

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Colleton County

Honorable Roger M. Young, Circuit Court Judge

ALBERT SIDERS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2024-000770

APPENDIX

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TITLE PAGE

In the Court of General Sessions for the
State of South Carolina, County of Colleton

Case No.: 2014-GS-15-00242

State of South Carolina

Plaintiff(s),

vs.

Transcript of Record

Albert E. Siders,

Defendant(s).

MOTION HEARING

July 21, 2014

Walterboro, South Carolina

BEFORE:

The Honorable Brooks Goldsmith

APPEARANCE PAGE

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COLLOQUY

1 PROCEEDINGS

2 MR. KNIGHT: May it please the Court, Your Honor.

3 This is in reference to 2014GS-244, armed robbery,

4 2014-245, kidnapping and 2014GS15-242, State versus

5 Albert Edward Siders. This is a case scheduled for

6 trial this week. It is on the trial roster. I have

7 been advised by Mr. Matthews today that he has a motion

8 that he would like the Court to rule on now. And I

9 have not seen the motion so --

10 MR. MATTHEWS: It is not written.

11 THE COURT: Secret motion.

12 MR. MATTHEWS: Your Honor, secret motion, that is

13 right. I actually did discuss this some in passing

14 with Mr. Knight. But I am like 90 percent ready to try

15 it. But it's been LWOP noticed, and as a result I

16 don't know that 90 percent is going to be good enough.

17 I could try it if I were compelled to. There's one

18 witness that I'm trying to find. Have been unable to.

19 We got the LWOP notice I think 11 days ago.

20 MR. KNIGHT: Come on up, Mr. Siders. Come on up.

21 MR. MATTHEWS: This is just -- yes, we had talked

22 yesterday, Albert, about continuing the case.

23 MR. KNIGHT: Mr. Siders, come on up here.

24 MR. MATTHEWS: I'm just asking for a continuance,

25 that's all. Okay. And I had talked at length

COLLOQUY

1 yesterday with Mr. Siders. There is one witness that I
2 have so far been unable to find, a guy by the name of
3 Dread. And there was -- and his sister that I need to
4 get ahold of. Beyond that I'm pretty well ready to go.
5 I also discovered something too. One of the
6 allegations, there may be -- I don't know if this is a
7 big deal, but it may be -- I understand that he may
8 have had been a witness or may be a witness against one
9 of my existing clients.

10 He tells me that he's not, but this person was
11 arrested, perhaps, in part due to something he had said
12 or done and I wanted to make sure. He says that he did
13 not testify against this individual, but it is an
14 individual that I represent now and I wanted to make
15 sure that we were clear since Mr. Siders is here on
16 that if he did not.

17 Your Honor, may I approach? Only because if
18 there's -- if information is going back to the jail, I
19 don't want it to get back to the jail.

20 MR. KNIGHT: May I approach, Your Honor?

21 (Off-the-record discussion held.)

22 MR. MATTHEWS: Anyway, Your Honor, like I said, I
23 probably could try the case, but since it has been LWOP
24 noticed, I'm concerned that it would be grounds for
25 granting a post conviction relief, and as a result I

COLLOQUY

1 have asked for it to be continued one term. I
2 certainly could be ready the next term of court or any
3 time thereafter. Like I said, I am 90 percent ready
4 but there are two. His sister, who should be easy to
5 get ahold of but I have not so far been able to get in
6 touch with her and this other fellow are just the only
7 two witnesses that I have not yet been able to contact.

8 THE COURT: Let me ask you a question, Solicitor,
9 I assume you oppose a continuance?

10 MR. KNIGHT: Yes. Number one, the sister was not
11 at the scene of the alleged armed robbery we are
12 dealing this, okay. So -- and if he's entered into an
13 alibi defense with her, I haven't been served with
14 notice. And number two, if Dread, or whoever it is, or
15 his sister is going to testify about some theory about
16 necessity, again I have not been noticed pursuant to
17 the rules.

18 MR. MATTHEWS: It is not, Your Honor. It is not
19 necessity and it is not alibi.

20 MR. KNIGHT: I am totally lost then. I don't know
21 what they could say. So, therefore, we should be able
22 to try it.

23 THE COURT: How long has the case been noticed for
24 trial? I understand that.

25 MR. KNIGHT: Two weeks.

COLLOQUY

1 THE COURT: Eleven days. How old is the case?

2 MR. KNIGHT: About 150, 160 days.

3 MR. MATTHEWS: He was arrested February of this
4 year.

5 MR. KNIGHT: February 21, 2014.

6 THE COURT: Well, I understand that you can't tell
7 potentially, you can't tell the State exactly the
8 nature of the testimony. What about in-camera?

9 MR. MATTHEWS: I am sorry, Your Honor?

10 THE COURT: What about in-camera, could you tell
11 me the nature of the testimony to convince me why it's
12 ultra important?

13 MR. MATTHEWS: You know, Your Honor, I mean, I can
14 probably try the case. The only -- I'm only concerned
15 because if he's convicted it is absolutely going to be
16 post conviction release. It is LWOP noticed. And the
17 sister is what -- was on the scene. The officer may,
18 you know, I haven't -- the officer may say, Yeah, that
19 is what I found. And if he does, then I don't need
20 her. But as far as evidence that was available to be
21 taken that wasn't taken, as far as what was there, that
22 is what the sister would testify to.

23 MR. KNIGHT: Excuse me, Your Honor. I don't
24 understand what he's saying. At the scene, you mean at
25 the store or at the house at the time of arrest?

COLLOQUY

1 MR. MATTHEWS: At the car at the time of arrest.

2 MR. KNIGHT: I'm not sure that his sister was even
3 there.

4 THE DEFENDANT: Yes.

5 MR. MATTHEWS: I mean, we are not trying the case,
6 Your Honor. Your Honor asked her testimony and that is
7 what her testimony would be. It might also be about
8 threats that he had received in the community.

9 MR. KNIGHT: All right. You are getting into
10 something else. You are getting into necessity now.

11 MR. MATTHEWS: Your Honor, like I said, it has
12 been noticed 11 days ago. There is a witness to -- I
13 believe that there's a witness to the armed robbery.
14 And that's Dread. And if I can find him, I mean, I
15 have only been looking for him for, I mean, a very
16 short period of time. He may be a very important
17 witness. I don't know. I don't know what he's got to
18 say. But based on what I understand he has seen, he
19 would be a very important witness and I have only
20 had -- I have had less than two weeks to find him.

21 I mean, I guess I could have found him after I got
22 appointed in March or something like that. This is not
23 an extremely old case and it obviously -- I mean, it is
24 an LWOP case that has been in jail in 2014. This is
25 not more than a year old.

COLLOQUY

1 THE COURT: Anything further, Solicitor?

2 MR. KNIGHT: That is all that I have to say, Your
3 Honor.

4 THE COURT: Got your investigator looking for
5 Dread?

6 MR. MATTHEWS: Yes, sir. Yes, sir.

7 THE COURT: Mr. Matthews, I'm going to deny your
8 motion.

9 MR. MATTHEWS: All right.

10 MR. KNIGHT: Thank you, Your Honor.

11 (Whereupon, motion hearing was concluded.)

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CERTIFICATE PAGE

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CERTIFICATE

STATE OF SOUTH CAROLINA:

COUNTY OF BEAUFORT:

I, MONA L. MANLEY, Court Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

DATED this 7th day of December, 2016.

Mona L. Manley /s/
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TITLE PAGE

1 In the Court of General Sessions for the
2 State of South Carolina, County of Colleton

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4 Case No.: 2014-GS-15-00242

5 State of South Carolina

6 Plaintiff(s),

7 vs.

Transcript of Record

8 Albert E. Siders,

9 Defendant(s).

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12 VOLUME 1

13 PRE-TRIAL MOTION / COLLOQUY

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16 April 20, 2015

17 Walterboro, South Carolina

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22 BEFORE:

23 The Honorable THomas W. Cooper, Jr.

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COLLOQUY

1 PROCEEDINGS

2 MR. KNIGHT: Your Honor, this is a matter
3 that we had adjourned earlier. Mr. Siders has
4 some concern about making some statements to the
5 Court with folks in the court. And I'm looking
6 around the courtroom now, the only people I see is
7 security people, probation/parole, the court
8 reporter, obviously, and Ms. Grant and myself and
9 Mr. Mathews.

10 THE COURT: I find that the courtroom has
11 been cleared of all individuals except the --
12 except for those essential to the operation of the
13 court. And so to that extent, we assure
14 Mr. Siders of some --

15 MR. MATHEWS: Your Honor, may I briefly
16 summarize what I think Mr. Siders is going to say?
17 And then I know he wants to be heard, I have no
18 doubt of that.

19 THE COURT: Okay.

20 MR. MATHEWS: There is a -- the case that we
21 may be trying this afternoon or tomorrow or
22 whenever is an armed robbery case of a convenience
23 store. Among the pieces of evidence it appears
24 that the armed robber walks into the thing, shows
25 a gun and looks face-on into the camera.

COLLOQUY

1 Mr. Siders is -- is identified pretty quickly as a
2 suspect and he is arrested. And he has -- he's
3 written a 20-page letter to Judge Norton
4 explaining some of the -- I believe he's also made
5 statements to other -- various other folks along
6 the line that the reason that he did this is
7 because he was -- he spent the day earlier with
8 two people, earlier.

9 One of them he heard referred to as Dread and
10 another one with him had gotten on the phone.
11 They had gotten together over some -- over some
12 drugs. And one of them asked him if he was an
13 informant or something like that and got on the
14 phone and talked to somebody that Mr. Siders
15 believed was Cornbread.

16 Cornbread is Celestra Rivers. I actually
17 have him subpoenaed. I don't expect that he's
18 going to admit to any of this, but I do have him
19 subpoenaed. The guy -- one of the two, either
20 Dread or the other fellow, gets on the phone and
21 says, I see, I see, okay. And says something to
22 identify the person on the other end as Cornbread.
23 Cornbread had been -- Mr. Siders had worked
24 briefly as a confidential informant. I have
25 Officer Mike Orella subpoenaed and Mr. Siders did

COLLOQUY

1 indeed work as a confidential informant.

2 And among the people that he -- the one buy
3 that he made was of Celestra Rivers, Cornbread.
4 His, Cornbread's cases, were later dismissed. Now
5 those were, I think, the warrants that he's
6 talking about, Cornbread and another lady. I have
7 Celestra Rivers subpoenaed. I don't have the
8 other person subpoenaed. I think one would be
9 more than adequate.

10 And anyway, after -- after getting off of the
11 phone with -- Dread or his partner gets off the
12 phone with who Mr. Siders believed to be
13 Cornbread, they say, okay, you know, you're going
14 to -- you're going to rob this place or we're
15 going to kill you. And he goes to the -- they
16 give him a gun, he goes and he robs the place
17 because he was coerced to do so in fear of his
18 life, because of his prior working as a
19 confidential informant and resulting in the arrest
20 of Cornbread whose charges were later dismissed.

21 And that is -- that's the crux of it.
22 Mr. Siders believes that these folks would have
23 him killed if he testifies, and all that sort of
24 stuff, which leaves him in a bit of a dilemma. He
25 can either just accept -- he's got a prior armed

COLLOQUY

1 robbery, so this would be -- and I believe we've
2 been LWOP'd noticed -- so he'd get life without
3 parole if he's convicted of that. So he can
4 either take -- I think Mr. Knight offered 30 years
5 or something like that.

6 MR. KNIGHT: Twenty years.

7 MR. MATHEWS: Twenty years, something less --
8 yeah, 20, something less than that, which I had
9 passed along to Mr. Siders.

10 You know, it's either -- I think it appears
11 that the State would have a fairly easy time
12 proving that Mr. Siders was the person in that
13 video. I don't know that, but it looks like it
14 would, particularly since Mr. Siders admitted to
15 it. So it's either coercion or it's plead guilty
16 or be found guilty. In order to prove coercion
17 he's got to testify that he was a confidential
18 informant central to the whole thing of it, which
19 he doesn't want to do because he's afraid of these
20 folks, which is why he said he robbed the place in
21 the first place.

22 That's what I expect Mr. Siders would talk
23 about. It's been difficult, because Mr. Siders
24 really really really really really wants to be
25 heard and he wants to be heard in a great deal of

COLLOQUY

1 detail. And I tried to explain the mechanics of
2 it, it's difficult to get through. But I do have
3 the necessary people subpoenaed. And at this
4 point I know that Mr. Siders would like to be
5 heard.

6 THE COURT: Okay. Mr. Siders, I'd be happy
7 to hear from you.

8 THE WITNESS: Yes, sir. Well, basically he
9 covered it. I just never had a chance when I --
10 when I kept coming to court, because there was
11 people in the courtroom that I know that, you
12 know, would spread my name out. I did work as a
13 confidential informant. I had no charge when I
14 did, when I -- when I actually be a confidential
15 informant. I did it because I wanted to help
16 people. Because I was a drug addict, and I saw --
17 I talked to Mr. Marcurella during this interview
18 and I explained to him why I came. My motivation
19 behind what I -- what I wanted to do want not a
20 vendetta against anybody. I just wanted to be a
21 help to my neighborhood, and I explained that to
22 him.

23 So the next day after talking to him about
24 the, you know, during the interview my first
25 assignment was their target, which was the guy

COLLOQUY

1 which he said was Cornbread. When I went to
2 Cornbread apartment that day, he didn't have -- he
3 didn't have any drugs to sell me. I was being
4 wired, audio and video. And so a young lady
5 stepped out and got into the crossfire, of course,
6 by the name of Wanda -- Sharonda Mitchell, but we
7 know as Wanda Moochry.

8 But, anyway, the transaction was made. I
9 brought the evidence to the drug task force. And
10 then it was that -- in which that was on the 12th
11 of February back in 2013. Then it was Thursday,
12 which was February the 14th, we went -- and that's
13 when I got in contact with Cornbread for the drug
14 task force. And under the instructions of Jason
15 Chapman and Marcurella I made a transaction with
16 Cornbread and brought the evidence back to the
17 drug task force.

18 What happened was, which I didn't know about,
19 they went in and did a drug bust the very next
20 day. When they did the drug bust, for what I was
21 told, no drugs were found. This was -- I found
22 this out, sir, by people that know me in the
23 streets, and -- so I found out that they did a
24 drug bust and then also that they made an arrest.

25 When they made the arrest and read the

COLLOQUY

1 information off the warrants, this is when they
2 connected me as being the man that set them up,
3 which was just only a day after I did the
4 transaction. This had put me into harm's way.
5 Okay. I went to church, because I believe in God.
6 Jesus Christ is my Lord and Savior. I'm not
7 perfect.

8 But anyway, after church me and my wife and
9 my sister-in-law -- was on my way to the
10 mother-in-law's house to eat dinner, my sister,
11 Mary, Mary Blakely, she called me and she asked
12 me, she said, Al, she said, your name is out there
13 in the streets that you're setting up drug
14 dealers. When she told me that, Your Honor, I got
15 scared. I knew something was wrong. And so I
16 asked her, I said, well, where did you get this
17 information from. And she told me on that -- her
18 husband, which his name is Gilbert, went to the
19 convenience store and a guy named T-bone told him.

20 Okay. So I called Mr. Marcurella that same
21 day. I asked Mr. Marcurella, I said,
22 Mr. Marcurella, I said, my name is out there on
23 the streets that I'm setting up drug dealers. I
24 said, What's going on? Sergeant Marcurella told
25 me that he didn't have no idea what is going on,

COLLOQUY

1 so I got suspicious. And I'm like, okay, then how
2 come my sister mentioned this -- this man named
3 Cornbread's name and the lady name Sharanda
4 Mitchell's name, which everybody know as Rhonda
5 Moochry. I understood right then that
6 something -- something went wrong. So the only
7 thing I can think of at that moment, Your Honor,
8 was a drug bust took place but they didn't ever
9 tell me. Which that was okay, but they didn't
10 tell me. My sister addressed this to me.

11 Okay. So the next day -- well, waiting that
12 Sunday for -- for a phone call back from
13 Mr. Marcurella, he never called me back. Okay.
14 So the next day I rode my bike into town, because
15 I wanted to really find out what was really going
16 on. I was bum-rushed with a lot of people that
17 know me from, you know, from being out there
18 socializing on the street. And everybody
19 bum-rushed me, they said, Al, they said, tell me
20 this is not true, man. They said, your -- your
21 name is out there on the streets that you made --
22 that you was working for the drug task force. But
23 they was calling them SLED. Okay. So they said,
24 You working for SLED.

25 And, Your Honor, naturally, I got to deny it,

COLLOQUY

1 I said, no. In defense I'm saying no, no, I'm
2 not -- I'm not working for the drug task force.
3 They said, well, Rhonda Moochry and Cornbread said
4 that you was the one that set them up.

5 So this young man pulled me to the side and
6 he specifically told me exactly what Rhonda
7 Moochry and Cornbread has told them, which I knew,
8 because I was the one that did it. So he told me,
9 he said, well, he said, Rhonda Moochry and
10 Cornbread said that how your name got out there
11 and how your name got out, how it got known to
12 them was because they kicked in -- they kicked in
13 their doors. They found no drugs. But when they
14 made the arrest they read off the warrant. And
15 when they read off the warrant, from the
16 information on the warrant they knew that it was
17 me.

18 Now, the reason why they knew it was me, Your
19 Honor, because when I made the transaction with
20 Cornbread, he had one bag left which was a bag of
21 powder cocaine. He had a piece of crack for \$20.
22 But, see, Cornbread only sold his powder for \$25.
23 And being that I only had \$40 from the drug task
24 force to spend, this is what made Cornbread
25 remember it was me, because it was just that day

COLLOQUY

1 before when I made the transaction.

2 And so Rhonda when she -- when she -- how she
3 knew it was me, because when I went into her
4 apartment that day, she went around the corner to
5 go get the crack for me and then brought it back.
6 This was when the transaction was made on video
7 and audio. She remembered it was me, because I
8 was the only sale that she had that day, which was
9 only three days after I made the transaction with
10 her. So this is how my name got on the street.

11 So now I'm getting all these threats and
12 people are telling me, man, the drug dealers are
13 talking about what they going to do to you if they
14 catch you slipping. So you better watch your back
15 because this and that. So at -- so the guy that
16 pulled me to the side by the name of Atty, he
17 said, Look, he said do not go by Chase Lounge,
18 because if you go by Chase Lounge, somebody's
19 talking about killing you. So now my name is out
20 there.

21 So I addressed this to the drug task force,
22 and I told them, Your Honor, that y'all got my
23 name out there. This wasn't my fault that -- how
24 my name got out there, because what I done, Your
25 Honor, I done it and I brought the evidence to

COLLOQUY

1 them. And I didn't say anything. So when my name
2 got out, this is not on me, this is on them. My
3 name is out there in the streets. And this is --
4 I got a countless of witness, Your Honor, that
5 would tell you that my name is out there so so
6 bad, that, I mean, I actually had to go to the
7 drug task force and I asked them for protection.

8 But before this, but before I asked them for
9 protection, to prove to them that my name was out
10 there on the streets, Your Honor, we put a cell
11 phone in my -- in my left shirt pocket -- and it
12 was on loud speaker to -- to make the third
13 attempt to make a drug buy. They heard by audio
14 that when I made this -- when I attempted to make
15 this drug buy, that my name -- everybody was --
16 report the drug deal, they said, Al, get away from
17 there, get away from him. They started swearing.
18 They said, look, man, we heard what you did to
19 Rhonda Moochry and Cornbread, man. And they heard
20 the rejection.

21 I went to another place, the same thing, my
22 phone is in my left pocket. They heard the
23 rejection. So my name is out there. Okay. So I
24 asked Mr. Marcurella, because Mr. Marcurella was
25 always -- usually the one that I'd get in contact

COLLOQUY

1 with by phone. I went to the sheriff department
2 and talked with him in his office, and I asked
3 him, I said, Mr. Marcurella, I said, my life is in
4 danger. I said, I'm scared for my life. I said,
5 not only -- not only for my life, Your Honor, I
6 told him also for the -- my wife, you know. I
7 said, I'm scared for both of us being that my name
8 is out there the way that it is.

9 I asked Mr. Marcurella for protection, to
10 be -- to be relocated somewhere where I could be
11 safe for a while. I never got the protection. I
12 asked him three different times. I asked him
13 three different times. I said, Mr. Marcurella, I
14 came back to him again on another day, this was
15 recently after this took place. I'm steadily
16 getting threats. Trash was being thrown in front
17 of me and my wife double-wide trailer on East Side
18 Acres, which is on Peurifoy Road.

19 My cousins and people that know me said, Al,
20 man, you need to leave, you need to leave town,
21 because they talking about getting you. They
22 going to wait until they find you slipping, and
23 they're going -- they're going to -- they're going
24 to hurt you. So I'm being threatened. So my name
25 is out there. This is not my fault. And this is

COLLOQUY

1 what takes place.

2 Excuse me, I am a little nervous, but I'm
3 trying to -- I'm trying convey it to you. But
4 anyway, I asked Mr. Marcurella three times, Your
5 Honor, for protection and I never got it. I never
6 got the protection. This one particular night I
7 was at a gathering, and somebody told one drug
8 dealer that this is the guy that -- so this is
9 what I had to go through. I had go through
10 denying and lying about my situation to people
11 being that -- so that -- so that way I don't get
12 hurt.

13 I was confronted by a few drug dealers even
14 before the incident came about when I was forced
15 to rob the store. I -- I got a strong, a very
16 strong, opinion on -- on who actually orchestrated
17 this. Because they know that it was going to be
18 detrimental to my credibility as far as my record.
19 I knew that this was going on the day that it
20 happened, Your Honor, when I was forced to rob the
21 store.

22 I was forced at gun point to rob the store.
23 The BB gun was brought to my house when me and a
24 two fellows was waiting. The third guy brought
25 BB gun. The reason why they brought the BB gun

COLLOQUY

1 for what I can I understand was because a BB gun
2 is not a real gun. This was the only way I could
3 retaliate. There was not a way I could defend
4 myself.

5 So when I went into the store, I went into
6 the store to pull -- to pull the mask down but I
7 never pulled the mask down because it -- it hit
8 me. Why do I need to pull this mask down when I'm
9 being forced to rob the store. So I showed my
10 face. I deliberately showed my face. I -- I
11 looked -- I went in there, Your Honor, it was a
12 black cap. Matter fact, Detective Nyles -- how do
13 you pronounce his name -- Ethro -- Detective
14 Nyles --

15 MR. MATHEWS: Eltzroth.

16 THE WITNESS: Eltzroth, he confiscated the --
17 the mask and he put it in a bag along with the
18 BB gun.

19 But, anyway, when I went into the store, Your
20 Honor, I had the mask sitting right on top of my
21 head. The ski mask -- the -- the ski -- the
22 sweater cap was the mask. There wasn't no mistake
23 when I went into the store, at all. At the end of
24 the day I'm quite sure there was an armed robbery.
25 At the end of the day, it an armed robbery. But I

COLLOQUY

1 was forced into doing this armed robbery. And
2 I've -- and I got a strong feeling who actually
3 was the person that was behind it. As a matter of
4 fact, the person that I strongly felt that was
5 behind this robbery was also sitting in this court
6 today. I seen him in jail.

7 The same call that -- when I had got a phone
8 call that I got at my house, we was waiting to
9 make a certain run and that's when the phone
10 call -- the guy, he answered the phone, and he
11 passed me the phone after this guy was talking to
12 him for a few minutes. What happened was I picked
13 them up, I picked them up by Chase, a place called
14 Chase Lounge in Walterboro, this is the place
15 where I made the transactions at.

16 Chase Lounge is a place where people -- it's
17 a -- it's a heavy drug activity place where people
18 do drugs at. And when I picked these guys up,
19 obviously, somebody saw when they got in my car.

20 A little bit later on down the line what
21 happened was somebody made the phone call to one
22 of the guys, which I didn't know that was going to
23 get the phone call. And when he passed me the
24 phone, this voice said, if this is Al that drives
25 the grey HHR, and I said, yeah. I said, who is

COLLOQUY

1 this being concerned. And he said, well, never
2 mind that. He said, but if you set these boys up
3 in here -- excuse my french -- he said I will pop
4 a bullet in your ass and he called me a nigger.
5 He said, I will pop a bullet in your ass, nigger.
6 He said, If you set these boys here up, he said, I
7 will pop a bullet. He said, I will literally kill
8 you. He said, Set them up. So I'm saying, Who is
9 this here being concerned. He said, Never mind
10 all that. He said, Just give the phone back to my
11 man.

12 So when I give the phone back to the man,
13 which is the man I recognize as being Dread. I
14 gave the phone back to Dread. They talked for
15 about at least I know about five or maybe almost
16 ten more minutes. And then he said, Well, you
17 smoked up my drugs. He said, We want you to do a
18 lick for us. So I'm like, How do you mean do a
19 lick. He said, Well, we want you to rob the store
20 for us and get our money back. And then I
21 explained to them, I said, Look, I said, I'm not
22 going to rob no store, because I got a armed
23 robbery record already. I said, If I rob a store
24 and get caught in the store, I said, I could be
25 facing life.

COLLOQUY

1 When I said that, Your Honor, that's when
2 they -- that's when the third man -- this was
3 'round about the time the third man he finally
4 came and brought the BB gun. They also had a
5 phone and they brought a video, a little small
6 video camera to actually have me film doing this
7 here, so this way here they could set me up. This
8 was a way -- this -- what I understand, what they
9 was doing, they were doing this here, so it could
10 make -- so they could make it look like they
11 caught me doing the robbery.

12 So when this was going on, Your Honor, it
13 was, to me, it was useless to pull the mask down.
14 It was useless. So the only thing I was trying to
15 do was -- was show the Court that when the time
16 come, why I didn't pull the mask down. Because
17 I'm trying my best to justifies my cause that I
18 was forced to do this. That's why I looked into
19 the camera the way I did.

20 Now, also, Your Honor, when I did the robbery
21 the way I was forced to do this robbery in all
22 honesty, I pulled the gun -- I pulled the BB gun
23 out, but I never pointed the BB gun at the young
24 lady. I stood a distance. And I made sure that I
25 looked into the camera. I looked into the camera

COLLOQUY

1 on purpose, because I felt like I had a good
2 explanation of why I was forced to rob the store.
3 So this is why I looked into the camera, because
4 I'm giving the police the upper hand.

5 First of all, Your Honor, I didn't know how I
6 was going to really come out of this situation.
7 If I would of have gotten killed, and I felt like
8 at least -- at least they could at least look for
9 my body dead or alive either way. They would have
10 known it was me. But this is why I showed my face
11 into the camera, because I felt like I was -- I
12 shouldn't of -- I shouldn't of taken the blame
13 that was going on, so I looked into the camera and
14 I did it on purpose. I did -- I did it on
15 purpose, Your Honor, and I knew what I was doing.

16 THE COURT: Well, Mr. Siders, that's, of
17 course, the story that the jury would need to hear
18 if you choose to ask for a jury trial. And as
19 Mr. Mathews has explained, if a jury chose to
20 believe you, then -- then you might be exonerated.
21 I'm not sure whether you would or not. If they
22 did not believe you, then they would do whatever
23 they're going to do.

24 THE WITNESS: Yes, sir.

25 THE COURT: I can't speak for a jury, nobody

COLLOQUY

1 knows that. And, of course, that's a risk that
2 everybody always runs when they're facing a trial.

3 THE WITNESS: Yes, sir.

4 THE COURT: I'm -- I'm not going to grant
5 your motion to relieve Mr. Mathews. He is -- he's
6 familiar with your case, and he can -- he can get
7 the witnesses that you need and he's subpoenaed
8 those witnesses. He can't tell what they're going
9 to say. He has no control over that. They're
10 going to say whatever they're going to say.

11 You'll be able to testify if you choose to.
12 And that's a decision you'd have to make and tell
13 what you just said here in greater detail. Of
14 course, Mr. Knight will ask you questions, you'll
15 be cross-examined. But all of that is -- is
16 unfortunately a part of the fabric of the
17 situation that you find yourself in. You
18 acknowledge that you committed the robbery, but
19 you said you have a reason for doing it.

20 And -- and so the jury would listen to all of
21 that and they would decide to do what they're
22 going to do after they've heard everything. They
23 would decide whether the State has met its burden
24 of proof that you're guilty of the charge beyond a
25 reasonable doubt after you say what you're going

COLLOQUY

1 to say. You don't have to prove that you're
2 innocent. You can say what you're going to say
3 but -- and whether that creates reasonable doubt
4 as to your guilt is a decision for the jury to
5 make.

6 Mr. Mathews is prepared to try your case. He
7 knows about your case. He's read the 20-page
8 letter, whatever it happens to be, that says these
9 things, I imagine, and he's familiar with the
10 background. He's an experienced trial lawyer. He
11 can -- he can present this case. So your motion
12 to have him relieved is respectfully denied.

13 You now have to make the decision as to
14 whether or not you're going to go forward with the
15 trial and present your case -- or your side to a
16 jury for a jury's decision, or whether you're
17 going to accept the offer that the State has made
18 under these circumstances. Nobody can make that
19 decision but you. All I can tell you is that's
20 what you're confronted with as you well know.

21 But I do not find that you have shown that
22 Mr. Mathews is ill-prepared or not prepared to
23 present your case for you today. As a matter of
24 fact, it appears that most of the presentation of
25 the case is going to be your side, what you've

COLLOQUY

1 said. And he'll bring the witnesses in, whom
2 names you have given him, to -- to, hopefully,
3 support what you're saying. Whether they do or
4 not is beyond his control and beyond yours as
5 well. But the motion to have Mr. Mathews relieved
6 as your lawyer is respectfully denied.

7 I appreciate that you're in a dilemma. I
8 can't help you with that. That's a dilemma
9 that -- that unfortunately is going to have to be
10 faced sooner or later as a result of these
11 circumstances.

12 THE WITNESS: Okay. Can I ask you one more
13 question, if you don't mind?

14 THE COURT: Okay.

15 THE WITNESS: The reason why -- I was told
16 that a -- a civil law action lawsuit is a conflict
17 of interest.

18 THE COURT: No. As a matter of fact, we --
19 have to deal with all the time the fact that some
20 folks take advantage of that and they file
21 grievances against their lawyers on the eve of
22 trial in the hopes that that -- that that would be
23 a reason for their lawyer to step aside. That is
24 not a reason and it was -- has held not to
25 constitute a conflict of interest, especially if

COLLOQUY

1 it has been raised for the purpose of trying to
2 create a conflict of interest.

3 An appellate court one of these days might
4 decide that that -- that that's -- that I'm wrong
5 in that regard, but there's case law to support
6 the fact that filing a grievance or even filing a
7 civil lawsuit which is based on grievance will not
8 constitute a conflict of interest. So there you
9 go.

10 All right. Gentlemen, we'll be in recess
11 until 2:00.

12 MR. KNIGHT: Okay.

13 THE COURT: Thank you.

14 (Lunch recess.)

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CERTIFICATE PAGE

1 CERTIFICATE

2

3 STATE OF SOUTH CAROLINA:

4 COUNTY OF COLLETON:

5 I, MONA L. MANLEY, Court Reporter, certify that I was authorized
6 to and did stenographically report the foregoing proceedings and that
the transcript is a true and complete record of my stenographic notes.

7 DATED this 22nd day of September, 2015.

8

9

10

A handwritten signature in cursive script, reading "Mona L. Manley", written over a horizontal line.

11

MONA L. MANLEY
Court Reporter
(850) 893-6662
mmanley@sccourts.org

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TITLE PAGE

1 In the Court of General Sessions for the
2 State of South Carolina, County of Colleton

3

4 Case No.: 2014-GS-15-00242

5 State of South Carolina

6 Plaintiff(s),

7 vs.

Transcript of Record

8 Albert E. Siders,

9 Defendant(s).

10

11

12 VOLUME 2

13 JURY SELECTION

14

15

16 April 20, 2015

17 Walterboro, South Carolina

18

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21

22 BEFORE:

23 The Honorable Thomas W. Cooper, Jr.

24

25

APPEARANCE PAGE

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APPEARANCES

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DEFENDANT'S ATTORNEY:

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CALLING OF THE CASE

1 PROCEEDINGS

2 THE COURT: Mr. Solicitor, is the State ready
3 to proceed to trial?

4 MR. KNIGHT: Yes, sir.

5 THE COURT: Is the Defense ready?

6 MR. MATHEWS: Yes, sir.

7 THE COURT: You can call your case.

8 MR. KNIGHT: The State is ready in 244, the
9 State versus Albert Edward Siders, indictment for
10 armed robbery. 2014GS1500242, State versus Albert
11 Edward Siders, indictment for possession of a
12 weapon during commission of a violent crime. The
13 State is ready in 2014GS1500245, the State versus
14 Albert Edward Siders, an indictment for
15 kidnapping. May I approach, Your Honor?

16 THE COURT: Yes, sir.

17 MR. KNIGHT: I also have a list of potential
18 witnesses for the State.

19 THE COURT: Okay. Thank you. Ladies and
20 gentlemen, as you have heard, the State has called
21 the case of State Of South Carolina versus Edward
22 Allen Siders. With the crime of armed robbery.
23 That indictment says that here in Colleton County
24 on or about February the 21st of 2014 the
25 Defendant, Albert Edward Siders, at 1825 Wichman

CALLING OF THE CASE

1 Street, by use of force, threats or intimidation,
2 and while armed with a deadly weapon and while
3 alleging by actions or words that he was armed
4 with a deadly weapon or other object, which
5 Jurnell Washington was present during commission
6 of the robbery believed to be a deadly weapon, did
7 carry away from Jurnell Washington with intent to
8 steal those things in violation of the law.

9 Indictment number 242 charges Mr. Siders with
10 a possession of a weapon during the commission of
11 a violent crime. And it alleges that here in
12 Colleton County on or about February the 21st,
13 2014, the same time alleged in the earlier
14 indictment, Mr. Siders did possess a pistol or did
15 display what appeared to be a pistol while in the
16 commission of armed robbery in violation of the
17 law.

18 Indictment 245 charges with kidnapping. And
19 that alleges here in Colleton County, on the same
20 day, the Defendant, Albert Edward Siders did
21 unlawfully seize, confine or kidnap the victim,
22 Jurnell Washington, without the authority of the
23 law and in violation of the law.

24 Now, ladies and gentlemen, the indictments
25 that I just read to you are not evidence or proof

JURY SELECTION

1 of the charges that they contain. They are simply
2 legal documents, charging papers that tell you or
3 me or anybody else who reads them what this case
4 is all about.

5 To the charges contained in these indictments
6 Mr. Siders entered pleas of not guilty and
7 requested a jury trial at your hands. Mr. Siders,
8 will you please stand and face the jury panel.
9 Thank you, you can be seated. I need to know if
10 any of you all are related by blood or connected
11 by marriage to Mr. Albert Siders, friend of his,
12 business associate, casual acquaintance or a
13 person with any direct or indirect contact with
14 Mr. Siders. If so, please stand.

15 Thank you. The indictment says that the
16 alleged victim of this crime was Jurnell
17 Washington. So, now I need to know if any of you
18 are related by blood or connected by marriage to
19 Mr. Siders, or a friend of his, business associate
20 of his, casual acquaintance of his or a person
21 that you have any direct or indirect contact with
22 Jurnell Washington. If so, please stand.

23 MR. MATHEWS: Your Honor, it should be her.

24 THE COURT: Sorry, thank you. Jurnell is a
25 her. I apologize. Any of you related by blood,

JURY SELECTION

1 connected by marriage to Ms. Washington, or a
2 friend of hers, business associate of hers, casual
3 acquaintance of hers? If so, please stand.

4 Thank you. Potential witnesses who may
5 testify. Delanty Langenfeld from the Colleton
6 County Sheriff's Office, Ruben Carter from the
7 Colleton County Sheriff's Office, Richard Hagely
8 from the Sheriff's Office, James Davis from the
9 Sheriff's Office, Edward Marcurella from the
10 Sheriff's Office, Jason Chapman from the Sheriff's
11 Office, George Rioux, R-I-O-U-X from Port Royal
12 Police Department, Nyle Eltzroth, Federal
13 Probation Agent from Florence, any related by
14 blood or connected by marriage or a friend of,
15 business associate of, casual acquaintance of, or
16 a person that you have any direct or indirect
17 contact with any of them? If so, please stand.

18 Yes, sir, your name and number, please sir.

19 JUROR: Juror number 19, James E. Bootle.

20 THE COURT: Mr. Bootle, what is the
21 connection with?

22 JUROR: Friends with Jason Chapman and Ruben
23 Carter.

24 THE COURT: Would you characterize that as a
25 close, personal friendship? Casual relationship?

JURY SELECTION

1 How would you describe the relationship,
2 Mr. Bootle?

3 THE JUROR: Casual, went to school with
4 Jason. And then friends of Ruben. Live in the
5 same community.

6 THE COURT: Would the association that you
7 have with either or both of these gentlemen make
8 it difficult for you to serve fairly and
9 impartially as a juror in the trial of a case in
10 which they might testify?

11 THE JUROR: No, sir.

12 THE COURT: Would you then be able to set
13 aside that association and decide the case on the
14 evidence that you hear in court without regard to
15 that association?

16 THE JUROR: Yes, sir.

17 THE COURT: And would you do that, sir?

18 THE JUROR: Yes, sir.

19 THE COURT: Thank you, Mr. Bootle.

20 Ladies and gentlemen, other potential
21 witnesses who may testify in the trial of this
22 case, Laquine Singleton from the Sheriff's Office,
23 Kirt Wallace from the Sheriff's Office, Michael
24 Atwood from the Sheriff's Office, Robert Edwards
25 from the Sheriff's Office, Jacky Lawson from the

JURY SELECTION

1 Sheriff's Office, Christopher Davis from the
2 Sheriff's Office, the 911 operator, Wendell
3 Butterfield from the Sheriff's Office, Kevin
4 Kinard from the Sheriff's Office, the custodian of
5 the store's videotape, Detective R. Haley from the
6 Sheriff's Office, Celestra Rivers from here in
7 Walterboro, and Mary Blakely from here in
8 Walterboro.

9 I need to know if any of you are related or
10 connected by blood or marriage to any of those,
11 or a friend, business associate, casual
12 acquaintance, or a person that you have any direct
13 or indirect contact with. If so, please stand.

14 JUROR: Do we know who the 911 operator was?

15 THE COURT: I have no idea. We are probably
16 going to play a tape.

17 MR. KNIGHT: No, sir, we are not playing a
18 tape.

19 MR. MATHEWS: If they are not playing a tape,
20 no need.

21 THE COURT: Forget about it. Sorry. Thank
22 you. Anyone else? Nobody else stands.

23 Ladies and gentlemen, the lawyers who will
24 be involved in the trial of this case on behalf of
25 the State, the case will be prosecuted by

JURY SELECTION

1 Assistant Solicitor Steve Knight and assisted by
2 Reed Evans here in Colleton County. The Defendant
3 Mr. Siders is represented by Mr. Dave Mathews, the
4 Public Defender's Office in Colleton County.

5 MR. MATHEWS: Good afternoon.

6 THE COURT: I need to know, are you related
7 or connected by blood or marriage, kin to them,
8 business associates, casual acquaintances of
9 theirs, represented by any of them in the past or
10 sued by any of them in the past? If so, please
11 stand.

12 Okay. Ladies and gentlemen, I read the
13 indictment to you, as I said, not because they are
14 evidence or proof of anything, but because they
15 tell us what the case is all about because I need
16 to know if you know anything about this case. If
17 you have seen, heard, or read anything about this
18 case, or if you have any knowledge about the case
19 from any source at all, would you please stand.

20 Now, while you don't know anything about this
21 particular case you do understand what the charges
22 are in this case, armed robbery, possession of a
23 weapon, and kidnapping. Those are crimes of
24 personal violence in the law.

25 So I need to know if any of you all have any

JURY SELECTION

1 involvement in the crime of personal violence,
2 criminal sexual conduct, manslaughter, assault and
3 battery of any degree, CDV, all of these are
4 examples of crimes of personal violence, that is
5 crimes against a person. And I need to know if
6 any of you have had any involvement with a crime
7 of personal violence.

8 Now, first of all, let me say that the
9 question doesn't apply to only you directly, it
10 applies to any members of your immediate family,
11 that is to say your household. And it applies to
12 a large range of possible involvement that you or
13 your household might have had with a crime, you or
14 your family could be the victim of the crime, that
15 is a person who the crime was committed against,
16 you or your family charged with the crime or a
17 witness to the crime. So, a member of your
18 household, your family, involved in a crime of
19 violence, Defendant, Plaintiff, or witness. I
20 want you to form a line and I'll bring you down
21 individually to talk with you about your
22 situation.

23 THE BAILIFF: 88, Lisa Goltz.

24 THE COURT: Ms. Goltz, stand so she can hear
25 you. You or a family member?

JURY SELECTION

1 JUROR: My brother.

2 THE COURT: Sorry. What is his involvement?

3 JUROR: Kidnapped and murdered and body never
4 found.

5 THE COURT: How long ago?

6 THE JUROR: Twenty-five years ago.

7 THE COURT: Where did that happen?

8 THE JUROR: Tennessee, suspected, never sure.

9 THE COURT: Anybody caught a victim yet?

10 THE JUROR: No, the girl backed down and
11 recanted her story.

12 THE COURT: I see, how old was your brother
13 at the time?

14 THE JUROR: Thirty.

15 THE COURT: Thirty? How old were you at the
16 time?

17 THE JUROR: Twenty-eight.

18 THE COURT: Living in close proximity?

19 THE JUROR: Out of state.

20 THE COURT: Would your involvement of a crime
21 of kidnapping and murder make it difficult for you
22 to be a juror in this trial where one of the
23 charges is kidnapping?

24 THE JUROR: No.

25 THE COURT: Could you set that aside and base

JURY SELECTION

1 your decision on the facts and evidence that you
2 hear in court today?

3 THE JUROR: Yes.

4 THE COURT: Would you do that?

5 THE JUROR: Yes.

6 THE COURT: Thanks.

7 THE BAILIFF: 147, Ms. Moultrie. My brother.

8 THE COURT: What was your brother's
9 involvement?

10 THE JUROR: He was murdered.

11 THE COURT: When did that happen?

12 JUROR: About 12 years ago.

13 THE COURT: Twelve years ago. Where did that
14 happen?

15 JUROR: Columbia, South Carolina.

16 THE COURT: Was anybody caught and convicted
17 of that?

18 JUROR: Yes.

19 THE COURT: They were?

20 JUROR: Yes.

21 THE COURT: They were tried and convicted?

22 JUROR: Yes.

23 THE COURT: With your experience in that
24 regard as a victim, certainly, make it difficult
25 for you to be fair and impartial as a juror in

JURY SELECTION

1 this trial?

2 THE JUROR: No.

3 THE COURT: You don't think that it would
4 make it difficult for you to serve?

5 THE JUROR: Yes.

6 THE COURT: You think that it would? I
7 understand that and we wouldn't want to cause you
8 to re-live those unpleasant memories. We wouldn't
9 make you serve. You can go back and sit.

10 Juror 147 will be set aside as a juror in
11 this trial. That was Moultrie, M-O-U-L-T-R-I-E.

12 Ladies and gentlemen, understanding what the
13 allegations are, what the charges are, is there
14 anything in your own personal background, own
15 family history, your own religious upbringing,
16 your even personal beliefs that would make it
17 difficult for you to serve fair and impartial and
18 impartial as a juror involving these allegations?
19 If so, please stand. Yes, sir, would you come
20 forward please sir?

21 THE BAILIFF: Forty-five.

22 THE COURT: Mr. Cook, come here and speak so
23 she can hear you. Mr. Cook, what is your
24 situation?

25 JUROR: I just -- I just don't like -- if it

JURY SELECTION

1 was left up to me, I don't like to place judgment
2 on anybody if it involved me.

3 THE COURT: Personal or religious beliefs
4 that would make it difficult for you to sit in
5 judgment of anybody?

6 JUROR: Yes, sir. Yes, sir.

7 THE COURT: We don't want to put you in a
8 position to do violence to your conscience, we are
9 not going to do that. We will transfer you to
10 civil court where you don't have to sit in
11 judgment of anybody, just simply listen to
12 somebody and see if they are telling the truth.
13 We will transfer you to a term of civil court. We
14 don't want to put anyone in violation of their
15 conscience. Thank you.

16 We will transfer him to a term of civil
17 court. Thank you, Mr. Cook. Ladies and
18 gentlemen, have any of you formed in your own mind
19 or have you expressed to anyone else any opinion
20 that you might have as to the guilt or innocence
21 of Mr. Siders? If you have, if so, please stand.

22 Are any of you aware of, that is to say
23 conscious of any bias or prejudices that you might
24 have for or against the State of South Carolina or
25 for or against Mr. Siders? If you are so aware,

JURY SELECTION

1 would you please stand. Do any of you know of any
2 reason of any type whatsoever that would keep you
3 from serving fairly and impartially in the trial
4 of this case, both to the State and to the
5 Defendant? If you are so aware, if so, please
6 stand. Thank you.

7 Mr. Knight. Further questions from the
8 State?

9 MR. KNIGHT: No, sir.

10 THE COURT: Further questions from the
11 Defense?

12 MR. MATHEWS: No, sir.

13 THE COURT: Give us a jury, Madam Clerk.
14 Five for the State, ten for the Defense. Two
15 alternates. As to alternate, one for the State,
16 two for the Defense.

17 Ladies and gentlemen, the process that is
18 going on upfront, you all can't see or neither can
19 I, in just a minute, nor can anyone else, it
20 happens inside the computer. Those that have been
21 excused or otherwise set aside as jurors in this
22 trial, their names are being taken off of the list
23 and the other names fed into the computer. By
24 random selection it generates a list of names.
25 And from that list the jury will be selected for

JURY SELECTION

1 this case. And they will make sure that they
2 don't have anyone on the list who has been
3 excused. This is sterilized and not the
4 romantic, archaic way of picking the names out of
5 a cigar box or round tumbler where everyone's name
6 is put on a slip of paper and put into that box.

7 Did you use a box or tumbler here?

8 THE CLERK: We did the box and graduated to
9 the tumbler.

10 THE COURT: That is the way that it used to
11 be. Those would be turned around, you know, like
12 when you are drawing names for prizes at a fair.
13 The statute said a blind person or a child under
14 the age of eight or nine or something like that,
15 years ago, as if anybody except the blind person
16 or a child over the age of eight would be able to
17 see whose names were on that slip of paper in that
18 brown capsule. It made for a lot of conversation
19 pieces.

20 Some counties like Richland County, the
21 capsule that held all of the registered voters
22 that held all registered voters in Richland County
23 sits on display in the gallery of Richmond County
24 Courthouse, about the size of a 75-gallon drum,
25 maybe bigger, with all of the names. I can only

JURY SELECTION

1 imagine what they had to go through to turn that
2 and pick the names out in those days. It is
3 entirely different. None of that romance; the
4 computer picks out the names.

5 THE CLERK: It used to take all day to draw
6 it like that.

7 THE COURT: They said in the old days it took
8 all day to get those done. It is quicker,
9 although not as colorful of a way of getting
10 things done.

11 (Pause.)

12 THE COURT: Ladies and gentlemen, in a few
13 moments the Clerk begins to call names, and if
14 your name is called follow the instructions that
15 she will give you as your name is called.

16 THE CLERK: As I call your name, bring all of
17 your personal belongings, come all the way up and
18 turn and face counsel table.

19 155, `Martha E Pensile, P-E-N-C-I-L-E. Just
20 come all the way up, please.

21 What says the State?

22 MR. KNIGHT: Please present the juror.

23 THE CLERK: What says the Defendant?

24 MR. MATHEWS: Please seat the juror.

25 THE CLERK: Okay. The bailiff here to your

JURY SELECTION

1 right, have a seat over in the jury box please.

2 200, George M. Williams.

3 What says the State?

4 MR. KNIGHT: Please present the juror.

5 THE CLERK: What says the Defendant?

6 MR. MATHEWS: Please seat the juror.

7 THE CLERK: Have a seat in the jury box.

8 Number 26, Tammy S. Brown.

9 What says the State?

10 MR. KNIGHT: Please present the juror.

11 THE CLERK: What says the Defendant?

12 MR. MATHEWS: Please seat the juror.

13 THE COURT: Have a seat in the jury box.

14 106, William A Hudson, III.

15 What says the State?

16 MR. KNIGHT: Please present the juror.

17 THE CLERK: What says the Defendant?

18 MR. MATHEWS: Please excuse the juror.

19 THE CLERK: Please have a seat back in the

20 panel.

21 Fifty-one, Robert S. Crosby.

22 What says the State?

23 MR. EVANS: That is 51, Madam Clerk?

24 MR. KNIGHT: Please excuse the juror.

25 THE CLERK: Have a seat back in the panel.

JURY SELECTION

1 88, Lisa L. Goltz. 88.

2 What says the State?

3 MR. KNIGHT: Please present the juror.

4 THE CLERK: What says the Defendant?

5 MR. MATHEWS: Please excuse the juror.

6 THE CLERK: Please have a seat back with the
7 panel.

8 Seventy-four, Joseph S. Frazier.

9 What says the State?

10 MR. KNIGHT: Please present the juror.

11 THE CLERK: What says the Defendant?

12 MR. MATHEWS: Please seat the juror.

13 THE CLERK: Please have a seat in the jury
14 box.

15 180, Christina J. Steward.

16 What says the State?

17 MR. KNIGHT: Please present the juror.

18 THE CLERK: What says the Defendant?

19 MR. MATHEWS: Please seat the juror.

20 THE COURT: Please have a seat in the jury
21 box.

22 Ninety-six, James D. Harrison.

23 THE CLERK: What says the State?

24 MR. KNIGHT: Please present the juror.

25 THE CLERK: What says the Defendant.

JURY SELECTION

1 MR. MATHEWS: Please excuse the juror.

2 THE CLERK: Please have a seat back in the
3 panel.

4 167, Ian Saunders.

5 MR. EVANS: What is the number?

6 THE CLERK: 167. What says the State?

7 MR. KNIGHT: Please present the juror.

8 THE CLERK: What says the Defendant?

9 MR. MATHEWS: Please excuse the juror from
10 the trial.

11 THE COURT: Please have a seat back with the
12 panel.

13 91, Leroy Green Junior.

14 What says the State?

15 MR. KNIGHT: Please excuse the juror.

16 THE CLERK: Please have a seat back with the
17 panel.

18 Number 3, James A. Ashley.

19 What says the State?

20 MR. KNIGHT: Please present the juror.

21 THE CLERK: What says the Defendant?

22 MR. MATHEWS: Please excuse the juror.

23 THE COURT: Have a seat back with the panel.

24 Sixty-seven, Mike Fender.

25 What says the State?

JURY SELECTION

1 MR. KNIGHT: Please present the juror.

2 THE CLERK: What says the Defendant?

3 MR. MATHEWS: Please seat the juror.

4 THE CLERK: Please have a seat in the jury
5 box.

6 Twenty-one, Herman L. Broughton, spelled
7 B-R-O-U-G-H-T-O-N.

8 What says the State?

9 MR. KNIGHT: Please present the juror.

10 THE CLERK: What says the Defendant?

11 MR. MATHEWS: Please seat the juror.

12 THE CLERK: Please have a seat in the jury
13 box.

14 84, Jacqueline H. Givens.

15 What says the State?

16 MR. KNIGHT: Please present the juror.

17 THE CLERK: What says the Defendant?

18 MR. MATHEWS: Please seat the juror.

19 THE CLERK: Please have a seat in the jury
20 box.

21 Number 36, Kelsey M. Cattles. Spelled
22 C-A-T-T-L-E-S.

23 What says the State?

24 MR. KNIGHT: Please present the juror.

25 THE CLERK: What says the Defendant?

JURY SELECTION

1 MR. MATHEWS: Please seat the juror.

2 THE CLERK: Please have a seat in the jury
3 box.

4 144, Forest C Morgan.

5 What says the State?

6 MR. KNIGHT: Please present the juror.

7 THE CLERK: What says the Defendant?

8 MR. MATHEWS: Please seat the juror.

9 THE CLERK: Have a seat in the jury box.
10 182, Marceil R strong, 182.

11 What says the State?

12 MR. KNIGHT: Please present the juror.

13 THE CLERK: What says the Defendant?

14 MR. MATHEWS: Please seat the juror.

15 THE CLERK: Please have a seat in the jury
16 box.

17 145, Deonte L. Mosley.

18 What says the State?

19 MR. KNIGHT: Please excuse the juror from the
20 trial of this case.

21 THE CLERK: Please have a seat back in the
22 panel.

23 Seventy-one, Cheryl M. Fortner.

24 What says the State?

25 MR. KNIGHT: Please present the juror.

JURY SELECTION

1 THE CLERK: What says the Defendant?

2 MR. MATHEWS: Please excuse the juror.

3 THE CLERK: Please have a seat back with the
4 panel.

5 Number 6, James R Banks.

6 What says the State?

7 MR. KNIGHT: Please present the juror.

8 THE CLERK: What says the Defendant?

9 MR. MATHEWS: Please excuse the juror from
10 the trial of this case.

11 THE CLERK: Please have a seat back with the
12 panel.

13 159, Mickey J. Pye, spelled P-Y-E.

14 What says the State?

15 MR. KNIGHT: Please present the juror.

16 THE CLERK: What says the Defendant?

17 MR. MATHEWS: Please excuse the juror from
18 the trial of this case.

19 THE CLERK: Please have a seat back with the
20 panel.

21 Number 19, James E. Bootle.

22 What says the State?

23 MR. KNIGHT: Please present the juror.

24 THE CLERK: What says the Defendant?

25 MR. MATHEWS: Please excuse the juror.

JURY SELECTION

1 THE CLERK: Have a seat back with the panel.

2 THE COURT: The State has exercised three
3 strikes, the Defense has exercised nine strikes.

4 THE CLERK: 174, Amanda F. Smoak.

5 What says the State?

6 MR. KNIGHT: Please present the juror.

7 THE CLERK: What says the Defendant?

8 MR. MATHEWS: Please seat the juror.

9 THE CLERK: Please have a seat in the jury
10 box.

11 THE COURT: Now the alternates, Madam Clerk.
12 Two alternates.

13 THE CLERK: Number 133, Leonard C. Martin.

14 What says the State?

15 MR. KNIGHT: Please excuse the juror.

16 THE COURT: Excused, please have a seat back
17 with the panel.

18 THE CLERK: 127, Curtis W. Lyons.

19 What says the State? Does the State have any
20 strikes for cause?

21 MR. KNIGHT: Please present the juror.

22 THE CLERK: What says the Defendant.

23 MR. MATHEWS: Please seat the juror.

24 THE CLERK: Please have a seat in the jury
25 box. 15, Jack S. Bishop, Junior.

JURY SELECTION

1 What says the State?

2 MR. KNIGHT: Please present the juror.

3 THE CLERK: What says the Defendant?

4 MR. MATHEWS: Please excuse the juror.

5 THE CLERK: Have a seat back with the panel.

6 Number 14, Richard M. Berry, Junior.

7 What says the State?

8 MR. KNIGHT: Please present the juror.

9 THE CLERK: What says the Defendant?

10 MR. MATHEWS: Please excuse the juror.

11 THE CLERK: Please have a seat back with the
12 panel. Number 20, Tawnya S. Brothers.

13 What says the State?

14 MR. KNIGHT: Excuse the juror from the trial
15 of this case, please.

16 THE CLERK: Have a seat back in the panel.

17 MR. MATHEWS: Does he have any strikes left?

18 THE CLERK: That was his first one on the
19 second.

20 MR. KNIGHT: Yes, first one.

21 THE CLERK: 56, James G. Davis.

22 Does the State have any strikes for cause?

23 MR. KNIGHT: Please present the juror.

24 THE CLERK: Does the Defense have any strikes
25 for cause?

JURY SELECTION

1 MR. MATHEWS: I have one per --

2 THE CLERK: I have shown that you have used
3 your two.

4 THE COURT: Yes, you have stricken two for
5 alternates.

6 MR. MATHEWS: No strikes for cause.

7 THE CLERK: Thank you.

8 THE COURT: Are there any matters of law
9 regarding the jury selection from the State?

10 MR. KNIGHT: No, sir.

11 THE COURT: Any matters of law regarding the
12 jury selection from the Defense?

13 MR. MATHEWS: Your Honor, if I might have a
14 moment to talk with my client to discuss the
15 matter?

16 THE COURT: Okay.

17 (Pause.)

18 MR. MATHEWS: Your Honor, we do have a matter
19 of law.

20 THE COURT: Ladies and gentlemen, I'll ask
21 you to step to your jury room for a moment. We
22 have to take up a matter of law outside of your
23 presence. Don't discuss this case. You don't
24 know anything about it, but don't make a guess.
25 We will get you out in a moment to finish your

JURY SELECTION

1 work. Please retire to your jury room.

2 MR. MATHEWS: Your Honor, scratch that. We
3 reconsidered. We are fine.

4 THE COURT: Okay. Just go on back there for
5 a minute. We will get you back in a minute
6 anyway. You might have to use the restroom.

7 (The trial jury exits the courtroom.)

8 THE COURT: So, no matters of law regarding
9 the jury selection process from the Defense; is
10 that right?

11 MR. MATHEWS: No, sir.

12 THE COURT: All right. Ladies and gentlemen
13 of the jury, those not selected as jurors for the
14 trial of this case, I want to thank you very much
15 for your patience with us throughout the day and
16 throughout the long, involved process. It is a
17 necessary part of the process that we do. And you
18 have been patient and we appreciate you for that.

19 I'll excuse you for the remainder of the day.
20 And I want you to call that system after 6:00 p.m.
21 tonight if you would. You will get instructions
22 if you need to come back or call back tomorrow or
23 whatever they are. Please respond to those
24 instructions. We will probably need some of you
25 for something else. I'm not sure how long this

JURY SELECTION

1 will last or what else is behind it. In the
2 unlikely event that we don't call you back or you
3 don't need to report back, I would like to thank
4 you for coming. I wish that everybody would have
5 a chance to come and serve on jury duty because
6 once you get to serve on a jury you get a better
7 understanding of the full importance of a role
8 that the folks like you play in a process like
9 this. You may get that chance later in the week.

10 But call that number after 6:00 and you will
11 get instructions about what you need to do
12 tomorrow. Thank you, folks.

13 (Whereupon, the jury panel is excused at
14 4:17 p.m.)

15 THE DEFENDANT: Will you please pray for me
16 tonight, Your Honor?

17 THE COURT: I will.

18 WITNESS: Thank you.

19 THE COURT: I pray for all God's children.

20 MR. KNIGHT: Your Honor, thank you. I
21 appreciate that.

22 THE COURT: We have got Jackson V. Denno
23 motions from your side. How long do you think
24 that it'll take?

25 MR. KNIGHT: Very, very short. I would say,

JURY SELECTION

1 max, 15 minutes a piece.

2 THE COURT: Okay. And three of them. Okay.
3 Any other motions that you anticipate from your
4 side?

5 MR. KNIGHT: No, sir.

6 THE COURT: Mr. Mathews, what about from the
7 Defense perspective, any motions from your side?

8 MR. MATHEWS: No, sir, unless -- unless the
9 State has any -- the State has had a wonderful
10 preview of what's likely to be the Defense case.

11 THE COURT: Right.

12 MR. MATHEWS: If there's any motions to
13 suppress or anything like that, it might not be
14 bad to get them out of the way. But otherwise,
15 no.

16 THE COURT: I think that I'll get the jury
17 back at 10:30 tomorrow morning and we will come
18 back and prepare to start at 9:30 in the morning
19 and try to get the jury back at 10:30. I'll bring
20 the jury in and admonish them about what they
21 can't do overnight. And then we will excuse them
22 for the balance of the day.

23 MR. KNIGHT: All right. Thank you.

24 THE COURT: Please bring in the jury. Thank
25 you.

JURY SELECTION

1 (The trial jury enters courtroom at
2 4:20 p.m.)

3 THE COURT: Ladies and gentlemen, you all
4 have been selected as jurors for the trial of this
5 case. We will begin the trial tomorrow morning.
6 We have things that we have to do tomorrow morning
7 before we can start the trial of the case before
8 you. These are pretrial, preliminary matters to
9 take outside of your presence. We will start
10 those tomorrow morning at 9:30 and it will take us
11 an hour, so I won't need you back until 10:30
12 tomorrow morning.

13 When you come back at 10:30, you report to
14 the jury room that you just left. You won't come
15 to the courtroom, you will go to your jury room.
16 Now, between today and tomorrow morning, the time
17 is your own. When we start the trial I'll give
18 you instructions about things that you can and may
19 not do during the trial of this case.

20 To keep you all from innocently or mistakenly
21 from doing something overnight that you are not
22 allowed to do, let me tell you things that you are
23 not allowed to do. You can't talk to anybody
24 about the case. You can't talk among yourselves
25 about the case or the trial itself or issues in

JURY SELECTION

1 the case during the trial.

2 Now, when the trial is over, when you have
3 heard all of the testimony and officers and
4 listened to me, you can take as much time as you
5 want to talk about it, but you can't do it until
6 then. And you can't let anyone talk to you about
7 it or find out anything on your own about this
8 case, outside of the courtroom, particularly, not
9 overnight. Anything.

10 All of the questions that we have been
11 asking, every question that we have asked, every
12 answer that we have received from all of you all
13 and the rest of the folks not here now, every one
14 of those questions have been designed to make sure
15 that when we finally got a jury in that jury box
16 where you are now we would have jurors just like
17 you, who you don't know anything about this case
18 or preconceived ideas or connection with the
19 people involved or connection with the crime
20 involved or anything in your own background that
21 would make it difficult for you to serve as a
22 juror in the trial of this case.

23 If you go out and try to find something out
24 on your own or talk to anybody else about the case
25 or let anyone talk to you about the case you will

JURY SELECTION

1 unravel all of that that you and I have worked so
2 hard to make sure that we have in place at the end
3 of the day. You have given us that type of jury
4 and we want that jury when you get back tomorrow
5 morning.

6 Follow those instructions and enjoy your
7 evening and be back at 10:30 tomorrow morning in
8 the jury room. Thank you, folks.

9 (Trial jury exits the courtroom.)

10 THE COURT: Mr. Knight, anything further from
11 the State before we break today?

12 MR. KNIGHT: No, sir.

13 THE COURT: Thank you. Mr. Mathews, for the
14 Defense?

15 MR. MATHEWS: No, sir.

16 THE COURT: Sir, we will start back at 9:30
17 in the morning if you will be here. And the
18 Members of the Jury will call back after
19 6:00 tomorrow.

20 THE CLERK: Okay.

21 (Adjourned for the day at 4:30 p.m.)

22

23

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25

CERTIFICATE PAGE

1

2 CERTIFICATE

3

4 STATE OF SOUTH CAROLINA:

5 COUNTY OF BEAUFORT:

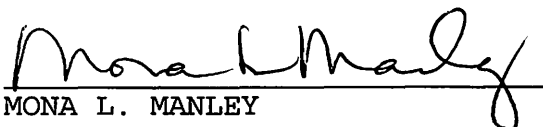
6 I, MONA L. MANLEY, Court Reporter, certify that I was authorized
7 to and did stenographically report the foregoing proceedings and that
the transcript is a true and complete record of my stenographic notes.

8 DATED this 22nd day of September, 2015.

9

10

11



12

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1 In the Court of General Sessions for the
2 State of South Carolina, County of Colleton

5 State of South Carolina

7 vs.

8 Albert E. Siders,

10

11

13 PRE-TRIAL HEARINGS / TRIAL TRANSCRIPT

14

15

17 Walterboro, South Carolina

18

19

20

21

22 BEFORE:

23 The Honorable THomas W. Cooper, Jr.

24

25

APPEARANCE PAGE

1 APPEARANCES

2

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11 Walterboro, SC 29488

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TESTIMONY OF NYLE ELTZROTH

1 PROCEEDINGS

2 THE COURT: Good morning.

3 MR. KNIGHT: Good morning, Your Honor. The
4 State would call Nyle Eltzroth.

5 THE CLERK: Come forward and be sworn.

6 Thereupon,

7 NYLE ELTZROTH

8 was called as a witness, having been first duly sworn,
9 was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. KNIGHT

12 Q State your name, please.

13 A Nyle Eltzroth, E-L-T-Z-R-O-T-H.

14 Q Mr. Eltzroth, who are you employed with, sir?

15 A Currently I am employed with U.S. Probation.

16 Q And prior to that, who were you employed
17 with?

18 A Colleton County Sheriff's Office.

19 Q In what capacity were you employed with
20 Colleton County Sheriff's Office?

21 A I initially started out as a road patrol
22 deputy and was promoted to investigator in January of
23 2013.

24 Q And prior to that, who were you employed
25 with?

TESTIMONY OF NYLE ELTZROTH

1 A South Carolina Department of Probation,
2 Parole and Pardon Services.

3 Q How long were you employed with them?

4 A Approximately five and a half years.

5 Q On February 21st of 2014, did you have an
6 occasion to go to ■ -- let me make sure I got a right
7 address -- Peurifoy Road in Colleton County?

8 A Yes, I did.

9 Q And what was the purpose of going there, sir?

10 A Our investigation led up to Albert Siders
11 being identified as the, well, suspect. We went there
12 with a warrant, and he was apprehended at the
13 residence. I read him his Miranda rights as he was
14 being apprehended.

15 Q Now, let me stop there.

16 A Yes, sir.

17 Q What Miranda rights do you read him?

18 A Shall -- I have a Miranda card that I --

19 Q Pull it out, please, if you have it with you.

20 A (Witness complies.)

21 Q What rights off that card do you read him,
22 sir?

23 A If you would like me to read them --

24 Q Yes, sir.

25 A It states, "You have the right to remain

TESTIMONY OF NYLE ELTZROTH

1 silent. Anything you say can and will be used against
2 you in a court of law. You have the right to speak to
3 an attorney and have an attorney present during any
4 questioning. If you cannot afford a lawyer one will be
5 provided for you at no expense. Knowing and
6 understanding your rights as I've explained them to you
7 are you willing to answer my questions without an
8 attorney present?"

9 Q In your opinion, did he understand what you
10 just read him?

11 A Yes, sir.

12 Q Did you force him, threaten him or intimidate
13 him to give you a statement?

14 A No, sir.

15 Q Did you make him any promises to give you a
16 statement?

17 A No, sir.

18 Q So he made a statement to you freely and
19 voluntarily?

20 A Yes, sir.

21 Q What, if anything, after reading him the
22 Miranda Rights did -- well, wait a minute -- do you
23 know Albert Siders?

24 A Yes, sir.

25 Q How long have you known Albert?

TESTIMONY OF NYLE ELTZROTH

1 A I supervised him prior, when I was employed
2 with probation and parole.

3 Q What kind of relationship do you and Albert
4 have?

5 A Pretty good. Every time I've ever asked him
6 something he's always been honest with me. I tried to
7 get him help with his addiction.

8 Q He had an addiction to drugs?

9 A Yes, sir, specifically crack cocaine.

10 Q Okay. And as a result of your Mirandizing
11 him, what, if anything, did Albert tell you on
12 February 21st, 2014?

13 A I've always known Albert, and he's talked to
14 me about where his crack addiction leads to problems
15 with the law. So I -- he looked like he'd been back
16 using. I asked him. He stated yes -- or he stated
17 Mr. Nyle, I messed up, I messed up. And then after
18 reading him his Miranda rights, he was taken --
19 escorted to Deputy Rioux's patrol vehicle. But prior
20 to that he stated the gun -- or weapon used in the
21 offense was in his vehicle. Therefore, after he was
22 escorted I went to his vehicle, asked him if I could
23 have consent to search his vehicle to retrieve the
24 firearm. He then told me it is not a arm it is a
25 BB gun. I said, Can I search your vehicle for whatever

TESTIMONY OF NYLE ELTZROTH

1 it was you used in the crime. He said, Yes, sir.

2 Q And did you seize a BB gun in the vehicle?

3 A I didn't search the vehicle, no, sir.

4 Q Okay. And that's the extent of the
5 conversation that the Defendant had with you?

6 A Yes, sir.

7 MR. KNIGHT: Would you answer any questions
8 Mr. Mathews may have?

9 A Yes, sir.

10 THE COURT: Mr. Mathews, you may cross
11 examine.

12 MR. MATHEWS: Thank you, Your Honor.

13 CROSS EXAMINATION

14 BY MR. MATHEWS:

15 Q Special agent -- are you special agent or
16 just agent?

17 A No, sir, just U.S. Probation officer.

18 Q Do I -- that's a lot to say. Can I just
19 say --

20 A Nyle will work.

21 Q Okay. Nyle, did Albert appear to be under
22 the influence of narcotics when you talked to him?

23 A Not at -- nothing he indicated to me, you
24 know, he just looked like he had been using for a
25 while --

TESTIMONY OF NYLE ELTZROTH

1 Q Okay. All right.

2 A -- prior to that.

3 Q Okay. When you found the BB gun, did you
4 also find a mask or a ski mask or hat?

5 A I did not specifically search the vehicle.

6 Q That was Detective -- Officer Rioux?

7 A No, sir. I can't remember specifically who
8 searched the vehicle.

9 Q Okay.

10 A It was one of the detectives.

11 Q Okay. But he told you that the BB gun was in
12 the car --

13 A Yes, sir.

14 Q -- and gave you consent to look and you
15 passed that along and, perhaps, somebody looked?

16 A Yes, sir.

17 Q Okay. All right.

18 MR. MATHEWS: One moment, Your Honor?

19 THE COURT: Okay.

20 BY MR. MATHEWS:

21 Q After he talked to you initially, did he also
22 make request to talk to you again later?

23 A I believe he did, but Detective Carter was
24 the one that was handling the investigation, so I
25 turned the request --

TESTIMONY OF NYLE ELTZROTH

1 Q Okay. All right. So what he told you is I
2 messed up. But as far as the details of it, he didn't
3 get into the details of it when he was in the car?

4 A No, sir.

5 Q Okay. But he did want to talk to you more
6 but Detective Carter talked to him instead?

7 A Yes, sir. I -- I had run into Albert at the
8 holding cell some at the jail and talked to him, but
9 not specifically his details about the case. I
10 couldn't --

11 Q I see.

12 A -- talk to him.

13 Q But he wanted to talk to you about the
14 details of it, but it was not your case?

15 A Yes, sir.

16 Q Okay.

17 MR. MATHEWS: All right. Nothing further.

18 THE COURT: Thank you. Mr. Knight, redirect?

19 MR. KNIGHT: No, that's all I have.

20 THE COURT: Thank you, sir. You may step
21 down.

22 MR. KNIGHT: Reuben Carter.

23 Thereupon,

24 REUBEN CARTER

25 was called as a witness, having been first duly sworn,

TESTIMONY OF REUBEN CARTER

1 was examined and testified as follows:

2 THE WITNESS: Reuben Carter.

3 DIRECT EXAMINATION

4 BY MR. KNIGHT:

5 Q Who are you employed with, sir?

6 A Colleton County Sheriff's Department.

7 Q In what capacity, sir?

8 A Currently I'm a lieutenant over
9 investigations.

10 Q On or about February 21st, 2014, were you
11 employed with the sheriff's department?

12 A I was, sir.

13 Q Did you have an occasion to interview Albert
14 Edward Siders?

15 A I did, sir.

16 Q Where would that interview have occurred,
17 sir?

18 A It took place at the interview rooms at the
19 Sheriff's Office annex.

20 Q And prior to your interview, did you advise
21 him of his Miranda rights?

22 A I did.

23 Q Did you use any kind of form?

24 A I did, sir.

25 Q I'll show you what's been marked State's

TESTIMONY OF REUBEN CARTER

1 Exhibit No. 3.

2 Do you recognize that, sir?

3 A I do, sir.

4 Q Is that the form you advised him of the
5 Miranda rights?

6 A That is a copy of the form, yes, sir.

7 MR. KNIGHT: Number 3, David.

8 MR. MATHEWS: Yes, sir. No objection.

9 *(Whereupon, State's Exhibit No(s). 3 marked*
10 *for identification and received in evidence.)*

11 BY MR. KNIGHT:

12 Q State's Exhibit No. 3, would you tell the
13 Court what you advised the Defendant of?

14 A On this I got Mr. Siders' name, his address,
15 his demographics as far as date of birth, Social
16 Security and height and weight. Then I read to
17 Mr. Siders the form which, number one, says, you have
18 the right to remain silent.

19 Q Was this being videoed?

20 A Yes, sir, it was.

21 Q Go ahead, I'm sorry.

22 A Number two, anything you say can and will be
23 used against you in a court of law. Number three, you
24 have the right to talk to a lawyer and have him present
25 with you while you're being questioned. Number four,

TESTIMONY OF REUBEN CARTER

1 if you cannot afford to hire a lawyer one will be
2 appointed to represent you before being questioned.
3 Number five, you can decide any time to exercise these
4 rights and not answer any questions or make any
5 statements.

6 At that time I asked Mr. Siders if he
7 understood those, which he did, and he signed and
8 initialed beside each one and then signed his name at
9 the bottom stating he understood.

10 Then at the bottom I read his waiver
11 rights. And it says, I have read and had read to me the
12 above statements of my rights and understand each of
13 these rights. Having those rights in mind, I waive them
14 and I'm willing to make a statement. And I asked
15 Mr. Siders if he understood that if he would sign, which
16 he did.

17 Q Okay. I'll show you what's been marked as
18 State's Exhibit No. 1.

19 Do you recognize that, sir?

20 A Yes, sir. That is a CD containing the
21 videoed interview of Mr. Siders.

22 Q Okay.

23 MR. KNIGHT: Dave?

24 MR. MATHEWS: No objection.

25 *(Whereupon, State's Exhibit No(s). 1 marked*

TESTIMONY OF REUBEN CARTER

1 *for identification and received in evidence.)*

2 MR. KNIGHT: I'll have Mr. Rogers --

3 MR. MATHEWS: What -- what exhibit number is
4 that?

5 MR. KNIGHT: Number 1.

6 (Video played.)

7 BY MR. KNIGHT:

8 Q That's the extent of your discussion with
9 Mr. Siders concerning the robbery of 2-21-2014 at the
10 BP on 1825 Wichman Street here in Colleton County?

11 A Yes, it was.

12 Q Okay, sir. And the rest of the tape shows
13 him being served with the warrants, correct?

14 A Yes, sir.

15 Q Okay, sir. Answer any questions that
16 Mr. Mathews may have.

17 THE COURT: Mr. Mathews, you may cross
18 examine.

19 MR. MATHEWS: Thank you, Your Honor.

20 CROSS EXAMINATION

21 BY MR. MATHEWS:

22 Q Detective Carter, have you had any
23 involvement with Mr. Siders before? Had you before
24 this?

25 A Not that I can recall, no, sir.

TESTIMONY OF REUBEN CARTER

1 MR. MATHEWS: No further questions.

2 THE COURT: Thank you. You may step down,
3 sir.

4 Thereupon,

5 GEORGE RIOUX

6 was called as a witness, having been first duly sworn,
7 was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. KNIGHT:

10 Q George, who are you employed with at the
11 present?

12 A Town of Port Royal Police Department.

13 Q How long have you been working there?

14 A Since November of 2014.

15 Q Prior to that, who were you employed with?

16 A Colleton County Sheriff's Office.

17 Q And in what capacity were you employed with
18 Colleton County Sheriff's Department Office?

19 A I was assigned as a road patrol officer.

20 Q And how long were you with them?

21 A One year exactly.

22 Q And prior to that, who were you employed
23 with?

24 A Part time with Town of Yemassee.

25 Q As a law enforcement officer?

TESTIMONY OF GEORGE RIOUX

1 A Yes, sir.

2 Q And prior to that, who were you with?

3 A Beaufort County Sheriff's Office.

4 Q In what capacity?

5 A I was a patrol officer.

6 Q And how long were you employed there?

7 A Almost seven years.

8 Q Almost seven years.

9 On or about February 21st or 2014 you were
10 employed with Colleton County Sheriff's Department?

11 A Yes, sir, I was.

12 Q Did you have occasion to go to Peurifoy Road
13 here in Colleton County?

14 A Yes, sir, I did.

15 Q Did you have occasion to meet with the
16 Defendant, Albert Siders, S-I-D-E-R-S?

17 A Yes, sir, I did.

18 Q Does your car have an in-car video?

19 A Yes, sir.

20 Q I'll ask if you can identify State's Exhibit
21 No. 2.

22 A This is a copy of my in-car video from the
23 date and time in question.

24 MR. MATHEWS: State's what?

25 MR. KNIGHT: Two.

TESTIMONY OF GEORGE RIOUX

1 MR. MATHEWS: No objection.

2 THE COURT: Thank you.

3 *(Whereupon, State's Exhibit No(s). 2 marked*
4 *for identification and received in evidence.)*

5 BY MR. KNIGHT:

6 Q And did you advise him of his Miranda rights?

7 A I did, yes, sir, on camera.

8 Q On camera, okay.

9 (Video playing.)

10 MR. KNIGHT: George, will you answer any
11 questions Mr. Mathews may have?

12 THE WITNESS: Yes, sir.

13 MR. MATHEWS: May it please the Court. Thank
14 you.

15 CROSS EXAMINATION

16 BY MR. MATHEWS:

17 Q Officer Rioux, you had mentioned something
18 about Detective Eltzroth. And had you talked to the
19 Detective Eltzroth before you got him in the car?

20 A I think -- when he was reading the Miranda I
21 was standing next to him, and I think he said that he
22 did know who he was.

23 Q Okay. All right.

24 MR. MATHEWS: All right. I don't have
25 anything further.

TESTIMONY OF GEORGE RIOUX

1 MR. KNIGHT: May he step down?

2 THE COURT: Thank you, sir. You may step
3 down. You're excused.

4 MR. KNIGHT: That's all the matters that we
5 have on Jackson V. Denno, Your Honor.

6 THE COURT: All right. Thank you.

7 Mr. Mathews, does the Defense wish to offer
8 any evidence on a Jackson V Denno?

9 MR. MATHEWS: No, sir.

10 THE COURT: All right. The statements in
11 question to the extent that there were statements
12 offered to Officer Eltzroth or Carter or Rioux --
13 I'm sorry, he's left and I wanted to ask him
14 another -- and all of the following Miranda rights
15 were given in accordance with the case law and in
16 accordance with our constitution mandates in that
17 regard. They were -- he was fully informed of
18 those rights. I need not recite them again into
19 the record, they've already been recited. He
20 appeared to understand those rights and whatever
21 statements he made were made with the full advice
22 of the rights that he had. Those statements,
23 therefore, are admissible for the Court's -- the
24 jury's determination and their ultimate decision.

25 I am concerned, somewhat, at a portion of the

TESTIMONY OF GEORGE RIOUX

1 video that we just saw. When the female came up
2 to the car and started talking about Mr. Siders'
3 father being ill, apparently dying, that has no
4 evidentiary value and of course is -- I'm not sure
5 whether that intends to be offered for any purpose
6 or not, Mr. Knight, so let me inquire further
7 before I move --

8 MR. KNIGHT: No, sir, I have no problems
9 omitting that portion --

10 THE COURT: Okay.

11 MR. KNIGHT: -- just skipping it when the
12 sister, I believe, came up and then once she
13 leaves turn it back on.

14 THE COURT: Okay. That'll be good.

15 MR. KNIGHT: Thank you, Your Honor.

16 THE COURT: All right. Thank you.

17 Any further motions from the State's
18 perspective?

19 MR. KNIGHT: On this issue or any issue?

20 THE COURT: On any issue.

21 MR. KNIGHT: Well, I have -- I'm trying to
22 save time on this -- I have a video of the robbery
23 itself.

24 THE COURT: Right.

25 MR. MATHEWS: I don't think I'm going to

TESTIMONY OF GEORGE RIOUX

1 object to that, Your Honor, I mean, I'm --

2 MR. KNIGHT: Well, excuse me, David.

3 MR. MATHEWS: I'm sorry.

4 MR. KNIGHT: What I was going to do is when I
5 put my victim up, publish it, everybody's seen the
6 video. Instead of calling two or three witnesses
7 to say I pulled it off the machine, that kind of
8 stuff.

9 MR. MATHEWS: Yeah, I don't have any
10 objection to the chain of custody to any of that,
11 that's fine.

12 THE COURT: All right. Good.

13 MR. MATHEWS: I would make a -- I think
14 probably a -- I normally make a motion to
15 sequester.

16 THE COURT: Right.

17 MR. MATHEWS: I have -- let me see -- Mary
18 Blakely?

19 MR. KNIGHT: Not yet.

20 MR. MATHEWS: Oh, you're here, thank you.
21 Sorry, I didn't speak to you earlier. That would
22 include you too. If I could get you to go to the
23 Defendant's room downstairs if the Judge grants my
24 motion to sequester.

25 MR. KNIGHT: I have no objections to

TESTIMONY OF GEORGE RIOUX

1 sequester.

2 MR. MATHEWS: Okay. And that would -- any of
3 the State's witnesses, any of mine.

4 THE COURT: Okay.

5 MR. MATHEWS: Celestra Rivers? Not in here.
6 Okay. Those are the two witnesses that I had
7 subpoenaed -- oh, three, I don't have Ms. Blakely
8 subpoenaed. But thank you for being here, you got
9 the message. Okay. And let's see. Detective
10 Marcurella, I don't see in here, he's also
11 subpoenaed.

12 THE COURT: Okay.

13 MR. KNIGHT: Yeah, he's subpoenaed by me.

14 MR. MATHEWS: Also, yes.

15 THE COURT: All right. The mutual
16 sequestration, that of all witnesses, that
17 sequestration will go into effect at the
18 conclusion of the opening statements. Of course,
19 you can keep the chief officer in charge of the
20 file and the victim, certainly, can be --

21 MR. KNIGHT: Yes, sir.

22 THE COURT: All right. Does that then
23 conclude all of the preliminary matters that we
24 need to do before we get the jury in and start the
25 trial?

TESTIMONY OF GEORGE RIOUX

1 MR. KNIGHT: One other thing. Can I take a
2 five-minute break to go to the restroom?

3 THE COURT: We can do that. Let's -- let's
4 start back -- first of all, Mr. Mathews, is there
5 anything further from your front?

6 MR. MATHEWS: No, sir.

7 THE COURT: Okay. Let's start back at a
8 quarter of the hour, that's about ten minutes.
9 Let the jury know that we will be ready for them
10 in ten minutes.

11 MR. KNIGHT: Thank you, sir.

12 THE COURT: Okay.

13 (Whereupon, the Jackson v Denno hearing was concluded
14 and a brief recess was taken.)

15 THE COURT: Thank you, folks. You all may be
16 seated. All right, folks, are we ready now for
17 the jury?

18 MR. KNIGHT: Yes, sir, I guess.

19 THE COURT: Mr. Mathews?

20 MR. MATHEWS: Yes.

21 THE COURT: The jury will be brought in.
22 I'll appoint a foreperson and the jury will be
23 sworn. I'll make brief opening comments and then
24 allow brief opening statements from both sides.
25 Bring us the jury, please.

TESTIMONY OF GEORGE RIOUX

1 THE BAILIFF: Yes, sir.

2 (The jury enters the courtroom at 10:50.)

3 MR. KNIGHT: May I approach, Your Honor?

4 THE COURT: Yes, sir.

5 (Off-the-record discussion held.)

6 THE COURT: Mr. Broughton, I've asked you to
7 occupy that chair, sir. I want you to serve as
8 the foreman of the jury. You have been elected by
9 unanimous vote. My vote. All that means is that
10 you'll be the jury spokesperson here in court.
11 When the trial is over you'll be responsible for
12 writing the verdict of the jury, but I'll tell you
13 more about that before you have to do it. But
14 right now all you need to remember is you've got a
15 reserved chair. You'll occupy this chair
16 throughout the trial of the case.

17 Mr. Lyons, Mr. Davis, gentleman, I'm going to
18 ask you just to swap places. You need to sit --
19 as alternate juror you'll be sitting on the back
20 row down there where those two folks are in the
21 red and the lady are. So if y'all could just --

22 THE BAILIFF: Which Mr. Davis, sir?

23 THE COURT: Mr. James G. Davis. Who is
24 Mr. Davis? Okay. And Mr. Lyons, okay.

25 MR. DAVIS: You want me to go to the back?

INTRODUCTORY COMMENT BY THE COURT

1 THE COURT: Yes, sir. Right back there.
2 Right where you were sitting yesterday, as a
3 matter of fact, when you were selected. And the
4 reason you sit there, folks, is because you are
5 the alternate jurors and your role will be to take
6 the place of any of these other jurors if they're
7 not able to stay with us during the trial of the
8 case. And the only reason that you sit there is
9 just so we'll be able to keep you separate and
10 not -- and I don't want to make the mistake of
11 sending you into the jury room at the conclusion
12 of the trial if you don't need to be there. All
13 right. Thank you.

14 The rest of you folks don't have reserved
15 seats, you just got general admission tickets.
16 You got to do the best you can when you come in
17 from time to time. It's always a good idea to do
18 what you did this time, but walk all the way down
19 and not leave an empty seat behind you. Because
20 if you do you're going to see all this shuffling
21 around that's necessary when people step on your
22 feet and it gets kind of painful during the course
23 of the trial.

24 Ladies and gentlemen, you're going to be
25 sworn in now as jurors in the trial of this case.

INTRODUCTORY COMMENT BY THE COURT

1 And I want you to pay attention to the oath that
2 you're about to take. It is a time honored oath.
3 It is an artfully worded oath. But it explains to
4 you very concisely and at the same time very
5 completely what your responsibilities as jurors
6 are going to be in the trial of this case. And
7 I'm going to be reminding you during this trial
8 and after this trial as to what your
9 responsibilities are. So please pay attention to
10 this oath.

11 Madam clerk?

12 THE CLERK: Thank you.

13 Please stand and raise your right-hand. Do
14 you solemnly swear or affirm that you shall truly
15 try and in true deliverance make between the state
16 of South Carolina and accused at the bar and a
17 true verdict give according to the evidence and
18 the laws so help you God?

19 JURORS: I do.

20 THE CLERK: Thank you. You may be seated.

21 THE COURT: Folks, before we begin the trial
22 let me take just a few moments to tell you the
23 procedure that we will be following in this trial,
24 and tell you what your role as jurors will be in
25 this trial.

INTRODUCTORY COMMENT BY THE COURT

1 In just a minute, when I finish talking to
2 you, Mr. Knight on behalf of the State is going to
3 stand before you and is going to make a brief
4 opening statement. And in that opening statement
5 he's going to tell you in something of a preview
6 fashion what this case is all about from the
7 State's point of view. And he may indicate to you
8 some of what the State intends to offer by way of
9 proof in support of the charges that they have
10 brought in these indictments.

11 When Mr. Knight is finished opening the --
12 the statement on behalf of the State, Mr. Mathews
13 on behalf of the Defendant, Mr. Siders, has a
14 right to make an opening statement but he doesn't
15 have any obligation to do that. And I'll tell you
16 why in a few moments.

17 After the opening statements have been made
18 then you'll actually begin to see and hear the
19 presentation of evidence in this case. Evidence
20 for the most part will take the form of testimony
21 of witnesses who will take an oath and sit right
22 here in this chair between you and me and will
23 answer questions that the lawyers for both sides
24 will put to them. Evidence may also take the form
25 of photographs or documents or diagrams or videos.

INTRODUCTORY COMMENT BY THE COURT

1 Those are the sorts of things that can come into
2 evidence in the trial of this case.

3 The State will put in its evidence testimony
4 first. And after the State has put in its
5 evidence and testimony, the Defendant once again
6 has a right to offer evidence and testimony but he
7 is under no obligation to do that.

8 Now, when all the evidence and testimony has
9 been offered, then the lawyers will come back
10 before you and make their closing arguments,
11 closing statements, they're sometimes called. And
12 in those statements they're allowed to summarize
13 the evidence that has been presented to you and to
14 submit to you conclusions that you ought to draw
15 from that evidence, obviously conclusions which
16 support their side of the case.

17 And after the closing statements have been
18 made then I will instruct you as to what the law
19 is in this case, because I am the judge of the
20 law, and I'll tell you what the law is. And then
21 once we've done that, then you will go back to
22 your jury room to deliberate and finally be able
23 to start talking about this case among yourselves
24 and to reach a verdict in this case.

25 I remind you again, as I told you yesterday,

INTRODUCTORY COMMENT BY THE COURT

1 you can't talk about this case among yourselves
2 during this trial. And the reason you can't do
3 that is because it might happen that later in the
4 trial of the case someone might start saying
5 something from the witness stand that's different
6 from the earlier testimony that's been offered.
7 But if you have already started to talk about that
8 earlier testimony, you will have started to make
9 up your mind about the case and you might not
10 receive that later testimony with an open mind.

11 And so we ask that you keep an open mind as
12 well as an open ear throughout the trial of this
13 case. And that's the reason you can't talk about
14 this case among yourselves until you've heard it
15 all. And for the reasons that I made plain to you
16 yesterday you can't talk with anybody else or try
17 to expose yourself to any information about this
18 case from any source outside of this courtroom. I
19 need not belabor that point with you, but I'll
20 remind you of that every time before you leave the
21 courtroom.

22 Now, ladies and gentlemen, the oath that you
23 just took said that you would well and truly try
24 this case and render a true verdict according to
25 the law and the evidence. I've told you that I'm

INTRODUCTORY COMMENT BY THE COURT

1 the judge of the law, you don't have to worry
2 about that. I'll tell you what the law is. But
3 when it comes to the matter of evidence you,
4 ladies and gentlemen, actually act as judges.
5 Those labels say juror, but when it comes to the
6 evidence you are the judges of the evidence. You
7 have to determine the truthfulness of the evidence
8 and testimony that is offered in the trial of this
9 case. You've got the right to believe what you
10 hear, disbelieve it, believe some of it,
11 disbelieve the others; that is your role as
12 jurors.

13 And you're well-equipped to do that because
14 you have to find the truth in this case, and you
15 use the same qualities that you use every day
16 outside of this courtroom in your everyday life.
17 Ever since you've been able to make decisions on
18 your own you've been deciding what the truth of
19 the matter is. And you do that by using your
20 common sense and your sense of logic and reason
21 and your experiences in life.

22 And those abilities that you use everyday in
23 raising your family, in doing your job and just
24 getting through life are the same abilities that
25 we ask you to use in this courtroom. And if you

INTRODUCTORY COMMENT BY THE COURT

1 do that you'll be able to decide what the truth of
2 this case is.

3 Once you decide what the truth of the case is
4 you will apply the law that I give you to the
5 truth that you find. And those two things will
6 come together to reach a verdict which will speak
7 the truth of this case.

8 Finally, I told you early on that the
9 Defendant in this case does not have to offer
10 evidence or testimony or make an opening statement
11 if he chooses not to do so. Because as you know,
12 the Defendant has pled not guilty to the charges
13 of these indictments. And under our law when
14 someone pleads not guilty to the charges in a
15 criminal case, that person is presumed in law to
16 be innocent of those charges. He is presumed to
17 be not guilty.

18 You've heard that phrase all of your life,
19 innocent until proven guilty, I'm sure. Well,
20 that's what we're talking about here. Innocent
21 until proven guilty. There's nothing in that
22 phrase that says that innocence has to be proven.
23 The statement is innocent until proven guilty.
24 And so it's guilt that has to be proven, not
25 innocence. That means that the Defendant doesn't

INTRODUCTORY COMMENT BY THE COURT

1 have to take the stand and try to convince you
2 that he's not guilty of these charges. He doesn't
3 have to bring in other witnesses to try to make
4 you believe that he is not guilty of these
5 charges. He's presumed to be not guilty.

6 And so the burden then is on the State, not
7 just in this case but in every case of this
8 nature, to prove the guilt of a Defendant by
9 evidence that satisfies y'all beyond a reasonable
10 doubt of the guilt of the Defendant. When this
11 trial is over, I'll explain to you in a little bit
12 greater detail what we mean by proof beyond a
13 reasonable doubt. But for our purposes right now
14 at this early stage of the trial let me tell you
15 that proof of a reasonable doubt is proof that
16 leaves you firmly convinced of a Defendant's
17 guilt.

18 And so after you have heard all of the
19 evidence and the testimony in this case if you are
20 firmly convinced that the Defendant is guilty of
21 the charges, then the State will have met its
22 burden of proof and will be entitled to a verdict
23 of guilty. But on the other hand if you, after
24 hearing all of the evidence, if you are not firmly
25 convinced of his guilt, then the State has not met

INTRODUCTORY COMMENT BY THE COURT

1 its burden of proof and the Defendant in that case
2 would be entitled to a verdict of not guilty.

3 So you'll be listening to the evidence and
4 the testimony in the trial of this case. And when
5 it's all said and done, you'll go back and start
6 talking about it among yourselves and you will
7 deliberate this case and you will reach a verdict
8 of we find the Defendant guilty or we find the
9 Defendant not guilty according to your view of the
10 evidence in this case and the law that I will
11 charge you.

12 Thank you, folks, for your attention to these
13 remarks. Now, please listen to the lawyers as
14 they make their opening statements.

15 Mr. Knight?

16 MR. KNIGHT: May it please the court, Your
17 Honor.

18 OPENING STATEMENT BY THE STATE

19 MR. KNIGHT: Mr. Foreman, ladies and
20 gentlemen of the jury, it's three charges: Armed
21 robbery; felonious taking of personal property of
22 another through force, intimidation or armed with
23 a deadly weapon; possession of a weapon in
24 commission of a violent offense. The South
25 Carolina Legislature has defined armed robbery as

OPENING STATEMENT BY THE STATE

1 a violent offense. And kidnapping, that's
2 restraining, confining someone's movement. Okay.
3 The Judge will charge you much better than I just
4 told you about the law.

5 On February 21st, 2014 between 7:15 and 7:30
6 Jurnell Washington, who's going to testify, was
7 working at BP No. 6 on 1825 Wichman Street here in
8 Colleton County. A man walks in, orders -- wants
9 a pack of cigarettes. Ms. Washington turns around
10 to get a cigarette. When she turns back around,
11 he's got a gun and says, Give me your money. He
12 takes the money and leaves the store. Tells her
13 to go in that back room and stay there. Okay. So
14 that's basically what you're going to hear of all
15 the testimony in this case.

16 You're going to hear some videos, three --
17 two videos with law enforcement people talking to
18 the Defendant. He admitted he robbed the store.
19 You're going to see a video of the armed robbery
20 very early in these proceedings. So it's almost
21 as you say, we saw it on television, that's what
22 you're going to see and you're going to hear.
23 You'll also get to see some -- three pieces of
24 evidence, the gun: Cap and a hoodie that the
25 Defendant was wearing at the time of the robbery.

OPENING STATEMENT BY THE STATE

1 All of these events occurring in Colleton
2 County. Understand, the burden's on me to prove
3 to you beyond a reasonable doubt that the
4 Defendant, Albert Siders, the fellow sitting there
5 next to Mr. Mathews, committed the armed robbery,
6 had the weapon and confined and restrained
7 Ms. Washington here in Colleton County.

8 So as you listen closely to all of the
9 testimony, because part of your oath that you took
10 that you would listen, you would look, and more
11 importantly, you would remember. Because at the
12 end of the trial I'm going to ask you to return
13 verdicts of guilty of all three charges. Thank
14 you.

15 THE COURT: Thank you, Mr. Knight.

16 Mr. Mathews?

17 OPENING STATEMENT BY THE DEFENDANT

18 MR. MATHEWS: Mr. Knight, Mr. Foreman, ladies
19 and gentlemen of the jury.

20 I'm David Mathews, and I represent Mr. Albert
21 Siders. He is charged with some very serious
22 charges and I think that when the evidence is
23 considered, one of the things that you'll be asked
24 to consider is not only what happened but why.

25 And Mr. Siders did admit that he had been

OPENING STATEMENT BY THE DEFENDANT

1 involved in this. I don't think there's going to
2 be any question about it. And the State has the
3 burden of going forward and they're going to
4 present evidence, and I -- I don't doubt that
5 you're going to find that he did this.

6 The question is whether this was done as a
7 result of coercion or duress. And you'll have a
8 chance to consider, I hope, the circumstances
9 around what happened and why it happened. And I
10 think when you consider those circumstances you'd
11 find that a reasonable person in Albert's
12 situation would have done what he did.

13 Please listen carefully to all the evidence
14 that comes from that stand, and when you do I'm
15 confident that you will find that Mr. Siders was
16 justified for doing what he did -- or excused.

17 Thank you, Your Honor.

18 THE COURT: Thank you, Mr. Mathews.

19 Mr. Knight, you can call your first witness.

20 MR. KNIGHT: Jurnell Washington.

21 THE COURT: Ms. Washington, come forward
22 please, at this point.

23 MR. MATHEWS: Your Honor, sequestration order
24 in effect.

25 THE COURT: That's right. At this point in

OPENING STATEMENT BY THE DEFENDANT

1 time all of those witnesses other than those who
2 are not subject to the order will be sequestered.

3 (Witnesses leave the courtroom.)

4 Thereupon,

5 JURNELL WASHINGTON

6 was called as a witness, having been first duly sworn,
7 was examined and testified as follows:

8 THE CLERK: Please state your name for the
9 Court.

10 THE WITNESS: Jurnell Washington.

11 DIRECT EXAMINATION

12 BY MR. KNIGHT

13 Q Ms. Washington, where do you live?

14 A [REDACTED] -- in the area of Walterboro.

15 Q Here in Colleton County?

16 A Colleton County.

17 Q Okay. How old are you?

18 A Thirty-two.

19 Q On February the 21st or 2014, where were you
20 employed?

21 A At Short Stop No. 6, 1825 Wichman Street.

22 Q That's here in Colleton County?

23 A Yes, sir.

24 Q Okay. And how long have you been working
25 there?

TESTIMONY OF JURNELL WASHINGTON

1 A I have been with the company for about nine
2 years.

3 Q Were you working on the 21st of February,
4 2014?

5 A Yes, sir.

6 Q What time did you go to work?

7 A At seven.

8 Q At 7:00?

9 A Yes.

10 Q Okay. What happened between 7/7:15 and 7:30?

11 A I went outside to grab some ice so I could
12 put it in the cooler. Took a little quick smoke break.
13 As I was standing outside smoking then Mr. Siders was
14 walking up. We both walked in the store. He asked for
15 a pack of Newports. I set the ice down. I went to get
16 the cigarettes. And then I turned around to get the
17 money from him, that's when he pulled out the gun and
18 asked for the money.

19 Q Did you give him the money?

20 A Yes, sir.

21 Q Approximately how much did you give him?

22 A I believe it was 180.

23 Q \$180?

24 What kind of gun was it?

25 A I'm not sure.

TESTIMONY OF JURNELL WASHINGTON

1 Q A silver gun? Black gun?

2 A It was black.

3 Q Did he point a gun at you?

4 A Yes.

5 Q Were you scared?

6 A Yes.

7 Q Okay. The individual that robbed you on the
8 21st of February of 2014, is he in the courtroom today?

9 A Yes.

10 Q Would you point him out for the jury, please?

11 A Yes. Albert Siders (indicating).

12 Q That is Mr. Siders sitting next to
13 Mr. Mathews?

14 A Yes.

15 Q Okay. What kind of clothes did he have on?

16 A He had a black sweater hat and, like, a gray
17 hoodie.

18 Q Sweater hat look like this (indicating)?

19 A Yes.

20 Q The hoodie look like this (indicating)?

21 A Yes.

22 Q The gun that he pointed at you, did it look
23 like this (indicating)?

24 A Yes.

25 Q Did BP No. 6 have a video working at its

TESTIMONY OF JURNELL WASHINGTON

1 store?

2 A Yes, sir.

3 Q Okay. Have you seen the video?

4 A Yes.

5 Q Okay.

6 MR. KNIGHT: Your Honor, State's Exhibit 4 I
7 would move to publish it with stipulation by
8 Mr. Mathews.

9 THE COURT: I understand without objection to
10 State's 4?

11 MR. MATHEWS: Your Honor, for brevity, we
12 have no objection to the other exhibits either.

13 THE COURT: Okay. Thank you very much.

14 *(Whereupon, State's Exhibit No(s). 4 marked*
15 *for identification and received in evidence.)*

16 (Video playing)

17 BY MR. KNIGHT:

18 Q Ms. Washington, was that you just walking out
19 the store?

20 A Yes.

21 (Played first video without sound. And then played overhead
22 video with sound. And then third video played is from camera on
23 the opposite side of the store without sound. The fourth video
24 played is from camera 6 from the store parking lot without
25 sound.)

TESTIMONY OF JURNELL WASHINGTON

1 MR. KNIGHT: The State would offer State's
2 Exhibit Number 5 into evidence without objection.

3 *(Whereupon, State's Exhibit No(s). 5 marked*
4 *for identification and received in evidence.)*

5 THE COURT: Without objection, thank you.

6 MR. KNIGHT: The State's Exhibit Number 6,
7 which is the hoodie, a gray hoodie.

8 THE COURT: Without objection?

9 *(Whereupon, State's Exhibit No(s). 6 marked*
10 *for identification and received in evidence.)*

11 MR. KNIGHT: And State's Exhibit Number 7,
12 the pistol without objection.

13 *(Whereupon, State's Exhibit No(s). 7 marked*
14 *for identification and received in evidence.)*

15 THE COURT: Thank you. All right. Five, six
16 and seven in evidence.

17 BY MR. KNIGHT:

18 Q Ms. Washington, all those which you just saw
19 in the video, that was you?

20 A Yes.

21 Q And in Video 1 or 2, whichever one, why did
22 you go into this back room?

23 A He asked me to. He told me to.

24 Q Told you to go into the back room?

25 A Yes.

TESTIMONY OF JURNELL WASHINGTON

1 Q He had the gun out at that time?

2 A I believe he still did have it out.

3 Q The last video we showed, you were outside by
4 the ice machine or box, whatever you call it, correct?

5 A Yes.

6 Q Did you see Mr. Siders, this fellow you just
7 pointed out that robbed you, he come up with anybody?

8 A No, he come up by hisself.

9 Q By hisself?

10 And it was a bright morning?

11 A Yes.

12 Q Nothing was -- anything obstructing your view
13 from seeing him when he came up?

14 A No, sir.

15 MR. KNIGHT: If the Court could indulge me
16 one moment?

17 THE COURT: Yes, sir.

18 BY MR. KNIGHT:

19 Q Did you feel you were free to leave that
20 store after he pointed a gun at you and told you to go
21 to the back room?

22 A No, sir.

23 MR. MATHEWS: Okay. Answer any questions

24 Mr. Mathews may have.

25 THE COURT: Mr. Mathews, you may cross

TESTIMONY OF JURNELL WASHINGTON

1 examination.

2 CROSS EXAMINATION

3 BY MR. MATHEWS:

4 Q Ms. Washington, I know that you don't like
5 being here today, and I'm sorry that you have to be.

6 You called 9-1-1 right after that
7 happened?

8 A Yes.

9 Q Okay. And he didn't take your cell phone,
10 did he?

11 A No.

12 Q When you called 9-1-1, you told them that
13 you'd just been robbed and that you don't know whether
14 he left driving or walking; is that correct?

15 A Yes.

16 Q Okay.

17 MR. MATHEWS: I don't have anything further.

18 THE COURT: Thank you.

19 Redirect, Mr. Knight?

20 MR. KNIGHT: No, sir, that's all I have.

21 THE COURT: Thank you. Ms. Washington, you
22 may step down. Thank you, ma'am.

23 MR. KNIGHT: She may be excused, Your Honor,
24 if she wishes?

25 THE COURT: Ms. Washington, you may be

TESTIMONY OF JURNELL WASHINGTON

1 excused right now.

2 THE WITNESS: Thank you.

3 MR. KNIGHT: Thank you.

4 Delanty Langenfeld.

5 THE COURT: Ladies and gentlemen, the
6 witnesses in this trial are sequestered, that
7 means that they are not in the courtroom so we
8 have to get the witness each time one is called.

9 Thereupon,

10 DELANTY LANGENFELD

11 was called as a witness, having been first duly sworn,
12 was examined and testified as follows:

13 DIRECT EXAMINATION

14 THE CLERK: Please state your name for the
15 Court's record.

16 WITNESS: Corporal Langenfeld.

17 BY MR. KNIGHT:

18 Q Corporal Langenfeld, who are you employed
19 with?

20 A Colleton County Sheriff's Office.

21 Q And how long have you been employed with the
22 sheriff's department?

23 A Going on about three years.

24 Q And before that you were employed with?

25 A Ridgeland Police Department and Walterboro

TESTIMONY OF DELANTY LANGENFELD

1 and Jackson County Sheriff's Office.

2 Q So how long have you been in law enforcement?

3 A Going on about ten years.

4 Q On or about February the 21st, 2014, were you
5 on duty?

6 A Yes, sir.

7 Q I assume you were dressed like you are now?

8 A Yes, sir.

9 Q Did you have an occasion to respond to
10 1825 Wichman Street?

11 A Yes, I did respond there.

12 Q And why did you respond there?

13 A Why, it was in reference to an armed robbery.

14 Q Okay. And did you go in the store?

15 A I went inside after I arrived on the scene.

16 Q And who did you talk with?

17 A I talked to an attendant, it was a young
18 lady, black female. I believe her name -- her name was
19 in the report. I forgot what her name was right off of
20 the top of my head.

21 Q Jurnell Washington?

22 A Yes, that's actually her name.

23 Q And did she give you a description of the
24 robber?

25 A Yes, she did.

TESTIMONY OF DELANTY LANGENFELD

1 Q Okay. And what were your observations of
2 Ms. Washington?

3 A She was crying. She looked scared. She was
4 shaking. When I was trying to get a statement from her
5 in the beginning, I pretty much had to say, you know,
6 hey, I'll -- just give me a second -- or I'll give you
7 a second, because she could barely even talk because
8 she was that scared.

9 Q Was that the extent of your involvement in
10 the case?

11 A Pretty much. Until Lieutenant Carter came I
12 just pretty much gave her a voluntary statement. Had
13 her write her statement, and the detective showed up.
14 And she gave me a description of what he was wearing
15 and I BOLO'd it to the responding units.

16 Q Okay. I'll show you State's Exhibit
17 Number 6. Does that look like the description that she
18 gave you?

19 A Yes, sir, that is actually the description.

20 Q And I'll show you State's Exhibit Number 5.
21 Does that look like the description that she give you?

22 A Yes, sir.

23 Q She didn't give you a description of the gun,
24 did she?

25 A No, she didn't.

TESTIMONY OF DELANTY LANGENFELD

1 Q Okay.

2 MR. KNIGHT: You can answer any questions

3 Mr. Mathews may have.

4 THE COURT: Mr. Mathews, cross examine.

5 CROSS EXAMINATION

6 BY MR. MATHEWS:

7 Q Detective Langenfeld, she told you she didn't
8 know whether her assailant left walking or riding; is
9 that correct?

10 A I believe yes, sir, she did tell me that.

11 MR. MATHEWS: Nothing further.

12 THE COURT: Thank you.

13 Redirect?

14 MR. KNIGHT: No, sir. May he step down --
15 may he be excused?

16 THE COURT: Certainly. Corporal Langenfeld,
17 you may be excused. Thank you, sir.

18 Thereupon,

19 NYLE ELTZROTH

20 was called as a witness, having been first duly sworn,
21 was examined and testified as follows:

22 THE CLERK: Please state and spell your name
23 for the Court's record.

24 THE WITNESS: Nyle Eltzroth, last name
25 spelled E-L-T-Z-R-O-T-H.

TESTIMONY OF NYLE ELTZROTH

1 DIRECT EXAMINATION

2 BY MR. KNIGHT:

3 Q Mr. Eltzroth, who are you employed with?

4 A Currently I'm employed with U.S. Federal
5 Probation -- or U.S. Probation.

6 Q And prior to that job -- or this job you have
7 now, who were you employed with?

8 A Colleton County Sheriff's Office.

9 Q And in what capacity?

10 A I was -- started as a detective in
11 January 2013, as investigator in the criminal
12 investigations division.

13 Q Prior to working for the sheriff's office,
14 who were you employed with?

15 A I worked approximately five and a half years
16 for South Carolina Department of Probation, Parole and
17 Pardon Services.

18 Q On or about February the 21st of 2014 you
19 were employed with the sheriff's department?

20 A Yes, sir, that's correct.

21 Q Were you on duty that day?

22 A Yes, sir.

23 Q Did you have an occasion to go to
24 [REDACTED] Peurifoy Road here in Colleton County?

25 A Yes, sir.

TESTIMONY OF NYLE ELTZROTH

1 Q Did you meet with the Defendant, Albert
2 Siders?

3 A Yes, sir.

4 Q Did you Mirandize Mr. Siders?

5 A Yes, sir.

6 Q How did you Mirandize him?

7 A Through a standard Miranda form -- card I
8 have in my wallet.

9 Q Would you pull it out and --

10 A Yes, sir.

11 Q -- repeat to the jury what you read to
12 Mr. Siders?

13 A Will do, yes, sir.

14 On the card it states, "You have the
15 right to remain silent. Anything you say can and will
16 be used against you in a court of law. You have the
17 right to speak to an attorney and to have attorney
18 present during any questioning. If you cannot afford a
19 lawyer, one will be provided for you at government
20 expense. Knowing and understanding your rights as I
21 have explained them to you, are you willing to the
22 answer my questions without an attorney present?"

23 Q In your opinion, did Mr. Siders understand
24 those rights?

25 A Yes, sir. He stated verbally that he

TESTIMONY OF NYLE ELTZROTH

1 understood his rights.

2 Q Did you force him, threaten him or intimidate
3 him to make a statement to you?

4 A No, sir.

5 Q Did you make any promises to Mr. Siders if
6 he'd -- if he would give you a statement?

7 A No, sir.

8 Q Did Mr. Siders, in fact, talk with you?

9 A Yes, sir, he waived his right to an attorney.

10 Q What, if anything, did he tell you?

11 A I asked Mr. Siders if he is back on narcotics
12 and he stated yes -- well, specifically, crack
13 cocaine -- he stated, yes, he's been back using and he
14 messed up. He said, Mr. Nyle, I messed up, I messed
15 up. And then when he was escorted to the patrol
16 vehicle, I went and asked him -- reminded him that he
17 was still under his rights, with his rights in mind was
18 he willing to provide me a consent to search the
19 vehicle for the gun that he stated was in there. Had
20 then proceeded to say it's not a gun, it's a BB gun. I
21 said, well, are you willing to provide consent to
22 retrieve the item that you used, and he said, yes.

23 Q Did you go search to find that --

24 A I did not --

25 Q -- weapon?

TESTIMONY OF NYLE ELTZROTH

1 A -- specifically search the vehicle. I
2 advised other detectives on scene that he did provide
3 verbal consent to search the vehicle.

4 Q Okay. Did Mr. Siders tell you anything else
5 about any other woman?

6 A On the scene who -- the first person that
7 came out of the residence was a female, I do not recall
8 her name. Then Mr. Siders came out. It was a -- what
9 was described to me as an acquaintance that he had
10 picked up earlier after the incident, and his wife
11 was -- came on scene and, obviously, was upset. So I
12 took the female to where she was staying at Friendly
13 Inn up here on Jefferies.

14 Q And that was your extent of involvement with
15 Mr. Siders that particular morning, right?

16 A Yes, sir.

17 Q Okay. Didn't Mr. Siders later make a request
18 to talk with you?

19 A I can't recall specifically if it was a
20 written request. If it was, I probably turned it over
21 to the case officer. But we're not required to speak
22 to them. However, I did, briefly, speak with
23 Mr. Siders at the holding cell at the jail. But,
24 obviously, not about the case, because he was not in --
25 right -- he didn't waive his right to an attorney.

TESTIMONY OF NYLE ELTZROTH

1 Q So was that your extent in this case?

2 A Yes, sir.

3 MR. KNIGHT: Answer any questions Mr. Mathews
4 may have.

5 THE COURT: Mr. Mathews, cross examine?

6 MR. MATHEWS: Thank you, Your Honor.

7 CROSS EXAMINATION

8 MR. MATHEWS:

9 Q I'm going to call you Detective Eltzroth,
10 because that's the -- your capacity you were working in
11 at that time.

12 A Yes, sir.

13 Q You say he wanted to speak with you at the
14 jail?

15 A He mentioned -- I can't recall specifically,
16 but if I recall, he did make additional request to
17 speak.

18 Q Okay. Both in writing and also at the jail
19 when you said -- I think you just testified that he had
20 not been re-Mirandized, so you didn't feel free to talk
21 to him?

22 A After the arrest and bond hearing the only
23 way we're able to talk to an individual is on --
24 especially the Defendant, is if he writes a written
25 request to specifically talk to us without an attorney

TESTIMONY OF NYLE ELTZROTH

1 present or something like that, then we can talk to
2 him. But we don't always necessarily talk to him.

3 Q Okay. But he'd made the written request
4 also?

5 A If I recall correctly, yes, sir.

6 Q Okay. And you knew Mr. Siders in your
7 capacity as a probation agent, correct?

8 A Yes, sir, that's correct.

9 Q Okay. And he trusted you. He talked about
10 his drug addiction with you in some detail during the
11 time you supervised him?

12 A Yes, sir, I always treat every individual
13 with respect and they gave it back.

14 Q Okay. And so sometimes people would talk to
15 you and they wouldn't talk to other folks because they
16 trusted you?

17 A I -- I would assume so. I can't say
18 specifically yes.

19 Q Okay. All right. And when you got the
20 request, you just handed it over to Detective Carter or
21 whoever was the case detective at that time?

22 A Yes, sir.

23 Q Okay. Drug addiction is a pretty awful
24 thing, isn't it?

25 A I would guess you could say that, yes, sir.

TESTIMONY OF NYLE ELTZROTH

1 Q Okay. I mean, that's -- that's a -- okay --
2 how long had you known Mr. Siders?

3 A I can't say specifically of when I started
4 supervising him, but probably -- I'd say maybe 2012.

5 Q All right. And when you told somebody -- you
6 earned that trust from him because if you made a
7 promise to him, you kept it?

8 A Well, I was always a man of my word. I
9 didn't say I made, necessarily, a promise. But if I
10 said I was going to do something, I followed up with
11 it.

12 Q Okay.

13 MR. MATHEWS: All right. Nothing further,
14 Your Honor.

15 THE COURT: Thank you. Redirect, Mr. Knight?

16 MR. KNIGHT: No, sir, that's all I have. May
17 he be excused and be allowed to return to
18 Florence?

19 THE COURT: Mr. Eltzroth, good to see you.

20 MR. KNIGHT: Reuben Carter.

21 Thereupon,

22 REUBEN CARTER

23 was called as a witness, having been first duly sworn,
24 was examined and testified as follows:

25 THE CLERK: Please state your name for the

TESTIMONY OF REUBEN CARTER

1 Court.

2 THE WITNESS: Reuben Carter.

3 DIRECT EXAMINATION

4 BY MR. KNIGHT:

5 Q Mr. Carter, who are you employed with, sir?

6 A Colleton County Sheriff's Office.

7 Q In what capacity, sir?

8 A Lieutenant over criminal investigations.

9 Q And how long have you been in law
10 enforcement?

11 A I've been in law enforcement over 17 years.

12 Q And you've been employed with the sheriff's
13 office how long, the whole 17?

14 A My whole career's been at sheriff's office,
15 yes, sir.

16 Q All right. Were you on duty on or about
17 February the 21st, 2014?

18 A I was, sir.

19 Q Did you have an occasion to meet with Albert
20 Siders?

21 A I did.

22 Q And do you recall what time of day it was?

23 A It was after lunch. I'm going to say
24 1:30/2:00 range.

25 Q Okay. And this was at the annex?

TESTIMONY OF REUBEN CARTER

1 A Yes, the Colleton County Sheriff's Office
2 annex.

3 Q Okay. And you wanted to talk with him?

4 A Yes.

5 Q Okay. Sir, okay. I'll ask if you can
6 identify what's been marked as State's Exhibit
7 Number 3.

8 A Yes, sir.

9 Q What is that?

10 A That is a copy of the sheriff's office
11 Miranda form that was read and Mr. Siders signed that
12 he understood his Miranda rights.

13 MR. MATHEWS: Without objection.

14 MR. KNIGHT: The State moves State's Exhibit
15 Number 3 into evidence without objection, Your
16 Honor.

17 THE COURT: Thank you. Without objection 3
18 is in evidence.

19 BY MR. KNIGHT:

20 Q Would you read to the jury what you read to
21 Mr. Siders on or about February the 21st, 2014?

22 A Yes, sir. This is a form that we do at the
23 beginning of any interview of Defendant or suspect we
24 suspect of a crime. It's to -- it's got their name,
25 address and demographics, age, date of birth, social.

TESTIMONY OF REUBEN CARTER

1 And then under that it says, Miranda rights and No. 1
2 is "I have the right to remain silent." No. 2 is
3 "anything you say can and will be used against you in a
4 court of law." No. 3, "You have the right to talk to a
5 lawyer and have him present with you while you're being
6 questioned." No. 4, "If you cannot afford to hire a
7 lawyer, one will be appointed to represent you before
8 being questioned." No. 5, "You can decide at any time
9 to exercise these rights and answer any questions or
10 make any statements."

11 Then at this time we have the person
12 we're interviewing initial beside one through five,
13 which Mr. Siders did, and sign it at the bottom of that
14 statement that he understood what was just read to him.
15 Then the bottom is waiver of rights and it says, "I have
16 read or have had read to me the above statements, my
17 rights and understand each of these rights. Having
18 those rights in mind, I waive them and am willing to
19 make a statement." And then it's got a line for the
20 person we're interviewing to sign that he understood --
21 understands those and waives his rights and is willing
22 to speak to us without an attorney.

23 Q Was he willing to talk to you?

24 A Yes, sir.

25 Q Did you force him, threaten him, intimidate

TESTIMONY OF REUBEN CARTER

1 him to make him give you a statement?

2 A No, sir.

3 Q Did you make him any promises?

4 A No, sir.

5 Q Do you think he understood everything you
6 were reading on the Miranda rights?

7 A He signed and indicated he did.

8 Q Was this interview also videotaped?

9 A Yes, it was video and audio.

10 Q I'll show you State's Exhibit Number 1 and
11 ask if you can identify it, sir?

12 A Yes, sir.

13 Q What is that?

14 A This is a CD of a copy of the interview of
15 Mr. Siders.

16 MR. MATHEWS: Without objection.

17 MR. KNIGHT: The State would move State's
18 Exhibit Number 1 into evidence without objection.

19 THE COURT: Thank you.

20 MR. KNIGHT: At this time, Your Honor, I
21 would like to publish --

22 THE COURT: Yes, sir.

23 MR. KNIGHT: -- with assistance of Ms. Rizer.

24 THE COURT: Ms. Rizer, thank you.

25 (Video played.)

TESTIMONY OF REUBEN CARTER

1 BY MR. KNIGHT:

2 Q Mr. Carter, is that a red hoodie he has on?

3 A Yes, sir, at that time it is.

4 (Video played.)

5 BY MR. KNIGHT:

6 Q Other than what's recorded on the video, did

7 Mr. Siders make any other statements to you?

8 A Not to me, no, sir.

9 MR. KNIGHT: If the Court will indulge me one
10 moment?

11 THE COURT: Yes, sir.

12 (Pause.)

13 MR. KNIGHT: Answer any questions Mr. Mathews
14 may ask.

15 THE COURT: Mr. Mathews, ready?

16 CROSS EXAMINATION

17 BY MR. MATHEWS:

18 Q Detective Carter, you never had any dealings
19 with Mr. Siders before that day?

20 A No, not that I can recall, sir.

21 Q So no relationship or anything like that?

22 A No, sir.

23 Q Okay. And he told you that they already had
24 the gun?

25 A Yes, sir.

TESTIMONY OF REUBEN CARTER

1 Q In fact, you knew that Albert had already
2 told Nyle where it was, right?

3 A Yes.

4 Q Okay. And by the time that you had talked to
5 him he had talked briefly to Detective Eltzroth and
6 also Officer Rioux?

7 A Yes.

8 Q Okay.

9 A At that time I did not know the extent of
10 their conversations, but I know I knew that they had
11 spoken with him.

12 MR. MATHEWS: Okay. All right. Nothing
13 further.

14 THE COURT: Thank you.

15 Redirect, Mr. Knight?

16 MR. KNIGHT: No, sir, may he stand down?

17 THE COURT: Certainly. Go ahead and step
18 down.

19 MR. KNIGHT: Your Honor, can we take like a
20 ten-minute break?

21 THE COURT: Okay. Let's do -- we'll do that.
22 Folks, we'll take a break until about 12:00, so
23 that's a little bit more than ten minutes. We'll
24 get you back out here and resume the trial at that
25 time. Please don't talk about the case with

TESTIMONY OF REUBEN CARTER

1 anyone. Thank you.

2 (Recess taken.)

3 MR. KNIGHT: George Rioux.

4 Thereupon,

5 GEORGE RIOUX

6 was called as a witness, having been first duly sworn,

7 was examined and testified as follows:

8 THE CLERK: Please state your name for the
9 Court.

10 THE WITNESS: George Rioux.

11 DIRECT EXAMINATION

12 MR. KNIGHT:

13 Q George, who are you employed with now?

14 A The Town of Port Royal Police Department.

15 Q How long have you been employed with Port
16 Royal?

17 A Since November of 2014.

18 Q Prior to that, who were you employed with?

19 A Colleton County Sheriff's Office.

20 Q And how many years have you been employed in
21 law enforcement?

22 A This will be my ninth year in law
23 enforcement, sir.

24 Q Were you working for Colleton County on
25 February the 21st of 2014?

TESTIMONY OF GEORGE RIOUX

1 A Yes, sir, I was.

2 Q Did you receive information that led you to
3 Albert Siders --

4 A Yes, sir, I did.

5 Q -- as a suspect in an armed robbery at
6 1825 Wichman Street?

7 A Yes, sir.

8 Q Did you observe the store video?

9 A I did, from Sergeant Carter and then
10 investigations.

11 Q Okay. And did you receive information that
12 identified Albert Siders as a person in that video?

13 A I did. I believe Sergeant Lawson had also,
14 at that time he was my supervisor, he had sent me a
15 text message which I believe was like a still shot of
16 the video.

17 Q What, if anything, once Albert Siders was
18 identified, did you do?

19 A At that time I had access to the, like,
20 Department of Motor Vehicles online files. So I
21 accessed their files and pulled up a photo of
22 Mr. Albert Siders, which in turn matched the photo that
23 was sent to me by Sergeant Lawson, I believe it was.
24 And it was the same photo that Sergeant Carter had
25 showed me, and then I observed the address on the

TESTIMONY OF GEORGE RIOUX

1 driver's license, I believe was [REDACTED] Peurifoy Road.

2 Q Let me ask you if you can identify this,
3 please?

4 A Yes, sir. This is a copy of the surveillance
5 video.

6 MR. MATHEWS: No objection.

7 MR. KNIGHT: Move this into evidence, Your
8 Honor, as State's Number 8.

9 MR. MATHEWS: No objection to State's
10 Exhibit.

11 *(Whereupon, State's Exhibit No(s). 8 marked*
12 *for identification and received in evidence.)*

13 BY MR. KNIGHT:

14 Q I'll show you State's Exhibit Number 8 which
15 is in evidence, and this is the photograph that was
16 shown to you?

17 A Yes, sir, from Sergeant Carter.

18 Q After you saw that you went to the DMV?

19 A Yes, sir.

20 Q And what did you observe on the DMV?

21 A The photograph and an address.

22 Q Photograph of the person that's shown in
23 State's Exhibit No. --

24 A Eight.

25 Q -- 8?

TESTIMONY OF GEORGE RIOUX

1 A Yes, sir.

2 Q The same person?

3 A Yes, sir.

4 Q Did you get an address?

5 A I did, sir.

6 Q Did you go to that address?

7 A Yes, sir, I did.

8 Q Upon arrival at [REDACTED] Peurifoy Road here in
9 Colleton County what, if anything, did you observe?

10 A I observed there was a vehicle behind --
11 parked behind the residence. As I pulled up -- I
12 pulled up, I approached the rear of the residence. I
13 observed at that time two unknown black females
14 standing side by side, and one of them was removing the
15 rear license plate from, I believe, it was a silver
16 Chevrolet HHR.

17 Q Was that the same Chevrolet HHR that you
18 identified through DMV?

19 A If I can refer to my report?

20 Q Yes, sir.

21 A Yes, sir, I believe so. Yes, sir, that was.

22 Q That was the vehicle that was registered to
23 Mr. Siders, the Defendant?

24 A I don't believe it was registered to him. It
25 was registered to the address of [REDACTED].

TESTIMONY OF GEORGE RIOUX

1 Q Okay. What was the next thing you observed
2 while you were there?

3 A Actually, just the two females removing the
4 license plate. At that time is when I contacted the
5 officers via radio and requested assistance at that
6 residence.

7 Q Did you meet up with, at that time,
8 Investigator Nyle Eltzroth?

9 A Yes, sir, I did.

10 Q What, if anything, did you observe or hear
11 between Detective Eltzroth and the Defendant?

12 A They were in front of the residence and
13 Detective Eltzroth read him his Miranda rights and
14 advised him he was going to be questioning him in
15 reference to an incident that occurred that morning.

16 Q At that time did you take the Defendant,
17 Mr. Siders, into custody?

18 A He was handcuffed and he was transported to
19 my patrol car and he was placed in the rear of my
20 patrol car with my in-car camera activated.

21 Q Okay. Ask you if you can identify State's
22 Exhibit Number 2?

23 A Yes, sir. This is a copy of my in-car video
24 from the date and time in question.

25 Q How did you know it's yours?

TESTIMONY OF GEORGE RIOUX

1 A I initialed it and dated it after reviewing
2 it.

3 MR. KNIGHT: The State moves State's Exhibit
4 Number 2 into evidence.

5 MR. MATHEWS: Without objection, Your Honor.

6 THE COURT: State's Exhibit 2.

7 MR. KNIGHT: Your Honor, at this time I would
8 like to publish it with the assistance of
9 Ms. Rizer.

10 (Video played.)

11 MR. KNIGHT: Your Honor, could we excuse the
12 jury for a second?

13 THE COURT: All right. Ladies and gentlemen,
14 if you'll step into the jury room for a moment.

15 (The jury exits the courtroom.)

16 THE COURT: All right.

17 MR. KNIGHT: What I was trying to do is be
18 cautious because according to my calculations at
19 1422 is when the sister came up and started making
20 all --

21 MR. MATHEWS: It's already happened, but I
22 don't think that it's -- she's there now and she's
23 the one talking at this point. But I don't think
24 the -- I don't think the damage is too bad if we
25 stop it now.

COLLOQUY

1 MR. KNIGHT: Well, but he's got some more --
2 he has more things to say to George about the gun.

3 MR. MATHEWS: Okay. Well --

4 MR. KNIGHT: Now, I don't want to --

5 MR. MATHEWS: -- it was kind of muddled, but
6 I think it was already said but -- yes.

7 THE COURT: The main thing we want to make
8 sure is we skip -- the sister's ongoing comments
9 are not a part of the dialogue.

10 MR. KNIGHT: Correct. That's what I'm trying
11 to avoid.

12 MR. MATHEWS: She's there now, I mean, she's
13 saying your daddy's dying. She's said that
14 already.

15 THE COURT: She has, and I'm prepared to
16 instruct the jury that that's -- obviously, they
17 can't take that into account. That doesn't have
18 anything to do with these -- what they're doing
19 about that's --

20 MR. MATHEWS: Your Honor, I just as soon just
21 play it though, just as long as they don't play
22 more of that. I don't want to draw more attention
23 to it.

24 THE COURT: That's -- that's a good idea.

25 MR. KNIGHT: Let me ask Mr. -- Anything else?

COLLOQUY

1 Did he make any other statements?

2 THE WITNESS: Yes. The problem with the
3 video is there's two windows open on L3, that's
4 why they're playing back to back. One is ahead of
5 the other one. One needs to be exited out. I'm
6 very familiar with the L3, that's the problem.

7 MR. KNIGHT: With the permission of the
8 Court, may he come down and straighten it out?

9 THE COURT: Yeah, if you'll be --

10 MR. KNIGHT: I'm just trying to avoid what we
11 agreed we should have done.

12 THE COURT: Right.

13 (Pause.)

14 (The jury enters the courtroom.)

15 THE COURT: Folks, thank you for your
16 patience. There was some extraneous comments on
17 the video that didn't have anything to do with
18 this case and we were simply trying to make sure
19 that you were able to focus on what was important
20 or what is relevant, I should say, You have to
21 decide what is important. But what's relevant to
22 you, to the issues that you have to decide. And
23 so they've gone back and located the timer on the
24 tape, there's a counter on there. And so that can
25 be shown to you now, I think, in a clear and

COLLOQUY

1 uninterrupted fashion. Thank you.

2 (Video played.) Time is now 12:40 p.m.

3 MR. KNIGHT: If the Court will indulge me one
4 moment, I think that's it.

5 (Pause.)

6 MR. KNIGHT: Answer any questions Mr. Mathews
7 may have.

8 THE WITNESS: Yes, sir.

9 THE COURT: Mr. Mathews?

10 MR. MATHEWS: No questions.

11 THE COURT: Thank you.

12 Mr. Rioux, you can step down. Thank you for
13 your time, sir.

14 THE WITNESS: Thank you, sir.

15 MR. KNIGHT: May he be excused and go back to
16 Port Royal, Your Honor?

17 THE COURT: Without objection?

18 MR. MATHEWS: No objection, Your Honor.

19 THE COURT: Yes, sir, you can head back to
20 Port Royal.

21 THE WITNESS: Thank you.

22 THE COURT: Do you have a short witness we
23 can work in before 1, or is the next witness going
24 to be lengthy?

25 MR. KNIGHT: No, sir. Why don't we just

COLLOQUY

1 break now?

2 THE COURT: All right.

3 MR. KNIGHT: And go to lunch and come back,
4 and I'll make a decision what witnesses and how
5 long they will be so I could advise the Court.

6 THE COURT: All right. Folks, we'll take our
7 lunch break now. I'd ask that you be back in the
8 jury room at 2:00, that's a little more than an
9 hour and fifteen minutes, which is what we
10 normally try to take. But that's an easy time to
11 remember. Be back in the jury room at 2:00, and
12 remember that you're not to discuss this case
13 among yourselves or with anybody else while you're
14 at lunch. Thank you.

15 (Jury exits.)

16 THE COURT: Mr. Knight, you seem to be moving
17 along at a pace here. You think you might be able
18 to finish your case this afternoon?

19 MR. KNIGHT: Oh, yes. As a matter of fact,
20 I'm going back during the lunch hour -- I just may
21 rest when we come back.

22 THE COURT: Okay.

23 MR. KNIGHT: I think that we've got all of
24 the evidence. I'm going to check with her and
25 make sure I've got all my evidence in.

COLLOQUY

1 THE COURT: Right.

2 MR. KNIGHT: Then I'll tell the Court. I
3 apologize about the video. I was trying to
4 anticipate --

5 THE COURT: Well, if -- I think the problem
6 was when we skipped from one camera to the other.
7 We could see it in the first camera, but you
8 couldn't see it coming in the second and I was
9 worried about that, but I didn't know the timing
10 on it. I think that no harm was done, really. It
11 was a distraction, but it was -- didn't appear to
12 be culpatory. So in any event -- so -- and with
13 that, Mr. Mathews, you are on notice you might
14 need to be ready after lunch.

15 MR. MATHEWS: I'm ready as long as my
16 witnesses show up. One has been -- already showed
17 up, the other two if you could make sure that
18 Officer Marcurella shows up.

19 MR. KNIGHT: He's here.

20 MR. MATHEWS: He's here, okay.

21 THE COURT: All right, good. Then if you all
22 at the end of the lunch break have any proposed
23 charges that you want to present to me, I'll be
24 glad to consider those. I've looked at the charge
25 on duress from State versus Benjamin and a couple

COLLOQUY

1 of other cases that cite that area of law. I'll
2 be glad to hear or to look at anything else you
3 might have on that issue or any other issue.

4 MR. MATHEWS: That would be the only one that
5 I could anticipate.

6 MR. KNIGHT: Yeah, Your -- I'm sorry.

7 MR. MATHEWS: No, that's it.

8 MR. KNIGHT: We will have an issue in the
9 event the Defendant decides to testify. You heard
10 him yesterday on the in-camera matter. He talks
11 about life without parole if he's convicted.

12 THE COURT: Right, yeah.

13 MR. KNIGHT: If he testifies to that, there's
14 no way the State can get a fair trial in front of
15 this jury.

16 THE COURT: Right.

17 MR. MATHEWS: I agree that he shouldn't be --
18 but I'm certainly not going to ask him about that.
19 And it, you know, I don't think it has any -- it
20 has a bearing -- well, you know, that's kind of
21 complicated, because obviously it has something to
22 do with the duress. But I think probably the
23 thing he more feared was the immediate threat of
24 being killed. So I will -- it's enough that he
25 can be set up for armed robbery as far as that

COLLOQUY

1 goes, and I don't think that the jury needs to
2 hear about life without parole in order to make
3 that point.

4 THE COURT: I agree. And it's hard to tell
5 what the jury would do with that, but certainly
6 they -- they shouldn't hear it in the first place.
7 It would be hard to tell whether it would hurt or
8 help a duress, you know, if -- if he's confronted
9 with a chance of getting shot by these folks or a
10 chance of going to jail for life if he does this
11 and is convicted. Could make a good argument
12 that's a good reason for him not to do it. But
13 nonetheless -- but the best thing to do is leave
14 it out entirely.

15 MR. MATHEWS: Yes, sir. I agree.

16 MR. KNIGHT: Thank you, Your Honor.

17 THE COURT: All right. 2:00 folks.

18 (Lunch recess.)
19
20
21
22
23
24
25

COLLOQUY

1

2 CERTIFICATE

3

4 STATE OF SOUTH CAROLINA:

5 COUNTY OF BEAUFORT:

6 I, MONA L. MANLEY, Court Reporter, certify that I was
7 authorized to and did stenographically report the foregoing
8 proceedings and that the transcript is a true and complete record
9 of my stenographic notes.

8

DATED this 22nd day of September, 2015.

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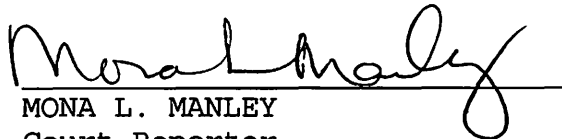
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TITLE PAGE

1 In the Court of General Sessions for the
2 State of South Carolina, County of Colleton

3

4 Case No.: 2014-GS-15-00242

5 State of South Carolina

6 Plaintiff(s),

7 vs. **Transcript of Record**

8 Albert E. Siders,

9 Defendant(s).

10

11

12 VOLUME 4

13 TRIAL TRANSCRIPT

14

15

16 April 21, 2015

17 Walterboro, South Carolina

18

19

20

21

22 BEFORE:

23 The Honorable THOMAS W. Cooper, Jr.

24

25

APPEARANCE PAGE

1

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COLLOQUY

1 PROCEEDINGS

2 THE COURT: Mr. Knight. You were going to
3 decide during the lunch hour?

4 MR. KNIGHT: Yes, the State is going to rest
5 when the jury comes back in.

6 THE COURT: Okay. Can we proceed now, given
7 that notice, Mr. Mathews, to deal with the Rule 19
8 motions so we don't have to send the jury back
9 out?

10 MR. MATHEWS: Yes, sir, and we have one other
11 matter too.

12 THE COURT: Okay.

13 MR. KNIGHT: Several matters.

14 MR. MATHEWS: Okay. One of them. As far as
15 the Rule 19, I think that there's plenty of
16 evidence to convict him at this point. I know
17 that as a matter of form generally we do that.
18 But I think that at this point there's a whole lot
19 of evidence to convict him of what he's charged
20 with, but for the record I'll go ahead and make
21 the motion.

22 THE COURT: I agree with you. The testimony
23 of the cashier, the testimony of Mr. Siders
24 himself, the videotape, all of that is --
25 certainly rises to the level of direct or

COLLOQUY

1 substantial circumstantial evidence, which if the
2 jury chose to believe, it would result in a
3 conviction. And for that the reason I will not
4 grant a motion for directed verdict.

5 MR. MATHEWS: Thank you. The next thing
6 would be, I anticipate that the State may argue,
7 We are just now hearing about the defense of
8 coercion. If that's not the case, that's fine.
9 But if they do argue that, one of the things
10 Mr. Siders sent out letters, actually I think this
11 was -- maybe this was just to me. But in June of
12 2014 sent a letter that basically mirrored what he
13 mentioned to the Court before we got started.

14 I mean, I don't know that Albert knows how to
15 say anything briefly. And this letter didn't say
16 anything briefly. It is a 20-page letter to Judge
17 Norton, who promptly sent it to me, to Isaac
18 McDuffie Stone the III, and to Albert, and to
19 Judge Buckner. So, actually the world knew by the
20 end of June that this was his defense, as far as
21 that goes. In the event that there is some
22 mention -- and I understand that Mr. Knight has a
23 problem with the jury getting this letter.

24 He's going testify. I imagine. I mean, that
25 is something that the Court will inquire about. I

COLLOQUY

1 pretty well think that he has to, in order to
2 prove the coercion defense, obviously it is his
3 choice and I know that the Court is going to
4 inquire.

5 THE COURT: Right.

6 MR. MATHEWS: But in terms of letting anybody
7 know about it, my proposed solution, rather than
8 just giving this to the jury -- that would be my
9 second solution. But my first would be just to
10 stipulate that he sent a letter to the Judge,
11 copies of which were given to the Solicitor's
12 Office, Public Defender's Office and Judge Buckner
13 in June of 2014 that this would be his defense.
14 But I know that Mr. Knight wants to be heard on
15 that.

16 THE COURT: Mr.Knight.

17 MR. KNIGHT: I don't agree, I don't think
18 that it's relevant at all. If that letter or
19 book, I call it a book, if the jury finds out
20 about it, all that would do would be bolster the
21 testimony that he gives in court. I assume he's
22 testifying.

23 THE COURT: Right. And he offers that
24 testimony and if -- and if -- and if there's no
25 insinuation or argument that this is the first

COLLOQUY

1 that we have heard of that, then I -- I would
2 agree, its relevance might be much less. However,
3 if -- if the jury is going to be asked to
4 insinuate, perhaps, this is the first time that we
5 have heard of this, then it'll have more
6 relevance. So, I guess the question is whether or
7 not the State intends to argue that this is --
8 that this defense is something of recent
9 immanation and just came up on the courthouse
10 steps on the eve of trial.

11 THE COURT: No, sir.

12 MR. KNIGHT: No, sir. As a matter of fact, I
13 was noticed of this possible defense.

14 THE COURT: All right.

15 MR. KNIGHT: I then filed a motion to make
16 more definite certain as to who the witnesses are
17 going to be. So, I can't assert to the Court or
18 the jury that I'm being surprised. I think that
19 would be misleading the Court.

20 THE COURT: Okay. I assume that you had
21 direct indirect knowledge through the Solicitor's
22 Office. But Mr. Mathews, since nobody is going to
23 say that this is a late immanation of
24 Mr. Siders -- and of course, he can testify if he
25 takes the stand that he sent copies of this to

COLLOQUY

1 everybody.

2 MR. MATHEWS: Right. Well, I may do that
3 Your Honor. Because that is one of the things, I
4 mean, he confessed sort of but he mentioned to --
5 I don't mind showing some cards, this jury is
6 either going to believe it or not, as far as that
7 goes. And it should be clear. I mean, he
8 probably would have talked to Nyle, but he didn't
9 trust anybody else. That is the crux of it.

10 And, you know, what I am not -- he didn't
11 tell anybody else. That is what I want to defend
12 against. If it's argued in closing argument I
13 would like to be able to interrupt and then
14 introduce this or something.

15 THE COURT: Mr. Knight is not going to do
16 that in view of the information that he has
17 already given.

18 MR. KNIGHT: As a matter of fact, he
19 shouldn't even testify. I'm not making an
20 argument that I am surprised by it, so he
21 shouldn't testify that he notified anybody.

22 THE COURT: Right. Well, I think that he's
23 entitled to say that he did send notice of this
24 out.

25 THE COURT: But the question is, Judge, to

COLLOQUY

1 who. A Federal Judge, Judge Buckner, McDuffie
2 Stone, the Solicitor?

3 THE COURT: Well, I think that the point is
4 not so much who got notice of it as that it's not
5 something that he made up later. I think that
6 that's the relevance of it. Because the fact
7 that -- the fact that you might not have gotten
8 notice -- for example, suppose you had not even
9 heard of it until yesterday --

10 MR. KNIGHT: That is something different.

11 THE COURT: That is right. Then the fact
12 that he had sent this out and there is somebody in
13 the world on the other side was aware that this
14 was out there, not that you had anything to do
15 with it. I mean, what were you to do about it?
16 All you could do is what you have done, try to
17 find out what the truth of it is.

18 So, certainly that imposes no obligation or
19 responsibility on you or anybody else that got it
20 other than to say, Here it is, one of these days
21 it has to be raised at some point in time. But
22 that is not the issue.

23 I think the only concern is that if anything
24 were going to be suggested to the jury, Well wait
25 a minute, this is an elaborate story, it looks

COLLOQUY

1 like he would have told somebody before today,
2 then it makes the letter more relevant, it makes
3 the stipulation more relevant. But I don't think
4 that we have to get to that. I don't think that
5 anybody is suggesting that, Mr. Mathews.

6 MR. MATHEWS: No.

7 THE COURT: So, there it is.

8 MR. MATHEWS: For what it's worth, Mr. Knight
9 if he wants can cross-examine him. As far as I am
10 concerned he is welcome to.

11 THE COURT: Right.

12 MR. KNIGHT: One other thing, Your Honor, the
13 issue -- yesterday when he was here before you it
14 was life without parole. If he testifies to that
15 I don't have a chance with the jury because most
16 of the jurors are saying, life without patrol,
17 this story that he's telling is something, it's
18 over, I might as well go home.

19 THE COURT: I agree, that is -- you are not
20 going to be allowed to say that.

21 MR. MATHEWS: For what it's worth, Your
22 Honor, I told my client that he's not to mention
23 that at the risk of being held in contempt. So, I
24 told him not to get into life without parole. He
25 can certainly mention, whether it is a good idea

COLLOQUY

1 or not, to mention armed robbery, a prior armed
2 robbery. Obviously the jury knows that he was on
3 probation but doesn't know for what.

4 THE COURT: Right.

5 MR. MATHEWS: We didn't ask and perhaps we
6 shouldn't get into what he is on probation for
7 since it has not been raised to this point, unless
8 Mr. Siders raises it, which I advised him not to.
9 It's enough that somebody has got, you know,
10 him -- can kill you or set you up on an armed
11 robbery without it being a second armed robbery.

12 THE COURT: Right. Well, I think that we
13 know -- I think that everybody now knows from my
14 discussions that those are two mine fields that
15 nobody wants to walk through.

16 MR. KNIGHT: That's correct.

17 THE COURT: I think that as long as we abide
18 by that, nobody will get a leg blown off. Okay.

19 All right. Were those the two issues that
20 you -- you covered that?

21 MR. KNIGHT: Yes, sir.

22 THE COURT: All right. The Rule 19 motion
23 has been made and ruled upon. The jury will be
24 brought in. The State will be allowed to rest in
25 the presence of the jury. And then we will turn

COLLOQUY

1 to the Defense. In that regard, in anticipation
2 of that, Mr. Mathews, do you wish for me to
3 inquire of Mr. Siders at this time as to his
4 understanding of his right to testify or not
5 testify?

6 MR. MATHEWS: Yes, Your Honor.

7 THE COURT: All right. Mr. Siders, stand
8 where you are and raise your right hand and let me
9 put you under oath.

10 Thereupon,

11 ALBERT E. SIDERS

12 was first duly sworn, was examined and testified as
13 follows:

14 THE COURT: Mr. Siders, we now enter that
15 portion of the trial where you and Mr. Mathews are
16 going to have to make certain decisions, or
17 perhaps you have already made those decisions. I
18 just need to make sure that I hear those
19 decisions. And one of those is whether or not you
20 choose to testify in this case.

21 Under our law nobody in a criminal case can
22 be forced to testify against himself, nobody can
23 be forced to admit his or her guilt. The 5th
24 Amendment of our United States Constitution and
25 similar counterpart in our State Constitution

INQUIRY OF ALBERT E. SIDERS

1 provides that protection, that right to remain
2 silent. And that means that you don't have to
3 testify. And if you choose not to testify, the
4 jury will be told that they cannot take that into
5 account in their consideration of the question of
6 your guilt or innocence.

7 So, they will be told that they cannot even
8 talk about that in the jury room. Because you
9 have a Constitutional right to remain silent. And
10 if you choose to exercise that right, it cannot
11 and must not be held against you.

12 On the other hand, since the right not to
13 testify is yours, you can give it up. You can
14 give up your right not to testify and take the
15 stand and be asked questions, of course, not only
16 by Mr. Mathews, but also, in this case, by
17 Mr. Knight. In other words, you will be subject
18 to cross-examination just as every other witness
19 has been in this case. You can be cross-examined
20 and impeached on any issue that is relevant.

21 So, do you understand the right that is yours
22 to either testify or not to testify in this case?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you have any questions that
25 you want to ask me about that right now?

INQUIRY OF ALBERT E. SIDERS

1 THE DEFENDANT: No.

2 THE COURT: So, I can assume whether you
3 choose to testify or not, that that decision is
4 going to be made with the full understanding of
5 what your rights are in this case; is that fair to
6 say?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Thank you. all right.
9 Mr. Mathews, do you desire to make any further
10 inquiries of Mr. Siders?

11 MR. MATHEWS: As I mentioned, not mentioning
12 the armed robbery. Obviously if he testifies to
13 the armed robbery that can come out on
14 cross-examination. That is an additional thing
15 for impeachment. So there may be no way to avoid
16 that if he testifies, but I'm not sure how we can
17 prove this case without his testifying.

18 THE COURT: That is right. Okay. Both sides
19 ready for the jury?

20 MR. MATHEWS: Yes, sir.

21 THE COURT: Bring us the jury, please.

22 (Jury enters the courtroom at 2:22 p.m.)

23 THE COURT: You will recall before we broke
24 for lunch the State was deciding what if any
25 additional testimony or evidence to offer in this

INQUIRY OF ALBERT E. SIDERS

1 case. Mr. Knight?

2 MR. KNIGHT: The State rests, Your Honor.

3 THE COURT: Okay. Ladies and gentlemen, the
4 State has now rested its case in chief. That
5 means that you have heard all of the evidence and
6 testimony that you have heard in the trial of this
7 case.

8 We were back here at 2:00, as a matter of
9 fact, and Mr. Knight advised me at that point in
10 time he was going to rest. So, we went ahead and
11 dealt with some matters of law that we always deal
12 with at that juncture in a case. That is the
13 reason that we were a little late getting you out
14 here. Otherwise I would have had to send you back
15 into the jury room and then deal with those
16 matters.

17 I offer that as an explanation that, in fact,
18 we were here on time but we were doing things to
19 try to save time your time, because you have been
20 back there for 20 minutes wondering why I didn't
21 get you out here when I told you to be back at
22 two.

23 But the State has offered all of its
24 testimony and evidence in this case and now, as
25 you know, the Defendant has a right to offer

INQUIRY OF ALBERT E. SIDERS

1 evidence and testimony but is under no obligation
2 to do that. Mr. Mathews.

3 MR. MATHEWS: Thank you, Your Honor. The
4 Defense calls Edward Marcurella.

5 Thereupon,

6 EDWARD MARCURELLA

7 was called as a witness, having been first duly sworn,
8 was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. MATHEWS:

11 Q Detective Marcurella, good afternoon. Kind of
12 like the old song.

13 MR. KNIGHT: I don't know the old song.

14 MR. MATHEWS: Hey Marcurella.

15 Q By whom, are you employed?

16 A Colleton County Sheriff's Office.

17 Q In what capacity are you employed?

18 A Sergeant in narcotics.

19 Q Okay. All right. And during the course of
20 your work, how long have you been working for Colleton
21 County?

22 A Almost six years.

23 Q Okay. And during how much of that time have
24 you spent in charge of narcotics or were you in
25 narcotics?

TESTIMONY OF EDWARD MARCURELLA

1 A About five. Four and a half, five years.

2 Q Okay. All right. What is -- would you tell
3 the jury, please, what is a confidential informant?

4 A A confidential informant is someone, in my
5 case, who would come to me with information in
6 reference to sales, trafficking in narcotics, and would
7 wish to work for me, whether it would be under working
8 off charges or for pay if they had no charges pending,
9 to combat the narcotic problem in Colleton County.

10 Q Okay. What are the most common ways that
11 you -- that people are arrested for drugs? What
12 things, road blocks, traffic stops?

13 A It could be off of a traffic stop. It could
14 be off of a domestic, what have you.

15 Q Okay. And another way would be basically a
16 sting set up by the Sheriff's Office?

17 A Correct.

18 Q Okay. And that -- and you have control buys
19 and buy busts?

20 A Yes, sir.

21 Q Okay. And in those do you frequently use
22 confidential informants?

23 A In some cases, yes.

24 Q Okay. All right. Now, would you please
25 explain to the jury why is an agent, an informant,

TESTIMONY OF EDWARD MARCURELLA

1 confidential?

2 A Basically they don't want to be found out in
3 the street.

4 Q And you don't want them to be found out
5 either, do you?

6 A No, it wouldn't be productive for me.

7 Q Okay. So for -- have you heard the phrase,
8 snitches get stitches?

9 A Yes.

10 Q So it is not -- it can be dangerous to be a
11 confidential informant?

12 A Yes, it can.

13 Q Okay. You have done quite a few preliminary
14 hearings in your time here?

15 A Yes, sir.

16 Q In what percentage do you ID the confidential
17 informant?

18 A In the prelim?

19 Q Yes.

20 A Never.

21 Q Okay. And that is to protect their identity?

22 A Yes.

23 Q So, you can continue to use them and for
24 their safety?

25 A Yes.

TESTIMONY OF EDWARD MARCURELLA

1 Q Okay. All right. At some point, did you
2 use -- are you familiar with that fellow right there?

3 A Mr. Siders, yes.

4 Q At some point did he work for you?

5 A Yes, he did.

6 Q When was that?

7 A February 2013.

8 Q All right. And did he sign an agreement that
9 he would be a confidential informant and then you
10 signed it or whatever?

11 A Yes, uh-huh. (Indicating affirmatively.)

12 Q Okay. And what was he working for?

13 A Money, just for pay.

14 Q Okay. Okay. And how much did you pay him,
15 \$40 a pop, something like that?

16 A Roughly, I wouldn't -- couldn't remember.

17 Q Okay. All right. What is the difference
18 between a controlled buy and a buy bust?

19 A A buy bust would be whoever, usually
20 involving an undercover officer, basically where they
21 would do a purchase of narcotics for a certain amount
22 of currency and the bust would take place at that time.

23 Q And that way you get the money back?

24 A Exactly.

25 Q And you can identify the money as having come

TESTIMONY OF EDWARD MARCURELLA

1 from the sale?

2 A Correct.

3 Q You didn't use Mr. Siders for a buy bust,
4 correct?

5 A No.

6 Q That was a control buy?

7 A Correct.

8 Q What did you have him do?

9 A He went to two different locations in the
10 month of February of 2013 and purchased cocaine based
11 products.

12 Q Okay. From whom?

13 A One from -- well, let's see, the first one
14 was from a Sheronda Mitchell. The second one was from
15 a Celestra Rivers, known as Cornbread.

16 Q Did he do what he was supposed to do?

17 A Yes, he did.

18 Q So he went to those places?

19 A Uh-huh.

20 Q And for Sheronda Mitchell, did he go on
21 February the 12th, 2013?

22 A Yes, sir.

23 Q And for Celestra Rivers, did he go on
24 February the 14th, 2013?

25 A Yes, we did.

TESTIMONY OF EDWARD MARCURELLA

1 Q Okay. And you gave him money, or somebody
2 gave him money?

3 A Correct.

4 Q And he went to those places and he gave them
5 the money and they gave him drugs?

6 A Correct.

7 Q All right. And he brought the drugs back?

8 A Yes.

9 Q All right. Did you use him any more after
10 that?

11 A No, sir.

12 Q All right. When did you obtain the -- and
13 you told him when you hired him that his identity would
14 be protected, correct?

15 A Correct.

16 Q Okay. For your use and for his safety?

17 A It would be protected as much as I could
18 protect it, correct.

19 Q As much as you were able to?

20 A Exactly.

21 Q Obviously if other people talked about it you
22 couldn't do anything about that?

23 A Exactly.

24 Q You said that it's uncommon in drug buys and
25 controlled drug buys to wait several months or even

TESTIMONY OF EDWARD MARCURELLA

1 more than a year to serve the warrant?

2 A In some cases, yes.

3 Q And you do that so that you can continue to
4 use the confidential informant and to protect their
5 identity?

6 A Correct.

7 Q And so that they don't get hurt?

8 A Correct.

9 Q Okay.

10 MR. MATHEWS: May I approach the witness?

11 THE COURT: Yes, sir.

12 BY MR. MATHEWS:

13 Q Detective Marcurella, I'm handing you what's
14 been marked as Defendant's Exhibits Numbers 1, 2, and 3
15 and ask if you are able to identify those?

16 A Those are arrest warrants, two for Celestra
17 Rivers and one for Sheronda Mitchell.

18 Q And did you obtain those warrants?

19 A Yes, I did.

20 MR. MATHEWS: I would seek to admit those at
21 this point.

22 MR. KNIGHT: No objection.

23 THE COURT: Without objection, Defendant's 1
24 through 3.

25 *(Whereupon, Defendant's Exhibit No(s). 1 - 3*

TESTIMONY OF EDWARD MARCURELLA

1 *marked for identification and received in*
2 *evidence.)*

3 BY MR. MATHEWS:

4 Q All right. Mr. Mitchell, the buy was made on
5 February the 12th?

6 A Yes, sir.

7 Q And Celestra Rivers, the buy was made on
8 February the 14th?

9 A Yes, sir.

10 Q When were the warrants obtained, February the
11 15th; correct?

12 A They were served on February the 15th, they
13 were obtained on the days in which the buys had taken
14 place.

15 Q So the last buy was made on the 14th and you
16 obtained a warrant later that day?

17 A Yes.

18 Q And you obtained the warrant that quickly
19 because you were done with Mr. Siders?

20 A No, after each buy is completed we do our
21 arrest warrants so as to not get things too confused.

22 Q I see. Okay. And you have them -- you then
23 send them out to service and you hold onto them for an
24 appropriate time; correct?

25 A Correct.

TESTIMONY OF EDWARD MARCURELLA

1 Q When did you have them sent out to be served?

2 When were they served?

3 A On the 15th.

4 Q On the following day?

5 A Yes, sir.

6 Q Are you -- do you have any dealings with

7 Marcus Colleton?

8 A I have no idea who that is.

9 Q All right.

10 MR. MATHEWS: Nothing further, Your Honor. I
11 would tender those at the appropriate time. They
12 don't need to see them now.

13 THE COURT: Yes, sir. Mr. Knight.

14 CROSS EXAMINATION

15 BY MR. KNIGHT:

16 Q Sergeant Marcurella, this was 2013 that you
17 used Mr. Siders?

18 A Yes, sir.

19 Q You used him on those two occasions, the
20 12th, I believe?

21 A And the 14th.

22 Q And the 14th?

23 A Yes, sir.

24 Q And when Mr. Siders came in to see you
25 originally, did you advise him of the dangerous nature

TESTIMONY OF EDWARD MARCURELLA

1 of being a confidential informant?

2 A Yes, sir.

3 Q Did you tell him that he could be killed?

4 A I don't believe that I used the word
5 "killed". I believe that I said injured.

6 Q Injured?

7 A Yes, sir.

8 Q Okay. Did you tell him that his life could
9 be threatened?

10 A Yes.

11 Q Did you tell him that he would probably have
12 to look over his shoulder for a while?

13 A If he was discovered, yes, sir.

14 Q Okay. Now, you, in response to Mr. Mathews,
15 you said that you do not want the CI, or the
16 confidential informant, exposed?

17 A No.

18 Q As a matter of fact, sometimes you even hold
19 back to the end with me, don't you?

20 A Yes, sir.

21 Q Okay, I wanted to make sure that you and I
22 understood that because I get upset about that
23 sometimes.

24 Now, you said that you had an agreement with
25 Mr. Siders, and that agreement was for pay?

TESTIMONY OF EDWARD MARCURELLA

1 A For pay.

2 Q And do you recall how much you paid him?

3 A I can recall the last payment being \$160.

4 Q I'll ask you if you can identify this, sir?

5 Can you identify that?

6 A Yes, sir.

7 Q That is the payment?

8 A Payment, yes, sir.

9 Q To Mr. Siders.

10 MR. MATHEWS: No objection.

11 MR. KNIGHT: The State moves in State's

12 Exhibit 9 without objection.

13 THE COURT: Thank you. State's No. 9.

14 *(Whereupon, State's Exhibit No(s). 9 marked*
15 *for identification and received in evidence.)*

16 BY MR. KNIGHT

17 Q State's No. 9, again, how much did you pay

18 Mr. Siders and when did you pay Mr. Siderss?

19 A Mr. Siders was paid on the -- February the
20 12th he was paid \$40. On February the 14th he was paid
21 \$40. And on the 27th of February he was paid \$160.

22 Q \$160?

23 A Yes.

24 Q He only made two purchases?

25 A Correct.

TESTIMONY OF EDWARD MARCURELLA

1 Q You have a payment here of \$160 on the 24th?

2 A Yes, sir.

3 Q What was that for if he didn't make another
4 buy?

5 A Mr. Siders came to the Sheriff's Office and
6 met with myself and Captain Jason Chapman and explained
7 that he felt that he had been found out and that he was
8 possibly being threatened and that he needed to get out
9 of town and since he had helped us out we paid him \$160
10 to get a bus ticket to leave.

11 Q This was February the 27th of 2014?

12 A The 27th, yes, sir.

13 Q Since February the 24th of 2013, have you
14 seen Mr. Siders?

15 A No, sir, I haven't.

16 Q Would you have any reason for looking for
17 Mr. Siders?

18 A No, sir.

19 Q Since February the 13th of 2013 do you even
20 know if Mr. Siders lived in Colleton County?

21 A No, sir, I don't.

22 Q Do you know where 1825 Wichman Street is?

23 A I believe that would be the BP station.

24 Q Right.

25 A Right there at the airport.

TESTIMONY OF EDWARD MARCURELLA

1 Q Okay. How far is the BP station to your
2 office over in the annex?

3 A To the annex?

4 Q Approximately.

5 A A little over 2 miles, maybe.

6 Q Okay. How about -- how far is the distance
7 from 1825 Wichman Street to the Sheriff's Department on
8 South Miller Street?

9 A About a mile and a half roughly.

10 Q Okay. Now, how did you and Mr. Siders get
11 together originally, back in 2013?

12 A Meaning?

13 Q Did you go to him, did he come to you?

14 A He came to me.

15 Q Okay. Okay. So, when you say he came to
16 you, what does that mean, does it mean he went to South
17 Miller Street or over here or West Washington Street?

18 A He met me at headquarters, South Miller.

19 Q South Miller?

20 A Yes.

21 Q So, Mr. Siders knew where the Sheriff's
22 Department was?

23 A Yes.

24 MR. KNIGHT: That is all that I have. Thank
25 you, Sergeant.

TESTIMONY OF EDWARD MARCURELLA

1 THE COURT: Redirect.

2 MR. MATHEWS: Yes, just a couple.

3 REDIRECT EXAMINATION

4 BY MR. MATHEWS:

5 Q Dr. Marcurella, what did you have for lunch
6 today?

7 A I didn't eat lunch.

8 Q Okay. What did you have for breakfast?

9 A A breakfast sandwich.

10 Q Okay. What did you have for breakfast six
11 months ago?

12 MR. KNIGHT: Your Honor, what does this have
13 to do with it?

14 A Breakfast sandwich, same thing every morning.

15 Q Okay. One of the reasons that you hold off
16 on serving warrants on this, over the course of time,
17 is the more time goes by? If you serve a warrant the
18 day after somebody has time to sit back there and say,
19 Okay, I sold drugs three times, so it has got to be one
20 of these three people as opposed to six months before
21 you say, I don't know who it could have been; right?

22 A Correct.

23 MR. MATHEWS: Nothing further.

24 THE COURT: Any follow-up on that point?

25 MR. KNIGHT: Yes.

TESTIMONY OF EDWARD MARCURELLA

1 RE-CROSS EXAMINATION

2 BY MR. KNIGHT:

3 Q Can Mr. Siders just walk down the street and
4 buy drugs from anyone?

5 A Not without the cooperation from law
6 enforcement.

7 Q Does he know the person that he's going to
8 make a purchase from?

9 A Most times.

10 Q Majority of the time they know the person
11 they are going to make the buy from?

12 A Correct.

13 Q From their prior relationship of using drugs?

14 A Correct.

15 MR. KNIGHT: Thank you, sir.

16 MR. MATHEWS: I have further. I hope that
17 this doesn't go on like ping pong forever, Your
18 Honor.

19 THE COURT: This will be the last time.

20 REDIRECT EXAMINATION

21 BY MR. MATHEWS:

22 Q That is because people don't sell drugs to
23 people that they don't know, correct?

24 A Generally they don't.

25 Q Okay. And nobody sells drugs to a snitch,

TESTIMONY OF EDWARD MARCURELLA

1 right?

2 A Correct.

3 Q Nobody is going to sell drugs to you, for
4 example?

5 A They have.

6 Q Not any smart drug dealers, though, right?

7 A They have.

8 Q But generally speaking, that is why you use
9 people, who do you know, can you buy from this person.
10 But once they are found out you can't use them?

11 A Correct.

12 Q Nobody will sell to them?

13 A Correct.

14 MR. MATHEWS: Thank you.

15 THE COURT: All right. You may step down.

16 MR. KNIGHT: Your Honor, may he be dismissed?

17 THE COURT: Yes, sir, you can be excused.

18 Thank you, sir. Mr. Mathews.

19 MR. MATHEWS: The Defense calls Mary Blakely.

20 THE COURT: Ms. Blakely, come forward please
21 and be sworn.

22 Thereupon,

23 MARY BLAKELY

24 was called as a witness, having been first duly sworn,
25 was examined and testified as follows:

TESTIMONY OF MARY BLAKELY

1 DIRECT EXAMINATION

2 BY MR. MATHEWS:

3 Q Ms. Blakely, you don't particularly want to
4 be here, do you?

5 A I do.

6 Q You want to help -- this is your brother, you
7 want to help him out too, right?

8 A Yes.

9 Q You understand that you are under oath and
10 you have got to tell the truth?

11 A Yeah.

12 Q All right. Had you at some point heard -- do
13 you know whether Albert, your brother, had the
14 reputation in the community of having been a snitch?

15 A I heard that he had -- he was snitching on
16 some dealers, yeah.

17 Q And when was that?

18 A This could have been like in October,
19 November of '14.

20 Q Okay. Of 2013?

21 A Thirteen, yeah.

22 Q And did this concern you?

23 A Yes.

24 Q Okay. Did you talk to Albert about it?

25 A Yes, I did.

TESTIMONY OF MARY BLAKELY

1 Q What did you tell him?

2 A I asked him, I told him that I'm hearing
3 around that he's been snitching on some dealers. I
4 asked him what was going on, what was all of that
5 about.

6 Q Were you worried about him?

7 A Yeah.

8 Q Why?

9 A Because if he's snitching on dealers, your
10 life might be in danger. I mean, that is not -- you
11 know, that is not a little thing.

12 Q Do you remember when he got arrested for
13 armed robbery?

14 A Fourteen.

15 Q All right.

16 A Yes, I do.

17 Q Okay. Did you talk to him at the jail?

18 A Yes, I visited with him.

19 Q Okay. All right. And did he tell you what
20 had happened?

21 A Yes, he did.

22 Q Okay. All right. That is all that I have at
23 this point. Your Honor, I would ask her not to be
24 excused but to wait in the defendant's room in the
25 event that there's any need for follow-up.

TESTIMONY OF MARY BLAKELY

1 THE COURT: All right. Thank you.

2 Mr. Knight, you can cross-examine. Just one
3 second.

4 THE WITNESS: Okay.

5 CROSS EXAMINATION

6 BY MR. KNIGHT:

7 Q Thank you, Your Honor. Ms. Blakely, you said
8 that you heard in October, November of 2013?

9 A Yes.

10 Q That Albert was a snitch?

11 A Yeah, that.

12 Q Those two months, are those the only times
13 that you heard about him being a snitch?

14 A I know that it was around that time when I
15 heard it, so I can't --

16 Q My question then is, did you hear later, like
17 in January, February 2014, or only in November, October
18 '13?

19 A Yeah, that is when it got started, yeah.
20 That is when I questioned him about it.

21 Q Okay. To make sure that I understand, so
22 that the jury understands, you heard that about Albert
23 being a snitch in October?

24 A Around that time, that is all that I --

25 Q October of 2013?

TESTIMONY OF MARY BLAKELY

1 A Uh-huh. (Indicating affirmatively.)

2 Q Thank you.

3 THE COURT: Redirect?

4 MR. MATHEWS: Just briefly. No, nothing
5 further. That is good.

6 THE COURT: Okay. Ms. Blakely, you can step
7 down. Thank you.

8 MR. MATHEWS: Lay I say, in case I need to
9 re-call her.

10 THE COURT: You are still under subpoena, so
11 don't run away.

12 WITNESS: Okay.

13 MR. MATHEWS: Mr. Siders, you may come to the
14 stand.

15 Thereupon,

16 ALBERT E. SIDERS

17 was called as a witness, having been first duly sworn,
18 was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. MATHEWS:

21 Q Albert, let's start out at the beginning of
22 this. You heard Detective Eltzroth say that you were
23 on probation, or you heard it on the video tape that
24 you were sitting and listening to, right?

25 A Yes, sir.

TESTIMONY OF ALBERT E. SIDERS

1 Q Was Detective Eltzroth your probation or
2 parole agent, or whatever it was?

3 A Yes, sir.

4 Q Okay. And in fact you have been convicted of
5 armed robbery before, haven't you?

6 A I have.

7 Q All right. And you have or had a very
8 serious drug problem; is that correct?

9 A A stroke problem?

10 Q Drug problem.

11 A Drug problem, yes, sir, I have.

12 Q Okay. What is your drug of choice?

13 A Crack cocaine.

14 Q How long have you been using crack cocaine?

15 A Off and on, I would say roughly about five
16 years, tops.

17 Q Five years?

18 A Yes, sir.

19 Q All right. What kind of job opportunities
20 does a convicted felon with a bad drug habit have?

21 A Not really much. It is kind of -- it is kind
22 of hard, yes, sir.

23 Q And did you -- you agreed to work for the
24 drug squad at some point, did you not?

25 A I did, sir.

TESTIMONY OF ALBERT E. SIDERS

1 Q And you needed the money?

2 A I did, sir.

3 Q Did you also want to -- I know that this
4 sounds crazy, but did you also want to try to help?

5 A I did.

6 Q Okay. And you knew that it was dangerous?

7 A Yes, sir.

8 Q Had you heard -- and you heard Detective
9 Marcurella testify that you made two buys; is that
10 correct? Or three, two or three; is that right?

11 A Yes, sir.

12 Q Did you discover when Cornbread and Sheronda
13 were arrested?

14 A I did, sir.

15 Q How did you hear about that?

16 A From the streets.

17 Q Okay. All right. And were you surprised?

18 A Yes, sir, I was shocked.

19 Q All right. Did you feel betrayed?

20 A I was betrayed.

21 Q Were you afraid?

22 A For my life, yes, sir.

23 Q And in addition to making it scary to live?

24 A Yes, sir.

25 Q How did you get drugs?

TESTIMONY OF ALBERT E. SIDERS

1 A I had to ask people who smoked drugs to get
2 drugs for me.

3 Q Nobody would sell to you?

4 A Nobody would sell me drugs.

5 Q Okay. Did you get along okay for a while?

6 A Not really. It was rough, sir.

7 Q Okay. We have seen videos on this. We have
8 seen videos of your admitting to doing an armed
9 robbery?

10 A Yes, sir.

11 Q Did you do that?

12 A I did.

13 Q Would you please explain to the jury what had
14 happened? First of all, what happened when you got up
15 in the morning, briefly?

16 A Okay, you said get up in the morning to --

17 Q The day that this happened. Do you
18 remember -- obviously you were arrested so you
19 remember?

20 A Yes, sir.

21 Q Okay. How did this start?

22 A It started really that night. It started
23 late Thursday night. It was around about 3:30,
24 somewhere after 12 I was riding by Chase.

25 Q You were riding by the Chase Lounge?

TESTIMONY OF ALBERT E. SIDERS

1 A Chase Lounge.

2 Q What is significant about the Chase Lounge?

3 A Chase Lounge is a drug area, drug infested,
4 as a matter of fact. Very heavy in drugs.

5 Q Before you became a stitch, did you get drugs
6 there?

7 A I did, sir.

8 Q After you did your work, were you able to get
9 drugs there?

10 A No, sir. As a matter of fact, I wasn't even
11 supposed to be around. They told me, Don't ever come
12 around here no more. That was after they found out.

13 Q But you were driving by?

14 A I happened to be just driving by.

15 Q What happened?

16 A And it was two black males standing on the
17 corner of Rivers and Proctor as I was appraoching the
18 stop sign.

19 Q Did they wave you down?

20 A They waved them down for a ride, yes.

21 Q Did you pick them up?

22 A I did, yes, sir.

23 Q Okay. What did they want?

24 A They only wanted a ride to the store at the
25 very beginning.

TESTIMONY OF ALBERT E. SIDERS

1 Q Okay. They wanted a ride to the store?

2 A Yes, sir.

3 Q Did the talk turn to drugs?

4 A It did.

5 Q Did you detect an opportunity to get some
6 drugs?

7 A I sure did.

8 Q Okay. What happened next?

9 A Well he asked me, Do I do drugs. And I
10 met --

11 MR. KNIGHT: Objection. Hearsay.

12 Q Albert, we are going to have to be careful
13 not to talk about -- talk about what happened and what
14 you did in response to what was said, but not
15 necessarily what people told you. Okay?

16 A Okay.

17 Q You discovered an opportunity to get drugs.
18 What were you going to do?

19 A I was going to take them to Santee.

20 Q Take them to Santee to get drugs?

21 A Yes, sir.

22 Q What did you expect to receive in return?

23 A It was supposed to be \$50 in drugs and \$50 in
24 cash.

25 Q Did you ever make it to Santee?

TESTIMONY OF ALBERT E. SIDERS

1 A Never did, sir.

2 Q Where did you go from the store?

3 A To my house.

4 Q All right. And who all was there at the
5 house?

6 A It was me and two fellows.

7 Q Describe the fellows.

8 A One had a gold teeth, dreads. He had on a
9 cap, sweater cap, jeans.

10 Q Did you hear his name bantered about?

11 A No, sir, just basically Dread or Dreads,
12 something like that, that was our first acquaintance,
13 yes, sir.

14 Q Now Albert, if you were known as a snitch, if
15 you knew them you knew that you couldn't get drugs from
16 them, right?

17 A No, sir, no way whatsoever, no, sir, I
18 couldn't.

19 Q So you didn't know them, they didn't know
20 you?

21 A No, sir.

22 Q All right. What happened next?

23 A Okay. We went to my house to wait for a
24 certain time to make the run to Santee.

25 Q All right. And you didn't make that run,

TESTIMONY OF ALBERT E. SIDERS

1 right?

2 A No, sir.

3 Q What did you see or hear next?

4 A Well, I heard a phone call.

5 Q All right. One of the guys got a phone
6 call?

7 A Dread. That is what he said his name was.
8 Right, Dread got a phone call.

9 Q What did Dread look like, what was his
10 emotion, what did he look like when he got that call?

11 A It was not even a minute to talk. I could
12 hear a voice like talking loud on the other end.

13 Q Okay.

14 A And I'm sitting in the living room, you know,
15 we are listening to the music and all of a sudden he
16 just looked at me like this here and he passed me the
17 phone.

18 Q He handed you the phone?

19 A He handed me the phone.

20 Q Okay. Did you discover at some point who it
21 was on the other end of that line?

22 A I have got a strong idea who it was, yes,
23 sir.

24 Q Who is that?

25 A Well, he is a heavy drug dealer. I believe

TESTIMONY OF ALBERT E. SIDERS

1 that his name is Colleton.

2 Q Marcus Colleton?

3 A Yes, sir.

4 Q All right. Now, on the streets is Marcus
5 known to affiliate with anybody else?

6 A Cornbread.

7 Q Who is higher, Cornbread or Marcus?

8 A Marcus.

9 Q All right. So, if it was Marcus, then you
10 were in a great deal of trouble; right?

11 A I was.

12 Q Okay. Then what happened next?

13 A Okay, then after that somebody asked me,
14 said, Is you ALbert?

15 Q I'm not interested in what somebody told you,
16 I'm interested in what you saw and what you did and
17 what you felt.

18 A Okay. I was scared. I was scared, no doubt,
19 I was scared for my life.

20 Q Did anybody lay hands on you?

21 A Yes, sir.

22 Q Dread or the other fellow?

23 A The other fellow.

24 Q Okay. Then what happened?

25 A Yeah, no, he took his elbow after he found

TESTIMONY OF ALBERT E. SIDERS

1 out or heard and then he shoved me against the wall and
2 then he checked me to see if I was bugged.

3 Q Okay. The guy on the other end, okay, asked
4 your name?

5 A Yes, he did. And I responded, Yes.

6 Q Okay.

7 A And I asked him, Who is this being concerned?
8 He said nevermind.

9 Q Not what he said, as far as that goes. What
10 happened next? You gave the phone back?

11 A I gave the phone back.

12 Q Then you got the elbow to the throat?

13 A I got the elbow to the throat.

14 Q All right. What happened next?

15 A Then I was asked was I a snitch or was I --

16 MR. KNIGHT: Objection.

17 BY MR. MATHEWS

18 Q Again, I am not interested in what someone
19 else told you. I know that you are not used to doing
20 this, but you have got to play by the rules.

21 A Okay. I am sorry.

22 Q Okay. All right. These people in your house
23 were unhappy with you?

24 A Yes, they was. Yes, sir.

25 Q One had laid hands on you, right?

TESTIMONY OF ALBERT E. SIDERS

1 A Yes, sir.

2 Q What is the next thing that happened?

3 A The next thing that happened was I was told
4 that I was going to --

5 Q I'm not interested in what you were told, I'm
6 interested in what happened. Somebody showed up with
7 something?

8 A Yes, they did.

9 Q What did they show up with?

10 A A BB gun.

11 Q This was marked as State's Exhibit No. 7.
12 This is what you were given?

13 A Exactly.

14 Q Okay. State's Exhibit No. 5, were you also
15 given that?

16 A Exactly.

17 Q All right. Did it have these holes in it
18 when you got it?

19 A No, sir, it was put in after I got it. In
20 other words, before it was distributed to me they put
21 holes in it.

22 Q But you saw them put holes in it?

23 A Yes.

24 Q All right. What is the next thing that
25 happened?

TESTIMONY OF ALBERT E. SIDERS

1 A The next thing that happened, we left.

2 Q Who was -- you took your car?

3 A I did.

4 Q Was anyone in your car with you?

5 A Two people.

6 Q Okay. Dread and the other fellow or somebody
7 else?

8 A Dread and the other fellow.

9 Q Okay. Who brought -- describe the person who
10 brought the gun and mask?

11 A He was a big guy with a full beard. I don't
12 know his weight but he was big.

13 Q All right. And what kind of car was the
14 person that arrived with -- what kind of car was he
15 driving?

16 A It was a dark blue car.

17 Q Okay. All right.

18 A I don't know the type of car it was, but I
19 know that it was a black, it was a black car.

20 Q Okay. All right. What were you supposed to
21 do with that gun and that cap?

22 A I was supposed to rob the store for them.

23 Q All right. Now. Back it up. Before you
24 went out there, did you receive drugs before this?

25 A Oh, yes. Yes, sir.

TESTIMONY OF ALBERT E. SIDERS

1 Q So, you got -- instead of getting \$50 worth
2 of drugs and \$50 worth of money, they just gave you the
3 drugs?

4 A All drugs.

5 Q And you mostly smoked them then didn't you?

6 A Most of it, yes, sir, most of it.

7 Q All right. And then after this call they
8 were unhappy with you?

9 A That is what they did, sir.

10 Q Because of that you never made your run out
11 to --

12 A Never made my run to Santee.

13 Q All right. Okay. In the car you had two
14 people in there with you?

15 A I had two people in the car with me, yes,
16 sir.

17 Q And one person in a car behind you, right?

18 A Yes, sir.

19 Q Where did y'all go?

20 A We went to the BP gas station by the airport,
21 off of Wichman and Robinson Boulevard.

22 Q Both of y'all park back there?

23 A Yes, sir.

24 Q All right. And then you walked over from the
25 lot?

TESTIMONY OF ALBERT E. SIDERS

1 A And I walked over from the lot.

2 Q All right. Now, at this point -- at this
3 point were you more afraid of the drug dealers or were
4 you more afraid of the police?

5 A I was more afraid of the drug dealers. I
6 still is.

7 Q Okay. All right. What do you feel would
8 have happened to you if you hadn't have done this?

9 A Well, I was told that I would get killed.

10 Q Did you believe it?

11 A I sure did.

12 Q When you walked into the store, I noticed
13 that that mask has holes in it?

14 A Yes, sir.

15 Q Did you pull the mask all the way down?

16 A No, sir.

17 Q Okay. All right. At this point did you care
18 whether you were caught?

19 A No, sir, I sure didn't care. Not at that
20 point anyway.

21 Q Would you have been safer with the police
22 than with them?

23 A I would have been safer with the police, no
24 doubt.

25 Q And yet the police had betrayed you?

TESTIMONY OF ALBERT E. SIDERS

1 A Yes, sir.

2 Q OKay. Now you had a relationship with Nyle
3 Eltzroth, right?

4 A Yes, sir.

5 Q All right. If you had a chance and you sent
6 him -- once you were arrested for this you sent him a
7 request asking to speak with him, right?

8 A Yes, sir, and also in person.

9 Q Okay. And did he talk to you?

10 A No, sir.

11 Q Would you have talked to him?

12 A I sure would have.

13 Q Okay. Did he help try -- when he was a
14 probation agent, did he try to help you get drug
15 treatment?

16 A As a matter of fact he did.

17 Q The rest of them, did you trust them?

18 A No, sir. No.

19 MR. MATHEWS: I don't have anything further.
20 State's witness, Your Honor.

21 THE COURT: All right. Mr. Knight. Excuse
22 me. Mr. Evans.

23 MR. EVANS: Thank you, Your Honor.

24 Mr. Mathews.

25 CROSS EXAMINATION

TESTIMONY OF ALBERT E. SIDERS

1 BY MR. EVANS

2 Q Mr. Siders, you testified a moment ago you
3 would have been safer with the police than with the
4 drug dealers; is that right?

5 A That's correct.

6 Q And you testified a moment ago that you would
7 have talked to Nyle Eltzroth if you had the
8 opportunity; is that right?

9 A Not at first, no.

10 Q Not at first?

11 A Not at first.

12 Q You did have the opportunity?

13 A Excuse me?

14 Q You saw Nyle Eltzroth, didn't you?

15 A Oh yeah.

16 Q And he Mirandised you and asked you a little
17 bit about what was going on?

18 A Yes.

19 Q And you saw him testify here today to that
20 effect?

21 A Yes, sir.

22 Q But you didn't tell him, the officer that you
23 trusted when you saw him in 2014, what had gone on?

24 A Not at the moment, no, sir.

25 Q You, in fact, didn't tell any officer about

TESTIMONY OF ALBERT E. SIDERS

1 this?

2 A No, sir, not at the moment.

3 Q Not at that time or any time?

4 A Not at the moment.

5 Q You haven't told any officers since then?

6 A Yes, I have.

7 Q You had the opportunity, we have watched
8 videos today?

9 A Okay.

10 Q With you spoke with Deputy Rioux?

11 A I don't know Deputy Rioux, but you are right,
12 I spoke with him.

13 Q When you were in the car?

14 A Right.

15 Q He treated you well, didn't he?

16 A He did.

17 Q He didn't harass you, didn't hurt you?

18 A No.

19 Q You had a nice conversation?

20 A Uh-huh. (Indicating affirmatively.) Yes,
21 sir.

22 Q You didn't tell him about what had happened?

23 A No, sir.

24 Q That you had been forced to commit an armed
25 robbery?

TESTIMONY OF ALBERT E. SIDERS

1 A No.

2 Q You didn't tell him?

3 A I sure didn't.

4 Q Then you had the opportunity to talk to
5 Reuben Carter?

6 A Yes, sir.

7 Q You watched that video today again, didn't
8 you?

9 A I sure did.

10 Q You didn't take that chance to tell him what
11 had gone on?

12 A No, sir. No, sir. And --

13 Q Even though you were safer with the police,
14 in your own words just a moment ago?

15 A Yes, sir. I was.

16 Q Than you were with the drug dealers?

17 A That is right.

18 Q You didn't feel safe enough, though, to tell
19 them about it?

20 A No, sir.

21 Q You didn't think, this would be a great
22 opportunity to assert myself and tell them why this had
23 gone on?

24 A No, sir, I sure didn't.

25 Q You didn't want to nip all of this in the bud

TESTIMONY OF ALBERT E. SIDERS

1 and take care of it then?

2 A Not right then, no, sir.

3 Q Why haven't we heard from the folks that told
4 you to do this?

5 A If I had told somebody to do something, sir,
6 I would be on the run too.

7 Q So, they wanted you to commit a crime for
8 them and get caught?

9 A Well, no, sir, it was for me to be set up.

10 Q They wanted to set you up?

11 A Oh, yes, sir.

12 Q Then why haven't they reached out to try to
13 get you put away?

14 A I don't understand your question.

15 Q Their goal, according to you in asking you
16 or, excuse me, telling you, forcing you to commit this
17 armed robbery was to get you set up, correct?

18 A Correct. That is correct.

19 Q But they didn't take any action to set you
20 up, you were caught the same day through the work of
21 law enforcement alone; they didn't have any tips from
22 any of these folks? So, why haven't we heard from
23 them, if that was their goal?

24 A Because the detail wasn't what you think that
25 it was. See, I know what was going on. It wasn't

TESTIMONY OF ALBERT E. SIDERS

1 about setting me up right then, it was about using me,
2 it was about black mailing me.

3 Q So, they were going to black mail you based
4 on a crime that they asked you to commit for them,
5 which is a crime in and of itself, they were going to
6 black mail you by threatening to expose themselves?

7 A No, sir, this is how it goes. They had a
8 video camera -- and this is what I wrote in my
9 documentation. They had a video camera and a video
10 phone.

11 Q So, they were creating evidence of the fact
12 that they had kidnapped you?

13 A No, sir.

14 Q That is what you are alleging they did?

15 A They was creating evidence to prove that I
16 had went into the store. And when I went into the
17 store they video shoot me going into the store.

18 Q So their plan --

19 THE COURT: Let him finish.

20 MR. EVANS: I apologize, Your Honor.

21 A That way they can catch me as if I was doing
22 the robbery on my own. So, I understood that is what
23 they were going to use against me.

24 Q Their plan was to commit a kidnapping of you,
25 have you commit the armed robbery for them, which makes

TESTIMONY OF ALBERT E. SIDERS

1 them part of the armed robbery, and then expose you and
2 therefore expose themselves; that was their plan?

3 A Yes, sir. As far as exposing themselves, I
4 don't think they was going to expose themselves. But
5 this is what was told to me and I believed it and that
6 is why I did what I did.

7 Q So, you went into the store?

8 A Yes, sir.

9 Q And you asked for a pack of Newports?

10 A I did.

11 Q You removed this item and showed it, this is
12 State's Exhibit 7 for the record?

13 A Uh-huh. (Indicating affirmatively.)

14 Q You showed this to the cashier?

15 A Yes, sir.

16 Q This is a heavy BB gun, isn't it?

17 A It is.

18 Q It looks pretty much like a real gun, doesn't
19 it?

20 A It does.

21 Q It sure convinced her, didn't it?

22 A Yes, sir, that is the reason why I was --
23 what I was told to go into the store to do and that's
24 what I did, yes, sir.

25 Q But you didn't want to commit this robbery,

TESTIMONY OF ALBERT E. SIDERS

1 you were being forced to do it?

2 A No, sir.

3 Q Nobody was in the building with the two of
4 y'all to make sure that you were going all the way with
5 it?

6 A Yes, sir.

7 Q So, you had a chance to tell her what was
8 going on?

9 A I did.

10 Q You didn't do that?

11 A No, sir.

12 Q You didn't tell her, This is not a real gun
13 this is a BB gun?

14 A No, sir.

15 Q You didn't tell her, You are not in any
16 danger?

17 A No, sir.

18 Q You didn't tell her, I'm being forced to do
19 this by other bad men?

20 A No, sir.

21 Q You didn't tell her, Please call the police
22 so we could settle this thing?

23 A No, sir, definitely not.

24 Q You did tell her to get in the back room?

25 A I did.

TESTIMONY OF ALBERT E. SIDERS

1 Q You did tell her to give you the money?

2 A I did.

3 Q And she had no idea about all of this other
4 stuff that was happening you say?

5 A Actually nobody knew.

6 Q All she knew is that there was a gun pointed
7 at her and a man asking her for her money, or for the
8 store's money?

9 A Yes, sir.

10 Q After you left the store, you didn't go to
11 the Sheriff's Office?

12 A No, sir, I had no intentions.

13 Q You didn't go to the city police?

14 A I had no intentions.

15 Q You just went home?

16 A Not right then, no, sir.

17 Q You were found at home later?

18 A Yes, sir.

19 Q With no evil men around you?

20 A No, sir.

21 Q Holding you at gun point or anything like
22 that?

23 A No, sir.

24 Q So you had the opportunity to turn yourself
25 in and report all that had gone on?

TESTIMONY OF ALBERT E. SIDERS

1 A I did.

2 Q And you didn't take advantage of that
3 opportunity?

4 A No, sir.

5 Q Where did you go after the robbery and what
6 did you do?

7 A I dropped them off.

8 Q So, you were free from their capture at that
9 point?

10 A Yes, sir, I sure was.

11 Q Then you went home?

12 A Then I went home.

13 Q That is where you were found later that
14 afternoon?

15 A Yes, sir. Yes, sir.

16 Q You didn't take any measures, you didn't call
17 911, you didn't go to the Sheriff's Office, you didn't
18 go to the annex on Kline Street, you didn't go to the
19 police station?

20 A No, because I was told if I called the police
21 what was going to happen to me and my family. I didn't
22 do it.

23 Q But you were safer with the police than the
24 robbers is what you said earlier?

25 A After I was arrested, yes, sir.

TESTIMONY OF ALBERT E. SIDERS

1 Q Okay. Thank you.

2 THE COURT: Mr. Mathews, redirect.

3 MR. MATHEWS: I think that I can argue this,
4 I don't think that I need to ask any more
5 questions.

6 THE COURT: Okay. Thank you. Mr. Siders,
7 you can step down. Thank you.

8 Mr. Mathews.

9 MR. MATHEWS: The Defense rests, Your Honor.

10 THE COURT: Ladies and gentlemen, the Defense
11 has now rested its case. The State has the
12 opportunity to offer reply testimony if it
13 chooses. Mr. Knight.

14 MR. KNIGHT: Your Honor, if we can take a
15 ten-minute break for me to talk to a witness.

16 THE COURT: Okay. Ladies and gentlemen, we
17 will take a short break. Please do not discuss
18 this case amongst yourselves or with anybody.

19 (Brief recess taken.)

20 THE COURT: Yes, sir. Mr. Knight.

21 MR. MATHEWS: And Your Honor, I wanted to
22 make a Court's exhibit, the letter, the notorious
23 letter in here in the event that any of us made a
24 mistake by not presenting it. I believe that Mr.
25 Reed came close to the line, but I'm not sure that

TESTIMONY OF ALBERT E. SIDERS

1 he went over it in terms of his questioning. If I
2 made a mistake, I wanted there to be a record for
3 PCR or whatever, whatever, but this is the
4 notorious letter marked as Court's Exhibit No. 1.
5 And if I could just present it as a Court's
6 exhibit.

7 *(Whereupon, Court's Exhibit No(s). 1 marked*
8 *for identification and received in evidence.)*

9 THE COURT: Does the State wish to provide
10 additional testimony?

11 MR. KNIGHT: Yes, sir, just one.

12 THE COURT: Let's go ahead and plan beyond
13 that. I'm somewhat reluctant to try to get to a
14 jury this afternoon. What is your standing?

15 MR. KNIGHT: I agree with the Court.

16 MR. MATHEWS: I do too, Your Honor.

17 THE COURT: Okay. Bring in the jury, please.

18 *(The jury enters the courtroom.)*

19 THE COURT: Folks, the State now has the
20 opportunity to offer reply testimony or rebuttal
21 testimony if it chooses to do so. Mr. Knight.

22 MR. KNIGHT: Yes, sir. Jason Chapman.

23 Thereupon,

24 JASON CHAPMAN

25 was called as a witness, having been first duly sworn,

TESTIMONY OF JASON CHAPMAN

1 was examined and testified as follows:

2 THE CLERK: Please have a seat on the witness
3 stand. State your name for the record.

4 WITNESS: My name is Edwin Jason Chapman.

5 DIRECT EXAMINATION

6 BY MR. KNIGHT:

7 Q Mr. Chapman, who are you employed with sir?

8 A I'm employed by the Colleton County Sheriff's
9 Office.

10 Q In what capacity sir?

11 A Criminal investigation and special
12 operations.

13 Q What does special operations include?

14 A Everything from narcotics, surveillance,
15 marine patrol.

16 Q Are you familiar with the service of a
17 warrant to Celestra Oscar Rivers and Sheronda Mitchell
18 on 215-2013?

19 A Yes, sir, I am.

20 Q Did you -- I'll show you these, State's
21 Exhibit 3. Defendant's Exhibits 1, 2, and 3. May I
22 approach, Your Honor?

23 A Yes, I'm familiar with them.

24 Q And did you serve those warrants yourself?

25 A As far as physically signing the warrants,

TESTIMONY OF JASON CHAPMAN

1 no, sir, but I did help execute the warrants at the
2 incident location.

3 Q Okay. The date of the purchases or buys in
4 those warrants, 2/12 or 2/14, 13; is that correct?

5 A Yes, sir, one is set on February 12th and one
6 is set on February 14th.

7 Q And these warrants were served by your office
8 under your control on the 15th?

9 A That's correct.

10 Q What was the purpose of everything being on
11 the 15th?

12 A We had multiple complaints that apparently
13 came in through administration. Typically we spread
14 out service of search warrants usually anywhere from
15 three, seven, eight, nine days after the last
16 undercover purchase, but administration had received
17 multiple complaints. I was contacted by the Sheriff
18 who is not privy to any type of narcotic operations at
19 all. No one is above me. He did not know that we had
20 the, you know, the ability to sign warrants on these
21 incidents yet. He just approached me and said he had
22 received multiple complaints and wanted to know if
23 there was anything that we could do to curb the
24 activities at the location.

25 And I told him that we had some

TESTIMONY OF JASON CHAPMAN

1 undercover purchases that had just occurred and that,
2 yes, we could generate a warrant. He wanted to know
3 how quick I could do it. It was nothing but a matter
4 of paperwork and presenting it to a judge for approval.
5 He asked if we could go ahead and do that before the
6 weekend. We generated the warrants. He wanted to know
7 how quick I could do it. And we generated the
8 warrants, approached the judge, got approval and
9 signatures from the Judge and executed the warrants.

10 Q Those are search warrants on these two
11 individuals' residents?

12 A That's correct.

13 Q Did it concern you that the purchases were
14 made so recently and obviously Mr. Siders was the CI in
15 both of these incidents?

16 A We go through a pretty extensive packet when
17 we meet with potential informants. And we do that same
18 overview whether it is an undercover officer or whether
19 it is an actual informant, civilian informant. And
20 there's an awful lot of thought and process that go
21 into not just the purchases but the execution of the
22 warrants and a lot of factors. One of the things that
23 we look at is the purchasing individual, whether it is
24 an undercover civilian or an undercover officer and
25 their association with the target. It's someone that

TESTIMONY OF JASON CHAPMAN

1 they deal with on a regular basis that does involve
2 suspicion. And sometimes we don't have to stretch that
3 gap out as long. If it's someone that they don't deal
4 with on a normal basis or they are trying to introduce
5 themselves to the situation, then we might drag it out
6 longer trying to prevent the target from recognizing
7 the purchaser.

8 In this situation, Mr. Siders was
9 comfortable with both of these Defendants. If I
10 remember correctly during the briefing he wasn't
11 concerned. As a matter of fact, he rode a bicycle to
12 the incident location to conduct the purchases, as
13 where normally we would use an undercover officer or
14 they have a vehicle of their own or either we might
15 merge an informant from a different jurisdiction to
16 drive them. He was comfortable enough that he actually
17 drove a bike to the incident location. So, when I
18 looked at all of these circumstances, he was a regular
19 and he knew these individuals, it wasn't that much of a
20 concern. And additionally he wasn't working off
21 charges for us, this wasn't a pressure thing. I wasn't
22 pressuring him to buy on a time line, 12th and buy on
23 the 14th.

24 And Mr. Siders came to our narcotics
25 guys and, you know, we look for help. You know, I

TESTIMONY OF JASON CHAPMAN

1 can't buy them, I have been a cop for 18 years,
2 everybody knows me. So, I mean, we have to have help
3 somewhere. So, we often get individuals who are
4 looking for money for compensation. I mean, it is an
5 employment process. They sign a packet that is a
6 contract. And in that contract we explain the
7 concerns, mine, you know, there's no 100 percent
8 guarantee that you will not end up on a stand in court.

9 There's no 100 percent guarantee that
10 you will not be identified. But I was comfortable
11 about it. I had a good feeling, and in all of the
12 years that I have worked narcotics I have had one
13 person, up to Mr. Siders, who was ever identified.
14 And, again, we can't plan for every single contingency.
15 And just like in that one it was something that was
16 totally out of our control.

17 Q So, what I think that you are telling the
18 jury is that you analyzed the relationship between
19 Mr. Rivers and Ms. Mitchell and you thought that their
20 relationship was so strong that they wouldn't pay any
21 attention to it?

22 A I just thought that their association between
23 each other and Mr. Siders would not draw attention.

24 Q Okay.

25 A He's a regular. He's comfortable within the

TESTIMONY OF JASON CHAPMAN

1 area. Him doing a purchase on the 12th and one on the
2 14th and then executing a warrant on the 15th should
3 not have drawn any suspicion.

4 Q Thank you. Answer any questions that
5 Mr. Mathews may have.

6 CROSS EXAMINATION

7 BY MR. MATHEWS:

8 Q Captain Chapman, this is -- may I approach
9 the court reporter and then the witness? Captain
10 Chapman, I'll hand you what's been marked as
11 Defendant's Exhibit No. 4.

12 *(Whereupon, Defendant's Exhibit No(s). 4*
13 *marked for identification and received in*
14 *evidence.)*

15 Q And if you are not able to identify it,
16 great. And if you are, if can you tell me what that
17 is.

18 A I'm making sure that everything is intact.
19 This is what we consider a CI or comfortable
20 informant -- or confidential informant packet.

21 Q Okay.

22 A This is what I spoke about earlier.

23 Q Okay. All right. And how many -- there are
24 how many pages to that?

25 A Quite a number of pages.

TESTIMONY OF JASON CHAPMAN

1 Q How many of them are signed?

2 A This is not the full packet.

3 Q It's not?

4 A No, sir.

5 Q Because I asked for the full packet. There's
6 more that I should be inspecting?

7 A This is an example of a packet with two pages
8 from Mr. Siders at the top.

9 Q If that is the packet, then it's woefully
10 inadequate; correct?

11 A If you are referring to the first two pages
12 in the packet.

13 Q If the first two pages are all that there is,
14 then a lot of work wasn't done that should have been
15 done; is that correct?

16 A I made these copies, so what I can tell you
17 is that this is a blank back-up full packet that is
18 typically filled out on a CI.

19 Q I see.

20 A You have a full packet and attached on the
21 front you have just the agreement.

22 Q I see.

23 A Taken out of Mr. Siders' packet?

24 Q So you actually made that copy?

25 A It is a -- there is a full packet filled out.

TESTIMONY OF JASON CHAPMAN

1 Q How come I didn't get it?

2 A I didn't fill the subpoena. I don't know.

3 Q There is a full packet?

4 A Filled out.

5 Q There is a full packet that is filled out?

6 A I didn't fill the subpoena, I don't know.

7 Did you actually send the subpoena in for his informant
8 packet?

9 Q Would you have given me the first two pages
10 if I didn't?

11 A I made this two or three months ago when the
12 Solicitor's office asked me what a packet looked like
13 in regards to this case.

14 Q I see. But in any event, that is not a full
15 packet.

16 A No, this is not a full packet.

17 Q I see. Okay. So, some of the things in a
18 full packet, you would ask for the background and
19 stuff?

20 A Yes.

21 Q Maybe informing of the risks involved and
22 things like that?

23 A Absolutely.

24 Q Okay. Is it more likely -- was Celeste
25 Rivers a big time dealer or small time dealer?

TESTIMONY OF JASON CHAPMAN

1 A Mr. Rivers was a problematic dealer. Big
2 time, small time. If we are talking weight, the amount
3 of weight that was coming in and out of that residence
4 was -- would not be considered a massive amount of
5 weight.

6 Q How many sales a day -- is he still in the
7 business?

8 A The location is still in the business and
9 he's around the area but I don't know that he's
10 actually still in business.

11 Q Okay. How many sales about, during that
12 time, was he making per day?

13 A The activity in that area was 24 hours a day,
14 daytime, nighttime, nonstop, in and out of his and
15 Ms. Mitchell's apartment.

16 Q Okay. So, how many people a day do you think
17 he served?

18 A If you are going to make me guess, I would
19 say judging on the surveillance we did, 50.

20 Q Okay.

21 A Between the two, you know, coming to that
22 apartment.

23 Q But because he was making 50 sales a day,
24 that is why you weren't concerned about Mr. Siders?

25 A That and, like I said, he's comfortable in

TESTIMONY OF JASON CHAPMAN

1 the area. He's not new. We are not introducing him to
2 a new dealer. Exactly, the number of people coming and
3 going and he's comfortable with the area.

4 Q All right. So, you used his control buy and
5 as a result of that you arrested him and he's now been
6 convicted because of that, correct?

7 A No.

8 Q No, he's not?

9 A He has not.

10 Q Okay. So, do you think that your case -- in
11 fact, your case would have been a lot better if you had
12 used Mr. Siders four or five more times and wired him,
13 right?

14 A Absolutely. You know as well as I do, the
15 more the better.

16 Q The more the better. But you used him twice?

17 A Uh-huh. (Indicating affirmatively.)

18 Q Okay. And you have never attempted to send
19 anybody else out there to buy drugs?

20 A From these two individuals?

21 Q Right.

22 A No, sir.

23 Q Okay. So, they are doing 50 sales a day and
24 you know that and you just -- it is okay?

25 A Just those two apartments out of a whole bank

TESTIMONY OF JASON CHAPMAN

1 of apartments are the ones that we are talking about
2 today.

3 Q I see, okay. And it's not -- so, you
4 expedited this because the Sheriff asked you to, right?

5 A Multiple reasons, but one of the reasons --
6 exactly. Because we were receiving complaints and the
7 Sheriff asked me.

8 Q The Sheriff in asking this, he's not a drug
9 agent, right?

10 A Right.

11 Q In terms of the drug agent, that is not
12 something that would have concerned him, in terms of
13 risk to the confidential informant, that is not
14 something that would concern him; he just wanted the
15 drug activity to stop?

16 A Like I stated before, he has absolutely no
17 knowledge of any purchases or operations that are
18 conducted inside the reconnaissance commission.

19 Q Okay. So, this wasn't a decision to protect
20 or not protect the CI, it wasn't a decision to process
21 the case or not process the case, this was a decision
22 based on expediency from someone who doesn't understand
23 the drug trade?

24 A No, sir, that is what you are saying; that is
25 not what I'm saying.

TESTIMONY OF JASON CHAPMAN

1 Q Okay. So, help me understand it better. You
2 said the Sheriff, when he did this, didn't know about
3 the drug trade?

4 A That's correct.

5 Q You did?

6 A That's correct.

7 Q But in not knowing, he said, Get this done,
8 and you being a good employee, you said, I'll do that;
9 right?

10 A Exactly.

11 Q So this --

12 A After I took into account the whole
13 ten-minute spiel I had a minute ago, but it wasn't
14 because someone touched their finger to a paper and
15 said, Make this happen.

16 Q I understand. So, you would have felt
17 comfortable saying, No, I'm not going to do that? You
18 would have felt comfortable saying that?

19 A Yes, I would have.

20 Q Saying, Naw, I'm not going to do it?

21 A If I had felt uncomfortable, I would have.

22 Q Okay. How many -- what is the longest you
23 have sat on a drug warrant before and how many pre-lims
24 have you done, seriously; hundreds, right?

25 A (Nods in the affirmative).

TESTIMONY OF JASON CHAPMAN

1 Q How many have involved the Public Defender's
2 Office?

3 A Almost every one of them.

4 Q So, we know each other pretty well, right.
5 So, in how many of those pre-lims have you identified
6 the confidential informant?

7 A In a pre-lim?

8 Q In a pre-lim.

9 A None at the minute.

10 Q Probably none or close to none, right?

11 A Probably.

12 Q And a pre-lim takes place a month or so after
13 an arrest, right?

14 A Give or take, yes, sir.

15 Q And an arrest normally happens sometimes --
16 what is the longest that you have sat on a warrant
17 before you served it?

18 A You know as well as I do, the law only allows
19 for ten days, and the longest I can sit would be ten
20 days from the time of the warrant.

21 Q You write down the information so you don't
22 forget it, right?

23 A What is that?

24 Q You write down the information, you make a
25 sale, you keep a log of it; right?

TESTIMONY OF JASON CHAPMAN

1 A That's correct.

2 Q Because you don't want to forget?

3 A That's correct.

4 Q So in terms of once you write it down, it can
5 last two years; right?

6 A The information?

7 Q The information. You are not required to get
8 a warrant -- once you get a warrant you have to serve
9 it within a certain amount of time; is that correct?

10 A That's correct.

11 Q But you don't have to get a warrant in any
12 particular time after an incident, do you?

13 A If I wanted to use that last incident as the
14 reason for obtaining the warrant, then I have 72 hours
15 to sign the warrant.

16 Q I understand.

17 A And ten days to execute. I'm clarifying what
18 you are asking me.

19 Q You are answering your own questions. You
20 are doing your own extra credit. That is not what I am
21 asking. What I am asking --

22 A Well.

23 THE COURT: Wait. She can't write down two
24 people talking and they can't listen to two people
25 talking.

TESTIMONY OF JASON CHAPMAN

1 THE WITNESS: I'm sorry, I apologize, Your
2 Honor. I am not quite understanding what you are
3 asking me Mr. Mathews.

4 BY MR. MATHEWS:

5 Q Okay. Let me be as clear as I know how,
6 okay. Once you get a warrant, you have to serve it
7 pretty quick, right?

8 A That's correct.

9 Q But you don't have to get a warrant in any
10 particular time once an incident has happened, correct?

11 A I understand now what you are saying, if I
12 want to further this investigation, how long could I
13 sit and wait, I could sit and wait inevitably.

14 Q Right. You could wait a year?

15 A If it fixes the problem, if the problem still
16 progresses, yes, sir.

17 Q How many -- your office has already
18 testified. I just wanted to see if we are all on the
19 same page?

20 A You are correct. I could have waited another
21 two weeks and gone in and done another series of
22 purchases.

23 Q You could have waited another year?

24 A Exactly.

25 Q All right. One of the reasons that you don't

TESTIMONY OF JASON CHAPMAN

1 do that with confidential informants, one of the
2 reasons that you don't get warrants right away is if
3 you continue to use them, right?

4 A That's correct.

5 Q And another reason is to protect their
6 identity; is that right?

7 A That's correct.

8 Q And that's why you don't mention them at a
9 preliminary hearing is because you don't want their
10 identity out?

11 A That's correct.

12 Q Because it compromises their utilization and
13 it puts them in harm's way?

14 A That's correct.

15 MR. MATHEWS: Okay. Nothing further.

16 THE COURT: Mr. Knight.

17 MR. KNIGHT: I have nothing. May he be
18 excused, Your Honor?

19 THE COURT: Sure. Captain Chapman, you may
20 be excused.

21 WITNESS: Thank you.

22 THE COURT: Yes, sir. Mr. Knight.

23 MR. KNIGHT: That is all from the State, Your
24 Honor.

25 THE COURT: Thank you. Now ladies and

JUDGE'S COMMENTS

1 gentlemen, you have now heard all of the evidence
2 and testimony that you will hear in the trial of
3 this case. You have yet to hear the final
4 arguments from -- that the lawyers will present to
5 you and the charge on the law which I'll give you
6 after that, once that has been done. You will
7 remember from my remarks earlier today, once you
8 have heard those things then you will be able to
9 go to the jury room and deliberate and reach a
10 verdict in this case.

11 The hour of the day is too late for us to try
12 to get this case in your hands today. The
13 argument and charge will take the better part of
14 the rest of the day, more than an hour and it'll
15 be almost 5:00 when you begin your deliberations.
16 You have to stay together while you are
17 deliberating and I doubt that any of you-all want
18 to spend the night here tonight so we will let you
19 go home now and ask you to be back in the jury
20 room tomorrow morning at 10:00. 10:00 tomorrow
21 morning.

22 At that point in time we will bring you out
23 and have the final arguments and charge on the law
24 and then you will go deliberate. You will not
25 deliberate yet or discuss this case amongst

JUDGE'S COMMENTS

1 yourselves or with anyone. And when you get back
2 to the jury room in the morning you can't start
3 talking about it then. You have heard all of the
4 evidence. You are not going to hear any more
5 evidence.

6 But when you took that oath earlier today you
7 said that you would well and truly try this case
8 and render a true verdict based on the evidence
9 and the law. You have not yet heard the law so
10 you can't start talking about it until you have
11 heard the law. And for the same reasons that I
12 had given you earlier, don't let anyone speak to
13 you about it either. Thank you folks for your
14 attention throughout the day. I'll see you all
15 tomorrow morning.

16 (The jury exits the courtroom.)

17 THE COURT: Mr. Knight, anything further for
18 the day before we end for the day?

19 MR. KNIGHT: No, sir.

20 THE COURT: Mr. Mathews?

21 MR. MATHEWS: I suppose, ceremoniously, I
22 must renew my motion for a directed verdict
23 acquittal, and I'm doing that.

24 THE COURT: That is fine, thank you. I
25 accept the renewal of those motions and I also

JUDGE'S COMMENTS

1 renew my earlier rulings for the reasons I have
2 previously put on the record.

3 And while we are on the record, I didn't
4 bring my charges out here. I think that I can
5 recall the ones that I have assembled in the other
6 room. Of course I'll instruct as to the general
7 charge on the law that I give as to reasonable
8 doubt. The reasonable doubt definition that I use
9 is Victor versus Nebraska or State versus Darby.
10 It is the same reasonable doubt definition that I
11 alluded to in my opening to the jury. That is the
12 firmly convinced standard.

13 You are free to argue any reasonable doubt
14 charge which our Supreme Court has approved, and
15 there are several of them. I just didn't want you
16 to go too far out on a limb and say, Now, when the
17 Judge tells you about reasonable doubt, he's going
18 to tell you that reasonable doubt is the kind of
19 doubt where a reasonable person doesn't hesitate
20 to act, because that's not what I'm going to say.
21 I didn't want to get you out there on a long pole
22 with you on the end of it.

23 The elements of offense, of course, armed
24 robbery, kidnapping and possession of a weapon
25 during the commission of a crime. I'll charge the

JUDGE'S COMMENTS

1 offense of coercion. The State -- there's two
2 cases, State versus Benjamin Newman is a more
3 recent case dealing with that charge. State
4 versus Holiday is an earlier charge in that
5 regard. State versus Weeks or Williams is another
6 one. One thing that causes me some concern about
7 State versus Newman is that it says that, The
8 arrest or coercion is an affirmative defense and
9 must be established by a preponderance of the
10 evidence and the State doesn't have the burden of
11 disproving it beyond a reasonable doubt as it does
12 self defense.

13 There is a tenth circuit decision that went
14 to the Supreme Court or cert from the Supreme
15 Court, and an eighth circuit decision that says
16 that that's not the case. There is a second
17 circuit decision that says that the State only has
18 to disprove one of those elements. I'm not going
19 to talk about preponderance of the evidence when
20 it comes to this. I'm going to treat it like self
21 defense. I'm just going to say that these things
22 have to be established in order for the offense of
23 coercion to arise.

24 I'll be glad to let you do additional
25 research tonight if you want to. I have given my

JUDGE'S COMMENTS

1 law clerk the night off so he's not going to do
2 anything.

3 MR. MATHEWS: You always do that.

4 THE COURT: I'll be glad for y'all to do some
5 more and convince me otherwise, if you would like.
6 Otherwise, that is it -- I'm not going to go down
7 that road being there's differing decisions from
8 different circuits in our state. I just don't
9 want to trek down there.

10 There are obviously no lesser includeds to be
11 addressed in this case. I can't think of anything
12 off of the top of my head. I may have something
13 in my stack. If you can think of anything else or
14 if you wish to object to those, I'll give you
15 overnight to think about and get with me tomorrow.

16 MR. KNIGHT: Thank you, sir.

17 THE COURT: I have the proposed verdict form
18 that Judge Buckner's law clerk was kind enough to
19 get that done. And I'll let you look at that
20 today. It is two pages. All right folks, I said
21 10:00 tomorrow because frankly we will all be here
22 earlier than that, but I allowed time to deal with
23 any additional charge requests or anything that
24 you all might have. I'll be here by 9:30. You
25 can give those to me then, but we won't get the

JUDGE'S COMMENTS

1 jury out until 10.

2 (Trial adjourned for the day.)

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CERTIFICATE PAGE

1

2 CERTIFICATE

3

4 STATE OF SOUTH CAROLINA:

5 COUNTY OF BEAUFORT:

6 I, MONA L. MANLEY, Court Reporter, certify that I
7 was authorized to and did stenographically report the
8 foregoing proceedings and that the transcript is a true
9 and complete record of my stenographic notes.

8

DATED this 29th day of September, 2015.

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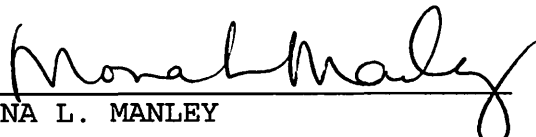
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TITLE PAGE

1 In the Court of General Sessions for the
2 State of South Carolina, County of Colleton

3

4 Case No.: 2014-GS-15-00242

5 State of South Carolina

6 Plaintiff(s),

7 vs.

Transcript of Record

8 Albert E. Siders,

9 Defendant(s).

10

11

12 VOLUME 5

13

14

15 April 22, 2015

16 Walterboro, South Carolina

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21 BEFORE:

22 The Honorable Thomas W. Cooper, Jr.

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APPEARANCE PAGE

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1 PROCEEDINGS

2 THE COURT: Good morning. Mr. Knight, is the
3 State ready for the jury?

4 MR. KNIGHT: Yes, sir.

5 THE COURT: Mr. Mathews, is the Defense
6 ready?

7 MR. MATHEWS: Yes, sir.

8 THE COURT: Thank you. Bring them in,
9 please.

10 (The jury enters the courtroom at 10:05 a.m.)

11 THE COURT: Good morning, Mr. Foreman and
12 ladies and gentlemen, thank you again folks for
13 your prompt return this morning. You have been
14 prompt every day that we have asked you to be here
15 throughout this brief trial and we appreciate
16 that. And appreciate the attention that you have
17 given to the trial of this case thus far,
18 listening to lawyers and witnesses and me when
19 it's been necessary for me to address you.

20 This has not been a lengthy trial, obviously,
21 you understand that. But you also understand the
22 importance of a trial is never determined by the
23 length of time that it takes to try. It is always
24 determined by the issues that are involved. And
25 you understand the importance of these issues and

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1 you have given this case thus far the attention
2 that it deserves. And now you will continue to
3 give your attention to Mr. Mathews for the first
4 of the final arguments. When he has completed his
5 argument then Mr. Knight, on behalf of the State,
6 who has the burden of proof, he has the right to
7 make the last of the arguments.

8 CLOSING ARGUMENTS BY THE DEFENSE

9 MR. MATHEWS: Mr. Foreman, ladies and
10 gentlemen of the jury, one of the things that you
11 heard in this case, there's ways to get drugs off
12 of the street. You can catch them, if they are
13 driving, driving offense or a roadblock or
14 something like that. Maybe just serving a warrant
15 or something. And another way is through what
16 they call a sting, okay, they set somebody up.
17 They get a confidential informant, they give them
18 some money, tell them to go buy some drugs, go get
19 this guy, or who do you know that will sell you
20 drugs? It is called a sting.

21 Well, Albert Siders stirred up a hornets'
22 nest and he got stung. There was a time back in
23 February of 2013 where he went to see Detective
24 Marcurella who you heard testify and said, I would
25 like to help and I would like some money.

CLOSING ARGUMENTS BY THE DEFENSE

1 He is a drug addict with a criminal record
2 and a job is hard to come by. So he said, I need
3 some money and I want to help. He knew how
4 destructive drugs were. They said, Well, who can
5 you get drugs from? I can get drugs from
6 Cornbread.

7 Confidential informant, right. You are
8 confidential because the State can continue to use
9 you and to protect the people that are acting this
10 way, because it is a dangerous job. You heard
11 somebody say, Snitches get stitches. Everybody
12 knows that. You mess around with them, you are
13 going to get stung.

14 So, they are going to protect your identity.
15 It is a promise, We are going to protect your
16 identity. One of the ways that you protect
17 somebody's identity is you have what's called a
18 controlled buy instead of a buy bust. One of the
19 things that you heard from, I think, Captain
20 Chapman as well as Officer Marcurella is that -- I
21 think Chapman, a buy bust is when you don't care,
22 you are going to go get them right now. You give
23 your confi -- usually it is an agent at that
24 point, because they are going to continue being
25 agents, and their identity is going to be blown

CLOSING ARGUMENTS BY THE DEFENSE

1 anyway right away. You might borrow them from
2 some place else, or you might use them here.
3 Marcurella said that he's even bought drugs from
4 people, which is crazy, but, you know, that would
5 be a buy bust. You know, you go in there with
6 some money, you photograph the money, you have got
7 the notes of it.

8 You go and you buy the drugs. And as soon as
9 you do that, they come in and they make the arrest
10 and they get the money back. No question about
11 it., you have got the same money that you gave
12 them. That is a buy bust. Easiest case to prove,
13 but obviously you have got to be careful about
14 that becuse you can only do it one time.

15 That is not the most common way. The most
16 common way is a controlled buy. You can use a CI
17 longer that way, okay. They can make lots of
18 buys. Captain Chapman said, More buys is better.
19 The more buys you make the more sure that you are
20 somebody is in the business, the more sure you are
21 that you are going to get a conviction. So more
22 is better.

23 So, you don't do a buy bust. You don't
24 arrest them right after you make the purchase.
25 You do it over the course of even months, a year.

CLOSING ARGUMENTS BY THE DEFENSE

1 And you keep your notes, you keep your logs so
2 that you remember, this confidential informant
3 bought drugs from this person at this time for
4 this much money. We have got the drugs, they are
5 in evidence. We send them off to SLED. We know.

6 But we don't get the warrant, because once we
7 get the warrant we have ten days to serve it. So,
8 they sit on it. They don't get the warrant. That
9 is not what happened to Albert. What happened to
10 Albert is that he went in there trusting the drug
11 squad to protect his identity by doing a
12 controlled buy. But what they did was they had
13 him arrested the next day. The next day. It is
14 on the warrants, you can look. The activity took
15 place on February the 14th, 2013, and the arrest
16 is made February the 15th.

17 And so the guy that is making the sales,
18 whoever it is, hum, let's see, yesterday, who all
19 did I sell drugs to yesterday, because that is who
20 sold me out, it is right here on the warrant. You
21 make some calls, have somebody make some calls,
22 you solid. Solid. Who isn't solid?

23 Now, it took a little while for them to
24 figure it was Albert. It wasn't immediately.
25 Becuase you hear things on the street quick.

CLOSING ARGUMENTS BY THE DEFENSE

1 Albert says, He heard on the street that this guy
2 had gotten arrested the next day. He heard that
3 quick. It took a little longer for the word to
4 get to the street generally as to who it was, for
5 people to put things together. Albert's sister
6 said that it was several months later before the
7 reputation was out there that Albert was a snitch.

8 Captain Chapman said that they were concerned
9 enough about it where he came in and said, I want
10 a bus ticket, and they gave him money for it. So
11 they were concerned about his safety too, enough
12 so that they give somebody money.

13 Now, what is he going to do? I don't know.
14 He is a convicted felon with a drug habit. I
15 don't know what getting out of town is going to
16 do. This is his home. He's lived here for 30
17 years. So, giving him a bus ticket, I don't know
18 what good it would do. I don't know whether he
19 used it. I don't know if there is any testimony
20 that he used it or not. But he kept his head low
21 and stayed out of trouble for months.

22 And when his drug addiction took over he had
23 friends of his to go buy drugs for him because
24 nobody would sell to him. And then he made a
25 really bad mistake on February 23rd of 2014, about

CLOSING ARGUMENTS BY THE DEFENSE

1 a year later. He is driving by the Chase Lounge.
2 Chase Lounge, he knows that he doesn't have any
3 business there. That is -- you want drugs, that
4 is a good place to get them. He's driving by
5 there and a couple of people wave him down for a
6 ride.

7 The conversation turns to drugs. You use
8 drugs? Yeah, I use drugs. Tell you what, we
9 don't have a car, we don't have a ride. If you
10 take us out to Santee we will give you \$50 in
11 drugs or \$50 in cash, or whatever combination you
12 want of that. I'll take the drugs. And he did
13 drugs with them. He did.

14 And they called their boss. And they got a
15 concerned look on their face. And they gave the
16 phone to Albert. And Albert later recognized that
17 voice and said, Oh, this is somebody that I know
18 to be Cornbread's boss, his connect man. "You Al
19 that drives the silver Chevy?" Yeah. At that
20 point Dread, one of the two there, puts his elbow
21 to Albert's throat and says, You better not sale
22 (ck) us out, or something to that effect.

23 A third guy shows up later on with a BB gun.
24 Now, they didn't give him a real pistol becuase
25 why? You give somebody a real pistol, Okay, I'm

CLOSING ARGUMENTS BY THE DEFENSE

1 getting out of here. Right? So, they give him a
2 BB gun. It looks like a weapon. It looks like
3 the real thing, but they know that it is not.
4 They bring a mask, punch a couple of holes in it
5 and give it to him. You are going to do this.
6 You are going to get us your money. And Albert
7 knows "or what". "Or what" is, We will kill you.
8 That is what happens. Snitches get stitches.

9 So, he takes the mask. The two guys get in
10 the car with him and another guy behind, the guy
11 that brought the gun and the mask, and they drive
12 out to the airport BP, park in Sherrell's
13 (phonetic) parking lot. Albert walks through the
14 lot by himself. He has got the hat on, but he
15 doesn't have it pulled down. There are two eye
16 holes in there. If he wanted to preserve, he
17 could have just sat out there and waited, said,
18 She's outside now, I can't go. When she goes back
19 inside I'll pull the mask down and go in. Could
20 have done that. Didn't do that.

21 Walks right up, big as life. And I think
22 that the poor lady, Ms. Washington, opens the door
23 for him. Walks right by her. No mask. Walks
24 right by her. And says, Give me a pack of
25 Newports. She turns around, and when she turns

CLOSING ARGUMENTS BY THE DEFENSE

1 back around there is the BB gun, right. It looks
2 like a gun. And she is scared, and she should
3 have been scared. That is a scary thing. And he
4 wouldn't have done it if his life wasn't in
5 jeopardy.

6 She opens the cash drawer, gives him the
7 cash. And then he says the strangest of things.
8 First he looks full face in the camera. He could
9 have had that down, he didn't. He Looks full into
10 the camera and then tells her, Go on back there.
11 Now, you have got your cell phone with you, right?
12 Becuase I know that you are going to call the
13 cops, that is your job. Isn't that a strange
14 thing to say?

15 She didn't give him -- he didn't ask for her
16 cell phone. He asked her, Does she have a cell
17 phone. She said -- I asked, Did he take your cell
18 phone? She said, No. Why would he ask if you
19 have a cell phone and then not take it? Why? He
20 knows that he's going to be caught, he wants to be
21 caught because he has a choice.

22 There is a book I think written in the '60s
23 or '70s called Catch 22. I think Joseph Keller or
24 somebody like that, I don't know, it is a long
25 time ago. But a Catch 22 is one of those things

CLOSING ARGUMENTS BY THE DEFENSE

1 that you can't win. I can either let these people
2 kill me or about kill me or I can set myself for a
3 long stretch. What am I going to do? Who do you
4 fear more? At that point, early on, he feared the
5 people that could put the stitches -- or put him
6 in a casket, that is what he feared more.

7 He can't talk to the police because the last
8 time he did what happened? Buy bust, not a
9 controlled buy. The next day he's arrested. Who
10 do I trust? I'll talk to Nyle, I'll talk to my
11 ex-probation agent. I have talked to him about my
12 additiction before, he knows things. I don't
13 think that Nyle was unkind or unfeeling about
14 that, but it wasn't his case. They talked long
15 enough for him to say, The BB gun, hat, all of
16 that stuff is in the car. Nyle gave that
17 information and he talks to the police and tells
18 them just what he told Nyle. He didn't have a
19 moment to talk to Nyle by himself. It looked like
20 an occupying force out there. You see all of the
21 patrol cars out there, everybody out there. Who
22 do you trust?

23 You have got somebody out there that is
24 making 50 sales a day still on the street, still
25 selling, Chapman says. And his boss puts the word

CLOSING ARGUMENTS BY THE DEFENSE

1 out there. How do they get this word? How is
2 this guy still out there? Maybe they are looking
3 after him. They are not looking after me. So,
4 who do I talk to? He puts a note in there to talk
5 to Nyle. Nyle said he got a letter from the jail,
6 request to talk to him and he said he just -- he
7 gave it to somebody else. Talking to somebody
8 else, I'll tell them what they know, I am not
9 going to say another word more because I don't
10 know who is out there, I don't know who to trust.

11 Albert didn't have a choice. Albert was
12 coerced to do what he did. Please consider
13 carefully the evidence. You take it back there
14 with you. And when you do I'm confident that you
15 will find Albert Siders not guilty.

16 THE COURT: Thank you, Mr. Mathews.
17 Mr. Knight.

18 CLOSING ARGUMENTS BY THE STATE

19 MR. KNIGHT: May it please the Court, Your
20 Honor.

21 THE COURT: Yes, sir.

22 MR. KNIGHT: Briefly I'll go over with you
23 what I know are the elements of the armed robbery,
24 possession of a weapon and kidnapping,
25 notwithstanding the fact that Mr. Siders admitted

CLOSING ARGUMENTS BY THE STATE

1 he committed the armed robbery. Armed robbery is
2 a felonious taking of property from another with a
3 gun, or what appears to be a gun. Kidnapping is
4 confine or restrain someone's liberty to move
5 about. And possession of a weapon during the
6 commission of a violent offense, that is what it
7 is. You got a gun, armed robbery is a violent
8 offense, that is possession of a weapon.

9 Another element that you must discern, I
10 think that the Court will charge you this, is
11 called the credibility of the witness. That is
12 the believability of a witness. You can judge his
13 or her demeanor on the stand. You can believe
14 some of the witness' testimony, all of the
15 witness' testimony, or none of the witness'
16 testimony. You can consider his or her bias on
17 the stand. Or I call it motive for testifying one
18 way or another. And only you can make that
19 decision. The Court can't make that decision,
20 only you can.

21 Now, let's go back a moment and consider
22 things that occurred in this case. I think that
23 they are important. First of all, let me clear
24 something up. Mr. Mathews said a warrant must be
25 served within 10 days. Not the arrest warrant.

CLOSING ARGUMENTS BY THE STATE

1 That is what he is misleading you. This is a
2 search warrant on this residence, not Albert
3 Siders or these people's arrest warrant. It was a
4 search warrant. A search warrant you do have to
5 serve within 10 days, okay. That is just the real
6 world.

7 So, understand that is not arrest warrant for
8 these people. Okay. This is different. If they
9 are and you have got an arrest warrant, you do
10 make an arrest. But initially they went there
11 with a search warrant and searched their
12 residence. Because, as the Captain said, 50 sales
13 a day come out of this place. Can you remember if
14 you are doing 50 sales a day who'd you sell to? I
15 can't. I don't believe anybody can.

16 So, let's go back to the victim. Sure, she
17 was in fear for her life. She thought it was a
18 real gun. She did not feel that she was free to
19 leave. She was confined. He asked her -- he
20 being Albert asked her, Do you have a cell phone
21 because I know that you are going to call the
22 cops. Now, remember this, remember this later in
23 my closing argument. I know that you are going to
24 call the cops. Okay. That is important. That is
25 important to the victim and it is important to

CLOSING ARGUMENTS BY THE STATE

1 Mr. Siders.

2 Deputy Langenfeld, he testified that she was
3 very upset. She was crying. Because someone just
4 stuck a gun in her face and said, Give me the
5 money. And I think that's important.

6 Briefly, Nyles (ck) GLOBAL Eltzworth talked
7 to Mr. Siders. And what did Mr. Siders tell him?
8 I messed up, I messed up. Not once, but twice.

9 Reuben Carter, you saw it on the video. I
10 need the money. That is why I did it. Didn't
11 say, I messed up. He said, I need the money.

12 And with George Rioux, the young man from
13 Port Royal, used to be with the Sheriff's
14 Department here, what did he tell George? I need
15 the money.

16 Something else that George Rioux testified to
17 I thought was unique, if you are being coerced to
18 do something, at his house, at [REDACTED] Peurifoy Road,
19 what are two people doing to his silver Chevrolet?
20 What are they doing? They are down like this
21 removing the license plate. Why do you remove the
22 license tag? So the police can't get you. You
23 coerced then? No, you have got a plan to get away
24 with something.

25 Because remember, the Defendant testified at

CLOSING ARGUMENTS BY THE STATE

1 3:30, 4:00 in the morning, prior to this incident,
2 he was smoking crack with his alleged partners, or
3 whoever they may be. I have never seen them.
4 That is interesting.

5 Ed Marcurella, you heard his testimony. I'm
6 not going through all of that. But remember, this
7 sale, or the sales that Mr. Siders was a CI
8 happened in 2013. The armed robbery happened in
9 2014. And the distance from 1825 Whitman Street
10 to the Sheriff's Department where Albert knew
11 where to go because he went there before, was one
12 and a half miles, basically five minutes. And
13 Langfeld testified he got to the store after the
14 call in five minutes.

15 Mary Blakely, his sister, I mean, she
16 testified, you know, I'm going to help him out.
17 He is my brother. I would testify the same way.
18 And when did she find out about Albert being a
19 snitch? October or November of 2013. If you
20 listen to Mr. Mathews, Albert is still doing
21 drugs, crack. He is a crack addict. From the
22 time of the incident, 2013, which was the CI use
23 until the time or the night before the robbery.
24 You use crack, your head goes wrong.

25 Now Albert testified, as I recall -- and

CLOSING ARGUMENTS BY THE STATE

1 understand, if I misstate something I don't do it
2 intentionally. This young lady will play it back
3 for you if you need her to. That there were some
4 guys in a dark blue or black car that followed him
5 to the store. Two or three. Had a gun and some
6 kind of camera, video camera. Now, I looked at
7 the video, and I'll let you look, the same one,
8 the last one I played. In that video in the
9 parking lot I did not see a dark blue or black
10 car, didn't see one at all.

11 And more importantly, in that same video as
12 Albert is walking out of the store I didn't see
13 anybody in a parking lot with a camera making sure
14 that he went in the store. If I missed that, I
15 apologize, but I didn't see it.

16 Captain Jamison testified -- I mean, Captain
17 testified to 50 sales a day. If you have 50
18 customers a day, let's assume that you are in a
19 retail store, could you remember each customer you
20 sold to that day? I submit that for your
21 consideration.

22 Now, coercion, we have heard the word
23 coercion. And the Court will instruct you much
24 better than I will be able to tell you. As I
25 understand it, it is no defense if there's any

CLOSING ARGUMENTS BY THE STATE

1 reasonable way, any other reasonable way other
2 than committing the crime to escape the present
3 harm. And the fear of injury must be reasonable.
4 Just remember, reasonable way to escape and the
5 fear of injury must be reasonable. Interesting.
6 Very, very interesting.

7 Because let's consider these factors. And
8 the videotape shows some of it. Some of it is
9 just using reasonable sense. Albert was driving
10 his Chevrolet truck or car, whatever it is, silver
11 HHR or something like that. And he had got this
12 fellow with a gun. He is a mile and a half from
13 the Sheriff's Department. He could have went
14 straight to the Sheriff's Department instead of
15 pulling into 1825 Whitman Street. Easy. You
16 think that they are going to shoot you if you are
17 headed into the Sheriff's Department? They are
18 not stupid. A mile and a half away.

19 Another thing, once he got into the store,
20 and you can look at it on the video, he is walking
21 in, he looks around to see if there's anybody else
22 in the store.

23 Going back to the conversation he had with
24 Ms. Washington. You got a cell phone? I know
25 that you are going to call the po po, the police,

CLOSING ARGUMENTS BY THE STATE

1 okay. He could have done this a reasonable way.
2 You go lock the door and call the police, there's
3 people outside that may shoot me, may hurt me.
4 Where is the fear of injury when he's inside the
5 store and she's going to lock the door and then
6 she is calling the police? Is that reasonable? A
7 reasonable person is in fear when there's no one
8 standing outside. You can look at that video
9 again. If you see somebody in that parking lot
10 with a gun or a video camera, I take it back. But
11 I didn't see it.

12 Probably an easier way to think about this, a
13 reasonable person to escape as opposed to
14 committing the crime. Walking in and the video
15 doesn't show anybody in the parking lot. He could
16 have walked right by the store, around the store
17 and headed to the Sheriff's Department. He didn't
18 do that, did he? That is another reasonable way
19 to escape from committing the crime and the threat
20 of harm. He didn't do that.

21 More importantly, if he's so scared does he
22 look back in that parking lot and see anyone with
23 a camera or a gun that is going to threaten his
24 life? Not one, not two, not three. I didn't see
25 it. In looking at that video, here is what I

CLOSING ARGUMENTS BY THE STATE

1 didn't see: I didn't see a dark blue or black car
2 on the video. I didn't see any other person in
3 the parking lot that would create harm or fear to
4 Albert. I didn't see anybody in the hedge. You
5 know, in the video you saw a hedge where he came
6 through, standing there with a camera or a gun. I
7 didn't see that. To threaten his life.

8 And then Mr. Siders called two witnesses. I
9 think that it was Ms. Blakely, his sister, and
10 Detective Marcurella. But he didn't call anybody
11 from his house to say that these two guys were at
12 his house the prior night. I submit that for your
13 consideration.

14 And remember, as I understand it, coercion is
15 no defense if there's any reasonable way other
16 than committing the crime to escape the threat of
17 harm. The fear of injury must be reasonable. I
18 didn't see a threat of harm. I didn't see any
19 kind of a threat of injury. There were many ways
20 that -- a reasonable way to escape committing this
21 crime. I submit to you, we have proven beyond a
22 reasonable doubt, and Albert has admitted, the
23 charge of armed robbery, possession of a weapon in
24 commission of a violent offense, and kidnapping.

25 I submit to you that I haven't seen any

CLOSING ARGUMENTS BY THE STATE

1 coercion whatsoever. Not even a scintilla. A
2 scintilla is a tiny little bit of evidence, not
3 one little bit, that shows that Albert Siders was
4 coerced to commit the offenses that I just
5 outlined. Thank you so much.

6 JURY CHARGE

7 THE COURT: Thank you, Mr. Knight. Now,
8 Mr. Foreman and ladies and gentlemen of the jury,
9 give me your attention for a few more moments.
10 Becuase it is my responsibility now to instruct
11 you or charge you as to what the law is in this
12 case. You have been patient and you have listened
13 attentively to everything that has been told to
14 you thus far, and it's now important that you
15 listen to the instructions on the law that I will
16 give you. Because it's my duty under our
17 Constitution to instruct you or charge you as to
18 what the law is in this case.

19 And it's your duty as jurors to accept the
20 law, as I charge it to you now, to be the correct
21 law. As jurors it is your duty to decide all of
22 the issues of fact in this case. And for that
23 purpose you have to determine the effect, and the
24 value, and the weight and the truthfulness of the
25 testimony and the evidence that you have seen and

JURY CHARGE

1 heard.

2 Both the State and the Defendant have a right
3 to expect that you will conscientiously consider
4 and evaluate the evidence and that you will apply
5 the law of the case to that evidence. So that
6 both the State and the Defendant will receive a
7 fair and impartial trial at your hands.

8 Throughout the course of this charge, ladies
9 and gentlemen, when I use the word "Defendant," I
10 am referring to Mr. Albert Edward Siders. Mr.
11 Siders, as you know, has been indicted by the
12 Grand Jury of Colleton County. One indictment
13 charges him with armed robbery and alleges that on
14 or about February the 21st of 2014 in Colleton
15 County the Defendant, Albert Edward Siders, at
16 1825 Whitman Street, by use of force, threats, or
17 intimidation, and while armed with a deadly
18 weapon, or while alleging by either action or
19 words that he was armed while using a
20 representation of a deadly weapon or some other
21 object which Jurnell Washington was present during
22 the commission of the crime reasonably believed to
23 be a deadly weapon, that he carried away goods or
24 moneys from the person or in the presence of
25 Jurnell Washington with the intent to steal those

JURY CHARGE

1 things in violation of the law.

2 Mr. Siders is also charged with kidnapping.

3 The kidnapping indictment says that he did here in
4 Colleton County on or about February the 21st,
5 2014, unlawfully seize or confine the victim,
6 Jurnell (ck) GLOBAL Washington, without authority
7 of law and in violation of law.

8 The final indictment charges possession of a
9 weapon during the commission of a violent crime.

10 And it says that in Colleton County, South
11 Carolina on or about February the 21st, 2014, that
12 the Defendant, Albert Edward Siders, did possess a
13 pistol or visibly display what appeared to be a
14 pistol during the commission or attempted
15 commission of armed robbery or kidnapping, both of
16 which are violent crimes in the eyes of the law.

17 Now, ladies and gentlemen, the indictments
18 that I have just read to you are not evidence nor
19 are they proof of the charges that they contain.
20 They are simply legal documents or charging papers
21 that tell us what this case is all about. You
22 know to the charges contained in the indictment
23 Mr. Siders has entered pleas of not guilty and has
24 requested a jury trial, which you have given and
25 he has received here in this court.

JURY CHARGE

1 The legal effect of a plea of not guilty in a
2 criminal case is to place the burden of proof on
3 the State to prove by evidence the guilt of the
4 Defendant beyond a reasonable doubt before you can
5 convict him and find him guilty. Mr. Siders is
6 presumed innocent in law from the charges
7 contained in these indictments. It is a
8 fundamental rule of our law of evidence that a
9 Defendant, regardless of the nature of the charges
10 against him, or the seriousness of the charges
11 against him, he will be presumed innocent of the
12 crimes for which he has been indicted unless and
13 until his guilt has been proven by evidence that
14 satisfies you of that guilt beyond a reasonable
15 doubt.

16 The presumption of innocence is not some
17 empty legal phrase. It is not something that is
18 just made up by lawyers to try to get guilty
19 people off. The presumption of innocence is a
20 substantial one, to which every person, including
21 this Defendant, is entitled to receive. The
22 presumption of innocence is likened to a robe of
23 righteousness that is placed about the shoulders of
24 the Defendant. And it assigns to that Defendant
25 the class known as the innocent. And that

JURY CHARGE

1 presumptive robe of righteousness continues to
2 exist about the shoulders of the Defendant until
3 that robe has been stripped from his person by
4 evidence that satisfies you of his guilt beyond a
5 reasonable doubt.

6 The presumption of innocence accompanies a
7 Defendant throughout every phase of these
8 proceedings, from the time of his arrest. Even as
9 you go into your jury room to deliberate and
10 discuss this case amongst yourselves, the
11 presumption of innocence continues to exist to his
12 benefit until you as a jury reach the conclusion
13 that his guilt has been proven by evidence beyond
14 a reasonable doubt. So, that is the burden of
15 proof on the State, to prove his guilt beyond a
16 reasonable doubt.

17 Some of you might have served as jurors in
18 civil cases, and if you did serve as jurors in a
19 civil case the Judge told you that it's only
20 necessary that the party who has the burden of
21 proof present evidence that is more convincing on
22 that side than the evidence is on the other side.
23 But in criminal cases the proof has to be more
24 powerful than that. The State's proof must be
25 proof beyond a reasonable doubt.

JURY CHARGE

1 So, what do we mean by proof beyond a
2 reasonable doubt? Proof beyond a reasonable doubt
3 is proof that leaves you firmly convinced of the
4 Defendant's guilt. Now there are very few things
5 in this world that you and I know with absolute
6 certainty. And in criminal cases the law doesn't
7 require proof that overcomes every possible doubt.
8 So, if based on your consideration of the evidence
9 you are firmly convinced that the Defendant is
10 guilty of the crime charged, you must find him
11 guilty.

12 If, on the other hand you think that there's
13 a real possibility that he's not guilty you must
14 give him the benefit of the doubt and find him not
15 guilty. Reasonable doubt can arise from evidence
16 in a case, or it might arise from a lack of
17 evidence in the case. But you, ladies and
18 gentlemen, have to decide whether or not
19 reasonable doubt exists as to the guilt of this
20 Defendant.

21 I tell you that he is entitled to every
22 reasonable doubt which arises in the whole case,
23 or which arises from any defenses which have been
24 asserted by the Defendant. And if on any issues
25 of fact which are necessary to a conviction and a

JURY CHARGE

1 verdict of guilty you have a reasonable doubt as
2 to how that issue should be resolved, it is your
3 duty to resolve that reasonable doubt in favor of
4 the Defendant.

5 I remind you that the Defendant is never
6 required to prove his innocence. But the State is
7 required and will have to prove every essential
8 element of the offense charged against him by
9 evidence that satisfies you as a jury of his guilt
10 beyond a reasonable doubt before you can convict
11 him and find him guilty. So, if after hearing the
12 whole case you have a reasonable doubt as to the
13 guilt or innocence of the Defendant, he is
14 entitled to that reasonable doubt and would be
15 entitled to an acquittal and a verdict of not
16 guilty. But on the other hand, if upon the whole
17 case you find that the State has proved with
18 evidence, it is equally your duty to convict him
19 and find him guilty.

20 During this trial each of us, you and I, have
21 our separate duties to perform. As I told you, I
22 am the trial judge and it is my job to preside
23 over the trial in this case. I also have the duty
24 to pass upon or rule upon admissibility of
25 evidence which has been offered in this case. And

JURY CHARGE

1 in that regard you must consider only the
2 competent evidence before you. In other words,
3 you are to consider only the testimony which has
4 been given on this witness stand the the items or
5 documents which have been entered into evidence
6 during the trial of this case. I have the
7 additional duty to charge you as to what the law
8 of the case is because as the presiding judge I am
9 the sole judge of the law of the case. And it is
10 your duty to accept the law as I charge it to you
11 now and to apply it to the facts that you find to
12 exist.

13 You might have brought with you into your
14 service as jurors some pre-conceived ideas or
15 notions about the law or you might have some
16 preferences about what you would like the law to
17 be. Well, let me tell you if your ideas about the
18 law disagree with what I am telling you the law
19 actually is, it is your responsibility under your
20 oath to forget what you think about the law or
21 would like for the law to be, because it is your
22 responsibility as jurors to accept the law as I
23 charge it to you now to be the correct law.

24 Now, in every case tried in this court before
25 a jury, you as a jury become the sole and

JURY CHARGE

1 exclusive judge of the facts of the case. You are
2 the judge of the facts and I am the judge of the
3 law. Our Constitution said that our trial judge
4 can't comment on the facts of the case. I can't
5 hint to you or intimate to you or suggest to you
6 any issue about the facts of the case or what your
7 decision of the case should be. Since you are the
8 sole judges of the facts of the case you are not
9 to gather from anything that I have said during
10 this trial or anything that I am saying to you now
11 in this charge that I have an opinion about the
12 facts. The law does not allow me to have an
13 opinion about the facts of the case. That is
14 solely for you to determine.

15 And so as jurors, then it becomes your duty
16 as I have told you to determine the effect and the
17 value and the weight of the truthfulness of the
18 evidence that has been offered during this trial.

19 That means that as you determine what the
20 facts of the case are you must necessarily pass
21 upon the credibility of the witnesses. Credibility
22 is another word that means believability. You
23 have to decide the believability of the witnesses
24 and the testimony that has been offered in this
25 case. You alone have to decide the force and the

JURY CHARGE

1 effect and the truthfulness of what you have heard
2 in this courtroom.

3 Now, as you make this, your decision as to
4 what you believe or the truthfulness of the
5 testimony, there are a lot of things that you can
6 take into account. You can take into account, for
7 example, the appearance; the manner of the witness
8 as he or she testified from this witness stand.
9 We sometimes call that the demeanor of the
10 witness. In other words, how did that witness act
11 on the witness stand in response to the
12 questions that were put to the witness.

13 You have the right to ask yourself, whether
14 that witness was forthright or was the witness
15 hesitant in making his or her responses. You have
16 the right to ask yourselves whether or not the
17 witness' testimony was consistent or was it
18 inconsistent. Did it contain discrepancies, for
19 example. You have the right to ask yourself what
20 the ability of that witness was to know the facts
21 that he or she was testifying about. You have a
22 right to ask yourself whether a witness had a
23 cause or a reason to be biased in favor of the
24 testimony that the witness was giving. You can
25 ask yourself whether the testimony was made

JURY CHARGE

1 stronger by other evidence or made weaker by other
2 evidence in the case.

3 You have heard introduced into the evidence
4 of this case a -- evidence of a prior criminal
5 record of the Defendant, Mr. Siders, in this case.
6 Now, that evidence was introduced for the limited
7 purpose and can be considered for the limited
8 purpose of deciding the credibility of the witness
9 himself. That is, deciding whether or not he was
10 telling the truth. You cannot accept that
11 evidence of a prior criminal record for the
12 purpose of determining whether he committed this
13 crime because he had committed a crime in the
14 past. It was not introduced for that purpose and
15 you cannot consider it for that purpose. You can
16 consider that evidence of a prior criminal record
17 only for the purpose of determining the
18 credibility of the testimony offered in that
19 regard.

20 I tell you, ladies and gentlemen, as jurors
21 you have the right to believe a small part of the
22 testimony of a single witness and you can
23 disbelieve the larger portion of the testimony of
24 that same witness or the other way around. Or you
25 can believe everything one witness tells you or

JURY CHARGE

1 none of what a witness tells you.

2 But don't exercise those considerations
3 arbitrarily. There has to be some reason for you
4 to do that. Because what we ask you to do is to
5 use your mental process in determining what you
6 consider to be true. We ask you to exercise your
7 good judgment, your common sense, your sense of
8 logic and reason and your experiences in life.
9 And you apply these abilities that each of you
10 has, unique abilities to you because you bring
11 them from your individual walks from life and from
12 your individual experiences in life. And you
13 bring those abilities that each of you has to bear
14 on what you have heard in this courtroom and you
15 decide what the truth of this case is. And when
16 you decide what the truth of the case is, you
17 apply the truth that you have found and all that I
18 have gave you and those two things will come
19 together to result in a verdict which will speak
20 the truth of this case.

21 Now, I want to instruct you on of the
22 elements of the offenses which are charged in this
23 particular case. I remind you that the burden of
24 proof is on the State to prove each of the
25 elements of these offenses beyond a reasonable

JURY CHARGE

1 doubt before you can convict a Defendant of that
2 particular offense.

3 I want to explain to you, first of all, the
4 offense known in law as armed robbery. Our code
5 of law provides in part as follows: And I will
6 read the Code Section 16-11.330 which says, A
7 person who commits robbery while armed with a
8 pistol, dirt, sling shot, metal knuckles, razor,
9 or other deadly weapon or while alleging either by
10 action or words that he was armed while using a
11 representation of a deadly weapon, or any object
12 which a person present during the commission of a
13 robbery reasonably believed to be a deadly weapon
14 is guilty of armed robbery. STOP proofreading
15 here

16 So, I will define for you the offense of
17 robbery while armed with a deadly weapon for which
18 we call, for convenience, armed robbery. In order
19 for you to understand that I have to explain for
20 you and define for you some lesser included crimes
21 which are included in that charge. One is
22 larceny, which is commonly referred to as
23 stealing. And then there is robbery. And then
24 there is armed robbery. Because each one builds
25 upon the other.

JURY CHARGE

1 And so we begin with the basic charge of
2 larceny. What is larceny? Larceny is what you
3 and I commonly refer to as stealing. The wrongful
4 taking and carrying away of any person by any
5 person of the goods or personal property that
6 belongs to somebody else. That is what you have
7 always thought it was before you got here. That
8 is what stealing is. That is what larceny is.
9 But you have to have a wrongful intent to steal
10 it, to deprive that owner of the use and
11 possession of that property.

12 So, the essential elements of the crime of
13 larceny are, first of all, there has to be the
14 wrongful taking and possession of someone else's
15 personal property. I tell you that money, lawful
16 currency of the United States is personal property
17 under the law. And second, there has to be the
18 carrying away, the removal of that personal
19 property. And thirdly, there has to be the
20 wrongful intent to steal it. That is, to
21 permenantly keep it, to deprive that owner of its
22 use. That is larceny.

23 Now, robbery adds one more element to that.
24 Robbery is the wrongful taking and carrying away
25 of someone's personal property from that person or

JURY CHARGE

1 from a person or presence of that person by
2 violence, or putting that person in fear of
3 violence. So, robbery includes larceny. And all
4 of the elements which are necessary to constitute
5 larceny are necessary to constitute robbery.

6 So, the elements of robbery are the property
7 has to be personal property, the subject of
8 larceny as I have told you. There has to be the
9 wrongful taking and carrying away of that personal
10 property. There has to be the wrongful intent to
11 permanently keep it from the other person. And it
12 has to be taken from the presence of that person
13 or from the person himself or herself by force or
14 violence or by putting that person in fear of
15 violence. So, that is larceny and robbery.

16 Larceny can be property stolen from you and
17 you don't even know it. You find it, you know,
18 you go to your house and something is missing from
19 your house, somebody stole something, that would
20 be larceny. You didn't know that they stole it
21 until after the fact. Now, if somebody comes to
22 your house and steals something while you are
23 there and they take it from your presence or from
24 your person, then that's robbery.

25 So, what then makes robbery armed robbery?

JURY CHARGE

1 Armed robbery is the use of a deadly weapon or
2 what appears to be a deadly weapon to accomplish
3 the purpose of robbery. So, it is a wrongful
4 taking of the personal property of somebody else
5 with the carrying away of that preoperty and the
6 taking away of that property from the person or
7 somebody else or from a person in the presence of
8 that person by force or fear of violence and by
9 putting that person in fear of violence by the use
10 of a deadly weapon or what appeared to be a deadly
11 weapon. That is the charge of armed robbery.

12 The obligation is on the State to prove each
13 of those elements as I have explained it to you.
14 Mr. Siders is also charged with the crime of
15 kidnapping. The State has to prove beyond a
16 reasonable doubt that the Defendant in this case
17 knowingly and unlawfully either seized or confined
18 or kidnapped or abducted some person without
19 authority of law.

20 To do something unlawfully is to do it
21 willfully and against the law. To do something
22 knowingly means that it has to be done with
23 knowledge and conscientiously. In other words,
24 not accidentally. To seize someone, which is
25 analogous of kidnapping, it means to take hold of

JURY CHARGE

1 forcibly or suddenly. To confine someone means to
2 limit or restrict or to enclose within bounds or
3 to keep within bounds a person. Kidnapping is to
4 remove a person against his or her will by
5 unlawful force or by fraud.

6 Now, it is not necessary that the State prove
7 that the Defendant unlawfully seized, confined,
8 inveigled, decoyed, kidnapped, abducted and
9 carried away another person. In this case, the
10 victim without authority of law. It is enough if
11 you find beyond a reasonable doubt that the
12 Defendant did any of these things then you may
13 find the Defendant guilty of kidnapping.
14 Something that is done without the authority of
15 law is something that the law does not permit, it
16 does not allow, it does not provide justification
17 for. I tell you that the kidnapping doesn't have
18 to be for any personal or monetary gain or for any
19 illegal purpose. It can be done for any reason
20 whatsoever.

21 Finally the Defendant is charged with
22 possession of a firearm during the commission of a
23 violent crime. And it makes it illegal to possess
24 a firearm or to visibly display what appears to be
25 a firearm during the commission of a violent

JURY CHARGE

1 crime. Our law also provides that a violent crime
2 includes the offenses of kidnapping and armed
3 robbery.

4 So, for you to find the Defendant guilty of
5 this separate charge of possessing a firearm or
6 attempting -- or appearing to possess a firearm
7 during the commission of a violent crime, you must
8 first find that he's guilty of either armed
9 robbery or kidnapping, either or both.

10 And if you find that he's guilty of either
11 armed robbery or kidnapping, then you must
12 determine whether the State has proven beyond a
13 reasonable doubt that he was in possession of a
14 firearm or that he visibly displayed what appeared
15 to be a firearm during the commission of that
16 crime. I remind you once again, but the burden
17 rests upon the State to prove each of the elements
18 of the offenses as I have charged you beyond a
19 reasonable doubt.

20 Now criminal intent is a necessary element of
21 each crime and it has to be proven by the State
22 beyond a reasonable doubt. Criminal intent is
23 always a matter that has to be determined by you
24 as a jury from the circumstances which surrounded
25 the situation, surrounded the crime at the time.

JURY CHARGE

1 Because there's no way to prove intent to a
2 mathematical certainty. There is no way you can
3 cut off the top of a person's head and look down
4 into their brain and decide what the person had in
5 their mind at the time, you can't do that.

6 And so the law says that criminal intent may
7 be inferred from the circumstances which were shown
8 to have existed at the time. And that is how you
9 make a determination of whether or not the element
10 requiring intent was present. Because criminal
11 intent is a state of mind and it operates jointly
12 with an act in the commission of a crime. It is a
13 mental state. It is a conscious wrongdoing. So,
14 it is up to you as a jury to decide what the
15 Defendant intended to do based upon the
16 circumstances which were shown to have existed.

17 I will tell you that the State has to prove
18 criminal intent beyond a reasonable doubt just as
19 it has to prove every other element beyond a
20 reasonable doubt as I have explained it to you.

21 Now, the Defendant in this case has raised
22 the defense of coercion. The defense of coercion
23 will excuse the commission of a crime if the
24 coercion is immediate and of such a nature to
25 cause a well grounded fear or apprehension of

JURY CHARGE

1 death or serious bodily injury if the criminal act
2 is not done. Coercion is not a defense if there
3 is a reasonable way to escape the harm other than
4 by committing the crime.

5 And so, in order to be a defense the coercion
6 or the duress must be present, it must be
7 immediate, and imminent, and it must be of such a
8 nature as to induce or cause a well-rounded
9 apprehension or fear of death or serious bodily
10 harm if the act is not done. The fear of injury
11 or death must be reasonable and there must be no
12 other reasonable way to escape the threat of harm
13 other than by committing the crime itself.

14 You have heard in this particular case
15 evidence on proof of certain statements which have
16 been made by the Defendant and you have seen some
17 of those on videotape as a matter of fact. In
18 order for you to consider those statements as
19 evidence for any purpose whatsoever it's necessary
20 that the State satisfy you and prove beyond a
21 reasonable doubt that the statements were
22 voluntarily made and that they were the product of
23 an unrestrained choice by the Defendant in this
24 case. You have to decide whether the statements
25 were voluntarily made, in other words. If you

JURY CHARGE

1 decide that they were voluntarily made, then you
2 have to decide what weight you will give them.

3 And in determining whether a Defendant's will
4 was overcome in making a statement, the law
5 requires you to determine or to decide and look
6 upon the totality of the circumstances surrounding
7 the making of those statements. And you can
8 consider the characteristics of the Defendant or
9 the circumstances surrounding the question that
10 was made. In determining the voluntariness of the
11 statement you should consider whether the
12 Defendant was advised of and understood his
13 Constitutional rights. The law requires that
14 before any questions can be asked of a person who
15 is in custody, that that person be advised of his
16 or her Miranda rights. This means that the
17 authorities have to advise the accused that he has
18 a right to remain silent, that if he makes a
19 statement it can be used against him in court.
20 That he has the right to have a lawyer present.
21 That if he can't afford a lawyer, then one will be
22 appointed to represent him without cost. And he
23 has the right to stop making a statement at any
24 time.

25 You have to scrutinize all of the surrounding

JURY CHARGE

1 circumstances before you give any weight to an
2 alleged statement. You must be satisfied beyond a
3 reasonable doubt that the statement was made by
4 the Defendant, that it was uninfluenced by promise
5 or reward or any threat of harm. And if you find
6 beyond a resonable doubt that the statement was
7 given voluntarily, then you will decide what
8 weight, if any, should be given to it. If you
9 find that the statement was not voluntary, then in
10 that case you must not consider the statement as
11 evidence for any purpose at all.

12 Now, ladies and gentlemen, finally, and
13 finally that is a word that you have been hanging
14 on waiting to hear for a while. Finally, finally
15 let me tell you that you are not partisans or
16 advocates for either the State of South Carolina
17 or for this Defendant. You don't serve as jurors
18 to punish your enemies or to reward your friends.
19 Obviously such a system of justice would not be
20 justice at all. It would be intolerable.

21 You have been selected by both the State and
22 this Defendant to be fair and impartial jurors.
23 It is your duty then, by your joint deliberations,
24 to determine the truth of this case, giving to the
25 Defendant the benefit of every reasonable doubt on

JURY CHARGE

1 each and every issue. And then to the facts which
2 you determine to be true you take and apply the
3 law which I have given you, and thus arrive at a
4 verdict which speaks the truthfulness of this
5 case. That is what the word verdict means. It
6 comes from a Latin saying, it means a truthful
7 saying. And once you have done that you will have
8 accomplished the responsibilities which have been
9 placed upon you and you will have satisfied the
10 oath that you took yesterday before you began this
11 trial, to well and truly try this case and to
12 render a true verdict according to the evidence
13 and the law, so help you God. I am confident that
14 you will do just that and that you will do nothing
15 less than that. Now I want to go over the forms
16 of verdict with you. They are written on this
17 sheet of paper.

18 Mr. Foreman, if you can step forward and take
19 those. I give the verdict form to the foreman
20 because he is the one that has to fill it out, but
21 it's not his verdict alone, obviously. The
22 verdict has to be unanimous and all 12 of you have
23 to agree as to what the verdict is, Mr. Foreman,
24 before you can fill out that form and sign it.
25 The order in which I go over these possible

JURY CHARGE

1 verdicts doesn't mean anything in the world. You
2 are to attach no significance and draw no
3 conclusion from the order in which I present them
4 to you. I simply present them in the order which
5 I find easiest to explain. There are three
6 separate verdicts. Your verdict on one charge
7 doesn't necessarily determine your verdict on
8 another. You must decide each of these verdicts,
9 according to the evidence as it applies to that
10 particular charge and render a verdict in regard
11 to that charge on the evidence or lack of evidence
12 as to that charge itself.

13 The first possible verdict form addresses a
14 crime of kidnapping. There are two possible
15 verdict forms, as there are for each of these
16 charges. And that verdict form reads, We the jury
17 by unanimous consent find the Defendant, Albert
18 Edward Siders, and indictment number and there is
19 a number there which deals with kidnapping. And
20 the first possible verdict form on that is guilty
21 of kidnapping of Jurnell Washington. That is a
22 verdict form you would use if you find that the
23 State has met its burden of proof as to the
24 kidnapping of the victim by this Defendant beyond
25 a reasonable doubt. And if that is a verdict that

JURY CHARGE

1 you arrive at, Mr. Foreman, you will indicate that
2 by putting a checkmark or an X in the blank that
3 has been provided for you.

4 The next possible verdict form for that
5 charge of kidnapping is not guilty of kidnapping.
6 That is a verdict that you will use if you find
7 that the State has failed to meet its burden of
8 proof as to that charge. And if that is a verdict
9 that you arrive at you will indicate that by
10 putting a checkmark or an X in the space that we
11 have provided for you.

12 The next possible verdict deals with the
13 crime of armed robbery. Likewise, that verdict
14 form says, We the jury by unanimous consent find
15 the Defendant Albert Edward Siders, and the
16 indictment number that applies to the armed
17 robbery. And the first possible verdict in that
18 case is guilty of the armed robbery of Jurnell
19 Washington. If you find that the State has met
20 its burden of proof as to the elements of the
21 armed robbery of Jurnell Washington, that would be
22 the verdict that you would arrive at. And you
23 will indicate that by putting an X or a checkmark
24 likewise.

25 If you find that the State has failed to meet

JURY CHARGE

1 its burden of proof as to the charge of armed
2 robbery in that case, you would find the Defendant
3 not guilty and indicate that by putting an X or
4 checkmark by the verdict not guilty.

5 Now, if you find the Defendant not guilty of
6 kidnapping and not guilty of armed robbery you
7 must also find him not guilty of possession of a
8 deadly weapon during the commission of a violent
9 crime because one of the elements of possession of
10 a weapon during the commission of a violent crime
11 is that he be found guilty of one of these first
12 two charges. But if you find the Defendant guilty
13 of either kidnapping or guilty of armed robbery
14 then you will answer question number three and
15 that deals with possession of a deadly weapon
16 during the commission of a violent crime.

17 Once again, the possible verdict forms are
18 the same. Guilty if the State has met its burden
19 of proof and not guilty if the State has failed to
20 meet its burden of proof. And likewise, indicated
21 by putting an appropriate checkmark in the
22 appropriate place.

23 I remind you again, Ladies and gentlemen,
24 that the verdict has to be unanimous. And, Mr.
25 Foreman, you are not authorized to write the

JURY CHARGE

1 verdict or sign the form until all 12 of your
2 number have agreed as to what a particular verdict
3 should be as to each of those charges. I am going
4 to send you to your jury room right now, but I am
5 going to ask that you wait just a moment before
6 you begin deliberations. I have to talk with the
7 lawyers to see if I missed anything or left
8 anything out. If I have, I will bring you back
9 out and I will make that correction.

10 If we don't have to bring you back out, we
11 will send back the items of evidence. And once
12 the items of evidence have been delivered to you
13 that will be your signal to start your
14 deliberations, but not until then. Once the items
15 of evidence have been brought in you will begin
16 your deliberations. And you will deliberate until
17 you reach a verdict. At which time, Mr. Foreman,
18 you will fill out the form and sign it, knock on
19 the door, advise the bailiffs and we will bring
20 you out to receive the verdict.

21 If you have a need to look at any of the
22 video evidence which has been offered here, you
23 let us know that and we will bring it out.
24 There's no way for us to send that in to you, I
25 don't think. If there is, we will figure it out.

JURY CHARGE

1 But most of the time you have to come back in here
2 to the courtroom and we will show it to you. If
3 you need to see that, it is here, it is in
4 evidence. You have every right to look at it if
5 you want to, if you need to. You just let us
6 know. We will bring you back out and provide that
7 evidence for your viewing once again.

8 Ladies and gentlemen, please retire to your
9 jury room. And Mr. Lyons and Mr. Davis, if you
10 will stay where you are please. Thank you.

11 THE COURT: Mr. Knight, any exception to the
12 request for additional charge from State?

13 MR. KNIGHT: None from the State, Your Honor.

14 THE COURT: Thank you. Mr. Mathews, any
15 exception to the request for additional charge
16 from the Defense?

17 MR. MATHEWS: No, sir.

18 THE COURT: Thank. All right. You all can
19 get the evidence together and once you are
20 satisfied it's all together you can take it back.

21 (Evidence went back at 11:05 a.m. and the
22 jury began deliberations.)

23 (Alternate jurors were released.)

24 THE COURT: Okay. This is the first question
25 to be marked as Court's Exhibit 2.

JURY DELIBERATIONS

1 THE COURT: The jury sent out a note. It
2 says, Define kidnapping. Signed by the
3 foreperson. So I will define kidnapping. Let's
4 mark that.

5 *(Whereupon, Court's Exhibit No(s). 2 marked*
6 *for identification and received in evidence.)*

7 THE COURT: I will read the statute and then
8 I will tell them, of course, the State does not
9 contend that the Defendant in this case inveigled,
10 decoyed, defrauded, all of those things. I'll
11 just talk about seize and confine, which are the
12 two parts of the statute that -- now I can define
13 kidnapping, I have got my glasses. Let me get
14 that located.

15 All right, folks, is everybody ready for the
16 jury?

17 MR. KNIGHT: Yes, sir.

18 MR. MATHEWS: Yes, sir.

19 THE COURT: Bring us the jury, please.

20 *(The jury enters the courtroom.)*

21 THE COURT: Ladies and gentlemen, you have
22 asked me to define again for you the elements of
23 the crime of kidnapping. The statute makes it
24 illegal for any person to knowingly and unlawfully
25 seize, confine, inveigle, decoy, kidnap, abduct or

JURY DELIBERATIONS

1 carry away someone else without authority of law
2 enforcement. Now, the State does not contend, is
3 not required to prove that the State did all of
4 those things, and so I'm going to define for you
5 only those two parts of that statute that the
6 State contends applies in this particular case.

7 First of all, I tell you that, that it has to
8 be done with knowledge; that is, conscientiously,
9 not accidentally. The State is contending in this
10 particular case that the Defendant either seized
11 or took hold of suddenly or forcibly the victim,
12 or that the Defendant either confined or
13 restricted the movement of the Defendant -- of the
14 victim, I'm sorry.

15 Seize means to grab, to seize, to take hold
16 of suddenly or forcibly. Confine means to limit
17 or restrict movement or to enclose within bounds
18 either forcibly or physically or to imprison or to
19 shut up or keep in. The State does not contend
20 that the Defendant either inveigled or decoyed or
21 removed the person against her will or abducted or
22 carried in some way off. That is not what they
23 are contending.

24 They are contending the Defendant in this
25 particular case either seized or confined the

JURY DELIBERATIONS

1 victim, and so we will focus on that. Do you need
2 any further definition of those terms, seize or
3 confine? Does everybody understand? Okay. All
4 right. If you need further definition when you
5 get back there and start talking about it among
6 yourselves, Mr. Foreman, if you let me know I can
7 elaborate on that further. But I thought that it
8 was important that I focus on those parts of the
9 statute that the State does intend to apply to
10 this case.

11 Okay. Thank you. If you will go back and
12 continue deliberating and let us know if we can
13 help further.

14 (The jury exits the courtroom.)

15 THE COURT: Mr. Knight, any exceptions or
16 requests for additional charge in that regard?

17 MR. KNIGHT: No, sir.

18 THE COURT: Mr. Mathews?

19 MR. MATHEWS: No, Your Honor.

20 THE COURT: All right. Folks, we will
21 continue to stand at ease until we hear from the
22 jury.

23 (Court in recess while the jury deliberates.)

24 THE COURT: I left that note in there.

25 Folks, the jury has asked for further

JURY DELIBERATIONS

1 clarification on confinement and on restriction,
2 and so I will resort to our usual first line of
3 examination when we are asked to define something,
4 I go to the dictionary and refer to Black's Law
5 dictionary where it refers to unlawful restraint
6 and confinement and use the definitions there.

7 I want to wait until the note gets back out
8 here. (Judge receives the note) Thank you.

9 Clarification on confinement and restriction is
10 the note from the jury. So I'm prepared to give
11 that now and hopefully we will clarify their
12 questions. Bring us the jury, please ma'am.

13 (The jury enters the courtroom.)

14 THE COURT: Folks, you have asked for some
15 clarification on the words confinement and
16 restriction or restraint as they are used in the
17 statute. And so I will define those for you as
18 they are defined in the Black's Law Dictionary,
19 Sixth Edition, which is a legal dictionary that we
20 look to for legal definitions of words, much like
21 a regular dictionary that you and I would go to.

22 So, I define for you, first of all,
23 confinement. Confinement can mean to shut in or
24 imprison such as to put in a jail. It can also --
25 confinement can also exist by either a moral or

JURY DELIBERATIONS

1 physical restraint. Confinement can exist if
2 there are threats of violence with a present force
3 to carry out those threats or by some physical
4 restraint of the person itself. So, confinement
5 can exist if there's actual physical restraint or
6 if there are threats of violence when there is the
7 present ability to carry out those threats.

8 Restriction is really a restraint on movement
9 among other things. A person is restrained when
10 he or she is deprived of either liberty of
11 movement or freedom to remain in the place of
12 that -- his or her natural choice. And such
13 restraint can be accomplished by physical force
14 alone or by threat of force or by contact
15 reasonably implying that force will be used. So,
16 those are further expansions of the words
17 "restraint" and "restriction" and "confinement".
18 Does that seem to clarify things in any way?

19 THE JURY PANEL: Yes.

20 THE COURT: All right good. Then I'll ask
21 you to go back to your jury room and continue
22 deliberations and let me know if we can help you.
23 Thank you.

24 (The jury exits the courtroom.)

25 THE COURT: Mr. Knight, any exceptions or

JURY DELIBERATIONS

1 requests for further charge from the State?

2 MR. KNIGHT: No, sir.

3 THE COURT: Thank you. Mr. Mathews, from the
4 Defense?

5 MR. MATHEWS: No, sir.

6 THE COURT: Thank you. All right. Folks, we
7 will stand at ease until we hear further.

8 *(Whereupon, Court's Exhibit No(s). 3 marked*
9 *for identification and received in evidence.)*

10 (The jury enters the courtroom.)

11 THE COURT: Madam Clerk, you can publish the
12 verdict?

13 THE CLERK: Indictment number 2014GS1500244,
14 2014GS15-00242, 2014-GS-15-00245, the State of
15 South Carolina versus Albert Edward Siders. We
16 the jury, by unanimous consent find the Defendant,
17 Albert Edward Siders, in Indictment number
18 2014-GS-15-00245, guilty of kidnapping of Jurnell
19 Washington.

20 We the jury, by unanimous consent find the
21 defendant, Albert Edward Siders, in Indictment
22 2014-GS-15-00244 guilty of armed robbery of
23 Jurnell Washington.

24 We the jury, by unanimous consent find the
25 Defendant, Albert Edward Siders, in Indictment

VERDICT

1 2014-GS-15-00242, guilty of possession of a weapon
2 during the commission of a violent crime. Signed
3 by Foreman Herman Broughton. If this is your
4 verdict, please raise your right-hand.

5 (Jury panel raises their right hands.)

6 THE CLERK: Thank you.

7 THE COURT: Let the record reflect that all
8 12 have raised their right hand. Mr. Mathews,
9 does the Defendant request polling of the jury?

10 MR. MATHEWS: No, Your Honor.

11 THE COURT: Thank you. Is there anything
12 further before the jury is dismissed from the
13 State or Defense?

14 MR. KNIGHT: Nothing from the State, Your
15 Honor.

16 THE COURT: Thank you. Ladies and gentlemen,
17 I want to thank you for your service as jurors in
18 this particular case. I comment upon the quality
19 of your service. I never comment upon the verdict
20 that juries reach because I'm glad that you have
21 to make those difficult decisions and I do not.
22 So I never condemn nor do I commend juries for the
23 verdicts that they reach.

24 But I do commend them, and I commend you for
25 the quality of your service. That is for your

JUDGE'S COMMENTS

1 punctuality. You have been here on time every
2 time. You have been attentive. You have given
3 this case the deliberation and the thought that it
4 deserved. You did not rush to judgment in this
5 case. You have asked questions of me. You have
6 asked questions of each other. And I am confident
7 that you have thoroughly deliberated the issues
8 that you were asked to consider. And that is the
9 hallmark of what we ask juries to do. And you
10 have done that and we appreciate that.

11 I am going to be able to dismiss you now for
12 the rest of the week. We don't need for you to
13 come back, we don't need for you to call back.
14 You will get a check in the mail in a few days.
15 It's not going to begin to pay you for the full
16 time that you have spent with us nor for the
17 emotional contribution and mental contribution
18 that you have made to the issues that we presented
19 to you. I hope, though, you will add our sincere
20 gratitude for your service this week to the small
21 amount of that check and will be reimbursed in
22 some way for what you have done.

23 And I hope that you have gained a better
24 appreciation by your service as jurors in this
25 case as to the importance of what folks like you

JUDGE'S COMMENTS

1 have to do and why we have to involve folks like
2 you in what we have to do. I tell jurors from
3 time to time that I hope that you never get caught
4 up in this system. I hope that you never find
5 yourself seated over where Mr. Siders and his
6 family is seated as people charged with crimes or
7 on the other side where Ms. Washington was seated
8 earlier in the week, the victims of crimes.

9 I hope you never find yourself caught up in
10 those situations, but if you every find yourself
11 caught up in them, and I'll tell you, you don't
12 have to volunteer to get caught up in these -- in
13 the system, you can get brought into this whether
14 you want to or not. If you ever do find yourself
15 seated on the inside of a rail where these folks
16 are seated, on the Monday morning when the jurors
17 march into that courtroom like you-all did day
18 before yesterday to try this case, as you look
19 into the face of those jurors who march through
20 that same door to try your case, a case that you
21 have a deep and abiding personal interest in
22 because you or a family member are directly
23 involved in it, you are going to hope when you
24 turnaround in your seats and look into the face of
25 those jurors that you are looking into the face of

JUDGE'S COMMENTS

1 people just like you, people who have better
2 things to do that week than to come in here and be
3 with us, people who don't want to get involved in
4 this sort of system because they -- they are
5 uneasy about it for whatever reason, people who
6 would rather be somewhere else, people just like
7 you were on Monday when you came.

8 But you have stayed and you have served, you
9 have given us the type of juror that we want in
10 every case that we have to try and I hope that you
11 would get the same type of jury in the case that
12 you have an interest in, people just like you who
13 have better things to do who would rather be
14 somewhere else but are willing to set aside those
15 things to help us do the work that we have to do.
16 You have given us that type of jury, we are
17 grateful to you for that.

18 I'm going to let you-all go now with our
19 thanks and with my hope that, as I have said, you
20 have gained a better appreciation of how this
21 system works before you leave. Mr. Foreman, I
22 have got these indictments that I need for you to
23 sign as well. You have signed the verdict form.
24 But on the back of each indictment I have written
25 the verdict that you have -- that the jury has

JUDGE'S COMMENTS

1 reached and there's a place right below that where
2 it says "foreman" for you to sign on each of
3 those. If you will sign those before you leave,
4 okay. Thank you.

5 Ladies and gentlemen, the rest of you are
6 free to go. I have the matter of sentencing to
7 do. You are welcome to stay for that, if you
8 wish, but you don't have to. You are free to go
9 if you like.

10 (The jury released from service.)

11 THE COURT: Thank you, Mr. Foreman.

12 THE FOREMAN: Thank you.

13 THE COURT: Mr. Mathews, I'll be glad to now
14 hear motions.

15 MR. MATHEWS: Your Honor, it is blatant, they
16 were either going to cut him loose, and if they
17 didn't they were going to convict him. And I'll,
18 for the record, make motions for a new trial on
19 the basis that -- whatever bases we have got. I
20 think that there was evidence -- I think that they
21 could have found him not guilty, but they didn't.
22 But I'll make whatever standard motions need to be
23 made for I guess it wouldn't be a J -- it is
24 criminal, but a motion to set aside. And leave
25 ten days open for that, I guess.

POST-TRIAL MOTIONS

1 THE COURT: All right. I'll go ahead and
2 accept the motions today as having been made and
3 the record having been preserved in that regard.
4 But all appropriate motions that should have been
5 made at this juncture have been made, motion for
6 arrest of judgment, motion for a new trial, and
7 the appropriate motions that can be made. I note
8 those. This was -- excuse me just a minute.

9 (Pause.)

10 THE COURT: This was quintessentially a jury
11 question. And obviously the jury had more than
12 adequate evidence before it to reach the verdict
13 that it did reach. The confession of Mr. Siders,
14 his statement on the stand, his statements to the
15 law enforcement officers, the videotape, the
16 statement of Ms. Washington, and the question is
17 whether or not they chose to believe that he had
18 been coerced as he said he was into committing
19 these crimes. Obviously they did not believe that
20 and I can't quarrel with the decisions that they
21 have reached in that regard. I think that their
22 decision was imminently supported by the evidence
23 in that regard. So, for that reason, I'll
24 respectfully deny those motions.

25 And if there are any additional motions that

POST-TRIAL MOTIONS

1 occur to you, if you will let me know shortly,
2 then I can figure out whether we need to deal with
3 them or not. I'll give you ten days to file
4 additional motions, but I have dealt with the
5 traditional motions here today. All right. Now,
6 I'll proceed on that basis to go ahead with
7 sentencing.

8 Is the State ready to proceed with
9 sentencing?

10 MR. KNIGHT: Yes, Your Honor.

11 THE COURT: Okay.

12 MR. KNIGHT: Judge, as you know, this is an
13 LWOP case.

14 THE COURT: Right.

15 MR. KNIGHT: Where is the file? (Pause.)
16 Just to show the Court that we have served him
17 properly, and his attorney.

18 THE COURT: Thank you.

19 MR. KNIGHT: He has a prior conviction for
20 armed robbery. There is a copy of the sentencing
21 sheet and indictment to the notice of LWOP that
22 was served on Mathews and the Defendant.

23 THE COURT: All right.

24 MR. KNIGHT: Also, as I understand it and I
25 stand to be corrected if the law has changed, the

SENTENCING

1 indictment for possession of a weapon during the
2 commission of a violent crime, the sentencing on
3 that would not be applicable because of the LWOP.

4 THE COURT: That is right. Okay. Madam
5 Reporter, the record reflects an indictment and
6 sentencing sheet indicating that Mr. Albert Edward
7 Siders plead guilty to the crime of armed robbery
8 here in this courtroom on March the 27th of 2003.
9 He was sentenced to ten years for the armed
10 robbery. The notation, of course, is that it is a
11 violent and most serious crime in the eyes of the
12 law.

13 There's also a signed notice of intention to
14 seek life imprisonment signed by Mr. Knight on
15 July the 10th of 2014 based on the most serious
16 offense of armed robbery to which he was
17 earlier -- earlier plead guilty. There is further
18 two affidavits of service indicating that one was
19 served on Mr. Albert Edward Siders at the Colleton
20 County Detention Center on the 10th of July, 2014.
21 Signed by Ms. Jodie Taylor, but not properly
22 notarized or witnessed. The affidavit of service
23 was on Mr. Mathews, not date given but signed --
24 well, it is dated in another place, July the 10th,
25 2014, by Mr. Horton, the investigator. Both of

SENTENCING

1 these need to be properly notarized as affidavits
2 of service and they have not been, so I'll give
3 those to you. Those individuals are going to have
4 to be contacted and those affidavits are going to
5 have to be properly done. Okay.

6 The question of notice, of course, is not a
7 real question. It was indicated earlier and
8 stated on the record that notice had been given,
9 but that record is going to need to be completed
10 in order to get those sentence -- both of those
11 services, both of them, properly noticed and made
12 a part of that file. That is too important of a
13 thing to be left undone given the nature of this
14 case, given the ultimate outcome of this case and
15 the mandatory sentence that has to be given.

16 All right. Mr. Knight, anything further?
17 Anything that this Court needs to be made aware
18 of?

19 MR. KNIGHT: Yes, sir, he has got a couple of
20 convictions for -- let me get his rap sheet here.
21 Burglaries, he's got a conviction for burglary in
22 the third degree. That conviction was on
23 11-1-1999 wherein he received a five-year
24 sentence.

25 THE COURT: Okay.

SENTENCING

1 MR. KNIGHT: He has got another conviction
2 for burglary third degree. It looks like that was
3 the 1st day of November, 1999.

4 THE COURT: Okay. All right. Anything else?

5 MR. KNIGHT: No, sir.

6 THE COURT: Okay. Thank you.

7 MR. KNIGHT: I'll check just to make sure.

8 THE COURT: All right. Does the State then
9 wish to offer anything else on the issue of
10 sentencing, Mr. Knight?

11 MR. KNIGHT: Just make sure that on 9-5-1979,
12 convicted of petty larceny. That is all, Your
13 Honor, that is all that I wish to add to the issue
14 of sentencing.

15 THE COURT: All right. All right.
16 Mr. Matthews, I'll be glad now to hear from you or
17 Mr. Siders or anyone on his behalf.

18 MR. MATHEWS: Your Honor, you know, if this
19 is a matter of any discretion, with the defects in
20 service of the notice, I -- whatever benefit would
21 behoove Mr. Siders, I would ask the Court to
22 consider in that. You know, if there is any
23 discretion in this matter at all I would ask the
24 Court to consider the circumstances, some of which
25 were heard during trial. He has steadfastly

SENTENCING

1 maintained this is what happened. The jury, of
2 course, did not concur.

3 During the course of this his mother and
4 sister have been here. His aunt also was here
5 briefly. He's battled a drug addiction for quite
6 some time. He says five years, but perhaps it may
7 well have been longer, but he indicated five
8 years. He's 52, you know, if he served ten years
9 he would be at least 60 by the time he got out.
10 If there's any discretion in the matter, Your
11 Honor, I would ask the Court to consider a
12 sentence of 10 years concurrent, concurrent and 5
13 years concurrent.

14 THE COURT: All right. Thank you,
15 Mr. Mathews. Mr. Siders, do you want to add
16 anything to what's been said on your behalf?

17 THE DEFENDANT: No, sir. I just wish that I
18 was -- you know, could have -- it would have
19 turned out in my favor.

20 THE COURT: All right, sir. Mr. Mathews, as
21 you know this is one of those areas where the
22 General Assembly does not leave any discretion in
23 the hands of the trial judge. It is -- and this
24 is one of those situations, Mr. Siders, where if
25 this Court had discretion it would exercise that

SENTENCING

1 discretion. The matter of the notice, the fact
2 that the -- the proofs of service were not
3 notarized I see at this point in juncture as an
4 administerial act, that can and will be corrected.
5 And I'm sure that I'll get notice of that
6 correction as soon as it's been done because it is
7 important. But lack of notice has never been an
8 issue in this particular case, in any event and is
9 not now.

10 And given the fact that notice has been
11 provided and that there is a prior most serious
12 conviction on Mr. Siders' record, this Court is
13 left with no discretion and must follow the
14 mandate of the law, Section 17-25-45.

15 Mr. Siders, the sentence of the Court is on
16 each of these two indictments, 244 and 245, to run
17 concurrent with each other, credit of time served,
18 you will be sentenced to the Department of
19 Corrections for the balance of your natural life.

20 Thank you folks, that is all that there is.

21 (Whereupon, the trial and sentencing was
22 concluded.)
23
24
25

CERTIFICATE PAGE

1

2 CERTIFICATE

3

4 STATE OF SOUTH CAROLINA:

5 COUNTY OF BEAUFORT:

6 I, MONA L. MANLEY, Court Reporter, certify that I was
7 authorized to and did stenographically report the foregoing
8 proceedings and that the transcript is a true and complete
9 record of my stenographic notes.

8

DATED this 20th day of October, 2015.

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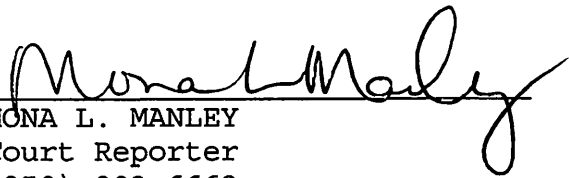
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MONA L. MANLEY
Court Reporter
(850) 893-6662
mmanley@sccourts.org

FORM 5

STATE OF SOUTH CAROLINA

County of LeeAlbert Edward Siders #262284

Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

17-CP-15-958

APPLICATION FOR

POST-CONVICTION RELIEF

2017 DEC 7 AM 8:32

SALUDIA C. GRAY
COLLETON COUNTY
COMMON PLEAS**INSTRUCTIONS - READ CAREFULLY**

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Colleton County Detention Center of
Walterboro, SC.
2. Name and location of Court which imposed sentence Colleton County
Court House of Walterboro, SC.
3. Name(s) of co-defendant(s) (if any) None
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2014GS1500242 - Poss. weapon during a violent crime;
 - (b) 2014GS1500244 - Armed Robbery;

- (c) 2014 GS 1500245 - Kidnapping
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) April 22, 2015 Life without Parole.
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ☒ _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes I did appeal.
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. The Court of Direct Appeal
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Affirmed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. November 15, 2017
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Prosecutorial Misconduct (Fraud Upon The Court)
- (b) Ineffective Assistance of Counsel
- (c) The Fabrication of Evidence
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Fraud Upon The Court.
- (b) Failed To Object And Preserve For Appellate Review.
- (c) Tampering with evidence (video)
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. N/A
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. N/A
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) The issues was not available for direct appeal.
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? N/A
 (b) your trial, if any? Yes
 (c) your sentencing? yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
yes

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:
 i. Public Defender David S. Matthews
Public Defender's Office, 115 Benson Street
Walterboro, S.C. 29488
 ii. Appellate Defense Attorney Laura R. Baer
Division of Appellate Defense, 1330 Lady Street, Suite 401
Columbia, S.C. 29201-3332
 (b) the proceedings at which each such attorney represented you:
 i. Trial
 ii. Direct Appeals
 iii. _____

19. State clearly the relief you seek in filing this application:

Vacate of Conviction

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA)

County of Lee)

VERIFICATION

I, Albert Edward Siders, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Albert E. Siders

SWORN to and subscribed before me this 29th
day of NOV, 2017.

Uniqua Greene (L.S.)
Notary Public

My Commission Expires: 9-29-2027

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Albert Edward Siders, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Albert E. Siders
Applicant

SWORN or affirmed to and subscribed before me this
29th day of NOV, 2017.

Maigra Greene
Notary Public

My Commission Expires: 9-29-2017

2017 DEC 7 AM 8:33
CLAY COUNTY
COMMON PLEAS

STATE OF SOUTH CAROLINA
COUNTY OF COLLETON

Albert Edward Siders, #262284,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

Case No.: 2017-CP-15-0958

RETURN AND MOTION FOR
MORE DEFINITE STATEMENT

2018
OCT 26 AM 8:38
CLERK OF COURT
COLLETON COUNTY
COMMON PLEAS

Respondent, making its Return to the application for Post-Conviction Relief ("PCR") filed on December 7, 2017, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Colleton County Clerk of Court. In March 2014, the Colleton County Grand Jury indicted Applicant for kidnapping (2014-GS-15-0245), armed robbery (2014-GS-15-0244), and possession of a weapon during a violent crime (2014-GS-15-0242). The charges resulted from a February 2014 incident in which Applicant robbed the clerk of a BP station at gunpoint and ordered her to go into the backroom and stay there. ROA p. 89, ll. 5-13. David S. Matthews, Esquire, represented Applicant at trial. Steven H. Knight, Esquire, prosecuted the case. On April 20, 2015, Applicant proceeded to a jury trial before the Honorable Thomas W. Cooper, Jr. The jury found Applicant guilty as indicted. On April 22, 2015, Judge Cooper sentenced Applicant to imprisonment for life without parole for kidnapping and armed robbery.

Applicant filed a timely notice of appeal. Appellate Defender Laura R. Bacr, Esquire, perfected the appeal and argued the trial court erred in denying Applicant's motion to relieve counsel

and for not advising him of his right to represent himself pro se. The South Carolina Court of Appeals affirmed Applicant's conviction on November 15, 2017. State v. Siders, Op. No. 2017-UP-429 (Ct. App. 2017). The remittitur was returned to the circuit court on December 4, 2017.

Attached to this Return and incorporated by reference are the records of the Colleton County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the trial transcript, Applicant's appellate records, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his application for post-conviction relief, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Prosecutorial Misconduct (Fraud Upon the Court)"
 - a. "Fraud upon the court."
2. "Ineffective Assistance of Counsel"
 - a. "Failed to object and preserve for appellate review."
3. "The fabrication of evidence"
 - a. "Tampering with evidence (video)"

III.

Respondent submits Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland v. Washington, 466 U.S. 668. First, Applicant must prove that counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Respondent submits Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCP. All

claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRPC. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRPC.

V.

Respondent also hereby moves for a more definite statement. Applicant has failed to set forth any facts to "support each ground" or to explain with any specificity whatsoever the facts upon which his claims are based as to his allegations of "prosecutorial misconduct" and "fraud upon the court." The Uniform Post-Conviction Procedure Act requires the Applicant to "*specifically set forth the grounds upon which the application is based.*" S.C. Code Ann. § 17-27-50 (1985) (emphasis added). Respondent respectfully submits that it is incumbent upon Applicant, through counsel, to amend his application to set forth specific facts upon which his allegations are based so that Respondent may adequately prepare for an evidentiary hearing. Therefore, Respondent requests that Applicant be required to amend his application to set forth specifically the grounds on which his claims are based.

VI.

Respondent therefore requests that this Court convene an evidentiary hearing on the allegation of ineffective assistance of counsel. As to all other allegations, Respondent moves for summary dismissal pursuant to § 17-27-70 of the South Carolina Code of Laws on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VII.

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this Return is hereby denied.

VIII.

WHEREFORE, Respondent requests that an evidentiary hearing be held on the claims of ineffective assistance of trial counsel.

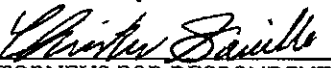
Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

CHRISTIAN SAVILLE
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

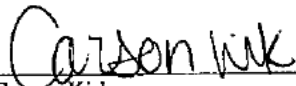
10/12, 2018

STATE OF SOUTH CAROLINA	)	
COUNTY OF COLLETON	)	IN THE COURT OF COMMON PLEAS
	)	
	)	2017-CP-15-0958
ALBERT EDWARD SIDERS, #262284,	)	
Applicant,	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
STATE OF SOUTH CAROLINA,	)	
Respondent.	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return and Motion for More Definite Statement** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

James K. Falk, Esquire
 Falk Law Firm, LLC
 Post Office Box 1058
 Charleston, South Carolina 29402

DATED this the 12th day of October, 2018.


 Carson Kirk
 Legal Assistant

STATE OF SOUTH CAROLINA
COUNTY OF COLLETON

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
2017-CP-15-00958

Albert Siders,)
)
 Plaintiff,)
)
 vs.)
)
 State of South Carolina,)
)
 Defendant.)
 -----)

TRANSCRIPT OF HEARING

November 27, 2023
Colleton, South Carolina

B E F O R E:

The Honorable Roger Young, Judge Presiding

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

For the Plaintiff -
Chelsey Marto, Esquire
1122 Lady Street, Suite 206
Columbia, South Carolina 29201
864-404-5583

For the State -
Bryan Hall, Esquire
Assistant Attorney General
1000 Assembly Street
Columbia, South Carolina 29201

Cathy L. Young, CVR-M
Official Circuit Court Reporter
Post Office Box 4604
Beaufort, South Carolina 29903

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1 P R O C E E D I N G

2 * * * * *

3 THE COURT: Okay, you're Mr. Hall?

4 MR. HALL: Yes, sir. Good morning, Your
5 Honor, may it please the Court? Assistant Attorney
6 General, Bryan Hall, for the State. Your Honor,
7 this is the case of Albert Siders vs. State of South
8 Carolina, 2017-CP-15-00958. Mr. Siders was indicted
9 back in March of 2014 by the Colleton County Grand
10 Jury for a kidnapping, 2014-GS-15-00245; armed
11 robbery, 2014-GS-15-00244; and possession of a
12 weapon during the commission of a violent crime,
13 2014-GS-15-00242. Mr. Siders went before the
14 Honorable Thomas Cooper, Jr., proceeded to a jury
15 trial back in April of 2015. Assistant Solicitor
16 Steven Knight and Reed Evans prosecuted the case,
17 and Mr. Siders was represented by David Mathews. He
18 was convicted as indicted and sentenced to life
19 without parole. Shortly after an appeal was timely
20 filed, and he was represented by Public Defender
21 Laura -- Laura Bower. The Court of Appeals affirmed
22 his conviction, and the remittitur was sent on
23 December 4th, 2017. Mr. Siders timely filed his PCR
24 on December 7th of 2017, and the State filed his
25 return on October 26th of 2018. Mr. Siders, through

1 his attorney has filed an amended PCR application
2 that's dated for April 2nd of 2019, alleging the
3 following prosecutorial misconduct for presenting
4 video evidence that was not true -- or that was not
5 a true and accurate depiction of the original video
6 recording, and that was State's Exhibit 4, an
7 ineffective assistance of counsel for failure to
8 object to the admission of the video. And he also
9 alleges -- alleged failure to investigate and
10 consult an expert to determine the State -- whether
11 State's Exhibit 4 had been tampered with or
12 distorted, and failure to present as a defense that
13 he was -- that Mr. Siders was forced into committing
14 the act leading to his arrest. And he also alleged
15 failure to object to burden shifting. Mr. Siders
16 plans to proceed with only two of those allegations,
17 prosecutorial misconduct for State's Exhibit 4 and
18 ineffective assistance of counsel relating to
19 State's Exhibit 4. Mr. Siders was previously
20 represented by James Falk in his PCR. He is now
21 represented by Chelsey Marto, and he is present.
22 And I'll allow Ms. Marto to ---

23 MS. MARTO: Good morning, Judge.

24 THE COURT: Good morning.

25 MS. MARTO: I did file an amendment

1 recently. I don't know if Your Honor received that,
2 but really the crux of this case is my client is
3 alleging that the video of the surveillance footage
4 of the robbery being committed was tampered with and
5 alleges that prosecutorial misconduct and
6 ineffectiveness of counsel both come into play there
7 for distorting the tape, but also failure to catch
8 -- for going along with the State's, you know,
9 distortion of the evidence. And so I would call my
10 client, Albert Siders, to testify concerning his
11 claims today.

12 THE COURT: Okay.

13 * * * * *

14 Albert Sides,
15 having been duly sworn,
16 testifies as follows:

17 * * * * *

18 DIRECT EXAMINATION

19 BY MS. MARTO:

20 Q. Good morning, sir. So what is the
21 underlying charge -- what is the underlying charge
22 in the case?

23 A. The underlying charge in this case?

24 Q. Yes, sir. What did you go to trial
25 for?

1 A. Okay, for armed robbery.

2 Q. Okay, and how did that trial play out?
3 What was the result?

4 A. Okay, I got convicted, but I got
5 convicted based on the fabrication of evidence when
6 it was introduced in this courthouse.

7 Q. Okay.

8 A. Can I go on?

9 Q. Let me ask you a couple more questions.

10 A. Sorry.

11 Q. And so you are Albert, correct?

12 A. Yes, ma'am.

13 Q. Okay, and so you're alleging today that
14 there was ineffective assistance of counsel and
15 prosecutorial misconduct because of the video,
16 right?

17 A. Yes, ma'am.

18 Q. And now what was this video about?

19 A. This video was showing me walking
20 across the lot. Then when I walked into the store,
21 it showed me whipping out this BB gun. When it
22 showed me whipping out the BB gun, there was a jerk
23 in the film, and plus the film didn't have a date
24 and time stamp on it. But anyway, what it -- what
25 it showed, it showed me whipping out this hand BB

1 gun, and it showed me pointing it and waving it like
2 -- can I stand up and kind of -- if you don't mind,
3 Your Honor, can I stand up?

4 THE COURT: For what?

5 WITNESS: So I can basically demonstrate
6 how it actually showed me doing.

7 THE COURT: Sure.

8 BY WITNESS:

9 A. It showed me coming into the store, and
10 it showed me whipping out -- when it showed me
11 whipping out, it showed me whipping out, waving the
12 BB gun in her face, and I was like, "Hurry up, let
13 me get the money, let me get the money, let me get
14 the money." And it had her going -- like -- like as
15 though she was scared out of her life. This was the
16 -- this was the video that was introduced at this
17 trial.

18 Q. And so -- now, you testified at trial,
19 right?

20 A. I did, yes, ma'am.

21 Q. Okay. Basically, what was your
22 argument in defense?

23 A. My argument was based on being coerced.

24 Q. Okay.

25 A. Because -- and I -- and I've got to say

1 this because of the fact that I was a confidential
2 informant, just briefly. And my supervision --
3 parole supervision officer, he kind of encouraged me
4 to help out. He said, "Siders, you know that you
5 have a drug problem." And I'm like, "Yes." He
6 said, "Well, why don't you just try to help clean up
7 your neighborhood by helping the Drug Task Force to
8 drug buys. So, Your Honor, this is what I did, back
9 in 2013, February the 11th, I went by the Sheriff's
10 Department trying to hurry up and brief everybody.
11 I talked to Marcerella (Ph) -- Sergeant Marcerella,
12 and then I met Captain Jason Chapman. And the next
13 day we went and did what we called a drug buy, and
14 that was February the 12th. And then February the
15 14th we went by and did one more. And then next
16 thing I know, that Friday, they did a drug bust, and
17 they went into the apartments, but no drugs was
18 confiscated, but my name got out, and that's when
19 the threat began. So I then went to the Drug Task
20 Force Response Team to talk to them about it, and
21 they tried to jerk away the second time, and that's
22 when they stuck a cell phone in my pocket. And we
23 went and tried, and everybody said, "Hey, man, your
24 name is out there, bro, we don't want to mess with
25 you, man," da, da, da, da, da, da, and they just

1 went on and on.

2 MR. HALL: Objection, Your Honor,
3 relevance.

4 THE COURT: Overruled, go ahead.

5 BY THE WITNESS:

6 A. Well, I -- I must say this here,
7 because they did record this, and this is why I'm
8 saying what I'm saying, because they did record
9 this. So they did heard on -- on the -- on that
10 that was stuck in my pocket what they was actually
11 saying to me, so I'm only going -- I can only tell
12 you what actually took place, Your Honor. So next
13 thing I know as -- as time went on and on and on, I
14 couldn't, you know, buy drugs, and it happens so I
15 rode by these people that was standing at the
16 corner. And then anyway, this particular night, we
17 got into a little thing of doing drugs, and somebody
18 made a phone call. And when somebody made the phone
19 call, who I believe it was, I can't say the person's
20 name, but the person who made the phone call was a
21 drug dealer, and he told those guys that I was
22 working for the Drug Task Force. And then next
23 thing I know, this is when we had went to the store
24 after the fact that day to do the robbery, based on
25 the fact that they wanted to make sure that I

1 wouldn't do any -- any drug buys. Now, this was
2 written in the 20-page documentation, which I did
3 send to the United States District Court, more in
4 detail about what took place, and how it came about.
5 So when I walked into the store, I had the mask, I
6 had the hoodie, I had the mask, I had everything
7 that I had to disguise my identity, but I didn't do
8 that. So when I went into the store, I only
9 presented the BB gun like this right here, and I
10 looked at her real calmly, and I asked her to get
11 the money, and I asked for the Newports. And she
12 turned around to get the Newports, when she turned
13 around I had the BB handgun out, and that's when I
14 had it at my chest like this right here, and I just
15 looked at her. I didn't yell, I just said, "Let me
16 get the money." She gave me the money and I left
17 with the gun -- BB handgun smart against my chest.
18 So June the 26th when everybody in this County, as
19 far as the court officials, had gotten a letter.
20 David Mathews went straight to the Sheriff's
21 Department, and he confiscated all the legal
22 documents that I actually had. I mentioned the 20-
23 page documentation about what it had took to be a
24 confidential informant, and how they seal the
25 envelope, and they put it in a certain box, but he

1 went and got all that evidence. And next thing I
2 know I was supposed to have been going to trial July
3 the 21st of 2014, under the Judge Goldsmith --
4 Brooks Goldsmith, and the David Matthew motion to
5 get a continuance, but it was denied. So I was
6 expecting to go trial that -- that year, but it
7 never came about. So ten months went by, and I got
8 proof that I tried to get in touch with David
9 Mathews about when I was going to court to be tried
10 for this -- for these charges that I was facing, and
11 he never answered back. The day that I finally got
12 to see Mr. Mathews it was in 2015, April, about two
13 weeks just before I was scheduled to go to trial.
14 Now, Your Honor, when I went -- when I came to trial
15 on -- in April of 2015 on the 21st, of course, I was
16 facing the charges, and next thing I know, when the
17 store witness got on the witness stand, Mr. Knight
18 asked the store clerk her name and everything,
19 pointing me out. And then he asked her, he said,
20 "Did he point the gun at you?" And she said, "Yes."
21 And then he went on asking a few more questions, and
22 this is according to the trial transcript. He says,
23 "Well, the gun that he pointed at you, did it look
24 like this," indicating the BB gun, and next thing I
25 know we're watching the film, and they've got me

1 walking across the store lot, which I didn't do it
2 that way, but they've got me walking across the
3 store lot, and I'm waving and pointing the gun when
4 I went into the store as I told you a little bit
5 earlier. They show me pointing and waving the gun
6 in her face.

7 Q. So, sir, you're not denying that a
8 robbery happened, you're just denying ---

9 A. Oh, no.

10 Q. -- that it happened the way, you know,
11 it was shown?

12 A. Yes.

13 Q. And you're saying that the State
14 tampered with that evidence to make you look like
15 you were less coerced; is that right?

16 A. Oh, right, that's correct.

17 Q. And you're saying that your attorney
18 went along with it, right?

19 A. Right, he did.

20 Q. Okay. And so you were saying this
21 before trial; is that correct?

22 A. Way before trial.

23 Q. Okay.

24 A. Yes, ma'am.

25 Q. You told everybody that and Counsel was

1 complicit; is that correct?

2 A. Right.

3 MR. HALL: Objection, leading.

4 MS. MARTO: Okay.

5 THE COURT: Overruled.

6 MS. MARTO: Okay.

7 BY MS. MARTO:

8 Q. And that's your main issue for today,
9 right?

10 A. That is my main issue for today, for
11 the simple fact that it was a conspiracy between Mr.
12 Guess (Ph), it was a conspiracy between Mr. Knight
13 and Mr. Mathews, because this is what I've been -- I
14 sent a 13-page letter out that crystal clearly -- I
15 mean to everybody, I sent it out to everybody. Mr.
16 -- Mr. Steve -- Prosecutor Steve Knight and Mr.
17 David Mathews knew exactly how the original robbery
18 had took place. And when they found out what had
19 happened according to my 20-page letter, I didn't
20 never went to trial when I was supposed to go to
21 trial on July the 21st of 2014. Next thing I know
22 ten months later when I go to trial, I'm seeing a
23 whole different robbery, Your Honor, that I did not
24 commit. And according to that evidence, the way I
25 see it, they made it look like I intentionally came

1 into that store to do this robbery of my own
2 freewill, when I had went into the store back in
3 2014 on the 21st of February, and didn't put --
4 didn't pull the mask down over my face. And I
5 demonstrated that in the written letter to the
6 United States Federal Judge, David C. Norton,
7 explaining that. Why? Because there was some other
8 things going on in my situation, which is why I
9 wrote them, because I didn't trust the -- I didn't
10 trust the police, of course, based on what had
11 happened to me back in 2013.

12 Q. So you're asking this Court to grant
13 relief on that issue, right?

14 A. Yes, ma'am.

15 Q. Okay.

16 MS. MARTO: No further questions, Your
17 Honor.

18 THE COURT: Cross?

19 **CROSS-EXAMINATION**

20 BY MR. HALL:

21 Q. Good morning, Mr. Siders, how are you?

22 A. Good morning, sir.

23 Q. Mr. Siders, you don't deny that you
24 committed a robbery, right?

25 A. No, 'cause I showed my face.

1 Q. All right. And you don't deny that
2 it's you in the video, right?

3 A. Well, which -- which one are you
4 talking about, sir?

5 Q. So the video that you allege is
6 fabricated, you are, in fact, in the video?

7 A. Well, it couldn't have been me, because
8 that was not the robbery that I committed, no, sir.
9 I can't confess to that one. I can only confess to
10 the one that I wrote about when I wrote the Federal
11 Judge the original video, by me not pointing the BB
12 gun, and demonstrating why I did it the way that I
13 did it, not pulling down the mask, yes, sir, I can
14 confess to that one, but not the one that they
15 introduced ---

16 Q. Well, let me ask you ---

17 A. -- during the trial.

18 Q. Let me ask you this, Mr. Siders, the
19 video that was shown at your trial ---

20 A. Yes, sir.

21 Q. -- State's Exhibit 4, that is, fact,
22 you in the video, correct?

23 A. No, sir.

24 Q. Okay.

25 A. It couldn't have been.

1 Q. Okay. But isn't it true that your
2 allegation here is that the video shows you pointing
3 a gun?

4 A. Yes, 'cause that's what we showed to
5 the jury.

6 Q. So it's you in the video, your -- your
7 only contention here is that it shows you pointing
8 the gun?

9 A. Right, but you've got to understand
10 what I'm trying to say, sir. I'm trying to talk --
11 I'm talking about false evidence versus real
12 evidence. How could I have done that robbery when I
13 did this other robbery? Whoever was pointing that
14 gun, it couldn't have been me. And this is the
15 evidence that the jury based their deliberation on,
16 Your Honor. It was not me, 'cause I did not commit
17 the robbery by the point and the way that they
18 showed it, so, no, I'm not going to say that was me,
19 it couldn't have been.

20 Q. Okay. But you did have a gun, right?

21 A. I had a BB gun.

22 Q. Okay. Mr. Siders, do you recall
23 Jurnell (Ph) Washington? She was the store clerk,
24 she testified at your trial; do you recall that?

25 A. Oh, yes.

1 Q. Okay, and at trial she testified that
2 during the robbery you pointed a gun at her, right?

3 A. Yes, she did.

4 Q. And so your allegation here is that the
5 video was fabricated because it shows you pointing a
6 gun, but that's consistent with the store clerk who
7 testified that you pointed a gun, right?

8 A. And she committed perjury. She
9 committed perjury with the State, yes. I agree with
10 you 100 percent. That was perjury, sir. We have
11 the real video where ---

12 Q. Mr. Siders, ---

13 A. Okay.

14 Q. -- I'm the one asking the question.

15 A. I'm sorry, go ahead, I'm sorry.

16 Q. Sir, you mentioned on direct that --
17 you testified at trial, right? Do you recall your
18 attorney explaining to you before you testified your
19 rights not to testify?

20 A. Not really, not like -- not like the
21 way you're asking me anyway, no, sir.

22 Q. Okay, but you testified at trial?
23 Right?

24 A. I did.

25 Q. Okay. And you testified at trial that

1 you committed this robbery because you were coerced,
2 right?

3 A. That's correct.

4 Q. Okay. And you also testified at trial
5 that you did this because you were afraid for your
6 life, and you were safer with police; do you recall
7 that?

8 A. Not like that.

9 Q. No?

10 A. No, sir. That's only because, again,
11 that was Reed Evans who prosecuted the evidence.

12 Q. Well, let me ---

13 A. If you don't mind?

14 Q. I'm the one asking the questions, okay?

15 A. Okay.

16 Q. So while on the stand at trial you also
17 testified -- the Solicitor asked you about Officer
18 Elswad (Ph). Do you know Officer Elswad?

19 A. I do.

20 Q. He used to be your probation officer,
21 right?

22 A. Right.

23 Q. And you didn't actually go to the
24 police after committing the robbery until the night
25 you were -- you were arrested, correct?

1 A. The day that I was arrested.

2 Q. All right.

3 A. Yes, sir.

4 Q. And so the Solicitor asked you about
5 that on the stand, and you testified that you didn't
6 actually go -- go to the police although ---

7 A. Right.

8 Q. -- you allege that ---

9 A. Right.

10 Q. -- you were coerced, right?

11 A. Right.

12 Q. Okay.

13 MR. HALL: No further questions, Your
14 Honor.

15 WITNESS: Okay.

16 THE COURT: Okay.

17 MS. MARTO: No redirect, Your Honor.

18 THE COURT: Any redirect?

19 MS. MARTO: No redirect, Your Honor.

20 THE COURT: You can step down.

21 WITNESS: Okay.

22 THE COURT: Do you have any other
23 witnesses?

24 MS. MARTO: Yes, Your Honor, we call Mr.
25 Reed Evans.

1 * * * * *

2 Reed Evans,

3 having been duly sworn,

4 testifies as follows:

5 * * * * *

6 DIRECT EXAMINATION

7 BY MS. MARTO:

8 Q. Good morning, sir.

9 A. Good morning.

10 Q. So you were the prosecutor in this
11 case, correct?

12 A. I was second chair, Mr. Knight -- it
13 was his case. I think he brought me in the week
14 prior to trial, and said, "You know, you're gonna
15 sit with me second chair on this case."

16 Q. Okay, so you were brought in last
17 minute?

18 A. More or less, pretty close.

19 Q. Did you get a chance to review the
20 evidence in this case?

21 A. I have -- I have read the transcript,
22 or at least the portion where I cross-examined Mr.
23 Siders.

24 Q. Did you personally -- so are you
25 familiar with the surveillance video that we're

1 talking about?

2 A. I don't -- I don't have a memory of it,
3 of what it looks like in my mind. I don't think I
4 was the lawyer who put it into evidence. I'm fairly
5 certain that all I did for Mr. Knight was sit with
6 him, take notes, and I -- and he did give me the
7 opportunity to cross-examine Mr. Siders, but I think
8 that was my only involvement. So, no, I don't -- I
9 don't specifically remember the video, but I know
10 there was some video.

11 Q. Do you recall tampering with any
12 evidence in this case?

13 A. Absolutely not.

14 Q. Have you ever tampered with evidence in
15 a case?

16 A. No.

17 Q. Okay. Do you have any personal
18 knowledge of tampering?

19 A. No. I can't imagine Mr. Knight would
20 or even could ever do that.

21 Q. No further questions.

22 A. Thank you.

23 THE COURT: Cross?

24 **CROSS-EXAMINATION**

25 BY MR. HALL:

1 Q. How you doing, Mr. Evans?

2 A. I'm well, thank you.

3 Q. Mr. Evans, how long have you been a
4 solicitor?

5 A. For 12 and a half years.

6 Q. Twelve and a half years. And how long
7 have you worked with Mr. Knight?

8 A. I worked with Mr. Knight between
9 November of 2011 and his retirement, which was in, I
10 believe, 2020, '20.

11 Q. So about eight years you guys worked
12 together?

13 A. Approximately.

14 Q. And so you're familiar with his
15 workstyle and ethics?

16 A. Yes.

17 Q. Would Mr. Knight have even done
18 something like this?

19 A. I've never known Mr. Knight to
20 compromise his prosecutorial ethics in any way.

21 MR. HALL: No further questions, Your
22 Honor.

23 THE COURT: Redirect?

24 MS. MARTO: Briefly, Your Honor.

25 **REDIRECT EXAMINATION**

1 BY MS. MARTO:

2 Q. Do you recall cross-examining Mr.
3 Siders at trial?

4 A. Generally.

5 Q. Okay.

6 A. Not every question.

7 Q. Okay. Do you recall asking him about
8 whether or not the cashier said he pointed a gun at
9 her?

10 A. Not specifically, but ---

11 Q. You have no personal knowledge at this
12 point about that line of questioning?

13 A. When I reviewed Mr. Siders' transcript,
14 it was for when we had scheduled this previously in
15 Beaufort before Mr. Falk passed away. So I
16 confess ---

17 Q. Okay.

18 A. -- that I did not review it again this
19 past week to -- specifically for today. I'm sure
20 the transcript is accurate.

21 Q. Okay. So are you aware that there is
22 substantiating information that the gun was pointed
23 at him?

24 A. Again, I don't have a specific clear
25 visual memory in my head of the -- of the video. I

1 know that there was video. I -- I recall that the
2 store clerk testified, identified herself in the
3 video. I think she identified Mr. Siders in the
4 courtroom as well, and she was clear, as far as I
5 recall, that there was, in fact, a robbery, and he
6 was the one who committed it.

7 Q. Thank you.

8 MS. MARTO: No further questions.

9 MR. HALL: Briefly, Your Honor.

10 THE COURT: Sure.

11 **RECROSS-EXAMINATION**

12 BY MR. HALL:

13 Q. Mr. Evans, the store clerk, Jurnelle
14 Washington, she testified for Mr. Sider at the
15 trial, correct?

16 A. Yes, because that was part of State --
17 our case ---

18 Q. His ---

19 A. -- and he testified in his own case,
20 obviously.

21 Q. Okay, and so about the time that you
22 had questioned him about him pointing the gun,
23 Jurnelle Washington would have already testified --
24 would have already testified that he had indeed
25 pointed the gun at her?

1 A. Yes, I'm sure she was one of the first
2 handful of witnesses.

3 MR. HALL: No further questions.

4 THE COURT: You can step down.

5 MS. MARTO: Your Honor, we would call Ms.
6 Mary Blakely to the stand.

7 THE COURT: Who?

8 MS. MARTO: We would call now Mr. Steven
9 Knight.

10 * * * * *

11 **Steven Knight,**
12 **having been duly sworn,**
13 **testifies as follows:**

14 * * * * *

15 **DIRECT EXAMINATION**

16 BY MS. MARTO:

17 Q. Good morning, sir.

18 A. Good morning.

19 Q. So you were the chief prosecutor in
20 this case, right?

21 A. Yes.

22 Q. So did you handle this case from the
23 beginning?

24 A. Yes.

25 Q. Okay. And are you familiar with the

1 surveillance video being talked about today?

2 A. Am I familiar with it?

3 Q. Yes.

4 A. I looked at it, obviously.

5 Q. Okay.

6 A. I played it during the course of the
7 trial, obviously, that's my familiarity with it.

8 Q. Okay, understood, sir. Now, you've
9 heard the allegations being raised here today,
10 right?

11 A. Yes.

12 Q. Are you aware of Mr. Siders' allegation
13 that the video was tampered with?

14 A. I was aware when I got the -- his
15 petition for post-conviction relief.

16 Q. Okay, that was when you were familiar,
17 so not before trial, correct? Okay. Now, you've
18 had a chance to review the video, right?

19 A. Yeah.

20 Q. Did you personally tamper with it?

21 A. No.

22 Q. Did you -- are you aware of anybody
23 else?

24 A. No.

25 Q. Upon review of the tape, did you see

1 anything that indicated tampering?

2 A. No. Wait a minute, let me answer that
3 question. I said no, I don't have the ability to
4 recognize whether or not a tape has been altered.
5 It's not easy. Maybe for you, but not for me.

6 Q. Understood, sir. Thank you, sir, no
7 further questions.

8 A. That's it?

9 THE COURT: Cross?

10 **CROSS-EXAMINATION**

11 BY MR. HALL:

12 Q. How you doing, Mr. Knight?

13 A. I'm fine.

14 Q. Mr. Knight, how long were you a
15 Solicitor before you retired?

16 A. Twenty-three years, I believe.

17 Q. Twenty-three years?

18 A. Yeah.

19 Q. Mr. Knight, the video that's the basis
20 of Mr. Siders' allegation, State's Exhibit 4, that's
21 the same video given to you by law enforcement?

22 A. Correct.

23 Q. Okay. And that's the same video that
24 was given to defense during the interview?

25 A. Correct.

1 Q. And that's the same video that was
2 played at trial in front of the jury?

3 A. Correct.

4 MR. HALL: No further questions, Your
5 Honor.

6 THE COURT: Recross?

7 MS. MARTO: Your Honor, we would call David
8 Mathews.

9 WITNESS: Excuse me?

10 THE COURT: You -- you're done with him?
11 I'm sorry, you don't have any redirect? I'm sorry.

12 MS. MARTO: Oh, no, Your Honor.

13 WITNESS: Thank you.

14 * * * * *

15 David Mathews,
16 Having been duly sworn,
17 testifies as follows:

18 * * * * *

19 DIRECT EXAMINATION

20 BY MS. MARTO:

21 Q. Good morning, sir, how are you doing?

22 A. I'm well, how are you?

23 Q. Good. So you represented Mr. Siders,
24 correct?

25 A. I did.

1 Q. And how did you feel your
2 representation went?

3 A. I mean I always do the best I can.

4 Q. Okay.

5 A. And I did the best I could there. I
6 wish I had had him evaluated. I didn't do that.

7 Q. So you reviewed the evidence for Mr.
8 Siders, correct?

9 A. Did I look at the evidence?

10 Q. Yes.

11 A. Yes, I did.

12 Q. Okay, you looked at the videos?

13 A. I looked at everything, and I gave both
14 your predecessor and the State copies of the
15 videos ---

16 Q. Okay.

17 A. -- so the Judge could see it if one of
18 you presented it.

19 Q. Yes, sir. And that was also played at
20 trial, correct?

21 A. It was.

22 Q. So it's a Court's exhibit?

23 A. I don't know what exhibit it was.

24 Q. All right, it's a State's exhibit. So
25 you reviewed that evidence with Mr. Siders, correct?

1 A. I did. Well, I mean I gave -- I gave
2 both you and the -- the State copies of my computer
3 notes. The physical file I gave to Mr. Falk, our
4 office gave to Mr. Falk, and I have no idea where it
5 is now, but you have my computer notes, and the
6 State has my computer notes.

7 Q. Okay. And so did you discuss the video
8 with Mr. Siders?

9 A. I did.

10 Q. Okay.

11 MR. SIDERS: No, you didn't.

12 BY MS. MARTO:

13 Q. And so ---

14 THE COURT: No more outbursts.

15 MR. SIDERS: I'm sorry, sir, but he didn't.

16 BY WITNESS:

17 A. I -- I believe I did, but certainly
18 C.T. did, and his notes are also in there. I gave a
19 copy to you, and a copy to the State.

20 Q. Okay. And did Mr. Siders talk to you
21 about his concerns that the video was tampered with?

22 A. He did.

23 Q. And so what did those conversations
24 consist of?

25 A. My recollection -- again, it's been

1 2014, but my recollection is that I told him that it
2 didn't really matter, because he admitted that he
3 did the robbery, and whether he pointed the gun like
4 this, or whether he held it like this and just
5 showed it, it didn't matter, that wasn't the
6 defense. The defense is you were made to do it, not
7 how you did it.

8 Q. Okay, so how was that received by Mr.
9 Siders?

10 A. I don't think -- I don't think well.
11 He didn't receive a lot of what I said well. And I
12 got many, many letters, long letters, 15-page
13 letters, 12-page letters, 10-page letters, and I --
14 I read them all.

15 Q. Did you see any evidence of tampering?

16 A. I wouldn't have tampered with it, and I
17 don't think that Steve can reset his -- he probably
18 still has a VCR, and probably can't do the clock on
19 that, so it's -- it's -- there's -- it's unlikely it
20 would have been even necessary because that wasn't
21 the defense. The defense was he was made to do it,
22 not whether he did it.

23 Q. Did you bring Mr. Siders' concerns to
24 the Court's attention at trial?

25 A. I -- whatever the transcript says, I

1 don't remember.

2 Q. Okay. And so did you share any of Mr.
3 Siders' concerns about the video?

4 A. Whatever the transcript -- as far as
5 talking to him about it? You know, a lot of this
6 has been since 2014, that's a long time ago. My
7 hair was red at that time, it's no longer red, but I
8 was -- some of the things I thought he said made a
9 lot of sense. It's a nasty business to do a -- a
10 buy-bust with the CI, that's a terrible thing to do
11 to somebody. So there would have been a reason for
12 -- to think that the State may be after you in that
13 set of circumstances. Usually, you do a control
14 buy, you have your guy buy the drugs, you wait
15 several months, and then you make the arrest. To do
16 it immediately is to say -- is to put a target on
17 him.

18 Q. Okay.

19 A. So that was legitimate, but in terms of
20 whether he was coerced, we spent the lion share of
21 our time trying to find this guy, Dread, who was
22 supposed to have been the one to do that. C.T.
23 spent a decent amount of time and did a letter,
24 which you have and the State has on that, showing
25 what efforts he made as far as that goes, to find

1 this guy that was supposed to have compelled him to
2 do this.

3 Q. And, again, Mr. Siders made it known to
4 you that he was concerned about the video being
5 tampered with?

6 A. He did.

7 Q. And he was very adamant about that
8 leading up to trial as well?

9 A. Any time it came up in discussion, he
10 was concerned that it would have been tampered with,
11 he said that from the beginning.

12 Q. Okay.

13 MS. MARTO: No further questions.

14 **CROSS-EXAMINATION**

15 BY MR. HALL:

16 Q. Good morning, Mr. Mathews.

17 A. Good morning.

18 Q. Mr. Mathews, how long have you been
19 practicing law?

20 A. Since -- in South Carolina since 1987.

21 Q. Okay. And how much of that time has
22 been devoted to criminal law?

23 A. I've always done criminal defense.

24 Q. Okay. And were you appointed or
25 retained to represent Mr. Siders?

1 A. I was a public defender at the time, so
2 I would have been appointed.

3 Q. Okay. And how many times did you meet
4 with him before going to trial?

5 A. You've got my notes, however many it
6 says.

7 Q. Okay. But -- but do you think that
8 number of times you met with him was sufficient to
9 go to trial?

10 A. Well, what I said, I wish I had had him
11 evaluated. I don't -- I don't think I could have --
12 if I would have met with him 100 times, I don't know
13 that it would have mattered.

14 Q. Okay. And you reviewed discovery with
15 Mr. Siders. Can you briefly just tell us all the
16 evidence the State had against him?

17 A. I said whatever's in the transcript as
18 far as that goes. The main thing is, I mean he
19 admitted doing the robbery -- a -- a robbery. As
20 far as whether it's -- the video was his main source
21 of concern, but if your defense is coercion, then
22 you're not really contesting that an armed robbery
23 occurred. And so as far as what the evidence was,
24 the evidence -- I put up a couple -- I think I put
25 up his sister maybe, I'm not real sure, I talked to

1 his sister, but it's been a long time ago, whatever
2 the transcript says.

3 Q. And as you mentioned on direct,
4 regardless of the video, Mr. Siders actually
5 confessed to this crime both before trial, and he
6 testified at trial and confessed on the stand,
7 right?

8 A. Right.

9 Q. Okay. Mr. Matthew, did you think it
10 was necessary to call an expert to dispute the
11 video?

12 A. No.

13 Q. Why not?

14 A. Because that wasn't the defense. I
15 mean -- and like I said, whether -- looking at the
16 video, my recollection is, he didn't say, "That
17 wasn't me," he just said, "I didn't do that." And
18 if you're -- as far as the elements of it, if it's a
19 BB gun, or if it's a bazooka, if you present it in
20 the -- as a weapon, and the clerk believes that it's
21 a weapon, and you say, "Give me the money," that's
22 armed robbery, so the defense is coercion, as far as
23 that goes, it's not did the armed robbery happen.

24 Q. Now, when Mr. Siders told you that he
25 had been allegedly coerced, did you investigate it

1 further?

2 A. Yes, we -- I asked -- I tried to have
3 our investigator find the guy he said did it, the
4 guy he only knew of as Dread, and C.T. was unable to
5 find him.

6 Q. Okay.

7 MR. HALL: Beg the Court's indulgence.

8 BY MR. HALL:

9 Q. And one last question, Mr. Mathews, can
10 you just briefly tell the Court what your defense
11 was for representing Mr. Siders at trial?

12 A. I'll say it one more time. I've said
13 it I think four, but the defense was coercion, but
14 not -- not denying he committed an armed robbery,
15 but that he did it under coercion, that he was
16 compelled to do it.

17 MR. HALL: No further questions, Your
18 Honor.

19 MS. MARTO: No redirect, Your Honor.

20 THE COURT: Pardon?

21 MS. MARTO: No redirect, Your Honor.

22 THE COURT: You can step down.

23 WITNESS: Thank you, Your Honor.

24 THE COURT: Any other witnesses?

25 MS. MARTO: My client would request that he

1 be allowed to take the stand again.

2 THE COURT: He wants to take the stand
3 again?

4 MR. SIDERS: Yes, sir.

5 THE COURT: Come on up.

6 MR. SIDERS: You think that's funny? I'm
7 sorry, I'm sorry.

8 Albert Siders,
9 having been previously sworn,
10 testifies as follows:

11 * * * * *

12 REDIRECT EXAMINATION

13 BY MS. MARTO:

14 Q. Sir, so you disagree with what
15 prosecutor and defense counsel said, right?

16 A. I mean the transcript disagrees with
17 it, Ms. Chelsey, Your Honor, the transcript plainly
18 showed you that the State had committed perjury
19 under oath about how this robbery was being
20 committed. And I'm back up here to let y'all know
21 that prosecutor, Steve Knight, prosecutor, Steve
22 Evans -- yeah, you're looking at me laughing with
23 that smirk, but y'all know good and well what y'all
24 showed on the 21st of April in 2015 concerning how
25 this robbery was being committed. And y'all can sit

1 out there and put your hand on the Bible and tell a
2 lie. It's a lie, Your Honor.

3 BY THE COURT:

4 Q. Direct your testimony towards me. It
5 might be a little more productive. So just tell me
6 what you want to tell me.

7 A. Well, Your Honor, they lied. David
8 Mathews, all of them lied. I didn't -- I didn't cry
9 to David Mathews about a video, because I didn't
10 know the video was tampered with until I came to
11 trial. This took place after-the-fact.

12 Q. What evidence do you have that it was
13 tampered with?

14 A. I've got evidence ---

15 Q. Did you have anybody do any test on it?

16 A. Well, first of all, I was -- I was told
17 that you had already viewed the camera -- the -- the
18 video.

19 Q. You could what?

20 A. I -- I was told that you had already
21 viewed the video.

22 MS. MARTO: Sir?

23 BY WITNESS:

24 A. Looking over -- looking over the case,
25 right?

1 MS. MARTO: Respectfully, and just to
2 clarify what he's saying, he asked me if I could
3 enter it, and I said it's already in the record,
4 because it's a State's exhibit at trial, and that we
5 would be disseminating it afterwards so the Court
6 could review it when, you know, gaging the validity
7 of, you know, the allegations being made here today.

8 BY THE WITNESS:

9 A. So -- so in other words, we have a
10 video that contradicts exactly what was being said
11 during my trial, which was led by the State
12 prosecutor Steve Knight when he questioned Jurnell
13 Washington, did I point a gun at her, and she said,
14 "Yes." And when they got done questioning her, they
15 showed that video of me pointing that gun. I'm just
16 telling -- I'm -- I'm the one telling the truth. I
17 don't care how y'all try to mix this thing up, but
18 it's a shame for people who know the law to take
19 advantage of somebody who don't know the law, but
20 then yet still lie. It's a lie, Your Honor. I
21 didn't waste my time writing -- writing all this
22 stuff here to get up here and make myself look
23 stupid, like as though I'm lying. We -- we all know
24 good and well it was me, David Mathews, Mr. Steve
25 Knight and Mr. Reed Evans, we was here at this

1 trial, we know exactly what was shown on that video.
2 The video -- where's the chain of custody? Where's
3 the chain of custody to this evidence? The chain of
4 custody never surfaced, Your Honor, it never
5 surfaced. Even when Mr. Watkins did the -- his
6 analysis, when him and James Falk had got together,
7 there was never a chain of custody. There is no
8 chain of custody. This evidence was introduced at
9 my trial without a chain of custody. That violates
10 -- that violates standard procedures and everything.
11 That violated the Constitution and everything. And
12 this perjury that they committed, we have a video
13 that has not even surfaced where it shows me
14 pointing -- shows me pointing a BB gun, which I did
15 show. Boy, y'all, man, I don't understand y'all
16 people, I really don't. How y'all can get up here
17 in this courtroom, and then make an open show the
18 way that y'all do to make it look like I'm lying.
19 So, Your Honor, with all due respect, this
20 transcript contradicts everything that I have to
21 prove how this trial had went. I have a video to
22 contradict the whole trial proceeding. It was about
23 the pointing of the BB gun, and -- and prosecutor,
24 Steve Knight, did act. Now, you don't have to have
25 to be the one that actually tampered with the video,

1 but I'm sure they know somebody who did. I'm not
2 coming in this courtroom to make myself look stupid.
3 Y'all are the ones that making me look stupid,
4 'cause y'all lied under oath.

5 MS. MARTO: Nothing further, Your Honor.

6 MR. HALL: No questions, Your Honor.

7 THE COURT: You may step down.

8 WITNESS: Okay.

9 MS. MARTO: And no further witnesses, Your
10 Honor.

11 THE COURT: All right. Anything from the
12 State?

13 **ARGUMENT BY THE STATE**

14 MR. HALL: Your Honor, just briefly. As
15 I'm sure Your Honor knows, on a PCR matter under
16 Strickland, the burden is on Mr. Siders to prove
17 both deficiency and prejudice, and Mr. Siders has
18 proven neither here in this case, Your Honor. He
19 alleges that the video that's -- that was introduced
20 at his trial was fabricated. The video shows
21 someone pointing a gun, but Mr. Siders said on the
22 stand that it was him in the video. The store clerk
23 that testified at trial that Mr. Siders did, in
24 fact, commit the robbery and pointed a gun at her.
25 Your Honor, the burden is on Mr. Siders to prove

1 that there was, in fact, a fabrication, which he has
2 not met that burden of proof. Mr. Siders did not
3 call an expert. They did not produce a video.
4 There is no testimony -- credible testimony here
5 that would prove that the video had been altered in
6 any way. Regardless of the video, Your Honor, you
7 heard testimony from Counsel who said that, you
8 know, regardless of the video, Mr. Siders himself
9 confessed to the crime, both before trial and
10 testified at trial that he committed the robbery.
11 And the State's evidence in this case was
12 overwhelming. And so regardless of the video, and
13 regardless of both the prosecutor's conduct and
14 counsel's conduct in this case, there was no
15 resulting prejudice here, because the State's
16 evidence was overwhelming in this case, and a jury
17 could have found Mr. Siders guilty regardless of a
18 video, Your Honor. That's all from the State, Your
19 Honor.

20 MS. MARTO: Your Honor?

21 THE COURT: Yes.

22 **ARGUMENT BY MS. MARTO**

23 MS. MARTO: It's my client's position that
24 the video was tampered with and alleges
25 prosecutorial misconduct, and ineffective assistance

1 of counsel based upon that. It's his position that
2 the video has -- the robbery as it really went out
3 would have substantiated his theory that it was
4 coerced, because it wouldn't have shown him being so
5 aggressive and waving the gun around, but it rather
6 would have had him being shown with a gun right
7 here. And it's my client's position that the video
8 essentially speaks for itself, and that it counters
9 what was presented at the trial, so we would request
10 the Court consider the trial transcript, as well as
11 the video again. It was played at trial, and so it
12 is already in the record and will be disseminated
13 after this hearing. But, again, my client denies
14 that that is him in the video because he says the
15 robbery did not go down that way, and that if the
16 real video or real showing of what had actually
17 happened had been shown, he would have been found
18 not guilty at trial. So based upon that, we rest on
19 everything that Mr. Siders has said, everything in
20 the record, and just request this Court grant
21 relief.

22 THE COURT: Is there a copy of the video
23 for me to look at?

24 MS. MARTO: There's an online copy, Your
25 Honor. It will be emailed to your Chambers. Yes,

1 Your Honor.

2 JUDGE'S RULING

3 THE COURT: All right. Well, what I'll do
4 is, I'll look at the video, and if you have any
5 particular sections of the transcript that you would
6 like me to review, send me those line page
7 designations, and I'll look at those and review the
8 video, and let y'all know what my decision is, all
9 right?

10 MS. MARTO: Thank you, Judge.

11 MR. HALL: Thank you, Your Honor.

12 (Whereupon, the hearing was concluded.)

13 - - -END OF TRANSCRIPT- - -

14

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23

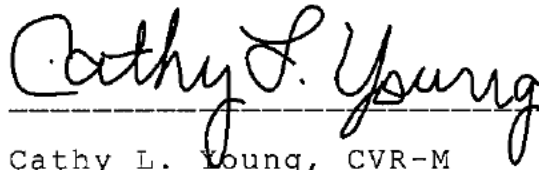
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25

CERTIFICATE OF REPORTER

I, Cathy L. Young, CVR-M, for the
Fourteenth Judicial Circuit of the State of South
Carolina, do hereby certify that the foregoing is a
true, accurate and complete Transcript of Record of
introduced in the hearing of the captioned case,
relative to appear, in the Circuit Court for
Colleton County, South Carolina, on the 27th day of
November, 2023.

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

A handwritten signature in cursive script that reads "Cathy L. Young". The signature is written in black ink and is positioned above a horizontal dashed line.

Cathy L. Young, CVR-M

Court Reporter and Notary

Public in and for South Carolina

My Commission expires: 3-28-2029

STATE OF SOUTH CAROLINA
COUNTY OF COLLETON

IN THE COURT OF COMMON PLEAS
FOR THE FOURTEENTH JUDICIAL
CIRCUIT

Albert Siders, SCDC #262284,

Case No. 2017-CP-15-00958

Applicant,

ORDER OF DISMISSAL

v.

State of South Carolina,

Respondent.

This matter is before the Court by way of an application for post-conviction relief ("PCR") filed by Albert Siders ("Applicant") on December 7, 2017. On November 27, 2023, an evidentiary hearing convened before the Honorable Roger M. Young, Sr. Applicant was present and represented by Chelsey F. Marto, Esquire. Assistant Attorney General Bryan T. Hall represented Respondent. During the hearing, Applicant testified on his own behalf and called as a witness David S. Matthews, Steven H. Knight, and Reed A. Evans. Respondent did not call any witnesses. Following a thorough review of the trial transcript and the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant did not meet his burden of proof. Thus, this Court denies relief and dismisses this application with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving a life sentence. In March 2014, the Colleton County Grand Jury indicted Applicant for kidnapping (2014-GS-15-00245), armed robbery (2014-GS-15-00244), and possession of a weapon during the commission of a violent crime (2014-GS-15-00242). These charges arose from a February 21, 2014, incident in which Applicant robbed a gas station at gunpoint.

2024 MAY - 2 PM : 00

COLLETON COUNTY
COMMON PLEAS COURT

On April 20-22, 2015, Applicant proceeded to a jury trial before the Honorable Thomas Cooper, Jr. Assistant Solicitors Steven H. Knight and Reed A. Evans prosecuted the case. Applicant was represented by David S. Matthews, Esquire ("Counsel"). The jury convicted Applicant, and Judge Cooper sentenced Applicant to life imprisonment without parole. On May 4, 2015, Counsel filed a notice of appeal on Applicant's behalf. On appeal, Applicant was represented by Appellate Defender Laura R. Baer, who raised the following issue:

Whether the trial court erred in denying Sider's motion to relieve counsel and failing to advise Siders of his right to represent himself pro se?

On November 11, 2017, following briefing and without oral argument, the South Carolina Court of Appeals affirmed Applicant's conviction, finding the trial court did not abuse its discretion in denying Applicant's motion. *State v. Siders*, 2017-UP-429 (S.C. Ct. App. filed Nov. 15, 2017). The Remittitur was sent on December 4, 2017.

CURRENT APPLICATION

Applicant timely commenced this PCR action on December 7, 2017, alleging he is being held in custody unlawfully for the following reasons:

- 1) Prosecutorial Misconduct
 - a. Fraud upon the court.
 - b. Fabrication and tampering of evidence (video).
- 2) Ineffective Assistance of Counsel: failure to object and preserve for appellate review.

On October 26, 2018, Respondent filed its Return. On April 2, 2019, Applicant amended his application, raising the following additional issues:

- 1) Ineffective Assistance of Appellate Counsel: failure to argue meritorious issues on appeal.
- 2) Ineffective Assistance of Counsel
 - a. For stipulating to the admissibility of State's Exhibit 4 [video surveillance from the robbery].

- b. Failure to investigate and consult with an expert witness to determine whether State's Exhibit 4 had been tampered with or distorted.
 - c. Failure to present as a defense that Applicant was coerced into committing the robbery.
 - d. Failure to object to the court's jury charge for burden shifting.
- 3) Prosecutorial Misconduct
- a. Presenting video evidence that was not a true and accurate duplication of the original video recording. [State's Exhibit 4]

At the PCR hearing, Applicant proceeded *solely* on the following allegations:

- 1) Ineffective Assistance of Counsel
 - a. Stipulating the admissibility of State's Exhibit 4.
 - b. Failure to object to admission of State's Exhibit 4.
 - c. Failure to investigate and determine whether State's Exhibit 4 had been tampered with or distorted.
- 2) Prosecutorial Misconduct
 - a. Presenting video evidence that was not a true and accurate duplication of the original video recording. [States's Exhibit 4]

Before this Court are the Colleton County Clerk of Court records of the subject conviction; Applicant's records from the South Carolina Department of Corrections; the trial transcript; State's Exhibit 4 from Applicant's trial; and the records of the current PCR action.

TESTIMONY PRESENTED AT THE EVIDENTIARY HEARING

At the evidentiary hearing, Applicant averred he was convicted based on fabricated evidence. Applicant testified a surveillance video that was played at trial (State's Exhibit 4) showed him pulling a gun on the store clerk. Applicant avers the video was fabricated and did not accurately depict what occurred. Applicant testified that during the robbery, he calmly held a BB gun but did not point it at the store clerk. Applicant testified he was a confidential informant for law enforcement, and a drug bust blew his cover. Applicant testified that his blown cover made him a target in the community, and he was forced by two men to commit the armed robbery. Applicant testified that he believed there was a conspiracy between Counsel and the solicitors, who were working together against him. Applicant testified the solicitors presented false

testimony. Applicant testified that he recalled the store clerk testifying at trial that Applicant pointed a gun at her. Applicant averred the store clerk was being untruthful in her testimony.

David S. Matthews ("Counsel") testified that he did the best he could in representing Applicant. Counsel testified he reviewed the surveillance video with Applicant. Counsel testified Applicant expressed his concern about the video being tampered with. On cross-examination, Counsel testified he did not think it was necessary to have an expert review the video because Applicant's contention was that he did not point the gun at the store clerk, but Applicant did not deny committing the robbery. Counsel testified that he explained to Applicant that, for the charge of armed robbery, the manner in which Applicant held the gun did not matter. Counsel testified he did not believe the solicitor had the ability to tamper with the video. Counsel testified he explained to Applicant that the best strategy for trial was to pursue the defense of duress since Applicant had already confessed to the robbery. Counsel testified he investigated Applicant's story that two men coerced him into committing the robbery but was unable to locate the men.

Steven H. Knight ("Knight") testified he was a solicitor for twenty-three (23) years, before retirement, and was the chief prosecutor. Knight testified he is familiar with the surveillance video in question. Knight testified that he did not tamper with the video and was unaware of anyone else tampering with the video. Knight testified the same video that was played at trial was the same video given to the solicitor's office by law enforcement. Knight further testified that he was unaware of any allegation of tampering until after Applicant filed a PCR action.

Reed A. Evans ("Evans") testified he was the second chair prosecutor in Applicant's case. On cross-examination, Evans testified that he has known and worked with Knight for approximately eight (8) years and has never known Knight to compromise prosecutorial ethics. Evans also testified he is unsure whether Knight could tamper with a video at all. Evans testified



he does not recall the video in question but did recall that the store clerk identified herself and Applicant in the video at trial.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the plea transcript in its entirety and has heard the testimony at the PCR hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony. After a careful review based on the *Strickland* standard set forth below, this Court finds Applicant has failed to carry his burden of proof. Below are this Court's findings of facts and conclusions of law as required by section 17-27-80 of the South Carolina Code (2017).

Ineffective Assistance of Counsel

In a PCR action, an applicant bears the burden of proving the allegations. Rule 71.1(e), SCRPC; *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). An applicant alleging ineffective assistance of counsel must prove "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668 (1984); *Butler*, 286 S.C. at 441, 334 S.E.2d at 813. "The test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases." *Watson v. State*, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985). Courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. *Butler*, 286 S.C. at 441, 334 S.E.2d at 813. An applicant must overcome this presumption to receive relief. *Cherry v. State*, 300 S.C. 115, 386 S.E.2d 624 (1989). To establish ineffective assistance of counsel, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness and (2) the



applicant sustained prejudice as a result of counsel's deficient performance. *Strickland*, 466 U.S. at 687–88; *Cherry*, 300 S.C. at 117–18, 386 S.E.2d at 625.

Failure to Investigate State's Exhibit 4

This Court finds Applicant failed to prove Counsel was ineffective for failing to investigate State's Exhibit 4 and consult with an expert regarding whether it had been tampered with. A criminal defense attorney has a duty to conduct a reasonable investigation to discover all reasonably available evidence tending to rebut any aggravating evidence introduced by the State. *McKnight v. State*, 378 S.C. 33, 46, 661 S.E.2d 354, 360 (2008). Counsel's duty to investigate is "limited to reasonable investigations." *Ard v. Catoe*, 372 S.C. 318, 331, 642 S.E.2d 590, 597 (2007); *Strickland*, 466 U.S. at 691 ("counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary").

This Court finds **credible** Counsel's testimony that he reviewed all discovery materials in Applicant's case, including State's Exhibit 4, and did not believe the video had been altered. This Court finds Counsel articulated a reasonable strategic decision for not investigating the video as Counsel testified that he did not have any concerns about the authenticity of the exhibit. This Court finds Counsel's decision to not undertake an investigation into the surveillance video was reasonable under prevailing professional norms, and thus, was not deficient. Thus, Applicant did not meet his burden.

Failure to Object to Admission of State's Exhibit 4

This Court finds Applicant failed to prove Counsel was ineffective for stipulating to and failing to object to the admission of State's Exhibit 4. An applicant must prove both deficiency and prejudice to establish ineffective assistance of counsel for failing to object. *Millidge v. State*, 422 S.C. 366, 374, 811 S.E.2d 769, 800-01 (2018). This Court finds **credible** Counsel's testimony

that he reviewed the video and did not believe it had been altered. This Court finds Counsel articulated a reasonable strategic decision for not objecting to the admission of the video, believing the video was unaltered.

This Court also finds Applicant has failed to prove he was prejudiced by Counsel's failure to object to the video's admission. At trial, Jurnell Washington, the store clerk, testified that Applicant walked into the store, pulled out a gun, and asked for money. (Tr. 95). (Tr. 94-99). When asked at trial whether he committed the robbery, Applicant testified "I did." (Tr. 169:7-12). Regardless of the video, this Court finds there was other evidence of the armed robbery presented at trial for the jury's consideration. This Court finds Applicant has failed to prove prejudice by showing but for Counsel's failure to object to the admission of the video, there is a reasonable probability the outcome of the trial would have been different. Thus, Applicant did not meet his burden.

Prosecutorial Misconduct

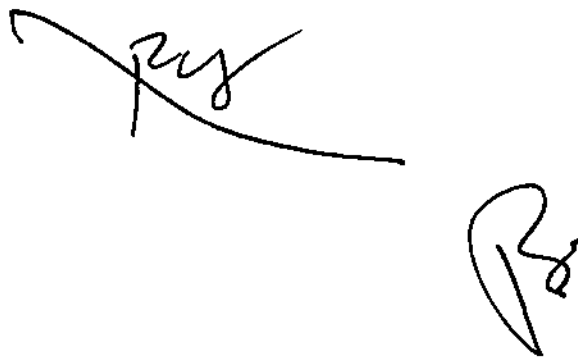
The Due Process Clauses of the Fifth and Fourteenth Amendments provide that no person may be deprived of liberty "without due process of law." U.S. Const. amends V, XIV. When examining allegations of prosecutorial misconduct, the inquiry is whether the solicitor's conduct denied the defendant's due process right to a fair trial. *Riddle v. Ozmint*, 369 S.C. 39, 44, 631 S.E.2d 70, 73 (2006). It is Applicant's burden to prove actual prosecutorial misconduct. *Butler*, 286 S.C. at 442 (stating "the burden of proof is on the applicant to prove the allegations in his application").

This Court finds **credible** Knight's testimony that he did not tamper with or fabricate the video surveillance from the robbery, admitted at trial as State's Exhibit 4. This Court finds **credible** Knight's testimony that the video introduced at trial was the same video given to the solicitor's

office by law enforcement. This Court finds **credible** Knight's testimony that he is unaware of anyone tampering with it. This Court also finds **credible** Evans' testimony that, based on his experience with Knight, he has never known Knight to compromise prosecutorial ethics. This Court also finds **credible** both Counsel and Evans' testimonies that they did not believe Knight knew how to tamper with a video.

This Court has had the opportunity to review the surveillance video in question and finds the video's depiction of Applicant holding and pointing a gun at the store clerk is consistent with the store clerk's trial testimony that Applicant pulled out a gun and asked for money. (Tr. 95). Further, this Court finds the surveillance video in question is consistent with the store clerk's trial testimony in which she identified both herself and Applicant in the video. (Tr. 97-99). This Court finds Applicant has failed to prove the solicitor violated his due process right to a fair trial by tampering with, altering, or otherwise fabricating the video in any way. Thus, Applicant did not meet his burden.

[Space left blank intentionally. Conclusion follows on next page.]

Handwritten signature and initials. The signature is a cursive name, possibly 'Jury', with a long horizontal line extending to the right. Below it are the initials 'Bd'.

CONCLUSION

Based on the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant relief. Thus, this application is denied and dismissed with prejudice.

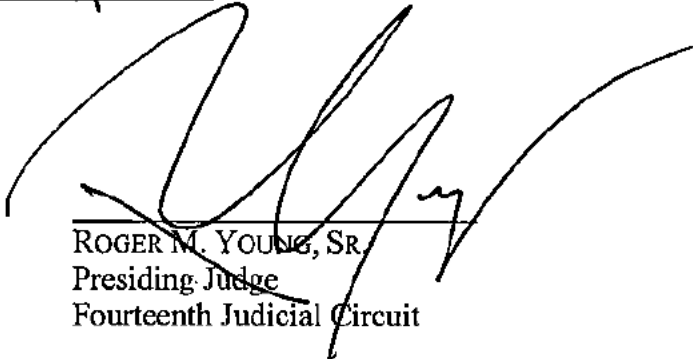
Should Applicant wish to secure appellate review, he must file and serve a notice of appeal within thirty (30) days of receipt by counsel of written notice of entry of judgment. *See* Rule 203, SCACR. Applicant has the right to an appellate counsel's assistance in seeking review of the denial of PCR. *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). If an applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on applicant's behalf. Rule 71.1(g), SCRCP. Attention is directed to Rule 243, SCACR, for appropriate procedures for appeal.

THEREFORE, IT IS ORDERED:

1. This application for PCR is denied and dismissed with prejudice; and
2. Applicant must be remanded to and remain in the custody of the State.

AND IT IS SO ORDERED ON THIS ___ day of 4/22, 2024.

Chambers, South Carolina


 ROGER M. YOUNG, SR.
 Presiding Judge
 Fourteenth Judicial Circuit



ALAN WILSON
ATTORNEY GENERAL

April 29, 2024

The Honorable Patricia C. Grant
Clerk of Court - Colleton County
Post Office Box 620
Walterboro, South Carolina 29488-0028

Re: Albert Siders, #262284 v. State of South Carolina
Case No.: 2017-CP-15-00958

2024 MAY -2 PM 3:59

COLLETON COUNTY
COMMON PLEAS COURT

Dear Ms. Grant:

Enclosed please find the original Order of Dismissal signed by The Honorable Roger M. Young, Sr., in the above-captioned case, for filing in your office. Please forward a time-stamped copy back to our office for our file.

Sincerely,

Bryan F. Hall
Assistant Attorney General

BTH/vh

cc: Chelsey F. Marto, Esquire

WITNESSES

K. Wallace

ARREST WARRANT NUMBER

2014A1510100141

February 21, 2014

ACTION OF GRAND JURY

TRUE BILL

Pamona Miles

Foreperson of Grand Jury
Date:

3/27/14

VERDICT

Foreperson of Petit Jury
Date:

INDICT

DOCKET NO. 2014GS1500242

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

March Term 2014

THE STATE

vs.

Albert Edward Siders

Indictment for

Weapons / Poss. weapon during violent crime,
if not also sentenced to life without parole or
death

SC Code: 16-23-0490
CDR Code:0549

2014 MAR 27 AM 11:23

CLERK OF COURT

mc

STATE OF SOUTH CAROLINA)
COUNTY OF Colleton)

INDICTMENT

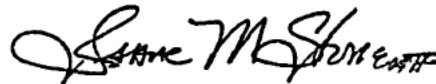
2014GS1500242

At a Court of General Sessions, convened on 27, the Grand Jurors of Colleton County present upon their oath:

**Weapons / Poss. weapon during violent crime, if not also sentenced to life without
parol or death**

That in Colleton County, South Carolina, on or about 2014-02-21, the Defendant, Albert Edward Siders, did possess a pistol or visibly display what appeared to be a pistol during the commission, or attempted commission, of Armed Robbery, a violent crime. This is in violation of 16-23-490 of the South Carolina Code of Laws, (1976) as amended.

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



Isaac M. Stone
Solicitor

Colleton County
2014-02-21

WITNESSES

K. Wallace

ARREST WARRANT NUMBER

2014A1510100143

February 21, 2014

ACTION OF GRAND JURY

TRUE BILL

Pamela Miles

Foreperson of Grand Jury
Date:

3/27/14

VERDICT

Foreperson of Petit Jury
Date:

INDICT

DOCKET NO. 2014GS1500244

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

March Term 2014

THE STATE

vs.

Albert Edward Siders

Indictment for

Robbery / Armed Robbery, robbery while armed
or allegedly armed with a deadly weapon

SC Code: 16-11-0330(A)
CDR Code:0139

2014 MAR 27 AM 11:23

STATE OF SOUTH CAROLINA)
)
 COUNTY OF Colleton)

INDICTMENT

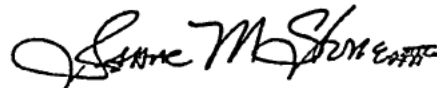
2014GS1500244

At a Court of General Sessions, convened on March 27, 2014 the Grand Jurors of Colleton County present upon their oath:

Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

That on or about February 21, 2014, in Colleton County, South Carolina, the Defendant, Albert Edward Siders, at 1825 Wichman St., by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or other object which Jarnell Washington was present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of with the intent to permanently deprive the victim of possession thereof, in violation of Section 16-11-330(A) of the South Carolina Code of Laws, 1976, as amended.

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



Isaac M. Stone
 Solicitor

J. M. Stone
 2014-03-27

WITNESSES

K. Wallace

ARREST WARRANT NUMBER

2014A1510100144

February 21, 2014

ACTION OF GRAND JURY

TRUE BILL

Pamela Miles

Foreperson of Grand Jury

Date:

3/27/14

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2014GS1500245

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

March Term 2014

THE STATE

vs.

Albert Edward Siders

Indictment for

Kidnapping / Kidnapping

SC Code: 16-03-0910

CDR Code:0095

2014 MAR 27 AM 11:23

COURT OF GENERAL SESSIONS CDR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF Colleton)

INDICTMENT
 2014GS1500245

At a Court of General Sessions, convened on March 27, 2014 the Grand Jurors of Colleton County present upon their oath:

Kidnapping / Kidnapping

That in Colleton County, South Carolina, on or about February 21, 2014, the Defendant, Albert Edward Siders, unlawfully did seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Jurnell Washington, without authority of law; all in violation of Section 16-3-910 of the Code of Laws of South Carolina, (1976, as amended)

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

Robert W. Stone

1602 2014

Isaac M. Stone

Isaac M. Stone
 Solicitor