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Feb 28 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Oconee County

Honorable R. Scott Sprouse, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WILLIAM DAVID GUNN

APPELLANT

APPELLATE CASE NO. 2024-001358

MOTION TO HOLD APPEAL IN ABEYANCE PENDING RECEIPT OF TRANSCRIPT

Undersigned counsel respectfully moves to hold the above-captioned case in abeyance pending receipt of the complete trial transcript from April 15-16 and July 22, 2024. The Initial Brief of Appellant and Designation of Matter in this case are due for filing on March 3, 2025. There have been no extensions requested in this case. In support of this request, counsel shows:

1. Appellant was indicted at the July 17, 2023 term of the Oconee County grand jury for the offenses of burglary-first degree, malicious injury to real property, possession of tools used in the commission of a crime, and resisting arrest.

2. Appellant's case was called to trial on April 15, 2024, before the Honorable R. Scott Sprouse and a jury. Catherine A. Wyse of the Law Office of Jessica R. DeShon represented appellant. Bethany A. Blundy was the assistant solicitor prosecuting for the state.

3. The jury found appellant guilty of burglary-second degree, malicious injury to real property, possession of tools used in the commission of a crime, and resisting arrest. Judge Sprouse sentenced appellant to fifteen years' incarceration on the burglary, one year concurrent on the charge of resisting arrest, 30 days' time served concurrent on the charge of malicious injury to real property, and two years' consecutive on the charge of possession of tools used in the commission of a crime.

4. Judge Sprouse convened a hearing on July 22, 2024, to hear a motion for reconsideration of the sentence. The transcript of this hearing was combined with the April trial transcript by the court reporter.

5. This case is now on appeal before this Court.

6. Upon reviewing the trial transcript, undersigned counsel discovered the transcript did not contain the entire trial. The provided transcript notes that on April 15, 2024, the audio file from 1:30 p.m. to 3:00 p.m. is "missing" and the transcript lacks opening statements, the entirety of a *Jackson v. Denno* hearing, and unknown witness(s).

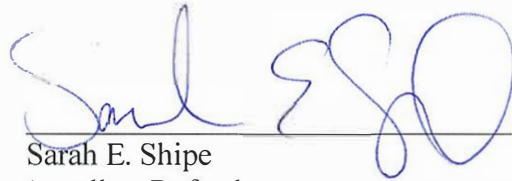
7. Upon review, undersigned counsel found 226 instances of "unintelligible," 37 instances of "simultaneous speaking," 21 instances of "background noise," and 6 instances of "inaudible" testimony that could not be transcribed. Moreover, while the above occurs throughout witness testimony counsel submits there are more than 15 instances where the above occurs during critical portions of trial such as objections, closing arguments, and jury instructions.

8. Upon discovery, counsel acted immediately to procure the complete trial transcript necessary for this appeal. That request along with a complete list of transcript deficiencies are attached to this motion as Exhibit A. Also attached are the transcript index page reflecting the missing portions and the transcript page reflecting the missing audio as Exhibit B.

9. Counsel discovered the missing portions of trial early and endeavored to prepare this motion before taking any extensions in appellant's case.

WHEREFORE, undersigned counsel respectfully requests that this Court hold the above-captioned case in abeyance pending receipt of the complete trial transcript. Counsel also requests that the time limits for filing the initial brief and designation of mater be held in abeyance pending disposition of this motion.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Sarah E. Shipe", written over a horizontal line.

Sarah E. Shipe
Appellate Defender
Attorney for Appellant

This 28th day of February, 2025.

White, Della

From: White, Della
Sent: Friday, February 28, 2025 2:18 PM
To: Kevin Dehlinger
Cc: Shipe, Sarah
Subject: The State v William Gunn Transcript
Attachments: William Gunn transcript deficiencies.docx; William Gunn HIA_0001.pdf

Good afternoon,

We represent Mr. Gunn on appeal. After reviewing this transcript, numerous unintelligibles were noted throughout. We are asking that you review the audio a second time to see if any additional testimony can be recovered. Attached is the list of unintelligibles along with our motion to hold this case in abeyance pending corrections to this transcript.

Please let me know if you need anything additional.

Thank you,

Della White

From: Kevin Dehlinger <kdehlinger@LegalEagleInc.com>
Sent: Friday, November 8, 2024 11:19 AM
To: White, Della <dwhite@sccid.sc.gov>
Cc: Transcripts <transcripts@sccourts.org>
Subject: [External] State v William Gunn Transcript

Della,

Today, Legal Eagle was assigned your transcript request in the above referenced matter. Based upon our review of the records, it appears this transcript will be approximately 320 pages long. The following was indicated on the request from:

- Standard Delivery (60 Days)
- PDF/Email Requested

The estimated standard delivery cost for this transcript is \$1,360.00.

Please note that the page estimate is not guaranteed. The price indicated above is an approximation based on the audio length. The actual cost and page count may vary due to several factors including but not limited to speech rate, side bars, Q&A v Colloquy, and hearing type. A final invoice will be sent when the transcript is completed.

Once you have authorized us to proceed by responding to this email, we will place your transcript inline for production with a 60-day due date, although transcripts are usually completed much earlier. If you have any questions, please let us know.

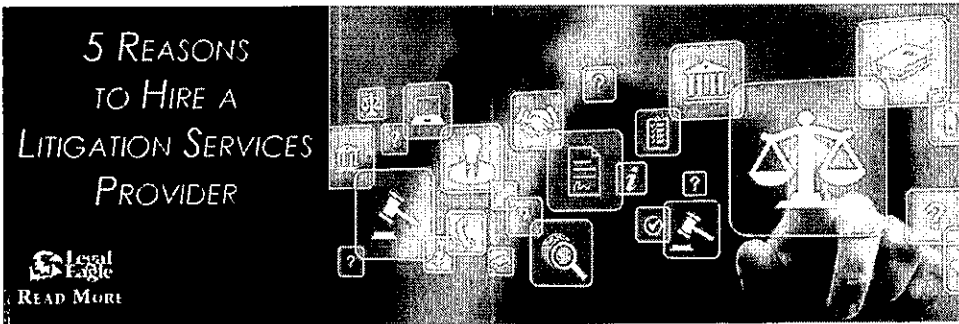
Thank you,



Kevin Dehlinger
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p. 3, l. 2: “Audio missing—Opening Statements”

p. 5, l. 3: “CLERK: (Unintelligible)”

p. 6, ll. 4-5: “I am a contract manager for (unintelligible).”

p. 6, ll. 9: “My husband’s retired (unintelligible).”

p. 6, ll. 11-13: “Retired from (unintelligible) and he’s retired (unintelligible).”

p. 6, ll. 14-16: “My occupation is (unintelligible) married and my wife is (unintelligible) she is a teacher’s aide at Jason Brown (unintelligible).”

p. 6, l. 18: “JUROR: (unintelligible)”

p. 6, ll. 20-21: “(unintelligible) maintenance for Ace Hardwares. Married (unintelligible) Upstate Medical Associates.”

p. 7, ll. 2-3: “My husband is (unintelligible) works at (unintelligible)”

p. 7, l. 5: “Real estate (unintelligible).”

p. 7, l. 7: “I’m a registered nurse (unintelligible)”

p. 7, ll. 10-12: “I work (unintelligible) my wife works at DOT, she’s a (unintelligible) administrative (unintelligible).”

p. 7, ll. 14-15: “ (unintelligible) Blue Cross Blue Shield (unintelligible).”

p. 7, l. 17: “I am retired (unintelligible) and my husband is a pastor.”

p. 7, ll. 21-22: “Condo Association and a general foreman for (unintelligible)”

p. 7, ll. 24-25: “Estimator. Married. My husband is a (unintelligible)

p. 8, l. 2: “JUROR: (unintelligible)”

p. 8, ll. 4-5: “I (unintelligible) Post Office and my husband is retired from (unintelligible).”

EXHIBIT A

p. 8, ll. 7-8: “Work at (unintelligible) husband (unintelligible).”

p. 8, l. 10: “JUROR: (unintelligible).”

p. 8, l. 12: “JUROR: (unintelligible).”

p. 8, ll. 14-15: “I work for a company called Webber (unintelligible).”

p. 8, ll. 17-18: “I work for (unintelligible) single and (unintelligible).”

p. 8, l. 20: “JUROR: (unintelligible).”

p. 8, l. 22: “JUROR: (unintelligible).”

p. 8, ll. 24-25: “I work for (unintelligible) as a locator (unintelligible) married. My wife’s (unintelligible)”

p. 9, ll. 6-7: “(unintelligible) technician. My wife is a teacher’s aid for (unintelligible) county schools.”

p. 9, l. 10: “husband is (unintelligible)”

p. 9, l. 12: “I work at (unintelligible)”

p. 9, ll. 14-15: “(unintelligible) service manager with Johnson & Johnson (unintelligible)”

p. 9, l. 21: “project manager (unintelligible)”

p. 10, ll. 4-5: “Retired (unintelligible) technician (unintelligible) husband works for (unintelligible).”

p. 10, ll. 10-11: “Billing specialist for (unintelligible) and my husband is a military (unintelligible)”

p. 10, l. 13: “I’m an (unintelligible)”

p. 10, l. 20: “I am a preschool teacher (unintelligible)”

p. 10, l. 23: “I work at (unintelligible)”

p. 11, ll. 3-4: “(unintelligible) my wife’s a nurse (unintelligible)”

EXHIBIT A

p. 11, ll. 10-11: "My wife is a part-time hygienist with (unintelligible)"

p. 11, l. 13: "I work at (unintelligible)"

p. 11, l. 13: "JUROR: (unintelligible)."

p. 11, l. 18: "(unintelligible) corporation."

p. 11, l. 24: "(unintelligible) for (unintelligible)"

p. 12, l. 1: "transcriptionist for the (unintelligible)"

p. 12, ll. 3-4: "(unintelligible) technician for (unintelligible)"

p. 12, l. 6: "(unintelligible) coach for Hudson High"

p. 12, l. 11: "Works at Clemson University teaching (unintelligible)"

p. 12, l. 14: "JUROR: (unintelligible)."

p. 12, ll. 16-17: "I'm retired (unintelligible) self-employed (unintelligible)."

p. 12, l. 19: "I'm self-employed (unintelligible)"

p. 12, ll. 22-23: "and my wife (unintelligible)."

p. 12, l. 25: "Retired for over six years (unintelligible)"

p. 23, l. 16: "JUROR: (unintelligible)."

p. 23, l. 19: "JUROR: (inaudible)."

p. 25, l. 8: "We had this hopper (unintelligible) the clerk drew the names out"

p. 34, ll. 22-23: "Let the record reflect all members of the jury (unintelligible)."

p. 40, ll. 13-16: "THE COURT: All right. Let's take---let's take a short break and then we'll---we can--- (simultaneous speaking)
MS. BLUNDY: Thank you"

p. 44, ll. 9-11: "THE COURT: ---of the question. (simultaneous speaking) MS. BLUNDY: ---relevant on the burglary itself."

p. 49, ll. 13-16: “speaking with the officers specifically about the crime---(simultaneous speaking) THE COURT: Do we need to a Jackson v. Denno hearing?”

p. 49, ll. 21-22: “okay. And Entsminger (unintelligible) Miranda.”

p. 49, l. 24 – 50, l. 1: “testify since he was the one who Mirandized---(simultaneous speaking) THE COURT: Are you going to present other officers”

p. 53, l. 25: (AUDIO MISSING FROM APPROXIMATELY 1:30 TO 3:00)

p. 58, l. 7: “Toby (unintelligible) Shaw”

p. 59, ll. 7-10: “when your mother passed --- (simultaneous speaking) A. Yes”

p. 61, ll. 10-12: “oh, yes --- (simultaneous speaking) – prior—”

p. 61, ll. 18-20: “Oh, yes. (simultaneous speaking) Yes, ma’am.”

p. 65, ll. 22-24: “This is --- (simultaneous speaking) By---by numbers.”

p. 66, ll. 24-25: “front entrance in the other --- (simultaneous speaking)

p. 67, ll. 20-22: “in that bed, in that --- (simultaneous speaking) Yes ma’am.”

p. 69, ll. 5-7: “and that’s a ramp at the back--- (simultaneous speaking) Yes , it is.”

p. 69, ll. 13-14: “What do you notice about this door (unintelligible) incident”

p. 69, ll. 17-19: “was it like that the last time--- (simultaneous speaking) No it was not.”

p. 70, ll. 3-5: “And that was not like that when you had left--- (simultaneous speaking) Objection”

p. 72, ll. 1-2: “you can actually see a (unintelligible) that’s where the camera is”

EXHIBIT A

p. 72, ll. 8-10: “that you just--- (simultaneous speaking) Yes, ma’am it is.”

p. 75, ll. 5-6: “we ever ended up with it going off because I know (unintelligible)”

p. 80, ll. 19-21: “to the State prior to --- (simultaneous speaking) MS. BLUNDY: Judge---”

p. 81, ll. 20-21: “covered with plastic? A. (unintelligible)”

p. 82, l. 6: “and you said for how long did she (unintelligible)”

p. 82, ll. 10-12: “anybody to stay with her --- (simultaneous speaking) A. Yes, at that time we had the --- (unintelligible)”

p. 84, ll. 2-4: “Hold on. (simultaneous speaking) Overruled”

p. 86, l. 6: “and you noticed that there (background noise) later on?”

p. 87, ll. 13-15: “embezzling from churches that --- (simultaneous speaking) A. Oh, no ma’am”

p. 89, ll. 18-19: “are the ones that primarily requested assistance (unintelligible)”

p. 90, l. 7: “generally that’s (unintelligible) identify”

p. 90, l. 10: “because that (unintelligible) K9 is going to”

p. 90, l. 17-18: “It was at least 30 minutes (unintelligible)”

p. 90, l. 24: “Deputy (unintelligible), K9 Cos was (unintelligible)”

p. 91, l. 1: “I believe deputy (unintelligible) went around to”

p. 91, ll. 10-11: “stepping out off the back porch that time (unintelligible)”

p. 92, ll. 15-16: “my assessment be under investigative detention (unintelligible)”

p. 92, ll. 22-24: “altered or changed in any way--- (simultaneous speaking) A. It has not”

EXHIBIT A

p. 94, ll. 24-25: “as far as the collection (unintelligible) when the call come in”

p. 95, ll. 6-12: “but they didn’t tell you that it was (unintelligible) that was on---(unintelligible) scene---(simultaneous speaking) A. to my knowledge...it was somebody that was (unintelligible) for the property.”

p. 95, l. 23: “I did go through the house (background noise)”

p. 96, ll. 2-3: “that picture from K9 (unintelligible)”

p. 96, ll. 6-7: “he was on the ground (unintelligible)”

p. 96, l. 18: “and what (unintelligible) K9”

p. 97, ll. 16-17: “I did speak with him, yes, (unintelligible) policy requires me”

p. 97, ll. 19-20: “that is for the civil litigation side (unintelligible)”

p. 98, ll. 12-14: “of the house---(simultaneous speaking) --- handcuffs”

p. 98, ll. 16-17: “physically apprehended by the (unintelligible) K9”

p. 102, l. 24: “crowbar came from his (unintelligible)”

p. 104, ll. 16-18: “No ma’am---(simultaneous speaking)---I was just briefed”

p. 113, l. 13: “and when you got there, (inaudible)”

p. 114, ll. 19-21: “if it was on your body cam---(simultaneous speaking) A. May have”

p. 115, ll. 4-5: “Do you remember if there was any plastic on any of the (background noise)?

p. 115, l. 13: “Q. Now, (background noise)”

p. 116, ll. 7-8: “you’ve already stated (unintelligible)”

p. 116, ll. 13-14: “and that was based upon the information that no one (unintelligible)”

p. 117, l. 15: “MS. WYSE: Approach (unintelligible)”

p. 118, l. 6: “anything else (unintelligible) Mr. Gunn in his pockets”

p. 119, l. 3: “Q. (unintelligible)?”

p. 119, ll. 5-7: “but he wasn’t dropped---(simultaneous speaking) -- off back at home”

p. 120, ll. 8-9: “did you by chance find any weapons, guns, or knives (background noise)?”

p. 121, l. 11: “prior to stipulated redact (unintelligible)”

p. 122, l. 14: “THE COURT: (unintelligible)”

p. 122, ll. 18-25: “MS. WYSE: I mean, that was definitely the agreed upon times---(simultaneous speaking) THE COURT: --- times. MS. WYSE: Yes,...I just wanted that---(simultaneous speaking) THE COURT: ---previous objection (unintelligible)”

p. 125, ll. 19-23: “the reason (background noise) the reason is because you did (unintelligible)...and that is why you wrote the warrant (unintelligible)?”

p. 126, ll. 8-9: “might need to (background noise) so that I can refresh his recollection (unintelligible) body cam outside”

p. 126, ll. 22-25: “you might want to refresh his memory by (unintelligible) produced at the time?...Well, she can (unintelligible)”

p. 127, ll. 2-3: “I have no intention of ever put playing this (unintelligible)”

p. 127, ll. 13-16: “MS. WYSE: ---the State (unintelligible). THE COURT: We don’t...(simultaneous speaking) MS. WYSE: No, sir”

p. 127, ll. 22-25: “because I---(simultaneous speaking) MS. BLUNDY: Yeah, just hit the exit”

p. 128, ll. 6-7: “do we have another short witness (background noise)?”

p. 128, l. 13: “you---you (unintelligible)”

p. 129, ll. 6-8: “Your Honor (simultaneous speaking) THE COURT: Is that Exhibit Number 2?”

p. 129, l. 11: “showing him the exhibits (unintelligible)”

p. 129, ll. 19-21: “and then looking down a little bit further--- (simultaneous speaking) A. Okay.”

p. 129, l. 24: “we finish up (unintelligible).”

p. 133, ll. 14-15: “cut open the evidence bag for (background noise)”

p. 133, ll. 22-23: “based on the description also up (unintelligible) what each item is”

p. 134, l. 13: “our next witness is going to be (unintelligible) today”

p. 144, ll. 20-22: “I couldn’t give you the...exact mileage--- (simultaneous speaking)—right off the top of my head”

p. 146, ll. 10-11: “are you aware that there is no probate estate for (unintelligible) Shaw?”

p. 150, ll. 14-15: “how many of those officers were (unintelligible)?”

p. 150, l. 20: “(unintelligible) Officer Entsminger’s report?”

p. 151, l. 4: “but nobody else (unintelligible)?”

p. 151, ll. 11-12: “whether or not this actually was a residence (unintelligible)?”

p. 152, ll. 9-11: “uh-huh. (simultaneous speaking) Q. (unintelligible) You mentioned in the beginning”

p. 152, ll. 19-20: “DO you remember anything talking about (unintelligible)---”

p. 153, ll. 10-13: “Q: But you...never got an answer as to who owned---(simultaneous speaking) A. I Was told that Mr. Shaw was in control”

p. 153, ll. 22-25: “I can’t testify to what he don’t---(simultaneous speaking) Q. Did you look into it?”

p. 154, ll. 2-3: “Deputy Entsminger didn’t (unintelligible)?”

p. 154, l. 11: “Q. (unintelligible)?”

p. 154, l. 15: “Q. Okay. But you were the (unintelligible)?”

p. 156, ll. 4-5: “possession of burglary tools, the (background noise) property and burglary first”

p. 157, ll. 14-19: “I did not see something the State (unintelligible)...no knowledge that the State was going to introduce the elements that somebody...stayed and that house, and (unintelligible) go back to that house”

p. 160, ll. 9-10: “Well, Judge, I’ll hand (unintelligible)”

p. 170, ll. 2-16: “But a building is a dwelling even if residents are temporarily absent...under the statute (unintelligible)...Dwelling means living quarters...used normally for sleeping, (unintelligible) sub-section 2 under the statute...Any house...in which there sleeps (unintelligible) tenant...or person who lodges there (unintelligible) shall be deemed dwelling...or (unintelligible) dwelling house...which are within 200 yards of (unintelligible) and are pertinent to it...same statute of which (unintelligible) deemed (unintelligible)”

p. 170, l. 19: “THE COURT: (inaudible) Ms. Wyse, is there anything”

p. 170, l. 22: “THE COURT: Okay. (unintelligible). Okay”

p. 171, ll. 17-18: “You aren’t going to cut (unintelligible)”

p. 171, l. 23: “in between the siding of the door (unintelligible)”

p. 172, ll. 5-6: “That would be a perfect (unintelligible)”

p. 172, ll. 10-11: “with the intent to break in and steal (unintelligible).”

p. 172, ll. 23-24: “What a perfect (unintelligible).”

p. 174, ll. 5-6: "They were still paying the (background noise) on it"

p. 176, l. 20: "That's exactly what he was (inaudible)."

p. 178, ll. 21-23: "I would like to have seen all of the video, not just the portions of the video (background noise). And (unintelligible)."

p. 180, ll. 2-3: "statements the defendant made to the officers (background noise)."

p. 179, ll. 11-12: "It went to Toby, (unintelligible). He was in control"

p. 179, ll. 14-16: "has to be a dwelling (unintelligible). Everything about that (unintelligible)."

p. 180, ll. 8-9: "He didn't know the police were going to (unintelligible)."

p. 180, ll. 19-23: "There were going to be things that the State was going to tell you, things (unintelligible). (unintelligible) the very beginning (unintelligible) he committed burglary (unintelligible)."

p. 181, ll. 1-7: "lot of them (unintelligible) questioning them... You as members of the jury are entitled and should and you need to hear (unintelligible) every single element (unintelligible)"

p. 181, ll. 11-12: "We know that he got caught with his (unintelligible) in his pocket"

p. 181, ll. 14-16: "He was in that house (background noise) (unintelligible). And that ladies and gentlemen (background noise) burglary first."

p. 181, ll. 19-21: "don't let that prior record blind you to the fact that there are (unintelligible)"

p. 182, ll. 9-10: "What do you (background noise) about this?"

p. 182, ll. 21-22: "(unintelligible) ask some questions on cross-examination"

p. 183, ll. 3-19: "I brought up the warrant to Deputy Entsminger (unintelligible)...He was the one who gave Deputy Entsminger the

responsibility as far as (unintelligible) concerned...I asked him about (unintelligible) (background noise)...Shaw (unintelligible) food in the refrigerator. I asked (unintelligible) deputy (unintelligible) was there food in the refrigerator”

p. 183, ll. 20-21: “right after Deputy Entsminger left this seat (unintelligible)”

p. 184, ll. 1-5: “These are the details that the deputy write down right after (unintelligible)...something that we heard for the first time (unintelligible)”

p. 184, ll. 18-19: “You have no idea if there are medical bills (unintelligible)”

p. 184, ll. 21-23: “There’s no way to have known on this date and time what was going to happen to – to (unintelligible)”

p. 185, l. 4: “How do you do that? You (unintelligible).”

p. 185, ll. 7-8: “I heard him say that to several different officers (unintelligible)”

p. 185, ll. 23-24: “I know that most of you are not familiar with this (unintelligible)”

p. 186, ll. 2-5: “I get to (unintelligible) so does the defendant...I get to (background noise) (Unintelligible) Because that is a basic right”

p. 186, l. 14: “(unintelligible) the perfect guy”

p. 187, ll. 5-6: “He admits to the burglary tools (unintelligible) that evidence”

p. 187, ll. 14-15: “That he knew that there was no intent (unintelligible)”

p. 188, ll. 1-2: “the fact remains that we don’t really know how long he was in that (unintelligible).”

p. 189, l. 1: “or a ride to get back to (unintelligible)”

p. 189, ll. 11-12: “there is no dispute about whether or not (unintelligible)”

p. 189, ll. 15-16: “you can have a dress shop (background noise)”

p. 190, ll. 6-12: “It’s not exactly comfortable (unintelligible) yourself onto the ground (unintelligible)...that doesn’t mean he was resisting (unintelligible) the video...I’m not (unintelligible)”

p. 190, l. 17: “back door that he (unintelligible) (unintelligible)”
p. 200, ll. 4-5: “indicted in this case is not evidence (unintelligible)”

p. 201, ll. 10-11: “of which it is pertinent shall be deemed (unintelligible)”

p. 203, ll. 15-16: “except by artificial light or (unintelligible)”

p. 205, l. 8: “circumstances that the law (unintelligible) intent”

p. 206, ll. 2-12: “it is unlawful...have in his possession (unintelligible) tool, false key, pick lock, (unintelligible), nitroglycerine, (inaudible) steel wedge...allow the same to be used or (unintelligible) commission of a crime or knowing that the (unintelligible) to be so used.”

p. 207, l. 11: “the charge is burglary first degree, (unintelligible)

p. 208, l. 10: (jury exits courtroom) *jury exits to deliberate, no timestamp

p. 209, l. 8: (jury enters courtroom) *jury enters courtroom following sending two notes, no timestamp

p. 210, ll. 4-6: “trick or misrepresentation (unintelligible) consent (unintelligible)”

p. 213, l. 25-214, l. 1: “indirect obstruction, is (unintelligible) arrest or the service or execution”

p. 214, l. 9: “you may resume your deliberations” Lacks entry noting jury movement, lacks timestamp.

p. 214, ll. 20-21: “THE COURT: Counsel, I’ve been informed the jury has a verdict.” Lacks timestamp.

p. 215, l. 3: “(jury enters courtroom)” Lacks timestamp.

p. 215, ll. 8-11: “Mr. Foreman, I need you to sign the verdict form. (simultaneous speaking) THE FOREMAN: ---thinking, I’m sorry.”

p. 216, ll. 21-25: “I need to see you for just a minute to sign something. (unintelligible)...thank you, sir. (background noise)”

p. 217, ll. 23-25: “You Honor, I was hoping that you could make--- (simultaneous speaking) THE COURT: Well, it---it---it was---”

p. 218, ll. 13-19: “Mr. (unintelligible) had told me...(simultaneous speaking)...When did Mr. (unintelligible)_ talk to the juror?”

p. 218, l. 21: “UNIDENTIFIED SPEAKER: (unintelligible)”

P. 222, L. 24: “She (unintelligible) by herself”

p. 227, l. 2: “and again, (unintelligible) against me.”

p. 229, ll. 7-9: “(PROCEEDINGS FOR APRIL 16, 2024 CONCLUDED)...(PROCEEDINGS FOR JULY 22, 2024 BEGIN)” no listing of appearances for July 22 proceedings, no notation of time or location of proceedings- prosecutor not present at trial present at this hearing speaking on the record (Mr. Alderman)

P. 229, LL. 12-13: “THE FIRST MATTER IS James Barly. I need to copy (unintelligible)”

p. 229, ll. 16-17: “My bad. (unintelligible) I said the wrong defendant’s name”

p. 230, ll. 9-10: “we are her today on ---Mr. (unintelligible) has already told you”

p. 230, ll. 13-21: “Mr. Gunn was tried back in April (background noise) in Oconee County Courthouse (unintelligible)...originally charges with burglary first (unintelligible) personal property, possession of burglary tools and (unintelligible). He was found guilty of burglary second. And then (unintelligible) personal property”

p. 230, ll. 24-25: “when sentencing rolled around and (inaudible) violent”

p. 231, ll. 4-5: “Deputy Public Defender John (unintelligible) saw some of the jurors”

p. 231, ll. 24-25: “relevant to this case (unintelligible) to the Court, I found (unintelligible) v. State”

EXHIBIT A

p. 232, ll. 1-2: “in that case (unintelligible) the defendant was charged”

p. 232, ll. 8-11: “Mr. Gunn’s case and in the (unintelligible) case, I did raise the argument at sentencing...In (unintelligible) that did not occur”

p. 233, ll. 16-17: “I did inquire as to whether or not the victim was present (unintelligible) did check in with the victim advocate”

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EXAMINATIONS

Witness	Direct	Cross	Redirect	Re-cross	Further
Burton	55				
Shaw	58	81	87		
Shedd	88	94	98		
Pitts	99	103			
Entsminger	105	113	120	125	
Alexander	136	145	154		

EXHIBITS

COURT'S EXHIBITS

Number	Description	Marked	Entered
1	Document	40	
3&4	Documents	214	

STATE'S EXHIBITS

Number	Description	Marked	Entered
3	Document	56	56
4	Document	57	57
5	Video	65	65
6&7	Photos	66	66
8-13	Photos	68	68
14-16	Photos	71	71
17&18	Photos	74	74
19	Photo	93	93
22	Video	122	122
20	Document	133	133
21	Evidence	134	134
23	Video	143	143

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

Proceedings

1 convictions.

2 You --- the problem is you don't know what weight
3 the jury's going to give to any of the facts in the case.
4 And so I think the State should be able to present a
5 comprehensive case and let the jury decide from there.

6 THE COURT: And Ms. Wyse, it is an element of
7 the --- the offense. And I --- I understand your
8 concerns. And do you have any case law that prohibits
9 the State from presenting the elements?

10 MS. WYSE: There is no case law that presents ---

11 THE COURT: Okay.

12 MS. WYSE: --- the State from prohibiting these
13 elements at this point and juncture. Your Honor, if I
14 can find something that's more on point with Chief
15 Justice Cole's, you know, classic quote just gilding the
16 Lily, then I will certainly bring it to your attention.

17 THE COURT: Bring --- bring it to my attention
18 before we --- we start. But certainly I want to make
19 sure that we are in accordance with the statute.

20 So anything further?

21 MS. WYSE: Judge, there's nothing further.

22 THE COURT: Okay. All right. We'll be in recess
23 till 1:30.

24 (Whereupon a lunch recess was taken)

25 (AUDIO MISSING FROM APPROXIMATELY 1:30 TO 3:00)

RECEIVED

Feb 28 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Oconee County

Honorable R. Scott Sprouse, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

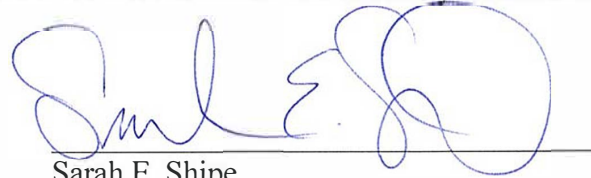
WILLIAM DAVID GUNN

APPELLANT

APPELLATE CASE NO. 2024-001358

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Motion to Hold in Abeyance in the above referenced case has been served on Mark R. Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 28th day of February, 2025.



Sarah E. Shipe
Appellate Defender

ATTORNEY FOR APPELLANT

From: [Warren, Kaylynn](#)
To: [Mark Farthing](#)
Cc: [Shipe, Sarah](#); [Caroline Collins](#)
Subject: 2024-001358 The State v. William David Gunn
Date: Friday, February 28, 2025 2:53:00 PM
Attachments: [2024-001358 The State v. William David Gunn Motion to Hold Appeal in Abeyance Pending Receipt of Transcript.pdf](#)

Good Afternoon,

Attached for service in the above-referenced case is a Motion to Hold in Abeyance which will be filed today, February 28, 2025, with the Court of Appeals via email filing.

Respectfully,

Kaylynn

Kaylynn Warren

Administrative Assistant

South Carolina Commission on Indigent Defense

Division of Appellate Defense

(803) 734-1330