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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Pickens County

Honorable Daniel D. Hall, Circuit Court Judge

VINCENT MISSOURI,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2024-000249

APPENDIX

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STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF PICKENS	)	Case No(s) : 2012GS2302203,
	)	2012GS2302242
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-VS-	)	TRANSCRIPT OF RECORD
	)	
Vincent Missouri,	)	
	)	
Defendant.	)	
	)	

December 19, 2013
Pickens, South Carolina

B E F O R E:

HONORABLE LETITIA H. VERDIN, Judge.

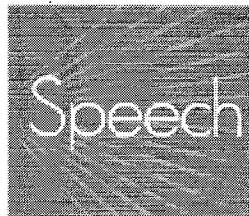
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I N D E XDIRECT CROSS REDIRECT RECROSS

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EXHIBITS PAGE

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>

PLAINTIFF EXHIBITS

(No exhibits offered.)

DEFENSE EXHIBITS

(No exhibits offered.)

COURT EXHIBITS

(No exhibits offered.)

P R O C E E D I N G S

(WHEREUPON, the proceedings begin on the 19th day of December, 2013 at approximately 11:23 a.m.)

THE COURT: All right. Come on up here to the microphone. There we go.

MR. MISSOURI: I need to have a minute to sort this out please.

THE COURT: What all do you got there?

MR. MISSOURI: The motions that we supposed to hear.

THE COURT: No, the only motion I'm hearing today is the motion to be relieved as counsel.

MR. MISSOURI: That's fine.

THE COURT: That's the only motion I've got.

MR. MISSOURI: That's fine.

THE COURT: All right. Yes, sir.

MR. ANGELL: Thank you, Your Honor. May it please the Court. We are here for, essentially, Mr. Missouri's motion I filed with the court on behalf of him. He -- from an administrative standpoint, he's appointed counsel in Greenville for other charges, Symmes Culbertson, I believe, on those.

1 **THE COURT:** Okay.

2 **MR. ANGELL:** I'm not sure of the status of
3 that representation. But for here now, I
4 represent him on four charges here in Pickens.

5 **THE COURT:** Okay. All right. Yes, sir.
6 You want to tell me why you'd like, uh, him
7 relieved as your counsel?

8 **MR. MISSOURI:** Uh, yes, ma'am.

9 **THE COURT:** I know you filed written
10 motions. But if there's anything in addition
11 you'd like today, go ahead.

12 **MR. MISSOURI:** Just based on the time and
13 the amount of cases Mr. Aaron has and the
14 complexity of my defenses, I feel it'd be
15 better that I have either someone that doesn't
16 have as much of a case load as he has or either
17 I be prepared to represent myself.

18 **THE COURT:** Well, let's talk about that
19 for one second, Mr. Missouri. I really want
20 you to think about this, think this one
21 through.

22 **MR. MISSOURI:** Okay.

23 **THE COURT:** You want an attorney that's
24 not that busy. Good attorneys are busy because
25 they have lots of clients that want them to

1 represent them, right?

2 **MR. MISSOURI:** Right.

3 **THE COURT:** So the fact that he's got lots
4 of clients should let you know he's a good
5 attorney who knows what he's doing.

6 **MR. MISSOURI:** Yeah, most of the time,
7 that would be true unless you have experienced
8 deficiencies in his performance. I mean, he's
9 been with me since June, I think, June or July
10 of 2012. There's a lot of things that I
11 required as defense too that I'm still lacking.
12 It's based on our past attorney/client
13 relationship that I make this decision, not out
14 of just assumptions.

15 **THE COURT:** I got you. I got you. What's
16 the State's position on this?

17 **MR. RICHARDSON:** Your Honor, we are
18 opposed to Mr. Aaron coming down -- off as his
19 defense attorney. He's already had one defense
20 attorney who was relieved in June earlier.
21 It's my understanding he also has made a motion
22 in Greenville. He has Greenville charges, the
23 same type of charges. This main charge here is
24 a bank robbery where he's asked to basically
25 fire Mr. Culbertson who represents him in

1 Greenville.

2 Your Honor, we plan on trying this case in
3 the spring. At this point in time, I've had
4 negotiations and dealings with his attorney. I
5 would ask that you deny the motion.

6 **THE COURT:** Mr. Angell, do you want to say
7 anything?

8 **MR. ANGELL:** Judge, from my vantage point,
9 it seems as if Mr. Missouri is unhappy with me.
10 I told him --

11 And I'm not going to speak for you.

12 -- but I told him there was probably one of
13 three things that would happen is you let him
14 go on pro se, you'd keep me on board or he
15 fires me and you hire one more. I don't know
16 what you want to do.

17 **THE COURT:** What is he charged with?

18 **MR. RICHARDSON:** Your Honor, he's charged
19 with bank robbery. In state court, it's
20 Entering a Bank with Intent to Steal, Armed
21 Robbery, Failure to Stop.

22 **THE COURT:** Pro se is not in the realm of
23 possibility right now.

24 **MR. ANGELL:** Probably not, Your Honor.
25 And I wanted to say for the record when I was

1 first appointed -- I believe he had a lawyer or
2 two before me -- we did do a bond reduction for
3 him. Judge Miller reduced the bond for him.
4 He was actually able to get out on an ankle
5 monitor and then received some subsequent
6 charges.

7 **THE COURT:** But he did have a positive
8 result ---

9 **MR. ANGELL:** Yeah, I gave him something.

10 **THE COURT:** --- from your representation.
11 I see what you're saying. I see what you're
12 saying.

13 Anything else you would like to add, sir?

14 **MR. MISSOURI:** Certainly, Your Honor. And
15 it's another thing. I see -- who is this
16 gentleman here I don't recognize?

17 **THE COURT:** He's the prosecutor.

18 **MR. MISSOURI:** Mr. ---

19 **MR. RICHARDSON:** Doug Richardson.

20 **MR. MISSOURI:** --- Doug Richardson, I
21 wrote --

22 **THE COURT:** Direct your comments to me.

23 **MR. MISSOURI:** Okay. Well, I don't have
24 any indictments, Your Honor. I have requested
25 and requested. I see I was noticing the ones

1 that's sitting over there now. I haven't had
2 any indictments. It's June 18th, 2012. I see
3 he has indictments. I have pieces of paper
4 that actually says indictments. They haven't
5 been filed with the court, nor have they been
6 presented to the Grand Jurors of South
7 Carolina.

8 **THE COURT:** That sounds like something we
9 could remedy pretty easily.

10 **MR. MISSOURI:** Well, yes, ma'am, but I
11 don't -- you know, I'm the accused. I'm
12 supposed to be put on notice at an adequate
13 point of time if the State is planning on
14 prosecuting me for these charges, but I've been
15 left out of the loop. I see he has a copy of
16 them, but I don't. I'm the accused.

17 **MR. RICHARDSON:** I'll be more than happy,
18 Your Honor, to make copies of the indicted
19 cases and give it to his attorneys. Those are
20 actually on file with the clerk's office in
21 Pickens.

22 **THE COURT:** It seems the prosecutor is
23 more than willing to hand those over and will
24 do that. All right. Here's what I'm going to
25 do, Mr. Missouri. Here's what we're going to

1 do. You've got an outstanding attorney. I'm
2 going to leave you with him. This is your
3 second attorney on this case. I can't relieve
4 this second attorney but he's an outstanding
5 attorney. If you have any hope of doing well
6 in the spring at trial, we don't need to change
7 horses in midstream.

8 Please don't take offense to me calling you
9 a horse.

10 We don't need to change horses in
11 midstream. We need to -- you need to -- from
12 this point forward, you need to do everything
13 you can to work with Mr. Angell and y'all get
14 along. I have no doubt that you will do so. I
15 wish you the best of luck with it.

16 **MR. MISSOURI:** Can I ask you one more
17 question, Judge?

18 **THE COURT:** Uh, maybe. I don't know if
19 I'm going to answer it or not but I will listen
20 to it.

21 **MR. MISSOURI:** Who do I con -- who would I
22 contact in the event that I am petitioning to
23 Mr. Angell to file a motion because there's a
24 local rule by the Supreme Court of South
25 Carolina --

1 **THE COURT:** If you just -- if you just get
2 in touch with Mr. Angell -- and let me tell
3 you, Mr. Missouri, I've gotten some mail from
4 you.

5 **MR. MISSOURI:** Uh-huh.

6 **THE COURT:** I want you to know that is not
7 the avenue that you should go. When you are
8 represented, everything needs to come through
9 your attorney and let me tell you why. It
10 sounds like maybe you have devoted yourself to
11 studying some law, but you don't know law like
12 this man knows law and you don't know strategy
13 the way he knows strategy. Because as you
14 said, he represents a number of clients and
15 he's been around this block a number of times.
16 There could be things you say to my office that
17 he doesn't want you to say. In other words,
18 things you say about the defense of this case.

19 **MR. MISSOURI:** Uh-huh.

20 **THE COURT:** I have to give a copy to
21 everybody involved otherwise it would be an ex
22 parte communication.

23 **MR. MISSOURI:** Uh-huh.

24 **THE COURT:** So you make everything go
25 through your lawyer. He's here to make sure

1 you're not saying something you shouldn't.

2 Okay? Good luck to you.

3 **MR. MISSOURI:** So in other words, I have
4 to keep him.

5 **THE COURT:** Bottom line, you got to keep
6 him. You're going to be happy with him.

7 **MR. MISSOURI:** Oh, boy. Thank you, Judge.

8 **THE COURT:** Thank you.

9

10 **(WHEREUPON,** the proceedings conclude at
11 approximately 11:31 a.m.)

12

13

14

15

STATE OF SOUTH CAROLINA
COUNTY OF PICKENS

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,

PLAINTIFF,

-VS-

VINCENT MISSOURI,

DEFENDANT.

2012-GS-39-02203

MAY 19-20, 2014

TRANSCRIPT OF RECORD

BEFORE:

THE HONORABLE JAMES R. BARBER, III, JUDGE

APPEARANCES:

DOUG RICHARDSON, ESQUIRE
ATTORNEY FOR THE STATE

AARON ANGELL, ESQUIRE
ATTORNEY FOR THE DEFENDANT

DANETTE P. HANKS
CIRCUIT COURT REPORTER

<u>I N D E X</u>				
WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS
Samuel Lane Byers - In-Camera Richardson Angell	14	22	24	
Rachel White Richardson Angell	65	81	85	
Morgan Dorriety Richardson Angell	86	92		
Bobby Wright Richardson Angell	94	99		
Brian Byers Richardson Angell	107	110		
J.T. Albrecht Richardson Angell	113	115		
Tim Morgan Richardson Angell	116	118	119	
Keith Galloway Richardson Angell	119	130		
Scott Ticknor Richardson Angell	131	137		
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DEFENDANT'S EXHIBITS

	(NONE)		

COURT'S EXHIBITS

	(NONE)		

JURY VOIR DIRE

Juror #	Name	Race	Sex	Strikes			Accept
				Court	Plaintiff	Def.	
144	Snyder, James H	W	M			x	
93	Manley, Robbie A	W	F		x		
124	Posey, Joy W	W	F			x	
43	Dinkins, Rodney K	B	M				x
154	Turner, Sheila J	W	F				x
31	Center, Gladys B	W	F			x	
81	Jones, Jeremy D	W	M				x
16	Blackwood, John K	W	M			x	
79	Jameson, Lake H Jr	W	M				x
94	Marchbanks, Sandra B	W	F				x
130	Rider, Donald P	W	M		x		
155	Ward, Jack C Sr	W	M				x
111	Mulligan, Brenda M	W	F				x
65	Hammond, Julie M	W	F			x	
70	Heard, Brenda G	B	F		x		
53	Fletcher, Karen M	W	F			x	
157	Wentworth, Adam D	W	M				x
56	Frazor, Weston C	W	M				x
27	Burgess, Grace A	W	F				x
121	Pittman, Sherry B	W	F				x
160	Wray, Lisa L	W	F				x
146	Spearman, Kendall A	W	F				x

1 **MAY 19, 2014**

2 (WHEREUPON, Court convened with all parties present
3 and the following proceedings were had.)

4 (WHEREUPON, State Exhibit Numbers 1 and 2 were marked
5 for identification.)

6 THE COURT: All right. You are Vincent Missouri?

7 THE DEFENDANT: Yes, sir, I am.

8 THE COURT: Mr. Missouri, your attorney, Mr.
9 Angell, informed -- we just qualified the jury upstairs and
10 your attorney informed us at the time that you indicated you
11 might want a bench trial in this case -- on these charges,
12 as opposed to a jury trial; is that correct?

13 THE DEFENDANT: That's a consideration, Your
14 Honor. But I haven't made any definitive conclusions to
15 that. We were just discussing the possibilities.

16 THE COURT: Well, you don't have but just a few
17 more minutes to make that decision, because I've got forty
18 jurors that we have just selected by the -- that will be a
19 panel in which we will then go forward with the jury
20 qualification -- I mean, the selection of the jury starting
21 at two o'clock. And I have to tell this jury at twelve
22 whether they're coming in at two for the selection of the
23 jury or not. You understand, of course, you have the
24 constitutional right to a jury trial?

25 THE DEFENDANT: Yes, sir, I do.

1 THE COURT: And let twelve citizens of this county
2 listen to the evidence and they would ultimately determine
3 whether you're guilty or not. They would judge the evidence
4 and determine what they believe to be the facts. They would
5 apply the law. And then they would reach a verdict on the
6 three charges that are pending against you. Do you
7 understand that?

8 THE DEFENDANT: Yes, sir, I do.

9 THE COURT: And of course, you can waive that.
10 And if it's waived, the state has to concur with you in
11 going forward with a non-jury bench trial. And of course,
12 the court has to agree to it, as well. Do you understand
13 that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And I have not made a decision. It's
16 my understanding the state has no objection to that. Is
17 that correct, Mr. Richardson?

18 MR. RICHARDSON: We do not have an objection.

19 THE COURT: Of course, if the jury hears it,
20 there's twelve citizens on that jury and the law requires
21 that they be unanimous in whatever the verdict is. Do you
22 understand that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And so we can't be eleven/one or
25 twelve -- I mean nine/three. It has to be unanimous. And

1 if they can't get a unanimous verdict then the jury is hung
2 and a mistrial would be granted. Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And it would be up to the state to
5 determine after that whether they wish to proceed with the
6 case again. Do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: What is it you need to know to make
9 your decision, Mr. Missouri?

10 THE DEFENDANT: Well, it's the complexities of the
11 defense that I was discussing with Mr. Angell that I would
12 be wanting to go forward dealing with involuntary
13 intoxication. And it would be sort of like asking a jury
14 that's not familiar with the law to actually participate in
15 the legal gymnastics of the mind. I don't think they would
16 be capable of appreciating such a defense in order to
17 actually determine whether or not I could be actually held
18 guilty under such a diminished capacity.

19 THE COURT: So your defense would be intoxication?

20 THE DEFENDANT: Involuntary intoxication, Your
21 Honor, based on addiction, long term addictions.

22 THE COURT: Well, you understand that intoxication
23 is not a defense in South Carolina?

24 THE DEFENDANT: Not intoxication alone. Yes, sir,
25 I understand that.

1 THE COURT: The jury would be charged with that,
2 as well. Well, we need to -- I understand there are some
3 pretrial matters that need to be addressed.

4 THE DEFENDANT: Probably about eighteen months of
5 them.

6 THE COURT: No. Well, I understand there a
7 statement that the state is alleging that you gave in this
8 case.

9 THE DEFENDANT: I sure did.

10 THE COURT: So there's going to have to be what we
11 call a Jackson v. Denno hearing to determine the
12 voluntariness of the statement.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: What other motions are there, Mr.
15 Angell?

16 MR. ANGELL: Your Honor, my client wants a change
17 of venue, as well. He feels that he won't get a fair trial
18 in this county based on what he's told me, demographics, and
19 he's not comfortable should he serve -- should a jury of
20 twelve serve in this case. I know that's yet to be seen.
21 We're not sure where we're going on that, whether it's a
22 bench trial or a jury trial.

23 Also a motion to dismiss for malicious prosecution.

24 And a couple of others that Mr. Missouri is ---

25 THE COURT: Well, you're the attorney. You would

1 be the one that would be putting up whatever we need to put
2 up. So what other motions do you believe are meritorious
3 that we would hear this morning other than the Jackson v.
4 Denno, a change of venue and, I believe, a malicious
5 prosecution?

6 MR. ANGELL: Those are all that come to mind,
7 Judge, that I have that I think are meritorious.

8 THE COURT: Have y'all filed motions?

9 MR. ANGELL: No, sir.

10 THE COURT: These are just oral motions that
11 somebody's going to make?

12 MR. ANGELL: Yes, sir.

13 THE COURT: All right. Is that it?

14 THE DEFENDANT: That may be it as far as Mr. Aaron
15 is concerned, Mr. Angell here. I have a motion -- several
16 motions challenging the process for which the indictment was
17 received. I have motions protecting my right to a speedy
18 trial. I have a motion dealing with ---

19 THE COURT: Well, your lawyer is the one that has
20 the motions, Mr. Missouri. He is the attorney in the
21 matter. You certainly have a right to discuss with him what
22 motions you think your lawyer should consider. But the
23 lawyer is the one that makes the motions. He's representing
24 you in this matter.

25 All right. Should we go forward with the Jackson v.

1 Denno hearing right now?

2 MR. ANGELL: Yes.

3 THE COURT: We'll go through whatever other
4 motions we have to after that.

5 THE DEFENDANT: Your Honor, could I say one other
6 thing before we go into that? To put it on the record, I
7 had also, eight days after this incident occurred in Pickens
8 County, I also filed a motion prior to Mr. Aaron Angell
9 being appointed to my case, to actually represent this
10 situation myself. I had a motion that was filed with the
11 Pickens County clerk asking for self-representation so that
12 we don't get into a situation whereas a motion that should
13 ---

14 THE COURT: So there's a motion to terminate Mr.
15 Angell and to represent yourself?

16 THE DEFENDANT: Yeah. There's also a motion
17 pending that Judge Verdin heard on December the 19th, 2013,
18 and she denied that motion.

19 THE COURT: Well, that motions has been taken care
20 of.

21 THE DEFENDANT: And there's been a subsequent one
22 on appeal.

23 THE COURT: I don't know about an appeal. That
24 motion has already been heard.

25 THE DEFENDANT: But it wasn't based on the factual

1 finding as I understood it.

2 THE COURT: Well, I can't go behind her on her --
3 I don't know anything about her ruling, but if she denied
4 the motion, I don't have the ability to go back and say,
5 hey, you were wrong, and I -- because I'm here now -- I just
6 can't undo what some other judge has already done and ruled
7 on. And if there's an error in that regard, then you will
8 have to deal with that in the future.

9 You understand that the state is not going forward with
10 an armed robbery charge? They have -- they're going forward
11 with a strong armed robbery, common law robbery, which is a
12 lesser included of armed robbery.

13 THE DEFENDANT: So the charges are bank robbery;
14 it's going to be strong armed robbery?

15 THE COURT: It's strong armed robbery, bank
16 robbery, or entering the bank, entering the bank or
17 depository or building and loan with the intent to steal.
18 The armed robbery is not -- the armed robbery was a thirty
19 year sentence, maximum thirty years, which you've got to do
20 -- what is the minimum; ten? Isn't that right?

21 MR. RICHARDSON: That's correct, Your Honor.

22 THE COURT: There's a failure to stop for a blue
23 light, which is a three-year charge. And the bank robbery,
24 for lack of a better term, bank robbery, that's a thirty
25 year with no mandatory minimum on that. Do you understand

1 those charges?

2 THE DEFENDANT: Yes, Your Honor, I understand
3 them.

4 THE COURT: So as I say, the state is not going
5 forward with an armed robbery. They're doing the lesser
6 included common law robbery, strong armed robbery, which is
7 the maximum sentence of fifteen years.

8 All right. Let's ---

9 THE DEFENDANT: The maximum sentence is fifteen
10 years now, that's what I'm ... What's the highest charge
11 that we're looking at here? Okay.

12 THE COURT: The difference between -- I mean, the
13 difference between an armed robbery and strong -- sentence-
14 wise is there's a mandatory minimum on a strong armed
15 robbery -- I mean, on an armed robbery. There is none on
16 the entering the building for theft on the bank robbery.

17 THE DEFENDANT: Okay.

18 THE COURT: So you could get anything from one day
19 to thirty years, if you were convicted on that charge. You
20 understand that?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: All right. State ready to go forward
23 on the Jackson v. Denno?

24 MR. RICHARDSON: Yes, Your Honor, the state's
25 ready.

1 THE COURT: All right.

2 MR. RICHARDSON: State would call Detective Sam
3 Byers to the stand.

4 THE CLERK: Do you solemnly swear or affirm the
5 testimony you're about to give in this case to be the truth,
6 the whole truth and nothing but the truth, so help you God?

7 THE WITNESS: I do.

8 THE CLERK: Thank you, sir. If you would have a
9 seat and state your name for the record, please.

10 THE WITNESS: Detective Samuel Lane Byers.

11 **IN-CAMERA TESTIMONY**

12 **SAMUEL LANE BYERS,**

13 **HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:**

14 **DIRECT EXAMINATION**

15 **BY MR. RICHARDSON:**

16 Q. Detective Byers, where are you employed?

17 A. Pickens City Police Department.

18 Q. And how long have you been employed with the Pickens
19 City Police Department?

20 A. Eleven and a half years now.

21 Q. Okay, sir. And back on -- well, are you a detective?

22 A. Yes, sir.

23 Q. And back on April -- excuse me -- June the 18th of
24 2012, were you working as a detective with the Pickens
25 Police Department?

1 A. Yes, sir.

2 Q. Okay, sir. And in that capacity did you investigate a
3 case involving a Vincent Missouri?

4 A. Yes, sir.

5 Q. Okay. And as part of that investigation did you have
6 an opportunity to interrogate or interview the defendant?

7 A. Yes, sir.

8 Q. And was that after the defendant had been placed in
9 custody and, in fact, arrested on the charges that we're
10 here today about?

11 A. Yes, sir.

12 Q. Okay, sir. Now, where did you have this interview?

13 A. It was at the Pickens County Detention Center.

14 Q. Okay, sir. And was that actually the location of
15 where the defendant was incarcerated?

16 A. Yes, sir.

17 Q. And at the Pickens Detention Center is there a
18 particular room or area that interviews are done?

19 A. They have a couple of rooms. There was one room
20 directly adjacent to the lobby area where they processed
21 inmates in that we went into and spoke.

22 Q. Okay, sir. And just can you briefly describe the
23 room? Did it have windows or ---

24 A. There's no windows. There's one door. There was a
25 single table and approximately four chairs in the room.

1 Q. Okay, sir. And were you the only officer in that area

2 ---

3 A. Yes, sir.

4 Q. --- with Mr. Missouri?

5 A. In that room, yes, sir.

6 Q. And was anybody else in the room?

7 A. Mr. Missouri was with me.

8 Q. Okay. And when you first came in and started talking

9 to Mr. Missouri, did you ascertain whether he was -- he

10 appeared intoxicated or under the influence of any alcohol

11 or drugs or anything of that nature?

12 A. He did not appear to be at that time.

13 Q. Okay, sir. And did you find him behaving in any

14 bizarre or weird manner?

15 A. No, sir.

16 Q. Okay, sir. Was he being cooperative with you?

17 A. Yes, sir.

18 Q. And let me hand you -- when you first go into the room

19 in your first conversation with Mr. Missouri, what takes

20 place?

21 A. The first thing I do with him is advise him that I

22 need to read him Miranda rights.

23 Q. And did you, in fact, give him his Miranda rights?

24 A. Yes, sir.

25 Q. Okay. Let me hand you what's been previously marked

1 now as State's Exhibit 1. Can you identify that, please,
2 sir?

3 A. Yes, sir.

4 Q. And what is that?

5 A. This is the advisement of Miranda rights that I went
6 over -- that I read to Mr. Missouri.

7 Q. Okay, sir. And is there a date on that?

8 A. Yes, sir. It's dated June 18, 2012.

9 Q. And is that the date of arrest?

10 A. Yes, sir.

11 Q. Okay, sir. And did you -- is there also a time on
12 there?

13 A. Yes, sir.

14 Q. And what time is indicated?

15 A. Six oh nine p.m.

16 Q. Okay, sir. And when you indicate that time, six oh
17 nine p.m., is that when the interview starts?

18 A. Yes, sir.

19 Q. Okay, sir. And did you also question him about his
20 education level?

21 A. Yes, sir.

22 Q. Okay. And is that also indicated on that form?

23 A. Yes, sir.

24 Q. And what does that indicate?

25 A. He stated he has completed twelve years of school.

1 Q. Okay. And did he corroborate that in any manner?

2 A. Yes, sir. He initialed off to the right side of it.

3 Q. He put his initials on there?

4 A. Yes, sir.

5 Q. And that's his handwriting?

6 A. Yes, sir.

7 Q. Okay. When you give the Miranda rights, just explain
8 to the judge exactly how you -- different officers do it
9 different ways. But explain how you do it from that form.
10 Do you read it to him, do you let him read, that type thing?

11 A. At that time what I do is after I determine there --
12 the years that they completed school, that they can
13 understand, read and write, of the information that's going
14 to be given to them, I allow them to hold the piece of paper
15 that they can read along with me while I read aloud. I read
16 each individual line and ask them if they understand, if
17 they would initial to the left side. And if they have any
18 questions to please ask me at that time.

19 Q. Okay, sir. And did you do that procedure with Mr.
20 Missouri?

21 A. Yes, sir.

22 Q. Okay. And did he initial on each particular right
23 that you read him?

24 A. Yes, sir. He did.

25 Q. And those are his initials, not -- that's not your

1 handwriting?

2 A. No, sir. It's not my handwriting.

3 Q. And did he indicate anywhere on there that he -- after
4 being told those rights, that he understood those rights?

5 A. Yes, sir. Line number six, he stated -- it asks, does
6 he understand these rights that have been explained to him?
7 He did check the yes box and initialed to the left side.

8 Q. Okay. And after that process of informing him of his
9 rights and his indicating he understands those rights, at
10 that point in time what do you do?

11 A. I read him the waiver at the bottom for waiver of
12 rights.

13 Q. Okay. And did you, in fact, read those rights to him?

14 A. Yes, sir.

15 Q. Okay. Excuse me. Did you read the waiver to him?

16 A. Yes, sir. I read the waiver of rights to him and he
17 also read along with me.

18 Q. And did he indicate that he wanted to waive those
19 rights?

20 A. He signed above that he did wish to waive his rights
21 and speak with me.

22 Q. Okay. And did he also date it?

23 A. Yes, sir.

24 Q. And what was the date?

25 A. 6/18/2012.

1 Q. Okay. And did you also sign this form?

2 A. Yes, sir.

3 Q. Okay. Same date?

4 A. Yes, sir.

5 Q. Okay. And was there any indication to you that he
6 didn't comprehend or understand the rights that you were
7 giving him?

8 A. No, sir.

9 Q. Did you, while he was in the room and you were
10 interviewing him -- after this, did he give a written
11 statement?

12 A. Yes, sir.

13 Q. Okay. And let me just hand you what's been marked
14 State's Exhibit 2. Can you identify that, please?

15 A. Yes, sir. This is the statement that I received from
16 Mr. Missouri on the date and time of the interview.

17 Q. Okay. And what time was that statement started?

18 A. The statement started at six thirty-six p.m.

19 Q. Okay. And did he, did he write the statement or did
20 you write it or what?

21 A. No, sir. He wrote this statement.

22 Q. Okay. That's his handwriting?

23 A. Yes, sir.

24 Q. All right. And did he also sign the statement?

25 A. Yes, sir.

1 Q. Okay, sir. And during this period of time in which
2 he's giving a statement and you're talking to him and
3 questioning him, did you prevent him from going to the
4 bathroom?

5 A. No, sir. He did not ask me to go to the restroom at
6 any time during that period.

7 Q. Okay. Did you keep him from having any food or water
8 or anything of that nature?

9 A. I was not asked to be given anything.

10 Q. Okay. Did you force him to give that statement in
11 anyway?

12 A. No, sir.

13 Q. Coerce him in anyway?

14 A. No, sir.

15 Q. Intimidate him in anyway?

16 A. No, sir.

17 Q. Did he give that statement freely and voluntarily?

18 A. Yes, sir.

19 Q. And just so we're clear, from the time that it
20 started, the interview started, I believe you testified it
21 was six oh nine?

22 A. Yes, sir.

23 Q. When did the interview complete?

24 A. The statement was signed ended at seven oh six p.m.

25 Q. Okay. So not quite an hour?

1 A. Correct.

2 Q. And after it was completed at seven oh six p.m., was
3 there any further conversations or interviews or anything of
4 that nature with the defendant?

5 A. At that time, I thanked him for his time, told him
6 that we would be in touch with him with the warrants that he
7 would be charged on.

8 Q. And throughout this process, did the defendant appear
9 rational and responsive to your questions?

10 A. Yes, sir.

11 Q. Did he appear to understand what you were asking and
12 telling him?

13 A. Yes, sir.

14 Q. Thank you. That's all the questions I have. Please
15 answer any questions defense counsel may have.

16 **CROSS EXAMINATION**

17 **BY MR. ANGELL:**

18 Q. Detective Byers, had you met my client before the day
19 of June 18? Had you ever met him before?

20 A. No, sir.

21 Q. So it was the first interaction you had ever had with
22 my client?

23 A. Yes, sir.

24 Q. You mentioned that the interview was performed in a
25 room with no windows; correct?

1 A. Correct.

2 Q. And there was nobody else in there other than the two
3 of y'all; correct?

4 A. Exactly.

5 Q. Did my client ask for a phone call at any point?

6 A. Not that I recall.

7 Q. Did he act in anyway confused in regards to the
8 confession that he submitted?

9 A. No, sir.

10 Q. I understand that he put in this confession that there
11 was a crack cocaine binge. Is that your understanding, as
12 well?

13 A. He had told me that he had used crack cocaine earlier
14 in the day.

15 Q. But you said that he didn't appear impaired in anyway
16 from your vantage point; correct?

17 A. Exactly.

18 Q. Are you trained in any drug recognition?

19 A. No, sir.

20 Q. So you can't be positive that he wasn't under the
21 influence of crack at the time of the statement; correct?

22 A. Correct.

23 Q. Did he -- did my client at any time stop in the middle
24 of the interrogation and ask for further instructions? Did
25 he at any point, at any time, question what was going on in

1 that room?

2 A. No, sir.

3 Q. So you were in there for just under an hour and he
4 agreed and cooperated through every question and explanation
5 that you had?

6 A. Yes, sir.

7 Q. Was my client -- I know there are two co-defendants in
8 this case. Was my client the first that you interviewed in
9 this case?

10 A. Yes, sir. I spoke to the co-defendant after I spoke
11 to your client.

12 Q. And the co-defendant was in the same room? You spoke
13 to the co-defendant in the same room?

14 A. Yes, sir. Later time.

15 Q. Separate from my client?

16 A. Yes, sir.

17 Q. Did my client at any point in time indicate that he
18 was interested in committing suicide to you?

19 A. Not that I recall, no, sir. I would have indicated
20 that to the detention officers.

21 MR. ANGELL: Nothing further, Your Honor.

22 THE COURT: Anything?

23 MR. RICHARDSON: Just briefly.

24 **REDIRECT EXAMINATION**

25 **BY MR. RICHARDSON:**

1 Q. Officer, how long did you testify you had been an
2 officer?

3 A. Eleven and a half years.

4 Q. Okay. You've seen people high on crack cocaine
5 before?

6 A. Yes, sir.

7 Q. Okay. And so you know what a person looks like when
8 they're high on crack cocaine?

9 A. Yes, sir.

10 Q. And in your opinion was this defendant high on crack
11 cocaine at the time of this interview?

12 A. In my opinion, no, sir.

13 Q. Thank you.

14 THE COURT: All right. Thank you, Detective. You
15 may step down.

16 Anything further from the state?

17 MR. RICHARDSON: Nothing further, Your Honor.

18 THE COURT: Anything from the defendant?

19 MR. ANGELL: Your Honor, we ask that this
20 confession be suppressed on the basis that my client
21 contends he was under the influence of crack cocaine and did
22 not voluntarily and freely make this confession. We ask
23 that Your Honor suppress the confession.

24 THE COURT: All right. I'm going to deny your
25 motion. I'm going to find that the defendant was in custody

1 at the time he was questioned by the officer. That the
2 officer reviewed with him his Miranda rights. That the
3 defendant indicated by initialing each and every right that
4 they had been reviewed by him. He signed a waiver of his
5 Miranda rights. The officer testified that the defendant
6 did this voluntarily. That he was not threatened, coerced,
7 forced or -- to make any statement. That he appeared to be
8 confident. There was nothing that indicated to the officer
9 that he -- that the defendant was under the influence of any
10 kind of determination, that he acted in a normal manner and
11 his responses were appropriate.

12 I'm going to find that the statement shall be admitted.
13 We will certainly charge the jury that, if it goes forward
14 with a jury trial, that they ultimately are the decider of
15 the facts in that matter. That the court has determined
16 that it will be admissible, but that they have to make the
17 ultimate decision as to whether the statement is voluntary.
18 If they determine it is not voluntary, that they can exclude
19 the statement and not consider it for any purpose.

20 All right. What's the next motion?

21 MR. ANGELL: Judge, the next motion is for change
22 of venue.

23 THE COURT: All right. According to Mr. Angell,
24 these motions are orally being made here this morning, Mr.
25 Solicitor, and y'all have -- I don't know what knowledge you

1 had as to -- that the motions would be made, and I don't
2 know how that may affect you and your preparation for
3 response to these motions. Are you ready to go forward with
4 them or ...

5 MR. RICHARDSON: Your Honor, I'll go forward with
6 them at this time.

7 THE COURT: All right. Mr. Angell, if you would.

8 MR. ANGELL: Thank you, Your Honor.

9 It's our contention that my client is not going to
10 receive a fair trial in Pickens. He's concerned that should
11 the jury be selected to sit for this case that they won't be
12 able to sit impartially and fairly because of his reputation
13 in town and from the news that was spread as a result of
14 this arrest. We ask that you change the venue and allow my
15 client to be tried somewhere else where he feels he'll have
16 a better opportunity to sit before a fair and impartial
17 jury. That's the extent of the defendant's motion.

18 THE COURT: All right. Mr. Solicitor.

19 MR. RICHARDSON: Your Honor, of course, you
20 qualified the jury and they said they would be fair. The
21 defendant is from Greenville County. That's where this
22 whole thing started. His reputation here, I think we need
23 some kind of particular facts proffered for the court in
24 order for that to even be considered. So Your Honor, I
25 think a jury here is going to give him a fair trial just as

1 any jury is going to do in Greenville or any other county,
2 for that matter. I don't see any difference.

3 THE COURT: Anything further?

4 MR. ANGELL: Nothing further, Your Honor.

5 THE COURT: All right. Y'all have not offered any
6 affidavit, y'all have not proffered any statisticians,
7 anybody that might come in and indicate that there is some
8 probability that your client is not going to receive a fair
9 and impartial trial. I don't know anything about his
10 reputation. Y'all have not offered anything in that regard.

11 Clearly, we have come up with a strike sheet of forty
12 jurors. We don't know who is going to be on this jury and
13 we clearly will inquire of the jury if they have any
14 knowledge about your client and if they have any knowledge
15 about the incident. And if they indicate they do and they
16 can't be fair and impartial, then we certainly -- they would
17 be struck. And you would have the opportunity to use any of
18 your strikes on a peremptory basis if you believe that
19 there's some juror that's showing some hidden bias or
20 prejudice. So we will -- I'm going to deny that motion.

21 What else we got?

22 MR. ANGELL: Your Honor, my client would like to
23 have these charges dismissed based on failure to indict
24 within thirty days -- ninety days of the arrest warrant,
25 Judge. It's my understanding that that's an administrative

1 issue and maybe not dispositive, but we wanted to put that
2 on the record and ask that you dismiss the case for the
3 indictment coming well after ninety days from the arrest
4 warrant. It was probably closer to a year and a half or so.

5 THE COURT: Anything from the state?

6 MR. RICHARDSON: Your Honor, it's not dispositive
7 to the indictment as it stands today.

8 THE COURT: That's correct. Okay. I'm going to
9 deny that motion.

10 Was there ever a motion for a speedy trial made in this
11 case?

12 MR. ANGELL: It's my understanding, Judge, that he
13 made that -- my client made that motion pro se before he was
14 represented. To my understanding there's not been one
15 renewed since then.

16 THE COURT: Well, the best he probably -- is your
17 client incarcerated?

18 MR. ANGELL: Yes, Your Honor.

19 THE COURT: Has he been incarcerated since he was
20 arrested?

21 MR. ANGELL: Outside of a short probably two weeks
22 period, Your Honor, he has been. So for the past two years
23 or so.

24 THE COURT: All right. It's unlikely that he
25 would have a speedy trial motion in a period of less than

1 two years. The charges would have been dismissed. They
2 might have ordered the case be tried at some point in time
3 and if it wasn't, set a more favorable bond -- well, I don't
4 know what kind of bond he was on or is on now, if any, so
5 anyway. What else we got?

6 MR. ANGELL: Judge, I have no further motions pre-
7 trial.

8 THE COURT: All right. Here's what we're going to
9 do. Rule 14 of the Rules of Criminal Procedure provides
10 that a defendant may waive his right to a jury trial only
11 with approval of the solicitor and the trial judge. As I
12 told you, we've got the jury calling back at twelve o'clock.
13 Is that right, Mr. Clerk?

14 THE CLERK: Yes, sir.

15 THE COURT: So we're going to -- I'm going to give
16 you some time, Mr. Angell, if you would like, to discuss
17 this further with your client. And after he's made his
18 decision, if he's made a decision that he would like to try
19 it with a bench trial, then if you and the solicitor will
20 come in my office and we'll talk about whether the court or
21 the solicitor is going to consent to his waiver. If not,
22 then we'll pick the jury at two o'clock and go forward with
23 the trial. If so, I guess we can begin today. How many
24 witnesses are you going to have, Mr. Solicitor,
25 approximately?

1 MR. RICHARDSON: Your Honor, somewhere in the
2 neighborhood of about thirteen or fourteen. Probably a
3 little less.

4 THE COURT: Where is security? Where can Mr.
5 Angell and his client ...

6 THE DEPUTY: The Grand Jury room.

7 THE COURT: All right. Take Mr. Missouri back
8 there and I'll have Mr. Angell come in in just a moment.
9 We'll let them decide.

10 All right. We'll stand in recess for about -- how much
11 time do you think you're going to need? Half an hour or so?

12 MR. ANGELL: That'll be fine. Thank you, Judge.

13 THE COURT: If we give you the information at
14 twenty till, Mr. Clerk, we can get the message ---

15 THE CLERK: Yes, sir.

16 THE COURT: All right. So we'll give you about a
17 half hour. Do y'all have any voir dire? Do you have any
18 proposed witness lists or anything that you want ---

19 MR. RICHARDSON: Yes, sir, I've got one.

20 THE COURT: Y'all step up here just a minute.

21 (WHEREUPON, Messrs. Richardson and Angell approached
22 the bar.)

23 THE COURT: All right. We'll going to stand in
24 recess for a few minutes.

25 (WHEREUPON, the court stood at recess for a short

1 break.)

2 (WHEREUPON, State Exhibit Numbers 3 through 19 were
3 marked for identification.)

4 THE COURT: You're terminating the services of
5 your attorney. You indicated at some time in the past, I
6 don't know, at the beginning of the year you indicated that
7 you wanted to relieve him of counsel and represent yourself?

8 THE DEFENDANT: In the past, yes, I did indicate
9 that.

10 THE COURT: You still interested in doing that?

11 THE DEFENDANT: I mean, you told me you couldn't
12 do ---

13 THE COURT: I'm asking you, are you still
14 interested in doing that? Because I've reconsidered it and
15 I would be willing to consider that because I think you're
16 capable of doing so. Are you interested in doing that?
17 Want to represent yourself? If you don't, you don't have
18 to. You've got a lawyer and we're going to go forward with
19 it. If you do, we're going to discuss this issue.

20 THE DEFENDANT: Could I inquire what made you
21 change your ---

22 THE COURT: I read a case while we were at lunch
23 that indicated that you might be entitled to do so.

24 THE DEFENDANT: Well, may I ask the court what
25 happens to the twenty-three months that I was trying to do

1 this and trying to ---

2 THE COURT: Mr. Missouri, I just got ---

3 THE DEFENDANT: I just have some question, sir.

4 THE COURT: --- to Pickens County today. I don't
5 know about anything that happened in the past. If you are
6 interested in representing yourself, I will have certain
7 questions I want to ask you. If I find you're competent to
8 do so, you will be able to represent yourself and we'll go
9 forward ---

10 THE DEFENDANT: Sir, are you stating on the record
11 that actually the court at an earlier time made an error?

12 THE COURT: I'm not stating anything about it.
13 I'm telling you what I'm prepared to do. If you make the
14 motion. If you don't want to make the motion, that's fine.
15 We're ready to go. What is it you want to do?

16 THE DEFENDANT: May I speak? It kind of puts me
17 in an awkward position, Your Honor, because ---

18 THE COURT: Mr. Missouri, you're no different now
19 than you were at eleven thirty this morning when Mr. Angell
20 indicated that that was something that you might want, and
21 that is to represent yourself. That's the first time I
22 heard about this.

23 THE DEFENDANT: Okay. But again, you know, you
24 stated your reason that you said you was not going to do ---

25 THE COURT: If you're prepared to make the motion,

1 I'm prepared to consider it.

2 THE DEFENDANT: And what would happen to Mr.
3 Angell?

4 THE COURT: I'll have to see. I don't know. He
5 may go home. I assume that's what you wanted when you made
6 the motion before.

7 THE DEFENDANT: Yeah, I made the motion June 26th,
8 2012, in lieu of South Carolina procedure that you can't
9 really manage your defense as far as doing -- during
10 pretrial because South Carolina Supreme Court has a
11 directive saying that if you are represented by counsel ---

12 THE COURT: Mr. Missouri, we are here today, it is
13 May 19th, we are going to pick a jury at two o'clock.

14 THE DEFENDANT: Right.

15 THE COURT: We're going to pick a jury and you're
16 either going to have this gentlemen representing you or
17 you're going to represent yourself.

18 THE DEFENDANT: Okay. If I decide to represent
19 myself, Your Honor, there's a whole ton of motions that was
20 self-constructed that haven't been, you know, ---

21 THE COURT: There are no other motions pending in
22 this court.

23 THE DEFENDANT: That he drew up, that he did, that
24 Mr. Angell have done. There's plenty motions that I have
25 did and I feel like if I'm going to be granted the authority

1 to represent myself, then it should have started at the time
2 the defense started.

3 THE COURT: Mr. Angell -- I mean, Mr. Missouri,
4 this is the first I've had this case. Do you want to
5 represent yourself? If you're not going to make a motion,
6 then I'm going to assume that you don't want to represent
7 yourself and this gentleman is going to represent you.

8 THE DEFENDANT: Okay. If I want to represent --
9 the only think I'm saying, Your Honor, and don't take that
10 the wrong way. If you grant me the right to represent
11 myself, please grant me the right to go over my material as
12 opposed to what Mr. Angell did a poor job of doing this
13 morning. Please give me that right.

14 THE COURT: No, sir.

15 THE DEFENDANT: I need to represent myself
16 completely or not at all.

17 THE COURT: We're not going to revisit the issues.
18 There's nothing that you can tell me differently that was
19 brought out -- you nor anyone else have nothing that will
20 change my mind on the Jackson v. Denno hearing.

21 THE DEFENDANT: Okay. I didn't plan to bring that
22 hearing up. That was Mr. Angell's motion.

23 THE COURT: Well, he doesn't have any choice when
24 there's a question of the voluntariness of a statement. I
25 would have done it if he hadn't done it.

1 THE DEFENDANT: Right.

2 THE COURT: In terms of a motion to change venue,
3 you've got nothing to prevail in that regard. I don't know
4 ---

5 THE DEFENDANT: Well, he didn't have anything.
6 Now, I have stuff that I could have, but I wasn't able to
7 talk during that motion.

8 THE COURT: You've got nothing based on any proof
9 or on anything that was here. What was the other motion?

10 MR. RICHARDSON: Was it change of venue?

11 THE COURT: Change of venue, there is nothing.

12 MR. RICHARDSON: Okay.

13 MR. ANGELL: The indictments, the delayed
14 indictments, Your Honor.

15 THE COURT: Oh, yeah.

16 THE DEFENDANT: Well, he raised them under the
17 rule. I raised them on the constitutional ground of due
18 process. Because due process protects administrative and
19 jurisdictional issues.

20 THE COURT: All right. I've denied the motion.

21 THE DEFENDANT: Right.

22 THE COURT: You'll have a right, if you're
23 convicted, you can appeal on everything I've done here
24 today.

25 All right. It appears that Mr. Missouri is not

1 prepared to make a motion in the matter, so we will go
2 forward with -- I don't know the state's position. The
3 state indicated that it had no objection to trying the
4 matter with a bench trial. I assume your position is you
5 still want -- well, y'all never decided on that, so I don't
6 really ---

7 MR. ANGELL: Your Honor, we'd like a jury trial.

8 THE COURT: All right. Well, that's good.

9 All right. I have gotten the voir dire from the -- I
10 mean the witness list. Was there any voir from either the
11 state or the defendant?

12 MR. RICHARDSON: There's nothing from the state,
13 Your Honor.

14 MR. ANGELL: Nothing from the defense, Your Honor.

15 THE COURT: All right. Let's bring the jury in,
16 if we could. It's five and ten; correct?

17 MR. RICHARDSON: That's correct, Your Honor.

18 THE COURT: And we're going to do one alternate.
19 Y'all don't anticipate this case going more than one night?

20 MR. RICHARDSON: I believe we'll be finished by
21 tomorrow afternoon. Yes, sir.

22 THE BAILIFF: We're waiting for one juror.

23 THE COURT: One other thing first. Mr. Missouri,
24 I've been told that you have some pending charges in another
25 county. And I've also been told that there's potential life

1 without parole as a result of all these charges that are
2 pending against you. Do you understand that?

3 THE DEFENDANT: Sure.

4 THE COURT: Pardon me?

5 THE DEFENDANT: Sure.

6 THE COURT: I didn't hear what you said?

7 THE DEFENDANT: Sure.

8 THE COURT: You do? Okay. All right.

9 One juror is not here?

10 THE BAILIFF: One juror.

11 THE COURT: One juror has not come ---

12 THE BAILIFF: Has not showed up yet. Yes, sir.

13 THE COURT: We can't wait on that one juror. Who
14 is it? I'll deal with that juror when they get here. Don't
15 let him leave.

16 Do we know what juror it is, Mr. Clerk?

17 THE CLERK: No, sir, I do not.

18 THE COURT: I assume one of the bailiffs would
19 know?

20 THE CLERK: They should, Your Honor.

21 (WHEREUPON, the jury panel entered the open court at
22 approximately 2:10 p.m.)

23 THE COURT: All right. Ladies and gentlemen, good
24 afternoon to you. As I told you this morning in jury
25 qualification, I'm Judge Barber. And we're about to select

1 a jury in a case entitled State of South Carolina versus
2 Vincent Missouri. Mr. Missouri has been charged with and
3 indicted with the following offenses: Entering a bank with
4 intent to steal, wherein the state alleged that Mr. Missouri
5 did, in Pickens County, on or about the 18th of June, 2012,
6 enter the Bank of America located at 334 East Main Street,
7 Pickens, South Carolina, with the intent to steal money
8 and/or securities for money either by force, intimidation or
9 threats.

10 He's also been indicted for the offense of strong armed
11 robbery. And the indictment alleges that Mr. Missouri did,
12 in Pickens County, on or about the 18th day of June, 2012,
13 feloniously take from the person or presence of Rachel
14 White, who was an employee of Bank of America, by means of
15 force, threats or intimidation, goods or monies being
16 described as follows: money and/or securities for money with
17 the intent to permanently deprive the owner thereof.

18 And he has been indicted for the offense of failure to
19 stop for a blue light, wherein the state alleges that Mr.
20 Missouri did, in Pickens County, on or about the 18th day of
21 June, 2012, wilfully, knowingly and unlawfully commit the
22 offense of failure to stop for a police vehicle. And that
23 the defendant, while driving on a road, street or highway of
24 the state, intentionally refused to stop when signaled to do
25 so by a police vehicle using a blue light and/or a siren.

1 Now, to these charges, ladies and gentlemen, the
2 defendant has entered a plea of not guilty, which now places
3 upon the state of South Carolina the burden of proving this
4 defendant guilty and proving him guilty beyond a reasonable
5 doubt.

6 Now, ladies and gentlemen, these indictments are not to
7 be considered by you for any purpose other than notice
8 documents. They have put the defendant on notice of the
9 particular charges. They are not evidence and they are not
10 to be considered by you for any other purpose than they are
11 notice documents.

12 Now, before we begin selection of the jury, I want you
13 to keep two things in mind. In South Carolina and
14 everywhere else, we have two basic principals of our
15 criminal justice system.

16 One, in every instance when a person comes into
17 court, the person is considered to be not guilty. And he is
18 not guilty until and unless the state proves the defendant
19 guilty and proves the defendant guilty beyond a reasonable
20 doubt.

21 The second thing you need to understand, ladies and
22 gentlemen, is the burden of proof falls upon the state of
23 South Carolina to prove this defendant guilty of each and
24 every charge. The defendant has no burden. The defendant
25 does not have to do anything in a criminal case. The burden

1 falls upon the state to prove him guilty of all the charges
2 and prove him guilty beyond a reasonable doubt.

3 Now, before we begin, ladies and gentlemen, I have
4 certain individuals I want to introduce you to. And I have
5 certain questions I want to ask you.

6 First I want to introduce you to Mr. Missouri. Mr.
7 Missouri, if you would please stand and face the jury so
8 they can see who you are. Ladies and gentlemen, this is Mr.
9 Vincent Missouri. And I would inquire at this time, is
10 there any member of this jury panel or any member of the
11 jury panel's immediate family who is related by blood or
12 connected by marriage or either now or in the past has had a
13 close personal relationship with Mr. Missouri or either now
14 or in the past has had an employment or a business
15 relationship with Mr. Missouri. If so, please stand.

16 (No response.)

17 THE COURT: All right. Thank you very much.
18 Ladies and gentlemen, most instances when parties come into
19 court, they are represented by attorneys. In fact, that is
20 the situation here today. The state of South Carolina is
21 represented by the solicitor's office of the Thirteenth
22 Judicial Circuit. And in this instance, the solicitor
23 representing the state is Mr. Doug Richardson. Mr.
24 Richardson, if you would please stand. This is Mr.
25 Richardson. He is the solicitor in this case. And I would

1 inquire at this time, is there any member of this jury panel
2 or any member of the jury panel's immediate family who is
3 related by blood or connected by marriage or either now or
4 in the past has had a close personal relationship with Mr.
5 Richardson or any member of the solicitor's office? Or
6 either now or in the past has had an employment or a
7 business relationship with Mr. Richardson or with the
8 solicitor's office of this circuit. Or either now or in the
9 past had any connection with the solicitor's office in terms
10 of a relationship? If so, please stand.

11 (No response.)

12 THE COURT: All right. Ladies and gentlemen,
13 representing the defendant in this matter is Mr. Aaron
14 Angell. And this is Mr. Angell standing now. Mr. Angell is
15 an attorney that I think he told me his offices are in
16 Clemson, but he practices throughout the state of South
17 Carolina and is a member of the South Carolina bar. And I
18 would inquire at this time, is there any member of this jury
19 panel or any member of the jury panel's immediate family who
20 is related by blood or connected by marriage or either now
21 or in the past has had a close personal relationship with
22 Mr. Angell or either now or in the past has had an
23 employment or a business relationship with Mr. Angell or
24 been represented by Mr. Angell? If so, please stand.

25 (No response.)

1 THE COURT: All right. Ladies and gentlemen, I
2 now have certain individuals -- I want to give you the names
3 of potential witnesses who may testify in this trial. And
4 if any of them are here, I would ask that they stand so that
5 the jury can see who they may be. Mr. Tim Morgan, formerly
6 with the Pickens County Sheriff's Office; Mr. Bobby Wright;
7 Mr. Morgan Dorriety, D-O-R-R-I-E-T-Y, with Bank of America;
8 Deputy Brian Byers with the Pickens County Sheriff's Office;
9 Officer Sam Byers with the Pickens City Police Department;
10 Rachel White with the Bank of America; Robby Raines with the
11 Pickens City Police Department; Scott Ticknor of the Pickens
12 County Sheriff's Office; Keith Galloway of the Pickens
13 County Sheriff's Office; Kevin Durham of the Pickens County
14 Sheriff's Office; Rodney Gregory of the Pickens City Police;
15 Tony Robinson of the Pickens County Sheriff's Office; Noe
16 Sudduth, S-U-D-D-U-T-H, of the Pickens City Police; Deputy
17 J.T. Albrecht, A-L-B-R-E-C-H-T, of the Pickens County
18 Sheriff's Office; and Officer Mike Hughes of the Pickens
19 Police Department.

20 I would inquire at this time, is there any member of
21 this jury panel or any member of the jury panel's immediate
22 family who is related by blood or connected by marriage or
23 either now or in the past has had a close personal
24 relationship with any of the individuals named that I just
25 read to you? Or either now or in the past has had an

1 employment or a business relationship?

2 Yes, ma'am. If you would please stand. Tell me your
3 name, please.

4 THE JUROR: Gladys Center.

5 THE COURT: I'm sorry. Gladys ---

6 THE JUROR: Gladys Center.

7 THE COURT: Center?

8 THE JUROR: Yes, sir.

9 THE COURT: And what is your jury number, ma'am?

10 THE JUROR: 31.

11 THE COURT: 31? All right. Hold on one second.

12 All right. Ms. Center, what is your situation?

13 THE JUROR: Keith Galloway is -- I work with his
14 wife.

15 THE COURT: You know Keith Galloway, who is a
16 potential witness in this case?

17 THE JUROR: Yes, sir.

18 THE COURT: All right. The fact that you know Mr.
19 Galloway, would that prevent you from listening to the
20 evidence in this case, and based upon such evidence,
21 rendering a fair and impartial verdict?

22 THE JUROR: I would be fair, sir.

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

24 All right. Ladies and gentlemen, when I read the
25 indictments to you, as I told you, this case arises out of

1 an alleged attempt to steal from a bank or entering a bank,
2 strong armed robbery at a bank, and a failure to stop for a
3 blue light. Does any member of this jury panel have any
4 knowledge about this case? And if so, please stand.

5 (No response.)

6 THE COURT: All right. Ladies and gentlemen, at
7 the end of this case, I'm going to charge you or instruct
8 you as to the law as it applies to this type fo case. And
9 it's your obligation to accept the law as I give it to you
10 and apply it to the facts of the case. Is there any member
11 of this jury panel who believes you will not be able to
12 comply with my instructions by applying the law that I give
13 to you to the facts of the case as determined by you? If
14 you cannot comply with my instructions, please stand at this
15 time.

16 (No response.)

17 THE COURT: Does any member of this jury panel
18 know of any bias or prejudice, either for or against, the
19 state or the defendant? If so, please stand.

20 (No response.)

21 THE COURT: Is there any member of this jury panel
22 who believes you cannot be fair and impartial to both the
23 state and the defendant? If you do not believe you can be
24 fair and impartial to both parties, please stand at this
25 time.

1 (No response.)

2 THE COURT: All right. Any further inquiry from
3 the state?

4 MR. RICHARDSON: Nothing further from the state.

5 THE COURT: Anything from the defendant?

6 MR. ANGELL: Nothing from the defense, Your Honor.

7 THE COURT: All right. Mr. Clerk, if you could.

8 Y'all have had the strike sheet; right? I assume you've had
9 a chance to review it. All right. Mr. Clerk.

10 THE CLERK: Do you want them to stand in place or
11 come up front?

12 THE COURT: Whatever y'all normally do.

13 THE CLERK: We'll have them stand in place.

14 As I call your name, if you would, please, stand.

15 Juror number 44 (verbatim) , James H. Snyder. What
16 says the state?

17 MR. RICHARDSON: Please present Mr. Snyder.

18 THE CLERK: And the defense?

19 MR. ANGELL: Please excuse this juror.

20 THE CLERK: If you would have a seat, please, sir.
21 Return to your seat, please, sir.

22 Juror number 93, Robbie A. Manley. What says the
23 state?

24 MR. RICHARDSON: Please excuse Ms. Manley from the
25 trial of this case.

1 THE CLERK: If you would return to your seat,
2 please, ma'am.

3 Juror number 124, Joy W. Posey. What says the state?

4 MR. RICHARDSON: Please present Ms. Posey.

5 THE CLERK: And the defense?

6 MR. ANGELL: Please excuse this juror.

7 THE CLERK: Return to your seat, please, ma'am.

8 Juror number 43, Rodney K. Dinkins. What says the
9 state?

10 MR. RICHARDSON: Please present Mr. Dinkins.

11 THE CLERK: And the defense?

12 MR. ANGELL: Please seat the juror.

13 THE CLERK: Come forward, please, sir, and have a
14 seat in the jury box.

15 Juror number 154, Shelia J. Turner. What says the
16 state?

17 MR. RICHARDSON: Please present Mr. Turner.

18 THE CLERK: And the defense?

19 MR. ANGELL: Please swear the juror.

20 THE CLERK: If you would come forward, please,
21 ma'am, and have a seat in the jury box.

22 Juror number 31, Gladys B. Center. What says the
23 state?

24 MR. RICHARDSON: Please present Ms. Center.

25 THE CLERK: And the defense?

1 MR. ANGELL: Please excuse this juror.

2 THE CLERK: If you would have a seat, please,
3 ma'am.

4 Juror number 81, Jeremy D. Jones. What says the state?

5 MR. RICHARDSON: Please present Mr. Jones.

6 THE CLERK: And the defense?

7 MR. ANGELL: Please swear the juror.

8 THE CLERK: If you would come forward, please,
9 sir, and have a seat in the jury box.

10 Juror number 16, John K. Blackwood. What says the
11 state?

12 MR. RICHARDSON: Please present Mr. Blackwood.

13 THE CLERK: And the defense?

14 MR. ANGELL: Please excuse this juror.

15 THE CLERK: If you would return to your seat,
16 please, sir.

17 Juror number 79, Lake H. Jameson, Jr. What says the
18 state?

19 MR. RICHARDSON: Please present Mr. Jameson.

20 THE CLERK: And the defense?

21 MR. ANGELL: Please swear the juror.

22 THE CLERK: If you would come forward, please,
23 sir, and have a seat in the jury box.

24 Juror number 94, Sandra B. Marchbanks. What says the
25 state?

1 MR. RICHARDSON: Please present Ms. Marchbanks.

2 THE CLERK: And the defense?

3 MR. ANGELL: Please swear the juror.

4 THE CLERK: If you would come forward, please,
5 ma'am, and have a seat in the jury box.

6 Juror number 130, Donald P. Rider. What says the
7 state?

8 MR. RICHARDSON: Please excuse Mr. Rider from the
9 trial of this case.

10 THE CLERK: Return to your seat, please, sir.

11 Juror number 155, Jack C. Ward, Sr. What says the
12 state?

13 MR. RICHARDSON: Please present Mr. Ward.

14 THE CLERK: And the defense?

15 MR. ANGELL: Please swear the juror.

16 THE CLERK: If you would come forward, please,
17 sir, and have a seat in the jury box.

18 Juror number 111, Brenda M. Mulligan. What says the
19 state?

20 MR. RICHARDSON: Please present Ms. Mulligan.

21 THE CLERK: And the defense?

22 MR. ANGELL: Please seat the juror.

23 THE CLERK: If you would come forward, please,
24 ma'am, and have a seat in the jury box.

25 Juror number 65, Julie M. Hammond. What says the

1 state?

2 MR. RICHARDSON: Please present Ms. Hammond.

3 THE CLERK: What ---

4 MR. ANGELL: Please excuse this juror.

5 THE CLERK: If you would return to your seat,
6 please, ma'am.

7 Juror number 70, Brenda G. Heard. What says the state?

8 MR. RICHARDSON: Please excuse Ms. Heard from the
9 trial of this case.

10 THE CLERK: If you would return to your seat,
11 please, ma'am.

12 Juror number 53, Karen M. Fletcher. What says the
13 state?

14 MR. RICHARDSON: Please present Ms. Fletcher.

15 THE CLERK: And the defense?

16 MR. ANGELL: Please excuse this juror.

17 THE CLERK: If you would return to your seat,
18 please, ma'am.

19 Juror number 157, Adam D. Wentworth. What says the
20 state?

21 MR. RICHARDSON: Please present Mr. Wentworth.

22 THE CLERK: And the defense?

23 MR. ANGELL: Please swear the juror.

24 THE CLERK: If you would come forward, please,
25 sir, and have a seat in the jury box.

1 Juror number 56, Weston C. Frazor. What says the
2 state?

3 MR. RICHARDSON: Please present Mr. Frazor.

4 THE CLERK: And the defense?

5 MR. ANGELL: Please swear the juror.

6 THE CLERK: If you would come forward, please,
7 sir, and have a seat in the jury box.

8 Juror number 27, Grace A. Burgess. What says the
9 state?

10 MR. RICHARDSON: Please present Ms. Burgess.

11 THE CLERK: And the defense?

12 MR. ANGELL: Please swear the juror.

13 THE CLERK: If you would come forward, please,
14 ma'am, and have a seat in the jury box.

15 Juror number 121, Sherry B. Pittman. What says the
16 state?

17 MR. RICHARDSON: Please present Ms. Pittman.

18 THE CLERK: And the defense?

19 MR. ANGELL: Please swear the juror.

20 THE CLERK: If you would come forward, please,
21 ma'am, and have a seat in the jury box.

22 Juror number 160, Lisa L. Wray. What says the state?

23 MR. RICHARDSON: Please present Mr. Wray.

24 THE CLERK: And the defense?

25 MR. ANGELL: Please swear the juror.

1 THE CLERK: If you would come forward, please,
2 ma'am, and have a seat in the jury box.

3 THE COURT: One alternate; two and one for
4 strikes.

5 THE CLERK: Juror number 146, Kendall A. Spearman.
6 What says the state?

7 MR. RICHARDSON: Please present Ms. Spearman.

8 THE CLERK: And the defense?

9 MR. ANGELL: Please swear the juror.

10 THE CLERK: Come forward, please, ma'am.

11 THE COURT: All right. Anything from the state
12 with respect to the composition of the jury?

13 MR. RICHARDSON: Nothing from the state, Your
14 Honor.

15 THE COURT: Anything from the defendant?

16 MR. ANGELL: Nothing, Your Honor.

17 THE COURT: All right. Ladies and gentlemen of
18 the jury panel that did not get selected, I thank you very
19 much for making yourselves available this afternoon. We're
20 going to turn you loose. And Mr. Clerk, are we asking they
21 call back tonight?

22 THE CLERK: After six o'clock.

23 THE COURT: Call back after six tonight and you
24 will get further instructions at that time. Y'all have a
25 nice evening. And you are free to leave at this time.

1 (WHEREUPON, the jury panel exited the open court at
2 approximately 2:31 p.m.)

3 THE COURT: All right. Mr. Clerk, you may swear
4 the jury.

5 THE CLERK: Yes, sir. If you would please stand.
6 After the oath is administered, please answer by saying I
7 will. Raise your right hand.

8 You shall well and truly try the issue joined in this
9 case of the State versus Vincent Missouri and a true verdict
10 render according to law and evidence, so help you God.

11 (WHEREUPON, the jury was duly sworn.)

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

13 THE COURT: All right. Ladies and gentlemen,
14 before I turn this matter over to the attorneys, I'm going
15 to take a few minutes to tell you a little bit about the
16 process in case it's been some time since you served on a
17 jury or you've never had the opportunity to serve on a jury.

18 First thing I want to tell you is this case is very,
19 very important to both the state and the defendant. So we
20 want to do everything we can to make sure that both parties
21 receive a fair and impartial trial. One of the ways I'm
22 going to ask you to help me do that, ladies and gentlemen,
23 is to not discuss this case with each other or with anyone
24 else at any time until you have been given instructions that
25 you can begin your deliberations. So any time we take a

1 break and you go back to the jury room and you're back
2 there, do not talk about the case with each other. When you
3 go home this evening -- this case is not going to finish
4 today -- when we go home this evening and you come in
5 contact with your family, your friends or neighbors or
6 anybody else, please do not discuss this case with anybody
7 that you come in contact with.

8 The reason I ask you to do that, ladies and gentlemen,
9 is you are the judges of the facts in this case. It's your
10 responsibility to listen to all the evidence and ultimately
11 determine what you believe to be the facts. Then it's your
12 responsibility to take the law that I give you and apply it
13 to the facts and ultimately render your verdict. If you
14 start talking about the case with each other back in the
15 jury room at any time, you may begin to formulate some
16 opinion about the case, even though you've not heard all the
17 evidence or heard everything that we want to hear from the
18 attorneys. You go home and talk to a family or a friend or
19 a neighbor or somebody, even though they're not here, I
20 promise you they'll have an opinion. They'll voice that
21 opinion and that may affect you in some manner. So again,
22 I'm going to ask that you not discuss the case. When your
23 jury service is over, you can talk about this case with each
24 other or anybody else as long and as often as you want to
25 talk about it. When your service is over if somebody

1 approaches you about it and you don't want to talk about it,
2 you don't have to, and you can decline. And if they persist
3 in trying to talk to you, get their names, call me, call the
4 clerk, and I promise you, I will deal with that individual.

5 I'm also going to ask that you not do any independent
6 investigation or make any independent inquiry of this
7 matter. Don't get on the internet and google anything.
8 Don't go by any location or site that may be mentioned in
9 the course of the trial. Because, as I told you, you are to
10 decide this case based upon the evidence that's presented
11 here in the courtroom and not by anything else.

12 Now, ladies and gentlemen, as I told you, you are the
13 fact -- I mean, the judges of the facts. It's your sole
14 responsibility to determine what those facts are. It is my
15 responsibility to do two things, which is different from
16 your responsibility.

17 One of the things I do is I see to it that we comply
18 with the rules of evidence and the rules of procedure in the
19 trial of this case. In most structured events they have
20 rules. They have umpires or referees or somebody that
21 decides what the rules are and sees that they're complied
22 with. That's my responsibility. My other responsibility
23 is, as I've told you, is to instruct you as to the law at
24 the end of the trial so you can apply the law to the facts
25 of the case.

1 The lawyers have a role in this case, too, ladies and
2 gentlemen. And I want you to pay close attention to what
3 the lawyers say during the course of the trial. But
4 understand one thing. What they tell you is not evidence.
5 It is not to be considered by you as evidence. They are
6 advocates for their clients. It's their responsibility to
7 put forth what they think would be helpful in their client
8 ultimately receiving a verdict that is favorable to them.
9 So anything they tell you is not evidence is not to be
10 considered by you as such.

11 Now, the way a trial takes place, ladies and gentlemen,
12 the first thing that happens, lawyers are both given an
13 opportunity to get up and make an opening statement. The
14 state, the solicitor, will go first. Because as I told you,
15 the state has the burden of proving this defendant guilty
16 and proving him guilty beyond a reasonable doubt. And
17 because that burden falls upon the state, they get to go
18 first throughout the trial. The opening statement is a
19 chance for these lawyers to introduce themselves and to tell
20 you a little bit about what they think will come out during
21 the course of the trial. It is a chance for them to educate
22 you or inform you so that you have some understanding of
23 what will unfold during the course of the next several days
24 as this case is being tried. After the state makes their
25 opening statement, then the defendant will have the

1 opportunity to make his opening statement, his opening
2 statement through his attorney. When both sides have
3 completed that, then the state will go forward with the
4 presentation of its evidence.

5 Most of its evidence, I think, ladies and gentlemen,
6 will come in by way of testimony from witnesses. Those
7 witnesses will be put under oath. They will get in this
8 witness box right here and they will tell you what
9 information they have that's related to this case. They've
10 seen something, heard something, smelled something, tasted
11 something, felt something. They had some information from
12 one of their senses and they will tell you what that is.
13 Other types of evidence that could come in may be things
14 like documents or photographs or something like that. That
15 is actually introduced. It becomes an exhibit. It's a
16 given a number. And that will go with you to the jury room
17 so that you will have it to review during the course of your
18 deliberations. Ladies and gentlemen, the testimony will go
19 with you in your memory. So it is absolutely essential that
20 you pay close attention to what's being said here in the
21 courtroom. If you can't hear somebody, don't understand
22 somebody, raise your hand, let me know in some way and we
23 will make sure that that person speaks more clearly or
24 speaks louder when they're in the courtroom.

25 A third type of evidence that could come in is what we

1 call a stipulation and that is where the parties stipulate
2 or agree as to some fact or some matter. If there's a
3 stipulation, the lawyers will tell me and I will tell you
4 and you are to accept that as though it has been proven here
5 in the courtroom.

6 Now, after the state has offered all of its evidence,
7 the defendant is given an opportunity to offer any evidence
8 the defense wishes to offer. But as I told you, ladies and
9 gentlemen, before we selected you, there are two basic
10 principals that you need to keep in mind. And one of them
11 is the defendant is presumed innocent and that presumption
12 of innocence is with him and will remain with him throughout
13 the course of the trial. That is an important rule and you
14 need to keep that in mind.

15 The other piece of information that you need to know if
16 and I've mentioned it, is that the state has the burden of
17 proving the defendant guilty and proving him guilty beyond a
18 reasonable doubt. Because the defendant has no burden, a
19 defendant doesn't have to put up a case. The defendant
20 doesn't have to do anything. It solely rests upon the state
21 to prove this defendant guilty and prove him guilty beyond a
22 reasonable doubt of each of the charges that it has brought.

23 Now, if the defendant puts up a case, I would assume it
24 would be of a similar type to the state. Most of it would
25 be testimony from witnesses. When the defendant has

1 finished presentation of all its evidence then the parties
2 have another opportunity to speak with you. This is what we
3 call a closing argument and it is a little bit different
4 from an opening statement. In the closing argument is a
5 chance for the parties to recap what they think came in
6 during the course of the trial and to emphasize to you what
7 they hope you will consider and discuss when you're in the
8 jury room during your deliberations. It is an opportunity
9 for the lawyers to attempt to convince or persuade you as to
10 why you should ultimately return a verdict for their
11 respective sides.

12 When both sides have completed their closing arguments,
13 ladies and gentlemen, then I will charge you or instruct you
14 as to the law. You will then retire to the jury room, begin
15 your deliberations, determine the facts, apply the law and
16 ultimately render your verdict on each one of these charges
17 that has been brought against the defendant.

18 As I told you, these charges were brought pursuant to
19 the indictments. And those indictments are for entering a
20 bank with intent to steal where the defendant was charged
21 here in Pickens County on or about the 18th day of June,
22 2012, with entering the Bank of America located at 334 East
23 Main Street, Pickens, South Carolina, with the intent to
24 steal money and/or securities for money either by force,
25 intimidation and/or threats; strong armed robbery, the

1 indictment alleges that Mr. Missouri did, in Pickens County,
2 on or about the 18th day of June, 2012, feloniously take
3 from the person or presence of Rachel White, an employee of
4 Bank of America, by means of force, threats or intimidation,
5 goods or monies described as money and/or securities for
6 money, with the intent to permanently deprive the owner
7 therefrom; and failure to stop for a blue light when the
8 indictment alleges that Mr. Missouri did, in Pickens County,
9 on or about June 18, 2012, wilfully, knowingly, and
10 unlawfully commit the offense of failure to stop for a
11 police vehicle. And that the defendant, while driving on a
12 road, street or highway of this state, did intentionally
13 refuse to stop when signaled to do so by a police vehicle
14 using blue lights and/or siren. Of course, the defendant
15 pled not guilty to each one of these charges. Again, I
16 remind you that these indictments are notice documents.
17 They are not evidence. They're not to be considered by you
18 for any purpose other than they put this defendant on notice
19 of these particular charges.

20 All right. With that said, I think we'll turn this
21 over to the attorneys and let them proceed. Mr. Richardson,
22 you're prepared to go forward with your opening statement?

23 MR. RICHARDSON: I am, Your Honor.

24 THE COURT: All right. If you would, please, sir.

25 MR. RICHARDSON: Thank you, sir. Please the

1 court. Mr. Angell.

2

OPENING STATEMENT

3 **BY MR. RICHARDSON:**

4 Good afternoon, ladies and gentlemen. The judge
5 introduced me earlier, but to reintroduce myself, I am Doug
6 Richardson. I'm an assistant solicitor here in Pickens
7 County. And basically assistant solicitors are more
8 commonly known as a district attorney in other states, but
9 South Carolina still takes the old English term of
10 solicitor.

11 My job is to prosecute the various cases that come up
12 here from the various law enforcement agencies. This
13 particular case came from the city of Pickens. This is
14 Detective Sam Byers. He works with the city of Pickens.
15 You will hear him testify. He's the lead detective in this
16 case.

17 Now, ladies and gentlemen, the judge has gone over
18 several times what the charges are. I'm not going to do
19 that again, other than just to tell you that these charges,
20 when we have a bank robbery, and it's not called bank
21 robbery, but in essence it is bank robbery. A bank robbery
22 can happen without the necessity of a weapon. And that's
23 the fact of the case in this case. There's no weapon used.
24 However, if there's intimidation or force, things of that
25 nature, stealing money from the bank and having an attempt

1 to steal money from the bank, and that's the element that we
2 are looking at in this particular case to prove.

3 Common law robbery, once again, that is -- excuse me --
4 strong armed robbery is a common law in which it's a robbery
5 that takes place when you take by force or intimidation
6 money or property. Once again, it's not with a weapon. If
7 there was a weapon, then the charge would be -- before y'all
8 would be armed robbery.

9 And then lastly we have the failure to stop. And
10 basically, ladies and gentlemen, in the state of South
11 Carolina when a police officer turns on his blue light
12 and/or siren, at that point in time, we are required to
13 stop. If we fail to do so, then that is failure to stop for
14 a state (verbatim). Those are the three charges that y'all
15 will be deciding today.

16 Now, I'm not going to go into the specific facts of the
17 case. I'm going to put up witnesses, quite a few; ten,
18 twelve, thirteen, something like that. And I'm also going
19 to put in some physical evidence for y'all to review. It's
20 like a puzzle. And as I do it, we will be putting a piece
21 of that puzzle together for me to prove this case to you
22 beyond a reasonable doubt, which is a burden I gladly
23 accept. Solicitors all over the state do it every day and I
24 gladly accept that burden. And I'm going to put up these
25 witnesses and this evidence. And at the end of this case

1 when those pieces of the puzzle are put into place, it will
2 show you a picture. And I think it will show you a picture
3 that the defendant is guilty of all three of these charges.

4 Ladies and gentlemen, simply all we're asking you to do
5 is -- you come in here from all walks of life, different
6 jobs. Some jurors are students. Everybody comes in and
7 uses all their common sense and their every day knowledge to
8 look at all these facts and all this evidence and decide
9 whether somebody is guilty of the crime. And that's what
10 I'm simply asking you to do today, is to use your common
11 sense in this case.

12 And ladies and gentlemen, as I said before, if you use
13 your common sense, and once I put this picture together
14 through the witnesses and through the evidence, at the end
15 of this case, I will come back and ask you for a verdict of
16 guilty.

17 Thank you.

18 THE COURT: All right. Mr. Angell.

19 MR. ANGELL: Thank you, Your Honor. May it please
20 the court. Mr. Solicitor.

21 **OPENING STATEMENT**

22 **BY MR. ANGELL:**

23 Ladies and gentlemen of the jury, my name is Aaron
24 Angell, as the judge introduced me earlier. It's going to
25 sound like I'm echoing what the judge just told you and what

1 the solicitor just told you. But throughout this whole
2 case, I want you to keep your ears open, listen attentively
3 and don't discuss this case until the very end. The burden
4 is with the solicitor's office. They are the moving party
5 in this case. They must prove each and every element of the
6 charges alleged against my client.

7 My client is considered innocent until proven guilty.
8 That's not some punch line or some high in the sky concept.
9 That's his constitutional right. I ask for you to enter
10 this with an open mind and listen closely. At this point
11 you've heard no evidence. You haven't seen anything. We're
12 about to get into some testimony. But the indictments alone
13 are not evidence that my client has committed any crime.
14 The only thing that he's done wrong today up to this point
15 is been charged with a crime. You haven't heard any
16 evidence as of yet.

17 I ask that you listen closely, that you don't discuss
18 the case until the very end because often things arise that
19 may change your opinion. And it's important for you to
20 conduct yourselves that way, as the judge said.

21 And with that, we intend to show that my client had no
22 intent to commit these crimes. And look forward to working
23 with you over the course of the next day and a half.

24 Thank you.

25 THE COURT: All right. You want to call your

1 first witness, please, sir.

2 MR. RICHARDSON: Yes, sir. The state would call
3 Rachel White to the stand.

4 THE CLERK: Left hand on the bible. Raise your
5 right.

6 Do you solemnly swear or affirm the testimony you're
7 about to give in this case to be the truth, the whole truth
8 and nothing but the truth, so help you God?

9 THE WITNESS: I do.

10 THE CLERK: Thank you, sir. If you would have a
11 seat and state your name for the record, please.

12 RACHEL WHITE,

13 HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

14 DIRECT EXAMINATION

15 BY MR. RICHARDSON:

16 Q. Ms. White, can you state your name for the record,
17 please?

18 A. It's Rachel White.

19 Q. Ms. White, this courtroom is really hard to hear in;
20 okay? So what I'm going to ask you to do is if you'll pull
21 that microphone down there and speak loud enough so that
22 these last jurors over here can hear; okay? All right. Ms.
23 White, where are you -- where do you reside?

24 A. Pickens, South Carolina.

25 Q. And are you married?

- 1 A. Yes, sir.
- 2 Q. Okay. And how long have you been married?
- 3 A. August will be thirty-four years.
- 4 Q. Okay. Wow. And do you have children?
- 5 A. Yes, sir.
- 6 Q. Okay. How many children do you have?
- 7 A. Two boys.
- 8 Q. Now, are you presently employed?
- 9 A. Yes, sir.
- 10 Q. Okay. And where are you employed?
- 11 A. Bank of America.
- 12 Q. Okay. And which Bank of America are you employed at?
- 13 A. At Clemson, South Carolina.
- 14 Q. Okay. Now, let me ask you, take your memory back to
- 15 June 18th of 2012, were you working for Bank of America at
- 16 that time?
- 17 A. Yes.
- 18 Q. Okay. Which Bank of America were you working at?
- 19 A. The Bank of America in Pickens.
- 20 Q. Okay. And was that located here on Main Street?
- 21 A. Yes, sir.
- 22 Q. Okay. Is that -- has that bank closed now?
- 23 A. Yes, sir.
- 24 Q. Okay. Did they transfer you to ---
- 25 A. Clemson.

1 Q. --- another branch? Okay. And so you've been at
2 Clemson ever since ---

3 A. Yes, sir.

4 Q. Okay. Now, you -- were you working June the 18th of
5 2012?

6 A. Yes, sir.

7 Q. Okay. And what were you doing?

8 A. I was the head teller.

9 Q. Okay. And what are the duties of the head teller?

10 A. We manage the branch and we manage the tellers and
11 make sure the money is there for our customers' needs and
12 stuff.

13 Q. Okay. And is part of your duties as head teller also
14 to be a teller, to wait on people?

15 A. Yes, sir.

16 Q. Okay. And on this particular day were you doing that?

17 A. Yes, sir.

18 Q. Okay. And do you recall an incident happening on that
19 particular day?

20 A. Yes, sir.

21 Q. Okay. Can you tell the jury what happened -- first of
22 all, about what time did this incident start?

23 A. It was probably about fifteen till five. Almost
24 closing, not too -- about four thirty, fifteen till five.

25 Q. Okay. So if it's fifteen till five, what are you

1 doing at that particular time?

2 A. We try to start checking up and getting things
3 organized and stuff like that so we can get out, you know,
4 like at five or ten after five, instead of having to stay so
5 late.

6 Q. Okay. And what happened at about four forty-five, I
7 believe it was?

8 A. I had my last customer for the day. And he come in
9 the side door, and it was a guy that robbed me.

10 Q. Okay. Now, where is the -- when you say side door,
11 are you referring to a door that's on Main Street or where
12 is it on?

13 A. It's on the side street that goes down below --
14 between us and First Baptist Church.

15 Q. Okay. Now, when he came in what did he do?

16 A. He walked up to the window, my teller station, and I
17 welcomed him just like you normally do. I like to be real
18 polite and all that, say, how you doing today? And he said,
19 fine. And then I bent my head down just a second and he
20 looked up and he said, hurry up, hurry up, hurry up. And I
21 looked at him, and I thought, oh, no, I'm being robbed. He
22 said, read your note, read your note. And I didn't have a
23 note. Then he handed me a note. And I started reading the
24 note; then I said, oops and my -- you know, in your mind
25 you're thinking this pretty fast. And I said, oops, I'm

1 being robbed. So you do exactly what they say and not try
2 to move and do nothing, because you're scared for your life.

3 Q. Okay. And did you -- at some point in time did you
4 give him any money?

5 A. Yes, sir. I did.

6 Q. Okay. How did that happen?

7 A. Well, I read the note. And the note, it stated to put
8 everything from the top drawer in the bag. And it says, I
9 know who you are. And then when I said that, I thought,
10 well maybe he had been stalking us or something and he
11 really did know me and my family. And that really scared
12 me. And he kept saying, put it in the bag, put it in the
13 bag, hurry up, hurry up. And I was so scared because I seen
14 his hand go to the side and I thought, oh, no. And then
15 when I was getting the money out of my drawer, in my mind I
16 was thinking, what am I going to do with this money? I just
17 can't hand it to him like this; it's going to go up in the
18 air like this. And he kept saying, put it in the bag. And
19 we do have extra bags for our customers who come in for
20 change orders, you know, like Burger King, McDonald's and
21 place like that, if they forget to bring a bag. I can step
22 behind me and get extra bags to put coin in. And I thought,
23 there's no way that I could go back there and get a coin --
24 a coin bag or something to put this money in, because if I
25 did I just felt like I would be shot in the back. So I ---

1 Q. Okay. Did you ever -- I'm sorry. I'm sorry. Go
2 ahead.

3 A. And then when he kept saying, hurry up, hurry up, put
4 in the bag, I got so frustrated I looked him in the face and
5 I said, I don't have a bag. So ...

6 Q. Okay. Did you -- at some point in time did you get a
7 bag?

8 A. Yes, sir. He gave me a bag then. And when he fumbled
9 for the bag, I had a chance to push my alarm. And then when
10 I pushed the alarm, he looked up about the same time, and
11 then he said, you did it now. And he said, hurry up, hurry
12 up. So I got it in the bag and he reached over and yanked
13 the bag.

14 Q. And do you recall what kind of bag this was that he
15 gave you?

16 A. It was like a grocery bag. You know, like a brown Bi-
17 Lo bag or a brown bag that you would get at the grocery
18 store.

19 Q. Okay. And you stated at some point in time he handed
20 you a note?

21 A. Yes, sir.

22 Q. Okay. Let me show you what's been marked State's
23 Exhibit 17. Can you identify that?

24 A. Yes, sir.

25 Q. And what is that?

1 A. This is the note he gave me.

2 MR. RICHARDSON: Your Honor, at this time we would
3 move State's Exhibit 17 into evidence.

4 MR. ANGELL: No objection.

5 THE COURT: So admitted

6 (WHEREUPON, State Exhibit Number 17 was admitted into
7 evidence.)

8 Q. All right. Now let me hand you this back. You stated
9 this is the note that he gave you?

10 A. Yes, sir.

11 Q. Can you read that note to the jury, please, ma'am?

12 A. Place all the money in the bag. Keep left hand on top
13 of camera. Empty drawer with right hand. No die pack. I
14 know who you are.

15 Q. Okay. Now, do you know -- you stated you put the
16 money in the bag. Was it all bills or was there any change
17 or what?

18 A. It was all currency; no coins.

19 Q. Okay. And do you know how much you put into the bag?

20 A. It was about seventeen eighty to eighteen hundred
21 dollars. Because I knew that because before he came in, as
22 tellers we like to get home to our families too, so we
23 usually try to spot count. And I had already spot counted
24 on a scratch piece of paper and added up my drawer. And
25 then we can go in and figure out how much we should end up

1 with a day. And I had already knew how much was in my top
2 drawer. I had it on a piece of note.

3 Q. Okay. Now, do you recall when you, you saw him come
4 in and you're dealing with him what he was wearing?

5 A. He was wearing real dark sunglasses and a black shirt
6 with white on it. And he was baldheaded.

7 Q. Okay. Let me hand you what's been marked State's
8 Exhibit 18. And do you recognize that?

9 A. Yes, sir.

10 Q. Okay.

11 MR. RICHARDSON: Your Honor, at this time we would
12 move State's Exhibit 18 into evidence.

13 MR. ANGELL: No objection, Your Honor.

14 THE COURT: So admitted without objection.

15 (WHEREUPON, State Exhibit Number 18 was admitted into
16 evidence.)

17 Q. Okay, ma'am. And I'll show it to you again. And
18 you're looking at it. Is that the shirt that the defendant
19 was wearing at the time of the crime?

20 A. Yes, sir.

21 Q. Okay. And you stated he also was wearing some
22 sunglasses?

23 A. Yes, sir.

24 Q. Okay. Let me hand you what's been marked State's
25 Exhibit 19. Do you recognize those?

1 A. Yes, sir. They're real dark.

2 Q. Okay.

3 MR. RICHARDSON: Your Honor, at this time we would
4 move State's Exhibit 19 into evidence.

5 MR. ANGELL: No objection, Your Honor.

6 THE COURT: So admitted without objection.

7 (WHEREUPON, State Exhibit Number 19 was admitted into
8 evidence.)

9 Q. Those sunglasses, you said you recognize them. Where
10 do you recognize them from?

11 A. On him.

12 Q. On the defendant?

13 A. Yes, sir.

14 Q. And was that the sunglasses he was wearing at the time
15 of the robbery?

16 A. Yes, sir. Because I looked him right in the face, you
17 know, with them, because I was real scared when I was asking
18 for the bag.

19 Q. Okay. Now, did you in fact -- let me ask you this.
20 Were you the only teller working at that particular time?

21 A. I was the only teller up front. And we have one at
22 the drive-through. And then my manager was in the office.

23 Q. Okay. And was the drive-through right there where you
24 were or can you explain that to the jury? Can you just tell
25 the jury where basically it was?

1 A. It's -- like I'm on the front, like this is my station
2 right here, and then right behind me is like a hallway. And
3 it just goes down just a little piece and you go down like
4 some steps. Something like this, maybe an extra step, and
5 that's where the drive-through is, off down there.

6 Q. Okay. After you placed the money in the brown bag,
7 what happened?

8 A. Okay. He reached over and grabbed the bag.

9 Q. When you say he, who are you referring to?

10 A. Him.

11 Q. The defendant?

12 A. Yes, sir.

13 Q. Go ahead.

14 A. Then he got the bag and then he turned around and went
15 back out the side door. And I kept watching him and waited
16 till he got out the door on the bottom of the steps and
17 turned to the right, to make sure he would not come back in
18 with him or anybody else. Then I flew out the teller door
19 around the front and I started hollering, I said, Morgan, we
20 have been robbed. Lock the door, lock the door. So I was
21 locking that side door and she locked the front door.

22 Q. Okay. And so we're clear for the jury, Morgan is who?

23 A. My manager.

24 Q. Okay. Now, at the time of the robbery, was she in her
25 office?

1 A. Yes, sir.

2 Q. Okay. Now, after you did that -- and I think you
3 testified to a little of this. I want to clarify. Did you
4 actually hit the alarm?

5 A. Yes, sir, I did.

6 Q. Where is that alarm located?

7 A. It's like right under here like this.

8 Q. Okay. And when you hit an alarm like that, do you
9 know what happens; where it goes to?

10 A. It goes to the police.

11 Q. Okay. And after you hit the alarm and he ran out, you
12 locked the doors, what did you do at that point in time?

13 A. I just felt all the adrenaline and all that stuff, it
14 just like rushed down, and I had to come back to my teller
15 station right here and I held onto the door because I
16 thought I was going to fall over, just for relief. It was
17 like that door, I shut the door, even though this was all
18 locked for security, like a security blanket.

19 Q. All right. And does this -- your bank have
20 surveillance?

21 A. Yes, sir.

22 Q. Surveillance video?

23 A. Yes, sir.

24 Q. Let me show you what's been marked State's Exhibit --
25 well, let me ask you. Prior to this trial did you view some

1 video or surveillance video of that incident?

2 A. Yes, sir.

3 Q. Okay. Let me hand you what's been marked State's
4 Exhibit Number 3. Do you recognize that?

5 A. Yes, sir.

6 Q. And is that a DVD of the surveillance that you
7 videoed?

8 A. Yes, sir.

9 Q. Excuse me. I said videoed. That you viewed.

10 MR. RICHARDSON: Your Honor, at this time, the
11 state would move State's Exhibit Number 3 into evidence.

12 MR. ANGELL: No objection, Your Honor.

13 THE COURT: So admitted.

14 (WHEREUPON, State Exhibit Number 3 was admitted into
15 evidence.)

16 MR. RICHARDSON: Your Honor, I've ask that I be
17 allowed to push it to the jury.

18 THE COURT: You may

19 MR. RICHARDSON: Thank you.

20 Q. I may stop this and ask you a few question as we go;
21 okay? There's a laser pointer up there, ma'am, if you can
22 use that to reference things. The red button. Can you show
23 ---

24 (WHEREUPON, State Exhibit Number 3 was played in open
25 court.)

1 THE COURT: Mr. Richardson, you need to show her
2 how to work it.

3 MR. RICHARDSON: I apologize. The red button,
4 push it. I apologize for that.

5 Q. Okay. Ms. White, can you show where your area was and
6 where you were at the time of the robbery?

7 A. Right there.

8 Q. All right. And where is the -- when we refer to the
9 drive-through, where is that?

10 A. That open spot right there. That's a hallway and it
11 goes down there straight right there. And we keep those
12 bags right there.

13 Q. Okay. And in this frame here, what is that?

14 A. This is the side door that goes out on the street
15 between -- this is us and that's First Baptist across the
16 street. And that's the side door.

17 Q. Okay. And is that the door that the defendant came
18 in?

19 A. Yes, sir.

20 Q. Okay. Now, who is that?

21 A. That's the guy that robbed us right there.

22 Q. Okay. And is that the shirt he was wearing ---

23 A. Yes, sir.

24 Q. --- that was just put in evidence? And in this frame,
25 where are you located?

1 A. (Indicating.)

2 Q. Okay. What is that white in the defendant's hand?

3 A. That's the note that he gave me.

4 Q. Is that the note that we just -- that you just read to
5 the jury?

6 A. Yes, sir.

7 Q. And are you reading the note at this point in time?

8 A. Yes, sir.

9 Q. What was that he just did? What is he doing with his
10 hands right now?

11 A. Can you go back one time? I was looking at the ...

12 Q. Sure. Do you recall what he was doing here?

13 A. He tells me to hurry up a lot.

14 Q. Okay.

15 A. And then he gives me a bag.

16 Q. Okay. And at this point what are you doing?

17 A. I'm going to lock the side door.

18 Q. And you're doing what here?

19 A. I told the girl at the drive-in that we had been
20 robbed, to close the drive-in up.

21 Q. And who is that in the far left of the screen?

22 A. That's Morgan. She had just got back locking the
23 front door and she went into the office to call 911.

24 Q. Okay. And does this video surveillance also -- it has
25 a view of him leaving the bank; does it not?

1 A. It should.

2 Q. So is this what you -- do you recall him leaving the
3 bank? That's him leaving there?

4 A. Yes, sir.

5 Q. Is that standard procedure, to lock the doors after a
6 ---

7 A. Yes, sir.

8 Q. --- robbery? Have you ever been involved with an
9 armed robbery -- or bank robbery, I should say, before?

10 A. Almost. Yeah, one time before in Pendleton.

11 Q. Okay, ma'am. And as part of that video, let me hand
12 you State's Exhibit 4. Can you identify that?

13 A. Yes, sir.

14 Q. And State's Exhibit 5? Can you identify that?

15 A. Yes, sir.

16 Q. And what are those?

17 A. It's the guy that robbed us, the bank robber.

18 MR. RICHARDSON: At this time, the state would
19 move State's Exhibit 4 and State's Exhibit 5 into evidence.

20 MR. ANGELL: No objection, Your Honor.

21 THE COURT: So admitted.

22 (WHEREUPON, State Exhibit Numbers 4 and 5 were admitted
23 into evidence.)

24 Q. This picture, did that come from that video that we
25 just saw?

1 A. Yes, sir.

2 Q. And State's Exhibit 5 also?

3 A. Yes, sir.

4 Q. Now, when you went to the door and locked it, did you
5 see where the defendant went?

6 A. He stepped off the bottom of the step and he turned
7 right. And then if you see in the video, I ran back to the
8 teller line because I was just so scared. And then Morgan
9 looked at the window and all that and saw which direction he
10 ran in to.

11 Q. Okay. So did you get an opportunity to see what he
12 was driving?

13 A. No, sir. I did not.

14 Q. And the person that was on that video, that came up to
15 you and handled you that note and robbed you of that money,
16 is he in this courtroom?

17 A. Yes, sir. He's right there.

18 Q. What's he wearing?

19 A. A brown jacket and a cream turtleneck shirt.

20 MR. RICHARDSON: Beg the court's indulgence.

21 THE COURT: Let the record reflect she identified
22 the defendant.

23 MR. RICHARDSON: Thank you, Your Honor. Please
24 let the record reflect that she did identify the defendant.

25 Q. After -- the police ultimately came to the bank; is

1 that correct?

2 A. Yes, sir. They got there in minutes, seemed like.

3 Q. And you gave a description to them?

4 A. Yes, sir.

5 Q. Okay. And what was that description?

6 A. It was a baldhead, I think in that I said about five
7 four to five eight, about a hundred and forty-five to a
8 hundred and seventy pounds, and a black African. And
9 described the clothes he was wearing.

10 Q. You've already talked about that. But you described
11 the clothes to the officer also?

12 A. Uh-huh (affirmative).

13 Q. Thank you. That's all the questions I have. Please
14 answer any questions Mr. Angell has for you.

15 **CROSS EXAMINATION**

16 **BY MR. ANGELL:**

17 Q. Ms. White, when my client entered the bank, he didn't
18 have a mask on; did he?

19 A. No, sir. He did not.

20 Q. And it's your statement that he walked up to your
21 station. He didn't run up; did he?

22 A. He walked up to my -- yes.

23 Q. Did he ever threaten you? Did he ever tell you he was
24 going to hurt you?

25 A. He acted like it, like a couple of times when I looked

1 at him twice, the way he did with his hands like he was
2 going for a gun. But I tried not to look at him that much.

3 Q. He never said that he was going to hurt you, though;
4 did he?

5 A. No, sir.

6 Q. Never said he was going to kill you or anything; did
7 he?

8 A. No, sir.

9 Q. What's the bank policy when somebody puts a note up to
10 your counter and says, give me the money, what's the policy
11 of the bank at that time?

12 A. We follow the directions just exactly what he tells me
13 to do and what the note says.

14 Q. Okay. So policy would be that when you're handed a
15 note asking for money, you just give them money?

16 A. Yes, sir.

17 Q. You're not told to think about that; are you?

18 A. No, sir.

19 Q. Now, you've identified my client in this courtroom
20 today. How far away would you say you're sitting from him?
21 Rough estimate? Thirty feet?

22 A. Yeah.

23 Q. And is it safe to say on that date, the date in
24 question, June 18th, that you were much closer to the
25 alleged robber at that time?

1 A. Yes, sir.

2 Q. And your description is that he's a black male, bald;
3 correct?

4 A. Uh-huh (affirmative).

5 Q. And isn't it true that there was a photo lineup
6 presented to you?

7 A. Yes, sir.

8 Q. And when those six individuals were put in front of
9 you, were you able to make an identification?

10 A. I narrowed it down to three. But I couldn't pick from
11 the three.

12 Q. But you weren't able to positively identify off of
13 those six suspects; correct?

14 A. Right. Because they looked like triplets.

15 Q. Did my client ever tell you he was armed?

16 A. No, sir.

17 Q. You never saw a weapon; did you?

18 A. No, sir.

19 Q. And you mentioned my client reached down into his
20 pocket. Didn't he do that to give you a bag to put money
21 in?

22 A. No. That was before he gave -- he came in, like after
23 he gave me the note, I watched -- if you could go back
24 through the video, you could see it, that his hand stayed
25 there about the whole time on the video, but I would only

1 see it like twice -- two to three times because I would only
2 -- try not to look at him so much while I was doing the
3 money and stuff.

4 Q. So -- but he did retrieve a bag from his pocket;
5 correct?

6 A. Yes. His back pocket.

7 Q. And handed you that bag?

8 A. Yes, sir.

9 Q. And you testified earlier that you had spot counted
10 that money; correct?

11 A. Yes, sir.

12 Q. How do you spot count money? What is it that you do
13 to come up with the figure?

14 A. Well, you know, it's all generated by computers and
15 you can go into a screen and it tells you how much money
16 that you have ---

17 Q. I see.

18 A. --- and then you just count it on a piece of paper and
19 then you total that and it should match.

20 Q. Okay. You wouldn't describe my client as a relatively
21 large individual; would you?

22 A. No, sir.

23 Q. He's not real tall; is he?

24 A. Uh-uh (negative).

25 Q. He doesn't seem to be unusually large?

1 A. No, sir.

2 Q. And to this point you've said that you weren't sure
3 and you never saw any weapons; correct?

4 A. I never saw no weapons. No, sir.

5 MR. ANGELL: One minute, Your Honor. No further
6 questions, Your Honor.

7 THE COURT: Anything on redirect?

8 MR. RICHARDSON: Yes, Your Honor, briefly.

9 **REDIRECT EXAMINATION**

10 **BY MR. RICHARDSON:**

11 Q. Defense counsel asked you about a lineup and what was
12 the reason you could not pick him out of a lineup?

13 A. They was three on there looked almost alike.

14 Q. Okay.

15 A. They all had the bald heads. But I did pick the one
16 out with the officer, but then I told him that I would not
17 pick it out at a hundred percent sure.

18 (WHEREUPON, State Exhibit Number 20 was marked for
19 identification.)

20 Q. And let me hand you what's been marked State's Exhibit
21 20. Do you recognize that?

22 A. Yes, sir.

23 Q. Okay. Is that the photo lineup that you were shown?

24 A. Yes, sir.

25 MR. RICHARDSON: Your Honor, at this time we would

1 move State's Exhibit 20 into evidence.

2 MR. ANGELL: No objection.

3 THE COURT: So admitted.

4 (WHEREUPON, State Exhibit Number 20 was admitted into
5 evidence.)

6 Q. And in your testimony -- this is the lineup -- I'm
7 referring to State's Exhibit 20. This is the lineup that
8 you were shown?

9 A. Yes, sir.

10 Q. Okay. And your testimony is -- what was the reason
11 why you couldn't pick one person out of that lineup?

12 A. They all -- there's three that looks almost alike just
13 about.

14 Q. And when you got that note, and I'm referring to
15 State's Exhibit 17 that I showed you, did you feel
16 intimidated by that note?

17 A. Yes, sir.

18 Q. Were you scared?

19 A. Yes, sir.

20 Q. Were you scared for your life?

21 A. Yes, sir.

22 Q. Okay. Thank you. That's all the questions I have.

23 THE COURT: Anything?

24 MR. ANGELL: Nothing further.

25 THE COURT: Thank you. You may step down.

1 Call your next witness.

2 MR. RICHARDSON: Call Morgan Dorriety to the
3 stand.

4 THE CLERK: Place your left hand on the bible.
5 Raise your right.

6 Do you solemnly swear or affirm the testimony you're
7 about to give in this case to be the truth, the whole truth
8 and nothing but the truth, so help you God?

9 THE WITNESS: I do.

10 THE CLERK: If you would have a seat and state
11 your name for the record, please.

12 THE WITNESS: My name is Morgan Dorriety.

13 **MORGAN DORRIETY,**

14 **HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:**

15 **DIRECT EXAMINATION**

16 **BY MR. RICHARDSON:**

17 Q. Ms. Dorriety, where do you live?

18 A. I live in Easley, South Carolina.

19 Q. Okay. And are you married?

20 A. I am.

21 Q. How long have you been married?

22 A. It'll be eight years in August.

23 Q. Okay. And do you have any children?

24 A. I do.

25 Q. How many children do you have?

- 1 A. One.
- 2 Q. How old is that child?
- 3 A. Almost four.
- 4 Q. Okay. Are you presently employed?
- 5 A. I am.
- 6 Q. Where are you employed?
- 7 A. By Bank of America.
- 8 Q. Okay. And which branch do you work at?
- 9 A. I'm at Clemson, South Carolina branch now.
- 10 Q. Okay. And back in June 18th of 2012, did you work for
- 11 Bank of America then?
- 12 A. I did.
- 13 Q. Okay. And at which branch did you work?
- 14 A. At the Pickens main office.
- 15 Q. Okay. Located ---
- 16 A. The only office in Pickens.
- 17 Q. Okay. And it's located -- it was located here in the
- 18 city of Pickens?
- 19 A. It was.
- 20 Q. Okay. And do you recall the robbery on that day at
- 21 that branch?
- 22 A. Uh-huh (affirmative). I do.
- 23 Q. At that particular time, what was your position with
- 24 the bank?
- 25 A. The banking center manager.

1 Q. Okay. And this may sound like a silly question. But
2 this is a bank that is federally insured and did
3 transactions with money and people that had accounts; is
4 that correct?

5 A. Correct.

6 Q. Okay. Now, do you recall the incident that particular
7 day?

8 A. I do.

9 Q. Okay. Where were you?

10 A. I was in my office, which is at the front corner of
11 the building.

12 Q. Okay. In this office, is it a -- is it four walls or
13 windows or what?

14 A. It is, but it's windows so I can see out of the bank
15 to the outside, and I can see through to the office in front
16 of me and to all of my tellers on the teller line.

17 Q. Okay. Now, did you see the defendant enter the bank?

18 A. I did.

19 Q. Okay. And what were you doing at that particular
20 time?

21 A. I was just doing paperwork at my desk.

22 Q. All right. And did -- at some point in time did he or
23 Ms. White get your attention for some reason?

24 A. I did, I saw him enter and go up to her and then I
25 just went back to doing what I was doing. And then when he

1 was leaving I looked back up, as I always do when people
2 come in and out, and I saw him in a hurry. And then as soon
3 as he got out the door, Rachel came running around the
4 teller line, you know, yelling that we've been robbed and to
5 go lock the front door.

6 Q. Okay. And at that point in time when you heard her
7 say that, what did you do?

8 A. I immediately got up from my desk and locked the front
9 two doors, what was double doors, and then I went into -- I
10 went to the office that's in front of me so that I could see
11 where he was going. He was running down the sidewalk. Then
12 I just watched until I couldn't see anymore. But I went
13 straight in to go get the phone to go ahead and call 911.

14 Q. And did you, in fact, call 911?

15 A. I did.

16 Q. And you said you saw him -- I believe you testified
17 you saw him running down the street?

18 A. Uh-huh (affirmative).

19 Q. Did you see where he went?

20 A. Just the way the building was, I was in the window, I
21 was looking, he was just running down the sidewalk, but I
22 couldn't see any further because the brick was there. It's
23 not a wall full of windows. There's some brick in between.
24 So I could only see so far.

25 Q. Okay. And were you able to see what, if any, type of

1 vehicle he got in?

2 A. No, I didn't.

3 Q. Okay. Now, after the police came to the bank, were
4 you -- did they request you to get some surveillance video?

5 A. Yes. I had to -- they requested it from me and I had
6 to get it from my security manager.

7 Q. Okay. And is that the surveillance video that we
8 played earlier in this trial?

9 A. Uh-huh (affirmative). Yes, sir.

10 Q. Okay. And when the police came did you also give a
11 description?

12 A. I did.

13 Q. And what description did you give?

14 A. That it was a black male, baldheaded, about five ten,
15 around a hundred and fifty pounds, I think.

16 Q. Okay. And did you get a clear view of him coming into
17 the bank?

18 A. Uh-huh (affirmative). I did.

19 Q. Were you able to get a clear view of him leaving?

20 A. Not as good as coming in, because it was -- he wasn't
21 running out, but it was a lot quicker pace. And I -- Rachel
22 was causing commotion running around, so I paid more
23 attention to her. But coming in, I could see him.

24 Q. Okay. And is that person that came in and robbed your
25 bank; is he in the courtroom today?

1 A. Yes, sir.

2 Q. Can you point him out?

3 A. He's over here.

4 Q. And what is he wearing?

5 A. Tan blazer and a white shirt.

6 MR. RICHARDSON: Please let the record reflect
7 that she has identified the defendant.

8 THE COURT: So noted.

9 Q. That's all the questions I have. Please answer any
10 questions that Mr. Angell has for you.

11 **CROSS EXAMINATION**

12 **BY MR. ANGELL:**

13 Q. Mrs. Dorriety, you never spoke with my client; did
14 you?

15 A. No, sir.

16 Q. And you mentioned that you saw him coming in, but you
17 turned back to do your responsibilities as the manager;
18 correct?

19 A. Yes, sir.

20 Q. And you didn't hear anything, any commotion between my
21 client or the teller at that time?

22 A. No, sir.

23 Q. Okay. You were shown a lineup as well; isn't that
24 correct?

25 A. Yes, sir.

1 Q. And were you able to identify ---

2 A. I thought that I knew who it was, but I told him I
3 didn't want to say a hundred percent.

4 Q. Okay. So you weren't able to positively identify ---

5 A. Correct.

6 Q. --- my client? Did you see my client place a note to
7 the teller?

8 A. No.

9 Q. So you just saw him come in and then exit quickly;
10 correct?

11 A. Yes.

12 Q. No further questions. Thank you.

13 MR. RICHARDSON: Nothing further, Your Honor.

14 THE COURT: Thank you, ma'am. You may step down.

15 MR. RICHARDSON: Your Honor, may this witness and
16 also Ms. White be excused if they wish?

17 THE COURT: They may. Y'all are free to leave if
18 you'd like.

19 MR. RICHARDSON: State calls Bobby Wright to the
20 stand.

21 THE CLERK: Place your left hand on the bible.
22 Raise your right.

23 Do you solemnly swear or affirm the testimony you're
24 about to give in this case to be the truth, the whole truth
25 and nothing but the truth, so help you God?

1 THE WITNESS: Yes, sir.

2 THE CLERK: Thank you, sir. If you would have a
3 seat and state your name for the record, please.

4 **BOBBY WRIGHT,**

5 **HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:**

6 **DIRECT EXAMINATION**

7 **BY MR. RICHARDSON:**

8 Q. Go ahead and state your name for the record.

9 A. My name is Bobby Wright.

10 Q. Okay. Mr. Wright, where do you reside? Where do you
11 live?

12 A. I live at ■ Adger Street in Greenville, South
13 Carolina.

14 Q. Okay, sir. Now, so we're clear, you were charged in
15 this incident; were you not?

16 A. Yes, sir.

17 Q. Okay. Do you know the defendant?

18 A. Yes, sir.

19 Q. How do you know him?

20 A. I grew up with him.

21 Q. Okay. I'm going to take your memory back to June
22 18th, 2012. Did you see him that day?

23 A. Yes, sir.

24 Q. Okay. And how did you come to meet up with him?

25 A. Well, he came by my house that morning and told me

1 that he needed to go and pick up some supplies for a job and
2 asked me did I want to ride, and I said, sure.

3 Q. Okay. And when he picked you up, is it the same
4 residence in Greenville County that you just said you live
5 at?

6 A. Yes.

7 Q. Okay. Do you recall what he was driving when he
8 picked you up?

9 A. Oh, yes, sir, he was driving a 150 Ford truck.

10 Q. Okay. Do you remember what color it was?

11 A. It was red.

12 Q. Now, after he picked you up, where did y'all go?

13 A. We went to -- came to Pickens.

14 Q. Okay. And what was the reason that you were coming to
15 Pickens? Did he tell you why you were coming to Pickens?

16 A. Pick up some supplies for a job.

17 Q. Okay. And do you know where these supplies were?

18 A. Do I know what they were?

19 Q. Or where they were?

20 A. No, sir.

21 Q. Was the defendant driving?

22 A. Yes, sir.

23 Q. Once you got to Pickens, what happened? Did you get
24 the supplies?

25 A. No. When we got -- when we was going there it was

1 closed, so we started coming down -- back down the road and
2 he told me he needed to get a check cashed, and we stopped
3 at a bank.

4 Q. Okay. Now, when you say you're coming down the road,
5 which road were you coming down?

6 A. This Main Street here.

7 Q. Main Street in Pickens?

8 A. Yes.

9 Q. Okay. And did he point out a particular bank?

10 A. No, sir. We passed, and he was like Bank of America,
11 I need to stop and get a check cashed. And we stopped.

12 Q. Okay. Now, when you say you stopped, where did he
13 park the truck?

14 A. Down on the side street of the bank to the left.

15 Q. Okay. Was it behind a building of some type?

16 A. I ain't going to say behind. It was an opening in
17 between two buildings.

18 Q. Okay. Was it the Bank of America parking lot?

19 A. No, sir.

20 Q. Okay. Now, at that point in time, what does he do;
21 the defendant?

22 A. Well, like I say, he told me he had a check to cash,
23 so we parked, he get out, he go in the bank. I sit and
24 smoke me a cigarette. He come back and get in the bank --
25 get in the car and we drive off.

1 Q. Okay. And at that point in time where did you go?

2 A. We was going to ---

3 Q. Well, let me ask you -- I'm sorry to interrupt.

4 Before that did you see him at that point in time with any
5 -- a bag or money or anything like that?

6 A. No, sir.

7 Q. Okay. At that point in time where did you go?

8 A. We get in the -- well, going down the road we stop at
9 Family Dollar.

10 Q. Okay. And where do you go -- do you go inside Family
11 Dollar?

12 A. Yes, sir. We did.

13 Q. Both of you did?

14 A. Yes.

15 Q. And what does he do in Family Dollar?

16 A. Well, when we stopped at Family Dollar, I was like,
17 well, they must have cashed his check, so he bought him some
18 things.

19 Q. And what kind of things did he buy?

20 A. Like shorts, socks.

21 Q. Clothes?

22 A. Yes.

23 Q. And did he offer you anything at that time?

24 A. Not at that time, no, sir.

25 Q. Okay. After Family Dollar, where did you go?

1 A. We was driving down the street and we come to a red
2 light. And I noticed he was looking in the rearview mirror
3 and the side glass, so I thought, okay, I need to put my
4 seatbelt on. So we sat there and he was like, okay, they on
5 us. I'm like, who on us?

6 Q. Wait, wait, wait. Who says, they're on us?

7 A. Sir?

8 Q. Who says that?

9 A. Mr. Missouri.

10 Q. Okay. Go ahead.

11 A. And I'm like, on us? On us what? And he was like,
12 the police. I was like, why? He was like, I robbed the
13 bank.

14 Q. All right. And what happened then?

15 A. He took off and that's all I remember.

16 Q. Okay. Do you recall the police chasing you?

17 A. Yes.

18 Q. All right. Do you recall blue lights and sirens?

19 A. Yes.

20 Q. All right. At some point in time did you come to a
21 stop? What happened? Where did the chase end?

22 A. We was at a red light, like I said, we was at a red
23 light. And once we made a turn, everything just broke out.

24 Q. Okay. And at some point in time did he stop the
25 vehicle?

1 A. No, sir.

2 Q. At some point in time, at some point in time did he
3 run from the vehicle?

4 A. Well, when we -- yeah, when they was chasing us, when
5 we came to a stop, yes, he run.

6 Q. Okay. And at that point in time did you see the -- at
7 what point in time did you ever see the money in the bag?

8 A. In the chase.

9 Q. During the chase?

10 A. Yes.

11 Q. And where did he pull it from?

12 A. His pants.

13 Q. All right. And when you got to the point that he ran,
14 what did you do?

15 A. I was in the truck like this (indicating).

16 Q. And were you arrested?

17 A. Yes, I were.

18 Q. And was he also arrested at that time?

19 A. Yes, he were.

20 Q. That's all the questions I have. Please answer any
21 questions Mr. Angell has for you.

22 **CROSS EXAMINATION**

23 **BY MR. ANGELL:**

24 Q. Mr. Wright, you said you were going to pick up some
25 supplies for a job?

1 A. Yes, sir.

2 Q. What kind of job is that?

3 A. I have no idea. He stated to me he need to go get
4 supplies for his job.

5 Q. Have you had occasion to meet my client before that
6 date; right? You had met him before that date? You knew
7 who he was before ---

8 A. Right. Right.

9 Q. Okay. And how are y'all affiliated?

10 A. I know him. We grew up in the same neighborhood.

11 Q. Did you have any knowledge of Mr. Missouri using any
12 drugs?

13 A. That day?

14 Q. Just in general?

15 A. Yes.

16 Q. And is it clear to you on that day whether he was
17 using drugs or not?

18 A. I don't remember.

19 Q. Whenever you were arrested, did you see any officers
20 frisk Mr. Missouri?

21 A. No, because I was laying on the ground.

22 Q. But after they picked you up, you didn't see him with
23 another officer?

24 A. When they picked me up and put me in the car, they
25 already had put him in. I didn't see nothing. I was on the

1 ground.

2 Q. So you didn't see anything regarding my client's
3 arrest?

4 A. No. Uh-uh (negative).

5 MR. ANGELL: No further questions, Your Honor.

6 THE COURT: Anything?

7 MR. RICHARDSON: Nothing further.

8 THE COURT: All right. Thank you, sir. You may
9 step down.

10 Mr. Richardson, we're going to take a break at this
11 time, let the jury step back into the jury room and relax
12 for about fifteen, twenty minutes. Please don't discuss the
13 case while you're back there. We'll bring you back in just
14 a little bit. Thank you.

15 (WHEREUPON, the jury exited the open court at
16 approximately 3:35 p.m.)

17 THE COURT: All right. We'll stand in recess.

18 MR. RICHARDSON: Your Honor, can Mr. Wright be
19 excused? I'm sorry, I didn't ask.

20 THE COURT: Sure.

21 MR. RICHARDSON: Thank you.

22 (WHEREUPON, the court stood at recess for a short
23 break.)

24 THE COURT: Is that juror out there?

25 THE BAILIFF: Yes, sir.

1 THE COURT: Bring him in here. Bring that juror
2 in here, please.

3 Stand right up there. Why weren't you here at two
4 o'clock? Get your hands out of your pockets, please.

5 THE JUROR: I called two weeks ago. I told them
6 about I wanted to go to a retirement dinner in Atlanta to
7 see a dying friend. They told me I could come here Monday
8 morning and they'd make sure I didn't have to do anything on
9 Monday afternoon and I'd be available on Tuesday. So ---

10 THE COURT: Why weren't you here at two o'clock?
11 You were instructed to be back here at two o'clock after you
12 left here this morning; correct?

13 THE JUROR: Yes, sir. Yes, Your Honor. I was ten
14 minutes late, Your Honor, and I apologize.

15 THE COURT: Why?

16 THE JUROR: I had made -- I didn't think I was
17 going to be coming back, and I had made previous
18 appointments. And when they called me about eleven thirty
19 and they said I was really low on the list and it didn't
20 look like I'd get picked, so I admit I wasn't real worried
21 about getting called and I didn't -- this is the first time
22 I've served on any kind of a circuit court, so I didn't know
23 if everybody was ---

24 THE COURT: Were you in jury qualifications this
25 morning?

1 THE JUROR: I ---

2 THE COURT: When I spoke to the jury and told them
3 two things, be here fifteen minutes before you're supposed
4 to ---

5 THE JUROR: Yes, sir.

6 THE COURT: --- and you're never late -- I mean,
7 early. You're either on time or you're late.

8 THE JUROR: I understand that, sir. I have the
9 same problem with my students.

10 THE COURT: What does that have to do with
11 anything? So it's okay for you to be late because your
12 students are late?

13 THE JUROR: I have no excuse. I understand what
14 you're saying completely.

15 THE COURT: Where do you teach?

16 THE JUROR: Clemson.

17 THE COURT: What if all the jurors decided they
18 don't want to come? We just stop court, huh?

19 THE JUROR: I very much understand the importance
20 of the jury system, Your Honor. It's about the only thing
21 left we have that I have faith in. It won't happen again.

22 THE COURT: Too late now.

23 THE JUROR: I'll have the opportunity again to
24 serve, I hope.

25 THE COURT: You'll definitely get that.

1 When do you have another term of court, Mr. Clerk?

2 THE CLERK: June 23rd is our next term of general
3 sessions court.

4 THE COURT: Is that a full week?

5 THE CLERK: Yes, sir. I've got the schedule for
6 the rest of the year.

7 THE COURT: How do you pronounce your name?
8 Thies, Thies?

9 THE JUROR: Thies.

10 THE COURT: I ought to put you in jail, Mr. Thies.
11 Are you the fellow that's the chemical engineer instructor?

12 THE JUROR: Yes, sir.

13 THE COURT: Where did you go to college?

14 THE JUROR: Georgia Tech and Delaware.

15 THE COURT: All right. I want this man -- are you
16 planning on going to some retirement when?

17 THE JUROR: I already missed it, Your Honor. It
18 starts at five o'clock.

19 THE COURT: And where was it?

20 THE JUROR: Georgia Tech. A mentor is dying and
21 they threw together a retirement dinner at the last minute
22 for him. And that's one of the reasons I was late ---

23 THE COURT: Why didn't you tell us this when you
24 came in here this morning?

25 THE JUROR: I had called two weeks ahead and I was

1 -- I'm sorry, I had the wrong impression it was ---

2 THE COURT: Sir, the only one that can excuse you
3 from jury service is me.

4 THE JUROR: Your Honor, I just ---

5 THE COURT: If I don't know it, I can't do a thing
6 for you.

7 THE JUROR: I understand, Your Honor. When I told
8 them it was too late.

9 THE COURT: When you told who?

10 THE JUROR: I told the clerk.

11 THE COURT: I thought he told us after he had
12 already been put on the panel; right?

13 THE CLERK: Yes, sir. It was too late then.

14 THE COURT: We could have excused you for the
15 week, brought you back some other time.

16 THE JUROR: I offered that opportunity when I
17 called two weeks ago, and they said ---

18 THE COURT: Sir, what did I just tell you who can
19 excuse you from jury service?

20 THE JUROR: You.

21 THE COURT: The one fellow that can help you out
22 is the one fellow you don't tell.

23 THE JUROR: Your Honor, I didn't know that.

24 THE COURT: Well, I asked if anybody had anything
25 they wanted to talk to me about.

1 THE JUROR: I guess I thought I'd be wasting your
2 time because it was already in the system.

3 THE COURT: You weren't in anything at that time
4 other than you were there. You could have been excused at
5 ten o'clock this morning and gone on about your merry
6 business.

7 All right. I want him back here on the week of June
8 23rd. You'll serve that week.

9 THE CLERK: We probably won't have time to get a
10 notice mailed to you. They've already gone out. So you'll
11 be here on June 23rd.

12 THE JUROR: June 23rd at nine o'clock.

13 THE COURT: Nine o'clock.

14 THE JUROR: Yes, sir.

15 THE COURT: You're free to leave.

16 THE JUROR: Thank you, Your Honor.

17 (WHEREUPON, the court stood at recess for a short
18 break.)

19 THE COURT: All right. Let's bring the jury in.
20 Bring the jury in, if you would, please.

21 (WHEREUPON, the jury entered the open court at
22 approximately 3:56 p.m.)

23 THE COURT: All right. Ladies and gentlemen, I'll
24 ask the state to call their next witness, if they would,
25 please.

1 MR. RICHARDSON: Thank you, Your Honor, please the
2 court. State calls Brian Byers to the stand.

3 THE CLERK: Place your left hand on the bible and
4 raise your right.

5 Do you solemnly swear or affirm the testimony you're
6 about to give in this case to be the truth, the whole truth
7 and nothing but the truth, so help you God?

8 THE WITNESS: I do, sir.

9 THE CLERK: Thank you, sir. If you would have a
10 seat and state your name for the record, please.

11 THE WITNESS: Brian Byers.

12 **BRIAN BYERS,**

13 **HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:**

14 **DIRECT EXAMINATION**

15 **BY MR. RICHARDSON:**

16 Q. Officer, where are you employed?

17 A. Pickens County Sheriff's Office.

18 Q. And how long have you been employed there?

19 A. Two and a half years.

20 Q. And how long have you been in law enforcement?

21 A. Twelve and a half years.

22 Q. Okay, sir. And is your position -- you're road
23 patrol; is that what you do?

24 A. Yes, sir.

25 Q. And as part of that -- well, let me ask you, were you

1 working June 18th, 2012?

2 A. I was.

3 Q. Okay. And were you dispatched to the Bank of America
4 in the city of Pickens?

5 A. I was dispatched to the area.

6 Q. I see. Can you tell the jury what happened in that
7 regard?

8 A. We received a call that there had just been a robbery
9 at Bank of America. So everybody kind of starts going
10 toward that area looking for suspicious persons or people
11 fitting any kind of description that comes across the radio
12 later, memorizing vehicles that you see and then we'll track
13 them down.

14 Q. And did you locate any suspicious persons or vehicles
15 at that time?

16 A. I didn't at that time.

17 Q. Okay. At some point in time did you proceed to the
18 Bank of America?

19 A. I did.

20 Q. And when you got there what did you do?

21 A. We were -- by the time Pickens city officer was
22 relaying his information, what he was gathering to his
23 dispatch, they were getting it to our dispatch. Our
24 dispatch was getting it back out to us. We're not on the
25 same radio channel. It was a large lapse of time, so I just

1 stepped inside and just started -- when the information came
2 out, I just put it straight out onto the radio to everyone
3 else.

4 Q. Okay. And so we're clear here, this is kind of a
5 joint ---

6 A. Joint ---

7 Q. --- operation or joint ---

8 A. Multi-jurisdictional.

9 Q. Okay. Thank you. Between Pickens City and also
10 Pickens County?

11 A. Yes, sir.

12 Q. Now at some point in time did you speak to the
13 employees and get a description?

14 A. I overheard what was being told. I didn't
15 specifically ask anyone. I just kind of stood back,
16 listened in. Anything I heard, I just passed it along.

17 Q. Okay. And did you -- were you ever involved with the
18 surveillance video?

19 A. I did observe it. I was kind of standing back behind
20 them and I observed them while they were watching the video.

21 Q. Okay. And is that -- were you in the courtroom when
22 that was played earlier?

23 A. I was.

24 Q. And is that the video that you saw?

25 A. It is.

1 Q. And when you -- what did you send out over the
2 airwaves, for lack of a better term?

3 A. Over the radio I gave a physical description of what
4 the suspect looked like and his clothing description. And
5 then I used my cell phone and took some pictures and sent it
6 out to the guys that were on the road that were talking on
7 the radio, just sent them a text just of the pictures that I
8 was able to take real quick so they would know the suspect
9 and they could look directly at him and say that's going to
10 be him or not.

11 Q. Okay. And those pictures, did that -- were you taking
12 an actual picture of the surveillance video?

13 A. I just took it straight from surveillance on the --
14 while they were watching, I just snapped a quick picture.

15 Q. Okay. And the purpose of that was for identity
16 purposes later?

17 A. It was just to help the guys that were on the road at
18 the time, just using a tool to help us in our job.

19 Q. Thank you. That's all the questions I have. Please
20 answer any questions Mr. Angell has.

21 A. Yes, sir. Thank you.

22 **CROSS EXAMINATION**

23 **BY MR. ANGELL:**

24 Q. So it's my understanding that you -- your role in this
25 investigation was to show up to the Bank of America and

1 conduct an investigation at the actual bank; correct?

2 A. I was not dispatched to the Bank of America. I took
3 it upon myself to get out at the Bank of America to help cut
4 down the time between information being gathered and put
5 back out on the radio.

6 Q. So -- but you learned of the alleged robbery at the
7 Bank of America over the radio waves; is that correct?

8 A. I did.

9 Q. Okay. And were you aware that there were two suspects
10 in this case?

11 A. I do not recall knowing if there was two or not.

12 Q. And when you sent a picture over, who did you send
13 that to?

14 A. The deputies that were working out on the road. I
15 don't remember specific names. It was probably whoever was
16 on the road or whoever was talking on the radio saying they
17 were looking for him at the time.

18 Q. And which picture -- I know you have a description.
19 What was -- what picture did you take?

20 A. Probably just the ones that showed up on surveillance
21 that were quick, able to get a good shot of the face and
22 clothing description that I could send right back out to
23 help them.

24 Q. So a picture of an individual with sunglasses on and
25 black shirt ---

1 A. Right.

2 Q. --- and khaki pants?

3 A. From that video.

4 Q. Okay. And then you finished up -- you didn't go out
5 on the road at this point to help look for any suspect; did
6 you?

7 A. I stayed around in case there was more information.
8 Once they -- I believe they said they had a suspect or
9 whatever in custody, I went ahead and left. Went back to
10 work.

11 Q. Thank you. No further questions.

12 MR. RICHARDSON: Nothing further, Your Honor.

13 THE COURT: Give me your name?

14 THE WITNESS: Brian Byers, B-Y-E-R-S.

15 THE COURT: You may step down.

16 THE WITNESS: Thank you, sir.

17 MR. RICHARDSON: Your Honor, may this witness be
18 excused?

19 THE COURT: Yes, sir. You're free to leave.

20 Thank you.

21 MR. RICHARDSON: The state calls J.T. Albrecht.

22 THE CLERK: Place your left hand on the bible.
23 Raise your right.

24 Do you solemnly swear or affirm the testimony you're
25 about to give in this case to be the truth, the whole truth

1 and nothing but the truth, so help you God?

2 THE WITNESS: I do.

3 THE CLERK: Thank you, sir. If you would have a
4 seat and state your name for the record, please.

5 THE WITNESS: J.T. Albrecht.

6 J.T. ALBRECHT,

7 HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

8 DIRECT EXAMINATION

9 BY MR. RICHARDSON:

10 Q. Officer, you're employed with the Pickens County
11 Sheriff's Office; correct?

12 A. That's correct.

13 Q. And how long have you been in law enforcement?

14 A. Since 1993.

15 Q. Okay. And are you in a particular part of the Pickens
16 County Sheriff's Office?

17 A. Yes. I'm in forensics.

18 Q. Okay. And what is forensics?

19 A. Evidence collection. We respond to crime scenes, look
20 for evidence of the crime, identify it and collect it.

21 Q. Let me -- it's hard to hear in this courtroom, so try
22 to speak into that. Thank you. And were you called to --
23 well, let me ask you this. Part of forensics is attempting
24 to get fingerprints?

25 A. That's correct.

1 Q. Okay. Were you called back on June 18th of 2012 to
2 the Bank of America?

3 A. I was.

4 Q. Okay. And did you, in fact, go to the Bank of
5 America?

6 A. Yes, sir.

7 Q. Okay. Upon arrival there, what did you do?

8 A. I went in and met with the officers from Pickens
9 Police Department that were on the scene. Asked them where
10 the suspect had come into the bank, what he had done while
11 he was in the bank, where did he go out of the bank. And I
12 checked those areas for fingerprints.

13 Q. Okay. And when you check an area for fingerprints,
14 what exactly do you do?

15 A. Dust it.

16 Q. And were you able to get any identifiable
17 fingerprints?

18 A. No, sir.

19 Q. Okay. Can you explain to the jury why you could not
20 do that?

21 A. The areas where the suspect had made contact, which
22 would be the interior surface of the door, exterior surface
23 of the door, as well as the counter, those are all common
24 contact areas. Any transfer of fingerprint to that area,
25 the next person who comes along, if they happen to touch in

1 the same area, they transfer their fingerprint to it.

2 Basically what you end up having is just a big mass of body
3 oil contact and skin contacts. So you'll get fragments of
4 fingerprints that survived, you know, from the last person
5 that put their hand there, but you don't get an identifiable
6 ridge count.

7 Q. Thank you, sir. And other than that, did you have any
8 other involvement forensic-wise with this case?

9 A. No, sir.

10 Q. Thank you. That's all the questions I have. Please
11 answer any questions Mr. Angell has.

12 **CROSS EXAMINATION**

13 **BY MR. ANGELL:**

14 Q. Deputy Albrecht, in regards to forensics, did you do
15 any DNA, pull saliva or swear or blood off the scene?

16 A. I did not.

17 Q. Do you -- in general is that your job at times?

18 A. I can. But I did not in this case.

19 Q. Okay. And just to be clear, you said you were unable
20 to produce or find any fingerprints in this case; correct?

21 A. That's correct.

22 Q. Thank you. No further questions, Your Honor.

23 THE COURT: All right. Thank you, sir. You may
24 step down.

25 MR. RICHARDSON: Your Honor, may this witness be

1 excused?

2 THE COURT: He may.

3 MR. RICHARDSON: State calls Tim Morgan.

4 THE CLERK: Do you solemnly swear or affirm the
5 testimony you're about to give in this case to be the truth,
6 the whole truth and nothing but the truth, so help you God?

7 THE WITNESS: I do.

8 THE CLERK: Thank you, sir. If you would have a
9 seat and state your name for the record, please.

10 THE WITNESS: My name is Tim Morgan.

11 **TIM MORGAN,**

12 **HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:**

13 **DIRECT EXAMINATION**

14 **BY MR. RICHARDSON:**

15 Q. Mr. Morgan, are you presently employed?

16 A. I am.

17 Q. And are you employed with Blue Ridge?

18 A. I work with Blue Ridge Security.

19 Q. Okay. Now, prior to that were you in law enforcement?

20 A. I was. I was the assistant sheriff for Pickens
21 County. I was there for thirty-seven years.

22 Q. Okay. And so back on June the 18th, 2012, you were
23 still employed as assistant sheriff?

24 A. That's correct.

25 Q. Okay, sir. And on that date did you receive a

1 dispatch or any information that the Bank of America had
2 been robbed in Pickens?

3 A. I was monitoring the radio and heard that there had
4 been a robbery at the Bank of America. When something like
5 that happens, you drop what you're doing and get involved,
6 which is what I did on that day.

7 Q. Okay, sir. And where did you -- what did you do?
8 Where did you go?

9 A. I got in my car and I went toward the Bank of America.
10 I pulled in behind Grace Church, which is the parking lot
11 between the two churches, the First Baptist and then Grace.
12 It's not a common parking lot. It's separated by a short
13 walk. But I pulled in there and started -- there was a
14 couple of people there and I asked them had they seen
15 anything.

16 Q. Okay. And did you get any information from them?

17 A. I did. I identified myself. There was a female, and
18 told her there had been a bank robbery, had she seen
19 anything? And she said, yeah, I saw a black male running
20 down the sidewalk and he turned into the parking lot and got
21 into a red truck.

22 Q. Okay, sir. Now once you obtained that information,
23 what did you do?

24 A. I immediately got on the radio and, you know, time is
25 critically important when something like that happens. We

1 got on the radio and relayed the information to all the
2 units that were working and responding.

3 Q. Okay. And is that what y'all would call a BOLO?

4 A. It is, be on the lookout.

5 Q. Okay. And the information that you relayed out was
6 for a red Ford pickup truck?

7 A. It was a red pickup truck. As best I can recall, the
8 lady didn't remember exactly the make of the truck. She was
9 very definite about it being a red pickup truck.

10 Q. Okay. And that goes out to all channels, all
11 personnel out on the road working that day?

12 A. It does. Yes, sir.

13 Q. That's all the questions I have. Please answer any
14 questions Mr. Angell has for you.

15 **CROSS EXAMINATION**

16 **BY MR. ANGELL:**

17 Q. Mr. Morgan, when you sent out that BOLO, what
18 frequency did you send that over?

19 A. I was on the sheriff's channel.

20 Q. So it was just for the sheriff's department? The city
21 didn't get that?

22 A. They didn't get it from me, but it was relayed by our
23 dispatch, I'm quite sure.

24 Q. Okay. So when you sent it out to the sheriff's
25 department, then it's sent to the other channels of the

1 multi-jurisdictional ---

2 A. And if they're monitoring our channel, they do get it.

3 Q. Okay. The female that you said identified someone who
4 got into a red truck, did she describe anybody? Did she
5 describe exactly who got in that truck?

6 A. She said it was a black male running down the sidewalk
7 and got in the truck.

8 Q. So she just said black male, sidewalk, truck. Beyond
9 that did you have any other involvement in this case?

10 A. I went ---

11 Q. Did -- sorry. Go ahead.

12 A. I went -- it was a short time later that a pursuit
13 took place, which is another situation where managers and
14 supervisors get involved. Pursuits can be very dangerous
15 situations. So I was monitoring the pursuit and going in
16 that general direction. So after the truck was located, I
17 did go to the scene.

18 Q. Thank you. No further questions.

19 THE COURT: Anything?

20 MR. RICHARDSON: Sorry, Your Honor, one question.

21 **REDIRECT EXAMINATION**

22 **BY MR. RICHARDSON:**

23 Q. In the pursuit that you're referring to, is that the
24 pursuit of that red truck?

25 A. It is.

1 Q. Okay, sir. Thank you. That's all the questions I
2 have.

3 THE COURT: All right. Thank you, sir. You may
4 step down.

5 MR. RICHARDSON: Your Honor, may this witness be
6 excused?

7 THE COURT: He may.

8 MR. RICHARDSON: Thank you. State calls Keith
9 Galloway.

10 THE CLERK: Do you solemnly swear or affirm the
11 testimony you're about to give in this case to be the truth,
12 the whole truth and nothing but the truth, so help you God?

13 THE WITNESS: I do.

14 THE CLERK: Thank you, sir. If you would have a
15 seat and state your name for the record, please.

16 THE WITNESS: Captain Keith Galloway.

17 **KEITH GALLOWAY,**

18 **HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:**

19 **DIRECT EXAMINATION**

20 **BY MR. RICHARDSON:**

21 Q. Officer Galloway, where are you employed?

22 A. I'm currently employed with the Pickens County
23 Sheriff's Office.

24 Q. And as you stated, you're a captain?

25 A. I'm on command staff; that's correct.

1 Q. Okay, sir. And what are your duties with Pickens
2 County Sheriff's Office?

3 A. Currently I oversee the -- I'm the jail administrator
4 and I oversee the judicial services division.

5 Q. Okay, sir. And how long have you been in law
6 enforcement?

7 A. Twenty-five years.

8 Q. Okay, sir. Did you start out on the road?

9 A. I did. I actually started in Easley, but my last
10 twenty-two years have been with the sheriff.

11 Q. Okay, sir. Now, let me take your memory back to June
12 18 of 2012. On that particular day, did you overhear a BOLO
13 or a dispatch?

14 A. I did.

15 Q. Okay. When was that?

16 A. I was actually on my way home to secure from work.
17 I'll kind of set the scene for you. I was on Highway 93, if
18 you're familiar with Easley, there about where the Huddle
19 and Marion Davis is. And I began to monitor radio traffic
20 from the Chief Deputy concerning a bank robbery, and a
21 suspect vehicle and a suspect description.

22 Q. Okay, sir. And at some point in time, did you locate
23 a red Ford pickup truck?

24 A. What I did, I actually stopped -- I felt maybe there
25 was a possibility that they may be headed to Greenville. So

1 93 being a pretty big thoroughfare, I decided since I was
2 there I'd go ahead and stop or turn around and look for the
3 vehicle. So I actually turned around in the Huddle parking
4 lot and started back up 93, which is actually Main Street,
5 Highway 8, but Main Street in Easley there where the Huddle
6 in and Marion Davis. I actually turned around and started
7 back toward Pickens and was looking at oncoming traffic
8 headed toward Greenville.

9 Q. Okay, sir. And what did you see?

10 A. Well, we knew Assistant Sheriff Morgan had come over
11 the radio and told us to be looking for a red Ford pickup
12 truck occupied by a black male. Thereabout Marion Davis,
13 thereabout where the red light is where the train tracks
14 are, I actually met a red F150 and it was occupied by two
15 black males headed toward Greenville. And I immediately --
16 when I saw them, I immediately turned my vehicle around. I
17 was in an unmarked car. I immediately turned my vehicle
18 around and got in behind -- directly in behind the truck.

19 Q. Okay, sir. And you just testified you were in an
20 unmarked car. However, does that car have blue lights?

21 A. It does have blue lights and sirens, yes.

22 Q. Okay. And where are the blue lights located?

23 A. There's actually one over the visor, two in the grill
24 and about nine in the back glass.

25 Q. Okay, sir. Now, once you got behind the red truck,

1 what, if anything, did you do?

2 A. The first thing I done, I noticed immediately when I
3 fell in behind the truck, there was a lot of movement in the
4 cab. And it was very obvious to me that the driver took his
5 left hand and unbuckled the seatbelt and brought it back
6 across his waist. That arose my suspicions quite a bit. At
7 that point I ran the tag on the car or on the truck.

8 Q. Okay. After running the tag, did you have any -- did
9 you -- were you having any radio contact with any other
10 officers at this time?

11 A. Well, I was talking to my dispatch. I was actually
12 running the tag and waiting on a reply from my dispatch,
13 which they did reply and told me the truck was stolen out of
14 Greenville.

15 Q. Okay. Once you had that information, what did you do?

16 A. Well, there was actually -- when I fell in behind the
17 truck, there was actually an Easley City police car. There
18 was a lot of communication between Pickens City and Easley
19 City and Pickens County, and you have to understand, a lot
20 of us can listen to each other, but there was some
21 communication between all three agencies and an Easley City
22 police car actually was coming to assist me, and kind of
23 shot by me just a little bit in the fast lane. And I was
24 trying to kind of stay behind the truck to maybe do a box-in
25 maneuver or something of that nature to avoid a pursuit.

1 Q. And let me -- I'm sorry to interrupt. So it's clear,
2 at this point in time, have you engaged blue lights and
3 siren?

4 A. No.

5 Q. Okay. Go ahead. I'm sorry.

6 A. At that point, when I saw the driver undo the
7 seatbelt, my mind immediately said, you know, there was some
8 things running through my mind with the movement. And then
9 when the tag came back stolen, naturally I began to think,
10 you know, we're going to have a pursuit here. So I was
11 trying to delay and slow things up as much as I could to
12 delay the pursuit or try to stop the pursuit, waiting on
13 other cars to get behind me, waiting on the other help to
14 get there where we could maybe try to box that in. That
15 went all the way down from Marion Davis all the way down by
16 the Huddle and down by the old mill there like you're going
17 toward the junior high school, Stewart Avenue. And went all
18 the way -- I stayed behind them all the way till we got to
19 the red light that actually turns right there at the junior
20 high school.

21 Q. Okay, sir. And at the red light, was the light, in
22 fact, red?

23 A. The light turned red and we were all caught up in
24 traffic. And there was actually an Easley City car, and at
25 this moment I looked up in my rearview mirror and noticed

1 another one of our unmarked cars behind me. And we were
2 actually caught up in traffic at the red light. And that's
3 when the red Ford pickup truck made a hard right and the
4 pursuit began.

5 Q. Okay, sir. And that hard right, so is that the road
6 going down by the middle school?

7 A. It is. It's actually -- if you'll let me reflect back
8 to my report.

9 Q. And I believe it's Gettys Middle School?

10 A. And I can review the names, the street names, the
11 actual street names.

12 Q. And I don't actually need the names. But just the
13 area?

14 A. Yeah. The area is actually -- the streets are
15 actually behind -- in front of Gettys Middle School, the
16 side streets and so forth.

17 Q. Okay.

18 A. And actually the street that we actually got the truck
19 stopped on was one of the side streets that dumps back on
20 123.

21 Q. Okay.

22 A. But it was all those streets that were actually in
23 front of the junior high school, if you know where the
24 junior high school is at, that turns off the main road
25 there. But at that point, I -- at that point when the truck

1 made the hard right, I had yet to turn on the blue lights.

2 So this was a process that he initiated before we did.

3 Q. I see. And so when did you turn on your blue lights?

4 A. When he made the hard right and accelerated speed,
5 then I turned the blue light and siren on. And that's when
6 the chase ensued.

7 Q. All right. And did he continue to speed away from
8 you?

9 A. He did. We went through four, five or six
10 intersections and blowing stop signs, not stopping for stop
11 signs, and things of that nature.

12 Q. Did he ever stop for a stop sign?

13 A. No.

14 Q. How many do you recall ---

15 A. I think there were four or five total that we went
16 through.

17 Q. Okay. Is this a residential ---

18 A. It is.

19 Q. --- neighborhood?

20 A. It is.

21 Q. What happened then?

22 A. Well, as we approached the last stop, there was a hard
23 left turn on the side street that would actually dump back
24 onto 123 and there was an Easley City car that was actually
25 coming up that road and was in the process of blocking the

1 road. Undoubtedly, he saw that car, you know, in a position
2 to try to stop the pursuit and he went through a front yard
3 of a lady and stopped the truck.

4 Q. Okay. So his vehicle was actually in a residential
5 yard?

6 A. It was actually in a lady's front yard; that's
7 correct.

8 Q. Okay, sir. Now, at that point in time what happens?

9 A. At that point in time, Mr. Missouri, who's seated here
10 to my left, exited the vehicle from the driver's side and
11 began running down through the woods.

12 Q. Okay. Now, did you see him exit the vehicle?

13 A. I did.

14 Q. You stated he exited the driver's side?

15 A. He exited the driver's side of the vehicle.

16 Q. Okay. And did he have anything in his hands that you
17 could see at that time?

18 A. He appeared to be carrying a sack or a bag or
19 something of that nature. It appeared brown to me or some
20 type of flash of brown.

21 Q. All right. And were you involved with the -- his
22 arrest or was that another officer?

23 A. I actually went to the passenger side of the vehicle
24 and we took Mr. Wright into custody, myself and another
25 deputy went there. And the two deputies that were behind me

1 in the unmarked car actually initiated in the foot pursuit
2 with Mr. Missouri.

3 Q. Okay, sir. And let me hand you what's been marked
4 State's Exhibit 6. Can you identify that for me, please,
5 sir?

6 A. That's the truck, that's the truck with the same tag
7 number. And actually that's my patrol car parked alongside
8 of it there.

9 Q. Okay.

10 MR. RICHARDSON: Your Honor, at this time state
11 moves State's Exhibit 6 to be placed into evidence.

12 MR. ANGELL: No objection.

13 THE COURT: So admitted.

14 (WHEREUPON, State Exhibit Number 6 was admitted into
15 evidence.)

16 Q. Okay, sir. There's a pointer if you need it. Where
17 did the defendant exit the vehicle?

18 A. The defendant exited ---

19 Q. There's a laser pointer right there. Just hit the red
20 button.

21 A. The red?

22 Q. Yes, sir.

23 A. He exited the driver's side door here and actually ran
24 to the lefthand side of the truck down through the wooded
25 area. Mr. Wright was very compliant. He stayed seated.

1 And myself and Deputy Durham approached him. He was
2 actually very compliant with hands up and never caused a bit
3 of a problem. But he was took from the passenger side of
4 the vehicle here; Mr. Wright was.

5 Q. Okay. And did you place Mr. Wright under arrest?

6 A. We did.

7 Q. Did you search him?

8 A. We did.

9 Q. Okay. Did you find any large amounts of money or
10 anything about his person?

11 A. I did not.

12 Q. What vehicle is that next to the red truck?

13 A. That's actually my patrol vehicle. And if you
14 actually look, you can see one of the blue lights is
15 actually on right there.

16 Q. Okay, sir. And do you recall, there was another --
17 was there another Pickens County Sheriff's Office vehicle in
18 the ---

19 A. There was an unmarked van that we utilize for warrant
20 service that actually was behind me. It's not shown in the
21 picture, but he was actually behind me the entire pursuit.

22 Q. Okay. And is that the officer that dealt with the
23 defendant?

24 A. One of those were, yes.

25 Q. And is the person that was driving that vehicle and

1 ran from you in that vehicle and also ran on foot, is he in
2 this courtroom?

3 A. He is. He's seated right to the left there.

4 Q. Can you describe what he has on?

5 A. Tan jacket, white shirt.

6 Q. Okay, sir. Please ---

7 THE COURT: Let the record reflect that he
8 identified the defendant.

9 MR. RICHARDSON: Thank you. That's all the
10 questions I have. Please answer any questions the defense
11 has.

12 **CROSS EXAMINATION**

13 **BY MR. ANGELL:**

14 Q. Captain Galloway, how long were your blue lights
15 activated before you got out of your vehicle?

16 A. The amount of time it would have took -- we took
17 several, four or five side streets. The chase probably
18 lasted no longer than two to three, maybe four minutes, at
19 the most.

20 Q. Did you ever see the driver turn back and look at you
21 at any time during that chase?

22 A. No.

23 Q. And was there anything located in that truck, any
24 money, in the seats of that truck?

25 A. I did not collect any money. No.

1 Q. So you didn't see anything in the cab of that truck?

2 A. No.

3 Q. That's all. Thank you.

4 A. Thank you.

5 MR. RICHARDSON: Nothing further, Your Honor.

6 THE COURT: Sir?

7 MR. RICHARDSON: Nothing further. I'm sorry.

8 THE COURT: All right. Thank you.

9 MR. RICHARDSON: Your Honor, may this witness be
10 excused?

11 THE COURT: He may.

12 MR. RICHARDSON: Thank you. State calls Scott
13 Ticknor to the stand.

14 THE CLERK: Left hand on the bible. Raise your
15 right.

16 Do you solemnly swear or affirm the testimony you're
17 about to give in this case to be the truth, the whole truth
18 and nothing but the truth, so help you God?

19 THE WITNESS: I do.

20 THE CLERK: Thank you, sir. If you would have a
21 seat and state your name for the record, please.

22 THE WITNESS: Scott Ticknor.

23 **SCOTT TICKNOR,**

24 **HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:**

25 **DIRECT EXAMINATION**

1 **BY MR. RICHARDSON:**

2 Q. Where are you employed?

3 A. Pickens County Sheriff's Office.

4 Q. In what capacity?

5 A. I work the warrants division.

6 Q. Okay, sir. And how long have you been in law
7 enforcement?

8 A. Since 1995.

9 Q. Okay, sir. Were you actually working on June the
10 18th, 2012?

11 A. Yes, sir.

12 Q. And what were you doing that particular day?

13 A. Deputy Durham and myself were working in a special
14 detail that day over in Easley.

15 Q. Okay, sir. And at some point in time did you hear a
16 radio call go out?

17 A. Yes, sir. We heard a radio call in reference to a
18 bank robbery in the city of Pickens. At that time I looked
19 at Deputy Durham and I said, what if he rides this way, what
20 will we do? We were down on 123 at the time.

21 Q. Okay, sir. And so I'm clear, what kind of vehicle
22 were you driving?

23 A. It was an unmarked vehicle. It was a mini van.

24 Q. Okay. And why were you driving that vehicle?

25 A. We were working on a detail at the time that we would

1 involve that type of vehicle to be used.

2 Q. Okay. An undercover?

3 A. Yes, sir.

4 Q. Okay, sir. And does that vehicle have lights?

5 A. Yes, sir, it does.

6 Q. Blue lights?

7 A. Yes, sir.

8 Q. And does it also have a siren?

9 A. It does now. It didn't at the time, sir.

10 Q. It did not at the time?

11 A. No, sir.

12 Q. Okay. Now, at some point in time did you become
13 involved with a vehicle pursuit of a red Ford pickup truck?

14 A. Yes, sir.

15 Q. Okay. Tell the jury what happened?

16 A. On that day, like I said, Deputy Durham and I were
17 working a detail and we kind of jokingly said, well, what if
18 we run up on this guy and we chase him down and go from
19 there. We came back down 123 onto 93 and we were at the
20 Hardee's light at the five points where the Goodwill is now
21 -- it used to be a Bi-Lo -- and seen a red pickup truck come
22 down 93 through that intersection right there in front of
23 Hardee's and had two black males in it. It was a red Ford
24 F150. Both of us kind of looked at each other. And I said,
25 what do you think about that one? He said, yeah, let's go

1 ahead. So we made a turn-around and fell in behind the
2 vehicle just past the car wash there.

3 Q. Okay. And at this time was Deputy -- excuse me --
4 Captain Galloway, was he present in his vehicle?

5 A. Not at this time. That was just a few minutes before
6 when this took place. I would say maybe a minute and a
7 half, two minutes, if that long.

8 Q. Okay. And did -- eventually did you end up in a
9 pursuit of that vehicle after your blue lights had been
10 engaged?

11 A. Yes, sir.

12 Q. Okay. And where did that pursuit -- was that pursuit
13 in a residential neighborhood?

14 A. Yes, sir. It turned off of 93 just before Stewart
15 Drive, which I think it was Freeman. There's a small short
16 street at an attorney's office, and it dropped down over a
17 hill and came up onto Grigsby Avenue, is where it goes to.

18 Q. Okay, sir. And I'm referring to State's Exhibit
19 Number 6. Do you recognize that vehicle?

20 A. Yes, sir.

21 Q. Is that the vehicle that you were pursuing?

22 A. Yes, sir. That's correct.

23 Q. Okay, sir. And at some point in time, did the vehicle
24 come to a stop where you see it in that picture?

25 A. Yes, sir. And we were over here in the bushes. There

1 was a bush right here and our -- I stopped the van here.

2 Q. Okay. Now, when you stopped the van -- you had
3 another officer with you; right?

4 A. Yes, sir.

5 Q. This officer back here?

6 A. Yes, sir, Deputy Durham.

7 Q. Okay. Were you driving or was Deputy Durham driving?

8 A. I was driving.

9 Q. Okay. And once you stopped that van, what did you do?

10 A. I called driver. We kind of do that. I said, I've
11 got driver. And I jumped out, and he jumped out his side
12 and he took the passenger. And I went down through -- I
13 come through here and went down into this wooded area. It
14 went down into kind of a yard going into the woods and took
15 the suspect down back off in this area here.

16 Q. Okay, sir. Approximately how far from the Ford truck
17 did you -- when you say take him down, did you have to
18 tackle him?

19 A. Yes, sir.

20 Q. Okay. Approximately how far was that?

21 A. A hundred feet, maybe a hundred fifty feet, if that
22 far.

23 Q. Okay. And was he carrying anything?

24 A. He had something. Like I said, I was just -- I was
25 looking to take him down. Like I said, I didn't do a lot of

1 looking for other things. I just basically took -- we went
2 down to the ground and I was able to handcuff him and hold
3 him down. And Deputy -- I'm sorry -- City Officer
4 Harrelson, Patrol Officer Harrelson came running up and
5 covered him while we were waiting for everybody else to get
6 the other part taken care of.

7 Q. Okay, sir. And do you recall him having a white bag
8 on him?

9 A. He had a bag -- when he hit the ground, something went
10 out of his hand, yes. And like I said, I cuffed him up and
11 then I just kind of stayed with him for a few minutes ---

12 Q. And then you let that ---

13 A. All that laid there.

14 Q. Okay.

15 A. And me and Mr. Harrelson took him up off the ground
16 and started him back up the hill.

17 Q. So your involvement was the arrest part of it?

18 A. Yes, sir.

19 Q. Okay. You didn't have any involvement with the
20 identification or the forensics or ---

21 A. No, sir.

22 Q. So you left that item for forensics?

23 A. Yeah. I left that and I told them on the way back up
24 the hill, I told him there was some stuff on the ground.
25 And then I walked him back past the truck in between the van

1 and the truck to a marked patrol car that was pulling up out
2 by the roadway.

3 Q. Okay, sir. And is that person that you tackled and
4 arrested that day, is he in this courtroom?

5 A. Yes, sir.

6 Q. And where is here?

7 A. He's over here in the brown blazer and the turtleneck,
8 white turtleneck.

9 MR. RICHARDSON: Please let the record reflect
10 he's identified the defendant. That's all the questions I
11 have. Please answer any questions Mr. Angell has for you.

12 THE WITNESS: Yes, sir.

13 **CROSS EXAMINATION**

14 **BY MR. ANGELL:**

15 Q. Deputy Ticknor, forgive me, but you said you tackled
16 my client; correct?

17 A. Yes, sir.

18 Q. And that you didn't -- you searched him after
19 handcuffing him; correct?

20 A. That's correct. I padded him down.

21 Q. And you didn't find anything on him?

22 A. Not anything that I would have to take off such as
23 weapons, sir.

24 Q. So he had no weapons? Did you say anything to my
25 client after you arrested him?

1 A. Yes, sir. I probably talked to him about running.

2 Q. What did you say to him?

3 A. You need to go faster next time, I believe.

4 Q. Once you got him down and handcuffed him, did he try
5 to run again?

6 A. No, sir.

7 Q. Did he cooperate from then on out?

8 A. Yes, sir.

9 Q. Now, in regards to the pursuit, was your van the
10 closest to that truck throughout this pursuit?

11 A. No, sir. Captain Galloway was in front of us.

12 Q. Okay.

13 A. And we were just behind him. And he was -- he took
14 the lead on that and we worked the radio. I believe Deputy
15 Durham was working the radio.

16 Q. Were you the only one to tackle my client? Was there
17 another officer ---

18 A. The other officer was running down the hill and it was
19 already, it was already in play when he came running down.

20 Q. So the two of you were already on the ground?

21 A. Yes, sir.

22 MR. ANGELL: Nothing else. Thank you.

23 MR. RICHARDSON: Nothing further, Your Honor.

24 THE COURT: Thank you, sir.

25 MR. RICHARDSON: Your Honor, may this witness be

1 excused?

2 THE COURT: He may.

3 MR. RICHARDSON: Thank you. State calls Rodney
4 Gregory to the stand.

5 THE CLERK: Place your left hand on the bible,
6 raise your right.

7 Do you solemnly swear or affirm the testimony you're
8 about to give in this case to be the truth, the whole truth
9 and nothing but the truth, so help you God?

10 THE WITNESS: I do.

11 THE CLERK: Thank you, sir. If you would have a
12 seat and state your name for the record, please.

13 THE WITNESS: Rodney Gregory.

14 **RODNEY GREGORY,**

15 **HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:**

16 **DIRECT EXAMINATION**

17 **BY MR. RICHARDSON:**

18 Q. Sir, are you the chief of police of Pickens City?

19 A. Yes, I am.

20 Q. And how long have you been chief of police?

21 A. Approximately three years.

22 Q. Okay, sir. And how long have you been in law
23 enforcement?

24 A. Eighteen years.

25 Q. Okay, sir. And were you the chief of police back on

1 June 18th of 2012?

2 A. Yes.

3 Q. Okay, sir. And were you dispatched to the Bank of
4 America, or how did that come about?

5 A. It came over the radio and I left my office and headed
6 that way. Yes.

7 Q. Okay. And did you actually -- you went to the Bank
8 of America?

9 A. Not at first. I saw Assistant Sheriff Morgan over to
10 the right between the two churches and I pulled in there.
11 And that's where we was talking to some ladies there and
12 they said that a red pickup truck -- that a black male run
13 out and got into a red pickup truck and it went out beside
14 the gas station, took a right.

15 Q. Okay, sir. Now, did you put that information out on
16 your radio waves?

17 A. Yes. I dispatched it to our officers.

18 Q. Okay. And so we're clear, is Pickens County and
19 Pickens City, are y'all on the same frequency?

20 A. No.

21 Q. Okay. Now, after you did that, did you ever proceed
22 to another location?

23 A. Yes. I went to the bank for a few minutes and then I
24 heard the pursuit and had the vehicle stopped, so I headed
25 towards Easley.

1 Q. Okay. And did you, in fact, go to this area that's
2 State's Exhibit 6 that's showing?

3 A. Yes.

4 Q. Okay, sir. And while there did you, did you view a
5 shirt in the truck?

6 A. Yes, I did. By the time I got there, the two people
7 had already left the scene in patrol cars. And you see the
8 truck door is closed there. It was opened up and I was
9 standing over to the left of it. And I glanced in the truck
10 and seen a dark colored shift behind the seat of the
11 driver's side.

12 Q. Okay, sir. Let me show you what's been marked as
13 State's Exhibit 18. Do you recognize this?

14 A. Yes. That's the shirt that was behind there.

15 Q. Okay, sir.

16 A. The forensic people pulled it out of the truck, and I
17 viewed it.

18 Q. Okay. And did you -- you located it for the forensics
19 people?

20 A. I spotted the shirt and told them they needed to look
21 at that shirt and they pulled it out.

22 Q. Okay. And at that point in time, you let forensics
23 take the evidence from there?

24 A. That is correct.

25 Q. That's all the questions I have. Please answer any

1 questions the defense counsel may have for you.

2 **CROSS EXAMINATION**

3 **BY MR. ANGELL:**

4 Q. Mr. Gregory, what else did you find in addition to
5 that shirt in the truck?

6 A. That's -- I didn't find it in the truck. I seen it
7 from outside and I notified forensics to pull it out. I
8 didn't get in the truck at all.

9 Q. So what was your role at the scene there exactly?

10 A. It happened in my city and I'm responsible.

11 MR. ANGELL: Nothing further.

12 THE COURT: Anything further?

13 MR. RICHARDSON: Nothing further, Your Honor.

14 THE COURT: Thank you.

15 MR. RICHARDSON: Your Honor, may this witness be
16 excused?

17 THE COURT: He may.

18 MR. RICHARDSON: Thank you. State calls Tony
19 Robinson.

20 THE CLERK: Do you solemnly swear or affirm the
21 testimony you're about to give in this case to be the truth,
22 the whole truth and nothing but the truth, so help you God?

23 THE WITNESS: I do.

24 THE CLERK: Thank you, sir. If you would have a
25 seat and state your name for the record, please.

1 THE WITNESS: Tony Robinson.

2 TONY ROBINSON,

3 HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION

5 BY MR. RICHARDSON:

6 Q. You're employed with the Pickens County Sheriff's
7 Office?

8 A. I am.

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

10 A. Twenty-five years.

11 Q. And what is your position right now with the Pickens
12 County Sheriff's Office?

13 A. I'm a lieutenant over the forensic unit.

14 Q. And you're, in fact, in charge of the forensic unit?

15 A. Yes, sir.

16 Q. And were you working on June the 18th of 2012?

17 A. I was.

18 Q. Were you dispatched to a particular area?

19 A. Yes. I went to the Easley area.

20 Q. Okay, sir. And what was that in reference to?

21 A. The suspect vehicle in the bank robbery had been
22 located or had been apprehended on Grace Avenue in Easley.
23 And I went to that location.

24 Q. Okay, sir. And is the location that you went to, in
25 fact, is what is shown as State's Exhibit 6?

1 A. It is.

2 Q. And what was the purpose of you going to the scene
3 that day?

4 A. I went there to document that scene, photograph and
5 collect evidence.

6 Q. Okay. And is that -- in essence is that what a
7 forensic officer and identification officer does?

8 A. It is.

9 Q. Okay. Is that your sole duties?

10 A. It is.

11 Q. And while at the scene did you -- is part of your
12 duties as a forensic officer to take pictures?

13 A. It is.

14 Q. And did you, in fact, take pictures at this scene?

15 A. Yes, sir.

16 Q. Okay. Let me have you identify State's Exhibit 7, 8,
17 11, 12, 13, 14, 15 and 16. If you could look at those and
18 tell me if you can identify those?

19 A. All of these are pictures that I took at that scene.

20 Q. Okay, sir.

21 MR. RICHARDSON: Your Honor, at this time the
22 state moves to have State's Exhibits 7, 8, 11, 12, 13, 14,
23 15 and 16 entered into evidence.

24 MR. ANGELL: No objection, Your Honor.

25 THE COURT: So admitted.

1 (WHEREUPON, State Exhibit Numbers 7, 8, 11, 12, 13, 14,
2 15 and 16 were admitted into evidence.)

3 Q. I'm referencing State's Exhibit Number 7. What is
4 that?

5 A. That's a bag that was laying on the ground in the area
6 where I was informed that the suspect had been captured by
7 Officer Ticknor.

8 Q. Okay, sir. And I'm going to go back to State's
9 Exhibit 6. If you could use that pointer, what direction is
10 that bag from that vehicle?

11 A. It's in front of the truck down probably a hundred
12 feet or so.

13 Q. Okay, sir. And I'm referring to State's Exhibit 8.
14 What is that, sir?

15 A. That's a close-up picture of that bag.

16 Q. The same bag as in State's Exhibit 7?

17 A. That's correct.

18 Q. Okay, sir. Had you moved it, touched it in anyway?

19 A. Not at that time.

20 Q. Not at this time, okay. And now I'm referring to
21 State's Exhibit 14. What is that?

22 A. That's a brown plastic bag that was down inside the
23 white bag.

24 Q. Okay, sir. And the money that is in that bag, did you
25 take possession of that money?

1 A. I did.

2 Q. Did you take it into evidence?

3 A. I did.

4 Q. And as part of doing that, did you count that money?

5 A. I did.

6 Q. And do you recall how much it was?

7 A. There was money also in the truck and the total amount
8 of money was one thousand seven hundred and fifty dollars.

9 Q. Okay. Let me show you State's Exhibit 16. Is that
10 the money you're referring to in the truck?

11 A. It is. Yes. It was in the console of the truck.

12 Q. Okay, sir. And back to State's 14. That money --
13 where was it -- it was found in the white bag?

14 A. That money was down inside that white bag.

15 Q. Okay, sir. And State's Exhibit 15?

16 A. That's the money. I was just laying the money out so
17 you could see it better.

18 Q. Okay, sir. And State's Exhibit 13, what is this?

19 A. That's other items that were in the bag. There were
20 some clothing items, new clothing items and there's a
21 receipt there, I believe, from Family Dollar.

22 Q. Did you take that receipt into evidence?

23 A. I did.

24 Q. And there's a -- looks like a white blur right here.
25 What is this right here?

1 A. That's the white bag that all that stuff was down
2 inside.

3 Q. Okay, sir. And what is this?

4 A. That's the bag with the money.

5 Q. I'm going to show you State's Exhibit 11?

6 A. That's the t-shirt that Chief Gregory saw inside the
7 truck, and I pulled it out and took photographs of it.

8 Q. Okay. And is that -- I'm going to show you State's
9 Exhibit 18. Can you identify that?

10 A. That's the same t-shirt. Yes.

11 Q. Did you pull the t-shirt out of the vehicle?

12 A. I did.

13 Q. And did you lay it out like that?

14 A. I did.

15 Q. Okay, sir. And then State's Exhibit 12?

16 A. That's the other side of that t-shirt.

17 Q. Okay, sir. And you stated there was a receipt in the
18 picture, a Family Dollar receipt?

19 A. That's right.

20 (WHEREUPON, State Exhibit Number 21 was marked for
21 identification.)

22 Q. Okay. Let me hand you what's been marked State's
23 Exhibit 21. Can you identify that?

24 A. Yes. This is that Family Dollar receipt.

25 MR. RICHARDSON: Your Honor, at this time state

1 would move State's Exhibit 21 into evidence.

2 MR. ANGELL: No objection, Your Honor.

3 THE COURT: So admitted.

4 (WHEREUPON, State Exhibit Number 21 was admitted into
5 evidence.)

6 Q. And is that the Family Dollar receipt that you took
7 into evidence?

8 A. It is.

9 Q. Okay. What is the date on that receipt?

10 A. June 18th, 2012.

11 Q. And what's the time on it?

12 A. Seventeen oh three, which that's military time for
13 five oh three p.m.

14 Q. And was that receipt found with the money and also
15 with the clothing?

16 A. It was. It was down in that bag.

17 MR. RICHARDSON: Beg the court's indulgence.

18 That's all the questions I have. Please answer any
19 questions defense counsel may have for you.

20 **CROSS EXAMINATION**

21 **BY MR. ANGELL:**

22 Q. Mr. Robinson, how long after the chase before -- how
23 long after the chase did it take for you to arrive?

24 A. I would have been there within ten minutes probably.

25 Q. When you got there, there were no suspects on the

1 scene at that point; correct?

2 A. They had already been transported.

3 Q. And what ultimately happened to the money that you
4 seized?

5 A. I took everything into evidence and I turned it over
6 to the Pickens Police Department on the next day, the 19th.

7 Q. To be clear, when you got there, there were no
8 suspects; only these items that were shown; correct?

9 A. Correct.

10 Q. Thank you.

11 MR. RICHARDSON: Nothing further, Your Honor.

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

13 MR. RICHARDSON: Your Honor, may this witness be
14 excused?

15 THE COURT: He may.

16 MR. RICHARDSON: Thank you, sir.

17 State calls Detective Sam Byers to the stand.

18 THE CLERK: Do you solemnly swear or affirm the
19 testimony you're about to give in this case to be the truth,
20 the whole truth and nothing but the truth, so help you God?

21 THE WITNESS: I do.

22 THE CLERK: Thank you, sir. If you would have a
23 seat and state your name for the record, please.

24 THE WITNESS: I'm Detective Samuel Byers.

25 **SAMUEL LANE BYERS,**

1 **HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:**

2 **DIRECT EXAMINATION**

3 **BY MR. RICHARDSON:**

4 Q. Detective, where are you employed?

5 A. I'm employed with the Pickens City Police Department.

6 Q. Yes, sir. And how long have you been employed with
7 the Pickens City Police Department?

8 A. Eleven and a half years.

9 Q. Okay, sir. And what's your position now with Pickens
10 City?

11 A. I'm the detective over criminal investigations.

12 Q. Okay, sir. And how long have you been in that --
13 working in that capacity?

14 A. Approximately three years.

15 Q. Okay, sir. And were you working on June the 18th of
16 2012?

17 A. Yes, sir.

18 Q. Okay. And on that date where did you go?

19 A. On that date we responded to the Bank of America
20 located at East Main Street in Pickens in reference to a
21 bank robbery.

22 Q. Okay, sir. And what did you do at the bank?

23 A. Well, upon arrival at the bank, I spoke with the
24 officers on the scene and asked them what information they
25 had already gathered. And told them to continue gathering

1 information for their report. I spoke with the branch
2 manager and asked them if they, on their computer, pull up a
3 copy of the video surveillance for our observation to
4 identify the person that came into the bank.

5 Q. Okay, sir. And once you did that, at some point in
6 time did you -- were you made aware that a suspect had been
7 arrested?

8 A. Yes, sir.

9 Q. Okay. And up until that point were you still at the
10 bank?

11 A. Yes, sir.

12 Q. Okay. Once you had received that information about
13 the arrest, what did you do?

14 A. After I received that information, I continued to stay
15 at the bank for a short period longer. After that I left
16 and went to the Pickens County Detention Center to speak
17 with the person that they had apprehended.

18 Q. Okay. And the person that you went to speak with, did
19 you actually interview that person?

20 A. Yes, I did.

21 Q. Okay. And was that the defendant?

22 A. Yes, it is.

23 Q. Okay. And where were you when you interviewed him?

24 A. It was a small room inside the detention center that
25 is just adjacent to the lobby where they process in people

1 who have been arrested.

2 Q. Okay, sir. And this room, does it -- were you and the
3 defendant the only two people in it?

4 A. Yes, we were.

5 Q. Okay. Now, at this point in time is the defendant in
6 custody?

7 A. Yes. He was in custody at that time.

8 Q. Okay. And when you interview a defendant in custody,
9 do you give them any rights?

10 A. Yes, sir.

11 Q. Okay. And is that what's known -- commonly known as
12 Miranda?

13 A. Yes, sir.

14 Q. Okay, sir. And in this particular case regarding the
15 defendant, did you, in fact, give him his Miranda rights?

16 A. Yes, I did.

17 Q. Okay, sir. And in giving him his Miranda rights, did
18 you do it through a form documentation?

19 A. Yes, I did.

20 Q. Let me hand you what's been marked State's Exhibit 1.
21 Can you identify that?

22 A. Yes. This is the advisement of Miranda rights.

23 Q. Okay, sir.

24 MR. RICHARDSON: Your Honor, at this time we move
25 State's Exhibit 1 into evidence.

1 MR. ANGELL: No objection, Your Honor.

2 THE COURT: So admitted.

3 (WHEREUPON, State Exhibit Number 1 was admitted into
4 evidence.)

5 Q. Sir, I'm going to hand you back State's Exhibit 1.

6 Well, I tell you what, I'm now going to refer to State's --
7 is this -- State's 1, is this a common form that y'all use
8 at the Pickens Police Department?

9 A. Yes, sir. Common form that we use when we advise the
10 subject of their Miranda rights.

11 Q. Okay, sir. I see some writing at the very top. If
12 you'll use that laser pointer, can you point to the jury the
13 date?

14 A. The date is June 18, 2012.

15 Q. Okay. And what's the time?

16 A. The time is six oh nine p.m.

17 Q. Okay. So we're clear on that, but the time indicated
18 on that, did you fill that in?

19 A. Yes, sir.

20 Q. Okay. Is that when you started the interview or
21 what's that time indicate?

22 A. That's the time that we got into the room and I began
23 to speak with Mr. Missouri.

24 Q. Okay, sir. Now, there is another point -- is there a
25 point on here where it states his education level?

1 A. Yes. States right here, it says, I have completed
2 twelve years of school.

3 Q. And what's that right next to that statement?

4 A. That would be his initials.

5 Q. Okay. And he initialed it?

6 A. Yes, he did.

7 Q. Okay. Is he initialing that he agrees that he's had
8 twelve years of school?

9 A. Yes, he is.

10 Q. Now, I'm going to try to get this a little closer. I
11 don't know if everybody can see it. Now, when you give
12 Miranda rights off this form to a suspect or somebody you're
13 interviewing, and particularly Mr. Missouri, how do you do
14 it? Can you explain to the jury how you do it?

15 A. The way that I do this is that I sit down with each
16 person and by determining the amount of school and education
17 they have, that they can read and write and understand the
18 words. The first thing I do is I explain to them -- when I
19 complete this, I ask them if this is true and correct, if
20 they would initial off to the side there. Then I go through
21 and I will read each individual line of Miranda rights. And
22 I advise them that if they understand each of these Miranda
23 rights, if they would initial off to the lefthand side. I
24 also tell them that if they have any questions, please stop
25 me and ask me at that time.

1 Q. So you're actually reading it to them?

2 A. Yes, sir.

3 Q. Okay. And when they go to initial it, do you read one
4 item and then have them initial it or do you read them all
5 and have them initial all?

6 A. I have them initial each one as I read it.

7 Q. As you read it. Okay. And I'm going to ask that you
8 read these for the jury. I don't know if they can see it
9 back there. What's the first right that you read him?

10 A. The first one is: You have the right to remain
11 silent.

12 Q. Okay. And he indicates that -- is that his initials
13 next to it?

14 A. That is his initials, yes, sir.

15 Q. What is the next right?

16 A. The next one: Anything you say can and will be used
17 against you in a court of law.

18 Q. Okay, sir. And whose initials are next to that?

19 A. That would be Mr. Missouri's.

20 Q. And the next right?

21 A. The next one: You have the right to talk to a lawyer
22 and have him or her present with you while you are being
23 questioned.

24 Q. Okay. And his initials, are they indicated?

25 A. Yes, sir.

1 Q. And next right?

2 A. If you cannot afford to hire a lawyer, one will be
3 appointed to represent you before any questioning, if you
4 wish.

5 Q. And are his initials indicated next to that one?

6 A. They are.

7 Q. And what's the next right?

8 A. The next one is: You can decide at any time to
9 exercise these rights and not answer any questions or make
10 any statements.

11 Q. And is his initials indicated next to that one?

12 A. Yes, sir.

13 Q. Okay. Now, what's item number 6?

14 A. Item number 6 states: Do you understand these rights
15 as they have been explained to you?

16 Q. Okay, sir. And did he -- the checkmark, is that next
17 to yes or no?

18 A. Next to yes.

19 Q. And did he check it or did you check it?

20 A. He checked it.

21 Q. And whose initials?

22 A. That would be his initials next to 6.

23 Q. Now, when you've given him these rights and you're
24 interviewing him in this room, are you depriving him in
25 anyway of any food or water or bathroom or anything of that

1 nature?

2 A. No, sir.

3 Q. Are you forcing him to enter into these rights and
4 waive these rights?

5 A. No, sir.

6 Q. Okay. Did you coerce him or intimidate him in any
7 way?

8 A. No, sir.

9 Q. Did you make him any promises?

10 A. No, sir.

11 Q. When you went through these rights with him, did he
12 appear coherent to you?

13 A. Yes, sir.

14 Q. Did he appear under the influence of any alcohol or
15 drugs?

16 A. No, sir.

17 Q. And how long have you been a police officer?

18 A. Eleven and a half years.

19 Q. Have you seen people under the influence of alcohol
20 and drugs?

21 A. I have.

22 Q. Okay. And you indicted that he did not appear to be
23 under the influence of any alcohol or drugs?

24 A. No, he did not.

25 Q. Did he appear to understand your questions?

1 A. Yes, he did.

2 Q. Okay. Was he responsive to your questions?

3 A. Yes.

4 Q. Was his responses coherent?

5 A. Yes.

6 Q. Now, what's the next item down on that ---

7 A. The waiver of rights.

8 Q. Yes, sir. And can you read that -- well, let me ask
9 you before you do that, did he read the waiver of rights or
10 did you read that to him?

11 A. I read them to him. He had a copy to read along with
12 me.

13 Q. He had his own copy to read along?

14 A. Yes.

15 Q. Okay. Can you read those rights to the jury?

16 A. I have read the above statements of my rights and I
17 understand each of those rights and having these rights in
18 mind, I waive them and willingly make a statement. No
19 promises or threats have been made to me and no pressure or
20 coercion of any kind has been used against me.

21 Q. Okay, sir. And did he appear to understand that
22 statement when you read it to him?

23 A. Yes, sir.

24 Q. And whose signature is under that waiver of rights?

25 A. That would be his signature.

1 Q. Okay. And the date?

2 A. The date would be 6/18/2012.

3 Q. And whose signature is under that?

4 A. Below his signature would be my signature.

5 Q. Okay, sir. And so did the defendant, in fact, waive
6 his Miranda rights?

7 A. Yes, sir.

8 Q. And did he voluntarily and of his own free will enter
9 into a statement?

10 A. Yes, sir.

11 Q. He gave you a statement?

12 A. Yes, sir.

13 Q. And was that statement in written form?

14 A. Yes, sir.

15 Q. Let me hand you what's been marked State's Exhibit 2.
16 Can you identify that, please, sir?

17 A. Yes, sir. It's the statement that I received from Mr.
18 Missouri.

19 Q. On June 18th, 2012?

20 A. Yes, sir.

21 MR. RICHARDSON: Your Honor, at this time the
22 state moves State's Exhibit Number 2 into evidence.

23 MR. ANGELL: No objection, Your Honor.

24 THE COURT: So admitted.

25 (WHEREUPON, State Exhibit Number 2 was admitted into

1 evidence.)

2 Q. Officer, can you read that?

3 A. Yes, sir. It states -- are you asking me to read the
4 narrative?

5 Q. No. Well, let me just, before you do that, there's
6 writing at the very top. Who did that?

7 A. He filled the top part out.

8 Q. Okay. And that's his age and address?

9 A. Yes.

10 Q. He filled that out?

11 A. He filled it out with me pointing out to indicate
12 exactly what information to put in there.

13 Q. Okay. And the written part of it -- well, let me ask
14 you, before you get to the handwritten part, there's what
15 appears to be a lengthy typewritten part. What is that?

16 A. It goes back into Miranda rights again advising them
17 of their rights so that they understand that they're doing
18 this on a free and voluntary basis; that we're asking them
19 to give a statement in regards to the event, that they do
20 have a right to counsel at that time.

21 Q. And did you -- at that time did you read that to him
22 or have him read that?

23 A. I advised him to read through it.

24 Q. Okay. So in essence that's the second time he's been
25 given those?

1 A. Yes, sir.

2 Q. Okay. This statement, the written portion of this
3 statement, who wrote that?

4 A. The narrative part of that was written by Mr.
5 Missouri.

6 Q. Okay. Will you go ahead and publish that and read
7 that to the jury for us?

8 A. Yes, sir. After a month-long crack cocaine binge, I
9 found myself -- I apologize, I'm having a hard time making
10 out that word.

11 Q. Plotting?

12 A. Yeah. --- plotting to obtain a vehicle to try and rob
13 a bank. I first stopped at Fulbright Motors with the intent
14 to steal a vehicle to rob SunTrust Bank on Anderson Road.
15 But while looking, there was a red truck with the driver's
16 side door open and empty of a driver. I took the truck and
17 went by a friend's home -- excuse me -- house, and asked if
18 he wanted to ride with me to cash some checks. Bobby didn't
19 have a clue that I was going to rob the bank. I went in and
20 presented the teller with a robbery note. She said she
21 didn't have a bag and I supplied her with a bag. She
22 proceeded to fill the bag with money. And when she was
23 through I fled the scene. I went to Easley and got into a
24 chase with police. The chase ended in a residential area
25 where I got -- where I gave up without incident. End of

1 statement.

2 Q. And just so we're clear. What's the reason you have
3 it x'ed in the statement?

4 A. So that no one can add anything to his statement that
5 would not be what he said.

6 Q. Okay, sir. And whose signature is at the bottom of
7 that statement?

8 A. On the -- are you asking at the bottom right hand
9 corner?

10 Q. Yes, sir.

11 A. The bottom right hand corner would be Mr. Missouri's
12 signature.

13 Q. Okay. And whose signature is to the left of that?

14 A. To the left would be my signature.

15 Q. Okay. Is there a time also on that form?

16 A. Yes, sir. Time ended, seven oh six p.m.

17 Q. So is that when the entire interview and statement-
18 giving process ended?

19 A. That's when he -- when he finished the statement I
20 noted that on there.

21 Q. So what was the total amount of time that you were in
22 the room with him?

23 A. Approximately one hour.

24 Q. And at some point in time did you inventory the red
25 Ford truck?

1 A. Yes, I did.

2 Q. And what's the purpose of doing that?

3 A. The purpose of inventorying the pickup truck was
4 because the fact it was towed back to our impound lot. We
5 want to take an inventory of what items are inside the
6 vehicle. One is to protect the police department from
7 allegations of theft. And two, to protect the victim so
8 that they can't say that we took anything out of the vehicle
9 or if anything seems to be lost or stolen, they have a note
10 of what we received when got it to impound.

11 Q. And did you have occasion to remove any sunglasses
12 from that vehicle?

13 A. Yes, I did.

14 Q. And had you viewed the surveillance video?

15 A. Yes, I did.

16 Q. Okay. And did you take those sunglasses into
17 evidence?

18 A. Yes, I did.

19 Q. Let me hand you what's been marked State's Exhibit 19.
20 Do you recognize those?

21 A. Yes, sir.

22 Q. And what is that?

23 A. This would be the sunglasses that I removed from the
24 truck during inventory. It also matched the sunglasses of
25 the suspect that was on the surveillance.

1 MR. RICHARDSON: Beg the court's indulgence.

2 That's all the questions I have. Please answer --
3 well, I take that back. Sorry.

4 Q. During the interview process, at any point in time did
5 he stop and exert any of his rights?

6 A. No, he did not.

7 Q. And did you advise him he could stop the interview and
8 exert his rights at any point in time?

9 A. When I read him Miranda rights, he was advised of
10 that, yes, sir.

11 Q. That's all the questions I have. Please answer any
12 questions defense counsel may have for you.

13 **CROSS EXAMINATION**

14 **BY MR. ANGELL:**

15 Q. Detective Byers, you'd never met my client before June
16 18th, 2012; correct?

17 A. Correct.

18 Q. So you wouldn't know what he appears -- what he looks
19 like sober or drunk; would you?

20 A. No, sir.

21 Q. So you wouldn't have an idea, being that you first met
22 him, whether -- what state of mind my client was in?

23 A. No, sir.

24 Q. At the beginning of the interview did you afford my
25 client a telephone call?

1 A. No, sir. He didn't ask for one.

2 Q. And in the course of discussion, I'm sure he mentioned
3 when he spoke with you, and not everything is recorded on
4 this statement; would you agree?

5 A. I'm sorry. Say again.

6 Q. That everything that he said to you wasn't necessarily
7 written on this statement; correct?

8 A. In the beginning ---

9 Q. For almost an hour?

10 A. In the beginning, no, that was not the story that he
11 gave.

12 Q. Okay. Did he ever mention threatening the bank
13 teller, that he threatened -- did my client ever tell you
14 that he threatened the bank teller in anyway?

15 A. No, sir.

16 Q. Did he ever tell you that he was going to hurt her in
17 anyway?

18 A. No, sir.

19 MR. RICHARDSON: Your Honor, I'm going to object.
20 He's asking self-serving hearsay. Can I approach?

21 (WHEREUPON, Messrs. Richardson and Angell approached
22 the bar.)

23 THE COURT: I'll overrule the objection.

24 MR. ANGELL: One moment, Your Honor. No further
25 questions.

1 THE COURT: Anything further?

2 Thank you, Officer, you may step down.

3 Okay, ladies and gentlemen, I think we're going to
4 recess for the evening. It's a little after five. I'm
5 going to ask that you -- I'm going to let you go in just a
6 minute. Don't discuss the case at all while you're home
7 tonight, or when you come back in the morning. We will
8 resume tomorrow and don't want to do anything to jeopardize
9 the work you've put in here today. So don't get on the
10 internet, don't do any investigation of any sort in this
11 matter. Y'all have a nice evening. We'll start at nine
12 thirty in the morning. Please be prompt. And we'll see you
13 tomorrow morning.

14 (WHEREUPON, the jury exited the open court at
15 approximately 5:04 p.m.)

16 THE COURT: All right. Mr. Richardson, how many
17 more witnesses do you think you're going to have?

18 MR. RICHARDSON: I'm done.

19 THE COURT: So you'll be resting then in the
20 morning?

21 MR. RICHARDSON: Yes, sir.

22 THE COURT: All right. Is your client going to
23 testify?

24 MR. ANGELL: Your Honor, I need to discuss that
25 further with him. I don't think he is.

1 THE DEFENDANT: Certainly, certainly, certainly.

2 THE COURT: I'm sorry?

3 MR. ANGELL: I guess he is, Your Honor, at this
4 point.

5 THE COURT: All right. Well, we'll -- I'll make
6 inquiry with him in the morning and that'll give you an
7 opportunity to talk to him tonight and we'll go over in the
8 morning his right to testify or not testify.

9 THE DEFENDANT: Your Honor, could I say something
10 before you close out for the evening?

11 THE COURT: You can say something to your lawyer.
12 Your lawyer can tell me whatever it is that needs to be
13 told. We'll talk about your testifying tomorrow morning
14 when -- I'll give your lawyer a chance to talk to you about
15 it tonight.

16 Y'all have a nice evening. We'll start up at nine
17 thirty.

18 (WHEREUPON, the court stood at recess for the evening.)

19 **MAY 20, 2014**

20 (WHEREUPON, court convened with all parties present and
21 the following proceedings were had.)

22 THE COURT: All right. I think the state is going
23 to rest. You made me aware of that. He said that
24 yesterday. So the decision would have to be made about your
25 client testifying. So have you had a chance to talk to him?

1 MR. ANGELL: I have, Your Honor.

2 THE COURT: All right. Mr. Missouri, let me get
3 you to stand and raise your right hand if you would, please,
4 sir.

5 Do you solemnly swear or affirm any testimony --
6 statements that you give here today be the truth, the whole
7 truth and nothing but the truth?

8 THE DEFENDANT: I affirm.

9 THE COURT: All right. You can put your hand
10 down. I'm not going to ask you anything about the case, but
11 I do want to review with you your understanding of your
12 right to testify or not testify?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. You understand under the
15 constitution you have a right to not testify. You can't be
16 compelled to say anything, do anything, to help the state in
17 anyway. You don't have to testify. Do you understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And of course, if you elected not to
20 testify, the court would instruct the jury they wouldn't
21 even consider that fact in the course of their
22 deliberations. So they couldn't go back in the jury room
23 and talk about the fact that you didn't testify. Do you
24 understand that?

25 THE DEFENDANT: Yes.

1 THE COURT: But you also have a right to testify,
2 to tell your side of the story. Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Of course, if you do so, you subject
5 yourself to being examined by the state. They can ask you
6 questions about matters that are relevant, including things
7 about the facts of the case or any effort on their part to
8 impeach your testimony. Do you understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: That would include if you have any
11 kind of prior record, they may have the right to impeach
12 your testimony by virtue of that prior record. Do you
13 understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. And have you made a
16 decision as to whether you are going to testify or not?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right. And what is that?

19 THE DEFENDANT: I'm going to testify.

20 THE COURT: Of course, this is your decision;
21 right?

22 THE DEFENDANT: My decision totally.

23 THE COURT: All right. Nobody's threatened you,
24 coerced you, forced you or pressured you into doing this?

25 THE DEFENDANT: No, sir.

1 THE COURT: All right. You are doing so freely

2 and voluntarily?

3 THE DEFENDANT: Yes, sir. Actually counsel

4 advised me not to.

5 THE COURT: All right. But of course, you

6 understand it is your decision and nobody else's?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And you understand all the rights that

9 I've been over, and so you're just making this decision
10 knowingly and intelligently?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Is that correct? You haven't had any
13 drugs, taken any medications, in the last twenty-four hours;
14 have you?

15 THE DEFENDANT: Not in the last twenty-four
16 months, Judge.

17 THE COURT: All right. Well, and you haven't had
18 any alcoholic beverages in the last twenty-four hours; have
19 you?

20 THE DEFENDANT: No, sir.

21 THE COURT: So you're not under the influence of
22 any kind of substance here today; is that correct?

23 THE DEFENDANT: No, sir.

24 THE COURT: All right. Mr. Angell, any inquiry
25 you want to make of your client?

1 MR. ANGELL: Nothing further at this time, Judge.

2 Just for the record, I did advise him, but I understand
3 that's his decision. And he's free to make that decision.

4 THE COURT: And anything further you want me to
5 inquire of your client?

6 MR. ANGELL: I'm satisfied with his decision, Your
7 Honor.

8 THE COURT: All right. Now, did y'all determine,
9 does he have a prior record?

10 MR. RICHARDSON: Your Honor, he has an extensive
11 prior record, but for impeachment purposes, he pled guilty
12 to possession with intent to distribute crack cocaine on
13 January 14th of 2013. We would intend to use that. Also,
14 he pled guilty to bank robbery in federal court. That
15 actually took place in the year 2000. However, he was in
16 prison for a hundred and eighty-eight months and he was
17 released in 2008.

18 THE COURT: 2000 when?

19 MR. RICHARDSON: 2008.

20 THE COURT: Okay.

21 MR. RICHARDSON: He was put on supervised release.
22 He violated that in 2009 and got sent back to prison.

23 THE COURT: Anything you want to say about either
24 -- those are the extent of his offenses that y'all would
25 attempt to impeach on?

1 MR. RICHARDSON: Yes, sir.

2 THE COURT: Anything you want to say about that,
3 Mr. Angell?

4 MR. ANGELL: Your Honor, I think that the date of
5 the crack cocaine, I was thinking it was '93.

6 MR. RICHARDSON: Your Honor, I can show counsel.

7 THE DEFENDANT: 2013 I was in jail. I was in jail
8 since November the 9th, 2012.

9 MR. ANGELL: Judge, my client can see that he
10 signed that in 2013.

11 THE COURT: Wait a minute, I ---

12 MR. ANGELL: He thought that that was a
13 misdemeanor evidently at the time that he pled to it, but
14 it's clear that he pled to a felony.

15 MR. RICHARDSON: Yes. Let me clarify. I heard
16 Mr. Aaron's client speaking over there, so I looked back
17 over it. I misspoke. It is not possession with intent to
18 distribute. Actually it's a possession of crack cocaine.
19 He pled down to a lesser included.

20 THE COURT: All right. Anything else? I have
21 some concerns about his -- you bringing up a bank robbery
22 case. It's mighty close to -- real close, and I'm probably
23 not going to allow y'all to do that. Now, I may be able to
24 allow you to inquire of his having been convicted of
25 something, but having it come out as a bank robbery, I just

1 think that is so prejudicial that it ---

2 MR. RICHARDSON: Your Honor, if my question to the
3 defendant is that he pled guilty in federal court to a
4 felony, would that suffice the court?

5 THE COURT: I would do it, but I'm not going to --
6 I don't want to go into the bank robbery, because he's
7 charged with bank robbery here.

8 MR. RICHARDSON: Okay.

9 THE COURT: And I just think that would -- you
10 understand that, Mr. Missouri?

11 THE DEFENDANT: Thank you, Your Honor. Yes, I do.

12 THE COURT: But I will allow him to inquire as to
13 did he plead guilty to a felony. All right?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Is there anything else that you would
16 ---

17 MR. RICHARDSON: No, sir.

18 THE COURT: --- be seeking to impeach him on?

19 MR. RICHARDSON: Nothing further on his prior
20 record.

21 THE COURT: All right. Anything else we need to
22 take up here this morning?

23 MR. ANGELL: Nothing, Your Honor.

24 THE COURT: All right. Let's -- we don't have --
25 the alternate is not here. So rather than wait on the

1 alternate, we've got the twelve jurors. I'm going to go
2 forward ---

3 THE CLERK: The alternate is here, Your Honor.

4 THE COURT: Alternate did come?

5 THE CLERK: Yes, sir.

6 THE COURT: All right. I was just going to move
7 forward because we won't need the alternate anyway.

8 All right. After your client testifies, do y'all have
9 any ---

10 MR. ANGELL: That'll be all. That'll be the
11 extent of our case, Your Honor.

12 THE COURT: All right. We will then take -- after
13 your testimony and before we go into the argument and
14 charge, we'll take a few minutes to review the charges and
15 then go into the argument and charge; okay? Y'all going to
16 open on the law?

17 MR. RICHARDSON: Your Honor, we will not.

18 THE COURT: Do y'all have any objection to their
19 waiving opening on the law?

20 MR. ANGELL: No objection, Your Honor.

21 THE COURT: All right. Let's bring the jury in if
22 you could, please.

23 (WHEREUPON, the jury entered the open court at
24 approximately 9:40 a.m.)

25 THE COURT: All right. Good morning, ladies and

1 gentlemen. Nice to see you this morning. Hope you all had
2 a nice evening. Before we begin, I'm going to ask y'all a
3 couple of questions. Anybody had a conversation about this
4 case with each other or with anyone else since we left
5 yesterday afternoon?

6 (No response.)

7 THE COURT: Were you approached by anyone to
8 discuss the case since we left yesterday afternoon?

9 (No response.)

10 THE COURT: Has anybody done their own inquiry or
11 made any investigation or done anything that we talked about
12 not doing since we left yesterday afternoon?

13 (No response.)

14 THE COURT: All right. Good. Ladies and
15 gentlemen, as you recall, when we finished yesterday
16 afternoon, the state was in the process of putting forth its
17 case in chief. And so I'll ask, Mr. Solicitor, y'all ready
18 to proceed?

19 MR. RICHARDSON: Your Honor, we are ready to
20 proceed. And at this time the state rests.

21 THE COURT: All right. Ladies and gentlemen, that
22 means the state has now concluded the presentation of all
23 its evidence in its case in chief and the state has finished
24 that phase of their trial. And I'll call on the -- Mr.
25 Angell, y'all prepared to go forward?

1 MR. ANGELL: We are, Your Honor.

2 THE COURT: You can call your first witness.

3 MR. ANGELL: Yes, Your Honor. Defense calls
4 Vincent Missouri to the stand.

5 THE DEFENDANT: Okay.

6 THE CLERK: If you would place your left hand on
7 the bible and raise your right.

8 Do you solemnly swear or affirm the testimony you're
9 about to give in this case to be the truth, the whole truth
10 and nothing but the truth, so help you God?

11 THE WITNESS: Yes, sir.

12 THE COURT: State your full name, please.

13 THE WITNESS: Vincent Missouri.

14 **VINCENT MISSOURI,**

15 **HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:**

16 **DIRECT EXAMINATION**

17 **BY MR. ANGELL:**

18 Q. Mr. Missouri, do you want to tell the jury what you
19 were doing in the weeks leading up to the incident date,
20 June 18th, 2012?

21 A. Yes, sir. Yes, sir. The weeks leading up to the
22 incident that's in question here today, I had recently got
23 out of federal prison. I think my release date was like
24 November 18th, 2011. And it wasn't too long after I was
25 home that I began to experience certain difficulties; job,

1 stuff like that normal do experience. It gets emotional at
2 times and you'll have to excuse me at times. But I began to
3 relapse into my addiction from probably, I'm going to say, I
4 was in prison for about eight years. And after I went
5 through a lot of frustration on the street I relapsed into
6 my addiction. My drug of choice was crack cocaine. And I
7 was just basically running around getting high, getting
8 money from anywhere I could to get high. I never really
9 hurt anybody, never harmed anybody, just getting money where
10 I could and getting high.

11 And on the date that -- what was the date of the
12 incident? June 18th? June 18th, the date that this robbery
13 occurred, you know, it was not my defense to come into court
14 and try to convince twelve people that I didn't do it. In
15 fact, I did do it. So that, you know, that eliminates y'all
16 having to consider that. Mr. Richardson, he did an
17 excellent job. I mean, the evidence is there. There's no
18 refuting the evidence. I mean, that's what happened on June
19 18th.

20 But in doing that, my defense, you know, I constructed
21 a defense for this case when I first was arrested. I think
22 I was arrested somewhere around June 18th. And I informed
23 the court at that time that I wanted to be able to address
24 the court myself as to reference to my habit, my addiction,
25 and what addiction actually does. I wasn't able to do that,

1 so the defense let you -- I mean, it's just like a situation
2 where a car is running fast as long as it's running. You
3 might think you've got the fastest car in the world. You
4 might think Mr. Doug Richardson, the case he put on against
5 me, was the tightest case in the world. But unless you
6 actually -- have actually walked in my shoes, experienced
7 it, you really, you really can't consider whether I'm guilty
8 or not guilty. Yeah, I'm guilty of the offense. I'm guilty
9 of the offense.

10 But there's defenses to these kind of things when they
11 happen to which a prison bid is not always the answer to
12 them. For the past -- not only the time leading up to this,
13 but for the past -- I started using drugs in 1992. And from
14 1992 till now equates to about twenty-two years. And I'm
15 not proud to say that the last twenty of those years was
16 spent in prison as opposed to doing any kind of treatment.

17 Matter of fact, I was ordered to treatment and
18 counseling by the federal court. The federal court was
19 aware of those records. There was professional testimony
20 that I had wished to offer at this trial. There was federal
21 witnesses that I wanted to be at this trial. But I was
22 excluded from doing so. Whether it was right or not, that's
23 not the issue that we address here today. That's an issue
24 for which I will address on appeal. But I was excluded from
25 preparing and presenting a defense. I didn't come here to

1 lie to nobody. I didn't come here to tell you I didn't take
2 the money from the bank, because I did. It's called
3 irresistible impulses. When you have long-term addiction,
4 experts consider that a disease. It's not something that we
5 can handle ourselves. It's not. If I could, do you
6 actually think that I would be sitting here with the
7 experience and with the training and with the knowledge I
8 have in jeopardy of doing to prison rather than being a
9 productive member of society. I didn't choose that route.
10 A lot of people say, well, you made the choice to use the
11 drugs. Yeah. The first time you ever make the choice, you
12 did, you make the choice. But we as mere human beings and
13 not physicians, we don't know our susceptibility to what a
14 drug does to the human body until after it's consumed. We
15 don't know. A lot of people can drink two or three beers
16 and function fine. But a lot of people can drink one beer
17 and can't hardly stand up straight. But that don't mean
18 that they committed a crime because if they did -- once you
19 are intertwined and drugs controls your body -- I'm not a
20 violent person by nature. Mr. Richardson, the state, can't
21 pull up nothing that says that I hurt anybody, that I CDV,
22 slapped my wife. I don't molest children. I've not done
23 anything except take a little bit of money from the bank.
24 Yeah, that's against the law. Society, you twelve members
25 of the jury are not willing to accept that as being a lawful

1 act. Now, there's consequences for everything. There's
2 consequences for every choice we make.

3 But you, the jury, have to be mindful that the
4 consequences don't sometimes fit the actions. And, you
5 know, I've tried, I've tried, I've tried. And even the lady
6 that testified here, Ms. Rachel White, she testified. I
7 read her statements. I didn't have a weapon. I didn't know
8 I was presenting myself as a person that was a threatening
9 person. I'm not an intimidating individual. I don't have
10 an intimidating character. Anybody that knows me, Mr.
11 Angell, his secretary, I've been to their office when I was
12 out. They pretty much know me. I could have brought a
13 whole bunch of character witnesses up here. I could not
14 even have testified, because they say when you testify you
15 get -- the state gets to impeach you on your testimony, get
16 to bring up your prior convictions. Even in light of all of
17 that, I wasn't worried about that. Because I wanted the
18 jury to be able to hear from the person that's accused. Me
19 sitting over there don't give y'all no sense of who I am.
20 Not one bit.

21 I mean, I'm not asking for anything. I'm just asking
22 for y'all to hear me out and know that what I did was wrong.
23 I know that. I'm fifty years old. I mean, and like I was
24 beginning to say, the federal court ordered me to go to
25 treatment and counseling in 2009, June 23rd, 2009, in the

1 federal prison. She said I violated -- Mr. Richardson just
2 pulled up -- one of the charges I pled guilty to was a
3 violation of my federal because I was possessing cocaine. I
4 possessed what I had. Sometimes they try -- the police will
5 charge you with possession with intent to distribute when
6 it's not possessing with intent to distribute if you don't
7 have it with the intent to distribute, but South Carolina
8 law, they trigger the intent to distribution due to the
9 amount you have in your possession. And I always had
10 quantities to which a user of my caliber would have -- would
11 smoke in a day. And it normally would be more than a gram,
12 more than two grams sometimes.

13 But I mean, the money that I've thrown away that wasn't
14 bank money, you know -- bank money is significant because it
15 didn't belong to me. But what's more significant is the
16 money I've spent that I could have spent it on my family.
17 That money means more to me than, you know, any of the
18 money.

19 But like I said, the court issued an order in 2009 that
20 I receive drug treatment and counseling. She sentenced me
21 for a violation of my supervision on federal release because
22 I got caught getting high again. I got caught with cocaine
23 in my system. So we had a hearing like this. It's called a
24 supervised release hearing. And she discussed -- she said
25 well -- she was talking to the United States probation

1 agent. She was asking, you know, why hadn't I went through
2 the treatment program. And he said, well, in my opinion --
3 he was a probation officer, mind you. He said, in my
4 opinion, Your Honor, I didn't feel Mr. Missouri needs it.
5 This was a United States probation agent. He wasn't
6 licensed in the science of addictions. He just said he felt
7 like I didn't need it. But in order to determine what a
8 person needs and what a person feels, is a person
9 intoxicated, you've got to know the path that that person
10 have traveled. You've got to know that person prior to and
11 not just at that particular time in order to determine -- if
12 I look at one of y'all twelve members of the jury, I can't
13 tell whether one of y'all are high or not. I'm not saying
14 you get high. But I'm just saying, I would not be able to
15 determine that because I don't know you -- I don't know
16 you. I don't know the way you normally act, and I don't
17 know what will alter that behavior. I just don't know. But
18 he concluded that he wouldn't be -- he didn't feel that I
19 needed drug treatment and counseling.

20 So I went without it. I got out, like Mr. Richardson
21 said, November -- no, October 23, 2008. And I relapsed just
22 a short period after release. And I'm thinking, what is
23 going on? Why does this keep happening to me? Why is --
24 you know, I'm struggling. I'm trying to do the right thing.
25 Why does this addiction appearing? And it wasn't until I

1 started to really reach out and seek literature dealing with
2 addiction -- I think that's the literature that they give
3 you when you go to these treatment centers -- then I learned
4 about addictions. And until you learn about addictions,
5 it's hard to beat it. But also, you have to count on your
6 higher power, too. You can't do it alone. It's not going
7 to happen.

8 So Judge Seymour, at the end of that hearing for which
9 she ordered the treatment and he did not extend that
10 treatment, she simply ran back down the road, three more --
11 do three years. And then when you come out in two more
12 years, we're going to put you back on supervised released
13 because Congress -- and I argued that. I argued that
14 vigorously. I said, Judge Seymour, if you're going to give
15 me three years for the violation for getting high again,
16 then why are you going to put me on supervised release for
17 two years after I get out of prison? She said, because, Mr.
18 Missouri, you have demonstrated that you have an acute
19 addiction to crack cocaine and I need you to get out and get
20 treatment and counseling for at least two years after you're
21 released from federal prison. Okay. That was the federal
22 court's order. I couldn't do nothing with the order.

23 So I got sent right back down the road. I went to
24 Kentucky this time. I tried to get some treatment while I
25 was in. They didn't offer the kind of treatment that was

1 required by the judge. They said I had two years supervised
2 release, so I could get it when I get out.

3 So I filed a petition to the court explaining to the
4 court, well, Your Honor, three years plus two years in
5 regular arithmetic equals five. According to the statute
6 for which you sentenced me under, you could only have given
7 me three years. What I need you to do is please reduce the
8 time that I have to serve incarcerated that I may be able to
9 do some of the time on treatment and counseling. Well, at
10 that time Mr. Richardson's here supervisor, Mr. W. Walter
11 Wilkins, was U.S. Attorney. He was over the U.S. Attorney's
12 Office at that time. He's their supervisor here now. He's
13 the South Carolina lead attorney general for the Thirteenth
14 Judicial Circuit over here in Greenville. He's over here
15 now. He was in the federal process then. He was a U.S.
16 Attorney then. But he argued against that and said, let him
17 do the three years. His administration. I'm not saying him
18 directly. His administration, his underlings which he
19 employed, they argued that I should do the whole three
20 years. So that's when I got out November the 18th, 2011.

21 So now, because the U.S. probation officer didn't give
22 me the treatment because he felt I didn't need it, the judge
23 sentenced me back to prison and gave me the treatment for
24 the two years for when I get released. But come to find
25 out, that sentence was illegal. She didn't know the

1 sentencing structure. She didn't know she couldn't give me
2 five years at the time she gave me the sentence. So rather
3 than her reduce the prison time to make sure I get the
4 treatment, she gave me the maximum prison time and took away
5 the treatment. So then I get out November the 18th, 2011,
6 after doing almost twenty years in prison, you know, no job,
7 no residence. I mean, it's difficult for everyday people
8 out there that don't have convictions. Very difficult.

9 I just want you all to imagine for a minute what it
10 would be like after serving continuously almost twenty years
11 where society has passed you by that far. Technology has --
12 you can't even fill out an application no more by a pen.
13 They want you on a computer. I mean, it was so much of a
14 change. And like I say, once you go back to, once you go
15 back to -- I mean, yeah, there may have been things that
16 could have been done differently, looking at it from
17 hindsight. What I did was wrong, going in the bank looking
18 for money to get, you know, to get what I was craving. But
19 the doctors describe that as irresistible impulse. They
20 said, it caters to your mental stability. It's a mental
21 disease. You're incapable of functioning right. I mean,
22 Congress heard these testimonies about this cocaine
23 epidemic. Congress heard testimony from law enforcement,
24 from scientists. I think one of the lead officials was Dr.
25 Lauren Vocauf (phonics). She works for the CDC, I think,

1 down in Atlanta. She deals with all kind of drugs and
2 narcotics and all kind of diseases. And she said, cocaine,
3 by far, is the most -- one of the most addictive drugs ---

4 MR. RICHARDSON: Your Honor, at this time, I'm
5 sorry, I'm going to object. I've sat here and listened to
6 this. This is non-responsive.

7 THE COURT: You can't testify to what other
8 people said, Mr. Missouri. That's hearsay.

9 THE DEFENDANT: Okay. I mean, I'm not trying to
10 break the rules, Your Honor. I'm just trying to state, you
11 know, the facts.

12 THE COURT: You cannot testify to what other
13 people have said.

14 THE DEFENDANT: All right.

15 A. But I mean, all in all, I didn't elect -- I mean, they
16 gave me an offer. They gave me an offer on the table. I
17 didn't accept it because it doesn't change nothing. Going
18 down the road to prison -- and I'll still probably go down
19 the road to prison. But I'd rather go down the road to
20 prison knowing I've preserved my rights to challenge this as
21 opposed to going down there waiving my rights when it's
22 wrong. Not to say the law is wrong. The law is put in
23 place for us to abide by. We couldn't live in a
24 civilization without laws, structures, to -- in order for
25 the human life -- we couldn't do without that. But when

1 they're applied in the wrong way, we're saying that money is
2 allotted for tax dollars to do this, to help society to get
3 over this. But yet society turns and buys prison beds. And
4 then we say, why is the crime rate so high? Why is the
5 crime rate so high? Why am I afraid to walk of the house?
6 Why am I afraid to get out of my car? What are you doing?
7 What are you doing, South Carolina? What are you doing to
8 prevent crime? Locking people up, caging them in there like
9 animals. That's -- you're creating criminals. You're
10 creating it. You're not helping the situation. That
11 doesn't help anything. The only way you can fix the problem
12 is fix the people that has the problem. That's the only way
13 we're going to do that.

14 THE COURT: All right. Mr. Angell, let's ask any
15 questions you want to ask.

16 Q. Mr. Missouri, anything else you want to finish and
17 tell the jury today?

18 A. Well, I mean, I mean, like I said, the evidence is
19 overwhelming. Hats off to Mr. Richardson. You did an
20 excellent job. I don't know no prosecutor that could have
21 did better, you know. Everything was there. Except my
22 defense. I didn't have a defense in this case. I wasn't --
23 not that I didn't want to put on one. I wanted to have the
24 federal witnesses here. I wanted to have what Mr. -- what
25 Your Honor just said I couldn't testify to. Those facts are

1 available. You all would have been able to read those facts
2 and determine, not by what I'm saying, but determine by what
3 is actually real. What is really going on in our society.
4 You would have been able to base your verdict on real facts.

5 Like I say, when a car is running by, you might think
6 you've got the fastest car in the world until it's up
7 against a car that runs faster. The evidence that he put up
8 might be the best evidence in the world unless you had seen
9 the defense that I wanted to put up. But like I said, I
10 don't know, we haven't got to that point where, I guess, you
11 know, the courts are ready to accept that, you know, and so
12 I was prevented from doing it.

13 But you are the jurors in the case. You are the jurors
14 and the finders of the facts. So you have the right --
15 you're not under the authority of this court. You're not
16 under the authority of the state. The jury is comprised
17 within the constitution itself. That's why it's separate
18 where we will have somebody else determine our guilt, aside
19 from you working for the prosecutor. You don't owe Mr.
20 Douglas (verbatim) no obligation to find me guilty. And you
21 can acquit for any reason. You don't have to find me guilty
22 based on his evidence. The jury did such a thing that's
23 called jury nullification for any reason in the world that
24 you might want to say not guilty, y'all have that right.
25 And you cannot be intimidated by the judge, nor Mr.

1 Richardson. Y'all have that right. Y'all have to know your
2 powers in order to be able to exercise them. That is the
3 power of the jury. You're not under state government.
4 You're not under the courts. You're not under the judicial
5 branch. The jury is created separately from the
6 establishment of our jury trial rights. That's why we elect
7 to have a jury to find us guilty as opposed to any other
8 entity. That is your power. For whatever reason that I may
9 have given you, you can say I'm guilty.

10 THE COURT: Mr. Missouri, I will instruct the jury
11 on the law of the state of South Carolina as it applies to
12 this case.

13 Do you have any other questions you want to ask this
14 witness?

15 MR. ANGELL: No further questions, Your Honor.

16 THE COURT: Anything from the state?

17 MR. RICHARDSON: No questions, Your Honor.

18 THE COURT: All right. Thank you, sir. You may
19 step down.

20 THE DEFENDANT: Thank you for listening.

21 THE COURT: Anything further from the defendant?

22 MR. ANGELL: Nothing further, Your Honor. Defense
23 rests.

24 THE COURT: Anything in reply from the state?

25 MR. RICHARDSON: Nothing in reply, Your Honor.

1 THE COURT: All right. Ladies and gentlemen,
2 we're at the phase of the trial where I'm going to let the
3 lawyers make their closing arguments. In fact, the state
4 would be entitled to two of them. They're allowed to open
5 -- I mean, to make a statement on the law and then reply and
6 make a statement after the defendant.

7 Before we do that, I need to take up some matters with
8 these attorneys. I'm going to let y'all step back to the
9 jury room. I'm going to ask you not to discuss the case,
10 but to do one thing for me, and that is to select a
11 foreperson of the jury, if you would, while you're back
12 there. If you'll let the bailiff know, he'll let the court
13 know who it is. And I'll bring you back in about five or
14 ten minutes and we'll go forward with the closing arguments.
15 But don't discuss anything other than selecting a
16 foreperson. Thank y'all.

17 (WHEREUPON, the jury exited the open court at
18 approximately 10:09 a.m.)

19 THE COURT: All right. Does anybody have any
20 charges they want me to look at?

21 MR. ANGELL: Your Honor, we looked at the common
22 law robbery charge this morning and it looked good to us.

23 MR. RICHARDSON: Your Honor, the only request I
24 would have is that there be a charge that intoxication ---

25 THE COURT: Let me tell you what I'm going to

1 charge them.

2 MR. RICHARDSON: Okay.

3 THE COURT: I'm going to charge circumstantial
4 evidence. I'm going to charge the statement of the
5 defendant. I'm going to charge -- the prior record of the
6 defendant, the defendant got up and testified about his
7 having been convicted. So I'll charge that, even though
8 y'all didn't ask to impeach him. I'm going to charge
9 identification. I intend to charge the statute for the
10 three offenses charged. And I intend to charge that
11 voluntary intoxication is not an excuse or a defense to a
12 crime.

13 MR. RICHARDSON: That suffices, Your Honor.

14 THE COURT: Do y'all have anything else you want
15 me to consider in this regard?

16 MR. RICHARDSON: Your Honor, can I talk to the
17 defense counsel real quick?

18 THE COURT: Sure. We'll take about five minutes.
19 Did you want to say something?

20 MR. ANGELL: Judge, I did want to make a motion
21 for a directed verdict at this point.

22 THE COURT: All right.

23 MR. ANGELL: In light of all the evidence
24 presented, we ask that you dismiss all three charges as the
25 state has failed to bring -- we contend the state has failed

1 to provide enough evidence to convict my client at this
2 point. That's the motion.

3 THE COURT: All right. Anything y'all want to
4 say?

5 MR. RICHARDSON: Your Honor, the evidence, you've
6 seen the evidence presented. And I believe in the light
7 most favorable to the state, which is standard, that
8 directed verdict is not proper in this case.

9 THE COURT: All right. I'm going to deny your
10 motion. The standard is taking everything most -- in the
11 light most favorable to the state, which would be the non-
12 moving party, is there any direct evidence or any
13 substantial circumstantial evidence. Clearly, your client
14 has acknowledged himself that he committed these offenses.
15 He believes he has a defense by virtue of his suffering a
16 severe addiction situation, but there is clearly evidence.
17 The police testified he was identified as the one that come
18 into the bank asking for the money. He's admitted that. He
19 was identified as the person that was seeking to run from
20 the police in the vehicle and got out and the police -- was
21 apprehended at the scene where the truck was stopped. So
22 whether there's sufficient evidence to convict, you know,
23 that's up to the jury. That's my ideas about that, but
24 there is some evidence and that's all there has to be.

25 All right. We'll take about five minutes, let y'all

1 catch your thoughts and then come back and continue.

2 (WHEREUPON, the court stood at recess for a short
3 break.)

4 THE COURT: All right. Ladies and gentlemen, we
5 need to get Mr. Missouri. What did you do with him, Mr.
6 Angell? Oh, okay, he's in here.

7 Lake Jameson has been selected as foreperson of the
8 jury, just for y'all's information.

9 All right. Y'all ready to go?

10 MR. RICHARDSON: State's ready, Your Honor.

11 THE COURT: You ready to go?

12 MR. ANGELL: We're ready, Your Honor.

13 THE COURT: All right. Thank you. Bring the jury
14 in, please, sir.

15 (WHEREUPON, the jury entered the open court at
16 approximately 10:20 a.m.)

17 THE COURT: All right. Ladies and gentlemen,
18 thank you very much. And Doctor, thank you for agreeing to
19 serve as foreperson. I appreciate y'all doing that. So
20 with that said, I'll call on Mr. Angell. You ready to
21 proceed, please, sir?

22 MR. ANGELL: Ready, Your Honor.

23 THE COURT: All right. If you would.

24 MR. ANGELL: Thank you, Your Honor, may it please
25 the court.

1 THE COURT: Yes, sir.

2 CLOSING ARGUMENT

3 BY MR. ANGELL:

4 Ladies and gentlemen of the jury, you just heard my
5 client get on the stand and testify to what he testified to.
6 But I will remind you, from the ten witnesses called
7 yesterday, seven officers, two bank tellers and one co-
8 defendant, the evidence did reveal that my client never
9 threatened Rachel White, never intimidated her. He was not
10 armed. Never told her he was going to hurt her. And he's
11 charged with strong armed robbery, and the state has the
12 burden of proving beyond a reasonable doubt all elements for
13 each and every crime; failure to stop, entering the bank
14 with intent to steal and strong armed robbery.

15 And my client, as you heard Ms. White yesterday testify
16 to, is five six, bald and black. He's not particularly
17 tall. He's not particularly big. He doesn't have a
18 threatening countenance on him. Nobody was hurt or injured
19 in this incident.

20 And so I'm asking you to hold the state to prove beyond
21 a reasonable doubt that Ms. White was threatened or coerced
22 or intimidated. The only thing that my client did, and
23 admitted to having done, was put this note on the counter
24 and grab a bag and give it to the teller. And he didn't
25 wield a knife, didn't wield a gun or any other thing that

1 looks threatening. And y'all are going to have all this
2 evidence when you go back to your deliberation. You're
3 going to be able to review it. But the state can't get
4 around the fact that the teller was never threatened, was
5 never coerced, was never intimidated.

6 And I ask that you return a verdict of not guilty on
7 strong armed robbery for my client. Thank you.

8 THE COURT: All right. Mr. Solicitor.

9 MR. RICHARDSON: Thank you, Your Honor, please the
10 court.

11 **CLOSING ARGUMENT**

12 **BY MR. RICHARDSON:**

13 Ladies and gentlemen, I told you at the beginning of
14 this case I was going to put together the pieces of the
15 puzzle so you'd have a picture. Ultimately the picture is
16 there. You know the evidence. I'm not going to rehash all
17 this evidence. You've seen it. You've heard the defendant
18 admit it on the stand.

19 In response to what defense counsel just came up here
20 and told you regarding intimidation, I would remind you
21 that, first, the note states: I know who you are. And
22 you're a bank teller, you're sitting there -- Ms. White's
23 sitting there and she gets this note and it says: I know
24 who you are. At some point in time, if you recall, she
25 testified that she hits the alarm. At the time she hits the

1 alarm, the defendant says: Oh, now you've done it. You
2 also heard her testify that she was scared. She was scared
3 to turn around and get a bag. She was afraid she was going
4 to get shot because the defendant kept going to his pants.

5 The whole circumstance we have to take is what a
6 reasonable person would believe. And is a reasonable person
7 intimidated by the actions of the defendant. The fact that
8 he didn't say, I'm going to kill you or anything of that
9 nature, is not what pertains. Was she intimidated? Would a
10 reasonable person be intimidated in getting this note at the
11 time when she was the only teller up there and those
12 statements being made? And you saw her on the video. You
13 saw her reaction when she came out and she locked the door.
14 And you saw her when she came up and the look on her face.
15 Was she intimidated? Was she scared? Ladies and gentlemen,
16 I don't believe that's a question.

17 You've heard testimony about the defendant's drug use
18 and that type thing. I will tell you, and the judge is
19 going to instruct you, that in the state of South Carolina
20 intoxication is not a defense. Addiction is not a defense.
21 These things he got up and spoke to you about are not
22 defenses. You were sworn to try this case under the facts
23 and the evidence that was presented to you and those facts
24 and evidence that I put in there. And if you look at those
25 facts and evidence, once again that puzzle is there, that

1 picture is there, and the defendant is guilty of all three
2 offenses.

3 Thank you.

4 **CHARGE**

5 **BY THE COURT:**

6 All right. Ladies and gentlemen, the indictments in
7 this case charge the defendant with three offenses; strong
8 armed robbery, entering a bank with intent to steal and
9 failure to stop for a blue light.

10 I remind you that the fact that the defendant was
11 arrested, charged and indicted in this case is not evidence
12 in the case and cannot be considered by you as evidence of
13 guilt. Nor does it create any presumption or inference of
14 guilt. Those documents are simply the formal written
15 instruments which contain the charges made against the
16 defendant. They are the formal documents by which this case
17 is brought into this court.

18 Now, as I told you again, the indictments in this case
19 allege several different offenses against the defendant.
20 Those are strong armed robbery, entering a bank with intent
21 to steal and failure to stop for a blue light. Each
22 indictment charges a separate and distinct offense. You
23 must decide each indictment separately on the evidence and
24 the law applicable to the indictment, uninfluenced by your
25 decision as to the other indictments. The defendant may be

1 convicted or acquitted on any or all of the offenses
2 charged. You will be asked to write a separate verdict of
3 guilty or not guilty for each indictment.

4 Now, to the indictments the defendant has entered pleas
5 of not guilty, which places upon the state the burden of
6 proving the defendant guilty. A person charged with
7 committing a criminal offense in South Carolina is never
8 required to prove himself innocent. I charge you that it is
9 a vital, important rule of the law of evidence that the
10 defendant in a criminal case, no matter how or serious may
11 be the offense for which he is charged, must always be
12 presumed to be innocent, until his guilt has been proven
13 beyond a reasonable doubt. This presumption of innocence
14 remains with the defendant at all times, from the moment of
15 his appearance in this court throughout the trial and until
16 the jury has, upon the testimony and the evidence presented,
17 reached a verdict of guilty beyond a reasonable doubt. For
18 it is the solemn duty of the jury, if not clearly convinced
19 of his guilt beyond a reasonable doubt, to acquit the
20 defendant. So the burden of proof is upon the state to
21 establish, by evidence to your satisfaction, the guilt
22 beyond a reasonable doubt of this defendant here on trial
23 for the charge of strong armed robbery, entering a bank to
24 steal and failure to stop for a blue light.

25 Now, what is a reasonable doubt? A reasonable doubt is

1 the kind of doubt that would cause a reasonable person to
2 hesitate to act. If you have such a doubt as to the guilt
3 of the defendant, then he would be entitled to a verdict of
4 not guilty. Proof beyond a reasonable doubt is proof that
5 leaves you firmly convinced of the defendant's guilt.
6 Reasonable doubt may arise from evidence which is in the
7 case or from the absence or lack of evidence in the case.
8 If you think that a defendant is probably guilty or the
9 circumstances are suspicious is not enough.

10 Now, there are two types of evidence which are
11 generally presented during a trial; direct evidence and
12 circumstantial evidence. Direct evidence directly proves
13 the existence of a fact and does not require deductions.
14 Circumstantial evidence is proof of a chain of facts and
15 circumstances indicating the existence of a fact. Crimes
16 may be proven by circumstantial evidence. The law makes no
17 distinction between the weight or value to be given either
18 direct or circumstantial evidence. However, to the extent
19 the state relies on circumstantial evidence, all the
20 circumstances must be consistent with each other, and when
21 taken together, point conclusively to the guilt of the
22 accused beyond a reasonable doubt. If these circumstances
23 merely portray the defendant's behavior as suspicious, the
24 proof has failed. The state has the burden of proving the
25 defendant guilty beyond a reasonable doubt, but this burden

1 rests with the state, regardless of whether the state relies
2 on direct evidence or circumstantial evidence or a
3 combination of the two.

4 Now, Mr. Foreman, ladies and gentlemen of the jury,
5 under our constitution and code of laws, you are the finders
6 of the facts in this case. I do not have the right to pass
7 upon the facts or even to express any opinion I may have as
8 to those facts. Nor may I intimate in anyway what I may
9 think about the guilt or the innocence of a defendant. You
10 are also the judges of the credibility. And by that I mean
11 the believability of the witnesses who have testified in
12 this case. In passing upon their credibility, you may take
13 into consideration many things, such as the demeanor and the
14 manner of the testifying person. Whether the witness had
15 reason to be biased or prejudiced. You can consider whether
16 a witness's testimony was contradicted on the one hand or
17 supported and corroborated on the other hand. You certainly
18 do not determine the credibility or believability by
19 counting the number of witnesses who may have testified for
20 either side. You may believe a small portion of a witness's
21 testimony and disregard the larger, or vice versa. You may
22 believe one witness against many or many against one.

23 Now, ladies and gentlemen, a statement alleged to have
24 been made by the defendant has been admitted into evidence
25 in this case. While the court has determined that the

1 statement is admissible, I instruct you that you make the
2 ultimate decision of whether or not the defendant made the
3 statement. If the defendant did make the statement, you
4 must determine whether the statement was made by the
5 defendant voluntarily and of his own free will. This means
6 that the statement was not caused by pressure, force, fear,
7 threats, coercion or intimidation or by hope of a promise of
8 leniency or reward of any kind. In determining whether the
9 statement was voluntary, you should consider both the
10 characteristics of the defendant and the details of the
11 questioning. Some of the factors that you must consider are
12 the age of the defendant, the defendant's education or lack
13 of education, the defendant's mental ability or capacity,
14 the defendant's IQ or intelligence, the defendant's
15 background and environment, the place and length of the
16 detention, the nature of the questions and the advice, or
17 lack thereof, to the defendant of his constitutional rights,
18 including but not limited to, the right to remain silent,
19 that any statement could be used against him in court, the
20 right to have a lawyer present, that if he could not afford
21 a lawyer, a lawyer would be appointed to represent him
22 without any cost and that he could stop making a statement
23 at any time. You must carefully consider all of the
24 surrounding circumstances before you give any weight to the
25 alleged statement. The state has the burden of proving

1 beyond a reasonable doubt that the alleged statement was
2 voluntary. If you determine it was, you may give the
3 statement any further consideration that you deem proper.
4 You must decide what weight, if any, should be given to the
5 statement. If you determine the alleged statement was not
6 free and voluntary by the defendant, you should not consider
7 the statement at all.

8 Now, an issue in this case is the identification of the
9 defendant as the person who committed the crime. The state
10 has the burden of proving the identity beyond a reasonable
11 doubt. You must be satisfied beyond a reasonable doubt of
12 the accuracy of any identification of the defendant before
13 you may convict the defendant. Identification testimony is
14 an expression of believe or impression by a witness. You
15 must determine the accuracy of the identification of the
16 defendant. You must consider the believability of each
17 identification witness in the same way as any other witness.
18 You may consider whether the witness had an adequate
19 opportunity to observe the offender at the time of the
20 offense. You will be affected by things like how long or
21 short a time was available, how far or close the witness
22 was, the lighting conditions and whether the witness had the
23 chance to see or know the person in the past. Once again, I
24 instruct you that the burden of proof on the state extends
25 to every element of the crime charged and this specifically

1 includes the burden of proving beyond a reasonable doubt the
2 identity of the defendant as the person who committed the
3 crime. If, after examining the testimony, you have a
4 reasonable doubt as to the accuracy of the identification,
5 you must find the defendant not guilty.

6 Now, you've heard evidence that the defendant was
7 convicted of a crime other than the one for which -- the
8 ones for which the defendant is now on trial. This evidence
9 may be considered by you if you conclude it to be true only
10 in deciding whether the defendant's testimony is believable,
11 and for no other purpose. You must not consider the
12 defendant's prior record as any evidence of the defendant's
13 guilt of the charges we are trying today. All of these
14 things you will consider, bearing in mind that you should
15 give the defendant the benefit of a reasonable doubt.

16 Now, the same constitution and laws which make you the
17 finders of facts and the evidence, as I discussed with you,
18 make me the sole and only instructor of the law. You must
19 accept as correct the law which I charge and apply it to the
20 evidence as you find it and reach your verdict.

21 And finally I charge you in this regard, that you, nor
22 should I, be concerned about what we think the law ought to
23 be or what we wish the law were, but rather what I charge
24 you the law to be.

25 Now, ladies and gentlemen, the defendant is charged

1 with the offense of entering a bank or depository or a
2 building and loan association with the intent to steal. In
3 South Carolina it is unlawful for a person to enter a
4 building or part of a building occupied as a bank,
5 depository, or building and loan association with the intent
6 to steal money, securities for money or property, either by
7 force, intimidation or threat. So the state must prove
8 beyond a reasonable doubt that the defendant entered a
9 building or part of a building occupied by a bank,
10 depository or building and loan association, with the intent
11 to steal either money, securities for money or property,
12 either by force, intimidation or threats.

13 The defendant is also charged with strong armed
14 robbery. In order to prove this offense, the state must
15 prove beyond a reasonable doubt that the defendant took
16 personal property from the person or presence of another
17 person. Property is in the presence of a person if it is
18 within the person's reach, inspection, observation or
19 control, so that the person could, if not overcome by
20 violence or intimidation or prevented by fear, keep
21 possession of the property. The defendant -- state must
22 also prove beyond a reasonable doubt that the defendant
23 carried the property away intending to permanently deprive
24 the owner of the property and keep the property for the
25 defendant's own use. The slightest removal of the property

1 or the complete possession of the property, even for an
2 instance, by the defendant is sufficient to show a taking
3 and carrying away of the property. Strong armed robbery is
4 the taking of something of value from a person in the
5 immediate presence of a person by violence or intimidation.
6 In determining whether the robbery was committed with
7 intimidation, you should determine whether or an ordinary
8 and reasonable person in the victim's position would feel a
9 threat of bodily harm from the perpetrator's act.

10 The lastly, ladies and gentlemen, the defendant has
11 been charged with failing to stop for a blue light. In
12 order to prove this crime, the state must prove beyond a
13 reasonable doubt that the defendant was driving a motor
14 vehicle. That the defendant was driving a vehicle on a
15 road, street or highway of the state, that the defendant was
16 signaled to stop by a law enforcement vehicle by means of a
17 siren or flashing light and that the defendant did not stop.
18 To determine whether or not there are mitigating
19 circumstances which would justify the defendant's failure to
20 stop for a blue light, you may consider the actual road
21 conditions, the actual roadside conditions, other conditions
22 such as lighting and weather, the officer, driver and/or
23 passenger safety or any other circumstances you believe to
24 be reasonably able to mitigate the alleged violation. An
25 official signal requiring a motorist to stop may be a siren

1 or flashing lights, but both are not required. Any attempt
2 to increase the speed of a vehicle or in some other manner
3 avoid the pursuing law enforcement vehicle when signaled by a
4 siren or flashing light may be considered as evidence of
5 failure to stop for a blue light. However, it is merely an
6 evidentiary fact to be taken into consideration by you,
7 along with the other evidence introduced in the case, and to
8 be given the weight that you decide it should receive.

9 Now, ladies and gentlemen, I charge you that voluntary
10 intoxication by alcohol or drugs is never an excuse or a
11 defense to a crime. A person who voluntarily renders
12 himself intoxicated is no less responsible for his acts
13 while in such condition. A voluntarily -- a person who
14 voluntarily drinks intoxicating liquors or ingests drugs and
15 becomes intoxicated and while in that condition commits an
16 act which would be a crime if it had been committed by a
17 sober person, the fact of drunkenness or being under the
18 influence of the drugs would not relieve the intoxicated
19 person from responsibility. Voluntary intoxication is not
20 an excuse for or a defense to a crime. This rule also
21 extends to voluntarily ingesting drugs.

22 Mr. Foreman and ladies and gentlemen of the jury, you
23 have been selected as fair and impartial jurors, sworn to
24 impartially try and determine the facts of the case. And
25 when you comply with your oath to do so, then no one will

1 have a right to criticize your verdict and you will have
2 fully discharged your duty as jurors. You are to decide
3 this case according to the testimony that you've heard from
4 the sworn witnesses, along with other evidence introduced.
5 I charge you that as jurors, you must decide the issues in
6 this proceeding, without bias and without prejudice to
7 either party. You cannot allow yourselves to be governed by
8 sympathy, by prejudice, by passion, by public opinion or by
9 any other arbitrary fact. Both the state and the defendant
10 have the right to expect that each of you will carefully and
11 impartially consider all the evidence in this case and you
12 will follow the law as I have explained it to you.

13 Mr. Foreman, I have prepared three verdict forms; one
14 for each indictment in the case. One is for entering the
15 bank with intent to steal. One is for strong armed robbery.
16 And one is for failure to stop for a blue light. On each
17 one of these verdict forms there are two possible verdicts
18 that you can reach. You should not infer anything by what
19 goes first and what goes second on the verdict form as to
20 the verdict you should reach. Something has to go first and
21 something has to go second. Those two possible verdicts
22 are: We the jury unanimously find the defendant guilty; or
23 we the jury unanimously find the defendant not guilty. As
24 this verdict form says, it has to be the unanimous verdict
25 of all twelve jurors with respect to each of the charges.

1 It cannot be eleven/one or nine/three or seven/five. It has
2 to be the unanimous verdict of all twelve jurors.

3 Mr. Foreman, what I'm going to ask you to do, when you
4 have reached a verdict as to each of the respective charges,
5 I'm going to ask you to circle that verdict completely, the
6 whole verdict, whatever it is, and I'm going to ask you to
7 sign the verdict form as the foreperson and date the verdict
8 form. When you have reached a verdict with respect to all
9 three of the charges, if you will ... How do y'all let them
10 know, Mr. Clerk? Knock on the door or ---

11 THE CLERK: Knock on the door.

12 THE COURT: --- just knock on the door. There
13 will be a bailiff seated outside. Somebody advise the
14 bailiff that y'all have reached a verdict of all three
15 charges and we will bring you back so that your verdicts can
16 be published here in the courtroom.

17 Now, in just a moment I'm going to ask all of you but
18 the -- I mean, the alternate, if you would remain with me --
19 all of you step back to the jury room, but do not begin your
20 deliberations when you get back to the jury room. I have to
21 review with the attorneys the instructions that I have just
22 given you. If they believe that I either failed to instruct
23 you in some manner or I incorrectly instructed you, and I
24 agree with them, I will bring you back and give you whatever
25 additional instructions are necessary. If no additional

1 instructions are necessary, I will have these verdict forms,
2 along with all the exhibits that have been introduced in
3 this case, brought to the jury room. When you receive those
4 you can begin your deliberations.

5 All right. If y'all would step back to the jury room.
6 Do not begin your deliberations. We will be with you
7 momentarily.

8 (WHEREUPON, the jury exited the open court at
9 approximately 10:44 a.m.)

10 THE COURT: All right. Madam Alternate, your
11 colleagues all survived the process, so I'm going to be able
12 to turn you loose. I thank you very much for your service.
13 I don't know how you feel about it -- you've been here for
14 two days -- whether you want to be back there and be able to
15 participate, or you're relieved you don't have to. We're
16 going to turn you loose. What I am going to ask you to do
17 is call back tonight after six. Is that right, Mr. Clerk?

18 THE CLERK: Yes, sir.

19 THE COURT: If you will call back after six, there
20 are some other cases that are pending. And we will know
21 later on today what the status of those cases are. We may
22 ask you to come back in tomorrow or call back again or do
23 something in that regard. But we can turn you loose at this
24 time. And again, I thank you for your service. Hope you
25 have a nice afternoon.

1 THE JUROR: You, too.

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

3 All right. Anything from the state with respect to the
4 instructions?

5 MR. RICHARDSON: No exceptions or objections,
6 Judge.

7 THE COURT: Anything from the defendant?

8 MR. ANGELL: Nothing from the defendant.

9 THE COURT: All right. If y'all will get with our
10 court reporter and make sure we've got all the exhibits.

11 (WHEREUPON, all admitted exhibits and the verdict forms
12 were delivered to the jury, at which time deliberations
13 began at approximately 10:48 a.m.)

14 THE COURT: All right. We will stand in recess
15 until we've got a verdict.

16 Mr. Richardson, I don't know if y'all have got anything
17 else y'all want us to do today.

18 MR. RICHARDSON: I don't think there's anything,
19 Your Honor.

20 (WHEREUPON, the court stood at recess awaiting the
21 verdict of the jury.)

22 THE COURT: All right. Mr. Solicitor, it's been
23 reported that the jury has reached a verdict. Is the state
24 ready to receive the verdict?

25 MR. RICHARDSON: The state's ready, Your Honor.

1 THE COURT: Thank you. Defendant ready to receive
2 the verdict?

3 MR. ANGELL: Yes, sir, Your Honor.

4 THE COURT: All right. If you could, bring the
5 jury in, please.

6 (WHEREUPON, the jury entered the open court at
7 approximately 11:17 a.m.)

8 THE COURT: All right. Mr. Foreman, it's been
9 reported that the jury has reached a verdict?

10 MR. FOREMAN: Yes, we have, Your Honor.

11 THE COURT: It's a unanimous verdict on all three
12 charges?

13 MR. FOREMAN: Yes, it is, Your Honor.

14 THE COURT: If you would hand the verdict form to
15 the bailiff, please, sir, Mr. Foreman.

16 THE CLERK: This is the State versus Vincent
17 Missouri, indictment 2012-GS-39-2203, entering a bank with
18 intent to steal. We, the jury, unanimously find the
19 defendant guilty.

20 This is indictment 2012-GS-39-2242, strong armed
21 robbery. We, the jury, unanimously find the defendant
22 guilty.

23 This is indictment 2012-GS-39-2204, failure to stop for
24 a blue light. We, the jury, unanimously find the defendant
25 guilty.

1 Is this your verdict and still your verdict, so say you
2 all by raising your right hand?

3 (WHEREUPON, all jurors raised their right hands.)

4 THE CLERK: Thank you very much.

5 THE COURT: All right. Anything from the state
6 with respect to the jury?

7 MR. RICHARDSON: Nothing further, Your Honor.

8 THE COURT: Anything from the defendant?

9 MR. ANGELL: Nothing with respect to the jury,
10 Your Honor.

11 THE COURT: All right. Mr. Foreman, ladies and
12 gentlemen, I want to thank you very much for your service in
13 this case. What I'm going to tell you is we're going to let
14 you go for the afternoon, but unfortunately we're going to
15 have to ask you to call back tonight after six and you will
16 get further instructions at that time whether there's going
17 to be a case tomorrow or Thursday. I can't speak to that at
18 this time. I know the state has a docket and we'll have to
19 see how things unfold later on today.

20 But I do thank you for your service. Y'all are free to
21 go at this time. And with respect to this case, you don't
22 have to talk to anybody about it if you don't want to. I
23 would suggest you don't do anything about discussing the
24 case until after your service is over at the end of the week
25 and then you can make a decision as to whether you ever want

1 to talk to anybody about it or not. By that I mean, in case
2 anybody makes an inquiry of you, you certainly can talk with
3 family and friends, things of that nature.

4 All right. Y'all have a nice afternoon. Thank you,
5 again. Call back tonight after six o'clock, if you would.

6 (WHEREUPON, the jury exited the open court at
7 approximately 11:20 a.m.)

8 THE COURT: All right. Are y'all ready? Anything
9 from anybody?

10 MR. ANGELL: Thank you, Your Honor, may it please
11 the court. I would like to, at this point, give our notice
12 of intent to appeal.

13 THE COURT: I think you've got to wait until he's
14 been sentenced.

15 MR. ANGELL: That's true. Sorry, Judge. I'm
16 jumping the gun.

17 THE COURT: You don't need to notice me. You're
18 going to have to ---

19 MR. ANGELL: Motion for a new trial, Judge.

20 THE COURT: All right. You're making a motion for
21 a new trial?

22 MR. ANGELL: Yes, sir.

23 THE COURT: Anything you want to tell me about it?

24 MR. ANGELL: Well, Judge, my client is making a
25 motion based on his ---

1 THE COURT: You're making the motion on your
2 client's behalf.

3 MR. ANGELL: The motion is based on involuntary
4 intoxication. He wants to represent himself pro se.

5 THE COURT: Say that again.

6 MR. ANGELL: Involuntary intoxication and pro se
7 representation is what my client is basing his motion on for
8 a new trial.

9 THE COURT: Well, he had the opportunity to
10 request that he be allowed to represent himself and he
11 declined to do so. I informed him the court was willing to
12 consider it and if he met the criteria that I would allow
13 him to do so and he just needed to make a motion. If he
14 wasn't going to make a motion, I can't do it for him. He
15 declined to do that. But he can address this in anyway he
16 wants in the future. In terms of voluntary intoxication,
17 he's addicted to drugs and therefore can't control himself
18 and should we give him some special treatment is not a
19 defense in South Carolina. If we did, everybody who's ever
20 used drugs would be claiming they used drugs before I did
21 whatever I did. So your motion is denied.

22 Do we have the sentencing sheets?

23 MR. RICHARDSON: I gave them to defense counsel.

24 THE COURT: If you and your client would step up
25 here.

1 The bank robbery charge is eighty-five percent; isn't
2 it?

3 MR. RICHARDSON: Yes, sir.

4 THE DEFENDANT: I've never seen the indictment for
5 that charge.

6 THE COURT: Sir?

7 THE CLERK: I showed him the indictment for the
8 strong armed robbery. He's not signing the sentencing sheet
9 on this.

10 THE COURT: This is a lesser included of the armed
11 robbery charge.

12 THE DEFENDANT: Doesn't he have to amend it in the
13 presence of the grand jury or is he free to ---

14 THE COURT: I can't advised on that.

15 THE DEFENDANT: Right. That's what I'm saying, if
16 it's amended outside the presence of the ---

17 THE COURT: Strong armed robbery is not -- you
18 know, he can deal with that. It's a lesser included of
19 armed robbery. They went forward on the lesser of the
20 charge, strong armed robbery, which carries up to fifteen
21 years. If it's not proper, you can handle that on any
22 appeal you want, as well.

23 THE DEFENDANT: Okay, sir, but ---

24 THE COURT: Your problem, Mr. Missouri, is you're
25 looking at a thirty year sentence of which you've got to

1 serve eighty-five percent. You're also looking at two
2 charges over in Greenville County, which the state may elect
3 to try and seek life without parole against you. Up to this
4 moment, I do not understand why you didn't consider the fact
5 that you're -- the plea offer that your attorney indicated
6 to me that was made to you at some point in time.

7 THE DEFENDANT: I considered it, Your Honor. I
8 considered it. But it was due to the fact that, I mean, for
9 me to have considered it and the work I had put into the
10 case, I mean, like ---

11 THE COURT: You got up and testified you had no
12 defense other than you are addicted to cocaine.

13 THE DEFENDANT: Well, I had the defense that dealt
14 with federal studies and witnesses to be called ---

15 THE COURT: You had no defense other than you are
16 addicted to cocaine and couldn't control yourself.

17 THE DEFENDANT: Involuntary use, yes, sir.

18 THE COURT: All right. That was your sole
19 defense. And that's not a defense in South Carolina.

20 THE DEFENDANT: Involuntary is. But it's not --
21 just regular voluntary intoxication isn't, you're right.
22 But involuntary addiction that's brought on by long term use
23 of a drug ---

24 THE COURT: Well, you rolled your dice and took
25 your chances and unfortunately you didn't get the results

1 you were hoping for. And you've got to -- as you say, there
2 are consequences. You'll have all the appellate processes
3 you want in the future and we'll see what happens.

4 Anything the state wants to tell me? Do you have the
5 sentencing sheets?

6 MR. RICHARDSON: Your Honor, were they handed up?

7 THE COURT: He doesn't need to sign the sentencing
8 sheets. He's been tried and convicted.

9 All right. Anything y'all want to tell me?

10 MR. RICHARDSON: Your Honor, just to let you know,
11 his prior record goes back to 1982 where he had a
12 shoplifting; 1985, assault and battery; 1986, receiving
13 stolen goods; 1989, a fraudulent check; 1989, also receiving
14 stolen goods; 1991, prowling; 1992, a strong armed robbery;
15 1993, escape; also in 1993, a distribution of crack. As you
16 heard previously, in 2012, he pled to a possession of crack
17 cocaine. In 2001, he pled to a federal bank robbery. He
18 received one hundred and eighty-eight months. He got out in
19 2008 on supervised release and that was revoked; he got
20 thirty-six months on that revocation. He gets out in 2011,
21 as you've heard, and he then commits these crimes. His bond
22 was reduced on this particular charge. He got out on
23 electronic monitoring, which within two weeks he went to
24 Greenville and committed two more bank robberies.

25 Your Honor, based upon all of that, the state would

1 seek the maximum sentence in this case.

2 THE COURT: All right. Mr. Angell.

3 MR. ANGELL: Thank you, Your Honor, may it please
4 the court. As you've heard at trial, this was involving
5 eighteen hundred dollars. There was no weapons involved.
6 By my estimation, it's not as violent of a crime that
7 warrants the maximum sentence. I understand my client has
8 got a record. I'd ask that in consideration of the time
9 that you order him to serve that he doesn't have a violent
10 record, Judge. He's had an addiction throughout -- started
11 in '92. His records reflects that addiction all the way
12 through. I'm in no way saying that he's completely
13 innocent, but I certainly think that mitigates, Judge, the
14 fact that nobody was hurt, nobody was injured and no weapons
15 were used. I know he's got more charges in Greenville. I
16 ask that you at least consider coming off the max on the
17 sentence on this and give him a chance to defend himself in
18 Greenville.

19 THE COURT: He'll have that chance. Anything you
20 want to tell me, Mr. Missouri?

21 THE DEFENDANT: Yeah. I just concur with Mr.
22 Angell. Like I said, this was brought on by just drug
23 addiction, sir, you know. You say it's no defense and, you
24 know, to some extent, you know, I'm remorseful for my
25 actions. I mean, that's the point. You know, I went in the

1 bank and took the money. You know, I'm remorseful for that
2 part. You know, I'm remorseful for a lot of things, you
3 know, that we haven't, as a society, addressed, you know,
4 addictions in a better situation than we do. We're
5 imprisoning more people and that's not, that's not an act --
6 it's not correcting the problem.

7 I mean, hopefully, if I'm in prison, I can use my time
8 to help others to understand addiction that have an
9 opportunity to come back outside of prison to help them
10 understand what brought me in the prison and to help them to
11 try to understand that the law doesn't take in account if
12 you get out there and use drugs, because I'm a victim of
13 that law. So, you know, I can use my time wisely. I mean,
14 God got a plan for me regardless. You know, and he's been
15 working with me. And I know, Judge -- well, there's a lot
16 of judges say, well, it's a convenient time for you to find
17 the Lord when it's time for you to be going to jail. But,
18 you know, you either find him now or you never find him. I
19 mean, he gives you time to find him in jail. He visits the
20 prisoners. I mean, that's what he does. I feel better in
21 jail not on drugs than I feel outside on drugs. So, you
22 know, I asked God to deliver me from the drugs. If it's by
23 incarceration, he did His job.

24 THE COURT: You know, I feel bad for you. I feel
25 bad for anybody who's got a problem that they can't control.

1 But, you know, you do have some responsibility in this deal
2 to get yourself clean.

3 THE DEFENDANT: Oh, yeah.

4 THE COURT: I mean, it's not necessarily society's
5 responsibility to take you and say, all right, here's what
6 we're going to do. You have to take the first step. You
7 have to take your life under control and try and get ahead
8 of the game.

9 THE DEFENDANT: It's easy for some and it's
10 difficult for others, you know.

11 THE COURT: Well, I understand that. But ---

12 THE DEFENDANT: For me it was a little more
13 difficult than just saying it.

14 THE COURT: But you've been -- how old was he when
15 he started -- you're fifty now?

16 THE DEFENDANT: In '92 I started.

17 THE COURT: But now it goes back to '82; right?

18 MR. RICHARDSON: It goes back to '82, yes, sir.

19 THE DEFENDANT: My shoplifting and little petty
20 stuff I did as a teenager. But I'm saying my drug use ---

21 THE COURT: That's thirty-two years ago. Eighteen
22 years of age you start getting caught by the police for
23 doing things that you shouldn't; minor things, big things.
24 Clearly, you've got some brains. Nobody has told me
25 anything about where you're seeking to hurt anybody, as you

1 testified here. But, you know, you're hurting somebody when
2 you take something that doesn't belong to you and does
3 belong to them.

4 THE DEFENDANT: Well, like I said, I can use this
5 time, like I said, to try to help others.

6 THE COURT: I hope you do.

7 All right. The sentence of this court on 2012-GS-39-
8 2242, which is the strong armed robbery, you're to be
9 committed to the Department of Corrections for a term of
10 five years, plus costs and assessments as applicable.

11 The bank robbery, sentence of this court, you're to be
12 committed to the Department of Corrections for a term of
13 twenty years, plus costs and assessments as applicable.

14 The failure to stop for a blue lights, the sentence of
15 this court is you be committed to the Department of
16 Corrections for a term of three years, plus costs and
17 assessments as applicable.

18 All those to run concurrent. Give you credit for your
19 time served. Any court costs upon release from the
20 Department of Corrections.

21 THE DEFENDANT: Thank you, Your Honor.

22 MR. ANGELL: Thank you, Your Honor.

23 THE COURT: All right. Anything further?

24 MR. RICHARDSON: Nothing further from the state.

25 MR. ANGELL: Judge, we would like to, I guess when

1 he comes back in ---

2 THE COURT: Come back in for what?

3 MR. ANGELL: I don't know where he's going, but we
4 want to put in a notice of his intent to appeal.

5 THE COURT: You have to file that.

6 MR. ANGELL: I know. I wanted to get the notice
7 out if I can.

8 THE COURT: You have ten days. Telling me about
9 it won't do a bit of good, because I'm out of here. The
10 only thing you can do with me is file a motion to reconsider
11 the sentence.

12 MR. ANGELL: Nothing further, Your Honor.

13 THE COURT: If he wants to appeal, you file your
14 notice and I guess you'll turn it over to appellate defense
15 and see what happens.

16 Anything else, Mr. Solicitor?

17 MR. RICHARDSON: Your Honor, I believe as far as
18 our docket today, that'll be all we have for you.

19 THE COURT: All right.

20

21 [END OF REQUESTED TRANSCRIPT OF RECORD]

1 CERTIFICATE OF REPORTER

2

3 I, the undersigned Danette P. Hanks, Official Court
4 Reporter for the Thirteenth Judicial Circuit of the State of
5 South Carolina, do hereby certify that the foregoing is a
6 true, accurate, and complete transcript of record of all the
7 proceedings had and evidence introduced in the trial/hearing
8 of the captioned case, relative to appeal, in the Circuit
9 Court for Pickens County, South Carolina, on the 19th day of
10 May, 2014.

11 This transcript may contain quoted material. Such
12 material is reproduced as read by the speaker.

13 I do further certify that I am neither of kin, counsel,
14 nor interest to any party hereto.

15 September 16, 2014

16

17

18

19



Circuit Court Reporter

WITNESSES

Sam Byers

Pickens Police Department

6/19/2012

ARREST WARRANT NUMBER

I336638

ACTION OF GRAND JURY

TRUE BILL
NOV 12 2013

Steven Richardson

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2012-GS-39-2203

WDR

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

NOV 12 2013

TERM 2012

THE STATE

vs.

VINCENT MISSOURI

Indictment for

0257

ENTERING BANK WITH INTENT TO STEAL

VIOLATION § 16-11-0380

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
ENTERING BANK WITH INTENT TO STEAL

At a Court of General Sessions, convened on

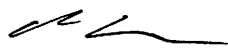
NOV 12 2013

the Grand Jurors of Pickens

County present upon their oath:

That VINCENT MISSOURI did in Pickens County, on or about the 18th day of June, 2012, enter BANK OF AMERICA, located at 334 E. Main Street, Pickens, South Carolina with intent to steal money and/or securities for money, either by force intimidation and/or threats. This is in violation of §16-11-380 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.



SOLICITOR

WITNESSES

Ksith Galloway

Pickens County Sheriff's Office

6/18/2012

ARREST WARRANT NUMBER

66579DF

ACTION OF GRAND JURY

TRUE BILL

Date NOV 12 2013

Steve Richardson
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012-GS-39-2204
WDR

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

NOV 12 2013

TERM 2012

THE STATE

vs.

VINCENT MISSOURI

Indictment for

0065

FAILURE TO STOP FOR A BLUE LIGHT

VIOLATION § 56-05-0750(B)(1)

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
FAILURE TO STOP FOR A BLUE LIGHT

At a Court of General Sessions, convened on

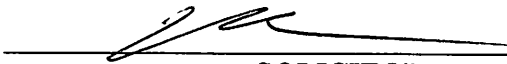
NOV 12 2013

the Grand Jurors of Pickens

County present upon their oath:

That VINCENT MISSOURI did in Pickens County, on or about the 18th day of June, 2012, willfully, knowingly, and unlawfully commit the offense of failure to stop for police vehicle in that the said defendant while driving on a road, street or highway of the State did intentionally refuse to stop when signaled to do so by a police vehicle using blue lights and/or siren. This is in violation of §56-5-750 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

WITNESSES

Sam Byers

Pickens Police Department

6/19/2012

ARREST WARRANT NUMBER

1336639

ACTION OF GRAND JURY

TRUE BILL
Date NOV 12 2013

Steven Richardson
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012-GS-39-2242
WDR

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

NOV 12 2013 TERM 2012

THE STATE

vs.

VINCENT MISSOURI

Indictment for

0026

ARMED ROBBERY

VIOLATION § 16-11-0330(B)

STATE OF SOUTH CAROLINA)

COUNTY OF PICKENS)

INDICTMENT FOR
ARMED ROBBERY

At a Court of General Sessions, convened on

NOV 12 2013

the Grand Jurors of Pickens

County present upon their oath:

That VINCENT MISSOURI did in Pickens County, on or about the 18th day of June, 2012, 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 any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, take by means of force or intimidation, goods or monies described as: cash from BANK OF AMERICA. This is in violation of §16-11-330 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.


SOLICITOR

FORM 5

STATE OF SOUTH CAROLINA

County of Pickens

Vincent Missouri #197996

Full name and prison number (if any) of Applicant:

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2019-CP-39- 760

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

**APPLICATION FOR
POST-CONVICTION RELIEF**

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 Leiber Correctional Institution
2. Name and location of Court which imposed sentence Pickens County Court of General Sessions.
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) 2012-GS-23-2203; 2012-GS-23-2242
(b) Entering bank with intent to steal; failure to Stop

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) May 20, 2014 Bank charge, 20 Years
- (b) Failure to Stop, 3 Years
- (c) Strong-Armed Robbery, Five Years.
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty XX
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes!
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. S.C. Court of Appeals
- ii. S.C. Supreme Court
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Affirmed
- ii. Affirmed
- iii. _____
- (c) the date of each such result:
- i. October 18, 2017 (2017-UP-383)
- ii. May 15, 2019 (2018-000057)
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. That "YES" Missouri was denied his Sixth Amendment right to repre-
- ii. himself five months before trial by Judge Verdin. But waived or
- iii. abandoned that right on the day trial began, before Judge Barbar.
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) Not Applicable!
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Assistance of Trial Counsel
- (b) Ineffective Assistance of Appellate Counsel
- (c) Violations of Due Process and Equal Protection under the 14th Amendment,
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See Attached Sheets
- (b) See Attached Sheets
- (c) See Attached SHEETS (And additional grounds for relief).
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? Yes
- (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. A SCRAP 245(a) was filed in the S.C. Suprme Court.
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. S.C. Supreme Court
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

i. Unknown

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. Unknown

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. Unknown

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?

None

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) Because they were not cognizable on 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?
Pro-se

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. Aaron Angell, of Clemson S.C.
 ii. David Alexander of the S.C. Indigent Defense in Columbia
 iii. _____
 (b) the proceedings at which each such attorney represented you:
 i. Trial and Sentencing
 ii. Direct Appeal, Writ of Cert., and "Oral Argument" May 8, 2019.
(Case No 2018--000057)
 iii. _____

19. State clearly the relief you seek in filing this application:
Reverse convictions and remand for a "New Trial". To Order enforcement
of the "original Plea Offer".
-
20. Are you now under sentence from any other court that you have not challenged?
Greenville County, intertwined with this case, its under collateral
federal review.
-

STATE OF SOUTH CAROLINA)
)
 County of Ridgeville)

VERIFICATION

I, Vincent Missouri #197996, 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.

Vincent Missouri

SWORN to and subscribed before me this 30th
 day of May, 2019.

John K. Bm (L.S.)
 Notary Public

My Commission Expires: 6-30-26

CLERK OF COURT
 GREENVILLE COUNTY
 SOUTH CAROLINA

2019 JUN -5 A 9:07

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Vincent Missouri #197996, 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.

Vincent Missouri
Applicant

SWORN or affirmed to and subscribed before me this
30th day of May, 2019.

Vincent Missouri

Linda K. Bowman
Notary Public

My Commission Expires: 6-20-26

CLERK OF COURT
DICKENS COUNTY
SOUTH CAROLINA

2019 JUN -6 A 9:07

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS)

COURT OF COMMON PLEAS
13th JUDICIAL CIRCUIT

2019-JM-6-A-404

Vincent Missouri, #197996,

Applicant,

**CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA**

Vs.

Case No.:

2019-CP-39-

769

State of South Carolina,

Respondent.

ATTACHED SHEETS TO PCR APPLICATION

This matter is being brought to the attention of this Honorable Court, by way of a pro-se litigant, claiming the right to relief based on "his conviction(s) and sentence were obtained in violation of the United States, as well as South Carolina Constitutions". As a result, such is directly responsible at this time, for Applicant's unlawful imprisonment.

Here, under the PCR Act, "any person who has been convicted or sentenced for the commission of a crime may institute a PCR proceeding". See S.C. Code §17-27-20(a)(2003) A PCR applicant can raise almost any allegation relevant to any phase of the previous court proceeding. Specifically, an applicant can raise virtually every alleged denial of a federal constitutional right, with the exception of sufficiency of the evidence. See S.C. Code §17-27-20(a)(6).

For example: (1) the conviction was in violation of the Constitution of the United States, the South Carolina Constitution, or state laws; (2) the court was without jurisdiction to impose sentence; (3) the sentence exceeds the maximum authorized by law; (4) there is evidence of material facts, not previously presented or heard, that requires vacating the conviction or sentence in the interest of justice; (5) the sentence has expired, probation, parole or conditional release has been unlawfully revoked; or that the applicant is otherwise unlawfully held in custody or other restraint; and (6) the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error previously under any common law, statutory or other writ, motion, proceeding or remedy. §17-27-20(a)(1)-(6).

BURDEN OF PROOF

Here, the burden of proof pursuant to S.C.R. Civ. P. 71.1(e), is upon the Applicant. See Cobbs v. State, 408 S.E.2d 223, 225 (S.C. 1991), to establish his grounds for relief by the preponderance of the evidence. To which the Applicant begins by stating "he was denied his federal right to effective assistance, during all critical stages of his criminal process". The following facts supporting this ground is as alleged and proven.

Trial counsel Aaron Angell, once appointed to represent Applicant, was vividly aware the Applicant himself had initially filed to represent himself with the Pickens County Clerk's Office, just eight days after his arrest. It was the result of Pickens County Public Defender contacting the Applicant at the jail, informing Applicant "they" would not be able to represent him. Based on representing the 'passenger, Bobby Wright'. Who was in the vehicle on the date of

the incident. Contrary to the State's misleading position, "Missouri did not have a attorney removed on his own accord".

The deficient representation initially appears when counsel (1) aware of a plea offer by Solicitor George Campbell, of the thirteenth Judicial Circuit, which is in writing, that counsel "failed to move the court for enforcement. See Custodio v. State, 644 S.E.2d 36 (S.C. 2007). Such offer was made In February 2013. Accompanied by a letter, informing Mr. Angell of the details.

Counsel thereafter, informed Applicant that "Doug Richardson of Pickens", rejected the five (5) year offer, and instead offered fifteen years. Applicant reminded counsel of the racist remarks he experienced by Pickens's law enforcement personnel. And filed a pro-se motion to change venue, which is also a part of this record. That the racial prejudices of Pickens is what is causing the plea rejection. After all, Greenville suffered two (2) episodes and was will to offer five years concurrent, along with other charges;; yet Pickens wanted three times as much, for a single episode, for which Pickens obtained all their money back, where Greenville did not.

Thus, counsel was ineffective for failing to advise Applicant and move the court for "detrimental reliance", in order to request enforcement of the plea offer. As the offer by a solicitor in the thirteenth judicial circuit, bound all solicitor's within that same circuit.

As a result, "this forced Applicant to trial because trial counsel would not mention the maliciousness committed by Pickens prosecution". When the Applicant never once denied committing the crime.

2. Next, trial counsel was ineffective for failing to take serious, Applicant's defense, although a novel one, it was nonetheless a arguable one. How-

ever, counsel never investigated the expert material Applicant supplied him with, never summoned or deposed witnesses, and never investigated the circumstances of this possible defense.

For example, there exist a case where a teenager barreled over four pedestrians, killing them all, while he was under the influence of alcohol. His attorneys argued; "because the teenager was rich". He wasn't taught the difference between right and wrong".

Here, Applicant's defense was unlike South Carolina's "voluntary intoxication is not a defense". It instead was premised on "Involuntary Intoxication", which if proven, is a defense. That is not as far-fetched as the "rich-kid syndrome". The involuntary intoxication hinges on expert testimony that "long-term drug use results in a disease which is uncontrollable". That such garnishes "irresistable impulses" 'to where the resulting conduct can at least be mitigated, if not being held responsible at all'".

Even if a losing defense, "such was Applicant's defense which went unheard". Coupled with the clear fact; "counsel failed to have a better defense". Nevertheless, the violation comes into play where counsel failed to even investigate the defense theory in order to determine whether it was a viable one or not, and such failure deprived Applicant of effective assistance during critical stages of the proceeding.

3. Here, counsel was ineffective by failing to timely move for a hearing into Applicant's request to represent himself. When in fact, Applicant filed the motion 8 days after his initial arrest. Once Pickens had rejected the plea offer by another solicitor, such forced Applicant to trial. When counsel would

not argue Applicant's position (racial prejudice) as grounds for malicious prosecution. When no other compelling reason existed, except for Applicant's race, to go against another solicitor in the same circuit. Thus, ineffective assistance of counsel and a denial of due process was committed in the course of this claim for relief.

4. Here, Applicant received constitutionally deficient performance where counsel, during the December 19, 2013 failed to object to Judge Verdins' erroneous denial of Applicant's right to represent himself. In addition, counsel failed to file an immediate appeal from that ruling, to which Applicant had to file such appeal himself. See enclosed exhibits.

5. Next, with counsel knowing he had not filed any appeal to Judge Verdin's December 19, 2013 ruling. Should also have been aware "one circuit judge could not overrule another circuit court judge based on the same facts with the same parties". Once Judge verdin made her ruling, Applicant had no reason to be prepared to represent himself, because such was already asked and answered".

Moreover, Judge Barber on the day of trial, Tr. tr. p. 12, lines 2-8, explained; "he could not come behind another judge and undo what some other judge has done". That he does not have the authority to do such.

Then, on Tr. tr. p. 32, lines 22-23. Judge Barber comes back indicating "he read a case during lunch which indicates the Applicant might be entitled to do so".

First, counsel should have objected based on the court's contradiction. Where the court initially stated the law on the matter. "i.e. he cannot overrule another circuit court judge on the same facts with the same parties". See

Cook v. Taylor, 272 S.C. 536 (S.C. 1979); and Enoree Baptist church v. Fletcher, 287 S.C. 340 (1986); Salmonsens v. OGD, 377 S.C. 442 (2008) (acknowledging the Rule that one circuit judge may not overrule a prior decision or set aside the order of another circuit judge).

Thus, Judge Barber's incredible answer 'after lunch', that he had only learned of a defendant's Faretta rights during lunch. Seems odd to say the least, where this is a 'senior judge. Which age dictates decades over decades in the science of law. And to express to a defendant "he has only heard of criminal defendant's Sixth Amendment right to proceed pro-se", during a lunch break renders counsel performance unreasonable by failing to (a) object to Judge Barber's statement, and (b) failing to oppose Barber's colloquy with the defendant, after Judge Verdin had rendered a order with respect to the same facts and party.

The prejudice here is exposed once we visit the court of appeals October 2017 ruling, which reads as follows: See 2017-UP-383

"We find Missouri was initially denied the right to represent himself at a hearing five months before trial, however, Missouri abandoned or waived the right via his subsequent conduct on the day trial began".

In otherwords, without the blatant mishap of a error on the day of trial, the Court of Appeals have no other reason not to reverse Missouri's conviction and sentences. And because Judge Barber acted outside of his proper scope of authority by conducting a renewed Faretta-type hearing. Having the impact of "overruling judge Verdin's prior ruling". Such is a nullity, as if it didn't happen at all. And counsel was "grossly ineffective for failing to object at

first instance. To circumstances that over a century of caselaw dictates cannot be done. See Steele v. Charlotte, 14 S.C. 324 (1879); Cudd v. Williams, 39 S.C. 452, 18 S.E. 3 (1893); State v. Harrelson, 211 S.C. 11, 43 S.E.2d 593 (19-47); Dukes & Dukes Inc., v. Hygrage, 236 S.C. 69, 113 S.E.2d 254 (1960); Ex Parte State, 263 S.C. 363, 210 S.E.2d 600 (1964); Dep't of Social Serv., v Laura D., 688 S.E.2d 130, 386 S.C. 382 (A.C. App. Ct. 2009).

As one maybe able to discern, there has not been a single interruption in jurisprudence with the authority of one judge in the same court, to overrule, set aside, reverse or reconsider another judge's ruling, in regards to the same facts and parties. For that reason, "counsel was grossly ineffective, when Circuit Rule 60 is commonly known and recognized as "black letter law".

INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL

Here, for the exact same reasons above, Applicant claims he is and remains incarcerated at this very moment. Based on appeal counsel failing to argue Judge Barber did not have the authority to repeal judge Verdin's final pre-trial ruling, denying Missouri the right to represent himself, five months before trial. And as such, the court of appeals ruling was therefore incorrect, based on its misapplication or misapprehension of controlling authority.

Moreover, on the day of trial, Missouri wasn't requesting to represent himself, instead, "he was asking after that issue came to the court's attention", what happen to the 18 months in which he did request self-representation. So that he would have been prepared on the day of trial.

In U.S. v. Mannino, 212 F.3d 835 (3rd Cir. 2000)(counsel's failure to renew objection on appeal to court's methodology in determining amount of heroin attributable to defendants at sentencing was ineffective assistance of counsel); U.S. v. Williamson, 183 F.3d 458 (5th Cir. 1999)(counsel's failure to cite directly controlling precedent was ineffective assistance on appeal, because it was objectively unreasonable and resulted in prejudice to the defendant); Ezell v. State, 548 S.E.2d 852 (S.C. 2001)(Appellate counsel provided ineffective assistance of counsel, and PCR court has the authority to grant a new trial as opposed to a new appeal, because that would have been the remedy of the appellate decision)

In the instant case at bar. Mr David Alexander, of the South Carolina Office of Indigent Defense, was well informed concerning the illegality of Judge Barber's subsequent colloquy with the Defendant on trial day. Especially on May 8th, 2019, when Mr. Alexander appeared on behalf of this Applicant. Before the South Carolina Supreme Court, at oral argument. (Case 2018-000057)

If this court would review the oral argument portal, made available to the public. It would be able to witness the State and the justices seizing on the colloquy between Judge Barber, and the defendant on the day of trial. However, Applicant had discussed this with Mr. Alexander prior to the oral argument, and had forwarded caselaw in support of detailing such would be an erroneous consideration, since Judge Barber is forbidden from

engaging in any conduct which could be interpreted as "overruling Judge Verdin's prior ruling". This Circuit Court Rule 60, existed for over 100 years. See Steele v. Charlotte, 14 S.C. 324 (1879); Cudd v. Williams, 39 S.C. 452, 18 S.E. 3 (1893); State v. Harrelson, 211 S.C. 11, 43 S.E.2d 593 (1947); Dukes & Dukes Inc., v. Hygrade, 236 S.C. 69, 113 S.E.2d 254 (1960). And reviewing such an occurrence unfavorable to the state, Ex Parte State, 263 S.C. 363 210 S.E.2d 600 (1964), the Court detailed the opinion to note that "when this occurs, the subsequent decision shall be revoked". The more recent situations are outlined in cases such as Dep't of Social Services v. Laura D., 688 S.E.2d 130, 386 S.C. 382 (S.C. App. Ct. 2009)

Based on the above, coupled with the many conversations Applicant had personally with Mr. Alexander on the above topic. His failure to assert this during (1) rehearing on appeal and (2) at oral arguments, was objectively unreasonable and amounts to a denial of effective assistance of counsel on direct appeal. Which severely prejudice Applicant's opportunity to prevail, as well as made the Applicant serve more time prior to having his conviction and sentences reversed.

Finally, as a Due Process claim on "trial counsel". Applicant was convicted of both "entering a bank with intent to steal" or the common term "bank robbery". And "strong armed robbery" of a bank. Based on the singular, same conduct. Violating the prohibi-

tion against "double jeopardy". Where the Blockburger test will expose that both convictions cannot stand. However, Aaron Angell's failure to move to strike the indictment for being duplicitous, was objectively unreasonable, and amounted to ineffective assistance of counsel in violation of Applicant's Fourteenth Amendment rights.

Wherefore, based on the foregoing, Applicant prays for the relief by vacating the convictions and sentences and remanding this case without undue delay, for a new trial. And any further relief this Court deems just and proper. See the appeal record and Appendix.

Respectfully Submitted,

/s/ Vincent Missouri
Vincent Missouri #197996
Leiber Correc. Institution SA-55
P.O. Box 205
Ridgeville, S.C. 29472

cc: filed
5/29/2019

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF PICKENS	)	FOR THE THIRTEENTH JUDICIAL CIRCUIT
	)	
Vincent Missouri, SCDC #197996,	)	
	)	Case No. 2019-CP-39-0769
Applicant,	)	
	)	
v.	)	RETURN
	)	(COUNSEL APPOINTED)
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	
_____	)	

In response to the post-conviction relief (PCR) action commenced by Vincent Missouri (Applicant) on June 6, 2019, the State makes this return:

I. FACTS & PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections. Applicant was arrested on June 18, 2012, following an incident involving a bank robbery and subsequent police chase. During its November 2013 term, the Pickens County Grand Jury indicted Applicant for entering a bank with intent to steal (2012-GS-39-02203); strong arm robbery (2012-GS-39-02242); and failure to stop for a blue light—first offense (2012-GS-39-02203). On May 10, 2014, Applicant proceeded to a jury trial before the Honorable James R. Barber, III. Aaron Angell, Esquire (Trial Counsel) represented Applicant and Assistant Solicitor Doug Richardson prosecuted the case.

A. Pre-Trial

On December 19, 2013, prior to trial, Applicant made a motion to relieve counsel before the Honorable Letitia H. Verdin. R. p. 4. Applicant stated that he wanted Aaron Angell relieved as his counsel, “Just based on the time and the amount of cases Mr. Aaron has and the complexity of

my defenses, I feel it'd be better that I have either someone that doesn't have as much of a case load as he has or either I be prepared to represent myself." R. p. 5. The solicitor argued:

Your Honor, we are opposed to Mr. Aaron coming down - - off as his defense attorney. He's already had one defense attorney who was relieved in June earlier. It's my understanding he also has made a motion in Greenville. He has Greenville charges, the same type of charges. This main charge here is a bank robbery where he's asked to basically fire Mr. Culbertson who represents him in Greenville. Your Honor, we plan on trying this case in the spring. At this point in time, I've had negotiations and dealings with his attorney. I would ask that you deny the motion.

R. pp. 6-7. Defense Counsel noted:

Judge, from my vantage point, it seems as if Mr. Missouri is unhappy with me. I told him - - And I'm not going to speak for you.- - but I told him there was probably one of three things that would happen is you let him go on pro se, you'd keep me on board or he fires me and you hire one more. I don't know what you want to do.

R. p. 7. Defense Counsel informed Judge Verdin that Applicant was charged with entering a bank with intent to steal, armed robbery, and failure to stop. R. p. 7. Judge Verdin replied, "Pro se is not in the realm of possibility right now." R. p. 7. Defense Counsel replied, "Probably not, your Honor."

Judge Verdin later ruled:

Here's what I'm going to do, Mr. Missouri. Here's what we're going to do. You've got an outstanding attorney. I'm going to leave you with him. This is your second attorney on this case. I can't relieve this second attorney but he's an outstanding attorney. If you have any hope of doing well in the spring at trial, we don't need to change horses in midstream. Please don't take offense to me calling you a horse. We don't need to change horses in midstream. We need to - - you need to - - from this point forward, you need to do everything you can to work with Mr. Angell and y'all get along. I have no doubt that you will do so. I wish you the best of luck with it.

R. pp. 9-10.

During a pre-trial hearing, Applicant informed Judge Barber that he previously made a motion before Judge Verdin to terminate Mr. Angell and represent himself. R. p. 24. Applicant then stated, "And there's been a subsequent one on appeal." R. p. 24. Judge Barber replied, "I don't know about an appeal. That motion has already been heard." Applicant replied, "But it wasn't based on the factual findings as I understood it." R. pp. 24-25. Judge Barber responded:

Well, I can't go behind her on her - - I don't know anything about her ruling, but if she denied the motion, I don't have the ability to go back and say, hey, you were wrong, and I - - because I'm here now - - I just can't undo what some other judge has already done and ruled on. And if there's an error in that regard, then you will have to deal with that in the future.

R. p. 25.

Following a recess by the Court after a *Denno*¹ hearing and other pre-trial motions related to venue and the indictments, Judge Barber asked Applicant, "You're terminating the services of your attorney. You indicated at some time in the past, I don't know, at the beginning of the year you indicated that you wanted to relieve him of counsel and represent yourself?" R. p. 45. Applicant replied, "In the past, yes, I did indicate that." R. p. 45. Judge Barber asked Applicant whether he was still interested in representing himself. Judge Barber stated, "I'm asking you, are you interested in doing that? Want to represent yourself? If you don't, you don't have to. You've got a lawyer and we're going to go forward with it. If you do, we're going to discuss this issue." R. p. 45. Judge Barber indicated he changed his mind on the matter because he read a case at lunch that indicated Applicant may be entitled to represent himself. R. p. 45. Judge Barber explained to Applicant, "If you are interested in representing yourself, I will have certain questions I want to ask you. If I find you're competent to do so, you will be able to represent yourself and we'll go

¹ *Jackson v. Denno*, 378 U.S. 368 (1964)

forward - - ." R. p. 46. Judge Barber told Applicant, "If you're prepared to make the motion, I'm prepared to consider it." R. pp. 46-47. Judge Barber reiterated, "Mr. Angell - - I mean, Mr. Missouri, this is the first I've had this case. Do you want to represent yourself? If you're not going to make a motion, then I'm going to assume you don't want to represent yourself and this gentleman is going to represent you." R. p. 48. Applicant replied:

Okay. If I want to represent - - the only think (sic) I'm saying, Your Honor, and don't take that the wrong way. If you grant me the right to represent myself, please grant me the right to go over my material as opposed to what Mr. Angell did a poor job of doing this morning. Please give me that right.

R. p. 48. Applicant stated, "I need to represent myself completely or not at all." Judge Barber responded, "We're not going to revisit the issues. There's nothing that you can tell me differently that was brought out - - you nor anyone else have nothing that will change my mind on the *Denno* hearing." R. p. 48. Judge Barber also indicated he had made up his mind with respect to the pre-trial motions involving venue and the indictments. R. p. 49. Eventually, after Applicant would not make motion to represent himself, Judge Barber stated, "All right. It appears that Mr. Missouri is not prepared to make a motion in this matter, so we will go forward . . ." R. pp. 49-50.

After the jury returned a guilty verdict, Applicant made a motion for a new trial. R. p. 226. Defense Counsel clarified, "The motion is based on involuntary intoxication. He wants to represent himself pro se." R. p. 227. Judge Barber ruled:

Well, he had the opportunity to request that he be allowed to represent himself and he declined to do so. I informed him the court was willing to consider it and if he met the criteria that I would allow him to do so and he just needed to make a motion. If he wasn't going to make a motion, I can't do it for him. He declined to do that. But he can address this in any way he wants in the future. In terms of voluntary intoxication, he's addicted to drugs and therefore can't control himself and should we give him some special treatment is not a defense in South Carolina. If we did, everybody who's ever

used drugs would be claiming they used drugs before I did whatever I did. So your motion is denied.

R. p. 227.

B. Summary of Evidence Adduced at Trial

On June 18, 2012, Rachel White was working at the Bank of America in Pickens, South Carolina. R. p. 79. White was employed as the head teller, meaning she supervised the other tellers as well as assisting customers. R. p. 80. At around 4:45 P.M., shortly before the bank closed, a customer walked into the bank and handed White a note. R. p. 81. The note the robber handed White stated, "Place all the money in the bag. Keep left hand on top of camera. Empty drawer with right hand. No die pack. I know who you are." R. p. 84. White subsequently placed about eighteen hundred dollars in the bag. R. p. 84. Once the robber was handed the bag with the money, he turned around and exited through the side door. R. p. 87. After the robber exited, White alerted her manager that the bank had been robbed. R. p. 87. White testified she described the robber to police as, "It was a baldhead, I think in that I said about five four to five eight, about a hundred and forty-five to a hundred and seventy pounds, and a black African." R. p. 94. White stated that the robber was wearing dark sunglasses and a black shirt with white on it. R. p. 85. A DVD of the bank's video surveillance was played for the jury at trial. R. p. 89. Following the playing of the video, White testified that Applicant was the man in the video who robbed the bank. R. p. 93.

On the morning of June 18, 2012, Applicant visited the home of Bobby Wright and invited him to ride with him to go pick up supplies. R. pp. 107-108. Wright lives in Greenville, South Carolina and grew up with Applicant. R. p. 107. Wright testified that he did not know what supplies Applicant needed to pick up, just that Applicant told him he needed to go to Pickens to "pick up some supplies for a job." R. p. 108. Once they arrived in Pickens, Applicant stopped at a Bank of America and told Wright he needed to have a check cashed. R. p. 109. While Applicant entered

the bank, Wright stayed in the car and smoked a cigarette. R. p. 109. Once Applicant emerged from the bank, the men drove to a Family Dollar where Applicant purchased some clothing. R. p. 110. When driving away from the Family Dollar, Applicant looked into his rearview mirror and stated, "okay, they on us." R. p. 111. Wright asked Applicant what he meant by that and Applicant replied, "the police." Wright asked Applicant why the police were "on them" and Applicant replied that he had robbed the bank. R. p. 111. Applicant then "took off" and a chase with police ensued. R. p. 111. During the chase, Wright observed Applicant pull a bag of money out of his pants. R. p. 112.

Eventually, Applicant's vehicle came to a stop. R. p. 147. Applicant then exited the driver's side of the vehicle and ran through the woods. R. p. 140. Applicant carried a brown bag as he ran. R. p. 140. Officers eventually were able to tackle and arrest Applicant. R. p. 149. Officers recovered one thousand seven hundred and fifty dollars from the brown bag Applicant was carrying and the console of the truck Applicant was driving. R. pp. 158-59.

Following Applicant's apprehension, Detective Samuel Byers spoke with him at the Pickens County Detention Center. R. p. 164. Upon his arrival, Detective Byers advised Applicant of his *Miranda* rights. R. pp. 165-72. Applicant then provided investigators with a written statement. R. p. 172. Detective Byers read Applicant's written statement into the record:

After a month-long crack cocaine binge, I found myself - - I apologize, I'm having a hard time making out that word. . . Yeah. - - plotting to obtain a vehicle to try and rob a bank. I first stopped at Fulbright Motors with the intent to steal a vehicle to rob SunTrust Bank on Anderson Road. But while looking, there was a red truck with the driver's side door open and empty of a driver. I took the truck and went by a friend's home - - excuse me - - house, and asked if he wanted to ride with me to cash some checks. Bobby didn't have a clue that I was going to rob the bank. I went in and presented the teller with a robbery note. She said she didn't have a bag and I supplied her with a bag. She proceeded to fill the bag with money. And when she was through I fled the scene. I went to Easley and got

into a chase with police. The chase ended in a residential area where I got - - where I gave up without incident.

R. p. 174.

C. Applicant's Testimony

Applicant testified at trial. R. pp. 189-202. Applicant testified he was released from federal prison on November 18, 2012, and immediately relapsed into an addiction to crack cocaine and was "just basically running around getting high, getting money from anywhere I could to get high."

R. pp. 189-90. Applicant explained:

And on the date that - - what was the date of the incident? June 18th? June 18th, the date that this robbery occurred, you know, it was not my defense to come into court and try to convince twelve people that I didn't do it. In fact, I did do it. So that, you know, that eliminates y'all having to consider that. Mr. Richardson, he did an excellent job. I mean, the evidence is there. There's no refuting the evidence. I mean, that's what happened on June 18th.

R. p. 190. Applicant continued, "I didn't come here to tell you I didn't take the money from the bank, because I did. It's called irresistible impulses. When you have long-term addiction, experts consider that a disease. It's not something we can handle ourselves." R. p. 192. Applicant then launched into a lengthy monologue describing his addiction to crack cocaine and his history of imprisonment. R. pp. 190-200. Applicant later noted, "Well, I mean, I mean, like I said, the evidence is overwhelming. Hats off to Mr. Richardson. You did an excellent job. I don't know no prosecutor that could have did better, you know. Everything was there. Except my defense. I didn't have a defense in this case." R. p. 200. Applicant later instructed the jury:

You don't have to find me guilty based on his evidence. The jury did such a thing that's called jury nullification for any reason in the world that you might want to say not guilty, y'all have that right. And you cannot be intimidated by the judge, nor Mr. Richardson. Y'all have that right. Y'all have to know your powers in order to be able to exercise them. That is the power of the jury. You're not under state government. You're not under the courts. You're not under the

judicial branch. The jury is created separately from the establishment of our jury trial rights. That's why we elect to have a jury to find us guilty as opposed to any other entity. This is your power. For whatever reason I may have given you, you can say I'm guilty.

R. p. 202. The trial judge then interjected, "Mr. Missouri, I will instruct the jury on the law of the state of South Carolina as it applies to this case." R. p. 202.

During sentencing, Applicant stated:

Like I said, this was brought on by just drug addiction, sir, you know. You say it's no defense and, you know, to some extent, you know, I'm remorseful for my actions. I mean, that's the point. You know, I went in the bank and took the money. You know, I'm remorseful for that part. You know, I'm remorseful for a lot of things, you know, that we haven't, as a society, addressed, you know, addictions in a better situation than we do. We're imprisoning more people and that's not, that's not an act - - it's not correcting the problem.

R. p. 232.

D. Verdict & Subsequent Proceedings

On March 11, 2014, the jury returned a verdict of guilty on each indictment. Judge Barber sentenced Applicant to concurrent sentences of twenty years' imprisonment for entering a bank with intent to steal, five years for strong arm robbery, and three years for failure to stop for a blue light.

On May 28, 2014, Counsel Angell filed a timely notice of appeal. Appellate Defender Tiffany Butler perfected Applicant's appeal by filing an *Anders* brief and petition to be relieved as counsel with the South Carolina Court of Appeals. The Court subsequently denied the petition to be relived as counsel and directed both parties to brief the following issue:

- I. Was Missouri denied his Sixth Amendment right to proceed pro se?

Counsel Butler filed the initial brief on Applicant's behalf; however, Appellate Defender David Alexander (Appellate Counsel) began representing Applicant before the filing of the initial reply brief. On October 18, 2017, the South Carolina Court of Appeals affirmed Applicant's conviction in an unpublished opinion. *State v. Missouri*, Op. No. 2017-UP-383 (S.C. Ct. App. filed Oct. 18, 2017). The South Carolina Supreme Court granted Applicant's petition for writ of certiorari on April 19, 2018. Following briefing and oral arguments, the Court dismissed the writ as improvidently granted. *Missouri v. State*, Op. No. 2019-MO-025 (S.C. Sup. Ct. filed May 15, 2019). The case was remitted back to the circuit court on May 15, 2019. Applicant commenced this PCR action on June 6, 2019.

II. CURRENT APPLICATION

In his application for post-conviction relief, Applicant alleges he is being held in custody unlawfully based on the following reasons:

1. Ineffective Assistance of Trial Counsel
 - a. Failure to enforce five year plea offer
 - b. Failure to investigate the defense of involuntary intoxication
 - c. Failure to move for a timely *Faretta*² hearing
 - d. Failure to object to Judge Verdin's denial of Applicant's motion to relieve counsel
 - e. Failure to object to Judge Barber overruling Judge Verdin's prior ruling
 - f. Failure to move to dismiss the indictment on double-jeopardy grounds
2. Ineffective Assistance of Appellate Counsel
 - a. Failure to raise the issue of Judge Barber overruling Judge Verdin's prior ruling

² 422 U.S. 806 (1975).

Applicant requests relief as follows:

“Vacating the convictions and sentences and remanding this case, without undue delay, for a new trial.”

Attached herewith and incorporated by reference are the Pickens County Clerk of Court records regarding the subject convictions, Applicant’s records from the South Carolina Department of Corrections, Applicant’s appellate records, including the trial transcript, and the records of the current PCR action.

III. RESPONSE TO ALLEGATION OF INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL

Applicant’s claims of ineffective assistance of counsel are without merit. The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant, like all other defendants, the right to effective assistance of counsel. *Strickland v. Washington*, 466 U.S. 668 (1984); *Taylor v. State*, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive *effective* assistance of counsel guaranteed by the Sixth Amendment. *See generally* S.C. Code Ann. § 17-27-20(A) (enumerating allegations cognizable in PCR actions). The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right, and raises a question of fact that can only be determined by an evidentiary hearing. *Rogers v. State*, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRPC; *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985); *State v. Pendergrass*, 270 S.C. 1, 4, 239 S.E.2d 750, 751 (1977). The reviewing court applies the two-part test outlined in *Strickland* to determine whether counsel’s conduct “was so ineffective as to require reversal” of the applicant’s conviction or sentence. 466 U.S. at 687.

First, the applicant must show that counsel's performance was deficient; and second, that the deficient performance prejudiced the applicant. *Id.* 668; *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

The first prong—constitutional deficiency—is “necessarily linked to the practice and expectations of the legal community.” *Padilla v. Kentucky*, 559 U.S. 356, 366, 130 S. Ct. 1473, 1482, 176 L. Ed. 2d 284 (2010). In order to prove deficient performance, the applicant must show counsel's representation fell below an objective standard of “reasonableness under prevailing professional norms.” *Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). 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.

Strickland, however, “does not guarantee perfect representation[—]only a ‘reasonably competent attorney.’” *Harrington v. Richter*, 562 U.S. 86, 110 (2011) (quoting *Strickland*, 466 U.S. at 687). Representation is constitutionally ineffective only if counsel's conduct “so undermined the proper functioning of the adversarial process” that the defendant was denied a fair proceeding. *Strickland*, 466 U.S. at 686. Just as there is “no expectation that competent counsel will be a flawless strategist or tactician, an attorney may not be faulted for a reasonable miscalculation or lack of foresight or for failing to prepare for what appear to be remote possibilities.” *Harrington*, 562 U.S. at 110.

Accordingly, “[j]udicial scrutiny of counsel's performance must be highly deferential, as it is all too tempting for a defendant to second-guess counsel's assistance after conviction or an adverse sentence, and it is all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable.” *Strickland*, 466 U.S. at 689; see also *Yarborough v. Gentry*, 540 U.S. 1, 6 (2003) (“The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of

hindsight.”). Thus, a fair assessment of attorney performance requires every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel’s challenged conduct, and to evaluate the conduct from counsel’s perspective at the time. *Id.* Because of the difficulties inherent in making such an evaluation, the reviewing court must indulge in a “strong presumption that counsel’s conduct falls within the wide range of reasonable professional assistance.” *Butler*, 286 S.C. at 445, 334 S.E.2d at 816. The applicant must overcome this presumption to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625.

A reviewing court “must judge the reasonableness of counsel’s challenged conduct on the facts of the particular case, viewed at the time of counsel’s conduct.” *Strickland*, 466 U.S. at 690. An applicant making a claim of ineffective assistance “must identify the acts or omissions of counsel that are alleged *not* to have been the result of reasonable professional judgment.” *Strickland*, 466 U.S. at 690 (emphasis added). The reviewing court must then “determine whether, in light of all the circumstances, the identified acts or omissions were outside the wide range of professionally competent assistance.” *Id.*

The *Strickland* standard must be applied with scrupulous care, lest “intrusive post-trial inquiry” threaten the integrity of the very adversary process the right to counsel is meant to serve. 466 U.S. at 689-690; *see also Harrington*, 562 U.S. at 105 (cautioning that an ineffective assistance of counsel claim could potentially function as a way to escape rules of waiver and forfeiture and raise issues not presented at trial). Even under *de novo* review, the standard for judging counsel’s representation is a most deferential one. *Harrington*, 562 U.S. at 105. Unlike a later reviewing court, the attorney observed the relevant proceedings; knew of materials outside the record; and interacted with the client, opposing counsel, and the judge. Thus, the question is whether an attorney’s representation amounted to incompetence under “prevailing professional norms,” *not*

whether it deviated from best practices or most common custom. *Id.* (quoting *Strickland*, 466 U.S. at 690) (emphasis added).

The second, or “prejudice” prong of *Strickland* is rooted in the very purpose of the Sixth Amendment guarantee of counsel—to ensure a defendant has the assistance necessary to justify reliance on the outcome of the proceeding. *Id.* at 691–92. In order to prove prejudice, an applicant must demonstrate counsel’s deficient performance 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. A reasonable probability is a probability “sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. Thus, it is not enough “to show the errors had some conceivable effect” on the outcome of the proceeding—counsel’s errors must be “so serious as to *deprive the defendant of a fair trial.*” *Id.* at 687 (emphasis added). Moreover, the South Carolina Supreme Court has repeatedly held a PCR applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice. *Bannister v. State*, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998).

The performance and prejudice standards, however, “do not establish mechanical rules; [t]he ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged.” *Strickland*. at 696. Moreover, “there is no reason for a court deciding an ineffective assistance claim to approach the inquiry in the same order or even to address both components of the inquiry if the defendant makes an insufficient showing on one.” *Id.* at 697. The court “need not determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. *Id.* If it is easier to

dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, the court may evaluate the prejudice prong only. *Id.*

A. Failure to Enforce Plea Offer

Applicant claims Counsel was deficient for “failing to advise Applicant and move the court for detrimental reliance, in order to request enforcement of the plea offer.” Applicant alleges he was prejudiced by Counsel’s alleged failure in this regard because he was “forced” to go to trial. The State submits these claims are without merit.

Our Court of Appeals has held that “a plea agreement is only an ‘offer’ until the defendant enters a court-approved guilty plea” and “[a] defendant accepts the ‘offer’ by pleading guilty.” *Reed v. Becka*, 333 S.C. 676, 688, 511 S.E.2d 396, 402 (Ct. App. 1999). Thus, “until formal acceptance of the plea by the court has occurred, the plea binds no one, not the defendant, the state or the court.” *Id.* However, an exception to this rule exists “where the defendant relies on the prosecution’s plea offer by taking a substantial step or accepting risk of an adverse result, such as performing part of the bargain.” *Id.* at 689, 511 S.E.2d at 403. In order to sustain such a claim, the applicant must show the existence of the agreement and detrimental reliance by the applicant on the agreement. *Id.*

Here, Applicant alleges the solicitor made a five-year plea offer in February of 2013 via letter to Trial Counsel. However, the State is at present without knowledge or information sufficient to form a belief as to the truth of Applicant’s claim regarding the plea offer. Applicant did not provide a copy with the letter or and nothing in the record indicates the offer existed. Even so, Applicant merely claims the *offer* existed—he does not, pursuant to *Reed*, indicate whether he accepted the offer or whether Trial Counsel advised him as to this offer. Thus, Applicant fails to

show Trial Counsel's performance in this regard fell below an objective standard of reasonableness.

As a result of Trial Counsel's alleged deficiency, Applicant claims he was prejudiced in that he was "forced" to go to trial even though he "never once denied committing the crimes." Applicant cannot show prejudice in this regard because a defendant has no constitutional right to plead guilty. *Id.* at 685, 511 S.E.2d at 401 (Ct. App. 1999).

B. Failure to Investigate Defense of Involuntary Intoxication

Applicant claims Trial Counsel was ineffective for "failing to take serious" Applicant's proposed defense theory of involuntary intoxication based on long-term drug use. Specifically, Applicant alleges Trial Counsel "never investigated the expert material Applicant supplied him with, never summoned or deposed witnesses, and never investigated the circumstances of this possible defense."

The State submits Applicant cannot show deficient performance or prejudice based on Trial Counsel's failure to pursue a defense that is not legally or factually viable. In *State v. Vaughn*, our Supreme Court adopted the rule that "voluntary intoxication, *where it has not produced permanent insanity*, is never an excuse for or a defense to crime" 268 S.C. 119, 232 S.E.2d 328, 330 (1977) (emphasis added). Applicant has presented no evidence and there is nothing in the record tending to show his conduct amounted to either (1) involuntary intoxication³ or (2) voluntary intoxication producing permanent insanity that destroyed his ability to know right from wrong.

³ "Involuntary intoxication may result from innocently consuming an intoxicant, through being tricked into it by another, or being forced to take it, or perhaps through unanticipated side effects of a prescription drug taken on orders of a physician." Ralph King Anderson, *South Carolina Requests to Charge—Criminal* § 6-4 (2d ed. 2012).

C. Failure to Move for a Timely *Faretta* Hearing, Failure to Object to Judge Verdin's Denial of Applicant's Motion to Relieve Counsel, & Failure to Object to Judge Barber Overruling Judge Verdin's Prior Ruling

Applicant allegations relating to the denial of his right to self-representation based on ineffective assistance of counsel include "failing to timely move for a hearing into Applicant's request to represent himself;" "failing to object to Judge Verdin's erroneous denial of Applicant's right to represent himself;" and "failing to object to Judge Barber overruling Judge Verdin's prior ruling." The State submits these claims are without merit. Regardless of any deficiency alleged, Applicant cannot show any resulting prejudice because the South Carolina Court of Appeals found Applicant was not denied his Sixth Amendment right to self-representation. Specifically, the Court found (1) Applicant never clearly and unequivocally asserted his right to represent himself and (2) Applicant's conduct at trial amounted of a waiver of his right to self-representation.

D. Failure to Move to Dismiss on Double Jeopardy Grounds

Finally, Applicant claims Trial Counsel's "failure to move to strike the indictment for being duplicitous[sic] was objectively unreasonable and amounted to ineffective assistance of counsel." Specifically, Applicant claims double jeopardy was violated because he was convicted of both entering a bank with intent to steal and strong arm robbery. The State submits this allegation is meritless on its face.

The Double Jeopardy Clause protects against a second prosecution for the same offense after acquittal or conviction, and protects against multiple punishments for the same offense. *Brown v. Ohio*, 432 U.S. 161 (1977); *State v. Amerson*, 311 S.C. 316, 428 S.E.2d 871 (1993). In *Blockburger*, the United State Supreme Court held that where the same act or transaction constitutes a violation of two distinct statutory provisions, "the test to determine whether these are two offenses or only one is whether each provision requires proof of an additional fact which the

other does not.” 284 U.S. at 304. Here, Applicant clearly violated two distinct offenses because entering a bank with intent to steal requires proof the defendant entered a bank while strong arm robbery does not.

E. Conclusion and Action Requested

Applicant cannot satisfy either requirement of *Strickland*. However, the record likely does not refute or disprove Applicant’s allegations of ineffective assistance of trial counsel; therefore, the State requests an evidentiary hearing to fully resolve the issues. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application “alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court”).

IV. RESPONSE TO ALLEGATION OF INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL

A. Failure to Raise Issue of Judge Barber Overruling Judge Verdin

Applicant also alleges Appellate Counsel was ineffective in “failing to argue Judge Barber did not have the authority to repeal[sic] Judge Verdin’s pre-trial ruling.” The States submits this allegation is without merit because Applicant cannot show prejudice regardless of any alleged deficiency on the part of Appellate Counsel.

A defendant is entitled to effective assistance of appellate counsel. *Southerland v. State*, 337 S.C. 610, 615, 524 S.E.2d 833, 836 (1999). Appellate counsel is *not* required to raise every non-frivolous issue that is presented by the record. *Thrift v. State*, 302 S.C. 535, 539, 397 S.E.2d 523, 526 (1990); *cf. Jones v. Barnes*, 463 U.S. 745, 752 (1983) (“There can hardly be any question about the importance of having the appellate advocate examine the record with a view to selecting the most promising issues for review.”). “For [courts] to second-guess reasonable professional

judgments and impose on [appellate] counsel a duty to raise every ‘colorable’ claim suggested by a client would disserve the very goal of vigorous and effective advocacy” *Id.*

Generally, in analyzing a claim of ineffective assistance of appellate counsel, the court applies the *Strickland* test just as it would when analyzing a claim of ineffective assistance of trial counsel. *Southerland*, 337 S.C. at 616, 524 S.E.2d at 836. Thus, the question becomes (1) whether appellate counsel’s performance was deficient, and (2) whether the applicant was prejudiced by appellate counsel’s deficient performance. *Bennett v. State*, 383 S.C. 303, 309, 680 S.E.2d 273, 276 (2009). To prove prejudice, the applicant must show that, but for counsel’s errors, there is a reasonable probability he would have prevailed on appeal. *Anderson v. State*, 354 S.C. 431, 434, 581 S.E.2d 834, 835 (2003).

Like Applicant’s allegation pertaining to Trial Counsel’s failure to object to this issue, Applicant cannot show he was prejudiced by any alleged deficiency by Appellate Counsel. The Court of Appeals, after a full review of the record, found Applicant was not denied his right to self-representation.

B. Conclusion and Action Requested

Applicant cannot satisfy either requirement of *Strickland*. However, the record likely does not refute or disprove Applicant’s allegations of ineffective assistance of appellate counsel; therefore, the State requests an evidentiary hearing to fully resolve the issues. *See Sharper*, 279 S.C. at 265, 305 S.E.2d at 248 (providing an evidentiary hearing shall be held when a PCR application “alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court”).

VI. ANY FUTURE AMENDMENTS AND INVOCATION OF DISCOVERY PROCESS

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. 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, SCRCP. *Pro se* filings will not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State pursuant to *Love v. State*, Op. No. 27921 (S.C. Sup. Ct. filed Oct. 2, 2019) (Shearouse Adv. Sh. No. 39 at 14), or, alternatively, the State will request a continuance in the matter. *See Love*, at 24 (Kittredge, J., dissent) (“If, however, the proposed amendment . . . would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.”).

If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, the State reserves the right to move to dismiss this allegation or claim. S.C. Code Ann. §§ 17-27-10 to -160; Rule 71.1, SCRCP. *See also* Rules 15(a)-(b), SCRCP. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State. *See* Rule 15(a), SCRCP.

Pursuant to S.C. Code Ann. § 17-27-150, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, the State requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to the State well in advance of the evidentiary hearing. The State reserves the right to request a continuance and

oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to the State.

VII. GENERAL DENIAL

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

VIII. CONCLUSION

WHEREFORE, the State respectfully requests an evidentiary hearing be held on the claims of ineffective assistance of counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

LILLIAN L. MEADOWS
Assistant Attorney General

By: 
ATTORNEYS FOR THE STATE
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

December 9, 2019

STATE OF SOUTH CAROLINA
COUNTY OF PICKENS

IN THE COURT OF COMMON PLEAS

2019-CP-39-0769

VINCENT MISSOURI, 197996

Applicant,

vs

AFFIDAVIT OF SERVICE BY MAIL

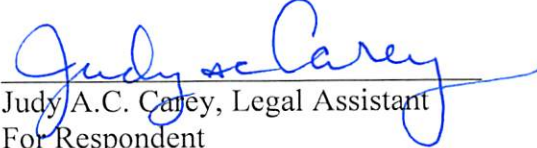
STATE OF SOUTH CAROLINA,

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** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Don A. Thompson, Esquire
107 Smithwood Court
Simpsonville, SC 29681

DATED this 9th day of December, 2019.


Judy A.C. Carey, Legal Assistant
For Respondent

1 STATE OF SOUTH CAROLINA
2 COUNTY OF GREENVILLE

IN THE COMMON PLEAS
13th JUDICIAL CIRCUIT

3 VINCENT MISSOURI,

4 Applicant,

5 vs.

CASE NO. 2019-CP-34-0769

6
7 STATE OF SOUTH CAROLINA,

8 Respondent.

9
10 HEARING BEFORE: HONORABLE DANIEL D. HALL

11 DATE: March 7, 2023

12 TIME: 9:48 AM

13 LOCATION: Greenville County Courthouse
14 305 E. North Street
15 Greenville, SC 29601

16 REPORTED BY: LORA L. McDANIEL,
17 Registered Professional Reporter

18
19 APPEARANCES:

20 ATTORNEYS FOR THE APPLICANT
21 THURMOND BROOKER, ESQ.

22 ATTORNEYS FOR THE RESPONDENT
23 TAYLOR SMITH, ESQ.
24
25

VINCENT MISSOURI v. STATE OF SOUTH CAROLINA

1	I N D E X				
2	DIRECT CROSS REDIRECT RECROSS				
3	WITNESS/EXAMINATION				
4	<u>VINCENT MISSOURI</u>				
5	BY MR. BROOKER	8	--	--	--
6	BY MR. SMITH	--	--	--	--
7	AARON ANGELL				
8	BY MR. BROOKER	66	--	--	--
9	BY MR. SMITH	--	97	--	--
10	DAVID ALEXANDER (Video)				
11	BY MR. BROOKER	112	--	--	--
12	BY MR. SMITH	--	121	--	--
13	TIFFANY HOLT (Video)				
14	BY MR. SMITH	123	--	--	--
15	BY MR. BROOKER	--	126	--	--
16	WILLIAM D. RICHARDSON				
17	BY MR. SMITH	128	--	139	--
18	BY MR. BROOKER	--	134	--	--
19	GEORGE CAMPBELL (Video)				
20	BY MR. BROOKER	141	--	148	--
21	BY MR. SMITH	--	145	--	--
22					
23	CERTIFICATE OF REPORTER Page 152				
24					
25					

VINCENT MISSOURI v. STATE OF SOUTH CAROLINA

1	E X H I B I T S		
2		FOR I.D. IN EVD	
3	APPLICANT EXH. 1, Letter dated 7-10-2012	16	16
4	APPLICANT'S EXH. 2, Letter dated 1-24-2013	35	35
5	APPLICANT'S EXH. 3, Letter dated 2-19-2013	39	39
6			
7	RESP. EXH. 1, Letter dated 2-19-13 with		
8	attachment	131	133
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VINCENT MISSOURI v. STATE OF SOUTH CAROLINA

1 THE COURT: Mr. Smith, whenever you're ready.

2 MR. SMITH: Your Honor, I have a court packet to
3 hand up. And I'll tell you what's in there. It's the
4 appellate records, the trial transcript including everything
5 from the briefs, the appellate orders, and the things filed in
6 this case; the sentencing sheets and indictments and the
7 filings in this case. And I just have them printed out in hard
8 copy to hand up.

9 THE COURT: Thank you.

10 In the case that Mr. Smith is referring to is
11 Vincent Missouri, 2019-CP-39-769. This is a Post-Conviction
12 Relief hearing in regards to the Applicant, Mr. Vincent
13 Missouri. Mr. Brooker, you're here on behalf of Mr. Missouri;
14 is that correct?

15 MR. BROOKER: Yes, sir.

16 THE COURT: Where do we stand procedurally? What
17 does The Court need to be doing next? Mr. Smith.

18 MR. SMITH: Yes, Your Honor. I'm sorry. I'm
19 trying to put my hands on it.

20 THE COURT: That's all right.

21 (A pause transpired).

22 MR. SMITH: May it please The Court, this is case
23 of Missouri v. State, 2019-CP-39-769. Mr. Missouri was
24 indicted for entering a bank with intent to steal, strong armed
25 robbery, failure to stop for blue light.

VINCENT MISSOURI v. STATE OF SOUTH CAROLINA

1 He did go to jury trial in May of 2014, and Judge
2 Barber was the trial judge. He had also had a hearing before
3 Judge Verdin on December 19, 2013. I've handed the transcript
4 from that hearing up to Your Honor as well.

5 After trial, Mr. Missouri was found guilty. And he
6 had one appellate lawyer who filed an Anders brief. And The
7 Court of Appeals denied her petition to be relieved as counsel
8 and directed her to brief an issue about Mr. Missouri's right
9 to proceed pro se, and ultimately it was affirmed. The Supreme
10 Court granted cert to Mr. Missouri and then dismissed the writ
11 as improvidently granted.

12 It's my understanding -- I just want to confirm the
13 issues that I believe are before The Court today. That will be
14 issues of Constitutional effectiveness as to the appellate
15 lawyers, that they should have argued that it was error for
16 Judge Barber to overrule Judge Verdin's prior ruling, which was
17 denying Mr. Missouri's motion to proceed pro se or to relieve
18 counsel.

19 And his trial lawyer was ineffective for not
20 enforcing a five-year plea offer, for not investigating the
21 defense of involuntary intoxication, for not moving forward on
22 a Ferretta hearing, for not objecting to Judge Verdin's denial
23 of Mr. Missouri's motion to relieve his lawyer; for not
24 objecting to Judge Barber's overruling the prior ruling, for
25 not moving to dismiss the indictment on double jeopardy

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1 grounds.

2 It's my understanding that there may be one more
3 issue, for not moving to dismiss the indictment due to an
4 irregularity in the Grand Jury meeting, going to the date of
5 the meeting. I think that's the issue. Just wanted to see if
6 Mr. Brooker would confirm if I've accurately stated everything.
7 Thank you.

8 THE COURT: Mr. Brooker.

9 MR. BROOKER: You may have mentioned this, not
10 quite sure. I think there was a failure to raise the issue of
11 Judge Barber's overruling Judge Verdin's prior ruling and, of
12 course, that's ineffective assistance of counsel would be in
13 reference to appellate counsel.

14 THE COURT: All right.

15 MR. SMITH: I just wanted to, Your Honor, this may
16 be an issue that came up last time about a global plea deal
17 with Greenville County and Pickens County. We're prepared to
18 put that up today.

19 (Off-the-record discussion.)

20 MR. SMITH: Your Honor, before we begin, I'd like
21 to just put one issue up, as a matter of law. The double
22 jeopardy issue. We're dealing with separate indictments here.
23 These offenses are related because they're dealing with
24 Mr. Missouri's actions inside the bank.

25 This was a bank robbery case. They have different

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1 elements. There's not a double jeopardy issue if they have
2 distinct elements. There's plenty of case law on that point.

3 That the test for a double jeopardy violation is
4 whether each provision requires proof of a fact that the other
5 does not. That's coming from State v. Harrison, 432 N.C. 448,
6 which cites the Blockburger case laying out the double jeopardy
7 test. These two offenses had different elements, so there's no
8 double jeopardy violation.

9 I think as a matter of law, Mr. Missouri's lawyer
10 is not required to argue that point because I think, on its
11 face, has no merits.

12 THE COURT: Thank you. I'll note you placing that
13 on the record as a matter of law. Where are we procedurally?
14 State ready to go forward?

15 MR. SMITH: Yes, Your Honor.

16 THE COURT: Mr. Brooker, are you ready to go
17 forward?

18 MR. BROOKER: Yes, sir.

19 MR. SMITH: This is the case we had three witnesses
20 joining by Webex. I just want to confirm. Two from Columbia
21 and one from Spain, I think.

22 THE COURT: Let me pull up my virtual courtroom.

23 My virtual courtroom is open. Is your first
24 witness going to appear virtually?

25 MR. BROOKER: I apologize, Your Honor. Could you

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1 repeat that.

2 THE COURT: I have my Webex up, my virtual
3 courtroom. Is the first witness going to appear virtually?

4 MR. SMITH: No, Your Honor. There will be several.

5 THE COURT: Call your first witness.

6 MR. BROOKER: Your Honor, the first witness we call
7 is Vincent Missouri.

8 THE CLERK: Mr. Missouri, please step around to the
9 witness stand, place your left hand on the Bible and raise your
10 right hand.

11 VINCENT MISSOURI
12 being first duly sworn, testified as follows:

13 THE CLERK: Thank you. You may be seated.
14 Please state your full name for the record.

15 MR. MISSOURI: Vincent Missouri.

16 DIRECT EXAMINATION

17 BY MR. BROOKER:

18 Q. Mr. Missouri, I believe, you correct me if I'm
19 wrong, sometime back in 2012 you were charged in Pickens County
20 and also in Greenville County, I think, for various charges
21 including strong armed robbery, and also bank robbery; is that
22 correct?

23 A. Yes, sir, I was.

24 Q. It's my understanding that you were charged in both
25 counties. I think in Greenville County and also in Pickens

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1 County?

2 A. Well, I was charged initially out of Pickens County
3 June 18, 2012. The Greenville charges didn't come about until
4 November 9, 2012. But by November 9, 2012, that concluded the
5 emphasis of the bank robberies. There were no further bank
6 robberies. As of November 9, 2012, I was arrested in Camden,
7 South Carolina. November 9th. I had to remember that date
8 correctly.

9 Q. When you were arrested, you were arrested in June
10 of 2012 in Pickens County?

11 A. Yes, sir.

12 Q. For bank robbery. And I think for strong armed
13 robbery. You initially sought to self-represent; is that
14 correct?

15 A. Yes, sir, I did. Initially, as soon as I was
16 arrested, I filed a motion to represent myself. I filed a
17 motion to change venue due to some comments made by an officer
18 that was transferring me from the scene of the arrest to
19 Pickens County jail that I felt I needed to put in a motion to
20 change venue.

21 I was trying to get the case brought from Pickens
22 to Greenville. That was denied -- well, it really wasn't
23 pursued because they did assign an attorney. They just
24 ignored -- my motion to represent myself was totally ignored
25 from Pickens County. They went on to appoint counsel.

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1 MR. BROOKER: Your Honor, I think I'm going to make
2 reference to, I think the record. And I think there should be
3 a supplemental record on appeal. Should be a document called
4 supplemental record on appeal.

5 THE COURT: All right.

6 THE WITNESS: I've supplied you with copies I filed
7 with the Clerk of Court of Pickens of my written motion to
8 represent myself, my written motion to change venue, and my
9 written motion for discovery. All three of those was filed
10 with Pickens County clerk.

11 BY MR. BROOKER:

12 Q. I think in that supplemental record of appeal, I
13 think you sent a letter to the clerk's office when you filed
14 those motions. That was the Clerk of Court for Pickens County.
15 I think it's dated June 25th of 2012.

16 MR. BROOKER: I think, Your Honor, that may be
17 listed in that record of appeal as page six, on that
18 supplemental record of appeal. There is a June 25, 2012
19 handwritten note.

20 THE COURT: All right.

21 BY MR. BROOKER:

22 Q. Mr. Missouri.

23 A. Yes, sir.

24 Q. Do you remember writing that note to the clerk's
25 office?

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1 A. Yes, sir, I do.

2 Q. And do you remember in that note asking the clerk's
3 office or advising the clerk's office that you would be
4 self-representing?

5 A. Yes, sir.

6 Q. And you also asked the clerk to file three motions
7 that you had prepared handwritten; is that correct?

8 A. Yes, sir, I did.

9 MR. BROOKER: On page 7, Your Honor, of that same
10 supplemental record on appeal.

11 BY MR. BROOKER:

12 Q. Did the clerk's office respond back to you by
13 letter dated June 26, 2012? I can show you the letter.

14 A. Yeah, could you. I would like to recall my memory
15 to that note.

16 Yes. You want me to read it?

17 Q. Yes.

18 A. What she says is just a sentence.

19 Q. In that letter, did the court acknowledge your
20 letter of self-representation on June 25, 2012?

21 A. Yes, it says: I am in receipt of your
22 letter/motion dated 6-25-2012.

23 It goes on to say: I will forward a copy of your
24 letter/motion to the Solicitor's Office. I am returning
25 clocked copies of your motions. I will place your letters in

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1 the court's file.

2 Q. At that particular period of time, were you under
3 the impression that the court had acknowledged you as
4 representing yourself?

5 THE COURT: I'm sorry. I don't see that. I'm
6 looking at page 5.

7 MR. BROOKER: I think it's page 7, Your Honor.

8 THE COURT: I don't see anything acknowledging that
9 he's self-representing.

10 MR. BROOKER: I think, Your Honor, it is
11 acknowledging his June 25th letter, June 26th letter from the
12 clerk of court's office.

13 THE COURT: I have -- is that what you're referring
14 to? We need to be on the same page. I haven't seen anything
15 about the word self-representation on anything.

16 I have that. Show me where it says
17 self-representation.

18 MR. BROOKER: It doesn't say self-representation.

19 THE COURT: In the letter, show me where it is
20 saying self-representation.

21 MR. BROOKER: Okay. Let me go back to his June
22 25th letter. Are you looking at that letter, Your Honor?

23 THE COURT: No. I'm not on the same --

24 MR. BROOKER: Should be in between page 5 and 7.

25 THE COURT: I don't have anything.

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1 MR. BROOKER: It's not included in there, Your
2 Honor?

3 THE COURT: No.

4 MR. BROOKER: That would be the full supplemental
5 record, Your Honor. I have additional copies, Your Honor. Let
6 me grab them at my desk, if you permit me to.

7 THE COURT: I may be looking at the wrong --

8 MR. SMITH: Your Honor, is that the supplemental
9 record on appeal filed with the Court of Appeals? It should be
10 stapled together.

11 MR. BROOKER: I have additional copies, Your Honor.

12 THE COURT: He sent up the whole packet. I might
13 get Mr. Smith to come up here.

14 MR. SMITH: Should be about 42 pages, stapled
15 together.

16 THE COURT: I'm with you. I have it. Thank you.

17 BY MR. BROOKER:

18 Q. So that June 25, 2012 letter, I think you did
19 indicate to the clerk's office you would be representing
20 yourself; is that correct?

21 A. Yes, sir.

22 MR. BROOKER: I think on the following day, June
23 26th, of course, I think in the supplemental record, Your
24 Honor.

25 THE COURT: I have that. I'm with you.

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1 BY MR. BROOKER:

2 Q. On June 26, 2012 letter from the clerk's office,
3 the clerk's office do acknowledge receiving your January 25,
4 2012 letter; is that correct?

5 A. Yes. Yes, you did.

6 Q. They also indicated to you that they would file
7 your motions and that they would also send copies of your
8 motions over to the Solicitor's Office; is that correct?

9 A. Yes.

10 Q. At that particular period of time, were you under
11 the impression that you had made it clear to the clerk's office
12 that you intended to self-represent?

13 A. Yes, sir.

14 Q. Was there any communication from anyone at that
15 particular period of time that advised you that you did not
16 have the right of self-representation?

17 A. Well, I did receive a letter from the Pickens
18 Public Defender's Office somewhere around July 10, 2012 letting
19 me know John, somebody by the name of John Delong was
20 representing me. Then he said he had a conflict on that same
21 letter. Then he said a subsequent attorney was representing
22 me. He had a conflict on that same letter. And then they
23 refer to Aguilar. It's a real strange name.

24 When I got his information to call him, he let me
25 know that he was not comfortable with that type of case because

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1 he's not a criminal attorney. So he referred me to Angell,
2 that he said he was just a liaison to get me in touch with
3 Angell. That's how that came about.

4 Q. That was July of 2012?

5 A. That was around July 10th. I think we have a copy
6 of that particular letter.

7 Q. At that particular period of time when you received
8 that letter, that July 10th letter, had you requested an
9 appointment of counsel?

10 A. No, I hadn't requested appointment of counsel. I
11 actually asked to represent myself.

12 Q. Do you know how it came that counsel was appointed
13 to you if you had not requested the appointment of counsel at
14 that time?

15 A. I have no idea. And the thing about me not wanting
16 an attorney, I didn't see the need. I had wrote full
17 statements out, truthful confessions of exactly what I did,
18 what I was engaged in. I didn't have a reason to need an
19 attorney to plead guilty.

20 I wasn't prepared -- you know, I didn't need an
21 attorney to distort the facts or whatever, you know. I just
22 wanted to plead guilty, get it behind me. Get a decent
23 negotiation. Get my life started back again.

24 MR. BROOKER: Just indulge me for just a second,
25 Your Honor.

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1 BY MR. BROOKER:

2 Q. Mr. Missouri, I have July 20, 2012 letter. Is that
3 the letter that you're making reference to?

4 A. Yes, sir, it is. Yes, sir. From the clerk of
5 court's office. You need me to read it into the record?

6 Q. No. We're going to enter it into the record.

7 MR. BROOKER: Your Honor, we would like to enter
8 this letter into the record, June 10, 2012.

9 MR. SMITH: No objection.

10 (APPLICANT EXH. 1, Letter dated 7-10-2012, was
11 marked for identification and entered into evidence.)

12 THE COURT: Entered into evidence without
13 objection.

14 MR. BROOKER: Would you like to see it, Your Honor?
15 It's not in your package.

16 BY MR. BROOKER:

17 Q. That was the July 10th letter?

18 A. I think that's the date on it.

19 Q. When was the first time thereafter that you
20 received contact from someone from the Public Defender's Office
21 advising you that they were there to represent you?

22 A. Well, the first time, if I can recall correctly,
23 you can correct me if I'm wrong, shortly after that I began
24 compiling my case to try to get a negotiated plea. I filed
25 some motions to Pickens County clerk. And at that particular

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1 time they notified me and told me hybrid representation is not
2 allowed. I have an attorney appointed to my case, which was
3 Aaron Angell. Any substantial motions that I needed to file, I
4 needed to go through him. That was it. That was a wrap. I
5 couldn't file nothing else.

6 And I repeatedly attempted to, you know, go around
7 that scenario, but I was disallowed. Every time I attempted to
8 file something or get something done, it was denied.

9 Finally, I filed a reduction of bond motion to
10 where I could try to get bail because the bail was initially
11 set outside of my resources. I couldn't make bail at the
12 initial amount set.

13 I filed for a reduction for bail. That particular
14 motion was picked up and sent to the court by Aaron Angell.
15 And Judge Miller, I want to say, if I'm not mistaken, held a
16 bail hearing since I had not made bond and the time of
17 indictment had exceeded 90 days, Judge Miller went on ahead and
18 reduced the bail.

19 Q. What I'm trying to find out, we got Petitioner's
20 Exhibit 1, which is that July 10, 2012 letter. I'm trying to
21 figure out when was the first time -- was it in 2012 that
22 someone from the Public Defender's Office got in contact with
23 you and began representation?

24 A. Yes. It had to be in 2012. I can't recall exactly
25 what month but it was in 2012.

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1 Q. Would that have been Mr. Angell --

2 A. Yes.

3 Q. -- from the Public Defender's Office?

4 A. Yes. I don't think he's with the Public Defender's
5 Office. I think they appointed a private attorney

6 Q. I got you.

7 A. I guess it's through the Public Defender's Office
8 that they do that.

9 Q. Okay. At that particular period of time, I know
10 you said that it was your intention to represent yourself. Did
11 you communicate that to Mr. Angell when you first met with
12 Mr. Angell, that it was your intention to represent yourself?

13 A. Well, I did tell him because I told him I was just
14 looking to plead guilty to these charges. We talked about
15 getting a bond. Matter of fact, I drove to Clemson and I went
16 to his office. He had this big dog in his office. And I met
17 the dog and Mr. Angell's secretary. Very cordial.

18 And we just briefly sat down and discussed, you
19 know, possibility of pleading to less time, mitigating factors,
20 dealing with my history of drugs and stuff. We discussed that.
21 We was trying to get the best plea deal we possibly could.

22 Q. Was that in 2012?

23 A. Yes, sir.

24 Q. And I want to make it clear at that meeting, that
25 was the first meeting that you had with him?

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1 A. Other than telephonic meetings, yes.

2 Q. I'm trying to figure out when was it that you told
3 him that: Mr. Angell, I want to self-represent?

4 A. That had to be -- what I did, I showed Mr. Angell
5 that letter that I filed with the clerk. I let him review the
6 letter that I had filed with the clerk. I was kind of curious
7 as to how they appointed him on my case because of that letter
8 was filed with the clerk. And I was kind of curious how that
9 come about.

10 Q. I noticed you stated that you continued even after
11 having Mr. Angell on your case, you continued to file pro se
12 motions?

13 A. Yes.

14 Q. I think you indicated that you continued -- you got
15 a number of letters from the clerk's office.

16 MR. BROOKER: I think all of this is included, Your
17 Honor, in that supplemental record of appeal.

18 BY MR. BROOKER:

19 Q. I think you indicated you got a number of records
20 from the clerk's office advising you that there was no hybrid
21 representation, that you had to go through Mr. Angell?

22 A. Right. Right.

23 Q. Did you make any efforts at that time to suggest to
24 the Clerk of Court: I don't want Mr. Angell. I want to
25 self-represent?

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1 A. Well, I made all of my concerns known from start.
2 And since I was being ignored, I didn't feel the necessity to
3 rehash that. They wasn't paying me no attention from the
4 clerk's office. The first one was ignored. The second one was
5 ignored. We didn't go through that.

6 We just went on to trying to get a negotiated plea.
7 And I went on with Mr. Angell 'cause I felt like they're not
8 going to listen to me. They're going to listen to an attorney.
9 I had no reason to continue to try to revive what I had
10 requested over months.

11 Once he got the bond reduction, you know, he did do
12 something. And so that seemed to me, you know, I just went on
13 with it. And even though I didn't like it but, you know, under
14 the circumstances, I didn't feel I had any other choice. I had
15 wrote all the way up to the Supreme Court. And they still
16 affirmed that hybrid representation wasn't allowed.

17 And, you know, I was explaining how do I get around
18 it. I wrote the Clerk of Court several times and, you know, we
19 not having a hearing, Faretta hearing that's required. In
20 order to get it done, we have to have a hearing.

21 Q. That motion or letter that you wrote to the Supreme
22 Court --

23 MR. BROOKER: Your Honor, I think that is again in
24 the supplemental record of appeal. I think it starts on page
25 9.

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1 BY MR. BROOKER:

2 Q. You filed that in July 29, 2013; is that correct?
3 I'll let you take a look at it, if you want to see it. And at
4 at that time you were still trying to achieve
5 self-representation when you wrote that to the Supreme Court?

6 A. At this time I was really trying to achieve
7 self-representation because at this particular time, me and
8 Mr. Angell fell on irreconcilable differences. That was due to
9 the plea offer by Solicitor Campbell.

10 Q. That is dated July 29, 2013. When did you have
11 what you call irreconcilable differences with Mr. Angell?

12 A. That was shortly after Mr. George Campbell. I was
13 re-arrested in 2012. Not to get it confused because we have a
14 record that's incorrectly stated. Like I said, all my arrests
15 happened in 2012.

16 Once I was arrested November 9, 2012 I was never at
17 large to commit any more offenses. I stayed in the county jail
18 from Camden, moved to Greenville January 16, 2013. I remained
19 there until May 19, 20th when I was convicted in Pickens. They
20 sent me to the Department of Corrections. I was never at
21 large. We'll get to why there's some discrepancies there.

22 Anyway, in January, I think Mr. George Campbell
23 pulled me from the Greenville County Detention Center to talk
24 about a possible plea negotiation. He discussed -- he said he
25 did extensive research. He said: Mr. Missouri, your case is

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1 kind of strange to me. He said because everybody I talk to had
2 nothing but good things to say about you.

3 He said: I understand you had some issues with
4 drugs. He said: I think that's a contributing factor. And he
5 said, you know, things of that sort.

6 He offered me five years based on his investigation
7 of me and the case and told me to go ahead and, you know, do
8 the five years, get myself together. Come out and get my life
9 together.

10 Q. We'll get to that. I'm trying to figure out is
11 that when you had this irreconcilable differences with
12 Mr. Angell?

13 A. Yes.

14 Q. At that particular period of time, did Mr. Angell,
15 when you had these irreconcilable differences, did Mr. Angell
16 file a motion to have himself removed as counsel of record?

17 A. No. No. No. Once I got in touch with Mr. Angell
18 concerning what Mr. George Campbell had offered, Mr. Angell
19 appeared on Friday night to the county jail to talk to me
20 about -- I think it was a Friday, I'm not sure. He talked to
21 me about a rejection of that offer by Mr. Doug Richardson out
22 of Pickens.

23 Q. Do you know what month that would've been, roughly?

24 A. Okay. It couldn't have been no farther than April
25 in 2013.

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1 Q. At that time did you request him to relieve
2 himself?

3 A. Yes, definitely.

4 Q. Roughly in April of -- no later than April of 2013
5 you requested him to relieve himself as your counsel?

6 A. Right. Because I asked him to get back in touch
7 with Mr. Campbell to further discuss the plea and why there was
8 one bank in Pickens and it was two in Greenville. And why
9 would Pickens not want to go along with the negotiation offer
10 of the Greenville Solicitor when Greenville sustained two bank
11 robberies whereas Pickens had one. Pickens was the bank that
12 got their money back. Greenville didn't get their money back.

13 There was some issues me and Mr. Angell had at odds
14 with why was Pickens saying 15 and why was Greenville saying
15 five. And both of these Solicitors is prosecuting out of the
16 13th Judicial Circuit Solicitor's Office. I had an issue with
17 that.

18 Q. So at some point in time when Mr. Angell did not
19 file a motion to relieve himself as counsel of record, did you
20 file a motion --

21 MR. BROOKER: And I'm looking at, Your Honor, that
22 same supplemental record on appeal. I think it's identified at
23 the top as page 15.

24 BY MR. BROOKER:

25 Q. At some point in time did you file a motion seeking

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1 to have Mr. Angell removed? Is that the motion that you filed?

2 A. Yes, sir.

3 Q. You filed that, was it September of 2013?

4 A. Yes, sir. Yes, sir.

5 Q. At some point in time a hearing -- was a hearing --
6 after you filed that motion, did Mr. Angell finally file a
7 motion seeking to remove himself after you filed your motion?

8 A. Well, I never received a copy of the one that
9 Mr. Angell filed. I'm sure he did. That's the one the court
10 referred to -- she was holding, Judge Verdin was holding a
11 hearing as to the one that Mr. Angell filed. Not the one that
12 I filed 'cause I filed one before September of that year.
13 There was probably two or three more filed since.

14 When me and him fell out about that plea,
15 delivering that plea from Pickens to Greenville, you know, I
16 asked Mr. Angell to just bring me my whole case file. Just
17 everything you have pertaining to my case. Could you bring it
18 to me at the Greenville County Detention Center.

19 Q. Did he do that?

20 A. Yes, sir, he did.

21 Q. The motion that he filed after yours would've been
22 the next month, October 10, 2013, seeking to be relieved?

23 A. Yes, this is Mr. Angell's.

24 Q. It's my understanding that in December you had a
25 hearing before Judge Verdin; is that correct --

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1 A. Yes.

2 Q. -- on that motion to be relieved as counsel of
3 record.

4 I want to ask you --

5 MR. BROOKER: Your Honor, I'm going to specifically
6 start referring to the December 19, 2013 transcript.

7 THE COURT: All right.

8 MR. BROOKER: Do you have a copy of that?

9 THE COURT: I do.

10 BY MR. BROOKER:

11 Q. I'm going to hand you a copy of that December 19,
12 2013 transcript on the motion to be relieved. I want to ask
13 you some questions. I've read the transcript. When the
14 proceeding was convened, did Mr. Angell argue the motion to be
15 relieved, or did you argue that motion before Judge Verdin?

16 A. Well, in retrospect, to recall properly, I would
17 say I had to argue because Mr. Angell just made a general
18 statement about I was dissatisfied with his representation. I
19 don't think he referred to any Faretta colloquy or anything of
20 that sort.

21 Q. The reason why I'm asking the question is I flipped
22 through the transcript. During that hearing, the judge decided
23 not to remove Mr. Angell; is that correct?

24 A. Yes, she did.

25 Q. Do you know whether or not during that hearing

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1 Mr. Angell advised the judge at that point of Faretta versus
2 California and the Sixth Amendment to the United States
3 Constitution, did he make the argument that you had a right of
4 self-representation to Judge Verdin?

5 A. He never made that argument.

6 Q. Did he make any other arguments on your behalf in
7 support of your right of self-representation --

8 A. No.

9 Q. -- at that December 2012 hearing?

10 A. No, sir, he did not.

11 Q. At that particular period of time, you made no
12 reference -- I think you testified that you argued the motion.
13 And, of course, in that transcript you made no reference to
14 Faretta. Did you know about Faretta at that particular period
15 of time?

16 A. I wasn't really -- Faretta was something I was just
17 studying up on in the county jail. I wouldn't say I was real
18 vividly familiar with it like an attorney would've been. I
19 wasn't up to par with Faretta. I understood that a defendant
20 has a Constitutional right to represent himself. I knew that
21 much. I knew that I should have been allowed to represent
22 myself but I was not.

23 Q. The reason why I ask that question, you made no
24 mention of Faretta in arguments. That's why I was asking
25 whether or not you were familiar with Faretta at that time.

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1 A. Uh-huh.

2 Q. The judge denied you. Judge Verdin denied you; is
3 that correct?

4 A. Yes, sir, she did.

5 Q. When Judge Verdin denied you and said that
6 Mr. Angell would continue to be your counsel, I'm assuming your
7 trial came up, I think that December -- excuse me -- roughly in
8 about five months, five or six months, in May of 2014; is that
9 correct?

10 A. Yes. Before that came up, since she denied me, I
11 asked Mr. Angell would he appeal Judge Verdin's ruling denying
12 me the right to represent myself. And that wasn't done.

13 So I filed a pro se out of caution, out of pure not
14 wanting to be reckless. I rather have it filed in the court,
15 tell me I'm not entitled to hire representation than not move
16 on it at all.

17 Q. After Judge Verdin denied you, you asked him if he
18 would file an interlocutory appeal with the Court of Appeals --

19 A. Yes, sir, based on the motion for trial.

20 Q. -- seeking to challenge Judge Verdin.

21 Let's just make sure we don't talk over each other
22 because the court reporter has to get down everything that both
23 of us say. I don't want to make her job any more difficult
24 than what it is.

25 After Judge Verdin denied you in December of

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1 2019 -- December of 2013, you advised your counsel, Mr. Angell,
2 that you wanted him to file an interlocutory appeal to
3 challenge Judge Verdin's denial of your right to
4 self-representation?

5 A. Yes, sir.

6 Q. Did he file that interlocutory appeal on your
7 behalf?

8 A. No, sir.

9 Q. And I think you indicated that you filed a pro se
10 interlocutory appeal with the South Carolina Court of Appeals?

11 A. Yes, sir.

12 Q. What happened with that interlocutory -- pro se
13 interlocutory appeal that you filed with the Court of Appeals?

14 A. It was denied for the same reason they denied any
15 other standard motion. They said I didn't have a right to
16 hybrid representation. I took the position that this is not a
17 standard motion. It's just in furtherance of the right that
18 should've been established under Faretta.

19 By the time I filed the appeal, you know, I had did
20 a little more studying on it. And I came up with the
21 Constitution premise for which Faretta was based on with the
22 books at the county jail. I had to appeal. I outlined Faretta
23 in the appeal, the attempted appeal but it didn't go through.

24 Q. At some point in time the case came to trial; is
25 that correct?

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1 A. Yes, sir.

2 Q. And I believe this case came to trial in May of
3 2014?

4 A. Yes, sir.

5 Q. In May of 2014, did the issue of
6 self-representation come up at the pretrial stage?

7 A. Yes. Yes. It did.

8 MR. BROOKER: Your Honor, I'm referring to the
9 transcript, the trial transcript of May 29 -- May 19th through
10 2014?

11 THE COURT: I have that.

12 BY MR. BROOKER:

13 Q. Mr. Missouri, I'm going to hand up a copy of that
14 transcript for you to take a look at. Give me just a second.
15 I'm going to ask you some questions about it.

16 MR. BROOKER: If you can indulge me just a second,
17 Your Honor. I'll get a copy of that. Your Honor, in that
18 transcript, I'm looking at Bates number 25 at the top.

19 THE COURT: I have that.

20 BY MR. BROOKER:

21 Q. Are you at 25 at the top?

22 A. Yes.

23 Q. Bates 25. Line two. I'm going to read that. I'm
24 going to ask you some questions in reference to that.

25 In response to your motion, in response to the

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1 motion of self-representation, the court stated: Well, I can't
2 go behind her. I don't know anything about her ruling. If she
3 denied the motion, I don't have the ability to go back and say,
4 hey, you were wrong.

5 And because I am here now, I guess I can't undo
6 what some other judge has already done and ruled on. And if
7 there's an error in that regard, then you will have to deal
8 with that in the future.

9 Is that what Judge Barber told you in reference
10 initially, in reference to the issue being raised regarding
11 self-representation and then also Judge Verdin's decision in
12 December of 2012?

13 A. Yes. He was referring to Judge Verdin's December
14 12 -- I mean, December --

15 Q. 2013?

16 A. 2013 ruling, yes. He said he couldn't go back
17 behind her and undo some other judge. He don't have the right
18 to say: Hey, you are wrong, I'm overturning that denial.

19 Q. At that particular period of time, were you still
20 seeking self-representation? Is that the reason why this issue
21 was raised?

22 A. During that period of time I was seeking to clarify
23 what went on December 19, 2013. Because I couldn't get the
24 plea offer -- I wanted the judge, I essentially wanted Judge
25 Barber to allow me to interject the motions that I had in order

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1 to attempt to have the plea agreement that I was wanting to get
2 done. So I was asking him, like, if you go back to page 22,
3 and I was telling judge, page 22 on page, line 4, you know, the
4 judge was asking me what pretrial matters I need to address. I
5 said: Probably about 18 months of them.

6 So I was pointing out that not so much of
7 self-representation because I didn't have a reason to believe I
8 had that right because Judge Verdin had denied me December 19,
9 2013. I wasn't really sure what Judge Barber was referring to.

10 But I was telling him about the 18 months and the
11 23 months leading up to, when I did want to represent myself, I
12 didn't have that opportunity to conduct or manage my own
13 defense. You're saying to me today, really you're saying,
14 okay, you're asking me about that. You're saying: Judge
15 Verdin's earlier ruling was wrong.

16 And I questioned him on the record. He's saying:
17 I'm not saying anything about her ruling.

18 Q. I think what you're referring to is further on that
19 transcript --

20 MR. BROOKER: Your Honor, I'm looking at the same
21 trial transcript, of course, Bates number 46.

22 THE WITNESS: 46?

23 BY MR. BROOKER:

24 Q. Yes. I'll give it to you.

25 A. Thank you. Okay. 46. Okay, yes. Line from.

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1 Q. On line four, is this what you're referring to
2 where The Court says: Pickens County to date, I don't know
3 about anything that happened in the past year. If you are
4 interested in representing yourself, I will have certain
5 questions I want to ask you. If I find you're competent to do
6 so, you will be able to represent yourself and we'll go
7 forward.

8 At some point in time, did judge -- I think Judge
9 Barber previously said: I don't have the ability to be able to
10 reverse the judgment that was made by Judge Verdin in denying
11 your motion for self-representation.

12 At some point in time Judge Barber decided he would
13 entertain your motion of self-representation; is that correct?

14 A. Right. This is the colloquy after that, that me
15 and him had. That's when I come in at ten. I said -- once he
16 stated that he may have the power to do that and where this
17 colloquy come on when you gave me C46. Coming in at line 10, I
18 said: Sir, are you stating on the record that actually the
19 court at an earlier time made an error. I was referring to
20 Judge Verdin's December 19, '13 ruling.

21 The court said: I'm not stating anything about it.
22 I'm telling you what I'm prepared to do, if you make the
23 motion. If you don't want to make the motion, that's fine.
24 We're ready to go. What is it you want to do?

25 And I responded: May I speak. Kind of puts me in

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1 an awful position, Your Honor. It doesn't record the rest of
2 the record. I know exactly what I said. I'm not going to say
3 what I said 'cause it's not written.

4 Q. You allege that Mr. Angell was ineffective in
5 failing to challenge Judge Barber when Judge Barber decided to
6 review Judge Verdin's denial of your December, denial of your
7 previous motion of self-representation --

8 A. Yes.

9 Q. -- is that correct?

10 A. Yes.

11 Q. Did Mr. Angell at any point in time challenge
12 whether or not Judge Barber had the ability to be able to
13 review and change the decision that was made by Judge Verdin
14 back in December of 2013?

15 A. No. The record is clearly silent as to him
16 interjecting any position. He sat there silent, totally
17 without saying a word to what was going on and the records
18 display such. He didn't interject or argue that, you know,
19 Judge Barber, that would be questionable because Judge Verdin
20 has already made a final ruling and it's a denial. It works a
21 little different when a judge in one circuit judge says no and
22 you go to another circuit judge and try to get them to say yes
23 as opposed to vice versa.

24 When Judge Verdin denied, I didn't have a reason to
25 believe. What I did question Judge Barber concerning was the

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1 rights that I should've had in 23 months leading up to the
2 trial when I was repeatedly attempting to manage my own defense
3 and I would've come out way better than the way I come out. I
4 come out with 30 years when the plea offer started at five, you
5 know.

6 Q. We'll get into that in a minute. That's what
7 you're alleging that he was ineffective for failing to
8 challenge, at least at this particular stage, failing to
9 challenge whether or not Judge Barber had the authority to
10 overrule Judge Verdin's decision?

11 A. Right.

12 Q. Correct me if I'm wrong, at the December 2013
13 hearing with Judge Verdin, I believe your issue for purposes of
14 this PCR is that he was ineffective for challenging -- for
15 failing to challenge Judge Verdin's decision to deny you the
16 right of self-representation?

17 A. Right, under Constitutional grounds. Federal
18 Constitutional grounds as well as state.

19 Q. I'll make that clear for The Court.

20 You also argued that Mr. Angell was ineffective for
21 failing to move timely for the Faretta hearing. Is that based
22 upon the fact -- I want to make sure. Is that based upon the
23 fact you said that you and Mr. Angell had irreconcilable
24 differences at least no later than April of 2013 and he didn't
25 file a motion to relieve himself until October of 2013. Is

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1 that what you're referencing at the time what you refer to as
2 yourself and Mr. Angell having that fall-out that he wait from
3 at least April to October to file a motion to have himself
4 relieved?

5 A. Yes, sir. That's absolutely correct. After the
6 plea offer, like I said, Mr. Angell wasn't interested in
7 assisting me to negotiate that offer. I asked him several
8 occasions to get back in touch with Mr. Campbell. He didn't
9 never assist me to do that.

10 Mr. Campbell will testify that nobody contacted him
11 as far as that plea went. Not that I know of. I requested
12 over and over, repeatedly.

13 Q. That is another ground in which you claim
14 ineffective assistance of counsel was failure to enforce the
15 plea agreement and, of course, I'm going to -- I have a copy of
16 that plea agreement. Your Honor, if we could have that.

17 (APPLICANT'S EXH. 2, Letter dated 1-24-2013, was
18 marked for identification and entered into evidence.)

19 BY MR. BROOKER:

20 Q. Let's talk about this ineffective assistance of
21 counsel, specifically plea offer. What I just handed to you is
22 a letter dated January 24, 2013; is that correct?

23 A. Yes.

24 Q. Who is this letter from? It doesn't have a name on
25 it. Who is this letter from?

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1 A. It had a back page. It's from Mr. George Campbell,
2 Solicitor at that particular time over my case in Greenville.

3 Q. He was the Solicitor in Greenville County?

4 A. Yes. And he hand delivered me this personally at
5 the courthouse in Greenville. He gave me a copy of this. And
6 I made copies of it since that time.

7 Q. Did it have written on it, conveyed to 2-13-2013
8 personally at courthouse. Is that what you're referencing?

9 A. Yes. Yes, sir.

10 Q. Okay. Did Mr. Campbell convey this offer to you at
11 that time personally?

12 A. Yes. We had a long discussion. It wasn't just
13 like he dropped this off. It was a discussion dealing about
14 his investigation of my case, his investigation of people he
15 talked to as far as references. And he said he even talked to
16 the federal investigators that was on my case. And he said
17 this is what he come up with.

18 He said: I'm going to tell you, to get this offer,
19 I mean, you're going to have to come clean with anything else
20 you got out there, you need to talk about, you need to tell me
21 about.

22 Q. Is this the basis of your deal and I think -- I
23 don't have to read it, of course. It's in the record. Of
24 course, the basis of the deal would've been your pleading to
25 some forgery charges, I think a grand larceny, and looks like a

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1 breach of trust, I think, under false pretenses and, of course,
2 a robbery charge in exchange for, it says a
3 recommendation/negotiation of five years?

4 A. Uh-huh.

5 Q. Is that the offer that you understood it to be?

6 A. Right. That was the offer. That was the offer at
7 that particular time except for the inclusions, that he said he
8 had to go include them because, after our discussion, I gave
9 him some more offenses that was out there that wasn't charged.

10 Q. That's what I want to get into. I think you said
11 after he made this offer, that you were told that you had to
12 come clean and confess any other crimes that you had been
13 involved in. Was that a part of the deal, to your
14 understanding?

15 A. Right. He said, you know, he's making this deal
16 because of his investigation. He said: You don't want to deal
17 and then you go in and then you got something looking over your
18 head when you come out. He said, let's get everything
19 resolved. Anything you got to tell me you might've been
20 involved in, I need to know it now.

21 Q. Did you at that particular period of time, did you
22 confess things that the prosecutor -- confess crimes that the
23 prosecutor's office was not aware of based upon this plea
24 negotiation that you had with Mr. Campbell?

25 A. See, that's the thing. I can't speak on what they

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1 were aware of. I know what wasn't charged. I don't think they
2 were aware of the Simpsonville bank. And I gave Mr. Campbell
3 the Simpsonville bank plus some issue he was dealing with about
4 some checks. And I gave him that information.

5 Q. When you said that you gave him the Simpsonville
6 bank, what do you mean you gave him?

7 A. I told him I robbed the Simpsonville bank.

8 Q. Had you been arrested at that time for the robbery
9 of the Simpsonville bank?

10 A. No, sir.

11 Q. Later on, were you eventually served warrants for
12 the robbery of the Simpsonville bank?

13 A. Yes, in June.

14 Q. In June of?

15 A. 2013.

16 Q. You said these plea negotiations you had with
17 Mr. Campbell happened in February. If it was in June, that
18 would've been roughly four months later you would've --

19 A. Yeah. When he got around to arraigning me for the
20 Simpsonville bank.

21 Q. When you told him about this robbery that you did
22 of the Simpsonville bank, why did you decide to do that?

23 A. Because he said I don't want nothing coming later.
24 He said: If it's not in this plea and it comes to me later,
25 you're going to have to deal with those charges separate from

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1 these charges. So I didn't want to have nothing separate
2 than -- I wanted to get Pickens, Greenville, whatever I had
3 outstanding, handled, plea packaged and, you know.

4 I had admitted to everything. That's the thing
5 about this case, you know. I never rejected that I did
6 anything. I gave them everything, wrote statements, detailed
7 statements telling them exactly what I did.

8 Q. At some point in time -- I'll hand you a letter.

9 I'll hand you a letter and ask you to take a look
10 at and see if you recognize that letter.

11 MR. BROOKER: Your Honor, if I could move to have
12 this letter as Petitioner's 3, I believe.

13 THE COURT: Mr. Smith.

14 MR. SMITH: No objection.

15 (APPLICANT'S EXH. 3, Letter dated 2-19-2013, was
16 marked for identification and entered into evidence.)

17 THE COURT: Applicant's 3, letter into evidence.

18 BY MR. BROOKER:

19 Q. I think on Petitioner's 2, that letter dated
20 January 24, 2013, I think had a handwritten note saying:
21 Conveyed on 2-13-2013 personally at the courthouse.

22 After that meeting with Mr. Campbell, this letter
23 dated February 19, 2013, there was a letter that was sent to
24 Mr. Angell, your attorney, in Pickens?

25 A. Yes, sir.

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1 Q. It was sent from Mr. Campbell, the Solicitor in
2 Greenville?

3 A. Right.

4 MR. BROOKER: If you can indulge me for just a
5 second, Your Honor.

6 (A pause transpired.)

7 BY MR. BROOKER:

8 Q. This letter, it says -- I'm looking at the first
9 paragraph, last sentence of the first paragraph -- not the last
10 sentence. It says: -- I guess this is going to be -- I'll
11 just go ahead and read it.

12 Your client, Vincent Missouri, has pending charges
13 on my docket in Greenville County. He has not retained or been
14 appointed counsel.

15 When I met with him last Wednesday, Missouri
16 advised me he wished to represent himself on the Greenville
17 charges. Missouri also told me he wanted to resolve all of his
18 Pickens and Greenville charges at the same time. Therefore, I
19 consulted with Doug Richardson in our Pickens office to
20 formulate the plea offer you will find enclosed.

21 Do you know what offer he was sending to
22 Mr. Angell? Was it the same offer that he made to you, I
23 think, about a week before?

24 A. I would suggest that it had to be. I can't be
25 absolutely certain. I don't see the need for him to give me

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1 one number and give Mr. Angell a different offer. That's what
2 I understood it to be. Mr. Angell told me emphatically that,
3 you know, the reason why I believe it was -- the reason why I
4 believe it was the same offer, I mean to say, is because
5 Mr. Angell expressed that Mr. Richardson wasn't accepting the
6 five-year plea offer from Mr. Campbell.

7 Q. Even though the letter said that Mr. Campbell had
8 consulted with Mr. Richardson. In order to formulate that
9 plea, your attorney told you he didn't think that
10 Mr. Richardson was going to accept the five year?

11 A. Yes. That's where we had the fall-out.

12 Q. At any point in time did you ask Mr. Campbell prior
13 to trial, prior to you going to trial and being found guilty,
14 at any point in time, did you ask -- I'm sorry -- Mr. Angell,
15 your attorney, did you ask him to make an attempt to enforce
16 the offer that Mr. Campbell had given to you?

17 A. Yes, I did. I did.

18 Q. What was his response when you asked him -- I'm
19 sorry. What was his response when you asked him that you
20 needed him to enforce the offer that Mr. Campbell had given to
21 you with the recommendation/negotiation of five years?

22 A. Okay. Judge Barber during that time gave me
23 opportunity to consult with Mr. Angell in the jury room. That
24 was May 19, 2014.

25 Q. This was during your trial?

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1 A. During the trial. Pretrial. At that particular
2 time it was me, Mr. Angell, and my mom sitting right back
3 there. That we were the three in there. Mr. Angell went and
4 got my mom because he was telling her to talk to me into taking
5 15 years. I was at odds with the 15 years because that's not
6 the plea offer that I was given from Mr. Campbell. And I, you
7 know, was in a dilemma with him even back then to the point of
8 getting emotional because I, you know, didn't understand.

9 We had this one bank -- then I finally, I said:
10 Mr. Angell talk to Mr. Richardson. How about ten. Let him
11 come off five, and I'll come up five from Mr. Campbell's offer.
12 Let's do that ten.

13 He went and conveyed that to Mr. Richardson. He
14 came back a few minutes later and said: No, it's 15 or
15 nothing.

16 Q. For the benefit of The Court and for the judge, I
17 want to make sure that we understand. When was the first time
18 that you asked him: I'd like you to try to enforce the plea
19 agreement that I made with Mr. Campbell?

20 A. As soon as he came back and told me Mr. Richardson
21 wasn't accepting it. And I asked him to please get back in
22 touch with Mr. Campbell for me. Ask him can I talk to him
23 personally because I wanted to get the understanding of how the
24 Solicitor, two Solicitors-thing work and who has authority.
25 Are you saying you don't have the authority to negotiate a plea

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1 or does he have a hierarchy of authority to override what you
2 negotiated with me personally. I mean, I don't understand how
3 this goes.

4 I wanted to talk to Mr. Campbell where he can break
5 down the law on this particular topic and get me up to speed,
6 in saying that Mr. Richardson can actually reject his offer
7 when I thought they had concurrent power to prosecute-dismiss
8 cases or make plea deals or offer.

9 I thought -- I didn't know one had more power than
10 the other. I needed to know where this exists. Where does
11 this come from?

12 Q. To your knowledge, did Mr. Verdin ever make a
13 written motion to try to enforce a plea agreement or either a
14 verbal motion before The Court at any point in time to try to
15 enforce this plea agreement?

16 A. No, sir.

17 Q. Did you advise him that you had detrimentally
18 relied on a plea agreement and, as a result of the plea offer
19 that Mr. Campbell made to you, that you had confessed to a
20 crime of burglary and bank robbery in Simpsonville that you had
21 not been charged with at that time?

22 A. Yes. He knew all about that.

23 Q. You are also alleging -- I want to ask you about
24 this. There's two more and we'll be close to done.

25 I think one of the other grounds for ineffective

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1 assistance of counsel, I think that we stated at the beginning
2 of this proceeding is that you were alleging that the
3 indictment in the action is void because the indictment
4 occurred during a term of court not authorized by the State
5 Legislature.

6 A. Yes. Yes. Yes. I have a letter where I was asked
7 for my true-bill indictments. I had wrote my attorneys
8 letters. And I explained to him that I needed copies of the
9 true-billed indictment because, at first, it was Rule 3 issue
10 dealing with the arrest and 90 days thereafter for which I knew
11 that wasn't jurisdictional in the issue for dismissing the
12 case.

13 I requested the true-bill indictments in my case.
14 Pickens wrote me back October 4, 2013 telling me my case has
15 not been indicted, filed with the clerk's, nor has it been
16 presented to the Grand Jury. That was October 4th.

17 Okay, December 19th, when I stood in front of Judge
18 Verdin for the alleged Faretta hearing, I pointed that out to
19 her also. I said the Solicitor says he has indictment, which
20 none of these indictments are true billed nor have they been
21 filed with the clerk's office. And I don't have copies of
22 them.

23 Judge Verdin then said something to the Solicitor
24 and said they can remedy that pretty quick.

25 And I said, okay, well I need copies -- it's in the

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1 record. But the reason why I bring this to the attention of
2 The Court now is because, okay, October 4, 2013, the Clerk of
3 Court for Pickens said they did not have the indictment nor
4 have my cases been submitted to the Grand Jury. This is
5 October 4th.

6 December 19th, as I understood Judge Verdin to
7 answer me, I still don't have the true-bill indictments or
8 they've not been filed with the clerk. After my case goes up
9 on appeal, I get the appeal record, I get these indictments
10 that's true billed that's saying November 12, 2013. And if
11 that was so, you had indictments a month before I even
12 questioned Judge Verdin.

13 I would highly see why she would say that would be
14 a remedy, that could easily be remedied when we should already
15 had them in place. But we didn't because they wasn't. They
16 hadn't -- that was December; they hadn't been presented. On
17 appeal record it said November.

18 Then I go to the statute where November 2013,
19 November 12, 2013 there is no general session or common plea
20 term for which to empanel the Grand Jury unless by special
21 session authorized by the chief justice of the Supreme Court.
22 And I didn't see anything akin to them -- I didn't see any of
23 that material.

24 Q. What you're referencing is you're referencing South
25 Carolina code of law 14-5-790?

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1 A. Yes, I am.

2 Q. In which, I think, you correct me if I'm wrong,
3 what you're explaining, under South Carolina law, general
4 assembly of the terms of courts are actually set by statute; is
5 that correct?

6 A. Yes, sir.

7 Q. And I think what your argument is that, at 14-5,
8 Section 14-5-790, that Pickens County, that the Legislator had
9 set the terms of court for Pickens County and that November is
10 not a term of court for Pickens County; is that correct?

11 A. Right.

12 Q. Correct me if I'm wrong, I want to make sure that I
13 understand this and the judge understands this. You're making
14 this argument that, if they held a term of general sessions in
15 November of 2013 for purposes of having the case indicted, that
16 would not have been authorized by the statute and, therefore,
17 that term of court would not have been valid. Therefore, the
18 indictment should be void?

19 A. Right. Right. Exactly.

20 Q. Is that your argument?

21 A. Yes, sir, that's my argument.

22 Q. We're almost finished with your arguments. I'm
23 going to give you a chance to put them on the record.

24 You also argued that Mr. Angell was ineffective for
25 failing to investigate a defense of involuntary intoxication?

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1 A. Yes, sir.

2 Q. Explain that to us. Why do you believe that he was
3 ineffective for failing to investigate a defense of involuntary
4 intoxication?

5 A. Because I had did some studies in dealing with
6 South Carolina law, dealing -- South Carolina has similar law
7 that states intoxication would not be an excuse to a criminal
8 defense. I understand that.

9 When you say involuntary, that's not the same
10 wording. That's the plain language that is voluntary.
11 Involuntary intoxication can occur -- say, let me give you an
12 example. Somebody that has a long-term addiction to drugs and
13 at a later time that addiction could flare up and cause them to
14 relapse. It's not something that they voluntarily do.

15 I had to learn that the hard way. I had to learn
16 that about myself the hard way. And upon learning, you can
17 deal with it. But when you're not aware of it, you know, it's
18 difficult to treat.

19 And I explained that to Mr. Angell. It's a novel
20 question for South Carolina. It would've been a novel defense.
21 Because South Carolina doesn't have a law on the books dealing
22 with involuntary intoxication. And the Supreme Court affirmed
23 that would've been a novel defense when they were having oral
24 arguments in my case. It would be dictum. They did speak
25 about it.

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1 Q. It's my understanding of the law -- you correct me
2 if I'm wrong. You probably researched this more than I have.

3 South Carolina says that someone who voluntarily
4 consumes alcohol or drugs and, of course, as a result of that
5 voluntary consumption they're rendered to a state in which they
6 may not be able to inform, may not be able to generate intent.
7 South Carolina says, if you voluntarily intoxicate yourself to
8 the extent in which you cannot manifest intent, that voluntary
9 intoxication is not going to be a defense; is that correct?

10 A. Right.

11 Q. Correct me if I'm wrong, what you were telling
12 Mr. Angell is, your intoxication was not voluntary because you
13 had an addiction?

14 A. Right.

15 Q. And therefore, it was involuntary; is that correct?

16 A. Yes. Similar to that.

17 Q. You talked with them about whether or not
18 involuntary intoxication would be a potential defense for you
19 in your case?

20 A. Right. I gave him some federal witness name that
21 he never questioned, even the supporting facts that came out in
22 my federal supervised release hearing July 23, 2009 before
23 Judge Margaret B. Seymour, United States District Judge. This
24 pretty much laid the foundation of what she found in the expert
25 witness that we had to testify.

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1 And I was asking Mr. Angell: Could you please, if
2 we can't get the plea bargain -- this was way before, you know,
3 me and him, before we stopped talking, you know. If we not
4 going to get the plea bargain, that's the defense.

5 He never investigated. That's when we broke off
6 communication. He brought me my file.

7 Q. Did you ever talk about the potential of seeking
8 out an expert witness in drug addiction to potentially
9 determine whether or not a drug addiction, drug and alcohol
10 addiction is incontrollable?

11 A. Yes, I did. I gave him -- she testified before the
12 United States Congress in the cocaine Simpson hearing, Ms. Nora
13 Volkow, for the United States Sentencing Commission. She's one
14 of the premiere experts on that subject that says, you know,
15 addiction is a disease.

16 MR. SMITH: Objection; hearsay.

17 THE COURT: Sustain the objection.

18 BY MR. BROOKER:

19 Q. Did y'all discuss -- you can just tell me, did
20 y'all discuss obtaining an expert to explore this theory of
21 involuntary intoxication?

22 A. Yes.

23 Q. As far as you are aware of, did you know whether or
24 not Mr. Angell consulted an expert in reference to the theory
25 of involuntary intoxication, a potential defense of involuntary

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1 intoxication?

2 A. No, he never did.

3 Q. Was that issue raised at your trial?

4 A. If it was, it was by me when I was explaining to
5 Judge Barber the defenses that I need to go over. I said: If
6 you're going to let me represent myself, I need you to let me
7 represent myself, all or nothing, because I wanted to go on my
8 pretrial stuff as opposed to what wasn't done.

9 Q. Finally, I think you argued or you alleged
10 ineffective assistance of counsel on the ground -- let me
11 make sure I get my notes so I can say this correctly.

12 That Mr. Angell failed to move to dismiss the
13 indictment on the grounds of double jeopardy.

14 A. Yes. I made that argument because -- this is what
15 happened. I was charged out of Pickens with the bank robbery.
16 Bank robbery is taking property from another by the use of
17 intimidation or force. Common law robbery has the same
18 consistent elements, taking the property from another by
19 intimidation or the use of force or attempted use of force.
20 The blockbuster test doesn't really separate those two
21 because --

22 MS. SMITH: Objection; improper opinion testimony.

23 THE COURT: I'll sustain the objection.

24 BY MR. BROOKER:

25 Q. Let's just talk about -- let me ask it in a

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1 different way. I think you may have already answered this.
2 It's my understanding you were alleging, of course, the double
3 jeopardy. You were alleging that double jeopardy related to a
4 charge of bank robbery and the charge of armed robbery? I want
5 to try to make sure that I understand what two crimes that
6 you're alleging constituted double jeopardy because they were
7 similar in nature.

8 A. No, I raised them under double jeopardy pertaining
9 to bank robbery and strong armed robbery because the
10 indictment, one alleged that I took the money as if the money
11 belonged to Rachel White. One was alleging I robbed the
12 teller. And one was alleging I robbed the bank. That's what
13 confused me.

14 Q. I'm trying to figure out -- I got you. I think I
15 understand what you're saying. The armed robbery -- let me
16 make sure I understand this. You're alleging that the armed
17 robbery was based upon the fact that you robbed one of the bank
18 tellers?

19 A. Right -- no, strong armed robbery.

20 Q. The strong armed robbery was based on the
21 allegation you had actually robbed one of the tellers?

22 A. Right.

23 Q. It's my understanding it was your contention,
24 it's your contention that there is no distinction between the
25 teller and the bank itself. So there should have not been a

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1 separate crime of independently robbing the teller versus
2 independently robbing the bank.

3 Let me ask you this question so we can draw out
4 this distinction. Were there any allegations that you took any
5 personal property from the teller?

6 A. No, sir.

7 Q. The allegation was that you had taken the bank's
8 money from the teller?

9 A. Yes, sir.

10 Q. That was the crime that alleges that you had strong
11 armed robbed a teller?

12 A. Yes, sir.

13 Q. My understanding is that your argument is, there
14 was no separate crime of robbing the teller; that all comprised
15 one crime of bank robbery, robbing the bank?

16 A. Yes, sir.

17 Q. And you talked with Mr. Angell in reference to
18 whether or not there should -- did y'all ever talk about
19 whether or not the separate charge of strong armed robbery, the
20 teller herself was inappropriate?

21 A. Well, the first thing me and Mr. Angell talked
22 about on that was that, you know, this is not even armed
23 robbery; I didn't have a weapon. But he said, well, the way
24 the warrant was written up, they said you had your hand in your
25 pocket for which may have constituted -- you didn't have to

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1 have a weapon. If she even thought you had a weapon, they
2 could've charged you.

3 They dropped the armed robbery before we went to
4 court to strong armed robbery. We never had an indictment for
5 strong armed robbery. I questioned Mr. Barber at sentencing.
6 We never had an indictment for strong armed robbery; it was
7 always armed robbery.

8 Q. Let me ask you this question. Did Mr. Angell file
9 a motion, either written or verbally, arguing to the judge that
10 there could not be a separate charge of strong armed robbery
11 against a teller, but the teller was a part of the bank and
12 there should've been just simply one charge for robbing the
13 bank itself. Did he make any written or either verbal motion
14 like that at any point in time during his representation?

15 A. No, sir.

16 Q. I want to make sure I went through everything that
17 we talked about before I sit down. Have we covered all of the
18 grounds for ineffective assistance of counsel that you filed in
19 connection with this PCR action just a minute ago?

20 A. With Mr. Angell?

21 Q. With Mr. Angell.

22 A. Yes, sir.

23 Q. For your trial account. I think you made one more
24 ground of ineffective assistance of counsel with respect to
25 your appellate counsel; is that correct?

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1 A. Yes, sir.

2 THE COURT: This is a good place to take a break.
3 Take a ten-minute break.

4 (A recess transpired from 11:18 a.m. until 11:36
5 a.m.)

6 THE COURT: Thank you. Mr. Brooker.

7 BY MR. BROOKER:

8 Q. Thank you, Your Honor.

9 Mr. Missouri, I think the last issue you had was
10 with appellate counsel as far as ineffective assistance. I
11 believe, my understanding is, once you were convicted, you
12 filed an appeal with South Carolina Court of Appeals; is that
13 correct?

14 A. Yes, sir. Certainly. That wasn't the last issue,
15 though. The last issue on Aaron Angell was the failure for him
16 to object to -- he didn't argue the fact that one prosecutor
17 was attempting to overrule the other one as far as the offer
18 was made. We went over that one already.

19 Q. I think we went over that. I think there were two
20 circumstances -- and I'll be certain. Let me go ahead and let
21 you state that to be absolutely certain. I want to make sure
22 that we get the issue on the record.

23 Go ahead and tell me what did you believe to be the
24 last issue pertaining to trial counsel was.

25 A. Because I had asked Mr. Angell to go back and talk

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1 to Mr. Richardson concerning the distinction in the five and
2 the 15. I said, well, how did he have authority to disagree
3 with Mr. Campbell? And I said both of them prosecuting out of
4 the 13th Judicial Circuit, what give one solicitor power over
5 the other one? This was my issue with that.

6 Q. To my understanding, your issue was you had talked
7 with Mr. Angell to challenge whether or not the offer that was
8 made by Mr. Campbell was binding on Mr. Richardson?

9 A. Right.

10 Q. Because the Pickens County and Greenville County
11 comprises the 13th Circuit?

12 A. Right.

13 Q. Of course, it's one Solicitor's Office?

14 A. Right.

15 Q. The 13th Solicitor's Office covers both Pickens and
16 Greenville. If my understanding is correct, you asked him to
17 challenge whether or not the offer that had been made by
18 Mr. Campbell, that offer was a binding offer on the 13th
19 Judicial Circuit including the charges in Pickens?

20 A. Right. Exactly.

21 Q. Did he challenge whether or not the offer that had
22 been made by Mr. Campbell in Greenville County, that offer was
23 also binding on Mr. Richardson, who was in the same
24 prosecutor's office but just in a different county?

25 A. Right. He never challenged it.

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1 Q. There was no challenge to that whatsoever?

2 A. No, sir.

3 Q. Just to make sure, have we covered all of the
4 issues of ineffective assistance of counsel with respect to
5 trial counsel, Mr. Angell?

6 A. Yes, I believe that's correct.

7 Q. Let's move to appellate counsel.

8 A. Okay.

9 Q. I know you filed an appeal; is that correct?

10 A. Yes, sir.

11 Q. When you filed an appeal, were you represented by
12 the South Carolina Commission on Indigent Defense?

13 A. Yes, sir.

14 Q. Who was the attorney that was assigned to represent
15 you from that office?

16 A. Initially when the trial was over, ten days for
17 appeal, they assigned me Tiffany Butler at the time. I think
18 she's Tiffany Holt now. It was Tiffany Butler at the
19 particular time she was assigned to my case.

20 I talked to Ms. Butler extensively about my case
21 prior to her filing an appeal brief. She said: Well, I'm not
22 one of those attorneys that do everything you want me to do. I
23 looked through the transcript and I develop what issues I feel
24 needs to be briefed.

25 She said I'm not -- how did she put it. I'm not

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1 obligated to file every frivolous issue you might want. I said
2 okay. We talked about it, and she finally got the briefing and
3 she sent it to me, and it was Anders brief.

4 Q. She filed a brief. Of course, she filed Anders
5 brief. Do you know what argument that she made in the Anders
6 brief?

7 A. You know, that eludes me because --

8 Q. Let me ask that question in a different way.
9 Instead of what argument did she make, did she argue in the
10 Anders brief your right to self-representation under Faretta
11 versus California?

12 A. No, she did not.

13 Q. Was that one of the arguments that you had
14 discussed with her and wanted her to advance on appeal?

15 A. Most definitely.

16 Q. You said she did not do that. She filed Anders
17 brief. Was her Anders brief void of that issue?

18 A. Yes, it was.

19 Q. Did you file a pro se brief?

20 A. Yes, I did. I have a copy of it here.

21 Q. Did you argue the Faretta issue of violating your
22 Sixth Amendment right of self-representation to the appellate
23 court?

24 A. Yes, I argued it. I argued the denial of my Sixth
25 Amendment rights under Faretta and I argued the denial of my

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1 Sixth Amendment rights under the Gonzalez Lopez because they
2 were two different -- they similar but Gonzalez just says I
3 have the right to choice of counsel. And Faretta says I have a
4 right to represent myself. So I chose myself as best counsel
5 in that predicament.

6 Q. I got you. I know that, and we all know it, and I
7 think the judge should have a copy of this. The South Carolina
8 Supreme Court, it's my understanding is they found that
9 Judge -- they found that Judge Verdin was in error in December
10 of 2013 for denying your motion for self-representation.

11 My understanding is that they found that Judge
12 Barber had cured the defect by Judge Verdin by then giving you
13 the opportunity of self-representation. Is that what the South
14 Carolina Supreme Court found?

15 A. Well, the Appeals Court decided that in the Supreme
16 Court did improperly, yeah.

17 Q. That's what I'm talking about. Right now I'm
18 talking about the Appeals Court.

19 A. Right.

20 Q. The South Carolina Court of Appeals found that
21 Judge Verdin was in error for denying your motion in December
22 2013?

23 A. Right.

24 Q. But that error by Judge Verdin had somehow been
25 cured by Judge Barber when Judge Barber gave you the option of

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1 self-representation just before trial --

2 A. Correct.

3 Q. -- is that right?

4 A. Correct.

5 Q. Now, I think one of the arguments, one of the
6 issues that you have with trial counsel at the appellate
7 level -- let me clear this up.

8 My understanding is that, once you filed your pro
9 se motion, they appointed you at some point in time at the
10 Court of Appeals level, you were given another counsel from the
11 Commission on Indigent Defense; is that correct?

12 A. Yes, sir. I'll explain. What happened, Tiffany
13 Butler filed Anders saying the brief -- I mean my appeal had no
14 merit. They give me 45 days to file my own brief.

15 When I filed my own brief, the court rejected
16 Tiffany Butler's brief in favor of the issues I had in my
17 brief.

18 When they forwarded me a letter to that effect, I
19 wrote the court back and told them, no, I decline that offer,
20 we have a conflict. She already looked at my case and says it
21 has no merit. I would really decline to have her move any
22 further on my appeal because she's already omitted obvious
23 issues that y'all allowed my brief to override hers. I would
24 not like her on my appeal.

25 Q. With respect to Ms. Butler -- then I'll move on.

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1 The ineffective assistance of counsel with respect to
2 Ms. Butler, she failed to raise your Faretta rights under the
3 Sixth Amendment to self-represent; is that correct?

4 A. Yes, sir.

5 Q. And she never briefed the court on that; is that
6 correct?

7 A. No, sir.

8 Q. And, of course, when you did brief the court on
9 that for your pro se brief, the court did hear that issue; is
10 that correct?

11 A. Yes, sir.

12 Q. And the court did determine that Judge Verdin was
13 in error, that Judge Barber had corrected that error?

14 A. Yes, sir.

15 Q. Now, you also filed a motion, a petition for
16 rehearing at the Court of Appeals level; is that correct?

17 A. Yes, sir.

18 Q. Of course, your new counsel was --

19 A. David Alexander.

20 Q. Was David Alexander. I think you're alleging that
21 David Alexander was ineffective, correct me if I'm wrong, when
22 the Court of Appeals denied and said that Judge Barber had
23 corrected Judge Verdin's error, it's my understanding that you
24 believed that Mr. Alexander should argue to the court that
25 Judge Barber did not have the authority to correct Judge

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1 Verdin's error because there was a long-held principle in which
2 one circuit court judge cannot overrule the final decision
3 that's been made by another circuit court judge; is that
4 correct?

5 A. Certainly.

6 Q. Did you discuss that with Mr. Alexander?

7 A. Me and Mr. Alexander went over that extensively. I
8 even outlined, I said: This is the place where the State is
9 going to bear down. I explained to him, I wrote him, I
10 outlined it in writing. And I asked him after the oral
11 arguments was over, and I was able to get in touch with
12 Mr. Alexander, and I personally questioned him why did you omit
13 that argument.

14 Q. Let me ask you this question before you move on.
15 I'll let you finish your thought. That argument was not made
16 on rehearing by Judge Alexander -- petition for rehearing by
17 the Court of Appeals by Mr. Alexander. That argument was not
18 made; is that correct?

19 A. I think Mr. Alexander mentioned it. It wasn't an
20 issue to be relied on. You know, you have to ask the court a
21 question for the court to answer it. And it wasn't in the
22 brief as a question for the court to actually consider.
23 Therefore, he could've said something about it in the brief.
24 The court would be under no obligation to rule on it if it
25 wasn't properly put before them.

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1 For that reason, I questioned why did he not raise
2 that initially as a consideration for the court because we
3 needed to know that because the Court of Appeals alluded to
4 harmless error analysis that's not available, you know. That's
5 their decision.

6 Q. Of course. So your petition for rehearing was
7 denied; is that correct?

8 A. Yes, sir.

9 Q. And, of course, there was a petition for writ of
10 cert with the South Carolina Supreme Court; is that correct?

11 A. Yes, sir.

12 Q. And the Supreme Court granted cert initially; is
13 that correct?

14 A. Yes, they did.

15 Q. And ordered the issue to be briefed; is that
16 correct?

17 A. Right.

18 Q. Of course, Mr. Alexander, he did file a brief; is
19 that correct?

20 A. Yes, he did.

21 Q. In that brief, did he argue before the Supreme
22 Court that Judge Barber did not have the authority to correct
23 Judge Verdin's error because of that long-held principle that
24 one circuit court judge cannot correct a final decision that
25 had been made by another circuit court judge? Did he argue

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1 that before the Supreme Court?

2 A. No, sir.

3 Q. I'm sorry?

4 A. No, sir.

5 Q. I think you testified earlier that you specifically
6 discussed with him making that argument before the Supreme
7 Court?

8 A. Yes, sir.

9 Q. Did he give you an explanation as to why he didn't
10 argue that?

11 A. He told me to file ineffective assistance of
12 counsel on him. That was his exact answer.

13 Q. Is there any other issue of ineffective assistance
14 of counsel other than the issue we just raised with appellate
15 counsel? Is there any other issue of ineffective assistance of
16 counsel that we didn't cover?

17 A. That's the only thing I had with David Alexander.
18 And that's the only issue I had with Tiffany Butler. Tiffany
19 Butler just crashed. She didn't even give me an opportunity to
20 even be considered on appeal.

21 Q. Before I sit down, I'm not the greatest attorney in
22 the world, I wanted to make sure, is there any other evidence
23 on any of the issues of ineffective assistance of counsel that
24 you have that I failed to ask you a question or solicit that
25 information from you through a question?

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1 A. Give me a moment to think about it. We got to go
2 through all of it. Let me see.

3 Q. If it makes it easier, I can run you through it
4 very quickly one-by-one. On the issue of trial counsel's
5 failure to enforce the plea agreement, is there any other thing
6 that I didn't solicit from you? Any other information that you
7 think is useful for the Judge to know that I didn't solicit
8 from you on that particular issue?

9 A. No, we did that.

10 Q. Failure to investigate the defense of involuntary
11 manslaughter (sic). Is there any other information related to
12 that issue of ineffective assistance that I did not solicit
13 from you through my questioning that you think would be useful
14 for the Judge to know?

15 A. No, sir.

16 Q. The ineffective assistance of trial counsel to
17 timely file the Faretta, timely file a motion to be removed
18 with respect to Faretta, is there any other information that I
19 did not solicit from you in my questioning that you think would
20 be helpful to the Judge in deciding ineffectiveness with
21 respect to that issue?

22 A. Did we cross Rollins versus Wayne Wright dealing
23 with the timeliness of the hearing or we just want to put that
24 down for support on that timeliness issue?

25 Q. Factually -- I know you're saying that would be a

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1 case law that would support that issue.

2 A. Right.

3 Q. Is there any factual information or factual
4 testimony that you have that we didn't previously offer to the
5 Judge that you think --

6 A. No, we have no facts.

7 Q. There was failure to object to Judge Verdin's trial
8 counsel denial of your request for pro se representation. Is
9 there any other information other than the information that
10 I've solicited through my questions that you need to offer to
11 This Court?

12 A. No, sir.

13 Q. Of course, you said Mr. Angell was also ineffective
14 for failing to challenge Judge Barber's decision to overrule or
15 to rehear or revisit Judge Verdin's decision. Is there any
16 other information that you need to offer to The Court on that
17 issue that I did not solicit from you through my questioning?

18 A. No, sir.

19 Q. Trial counsel's failure to move to dismiss the
20 indictment on the grounds of double jeopardy. Is there any
21 additional information that you have, factual information you
22 have on that issue that I did not solicit from you?

23 A. No, sir.

24 Q. And, of course, trial counsel's failure to
25 challenge the indictment in the action on the grounds that the

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1 indictment was void because the -- because the indictment
2 occurred during a term of court not authorized by statute. Is
3 there any additional information that you have on that issue of
4 ineffectiveness that I didn't solicit from you in my
5 questioning?

6 A. No, sir.

7 MR. BROOKER: No further questions, Your Honor.

8 THE COURT: Mr. Smith.

9 MR. SMITH: No questions.

10 THE COURT: Thank you. You may step down,
11 Mr. Missouri.

12 (The witness exited the stand.)

13 THE COURT: Mr. Brooker, call your next witness.

14 MR. BROOKER: Your Honor, we would call Mr. Angell.

15 THE CLERK: Place your left hand on the Bible and
16 raise your right hand.

17 AARON JOSEPH ANGELL

18 being first duly sworn, testified as follows:

19 THE COURT: Please state your full name for the
20 record.

21 THE WITNESS: Aaron Joseph Angell.

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

23 DIRECT EXAMINATION

24 BY MR. BROOKER:

25 Q. Good morning, Mr. Angell.

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1 A. Good morning.

2 Q. I'm going to try to take you through these issues
3 as efficiently as I can as to not waste any time.

4 I think you heard -- you were in the courtroom when
5 Mr. Missouri testified; is that correct?

6 A. That's correct.

7 Q. I think one of the issues that he raised is failure
8 to enforce the five-year plea offer that I think he testified
9 that was extended to him by, I think, Mr. Campbell in
10 Greenville. If you can indulge me for just a second. I'm
11 going to grab that offer, have you take a look at it.

12 MR. BROOKER: Indulge me for just a second, Your
13 Honor. I apologize.

14 (A pause transpired.)

15 BY MR. BROOKER:

16 Q. If my memory serves me correctly, this is marked as
17 State's -- Petitioner's Exhibit Number 2. Take a look at it
18 and tell me whether or not you've ever seen that before.

19 A. I don't recall seeing this before.

20 Q. I want to make sure I understand this correctly.
21 So you were unaware of the fact that Mr. Campbell -- I think
22 Mr. Campbell had discussed with Mr. Missouri an offer of a
23 recommendation/negotiation of five years, I think, on February
24 13th of 2013?

25 A. So I wouldn't say I was unaware. To my

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1 understanding, Mr. Campbell had offered and was dealing with
2 charges in Greenville County with my client, Vincent Missouri.
3 And those charges were not charges that I represent or
4 represented Mr. Missouri on out of Pickens County.

5 So my client had told me that there was an offer in
6 Greenville County. That offer wasn't related to the charges
7 that I was representing Mr. Missouri on.

8 Q. On State's Exhibit Number 3 and I'll show you
9 that -- excuse me -- Petitioner's Exhibit Number 3, could you
10 take a look at that letter and tell me whether or not you've
11 received that letter?

12 A. Yes, I have. Yes, I have from George Campbell.

13 Q. That is a letter from Mr. Campbell. I can hand it
14 to -- is that not a letter from Mr. Campbell in which
15 Mr. Campbell is indicating that he is attempting to -- that he
16 is making a global offer covering Pickens and also Greenville
17 County?

18 A. That was not my understanding that it was a global
19 offer for the Pickens charges.

20 Q. It says here, I'll read what it says in the letter.
21 It says -- do you see where I am? I think it's right here.

22 A. Okay.

23 Q. Wednesday, Missouri advised that he wished to
24 represent himself on the Greenville charges.

25 Missouri also told me he wanted to resolve all of

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1 his Pickens and Greenville charges at the same time. Therefore
2 I consulted with Doug Richardson in our Pickens office to
3 formulate the plea offer you will find enclosed.

4 Is it not true that Mr. Campbell sent you a global
5 offer that covered both Pickens and Greenville County; is that
6 correct?

7 A. That's not how I received this. I'm reading this
8 now. My contact in Pickens County with the Pickens charges was
9 Doug Richardson. And Doug and I were in constant
10 communication. Doug had never consented or changed anything
11 from the 15 years for the Pickens charges, and so no. I never,
12 ever had any inclination to believe that the offer was five
13 years for all the charges. That has never been clear to me.
14 I'm reading this letter now. That was never part of the deal.

15 Q. Did you ever reach back out to Mr. Campbell and say
16 to Mr. Campbell that, hey -- did you ever reach back out to
17 Mr. Campbell and say to Mr. Campbell that we don't have an
18 offer. That according to Mr. Richardson, this offer that
19 you're making is not valid and Mr. Richardson is telling me
20 something completely different?

21 A. No, I never reached out to him. I believe
22 Mr. Missouri was represented shortly thereafter by another
23 attorney in Greenville for the Greenville charges. I don't
24 remember his name. I believe he and George had talked. I
25 never talked with George or dealt with George.

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1 Q. The reason why I'm asking, do you know whether or
2 not there is case law that says that, when one solicitor makes
3 an offer -- when one solicitor makes an offer within the
4 Solicitor's Office, that offer is binding on all of the other
5 Solicitors within that office?

6 A. I'm not familiar.

7 Q. Had you been aware of that case law, would that
8 have induced you to then move to try to accept the offer that
9 Mr. Campbell had extended and then tried to enforce it with the
10 court?

11 A. Certainly. If I was under the impression there was
12 a five-year offer for the charges, I would've tried to enforce
13 that. I was never under any impression that those charges in
14 Pickens were included and that it was a global five-year offer.
15 That was never clarified to me.

16 Q. Okay. I'm going to just ask you this. I'm going
17 to move on.

18 Mr. Richardson -- excuse me. Mr. Campbell does say
19 in that February 19, 2013 letter, Petitioner's 3, he does say
20 this is an offer that covers Pickens and Greenville; is that
21 correct?

22 A. That's what the letter said.

23 Q. He does also say in that offer that he had
24 consulted with Mr. Richardson in reference to coming up with
25 that offer; is that correct?

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1 A. That's what the letter said.

2 Q. It does ask you in the second paragraph: I trust
3 you will communicate this offer to Mr. Missouri since it
4 involves your charges but I can deliver a copy to him at the
5 jail, if you wish.

6 He is asking you to discuss the offer that he's
7 extending to Mr. Missouri; is that correct?

8 A. Yes, sir.

9 Q. Did you do that? Did you ever take the offer that
10 was given by Mr. Campbell and went to Mr. Missouri and discuss
11 that offer with Mr. Missouri as requested by the letter?

12 A. I'm sure that I did. I just had understood it was
13 for the Greenville charges. I didn't represent him on
14 Greenville charges at that time.

15 Q. Now that you take a look at that letter, is it
16 possible that you could've been mistaken in assuming that it
17 only covered the Greenville charges?

18 A. Sure. It's possible. Yeah.

19 THE COURT: Hold on just a second. Maybe I'm
20 missing something. I have the February 19th letter, 2013 that
21 you're referring to as far as the offer. And the letter, it
22 says to formulate the plea offer, you will find enclosed. Was
23 there something missing in that exhibit, the enclosure?

24 MR. BROOKER: We don't have a copy of it, Your
25 Honor. I think Mr. --

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1 THE COURT: I'm just asking for purpose of this
2 hearing. That was not submitted as part of this? In other
3 words, there is not an enclosed offer?

4 MR. BROOKER: No.

5 THE COURT: You've answered my question.

6 MR. BROOKER: Thank you, Your Honor.

7 BY MR. BROOKER:

8 Q. Let me make sure I can pick up where I left off.
9 Did you and Mr. Missouri talk about the enforcement of this
10 offer, this five-year offer?

11 A. No. I think most of our time was spent on working
12 through involuntary intoxication. And Vincent wanted me to
13 take various motions to the court that he had that I thought
14 weren't relevant or actual defenses. No, I don't remember
15 trying to enforce this offer. I don't remember there really
16 wasn't -- again, my position I never had a five-year offer for
17 all these charges. I certainly would've tried to enforce that
18 if that was the case.

19 Q. To your recollection, y'all did not have a
20 conversation that referenced trying to enforce this five-year
21 offer that he testified to?

22 A. Not that I recall.

23 Q. Now, at the time that I think Mr. Missouri was
24 first being charged, I think at the time in which he was first
25 charged, my understanding is that he was charged for,

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1 initially, he was charged in Pickens County, is that correct,
2 for a bank robbery there?

3 A. I was under the impression he had charges in
4 Greenville prior to the Pickens charges. It was nine years
5 ago. I think that's what happened.

6 And then we got his bond reduced in Pickens. And
7 he got out and had some subsequent other charges arise from
8 Kershaw County, Camden area. I think it was Greenville
9 charges, Pickens charges, and Kershaw charges. I could be
10 wrong in the order there. Either way I just had him on the
11 Pickens charges, not Greenville or Kershaw County.

12 Q. It's my understanding that you somehow -- that you
13 was somehow, you correct me if I'm wrong -- that in Pickens
14 County, somewhere in July of 2012 is when you started
15 representing him or shortly thereafter?

16 A. Somewhere around there, yeah.

17 Q. When you started representing him in July of
18 somewhere around roughly July of 2012, did you know that he had
19 filed a letter a month prior to that with the clerk's office
20 requesting self-representation?

21 A. I think so but he wrote a lot of letters to a lot
22 of clerk's offices almost multiple times a week. There were a
23 number of letters. I think so. I mean, that was something
24 that he kind of wanted to do and then not. So it was kind of
25 back and forth.

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1 Q. I'll let you take a look at the letter, in all
2 fairness. Take a look at that and tell me whether or not
3 you've ever seen it.

4 MR. BROOKER: Judge, I think that's on the
5 supplemental record of appeal. I think it's page six.

6 THE WITNESS: Yeah, this looks familiar.

7 BY MR. BROOKER:

8 Q. In that June 25, 2012 letter, it does indicate to
9 the clerk of court that he will be representing himself; is
10 that correct?

11 A. That's his request in this letter, yes, sir.

12 Q. As far as your understanding when you were
13 appointed roughly about, I think, a month later in July
14 sometime, do you know whether or not he requested the
15 appointment of counsel?

16 A. I'm not sure.

17 Q. Were you appointed by order of the circuit court?

18 A. Yes, sir. And I think I was his second attorney.
19 Maybe his third appointment. I think David Cantrell was maybe
20 before me and John Deyoung possibly. I know I was downstream a
21 few.

22 Q. That June 25, 2012 letter, that wasn't the only
23 letter that he had written to the clerk's office expressing his
24 intent to represent himself; is that correct?

25 A. That's my understanding.

Aaron Angel Dir by Mr. Brooker

1 Q. When you saw all of these letters, him writing to
2 the clerk's office -- let me ask you this question.

3 It's my understanding, normally whenever he was
4 writing these letters to the clerk's office expressing his
5 intention of self-representation, normally the clerk's office
6 would provide you with copies of whatever he was sending to
7 them; is that correct?

8 A. Sometimes. I mean, it was voluminous at times.
9 They wouldn't always get things to me. Sometimes Vincent
10 wouldn't CC me or write me separate letters. I don't know that
11 the clerk's office always provided me those letters they sent
12 to them. I can't speak to their being 100 percent. Generally,
13 I guess, that's fair.

14 Q. You are aware of the fact he has a Sixth Amendment
15 right of self-representation; is that correct?

16 A. Sure.

17 Q. And that right of self-representation is spelled
18 out in Faretta versus California; is that correct?

19 A. Sure. Yes.

20 Q. When you saw that he was expressing, prior to that
21 June 25, 2012 and all the other letters he was writing, when
22 you saw that he was expressing an intent of
23 self-representation, did you ever file a motion seeking to be
24 relieved of counsel or file a motion seeking to fulfill his
25 intent of self-representation?

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1 A. Yes, I did. I filed a motion to be relieved really
2 on Vincent's behalf. He asked me. We'll go in front of the
3 judge. We'll let the judge decide one of three things; to keep
4 me on, to fire me, and let you hire somebody else or let you go
5 pro se. I filed a motion so that he could be heard.

6 A lot of it was hybridized; it wasn't just, hey, I
7 want to represent myself. It was, I want to represent myself
8 but also want you to file these motions for me. I also want
9 you to give me a law library.

10 He had requests for me to operate as his counsel,
11 as his legal counsel. Then would sometimes assert when to
12 represent himself. It was very hybridized requests from him
13 consistently through my representation

14 Q. He indicated, somewhere around in April, and he
15 didn't say exactly in April, he said no later than April, it
16 coincided with the, I think, his testimony was it coincided
17 with the offer from Judge (sic) Campbell and his wanting you to
18 enforce that offer. Did you hear him when he testified that
19 somewhere around that time, what he characterized as
20 irreconcilable difference between himself and yourself? Did
21 you hear that testimony?

22 A. I heard that, yeah.

23 Q. And I think he indicated somewhere around that
24 particular period of time is when he expressed to you that he
25 wanted you not to represent him and that he wanted to represent

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1 himself, and that at some point in time you provided him with a
2 copy of his entire file; is that correct?

3 A. That was his statement. I don't remember a blowup
4 or an irreconcilable differences on that date or any time in or
5 around April. I don't recall that ever really happening.

6 I know it was consistent in meeting with Vince and
7 times when he was frustrated with me, but there was never some
8 culmination of a blowup of an offer. That never occurred in my
9 mind. Maybe in his it did. I do not recall that ever really
10 happening, there ever being a blowup or irreconcilable issues
11 there. Based on what he said in court, I disagree.

12 Q. At some point in time, in September, he filed a
13 motion dated, I think, September 2nd. I'll give you a copy of
14 it.

15 MR. BROOKER: It's, again, Judge, Bates number 15
16 in that supplemental report. Supplemental record of appeal.

17 BY MR. BROOKER:

18 Q. He did file a pro se motion in September. First of
19 September, I think it's dated September 2nd, seeking to have
20 you removed as his attorney; is that correct?

21 A. That's right.

22 Q. At that time, when he filed that September -- that
23 motion to relieve you in September of 2013, were you aware of
24 the fact that he no longer wanted you on his case at that time?

25 A. Yeah. I think it was clear that he didn't want me

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1 on this case. And he made it clear that he wanted another
2 lawyer on the case. I filed a motion to be relieved the
3 following month so that he could be heard on relieving me and
4 let the judge play out whatever Vincent's requests were.

5 Yeah, I was aware through this letter and other
6 requests that he wanted a new lawyer.

7 MR. BROOKER: Let me take a look at this, if you
8 can indulge me for just a second, Your Honor.

9 THE WITNESS: I think he cites me being
10 overburdened and too much of a case load and disinterested
11 maybe was on there.

12 BY MR. BROOKER:

13 Q. In this motion that we're talking about that he
14 filed September 11th, is there any language that you see in
15 that motion where he is requesting a substitution of counsel or
16 he's just simply requesting the termination of you as his
17 attorney?

18 A. Well, it says to relieve Mr. Angell from continuing
19 representation.

20 Q. Is he requesting another substitute counsel in your
21 place?

22 A. No, but he's also not requesting to be -- I don't
23 see where he's requesting to be representing himself. It's
24 kind of vague, frankly, in terms of a motion.

25 Q. I think you said the next month after that you

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1 filed a motion to be relieved. I'll let you take a look at
2 your motion.

3 A. That was vague, too. Just generic for the judge.

4 Q. Yes, sir. If you can indulge me for just a second.

5 (A pause transpired.)

6 BY MR. BROOKER:

7 Q. I think your motion was dated October 10, 2013; is
8 that correct?

9 A. That's right.

10 Q. And I think yours simply says that defense counsel
11 was appointed to represent the above-named defendant on the
12 above-criminal charges in Pickens County on July 16th of 2012.
13 And you said in that motion defendant is dissatisfied with the
14 services provided by defense counsel and wishes to terminate
15 the attorney-client relationship and have new counsel appointed
16 or, in the alternative, continue with the defense of his case
17 pro se.

18 You're advising The Court that he either wanted new
19 counsel or either he wants to represent himself pro se; is that
20 correct --

21 A. That's correct.

22 Q. -- in that motion? I think this motion was held
23 before Judge Verdin, I think on December -- in December of
24 2013. And I have a copy of Judge Verdin's, the transcripts,
25 and I'll give that to you so you can take a look at it while I

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1 talk with you.

2 These motions to terminate you was heard by Judge
3 Verdin in December 2013; is that correct?

4 A. That's correct.

5 Q. At that time, you would agree with me that you are
6 still his attorney because you have not been removed; is that
7 correct?

8 A. Correct.

9 Q. In that motion, in that December motion before
10 Judge Verdin, the issue is raised as to whether or not
11 Mr. Missouri could represent himself; is that correct?

12 A. Yes, sir.

13 Q. Mr. Missouri argued for self-representation in that
14 motion, I think at that motion hearing; is that correct?

15 A. Well, not only. I mean, he has, on page five, he
16 says, just first thing that he says, just based on the time and
17 amount of cases Mr. Aaron has and the complexity of my
18 defenses, I feel it would be better if I have either someone
19 that doesn't have as much of a case load as he has or either I
20 be prepared to represent myself. He was arguing both there; to
21 have a new attorney in place, a substitution of counsel, or pro
22 se. That's what I recall from the hearing. And Judge Verdin
23 said he's a good lawyer, stick with him.

24 Q. Did you ever at that particular point in time -- I
25 notice in that motion it was Mr. Missouri that actually argued

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1 his motion, is that correct, or argued the motion?

2 A. It was effectively, yeah. I got in front of the
3 Judge, let Vincent argue what he wanted, tried to let the judge
4 sort it out. Just tell me where to go. She did.

5 Q. Would you agree with me --

6 MR. BROOKER: If you can indulge me for just a
7 second, Your Honor.

8 (A pause transpired).

9 BY MR. BROOKER:

10 Q. Just indulge me just a second, trying to flip
11 through this.

12 I know you just said you just turned it over to
13 Mr. Missouri and allowed him to make the argument; is that
14 correct.

15 A. That's right.

16 Q. Did you ever feel because you were representing him
17 that you had an obligation to argue to the judge on the
18 interest that he was trying to achieve and that was
19 self-representation, either dismissal of you or
20 self-representation; is that correct?

21 A. Do you mind asking that again.

22 Q. Sure. I probably didn't ask that -- because you
23 were still representing Mr. Missouri, you would agree with me
24 that you had an obligation to represent him; is that correct?

25 A. Yeah.

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1 Q. Usually, whenever an attorney represents the
2 client, the attorney has an obligation to represent the
3 client's interest, sometimes even if the attorney doesn't fully
4 agree with what the client was asking for; is that correct?

5 I'll ask it another way if you want me to.

6 A. Yes and no. Sometimes I need to make the decisions
7 regardless of what the client thinks in terms of actual
8 defenses and preparation of the case. I think your question:
9 Should I not do that? I don't understand.

10 Q. You're absolutely right in certain situations. In
11 this particular situation, it is the client's choice with
12 respect to who represents him or whether or not he represents
13 himself; is that correct?

14 A. I think so, yeah.

15 Q. I think in your motion that you filed in October
16 10th, you expressed -- I think in your motion that either you
17 be relieved or he be allowed to represent himself; is that
18 correct?

19 A. Yeah, either I be relieved, or he represent
20 himself, or somebody else get appointed; kind of three-fold.

21 Q. It was your understanding, it appears as if from
22 that motion that he didn't want you to represent him; is that
23 correct? Is that your understanding?

24 A. Yeah, he didn't want me to continue representation.

25 Q. And also potentially he wanted to represent

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1 himself; is that correct?

2 A. Yeah, potentially, that's right.

3 Q. Did you make either one of those arguments to Judge
4 Verdin? Judge Verdin, he doesn't want me to represent him.
5 Judge Verdin, he has the right of choosing his attorney
6 underneath the law. Did you make the arguments on his behalf
7 that he has a right to choose who his attorney is?

8 A. Not that I recall. I let him make that argument to
9 the judge.

10 Q. You were his attorney; is that correct?

11 A. That's right.

12 Q. That was your responsibility; is that correct?

13 A. I think my responsibility was to allow him to get
14 in front of the judge and to state why he wanted me relieved.
15 There wasn't -- it wasn't clear that he only wanted to
16 represent himself. If that was his only, if that was his clear
17 issue from the start, perhaps I would've allowed him to go on
18 and made a motion. It wasn't clear.

19 It was: I want to maybe represent myself, and I
20 want another lawyer. There was some haziness, good deal of
21 haziness there from my perspective on what to ask the judge
22 for. That's why I put it in Vince's hands in front of the
23 judge and let him speak what he potentially wanted.

24 Q. Even without self-representation, he would still
25 have a right of choice of his counsel; is that correct? There

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1 is a United States Supreme Court case --

2 THE COURT: I think this has been asked and
3 answered. Let's move on.

4 BY MR. BROOKER:

5 Q. Sure. So you didn't make any of those arguments on
6 his behalf?

7 A. No, I did not.

8 Q. At that particular period of time, I think when the
9 judge says if he would stay on, were you aware of the fact that
10 he filed an interlocutory appeal to the South Carolina Court of
11 Appeals to review Judge Verdin's decision?

12 A. No.

13 Q. So you were never sent a copy of that?

14 A. I may have been. I didn't review every single
15 motion that he filed. As I said, he had a lot from the
16 detention center. If he did, I didn't take notice. There was
17 several, I'm assuming, that he had on appeal. Several appeals.
18 He was trying to represent himself and have me represent him,
19 kept putting me in it. I did my best.

20 Q. You did not file an interlocutory --

21 A. No.

22 Q. -- appeal with the South Carolina Court of Appeals
23 challenging Judge Verdin's decision, did you?

24 A. I did not.

25 Q. Did you continue to prepare his case for trial? I

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1 think his trial came up within a few months thereafter, five
2 months thereafter, in May of 2014; is that correct?

3 A. May of '14.

4 Q. Did you continue to prepare his case for trial?

5 A. Yes, I did.

6 Q. Did you communicate with him during that five-month
7 period prior to his trial?

8 A. Oh, yes. And the bulk of that was to try to get a
9 plea deal and try to get him to accept the 15 years that was
10 consistent from the start from the prosecution.

11 Q. At some point in time when this case came to trial,
12 the issue of self-representation came up again; is that
13 correct?

14 A. That's correct.

15 Q. Let me get a copy of it and I'll hand it to you.
16 Give me just a second. I'll give you a copy of the transcript
17 so you can read along with me.

18 (A pause transpired.)

19 BY MR. BROOKER:

20 Q. If you have an extra copy up here. I think I do.
21 I do have an extra copy. Here we go.

22 A. Thank you.

23 Q. That's the transcript of the trial starting May
24 19th, is that correct, 2014?

25 A. That looks to be correct, yes.

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1 Q. I want to direct your attention to Bates Number 24.
2 Do you see where I am?

3 A. What page?

4 Q. Bates Number 24. That larger number. I think it's
5 on the left-hand corner. Page 11 is on the right side.

6 A. I'm looking at it.

7 Q. I'm looking at line five. Of course, I want to
8 read something that says the defendant -- I'm assuming this is
9 Mr. Missouri.

10 Mr. Missouri says to the court: Your Honor, could
11 I say one other thing before we go into that. To put it on the
12 record I had also eight days after this incident occurred in
13 Pickens County, I also filed a motion prior to Mr. Aaron Angell
14 of being appointed my counsel to actually represent this
15 situation myself. I had a motion that was filed with the
16 Pickens County Clerk of Court for self-representation. So that
17 we don't get into a situation where, as a motion that should --

18 In that statement, he is indicating to the court
19 that it was his intention of self-representation, the motion
20 for Judge Verdin in December, was his intention of
21 self-representation; is that correct?

22 A. That's what that says, yes.

23 Q. I think even before that, he said before you were
24 appointed, that he had filed what he called a motion to
25 actually represent himself; is that correct?

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1 A. That's correct.

2 Q. I'm assuming -- and you correct me if I'm wrong.
3 I'm assuming that he may be making reference to that June 25,
4 2012 letter that he sent to the clerk's office advising of
5 self-representation along with those motions?

6 A. Presumably.

7 Q. Okay. On the next page, Bates Number 25,
8 transcript page 12, and I think you were in the courtroom when
9 we said that the judge, Judge Barber said to him: Judge Verdin
10 had already made a ruling in December and that he didn't have
11 any authority to go back and overrule the decision made by
12 Judge Verdin; is that correct?

13 A. That's correct.

14 Q. Is it your understanding that's what the law is?
15 When a circuit court judge makes a determination, makes a final
16 determination on an issue, that another circuit court judge
17 normally cannot overrule another circuit court judge's
18 decision?

19 A. I'm really not sure. I don't know if you can do
20 that or not. Let the judge decide is what I did. He went back
21 and thought about it. Gave Vince an opportunity to represent
22 himself.

23 Q. I guess what you're referring to, I think later
24 on -- and I'll give you and I have that on a different -- I'll
25 give you a copy of that. Indulge me just a second. I'll give

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1 you a copy of the transcript that you're referencing. We'll
2 discuss that.

3 I have the transcript in sections.

4 After Judge Barber said to Mr. Missouri that I
5 can't go back and revisit what Judge Verdin had already done,
6 Judge Barber then changes his mind; is that correct?

7 A. I think so, yeah.

8 Q. Let me find where we are.

9 A. He said he read a case while we were at lunch.
10 Judge Barber read a case while we're at lunch. He wanted to at
11 least follow-up on that.

12 Q. He indicated he had read case law at lunch that
13 allowed self-representation; is that your understanding?

14 A. That's my understanding.

15 Q. Of course, he asked Mr. Missouri did he want to
16 represent himself now at that particular period of time; is
17 that correct?

18 A. That's right. That's what I recall.

19 Q. It's my understanding is that Mr. Missouri inquired
20 with the court that, if he were to accept self-representation
21 at that point in time, that he would want to go back and
22 revisit all the motions that you argued on his behalf; is that
23 correct?

24 A. I think that's what he was saying.

25 Q. And the judge declined his right to do that; is

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1 that correct?

2 A. That's correct.

3 Q. Now, I think you've already testified to the
4 fact -- let me ask it this way.

5 When Mr. Missouri is having this exchange with
6 Judge Verdin -- excuse me -- Judge Barber in reference to his
7 right of self-representation, I was looking at the transcript
8 and it was Mr. Missouri that had this dialogue or this
9 conversation with Judge Barber in reference to that right; is
10 that correct?

11 A. That's right.

12 Q. You did not argue on his behalf; is that correct?

13 A. That's correct.

14 Q. You were still his attorney at that time, according
15 to Judge Verdin; is that correct?

16 A. That's right.

17 Q. You would've had an obligation to advance his
18 choice of attorney, still would have a right to advance his
19 choice of attorney or his right of self-representation; is that
20 correct, should he choose?

21 A. Sure.

22 Q. You didn't do that with this exchange with Judge
23 Barber, did you not?

24 A. No, I didn't.

25 Q. I'll ask this just for the record. I know you've

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1 already said this. You didn't say to Judge Barber when Judge
2 Barber decided that he was going to revisit the issue, you
3 never told Judge Barber: Judge Barber, I don't think that's
4 proper. That there is a rule that one circuit court judge
5 cannot overrule the final decision by another; is that correct?

6 A. Never did, no, that's correct.

7 Q. I think you testified that you were not aware of
8 that, at that time?

9 A. No.

10 Q. I'm going to ask you a question in reference to the
11 indictment. I think Mr. Missouri testified that he raised an
12 issue with respect to the validity of the indictment. I think
13 specifically he testified that he thought that the indictment
14 was invalid because the indictment occurred during a term of
15 court that was not authorized by statute. Did you hear him
16 testify to that?

17 A. I did.

18 Q. Do you know that there is a -- that South Carolina
19 general assembly has a statute that prescribed the terms of
20 court for each county?

21 A. I heard about that this morning. Until then, no.

22 Q. And so you were not aware that the statute does not
23 prescribe for a term of general sessions in Pickens County in
24 November; is that correct?

25 A. That's correct.

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1 Q. And the indictment was indicted in November of
2 2013; is that correct?

3 A. That's correct.

4 Q. Mr. Missouri testified that he talked with you
5 about challenging the indictment but you never challenged the
6 indictment; is that correct?

7 A. I don't recall talking with him about that. He may
8 have. I never challenged the indictment, that is correct.

9 Q. You don't recall but you're not saying that he
10 never did?

11 A. I don't recall, but he may have.

12 Q. Of course, you didn't discover that potential issue
13 on your own. I think you testified that you were not aware of
14 this statute. Most people are not aware that the general
15 assembly prescribes terms of court for each particular county;
16 is that correct?

17 A. That's correct.

18 Q. I'll ask you, had you known about that statute,
19 would you have raised that issue if you thought that the
20 indictment had been indicted during a term of court that was
21 not authorized by statute and there was no otherwise exception
22 to the law?

23 A. I'll answer it like this. If I thought that it was
24 a meritorious action to bring a motion, if it was meritorious,
25 I would've brought it in my judgment, discretion.

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1 Q. I understand that completely. I'm asking you what
2 you know now. If the indictment was brought during a term of
3 court that was not authorized by the general assembly, would
4 that have caused you to investigate that issue and possibly
5 challenge the indictment?

6 A. Perhaps. I may have looked into it further.

7 Q. The defense of involuntary intoxication. I think
8 Mr. Missouri testified that he had talked with you about the
9 defense of involuntary intoxication. I think you previously
10 testified that he had been, you know, constantly talking with
11 you about that particular issue?

12 A. That's correct.

13 Q. It's my understanding, you correct me if I'm wrong,
14 that the defense of involuntary intoxication is a novel issue
15 in South Carolina. I don't know of any case, at least at that
16 particular time, that addressed involuntary intoxication; is
17 that right?

18 A. That's right.

19 Q. Is it your understanding the state of law at that
20 particular period of time when you were representing
21 Mr. Missouri was that, if someone voluntarily consumed alcohol
22 or drugs, then the voluntary consumption of alcohol or drugs
23 would not work as a defense to their inability to be able to
24 form the intent because of their voluntary consumption of the
25 alcohol or drugs?

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1 A. That's right.

2 Q. I think Mr. Missouri basically told you that -- did
3 he tell you that he was addicted to alcohol and/or drugs?

4 A. He did.

5 Q. Did you ever consult with an expert to try to
6 determine whether or not alcohol addiction is a disease and
7 that one does not choose to drink alcohol or choose to take
8 drugs if they're addicted?

9 A. I never consulted with a drug or alcohol expert,
10 counselor, any of them.

11 Q. Certainly. I'm assuming that you never was able to
12 answer the question as to whether or not medically alcohol or
13 drugs is an involuntary addiction?

14 A. Never able to answer that question.

15 Q. If you were able to answer that question, of
16 course, if there was an expert that was willing to testify that
17 drugs and alcohol is an involuntary addiction and not a choice,
18 would you have considered or investigated the issue of
19 involuntary intoxication?

20 A. I just didn't think it was a strong legal defense.
21 In most of the time spent with Mr. Missouri -- and I was really
22 on that. I think at trial he even said the nexus of it was he
23 was in federal prison, he had a drug rehabilitation order from
24 one of the judges. He never received that treatment. That was
25 the nexus, his basis on this, saying: Hey, I never received

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1 treatment in federal prison; I got out, I had a drug problem, I
2 relapsed while on drugs. And I robbed a bank while on drugs.

3 That was really most of the time the defense was
4 spent handling that, not so much him being pro se, for whatever
5 that's worth, to help clarify. We talked about it a lot. We
6 dealt with it a lot. He was convinced that was a good defense
7 and a proper defense. I was convinced that it wasn't. Judge
8 Barber said that it wasn't at the end of the trial. That's
9 kind of where I was with all that.

10 Q. I'll ask this question and, of course, I'll move
11 on. I'm almost finished. Thank you for that.

12 Would you agree with me that just because an issue
13 is a novel issue does not mean that it's not a meritorious one?

14 A. Sure. It's not automatically not meritorious if
15 it's novel.

16 Q. I guess the better way of putting it, there are
17 some times there's always got to be a first. And there are
18 some issues that the Supreme Court or that the courts have
19 never heard before, that may have merit. It just has never
20 been raised.

21 You're not making the argument, or you correct me,
22 you're not arguing that it wasn't a meritorious argument simply
23 because it had never been heard before; is that correct?

24 A. I just didn't think it was a good argument for the
25 case.

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1 Q. I got you.

2 Almost finished. I promise.

3 Now, I think the other issue that he raised, I
4 won't spend a whole lot of time on it, I think Mr. Missouri
5 raised the issue that you were ineffective for failing to
6 challenge the indictment on the grounds of double jeopardy. I
7 believe, I think he said that you were ineffective for failing
8 to move to dismiss the indictment on the grounds that it
9 violated rules against double jeopardy. Were you in the
10 courtroom when he testified to that?

11 A. Yes, I was here.

12 Q. I'm going to try my best to make this a coherent
13 question. If it's not, just let me know.

14 It's my understanding that his argument was dealing
15 with the issue of bank robbery and strong armed robbery. And
16 that the allegations that they were alleging, bank robbery and
17 strong armed robbery, that actually the facts that they were
18 alleging satisfied strong armed robbery were inclusive
19 underneath the indictment for bank robbery. Did that make
20 sense?

21 A. The question was: Is that what I understand that
22 he said? That is what I understand his position is.

23 Q. What his position is?

24 A. Yes.

25 Q. I think he said something to the extent that they

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1 were alleging he may have strong armed robbed a clerk and, of
2 course, that the issue was: Whether or not the clerk or what
3 he did with the clerk inside the bank that all of that would be
4 encompassed underneath the charge of robbery and wouldn't be a
5 separate charge of strong armed robbery?

6 A. That was what he said. I assume, yes. I think
7 that was his position.

8 Q. Did he discuss that with you a lot?

9 A. Not that I recall actually. I don't remember that
10 at all.

11 Q. Did you ever look up that issue independently on
12 your own to try to determine whether or not there was a double
13 jeopardy argument to be made regarding strong armed robbery and
14 bank robbery?

15 A. I didn't see one because I think the charges were
16 entering bank with intent to steal or commit larceny or
17 something, and the other one was strong armed robbery. I
18 didn't think that they were dual, the same type of offenses. I
19 didn't think double jeopardy would be worth trying to argue it
20 to the judge. I think they were separate offenses.

21 Q. You decided not to pursue that --

22 A. Yeah.

23 Q. -- because intellectually you believed that there
24 was no conflict, that there were two separate charges
25 underneath --

Aaron Angell Cross by Mr. Smith

1 A. Yeah.

2 Q. -- the Blockburger test?

3 A. It just seemed separate, independent to me at the
4 time, yeah.

5 Q. Did you research that issue?

6 A. No, I did not.

7 Q. You didn't research it at all?

8 A. (Witness moves head from side to side.)

9 Q. Just a first glance impression that they were
10 separate charges?

11 A. That's right.

12 MR. BROOKER: If you could indulge me just a
13 second, Your Honor. I think there was one more issue at the
14 end that he had corrected me at the end. I want to be sure I
15 ask Mr. Angell about that.

16 (A pause transpired).

17 MR. BROOKER: No further questions.

18 THE COURT: Thank you. Mr. Smith.

19 CROSS-EXAMINATION

20 BY MR. SMITH:

21 Q. Mr. Angell, can you tell me when you were admitted
22 to practice law in South Carolina?

23 A. February 14, 2011. Valentine's Day.

24 Q. Can you give me a summary of your legal experience.

25 A. Up to now or up to the point for him? When do you

Aaron Angell Cross by Mr. Smith

1 want? Just overall?

2 Q. Up until then.

3 A. I had been primarily practicing in the City of
4 Clemson. I did a lot of misdemeanor charges for college-level
5 charges, DUI, minor possessions, public disorderly, public
6 drunk.

7 I also had a contract in Oconee County and
8 Greenville and Pickens where I would serve as conflict attorney
9 and represent clients charged in general sessions. And I have
10 handled probably several dozen cases prior to Mr. Missouri.
11 Obviously done more since then.

12 I had a few trials in general sessions prior to
13 Mr. Missouri's case. That was really all I was practicing was
14 criminal defense at that time.

15 I'm no longer in criminal defense. I represent
16 banks doing judgement enforcement. That's well after this
17 case. I can go on, but it's not very exciting.

18 Q. Okay. What were the facts of the crime as you
19 remember them?

20 A. So, in essence, just to try to summarize, my client
21 was found guilty and the facts were as simple as this. I say
22 simple. I don't remember if my client was driving a truck or
23 his buddy was driving a truck. They drove a truck. It was a
24 red truck to the Pickens County Bank of America.

25 Q. Stolen red truck?

Aaron Angell Cross by Mr. Smith

1 A. Stolen red truck, yeah. There is that.

2 My client walked into the bank. I remember he had
3 some great sunglasses, Dolce & Gabbana sunglasses. He asked
4 the teller to turn over the money, nobody would get hurt. She
5 gave him the money. I think he looked like he had a firearm.
6 It showed in trial he had a firearm in his pocket.

7 The teller hits the alarm when he leaves. He gets
8 in the truck. The truck races away. There's now a high speed
9 chase from Pickens City to Easley.

10 You got Pickens City cops. I think Pickens County
11 cops and then Easley cops. Easley Police had all kind of
12 swatted in on him, and chased him. I think the car kind of
13 crashed in the yard. My client jumped out and had money in the
14 truck. I believe it was money on him. Kind of money following
15 off of him, kind of like a Hansel and Gretel bread crumb trail.

16 At the trial, State calls several witnesses, the
17 tellers, officers on the scene. And then my client got on the
18 stand and congratulated the prosecution for a job well done,
19 said he did it, said he had taken drugs and the jury can
20 nullify that, see he should've been treated. And essentially
21 he claimed involuntary intoxication on the stand. That's the
22 rough.

23 Q. Okay. How many times did you meet with
24 Mr. Missouri while you represented him?

25 A. Probably no less than -- that's a good question.

Aaron Angell Cross by Mr. Smith

1 Probably at least 20 times. I mean, we were together two
2 years. So probably at least 20 times, maybe not much more than
3 that; probably right in there. Then, of course, letters that
4 he sent me were more than that.

5 Q. Okay. Can you tell me what you remember about the
6 distinction between Pickens charges and the Greenville charges?

7 A. Totally separate. Separate prosecutor over there.
8 I know that if I had a five-year offer on all those charges,
9 that I would've fought like heck to get him to take that. That
10 was never -- those charges were always bifurcated. And since
11 Culderson was his attorney over here, I never really heard from
12 George. I saw that letter. I never dealt with George ever.
13 It was really Doug. I know Doug was super consistent with the
14 offer from the start. And even before trial, still couldn't
15 convince Vince to take it.

16 Q. At your first meeting with Mr. Missouri, did he
17 tell you he wanted to be pro se?

18 A. No. He had -- the first meeting with him was more
19 about a bunch of motions that he wanted to file. He wanted a
20 change of venue. He wanted to get some type of meeting with
21 somebody that could help him with involuntary intoxication.
22 No, I don't remember that being -- and it wasn't the leading
23 issue that he wanted to represent himself. He wanted me to
24 represent him, but he wanted me -- this is just my perspective.
25 He wanted me to kind of do -- he be the lawyer and me file the

Aaron Angell Cross by Mr. Smith

1 motions for him kind of thing. It was a really challenging
2 representation as you can imagine. But, you know, we kind of
3 do the best we can.

4 Q. You felt that he wanted to tell you what to do?

5 A. Yeah, sure.

6 Q. I'll ask you about plea negotiations in a moment.
7 Tell me how discussions came about in terms of who brought up
8 the potential pleading guilty in trying for a plea deal?

9 A. I guess that would've been me in negotiations with
10 his attorney. I think one of the issues he was facing, he had
11 a prior record. And there was the potential for life without
12 parole on these charges. And so part of it was, I think the --
13 I don't know why -- I can't remember why they didn't LWOP him
14 or notice LWOP. I'm glad they didn't.

15 So part of what I was trying to do was to get a
16 plea negotiation, a plea deal where he accepts 15 years for the
17 Pickens and, hopefully, you know, obviously I don't represent
18 him in Greenville, to try to have those other Greenville
19 charges run either concurrent with those 15 years. And I don't
20 really know how it ended up playing out. I think that's how it
21 end up going anyway.

22 To avoid LWOP was really what I was trying to do.
23 The State never really noticed him on that, they didn't
24 proceed. That was my major concern, obviously. If he gets
25 convicted, he's LWOP, now we're really in a bad space.

Aaron Angell Cross by Mr. Smith

1 Q. Walk me through the time line of plea offers,
2 counteroffers, any plea discussions you had with the
3 Solicitor's Office.

4 A. There really wasn't any counteroffer. I thought,
5 you know, in my experience dealing with, you know, kind of the
6 facts of this case, his record and everything, that I tried to
7 get less than 15 years. I also knew that, based on my
8 experience and my history in working with the Solicitor's
9 Office, that was a good deal. I didn't really have a whole lot
10 of counteroffers with Doug. It was pretty cut and dry from the
11 start. It was just trying to really get Vincent to see that's
12 probably the best move. But I wasn't able to do that.

13 Q. Was that -- you're referring to a 15-year offer?

14 A. Yeah.

15 Q. Was that something you received from the Solicitor?

16 A. Yeah.

17 Q. Doug Richardson?

18 A. Yeah.

19 Q. Was that the first offer made?

20 A. Yeah, in that case.

21 Q. For the Pickens County cases?

22 A. For the Pickens County cases, yes.

23 Q. What did Mr. Missouri say when you told him about
24 that offer?

25 A. He didn't seem interested and he kind of -- he

Aaron Angell Cross by Mr. Smith

1 had brought up some other charges. At this point, we have
2 Kershaw County, which I don't know what happened in those. And
3 then Greenville County. He just didn't seem real interested.
4 He was more interested in trying to file more motions. And he
5 didn't seem interested.

6 And he mentioned earlier this morning sitting in
7 the room with his mom in the jury room, I remember that. That
8 was really, most of that was about him wanting to represent
9 himself at that point. That wasn't about me trying to get
10 George to take five years. There was discussion about taking
11 an offer of 15. The weight of that was I want to represent
12 myself, they have to let me represent myself. That was really
13 the bulk of that conversation. I heard that this morning.

14 Q. When you talked with him about the 15-year offer,
15 was it your understanding that he wanted a better offer or that
16 he wanted a trial?

17 A. I think he just wanted a better offer. I think he
18 wanted better.

19 Q. Did Doug Richardson ever offer something better than
20 15 years?

21 A. No.

22 Q. On the Pickens County?

23 A. On Pickens County.

24 Q. Did you have any discussions personally with
25 Mr. Campbell about a global plea deal?

Aaron Angell Cross by Mr. Smith

1 A. No, not that I recall. I saw that letter. I don't
2 recall ever talking with him.

3 Q. I'd like to ask you about the exhibits. Looking at
4 Applicant's Exhibit 2. What's the date on that?

5 A. January 24, 2013.

6 Q. This was addressed to Mr. Missouri personally?

7 A. Uh-huh.

8 Q. This would be from?

9 A. This is from George Campbell, I believe. I don't
10 see his signature. From the Solicitor's Office. It's in
11 regards to Greenville charges.

12 Q. You didn't represent him on any of these charges;
13 is that right?

14 A. I don't see it here.

15 Q. This wouldn't be something that you were involved
16 in at that time?

17 A. That's right.

18 Q. If we look at exhibit 3, you agree with me that
19 letter comes after exhibit 2?

20 A. Yes, it does.

21 Q. And this one is addressed to you; right?

22 A. It is.

23 Q. There's no actual plea offer listed specifically in
24 this single page we have; right?

25 A. No. There's not.

Aaron Angell Cross by Mr. Smith

1 Q. It does refer to the fact there are enclosures?

2 A. Yes, it does.

3 Q. Do you know what would've been enclosed with that?

4 A. No idea.

5 Q. Is that something you would have in your file?

6 A. I don't. I don't have anything with this of an
7 enclosure.

8 Q. You testified that you did recognize this letter.
9 Where had you seen it?

10 A. In my file. I don't have the enclosure in my file.
11 I don't have any enclosure.

12 Q. Do you know if you would've had them at the time?

13 A. No.

14 Q. Okay. We can't tell just from this letter what
15 plea offer would've been referred to in this letter?

16 A. No, we can't.

17 Q. Can you tell me what -- this Pickens County case,
18 this wasn't referring -- I mean, exhibit 2 refers to charges
19 you did not represent Mr. Missouri on?

20 A. That's right. Forgery. Larceny.

21 Q. Did you discuss the potential of a global plea deal
22 with Mr. Richardson?

23 A. Yeah. Yeah. Yeah.

24 Q. Tell me about those discussions.

25 A. Just that, you know, my client would like to get

Aaron Angell Cross by Mr. Smith

1 all of these resolved if he's going to plea; rather get
2 Greenville, Pickens done and handled. I preferred that for
3 him. I wanted to do that. We discussed it so he didn't have
4 to piecemeal everything.

5 Q. What did Mr. Missouri say when you told him about
6 that possibility?

7 A. I just think he wasn't interested in the 15 years.
8 I think he wanted better.

9 Q. At any point did Mr. Missouri tell you he just
10 wanted to go ahead and plea guilty and get it over with?

11 A. No.

12 Q. At any point did Mr. Missouri tell you that he had
13 given information to Mr. Campbell about a crime of robbery in
14 Simpsonville?

15 A. I don't remember him telling me that. He may have,
16 but I don't remember him saying that to me. I heard him this
17 morning say he did.

18 Q. Did he tell you he had -- did he ever bring up
19 anything about criminal reliance or giving helpful information
20 on the Greenville cases?

21 A. Not that I recall.

22 Q. You think that sort of conversation would've been
23 something that stuck out to you?

24 A. Sure.

25 Q. Why is that?

Aaron Angell Cross by Mr. Smith

1 A. He relied on it. He was given an offer for all
2 these charges. Certainly, I would've sought to enforce that.

3 Q. You testified earlier that you did not raise some
4 sort of objection to Judge Verdin's ruling or seek an
5 interlocutory appeal. Why not?

6 A. I was just ready to represent him through and into
7 trial. If the judge says you're going to represent him, I'm
8 just following the judge's order and thought that was the best
9 course of action.

10 Q. Did you feel that the matter was settled?

11 A. Not with Vince. I don't know anything is ever
12 settled. I didn't have an opinion one way or another. If
13 you're asking about Judge Barber coming in and having -- I
14 think he had authority, you know. I thought the matter was
15 settled for then. Verdin ruled. My client was able to make
16 further motions down the line.

17 Q. You were asked why you didn't raise some sort of
18 objection when Judge Barber indicated he would be willing to
19 entertain Mr. Missouri's motion to represent himself again.
20 Can you think of any reason you would've objected and said:
21 Your Honor, you don't have that authority?

22 A. No. I wanted the judge to be able to think it
23 through and do what he thought best and most judicial. I
24 didn't object to him revisiting that. I thought that was well
25 done on his part, on his behalf.

Aaron Angell Cross by Mr. Smith

1 Q. Did you review the indictments before trial?

2 A. Yes.

3 Q. Did you go over them with Mr. Missouri?

4 A. I don't explicitly remember going over those
5 indictments with him, no.

6 Q. Was that your routine to do that with criminal
7 defendants?

8 A. To review the indictments?

9 Q. Right.

10 A. Not necessarily, no.

11 Q. Would you have discussed them with them?

12 A. Yeah, I would've discussed them, may not have
13 reviewed or turned them over and handwrite on them.

14 Q. Did you feel that the indictments gave you adequate
15 notice to defend Mr. Missouri at trial?

16 A. Yes.

17 MR. SMITH: Just one minute.

18 No more questions.

19 THE COURT: Any redirect?

20 MR. BROOKER: No redirect, Your Honor.

21 THE COURT: Thank you. You can step down.

22 (The witness exited the stand.)

23 THE COURT: Let's take a lunch break. How many
24 more witnesses you have, Mr. Brooker?

25 MR. BROOKER: We're going to call George Campbell.

Aaron Angell Cross by Mr. Smith

1 That's going to be the only witness I'll call.

2 THE COURT: How many witnesses do you anticipate?

3 MR. SMITH: After Mr. Campbell, I'll have
4 Mr. Richardson and then the two appellate lawyers. That's it.

5 THE COURT: What do we need to do as far as our
6 dockets for the rest of the day?

7 MR. SMITH: I anticipate Ms. Henry would want to
8 continue the Gerald Powell hearing. I'll let Mr. Barlow talk
9 about the rest.

10 THE COURT: Mr. Barlow, you know where we stand on
11 Rogers and Oglesby?

12 MR. BARLOW: Your Honor, with Oglesby, Applicant's
13 attorney, he was called to general sessions matter outside of
14 Greenville. I have contacted his legal assistant who came here
15 this morning to tell me that. I gave her my cell phone number
16 and I have reached out to her twice by e-mail to get an update.
17 I have not --

18 THE COURT: We'll maybe find out after lunch.

19 MR. BARLOW: Yes, sir. Mr. Rogers, I know
20 Ms. Henry is ready to move forward. And Ms. Johnson is here.

21 THE COURT: We'll take a lunch break until 2:15.
22 Start back at 2:15.

23 (end. 109 p.m. until

24 (Luncheon recess transpired from 1:09 p.m. until
25 2:15 p.m.)

Aaron Angell Cross by Mr. Smith

1 MR. SMITH: His assistant is getting in touch with
2 him in Spain. She's going to call me back.

3 THE COURT: This guy is from Spain.

4 MR. SMITH: I don't know what time it is over
5 there.

6 THE COURT: I would assume six to eight hours
7 difference.

8 MR. SMITH: Yeah, closer to 6:00.

9 THE COURT: Mr. Brooker, how were you intending on
10 examining him? If it comes into my courtroom, how are you
11 going to examine him?

12 MR. SMITH: I can speak to that, Your Honor. I
13 know this courtroom has the ability to broadcast virtual
14 courtroom on the television screen. I believe --

15 THE CLERK: I don't know how to do it.

16 MR. SMITH: I believe it can also pick us up
17 through the microphone. Anyone joining virtual can see us from
18 the cameras.

19 THE COURT: I hoped that would have been ironed out
20 before now. We'll see where we go, if he shows up.

21 MR. SMITH: I think there's a control panel
22 somewhere.

23 THE COURT: Do you have another witness,
24 Mr. Brooker?

25 MR. BROOKER: Your Honor, we're just going to do

Aaron Angell Cross by Mr. Smith

1 Mr. Campbell and I believe the State was going to call --

2 THE COURT: I'm asking from you. Do you have any
3 other witnesses?

4 MR. BROOKER: No, Your Honor. We can go ahead and
5 call the two appellate court witnesses. Two appellate court
6 witnesses. They're going to be very quick, single issue
7 witness, Your Honor. They will be much quicker than the
8 witnesses this morning.

9 THE COURT: I'm wondering if I need to go out of my
10 courtroom and start all over. I have Mr. Alexander. Appears
11 as an attendee. He is not in my courtroom yet.

12 (A pause transpired).

13 THE COURT: Somebody give Mr. Alexander a call, see
14 if we can get him on. I chatted, said are you attending. He
15 said, is there a way to make me a panelist. I think that would
16 make my audio and video show.

17 I think he's done something on his end as far as an
18 error because I am not able to make him a panelist. He's
19 showing up as an attendee.

20 Mr. Alexander, this is Judge Hall. Can you hear
21 me? He says I can hear you. I'll log off and try logging on
22 again.

23 That's probably a good thing.

24 (A pause transpired.)

25 THE COURT: Can you hear me? You need to turn your

Aaron Angell Cross by Mr. Smith

1 volume up as loud as you can. Mr. Brooker, I don't know how
2 you intend to examine him. That's not Judge Hall's area of
3 expertise.

4 MR. BROOKER: It's not mine as well. If he can
5 hear me, Your Honor. I don't have any documents to present to
6 him.

7 THE COURT: Let's do this. You're still muted
8 somewhat, Mr. Alexander. Are you up as high as you can go?

9 I'm all the way up as well. We can't hear you at
10 all hardly in the courtroom.

11 THE BAILIFF: See if there's another clerk here.

12 (A pause transpired).

13 MR. SMITH: Your Honor, I have an update on Mr.
14 Campbell. His assistant called back and said they are unable
15 to get in touch with him.

16 THE COURT: Let's do Mr. Alexander, and we'll cross
17 that bridge.

18 (A pause transpired.)

19 THE COURT: Everybody is going to have to be muted
20 when another is talking.

21 Mr. Alexander, this is Judge Hall. Can you hear
22 me?

23 MR. ALEXANDER: Yes, Your Honor, I can.

24 THE COURT: Mr. Brooker, this is your witness.

25 DIRECT EXAMINATION

DAVID ALEXANDER Dir by Mr. Brooker

1 BY MR. BROOKER:

2 Q. Mr. Alexander, do you remember representing, I
3 think, Vincent Missouri in connection with an appeal, I think,
4 before the South Carolina Court of Appeals?

5 A. Yes. I do.

6 Q. If my memory serves me correctly, he was originally
7 being represented by an attorney in your office. And I think
8 that attorney filed an Anders brief, if my memory serves me
9 correctly. Is that your understanding?

10 A. That's correct.

11 Q. I think after the attorney in your office, I think
12 it was Ms. Holt now?

13 A. That's correct.

14 Q. When she filed the Anders brief, then Mr. Missouri
15 filed, I think, a pro se brief in response, arguing the issue
16 of Faretta. Do you recall that?

17 A. Yes, he did.

18 Q. It's my understanding that the Court of Appeals
19 thought it was a meritorious issue and, I think, heard and made
20 a decision based upon Mr. Missouri's Faretta argument; is that
21 correct?

22 A. That's not correct. It's still skipping a few
23 steps there.

24 Q. Sure. Go ahead.

25 A. When the court decides that it finds an issue of

DAVID ALEXANDER Dir by Mr. Brooker

1 merit, what it does, it denies the appellate's counsel's
2 petition to be relieved in an Anders case and directs appellate
3 counsel to brief whatever issue that the court finds. That's
4 what happened in this case.

5 The Court of Appeals found Faretta issue after
6 Mr. Missouri pointed out in his brief, directed Ms. Holt to
7 file a brief addressing that issue, which she did. She then
8 left for her other appointment.

9 I took over the case in time to write the reply
10 brief at the Court of Appeals.

11 Q. It's my understanding that the Court of Appeals
12 ruled against Mr. Missouri and specifically it's my
13 understanding -- you correct me if I'm wrong, you probably know
14 this case a lot better than I do -- that the Court of Appeals
15 found that Judge Verdin erred when she denied his motion of
16 self-representation, I think in December of 2013 at that
17 hearing. But the court ultimately found that error was
18 remedied or corrected by Judge Barber, I think, in pretrial
19 motions in May of 2014; is that correct?

20 A. One slight wiggle with your language, the Court of
21 Appeals said Mr. Missouri waived his right. Otherwise, yes,
22 you're correct.

23 Q. He had waived his right before Judge Barber.

24 My understanding is that, when the Court of Appeals
25 denied or sustained the judgment and found that he had waived

DAVID ALEXANDER Dir by Mr. Brooker

1 his Faretta right of self-representation, you filed a petition
2 for rehearing?

3 A. I did.

4 Q. One of the issues I wanted to ask you about, doing
5 that petition for rehearing, did you challenge whether or not
6 Judge Barber had the authority to be able to change the ruling
7 or rehear a motion that Judge Verdin had heard in December of
8 2012 and had made a final decision? Did you argue that Judge
9 Barber didn't have the authority to be able to do that?

10 A. No, I did not.

11 Q. You kind of correct me if you don't understand.
12 It's my understanding there is a long line of cases out there
13 that basically says, when one circuit court judge makes a
14 ruling on an issue, and that ruling is final. Then another
15 circuit court judge can't later overrule the previous circuit
16 court judge. Are you familiar with that line of jurisprudence?

17 A. That's certainly a correct statement of the general
18 principle, yes. I'm in favor of that, yes.

19 Q. Is there a reason why you did not argue that in the
20 petition for rehearing, that the Court of Appeals would be
21 incorrect on the ground that Judge Barber never had the
22 authority to be able to revisit that final decision that was
23 made by Judge Verdin?

24 A. Yes, I have several reasons why it would do that.
25 I would say the first would be I think it would be questionable

DAVID ALEXANDER Dir by Mr. Brooker

1 whether that general rule applies to Faretta. If I were on the
2 other side of that issue, was trying to say that a judge had
3 the authority, I would rather have that argument than the other
4 side.

5 The most important reason I didn't raise that, you
6 always want to be able to answer the court's question of what
7 did you want. Here, Judge Barber offered what he wanted. And
8 then found that we declined it. If we're going back and asking
9 the Supreme Court or Court of Appeals give us what Judge Barber
10 offered us and reverse him in the process, I thought that was
11 very difficult argument to make.

12 Q. Okay. When you say that you don't believe that
13 general principle, that one circuit court judge can't overrule
14 another, when you said you don't believe that would apply in a
15 Faretta situation, do you have any case law that says that
16 general rule doesn't apply in a Faretta situation?

17 A. No. I haven't seen a case specifically addressing
18 that. I've seen defendants will serve their right of
19 self-representation right at the eve of trial, which isn't
20 exactly the same. That leaves me to believe that Faretta may
21 be a special circumstance also. If the conditions change, a
22 judge can revisit an earlier order.

23 Q. You correct me if I'm wrong. My understanding is
24 that if the first judge who makes a ruling, if that judge
25 leaves it open, leaves it open for it to be revisited by a

DAVID ALEXANDER Dir by Mr. Brooker

1 previous judge and that first judge had the ability to do that,
2 then later on down the line a judge can revisit that or if it's
3 on an issue that is not final. It's my understanding Faretta
4 and the Sixth Amendment, this is a Constitutional issue.

5 And from the case law that I'm aware of, whenever a
6 judge makes a decision on a Constitutional issue in a pretrial
7 motion, that Constitutional issue is deemed to be final. And
8 my understanding -- I'm saying this because I recently had this
9 in a case that the Supreme Court recently said that issue, that
10 final issue, Constitutional issue that was raised pretrial,
11 it's not necessary that attorneys even re-assert the objection.

12 THE COURT: I'm sorry. Are you asking him a
13 question? You may have a legal argument to make to the court.
14 I think it's more proper to make that to the court at the
15 appropriate time. If you have some questions for
16 Mr. Alexander, this is direct examination. I don't think we're
17 here for Post-Conviction Relief where you and Mr. Alexander
18 engage in a conversation back and forth about a particular
19 aspect.

20 If you'll look at rule four of the Rules of
21 Criminal Procedure, probably the appropriate rule that applies,
22 ask him. If you have a question, ask him a question.

23 MR. BROOKER: Certainly, Your Honor.

24 BY MR. BROOKER:

25 Q. Just back to Faretta. I think I previously asked

DAVID ALEXANDER Dir by Mr. Brooker

1 you whether or not you were aware of any law that makes Faretta
2 an exception. I think your answer was you were not; is that
3 correct?

4 A. That's correct.

5 Q. It's my understanding, if Judge Barber's revisiting
6 of that issue had been found, been deemed to have been
7 inappropriate, then, of course, Judge Verdin's original
8 decision would stand; is that correct?

9 A. Could be. It certainly could be.

10 Q. If that original decision by Judge Verdin were to
11 stand, it's my understanding the Court of Appeals, in its final
12 decision, said that Judge Verdin's decision was in error; is
13 that correct?

14 A. That's correct.

15 Q. Would've provided him potentially, I think, the
16 relief that he was seeking and that was overturned conviction;
17 is that correct?

18 A. That would be correct under your scenario, yes.

19 Q. I think your petition for rehearing was denied, is
20 that correct, at the Court of Appeals?

21 A. Yes, that's correct.

22 Q. And you filed a petition for writ of cert with the
23 Supreme Court?

24 A. I did.

25 Q. Initially that petition was granted; is that

DAVID ALEXANDER Dir by Mr. Brooker

1 correct?

2 A. Correct.

3 Q. And I think you filed a brief after that petition
4 for writ of cert had been granted. And in that brief you also
5 failed to make the argument to the South Carolina Supreme Court
6 that Judge Barber didn't have the authority to revisit Judge
7 Verdin's decision; is that correct?

8 A. I did not make that argument.

9 Q. My understanding is that you and Missouri talked
10 about this argument extensively --

11 A. We did.

12 Q. -- prior to you filing the brief?

13 A. Yes.

14 Q. Is there a reason why you didn't make that argument
15 to the South Carolina Supreme Court?

16 A. I didn't think it would work for the reasons I've
17 said before. We would be asking the Supreme Court to reverse a
18 judge who offered us what we would be standing in front of the
19 court asking for.

20 If I'm wrong -- Missouri is very smart, smartest
21 client I've ever had. He has merit points on the law; one
22 judge overruling another. If I'm wrong on that, he should of
23 course get relief. I just did not feel that the posture it
24 was, that the Supreme Court is going to reverse Judge Barber
25 for offering us what we want.

DAVID ALEXANDER Dir by Mr. Brooker

1 I thought a better take on it was to argue, which
2 is what I did, Mr. Missouri asked for time to prepare his case.
3 Judge Barber wouldn't do that. I argued that was a Hobson's
4 choice.

5 Mr. Missouri's situation, he had done everything
6 right and asked for his representation issue to be accepted
7 well before the trial. The Court of Appeals agreed Judge
8 Verdin, in error, denied him that right.

9 The error that I tried to convince the court was,
10 if Judge Barber is going to let him represent himself, you need
11 to give him time to do it. Which he didn't have time to do.
12 Ultimately that was not successful.

13 Q. I think you've already answered this question.
14 It's probably my last one. I think you said that argument that
15 Judge Barber had overstepped his bounds in overruling,
16 revisiting Judge Verdin, I think you said that argument would
17 work with the South Carolina Supreme Court; is that correct?

18 A. Correct, or the Court of Appeals.

19 Q. Or the Court of Appeals. Again, you have no legal
20 authority that suggests that was not a credible argument to
21 make?

22 A. I think it was a credible argument. But it just
23 puts you in an impossible position of asking for something that
24 you were offered by the trial judge. I did not see a way
25 around that. I thought the better way forward was to try to

David Alexander Cross by Mr. Smith

1 convince the court that he should've been given time to prepare
2 his case and remedy the earlier error by Judge Verdin.

3 Q. Thank you. If you can indulge me for a second.

4 A. Sure.

5 MR. BROOKER: No further questions, Your Honor.

6 THE COURT: Mr. Smith.

7 MR. SMITH: Your Honor, my camera is not on I think
8 because I'm just listed as attendee. I'm fine just asking
9 questions through the microphone.

10 MR. BROOKER: If you want to use mine. I'm
11 perfectly fine.

12 THE COURT: If you can stand there, he may pick you
13 up where you are.

14 MR. SMITH: Hello, Mr. Alexander. Can you hear me?

15 THE WITNESS: Yes, Mr. Smith. How are you?

16 MR. SMITH: I'm doing okay.

17 CROSS-EXAMINATION

18 BY MR. SMITH:

19 Q. Just have a few background questions. When were
20 you admitted to practice law in South Carolina?

21 A. 2000.

22 Q. Can you give me a summary of your legal experience.

23 A. Again, working as a clerk for a judge.

24 Then I went into private practice, a large law firm
25 doing civil defense work.

David Alexander Cross by Mr. Smith

1 And then I worked for probably another eight years
2 doing Plaintiff's work.

3 And then came to self-defense in 2012. Been here
4 ever since.

5 Q. Did you tell Mr. Missouri that he should file an
6 application for Post-Conviction Relief alleging that you were
7 ineffective?

8 A. Yeah, we talked about that 'cause I was not going
9 to raise the argument that he wanted, which was the one
10 Mr. Brooker questioned me about. I told him as I would any
11 client, if I'm wrong about something, you can address that in
12 PCR. As the appellate lawyer, I got to make decisions on which
13 arguments to raise. That was the decision I made.

14 MR. SMITH: Thank you. No more questions.

15 MR. BROOKER: No follow-up questions, Your Honor.

16 THE COURT: Thank you, Mr. Alexander. I think you
17 are --

18 THE WITNESS: I can't hear you, if you're
19 addressing me.

20 THE COURT: Thank you, Mr. Alexander. You are
21 relieved from being present the rest of the day. Thank you.

22 THE WITNESS: Judge, I think your mike is off.

23 THE COURT: My bad. You're excused.

24 THE WITNESS: Thank you, Your Honor.

25 (Mr. Alexander's Webex conference was concluded.)

Tiffany Holt Dir by Mr. Smith

1 THE COURT: Call your next witness.

2 MR. BROOKER: No further witnesses for the
3 Petitioner, Your Honor.

4 THE COURT: Mr. Smith.

5 MR. SMITH: Yes, Your Honor. I call Ms. Holt. I
6 can see that she's in there.

7 THE COURT: Ms. Holt, this is Judge -- Mr. Brooker,
8 would you mute your --

9 MR. BROOKER: I'm on mute, Your Honor, right now.

10 THE COURT: I'm still hearing -- generally, if you
11 mute not just on the Webex, mute on your computer.

12 Ms. Holt, this is Judge Hall. Can you hear me?

13 MS. HOLT: Yes, Your Honor.

14 THE COURT: I'll mute, that will solve it.

15 Mr. Smith, this is your witness.

16 MR. SMITH: Yes, Your Honor. Is there a way I can
17 be made a panelist?

18 MR. BROOKER: You can use mine.

19 THE COURT: I'll admit Mr. Smith.

20 You're a panelist now.

21 DIRECT EXAMINATION

22 BY MR. SMITH:

23 Q. Hello, Ms. Holt. Can you hear me?

24 A. I can hear you. Can you hear me?

25 Q. I can. I apologize it's taken so long to get to

Tiffany Holt Dir by Mr. Smith

1 you.

2 Can you tell me when you were admitted to practice
3 law in South Carolina?

4 A. I was admitted in May of 2011.

5 Q. Can you give me a summary of your legal experience.

6 A. Until now or prior then?

7 Q. Up until the time of Mr. Missouri's appeal.

8 A. I had worked as a public defender for Sumter County
9 Public Defender's Office about three-and-a-half years, I
10 believe.

11 And then September 2014 is when I began working for
12 public defense and, I believe, I was assigned Mr. Missouri's
13 case in 2015. Early 2015.

14 Q. And would you agree with me that you filed an
15 Anders brief initially in the Court of Appeals?

16 A. I did, yes.

17 Q. Why did you decide to file an Anders brief?

18 A. Well, based on my review and all the transcripts,
19 that was the issue that I felt -- although technically
20 preserved in my mind, I felt that was the strongest position
21 that we had because it was not a preserved issue. So I thought
22 to file an Anders brief.

23 Q. Did you ever consider arguing from the beginning in
24 a merits brief that Judge Barber did not have the authority to
25 allow Mr. Missouri to proceed as a pro see Defendant at trial?

Tiffany Holt Dir by Mr. Smith

1 A. I did not.

2 Q. Can you tell me, is that something you considered?

3 A. I don't know. I don't think so. This was eight
4 years ago. I'm not quite sure of my process at the time.

5 Q. When The Court directed you to argue the issue of
6 whether Mr. Missouri had been denied the right to proceed pro
7 se, did you give any more thought to that issue at that time?

8 A. Just based on a review of my brief I would see why
9 I made that argument. I don't really know. I would assume I
10 didn't. I didn't include the brief.

11 Q. Do you know if you had any communication from
12 Mr. Missouri asking you to raise that issue?

13 A. I recall receiving letters from him. Some on the
14 phone. As far as specifics of that communication, I can't
15 recall.

16 Q. What was your understanding of the law at the time?
17 Did you think that Judge Barber could've allowed Mr. Missouri
18 to proceed pro se?

19 A. Just based on my understanding of the issues, I
20 don't believe that a judge could usually reverse another judge.
21 However, I considered that as a potential issue to brief. I
22 don't know. Probably not.

23 Q. What was your understanding of the relief that
24 Mr. Missouri was seeking? What did he want?

25 A. My understanding was that he wanted his case

Tiffany Holt Cross By Mr. Brooker

1 remanded. Wanted a new trial.

2 Q. That would've been based on the fact that he felt
3 that he was not allowed to proceed as a pro se defendant at
4 trial; is that right?

5 A. According to the brief, that would've been the
6 issue.

7 MR. SMITH: No more questions. Thank you.

8 THE COURT: Mr. Brooker.

9 MR. BROOKER: Just very briefly, Ms. Holt.

10 CROSS-EXAMINATION

11 BY MR. BROOKER:

12 Q. I think you indicated at that time it was your
13 understanding or your belief that one circuit judge cannot
14 overrule the decision of another circuit court judge; is that
15 correct?

16 A. That's --

17 THE COURT: We can't hear her answer. Repeat your
18 question, Mr. Brooker.

19 BY MR. BROOKER:

20 Q. Ms. Holt, it's my understanding, I think you
21 testified just a minute ago on direct examination that it was
22 your understanding that one circuit court judge could not
23 overrule the decision of another circuit court judge; is that
24 correct?

25 A. That's been my general understanding. However,

Tiffany Holt Cross By Mr. Brooker

1 it's something that I was considering or thought of at the
2 time, I can't answer that. That's my general understanding.

3 Q. I think you've already testified the fact that you
4 didn't argue that I think in your brief. And I think your
5 testimony was that you're not quite sure what your thought
6 process was at the time regarding that particular issue?

7 A. No.

8 MR. BROOKER: If you can indulge me just a second,
9 Your Honor, make sure I do not have any further questions.

10 BY MR. BROOKER:

11 Q. Just very briefly, Ms. Holt. I think the issue
12 that you briefed was an issue other than Anders. Do you
13 remember what that issue that you advanced in your brief?

14 A. It was a directed verdict issue. Based on review
15 of my brief, I didn't believe that the State had proved, had
16 enough evidence to prove strong armed robbery. That was my
17 argument.

18 MR. BROOKER: No further questions.

19 THE COURT: Anything further, Mr. Smith?

20 MR. SMITH: No, Your Honor.

21 THE COURT: Ms. Holt, this is Judge Hall. Can you
22 hear me?

23 THE WITNESS: Yes, Your Honor.

24 THE COURT: You're excused. Thank you.

25 (The Webex conference was concluded.)

William Richardson Dir By Mr. Smith

1 THE COURT: Do we have any other witnesses other
2 than our witness from Spain?

3 MR. SMITH: Yes. I was also going to call
4 Mr. Richardson, who's here in the courtroom.

5 THE COURT: Call your next witness.

6 MR. SMITH: Your Honor, I call Mr. Richardson.

7 THE CLERK: Please place your left hand on the
8 Bible and raise your right hand.

9 WILLIAM DOUGLAS RICHARDSON, JR.
10 being first duly sworn, testified as follows:

11 THE CLERK: You may be seated. Please state your
12 full name for the record.

13 THE WITNESS: William Douglas Richardson, Jr.

14 DIRECT EXAMINATION

15 BY MR. SMITH:

16 Q. Mr. Richardson, what was your involvement in the
17 underlying charges here which were the Pickens County charges?

18 A. I was the lead prosecutor in Pickens County
19 charges.

20 Q. Can you tell me how the plea negotiations
21 progressed in these Pickens County cases?

22 A. To the best of my recollection, I received the case
23 and reviewed it. I made an offer of 15 years. At some point
24 in time, I can't remember exactly, at some point in time I had
25 a conversation with George Campbell, who had charges here. I

William Richardson Dir By Mr. Smith

1 said that's what I'm going to do on my Pickens charges.

2 I believe what he did at that point in time, he
3 took his charges and put them in with mine. Said he also would
4 recommend 15 years.

5 Q. Was it your understanding that would be a global
6 plea deal?

7 A. Yes and no. I was going 15 years on my charges
8 regardless of what happened in Greenville. However, if the
9 defendant wanted to plea to everything together, Mr. Campbell
10 is okay with 15 years, that was certainly the offer that was
11 made.

12 Q. Fifteen years concurrent from both counties?

13 A. Yes, sir.

14 Q. Did you communicate that global understanding to
15 Mr. Angell?

16 A. Yes. It was done via George Campbell and myself.

17 Q. You had mentioned that you had already made a
18 15-year offer. Did you make that offer and communicate it to
19 Mr. Angell?

20 A. Yes.

21 Q. What was his response to you about?

22 A. I never -- it was always a trial. There was never
23 any communication the defendant had any interest whatsoever to
24 pleading to 15 years. I believe my communication with
25 Mr. Angell, I would not go under 15 years based upon his prior

William Richardson Dir By Mr. Smith

1 record and things of that nature.

2 Q. Did you ever make a global plea agreement to a
3 five-year sentence?

4 A. No, absolutely not.

5 Q. Did you join in that sort of offer from
6 Mr. Campbell if one was made?

7 A. No. I would not have done that. He did quite a
8 bit of time in federal prison for the same thing. I would not
9 have gone under that amount.

10 Q. I'd like to ask you about -- may I approach, Your
11 Honor?

12 THE COURT: Yes, you may.

13 BY MR. SMITH:

14 Q. To exhibit Applicant's 2 and Applicant's 3. I'm
15 going to show you 2 first. Do you recognize that letter?

16 A. I do not.

17 Q. Is that one that you would've sent?

18 A. No. I did not send that letter.

19 Q. Are those charges referenced in there from the
20 Pickens County cases or the Greenville County cases?

21 A. They appeared to be from the Greenville County
22 cases.

23 Q. I'm going to show you Applicant's Exhibit 3. Can
24 you tell me if you recognize that letter.

25 A. Yes, I have seen this letter.

William Richardson Dir By Mr. Smith

1 Q. Does this letter reflect the conversation that you
2 just testified about with Mr. Campbell?

3 A. For the most part, yes, sir.

4 Q. What do you mean by that?

5 A. There may have been other ancillary stuff. This
6 lays out exactly that we communicated together with the
7 specifics of.

8 Q. Can you tell me, do you happen to have a copy of
9 the enclosures or attachments referenced in that letter?

10 A. I do.

11 MR. SMITH: Your Honor, I'm going to offer this
12 exhibit.

13 THE COURT: Show it to Mr. Brooker.

14 (A pause transpired).

15 MR. BROOKER: Can I show this to my client just a
16 second?

17 THE COURT: Yes.

18 (A pause transpired).

19 MR. SMITH: Your Honor, I don't have a photocopy of
20 this. I could offer the original and try to get a copy later.

21 THE COURT: Let's go ahead and have it marked. And
22 whatever way you want to use it is fine. It will be part of
23 the court record. If you want to take it and copy it during a
24 break, that's fine.

25 (RESP. EXH. 1, Letter dated 2-19-13 with

William Richardson Dir By Mr. Smith

1 attachment, was marked for identification.)

2 MR. SMITH: I ask that this be marked as State's
3 Exhibit 1.

4 BY MR. SMITH:

5 Q. Mr. Richardson, I'm handing you State's Exhibit 1.
6 Would you agree with me those are five pages stapled together?

7 A. Yes.

8 Q. And the first page of that is identical to
9 Applicant's Exhibit 3?

10 A. It appears to be, yes, sir.

11 Q. And the pages following that cover, are they the
12 attachments referenced in the body of the letter?

13 A. Yes.

14 Q. Can you tell me what those pages say about a plea
15 offer.

16 A. So on February 18th, a plea offer regarding my
17 charges, to all the charges for him to plea, and it references
18 the Greenville County charges also, which were George
19 Campbell's charges. In that letter dated February 19, 2013, an
20 offer was made for 15 years prison or can plea straight up
21 without recommendation for the judge of your choice.

22 Q. It was your understanding that this represented the
23 global plea offer?

24 A. Yes.

25 Q. Is this the offer that Mr. Angell told you was

William Richardson Dir By Mr. Smith

1 rejected?

2 A. Yes.

3 Q. Would these additional pages following the first
4 page, would they have been sent with the letter that's
5 Applicant's Exhibit 3?

6 A. They should've been, yes.

7 MR. SMITH: Your Honor, that's what I'm offering?

8 THE COURT: Any objection to State's Exhibit 1, I
9 believe is what you're offering into evidence.

10 MR. BROOKER: No objection.

11 THE COURT: Into evidence without objection.

12 Jan will make a copy at the break.

13 (RESP. EXH. 1, Letter dated 2-19-13 with
14 attachment, was entered into evidence.)

15 BY MR. SMITH:

16 Q. Do you have access to Mr. Campbell's file from the
17 Solicitor's Office?

18 A. Yes.

19 Q. Have you had a chance to review it?

20 A. I did not. I made a photocopy of that and put it
21 up front for Mr. Campbell to pick up.

22 Q. In anticipation of today's hearing?

23 A. I believe he requested our office to do that. I
24 was instructed to do that.

25 Q. Do you have any knowledge about Mr. Missouri

William Richardson Cross By Mr. Brooker

1 telling Mr. Campbell information about other crimes like a
2 robbery in Simpsonville?

3 A. No. First I heard of that was today.

4 Q. Did you attempt to use any information at
5 Mr. Missouri's trial that would've been gained from
6 conversations that Mr. Missouri had with Mr. Campbell?

7 A. No. Absolutely not.

8 MR. SMITH: May I have one moment, Your Honor.

9 (A pause transpired.)

10 MR. SMITH: No more questions. Thank you.

11 THE COURT: Cross-examination.

12 MR. BROOKER: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. BROOKER:

15 Q. Good afternoon, Mr. Richardson.

16 A. Good afternoon.

17 Q. Just a couple of questions. I think, correct me if
18 I'm wrong, the 15th Circuit Solicitor's Office prosecutes both
19 in Pickens and Greenville; is that correct?

20 A. 13th Circuit, that's correct.

21 Q. I'm sorry, 13th Circuit. I apologize.

22 A. Yes. We have one boss, circuit Solicitor over
23 those two counties.

24 Q. So it's one office and, of course, you have an
25 established office in Pickens. And, of course, your main

William Richardson Cross By Mr. Brooker

1 office is in Greenville; is that correct?

2 A. That's correct.

3 Q. It's still one office; is that correct? One
4 Solicitor's Office?

5 A. Yes and no. I mean, we're segregated simply by
6 venue on the charges that come into Pickens versus Greenville.
7 Yes, there is one single boss. One circuit Solicitor over both
8 offices.

9 Q. I understand you're separated by circuits. Of
10 course, the Solicitor's Office itself is just one office?

11 A. I don't like your characterization. There are two
12 offices under one boss in the 13th Circuit. Maybe, this is
13 just us --

14 Q. I think I understand. I guess I'm not talking
15 about physical offices; I'm talking about the office of the
16 Solicitor itself.

17 A. Yes.

18 Q. There is a single office of the Solicitor; is that
19 correct?

20 A. There is a 13th circuit.

21 Q. Y'all have two physical offices?

22 A. That's correct.

23 Q. One in Greenville and one in Pickens?

24 A. Yes, sir.

25 Q. The same boss?

William Richardson Cross By Mr. Brooker

1 A. That's correct.

2 Q. And, of course, so the Solicitors in Greenville and
3 the Solicitors in Pickens are colleagues; is that correct?

4 A. Sure.

5 Q. The reason why I'm asking you that is, are you
6 familiar with the case that basically says -- if you're not
7 just say you don't. When a Solicitor -- when a Solicitor
8 within the same office -- I'm not talking about the physical
9 office -- within the same Solicitor's Office makes an offer to
10 a defendant, that offer becomes binding on other Solicitors
11 within that same office?

12 A. I'm not familiar with that. That's not what
13 happened here.

14 Q. That's fine. That's fine. I'm going to give you a
15 chance to answer that. The reason why I'm asking you, I think
16 what's been identified as I believe it's Petitioner's Exhibit
17 2, I think you've already testified you've never seen that
18 before --

19 A. Not to my recollection.

20 Q. -- to your recollection. Were you ever privy to
21 the conversations that Mr. Campbell in the Greenville office
22 had with Mr. Missouri?

23 A. I don't remember having any. When you say privy,
24 are you referring to me being there during the conversations?

25 Q. I'm sorry. Let me rephrase that. It doesn't

William Richardson Cross By Mr. Brooker

1 necessarily mean that you have to be there. Were you ever made
2 aware or was a part in any way of those conversations that
3 Mr. Campbell had with Mr. Missouri?

4 A. Not that I recall.

5 Q. You're not aware of any promises or exchanges that
6 would've been made during their conversation?

7 A. No.

8 Q. I think what's been marked as Petitioner's Number
9 Exhibit 3, I think you said you don't recognize that letter as
10 well. I'll show it to you again. That's February 13th letter;
11 is that correct?

12 A. Yes. And I'm aware of this letter. Yes.

13 Q. And I think what's been marked, I think, as State's
14 Exhibit Number 1, marked as State's Exhibit 1, that's the
15 letter. Do you know whether or not the offer that's made in
16 State's Exhibit 1, that was offered through you just a minute
17 ago, do you know whether or not that offer is materially
18 different from the offer that Mr. Campbell made to Mr. Missouri
19 when he talked with him in Greenville?

20 A. I'm not aware of his conversations with the
21 defendant.

22 Q. I got you.

23 A. Subsequently I've heard there's a five-year offer.
24 I do not remember that ever being told to me or anything of
25 that nature.

William Richardson Cross By Mr. Brooker

1 Q. I got you. As far as the conversations that you're
2 privy to, directly or indirectly, you don't recall any
3 conversation about a five-year offer; is that correct?

4 A. Yes. That's my recollection. Irregardless, my
5 offer was 15 on the Pickens.

6 MR. BROOKER: Indulge me for just a second. Make
7 sure I don't have any follow-up questions for Mr. Richardson.

8 (A pause transpired.)

9 MR. BROOKER: One more line of questioning. I'll
10 be very quick, and I think I'm finished.

11 BY MR. BROOKER:

12 Q. I think that's in reference to were you in the
13 courtroom when Mr. Missouri testified?

14 A. Yes, I was.

15 Q. Did you hear Mr. Missouri testify to the fact that,
16 when he spoke with Mr. Campbell, I think during a term of court
17 here in -- I think during a February term of court here in
18 Greenville, did you hear him state that Mr. Richardson told him
19 that, in exchange for what he's offering him, that he needs to
20 come clean and confess to any other crimes that he had been
21 involved in?

22 A. Mr. Campbell?

23 Q. Mr. Campbell, I apologize.

24 A. Yes, I did hear him testify to that.

25 Q. Did you also hear him testify to the fact, in

William Richardson Redir by Mr. Smith

1 response to that, in response to I guess this offer made by
2 Mr. Campbell, that he had then subsequently told Mr. Campbell
3 about a bank robbery that he committed in Simpsonville, South
4 Carolina?

5 A. Yes, I did hear that testimony.

6 Q. It's my understanding that four months later, I
7 think in June, that he actually was arrested and charged with a
8 bank robbery in Simpsonville; is that correct?

9 A. I don't know about that. First I've ever heard
10 about Simpsonville is today.

11 Q. I'll just ask you this last question. You're not
12 disputing that any of that took place. You're just simply
13 testifying you don't know anything about it?

14 A. Yes. I wasn't privy to that.

15 MR. BROOKER: No further questions.

16 THE COURT: Mr. Smith.

17 MR. SMITH: Three questions, Your Honor.

18 REDIRECT EXAMINATION

19 BY MR. SMITH:

20 Q. I believe you testified a minute ago that, if
21 Mr. Campbell told you he was going to extend the five-year plea
22 offer for the Greenville County charges, you don't remember
23 that conversation?

24 A. That's right.

25 Q. If Mr. Campbell had come to you and asked you to

William Richardson Redir by Mr. Smith

1 join with him in a global plea deal, in the Greenville County
2 charges and the Pickens County charges for five years
3 concurrent, would you have agreed to that?

4 A. Absolutely not.

5 Q. If Mr. Angell had come to you and asked you to
6 extend that same offer or join in it, would you have done that?

7 A. Absolutely not.

8 MR. SMITH: Thank you. No further questions.

9 THE COURT: Any recross?

10 MR. BROOKER: No further questions.

11 THE COURT: Thank you. You can step down,
12 Mr. Richardson.

13 We have Mr. Campbell attending. Mr. Campbell, this
14 is Judge Hall. Can you hear me, Mr. Campbell. If you'll raise
15 your right hand. I need to swear you in.

16 GEORGE CAMPBELL

17 being first duly sworn through video conference, testified as
18 follows:

19 THE COURT: Are you in Spain?

20 THE WITNESS: Yes, Your Honor.

21 THE COURT: What part of Spain?

22 THE WITNESS: Madrid.

23 THE COURT: What time -- on the 24-hour clock, what
24 time is it in Madrid, Spain?

25 THE WITNESS: 9:24 p.m.

George Campbell Dir by Mr. Brooker

1 THE COURT: Do you see Mr. Brooker?

2 THE WITNESS: Yes, sir, I do.

3 THE COURT: Mr. Brooker, this is your witness.

4 DIRECT EXAMINATION

5 BY MR. BROOKER:

6 Q. Good morning, Mr. Campbell.

7 I muted myself. Good morning, Mr. Campbell.

8 A. Good morning, sir. How are you?

9 Q. Good. Just want to ask you a couple of questions.

10 I think back in 2012, 2013 when Vincent Missouri was charged
11 with, I think, robbery charges or bank robbery charges, I think
12 both in Pickens County and also in Greenville County, you were
13 the Assistant Solicitor prosecuting in Greenville; is that
14 correct? Do you remember that case?

15 A. Yes, sir. No, I do not recall it. My memory has
16 been refreshed when I reviewed the file at the Solicitor's
17 Office.

18 Q. Okay. You were handling the prosecution in the
19 Greenville office; is that correct?

20 A. That's correct.

21 Q. We have a letter dated January 24, 2013 from the
22 Greenville office, and it's a plea offer. It's addressed to
23 Vincent Missouri and, of course, it has re: plea offer for
24 State versus Vincent Missouri. I know that you said you
25 reviewed the file. That January 24, 2013 letter, was that in

George Campbell Dir by Mr. Brooker

1 your file that you reviewed?

2 A. It was not in one provided to me before I left to
3 come over here in Spain. I reviewed the file the Solicitor's
4 Office gave me. I did not see in the file any communication
5 letters written from me. I'll be happy to look at it if you
6 want to share it on the screen.

7 Q. I don't know whether or not you'll be able to see
8 that.

9 A. It looks like a boilerplate offer.

10 Q. Can you see it, first of all?

11 A. I can see it.

12 Q. You can't read anything. I didn't think you would
13 be able to.

14 A. I'll take your word as an officer of the court what
15 you're reading is true.

16 Q. I'm going to read it to you and then you can tell
17 me about your recollection. It says: Dear Vincent Missouri; a
18 letter addressed to Mr. Missouri. It says: I am willing to
19 make the following proposal to you in order to dispose of these
20 charges by way of guilty plea.

21 Right underneath that sentence it has in
22 handwriting, conveyed 2/13/2023, personally at the courthouse.
23 Do you remember having a conversation with Mr. Missouri on
24 February 13, 2013 at the courthouse in reference to this plea
25 agreement? In reference to a plea agreement?

George Campbell Dir by Mr. Brooker

1 A. I don't recall the conversation.

2 Q. I'll go ahead and tell you what's contained within
3 the plea agreement. It says: The Defendant will plea guilty
4 to the following. Of course, it has a column for warrant
5 number and a column for charges. Specifically, it has four
6 counts of forgery, valued less than \$10,000.

7 It has one count of grand larceny, valued more than
8 two thousand, less than ten thousand.

9 It has one count of breach or obtaining signature
10 or property under false pretenses, valued more than two
11 thousand, less than ten thousand.

12 And then finally, the final charge is
13 robbery/entering bank depository or building and loan
14 association with intent to steal.

15 Down at the very bottom it has, underlined, the
16 State will make the following sentence
17 recommendations/negotiations. And underneath that it has five
18 years prison.

19 Do you remember making that offer to Mr. Missouri?

20 A. Not really. All I recall on this case was
21 Mr. Missouri had charges in Greenville which seems familiar
22 based on what you just read. He had other pending charges in
23 other counties that we're going to continue to order, I guess
24 you could say, and the ones that were on the Greenville docket.

25 Q. I'll ask you this just to see if you remember it.

George Campbell Dir by Mr. Brooker

1 When you talked with Mr. Missouri in reference to the plea
2 offer according to the handwritten note on this letter, do you
3 recall ever telling Mr. Missouri that, if he was to accept the
4 offer, that it was necessary for him to come clean with all
5 other criminal acts that he had been involved in?

6 A. I don't recall that conversation.

7 Q. Do you remember whether or not he ever told you of
8 being involved in a bank robbery in Simpsonville, South
9 Carolina during that conversation?

10 A. I do not.

11 Q. I'll ask you one question. I know you said you
12 don't remember anything. Are you denying that these
13 conversations took place or you're saying --

14 A. I simply don't recall. All this is a decade ago.
15 I did this in a file that I reviewed from the Solicitor's
16 Office. I think it was federal papers just observed in
17 Columbia in connection with a bank robbery in Simpsonville. I
18 honestly can't recall if Mr. Missouri was represented at that
19 time.

20 Q. At that time, my understanding was that he was not
21 represented in the Greenville charges when you spoke with him.
22 But he did have representation for the charges in Pickens
23 County.

24 A. I can just tell you I haven't practiced as a
25 prosecutor. In that scenario for an unrepresented defendant,

George Campbell Cross By Mr. Smith

1 to give a written plea offer at the bond hearing with
2 transport, I don't know if he was in custody or if he had a
3 bond. And it would be to get a lawyer or review this with your
4 lawyer when you come in and make a plea. As far as any
5 particular conversation, I don't recall that.

6 Q. I understand. If you can indulge me for just a
7 second, let me make sure I don't have any further questions for
8 you, Mr. Campbell.

9 A. Absolutely.

10 MR. BROOKER: No further questions, Mr. Campbell.
11 Thank you.

12 THE COURT: Mr. Smith. Cross-examination.

13 CROSS-EXAMINATION

14 BY MR. SMITH:

15 Q. Hello, Mr. Campbell. Can you hear me?

16 A. Yes, sir, I can.

17 Q. I believe you testified that you did not -- you do
18 not remember sending a letter to Mr. Missouri on his Greenville
19 County charges offering a five-year plea deal?

20 A. I do not recall it. From the looks of that letter,
21 it looks like a standard form letter. It would've come off our
22 system.

23 Q. Do you recall discussing a potential global plea
24 deal with Doug Richardson?

25 A. I do not.

George Campbell Cross By Mr. Smith

1 Q. Do you recall extending a 15-year global plea deal
2 to Mr. Missouri?

3 A. I do not. Like I said, I don't simply recall.

4 Q. Do you think you would have entered into a plea
5 agreement with the defendant who committed at least 30 bank
6 robberies for a five-year prison sentence?

7 A. Absolutely not.

8 Q. The materials you've reviewed from the Solicitor's
9 Office, do they not have letters in them indicating these plea
10 offers we're discussing?

11 A. When I reviewed the file a few weeks ago, I saw
12 some offers that I had not seen from me. I think I saw one
13 offer from Doug Richardson. I don't know if he made another
14 offer on another matter, some type of communication with
15 someone else from the Solicitor's Office. As I recall, I did
16 not see any in the files in the Solicitor's Office that were
17 from Mr. Missouri.

18 Q. Do you think if you would've had a conversation
19 with Mr. Missouri in which you asked him to confess and come
20 clean, and he had done so, would that have been documented in
21 your file in some way?

22 A. Yes. Generally would make those conversations or
23 anything that's material conversation as such, as their lawyer,
24 defendant is hiring a lawyer, and then someone wants to work
25 out a deal or wants to testify, those are all things that are

George Campbell Cross By Mr. Smith

1 material.

2 Q. Say you were prosecuting someone, a defendant for a
3 series of crimes including an armed robbery, and he told you he
4 also committed an armed robbery in a completely different
5 county, is that the sort of thing you would've documented in
6 your file?

7 A. Sure.

8 Q. Did you see anything in your file about that?

9 A. Not from me, no.

10 Q. If you were having a conversation with the
11 defendant when you were asking him to come clean, confess
12 everything he had done, would you have been in that meeting
13 with him alone or would you have somebody else with you from
14 the Solicitor's Office or law enforcement?

15 A. I would've brought my investigator Connie or one of
16 the other investigators from the Solicitor's Office. I
17 usually -- my pattern was to, if at all possible, not have
18 those kind of conversations without a represented defendant.
19 It's always much better to have them get a lawyer, especially
20 if they're incarcerated. You don't want to get in that kind of
21 conversation. When they're in custody, they have access to
22 public defenders. That is one of my reservations; get a
23 lawyer, and then we'll talk.

24 Q. Do you have any reason to believe that the
25 materials you reviewed from the Solicitor's Office far

George Campbell Redir by Mr. Brooker

1 exhausted -- in other words, do you think they have some things
2 that they have not shared with you?

3 A. Well, I can tell you there's a letter that was just
4 showed that is not on the scales I got. One of those, Mr.
5 Missouri had multiple charges across multiple counties. That
6 letter Mr. Brooker has.

7 MR. SMITH: Give me just one moment, please.

8 (A pause transpired.)

9 MR. SMITH: No more questions. Thank you.

10 THE COURT: Any redirect?

11 MR. BROOKER: Yes, Your Honor. If you can give me
12 just 60 seconds.

13 REDIRECT EXAMINATION

14 BY MR. BROOKER:

15 Q. Mr. Campbell, I want to ask you a couple questions
16 that you were just asked about on cross. I think specifically
17 you were asked would you have made an offer of five years to
18 someone who is charged with multiple crimes across multiple
19 jurisdictions including bank robbery. I think you said no.

20 I want to ask you, when you answered that question,
21 were you answering that question based upon what you thought or
22 what you think you would've done under that circumstances, or
23 you're answering that question based upon a specific
24 recollection of what happened in this case?

25 A. Would I have offered five years for someone charged

George Campbell Redir by Mr. Brooker

1 with multiple bank robberies, multiple crimes across multiple
2 jurisdictions, in that situation, I don't have a specific
3 recollection. I'm answering frank to your question. With that
4 hypothetical situation, multiple bank robberies, I would not
5 have offered five years.

6 Q. In a hypothetical. You cannot answer specifically
7 for this case. You don't have a specific recollection?

8 A. No. Obviously, I can't remember. I tried to read
9 the file. I just can't remember this case.

10 Q. Just a couple more questions, and I'll be finished.
11 You were asked whether or not or would you have met with a
12 defendant alone regarding, I guess, a confession to other
13 crimes. And you said that you would've met with your
14 investigator. Again, is that based upon what your normal
15 practice would be, or is that based upon a specific
16 recollection in this case?

17 A. That was just a standard pattern of practice.
18 Always try to make sure the defendant had every opportunity to
19 get a lawyer before we engage in most conversations. In any
20 event, have a witness with conversations with investigator. I
21 don't have a specific recollection of this case.

22 MR. BROOKER: No further questions, Your Honor.

23 THE COURT: Any recross?

24 MR. SMITH: No, Your Honor.

25 THE COURT: Thank you, Mr. Campbell. Thank you for

Vincent Missouri vs. State of South Carolina

1 participating virtually. You are excused.

2 THE WITNESS: Thank you, Your Honor. Apologize to
3 The Court.

4 (The Webex video conference ended.)

5 THE COURT: It's all right.

6 Any further witnesses from either the Applicant,
7 Mr. Brooker?

8 MR. BROOKER: No further witnesses.

9 THE COURT: From the State?

10 MR. SMITH: No, Your Honor. I do have a request to
11 make. This morning Mr. Brooker let me know they were going to
12 have additional issue of which I had not been aware previously,
13 that was the issue of whether Mr. Angell was ineffective for
14 not moving to dismiss or quash the indictments on the basis of
15 alleged discrepancy in the date of the indictment, compared to
16 a statute that has been mentioned. We agreed since that was an
17 issue of which I had not been aware that Mr. Missouri should be
18 heard on that today. He agreed that we would ask Your Honor if
19 I be allowed to supplement the record with some things I
20 believe would go to that.

21 For example, I've had this issue in the past and I
22 found administrative orders explaining that the Grand Jury
23 could meet on whatever date is referenced in the indictment. I
24 believe that will probably be the case here. If I have some
25 time, I could submit those to Your Honor for consideration.

Vincent Missouri vs. State of South Carolina

1 THE COURT: Any objection to that, Mr. Brooker?

2 MR. BROOKER: No, Your Honor. I did tell him at
3 the beginning. I know this issue was kind of a surprise. I
4 think I explained to him if we can go ahead and have the issue
5 heard, of course, I have no objections to leaving the record
6 open. If there is an administrative order saying that the
7 November term of general sessions which is not authorized by
8 statute, was somehow authorized by administrative order.

9 THE COURT: Thank you. How much time will you
10 need, Mr. Smith?

11 MR. SMITH: I think that I could do that within a
12 couple of days. My only request, since I'm in hearings all
13 this week, that I be allowed --

14 THE COURT: I'll do this. I'll give you ten days
15 to submit --

16 MR. SMITH: That's sufficient.

17 THE COURT: -- any additional exhibits. In the
18 meantime, I'll take it under advisement. Once I get those
19 exhibits then I'll issue my ruling.

20 MR. SMITH: Thank you.

21 THE COURT: Thank you all. That concludes this
22 matter.

23 (The hearing was concluded at 3:43 p.m.)
24
25

Vincent Missouri vs. State of South Carolina

1

2

CERTIFICATE OF REPORTER

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7

I, Lora McDaniel, Registered Professional Reporter
and Notary Public for the State of South Carolina at Large, do
hereby certify that the foregoing transcript is a true,
accurate, and complete record.

8

9

10

I further certify that I am neither related to, nor
counsel for, any party to the cause pending or interested in
the events thereof.

11

12

13

Witness my hand, I have hereunto affixed my official
seal this 24th day of July, 2023 at Spartanburg, Spartanburg
County, South Carolina.

14

15

16

17

18

19



20

21

Lora L. McDaniel,
Registered Professional Reporter
My Commission expires:
August 9, 2026

22

23

24

25

Office of Clerk of Court

TELEPHONE (864) 898-5857
FAX (864) 898-5863
E-MAIL
PWELBORN@CO.PICKENS.SC.US

PICKENS COUNTY
Harold P. "Pat" Welborn, Jr.
P.O. BOX 215
PICKENS, SC 29671

CIVIL RECORDS (864) 898-5862
CRIMINAL RECORDS (864) 898-5864
FAMILY COURT (864) 898-5598

July 10, 2012

DEFENDANT'S NAME: TIMOTHY R. BRYANT

DEFENDANT'S ADDRESS: [REDACTED] TERRI DRIVE, LIBERTY, SC 29657

RE: STATE VS. VINCENT MISSOURI
WARRANT(S): 2012A3910600001; I-336638; I-336639

Dear Mr. Missouri:

Please be advised that you were appointed John DeJong to represent you on the above-referenced charges. However, Mr. DeJong has indicated that he has a conflict in representing you. Therefore, you were assigned Jim Erwin as your attorney.

Unfortunately, he has indicated that he has a conflict as well. Therefore, you have now been assigned Adam Artigliere as your attorney. His address is P.O. Box 1805, Clemson, SC 28633. You can reach him at 653-7878 to schedule an appointment to discuss your case with him.

Sincerely,

Harold P. Welborn, Jr. (PC)

Harold P. Welborn, Jr.
Clerk of Court

John DeJong, Public Defender
Doug Richardson, Assistant Solicitor



State of South Carolina
Solicitor, Thirteenth Judicial Circuit

Telephone: 864-467-8647
Telefax: 864-467-8610



Greenville County Courthouse
305 E. North Street, Suite 325
Greenville, SC 29601-2185

Solicitor
W. Walter Wilkins

1/24/2013

Vincent Missouri
155 Valley Brook Rd
Piedmont, SC 29673

RE: Plea Offer for State v. Vincent Missouri

Dear Vincent Missouri :

I am willing to make the following proposal to you in order to dispose of these charges by way of a guilty plea:

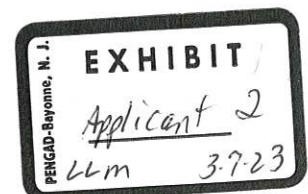
Conveyed 2/13/2013 personally at Courthouse

The Defendant will plead guilty to the following:

<i>Warrant Number:</i>	<i>Charge:</i>
M993906	Forgery / Forgery, value less than \$10,000
M993907	Forgery / Forgery, value less than \$10,000
M993908	Forgery / Forgery, value less than \$10,000
M993909	Forgery / Forgery, value less than \$10,000
I409113	Larceny / Grand Larceny, value more than \$2,000 but less than \$10,000
2012A2310300204	Breach / Obtain signature or prop. under false pretenses, value more than \$2,000 but less than \$10,000
2012A2330203819	Robbery / Entering bank, depository or bldg and loan association with intent to steal

The State will make the following sentence recommendations/negotiation:

5 years prison.



2-19-2013 43

State of South Carolina
 Thirteenth Judicial Circuit



Telephone: 864-898-5905
 Telefax: 864-898-5798

Pickens County Courthouse
 214 E. Main Street, B120
 Pickens, South Carolina 29671



Pickens County Courthouse
 214 E. Main Street, B120
 Pickens, South Carolina 29671

Solicitor
 W. Walter Wilkins

February 19, 2013

Aaron Angell, Esq.
 398 College Avenue
 Clemson, SC 29631

Re: State v. Vincent Missouri

Dear Aaron,

Your client, Vincent Missouri, has pending charges on my docket in Greenville County. He has not retained or been appointed counsel, and when I met with him last Wednesday, Missouri advised he wished to represent himself on the Greenville charges. Missouri also told me he wanted to resolve all his Pickens and Greenville charges at the same time. Therefore, I consulted with Doug Richardson in our Pickens office to formulate the plea offer you will find enclosed.

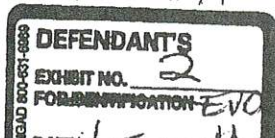
I trust you will communicate this offer to Missouri since it involves your charges, but I can deliver a copy to him at the jail if you wish. Please feel free to call any time with questions or if you would like a meeting to discuss this case.

Sincerely,


 George Campbell,
 Assistant Solicitor

Enclosures (2)

cc: Doug Richardson, Asst. Solicitor



State of South Carolina
Solicitor, Thirteenth Judicial Circuit

Telephone: 864-898-5905
Telefax: 864-898-5798

FEB 20 AM 8:48
13th Circuit
Solicitor's Office



Pickens County Courthouse
214 E. Main Street, B120
Pickens, South Carolina 29671

Solicitor
W. Walter Wilkins

February 19, 2013

Aaron Angell, Esq.
398 College Avenue
Clemson, SC 29631

Re: State v. Vincent Missouri

Dear Aaron,

Your client, Vincent Missouri, has pending charges on my docket in Greenville County. He has not retained or been appointed counsel, and when I met with him last Wednesday, Missouri advised he wished to represent himself on the Greenville charges. Missouri also told me he wanted to resolve all his Pickens and Greenville charges at the same time. Therefore, I consulted with Doug Richardson in our Pickens office to formulate the plea offer you will find enclosed.

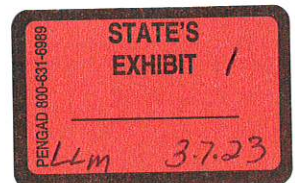
I trust you will communicate this offer to Missouri since it involves your charges, but I can deliver a copy to him at the jail if you wish. Please feel free to call any time with questions or if you would like a meeting to discuss this case.

Sincerely,


George Campbell,
Assistant Solicitor

Enclosures (2)

✓ cc: Doug Richardson, Asst. Solicitor



State of South Carolina
Solicitor, Thirteenth Judicial Circuit

Telephone: 864-898-5905
Telefax: 864-898-5798



Pickens County Courthouse
214 E. Main Street, B120
Pickens, South Carolina 29671

Solicitor
W. Walter Wilkins

2/18/2013

AARON ANGELL
398 COLLEGE AVENUE
CLEMSON, SC 29631

RE: Plea Offer for State v. Vincent Missouri

Dear Aaron Angell :

I am willing to make the following proposal to your above-referenced client in order to dispose of these charges by way of a guilty plea:

The Defendant will plead guilty to the following:

<i>Warrant Number:</i>	<i>Charge:</i>
2012A3910600001	Vehicle / Poss., conceal, sell., or dispose of stolen vehicle, value more than \$2,000 but less than \$10,000
1336638	Robbery / Entering bank, depository or bldg and loan association with intent to steal
1336639	Robbery / Attempted armed, or allegedly armed, robbery
66579DF	Traffic / Failure to stop for a blue light, no injury or death - 1st offense

The State will make the following sentence recommendations/negotiation:

see letter regarding Greenville County charges.

Please contact me as soon as possible with your client's response as plea negotiations must be concluded and the guilty plea entered before 3/25/2013 or this and any other offers are automatically withdrawn. If your client does not plead guilty by this date, the case(s) will be placed on the trial calendar for disposition without further negotiation.

Yours very truly,



Doug Richardson
Assistant Solicitor

State of South Carolina
Solicitor, Thirteenth Judicial Circuit

Telephone: 864-467-8647
Telefax: 864-467-8610



Greenville County Courthouse
305 E. North Street, Suite 325
Greenville, SC 29601-2185

Solicitor
W. Walter Wilkins

2/19/2013

Vincent Missouri
c/o Greenville County Jail
4 McGee Street
Greenville, SC 29601

RE: Plea Offer for State v. Vincent Missouri

Dear Vincent Missouri :

I am willing to make the following proposal to you in order to dispose of these charges by way of a guilty plea:

The Defendant will plead guilty to the following:

<i>Warrant Number:</i>	<i>Charge:</i>
I409113	Larceny / Grand Larceny, value more than \$2,000 but less than \$10,000
2012A2310300204	Breach / Obtain signature or prop. under false pretenses, value more than \$2,000 but less than \$10,000
2012A2330203819	Robbery / Entering bank, depository or bldg and loan association with intent to steal

The State will dismiss the following:

<i>Warrant Number:</i>	<i>Charge:</i>
M993906	Forgery / Forgery, value less than \$10,000
M993907	Forgery / Forgery, value less than \$10,000
M993908	Forgery / Forgery, value less than \$10,000
M993909	Forgery / Forgery, value less than \$10,000

The State will make the following sentence recommendations/negotiation:

15 years prison, OR you may plead straight up (without recommendation) before the judge of your choice.

Other conditions/comments:

This offer carries the express condition that you plead guilty to your outstanding Pickens County charges at the same time as indicated on the attached letter. Please note the due date below is earlier than the one discussed at our meeting on 2/13/13 because your Pickens County charges have an earlier deadline. In order to resolve all charges under this offer at one time, you must enter your plea by 5/10/13.

Please contact me as soon as possible with your response as plea negotiations must be concluded and the guilty plea entered before 5/10/2013 or this and any other offers are automatically withdrawn. If you do not plead guilty by this date, the case(s) will be placed on the trial calendar for disposition without further negotiation. In the event you have retained or been appointed an attorney, please forward this letter to your attorney and notify this office of the representation.

Yours very truly,


George Campbell
Assistant Solicitor

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
C/A No. 2019-CP-39-0769

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA
2023 NOV 13 P 12:07

Vincent Missouri, SCDC #197996,)
))
Applicant,)
))
vs.)
))
State of South Carolina)
))
Respondent.)
_____)

ORDER OF DISMISSAL

This matter came before this Court by way of application for post-conviction relief filed June 6, 2019, by Mr. Vincent Missouri (Applicant). The State (Respondent) filed its return on December 9, 2019, requesting a hearing be held. An evidentiary hearing was convened on March 7, 2023, at the Greenville County Courthouse before the Honorable Daniel D. Hall. Present at this hearing was Applicant represented by his counsel Thurmond Booker, Esq. Respondent was represented by Assistant Attorney General, Taylor Smith of the Office of the Attorney General.

Following a thorough review of the record in its entirety, and the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant has failed to establish any constitutional violations that would afford him the granting of post-conviction relief. This Court denies this applicant with prejudice.

PROCEDURAL HISTORY

Records before this Court indicate that the Applicant is currently confined in the South Carolina Department of Corrections pursuant to orders of commitment by the Pickens County Clerk of Court. On June 18, 2012, the Applicant was charged with entering a bank with intent to steal, armed robbery, and failure to stop for blue light. On November 12, 2013, the Pickens County

Grand Jury Indicted the Applicant for armed robbery (Indictment No. 2014-GS-39-2242); entering a bank with intent to steal (Indictment No. 2012-GS-39-2203); and failure to stop for a blue light (12-GS-39-02204). The case was assigned to be prosecuted by Assistant Solicitor Doug Richardson of the Thirteenth Circuit Solicitor's Office. The Applicant was represented by attorney Aaron Angell.

Prior to trial, on December 19, 2013, all parties were brought before the Honorable Letitia H. Verdin for a hearing regarding Applicant's motion to relieve counsel. During this hearing the Applicant stated that he wished his counsel to be relieved. As a reason for the removal of Mr. Angell the Applicant stated it was, "based on the time and amount of cases Mr. Aaron has and the complexity of my defenses, I feel it'd be better that I have either someone that doesn't have as much of a case load as he has or either I be prepared to represent myself." R. p. 5. Judge Verdin decided to deny Applicants motion to relieve counsel and ordered that his counsel remain on this case. R. pp. 11-12.

On May 19, 2014, this case was called for trial before the Honorable James R. Barber, III. During a pre-trial hearing Applicant informed Judge Barber that he previously made a motion before Judge Verdin to relieve Mr. Angell and to represent himself. (R. p. 24). At that time Judge Barber believed that he could not override a ruling that was already made by another Circuit Court Judge so he decided to proceed with pre-trial motions. After ruling on these motions Judge Barber decided to take a break. Upon returning, Judge Barber asked the Applicant, if he is still interested in representing himself? Judge Barber made it clear that if he did not wish to proceed *pro se* he could proceed with counsel. R. p. 45. However, Judge Barber explained that if he was still interested in representing himself, "I will have certain questions I want to ask you. If I find you're competent to do so, you will be able to represent yourself and we'll go forward." R. p. 46.

Applicant then requested Judge Barber revisit the previously ruled-upon pre-trial motions. Judge Barber informed the applicant, “We’re not going to revisit the issues. There’s nothing that you can tell me differently that was brought out – you nor anyone else don’t have anything that will change my mind on the *Denno* hearing.” R. p. 48. Judge Barber also indicated he had made up his mind with respect to the pre-trial motions involving venue and indictments. R. p. 49. Since the Applicant did not make a motion to represent himself Judge Barber decided to go forward. R. pp. 49-50.

After two days of testimony a jury of his peers found the Applicant guilty of entering a bank with intent to steal, strong-arm robbery, and failure to stop for a blue light. After the announcement of the verdict the Applicant appeared before Judge Barber for sentencing. For entering a bank with intent to steal the Applicant was sentenced to a twenty-year term of incarceration; for strong armed robbery the Applicant was sentenced to a five-year period of incarceration; and failure to stop for a blue light Applicant received a sentence of three years incarceration. Judge Barber ordered that these sentences were to be served concurrently. R. p. 234.

Upon conviction Applicant filed a timely notice of appeal. Applicant was first represented by Ms. Tiffany Holt who filed an *Anders* brief and petition to be relieved as counsel. On June 13, 2016, the Court of Appeals denied the petition and directed parties to file briefs on the issues.

Following briefing and oral argument, on October 18, 2017, the South Carolina Court of Appeals filed an unpublished opinion unanimously affirming the Applicant’s conviction and sentence. *State v. Missouri*, Op. No. 2017-UP-383 (Ct. App. filed October 18, 2017). Applicant subsequently submitted a petition for rehearing, which was denied on December 14, 2017. Petitioner then submitted a petition for Writ of Certiorari, which was granted on April 19, 2018. On May 15, 2019, the South Carolina Supreme Court dismissed the writ as improvidently granted. *State v. Missouri*, 2019-MO-025 (S.C. Sup. Ct. 2019).

On June 6, 2019, Applicant filed an application for post-conviction relief. Within this application the Applicant alleged that he is currently being held in custody unlawfully based on the following reasons:

1. Ineffective Assistance of Counsel
 - a. Failure to enforce the five-year plea offer;
 - b. Failure to investigate the defense of involuntary intoxication;
 - c. Failure to move for a timely *Faretta*¹ hearing;
 - d. Failure to object to Judge Verdin's denial of Applicant's motion to relieve counsel;
 - e. Failure to object to Judge Barber overruling Judge Verdin's prior ruling;
 - f. Failure to move to dismiss the indictment on double-jeopardy grounds;
2. Ineffective Assistance of Appellate Counsel
 - a. Failure to raise the issue of Judge Barber overruling Judge Verdin's prior ruling.

STATEMENTS OF FACTS RAISED DURING TRIAL

On June 18, 2012, Ms. Rachel White was working as the head teller at the Bank of America in Pickens, South Carolina. Around 4:45 p.m. Applicant walked into the bank and gave Ms. White a note. The note stated, "Place all money in the bag. Keep left hand on top of camera. Empty drawer with right hand. No [dye] pack. I know who you are." Ms. White followed the Applicant's demands and placed about one thousand eight hundred (\$1,800.00) dollars into a bag. Once the Applicant was handed the bag he escaped through a side door. Ms. White alerted the manager that the bank had been robbed and they contacted law enforcement.

That morning Applicant visited the home of Bobby Wright and invited him to ride with him to pick up supplies. Mr. Wright lived in Greenville and grew up with Applicant. During the trial Mr. Wright testified that he did not know what supplies the Applicant needed to pick up, just that the Applicant told him that he needed to go to Pickens to "pick up some supplies for a job."

¹ *Faretta v. California*, 422 U.S. 806, 95 S.Ct. 2525 (1975).

Once they were in Pickens, Applicant stopped at the Bank of America, Applicant informed Mr. Wright that he needed a check cashed. While Applicant entered the bank Mr. Wright stayed in the car. Once they left they drove to a Family Dollar where the Applicant purchased some clothing. While driving away the Applicant looked into the rearview mirror and stated, "okay they on us." Mr. Wright asked Applicant what he meant by that and Applicant replied, "the police." Mr. Wright then asked Applicant why the police were on them and he told Mr. Wright he had just robbed the bank. Applicant, then took off at a high rate of speed and a car chase ensued. During this chase, Mr. Wright observed Applicant pull a bag of money from his pants.

Eventually Applicant stopped the vehicle, exited the driver's side, and ran through the woods. Law enforcement eventually was able to subdue and arrest Applicant. When he was arrested law enforcement officers recovered one thousand seven hundred and fifty (1,750.00) dollars from the brown bag off the Applicant and from the console of the truck Applicant was driving.

Following this arrest, the Applicant was questioned by Detective Samuel Byers of the Pickens Police Department. Upon his arrival Detective Byers advised Applicant of his *Miranda* rights. Applicant then made a full confession explaining to Detective Byers about his drug addiction, how he stole a vehicle to drive and rob the bank. Applicant admitted that Mr. Wright had no knowledge of this robbery. The Applicant was then arrested and charged with the offenses of entering a bank with intent to steal, armed robbery, and failure to stop for blue light.

During trial Applicant decided to take the stand to testify. During his testimony Applicant stated that he was released from federal prison on November 18, 2011, and immediately relapsed in an addiction to crack cocaine. Applicant testified that he was, "just basically running around

getting high, getting money from anywhere I could to get high.” R. p. 190. During his testimony the Applicant stated:

“And on that date – what was the date of the incident? June 18th? June 18th, the date that this robbery occurred, you know, it was not my defense to come into court and try convince twelve people that I didn’t do it. In fact, I did do it. So that, you know, that eliminates y’all having to consider that. Mr. Richardson, he did an excellent job, I mean, the evidence is there. There’s no refuting the evidence. I mean, that’s what happened on June 18th.”

R. p. 190.

During his testimony Applicant further stated, “I didn’t come here to tell you I didn’t take the money from the bank, because I did. It’s called irresistible impulses. When you have a long-term addiction, experts consider that a disease. It’s not something we can handle ourselves.” R. p. 192.

Applicant later pleaded with the jury:

“You don’t have to find me guilty based on his evidence. The jury did such a thing that’s called jury nullification for any reason in the world that you might want to say not guilty, y’all have that right. And you cannot be intimidated by the judge, nor Mr. Richardson. Y’all have that right. Y’all have to know your powers in order to be able to exercise them. That is the power of the jury. You’re not under state government. You’re not under the courts. You’re not under the judicial branch. The jury is created separately from the establishment of our jury trial. That’s why we elect to have a jury to find us guilty as opposed to any other entity. This is your power. For whatever reason I may have given you, you can say I’m guilty.²”

R. p. 202

Judge Barber then corrected the Applicant stating, “Mr. Missouri, I will instruct the jury on the law of the state of South Carolina as it applies to this case. R. p. 202.

On March 11, 2014, a jury of his peers found the Applicant guilty on each indictment. Judge Barber sentenced Applicant to concurrent sentences of twenty years imprisonment for

² Applicant could have possibly meant “not guilty”

entering a bank with intent to steal, five years for strong armed robbery, and three years for failure to stop for a blue light.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief 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 accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

Ineffective Assistance of Counsel

Applicant's claims of ineffective assistance of counsel are without merit. The Sixth and Fourteenth Amendments of the United States Constitution guarantees the right to effective assistance of counsel. *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052 (1984), *Taylor v. State*, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013).

In a post-conviction relief action, the Applicant always bears the burden of proving the allegations by a preponderance of the evidence – a mere allegation of ineffective assistance is not sufficient to warrant granting relief. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813, 814 (1985). Pursuant to *Strickland*, the reviewing court must apply a two-prong test to make a determination as to whether trial counsel's conduct "was so ineffective as to require reversal" of the Applicant's conviction or sentence. 466 U.S. at 687. First, Applicant must show that counsel's performance was deficient; second, that this deficient performance prejudiced the Applicant. *Id.*

The first prong reveals that the Applicant must reveal that counsel's representation fell below an objective standard of "reasonableness under prevailing professional norms." *Cherry v. State*, 300 S.C. 115, 117-118, 386 S.E.2d 624, 625 (1989). 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.

Strickland, “does not guarantee perfect representation – only a ‘reasonably competent attorney.’” *Harrington v. Richter*, 562 U.S. 86, 110, 131 S.Ct. 770, 791, *quoting*, *Strickland*, 466 U.S. at 687. Representation is constitutionally ineffective only if counsel’s conduct, “so undermined the proper functioning of the adversarial process” that the defendant was denied a fair proceeding. *Strickland*, 466 U.S. at 686. Just as there is “no expectation that competent counsel will be a flawless strategist or tactician, an attorney may not be faulted for a reasonable miscalculation or lack of foresight or for failing to prepare for what appear to be remote possibilities.” *Harrington*, 562 U.S. at 110, 131 S.Ct.2d at 791.

Judicial scrutiny of counsel’s performance must be highly deferential. It is all too tempting for a defendant to second-guess counsel’s assistance after conviction or adverse sentence, and it is all too easy for a court, examining counsel’s defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable. *Strickland*, 466 U.S. at 689, 104 S.Ct. at 2065. In *Strickland* the U.S. Supreme Court stated:

A fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel’s challenged conduct, and to evaluate the conduct from counsel’s perspective at the time. Because of difficulties inherent in making the evaluation, a court must indulge a strong presumption that counsel’s conduct falls within the wide range of reasonable assistance; that is, the defendant must overcome the presumption that, under the circumstances, the challenged action, “might be considered sound trial strategy.”

Id.

The second prong of *Strickland* is rooted in the very purpose of the Sixth Amendment’s guarantee of counsel – to ensure the defendant has the assistance necessary to justify reliance on the outcome of the proceeding. *Id.* 466 U.S. at 691-692, 104 S.Ct. at 2066. In order to prove

prejudice, an Applicant must demonstrate counsel's deficient performance prejudiced the Applicant such that, "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 117-118, 386 S.E.2d at 625. A reasonable probability is a probability, "sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694, 104 S.Ct. at 2068. Thus, it is not enough "to show the errors had some conceivable effect" on the outcome of the proceeding – counsel's errors must be "so serious as to deprive the defendant of a fair trial." *Id.*, 466 U.S. at 687, 104 S.Ct. at 2064. Moreover, the South Carolina Supreme Court has repeatedly held a PCR applicant must produce testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at a PCR hearing in order to establish prejudice. *Bannister v. State*, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998).

The Applicant has failed to produce any evidence revealing that the outcome of this case would have been different but for the ineffectiveness of his counsel. According to the application and his testimony the Applicant was under the impression that he had a five-year plea offer and his counsel was ineffective due to him not enforcing this plea offer. According to the testimony of Mr. Angell as well as Assistant Solicitor Richardson there was never a five-year plea offer, the offer was always fifteen years, an amount that the Solicitor's office was not going to reduce. Mr. Angell testified that he brought this offer to the Applicant which he refused, so there exists no ineffectiveness on behalf of the Applicant's counsel. Mr. Angell got an offer that was less than the maximum amount Applicant was facing and the Applicant decided not to accept this offer. The fact the Applicant received the sentence he received is through no fault of his counsel.

The Applicant also argues that his counsel was ineffective due to his failure to investigate the possibility that Applicant could be exonerated though involuntary intoxication. Involuntary

intoxication does not apply in the present case. The Applicant admitted to being addicted to crack cocaine, however, during the post-conviction relief hearing Applicant never presented any facts that he was tricked, or forced into taking these drugs. Involuntary intoxication is defined as:

Innocently consuming an intoxicant, through being tricked into it by another, or being forced to take it or perhaps through unanticipated side effects of a prescription drug taken on orders of a physician.

State v. Shands, 424 S.C. 106, 125, 817 S.E.2d 524, 534 (2018).

An addiction does not equate to involuntary intoxication, so if this argument was raised by Applicant's counsel it would have certainly failed looking at the facts of this case, and the Applicant's admission during testimony.

The Applicant testified that he was addicted to crack cocaine. It has been long held in the State of South Carolina that the general rule is that voluntary intoxication or use of drugs does not constitute a defense to a crime. The Applicant got on the stand to testify to possibly get the jury to find him not guilty due to jury nullification, which is not recognized in the State of South Carolina. Therefore, even if Applicant's counsel had done the investigation and presented the defense of involuntary or voluntary intoxication it would not have changed the final result of the trial.

Self-Representation

The application alleges that Applicant's counsel was ineffective due to a failure to timely move for the Applicant to represent himself, and failing to object to Judge Verdin's denial of the Applicant's motion to relieve counsel. There exists no ineffective assistance of counsel due to the Applicant not being prejudiced by being represented, and he had an opportunity to request to go forward *pro se* when asked by Judge Barber, Applicant failed to make such request. So, Applicant waived any opportunity to proceed *pro se*.

In *Faretta v. California*, 422 U.S. 806, 95 S.Ct. 2525 (1975) the United States Supreme Court decided that “The Sixth Amendment as made applicable to the States by the Fourteenth Amendment guarantees that a defendant in a state criminal trial has an independent constitutional right of self-representation and that he may proceed to defend himself without counsel when he voluntarily and intelligently elects to do so.” *Id.* 422 U.S. at 806, 95 S.Ct. at 2527.

Under *Faretta*, the trial judge has the responsibility to make sure that the defendant is informed of the dangers and disadvantages of self-representation, and that he makes a knowing and intelligent waiver of his right to counsel. *State v. Reed*, 332 S.C. 35, 41, 503 S.E.2d 747, 750 (1998). However, only a clearly and unequivocally expressed request for self-representation will require the court to engage in a *Faretta* inquiry. *United States v. Lorick*, 753 F.2d 1295, 1298 (4th Cir. 1985); *State v. Fuller*, 337 S.C. 236, 241, 523 S.E.2d 168, 170 (1999). The Applicant never clearly explicitly, and unequivocally sought to represent himself. The motion that was before Judge Verdin was a motion to relieve counsel. During this motion Applicant wished to have another attorney replace Mr. Angell, Applicant expressed to Judge Verdin during this hearing that he, “feel it’d be better that I have either someone that doesn’t have as much of a case load as he has or either I be prepared to represent myself.” R. p. 5. When a defendant wishes to represent himself that assertion of his right to self-representation must be: (1) clear and unequivocal; (2) knowing, intelligent and voluntary; and (3) timely. *United States v. Frazier-El*, 204 F3d 553, 560 (4th Cir. 2000). The motion as presented to Judge Verdin was not clear nor unequivocal. The Applicant expressed the wishes for different counsel or if that could not be done he could represent himself. Therefore, Judge Verdin did not have the duty to go through the questioning found in *Faretta*. Judge Verdin’s order to have the Applicant to remain with counsel was not done in error; therefore, counsel not objecting does not equate to being ineffective.

During pre-trial the Applicant raised to Judge Barber the fact that he made a motion for the removal of counsel but that motion was denied by Judge Verdin. At that time Judge Barber felt that he did not have the authority to overrule another Circuit Court Judge; however, after the break Judge Barber changed his ruling and opened back up the ability for the Applicant to request to go *pro se*.

Judge Barber specifically asked Applicant, "If you are interested in representing yourself, I will have certain questions I want to ask you. If I find you're competent to do so, you will be able to represent yourself and we'll go forward." R. p. 46. Judge Barber was stating the specific responsibilities a trial judge must inquire pursuant to *Faretta*. Applicant wished for the court to allow him to re-hear the prior pre-trial motions that he thought, "Mr. Angell did a poor job of doing this morning." P. 48. In response Judge Barber stated, "We're not going to revisit the issues. There's nothing that you can tell me differently that was brought out ... you nor anyone else have nothing that will change my mind on the *Jackson v. Denno* hearing." R. p. 48. Judge Barber also indicated that he made up his mind regarding the other pre-trial motions also. R. p. 49. At that time the Applicant did not make the motion to proceed *pro se*. So, Judge Barber decided to go forward with Mr. Angell representing the Applicant. The Court of Appeals was correct in deciding that Applicant had an opportunity to go forward *pro se* which he decided to waive.

Applicant had an opportunity to represent himself which he decided not to do. Judge Barber made it clear that no matter if another counsel presented pre-trial arguments his decision would remain. The Applicant was represented by competent counsel who was prepared when the case was called for trial. There exists no ineffective assistance of counsel. The fact trial counsel represented the Applicant did not have any effect on the final outcome. Actually, it might have created a better outcome than if the Applicant represented himself *pro se*.

Double Jeopardy

Applicant argues that his counsel was ineffective due to him not moving to quash the indictments since they were in violation of double jeopardy. Applicant argues that the indictment for entering a bank with intent to steal was identical to strong armed robbery, therefore they were duplicitous. So, failing to request them to be quashed amounted to an ineffective assistance of counsel.

The Double Jeopardy Clause protects against a second prosecution for the same offense after acquittal or conviction, and protects against multiple punishments for the same offense. *Brown v. Ohio*, 432 U.S. 161, 97 S.Ct. 2221 (1977); *State v. Amerson*, 311 S.C. 316, 428 S.E.2d 871 (1993).

Pursuant to *Blockburger v. U.S.*, 284 U.S. 299, 52 S.Ct. 180 (1932), the United States Supreme Court decided:

Each of the offenses created requires proof of a different element. The applicable rule is that, where the same act or transaction constitutes a violation of two distinct statutory provisions, the test to be applied to determine whether there are two offenses or only one, is whether each provision requires proof of a fact which the other does not.

Blockburger, 284 U.S. at 304, 52 S.Ct. at 182.

The Applicant was charged with the offenses of entering a bank with the intent to steal and strong-armed robbery. Section 16-11-380 of the South Carolina Code of Laws specifically state, "It is unlawful for a person to enter a building or a part of a building occupied as a bank, depository, or building and loan association with intent to steal money, securities for money or property, either by force, intimidation, or threats. S.C. Code Ann. §16-11-380(A)(2012). Strong Armed or

Common Law Robbery is defined as “ the felonious or unlawful taking of money goods, or other personal property of any value from the person of another or in his presence by violence or by putting such person in fear. *State v. Bland*, 318 S.C. 315, 317, 457 S.E.2d 611, 612 (1995). It is clear that Section 16-11-380 has the extra element as having to occur inside a bank, so this is not considered double jeopardy. There exists no ineffective assistance by Applicant’s counsel not moving to quash this indictment.

Ineffective Assistance of Appellant counsel

Applicant asserts that his Appellant Counsel was ineffective due to the fact they did not raise the issue of Judge Barber overruling Judge Verdin’s prior ruling. In analyzing a claim of ineffective assistance of appellate counsel, the *Strickland* test is applied as if it would when analyzing a claim of ineffective assistance of trial counsel. *Bennett v. State*, 383 S.C. 303, 309, 680 S.E.2d 273, 276 (2009).

Tiffany Holt was originally the Applicant’s appellant counsel. Ms. Holt filed an *Anders* brief and motion to be relieved as counsel. The Court of Appeals denied her motion and ordered a brief be filed on the Applicant’s behalf. Mr. David Alexander then became the Applicant’s appellant attorney of record. The only issues raised by Mr. Alexander on behalf of the Applicant was that “The trial court categorically refused to consider Appellant’s request to represent himself,” and “Denial of the right of self-representation is a structural error and this court should ignore the states harmless error argument.” During his PCR testimony Mr. Alexander testified that he did not raise the issue that Judge Barber overruled Judge Verdin because he felt that Judge Barber gave them what they wanted, an opportunity to be heard in order to go *pro se*. Mr. Alexander testified that he believed in a *Faretta* situation one Circuit Court Judge can override the decision of another. He thought the better argument was that the Applicant should have been granted time

to prepare his case after being allowed to appear *pro se*. Mr. Alexander believed this argument would have remedied the decision given by Judge Verdin.

Appellate counsel is trusted in raising the issues that they find would be more successful. Although appellate counsel is required to provide effective assistance of counsel, “appellate counsel is not required to raise every nonfrivolous issue that is presented by the record.” *Tisdale v. State*, 357 S.C. 474, 476, 594 S.E.2d 166, 167 (2004), *quoting*, *Thrift v. State*, 302 S.C. 535, 539, 397 S.E.2d 523, 526 (1990). Since the identical criteria established in *Strickland* applies to appellate as well as trial counsel, this Court does not see how arguing that Judge Barber erred in overruling Judge Verdin would have changed the outcome of this case, when the Court of Appeals decided that the Applicant had the opportunity to proceed *pro se* and waived that chance. There exists no ineffective assistance of appellate counsel.

CONCLUSION

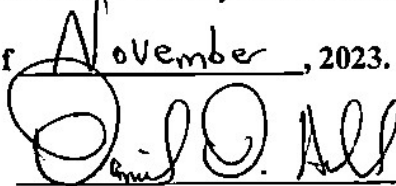
Based on the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. *See*, Rule 203 SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), an applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That this application for post-conviction relief must be denied and dismissed with prejudice; and,
2. The Applicant must be remanded to and remain in the custody of the State.

IT IS SO ORDERED this 21st day of November, 2023.



The Honorable DANIEL D. HALL
Circuit Court Judge

Pickens, South Carolina

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS)
Vincent Missouri,)
Application,)
Vs.)
State of South Carolina,)
Respondent.)

2024 JAN -2 A 11: 04
Case No. 2019-cp-39-00769

THIRTEENTH JUDICIAL CIRCUIT
NOTICE AND MOTION TO ALTER
OR AMEND JUDGMENT UNDER
RULES 59(E) AND RULE 60(B)

An evidentiary hearing was held in this matter on March 7, 2023. On November 30, 2023, an Order was filed with the Pickens County Clerk of Court dismissing Applicant's application for relief. Counsel for Application did not become aware of the filed Order until December 19, 2023, and now files this motion within 10 days of becoming aware of the Order under Rules 59(e) and 60(b) of the South Carolina Rules of Civil Procedure to alter or amend the court's order. Specifically, the order failed to address all issues raised and argued at the merits hearing.

In *Reese v. State*, the PCR court denied the applicant's application after a merits hearing. 425 S.C. 108, 109, 820 S.E.2d 376, 377 (2018). The Reese filed a Rule 59(e) motion asking the court to address PCR issues raised and argued but not addressed by the court's order in conflict with Section 17-27-80 of South Carolina law and Rule 52(a) of South Carolina Rules of Civil Procedure. *Id.* The PCR court summary dismissed the 59(e) motion without making findings of facts or conclusions of law on the unaddressed issues. *Id.*

Reese appealed the PCR court's denial of her application to the South Carolina Supreme Court. *Id.* In her writ of certiorari, Reese requested that the application be

remanded back to the PCR court to make specific findings of facts and rules of law on all issues raised by her in her application. *Reese v. State*, 425 S.C. at 109; 820 S.E.2d at 377 (2018). In response, the State filed a motion concurring with Reese's request to remand the case back to the PCR court to develop the record.

The Supreme Court granted the State's motion, vacated the PCR court's order denying Reese's application and order denying her 59(e) motion, remanding the case back to the PCR court to develop the record, and dismissed the appeal. *Id.* at 111; 378. In doing so, it reasoned that:

This is not the first time this Court has raised concerns over orders prepared by the State that do not comply with section 17-27-80 and Rule 52(a). Twenty-six years ago in *Pruitt v. State*, 310 S.C. 254, 423 S.E.2d 127 (1992), we stated,

We take this opportunity to express our concern with the increasing number of orders in PCR proceedings that fail to address the merits of the issues raised by the applicant. Not only does this deprive the parties of rulings on the issues raised, but it makes review by the appellate court more difficult and ultimately increases the work load (sic) of all involved where, as in this case, a new hearing is required to secure the rulings which should have been made initially. Counsel preparing proposed orders should be meticulous in doing so, opposing counsel should call any omissions to the attention of the PCR judge prior to issuance of the order, and the PCR judge should carefully review the order prior to signing it. Even after an order is filed, counsel has an obligation to review the order and file a Rule 59(e), SCRPC, motion to alter or amend if the order fails to set forth the findings and the reasons for those findings as required by § 17-27-80 and Rule 52(a), SCRPC.

Id. at 109-110; 377. The Supreme Court went on to state that: "[w]e find the circuit court erred by signing the PCR order and in denying Reese's Rule 59(e) motion." *Id.* at 111; 378.

Here, the PCR order failed to address the following issues raised in Application's application and at the merits hearing:

- a. Trial counsel was ineffective for failing to move to quash the indictment on the ground that the alleged indictment was null and void and the trial court lacked jurisdiction to hear the case because the indictment was issued during a term of court in violation of the schedule set by South Carolina statute at Section 14-5-790.
- b. Trial Counsel was ineffective in failing to object to Judge Barber's decision to override Judge Verdin's prior order denying his motion self represent or argue that Judge Barber did not have the power to overrule Judge Verdin's order.
- c. Trial Counsel was ineffective for failing to object to Applicant's conviction on the ground that it was without due process.

ARGUMENT

a. Jurisdiction

Trial counsel was ineffective in failing to move to quash the indictments on the ground that they were issued in violation of South Carolina law. Section 14-5-790 that:

The courts of the thirteenth judicial circuit shall be held as hereinafter provided

* * *

(2) Pickens County. - The court of general sessions for Pickens County shall be held at Pickens on the third Monday in February for one week, the first Monday in June for one week and the fourth Monday in September for one week. The court of common pleas for said county shall be held at Pickens on the fourth Monday in February for two weeks, the second Monday in June for one week and the first Monday in October for one week.

S.C. Code Ann. § 14-5-790(2) (2012). Section 14-9-170 held that, "[t]he grand jury ... for service upon the court of general sessions in each the counties ... shall meet with the county court at each of its terms..." S.C. Code Ann. § 170 (2012).

The indictment in Appellant's case was issued in November of 2013, which conflicted with Sections 14-5-70 and 14-9-170 that specifically limited the terms of General Sessions Court in Pickens County to the months of February, June, and September. If the grand jury handing down the indictment upon which the Applicant was convicted

was not lawfully sanctioned, the indictment could not have conferred jurisdiction on the trial court, and the trial and the entire legal process proceeding it would have been without authority.

b. Judge Barber Reversing Judge Verdin

i. Trial Counsel

Trial counsel was ineffective for failing to object to Judge Barber's ruling on the first day of trial that Applicant could represent himself, overruling Judge Verdin's decision a few months before the trial that he could not discharge his attorney and represent himself. In *Sellers V. Nichols*, the South Carolina Court of Appeals explained a long-standing principle of law in South Carolina:

There is a long-standing rule in this State that one judge of the same court cannot overrule another. (Citations Omitted).

* * *

[T]he prior order of one Circuit Judge may not be modified by the subsequent order of another Circuit Judge, except in cases where the right to do so has been reserved to the succeeding Judge, when it is allowed by rule or statute, or when the subsequent order does not substantially affect the ruling or decision represented by the previous order.

432 S.C. 101, 114, 851 S.E.2d 54, 60 (S.C. App. 2020). *See also, Ex Parte State*, 263 S.C. 363, 367, 210 S.E.2d 600, 602 (1974) ("We are next called upon to decide whether one judge within the court has the authority to reverse the decision of another judge of the same court upon the same facts. The ruling of Judge Louthian was binding on all parties and, unappealed from, became the law of the case. Judge Spigner had the authority to proceed with the trial of the case, but he did not have authority to review the ruling of Judge Louthian under the circumstances."); *Enoree Baptist Church v. Fletcher*, 287 S.C. 602, 604; 340 S.E.2d 546, 547 (1986) ("One Circuit Court Judge does not have the authority to

set aside the order of another. Circuit Court Rule 60; 1 Cook v. Taylor, 272 S.C. 536, 252 S.E.2d 923 (1979). The effect of Judge Pyle's order was to reverse the earlier substantive order, clearly an impermissible act.”); Cook v. Taylor, 272 S.C. 536, 538, 252 S.E.2d 923, 924 (1979) (“The order of Judge Moore amounted to a review by him of the order of another circuit judge (Judge Robinson) and a reversal of the order of Judge Robinson because Judge Moore disagreed as to the proper mode of trial. Judge Moore did not have the power to set aside the order of his predecessor...”).

Here, In December 2013 a lengthy argument was made before Judge Verdin on Applicant’s motion to relieve his attorney. The State opposed the Applicant’s motion to release his attorney. Judge Verdin denied the motion and Applicant’s counsel remained as legal representative.

On the first day of trial in March 2014, Applicant renewed his objection to relieve his attorney before Judge Barber. Judge Barber denied his request and proceeded forward. Appellant’s trial counsel selected the jury and argued pretrial motions on his behalf. After returning from a break, Judge Barber reversed his earlier decision and offered Applicant the opportunity to represent himself during the remainder of the trial. However, he refuses to allow Applicant to reargue pretrial motions or to continue the case so that Applicant could prepare.

Judge Barber and Judge Verdin were circuit court judges. Judge Barber had no authority to overrule Judge Verdin’s decision to deny Applicant’s motion to relieve his attorney and self-represent.

ii. Appellant Counsel

Appellant counsel David Alexander (“Attorney Alexander”) was also ineffective in failing to argue before the appellant court that Judge Verdin’s December 19, 2013 order denying him the right of self-representation was the law of the case because Judge Barber had no authority to overrule the decision five months later during trial. Attorney Alexander admitted during his testimony at the PCR hearing that he discussed this issue with Applicant before briefing the court, and inexplicably failed to argue the law.

c. Due Process

Trial counsel was ineffective in failing to object to Applicant’s conviction on the ground that he was denied due process. “The fundamental requirement of due process is the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” *South Carolina Nat. Bank v. Central Carolina Livestock Market, Inc.*, 345 S.E.2d 485, 488, 289 S.C. 309, 313 (S.C. 1985).

Applicant filed a motion seeking to relieve his counsel on or about June 26, 2012. A hearing to remove Applicant’s counsel was not heard until December 19, 2013, before Judge Verdin. Applicant’s motion to represent himself was not heard until eighteen (18) months or one and one-half years after it was requested, and approximately five (5) months before trial. It can’t be seriously argued that Applicant’s motion to relieve his attorney was heard at a meaningful time; Applicant was denied the right of self-representation and decision-making over his case for an unacceptable length of time.

When Applicant’s motion to relieve his attorney and self-represent was finally heard, it was not conducted in a meaningful manner. Judge Verdin denied his request to relieve his counsel and self-represent without mentioning or otherwise giving consideration to his constitutional right to do so. *Faretta* was never mentioned, nor was a *Faretta* analysis

conducted. Although Judge Barber reversed Judge Verdin's decision five months later on the first day of trial, self-representation was not a meaningful option because Judge Barber warned Appellant should he choose to assume self-representation at that moment, the trial would not be continued to give him adequate opportunity to prepare his defense. He was constructively denied the right of self-representation because he was denied the time to prepare for the role of counsel.

CONCLUSION

Applicant prays that the court will amend its Order of Dismissal to address all the arguments advanced at the PCR hearing, including the arguments discussed hearing.

Respectfully submitted,

December 29, 2023

Florence, SC



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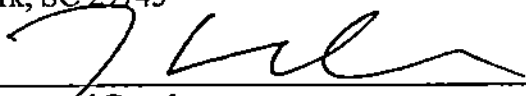
certificate of service

I hereby certify that a true copy of this Motion to Alter or Amend the Order of Dismissal Under Rule 59(e) and 60(b) was served on the following persons on the following person on this 29th day of December 2023 by US Mail and electronic mail:

Person Tommy Evans, Jr. Assistant Attorney General
 Email Address: tommyevansjr@scag.gov
 US Mail Address: SC Attorney General's Office
 P. O. Box 11549
 Columbia, SC 29211-1549

Person Judge Daniel D. Hall
 Email Addresses: dhallsc@sccourts.org; dhallc@sccourts.org
 US Mail Address: Moss Justice Center
 1675-1J York Highway
 York, SC 29745

Florence, SC



 Thurmond Brooker

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS)

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA
2024 JAN 18 P 12:06
COURT OF COMMON PLEAS
13th JUDICIAL CIRCUIT

Vincent Missouri, #197996,
Applicant,

Vs.

Case No.: 2019-CP-39-00769

State of South Carolina,
Respondent./

MOTION TO ALTER AND/AMEND JUDGMENT PURSUANT TO 59(e);
AND MOTION TO VACATE JUDGMENT FOR "FRAUD" UPON THE COURT
PURSUANT TO SOUTH CAROLINA RULE OF CIV. PROCEDURE 60(b).

Comes now, Applicant Vincent Missouri, appearing in pro-se capacity, in addition to PCR counsel, Mr. Thurmond Brooker, that filed his 59(e) on behalf of this Applicant. Applicant cites the following authority to support filing this supplemental 59(e) and 60(b) motions.

In Barnes v. State, 433 S.C. 399, 859 S.E.2d 260 (2021), the South Carolina Supreme Court determined "a Clerk" of court "MAY NOT" reject pleading for lack of conformity with requirements of form; only a judge may do that. A clerk does not have the authority to reject a filing based on ostensible or perceived failures, including whether the document is contained on the proper form; because the clerk's role is ministerial in this respect, the clerk shall not be concerned with the merit of the papers or with their effect and interpretation. See S. C. Code Ann. §17-27-40.

1. During the pendency of this PCR case. On or about May 26, 2022. Mr. Thurmond Brooker, and Applicant appeared before the PCR Court. Judge J.D. Morgan, presided and it was acknowledged "That Mr. Brooker requested Applicant's pro-se filings in this PCR case be accepted by the Court, as if [h]e himself had filed such motion, due to the comprehension of the law by his client." The Court, on May 26, 2022, accepted this request.

2. In addition, Article 1., Section 14 unless this court is prepared to argue against precedence, states that; "Applicant has the right in accordance with Due process at Article 1., Section 3, to be fully heard in his defense by himself or by his counsel or by both".

3. In addition to that which was timely filed by attorney Thurmond Brooker under 59(e) and 60(b), which Applicant totally agrees with. Applicant himself discovered "additional support relating back to Mr. Brooker's motion". And for the following reasons; "move for immediate dismissal of indictments", and to call this matter before the Court within ten (10) days. As fraud being perpetrated upon the Court of General Sessions, and the Common Pleas Court, is directly responsible for Applicant's unlawful as well as unconstitutional imprisonment.

4. The evidence upon which this Court may draw upon. Begins on December 19, 2013, before Judge Verdin, during what was suppose to be a Faretta hearing. During that hearing (2012-GS-23-2203 and 2242), Tr. tr. p. 8, lines 23-25; P. 9, lines 1-16. Applicant speaking on behalf of himself because defense counsel absolutely would not. Informed the Court "there was no true billed indictments in his case presented to a properly empaneled grand jury and filed with the clerk

of court.

The Court, rather than "NOTICE" the fact "JURISDICTION" had not yet been statutorily nor constitutionally conferred upon it. Instead, joined forces with the "EXECUTIVE" branch of government to suggest; "That sounds like something "WE" could remedy pretty easily". Tr. tr. p. 9., lines 8-9 (Dec. 19, 2013).

5. Defense counsel never raised this requested claim ever again during the entire course of representation of Applicant. Thus, such issue did not appear agains until Post Conviction Relief, pursuant to §17-27-10. Applicant's application was filed in 2019. And called to court after many state continuances, on March 7, 2023, before Judge Daniel D. Hall, of Rock Hill, South Carolina. Appearing at the Greenville County Courthouse.

6. Applicant testified to this claim during the PCR evidentiary hearing "in that; the Applicant was deprived of due process of statutory and constitutional law". By the mere fact; "November 12, 2013" the statute did not provide for a term of General sessions court. See §14-5-790

In addition, "when this issue was brought to the attention of Judge Verdin, on December 19, 2013". The ""EASY REMEDY" Judge Verdin suggested could be demonstrated, Judge Daniel D. Hall, because such hadn't been corrected for approximately "TEN YEARS" gave the South Carlina Attorney General's Office, "TEN ADDITIONAL DAYS", on March 7, 2023, to come up with validation.

7. Mr. Taylor Smith within the ten days, on March 17, 2023. Submitted a randomly, a February 4, 2011 order by the Supreme Court. Which failed to address the specific claims the Applicant forwarded. In otherwords; "no evidence of a stamped, filed copy of any order to legally impanel a grand jury for the Thirteenth Circuit, in Pickens County, on November 12, 2013.

8. What the State did supply however, was an "alleged grand jury document", exposing that, on November 12, 2013, 110 cases (if at all possible) were true billed during a suspicious session of the grand jury. However, a close review of this document clearly reveals; "a March 15, 2023 date". Drawing no other logical conclusion other than the fact such document was constructed 'after the PCR hearing' and not any time prior to.

Within Mr. Taylor Smith's letter (Assistant S.C. Attorney General) to the PCR Court, it is noteworthy to point out the following. (March 17, 2023) The relevant portion is as follows:

I appeared before you for the State at the PCR hearing in Greenville last week in Missouri v. State, 2019-CP-39-0769. Thurmond Brooker, who is copied with this email, represents Mr. Missouri in the case. At the end of that hearing last week, you agreed to hold the record open for 10 days to allow me to submit any court orders that I found that I felt were responsive to the claim raised on the day of the hearing by Mr. Missouri, that his trial lawyer was ineffective for not raising some issue with the indictment on the basis that they were not true billed on a date in violation of SC Code Section 14-5-790. I would like to submit two documents I've found in response to the claim. I believe that they alone are sufficient for the Court to find against MR. Missouri on that particular claim, although they are not the only basis upon which that claim should be denied. (Mar. 17, 2023 email)

Following paragraph:

The first is an administrative order from the SC Supreme Court that is dated February 4, 2011. This administrative order was in effect on November of 2013, when Mr. Missouri's indictments were true billed. Item number of that order contains the Supreme Court's instruction the Chief Judges for Administrative purposes are to consult with the Solicitor to set dates on which the county grand jury will convene. I would offer this order as State's Exhibit Two.

Following paragraph:

The second attached document is the grand jury report from Pickens County for the grand jury session held on November 12, 2013 (misprinted as 2023) which is the date on which Mr. Missouri's indictments were true billed. It has been signed by the foreperson of the grand jury, by the Pickens County

Clerk of Court, and by Judge Welmaker. I note that it is a certified copy of the order. I would offer this grand jury report as State's Exhibit Three.

Following paragraph:

Additionally, I believe that there is a court order issued by the Chief Judge for Administrative Purposes in the Thirteenth Judicial Circuit setting the grand jury terms in Pickens County for a time period that includes the date on which Mr. Missouri's indictments were true-billed. I have contacted the Pickens County Clerk of Court and Court Administration, who told me that the Thirteenth Circuit Solicitor's Office would likely have a copy of that order. Unfortunately, I have not been able to get a copy of that order from the Solicitor's Office, although I believe that I could do so given a little more time.

Final paragraph:

If you will allow me to supplement the record with the attached documents, I will send them to the court reporter and the Pickens County Clerk of Court as State's Exhibit Two and State's Exhibit Three. Please let me know if I can provide any additional information.

60(b)'s FRAUD UPON THE COURT AS GROUNDS FOR RELIEF.

9. In addition to Mr. Brooker's timely filed 59(e), in which relating back. Cited 60(b)'s civil rule. Applicant forwards the March 17, 2023 communication from the State to all parties and find the following deficiencies.

(a). For housekeeping matters, "the Court gave the State ten (10) additional days to submit documents which would confirm 'proper impaneled and sanctioned term of the grand jury which allegedly true-billed Applicant's cases convened', in accordance with "Statutory and Constitutional law". Such record for entering documents in this respect concluded March 17, 2023.

(b). The State entered Exhibits Two and Three. Document Two contains the S.C. Supreme Court's Administrative Order designating Chief Judges of "each Circuit, to

preside over administrative proceedings, such as "special sessions" of grand jury, and orders of other administrative process. This February 4, 2011 Order from the South Carolina Supreme Court, "failed to establish any Administrative Order for November 12, 2013".

(c). According to the "Newly Designation of Chief Judges, by the Supreme Court", during the year at least from June 30, 2013 and January 4, 2014". For the Thirteen-the Judicial Circuit. The Chief Judges were in fact "TWO". Judge Letitia H. Verdin, and D. Garrison Hill. Whereas, "Judge Welmaker during that time was not a Chief Judge". And the process has changed in the way that the "special sessions would be called. And Judge Welmaker's signature on the grand jury document, Applicant is certain such is not in compliance with the Supreme Court's Administrative Order of February 4, 2011."

(d). Next, "The Date" of this alleged grand jury document certified by the Pickens County Clerk of Court is "March 15, 2023". No other earlier clerk of court clocked stamped filed grand jury report was ever filed, in regards to a "special grand jury session". Thus, It is logical to conclude the Stae's Attorney had problems locating such an Order which never existed. And is "FRAUD" being perpetrated on the Court relating to this central concern.

(e). In accordance with 60(b)(3), "a party can move for relief from judgment upon a motion during such terms as are just, for fraud, misrepresentation, or other misconduct of an adverse party". See Sanders v. Smith, 431 S.C. 605, 848 S.E.2d 604 (S.C. App. 2020).

State v. Price, 2023-000629 (S.C. April 26, 2023.) :

Prior to outlining the gist within the Price case. Applicant will refer to the "COURT'S OATH", as found in SCACR, 501.2. In that; "All members of the Unified Judicial System in this state shall take the following oath of Office";

I am duly qualified, according to the Constitution of this State, to exercise the duties of the office to which I have been appointed, and that I will, to the best of my ability, discharge those duties and will preserve, protect and defend the Constitution of this State and of the United States;

I pledge to uphold the integrity and independence of the judiciary;

I pledge, in the discharge of my duties, to treat all persons who enter the courtroom with civility, fairness, and respect;

I pledge to listen courteously, sit impartially, act promptly, and rule after careful and considerate deliberation;

I pledge to seek justice, and justice alone;

[So help me God]

Applicant refers to the above based on the systemic problem plaguing South Carolina Courtrooms, and the judges which preside over especially "African-American cases". That seem "OFFENDED" whenever faced with such Defendant like myself, that "CAN READ" and comprehend both, "the english language, as well as the American System of Jurisprudence". When confronted with such a offender; "lawyers, judges, and especially solicitors". Immediately become bent on "administering partial rather than impartial practice and procedures", "to deter any outspoken offender wanting to protect his interest in criminal matters".

Not too long ago within this County's History. "African men and women were "SEVERELY PUNISHED" for exposing "THEY WERE ABLE TO READ AND WRITE". And those

"SIMILARITIES" (reading and writing in english, compared with reading, writing and comprehending law), "is much too close in circumstance within Applicant's petition in this not to warrant special judicial oversight and consideration, as opposed to the Court being angered".

Take for example Judge Verdin's in camera statement to Applicant during the December 19, 2013 Farett hearing; "Pro-Se 'IS NOT IN THE REALM OF POSSIBILITIES". Tr. tr.p. 7, lines 22-23.

Exactly what could the Court have meant by that statement? And reviewing cases of my White counterparts, "I can find no language by any court, even in such a serious case as Dylan Roof v. United States, where he killed 9 church parishners one of which a sitting South Carolina Senator". That so blatantly "denied a accused his Sixth Amendment right to manage and conduct his own defense". And doing so "with the special attitude Applicant explained above".

But after carefully reviewing the Price case, "the Supreme Court reversed Judge Mannings judge based on (1) "the circuit court did not have the authority to reduce the sentence because the solicitor and the circuit court did not comply with any of the requirements set forth in the applicatble statute". In relevant part.

This Court, on March 7, 2023 left the record open for 10-additional days in which the record for inclusion of documents was closed on March 17, 2023. To produce "Constitutional and Statutory documents. In regards to the validity of a November 12, 2013 "special session of general sessions court". S.C. Code Ann., §14-5-910, required "a petition of the circuit solicitor"; for such special session. And as in Price, "such shall be filed with the Clerk of Pickens County", in the interest of "PUBLIC RECORDS".

The only result engaged by the Assistant Attorney General, Mr. Taylor, was securing the fact; "those procedural and statutory irregularities which are void of any PUBLIC RECORD, "is void", in and of itself.

Finally, S.C. Constitution, at Article V., Section 22. Mandates COUNTY AND STATE GRAND JURIES "SHALL" CONSIST OF EIGHTEEN MEMBERS.

Again, even if the state somehow came up with questionable documents, in which it did not, to confirm "a special session of the county grand jury was properly empaneled". The evidence in this case clearly demonstrated; "on November 12, 2013, Applicant did not have a Constituted, Constitutional grand jury, based on only 14 members". When the Constitution required 18-members.

Such is a Due Process violation, regardless of "whether twelve members ... is said to have agreed "during a session not sanctioned, and members not present". Thus, for these reasons, "fraud has been perpetrated upon the court". And Applicant moves for immediate "Vacating the Indictments, by a formal granting of relief from the November 30, 2023 judgment".

ADDITIONAL SUPPORT FRO GRANTING RELIEF.

Applicant posits the importance of the United States Supreme Court decision in Montgomery v. Louisiana, 577 U.S. 190 (2016). Although Montgomery set the stage upon whether retroactive application may be extended to a State prisoner that subsequently discovered his sentence was unconstitutional after becoming final. Such did not undermine the High Court's determination also; "that an "unconstitutional conviction or sentence is not merely erroneous, but is illegal and void, and cannot be a legal cause of imprisonment". Id. Such stems from Federal Constitutional violations.

Here in State v. Missouri, 2017-UP-383 (Oct. 18, 2017); this Court of Appeals found that Missouri was initially denied the right to represent himself at a hearing five months prior to trial; however abandoned or waived the right via, his subsequent conduct on the day of trial.

As Applicant pointed out earlier; "the system applies a very different approach to those accused that speak up for themselves".

The simplistic first portion of the October 18, 2017 decision, is the only legal conclusion in this judgment. The South Carolina Court of Appeals acknowledged Missouri was deprived of his Federal Sixth Amendment Constitutional right to represent himself five months before trial. But erred in suggesting on the day of trial, Missouri's conduct five (5) months later, somehow abandoned such right which was denied for five "additional months". Such is inconsistent with holdings "as determined by the United States Supreme Court.

Here, as determined by the United States Supreme Court in McCoy v. Louisiana, 138 S. Ct. 1500, 200 L.E.D2d 821 (2018), the violation of Missouri's protected autonomy right was complete when the State Judge (on December 19, 2013) allowed defense counsel to "usurp control of an issue within Missouri's sole prerogative". Violation of a defendant's Sixth Amendment-secured autonomy has been ranked "structural error", when present, such an error is not subject to harmless-error analysis. See e.g. McKaskle v. Wiggins, 465 U.S. 168, 177 n. 8, 104 S. Ct. 944; United States v. Gonzalez-Lopez, 548 U.S. 140, 126 S. Ct. 2557; Waller v. Georgia, 467 U.S. 39, 104 S. Ct. 2210.

An error is structural if it is not designed to protect defendants from erroneous conviction, but instead protects some other interest, such as "the fundamental legal principle that a defendant must be allowed to make his own

choices about the proper way to protect his own liberty. Weaver, 582 U.S. at __ 137 S. Ct. at 908 (citing Faretta, 422 U.S. at 834, 95 S. Ct. 2525.)

Here, Missouri's advancements "in law" should in no way have angered the State Courts. As has been the case as if to say; "Missouri remains to be 3/5 of a human being therefore, "the Sixth Amendment's clear language is inapplicable to him".

In McKaskle, 465 U.S. at 177, n. 8, 104 S. Ct. 944 (harmless-error analysis is inapplicable to deprivations of the self-representation right, "because [t]he right is either respected or denied; its deprivation cannot be harmless"). A Court "(ANY COURT)", inferior to the United States Supreme Court "cannot say on the one hand, "Missouri's Sixth Amendment right was denied five months before trial". But, "on the other hand, five months of 'forced counsel representation', by unwanted counsel, Missouri abandoned or waived a right on May 19, 2014. That was denied "since December 19, 2013."

Moreover, five months before trial was putting it mildly in this case. As unwanted trial counsel (Mr. Angell) confirmed; "it was always Missouri's intent to be 'the lawyer in his case', which was "stamped and filed at the Pickens County Court, just 8-days after his June 2012 arrest". See 3/7/2023 testimony by Aaron Angell, during the PCR hearing.

The Court of Appeals October 2017 decision reaps of an "Unconstitutional Conviction", for which in Montgomery v. Louisiana, 577 U.S. 190, 136 S. Ct 718 (2016), says is no legal cause for imprisonment. That such a conviction is not merely illegal, but also void.

Usually, before a prisoner can claim "false imprisonment", a prisoner must prove that the conviction or sentence has been "reversed on direct appeal, expunged by executive order, "declared invalid by a state tribunal authorized to

make such determination, or call into question by a federal court's issuance of a writ of habeas corpus" See Heck v. Humphrey, 512 U.S. at 477.

As beforementioned, "the State tribunal declared Judge Verdin's December 19, 2013, denial of Missouri's right to represent himself wrong". Such is a Constitutionally protected right. Such is deemed by our United States Supreme Court, "A STRUCTURAL ERROR". For reasons already discussed herein; "simply because the State Courts failed to correct its own errors and afford the proper remedy". Is not dispositive in regards to whether Missouri has proven his rights to relief."

In otherwords, "we (The State and Missouri), have absolutely 'no legal business' traveling towards the federal courts by way of 28 U.S.C. §2254, "with such an obvious preserved and exhausted Sixth Amendment Federal Constitutional claim, for which Applicant adds, "is causing more suffering from the amount of continuing imprisonment".

Pursuant to 28 U.S.C. §2254, the State court judgment is "(1) contrary to, or involved an unreasonable application of, clearly established federal law, as determined by the Supreme Court, or (2) based on an unreasonable determination of the facts".

An "unreasonable application" means that a State court (1) "identifies the correct legal rule but unreasonably applies it to the facts of the case, or (2) unreasonably extends the legal principle to a new context to which it should not apply or (3) unreasonably refuses to extend the principle to a new context". See Williams, 529 U.S. at 405.

"Clearly established" refers to the "holding, as opposed to dicta, of Supreme Court decisions at the time of the state court decisions". See Lockyer v. Andrade, 538 U.S. 63, 71 (2003).

IN CONCLUSION

From the very inception of Missouri's case up until date. Missouri has done everything within his power completely "by the law". However, "the law has no respect for Applicant's clear understanding thereof".

Again, there can be absolutely no mistake nor doubt that; "the State Court identified the correct legal principles in Faretta, but failed to apply the correct "legal rule" for someone in Missouri's position, as determined by the United States Supreme Court. Even the day of trial analysis runs afoul with South Carolina Circuit Court Rule, "where Judge Barber had absolutely no authority to revisit another circuit court denial, dealing with the same issue, between the same parties".

And based on these thirteen pages, Applicant moves for the November 30, 2023 judgment to be vacated, and remand this case back to the circuit court, in which other facts compel the State to dismiss the indictments, and immediately release the prisoner.

Respectfully Submitted,

/s/ Vincent Missouri
 Vincent Missouri, #197996
 Kershaw Correctional Inst. HB-273
 4848 Goldmine Hwy.
 Kershaw, S.C. 29067

cc: J. Hall
 Assist. S.C. AG's Office
 Pickens Co. Clerk
 T. Brooker

CERTIFICATE OF SERVICE

I, Vincent Missouri, do hereby certify that I have mailed a true and correct copy of Applicant's supplemental 59(e) and 60(b) motion, to "all parties" involved in this PCR matter, by placing the same in the prison mailing system, with adequate postage attached thereto, on this 11th day of January, 2024.

/s/ Vincent Missouri
Vincent Missouri, #197996

Daniel D. Hall
1675 I-J York Hwy
York, S.C. 29745

S.C. Attorney General
P.O. Box 11549
Columbia, S.C. 29211

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA
2024 JAN 18 P 12:06

cc: filed

1/11/2024

STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS)

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL COURT

2024 FEB -2 A 11: 53

VINCENT MISSOURI, #197996)
APPLICANT,)
vs.)
STATE OF SOUTH CAROLINA,)
RESPONDENT.)

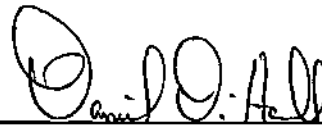
ORDER

Case No.: 2019-CP-39-00769

After careful consideration, the Applicant's Motion to Reconsider is DENIED.

AND IT IS SO ORDERED.

January 26, 2024



The Honorable Daniel D. Hall
Resident Judge of the Sixteenth Judicial
Circuit