

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Charleston County

Honorable Michael G. Nettles, Circuit Court Judge

ROBERT WILSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-000605

APPENDIX

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STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
) NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON) CASE NO.: 2015-GS-10-01767
2015-GS-10-01769

STATE OF SOUTH CAROLINA)
)
)
VS.)
)
)
ROBERT WILSON,)
)
)
DEFENDANT.)
_____)

JURY TRIAL

VOLUME 1 OF 2

held before the Honorable Kristi L. Harrington
Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
in the Charleston County Courthouse
Charleston, South Carolina
on Wednesday, January 6, 2016, Commencing at 10:14 a.m.

SUSAN "MIA" PERRON, CVR-CM-M
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JURY VOIR DIRE

THE COURT: Is everybody ready?

MR. OSBORNE: Yes, Your Honor.

THE COURT: Mr. Hilton?

MR. HILTON: We're ready, Your Honor.

THE COURT: Strikes are five and ten; is that correct?

MR. OSBORNE: Yes, Your Honor.

[Whereupon, the jury panel enters the courtroom at 10:14 a.m.]

THE BAILIFF: All jurors are present, Your Honor.

THE COURT: All right. Thank you.

Good morning, ladies and gentlemen. It's good to see you once again. I am beginning a new case, the State versus Robert Wilson.

Ladies and gentlemen, I remind you that you're still under the oath that you took Monday to give me your complete and truthful responses.

I will give you an opportunity to come forward and speak with me at the end of all of my questions, if you have any questions or concerns you do not wish to stand up and answer out loud in front of everyone.

Ladies and gentlemen, the State alleges in indictment 2015-GS-10-1767 that on or about October 7th, 2014, in Charleston County, South Carolina, at the B.P.

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1 Kangaroo, 2572 Ashley River Road, the defendant, Robert
2 Wilson, by use of force, threats or intimidation, and
3 while armed with a deadly weapon or while alleging
4 either by actions or words he was armed while using the
5 representation of a deadly weapon, or any object which a
6 person presents during the commission of the robbery
7 reasonably believed to be a deadly weapon, did take and
8 carry away goods and/or monies from the person or
9 immediate presence of William Finch with the intent to
10 permanently deprive the victim of possession thereof, in
11 violation of Section 16-11-338 of the South Carolina
12 Code of Laws, 1976 as amended. Mr. Wilson has pled not
13 guilty to that indictment.

14 The State further alleges in indictment 2015-GS-10-
15 1769 that on or about October 7th, 2014, in Charleston
16 County, South Carolina, at the B.P. Kangaroo, 2572
17 Ashley River Road, the defendant, Robert Wilson, by use
18 of force, threats, or intimidation, and while armed with
19 a deadly weapon, or while alleging either by actions or
20 words he was armed while using a representation of a
21 deadly weapon or any object which a person present
22 during the commission of the robbery reasonably believed
23 to be a deadly weapon, did take and carry away goods
24 and/or monies from the person or immediately presence of
25 Walter Singleton, who was working as a cashier, with the

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1 intent to permanently deprive the victim of possession
2 thereof, in violation of 16-11-330(a) of the South
3 Carolina Code of Laws, 1976 as amended. Mr. Wilson has
4 pled not guilty to that indictment.

5 Is there any member of the jury panel that knows
6 anything about this case other than what I have just
7 read to you? If so, please stand.

8 [Whereupon, there is no response]

9 THE COURT: Somebody has a cell phone and so I need
10 everybody to -- all right.

11 [Off the record momentarily]

12 THE COURT: Ladies and gentlemen, is there anything
13 -- anybody knows anything about this case other than
14 what I have just read to you? If so, please stand.

15 [Whereupon, there is no response]

16 THE COURT: Thank you. There are none.

17 Ladies and gentlemen, I am now going to introduce
18 the parties involved in this case.

19 Mr. Hilton, if you will please stand, introduce
20 your client, yourself, and any persons who may be
21 assisting you throughout this trial.

22 MR. HILTON: Thank you, Your Honor.

23 My name is Russ Hilton and I'm a solo practitioner
24 out in the Summerville area, and this is my client
25 Mr. Robert Wilson, and we'll be with you throughout the

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1 trial.

2 THE COURT: Is there any member of the jury panel
3 related by blood, marriage, close personal friend, ever
4 have any business, personal, professional dealings, or
5 know Mr. Wilson in any way? If so, please stand.

6 [Whereupon, there is no response]

7 THE COURT: Thank you. There are none.

8 Is there any member of the jury panel related by
9 blood, marriage, close personal friend, ever have any
10 business, personal, professional dealings, or ever been
11 represented by Mr. Hilton? If so, please stand.

12 [Whereupon, there is no response]

13 THE COURT: Thank you. There are none.

14 Mr. Osborne, if you would please stand, introduce
15 yourself, any persons who will be assisting you, and a
16 little bit about your office. Thank you.

17 MR. OSBORNE: Thank you, Your Honor. May it please
18 the Court.

19 My name is David Osborne and I am assistant
20 solicitor or prosecutor. I work for Scarlett Wilson in
21 the ninth circuit. And the ninth circuit is Charleston
22 and Berkeley County. I'm the lead prosecutor in this
23 case.

24 This is Ted Corvey. He's also a prosecutor or
25 assistant solicitor in my office. He's going to be

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1 helping me.

2 This is Detective Yolanda Brown. She works for
3 Charleston Police Department. She is the case agent in
4 this case.

5 THE COURT: Thank you.

6 Is there any member of the jury panel related by
7 blood, marriage, close personal friend, ever had any
8 business, personal, professional dealings or know
9 Mr. Osborne or Mr. Corvey in any capacity? If so,
10 please stand.

11 Yes, ma'am. Your jury number and name?

12 MS. BARTON: Jury number 13. My name is Jillian
13 Barton.

14 I knew David in law school, Mr. Osborne, and we did
15 have a class together.

16 THE COURT: Is there anything about that experience
17 that would affect your ability to be fair and impartial
18 in this case?

19 MS. BARTON: No, ma'am.

20 THE COURT: Thank you. And you're juror number 13;
21 is that correct?

22 MS. BARTON: Yes.

23 THE COURT: Thank you.

24 Is there anyone else?

25 [Whereupon, there is no response]

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1 THE COURT: Thank you. There are none.

2 Is there any member of the jury panel that has ever
3 been employed by, or a close family member or friend,
4 has ever been employed by, or you do any business
5 dealings with the ninth circuit solicitor's office?
6 That's Charleston and Berkeley County. If so, please
7 stand.

8 [Whereupon, there is no response]

9 THE COURT: Thank you. There are none.

10 Ladies and gentlemen, I have a list of potential
11 witnesses to call, that the State may call. The State
12 may not call all of these witnesses, but if you know
13 these witnesses in any capacity, please stand as I call
14 their name.

15 Detective Yolanda Brown, with the Charleston Police
16 Department; Officer Ulysis Vance, with the Charleston
17 Police Department; Rene Charles, with the Charleston
18 Police Department; Detective Rebecca Gregg, with the
19 Charleston Police Department; Ernest Terrell, Charleston
20 Police Department; Thomas young; William Finch; Walter
21 Singleton; Jason Bryant -- Bryson.

22 If you know those individuals in any capacity,
23 please stand.

24 [Whereupon, there is no response]

25 THE COURT: Thank you. There are none.

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1 Is there any member of the jury panel that has ever
2 been employed by, or a family member or a friend been
3 employed by, the Charleston Police Department? If so,
4 please stand.

5 Yes. Your jury number and name?

6 MS. LAW: Jury number 182.

7 Charleston Police Department, I think I worked
8 there like fifteen years ago.

9 THE COURT: What did you do there?

10 MS. LAW: In the warrants department.

11 THE COURT: All right. Do you know any of these
12 individuals that I called their name?

13 MS. LAW: No.

14 THE COURT: Is there anything about your previous
15 employment that would affect your ability to be fair and
16 impartial in this case?

17 MS. LAW: No.

18 THE COURT: And your jury number?

19 MS. LAW: 182.

20 THE COURT: 182. Thank you.

21 Is there anyone else?

22 [Whereupon, there is no response]

23 THE COURT: Thank you. There are none.

24 Is there any member of the jury panel that is a
25 current or previous law enforcement officer or you work

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1 in any capacity as a law enforcement agency, either you,
2 a family member or a friend, in any capacity? If so,
3 please stand.

4 Yes. Your jury number and name?

5 MR. CAMERON: Jury number 42. Robert Cameron.

6 I'm currently employed, along with my spouse, with
7 the Federal Bureau of Investigations.

8 THE COURT: And is that here in Charleston?

9 MR. CAMERON: Yes, ma'am.

10 THE COURT: Is there anything about your occupation
11 and your spouse's occupation that would affect your
12 ability to be fair and impartial in this case?

13 MR. CAMERON: No, ma'am.

14 THE COURT: Have you ever had any dealings with any
15 of the officers that I called their names?

16 MR. CAMERON: No, ma'am.

17 THE COURT: And your jury number?

18 MR. CAMERON: 42.

19 THE COURT: Thank you. Yes, ma'am?

20 MS. HONAN: Juror number 145.

21 My husband worked for Charleston County Sheriff's
22 Department.

23 THE COURT: And he no longer works there?

24 MS. HONAN: He's retired.

25 THE COURT: About how long ago was that that he

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1 retired?

2 MS. HONAN: He retired two years ago.

3 THE COURT: And do you happen to know any of those
4 individuals with the Charleston Police Department?

5 MS. HONAN: No, ma'am.

6 THE COURT: Is there anything about your husband's
7 former employment that would affect your ability to be
8 fair and impartial in this case?

9 MS. HONAN: No, ma'am.

10 THE COURT: And your jury number?

11 MS. HONAN: 145.

12 THE COURT: Thank you.

13 Yes, sir?

14 MR. CANNON: Juror number 43. Jacob Cannon.

15 My brother was an officer in North Carolina.

16 THE COURT: And is there anything about that that
17 would affect your ability to be fair and impartial in
18 this case?

19 MR. CANNON: No, ma'am.

20 THE COURT: All right. Thank you. Is there anyone
21 else?

22 [Whereupon, there is no response]

23 THE COURT: Thank you. There are none.

24 Ladies and gentlemen, my next series of questions I
25 have determined that are appropriate for you to answer

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1 in private. I'm going to ask a series of questions,
2 please listen very carefully, and then if you need to
3 answer those questions you will come forward and speak
4 with me. And as you now know, we are a court of record
5 and so you'll have to speak to me and in front of my
6 court reporter.

7 Please listen very carefully. Have you or any
8 member of your family ever had any criminal charges
9 handled by the ninth circuit solicitor's office, either
10 as a defendant or as a victim?

11 Is there any member of the jury panel that has had
12 a bad experience, or any experience, with a law
13 enforcement officer that you feel it would taint or
14 impact your ability to be fair and impartial in this
15 case?

16 Is there any member of the jury panel that has been
17 the victim of a violent crime?

18 If you need to answer any of those questions or if
19 for whatever reason, based upon what I have already read
20 to you contained in the indictment, or for whatever
21 reason -- perhaps over the break that you realized that
22 you have a doctor's appointment or some conflict for the
23 remainder of the week and you would be unable to sit and
24 listen to the facts from the witness stand, apply the
25 law as I give it to you, and render a verdict based only

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1 upon those things free from any outside political, moral
2 or religious beliefs that you may hold. If for whatever
3 reason you feel this -- you will be unable to sit for
4 the remainder of the week for this case, please move to
5 the sides. Ms. Smith will assist you in coming forward
6 to speak with me.

7 THE BAILIFF: Juror Number 3.

8 THE COURT: Juror Number 3.

9 [Whereupon, juror number 3 comes forward]

10 [Whereupon, the Court, juror number 3, and counsel
11 confer]

12 THE COURT: Juror 3 will remain.

13 THE BAILIFF: Juror 217.

14 [Whereupon, juror number 217 comes forward]

15 [Whereupon, the Court, juror number 217, and
16 counsel confer]

17 THE COURT: 217 will remain. Thank you.

18 THE BAILIFF: Juror number 303.

19 [Whereupon, juror number 303 comes forward]

20 [Whereupon, the Court, juror number 303, and
21 counsel confer]

22 THE COURT: 303 will remain. Thank you.

23 Is there anyone else?

24 [Whereupon, there is no response]

25 THE COURT: Thank you. There are none.

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1 [Whereupon, an off-the-record bench conference is
2 held].

3 MR. HILTON: Judge, just as a jury matter. May we
4 inquire as to that just so we have a record?

5 THE COURT: What is the jury number?

6 MR. HILTON: I think it was 42.

7 THE COURT: Juror 42, are you a commissioned law
8 enforcement officer?

9 JUROR NUMBER 42: No, ma'am.

10 MR. HILTON: Thank you, Your Honor.
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STRIKING OF THE JURY

THE CLERK OF COURT: Ladies and gentlemen, as I call your name, if you will please bring your belongings, gather your belongings, come up to this podium just like this, turn and face the parties. I'll then ask the parties some questions and I'll either ask you to have a seat back in the audience or I'll ask you to have a seat in the jury box. The bailiffs will direct you how to come up to the podium.

Juror Number 3, Diane Annand. Juror number 3.

[Whereupon, Ms. Annand comes forward]

THE CLERK OF COURT: What say ye for the State?

MR. OSBORNE: Please excuse this juror.

THE CLERK OF COURT: Ms. Annand, please have a seat back in the audience. You've been excused from the trial of this case.

[Whereupon, Ms. Annand returns to the audience]

THE CLERK OF COURT: Juror Number 13, Jillian Barton. 13.

[Whereupon, Ms. Barton comes forward]

THE CLERK OF COURT: What say ye for the State?

MR. OSBORNE: Please present this juror.

THE CLERK OF COURT: What say ye for the defendant?

MR. HILTON: Please excuse the juror.

THE CLERK OF COURT: Ms. Barton, please have a seat

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1 back in the audience. You've been excused from the
2 trial of this case.

3 [Whereupon, Ms. Barton returns to the audience]

4 THE CLERK OF COURT: Juror number 315, Lorena
5 Vegabaez. 315.

6 [Whereupon, Ms. Vegabaez comes forward]

7 THE CLERK OF COURT: What say ye for the State?

8 MR. OSBORNE: Please excuse this juror.

9 THE CLERK OF COURT: Ms. Vegabaez, please have a
10 seat back in the audience. You've been excused from the
11 trial of this case.

12 [Whereupon, Ms. Vegabaez returns to the audience]

13 THE CLERK OF COURT: Juror number 349, Tami Zerbst.
14 349.

15 [Whereupon, Ms. Zerbst comes forward]

16 THE CLERK OF COURT: What say ye for the State?

17 MR. OSBORNE: Please present this juror.

18 THE CLERK OF COURT: What say ye for the defendant?

19 MR. HILTON: Please present the juror.

20 THE CLERK OF COURT: Ms. Zerbst, please have a seat
21 in the jury box. You've been selected as a juror in
22 this case.

23 [Whereupon, Ms. Zerbst is seated in the jury box as
24 a juror]

25 THE CLERK OF COURT: Juror number 271, Robert

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1 Schulze. 271.

2 [Whereupon, Mr. Schulze comes forward]

3 THE CLERK OF COURT: What say ye for the State?

4 MR. OSBORNE: Please excuse this juror.

5 THE CLERK OF COURT: Mr. Schulze, please have a
6 seat back in the audience. You've been excused from the
7 trial of this case.

8 [Whereupon, Mr. Schulze returns to the audience]

9 THE CLERK OF COURT: That's three strikes for the
10 State.

11 Juror number 316, Alexandra Venegas. 316.

12 [Whereupon, Ms. Venegas comes forward]

13 THE CLERK OF COURT: What say ye for the State?

14 MR. OSBORNE: Please present this juror.

15 THE CLERK OF COURT: What say ye for the defendant?

16 MR. HILTON: Please seat the juror.

17 THE CLERK OF COURT: Ms. Venegas, please have a
18 seat in the jury box. You've been selected as a juror
19 in this case.

20 [Whereupon, Ms. Venegas is seated in the jury box
21 as a juror]

22 THE CLERK OF COURT: Juror number 326, Frances
23 Washington. 326.

24 [Whereupon, Mr. Washington comes forward]

25 THE CLERK OF COURT: What say ye for the State?

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1 MR. OSBORNE: Please present the juror.

2 THE CLERK OF COURT: What say ye for the defendant?

3 MR. HILTON: Please seat the juror.

4 THE CLERK OF COURT: Mr. Washington, please have a
5 seat in the jury box. You've been selected as a juror
6 in this case.

7 [Whereupon, Mr. Washington is seated in the jury
8 box as a juror]

9 THE CLERK OF COURT: Juror number 182, Gwendolyn
10 Law. 182.

11 [Whereupon, Ms. Law comes forward]

12 THE CLERK OF COURT: What say you for the State?

13 MR. OSBORNE: Please present the juror.

14 THE CLERK OF COURT: What say ye for the defendant?

15 MR. HILTON: Please seat the juror.

16 THE CLERK OF COURT: Ms. Law, please have a seat in
17 the jury box. You've been selected as a juror in this
18 case.

19 [Whereupon, Ms. Law is seated in the jury box as a
20 juror]

21 THE CLERK OF COURT: Juror number 48, Gabrielle
22 Chaplin. 48.

23 [Whereupon, Ms. Chaplin comes forward]

24 THE CLERK OF COURT: What say ye for the State?

25 MR. OSBORNE: Please present this juror.

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1 MR. HILTON: Judge, may we approach?

2 THE COURT: You may.

3 [Whereupon, an off-the-record bench conference is
4 held]

5 THE CLERK OF COURT: What say ye for the defendant?

6 MR. HILTON: Please seat the juror.

7 THE CLERK OF COURT: Ms. Chaplin, please have a
8 seat in the jury box. You've been selected as a juror
9 in this case.

10 [Whereupon, Ms. Chaplin is seated in the jury box
11 as a juror]

12 THE CLERK OF COURT: Juror number 304, Matthew
13 Taylor. 304.

14 [Whereupon, Mr. Taylor comes forward]

15 THE CLERK OF COURT: What say ye for the State?

16 MR. OSBORNE: Please excuse this juror.

17 THE CLERK OF COURT: Mr. Taylor, please have a seat
18 back in the audience. You've been excused from the
19 trial of this case.

20 [Whereupon, Mr. Taylor returns to the audience]

21 THE CLERK OF COURT: Four strikes for the State.
22 Juror number 43, Jacob Cannon. 43.

23 [Whereupon, Mr. Cannon comes forward]

24 THE CLERK OF COURT: What say ye for the State?

25 MR. OSBORNE: Please present the juror.

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1 THE CLERK OF COURT: What say ye for the defendant?

2 MR. HILTON: Please excuse the jury.

3 THE CLERK OF COURT: Mr. Cannon, please have a seat
4 back in the audience. You've been excused from the
5 trial of this case.

6 [Whereupon, Mr. Cannon returns to the audience]

7 THE CLERK OF COURT: Juror number 137, Molli
8 Hartzog. 137.

9 [Whereupon, Ms. Hartzog comes forward]

10 THE CLERK OF COURT: What say ye for the State?

11 MR. OSBORNE: Please present the juror.

12 THE CLERK OF COURT: What say ye for the defendant?

13 MR. HILTON: Please excuse the juror.

14 THE CLERK OF COURT: Ms. Hartzog, please have a
15 seat back in the audience. You've been excused from the
16 trial of this case.

17 [Whereupon, Ms. Hartzog returns to the audience]

18 THE CLERK OF COURT: That's four strikes for the
19 defense.

20 Juror number 42, Robert Cameron. 42.

21 [Whereupon, Mr. Cameron comes forward]

22 THE CLERK OF COURT: What say ye for the State?

23 MR. OSBORNE: Please present the juror.

24 THE CLERK OF COURT: What say you for the
25 defendant?

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1 MR. HILTON: Please excuse the juror.

2 THE CLERK OF COURT: Mr. Cameron, please have a
3 seat back in the audience. You've been excused from the
4 trial of this case.

5 [Whereupon, Mr. Cameron returns to the audience]

6 THE CLERK OF COURT: Juror number 303, Atwood
7 Talley. 303.

8 [Whereupon, Talley comes forward]

9 THE CLERK OF COURT: What say ye for the State?

10 MR. OSBORNE: Please present the juror.

11 THE CLERK OF COURT: What say you for the
12 defendant?

13 MR. HILTON: Please excuse the juror.

14 THE CLERK OF COURT: Mr. Talley, please have a seat
15 back in the audience. You've been excused from the
16 trial of this case.

17 [Whereupon, Mr. Talley returns to the audience]

18 THE CLERK OF COURT: Juror number 320, Kimberly
19 Walker. 320.

20 [Whereupon, Ms. Walker comes forward]

21 THE CLERK OF COURT: What say you for the State?

22 MR. OSBORNE: Please present the juror.

23 THE CLERK OF COURT: What say ye for the defendant?

24 MR. HILTON: Please seat the juror.

25 THE CLERK OF COURT: Ms. Walker, please have a seat

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1 in the jury box. You've been selected as a juror in
2 this case.

3 [Whereupon, Ms. Walker is seated in the jury box as
4 a juror]

5 THE CLERK OF COURT: Juror number 72, Deshaun
6 Denson. 72.

7 [Whereupon, Mr. Denson comes forward]

8 THE CLERK OF COURT: What say ye for the State?

9 MR. OSBORNE: Please present the juror.

10 THE CLERK OF COURT: What say ye for the defendant?

11 MR. HILTON: Please seat the juror.

12 THE CLERK OF COURT: Mr. Denson, please have a seat
13 in the jury box. You've been selected as a juror in
14 this case.

15 [Whereupon, Mr. Denson is seated in the jury box as
16 a juror]

17 THE CLERK OF COURT: Juror number 311, Jacqueline
18 Triplett. 311.

19 [Whereupon, Ms. Triplett comes forward]

20 THE CLERK OF COURT: What say ye for the State?

21 MR. OSBORNE: Please present the juror.

22 THE CLERK OF COURT: What say ye for the defendant?

23 MR. HILTON: Please present the juror. Please seat
24 the juror.

25 THE CLERK OF COURT: Ms. Triplett, please have a

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1 seat in the jury box. You've been selected as a juror
2 in this case.

3 [Whereupon, Ms. Triplett is seated in the jury box
4 as a juror]

5 THE CLERK OF COURT: Juror number 254, Leslie Rau.
6 254.

7 [Whereupon, Ms. Rau comes forward]

8 THE CLERK OF COURT: What say ye for the State?

9 MR. OSBORNE: Please present the juror.

10 THE CLERK OF COURT: What say ye for the defendant?

11 MR. HILTON: Please seat the juror.

12 THE CLERK OF COURT: Ms. Rau, please have a seat in
13 the jury box. You've been selected as a juror in this
14 case.

15 [Whereupon, Ms. Rau is seated in the jury box as a
16 juror]

17 THE CLERK OF COURT: Juror number 244, Randall
18 Phillips. 244.

19 [Whereupon, Mr. Phillips comes forward]

20 THE CLERK OF COURT: What say ye for the State?

21 MR. OSBORNE: Please present the juror.

22 THE CLERK OF COURT: What say ye for the defendant?

23 MR. HILTON: Please seat the juror.

24 THE CLERK OF COURT: Mr. Phillips, please have a
25 seat in the jury box. You've been selected as a juror

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1 in this case.

2 [Whereupon, Mr. Phillips is seated in the jury box
3 as a juror]

4 THE CLERK OF COURT: Juror number 205, Cristi
5 Marshall. 205.

6 [Whereupon, Ms. Marshall comes forward]

7 THE CLERK OF COURT: What say ye for the State?

8 MR. OSBORNE: Please present the juror.

9 THE CLERK OF COURT: What say ye for the defendant?

10 MR. HILTON: Please seat the juror.

11 THE CLERK OF COURT: Ms. Marshall, please have a
12 seat in the jury box. You've been selected as a juror
13 in this case.

14 [Whereupon, Ms. Marshall is seated in the jury box
15 as a juror]

16 THE CLERK OF COURT: Juror number 321, Cynthia
17 Wallace. 321.

18 [Whereupon, Ms. Wallace comes forward]

19 THE CLERK OF COURT: What say ye for the State?

20 MR. OSBORNE: Please present the juror.

21 THE CLERK OF COURT: What say ye for the defendant?

22 MR. HILTON: Please seat the juror.

23 THE CLERK OF COURT: Ms. Wallace, please have a
24 seat in the jury box. You've been selected as a juror
25 in this case.

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1 [Whereupon, Ms. Wallace is seated in the jury box
2 as a juror]

3 THE CLERK OF COURT: Your Honor, how many
4 alternates?

5 THE COURT: Two.

6 THE CLERK OF COURT: Two.

7 Picking for the first alternate. Strikes are one
8 and two.

9 Juror number 146, Monica Horlback. 146.

10 [Whereupon, Ms. Horlback comes forward]

11 THE CLERK OF COURT: What say ye for the State?

12 MR. OSBORNE: Please present the juror.

13 THE CLERK OF COURT: What say ye for the defendant?

14 MR. HILTON: Please seat the juror.

15 THE CLERK OF COURT: Ms. Horlback, please have a
16 seat in the jury box. You've been selected as a juror
17 in this case.

18 [Whereupon, Ms. Horlback is seated in the jury box
19 as an alternate juror]

20 THE CLERK OF COURT: Now picking for the alternate,
21 second alternate. Strikes are one and two.

22 Juror number 204, Aaron Marley. 204.

23 [Whereupon, Mr. Marley comes forward]

24 THE CLERK OF COURT: What say ye for the State?

25 MR. OSBORNE: Please present the juror.

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1 THE CLERK OF COURT: What say ye for the defendant?

2 MR. HILTON: Please seat the juror.

3 THE CLERK OF COURT: Mr. Marley, please have a seat
4 in the jury box. You've been selected as a juror in
5 this case.

6 [Whereupon, Mr. Marley is seated in the jury box as
7 a juror]

8 THE CLERK OF COURT: Your Honor, the jury has been
9 selected and is seated.

10 THE COURT: Just for scheduling, Mr. Osborne,
11 Mr. Hilton.

12 [Whereupon, an off-the-record bench conference is
13 held]

14 THE COURT: Ladies and gentlemen, you have been
15 selected as the jury for this case. Please be escorted
16 to your jury room and we'll receive you back in just a
17 few moments.

18 [Whereupon, the jury exits the courtroom at
19 10:50 a.m.]

20 THE COURT: Ladies and gentlemen, you were not
21 selected and so I'm trying to attempt to determine what
22 your schedule is for the remainder of the week. So if
23 you'll just please accommodate me for just a few
24 moments.

25 [Off the record momentarily]

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1 THE COURT: Ladies and gentlemen, I believe that
2 our matters are completed for the week but instead of --
3 I just want to make sure, so if you would call back
4 after 6:00 p.m. today. But I do believe our matters are
5 completed for the week. And so call back after 6:00
6 p.m. today and you'll receive further instructions. But
7 I am pretty certain that the message is going to say
8 that your services are done for the week. But instead
9 of having you sit here, I'm going to go ahead and let
10 you go. So please just call back after 6:00 p.m. this
11 evening. Thank you again for your service to Charleston
12 County.

13 [Whereupon, the jury panel exits the courtroom at
14 10:53 a.m.]

15 THE COURT: Bring them back in. Did they select
16 their foreperson?

17 THE BAILIFF: They were taking their phones, and
18 working on it.

19 THE COURT: Let me know when they're ready.

20 Do you have testimony? Do you have testimony?

21 MR. OSBORNE: For the Denno hearing? The case
22 agent.

23 THE COURT: And do you have the video?

24 MR. OSBORNE: I do have the video here, Your Honor,
25 yes.

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1 [Off the record momentarily]

2 THE COURT: For scheduling, I'm just going to let
3 them come back. Go ahead and let them take an early
4 lunch.

5 We'll do our Jackson v. Denno and then get started
6 after lunch. All right? So we'll have an early lunch.

7 THE BAILIFF: 244 is the foreperson.

8 THE COURT: All right.

9 [Whereupon, the jury enters the courtroom at
10 11:00 a.m.]

11 THE BAILIFF: All jurors present and seated, Your
12 Honor.

13 THE COURT: Thank you.

14 Mr. Phillips, I understand that you have been
15 selected as the foreperson.

16 THE FOREPERSON: Yes, ma'am.

17 THE COURT: So what that means is that you are the
18 jury spokesperson here in court.

19 If at any time during the trial y'all need any
20 additional breaks or have any questions or concerns,
21 please let your foreperson know. He will alert the
22 bailiff, who will always be seated right there, and
23 we'll take care of the matter as soon as we can.

24 You will also be responsible for writing the
25 verdict, but I will give you further instructions

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1 regarding that matter when I instruct you on the law
2 applicable to this case.

3 Ladies and gentlemen, as I indicated to you, you
4 were selected as the jury to try this case. There are
5 some matters that I must take up outside of your
6 presence so instead of just sitting in your jury room,
7 we're going to take an early lunch, y'all will take an
8 early lunch, and so I need you to report back at 12:45.
9 This is the clock that we will use. 12:45. So the
10 bailiffs will instruct you on how to report and where to
11 report so that you're here promptly.

12 These are my general instructions, so please listen
13 carefully, because whenever we take a break I'll just
14 say please remember all of my instructions.

15 Until you have been discharged from service in this
16 case, you may not perform any investigation, research,
17 or experiment of any kind about this case.

18 You may not consult any dictionaries or
19 encyclopedias or anything of that nature to look up any
20 general information or any meanings of any words that
21 are used throughout this trial. Do not look up anything
22 on the internet, or elsewhere, concerning any of the
23 people involved. That includes the attorneys, the
24 defendant, any of the witnesses, as well as the judge or
25 the court staff. Ladies and gentlemen, you may not go

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1 to the scene where any of these incidents are alleged to
2 have taken place. You may not use any internet search
3 maps, search engines, to look for those places. You may
4 not have any discussions about this case. And, ladies
5 and gentlemen, it used to be very simple. I would just
6 say you can't talk about this case. You can't text
7 about this case, blog about this case, make any postings
8 on facebook or anything of that nature. Ladies and
9 gentlemen, simply put, you may not discuss this case
10 with anyone in any way until I tell you otherwise. That
11 includes your friends, your family members, as well as
12 your fellow jurors. Until I tell you that you may begin
13 your deliberations, you may not discuss or decide any
14 issue in this case. Please understand that I give these
15 instructions to ensure that fairness is done here in
16 court today. Your actions could jeopardize the result
17 of this trial. If you become aware of another juror's
18 violations, you must report that to me immediately.

19 Ladies and gentlemen, please have a wonderful
20 lunch. I will see you back at 12:45.

21 [Whereupon, the jury exits the courtroom at
22 11:04 a.m.]

23 [Off the record momentarily]

24 THE COURT: Thank you. Be seated.

25 - - -

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JACKSON V. DENNO HEARING

THE COURT: All right. What do we have?

MR. OSBORNE: Your Honor, we have a Denno hearing.
The case agent is Detective Yolanda Brown. She's
prepared, and my only witness for that hearing.

THE COURT: Mr. Hilton, are you ready?

MR. HILTON: I'm prepared, Your Honor.

THE COURT: Call your first witness.

MR. OSBORNE: The State calls Detective Yolanda
Brown.

[Whereupon, Ms. Brown comes forward]

THE CLERK OF COURT: Put your left hand on the
Bible. Raise your right hand.

[Whereupon, Ms. Brown is duly sworn by the clerk of
court as follows: do you swear or affirm that your
testimony will be the truth, the whole truth, and
nothing but the truth, so help you God]

THE WITNESS: Yes.

THE CLERK OF COURT: Be seated.

If you'll please state your full name and spell
your last name for the record.

THE WITNESS: Yolanda Brown. The spelling of the
last name is B-R-O-W-N.

MR. OSBORNE: Your Honor, may I approach?

THE COURT: You may.

Jackson v. Denno Hearing
Yolanda Brown
Direct Examination by Mr. Osborne

YOLANDA BROWN,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. OSBORNE:

Q. I'm going to start off by showing you State's
Exhibit 26. Do you recognize this item?

A. Yes.

It's a CD from the first interview. About five
clips should be on here.

Q. And we watched that CD in my office?

A. Yes.

Q. And how do you know that's that specific CD?

A. Because it's written, and I also initialed it.

Q. Okay. Thank you.

MR. OSBORNE: I'm just going to go ahead and fire
this up in case we need it.

THE COURT: All right.

Q. [Mr. Osborne] Detective Brown, where do you work?

A. The Charleston Police Department.

Q. And what's your -- what are your duties there?

A. I'm a detective, assigned to the robbery unit.

Q. Did you have the occasion to become involved in a
robbery investigation involving the defendant?

A. Yes.

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Yolanda Brown
Direct Examination by Mr. Osborne

1 Q. And what was your role in that investigation?

2 A. I was the case agent.

3 Q. When the case was assigned to you, did you have the
4 occasion to review the case file?

5 A. Yes.

6 Q. And just briefly tell the judge what your
7 understanding was of the incident when you reviewed the case
8 file.

9 A. Two masked robbers entered into the gas station
10 about 2:50 a.m. There were two people inside: the cashier,
11 Walter Singleton; and the -- a customer, William Finch. They
12 robbed William and Walter of their personal belongings, as
13 well as the store's property. Prior to leaving, they duct-
14 taped William and Walter together.

15 Q. Okay. Were there any independent witnesses to the
16 robbery?

17 A. Yes.

18 Q. And who was that?

19 A. Thomas Young.

20 Q. And, briefly, what did Thomas say that he saw?

21 A. As Thomas drove past the gas station, he saw the
22 two subjects exiting. As he continued to drive down the
23 roadway, he saw a white Ford Taurus parked about two blocks
24 down. The Ford Taurus was blacked out with his lights off.
25 As Thomas traveled past that vehicle, it sped in the direction

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Yolanda Brown
Direct Examination by Mr. Osborne

1 of as the subjects were -- to the robbery scene as the
2 subjects were entering -- exiting. I'm sorry.

3 Q. Okay. So at that point, based on what Thomas told
4 you, is it fair to say that a white Taurus was a vehicle of
5 interest in the investigation?

6 A. Yes.

7 Q. Was there any other information that you developed
8 that furthered the white vehicle being -- or white Taurus
9 being a vehicle of interest in this investigation?

10 A. Walter reported that the night of the -- the same
11 night of the robbery, that a customer entered asking about the
12 store's operation. He asked Walter specifically if he worked
13 alone at night. That made him suspicious.

14 He also matched -- the customer also matched the
15 general physical description of one of the subjects.

16 When I reviewed the video, I observed that that
17 subject arrived in a white Ford Taurus.

18 Q. So is it fair to say that in the early stages of
19 the investigation, you were searching for a white Ford Taurus?

20 A. Yes.

21 Q. When you reviewed the video, the surveillance
22 video, was there anything else about the white Ford Taurus
23 that might have been distinctive or help you locate it?

24 A. Yes.

25 When I reviewed the video, the white Ford Taurus

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Yolanda Brown
Direct Examination by Mr. Osborne

1 was observed to have damage on the front driver's side panel.

2 Q. Okay. Having seen that damage, what steps did you
3 take to try to locate a white Ford Taurus matching that
4 description?

5 A. Requested a listing of all white Ford Tauruses for
6 the year 2000 to 2003 that were registered in Charleston
7 County.

8 Q. And were you -- did you -- were they able to
9 generate a list for you?

10 A. Yes.

11 Q. And based on that list, were you able to find the
12 vehicle you were looking for?

13 A. Yes.

14 We located a white Ford Taurus with a sunroof and
15 damage above the front driver's side wheel well.

16 Q. You mentioned sunroof and you mentioned a potential
17 year. Were those descriptions ever given to you by Thomas
18 Young?

19 A. Yes.

20 Q. Now, as a result of locating that vehicle, did you
21 learn who the vehicle was registered to?

22 A. Yes.

23 The vehicle was registered to the defendant, Robert
24 Wilson.

25 Q. Did you attempt to speak to the defendant?

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Yolanda Brown
Direct Examination by Mr. Osborne

1 A. Yes. Yes, I did.

2 Q. What day was that?

3 A. On October 20th, 2014.

4 Q. All right. Did you locate the defendant?

5 A. Yes.

6 Q. And where did you locate him?

7 A. He was located at 1729 Pearson Avenue.

8 Q. On that day, October 20th?

9 A. Yes.

10 Q. Did you speak to him at Pearson Avenue?

11 A. I asked him to come to the Charleston Police
12 Department, and he agreed.

13 Q. Did you arrest him?

14 A. No, he wasn't under arrest.

15 Q. He voluntarily came to the station?

16 A. Yes.

17 Q. And did you speak to him there?

18 A. Yes.

19 I spoke with him inside the Charleston police
20 central investigation interview room.

21 Q. Do you recall about how long the interview was with
22 the defendant?

23 A. About three and a half hours. From maybe 1:30 to
24 about 5:00 p.m. we were briefing with him.

25 Q. Now, during that time, did he appear to be

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1 intoxicated or under the influence of any drugs?

2 A. No.

3 Q. Did he appear to be -- have any mental disabilities
4 that would impair his ability to understand?

5 A. No.

6 Q. And prior to the interview or during the interview,
7 did you offer any bathroom breaks or any water breaks?

8 A. I offered him water and coffee.

9 Q. Did you at any point deny him access to a
10 telephone, food, water?

11 A. No, I did not.

12 Q. Did you make any threats or any promises to him?

13 A. No, sir.

14 Q. Did -- at any point during this interview, did you
15 explain to him the nature of the investigation or why you had
16 him there?

17 A. I did explain to him during the interview why he
18 was being questioned.

19 Q. During this first interview, was he free to go?

20 A. Yes, because he wasn't under arrest. If he wanted
21 to go, we would allow him to leave.

22 Q. At any point did he request to terminate the
23 interview? Stop talking?

24 A. No, sir.

25 Q. Did he ever request any attorney?

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Direct Examination by Mr. Osborne

1 A. No, sir.

2 Q. Was the interview audio and video recorded?

3 A. Yes, sir.

4 Q. Matter of fact, that's State's 26 that you have
5 identified earlier?

6 A. Yes.

7 Q. And when you began speaking to him, you said at
8 some point you mentioned that it was a robbery investigation.
9 Early on during the initial stages, did you tell him it was a
10 robbery investigation?

11 A. I did not.

12 I just told him that I need -- I mentioned to him
13 that I needed to speak with him about his vehicle.

14 Q. Okay. Did you ever advise him of his Miranda
15 rights?

16 A. I did.

17 Q. Did he say that he understood his rights?

18 A. Yes.

19 Q. Did he waive his rights and wish to speak to you?

20 A. Yes.

21 Q. And do you recall about how long into the interview
22 it was before you advised him of his Miranda rights?

23 A. About fifteen minutes.

24 Q. Had he said anything important prior to that
25 fifteen minutes?

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Yolanda Brown
Direct Examination by Mr. Osborne

1 A. We talked about his background and some other small
2 talk. That's about it.

3 MR. OSBORNE: Your Honor, may I approach?

4 THE COURT: You may.

5 Q. [Mr. Osborne] I'm showing you now what's been
6 marked as State's Exhibit 27. Can you take a look at that and
7 tell me if you recognize it?

8 A. Yes, I recognize it.

9 Q. And what is that?

10 A. It's the preprinted Miranda card that I read to
11 Mr. Wilson on October 20th, which he signed and stated he
12 understood.

13 Q. All right. So you interviewed him; is that
14 correct?

15 A. Yes.

16 Q. And he gave you a statement?

17 A. Yes.

18 Q. Okay. So just briefly tell the judge what his
19 first story or his first account of what happened that night
20 was.

21 A. He picked up a subject named D from downtown. D
22 needed a ride to his sister's apartment in West Ashley. On
23 the way there, they stopped to the gas station. He dropped D
24 off and went back home to North Charleston.

25 Q. The gas station being the same gas station that

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Direct Examination by Mr. Osborne

1 would later be robbed that night?

2 A. Yes.

3 Q. And does he change his story?

4 A. Yes. Several times.

5 Q. So without through this three and a half, four
6 hour, however long it was period, without going through all
7 the different stories just sort of tell the judge what are
8 some of the various stories that he told during that time.

9 A. He stated that he picked up a subject named D
10 and T. They drove to the West Ashley gas station. He dropped
11 them off. He drank his two beers while waiting on them. They
12 came back to his car. They got back inside. They asked him
13 to drive to the CVS, which is located across the street from
14 the Kangaroo. Wilson drove them to the CVS. They got out and
15 returned ten to fifteen minutes later.

16 Q. And were you ever able to develop potential
17 suspects of D and Big T?

18 A. Yes.

19 Q. Did you show line-ups to the defendant?

20 A. I did.

21 Q. Did he identify them?

22 A. Yes, he did.

23 Q. Now, at the conclusion of this first interview on
24 October the 20th, did you go anywhere with the defendant?

25 A. I drove him back to the area of the robbery so he

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Direct Examination by Mr. Osborne

1 could point out some important points of interest.

2 Q. And was that portion of your interview with him
3 audio recorded?

4 A. Yes, it was.

5 Q. All right. What did you do after going to the
6 scene at some of those relevant areas?

7 A. I drove him on a -- back home.

8 Q. All right. What was the next thing you did in the
9 investigation?

10 A. I obtained arrest warrants to charge Mr. Wilson
11 with two counts of armed robbery.

12 Q. Was the defendant arrested?

13 A. Yes. On October 24th, 2014.

14 Q. Four days later?

15 A. Yes.

16 Q. Did you speak to him again?

17 A. Yes, I did.

18 Q. Did you advise him of his Miranda rights again?

19 A. Yes, I did.

20 MR. OSBORNE: Your Honor, may I approach?

21 THE COURT: You may.

22 Q. [Mr. Osborne] Show you what's been marked as
23 State's 38. Can you take a look at that and tell me if you
24 recognize it?

25 A. Yes, I recognize it.

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1 It's the preprinted Miranda card that I read to him
2 on October 24th, 2014, which he stated he understood.

3 Q. Did he sign the card?

4 A. It is also signed.

5 Q. So during your October 24th interview with the
6 defendant, does his story change significantly?

7 A. No.

8 He just changed the location in which he dropped
9 off D and Big T after the robbery.

10 Q. During all your interviews with the defendant, or
11 during the three interviews, at any point did he ever say that
12 he knew D or Big T were going to commit the robbery?

13 A. That he did not know they were going to commit the
14 robbery.

15 MR. OSBORNE: Your Honor, I do have State's 26.
16 It's five clips. It totals thirty-five minutes. If you
17 would like for me to publish that to you or show that to
18 you, I can.

19 THE COURT: Mr. Hilton, do I need to see that at
20 this time?

21 MR. HILTON: Judge, I have seen it. Nothing that's
22 been presented to the Court, the misinformation, is
23 going to be changed by those videos. The Court can
24 watch it if the Court wishes. I --

25 THE COURT: Let me hear your questions and kind of

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Direct Examination by Mr. Osborne

1 see where you're going.

2 Are you done, Mr. Osborne, with your questions?

3 MR. OSBORNE: Yes, Your Honor. No further
4 questions.

5 THE COURT: And then so maybe I'll just take a
6 recess and watch the video if I need to take it. All
7 right?

8 Let me hear from you, Mr. Hilton.

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Jackson v. Denno Hearing
Yolanda Brown
Cross-Examination by Mr. Hilton

CROSS-EXAMINATION

BY MR. HILTON:

Q. Is it Investigator Brown, or Detective Brown, or both?

A. Detective Brown.

Q. Detective Brown.

There was some mention of Miranda cards, and I don't know if those were admitted for the purpose of this hearing, but are they the same Miranda cards that you read to him both times?

A. Yes. They're preprinted Miranda cards.

Q. And you went through this Miranda warning with him?

A. Yes, I did, sir.

Q. And that would be you have the right to remain silent; correct?

A. Yes.

Q. And I'm just reading off the card, so correct me if you said anything different. Anything you say can and will be used against you in a court of law?

A. Yes.

Q. You have the right to talk with a lawyer and have him present during any questioning?

A. Yes.

Q. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning, if you

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1 wish?

2 A. Yes.

3 Q. And if you decide to answer any questions without a
4 lawyer present, you have the right to stop answering questions
5 at any time?

6 A. Yes.

7 Q. It says if you so choose. But is that what you --

8 A. If you so choose.

9 Q. And those were read to him both on the 20th and the
10 24th?

11 A. Yes.

12 Q. When you picked up Mr. Wilson, or when you
13 originally encountered Mr. Wilson at his residence where y'all
14 found the white Taurus, did you drive him to the sheriff's --
15 to the police department, or did he come down there in his own
16 vehicle?

17 A. I drove him there.

18 Q. You took him there?

19 A. Yes.

20 Q. Was anybody else with you?

21 A. Yes. His longtime girlfriend, Patricia Fuller.

22 Q. All right. And when y'all got to the police
23 department, what kind of room did you put him in, both of them
24 in, what -- were they separated?

25 A. They were separated.

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1 They went into the Charleston police central
2 investigation interview rooms.

3 Q. Were they free to leave at that point if they
4 wanted to?

5 A. Yes.

6 He wasn't under arrest. They both were free to
7 leave.

8 Q. And if they wanted to walk out and said, we've had
9 enough of this, you would have let them leave?

10 A. If he wanted to go, we would allow him to leave.

11 Q. Okay. What grade did he go through?

12 A. I don't recall what grade he said he went through.
13 I'm sorry.

14 Q. Did it seem like he understood the English
15 language?

16 A. Yes.

17 Q. Did it seem like he understood, to you, what you
18 were reading to him on those Miranda cards?

19 A. Yes.

20 Q. Was there anything that would give you any
21 indication that he didn't know what was going on?

22 A. No.

23 Q. And y'all had about -- it was about a three and a
24 half hour conversation on the 20th?

25 A. Yes, with breaks in between.

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1 Q. All right. And then on the 24th, how did that
2 encounter occur?

3 A. He I believe came down to the Charleston Police
4 Department, where he was taken into custody.

5 Q. And let me pause for a second. On the 20th, did
6 you take them back home?

7 A. I drove Mr. Wilson back home. Another detective
8 drove Ms. Fuller back home.

9 Q. So the 20th, you ended up taking him home?

10 A. I did.

11 Q. All right. The 24th, that encounter you said he
12 came down to the police department?

13 A. Yes.

14 Q. Was that on his own?

15 A. Yes. He drove there.

16 Q. Did you call him to come down there, or did
17 somebody else call him?

18 A. I believe I called him.

19 Q. And he voluntarily came down?

20 A. Yes.

21 Q. Did he know that he had a warrant for his arrest at
22 that time?

23 A. I think he -- I recall -- if I remember correctly,
24 we told him once he came there.

25 Q. All right. He was already there --

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1 A. Yes.

2 Q. -- once he found out that he had the warrant
3 outstanding?

4 A. Yes.

5 Q. And what -- and there was a second conversation on
6 the 24th; correct?

7 A. Yes. I re-interviewed him.

8 Q. And Miranda rights were read to him on the 24th, as
9 well?

10 A. Yes. That's correct.

11 Q. And the interview on the 24th, what was the focus
12 of that interview?

13 A. We just went back over the same things and
14 questions about what occurred the night of the robbery.

15 Q. Did y'all go out to the scene on the 20th or on the
16 24th?

17 A. We traveled to the scene on the 20th.

18 Q. On the 20th?

19 A. Yes, sir.

20 Q. Did he ever ask you to stop asking him questions,
21 or did he ever try to terminate the interview in any way?

22 A. No, sir.

23 Q. Did he ever ask for an attorney?

24 A. No, sir.

25 Q. Did he ever mention an attorney --

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1 A. No, sir.

2 Q. -- during the interview?

3 MR. HILTON: No further questions, Your Honor.

4 THE COURT: Mr. Osborne?

5 MR. OSBORNE: No, Your Honor. No further
6 questions.

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

8 [Whereupon, Ms. Brown is excused and exits the
9 witness stand]

10 THE COURT: Mr. Hilton, is there going to be
11 something on that video?

12 MR. HILTON: No, Your Honor.

13 And we discussed this with the clerk yesterday.
14 You know, I've watched the video and I can't sit here
15 and make some grand argument that this video was -- or
16 that this statement -- either one of the statements, any
17 of the statements, were involuntary. I mean, I think
18 law enforcement read him a Miranda -- read him his
19 Miranda rights on all of the interviews.

20 I think I have to make a motion, and we have made a
21 motion. As long as the Court determines that the
22 statement is voluntary, I don't think we have any big
23 argument against that.

24 THE COURT: Well, my concern is I haven't heard --
25 do you have any witnesses? Are you --

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1 MR. HILTON: No witnesses.

2 THE COURT: -- going to call your client?

3 MR. HILTON: No, Your Honor.

4 THE COURT: I'll be happy to watch the video, but I
5 haven't heard anything from either one of you, or from
6 the witness, that would make me think that by watching
7 the video before I issue the ruling to find that it was
8 freely and voluntarily given and that she did not coerce
9 him -- I'll be happy to watch it over the lunch hour.

10 My ruling is I'm denying your motion to suppress
11 the statements.

12 MR. HILTON: Yes, Your Honor.

13 THE COURT: If after watching the video over the
14 lunch hour I change my ruling, I'll be more than happy
15 to let you know.

16 MR. HILTON: Thank you, Your Honor.

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PRETRIAL MOTIONS

THE COURT: Anything? Any other pretrial motions?

MR. OSBORNE: Yes, Your Honor.

One of our first witnesses, or potentially our first witness, is Thomas Young. Thomas has some prior convictions that the State feels should not be covered -- or he shouldn't be impeached on them. I'm counting that he had eight burglary second non-violent convictions and one grand larceny conviction 1,000 to 5,000 on April the 4th of 2005. And I think the reason why it comes in here within the ten-year limit is because he was on parole or probation. After that, everything else is inside the ten-year limit.

Our position would be that this conviction, in and of itself, is not a crime of dishonesty. And not being a crime of dishonesty puts us into 609, subsection 1. Under that subsection and being a laywitness and not the defendant, it basically comes down to a 403 analysis.

The State's position would be it's substantially more prejudicial than probative. Thomas Young, by all counts, on this night was doing the right thing. He was a citizen. He was driving down the road. He sees two individuals running from the gas station. They had on masks. They had a gun. He calls the police. Then he sees a vehicle, which we would -- defendant. And he

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1 admits driving a vehicle that night. A white Ford
2 Taurus parked two blocks up the road, then speeds
3 towards the direction in which the individuals were
4 seen. I don't see what the probative nature would be to
5 talk about his prior convictions. So our position would
6 be it should be allowed.

7 THE COURT: So it's only that one conviction, the
8 burglary, is at issue?

9 MR. OSBORNE: That's correct, Your Honor.

10 It's one incident. Or I should say during one
11 plea, he pled to eight counts of burglary second
12 nonviolent and one count of grand larceny. But they are
13 eight incidents.

14 THE COURT: All right. Mr. Hilton, I'm happy to
15 hear from you.

16 MR. HILTON: He also has -- my understanding from
17 reviewing the rap sheet, he has in 2007 six more counts
18 of burglary second and another count of grand larceny.
19 On those ones that Mr. Osborne was talking about, he
20 received a five-year suspended -- sentence suspended to
21 160 days time served with some probation. And on the
22 2007 charges, he received it looks like a one year --
23 just a straight one-year sentence.

24 MR. OSBORNE: I think that's the same incident.
25 And then he was violated for that. So I think what -- I

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1 pulled up the certified convictions and I think they're
2 the same incident, is what I'm saying. It doesn't
3 appear on the NCIC to be a separate incident. So I
4 pulled up certified convictions, and those are the ones
5 that I have.

6 MR. HILTON: I don't necessarily dispute that.

7 I think the bottom line is he's a convicted felon.
8 He's got grand larceny charges, he's got burglary
9 charges on his record, and because of that I think under
10 609 it goes to his -- the charges all carry more than
11 one year, and I think they're admissible under the Rule.

12 This is a laywitness, this is not a defendant, and
13 so, you know, I do agree that it could be balanced under
14 403. You know, the testimony that Mr. Young is going to
15 give, there were so many inconsistencies, even on the
16 911 call of what was taking place that night. And I
17 think his propensity to give untruthful testimony is
18 attributed to his criminal activity. And so I do think
19 it's probative, I don't think it's overly prejudicial to
20 the State, and we ask that we be allowed to --

21 THE COURT: So what is the probative value?

22 MR. HILTON: The probative value? Mr. Young,
23 when he calls 911, he lies about where he's coming from,
24 he lies about where he's going, he lied about -- to
25 Ms. Brown about going to Mount Pleasant afterwards. He

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1 was lying about everything that night. I don't know if
2 he was out looking to burglarize something himself or
3 what.

4 But I think the probative value comes in with, you
5 know, he's sitting up there on the witness stand,
6 supposedly giving truthful testimony, yet he's caught in
7 all these lies with regard to even his 911 call.

8 And then the fact that he has these prior burglary
9 convictions I think goes along with the fact that he's
10 just not a truthful person.

11 THE COURT: Anything further?

12 MR. OSBORNE: Okay. So just to address that issue
13 regarding truthfulness.

14 Thomas Young does at one point say he was heading
15 down 61 from Summerville towards Highway 7.

16 THE COURT: And he's just a random witness?
17 There's no indication that he knows the defendant or the
18 victims or anything of that nature, has any other
19 involvement, that he just happened to observe the
20 incident or whatever he saw?

21 MR. OSBORNE: Yes, Your Honor.

22 He does mistake his direction of travel. He does
23 state that he was out that night in the areas, you know,
24 riding around.

25 He's a scrapper. He's going to admit to being a

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1 scrapper. And a scrapper is basically someone who takes
2 scrap metal and sells it for loose change. That's what
3 he was out there doing.

4 I just don't see how his burglary convictions are
5 relevant. I don't think they're appropriate.

6 THE COURT: Anything else, Mr. Hilton?

7 MR. HILTON: No, Your Honor.

8 THE COURT: I'm going to take it under advisement.
9 I'm going to review something. I'll let you know.
10 Thank you.

11 MR. OSBORNE: And, Your Honor?

12 THE COURT: Yes?

13 MR. OSBORNE: Just one other issue.

14 As a middle ground, I think that the State would be
15 willing to concede or stipulate if we could say that
16 he's just a convicted felon. If we could just not get
17 into the eight or nine convictions and just simply say
18 are you a convicted felon, the State would agree to
19 that.

20 THE COURT: Will you stipulate to that, Your Honor?

21 MR. HILTON: I will. I will.

22 There is one other issue with regard to his
23 testimony that goes --

24 THE COURT: So that we have a stipulation and
25 agreement that he is a convicted felon of -- convicted

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1 felon in 2005?

2 MR. OSBORNE: Yes, Your Honor.

3 THE COURT: Say, you were convicted -- all right.

4 MR. HILTON: This incident occurred on October 7th,
5 2014, I think. On February 18, 2015, Mr. Young got
6 arrested again for grand larceny in the ninth circuit in
7 Berkeley County. That charge, during the pendency of
8 this case, was remanded to magistrate, municipal court.

9 So he went from an enhanced grand larceny carrying
10 ten years, down to something carrying thirty days or
11 \$500. I would like to question him about that. I think
12 that goes to bias towards the solicitor's office with
13 regard to his testimony.

14 MR. OSBORNE: Your Honor, I knew nothing about that
15 charge until just recently. That was handled by
16 Berkeley County, Assistant Solicitor Wilton -- I can't
17 even recall his last name. Him and I never had maybe --
18 I never had any conversations with Mr. McNeely. I never
19 knew that charge even existed.

20 I don't know -- from my notes on that, it was
21 dismissed at the preliminary hearing. I didn't know
22 that it was remanded -- I guess it could have been
23 remanded. I don't know. I didn't see where that showed
24 up as being a conviction.

25 I never even had a conversation with Mr. Young

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1 regarding that charge. I never knew it existed. I
2 don't see there being any bias there at all. And that's
3 only going to further confuse the jury if we start
4 mentioning pending charges with no resolution.

5 THE COURT: So he has a pending charge?

6 MR. HILTON: It's still showing as pending on the
7 public index, and it shows as being remanded in April.
8 The information --

9 THE COURT: So how would that even come in,
10 Mr. Hilton, if it's a pending charge? As you like to --
11 I mean, he's presumed to be innocent; correct?

12 MR. HILTON: Absolutely.

13 But the problem we're running into here is we've
14 got the ninth circuit solicitor's office, whose star
15 witness had pending charges after this case came about,
16 and within two months his case is remanded from
17 something that carries ten years to something that
18 carries a maximum of thirty days. And I think that's
19 highly probative to show that he has a bias. And if
20 they want to dispute that through some witness or
21 something, you know, that's fine.

22 But, I mean, you know, the fact that they have a
23 witness with pending charges I think goes to his motive
24 to get up here and cooperate with the State in any way
25 he can. So I do think it's relative and probative.

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1 MR. OSBORNE: My records on our system shows the
2 case was dismissed at the preliminary hearing. That's
3 what it's saying in our system. I don't know what the
4 resolution of the case was.

5 THE COURT: Well, it could be dismissed at a
6 preliminary hearing in a variety of ways. The
7 magistrate could have dismissed it, or Mr. McNeely could
8 have dismissed it, or something else could have
9 happened. So if you could get me the resolution of
10 that.

11 And if that's why that was remanded, then I think
12 that goes less towards your argument, Mr. Hilton, if the
13 magistrate dismissed it and perhaps he didn't have --
14 didn't meet some elements. It was a property crime
15 enhancement, I'm assuming, then?

16 MR. HILTON: Well, Judge, it was a grand larceny
17 that was also enhanced. And so even if it wasn't a
18 second offense and it was just sent back as a grand
19 larceny, I think it's still relevant.

20 MR. OSBORNE: The only other thing I would say,
21 Your Honor, is that the allegation as bias, that at some
22 point the argument has to be that Mr. Young is now
23 saying something different than what he told the police
24 and we somehow biased or influenced him to change his
25 testimony, that I summarized his interview -- or my

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1 interview, pretrial interview, with him and sent that to
2 Mr. Hilton is the same.

3 Now, he may say it's consistently inconsistent if
4 that's the case, but it hasn't changed. He's not
5 getting up there now and saying something different than
6 what he had told the police.

7 THE COURT: Get me the information on why it was
8 remanded, and then we'll address that. I think that
9 Mr. Hilton does have the right to cross-examine as to
10 any bias or any -- if anything was offered to him for
11 his testimony. All right?

12 Anything else?

13 MR. HILTON: There was a motion for sequestration.
14 Or I'm making a motion for sequestration.

15 I think we've agreed to who stays and who doesn't.
16 I just put that on the record.

17 THE COURT: And who stays and who doesn't, Mr.
18 Hilton?

19 MR. HILTON: The case agent, one of the victims,
20 Walter Singleton, and the other victim, William Finch.

21 MR. OSBORNE: That's correct.

22 THE COURT: Thanks for working most of that out.
23 Thank you.

24 So I just need to watch the video. And then you'll
25 get me the information on the remand.

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1 [Off the record momentarily]

2 THE COURT: All right. We'll be at ease.

3 MR. HILTON: Thank you, Your Honor.

4 THE COURT: 12:45.

5 MR. OSBORNE: Thank you, Your Honor.

6 THE COURT: Thank you.

7 If you'll give me that form and let -- just let the
8 bonds-person know.

9 MR. HILTON: Do you want to address that now?

10 THE COURT: Hold on one second. Bring him back.
11 I'm sorry. Thank you.

12 MR. HILTON: It's a simple resolution. We did
13 contact the bondsman. The bondsman said they are not
14 willing to stay on the bond, and so he'll be off.

15 THE COURT: So your bonds-person is only obligated
16 to stay on the bond until the case is called. We have
17 called the case, so you no longer have a bond and so you
18 will remain in custody until the conclusion of the
19 trial. All right? Thank you.

20 I'll see you at 12:45.

21 MR. WILSON: Yes, ma'am.

22 THE COURT: Thank you.

23 [Whereupon, a recess is taken from 11:33 a.m. to
24 1:01 p.m.]

25 THE COURT: Anything before we bring in the jury?

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1 From the State?

2 MR. OSBORNE: You know, I have some more
3 information regarding Mr. Young's conviction.

4 THE COURT: Thank you. All right.

5 MR. OSBORNE: So I wasn't able to get -- well,
6 actually, I was able to get in touch with Mr. McNeely
7 after my e-mail.

8 THE COURT: Okay. Great.

9 MR. OSBORNE: He confirmed that what I had sent in
10 e-mail. And, basically, this is what Mr. McNeely is
11 saying regarding Mr. Young's arrest. He said that he
12 checked Mr. Young's rap sheet through the public index
13 and further investigation revealed that the defendant,
14 Mr. Young, does not have the required two prior value-
15 related convictions to support a property crime
16 enhancement charge.

17 Further, he told me that he called Tran and he
18 determined that the value of the air-conditioner was
19 less than \$2,000, therefore the defendant cannot be
20 charged with grand larceny. Accordingly, the case will
21 be remanded to the City of Municipal Charleston Court
22 [phonetic].

23 I have researched that. He was -- he did plead
24 guilty on May the 15th of 2015. So there are two
25 reasons we don't think that conviction should come in.

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1 First of all, to answer Mr. Hilton's bias
2 suggestion, he only ended up in our office by improperly
3 being charged. So I don't think there could be any bias
4 there, because he should not have been there in the
5 first place.

6 THE COURT: Mr. Hilton, did you have an opportunity
7 to review those matters?

8 MR. HILTON: I did. I got the same information
9 Mr. Osborne provided you.

10 THE COURT: And do you have a different argument,
11 or do you stand by your initial argument before lunch?
12 Or something else?

13 MR. HILTON: Are we only talking about the grand
14 larceny charge right now, or are we talking about the
15 burglary charges, too?

16 THE COURT: The grand larceny. You've already
17 agreed on the -- you stipulated --

18 MR. HILTON: Okay. That's right.

19 THE COURT: -- to the --

20 MR. HILTON: With regards to the grand larceny
21 charge, reviewing the information that was submitted to
22 me, I think that it would certainly come in as a crime
23 of dishonesty at this point. There is no question, in
24 looking over the paperwork --

25 THE COURT: But he hasn't been convicted.

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1 MR. HILTON: Yes, he has. He pled guilty --

2 THE COURT: Oh. I'm sorry.

3 MR. HILTON: -- to the municipal charge.

4 MR. OSBORNE: Of petit larceny.

5 THE COURT: Which is a crime of dishonesty.

6 MR. OSBORNE: It is not, Your Honor, in and of
7 itself.

8 Under Bromage, I believe the case is, State v.
9 Bromage, 401 S.C. 238 it says: stealing, in and of
10 itself, is not always a crime of dishonesty if there are
11 no additional false statements or acts of deceit beyond
12 a crime itself.

13 So the theft itself is not a crime of dishonesty.
14 There has to be something in -- that was dishonest in
15 the nature of committing the theft.

16 THE COURT: All right.

17 MR. OSBORNE: And so -- and the example would be
18 this. If Mr. Young during this theft had misrepresented
19 himself in some way, perhaps he had lied to the victim,
20 you know, I'll return this to you, and didn't do it,
21 that would be some facts in the circumstance surrounding
22 the theft that would be dishonest and it would be
23 allowed in.

24 According to this case, the theft, in and of
25 itself, is not dishonest. If I were to steal

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1 Mr. Corvey's phone right there and not return it, he
2 had no idea I took it, the theft is not dishonest.

3 The facts in this case -- and I just read it, and I
4 gave it to Mr. Hilton, and I'll provide you a copy, as
5 well, if you would like it.

6 [Whereupon, Mr. Osborne proffers documents to the
7 Court]

8 MR. OSBORNE: The general facts are there were some
9 thefts in this area of Daniel Island. The police were
10 on patrol in that area and they observed a van being
11 driven by the defendant. The defendant then went and
12 walked around to the rear of a business and started
13 basically hacking at an AC unit, probably trying to
14 steal wire. They approached him. He took off running.
15 They then apprehended him. There's nothing in there for
16 any deceit, no misrepresentation, no false statements,
17 no dishonesty.

18 THE COURT: Final argument, Mr. Hilton.

19 MR. HILTON: Just continuing with Mr. Osborne's,
20 until you turn to page 1 of the report. If you look
21 down at the very bottom right, it says page 1 and has an
22 OCA number on the top. And reading a portion of that,
23 it says: Mr. Young began his testimony by rambling on
24 with the story of being in the area while he was
25 arrested due to him meeting his girlfriend and leaving

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1 his van next to the building that an AC unit was taken
2 from. After being questioned further, Mr. Young
3 admitted attempting to steal the AC unit, and others, as
4 well.

5 Skip down a little bit. It says: many times
6 during his testimony he was lying and inconsistent with
7 various accounts of his incident.

8 Skipping down a little bit further, when being
9 asked about him running from the police: Mr. Young
10 stated if this happened, he's the kind of person that
11 would be on the ground, suggesting he would be too
12 afraid to run. However, after further interviewing
13 Mr. Young, he confessed to taking the AC unit and
14 running after being challenged by Sargent Lice.
15 Furthermore, Mr. Young asked this detective to tell
16 Sargent Lice that he is sorry for lying to him after
17 being arrested and apprehended a short time later.

18 If that's not indicative of dishonesty, I don't
19 know what else is.

20 THE COURT: I'm going to allow inquiry as to the
21 petit larceny conviction.

22 Note your exception. Thank you.

23 I'm going to mark this as Court's 1, the police
24 report.

25 [Whereupon, Court's Exhibit Number 1 is marked by

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1 the court reporter]

2 THE COURT: With that, anything further?

3 MR. OSBORNE: Just to clarify in reference to that.

4 Mr. Hilton can -- if I understand correctly, can
5 impeach him regarding that conviction but not in
6 reference to any bias from my office?

7 THE COURT: Correct.

8 MR. OSBORNE: Thank you, Your Honor.

9 THE COURT: Thank you for that clarification.

10 All right. Anything before we bring in the jury?

11 MR. HILTON: One other thing, Your Honor.

12 THE COURT: Yes?

13 MR. HILTON: During our next break I would just
14 ask for security or jail staff, or whoever, to get
15 Mr. Wilson something to eat. Apparently he wasn't given
16 anything to eat during the break and --

17 THE COURT: Well, let's do that right now.

18 MR. HILTON: Well, he says he's okay --

19 THE COURT: Are you okay?

20 MR. WILSON: Yes, ma'am.

21 THE COURT: Well, let's go ahead --

22 [Off the record momentarily]

23 THE COURT: All right.

24 [Whereupon, the jury enters the courtroom at
25 1:10 p.m.]

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1 THE BAILIFF: All jurors present, Your Honor.

2 THE COURT: Thank you. Please be seated.

3 Does every member of the jury have a notebook and a
4 writing utensil? Pen or pencil? If you do not, please
5 raise your hand. Thank you.

6 Ladies and gentlemen of the jury, the first thing
7 that we are going to do is administer an oath to you.

8 Mr. Clerk?

9 THE CLERK OF COURT: Please have the defendant
10 stand.

11 [Whereupon, Mr. Wilson complies]

12 THE CLERK OF COURT: Ladies and gentlemen of the
13 jury, if you'll please stand and raise your right hand.
14 After I have given you this oath, if you accept it
15 please respond by saying I do.

16 [Whereupon, the jury is duly sworn by the clerk of
17 court as follows: do you swear or affirm that you shall
18 well and truly try and a true deliverance make between
19 the State of South Carolina and the defendant at the
20 bar, whom you shall have at charge, and a true verdict
21 render according to the evidence and the law, so help
22 you God]

23 THE CLERK OF COURT: If you have accepted this
24 oath, please have a seat.

25 Please let the record reflect that all fourteen

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1 jurors took their seat in response to my question.

2 THE COURT: All right. Thank you.

3 [Off the record momentarily]

4 THE COURT: Ladies and gentlemen, just a few
5 preliminary matters. And that's what I intend to do
6 right now is kind of give you an overview of what's
7 happening so you'll be better able to understand what is
8 actually happening today. And then once I finish this,
9 you'll hear opening statements on behalf of counsel.

10 As you were indicated before you broke for lunch,
11 the case that we are about to begin is The State versus
12 Robert Wilson.

13 I have provided notepads for you, which means you
14 may take notes throughout the progress of this trial.
15 Please understand that one juror's notes are no more
16 correct or accurate than another juror's notes. If
17 during your deliberations you need to hear testimony
18 played back, we will bring you back into the courtroom
19 and play that testimony back for you. So do not feel
20 that you have to write down word-for-word what people
21 are saying. You will have those notebooks with you
22 during your deliberations, so if you do take notes you
23 will have those to refer back to.

24 I caution jurors, because I do it myself. I have a
25 tendency to look down when I'm taking notes, and so you

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1 may actually miss what is happening before you. So with
2 all those caveats, please understand you may take notes.
3 But please understand, some of us are much better note-
4 takers than others.

5 Ladies and gentlemen, you may have noticed when you
6 came in that everyone was standing for you. This is out
7 of respect for your new position as judges of the facts.
8 So please come in --

9 Mr. Foreman, that is your assigned seat throughout
10 the progress of this trial, so please come in, make sure
11 that you are seated there.

12 And to my two alternates, those are your two
13 assigned seats, as well.

14 The rest of you may sit wherever you choose in
15 those first two rows.

16 Ladies and gentlemen, the defendant is charged by
17 an indictment filed in this Court with the crime of
18 armed robbery, two counts. The elements I will explain
19 to you at a later time. The indictment, as I indicated
20 to you during jury selection, is simply the document
21 that brings us to court here today. It is not in any
22 sense evidence of the allegations that it contains. The
23 defendant has pled not guilty to each indictment. The
24 State has the burden of proving each of the elements of
25 the indictment beyond a reasonable doubt.

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1 Your purpose here today as jurors is to find and
2 determine the facts. You are the sole judges of the
3 facts in this case. If at any time I make any comment
4 regarding the facts, you must disregard it. You are to
5 determine the facts from the testimony you hear and any
6 other evidence that is introduced in court. It is up to
7 you to determine the inferences which you feel may be
8 properly drawn from the evidence. It is important that
9 you perform your duty of determining the facts
10 diligently and conscientiously, because ordinarily there
11 is no way to correct an erroneous determination of the
12 facts by a jury.

13 On the other hand, and with equal emphasis, the
14 same law that makes you the judges of the facts makes me
15 the judge of the law. The law as given by this Court is
16 the only law that you may follow. You must accept it
17 and follow it, even though you may disagree with it. I
18 cannot tell you what I think the facts are, and you
19 cannot disagree with me about what the law is or what
20 the law should be. Your job is to take the law as I
21 give it to you, apply it to the facts as you find them
22 from the testimony of witnesses, as well as any
23 stipulations of counsel, and any other evidence that
24 will be introduced throughout this trial.

25 If there are exhibits introduced throughout this

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1 trial -- through the trial, those items will go back
2 with you in your deliberation room. So if you don't
3 have an opportunity to view them carefully when they are
4 introduced, you will have an opportunity to do so while
5 you're deliberating.

6 Please remember all of my admonitions that I gave
7 to you before you left for lunch. Please do not read,
8 watch, listen to any news accounts regarding this case,
9 should there be any. Do not do any independent
10 investigation, and do not discuss this case with anyone
11 in any form or fashion until I tell you otherwise.

12 It is your solemn responsibility to determine the
13 guilt or innocence of the defendant. Your verdict must
14 be based solely upon the evidence as it is presented to
15 you here in court.

16 In just a moment, the solicitor is going to make
17 what is called an opening statement in which the
18 solicitor will explain to you the issues in this case or
19 what he thinks the issues are. The attorney for the
20 defendant may also make an opening statement, although
21 he is not required to do so at this time.

22 Please remember what the attorneys tell you in
23 their opening statements, as well as their closing
24 arguments, is not evidence in this case. It is only
25 their contention as to what the issues are.

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1 The evidence in this case will be presented to you
2 by the testimony of sworn witnesses from the witness
3 stand and, again, as from the exhibits that will be
4 introduced into evidence.

5 Ladies and gentlemen, from time to time you may
6 hear one of the attorneys state an objection, or I might
7 have the attorneys approach, or I might even have you
8 excused from the courtroom for a short while. Please do
9 not think we are trying to hide anything, or guess, or
10 speculate as to what we're doing. The reason I do this
11 is because sometimes it is necessary for me to make a
12 comment regarding the facts in order to issue a ruling
13 on the law, so I may excuse you so that in no way
14 anything that I say or do throughout the progress of
15 this trial influences you as to your finding of the
16 facts in this case.

17 In determining what the true facts are in this
18 case, you must decide whether or not the testimony you
19 hear is believable. It is my responsibility to rule as
20 a matter of law whether certain testimony is admissible
21 but once it is admitted, whether or not you believe it
22 is solely for you to determine.

23 In deciding whether to believe a witness, you have
24 the right to consider the interest of a witness, the
25 bias of a witness, the prejudice of the witness, the

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1 opportunity for the witness to have seen the things
2 about which the witness testifies. It is also important
3 that you are able to observe the way the witness acts on
4 the witness stand.

5 You will have a right to consider anything in the
6 record that will help you evaluate the testimony of the
7 witnesses. That means it's your duty to pay close
8 attention. Please do not let your thoughts wander so at
9 the end of the trial, after you have heard closing
10 arguments and I have instructed you on the law
11 applicable to this case, you will be in a position to
12 determine what the true facts are, apply the law to
13 those facts, and render a true and just verdict under
14 the solemn oath that you just took.

15 Ladies and gentlemen, please give your strict
16 attention.

17 Mr. Osborne?

18 MR. OSBORNE: Thank you, Your Honor. May it please
19 the Court.
20
21
22
23 - - -
24 - - -
25 - - -

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Opening Statement by Mr. Osborne
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OPENING STATEMENT

MR. OSBORNE: It's three o'clock in the morning and a cashier is working alone at a gas station when a regular customer enters. They start to have a conversation, like they've done many times before.

But this night would be like no other. The next ten minutes would be a nightmare. That's when two individuals come in armed, masked, and rob both the cashier and the customer at gunpoint. We're not here for those two perpetrators. We're here for their partner in crime, this man, the defendant. He was the getaway driver.

This robbery occurred on October 27th, 2014, at about three o'clock in the morning at the Kangaroo gas station at Parsonage and Ashley River Road in West Ashley. It's in Church Street subdivision.

But the wheels that set this robbery in motion occurred much earlier. About three or four hours earlier, this man came into the gas station. He approached the cashier. That's Walter Singleton. Walter is seated right there. After making his purchase he asked Walter, what time do you get off tonight? Do you work alone? Are you here alone? This wasn't enough for Walter to report to the police, but it was certainly enough for him to take notice. Walter kept working.

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1 Later that night, at about three o'clock in the
2 mornings this car, a white Ford Taurus, can be seen
3 coming up Parsonage Road right next to the Kangaroo.
4 Seconds after this you can see headlights, which would
5 be off in the distance at the CVS.

6 About seven minutes later, two gunmen entered the
7 Kangaroo. The first one approaches Walter, who's behind
8 the register. Robs him at gunpoint. The second one
9 then goes up to William Finch. William Finch is that
10 regular customer. William is seated right there in the
11 green shirt.

12 The second individual goes up to William, orders
13 him on the ground at gunpoint, duct-tapes him, takes
14 personal property from him, then goes to the front door
15 and attempts to duct-tape the front door to prevent
16 anyone else from coming inside.

17 The second individual, the first individual in this
18 picture, goes to Walter behind the register, orders him
19 at gunpoint to open the first register and then the
20 second, takes money from both, takes property from
21 Walter, then starts taking cigarettes, as much as he can
22 gather, putting it in his pocket, most of it falling
23 out.

24 Then he makes a comment. He asked Walter to do a
25 drop, or something to that effect. A drop is specific

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1 terminology that's used by Kangaroo employees. When you
2 make a drop, you basically take money from the safe and
3 then you make change from the register, something that
4 he thought was odd at the time.

5 After doing this, the two individuals take Walter
6 and William into the back office. They duct-tape them
7 together. One of the subjects, while pointing a gun at
8 them, says, well, let's just ghost the MF'ers.
9 Thankfully, the second individual said, let's just go,
10 let's get out of here, and then make good their escape.
11 If he had did what the individual said, this would be a
12 different trial.

13 Now, as luck would have it, there was an individual
14 who happened to be coming down Parsonage Road driving
15 that van. His name is Thomas Young. You'll hear from
16 Thomas here shortly. Thomas was driving around at three
17 o'clock in the morning, scrapping. Now, you'll hear
18 that scrapping means that he basically takes scrap metal
19 that people are throwing away, takes it down to the
20 scrap-metal place, gets a little bit of money for it.

21 While he's coming down Parsonage these two guys,
22 the two perpetrators, are coming out. They stop when
23 they see the van, momentarily, behind the dumpster
24 there. Thomas continues on down Parsonage. They then
25 run across the street toward the rear of the CVS.

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1 But Thomas sees more than this. As Thomas comes
2 down Parsonage, he's headed down, he sees a vehicle
3 parked at Oakland and Parsonage. The vehicle is on
4 Oakland, juttred out in the middle of Parsonage
5 intersection. Thomas didn't even see the vehicle until
6 he got right up on it because the driver had the
7 headlights turned off. As Thomas was making that turn
8 onto Oakland, the driver pops on the headlights and then
9 speeds back towards the direction of the individuals who
10 were fleeing the store.

11 Thomas gets on the phone, calls 911. Now, at that
12 point, CPD was called. They respond to the scene. They
13 investigate it. They take statements from both the
14 victims. They process the scene. The case then is
15 assigned to this woman, Detective Yolanda Brown. She's
16 the case agent on this case. Detective Brown didn't
17 have a whole lot to go on. These guys are masked. Even
18 though she can find out who they are, there's no chance
19 of ID'ing them. They're gloved. There's going to be no
20 fingerprints, no DNA. But she did have something. She
21 had that suspicious encounter earlier with Walter. So
22 she went back. She looked at the video. She saw the
23 guy that got there in a white Ford Taurus. He matched
24 the physical description of one of the two individuals.
25 She also saw something else. There's another individual

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1 seated in the front passenger seat. It looks like a
2 large individual. It looks like he could match the
3 physical description of the second guy. She also saw
4 something else. There was a driver. At this point she
5 didn't know it was the defendant. But that's the
6 defendant.

7 She took the video. She scoured through the video
8 and she saw that there was some distinctive damage to
9 this Taurus. She ran the Taurus with the information
10 that she had through her databases through DMV, and she
11 came up with the car. The car was registered to the
12 defendant.

13 She brought the defendant in and she questioned
14 him. And he had quite a story to tell. And you'll hear
15 part of that story. The first thing he said was, on
16 that night I had agreed to do a favor for a friend -- or
17 for a guy apparently no one knows, a guy that I had met
18 at work, I -- he knew him from the past, but not really
19 that well. I went home to North Charleston, saw my
20 girlfriend, came downtown to pick up this guy named D.
21 D was at his sister's house at Wilson Streets projects,
22 and agreed to take her to -- take him to his other
23 sister's apartment. She lived behind the Kangaroo.
24 Drove from North Charleston, downtown, picked him up,
25 dropped him off in West Ashley, then went home. He

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1 would have been home right around 11:30, twelve o'clock.
2 Doesn't know anything about anything else.

3 Now,, Detective Brown knew that that was
4 preposterous. She had a lot of other evidence that
5 showed that that story just didn't make any sense. The
6 defendant changed his story over and over again. You'll
7 hear a lot of those changes. I'm not going to go
8 through all of them now. But what I will tell you is
9 his last story. His last story: I picked up D and Big
10 T from downtown, drove them to West Ashley, dropped them
11 off behind the gas -- he admits to going into the
12 Kangaroo -- dropped them off behind the gas station at
13 his sister's apartment, then waited. Waited for two and
14 a half to three hours. Just waiting. They then come
15 out. They get into the car. And then they say, hey,
16 take us behind the CVS. Park behind a closed CVS in the
17 darkest area you can possibly find. And that's where
18 they wanted to be dropped off. He drives there, drops
19 them off, they leave dressed in white, come back dressed
20 in black. He doesn't know anything about a robbery.

21 At the end of this trial, I'm going to ask you to
22 hold this defendant accountable for his decision to be a
23 getaway driver. I'm going to ask you to convict him of
24 two counts of armed robbery. Thank you.

25 THE COURT: Mr. Hilton?

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OPENING STATEMENT

1
2 MR. HILTON: Thank you, ladies and gentlemen of the
3 jury. I'm Russell Hilton. I represent Mr. Robert
4 Wilson. I introduced myself to you a little bit
5 earlier.

6 You know, we get up in the morning and pull up the
7 newspaper or pull up facebook or the internet, or
8 whatever your source of media is, and we look on there
9 and we say, you know, they got the guy for the latest
10 bank robbery, or they got -- the latest one I saw was
11 they apprehended the Christmas burglar, the girl in
12 Goose Creek. I saw that the other day. And
13 subconsciously we look at that and say, thank goodness,
14 you know, they caught the person, got another one off
15 the streets.

16 But this is a courtroom, and it doesn't work that
17 way. You know, to get that article in the newspaper,
18 all they have to do, somebody from the sheriff's office
19 or police department pulls up their computer and they
20 type out a little press release and they send it to Post
21 and Courier or whoever, and they print it out. And it's
22 a good story. Another burglar off the street, another
23 robber off the street.

24 But in a courtroom, it doesn't work like that.
25 Unlike the news media, who very rarely cares whether

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1 they get both sides of the story or not, you're going to
2 get to hear the entire story. You're going to get to
3 hear all of the evidence. And there's just a little
4 more to it than what Mr. Osborne has gotten up and said.

5 Mr. Wilson gave some statements. You're going to
6 hear those statements. Mr. Wilson drove those guys to
7 that area. There's no disputing that. There was an
8 armed robbery at the Kangaroo that night, and those are
9 the victims.

10 And nobody is here to belittle them or discount
11 that armed robbery. That was a serious armed robbery.
12 Those guys were tied up in the back. They were held at
13 gunpoint, money, cell phones, taken from them, and so
14 forth. Nobody is here to discount that armed robbery.
15 And there's two guys that, hopefully, ultimately will be
16 convicted of that armed robbery. But Mr. Wilson is not
17 the one. There's no allegation that he was in that
18 store. The only allegation of Mr. Wilson was that he
19 drove them there.

20 And, see, there's a little more to it than him just
21 driving them there, and that being that. He has to
22 actually know what's going on, he has to know that a
23 robbery was going to occur, he has to assist in the
24 planning, and he has to be there with them for it.
25 That's what accomplice liability is about, and that's

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1 the theory that the State is proceeding under.

2 You're going to hear more about it at the end of
3 the trial. But it's called a theory of the hand of one
4 is the hand of all. If a group of us goes somewhere to
5 commit a crime and I end up shooting somebody, if y'all
6 are there with me, participating in it, you're guilty of
7 the murder as well. And that's what they're saying
8 Mr. Wilson is guilty of: they plan this all right, they
9 go to the scene and he's just as guilty as the rest of
10 them, even though he wasn't the gunman. And that's a
11 valid, legal theory. I understand that. And it's a
12 good theory to have. You can't have somebody just
13 getting off with what the other people did.

14 The problem is is when the codefendant, so-called
15 codefendant, Mr. Wilson, when he doesn't know what's
16 going on, when he doesn't know that a robbery was going
17 to occur, he can't be held accountable for that. There
18 may be some other things he can be held accountable for,
19 but it's not armed robbery.

20 You're going to hear a bunch of evidence about this
21 armed robbery and so forth. And, again, we're not
22 contesting any of that. The crux of this case, Mr.
23 Wilson's mind set.

24 I want you to listen to all the testimony that's
25 presented. Look at all the evidence. Look at the

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1 videos. There's going to be some videos, clips and so
2 forth. Look at all that stuff. It's important. It's
3 an important case for the State but, more importantly,
4 it's important for Mr. Wilson. Mr. Wilson is the one on
5 trial. He says, I'm not guilty. And unlike the
6 newspaper, who can just print out whatever story they
7 want to print, you get to hear the whole story and you
8 will get to decide whether Mr. Wilson is guilty or not.

9 If at the end of the trial you hear all of the
10 evidence and you look at all the videos and hear all the
11 testimony and you find that he's guilty, well, then, so
12 be it. That's what the system is about. But I submit
13 to you that's not what this case is about, and I submit
14 to you at the end of the trial you're going to have some
15 doubt and you're going to have to find Mr. Wilson not
16 guilty. And that's how our system works sometimes.
17 And, thankfully, that's the way it works. Thank you.

18 THE COURT: Ladies and gentlemen, we're going to
19 take a short break and try to fix this microphone sound.

20 Please leave your notepads right where they are, or
21 take them with you.

22 Please rise for the jury.

23 [Whereupon, the jury exits the courtroom at
24 1:30 p.m.]

25 THE COURT: Thank you. Be seated.

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1 Please make sure he eats on his break.

2 [Whereupon, a recess is taken from 1:30 p.m. to
3 1:41 p.m.]

4 THE COURT: Please rise for the jury.

5 [Whereupon, the jury enters the courtroom at
6 1:42 p.m.]

7 THE BAILIFF: All jurors are present, Your Honor.

8 THE COURT: Thank you. Please be seated.

9 Call your next witness.

10 MR. OSBORNE: Your Honor, before doing that, we
11 have a stipulation to move some items into evidence, if
12 it's okay if we go ahead and put that on the record?

13 THE COURT: Okay.

14 MR. OSBORNE: Items 1 through 5, item number 7, and
15 items number 9 through 19.

16 THE COURT: Is that correct, Mr. Hilton?

17 MR. HILTON: I believe that's correct, yes.

18 MR. OSBORNE: And one last group. I'm sorry. I
19 didn't see it. Items 48 through 67.

20 THE COURT: Mr. Hilton?

21 MR. HILTON: That is correct. We talked about all
22 those yesterday.

23 THE COURT: Okay. 1 through 5, 7, 9 through 19, 48
24 through 67, into evidence without objection.

25 MR. OSBORNE: Thank you, Your Honor.

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1 [Whereupon, State's Exhibit Numbers 1 through 5 are
2 admitted into evidence by the Court]

3 [Whereupon, State's Exhibit Number 7 is admitted
4 into evidence by the Court]

5 [Whereupon, State's Exhibit Numbers 9 through 19
6 are admitted into evidence by the Court]

7 [Whereupon, State's Exhibit Numbers 48 through 67
8 are admitted into evidence by the Court]

9 MR. OSBORNE: The State calls Thomas Young.

10 THE CLERK OF COURT: This way, Mr. Young. Up here,
11 please.

12 [Whereupon, Mr. Young comes forward]

13 THE CLERK OF COURT: Please put your left hand on
14 the Bible. Left hand. Raise your right hand.

15 [Whereupon, Mr. Young is duly sworn by the clerk of
16 court as follows: do you swear or affirm that your
17 testimony will be the truth, the whole truth, and
18 nothing but the truth, so help so you God]

19 THE WITNESS: Yes, sir.

20 THE CLERK OF COURT: Be seated.

21 [Whereupon, Mr. Young takes the witness stand]

22 THE CLERK OF COURT: Mr. Young, I need you to speak
23 loudly. And please state your full name, and spell your
24 last name. Okay?

25 THE WITNESS: Okay.

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THE CLERK OF COURT: Go ahead.

THE WITNESS: My name is Thomas Young.

THE COURT: Spell your last name.

THE WITNESS: Y-O-U-N-G.

MR. OSBORNE: Your Honor, may I approach?

THE COURT: You may.

- - -
- - -
- - -

Thomas Young
Direct Examination by Mr. Osborne
January 6, 2016

THOMAS YOUNG,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. OSBORNE:

Q. Mr. Young, so that we can get this thing going a little bit smoother, so we don't run into any technical issue, I'm going to show you what's been marked as State's Exhibit 6 right off the bat here. Can you take a look at this?

A. Yes, sir.

Q. Do you recognize that item?

A. Yes, sir.

Q. And what is it?

A. It's a video, from the 911 call, that I was shown.

Q. The audio recording?

A. The audio recording.

Q. And how do you know that?

A. Because I initialed it. That's my initial.

Q. Okay. Thank you.

And I'm going to show you now --

MR. OSBORNE: Well, Your Honor, I would request that this be moved into evidence, and I'll publish it when I get to it in the questions.

THE COURT: And the exhibit number?

MR. OSBORNE: State's Exhibit 6.

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1 THE COURT: Mr. Hilton?

2 MR. HILTON: Without objection.

3 THE COURT: State's 6 into evidence without
4 objection.

5 [Whereupon, State's Exhibit Number 6 is admitted
6 into evidence by the Court]

7 THE COURT: You may publish at the appropriate
8 time.

9 MR. OSBORNE: Thank you, Your Honor.

10 Q. [Mr. Osborne] Mr. Young, I would like for you take
11 a look at State's Exhibit 8. Can you take a look at that and
12 tell me if you recognize it?

13 A. Yes, sir, I do.

14 Q. And what is that?

15 A. This is the trial clips to the video, the actual
16 video. I got it confused and --

17 Q. Okay. And how do you know that?

18 A. I initialed right there. That's my writing.

19 Q. Okay. Thank you.

20 MR. OSBORNE: Now, Your Honor, at this time I would
21 like to move into evidence the portion of the clips that
22 Mr. Young can authenticate, subject to complete
23 authentication with other witnesses.

24 THE COURT: Any objection?

25 MR. HILTON: Without objection to that.

Thomas Young
Direct Examination by Mr. Osborne
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1 THE COURT: You may.

2 Q. [Mr. Osborne] All right. Mr. Young, another bit
3 of housekeeping matter.

4 In 2005, is it true that you were a convicted
5 felon?

6 A. Yes, sir.

7 Q. And in 2015, is it true that you were convicted for
8 petit larceny?

9 A. Yes, sir.

10 Q. All right. Mr. Young, where did you grow up?

11 A. Mount Pleasant, South Carolina.

12 Q. Did you go to high school?

13 A. Yes, sir.

14 Q. Did you graduate?

15 A. I went to the eleventh grade. No, sir.

16 Q. Did you get a GED?

17 A. GED.

18 Q. All right. How old are you?

19 A. I am thirty-four.

20 Q. What are some of the various jobs that you've held?

21 A. Throughout my life, I've always cooked. And I
22 picked up scrapping metal maybe about four years ago.

23 Q. Okay. Scrapping metal?

24 A. Yes, sir.

25 Q. Just briefly explain to the jury. What does that

Thomas Young
Direct Examination by Mr. Osborne
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1 mean?

2 A. I basically ride around and whatever's in the
3 garbage at the curb, behind the dumpsters, I dumpster-dive and
4 I pull the metal out and I take it to a scrap yard where they
5 buy it from me at different prices, depending on what it is as
6 far as copper, steel, aluminum.

7 Q. When you're driving around and you have possession
8 of these metals, do you need some sort of permit from the city
9 to do that?

10 A. Yes.

11 You need a license for copper, aluminum, anything
12 that is considered to be a, what do they call it, high --

13 Q. Precious metal?

14 A. Yes, precious metal. Yes.

15 Q. Do you have one?

16 A. Yes, sir.

17 Q. So let's go back to the night of October the 6th
18 going into October the 7th of 2014. You don't have to give
19 the exact address, but where did you live then? What city?

20 A. North Charleston.

21 Q. Did you live with anyone?

22 A. My mother.

23 Q. Your mom?

24 A. Yes.

25 Q. At any point that night, did you leave your

Thomas Young
Direct Examination by Mr. Osborne
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1 residence?

2 A. Yes, sir, I did.

3 Q. At what time was that, about?

4 A. I left -- it was a little before dark when I left
5 home.

6 Q. And where were you headed, or what were you going
7 to do?

8 A. Scrap metal.

9 Q. At any point that night, did you end up in West
10 Ashley?

11 A. Yes, sir.

12 Q. Looking for scrap metal?

13 A. Scrap metal.

14 Q. All right. At some point, were you driving around
15 the area of Ashley River Road or Highway 61?

16 A. Yes, sir.

17 Q. Did you have the occasion to pass by a Kangaroo gas
18 station at Parsonage and 61?

19 A. Yes, sir.

20 Q. Do you remember which way you were headed?

21 A. I was headed a couple different directions, but I
22 can remember I was headed towards Summerville.

23 Q. Headed towards Summerville?

24 A. Coming from Summerville.

25 Q. At any point, were you heading in the opposite

Thomas Young
Direct Examination by Mr. Osborne
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1 direction towards Sam Rittenburg?

2 A. Yes, sir, I was.

3 Q. So you were kind of driving around --

4 A. Driving --

5 Q. -- the area?

6 A. When you scrap metal, it's kind of you turn down
7 one street, you loop another street, you end up back on the
8 main road, then you end up back sometimes the same
9 neighborhood. It's sometimes a maize. It gets confusing
10 sometimes.

11 MR. OSBORNE: Your Honor, I would request to
12 publish State's 1. It's already in evidence.

13 THE COURT: You may.

14 Q. [Mr. Osborne] Mr. Young, I'm showing you what's
15 been marked as State's 1. Do you recognize that?

16 A. Yes, sir, I do.

17 Q. Can you point out -- and you can actually draw on
18 that tablet screen right there. You can make marks on that.

19 THE CLERK OF COURT: Excuse me. Let me turn it on.
20 Make sure it's on.

21 Q. [Mr. Osborne] All right. Can you mark on that
22 screen there where the Kangaroo gas station is?

23 A. It is there.

24 THE WITNESS: Did it come up? Did I mark -- oh. I
25 have to use a pen, or my finger, or what?

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1 MR. OSBORNE: No. Did you mark it with your
2 finger?

3 THE WITNESS: With my finger. Uh-huh.

4 Q. [Mr. Osborne] Well, just stand up until that --
5 that might need to power up.

6 Just stand up and point out up there where the
7 Kangaroo gas station is.

8 A. This is the Kangaroo gas station.

9 Q. Is that it, or is it a little bit farther up at the
10 intersection?

11 A. You know, I have trouble with maps. The map that
12 I'm looking at, I -- this is Highway 61?

13 Q. Uh-huh.

14 A. Headed towards Summerville. That's the CVS.
15 Kangaroo is here on the corner of Parsonage Point.

16 Q. It's on the corner of Parsonage and 61?

17 A. 61.

18 Q. Okay. At any point -- so you said you were kind of
19 driving around?

20 A. Yes, sir.

21 Q. Okay. At any point, did you have the occasion to
22 swing through the parking lot of the Kangaroo?

23 A. Yes, sir, I did.

24 I drink coffee. And I smoke Jazz Black and Milds,
25 and I buy them by the singles. And I pulled in to get gas and

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1 coffee. I only drink Kangaroo premium, and Jazz Black and
2 Milds, but I changed -- I had a change of mind and I spun
3 through there and I went back up 61 towards Sam Rittenburg.

4 Q. So you went back up 61 towards Sam Rittenburg?

5 A. Yes, sir.

6 Q. Did you turn around?

7 A. I turned around.

8 I went to a trash pile that was at an apartment
9 complex, Dogwood, maybe about a mile and a half up the road on
10 the left. And I turned back around and I was proceeding back
11 to the gas station to get coffee, Black and Milds, and gas.

12 Q. At that point you're coming back down --

13 A. I was coming --

14 Q. -- Highway 61?

15 A. -- back, 61.

16 Q. All right. So when you come back down 61, did you
17 make any turns then?

18 A. I got to the light. The light was green. It was
19 all go. But I got a ticket once for passing through a yellow
20 light and at the same time I got to the line, it turned
21 yellow. I'm the only car there that late. I came to a stop.
22 And I was making a right-hand turn to go into the gas station.

23 Q. Did you go into the gas station?

24 A. No, sir, I didn't.

25 Q. And why not?

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1 A. I saw a skinny black guy in the front of the
2 dumpster, and I saw another heavier black guy -- well, can't
3 say if they were black or white. All black.

4 Q. They were dressed in all black?

5 A. Dressed in all black.

6 And I automatically assumed black. I don't know
7 why. I just automatically --

8 Q. So you elected not to go into the gas station.

9 Did you see if either one of them had anything in
10 their hands?

11 A. As I made the turn, as you're making the turn --
12 it's like the parking lot is almost connected to the road. So
13 when I made the turn, instead of yielding into the gas
14 station, I kept straight. And as I eased past the dumpster, a
15 heavy-set guy in all black had something in his hand towards
16 his right leg.

17 MR. OSBORNE: Your Honor, I request permission to
18 publish 2 and 3. They're already in evidence.

19 THE COURT: You may.

20 Q. [Mr. Osborne] All right. Can you try that screen
21 now and see if you can --

22 A. Yes, it's working.

23 Q. All right. Can you point out the Kangaroo on that
24 picture?

25 A. That's the Kangaroo.

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1 Q. Okay. So when you were making that turn, that
2 right, I think that's down Parsonage --

3 A. This is the light, and I was swinging -- the gas
4 pumps are over here. I don't know. Am I marking?

5 Q. Uh-huh.

6 A. The gas pumps are over here, out of sight on my
7 screen. And I was going to go into the gas station straight
8 to the pump. My tank is on the driver's side, so it gave me
9 complete access to the pump.

10 But as I was here at the light, I notices a skinny
11 black guy -- well, in all black here. And I just made the
12 turn to come down. And when I got here, that's when I noticed
13 from a B-line in all black coming this way. And I was at
14 about maybe ten, fifteen miles an hour. And as I passed by, I
15 looked over and the guy in all black was bending down to his
16 right leg holding something. I can't say it was, but it was
17 in the shape.

18 Q. In the shape of what?

19 A. In the shape of a gun.

20 MR. OSBORNE: Your Honor, I would like to publish
21 State's 3 now.

22 THE COURT: You may.

23 Q. [Mr. Osborne] Can you mark -- and this is you and
24 the Kangaroo from the side rear?

25 A. The side. Uh-huh.

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1 Q. Can you mark on there where you saw the two
2 individuals?

3 A. The first individual I saw was to the front here,
4 inside of there. And the second individual was coming here,
5 came here. And my van was here. He was knelt down. I don't
6 believe that he saw me yet. He was knelt down. And as he
7 lifted up, that's how I saw the object that was in the hand.
8 And we made contact. I looked dead over. He looked up. All
9 I saw was mask and black, and I accelerated a little.

10 Q. Well, that's what I was going to ask you, if you
11 were able to see their faces.

12 A. I saw a mask.

13 Q. On both of them?

14 A. On the -- in the front I saw the mask and the
15 black, and just the weight. Just the skinny posture.

16 Q. All right. So you see two individuals, one you
17 believed to be armed with a handgun, not sure. They're
18 wearing masks. They were walking down the direction of
19 Kangaroo. What did you do?

20 A. Well, before all of that, when I saw this first
21 individual here at the stoplight I had already dialed 911 and
22 I -- when I got here and made contact, when we made the face-
23 to-face contact, I was on the phone with the operator.

24 MR. OSBORNE: All right. Your Honor, at this time
25 I would like to publish State's Exhibit 6.

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1 THE COURT: You may.

2 [Whereupon, State's Exhibit Number 6 is played to
3 the jury, with questions from Mr. Osborne]

4 [Whereupon, State's Exhibit Number 6 is not
5 transcribed by the court reporter]

6 Q. [Mr. Osborne] Is that you calling 911?

7 A. Yes, sir.

8 Q. On the 911 call, you can hear sirens in the
9 background. Were those police sirens?

10 A. Yes, sir.

11 Q. Were they headed toward the direction of Kangaroo?

12 A. Yes, sir.

13 Q. Now, I heard you say that by the time it took you
14 to call and they got that almost seven-minute phone call or
15 whatever, it sounded like you were -- you said you were on Sam
16 Rittenburg Boulevard at that point.

17 A. I was -- I gave them a landmark.

18 You know, the 911 guy was -- I was trying to tell
19 him what was going on, and he kept telling me to calm down,
20 and I was trying to tell him what was going on.

21 And I was headed to Sam Rittenburg, and I was going
22 to get on Sam Rittenburg and get on 26 and I was going to go
23 to Mount Pleasant.

24 So I gave him a landmark of where I was headed,
25 because he was talking about the officers meeting with me or

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1 whatever.

2 Q. You had already left the area?

3 A. I was -- my exact location was I was coming up to I
4 believe that's the post office on the lefthand side. I was
5 cruising maybe about fifty feet from that light.

6 Q. That's what I'm getting at, is the operator asked
7 you to wait and talk to the police?

8 A. Yes.

9 Q. Did you wait and talk to the police?

10 A. No, I didn't. I left.

11 And after I hung the phone up, two seconds after
12 that I did get to Sam Rittenburg and I turned around and I
13 said, well, I guess I'll go back. And as I went back, I did
14 see an officer and I just flashed my lights and he turned
15 around. And I believe that was a Circle K that we stopped at.

16 Q. I'm showing you again State's Exhibit 1. All
17 right. Can you mark on the map where you saw the white Taurus
18 stop?

19 A. Okay. I came down -- I made a turn here. I came
20 all the way down. And what I believe that night is that I
21 made the first right-hand turn, is what I believe that night.
22 Okay?

23 Now, the Taurus was sitting here like that.

24 Q. Okay. So -- well, on the recorder you said that --
25 on the 911 call you said you saw the vehicle and it was

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1 stopped facing the apartments.

2 A. Well, I was trying to describe to the 911 officer
3 my location. I mean, I was trying to give him my location on
4 Parsonage because I know that there are apartments back there
5 because -- I know that they're apartments back there, and I
6 was trying to give him an exact location as of to exactly
7 where I was and exactly which store that was involved.

8 Q. So let me just ask you this. Is it true that you
9 told the 911 operator that the car was stopped at the
10 intersection, facing the apartments?

11 A. Yes. It probably is, yes.

12 Q. So do you think that might be where the car was
13 stopped?

14 A. Well, it wasn't because -- well, on the phone with
15 that 911 operator, like I told the detective that night, there
16 was a little confusion because I was trying to give him -- he
17 kept asking me for a location of the store and which store is
18 it at Parsonage Point and Old Parsonage Road.

19 And I admit, he did have me a little confused, so I
20 was trying to give him -- by telling him what -- the Parsonage
21 apartments, I was hoping that would have registered to when he
22 told the officers they would know, okay, there's only one
23 Parsonage apartments there.

24 And when I did make that turn and I came down, the
25 Taurus was at a standstill here. It was --

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1 Q. Okay. Well -- no. I'm sorry. Go ahead.

2 A. And when I went to make the turn -- my van is big.
3 I mean, I have a 1500 conversion, the size of a Mac truck. So
4 when you go to turn that bad boy, that road was black.
5 Everything here was lit, but from here on down that road is
6 jet black.

7 And I've had problems with -- I have burst tires, I
8 have damaged rims. I have done damage. So every time I make
9 a turn, I usually try to whip like this in.

10 But he prevented me. That Taurus there prevented
11 me because it was catty-cornered. And when I did make the
12 turn, my driver headlight was dead smack into his driver
13 headlight.

14 MR. OSBORNE: Your Honor, do you mind at this point
15 if I publish State's 4 and 5? They've already been
16 moved into evidence.

17 THE COURT: You may.

18 Q. [Mr. Osborne] Do you recall going out to the scene
19 with myself and Investigator Ray Hobb and then photographing
20 his -- and you positioning Ray's car at the intersection --

21 A. Yes, sir.

22 Q. -- as you saw the car?

23 A. Yes, sir, I do.

24 Q. Do you see the intersection sign up there?

25 A. Yes, sir, I do.

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1 Q. All right. What do -- can you read it? Can you
2 see the intersection?

3 A. It's Oakland.

4 Q. And I think across the street over there, there are
5 apartments; is that correct?

6 A. Yes, sir.

7 Q. So but the important thing here is that the vehicle
8 -- is this vehicle here, Investigator Hobb's vehicle,
9 positioned in a similar fashion that you saw the white Taurus
10 positioned?

11 A. Yes, sir.

12 Q. Out in the roadway like this?

13 A. Yes, sir.

14 MR. OSBORNE: I want to publish now, Your Honor, if
15 it's okay, State's Exhibit 5.

16 THE COURT: You may.

17 Q. [Mr. Osborne] And this is another angle, I think,
18 from the same intersection. Does that accurately depict how
19 the white Taurus was positioned when you were trying to make
20 the turn?

21 A. Yes, sir.

22 That prevented me -- that prevented me from
23 whipping in. You see all those bushes there. Everything
24 that's there is black, and the ditch line, and it prevented me
25 from whipping in that turn.

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1 Q. Now, I heard you say on the 911 call that the
2 vehicle had its lights off; is that correct?

3 A. Well, when I made that turn here, I can't one
4 hundred percent say that the lights was on or off. But when I
5 made that turn, that's when the glare hit. When I turned,
6 that's when the glare hit. My light was -- my driver light
7 was dead smack on his driver light. It was like a match.

8 Q. What did that vehicle do? What did the white
9 Taurus do as you made the turn?

10 A. He didn't -- the vehicle didn't give me any type of
11 chance or notion that it was going to move or anything. I had
12 to slow down. I had to ease it on in. If I didn't, I was
13 going to do damage.

14 But as I was trying to ease it on in, that vehicle
15 -- my van was like here. And that vehicle just went on around
16 and all I heard, engine just going up the road.

17 Q. Did it head up the road at a slow speed or a fast
18 speed?

19 A. No, sir.

20 If you jump into your vehicle sitting in the yard
21 and you just rip it into drive and just full throttle and
22 you'll hear the blrrrrrrrr [indicates].

23 Q. At a fast speed?

24 A. Yes. Yes, sir.

25 MR. OSBORNE: At this time, Your Honor, I would

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1 like to publish to the jury State's 8, a subfolder from
2 Young 1 on the DVD.

3 I'm going to move ahead to 2:59:54. That's the
4 actual time.

5 This one is going to be a little bit tedious.
6 We've got to manually do this one.

7 [Whereupon, State's Exhibit Number 8 is played,
8 with questions from Mr. Osborne]

9 [Whereupon, State's Exhibit Number 8 is not
10 transcribed by the court reporter]

11 Q. [Mr. Osborne] All right. Take a look at this,
12 Mr. Young. Is this your van coming into the gas station?

13 A. Yes, sir. That's my 1500.

14 Q. Is this the first loop that you were talking about?

15 A. Yes, sir.

16 I was going to come to the station to get a Black
17 and Mild, premium coffee, twelve-ounce cup, and I had seven
18 bucks in gas. That would have taken me to Mount Pleasant.
19 But I decided to go back to that trash pile that I passed up
20 the road.

21 MR. OSBORNE: All right. Stop it there.

22 Q. [Mr. Osborne] Is that your van up there in the
23 top?

24 A. Yes, sir.

25 Q. Is this one of the two individuals that you were

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1 talking about?

2 A. Yes, sir.

3 Q. And I assume that's the second individual?

4 A. Yes. Yes, sir.

5 But, see -- okay. Out of camera here, and out of
6 film, my van is here. But these were just a little bit of
7 trees. And all of that is still lit. And I have extended
8 mirrors on my van that I placed there, and I was still in the
9 rearview watching. And the heavier set guy was still here.

10 MR. OSBORNE: Your Honor, may I approach?

11 THE COURT: You may.

12 Q. [Mr. Osborne] I'm going to show you, Mr. Young,
13 what's been marked as State's Exhibit 25 for ID purposes only.
14 Do you represent -- or do you recognize that item?

15 A. Yes, sir.

16 Q. And what is that?

17 A. That is the Taurus I saw that night.

18 MR. OSBORNE: Court's indulgence.

19 [Whereupon, Mr. Osborne and Mr. Corvey confer]

20 MR. OSBORNE: No further questions, Your Honor.

21 THE COURT: Mr. Hilton?

22 - - -

23 - - -

24 - - -

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CROSS-EXAMINATION

BY MR. HILTON:

Q. All right. Mr. Young, you ended up calling 911 that night; correct?

A. Yes, sir.

Q. And you ended up leaving out a fair amount of information on your 911 call, did you not?

A. Could you repeat?

Q. I said you ended up leaving out a fair amount of information and misrepresented some things; correct?

A. No, sir.

I told them kind of everything that I saw there. I relayed everything, to the 911 officer, that was in my vision.

Q. Uh-huh. You told him you were coming from the Summerville area going towards Sam Rittenburg area; correct?

A. Yes, sir.

Q. All right. And, in fact, that's not the case; right?

A. I also stated to the detective --

Q. Well, you need to answer that question first.

A. Okay. Could you repeat the question?

Q. You said to the 911 operator you were coming from the Summerville area going down 61 towards the Sam Rittenburg area; correct?

A. Yes, sir.

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1 Q. All right. And that was not the case, was it?

2 A. No, sir.

3 Q. All right. Now, what were you going to say?

4 A. I was going to say like I relayed to the detective
5 and to the three officers, to the solicitor, and to multiple
6 different people that spoke with me, I passed by that gas
7 station headed to Summerville and I ended up halfway there,
8 and I turned around I passed back by the gas station and I
9 scrapped a little more. And that's why I needed gas. And
10 I came back to the station to get gas, but as I turned around
11 -- I passed a trash pile and I decided not to stop and get the
12 gas. And I spun through the station and I went back to check
13 the trash pile and I pulled a piece of metal that big
14 [indicates] out of the trash pile. So I said, I'm going to
15 Mount Pleasant. But I needed that gas and I needed that
16 coffee, so I ended up turning around to come back to the gas
17 station.

18 Q. And speaking of Mount Pleasant, Detective Brown
19 asked you about going to Mount Pleasant and you told her you
20 didn't go to Mount Pleasant, didn't you?

21 A. Detective Brown? Who is Detective Brown?

22 Q. Sitting at the table right here.

23 A. That's the young lady right there? She must be the
24 one that I spoke to. And she asked me exactly where I was and
25 I tried to give her exactly everywhere that I was that night

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1 and everywhere that I was heading.

2 But I again stressed that when you're scrapping
3 metal -- I wasn't out there to -- I didn't have a direct path
4 line, I didn't have a direct route, I didn't have anything
5 that was directed to -- as of where exactly where I'm going.
6 You put gas in your van and you scrap. You turn down one
7 road, you turn down another road.

8 And I tried my hardest to explain to her exactly my
9 whereabouts and she couldn't even -- she's like, okay, you have
10 me lost right now --

11 Q. Right.

12 A. -- exactly where have you been. And I looked her
13 in her eyes and I said, you have me lost right now because you
14 want me to remember a million places that I was, that I can't.

15 But I can solely remember that I came to the stop
16 sign, to the stoplight, and I can solely remember that I made
17 that turn, and I can solely remember what I saw. I can't
18 remember what metal I pulled out of trash that night. I can't
19 remember how much money I got for that metal the next morning.

20 I can't remember exactly where I slept that night,
21 exactly. I can't remember if I exactly went home. I probably
22 even didn't.

23 But I can remember, and I can play it in my memory
24 as vivid as day, as to when I got to the stop sign, to the
25 stoplight next to the CVS, of exactly what I saw. At the

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1 light --

2 Q. Detective Brown: you were talking to her the day
3 after the incident.

4 A. Oh. The day after the incident?

5 Q. Yeah.

6 A. Well, there were so many different officers that
7 night. I spoke to a detective, a couple of officers. The
8 next morning I spoke to one detective, another detective.

9 And all of them was confused as of to why are you
10 telling me so many different turns and twists. And as I was
11 trying to stress to them, when you're scraping metal, again,
12 there is no bus route. There is no, okay, I'm going to turn
13 down this street and then loop this street. You drive.

14 Q. You just ride around and whatever metal you find
15 you put in --

16 A. You can find --

17 Q. -- put in your car?

18 A. -- you scrap.

19 Q. All right.

20 A. Exactly. And --

21 Q. And they asked you if you went to Mount Pleasant
22 that night and you told them, no, I didn't go to Mount
23 Pleasant; correct?

24 A. I told them I didn't go to Mount Pleasant.

25 But actually, just before I ended up in West

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1 Ashley, I was in Mount Pleasant scrapping.

2 Q. But that's not what you told Detective Brown. And
3 my point is is they asked you time and time again, did you go
4 to Mount Pleasant. No, no, no, didn't go to Mount Pleasant.
5 Finally, they had to confront you and say, look, we've got
6 your license plate number in Mount Pleasant on a license read.

7 A. I can't -- I can't agree with you that they have my
8 license plate of what place or what time, because I again
9 scrap there. If I was in Mount Pleasant, I scrapped so many
10 streets until --

11 Q. Why didn't you tell the 911 operator that you
12 pulled up at the store during the robbery?

13 A. Well, on the phone all of that was irrelevant to
14 me.

15 The only thing that was relevant -- if you listen
16 to the conversation, the only thing that was relevant is
17 giving him my position so that he can get an officer to where
18 I was.

19 Q. You don't think it was relevant to tell the 911
20 operator that you pulled up during the course of the robbery?

21 A. I didn't know that they were robbing the store.

22 Q. How about afterwards?

23 A. Actually -- when I pulled up, actually what I
24 thought is that they were getting ready to rob the store and I
25 thought I was preventing the store --

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1 It wasn't until weeks later that -- well, I think
2 it was months later that a solicitor knocked at my door, and
3 they showed it, and everything I was telling them they were
4 like, okay, you were there after the store was robbed.

5 Q. How many times did you meet with law enforcement?

6 A. I met with the solicitor -- I believe he came to my
7 house the first time we spoke. And I believe I came to the
8 office we spoke. And I believe he came back to the house
9 again and we spoke.

10 Q. All right. That's three; right?

11 A. [No response]

12 Q. And then you spoke to the 911 caller, right --

13 A. Yes, sir.

14 Q. -- the 911 operator --

15 A. Yes, sir.

16 Q. That's four.

17 You spoke to the officer that night on the scene,
18 didn't you?

19 A. I spoke to three different officers, and then a
20 female officer, and then another black detective.

21 Q. So about seven times, total, would you say you've
22 met with law enforcement and the solicitor's office?

23 A. Probably more than that. Probably had more contact
24 than that.

25 Q. How many times have they gone over the story with

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1 you? Each of those times?

2 A. Each of those times.

3 Q. All right. And --

4 A. Each of those times.

5 Q. And, in fact, you questioned Investigator Brown.

6 When you were meeting with her, you said why are you -- why
7 are y'all accusing me of this; right?

8 A. Because it turned into I felt kind of intimidated
9 -- because they were doing their job. And I apologized to
10 them because I felt kind of intimidated because they wanted to
11 know my whereabouts, they wanted to know what I was doing,
12 they wanted to know everywhere I was.

13 And I felt like, okay, I did the right thing. And
14 I just felt kind of intimidated and I felt kind of pressured
15 into, okay, you had something to do with it. And I don't care
16 where you go or who you talk to, if someone does the right
17 thing for you and you turn around and you try to make it seem
18 like they had something to do with it, they're going to quit
19 talking to you, man. Yes, sir.

20 Q. You're in here today testifying.

21 A. Yes, sir.

22 Q. And you took an oath to testify truthfully;
23 correct?

24 A. Yes, sir.

25 Q. And you've dealt with law enforcement in the past;

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1 correct?

2 A. Yes, sir.

3 Q. All right. And you've been untruthful with law
4 enforcement in the past, have you not?

5 MR. OSBORNE: Objection, Your Honor.

6 THE COURT: What's the basis?

7 MR. OSBORNE: Relevance.

8 THE COURT: Counsel approach.

9 [Whereupon, an off-the-record bench conference is
10 held]

11 THE COURT: Sustained.

12 Q. [Mr. Hilton] Mr. Young, you were charged with
13 petit larceny. And that's what the solicitor asked you about
14 previously; right?

15 A. Yes, sir, they have asked me that.

16 Q. And you also got a conviction for a felony charge
17 back -- I think it was 2005; is that correct?

18 A. It was 2004 when it was committed. It was 2005
19 when I was convicted.

20 Q. All right. Let's talk about where that white
21 Taurus was, because I think there's some confusion on that.
22 You drew that on the map. Is that --

23 MR. HILTON: Can we get the map back up there?

24 Q. [Mr. Hilton] And this is State's Exhibit 1 that
25 you referred to earlier; correct?

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1 A. Yes, sir.

2 Q. All right. And there's an intersection. And you
3 can barely see it, but it's the intersection of Parsonage and
4 Doris. That's where you drew where the car was earlier; is
5 that right?

6 A. Like I expressed to the officer that night before I
7 explained again that night from -- okay. The store is here.
8 CVS is -- CVS is here, and the gas station is here. For some
9 reason, this whole area right here is lit up at night. It's
10 lit up to where you can see if you drop a coin on the ground.

11 Q. All right. Where was that white car you were
12 talking about?

13 A. That white car was at a slant. Okay?

14 And on the 911 call, that's how -- where I told
15 them it was. And that's where I told the detective it was.
16 But I guess they went and did their field work and they said
17 that, okay --

18 Q. I'm not saying what they say. I'm saying what did
19 you see.

20 A. What did I see?

21 Q. What you saw.

22 A. Yeah. White Taurus.

23 Q. All right. And it was right there at Doris and
24 Parsonage?

25 A. See, that's where the problem is, because I don't

Thomas Young
Cross-Examination by Mr. Hilton
January 6, 2016

1 know this area. I don't know this area. If you would take
2 the time to listen to me, I don't know this area here at all.
3 And when I came down, I made a first right --

4 Q. Well, that's the only --

5 A. I made a first --

6 Q. -- wouldn't you agree?

7 A. I made a first right. But that right took me and
8 brought me back around to the same.

9 And the detectives were confused because they said
10 that right doesn't bring me back to the street. So --

11 Q. I'm not saying what the detectives are saying.

12 A. Okay.

13 Q. I understand you met with them seven times and
14 they've gone over this story with you over and over --

15 A. Yes, sir.

16 Q. -- and over again.

17 A. Uh-huh.

18 Q. You drew on that board the first time, and you drew
19 it again --

20 A. Uh-huh.

21 Q. -- that the white Taurus was right there at the
22 corner of Doris and Parsonage --

23 A. Yes, sir, that's --

24 Q. -- is that where you believe the white Taurus was?

25 A. That's where my mind was that night, until I

Thomas Young
Cross-Examination by Mr. Hilton
January 6, 2016

1 learned differently that I wasn't at that --

2 Q. Until the police told you something different --

3 A. Well, not no --

4 Q. -- is that what you're saying?

5 A. -- until I saw my van on the video.

6 They didn't have to tell me until -- I sat there
7 and watched the video and I studied and I did my own study and
8 I realized that, okay, when I came down, I have a telephone in
9 my hand. My adrenalin is rolling. I made the first right.
10 Why did I make the first right? Because it was the first
11 turn. It was the first turn to get back to Highway 61.

12 What I later learned that, okay, I didn't make the
13 first right. I made the second right. But I never saw the
14 first right.

15 Q. All right. Do you think the Taurus was at the
16 second right?

17 A. Now, from my understanding, from how I view it --
18 it didn't take a detective. From how I view it, yes, I did.

19 Q. All right. And you said that when you turned by
20 the Taurus, the Taurus was nothing but engine; right? I think
21 that's what you --

22 A. No, sir --

23 Q. -- what you said.

24 A. -- not at the beginning.

25 When I came down, I had to slow down because I'm

Thomas Young
Cross-Examination by Mr. Hilton
January 6, 2016

1 prepared to make the turn. Whoever the driver of that taurus,
2 sees my blinkers. They either have to make their turn, or
3 their car should be positioned straight to where you can make
4 your turn.

5 His car -- that car was positioned to where I
6 couldn't make my turn. And as I swung my van, that's when the
7 headlight became a glare. And that's why I told the
8 detectives that the headlight was turned on. But as I think,
9 the headlight was probably on. Or even if it was off, when I
10 made that turn my headlight dead smack -- my driver headlight
11 was dead smack on the driver headlight of that Taurus. There
12 was no room for me to make that turn.

13 I don't know if the driver of that Taurus was
14 watching me to see I couldn't make the turn or what. But
15 before I even got onto the road to straighten my van out, I'm
16 like this. That Taurus is here. I'm like that. And that
17 Taurus came around me.

18 Q. From which way?

19 A. And headed towards Highway 61.

20 Q. Back towards the store, is what you told the 911
21 operator; correct?

22 A. Yes, sir.

23 Q. And that's what you told police when you met with
24 them?

25 A. Yes, sir.

Thomas Young
Cross-Examination by Mr. Hilton
January 6, 2016

1 Q. And back towards the store would be down Parsonage
2 Road, right down by the store; correct?

3 A. Yes, sir. Maybe not even -- what's that? 100
4 feet? 200 feet?

5 Q. All right. Can you draw a line where you think the
6 car went back to 61?

7 A. [Witness complies]

8 Q. Straight back down that way. All right. And
9 you're sure about that?

10 A. Yes, sir.

11 Q. All right. That's what you told police.

12 A. Yes, sir.

13 MR. HILTON: No further questions, Your Honor.

14 MR. OSBORNE: Very briefly, Your Honor.

15 All right. Could you put that back up, please?

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Thomas Young
Redirect Examination by Mr. Osborne
January 6, 2016

REDIRECT EXAMINATION

BY MR. OSBORNE:

Q. Let's take up right where Mr. Hilton left off. All right. We listened to the 911 call.

A. Yes, sir.

Q. Would you agree that on the 911 call you said that the white Taurus was parked at the intersection facing apartments?

MR. HILTON: I'm going to object to leading, Your Honor.

THE COURT: Rephrase your question.

Q. [Mr. Osborne] You listened to the 911 call?

A. Yes, sir.

Q. You heard yourself talking to the 911 operator?

A. Yes, sir.

Q. Like we all did?

A. Yes, sir.

Q. Did you, or did you not, tell the 911 operator that the white Taurus was facing -- was parked at the intersection facing apartments?

A. Yes, I did word it that way.

But what I was trying to word to the 911 officer -- that I'm trying to get out as much as I possibly could. The 911 officer kept asking me what store, where are you, what -- what's the location. And the Parsonage apartments came in, as

Thomas Young
Redirect Examination by Mr. Osborne
January 6, 2016

1 far as a landmark, to give him exact -- to give an officer
2 location --

3 Q. Right.

4 A. -- as to where to --

5 Q. No. I understand that.

6 But did you, or did you not, say that you saw the
7 white Taurus --

8 A. Yes, sir.

9 Q. -- facing the apartments?

10 A. Yes, sir.

11 Q. Okay. Do you think your memory is better now
12 regarding what happened, or back then when you placed the 911
13 call?

14 A. I believe it's better now because in a whole year,
15 every other day, I think about it.

16 Q. You remember more as time goes on?

17 A. As time go on. Every other day I --

18 Q. Okay. Well, let's talk about what you do remember.
19 We'll go with both. Okay. Either at this intersection or
20 that intersection, if -- when you saw the car and you were
21 coming down this road, did you see -- at what point when you
22 were coming down Parsonage did you see the car at the
23 intersection?

24 A. I didn't see the car until I went to make the turn.

25 Q. And I think you testified earlier on direct that

Thomas Young
Redirect Examination by Mr. Osborne
January 6, 2016

1 this area was -- coming back here, not this area -- the area
2 by the Kangaroo was really well-lit.

3 A. Uh-huh.

4 Q. But I think you said this area back here was really
5 dark?

6 A. It's black.

7 Q. Really black?

8 A. It's black.

9 Q. And you didn't see that car until you --

10 A. Until I --

11 Q. -- were making the turn?

12 A. Until I whipped the wheel.

13 Q. Okay. And Mr. Hilton asked you the one thing that
14 you're positive about, was the car sped back down toward
15 Parsonage?

16 A. Yes, sir.

17 MR. OSBORNE: No further questions, Your Honor.

18 MR. HILTON: No further questions.

19 THE COURT: Ladies and gentlemen, it's an
20 appropriate time for us to take another short break.

21 Please -- do not begin your deliberations. Please
22 remember all my admonitions. Take your notepads with
23 you or leave them right in the chair.

24 Please rise for the jury. Mr. Young, please stay
25 seated.

Thomas Young
Redirect Examination by Mr. Osborne
January 6, 2016

1 [Whereupon, the jury exits the courtroom at
2 2:32 p.m.]

3 THE COURT: Thank you. Be seated.

4 Mr. Hilton, do you wish to proffer the testimony?

5 MR. HILTON: Yes, Your Honor.

6 Mr. Young, this is testimony not for the jury.

7 It's a proffer for evidence. Okay?.

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Thomas Young
Proffer by Mr. Hilton
January 6, 2016

PROFFER

BY MR. HILTON:

Q. I think the question I asked you was you've been untruthful to law enforcement in the past, have you not?

A. Yes, sir, I have.

Q. And back in 2000 -- I'm sorry -- 2015, back in February, that was in regard to that petit larceny charge; is that correct?

A. Yes, sir, it is.

Q. And with regard to you being untruthful, why were you lying to police?

A. Because I committed a crime.

I committed a crime on my own personal behalf, and I was afraid to suffer the consequences.

MR. HILTON: All right. Thank you. No further questions.

And that would be what I would propose to ask him in front of the jury.

THE COURT: All right.

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Thomas Young
Proffer by Mr. Osborne
January 6, 2016

PROFFER

BY MR. OSBORNE:

Q. Well, if he asks that, then what I was going to ask him is, well you didn't completely lie, though, did you, Mr. Young?

A. No, sir.

I didn't completely lie. I told him -- I told him enough to keep myself at a safe level.

Q. At any point, did you admit to taking -- and what were you trying to do? Were you trying to get metal from an AC unit, I think?

A. Yes, sir.

Q. Did you admit to trying to get metal from an AC unit?

A. Yes, sir, I did.

Q. You just tried to sweeten it up a little bit; right?

A. Yes, sir.

MR. OSBORNE: That's all I have.

THE COURT: You may step down. Thank you.

[Whereupon, Mr. Osborne is excused and exits the witness stand]

THE COURT: Is he free to go?

MR. OSBORNE: He's free to go from me, Your Honor.

THE COURT: Any objection?

Thomas Young
Proffer by Mr. Osborne
January 6, 2016

1 MR. HILTON: Well, it depends on the -- it depends
2 on the ruling of Your Honor.

3 THE COURT: I'm going to stand by my initial
4 ruling.

5 MR. HILTON: Then no objection, Your Honor.

6 THE COURT: He's free to go.

7 You're free to go, but you can stay with us if you
8 like. All right?

9 THE WITNESS: Thank you.

10 Who is your next witness?

11 MR. CORVEY: Detective Gregg, with CPD, Your Honor.

12 THE COURT: We'll take a short comfort break, ten
13 minutes.

14 [Whereupon, a recess is taken from 2:35 p.m. to
15 2:47 p.m.]

16 THE COURT: Anything before we bring in the jury?
17 From the State?

18 MR. OSBORNE: No, Your Honor.

19 MR. HILTON: I just wanted to put the legal basis
20 for my argument on the record, if that's okay. That's
21 all.

22 THE COURT: I'll allow you to do that at this time.
23 Anything else?

24 MR. HILTON: That's it.

25 THE COURT: Mr. Hilton, if you can do it quickly

Thomas Young
Proffer by Mr. Osborne
January 6, 2016

1 before the jury comes?

2 MR. HILTON: Yes.

3 The objection -- or the rule for allowing that
4 specific testimony which -- that we proffered would be
5 under 608(b), and that's what I would ask that this come
6 in under.

7 THE COURT: Thank you.

8 MR. HILTON: Thank you. Your Honor.

9 THE COURT: Who is your next witness?

10 MR. CORVEY: Detective Gregg.

11 [Whereupon, the jury enters the courtroom at
12 2:48 p.m.]

13 THE BAILIFF: All jurors are present, Your Honor.

14 THE COURT: Thank you. Be seated.

15 Call your next witness.

16 MR. CORVEY: Thank you, Your Honor. The State
17 calls Detective Gregg.

18 THE CLERK OF COURT: This way, please.

19 [Whereupon, Ms. Gregg comes forward]

20 THE CLERK OF COURT: Please raise your right hand.
21 Place your left hand on the Bible.

22 [Whereupon, Ms. Gregg is duly sworn by the clerk of
23 court as follows: do you swear or affirm that your
24 testimony will be the truth, the whole truth, and
25 nothing but the truth, so help so you God]

Thomas Young
Proffer by Mr. Osborne
January 6, 2016

1 THE WITNESS: Yes, I do.

2 THE CLERK OF COURT: Please be seated.

3 [Whereupon, Ms. Gregg takes the witness stand]

4 THE CLERK OF COURT: Please state your full name,
5 and then spell your last name for the record.

6 THE WITNESS: My name is Rebecca Gregg. G-R-E-G-G.

7 MR. CORVEY: Good afternoon, Detective Gregg.

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Rebecca Gregg
Direct Examination by Mr. Corvey
January 6, 2016

REBECCA GREGG,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. CORVEY:

Q. Where are you employed?

A. City of Charleston Police Department.

Q. How long have you been with the City Police
Department?

A. Approximately four years.

Q. What have been some of the various assignments
you've had in CPD?

A. I worked as a patrol officer, and then I got
assigned to central investigations as a detective.

Q. And what do you specifically do with central?

A. We have our on-call rotations. And I'm assigned
specifically to motor vehicle theft. But when time arises, we
help with everything.

Q. And have you worked in law enforcement prior to
going to CPD?

A. Yes, sir.

Q. Where did you work previously?

A. City of -- in the state of California.

Q. What did you do out in California?

A. I did investigations.

Rebecca Gregg
Direct Examination by Mr. Corvey
January 6, 2016

1 Q. So, in total, how long have you been a law
2 enforcement officer?

3 A. Eight years.

4 Q. Now, were you working on the night of October 7th,
5 2014?

6 A. Yes, sir.

7 Q. What were you doing that night?

8 A. I was the on-call central detective working the
9 11:00 p.m. to 7:00 a.m. shift.

10 Q. And just to kind of elaborate on it a little bit,
11 when you say you're the on-call detective, what exactly does
12 that mean?

13 A. That means that I'm in the office and available for
14 any call that requires central investigations, which involves
15 a more serious crime such as robbery, homicide, things of that
16 nature.

17 Q. And as the on-call detective would you, under
18 normal circumstances, be the first detective on scene?

19 A. Right.

20 I'm the first one they call, and then I respond
21 out.

22 If we do need extra bodies, I would then make the
23 phone call from there.

24 Q. And on that night, did you have the occasion to
25 respond to an armed robbery that occurred at 2572 Ashley River

Rebecca Gregg
Direct Examination by Mr. Corvey
January 6, 2016

1 Road?

2 A. Yes, sir.

3 Q. What location is that?

4 A. That's going to be the gas station.

5 Q. The Kangaroo gas station?

6 A. Kangaroo.

7 Q. And is that in the city and county of Charleston?

8 A. Yes, sir.

9 Q. And just to provide some context of the area, I'm
10 going to show what's been previously entered into evidence as
11 State's 1.

12 MR. CORVEY: Your Honor, may I publish it?

13 THE COURT: You may.

14 Q. [Mr. Corvey] What does this reflect?

15 A. This is going to be the intersection of Ashley
16 River Road and Old Parsonage.

17 Q. And you can actually draw right on the screen right
18 in front of you.

19 Can you point out where the Kangaroo gas station is
20 on that picture?

21 A. Be right here.

22 Q. And where is the CVS located?

23 A. [Witness Indicates]

24 Q. Now, are you familiar with that area?

25 A. Yes, sir.

Rebecca Gregg
Direct Examination by Mr. Corvey
January 6, 2016

1 Q. Behind that CVS, how is it lit back there?

2 A. It's not very well-lit at all. It's dark.

3 Q. Is there any light at all to be found?

4 A. Very minimal.

5 With the shrubbery and everything else, it's very
6 hard to see back there.

7 Q. From the road, would you be able to see anything
8 back there if --

9 A. No.

10 Q. Now, when you were working, are you familiar with
11 what time the first call came in regarding the robbery?

12 A. The initial call came in at 0302.

13 Q. Would that be 3:02 a.m.?

14 A. Yes, sir.

15 Q. Now, about how long after you received the call
16 were units able to respond?

17 A. Units were dispatched very quickly. Ours was
18 called out about ten minutes later.

19 Q. How long did it take you to get there?

20 A. About fifteen to twenty minutes.

21 Q. And upon arriving on scene, can you please describe
22 to the jury what the scene looked like? what you observed?

23 A. The entire parking lot of the location had been
24 cordoned off.

25 When I initially came in, I dealt with the first

Rebecca Gregg
Direct Examination by Mr. Corvey
January 6, 2016

1 customer that had arrived after the incident. And as I
2 entered the location, there was still tape on the doors.

3 Q. Can you kind of describe that?

4 A. It was duct-tape that was around the two handlebars
5 that normally would shut the door.

6 Q. And who else was generally on the scene at that
7 point?

8 A. Patrol officers, sargents. And then they also had
9 the two victims that were robbed in the incident.

10 Q. Did you have any contacts with the victims at that
11 point?

12 A. I interviewed both of them.

13 Q. How would you describe their demeanor?

14 A. Well, you had Mr. Singleton, who was definitely
15 shaken up by the incident; and then Mr. Finch, who was very
16 frustrated with what happened.

17 Q. And when you say shaken up, what do you mean by
18 that?

19 A. Well, it's a -- he seemed to have a hard time
20 putting words together, initially, trying to explain what had
21 happened. You know, rationalizing what happened.

22 Q. At some point during your interactions with them,
23 or law enforcement, were they able to give descriptions of the
24 suspects that night?

25 Q. Yes.

Rebecca Gregg
Direct Examination by Mr. Corvey
January 6, 2016

1 Q. And were those -- did those end up being broadcast
2 over the radio?

3 A. Yes, sir.

4 Q. At some point, was there ever a description of the
5 vehicle that was broadcasted --

6 A. Yes, sir.

7 Q. -- as possibly being related to this incident?

8 A. Yes.

9 Q. What was that description?

10 A. The vehicle was a white Ford Taurus with a sunroof.

11 MR. CORVEY: Beg the Court's indulgence.

12 THE COURT: Take your time.

13 MR. CORVEY: No further questions at this time.

14 Please answer any questions Mr. Hilton may have.

15 THE COURT: Mr. Hilton?

16 MR. HILTON: No questions.

17 THE COURT: You may step down. You are free to go.

18 [Whereupon, Ms. Gregg is excused and exits the
19 witness stand]

20 THE COURT: Call your next witness.

21 MR. CORVEY: The State calls Officer Ulysis Vance.

22 [Whereupon, Mr. Vance comes forward]

23 THE CLERK OF COURT: Please raise your right hand.
24 Place your left hand on the Bible.

25 [Whereupon, Mr. Vance is duly sworn by the clerk of

Rebecca Gregg
Direct Examination by Mr. Corvey
January 6, 2016

1 court as follows: do you swear or affirm that your
2 testimony will be the truth, the whole truth, and
3 nothing but the truth, so help so you God]

4 THE WITNESS: Yes, sir.

5 THE CLERK OF COURT: Be seated.

6 [Whereupon, Mr. Vance takes the witness stand]

7 THE CLERK OF COURT: State your full name, and
8 spell your last name for the record.

9 THE WITNESS: Ulysis Vance. V-A-N-C-E.

10 MR. CORVEY: Good afternoon, Officer Vance.
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Ulysis Vance
Direct Examination by Mr. Corvey
January 6, 2016

1 ULYSIS VANCE,

2 Having Been First Duly Sworn,
3 was Examined and Testified as Follows:

4 DIRECT EXAMINATION

5 BY MR. CORVEY:

6 Q. Where do you work?

7 A. I work for the City of Charleston Police
8 Department.

9 Q. How long have you worked for the City?

10 A. For about four years.

11 Q. In your time at CPD, what are some of the various
12 assignments you've had?

13 A. I've been assigned to patrol, and also a patrol
14 training officer.

15 Q. And with regard to your role as a patrol officer,
16 were you working on the night of October 7th, 2014?

17 A. I was.

18 Q. What was your assignment that night?

19 A. I was responsible for the area of Savannah Highway
20 and 526.

21 Q. And when you say responsible, what do you mean by
22 that?

23 A. Pertaining to patrol duties, traffic, calls for
24 service, and such.

25 Q. And on that night, did you have an occasion to

Ulysis Vance
Direct Examination by Mr. Corvey
January 6, 2016

1 respond to an armed robbery that took place at the corner of
2 Parsonage Road and Highway 61?

3 A. Yes.

4 Q. Were you the first officer to arrive on scene?

5 A. I was not.

6 Q. So when you arrived on scene, where did you park?

7 A. I parked on Parsonage Road between the Kangaroo and
8 CVS.

9 MR. OSBORNE: Your Honor, may I please publish
10 Exhibit 1?

11 THE COURT: You may.

12 Q. [Mr. Osborne] On the screen in front of you,
13 you're actually going to be able to touch, can you try to
14 indicate to the jury about where you parked on Parsonage Road?

15 A. Right here, approximately.

16 Q. Okay. And once you arrived on scene, what were
17 your primary duties?

18 A. I was told to look for any evidence or witnesses to
19 the incident.

20 Q. And in trying to accomplish that, what did you do?

21 A. I stepped behind my patrol car and I began looking
22 around on the ground for anything that might have been
23 dropped, or such, from the incident.

24 Q. Were you looking for any witnesses, either?

25 A. Yes, I was.

Ulysis Vance
Direct Examination by Mr. Corvey
January 6, 2016

1 Q. Were you able to find any witnesses?

2 A. No witnesses were able to be found.

3 Q. Did you end up finding anything?

4 A. Yes.

5 I found a wallet on the grass from the Parsonage
6 side on the CVS side of Parsonage Road.

7 Q. On the CVS side?

8 A. Yes.

9 Q. And so that would be on the other side from the
10 Kangaroo gas station?

11 A. Yes. Across from the Kangaroo.

12 Q. I'm now going to show you what's been entered into
13 evidence as State's 16 through State's 19.

14 MR. CORVEY: Your Honor, may I publish?

15 THE COURT: You may.

16 Q. [Mr. Corvey] Officer Vance, I'm showing you what's
17 been entered as State's 16 first. Can you please describe for
18 the jury what that depicts?

19 A. That's the area where I parked my patrol car and
20 where I found the wallet in the grass.

21 Q. I know there's a little wear on there. But as best
22 you can, can you try to circle the area in which the wallet
23 is?

24 A. [Witness complies]

25 Q. I'm now showing you what's been entered as State's

Ulysis Vance
Direct Examination by Mr. Corvey
January 6, 2016

1 17. Is that a closer-up of the wallet?

2 A. Yes.

3 Q. And now I'm showing you State's 18. What does this
4 depict?

5 A. That is Parsonage Road. And that's the CVS and the
6 dumpsters that were on the Kangaroo gas station.

7 Q. So the wallet would have been found basically
8 across the street from the vantage point of that photograph?

9 A. Yes.

10 Q. I'm now showing you what's been entered as State's
11 19. Can you describe to the jury what this depicts?

12 A. That's a different angle of Parsonage Road, the
13 general area where I parked at, which is right there. And the
14 wallet was in the grassy area on the CVS side.

15 Q. And I'm sure this is clear by now. But from the
16 vantage point of the photographer, the Kangaroo would have
17 been behind that?

18 A. Yes.

19 Q. And the view is looking down Parsonage Road?

20 A. Yes.

21 Q. Now, with regard to the wallet, were you aware who
22 that wallet belonged to?

23 A. When I located it, no, I did not.

24 MR. CORVEY: The Court's indulgence, Your Honor.

25 [Whereupon, Mr. Corvey and Mr. Osborne confer]

Ulysis Vance
Direct Examination by Mr. Corvey
January 6, 2016

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MR. CORVEY: No further questions at this time.

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Please answer any questions Mr. Hilton may have.

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THE COURT: Mr. Hilton?

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Ulysis Vance
Cross-Examination by Mr. Hilton
January 6, 2016

CROSS-EXAMINATION

BY MR. HILTON:

Q. Did you see Mr. Wilson on the scene?

A. I did not.

Q. Did you find anything that connected him to the scene?

A. I did not.

MR. HILTON: No further questions.

THE COURT: Redirect?

MR. CORVEY: None, Your Honor.

THE COURT: You may step down. Feel free to go, feel free to stay with us.

[Whereupon, Mr. Vance is excused and exits the witness stand]

THE COURT: Call your next witness.

MR. OSBORNE: The State calls Jason Bryson.

[Whereupon, Mr. Bryson comes forward]

THE CLERK OF COURT: This way, sir. Up here, please. Up here, please.

Please raise your right hand. Place your left hand on the Bible.

[Whereupon, Mr. Bryson is duly sworn by the clerk of court as follows: do you swear or affirm that your testimony will be the truth, the whole truth, and nothing but the truth, so help so you God]

Ulysis Vance
Cross-Examination by Mr. Hilton
January 6, 2016

1 THE WITNESS: I do.

2 THE CLERK OF COURT: Be seated.

3 [Whereupon, Mr. Bryson takes the witness stand]

4 THE CLERK OF COURT: If you'll please state your
5 full name and then spell your last name for the record.

6 THE WITNESS: Jason Bryson. The last name,
7 B-R-Y-S-O-N.

8 MR. OSBORNE: Thank you, Mr. Bryson, first of all,
9 for your patience. I know you've been here for the
10 better part of the day.

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Ulysis Vance
Cross-Examination by Mr. Hilton
January 6, 2016

JASON BRYSON,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. OSBORNE:

Q. Just tell the jury what's your occupation or
profession.

A. I'm the market manager for Circle K stores.

Q. You said that's for Circle K?

A. Yes, sir.

Q. Back in October of 2014, did you work for the
Kangaroo?

A. I did.

Q. How did that work? Is Circle K now what used to be
Kangaroo or --

A. Yes, sir. We merged.

Q. So I have met with you and I've talked with you
about this case; is that correct?

A. Yes, sir.

Q. You weren't working at the time of the robbery?

A. No, sir.

Q. In fact, you don't know -- do you know anything
about the robbery?

A. No, sir.

Q. Okay. Now, how long have you been employed by

MIA PERRON, CVR-CM-M

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Ulysis Vance
Cross-Examination by Mr. Hilton
January 6, 2016

1 Circle K or Kangaroo?

2 A. Thirteen years.

3 Q. And what was your position back in October of 2014?

4 A. District manager.

5 Q. District manager. Okay.

6 As a district manager of Kangaroo, did your duties
7 sometimes entail you reviewing personnel or employee files?

8 A. Yes, sir.

9 Q. In preparation for this trial, did myself or
10 Investigator Hobb ask you to review a person by the name of
11 Latoya Fuller?

12 A. Yes, sir.

13 Q. And did you do that?

14 A. I did.

15 Q. Did you know Latoya Fuller?

16 A. Just from work.

17 Q. So you knew Latoya Fuller to be an employee?

18 A. Yes, sir.

19 Q. Do you know: was it the Kangaroo or Circle K?

20 A. It was Kangaroo at the time.

21 Q. Kangaroo.

22 Through your personal knowledge, or through
23 reviewing the files, do you know if Latoya Fuller worked at
24 the Kangaroo at 2572 Ashley River Road?

25 A. She did.

Ulysis Vance
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January 6, 2016

1 Q. Did she work at the Kangaroo at 2572 Ashley River
2 Road around the time frame of October the 7th of 2014?

3 A. October 7th? Yes, sir.

4 Q. Did you have a chance to review her application
5 prior to this testimony?

6 A. I did.

7 Q. Did you notice who Latoya put down as her
8 references?

9 A. Yes, sir.

10 Q. And who were they?

11 A. There were three references listed. They were
12 Cynthia Pringle, Lawanda Fuller, and Robert Wilson.

13 Q. What date was she hired?

14 A. On 9/19 of 2014.

15 Q. Was she terminated?

16 A. She was.

17 Q. And what date was she terminated?

18 A. That was 10/26 of 2014.

19 Q. October 26th of 2014?

20 A. Correct.

21 Q. Why was she terminated?

22 A. No call, no show.

23 Q. Just explain to the jury, what does that mean? I
24 think I know, but what does that mean?

25 A. She was scheduled for a shift and she did not

Ulysis Vance
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January 6, 2016

1 appear or call any members of management to state that she
2 wouldn't be reporting for that shift.

3 Q. Now, y'all don't -- do y'all fire an employee for
4 not showing up one time?

5 A. No, sir.

6 Q. What --

7 A. It would be two or more no call, no shows. And she
8 didn't show up for two or more shifts.

9 Q. Thank you.

10 A. Yes, sir.

11 MR. CORVEY: No further questions, Your Honor.

12 THE COURT: Mr. Hilton?

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Jason Bryson
Cross-Examination by Mr. Hilton
January 6, 2016

CROSS-EXAMINATION

BY MR. HILTON:

Q. It's Mr. Bryson; correct?

A. Yes, sir.

Q. And was that a reference, or a former employee, or what was that? Or both?

A. I'm sorry?

Q. When she put down the name of Robert Wilson, was that a reference, or was that as a former employee, or what was -- why did she put it down?

A. She listed him as a reference.

Q. As a reference?

A. Yes, sir.

Q. Do y'all follow up with your -- with those references when you do your hiring?

A. Our store managers do call their references.

Q. All right. Did you talk to your store manager in this case?

A. In this particular case I cannot say whether or not he did or did not call.

Q. You don't know if anybody followed up with Mr. Wilson or not; right?

A. I'm not exactly sure.

Q. And Latoya Fuller could have probably put down anybody and y'all may or may not follow up with them; right?

Jason Bryson
Cross-Examination by Mr. Hilton
January 6, 2016

1 A. There is a chance that the store manager may or may
2 not have called.

3 Q. And Mr. Wilson never worked at that store; correct?
4 Mr. Robert Wilson?

5 A. Not under my leadership, no, sir.

6 Q. All right. Well, according to your records, had he
7 ever worked there?

8 A. I did not check.

9 Q. You don't have any reason to believe that he worked
10 there; correct?

11 A. [No response]

12 Q. The solicitor never asked you to check and see if
13 Mr. Wilson worked there; correct?

14 A. No, sir.

15 MR. HILTON: No further questions.

16 MR. OSBORNE: Just one question.

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Jason Bryson
Redirect Examination by Mr. Osborne
January 6, 2016

REDIRECT EXAMINATION

BY MR. OSBORNE:

Q. Do you recall if -- when she listed her reference if she listed a phone number for Robert Wilson?

A. She did list a telephone number for Robert Wilson.

Q. I know you reviewed it. It's not like you have it off the top of your head. Do you remember what number she put down for Robert Wilson?

A. I couldn't tell you without looking at the document.

Q. Well, would it help refresh your memory if I were to show you an e-mail that you sent to Investigator Hobb regarding this contact information?

A. It would.

MR. OSBORNE: Your Honor, may I approach the clerk?

THE COURT: You may. The court reporter? Yes.

MR. OSBORNE: The court reporter. Would you mark this for me?

THE COURT REPORTER: What is your next number?

[Whereupon, Mr. Osborne and Mr. Corvey confer]

[Whereupon, State's Exhibit Number 80 is marked by the State]

MR. OSBORNE: Your Honor, may I approach the witness?

THE COURT: You may.

Jason Bryson
Redirect Examination by Mr. Osborne
January 6, 2016

1 Q. [Mr. Osborne] I'm showing you now, Mr. Bryson,
2 what's been marked as State's Exhibit 80. Can you take a look
3 at that? And specifically towards the bottom of the page.
4 Don't read anything. Just tell me after you've looked at it.

5 [Whereupon, the witness reviews documents]

6 A. Yes, sir.

7 Q. [Mr. Osborne] Does that help refresh your
8 recollection regarding a phone number that she might have
9 listed, that Ms. Fuller might have listed, for a Robert
10 Wilson?

11 A. Yes, sir.

12 Q. And what phone number did she list?

13 A. There's an 843-303 telephone number.

14 Q. 843-303. Do you recall the last four?

15 A. I don't.

16 MR. OSBORNE: Your Honor, may I approach again?

17 THE COURT: You may.

18 Q. [Mr. Osborne] Would it help if I showed it to you
19 one more time?

20 A. Yes, sir.

21 [Whereupon, the witness reviews documents]

22 A. 0290.

23 MR. OSBORNE: Thank you, Your Honor. No further
24 questions.

25 THE COURT: Mr. Hilton?

Jason Bryson
Recross-Examination by Mr. Hilton
January 6, 2016

RECROSS-EXAMINATION

BY MR. HILTON:

Q. And with regard to State's Exhibit 80, does it say on there, relationship to you, old supervisor?

[Whereupon, the witness reviews documents]

A. Looking at the document, it does.

Q. [Mr. Osborne] Did she ever give any indication where she was working or anything?

A. Not to me personally.

MR. HILTON: No further questions.

THE COURT: You may step down. You are free to go.
Thank you.

[Whereupon, Mr. Bryson is excused and exits the witness stand]

THE WITNESS: Thank you.

THE COURT: Call your next witness.

MR. CORVEY: The State calls Rene Charles.

THE CLERK OF COURT: This way, sir. Up here.

[Whereupon, Mr. Charles comes forward]

THE CLERK OF COURT: Put your left hand on the Bible, and raise your right hand.

[Whereupon, Mr. Charles is duly sworn by the clerk of court as follows: do you swear or affirm that your testimony will be the truth, the whole truth, and nothing but the truth, so help so you God]

Jason Bryson
Recross-Examination by Mr. Hilton
January 6, 2016

1 THE WITNESS: Yes, sir.

2 THE CLERK OF COURT: Please be seated.

3 [Whereupon, Mr. Charles takes the witness stand]

4 THE CLERK OF COURT: Please state your full name,
5 and then spell your last name for the record.

6 THE WITNESS: Rene Charles. C-H-A-R-L-E-S.

7 MR. CORVEY: Your Honor, at various points through
8 Mr. Charles' testimony, I'm going to reference State's
9 Exhibit 48 through 67 that have been entered into
10 evidence. May I publish them at the appropriate times?

11 THE COURT: You may.

12 MR. CORVEY: Good afternoon, Mr. Charles.

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Rene Charles
Direct Examination by Mr. Corvey
January 6, 2016

RENE CHARLES,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. CORVEY:

Q. What do you do?

A. I'm a crime scene investigator.

Q. Who are you employed by?

A. I'm employed with the Charleston Police Department.

Q. How long have you been with CPD?

A. Eighteen years.

Q. Can you please describe for the jury exactly what
you do in your role as a crime scene investigator?

A. Yes, sir.

My job as a crime scene technician is to respond to
crime scene calls, any crime scene call that requires the
collection of evidence, process for fingerprints, and
photographs. Basically, it's to document the crime scene.

Q. Okay. And in order to become a crime scene
investigator, will you please describe to the jury what sort
of training and educational background you have?

A. Yes, sir.

I completed the forensic academy training, and also
I completed the -- several crime scene investigation training
through South Carolina justice academy. Also, I am a

Rene Charles
Direct Examination by Mr. Corvey
January 6, 2016

1 certified crime scene investigator.

2 Q. Do you have to keep your certifications current?

3 A. Yes, sir.

4 Q. What sort of things do you do in order to keep
5 those current?

6 A. Yes.

7 It is required at least a few training towards the
8 year, and also I keep up with the investigation training once
9 or twice a year.

10 Q. So periodically throughout every year, you have to
11 do certain trainings?

12 A. Yes, sir. Absolutely.

13 Q. Okay. and would you please describe for the jury
14 how you, as a crime scene technician, typically gets involved
15 in a case?

16 A. Yes, sir.

17 On October the 7th, I was called to respond to the
18 Kangaroo gas station located at 2572 Ashley River, in
19 reference to an armed robbery that took place.

20 Q. And so you were asked to come to the scene?

21 A. Yes, sir.

22 Q. And once arriving on the scene, what's your primary
23 duties?

24 A. When I arrive on the scene, I spoke with the team
25 supervisor, Sargent Stigas [phonetic], and he briefed me about

Rene Charles
Direct Examination by Mr. Corvey
January 6, 2016

1 the robbery that took place at that location.

2 Q. And why is it important for you to -- as a crime
3 scene technician, learn a little bit about what took place
4 when you go about processing the scene?

5 A. Yes, sir.

6 The first responding officer will brief me about
7 the incident and also explain to me what exactly took place,
8 and going to give me an idea to what to be looking for and
9 what to photograph, and also what to collect as far as
10 evidence.

11 Q. And so once, then, after you've been briefed and
12 you arrive -- let me back up.

13 What time did you arrive, about?

14 A. I would say approximately 0300, 0328. It was early
15 in the morning.

16 Q. So would that be about thirty minutes after CPD
17 responded?

18 A. I would say so, yes, sir.

19 Q. And once you got there, had the scene already been
20 secured?

21 A. Yes, sir, the scene had been secured.

22 And there were also several CPD officers at the
23 scene awaiting to my arrival.

24 Q. And do they secure the scene like that in order to
25 preserve evidence for you?

Rene Charles
Direct Examination by Mr. Corvey
January 6, 2016

1 A. Yes, sir. That's correct.

2 Q. So in this case, once you responded, will you
3 please describe for the jury what you first did regarding
4 processing the particular scene at the Kangaroo gas station?

5 A. Yes, sir.

6 When I first arrived at the scene, I conducted a
7 walkthrough of the scene on the outside and also on the inside
8 of the business, and the Sargent Stigas pointed the area where
9 to focus on and I started to document the scene, taking
10 photographs of the evidence. Outside in the parking lot,
11 photographed the evidence inside the business. Just
12 documented the whole entire crime scene with photographs.

13 Q. So you've done, just to summarize it, a walkthrough
14 and then you took photographs of certain items?

15 A. That's correct. Yes, sir.

16 Q. Is there anything you do, with regard to certain
17 items, to identify them for your photographs?

18 A. Yes.

19 The officer -- the first responding officer will
20 point out certain items that need to be processed at the scene
21 or to be collected for further investigation.

22 Q. And then after you took the pictures, did you do
23 anything else on scene with regards to processing?

24 A. Yes, sir.

25 I tried to photograph the items outside the

Rene Charles
Direct Examination by Mr. Corvey
January 6, 2016

1 business, and also photograph the items inside the business.
2 I processed certain items at the scene that -- for possible
3 latent fingerprints.

4 Q. And what do you mean by latent fingerprints?

5 A. Latent fingerprints are invisible to see. It's
6 created by the deposit of normal body fluid, sweat, or when
7 you touch an object or a surface.

8 So my job is to develop the latent fingerprints and
9 make it visible for me to see, and also be able to lift it and
10 submit it to AFIS for further analysis.

11 Q. And then when you say make a fingerprint visible,
12 what kind of things do you do in order to -- so that it could
13 be visible?

14 A. Yes, sir.

15 To make the latents visible, I use a fingerprint
16 brush and also a fingerprint black powder. And I use the
17 fingerprint brush on the surface with the black powder, and
18 then I create a contact on the surface and bring out the
19 details of the ridges of latent fingerprints. Make it visible
20 for me to see.

21 Q. And then once it's visible, you said that you would
22 then try to lift the fingerprint. What do you mean by that?

23 A. Yes, sir.

24 After I use the brush and the black powder on the
25 surface or items and I only use -- after that, I only use what

Rene Charles
Direct Examination by Mr. Corvey
January 6, 2016

1 we call clear fingerprint tape to lift the latents off the
2 surface, and place it onto the fingerprint cards, and then
3 submit it to AFIS for comparison.

4 Q. And what do you mean by AFIS?

5 A. AFIS is the Automatic Fingerprint Identification
6 System that we use to compare latents with non -- with other
7 possible suspects in the database system.

8 Q. So in this case, what items or areas in the store
9 did you end up processing for latent fingerprints?

10 A. Yes, sir.

11 I did process the entry door, I processed several
12 cigarette packs behind the counter, and I also processed the
13 top counter for latent fingerprints.

14 Q. Were you able to get any lifts in this case?

15 A. Yes, sir, I did.

16 Q. How many lifts did you get?

17 A. I collected latents from the interior front door
18 and also from the box that was located on top of the counter.

19 Q. So you got two lifts in this case?

20 A. Yes, sir.

21 Q. And then what did you do with them after you were
22 able to lift them?

23 A. I took -- collected latents from the door and also
24 from the box. I submitted to AFIS for analysis.

25 Q. And then, as your experience as a crime scene

Rene Charles
Direct Examination by Mr. Corvey
January 6, 2016

1 technician, if a suspect is wearing gloves is it likely that
2 they may leave fingerprints behind at a scene?

3 A. Most likely not.

4 Q. And when we first started talking, we talked about
5 a number of pictures which I'm going to show you.

6 First, I'm going to show you what's marked as
7 State's 48. Can you please describe for the jury what State's
8 48 is depicting? And if it helps you at all, there's a screen
9 in front of you which you can draw on to indicate anything
10 that you think may be important to the jury.

11 A. These photographs showing the piece of duct-tape
12 that was located underneath the vehicle, parked vehicle, in
13 front of the business.

14 Q. I'm now going to show you State's 49. Is that the
15 same vehicle?

16 A. Yes, sir, that is the same vehicle.

17 Q. And if you could, could you indicate where the tape
18 was located on that closer-up picture?

19 A. Somewhere right there.

20 Q. And then from the vantage point that the photograph
21 used, was the business then behind you?

22 A. Yes.

23 The business -- the Kangaroo gas station -- can you
24 show me some pictures?

25 Q. Yes, sir.

Rene Charles
Direct Examination by Mr. Corvey
January 6, 2016

1 [Whereupon, Mr. Corvey reviews documents]

2 MR. CORVEY: I guess we don't have any wide shots
3 in that set.

4 Q. [Mr. Corvey] But I guess just generally?

5 A. Generally, the car is blocking the front of the
6 business so the business --

7 Q. Okay.

8 A. I'm not a hundred percent sure.

9 Q. And I want to go back to 48 just briefly. Can you
10 please describe for the jury what that little placard number 1
11 is for?

12 A. Yeah.

13 The placard is to mark the evidence and also to
14 identify the evidence.

15 In my report, that's placard number 1 laying to
16 piece of duct-tape.

17 Q. And so then when you go to fill out your report,
18 the certain piece of duct-tape would then be evidence piece
19 number 1?

20 A. Right. To the -- yes, sir.

21 Q. And so on with other placards?

22 A. That is correct. Yes, sir.

23 Q. I am now going to show you what's marked as
24 State's 50. What does this reflect?

25 A. This photograph of the Newports cigarette pack was

Rene Charles
Direct Examination by Mr. Corvey
January 6, 2016

1 located outside the business in the parking lot. It's marked
2 item number 2.

3 Q. I'm now showing you State's 51.

4 A. This photograph here, I took a photograph of the
5 customer or the -- one of the victims of the armed robbery.
6 That's the duct-tape that the suspects used to duct-tape the
7 clerk and the victims' feet and --

8 Q. I'm now showing you State's 51. Or excuse me. 52.

9 A. 52: that's the photographs of the interior of the
10 business, and also from over-view of the inside.

11 Q. And are there some items on the floor there in the
12 background of the photograph?

13 A. Yes, sir.

14 Over here, that's the victim's cell phone.

15 Q. The victim's cell phone.

16 I'm now showing you 53. That's just a closeup of
17 those items?

18 A. Yes, sir.

19 That's the closeup of the victim's wallet and also
20 the victim's cell phone.

21 Q. I'm now showing you State's 54. What is it?

22 A. This photograph represent overall pictures of the
23 inside of the business.

24 Item number 4, it's a piece of duct-tape. And
25 also, item number 5 is another piece of duct-tape that was

Rene Charles
Direct Examination by Mr. Corvey
January 6, 2016

1 left from suspects.

2 Q. And on that photograph where you circled number 4,
3 is that the entrance mat to the store?

4 A. Yes, sir, that's correct.. That's the entrance mat.

5 Q. I'm showing you 55.

6 A. Item 55 is a closeup photographs of the piece of
7 duct-tape left on the floor.

8 Q. And then State's 56?

9 A. Item number 5 is a dollar bill that was left also
10 inside of the business. Marked as item number 5.

11 Q. Now I'm showing you 57. What does that depict?

12 A. 57 is showing an overall photographs of -- that's
13 the back of the counter, the area where the items were left on
14 the floor. As you can see, cigarette pack and also all the
15 items left on the floor behind the counter.

16 Q. And did you take this picture because it appeared
17 it had been disturbed back there?

18 A. Yes, sir.

19 It appeared that someone went through the cabinet,
20 and they also went through the area under the cash register.

21 Q. I'm now showing you item number 58.

22 A. Item 58, it's a piece of duct-tape that was left
23 inside a trash can, right inside, and I placed a number to
24 show that item 6 is where the piece of duct-tape in the
25 photographs collected.

Rene Charles
Direct Examination by Mr. Corvey
January 6, 2016

1 Q. And that's what -- is that's what's reflected in
2 State's 59?

3 A. Yes, sir.

4 That's a closeup of the piece of duct-tape inside
5 the trash can. Closeup pictures of it.

6 Q. Now I'm showing you State's 60. What is that a
7 photo of?

8 A. That's the area -- it's the area behind the
9 counter. It's a small room.

10 And the officer also advised me that there were a
11 piece of duct-tape in the area behind the counter, so I went
12 and photographed the area behind the counter just to show
13 that -- the location of the piece of duct-tape.

14 Q. And item number 60. To your understanding, is that
15 where the victims were put in the store?

16 A. Yes. Yes, sir.

17 To my understanding, the victim's were placed in
18 the back room behind the counter. Their hands and feet were
19 duct-taped.

20 Q. Now moving outside the store, I'm showing you
21 State's 61. What is that a photo of?

22 A. That's the outside of the store, and that's
23 probably a little area where -- like a path where you can walk
24 behind the business.

25 Q. I want to come back to State's 61. I want to move

Rene Charles
Direct Examination by Mr. Corvey
January 6, 2016

1 forward a little bit to State's 67. I should have showed this
2 back with State's 60.

3 That was, what, a door moving back into that back
4 area where you just described the duct-tape being found?

5 A. Yes, sir.

6 That's the area I would call the back room where --
7 that's the door, the entry door, to the back room. That's the
8 area behind the counter right there.

9 Q. So we just looked at 61. That reflected the back
10 area behind the store. Is that more of the same in 62?

11 A. Yes, it is the same, a closeup photograph of the
12 area behind the store.

13 Q. And then in State's 63, does that reflect anything?

14 A. Yes, sir.

15 That's a one dollar bill, that was recovered behind
16 the store, marked as item number 8. Right there.

17 Q. And then in State's 65, were you made aware that
18 anything had been found across the street?

19 A. Yes, sir.

20 I was advised by one of the CPD officers that they
21 located a wallet, a victim's wallet, behind the business so I
22 went behind the business and took photographs of the victim's
23 wallet.

24 Q. And this would have been across the street from the
25 business?

Rene Charles
Direct Examination by Mr. Corvey
January 6, 2016

1 A. Yes, sir.

2 Q. Okay. And I now want to show you State's 66. What
3 does that reflect?

4 A. That's reflect the entry door, the interior of the
5 glass door, where I dusted for latent fingerprints.

6 As you can see right there, it is a piece of
7 duct -- clear fingerprint tapes that I placed on the glass
8 door so I'll be able to lift it and put it on my fingerprint
9 cards.

10 MR. CORVEY: Thank you. The Court's indulgence,
11 Your Honor.

12 [Whereupon, Mr. Corvey and Mr. Osborne confer]

13 MR. CORVEY: Those are all the questions I have.

14 MR. OSBORNE: Thank you.

15 THE WITNESS: Yes, sir.

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Rene Charles
Cross-Examination by Mr. Hilton
January 6, 2016

CROSS-EXAMINATION

BY MR. HILTON:

Q. Investigator Charles, all of those fingerprints you took, how many of them came back for Mr. Wilson?

A. Normally, sir, I would collect the fingerprints and submit it to the AFIS. The detective will follow up on the result and also follow up on if the fingerprints matched any particular individual or not.

Q. Okay. So you're not aware if any of them matched Mr. Wilson; correct?

A. That is correct. Yes, sir.

Q. Any other evidence that you collected have anything to do with Mr. Wilson?

A. No, sir, I did not.

I only collected items -- piece of duct-tapes and also a cigarette pack that were submitted to latents recovery pending further information.

Q. As far as you know, it's got nothing to do with the defendant, Mr. Wilson; right?

A. Absolutely. Yes.

MR. HILTON: Thank you.

THE COURT: Redirect?

MR. CORVEY: Nothing further, Judge.

THE COURT: You may step down. Thank you. You're free to go.

Rene Charles
Cross-Examination by Mr. Hilton
January 6, 2016

1 THE WITNESS: Thank you, ma'am.

2 THE COURT: Thank you.

3 [Whereupon, Mr. Charles is excused and exits the
4 witness stand]

5 THE COURT: Call your next witness.

6 MR. OSBORNE: The State calls Walter Singleton.

7 THE COURT: Wait a minute.

8 Mr. Foreman, did y'all want to take a break?

9 THE FOREPERSON: No.

10 THE COURT: If I don't ask, just let me know. Just
11 signal to the bailiff. All right? I try to break every
12 second or third witness.

13 [Whereupon, Mr. Singleton comes forward]

14 THE CLERK OF COURT: Place your left hand on the
15 Bible. I need to swear you in. Raise your right hand.

16 [Whereupon, Mr. Singleton is duly sworn by the
17 clerk of court as follows: do you swear or affirm that
18 your testimony will be the truth, the whole truth, and
19 nothing but the truth, so help so you God]

20 THE WITNESS: Yes, sir.

21 THE CLERK OF COURT: Be seated.

22 Mr. Singleton, I need you to speak into the
23 microphone.

24 [Whereupon, Mr. Singleton takes the witness stand]

25 THE CLERK OF COURT: State your full name. Spell

Rene Charles
Cross-Examination by Mr. Hilton
January 6, 2016

1 your last name for the record.

2 THE WITNESS: My name is Walter Singleton. The
3 last name, S-I-N-G-L-E-T-O-N.

4 MR. OSBORNE: Thank you, Your Honor. May I
5 approach the witness?

6 THE COURT: You may.

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Walter Singleton
Direct Examination by Mr. Osborne
January 6, 2016

WALTER SINGLETON,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. OSBORNE:

Q. Mr. Singleton, let's just do this first so we won't
run into any technical difficulties.

I'm going to show you what's been marked as State's
Exhibit 8. Can you take a look at that? What is that item,
if you recognize it?

A. This is the footage of the store robbery.

Q. And how do you know that?

A. I initialed it.

MR. OSBORNE: Thank you.

Your Honor, at the appropriate time I would like to
publish just the sections that he can authenticate,
subject to later publication of the entire sequence.

THE COURT: All right. You have permission.

Q. [Mr. Osborne] Mr. Singleton, let's introduce
yourself to the jury a little bit.

Where were you born?

A. I was born in Charleston, South Carolina.

Q. Did you grow up here?

A. No, sir.

Q. Where did you grow up?

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1 A. I lived in Philadelphia. Went to Transfiguration,
2 which is private. Went to West Catholic my freshman and
3 sophomore year. Then moved with my mother to Georgia. Went
4 to Redan [phonetic] High School. Finished high school there.
5 Went to West Georgia for a semester. Then I went into the
6 navy, was stationed in Charleston.

7 Q. So did you go to college?

8 A. Yes.

9 Q. Did you graduate?

10 A. No.

11 Q. I'm sorry?

12 A. No. No, sir.

13 Q. And after college, is that when you went to the
14 navy?

15 A. Correct.

16 Q. At some point -- well, how did you end up back in
17 South Carolina?

18 A. My mother is originally from here.

19 And I got stationed -- my ship, the U.S.S.
20 Morrison, got decommissioned and I was basically sent to the
21 weapons station.

22 Q. When you were done with the navy -- just tell the
23 jury: what type of jobs did you have?

24 A. Mostly administrative.

25 I worked for AT&T. There was a marketing firm, I'm

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1 not sure if they're still there, Passport International, that
2 was in Mount Pleasant.

3 I also was in school, still am, at Trident.

4 Q. Did you have jobs in customer service?

5 A. Yes.

6 Q. Where do you work now?

7 A. I work as a sales clerk at Kangaroo. Mostly third
8 shift.

9 During the day, I'm a closing manager at Advanced
10 Auto Parts.

11 Q. So you have two jobs?

12 A. Yes, sir.

13 Q. You say you worked in customer service. I guess
14 both your jobs sort of deal with customer service now. How
15 long would you say you've been in the customer service field?

16 A. Well over twelve, fifteen years.

17 Q. I think we -- I'm sorry. Go ahead.

18 A. But -- oh. No. Just --

19 Q. Fifteen years?

20 A. Very extensive. Yes.

21 Q. I think we have a good idea, but what do you do --
22 you might have already said. What do you do at the Kangaroo?

23 A. I'm a sales clerk, basically deal with customers.
24 As far as store: getting the store ready, stocking. Just the
25 usual, as far as -- dealing with customers, purchases,

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1 stocking, cleaning the store.

2 Q. And you normally work the third shift; is that
3 correct?

4 A. Yes, sir.

5 Q. That's what you said earlier?

6 A. [No response]

7 Q. Is there a CVS that is part -- or that is near the
8 Kangaroo?

9 A. It's right adjacent to the store.

10 Q. You normally work nights, so do you know if the CVS
11 is open at three o'clock in the morning?

12 A. No, sir.

13 Q. It's not?

14 A. No, sir.

15 Q. All right. Let's go to the night of the robbery on
16 October the 7th, 2015, about 3:00 a.m. You were working that
17 night?

18 A. Yes, sir.

19 Q. Were you working alone?

20 A. Yes.

21 Q. Were you robbed that night at gunpoint?

22 A. Yes, sir.

23 Q. Were there any other customers that were inside the
24 store at the time of the robbery?

25 A. There was one other.

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1 Q. Do you know his name?

2 A. Mr. Finch.

3 Q. Is he someone that is a regular customer to that
4 gas station?

5 A. Yes, he is.

6 Q. All right. And I'm probably going to stop you
7 periodically, but just go ahead and tell the jury what
8 happened to you that night.

9 A. As stated, I was working that night. Mr. Finch
10 came in. Like you said, comes in all the time. We have a --
11 you know, a pretty good rapport. We were talking. That's the
12 kind of general like -- we were engaged with each other.

13 When you open the door, it chimes just to let us
14 know where somewhere in the store that a customer's in -- or
15 walked in the store. At that particular point when we heard
16 the door chime, basically turned around, looked towards the
17 direction of the door, and two gunmen came in, guns pointed.
18 Took Finch to the back of the store.

19 Q. Let me stop you right there.

20 When they came in, do you recall where you were
21 standing in the store?

22 A. Close to the register.

23 Q. You said you were talking to Mr. Finch. Was he in
24 front of you? Or do you recall where he was?

25 A. He's in front of me, but we were like looking at

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1 each other.

2 Q. All right. So before I interrupted you, you said
3 that two people came in. All right. Then what happened?

4 A. They proceeded to take Finch toward the back of the
5 store where the lottery machine is in the cooler area. The
6 other gunman took me around to where the registers are, put me
7 face down, and, you know, proceeded to ask me about, you know,
8 opening up the registers. I opened one of the registers. He
9 then went towards the safe.

10 Now, the safe has keys on them but they're not keys
11 to the safe. So he's thinking he wanted me to open the safe
12 and I told him those aren't the keys to the safe, those are
13 like keys to the shed outside, the back door, maybe to the
14 cooler, stuff like that. But he proceeded to try the keys and
15 actually broke the key in the actual lock.

16 And then he had me open the second register and
17 then get back down, face down. As I was doing that. he was
18 grabbing cigarettes, whatever he could grab.

19 Then they proceeded to take myself and Finch --

20 Q. All right. Before we get to that: did -- you said
21 that he took -- did he take any money out of the registers?

22 A. Yes. Just the bills.

23 The registers really, when you tally them, it's
24 currency. It's bills, as well as coins. He only took the
25 bills out of both of them.

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1 Q. And when he approached you, you were working the
2 register?

3 A. I wasn't at the register when he approached me. He
4 took me around to the registers.

5 Q. Okay. But you were in charge of the registers?

6 A. Yes.

7 Q. And you were the only one working there?

8 A. Correct.

9 Q. And he took cigarettes, as well?

10 A. Yes, sir.

11 Q. Did he take anything from you personally?

12 A. He took my phone. At first when he took my phone,
13 he put it down. And he took my wallet. And, actually, he --
14 my mother called me, so my phone went off. So then at that
15 point he grabbed my phone. He said he would give it back to
16 me. Put it in his pocket.

17 At that point, they took Finch and myself --

18 Q. All right. I'm sorry, but I want to spend a little
19 bit of time here.

20 A. Okay.

21 Q. The individual that was with you, do you know if he
22 was armed?

23 A. Yes.

24 Q. Could you see it? I mean, what did it look like?

25 A. It was a revolver.

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1 Q. A revolver?

2 A. They both -- both of them had revolvers.

3 Q. Did he make any comments to you in regards to the
4 safe? Anything unusual that you thought was unusual?

5 A. Well, not many people know that, unless -- but when
6 he -- when I couldn't open the safe, he asked me to do drops.
7 And, basically, drops are where if you run out of -- you know,
8 out of bills, coins, or something like that, you press a
9 button and it will dispense, you know, the two -- for the
10 twenties, the fives, or whatever.

11 But even in doing that, there's still like a delay.
12 So I was telling him even if I hit one, which I did, that it's
13 going to be a delay. It's not going to just sit there and
14 spit out the contents of the safe.

15 Q. It's not going to keep feeding you money?

16 A. Correct.

17 Q. All right. So now let's get to that. So at that
18 point you said that the two perpetrators were taking you and
19 Finch to the back office area. Go ahead and pick it up from
20 there.

21 A. At that point, they had us get down. From the
22 pictures that the investigator took, you can see basically how
23 small an area that is. So they had us side by side, duct-
24 taping our hands and feet and basically, you know, stood
25 behind us, had the guns at the back of our heads. At that

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1 particular point, one of them stated that pretty much we don't
2 need any witnesses, basically, you know, let's kill both of
3 them. Where the other one, you know, kind of deferred from
4 that and said, let's just go; you know, stay in here; don't
5 come out.

6 Q. Do you recall the exact language that they used
7 when they were talking about killing witnesses?

8 A. Let's ghost both these MFs.

9 Q. I'm going to show you now, Mr. Singleton, with Your
10 Honor's permission, State's Exhibit 8.

11 MR. OSBORNE: I would like to publish to the jury.

12 THE COURT: You may.

13 Q. [Mr. Osborne] This is going to be subfolder
14 labeled Singleton, Singleton 1.

15 [Whereupon, State's Exhibit Number 8 is played to
16 the jury, with questions from Mr. Osborne]

17 [Whereupon, State's Exhibit Number 8 is not
18 transcribed by the court reporter]

19 MR. OSBORNE: All right. Go ahead and stop it.

20 Q. [Mr. Osborne] Is that you there behind the
21 register?

22 A. Yes, it is.

23 Q. Is that Mr. Finch?

24 A. Correct.

25 MR. OSBORNE: Let it keep playing, and I'm going to

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1 ask you some questions while this is going on.

2 Q. [Mr. Osborne] Where are you now in this video?

3 A. Basically to the left of him, on the floor.

4 Q. And why did you get on the floor?

5 A. Because he told me to get on the floor.

6 Q. And what is he instructing you to do now, if
7 anything?

8 A. To open up the register.

9 Q. Is that your phone sitting there next to the
10 register?

11 A. Yes, sir.

12 Q. Is that the part you're talking about where he
13 tried to open the safe with the keys?

14 A. Correct.

15 Q. Do you remember what he's telling you to do now?

16 A. I believe that's when he instructed me, as far as
17 dropping the tubes. And I'm explaining to him that, you know,
18 I can drop a tube but it's time-delayed so, you know, you're
19 not going to -- it's not just going to be spitting out tubes
20 every time I press the button.

21 Q. When you press the button does it give you the
22 first tube, then the next one is going to delay? Or is the
23 first one going to delay?

24 A. The first one will drop, and then the one following
25 is on a delay.

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1 Q. Were you able to retrieve a tube and get any money
2 from that?

3 A. One.

4 Q. About how much money was in that tube?

5 A. I don't -- I can't recall which one I hit. More
6 than likely, I probably hit the twenty.

7 Q. Did you end up giving that money to this
8 perpetrator?

9 A. Yes, sir.

10 Q. It looks as though he's stuffing his pockets there.
11 Do you remember what he was putting in his pockets, if
12 anything?

13 A. Cash, cigarettes.

14 Q. Do you remember what kind of cigarettes?

15 A. Mostly Newports.

16 Q. Is that the revolver, that you mentioned, on the
17 ground there?

18 A. Yes, sir.

19 Q. All right. Is this where he takes you into the
20 back office?

21 A. Yes, sir.

22 Q. All right. I want to show you an image prior to
23 this.

24 [Whereupon, Mr. Osborne and Mr. Corvey confer]

25 THE COURT: All right. Stop it there.

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1 Q. [Mr. Osborne] Is that when the two individuals
2 first entered the store?

3 A. With guns, yes.

4 MR. OSBORNE: All right. Start over and replay
5 that.

6 Q. [Mr. Osborne] Take a look at what direction they
7 come from.

8 A. Yes, sir.

9 Q. Now, if you're facing the store, would they have
10 come from the left or the right?

11 A. If I was in front of the store?

12 Q. If you're facing the store. Yes.

13 A. They came from the left.

14 Q. Okay. They came from the left. As I'm facing the
15 store, is the CVS on the left or the right?

16 A. On the right.

17 Q. The CVS is on the right. They came from the left.

18 Now, when they had you and Mr. Finch in that back
19 office area, do you recall if they did anything specifically
20 in relation to the gun and with you?

21 A. Basically, when he was duct-taping my feet and
22 hands, I kind of looked up at him and he pushed the barrel
23 into my temple and asked me if I was brave. Then, you know,
24 you have thoughts that go through your head, so basically I
25 just looked back out. All the while, you know, the other one

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1 had the gun to the back of Finch's head. You know, but it was
2 difficult, to say the least.

3 Q. I'm sorry. I didn't quite hear you. He asked you
4 if you were ready?

5 A. No. He asked me if I was brave.

6 Basically, he kind of like, okay, you're going to
7 look up at me, you feel -- you feeling brave, and pushed --
8 basically pushed the barrel to my temple.

9 MR. OSBORNE: Go ahead and play the scene from
10 number 4.

11 Q. [Mr. Osborne] Do you know what's on that door
12 there?

13 A. Duct-tape.

14 Q. Does this depict the individuals leaving the store?

15 A. Yes, sir.

16 Q. Now, which way did they go when they left the
17 store?

18 A. Toward the right. Towards CVS.

19 Q. Okay. So if you're facing the store, they would
20 have went toward the right and that would have been toward the
21 CVS; is that correct?

22 A. Correct.

23 Q. And if you're going out of the store, we all saw
24 they went to the left. But either way, that's towards the
25 direction of the CVS; correct?

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1 A. Yes.

2 Q. The Kangaroo, it has a dumpster?

3 A. Yes. Right on the right side of the building.

4 Q. That's on the same side as the CVS?

5 A. Yes.

6 It has a little I guess pathway in between the
7 building and the dumpster.

8 Q. Okay.

9 [Whereupon, State's Exhibit Number 8 concludes]

10 MR. OSBORNE: Your Honor, may I approach?

11 THE COURT: You may.

12 MR. OSBORNE: I believe these are already submitted
13 into evidence as State's 9, 10, 11, 12, 13, 14, and 15.

14 THE COURT: They are.

15 MR. OSBORNE: May I go ahead and publish these?

16 THE COURT: You may.

17 Q. [Mr. Osborne] All right. Mr. Singleton, I'm
18 showing you what's been marked as State's Exhibit 9. Can you
19 describe what we're looking at there?

20 A. This is a picture of after the -- after the
21 robbery. The car in the middle is the customer that came in
22 after the robbery. To the left, that's Finch on his vehicle.
23 The right of the white car is my vehicle.

24 And I believe at that point, if I see correctly --
25 because I had to stand there, so that's me in front of the

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1 store for a good little bit.

2 Q. And before I get to the next picture: you said the
3 car in the middle, that's a customer that arrived after the
4 robbery?

5 A. Yes.

6 That was the first person -- after Finch and I had
7 got the duct-tape off, we came out of the back and at that
8 point, he was coming up towards the door.

9 So, yeah, he was the first one after the robbery
10 that came.

11 Q. He arrived several minutes after the robbery?

12 A. Yes.

13 Q. I'm going to show you now State's Exhibit 10. Is
14 that what you were talking about with you having to stand
15 outside?

16 A. Yes, sir.

17 Q. What are we looking at here in State's Exhibit 11?

18 A. That's I guess a strip of the duct-tape that was
19 used to bind my feet together.

20 Q. This is the inside of the store, State's Exhibit
21 12?

22 A. Yes, sir.

23 Q. State's Exhibit 13: behind the register?

24 A. Correct.

25 Q. And this is the exact -- is this the exact -- like

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1 if the photographer had turned directly around, does that door
2 lead into the back area? Storage area?

3 A. Correct.

4 Q. And that's State's Exhibit 14 and State's Exhibit
5 15. Is that the back storage area?

6 A. Yes.

7 Q. Okay. I want to move now to an encounter that you
8 had with a customer earlier that same night. Do you recall
9 that?

10 A. Yes.

11 Q. I guess I should have been more specific. An
12 encounter that you thought was peculiar?

13 A. Well, when the officers were looking at the footage
14 of, you know, the camera for the -- of the robbery and, you
15 know, they came in, all black, masks and everything. So, you
16 know, one of the officers that comes in there a lot was like,
17 did something strike you as odd. And, you know, I thought a
18 little bit and, you know, I said, well, you know, there was
19 earlier, when I came in, a guy, customer, came in the store --

20 And basically with -- when you work third shift,
21 you have a lot of officers that will come in. And there's an
22 officer that normally comes in that works around the same
23 shift that I do and we have this thing basically where, you
24 know, he's about to ask, you know, how's your night going, or
25 is it slow, or something like that. And, you know, that's --

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1 we kind of got this thing to where we don't answer that
2 because, you know, you -- your manifest. If it's slow, then
3 all heck breaks loose or something like that. So we made that
4 comment. And so the gentleman asked, you know, what was that
5 all about and I said, that's something between me and the
6 officer.

7 So he then commenced to ask me, well, are you here
8 all night by yourself. Which people, at times, ask me that.
9 But it just seemed weird, kind of odd, weird, the way he asked
10 me.

11 Q. So just to make sure that I understand this
12 correctly, you and the officer, y'all -- you don't want to
13 jinx it; is that a --

14 A. Yes.

15 Q. -- fair way of putting it?

16 A. Yes.

17 Q. So when he asked is it a slow night, you don't want
18 to answer that because it might turn out to not be a slow
19 night. And then are you saying that this individual that
20 asked you whether you were working alone at night then
21 inquired about your conversation with the officer?

22 A. Yes.

23 Because I do the same thing with him. You know,
24 I'll ask him, you know, is it a busy night. You know, next
25 thing you know, he might get a call, it might get crazy or

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1 something like that. So it's a mutual thing back and forth.

2 But, yeah, he asked, you know, what was all that
3 about between me and the officer. You know, I just replied
4 that, you know, that's, you know, something between me and
5 him. I didn't go into specifics with him.

6 Q. All right. And now I'm going to show you a file
7 that's labeled Singleton Number 5.

8 [Whereupon, State's Exhibit Number 8 plays, with
9 questions from Mr. Osborne]

10 [Whereupon, State's Exhibit Number 8 is not
11 transcribed by the court reporter]

12 Q. [Mr. Osborne] Is this the officer that you had the
13 conversation with?

14 A. Yes.

15 Q. Is that you coming in?

16 A. Yes, sir.

17 Q. Do you recall about what time this was?

18 A. This -- it had to be around I would say a little
19 after 11:00. My shift that night was 11:00 to 7:00, so it had
20 to be around I would say maybe ten after, fifteen after,
21 something like that.

22 Q. All right. I'm just going to let this play here
23 for a second, and I want to draw your attention to the top
24 right screen looking out. You should see a vehicle pull up
25 there in a second. Do you see that car there?

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1 A. Yes, sir.

2 Q. All right. The white vehicle that started to go
3 into the spot stopped, backed up, then went back into the
4 spot. Was there anything about that vehicle at that time
5 that, you know, drew your attention to it or did you take
6 notice of it in any way?

7 A. No.

8 MR. OSBORNE: Now I'm going to play Singleton
9 number 6. This is just another angle of the car
10 approaching.

11 Q. [Mr. Osborne] That camera, where is -- is that
12 positioned on the side of the business, I take it?

13 A. Yes.

14 At the top, at the corner of the -- it's in the
15 corner.

16 MR. OSBORNE: Okay. That's Singleton 6. Now play
17 Singleton 7.

18 Q. [Mr. Osborne] I know it's difficult to tell from
19 that angle.

20 Do you recognize that individual that just came out
21 or that's coming out now, or the individual that went in?

22 A. No.

23 MR. OSBORNE: All right. I'm going to move it --
24 all right. Let's go to Singleton 8.

25 Q. [Mr. Osborne] Is that the same white vehicle?

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1 A. Yes, sir.

2 Q. The individual that just got out of the back seat,
3 I want you to take a look at him as he's coming out. Do you
4 recognize the individual to the left, the larger individual?

5 A. Yes, sir.

6 Q. And who is that?

7 A. That's the gentleman that came in to ask -- made
8 the comment about what the officer and I was talking about and
9 the one that asked me if I would be working by myself all
10 night.

11 Q. The individual to the right, do you remember him at
12 all? The one with the black dew rag on his head.

13 A. I wasn't really focused on him. Just the simple
14 fact that with the footage, he was in the store and I served
15 him. But I wasn't really focused on him.

16 Q. Did you happen to take note that he -- the
17 individual on the left wasn't wearing shoes?

18 A. No, I did not.

19 Q. Did these two appear to know each other? Or
20 acknowledge each other, I guess is a better way of saying it.

21 A. You can say possibly.

22 MR. OSBORNE: All right. I'm going to show you now
23 Singleton Number 9.

24 Q. [Mr. Osborne] This is backing up just a little bit
25 to the individual who had on the dew rag prior to him leaving.

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1 A. Okay.

2 Q. Did anything strike you as unusual about this
3 interaction with him? Anything that you can recall?

4 A. No.

5 Q. I want you to pay attention to what the individual
6 with the rag over his head purchases and tell me if you can
7 recall or whether you can see looking at the video.

8 A. Two cylinders. Beer.

9 Q. I'm sorry?

10 A. Beer. Two cylinders of beer.

11 Q. So there's two cylinders of beer there?

12 A. It looks like Ice House.

13 Q. Can you tell what the other can is?

14 A. [No response]

15 Q. If you can't, that's okay.

16 A. Not offhand.

17 MR. OSBORNE: I'm going to play Singleton 10 now.

18 Q. [Mr. Osborne] Now, we saw an officer in the
19 background in a previous incident -- in the previous image.
20 Did he then come up to you and that's when you had that
21 conversation about not jinxing it?

22 A. He was standing behind the gentleman at the
23 counter. And, you know, I was just acknowledging him. I was
24 behind the register and that's when he asked me, you know,
25 what was that -- you know, what was that all about.

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1 Q. So when you're having this -- well, first of all,
2 is this the individual that made the comment about do you work
3 alone at night?

4 A. Yes.

5 Q. Okay. So at this point, you've already spoken to
6 the officer about the jinxing --

7 A. Correct.

8 Q. -- incident?

9 Q. And is this when he inquires about what you and the
10 officer were talking about?

11 A. Yes.

12 Q. Do you know where he's going now?

13 A. The bathroom.

14 MR. OSBORNE: Now I'm going to play Singleton 11.
15 All right. Stop it right there.

16 Q. [Mr. Osborne] Is this a different image of that
17 same individual coming out of the bathroom?

18 A. Yes.

19 Q. Is he entering the rear driver's seat of the white
20 Ford Taurus?

21 A. Yes, sir.

22 Q. All right. Let me ask you something, one other
23 thing, Mr. Singleton. Are you open twenty-four hours a day at
24 the Kangaroo?

25 A. Correct.

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1 Q. Do you have public restrooms?

2 A. Yes.

3 Q. Can anyone come in twenty-four hours a day and use
4 your restroom?

5 A. Yes, sir.

6 MR. OSBORNE: No further questions.

7 THE COURT: Do y'all want to take your break now?
8 Let's go ahead and do that.

9 Please remember all my admonitions. Leave your
10 notepads here in the chair or take them with you.

11 Please rise for the jury.

12 [Whereupon, the jury exits the courtroom at
13 4:04 p.m.]

14 THE COURT: Thank you. Be seated.

15 Mr. Singleton, you may step down. We're going to
16 take a break, but do not discuss your case with anyone.
17 Do you understand?

18 THE WITNESS: Yes, Your Honor.

19 THE COURT: All right. We'll take about ten
20 minutes.

21 [Whereupon, a recess is taken from 4:04 p.m. to
22 4:17 p.m.]

23 THE COURT: Counsel, come forward.

24 [Whereupon, an off-the-record bench conference is
25 held]

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1 THE COURT: Mr. Singleton, please comd forward. I
2 remind you that you are still under oath.

3 [Whereupon, Mr. Singleton retakes the witness
4 stand]

5 THE COURT: All right.

6 [Whereupon, the jury enters the courtroom at
7 4:18 p.m.]

8 THE BAILIFF: All jurors present, Your Honor.

9 THE COURT: Thank you. Please be seated.

10 Mr. Hilton, your witness.

11 MR. HILTON: Mr. Singleton, first of all, I
12 apologize for what you went through, that horrible
13 event.

14 THE WITNESS: Thank you.

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Walter Singleton
Cross-Examination by Mr. Hilton
January 6, 2016

CROSS-EXAMINATION

BY MR. HILTON:

Q. With regard to the two individuals that we saw on the screen --

[Whereupon, Mr. Hilton and Mr. Osborne confer]

Q. [Mr. Hilton] They're going to put the video back up.

But with regard to Mr. Wilson, he was the one wearing the Gamecock sweatshirt, you recall?

A. Yes, sir.

Q. Did you recall anything striking about him? Anything that had stood out?

A. Not really, no.

Q. And he purchased I think a couple of beers and maybe something else to drink or something?

A. It looks like a Sprite or something like that.

Q. And the other individual, was he the one asking about whether you were working alone and all that kind of stuff?

A. Yes, sir.

Q. Was Mr. Wilson in the store at that time?

A. No. I believe he was exiting when the other guy came in.

Q. That's right.

And from the video, we remember Mr. Great, the one

Walter Singleton
Cross-Examination by Mr. Hilton
January 6, 2016

1 in the light shirt, he was coming in as Mr. Wilson was going
2 out; right?

3 A. Correct.

4 Q. All right. So Mr. Wilson wasn't even in the store
5 when he was asking you about whether you were there alone,
6 that kind of thing?

7 A. No, sir.

8 Q. Do you remember any kind of conversation with Mr.
9 Wilson whatsoever?

10 A. Huh-uh.

11 Q. Did he seem unfriendly, friendly, anything out of
12 the ordinary?

13 A. Not anything out of the ordinary, no.

14 MR. HILTON: No further questions.

15 THE COURT: Redirect?

16 MR. OSBORNE: No further questions, Your Honor.

17 THE COURT: You may step down, Mr. Singleton. You
18 may stay with us, or you may leave. Your choice. Thank
19 you.

20 [Whereupon, Mr. Singleton is excused and exits the
21 witness stand]

22 THE COURT: Call your next witness.

23 MR. OSBORNE: The State calls William Finch.

24 [Whereupon, Mr. Finch comes forward]

25 THE CLERK OF COURT: Put your left hand on the

Walter Singleton
Cross-Examination by Mr. Hilton
January 6, 2016

1 Bible, and raise your right hand.

2 [Whereupon, Mr. Finch is duly sworn by the clerk of
3 court as follows: do you swear or affirm that your
4 testimony will be the truth, the whole truth, and
5 nothing but the truth, so help so you God]

6 THE WITNESS: Yes, sir.

7 THE CLERK OF COURT: Please be seated.

8 [Whereupon, Mr. Finch takes the witness stand]

9 THE CLERK OF COURT: If you will please speak into
10 that mike and say your full name and spell your last
11 name.

12 THE WITNESS: My name is William Finch. F-I-N-C-H.

13 THE COURT: Mr. Osborne?

14 MR. OSBORNE: Your Honor, may I approach?

15 THE COURT: You may.

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William Finch
Direct Examination by Mr. Osborne
January 6, 2016

WILLIAM FINCH,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. OSBORNE:

Q. Mr. Finch, I'm showing you what's been marked as State's Exhibit 8. Can you take a look at that and tell me if you recognize it? If so, what is it?

A. Yes, I do.

It's the video footage, the CD that you -- that we watched in your office, and I initialed the top of it.

Q. And that's how you know that's what it is?

A. Yes, sir.

Q. All right. Thank you.

MR. OSBORNE: Your Honor, at the appropriate time, we would request to publish State's Exhibit 8, just the portion that Mr. Finch can testify to.

THE COURT: All right.

Q. [Mr. Osborne] Mr. Finch, let's introduce yourself to the jury a little bit.

Where were you born?

A. I was born in Bennington, New York.

Q. Where did you go to high school?

A. Windsor Central High School in New York.

Q. When did you move down to Charleston?

William Finch
Direct Examination by Mr. Osborne
January 6, 2016

1 A. Thirteen years ago.

2 Q. Okay. What type of jobs have you held?

3 A. Mainly in the food industry business. And I've
4 also done a little remodeling and construction work while I've
5 been here.

6 Q. Okay. And what kind of job do you have now?

7 A. I'm a head line-cook at one of the sports bars
8 around here.

9 Q. Let's go back to October the 7th, 2014. Where were
10 you working then?

11 A. I was working at Creekside Pizza Company.

12 Q. Okay. Do you remember what you did when you got
13 off work that night?

14 A. Yeah. I stayed and helped the restaurant close up
15 for the duration of the night, which means that the bar stays
16 open until two o'clock so I have to be -- I'm the one that's
17 responsible for staying with one of the bartenders to make
18 sure that they're okay before they leave. So we were just
19 doing that for the rest of the night, and then kind of went
20 home.

21 Q. Okay. Did you make any stops on your way home?

22 A. Yeah.

23 I stopped into the Kangaroo to see -- pick up a
24 nightcap and a pack of cigarettes on the way home.

25 Q. Is that a normal routine for you?

William Finch
Direct Examination by Mr. Osborne
January 6, 2016

1 A. Yes, sir, it is.

2 Q. You don't have to give us your address. Do you
3 live near the Kangaroo?

4 A. Yes, sir, I do.

5 Q. Do you know if there's a CVS anywhere near there?

6 A. Yes, sir. It's right across the -- or adjacent to
7 it.

8 Q. Okay. When you went to the Kangaroo, do you recall
9 where you parked?

10 A. Usually, I park right on one -- either side of one
11 of the doors.

12 Q. Now, you've been to the Kangaroo you say -- is it
13 fair to say you've been there several times after you got off
14 work?

15 A. Oh, yeah.

16 Q. Usually around this time frame? Three o'clock in
17 the morning?

18 A. Yes, sir.

19 Q. Have you ever thought or had the occasion, when
20 going to the Kangaroo, to park at the CVS across the street --

21 A. No, sir --

22 Q. -- next to the Kangaroo?

23 A. -- not at all.

24 Q. And when you entered the Kangaroo, did you speak to
25 the attendant?

William Finch
Direct Examination by Mr. Osborne
January 6, 2016

1 A. Yes, sir, like I always do.

2 I always give my -- give a cordial hello, ask him
3 how his night's going, what was going on.

4 Q. So he's someone that you've spoken to before --

5 A. Oh, yes.

6 Q. -- then, I guess?

7 All right. So just, you know, walk the jury
8 through what happened to you while you were in the Kangaroo.

9 A. I was sitting there having a conversation with
10 Walter about how my night went. And it's always kind of -- I
11 give him a little comical relief while I'm in there. Makes
12 him -- makes his night feel a lot easier than what he's been
13 doing.

14 And I'm attuned -- I'm accustomed that when the
15 door opens, to hear the ding. It's just like Pavlov's dog.
16 And I kind of see what's going on. I'm curious like that.

17 So the bell rang, turned around, and in come these
18 two guys with -- you know, dressed in full black, guns in
19 their hands, and telling us that they're robbing the store.

20 Q. Okay. You said it was two guys?

21 A. Yes, sir.

22 Q. Did one approach you specifically, I guess?

23 A. Yeah.

24 One went past me and went to Walter, and then the
25 other one -- it's like they already knew what they were doing

William Finch
Direct Examination by Mr. Osborne
January 6, 2016

1 and they -- one took me into the back of the store where the
2 coolers and the lottery machine is.

3 Q. Okay. What happened back there?

4 A. The gentleman proceeded to tell me to just lay on
5 the ground, not to do anything stupid, to sit there and
6 whatever they tell me to do, just to go ahead and do it and
7 not to try to be a hero or anything.

8 Q. Do you know if the individual that was with you was
9 armed?

10 A. Yes, sir, he was.

11 Q. What was he armed with?

12 A. He was armed with a revolver, as well.

13 Q. Okay. Did he take anything from your possession?

14 A. When I was on the ground, yes, he did.

15 He took my -- they wanted to see my cell phone for
16 one. And then he took twenty dollars that I had that was in
17 my hand.

18 Q. Did he take your wallet?

19 A. Yeah.

20 He took my wallet. And since there was no money in
21 it, he just threw it on the ground next to me again.

22 Q. Okay. Did he also throw the cell phone down, or
23 did he take that, too?

24 A. No.

25 The cell phone, he just left the cell phone on the

William Finch
Direct Examination by Mr. Osborne
January 6, 2016

1 ground.

2 Q. Okay. Now, when he had you down on the ground, did
3 he do anything to you while you were on the ground?

4 A. Well, yeah.

5 When they -- he had me on the ground, he told me to
6 put my hands behind my back and when I did that, he proceeded
7 to duct-tape my hands together so I couldn't struggle or move.

8 Q. Did he ever leave you on the ground at any point?

9 A. Well, yeah.

10 He left me for probably about ten seconds to go
11 check the door.

12 Q. Did you see what he was doing at the door --

13 A. No.

14 He was -- I could kind of look up real quick. He
15 was just seeing if there was anybody coming or anything. He
16 came right back to me, though.

17 Q. Okay. And when he came back to you, what happened
18 after that?

19 A. He proceeded to -- well, after they were pretty
20 much done with Walter, they couldn't get into the registers or
21 into the safe, he proceeded to roll me over and get me up on
22 my feet to take me into the back room where they took Walter
23 and myself.

24 Q. All right. Tell the jury what happened in the back
25 room.

William Finch
Direct Examination by Mr. Osborne
January 6, 2016

1 A. Well, they decided to put us side by side in a very
2 small room together. And that's when they were saying, no --
3 that's when they were contemplating on what they were going to
4 do with us.

5 So they sat there and one guy was like, let's leave
6 no witnesses, let's ghost these MF'ers. And the other guy
7 just kind of was sitting there and spoke logic to him for a
8 few minutes. You know, it seemed like an eternity. But he
9 just spoke logic to him and told him, hey, let's just get out
10 of here, there's no need to make this any worse than what it
11 already is.

12 Q. I know it seemed like a long time. How long do
13 y'all think you were back there?

14 A. We were probably back there for two or three
15 minutes.

16 Probably if you -- if you looked at it on tape, we
17 weren't back there for very long.

18 MR. OSBORNE: I'm going to show you now, from
19 State's Exhibit 8, the file labeled Finch number 1.

20 [Whereupon, State's Exhibit Number 8 is played,
21 with questions from Mr. Osborne]

22 [Whereupon, State's Exhibit Number 8 is not
23 transcribed by the court reporter]

24 Q. [Mr. Osborne] Is that you there in the green
25 shirt?

William Finch
Direct Examination by Mr. Osborne
January 6, 2016

1 A. Yes, sir, that's me in the green shirt there.

2 Q. And Walter: that's Walter there?

3 A. Yes, sir, it is. Yeah.

4 Q. Okay. Is that where the first individual went past
5 you, and the second one?

6 A. Yeah.

7 And then the second one, the one that was behind
8 him, took me and then escorted me to the back of the -- to the
9 back of the store.

10 MR. OSBORNE: All right. Play Finch 2.

11 Q. [Mr. Osborne] Is this what happened right after
12 the previous clip?

13 A. Yeah.

14 This is where he was taking me into the back,
15 telling me not to do anything stupid.

16 Q. I believe you testified earlier he took your wallet
17 and cell phone but dropped those?

18 A. Yes, sir.

19 Q. He took the twenty dollars, though?

20 A. Yes, sir.

21 Q. Did he drop that?

22 A. No. I don't recall him dropping the twenty
23 dollars.

24 Q. And what's he doing there?

25 A. He's sitting there trying to duct-tape the door

William Finch
Direct Examination by Mr. Osborne
January 6, 2016

1 closed. He's trying to find the end of the duct-tape, by it
2 looks like what I can see from this video. Kind of hard to do
3 with winter gloves on.

4 Q. What's happening there?

5 A. He's going through my pockets.

6 He found my cell phone, and he took my wallet out
7 of my back pocket. And then he's proceeding to ask me what I
8 had in my hands, so I gave him the twenty dollars that I had
9 in my --

10 MR. OSBORNE: Play Finch 3 now.

11 Q. [Mr. Osborne] Does this one pick up right where
12 the other one left off?

13 A. Yes, sir.

14 MR. OSBORNE: Okay. We'll go to Finch 4.

15 Q. [Mr. Osborne] Does this file also pick up right
16 where the last file left off?

17 A. Yes, sir.

18 Q. It looks like he was able to get that roll of duct-
19 tape undid after all?

20 A. A little bit.

21 MR. OSBORNE: All right. Finch 5.

22 Q. [Mr. Osborne] So you mentioned he had on gloves.
23 Do you recall if he was wearing a mask?

24 A. Yes, sir, he was wearing a mask, as well, because I
25 couldn't see his face at all.

William Finch
Direct Examination by Mr. Osborne
January 6, 2016

1 MR. OSBORNE: All right. Finch 6. And the last
2 file, Finch 7.

3 Q. [Mr. Osborne] I see you moving around down there.
4 Do you recall what's going on now?

5 A. Yeah. That's just me having a nervous twitch.

6 I'm just -- I didn't like sitting -- I didn't like
7 what was going on, so I kind of get a little jittery when I'm
8 not in a real comfortable situation.

9 Q. And what was his response to that?

10 A. His response was duct-taping my hands behind my
11 back, and then having me get up and go back into the other
12 room with Walter.

13 Q. It looks like he had a little trouble duct-taping
14 you.

15 A. Yeah. A little bit.

16 Q. So where do you go from here?

17 A. This is where he's taking me now. He's taking me
18 into the back office where they put Walter and I side by side,
19 duct-taped our feet together.

20 Q. Duct-taped your feet together?

21 A. Well, they duct-taped his feet, and then they duct-
22 taped my feet.

23 Q. Just to clarify --

24 A. Yes, sir.

25 Q. -- the wallet and your cell phone were left on the

William Finch
Direct Examination by Mr. Osborne
January 6, 2016

1 scene?

2 A. Yes, sir.

3 Q. The twenty dollars they took and got away?

4 A. Was gone. Yes, sir.

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

6 THE COURT: Mr. Hilton?

7 MR. HILTON: Mr. Finch, likewise, I apologize for
8 what you went through. It was a horrible event.

9 THE WITNESS: Thank you.

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William Finch
Cross-Examination by Mr. Hilton
January 6, 2016

CROSS-EXAMINATION

BY MR. HILTON:

Q. With regard to that event, the two guys that were in the store, do you know anything about Mr. Wilson?

A. No, sir, I don't know anything about Mr. Wilson.

Q. He wasn't one of the ones that's accused of being in there?

A. Not accused of being in there, no, sir.

MR. HILTON: Thank you. No further questions.

THE COURT: You may step down. Feel free to stay with us. You are also free to go. Thank you.

[Whereupon, Mr. Finch is excused and exits the courtroom]

THE COURT: Call your next witness.

MR. OSBORNE: The State calls Yolanda Brown.

[Whereupon, Ms. Brown comes forward]

THE CLERK OF COURT: Please raise your right hand.

[Whereupon, Ms. Brown is duly sworn by the clerk of court as follows: do you swear or affirm that your testimony will be the truth, the whole truth, and nothing but the truth, so help so you God]

THE WITNESS: Yes, sir.

THE CLERK OF COURT: Please be seated.

[Whereupon, Ms. Brown takes the witness stand]

THE CLERK OF COURT: Please state your full name,

William Finch
Cross-Examination by Mr. Hilton
January 6, 2016

1 and spell your last name for the record.

2 THE WITNESS: Yolanda Brown. The spelling of my
3 last name is B-R-O-W-N.

4 MR. OSBORNE: Your Honor, may we approach?

5 THE COURT: You may.

6 [Whereupon, an off-the-record bench conference is
7 held]

8 MR. OSBORNE: Good afternoon, Detective Brown.

9 THE WITNESS: Hello.

10 MR. OSBORNE: Your Honor, may I approach?

11 THE COURT: You may.

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Yolanda Brown
Direct Examination by Mr. Osborne
January 6, 2016

YOLANDA BROWN,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. OSBORNE:

Q. I'm showing you what's been marked as State's Exhibit 8. Can you take a look at that? Do you recognize that?

A. Yes.

Q. And what is it?

A. It's a series of clips, I think five, that has my initial on it, that we viewed.

Q. Okay. The surveillance video?

A. Yes. Surveillance off of Kangaroo surveillance.

MR. OSBORNE: Your Honor, at this time I would move to introduce State's Exhibit 8 into evidence.

THE COURT: Is there any objection?

MR. OSBORNE: In its entirety.

THE COURT: Okay. In its entirety.

MR. HILTON: That's the one that we -- no objection.

THE COURT: State's 8 into evidence in its entirety.

[Whereupon, State's Exhibit Number 8 is admitted into evidence by the Court]

Yolanda Brown
Direct Examination by Mr. Osborne
January 6, 2016

1 Q. [Mr. Osborne] Detective Brown, I'm showing you now
2 what's been marked as State's Exhibit Number 26. Can you take
3 a look at that and tell me if you recognize it?

4 A. It appears to be clips from the interview with
5 Mr. Wilson that we also viewed and I initialed.

6 Q. Okay. Clips of your interview with the defendant?

7 A. Yes.

8 MR. OSBORNE: Your Honor, at this time we would
9 also request State's Number 26 be moved into evidence,
10 as well.

11 THE COURT: Any objection?

12 MR. HILTON: Without objection.

13 THE COURT: State's 26 into evidence without
14 objection.

15 [Whereupon, State's Exhibit Number 26 is admitted
16 into evidence by the Court]

17 MR. OSBORNE: Thank you, Your Honor.

18 Q. [Mr. Osborne] All right. Detective Brown, where
19 do you work?

20 A. The Charleston Police Department.

21 Q. And how long have you worked there?

22 A. Fourteen years.

23 Q. Tell the jury what has been some of your
24 assignments while you worked with CPD.

25 A. I've been assigned for three years to the traffic

Yolanda Brown
Direct Examination by Mr. Osborne
January 6, 2016

1 division, two years in court services, three years in the Team
2 One patrol, and five years in the central detective unit.

3 Q. Okay. Where do you work now?

4 A. I'm currently assigned as a detective in the
5 robbery unit.

6 Q. And what are some of your duties and
7 responsibilities as a detective in the robbery unit?

8 A. As a detective, I investigate felonies.

9 I attempt to collect evidence to solve these
10 crimes. Some of the ways I collect evidence is by
11 interviewing witnesses and suspects. Also, preparing search
12 warrants and arrest warrants.

13 Q. Now, did you happen to become involved in the
14 investigation of an armed robbery that occurred on October the
15 7th, 2014?

16 A. Yes.

17 Q. And what was your role in that investigation?

18 A. The case agent.

19 Q. So just explain to the jury what are the additional
20 responsibilities of a case agent?

21 A. A case agent is the lead point of contact for a
22 case. All evidence, follow ups, and leads go through me.

23 I'm also the person the solicitor's office
24 contacts, when they're preparing for trial, just to make sure
25 they have all the evidence and if there's any additional

Yolanda Brown
Direct Examination by Mr. Osborne
January 6, 2016

1 follow up that's needed.

2 Basically, the case agent in the lead detective in
3 a particular case.

4 Q. Okay. Now, being a robbery detective, when you're
5 assigned a robbery case, what's the first thing that you like
6 to do?

7 A. Read through the reports, review any evidence, and
8 follow up on any leads if there are any.

9 Q. Did you do that in this case?

10 A. Yes.

11 Q. So after going through the reports and evidence
12 when this case was first assigned to you, do you recall what
13 some of your first steps were?

14 A. We needed to get a search warrant for Walter
15 Singleton's cell phone records, if that was the phone they had
16 been using for the robbery.

17 Q. Okay. Did you get those records?

18 A. Yes.

19 Q. Was the phone used for the robbery?

20 A. No, it wasn't used.

21 Q. So what other follow up did you recognize that you
22 needed to do?

23 A. We knew that duct-tape was used to tape the victims
24 together, so we went to the Walmart around the corner on Bees
25 Ferry Road just to make sure that duct-tape wasn't purchased

Yolanda Brown
Direct Examination by Mr. Osborne
January 6, 2016

1 that night and to see if there was any video that would lead
2 to suspects.

3 Q. Okay. So that sounds like a longshot. Did you
4 have any luck with that?

5 A. No.

6 The video showed that duct-tape was purchased on
7 October 6th, 5th and 4th, that they were all by white males,
8 and we knew that we had black male suspects.

9 Q. And you know that from what?

10 A. The video for them that I reviewed.

11 Q. Now, when you are a case agent and you work for the
12 robbery unit, do you work alone or do you have help from other
13 detectives?

14 A. No.

15 Usually, you can get -- other people are assigned
16 or help you with your case.

17 Q. Now, with this follow up, did you have help in the
18 early stages?

19 A. Yeah. Each robbery detective had been assigned a
20 task.

21 Q. Okay. When they go and they do these tasks, do you
22 assign them those tasks a lot of time?

23 A. Sometimes. Or my sargent or lieutenant.

24 Q. But when they gather information, they report back
25 to you --

Yolanda Brown
Direct Examination by Mr. Osborne
January 6, 2016

1 A. Yes.

2 Q. -- what they found?

3 A. Yes.

4 Q. Now, did you have the occasion to re-interview
5 Thomas Young?

6 A. I did.

7 Q. Okay. When you spoke to Thomas Young, were you
8 able to corroborate any part of his statement to you?

9 A. Yes.

10 Q. And what parts were you able to corroborate?

11 A. Thomas said that he saw two people at the gas
12 station. Video -- correction -- the surveillance video showed
13 that two people were exiting. Thomas said that the larger of
14 the two was armed with a firearm, and the video surveillance
15 did show that the larger of the two was armed with a firearm.

16 Q. Okay. There's been some talk about inconsistent
17 statements that Thomas made. Did you notice any inconsistent
18 statements that Thomas made?

19 A. There was one where he -- the direction that he was
20 traveling. He said that he was traveling from Summerville
21 towards Highway 7, but the video showed that he was traveling
22 from 7 towards the Summerville direction coming back. But
23 Thomas also said that he was in that area several times that
24 night traveling all through the area, so he may have been
25 mistaken.

Yolanda Brown
Direct Examination by Mr. Osborne
January 6, 2016

1 Q. Did that inconsistency regarding the direction that
2 he was traveling seem significant to you during your
3 investigation?

4 A. No. What he observed was more significant to me.

5 Q. All right. So let's talk about the video from the
6 robbery itself. Did you have any vehicles of interest after
7 viewing the surveillance video of the robbery itself?

8 A. Yes. A white vehicle, possibly a Ford Taurus.

9 Q. So why was a white Ford Taurus important to you in
10 your investigation?

11 A. About six minutes prior to the robbers entering
12 into the gas station, a white vehicle that looks like a Ford
13 Taurus is seen traveling slowly down Parsonage six minutes
14 prior to the robbery occurring.

15 MR. OSBORNE: I'm going to play now a file labeled
16 Brown number 1 from State's 8.

17 You're going to have to move ahead on this one to
18 3832. And this being the Window media player time. You
19 can just play it from there.

20 [Whereupon, State's Exhibit Number 8 is played for
21 the jury, with questions from Mr. Osborne]

22 [Whereupon, State's Exhibit Number 8 is not
23 transcribed by the court reporter]

24 Q. [Mr. Osborne] Have you done anything to alter this
25 video to make this car travel slower than -- or as slow as it

Yolanda Brown
Direct Examination by Mr. Osborne
January 6, 2016

1 is right now?

2 A. No. That's the actual speed.

3 Q. And this is the white Ford Taurus you're talking
4 about?

5 A. Yes.

6 Q. You've been there? Have you been out there to --

7 A. Yes.

8 Q. -- the scene?

9 This video image that we're looking at right here,
10 can you give an approximation of from the left farthest of the
11 screen to the right farthest of the screen? What kind of
12 distance are we capturing here?

13 A. Actually, a very short distance.

14 Q. Is it a block?

15 A. Maybe a half a block, if that.

16 MR. OSBORNE: All right. Go ahead and keep playing
17 it.

18 Q. [Mr. Osborne] Now, does anything else of interest
19 come up in this video?

20 A. If you look to the top of the screen, you can see
21 what appears to be a headlight.

22 Q. And what is -- what's in the top of the screen?
23 What is that area?

24 A. That's going to be the CVS pharmacy, which is
25 located across from the robbery incident.

Yolanda Brown
Direct Examination by Mr. Osborne
January 6, 2016

1 Q. If you'll look down for a moment. Has it already
2 happened?

3 A. Well, I can't see the top of the screen because of
4 the things that is here -- I don't want to mess with it --
5 from looking actually from over there.

6 MR. OSBORNE: Go back to 3925.

7 A. Right there.

8 Q. [Mr. Osborne] All right. So this vehicle, what
9 road -- when we first saw the white Ford Taurus, what road was
10 it on?

11 A. Parsonage.

12 Q. And which way was the Taurus headed?

13 A. In the direction of Highway 61.

14 Q. When you went back and you observed the outside
15 surveillance video, did you ever see the perpetrators who
16 committed the crime?

17 A. Yes.

18 As they approached from the rear, into the side,
19 and then to the front.

20 MR. OSBORNE: Okay. Go ahead and play file Brown
21 number 2.

22 [State's Exhibit Number 8 is played to the jury,
23 with questions from Mr. Osborne]

24 [Whereupon, State's Exhibit Number 8 is not
25 transcribed by the court reporter]

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1 Q. [Mr. Osborne] Is this the image that you're
2 referring to?

3 A. Yes.

4 Q. Now, about how long was it from seeing the
5 headlights off at the CVS, to this image right here?

6 A. Maybe like five minutes. I believe the headlights
7 were seen at about 2:44.

8 MR. OSBORNE: I'm going to play Brown file number 3
9 now.

10 [State's Exhibit Number 8 is played to the jury,
11 with questions from Mr. Osborne]

12 [Whereupon, State's Exhibit Number 8 is not
13 transcribed by the court reporter]

14 Q. [Mr. Osborne] Is this the next image that you see
15 of the perpetrators?

16 A. Yes.

17 Q. And if I'm facing the Kangaroo, would this be on
18 the left or on the right?

19 A. If you're facing the Kangaroo, it'll be on the left
20 side.

21 Q. And then off to the right would be the CVS?

22 A. Yes.

23 MR. OSBORNE: All right. Brown number 4.

24 [State's Exhibit Number 8 is played to the jury]

25 [Whereupon, State's Exhibit Number 8 is not

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1 transcribed by the court reporter]

2 MR. OSBORNE: Go ahead and stop it there.

3 Q. [Mr. Osborne] Now, this image right here, is this
4 the next time that you see the perpetrators on any
5 surveillance video?

6 A. Yes.

7 Q. You say you've been out there to the scene. About
8 how long does it take to walk from the CVS to the back of the
9 store the first time you see the perpetrators on the image?
10 On the video.

11 A. Maybe a minute.

12 Q. All right. So other than obtaining the video and
13 viewing the surveillance from this instance, what other follow
14 up did you conduct initially?

15 A. We knew that we had video surveillance from the
16 robbery itself, but we needed video from earlier that night,
17 mainly between 8:00 p.m. and midnight.

18 Q. And why was that?

19 A. Because Walter -- there was a suspicious encounter
20 between Walter and the individual that entered the gas station
21 earlier that night about 11:15 p.m.

22 Q. And I think we've heard Mr. Singleton testify. Is
23 this the incident where the individual was asking questions
24 about whether he worked alone at night --

25 A. Yes.

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1 Q. -- the store operation type of questions?

2 A. Yes.

3 Q. Now, did you go back and observe that video --

4 A. Yes.

5 Q. -- from earlier that night?

6 A. Yes.

7 Q. Did you make any observations from that?

8 A. Yes.

9 We saw that the subject that entered, asking Walter
10 whether he worked alone at night, exit the rear driver's side
11 of a white Ford Taurus. And the driver of that vehicle wore a
12 gray Gamecock shirt.

13 Q. Okay. And was the white Ford Taurus relevant to
14 you at this point in the investigation?

15 A. Yes, it was.

16 We had information that a white Ford Taurus with
17 bubble style headlights was seen parked down the roadway from
18 the Kangaroo during the time of the robbery, and also that it
19 sped in the direction of the gas station as the subjects were
20 exiting.

21 Q. And that's the information that came from Thomas
22 Young?

23 A. Yes.

24 Q. And then did you have any other reason to be
25 looking for a white Ford Taurus?

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1 A. Also, I mean, we needed to identify these people.
2 I knew that.

3 Q. All right. While other detectives were completing
4 various assignments and follow up, what did you do?

5 A. I went to the scene with other robbery detectives.

6 Q. Okay. What happened then?

7 A. We walked around the gas station looking for any
8 additional evidence. I walked by the dumpsters at the
9 Kangaroo, over to the CVS where Walter's -- correction --
10 wallet was located. And we walked around the CVS.

11 Q. All right. I want to talk about that CVS a little
12 bit. I'm going to show you what's been marked as State's
13 Exhibit 1. It's already been admitted into evidence. Can you
14 point out to the jury where the CVS is?

15 A. It's here.

16 Q. Now, you say you walked around the CVS the next
17 day. Did you see any duct-tape?

18 A. No.

19 Q. Any guns?

20 A. No.

21 Q. Any masks?

22 A. No.

23 Q. Gloves?

24 A. No.

25 Q. Sunglasses?

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1 A. No.

2 Q. Newport cigarettes?

3 A. No.

4 Q. Money?

5 A. No, sir.

6 Q. That CVS, can you mark on that map the entrance or
7 entrances to the CVS?

8 A. One is going to be here off of Parsonage, and one
9 should be about right here off of Highway 61.

10 Q. And can you mark the location of the dumpster video
11 on the side of the Kangaroo?

12 A. That's -- the dumpster video is here.

13 Q. Did you go into the CVS and ask them if they had
14 any outside surveillance video?

15 A. Yes.

16 Q. Did they?

17 A. They had two cameras. One was on the right-hand
18 side near the pharmacy pickup lane, and one was in the front
19 of the pharmacy that pointed in the direction of Highway 61.

20 The one on the right appeared to be motion
21 activated, though.

22 Q. Which one appeared to be motion activated?

23 A. The one on the right, near the pharmacy pickup
24 wing.

25 Q. Okay. Did you view those videos --

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1 A. Yes.

2 Q. -- around the time frame of the robbery?

3 A. Yes.

4 Q. Did you see anything of significance or anything
5 that would have been picked up?

6 A. No.

7 Q. The one -- you said there were two cameras. One
8 camera pointed towards 61, you said?

9 A. Yes.

10 Q. Would you have expected that image to have picked
11 up anything?

12 A. Not really.

13 It just depends on where -- how its angled. I
14 didn't -- I was hoping that it did pick up something, but it
15 didn't.

16 Q. And the other one was motion activated --

17 A. Yes.

18 Q. -- and nothing came up?

19 A. Yes.

20 Q. All right. Is there a dumpster in the rear of the
21 CVS?

22 A. Yes.

23 Q. And where is the dumpster?

24 A. It's in the rear, back here somewhere.

25 Q. No video in the back of the CVS?

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1 A. No.

2 Q. All right. Now, through your investigation, did
3 you have the occasion to inquire whether the CVS was open that
4 night?

5 A. Yes. And CVS was closed. Well, CVS actually
6 closed at 10:00 p.m. on Monday nights. October 6th was
7 actually a Monday night.

8 Q. Did you have the occasion to canvass any other
9 businesses for video that night?

10 A. Yes.

11 The auto mechanic shop next to the CVS, and also
12 the Hardees across the street, but both did not have any
13 outside video.

14 Q. Did you go obtain a video from anywhere else that
15 night?

16 A. Yes.

17 The Circle K located at Ashley River and Dogwood,
18 we -- that video showed the time frame between midnight and
19 3:30 a.m.

20 Q. Now, the Circle K: how far is this Circle K from
21 the Kangaroo?

22 A. Less than a mile.

23 Q. Why would you go get video from the Circle K?

24 A. The thought was that the perpetrators were
25 canvassing the Kangaroo earlier that night to rob, so they may

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1 have been canvassing other gas stations in the area earlier
2 that night to rob.

3 Q. Okay. Well, did you see anything of interest when
4 you got that Circle K video?

5 A. Yes.

6 About 2:19 a.m., we saw the same white Ford Taurus
7 pull up. The driver went in the same Gamecock shirt, exited,
8 entered into the store, purchasing Newport cigarettes.

9 Q. And you said that was at 2:19?

10 A. Yes.

11 Q. What time was the robbery again? About.

12 A. About 2:51.

13 MR. OSBORNE: Your Honor, may I approach?

14 THE COURT: The witness? Yes.

15 Q. [Mr. Osborne] I'm showing you now what's been
16 marked as State's Exhibit 35. Can you take a look at that and
17 tell me if you recognize it?

18 A. Yes.

19 Q. And what is that?

20 A. A still-frame image of mister -- or the defendant
21 entering into the Circle K.

22 MR. OSBORNE: Your Honor, may I publish this to the
23 jury? State's 35.

24 THE COURT: You may.

25 Q. [Mr. Osborne] What are we looking at here?

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1 A. It's the still-frame image of the defendant
2 entering into the Circle K.

3 Q. And what's the time?

4 A. About 2:20 a.m.

5 Q. He went in there and purchased Newports, you said?

6 A. Yes.

7 Q. The robbery, again, was what time?

8 A. 2:51. About 2:51.

9 Q. There's another image to this; right? An outside
10 image, I think?

11 A. Yes.

12 MR. OSBORNE: Your Honor, may I approach the
13 witness?

14 THE COURT: You may. You have continuing
15 permission.

16 MR. OSBORNE: Okay.

17 Q. [Mr. Osborne] I'm showing you now what's been
18 marked as State's 45. Do you recognize that?

19 A. Yes.

20 This is the defendant walking towards the store
21 from his vehicle.

22 MR. OSBORNE: Your Honor, I would request State's
23 45 be moved into evidence and published to the jury.

24 THE COURT: Any objection?

25 MR. HILTON: Without objection.

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1 THE COURT: State's 45 into evidence without
2 objection. You may publish.

3 MR. OSBORNE: Thank you, Your Honor.

4 [Whereupon, State's Exhibit Number 45 is admitted
5 into evidence by the Court]

6 Q. [Mr. Osborne] Is this the other image? This will
7 be the individual walking in just prior?

8 A. Yes. At the --

9 Q. Okay. Now, these are still frames. You had the
10 video; right?

11 A. Yes.

12 Q. When you viewed the video, could you tell if there
13 was anyone else in the car?

14 A. No, I couldn't tell.

15 He stopped the vehicle just off the -- the front of
16 the vehicle just off the camera. You could see the hood, but
17 the front is just off the camera.

18 Q. Now, let's go back to the first incident at the
19 Kangaroo at about eleven o'clock or thereabouts. You watched
20 that video, as well?

21 A. Yes.

22 Q. Did this appear to be the same individual that
23 drove that car to the incident then?

24 A. Yes.

25 Q. Okay. Now, when you watched that video, did you

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1 notice anything peculiar about the second individual that came
2 inside the store?

3 A. Yes. He appeared not to be wearing any shoes.

4 Q. Now, what's the significance to that, if there is
5 any?

6 A. Well, you can -- it's easy to change a nondescript
7 shirt or pants, but a shoe is a different matter. If he came
8 back to rob the place and wore the same shoes, it may have
9 made it a little more easier for us to identify him.

10 MR. OSBORNE: I'm going to play now from State's
11 Exhibit 8, Brown number 5.

12 [Whereupon, State's Exhibit Number 8 is played for
13 the jury]

14 [Whereupon, State's Exhibit Number 8 is not
15 transcribed by the court reporter]

16 MR. OSBORNE: All right. You can stop it there.

17 Q. [Mr. Osborne] The individual entering getting --
18 And who got out of that white Taurus? Is that the
19 same individual that made the suspicious comments to Walter?

20 A. Yes.

21 Q. This individual who's exiting here, was that the
22 same individual that you saw at the Circle K?

23 A. Yes.

24 Q. And which is the one that was only wearing socks?

25 A. The individual with the dreds appears just to be

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1 wearing black socks.

2 Q. Was there anything else, as a detective when you
3 watched this, that you thought was a little peculiar?

4 A. Yes.

5 The individual that exited the right driver's side
6 of the white Ford Taurus, with no shoes, turns his head away
7 from the guy with the scarf on his head. It turns out the guy
8 with the scarf on his head is actually the driver of the same
9 vehicle, but he acts as though he didn't know him.

10 MR. OSBORNE: All right. Would you play the clip
11 again.

12 [Whereupon, State's Exhibit Number 8 is played for
13 the jury.]

14 [Whereupon, State's Exhibit Number 8 is not
15 transcribed by the court reporter]

16 Q. [Mr. Osborne] So you thought this was suspicious,
17 but nothing definitive to say that they're involved in the
18 robbery?

19 A. Just peculiar.

20 Q. Just peculiar.

21 Could you tell, after viewing the video, what the
22 driver bought?

23 A. It appears that he bought three drinks. I think
24 two beers and a Sprite.

25 Q. Now, did you see the individual that looked like he

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1 wasn't wearing any shoes get into the white Taurus?

2 A. Yes, the rear driver's side.

3 Q. Okay. And does the Taurus leave?

4 A. Yes.

5 You can see the Taurus traveling on Parsonage at
6 about 11:23 p.m.

7 Q. All right. So at this point in the investigation,
8 where were you focused? What were you thinking?

9 A. I need to identify the driver and also the rear
10 driver's side passenger, so I prepared BOLOS and sent them out
11 to police personnel.

12 MR. OSBORNE: Your Honor, may I approach the
13 witness?

14 THE COURT: You may.

15 Q. [Mr. Osborne] All right. Detective Brown, I'm
16 showing you what's been marked as State's Exhibit 20, 21 and
17 22. Can you take a look at those items and tell me what they
18 are?

19 A. These are BOLOS that I sent out requesting
20 information for the rear driver's side passenger in the
21 vehicle, the driver of the vehicle, and also the vehicle
22 itself.

23 MR. OSBORNE: Your Honor, I would request State's
24 20, 21 and 22 be moved into evidence and published to
25 the jury.

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1 THE COURT: Any objection.

2 MR. HILTON: No objection.

3 THE COURT: Okay. They will be entered. You may
4 publish.

5 MR. OSBORNE: Thank you, Your Honor.

6 [Whereupon, State's Exhibit Numbers 20, 21 and 22
7 are admitted into evidence by the Court]

8 Q. [Mr. Osborne] I'm showing you State's 20. And
9 what is that, for the jury?

10 A. That's the rear driver's side passenger and the
11 vehicle that he exited.

12 Q. And State's 21?

13 A. The driver of that vehicle and the vehicle that he
14 was operating.

15 Q. Okay. Now, showing State's 22. You have something
16 marked there. What is that that you marked?

17 A. You could see from the video surveillance that
18 there was some damage to the front driver's side panel.

19 Q. Okay. So this is information that you're
20 distributing to other police officers --

21 A. Yes.

22 Q. -- in other surrounding areas?

23 A. Yes.

24 Q. Trying to get information?

25 A. Yes.

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1 Q. What others steps did you take to try to identify
2 this vehicle?

3 A. We requested a listing of all white Ford Tauruses,
4 the year 2000 and 2003, that were registered in Charleston
5 County.

6 Q. Okay. When you got that list, then what did you
7 do?

8 A. Those tags were entered into the ALPR.

9 Q. What's ALPR?

10 A. ALPR is Automatic License Plate Reader.

11 Basically, there's cameras throughout the city and
12 on police vehicles. These cameras read license plates, a
13 photograph is taken, and they're uploaded into a system.

14 Q. And you can run information through an ALPR system
15 and get images of a car?

16 A. Yes.

17 Q. And through that information, were you able to
18 develop a suspect vehicle?

19 A. Yes.

20 We got a white Ford Taurus with a sunroof and a
21 dent above the front driver's side wheel well or above the
22 front driver's side wheel well.

23 Q. Okay. So it seemed to be a vehicle -- the vehicle
24 you were looking for?

25 A. Yes.

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1 Q. Who was the registered owner of that vehicle?

2 A. The defendant, Robert Wilson.

3 Q. Did you ever locate the vehicle?

4 A. Yes.

5 The Charleston police field intelligence unit
6 located the vehicle at 1729 Pierson Avenue.

7 MR. OSBORNE: Your Honor, at this time I would like
8 to show the witness State's 24 and 25.

9 Q. [Mr. Osborne] Ms. Brown, can you take a look at
10 these items and tell me what they are.

11 A. It appears to be the vehicle on Pierson Avenue.

12 MR. OSBORNE: At this time, Your Honor, I would
13 request State's 24 and 25 be moved into evidence and
14 published to the jury.

15 THE COURT: Any objection?

16 MR. HILTON: No objection.

17 THE COURT: 24 and 25 into evidence without
18 objection.

19 [Whereupon, State's Exhibit Numbers 24 and 25 are
20 admitted into evidence by the Court]

21 Q. [Mr. Osborne] So you had the vehicle that you were
22 looking for. There's -- is that the dent that you're talking
23 about?

24 A. Yes, sir.

25 Q. The defendant lived on Pierson?

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1 A. Yes.

2 Q. When you went out to Pierson, this is the vehicle
3 that you found?

4 A. Yes.

5 Q. And this is State's 25. Another picture of the
6 vehicle?

7 A. Yes.

8 Q. All right. Were you looking for the defendant, as
9 well?

10 A. Yes.

11 Q. Did you locate him that day?

12 A. Yes.

13 Q. Did you locate anyone else with the defendant?

14 A. Yes. His longtime girlfriend, Patricia Fuller.

15 Q. Patricia?

16 A. Fuller.

17 Q. Did you speak to him?

18 A. Yes.

19 I asked him to come to the Charleston Police
20 Department, and he agreed.

21 Q. Did you tell him why you wanted to talk to him?

22 A. I mentioned to him that it was something regarding
23 his vehicle.

24 Q. Did you tell him he was under arrest?

25 A. No, because he wasn't under arrest.

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1 Q. Did you tell him you would give him a ride back
2 home?

3 A. Yes.

4 Q. Did you end up giving him a ride back home?

5 A. Yes, I did.

6 Q. Now, I think you mentioned you spoke to him at CPD,
7 Charleston Police Department?

8 A. Yes.

9 Q. During the interview, did he appear to be
10 intoxicated in any way?

11 A. No.

12 Q. Did he appear to be under any physical or mental
13 disability that would impair his abilities to understand what
14 you were asking him?

15 A. No.

16 Q. During the interview of the defendant, did you give
17 him breaks?

18 A. Yes.

19 Q. Bathroom?

20 A. I offered him water and coffee breaks.

21 Q. Did you make any threats or promises to the
22 defendant --

23 A. No.

24 Q. -- when you were talking to him?

25 Q. At any point when you were speaking to him, did you

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1 know the nature of the investigation?

2 A. I explained to him why -- during the interview why
3 he was being questioned.

4 Q. But was he free to go?

5 A. Yes, because he wasn't under arrest.

6 If he wanted to go, we would have allowed him to
7 leave.

8 Q. All right. Did he ever ask to go or terminate the
9 interview?

10 A. No, sir.

11 Q. Was the interview audio and video recorded?

12 A. Yes, it was.

13 Q. Do you remember about what time you began the
14 interview?

15 A. About 1:30 p.m.

16 Q. And what time did the interview end?

17 A. About 5:00 p.m.

18 Q. Now, was this three and a half hours of this
19 interviewing straight, or were there breaks and whatnots?

20 A. There were breaks.

21 Q. Now, you did mention this. But when you started
22 talking to him, did you tell him right off the bat that his
23 vehicle was a suspect in the robbery?

24 A. No.

25 I spoke to him about his background and some other

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1 small talk.

2 MR. OSBORNE: Your Honor, request to publish 26 at
3 this time. It's already into evidence.

4 THE COURT: You may.

5 MR. OSBORNE: That's right. We'll play Brown file
6 7 at this time.

7 [State's Exhibit Number 8 is played to the jury,
8 with questions from Mr. Osborne]

9 [Whereupon, State's Exhibit Number 8 is not
10 transcribed by the court reporter]

11 Q. [Mr. Osborne] His daughter's name was what?

12 A. Latoya Fuller.

13 Q. Was that name significant to you at this point in
14 the investigation?

15 A. No.

16 Q. Detective Brown, I'm showing you now what's been
17 marked as State's Exhibit Number 27. If you could take a look
18 at that and tell me if you recognize it.

19 [Whereupon, the witness reviews documents]

20 A. Yes.

21 This is the preprinted Miranda warning card that I
22 read to the defendant on October 20th, 2014, which he stated
23 he understood, and signed.

24 MR. OSBORNE: Your Honor, at this time I would move
25 State's 27 into evidence.

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1 THE COURT: Any objection?

2 MR. HILTON: No objection.

3 THE COURT: State's 27 into evidence without
4 objection.

5 [Whereupon, State's Exhibit Number 27 is admitted
6 into evidence by the Court]

7 Q. [Mr. Osborne] I'll talk more about D in a minute.
8 Were but you ever able to identify the D?

9 A. Yes.

10 Q. And how did the defendant just describe D? His
11 age?

12 A. He said he was forty.

13 Q. And is D forty?

14 A. No. He's twenty-eight.

15 Q. All right. This phone call that he said occurred
16 between D and him, did you ever make any efforts to try to
17 corroborate that call?

18 A. Yes.

19 Q. Were you able to?

20 A. No.

21 That phone records for 751-5082 only showed one
22 unconnected call to 303-0290.

23 Q. One unconnected call?

24 A. Yes.

25 Q. To what number again?

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1 A. 303-0290.

2 [Whereupon, State's Exhibit Number 8 concludes]

3 Q. [Mr. Osborne] Did you make any attempts to try to
4 confirm that he and D were the two individuals that were in
5 the gas station earlier that night around eleven o'clock?

6 A. Yes.

7 I showed him still-image photographs of the -- from
8 the surveillance video.

9 Q. Detective Brown, I'm showing you what's been
10 labeled as State's Exhibit 28, 20, 30, 31, 32, 33 and 34.
11 Take a look at these items. Tell me if you recognize them.

12 [Whereupon, the witness reviews documents]

13 A. The defendant walking to his vehicle; the defendant
14 and the rear driver's side passenger, D, passing each other; D
15 entering; still images of the defendant at the Circle K; the
16 defendant's vehicle on Parsonage near the dumpster at the
17 Kangaroo; also, the defendant's vehicle parked in front of the
18 Kangaroo; and the defendant's vehicle in the parking lot of
19 the Kangaroo.

20 Q. Now, did you show these images to the defendant?

21 A. Yes, and he signed and dated them, confirming that
22 this was his vehicle, and identifying himself.

23 Q. Okay. And this happens during the interview --

24 A. Yes. On October --

25 Q. -- on the portions we see or don't see?

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1 A. Yes. On October 20th.

2 MR. OSBORNE: Your Honor, at this time I would
3 request State's 28 through 34 be moved into evidence.

4 THE COURT: Any objection?

5 MR. HILTON: No objection.

6 THE COURT: State's 28 through 34 into evidence
7 without objection.

8 You may publish.

9 [State's Exhibit Number 28, 29, 30, 31, 32, 33 and
10 34 are admitted into evidence by the Court]

11 Q. [Mr. Osborne] Now, let's start with State's 28.
12 Did you show him that still frame?

13 A. Yes.

14 And he identified himself, and it's signed and
15 dated by him.

16 Q. And just to clarify. This is a still frame from
17 earlier in the night at the Kangaroo?

18 A. Yes.

19 Q. Showing you now State's 29. Did you show him this
20 picture?

21 A. Yes.

22 Q. And does he identify himself?

23 A. Yes, as leaving out of the store.

24 Q. I'm showing you State's 30. And does he identify
25 this individual?

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1 A. Yes, but reluctantly.

2 Q. And what do you mean by that?

3 A. He looked at it for a few seconds and then he said,
4 yeah, that looks like him. And he said that was D.

5 Q. It looks like he -- can you see what he put down
6 there?

7 A. He says: this looks like the person who they call
8 D.

9 Q. Okay. And this is another picture from State's 33.
10 Is that just a different image? From coming inside out?

11 A. It's with his vehicle in front of the Kangaroo. He
12 identified this as being a picture of his car.

13 Q. Okay. And I believe this is just another image of
14 the same incident?

15 A. Yes.

16 Q. State's 34?

17 A. Yes, which he identified and signed and dated.

18 Q. All right. So is his first story basically once he
19 dropped them off, he then went back home?

20 A. Yes.

21 Q. Does -- and, well, did you believe that?

22 A. No.

23 Q. Well, do you continue to question him?

24 A. Yes.

25 Q. Now, who does he say went with him to the Kangaroo

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1 when he bought the beer and the sodas or the beers and soda?

2 A. Said it was just he and D at that time.

3 Q. Anyone else?

4 A. No. He denied anybody else being in there at
5 first.

6 Q. At first.

7 All right. So what was his explanation for buying
8 two beers and a soda, if it's just him and D?

9 A. Said after he dropped D off, he went back home to
10 North Charleston and drank his beers with his girlfriend.

11 Q. Okay. And that would be back on Pierson in North
12 Charleston?

13 A. Yes. He said he went directly back to there.

14 Q. Okay. Now, you said that you had some issues with
15 his story?

16 A. Yes.

17 Q. What was one of the issues you had?

18 A. Well, you can see from the video surveillance that
19 there was a third person in the car with him.

20 MR. OSBORNE: Let's play State's 8, Brown file
21 number 8.

22 All right. This is State's 8, Brown file 8.

23 [State's Exhibit Number 8 is played to the jury,
24 with questions from Mr. Osborne]

25 [Whereupon, State's Exhibit Number 8 is not

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1 transcribed by the court reporter]

2 Q. [Mr. Osborne] Now, who is the individual that got
3 out of the car just now?

4 A. Robert identifies him as D as he entered the store.

5 Q. Now, is this what you're referring to here?

6 A. Yes.

7 You can see that there's another person in the car
8 with them.

9 Q. Did you challenge him about that?

10 A. Yes.

11 Q. Did he change his story?

12 A. Yes.

13 Q. And who is that individual there?

14 A. Entering the driver's side? That's the defendant,
15 Robert Wilson.

16 Q. When you challenged him about this individual being
17 in the car, did he change his story at all?

18 A. Yes.

19 Q. How did he change it?

20 A. He had stated that that was Big T in the car with
21 him.

22 Q. Did he say it was Big T at first?

23 A. No.

24 He said it was a woman. And he also stated that it
25 was a pile of clothes.

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1 Q. From the video, did it look like a woman or a pile
2 of clothes?

3 A. No.

4 MR. OSBORNE: Beg the Court's indulgence.

5 THE COURT: Take your time.

6 Q. [Mr. Osborne] Okay. Now, I think you mentioned
7 this earlier. And I don't want to confuse it too much, going
8 back and forth with times. But in this image, we know there
9 were three people in that white Ford Taurus; is that correct?

10 A. Yes.

11 Q. And the image from the Circle K at the other gas
12 station, you saw the defendant get out of the car?

13 A. Yes.

14 Q. Could you tell if there was anyone else in the car?

15 A. I couldn't tell.

16 The image wasn't clear enough to see if there were
17 any other passengers.

18 Q. Okay. But by the defendant's account, where should
19 he have been when you saw him on the Circle K video?

20 A. Back at home in North Charleston.

21 Q. Did you confront him about that?

22 A. Yes.

23 Q. And what did he say then?

24 A. He changed his story.

25 MR. OSBORNE: Play Brown 8. 8-1, yes.

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1 [State's Exhibit Number is played to the jury, with
2 questions from Mr. Osborne]

3 [Whereupon, State's Exhibit Number 8 is not
4 transcribed by the court reporter]

5 Q. [Mr. Osborne] Is this him identifying some of the
6 pictures we talked about earlier?

7 A. Yes, sir.

8 Q. Now, I know there was a little clip there that we
9 didn't see, but is this the first time that you mentioned to
10 the defendant that you were a robbery detective?

11 A. Yes.

12 Q. Did he seem like he was surprised?

13 A. No.

14 Q. Okay. You asked him if he had visited any other
15 stores. What did you have in mind?

16 A. I knew from the video surveillance that the Circle
17 K, located less than a mile from the Kangaroo, that he was on
18 the video surveillance at about 2:20 a.m.

19 Q. Okay. So this is where you're going to challenge
20 him in regards to him saying that he was at home --

21 A. Yes.

22 Q. -- drinking beer with his girlfriend?

23 I'm showing you now State's 35. Now, I notice that
24 he says, yeah, yeah, yeah, yeah. And you look like you're
25 going to your folder. Do you remember what you pulled out?

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1 A. I actually pulled out a still image of him at the
2 Circle K at about 2:20 a.m.

3 Q. You pulled out this --

4 A. Yes.

5 Q. -- image right here?

6 A. Yes.

7 Q. And then he changes his story?

8 A. Yes.

9 Q. I want to make sure I understood that correctly.
10 Did you ask him why he would go to the Circle K as opposed to
11 the Kangaroo?

12 A. Yes.

13 He said he couldn't afford the Newport cigarettes
14 at the Kangaroo.

15 Q. So he decided to go to the Circle K?

16 A. Yes.

17 MR. OSBORNE: I'm going to play now State's Brown
18 8-2.

19 [State's Exhibit Number 8 is played to the jury]

20 [Whereupon, State's Exhibit Number 8 is not
21 transcribed by the court reporter]

22 Stop it right there. Stop it.

23 Q. [Mr. Osborne] The way your system is set up at
24 CPD, is it broken down into hour segments?

25 A. Yes.

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1 Q. All right. So is this picking up right where the
2 other one left off?

3 A. It should be, yes.

4 MR. OSBORNE: Okay. You can go ahead and play it
5 now.

6 Q. [Mr. Osborne] Throughout your interview with him,
7 is this the first time that you mentioned that the Kangaroo
8 had been robbed?

9 A. Yes.

10 Q. Does it seem to phase him at all?

11 A. No.

12 Q. Now, we heard a lot of talk in here about time.
13 And you were telling him that there's -- that they didn't
14 occur at the same time, that these two gas station incidents
15 didn't -- what were you getting at there?

16 A. That he was observed on video surveillance at the
17 Circle K at about 11:15 and then he was observed at about 2:20
18 at the Circle K, less than a mile away, so it was impossible
19 for him to be in North Charleston at home when at 2:20 he's at
20 a different gas station just less than a mile away from the
21 Kangaroo.

22 Q. Did he ever, during all of your interviews with
23 him, ever provide you an explanation of what he was doing from
24 eleven o'clock at the Kangaroo until 2:20 when he was seen at
25 the Circle K buying Newports?

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1 A. He said he drove to the side of a gravel road and
2 drank his two beers and soda by himself.

3 Q. Okay. So is this the first time that he at least
4 admits that there's somebody else in the car?

5 A. Yes.

6 Q. And he says it's a girl?

7 A. Yes.

8 Q. Now, through your experience as a robbery
9 detective, you've interviewed several defendants; is that
10 correct?

11 A. Yes.

12 Q. When you interviewed them and they were suspects in
13 a crime, is it typical that the story evolves?

14 A. It should.

15 Q. So I guess it's not very common for people to just
16 come in and admit that they did something?

17 A. No.

18 Q. Do you find that a lot of times when you're doing
19 -- conducting these interviews, that this is kind of typical?
20 You show them a little bit of evidence, they give you a little
21 more?

22 A. Yes.

23 Q. You show them a little bit more evidence, they give
24 you a little bit more? Did this sort of go as a typical type
25 of robbery interview would go?

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1 A. Yes.

2 I mean, you've got -- I've gotten people to lie to
3 me all the time.

4 MR. OSBORNE: Now, just go ahead a play just a few
5 seconds from Brown 9, file Brown number 9.

6 [State's Exhibit Number 8 is played to the jury,
7 with questions from Mr. Osborne]

8 [Whereupon, State's Exhibit Number 8 is not
9 transcribed by the court reporter]

10 Q. [Mr. Osborne] All right. So it looks like you
11 stepped out, then you came back in?

12 A. Yes.

13 Q. Do you recall -- were you giving him a break or
14 something?

15 A. Yeah.

16 And I told him to think about who was in the car
17 with him and D.

18 Q. Okay. So now we have another story?

19 A. Yes.

20 Q. Started out with just D?

21 A. Yes.

22 Q. Then a pile of clothes?

23 A. Yes.

24 Q. Then a girl?

25 A. Yes.

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1 Q. Now Big T?

2 A. Yes.

3 Q. Okay. And I think the time on there was 2:45?

4 A. Yes.

5 Q. And you continued to interview him until you said
6 about 5:00 or thereabouts?

7 A. Yes.

8 Q. During that time, did you question him more about
9 what he was doing during that two- or three-hour period?

10 A. Yes.

11 Q. And I think you said earlier he pulled over to a
12 gravel road. Did he say where the gravel road was?

13 A. Magwood. Near Magwood.

14 Q. Now, did you ask him if anybody else was using his
15 car that night?

16 A. I did, and he said he's the only one that drives
17 his car.

18 Q. And I think you even asked him that multiple times;
19 is that correct?

20 A. Yes.

21 And each time he said that he's the only one that
22 drives his car.

23 Q. Now, what was the defendant's explanation for D not
24 wearing any shoes when he went into the gas station?

25 A. He said that he was half drunk.

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1 Q. Was the defendant told during the interview that D
2 asked the cashier if he was working alone that night?

3 A. Yes.

4 Q. Did you tell him, or anyone tell him?

5 A. Yes.

6 Q. Did he seem surprised by the fact that D was asking
7 about the cashier and whether they worked alone at night?

8 A. No. He just said, right, right.

9 Q. Now, at some point you step out of the interview
10 room; is that correct?

11 A. Yes.

12 Q. And I think your lieutenant, Jack Weiss, comes into
13 the interview room; right?

14 A. Yes.

15 Q. Did the defendant have yet another story for
16 Lieutenant Weiss?

17 A. Yes.

18 MR. HILTON: Objection, Your Honor.

19 THE COURT: What's the basis?

20 MR. HILTON: Hearsay.

21 THE COURT: Overruled.

22 A. Yes.

23 Q. [Mr. Osborne] Did you later re-interview -- or
24 reenter the interview room?

25 A. Yes.

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1 Q. Did you ask him to repeat his latest version to
2 you?

3 A. Yes, I did.

4 Q. This time, what does he say that he was doing
5 around the time frame of the robbery?

6 A. He stopped to take a leak in the rear of the CVS by
7 the dumpster.

8 Q. And why did he say he parked behind the CVS at the
9 dumpster?

10 A. First he said he stopped to take a leak, then he
11 said that D and Big T told him to wait there.

12 Q. Did he say where D and Big T went when they got out
13 of the car?

14 A. Said he didn't know.

15 Q. Did he ever ask them where they were going?

16 A. No.

17 Q. Did he ever ask them, why are you asking me to park
18 behind a CVS that's closed?

19 A. No.

20 Q. Did he claim to see anything by the dumpster when
21 he was at the CVS?

22 A. He said he saw a racoon.

23 Q. A racoon?

24 A. Yes.

25 Q. Does he say what Big T and D were wearing when they

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1 got out of the car?

2 A. Said they were wearing white.

3 Q. Did he say what they were wearing when they came
4 back?

5 A. All black.

6 Q. Now, for all this driving around that he did for D
7 and Big T of North Charleston, down to Wilson Street, to West
8 Ashley, waiting three hours, and then driving them after that,
9 did he say that D and Big T gave him anything for all of his
10 troubles?

11 A. He said five dollars.

12 Q. Five dollars?

13 A. Yes.

14 MR. OSBORNE: I'm going to play File Brown 10 from
15 State's 8.

16 [State's Exhibit Number 8 is played to the jury,
17 with questions from Mr. Osborne]

18 [Whereupon, State's Exhibit Number 8 is not
19 transcribed by the court reporter]

20 Q. [Mr. Osborne] Were you ever able to identify D and
21 Big T?

22 A. Yes.

23 Q. Did the defendant give you the names?

24 A. No.

25 We located there names in the Charleston Police

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1 Standard Database.

2 Q. Did you ever show the defendant line-ups with
3 individuals you thought were D and Big T?

4 A. Yes.

5 Q. Did he identify two individuals?

6 A. Yes.

7 Q. All right. I'm showing you now, Detective Brown,
8 what's been marked as State's Exhibit 36 and 37. Can you take
9 a look at this, tell me if you recognize them. If so, what
10 are they?

11 [Whereupon, the witness reviews documents]

12 A. This is the Charleston police photo line-up
13 admonition form, and also the six-person photographic line-up,
14 to include Denelle Great and Ulysis Great.

15 Q. [Mr. Osborne] Are these the line-ups that you
16 showed to the defendant?

17 Q. Yes.

18 Q. And did he identify those two individuals?

19 A. Yes.

20 MR. OSBORNE: Your Honor, I would request State's
21 36 and 37 be moved into evidence and published to the
22 jury.

23 THE COURT: Any objection?

24 MR. HILTON: No objection.

25 THE COURT: 36 and 37 into evidence. You may

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1 publish.

2 [Whereupon, State's Exhibit Numbers 36 and 37 are
3 admitted into evidence by the Court]

4 Q. [Mr. Osborne] I'm first showing you State's
5 Exhibit 36. This is the line-up that you showed to Mr.
6 Wilson?

7 A. Yes.

8 Q. And is this indicating that he identified photo
9 number 3?

10 A. Yes.

11 Q. Is that where he circled photo number 3 --

12 A. Yes.

13 Q. -- and signed his name?

14 A. Yes, sir.

15 Q. And who is that?

16 A. That's Denelle Great.

17 Q. Okay. And 37 is the admonition form; is that
18 correct?

19 A. Yes.

20 Q. And is that the line-up that you presented him?

21 A. Yes.

22 Q. And did he identify the individual he claims to be
23 Big T?

24 A. Yes.

25 Q. And who was that?

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1 A. Ulysis Great.

2 Q. Did you observe the height and weight of D and
3 Big T?

4 A. Yes.

5 Q. Did they seem to physically match the physical
6 description of two perpetrators responsible for the robbery?

7 A. Yes.

8 Q. Or I should say two gunmen who entered the store.

9 I'm going to show you now -- all right. Detective
10 Brown, I'm going to show you now what's been marked as State's
11 Exhibit 39, 40 and 41. Do you recognize those items? If so,
12 what are they?

13 A. A photograph of Denelle Great, Ulysis Great, and
14 photo of the perpetrators entering the Kangaroo.

15 MR. OSBORNE: Your Honor, at this time I would
16 request State's 39, 40 and 41 be moved into evidence and
17 published to the jury.

18 THE COURT: Any objection?

19 MR. HILTON: No objection.

20 THE COURT: They will be so entered. You may
21 publish.

22 [Whereupon, State's Exhibit Numbers 39, 40 and 41
23 are admitted into evidence by the Court]

24 Q. [Mr. Osborne] State's Exhibit 39 is what I'm
25 showing you now. Who is that?

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1 A. Denelle Great.

2 Q. State's Exhibit 40. Who is that?

3 A. Ulysis Great.

4 Q. And what State's Exhibit 41?

5 A. The perpetrators entering into the Kangaroo at the
6 time of the robbery.

7 Q. Who did you believe the first subject to be, based
8 on your investigation regarding the heights and weights of D
9 and Big T?

10 A. Based on height and weight matching, I thought the
11 first person was Ulysis Great.

12 Q. And the second?

13 A. Based on height and weight and dreds, Denelle
14 Great.

15 Q. All right. Now, we've heard a little bit of this.
16 But during your entire interview with the defendant, how did
17 he describe his relationship with D, or Denelle Great?

18 A. Said he knew him but he didn't know him well, and
19 that Denelle was the son of his girlfriend's ex-boyfriend.

20 Q. Okay. And how about Big T?

21 A. Said he didn't know him at all.

22 Q. Didn't know him at all?

23 A. Yes.

24 Q. All right. At the conclusion of your interview,
25 did you go anywhere with the defendant?

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1 A. I drove him to West Ashley in an attempt to locate
2 D or Denelle's sister's apartment.

3 Q. Okay. Did he point out the sister's apartment to
4 you?

5 A. No.

6 Q. Why wasn't he able to point out the sister's
7 apartment?

8 A. Said that he dropped him off in the front of the
9 apartment complex and he didn't see where they walked to.

10 Q. Okay. Now, did the defendant say that D told him
11 anything when he got out of the car?

12 A. To pick them up from the -- pick them up from the
13 CVS in about fifteen minutes.

14 Q. Okay. During that fifteen-minute period that he
15 said that he was waiting for D or Big T, did he say he ever
16 left the CVS parking lot?

17 A. No.

18 He said he stayed right there and he parked and he
19 didn't drive anywhere.

20 Q. Did you ask him if he drove anywhere?

21 A. Yes.

22 Q. And that's -- during that fifteen-minute period I
23 guess is when he claims to have been urinating and saw the
24 raccoon?

25 A. Yes.

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1 Q. All right. Once D and Big T got back to the car,
2 this time dressed in all black, where did he claim to go then?

3 A. Drove them back to down Parsonage and dropped them
4 back off in front of the apartment complex.

5 Q. Okay. So when he drove back to the apartment
6 complex, I guess then he could see where he went in and he can
7 tell that to you; is that right?

8 A. No.

9 He said he was laid back in his seat and he didn't
10 see.

11 Q. Laid back in the seat and didn't see it?

12 A. Yeah.

13 He said he was laid back in his seat and he didn't
14 see where he went.

15 Q. Okay. So the first time he didn't see them because
16 he dropped them off at the front of the entrance?

17 A. Yes.

18 Q. Why didn't he just drive into the entrance and drop
19 them off by the apartment?

20 A. I don't know why.

21 He said he dropped them off in the front and he
22 didn't see where they went.

23 Q. Okay. And the second time he didn't see because
24 he's laid back?

25 A. Yes.

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1 Q. All right. And after that, is that when you give
2 the defendant a ride home?

3 A. Yes.

4 Q. All right. Now, at the end of your first interview
5 with the defendant, did you believe that he had been honest
6 with you?

7 A. No.

8 Q. Did you feel that you had had sufficient evidence
9 at that time to charge him with armed robbery?

10 A. Yes.

11 Q. Did you?

12 A. Not at that time.

13 Q. Why not?

14 A. I wanted to gather enough evidence to bring a case
15 against all three and in hopes -- and put a plan together to
16 arrest all three at the same time and hope to get truthful
17 statements.

18 Q. Did you get arrest warrants for all three?

19 A. Yes.

20 I got arrest warrants charging Denelle and Ulysis
21 Great with two counts of armed robbery, two counts of
22 kidnaping, and possession of a weapon during the commission of
23 a violent crime.

24 I also obtained arrest warrants for the defendant,
25 Robert Wilson, charged him with armed robbery -- two counts of

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1 armed robbery. I'm sorry.

2 Q. All right. You said y'all had put together a plan
3 to try to arrest all three at one time?

4 A. Yes.

5 Q. Why would you want to arrest all three at one time?

6 A. So we can interview all three at the same time, in
7 hopes to get -- put them against one another and use their
8 statements against each other.

9 Q. Okay. And were you able to arrest all three at
10 once?

11 A. No.

12 Unfortunately, Denelle and Ulysis Great were
13 arrested at different times.

14 Q. All right. What was the date that this defendant
15 was arrested?

16 A. October 24th, 2014.

17 Q. Okay. Four days after your interview?

18 A. Yes.

19 Q. Did you speak to him again?

20 A. Yes.

21 Q. Did you re-advise him of his Miranda warnings then?

22 A. Yes, I did.

23 Q. Detective Brown, I'm showing you what's been marked
24 as State's Exhibit 38. Can you take a look at that and tell
25 me if you recognize it. If so, what is it?

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1 A. It's the Miranda warning card that I read to Robert
2 Wilson on October 24th, 2014, which he signed and dated as he
3 understood.

4 MR. OSBORNE: Your Honor, at this time I would
5 request State's 38 be moved into evidence.

6 THE COURT: Any objection?

7 MR. HILTON: No objection.

8 THE COURT: State's 38 into evidence without
9 objection. You may publish.

10 [Whereupon, State's Exhibit Number 38 is admitted
11 into evidence by the Court]

12 Q. [Mr. Osborne] Now, when you interviewed him four
13 days later, about how long was that interview?

14 A. From about 12:40, 12:41, to about 3:15 p.m.

15 Q. Had his -- did his story evolve yet again?

16 A. Yes.

17 Q. Okay. How did his story change this time?

18 A. He stated that this time when D and Big T came back
19 to the vehicle parked by the CVS dumpster, they had something
20 in their hands but he didn't know what it was. He said it was
21 balled up. Then he later stated that it was a shirt.

22 Q. All right. Any changes regarding where he went
23 after they got in the car?

24 A. Said he went to the right, back towards the
25 apartments.

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1 Q. What phone did he say he was using that night?

2 A. He changed it to -- this time he stated that he
3 would use 303-0290.

4 Q. 303-0290?

5 A. Yes.

6 Q. All right. Did you ask the defendant if he could
7 help you find the apartments where he dropped D and Big T off
8 at -- or Big T off at?

9 A. Yes.

10 But he said he wasn't familiar with the area and he
11 couldn't show me where it was.

12 Q. Okay. Did you try again to locate D's sister's
13 apartment --

14 A. Yes.

15 Q. -- the one behind the Kangaroo?

16 A. Yes.

17 Q. Any luck?

18 A. No.

19 Q. Did he give to you any plausible explanation as to
20 why he could not provide to you the location of his sister's
21 apartment, other than what you've already said? Laid back.

22 A. No.

23 Q. Did you ask him about the conversation that he had
24 in the car with D and Big T?

25 A. Yeah.

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1 He stated that they were arguing about something,
2 but he didn't know what it was because he had his radio turned
3 up and he wasn't paying any attention.

4 Q. Did he ever claim that he was coerced in any way,
5 made to drive, threatened?

6 A. I asked him if he was threatened and he said that
7 he was never threatened.

8 Q. All right. I'm going to show you now, Detective
9 Brown, what's been marked as State's Exhibit 42, 43 and 44.
10 Do you recognize these items?

11 A. Appears to be the CVS at night, the rear of it, by
12 the dumpster.

13 Q. Have you been back there before?

14 A. Yes. I stated earlier that week, walked around
15 canvassing.

16 Q. Have you been back there at night?

17 A. Yes, I've been back there at night.

18 MR. OSBORNE: Your Honor, at this time I would
19 request State's 42, 43 and 44 be moved into evidence.

20 THE COURT: Any objection?

21 MR. HILTON: No objection.

22 THE COURT: State's 42, 43 and 44 into evidence
23 without objection.

24 [Whereupon, State's Exhibit Numbers 42, 43 and 44
25 are admitted into evidence by the Court]

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1 MR. OSBORNE: May I publish to the jury, Your
2 Honor?

3 THE COURT: You may.

4 Q. [Mr. Osborne] All right. I'll start with State's
5 42. I realize this is pretty dark.

6 Can you tell from that image if there's a dumpster
7 in the photograph and, if so, where?

8 A. Not from that image. It's too dark.

9 Q. All right. Let me try this one, State's Exhibit
10 44. Can you tell --

11 A. Yes.

12 Q. -- from that image?

13 A. Yes. You can see it just a little bit back there.

14 Q. Are there any lights back there?

15 A. No.

16 Q. But we do see light in this photo?

17 A. Yes.

18 Q. Do you know what that could be from?

19 A. Maybe a vehicle. I don't know.

20 Q. Now, the CVS: where is the CVS? I know it's not
21 pictured here, but where would it be?

22 A. It's going to be across the street from the robbery
23 location, the Kangaroo.

24 Q. The rear of the CVS?

25 A. It's -- the rear of the CVS is going to be --

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1 Q. Go ahead and mark on that.

2 A. -- back here near the dumpster area. I can't
3 really see.

4 Q. Okay. I'm not very clear. The rear of the
5 building of CVS, where would that be?

6 A. Oh. Up here.

7 Q. Okay. And where would Parsonage be?

8 A. Along here. You have to drive out and then turn
9 onto Parsonage.

10 Q. Okay. I'm going to show you State's Exhibit 43.
11 That's another image. And what is that?

12 A. That's the dumpster area in the rear of the CVS.

13 Q. All right. So the defendant has been charged. Did
14 that end your investigation?

15 A. No, it didn't.

16 I actually interviewed a few family members of
17 Denelle and Ulysis Great.

18 Q. Okay. As a result of that, of those interviews,
19 did you develop another person of interest?

20 A. I did.

21 Q. Detective Brown, I'm showing you what's been marked
22 as State's Exhibit Number 46. Can you take a look and tell me
23 if you recognize it?

24 [Whereupon, the witness reviews documents]

25 A. Yes.

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1 It's a picture of Latoya Fuller in a Kangaroo
2 uniform.

3 MR. OSBORNE: Your Honor, at this time I would
4 request State's 46 be moved into evidence and published
5 to the jury.

6 THE COURT: Any objection?

7 MR. HILTON: No objection.

8 THE COURT: State's 46 into evidence. You may
9 publish.

10 [Whereupon, State's Exhibit Number 46 is admitted
11 into evidence by the Court]

12 Q. [Mr. Osborne] Don't answer any substance of your
13 conversation, but did you have the opportunity to speak to
14 her?

15 A. Yes.

16 Q. And what was her name again?

17 A. Latoya Fuller.

18 Q. And through your investigation, did you learn that
19 she was employed at the time of the robbery?

20 A. Yes, I did.

21 Q. And where was she employed?

22 A. At the same Kangaroo gas station that was robbed.

23 Q. Okay. So just to summarize: how many times did
24 you interview the defendant, total?

25 A. Three times: on October 20th; the car ride on the

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1 20th; and after his arrest on October 24th.

2 Q. Three times total?

3 A. Yes.

4 Q. And do you know about how long all those
5 interviews, coupled together, would be?

6 A. I think about six hours, six and a half hours of --
7 the first interview was about three and a half hours; the car
8 ride was thirty minutes; and the other interview was about two
9 and a half hours. So about six and a half hours, with breaks.

10 Q. Okay. And so during this whole six and a half hour
11 period, at any point did the defendant tell you, you know,
12 hey, my daughter works at that same Kangaroo that was robbed?

13 A. No, he didn't.

14 MR. OSBORNE: No further questions.

15 THE COURT: Ladies and gentlemen, we've reached an
16 appropriate time for us to break for the evening.

17 Please remember all of my admonitions. Please do
18 not discuss this case with anyone. You're probably
19 going to go home and somebody is going to ask you what
20 you've done today, and you just say the judge says I
21 can't talk about my day.

22 Please do not post anything about this. Do not do
23 any independent investigations. Do not go by the scene
24 where the alleged events are alleged to have taken
25 place.

Yolanda Brown
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1 Please be back, report back, at 9:30 in the
2 morning. 9:30 in the morning.

3 Please take your notepads with you. We'll lock
4 those up over the evening hours and pass those back to
5 you.

6 Please have a wonderful and restful evening. Thank
7 you so much.

8 Please rise for the jury.

9 [Whereupon, the jury exits the courtroom at
10 6:14 p.m.]

11 THE COURT: Hold up one second. Please be seated.

12 Let me just remind you you can't discuss this case
13 with anyone. That includes the State or the defense
14 attorney. Please be back at 9:20 in the morning and
15 we'll begin promptly. All right? Thank you.

16 THE WITNESS: Thank you.

17 THE COURT: You may step down.

18 [Whereupon, Ms. Brown is excused and exits the
19 witness stand]

20 THE COURT: Mr. Hilton, I'm going to go ahead and
21 advise your client of his rights so you can talk to him
22 over the evening hour.

23 As I understand, this is your last witness?

24 MR. OSBORNE: Yes, Your Honor.

25 - - -

State vs. Robert Wilson
Defendant's Rights
January 6, 2016

DEFENDANT'S RIGHTS

THE COURT: Please swear the defendant.

THE CLERK OF COURT: If you will please stand.

Raise your right hand.

MR. WILSON: Yes, sir.

[Whereupon, Mr. Wilson is duly sworn by the clerk of court as follows: do you swear or affirm that you will tell the truth, the whole truth, and nothing but the truth, so help you God]

MR. WILSON: Yes.

THE COURT: Mr. Wilson, I'm going to go ahead and explain to you your rights, your Constitution rights. In the morning, I anticipate we'll hear cross-examination of the detective, and then the State is going to rest. And then at that time, assuming I do not grant your attorney's request for a directed verdict, you will have the opportunity to present your defense. So I'm going to explain this to you. If you do not understand anything I say please let me know; and if you need for me to explain anything in further detail, please let me know.

Do you understand?

MR. WILSON: Yes, ma'am.

THE COURT: You have the right to claim the protections given to you by the fifth amendment of the

State vs. Robert Wilson
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1 United States Constitution. This amendment states in
2 part that no person shall be compelled in any criminal
3 case to be a witness against himself. This means that
4 you cannot be required to testify.

5 You do have the right to testify in your own
6 defense. However, no one can make you testify. This is
7 a personal right. If you decide to testify, you will be
8 subject to the same rules that govern other witnesses
9 and you may be examined and cross-examined on any
10 relevant issue in this case.

11 Do you have any convictions you intend to use for
12 impeachment?

13 MR. OSBORNE: No, Your Honor.

14 THE COURT: If you decide to testify, this decision
15 on your part must be freely, voluntarily, knowingly, and
16 intelligently made, with the knowledge of the
17 protections given to you by the fifth amendment of the
18 Constitution of our United States.

19 If you decide not to testify, I will instruct the
20 jury that they cannot give the fact that you did not
21 testify any consideration whatsoever.

22 Do you understand what I have explained to you?

23 MR. WILSON: Yes, ma'am.

24 THE COURT: Have you already talked to your
25 attorney about this issue?

State vs. Robert Wilson
Defendant's Rights
January 6, 2016

1 MR. WILSON: You talking about testify?

2 THE COURT: Whether or not you're going to testify.

3 MR. WILSON: Not really.

4 THE COURT: You haven't discussed that matter with
5 him at all?

6 MR. HILTON: We have discussed it, and I think it
7 was more related to the last trial when we were
8 preparing for that, so I'm going to discuss that with
9 him again tonight. But we have discussed it to some
10 degree.

11 THE COURT: And so when we come back in the
12 morning, I'm going to ask you whether or not you have
13 talked to your -- well, at the appropriate time, if you
14 have talked to your attorney and whether or not you're
15 going to testify. I don't need your answer right now.

16 Do you understand?

17 MR. WILSON: Yes, ma'am.

18 THE COURT: All right. Please have a seat.

19 [Whereupon, Mr. Wilson complies]

20 THE COURT: Anything before we take a recess?

21 MR. OSBORNE: The only thing I would ask is is it
22 possible for Victoria to send the charges to me so we
23 could look at them tonight?

24 THE COURT: No.

25 MR. OSBORNE: Okay.

State vs. Robert Wilson
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1 THE COURT: No. We can do a charge conference
2 right now, but I do not send copies of my charges.

3 I have them ready to go, if you want to go over
4 them now.

5 MR. OSBORNE: Yes. If I could --

6 MR. HILTON: Well, I have a request. The Court --
7 when we approached earlier, you indicated that you would
8 give a constructive presence charge.

9 THE COURT: I changed it. I just did the
10 traditional hand of one, hand of all that I typically
11 charge. I took that out and just encompassed it in the
12 traditional hand of one that I always charge.

13 MR. HILTON: Is there a definition of -- I guess
14 let's have the conference and then we can --

15 THE COURT: All right. Counsel, approach for just
16 a moment.

17 [Whereupon, an off-the-record bench conference is
18 held]

19 [JURY TRIAL ADJOURNS AT 6:05 P.M.]
20
21
22
23
24
25

State vs. Robert Wilson

C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the jury trial held before the Honorable Kristi L. Harrington, on Wednesday, January 6, 2016.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 28th day of February, 2016.



Mia Perron, CVR-CM-M
Circuit Court Reporter
9th Judicial Circuit

MIA PERRON, CVR-CM-M

COPY

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STATE OF SOUTH CAROLINA

VS.

ROBERT WILSON,

DEFENDANT.

VOLUME 2 OF 2

held before the Honorable Kristi L. Harrington
Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
in the Charleston County Courthouse
Charleston, South Carolina
on Thursday, January 7, 2016, Commencing at 9:32 a.m.

SUSAN "MIA" PERRON, CVR-CM-M
Circuit Court Reporter - 9th Judicial Circuit
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MARKED/ADMITTED

State's Exhibit Number 35 / 285
[Photograph]

State's Exhibit Number 81 307 /
[Photographic Line-Up]

State vs. Robert Wilson
Proceedings
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PROCEEDINGS

THE COURT: Anything before we bring in the jury?

MR. OSBORNE: No, Your Honor.

MR. HILTON: Nothing, Your Honor.

THE COURT: Just for scheduling --

MR. OSBORNE: Your Honor?

THE COURT: I'm sorry?

MR. OSBORNE: Exhibit 35 we needed to move into
evidence.

THE COURT: All right. Did you get that?

THE COURT REPORTER: Yes, ma'am.

THE COURT: Any objection?

MR. HILTON: No objection.

THE COURT: State's 35 into evidence without
objection.

[Whereupon, State's Exhibit Number 35 is admitted
into evidence by the Court]

[Off the record momentarily]

THE COURT: Detective Brown.

[Whereupon, Detective Brown retakes the witness
stand]

THE COURT: I remind you that you are still under
oath.

Did you comply with my instructions over the
evening hour?

State vs. Robert Wilson
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January 7, 2016

1 THE WITNESS: Yes, ma'am.

2 THE COURT: All right. Let's bring in the jury.

3 [Off the record momentarily]

4 THE COURT: Please rise for the jury.

5 [Whereupon, the jury enters the courtroom at
6 9:34 a.m.]

7 THE BAILIFF: All jurors present, Your Honor.

8 THE COURT: Thank you. Please be seated.

9 Did every member of the jury panel comply with the
10 Court's instructions over the evening hour? If you did
11 not, please stand.

12 [No response]

13 THE COURT: Thank you.

14 All fourteen jurors have indicated that they
15 complied with the Court's instructions over the evening
16 hour.

17 Good morning, ladies and gentlemen. We are now
18 going to resume the trial.

19 Mr. Hilton, your witness.

20 MR. HILTON: Thank you, Your Honor.

21

22

23 - - -

24 - - -

25 - - -

Yolanda Brown
Cross-Examination by Mr. Hilton
January 7, 2016

YOLANDA BROWN,

Having Been Previously Sworn,
was Examined and Testified as Follows:

CROSS-EXAMINATION

BY MR. HILTON:

Q. Detective Brown, you say you're with Charleston Police Department?

A. Yes, sir.

Q. And you were assigned to investigate the robbery that happened at the Kangaroo gas station at Parsonage and 61?

A. Yes. I was the case agent.

Q. All right. And what -- being a case agent, what does that mean?

A. I'm the lead detective in a particular case.

Q. So all the reports, you gather up all those, you review everything, and kind of spearhead the investigation; correct?

A. Yes, sir.

Q. All right. And so any other officer that was involved, they're going to report to you either in person or at least by a written report; correct?

A. I guess you could say that.

Q. All right. And so you would be aware of all of the evidence in the case, looking at the case as a whole. It wasn't just one particular part that you were involved in. It

Yolanda Brown
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1 was the entire case; correct?

2 A. Yes.

3 Q. All right. And I think it was the crime scene tech
4 or Investigator Rene Charles, that testified yesterday, that
5 collected all the evidence from the scene?

6 A. Yes, sir.

7 Q. He works for the police department, as well?

8 A. Yes, sir.

9 Q. And he made some reference to a bunch of
10 fingerprints and so forth that were lifted. Did any of that
11 come back to Mr. Robert Wilson?

12 A. No, sir.

13 Q. Any other evidence collected at the scene, did any
14 of that come back to Mr. Robert Wilson?

15 A. Evidence collected at the -- by Rene Charles?

16 Q. Right.

17 A. No.

18 Q. And none of the evidence that was collected at all,
19 from anywhere -- and we know about the video with the white
20 car. We've got the videos.

21 A. Yes, sir.

22 Q. I'm talking about other physical evidence that was
23 collected. None of that was tied to Mr. Robert Wilson;
24 correct?

25 A. No, sir.

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January 7, 2016

1 Q. Let's talk about Thomas Young. Thomas Young was
2 the guy who testified and he called -- he called 911; correct?

3 A. That's correct.

4 Q. And Thomas Young is not someone that y'all believed
5 right off the -- did you?

6 A. Not exactly.

7 Q. All right. There were a lot of inconsistencies in
8 his story with what he was telling the 911 operator, what he
9 was telling police, and y'all had to follow up on a bunch of
10 that stuff, didn't you?

11 A. I did follow up on -- by re-interviewing him.

12 Q. Okay. And re-interviewed him not only once or
13 twice, but after he testified that he had met with law
14 enforcement and met with the solicitors office upwards of
15 seven or eight times?

16 A. I only re-interviewed him once.

17 Q. You did.

18 But other people interviewed him, as well;
19 correct?

20 A. We partaked in the interview together. I helped
21 with Detective Fulton.

22 Q. All right.

23 A. So that's the same day and the same interview after
24 the robbery incident.

25 Q. And he was also interviewed on the scene by an

Yolanda Brown
Cross-Examination by Mr. Hilton
January 7, 2016

1 officer out at the scene; correct?

2 A. Yes.

3 The officers on the scene, and the responding
4 detective.

5 Q. And what were some of the inconsistencies in
6 Mr. Young's story, that he had told y'all, that y'all were
7 able to verify that was incorrect?

8 A. He just stated that what he observed he thought was
9 the suspects or perpetrators entering into the gas station.
10 But based on his telephone records, which stated he called 911
11 at 3:01, and we know that the suspects entered at 2:51 and the
12 video surveillance showed at 2:59 they were exiting, therefore
13 he didn't observe them entering, he observed them leaving out.

14 Q. That's right.

15 And that was verified, and I don't even think that
16 was a misrepresentation on his part, and I think y'all
17 verified that; correct?

18 A. We did.

19 Q. But he did misrepresent where he was coming from;
20 correct?

21 A. Yes.

22 But he also stated that he traveled through that
23 area several times that night. So he probably just got turned
24 around, which direction he was coming from.

25 Q. And he said on the 911 call, and he told y'all in

Yolanda Brown
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1 multiple interviews, he was coming from Summerville going
2 towards Sam Rittenburg. And when you viewed that video,
3 that's clearly not the case, is it? He's clearly coming from
4 the Sam Rittenburg area and turning right on Parsonage;
5 correct?

6 A. That is correct.

7 Q. Did he reveal to y'all that he arrived at the scene
8 of the crime, during the robbery, as it occurred?

9 A. He wasn't aware that a robbery was occurring.

10 Q. He didn't tell you that he came to that gas
11 station, either, did he?

12 A. He did state during the interview that he came to
13 the gas station and circled around -- and circled and left
14 back out.

15 Q. Was that after y'all questioned him on it?

16 A. It was during the interview that I conducted with
17 him.

18 Q. All right. And on the original interview with him,
19 he didn't disclose any of that, did he, with Investigator
20 Terrell?

21 A. I don't --

22 Q. Or Officer Terrell.

23 A. -- I'm not sure. I'm not -- I'm not sure.

24 Q. Okay. But you are the case agent; right?

25 A. I am the case agent.

Yolanda Brown
Cross-Examination by Mr. Hilton
January 7, 2016

1 Q. All right. And we do have video of him pulling in
2 the store during the robbery; correct?

3 A. Yes, sir.

4 Q. And he circles back out and he goes which
5 direction?

6 A. I believe back towards like Highway 7 and Sam
7 Rittenburg.

8 Q. Highway 7 is Sam Rittenburg; correct?

9 A. Yes.

10 Q. Okay. And how long was it before he turned around
11 and came back to the store?

12 A. Not -- I don't think it was too long. I don't know
13 the exact time frame --

14 Q. Just a few minutes --

15 A. -- because I believe he -- he made -- I think he
16 stated that he turned around at the Hardees and came back
17 towards that direction.

18 Q. All right. And what was the reason for that?

19 A. He wanted to get gas, or wasn't sure if he was
20 going to get gas, or he wanted to check some other areas I
21 believe.

22 Q. And never even getting any gas or anything, did he?

23 A. No.

24 Q. Okay. And when he comes back, he makes a right
25 onto Parsonage; correct?

Yolanda Brown
Cross-Examination by Mr. Hilton
January 7, 2016

1 A. Yes, sir.

2 Q. And on that video, you can see his van going by
3 those dumpsters right --

4 A. Yes.

5 Q. -- I mean, the exact moment these people are coming
6 out; correct?

7 A. Yes.

8 Q. Okay. And that's where he goes in and he says he
9 sees the white Ford Taurus --

10 A. Yes, sir.

11 Q. -- and then a few minutes later you see his white
12 van come back by --

13 A. Yes.

14 Q. -- the gas station; correct?

15 A. Yes, sir.

16 Q. Okay. And then he lied to y'all, as well, about
17 going to Mount Pleasant, did he not?

18 A. Yes.

19 But he said he just couldn't recall everything that
20 he had done on that night.

21 Q. He just didn't remember.

22 And it wasn't until you confronted him with the
23 license plate reading that he admitted that he was in Mount
24 Pleasant; correct?

25 A. Yes.

Yolanda Brown
Cross-Examination by Mr. Hilton
January 7, 2016

1 But he did admit that he was in Mount Pleasant.

2 Q. Well, let's talk about Mr. Wilson's statements for
3 a minute. He gave a bunch of statements, as well; right?

4 A. Yes, sir.

5 Q. And when I say it was a bunch, it was really only
6 two statements; right? It was one interview on the 20th, and
7 one interview on the 24th; correct?

8 A. Yes. But he gave different versions during --

9 Q. I got you.

10 But it's all the same setting, though? It's all
11 the same interview? It wasn't like y'all encountered him six
12 different times, he gave six different statements, whatever --

13 A. No, sir.

14 Q. -- the amount was?

15 So in his statements when he came in, y'all started
16 talking to him about this robbery and y'all started talking to
17 him about his family. And he ended up giving you a little bit
18 of information; right? He started out with a little bit?

19 A. Yes, sir.

20 Q. All right. And that gradually progressed.

21 As you confronted him with some stuff, he gave more
22 and more information; right?

23 A. That's correct.

24 Q. And come to find out, Denelle Great and Ulysis
25 Great, the two people in the store -- they're the ones in the

Yolanda Brown
Cross-Examination by Mr. Hilton
January 7, 2016

1 store; right? So it's alleged.

2 A. That's the people that he identified that he
3 dropped off during the time frame of the robbery.

4 Q. It was the people y'all arrested for armed robbery
5 and --

6 A. We did.

7 Q. -- and kidnaping, too; right?

8 A. Yes, sir.

9 Q. Through your investigation and your interview with
10 Mr. Wilson, and whatever else you learned, there was some
11 relationship between Mr. Wilson and those guys; right?

12 A. Yes, sir.

13 Q. And what was that relationship? I think you
14 testified to it.

15 A. He stated that Denelle Great was his girlfriend's
16 ex-boyfriend's son.

17 Q. All right. And did he say that they were close, or
18 that they hung out together, or was there any indication that
19 they were best buds?

20 A. He denied knowing them well.

21 Q. All right. And was there any indication that he
22 knew them well?

23 A. Not based on what he told me.

24 Q. Okay. And they worked together down at Trojan
25 Labor, too; right?

Yolanda Brown
Cross-Examination by Mr. Hilton
January 7, 2016

1 A. That's correct.

2 Q. Do you know what Trojan Labor is, just for the
3 jury's benefit?

4 A. Trojan Labor is a temporary I guess like job site
5 that put people out to work in different locations.

6 Q. And so if you and I work at Trojan Labor, that
7 doesn't mean that you and I are together all day, does it?

8 A. It does not mean that.

9 Q. All right. It means we go there. They might
10 assign you to one particular job and they might assign me to
11 another particular job somewhere else in Charleston; right?

12 A. That's correct.

13 Q. Okay. And so working with these two guys doesn't
14 necessarily mean they're holding my hand or beside the other
15 guy all day long; correct?

16 A. No.

17 Q. And I think Mr. Wilson told you that he had been
18 with Patricia for how long?

19 A. I think he said they're -- they had been together
20 sometime I think maybe high school, and then separated, and
21 then reunited I think in 2009 or '08 or something like that.

22 Q. Kind of a strange relationship; right?

23 A. Yes, sir.

24 Q. And they had been on and off for maybe four years
25 or so?

Yolanda Brown
Cross-Examination by Mr. Hilton
January 7, 2016

1 A. Yes, sir.

2 Q. All right. Now, Denelle and Ulysis, they're not
3 Mr. Wilson's kids; right?

4 A. They are not.

5 Q. And, in fact, they're not even his wife's -- well,
6 I say his wife. They're not Patricia's kids, either, are
7 they?

8 A. No.

9 Q. They are the kids of a former boyfriend of
10 Patricia; correct?

11 A. Yes.

12 Q. Okay. Now, so in this interview we learn that
13 there is some family connection, a little bit closer to
14 Patricia than they are Robert Wilson; right?

15 A. That's correct.

16 Q. All right. And he gradually gives you more and
17 more information in these interviews; right?

18 A. Yes.

19 Q. The latest story, the story that you believe to be
20 closest to the truth, is what?

21 A. That he picked up D and T from downtown, they went
22 to West Ashley, he dropped them off, he drank his two beers
23 while waiting on them, they came back to his car, asked him to
24 drive to the CVS located across from the Kangaroo, he waited
25 there for them, they came back to the car, got back in ten,

Yolanda Brown
Cross-Examination by Mr. Hilton
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1 fifteen minutes later.

2 Q. All right. You believe that to be closest to the
3 truth; right?

4 A. Yes.

5 Q. He ultimately identified T and D; correct? And
6 here. We have it right here. It's State's Exhibits 36 and
7 37.

8 A. Yes, sir.

9 Q. And you showed him some photos, based on the names
10 that you had developed, and he identified this person as being
11 Ulysis in State's Exhibit 37 and he identified, in State's
12 Exhibit 36, Denelle Great; correct?

13 A. Yes, sir.

14 Q. And y'all wouldn't have had an identification of
15 those two people but for Mr. Wilson; correct?

16 A. No. We found those names in the database.

17 Q. You found their names but you didn't have anybody
18 identify them, other than Mr. Wilson. You didn't have anybody
19 else do a line-up of these two people --

20 A. No.

21 Q. -- right?

22 A. No, we did not.

23 Q. So Mr. Wilson was the one who said this is Ulysis,
24 this is Denelle; correct?

25 A. That's correct.

Yolanda Brown
Cross-Examination by Mr. Hilton
January 7, 2016

1 Q. And I realize he didn't tell you Denelle and
2 Ulysis. He said D and Big T; right?

3 A. That's correct.

4 Q. Y'all had the names and he identified them as D and
5 Big T?

6 A. Yes, sir.

7 Q. Would you say that Mr. Wilson was an important part
8 in your investigation --

9 A. Yes.

10 Q. -- in identifying these --

11 A. Yes.

12 Q. -- two suspects?

13 Would you say it's uncommon for people who have any
14 sort of tie to somebody, any sort, to be a little bit hesitant
15 to come forth and just give you all the information that they
16 know?

17 A. Is it uncommon for someone to not have -- can you
18 repeat that?

19 Q. Is it uncommon -- as a robbery investigator --

20 A. Okay.

21 Q. -- you interview a lot of people; correct?

22 A. I have.

23 Q. It's not common -- and I even think Mr. Osborne
24 asked you this yesterday. It's not common for somebody just
25 to come in there and say, yeah, give me the piece of paper,

Yolanda Brown
Cross-Examination by Mr. Hilton
January 7, 2016

1 I'm going to write down everything I know, every detail, and
2 give you ever detail with perfect explanation, is it?

3 A. No, it's not. It's not common.

4 Q. All right. And it's more common for somebody,
5 especially when there's some sort of tie, to try to look out
6 for those people, protect those people, the best they can;
7 right?

8 A. That's correct.

9 Q. The store video of the Kangaroo around I think
10 11:00 p.m., the earlier video --

11 A. Yes, sir.

12 Q. -- we see Denelle coming in the store as Mr. Wilson
13 is going out of the store; right?

14 A. Yes, sir.

15 Q. There's no audio on those videos, is there?

16 A. There are not.

17 Q. And so we don't know what's said. We can't hear
18 anything. All we see is this cold video. We don't -- we
19 don't get to hear anything; correct?

20 A. That's correct.

21 Q. Okay. So we don't know what was said when the two
22 of them passed, do we?

23 A. No. Denelle turns away from Robert.

24 Q. He turns away. He looks back towards the door.

25 A. Correct.

Yolanda Brown
Cross-Examination by Mr. Hilton
January 7, 2016

1 Q. We don't know if when Mr. Wilson was walking back
2 in the doors coming in, Denelle turns and say, you got it, and
3 walks on? We don't know if that's the case, do we?

4 A. We do not. But that would be unusual.

5 Q. It would be unusual for somebody to come through
6 the door, having the door closing and as somebody else is
7 passing through turn and look at the door and say, you got it?

8 A. He looked in the opposite direction of Mr. Wilson.

9 Q. He did. He looked at the door --

10 A. Because he -- might have been looking at someone
11 else --

12 Q. He looked at the door; right?

13 A. -- or at someone behind him --

14 Q. Well, there was nobody behind him --

15 A. -- exact --

16 Q. -- was there?

17 A. Correct.

18 Q. All right. He was looking at the door; correct?

19 A. Yes.

20 Q. My point to you is we don't know what was said, we
21 don't know what took place there. It's law enforcement and
22 the solicitor's office guessing that this was some intentional
23 turn from the other person; right?

24 A. It was just peculiar.

25 Q. Peculiar.

Yolanda Brown
Cross-Examination by Mr. Hilton
January 7, 2016

1 The fact that the male comes in with no shoes, what
2 does that have to do with anything?

3 A. Well, in my experience, it's easier to change a
4 nondescript shirt or pants. But a shoe would be a different
5 matter, you know. If that's the shoe that you're going to
6 wear if you were to come back and rob the location, it may
7 make it a little more easier to identify him.

8 Q. He didn't change his pants, though, apparently, did
9 he?

10 A. During the robbery time frame?

11 Q. The pants that he came in -- wasn't he wearing
12 black pants on that video when he came in?

13 A. I can't be certain of that.

14 Q. All right. The fact that he came in with no shoes
15 two hours later, again, that's just speculation on y'all's
16 part? It really has no difference as to whether Robert Wilson
17 had anything to do with this or not, does it?

18 A. That's correct.

19 Q. When he went to that other store, you agree with me
20 that he was by himself at that point; right?

21 A. He was the only person that entered into the store.

22 Q. But he was the only other person in the car, too;
23 correct?

24 A. It was dark. I couldn't -- I couldn't make that
25 out on the video.

Yolanda Brown
Cross-Examination by Mr. Hilton
January 7, 2016

1 Q. Well, didn't y'all say in your report -- didn't you
2 testify that he was alone when he came to that store?

3 A. He was the only person that entered.

4 I also testified and said that the image wasn't
5 clear enough to make if there were any other passengers
6 inside.

7 Q. All right. So you don't know if he was alone or
8 not? He was the only person that went into that store;
9 correct?

10 A. Yes, sir.

11 Q. And he went in and purchased something in that
12 store; right?

13 A. Yes, sir.

14 Q. A pack of cigarettes, I think it was.

15 A. Yes, sir.

16 Q. Okay. And when he went into the Kangaroo around
17 eleven o'clock --

18 A. Yes, sir.

19 Q. -- the robbery scene, but earlier that night he
20 purchased the beers and the -- I think it was a Sprite or
21 something then, too; right?

22 A. Yes, sir.

23 Q. Did y'all arrest Latoya Fuller?

24 A. No, sir.

25 Q. Why not?

Yolanda Brown
Cross-Examination by Mr. Hilton
January 7, 2016

1 A. Why not? There were not any evidence against
2 Latoya.

3 Q. Well, what is this picture here of her wearing the
4 shirt, and all this evidence that she worked there, and all
5 that kind of stuff? What is all that?

6 A. Because she worked there.

7 Q. She doesn't have anything to do with this case,
8 does she?

9 A. She's Robert Wilson's daughter.

10 Q. Okay.

11 A. Who worked at the same Kangaroo.

12 Q. Were they close?

13 A. I'm not sure if they were or not. That's his
14 daughter.

15 Q. Well, we all know that people have daughters and
16 they're not necessarily close to them. Daughters and sons or
17 whatever else.

18 You don't know if they were close or not; right?

19 A. I do not.

20 Q. She didn't live with him or anything like that, did
21 she?

22 A. She did not live with him.

23 Q. Let me show you State's Exhibit 1 --

24 MR. HILTON: -- and ask if we can get this put up
25 on the screen.

Yolanda Brown
Cross-Examination by Mr. Hilton
January 7, 2016

1 Q. [Mr. Hilton] All right. This is the area -- and
2 everybody has testified to it. This is the area, the store is
3 at the front, there's Parsonage Road, and all -- the whole
4 area of the scene. This is that map; right?

5 A. Yes, sir.

6 Q. All right. And Mr. Wilson told you that he parked
7 at some tennis courts back in the back, right, where they said
8 it was their sister's house?

9 A. Yes.

10 Q. All right. And there are actually tennis courts
11 back there; correct?

12 A. Yes. At the front.

13 Q. Can you point those out for the jury?

14 A. Right here at the front.

15 Q. Law enforcement and the State's only theory in this
16 case is that Mr. Wilson would be a getaway driver; correct?

17 A. Yes, sir.

18 Q. All right. Nobody is alleging that he was in the
19 store or that he participated inside the store in this
20 robbery, or anything along those lines, is there?

21 A. No, sir.

22 MR. HILTON: No further questions.

23 MR. OSBORNE: Thank you, Your Honor.

24 You can leave that up, Mike.

25 - - -

Yolanda Brown
Redirect Examination by Mr. Osborne
January 7, 2016

REDIRECT EXAMINATION

BY MR. OSBORNE:

Q. Let's start right here. Where you circled right there, those apartments where he says he waited for the sister, when did that happen? His story.

A. He dropped them off here. He also left from here with him, drove to the store, came back, and dropped them off here. Also, he stated -- but he later changed the story and stated that he dropped them off at a different location. One went -- he dropped D off downtown and dropped Big T off at apartments off of Rivers Avenue.

Q. Okay. In relation to the robbery, where would -- when would he have been parked there?

A. He would have been parked here. After he drunk his beers, he came back and just waited for them.

Q. During the robbery, where was he parked? His story.

A. Behind the CVS.

Q. And where is that?

A. That is here [indicates].

Q. Okay. When you questioned him, did you ask him specifically -- and not just one time, but many times -- did you ever leave the CVS while you were waiting for them?

A. That's correct.

Q. And what was his answer?

Yolanda Brown
Redirect Examination by Mr. Osborne
January 7, 2016

1 A. He said he just waited, he never drove anywhere.

2 Q. Okay. And one other thing while we're looking at
3 this picture. What is that intersection? I think it's going
4 to be Doris. What's the one next to it coming down Parsonage?

5 A. Oakland, I believe.

6 Q. Okay. Can you just put a x at the intersection of
7 Oakland -- and what is that?

8 A. Parsonage Road.

9 Q. Let's start with, just going in order, with what
10 Mr. Hilton said. You did re-interview Mr. Young again. Do
11 you recall re-interviewing him on October the 23rd?

12 A. Mr. Young on October the 23rd?

13 Q. Yes.

14 A. [No response]

15 MR. OSBORNE: Your Honor, may I approach the --

16 THE COURT: You may.

17 MR. OSBORNE: -- court reporter?

18 Let's mark this as 81.

19 [Whereupon, State's Exhibit Number 81 is marked by
20 the court reporter]

21 MR. OSBORNE: Your Honor, may I approach the
22 witness?

23 THE COURT: You may.

24 Q. [Mr. Osborne] Detective Brown, I'm showing you
25 what's been marked as State's Exhibit 81 for ID purposes only.

Yolanda Brown
Redirect Examination by Mr. Osborne
January 7, 2016

1 Can you take a look at this and tell me if you recognize it?
2 Just see if you recognize it.

3 A. It's a photographic line-up viewed by Thomas Young.

4 Q. And what was the date on there?

5 A. It's the 23rd.

6 Q. What date again?

7 A. October 23rd, 2014.

8 Q. Okay. Thank you.

9 So do you remember now meeting with Mr. Young now
10 and re-interviewing him?

11 A. That was shown to him by I think someone from
12 criminal.

13 Q. Okay. So as the case agent, you are aware, then,
14 to answer Mr. Hilton's question --

15 A. Yes.

16 Q. -- that Mr. Young was interviewed again?

17 A. Yes.

18 Q. And the purpose of that interview was what?

19 A. To show the photographic line-up.

20 Q. Of one of the individuals who actually went into
21 the store and committed the robbery?

22 A. Yeah.

23 Q. One of the two individuals that Mr. Young may be
24 able to identify because he saw them --

25 A. That's correct.

Yolanda Brown
Redirect Examination by Mr. Osborne
January 7, 2016

1 Q. -- exit the store?

2 A. That's correct.

3 Q. All right. So let's go over the inconsistencies
4 real quick. One was from Mr. Young's perspective. Did I hear
5 you correctly to say that he believed the individuals were
6 going into the store?

7 A. Yes, initially.

8 Q. But then when you showed him the video and he
9 looked at it, then he understood, oh, they must have been
10 coming out?

11 A. Yes.

12 And, also, based on his phone log that stated he
13 called 911 at 3:01 a.m. The 911 call from his phone, it said
14 3:01 a.m. And we knew that the robbers entered at 2:51.

15 Q. And I think you've answered this a number of times.
16 But there was an inconsistency regarding the direction that
17 Mr. Young was --

18 A. Yes.

19 Q. -- traveling?

20 He thought he was going one way at that time. As
21 it turns out, he was going the other way?

22 A. Yes.

23 Q. And, also, as it turns out, when Mr. Young came
24 through and did the loop in the gas station, the robbery was
25 actually occurring at that time --

Yolanda Brown
Redirect Examination by Mr. Osborne
January 7, 2016

1 A. That's correct.

2 Q. -- is that correct?

3 A. That's correct.

4 Q. Now, you've had a chance to go back and look at the
5 video?

6 A. Yes.

7 Q. Do you remember the time that Mr. Young came
8 through that gas station?

9 A. I believe it was maybe approximately 2:54.

10 Q. Okay. Did you have the occasion to look at the
11 video inside of the store to see the location of the victims
12 and the two perpetrators at that time at 2:54?

13 A. I did and --

14 Q. And where were they?

15 A. They were -- during that time, Mr. Finch was in
16 the rear with -- being held by one of the perpetrators, and
17 Mr. Singleton was being held down on the ground, laid out on a
18 kneel -- kneeling position behind the counter by one of the
19 perpetrators.

20 Q. And were you able to see, barely, Mr. Young's
21 vehicle come through the headlights --

22 A. Yes.

23 Q. -- on the inside surveillance video?

24 A. Yes. Just barely.

25 Q. Did you believe, from what you could see piecing

Yolanda Brown
Redirect Examination by Mr. Osborne
January 7, 2016

1 those two pictures together, those two images together, that
2 Mr. Young could have even seen the robbery taking place at
3 that time?

4 A. No, sir, because Mr. Finch would have been out of
5 the view of any windows. Or the perpetrator where -- they
6 were near the back wall near the coolers.

7 Q. Okay. Now, Mr. Young -- Mr. Hilton had asked you
8 that when Mr. Young turned around, he stated that the purpose
9 to him coming back to the gas station was to get gas?

10 A. To get gas, or to check some other areas for scrap,
11 I think he decided to come back that way.

12 Q. But he never got any gas?

13 A. Not -- no, not from --

14 Q. Well, why didn't he get the gas?

15 A. Because he saw the guy bending down, when he was at
16 the light turning, so he didn't come there again.

17 Q. Throughout your entire investigation, did you find
18 any relationship between Mr. Young and the defendant?

19 A. No, sir.

20 Q. All right. I may have misunderstood the question
21 that Mr. Hilton asked you. But he at one point said that the
22 last version -- I'm not talking about all the other versions
23 that Mr. Wilson told you -- but the last version was the
24 closest to the truth. That last -- and you said yeah. Is
25 that correct?

Yolanda Brown
Redirect Examination by Mr. Osborne
January 7, 2016

1 A. Yes.

2 Q. I think that's the way I heard it.

3 A. Yes.

4 Q. Do you believe his last version?

5 A. No.

6 Q. What was inconsistent about his last version and
7 what you knew or what you gathered from your evidence?

8 A. Well, what was inconsistent also was where he said
9 that he dropped them off at -- afterwards, he took them to two
10 different locations. He stated that he waited and drank his
11 beers, which we knew he drove -- he stated he drove somewhere
12 and drank the beers. He didn't wait at that location. He
13 drove to the side of a gravel road. I think that's what --

14 Q. And this; right? State's Exhibit 1?

15 A. Yes.

16 Q. Now, Mr. Hilton also asked you it's not uncommon
17 when you interview people if there's any sort of tie, that
18 they might be reluctant I guess to sort of talk about that
19 individual's involvement; is that correct?

20 A. Yes.

21 Q. Now, through your interview with Mr. Wilson, who
22 did he say he knew better or knew -- who did he have a closer
23 relationship to? And I understand it wasn't a close one, in
24 his words. But who was closer? D or Big T?

25 A. He knew D well.

Yolanda Brown
Redirect Examination by Mr. Osborne
January 7, 2016

1 Q. How long did it take him to give you the name of D?

2 A. Not long. He --

3 Q. How long did it take him to give you the name of
4 Big T?

5 A. A couple of hours.

6 Q. So he was more reluctant, according to him, to give
7 you the name of an individual that he doesn't know at all,
8 than the person that he does know better?

9 A. Yes.

10 Q. His story?

11 A. Yes.

12 MR. OSBORNE: Beg the Court's indulgence.

13 THE COURT: Take your time.

14 [Whereupon, Mr. Osborne reviews documents]

15 Q. [Mr. Osborne] Let's talk about that for a second.

16 I want to show you now what's already been marked and entered

17 as State's 29. And this is the picture of the individual who

18 was identified as D entering the store, and Mr. Wilson

19 exiting. Now, Mr. Hilton asked you about the pants. Okay?

20 And you can see right there what kind of pants he's got on; is
21 that correct?

22 A. Yes.

23 Q. Anything descript about those pants?

24 A. No.

25 Q. What do they look like?

Yolanda Brown
Redirect Examination by Mr. Osborne
January 7, 2016

1 A. Just look like I guess dark pants. Jeans,
2 possibly.

3 Q. Do you remember a description of the shoes that the
4 individual who you believe to be D was wearing during the time
5 frame of the robbery?

6 A. They were just -- I think they were dark shoes.
7 Non descriptive, I believe.

8 Q. Do you remember anything around the soles of the
9 shoes?

10 A. I'm not sure. I can't recall.

11 MR. OSBORNE: Okay. No further questions.

12 THE COURT: Mr. Hilton?

13 - - -

14 - - -

15 - - -

Yolanda Brown
Recross-Examination by Mr. Hilton
January 7, 2016

RECROSS-EXAMINATION

BY MR. HILTON:

Q. The line-up that y'all showed Thomas Young, was he able to identify anybody out of that?

A. No, sir.

Q. So, again, the only person that gave y'all the identification of those two individuals is Robert Wilson?

A. Yes, sir.

Q. Did y'all search Thomas Young's car that night?

A. The night?

Q. Yeah.

A. I don't believe his car was searched.

Q. Okay. So you don't know what was in there?

A. No, sir.

MR. HILTON: No further questions.

THE COURT: You may step down. Thank you.

[Whereupon, Ms. Brown is excused and exits the witness stand]

THE COURT: Call your next witness.

MR. OSBORNE: The State rests, Your Honor.

THE COURT: Ladies and gentlemen, that indicates to the Court there is a matter of law that I must take up outside of your presence.

Do not begin your deliberations. Do not begin discussing this case amongst yourselves. Take your

Yolanda Brown
Recross-Examination by Mr. Hilton
January 7, 2016

1 notepads with you or leave them right in the chair.
2 We'll receive you back in the courtroom in just a few
3 moments.

4 The clerk will be bringing you lunch orders, as
5 well, so that's what you will be doing during your
6 break. Thank you.

7 Please rise for the jury.

8 [Whereupon, the jury exits the courtroom at
9 10:01 a.m.]

10 THE COURT: Thank you. Be seated.
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Motion for a Directed Verdict
by Mr. Hilton
January 7, 2016

MOTION FOR A DIRECTED VERDICT

THE COURT: Mr. Hilton, any motions or matters?

MR. HILTON: I do have a motion, Your Honor. It will be a motion for a directed verdict.

We've heard the State's case at this point, and I don't think there's any disagreement that the only theory against Mr. Wilson would be an accomplice theory. He's not in the scene. He's not -- you know, he's not present during the commission of the robbery. He's not holding a gun, he's not holding duct-tape, he's not dealing with these two clerks. So I think the only issue is if he's guilty, is he guilty under an accomplice theory.

State vs. Langley says under an accomplice liability theory, a person must personally commit the crime or be present at the scene of the crime and intentionally, and intentionally, or through a common design, aid, abet, or assist in the commission of that crime through some overt act. And then it goes on to cite another case that says, you know, to be liable as an aider or abetter, a participant must be chargeable with knowledge of a principal's criminal conduct.

There is no credible evidence that Mr. Wilson engaged in any plan or common scene or anything along those lines. The only evidence we have, at most, is

Motion for a Directed Verdict
by Mr. Hilton
January 7, 2016

1 that -- because I think he told Detective Brown at one
2 of his interviews, I should have known something, I
3 probably should have known something was up. And then
4 we have the testimony of Mr. Young who says, viewed in
5 the light most favorable to the State, that; you know,
6 he fled off.

7 And I think, first of all, there is absolutely no
8 evidence of any plan prior to this robbery occurring.
9 If anything, there is only evidence that he may be an
10 accessory after the fact. And so that would be number
11 one.

12 Second is the presence issue. I would submit to
13 the Court that there has been zero testimony that he was
14 present at the scene during the commission of this
15 robbery, which is required by State vs. Langley. And
16 the fact that he was over at CVS or at the tennis courts
17 or parked at I think it was Overton, or whatever the
18 intersection is behind the store, he's not present at
19 the scene. That's what accessory before the fact is
20 for.

21 If he drove them there and he was part of this
22 crime and there was a plan, if that were the case he
23 would be guilty of accessory before the fact. That's
24 why it carries the same penalty. And that's the
25 difference of the principal and an accessory. One has

Motion for a Directed Verdict
by Mr. Hilton
January 7, 2016

1 to be present at the scene, the principal, and the
2 accessory is not present at the scene. And there is
3 absolutely no evidence that I've heard, and I've sat
4 through the whole trial, that puts him present at the
5 scene of that store during the commission of this
6 robbery.

7 MR. OSBORNE: Your Honor, I think there's been more
8 than enough evidence for the jury to infer that this
9 defendant knew exactly what he was doing that night.

10 First, we have the casing incident, or what we're
11 describing as the casing incident, eleven o'clock, at
12 the very same gas station that was later robbed. He
13 took two individuals to the store. One of the
14 individuals goes up to the cashier and starts asking
15 questions, do you work alone at night, anyone else here.
16 He's not wearing any shoes. He comes back into the car.

17 The defendant then claims that he drops them off
18 and doesn't know what he was doing for two and a half
19 hours. But we were able to see -- or Detective Brown
20 was able to see him on video at a Circle K, going into
21 yet another gas station less than a mile away. We're
22 saying that he was going to case that place, as well.
23 And I think there's evidence that that is -- suggesting
24 that, since the Kangaroo was robbed just twenty minutes
25 later.

Motion for a Directed Verdict
by Mr. Hilton
January 7, 2016

1 Then the robbery itself. He admits to driving them
2 to the location. He admits to driving them from the
3 location. He admits to parking into a dark secluded
4 area behind the CVS, which was closed. They leave. He
5 says they're wearing all white. The video shows them
6 wearing black. When they come back, he says they're
7 wearing black. He doesn't mention anything about the
8 masks, nothing about the gloves, or anything like that.
9 Yet when Thomas Young saw them running -- and the video
10 shows when they're running across the street, that's
11 what they were wearing running across the street.

12 Thomas Young puts him or his vehicle parked at
13 least one or two blocks down the road. Now, of course,
14 he said -- you know, he wavered a little bit, the lights
15 were off, the lights were on, he wasn't exactly sure.
16 But he said that area was completely black. When he
17 sees the vehicle, when his vehicle is illuminated by
18 Thomas' headlights, he takes off at a high rate of speed
19 toward the direction that the two individuals were seen
20 fleeing from.

21 He knew exactly what he was doing that night. I
22 think we've shown more than enough evidence to show
23 that. And as far as being actually present, he can be
24 constructively present. And being parked across the
25 street I think more than suffices for constructively

Motion for a Directed Verdict
by Mr. Hilton
January 7, 2016

1 present.

2 I think everything we've heard is circumstantial
3 evidence and it goes to the weight and it should be
4 submitted to the jury. Thank you.

5 THE COURT: Mr. Hilton?

6 MR. HILTON: I would say by his own admission he's
7 away from the scene. Constructive presence is that -- a
8 quincennial lookout, somebody who is at the area
9 where they can assist in the participation of the crime.
10 At the area and can assist. And he's several blocks
11 away. Or, at best, he's across the street at the CVS
12 behind and beside the store. He's not acting as a
13 lookout. At best, the evidence shows that he was the
14 getaway driver.

15 And if we assume there was a plan to begin with,
16 then he would be guilty of accessory before the fact.
17 But that's not what he's charged with, and that's not a
18 lesser included offense. And we can't sit here and say,
19 well, he did this, and he did this, and he did this, so
20 he's got to be guilty of something. That's -- they
21 could have charged him with accessory before the fact.
22 They could have charged him with accessory after the
23 fact. But they didn't. They charged him as a
24 principal, knowing the evidence.

25 And we know that he's not at the scene of the

Motion for a Directed Verdict
by Mr. Hilton
January 7, 2016

1 crime. we know that. There is not one shred of
2 evidence that says he is there at the Kangaroo at the
3 time of the robbery. And I think that's required. And,
4 you know, the fact that he was so-called constructively
5 present: if that's the case, what's an accessory before
6 the fact, or what's an accessory after the fact? How do
7 you ever get to those two charges if anybody who has
8 anything to do with a crime can be -- you know, can be a
9 principal?

10 That's why we have those two charges. That's why
11 accessory before the fact carries the same thing,
12 because if you're going to be engaged in the planning
13 and the process of the whole thing, and you put the
14 whole thing in motion, and you're a part of it, you're
15 just as guilty as the rest of it. And I understand
16 that.

17 That's not what he's charged with. He's charged as
18 a principal. And in State vs. Langley -- and the
19 citation is 333 S.C. 643 or 515 S.E.2nd 98. Under
20 Langley, he has to be present and participating through
21 a common design and aiding and abetting in the
22 commission of that crime through some overt act. And I
23 just don't think we have that.

24 THE COURT: Under Rule 19 of the Rules of Criminal
25 Procedure, the Court is concerned only with the

Motion for a Directed Verdict
by Mr. Hilton
January 7, 2016

1 existence or nonexistence of the evidence and not to the
2 weight.

3 Based upon the substantial circumstantial evidence
4 that has been presented, I deny your motion for a
5 directed verdict as to both indictments. I do find that
6 the State has met its burden, and it will be presented
7 to the jury.

8 Mr. Wilson, please stand.

9 [Whereupon, Mr. Wilson complies]

10 THE COURT: Sir, you were placed under oath
11 yesterday. I remind you that you are still under oath.

12 I advised you of your constitutional rights, your
13 right to testify or not testify. Do you remember me
14 going over those rights with you late last evening?

15 MR. WILSON: Yes, ma'am.

16 THE COURT: Did you have an opportunity to meet
17 with Mr. Hilton?

18 MR. WILSON: Yes, ma'am.

19 THE COURT: Have you made a decision whether or not
20 you will testify?

21 MR. WILSON: Yes, ma'am.

22 THE COURT: And what is that decision?

23 MR. WILSON: I will not.

24 THE COURT: All right. Thank you.

25 Mr. Hilton, do you have any additional witnesses?

Motion for a Directed Verdict
by Mr. Hilton
January 7, 2016

1

MR. HILTON: No additional witnesses.

2

THE COURT: So with that, you will rest?

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MR. HILTON: Yes.

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Renewal of Motions and Motion for Directed Verdict
By Mr. Hilton
January 7, 2016

RENEWAL OF MOTIONS

1
2 THE COURT: And based upon that, since you have
3 rested, you are renewing all pretrial motions and
4 matters and your motion for directed verdict; is that
5 correct?

6 MR. HILTON: That's correct.

7 THE COURT: I stand by all my initial rulings.

8 All right. Anything? What do we need --

9 You may have a seat, Mr. Wilson. Thank you.

10 MR. OSBORNE: No, Your Honor, nothing.

11 THE COURT: All right. Y'all have looked at the
12 verdict forms. Just approach quickly just to go over
13 one more time what is -- are there any --

14 [Whereupon, an off-the-record bench conference is
15 held]

16 THE COURT: All right. We'll be at ease.

17 [Whereupon, a recess is taken from 10:18 a.m. to
18 10:31 a.m.]

19 THE COURT: Are you ready, Mr. Hilton?

20 MR. HILTON: I am ready, Your Honor.

21 THE COURT: Anything before we bring in the jury?

22 MR. OSBORNE: No, Your Honor.

23 MR. HILTON: Nothing from the defense.

24 [Whereupon, the jury enters the courtroom at
25 10:37 a.m.]

Renewal of Motions and Motion for Directed Verdict
By Mr. Hilton
January 7, 2016

1 THE BAILIFF: All jurors are present, Your Honor.

2 THE COURT: Thank you. Please be seated.

3 Mr. Hilton, an announcement in front of the jury?
4 Do you have an announcement in front of the jury?

5 MR. HILTON: Yes, ma'am. At this time, the defense
6 would rest.

7 THE COURT: Thank you.

8 Ladies and gentlemen, you have now heard all of the
9 testimony that you will hear in this case and received
10 into evidence all the exhibits that have been made part
11 of the record in this case. The next stage of the trial
12 is closing arguments on behalf of counsel. In this case
13 the State will give their closing argument, and then you
14 will hear from Mr. Hilton on behalf of Mr. Wilson.
15 After that, I will instruct you on the law applicable to
16 this case, and then you will retire to consider your
17 verdict. Ladies and gentlemen, just as I instructed you
18 what was contained in counsels opening statements was
19 not evidence, neither is what will be contained in their
20 closing argument. It's merely their contention as to
21 what the evidence has shown you. After that, I will
22 instruct you on the law that is applicable to this case.

23 Please give your strict attention. Mr. Osborne?

24 MR. OSBORNE: Thank you, Your Honor. May it please
25 the Court.

State vs. Robert Wilson
Closing Argument by Mr. Osborne
January 7, 2016

CLOSING ARGUMENT

[Video plays]

MR. OSBORNE: A favor that includes being the getaway driver is against the law. When this defendant made the decision to drive his partners in crime to and from that robbery, he himself committed armed robbery. That decision should have consequences.

You've all been paying attention. I'm not going to go through all of the evidence again, but I am going to point out some important points that I think will be important for you for when you're deliberating.

All right. Let's start with just the few minutes before the robbery. No one has slowed this video down. This defendant is driving his car, already in the screen when I started talking. This whole business right here is less than a half a block. Still driving, less than a half a block. He's driving that slow because they're looking around. They want to make sure there's no trouble. They want to make sure there's no police. He knows exactly what they're about to do.

Seconds later, you see headlights that's off into the CVS parking lot. A car is headed back behind the CVS towards the dumpster, the darkest, secluded area that he could find. He knows what he's doing.

All right. Just a few minutes later you see two

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1 masked gunmen running behind the Kangaroo. They're
2 going to come up, if you're facing the Kangaroo, toward
3 the left. Now, when you go back there and you start
4 looking at the videos and everything, you may ask
5 yourself, why does it take them a couple of minutes to
6 get to this location from the CVS? Well, I'll tell you
7 why. I'm not suggesting that they were driving around
8 in that car wearing masks, gloves, guns, duct-tape and
9 all that. What I'm suggesting to you, that area behind
10 the CVS, that was the staging area. That's where they
11 got ready for this. It's going to take time, it's going
12 to take planning, to get all this together.

13 Then on October the 7th, 2014, at about 2:50 a.m.,
14 two masked gunmen come into the Kangaroo. They rob
15 Walter and William at gunpoint. They take property from
16 both. I'm not going to go through all that again. I
17 think we've more than shown there was an armed robbery
18 that night. Took them into the back. Told them, we
19 should just ghost these MF'ers. If they had made that
20 decision to pull the trigger and kill that man, Walter,
21 he would be on trial for a different charge.

22 And when they ran out, they took a left toward the
23 CVS. And this is when Thomas Young just happens to be
24 coming by. Thomas sees them. They see Thomas. They
25 stop momentarily. Thomas continues down Parsonage, and

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1 then the second one comes out, both running toward the
2 CVS. If you didn't believe Thomas or you didn't believe
3 the surveillance video, you can believe this. They
4 found Walter's wallet. And right behind that, where the
5 trees are, that's leading towards the rear of the CVS.

6 All right. Now, I know there was some talk about
7 direction, which direction, Thomas was headed. But the
8 important part is that Thomas at some point, and you can
9 see this on video, was coming down 61 towards
10 Summerville, turned around in the gas station at the
11 exact moment that the robbery is occurring. You heard
12 Detective Brown testify he wouldn't have seen those guys
13 at that moment, because one was by the freezer and the
14 other one was kneeling down. You saw the videos by the
15 safe. Turns around, goes up to the Hardees, or maybe up
16 to a little bit farther, comes back, and then he sees
17 the two guys there. That's by the dumpster. As he
18 passes them, they're running that way toward the rear of
19 the CVS where the dumpster is located.

20 Then he sees a white Taurus parked in the
21 intersection. I know there was some talk about which
22 intersection. It doesn't matter which intersection, to
23 be perfectly honest. He's parked at an intersection.
24 And when Thomas then makes that turn, the vehicle then
25 speeds off into the direction that the two perpetrators

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1 are seen running. That's the important part. It's
2 either this intersection or the next one, but this is
3 how the vehicle is parked. It's parked juttied out into
4 the roadway so he can see them, so he can know when to
5 come down and pick them up.

6 Now, you may ask yourself if he's the getaway
7 driver, why is he parked two blocks down the road? I'll
8 tell you why. There is no honor amongst criminals. If
9 D or Big T got caught, he was going to make his getaway.
10 If they don't get caught and he sees them, he's going to
11 scoop -- he's going to run down, scoop them up, they can
12 split the proceeds.

13 Now, you heard Detective Brown testify. Early on,
14 they didn't have much to go on. They had that
15 suspicious encounter earlier. They had the white
16 Taurus, based on what Thomas described. So let's go
17 ahead and talk about that encounter earlier. That's the
18 individual. She didn't know who he was at the time. He
19 comes in and he speaks to D. That's about eleven
20 o'clock that night, about three or four hours before.
21 There he is walking out.

22 And there's a second guy. Well, there he is
23 walking in, and there's a second guy walking out. And
24 he's not wearing any shoes. And she told you he's not
25 wearing any shoes because when -- he doesn't know how

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1 good the image is, but if he did have some kind of shoes
2 on that were descript, something that you could identify
3 -- well, it's much easier to get another pair of pants
4 or change your pants, but shoes are a different thing.
5 You don't normally drive around with multiple pairs of
6 shoes. That's why he's wearing socks. It doesn't mean
7 he's guilty of anything, but it's suspicious.

8 So who is that second guy that's going out? He's
9 the driver. Look at what he's driving: a white Ford
10 Taurus with a sunroof, same description Thomas gave.
11 There's the second guy. He's the rear passenger. Rear
12 passenger matches the description of one of the two
13 individuals who committed the robbery. Then there's a
14 third guy in the car and he, too, matches the
15 description of the second guy who went into the store.

16 Now, you heard Detective Brown testify she did a
17 thorough investigation. If there was -- if they had
18 been casing this place or this location, which is what
19 it looks like they were doing, maybe they cased another
20 location that night, as well. And lo and behold, look.
21 At 2:20, twenty minutes, thirty minutes before the
22 robbery there's that same guy, driver of the white Ford
23 Taurus who is going into a Circle K, another gas
24 station, that's about a half mile up the road. Ladies
25 and gentlemen, I would tell you this: if that Kangaroo

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1 didn't get robbed that night, the Circle K was.

2 Now, I would submit to you this. You have heard
3 enough right there to convict the individual that was
4 driving that white Ford Taurus of two counts of armed
5 robbery. That's enough circumstantial evidence.
6 Parking two blocks down the road, speeding towards the
7 location of the two guys that were running away, casing
8 one location, casing another location, the questions
9 that his partner asked Walter whenever he went in there
10 earlier that night. That's enough right there to
11 convict the driver.

12 But you have more in this case. Detective Brown
13 was able to locate the defendant. She had that
14 distinctive damage that was on the Taurus they ran
15 through the system. It came back registered to him. So
16 she interviewed him. You have the defendant's story.

17 Now, his first story can basically be summed up as
18 he's just doing a favor, doing a favor for a guy that he
19 doesn't really know all that well, D. D needed a ride,
20 so he leaves his home in North Charleston, at night,
21 drives all the way downtown, picks up D from Wilson
22 Street, drives all the way to West Ashley, drops D off.
23 D was alone. They did stop at the gas station. He
24 bought the two beers and a soda. And once he dropped
25 him off at the apartments behind the Kangaroo, he goes

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1 back home. He's in North Charleston, 11:30, twelve
2 o'clock, sitting in the bed with his girlfriend drinking
3 the beers and soda. That was it. That was his night.
4 Nothing else.

5 And that's a good story. In his mind, we can only
6 imagine that he thought, well, if Detective Brown found
7 me, she must have found me from me going into the gas
8 station earlier that night. So that story covers him,
9 it covers D, and it covers everything, so we're done.

10 But Detective Brown knew there was more to the
11 story, so she pressed him. And she said, well, we see
12 your car out there later on well after that incident.
13 Not my car. She says, no, we did, we saw your car, it's
14 out there later on. No, no way, not my car. And you
15 saw the video. When she starts to pull out that
16 picture, that picture from the Circle K, then he changes
17 his story. Oh, yeah, you're right, I was out there that
18 night; I went and got some cigarettes right after I
19 dropped them off. He has to. He has to admit to that.
20 I mean, that's pretty clear that that's going to be him.

21 The problem that he runs into is that this doesn't
22 happen right after he dropped them off. This happens
23 three hours later. So she asks him over and over and
24 over again, it's not right after; what are you doing
25 during this three-hour period. He never really gives a

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1 good explanation for that. We're left with, I was
2 sitting outside the apartments, or maybe I drove down
3 the road to a gravel area, drank my beer, and I was just
4 waiting for them, just waiting.

5 One other little point I want to talk about in
6 regards to this. You'll have the clips from this
7 interview back there and you'll be able to listen to
8 this. Now, the -- when we get to this point in the
9 interview, Detective Brown is asking him, so you went
10 into the Circle K. He says, oh, yeah, yeah, I did;
11 yeah, I did; I did; I went into a Circle K; I bought
12 cigarettes because they were cheaper there; I didn't
13 want to go to the Kangaroo, I decided to go to the
14 Circle K, they're cheaper; but there was a guy in there;
15 I remember there was a guy in there and there was a girl
16 in there, a girl cashier.

17 Now, we don't know that there's a girl cashier. We
18 don't see it on this image; right? But we do see a guy.
19 His memory is so bad, he can't remember this, he can't
20 remember that, but he remembers that guy that's sitting
21 there, that guy that's standing there that looks like --
22 it looks like he's basically watching the girl. We
23 don't know if that's his -- her boyfriend or anything
24 like that. But he certainly remembered him sitting
25 there. I would submit that he probably went back and

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1 told D and Big T, not a good place to hit.

2 All right. So he keeps saying that he's alone with
3 D: I'm alone with D. Okay? Detective Brown knows that
4 can't be true. She saw the video. So she says, are you
5 sure you're alone? Yeah, I was alone, no doubt about
6 it. But I saw somebody else; he got out of the back
7 seat. Well, he's got an explanation for that. That was
8 a bag of clothes that you saw. She says, no, I can tell
9 it's a person. No, a bag of clothes. It was a person.
10 Oh, okay; you're right, you're right; don't tell
11 Patricia, but that's a little girl that I got on the
12 side. Detective Brown: it's not a girl, it's a guy.
13 Twenty minutes later, okay, it's Big T; I don't know Big
14 T at all, all right, but, yeah, it's Big T.

15 Now, she then confronts him about the Taurus.
16 Well, we saw the Taurus in the area during the time
17 frame of the robbery itself. He's got another story.
18 We call this one his racoon story. Remember the story
19 where he parked behind the CVS and saw the racoon?
20 Well, this story goes like this. He picks up D and Big
21 T from downtown, again, to drop them off at his sister's
22 house. He drops them off at his sister's house and then
23 he waits. He waits for two and a half hours, he said.
24 They come back into the car. Then they say, well, drop
25 us off behind the CVS. The CVS is closed. It's dark.

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1 He doesn't ask any questions. He doesn't need to. In a
2 lot of ways he's like Goober [phonetic] or better. This
3 is five dollars. He's driving around for three or four
4 hours for five dollars, according to him.

5 Pick us up behind the CVS in fifteen minutes. So
6 he's got to wait. Well, it works out well for him
7 because he had been drinking so he has to urinate
8 anyways. Doesn't want to go across the street to a
9 Kangaroo, that he was just in a few hours earlier, and
10 use the bathroom there. He'll just wait here and use
11 the bathroom. This is working out well. Doesn't ask
12 any questions. Doesn't need to. They left wearing
13 white. They returned wearing black. Doesn't ask any
14 questions.

15 D and Big T were driven to that scene, and they
16 were taken from that scene, by this man. He brought --
17 they brought with them masks, sunglasses, gloves, duct-
18 tape, guns. They took with them masks, sunglasses,
19 gloves, duct-tape, guns, a bunch of Newport cigarettes,
20 so many that they were falling out of their pockets as
21 they were running, and money, money that was in the
22 control of Walter and William. But he doesn't know
23 anything about that. No, doesn't know anything about
24 that.

25 And do you know how we know that they took all of

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1 that with them? Because Detective Brown went back in
2 that area. She didn't find any money, she didn't find
3 any Newports, she didn't find any masks, none of that
4 stuff. We know that he brought them there and he took
5 them there, with all that property. He picked the most
6 dark, secluded area to stage his robbery. The only
7 thing that's illuminating there is the headlights
8 showing from the car.

9 Now, I'm going to tell you something else that this
10 defendant would have you believe that he's completely
11 dark on. This one [indicates] is dark. And I say
12 completely dark-on because the entire six hours-plus
13 interviewing with Detective Brown, now once does he
14 mention, you know what, my daughter actually works at
15 that same gas station that was robbed, the daughter that
16 was fired just a few weeks before the robbery and was
17 fired on October the 26th.

18 Why is that date important? He was arrested on
19 October 24th. Two days later, she was fired. Now, it
20 could be a coincidence. You heard Detective Brown.
21 They were not able to gather enough evidence to charge
22 her. So it could be a coincidence. Or maybe he was
23 right. Maybe they did have some inside knowledge of the
24 store operations.

25 Now, like the judge said, this is going to be the

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1 last time I get to speak to you. Okay? I don't know
2 what Mr. Hilton is going to say. I have to guess, guess
3 based on his opening and guess based on some of his
4 questions. I'm going to start off by talking about some
5 of the things that he mentioned during his opening.

6 Now, he said that in order for you to convict his
7 client, the defendant, you have to -- we have to prove
8 that he somehow assisted in the plan. Well, I think
9 we've more than shown that. I'm not going to go through
10 it all again. And then he made mention of something
11 else. I don't know where he's going with this, but he
12 said that the defendant should be held accountable for
13 something -- or should be held accountable. He should
14 be held accountable. He should be held accountable for
15 armed robbery. He is a principal. And I'm going to
16 explain that to you here in a second.

17 But before I do that, I do want to mention this.
18 There's a lot of talk about Thomas Young. Okay? A lot
19 of talk about his credibility. The judge is going to
20 tell you credibility is yours. It's completely up to
21 you. You look at what fits and what doesn't fit, what
22 can be corroborated, you look at witnesses, you look at
23 surveillance videos, and when they're different you ask
24 yourself why.

25 So let's look at what Thomas told us. He told us

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1 that he saw two guys, that they were masked, they were
2 either coming out or going into the Kangaroo, they were
3 on the side of it, and they were armed. The video shows
4 that. He says that they were running towards the CVS.
5 The video shows that. He says that he saw a white Ford
6 Taurus with bubble eyes, with a sunroof, parked down the
7 road. How would he know that? He doesn't know this
8 guy. He saw that car. Then he saw that car speed
9 towards the direction. And then he told the police --
10 go back and listen to the 911 call. He told the police,
11 you need to find that car, that car is somehow involved.
12 You know what? He was right about that, too. He admits
13 to being involved.

14 Now, when I talk about the law -- or Mr. Hilton,
15 for that matter, talks about the law -- if anything we
16 say differs at all with what the judge tells you about
17 the law, when we finish you go with what she says. This
18 is just what we think we need to show to you.

19 Armed robbery is exactly what you think it is.
20 Defendant or defendants took property from another
21 within that person's control, carried that property away
22 intending to permanently deprive the victims, the taking
23 was done with some sort of violence while they were
24 armed with a deadly weapon.

25 I don't know if Mr. Hilton is going to cover this.

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1 But you think, well, we didn't recover a gun so you
2 can't convict him of armed robbery. That's simply not
3 the law. The law is the victim had to reasonably
4 believe that it was a gun that was used. You saw the
5 video. That's certainly a reasonable belief.

6 Now, you may also ask yourself, well, how can I
7 convict this man of armed robbery when he didn't go into
8 the store at the armed robbery? It's because of this
9 principle. It's the law in our state. The hand of one
10 is the hand of all. If a crime is committed by two or
11 more people who are acting together at committing a
12 crime, the act of one is the act of all. That defendant
13 owns everything that those two individuals did when they
14 went in that store.

15 I'm going to go through some other principles that
16 are part of the hand of one doctrine. Mere knowledge
17 that one is going to commit a crime is insufficient.
18 And that's true. Mere knowledge -- it makes sense.
19 Mere knowledge would be if D and Big T had told him,
20 hey, you know what, Robert, we just robbed the place.
21 Well, that's mere knowledge. That's just knowing about
22 it. You can't convict someone on knowing about it.
23 That makes sense.

24 He did more than know about it. He assisted them
25 in it. The defendant can be found guilty as a principal

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1 if he actually commits the crime or is present when the
2 crime is being committed. Assisting. This robbery
3 doesn't happen without him. It's his car. He took them
4 there, he took them from there. He assisted.

5 A finding of a prior arranged plan or scheme is
6 necessary. And this is what Mr. Hilton said in his
7 opening, and he's absolutely correct. And this is where
8 this goes into intent. Okay? Intent means intending
9 the result which actually happened, wasn't an accident.
10 Intent may be shown by acts and conduct of a defendant
11 and other circumstances you may reasonably infer in
12 intent.

13 Okay. Intent basically is what's going on in his
14 mind. Okay? The law doesn't require you to be a mind
15 reader. If that were the case, it would be impossible
16 to convict anyone under intent. But what the law does
17 allow you to do is look at all the facts and
18 circumstances, and reasonably infer intent. In this
19 case you can look at the facts and circumstances,
20 reasonably infer that he knew exactly what he was doing.
21 Parked down the road, drove up, sped up, picked them up.
22 All the evidence in this case shows he's the classic
23 getaway driver.

24 Now, if I were to ask everyone in this courtroom
25 who's the president that I blocked out, some people

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1 would know, some people wouldn't know. But if I were to
2 ask everyone in the courtroom what does this picture
3 show, I'll bet everyone in the courtroom would know it's
4 Mount Rushmore. And that's what reasonable doubt is.
5 You don't have to know every piece of the puzzle to know
6 what the picture shows. And in this case, the picture
7 is clear. This defendant was the getaway driver to an
8 armed robbery.

9 Proof beyond a reasonable doubt is proof that
10 leaves you firmly convinced of the defendant's guilt.
11 The law does not require proof that overcomes every
12 possible doubt. There are few things in life that we
13 know with absolute certainty. It's a high burden, but
14 it's a burden that we welcome. Don't believe that it's
15 an impossible one. Don't believe that it means any
16 doubt or any conceivable doubt. It's just reasonable
17 doubt.

18 But I will submit to you this: if you believe that
19 he didn't know what he was doing that night when he
20 dropped them off, then let him go. This defendant
21 committed armed robbery with those two perpetrators.

22 And in closing, I'm going to leave you with this.
23 We are seeking justice. This defendant made a decision
24 back on October the 7th to be that getaway driver, he
25 knew what he was doing, and I'm going to ask you now to

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1 find him guilty, find him guilty of two counts of armed
2 robbery. Thank you.

3 THE COURT: Mr. Hilton?

4 MR. HILTON: May it please the Court.
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CLOSING ARGUMENT

MR. HILTON: Ladies and gentlemen of the jury, I'm from Dorchester County, so I don't have a fancy Power Point. I'm just going to talk to you person-to-person.

I'm going to start by telling you a story. I've got a distant relative, a cousin of sorts, about seventy-five years old and he's got a twin brother. And back in about 1956, he was sixteen years old, he and his brother are sixteen years old. And his parents had this old '54 Ford that his daddy told them they could take out on a date.

And so what do they do? They brought that old Ford out and they polished it up. It was only a couple of years old, a good-looking car. And they polished it up real good and had it looking nice. Had it spotless. And they had a little goat that ran around in the yard out there. Remember, I'm from Dorchester County, okay? They had a little goat that came and ran around in the yard. And the goat was walking by that car and he looked over and he saw his reflection in the door, [indicates], caved the door in.

And that's what the State wants you to do in this case. They're polishing this case pretty good, just like an old '54 Ford, and they want you to go back there and without much further thought, they want you to find

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1 Mr. Robert Wilson guilty of two counts of armed robbery.
2 And Mr. Osborne brought it out, and I said at the
3 beginning, he may be guilty of something but it's not
4 armed robbery. And that's what I want you to get --
5 that's what I want you to know. That's what I want you
6 to be sure of.

7 Sometimes, just like that old goat looking into the
8 door, sometimes things aren't always what they seem on
9 the surface. Just about six months ago, I was sitting
10 on our front porch. And I was out there -- only out
11 there for a little while. It was back in the
12 springtime. But I was out there for a while. And I
13 come inside. And from our front door you can see into
14 the kitchen. And my wife was in there, the stove was
15 on, the oven light was on, she had a towel thrown across
16 her shoulder, the dishes were clean, and the
17 overwhelming smell of blueberry muffins was coming from
18 that kitchen, coming from that room.

19 And if somebody would have asked me to convict her
20 of cooking blueberry muffins, I would have done that. I
21 would have done it. I would have done it without -- I want
22 to come back to that story in a little bit. But I want
23 you to keep that in mind.

24 And I want to digress for a minute and talk to
25 you about the law just a bit. Mr. Osborne touched on

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1 it. Everything he told you is accurate about the law.
2 But I want to say that it's not just enough to say if
3 Mr. Wilson did something or he didn't do something or he
4 knew something or he didn't know something and so
5 therefore he can be convicted of these two counts of
6 armed robbery. There are other charges they could have
7 charged him with, but they didn't. They charged him
8 with armed robbery, meaning that he is just as guilty as
9 the people who went in there and held up Mr. Finch and
10 Mr. Singleton.

11 And the judge will tell you in order to convict
12 someone under a accomplice theory, or under this hand of
13 one hand of all theory, the person has to be present and
14 there has to be a finding of some prior arranged common
15 scheme or plan. And Mr. Osborne told you that's the
16 law, too. And I believe that it is.

17 Mere presence is not enough. So even if you find
18 that he is present, the fact that he is present is not
19 enough. There has to be that common scheme or plan that
20 they all got together and said, hey, we're going to rob
21 this store, we're going to do this, this is what's going
22 to happen.

23 The judge will also tell you that the State has the
24 burden of proof to prove that the defendant was present
25 at the scene of the crime. And if they haven't met that

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1 burden of proof beyond a reasonable doubt, then you must
2 find the defendant not guilty. So I want to talk about
3 burden of proof. Again, Mr. Osborne touched on it, and
4 the judge will talk to you about that, too. One of the
5 definitions is, you know, would you hesitate to act
6 after hearing that evidence.

7 Burden of proof: I've seen it described as this,
8 and I think it's a pretty good analogy. If you start
9 down here with presumption of innocence -- you know,
10 that's where we were at the beginning of the trial --
11 and all the way down here is what we consider absolute
12 certainty, all the way down here, proof beyond a
13 reasonable doubt is somewhere in this range. It's not
14 all the way past the bar. It's not an impossible
15 burden, but it's pretty high up. It's not halfway, not
16 midway, not down here.

17 And every time you hear a witness, or every time
18 you hear some testimony, that needle moves along this
19 bar somewhere. Sometimes you might get up here,
20 sometimes you might move back. But you've got to be
21 down here at the end. And it's all twelve of you that
22 have to be down here at the end in order to convict
23 Mr. Wilson.

24 So I want to talk to you about some of the facts
25 now. Mr. Osborne talked to you about the fact and now I

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1 want to talk to you about the facts, because Mr. Osborne
2 didn't talk to you about all the facts. There's one
3 thing that they haven't shown you in this case that
4 you're going to see in just a minute. It's in evidence,
5 but he hasn't showed it to you.

6 You heard from the witnesses. Now, first of all,
7 we heard from a bunch of witnesses who got up here
8 and said, oh, it was in Charleston County, oh, we
9 collected a bunch of evidence. And then you heard from
10 Mr. Singleton and Mr. Finch, who told of a serious armed
11 robbery. And there is no -- please don't misunderstand.
12 I am not diluting that armed robbery. That was a
13 serious event for the two defendants.

14 But I want to talk about Thomas Young and Detective
15 Yolanda Brown. Throughout the course of this case,
16 they've gotten up here and pointed out that he didn't
17 have on any shoes so Mr. Robert Wilson must be guilty.
18 What's that got to do with anything? And, in fact,
19 Detective Brown even said, well, it's just one little
20 thing that's peculiar, one little thing that's peculiar.

21 He didn't look at him walking out of the door, so
22 you've got to convict Mr. Wilson now because they didn't
23 look at each other walking out the door. And that's one
24 of the things they pointed out to you. We don't know
25 what was said. We don't know if he says, you know,

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1 sorry I let the door close -- we don't know. We don't
2 know what he said to him. But that's some of the
3 evidence that they want to use to convict Mr. Wilson.

4 There's a big deal about family and about Latoya
5 Fuller and Denelle Great and Ulysis Great and how
6 they're children of Mr. Wilson's girlfriend -- they're
7 not even her children. They're children of a boyfriend
8 that Ms. Fuller had some time back. There's a big deal
9 about that.

10 But think about it this way. Law enforcement calls
11 you down there to the police department and you go down
12 and you're sitting in an interrogation room and they
13 start talking about an armed robbery, and they start
14 talking about your car being involved, and slowly but
15 surely he gives them not only information about the
16 crime but he also identifies the two guys the best he
17 could. He said Big T and D. And he points them out.
18 He's not trying to hide anybody. He's not making up
19 names. He points them out to them.

20 And but for -- you heard Detective Brown say but
21 for Mr. Wilson's statement, they probably would have
22 never identified the guys. There's no other person that
23 identified them. Mr. Osborne got up on redirect and
24 said, well, you know, they showed Mr. Young an
25 identification -- or showed him a line-up. He didn't

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1. identify anybody. He didn't identify anybody. It was
2. Mr. Wilson who identified those individuals.

3. And they want to make it seem like it was some
4. progression, you know, over and over again, new story
5. after new story after new story. And to some degree,
6. that's true. But you've got to understand this is all
7. one interview. This is all the course of one interview
8. that they get this information from Mr. Wilson.

9. And the daughter, they don't even believe she
10. had anything to do with it. You know why? Because
11. they never charged her. She's not charged. Yolanda
12. Brown told you she was never charged in this event.
13. Mr. Wilson had told them that she worked there? We
14. don't even know that he knew that. There is no evidence
15. to indicate that they were close, that she had lived
16. with them. There's no evidence whatsoever that Robert
17. Wilson knew that she worked there. Those family members
18. that she listed as references? You heard from the store
19. manager who said they may or may not call those people.
20. And so I'm sure if the store manager would have called
21. Robert Wilson, he probably would have said something
22. like, oh, yeah, yeah, yeah, that's my daughter, yeah,
23. she's a -- but that doesn't mean he knew that she was
24. working at the store.

25. They want you to discount everything that

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1 Mr. Wilson said, yet they want you to believe everything
2 Thomas Young said. You know why he didn't say he knew
3 anything about that robbery? Because he didn't know
4 anything about it. He didn't know anything about it.

5 Where is the property? That was a big deal that
6 Mr. Osborne made. You know, they came back with all the
7 cigarettes flowing out, and all this kind of stuff.
8 Well, they had on these cargo pants and so forth. And
9 we don't know if they had on a jacket. We don't know
10 what they had. They had on baggy clothes, there's no
11 question. You can see that from the video. He told
12 Ms. Brown they were in the back of the car arguing, he
13 wasn't sure what they were arguing about.

14 As far as the gun and the mask and so forth, did
15 they check the dumpster? I mean, the dumpster is right
16 there. It's so dark, according to them, could they have
17 thrown it in the dumpster and Mr. Wilson not be the
18 wiser? Maybe so. Maybe so.

19 You know what else they didn't check? They didn't
20 check Thomas Young's van. And that's going to be
21 important in a minute.

22 You heard Mr. Singleton get up and testify. And he
23 said around eleven o'clock guys come in. You saw the
24 video. And you see Denelle Great come in, shoeless,
25 wearing his white tee-shirt, and they pass going out the

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1 door. Keep in mind Mr. Wilson is not even in the store
2 when Denelle Great is asking about, do you work alone
3 here at night, how long you going to be here, you know,
4 and those types of questions. Mr. Wilson is not in the
5 store at that time. If they were standing there
6 together and those questions were going on, I think
7 this would be a good case. But don't let the fact
8 that Denelle Great did something out of the presence of
9 Mr. Wilson somehow affect what Mr. Wilson knows.

10 Now, Thomas Young: the State doesn't get to pick
11 their witnesses. I know. I was a prosecutor for eight
12 years. You don't get to pick your witnesses. But they
13 put Thomas Young up here in some nice clothes. They had
14 met with him about eight times or so and said -- and how
15 many times during my cross-examination of him did he
16 say, well, after meeting with the prosecutor, after
17 meeting with detective, you know, I remember more and
18 more as time goes by. You know why? Because they have
19 met with him to the point where they have funneled his
20 testimony into what it should be. Is it this
21 intersection? Is it that intersection, I don't know, I
22 don't know what intersection it is.

23 But one thing you can be sure about is that on
24 State's Exhibit 1, this map, there's one thing that he
25 was sure about under all accounts. What he's sure about

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1 is he said that car was parked here one time, then he
2 said it was parked here, but he's sure that that car
3 went back this way. And he even tells the 911 operator,
4 it blew through the light. And I asked him, I said, are
5 you sure about that. I'm sure about that. Is that what
6 you told police? That's what I told police. And that's
7 the testimony they presented. That's what they put up.

8 A convicted felon, charged with petit larceny in
9 2015 and at three o'clock at night he's riding around
10 with no destination, picking up scrap metal. You and I
11 call that stealing, by the way.

12 Let me go back to my wife's blueberry case for a
13 minute. All of the evidence was there. You could hear
14 the pans clanking, oven lit up, towel across her
15 shoulder, and that smell of blueberries just filling the
16 room. If I had seen somebody pull a pan of blueberries
17 out of the oven, or pull something out of the oven,
18 there would have been no dispute we would have been in
19 divorce court because I asked her for some blueberry
20 muffins and she said, I don't have any. And so, I mean,
21 I would have convicted her on that without question.

22 Thomas Young tells us that he saw a white Ford
23 Taurus run right by those dumpsters, right out by the
24 light, and turn and head back to the Summerville
25 direction I think is what he says on his 911 tape. Sped

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1 away from the scene. I don't know what Thomas Young's
2 involvement in this case was, but I find it awfully
3 suspicious that he pulls up in the parking lot during
4 the course of the robbery, turns around, goes back the
5 other direction, comes back in less than just a minute
6 or two at the perfect time to see these guys come out
7 right down the road, and he calls 911.

8 That, alone? Okay. But then he lies about where
9 he's coming from. There's no question about that. I
10 mean, he lies about where he's coming from and they say,
11 oh, he was just mistaken. Now, when Mr. Wilson gave
12 some conflicting statements about where he was coming
13 from, he was lying. Mr. Young, he was just confused.

14 Mr. Young is lying about the direction he's coming
15 from. He's lying about where he's going afterwards.
16 Because they asked him, were you going to Mount
17 Pleasant? No, no, I'm not going to Mount Pleasant.
18 They got him on the license plate reader going to Mount
19 Pleasant. There's no question he was trying to fool
20 them about that.

21 There's one more thing that the State has yet to
22 mention in this case, and that's that he lied about that
23 car coming down Parsonage Road and turning right,
24 turning right onto Highway 61. And you know how we know
25 that? Because it's on video. Don't you think if that

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1 car was on video speeding down by that dumpster, they
2 would have played that thing a thousand times? I'm
3 going to play it for you right now.

4 [Whereupon, video is played for the jury]

5 [Whereupon, video is not transcribed by the court
6 reporter]

7 MR. HILTON: This is where those guys come out.
8 And you see Thomas Young's van go by. And according to
9 his testimony -- we can't see both of them at the same
10 time. But according to his testimony -- he had watched
11 that video, too, by the way. According to his
12 testimony, that car -- he sees that car at the
13 intersection and he sees them speed back past the
14 dumpsters, takes a right onto Highway 61. So we're
15 going to watch this video. Because he just went by.
16 Supposedly, he just called 911. And those guys ran out
17 wherever they were heading.

18 Whose car is that? That's Thomas Young's van. We
19 don't see a white Taurus come riding by. And if what he
20 said is accurate, we would see that white Taurus come
21 riding by. There's no secrets here. This is their
22 video. This is their video. And it is shameful that
23 the prosecution has sat here at this table and has tried
24 to mislead you with Thomas Young's testimony, saying
25 that he fled back by. Because there's direct evidence

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1 that Mr. Robert Wilson was the one who was involved in
2 this crime, is that white Taurus, gunning it from the
3 scene, nothing but engine. That was Thomas Young's
4 testimony. It's their map, and it's their video, and
5 there is no Robert Wilson coming flying by on this
6 video.

7 Now, I don't know how to explain that, other than
8 Thomas Young must have had something to do with this
9 case. They didn't search his car. Maybe that glove and
10 mask, and whatever else, was in his car. Do you think
11 he had an opportunity to pick them up? He absolutely
12 had an opportunity. They come by just as he was coming
13 out. Robert Wilson, he was in the store just minutes
14 earlier. Maybe it wasn't time yet. Maybe he needed to
15 kill a few more seconds. And, lo and behold, he leaves
16 that scene and he comes back and he drives down
17 Parsonage Road just in time for them to flee out. The
18 State never told you that. The State never showed you
19 that video.

20 Thomas Young is the person that pulled that pan of
21 muffins out. Except we know that he never pulled out
22 any pan. There was no white car pulling in front of the
23 scene. The only person who connects Mr. Wilson -- the
24 only person who gives any evidence that Mr. Wilson knew
25 anything happened is just simply not true. That pan of

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1 muffins, that pan of blueberry muffins I thought my wife
2 cooked, you know what it turned out to be? A Sensi
3 candle that she had bought a couple of weeks ago. And
4 she lit that Sensi candle and had the whole room
5 smelling of blueberry muffins. And all the evidence
6 pointed to her cooking blueberry muffins, and that just
7 wasn't the case. That just wasn't the case, because the
8 circumstantial evidence wasn't enough to prove that she
9 did. It sure looked like it.

10 And it sure looks like Robert Wilson may have had
11 something to do with it. But when you come down to it,
12 he didn't. They didn't show you that video for a
13 reason. We're not talking about blueberry muffins here
14 today, folks. We're talking -- we're not talking about
15 a polished-up '54 Ford. We're talking about Mr. Robert
16 Wilson. We're talking about a man who the State has
17 alleged is guilty of two counts of armed robbery. And
18 it's their burden to prove -- to come in here and
19 convince you why he's guilty.

20 It's their burden to prove. It's not ours. We
21 could have sat over there and not said a word during
22 this entire trial, but I don't think it would have been
23 appropriate for me to do that, to let them not play this
24 video and then y'all make a decision, just like that old
25 goat looking into the side of the door, not really

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1 knowing what he's head-banging.

2 They come in here and they talk about people
3 barefoot, they talk about people looking away as they
4 pass the door, and they talk about this car speeding
5 away from the scene. That was a police car, by the way,
6 if you want to rewind that. You'll have that in your
7 jury room to see it.

8 There's not too many times we need to tell the
9 government no. Can I get a break on my taxes? No. Can
10 I get an extension on property tax? No. No. Can I get
11 this road paved in front of my house? No, you can't do
12 that. Can I build a deck on my back porch? No. No,
13 not without a bunch of permits. Can we get out of jury
14 duty? No. No, got to come here.

15 This is where they get to ask you, can we put this
16 guy in prison, can we convict him for armed robbery, on
17 this evidence? And this is where you get to tell them
18 no. This is where you get to tell them it's not
19 appropriate to get in here and try to mislead us and
20 tell us, by putting up a convicted felon and somebody
21 looking for scrap metal that night, who is at the scene
22 of the crime, turns around and comes back just in time
23 to meet these guys, calls 911 and then tries to
24 implicate Robert Wilson by saying, oh, he fled from the
25 scene right down Parsonage Road, no question, no

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1 question, and then not show you this video.

2 You know, they say a picture is worth a thousand
3 words. What's a video worth? It's worth at least two,
4 not one.

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CHARGE OF THE COURT

THE COURT: Ladies and gentlemen of the jury, we have reached the stage of the trial where I will instruct you on the law applicable to this case. Please listen very carefully. I typically do not send a copy of my charges back to you in written form, so please listen very carefully.

Mr. Foreman, you are responsible for writing the verdict, but I will go over the verdict forms after I have instructed you on the law applicable to this case.

As the trial judge, I have the responsibility to preside over the trial of this case. I have the duty to rule on the admissibility of the evidence that has been offered during this trial. You are to consider only the competent evidence before you. If there was any testimony ordered stricken from the record, you must disregard that testimony. You are to consider only the testimony that has been presented to you from the witness stand, the exhibits that have been made part of the record in this case, as well as the stipulations of counsel.

I have the additional duty to charge you the law applicable to this case. As the presiding judge, I am the sole judge of the law in this case. It is your duty to accept the law and apply the law exactly as I state it to you now. If you have any idea as to what the law is or what the law ought to be and it does not agree with what I'm about to tell

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1 you, you must abandon your own ideas, because you are sworn to
2 accept the law and apply the law exactly as I state it to you
3 now.

4 In every case tried in this court before a jury,
5 the jury becomes the sole and exclusive judges of the facts.
6 A trial judge may not make an comments regarding the facts in
7 this case. You are not to infer from anything that I have
8 said or done throughout the progress of this trial that I have
9 any opinion about the facts in this case. The law does not
10 allow me to have an opinion about the facts in this case.
11 This is solely a matter for you to determine.

12 The indictments in this case charge the defendant
13 with two counts of armed robbery. I remind you that the fact
14 that the defendant was arrested, charged, and indicted in this
15 case is not evidence and cannot be considered by you as
16 evidence of guilt, nor does it create an presumption or
17 inference of guilt. An indictment is simply the formal
18 written instrument which contains the charge made against the
19 defendant. It is the formal document by which this case is
20 brought into court. Just as the indictment in this case is
21 not evidence, any terminologies or labels used to refer to the
22 individuals involved in this case cannot be considered as
23 evidence. For example, the use of the words defendant and
24 victim are merely labels and may not be considered by you as
25 evidence.

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1 The indictments in this case allege two different
2 offenses against the defendant. The charges are: indictment
3 2015-GS-10-1767, armed robbery, involving the victim William
4 Finch; indictment 2015-GS-10-1769, armed robbery, involving
5 the victim Walter Singleton. Each indictment charges a
6 separate and distinct offense. You must decide each
7 indictment separately on the evidence and the law applicable
8 to it, uninfluenced by your decision as to the other
9 indictment. The defendant may be convicted or acquitted on
10 one or both of the offenses charged.

11 Mr. Foreman, you will be asked to write a separate
12 verdict for each indictment.

13 The defendant has pled not guilty to each
14 indictment. A person charged with committing a criminal
15 offense in South Carolina is never required to prove himself
16 innocent. I charge you it is an important rule of law that a
17 defendant in a criminal trial, no matter what the seriousness
18 of the charge may be, will always be presumed to be innocent
19 of the crime for which the defendant was indicted unless guilt
20 has been proven by evidence satisfying you of that guilt
21 beyond a reasonable doubt. The presumption does not end when
22 you begin your deliberations but it accompanies the defendant
23 throughout the trial until you reach a verdict of guilt based
24 upon evidence satisfying the standard of guilt beyond a
25 reasonable doubt.

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1 The presumption of innocence is not mere legal
2 theory. It is not just a legal phrase. It is a substantial
3 right to which every defendant is entitled unless you the jury
4 are satisfied, from the evidence, of the defendant's guilt
5 beyond a reasonable doubt. The State has the burden of
6 proving the defendant guilty beyond a reasonable doubt. Some
7 of you may have served as jurors before in civil cases where
8 you were told that it was only necessary to prove that a fact
9 is more likely true than not true, such as by a greater weight
10 or preponderance of the evidence.

11 Proof beyond a reasonable doubt is proof that
12 leaves you firmly convinced of the defendant's guilt. There
13 are very few things in this world that we do know with
14 absolutely certainty, and in criminal cases the law does not
15 require the burden of proof that overcomes every possible
16 doubt. If based upon your consideration of the evidence you
17 are firmly convinced that the defendant is guilty of the crime
18 charged, you must find him guilty. If, on the other hand, you
19 think there is a real possibility that the defendant is not
20 guilty, you must give him the benefit of the doubt and find
21 him not guilty.

22 There are two types of evidence that are generally
23 presented throughout a trial: direct evidence and
24 circumstantial evidence. Direct evidence directly proves the
25 existence of a fact. It does not require deduction.

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1 Circumstantial evidence is proof of a chain of facts and
2 circumstances indicating the existence of a fact. Crimes may
3 be proven by circumstantial evidence. The law makes no
4 distinction between the weight or value to be given either
5 direct or circumstantial evidence; however, to the extent the
6 State relies on circumstantial evidence, all of the
7 circumstances must be consistent with each other and, when
8 taken together, point conclusively to the guilt of the
9 defendant beyond a reasonable doubt. If these circumstances
10 merely portray the defendant's behavior as suspicious, the
11 proof has failed. The State has the burden of proving the
12 defendant guilty beyond a reasonable doubt. This burden rests
13 with the State, regardless of whether the State relies on
14 direct evidence, circumstantial evidence, or a combination of
15 the two.

16 Necessarily, you must determine the credibility of
17 the witnesses who have testified in this case. Credibility
18 simply means believability. It becomes your duty as jurors to
19 analyze the evidence and convinces you -- which evidence
20 convinces you of its truth. In determining the believability
21 of the witnesses who have testified in this case, you may
22 believe one witness over several witnesses or several
23 witnesses over one witness. You may believe part of the
24 testimony of one witness and reject the remaining part of the
25 testimony of another witness. You may believe the testimony

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1 of a witness in its entirety or reject the testimony of a
2 witness in its entirety. You may consider whether the witness
3 has exhibited to you any interest, bias, prejudice, or other
4 motive in this case and you may also consider the manner and
5 appearance of a witness while he or she was on the witness
6 stand.

7 A person who has a past criminal record is
8 competent to testify during a trial. A past record does not
9 affect the ability of that witness to testify. The past
10 record may be considered by you, if at all, in determining the
11 witness' believability. Remember, you are the sole judges of
12 the facts in this case and of the believability of any and all
13 of the witnesses.

14 There has been evidence presented that witnesses
15 have made prior statements which are not consistent with the
16 witness' present testimony. You may use this evidence to
17 decide whether to believe the witness. You may also use
18 evidence of their earlier contradictory statements to
19 determine the truth of those statements. It is up to you to
20 decide whether to believe the earlier statements, or the
21 testimony given at trial. If a witness has shown to have
22 knowingly testified untruthfully concerning any material
23 matter, you may consider this in determining whether to trust
24 the witness' testimony as to other matters. You may reject
25 all testimony of that witness, or give all or part of the

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1 testimony the weight you think it deserves.

2 A statement alleged to have been made by the
3 defendant has been admitted into evidence in this case. While
4 I have determined that the statement is admissible, I instruct
5 you that you make the ultimate decision of whether or not the
6 defendant made the statement. If the defendant did make the
7 statement, you must determine whether the statement was made
8 by the defendant voluntarily and of his own free will. This
9 means that the statement was not caused by pressure, force,
10 fear, threats, coercion, or intimidation, or by hope or a
11 promise of leniency or a reward of any kind. In determining
12 whether the statement was voluntary, you should consider both
13 the characteristics of the defendant and the details of the
14 questioning. Some of the factors that you may consider are
15 the age of the defendant, the defendant's education or lack of
16 education, the defendant's mental ability or capacity, the
17 defendant's IQ or intelligence, the defendant's background and
18 environment, the place and length of the detention, the nature
19 of the questions, the advice or lack thereof to the defendant
20 of his constitutional rights, including, but not limited to,
21 the right to remain silent, that any statement could be used
22 against him in a court of law, the right to have a lawyer
23 present, that if he could not afford a lawyer, a lawyer would
24 be appointed to represent him without any cost, that he could
25 stop making a statement at any time. You must carefully

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1 consider all the surrounding circumstances before you give any
2 weight to an alleged statement. The State has a burden of
3 proving beyond a reasonable doubt that the alleged statement
4 was voluntary. If you determine it was, you may give the
5 statement any further consideration that you deem proper. You
6 must decide what weight, if any, should be given to the
7 alleged statement. If you determine the alleged statement was
8 not the free and voluntary statement of the defendant, you
9 should not consider the statement at all.

10 In order to establish criminal liability, criminal
11 intent is required. For example, the mental state required to
12 be proven by the State for a particular crime might be
13 purpose, intent, knowledge, recklessness, or criminal
14 negligence. Criminal intent must be proven by the State
15 beyond a reasonable doubt. Criminal intent is always a matter
16 that must be determined by the jury from the circumstances
17 surrounding the situation. There is no way to prove intent to
18 a mathematical certainty. Because there is no way to tell
19 with exact certainty what the person had in mind, the law says
20 that criminal intent may be inferred from the circumstances
21 shown to have existed. This is how you make a determination
22 of whether or not the element requiring intent was present.
23 It is not necessary to establish intent by direct and positive
24 evidence but intent may be established by inference in the
25 same way as any other fact, by taking into consideration the

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1 acts of the parties and all the facts and circumstances of
2 this case. Criminal intent is a mental state. It is a
3 conscious wrongdoing. It is up to you to determine what the
4 defendant intended to do, based upon the circumstances shown
5 to have existed.

6 Mere presence at the scene is not sufficient to
7 prove someone guilty of a crime. A defendant's presence where
8 a crime is being committed, or mere association with a person
9 who commits a crime, does not make a defendant an accomplice
10 or an aider or abetter of the person committing the crime.
11 The burden is on the State to prove every element of the crime
12 charged. If you find, after reviewing all of the evidence,
13 that the State has proved that the defendant was only present
14 at the scene of the crime and they have not proved beyond a
15 reasonable doubt any other participation in the crime, then
16 you must find the defendant not guilty. The law is that proof
17 of at the scene of the crime is not sufficient to find someone
18 not guilty.

19 I instruct you and emphasize the fact that the
20 defendant did not testify is not a factor to be considered by
21 you in any way in your deliberation and in your consideration
22 of the question of the guilt or innocence of the defendant.
23 It must not be considered by you in any manner whatsoever. A
24 defendant has the constitutional right to remain silent. The
25 fact that he asserted this right must not be considered by you

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1 in your deliberations. I repeat: under your oath, you are to
2 draw no conclusion from the fact that the defendant in this
3 case did not testify. The fact that he did not testify should
4 not even be discussed in your jury room. The burden of proof,
5 as I have stated to you, is on the State. The defendant is
6 not required to prove his innocence. The burden of proof
7 remains on the State to prove guilt beyond a reasonable doubt.

8 If a crime is committed by two or more people who
9 are acting together committing a crime, the act of one is the
10 act of all. A person who joins with another to commit an
11 unlawful act is criminally responsible for everything done by
12 the other person which happens as a natural or probable
13 consequence of the act done in carrying out the common plan
14 and purpose. If two or more people are together, acting
15 together, assisting each other in committing the offense, the
16 act of one is the act of all or, as it is sometimes said, the
17 hand of one is the hand of all.

18 Prior knowledge that a crime is going to be
19 committed, without more, is not sufficient to make a person
20 guilty of that crime. Mere knowledge that another person is
21 going to commit a crime, even if the defendant is present when
22 the crime is committed, is not sufficient to convict the
23 defendant as a principal. Guilt as a principal is shown by
24 actual or constructive presence at the scene as a result of a
25 prior arrangement. Therefore, a finding of a prior arranged

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1. plan or common scheme is necessary for a finding of guilt as a
2. principal. The State must prove by a reasonable doubt, by
3. competent evidence, the theory of the hand of one is the hand
4. of all. A principal in a crime is one who either actually
5. commits the crime or who is present, aiding, abetting, or
6. assisting in committing the crime. When a person doesn't act
7. in the presence of and with the assistance of another, the act
8. is done by both. When two or more acting with a common plan
9. or intent are present at the commission of a crime, it does
10. not matter who actually commits the crime. All are guilty.
11. The hand of one is the hand of all. Present at the commission
12. of a crime means to be sufficiently near to aid and abet and
13. assist in the commission of the crime. However, mere presence
14. at the scene of a crime is not sufficient to convict one as a
15. principal on the theory of aiding and abetting.

16. Intent is also a necessary element, for there must
17. have been a common design or intent to commit the crime and
18. the crime must have been committed pursuant thereto, with a
19. person aiding and abetting by some overt act. Intent means
20. intending the result which actually occurs, not accidentally
21. or involuntary. Intent may be shown by the acts and conduct
22. of the defendant, and other circumstances from which you may
23. naturally and reasonably infer intent. The State must prove
24. these elements beyond a reasonable doubt.

25. The defendant is charged with two counts of armed

State vs. Robert Wilson
Charge of The Court
January 7, 2016

1 robbery. In order to prove this offense, the State must first
2 prove beyond a reasonable doubt that the defendant feloniously
3 or unlawfully took money, goods, or other personal property of
4 any value from the person or presence of another person.

5 Person means an individual, corporation, business, trust,
6 estate, partnership, limited liability company, association,
7 joint venture, government, or a governmental subdivision, or
8 public corporation, or any other legal or commercial entity.

9 Property is in the presence of a person if it is within the
10 person's reach, inspection, observation, or control, so that
11 the person could, if not overcome with violence or prevented
12 by fear, keep possession of the property. The State must also
13 prove beyond a reasonable doubt that the defendant carried the
14 property away, intending to permanently deprive the owner of
15 the property and to keep the property for the defendant's own
16 use. The slightest removal of the property or complete
17 possession of the property, even for an instant, by the
18 defendant is sufficient to show a taking and carrying away of
19 the property. The taking and carrying away of the property
20 must have been done with violence or by putting the owner of
21 the property in fear of violence. Finally, the State must
22 prove beyond a reasonable doubt that the defendant was armed
23 with a deadly weapon during the robbery. A deadly weapon is
24 any article, instrument, or substance which is likely to cause
25 death or great bodily harm. Whether an instrument has been

State vs. Robert Wilson
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January 7, 2016

1 used as a deadly weapon depends upon the facts and
2 circumstances of each case.

3 Ladies and gentlemen, I am now going to go over
4 the verdict forms with you. As I've indicated several times,
5 Mr. Foreman, you are responsible for completing the verdict
6 form.

7 Ladies and gentlemen, please understand there is no
8 significance in the way I read these verdict forms. It's
9 simply I have to read one first and I have to put something on
10 the paper first.

11 In the Court of General Sessions for the Ninth
12 Judicial Circuit, 2015-GS-10-1767, State of South Carolina
13 versus Robert Wilson, defendant, we, the jury, find the
14 defendant, Robert Wilson, not guilty of armed robbery
15 concerning victim William Finch, or, we, the jury, find the
16 defendant Robert Wilson guilty of armed robbery. And that is
17 to the indictment involving victim William Finch.

18 Once you have reached a unanimous decision, meaning
19 all twelve of you have agreed, you will sign the verdict form
20 and date it.

21 As to indictment 2015-GS-10-1769, State of South
22 Carolina versus Robert Wilson, we, the jury, find the
23 defendant Robert Wilson not guilty of armed robbery regarding
24 indictment victim Walter Singleton, or we, the jury, find the
25 defendant Robert Wilson guilty of armed robbery.

State vs. Robert Wilson
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January 7, 2016

1 Once again, once you have reached a unanimous
2 decision on this indictment, you will sign the verdict form,
3 Mr. Foreman, indicating all twelve of you have agreed, date
4 the verdict form.

5 Once you have completed both verdict forms, you
6 will knock on the jury room door, indicating you have reached
7 a verdict, and we will receive you back into the courtroom to
8 publish your verdict.

9 Ladies and gentlemen, this is the last time that I
10 will say this to you. Do not begin your deliberations. Do
11 not discuss this case amongst yourselves.

12 To my first twelve, is there any one of you who
13 feels that you would be unable to complete your deliberations
14 at this time? If you feel that you would be unable to
15 deliberate and reach a verdict, please stand.

16 [Whereupon, there is no response]

17 THE COURT: Thank you.

18 All twelve jurors have indicated that they are able
19 to continue with the trial of this case and retire to the jury
20 room.

21 To my two alternates, at this time you have
22 completed your service to this case. But again, please
23 remember my admonitions. We are going to put the two of you
24 in a separate room from the first twelve and once the first
25 twelve have begun their deliberations, I will come and release

State vs. Robert Wilson
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1 you. So please do not discuss this case with anyone. Same
2 admonitions to you.

3 Ladies and gentlemen, please stand. Take all of
4 your belongings with you.

5 Please rise for the jury.

6 [Whereupon, the jury exits the courtroom at
7 11:43 a.m.]

8 THE COURT: Thank you. Be seated.

9 Any objections, corrections, to the charges read?
10 From the State?

11 MR. OSBORNE: No, Your Honor.

12 THE COURT: Mr. Hilton?

13 MR. HILTON: None.

14 THE COURT: Thank you. We will be at ease.

15 I've got the verdict forms. And I believe y'all
16 had already gone through --

17 [Off the record momentarily]

18 THE COURT: Where did Mike go?

19 THE BAILIFF: Right outside the door.

20 THE COURT: Could you ask him is there a video --
21 First, let me ask the State. If I give them a
22 clean laptop -- everything was admitted; correct?

23 MR. OSBORNE: And everything can be played with
24 this media player.

25 THE COURT: Any objection to sending -- just

State vs. Robert Wilson
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1. putting a laptop back to let them play the video?

2. MR. HILTON: None at all.

3. THE COURT: All right. So we'll make sure --

4. [Off the record momentarily]

5. THE COURT: All right. We are at ease.

6. [Whereupon, the evidence goes out to the jury at
7. 11:50 a.m.]

8. [Whereupon, a recess is taken from 11:50 a.m. to
9. 1:28 p.m.]

10. THE COURT: We have a verdict. Anything before we
11. bring in the jury? From the State?

12. MR. OSBORNE: No, Your Honor.

13. THE COURT: From the defendant?

14. MR. HILTON: No, Your Honor.

15. [Off the record momentarily]

16. THE COURT: Please rise for the jury.

17. [Whereupon, the jury enters the courtroom at
18. 1:29 p.m.]

19. THE BAILIFF: All jurors present.

20. THE COURT: Thank you. Please be seated.

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- - -

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- - -

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- - -

State vs. Robert Wilson
Verdict
January 7, 2016

VERDICT

THE COURT: I understand you have reached a verdict.

If you will fold the verdict form and hand it to our bailiff. I just want to make sure that the verdict forms are in order.

[Whereupon, the Court reviews documents]

THE CLERK OF COURT: Please have the defendant stand.

[Whereupon, Mr. Wilson complies]

THE CLERK OF COURT: The verdict forms in the matter of the State of South Carolina versus Robert Wilson, defendant. The first verdict form: we, the jury, find the defendant, Robert Wilson, guilty of armed robbery. Certified as a unanimous decision by the jury. Signed by the foreperson on January 7th, 2016.

Ladies and gentlemen of the jury, if this is your verdict, please raise your right hand.

[Whereupon, jurors comply]

THE CLERK OF COURT: Thank you.

Please let the record reflect that all twelve jurors raised their right hand in response to my question.

The second verdict form: we, the jury, find the defendant, Robert Wilson, guilty of armed robbery,

State vs. Robert Wilson
Verdict
January 7, 2016

1 certified as a unanimous decision of the jury by the
2 foreperson of the jury on January 7th, 2016.

3 Ladies and gentlemen of the jury, if this was your
4 verdict, please raise your right hand.

5 [Whereupon, jurors comply]

6 THE CLERK OF COURT: Thank you.

7 Please let the record reflect that all twelve --

8 THE COURT: Hold on. Mike, one more time on that
9 one. If you could ask them that question one more time.

10 THE CLERK OF COURT: Ladies and gentlemen of the
11 jury, if this was your verdict, please raise your right
12 hand.

13 THE COURT: Thank you.

14 THE CLERK OF COURT: Thank you.

15 THE COURT: Anything further required of the jury?
16 From the defendant?

17 MR. HILTON: Nothing, Your Honor.

18 MR. OSBORNE: No, Your Honor.

19 THE COURT: Thank you.

20 Ladies and gentlemen, this completes your service
21 to this case. If you will please return to your jury
22 room, I will be there in just a few moments to
23 personally thank you for your service to Charleston
24 County.

25 Please rise for the jury.

State vs. Robert Wilson
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1 [Whereupon, the jury exits the courtroom at
2 1:31 p.m.]

3 THE COURT: Thank you. Be seated.

4 Outside the presence of the jury, are you prepared
5 to go forward with the sentencing? Do you have the
6 sheets?

7 MR. OSBORNE: Yes, Your Honor, I do.

8 THE COURT: Mr. Hilton?

9 MR. HILTON: We're prepared to go forward.

10 THE COURT: All right.

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State vs. Robert Wilson
Sentencing
January 7, 2016

SENTENCING

1
2 THE COURT: All right. Anything else I need to
3 know, Mr. Osborne?

4 MR. OSBORNE: Your Honor, I can go ahead at this
5 time and publish his arrest history, his convictions.

6 THE COURT: All right.

7 MR. OSBORNE: He has -- he does have an extensive
8 criminal record. It goes back to 1977, in fact. I'll
9 just point out some of the more serious crimes.

10 We'll start with 1987, I guess. He has a breaking
11 and entering into a motor vehicle. In 1988, he has a
12 burglary third. 1990, congregating in a unlawful
13 purpose. 1992, aiding and abetting in the distribution
14 of cocaine. He also has a breach of trust from that
15 year. 1993, he has a conspiracy to distribute crack
16 cocaine. 1994, he has a possession with intent to
17 distribute crack cocaine. I have he was sentenced to
18 ten years in prison for that charge. 1998, he has a
19 drug paraphernalia conviction, as well as carrying a
20 concealed weapon. And in 2000, possession of crack
21 cocaine, distribution of crack cocaine first,
22 distribution of crack cocaine second. In 2010, a CDV
23 first. And in 2011, he has a possession of marijuana,
24 twenty-eight grams or less.

25 If I could speak with the victim for one moment? I

State vs. Robert Wilson
Sentencing
January 7, 2016

1 don't know if he wants to address the Court.

2 [Whereupon, Mr. Osborne and the victim confer]

3 MR. OSBORNE: Your Honor, you heard the facts in
4 the case. I'm just going to lay it out there. We're
5 going to ask for -- we're asking for a substantial
6 sentence, and then I am going to re-approach Mr. Wilson
7 and offer him the opportunity for a downward departure.
8 If he's not interested, then I think a substantial
9 sentence is appropriate. He's got a criminal record.
10 This was a bad crime. And I think he knew exactly what
11 he was doing that night. And the jury felt that way,
12 too, obviously.

13 THE COURT: Mr. Hilton?

14 MR. HILTON: Thank you, Your Honor.

15 Mr. Wilson was appointed to me about a year ago,
16 and I've gotten to know Mr. Wilson over the course of
17 the year representing him. And in this 608 contract,
18 you get clients of all sorts, and Mr. Wilson is a client
19 that has never not shown up where he needs to be, has
20 never failed to call me back, has never not done what
21 I've asked him to do. He's that type of client. He's
22 that type of person. He's a good guy.

23 He's got some record. There's no question about
24 that. But he's -- the Court hasn't had a whole lot of
25 opportunity to interact with him like I have for the

State vs. Robert Wilson
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January 7, 2016

1 past year, and every time he talks to me it's yes, sir,
2 Mr. Hilton, yes, sir, no, sir, Mr. Hilton, yes, sir.
3 And just the most respectful person that I've dealt with
4 as a client.

5 There is no question he's been convicted of this
6 armed robbery. He came in and gave detectives a
7 statement on October the 20th which led to the arrest of
8 the two men that went into that store, held up Mr.
9 Singleton and Mr. Finch, tied them up with duct-tape.
10 They were arrested because of Mr. Wilson, and I think he
11 should get some credit for that.

12 He's not the gunman in this case, and nobody is
13 saying that he is. I don't think anybody is saying that
14 he is. And there's really no evidence that he got a gun
15 for them, you know, bought the duct-tape for them,
16 planned any of this.

17 He drove them to the scene, and what he's convicted
18 of is being the getaway driver and driving them into the
19 -- them to the scene. And because of his participation,
20 he's as guilty as they are. But we both know that the
21 most culpable people are the two Great brothers, and not
22 so great brothers, Ulysis and Denelle.

23 Your Honor, he's fifty-eight years old. A ten-year
24 sentence to him, he'll be almost seventy years old by
25 the time he gets out. A twenty-year sentence, he'll

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1 never make it home. This is not a life without parole
2 case, and I don't think the sentence should be something
3 that would equate to a life without parole case. A ten-
4 year sentence is -- it's a long time for anybody, and it
5 will be a long time for Mr. Wilson.

6 We would ask that you impose a ten-year sentence.
7 I think that's appropriate, given the facts that he is,
8 you know, convicted, the facts that he's alleged here.
9 We think that's an appropriate sentence, and we would
10 ask you to impose a ten-year sentence.

11 THE COURT: Mr. Wilson, what do you wish to tell
12 the Court?

13 MR. WILSON: I'm just sorry for what really went
14 down, what really happened. But, you know, I had
15 knowledge of it, and then in a way I didn't have
16 knowledge of it, you know, but -- you know, it just
17 happened. I tried to do my best to cooperate with them,
18 you know.

19 THE COURT: Mr. Hilton, did you explain to your
20 client his constitutional rights to appeal, and the fact
21 that this is a violent and a most serious offense?

22 MR. HILTON: I have not talked to him about appeal
23 yet. I was going to do that right afterwards.

24 THE COURT: Mr. Wilson, you have the right to
25 appeal the sentence that I am about to impose but you or

State vs. Robert Wilson
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January 7, 2016

1 your attorney -- and it doesn't have to be Mr. Hilton --
2 must do so within ten days. Do you understand?

3 MR. WILSON: Yes, ma'am.

4 THE COURT: And this is classified as a violent and
5 a most serious offense. Do you understand that?

6 MR. WILSON: Yes, ma'am.

7 THE COURT: And I disagree with you, Mr. Hilton. I
8 think I do have an understanding about Mr. Wilson. I
9 have observed him. He's been one of my -- the most
10 pleasant defendants that I've had in my courtroom in a
11 while.

12 And you have been very courteous and respectful not
13 only to the Court, but I've observed you interacting
14 with the court personnel. And so I do think -- I do
15 concur, Mr. Hilton, with your assessment. But I
16 disagree. I think I do know, and have had the
17 opportunity to observe you.

18 Mr. Wilson, I am imposing a sentenced based exactly
19 upon what I think your involvement was. And I do think
20 that Mr. Hilton has minimized your involvement. It's
21 not a typical -- you didn't just drive up to the store
22 and wait for them and drive off, not knowing what
23 happened. You, in my -- what I observed the evidence,
24 and I think that's what the jury looked at, you were a
25 little more involved than that.

State vs. Robert Wilson
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January 7, 2016

1 It's unfortunate, Mr. Wilson, that you are fifty-
2 eight years old and basically whatever sentence, ten or
3 sixty years that I impose upon you here today will, in
4 essence, be a life sentence. But I do not -- I have
5 little discretion. No less than ten. Do you understand
6 that?

7 MR. WILSON: Yes, ma'am.

8 THE COURT: So based upon everything that I have
9 heard, 2015-GS-10-1767 and 1769, that you be committed
10 to the State Department of Corrections for a term of
11 thirteen years. I'll give you credit for time that you
12 have served.

13 Good luck to you, sir.

14 MR. WILSON: Yes, ma'am.

15 MR. HILTON: Thank you, Your Honor.

16 THE COURT: Thank you. Mr. Osborne, Mr. Corvey,
17 and Mr. Hilton, thank you.

18 MR. OSBORNE: Thank you, Your Honor.

19 MR. CORVEY: Thank you.

20 [JURY TRIAL CONCLUDES AT 1:39 P.M.]
21
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25

State vs. Robert Wilson

C E R T I F I C A T E

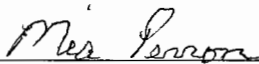
STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the jury trial held before the Honorable Kristi L. Harrington, on Thursday, January 7, 2016.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 28th day of February, 2016.



Mia Perron, CVR-CM-M
Circuit Court Reporter
9th Judicial Circuit

COPY

MIA PERRON, CVR-CM-M

-385-

DLO20141011180WITNESSESCharleston City Police DepartmentAGENCY CASE NUMBER1417010ARREST WARRANT NUMBER2014A1020100648DATE OF ARRESTOctober 24, 2014ACTION OF GRAND JURY**TRUE BILL**Nancy McKeown
Foreperson of Grand Jury
Date:APR 6 2015VERDICTGuilty
Randolph J. Sullivan Jan 7, 2016*Foreperson of Petit Jury*

Date:

INDICTDOCKET NO. **2015GS1001767****The State of South Carolina**

County of Charleston

COURT OF GENERAL SESSIONS**April Term 2015****THE STATE**

vs.

ROBERT WILSON**B/M****Indictment for****Armed Robbery**

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

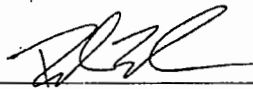
INDICTMENT

At a Court of General Sessions, convened on April 6, 2015 the Grand Jurors of Charleston County present upon their oath:

Armed Robbery

That on or about October 7, 2014, in Charleston County, South Carolina, at the BP Kangaroo 2572 Ashley River Road the Defendant, Robert Wilson, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of William Finch with the intent to permanently deprive the victim of possession thereof, in violation of §16-11-330(A) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



DAVID L OSBORNE
ASSISTANT SOLICITOR

DLO20141011180

WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

1417010

ARREST WARRANT NUMBER

2014A1020100649

DATE OF ARREST

October 24, 2014

ACTION OF GRAND JURY

TRUE BILL*Nancy McKee*
Foreperson of Grand Jury
Date: APR 6 2015

VERDICT

Guilty
Randolph Sullivan Jan 7, 2016

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2015GS1001769

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

April Term 2015

THE STATE

vs.

ROBERT WILSON

B/M

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STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

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That on or about October 7, 2014, in Charleston County, South Carolina, at the BP Kangaroo 2572 Ashley River Road the Defendant, Robert Wilson, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of Walter Singleton who was working as a cashier with the intent to permanently deprive the victim of possession thereof, in violation of §16-11-330(A) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



DAVID L OSBORNE
ASSISTANT SOLICITOR

390
WPA

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Robert Wilson # 272726
Full name and prison number (if any) of Applicant.

v.

State of South Carolina

2018-CP-10-11675
IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
JUL 18 APR -3 PM 2:30
CLERK OF COURT

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay fees and costs of the proceedings. When the application is completed the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Macdougal Corr. Inst., 1516 Old Gilliard Rd., Ridgeville, SC 29472
2. Name and location of Court which imposed sentence Ninth Circuit Court of General Sessions, Chas. County.
3. Name(s) of co-defendant(s) (if any) Denelle Great, Ulysis Great
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) Armed Robbery / 2015-65-10-1767
 - (b) Armed Robbery / 2015-65-10-1769
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) Jan. 6, 2016. term of imprisonment of 13 years for
 - (b) each to be served concurrently.

Revised 3/2003

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ✓ _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
YES _____
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. Court of Appeals _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Affirmed _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. Oct. Submitted 1, 2017 _____
- ii. Filed Nov. 29, 2017 _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Unpublished Opinion No. 2017-UP-444 _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Prosecutorial Misconduct
- (b) Ineffective Assistance of Counsel
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Prosecutorial Misconduct: NONDISCLOSURE OF MATERIAL EVIDENCE, CONFLICT OF INTEREST.
- (b) Ineffective Assistance of Counsel: FAILURE TO REQUEST CONTINUANCE,
- (c) FAILURE TO EFFECTIVELY CROSS-EXAMINE WITNESS ON DISMISSED CHARGE, FAILURE TO MOVE FOR MISTRIAL.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (c) the disposition thereof:
- i. N/A
- ii. _____
- iii. _____

iv. _____

(d) the date of each such disposition:

i. _____ N/A

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____ N/A

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____ N/A

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____ N/A

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) _____ N/A

(b) _____

(c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? _____
- (b) your trial, if any? YES.
- (c) your sentencing? YES.
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES.
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? YES. (Appellate Court)

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
- i. Russell D. Hilton, Esq. : 104 South Pine St., Summerville, SC 29483
- ii. Kathrine H. Hudgins. : Div. of Appellate Defense, 1330 Lady St. Ste #40
Cola, SC 29201
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Russell D. Hilton = Trial and Sentencing
- ii. Kathrine H. Hudgins = Appeal
- iii. _____

19. State clearly the relief you seek in filing this application:

Sentence vacated, verdict set aside.

20. Are you now under sentence from any other court that you have not challenged?

No.

STATE OF SOUTH CAROLINA

County of BERKELEY

VERIFICATION

I, RW, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Robert Wilson

SWORN to and subscribed before me this 29th
day of March, 2018.

Nicole B. Chapman (L.S.)
Notary Public

My Commission Expires: 12-22-2026

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, RW, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Robert Wilson
Applicant

SWORN or affirmed to and subscribed before me this
29 day of March, 2018.

Notary R. Chop
Notary Public

My Commission Expires: 12-22-2028

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL CIRCUIT
	)	
Robert Wilson, #272726,	)	Case No.: 2018-CP-10-1675
	)	
Applicant,	)	
	)	RETURN AND MOTION FOR A
v.	)	MORE DEFINITE STATEMENT
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

The State (Respondent), making its Return to the application for Post-Conviction Relief filed on April 3, 2018, would respectfully show this Court:

I. Procedural History

Robert Wilson (Applicant) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. In April 2015, the Charleston County Grand Jury indicted Applicant for two counts of armed robbery (2015-GS-10-1769; 2015-GS-10-1767). Russell D. Hilton, Esquire represented Applicant. Assistant Solicitor David L. Osborne of the Ninth Circuit Solicitor's Office prosecuted the case.

On January 6, 2026, Applicant proceeded to a jury trial in the Charleston County Court of General Sessions before the Honorable Kristi L. Harrington, circuit court judge. The jury found Applicant guilty as indicted and Judge Harrington sentenced Applicant to imprisonment for concurrent terms of thirteen years for each count of armed robbery.

Applicant filed a timely notice of appeal and Appellate Defender Kathrine H. Hudgins of the South Carolina Commission on Indigent Defense—Office of Appellate Defense perfected the appeal on Applicant's behalf. On appeal, Applicant argued the trial court erred in prohibiting Applicant to cross-examine a witness about lying to law enforcement. Following briefing, the South Carolina Court of Appeals affirmed Applicant's conviction on November 29, 2017. State

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JULIE J. BRIMSTROM
CLERK OF COURT

v. Wilson, Op. No. 2017-UP-444 (S.C. Ct. App. filed November 29, 2017). The remittitur was returned to the circuit court on December 15, 2017.

II. Summary of Facts Adduced at Trial

On October 7, 2014, at 2:51 a.m., the BP Kangaroo Gas Station at 2572 Ashley River Road in Charleston was robbed by Denelle Great (a/k/a “D”) and Ulysis Great (a/k/a “Big T”). (Tr. 136 lines 24–25; Tr. 232 lines 7–8; Tr. 261, line 8–Tr. 262, line 1). Thomas Young was out that morning driving through the area looking for scrap metal that could be sold. (Tr. 98, line 13). Young intended to go to the gas station to purchase cigarettes and coffee, but he stopped when he saw two men dressed in all black crouched outside the store. (Tr. 101–02). As he passed by he saw one of the men with what appeared to be a handgun. (Tr. 103, lines 14–19). When the men heard Young’s truck, they looked up, which is when Young noticed they had masks covering their faces. (Tr. 104, lines 5–9). Young called 911 at 3:02 a.m., believing the two males were preparing to rob the store, though he later learned the robbery had already taken place. (Tr. 117, lines 23–25; Tr. 118, lines 1–4; Tr. 138, lines 12–14). Young testified that as he passed through the intersection where the gas station was located, he almost hit a white Ford Taurus, which was idling in the intersection with its lights off. (Tr. 110–12). As Young passed the Taurus, it fled from the scene at a high rate of speed. (Tr. 110, lines 17–25). At trial he identified a photograph of the Taurus as the one he saw that night. (Tr. 112, lines 12–17).

Police arrived on the scene to find that the door handles to the Kangaroo station had been duct taped shut. (Tr. 139, lines 3–5). Inside the store police found the two victims of the robbery: William Finch (a customer in the store) and Walter Singleton (the store clerk). (Tr. 139, lines 14–16). In their statements to police and under oath at trial, Finch and Singleton said that two men had entered the store with revolvers drawn and pointed at them. (Tr. 179, 15–18; Tr. 205 lines 17–19). The men announced they were robbing the store. (Tr. 205, lines 17–19). One man took

cigarettes and the cash from the registers. (Tr. 181). The men escorted Finch and Singleton to the back storeroom when they learned Singleton could not open the store safe. (Tr. 182; Tr. 207 lines 19–23). They made the victims lie down side-by-side and proceeded to duct tape their hands and feet. (Tr. 182, lines 21–25; Tr. 207–08). As the men duct taped Singleton, one of them pushed a gun into his temple and asked him if he was “brave.” (Tr. 186, lines 21–25). After the robbers had bound the victims, they placed the guns against the backs of their heads. (Tr. 182 lines 24–25). One of the robbers told the other that they did not need any witnesses, saying, “Let’s ghost both these MFs.” (Tr. 183, lines 1–8; Tr. 208 5–6). However, one of the men convinced the other to abandon executing the victims, and the robbers fled the store. (Tr. 183, lines 3–5; Tr. 208, lines 8–11). They duct taped the door as they fled. (Tr. 187, 9–15).

The victims were able to give a description of the suspects to the police, as well as a description of the “get away” vehicle. (Tr. 140). Finch and Singleton described the car as a white Ford Taurus with a sunroof. (Tr. 140, line 10). Police viewed the security camera footage from the gas station, which showed a white Ford Taurus driving past the store six minutes before the robbery. (Tr. 221, 5–14). Detectives asked Singleton, the store’s clerk that night, whether anything suspicious had happened earlier in the evening. (Tr. 225). Singleton informed the police that a man had come into the store a little after 11:00 p.m., made a purchase, and asked Singleton if he was working all night by himself. (Tr. 191–92). Police were suspicious of this encounter and reviewed the security footage for the time period in question. (Tr. 225, lines 12–25). In the security footage, police found that the men in question had come to the store in a white Ford Taurus with bubble-style headlights. The video showed that one man entered the store and that the driver of the car wore a grey Gamecock shirt. (Tr. 226). Police then obtained security footage from a nearby gas station which showed the same car pull in, with the same driver in the same shirt, at 2:19 a.m., approximately thirty-two minutes before the robbery. (Tr. 231). The additional footage

showed clear damage to the Ford Taurus's front, driver's side panel. (Tr. 237, lines 17–18). Based upon the information obtained by the security cameras at both locations and the interviews with the victims, police issued a “be on the lookout” (BOLO) for the vehicle and the suspects. (Tr. 236).

Detective Yolanda Brown, the lead detective in the case, requested a listing of all white Ford Tauruses between the model years of 2000 and 2003 registered in Charleston County. (Tr. 238, lines 3–5). She entered the license plates into the Automatic License Plate Reader (ALPR), a system of automatic scanners attached to police vehicles and throughout the municipalities that can scan license plates. (Tr. 238, lines 6–18). Through the images provided by the ALPR, police found a white Ford Taurus with a sunroof and a dent above the front driver's side wheel well that seemed to be the vehicle they were looking for. (Tr. 238, lines 17–25). The vehicle was registered to Applicant and was subsequently located at his residence. (Tr. 239–40). Detective Brown made contact with Applicant, who agreed to be interviewed by police at the police station on October 20, 2014. (Tr. 240–43).

Applicant confirmed it was his vehicle that appeared in the still images from the surveillance video footage. (Tr. 245, lines 7–22). During the interview, Applicant further identified D and Big T from line-up photos. (Tr. 260, lines 7–19). Applicant told police that only he drove his car and that he did not let others drive it. (Tr. 256, lines 14–22). During the questioning, Applicant changed his story multiple times including: he was at home at the time of the robbery, he was only with D, he was only with Big T, there was a woman in his car, the “person” seen in his car was actually a pile of clothes, he went to get cigarettes, and he was in his car drinking beer and soda. (Tr. 247–56). However, security camera footage provided by the other gas station showed Applicant in his vehicle at that store during the same time. Detective Brown stated that when she told Applicant she was a robbery detective, he was not surprised. (Tr. 251).

Applicant eventually admitted he was present in the car the night of the robbery. (Tr. 258). He told police that D and Big T exited the vehicle at the CVS across the street from the gas station and told him to wait there. (Tr. 258, lines 8–11). He did not ask where they were going or why he was being asked to park at the CVS. (Tr. 258, lines 12–19). Applicant told Detective Brown that the men left the car dressed in white, but when they came back they were dressed in all black. (Tr. 258, line 25–Tr. 259, line 5). Applicant stated the men paid him \$5.00 for all of the driving he did. (Tr. 259, lines 6–13). Applicant was subsequently arrested on October 24, 2014, and charged with armed robbery. (Tr. 267, lines 14–18; *R. Indictment).

Pretrial, the State brought up witness Young's prior convictions and whether Applicant would be able to use them to impeach. (Tr. 58, line 1–Tr. 59, line 13). The State argued his convictions should not come in because they were not crimes of dishonesty and were more prejudicial than probative. (Tr. 58–62). After the trial judge agreed to take the matter under advisement, the solicitor stated that he would be willing to stipulate that Young was a convicted felon without getting into the eight or nine convictions. (Tr. 62, lines 8–19). Defense counsel agreed to the stipulation but added that he would like to question Young regarding another incident because he argued it went to bias toward the solicitor's office in regard to his testimony. (Tr. 62, line 22–Tr. 63, line 13). Specifically, defense counsel argued "the fact that they have a witness with pending charges I think goes to his motive to get up here and cooperate with the State in any way he can." (Tr. 64, lines 13–25). The trial judge did determine defense counsel could cross-examine Young as to bias and whether anything was offered to him for his testimony. (Tr. 66, lines 8–11). Subsequently, the solicitor informed the trial judge that he had researched Young's pending charge and discovered it had been in General Sessions by mistake and was actually a municipal charge. (Tr. 68, lines 9–25). The solicitor argued no bias could exist when the charge was improperly in General Sessions in the first place. (Tr. 69, lines 1–5).

Defense counsel then argued the petit larceny municipal charge should come in as a crime of dishonesty. (Tr. 69, line 10–Tr. 70, line 5). The State responded that the crime was not one of dishonesty in and of itself without any additional false statement or act of deceit. (Tr. 70, lines 6–15). The solicitor gave an example that if Young had misrepresented himself in some way in order to commit the theft, then it would be a crime of dishonesty and qualify. (Tr. 70, lines 17–23). After the solicitor argued there were no misrepresentations, false statements, or any type of deceit, defense counsel countered with a police report that showed Young had lied to police, stating, “If that’s not indicative of dishonesty, I don’t know what else is.” (Tr. 71, line 8–Tr. 72, line 19). The trial judge marked the police report as Court’s Exhibit #1 and ruled that defense counsel could inquire as to the petit larceny conviction. (Tr. 72, lines 20–24).

At trial defense counsel repeatedly accused witness Young of lying, alleging that he intentionally misled the police about his location and travels on the night of the robbery. (Tr. 113–19). Defense counsel attempted to question Young about any previous lies that he may have made to the police by asking, “And you’ve been untruthful with law enforcement in the past, have you not?” (Tr. 120, lines 3–4). The solicitor objected to the question on the grounds of relevance, and an off-the-record bench conference was held. (Tr. 120, lines 5–10). The trial judge sustained the objection and subsequently allowed a proffer, during which defense counsel and the solicitor asked Young questions. (Tr. 120, line 11; Tr. 130, line 2–Tr. 131, line 19). At the end of the proffer, the trial judge asked for any objections. (Tr. 131, line 25). Defense counsel stated, “Well, it depends on the -- it depends on the ruling of Your Honor.” When the trial judge stated she was going to stand by her initial ruling, defense counsel said, “Then no objection, Your Honor.” (Tr. 132, lines 1–5).

III. Allegations Raised and Relief Sought

In his application for post-conviction relief, Applicant alleges that he is being held in

custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel"
 - a. "Failure to request continuance, failure to effectively cross-examine witnesses on dismissed charge, failure to move for mistrial"
2. "Prosecutorial Misconduct"
 - a. "Nondisclosure of material evidence, conflict of interest"

As requested relief sought, Applicant states he is seeking "sentence vacated, verdict set aside."

Attached to this Return and incorporated by reference are the records of the Charleston County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the trial transcript, Applicant's appellate records, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

IV. Response to Allegations of Ineffective Assistance of Counsel

Applicant alleges his trial counsel, Russell Hilton, was constitutionally ineffective for failing to request a continuance, failing to move for a mistrial, and failing to effectively cross-examine witnesses. Respondent submits Applicant's allegations of ineffective assistance of counsel are without merit; however, Applicant has failed to set forth with any specificity the facts and circumstances giving rise to these allegations.

The Sixth Amendment to the United States Constitution guarantees a defendant the right to effective assistance of counsel. U.S. Const. amend. VI; Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008).

In a post-conviction relief action, an applicant bears the burden of proving the allegations in his or her application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it]

cannot be relied upon as having produced a just result.” Strickland, 466 U.S. 668. Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, an applicant must prove that counsel’s performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel’s deficient performance must have prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Respondent submits Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Additionally, Applicant has failed to set forth his claims with any factual basis or specificity beyond general allegations of failing to request a continuance, failing to move for a mistrial, and failing to effectively cross-examine witnesses, and therefore, it is impossible for Respondent to respond to these allegations with any specificity. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue and demands that Applicant, through his counsel, file an amended application with specific allegations and facts to support

those allegations well in advance of an evidentiary hearing. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V. Response to Allegations of Prosecutorial Misconduct

Applicant also alleges prosecutorial misconduct for failure to turn over material evidence, but again, failed to set forth this allegation with any specificity, including what evidence the State purportedly withheld from Applicant. Prosecutorial misconduct is not an issue for post-conviction relief. Rather, this allegation is a direct appeal issues that is procedurally barred by S.C. Code Ann. § 17-27-20(b) (2003). Post-conviction relief is not a substitute for an appeal. Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993). Applicant could have raised this issue on appeal. The failure to do so has waived this allegation as grounds for relief. Regardless, it is applicant's burden to prove actual prosecutorial misconduct. Alabama v. Smith, 490 U.S. 794, 109 S. Ct. 2201 (1989). Notwithstanding the procedural bar to this claim, Respondent submits that Applicant provides no evidence to suggest prosecutorial impropriety. Therefore, Respondent submits that this allegation should be summarily dismissed

VI. Motion for a More Definite Statement

Respondent also hereby moves for a more definite statement. Applicant makes general claims that counsel failed to investigate, failed to call witnesses, failed to prepare for trial, and failed to raise defenses, but does not provide any specificity or factual bases to support these broad and general allegations. The Uniform Post-Conviction Procedure Act requires the Applicant to "*specifically set forth the grounds upon which the application is based.*" S.C. Code Ann. § 17-27-50 (1985) (emphasis added). Respondent respectfully submits that it is incumbent upon Applicant, through counsel, to amend his application to set forth specific facts upon which his allegations are

based so that Respondent may adequately prepare for an evidentiary hearing. Therefore, Respondent requests that Applicant be required to amend his application to set forth specifically the grounds on which his claims are based.

VII. Any Future Amendments and Invocation of Discovery Process

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRPC. All claims should be made well in advance of the evidentiary hearing. Because Applicant has an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRPC. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRPC.

Pursuant to § 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

VIII. Response to Any and All Other Allegations

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this Return is hereby denied.

IX. Request for an Evidentiary Hearing

Respondent therefore requests that this Court convene an evidentiary hearing on the allegations of ineffective assistance of counsel after Applicant has failed an amended application with sufficient specificity of his allegations.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

By:


ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

July 6th, 2018

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

ROBERT WILSON, #272726)

Applicant,)

vs)

STATE OF SOUTH CAROLINA,)

Respondent,)

IN THE COURT OF COMMON PLEAS

2018-CP-10-1675

AFFIDAVIT OF SERVICE BY MAIL

FILED
2018 JUL -9 AM 11:44
JULIE ARMSTRONG
CLERK OF COURT

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return and Motion for a More Definite Statement** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Christopher L. Murphy, Esquire
Murphy Law Offices, LLC
234 Seven Farms Drive, Suite 128
Charleston, SC 29492

DATED this the 6th day of July, 2018.

Jennifer Jennison

Jennifer Jennison, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA	)	THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	DOCKET NO. 2018-CP-10-1675
	)	
	)	
ROBERT WILSON	)	
	)	
Applicant	)	
	)	
vs.	)	
	)	
STATE OF SOUTH CAROLINA	)	
	)	
Respondent	)	
	)	
	)	
	)	
	)	TRANSCRIPT OF RECORD

January 24, 2019
Charleston, South Carolina

B E F O R E:

THE HONORABLE J. CORDELL MADDOX, JR., JUDGE

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

CHRISTOPHER MURPHY, ESQ.
Attorney for the Applicant

BENJAMIN H. LIMBAUGH, ESQ.
Attorney for the Respondent

JOYCE C. RUEGER,
Certified Verbatim Reporter-Master
Circuit Court Reporter

[Certified Transcript Provided for: S.C. Attorney General]

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INDEX TO EXHIBITS
[No exhibits were introduced]

Robert Wilson v State of S.C.
Post-Conviction Relief Hearing
January 24, 2019

1 PROCEEDINGS

2 THE COURT: Thank you. Please have a seat.

3 [Whereupon, the Applicant enters the courtroom]

4 THE COURT: Okay. This is Mr. Wilson?

5 MR. WILSON: Yes, sir.

6 MR. MURPHY: Yes sir, it is.

7 THE COURT: Okay. Where are we with it?

8 MR. LIMBAUGH: May it please the Court, Your Honor?

9 This is Mr. Robert Wilson, case number 2018-CP-10-1675.

10 Mr. Robert Wilson is presently confined in the South

11 Carolina Department of Corrections pursuant to orders of
12 commitment from the Charleston County Clerk of Court.

13 In April of 2015 Charleston County Grand Jury
14 indicted the Applicant for two counts of armed robbery.

15 Russell D. Hilton, Esquire represented the Applicant.

16 Assistant Solicitor David O. Osborne of the Ninth Circuit
17 Solicitors Office prosecuted the case.

18 On January 6th Applicant, 2016 I believe, Applicant
19 proceeded to a jury trial in the Charleston County Court
20 of General Sessions before the Honorable Kristi L.
21 Harrington, Circuit Court Judge.

22 The jury found Applicant guilty as indicted and
23 Judge Harrington sentenced Applicant to imprisonment for
24 current terms of thirteen years for each count of armed
25 robbery. Applicant filed a timely notice of appeal and

Robert Wilson v State of S.C.
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1 Appellate Defender Katherine Hutchinson of the South
2 Carolina Commission on Indigent Defense office of
3 Appellate Defense perfected the appeal on Applicant's
4 behalf.

5 On appeal Applicant argued the trial court erred in
6 prohibiting Applicant to cross-examine a witness about
7 lying to law enforcement. Following a briefing the South
8 Carolina Court of Appeals affirmed Applicant's conviction
9 on November 29th, 2017. The remittitur was returned to
10 the Circuit Court on December 15th, 2017.

11 In his application for post-conviction relief
12 Applicant alleges that he is being held in custody
13 unlawfully for the following reasons:

14 Ineffective assistance of counsel, failure to
15 request continuance, failure to effectively cross-examine
16 witnesses on dismissed charge, failure to move for
17 mistrial, prosecutorial misconduct, non-disclosure of
18 material evidence, conflict of interest.

19 I believe Mr. Murphy is going to lay out his claims
20 for Your Honor. Thank you, Your Honor.

21 THE COURT: Yes, sir?

22 MR. MURPHY: Thank you. May it please the Court?
23 This is kind of a unique case and it's actually a very
24 good case for Mr. Wilson to be in. He is scheduled to be
25 released in 2026. So I've told him he's kind of in

Robert Wilson v State of S.C.
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1 scheduling limbo as a result of this case. Assuming he
2 gets everything he wants it's going to take about five
3 years for the appeal to run its course and the Supreme
4 Court to make a decision at which time he would have
5 served about 90 percent of his sentence.

6 I've explained to him that you cannot change the
7 sentence. You cannot dismiss the charges. All you can
8 do is put him back to square one. And my job is to keep
9 him out or as little jail time as possible.

10 It's in his best interest to withdraw the claim,
11 which I've explained to him. Furthermore, the State is
12 in the process of changing that 85 percent requirement
13 down to the 65 percent requirement which he's going to
14 max out prior to this appeal running its course.

15 I can't imagine any reason why he would want to face
16 these charges again after serving 90 percent or a full
17 sentence. In addition Judge he got a 13 year sentence
18 for armed robbery. If it goes back the lowest he would
19 face would be a ten year sentence so.

20 I've talked with his family. They seem to
21 understand. I've talked to Mr. Wilson. He still
22 indicates he wants to go forward but I think you, I would
23 ask the Court to question him about that before we
24 proceed.

25 THE COURT: Sure. Mr. Wilson, stand up just so you

Robert Wilson v State of S.C.
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1 and I can hear each other.

2 [Whereupon, the Applicant stands]

3 THE COURT: You understand what he's saying.

4 You're maxing out when? 2026?

5 MR. WILSON: Yes, sir.

6 THE COURT: So you'll max out you know assuming
7 things don't change and I think they are in six years
8 right; seven years. If I rule in your favor on every
9 issue today and grant you a PCR all that does is put you
10 back at the beginning right after the arrest. And the
11 Solicitor's office can then proceed forward with
12 prosecuting you and ask a Judge for more time.

13 And that's really unfortunately from a Judge's
14 standpoint that is a frustrating thing because I'm sure
15 it's frustrating to you. But it's the only thing that
16 under the post-conviction relief statute I have a right
17 to do. I can either leave the conviction as it is and
18 let you max out or I can overturn your conviction and
19 just push it all the way back to the beginning.

20 What will happen if I overturn your conviction the
21 attorneys, Attorney General will appeal it. They do.
22 That will take a couple of years to get through while
23 you're sitting down there. You're not losing any time
24 down there because you're still just serving it. But the
25 danger that you have is that you will win at the PCR

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1 stage and sort of win the battle and lose the war because
2 you're getting more than 13 years. And I won't bore you
3 with it but my first PCR case as a young lawyer in 1983 I
4 had a guy that was just pretty much I could have gotten
5 him off because the law hadn't changed.

6 He was maxing out in three years and he'd gotten a
7 good sentence. And the Judge pretty much told me I'm
8 going to grant your PCR but he's sure going to get more
9 time. I mean those old judges did that a lot. The newer
10 ones don't.

11 But it's up to you. If you want to go forward today
12 I'm happy to listen. If you want to withdraw your PCR
13 and wait for your max out time I'm happy to let you do
14 that. It's up to you but I want to make sure that you
15 understand what you're doing.

16 MR. WILSON: I think 50/50. But Your Honor can I
17 ask you a question?

18 THE COURT: Sure. I can't give you legal advice
19 but I'll come as close as possible.

20 THE COURT REPORTER: Sir, could you speak up for me
21 just a little bit?

22 THE COURT: Yes.

23 MR. WILSON: Okay. You got the cashier and you got
24 the customer who got robbed in that store took the stand
25 at my trial. They didn't put me nowhere at the trial.

Robert Wilson v State of S.C.
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1 You've got seven police officers or detectives who took
2 the trial -- who took the stand. Nobody pinned me to the
3 robbery.

4 THE COURT: Who linked you to it?

5 MR. WILSON: I still don't know.

6 MR. MURPHY: It was a co-defendant, Your Honor. He
7 was in the driver's car, the driver. He didn't go in.
8 There is no dispute about that. The co-defendant
9 testified against him. I've explained to him that's a
10 question of fact that is not proper before this Court.

11 THE COURT: Yeah.

12 [Whereupon, Mr. Murphy confers with his client]

13 MR. MURPHY: Seems like I was mistaken. He says a
14 co-defendant didn't testify against him.

15 MR. WILSON: They had, well they said they had a
16 witness.

17 THE COURT: Did you plead guilty to this?

18 MR. WILSON: No, sir ---

19 MR. MURPHY: --- no, it was a conviction at the
20 trial, Your Honor.

21 THE COURT: Okay.

22 MR. MURPHY: What he's -- the problem with his
23 argument is he disagrees with the facts. He doesn't
24 think that the jury made the right decision. I've
25 explained to him we can't attack the jury's decision.

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January 24, 2019

1 THE COURT: Yeah, I can't. I'm pretty limited in
2 what I can do. I mean I can give you a new trial. I can
3 do that. And I've done that before and I've done that in
4 murder cases. I don't have a problem with doing it if I
5 think it's the right thing to do I'll do it.

6 I will tell you that there are some people, the vast
7 majority of people who come up here and realize that
8 they're kind of short timers, and you would be considered
9 a short timer; especially if they change it to 65
10 percent. They're a little hesitant to start the process
11 all the way over. And I can't say I wouldn't be either.
12 I mean I'm trying not to give you legal advice but you've
13 got to do nine years max.

14 MR. WILSON: Ten years and ten months.

15 THE COURT: Yeah. Left?

16 MR. WILSON: No, sir. That's what I got to do.
17 I've got seven years and nine months left.

18 THE COURT: Yeah. So you've got seven years left?

19 MR. WILSON: Yes, sir.

20 THE COURT: And you got ten. The max on that would
21 have been what?

22 MR. MURPHY: Thirty.

23 THE COURT: Thirty?

24 MR. MURPHY: Well times two because it's two
25 counts.

Robert Wilson v State of S.C.
Post-Conviction Relief Hearing
January 24, 2019

1 THE COURT: Yeah. I mean you're looking at a risk
2 of going back and a Solicitor for whatever reason saying
3 you know what? I think you're guilty I'm going to push
4 it and try to get 30. I'm not saying they will.

5 I'm real uneasy talking with you because I don't
6 want you to give up something that you only have one
7 chance to do. But I also don't want you to make a bad
8 mistake; just man to man and put yourself in a worst
9 position than you are now.

10 MR. WILSON: Yes, sir.

11 THE COURT: Have you got some family here that you
12 can talk to about it?

13 MR. WILSON: Yes, sir.

14 MR. MURPHY: He has his fiancé, his kids; a lot of
15 family.

16 THE COURT: Y'all, I can't let you go out of this
17 room for security purposes and security is probably going
18 to kill me but if y'all will stay apart I don't have any
19 problem if you and the lawyer want to lean around and
20 talk about it.

21 MR. MURPHY: And Judge, before we do that the other
22 issues he's raised basically three issues that I can
23 tell. One is prosecutorial misconduct. And what that
24 stems from is there was a witness, Mr. Thomas, who had a
25 -- at trial he had a current arrest for grand larceny.

Robert Wilson v State of S.C.
Post-Conviction Relief Hearing
January 24, 2019

1 Those charges were dismissed or reduced down to a
2 Magistrate level offense. Mr. Hilton, his attorney,
3 argued that that should be admissible. It was ultimately
4 ruled on by the Court that it's not admissible. The
5 State Solicitor, Mr. Osborne, said he didn't know
6 anything about the charges.

7 But Mr. Wilson thinks that that would qualify as a
8 prosecutorial misconduct. I told him that we won't be
9 able to prove that. But even if we could prove it it
10 didn't impact his case because this was all dealt with
11 prior to the trial proceeding. And a Judge ruled on the
12 admissibility of that evidence.

13 And I've talked to Mr. Hilton who said there isn't
14 anything he would have done had he received that
15 information from the very outset, from the very
16 beginning. So that's really a legal issue that was
17 already ruled on.

18 THE COURT: I got you.

19 MR. MURPHY: The second issue is the failure to ask
20 for a continuance, which is related to that exact same
21 issue. Everything was, it might have been received the
22 day of trial but it was dealt with before opening
23 arguments and it was ruled upon. And in fact it was the
24 subject of the direct appeal. So again, he might
25 disagree with the Appellate Court's ruling but that is

Robert Wilson v State of S.C.
Post-Conviction Relief Hearing
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1 not within this purview today. And finally Judge he
2 raises the failure to cross-examine the witness on these
3 charges which relates back to the same thing. Mr. Hilton
4 made that motion and asked the Court to rule on to let
5 him cross-examine the witness on the details of this but
6 the Judge said no, which is not a mistake by Hilton.

7 The long and the short is he's raised a lot of legal
8 issues. They're not; they don't constitute errors by his
9 counsel. I've talked to counsel; I've gone through the
10 record I don't see where there was any mistake. So, he
11 does disagree with the facts. He does disagree with the
12 Court's rulings but that kind of makes this a whole lot
13 more difficult.

14 THE COURT: You've explained to him that I can't do
15 anything about it.

16 MR. MURPHY: I have. Yes, Your Honor.

17 THE COURT: Well I don't have a problem, he's got
18 family here. Y'all again have to stay separated so y'all
19 stay seated there [indicates] and y'all can just turn
20 around. And I don't have a problem with you talking;
21 I'll go out of the room, and get some advice from the
22 people who love and care about you okay?

23 MR. WILSON: Yes, sir.

24 THE COURT: I mean I think you know what your
25 lawyer is trying to tell you to do. I can't give you

Robert Wilson v State of S.C.
Post-Conviction Relief Hearing
January 24, 2019

1 legal advice because it is completely illegal. But I
2 don't disagree with your lawyer, but you know -- turn
3 around and talk to your family a little bit. I'll give
4 you five minutes. Y'all can't touch. I know that's
5 crazy but it's not my rule.

6 [Off the record while the Applicant confers with his
7 counsel and his family members]

8 THE COURT: Have you heard that they are going to
9 reduce the 85 percent to 65?

10 MR. LIMBAUGH: Not until today.

11 THE COURT: They should. There are a lot of people
12 doing 85 that shouldn't be.

13 MR. LIMBAUGH: I agree with that. I agree with
14 that.

15 THE COURT: There was no rhyme or reason with that
16 stuff.

17 [Off the record momentarily]

18 MR. MURPHY: Judge, thank you. I was in court in a
19 DSS case but my client says he does want to withdraw;
20 which I think is a very wise decision.

21 THE COURT: Yeah, I do too. You know I've just
22 seen it happen before where someone won on, in fact we
23 had one yesterday, a guy who was back on a PCR that was
24 sent back from the Supreme Court. And unfortunately he
25 was given less than the maximum and you know he can get

Robert Wilson v State of S.C.
Post-Conviction Relief Hearing
January 24, 2019

1 the maximum now. And that's the fear I have for you.
2 You're so close.
3 MR. WILSON: I appreciate it.
4 THE COURT: And have you heard that they are
5 thinking about dropping it to 65 percent? Anybody?
6 MR. WILSON: Yes, sir. They already passed it but
7 it's got to go back to the Board again. But somewhere
8 it's right in Columbia now. I guess they've got to sign
9 off on it again and that should be it. Maybe by next
10 month.
11 THE COURT: Well, Lord help us it will be there in
12 a year or two.
13 MR. WILSON: Yes, sir.
14 MR. MURPHY: Thank you, Judge.
15 THE COURT: Thank you man.
16 MR. LIMBAUGH: Thank you, Your Honor.
17 THE COURT: Thank y'all for coming. Good luck to
18 you okay.
19 MR. WILSON: Yes, sir. Thank you, sir.
20 THE COURT: Be safe.
21 *****END OF TRANSCRIPT OF RECORD*****
22
23
24
25

Robert Wilson v State of S.C.
Certificate of the Court Reporter
January 24, 2019

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official
Circuit Court Reporter for the Ninth Judicial Circuit of
the State of South Carolina, do hereby certify that the
foregoing is a true, accurate, and complete Transcript of
Record of the proceedings had and evidence introduced in
the trial of the captioned case, relative to appeal, in
the Court of Common Pleas for Charleston County, South
Carolina on the 24th day of January, 2019.

I do further certify that I am neither of kin,
counsel, nor interest to any party hereto.

October 9, 2023

Joyce C. Rueger, CVR-M
Court Reporter

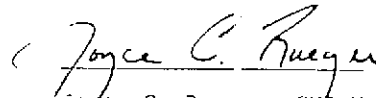
Robert Wilson v State of S.C.
Certificate of the Court Reporter
January 24, 2019

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I do further certify that I am neither of lin,
counsel, nor interest to any party hereto.

October 9, 2023


Joyce C. Rueger, CRR-M
Court Reporter

STATE OF SOUTH CAROLINA
County of ☒ Charleston ☐ Berkeley

Robert Wilson

Applicant / Petitioner

vs.

State of South Carolina,

Respondent.

COURT OF COMMON PLEAS

Case No. 2018-CP-10-1675

ORDER

Exhibit F
Come with
Exhibit E
Some Envelope
Note

FILED
2019 MAR -4 PM 2:25
JULIE J. ANNIS, CLERK OF COURT

This post-conviction relief case came before the court for a hearing. Having now heard this matter, the court orders as indicated herein.

1. The application for post-conviction relief is hereby: _____ denied _____ granted _____ under advisement; a formal order will be filed (see below - No.6)
2. Motion(s) was/were heard in this case and the court orders:
The motion to dismiss and/or for summary judgment is hereby _____ granted _____ denied _____ under advisement, based upon the _____ statute of limitations and/or _____ the successive nature of the application or _____ other reason as follows:

3. A conditional order of dismissal was previously filed in this case. Upon review of the matter, the court finds:

Good cause as to why the case should not be dismissed has been shown in response to the order of dismissal; therefore, a hearing on the merits of the application shall be scheduled.

The court has considered the response to the conditional order of dismissal and finds that good cause has not been shown or _____ no response has been filed to the conditional order of dismissal; therefore, the application is hereby dismissed.
- ✓ 4. The application was freely, voluntarily, and intelligently withdrawn as indicated on the record; therefore, this case is dismissed _____ with prejudice _____ without prejudice.
5. Other: _____

6. The court further orders:

The _____ Attorney General _____ Applicant's counsel is directed to submit to the court a proposed order and to serve the order on opposing counsel within _____ days.

Both sides are directed to submit proposed orders to the court and to serve the orders on each other within _____ days.

The court does not request proposed orders.

IT IS SO ORDERED.

Date: 2 / 28 / 19
Charleston, S.C.

[Signature]
Presiding Judge

Court Reporter: Joyce Rueger

Attorney for Plaintiff: Christopher L. Murphy

Attorney for Defendant: Benjamin H.

Limbaugh

FORM 5

STATE OF SOUTH CAROLINA

County of CHARLESTONRobert Wilson #272726

Full name and prison number (if any) of Applicant

v.

State of South Carolina

2019-CP-10-5343
IN THE COURT OF COMMON PLEASAPPLICATION FOR
POST-CONVICTION RELIEFFILED
2019 OCT 17 PM 6:09
JULIE A. HARRIS
CLERK OF COURTINSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly, handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Macdougal Corr Inst. 1516 Old Gilliard Rd. Ridgville SC 29472
2. Name and location of Court which imposed sentence Ninth Circuit Court of General Session Chas. County
3. Name(s) of co-defendant(s) (if any) Denelle Great, Ulysis Great
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) Armed Robbery/2015-GS-10-1767
 - (b) Armed Robbery/2015-GS-10-1769

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) JAN. 6, 2016, term OF imprisonment OF 13 Years For
- (b) each to be Served CONCURRENTLY.
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ✓
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. Court OF APPEALS
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. AFFirmed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. Oct
- ii. Submitted 1. 2017
- iii. Filed Nov. 29, 2017
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. unpublished Opinion NO. 2017-UP-444
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Prosecutorial Misconduct
- (b) INEFFECTIVE ASSISTANCE OF COUNSEL
- (c) see Attached - PCR Motion To Amend.
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Prosecutorial Misconduct: Nondisclosure of Material Evidence
- (b) CONFLICT OF INTEREST.
- (c) INEFFECTIVE ASSISTANCE OF COUNSEL: Failure To Request Continuance,
- (c) Failure To Effectively Cross-Examine Witness ON Dismissed Charges,
Failure to Move For Mistrial.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. N/A
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. _____
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) N/A
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? _____
 (b) your trial, if any? Yes
 (c) your sentencing? Yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes (Appellate Court)

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:
 i. Russell D. Hilton, Esq. - 104 South Pine St. Summerville, SC 29483
Kathrine H. Hudgins, Div. of Appellate Defense 1330 Lady St. Ste #40
Col. SC 29201
 ii. _____
 iii. _____
 (b) the proceedings at which each such attorney represented you:
 i. Russell D. Hilton Trial and sentencing
 ii. Kathrine H. Hudgins Appeal
 iii. _____

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, _____, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Robert Wilson
Applicant

SWORN or affirmed to and subscribed before me this
10th day of October, 2019.

Joye Campbell
Notary Public

My Commission Expires: 3-13-2029



19. State clearly the relief you seek in filing this application:

Sentence vacated, Verdict set aside.

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA)

VERIFICATION

County of Berkeley)

I, RW, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Robert Wilson

SWORN to and subscribed before me this 10th
day of October, 2019.

Joy Campbell (L.S.)
Notary Public

My Commission Expires: 3-13-2029



Pg. 1

In The State of South Carolina) Case # 2019-CP-10-5343
 County of Charleston) Court of Common Pleas
 Robert Wilson # 272726) Motion To Amend
 Applicant,) Application For Post
 -v-) Conviction Relief
 State) And Request To Reinstate
 Respondent.) Post Conviction Application

Comes Now, Applicant Robert Wilson who moves before this Honorable Court by way of motion requesting permission to reinstate and amend his Post Conviction Relief Application, based on the following facts and to include the following grounds for relief:

Statement and Facts
of the case

Applicant Wilson was indicted and tried on two counts of armed robbery.¹ Applicant was found guilty and sentenced to two (2) 13 year sentences to run concurrent. The South Carolina Court of Appeals decided the Appeal in an unpublished

FN-

- (1) In the interest of justice if it may please the Court, The Applicant was never identified as the person who committed the robbery.

Pg 2

opinion pursuant to Rule 220(b) SCAC A ,
dated (Filed October 1, 2017; Decided November
29, 2017; Opinion No: 2017-UP-444) See Exhibit A.

Applicant filed a Application For Post
Conviction Relief April 3, 2018 - Case No:
2018-CP-10-1675 Exhibit B . Applicant didnt
freely, voluntarily and intelegently withdraw
his Application For Post Conviction Relief as
indicated by the Court Order dated February 28, 2019.

Applicant was informed by his PCR Attorney
Mr. Christopher L. Murphy that his case was pending
and that a hearing was scheduled for March 21,
2019, at 9:30 am. See Exhibit C Correspondence
dated March 7, 2019.

Applicant subsequently contacted Mr. Murphy
about why he had not been transported to
his scheduled hearing as indicated and
informed by correspondence from Mr. Murphy.

Mr. Murphy stated that he would make
sure the Applicant would be on the next
docket for Court of Common Pleas.

Six (6) month subsequent to the previous
conversation Applicant received a letter
dated August 20, 2019 from Mr. Murphy legal
mail* See Exhibits D & E . One contained a
Court order date February 28, 2019

Pg 3

order signed by a judge indicating that I had withdrawn my application Freely, voluntarily and intelligently.² The order filed with the clerk Mrs. Julie Armstrong date March 4, 2019.³ Applicant had no knowledge of his application being withdrawn.

In fact Mr. Murphy by way of Correspondence Dated February 19, 2019 informed Applicant that should the Court rule against him, he would file an appeal in Applicant's behalf. See Exhibit (G), paragraph (3).

However, no such appeal was filed. Based on the foregoing evidence and multiplicity of errors on behalf of Mr. Murphy representation during my PCR proceeding, the applicant asserts that his PCR Counsel was ineffective and erroneously caused Applicant's PCR application to be dismissed prematurely.⁴ In the

FN (2) Applicant never signed a waiver. *

(3) See Exhibit F.

(4) Applicant respectfully request's that his PCR be reinstated, because he did not knowingly, voluntarily and intelligently withdraw his application for post conviction relief.

Pg. 4

The Applicant contends that based on foregoing, with a prayer for relief, his application be reinstated in the interest of justice.

- (1) The Applicant raises as a ground for relief Prosecutorial Misconduct and or state misconduct in connection with an illegal plea agreement.

The Supreme Court must affirm the PCR Court's findings if they are supported by any competent evidence of probative value in the record. Webb v. State 281 S.C. 237, 314 S.E.2d 839 (1984). Here, the P.C.R. court found that Washington was entitled to a new trial because the State's misconduct in failing to fully disclose the nature of its relationship with a witness. The U.S.

Supreme Court in Giglio v. United State 405 U.S. 150, 92 S.Ct. 767; 31 L.Ed. 104 (1972) stated the deliberate deception of a court and jurors by the presentation of known false evidence is incompatible with the rudimentary demands of justice; the same result obtains when the State,

Pg. 5

although not soliciting false evidence, allows it to go uncorrected when it appears.

Under the present facts, the State allowed to go uncorrected false information about its relationship with its star witness. Although it had entered into a plea agreement with this witness, the State, in lines 15-19 of Trial Transcript Page 63 in its pretrial motions emphatically denied knowing that the States star witness had pending charges in the 9th Circuit Berkeley County. This is the States misconduct and Solicitor Osborne committed perjury at Lines 14-19. Despite the foregoing charge of Grand Larceny of which was still pending and still a qualifying property crime and the Court (General Sessions) still retained jurisdiction. by law pursuant to the Code § 16-1-57, based on the witness priors the witness plea to a misdemeanor was an illegal plea deal made by Solicitor Osborne and Solicitor McNeely. In furtherance of the States Misconduct to commit fraud upon the Court, Solicitor Osborne in conjunction conspired with Solicitor McNeely see Trial Transcript Page 68 Lines 9-12 of their deliberate attempt

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Robert Wilson, Appellant.

Appellate Case No. 2016-000088

Appeal From Charleston County
Kristi Lea Harrington, Circuit Court Judge

Unpublished Opinion No. 2017-UP-444
Submitted October 1, 2017 – Filed November 29, 2017

AFFIRMED

Appellate Defender Kathrine Haggard Hudgins, of
Columbia, for Appellant.

Attorney General Alan McCrory Wilson and Assistant
Attorney General Jennifer Ellis Roberts, both of
Columbia; and Solicitor Scarlett Anne Wilson, of
Charleston, for Respondent.

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following
authorities: *State v. Pagan*, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006) ("The
admission of evidence is within the discretion of the trial court and will not be

reversed absent an abuse of discretion. An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law." (citation omitted); Rule 608(b), SCRE (stating in the discretion of the trial court and if probative of truthfulness or untruthfulness, a party, on cross-examination, may inquire into specific instances of the conduct of a witness for the purpose of attacking or supporting the witness's credibility); *State v. Kelsey*, 331 S.C. 50, 75, 502 S.E.2d 63, 75 (1998) ("The inquiry under Rule 608(b) is limited to those specific instances of misconduct which are clearly probative of truthfulness or untruthfulness . . ."); *State v. Bailey*, 298 S.C. 1, 5, 377 S.E.2d 581, 584 (1989) ("When guilt has been conclusively proven by competent evidence such that no other rational conclusion can be reached, the [c]ourt should not set aside a conviction because of insubstantial errors not affecting the result."); *State v. Pagan*, 357 S.C. 132, 144, 591 S.E.2d 646, 653 (Ct. App. 2004) ("Error is harmless where it could not reasonably have affected the result of the trial."), *aff'd as modified*, 369 S.C. 201, 631 S.E.2d 262 (2006); *State v. Fossick*, 333 S.C. 66, 70, 508 S.E.2d 32, 34 (1998) ("In determining harmless error regarding any issue of witness credibility, we will consider the importance of the witness's testimony to the prosecution's case; whether the witness's testimony was cumulative, whether other evidence corroborates or contradicts the witness's testimony, the extent of cross-examination otherwise permitted, and the overall strength of the State's case.").

AFFIRMED.¹

SHORT, KONDUROS, and GEATHERS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

RECEIVED
NOV 29 2017
APPELLATE DEFENSE

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTONRobert Wilson # 272726
Full name and prison number (if any) of Applicant.

v.

State of South Carolina

2018-CV-10-1675
IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
JUL 10 2018
CLERK OF COURT
PH 2-30INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention: Macdougal Corr. Inst., 1516 Old Gilliard Rd., Ridgville, SC 29472
2. Name and location of Court which imposed sentence: Ninth Circuit Court of General Sessions, Charleston County
3. Name(s) of co-defendant(s) (if any): Donelle Great, Ulysis Great
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) Armed Robbery / 2015-65-10-1767
 - (b) Armed Robbery / 2015-65-10-1769
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) Jan. 6, 2016. term of imprisonment of 13 years for
 - (b) each to be served concurrently.

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, RW, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Robert Wilson
Applicant

SWORN or affirmed to and subscribed before me this
29 day of March, 2018.

Nicole R. Chap
Notary Public

My Commission Expires: 12-22-2021

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ✓
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
YES
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Affirmed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. Oct. Submitted 1, 2017
- ii. Filed Nov. 29, 2017
- iii. _____
- (d) If known, citations of any written opinion or orders entered pursuant to such results:
- i. Unpublished Opinion No. 2017-UP-444
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Prosecutorial Misconduct
- (b) Ineffective Assistance of Counsel
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Prosecutorial Misconduct: NONDISCLOSURE OF MATERIAL EVIDENCE, CONFLICT OF INTEREST.
- (b) Ineffective Assistance of Counsel: FAILURE TO REQUEST CONTINUANCE,
- (c) FAILURE TO EFFECTIVELY CROSS-EXAMINE WITNESS ON DISMISSED CHARGE, FAILURE TO MOVE FOR MISTRIAL.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (c) the disposition thereof:
- i. N/A
- ii. _____
- iii. _____

11
iv. _____
(d) the date of each such disposition:

i. _____ N/A
ii. _____
iii. _____
iv. _____

(e) If known, citations of any written opinions or orders entered pursuant to each such disposition:

12
i. _____ N/A
ii. _____
iii. _____
iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____ N/A
ii. _____
iii. _____

(b) the proceedings in which each ground was raised:

i. _____ N/A
ii. _____
iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) _____ N/A
(b) _____
(c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? _____
- (b) your trial, if any? YES.
- (c) your sentencing? YES.
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES.
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? YES. (Appellate Court)
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Russell D. Hilton, Esq. : 104 South Pine St., Summerville, SC 29483
- ii. Kathrine H. Hudgins : Div. of Appellate Defense, 1380 Lady St. Ste #40-
Colo, SC 29201
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Russell D. Hilton = Trial and Sentencing
- ii. Kathrine H. Hudgins = Appeal
- iii. _____
19. State clearly the relief you seek in filing this application:
Sentence vacated, verdict set aside.
20. Are you now under sentence from any other court that you have not challenged?
No.

Z

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

ROBERT WILSON, #272726

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent,

IN THE COURT OF COMMON PLEAS

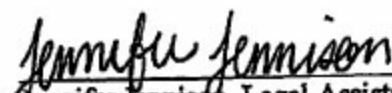
2018-CP-10-1675

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return and Motion for a More Definite Statement in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Christopher L. Murphy, Esquire
 Murphy Law Offices, LLC
 234 Seven Farms Drive, Suite 128
 Charleston, SC 29492

DATED this the 6th day of July, 2018.


 Jennifer Jennison, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA

VERIFICATION

County of BERKELEY

I, RW, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Robert Wilson

SWORN to and subscribed before me this 29th
day of March, 2018.

Debbie R. Chapman (L.S.)
Notary Public

My Commission Expires: 12-22-2026

Exhibit (C)

Christopher L. Murphy
Admitted in SC
cmurphy@rlattorneys.com

 RESNICK & LOUIS, P.C.
ATTORNEYS AT LAW

REPLY TO THE CHARLESTON OFFICE
146 Fairchild Street, Suite 130
Charleston, SC 29492
(843) 800-1187

March 7, 2019

Robert Wilson, SCDC #00272726
MacDougall Correctional Institution
1516 Old Gilliard Road
Ridgeville, SC 29472

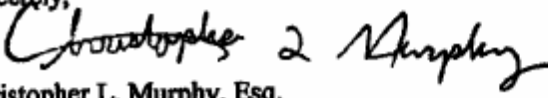
Re: *Robert Wilson v. State of SC*
Case No.: 2018-CP-10-1675
PCR Application

Dear Mr. Wilson:

Please see enclosed notice indicating your PCR hearing has been set to be heard on March 21, 2019 at 9:30 a.m. Please call or write me with any information you believe may help your case.

Kindest regards, I am,

Sincerely,


Christopher L. Murphy, Esq.
For the Firm

CLM/jh

Enclosure

RESNICK & LOUIS, P.C.
ATTORNEYS AT LAW

146 Fairchild Street, Suite 130
Charleston, SC 29492

CHARLESTON
SC 294
28 JUL 19

Exhibit D



MacDougall Correctional Inst
Mailroom

AUG 30 2019

RECEIVED

C2

Robert Wilson, SCDC #00272726
MacDougall Correctional Institution
1516 Old Gilliard Road
Ridgeville, SC 29472

Exhibit D
7191473

29472-740816

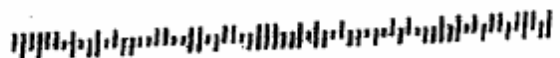


Exhibit D

RESNICK & LOUIS, P.C.
ATTORNEYS AT LAW

Christopher L. Murphy
Admitted in SC
cmurphy@rlattorneys.com

REPLY TO THE CHARLESTON OFFICE
146 Fairchild Street, Suite 130
Charleston, SC 29492
(843) 800-1187

August 20, 2019

Robert Wilson, SCDC #00272726
MacDougall Correctional Institution
1516 Old Gilliard Road
Ridgeville, SC 29472

Re: *Robert Wilson v. State of SC*
Case No.: 2018-CP-10-1675
PCR Application

Dear Mr. Wilson:

I received your letter and apologize for the confusion. When you called, I thought you were saying you were Robert Wolfe. I did pull your file and see that we have the entire transcript and I sent you the letter February 19th outlining my thoughts on the case.

In any event, I am reaching out to the Attorney General's Office to get a status update and see where we stand.

Kindest regards, I am,

Sincerely,

Christopher L. Murphy, Esq.
For the Firm

CLM/jh

 **RESNICK & LOUIS, P.C.**
ATTORNEYS AT LAW

146 Fairchild Street, Suite 130
Charleston, SC 29492

MacDougall Correctional Inst.
Mailroom

AUG 30 2019

RECEIVED

Robert Wilson, SCDC #00272726
MacDougall Correctional Institution
1516 Old Gilliard Road
Ridgeville, SC 29472

CHARLESTON
SC 294
28 AUG '19
FRI 11A
Exhibit (E)



C2

Exhibit E

28472-740816

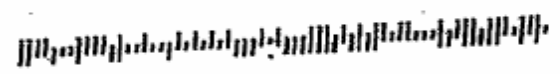


Exhibit E



RESNICK & LOUIS, P.C.
ATTORNEYS AT LAW

Christopher L. Murphy
Admitted in SC
cmurphy@rlattorneys.com

REPLY TO THE CHARLESTON OFFICE
146 Fairchild Street, Suite 130
Charleston, SC 29492
(843) 800-1187

August 21, 2019

Robert Wilson, SCDC #00272726
MacDougall Correctional Institution
1516 Old Gilliard Road
Ridgeville, SC 29472

Re: *Robert Wilson v. State of SC*
Case No.: 2018-CP-10-1675
PCR Application

Dear Mr. Wilson:

I have been researching your case and enclose a copy of the Clerk of Court documents which show that the applicant withdrew his application. Therefore, in March when we went to court, you told the judge you wanted to withdraw the application and not risk going to jail for 30 years. This was a wise decision and one we cannot change. There is not way for me to get you back to court and since I made representations to the judge and you testified under oath about your decision to withdraw the application. Therefore, you can file a motion *pro se* to reopen the case which the court can consider.

Please note that I do not represent you anymore. My assignment ended in March when the case was dismissed. Therefore, you will need to get another attorney to represent you if you want to go forward.

Sincerely,

Christopher L. Murphy, Esq.
For the Firm

CLM/jh
Enclosure

STATE OF SOUTH CAROLINA
County of ☒ Charleston ☐ Berkeley

Robert Wilson

Applicant / Petitioner

vs.

State of South Carolina,

Respondent.

COURT OF COMMON PLEAS

Case No. 2018-CP-10-1676

ORDER

Exhibit F
Come with
Exhibit E
Some Envelope
Note

FILED
2019 MAR -4 PM 2:25
JULIE J. ANNIS, CLERK OF COURT

This post-conviction relief case came before the court for a hearing. Having now heard this matter, the court orders as indicated herein.

1. The application for post-conviction relief is hereby: _____ denied _____ granted _____ under advisement; a formal order will be filed (see below - No.6)
2. Motion(s) was/were heard in this case and the court orders:
The motion to dismiss and/or for summary judgment is hereby _____ granted _____ denied _____ under advisement, based upon the _____ statute of limitations and/or _____ the successive nature of the application or _____ other reason as follows:

3. A conditional order of dismissal was previously filed in this case. Upon review of the matter, the court finds:

Good cause as to why the case should not be dismissed has been shown in response to the order of dismissal; therefore, a hearing on the merits of the application shall be scheduled.

The court has considered the response to the conditional order of dismissal and finds that good cause has not been shown or _____ no response has been filed to the conditional order of dismissal; therefore, the application is hereby dismissed.
- ✓ 4. The application was freely, voluntarily, and intelligently withdrawn as indicated on the record; therefore, this case is dismissed _____ with prejudice _____ without prejudice.
5. Other: _____

6. The court further orders:

The _____ Attorney General _____ Applicant's counsel is directed to submit to the court a proposed order and to serve the order on opposing counsel within _____ days.

Both sides are directed to submit proposed orders to the court and to serve the orders on each other within _____ days.

The court does not request proposed orders.

IT IS SO ORDERED.

Date: 2 / 28 / 19
Charleston, S.C.

[Signature]
Presiding Judge

Court Reporter: Joyce Rueger

Attorney for Plaintiff: Christopher L. Murphy

Attorney for Defendant: Benjamin H.

Limbaugh



843)832-1120 (843)832-1120
(803)212-6925

RESNICK & LOUIS, P.C.
ATTORNEYS AT LAW

Exhibit G

Christopher L. Murphy
Admitted in SC
cmurphy@rlattorneys.com

REPLY TO THE CHARLESTON OFFICE
146 Fairchild Street, Suite 130
Charleston, SC 29492
(843) 800-1187

February 19, 2019

Robert Wilson, SCDC #00272726
MacDougall Correctional Institution
1516 Old Gilliard Road
Ridgeville, SC 29472

Re: *Robert Wilson v. State of SC*
Case No.: 2018-CP-10-1675
PCR Application

Dear Mr. Wilson:

I received your last letter and certainly understand your frustration with the situation. In every trial once party looks at the evidence one way while another party looks at the evidence in a completely different light. Your case is no different. You cite all of the Rules regarding discovery requirements and ethics but the only evidence we have to support your claims of prosecutorial misconduct lies within the Record. That is the transcripts that I provided. No other evidence exists and I have no way of obtaining any additional evidence such a claim. If you know of anything else other than the transcript, please let me know.

With regard to the transcript, Mr. Osborne states the reasons why he did not turn over the information. As you can see, he states he simply did not know about the other information. I did review the case, the information, and found that nothing in the Record indicates any prejudice as to whether or not you could proceed with trial based on the information. In short, your attorney simply wanted to cross examine the witness based on the newly discovered evidence. The Court ruled he could not do so.

In any event, we had your hearing and addressed this case before the Circuit Court. I still do not have an order and will let you know upon receipt. As stated before, if the Court rules against you I will file an appeal whereas if the Court rules in your favor, I can expect the State to file an appeal.

Please give me a call if you have any questions.

Kindest regards, I am,

Sincerely,

Christopher L. Murphy, Esq.
For the Firm

CLM/jh

ALBUQUERQUE | BAKERSFIELD | CHARLESTON | DALLAS | DENVER | LAS VEGAS | MIAMI | ORANGE COUNTY | ORLANDO |
PHOENIX | RIVERSIDE | SACRAMENTO | SALT LAKE CITY | SAN DIEGO | TAMPA | LONDON, UK

www.rlattorneys.com

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL CIRCUIT
	)	
Robert Wilson, #272726,	)	Case No.: 2019-CP-10-5343
	)	
Applicant,	)	
	)	RETURN AND MOTION TO DISMISS
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

Respondent, making its Return to the application for post-conviction (PCR) filed
 Robert Wilson ("Applicant") on October 17, 2019, would respectfully show this Court:

I. PROCEDURAL HISTORY

Robert Wilson (Applicant) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. In April 2015, the Charleston County Grand Jury indicted Applicant for two counts of armed robbery (2015-GS-10-1769; 2015-GS-10-1767). Russell D. Hilton, Esquire represented Applicant. Assistant Solicitor David L. Osborne of the Ninth Circuit Solicitor's Office prosecuted the case.

On January 6, 2026, Applicant proceeded to a jury trial in the Charleston County Court of General Sessions before the Honorable Kristi L. Harrington, circuit court judge. The jury found Applicant guilty as indicted and Judge Harrington sentenced Applicant to imprisonment for concurrent terms of thirteen years for each count of armed robbery.

Applicant filed a timely notice of appeal and Appellate Defender Kathrine H. Hudgins of the South Carolina Commission on Indigent Defense—Office of Appellate Defense perfected the appeal on Applicant's behalf. On appeal, Applicant argued the trial court erred in prohibiting Applicant to cross-examine a witness about lying to law enforcement. Following briefing, the

South Carolina Court of Appeals affirmed Applicant's conviction on November 29, 2017. State v. Wilson, Op. No. 2017-UP-444 (S.C. Ct. App. filed November 29, 2017). The remittitur was returned to the circuit court on December 15, 2017.

Applicant filed his first application for post-conviction relief on April 3, 2018 and Respondent filed its Return on July 6, 2018. Applicant alleged he was being held in custody unlawfully for the following reason:

- 1) "Ineffective Assistance of Counsel"
 - a. "Failure to request continuance, failure to effectively cross-examine witnesses on dismissed charge, failure to move for mistrial"
- 2) "Prosecutorial Misconduct"
 - b. "Nondisclosure of material evidence, conflict of interest"

As requested relief sought, Applicant states he is seeking "sentence vacated, verdict set aside." Applicant voluntarily withdrew his PCR and the presiding Circuit Court Judge signed an order indicating such on February 28, 2019.

II. CURRENT APPLICATION

Applicant filed his current application for post-conviction relief on October 17, 2019. Applicant alleges he is being held in custody unlawfully for the following reasons:

- 1) "Prosecutorial Misconduct"
- 2) "Ineffective Assistance of Counsel"
- 3) Waiver of prior PCR was not voluntary or knowing

Applicant requested the following relief: "sentence vacated, verdict set aside."

Attached to this Return and incorporated by reference are the records of the Charleston County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the plea transcript, Applicant's appellate records, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant

materials.

III. MOTION TO DISMISS

Respondent moves for summary dismissal pursuant to section 17-27-70 of the South Carolina Code on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing. See Welch v. MacDougall, 246 S.C. 258, 260, 143 S.E.2d 455, 456 (1965) (requiring a PCR applicant to make a *prima facie* showing he is entitled to relief before the court will hold an evidentiary hearing). Because there is no question of law or fact to necessitate a hearing, the State requests this Court issue a conditional order of dismissal indicating the Court's intent to dismiss the application and its reasons for so doing.¹ See S.C. Code Ann. § 17-27-70(b) (establishing procedure for summary disposition of PCR applications); Leamon v. State, 363 S.C. 432, 434, 611 S.E.2d 494, 495 (2005) (summary disposition appropriate when there is no need to develop facts and the applicant is not entitled to relief). In making its return in support of the motion for summary judgment, the State would respectfully show this court:

SUCCESSIVE APPLICATIONS

Respondent also moves to summarily dismiss the application because it is successive to Applicant's prior post-conviction relief application and his prior motion for a new trial on this same ground. Courts disfavor successive applications and place the burden on applicants to establish that any new ground raised in a subsequent application could not have been earlier raised in a previous application. Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); Arnold v. State, 309 S.C. 157, 420 S.E.2d 834 (1992). Section 17-27-90 of the South Carolina Code states:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental, or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily, and intelligently waived in the

¹ A proposed Conditional Order of Dismissal consistent with this return and motion to dismiss is concurrently submitted for the Court's consideration.

proceeding that resulted in the conviction or sentence or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental, or amended application.

Section 17-27-90 is clear—successive post-conviction relief applications are forbidden unless an applicant can indicate a “sufficient reason” why new grounds for relief were not raised or were not properly raised in previous applications or actions challenging this conviction. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). Any new ground raised in a subsequent application is limited to those grounds that “could not have been raised ... in the previous application.” Id. at 450, 409 S.E.2d at 394. If the applicant could have raised these allegations in a previous application, then the applicant may not raise those grounds in successive applications. Id. Applicant bears the burden of showing the allegations could not have been previously raised. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980).

The South Carolina Supreme Court held the PCR rules “contemplate an adjudication on the merits of the original petition, one bite at the apple as it were.” Aice, 305 S.C. at 452, 409 S.E.2d at 395 (citing Gamble v. State, 298 S.C. 176, 178, 379 S.E.2d 118, 119 (1989)). The Court also noted, “[f]inality must be realized at some point in order to achieve a semblance of effectiveness in dispensing justice.” Id. at 451, 409 S.E.2d at 395. Here, Applicant has failed to show that a successive application is appropriate or why he could not have raised these claims in his prior post-conviction relief action.

Accordingly, the application should be dismissed as successive to Applicant’s prior post-conviction relief action.

STATUTE OF LIMITATIONS

Respondent submits this application should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10 to -160. Specifically, the act requires as follows:

(A) An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

(B) When a court whose decisions are binding upon the Supreme Court of this State or the Supreme Court of this State holds that the Constitution of the United States or the Constitution of South Carolina, or both, impose upon state criminal proceedings a substantive standard not previously recognized or a right not in existence at the time of the state court trial, and if the standard or right is intended to be applied retroactively, an application under this chapter may be filed not later than one year after the date on which the standard or right was determined to exist.

(C) If the applicant contends that there is evidence of material facts not previously presented and heard that requires vacation of the conviction or sentence, the application must be filed under this chapter within one year after the date of actual discovery of the facts by the applicant or after the date when the facts could have been ascertained by the exercise of reasonable diligence.

S.C. Code Ann. § 17-27-45.

The South Carolina Supreme Court has held the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). Additionally, S.C. Code Ann. § 17-27-70(c) authorizes the Court to “grant a motion by either party for summary disposition of [an] application when it appears from the pleadings . . . that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.”

Applicant was sentenced on January 6, 2016. The Remittitur was issued on December 20, 2017. The application was therefore due on December 20, 2018. This application was filed on October 17, 2019, well beyond the statutory filing period. Therefore, the application shall be summarily dismissed for failure to file within the time mandated by Uniform Post-Conviction Procedure Act.

In the present case, Applicant is alleging he is entitled to post-conviction relief based on trial counsel failing to challenge the amendment of the indictment and there being no waiver of presentment to the grand jury. However, Applicant failed to comply with the filing requirements under S.C. Code Ann. § 17-27-45. Based on Peloquin, Applicant had until June 5, 2006, to timely file an application challenging his convictions based on such a claim – which was not based on a change of law or statute and is not newly discovered evidence. The current application was not filed until August 20, 2019, well after the statutory filing period expired. Therefore, the application should be summarily dismissed as barred by the statute of limitations. Accordingly, this application is untimely pursuant to Section 17-27-45 and should be dismissed for failure to file within the time mandated by Uniform Post-Conviction Procedure Act.

IV. MOTION TO FILE OUT OF TIME

Respondent moves the Court accept this return for filing out of time. Respondent received the application on or about April 4, 2018, such that the return to the application was originally due June 4, 2018. See Rule 12(a), SCRCP (“[T]he State of South Carolina shall answer or otherwise respond to an application for post-conviction relief within 60 days after service of the application, if it arises out of a guilty plea, and 90 days if it arises out of a trial.”). Respondent did not previously move for an extension of time to file the return. Having completed the return required in this matter, and in light of no demonstrable prejudice to Applicant as a consequence of the delay based

on the clearly applicable procedural bars to his successive application, Respondent moves the Court accept the return as timely filed. See S.C. Code Ann. § 17-27-70(a) (establishing that the Court may fix the time in which the State must respond and that “respondent shall file with its answer the record or portions thereof that are material to the questions raised in the application.”); Guinyard v. State, 260 S.C. 220, 195 S.E.2d 392 (1973) (holding the trial court may extent the time for filing and that the time limit prescribed by the statute is not mandatory, but discretionary with the trial court.).

V. RESPONSE TO OTHER ALLEGATIONS

Each and every allegation contained within the application not hereinbefore expressly admitted, qualified or explained is hereby denied.

VI. CONCLUSION

WHEREFORE, Respondent moves to summarily dismiss the application because it was filed after the statute of limitations had expired and is successive to Applicant’s prior post-conviction relief action.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

BENJAMIN LIMBAUGH
Assistant Attorney General

By: s/ Benjamin Limbaugh
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

February 22, 2021

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

ROBERT WILSON, #272726)

Applicant,)

vs)

STATE OF SOUTH CAROLINA,)

Respondent,)

IN THE COURT OF COMMON PLEAS

2019-CP-10-5343

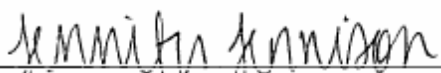
CERTIFICATE OF SERVICE BY MAIL

2021 FEB 24 PM 12:57
JULIE J. ANTONIO
CLERK OF COURT

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return and Motion to Dismiss** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Robert Wilson, #272726 (C2D-0005-A)
MacDougall Correctional Institution
1516 Old Gilliard Road
Ridgeville, SC 29472

DATED this 22nd day of February, 2021.


 Jennifer Jennison, Administrative Coordinator
 For Respondent

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
Robert Wilson, #272726,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2019-CP-10-5343

**CONDITIONAL ORDER OF
DISMISSAL**

2015-GS-10-1767
2015-GS-10-1769

2021 MAR 26 PM 4:27
JULIE J. ARISTIDE
CLERK OF COURT

FILED

This matter comes before this Court by way of a successive application for post-conviction relief filed by Applicant Robert Wilson. In response, Respondent the State of South Carolina moved for the matter to be summarily dismissed as untimely and successive to his prior post-conviction relief action pursuant to S.C. Code Ann. § 17-27-20, § 17-27-45, and § 17-27-90. After a review of all records before this Court, the current application, and Respondent's motion to dismiss, this Court provisionally dismisses this action based on the following:

I. PROCEDURAL HISTORY

Robert Wilson (Applicant) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. In April 2015, the Charleston County Grand Jury indicted Applicant for two counts of armed robbery (2015-GS-10-1769; 2015-GS-10-1767). Russell D. Hilton, Esquire represented Applicant. Assistant Solicitor David L. Osborne of the Ninth Circuit Solicitor's Office prosecuted the case.

On January 6, 3026, Applicant proceeded to a jury trial in the Charleston County Court of General Sessions before the Honorable Kristi L. Harrington, circuit court judge. The jury found Applicant guilty as indicted and Judge Harrington sentenced Applicant to imprisonment for

R

concurrent terms of thirteen years for each count of armed robbery.

Applicant filed a timely notice of appeal and Appellate Defender Kathrine H. Hudgins of the South Carolina Commission on Indigent Defense—Office of Appellate Defense perfected the appeal on Applicant's behalf. On appeal, Applicant argued the trial court erred in prohibiting Applicant to cross-examine a witness about lying to law enforcement. Following briefing, the South Carolina Court of Appeals affirmed Applicant's conviction on November 29, 2017. State v. Wilson, Op. No. 2017-UP-444 (S.C. Ct. App. filed November 29, 2017). The remittitur was returned to the circuit court on December 15, 2017.

Applicant filed his first application for post-conviction relief on April 3, 2018 and Respondent filed its Return on July 6, 2018. Applicant alleged he was being held in custody unlawfully for the following reason:

- 1) "Ineffective Assistance of Counsel"
 - a. "Failure to request continuance, failure to effectively cross-examine witnesses on dismissed charge, failure to move for mistrial"
- 2) "Prosecutorial Misconduct"
 - b. "Nondisclosure of material evidence, conflict of interest"

As requested relief sought, Applicant states he is seeking "sentence vacated, verdict set aside." Applicant voluntarily withdrew his PCR and the presiding Circuit Court Judge signed an order indicating such on February 28, 2019.

II. CURRENT APPLICATION

Applicant filed his current application for post-conviction relief on October 17, 2019. Applicant alleges he is being held in custody unlawfully for the following reasons:

- 1) "Prosecutorial Misconduct"
- 2) "Ineffective Assistance of Counsel"
- 3) Waiver of prior PCR was not voluntary or knowing



Applicant requested the following relief: "sentence vacated, verdict set aside."

Attached to Respondent's Return and before this Court are the records of the Charleston County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the transcript, Applicant's appellate and prior PCR records, and the application.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the pleadings, the records submitted to it by the parties, and the applicable law. Pursuant to South Carolina Code Annotated Sections 17-27-70 and -80, this Court informs the parties of its intent to dismiss the application as there is no genuine issue of material fact which would necessitate an evidentiary hearing. See S.C. Code Ann. § 17-27-70(b) (establishing procedure for summary disposition of PCR applications); Leamon v. State, 363 S.C. 432, 434, 611 S.E.2d 494, 495 (2005) (summary disposition appropriate when there is no need to develop facts and the applicant is not entitled to relief); Re: Appointment of Counsel in Post-Conviction Relief Cases Before the Circuit Court, S.C. Sup. Ct. Order filed October 6, 2008; Rule 71.1(d), SCRPC (providing for appointment of counsel only where there is a question of law or fact which necessitates a hearing). Respondent moved for summary dismissal, and this Court finds summary dismissal is appropriate for the following reasons:

Statute of Limitations

Respondent moved to summarily dismiss this application for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10 to -160. Specifically, the act requires as follows:

(A) An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

(B) When a court whose decisions are binding upon the Supreme Court of this State or the Supreme Court of this State holds that the Constitution of the United States or the Constitution of South Carolina, or both, impose upon state criminal proceedings a substantive standard not previously recognized or a right not in existence at the time of the state court trial, and if the standard or right is intended to be applied retroactively, an application under this chapter may be filed not later than one year after the date on which the standard or right was determined to exist.

(C) If the applicant contends that there is evidence of material facts not previously presented and heard that requires vacation of the conviction or sentence, the application must be filed under this chapter within one year after the date of actual discovery of the facts by the applicant or after the date when the facts could have been ascertained by the exercise of reasonable diligence.

S.C. Code Ann. § 17-27-45.

The South Carolina Supreme Court has held the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). Additionally, S.C. Code Ann. § 17-27-70(c) authorizes the Court to “grant a motion by either party for summary disposition of [an] application when it appears from the pleadings . . . that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.”

Applicant was sentenced on January 6, 2016. The Remittitur was issued on December 20, 2017. The application was therefore due on December 20, 2018. This application was filed on October 17, 2019, well beyond the statutory filing period. Therefore, the application shall be summarily dismissed for failure to file within the time mandated by Uniform Post-Conviction Procedure Act.



In the present case, Applicant is alleging he is entitled to post-conviction relief based on allegations that his conviction is invalid due to alleged failures of trial counsel. However, Applicant failed to comply with the filing requirements under S.C. Code Ann. § 17-27-45. Therefore, the application should be summarily dismissed as barred by the statute of limitations. Accordingly, this application is untimely pursuant to Section 17-27-45 and this Court finds it should be dismissed for failure to file within the time mandated by Uniform Post-Conviction Procedure Act unless Applicant can provide a sufficient reason why he should be allowed to proceed forward on this untimely action.

Respondent also moved to summarily dismiss the application because it is successive to Applicant's prior post-conviction relief application. This Court agrees this action should be summarily dismissed as successive.

Courts disfavor successive applications and place the burden on applicants to establish that any new ground raised in a subsequent application could not have been earlier raised in a previous application. Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); Arnold v. State, 309 S.C. 157, 420 S.E.2d 834 (1992). Section 17-27-90 of the South Carolina Code states:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental, or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily, and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental, or amended application.

Section 17-27-90 is clear—successive post-conviction relief applications are forbidden unless an applicant can indicate a “sufficient reason” why new grounds for relief were not raised or were not properly raised in previous applications or actions challenging this conviction. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991). Any new ground raised in a subsequent application is limited to



those grounds that “could not have been raised . . . in the previous application.” Id. at 450, 409 S.E.2d at 394. If the applicant could have raised these allegations in a previous application, then the applicant may not raise those grounds in successive applications. Id. Applicant bears the burden of showing the allegations could not have been previously raised. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980).

The South Carolina Supreme Court held the PCR rules “contemplate an adjudication on the merits of the original petition, one bite at the apple as it were.” Aice, 305 S.C. at 452, 409 S.E.2d at 395 (citing Gamble v. State, 298 S.C. 176, 178, 379 S.E.2d 118, 119 (1989)). The Court also noted, “[f]inality must be realized at some point in order to achieve a semblance of effectiveness in dispensing justice.” Id. at 451, 409 S.E.2d at 395. Here, Applicant has failed to show that a successive application is appropriate or why he could not have raised these claims in his prior post-conviction relief action. Accordingly, this Court finds this application should be dismissed as successive to Applicant’s prior post-conviction relief action and intends to dismiss it on this ground unless Applicant can provide sufficient reasons why the successive action should be allowed to proceed forward.

CONCLUSION

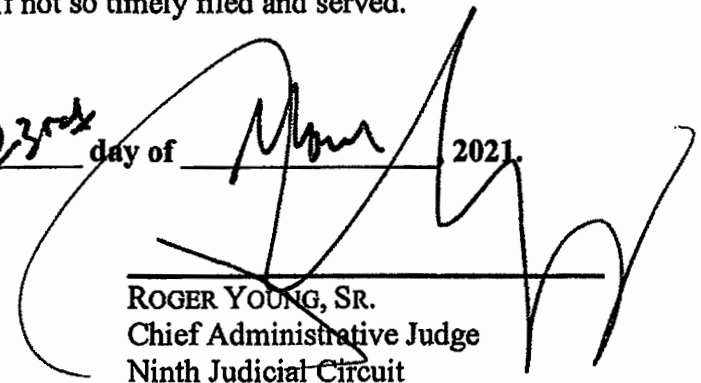
Pursuant to S.C. Code Ann. § 17-27-70(b), the Court intends to dismiss this application with prejudice unless Applicant provides specific reasons, factual or legal, why the application should not be dismissed in its entirety. Applicant is granted twenty days from the date of service of this Order upon him to show why this Order should not become final. Applicant shall file any reasons he may have with the Charleston County Clerk of Court and shall serve opposing counsel at the following address:

A handwritten signature in black ink, appearing to be the initials 'R' followed by a stylized '4' or 'h'.

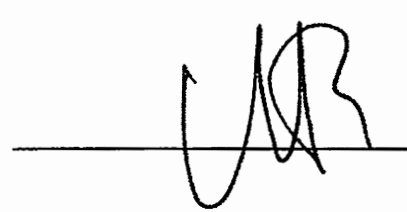
Office of the Attorney General
Attn: Benjamin Limbaugh, Esquire
PCR Division – 9th Circuit
P.O. Box 11549
Columbia, South Carolina 29211

Applicant is cautioned that his response to this order must be actually received by the Charleston County Clerk of Court and opposing counsel within twenty days, and that the Court will not consider any issues raised in his response if not so timely filed and served.

AND IT IS SO ORDERED this 23rd day of March 2021.



ROGER YOUNG, SR.
Chief Administrative Judge
Ninth Judicial Circuit


_____, South Carolina

IN The State of South Carolina }
County of Charleston }
Robert Wilson #272726 }
Applicant }
-v- }
State }
Respondent }
_____ }

Comes Now, Applicant Robert Wilson who moves before this Honorable Court by way of Motion requesting Permission to Reinstate and amend his Post conviction Relief Application. Based on the following facts and to include the following grounds for relief:

Statement and Facts
of the case

Applicant Wilson was indicted and tried on two counts of armed robbery. Applicant was found guilty and sentenced to two (2) 13 Year sentences to run concurrent. The South Carolina Court of Appeals decided the appeal in an unpublished

-
- (1) IN the interest of Justice if it may please the Court, The Applicant was never identified as the person who committed the robbery

OPINION Pursuant to Rule 220(b) SCACR,
date (Filed October 1, 2017; Decided November
29, 2017; OPINION NO: 2017-UP-444) See Exhibit A.

Applicant filed a Application For Post
Conviction Relief April 3 2018- Case NO:
2018-CP-10-1675 Exhibit B Applicant didn't
freely, voluntarily and intelligently withdraw
his Application For Post Conviction Relief as
indicated by the Court order dated February 28, 2019

Applicant was informed by PCR Attorney
MR. Christopher L. Murphy that his case was pending
and that a hearing was scheduled for March 21,
2019, at 9:30 AM. See Exhibit C Correspondence
dated March 7, 2019

Applicant subsequently contacted MR. Murphy
about why he had not been transported to
his scheduled hearing as indicated and
informed by correspondence from MR. Murphy,
MR. Murphy stated that he would make
sure the Applicant would be on the next
docket for Court of Common Pleas.

Six (6) Month subsequent to the previous
conversation Applicant received a letter
dated August 20, 2019 from MR. Murphy Legal
Mail* See Exhibits D & E. One contained a
Court Order date February 28, 2019

order signed by a Judge indicating that I had withdrawn MY APPLICATION freely VOLUNTARILY and INTELLIGENTLY.² The order filed with the clerk MRS. Julie ARMSTRONG date March 4, 2019.³ APPLICANT had NO knowledge of his APPLICATION being withdrawn.

IN fact MR. Murphy by way of correspondence dated February 19, 2019 informed APPLICANT that should the Court Rule AGAINST him, he would file an APPEAL in APPLICANT's behalf.

See Exhibit (G), Paragraph (3) /

However NO such APPEAL was filed.

Based on the foregoing evidence and multiplicity of errors on behalf of MR.

MURPHY representation during MY PCR Proceeding, the APPLICANT asserts that

his PCR COUNSEL was ineffective and erroneously caused APPLICANT's PCR APPLICATION

to be dismissed prematurely.⁴ IN the

(2) APPLICANT never signed a waiver.*

(3) See Exhibit F,

(4) APPLICANT respectfully requests that his PCR be reinstated, because he did NOT knowingly.

VOLUNTARILY and INTELLIGENTLY withdraw

his APPLICATION for Post Conviction Relief.

The Applicant contends that based on foregoing, with a Prayer for relief, his Application be reinstated in the interest of Justice.

The Applicant raises as a Ground For relief Prosecutorial Misconduct and or State Misconduct, in connection with an illegal Plea agreement.

The Supreme Court must affirm the PCR Courts finding if they are supported by any competent evidence of probative value in the record. Webb v. State 281 SC. 237 314 SE 2d 839 (1984). Here the PCR Court found that Washington was entitled to a New trial because the State misconduct in failing to fully disclose the nature of its relationship with a witness. The US Supreme Court in Giglio v. United State 405 U.S. 150, 92 S.Ct. 767, 31 LE 2d 104 (1972) stated the deliberate deception of a court and ~~JURORS~~ by the presentation of known false evidence is incompatible with the rudimentary demands of justice, the same result, obtains when the state,

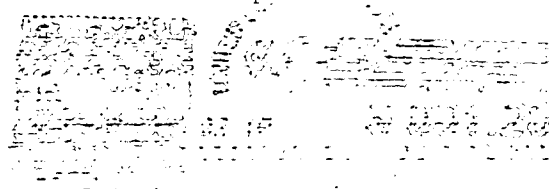
Although Not soliciting false evidence, allows it to go uncorrected when it appears. Under the Present fact, the State allowed to go uncorrected false information about its relationship with its star witness. Although it had entered into a plea agreement with this witness, the State, in Lines 5-19 of Trial Transcript Page 63 in its Pretrial Motions emphatically denied knowing that the State star witness had Pending charges in the 9th Circuit Berkeley County. This is the States Misconduct and Solicitor Osborne committed Perjury at Lines 14-19 Despite the foregoing charge of Grand Larceny of which was still Pending and still a Qualifying Property Crime and the court (General Sessions) still retained Jurisdiction. By Law Pursuant to the Code § 16-1-57, Based on the witness Priors the witness Plea to a Misdemeanor was an illegal Plea deal Made by Solicitor Osborne and Solicitor McNeely. IN furtherance of the States Misconduct to commit fraud UPON the court, Solicitor Osborne INCONJUNCTION conspired with Solicitor McNeely See Trial Transcript Page 68 Lines 9-12 of their deliberate attempt.

Need Some Help Please

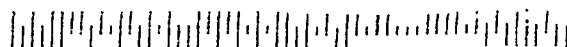
I AM TRYING TO FIND SOME ANSWER TO
THIS QUESTION. I WAS SENTENCE BY THE
HONORABLE KRISTI L. HARRINGTON, WHO IS
NO LONGER A JUDGE. WAS LET GO ON BRIBERY
CHARGES. CAN THIS AFFECT MY SENTENCE FROM
JUDGE HARRINGTON IN ANY WAY, I AM ASKING
BECAUSE I DON'T KNOW WHO I CAN TALK TO
ABOUT THIS MATTER.

Thank's a Lot.

Robert Wilson



OFFICE OF the Attorney General
Attn: BENJAMIN LIMBAUGH, ESQUIER
PCR DIVISION-9th circuit
P.O. Box 11549
Columbia, South Carolina 29211



Robert Wilson #272726

MACDOUGALL, CORR. INST.,

C-2-B

1516 OLD Gilliard RD.

Ridgeville, SC

29472

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Post Office Box 21787 - Columbia, South Carolina 29221

Pursuant to Rule 4(d)(2) of the South Carolina Rules of Civil Procedure, the Director of the South Carolina Department of Corrections has designated Corley Bridges (Server) as his duly authorized agent for the purpose of making service of the process on the below named individual.

STATE OF SOUTH CAROLINA)

AFFIDAVIT OF PERSONAL SERVICE

COUNTY OF Berkeley)

On this 6 day of April, 2021, I served the Conditional Order of Dismissal (2019-CP-10-5343), on Inmate Robert Wilson SCDC Inmate #272726 by delivering personally and leaving a copy of the same at MACDOUGALL Correctional Institution. Deponent is not a party to this action.

s/ [Signature]

SCDC Server

SWORN TO AND SUBSCRIBED BEFORE ME

this 6 day of April, 2021

[Signature] (L.S.)
Notary Public for South Carolina

My Commission Expires: 3-13-29

ADMISSION OF SERVICE

Service of a copy of the within Conditional Order of Dismissal (2019-CP-10-5343) is admitted at the South Carolina Department of Corrections (MacDougall Correctional Institution), Ridgeville, Berkeley County, SC this 6 day of April, 2021.

s/ [Signature]
Inmate
SCDC Inmate #: 272726

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

Robert Wilson, #272726,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No. 2019-CP-10-05343

**AMENDED RETURN AND
PARTIAL MOTION TO DISMISS
(Counsel Appointed)**

FILED
2024 JUL 23 AM 11:15
CLERK OF COURT

In response to the application for post-conviction relief (PCR) filed by Robert Wilson (Applicant) on October 17, 2019, and Applicant's response to this Court's Conditional Order of Dismissal, Respondent makes the following amended return and partial motion to dismiss.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving a thirteen-year sentence. In April 2015, the Charleston County Grand Jury indicted Applicant for two counts of armed robbery (2015-GS-10-1767, -1769). On January 6, 2016, Applicant proceeded to a jury trial before the Honorable Kristi L. Harrington. Russell D. Hilton, Esquire, represented Applicant. Assistant Solicitor David L. Osborne prosecuted the case. The jury found Applicant guilty as indicted, and Judge Harrington sentenced him concurrently to thirteen years for each count of armed robbery.

Applicant filed a timely notice of appeal, and Appellate Defender Kathrine H. Hudgins perfected the appeal. On appeal, Applicant argued the trial court erred in prohibiting Applicant to cross-examine a witness about lying to law enforcement. The Court of Appeals affirmed on the merits. State v. Wilson, Op. No. 2017-UP-444 (S.C. Ct. App. filed Nov. 29, 2017). The remittitur was sent on December 15, 2017.

On April 3, 2018, Applicant filed his first PCR application alleging:

1. "Ineffective Assistance of Counsel"
 - a. Failure to request continuance;
 - b. Failure to effectively cross-examine witnesses on dismissed charge;
 - c. Failure to move for mistrial.
2. "Prosecutorial Misconduct"
 - a. Nondisclosure of material evidence;
 - b. Conflict of interest.

As relief, Applicant sought to have his "sentence vacated, verdict set aside."

On January 24, 2019, an evidentiary hearing convened before the Honorable J. Cordell Maddox, Jr. Applicant was present and represented by Christopher Murphy, Esquire. Assistant Attorney General Benjamin Limbaugh represented Respondent. At the hearing, Applicant indicated he wished to withdraw his PCR application. On March 4, 2019, Judge Maddox issued a final order dismissing the application.

CURRENT APPLICATION

On October 17, 2019, Applicant filed this current PCR application alleging he is being held in custody unlawfully for the following reasons:

1. Prosecutorial Misconduct: nondisclosure of material evidence, conflict of interest;
2. Ineffective Assistance of Counsel: Failure to request continuance, failure to effectively cross-examine witness on dismissed charges, failure to move for mistrial;
3. Ineffective assistance of PCR counsel: counsel failed to file an appeal from the denial of Applicant's first PCR application.

As relief, Applicant requests "sentence vacated, verdict set aside."

Respondent filed a return and motion to dismiss, asserting the application was successive and untimely. On March 26, 2021, the Honorable Roger Young, Sr. issued a Conditional Order of Dismissal, finding the action was successive and barred by the statute of limitations, and providing

Applicant twenty days to show why the order should not become final. Thereafter, Applicant responded to the Conditional Order of Dismissal, asserting:

1. Ineffective assistance of PCR counsel: Counsel did not appeal the dismissal of his first PCR application;
2. Applicant did not voluntarily withdraw his first PCR application;
3. Prosecutorial misconduct: illegal plea agreement with witness.

Attached to this amended return and incorporated by reference are Applicant's response to the Conditional Order of Dismissal, Applicant's records from the South Carolina Department of Corrections, and the transcript of Applicant's first PCR hearing.¹ Respondent reserves the right to amend this Return upon receipt of any additional relevant materials.

MOTION TO DISMISS

Respondent moves to dismiss Applicant's allegations of prosecutorial misconduct and ineffective assistance of counsel as successive and untimely. Respondent likewise moves to dismiss Applicant's claims against PCR counsel (other than the claim related to the belated appeal) as not a proper PCR claim.

Statute of Limitations

Applicant's allegations of ineffective assistance of counsel and prosecutorial misconduct should be dismissed as untimely. A PCR application "must be filed within one year after the entry of judgment . . . or within one year after the sending of the remittitur" § 17-27-45(A). A motion for summary judgment may be used to raise the defense of statute of limitations. McDonnell v. Consol. Sch. Dist. Of Aiken, 315 S.C. 487, 489, 445 S.E.2d 638, 639 (1994). Here, Applicant was sentenced on January 6, 2016. He filed a direct appeal, and the remittitur was sent

¹ Respondent incorporates by reference herein the records filed with its original return, which include the Charleston County Clerk of Court records of the underlying convictions, the trial transcript, and Applicant's appellate records.

December 15, 2017. This PCR application was therefore due on or before December 16, 2018. This application was filed on October 17, 2019—*after* the filing period expired. Accordingly, Applicant’s claims of ineffective assistant of counsel and prosecutorial misconduct should be dismissed as untimely.

Successive

Applicant’s claims of ineffective assistance of counsel and prosecutorial misconduct should be dismissed as successive. Courts disfavor successive applications and place the burden on applicants to establish that any new ground raised in a subsequent application could not have been earlier raised in a previous application. Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); Arnold v. State, 309 S.C. 157, 420 S.E.2d 834 (1992). Section 17-27-90 of the South Carolina Code states:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental, or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily, and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental, or amended application.

Successive PCR applications are forbidden unless an applicant can indicate a “sufficient reason” why new grounds for relief were not raised or properly raised in previous applications or actions challenging these convictions. Any new ground raised in a subsequent application is limited to those grounds that “could not have been raised . . . in the previous application.” Aice, 305 S.C. at 450, 409 S.E.2d at 394. The applicant bears the burden of showing the allegations could not have been previously raised. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980).

Here, Applicant's allegations related to ineffective assistance of counsel and prosecutorial misconduct could have been raised in his prior PCR application. Thus, these allegations should be dismissed as successive.

Failure to state cognizable claims

Respondent moves to dismiss Applicant's claim of ineffective assistance of PCR counsel (other than the claim related to the late appeal) because Applicant has not set forth extraordinary circumstances to support such a claim. A successive PCR application is not allowed on the basis that the applicant's "first complete PCR application was insufficient due to ineffective PCR counsel." Aice v. State, 305 S.C. 448, 448, 409 S.E.2d 392, 393 (1991). Although there may be narrow exceptions to the general rule against successiveness, the claim that an applicant's first PCR application was insufficient due to ineffective PCR counsel is "an exception that may well swallow Rule 50(3)."² Id. at 450-51, 409S.E.2d at 394. Thus, "the contention that prior PCR counsel was ineffective is not per se a 'sufficient reason' allowing for a successive PCR application under § 17-27-90." Id. at 451, 409 S.E.2d at 394. Rather, such a claim is cognizable in "only the rarest of exceptions, when the system has simply failed a defendant and were to continue the defendant's imprisonment without review would amount to a gross miscarriage of justice." Id. at 451, 409 S.E.2d at 394.

To the extent Applicant raises any claim against PCR counsel other than his claim related to a belated appeal of his first PCR action, Applicant has not set forth facts to support a situation "only [in] the rarest of exceptions, when the system has simply failed [Applicant] and were to

² "Under Section 8 of the [PCR] Act, successive applications for relief are not to be entertained, and the burden shall be on the applicant to establish that any new ground raised in a subsequent application could not have been raised by him in the previous application."

continue [his] imprisonment without review would amount to a gross miscarriage of justice.”³ *Id.* Thus, other than the claim related to a belated appeal, Applicant has not set forth a sufficient exception to the general prohibition against claims of ineffective assistance of PCR counsel, and this claim should be dismissed.

AUSTIN REVIEW

Respondent requests an evidentiary hearing on Applicant’s claim related to a belated appeal of his first PCR application. An evidentiary hearing may be conducted regarding a successive PCR application "on the issue of whether, in fact, the petitioner requested and was denied an opportunity to seek appellate review" of his first PCR action. *Austin v. State*, 305 S.C. at 454, 409 S.E.2d at 396. "If the circuit court finds that the petitioner never in fact sought discretionary review, the petitioner may appeal that finding." *Id.* at 455, 409 S.E.2d at 396. *Austin* allows an applicant to petition the Supreme Court for discretionary review of the dismissal of his initial PCR application outside of the ordinary time limits for bringing such an appeal.

Here, Applicant’s allegation that he asked counsel to appeal the dismissal of his first PCR action is likely not refuted by the record. Thus, Respondent requests an evidentiary hearing on the sole issue of whether Applicant is entitled to a late appeal of the dismissal of his first PCR action.

OTHER ALLEGATIONS DENIED

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this Return is hereby denied.

[Conclusion and signature page follows]

³ To the extent Applicant alleges he was not in court to withdraw his PCR application, this is directly refuted by the transcript of the first PCR hearing.

CONCLUSION

WHEREFORE, Respondent requests an evidentiary hearing on the issue of whether Applicant is entitled to a belated appeal of his first PCR application. Respondent further requests a hearing on its motion to dismiss the remaining allegations in this application.

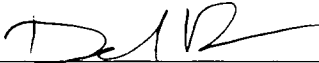
Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

DANIELLE DIXON
Assistant Attorney General

By:



ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

July 18, 2024

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
)

Robert Wilson, #272726,

) Case No.: 2019-CP-10-05343
)

) Applicant,
)

v.)

) Certificate of Service by Mail
)

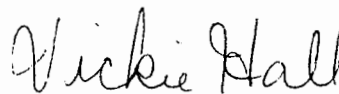
State of South Carolina,

) Respondent,
)
_____)

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Amended Return and Partial Motion to Dismiss in the above-captioned matter, on the following person by depositing same in the United States mail, postage prepaid:

Denise Grainger Swope, Esquire
The Swope Law Firm, P.A.
1525 Sam Rittenberg Boulevard, Suite 208
Charleston, SC 29407

DATED this 18th day of July, 2024.



Vickie Hall, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA	*	COURT OF COMMON PLEAS
	*	
COUNTY OF CHARLESTON	*	TRANSCRIPT OF RECORD
-----X		
ROBERT WILSON,	*	
	*	
Applicant,	*	
	*	
vs.	*	Case No. 2019-CP-10-05343
	*	
STATE OF SOUTH CAROLINA,	*	
	*	
Respondent.	*	
-----X		

September 12, 2024

B E F O R E:

The Honorable Michael Nettles, Presiding Judge

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

Denise G. Swope, Esq.
Attorney for the Applicant

Danielle Dixon, Esq.
Assistant Attorney General for the State

Recorded by: DCRP Court Monitor

Court Transcriber: Bobbi Fisher, RPR
SC Official Court Reporter III

I N D E X

DESCRIPTION	PAGE
Proceedings	3

E X H I B I T S

(None.)

COURT REPORTER LEGEND

Dash (--)	Indicates an interruption in speech
Ellipses (...)	Indicates trailing off in speech
(ph)	Indicates phonetic word
[Verbatim]	Indicates the word is said as written
(Indiscernible)[Transcription]	Indicates word(s) is not known due to audio recording quality

P R O C E E D I N G S

(The following proceedings started at 9:52 a.m.):

MS. DIXON: May it please the Court. Danielle Dixon,
Assistant Attorney General for the State of South Carolina.

This is the case of Robert Wilson v. State, Docket
No. 2019-CP-10-5343. Mr. Wilson is currently serving an
aggregate 13-year sentence. He was indicted by the Charleston
County Grand Jury in April of 2015 for two counts of armed
robbery. Those were indictment numbers 2015-GS-10-1767 and
1769.

He proceeded to a jury trial on January 6th, 2016, before
the Honorable Christy Harrington. He was represented by
Russell Hilton, and this case was prosecuted by David Osborne.

The jury found the -- found him guilty as indicted, and
had received concurrent sentences of 13 years for each count
of armed robbery.

He filed a timely Notice of Appeal, which was perfected
by appellate defender Catherine Hudes (ph), and on appeal, he
argued the Court erred in prohibiting him from cross-examining
a witness about lying to law enforcement. The Court of
Appeals affirmed on the merits, and the remittitur was sent
December 15th, 2017.

On April 3rd, 2018, he filed his first PCR application.
There was a hearing before Judge Maddox on January 24th, 2019,
and he was represented by Christopher Murphy at that hearing.

1 At that time, he told the Court he wanted to withdraw his
2 application, and on March 4th, 2019, Judge Maddox issued a
3 Final Order dismissing the application.

4 He has now filed this current PCR application
5 October 17th, 2019, raising issues related to prosecutorial
6 misconduct, ineffective assistance of counsel, and ineffective
7 assistance of PCR counsel for not filing an appeal from the
8 Order dismissing his first PCR action.

9 The State filed a Return and Motion to Dismiss, arguing
10 that this was time-barred, barred by the statute of
11 limitations, and also successive to the first PCR action.

12 Your Honor, at this time, I believe we do have a
13 stipulation and kind of a concession. The State is conceding
14 that, if Chris Murphy were here, he would testify that he
15 intended to file an appeal from the first PCR application and
16 just didn't happen. And based on that, the State would
17 concede that the evidence likely shows he did not voluntarily
18 waive the appeal of his first PCR action.

19 MS. SWOPE: Yes, Your Honor, that is correct. There is
20 correspondence regarding that issue.

21 As far as today, in terms of the other two grounds of
22 prosecutorial misconduct and ineffective assistance of trial
23 counsel, he would be waiving those. For purposes of today, in
24 terms of a new -- addressing of those issues, he's not waiving
25 them for purposes of the appeal, of course, but as of today,

1 we're just going forward on the appellate process of the
2 dismissal of his PCR.

3 MS. DIXON: Oh, that's not my understanding. My
4 understanding was y'all were waiving the other ones -- we're
5 asserting the remaining claims are time-barred and also
6 successive to the first PCR action. He could have raised
7 these at the first PCR hearing.

8 And let's see, if we look at --

9 THE COURT: Whether y'all agree on that or not, we can
10 address that issue here today.

11 (Counsel conferring off the record.)

12 MS. DIXON: You were just talking about appealing it or
13 are you talking about --

14 MS. SWOPE: Yes, just -- no, he understands that he is
15 not entitled to a new PCR. So, for those purposes, he's
16 waiving those allegations.

17 THE COURT: And you can raise any issue of law in your
18 appellate --

19 MS. SWOPE: Right, yes. And he's only reserving his
20 right to raise issues on the appeal in terms of the first PCR.
21 He understands that he cannot go forward with a new PCR today.

22 THE COURT: Right. Very good. And I'll ask that you
23 prepare an Order to that effect.

24 MS. DIXON: Okay. Thank you, Your Honor.

25 THE COURT: Well, good luck -- good luck to you.

1 (The above hearing concluded at 9:57 a.m.)

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Certificate of Transcriber

CASE NAME: Robert Wilson v. State of SC

DATE OF HEARING: 9/12/2024

RECORDING METHOD: DCRP Court Monitor

I, Bobbi Fisher, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that I was not present for the live proceeding; and that said proceedings were transcribed to the best of my ability from the audio and/or video recording and supporting information; and that I am neither counsel for, related to, nor employed by any of the parties to this case; and I have no interest, financial or otherwise, in its outcome.



/s/ Bobbi Fisher_____

Bobbi Fisher, SC Official Court Reporter III, RPR

Transcript Prepared: 6/18/2025

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Robert Wilson, #272726,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No. 2019-CP-10-05343

**ORDER GRANTING LATE APPEAL
AND DISMISSING REMAINING
ALLEGATIONS**

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This matter is before the Court by way of an application for post-conviction relief (PCR) filed by Robert Wilson (Applicant) on October 17, 2019. Respondent made its return and moved to dismiss the application as untimely and successive. On March 26, 2021, the Honorable Roger Young Sr. issued a Conditional Order of Dismissal provisionally dismissing the application but providing Applicant twenty days to respond and provide a reason why the Order should not become final. Thereafter, Applicant responded to the Conditional Order of Dismissal. Respondent filed an amended return requesting a hearing on the narrow issue of whether Applicant should be granted a late appeal of the dismissal of his first PCR hearing pursuant to Austin v. State, 305 S.C. at 454, 409 S.E.2d at 396.

On September 12, 2024, an evidentiary hearing convened. Applicant was present and represented by Denise Swope, Esquire. Assistant Attorney General Danielle Dixon represented the State. After reviewing the records before this Court and the stipulation by the parties, this Court finds Applicant is entitled to a late appeal of his first PCR application. This Court further finds Applicant waived the remaining allegations, and they are dismissed with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving a thirteen-year sentence. In April 2015, the Charleston County Grand Jury indicted Applicant for two counts of armed robbery (2015-GS-10-1767, -1769). On January 6, 2016, Applicant proceeded to a jury trial before the Honorable Kristi L. Harrington. Russell D. Hilton, Esquire, represented Applicant. Assistant Solicitor David L. Osborne prosecuted the case. The jury found Applicant guilty as indicted, and Judge Harrington sentenced him concurrently to thirteen years for each count of armed robbery.

Applicant filed a timely notice of appeal, and Appellate Defender Kathrine H. Hudgins perfected the appeal. On appeal, Applicant argued the trial court erred in not allowing Applicant to cross-examine a witness about lying to law enforcement. The Court of Appeals affirmed on the merits. State v. Wilson, Op. No. 2017-UP-444 (S.C. Ct. App. filed Nov. 29, 2017). The remittitur was sent on December 15, 2017.

On April 3, 2018, Applicant filed his first PCR application alleging:

1. "Ineffective Assistance of Counsel"
 - a. Failure to request continuance;
 - b. Failure to effectively cross-examine witnesses on dismissed charge;
 - c. Failure to move for mistrial.
2. "Prosecutorial Misconduct"
 - a. Nondisclosure of material evidence;
 - b. Conflict of interest.

As relief, Applicant sought to have his "sentence vacated, verdict set aside."

On January 24, 2019, an evidentiary hearing convened before the Honorable J. Cordell Maddox, Jr. Applicant was present and represented by Christopher Murphy, Esquire. Assistant Attorney General Benjamin Limbaugh represented Respondent. At the hearing, Applicant

indicated he wished to withdraw his PCR application. On March 4, 2019, Judge Maddox issued a final order dismissing the application. Applicant did not appeal.

CURRENT APPLICATION

On October 17, 2019, Applicant filed this current PCR application alleging he is being held in custody unlawfully for the following reasons:

1. Prosecutorial Misconduct: nondisclosure of material evidence, conflict of interest;
2. Ineffective Assistance of Counsel: Failure to request continuance, failure to effectively cross-examine witness on dismissed charges, failure to move for mistrial;
3. Ineffective assistance of PCR counsel: counsel failed to file an appeal from the denial of Applicant's first PCR application.

As relief, Applicant requested "sentence vacated, verdict set aside."

Respondent filed a return and motion to dismiss, asserting the application was successive and untimely. On March 26, 2021, the Honorable Roger Young, Sr. issued a Conditional Order of Dismissal, finding the action was successive and barred by the statute of limitations, and providing Applicant twenty days to show why the order should not become final. Thereafter, Applicant responded to the Conditional Order of Dismissal, asserting:

1. Ineffective assistance of PCR counsel: Counsel did not appeal the dismissal of his first PCR application;
2. Applicant did not voluntarily withdraw his first PCR application;
3. Prosecutorial misconduct: illegal plea agreement with witness.

Respondent filed an amended return requesting an evidentiary hearing on the narrow issue of whether Applicant should be granted a late appeal of the denial of his first PCR application pursuant to Austin.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the records before it, including the Charleston Count Clerk of Court records of the underlying convictions; Applicant's records from the South Carolina Department of Corrections; the records of Applicant's direct appeal; the records of this Applicant's first PCR application; and the records of this application. Below are this Court's findings of facts and conclusions of law as required by section 17-27-80 of the South Carolina Code (2017).

AUSTIN REVIEW

Applicant alleges his prior PCR counsel, Christopher L. Murphy, Esquire, was ineffective for failing to appeal the denial of Applicant's first PCR application. This Court finds Applicant did not knowingly and intelligently waive his right to appeal the denial of his first PCR application and is entitled to a late appeal of that order pursuant to Austin.

An evidentiary hearing may be conducted regarding a successive PCR application "on the issue of whether, in fact, the petitioner requested and was denied an opportunity to seek appellate review" of his first PCR action. Austin v. State, 305 S.C. at 454, 409 S.E.2d at 396. "If the circuit court finds that the petitioner never in fact sought discretionary review, the petitioner may appeal that finding." Id. at 455, 409 S.E.2d at 396. Austin allows an applicant to petition the Supreme Court for discretionary review of the dismissal of his initial PCR application outside of the ordinary time limits for bringing such an appeal. At the hearing, the parties stipulated that Murphy would testify he intended to file a notice of appeal but did not timely do so. Based on this stipulation, this Court finds Applicant did not voluntarily waive the appeal of his first PCR application and is entitled to a late appeal of that order.

[Conclusion and signature page follows]

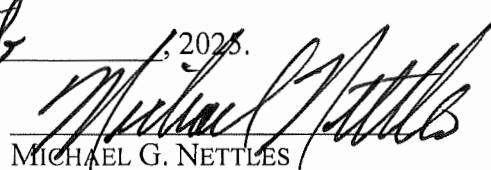
CONCLUSION

Based on the foregoing, this Court finds Applicant is entitled to a late appeal of the denial of his first PCR application pursuant to Austin. This Court further finds Applicant waived his remaining allegations, and they are dismissed with prejudice. Should Applicant wish to appeal, he must file and serve a notice of appeal within thirty days of receipt by counsel of written notice of entry of judgment. See Rule 203, SCACR. Applicant has the right to an appellate counsel's assistance in seeking review of the denial of PCR. Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991). If Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on applicant's behalf. Rule 71.1(g), SCRCP. Attention is directed to Rule 243, SCACR, for appellate procedures.

IT IS THEREFORE ORDERED:

1. Applicant is entitled to a late appeal of the denial of his first PCR application;
2. The remaining allegations are dismissed with prejudice; and
3. Applicant shall be remanded to and remain in the custody of the State.

AND IT IS SO ORDERED THIS 15 day of Feb, 2025.


 MICHAEL G. NETTLES
 Presiding Judge
 Ninth Judicial Circuit

2-15, South Carolina



ALAN WILSON
ATTORNEY GENERAL

February 24, 2025

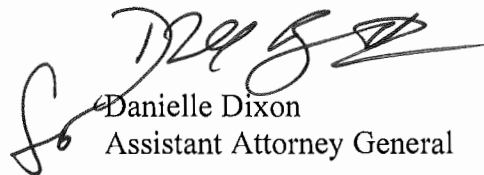
The Honorable Julie J. Armstrong
Clerk of Court - Charleston County
100 Broad Street, Suite 106
Charleston, South Carolina 29401

***Re:* Robert Wilson, #272726 v. State of South Carolina**
Case No. 2019-CP-10-05343

Dear Ms. Armstrong:

Enclosed please find the original Order Granting Late Appeal and Dismissing Remaining Allegations signed by the Honorable Michael G. Nettles, in the above-captioned case, for filing in your office. In addition, please forward a time-stamped copy back to our office for our file.

Sincerely,


Danielle Dixon
Assistant Attorney General

DD/vh

cc: Denise Grainger Swope, Esquire