

Apr 25 2025

State of South Carolina	)	
	)	S.C. SUPREME COURT
County of Berkeley	)	In the Circuit Court
	)	
George R. Dreher,	)	
	)	
Plaintiff,	)	2022-CP-08-2034
	)	
versus	)	
	)	
State of South Carolina,	)	
	)	
Defendant.	)	
_____	)	

Berkeley County Courthouse  
March 11, 2024

**TRANSCRIPT OF PCR HEARING**

B E F O R E

The Honorable Walton McLeod

A P P E A R A N C E S:

J. Taylor Bell, Esquire  
Attorney for Plaintiff, George R. Dreher

Danielle Dixon, SC Assistant Attorney General  
Attorney for the State of South Carolina

**FOR COPIES CONTACT: Melissa R. Singletary**  
**Certified Verbatim Court Reporter**  
[msingletary@sccourts.org](mailto:msingletary@sccourts.org)

I N D E X

<u>WITNESS (ES)</u>	<u>PAGE</u>
George R. Dreher	
Examination by Mr. Bell	5
Cross Examination by Ms. Dixon	21
Melisa W. Gay	
Examination by Ms. Dixon	32
Cross Examination by Mr. Bell	44
Certificate of Service	88

E X H I B I T S

Plaintiff's Exhibit Number One  
Plaintiff's Exhibit Number Two  
Plaintiff's Exhibit Number Three

1 MS. DIXON: This is the case of George Riley  
2 Dreher v. State docket number 2022-CP-08-2034. Mr. Dreher  
3 is currently serving an active 12 year sentence. In  
4 November of 2020, he was indicted by the Berkeley County  
5 grand jury for attempted murder, and then in December 2020,  
6 for failure to stop for blue lights resulting in great  
7 bodily injury. Those are indictment numbers 2020-GS-08-2022  
8 and 2020. These charges arose from an April 10th incident -  
9 -- April 10 2020 incident when he failed to stop for blue  
10 lights. It resulted in a high speed chase and during the  
11 chase he struck an officer with his vehicle. Eventually  
12 crashed his vehicle and was arrested on the scene. On  
13 February 18, 2021, he appeared before Judge Dennis to plead  
14 guilty. However, during that hearing, Your Honor, he  
15 basically asserted that he was not guilty of the I believe  
16 they were doing the lesser included offense ABHAN and he  
17 basically asserted during that hearing that his passenger  
18 Brandon Swain had jerked the steering wheel. So at that  
19 time, Judge Dennis stood down the plea and did not accept  
20 it at that time. He reappeared before Judge Dennis on April  
21 12th of 2001, and at that time, he did plead guilty. He  
22 was represented by Melisa Gay, and then Wilton McNeely  
23 represented the state at that plea. He was sentenced to 12  
24 years for assault and battery and then a consecutive 10  
25 year sentence for the failure to stop for blue light. That

1 sentence is suspended upon the service of five years  
2 probation. He did their after file a motion to withdraw his  
3 guilty plea. Actually, two separate motions. One being on  
4 the basis of after discovered evidence in the form of a  
5 affidavit signed by Brandon Swain attesting that he had  
6 jerked the steering wheel. That motion was denied and he  
7 filed a notice of appeal. It was perfected by Taylor  
8 Gilliam through the filing of an Anders brief that was  
9 dismissed by the court of appeals pursuant to Anders and  
10 the remittitur was sent in June 9, 2022. He then timely  
11 filed this current PCR application and, Your Honor, our  
12 understanding today is the primary issue that he's going  
13 forward on is that counsel was ineffective in her  
14 investigation of Brandon Swain and her procuring him to  
15 trial and also that he did not understand that he could  
16 have a trial and subpoena Mr. Swain.

17 THE COURT: Okay. Mr. Bell are you ready to  
18 proceed, sir?

19 MR. BELL: I am, Your Honor. I would make one  
20 correction. That was not dismissed by way of an Anders  
21 brief. That appeal was withdrawn voluntarily by Mr. Dreher  
22 based on conversations that the proper venue for the appeal  
23 was actually the post conviction relief proceedings because  
24 it was not the proper venue to make that argument on  
25 appeal. So it was actually withdrawn by him. So it would

1 not go through that process and we would be here for post  
2 conviction relief on this.

3 THE COURT: Okay. Mr. Bell you can call your first  
4 witness. Or if you want to make an introductory remarks  
5 that's fine.

6 MR. BELL: I don't, Your Honor, it's listed here  
7 in my --- in my application, my client's application, so I  
8 would call to the witness stand, George Dreher.

9 CLERK: Do you solemnly swear or affirm the  
10 testimony you give will be the truth, the whole truth and  
11 nothing but the truth so help you God?

12 MR. DREHER: Yes ma'am.

13 CLERK: Thank you, you may be seated. State your  
14 full name and spell your last name for the record.

15 MR. DREHER: George Riley Dreher, D-R-E-H-E-R.

16 **Mr. George Dreher - Examination by Mr. Bell**

17 Q: Mr. Dreher, how old are you?

18 A: 35.

19 Q: And where are you from Mr. Dreher?

20 A: Charleston.

21 Q: And where are you currently detained?

22 A: Turbeville.

23 Q: Turbeville. Okay. And what are you currently detained  
24 in Turbeville for?

25 A: Assault and Battery, high and aggravated nature and

1 invading blue lights.

2 Q: Okay, failure to stop for a blue light?

3 A: Yes sir.

4 Q: Okay. And were you represented by counsel on those  
5 charges previously? Were you represented by an attorney?

6 A: Yes sir.

7 Q: Okay, who was your attorney?

8 A: Melisa Gay.

9 Q: Okay, let's talk about when --- approximately when  
10 did you hire Ms. Gay or your family hire Ms. Gay to  
11 represent you?

12 A: I would say maybe around mid to the end of April or  
13 the beginning of May of 2020.

14 Q: And did you ever get bond in this matter?

15 A: Yes, sir.

16 Q: Okay. Were you detained at the detention center  
17 though for a majority of your time?

18 A: Yes, sir.

19 Q: Okay. And during this time, this is 2020. Correct?  
20 And the virus hit the United States and the world in  
21 December of 2020. Approximately, is that correct?

22 A: Yes, sir.

23 Q: And during this time, were there communication  
24 restrictions at the detention center with your attorney at  
25 all?

1 A: Yes, sir. I only got to see her once, maybe twice.

2 Q: Okay. How were those communications with your  
3 attorney?

4 A: I would say not good.

5 Q: Well, I'm talking about the mode of communication.  
6 Did you have face down sit conversations with your attorney  
7 where you got to sit face to face? Or were they over the  
8 telephone? Or were you subjected mostly to communications  
9 via text message or emails?

10 A: Mostly, over the phone, phone text on the tablet,

11 Q: Okay, text on the tablet. So are you assigned a  
12 tablet?

13 A: No. They got one tablet for the whole pod.

14 Q: Okay. Alright. And you have an account or you had an  
15 account, tablet?

16 A: Yes sir.

17 Q: That you could get messages if you pay for those  
18 messages or?

19 A: Yes sir.

20 Q: So I want to talk about February 18, 2021. And just  
21 to jog your memory, that is your first time that you  
22 appeared in front of Judge Dennis? And it appears --- was  
23 that a virtual hearing that you had?

24 A: Yes, sir.

25 Q: Okay. And on that virtual hearing, you are scheduled

1 to plead guilty to assault and battery high and aggravated  
2 nature. And you were scheduled to plead guilty to failure  
3 to stop for a blue light causing great bodily injury,  
4 correct?

5 A: Yes, sir.

6 Q: Alright. And Judge Dennis went through a series of  
7 questions about pleading guilty. He asked you a series of  
8 questions regarding whether or not you were pleading guilty  
9 freely and voluntarily whether or not you understood what  
10 you were doing. Do you recall those series of questions?

11 A: Yes, sir. Vaguely.

12 Q: Okay. Do you recall that the government, being the  
13 Solicitor's Office, the assistant solicitor assigned to the  
14 case, gave a synopsis of the factual recitation of the  
15 events that occurred that led to your arrest?

16 A: I don't understand what you're asking me. You used  
17 too big of words.

18 Q: Did the solicitor ask - Did the solicitor say what he  
19 believed happened involving a high speed chase and an  
20 injury to an officer to the judge on that plea?

21 A: I really don't recall.

22 Q: Alright, so I'm going to show you --- I'm going to  
23 mark this as petitioners exhibit one. I apologize.

24 MADAM COURT REPORTER: You're fine. Is right here  
25 okay?

1 (Plaintiff's Exhibit Number 1 was marked)

2 MR. BELL: Yes. Your Honor, what I'm marking is  
3 transcript of February 2021. If I may approach the witness,  
4 Your Honor?

5 THE COURT: Yes sir.

6 Q: Alright, Mr. Dreher, I'm going to have you briefly  
7 read pages just to jog your memory and Mr. McNeely was the  
8 assistant solicitor so it reads beforehand. I want you to  
9 just briefly read here to yourself, you don't have to read  
10 it out loud. Just to jog your memory about what Mr. McNeely  
11 said there. You can flip it. Do you recall this being said  
12 at any point in time?

13 A: Sir, it was hard to hear on the screen. I remember  
14 being in the court but I don't recall everything verbatim.

15 Q: Did essentially he say that you intentionally hit the  
16 officer that was the victim in this case with the vehicle?

17 A: That's what they're trying to say.

18 Q: Okay. So when you understood that to be what was  
19 said. I'm gonna ask you, did you tell the court all besides  
20 intentionally swerving I would have never intentionally  
21 swerved to hit an officer?

22 A: I do recall saying that, sir.

23 Q: You told the court that and that was on April 12<sup>th</sup> of  
24 --- I'm sorry, February 18<sup>th</sup> of 2021. Is that correct?

25 A: Correct.

1 Q: And does that accurately reflect what you've told the  
2 Court? There I have it underlined.

3 A: Correct.

4 Q: I would move to introduce transcripts from the  
5 February 18th, 2021 plea hearing.

6 THE COURT: Without objection?

7 MS. DIXON: Yeah, no objection.

8 THE COURT: So admitted for the purpose of this  
9 hearing.

10 MR. BELL: Thank you. I may reference that, Your  
11 Honor.

12 THE COURT: I have it on record for appeal. I'm  
13 looking at it.

14 MR. BELL: I assumed that the Court had that.

15 THE COURT: That's smart to make it an exhibit for  
16 the hearing too though.

17 Q: So what essentially what did Judge Dennis do at that  
18 point, after you told the court that?

19 A: He told me that he had to stand down and he couldn't  
20 continue with this hearing.

21 Q: Alright. Now, that was on February 18, of 2021. And  
22 at that point in time, you were taken back to the detention  
23 center, where you were housed. Correct.

24 A: Correct. Yes sir.

25 Q: And did you have any further communications with your

1 attorney at the time regarding this case, after that  
2 hearing?

3 A: I tried to talk to her, sir, but she didn't really  
4 want to talk to me.

5 Q: Okay. So, at any point in time, did you tell your  
6 attorney prior to the February 8th 2021 court date that an  
7 individual, who was the passenger, by the name of Brandon  
8 Swain had grabbed the steering wheel and jerked it which  
9 caused the vehicle to strike the officer who was the victim  
10 in your assault and battery of a high and aggravated nature  
11 case?

12 A: Can you repeat that question one more time please?

13 Q: Yes. At any point, in time, prior to you going in  
14 front of Judge Dennis, on the February 18, of 2021 court  
15 date in which the very first time which you appeared  
16 virtually prior to that date, at any point in time, did you  
17 tell your attorney Ms. Gay that Brandon Swain had grabbed  
18 the steering wheel and jerked it which caused the vehicle  
19 to strike the officer who was the victim in the assault and  
20 battery of a high and aggravated case?

21 A: Yes, sir.

22 Q: Okay, So, after that hearing date, did you maintain  
23 that position that Brandon Swain had jerked the steering  
24 wheel causing you to strike the officer who was the victim  
25 in that case?

1 A: Yes, sir.

2 Q: Okay. Are you aware of, at any point in time, that  
3 Ms. Gay asked you --- During that conversation, did Ms. Gay  
4 ever asked you where she could find Brandon Swain?

5 A: She said that she had a private investigator but they  
6 went and looked for him and they couldn't find him, that  
7 she believed that he fled the country. And I tried to  
8 proceed to tell her that he didn't have some funds to flee  
9 the country that I could get somebody to show her the woods  
10 that he's staying in Boulder Bluff but she wouldn't listen  
11 to what I was trying to tell her.

12 Q: So the words that you were staying in ...

13 A: No the woods that Brandon was staying in.

14 Q: I apologize. The woods that he stayed in. Where  
15 would that be? Could you describe that with any  
16 particularity that an individual if you gave that  
17 information to should be able to go to?

18 A: You could go into the Boulder Bluff entrance by the  
19 Circle K, you could go straight to the stop sign. You would  
20 take a left at the stop sign, you would go down to the stop  
21 sign where the school would be on your right hand side and  
22 you would make that left. And there's woods back behind the  
23 house to the left. And that's the field, the woods that he  
24 was staying in in a tent at that time.

25 Q: Was that a sort of campground?

1 A: Yes.

2 Q: People that don't have a place to stay?

3 A: Yes sir.

4 Q: Okay. And so that's a known campground area?

5 A: Yes sir.

6 Q: Okay. But you could describe where that location is.  
7 And you told Ms. Gay, you could tell her where he was?

8 A: Yes sir.

9 Q: Okay. Are you aware of whether or not she sent anyone  
10 to those campgrounds to find Brandon Swain?

11 A: From what she told me she sent somebody to his  
12 father's house and like I tried to tell her he was not  
13 staying at his father's house.

14 Q: Okay. Alright. So during your --- during the pendency  
15 of your case, prior to your first appearance in front of  
16 Judge Dennis or your second appearance, which I'll get to  
17 in a little bit. When I say appearance, I mean guilty  
18 pleas are scheduled for guilty pleas. Did Ms. Gay ever  
19 tell you that she has the ability to issue a subpoena with  
20 the courts power and direct Berkeley County Sheriff's  
21 Department to bring Brandon Swain to the court forcefully  
22 against his will and sit in the witness chair?

23 A: No, sir.

24 Q: Okay. Did you firmly believe that Brandon Swain would  
25 tell the truth and testify that he grabbed the steering

1 wheel and jerked it which caused the vehicle to strike the  
2 officer in this case?

3 MS. DIXON: Object to speculation.

4 THE COURT: Why don't you rephrase the question,  
5 Mr. Bell.

6 Q: Alright. I'm going to try and see if I can set the  
7 question up in a better manner, Your Honor. Were you  
8 willing to go to trial on the belief, your belief, that if  
9 Brandon Swain were to take that witness stand that he would  
10 testify that he grabbed the steering wheel which jerked it  
11 and caused you to strike the officer?

12 A: Yes, sir.

13 Q: Now, you went back before the court on April 12 of  
14 2021, back in front of Judge Dennis for another guilty  
15 plea. Correct?

16 A: Correct. Yes sir.

17 Q: Okay. And at that point in time you went through very  
18 similar questions that you did on the February 18, 2021  
19 court date, but on this date you pled guilty, is that  
20 correct? And you made it through the guilty plea and Judge  
21 Dennis sentenced you?

22 A: Yes, sir.

23 Q: Okay. Why did you plead guilty on that date?

24 A: Because I was told by Ms. Gay that I didn't have no  
25 choice but to plead guilty.

1 Q: What did that mean to you?

2 A: That I should do as I was told to do. Before I walked  
3 in to the court room, Ms. Aguilar I think it is, told me  
4 that I should just go through with this and just say yes,  
5 and go through with this plea. So I was doing what they  
6 told me to do.

7 Q: Who's Ms. Aguilar?

8 A: That sir, I don't know, I know she's the first lady  
9 that I seen when I come in this afternoon as well.

10 Q: Okay. But your attorney at the time Ms. Gay told you  
11 that you should plead guilty? Is that why you pled guilty?

12 A: Yes sir.

13 Q: Okay. Did she ever at any point in time, again,  
14 explain your right to a jury trial and to confront your  
15 witnesses and to have the subpoena power of the court to  
16 call Brandon Swain to testify?

17 A: I don't remember so, no sir.

18 Q: Now, do you recall what it was --- Let's skip  
19 forward. Did you appear back in front of judges at any  
20 point in time after that?

21 A: After the second one?

22 Q: Yes.

23 A: After the second plea I went in front of him, on a  
24 screen, I believe when I was in Kirkland to try to withdraw  
25 the guilty plea.

1 Q: Okay. So you are aware that your attorney on April  
2 16, of 2021 and April 20th, of 2021 filed two motions to  
3 withdraw your guilty plea. Were you aware?

4 A: Yes sir.

5 Q: And you're aware and would you recognize these  
6 documents as being documents filed by your attorney?

7 A: Yes, sir.

8 Q: Motion to withdraw guilty plea based on newly  
9 discovered evidence, motion to withdraw your guilty plea  
10 based on not fully mentally sound at the time. And then Ms.  
11 Gay attached an affidavit of a Brandon Swain. Is that  
12 correct?

13 A: Yes, sir.

14 Q: This was filed in your case?

15 A: Yes sir.

16 Q: And I forgot to mark this. What he was identifying  
17 would be marked as Petitioner's Exhibit Two.

18 **(Plaintiff's Exhibit Two was marked)**

19 Q: So eight days after you pled guilty and were  
20 sentenced, there was a motion filed by your attorney based  
21 on newly discovered evidence, and you went before Judge  
22 Dennis, on June 17 of 2021, for a hearing on that motion.  
23 Would that be accurate?

24 A: I believe so.

25 THE COURT: And this was the motions filed so I'd

1 moved to introduced as petitioners exhibit two motions to  
2 withdraw guilty pleas including the affidavit of Brandon  
3 Swain.

4 MS. DIXON: No objection to the motion as to the  
5 affidavit itself we do object to it on the basis of hearsay  
6 in terms of evidence on what Brandon Swain would testify.  
7 We would contend that he needs to be here to testify.  
8 However, we do think it's relevant in terms of assessing  
9 whether or not the lawyer should have done something.

10 MR. BELL: I'm not moving for ...

11 THE COURT: Just to be clear, this is the  
12 affidavit presented to Judge Dennis?

13 MR. BELL: It was.

14 THE COURT: Then I'll allow for the purpose of  
15 this hearing because it's apart of it.

16 MR. BELL: It's laying the foundation of what I --  
17 - Thank you.

18 THE COURT: As far as what he meant in the  
19 affidavit that would be outside. It says what it says.

20 Q: So you said that you appeared virtually, on June 17,  
21 2021 in front of Judge Dennis, correct?

22 A: Yes, sir.

23 Q: Okay. And you're aware that obviously Judge Dennis  
24 denied that motion, correct?

25 A: Yes, sir.

1 Q: Okay. And he, are you aware that Judge Dennis said  
2 that the court that he denied it based on the fact that  
3 this evidence was previously known to your defense counsel  
4 Ms. Gay at the time?

5 A: I believe so.

6 Q: Alright, if I were to show you the order signed by  
7 Judge Dennis, in your case, is that your name at the top  
8 George Dreher?

9 A: Yes sir.

10 Q: Do you argue that this fairly and accurately  
11 represents the Order signed by Judge Dennis? Would you  
12 agree that this is his order?

13 A: Yes, sir.

14 Q: And if I told you that the order specifically states  
15 here that specifically evidence submitted is not after  
16 discovered evidence as it was clearly known to the  
17 defendant prior to the guilty plea on April 12th, 2021. The  
18 contents of the alleged after discovered affidavit were  
19 expressly discussed by the defendant with the court on  
20 February 18th, of 2021. Are you aware that that's why he  
21 denied your motion?

22 A: Can you reiterate that question in simple terms  
23 please sir?

24 Q: Yes. Are you aware that Judge Dennis, his order that  
25 denied your motion for a new trial, while you were being

1 represented by Ms. Gay was denied based on specifically  
2 quoted here, statements by or in the order from Judge  
3 Dennis. Specifically, the evidence submitted is not after  
4 discovered evidence, as it was clearly known to the  
5 defendant prior to his guilty plea on April 12th, 2021. The  
6 contents of the alleged after discovered affidavit were  
7 expressly discussed by the defendant, with the court, on  
8 February 18th, of 2020. He's referencing your discussion  
9 that you had with him on the record at your very first plea  
10 hearing.

11 A: Yes sir.

12 MR. BELL: Mark this as petitioners exhibit three  
13 and I would move to introduce Judge Dennis's order.

14 MS. DIXON: No objection.

15 **(Plaintiff's Exhibit Number 3)**

16 Q: Are you aware of how the affidavit of Brandon Swain  
17 was obtained after the guilty plea in April?

18 A: Yes, sir.

19 Q: Okay. Can you tell the Court?

20 A: I believe Brandon signed, wrote the affidavit, and  
21 turned it in?

22 Q: Okay. Do you not know?

23 A: I really don't. I do not but I assume ...

24 Q: Okay. But somehow your attorney got that and filed  
25 it. And you were incarcerated at that time?

1 A: Correct.

2 Q: Okay. You didn't create that affidavit because you  
3 were incarcerated, correct?

4 A: Correct.

5 Q: Alright. After you were transported to SCDC in April  
6 of 2021, what additional communication did you have with  
7 Ms. Gay?

8 A: I spoke with her about the withdrawal of the guilty  
9 plea and then I believe I tried to speak with her on the  
10 phone one more time after that and like I said she didn't  
11 really like to talk to me. So I mean, I don't really recall  
12 talking I tried to talk to her but she didn't want to talk  
13 to me. So it wasn't a good conversation, I reckon.

14 MR. BELL: Okay. I beg the Court's indulgence,  
15 just one moment, Your Honor.

16 Q: And just one more time had you previously told your  
17 attorney Ms. Gay, that Brandon Swain had grabbed the  
18 steering wheel, which caused the vehicle to strike the  
19 officer in this case prior to you going to court?

20 A: Yes sir.

21 Q: Okay.

22 MR. BELL: No further questions.

23 THE COURT: Cross examination.

24 MS. DIXON: May it please the court.

25 **Mr. George Riley Dreher - Cross Examination by Ms. Dixon**

1 Q: Mr. Dreher, on direct I believe you said you pled  
2 guilty because you were told by Ms. Gay that you had no  
3 choice but to plead guilty? Is that correct? Is that what  
4 you testified to?

5 A: Yes ma'am.

6 Q: Do you recall at the plea hearing the judge telling  
7 you you had a right to a jury trial?

8 A: I don't recall.

9 Q: You don't recall? If it's in the transcript, would  
10 you dispute it?

11 A: Dispute it?

12 Q: Would you disagree with it if it's in the transcript?

13 A: No, it was hard to go through that trial because  
14 like, when I would speak they were telling me they couldn't  
15 hear me. I couldn't hear them. So it was hard to  
16 understand, comprehend what was going on.

17 Q: Alright. And you told the judge at that time that you  
18 had discussed defenses with Ms. Gay, correct? For the  
19 record that's page 26 on the record of appeal, the second  
20 plea transcript.

21 A: Can you say that question one more time please?

22 Q: Did you discuss defenses with Ms. Gay? Possible  
23 defenses that you had.

24 A: No there was only the truth.

25 Q: The truth? Okay, and what do you contend happened?

1 A: That Brandon snatched the wheel.

2 Q: That Brandon snatched the wheel. Would you consider  
3 Brandon cooperative?

4 A: Ma'am, I'm not Brandon. So, I wouldn't know. I don't  
5 know.

6 Q: Well do you recall when your family was getting this  
7 affidavit from him?

8 A: No I do not.

9 Q: You don't recall communicating with your family?

10 A: Recall communicating ...

11 Q: With your mother and Lisa. Let's see. Lisa Henderson  
12 I believe was her name. Do you recall having an iPad to  
13 communicate with at the prison?

14 A: An Ipad? No ma'am. I had a tablet.

15 Q: A tablet. Okay, you recall having a tablet to  
16 communicate with at the prison?

17 A: Yes, ma'am. Whenever I could get one.

18 Q: Okay and you communicated with your mother while you  
19 were there. Correct?

20 A: Yes, ma'am.

21 Q: And I believe you also communicated with Lisa  
22 Henderson?

23 A: Yes, ma'am.

24 Q: Who is Lisa Henderson?

25 A: Lisa Henderson is --- Lisa Henderson is a friend

1 of the family.

2 Q: A friend of the family. And did you communicate with  
3 her through this tablet about getting an affidavit from  
4 Brandon Swain?

5 A: I do not recall ma'am.

6 Q: You don't recall? Sure we can go through some text  
7 messages, that are in the records of appeal and see if that  
8 helps trigger your recollection. Let's see on April 17  
9 2021, you sent a text to Lisa, you've got to explain to him  
10 that you will not get in trouble. This is page 131 of the  
11 record on appeal. Do you recall this?

12 A: Yes ma'am.

13 Q: You've got to explain to him that he will not get  
14 into any trouble. What were you talking about there?

15 A: That he should tell the truth. So that I --- You know  
16 what I'm saying, he's not gonna get into trouble as long as  
17 he tells the truth. The truth shall set you free. Is all I  
18 know.

19 Q: Well when you said you've got to explain to him that  
20 he's not gonna get in trouble. What do you think would you  
21 --- Do you believe he was cooperating at that point in  
22 time?

23 A: Ma'am, I mean, I don't know.

24 Q: Was he willingly signing this affidavit? Was he  
25 willingly talking to your lawyer?

1 A: Yes he willing signed it.

2 Q: He was. Okay, how about let's see on April 16<sup>th</sup>,  
3 2021, page 130 of the record, Lisa Henderson writes he  
4 wants to talk to an attorney. What do you think that meant?

5 A: I don't know ma'am.

6 Q: No idea. Alright. Let's let's see. How about let's  
7 see you text your mom April 16th, 2021 9:54 P.M., Lisa just  
8 texted me and said he didn't sign. Man look y'all gotta  
9 know how to talk explain to him he's not gonna get in  
10 trouble just answer my call so I can explain to you over  
11 the how to talk to him. What did you mean when you wrote  
12 that?

13 THE COURT: What page are you in on the record?

14 MS. DIXON: 130, Your Honor.

15 THE COURT: Thank you.

16 A: That he should tell the truth.

17 Q: What do you mean whatever you said Lisa just text me  
18 and said he didn't sign?

19 A: I reckon that Lisa text me and said he didn't sign.  
20 Ma'am I don't really, I don't know.

21 Q: Okay. Alright let's see. Alright, let's see April.  
22 Right, let's go back to April 14th, 2021, page 93 of the  
23 transcript you wrote to your mom call the lawyer asked to  
24 speak with --- these are these are not Ms. Gay by the way,  
25 about withdrawing my guilty plea. Tell her about Brandon

1 grabbing the wheel and tell Hey, can you get him to sign  
2 the affidavit stating that he did see if I should go  
3 through signing the guilty plea or not? Do you recall  
4 texting that?

5 A: No ma'am.

6 Q: You don't recall texting that? Okay. Moving on to  
7 we're going to go to this is page 128, April 16<sup>th</sup>, 2021.  
8 Let's see. One second. Sorry, scratch that. Alright, I've  
9 got a text from you to Lisa Henderson, 04/16/2021, why  
10 didn't he sign? What happened? What did you mean by that?

11 A: Why didn't he sign? What happened? Why didn't he sign  
12 it.

13 Q: Why didn't who sign what?

14 A: Why didn't Brandon sign?

15 Q: Why didn't Brandon sign what?

16 A: We're talking about the affidavit.

17 Q: Okay. So you're asking her why didn't he sign the  
18 affidavit?

19 A: Right.

20 Q: And then you send your mom Lisa, just text me. I  
21 think we've already gone through this. Let's see, so you  
22 don't recall these text messages at all?

23 A: I do not.

24 Q: Alright, and you said Lisa was a friend of yours?

25 A: Yes ma'am.

1 Q: And do you recall that she notarized the affidavit?

2 A: I do not.

3 Q: You do not. But if the affidavit has her name on it,  
4 you would agree that?

5 A: I wouldn't have much choice.

6 MS. DIXON: Alright. Well, Your Honor, you have  
7 the affidavit. You can see who notarized it.

8 THE COURT: Okay.

9 Q: Did you review discovery with your lawyer?

10 A: Can you elaborate?

11 Q: Did your lawyer show you the information that the  
12 state had that they were going to use in your case?

13 A: I don't. I do not remember ma'am. I don't recall I  
14 don't remember.

15 Q: Alright. One final quick question. So whenever you  
16 initially got arrested I believe you told law enforcement  
17 that Brandon had a gun in his hand?

18 A: He did have a shotgun.

19 Q: A shotgun. Okay, and tell me about a shotgun. Is it a  
20 single hand gun, a double hand gun?

21 A: It's a shotgun.

22 Q: How do you hold it generally?

23 A: Well how was he holding it? Or how do you hold it?

24 Q: Well, how was he holding it?

25 A: He was holding it like this right here.

1 Q: Two hands? Two hands he was holding the shotgun. So  
2 you were running from the police because he had two hands  
3 holding the shotgun?

4 A: If he threatened my life with a gun in his hand, I  
5 would do whatever I have to do to stay alive.

6 Q: And then at what point did he --- What did he do?  
7 Explain how he jerked the wheel at that point.

8 A: Well, he threw the gun in the back of the car.

9 Q: Threw the gun. There's a seat there, right?

10 A: A seat where?

11 Q: In the car. He's sitting on a seat, right?

12 A: He's sitting on a seat. But there's ...

13 Q: Help me to understand.

14 A: There's, there's --- there's a gap in between, the  
15 gap between the passenger seat and the driver's seat.

16 Q: I gotcha.

17 A: So I guess he threw the gun like this. Mind you now,  
18 I'm driving the car. So I'm not like this, looking at him.

19 Q: Okay.

20 A: I'm like this paying attention to where I'm going.

21 Q: So all you know is at one point, he's got two hands  
22 on the shotgun and holding it on you. And then somehow he  
23 throws it in the back of the seat and jerks the wheel?

24 A: Yeah.

25 Q: Alright.

1 MS. DIXON: Nothing further.

2 THE COURT: Redirect?

3 MR. BELL: Briefly.

4 **Mr. George Riley Dreher - Redirect by Mr. Bell**

5 Q: The text messages. These text messages were from  
6 three years ago, correct? Four years ago that she's  
7 referencing if they were from 2021?

8 A: Yes, sir.

9 Q: Okay. You remember every single thing that you said  
10 back in 2021?

11 A: No, sir.

12 Q: Do you remember what you ate back in 2021?

13 A: No sir.

14 Q: Do you remember who you talked to back in 2021?

15 A: No sir.

16 Q: Do you remember who all was in your dorms in the  
17 detention center or whatever facility you were at back in  
18 2021?

19 A: No, sir.

20 Q: How many conversations did you have in 2021?

21 A: I'm not sure.

22 Q: You can't tell me because you had that many  
23 conversations. Correct?

24 A: Correct.

25 Q: And when you asking about an affidavit, this is

1 something important in your life. Is it not?

2 A: Yes sir.

3 Q: So you should be concerned about it, right?

4 A: Yes, sir.

5 Q: Because it matters?

6 A: Yes, sir.

7 Q: Okay. And it's something that your previous attorney  
8 had not done, yet you were having your family reach out ...

9 MS. DIXON: Objection, leading.

10 Q: Were you having your family reach out to another  
11 attorney at that point in time for this motion to  
12 reconsider?

13 A: Yes, sir.

14 Q: Okay. So you're having your family reach out. So your  
15 only means of communication during COVID were immediate  
16 communications via text messages which the government had  
17 access to you.

18 A: Yes sir.

19 Q: And at any point in time, did you threaten Brandon,  
20 about any type of affidavit?

21 A: No, sir.

22 Q: And at any point in time, were you outside of bars in  
23 the State Department of Corrections to threatened Brandon?

24 A: No, sir.

25 Q: People like me, I'm dressed in a suit, right?

1 A: Yes sir.

2 Q: People like him. He's got a badge. He's got a gun.  
3 Where you're from, do people like you and people like  
4 Brandon come up to us with suits, guys with badges and just  
5 freely talk to them?

6 A: No, sir.

7 Q: Why is that?

8 A: Well, I can't speak for him. But I can speak for  
9 myself, sir. I've been beat by the police on numerous  
10 occasions. So yeah, I'm scared of ...

11 Q: Anytime that you've had interaction with law  
12 enforcement, has it typically been good interactions?

13 A: No.

14 Q: And can you say the same thing about Brandon being  
15 from the same type of neighborhood in the same type of  
16 background as you and when people that dress nice in suits  
17 like me that have combed hair clean, cut shaven and speak  
18 the way that I do and articulate my words, do they think  
19 that they're there because they're in trouble about  
20 something typically?

21 A: Yeah, I would say.

22 Q: And people that show up with guns and people that  
23 show up with badges, typically, people from your  
24 neighborhoods and the background that you have, they're not  
25 there because they want to give you a lollipop, correct?

1 A: Correct.

2 Q: They're there because they either have handcuffs or  
3 something to take you away and detain you some time?

4 A: Correct.

5 Q: Okay, and so that's the type of scared that you're  
6 talking about ...

7 MS. DIXON: Objection, leading.

8 Q: ... somebody getting in trouble with text messages.

9 THE COURT: Mr. Bell if you could just rephrase  
10 that question if you can.

11 Q: What did you mean by scared or won't get in trouble  
12 in text messages?

13 A: I mean I'm scared.

14 Q: No, what did you mean by Brandon won't get in trouble  
15 make sure he knows he won't get in trouble.

16 A: Because if he tells the truth the truth shall set you  
17 free. That's all I know sir.

18 Q: Do you think Brandon was worried that he would get in  
19 trouble because he grabbed the steering wheel?

20 A: Yeah.

21 Q: And it could open up him to criminal liability?

22 A: Yes sir.

23 Q: And he doesn't typically talk to prosecutors too  
24 often. He doesn't like to talk to police too often?

25 A: No sir.

1 Q: Like you?

2 A: Correct.

3 Q: Okay.

4 MR. BELL: No further questions.

5 THE COURT: Any cross?

6 MS. DIXON: Nothing further.

7 THE COURT: Okay, the witness is excused. Or may  
8 step down, excuse me. Any other witnesses, Mr. Bell?

9 MR. BELL: No, Your Honor.

10 THE COURT: Any witnesses from the State?

11 MS. DIXON: The State calls Melisa Gay.

12 MS. GAY: I'm a diabetic and I have to drink some  
13 of this. I don't want to do it but if I have to, y'all know  
14 what I'm doing. Sorry.

15 CLERK: Do you solemnly swear or affirm the  
16 testimony you give will be the truth, the whole truth and  
17 nothing but the truth, so help you God?

18 MS. GAY: I do.

19 CLERK: Thank you. Please take a seat and state  
20 your full name. Spell your last name for the record.

21 MS. GAY: My name is Melisa Gay. It's spelled G-A-  
22 Y.

23 **Ms. Melisa Gay - Examination by Ms. Dixon**

24 Q: Ms. Gay, how are you today?

25 A: I'm fine. Thank you.

1 Q: And just tell us briefly how did you get involved in  
2 this case. What was your role in this?

3 A: Yes I was retained by the family to represent Mr.  
4 Dreher.

5 Q: And as part of that did you request and receive Rule  
6 5 discover from the State?

7 A: Yes.

8 Q: And did you review that?

9 A: Yes.

10 Q: And did you review it with Mr. Dreher?

11 A: Yes and his family. Particularly with his mother. I  
12 mean, it was during Covid so there were no visits that  
13 could happen inside the jail.

14 Q: Okay.

15 A: Everything had to be done through phone or whatever.  
16 His mother --- all of our hearings were done virtually. His  
17 mother did not have a computer that was worthy or I don't  
18 even know if she had a computer at all but she would come  
19 to my office and meet with me when we were talking to the,  
20 you know, when everything was being virtual and different  
21 things were happenings, we would be in my office.

22 Q: I gotcha. And did y'all review any audio recordings  
23 of Brandon Swain at that time?

24 A: We recorded everything. There's groups of recordings  
25 that were so what I did was I gave that to his mother

1 because she had more time than I did obviously, but also  
2 it's her son. So there's, you and I looked at those,  
3 there's I think the actual DVDs are in the possession of  
4 Mr. Bell but they are the containers or the packages for  
5 them. The handwriting that's on them is from his mom.

6 Q: Okay.

7 A: Describing to me what it was that was on the back of  
8 each one of them. She's describing you know, and one of  
9 them says that it's the Swain interview and other things  
10 would say this is --- there's one that says this is the  
11 actual video of what the event that occurred and things  
12 like that. So she took that home and brought it back to me  
13 and wrote it on there or looked at it in my office. I think  
14 maybe even. She was there. She would come and stay a while  
15 to go over and do things. And so that handwriting is not  
16 from anybody from my office that I'm aware of. Those  
17 videos were seen and looked at. I'm not so sure that Mr.  
18 Dreher saw every single bit of that because it's so  
19 difficult to see things. But he definitely saw and we  
20 talked about the actual video itself of the event and also  
21 I am aware that I listened to those videos.

22 Q: Okay. And then in terms of Brandon Swain, were you  
23 familiar with him as a potential witness?

24 A: Yes. Mr. Swain was evasive. We couldn't find him. I  
25 understand that Mr. Dreher is now saying something about

1 telling me he was living in the woods somewhere but I would  
2 have never sent my investigator in the woods looking for  
3 anybody. I don't think that's an appropriate way to look  
4 for a witness. And if that's going to be the answer here.  
5 That didn't happen. I sent - I had a male investigator who  
6 worked for me for a number of years whose passed away now  
7 and he went looking for him and went to his fathers house  
8 on more than one occasion and we actively looked for him  
9 but could not find him.

10 Q: Okay.

11 A: I can't --- I honestly don't know. We called him Mr.  
12 Brooks. I honestly don't know if Mr. Brooks went out and  
13 went into a field to look for him. But I do know that he  
14 did go to the area where he was supposed to be. Of course  
15 the dilemma with subpoenaing a witness that doesn't have an  
16 address. We were trying to deal with an address that was  
17 his father's address. There would not have been any value  
18 in trying to personally serve a subpoena on somebody that  
19 I couldn't find.

20 Q: And did you attempt more than one occasion to find  
21 him?

22 A: Yes.

23 Q: Do you recall about how many?

24 A: I don't recall how many, because, you know, I'm doing  
25 certain things and then this man that worked for me at that

1 time. He worked for me for 25 years, he's sort of  
2 independently doing things. So he, we may have discussed it  
3 and he went out there and looked again. Because if I  
4 recall, we knew the area where his father's house was, and  
5 we were trying to possibly find him there, by going out  
6 there multiple times.

7 Q: Okay.

8 A: But we did not in my professional opinion, this is  
9 just my professional opinion, he did not appear to want to  
10 be found at that time. That is my professional opinion. We  
11 were reaching out doing everything we could to let people  
12 know that may have known him to get in touch with me. We --  
13 - I knew that he had given a statement to the police. He  
14 knew he had given a statement to the police obviously.

15 Q: He being Brandon Swain?

16 A: Yeah. And you know, we were trying to get to the  
17 bottom of what it was that Mr. Dreher was telling me.

18 Q: Okay. Can I have this marked as State's Exhibit One.  
19 Do you recognize?

20 A: Okay, so this has been --- it has the case number on  
21 it, interview with Brandon Swain. And it says 04/24/2021  
22 and this would have been Mr. McNeely gave me this. So this  
23 would have been a duplicate of what I had.

24 MS. DIXON: A duplicate, okay. Your Honor, we'd  
25 like to move this into evidence.

1 MR. BELL: Your Honor, I would make the same  
2 objection for the truth of the matter if that's what we're  
3 trying to introduce it as.

4 MS. DIXON: No we're trying to ...

5 MR. BELL: If they're trying to establish the  
6 statement that he gave a statement to law enforcement the  
7 same basis of which I'm trying to establish which I  
8 introduced an affidavit after the fact I'm okay with that.

9 THE COURT: That statement, being the statement  
10 that Brandon gave to law enforcement? I mean how long is  
11 that statement for?

12 MS. DIXON: It's about 30 minutes.

13 THE COURT: And does he talk about him grabbing  
14 the wheel?

15 MS. DIXON: He denies it.

16 THE COURT: Okay.

17 MS. DIXON: Which in my point to that would be  
18 that we're not putting it in for the truth of the matter  
19 asserted so much as we're putting it in to show whether the  
20 lawyers decision making was reasonable under --- If you  
21 have a statement, a police statement from a witness denying  
22 something ...

23 THE COURT: So you're offering it to show the  
24 lawyer reviewed it.

25 MR. BELL: I can understand that and that's the

1 basis of what I entered my statement for and I'm just  
2 making the same objection that she's making that we're not  
3 entering it for the truth of the matter asserted.

4 MS. DIXON: And I agree.

5 MR. BELL: We're, I believe, we are both entering  
6 it for the same purpose here is that there's conflicting  
7 stories here.

8 THE COURT: We'll admit it for the purposes you  
9 just said, both of you just said. It is admitted.

10 MS. GAY: Could you hand me that water?

11 MS. DIXON: Yes, of course. I'd like to publish  
12 it, Your Honor.

13 THE COURT: The whole thing? 30 minutes?

14 MS. DIXON: 30 minutes.

15 MR. BELL: May we approach?

16 THE COURT: Sure.

17 MS. GAY: Could y'all do that maybe after I leave?  
18 Is that possible? I was supposed to be going to ...

19 MS. DIXON: I mean, I was going to ask questions  
20 but that's ...

21 THE COURT: I don't know the schedule right now.

22 MR. BELL: Oh, you're gonna ask questions on it?

23 MR. DIXON: After it, Yeah.

24 THE COURT: Well is there a specific spot you want  
25 to get to?

1 MR. BELL: I was just going to say can we not just  
2 introduce it? I'm not objecting to anything.

3 THE COURT: Is there a specific spot?

4 MS. DIXON: I can fast forward to a specific spot.

5 THE COURT: Mr. Bell do you have an objection to  
6 her going to the point?

7 MR. BELL: I have no objection to that, Your  
8 Honor. I don't believe 30 minutes of listening to ...

9 THE COURT: I don't believe it needs to be  
10 reviewed for its entirety but let's get to the specific  
11 point.

12 MS. GAY: Your Honor, if you don't mind I can get  
13 something out of my bag?

14 THE COURT: Go ahead and walk back there.

15 MS. DIXON: I don't know if it's going to play. We  
16 can listen to it later.

17 THE COURT: Those computers are designed not to  
18 work when people need them too.

19 MS. DIXON: I know, I know. They make it so hard  
20 with fire walls and stuff.

21 THE COURT: For the purpose, I'll need a copy for  
22 me as well.

23 MS. DIXON: Absolutely. Yeah, we'll get that for  
24 you.

25 MR. BELL: So I do have a question for you, Your

1 Honor, if I may. I'm unsure if we're not offering it for  
2 the truth of the matter, and we're just offering it for  
3 what the lawyer knew. Is my understanding, correct? I'm  
4 just wondering what purview the court is going to view this  
5 recording?

6 THE COURT: Well ...

7 MR. BELL: Are you following ...

8 MS. DIXON: May I offer argument?

9 THE COURT: Sure.

10 MS. DIXON: It's relevant to the reasonableness to  
11 her decision making if there was a statement that he gives  
12 to law enforcement shortly after the incident, denying that  
13 you had anything to do with jerking the wheel and claiming  
14 that he was telling the defendant to stop, stop, stop,  
15 stop, stop, stop stop the whole time. That's very relevant  
16 as to now she did testify that she sent an investigator but  
17 in terms of subpoenaing a cold, blind witness that you've  
18 ever talked to, it is relevant that they gave a statement  
19 to police saying what this statement says.

20 THE COURT: Besides that, I mean her testifying to  
21 it of course it's here in court of it also I think this  
22 cooperates the strategy that she --- Well I haven't heard  
23 all the testimony yet but I assume that State's going down  
24 that line but I mean did she answer your questions, Mr.  
25 Bell?

1 MR. BELL: Yeah, I'm not phrasing it correctly. I  
2 don't --- They're arguing there. But what she reviewed is  
3 that she believed was the truth. That's what they're  
4 essentially trying to say.

5 MS. DIXON: No.

6 THE COURT: I think ...

7 MR. BELL: They're trying to say that she believed  
8 that witness statement that law enforcement took,  
9 therefore, there was no purpose of further --- of calling  
10 that witness.

11 THE COURT: Well I think you're getting into  
12 recross already.

13 MR. BELL: Yeah.

14 THE COURT: Cross examination already.

15 MS. DIXON: That's not my argument. But can I ask,  
16 can I ask Ms. Gay?

17 THE COURT: Honestly, I think just to get through  
18 the examination.

19 MR. BELL: I apologize.

20 THE COURT: But I think you wait for that on  
21 cross.

22 Q: But what relevance would a statement to police have  
23 that a witness made to you in general? If a potential  
24 witness had given a statement to law enforcement, what  
25 relevance would that have to you as an attorney reviewing

1 the case?

2 A: Okay, so I've done this for 33 years and at that time  
3 maybe over 30. I never would have believed that would have  
4 been the last word. I always would have believed that if I  
5 could find the man and he said something different, that I  
6 would then provide that information to the solicitor. So it  
7 wasn't an end of all ends. I was just aware and the  
8 question you asked me was did you review it? Yes, I  
9 reviewed it. How I viewed it would've been completely  
10 different had I found the man. How the solicitor viewed it  
11 was the only thing we were left with because I was unable  
12 to find him. And the solicitor viewed it as this man said  
13 that he didn't yank the steering wheel. And so in the  
14 negotiations of what was going to be his factual  
15 presentations at trial or whatever. There was no question  
16 about his, in his mind, that there was not this defense  
17 that someone else had yanked the steering wheel and I  
18 couldn't confirm that. It was part of that, you know, after  
19 the fact that he, I guess, at that time agreed to surface.  
20 And agreed --- I mean, you're the people who brought the  
21 statement to me, the notarized statement to me was his  
22 family. So the piece of paper was brought to me notarized  
23 and that was after the sentencing because he was then  
24 willing, I guess, it's my opinion, but willing to sign the  
25 statement or be available to be talked to. I did. I tried

1 very hard to find him and was not able to find him. My  
2 staff tried very hard to find him, you know, the thing  
3 about going in the woods to try to find him, he, Mr. Dreher  
4 may have mentioned that to my investigator, he may have  
5 said, well, I looked for him in various areas. I can't  
6 remember if it was the woods or not, but we never found  
7 him. And looked for him more than one time.

8 Q: Can you subpoena someone that lives in the woods?

9 A: You can't subpoena someone without an address or at  
10 least a physical locality where you can serve it on him.  
11 That would be my position.

12 Q: And your understanding was his father's address was  
13 his address? Is that correct? Is that was you testified or  
14 ...

15 A: Yes.

16 Q: And did y'all ...

17 A: The father's address was the only place that maybe he  
18 would come back to at some point. But ...

19 Q: Did y'all ...

20 A: ... I don't have any idea. I personally don't  
21 remember the part about if you go down past two trees and  
22 turn right to a field. I don't remember that. But it's  
23 possible that my investigator may have been more aware of  
24 that.

25 Q: Did y'all go to the father's house more than once

1 looking for him?

2 A: Yes.

3 Q: Were you ever able to find him there?

4 A: No.

5 Q: Nothing further.

6 THE COURT: Cross examination.

7 MR. BELL: May it please the Court, Your Honor.

8 **Ms. Melisa Gay - Cross Examination by Mr. Bell**

9 Q: So you would agree that you were made aware of Mr.  
10 Dreher telling you that Brandon Swain had jerked the  
11 steering wheel? You would agree with that?

12 A: I was aware Mr. Dreher told me that he believed that  
13 the guy was gonna say that. Honestly, I couldn't find him.

14 Q: Okay. And he actually said that in court that he  
15 didn't intend, he would never intentionally harm an officer  
16 on the first plea. Correct.

17 A: Okay. So the time the procedures of coming before  
18 the judge at different times, there was, I think, a level  
19 of different understanding, at different periods of time.  
20 Mr. Dreher's understanding of the plea process is maybe  
21 what it was, you know, the reason that the plea didn't  
22 happen the first time was because he did say to Judge  
23 Dennis that it was not an intentional act. And so then, as  
24 we went forward, there was a couple of major things that  
25 were involved with Mr. Dreher's case. The victim in the

1 case, a man who's a police officer was significantly hurt,  
2 and he had a bunch of surgeries and was walking with a  
3 walker or something like that, a cane. He had shown up to  
4 everything and was very vocal about the fact that, you  
5 know, his whole career had been ruined, and a few other  
6 things like that. So he was going to make a good witness  
7 for the state. We watched really closely, frame by frame  
8 what happened in the incident, and whether or not we were  
9 going to have any kind of defense that we could actually  
10 present to a jury that made any sense. And so the problem  
11 was, is that if you went to trial, and lost, that it was my  
12 professional opinion and I told it to his mother and told  
13 it to his family and told it to him that he's probably  
14 going to get a much larger sentence than what the  
15 negotiations that we had been able to get together. So when  
16 he came back, the next time, he was saying things  
17 differently, or understanding the process different. So  
18 that we ended up getting through the plea. After he was  
19 sentenced is when all of a sudden Brandon shows up. And  
20 there's a statement Brandon wants to give, okay, get a  
21 statement from Brandon. And then finally, we get this  
22 statement, notarized statement. I never saw Brandon, but  
23 you know, I believed it was notarized. And that, you know,  
24 I filed the additional motions to try to see if we could  
25 overturn the plea, reconsider, or whatever based on it. And

1 so when the judge is saying, well you already knew this.  
2 Yeah, I knew, but I could never find Brandon. So no matter  
3 what I tried, I couldn't get him to have that kind of  
4 statement. And if he was going to go to trial, I would  
5 assume that Wilton would have found Brandon, if you wanted  
6 to, to bring him in as a witness. But what he would have  
7 said I had no idea. So ...

8 Q: So ...

9 A: ... I don't know if I would have gone to the effort  
10 to try to subpoena him or not.

11 Q: He would have found him but you can't find him? I  
12 mean, I'm really confused here.

13 A: No the police can find people that I can't.

14 Q: You have the power of the court. Don't you?

15 A: Not if I don't know where they are.

16 Q: You can file ...

17 A: Stop for a minute, sir. I tried everything I could.  
18 If I'm saying something that's causing you to go a  
19 different direction, I do believe that if the police want  
20 to find somebody that they might stake them out in the  
21 middle of the night or something, I'm not going to do that.  
22 And I'm going --- I'm not gonna put my staff in that  
23 position. I did all reasonable means to try to find the man  
24 and I couldn't find him. And after the sentencing he  
25 appeared and he gave a statement. Voluntarily at that

1 point. It was given to me and I did all the procedural  
2 things I could do afterwards to try to see if I could fix  
3 the situation afterwards.

4 Q: Okay. So let me start back at the beginning, you made  
5 a quote, and I can go back and if I'm incorrect, more time  
6 than I did ...

7 A: She had more time than I did.

8 Q: Is what you referenced in his --- what you referenced  
9 his mother about the case, they hired you as the attorney.

10 A: No I'm talking about the video. She had ...

11 Q: She had more time than I did, is what your quote was.

12 A: Because she had them. Okay, this is what we did. She  
13 came to my office, and she sat on a computer in my office,  
14 and she watched all the things and she would say this is  
15 something good, and I was in the office or someone else may  
16 have been there, and I was like, okay, I'll go back and  
17 look, because there were hours and hours and hours of it.  
18 And she's the first person, she wanted to do that. She  
19 wanted to go through and be in seeing it all. In the video  
20 that we watched the most many, many times, to the point  
21 where we stopped every single frame, trying to, you know,  
22 we stopped to technologically kind of stop every, you know,  
23 five seconds or something looking at how that car went.  
24 There were two videos, a video on the front of the car,  
25 there's a video on the police officer. So we had the car

1 coming. And we had the car passing. And once it came past  
2 the course, right dashcam it came past and then the  
3 officers camera caught the rest of it. And so we were  
4 picking at it, going literally frame by frame. Whatever  
5 happened with some of the rest of that stuff. I had seen  
6 Brandon's statement. If you look at the statements it says  
7 BS from Brandon's statement was fine. It was determined by  
8 all of us that he had said a bunch of crap that they know  
9 nothing --- that we cared that much about because he didn't  
10 say anything, but to help him on that video or on that  
11 audios but all that stuff was gone through by my office,  
12 gone through about what happened in the actual event.

13 Q: I'm just asking the question about you saying you had  
14 more time that she had more time than I did. But you're the  
15 attorney on the case, correct?

16 A: Yeah. But she helped me do that because she wanted  
17 to.

18 Q: I understand that.

19 A: It wasn't that she did it and I didn't.

20 Q: Okay.

21 A: It was that she didn't have a computer. So I couldn't  
22 give it to her take it to her house to do it so she came to  
23 my office and we would go and she sat and went through  
24 videos and watched the stuff on my computer in my office  
25 with her in there. So we were doing it together.

1 Q: And like you said, everything was virtual at this  
2 time. Correct?

3 A: Yes.

4 Q: You couldn't go ...

5 A: Yes, it's extremely difficult to do all of this.

6 Q: And you couldn't go down to --- and you couldn't go  
7 down to the detention center?

8 A: Yeah. We were very clear on what we saw. I think, I  
9 mean, obviously he saw it. And we talked about it and  
10 talked about it all the time. Because the video, as I said,  
11 there was like, I said, the front of the car. Okay, the  
12 officers throwing the sticks out. And this, how this  
13 happens is he's failing to stop for a blue light. It's  
14 egregious stuff like that high speed, that kind of stuff.  
15 And he comes past this police car. And he's passing the  
16 police car and police officers cars in the median. And as  
17 he passes the police car, the officers that's standing at  
18 the very back of the police car is throwing the sticks out  
19 and the car, his car, hits the bumper like clips the guy  
20 right in the leg and flies him backwards and then that's  
21 the problem. And so you see, as he's coming up, you see the  
22 Dash Cam, and the first car on the front of the car. And  
23 then you see the officers body cam as he comes through and  
24 you actually see the car kind of wiggle to the left. That's  
25 the whole case. It wiggled to the left and when it wiggled

1 to the left it hit the guy in the leg.

2 Q: And they were throwing spike strips at the time,  
3 right?

4 A: Yeah.

5 Q: Okay.

6 A: He was throwing the spikes.

7 Q: I'm not here to necessarily talk about the facts. I'm  
8 just trying to get to what was done in this case. I  
9 understand that you are explaining the case I'm trying to  
10 get at what was done in this case.

11 A: I went through that video frame by frame.

12 Q: I got a copy of your file.

13 A: I know.

14 Q: Do you have any notes of where you met with Mr.  
15 Dreher?

16 A: I don't give my notes to other people. They're mine.  
17 I do have notes.

18 Q: Okay. Do you have notes --- can you tell me how many  
19 times you've met with Mr. Dreher?

20 A: Hold on a second, let me look. It says 1/21/20 I met  
21 with Mr. Dreher because we were talking about something  
22 that's the jail visit that I did. I'm kind of much weirder  
23 about dating things now, but this one I had an initial jail  
24 visit. It says Foresight, very hurt, surgery, no  
25 opportunity. Failure to stop for blue light resulting in

1 serious bodily injury. I don't know what the date is.  
2 That's a different date. Every piece of paper is a  
3 different day for 04/30/2020 is different day, 08/26/2020.  
4 I talked to his mom, may not have been with him. But I  
5 talked to his mom. This is a jail visit from my  
6 investigators from 12/7/2020. This is another page of that  
7 visit.

8 Q: So at 12/20 your investigator went down there, did  
9 you say?

10 A: Yeah.

11 Q: And that's two months before he pled two months  
12 before he pled guilty?

13 A: Maybe, I don't know.

14 Q: Is that correct?

15 A: I'm trying to see what I'm doing here. Let me see.

16 Q: The first day, the first date we went in front of  
17 Judge Dennis would have been would have been the February  
18 18<sup>th</sup>, 2021. And you just told me you had an initial you  
19 have a note that you have an initial visit. You said you  
20 said the initial visit said failure to stop for blue light,  
21 we can go back to the very first note that you have.

22

23 A: Okay, so this failure to stop for a blue light is not  
24 dated but it would've been right after this arrest.

25 Q: Okay, so that's your initial visit?

1 THE COURT: Don't talk over each other the best  
2 you can as well. Thank you.

3 Q: Yes, Your Honor.

4 A: This one is from 4/30/2020.

5 Q: Okay.

6 A: This one is from 8/26/2020. This one is from  
7 12/07/202. This one is around the time of bond hearing it  
8 looks like. Age 32, electrical helper, age of child eight.  
9 This is something that's got to do with - This doesn't have  
10 a date on it. But that was also from my investigator. This  
11 say 01/20. That we had a bond hearing.

12 Q: So 1/20 ...

13 A: Lots of motions, lots of times Mr. Dreher was texting  
14 me on his smart mail. So on smart mail --- Let me see what  
15 this is. This is 02/03/2021 which would have been Ms.  
16 Dreher and I talking about things. Often times she, when  
17 she came in, she'd have messages that I was going to ask  
18 for.

19 Q: Let's stay on track. I'm trying to ask you how many  
20 times you met with Mr. Dreher?

21 A: Okay, I don't remember how many times because like  
22 you said earlier, I don't remember what I was doing two  
23 years ago every minute but I do have ...

24 Q: Do you have electronic data that you keep on notes?

25 A: He sent me a copy of all emails. I don't. I gave it

1 to you. If there was anything on paper, you would have a  
2 copy of the paper. It's the notes that I keep. The paper, I  
3 give to you.

4 Q: You don't have any type of database systems that  
5 every time you speak with a client that you go in and type  
6 a note that automatically dates the note in which you spoke  
7 with your client or you spoke with a witness on the case,  
8 or you spoke with the prosecutor in the case or you had a  
9 court hearing in the case, there's no type of system that  
10 you have in place?

11 A: Yes I do. I do DropBox and if I look at my DropBox  
12 file for Mr. Dreher, I can tell you what I got here.  
13 I had spoken to him a lot actually about all of this.  
14 Whether, I don't even know what version of speaking was  
15 whether it was on the smart mail, whether it was on  
16 telephone calls, but with his family. I don't know. At that  
17 point, I could not get into the jail. So I keep a Dropbox  
18 program. On my Dropbox program, I have all the different  
19 documents that I've ever created for him. Plus, I have many  
20 of the things that I kept pictures that have to do with the  
21 messages between the two of us. So I'm not --- this is not  
22 allowing me to pull it up. But I have a huge file for Mr.  
23 Dreher in my Dropbox file.

24 Q: Is there any kind of time line to that that it can  
25 tell me that I initially met with the client to discuss

1 intake. We talked about his background and you know talk  
2 about his family. Alright, that was my first then we have  
3 our next visit with our client where we ...

4 A: Can I answer the question? Because I understand  
5 you're telling me what I don't have. I'm telling you what I  
6 do have.

7 Q: Yes ma'am. I'm just ...

8 A: What I have is a --- a very large file in the Dropbox  
9 that starts with all kinds of documentation. Very large  
10 file that I have. That starts on, we have stuff here from  
11 5/20/20, 09/28/20, 09/18/20, 08/27/20, 08/03/21, 07/30/21,  
12 07/29/21, 07/23/20. It goes on and on and on of those  
13 things and documents and different things that I've done it  
14 related to Mr. Dreher. You asked me how many times that  
15 I've met with him. I cannot remember.

16 Q: Okay.

17 A: If you're asking me did I believe professionally that  
18 I met with him enough for him to understand what's going  
19 on? My answer is yes.

20 Q: Okay.

21 THE COURT: Alright. And I'm just going to  
22 interrupt here for a minute. Y'all sort of feel the tension  
23 for the moment. So just try to get through these questions.  
24 If the witness is answering, give a little bit more time to  
25 answer it. Take a pause there. And obviously Mr. Bell has

1 questions to ask and please don't get frustrated by him  
2 trying to ask questions.

3 MR. BELL: Yes, Your Honor. I will do my best to  
4 not interrupt her. I do apologize. Alright, so you would  
5 say that you sent your investigator to talk with Mr.  
6 Dreher, correct?

7 A: Yes. His name was Brooks.

8 Q: Alright. And is he licensed through SLED?

9 A: No he worked for me for 25 years.

10 Q: He's a private investigator? He's not licensed?

11 A: He's a lay investigator. Someone to be --- We can  
12 call him, he was a man that worked for me. And his job for  
13 me was to meet with clients sometimes to go out and pick up  
14 different things for me. And I mean, he does not have a  
15 sled verification, he was not an investigator. If you want  
16 me to call him something else, I will. I refer to him as my  
17 investigator because he went out and did things for me when  
18 I asked him to. What do you want me to call him because ...

19 Q: Well when you say investigator ...

20 A: He's a person that worked for me.

21 Q: When you say investigator that implies that there a  
22 licensed investigator through sled. In order to be called a  
23 licensed investigator through sled, you have to go through  
24 a background check, you have to have credentialing. And so  
25 that's what I call an investigator.

1       A:     He was not one of those but he was an employee that I  
2       used to get to help me to go find people and do things. He  
3       was a 58 year old man, who was mature, who had to if there  
4       was a --- it is very possible, as I said, that, Mr. Dreher  
5       may have told him about this location in the woods. And he  
6       would have probably tried to do that. But he's not alive  
7       anymore. So I can't ask him.

8       Q:     Now, you said he would have tried to do that. But you  
9       also on direct said, I would never send my investigator  
10      into the woods?

11      A:     Okay, into the woods is different than going out and  
12      maybe look for him in a particular area. The way he  
13      described it, we had to go down a path. And into the woods  
14      and all that. I don't know that I would have asked my  
15      client, the man who worked for me, Mr. Brooks to do that,  
16      too. He would have talked to Mr. Dreher and maybe they  
17      discussed how to find the man in a campground somewhere.  
18      But what, what I'm not, you know, I'm not going to say I  
19      don't know how to describe. I don't know how to answer your  
20      question other than I never found him. I tried and tried to  
21      find that guy. His family was trying to help me find them  
22      at that time. Everybody was trying to help find Brandon at  
23      that time. They were they knew his groups of people where  
24      he hung out.

25      Q:     Who's ...

1 A: Eventually, they're the ones who brought me the  
2 statement. But I didn't find him. I tried.

3 Q: And you said you let people know we were looking for  
4 him. Who are those people that you let know we were looking  
5 for him?

6 A: Brandon's father may have been someone he talked to.  
7 There were friends that I think Mr. Dreher might have been  
8 some kind of --- I don't remember.

9 Q: Who were those friends?

10 A: I don't remember the people.

11 Q: Okay.

12 A: I don't remember, Brooks may have spoken to.

13 Q: Okay.

14 A: I had asked him. He'd worked for me for 25 years. I  
15 had asked him to please help me locate Brandon, what he did  
16 when he went out to Brandon's father's house and who he may  
17 have spoken to, or if anybody was even there. I don't know  
18 all that information. I knew that on more than one  
19 occasion. He came up to wherever this area was where the  
20 man lived and tried to find Brandon. And Brandon did not  
21 want to be found. See that's ultimately what I'm trying to  
22 say. I couldn't find him. The family was trying to find  
23 him. Everybody's trying to find Brandon at that point. Once  
24 he was sentenced, Brandon surfaced and you know whatever. I  
25 guess Mr. Dreher wasn't able to talk to him directly, but

1 whatever it was being said by his family. They are the ones  
2 who found him and brought the statement, not something I  
3 did because I never could find him.

4 Q: Okay. Now just shift gears just briefly, and I'll get  
5 back to there. You say Brandon didn't want to be found?

6 A: That's my opinion.

7 Q: And would that be because maybe he had not told the  
8 truth to law enforcement previously in your professional  
9 opinion as a prior attorney?

10 MS. DIXON: Object to speculation.

11 THE COURT: I'm going to sustain the objection.  
12 You've got to ask the question in another way.

13 Q: Yes, in your experience of 33 years of being an  
14 attorney, do you believe people that give statements to law  
15 enforcement always provide the truth when they speak with  
16 law enforcement?

17 A: No.

18 Q: So you have learned over the years in the criminal  
19 justice system that many times that people give self  
20 serving statements to law enforcement to distance  
21 themselves from crimes?

22 A: So yes, so. If we look at Brandon's statement after  
23 the fact where he says that he did yank the wheel and did  
24 the types of things that Mr. Dreher had been saying all  
25 along. I'm assuming that's a notarized statement, that

1 let's assume that that's the facts or now what he's saying  
2 the truth is. That wasn't available before hand. And I  
3 tried because I told the family I would, I tried to file a  
4 motion to withdraw his guilty plea. I tried to say this is  
5 new, because we have the statement now. And it didn't work.  
6 I mean, if I just do nothing, then, you know, I would have  
7 tried to get --- to get some kind of way that that  
8 notarized statement could, I guess if you want to say, be  
9 the truth.

10 Q: Okay. Did you ever file any motions in circuit court  
11 to try to effectuate any type of service of a subpoena and  
12 with the help of law enforcement, and ask a circuit court  
13 judge at any point in time, to help effectuate and service  
14 any type of subpoena?

15 A: I did not file for a subpoena. And I also have never  
16 asked for law enforcement to ever help me find anybody  
17 ever. I would have to think about that one. That's not  
18 something I've done before. Usually, I can find them  
19 myself. And I don't know that I would have ever thought to  
20 file a subpoena for when he was pleading guilty, but also,  
21 because I didn't have any address for him.

22 Q: So well, I'm just asking. So we have the  
23 availability, the ability to file a subpoena, and we put a  
24 court date on there, correct? Did you ever seek ...

25 A: Where would I have given it to him? I didn't know

1 where he was.

2 Q: Well, I'm just --- I'm aware of that. I'm aware of  
3 that.

4 A: I did not get a subpoena.

5 Q: Just hear me out. Go to the court on that court date  
6 and say, I've been unable to serve this individual based on  
7 him making himself unavailable, and ask a circuit court  
8 judge for a bench warrant for this individual, and then  
9 seek the help of law enforcement for him failing to make  
10 himself available?

11 A: Well, I didn't have a court date, that would have  
12 been the one before. I guess I could have made one up.

13 Q: You could have made a court date.

14 A: Right.

15 Q: You could have filed a motion. So I apologize.

16 A: That was not something that I thought through,  
17 because I have never done that before. And I did not have a  
18 court date that I was expecting him to show up for. That's  
19 a new one on me. I just have never thought to do that. No.

20 Q: As attorneys, we sometimes have to be creative,  
21 right? Because we have to find ways to learn information.  
22 But the state always doesn't give us everything correct?

23 A: Mr. Bell, if you want me to agree with you then yes.

24 Q: Okay.

25 A: But I just --- I've never done that one before. There

1 could have been some version of reality that I created some  
2 subpoenas situation to try to find the witness. However, I  
3 didn't know where he was, so it would have been difficult  
4 for me to do that in my professional opinion.

5 Q: Now. Did you provide any of that information to Judge  
6 Dennis, on your motion?

7 A: Did I provide ...

8 Q: Based on newly discovered evidence, did you ever in  
9 your motion, or argue in front of the court that you were  
10 unable to find him, that he had provided you this  
11 information? And that at any point in time, you had sent  
12 your investigator --- you had called people, you had done  
13 all these things, everything that you possibly could think  
14 about. Is there anything in your motion for a new trial  
15 that you ever put that on the record for Judge Dennis to  
16 make that decision based on the newly discovered evidence?

17 A: You have a copy of the motion. I guess if it's not in  
18 there it's not.

19 Q: I can provide you a copy of the transcript.

20 A: No, it's fine. It's just that what I did at that  
21 time, was I was trying to withdraw his guilty plea. And so  
22 I was indicating that we have this now. And so we needed to  
23 withdraw his guilty plea and so that we can have a trial.  
24 The judge, as he ruled said, and talked about this already  
25 because he had. And the judge didn't find that it was newly

1 discovered because it had been discussed. But I did not. So  
2 to me, his response wasn't all about that I tried to learn  
3 not to find it was that he just didn't think it was newly  
4 discovered.

5 Q: But what I'm asking you now is you're now saying that  
6 you did everything you possibly could have, correct?

7 A: At the time ...

8 Q: And arguing that ...

9 A: ... Before the plea.

10 Q: ... And saying that you did, you know, did everything  
11 you're supposed to do. That's what you're expressing to the  
12 court here today?

13 A: Okay.

14 Q: Correct to say that it was newly discovered evidence,  
15 correct at that time?

16 A: I was making a motion to withdraw his plea.

17 Q: Based on newly discovered evidence?

18 A: Yes. Based on the fact that there was now a signed  
19 notarized statement that contradicted his previous  
20 statements to the police.

21 Q: And did you ...

22 A: That was the newly discovered part. Even though Mr.  
23 Dreher, he said Mr. Dreher's, told me that before. My newly  
24 discovered part was that we had the statement that was  
25 different than what it is that was on their previous

1 videos. Mr. Wilton had even previously said in some of  
2 these paperwork that there was a recorded interview of him.  
3 And he, you know, denied that he pulled the steering wheel  
4 and all that. So my newly discovered part was that he had  
5 given us a completely different story about it, and now  
6 admitted to having pulled the steering wheel.

7 Q: Yes ...

8 A: So that was the newly discovered part that was  
9 changed his story.

10 Q: And did you make Judge Dennis aware of all the  
11 efforts that you had gone through to try to locate this  
12 witness? And that that now is the newly discovered part of  
13 being able to locate the witness? Did you ever make aware  
14 the circuit court judge that you had gone, exhausted every  
15 avenue to locate this witness prior to him going in there  
16 and pleading guilty?

17 A: Judge Dennis was aware that I couldn't find him  
18 beforehand but that I did find him at that point.

19 Q: Was that made part of the record at any point in  
20 time?

21 A: Who knows if it was made part of the record. We were  
22 having conversations about it all. I'm not making --- I'm  
23 not putting anything that's not part of the record into the  
24 record, it's just that, you know, Wilton knew the judge, we  
25 were all trying to figure out the path that I was gonna try

1 to take to see if I could get this hearing, you know, this  
2 plea overturned. And so I did procedurally, what I thought  
3 I could. Now if I didn't say the right thing in it to get  
4 the right conclusion. Okay. But I did try.

5 Q: Okay. I understand. I'm just --- I'm just trying to  
6 lay some foundation here that this information about all  
7 your work that you put in it, you're telling the court here  
8 today, the circuit court judge was not aware of that, on  
9 your initial, after discovered evidence rule, I think 29, I  
10 think is what it falls underneath. It's based on a new  
11 trial, you didn't make that circuit court, aware of  
12 everything that you had done.

13 A: Okay. If you want to know my opinion of what Judge  
14 Dennis thought of all of it, is probably not, you know, it  
15 was --- he obviously denied my motion. But, you know, I  
16 tried to get to have a situation where Mr. Dreher could  
17 have a second chance to figure out how to have a jury  
18 trial, because that's what he was --- After he got  
19 sentenced he wanted, all he wanted to say was, and  
20 everybody wanted to say is that he should have had a trial.  
21 Which my concern was if George Dreher got convicted by a  
22 jury, he was going to get a much worse scenario. So, you  
23 know, people get to do what they want.

24 Q: Sure.

25 A: They want to have a jury trial, they can have a jury

1 trial. But I was very clear to all of them, that in  
2 reopening anything having a jury trial, there's always the  
3 possibility he's gonna get, you know, much worse sentence.  
4 And so I was honestly, dealing with the fact that, you  
5 know, procedurally to open up this Pandora's box. You know,  
6 mine could have gotten a whole lot worse situation with Mr.  
7 Dreher, but I did do that I did file a motion, and I did  
8 try to get the Judge to start over.

9 Q: And you filed a motion because you had an affidavit,  
10 and did not submit anything to the court that you believe  
11 is fraudulent, correct? As an officer of the court, you  
12 would not submit fraudulent documents to the court?

13 A: Okay. So I have an affidavit signed by a man I've  
14 never met. Who was notarized by someone Mr. Dreher know.  
15 And I believe her that she is a notary. And she was able to  
16 proof and sign it because I would assume and always do that  
17 if someone is a notary that they're following their rules  
18 and guidelines and is not going to bring me something  
19 that's not that person's signature. So yes, I did believe  
20 it was his piece of paper.

21 Q: Thank you. And you then argued for the court to grant  
22 him a new trial because you believed he was entitled to a  
23 new trial?

24 A: I believe that it was a change in circumstances  
25 because we did not see it, now then he has a notarized

1 document indicating that the man was going to be, contrary  
2 to the element of intent, so therefore, I wanted the judge  
3 to withdraw his guilty plea and give him a trial. So that  
4 we could utilize that information to establish that there  
5 was no intent to harm the man.

6 Q: Okay.

7 A: However, as we both know, that the jury would have  
8 had to decide, and if they found him guilty, based on the  
9 victim and a few other things, I was confident in my mind  
10 that it could have gotten to be a worse sentence if the  
11 judge if jury convicted him. That didn't mean I wasn't  
12 going to do exactly everything I possibly could to get his  
13 case overturned.

14 Q: And what's the possible punishment for ABHAN?

15 A: It wasn't. It was a failure to stop for a blue light  
16 ...

17 Q: I understand.

18 A: ... with great bodily harm. I think it's 30 years.

19 Q: Failure to stop for a blue light with great bodily  
20 injury?

21 A: I think so. I mean it's one of those ...

22 Q: It's 0 to 10 years.

23 A: No it's not. He got 12 years. There's no way he could  
24 have. The failure to stop for blue light...

25 Q: The ABHAN is 0 to 20 years.

1 A: So that's the one ...

2 Q: 0 to 20.

3 A: So that's what he got sentenced on.

4 Q: He got 12 years on that. He then got ...

5 A: I want to say he was charged with other things that  
6 were dismissed.

7 Q: He was charged with attempted murder, and it was pled  
8 down, which was ...

9 A: That's the zero to 30.

10 Q: ... Attempted murder to zero to 30.

11 A: Right.

12 THE COURT: Y'all have got to try to not talk over  
13 each other.

14 Q: Okay. Zero to 30, so it pled down to a zero to 20. He  
15 got 12, correct? He then got consecutive time, the max  
16 sentence suspended to probation on the failure to stop for  
17 a blue light. So he got consecutive time on this plea. And  
18 he got more than half of the possible sentence on an ABHAN  
19 of active time. So you're ...

20 A: If he got convicted by a jury, it would have  
21 potentially been attempted murder.

22 Q: Sure Sure.

23 A: Which is zero to 30.

24 Q: Sure. Specific intent has to be proven though,  
25 correct?

1 A: Yeah well that's what I was saying. We had that  
2 potential argument at the time, with this man's statement  
3 that there would be an issue with him not having intent to  
4 kill the guy. I mean it was one of these. It was a car, so  
5 it was obviously a deadly weapon.

6 Q: I understand. Okay. But he still got a consecutive  
7 sentence on the two charges that he pled guilty to,  
8 correct?

9 A: Well Judge Dennis sentenced him. I mean I didn't ...

10 Q: I mean I'm just correct.

11 A: Part of it was because the victim was there.

12 Q: I understand. Oh, I understand the dynamics. It was a  
13 law enforcement officer. I understand the dynamics. How  
14 many times in your career, you could probably count on both  
15 hands. You've gotten consecutive sentences from a judge at  
16 a plea, correct? You could probably count maybe on one  
17 hand.

18 A: In my career, more than that, but not that many.

19 Q: Not that many. It's not that often when you plead  
20 guilty, you typically get a concurrent sentence from the  
21 charges in which you plead guilty to, correct?

22 A: Right. Well there wasn't any real specific plea,  
23 okay. I can't remember everything. But I think that Mr.  
24 McNeely could have, would have maybe done a few other  
25 things if we would have wanted to do more of you know, like

1 a specific sentence negotiated or whatever. Then he kind of  
2 came out real strong, based on ...

3 Q: You thought he would have done more. Did you not ask  
4 him to do more?

5 A: No, less. I'm just saying that we were talking about  
6 whether or not Mr. Dreher, would have to negotiate the  
7 sentence and whether the judge --- there was a lot of  
8 discussion about negotiations related to his case. That one  
9 I would have to dig through a lot of stuff. I can't  
10 remember specifics. But he did choose, as I was talking to  
11 Wilton, Mr. McNeely, there were different things we were  
12 talking about and then when we went in, it was Judge Dennis  
13 who picked the sentence.

14 Q: Okay.

15 A: It wasn't ...

16 Q: Was there every any ...

17 A: ... It wasn't Mr. McNeely that said we're going to do  
18 it this way. The judge is the one.

19 Q: Were you ever offered any caps or any ranges or  
20 anything of that nature?

21 A: That's the part I can't remember.

22 Q: Did you ever advise Mr. Dreher, if he was ever given  
23 any or any ranges of negotiations?

24 A: I think so but honestly, I just don't remember all of  
25 it. But we talked about ...

1 MS. DIXON: Your Honor, I'm going to object to  
2 relevance at this point. This is beyond the scope of the  
3 grounds that they've raised. And I don't want to get into  
4 on a appellant review that I'm trying to shuffle up some  
5 new issue. They haven't alleged --- any plea wasn't  
6 conveyed or anything like that.

7 THE COURT: Mr. Bell?

8 MR. BELL: I'm just asking a question based on  
9 what she said. I'm trying to ...

10 THE COURT: And we've talked about the numbers ...

11 MR. BELL: She's mentioned that --- I apologize.

12 THE COURT: ... We've talked exponentially about  
13 what the exposure was, potential crimes that were indicted  
14 even if they weren't ultimately pled to. But the amount of  
15 time you got is not an issue on this PCR. Is that accurate  
16 Mr. Bell?

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

18 THE COURT: Alright, so I think that will remedy  
19 whether he's trying to, whether the petitioner is trying to  
20 bring new issues in.

21 MS. DIXON: I also want to clarify for the record  
22 that there is no allegation that there was a plea that was  
23 not conveyed. It seems that those questions could be going  
24 down that road. And that's not something they've alleged  
25 and sometimes appellant defense pulls new things out so.

1 THE COURT: Mr. Bell, I'll let you speak to that.

2 MR. BELL: I'm not --- She mentioned that there  
3 was negotiations back and forth and I was unaware of any  
4 negotiations. Like I said, I didn't have any of her notes  
5 that were provided of any communications that were made to  
6 my client. So I don't have access to that. And you know,  
7 when she mentioned --- we talked about in the years, we  
8 talked about she started talking about the back and forth  
9 that was going on. I just asked the question, and I  
10 understand her concern.

11 THE COURT: Sure. And if I can paraphrase with it,  
12 The root cause --- the root issue we're faced here today  
13 with is whether or not, the issues with Mr. Swain, when he  
14 was found and what involvement he had or didn't have in the  
15 life of this plea. So I would just ask that the issue of  
16 time is not --- I understand it's part of it. So just get  
17 on down your examination.

18 MR. BELL: I will, Your Honor. I just think a lot  
19 of it goes to just overall handling of the case in and of  
20 itself.

21 THE COURT: Of course.

22 MR. BELL: I'm asking about, you know,  
23 organization of notes and organization of a case. And we're  
24 struggling to answer questions here about that. And that's  
25 why I'm inquiring into more.

1 THE COURT: I'm trying to give you as much leeway  
2 as I can without opening up the door to new issues.

3 MR. BELL: Understood.

4 Q: So, you submitted the affidavit to the court and argued  
5 to Judge Dennis that it was newly discovered evidence.  
6 Judge Dennis disagreed. Correct?

7 A: Yes.

8 Q: Alright. And then you filed an appeal on that issue.  
9 Correct?

10 A: Yes.

11 Q: And at no point in time, did you try to seek help  
12 from a circuit court to effectuate a subpoena on the case?

13 A: That would not have been something that I think I  
14 could do, but if you say it's possible. I just didn't know  
15 where the man was.

16 Q: We have a Rule 13, right? That we can effectuate  
17 file, request permission from the court in order to get  
18 personal records, correct?

19 A: Okay, but in my mind hindsight, but I thought I would  
20 at least needed to know where he is, or have some knowledge  
21 about how to communicate with them and I did not.

22 Q: Okay.

23 A: Eventually, as I said, I don't exactly know what  
24 happened, the statement was brought to me. And I don't know  
25 if Brandon decided to come out of the woods at that point,

1 or he thought maybe he didn't think he was gonna be in  
2 trouble or whatever, but it was not --- it was ...

3 Q: Is that because Mr. Dreher had been punished for  
4 something that Brandon had done?

5 A: How do I know that?

6 Q: I'm just asking. I mean you were speculating.

7 A: I mean I don't know why Brandon came out. I mean I  
8 know that it was helpful to him --- speculated. I don't  
9 know and maybe he at that point decided he was going to  
10 come clean. I mean we have to assume that but I don't --- I  
11 tried.

12 Q: Understood. I beg the court's indulgence a moment.

13 MS. GAY: Does anyone have a bottle of water? Yes,  
14 thank you.

15 Q: Just a few more questions. During your discussions  
16 with Mr. Dreher, at any point in time, did you tell him  
17 that you had the subpoena power of the court and that you  
18 could have a subpoena issued and if you got a trial date  
19 and you couldn't effectuate, you could bring that to the  
20 court's attention and have deputies go find that witness?

21 A: I don't know. The final witness part, if there was  
22 going to be a trial, probably we would have looked at it  
23 differently. If there was going to be a trial. I think that  
24 there wasn't a trial. So ...

25 Q: You never ...

1 A: ... Whether or not I was discussing with him after --  
2 - after his --- we talked about how to build and having a  
3 trial. We talked about how and that all came up. Where can  
4 we find this guy and then he appeared. But maybe not before  
5 the actual ... I don't remember.

6 Q: You never intended on trying the case when you took  
7 the case and talked to him?

8 A: Okay, that is absolutely not what I'm saying.

9 THE COURT: Witness can provide just a little bit  
10 of expound on the response.

11 A: Okay. So when I took the case, Mr. Dreher --- wanted  
12 him to be innocent. His family wanted him to be innocent.  
13 We all looked at the case about whether or not it could be  
14 a trial. We all looked at the videos about whether or not  
15 there was going to be any kind of defense that he could  
16 present. We all watched them as I said earlier, we went  
17 through frame by frame like every three seconds stopping  
18 the camera looking at it, looking at it, looking at it and  
19 there was always the possibility that there might be a  
20 trial. It's just that that's not what he chose to do. For  
21 exposure reasons, for factual reasons, elements of the  
22 offense reasons, victim reasons, you know, the decision  
23 wasn't made for him to have a trial. So if I'm talking to  
24 him or even his family about him going to trial there was  
25 always this discussion about where's Brandon? Where is

1 Brandon, you know, but we couldn't find him. So no, I may  
2 not have ever said, I honestly don't remember. It may have  
3 been something I talked about. But I don't know, he was not  
4 as it was a whole lot more discussion with his mother about  
5 the procedural stuff. And how we're talking about all this.  
6 And, you know, to talk about trying to get a subpoena for a  
7 person that I didn't know where it was. I don't remember  
8 specific sentences. But it could have been something that  
9 we were discussing about, well, how would you, you know,  
10 could I get Brandon there and all that, but it may not have  
11 been in my conversation as I'm going to issue a subpoena  
12 because I didn't think I knew where he was. So, I didn't  
13 know this concept of going to the court and saying, I can't  
14 find this person, will you send the sheriff to look out for  
15 him for a court date that doesn't exist. I don't know that  
16 I thought that through.

17 Q: So, again, let's go back to discuss what a trial  
18 would look like meaning witnesses would be called, they  
19 would take the witness stand?

20 A: Yes sir.

21 Q: He had the right to use you to confront them,  
22 correct?

23 A: Yes.

24 Q: And that he had the right for compulsory process to  
25 force people to come into court under the threat of arrest

1 and detainment to take the witness stand. Did you ever have  
2 those conversations with Mr. Dreher, not his mother, not  
3 his family?

4 A: No, I never use those words. So if I never used those  
5 words, that I had to write to compulsory process to force a  
6 witness to come, I never used those words. I did discuss  
7 the fact that if we had a trial, it would be great if we  
8 could find Brandon. And how we could find him. But I did  
9 not think of supporting a person that I didn't know what it  
10 was because in my head, I thought, I believed, that I  
11 needed to have a way to find the guy to serve the subpoena  
12 on him. So I was discussing the fact that you --- he  
13 couldn't be found for the trial. Not compulsory process,  
14 how it can get to the sheriff's to go find him before the  
15 trial. That was and I didn't know what he was gonna say,  
16 you know I was being told by all this stuff about what his  
17 that he had done this or he'd done that his statement said  
18 that he didn't do it. So I didn't know what he was gonna  
19 say. I didn't know if I compulsory found him for something  
20 if he was going to agree with us or not? That's what I kept  
21 trying to explain this is that without speaking to him, how  
22 was I going to know if he's gonna be helpful or not?

23 Q: Did you at any point in time, pull a sled report of  
24 Brandon Swain?

25 A: I always look people up on like court things. So it

1 is very likely that we did look and see whether he had been  
2 arrested for. There was discussion about that. Whether or  
3 not --- I don't remember.

4 Q: Do you remember if he had been arrested between the  
5 time in which Mr. Dreher was arrested and had he been  
6 arrested for something else during that period of time?

7 A: I don't remember. But I do remember when I first got  
8 involved with him and we were looking for him and pulling  
9 up of his name and trying to figure out who he was and all  
10 that I mean if you're telling me he'd been arrested and my  
11 client's arrest and the time he gave the statement I don't  
12 know. I'm not aware of that. But I would have looked him up  
13 at some point to see where like what address was he listed  
14 at and all that kind of stuff.

15 Q: Do you have that in your notes?

16 A: I don't know where it is but I could have been  
17 something we looked up on the screen. I didn't print. You  
18 know, the computer screen you just go on.

19 Q: Did you write that on your notes?

20 A: No.

21 Q: Did you write anything about discussing trial with  
22 Mr. Dreher on your notes?

23 A: Yes.

24 Q: You did?

25 A: Yes.

1 Q: Talking.

2 A: I wrote things down about okay once again my phone is  
3 now dead. I got at least 85 entries on my Dropbox about Mr.  
4 Dreher whether or not anything in there might be a memo or  
5 something that is not part of what's in this stuff right  
6 here. I don't know. I have pieces of paper notes that I've  
7 kept over time, about different things that I spoke to him.  
8 And when we're talking about this ...

9

10 Q: And you say 85 entries ...

11 A: I don't know. I looked him up before my phone died.

12 Q: I understand I understand.

13 A: Hundreds of them even.

14 Q: But those also include every single email in which  
15 you had with the prosecutor. They also include every time  
16 you got an email from discovery.

17 A: Excuse me sir, I don't have the same computer system  
18 that you do. And in my computer system is not something  
19 that I actually put into Dropbox, my emails, but if I go to  
20 my yahoo account and put Mr. Dreher's name in, I have every  
21 single email ever for Mr. Wilton, from William McNeely. I  
22 have every single email ever from the court about his case,  
23 we have no --- I've never thrown anything away or dumped  
24 anything at all on the cases. I can establish through every  
25 single email that I have every word I ever spoke to Mr.

1 McNeely, and I can do that. And in terms of talking to him  
2 ...

3 Q: I understand.

4 A: I have notes.

5 Q: I'm not ...

6 A: I haven't --- this is about on 01/21/2021, we're  
7 talking about sentencing, we're talking about electronic  
8 monitors this is about --- This is all about when to try to  
9 tag us, labor, things like that. The admitted video, please  
10 tell me, I'm not the guy with multiple officers on. This is  
11 all about issues with the defense. This is about the  
12 defense as well, when he's talking to my prosecutor, my  
13 friend, the man worked with me. Then this is about all of  
14 the things that he wants to tell me that he didn't mean to  
15 hit him. This was about he apparently didn't see him. There  
16 was no intent to kill him. All that is in my notes.

17 Q: Okay.

18 A: So these would have been in furtherance of the fact  
19 that we did not think he was guilty. And we would have been  
20 discussing that he would have had a trial if he wanted to.  
21 Everything about Mr. Dreher was do you want a trial or not?  
22 At the point where we had gone before the judge in the plea  
23 was didn't happen and fell apart. Everything from that  
24 point on was now do you want a jury trial, is that what you  
25 want? Let's talk about your jury trial. Are you sure that's

1 what you want? And then he decided to plead guilty.

2 Q: Okay. At any point in time after the first plea  
3 hearing in February, did you send additional people out to  
4 look for Mr. Swain?

5 A: Yes, yes.

6 Q: In your notes, because the only note ...

7 A: I don't have notes of that. I know my own personal  
8 mind. I know what I was trying to do for Mr. Dreher at that  
9 point. I just trying to get Mr. Dreher's case ready for  
10 trial. If that's what Mr. Dreher wanted. We were talking  
11 about what do you even need to do to have a jury trial,  
12 because he's completely falling apart. And I was trying to  
13 figure it out with Mr. McNeely to see if you can come back  
14 and figure out what we're going to do. And in that interim  
15 period of time, we were trying to find Brandon.

16 Q: Okay. But it's not in your notes.

17 A: It's in my head. I don't have to have notes of this.  
18 I know Mister --- I remember Mr. Dreher's case, like it was  
19 yesterday. You know, there was a lot that went on to this,  
20 in this case, lots of effort that I put into this case. And  
21 I know what I was trying to do, between the time that the  
22 plea fell apart and the time he came back in, because I  
23 wanted him to make sure that if he chose to have a trial  
24 that he understood what he would be doing, and I wanted him  
25 to understand his exposure. So I was looking at the case of

1 is this going to be a trial now? And then it just --- he  
2 decided not to it? Yes, that was a period of time in there.  
3 And I cannot make --- the man who worked for me is dead.

4 Q: Okay.

5 A: So I mean, he kept his own. He had different things  
6 in my office, there were his own notebooks and things. He's  
7 deceased.

8 Q: Okay. But it was your employee, right?

9 A: He was my employee ...

10 Q: There's ...

11 A: And I sent him there to do it.

12 Q: And it was Mr. Dreher's file, correct?

13 A: Yes.

14 Q: And where are those notes in Mr. Dreher's file from  
15 your investigator?

16 A: Could you please ask him to not ask me this question  
17 again? I don't have pieces of paper with it.

18 THE COURT: Hold on. Hold on ma'am. Have we not  
19 addressed the question?

20 MR. BELL: I just asked her that she brought up  
21 additional notes, Your Honor, about her investigator having  
22 his own stuff and she's testified that was her employee. So  
23 I'm now asking where are her investigators ...

24 THE COURT: I thought you said her notes?

25 MR. BELL: No, I asked about her investigators

1 notes.

2 THE COURT: I thought you said her notes.

3 MR. BELL: Oh no. I'm just --- she brought up an  
4 investigator that now has his own notes and stuff. That's  
5 part of Mr. Dreher's file and the entire file is Mr.  
6 Dreher's. It's his file. And I'm just trying to figure out  
7 where those notes are now that say that he went out to a  
8 location to keep tracking I'm sure there's mileage that has  
9 to be paid. I'm sure all this other stuff. Where's the  
10 notes of this tracking people that drive mileage to pay  
11 them?

12 THE COURT: Well I don't know.

13 MR. BELL: I'm just ...

14 THE COURT: I'll let her answer.

15 MR. BELL: That's --- that's where I'm going, Your  
16 Honor. Because we ...

17 THE COURT: Hey stop for a minute. I thought you  
18 asked her about her specific notes, not her investigators.

19 MR. BELL: I apologize if --- I apologize if that  
20 was what I ...

21 THE COURT: That's why I thought it was a  
22 previously asked question. Maybe you said it right and I  
23 misheard it. The witness can answer the specific question  
24 about her investigator's notes if they exist. At some point  
25 we have to except the answer that they don't exist.

1 MR. BELL: I agree.

2 MS. GAY: There were yellow pads of paper that he  
3 carried around with him often times. Those pieces of paper  
4 that might have been related to Mr. Dreher may or not exist  
5 and he's dead. And those pieces of paperwork were cleaned  
6 out. Any paperwork from him, 20 years the man worked for  
7 me, in his office that might have been loose pieces of  
8 paper or something, his family threw all that away. So I  
9 can't verify any piece of paper that said he went, but I  
10 know he did. Because I was the one in charge of the file.  
11 And I'm the attorney. And I asked the person who's not an  
12 investigator but he just works for me to drive out to look  
13 for the guy again. And he came back saying I did that I  
14 went, I'm still looking for him and we could not find him.

15 Q: Okay. And you never made notes by your investigator  
16 or your employer parts of your files?

17 MS. DIXON: Objection, he has the answer.

18 A: Yes. I have notes and things that I've done in other  
19 cases, whether they're in this one or not, they're probably  
20 on my phone, because I didn't print every single piece of  
21 paper from the file to come here today, but I did give you  
22 a copy of everything.

23 Q: Oh, I have everything I have, I don't have any notes  
24 or anything or anything, but I do ...

25 A: Because they're mine. They're my notes.

1 THE COURT: I'm trying but I can't even get in a  
2 response here. It's tough to have a no answer at this point  
3 because we are ...

4 MR. BELL: I understand.

5 THE COURT: We are really ...

6 MR. BELL: I'm about the end, Your Honor.

7 THE COURT: We've really plowed this field pretty  
8 well.

9 MR. BELL: I'm about to end, Your Honor.

10 THE COURT: I mean Mr. Bell you take as much time  
11 as you need. I just feel like the notes that she's been  
12 heavily ...

13 Q: Understood, how did you pay your employee?

14 A: Is that relevant?

15 MS. DIXON: Object to relevance.

16 Q: On an hourly basis on a job basis of what was he paid  
17 on?

18 THE COURT: Overruled. I mean its her  
19 investigator. Is that correct?

20 MS. GAY: Yes.

21 THE COURT: Okay then you can answer the question.

22 A: I paid him by case.

23 Q: Okay.

24 A: I paid him by the number of hours and time he spent.  
25 Latter years of his life was on salary.

1 Q: So he's a salaried employee?

2 A: A person who's a 1099 employee from my office. So  
3 he's not a salary --- a salaried employee. He is a person  
4 who worked for me for 27 years.

5 Q: Okay. And did he submit billing for each individual  
6 case?

7 A: No.

8 Q: To keep track of billing within a case?

9 A: No, he did not.

10 Q: Okay.

11 A: He worked for me in my general practice, and did lots  
12 of things all the times, though, in some of the cases, we  
13 did do specific type of stuff, but not in Mr Dreher's. Mr.  
14 Dreher, he and I were talking about it very regularly, and  
15 that's working closely with me. And I was aware of what he  
16 was doing.

17 Q: Okay. Did you pay mileage to the individual that  
18 drove locations and gave a list of what you were paying  
19 mileage for?

20 A: No.

21 Q: Okay. how was that compensated?

22 A: He was a 1099 employee who deducted his own milage  
23 from the IRS, so he drove around and did things when he  
24 filed his tax returns. He handled his own milage.

25 Q: Alright. I have no further questions, Your Honor.

1 THE COURT: Redirect?

2 MS. DIXON: Nothing, Your Honor.

3 THE COURT: Witness can step down.

4 MS. GAY: May I be excused, Your Honor?

5 THE COURT: Without objection?

6 MR. BELL: No objection.

7 MS. DIXON: No objection, thank you.

8 THE COURT: Let's take five minutes here. We've  
9 been going for two hours.

10 **(There was a break in the proceeding)**

11 THE COURT: Okay we are back on the record in the  
12 matter of George Dreher verses the State. We spoke with the  
13 attorneys, the attorneys kind of --- First of all does the  
14 State have anymore witnesses?

15 MS. DIXON: No more witnesses, Your Honor.

16 THE COURT: Alright. I spoke with the lawyers  
17 during our recess. I believe our plan is that Mr. Bell will  
18 take 30 days to work on this. I'm fine to give you more  
19 time. I know you have a lot of things going on. I just want  
20 to give you the amount of time you need to do it. I just  
21 want in writing a supplemental memorandum to summarize your  
22 points of law specific to the PCR. And when you submit it,  
23 if you need more time, please just reach out and I'll allow  
24 it. Defendant, and after you get yours in ...

25 MS. DIXON: I'll do my best to respond. I am going

1 to be in Europe for most of June so I don't know where it's  
2 going to fall but I'm not planning to work while I'm there.

3 THE COURT: Just take your laptop computer with  
4 you.

5 MS. DIXON: Nope. I'm just kidding, sir.

6 THE COURT: Just work together to get it in. 30  
7 and 30 seems like a pretty reasonable timely to get it in.  
8 Based on the time lines in theory, we'll have to go outside  
9 to review this. We've got the file. We've got our notes.  
10 Mr. Bell, you mentioned a request for transcript last time.

11 MR. BELL: Yes, Your Honor. I'm going to get with  
12 the Court Reporter today and get that started.

13 THE COURT: Okay. It's no ones fault, there's just  
14 a lot of transcripts being requested.  
15 We'll just cross that bridge when we get there.

16 MR. BELL: Yes, sir.

17 THE COURT: Anything else for the record?

18 MS. DIXON: Nothing from the State.

19 MR. BELL: Nothing, Your Honor.

20 THE COURT: Alright. Nice to see y'all.

21 **(End of Hearing)**

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF SOUTH CAROLINA )  
 ) CERTIFICATE  
COUNTY OF BERKELEY )

Be it known that I, the undersigned Melissa R. Singletary, Certified Verbatim Reporter, for the State of South Carolina, do hereby certify that the foregoing transcript represents a true, accurate and complete transcript of record of the testimony and evidence introduced in during this testimony of the captioned case, before the Circuit Court for Berkeley County, South Carolina, so given on March 11, 2024, to the best of my skill and ability;

That I am not related to nor an employee of any of the parties hereto, nor a relative or employee of any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action.

IN WITNESS WHEREOF I have here unto set my hand this 11<sup>th</sup> day of April, 2024.

*Melissa R. Singletary*

\_\_\_\_\_

Melissa R. Singletary, CVR  
Certified Verbatim Reporter