thinking. The facts are he was charged with breach
16 of trust. And you're supposed to get a preliminary
17 hearing. If you request a preliminary hearing, they have
18 10 days to schedule it, 30 days after that. Mr. Holcomb
19 didn't get a preliminary hearing for the breach of trust.

20 So now we go to this case that we're here for -- or
21 cases. And he's charged June 9th, 2014. He's indicted
22 June 30th, 2015. That's over a year. No preliminary
23 hearing. That's a right you have here in the state, but
24 not for Dean Holcomb. That seems to be prevalent
25 throughout. Things are different for Dean Holcomb. Dean

1 Holcomb -- I'd like to use the terminology that I would
2 use outside of this courtroom. He doesn't make friends
3 easy. All right. He pisses people off. That's exactly
4 what he did to Greenville County. That's exactly what he
5 did. So no preliminary hearing. He's sitting in jail.
6 Let you sit in jail, no preliminary hearing.

7 The idea that the condition of bond is to call the
8 guy that you're fighting with over a girl 20 years before,
9 23 years before. You know, don't miss that fact.

10 He had to call the police when he's represented by
11 counsel. Don't you worry about your Constitutional right
12 not to speak to the police, you're going to have to speak
13 to the police or we'll put you in jail. There is no
14 purpose whatsoever for him to have to call the police
15 regarding his bond. You have a bond that tells you if you
16 don't show up, you pay this amount of money. And if the
17 Court thinks that you might be a flight risk for breach of
18 contract, then we're going to make the bond \$50,000.
19 We're going to make the bond large. You don't call the
20 police. That's not a condition of bond. That's a
21 condition of Tim Martin. Tim Martin. Tim Martin, who
22 gave a warrant to the Magistrate. The Magistrate takes
23 what he's given, then they say a reasonable man's
24 determination of whether a crime's been committed. Of
25 course, he only has what he's given.

1 And there is no question that the warrant regarding
2 the breach of trust says specifically and without
3 qualification no work was done on this job. Is that true?
4 No. So, law enforcement going to the Magistrate, saying
5 here, Magistrate, this is the truth. I'm sure he's not
6 telling him this is kind of the truth, maybe the truth.
7 He's going in there with the idea that it is the truth.
8 And that wasn't true.

9 In fact, he had him arrested prior to talking to the
10 people that were injured. Wow. It's America. I thought
11 you were innocent. Apparently, not. According to Mr.
12 Martin, Dean Holcomb is guilty. And so then he worked to
13 reach that.

14 Mr. Holcomb deserved a preliminary hearing.
15 Mr. Holcomb did not deserve to have to call this guy every
16 week. Why is that? Rub it in his face. There's no other
17 purpose. Nobody got on that stand from law enforcement
18 and said gosh, you know what, I do that all the time.
19 Nobody had ever seen that. It doesn't happen.
20 Specifically, the idea that he's represented by counsel,
21 gosh, you know what, I don't care about that. You got to
22 call me.

23 Then we talk about his sister got on the stand for a
24 very short duration. The idea that she's living in
25 Brevard, North Carolina, husband, child and Mr. Martin

1 felt the need to call her landlord. Why? She has nothing
2 to do with any aspects of this case or the case before it.
3 Nothing. I'm going to call you. Call your landlord, not
4 even you. Because her number's on Facebook, right? He
5 calls her landlord and tells him that she needs to call
6 him. But when she does, because she sure as heck doesn't
7 know what it's about, never gets a call back. Maybe my
8 grassy knoll theories are just that, but gosh, is that not
9 a message? Hey, found you in Brevard, North Carolina.
10 Period. Nothing more, nothing less. Doesn't talk to her
11 when she calls. Of course, what would he talk to her
12 about? About her participation in nothing?

13 Every one of these guys are unhappy with Dean
14 Holcomb. The truth of the matter is if they're out at a
15 bar and Dean Holcomb starts running his mouth, he might
16 get popped in the mouth. I might do that. But we're not
17 here for that. Dean Holcomb has an incredible mind. The
18 idea of these cartoons, that's the way he does things if
19 he's trying to get after somebody. The word of Mr. Smith,
20 I believe, is comedic. That's what it was. It was a very
21 circular look at what's going on. He's funny if you're
22 that sort of human. Mr. Ghent said that he was mocking,
23 mocking. He did that because oh, yeah, he had to call.
24 He had to contact them. All right. Going to do that, so
25 he did it over and over and over again.

1 So he questioned what is going on? Why was there
2 changes in what -- they said it was a photocopy, all
3 right, but pages of flipped over, dog eared, things are
4 different sizes. If it's a copy, how is that possible?
5 It's going to be the same. But that's not what it was.

6 Mr. Holcomb talked about the website. The website,
7 of course, putting forth the fact of their internal
8 affairs investigation or whatever. And it was offered to
9 us that Mr. Holcomb's complaint of Mr. Martin and how he
10 did the investigation prior to arresting him, there was no
11 number given for that. It wasn't investigated. Right
12 under the rug. Which apparently happens a great deal,
13 because the testimony from the officer was he's had
14 hundreds of calls or reports of things that shouldn't be
15 done or improper conduct, what have you. 34
16 investigations in 2013. Does that surprise us? I don't
17 think so.

18 I mean, who's doing the investigation? Our buddy
19 Wes, who has been working for law enforcement for 20
20 years, 25. The lack of bias is simply not there. They
21 hear the story from their fellow officer. And I'm not
22 questioning the fact that there has to be many of those
23 that are baseless, all right. But the idea of not giving
24 an investigation number. When he went to the police, when
25 he went to the Magistrate for that breach of trust. There

1 was work done. That's not what this warrant says. There
2 was work done. He told them, Martin and I have had a
3 history, have a history, there's no doubt about this.
4 Ronda Cole was a person. When we have all these other
5 little pieces, little tidbits, we add those all together,
6 no preliminary hearing. Is that justice? They talk about
7 obstruction of justice. But he's not giving a preliminary
8 hearing. Wow. That's pretty exciting stuff there.

9 Ms. Harrison takes issue with an e-mail to someone
10 else where she's called a very nasty name. Okay. That's
11 it. I'm not trying to threaten you or anything. And then
12 they want to say that bad words make them not work.
13 That's obstructing justice because you were saying bad
14 things. You were saying the truth. You were saying that
15 I put in a warrant that there was no work done when there
16 was work done. How dare you say that? That's not fair to
17 him. That's not fair to anybody. All society deserves a
18 little better that, you know what, I'm going to take this
19 case -- there's plenty of investigators in this sheriff's
20 department. I'm going to take it. I'm going to make sure
21 justice is done. Justice is done.

22 Cash the check for \$4,200. Is that a fact? No. He
23 didn't cash a check. If you cash a check, you put the
24 money in your pocket and you go off to wherever you're
25 going. It's Friday, let's say you go to the bar. It's

1 happy hour right after you go past the bank. You cash the
2 check, not deposit the check. Deposited is what happened.
3 It was a corporation. He put the money in the corporate
4 account. There were four officers in that corporation,
5 but, gosh, none of them got spoken to, let alone arrested.
6 Why is that? Because Tim Martin had his man, didn't he?
7 Tim Martin had his man.

8 Then we bring in SLED. Bring in Mr. Kindley, who
9 started out here in Greenville. What did Mr. Kindley do?
10 I'm not going -- I'm not going to remake the wheel or
11 whatever. I'm not going to investigate. I'm not going to
12 do any interviews because, gosh, they've already been done
13 by my buddy. Greenville took care of that.

14 So despite the fact that there's a question during
15 the investigation and we have to bring in SLED, SLED is
16 not going to look into it themselves so it's an
17 independent thing, it's just rubber stamped. It's stuff
18 that was already done.

19 But the cartoons that were made that talk about
20 collusion and conspiracy, those are way off base. There's
21 nothing whatsoever that indicates, tells anyone that he's
22 going to hurt them. That's not the point. His point is
23 to meet you from an entertainment standpoint. I'm smarter
24 than you. You heard him, you heard those videos. You
25 heard him tell how all of us are lesser than him. He

1 doesn't mean to hurt anybody. He doesn't mean to threaten
2 anybody. He just needs them to understand pursuant to his
3 use of the English language that they're less than him.

4 So is he a bad person? Maybe. We're not here for
5 that, people. Not here. Sylvia Harrison went to Texas
6 because she was scared because he called her a bad name.
7 A bad name? If that was the case, I don't know, I can't
8 imagine where I would be.

9 But I'd like to just -- I've created something here
10 to try to put a timeline on it for your understanding.
11 The timeline does not begin in 1998 with Ronda Cole, all
12 right. It begins February 2013 when the complaint was
13 made by Ms. Baucom. Ms. Baucom, of course, being the
14 stepdaughter of Mr. McGinn. And when this allegedly
15 occurred, this breach of contract -- now, mind you, he was
16 bonded. The corporation is bonded with the State. If
17 there's a problem, go to the insurance company. They'll
18 address it. That's why he's bonded. That's not what they
19 did here. We'll wait for Ms. Baucom to get out of prison.
20 At that time, she, of course, makes the complaint. Then
21 we go from there.

22 Mr. Martin, very busy, very busy. Can't get out of
23 the place, can't do interviews. Gosh, Ms. Baucom comes
24 and says there's a breach of contract. Well, in the
25 video, you hear the conversation, albeit difficult, you

1 hear where Mr. Martin agrees that if work has been done,
2 now, we just have problem with the contract. That's a
3 civil matter. Well, it's not a civil matter to Dean
4 Holcomb. Dean Holcomb is going to jail according to
5 Mr. Martin. The Greenville Sheriff's Office has that much
6 free time and willingness to go after something that is
7 strictly civil? Probably not. But today. Martin says I
8 don't have time, but sign the warrant. Signs a warrant.
9 Mr. Holcomb is arrested on a fugitive warrant. Meaning a
10 fugitive from justice. He's a fugitive because he's in
11 North Carolina. Which that doesn't take into account that
12 he fell off a roof and doesn't work anymore. He lost
13 everything. He's home in North Carolina. They come and
14 find him for breaching a contract. They coming after him
15 for kidnapping a child or robbing a bank and going over
16 there? No, because it was a disagreement about what the
17 contract said who was supposed to do what. They got a
18 fugitive warrant for that.

19 So he comes back, turns himself in. And he has to
20 deal with new conditions of bond, never seen before in the
21 channels of Greenville law enforcement. And they include
22 calling Tim Martin to say hey, Tim, it's me, you got me,
23 every week. Every week. Solicitor sends me or contacts
24 my office. And I sent him an e-mail and it says -- this
25 is June 6th, 2013. That's the interpretation from my

1 office.

2 Sylvia Harrison and company, they're all the same
3 team. Law enforcement agents all been working 19 years or
4 more. They've all prosecuted with Ms. Harrison. They are
5 one. It's Greenville County vs. Mr. Holcomb. And
6 Greenville County did the warrant that says well, there's
7 no work done. He cashed the check. He doesn't deserve a
8 preliminary hearing. He should call me. Despite the fact
9 he's represented by counsel, that's what we'll do here.
10 There's one unit over there. Everybody's the same.

11 June, July or August 2013, and Mr. Martin calls Mr.
12 Holcomb's sister. There's no explanation for that. I
13 don't know really if she called back. Why did you call
14 her? Why did you call the landlord? You could have
15 called her, I guess. She's got it on Facebook. He calls
16 the landlord. I know where you live. He knows that now,
17 too. Mr. Holcomb, in his ongoing barrage of statements
18 regarding his lack of belief in the system based on the
19 circumstances, the question is asked should he believe in
20 the system? He sends, I mean, cartoons, the effort it
21 takes to do that is one thing. Obviously, he's very
22 intelligent and accomplished in doing what he's doing.
23 But in no way does he say anything that relates to
24 injuring anyone. Unless we talk about he went to internal
25 affairs. He went to SLED. What is the purpose of that?

1 That's the purpose of telling someone that allegedly
2 addresses his complaints. Taking it to them. Was he
3 going down with bullets and guns? No. He was doing what
4 he's supposed to do. And because no one is doing
5 anything, he is writing.

6 You're allowed to do that. You're allowed to say how
7 bad you believe it is. You're allowed to use nasty words.
8 You're allowed to do that. Threatening, though? Threaten
9 is a verb. You read Webster. Threatening does not mean
10 calling someone a bad name. It's got to be more. Well,
11 you nasty so and so. If you do this, I'm going to do
12 this. There's nothing after the words. That's it. He
13 doesn't like her. I guess she doesn't like him probably.
14 But you're allowed to do that. You're not allowed to
15 threaten.

16 The obstruction of justice. Remember, the
17 obstruction of justice. He stopping them from doing their
18 job. But how is he doing that? Because they have to read
19 the stuff that he's sending them? Shouldn't they be
20 reading it anyway? Shouldn't they do an investigation?
21 They didn't do an investigation. Martin admitted that.
22 You know, I didn't have to, I had probable cause.

23 You had probable cause because you told the
24 Magistrate that there was no work done and he cashed a
25 check and walked off. That he just took the money and

1 went down to the bar, \$4,000. It was a corporate entity.
2 He made that clear.

3 Mr. Ghent wants to talk about -- he brought up
4 everybody. He brought up all these officers. He didn't
5 bring all the people he subpoenaed, but he brought up four
6 of them. They all said that gosh, no work was done. This
7 is not a fair statement. That's not true. That's not
8 true. Mr. Martin, regardless of all the problems Dean
9 Holcomb versus a corporate entity, cash versus deposited,
10 and the last thing, whether there was work done, he
11 continues to stand by his offering to the Magistrate.

12 The Magistrate did not have the truth in front of
13 him. There's no way of getting away from that. Can't do
14 it. There was work done. They hadn't finished. Was it a
15 breach of contract? Was is something that is actionable?
16 Sure. But breaking the law? Breaking the law happens
17 when you seemingly give a statement to the judge who's
18 making a determination on the facts and circumstances.
19 You give a false statement. 2014 is when the alleged
20 threats against Ms. Harrison and Mr. Martin occurred.

21 Now, the breach of contract case had been from an
22 investigation standpoint was done in 2013. Now, they did
23 the warrant in June 2014, but they didn't indict him until
24 2015. Over a year later. Now, during this time, they are
25 thinking about how to get him. He's staying in jail.

1 Keep him in jail. No preliminary hearing. He asked for a
2 speedy trial. Here we are three years later. Three years
3 later. That tells me don't mess with the wrong people.
4 Greenville County, we are veterans here. We work
5 together. That's the truth. No preliminary hearing.
6 Obstruction of justice. Who's obstructing justice? Not
7 even giving me my legal right, my right to a preliminary
8 hearing either time.

9 The difficulties in this case are self-evident.
10 Biggest point about this is that whether or not you like
11 Mr. Holcomb or not is simply not part of the question.
12 Mr. Ghent, however, how many times do you think he had --
13 I was only here when he made him read it once. But he
14 made him read the nasty words, talked about his religion.
15 In general, we don't like Mr. Holcomb anymore.
16 Mr. Holcomb is fighting for his life or the life he knows.
17 The idea of him combating with Mr. Ghent is an
18 illustration of he's right all the time. But it's an
19 illustration that's who he is. He's not threatening
20 people, not according to the dictionary you and I use.
21 But because we want Mr. Holcomb in jail, this is a threat.

22 Is there lesser bad words that mean different things?
23 I don't know. I mean, when does your bad word become a
24 threat? It never does. Because there's no verb
25 associated with it. A bad word, that's it. Not a bad

1 word and then, I'm going to do something. No, that's it.
2 Obstruction of justice, intimidation of a witness.
3 It's not intimidation. I don't like you in no uncertain
4 terms. He's asking for a speedy trial. Did they give him
5 a speedy trial? No, we'd rather you sit in jail. Are
6 they giving him a preliminary hearing? No. They can't
7 say -- see, this is the thing, Ms. Harrison getting off
8 the case, that's obstruction of justice because she quit,
9 because she didn't like being called a bad name.
10 Understood. Nobody deserves that. But she was called a
11 bad name, so I quit. And that's your fault because I
12 quit. I'm not sure that's right.

13 It's my understanding, Ms. Harrison also told us that
14 she had gotten off the case, but continued to be part of
15 it, so did Mr. Martin. All the leg work was done for Mr.
16 Martin and Ms. Harrison, and then they passed it off to
17 augment their case, to make their case stronger by saying
18 gosh, we had to get off that case because there was a
19 conflict. Gosh, Mr. Martin should have noticed that in
20 the very beginning. Mr. Martin is part of this whole
21 situation. Whispering in the ear of the judge. Now, his
22 statement is no, that didn't happen, but we have a
23 condition on the bond that's not been seen by these law
24 enforcement professionals with a combined total of 100
25 years of service. A hundred years. They don't do it.

1 They haven't seen it. And Holcomb got it. But he
2 shouldn't be thinking anything about it. He shouldn't
3 think that going to internal affairs -- and he's not one
4 of the 34 investigations, he didn't get a number. Threw
5 it right off. Thanks for stopping by. Oh, you didn't do
6 the complaint right. Despite the fact you have an issue,
7 despite the fact that it has credibility to it based on
8 the warrant, the language. You didn't do it right, so
9 sorry about that. We're not going to make sure things are
10 being done right, people are getting a fair shake here.
11 Do it our way or you don't do it.

12 All of the witnesses that have testified, testified
13 to the same things over and over and over again. Dean
14 Holcomb was at fault. Dean Holcomb's breach of trust
15 case, he didn't have a witness. It's not his fault how it
16 was defended. He didn't have a witness. His subpoenas
17 were quashed by the State because they were issued at the
18 wrong time --

19 MR. GHENT: Objection, Your Honor.

20 THE COURT: I sustain the objection. There's no
21 evidence in this case concerning that.

22 MR. SMITH: I withdraw that.

23 The warrant started the action by Greenville County
24 against Mr. Holcomb and here we are. One would hope
25 finale. Threatening is a verb. It's an action verb.

1 They are creating a threat because it's bad. There's no
2 verbiage that says I'm coming for you now. I understand
3 the Psalm. You would think a 25-year veteran, misstating
4 facts, as Mr. Holcomb said, that would affect his career
5 in a negative way. Twenty-five years. Twenty-five years
6 at a place and you can't go somewhere else and start anew,
7 that's not an enviable position.

8 Mr. Holcomb thought he was dropping a bomb by telling
9 them hey, this is what's happening. All these things are
10 happening to me. When you look at it, you will see that
11 I'm telling the truth and this is unbelievable stuff here.
12 You think it's unbelievable. The fact of the matter is,
13 it's the greatest system in the world, no question.
14 However, everybody has a fault because they're human
15 beings. So that human aspect comes in every part of this
16 case.

17 Mr. Holcomb, don't like him, he's degrading, he
18 aggravates you, he makes you mad because he gets under
19 your skin, that's one. Mr. Martin remembers the
20 girlfriend situation, that's two. The other law
21 enforcement agents hey, we are Greenville County, so we
22 can't afford to let somebody undermine our department, our
23 integrity, so we must stand together. Those are all human
24 instincts. And those are what came out in this case, the
25 preliminary hearing or lack thereof. The different

1 aspects of this case that are just -- it's like two
2 schoolboys. I mean, that's what started. It's one of the
3 oldest stories in history. You know, two guys, one woman.
4 Who knows what someone takes from that, but that's the
5 beginning.

6 When you see the way the warrant's drawn, how there's
7 misstatements, there's totally false allegation that there
8 was no work done. That's not an accident, that's
9 purposeful. That's done to increase the strength of the
10 warrant. If he puts in there yeah, he's done some work,
11 but, you know, he didn't do it all. Well, now, it becomes
12 just a question of what is the money damage? So that's
13 civil, right? But that's not the way Mr. Martin did it.
14 He put his thumb on it. You're going to know about me
15 every week. You're going to have crawl up here and give
16 me a ring, give me a call, give me an e-mail. Well, Mr.
17 Holcomb did that. And they didn't like what he said.
18 Because he called out their integrity, as I said before.
19 And intent is based on no preliminary hearing, no speedy
20 trial, false allegations in the warrant.

21 The idea of getting in his head, which is these --
22 the cartoons and stuff, he's very eccentric. So the idea
23 of us knowing what his mindset was to obstruct justice
24 when he's asking them for a speedy trial. Get me to
25 court. The truth will come out. I'm not afraid of that.

1 They are when this is all over. He's been in jail for a
2 long time. A long time. Why?

3 Beyond a reasonable doubt, something that causes you
4 to delay, that could be reasonable doubt, right? When you
5 see all the facts, and there are many, and you see how
6 this has played out in the course of four years, five
7 years. Everybody's making their own statement.

8 Ms. Harrison, he called me a bad name, so I had to go to
9 Texas. Didn't say anything to me. Didn't call me that to
10 me. But because he said it to someone else and I heard
11 it, I see that as a threat. Come on. Mr. Holcomb,
12 everybody deserves more than that.

13 A crime has criminal intent. Intent to obstruct
14 justice. Nobody's obstructing justice but them. They're
15 not doing what they're supposed to, yet, they're going to
16 call it on him. Calling his sister? And then saying he's
17 the intimidator. Are you kidding me? Why is he calling
18 his sister? It's not part of the case. And it's not his
19 sister, my bad, it's her landlord. To make sure that she
20 understands gosh, the landlord knows. What? What?
21 There's no other purpose but to intimidate, tell her he
22 knows where she's at and tell Mr. Holcomb that.

23 But at the same time, Mr. Holcomb didn't do anything
24 with regard to a threat. He continued to write and to
25 talk about Trent Reznor songs. Trent Reznor is a very

1 dark artist. But that's what he is, an artist. I suggest
2 to you Mr. Holcomb is an artist. He uses the English
3 language and his knowledge of music, his knowledge of the
4 Bible to make statements. And the statements all conclude
5 that I have the right to speak. You don't like me
6 speaking and I'll go to jail for it.

7 Ladies and gentlemen of the jury, Mr. Holcomb does
8 not win the Homecoming King or Prom King. We're not here
9 for such pageantry. We're here for the Constitution and
10 the freedom that he deserves based on the fact that he's
11 innocent until proven guilty. And until they figure out a
12 way to get into his head and see what his intent is, they
13 can't possibly tell us that he intended to threaten Sylvia
14 Harrison by calling her a bad name to somebody else.
15 Nonsense. Mr. Holcomb deserves the time that you've given
16 him and he deserves further review of the evidence that
17 has been exhibits and probably, more importantly, what's
18 not been exhibited and we would ask that you find him not
19 guilty. Thank you.

20 FURTHER CLOSING ARGUMENT BY MR. GHENT

21 MR. GHENT: May it please the Court, Mr. Smith,
22 members of the jury, very brief. First of all, this is a
23 matter of evidence. You decide what intent is. Unless
24 someone screams out this is what I intend as they're
25 pointing to shoot someone, he's saying you can't know if

1 they intend to kill someone. That's nonsense. He says
2 this is about the fact that he's not likeable. That's
3 nonsense. This went beyond prom king, not nice, whatever,
4 way beyond it.

5 He says we're responsible for the problem with a
6 speedy trial. No. If you look at the timeline, the
7 letters that were necessary to go from a simple
8 investigation to something more complicated to investigate
9 that, take care of all of this. No, it's not our fault.
10 It went on for so long because of the conduct of Mr.
11 Holcomb. Read the e-mails for yourself.

12 He said Ms. Harrison said I quit. That's offensive.
13 She most certainly did not. She went to Texas, visited
14 with her family, came back, moved her brother back in,
15 slept with a gun and went back to her job. We took over
16 this case. Jeff Kindley, who is with SLED, took over this
17 case. It was assigned to -- if you read it, went to the
18 attorney general's office, the attorney general's office
19 sends it to Solicitor Barry Barnette, Solicitor Barry
20 Barnette chooses me, I come in to review the case, make
21 decisions, indict and go forward.

22 To say that this is about an agenda with Greenville
23 County, I'll ask again, as the conscience of this
24 community, what the heck is the agenda of Spartanburg
25 County in prosecuting this case? We did it because he

1 committed crimes. Thank you.

2 CHARGE ON THE LAW

3 THE COURT: Members of the jury panel, I appreciate
4 the attention you've given us to this point. I'm going to
5 ask you to give me your attention while I charge you the
6 law which you are to apply to the facts as you the
7 determine them to be.

8 Mr. Holcomb is charged with two indictments. I'm not
9 going to read them all. They will be in the jury room
10 with you. They're not evidence. They are the paperwork
11 by way in which this case is processed through our court
12 system. They contain the charges against Mr. Holcomb.
13 And they will be the record of the proceedings -- will be
14 in the evidence of the records of the proceedings in this
15 case to this date and they will be the permanent record as
16 to these charges from now on.

17 Now, the indictments charge him -- I'm going to use
18 the word defendant in my charge. When I use the word
19 defendant, I am, of course, talking about Dean Alton
20 Holcomb. Again, these two indictments are not evidence.
21 They are the charges. I remind you, and will go over
22 again in a moment, the fact that he has entered a plea of
23 not guilty to both of these charges and is presumed
24 innocent of these charges.

25 Now, the fact that there are two charges against him

1 is a fact of no importance. That is, this does not give
2 any more weight to either one of the charges, the fact
3 that he is charged twice. Each charge is a separate
4 charge and each charge must be reviewed on its merits
5 based on the law and the evidence applicable to that
6 charge. You can find him not guilty of both, guilty of
7 both, not guilty of one and guilty of the other. They
8 both stand alone just as though there were two separate
9 trials. They were tried together, but they are to be
10 treated separately and reviewed separately.

11 Now, as I've stated a couple of times, Mr. Holcomb,
12 the Defendant here, has entered pleas of not guilty to
13 these two charges. His pleas of not guilty place on the
14 State the burden of proving his guilt beyond a reasonable
15 doubt. It is an important rule of law in our state and in
16 our juris prudence that anyone charged with any offense
17 need not prove their innocence. Again, the State must
18 prove one's guilt beyond a reasonable doubt.

19 A person charged with an offense is presumed innocent
20 of that charge. Here are two charges. That presumption
21 of innocence attached to Mr. Holcomb, the Defendant, at
22 the time of his arrest remains with him as this case is
23 processed through our court. It remains with him through
24 this trial and remains with him at this moment. And in
25 fact, remains with him as you deliberate. Presumption of

1 innocence in Mr. Holcomb's favor is removed if and when,
2 only if and when you determine the State has carried its
3 burden of proof proving him guilty of one or both of the
4 offenses with which he is charged. He is entitled to --
5 the State, as I have said is charged with proving his
6 guilt beyond a reasonable doubt, and he is entitled to any
7 reasonable doubt you have as to any issue in these cases.

8 Reasonable doubt has been defined by our judges as
9 the kind of doubt -- our appellate courts as the kind of
10 doubt that would cause a reasonable person to hesitate to
11 act. Proof beyond a reasonable doubt is proof that leaves
12 you firmly convinced of someone's guilt. There are very
13 few things in our world that we know with absolute
14 certainty, and in criminal cases, the law does not require
15 absolute certainty. The law does not require proof that
16 overcomes every possible doubt.

17 If based on your consideration of the evidence you
18 are firmly convinced that Mr. Holcomb is guilty of one or
19 both of these charges, you would find him guilty. On the
20 other hand, if you think there is a real possibility that
21 he is not guilty of one or both of these indictments, you
22 will give him the benefit of that reasonable doubt and
23 find him not guilty. Again, he is entitled to reasonable
24 doubts that you have, if you do, as to any issue in this
25 case. . . .

1 I remind you that I have certain duties to perform.
2 I am the sole judge of the law in this case and you must
3 take and accept and apply the law. During this case, I
4 told you earlier I had the duty to rule on admissibility
5 of evidence. We have in this trial had some instances
6 where issues have been raised regarding the admission of
7 evidence and I have ruled on those. If I have ruled out
8 any evidence, you are to disregard it.

9 Keep in mind, as I believe I told you on Monday, the
10 fact that an individual attorney or Mr. Holcomb, on his
11 own behalf, has objected to the introduction of some
12 evidence is not to be used against the attorney or Mr.
13 Holcomb. That's the way our system works. If one side
14 believes evidence is being presented that should not for
15 some legal reason, it's up to me to rule on that and
16 determine whether that evidence is admissible or not.
17 During the course of the trial, you are to consider only
18 the evidence which was not objected to and the objection
19 was not sustained. That is, only the competent evidence
20 before you is the evidence that was received into evidence
21 to which an objection was not sustained.

22 I have the additional duty to charge you the law
23 which you are to apply to the facts as you determine them
24 to be in this case. I'm the sole judge of the law in this
25 case. You must take and accept the law as I charge it,

1 even if you think I charge the law in error or even if you
2 think the law should be different. Your oath requires you
3 to take and accept and apply the law as I charge it.

4 In every case tried in our court system, the jury
5 becomes the sole and exclusive judge of the facts. A
6 trial judge cannot intimate, state, comment or make any
7 statement to a trial jury about the facts in a case since
8 you, the jury, are the sole judge of the facts in this
9 case. Do not infer from anything I have said or done
10 during the trial of this case or do not infer from
11 anything I now say or do as being an opinion of mind on
12 the facts of the case. I do not have an opinion about the
13 facts in this case. I'm not allowed to. That is solely
14 your job and I cannot invade your province. It is solely
15 up to you as the finders of the facts in this case to
16 examine the evidence, give to the evidence you believe it
17 should have -- give to the evidence the effect and weight
18 you believe the evidence warrants.

19 You can believe one witness as opposed to several,
20 several witnesses as opposed to one. You may believe all
21 or part or none of a witness's testimony. Use your common
22 sense, your sense of logic, your sense of reason. Use
23 your experiences in life. You must determine the
24 believability of the witnesses who testified. In
25 determining believability, use those things that you find

1 indicate believability in your day-to-day life. Use those
2 things -- you can use certain evaluators, such as the way
3 a witness acts on the stand, their demeanor. Were they
4 hesitant? Straightforward? Was their testimony
5 consistent or inconsistent? Inconsistent or consistent
6 will testimony given at the trial or testimony given at an
7 earlier time or statement given at an earlier time?

8 You can look at whether a witness has any bias or
9 prejudice, that is whether the witness would wish to help
10 one side or the other, and you examine whether the witness
11 had the opportunity to actually know those things to which
12 the witness testified. All these things you can consider
13 in determining the facts in this case.

14 There are two types of evidence generally presented
15 during a trial, direct and circumstantial evidence.
16 Direct evidence directly proves the existence of a fact
17 and does not require deduction. Circumstantial evidence
18 is proof of a chain of facts and circumstances which
19 indicate the existence of a fact. Crimes may be proven by
20 circumstantial evidence. Our law makes no distinction
21 between the weight or value to be given either direct or
22 circumstantial evidence. However, to the extent the State
23 relies on circumstantial evidence, all of the
24 circumstances must be consistent with each and when taken
25 together, point conclusively to the guilt of the accused,

1 here, Mr. Holcomb, beyond a reasonable doubt. If these
2 circumstances merely portray the Defendant's behavior has
3 suspicious, the proof has failed. The State has the
4 burden of proving the Defendant, Mr. Holcomb, guilty
5 beyond a reasonable doubt. This burden rests with the
6 State regardless of whether it relies on direct evidence,
7 circumstantial evidence, or a combination of the two.

8 The two offenses that Mr. Holcomb is charged with are
9 statutory offenses. They are offenses that were enacted
10 by our legislature in Columbia. They were then codified
11 and became laws of the state.

12 When I use the word defendant, I am, of course,
13 referring, as I said, to Mr. Holcomb. Mr. Holcomb is
14 charged with obstruction of justice. The State must first
15 prove beyond a reasonable doubt that Mr. Holcomb committed
16 an act which prevented, obstructed, impeded or hindered
17 the administration of justice. The State must prove
18 beyond a reasonable doubt that the Defendant did, in fact,
19 act with the intent to obstruct justice. The Defendant
20 does not have to succeed in the effort to obstruct
21 justice. It is enough that some act is done in
22 furtherance of the attempt to obstruct.

23 The second indictment, Mr. Holcomb has been charged
24 with intimidation of a court official. In order to be
25 found guilty of intimidation of a court official, the

1 State must prove beyond a reasonable doubt that Mr.
2 Holcomb by threat or force intimidated or impeded any
3 official of any court and discharge of their duties as
4 such. Under South Carolina law, a solicitor is an officer
5 of the court who occupies a quasi judicial position.
6 Criminal intent is a mental state and must be proven
7 beyond a reasonable doubt. It is up to you, the trial
8 jury, taking into consideration the surrounding
9 circumstances to determine the intent of Mr. Holcomb in
10 regard to these charges.

11 Now, there are two possible verdicts in these cases
12 as to each. They're basically the same. I have them
13 written out on these two sheets of paper. The fact that
14 one is on top of the other, that is I have to put them in
15 some order. The fact that one is the first one and the
16 other is the second is of no importance. I always list
17 them this way. I have to list them some way, so I always
18 do it this way. So the fact that one precedes the other
19 is not to be given any weight whatsoever. They're both of
20 equal value for your consideration.

21 As to the intimidation of a court official, the two
22 choices are we find the Defendant not guilty. You would
23 put an X or a check in front of that --

24 Madam Forelady, in front of that statement, there's a
25 little line, if you find the State has failed to prove Mr.

1 Holcomb guilty beyond a reasonable doubt.

2 If on the other hand, you find that the State has
3 carried its burden of proof proving Mr. Holcomb guilty
4 beyond a reasonable doubt of intimidation of a court
5 official, you would put an X or a check in front of the
6 line that says we so find.

7 The same is basically true as to the verdict form for
8 objection of justice. If you find the State has failed to
9 prove Mr. Holcomb guilty beyond a reasonable doubt of
10 objection of justice, you would use the second line that
11 says we find the Defendant not guilty. On the other hand,
12 if you find the State has proven his guilt beyond a
13 reasonable doubt as to obstruction of justice, you would
14 put an X or a check in front of that first line.

15 Now, the verdict must be unanimous, all 12 jurors
16 must agree on their verdict. You're not to base your
17 verdict on passion, public opinion, sympathy, or matters
18 outside the record.

19 If you have, while you're deliberating, any
20 questions, write them down and send them out to me, Madam
21 Forelady. I will consult with the attorneys and I will
22 respond. It may be that I can write an answer to any
23 questions on the note itself. If I send back a note, keep
24 it and turn it in as evidence, which you'll have with you
25 while you're deliberating because it has to be part of the

1 record.

2 You will have the exhibits and you, certainly, have
3 the right, not a duty or obligation, to review the
4 exhibits that are in record. You will notice that,
5 perhaps, Defendant's Exhibit Nos. 21 and 22, I believe it
6 is, are not in there anymore. They have been taken out.
7 They're of no importance, not anything for you to be
8 concerned about. They're just not there anymore. I just
9 want you to make sure that you understand that those two are
10 not in the record at this time and not for your
11 consideration.

12 When you've reached a verdict, knock on the door, tell
13 the bailiff. I'm not going to start another trial on Friday
14 afternoon. So once I hear from you, I will probably send
15 for you promptly. We have lunch coming in. You can work
16 during lunch or you can take a break during lunch, if you
17 wish. If you take a break, all of you be on break or all of
18 you working because your verdict has to be a joint verdict,
19 unanimous verdict, so all 12 of you should be working at the
20 same time. If you want to take a break, that's fine, just
21 let the bailiff know you're on break and we'll be aware of
22 that.

23 If you have any questions about my charge on the law,
24 let me know. I'll bring you back here in open court. I
25 will go over any part or all of my charge that you need to

1 hear. We can have testimony replayed if you wish or read
2 back to you if you wish. That takes us some time to
3 isolate, particularly, a four-day trial, but if you want us
4 to try to find testimony in the record, we will do so.

5 Now, I'm going to let you go to the jury room, but
6 don't get too comfortable, don't start eating lunch. I have
7 to go over my charge with the attorneys. If I have made an
8 error, I will have to bring you in and correct it. If I
9 have not made any error, I will send in the exhibit forms --
10 I'm sorry, the exhibits, the verdict form and the bailiff
11 will tell you to start deliberating. So do not start until
12 you hear from me through the bailiff to start deliberating.
13 So I'm going to let you go to the jury room at this time.

14 (WHEREUPON, the jury left the courtroom at
15 approximately 12:18 p.m.)

16 THE COURT: Anything from the State involving the
17 charge?

18 MR. GHENT: Nothing from the State.

19 THE COURT: Defense?

20 MR. SMITH: No, sir.

21 THE COURT: All right. Check those exhibits and make
22 sure that they're in order and 21 and 22 are out. Check
23 the verdict forms to make sure they are accurate. Check
24 the indictments, make sure there's nothing skew with them.
25 And we will be at ease pending hearing from the jury.

1 At this point, I would like to thank the lawyers and
2 Mr. Holcomb for their courtesy to me during the trial of
3 this case.

4 All right. Take a break -- don't take a break.
5 We'll be at ease pending hearing from the jury.

6 MR. HOLCOMB: Thank you for being so kind to me.

7 THE COURT: Yes, sir.

8 MR. GHENT: Thank you, Your Honor.

9 (WHEREUPON; Court was in recess awaiting a verdict.)

10 (WHEREUPON, deliberations began at approximately
11 12:23 p.m.)

12 THE COURT: The parties are present, including Mr.
13 Holcomb. I received a note from the jury. The first
14 question is who is the, quote, lawful designee, end quote
15 in the intimidation of a court official?

16 I charged from the statute, which does not contain
17 that lawful designee language. I don't even know what the
18 definition of a lawful designee is as it would apply to
19 the intimidation of a court official. I have in my charge
20 and I believe I charged that the solicitor was a court
21 official, not a designee.

22 So as to that question, I really don't have any way
23 to answer that. The only thing I can think of is that in
24 the indictment, there is that phrase, quote, lawful
25 designee, end quote. And quite candidly, I don't really

1 know what lawful designee means to the statute without a
2 case or the statute enlightening me as to who is a, quote,
3 lawful designee. So I'm not going to recharge anything
4 regarding that.

5 The second question is are we allowed to know about
6 the line in the e-mail, quote, research Young Road,
7 Bessemer City, North Carolina, suicide, June/July 2013,
8 for example, end quote.

9 There is not a piece of paper I had in my hand. I
10 thought it was. But there is some -- in some of the
11 e-mails at issue, there are what appear to be references
12 to worldwide web stories. I don't see that particular
13 one. But the bottom line is it's not evidence. Those
14 words are, but the -- what is shown, I believe that must
15 be a -- I don't know what it is, but there's nothing other
16 than that language.

17 So I'm going to send back a charge -- a note that
18 says I have charged the applicable law. You just rely on
19 the facts in evidence as you find them.

20 And Mr. Ghent, your comments on that?

21 MR. GHENT: Your Honor, I would just ask that Your
22 Honor recharge them the very brief charge you gave them
23 previously on the law regarding intimidation of court
24 officials.

25 THE COURT: Well, it doesn't have the words -- it

1 doesn't help them at all with the words lawful designee.
2 And I don't know I would be -- I guess if I charge them
3 that, I would be making a factual finding that the
4 assistant solicitor is a, quote, lawful designee, end
5 quote. And I'm not sure that I know what that definition
6 is. So I'm not going to recharge them unless both sides
7 want it.

8 MR. GHENT: If I may, Your Honor, briefly?

9 THE COURT: Yes.

10 MR. GHENT: Just the fact that the assistant
11 solicitor is a quasi-judicial official will simply be
12 clarifying what they're asking about.

13 THE COURT: No, they've asked for a definition of a
14 particular phrase. That's like asking me what is
15 something -- what does the word blue mean and we think the
16 word means aqua and me bringing them back in and charging
17 them well, blue means aqua. I don't know if the word blue
18 was used in something and they wanted to know what blue
19 meant in that context. I couldn't all of a sudden decide
20 well is aqua blue or navy blue or my wife's University of
21 North Carolina blue or adversary Duke blue or something
22 like that.

23 So anyway, you on the record with that.

24 Any comments, Mr. Smith, on that part?

25 MR. SMITH: Your Honor, basically, since we don't

1 know what lawful designee is, the idea of reading that
2 charge again, in essence, states that they are one of the
3 same. I think that's what we want to stay away from.

4 THE COURT: Well, I'm not going to do it.

5 How about as to are we allowed to know about the line
6 in the e-mail, quote, research Young Road, Bessemer City,
7 NC, suicide, June/July 2013, for example? It's actually a
8 slash, looks like a back slash. I didn't notice that
9 before in front of the word example.

10 Any comments on that, Mr. Ghent?

11 MR. GHENT: No, sir.

12 THE COURT: Mr. Smith?

13 MR. HOLCOMB: No, sir.

14 THE COURT: All right. Any objection to what I --
15 I'll read it again. I have charged the applicable law.
16 You must rely on the facts and the evidence as you find
17 them.

18 Any objection other than what you've already stated?

19 MR. GHENT: No, sir.

20 THE COURT: Any objection?

21 MR. SMITH: No, sir.

22 THE COURT: All right. We'll send this back in.
23 Make sure they keep this to come in with the exhibits.

24 THE COURT REPORTER: Judge, you want me to go ahead
25 and mark that?

1 THE COURT: Yeah, you better mark it.

2 (WHEREUPON, Court's Exhibit No. 13 was marked for
3 identification only.)

4 THE COURT: Hearing nothing else, we'll be at ease
5 until we hear from the jury.

6 (WHEREUPON, Court was in recess awaiting a verdict.)

7 THE COURT: We're back on the record, counsel and
8 Mr. Holcomb are present. We've got another note that
9 says, Can we watch the 8/19/13 DVD, quote, tampering with
10 evidence, end quote.

11 Of course, they can. I'm not equipped to do that.
12 So what I'm going to ask is that the bailiff have them
13 send in both CDs -- DVDs, I keep calling them CDs, DVDs,
14 and let whoever is the most appropriate to do it. One, we
15 need the equipment out to do it. Queue it up to show
16 that.

17 Comment, Mr. Ghent?

18 MR. GHENT: No, sir.

19 MR. SMITH: None.

20 THE COURT: All right. Let's ask them to send out
21 the two DVD exhibits. I don't know the number, but they
22 know what we're talking ability.

23 MR. SMITH: I believe 8 and 9.

24 THE COURT: All right. Y'all set it up. We're going
25 to have to have something to show it on.

1 (WHEREUPON, Court's Exhibit No. 14 was marked for
2 identification only.)

3 THE COURT: Bring in the jury.

4 And without comment from anyone, we'll let them view
5 what they want to view.

6 (WHEREUPON, the jury enters the courtroom at
7 approximately 2:04 p.m.)

8 THE COURT: Madam Forelady, I received the note that
9 says, Can we watch the 8/19/13 DVD tampering with
10 evidence. We have it queued up and we're going to play it
11 with no comment from anyone.

12 Play it.

13 (WHEREUPON, Defendant's Exhibit No. 8 was played for
14 the jury.)

15 (WHEREUPON, the jury exits the courtroom at
16 approximately 2:07 p.m.)

17 THE COURT: Any comments by the State?

18 MR. GHENT: None, Your Honor.

19 THE COURT: Defense?

20 MR. SMITH: No, sir.

21 THE COURT: We'll stand at ease.

22 (WHEREUPON, Court was in recess awaiting a verdict.)

23 THE COURT: Counsel, I understand we have verdicts.

24 I'm going to ask security to see if they can make
25 arrangements to have someone go with the jurors to their

1 cars.

2 State ready?

3 MR. GHENT: State's ready.

4 THE COURT: Defense ready?

5 MR. SMITH: Yes, sir.

6 THE COURT: For some reason, the indictments I
7 thought went back are up here on my desk.

8 THE COURT REPORTER: No, sir, they went back. I just
9 put them up there.

10 THE COURT: Okay.

11 MR. GHENT: Thank you, Your Honor, for that last
12 thrill.

13 THE COURT: Okay.

14 Is the State ready?

15 MR. GHENT: Yes, sir, Your Honor.

16 THE COURT: Defense ready?

17 MR. SMITH: Yes, sir.

18 THE COURT: The reason I was pausing -- oh, I see,
19 okay. I was looking for the words lawful designee, which
20 they had some concern about. I didn't see it at first,
21 but it's in subsection B of the indictment of the court
22 official where it says these threats he made against said
23 prosecutor and assistant solicitor and solicitor's lawful
24 designee.

25 Okay. There will be no outburst. I don't know what

1 the verdict will be, but if anybody believes they can't
2 control their emotions depending on the verdict, I suggest
3 they leave now. No outbursts will be tolerated. So if
4 you can't control your emotions, don't stay in for the
5 reading of the verdict.

6 Bring in the jury.

7 (WHEREUPON, the jury entered the courtroom at
8 approximately 2:33 p.m.)

9 THE COURT: I understand you have reached your
10 verdicts?

11 MADAM FORELADY: Yes, sir.

12 THE COURT: If you will hand them to the bailiff,
13 he'll hand them up to me.

14 And before I have them read out, Ms. Swaim, when I
15 let the jury go, you will actually have to write on these
16 indictments the verdicts. So everybody, when you go back
17 out to the jury room, I'm going to ask the clerk to come
18 in with you and she can show you what needs to be done on
19 that.

20 Madam Clerk.

21 VERDICT

22 THE CLERK: In the indictment 2014-GS-23-08177, the
23 State vs. Dean Alton Holcomb, we find the Defendant guilty
24 of intimidation of a court official.

25 And in the indictment 2014-GS-23-08179, we find the

1 Defendant guilty of obstruction of justice.

2 THE COURT: All right. Anything from the State
3 before the jury's dismissed?

4 MR. GHENT: Nothing, Your Honor.

5 THE COURT: Anything from the Defense before the jury
6 is dismissed?

7 MR. SMITH: Not at this time, Your Honor.

8 THE COURT: Members of the jury panel. Thank for
9 your help. It's been a long week with a lot of ups and
10 downs. Cases do that. I thank you for your help. I'm
11 not going to ask you to stay around while I go forward
12 with the next phase, which will be the sentencing of
13 Mr. Holcomb. I'll have you escorted to your cars.

14 I don't think anybody will contact you about this
15 case, but if anybody contacts you in any way whatsoever,
16 anyone -- by Mr. Holcomb or anyone on his behalf, we're
17 going to give you a phone number. If anyone were to
18 contact you, call that phone number and report that and we
19 will see that the matter is handled appropriately and
20 swiftly. I don't think that's going to happen, but I just
21 want you to be aware that you have that safety net, so to
22 speak, in the event that would occur.

23 So thank you for your help. I'm going to allow you
24 to exit at this time. Oh, wait one moment. Sit back down
25 just a minute.

1 I got a little bit in a hurry. If this be your
2 verdict, so say you all by raising your right hand.

3 (All jurors raised hand.)

4 THE COURT: All 12 confirmed the verdict by raising
5 their right hand.

6 Anything further from the State?

7 MR. GHENT: Your Honor, has she signed off on the
8 indictments?

9 THE COURT: We're going to get her to do that, yes,
10 sir, in just a second.

11 MR. GHENT: The other question I would have -- and I,
12 don't know if it would be appropriate or inappropriate, if
13 we took enough time for anybody who wants --

14 THE COURT: No, we're not going to do that in this
15 case. We do it in some cases, but I've already thought
16 through that. Some cases we'll have you come in for
17 sentencing, but I'd like you to be able to all leave at
18 one time with security. So we're going to do it that way.

19 But Mr. Ghent, I do it that way frequently, but not
20 in this particular case.

21 All right. Anything further from the Defense?

22 MR. SMITH: Not at this time.

23 THE COURT: All right. Thank you.

24 Ms. Swaim, the clerk will get you to sign on the
25 indictments and show you where to write the word guilty

1 and sign it. Thank you. You may leave.

2 (WHEREUPON, the jury exits the courtroom at
3 approximately 2:28 p.m.)

4 THE COURT: The jury has been dismissed.

5 Anything on behalf of the State before we get into
6 sentencing?

7 MR. GHENT: No, sir.

8 THE COURT: Anything on behalf of the Defense before
9 we get into sentencing?

10 MR. SMITH: Ten days for post-trial motions?

11 THE COURT: Yes, sir. I'll grant you 10 days for
12 post-trial motions.

13 Do you have sentencing sheets, Mr. Ghent?

14 MR. GHENT: Yes, sir, I do.

15 THE COURT: All right.

16 MR. GHENT: May I approach?

17 THE COURT: Yes, sir.

18 MR. GHENT: They are attached to copies, certified
19 copies, I believe, of the indictments.

20 THE COURT: All right. Anything on sentencing from
21 -- I've heard the evidence, but I don't know -- there's
22 been nothing in the evidence about any prior record. I'll
23 be glad to hear now from the State about sentencing.

24 And the victims, the two victims, Ms. Harrison and
25 Mr. Martin, if they wish to say anything.

1 MR. GHENT: Mr. Smith is a representative, Wes Smith
2 from the sheriff's office.

3 THE COURT: All right. I'll be glad to hear from
4 both of you.

5 MS. HARRISON: Thank you, Your Honor. My name is
6 Sylvia Harrison. I don't think it can be conveyed to the
7 Court this burden this has put on my life, my mother's
8 life and my brother's life. I think Mr. Holcomb has
9 absolutely no remorse for what he's done or said or
10 conveyed to me. I've listened in on several of his jail
11 calls and as of this week, he still wants me to spend life
12 in prison. The day after he tells you under oath that he
13 apologized to me, he went back and called me Jabba the
14 Hutt to this sister. This man is not sorry for what he
15 did. This is not an issue of being bipolar. This is an
16 issue of threatening me. And I felt threatened. And I
17 will not feel safe until he is incarcerated again. Thank
18 you.

19 MR. SMITH: Your Honor, I'm Wesley Smith. I work in
20 the office of professional responsibilities for the
21 sheriff's office. It's my honor and privilege to help our
22 officers of the sheriff's office do their job, to try to
23 do their duty to enforce the law impartially and without
24 prejudice.

25 And I think that in this case, Investigator Martin

1 did his very best to be impartial and act without
2 prejudice in this case. And I think that there's been a
3 big effort to disparage him and the sheriff's office
4 throughout this case, when all we were trying to do was to
5 ensure that he had a right to due process.

6 I echo the feelings of Ms. Harrison that it would be
7 appropriate for him to be incarcerated under the nature of
8 this case. And I hope that you will understand our
9 feelings as they vary in amounts, but we hope that we will
10 see justice done. Thank you.

11 MR. GHENT: Your Honor, you want to hear from me?

12 THE COURT: Yes, sir.

13 MR. GHENT: Your Honor, this case has taken a
14 tremendous amount of work.

15 If Lieutenant Kindley would stand.

16 This case had taken a great deal of work, a great
17 deal of time, a great deal of effort. We have tried two
18 cases. In this case, Your Honor -- again, this comes from
19 having worked on the sentencing guidelines. I can think
20 of a number of aggravating circumstances in this case, not
21 the least of which would be that these are circumstances
22 where the Defendant has a right to take the stand, but
23 doesn't have a right to lie. He doesn't have a right to
24 attack people. He doesn't have a right to do the many
25 things he did in this case.

1 I respectfully submit, Your Honor, this is a case
2 that warrants sentencing to consider both general
3 deterrence, a warning to others about treating the courts,
4 law enforcement, victims, anyone and everybody associated
5 with a system like this. In the day and age we live, it's
6 inexcusable. That's general.

7 Specific, this man, as I think Your Honor is aware,
8 he's been -- he's gotten away 21 times. He boasted about
9 it to the officer bringing him back from North Carolina.
10 He has attacked anybody and everybody. I have no doubt
11 that now I will become another subject of his attacks.

12 Your Honor, I would ask that Your Honor treat these
13 as two separate offenses, even though they could be tried
14 together, two separate offenses and two very, very serious
15 offenses. This man is dangerous. I'm absolutely
16 convinced of it. Thank you, Your Honor.

17 THE COURT: Mr. Smith, anything on your client's
18 behalf?

19 MR. SMITH: This guy has a long history with
20 Mr. Holcomb, as the Court, I think, is aware. So I think
21 that should be taken into consideration as well.

22 The upholding of the welfare of the community and the
23 Constitution and all that seems somewhat disingenuous when
24 he has two charges, separate charges, never gets any
25 preliminary hearing. The one indictment didn't come for a

1 year. So there was no timing the preliminary hearing.
2 The warrant spoke for itself. I mean, the things he put
3 in front of the Court were facts. They were not myths.
4 But that was the truth. The warrant said there was no
5 work done, of course, there was work done. And it never
6 went back on that. I would just ask the Court to take it
7 all into consideration.

8 The idea of the fact that the first case was a breach
9 of contract, at best, and suddenly he's doing time. I
10 even said in closing, he's not the most personable
11 individual. But threaten, he didn't threaten anybody. He
12 just called them names. That's what I would have. I know
13 Mr. Holcomb wanted to speak, but I just wanted to say
14 that.

15 THE COURT: Yes, sir.

16 MR. HOLCOMB: Thank you, Your Honor, for being so
17 pleasant and kind throughout this process. Apparently,
18 I'm not a likeable person. Apparently, I'm not a very
19 good person. I did not call Ms. Sylvia Harrison Jabba the
20 Hutt at any point. Subpoena every one of those audios and
21 there's no point I ever said that to my sister or anyone
22 else, so I kind of resent that statement.

23 But I'm not here to talk about that at this point. I
24 would ask that you consider what Dr. Martin said and Ms.
25 Colbi Sutton. I do have bipolar with psychotic features.

1 I was hospitalized that month for that time. We have the
2 records. I changed over to Fanapt, which is an
3 antipsychotic. I was born with this condition.

4 The 21 arrests, it was actually 26, those are
5 protesting containments from where I was exercising free
6 speech. I really tried to just -- I thought I was trying
7 to expose what I thought was bad behavior on the part of
8 the officers. Just to protect myself best as I could.
9 Maybe those were paranoid delusions.

10 But I would say that SCDC has no incident reports of
11 me behaving in any bad fashion. Greenville County
12 Detention Center, I'm pretty much considered a model
13 citizen -- well, at the jail. The only time I've had any
14 issue was when I was going to medical. And I've had two
15 times where I had fusses to get to medical. But I've had
16 no lock downs or write-ups or anything like that. SCDC is
17 clear.

18 I think I'd be an excellent candidate for probation.
19 I would just ask that you consider the two mental health
20 evaluations. I like to state that I'd like to have an
21 appeal filed within the 10 days. So I'm hoping Mr. Smith
22 will take care of that. Thank you.

23 THE COURT: When were you arrested on these charges?

24 MR. HOLCOMB: August 2014, August 16th, 2014, I
25 believe.

1 MR. GHENT: Your Honor, if I may?

2 THE COURT: Yes, sir.

3 MR. GHENT: Your Honor, I would point out, he's
4 already gotten credits for time previously when Your Honor
5 sentenced him before for those days. He's been
6 incarcerated now, I think maybe a month and a half.

7 THE COURT: But he hasn't gotten credit on these
8 charges for those days?

9 MR. GHENT: But he did, yes, sir. I think he did. I
10 think Your Honor gave him credit for time he had been
11 locked up. If I'm wrong -- I notice your clerk is
12 indicating -- I'll stand corrected if I'm wrong --

13 THE COURT: No, he's just showing me how many days he
14 did.

15 All right. Anything further from the State?

16 MR. GHENT: The only thing I would point out is he's
17 now been released, so he served like a year on a 10-year
18 -- or a five-year sentence.

19 THE COURT: Yes, sir, Mr. Smith.

20 MR. SMITH: I don't have anything else to say, Your
21 Honor.

22 MR. HOLCOMB: Just finally, I never had any problems
23 up until -- I've never been in trouble. I've never been
24 convicted of anything except a trout stamp up to this
25 point. That's clear on the record. I didn't have any

1 trouble. I fall off a roof and then everything just goes
2 to complete Hades in my life.

3 Seriously, I try not to use profanity. I'm trying
4 not -- I will never you that word again. I will never
5 cause any kind of problems like this. If you'll give me a
6 suspended sentence on probation or a reasonable prison
7 sentence. I don't think I deserve 20 years for this.
8 It's just a slip, a single -- two or three e-mails that
9 were slips from a psychotic episode. Even Ms. Harrison
10 agreed that it was psychotic and crazy, mental health.
11 Tim Martin said it was mental health issues. These were
12 truly psychotic things. It was not a healthy mind saying
13 those. Dr. Martin testified that I'm excellent under the
14 medication. So he's the best doctor I ever had. So thank
15 you, Your Honor.

16 SENTENCE

17 THE COURT: Well, due to the nature of the impact
18 that this has on the very heart of the system, I'm
19 sentencing you to 90 months on each of these to run
20 consecutive, giving you time, the time you were arrested
21 on August 16th, 2014, until -- I don't remember the date I
22 sentenced you in September, but till September 11th, 2016.
23 So I'm giving you credit for the time you served between
24 your arrest and when you were sentenced for the breach of
25 trust. Thank you.

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MR. SMITH: Thank you, Your Honor.

THE COURT: That ends this matter. Thank you.

Anything else? I've given counsel 10 days to file
any post-trial motions. Thank you.

MR. GHENT: Thank you, Your Honor.

*****END OF PROCEEDINGS*****

1
2
3 STATE OF SOUTH CAROLINA)

4 COUNTY OF AIKEN)
5

6 I, PENNY M. JOHNSON, Official Court Reporter for the
7 Second Judicial Circuit of the State of South Carolina, do
8 hereby certify that the foregoing is a true, accurate, and
9 complete Transcript of Record of the proceedings had and the
10 evidence introduced in the trial of the captioned case,
11 relative to appeal, in General Sessions Court for Greenville
12 County, South Carolina, on the days of June 12 - 16, 2017.

13 I do further certify that I am neither of kin, counsel,
14 nor interest to any party hereto.
15

16 June 9, 2018
17

18
19 Penny M. Johnson
20 Penny M. Johnson
21 Official Court Reporter
22
23
24
25

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
 State of South Carolina,)
)
 Plaintiff,)
)
 v.)
)
 Dean Alton Holcomb,)
)
 Defendant.)
 _____)


IN THE COURT OF GENERAL SESSIONS
 FOR THE 13TH JUDICIAL CIRCUIT

Indictment No.: 2014-GS-23-08179

VERDICT FORM AS TO
 OBSTRUCTION OF JUSTICE

We find the defendant guilty of Obstruction of Justice.

We find the defendant not guilty.


 Foreperson
 Jacqueline J. Swain

June 16, 2017
 Greenville, SC

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

INDICTMENT

At a Court of General Sessions, convened on JUN 30 2015 the

Grand Jurors of Greenville County present upon their oath:

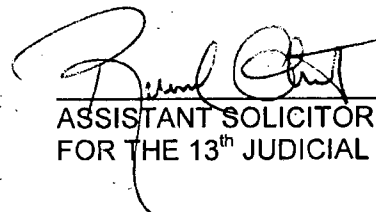
OBSTRUCTION OF JUSTICE

That the Defendant, Dean Alton Holcomb, from approximately May, 2013 through, up until, including and beyond June, 2014, having been arrested by the Greenville County Sheriff's Office and indicted for the commission of a felony, and released on bond, did:

- a. Then impede and obstruct and attempt to impede and obstruct the effective administration of justice in the Court of General Sessions of Greenville County, in the Thirteenth Judicial Circuit of the State of South Carolina by attempting to deter and intimidate Investigator Timothy Martin of the Greenville County Sheriff's Office in the discharge of his duty;
- b. By threats he made against said investigator and others involved in the prosecution of Defendant's criminal case, said threats made and published through a pattern and practice of harassment, directly and indirectly, in a public manner, by means intended to threaten said investigator's life and well-being, and to threaten, intimidate and harass him in his continued work in preparations for prosecution of Defendant's case; and,
- c. The means, manner, nature, pattern and practice of these threats were such as the Defendant intended, knew or should have known that the investigator would understand them, and did understand them, as intended to intimidate or impede him in the discharge of his duties in assistance and preparation for the prosecution of the criminal case against the Defendant..

All in violation of South Carolina Code Ann. §16-9-340(A)(2), (1976, as amended).

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


 ASSISTANT SOLICITOR, 7th JUDICIAL CIRCUIT
 FOR THE 13th JUDICIAL CIRCUIT

WITNESSES

Greenville County Sheriff's Office

ARREST WARRANT NUMBER
2014A2330207246

ACTION OF GRAND JURY

~~TRUE BILL~~

Wayne Stephens

FOREMAN GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Guilty

Jacqueline J. Swain
Foreperson of Petit Jury
Date:

DOCKET NO. : 2014-GS-23-⁸¹⁷⁹~~00179~~
AMENDED

JH

926

The State of South Carolina

County of Greenville

Walt Wilkins, Solicitor

COURT OF GENERAL SESSIONS

June

2015
TERM

THE STATE
v.

DEAN ALTON HOLCOMB

Indictment for

OBSTRUCTION OF JUSTICE

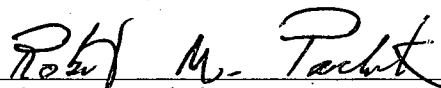
SC Code: 16-9-340(A)(2)
CDR Code: 2451
MIS/UNC

AB
ENTERED
ACCT.

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,


Robert M. Pachak
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 25th day of September, 2018.

RECEIVED

SEP 26 2018

SC Court of Appeals