

Jimmy Dean Jones v. State
Appendix Summary

Transcript of October 9, 2000:

Jones was charged with accessory after the fact of burglary second, attempted possession of cocaine, and shoplifting third. He pleaded guilty. Longest sentence was five years, provided upon the service of four, the balance suspended with three years probation. Represented by Charles Jones, private attorney.

- [4] Indicted for accessory after the fact of burglary second, attempted possession of cocaine, and shoplifting third.
- [4] Guilty plea
- [7] Jones did not graduate from high school. He was married to a woman for 24 years and divorced in 1997. After his divorce, Jones met Marta Henderson who is in court with him today.
- [8] He and Henderson currently have a 14 month old baby girl and Henderson is 8 months pregnant.
- [9] His mother is ill and Jones is the only one who can work to support her.
- [11] Sentenced to six months suspended on six month probation or drug charge; five years, provided on the service of four, the balance suspended with three years probation for the shoplifting charge; and five years, provided upon the service of two, the balance suspended with probation for three years for the accessory charge. All sentences are concurrent.

Transcript of September 24, 2001:

Jones pleaded guilty to escape. He went to trial on kidnapping and CDV high and aggravated charges. Jones was represented by Michael Bartosh of the Public Defender's Office.

Defense counsel asked Judge Beatty to recuse himself because he was the judge at Jones' previous guilty plea hearing on October 9, 2000 when Jones pleaded guilty to accessory after the fact of burglary second, attempted possession of cocaine, and shoplifting third. Court refuses. [25]

Jones pleads guilty to the escape charge. [29]

- State requests that the court withhold sentencing on the escape charge until after the trial on the kidnapping and CDV charges. [30]
- State reads Jones' record [31-32]
- Court will reserve sentencing until after the conclusion of trial. [33]

State intends to introduce two tape recordings of phone calls made by Jones while he was an inmate at Northside Correctional Institute to Martha Henderson, who is the alleged victim, and to Gladys Jones, Jones' mother. Both calls were made on January 3, 2001. Defense objects to the introduction of these tapes because they were illegally obtained under 18 U.S.C. 2510. [33-36]

- State argues that the tapes are admissible under Rule 701 because Henderson is familiar with Jones' voice and will testify to the identity of Jones as the caller. State also argues that the tapes are admissible under Rule 803, hearsay exception based on the records of regularly conducted activities. [36-41] Further discussions [42-43] Court rules that the State can be a proffer to introduce the tapes. [43]

In regards to Jones' statement to the police, the Defense does not intend to argue that the statement was not given voluntarily. Jones acknowledged that his signatures are on the waiver of rights form and the statement, that he was given his rights, and that he understood his rights. [44]

Hearing on whether State's evidence violates the federal wiretapping provision: [47-96]
Court rules that the Defense's objection to the use of the tape based on Title II is inappropriate. Therefore, the tapes are admissible. [96-97] Objection overruled [102]

Voir Dire [103-111] Jury Selection [111]

State's Opening [123-130]

Defense Opening [130-134]

1. Donald Lane [135]

SCDC Investigator.

DIRECT

- [135] Investigator for the South Carolina Department of Corrections.
- [135] In January 2001, he was dispatched by either the emergency activation center or the fugitive unit supervisor in regards to this case.
- [136] Upon his arrival at Northside, he started gathering information to form leads as to Jones' whereabouts. He pulled Jones' phone records and monitored his previous calls.
- [142] Jones' had two numbers listed on his phone list: Joe Poteat, a friend; and Gladys Jones, his mother.
- [143] He printed out additional information about Poteat and Mrs. Jones, including Mrs. Jones' address.
- [144] This information was important to help determine Jones' whereabouts.
- [147-148] Lane found 4 phone calls that were made by Jones that were relevant to his investigation. The first two calls were made to Joe Poteat, who was a friend and a neighbor. Poteat lived close to 1000 Chesnee Highway, Martha Henderson's residence.
- [148] There was not a phone at 1000 Chesnee Highway, Martha Henderson's residence. Therefore, Joe Poteat actually let the number be placed on Jones' PIN so that Martha and Jones could communicate.
- [148-149] The first call made by Jimmy Jones on January 3, 2001 was to the number identified as Joe Poteat, but Jones actually spoke to Martha Henderson. The second phone call was again made to the same number and Jones spoke to Henderson. The third and fourth calls were made by Jones to his mother. All four conversations were recorded.
- [150] The first conversation to Mrs. Henderson was 15 minutes. The second call to Mrs. Henderson was 15 minutes. The third call to his mother was 8 minutes and the fourth call to his mother was 7 minutes.

The tapes of the phone calls to Mrs. Henderson were published to the jury over the defense's objection. [152] The tapes of the phone calls to Mrs. Jones were also published to the jury. [155]

- [155] After listening to the tapes, Lane went to the residence of Gladys Jones and spoke to the defendant's mother. He did not retrieve any evidence during this visit.
- Lane then traveled to 1000 Chesnee Highway with Investigator Chastine. This is where they were informed Mrs. Henderson lived. A K-9 units and several other officers were also present but were not involved in the interview.
- [157] When they arrived, they interviewed Lizzie Cox, the mother of Martha Henderson. Neither Jimmy Jones nor Martha Henderson were at the residence.
- [158] Investigator Chastine retrieved a butcher knife from the kitchen area.
- [159] The knife was approximately 13 inches long.
- [160] After taking a statement from Mrs. Cox, they went back to Jimmy's mother's house. Gladys Jones had just reported her vehicle stolen. There was at least one marked police vehicle at the home when Lane and Chastine arrived.
- [162] They re-interviewed Mrs. Jones and retrieved identifiers for her vehicle that she had reported stolen—a 1988 Chevy Celebrity, navy blue, four door, the tag number, and the VIN number. It was registered under the name Gladys Leonard and had previous damage to the rear.
- [162] Mrs. Jones lived in an assisted living development.
- [163-164] After this second visit to Mrs. Jones' residence, Lane traveled back to Mrs. Henderson's residence. At this time they actually interviewed Mrs. Cox and seized the knife. During the first visit there were a lot of police so they came back later.
- [164] During the first 16 hours of the investigation, basically the first day, the police had no contact with Jimmy Jones or Martha Henderson.
- [165] The next day, January 5, 2001, Lane received a call that Jimmy Jones had been placed in custody. It took Lane about 20 minutes to travel to Northside Correctional Institute after he was notified. This was around 3:00.
- [166] Investigator Chastine assisted with the interview was Mrs. Henderson and Investigator Bright assisted Lane with the interview of Jones.
- [167] The interview of Jimmy Jones occurred at Perry Correctional Institute.
- [168] Jimmy Jones was not threatened, harmed, or promised anything before or during the interview.
- [169] Jones was read his Miranda rights.
- [173-176] During the interview, Jimmy Jones stated: On January 3, 2001, he called Martha Henderson and they had argued about a letter Martha had received from Andrew Kelly. He made threats toward Martha. He also called his mother, Gladys Jones. He informed his mother that he planned to leave Northside and he asked for a ride but his mother refused. On January 4, 2001, around 4:30 am, he went into the leaving facility and walked out the front door of the dorm. He took a cab to his mother's house and he and his mother talked for about an hour. His mother gave him \$100. As he left his mother's house, he took a knife approximately 12 inches long and his mother's 1988 Chevy Celebrity. He then traveled to his trailer at 1000 Chesnee Highway where Martha was living. He had tried to use the knife to open the door but was unable to do so. So he

knocked on the door and Martha opened to door. He still had the knife in his hand. He told Martha to get the children and go with him in his mother's car. He said that Martha came with him of her own free will. He left the knife at the trailer. They had a smaller steak knife in the car for opening the baby's milk. He then drove Martha and the children to Spindale, NC. Martha had signed for a room at Tri-City Motel, room 112. They stayed at the motel for about 6 hours and then went to visit some of his relatives in NC leaving his SCDC pants at the motel. He received \$130 from these relatives. They then went back to the motel and he had a feeling that the police had been in the motel. They then traveled to Lincoln City NC, Gaffney SC, Shelby NC, and then at approximately 7: pm they ended up at Super 8 Motel on Wade Hampton in Greenville, SC. They stayed in room 111. They left the Super 8 at 9:00 am the next morning and was later taken into custody after a car chase to Northside Correctional Institution.

- [177] Jones was unwilling to write out his own statement or to sign a statement written by Lane.
- [179] Jones said that he had the steak knife for the purpose of opening milk. The police received the steak knife from Martha Henderson during the interview at Northside. Martha had retrieved the knife from a bag within the vehicle.
- [180] Lane and Investigator Chastine also collected a pair of SCDC uniform pants from the Tri-City Motel room in Spindale, SC. They also collected a letter that had been torn up. When the pieces had been placed back together it was a letter to Martha from Andrew Kelly.
- [182] The letter was retrieved from the trashcan in the motel room, 112.

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- [185-186] 1000 Chesnee Highway was Jimmy Jones' listed residence prior to his incarceration.
- [189] Martha had given Lane the information about the motel in Spindale on January 5, 2001 when Jimmy was brought back into custody. He got the registration card from Martha.
- [190] Martha registered at the motel. She was the one who signed the registration card.
- [190] Lane did not know Jones was charged with kidnapping on January 11, 2001, when he went to interview Jones. He did not learn of the kidnapping charge until months later.

2. Wayne Chastine [196]

DIRECT

- [196] Employed with the South Carolina Department of Corrections.
- [197] He was called upon to investigate this case in January 2001. He received a call between 6:30 and 7:00 am. He traveled to Spartanburg and met with the warden there. He was trying to learn of any relatives or addresses nearby. Lane was monitoring the phone call system.
- [199] After Lane monitored the Jones' phone calls, Chastine and Lane went to the home of Gladys Jones, the defendant's mother. From there they traveled to 1000 Chesnee Highway, where Martha Henderson lived. SLED and Spartanburg County Sheriff's Office were already there. They had been inside and informed Chastine and Lane that Martha was not there. Chastine and Lane were advised to go back Gladys Jones' house to get information about the vehicle the two were traveling in.

- [200] Mrs. Jones said that her vehicle was missing. She provided a copy of the insurance with the make and model of the vehicle and the VIN number.
- [200] After obtaining this vehicle information from Mrs. Jones, Chastine and Lane traveled back to 1000 Chesnee Highway. During this second visit, they seized a butcher knife about 12 to 13 inches long. Chastine placed the knife in a bag and placed it in the trunk of his car. He held the knife for future evidence due to the statement that was given at the residence.
- [203] Identifies the second knife turned over to Lane by Martha Henderson at Northside after Jones was apprehended.
- [204] Identifies the letter seized from the trashcan at the motel in North Carolina. It was torn up when they retrieved it and Lane puzzled it back together.
- [205] Martha was very nervous and upset when he saw her at Northside. She was frightened.

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- [207] The knife was found in the sink in the kitchen of Jones' house. It had dirt and leaves and grass all over it. It was not processed for fingerprints.
- [207-208] Martha handed over the smaller knife. She took it out of a grocery bag. He does not know where the bag came from. He did not see her remove the bag from the car. The car was not inventoried.

3. Thomas Bright [212]

SCDC officer who was present during the interview of Jones at Perry Correctional Institution January 11, 2001. Lane conducted the interview. Jones was read his Miranda rights and gave a statement but she refused to write out the statement or sign a statement written by Lane.

DIRECT

- [212] Employed with the South Carolina Department of Corrections in the investigation division.
- [212-213] He went to Perry Correctional Institution with Investigator Lane on January 11, 2001 to interview Jones. Another female investigator, Tammy Curry was also present. She is no longer employed with SCDC and did not participate in the interview.
- [214-216] Lane read Jones his Miranda rights and waived his rights.
- [216] The interview began at 10:50 am. Jones was not threatened or promised anything.
- [219] Lane accurately transcribed the statement.
- [220] Jones refused to write out his own statement or to sign one written by Lane.

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- [220] The interview was not taped.

4. Donald Lane [221]

A butcher knife was retrieved from the kitchen of Martha Henderson's home. During the interview of Martha, she brought to their attention that there was a small steak knife in the car with them during the events.

DIRECT

- [221] A butcher knife was retrieved from the kitchen area at Martha Henderson's residence.

- [222] Investigator Chastine showed it to Lane. Mrs. Cox identified the knife.
- [222-223] During the interview of Martha, she brought it to their attention that there was a steak knife in a bag in the vehicle during the chain of events. No one asked her to go get the knife. It was in the room with her. She had bags with baby items inside in the room with her.
- [224] Martha appeared very shaken during the interview like she had experienced a bad ordeal. She appeared nervous, was shaking, and her voice was crackling. She was cooperative.

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- [225] Martha Henderson also present a motel key with the number 112.
- [225] Lane did not look in the bags to see what else Martha had with her.
- [226] When Lane interviewed Mr. Jones, Jones said that the knife was used to open baby's milk. Lane does not know whether there was any milk in the bag.

5. Lizzie Cox [227]

Martha Henderson's mother. She was living in Jones' trailer with Martha in January 4, 2001. She testified that Jones knocked on the door and Martha let him in. Jones had a long butcher knife with him that he left in the sink. He told Martha to get her clothes and the children and leave with him. The two left the home with the children. Cox did not call the police.

DIRECT

- [228] When Jones came to the house on January 4, 2001, Cox was in bed. She got out of bed. It was still dark outside. Jones had knocked on the door and Martha let him in.
- [228-229] Jones told Martha that he wanted her to go with him and he told her to pack her stuff.
- [229] When Jones came into the house he had a long butcher knife with him.
- [230] Jones stabbed the knife in the sink. He didn't say a word to Cox.
- [230] He told Martha to pack her stuff and smacked her in the face.
- [231] Martha expressed that she did not want to go with Jones.
- [232] Martha said that she didn't want to go about three times. Cox didn't call the police because they do not have a phone.
- [232] It was getting daylight when Martha and Jones left. The police arrived shortly after.
- [233] She told the police what happened when they arrived.

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- [235] Martha Henderson is her daughter. Martha and Jones were living together before Jones went to jail. They have a child together named Amanda.
- [236] Amanda is 8 months old.
- [236] Martha and Jones moved into the trailer at 1000 Chesnee Highway when their previous trailer burned down. They lost everything in the fire and had to start over again. The two were planning on getting married.
- [237] Cox moved in after Jones went to jail but before Amanda was born. Cox was helping take care of the babies.
- [238] Martha has an older daughter named Betsy who is 2 years old. Jones thinks that Betsy is his daughter too.

- [238] Cox is living with Martha. One morning Jones comes to the door and knocks. Martha let Jones inside.
- [239] Jones put the knife in the sink and left it there. He then told Martha to come on and get her stuff. Martha gathered up as much as she could.
- [240] Jones put the clothes and things into the car. Martha stayed in the house. Jones carried one child to the car and got inside. Martha carried the other child and also got into the car.
- [241] Jones had clothes at the trailer because it was his house. Cox does not remember if Jones took any of his clothes with them.
- [241] People keep saying that it is Martha's trailer but it was Jones' house. Welfare gave it to them because their told trailer burned down. But the old trailer was Jones' trailer, not Martha's.
- [241] So Jones had already put the knife down in the kitchen and was loading stuff into the car. He grabbed one of the children and carried her into the car.
- [242] Jones sat in the car. Then Martha went out carrying the other child. Martha closed the door to the trailer.
- [243] Cox stayed at the trailer until the police showed up. She never called the police.
- [244] Cox knows Mr. Poteat. Poteat is dead now. Poteat would come get Martha whenever Jones called because Poteat had a phone and would allow Martha and Jones to communicate using his phone.

6. Martha Henderson [249]

The victim. Jones' girlfriend and mother of his child. She testifies to when Jones came to her house in the middle of the night with a knife. He hit her and threatened to kill her with he knife if she did not gather the children and leave with him. She testifies to the events that occurred before Jones was brought back into custody.

DIRECT

- [249] She is 35 and has two children. She is currently working part time as a housekeeper.
- [250] She has known Jones for 3 or 4 years. They have a child together.
- [250] She was living with Jones before he went to jail. They had been dating for about 2 and a half years. She continued to date him while he was in prison.
- [250] On January 3, 2001, her neighbor, Joe Poteat, told her Jones was going to call at a certain time so she went to Poteat's house to wait for Jones' call.
- [251] During the phone conversation, Jones became very upset over the letter she received from Andrew Kelly. Martha just wanted Jones to calm down because the letter wasn't a big deal. She was going to write Kelly back and tell him that she was happy, had two beautiful daughters, and didn't want him to write to her anymore.
- [252] She last remembers seeing the letter in the motel room where Jones tore it up.
- [253] After the first phone call when Jones got upset, he called her right back. Martha just wanted him to calm down because the letter wasn't a big deal and the man was an ex-boyfriend from more than 10 years ago.
- [254] Jones said that if Martha did not send with the letter with Kelly's address that he was going to come and get her. That he would come and hurt her and that he would get his mother to call DSS. She was upset and crying during these threats. When Jones said

that he would come and get her she thought this meant "that he would come and hurt me or possibly kill me."

- [255] She was scared, but in another way she wasn't because she didn't think he could escape from prison.
- [257-258] After the phone calls with Jones, she went back home and made supper. She bathed her daughters and put them to bed. Then she watched TV and went to bed around 10:00 or 11:00. She woke up around 3:00 to feed the baby. She was up for about an hour and then went back to sleep. She heard a knock on the door.
- [259] She went to the door and asked who it was but could not hear what the person said so she opened the door. It was Jones and he had a butcher knife in his hand. Jones was dressed in his prison uniform.
- [261] Jones told her to pack her and the children some clothes because they were coming with him. She told Jones that if he was running she did not want to come with him. She knew that he had escaped and did not want to go with him.
- [262] When she told Jones she wasn't coming with him he hit her with his open hand. It knocked her down.
- [263] After he hit her she started packing because she knew that if he didn't he would hit her more. At one point he became upset because she wasn't packing fast enough and he shoved her down into the kitchen chair. That made a bruise on her shoulder.
- [264] After he shoved her in the chair he still had the knife in his hand. He said, "I will kill you, you bitch."
- [265] When he said these words he was pointing the knife at her chest and stomach. She was crying and upset and didn't know what Jones was going to do.
- [266] They were at her house for about 45 minutes. As they were leaving Jones told her mother, Mrs. Cox, that she better not say anything to the police when they come.
- [266] Jones was driving. They headed towards Chesnee.
- [267] Her and the girls were in the back seat. She did not ride upfront with Jones.
- [267] Jones stopped at a Bi-Lo and called his mother. She didn't get up and run away because she wouldn't leave her children. It wasn't possible to grab both children and run with them and she didn't know what he would do in his state of mind.
- [268-269] They stopped at a motel in NC. He told her to go in and rent a room for 2 nights. She wanted to take the children in with her but Jones said no. Then he told her to remember when she was inside that he had to children out in the car with him.
- [270] Jimmy gave her the money to rent the room. He had a hundred dollar bill. She didn't say anything to the clerk because she was afraid Jones would hurt the children. She thought the clerk would call the police himself because he had seen Jones with the prison uniform on.
- [271] When they got into the place, Martha was trying to get the children back to sleep. Jones read the letter. The letter was still in one piece at this point. After he read the letter he tore it up and threw it in the trash. He told Martha that there was nothing in the letter that was a big deal and that he was sorry.
- [272] Jones became calmer after reading the letter.
- [272] Jones then said he was going to wash off and get out of his clothes because they stunk. She didn't think about running away when he was changing clothes because like

- she said it was hard to run with two children. She didn't really know where she was in NC so she didn't know where to go.
- [272-273] She got the kids asleep and Jones wanted to have sex.
 - [273] They slept a couple of hours. She was very tired and knew she needed to get some sleep for the kids benefit because she was there primary caretaker. She didn't think he would do anything to her while she was sleeping.
 - [274] They left the motel and went to Jones step-brother's house. Jones told the brother that his mother was sick and that he needed money. She didn't try to communicate to his family because she didn't think they would help her since they were Jones' relatives.
 - [275] She doesn't remember if this step-brother gave Jones any money, but his half sister came over and gave him \$100. She didn't ask the half sister for help because she didn't know her. She figured they wouldn't help her because they were his family, not hers.
 - [276] They traveled back to the motel room but Jones said there were a lot of police around the motel and that they were going back. She was scared to hit him while they were driving because she didn't want him to wreck with the children in the car.
 - [276-277] They stopped at a church. Jones went inside for a few seconds and came out with a preacher. He was talking to the preacher. She thought about running then but she knew she wouldn't get very far carrying two children. She didn't know anything about this church or the preacher. Jones was outside so he would see her run and would catch her and hurt her.
 - [278] Jones took the steak knife from the trailer. He had it with him in the front seat during the trip.
 - [279] She knows how Jones is and if she did something on the trip that he didn't want her to do she would hurt her. He told her twice on the trip that he would kill her. He said at least 3 times at the trailer that he would hurt her or her mother and at least once or twice while they were on the road.
 - [280] After they left the church, they went to Greenville, SC. Jones went to see a lawyer.
 - [281] Martha was in the car for about 10-15 minutes while Jones was inside talking to a lawyer. She didn't run then because she didn't know where Jones was in the house. She did not know if he was standing by a window where he would see her.
 - [281] After they left the lawyer, Jones said he wanted to get something to eat and to find a motel. Jones then got some guy who was walking down the street to rent them a motel room.
 - [282] Jones did not let her out of the car until they were about to go into the motel room.
 - [283] After the man came back with a key Jones drove the man to a beer joint and then drove back to the motel.
 - [284] They were at that motel all night until the next morning.
 - [285] Jones called a Spartanburg lawyer, Rick Vieth. Martha told Jones to tell Rick Vieth that she did not go willingly with him. She said it about twice while Jones was on the phone with him. But Jones didn't say anything to Vieth.
 - [285-286] When Jones hung up the phone Martha told him to tell the lawyer that she did not go willingly. Jones called Vieth back and told him that Martha did not come willingly. The two talked for about 5 more minutes.
 - [286] She bathe the girls and got them ready for bed. The next morning they left.

- [287] They were traveling towards Spartanburg when the police got behind them. Jones stopped and the police said got out of the car with your hands up. Jones refused and said that he wanted to turn himself in and asked the police to follow him. Jones then took off.
- [288] Jones was probably traveling 60-80 mph. The police were trying to throw stuff on the road in front of Jones to stop him or slow him down. The chase ended at Northside.
- [288-289] During the chase, Martha was just hoping that Jones wouldn't wreck and hurt her or the children.
- [289] The car eventually stopped at Northside. An officer approached her in the vehicle and asked if she was ok. She said she was, but she was a little shook up.
- [290] She had Betsy and an officer had Amanda and some other officers helped her tote the bag of clothes and the car sits into the building. When she was telling them what happened she told them about the knife.
- [291] Martha last saw the knife in the front seat with Jones. One of the officers must have picked up the knife from the car and put it in her bag.
- [292] Martha is on probation for marijuana charges. She quit school in the sixth grade.
- [293] From the time that Jones came to her house with the knife until the time with the vehicle stopped at Northside she did not feel free to leave.

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- [295-296] She has known Jones for 3 or 4 years and has lived with him for 2 and a half to 3 years. She moved in with Jones. They were living together in Whitney until that trailer burned down. They eventually moved in to 1000 Chesnee Highway.
- [296-297] Amanda was born November 14, 2000. Jones is her biological father. Betsy was deemed to be Jones' biological father by the Family Court.
- [297-298] Jones went to jail in August 2000 for shoplifting and a few other charges.
- [298] Jones never saw Amanda after she was born because he was in prison.
- [299] Martha and Jones were planning on getting married, but Martha's divorce wasn't final so they had to wait. Martha's mother moved in to help Martha with the babies.
- [300] Around 4:00 or 5:00 am there was a knock at the door. She asked who it was but didn't hear what the person said so she opened the door. It was Jones. She let him in. Jones walked in. He had a butcher knife with him. Jones told her to start packing clothes for her and the kids.
- [300] Her mother did not try to stop Jones. Cox didn't say anything to Jones.
- [300] Jones stabbed the knife into a cabinet in the kitchen by the sink. Jones left the knife in the trailer.
- [303] The driver's side door is jammed shut. It cannot be opened. The trunk is also jammed so a screwdriver has to be used to open it. Martha had never seen the smaller knife in the car before. It wasn't used by Mrs. Jones to open the trunk. The small knife came from inside the trailer.
- [304] Jones made about 2 trips to the car carrying his clothes and then the bag she had packed with her clothes and the kids clothing.
- [305] The milk for Amanda was dry milk packaged in cans.
- [305] Her mom was sitting there smoking a cigarette watching everything take place.
- [306] She didn't put anything in the car expect her and Betsy.
- [312] After they left her house and stopped at a Bi-Lo so he could call his mother, they stopped at a gas station. There was a police officer at this gas station. Martha had to go

inside and pay and pump the gas. She didn't say anything to anyone or scream for help. She didn't ask the police officer for help.

- [314-315] They then drove up into NC and stopped at a motel. Jones went in first and then came out and told Martha to go inside and rent a room for two nights. She didn't tell the motel employee anything. She didn't ask for help. She assumed the man had seen Jones in his prison uniform and would call the police.
- [333] She knows that if she went voluntarily with Jones that she could be charged with aiding and abetting. She is on probation for distribution of marijuana.
- [334] She was sentenced to 5 years suspended on 3 years probation. She was prohibited from leaving the state as part of her probation.
- [334-335] She didn't ask Jones to ask Mr. Vieth what would happen to her if she violated her probation. She didn't ask Jones to ask Vieth what would happen to her children.
- [336-337] The last time she saw the smaller knife was in the front seat of the car. She searched through the bags for it after the officers carried them into Northside. She found it in a bag that also had cans of milk.
- [337] She remembers telling the police that the knife was in the front seat and that she had asked Jones to open a can of milk with the knife. She didn't have anything else to open Amanda's milk with. There was nothing to use to open the milk but the knife.
- [337-338] The police are the ones who found the knife in the car and just put it in a bag. They then brought the bags inside.

7. Danny Morgan [341]

Sergeant at the Spartanburg County Sheriff's Office. Signed the warrants for kidnapping and CDV.

DIRECT

- [341] Works for the Spartanburg County Sheriff's Office.
- [342] During January 2001 he was a detective in the investigations division.
- [343] On January 5, 2001, he was in Asheville, NC celebrating his anniversary with his wife. He saw the news report about this case on the TV that night.
- [344] When he returned to work on January 8, 2001, he was asked to look over the case and take care of signing the warrants. Investigator Matthew Gilstrap was one of the investigator originally assigned to the case. He now lives and works in Texas.
- [3465-347] He read over the incident report and the voluntary statement of Martha Henderson. Then he interviewed Lizzie Cox and determined there was enough probable cause to issue a warrant for the kidnapping and CDV charges.
- [349] This was his only role in the case. He only signed the warrants.

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- [350-351] He thought there was enough probable cause to sign the warrants. He thought there was enough evidence for a jury to convict Jones.

The State Rests [355]

The defendant will not testify [367]

1. Richard Vieth [368]

The Spartanburg lawyer Jones called during his escape. Vieth had previously represented Jones. Jones told Vieth that he had escaped and inquired into the consequences his wife would face if she was charged with aiding and abetting. Also what would happen to his child if his wife was charged.

DIRECT

- [368] He is an attorney in Spartanburg County. He has represented Jones in the past.
- [369] He has known Jones for a number of years. On January 5, 2001, he received a phone call from Jones in the evening sometime after 7:30 pm.
- [369] Jones called to tell Vieth he had escaped. He told Vieth that he was near his residence in Taylors. Vieth did not know that Jones knew where he lived. This frightened his wife.
- [369-370] Jones told him that his wife and child were with him. He gave Vieth a reason for the escape and it had something to do with his family. He does not remember the details. If he would have known that he was going to end up testifying then he would have taken notes or something.
- [370] Jones questioned Vieth about what the legal consequences were for his wife. If she could get in trouble for coming with Jones. Vieth told him that certainly if his wife harbored him or did anything of that nature she could be charged with anything from misprision of a felony, obstruction of justice, etc. and his child would be taken into protective custody. Vieth advised Jones that he needed to turn himself in. Jones told Vieth he planned to do so.
- [371] The first thing Vieth did the next morning was call the warden at Northside and tell him that Jones was going to turn himself in that morning. The folks at Northside were aware that Jones was turning himself in.

CROSS

- [372] He never spoke to Martha on the phone. He only spoke to Jones.
- [374] He does not know whether Martha was asking Jones to ask Vieth any questions.

2. Johnny Owens [375]

DIRECT

- [375] He lives in Shelby, NC and is a minister.
- [376] He is the associate pastor at Faith Baptist Church in Shelby.
- [376-377] Within a hundred yards of the large church building are probably 10 houses. At least 5 houses are as close as 50 yards. The church is not out in the county.
- [377] He saw Jones on January 4, 2001. He was in his office around 2:00 pm. The pastor had just left. His secretary told him that a man was there asking to see a preacher. Owens told the secretary to send the man back. Jones came into his office and sat down. The two talked for 15 to 20 minutes.
- [377-378] Jones just talked about himself. He didn't really tell Owens that he had escaped. He said that he was in jail but out of jail. He told him that his wife and children were waiting out in the car for him. Then they talked about spiritual matters.
- [378] His office is about 20 to 30 feet from the front door of the church down the main hallway. His office does have a window and he can see the parking lot from the window, but he cannot see the entire parking lot. He cannot see the parking lot that is in front of the building.

- [379] Jones just seemed like a broken man who was at a crossroads. He was seeking spiritual advice. At one point he began to cry and Owens tried to console him.
- [380] Owen never felt like he was in any sort of danger. Jones appeared to be open to him. At the end of their conversation, Owens walked Jones to the front door. He could see the car in the parking lot. He did not wait outside long enough for Jones to actually get in the vehicle.
- [380] There were other employees in the church. At least the secretary was there.

CROSS

- [382] Jones did not tell him that he had escaped from prison. He was not honest about that.

3. Sue Jones [385]

The wife of Jones' half brother. Jones and Martha came to visit them on January 4, 2001. Martha had multiple opportunities outside of Jones' presence to tell someone she had been kidnapped. She also could have used the phone. Martha did not appear to be stressed or in fear.

DIRECT

- [385] She lives in Forest City, NC. Jones is her husband's half-brother. Jones and her husband share the same father.
- [385-386] She remembers seeing Jones on January 4, 2001. Jones was with Martha and their two children. She had not met Martha before this day. Jones and Martha had been by the house before but she was at work that day. She had not seen Jones in several years.
- [386-387] Her sister, Mary Maynor, was also at the house that day when Jones and Martha arrived. Her husband and her husband's sister showed up later while the two were still there. Her husband's sister is also Jones' half sister—She shares the same father with Jones.
- [387] Martha and Jones arrived sometime after lunchtime. She invited them in and they came in and sat down in the larger living room.
- [388] Her husband arrived shortly thereafter. Everyone was sitting in this room: Martha, Jones, the children, her, and her husband. Martha seemed perfectly normal. She did not seem stressed or anything. Martha was dressed in casual clothes. Jimmy was wearing a short sleeve sweat shirt.
- [389] She did not know at this time that Jones was in prison. If she had known she would have called the police herself.
- [389] They were at her house around 2 to 2.5 hours. They talked about their children and Jones' mother. Jones' mother was very ill at the time. She served them soda and offered them snacks. They all played with the children.
- [390] Jones was very excited about having a child because he had waited very long to have a child. This was the first time that Jones had brought the children to see them.
- [390] At one point Jones stepped out onto the back deck to smoke. Her husband has had multiple heart surgeries and doesn't like anyone to smoke around him. Also Jones did not want to smoke around the children. Jones was outside the house on several occasions to smoke by himself. Jones also went in the one room in the house designated for smoking a few times too.
- [391] This left Martha alone with her, her husband, and her sister. At one point Jones and her husband left the room to talk privately.

- [391] At no point did Martha indicate that she was a victim of a kidnapping and appear that she was in fear of her life or her safety. Sue did not notice any bruises on Martha or she certainly would have asked her where they came from.
- [392] Martha did not seem scared at all. They held normal conversations.
- [392] At one point Jones asked for some money. He said he needed it for his mother. Her sister and her husband were already there. She called her husband's sister, Jones' half sister, and asked her to come over. Jones was going to go to the half-sister's home but this saved them a trip.
- [393] At one point there were as many as 5 people in the house and Martha didn't say anything to anyone. Martha never appeared to be under any stress, never appeared to be in fear. Sue believes that at one point that if she wanted to Martha could have made a phone call herself.

CROSS

- [394] Sue has two living children. Another child died.
- [394-395] She did not know that Jones had escaped. She knows that if she had known and hadn't done anything she could have been charged with harboring a fugitive. She does not believe in that and would have turned in her own child.
- [396] "As many opportunities as she had, if she was really interested in escaping, she would of done, done it."
- [396] Is she was in her situation with two children and the man got out of the car she would have locked the doors and locked him out. She wouldn't have stayed with a man like that for two days and not tried to escape.

4. Mary Maynor [400]

DIRECT

- [400] She also lives in Forest City, NC. She is the sister of Sue Jones. She knows Jones through her sister and her brother in law. She saw Jones on January 4, 2001.
- [401] She saw Jones and Martha and the children get out of the car. They all walked up to the porch of the house together. She didn't stay the whole visit. She left right before Bill, Jones' half brother, got home.
- [403] Is she had been kidnapped she would have been stressed out. Martha appeared to be a normal person. She looked happy.
- [403] They all sat in the living room and talked about Jones' mom. She was really sick with cancer and Jones' needed money to pay for her medication.
- [404] At one point, Jones and Sue went outside to smoke. They were outside for at least 15 minutes. Mary was inside alone with Martha and the children during this period. Martha never said anything to her. She easily could have told her during this period that she had been kidnapped and needed help. Martha and Mary talked about the children and watched the little girl play.
- [405] She was there at the home for at least 30 minutes before she left. She wanted to leave before Jones' half brother and sister arrived. Mary had no idea that Jones was in prison and had even ever been in trouble. Jones never appeared to be a violent person.

CROSS

- [407] Jones was calm. Normal atmosphere of people just visiting with family.

5. Donald Lane [415]

DIRECT

- [417] Northside is a lesser security prison.

6. Hal Mauney [418]

DIRECT

- [419] The correctional officers at Northside are not armed.
- [420] Northside doesn't have a double fence or wire around it. It is a step below work release.

The Defense Rests [423]

1. Donald Lane [425]

DIRECT

- [425] The letter was retrieved from the trash can at the Tri-City Motel in Spindale, NC.
- [426] Other than taping it back together, it was not altered in anyway. It stayed in his care and custody until trial.

Letter was admitted into evidence with no objection [426]

Defense Closing Argument [427-441]

State Closing Argument [441-455]

Jury Charge [456-465]

Guilty verdict on both kidnapping and CDV of a high and aggravated nature charges. [470]

Sentenced to 15 years for escape, 20 years for kidnapping, and 10 years for CDV high and aggravated nature. [477]

Transcript of December 8, 2005 [PCR Hearing]

1. Kenneth L. Holland [529]

An attorney from Gaffney. Jones showed up in his driveway one day in January 2001. The two went inside Holland's house and Jones told Holland he had escaped and Holland advised that Jones should turn himself in. Holland understood it to be that Jones' wife and two children were in the car. Jones did not have a weapon. While in the house, the two were out of sight of the people in the car during the length of the conversation. He was never contacted to testify at Jones' trial.

DIRECT

- [529] An attorney practicing law in Gaffney, SC. He had a conversation with Jones in January 2001.
- [530] He was in his front yard when a car drove up into the driveway and a gentleman got out of the car. The two started talking. The man did not appear to be threatening. Holland was not intimidated in anyway so he invited the man inside. The front room of his house

is a sunroom. They stepped inside the sunroom and the man began telling him his situation.

- [530] He doesn't remember what the car looks like. But there was a woman and a couple of children in the car. He didn't pay any attention to the car though.
- [530] The man told him that he had left Northside Correctional Institution without permission. Holland told him that the best thing he could do was go back to Northside and turn himself in.
- [531] That was the end of the conversation. Holland walked out the door with the man and he got in the car and backed out and drove away.
- [531] His home at this time was in a neighborhood. There were other houses immediately next door and immediately across the street. There is a house on every lot.
- [531] Jones appeared to be apprehensive and once Holland learned Jones had escaped he understood why.
- [531] Jones didn't have a weapon. He wasn't rude or insistent or threatening in anyway.
- [532] Holland understood that Jones' wife and children were in the car. But nobody in the car said anything to Holland and he never approached the car.
- [532] Jones didn't have a weapon. He came into the house and left his family out in the driveway, out of Holland and Jones' sight.
- [532-533] "If I had thought somebody was being held against their will, frankly I would have just called the Gaffney Police."
- [533] Holland turned from Thomas only a few months ago that Jones had been convicted of kidnapping. Jones' kidnapping conviction surprised Holland.
- [533] Holland was not contacted by Bartosh regarding being a witness at Jones' trial. He was not subpoenaed. If he had been subpoenaed he would have testified at Jones' trial just as he is testifying at his PCR hearing.

CROSS

- [536] He did not know Jones prior to this conversation. He does not know Jones now. He is just a man who came to his door one day.
- [536] It did not surprise him when Jones showed up in his driveway. When you are in politics in a small town people often just show up. He was only surprised when Jones told him that he had escaped.
- [536] Jones was in the house long enough for him to tell Holland that he escaped and for Holland to tell Jones to turn himself in.
- [537] The closest he got to the car was 50 feet. He saw a woman in the passenger seat and knew there to be two children in the back

2. John Michael Bartosh [539]

DIRECT

- [539] Prior to trial, Bartosh did not contact Holland. One of Bartosh's concerns was that Jones had admitted to Holland that he had escaped and Holland testified that he would have said that.
- [540] "I'm sure Mr. Jones had told me about him." I knew about him but I did not talk to him.
- [540] Bartosh did call another attorney at trial. An attorney that Jones had spoken to on the phone. His name was Rich Veith.

- [541] Bartosh does not remember if Jones told Veith that he had escaped or whether the two discussed Jones turning himself in. He assumes Jones called him seeking legal advice.
- [542] Bartosh asked Judge Beatty to recuse himself when the trial was initiated because Beatty was the sentencing judge when Jones pleaded guilty to shoplifting.
- [542-543] Jones also had told Bartosh that before Beatty was on the bench, while he was still practicing law, Jones had cut Beatty' grass and done some other things like that. Beatty denied this and said that he had never seen Jones before and that Jones had never done any work for him.
- [543] There was some publicity the day after Jones escaped but Jones was tried 9 months later and there was no undue pretrial publicity.
- [544] He saw no reason to request a change of venue.
- [544-545] As far as he knows there were no newspaper articles between when the incident occurred and when Jones went to trial.
- [545] He saw an article in the paper about the escape before he was appointed to the case. He had known Jones for years at that time.
- [545] He identifies the article he read. It was dated January 5, 2001.
- [546] This article was not any help. He did not use anything from the article in preparation for trial.
- [547] He went with Jones 5 or 6 times after he was charged with kidnapping. The two went over the discovery. Bartosh played the tape of the telephone conversation between Jones and Martha. They discussed what effect the tape would have.
- [547] Jones also told Bartosh about the minister he had spoken to. Bartosh and his investigator went up to the church and the minister confirmed that he and Jones had spoken and that Jones was inside for 20-30 minutes.
- [547-548] Jones told him where they had stopped after they left the trailer. They stopped at a gas station and there were police officers at the next pump. Jones told him the whole story.
- [548] Bartosh argued strongly about the consent issue regarding the recording of the tapes. This issue was dismissed on appeal. He did not have any other avenue of attack to the admissibility of the tapes. He could not come up with anything else.
- [549] He did not see anyway to keep the tapes out because what Jones said in the conversation with Martha went to motive. Martha mentioned the letter she had received from Mr. Kelly and Jones became angry and told Martha she did not need to be communicating with Mr. Kelly and to remember that he was only 40 minutes away and could show up at anytime.
- [550] He had an adequate time to prepare for trial. They had 9 months. Bartosh had talked to everyone Jones had told him about and everyone needed was subpoenaed. He was prepared to try to case.
- [551] The sole issue he saw was do you believe the victim. There strategy was to go into the fact that she had ample opportunity if she actually was kidnapped to get away from Jones. There was a stop at a gas station, there was the stop at his sister's home, and there was the stop at the church. He felt the minister would be the strongest witness because he really had no interest in the case. The sole issue was whether or not the jury would believe Martha. "Our theory of the case was that she had gone with him willingly."

- [552] Then when Jones turned himself in she would have been liable to a prosecution for aiding and abetting, or for accessory after the fact, and so she lied to help herself from being criminally charged.
- [552] He was given a copy of Martha's criminal record. He also knew that she had pending charges at the time she testified.
- [553] These charges were disposed of the day after she testified. They were a burglary second and a grand larceny charge. She was on probation at the time. He does not remember if he knew this but he assumes he did because it states so on her record.
- [555] He did not know at the time that Martha had two pending felonies.
- [556] Her motive brought out on cross examination what that she would have been criminally liable for accompanying Jones. That was her motive to lie. He had no way of knowing whether any deal had been struck between her and the prosecution regarding these pending charges.
- [556] Martha refused to talk to him so he could not ask her about the pending charges or whether she had reached a deal with the prosecution.
- [557] He had no reason to ask Martha about the existence of a deal on the stand.
- [558] He saw no reason to ask about pretrial publicity during voir dire.
- [558] Bartosh's understanding is that Jones escaped by climbing over a fence and then walked to his mother's house.
- [559] The newspaper article published on January 5, 2001, reads, "Witnesses told authorities that Jones was seen getting into a blue four-door Chevy Celebrity, South Carolina license plate 781DXS.
- [559] Bartosh says that the author of the article must have combined the two events. Jones told him that he went to his mother's house and got the keys to the car and drove the car off. The Celebrity was his mother's car.
- [560] It is not possible that the victim borrowed the mother's car and had driven to pick Jones up. Jones told Bartosh that he went from the prison to his mother's house and had gotten the keys for the car.
- [560] He had no reason to investigate any witnesses who may have seen a pick up. From what Jones told him there weren't any.
- [561] Jones' statement was not entered into evidence because Jones refused to sign it. However, his statement got in through an officer who testified. Jones did sign the waiver of rights form and this was admitted into evidence.
- [561] Bartosh had no reason to object to the introduction of the statement because Jones signed the waiver of rights form and there was no indication that Jones had been threatened or coerced to sign the form. One he signed the form anything he told them after was admissible whether written or whether it was verbal.
- [561-562] If Jones had told Bartosh the reason he refused to sign the statement was because it was inaccurate Bartosh certainly would have had a hearing regarding the admissibility of the statement. Jones did not indicate the statement was inaccurate.
- [562] He waived the Jackson v. Denno hearing because he had no information that Jones had not willingly and knowingly and intelligently signed the pre-interrogation waiver form. Jones did not tell him the officers had altered the statement or that it was inaccurate so he had no reason to challenge the statement in a Jackson v. Denno hearing.

- [563] He believes he received all the discovery from the solicitor's office. He has no reason to believe he had not.
- [563] He does not remember whether or not he knew about the involvement of Jay Murdock. Murdock is a reporter for a local TV station who called 911 and reported seeing Jones' vehicle right before Jones turned himself in. As a result of Murdock's 911 call police got behind Jones and followed him to Northside.
- [563] He believes he received all the discovery information from the solicitor's office. He has no reason to believe he did not.
- [565] He does not remember Jay Murdock. He does not believe that the information regarding Murdock would have been important to him at trial.
- [565] Jones took a beating when he returned to Northside. Bartosh saw Jones' booking photograph.
- [566] The beating did not have any relevance.
- [566] Bartosh thought that they had a triable case on the criminal domestic violence of a high and aggravated nature charge and also on the kidnapping charge based on the information he received from witnesses. However, he believed there was absolutely no defense to the escape and he didn't want to compromise the defense's credibility on the other two charges by arguing that Jones was not guilty of the escape when clearly there was no defense to it.
- [567] His purpose on waiting to have Jones' sentenced on the escape charge was that he believed that the escape charge was the least of Jones' worries, that the kidnapping charge was much more serious, and that if Jones was successful at trial regarding the other charges that it may have some bearing on the judge's sentence.
- [567] His cross examination of the victim was extensive. He tried to cover everything, especially all the opportunities she had to get away from Jones.
- [568] He thought their strongest witness was the minister because it was a lengthy meeting and if Martha wanted to leave she could have easily walked to a house that was right by the church.
- [568] He thought that Martha's mother was a credible witness. She was at the home when Jones returned to the trailer. She was a little slow.
- [568-569] He does not remember the weapons. He knows there were two and that one was a knife. One of the knives was found in the car. He does not remember where the twelve inch knife was found.
- [570-571] The twelve inch knife was important because it is the weapon that Martha and her mother claimed Jones used to force Martha to go with him. Bartosh does not believe that the location where the knife was found afterwards was important.
- [571] Jones did tell Bartosh that Martha was the one who threw the knife in the yard. That they did not leave it in the trailer. At the time he did not consider it to be important, but in hindsight Bartosh admits that it would have been important.
- [571] The small knife was in the car and was used to open cans of baby milk.
- [572] Solicitor Bass used the term escape very effectively at trial. Bartosh says that there is nothing that could have done about that.
- [573] He believes the solicitor was entitled to use the term.
- [573] He did not object to the introduction of the prison pants that were seized from the motel in NC. The jury knew that Jones was wearing a prison uniform when he escaped.

- [573-574] The letter from Mr. Kelly was also seized from that motel room and entered into evidence at trial. It was torn to pieces and reconstructed by SCDC officers. Bartosh did not see a reason to object to this letter being entered into evidence because the jury already heard the tapes of the phone conversation between Martha and Jones in which Martha tells Jones about the letter.
- [574] **Bartosh assumes he could have raised a Fourth Amendment issue about whether the SCDC officers had jurisdiction to search the North Carolina motel room, but the jury had already learned about the existence of the letter and that it was what put Jones' escape into motion.**
- [575] **Bartosh admits that he could have made a motion to suppress the letter as being illegally seized and then the prosecution couldn't use the letter at all. Bartosh thought this was a non-issue though because the jury had already heard about the letter, they knew who it came from and they knew Jones' reaction to the letter.**
- [576] **He does not believe that if the letter was successfully suppressed that they could have kept out all information regarding the letter. He believes the tape recordings of the conversation between Jones and Martha would have still been admissible. However, the content of the letter was only learned when the letter itself was admitted into evidence. The taped conversation merely references the existence of a letter but not what the letter said.**
- [578] It was the mention of the letter that set Jones off. He did not know of the contents of the letter when he escaped. Jones only knew of the letter's existence. Therefore, Bartosh thought this was a secondary issue.
- [578-579] Search of the trailer: His understanding was that Martha was living at the trailer with the children. Since Martha was living there she could have given consent to search. However, Martha is not the one who gave consent to search. She was not home when the trailer was searched. Jones was the owner of the trailer. **It is possible that Martha's mother would also have been able to give consent to search.**
- [579-580] He did not see any reason to make a motion for a directed verdict and therefore no reason to renew that verdict at the end of trial. He believes there was a significant amount of evidence to get the case to the jury.
- [582-583] Bartosh did not ask Veith about a second phone call between Jones and Veith that Martha testified about on direct examination. Bartosh admits that this would have been important in regards to Martha's story about it being voluntary or involuntary.
- [583] He sent an investigator up to the hotel to determine if there were records of Martha renting the room. The records were unavailable because the motel had been sold.

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- [586] He is the chief public defendant. He has been with the office for 17 years.
- [586-587] The tapes of the phone calls that Jones made from the prison were damaging. On those tapes Jones indicated to his mother and to Martha that he was going to come get Martha.
- [588] He made a motion to suppress the tapes on multiple grounds—wiretap statute, Rule 403. State argued it went to motive and intent.
- [590] Jones admitted he was given his Miranda rights and signed the waiver form. There was no basis or grounds for a Jackson v. Denno hearing.
- [590] It would have been improper to ask Martha about her pending charges.

- [591] There was testimony that a letter existed. Jones was actually heard on tape referring to this letter. The state argued that the letter instigated Jones.

REDIRECT

- [594] It is possible that the letter was seized illegally from North Carolina.
- [595] He had no indication that North Carolina law enforcement assisted in the investigation.
- [595] It is possible that he could have raised an objection to the letter about its illegality. Bartosh did not see the contents of the letter as important. It was a secondary issue to him. Jones didn't know of the contents of the letter until he got to North Carolina. The existence of the letter is what motivated Jones to escape.

3. Jimmy Dean Jones [598]

DIRECT

- [598] Prior to his escape he was serving a sentence of four years for accessory after the fact of burglary second and two years concurrent for third offence attempted shoplifting, and a six month probationary sentence along with those.
- [598] He escaped from Northside on the morning on January 4, 2001.
- [599] He received a 15 years sentence on the escape conviction consecutive with his previous charges. He also received 20 years concurrent for kidnapping and a ten year concurrent for CDV high and aggravated.
- [599] He must serve 85% of his time and believes his max out currently stands at December 7, 2019.
- [599-600] He met with Bartosh three different times before his trial. Each meeting was late in the afternoon. The first two meetings were 15 minutes and the third meeting was 30 minutes.
- [600-601] He had lived in Spartanburg for 35 years. He knew Judge Beatty when he was just a young trial attorney. Jones lived two houses down from Beatty's law office with James Cheek. Jones used to cut Beatty's grass. He washed his Lincoln. He also worked for Cheek. He spent numerous hours in their law office asking them legal questions. Beatty even allowed him to read his law books. Judge Beatty was the judge at the sentencing hearing for the original charges.
- [601] Jones had asked Bartosh to make a motion for recusal due to his personal acquaintance with Judge Beatty.
- [602] He felt Beatty had been lenient on him with the original sentencing and felt that his escape would be a stab in the face to the court and that there was no way Beatty could be fair and impartial. Bartosh refused to argue this point.
- [602] Jones had also asked Bartosh to request a change of venue due to the amount of publicity. No motion was made.
- [602-603] Jones also asked Bartosh to make a motion for a continuance because Jones was not ready on the date of trial. There were certain witnesses that Bartosh failed to call, including Jones' mother, Alicia Blackwell (Martha's good friend), and Ken Holland (the attorney who testified at this hearing).
- [604] Jones also requested Bartosh during voir dire to request that the jury panel be asked if any of them had been a victim of a kidnapping or CDV, but Bartosh failed to do so.

- [605] When he left Northside he walked to a Hardees. He made a phone call to Mr. Poteat and got him to get Martha. He spoke to Martha and told Martha that he had escaped and that she needed to get Joe Poteat to drive her to Jones' mother's house and borrow her car and then to come pick him up. He was hiding behind a dumpster at the Hardees. Martha came to the Hardees and picked him up.
- [606] The newspaper article indicates that witnesses saw Martha pick him up at the Hardees.
- [607] Jones told Bartosh the truth about what happened. But after looking at Martha's statement and Jones' unsigned statement, Bartosh said he would not allow Jones to go into the courtroom and give inconsistent statements. He would be asked to be removed as counsel if Jones sought to do so.
- [607-608] The reason Jones did not sign the statement is because he knew the statement was not accurate and Donald Lane took what Jones said out of context. He did not write down everything Jones told him.
- [609] Jones talked to Bartosh about the admissibility of the statement. Bartosh told Jones that since he signed the waiver of rights form and agreed to talk to police it would come in.
- [610] He told Bartosh the statement was not the truth.
- [618] He believes the witness who saw him get into the car with Martha were discoverable by Bartosh before trial.
- [619] He requested a Jackson v. Denno hearing. Bartosh saw no need for one since Jones signed the waiver of rights form.
- [620-621] After they left his mother's house then went to his trailer. Jones was carrying Betsy, the older daughter, and Martha was carrying Amanda. Martha was trying to get the key to open the door. She was also holding a knife that they had taken from Jones' mother's house. Martha almost cut herself on the knife as she was attempting to open the door so she handed the knife to Jones. Martha opened the door and went down the hall. Jones entered behind her, put Betsy down, and then struck the knife in the countertop in the kitchen.
- [621] He did not know that Mrs. Cox had been spending the night. Mrs. Cox had woke up at this time and came and sat down at the table and smoked a cigarette.
- [621-622] He left the knife stuck in the countertop. After he exited the trailer he went out and sat in the car. When Martha came out of the house she threw the knife across the front yard. The knife was later found in the kitchen sink by Investigator Chastain of SCDC.
- [622] Martha testified at trial that she last saw the knife stuck in the countertop.
- [623] Investigator Chastain testified that he found the knife in the kitchen sink with leaves and grass on it. Jones told Mr. Bartosh this information but Bartosh failed to ask Martha during her testimony about the inconsistency of where she last saw the knife and that it was later found with leaves and grass on it. Jones believed it was important for Bartosh to ask Martha about the knife.
- [624] Jones owned the trailer. It was in his name and his mother's name. It was not in Martha's name nor in Mrs. Cox's name.
- [625] Martha was staying at the trailer.

- [625] Jones talked to Bartosh about the search of the trailer and third party consent. Mrs. Cox had no valid authority over the trailer. She was simply there spending the night. Jones' mother paid all the bills and title was in Jones' name and Jones' mother's name. Jones does not believe Cox had the authority to consent to the search.
- [626] Jones asked Bartosh to make a motion to suppress the knife seized from the trailer.
- [626-627] Testimony was given at trial that SCDC investigators searched the motel in NC. To Jones' personal knowledge no NC authorities were involved in the search. Jones discussed this with Bartosh and asked him to make a motion to suppress the letter.
- [630-632] Discussion about alternative juror.
- [632] Jones asked Bartosh to call his mother to testify. He did not.

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- [643] After he called Martha and threatened to kill her, Martha was still willing to come pick him up after he escaped.
- [645-646] Jones did not get the keys for his mother's car. Martha had Joe Poteat drive her over to Jones' mother's house. Martha used the pass key that she had to get to Jones' mother's apartment then got the keys and borrowed Mrs. Jones' car. Martha then drove to pick up Jones at the Hardee's. They then drove back to Jones' mother's house.
- [646] Jones told Bartosh this story but Bartosh refused to allow Jones to tell inconsistent statements on the record at trial.

REDIRECT

- [651] The true reason why he escaped was to check on his mother. She had been hospitalized and was sick. He did not escape because of the letter Martha received.

Applicant Rests [654]

1. Michael Bartosh [657]

DIRECT

- [657] Jones never told Bartosh that he had actually called Martha when he broke out of prison and asked her to pick him up. Jones never told him that Martha was the one that came and picked him up.
- [659] Today is the first time that Bartosh heard that Jones came by and picked him up.

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- [662] It was not odd to him that Jones did not sign his statement.

State Rests [664]

Applicant's Closing [664-670]

State's Closing [670-672]

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SCDC# 2240330
JONES, JIMMY DEAN
OFFENDER TYPE... ADULT-STRAIGHT SENTENCE

SCDC OFFENDER MANAGEMENT SYSTEM
RELEASE DATE SCREEN

09/05/09
0045430

LOC: PERRY
SCDC CLASSIFICATION... VIOLENT
SEXUAL REGISTRY... Y
SEXUAL PREDATOR... NOT APP
DNA STATUS... COMPLETED
GPS REQUIREMENT... N
PRA DECISION...

CURRENT SENTENCE: 020-06-000
020-06-000

CONSECUTIVE SENTENCE... Y
CURRENT SENT START DATE: 09/26/2001

PROJECTED COMPLETION DATES
MAXOUT DATE... 12/25/2019
YCA SIX YEAR DATE: / /
INITIAL PAROLE DATE: 10/20/2012

CURRENT EUC... NOT CURRENTLY EARNING EUC
CURRENT EEC... NOT CURRENTLY EARNING EEC
NEXT PAROLE HEARING DATE: 10/20/2012

TOTAL OF DAYS EARNED... 000240
TOTAL EARNED WORK CREDITS... 000099
TOTAL EDUCATION CREDITS... 000010
TOTAL EXTRA EARNED CREDITS... 000
TOTAL SERVICE TIME EARNED... 002527

PEKEYS: HISTORY OF DATE CHANGES

08113000
OMCONITA

SCDC OFFENDER MANAGEMENT SYSTEM
COMMITMENT APPLICATION
CONVICTION SUMMARY

SCDC# 2240330
JONES, JIMMY DEAN
OFFENDER TYPE: ADULT-STRAIGHT SENTENCE

CURR LOC: PERRY
SCDC CLASSIFICATION... VIOLENT

	NUM	CONVICTION OFFENSE	INCARC	SENT	SENT	SENT	PROJ	COMP	STAT	INF
			YRS	NO	DYS	DATE	START			
?	500011	CRIM DOM VIOL HIGH A	010	00	000	09/26/01	09/26/01	10/26/2007	ACT	N I
?	* 500010	KIDNAPPING	020	00	000	09/26/01	09/26/01	12/10/2019	ACT	V V
?	500009	ESCAPE	015	00	000	09/26/01	09/26/01	10/26/2010	ACT	N F
?	500008	CHILD ENDANGERMENT	000	06	000	07/09/01	07/09/01	11/28/2001	ACT	N N
?	500007	FAIL TO STOP FOR DEF	000	06	000	07/09/01	07/09/01	11/26/2001	ACT	N N
?	500006	CRACK POSSESS	000	06	000	10/09/00	06/26/00	10/26/2000	ACT	N N
?	500005	ACCESSORY TO FELONY-	002	00	000	10/09/00	06/26/00	12/26/2001	ACT	N N
?	500004	SHOPLIFTING	004	00	000	10/09/00	06/26/00	03/10/2003	ACT	N N
?	500002	CRACK POSSESS	000	18	000	10/06/97	02/12/97	10/12/2000	ACT	N N
?	500001	SHOPLIFTING	000	18	000	02/11/97	02/08/97	/ /	PRD	N N

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TAKE A SELECTION AND PRESS (ENTER)...

PF3-ADD PF4-MODIFY/REVOKR PF6-DISPLAY CONSEC PF9-DETAIN PF12-SUMREPT