

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Georgetown County

Larry B. Hyman, Jr., Circuit Court Judge

COREY JAWAN ROBINSON, #00294233,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-001391

APPENDIX

JASON P. BOAN

Post Office Box 15849
Surfside Beach, South Carolina 29587

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

JOSHUA L. THOMAS
Assistant Attorney General

Post Office Box 11549
Columbia, South Carolina 29211

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA)

COURT OF GENERAL SESSIONS

08-GS-22-727; 728; 729

COUNTY OF GEORGETOWN)

08-GS-22-0966

State of South Carolina,)

Plaintiff,)

-VS-)

TRANSCRIPT OF RECORD

Corey Jawan Robinson,)

Defendant.)

March 16, 2009

Georgetown, South Carolina

B E F O R E:

HONORABLE STEVEN H. JOHN, Circuit Judge.

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

T. Willett Andrew, II, Esquire
15th Circuit Solicitor's Office
P. O. Box 1276
Conway, South Carolina 29528
Attorney for the State

C. Reuben Goude, Esquire
P. O. Box 706
Georgetown, South Carolina 29442
Attorney for the Defendant

And

Corey Jawan Robinson, Pro Se

Dixie Cox Eubank
Official Reporter

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1 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
2 JURY.)

3 THE COURT: All right, Solicitor, you want to call the
4 case.

5 MR. ANDREW: Yes, sir, Your Honor. This is the State
6 versus Corey Robinson.

7 THE COURT: And what's the docket number?

8 MR. ANDREW: Your Honor, he has five counts that have
9 all been to the Grand Jury, been true billed, which begins
10 with 2008-GS-22-727; that's a possession of cocaine base with
11 intent to distribute. He has two priors, therefore making
12 that a third, Your Honor. The same, 2008-GS-22-728, that's
13 possession of marijuana with intent to distribute.

14 We also have 2008-GS-22-729; that's assault while
15 resisting arrest; and 2008-GS-22-0966, assault and battery of
16 a high and aggravated nature, and he was also indicted on
17 2008-GS-22-967, resisting arrest. We're not going to proceed
18 with that one. We have the assault while resisting we are
19 pursuing, Your Honor.

20 THE COURT: All right, sir, so you're going to nolle
21 pross that one?

22 MR. ANDREW: Give me just a -- if you would, give me
23 just a second, Your Honor.

24 THE COURT: Yes, sir. You can wait; you don't have to
25 decide right now, that's fine, but you're not proceeding to

1 trial -- are you proceeding to trial then on ---

2 MR. ANDREW: We'll proceed on all of them at this time,
3 Your Honor.

4 THE COURT: All right, very good. All right, are there
5 any matters from the State that you would like to present as
6 to any motions or any matters that need to be presented by
7 the State?

8 MR. ANDREW: Yes, sir, Your Honor. The Defendant was
9 ordered by Judge Nettles to go -- to have a criminal
10 responsibility and capacity to perform evaluation done on
11 him. We've gotten those results back and they do indicate
12 that he is competent -- the Defendant is competent, and does
13 have the capacity to conform his actions. I'll pass those up
14 to the Court. The defense attorney has copies of those as
15 well, and we're just asking the Court to adopt those findings
16 and make a finding on the record that he is competent to
17 stand trial.

18 THE COURT: All right.

19 All right, Mr. Goude, you have seen the two reports. I
20 believe they are dated January 27, 2009, and February 12th,
21 2009, is that right?

22 MR. GOUDE: None of my cover letters ---

23 THE COURT: Well, it might very well that the cover
24 letters are different, but it's the same report, ---

25 MR. GOUDE: Yes, sir.

MOTIONS

1 THE COURT: --- is that right? All right, so there was
2 a cover letter to the Solicitor's Office, then a cover letter
3 to you, but looking at it, the reports are identical,
4 correct?

5 MR. GOUDE: Yes, Your Honor. I have one report dated
6 February the 12th, 2009, yes, sir.

7 THE COURT: Right. All right, very good. Is the
8 Defense in any way challenging the report as issued in this
9 matter as to the competency to stand trial or the opinion on
10 criminal responsibility, or opinion on capacity to conform
11 conduct?

12 MR. GOUDE: No, Your Honor.

13 THE COURT: All right, and again, I think we need to
14 re-visit this just one second. I have a report dated January
15 26th, 2009, that's on the opinion on competency to stand
16 trial, which is competent, and then a report dated February
17 12th, 2009. As to the opinion on criminal responsibility,
18 which is criminally responsible, and opinion on capacity to
19 conform conduct, and again had the capacity to conform, so
20 the January 27th, 2009, letter to the Solicitor's Office
21 indicates a carbon copy to you, Mr. Goude, and then the
22 February 12, 2009, letter was to you with a carbon copy to
23 the Solicitor's Office, so in actuality, there are two
24 reports, one by Michael Glasson, Chief Psychologist, dated
25 January 26, 2009, and another one by Michael Glasson, dated

1 February 12th, 2009, Chief Psychologist, as to those three
2 matters.

3 The first one was to competency to stand trial, which
4 the Department of Mental Health found him competent, and then
5 the second one, opinion on criminal responsibility, that he
6 was criminally responsible for his actions, and opinion on
7 capacity to conform conduct, that he had his capacity to
8 conform his conduct on the dates in question. All right.

9 MR. GOUDE: Yes, sir, I have both of those, and I see
10 both of those, Judge, and we have no evidence to present on
11 either order or report, rather, and we have no challenge to
12 either report on competency or sanity.

13 THE COURT: All right. Based upon that, then I do find
14 -- based upon the information presented, I do find that the
15 Defendant is competent to stand trial, and further that the
16 Defendant had the ability to and the capacity to conform his
17 conduct, and further regarding the criminal responsibility,
18 that -- as found by the Department of Mental Health, a
19 finding of criminal responsibility.

20 All right, anything further on those particular issues
21 from the State?

22 MR. ANDREW: Nothing from the State, Your Honor.

23 THE COURT: From the Defense?

24 MR. GOUDE: No, sir.

25 THE COURT: All right. Mr. Clerk, if you would, would

MOTIONS

9

1 you hand these to the court reporter and she can mark those
2 as Court's Exhibits 1 and 2.

3 REPORT OF MICHAEL GLASSON, CHIEF PSYCHOLOGIST, DATED
4 JANUARY 26, 2009, MARKED AS COURT'S EXHIBIT NUMBER 1.

5 REPORT OF MICHAEL GLASSON, CHIEF PSYCHOLOGIST, DATED
6 FEBRUARY 12, 2009, MARKED AS COURT'S EXHIBIT NUMBER 2.

7 THE COURT: All right, Solicitor, anything further?

8 MR. ANDREW: No further motions from the State. I
9 believe the Defense has some motions.

10 THE COURT: Yes, sir. All right, Mr. Goude, be glad to
11 hear from you regarding any motions that you might have, sir.

12 MR. GOUDE: Thank you, sir. Mr. Robinson, Judge, has
13 prepared some handwritten motions, which I will pass up, the
14 stapled stack for the Court. I have given a copy to the
15 prosecutor. It's several motions, Judge, such as a motion to
16 dismiss, motion to quash, motion to suppress, and I will
17 proceed with them when the Court is ready, or if you're ready
18 for me now, or if you want to read them.

19 THE COURT: I'll be glad for you to go forward. You
20 might as well take them in order as they are presented.
21 Start off with the motion to dismiss.

22 MR. GOUDE: All right. Your Honor, the first motion is
23 a motion to dismiss. Mr. Robinson states that he requests to
24 dismiss the charges on the lack of the demerit and also his
25 defamation of character of the arresting officer's part due

1 to mistake, fraud, or condition of mind, and Mr. Robinson
2 basically is saying that the indictments are defective, as
3 well as the arrest warrant.

4 In this case, the arrest warrant was issued after Mr.
5 Robinson was arrested, and he's asking that the charges be
6 dismissed because they are without merit and they defame his
7 character by charging him with drug offenses when he was not
8 involved with the drugs.

9 THE COURT: All right, sir. All right, Solicitor, the
10 State's position.

11 MR. ANDREW: Well, Your Honor, as you are well aware,
12 the circumstances in the cases can provide where an incident
13 comes up and an arrest needs to be made prior to an actual
14 warrant being obtained and that's what happened in this case.
15 Mr. Robinson was arrested and detained on the scene and he
16 was served with the arrest warrants, I believe, that
17 afternoon, or if not, that following morning, so I believe we
18 have met the burden there.

19 As far the other things, I don't know of any proof that
20 the defendant has provided to show that he has been
21 prejudiced in any way or a victim of the allegations
22 contained in his motion.

23 THE COURT: All right, sir. The motion to dismiss is
24 denied.

25 All right, you've got a -- the next filed motion is a

MOTIONS

11

1 motion to suppress evidence due to not having probable cause.

2 MR. GOUDE: Yes, Your Honor. That motion, that next
3 motion, is -- and as I understand, the Solicitor is calling
4 the arresting officer. This is a drug case where supposedly
5 some drugs were found near Mr. Robinson in the woods or
6 bushes after the arresting officer placed Mr. Robinson into
7 custody, so we're doing a suppression motion. It may be best
8 to reserve ruling on this motion until after the testimony is
9 in if that pleases the Court.

10 THE COURT: All right, sir, and you've got here this
11 motion to suppress for not having probable cause, and then
12 thereafter, there's another motion that says Notice of Motion
13 to suppress evidence. That one looks like it was filed
14 February 19th, 2009, and this one was filed December 1, 2008.
15 Are they basically the same motion?

16 MR. GOUDE: They're -- the one filed February the 19th,
17 Your Honor, which is dated January the 30th, deals -- on the
18 third line, it says, "With -- it's duplicity in the warrant,"
19 and that's to quash the arrest warrant. The arrest warrant
20 in this case was made after -- or the arrest warrant was
21 issued after the arrest was made.

22 THE COURT: Okay. Yeah, there is that motion to quash
23 the warrant, but if you look behind that, there's another
24 motion to suppress. That's the one I was talking about. I
25 had actually skipped over the quash the warrant to get back

1 to that one. After the quash the warrant, there's another
2 motion to suppress and I was wondering if the two motions to
3 suppress the evidence were essentially the same motion to
4 suppress or not.

5 MR. GOUDE: They have a little different stuff, Judge.
6 Maybe we could reserve ruling on that motion to suppress also
7 until after the testimony.

8 THE COURT: Very good, and the -- would you want to do
9 the same then on the -- I guess there's two motions to quash
10 the warrant?

11 MR. GOUDE: Yes, Your Honor, and that's a good idea to
12 do on that.

13 THE COURT: All right, very good.

14 All right, Solicitor, you want to present the -- your
15 testimony?

16 MR. ANDREW: Yes, sir. We've got the arresting
17 officer, John Seale, here, and we'd be glad to proffer
18 testimony.

19 THE COURT: All right, sir.

20 If you'd come around and be sworn, sir.

21 JOHN SEALE, being first duly sworn, is examined and
22 testifies as follows:

23 THE CLERK: Thank you. Please be seated and state your
24 name for the record, please.

25 MR. SEALE: John Seale, S-E-A-L-E.

IN CAMERA - JOHN SEALE - DIRECT EXAMINATION BY MR. ANDREW 13

1 THE COURT: Go ahead, Solicitor.

2 MR. ANDREW: Thank you, Your Honor.

3 DIRECT EXAMINATION

4 BY MR. ANDREW:

5 Q. Deputy Seale, will you explain where you are employed.

6 A. Georgetown County Sheriff's Office.

7 Q. Okay, and how long have you been employed there with
8 the Sheriff's Office?

9 A. Almost four years.

10 Q. And what's your duties there at the Sheriff's Office?

11 A. To protect and serve the community by responding to
12 calls for service and through routine patrol.

13 Q. And on June 3rd, 2008, did you have an occasion to
14 come into contact with a Mr. Corey Robinson who sits at the
15 Defense table?

16 A. Yes, sir.

17 Q. Okay, and let's -- let's start by -- this -- my
18 understanding, this occurred about five or six in the
19 afternoon, is that correct?

20 A. Yeah, around six o'clock in the evening.

21 Q. Okay, and I further believe you were getting off work
22 at that time or close to it?

23 A. Yes. It was ---

24 Q. But before you left, you had a call, is that correct,
25 about Mr. Robinson?

1 A. Yes, sir.

2 Q. Or what I should say, at the time it was an unknown
3 suspect, is that correct?

4 A. Right.

5 Q. And what was this call?

6 A. My sergeant informed me that a citizen had called
7 central dispatch and said she just witnessed a drug
8 transaction in front of her house, gave a description of a
9 black male wearing a white jersey with the number thirty-two
10 on it and a orange hat, and she gave me the address on Meadow
11 Street.

12 Q. Okay, and you say central dispatch, but this call
13 actually came in through 911, is that correct?

14 A. Yes sir.

15 Q. Okay, and your supervising officer, who was that?

16 A. Sergeant Bailey.

17 Q. And he explained this to you. As a result of him
18 telling you this, did you go out to ?

19 A. Yeah. I drove down Meadow Street to try and find
20 somebody that fit that description.

21 Q. Okay, and did you find anybody immediately in that
22 vicinity or at ?

23 A. Nobody was at that -- on Meadow Street, but that's a
24 relatively short street, and I looked a little bit further
25 and found someone fitting that description.

IN CAMERA - JOHN SEALE - DIRECT EXAMINATION BY MR. ANDREW 15

1 Q. Okay, and you say a little further?

2 A. Yeah.

3 Q. Tell the Court exactly how far you went away from . . .

4

5 A. Probably a couple hundred yards, maybe four or five
6 hundred yards at the most on Greentown Road.

7 Q. Greentown Road, okay, and did you stop a person who
8 matched the description -- you say he matched the
9 description. What do you remember when you saw Mr. Robinson
10 about what he was wearing?

11 A. I immediately noticed the orange hat and the white
12 jersey with number 32 on it, and when I got a little bit
13 closer, I could tell it was a black male and I attempted to
14 identify him.

15 Q. And what -- did you stop him or did you stop and talk
16 to him?

17 A. Yes, sir. I got out and made contact with him.

18 Q. And did he seem polite and cooperative at first?

19 A. Yeah. At first he was very polite and, you know,
20 complied with what I had to -- what I was asking him.

21 Q. And what were you asking him?

22 A. I asked for his -- if he had any identification on
23 him, and he stated no, he didn't have it, but he was acting
24 real nervous, and he walked towards me with his hands in his
25 pockets and made me a little nervous the way he was fidgeting

1 around and look- -- I could tell he was holding something in
2 his pocket, and I asked him if he had any weapons on him, and
3 then he pulled -- I noticed he pulled his left hand out of
4 his pocket and what appeared to be a large amount of cash was
5 in it. He stuck it back in his hand -- back in his pocket,
6 excuse me, and then I asked him if he had any weapons on him,
7 and he stated no, he didn't.

8 Q. And did you make an attempt to pat him down for
9 weapons?

10 A. Well, I then asked him if he minded if I patted him
11 down for any type of weapons. He said, "No, sir." He gave
12 me consent to pat him down for weapons, and he then ---

13 Q. What did you do then once he gave you consent?

14 A. Well, he put his hands over his head, like this
15 (indicating), and from previous experience, I asked him --
16 I'd rather not pat somebody down like that, so I asked him to
17 put his hands behind his back, and ---

18 Q. And did he comply at first?

19 A. Yes, he did, and I grabbed his arms, and he still was
20 acting kind of nervous and fidgety, so I explained to him I
21 was going to detain him for safety reasons while I patted him
22 down and after that he would be free to go.

23 Q. What did he do as a result once you told him that?

24 A. As I reached for -- he initially agreed to it, and as
25 I reached for my handcuffs to detain him, he turned around

1 and punched me in the face two or -- several times, two or
2 three times.

3 Q. And did he just stand there and punch you in the face?

4 A. No. He took off and I tried to grab him, and his
5 jersey then came over top of his head. We ran down Greentown
6 Road, and then he ran into Club Mayo's, which is at 560
7 Greentown Road, and ran into the rear, through the parking
8 lot to the rear, and down like a beaten path, and, excuse me,
9 I then caught him on the path, and there was a struggle.

10 Q. Okay, and were you able to get him under control?

11 A. After several minutes, I think it was five or six.
12 minutes it took me to gain control, but during that at one
13 point in time, he said, "You know, I give up." As I let him
14 up to -- so he could give me his hands, he pushed me off of
15 -- pushed me off of him and then got back on -- tried to get
16 back on top of me and swung at me again and then attempted to
17 run. I was able to get him back on the ground and hold him
18 until he was fatigued enough where I could put the handcuffs
19 on him.

20 Q. Okay, and while you were running after him, were you
21 screaming anything or saying anything?

22 A. Yeah. I'm telling him to stop, and then when he falls
23 down, you know, I grab him and tell him to give me his hands,
24 he's under arrest, because he had his hands underneath him
25 the whole time while I was on top of him. His hands were

1 underneath him.

2 Q. And what's your -- what's your goal when you're trying
3 to get his hands behind him, to put cuffs on him?

4 A. Yes, sir.

5 Q. And you said you were finally able to do that at some
6 point?

7 A. Yes, sir.

8 Q. Tell us a little bit -- you've had some experience
9 working with narcotics or drug busts?

10 A. I've worked some - well, I was on at the ICE Team,
11 which is Intensified Crime Enforcement, and we did some
12 narcotics. I've also assisted the O.C.B. in search warrants
13 and several operations, and I've been to the A.C.E.,
14 Interdiction Team, and I've also been to undercover drug
15 class. I think it was a two day or three day class.

16 Q. And based on your experience, would you say that the
17 wad of money and the area he was in was consistent with
18 evidence of drug use or drug sales?

19 A. Yes, sir.

20 Q. And let's talk a little bit about that. What section
21 of Georgetown are you in when all this is going on?

22 A. It's in Greentown, which is known for drug activity.

23 Q. And you're actually -- you said that there was a --
24 I'm sorry, 560 Greentown or something, that's ---

25 A. It's 560.

1 Q. --- a club, is it not?

2 A. Yes, sir, Club Mayo's.

3 Q. Club Mayo's. What's the reputation of Club Mayo's?

4 A. It's known for narcotics, and illegal activity, and
5 guns.

6 Q. All right, and after you were able to get Mr.
7 Robinson under control, where did you locate the items that
8 were seized, specifically the marijuana and the crack
9 cocaine?

10 A. They were in the immediate area where we were
11 struggling, there was -- where we had been rolling around; it
12 was in that immediate area.

13 Q. And was it obvious where you were looking that the
14 drugs were found in that area where the struggle had taken
15 place?

16 A. Yes sir.

17 Q. And when you walked up to that place, were there a lot
18 of people in that particular area?

19 A. Where the struggle took place, there was nobody.
20 There was several people at the front of the club like where
21 the cars were parked, and there was -- I don't remember how
22 many people, but there were several people there, but there
23 was nobody in the back. We were fifty yards from anybody
24 else.

25 Q. And were you wearing your uniform this whole time?

1 A. Yes, sir.

2 Q. And describe the car. Was it a marked car that you
3 were in?

4 A. It did not have the lights on the top of it, but it is
5 marked with Sheriff's Office and -- down the side. It's a
6 Dodge Charger.

7 Q. And once you were able to secure him, you were able to
8 secure the drugs?

9 A. What I did is, I was in the woods by myself, and I was
10 almost exhausted, so I -- and Mr. Robinson also seemed pretty
11 exhausted, so I walked him back out to where everybody else
12 was, so I could turn him over, because I was about to give
13 out, and then took Corporal Geno and other members of the
14 Organized Crime Bureau to the spot where we were struggling
15 and showed them where we were, and then I went to get some --
16 some water back at the truck, but they were within sight of,
17 you know, twenty-five yards of me the entire time.

18 Q. And the entire time, when you first initially stopped
19 to speak to Mr. Robinson, until you got him under control,
20 were you by yourself?

21 A. Yes, sir.

22 MR. ANDREW: No further questions. Answer any
23 questions Mr. Goude may have.

24 THE COURT: All right, Mr. Goude.

25 MR. GOUDE: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. GOUDE:

Q. Deputy, did you find the drugs or did one of the other deputies find the drugs?

A. Agent Geno actually recovered them and turned them over to me.

Q. And where -- where were you or how far were you from Agent Geno or Deputy Geno when Deputy Geno found the drugs?

A. No farther from here to the back wall, maybe -- no farther than that, probably closer to that.

Q. Was -- where you and Mr. Robinson were struggling, was that in the bushes or in the woods, or it was in bushes, it was not in woods?

A. It was in -- there's a beaten path that runs behind the club, and it was in -- down that path. It was in the -- right on the edge of the woods. I mean, it was -- it's kind of grown up. From what I remember, it's grown up a little bit before it gets to the trees, and it was in -- right in the area where the trees and the grown up area start.

Q. And when -- when Deputy Geno found it, were you in the grown up area, too, with him looking, or were you back at the highway or the cleared land part?

A. I was back in the parking lot area with my supervisor and lieutenant were with me trying to help me from -- recover from being fatigued.

1 MR. GOUDE: And when you say the drugs were found in
2 the -- well, strike that.

3 That's all the questions I have, Your Honor.

4 THE COURT: All right.

5 Let me just ask you a couple of quick questions here.
6 Did I understand you to say or did you say that after you got
7 control of the defendant and walked the defendant back to the
8 other officers, you walked with Deputy or Agent Geno to the
9 place where you had struggled with the defendant, is that
10 correct?

11 A. Yes, sir, the ---

12 THE COURT: Okay, and you ---

13 A. --- exact spot, and then I think one of the -- I felt
14 like I was very dehydrated and one -- somebody else went to
15 get me a bottle of water, and so I took Agent Geno to the
16 area and then walked back and met, I think, Agent Jackson,
17 Allen Jackson, brought me a bottle of water, but they were --
18 Agent Geno was in sight of me the whole time. Like I said,
19 at the most, -- from here to the back, I mean, that's ---

20 THE COURT: Well, that was going to be my next
21 question, so when you left Agent or Deputy Geno to get the
22 water that officer was still in your sight at the area where
23 you had struggled with the defendant, is that right?

24 A. Yes, sir. I believe he actu- -- before he moved it,
25 he came back and got an evidence bag, and so, I mean, I -- I

1 mean, I watched him pick it up and put it in the evidence
2 bag, and he immediately brought the bag to me and turned it
3 over to me within, you know, -- it had to be less than a
4 minute.

5 THE COURT: All right, very good.

6 Solicitor, any questions on the questions I asked or Mr.
7 Goude asked?

8 MR. ANDREW: No, sir, Your Honor. Just so I'm clear on
9 exactly what the motion is, we're just dealing with ---

10 THE COURT: Well, what you have here is two filed
11 motions to suppress, and that one was filed December 1, 2009,
12 and another motion to suppress was filed February 19th, 2009.

13 You also have a notice and motion to quash the warrant
14 filed February 19th, 2009, and a motion to quash the
15 indictments filed February 19th, 2009, so those are the
16 motions that are before the Court that I see at the present
17 time. Is that correct, Mr. Goude?

18 MR. GOUDE: Your Honor, those are the ones Mr. Robinson
19 hand-wrote. I will make a -- my motion of suppressing on the
20 grounds of illegal seizure, being an illegal stop of Mr.
21 Robinson and an illegal chase of him. He was not under
22 arrest. He had a right to walk away from the officer if he
23 wanted to since he was not under arrest, and he did walk away
24 and ran away from the officer. If the officer had a right to
25 pat him down when he was talking with him, or if Mr. Robinson

1 left and went away, the officer would no longer be under a
2 threat because Mr. Robinson would be leaving the area and not
3 be in his presence, and, therefore, we say it was an illegal
4 chase by the police officer of Mr. Robinson, therefore an
5 illegal seizure of Mr. Robinson, and, therefore, if it were
6 drugs and if it was Mr. Robinson's drugs, they would be fruit
7 of the unlawful activity and should be suppressed on that
8 grounds as an unlawful seizure, and following from the
9 unlawful seizure, an unlawful search of the area where Mr.
10 Robinson was, so that's -- we add my motion to Mr. Robinson's
11 handwritten motions, Your Honor.

12 THE COURT: All right, and regarding that particular
13 point, Officer, so that I -- Deputy, I understand, at some
14 point in time during your investigative stop of the
15 defendant, you asked the defendant if you could pat him down,
16 and he consented, correct?

17 A. Yes, sir.

18 THE COURT: And he put his hands over his head and you
19 asked him to put his hands behind his back?

20 A. Yes, sir. I've had past experience where -- a similar
21 situation, and I was elbowed in -- when his hands were over
22 his head, he -- I was elbowed in the side of my head, so to
23 try and prevent that from happening again, I asked him to put
24 his hands down behind his back and was going to grab him and
25 hold him to keep him ---

1 THE COURT: All right, and so when you did that, when
2 you -- when you then -- to pat him down, you grabbed a hold
3 of him, then at that point in time you told him that you were
4 going to put him in investigative detention?

5 A. Well, I explained to him before -- whenever -- I
6 explained it to him all at once when I said, "You know," -- I
7 was like, "You know if you'll put your hands behind your
8 back, I'm going to put you in handcuffs just for safety while
9 I pat you down, and then you'll be free to go." I didn't --
10 it's not like I asked him to put his hands behind his back
11 and then grabbed him and then said, "I want to put you in --
12 in the handcuffs." I said it all at once before ---

13 THE COURT: Okay, and so then when you attempted to do
14 that, what occurred?

15 A. As soon as I reached around to grab my handcuffs, he
16 twisted away from me towards me and then -- well, I guess out
17 away from me, and then punched me several times in the left
18 side of my face, and I attempted to grab him by his shirt,
19 and it came off the top of his head, and then that's when the
20 foot chase began.

21 THE COURT: All right, and that's when the defendant
22 left, or fled, or ran?

23 A. Yes, sir.

24 THE COURT: All right, very good.

25 All right, Solicitor, further questions?

1 MR. ANDREW: Nothing further from this witness.

2 THE COURT: Further questions, Mr. Goude?

3 MR. GOUDE: No, sir.

4 THE COURT: All right, Deputy, you may step down.

5 Any other witnesses that you wish to present at this
6 point in time?

7 MR. ANDREW: No, sir, Your Honor.

8 THE COURT: All right, very good.

9 All right, Mr. Goude, I'll be glad to hear from you
10 regarding the two motions to suppress that the defendant
11 filed, the motion to quash the warrant that the defendant
12 filed, the motion to quash the indictment the defendant
13 filed, as well as your motion of -- regarding the improper
14 seizure and search of the defendant. Be glad to hear any
15 arguments you have on all of those motions.

16 MR. GOUDE: I have no other argument to make, Your
17 Honor.

18 THE COURT: All right, very good.

19 Anything, Solicitor?

20 MR. ANDREW: Well, just briefly, Your Honor, just to
21 sum up a little bit here. What we have here is a citizen
22 that calls in, gives some information relative to what she
23 believes to be a drug transaction. The officers responded to
24 that, or Officer Seale responded to that. A description was
25 given. He found a suspect matching that description to a

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1 "T", not only the hat, but color, the color of the hat, the
2 color of the person, as well as the clothing that person was
3 wearing, that that person was -- I think it was a reasonable
4 suspicion that Officer Seale stopped and spoke with him.

5 I think where the issue comes in is obviously whether or
6 not there was probable cause to make the arrest, and at some
7 point I believe there is, Your Honor. Obviously, you know,
8 the officer has a right to stop and talk to someone, question
9 them, and based on his prior experience and the area that he
10 was in, I think it was reasonable for him to want to do a pat
11 down for safety reasons.

12 Now, at that time I think maybe Mr. Robinson has got an
13 argument that he could walk away without being arrested, but
14 certainly he can't pull away and at the same time take a
15 swing at the officer. I think at that point it becomes an
16 entirely different situation. I think his actions at that
17 point, along with the fleeing, give us the probable cause for
18 the arrest, and the drugs were found near or about where this
19 incident took place, and you've heard the testimony regarding
20 that as far as the struggle that took place, and it's based
21 on those reasons that we believe that there was reasonable
22 suspicion and at some point probable cause, and that the
23 drugs be allowed to come in, or shouldn't be kept out for
24 that reason, Your Honor.

25 THE COURT: All right, sir.

1 MR. ANDREW: Oh, and I'm sorry, Your Honor. As far as
2 quashing the indictment and the warrant, I think they all put
3 them on sufficient notice, you know, of what he's charged
4 with and an accurate description of the events.

5 THE COURT: All right. Based upon this Court's
6 examination of the four indictments in this matter,
7 possession of cocaine base with intent to distribute, 2008-
8 727, the possession of marijuana with intent to distribute,
9 2008-728, the assault while resisting arrest, 2008-729, and
10 the assault and battery, high and aggravated nature, 2008-
11 966, as well as the filed motions in this matter by the
12 defendant and the testimony -- and I'm sorry, before I do
13 that, Mr. Goude, did you want to present any testimony from
14 the defendant?

15 MR. GOUDE: No, Your Honor.

16 THE COURT: All right, very good, or any testimony
17 whatsoever?

18 MR. GOUDE: No, Your Honor.

19 THE COURT: Very good. And again, as to the four filed
20 motions that we have not dealt with, those being the two
21 written motions to suppress the evidence, the written motion
22 to quash the warrant, the written motion to quash the
23 indictment, as well as Mr. Goude's motion to -- as far as an
24 improper seizure and search due to an illegal stop, and
25 detention, and chase of the defendant, I find that the facts

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1 reveal that there was a 911 call with a sufficient
2 particularity as to a -- for the police to be able to pick
3 out a particular person to stop and question based upon that
4 illegal activity described, and the description of the
5 person, that the officer conducted a proper stop, a proper
6 investigative detention of the defendant, that he was
7 properly -- and also with consent, attempting to do a pat
8 down search for the officer's safety, he being in an area of
9 Georgetown County that is particularly known for drug
10 activity, criminal activity, and the persons possessing guns
11 and/or weapons, that thereafter the defendant's actions in
12 this matter, when the officer attempted a proper
13 investigative detention and proper search for officer's
14 safety, assaulted the defendant (sic), thereby committing a
15 crime, thereby giving the officer a proper reason to stop and
16 detain the defendant and, therefore, there being probable
17 cause for all of the matters for which he is indicted, and
18 proper evidence and testimony has been presented to allow the
19 presentation of the evidence seized, those being the drugs,
20 obviously subject to any further motions the Defense may
21 have, but these motions as particularly filed in writing by
22 the defendant and stated by Mr. Goude are hereby denied.

23 All right, Mr. Goude, further motions on behalf of the
24 defendant at this point in time?

25 MR. GOUDE: Judge, we would move that the prosecution

1 produce any of the prosecution witness's statements that they
2 have not already given us.

3 THE COURT: As far as any evidence or written
4 statements of any kind?

5 MR. GOUDE: Yes, sir.

6 THE COURT: Is there anything, Solicitor, that you have
7 as far as any written statements or any physical evidence
8 that you haven't already turned over to the Defense, or
9 copies of reports at least?

10 MR. ANDREW: I don't believe so, Your Honor, but as
11 soon as we're done with our hearing here, I will sit down
12 with him and I'll look at everything I have and make sure
13 that we all have the same thing. If there is something that
14 I've failed or neglected to give him, obviously I will do
15 that, and obviously if he's prejudiced in any way, he can
16 make a motion tomorrow, but I will sit down with him and make
17 sure that he has everything that I have, or I intend to use,
18 or anything in my possession.

19 THE COURT: Very good. Mr. Goude, is that acceptable
20 to you, sir?

21 MR. GOUDE: Yes, Your Honor.

22 THE COURT: Very good. Further motions that you have,
23 sir?

24 MR. GOUDE: Your Honor, we would move on a motion in
25 limine, three parts of it; first, that no prosecution witness

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1 or evidence mention any possible prior criminal record that
2 Mr. Robinson may have unless or until Mr. Robinson testifies.

3 THE COURT: Solicitor, is there any expectation that
4 any of your witnesses are going to do that unless, of course,
5 it would be proper if the defendant testified?

6 MR. ANDREW: None whatsoever.

7 THE COURT: Very good. So granted.

8 MR. GOUDE: Your Honor, the second part of our motion
9 in limine would be that we would ask the Court to order that
10 the prosecution produce no witnesses and no testimony
11 regarding any hearsay evidence, specifically being that some
12 citizen had called in saying that Mr. Robinson was selling
13 drugs in their house, or yard, or the highway in front of
14 their house. That would be hearsay and we would object to
15 it, and want to do a motion in limine before it would ever
16 come out, if it would come out.

17 THE COURT: Well, let me hear from you first,
18 Solicitor, before I ---

19 MR. ANDREW: I'll be glad to tell you my intent, Your
20 Honor. Obviously, you know, I don't know if you're able to
21 make a ruling at this point, but I will tell you what my
22 intent is. We do have the 911 tape, the 911 log, and I do
23 have Robbie Owens, who is in control of the 911 tape, that I
24 would be asking that that be played under the business
25 exception or business records, being the 911 call itself is

1 recorded and time-stamped as a course of business, and the
2 log where it shows when those calls had come in.

3 On top of that, Your Honor, I do have -- I spoke with
4 the person that actually made that call, and they are going
5 to be available to testify tomorrow, and obviously I plan to
6 call them as my witness and, therefore, they will be subject
7 to cross examination.

8 THE COURT: All right. I will hear you at that time
9 that the witness is presented and the tape is presented, Mr.
10 Goude. I don't think at this point in time the Court is
11 prepared to rule on your motion.

12 MR. GOUDE: Thank you, sir.

13 THE COURT: It might be, Solicitor, for -- if it does
14 not, and I'm certainly not -- you present your case as to how
15 you believe you ought to present it. It might make it easier
16 if you presented the witness before the 911 tape, if you did
17 it in that fashion.

18 MR. ANDREW: Yes, sir. I intended to do that, yes,
19 sir.

20 THE COURT: Great, okay. Very good.

21 MR. GOUDE: Thank you, Your Honor.

22 THE COURT: Yes, sir.

23 MR. GOUDE: Your Honor, the third part of our motion in
24 limine would be that the prosecution present no witness or no
25 testimony that having cash money is evidence of a person

1 being involved in drug activity. I note the police officer
2 said that awhile ago, Mr. Robinson had some money in his
3 pocket, and that based on his experience, money is evidence
4 of drug activity. We would ask that that be not asked and
5 not allowed to be given as testimony.

6 THE COURT: I took that, Solicitor, as part of your
7 response to the motion to suppress and quash so that there
8 was a proper foundation of probable cause laid for the stop,
9 detention, investigative stop. I would assume that unless it
10 comes up in cross examination or in some other fashion, that
11 you wouldn't be asking a direct question of the officer other
12 than what did he have. I mean, you can certainly -- he can
13 certainly say what he observed and saw and what the defendant
14 had in his hand and presented to him, but not some conclusion
15 that that would then automatically have him dealing in drugs.

16 MR. ANDREW: Yes, sir.

17 THE COURT: Okay. Yes, sir, Mr. Goude?

18 MR. GOUDE: Judge, the last and final motion we have is
19 a motion to sequester the witnesses in the case.

20 THE COURT: Who is your main, I guess, investigator or
21 main state's witness?

22 MR. ANDREW: John Seale, the one that proffered the
23 testimony today, Your Honor.

24 THE COURT: All right, sir. Well, with that exception,
25 Solicitor, since the State would need their main

1 investigating officer present with that during the
2 presentation of the case, I'll be glad to grant the Defense's
3 motion to sequester witnesses on both sides.

4 MR. ANDREW: And that takes place once we pick a jury
5 or is that as of right now?

6 THE COURT: No, sir. Once we have picked the jury and
7 before opening arguments, before opening arguments.

8 MR. ANDREW: Yes, sir.

9 THE COURT: Anything else, Mr. Goude?

10 MR. GOUDE: No, Your Honor. Thank you, sir.

11 THE COURT: All right, very good. Solicitor, before we
12 start tomorrow morning, obviously before we get to the part
13 where we're going to pick a jury, if you could have a
14 proposed witness list for me, show that to Mr. Goude, and Mr.
15 Goude, rather than having duplicate lists, if you wanted to
16 add any Defense witnesses to the Solicitor's list, and we'll
17 just go from that so that I can be able to properly question
18 the jury before they're picked, all right?

19 MR. ANDREW: And I'll be glad to also offer some jury
20 voir dire questions, Your Honor, in writing.

21 THE COURT: And the same, Mr. Goude. If you have any
22 that you particularly want the Court to ask in addition to
23 the standard questions that you know the Court always asks,
24 I'll be glad to hear those from you, Mr. Goude.

25 MR. GOUDE: Thank you, sir.

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35

1 THE COURT: All right.

2 MR. ANDREW: Your Honor, the only additional thing is I
3 do have all the evidence relating to this case and I'm going
4 to sit down with Mr. Goude, if he's willing to do that, and
5 we also have some video potentially, and some audio, and I'll
6 get with him and see what we can work out as far as
7 consenting. We may need -- need - some stuff may need to be
8 redacted, and things like that. We'll try to get that worked
9 out.

10 THE COURT: All right. Well, I'll leave that to you,
11 gentlemen, to work that out this afternoon. Obviously if any
12 questions remain, I'll be here certainly by eight-thirty. I
13 had the jury to come back tomorrow morning at nine o'clock,
14 so I'll certainly be here by eight-thirty. If there's any
15 questions, y'all can come see me at that point in time, all
16 right?

17 MR. ANDREW: Thank you, Your Honor.

18 THE COURT: Anything else from the State?

19 MR. ANDREW: Nothing from the State, Your Honor.

20 THE COURT: From the Defense?

21 MR. GOUDE: No, Your Honor.

22 THE COURT: Very good, gentlemen. I'll see y'all back
23 tomorrow morning as indicated, eight-thirty, please, so if
24 y'all can make sure the defendant is here at least by eight-
25 thirty in the morning, please. Thank you very much.

1 (END OF DAY - 4:00 P.M.)

2 (OFF THE RECORD)

3

ON THE RECORD

4

TUESDAY, MARCH 17, 2009

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9

(THE FOLLOWING TAKES PLACE ON MARCH 17, 2009, AFTER
QUALIFICATION OF THE JURY VENIRE, AFTER VOIR DIRE, AFTER
SELECTION OF A JURY PANEL FOR THE TRIAL OF THIS CASE, AND
WITHIN THE PRESENCE OF THE JURY CHOSEN FOR THE TRIAL OF THIS
CASE.)

10

11

(JURY SELECTION IS NOT TRANSCRIBED HEREIN. A JURY
SELECTION FORM WAS PREPARED AND IS ATTACHED HERETO.)

12

13

THE COURT: All right, is there any objections to the
jury as empaneled, from the State?

14

15

MR. ANDREW: None from the State, Your Honor.

16

17

THE COURT: From the Defense?

18

19

MR. GOUDE: No, Your Honor, no.

THE COURT: Very good. I find the jury has been
properly empaneled pursuant to **Batson versus Kentucky** and
J.E.B. versus Alabama.

20

21

22

23

All right, ladies and gentlemen of the jury in this
particular matter, what I'm going to ask that you do in this
particular matter is go to your jury room in just a moment or
so and select your foreperson for this particular jury.

24

25

Let me tell you very briefly what the foreperson's
duties and responsibilities are. If we are here in the

REMARKS BY THE COURT

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1 courtroom and there is any matter that the jury needs
2 attention to, the witness needs to speak up, the lawyers need
3 to speak up, whatever the matter is, basically the foreperson
4 on behalf of the jury raises their hand, gets the Court's
5 attention, and we'll handle the matter, whatever it is.

6 If you're back in your jury room and there is some
7 matter that comes up, the foreperson will write out a note,
8 sign it, and get it to the bailiff. It will come to me, and
9 again, we will handle the matter, whatever it might be.

10 When the evidentiary portion of the trial has been
11 concluded and we have gone through the closing arguments and
12 I'm giving you the law that you can apply to the facts as you
13 so find them to be in this case and I've sent the case to you
14 for your deliberations and your unanimous decision in this
15 particular matter, the foreperson's duties and
16 responsibilities change in this regard. The foreperson is
17 basically going to act like the chairman at a meeting.

18 An important duty that the foreperson would have would
19 be to make sure that everybody that wants to speak has an
20 opportunity to do so, everybody's voice has an opportunity to
21 be heard on the ultimate issue to be decided.

22 Now, the foreperson's voice and vote on that ultimate
23 issue to be decided carries no more weight than any other
24 member of the jury panel. Everybody is on an equal plane in
25 that regard, but somebody does need to be in charge, and

1 again, if there is some matter that you need the Court's
2 assistance with, the foreperson, again, would write out that
3 note, sign it, hand it to the bailiff, it will come to me and
4 we will handle the matter, whatever it might be.

5 The final duty and responsibility of the foreperson is
6 once the jury has well and truly deliberated in this case and
7 reached its unanimous decision on the matters presented, then
8 the foreperson will take the verdict form or forms presented
9 to you by the Court and the foreperson will check the
10 appropriate block, whatever that might be, and thereafter
11 sign their name as the foreperson indicating that that indeed
12 is the unanimous verdict of the jury in this particular
13 matter, so with that little bit of explanation, I'll ask that
14 you go back to your jury room, select your foreperson, knock
15 on the door, let the bailiff know who that is, and Ms.
16 Dennison, as the alternate now, you can vote on the
17 foreperson, but obviously being the alternate, you can't be
18 the foreperson.

19 All right, thank you very much. Y'all go back to the
20 jury room, then.

21 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
22 JURY.)

23 (The jury venire is excused and reminded by the Court to
24 call the juror information line after 6:00 P.M.)

25 THE COURT: All right, Solicitor, you need a few

1 moments to get organized?

2 MR. ANDREW: That would be great, Your Honor. We would
3 appreciate that.

4 THE COURT: All right, sir. Gentlemen, for your
5 information, the jury has selected Juror Number 131, Michael
6 J. Himmelrick as the foreperson for this particular jury.

7 All right, we'll be at ease for about five minutes and
8 then we'll get started in this particular matter.

9 (OFF THE RECORD)

10 ON THE RECORD

11 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
12 JURY.)

13 THE COURT: Thank you very much; you may be seated.
14 Is the State ready to proceed now?

15 MR. ANDREW: We are, Your Honor.

16 THE COURT: Is the Defense ready to proceed? (No
17 response.) Mr. Goude, are you ready to proceed, sir?

18 MR. GOUDE: Your Honor, Mr. Robinson would like to
19 represent himself at this time. He asks the Court, and I so
20 move at this time. He asks to relieve me as attorney, and he
21 wishes to represent himself.

22 I will note that he has been thoroughly examined, as we
23 discussed yesterday, by the Department of Mental Health.
24 They have found him entirely and wonderfully competent. They
25 have found him entirely and wonderfully sane, and he asks to

1 relieve himself -- represent himself, rather, at this time,
2 and that's our motion.

3 THE COURT: All right, sir, if you will stand up.
4 Mr. Clerk, put him under oath.

5 COREY JAWAN ROBINSON, is duly sworn by the Clerk.

6 THE COURT: All right, sir, you have stated that --
7 through your attorney that you want to represent yourself in
8 this matter, is that correct?

9 MR. ROBINSON: Yes, sir.

10 THE COURT: All right, and how old are you?

11 MR. ROBINSON: Twenty-four.

12 THE COURT: How far did you go in school?

13 MR. ROBINSON: Graduated.

14 THE COURT: From high school?

15 MR. ROBINSON: Yes, sir.

16 THE COURT: And is that Georgetown High School?

17 MR. ROBINSON: Yes, sir.

18 THE COURT: All right. I assume, then, that you can
19 read? Sir?

20 MR. ROBINSON: Yes, sir.

21 THE COURT: Very good. Do you understand that you have
22 the constitutional right to have an attorney present to
23 represent you in Court?

24 MR. ROBINSON: Yes, sir.

25 THE COURT: You can waive that right if the Court finds

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1 that that is a knowing and intelligent decision. Do you
2 understand that?

3 MR. ROBINSON: Yes, sir.

4 THE COURT: You understand obviously if you cannot
5 afford an attorney, the Court would appoint and has appointed
6 Mr. Goude to represent you in this matter?

7 MR. ROBINSON: Yes, sir.

8 THE COURT: You know that an attorney is trained in the
9 areas of the law and would be better able to represent you
10 than you can represent yourself; do you know that?

11 MR. ROBINSON: Yes, sir.

12 THE COURT: You obviously have no formal training
13 regarding the rules of procedure, how things are to be
14 presented in Court, correct?

15 MR. ROBINSON: Would you repeat that question again.

16 THE COURT: So you have not had any kind of formal
17 training as to how matters are to be presented in Court, have
18 you?

19 MR. ROBINSON: No, sir.

20 THE COURT: All right, sir. When was the last time
21 you've looked at the South Carolina Rules of Evidence?

22 MR. ROBINSON: About two months ago.

23 THE COURT: All right, sir, and you went thoroughly
24 through the South Carolina Rule of Evidence at that time?

25 MR. ROBINSON: I didn't have the whole Rules of

1 Evidence, but I had part of it.

2 THE COURT: All right, sir.

3 MR. ROBINSON: I scooped it out of my legal work.

4 THE COURT: Do you know in representing yourself that
5 obviously you are entering something that the Court finds
6 that you should be cautioned against since you do not have
7 any formal training in the law that you will -- there is
8 certainly the distinct disadvantage that you will have in
9 presenting this matter representing yourself; do you
10 understand that?

11 MR. ROBINSON: Yes, sir.

12 THE COURT: You understand that there are certain
13 dangers in how you ask questions?

14 MR. ROBINSON: Yes, sir.

15 THE COURT: You understand that until you make a
16 decision at the end of the State's case -- obviously you are
17 not allowed to testify during the State's case; you
18 understand that?

19 MR. ROBINSON: I can object to the ---

20 THE COURT: Sir, you can certainly object, and you can
21 cross examine. You can ask questions of all the witnesses
22 the State presents, no question about that, ---

23 MR. ROBINSON: All right. Yes, sir.

24 THE COURT: --- but in the cross examining, you
25 understand that you cannot testify as to facts; do you

1 understand that? You can ask questions and you can challenge
2 them as to their recollection of what may have occurred, but
3 how you phrase your questions, you have to be careful about
4 that in that you are not attempting to testify; do you
5 understand that?

6 MR. ROBINSON: Yes, sir.

7 THE COURT: And the reason for that is if the Court
8 finds that you are testifying, then you may have subjected
9 yourself to cross examination by the State as to your prior
10 record, which at this point in time is not part of the
11 State's case; do you understand that?

12 MR. ROBINSON: Yes, sir.

13 THE COURT: All right, sir. You understand that we
14 have started the case and we are going to go forward with
15 this trial at the present time; you understand that?

16 MR. ROBINSON: Yes, sir.

17 THE COURT: You understand that if I accede to your
18 request to represent yourself, that will not delay the trial
19 in this matter?

20 MR. ROBINSON: Yes, sir.

21 THE COURT: All right, sir. Did you or your attorney
22 subpoena all the witnesses that you wanted to have here in
23 the Court today?

24 MR. ROBINSON: Yes, sir.

25 THE COURT: All right, sir, and did you prepare in

1 advance to give some kind of opening statement to the jury
2 and prepare your cross examination questions for the
3 witnesses that are going to be called by the State today?

4 MR. ROBINSON: I didn't prepare no opening statement
5 because I was listening to my lawyer, and then - now he's
6 telling me -- he's telling me I -- he's fabricating a story.
7 He -- what he was telling me I was going for then that's why
8 he's leading me in the blind-- and then he ain't representing
9 me. He ain't helping me. He's working against me. That's
10 why I've got a problem. I've had questions, but all the
11 statement, I was going to deliver to him yesterday after the
12 pre-trial hearing, but ---

13 THE COURT: Well, what changed between yesterday and
14 this morning?

15 MR. ROBINSON: Because during my pre-trial hearing,
16 when I had my pre-trial hearing, he had put -- argue my
17 motion and he say he was going to say this and say that, but
18 when we got into Court, he didn't mention nothing and he
19 didn't object to nothing that ---

20 THE COURT: Okay. Well, you put in your four written
21 motions all the things that you wanted presented to the
22 Court, correct?

23 MR. ROBINSON: Yes, sir.

24 THE COURT: Okay, and I went through those and I
25 specifically told you that I denied all those motions.

MOTIONS

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1 MR. ROBINSON: Yes, sir, but then again he -- he told
2 me to write -- he told me to write stuff on the paper what I
3 have him to ask and cross examine the witnesses, but while I
4 was writing on the paper, he just pushed my paper back. He
5 didn't ask no questions I asked him during cross. He only
6 asked two questions to the witness on the stand, and he
7 didn't do nothing I wanted him to do, say nothing I wanted
8 him to say.

9 THE COURT: All right, sir. Well, at that, you know,
10 you understand that there may very well have been a good and
11 logical reason for doing so and one of those might have been
12 not to alert the witness as to questions that the attorney
13 wanted to ask him when it's important in front of the jury to
14 test that witness's credibility and believability so he's not
15 prepared to answer those questions during the trial. Do you
16 understand that?

17 MR. ROBINSON: Yes, sir, but we had altercations in the
18 past because he refused to show me my D.V.D. tape. I mean,
19 I've got evidence. I'm allowed to see everything in evidence
20 and he was running from me. I called and I mean, I wrote the
21 Bar Association. We already had problems before.

22 THE COURT: Well, why did you wait until now when we're
23 going to start opening statements to bring these matters to
24 the Court?

25 MR. ROBINSON: Because I was trying to get your

1 attention, but they said the only way I could talk to you
2 would be when you asked a question, so I just have your
3 ruling, didn't jump up and ask a question.

4 THE COURT: Well, when you're represented, you have to
5 speak through your attorney, that's correct, ---

6 MR. ROBINSON: That's what I'm saying, I was trying ---

7 THE COURT: --- but you could have filed, as you have
8 now so filed, a motion to relieve him ---

9 MR. ROBINSON: I did ---

10 THE COURT: --- months ago.

11 MR. ROBINSON: I did file a motion to relieve ---

12 THE COURT: No, sir. There's nothing in the Clerk of
13 Court's file that you asked for a motion to be -- to relieve
14 the attorney.

15 MR. ROBINSON: Well, I talked to Judge Allison Lee, and
16 she wrote me -- my family back and said it was on the trial
17 calendar.

18 THE COURT: Well, sir, if you presented some matter to
19 Judge Lee and she ruled on it, then that's what happened.

20 MR. ROBINSON: I'm saying she ain't ruled on it. She
21 said she was in the Fifth -- Fifth Judicial Circuit.

22 THE COURT: Yes, sir. She -- she was here for one
23 week.

24 MR. ROBINSON: Yes, sir. She said she was going to see
25 the Administrative Judge in Georgetown and they would be --

MOTIONS

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1 she forwarded it to the Clerk of Court and it would be filed
2 in the proper ---

3 THE COURT: Well, there was nothing in the Clerk of
4 Court's file about that.

5 MR. ROBINSON: That's what I'm saying.

6 THE COURT: Mr. Goude, what's your position?

7 MR. GOUDE: My position is, Judge, that Mr. Robinson is
8 saying here in open court that he wishes to represent himself
9 and that he is comfortable to do so. We have a state agency
10 that's just recently examined Mr. Robinson and they say he is
11 competent and they say he is sane, and under our State and
12 Federal Constitution, he has the right to represent himself.
13 I, therefore, join in his motion and ask that I be relieved
14 and dismissed from the courtroom.

15 THE COURT: All right, sir.

16 Mr. Robinson, understanding all of the problems that are
17 associated with representing yourself, the dangers, the
18 pitfalls that are encountered by a person who has no formal
19 training in the law and does not know the Rules of Procedure,
20 does not know the Rules of Evidence, does not know how to
21 present things in court, you still want to represent
22 yourself?

23 MR. ROBINSON: Yes, sir.

24 THE COURT: Very good. I'm going to relieve your
25 attorney and let you represent yourself in this particular

1 matter.

2 Ask the jury to come in, please. All right, just hold
3 on one second.

4 All right, we'll be at ease until the juror moves her
5 car and y'all fix the microphone problem. Thank you.

6 (OFF THE RECORD)

7 ON THE RECORD

8 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
9 JURY.)

10 THE COURT: All right, before I bring the jury in,
11 please remember, Mr. Robinson, you may not testify in your
12 opening statement. You may argue the matters before the
13 jury, but please remember, you may not give any testimony.
14 You are not under oath. This is not the time for testifying.
15 You understand that?

16 MR. ROBINSON: Uh-huh (affirmative response).

17 THE COURT: Sir?

18 MR. ROBINSON: Yes, sir.

19 THE COURT: Thank you. Ask the jury to come back in.

20 MR. ROBINSON: Your Honor, ---

21 THE COURT: Yes, sir.

22 MR. ROBINSON: --- can I object to a opening statement
23 when the prosecutor give a opening statement and say
24 something that is not true, can I object to a opening
25 statement?

REMARKS BY THE COURT

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1 THE COURT: Sir, you can object if you believe that
2 they have committed some error of law, but they are allowed
3 to present their version of ---

4 MR. ROBINSON: So I can't ---

5 THE COURT: --- what they believe occurred.

6 MR. ROBINSON: So if they're putting in -- something
7 in ---

8 THE COURT: I can't tell you how to practice law, sir.

9 MR. ROBINSON: All right. I'm going to listen.

10 THE COURT: You've decided that you wanted to ---

11 MR. ROBINSON: All right. I'm just asking.

12 THE COURT: --- represent yourself.

13 MR. ROBINSON: All right. Go ahead.

14 **(THE FOLLOWING TAKES PLACE IN THE PRESENCE OF THE JURY.)**

15 THE COURT: All right, ladies and gentlemen of the jury
16 in this particular matter, we are going to commence the case
17 of the State of South Carolina versus Corey Jawan Robinson.
18 Before we get started, I want to do two things. One, I'm
19 going to tell you that at the request of Mr. Robinson, he has
20 requested to represent himself in this matter and discharge
21 his attorney, and I have allowed him to do so and he will be
22 representing himself in this particular matter.

23 Secondly, the next thing we need to do is have the Clerk
24 of Court administer your oath, so if you would please stand
25 at this time.

1 (THE JURY IS ADMINISTERED THEIR OATH BY THE CLERK OF
2 COURT.)

3 THE COURT: Is there any member of the jury panel that
4 did not affirmatively take the oath as given by the Clerk of
5 Court? If so, please stand. (No one stands.)

6 I find the jury has been properly sworn in this
7 particular matter.

8 All right, ladies and gentlemen, as I told you at the
9 very beginning, the State of South Carolina has charged the
10 defendant with several offenses, and I told you when I
11 questioned you at the very beginning regarding those
12 indictments, that those indictments are not evidence. Those
13 charges are not evidence. They cannot be considered as
14 evidence in this case. That will come from the witness
15 stand, and any other documents or matters that may be
16 properly introduced into evidence in this particular matter.

17 The charges that were levied against the defendant by
18 the State of South Carolina, and those are possession of
19 marijuana with intent to distribute, possession with intent
20 to distribute cocaine base, and the assault while resisting
21 arrest, to those charges, the defendant has pled not guilty.
22 By doing so, that puts the burden of proof in this case upon
23 the State of South Carolina to prove the defendant guilty of
24 the crimes charged beyond a reasonable doubt.

25 The defendant has nothing to show to you. The defendant

1 has nothing to prove to you because the burden of proof is
2 now and is always throughout the entirety of this trial and
3 throughout the entirety of your deliberations until you reach
4 a unanimous decision, the burden of proof remains always with
5 the State of South Carolina to prove the defendant guilty of
6 the respective crimes charged beyond a reasonable doubt.

7 This presumption of innocence is not some legal phrase
8 or technicality. It is a constitutional right to which the
9 defendant is entitled, and you must observe that right until
10 you believe that the State has produced sufficient facts to
11 convince you of their truth and convince you of the guilt of
12 the defendant beyond a reasonable doubt.

13 As I indicated to you, the facts and evidence will be
14 presented to you. In fact, as you sit there collectively,
15 you are the judges of the facts of this particular case. You
16 will listen to the evidence and testimony presented. You
17 will find that testimony and evidence which you find to be
18 credible or believable. You will test that credible or
19 believable evidence against the State's burden of proof to
20 prove the defendant guilty beyond a reasonable doubt and from
21 that, using, of course, your good common sense and your good
22 judgment, you will then decide the charges against the
23 defendant and render a true and just verdict, a unanimous
24 verdict, on all those matters as to whether or not the State
25 has proved the defendant guilty beyond a reasonable doubt of

1 those three charges.

2 Now, one of the roles that I have, and I've told you
3 your role is the judge of the facts, one of the roles that I
4 have is to govern the procedure, how the trial will be
5 conducted. During the trial, there may be certain motions
6 and/or objections raised and I will rule upon those. However
7 I rule upon those, please understand I am not making any
8 comments on the facts because that's not my job.

9 That is your job and your responsibility, that is to be
10 the judges of the facts of this case. I am merely telling
11 the respective parties how the case will be conducted, how
12 the case will be tried in doing so and making those rulings
13 on the motions.

14 Now, of course, I will give you the law at the end when
15 the testimony and evidence has been presented in full and the
16 respective parties have made their closing arguments to you.
17 Before the case is submitted to you at the end, I'm going to
18 ask you not to certainly discuss the case among yourselves,
19 that's not proper, nor to have any mental deliberations in
20 your mind as to what you believe or do not believe until you
21 have heard all the evidence in the case and you know the law
22 that you're going to apply to the facts as you so find them
23 to be in this particular case.

24 Certainly it's not proper to discuss the case beforehand
25 because, as I told you, you don't know all the facts and you

1 might indicate a position or take the position and that
2 position might very well change by the very next witness or
3 the testimony of the very next witness, so you certainly want
4 to keep that part of my request and as best you can not to
5 have any mental deliberation as to what you believe or do not
6 believe until the case is over with and I've submitted it to
7 you for your deliberations and your unanimous decision.
8 You'll have all the time that you think is necessary to
9 discuss this case among yourselves before you come to that
10 unanimous decision.

11 We will first start off with the opening statements of
12 the parties. Now, those opening statements are not evidence.
13 They can't be considered by anyone as evidence in the case,
14 but they are important to each side's initial presentation to
15 you of what they believe the facts and evidence will show to
16 you during the course of the trial. Then we'll have the
17 testimony and evidence in the case.

18 After that, we'll have the closing arguments of the
19 parties, and then I'll give you the law that you apply to the
20 facts as you so find them to be, and then I'll send the case
21 to you for your deliberations and your unanimous decision, so
22 with that, I'll turn it over to the parties for their opening
23 statements.

24 Solicitor.

25 MR. ANDREW: Thank you, Your Honor.

1 The Judge has already read the charges to you and,
2 therefore, you have an idea what this whole case is based
3 around. If you remember, the charges were possession with
4 intent to distribute crack cocaine, which is a cocaine base.
5 It's the technical and legal term for it, and possession with
6 intent to distribute marijuana, the other charge being
7 assault while resisting arrest, but the heart, the core, the
8 motive, the heart of this case is the drugs, and the entire
9 issue -- and as the Judge stated, which are just allegations
10 at this point.

11 At the end of the case, that's when y'all are going to
12 take all the evidence, you're going to evaluate it, and y'all
13 are going to apply the elements of the law, and then you're
14 going to make your decision about whether or not Corey
15 Robinson committed the offense that we've got him alleged to
16 have committed. But, although this case is mainly about
17 drugs, and it didn't take a long period of time for all this
18 to transpire, from when the first call comes in until Mr.
19 Robinson was taken into custody, it's only about forty-five
20 minutes to an hour, but in that forty-five minutes to an
21 hour, you are going to see some of the evils that are
22 associated with drug use and the sale of drugs. What you are
23 going to see is that on June 3rd, 2008, that the police were
24 alerted, and you will hear testimony from the citizen that
25 actually called and alerted the police that she suspected Mr.

1 Robinson of selling drugs. You're going to hear her describe
2 this person, and then you're going to hear from the main
3 witness in this case, who is Deputy John Seale, who was on
4 duty and investigated that.

5 He's going to testify to you about questioning Mr.
6 Robinson and is going to testify that Mr. Robinson matched
7 the description that was given by the 911 caller, and then
8 you're going to hear -- before you get to the drugs, you're
9 going to hear about what Mr. Robinson does before he tries to
10 get rid of the drugs that he has on him at that time.

11 Deputy Seale is going to tell you that while he was
12 questioning Mr. Robinson he was getting closer, and he caught
13 -- three or four feet -- he caught him, and that's when he
14 assaulted him, a chase ensued, and finally Deputy Seale was
15 able to get Mr. Robinson under control, and at that time,
16 that's when the drugs were found where Mr. Robinson had been
17 struggling with Mr. Seale.

18 Now, all I ask of you at this time is to keep an open
19 mind, like the Judge said. He hasn't been convicted of
20 anything. He's just been charged, and he being Mr. Robinson,
21 but I also -- and you need to be fair, fair to him and fair
22 to the State and keep an open mind, and the Judge talked to
23 you briefly about beyond a reasonable doubt, and that's the
24 heart, or the core of our judicial system, and I ask you to
25 take that seriously, but in order to be fair to the State, as

1 well as the defendant, I do want you to evaluate the evidence
2 and when you evaluate that evidence, and you come to the
3 conclusion that this gentleman assaulted this officer, being
4 Mr. Robinson, and these drugs were found in his possession,
5 then it's your duty that, if I have proven that beyond a
6 reasonable doubt to you, that you can come back with a
7 verdict of guilty. At this time, like I said, I just ask you
8 to be fair to both sides, listen to the testimony, and I'll
9 have an opportunity to speak with you again, and the Judge
10 will explain the law a little more thoroughly. But basically
11 the allegations were, June 3rd, 2008, Deputy Seale responded,
12 he found Mr. Robinson, Mr. Robinson assaulted him, took off,
13 when he got him that's when he found drugs. It's not a
14 complicated case, but like I say, it is the evils that are
15 involved with drug use, and illegal activity in our
16 community.

17 That's all I have for you at this time, and I will be
18 presenting witnesses to you.

19 THE COURT: All right, Mr. Robinson, you may present
20 your opening statement, sir.

21 MR. ROBINSON: All right. I'm -- I'm Mr. Robinson, the
22 defendant, and I'm my attorney. Y'all was read the charges,
23 whatever, of what I'm charged with, marijuana, crack cocaine,
24 and assault while resisting, but during this case, on June
25 3rd, 2008, you didn't know that the defendant was never

1 identified as the subject, never located the subject, never
2 arrested me at the scene. The officer did not have no
3 physical injuries, no complaints of any physical injuries.
4 He was given two different descriptions, was given two
5 different descriptions. They also got other evidence to
6 prove the innocence, which is the video tape that showed that
7 the defendant never touched him or assaulted the officer, or
8 no statement.

9 THE COURT: All right, thank you, sir.

10 All right, Solicitor, you may present your first
11 witness, please.

12 MR. ANDREW: Karen Fordham.

13 THE COURT: All right, come around to be sworn over
14 here, ma'am, please. Come around over there to where the
15 bailiff is.

16 KAREN FORDHAM, BEING FIRST DULY SWORN, IS EXAMINED AND
17 TESTIFIES AS FOLLOWS:

18 THE CLERK: Please be seated and state your name for
19 the record, spelling your last name, please.

20 MS. FORDHAM: Spell my last name?

21 THE CLERK: Yes, ma'am. State your full name and spell
22 your last, please. Thank you.

23 MS. FORDHAM: Karen Fordham.

24 THE COURT: All right, Solicitor.

25 MS. FORDHAM: F-O-R-D-H-A-M.

DIRECT EXAMINATION

BY MR. ANDREW:

Q. Ms. Fordham, where do you live?

A. in Georgetown.

Q. For those jurors who may not be familiar with Meadow Street, can you kind of explain where it is in Georgetown County.

A. (No response.)

Q. Sorry. For the jurors that may not know where Meadow Street is, can you kind of tell them what section ---

A. Well, Highmarket and Meadow is just before you get to Graves Station, and it's right across the street from a Winyah Stop One gas station.

Q. And how long have you been living there now?

A. Thirteen years.

Q. And what do you do for a living?

A. Right now I'm just disability, but I used to do construction work, and I worked at Vocational for a while.

Q. And do you remember the events that took place on June 3rd, 2008?

A. Yes.

Q. How about tell the jury -- tell them what happened at 5:30 in the afternoon on that date. Where were you at?

A. Outside in my yard.

Q. Standing in the front yard?

1 A. Uh-huh (affirmative response), because I was getting
2 ready to cut my grass.

3 Q. Okay. What did you -- what -- did you notice the
4 defendant? Did you see the defendant at that time?

5 A. Uh-huh (affirmative response).

6 Q. Where was he standing?

7 A. I ---

8 Q. I'm sorry. Where was he standing, ma'am?

9 A. Across the street at the next house in front of the
10 steps.

11 Q. And what did you observe taking place while you were
12 watching him? What did you observe taking place?

13 A. Well, the woman was outside. Her son was up on the
14 steps, and I seen that gentleman pass some drugs.

15 Q. Okay, and what did you do when you saw that?

16 A. What was he what?

17 Q. What did you do when you saw that take place? What
18 did you ---

19 A. I waited a few minutes, and then I came in -- went in
20 the house, and I really called the landlord, and he said,
21 "Well, call 911 because we don't have that problem here," and
22 that's what I did.

23 Q. And did you call 911?

24 A. Uh-huh (affirmative response).

25 Q. All right, and do you remember what you told them?

1 **A.** The most of it. I gave a description of him and what
2 I saw transacted, and what he had on at the time.

3 **Q.** Okay, and all that was recorded, wasn't it, ma'am?
4 Did you listen to the recording of the 911?

5 **A.** Here.

6 **Q.** Okay. Did that recording -- did this recording here,
7 did that accurately depict what you told them on that date?

8 **A.** Exactly what I told them.

9 **Q.** Okay. Do you remember what -- how you described the
10 defendant as far as his clothing and everything?

11 **A.** I don't remember the clothing right now because it's
12 been a while, but I told them I'd seen him before because --
13 where I worked at.

14 **Q.** Okay, but you knew him before?

15 **A.** Uh-huh (affirmative response).

16 **Q.** All right, but on that 911 tape, and you've had a
17 chance to listen to it, it's an accurate recording of what
18 you told them that day, is that correct?

19 **A.** Uh-huh (affirmative response).

20 THE COURT: You need to say yes or no, please.

21 **A.** Yes.

22 **Q.** And how soon after the transaction took place did you
23 call 911? About how long passed between when you saw him and
24 when you told them?

25 **A.** Right away, more or less. I said -- I waited a few

1 minutes and I went in the house and I called.

2 MR. ANDREW: At this time, Your Honor, I'd like to
3 offer the 911 tape into evidence.

4 THE COURT: Is there any objection, Mr. Robinson?

5 MR. ROBINSON: Yes, objection. I object under the
6 Rules of Evidence 607, credibility of the witness.

7 THE COURT: All right, sir. That objection is
8 overruled. You may play the -- or you may put the 911 tape
9 into evidence, Solicitor.

10 **911 TAPE OF CALL MARKED IN EVIDENCE AS**

11 **STATE'S EXHIBIT NUMBER 1.**

12 THE COURT: Do you wish to publish or play it?

13 MR. ANDREW: Yes, sir, Your Honor. It's been marked as
14 State's Exhibit 1, and I'd like to publish that for the jury
15 at this time.

16 THE COURT: Is there any objection to publication, that
17 is playing of the tape, Mr. Robinson?

18 MR. ROBINSON: No objection.

19 THE COURT: You may do so, Solicitor.

20 (STATE'S EXHIBIT 1, 911 TAPE, PLAYED IN OPEN COURT IN THE
21 PRESENCE OF THE JURY.)

22 THE COURT: Is there any way to make that louder,
23 Solicitor, and you can start it over?

24 MR. ANDREW: Yes, sir.

25 (STATE'S EXHIBIT 1, 911 TAPE, RE-STARTED.)

1 MR. ANDREW CONTINUES:

2 Q. Is that -- that's the call you made on that day then?
3 Is that the call you made on that day?

4 A. Yeah; yes.

5 Q. And when you said he was walking away, ---

6 A. When he left there?

7 Q. Yes, ma'am.

8 A. He was walking out the back part of the street, ---

9 Q. Okay.

10 A. --- and that go towards Highmarket the opposite way.

11 Q. Okay, and if you would, for the jury, just tell them
12 what -- what's at the end of that road and around the corner
13 as far as -- in relation to Mayo's.

14 A. How far away from Mayo's?

15 Q. Just kind of describe if you walked down Meadows how
16 you would get to Mayo's, Meadow Street.

17 A. You would have to turn right at the end of the corner
18 and where else, I don't know because I don't go to Mayo's. I
19 might pass by going to church.

20 Q. But it's not far from your home, is it?

21 A. No.

22 Q. Walking distance? Somebody could walk ---

23 A. Yes; yes.

24 Q. --- there easily in less than ten minutes?

25 A. Uh-huh (affirmative response), yes.

1 MR. ANDREW: Please answer any questions Mr. Robinson
2 has for you.

3 THE COURT: Mr. Robinson, questions of this witness?

4 MR. ROBINSON: Yes, sir. I can walk up near her?

5 THE COURT: Yes, sir, right -- you can come right up to
6 the podium right next to that microphone, yes, sir, and just
7 speak up so everybody can hear you. Thank you.

8 **CROSS EXAMINATION**

9 **BY MR. ROBINSON:**

10 Q. Your name is Karen, Miss Karen Fordham, Miss Karen
11 Fordham?

12 A. Sir?

13 Q. Your name is Karen Fordham?

14 A. Me? Yeah; yeah.

15 Q. Do you have any connection with the defendant, Corey
16 Robinson?

17 A. No.

18 Q. So you wasn't working at a Conway plant where Mr.
19 Robinson worked back in April -- April 2008?

20 A. Yeah.

21 Q. But you just said you don't got no connection with --
22 no connection with the defendant, Corey Robinson?

23 A. I can't hear ---

24 Q. All right. Do you have any connection with the
25 defendant, Corey Robinson, the defendant, me?

1 A. No.

2 Q. Was you working with me April twen- -- during April
3 2008?

4 A. No, I didn't work with you. I worked at the same
5 building and then totally on a different job.

6 Q. Were you the reason why the defendant got fired?

7 A. I beg your pardon?

8 Q. Was you the reason why the defendant got fired from
9 his job?

10 A. Do I know why?

11 Q. Was you the reason why?

12 A. Repeat that.

13 THE COURT: Can you hear the question, ma'am?

14 Q. Was you the reason why the defendant got fired?

15 A. Why you got fired?

16 Q. Yeah, why the defendant got fired.

17 A. No, not really.

18 Q. All right, so when you call the 911, if you had know
19 the defendant name, why did you say a black male sold drugs
20 to a Caucasian if you already had -- know who the defendant
21 was?

22 A. Because I didn't remember your name.

23 Q. But you -- did we exchange names on the bus so
24 everybody would know each other?

25 A. No, we didn't. The van driver used to call your name

1 and I had no reason to remember your name.

2 Q. All right. If you are sitting on your porch and the
3 defendant is across the street on another person porch, how
4 did you know it was drugs being transacted?

5 A. I saw it.

6 Q. What kind of drugs was it?

7 A. Well, as far as I -- my eyes saw it, it looked like it
8 was cocaine.

9 Q. It was cocaine?

10 A. Yes.

11 Q. So it was a powder substance?

12 A. A controlled substance?

13 Q. It was a powder substance? You're saying cocaine, so
14 that mean the drug is a powder substance?

15 A. I didn't say whether it was powder or it was crake --
16 crack.

17 Q. Cocaine is powder. You are saying it was cocaine?

18 A. I saw a white substance in a bag.

19 Q. You saw a white substance in a bag?

20 A. Right.

21 Q. And how far is the house that the defendant was
22 standing on from your house?

23 A. From where I'm sitting to where that gentleman right
24 there with the striped shirt on.

25 Q. And how big was the package that you saw?

1 A. I don't know.

2 Q. You don't know. You can't estimate how big it was?
3 If you saw it from where you was at, that it had to have been
4 kind of a big amount for you to see it?

5 A. I was standing in my yard.

6 Q. If you was standing -- that's what I'm saying. If you
7 are over there in your yard and the defendant is way over
8 here on this porch, then it should be a great amount for you
9 to see for you to know it's powder?

10 A. I knew what you was doing.

11 Q. You know what I was doing?

12 A. That's right.

13 Q. But you can't actually say ---

14 A. The way you presented yourself and the way you took
15 out the drugs, and when I saw it, I knew what it was.

16 Q. So you know -- so you're trying to say the defendant
17 pull out drugs and you saw it, you saw it so you know, so
18 what was the quality? What would you say the quality was?

19 A. I don't know what was the quality of it. I don't know
20 how much it was.

21 Q. What kind of bag was it in, what color bag? You
22 couldn't see the ---

23 A. White.

24 Q. A white bag?

25 A. Clear.

1 Q. A big white bag, a small white bag?

2 A. A small bag.

3 Q. How small?

4 A. I don't know.

5 Q. How could you know it was small if you don't know how
6 small? You can approx- ---

7 A. Your Honor, do I have to answer this?

8 THE COURT: Ma'am, he is asking you proper questions
9 and you need to answer his questions.

10 A. Okay.

11 THE COURT: If there's an objection from the State,
12 I'll hear it. Proceed on. Thank you very much.

13 Q. You say it was a Caucasian in the case? You say it
14 was a Caucasian also involved in the transaction?

15 A. Yes, because she was my neighbor.

16 Q. It was a she?

17 A. Yes.

18 Q. Well, in the 911 report, they said it was a he, a
19 young white boy, but you say it was not; you say it was a
20 she. They said it was a young ---

21 A. It was -- her son ---

22 MR. ANDREW: Objection, Your Honor. He needs to phrase
23 it in the form of a question. I think he's trying to offer
24 some testimony or closing argument.

25 THE COURT: All right. Mr. Robinson, why don't you

1 rephrase your question and speak up, please, so the witness
2 can hear you.

3 MR. ROBINSON: She's saying it was a white woman, but
4 I'm saying that there on the 911 tape ---

5 THE COURT: Just ask the question to her.

6 MR. ROBINSON: All right.

7 Q. You said it was a white woman. Do you know if it was
8 white woman?

9 A. There was two people out there other than you, one
10 male and one female.

11 Q. So why wasn't the female given to -- why wasn't the
12 female given to 911? You added a new party. Why wasn't a
13 female given in your 911 statement? You only listed two
14 people in your 911 statement.

15 A. I don't know what to tell you about that one.

16 MR. ROBINSON: I close my argument, Your Honor.

17 THE COURT: All right. Any -- any further questions?

18 MR. ROBINSON: No, sir.

19 MR. ANDREW: Nothing from this witness, Your Honor.

20 THE COURT: All right, ma'am, you may step down, and do
21 you wish the witness to be excused, Solicitor?

22 MR. ANDREW: I do, Your Honor.

23 THE COURT: Any objection to the witness being excused,
24 Mr. Robinson?

25 MR. ROBINSON: No; no, sir.

1 THE COURT: All right, thank you very much.

2 All right, ma'am, you are excused.

3 All right, Solicitor, your next witness, please, sir.

4 MR. ANDREW: Deputy John Seale.

5 THE COURT: All right, sir, please come around to be
6 sworn, sir.

7 JOHN SEALE, BEING FIRST DULY SWORN, IS EXAMINED AND
8 TESTIFIES AS FOLLOWS:

9 THE CLERK: Please be seated and state your name for
10 the record, spelling your last name, please.

11 DEPUTY SEALE: John Seale. It's S-E-A-L-E.

12 **DIRECT EXAMINATION**

13 **BY MR. ANDREW:**

14 Q. Deputy Seale, where are you employed?

15 A. The Georgetown County Sheriff's Office.

16 Q. And how long have you worked for the Georgetown
17 Sheriff's Office?

18 A. Just under four years.

19 Q. And were you working back on June 3rd, 2008?

20 A. Yes, sir.

21 Q. And did you have an occasion to come into contact with
22 the defendant in this case, Mr. Corey Robinson?

23 A. Yes, sir.

24 Q. And will you explain how it was that you got called
25 out to that particular location.

1 **A.** Yes, sir. On that evening, my supervisor, Sergeant
2 Bailey, came to me, said there was a call coming through
3 Central Dispatch about a possible black male wearing a white
4 number 32 jersey with a orange hat on Meadow Street that ---

5 MR. ROBINSON: Objection, Your Honor.

6 THE COURT: The grounds, please, sir.

7 MR. ROBINSON: Under Rule 603, witness owe the
8 permission.

9 THE COURT: All right, sir. I'm going to allow the
10 testimony. You may proceed over the objection of the
11 Defense. You may proceed.

12 MR. ROBINSON: All right. In his narrative report, he
13 states a white shirt and a orange hat.

14 THE COURT: All right, sir. That's subject -- that's a
15 matter for cross examination, Mr. Robinson.

16 MR. ROBINSON: All right. Thank you.

17 THE COURT: Thank you, sir.

18 Go ahead, Solicitor.

19 **Q.** You can continue, please.

20 **A.** He was wearing a white jersey with a number 32 on it,
21 and like I said, a orange hat, walking down Meadow Street. I
22 then responded to the area of Meadow Street and I did not
23 observe anybody on Meadow Street. I came off of Highmarket
24 Street onto Meadow Street. I went all the way to the end of
25 Meadow Street and made a right on Mercer Avenue, come to the

1 intersection of Mercer Avenue and Greentown Road. As I came
2 to that intersection, I looked both ways and then I saw Mr.
3 Robinson walking down Greentown Road toward Mayo's Club.

4 The first thing I noticed was a orange hat, which was
5 given in the description, and as I got closer, I was able to
6 read the 32 on the jersey.

7 Q. Let me stop you just a minute. How long from the time
8 the call came in until you were able to get to Meadowtown
9 (sic)?

10 A. I don't know. I guess that call came in around 5:30,
11 I think. Sergeant Bailey told me right around six o'clock or
12 a little before six, maybe five or ten minutes to six, and I
13 left straight from the Sheriff's Office, which is at -- near
14 Five Points, if everybody is familiar with the Sheriff's
15 Office or Tony's Pizza and went straight to Meadow Street,
16 and it probably took me between five and ten minutes to get
17 there, so ...

18 Q. And how close to Ms. Fordham's house was it that you
19 found Mr. Robinson?

20 A. Roughly five hundred yards, six hundred yards, just
21 estimating.

22 Q. And he matched the description. Did you come into
23 contact with him? Did you attempt to talk to him at that
24 time?

25 A. Yes, sir. Once I noticed him, I then drove up to him

1 and got out of my car and approached him.

2 Q. Let me stop you there. What were you driving?

3 A. I drive a Dodge Charger. It is a marked -- there's no
4 lights on the top, but it is Sheriff's Office down the side
5 of it.

6 Q. Okay, and you were wearing your uniform?

7 A. Yes, sir, this exact -- similar to it. It might not
8 be an exact one, but the same.

9 Q. Okay, and did you get out of your car?

10 A. Yes, sir.

11 Q. All right, and did you talk to Mr. Robinson?

12 A. Yes, sir.

13 Q. Okay, and how did that go?

14 A. When I got out, I asked Mr. Robinson if he had any
15 I.D. on him, and he started to become a little nervous,
16 patting around, saying no, he didn't, and he had walked
17 around from the front of my car, walked around to near at
18 driver's door, and I asked him -- he was real nervous and had
19 his hands in his pocket. I could tell he was holding
20 something in his left pocket, and I asked him what he was
21 holding, and he pulled his pocket out just briefly enough and
22 stuck it back in.

23 I then asked Mr. Robinson if he had any weapons on him,
24 the way he was being; he was just acting nervous, was real
25 fidgety and nervous and looking around, patting himself with

1 his hands before, like I say when he came around the car, but
2 when he came up to me, he had his hands in his pocket.

3 He said no, he didn't have any weapons on him. I said,
4 "Do you mind if I pat you down for weapons?" He said, "No,
5 sir," or something to that effect; he didn't have a problem
6 with it, and then he turned around and stuck his hands up in
7 the air, like this (indicating). With the previous
8 experience I've had, it's not a very good way to conduct a
9 proper search, so I asked him -- Mr. Robinson to put his
10 hands behind his back and told him I was going to detain him,
11 that he was not under arrest, while I conducted the pat-down
12 for weapons only, and then after that he would be free to go.

13 He then put his hands behind his back and I grabbed with
14 my left hand his two arms and reached for my handcuffs. When
15 I reached for my handcuffs to detain him, he spun around and
16 punched me in the face three times, two to three times, and
17 took off running. I grabbed him by his shirt, his jersey.
18 It slid off the top of -- off the top of him, and then we
19 went on a foot chase down the middle of Greentown Road.

20 Once we come to Club Mayo's, which is at 560 Greentown
21 Road, he went into the parking lot, ran through the parking
22 lot back behind the club to where it's like a wooded area.
23 There's a trail, a beat-down trail, and Mr. Robinson tripped
24 and fell. I then jumped on top of him, and that's when the
25 struggle started. I asked him several times to put his hands

1 behind his back, told him he was under arrest, to put his
2 hands behind his back. He would not give them to me. He was
3 actively resisting, trying to get away from me, and I was
4 having to call on my radio for backup and tell them where I
5 was, so it was pretty hard for me to hold him down and do
6 that at the same time.

7 Well, after several minutes of the struggle, he stated
8 he was giving up, he was done, he was going to give up, so I
9 then loosened my grip a little bit in order for him to put
10 his hands behind -- behind his back so I could take him into
11 custody. As soon as I loosened my grip, he pushed me off of
12 him and got back on top of me and went to -- punched -- swung
13 at me again, and I was able to get him off of me with my leg.
14 I kicked him in the stomach, and he tried to run, and I
15 grabbed him by his under-shirt he was wearing. It ripped two
16 or three times before I was able to get him back on the
17 ground.

18 Once I got him back on the ground, we then -- actively
19 resisting, it took me several minutes again to get him into
20 custody. I think it was two or three minutes we fought, and
21 he stated again he was giving up, and then I explained to
22 him, "You know, I'm not -- you said that one time and you
23 tried to get away from me again, so I'm not going to let you
24 -- let you go."

25 I was trying to wait for somebody to get there to help

1 me put him in handcuffs, but I was in the woods and nobody
2 was able to find me, and I got to the point where I had to --
3 I was about to give out. I had to do something, and I was
4 able to get his -- one of his -- I got his right hand in the
5 handcuffs and then was able to roll him over. I rolled his
6 other hand from underneath him and placed the handcuffs on
7 him and then walked him out back to where the other officers
8 were looking for me, and he was turned over to Corporal
9 Barton who took him to the detention center.

10 Q. Well, let's -- let me back up a minute. Did you
11 notice what he had in his hand that he pulled out of his
12 pocket when you initially stopped him?

13 A. Yes. It was a large amount of cash.

14 Q. Like a wad of money?

15 A. Yes, sir.

16 Q. And once you got down to Mayo's, that's where you were
17 able -- well, you were chasing him the whole time?

18 A. Yes, sir, the entire time. I was -- he was probably
19 four or five feet ahead of me, I mean ...

20 Q. And did you notice him taking anything out of his
21 pockets?

22 A. No. He was running full steam ahead.

23 Q. Now, when he gets to Mayo's, there was other people
24 standing in the parking lot out front, is that right?

25 A. Right. There was a few people up at the parking area,

1 a couple of cars. I don't remember exactly how many. We
2 went through there pretty quick.

3 Q. And it's probably about six-thirty and is still light
4 outside?

5 A. It was a little bit earlier than that. It was
6 probably around six o'clock.

7 Q. And was still light outside?

8 A. Yes, sir.

9 Q. And you chased him around the back?

10 A. Yes, sir.

11 Q. And none of this time he was throwing anything out of
12 his pockets?

13 A. No, sir.

14 Q. You get to the back. Kind of describe for the jury
15 what the scene is back there as far as the back area and the
16 trail in the back.

17 A. It's -- before you get to the wooded area is like a
18 section that's like brush grown up. It's not really woods.
19 It's kind of real thick and viney from what I remember, and
20 there's a well-beaten trail that goes back into the woods.

21 Q. How far off the road back in the woods do you think
22 you were?

23 A. From the road ---

24 Q. I'm sorry, from the back of Mayo's, back in the woods.

25 A. From the parking lot?

1 Q. Yes.

2 A. Probably, I would guess, about fifty yards from the
3 parking lot to where the struggle took place.

4 Q. And there's nobody around that area when all this was
5 going on?

6 A. There was nobody around that area.

7 Q. And you said that he was struggling with you at one
8 point and tried to punch you?

9 A. Yes.

10 Q. What was he doing? Can you describe to the jury how
11 he behaving as far as where he was putting his hands?

12 A. Yeah. His hands were underneath him the whole time.
13 You know, that was my main problem. I was unable to get his
14 hands from underneath him. He was keeping them underneath
15 him for some reason.

16 Q. And this is when you first get him? You thought you
17 had him under control?

18 A. Yeah, both times actually.

19 Q. Okay.

20 A. Both times his hands were underneath him.

21 Q. Okay, but he was able to break free at one point, is
22 that correct?

23 A. Whenever he said, "I'm giving up," I was around his
24 neck, and so I wasn't -- I wasn't restraining his arms. I
25 was laying on top of him. His arms were underneath him, and

1 I had my arm around his neck holding onto him trying to keep
2 him from getting back up. The only time he broke free was
3 when he told me, "Look, I'm giving up," and then I let him --
4 I loosened my grab on him and then that's when he pushed me
5 off and jumped back on top of me or tried to jump back on top
6 of me.

7 Q. And I see you are wearing a microphone or ---

8 A. Yes, sir. It's ---

9 Q. Did you have something like that with you that day?

10 A. Yes, sir. It was on.

11 Q. And did you have a video camera?

12 A. Yes, sir.

13 Q. And are those activated when you pull up on the scene?

14 A. They're activated when you cut on your blue lights,
15 but I activated mine when I got out of the car. You can
16 manually cut it on, and I did that whenever I opened the car
17 door. It delays two or three seconds before it cuts on.

18 Q. And does the microphone -- it relays back to that ---

19 A. This microphone?

20 Q. Yes.

21 A. No. This is the microphone that you hear here.

22 Q. Okay.

23 A. This is the radio that you call dispatch with, but
24 this is the microphone that goes to the video system.

25 Q. But you were putting on that the day this happened?

1 A. Yes, sir.

2 Q. And you were able to catch some of this on video, is
3 that correct?

4 A. Yes, sir.

5 Q. I want you to take a look ---

6 MR. ANDREW: We'll mark this as State's Exhibit 2.

7 D.V.D. OF CRIME SCENE MARKED FOR IDENTIFICATION

8 AS STATE'S EXHIBIT 2.

9 Q. I want you to take a look at it. Now, you've had a
10 chance to review the video tape, is that correct?

11 A. Yes, sir.

12 Q. All right, and is that video, that C.D., does that
13 have -- D.V.D., I'm sorry, does that have the footage from
14 that day?

15 A. Yes, sir.

16 Q. And it accurately depicts what took place?

17 A. Yes, sir.

18 MR. ANDREW: At this time, Your Honor, I'd like to
19 enter it in evidence and publish it to the jury.

20 THE COURT: All right, Mr. Robinson, any objection to
21 -- is that State's Number 2, ---

22 MR. ANDREW: Yes, sir, Your Honor.

23 THE COURT: --- State's Number 2, the D.V.D. from the
24 vehicle?

25 MR. ROBINSON: No; no objection.

1 THE COURT: All right, sir.

2 It's in evidence and you may publish it.

3 D.V.D. OF CRIME SCENE MARKED IN EVIDENCE AS

4 STATE'S EXHIBIT 2.

5 MR. ANDREW: All right.

6 MR. ROBINSON: Can he move that podium?

7 MR. ANDREW: Your Honor, can he get here so he can see
8 it? I don't think he can see it.

9 THE COURT: Yes, sir.

10 Q. And while I'm getting ready to do this, Deputy Seale,
11 does it catch -- does that -- the microphone in the car, does
12 it catch other radio calls coming in?

13 A. Yeah. There's actually two microphones. There's one
14 I keep on my person, and then there's one in the vehicle, so
15 there's two microphones going at the same time, but when you
16 see the video, you'll hear this microphone. Because of the
17 distance, it only works a certain distance. What's cutting
18 in and out, we're right on the, I guess, the maximum range of
19 it, and it cuts in and out.

20 You'll hear -- some parts you'll hear of the actual
21 struggle in the woods, and then other parts you'll hear
22 through the car radio, me calling on this radio, and it's
23 relaying through the car radio to dispatch while I'm trying
24 to get help.

25 Q. Okay, and it would pick up other officers as well,

1 wouldn't it?

2 A. Right, the in-car will, yes.

3 (STATE'S EXHIBIT 2, D.V.D., PLAYED IN OPEN COURT IN THE
4 PRESENCE OF THE JURY.)

5 MR. ANDREW CONTINUES:

6 Q. Officer, you had a chance to view this video with the
7 jury?

8 A. Yes.

9 Q. And there was a couple of things on there I wanted to
10 clear up. There's a time stamp on there. Does that
11 accurately reflect the time that it was?

12 A. Yes, sir.

13 Q. And basically would it be a fair and accurate
14 statement to say you don't have him into custody until you
15 radio everybody that you have him in custody?

16 A. Correct, yeah, and if I did say it before, then it
17 didn't come through the radio, but yeah, whenever, I think,
18 when the -- I might have said it two or three times before I
19 got through on the radio, but ...

20 Q. And this entire time, did these officers ever find you
21 back in the woods, or did you have to -- end up having to
22 bring him to the club?

23 A. No. I ended up bringing him out. Nobody ever came to
24 me or nobody ever found me.

25 Q. Until you brought him back?

1 **A.** Yes, sir.

2 **Q.** And you were alone in the woods the whole time with
3 Mr. Robinson while the struggle was going on?

4 **A.** Yes, sir.

5 **Q.** Were you wearing your weapon at that time?

6 **A.** Yes, sir.

7 **Q.** Did you ever draw your weapon?

8 **A.** No, sir.

9 **Q.** Were you able to collect some evidence or some items
10 from Mr. Robinson at the scene or once he was in custody?

11 **A.** Yes, sir. We collected several things from -- some
12 from the front of the car and some from the woods.

13 **Q.** Okay. I want to show you what I'm going to mark as
14 State's Exhibit 3.

15 **BROWN BAG CONTAINING ITEMS OF CLOTHING, ORANGE CAP,**
16 **#32 JERSEY, HEAD RAG, AND TEE-SHIRT, MARKED FOR**
17 **IDENTIFICATION AS STATE'S EXHIBIT 3.**

18 **Q.** And just take a look at that, if you would; do you
19 know what that is?

20 **A.** Yeah. That's the evidence that I recovered and
21 dropped into the evidence -- put in the evidence locker.

22 **Q.** Not all of it, but some ---

23 **A.** Some of it, yes, sir; not all of it, some of it.

24 **Q.** And how do you know what's in that bag? Is it
25 documented on the front?

1 **A.** Yes, sir. I put it in there and sealed it, and it's
2 been sealed.

3 **Q.** Okay, and those items that are in there, those are
4 items that were taken off of Mr. Robinson's person, some of
5 them?

6 **A.** Yes, sir; some of them, yes, sir, his clothing.

7 **Q.** Clothing is what's in that bag?

8 **A.** Yes, sir.

9 MR. ANDREW: At this time, Your Honor, I'd like to
10 enter it into evidence and publish it to the jury.

11 THE COURT: All right. Is there any objection to that,
12 Mr. Robinson?

13 MR. ROBINSON: No objection.

14 THE COURT: All right. It's in evidence without
15 objection. Is that State's 3?

16 MR. ANDREW: That's State's 3, Your Honor, and it's
17 actually a bag, but it contains about three items of
18 clothing, but I think we can keep it marked as one
19 exhibit, ---

20 THE COURT: All right, ---

21 MR. ANDREW: --- and we'll make sure it ---

22 THE COURT: --- so State's 3.

23 **BROWN BAG CONTAINING ITEMS OF CLOTHING, ORANGE CAP,**

24 **#32 JERSEY, HEAD RAG, AND TEE-SHIRT, MARKED IN**

25 **EVIDENCE AS STATE'S EXHIBIT 3.**

1 Q. If you would, just show the jury what you -- what the
2 items of clothing were that you took off of Mr. Robinson.

3 A. This was a orange hat which he was wearing. This is
4 the jersey with the number 32 on the back of it.

5 Q. And that's the one I believe we see from the video
6 that comes off when ---

7 A. You see it slide off of his head, yes, sir. This is
8 the rag that was wrapped around his head, and you can see
9 from where we were struggling, the briars and stuff that's in
10 it. This was recovered from the woods. These two were
11 recovered from in front of my car, as you probably saw them
12 fly off of him in the beginning. This is his tee-shirt he
13 was wearing, and you can see where I was grabbing him and it
14 was ripped several times while I was grabbing and trying to
15 pull him back on the ground, and that's it.

16 Q. Okay, and there were some -- there were some other
17 items taken from Mr. Robinson as well, were there not?

18 A. Yes, sir. After he was taken into custody and
19 escorted and turned over to Corporal Barton, I then showed to
20 several other officers where we were struggling, as I was
21 exhausted, and somebody had went to go get me some water. I
22 was extremely thirsty, feel like I was dehydrated and about
23 to pass out, and so then I walked Agent Geno back to the area
24 where we were fighting and told him to look -- excuse me.

25 Q. Let me stop you there. Was it obvious on the ground

1 where y'all had been struggling?

2 A. Yes, sir.

3 Q. Okay. Was the dirt kicked up or ---

4 A. Yes, sir. It was -- well, you could tell where we had
5 been, and I knew exactly where -- where it had happened.

6 Q. Okay, and what did y'all find there?

7 A. As I told Agent Geno, you know, "This is where we were
8 fighting," and I asked him if he would look for any
9 contraband that might have been dropped or came out while we
10 were struggling, while I went to get some -- my water and to
11 try and catch my breath, and I remained within twenty-five
12 yards of Agent Geno. I could see him. He was from me from
13 here to the back wall where it took place, and he located the
14 crack cocaine and the marijuana in the immediate area where
15 we were struggling, and he immediately came back and told me.

16 He got a evidence bag and went and put it in the
17 evidence bag along with the shirt and the rag, and he
18 immediately turned it over to me within a matter of minutes,
19 all within sight of me. I was within sight of him the whole
20 time, and showed them the exact area where we were fighting,
21 and also, you can be specific about the area where we were
22 fighting because the clothing was there or the do-rag was
23 there where we were struggling.

24 Q. And by the nature of the drugs that were found, what
25 do y'all do to preserve so they are not compromised in any

1 way or destroyed? What do y'all do in an effort to ---

2 A. We drop the -- you put the marijuana in a clear,
3 plastic bag, which is sealed, and it's submitted for testing,
4 and the crack cocaine was put in a SLED Evidence Bag. It's
5 called a Best Bag, and that is also sealed and taken to SLED
6 to be tested for positive for crack cocaine.

7 Q. Okay, and where is that stored? Who do you deliver
8 that to?

9 A. We deliver it to -- we have a box we put all the drugs
10 in and it's locked, and it stays locked, and the only person
11 that gets into it or has a access to get into it is the
12 evidence custodian.

13 Q. Okay, and if I'm correct, you have two -- there are
14 only two people that have keys to it?

15 A. Yes. It should be Corporal Chuck Weaver and Sergeant
16 Neil Johnson.

17 Q. And once you turn those items over to them, do they
18 stay in that sealed bag until they are sent to SLED?

19 A. Yes. They stay sealed up the entire times, and once
20 SLED receives them, then they open them to test -- do the
21 testing.

22 Q. Okay. Let's -- don't show it to the jury. This one,
23 I want you to take a look, and we're going to mark 4 and 5.

24 **SLED BAG CONTAINING MARIJUANA MARKED FOR**
25 **IDENTIFICATION AS STATE'S EXHIBIT 4.**

**SLED BAG CONTAINING CRACK COCAINE MARKED FOR
IDENTIFICATION AS STATE'S EXHIBIT 5.**

Q. First take a look at what's been marked as State's Exhibit 4. Tell me first do you recognize that?

A. Yes, sir. That's what was recovered.

Q. Okay, and that's what was recovered from the area where you and Mr. Robinson were struggling?

A. Yes, sir.

Q. And what's in that bag as far as ---

A. It was two clear plastic bags, individually wrapped bags of marijuana, and they were wrapped in another brown, plastic bag.

Q. Okay. Let me show you what's been marked State's Exhibit 5. Do you recognize that?

A. Yes, sir.

Q. Okay, and what is that?

A. That's the crack cocaine that was recovered from the same area.

Q. Okay, and how was it packaged at the time?

A. It was packaged in two separate clear, plastic -- two separate pieces of crack cocaine packaged separately, one in each package, in clear plastic.

Q. Okay, and you didn't recover the money, did you?

A. No, sir. I think either Corporal Barton or Corporal Geno recovered the money.

1 Q. Okay, but once you turn these items over to evidence,
2 they're kept there and the only one that unseals it would be
3 a SLED agent, is that correct?

4 A. Yes, sir, well, except for the marijuana doesn't go to
5 SLED. The marijuana stays and it gets tested at the
6 Sheriff's Office by people that are certified to test it.

7 Q. Okay. Did you send the request for SLED, or is that
8 done by the evidence custodian?

9 A. I filled that request out.

10 Q. And did you fill out a request for this?

11 A. Yes, sir.

12 Q. Okay, and it was eventually sent to SLED, is that not
13 correct?

14 A. Yes, sir.

15 MR. ANDREW: Answer any questions that Mr. Robinson has
16 for you.

17 THE COURT: All right, Mr. Robinson, cross examination,
18 please, sir.

19 MR. ROBINSON: All right.

20 **CROSS EXAMINATION**

21 **BY MR. ROBINSON:**

22 Q. Deputy John Seale, you said on June 3rd, 2008, you had
23 a call representing a black man, a black male, wearing an
24 orange hat and a white shirt, correct?

25 A. Right.

1 Q. But you said you got a call stating a black man
2 wearing a white shirt with a 32 and an orange hat, correct?

3 A. Right.

4 Q. So how could it be both?

5 A. The 32 was just a further description of the white
6 shirt.

7 Q. But in your narrative statement, you put the -- list
8 all that, but in the 911 report, that said a Caucasian, a
9 Caucasian also?

10 A. I didn't see the 911. My Sergeant, Sergeant Bailey,
11 he's the one that told me. He told me person- -- face to
12 face. He didn't call me over the radio. He told me face to
13 face that there was a black male walking down Meadow Street
14 with a orange hat and a white, number 32 jersey on that was
15 possibly involved in drug activity.

16 Q. But in your narrative statement, you only list a white
17 shirt and a orange hat, correct?

18 A. Like I said, the 32 was just a further description of
19 the white shirt.

20 Q. But the 32 is the main description, correct?

21 A. I thought the orange hat was.

22 Q. All right. When you rode down Meadow Street, did you
23 see a suspect?

24 A. I saw nobody.

25 Q. All right, so if they had a complaint, then why didn't

1 you went to the complaint house on Meadow Street for further
2 information on where the subject could have gone?

3 A. They told me -- they told me that the sub- -- that the
4 complainant did not wish to speak to a officer. Number two,
5 I was going to further look in the area to see if I could
6 locate the possible suspect.

7 Q. Therefore, the complainant didn't want to talk to an
8 officer? Therefore, y'all didn't even know her name when you
9 spoke to her that day?

10 A. I didn't know. I think my sergeant might have called
11 her later, but they didn't tell me her name. A lot of times
12 people remain anonymous. Obviously she didn't because she
13 gave her name on the 911 tape, but that information was not
14 given to me.

15 Q. She never gave her name on the 911 tape?

16 A. I don't know if she did or not. I didn't understand
17 that.

18 Q. All right, so let me see. When you rode down -- when
19 you rode down -- when you rode down Meadow Street, turning on
20 Mercer, then turned on Greentown Road, you said you saw a
21 suspect fitting the description?

22 A. I saw you before I turned on Greentown Road because
23 that's why I made the left-hand turn. I came and looked to
24 see if I could find a suspect, and I saw you walking down
25 Greentown Road and that's why I made the left-hand turn.

1 Q. What was you arresting me for? What was your reason
2 for stopping me and arresting me?

3 A. As you heard on the video tape, I asked you for your
4 I.D. I was not getting out to arrest you. You gave me
5 consent to pat you down for weapons because the way you were
6 -- you were acting so nervous, it had me fearful for -- I
7 didn't know if you had a knife or a gun. You gave me consent
8 to pat you down for weapons. Well, then -- then the reason
9 that you were under arrest is because you punched me in the
10 face. That's why you were under arrest.

11 Q. The tape doesn't say I have given you straight -- I
12 mean, the tape doesn't say I have given -- the defendant
13 given consent to pat him down.

14 A. Yes. It says -- I said, "Do you mind if I pat you
15 down for weapons?" and you said, "Yeah, that's straight."

16 Q. That's what it said?

17 A. That's what it said.

18 Q. All right. Were these drugs found in the defendant's
19 possession?

20 A. No, they were not in your possession. They were in
21 the immediate area where we were struggling.

22 Q. All right. How can you say the defendant drugs when
23 they wasn't found in his possession?

24 A. Because nobody else was in that area.

25 Q. Was Mayo Club open to the public at that time?

1 A. Yes, it was, but we were in the middle of the woods.

2 Q. Were individuals at the Mayo Club?

3 A. Yes, in the front. They weren't in the back. We were
4 in the woods. We were not at the club.

5 Q. All right. Rule -- on your form, Rule 6 -- Rule 6,
6 Form (B), you stated that the drugs were found behind Mayo's
7 Club, correct?

8 A. Yeah, behind -- I said -- I think it says near -- near
9 560 Mayo, because that's the closest physical address.

10 MR. ROBINSON: Your Honor, can I present that as
11 evidence?

12 THE COURT: Well, you can ask him a question. If
13 you've got a document you want him to look at it, you can
14 certainly present it to him, yes, sir.

15 MR. ANDREW: Judge, I just want to see what it is.

16 THE COURT: Yes, sir.

17 Mr. Robinson, if you'd show it to the Solicitor first
18 before you show it to the witness. Thank you.

19 (Mr. Robinson hands document to Mr. Andrew.)

20 THE COURT: You may show it to the witness.

21 MR. ANDREW: Okay, I don't have any problem with the
22 Form B, Rule 6, Your Honor. I will object to the warrants
23 coming in. He's got the officer on the stand. He can ask
24 him direct questions.

25 MR. ROBINSON: The warrant states ---

1 THE COURT: Well, y'all don't -- y'all don't talk about
2 that. What -- if you have -- Mr. Robinson, Mr. Robinson, ---

3 MR. ROBINSON: Huh?

4 THE COURT: When I'm talking, please, y'all don't talk,
5 okay? All right, now, you can ask the witness about the
6 form. If you have some questions about the information in
7 the warrant, ---

8 MR. ROBINSON: All right, I ---

9 THE COURT: --- you can -- sir, just let me finish.
10 You can ask him the questions, and then if you need to show
11 him the document, then you can ask to do that, okay?

12 MR. ROBINSON: I'm just going to ask him does he
13 remember writing this.

14 THE COURT: Well, just go ahead and ask your questions.

15 MR. ROBINSON: All right.

16 Q. Do you remember writing that?

17 A. Yes, sir.

18 Q. Can you tell the jury what that says?

19 A. It says -- where do you want me to start, read the
20 whole thing?

21 Q. Yes, I think so.

22 A. It says, "This is to certify that I, John R. Seale, am
23 employed by Georgetown County Sheriff's Office and that on
24 June the 3rd, 2008, I seized from Corey Jawan Robinson
25 pursuant to a lawful arrest at or near

1 Georgetown, South Carolina 29440, the following substance or
2 containers, two off-white rock-like substance weighing .53
3 grams believed to be crack cocaine, individually wrapped in a
4 clear plastic, found in the area where the suspect was taken
5 into custody behind Mayo's Club at 560 Greentown Road,
6 Georgetown, South Carolina 29440.

7 On June the 3rd, 2008, I made the delivery to the above
8 described substances or containers to the drug drop-box of
9 the Georgetown County Sheriff's Office in substantially the
10 same condition as when I received it.

11 Q. All right, so you did say that the drug was discovered
12 behind Mayo's Club, correct?

13 MR. ANDREW: Are we introducing those into evidence?

14 MR. ROBINSON: Yeah, we're introducing these into
15 evidence.

16 MR. ANDREW: You need to let her know that.

17 THE COURT: All right, sir, do you want that -- do you
18 want to put that into evidence at this time?

19 MR. ROBINSON: Uh-huh (affirmative response), but then
20 again you said ---

21 THE COURT: All right, wait a minute, sir. All right,
22 sir. Is there any objection to the defendant putting that
23 form into evidence at this time?

24 MR. ANDREW: No objection, Your Honor.

25 THE COURT: All right. You have to hand that form to

1 the court reporter then and let her mark it.

2 MR. ROBINSON: But then again ---

3 THE COURT: Sir, you've got to be quiet while the court
4 reporter is doing her work.

5 It was that one document, ma'am. It was the one
6 document that the officer read. That's it.

7 **FORM B MARKED INTO EVIDENCE AS DEFENDANT'S**

8 **EXHIBIT 1.**

9 THE COURT REPORTER: Defendant's 1.

10 THE COURT: And give the other ones back to Mr.
11 Robinson.

12 Q. And then you said ---

13 THE COURT: Just a second; one second.

14 MR. ROBINSON: I'm sorry.

15 THE COURT: Defendant's 1 is in evidence without
16 objection.

17 Now you may proceed. Thank you, sir.

18 MR. ROBINSON: I go ahead and proceed?

19 THE COURT: Yes, sir, you may proceed.

20 Q. And then you said it was found in my possession
21 located at Mayo's parking lot, correct?

22 A. Not in Mayo's parking lot. It says ---

23 Q. Can you read this and remember what you said?

24 A. Your Honor, could I finish explaining myself?

25 THE COURT: All right, Mr. Robinson, Mr. Robinson, just

1 a second. When you ask a question, ---

2 MR. ROBINSON: Yeah, but ---

3 THE COURT: Mr. Robinson -- Mr. Robinson, when I'm
4 speaking, you be quiet.

5 MR. ROBINSON: All right, I'll be quiet.

6 THE COURT: And the same rules apply to the Solicitor.
7 When I'm speaking, he's got to be quiet, all right? Now,
8 listen to me. You ask the question. Then whatever the
9 witness is, whether it's this witness or any other witness,
10 you allow them to give their full answer, and then when
11 they're done answering, then you ask whatever questions you
12 have. Those are the rules that everybody follows. We don't
13 interrupt the witness when they're giving an answer, all
14 right?

15 MR. ROBINSON: All right.

16 THE COURT: All right. Now, Deputy, did you have
17 anything else to say in your answer?

18 A. Yes, sir. He -- I think you asked if it was found on
19 your possession is what it states ---

20 Q. Okay, in Mayo's parking lot. You got it, first got
21 it's behind Mayo's Club and now you're saying in the middle
22 of the woods, and then you said in Mayo's parking lot.

23 A. No. It states clearly that it was taken near the area
24 where you were taken into custody behind 560 Greentown Road,
25 which is the most specific address I could possibly give. It

1 doesn't mean -- I didn't say it was taken at. I said it was
2 taken behind the club near where you were taken into custody
3 in the woods, not in the parking lot.

4 Q. Well, in the warrant, if you read that warrant -- let
5 him read that warrant.

6 A. Yes, sir, I didn't.

7 Q. Can I read it?

8 MR. ANDREW: I'm going to object without it being
9 introduced into evidence, Your Honor.

10 THE COURT: Well, gentlemen, let the Deputy read the
11 warrant first. Let him read it.

12 MR. ROBINSON: All right, ---

13 THE COURT: Mr. Robinson, sir, please, let the Deputy
14 read, and then we'll go on to the next things, okay? Just
15 hold on a second. Thank you.

16 A. I've read it.

17 MR. ROBINSON: Now I'm giving it to the jury.

18 THE COURT: No, sir.

19 MR. ROBINSON: Huh?

20 THE COURT: No, sir, you're not allowed to do that now.
21 Do you have a question of the Deputy regarding ---

22 Q. All right. Do it say located in the parking lot of
23 Mayo's Club?

24 A. Yeah, that's what the warrant says.

25 Q. Located in the parking lot of Mayo Club?

1 A. Yes.

2 Q. All right. Can I have my document. So what it mean,
3 at this location?

4 A. That is one location which was behind the club where
5 the struggle ensued.

6 Q. It says behind the club in the woods and in Mayo's
7 parking lot, correct?

8 A. No.

9 Q. That isn't what you have written on this?

10 A. What -- I didn't fill the warrant out. That was done
11 by somebody else. I didn't get the warrant. I filled --
12 that Form B that you're holding, I filled that out, but that
13 is exactly where it was found and exactly ---

14 Q. Why would you say in Mayo's Club and then in your
15 narrative report say the woods?

16 A. I've explained to him and y'all that we have to -- we
17 can't just put in the woods. I have to put the closest
18 physical address I could on there and it was in -- I put
19 where he was taken into custody. I think it's been made
20 clear that we were in the woods and there's no argument that
21 we were in the woods when he was taken into custody, and it
22 clearly states on the bag that it was located where he was
23 taken into custody.

24 Q. All right. Well, again, were these drugs found in the
25 defendant's possession?

1 A. No, they were not found in his possession. They were
2 found next to his ripped clothing and where we had been
3 struggling in the briars and brush in the woods.

4 Q. All right, and then you said you took the defendant
5 out of the woods and then you escorted him to the parking lot
6 of Mayo's, ---

7 A. Correct.

8 Q. Correct? All right, but then you said we was -- if
9 you escorted -- if you're in the middle of the woods, how can
10 you escort him to the parking lot of Mayo's?

11 A. Because once -- once you were taken into custody, I
12 can't leave you in the woods. I had to -- we had to go
13 somewhere, so I walked him back and turned him over to the
14 first officer I saw, because as I said, I was completely
15 exhausted. It lasted close to seven minutes, around seven
16 minutes, and that's why he was turned over to somebody else.
17 That's why I didn't -- and also, my vehicle was a hundred and
18 fifty yards down the road. It wasn't in the parking lot.
19 There was other vehicles close to the parking lot. That's
20 why he was turned over. He was escorted out of the woods by
21 me and turned over in handcuffs, and turned over to Corporal
22 Barton.

23 Q. All right, and your agent, one of the agents, Geno,
24 went back into the woods to look for any possible contraband?

25 A. Right. I took them to the exact spot and said, "This

1 is where it happened."

2 Q. How do you know this is the exact spot if you had to
3 walk way down here, fifteen ---

4 A. Because ---

5 Q. You said you took me out of the woods and walked way
6 down here, fifteen, but you marked the spot?

7 A. Yeah, from where your shirt -- remember when you were
8 running and your shirt ripped and I dropped it, and then I
9 jumped right back on top of you?

10 Q. You didn't say this in your motion -- in your
11 narrative statement.

12 A. I said it ---

13 Q. In your narrative statement you said you just escorted
14 me out.

15 MR. ANDREW: I'm going to object, Your Honor, to
16 him ---

17 THE COURT: All right. Mr. Robinson, you need to
18 phrase your statements in the form of a question. You
19 remember you can't testify at this point in time. You have
20 to raise -- you have to raise these issues in the form of a
21 question. Thank you, sir.

22 MR. ROBINSON: All right.

23 Q. All right, you said you took the defendant out of the
24 woods and then you walked him way down here, fifteen feet,
25 fifteen hundred feet, whatever you said?

1 **A.** No, probably about thirty to forty yards.

2 **Q.** Thirty to forty yards, so, therefore, you wasn't in
3 the middle of the woods? You was right by the club?

4 **A.** No. They met me in the parking lot. I didn't walk
5 them all the way to the road. They were coming up looking
6 for me. They saw me coming out of the woods and they were
7 approaching me.

8 **Q.** All right. You said -- all right, when I first
9 questioned you, you said that I was in the middle of the
10 woods?

11 **A.** Not in the middle. I said -- I think I made it very
12 clear we were on the edge of the woods right where the path
13 -- right where the thick brush and the viney undergrowth met
14 with the woods is where it took place. We weren't in the
15 woods. I think I made that clear earlier.

16 **Q.** We wasn't in the woods?

17 **A.** Right on the edge of the woods.

18 **Q.** But the tape -- the video shows that we was in the
19 woods. It don't show us on the edge. It shows in the woods.

20 **A.** The video showed us run behind the club. You can't
21 see where we went in the woods.

22 **Q.** The video don't even show the club ---

23 THE COURT: All right, Mr. Robinson, please remember
24 now you have to ask a question. You can't make a statement.
25 You have to ask a question.

1 MR. ROBINSON: All right.

2 Q. The video didn't even have the club present. That's
3 what I'm saying. You said we were in the middle of the --
4 the middle of the woods and you said we walked forty -- I
5 mean thirty to forty feet to the parking lot, so, therefore,
6 that makes ---

7 MR. ANDREW: Objection, Your Honor.

8 THE COURT: Once again, Mr. Robinson, you're ---

9 MR. ROBINSON: All right, all right, I'll ask him a
10 question.

11 Q. Were these drugs found in the defendant's possession
12 again?

13 A. No, they weren't found in your possession. They were
14 found in your immediate area.

15 MR. ROBINSON: All right.

16 THE COURT: Any redirect, sir?

17 MR. ANDREW: Just briefly.

18 **REDIRECT EXAMINATION**

19 **BY MR. ANDREW:**

20 Q. When the defendant talks about his possession, he's
21 talking about his physical possession, like not in his
22 pocket?

23 A. Exactly. They weren't in his pocket. You know, they
24 weren't ---

25 MR. ROBINSON: I want ---

1 THE COURT: Mr. Robinson, just a second now. It's not
2 your turn. You sit down. If there's another question, then
3 I'll see about allowing you to ask another question.

4 Q. So when you say not in his possession, explain more
5 thoroughly to the jury what you're talking about, not in his
6 possession.

7 A. Okay, we didn't -- they weren't actually in his
8 pocket. They were found in the area where we were -- we were
9 struggling like when he had his hands underneath him, he
10 possibly could have pulled them out of his pocket and that
11 could have been the reason why he was struggling and keeping
12 his hands underneath him because he was digging in his
13 pockets trying to get rid of -- why he was running, so, you
14 know, they weren't found directly in his person, but they
15 were found within feet of where it all took place, probably
16 the exact -- I mean, where we were laying.

17 MR. ANDREW: No further questions.

18 MR. ROBINSON: Can I recross examine, Your Honor?

19 THE COURT: Yes, on the questions that the Solicitor
20 just asked, you can ask some questions, yes, sir.

21 MR. ROBINSON: I can't submit that into evidence?

22 THE COURT: Sir?

23 MR. ROBINSON: I can't submit that into evidence, the
24 narrative report?

25 THE COURT: Show it to the Solicitor.

1 Do you have any objection to that coming into evidence
2 at this time, Solicitor?

3 MR. ANDREW: Yes, sir, Your Honor. It's hearsay. He's
4 got the witness on the stand. He can question him ---

5 THE COURT: Sustained. I'm not going to allow you to
6 place it into evidence. You may ask the witness the
7 questions.

8 MR. ROBINSON: All right.

9 **RECROSS EXAMINATION**

10 **BY MR. ROBINSON:**

11 Q. Did you -- did you see the defendant drop anything?

12 A. No, I didn't see.

13 Q. Did you see the defendant throw anything?

14 A. No.

15 MR. ROBINSON: All right.

16 THE COURT: Anything else, Mr. Robinson, of this
17 witness?

18 MR. ROBINSON: No, sir.

19 THE COURT: Anything else, Solicitor?

20 MR. ANDREW: Nothing, Your Honor.

21 THE COURT: All right, sir, you may step down.

22 All right, ladies and gentlemen, we are going to take a
23 break for lunch at this point in time, and there is one other
24 matter that the Court will have to attend to before we come
25 back to resume the trial in this matter, so I'm going to have

1 to have you come back at 2:10. Be back in your jury room at
2 2:10 and we'll resume the trial in this matter at that point
3 in time.

4 Please remember, don't talk about the case; don't allow
5 anybody to talk to you about it. I'll see you back in your
6 jury room at 2:10. Thank you very much. Everyone else
7 remain seated.

8 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
9 JURY.)

10 THE COURT: All right, Mr. Robinson, there was your
11 form, that Form B, Defendant's 1, that has to stay with the
12 court reporter.

13 MR. ROBINSON: Yes, sir, I understand.

14 THE COURT: All right. Where is that at? The court
15 reporter doesn't have it. Can you look through your papers?

16 MR. ROBINSON: Oh, she doesn't have it? I must have
17 took it. Oh, there it is.

18 THE COURT: All right, very good. We'll just give that
19 back to the court reporter. Thank you.

20 MR. ROBINSON: All right. (Hands document to the court
21 reporter.)

22 THE COURT: All right, we will resume back at 2:10. At
23 this point in time, is there anything further from the State?

24 MR. ANDREW: Not at this time, Your Honor.

25 THE COURT: Anything else at this point in time, Mr.

1 Robinson, that you need to bring to the Court's attention?

2 MR. ROBINSON: No, sir.

3 THE COURT: All right, sir, great. We'll start back at
4 2:10, then, thank you very much, with the next witness.

5 MR. ROBINSON: Leave this right here?

6 THE COURT: He can -- yeah, he can -- you can leave
7 your paperwork there, or Mr. Robinson, if you want to take
8 your paperwork with you, you could, or you want to leave it,
9 this is going to be locked up and nobody is going to get to
10 it, so either way, you take it with you or leave it there,
11 either way.

12 MR. ROBINSON: I'll take it.

13 THE COURT: Thank you. All right, be at ease.

14 (OFF THE RECORD - Lunch Recess)

15 ON THE RECORD

16 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
17 JURY.)

18 THE COURT: All right, Solicitor, are you ready to call
19 your next witness?

20 MR. ANDREW: Yes, sir, Your Honor.

21 THE COURT: All right, sir. Mr. Robinson, are you
22 ready to go?

23 MR. ROBINSON: Yes, sir.

24 THE COURT: All right, ask the jury to come in, please.

25 (THE FOLLOWING TAKES PLACE IN THE PRESENCE OF THE JURY.)

1 THE COURT: All right, Solicitor, are you ready with
2 your next witness?

3 MR. ANDREW: Yes, sir, Your Honor. The State would
4 call Agent Geno.

5 THE COURT: Please come around to be sworn, sir.

6 CHRIS GENO, BEING FIRST DULY SWORN, IS EXAMINED AND
7 TESTIFIES AS FOLLOWS:

8 THE CLERK: State your name for the record, and spell
9 your last name, please.

10 AGENT GENO: Agent Chris Geno, G-E-N-O, of the
11 Georgetown County Organized Crime Bureau.

12 THE COURT: Go ahead, Solicitor.

13 MR. ANDREW: Thank you, Your Honor.

14 **DIRECT EXAMINATION**

15 **BY MR. ANDREW:**

16 **Q.** Agent Geno, would you kindly explain what your duties
17 are to the jury as part of the agent -- with the Organized
18 Crime Bureau.

19 **A.** As an agent with the Organized Crime Bureau, I'm
20 responsible for investigating drug crimes, any type of
21 organized crime. We receive complaints over the telephone
22 about drug crimes. We work informants, as well as do
23 undercover buys of narcotics.

24 **Q.** And how long have you been with the Georgetown
25 Sheriff's Office?

1 **A.** I've been with the Sheriff's Office since July of
2 2002.

3 **Q.** How long have you been with the Organized Crime
4 Bureau?

5 **A.** August of 2004.

6 **Q.** Now, were you -- did you have an occasion on June 3rd,
7 2008, to respond to a call out at Mayo's concerning John
8 Seale?

9 **A.** I did.

10 **Q.** Okay and by the time you got out there, he was in
11 custody, is that correct?

12 **A.** That's correct.

13 **Q.** But you were involved with the collection of the
14 drugs?

15 **A.** Yes, sir.

16 **Q.** Would you describe to the jury what the scene looked
17 like out there where you found those drugs.

18 **A.** When I responded to Mayo's on Greentown Road, Mayo's
19 is -- it's a small bar. I think it's been around for quite a
20 while. I responded there. There was a lot of deputies. The
21 defendant had already been taken into custody. I responded
22 over there. We heard calls for help on the radio and, you
23 know, we are concerned about officer safety, so we responded
24 over there. Like I said, he was taken into custody prior to
25 us getting there.

1 When we got there, there were several other deputies
2 around that were -- that had arrived to back up Deputy Seale.
3 When we got there, Deputy Seale -- they had brought the guy
4 to the car, and he had been in a fight and he was sweating
5 real bad.

6 It was warm that day, and told me where, you know, the
7 fight had taken place, and our first concern was the deputy,
8 so we had one of our other agents get him a bottle of water,
9 and we went back to that scene, which looking at Mayo's from
10 Greentown Road, to the left side of it directly behind,
11 there's a wooded area, and there's -- it's sort of like --
12 it's kind of like a -- it's a path that's been traveled
13 before, and there was on the ground when I went back there to
14 look, you could tell on the ground there was pinestraw, and
15 you could see where everything had been moved around on the
16 ground like there had been a fight.

17 And while I was back there looking in the ground, I
18 found some -- I saw some plastic baggies on the ground, which
19 ended up -- there was two -- there was four bags, two of
20 which had a off-white rock-like substance that I believed at
21 the time to be crack cocaine, and two bags that I believed to
22 be marijuana.

23 I believed the substances -- the substance to be drugs.
24 I've seen it several hundred times before and just, you know,
25 working in dope, I saw it, and I believed that to be drugs.

1 As well, there was a white tee-shirt and some kind of head
2 do-rag or something that was on the ground, and at that time
3 I did -- we collected it and I brought it back to Deputy
4 Seale.

5 Q. You turned it over to Deputy Seale, the actual
6 physical custody of it, is that correct?

7 A. Correct.

8 Q. Let me just have you take a look at what's been marked
9 as State's Exhibit 4. I'd just ask you to take a look at it.
10 Can you identify that?

11 A. It looks like marijuana.

12 Q. Is that consistent in nature with what you turned over
13 to ---

14 A. Right.

15 Q. --- Deputy Seale?

16 A. That's correct.

17 Q. Okay, and Number 5, too, just take a look at that.

18 A. Crack cocaine. That was also seized at the incident
19 location.

20 Q. Okay. How about some money, was there any money ever
21 collected from the scene?

22 A. There was. I received the money, and I do -- also one
23 of my duties, I do the seizures and the consent forms for any
24 money that's seized, you know, that's consistent with drug
25 activity, or drug dealing, or in close proximity to drugs.

1 It's seized and it's actually -- I'll take it and I give it
2 to a secretary who puts it into an account until the actual
3 civil trial is completed, and I turned that money into the
4 secretary upstairs in our office, Diane Dozier.

5 Q. Do you remember where that money was collected from?

6 A. Out of his pocket, I believe.

7 Q. All right. Let me show you ---

8 MR. ANDREW: Could we just mark this as 6, State's
9 Exhibit 6.

10 **RECEIPT FOR \$505.06 FOR MONEY SEIZED MARKED FOR**
11 **IDENTIFICATION AS STATE'S EXHIBIT 6.**

12 Q. Tell me do you recognize that?

13 A. Yes.

14 Q. And what is that?

15 A. That's just a receipt where I turned the money into
16 the secretary, just to keep for my records.

17 MR. ANDREW: And, Your Honor, we'd like to introduce
18 this into evidence.

19 THE COURT: Mr. Robinson, any objections to State's 6,
20 the receipt, coming into evidence?

21 MR. ROBINSON: Yes, sir.

22 THE COURT: All right, sir, and your objection is?

23 MR. ROBINSON: I object to it be -- it's not no
24 evidence of the crime. The money is -- ain't no drugs was
25 found on me and no drugs -- or they didn't find no drugs on

1 my per- -- I mean possession, so I can use money as a
2 motive ---

3 THE COURT: All right, sir. I'm going to allow it into
4 evidence ov- ---

5 MR. ROBINSON: That's leading -- leading the jury.

6 THE COURT: All right, sir. I'm going to allow it into
7 evidence over the objection of the Defense.

8 MR. ANDREW: Thank you, Your Honor.

9 RECEIPT FOR \$505.06 FOR MONEY SEIZED MARKED IN
10 EVIDENCE AS STATE'S EXHIBIT 6.

11 Q. And can you tell how much -- I mean, can you tell how
12 much money was seized from this receipt?

13 A. Five Hundred and Five Dollars and six cents.

14 Q. And that was turned over to Diane Dozier at the
15 Sheriff's Office?

16 A. That's correct.

17 Q. And you said when you saw Officer Seale, he was
18 winded. Do you know if he sustained any injuries as a result
19 of this confrontation with the defendant?

20 A. He was -- he was struck in the face, and he was -- his
21 face was real red anyways from fighting, but I think he was
22 told to go to the doctor anyways, or the hospital, to get
23 checked out. I was not with him at the hospital,
24 although ---

25 Q. Do you know if he missed any time from work?

1 A. I think he was out for a few days. I really can't
2 remember, but I think I remember him missing some work.

3 Q. And did Mr. Robinson, do you remember if he had any
4 injuries, noticeable injuries that you could recognize?

5 A. I don't remember.

6 Q. And just briefly, when you got to Mayo's, before you
7 went to that back area, was there anybody back there besides
8 the officers that were responding to Officer Seale?

9 A. No.

10 Q. And once you turned the drugs over to Deputy Seale,
11 you had no more involvement with the drugs, is that correct?

12 A. (Nods in the negative.)

13 MR. ANDREW: Answer any questions Mr. Robinson has.

14 A. Absolutely.

15 THE COURT: Mr. Robinson, cross examination.

16 **CROSS EXAMINATION**

17 **BY MR. ROBINSON:**

18 Q. You said Deputy John Seale missed some days out of
19 work?

20 A. I think he did. I really don't recall. I don't -- I
21 don't work -- he works on -- in the patrol division and I
22 work in the narcotics unit, so we're working several
23 different hours, but I can't remember if he did, and I
24 thought he did miss a couple of days' work.

25 Q. You thought he did?

1 A. Uh-huh (affirmative response).

2 Q. All right. You said the leaves that -- you said was
3 like a fight, ---

4 A. Uh-huh (affirmative response).

5 Q. --- so, therefore, like all right, did -- so there was
6 a fight, he would have had more than just being red? He
7 would have had coloration, you know, when you fight,
8 especially a Caucasian, you get purple and all that stuff.
9 If he was in an actual fight then he would have had
10 discoloration of the skin, so if he had went to the hospital
11 they would have had pictures of all of that, if he would have
12 been fighting; is that right?

13 A. Well, I didn't see any pictures from the hospital, but
14 like I -- like I did testify, he was really red and I don't
15 know if that was from the fighting or being struck in the
16 face.

17 MR. ROBINSON: Are there some pictures from the
18 hospital? Are there any pictures from the hospital?

19 MR. ANDREW: I've turned over everything I've got to
20 the Defense, Your Honor.

21 THE COURT: All right, sir; thank you.

22 Q. If you say it was a fight, so all this stuff moved
23 around, that means it was a pretty big fight, correct? If
24 you could have gone in the woods, it's a big woods, you know
25 what I mean, so we can go in the woods and tell that these,

1 hey, it wasn't like this, and it came from a fight. That
2 means it's a big fight for you to go in the big woods and say
3 these here was moved from a fight.

4 A. What's your question?

5 Q. My question is in order for you to know these here was
6 moved from a fight, it had to been a big fight?

7 A. I didn't testify to there being a big fight. When I
8 did respond over there, the ground was disturbed. Listening
9 to -- on the way to the incident, listening to the radio
10 transactions and everything, it sounded like a pretty good
11 scuffle.

12 Q. So then, I mean, a pretty good scuffle would mean that
13 he -- a Caucasian would have had -- he would have had bruises
14 and, I mean, ---

15 A. Normally the bruising doesn't happen right away. I'm
16 not a doctor, so I can't really testify to the injuries that
17 he may have sustained.

18 Q. In the narrative, no complaint of any visible injury
19 or ---

20 THE COURT: Sir, if you've got a document you want to
21 show the witness, I'll be glad for you to do so. Do you want
22 the witness to read that document, Mr. Robinson?

23 MR. ROBINSON: Yes.

24 THE COURT: All right. Go ahead and read through that
25 document, and when you're done, you can tell us that you're

1 done reading it.

2 A. Yes, sir. "On June 3rd, 2008," ---

3 THE COURT: No, sir, not out -- not out loud.

4 MR. ROBINSON: Why can't he read it out loud?

5 THE COURT: No, sir.

6 MR. ROBINSON: He can't read it. Can I introduce it
7 into evidence?

8 THE COURT: Mr. Robinson -- Mr. Robinson, what you need
9 to do, if you want him to look at the document, is allow him
10 to read through the document. Then you may ask him questions
11 if you choose to do so, all right?

12 When you're done looking at the document, sir, let us
13 know. Thank you.

14 A. Yes, sir. (Witness reads document.)

15 MR. ROBINSON: He ain't got to read the whole document.
16 All he's got to do, if he ain't going to read it out loud,
17 all he's got to do is read the part where it says "Injury."

18 MR. ANDREW: Objection, Your Honor, to him testifying
19 to what's on that document without that document ---

20 THE COURT: Sustained.

21 Mr. Robinson, allow the witness to read through the
22 entirety of the document.

23 A. Was there any other pages?

24 Q. No other pages.

25 A. Okay.

1 THE COURT: Now, Mr. Robinson, you need to identify
2 first -- ask the witness if that is his narrative or his
3 statement.

4 Q. This your narrative or your statement?

5 A. No, that's not mine.

6 THE COURT: All right, sir. Then you may not ask him
7 any further questions. He is not the author ---

8 MR. ROBINSON: If he is the author ---

9 THE COURT: He is not the author of the document. He
10 did not write the document, sir.

11 Q. Can you tell me what the defendant was being arrested
12 for when they made the stop?

13 A. I believe -- well, listening to the radio traffic,
14 there was a complaint of somebody wearing a jersey and a hat
15 that had apparently been seen selling drugs in front of
16 somebody's residence, and the deputy went over there to try
17 to find that subject and found you wearing the clothing that
18 matched the description that was given over central or over
19 the radio to deputies, and he was arrested after you struck
20 him in the face several times, or tried to arrest you and you
21 struck him in the face several times and ran into the woods.

22 Q. Struck him in the face several times, so he was
23 actually struck in the face several times, and then leaving
24 no discoloration, no marks, no bruises, no nothing?

25 THE COURT: Was that a question, Mr. Robinson? I'm

1 sorry.

2 MR. ROBINSON: Yes, that was a question.

3 THE COURT: Okay. If -- you need to phrase it so that
4 everyone understands it's a question.

5 Q. Well, my question was, if he got hit several times in
6 the face, clear shots, boom, no blocks, no nothing, no
7 bruises, no injuries, correct?

8 A. Well, I don't know how he got struck in the face. I
9 wasn't there.

10 Q. You said several times in the face, right? He was hit
11 several times in the face and no bruises, no injuries, no
12 complaint about no injuries?

13 A. I didn't read anything in the report about it.

14 MR. ROBINSON: Oh, no, I can't ask that.

15 THE COURT: Redirect, Solicitor?

16 MR. ANDREW: Nothing from this witness, Your Honor.

17 THE COURT: All right. Do you wish the witness to step
18 down?

19 MR. ANDREW: Yes, sir, and be released from the
20 subpoena.

21 THE COURT: Any objection, Mr. Robinson?

22 MR. ROBINSON: No.

23 THE COURT: All right, sir, you are released from your
24 subpoena and excused to go back to your regular duties.

25 A. Thank you, your Honor.

1 COURT: All right, Solicitor, your next witness, please,
2 sir.

3 MR. ANDREW: We call Neil Johnson with the Sheriff's
4 Office.

5 NEIL JOHNSON, BEING FIRST DULY SWORN, IS EXAMINED AND
6 TESTIFIES AS FOLLOWS:

7 THE CLERK: Please be seated and state your name for
8 the record, and spell your last name.

9 SERGEANT NEIL JOHNSON: Sergeant Neil Johnson,
10 J-O-H-N-S-O-N.

11 MR. ANDREW: All right, sir. Thank you, Your Honor.

12 **DIRECT EXAMINATION**

13 **BY MR. ANDREW:**

14 Q. Agent Johnson, where are you employed?

15 A. Georgetown County Sheriff's Office.

16 Q. And do you work with the evidence at the Sheriff's
17 Office?

18 A. I'm the supervisor over our evidence division.

19 Q. And did you have an occasion to work a case concerning
20 some items that were collected in regards to a case which is
21 the State versus Corey Robinson?

22 A. I did.

23 Q. I want you to take a look at what's been marked
24 State's Exhibit 5 and tell me what your involvement was --
25 well, first, tell me do you recognize that package?

1 A. I do.

2 Q. And I see you looking at that paperwork, and is that
3 paperwork helpful as far as you refreshing your memory what
4 that's involved with?

5 A. Yes. This paperwork I have in my hand is a copy of
6 the chain of custody where I took it to SLED and received it
7 from SLED.

8 Q. Okay, and they've heard some -- the jury has heard
9 some explanation about how that evidence is kept secured so
10 that it doesn't -- isn't tampered with and doesn't change in
11 appearance, or compromise its integrity, so would you explain
12 to me a little bit, once that bag has been turned over to you
13 and it is sealed, what happens then? Do you ever unseal that
14 bag?

15 A. No. We actually receive the bag before it goes to
16 SLED, the one that's sealed inside of the heat-sealed bag.
17 This bag has a very tight seal on the top. We're not able to
18 even try to tamper with it to get into the evidence that
19 would be in the bag, any kind of drug evidence.

20 Q. And I apologize, but don't show it to the jury yet. I
21 haven't ---

22 A. Okay, I'm sorry.

23 Q. --- put it in evidence, but just explain the process
24 to them and how you know that that bag was the one that you
25 handled.

1 **A.** Anyway, when the bag comes in, every time that a Best
2 Bag is completed at our department, per the SLED regulations,
3 there is a Best Bag number attached to each envelope and
4 everything in that envelope would also have that number, and
5 then the forms that the officers would fill out would also --
6 they would have to put at the top that particular Best Bag
7 number.

8 In this particular case, the Best Bag number -- the
9 reason I know this is it is because of the chain of custody
10 has the Best Bag number, also the SLED lab number contained
11 in it, which is also on the piece of evidence that he's
12 presented to me.

13 **Q.** Okay, and what's your SLED Best Bag number, the bag
14 number for this particular item?

15 **A.** The SLED Best Bag number is B198877.

16 **Q.** And what did you do with that as far as transporting
17 it to SLED and when did you do it?

18 **A.** I carried this piece of evidence to SLED on October
19 10th of 2008, and actually gave it to the forensics
20 technician at 10:44 that morning.

21 **Q.** When did you get that -- did you get -- did you
22 receive it back from SLED?

23 **A.** That's correct.

24 **Q.** And how does that process work?

25 **A.** Any time we take new evidence to SLED to be processed

1 or examined, we also receive whatever we took the previous
2 time, if they've completed it. I went back up to SLED on
3 another occasion, which was on November 14th of 2008, and at
4 that time this was included in the package that -- along with
5 some other evidence that was returned back to the Sheriff's
6 Office from SLED.

7 Q. And when you get that package back from SLED, is it
8 sealed also?

9 A. That's correct, and stays sealed.

10 Q. And you can track it by those numbers you have?

11 A. That's correct.

12 Q. Okay. As far as this case goes, you didn't have any
13 other involvement with the case, did you?

14 A. This was the only involvement.

15 MR. ANDREW: Please answer any questions that Mr.
16 Robinson may have for you.

17 THE COURT: All right, Mr. Robinson, any questions?

18 **CROSS EXAMINATION**

19 **BY MR. ROBINSON:**

20 Q. You say that's the only involvement you had with the
21 case?

22 A. That's correct.

23 Q. You didn't see no -- nothing what happened on the
24 scenes or nothing?

25 THE COURT: Mr. Robinson, it would be helpful for the

1 court reporter if you would stand up and you would come to a
2 microphone so the court reporter could take down your
3 answers, please, sir. Thank you.

4 Q. What's your name?

5 A. Sergeant Neil Johnson.

6 Q. Mr. Sergeant Neil Johnson, on June 3rd, 2008, you
7 didn't witness nothing else? You wasn't present at the
8 scene?

9 A. No, I was not.

10 THE COURT: Anything else, Solicitor?

11 MR. ANDREW: Nothing from me, Your Honor.

12 THE COURT: Do you wish the witness to be excused?

13 MR. ANDREW: Yes, sir.

14 THE COURT: Any objection, Mr. Robinson?

15 MR. ROBINSON: (Nods in the negative.)

16 THE COURT: All right, sir, you are excused; you are
17 released. You can go back to your regular duties, sir.

18 SERGEANT JOHNSON: Thank you.

19 THE COURT: Your next witness.

20 MR. ANDREW: Maribeth Burroughs. She's a SLED agent.

21 THE COURT: Come around and be sworn, ma'am, please.
22 Thank you.

23 MARIBETH BURROUGHS, BEING FIRST DULY SWORN, IS EXAMINED
24 AND TESTIFIES AS FOLLOWS:

25 THE CLERK: Please be seated and state your name for

1 the record, spelling your last name, please.

2 AGENT BURROUGHS: My name is Maribeth Burroughs,
3 B-U-R-R-O-U-G-H-S.

4 THE COURT: And if you can, Agent, you need to spell
5 your first name, since apparently it's a little different,
6 for the court reporter, please.

7 AGENT BURROUGHS: Okay. My first name is Maribeth,
8 M-A-R-I-B-E-T-H.

9 THE COURT: Go ahead, Solicitor.

10 MR. ANDREW: Thank you.

11 **DIRECT EXAMINATION**

12 **BY MR. ANDREW:**

13 Q. Where are you employed and in what capacity are you
14 employed?

15 A. I'm employed at the South Carolina State Law
16 Enforcement Division, also known as SLED, and I am a forensic
17 drug chemist.

18 Q. Okay. How long have you been with SLED?

19 A. I've been at SLED for one year.

20 Q. Okay, and how long have you worked at that position?
21 You've always been a forensic chemist?

22 A. Yes, for one year.

23 Q. And kind of explain to the jury what your duties are
24 -- well, let's -- before we get there, why don't we talk
25 about what kind of education you have, educational background

1 you have.

2 A. I have a Bachelor of Science degree in Chemistry and a
3 Master's in teaching Secondary Science, both from the
4 University of South Carolina, and I have completed forensic
5 drug chemistry training at SLED and also have completed legal
6 training at the South Carolina Criminal Justice Academy.

7 Q. Okay, and on that training as a forensic chemist,
8 what's your duties there at SLED? What are your
9 responsibilities and what are your daily activities?

10 A. My duty is to analyze evidence for the presence of
11 controlled substances.

12 Q. And as part of that, did you have some special
13 training through SLED?

14 A. Yes. I had approximately six months of training with
15 the Drug Analysis Department.

16 Q. And basically what were you doing during that training
17 period for the jurors that may not know how to process that?

18 A. Okay. During the training period, I was assigned to
19 senior analysts that had been there for more than five years,
20 two weeks with each analyst, and I analyzed between two
21 hundred and two hundred and fifty cases during that time.

22 Q. And that's what you began when you first started with
23 SLED? That was the process they took you through as part of
24 your training, is that correct?

25 A. Yes.

1 Q. And how many times would you say you did this type of
2 analysis on some narcotics, or items that have come into
3 SLED?

4 A. Well, like I said, during my training, approximately
5 two hundred times, and I also did complete a proficiency
6 test. Since my training, I have worked approximately six
7 hundred and fifty cases.

8 Q. And all that is dealing with analyzing drugs or ---

9 A. Yes.

10 Q. --- that kind of thing?

11 MR. ANDREW: Your Honor, at this time I would like to
12 ask that Ms. Burroughs be qualified as an expert as a
13 forensic chemist.

14 THE COURT: Do you wish to question the witness about
15 her qualifications, or do you have an objection to her being
16 declared an expert?

17 MR. ROBINSON: Excuse me?

18 THE COURT: First, stand up, Mr. Robinson, please.
19 That's the proper procedure. Do you want to question the
20 witness about her qualifications to be an expert witness,
21 just about her being an expert witness, nothing else at this
22 point in time?

23 MR. ROBINSON: Yeah, a expert witness?

24 THE COURT: Yes, sir. Do you want to question her
25 about her qualifications, that is, her training, education,

1 experience, that sort of thing. Do you want to ask her about
2 that?

3 MR. ROBINSON: Yeah, I want to ask her about that.

4 THE COURT: All right, sir. You can't ask her anything
5 about this case yet.

6 MR. ROBINSON: I can't ask for no DNA or ---

7 THE COURT: Not -- not at this point in time, not about
8 the case.

9 MR. ROBINSON: The drugs, that they pointed to me or
10 nothing?

11 THE COURT: Not -- not about this case yet.

12 MR. ROBINSON: All right.

13 THE COURT: This is only about her being declared an
14 expert.

15 MR. ROBINSON: All right. Proceed.

16 THE COURT: All right, sir, so you have no objection to
17 her being declared an expert, is that right?

18 MR. ROBINSON: No, I don't got -- declared a expert of
19 what she do?

20 THE COURT: Yes, sir.

21 MR. ROBINSON: Oh, no, no, no. Proceed.

22 THE COURT: You don't have a problem with that?

23 MR. ROBINSON: Huh-uh (negative response).

24 THE COURT: All right, sir. I'm going to qualify her
25 to give her opinion in this particular case regarding the

1 field of forensic drug analysis.

2 All right, Solicitor.

3 **MR. ANDREW CONTINUES:**

4 **Q.** Is it Agent Burroughs? Would that be the proper way
5 to address you?

6 **A.** That's fine, yes, sir.

7 **Q.** Agent Burroughs, I want you to take a look at what's
8 been marked as State's Exhibit 5 and tell me if you recognize
9 that item.

10 **A.** Yes.

11 **Q.** Okay, and how do you recognize what that item is?

12 **A.** I recognize this because my initials are on the
13 original packaging and also on the heat-sealed pouch.

14 **Q.** And can you tell either from that or from your own
15 notes when you received that packet?

16 **A.** Yes. I may refer to my notes?

17 **Q.** Yes.

18 **A.** Okay. I received the evidence on October 14th, 2008.

19 **Q.** And do you know who provided you with that evidence as
20 far as the Georgetown Sheriff's Office or what agency it came
21 from, I guess?

22 **A.** Georgetown County Sheriff's Office.

23 **Q.** And once you receive it, do you keep it in your care,
24 custody, and control?

25 **A.** Yes.

1 Q. And how is it main- -- how is the integrity of it
2 maintained at SLED?

3 A. Once I receive it from the evidence log-in department,
4 I place it into our secure location, which we call a drug
5 vault. Only the analysts have access to it until I am ready
6 to analyze the case, and once I do that, it is in my
7 possession until I return it back down to log-in.

8 Q. Okay, so it stayed secure until you tested it?

9 A. Yes.

10 Q. Okay, and can you tell when you tested it, or would
11 you tell the jury when you tested it?

12 A. Yes. It was tested on October 20th, 2008.

13 Q. Okay, and just -- you don't have to go into the
14 specifics of it, but kind of explain the process as far as
15 how you determine what the -- what the substance is.

16 A. Okay. The first thing I do is -- well, after I've
17 determined that the bag has not been tampered with, I weigh
18 the different items. I perform a preliminary test, which is
19 a color-spot test, and then a confirmatory test, which in
20 this case was gas chromatography mass spectroscopy.

21 Q. Okay, and did you make the determination before you
22 tested it that it had not been tampered with?

23 A. Right.

24 Q. Okay, and as far as how it was packaged, do you
25 remember how it was packaged before you started testing it?

1 **A.** Yes. It came to SLED in two separate little baggies,
2 and since I had to open the baggies, it was not secure
3 anymore, so I placed the evidence into zip-lock bags, which I
4 initialed.

5 **Q.** And from the test you performed on it, were you able
6 to make a determination of what that substance is in that
7 bag?

8 **A.** Yes.

9 **Q.** What -- what is that substance?

10 **A.** There are two items, and both were cocaine base or
11 crack.

12 **Q.** And what was the weight of that substance?

13 **A.** Item 1.1 was 0.16 grams, and Item 1.2, 0.11 grams.

14 MR. ANDREW: At this time, Your Honor, I'd like to
15 submit State's Exhibit 5 into evidence.

16 THE COURT: All right, Mr. Robinson, do you have an
17 objection to the introduction of State's Exhibit 5 into
18 evidence?

19 MR. ROBINSON: Huh-uh (negative response); no
20 objection.

21 THE COURT: All right, sir. State's 5 is in evidence
22 without objection.

23 **SLED BAG CONTAINING CRACK COCAINE MARKED IN**
24 **EVIDENCE AS STATE'S EXHIBIT 5.**

25 **Q.** And just so the jury is fully aware of how the process

1 is finished, what do you do once you are finished analyzing
2 it as far as sealing it and returning it to an agent?

3 A. All right, once I'm finished analyzing it, I place the
4 original packaging, as well as the evidence, into a heat-
5 sealed pouch, and I initial and date it, and then seal it,
6 and make sure it's sealed, and then it is returned back to
7 log-in.

8 Q. Okay, and do you prepare -- did you prepare a report
9 that documents your findings?

10 A. Yes, sir.

11 Q. I'll show you what's going to be marked State's
12 Exhibit 7.

13 **SLED DRUG REPORT MARKED FOR IDENTIFICATION AS**

14 **STATE'S EXHIBIT 7.**

15 Q. Take a look at State's Exhibit 7 and tell me if you
16 recognize that document.

17 A. Yes.

18 Q. And what is that document?

19 A. This is a report stating the results that I found.

20 Q. And those are the same results you just stated to the
21 jury?

22 A. Yes.

23 Q. And they are signed by you?

24 A. Yes.

25 MR. ANDREW: Your Honor, we'd like to submit Exhibit 7

1 into evidence.

2 THE COURT: All right, Mr. Robinson, any objection to
3 State's Exhibit 7, the report, coming into evidence?

4 MR. ROBINSON: No objection.

5 THE COURT: All right, sir. It's without objection, in
6 evidence.

7 SLED DRUG REPORT MARKED IN EVIDENCE AS
8 STATE'S EXHIBIT 7.

9 Q. And you had no further involvement with this case, is
10 that correct?

11 A. Correct.

12 MR. ANDREW: Please answer any questions Mr. Robinson
13 has.

14 THE COURT: All right, Mr. Robinson, cross examination,
15 sir.

16 CROSS EXAMINATION

17 BY MR. ROBINSON:

18 Q. You said you was an expert at -- what are you an
19 expert in again?

20 A. In forensic drug chemistry.

21 Q. All right, so you don't work with DNA, or no
22 fingerprints, or no nothing?

23 A. No.

24 Q. So, therefore, when you tested the drugs, these drugs
25 that was given to you to test, you can't even testify who it

1 came from or nothing?

2 A. No. All I'm doing is ---

3 Q. Testing it for drugs?

4 A. Yes.

5 MR. ROBINSON: Thank you.

6 THE COURT: Anything further, Solicitor?

7 MR. ANDREW: Nothing further from this witness, Your
8 Honor.

9 THE COURT: All right, sir. Do you wish this witness
10 to be excused, sir?

11 MR. ANDREW: I do, Your Honor.

12 THE COURT: Mr. Robinson, is there any objection to
13 this witness being excused?

14 MR. ROBINSON: No objection.

15 THE COURT: All right, ma'am, you are released from the
16 subpoena and may go back to your regular duties.

17 Your next witness, Solicitor.

18 MR. ANDREW: Deputy Chuck Weaver.

19 THE COURT: All right.

20 CHARLIE WEAVER, BEING FIRST DULY SWORN, IS EXAMINED AND
21 TESTIFIES AS FOLLOWS:

22 THE CLERK: Please be seated and state your name for
23 the record, spelling your last name, please.

24 DETECTIVE WEAVER: Charlie Weaver, W-E-A-V-E-R.

25 THE COURT: All right, Solicitor.

1 MR. ANDREW: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MR. ANDREW:

4 Q. Deputy Weaver, you work for the Sheriff's Office, is
5 that correct?

6 A. Yes, sir.

7 Q. And I believe Agent or, I'm sorry, Sergeant Johnson
8 testified you work with him in the Evidence Department?

9 A. Yes, sir.

10 Q. And as part of your responsibilities with that
11 department, have you received any training regarding the
12 testing of marijuana?

13 A. Yes, sir.

14 Q. Could you briefly tell the jury what type of training
15 and how long you've been trained to do that.

16 A. Our training is we go to SLED. Chemists work with us
17 in testing several different green, leafy substance.
18 Marijuana, we do a visual test, and then we do a chemical
19 test to confirm that that's -- the THC levels to make sure
20 that it's marijuana.

21 Q. Okay, and I'm assuming you went through this process
22 several times with SLED?

23 A. Yes, sir, I -- they did.

24 Q. And did you receive any kind of certificate or license
25 to be a analyst for marijuana?

1 A. Yes, sir. After completing the class, they give you a
2 certificate for completion.

3 Q. Okay, and how long -- how long do you go through that
4 process as far as at SLED? You go over there for ---

5 A. It's a two-day course.

6 Q. A two-day course, and how is the marijuana -- how do
7 they train you to test the marijuana?

8 A. What they do is they give you a package. They don't
9 tell you what it is. It may or may not be marijuana. You
10 have to visually observe it, and they give you three
11 different scenarios, and then you chemically test it to
12 determine if it has TH in it, and you have to complete all
13 sixty of those tasks correctly in order to be efficient to
14 pass their course.

15 Q. Okay, and when did you -- do you remember when you
16 completed that training?

17 A. It was the first part of November of 2008.

18 Q. Do they require you to do any continuing education to
19 keep you updated on this stuff?

20 A. They like for you to do on-line. Also, they want you
21 to test in-house, and then they have a two year in-service
22 program that SLED has you come back and be rechecked again.

23 Q. And are you participating in those -- those programs?

24 A. Yes, sir.

25 MR. ANDREW: Your Honor, at this time, I'd like to have

1 him qualified as an expert with regards to testing for
2 marijuana.

3 THE COURT: All right, sir. Mr. Robinson, do you want
4 to question him about his qualifications to be an expert to
5 testify about the testing of the substance in this matter,
6 that being the green, leafy substance?

7 MR. ROBINSON: (Nods in the negative.)

8 THE COURT: All right, sir. You have no objection, is
9 that right?

10 MR. ROBINSON: No objection.

11 THE COURT: All right, sir. I'll qualify him to give
12 his opinion.

13 MR. ANDREW: Thank you, Your Honor.

14 Q. Deputy Weaver, I want you to take a look at what's
15 been marked State's Exhibit 4. Do you recognize -- do you
16 recognize what that is?

17 A. Yes, sir.

18 Q. Okay. How is it that you're able to determine what
19 that is?

20 A. First of all, the notation on the bottom of the bag
21 where it was sealed after it had been tested by myself.

22 Q. Okay, and I know we've been through this, and I don't
23 want to beat a dead horse, but once that's turned over to
24 Evidence, it's sealed until you test it; is that correct?

25 A. Yes, sir. The officer that acquires it, what they do

1 is they place it in this bag which has a tamper-proof seal on
2 the sides of it. Before we do any type of testing, we
3 double-check all the seams to make sure that there has been
4 no cuts, tears, or any kind of recertifications or labeling
5 on it before we do that testing.

6 Q. Okay, and was it in that condition when you got it?

7 A. Yes, sir. When I received this bag before -- if you
8 don't notice the bottom part, it was in contact without any
9 tampering to it.

10 Q. And were you able to test the items that were in that
11 bag?

12 A. Yes, sir.

13 Q. And what were the results of that test?

14 A. There was two parts to the test because there's two
15 products inside there. How we determine that is when the
16 officer seals it, there may be one or more packages inside of
17 it and we have to test one -- each one individually, and what
18 you can see inside the bag here is there's two different
19 containers where they have been tested and re-sealed. The
20 weight of grams is placed on there and whether it's a
21 positive or negative for the testing results.

22 Q. Okay, and what was the results of your test, or did
23 you prepare a marijuana analysis after you tested this stuff?

24 A. Both -- both products were visually tested and
25 chemically tested and found to be positive.

1 Q. Okay.

2 MR. ANDREW: Let's mark this as State's Exhibit 8.

3 REPORT ON MARIJUANA MARKED FOR IDENTIFICATION

4 AS STATE'S EXHIBIT 8.

5 Q. I show you what's been marked State's Exhibit 8 and
6 ask you to take a look at that. Just tell me first if you
7 recognize that.

8 A. Yes, sir.

9 Q. Okay, and what is it?

10 A. This is a chemo-analysis report for marijuana. It's
11 what we print out, and the person who does the testing signs
12 after it's been completed.

13 Q. Okay, and that shows two tests positive for the items
14 you tested?

15 A. Yes, sir.

16 Q. And those items were the ones that were turned in to
17 you by John Seale in reference to this case?

18 A. Yes, sir.

19 Q. Okay.

20 MR. ANDREW: We'd enter State's Exhibit 8 or offer
21 State's Exhibit 8 into evidence, Your Honor.

22 THE COURT: Is there any objection to the State's
23 Exhibit 8 coming into evidence at this time, Mr. Robinson?

24 MR. ROBINSON: No objection.

25 THE COURT: All right, sir. It's in evidence without

1 objection.

2 **REPORT ON MARIJUANA MARKED IN EVIDENCE AS**

3 **STATE'S EXHIBIT 8.**

4 MR. ANDREW: And also, Your Honor, I don't remember if
5 I put Exhibit 4 into evidence. I'll ask that it be entered
6 now.

7 THE COURT: Is there any objection to State's 4 coming
8 into evidence at this point in time, Mr. Robinson?

9 MR. ROBINSON: No, sir.

10 THE COURT: All right. It's in evidence without
11 objection.

12 **SLED BAG CONTAINING MARIJUANA MARKED IN EVIDENCE**

13 **AS STATE'S EXHIBIT 4.**

14 MR. ANDREW: Would you answer any questions Mr.
15 Robinson has for you, Deputy Weaver.

16 A. Yes, sir.

17 THE COURT: All right, cross examination, Mr. Robinson.

18 **CROSS EXAMINATION**

19 **BY MR. ROBINSON:**

20 Q. You said you was an expert in what again?

21 A. As far as the marijuana analysis testing.

22 Q. Marijuana -- marijuana what now?

23 A. Analysis testing.

24 Q. So you did test the marijuana?

25 A. Yes, sir.

1 Q. So you can't test it to see who it came from or get no
2 DNA or fingerprints and put it to a person? You just test it
3 and see if it's marijuana?

4 A. To answer the first question that you asked me ---

5 Q. I'm saying you don't test it for no DNA or no
6 fingerprints?

7 A. No, sir. We just test for THC levels.

8 Q. Okay, so you wouldn't be able to tell if it come from
9 this person, this person, this person, or whatever?

10 A. No, sir.

11 Q. So you -- just anybody that bring you some marijuana,
12 you can test it and say that's marijuana, correct?

13 A.. Just to see if it's marijuana, yes, correct.

14 THE COURT: Any further questions of this witness,
15 Solicitor?

16 MR. ANDREW: None from this witness, Your Honor.

17 THE COURT: Do you wish the witness to be excused?

18 MR. ANDREW: I do, Your Honor.

19 THE COURT: Any objection to him being excused, Mr.
20 Robinson?

21 MR. ROBINSON: No, sir.

22 THE COURT: All right, you are excused and released
23 from your subpoena and may go back to your regular duties.

24 Further witnesses on behalf of the State?

25 MR. ANDREW: I'd like to recall John Seale, Your Honor.

1 THE COURT: All right, sir.

2 Come around, sir, and remember you're still under oath.

3 JOHN SEALE, BEING PREVIOUSLY SWORN, IS EXAMINED AND
4 TESTIFIES AS FOLLOWS:

5 DIRECT EXAMINATION

6 BY MR. ANDREW:

7 Q. Deputy Seale, there's been some question about the
8 injury you sustained as a result of this altercation. Would
9 you explain to the jury what type of injury you had.

10 A. Yes. Once the evidence was turned over to me and the
11 scene was secure, I was taken to the hospital to get treated.
12 They x-rayed my face to see if I had any broken bones, which
13 I did not. I had several abrasions and bruises from fighting
14 with Mr. Robinson. My whole arm here was bruised; from about
15 here to here was bruised. I had scratches up and down both
16 arms.

17 There was briars in my head. My face was scratched up,
18 and as you can see in the tee-shirt, the briars are still
19 hung on there, and the doctor at the emergency room released
20 me that night, but then kept me out of work for three or four
21 days after that until I could go and get checked out a couple
22 of days -- I think this happened maybe mid-week, and then I
23 went back Monday or Tuesday and got re-evaluated, and I was
24 released to come back to work.

25 MR. ANDREW: Nothing further.

1 THE COURT: All right. Mr. Robinson, as to those
2 questions asked by the Solicitor of this witness, do you have
3 any questions you want to ask him about?

4 MR. ROBINSON: Uh-huh (affirmative response).

5 THE COURT: All right, sir.

6 CROSS EXAMINATION

7 BY MR. ROBINSON:

8 Q. In your paperwork right here it shows ---

9 THE COURT: Do you want the witness to read through
10 that document?

11 MR. ROBINSON: Yes, sir.

12 THE COURT: All right. Sir, if you would read through
13 that document first, and when you get done reading it, let us
14 know.

15 A. I've read it. I'm familiar with it, Your Honor. I've
16 read it several times.

17 THE COURT: All right, sir.

18 You may ask your questions, Mr. Robinson.

19 Q. Does it state you had no complaints to any -- non-
20 injury?

21 THE COURT: First, Mr. Robinson, if you would ask him
22 to identify the document, if he wrote it, or what it is,
23 please.

24 Q. You wrote that?

25 A. This is a -- this is the incident report that I did,

1 yes.

2 Q. All right. Could you verify where it say you had any
3 visible injuries?

4 A. You're actually missing the page on here that has my
5 part on it, but it does say -- the box is not -- it's just a
6 box and no, it is not checked where it says complaint of
7 injury. It's a little small box, and it was overlooked
8 obviously. I went to the hospital. There was a -- was
9 injuries.

10 Q. Yeah, but on this it says you have no -- no visible
11 injuries, or no complaint or any visible injuries?

12 A. Like I said, it was overlooked on the report and the
13 -- the doctor ---

14 Q. You got pictures? You should have pictures if you
15 were bruised up.

16 MR. ANDREW: Objection, Your Honor. Please -- we need
17 it in the form of a question instead of ---

18 THE COURT: All right, sir. Once again, Mr. Robinson,
19 if you just make sure you ask a question, and also when you
20 ask him a question, please let the witness answer before you
21 ask another one.

22 MR. ROBINSON: All right.

23 Q. You ain't got no pictures from the doctor on the
24 bruising?

25 A. No. The emergency room did not take any pictures.

1 Q. Didn't take no pictures?

2 A. No, they didn't.

3 THE COURT: Any redirect, Solicitor?

4 MR. ANDREW: None, Your Honor.

5 THE COURT: All right, sir.

6 You may step down, sir.

7 All right, further witnesses on behalf of the State?

8 MR. ANDREW: The State rests, Your Honor.

9 THE COURT: All right. At this point, ladies and
10 gentlemen, there are some matters of law that the Court needs
11 to go over with the parties, so I'm going to ask that you go
12 back to your jury room. Obviously, don't talk about the case
13 and don't -- and you can talk about anything else, just not
14 this case, and I'll be with you in just a little bit. You
15 can go back to your jury room.

16 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
17 JURY.)

18 THE COURT: All right, Mr. Robinson, at this point in
19 time would be the time for you to raise any motions that you
20 might have, such as a directed verdict motion. Do you have
21 any motions that you want to make?

22 MR. ROBINSON: Would ask for a motion for a
23 judgment ---

24 THE COURT: Stand up, please, sir.

25 MR. ROBINSON: Would that be like for a motion for

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1 judgment acquittal?

2 THE COURT: Well, no, sir. That would be -- that would
3 be if and when a jury might find you guilty of the offense.
4 At this point in time, the -- one of the proper motions, and
5 again, I'm not telling you what to do. You need -- you're
6 the attorney. You need to do what you think is proper to do,
7 but one of the motions might be a motion for a directed
8 verdict at this point in time.

9 MR. ROBINSON: Yeah, I'd like to move for a directed
10 verdict, direct verdict.

11 THE COURT: All right, sir. In accordance with the
12 case law of the State, a defendant is entitled to a directed
13 verdict when the State fails to produce evidence of the
14 matter charged. At this point in time, the Court is only
15 looking at the existence of evidence, not with its weight.
16 The Court never judges credibility or believability. The
17 Court only looks at whether or not there is sufficient
18 evidence, if believed by a jury, to sustain a conviction, and
19 I do find that there has been sufficient evidence, which if
20 that evidence is so believed by the jury, that would sustain
21 the conviction of the defendant regarding all the matters
22 charged beyond a reasonable doubt, and I respectfully decline
23 to grant your motion for a directed verdict.

24 Any other motions that you might have at this point in
25 time?

1 MR. ROBINSON: Huh-uh (negative response).

2 THE COURT: All right, sir. Now, Mr. Robinson, again,
3 if you would please stand, sir, for just a minute.

4 The State has rested its case, that is, the State has
5 ended its part of the case at this point in time, so -- and
6 I'm sorry. Mr. Clerk, could you place Mr. Robinson under
7 oath again at this point in time.

8 THE CLERK: Would you raise your right hand.

9 (The Clerk places Mr. Robinson under oath and Mr.
10 Robinson answers in the affirmative with Uh-huh.)

11 THE COURT: Was that a yes, sir? You have to say yes
12 or no, ---

13 MR. ROBINSON: Yes, sir; yes, sir; yes, sir.

14 THE COURT: --- because the court reporter can't
15 un- ---

16 MR. ROBINSON: Yes, sir.

17 THE COURT: --- it's hard to tell what uh-huh means to
18 the court reporter, all right?

19 All right, now at this point in time, sir, I'm going to
20 explain to you certain of your constitutional rights. The
21 State has ended its presentation of the case. We are at the
22 stage of the trial where you can present your defense if you
23 want to. Do you understand that?

24 MR. ROBINSON: Yes, sir.

25 THE COURT: All right, sir. Now, you have the right to

1 claim the protection given to you by the Fifth Amendment to
2 the Constitution of the United States of America. Now, that
3 amendment states in part that no person shall be compelled in
4 any criminal prosecution to be a witness against themselves.
5 That means that nobody can make you testify in this trial.
6 You have the right to testify. You can testify if you want
7 to, but nobody can make you testify. Do you understand that?

8 MR. ROBINSON: Yes, sir.

9 THE COURT: All right. Now, if you decide to testify,
10 you're going to be subject to the same rules that you've seen
11 all the other witnesses that have testified in this case.
12 That is you can make an affirmative statement of facts, what
13 you saw, heard, observed, what you know to be a fact of this
14 case, you can testify to that, and then the State can cross
15 examine you about any matters that are deemed to be proper or
16 relevant in this case.

17 Now, in addition to that, in testing credibility and
18 believability, the State has the ability to ask you about any
19 convictions involving dishonesty, or false statement, or for
20 crimes punishable by imprisonment for more than one year, and
21 the Court, that is myself, I determine that the value of
22 admitting this evidence in this case outweighs any prejudice
23 or harmful effect that it might have to you.

24 Solicitor, if Mr. Robinson testified, did you intend to
25 cross examine him as to any prior convictions?

1 MR. ANDREW: Yes, sir, Your Honor.

2 THE COURT: What might those be, sir?

3 MR. ANDREW: Your Honor, he has a prior 2002
4 manufacturing or distributing cocaine. He also has a
5 shoplifting from 2002, and in 2004, another possession -- I'm
6 sorry -- I'm sorry, a burglary second degree, and a
7 possession of cocaine, and that would be the extent, Your
8 Honor.

9 THE COURT: All right. Now, so there's a distribution,
10 a shoplifting, a burglary second, and a possession of
11 cocaine. Is that correct, Solicitor?

12 MR. ANDREW: Well, actually, Your Honor, there's two
13 prior -- yes, sir, that's correct, but there's two older
14 shopliftings from 2002 as well.

15 THE COURT: All right, so there would be two
16 shoplifting charges?

17 MR. ANDREW: Actually three.

18 THE COURT: Three?

19 MR. ANDREW: Three total, yes, sir.

20 THE COURT: Three total, all right.

21 All right, now, Mr. Robinson, I do find that those fall
22 within the proper rule of evidence for you to be cross
23 examined about this. Now, since you are here on a drug case,
24 what I would have the Solicitor do as far as the distribution
25 charge and the possession of cocaine charge at this point in

1 time would be to ask whether or not you have been convicted
2 of a crime in that year, but not as to that particular
3 offense, whether it's a felony or a misdemeanor as to the
4 shoplifting and the burglary second.

5 Those would be crimes for -- as far as the burglary
6 second for imprisonment for more than one year and the
7 shoplifting would be a crime of dishonesty, and the Court
8 would allow him to ask if you've been convicted three times
9 of shoplifting and one time for burglary second, specifically
10 mentioning those crimes, because they have nothing to do with
11 the matters that we are here about today, so if you decide to
12 testify, the State will be allowed to ask you if you've been
13 convicted of those crimes. They won't be allowed to go into
14 them, explain them, talk about them, other than to say that
15 you were convicted of those crimes. Do you understand that?

16 MR. ROBINSON: Yes, sir.

17 THE COURT: All right, sir. Now, if you decide to
18 testify, obviously it's got to be your decision. You've got
19 to make that decision freely, voluntarily, knowing all the
20 rights and all the matters that we have talked about,
21 including your rights under the Fifth Amendment and the
22 consequences, if there might be any, if you decided to
23 testify. Do you understand that?

24 MR. ROBINSON: Yes, sir.

25 THE COURT: If you decide not to testify, I will

1 instruct the jury in my charge that they cannot give that
2 fact any consideration whatsoever. I will tell them they
3 can't even talk about it in the jury room, that it is not
4 part of this particular case. Do you understand that?

5 MR. ROBINSON: Yes, sir.

6 THE COURT: It being left up entirely to you at this
7 point in time to decide whether you want to testify, let me
8 ask you, do you understand what we've talked about?

9 MR. ROBINSON: Yes, sir.

10 THE COURT: Do you have any questions that you need to
11 ask at this point in time?

12 MR. ROBINSON: When I present my case, that's the only
13 thing I can do is call witnesses, ain't it?

14 THE COURT: Well, when you present your case, you can
15 decide to call yourself as a witness. You could decide to
16 call somebody else as a witness if they know something about
17 this case. If you had some kind of other evidence, documents
18 or anything else that you think would be proper to put in
19 this case, I'd be glad for you to bring that forward, but
20 that's -- that's your decision. You decided to represent
21 yourself, so that's your decision. Do you understand that?

22 MR. ROBINSON: All right.

23 THE COURT: All right, sir. Do you have any other
24 questions?

25 MR. ROBINSON: No, sir.

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1 THE COURT: All right. Do you want to testify in this
2 case?

3 MR. ROBINSON: No, sir.

4 THE COURT: All right. Thank you very much.

5 MR. ROBINSON: Yeah, I've got one question.

6 THE COURT: I'm sorry, sir?

7 MR. ROBINSON: You can't put warrants in evidence?

8 THE COURT: The warrants?

9 MR. ROBINSON: Uh-huh (affirmative response).

10 THE COURT: Well, you haven't offered the warrants into
11 evidence. Do you want to show those documents to the
12 Solicitor at this point in time, the documents that you want
13 to put into evidence? Why don't you show them to the
14 Solicitor first.

15 (Mr. Robinson hands documents to Mr. Andrew.)

16 THE COURT: Just give the Solicitor a minute to look at
17 that, Mr. Robinson.

18 MR. ANDREW: Your Honor, the defendant has handed me
19 three warrants, one for possession with intent to distribute
20 on the marijuana, one for possession with intent to
21 distribute cocaine -- I mean the crack, and one for resisting
22 arrest. I would object to them coming in. I think these are
23 charging instruments, Your Honor. I don't know what
24 probative value they maintain. The indictments are there for
25 the jury to review or actually been read to. I think those

1 sufficiently state what the charges are in the case.
2 Therefore, I would object to those coming in on those
3 grounds.

4 THE COURT: All right, sir.

5 MR. ANDREW: Do you want me to go ahead through the
6 other -- he gave me a couple of other things.

7 THE COURT: Well, let's start with the indictments.

8 MR. ANDREW: Yes, sir.

9 THE COURT: Are you talking about the indictments or
10 the arrest warrants?

11 MR. ANDREW: I'm sorry. The warrants is what he's
12 offered, but my position is they're just charging
13 instruments.

14 THE COURT: Okay, the arrest warrants, all right.

15 MR. ROBINSON: Yeah, but ---

16 THE COURT: Mr. Robinson, what is the purpose of you
17 wanting to put the arrest warrants in?

18 MR. ROBINSON: For the evi- -- for the evidence of
19 the ---

20 THE COURT: Could you stand; could you stand, please.

21 MR. ROBINSON: For the evidence of the -- for the
22 offenses. They got different offense, for the mistakes from
23 the different offense. They got first offense on some of
24 them when -- when he's saying it was third -- third offense,
25 and for different locations, and the different color of the

1 crack. It -- it's saying that it's two off-white -- and they
2 got color rocks again; on another they've got just white
3 rocks, a different color of the drugs and the different
4 offenses. That's what I was going to put it into evidence
5 for, the different offenses and the different color of the
6 drugs and then the technicality from the other color of the
7 drugs. It's two different colors of drugs, and then one
8 state one -- just one color of drugs.

9 THE COURT: All right. Let me see the warrants,
10 please. Do you have the original warrants in the file?

11 MR. ANDREW: All I have is copies, Your Honor.

12 THE COURT: All right, sir.

13 MR. ROBINSON: The warrants -- do you want to give me
14 back my ---

15 THE COURT: Just hold -- just hold on one second, Mr.
16 Robinson.

17 MR. ANDREW: Yeah, I'll be glad to.

18 MR. ROBINSON: You've got to get that, too, so he can
19 see the ---

20 THE COURT: Well, we haven't gotten to that yet, Mr.
21 Robinson. We haven't gotten to those yet. You just hold on
22 to those.

23 All right, Mr. Robinson, you want to put these three
24 arrest warrants into evidence, is that correct?

25 MR. ROBINSON: Yes, sir.

1 THE COURT: All right, sir. I'm going to allow you to
2 do so. Can we have them marked by the court reporter,
3 please.

4 MR. ROBINSON: But ---

5 THE COURT: Just wait a second, sir.

6 MR. ROBINSON: All right.

7 THE COURT: The court reporter has got to do her work.

8 THE REPORTER: Do you want these marked as one, the
9 arrest warrants?

10 THE COURT: Each one would be a separate Defense
11 exhibit.

12 MR. ANDREW: Your Honor, if I may.

13 THE COURT: Just one second -- 2, 3, and 4, I guess,
14 right?

15 Hold on a second; wait until she marks them and then
16 I'll hear from you.

17 ARREST WARRANT MARKED IN EVIDENCE AS
18 DEFENDANT'S EXHIBIT 2.

19 ARREST WARRANT MARKED IN EVIDENCE AS
20 DEFENDANT'S EXHIBIT 3.

21 ARREST WARRANT MARKED IN EVIDENCE AS
22 DEFENDANT'S EXHIBIT 4.

23 MR. ANDREW: If I may look at them?

24 THE COURT: Yes, sir.

25 MR. ANDREW: I've got one issue, I think, that I need

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1 to bring to the Court's attention.

2 THE COURT: All right, sir.

3 MR. ANDREW: That's okay. Yes, sir, Your Honor, these
4 are the -- I just wanted to make sure that resisting that I
5 nolle prossed was not part of it.

6 THE COURT: Yes, sir, so Defendant's 2, 3, and 4 are in
7 evidence over the objection of the State.

8 All right, sir, there was something else that you wanted
9 to put in?

10 MR. ROBINSON: Yeah, that right there and ---

11 THE COURT: What -- what is it? Please stand up again,
12 Mr. Robinson. What -- what is the document?

13 MR. ROBINSON: Incident Report in the General -- in the
14 Court of General Sessions, the description where they've got
15 the cocaine base second offense, not third offense, in
16 evidence.

17 THE COURT: All right, sir. Go ahead, Solicitor.

18 MR. ANDREW: Your Honor, the -- one of -- the document
19 he's talking about is a Mutual Reciprocal Disclosure Request.
20 It's ---

21 MR. ROBINSON: Yes.

22 THE COURT: Discovery request of Rule 5?

23 MR. ANDREW: It's our -- it's our reciprocal Rule 5
24 discovery request for the Solicitor's Office.

25 THE COURT: All right. That -- that really has to do

1 with the -- making sure that both parties exchange all the
2 documents in this case, Mr. Robinson. I don't see that that
3 has any probative value or any value in this case.

4 MR. ROBINSON: They got the charges what contradict my
5 warrant. They say second offense, first offense, not third
6 offense, I mean, so ---

7 THE COURT: Yes, sir. Well, number one, your record is
8 not before this jury right now. They don't know about your
9 prior record.

10 MR. ROBINSON: Yes, sir, but I've just entered this in.

11 THE COURT: Well, I appreciate that, and you can mark
12 it as an exhibit. It will not go into evidence.

13 MR. ROBINSON: What you mean, exhibit?

14 THE COURT: You can mark it as an exhibit as part of
15 the record, but the jury is not going to see it is what I'm
16 telling you, because it has nothing to do with this case. It
17 doesn't have anything to do with the evidence in this case.

18 MR. ROBINSON: I need to mark it for an exhibit?

19 THE COURT: Yes, sir, you can have it marked as an
20 exhibit, but the jury will not see it is what I'm telling
21 you.

22 MR. ROBINSON: I would like it marked as a exhibit. I
23 want to enter that evidence in evidence.

24 THE COURT: All right, let's start -- let's -- the one
25 that you want there, let's hand that one to the court

1 reporter.

2 **MUTUAL RECIPROCAL DISCLOSURE DATED SEPTEMBER 23,**
3 **2008, MARKED FOR IDENTIFICATION AS**
4 **DEFENDANT'S EXHIBIT 5.**

5 THE COURT: All right, Defendant's 5, and leave that
6 with the court reporter. Defendant's 5, leave it with the
7 court reporter. It's not in evidence in this case. It is
8 marked as an exhibit, but it is not in evidence.

9 All right, what is the next document that you want to
10 put in, sir?

11 MR. ROBINSON: It's ---

12 THE COURT: Let me look at it.

13 MR. ROBINSON: Non-injuries, no complaints ---

14 THE COURT: Do you want the incident report?

15 MR. ROBINSON: Uh-huh (affirmative response).

16 THE COURT: All right, sir. It doesn't appear to be a
17 complete document.

18 MR. ROBINSON: Oh, well, -- oh, yeah, excuse me.

19 THE COURT: Is this the complete incident report,
20 Solicitor?

21 MR. ANDREW: No, sir, Your Honor.

22 MR. ROBINSON: No. I'm going to -- hold on. Where the
23 complete incident report?

24 MR. ANDREW: I have a copy of the complete incident
25 report, ---

1 THE COURT: All right, sir.

2 MR. ANDREW: --- but I will say I have marked it. You
3 know, I'll be glad to do whatever I can to ---

4 THE COURT: Well, let's -- let me look at it. Well, if
5 we made a copy of it, the yellow portions would not show up
6 then.

7 MR. ROBINSON: I think I left the rest of it.

8 THE COURT: All right, sir. I'll let you look at this
9 document. This appears to be the -- the Solicitor's Office
10 indicates this is the entire incident report. You look at
11 that and see if that's the document you want to introduce
12 into evidence.

13 MR. ROBINSON: All right. Yeah.

14 THE COURT: Is it, sir?

15 MR. ROBINSON: Yes, sir.

16 THE COURT: All right. Now, Solicitor, do you have an
17 objection to that document coming into evidence, the entirety
18 of that incident report?

19 MR. ANDREW: No, sir, Your Honor.

20 THE COURT: All right, so that would be Defendant's
21 Exhibit 6, is that correct, ma'am?

22 THE REPORTER: Yes, sir.

23 THE COURT: All right. We'll have to make a copy of
24 that. You can make a copy of that.

25 MR. ROBINSON: Your Honor, ---

1 THE COURT: Just one second, sir. We're getting a copy
2 of that other document. We haven't finished with Defendant's
3 6 yet.

4 All right, you can give the copy to the court reporter
5 to mark as Defendant's 6 and the other one back to the
6 Solicitor.

7 **COPY OF INCIDENT REPORT MARKED IN EVIDENCE**

8 **AS DEFENDANT'S EXHIBIT 6.**

9 THE COURT: All right, Defendant's 6 is in evidence.

10 All right, Mr. Robinson, was there any other document
11 that you wanted to -- or any other matter you wanted to bring
12 to the Court's attention?

13 MR. ROBINSON: Yeah. What -- what I want to say ---

14 THE COURT: Please stand, sir.

15 MR. ROBINSON: What I want to say, the one you put in,
16 Exhibit A, do I get a copy of that back because that was my
17 only copy? They ain't made no copy.

18 THE COURT: Which one was that, Number 5?

19 MR. ROBINSON: No. That was Exhib- -- Exhib- --
20 whatever they're called, Exhib- -- you put it Exhib- -- A.

21 THE COURT: Well, let him come over here and look at 5.
22 Come over here to the podium.

23 MR. ROBINSON: You said you couldn't put it in
24 evidence.

25 THE COURT: Just hold on a second. Pull out Number 5.

1 Let him look at it. Is that the document you're talking
2 about?

3 MR. ROBINSON: Yeah. I don't have ---

4 THE COURT: All right. You would like another copy of
5 that?

6 MR. ROBINSON: Yeah.

7 THE COURT: All right, sir. We'll get you another copy
8 of that.

9 MR. ROBINSON: And I got one addition or two I would
10 like to put in, too. It's the same thing, but it's a
11 different -- different words.

12 THE COURT: Show those to the Solicitor, please.

13 MR. ANDREW: Yes, I've had an opportunity to look at
14 it, Your Honor. It's the same objection. It's a Mutual
15 Reciprocal document.

16 THE COURT: All right.

17 MR. ANDREW: It's basically our response to Rule 5 and
18 then our Reciprocal Rule 5 request, ---

19 THE COURT: All right, sir.

20 MR. ANDREW: --- and I don't understand what probative
21 value it has.

22 THE COURT: All right, sir. I will -- I'll be glad to
23 allow you to mark those as an exhibit, Mr. Robinson, but I
24 will not allow them to go into evidence to go before the
25 jury.

1 MR. ROBINSON: I understand. I need another copy -- I
2 need another copy of that, too.

3 THE COURT: All right, sir, very good.

4 **MUTUAL RECIPROCAL DISCLOSURE DATED JULY 14,**
5 **2008, MARKED FOR IDENTIFICATION AS DEFENDANT'S EXHIBIT 7.**

6 THE COURT: Can you give him the copy of Number 5.

7 THE CLERK: Yes, I will.

8 THE COURT: Give him the copy of Number 5.

9 (Clerk hands document to Mr. Robinson.)

10 THE COURT: And if you would give him the copy of
11 Number 7, please.

12 (Clerk hands document to Mr. Robinson.)

13 THE COURT: All right, Mr. Robinson, any other
14 documents or anything else?

15 MR. ROBINSON: That's it. That's all the documents
16 that I got from the State unless they got other evidence that
17 I ain't got.

18 THE COURT: All right, sir. Now, you intended -- you
19 stated that you did not want to testify, correct?

20 MR. ROBINSON: Yes, sir.

21 THE COURT: All right, sir. Do you have any witnesses
22 that you want to call in this case?

23 MR. ROBINSON: No, sir.

24 THE COURT: All right, sir, so with the introduction of
25 these documents that we just introduced into evidence, the

1 ones that I allowed, you would rest your defense or end your
2 defense, is that correct?

3 MR. ROBINSON: Yes, sir, cause that's all the evidence.

4 THE COURT: All right, sir, very good. All right. You
5 would at this point in time -- is there going to be any reply
6 testimony, Solicitor?

7 MR. ANDREW: None, Your Honor.

8 THE COURT: All right, sir. I would assume at this
9 point in time, Mr. Robinson, you are going to renew or bring
10 up again your motion for a directed verdict, is that right,
11 the motion that you made just a minute ago, the directed
12 verdict motion?

13 MR. ROBINSON: Yeah, you're moving too quick for me.

14 THE COURT: All right, sir. Well, ---

15 MR. ROBINSON: All right. When you tell me what -- the
16 defendant bring up his case, you say I either call witnesses
17 or submit evidence.

18 THE COURT: Yes, sir.

19 MR. ROBINSON: I don't do -- ain't nothing else towards
20 the defendant case.

21 THE COURT: All right, so you are done presenting your
22 defense, correct?

23 MR. ROBINSON: No. What I'm ask you, in the defendant
24 case what all he can do, either can present witnesses ---

25 THE COURT: Yes, sir. You've got a -- you've got to

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1 right now call your witnesses, whoever they are.

2 MR. ROBINSON: All right, I say I ain't got no -- I say
3 I ain't got no more witnesses.

4 THE COURT: All right, so ---

5 MR. ROBINSON: I ain't got no more evidence, so what
6 else I got to do?

7 THE COURT: Very good, so my question to you is since
8 you don't have any witnesses, you aren't going to testify,
9 you don't have any more exhibits that you want to put in this
10 case, that you are finished with your defense then, correct?

11 MR. ROBINSON: Correct.

12 THE COURT: Very good. All right, so now since all the
13 evidence is in this case, we're done with the evidentiary
14 portion of the case; it's over with. You can, if you want
15 to, renew, say again, your motion for a directed verdict. Do
16 you want to do that?

17 MR. ROBINSON: I got the trial procedure right here.

18 THE COURT: All right, sir.

19 MR. ROBINSON: Yeah, yeah, yeah, I want to renew it. I
20 want to renew it.

21 THE COURT: You renew your motion for a directed
22 verdict, is that right?

23 MR. ROBINSON: Uh-huh (affirmative response).

24 THE COURT: All right, sir, on the grounds I stated
25 earlier, I'm going to respectfully deny your motion for a

1 directed verdict at this point in time. I find that there is
2 more than sufficient evidence, if that evidence is so
3 believed by the jury, to convict you of the crimes charged.

4 MR. ROBINSON: All right.

5 THE COURT: All right, now, we have reached the stage
6 of the case where we're going to go into the closing
7 arguments. Since you have introduced evidence in the case,
8 you will have the first closing argument and the State will
9 have the second or last closing argument.

10 When obviously -- again, you have to remember in your
11 closing statement you're not testifying. You cannot testify
12 to that jury because, one, you're not under oath, and two,
13 then if I thought you were testifying, I'd allow the State to
14 bring up -- and put you under oath here on the stand and
15 bring up your prior record, so you've got to remember you're
16 talking about the evidence that's in this case, what all the
17 other people have said and your conclusions about that. You
18 can give the jury your conclusions about the evidence that
19 has already come in, but you cannot testify. Do you
20 understand that?

21 MR. ROBINSON: All right.

22 THE COURT: All right, sir, and when we get done with
23 that, I'll charge the jury the law, and then we'll give it to
24 them for their decision in this particular matter.

25 MR. ROBINSON: Your Honor, I didn't mean to interrupt

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1 you, but I can -- in my closing statement, I can talk about
2 the contradiction and the adding and the taking away from
3 testimony?

4 THE COURT: You can -- you can ---

5 MR. ROBINSON: All right.

6 THE COURT: --- point out any discrepancies. You can
7 point out anything that you think a witness said, at one time
8 they said A, and another time they said B, you know,
9 differences in their testimony, certainly. You can point out
10 any differences in their testimony and any documents that are
11 in evidence. Certainly you can do that, yes, sir.

12 MR. ROBINSON: Can I read off a paper?

13 THE COURT: You've made some notes or something that
14 you have there?

15 MR. ROBINSON: Yeah, because I ain't no attorney
16 and ---

17 THE COURT: Okay, but I understand that. You've made
18 yourself some notes, is that what you're saying?

19 MR. ROBINSON: Yeah, so can I read off my paper?

20 THE COURT: Yes, sir, certainly, you can. If you made
21 yourself some notes, you can read -- read off those notes to
22 the jury, certainly, yes, sir.

23 All right, we'll take a short break for about five or
24 ten minutes.

25 Yes, sir, Solicitor?

1 MR. ANDREW: If I may, Your Honor, the only thing --
2 well, not the only thing, but one of my major concerns is
3 he's going to get into the number of offenses that -- but
4 he's already made a mention of that.

5 THE COURT: Well, I -- again, I appreciate that, but
6 Mr. Robinson is acting as his own attorney.

7 Mr. Robinson, you remember now your prior record is not
8 -- are you listening to me?

9 MR. ROBINSON: Yes, sir, I'm listening.

10 THE COURT: Okay. We'll take a short break here and
11 you can make some more notes. Your prior record is not
12 before this jury. They don't know about your prior record.
13 Now, if you start talking about it in front of that jury,
14 then they're going to know about it, you understand that?

15 MR. ROBINSON: Yes, sir.

16 THE COURT: All right, very good. Thank you.

17 MR. ANDREW: Thank you, Your Honor.

18 (OFF THE RECORD)

19 ON THE RECORD

20 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
21 JURY.)

22 THE COURT: Is the State ready for the jury?

23 MR. ANDREW: The State is ready.

24 THE COURT: Defense? Mr. Robinson?

25 MR. ROBINSON: Yes, sir.

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1 THE COURT: Are you ready for the jury?

2 MR. ROBINSON: Yes, sir.

3 THE COURT: All right, very good. Ask the jury to come
4 in, please.

5 (THE FOLLOWING TAKES PLACE IN THE PRESENCE OF THE JURY.)

6 THE COURT: All right, ladies and gentlemen, we have in
7 your absence, we have concluded the evidentiary portion of
8 this case. The defendant wished to introduce into evidence
9 Defendant's 2, 3, 4, and 6, and I have allowed the
10 introduction of those documents into evidence, and they will
11 be with you in your jury room for your examination and
12 review. With that, that will conclude the evidentiary
13 portion of this trial.

14 We will now go into the closing arguments of the
15 parties. I remind you, as I told you at the very beginning,
16 the closing arguments are not evidence. They cannot be
17 considered by anyone as evidence in this case. They are
18 important. They are each side's summation of what they
19 believe the evidence has shown to you during the course of
20 the trial.

21 When we get done with the closing arguments, I will give
22 you the law that you will apply to the facts as you so find
23 them to be in this case, and then I will submit the case to
24 you for your deliberations and your unanimous decision in
25 this particular matter.

1 All right, Mr. Robinson, you may proceed with your
2 closing argument, sir.

3 MR. ROBINSON: Ladies and gentlemen of the jury, as you
4 done have saw the evidence given in this case, the cross
5 examination of the witnesses, the contradiction and the
6 untruths that have been taken from the witnesses' testimony
7 of me and my closing argument that on June 3rd, 2008,

8 (MR. ROBINSON IS READING FROM A DOCUMENT PREVIOUSLY
9 PREPARED BY HIM. IT IS VIRTUALLY IMPOSSIBLE TO TRANSCRIBE
10 HIS SUMMATION TO THE JURY. THEREFORE, MR. ROBINSON'S
11 SUMMATION TO THE JURY HAS NOT BEEN TRANSCRIBED HEREIN.)

12 THE COURT: Thank you very much.

13 All right, Solicitor, your closing argument, please,
14 sir.

15 MR. ANDREW: Thank you, Your Honor.

16 You know, I know Mr. Robinson would like for you to
17 focus on what you don't have in the case, but I would suggest
18 he's a little misguided in some of the things that he said to
19 you. I think the Judge will clarify a lot of that when he
20 does his closing -- his charge on the document, the charging
21 instructions, because during that time you're going to hear
22 the instructions on what the law is, what the elements of the
23 law are, and what you consider or what you're allowed to
24 consider and how you apply all of that and make the
25 determination of whether or not this defendant committed

1 these offenses, and obviously we're submitting that he did.

2 Now, he's argued to you there was no reason for this
3 officer to stop him, but this officer has got an independent
4 report from a concerned citizen who called 911 and said she
5 saw him selling drugs. Furthermore, you heard the tape and
6 you heard the witness' testimony. She gave a description
7 matching exactly what the Defendant was wearing. You saw it
8 actually on video. Not only did you hear testimony from the
9 officer, testimony from the person that called 911, Ms. Karen
10 Fordham, but you saw it on the video, so he had good reason
11 to stop him and question him, as the officer testified.

12 At that time he wasn't going to make an arrest, but the
13 offic- -- but the Judge is going to tell you that the time --
14 what you have to make a determination is when that lawful
15 arrest was being made whether or not the assault occurred.
16 Well, I suggest to you, and like the Judge is going to talk
17 to you about reasonable doubt, you want to be fair. I think
18 it's reasonable for any person, if they hit an officer
19 without provocation, they're going to be placed under arrest,
20 and I think all of you can agree with that, and that's
21 exactly what happened in this case.

22 So anything that happened prior to that, you know, while
23 Mr. Robinson would like you to think that that alleviates him
24 from any criminal responsibility, this does not. But even
25 having said that, I think everything leading up to that point

1 suggests that not only did he have drugs, but he was selling
2 drugs, and the officer noticed this, and when the officer was
3 actually able to apprehend him, well, found the drugs right
4 where they were struggling.

5 Now, why do we think Mr. Robinson struck and run when
6 Mr. Seale was questioning him? He's the one that wanted that
7 time. He wanted time to get the drugs off of him because in
8 his mind possession means if it's in your pocket, possession
9 means you've got it stuck down in the front of your pants.
10 What he doesn't realize is under our law, we have an idea or
11 a legal theory that possession can be actual possession,
12 which means I'm holding it in my hand, or constructive
13 possession, which means you have dominion and control over
14 it, and the Judge is going to explain that to you.

15 And why do we have that? Because every drug dealer, if
16 he ever got stopped, all he would do is throw it down on the
17 ground and then claim, "I don't have possession of it," which
18 is how this, in this person's mind works, and that's what
19 he's trying to get you -- to convince you of.

20 But these officers have told you -- you've heard
21 testimony from Officer Seale, the one who struggled with him,
22 and Agent Geno that they were back there in the area that was
23 behind Mayo's, and nobody else back there. It was clear that
24 where these drugs were found, that there was a struggle that
25 took place, and again, like I said, why would he run and why

1 would he struggle? Why would he fight him first, and then
2 run? Because he's trying to get rid of these drugs, okay?

3 He didn't get rid of the money. He was going to keep
4 that. I mean, that's just further evidence that he was
5 dealing in drugs, and that's what I want to talk to you about
6 for a second. I want to make -- constructive possession is
7 important, and I don't think Mr. Robinson understands that,
8 but I -- I hope you agree as the people do, and the Judge is
9 going to explain it more thoroughly than I did, but obviously
10 we have that in our law, because otherwise, like I said, it
11 would be unfair advantage, drugs or whatever. They could
12 throw it down and say, "It wasn't mine," before the police
13 got there, but we've evolved past that.

14 The other thing I want to talk to you about is the
15 evidence in the case concerning the drugs. Now, the charge
16 we've got him charged with is possession with intent to
17 distribute, okay? There are certain ways in the law that --
18 there's a presumption or that the person was trying to sell.
19 We don't have that here, but our law allows that, based on
20 the circumstances surrounding the collection of drugs, that
21 you can charge them with possession with intent to
22 distribute.

23 Okay, and we've got several of those in this case.
24 Number one, we've got a person, a person in the community
25 that has no involvement with the police. She does have some

1 prior knowledge of this individual, but she's got no reason
2 to call the police other than she sees something illegal
3 going on and she don't want it to happen in her neighborhood,
4 so we've got the circumstance where an independent person
5 calls and said he did it, okay?

6 We've got an officer that stops him and notices he's got
7 a large sum of money, which I would suggest to you is
8 consistent with selling drugs. Then we've got an individual
9 that you see on tape, with the officer being polite, just
10 asking him to pat down for weapons, and he hits him and takes
11 off. Now fleeing, I would suggest to you, and I think the
12 Judge will instruct you on this, is evidence of guilt, and
13 you can consider that, and I would suggest to you that that
14 goes to show not only his guilt, but the fact that he was
15 dealing drugs because then it's consistent with everything
16 you've heard.

17 The other thing is the way it was packaged. Okay.
18 You've heard the officer's testimony. This wasn't just
19 wrapped all up. It wasn't -- the marijuana and the crack
20 wasn't all in one package. It was broken off into pieces.
21 It was two pieces of crack and two pieces of marijuana, or
22 two packages, I guess is the way -- you've heard -- you've
23 heard several people talk about that.

24 The other thing, too, that I want to talk about as far
25 as the drugs is you've heard from two people that have been

1 qualified as experts in this, and they told you they tested
2 these for illegal substances, and so I don't think there's
3 any question about that.

4 As far as the assault on the officer -- this is -- let
5 me go back to that in a minute.

6 Like I stated, you determine when the lawful arrest was
7 made, but I suggest to you that any time you take a swing at
8 an officer, that that's -- and you -- you can assume you're
9 going to get arrested. I think it's safe for everyone to
10 assume that, and it was obvious to Mr. Robinson he was
11 dealing with an officer. The officer testified he was
12 dressed in his uniform. He pulled up in his car, and you
13 could see it on video tape, and I know you can't see it right
14 off the bat. Once they start running, you can obviously see
15 it, and you obviously know something went down. You never
16 hear the officer raise his voice other than when he starts
17 trying to get after him. He never -- never not to like him
18 to this individual when he first starts questioning him, but
19 beyond that, not only did he assault him there -- and let me
20 touch on that, too, the assault. I think Mr. Robinson thinks
21 you have to do significant injury to the officer to be
22 charged, be convicted, or to even meet the elements of
23 assault while resisting arrest. It's an offer or attempt to
24 commit an assault.

25 Now, imagine he didn't -- my argument to you is, he did

1 commit an actual assault on this officer. You heard
2 testimony from that. You can see part of it on the tape. I
3 know it's not crystal clear, but I think you can tell what
4 went down. But even if you don't think it's there, once he
5 gets inside the woods you can hear -- you can hear the
6 struggle. Now you can't see what's going on because
7 obviously it went on in the back of the woods, or behind
8 Mayo's where the officers takes him into custody. You've
9 heard the officer testify that he struggled with him for a
10 while.

11 Now, you know, as well as I do, the only response, when
12 an officer tells you to stop, put your hands behind your
13 back, is to stop and put your hands behind your back.

14 He's screaming the whole time, running him down,
15 struggling when he got there, and then finally he gets him
16 into custody, so I would suggest to you, he assaulted him a
17 couple of times, but I'll just go ahead and treat this as one
18 incident, and I think the assault while resisting arrest is
19 the proper charge in this case.

20 And I think it is important to point out that during Mr.
21 Robinson's own argument to you, he admits -- and the officer
22 testified to this. The officer didn't see him throw anything
23 while he was running, okay? Now, I'm sure he was probably
24 trying to get some distance between him and himself. I don't
25 know. We may have it on video. That might be why he runs to

1 the side of the car. I don't know that. I can't put that to
2 you. But, you can look at it all you want when you are
3 together and form your own opinion about it, but he admits he
4 didn't throw anything down. The only time he had to have
5 gotten rid of the drugs, and the time I would suggest that he
6 did it, is when -- once the officer had him under control,
7 and that's why he was trying to get free then, trying to get
8 separation to get the drugs off of him, but the drugs were
9 found immediately after this took place. The Officer told
10 you that he walked him to the back of Mayo, him and another
11 officer, Geno, walked back, found it right there, right where
12 they were wrestling.

13 Now I can't prove to you that aliens didn't come down
14 and drop those drugs at some point, okay, but the Court
15 doesn't require that. That's why you hear us talk about
16 reasonable doubt, okay, because that -- that just wouldn't be
17 reasonable. That would be unfair to me to have to prove that
18 that aliens didn't come down there, or some other bizarre
19 whatever Mr. Robinson is trying to get you to believe.

20 I suggest to you that all the facts, all the
21 circumstances surrounding this, point to Mr. Robinson selling
22 drugs in that neighborhood, fighting the officer to get away
23 to try to get rid of them.

24 The officer did a good job. He never pulled his weapon
25 on this individual, never hurt this individual, but was able

1 to get him into custody, and was able to recover those drugs
2 without anybody getting hurt, and all we're asking you to do
3 today is take a look at all the evidence and see how it fits
4 together, and come back with a verdict of guilty.

5 Mr. Robinson is focused on a box not being checked here
6 with drugs not being on his person. Well, and maybe the box
7 get -- not get checked to the State, but that doesn't negate
8 the fact the boy did it.

9 What the Judge is going to tell you is you've got to
10 apply the facts of the case to the elements of the crime. I
11 want you to listen closely when he instructs you, and I think
12 you will find that what I'm arguing to you now will match the
13 instructions that he's giving you as far as the assault while
14 resisting and the possession with intent to distribute
15 marijuana, and once you do that and y'all collectively come
16 together and deliberate on the matter, I don't see how you
17 can come back with anything but guilty on the charges that he
18 is facing.

19 THE COURT: All right, ladies and gentlemen, it is now
20 my responsibility to give you the law that you will apply to
21 the facts as you so find them to be in this case.

22 I told you at the very beginning that one of your jobs
23 in this case would be to judge the credibility, that is the
24 believability, of the witnesses that might testify in this
25 particular case, and in doing that, you can go ahead and look

1 at a particular witness's credibility by looking at what they
2 might have told you, how they came about those facts that
3 they talked to you about. You could consider their
4 appearance or their demeanor. You could consider whether
5 they have any interest, bias, prejudice, any other motive
6 that they might have in giving you the particular testimony
7 that they gave you from the witness stand.

8 You can believe a portion of what a witness says,
9 disregard the remaining portion of it. You could believe one
10 witness against several. You could disregard in its entirety
11 the testimony of a particular witness if you've got a good
12 and sound reason for doing so, and how are you judging this
13 credibility and believability of the witnesses, and that is
14 by using your good common sense and your good judgment that
15 you use in conducting your own affairs every day.

16 If you think about it for a second, every single day of
17 your life you are judging credibility or believability. When
18 somebody tells you something, you are automatically judging
19 whether or not you believe what that person is telling you.
20 And how are you doing that? You are using your good common
21 sense and your good judgment. That's all we're asking you to
22 do here today, is apply that good common sense and that good
23 judgment to the facts and evidence that you've heard in this
24 particular matter.

25 You don't have any friends to reward. You don't have

1 any enemies to punish. Your verdict can't be the result of
2 any kind of passion, prejudice, or sympathy. It's got to be
3 an examination of the facts, finding those facts which
4 convince you of its truth and balancing that against the
5 burden of proof that the State of South Carolina has to prove
6 the defendant guilty of the crimes charged beyond a
7 reasonable doubt.

8 In this particular case there have been two types of
9 evidence presented, and it's in virtually every single case
10 that's tried, direct and circumstantial evidence is
11 presented. Direct evidence. Direct evidence is the evidence
12 that is a person who claims or asserts to have actual
13 knowledge of a fact, what they saw, heard, felt, that sort of
14 testimony. Circumstantial evidence is a proof of a chain of
15 facts indicating the existence of a fact. The law doesn't
16 make any distinction between the two. A greater degree of
17 proof is not required of one over the other. What you're
18 doing is looking at all the facts and the evidence in the
19 case and finding those facts and evidence which convince you
20 of the truth.

21 Now, in this case I qualified two witnesses to give
22 their opinion. Sometimes they're called expert witnesses.
23 Our rules of evidence don't allow ordinary people to give
24 their opinion. They have to center on what exactly they
25 know, what they saw, what they heard, what they might have

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1 felt about a particular matter, but sometimes witnesses by
2 nature of their experience, training, education, occupation,
3 maybe be qualified to give their opinion or be declared as
4 expert witnesses in a particular field.

5 Just because the Court does that doesn't give them any
6 special status. You judge all the evidence in the case the
7 same. You judge everybody's credibility and believability
8 the same. You look at all the evidence to find that evidence
9 which convinces you of its truth.

10 Now, in this case, though the defendant acted as his own
11 attorney, which he has the absolute right and it's proper for
12 him to do so, he did not testify in this case. Now, I
13 instruct you and emphasize to you the fact that he did not
14 testify in this case is not to be considered by you in any
15 way in this case. It is not part of this case. You cannot
16 even talk about it in your jury room. You may not consider
17 it in your decision or your deliberation of this case. Every
18 defendant has the constitutional right to remain silent and
19 if they exercise this right, it cannot be held against them.

20 This type of constitutional right is not some kind of
21 fanciful or doubtful right. It is a substantial right to
22 every defendant in a case to be presumed innocent and to have
23 the ability to make the State present its case and to prove
24 its case beyond a reasonable doubt.

25 If you remember, at the very beginning I told you the

1 defendant has nothing to show to you. The defendant has
2 nothing to prove to you, so in addition -- and I told you at
3 the very beginning the defendant pled not guilty to the
4 indictment, and that put the burden of proof upon the State
5 of South Carolina to prove the defendant guilty of the crimes
6 charged.

7 And that burden of proof, as I told you, hadn't ended
8 now. It does not end until you collectively are convinced
9 from the evidence presented that the defendant is guilty of
10 the crimes charged beyond a reasonable doubt. And again, I
11 emphasize to you that this type of presumption of innocence,
12 it's -- I can give you an example. It's likened to a robe of
13 righteousness. It's placed upon the shoulders of the
14 defendant and it remains upon the shoulder of the defendant
15 until it is stripped from the shoulders of the defendant by
16 evidence that convinces you of the guilt of that defendant
17 beyond a reasonable doubt.

18 Now I said -- and you've heard reasonable doubt a bunch
19 of times. What is reasonable doubt? What does it mean?
20 What is it? Reasonable doubt is the kind of doubt that would
21 cause an ordinary, reasonable person to hesitate to act.
22 Proof beyond a reasonable doubt is proof that leaves you
23 firmly convinced of the defendant's guilt.

24 Now, there are very few things that we can know with
25 absolute certainty, and the law doesn't require the State of

1 South Carolina to provide you that kind of proof. What is
2 required is that if based upon your consideration of the
3 evidence you are firmly convinced that the defendant is
4 guilty of the crime charged, you must find the defendant
5 guilty of that particular crime.

6 However, on the other hand, if you are not firmly
7 convinced that the defendant is guilty of the crime charged,
8 you must give the defendant the benefit of the doubt and find
9 him not guilty of that particular crime.

10 And I told you the defendant has been charged with three
11 offenses by the State of South Carolina, and I'll go over
12 those three offenses with you, and each one of them has a
13 lesser included offense.

14 The first one I'm going to go over is possession with
15 intent to distribute crack cocaine or cocaine base. Now, the
16 defendant being charged with intent to distribute crack
17 cocaine or cocaine base, the State has to prove beyond a
18 reasonable doubt that the defendant possessed that drug with
19 the intent to distribute. To prove possession, the State has
20 to prove beyond a reasonable doubt that the defendant had
21 both the power and the intent to control the disposition of
22 the drug.

23 Now, possession can either be actual or constructive.
24 Actual possession means that the drug was in the actual
25 physical custody of the defendant. Constructive possession

1 means the defendant had the dominion and control or the right
2 to exercise dominion or control over either the drug or the
3 property on which the drug was found.

4 Now, mere presence at the scene where drugs are found is
5 not enough to prove possession. The defendant's knowledge
6 and possession may be inferred when a substance is found on
7 property under his control. However, this is an inference
8 and it is simply an evidentiary fact to take into
9 consideration along with all the other evidence in the case.

10 The State also has to prove beyond a reasonable doubt
11 that the defendant intended to distribute the drug. Now,
12 distribute means to other -- means to deliver other than by
13 administering, dispensing, and intent can be shown by the
14 acts or conduct of the defendant from which you can
15 reasonably and naturally infer intent. In determining
16 whether the defendant had the intent to distribute the drug,
17 you can consider the circumstances surrounding the
18 defendant's alleged possession. You can consider the amount
19 of the substance, the manner in which it was allegedly
20 possessed, the place where it was allegedly possessed, and
21 any other factors that you consider important. You must find
22 the defendant did not intend to have the drugs solely for his
23 own use.

24 Now, possession of more than one or more grams of crack
25 cocaine creates an inference that the defendant possessed

1 that particular drug with the intent to distribute. Again,
2 that inference does not relieve the State from proving beyond
3 a reasonable doubt that the defendant had the intent to
4 distribute. It is simply again an evidentiary fact that you
5 take into consideration with all the others.

6 If you find the State has failed to prove to you beyond
7 a reasonable doubt that the defendant is guilty of possession
8 with intent to distribute crack cocaine, you can consider
9 whether or not the State has proved to you beyond a
10 reasonable doubt the defendant is guilty of simple possession
11 of crack cocaine.

12 The defendant (sic) must prove beyond a reasonable doubt
13 that the defendant knowingly or intentionally possessed the
14 crack cocaine. Knowingly means with knowledge, consciously,
15 not accidentally. Intentionally means wilfully intending the
16 result which actually occurs, not accidentally or
17 involuntarily, and again, intent can be shown by acts and
18 conduct of the defendant and other circumstances from which
19 you may naturally and reasonably infer intent. Simple
20 possession does not require an intent to distribute crack
21 cocaine. That is the difference.

22 Again, the defendant is also charged with possession
23 with intent to distribute marijuana. The same sort of charge
24 applies to the marijuana as it did with the crack cocaine.
25 The State has to prove beyond a reasonable doubt the

1 defendant possessed the marijuana with intent to distribute.
2 The State has to prove beyond a reasonable doubt the
3 defendant had both the power and the intent to control the
4 marijuana.

5 Possession can be actual or constructive. Actual means
6 the physical custody, the defendant has physical custody of
7 the marijuana. Constructive possession means the defendant
8 has the dominion and control or the right to exercise the
9 dominion and control over either the drug itself or the
10 property on which it was it was found. Again, mere presence
11 is not enough to prove possession. Mere presence at the
12 scene where the drugs are found is not enough to prove
13 possession. However, the defendant's knowledge and
14 possession can be inferred when a substance is found on
15 property under his control.

16 The State again has to prove beyond a reasonable doubt
17 that the defendant intended to distribute the drug. In
18 determining whether or not the defendant had the intent to
19 distribute, you consider again the circumstances, the amount,
20 the manner in which it was possessed, the place where it was
21 possessed, any other factors you deem important, and again,
22 possession of more than twenty-eight grams or one ounce of
23 marijuana is enough to create an inference that the defendant
24 possessed the drug with intent to distribute. Again, that
25 inference doesn't mean the State is relieved from its

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1 responsibility to prove to you beyond a reasonable doubt the
2 defendant had the intent to distribute the drug.

3 If you find the State hasn't proved to you the crime of
4 possession with intent to distribute marijuana, you may
5 consider simple possession of marijuana, and then you
6 consider whether or not the State has proved to you beyond a
7 reasonable doubt that the defendant knowingly or
8 intentionally possessed the marijuana. Again, the simple
9 possession of marijuana does not require an intent to
10 distribute.

11 Knowingly means with knowledge, consciously, not
12 accidentally. Intentionally means wilfully, intending the
13 result which actually occurs, and the intent again can be
14 shown by the acts and conduct of the defendant and other
15 circumstances from which you could infer intent.

16 The third offense that the defendant is charged with is
17 assaulting an officer while resisting arrest. The defendant
18 is charged with assaulting a law enforcement officer while
19 resisting a lawful arrest. The State must prove beyond a
20 reasonable doubt that the defendant knowingly and wilfully
21 assaulted, beat, or wounded a law enforcement officer who was
22 serving or attempting to serve, or execute a legal writ or
23 legally arresting the defendant, and that the defendant
24 assaulted, beat, or wounded an officer when the defendant was
25 resisting arrest made by a person the defendant knew or

1 reasonably should have known was a law enforcement officer.

2 Again, knowingly means with knowledge, consciously done.
3 Wilfully means intending, not by accident, an assault. That
4 is, assault is when a person violently or forcefully attempts
5 to hurt or injure another person. The assault is the
6 creation of fear, and the battery is the actual unlawful
7 touching of another person. It's the completion of the
8 assault. The assault is the offer. The battery is the
9 actual completion of that assault, and a battery can be done
10 by using or applying force to another, however slight, in a
11 rude, angry, or resentful manner without legal justification
12 for doing so.

13 A law enforcement officer means any duly appointed or
14 commissioned law enforcement officer of this state, county,
15 or municipality.

16 If you find the State hasn't proved to you the crime of
17 assault of an officer regarding a lawful arrest, then you can
18 consider the lesser included offense of resisting arrest.
19 The defendant, regarding resisting arrest, the State has to
20 prove to you beyond a reasonable doubt that the defendant
21 resisted a lawful arrest being made by a person the defendant
22 knew or reasonably should have known was a law enforcement
23 officer. Again, those -- all those same definitions apply.
24 Knowingly means consciously done. Wilfully means
25 intentionally. Resist means to oppose. Obstruct means to

1 impede or hinder. Even a peaceful, non-violent, indirect
2 obstruction could be resisting arrest.

3 Now, when a person is the subject of a lawful arrest,
4 there is a duty to peaceably allow the arrest. However, a
5 person has the right to resist an unlawful or illegal arrest
6 and may use such force as is reasonably necessary to prevent
7 an unlawful arrest. In order to determine whether the
8 defendant was entitled to resist arrest, you have to
9 determine whether the arrest in the case was lawful.

10 A law enforcement officer may arrest a person without a
11 warrant when a crime is committed in the officer's presence.
12 A law enforcement officer may also arrest for a misdemeanor
13 without a warrant when the facts or circumstances observed by
14 the officer provide probable cause that the misdemeanor was
15 freshly committed. Probable cause means that the officer had
16 a good faith basis to believe the defendant committed a
17 crime.

18 If you determine the defendant had the right to resist
19 the arrest in this case, then you must decide whether the
20 force used by the defendant was reasonably and necessary to
21 prevent an unlawful arrest or detention. Only that force
22 which is reasonably necessary under the circumstances to
23 resist the unlawful arrest may be used.

24 So that, ladies and gentlemen, is the law on the three
25 offenses that the defendant is charged with, understanding

1 each one of them has a lesser included offense.

2 To help you in reaching your verdicts in this matter, I
3 have prepared, or had prepared, verdict forms, and for each
4 particular offense, it lists the charge that the defendant is
5 charged with, as well as the lesser included offense, so
6 count one is the possession of crack cocaine. It says, "On
7 the charge of possession of crack cocaine with intent to
8 distribute, we, the jury, by unanimous consent, find the
9 defendant," and we put one before the other, don't assign
10 anything to that, "not guilty or guilty." And you consider
11 that, and if you find the defendant not guilty of possession
12 of crack cocaine with intent to distribute, go on to number
13 two, possession of crack cocaine and reach a unanimous
14 verdict on that one, not guilty or guilty.

15 Once you've reached a unanimous verdict on count one or
16 two, then you go to count three. That is possession with
17 intent to distribute marijuana. Again, "On the charge of
18 possession with intent to distribute marijuana, we, the jury,
19 by unanimous consent, find the defendant," and you've got two
20 choices, not guilty or guilty. If you find the defendant
21 unanimously -- by unanimous consent not guilty, then you go
22 to count four, which is the simple possession of marijuana.
23 Again, two choices, not guilty or guilty.

24 Once you've reached a unanimous verdict on count three
25 or four, then you go to the final count of assault on an

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1 officer while resisting arrest, and "On the charge of assault
2 on an officer while resisting arrest, we, the jury, by
3 unanimous consent, find the defendant," again, not guilty or
4 guilty. If you find him not guilty of assault on an officer
5 while resisting arrest, you go to the lesser included offense
6 of resisting arrest, and again, you either find him not
7 guilty or guilty.

8 Once you've reached a unanimous conclusion on either
9 count five or six, then you knock on the door and let the
10 bailiff know that you have reached a unanimous verdict in
11 this particular matter.

12 Mr. Foreman, it will be your responsibility regarding
13 these particular charges that once the jury well and truly
14 deliberates and reaches a unanimous conclusion, that you take
15 the appropriate verdict form, you check the appropriate block
16 and sign your name as the foreperson, indicating that indeed
17 is the unanimous verdict of the jury in this case.

18 Now, I have said unanimous a number of times. Unanimous
19 means exactly what you think it means. It means twelve/zero.
20 It doesn't mean ten/two, eleven/one, any combination thereof.
21 Whatever the verdict is on these charges, it has to be
22 unanimous, everybody agrees. It is the verdict of every
23 single one of you on that particular charge, so, Mr. Foreman,
24 when you check that block, you say, "Judge, every single
25 member of the jury agrees that that is their verdict to that

1 particular matter."

2 All right, what I'm going to do, ladies and gentlemen,
3 I'm going to send you to your jury room. Mr. Foreman, do not
4 begin your deliberations until all the exhibits have been
5 delivered to you by the bailiff and the bailiff hands to you
6 the verdict forms. Once you've got the exhibits and the
7 verdict form, then your jury may begin their deliberations in
8 this case. Madam Alternate, if you would stay with us. Mr.
9 Foreman, take the other twelve members of the jury to the
10 jury room.

11 **(THE JURY RETIRES TO THE JURY ROOM AT 4:15 P.M., AND THE**
12 **FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE JURY.)**

13 THE COURT: All right, any exceptions, deletions, or
14 additions to the charge, from the State?

15 MR. ANDREW: Nothing from the State, Your Honor.

16 THE COURT: From the Defense?

17 MR. ROBINSON: I didn't -- repeat ---

18 THE COURT: Any objections to the charge, to the law?

19 MR. ROBINSON: To the charges of what?

20 THE COURT: The charge of the law, the law that I gave
21 to the jury. Do you have any objections or ---

22 MR. ROBINSON: Oh, no; no objection.

23 THE COURT: All right, very good.

24 All right, if y'all will make sure that all the exhibits
25 that need to go to the jury are going, and we will give the

1 verdict forms and the exhibits to the jury and await their
2 verdict in this matter. Thank you very much.

3 Madam Alternate, I can't let you go, though I wish I
4 could, because the jury hasn't reached their decision, and
5 your job is to step in the shoes of one of the jurors if for
6 some reason they are unable to go forward, and until they
7 reach a verdict, I don't know that, you know, every single
8 one of them is going to stick with us. Hopefully they will,
9 but I don't know that's going to happen, so what I'll have to
10 have you do is -- Madam Bailiff, do you have another room
11 that the alternate can go in? And please don't let us forget
12 about her when the jury returns with their unanimous verdict,
13 we'll come get you at that point in time, all right? Thank
14 you, ma'am.

15 We'll be at ease until the jury needs us.

16 (THE VERDICT FORMS AND EXHIBITS ARE TAKEN TO THE JURY ROOM AT
17 4:20 P.M.)

18 (OFF THE RECORD)

19 **ON THE RECORD**

20 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
21 **JURY.)**

22 THE COURT: All right, gentlemen, I understand that the
23 jury has reached a verdict in this matter. Is the State
24 ready to receive it?

25 MR. ANDREW: Yes, sir, Your Honor.

1 THE COURT: Defense?

2 MR. ROBINSON: Yes, sir.

3 THE COURT: Ask the jury to come in, please.

4 You can bring the alternate into the courtroom and have
5 her sit back there, that's fine, the front row.

6 (AT 5:50 P.M., THE JURY RETURNS TO OPEN COURT TO RENDER
7 ITS VERDICT, AND THE FOLLOWING TAKES PLACE IN THE PRESENCE OF
8 THE JURY.)

9 THE COURT: All right, Mr. Foreman, has your jury
10 reached a verdict in these matters?

11 THE FOREMAN: Yes, Your Honor, we have.

12 THE COURT: Okay. Could you hand the verdict forms to
13 the bailiff, please. Thank you.

14 All right, Mr. Clerk, you may publish the verdicts.

15 THE CLERK: (Speaking to the defendant.) Please rise.
16 (Mr. Robinson stands.)

17 State of South Carolina versus Corey Robinson,
18 Indictment Number 2008-GS-22-727, possession of crack cocaine
19 with intent to distribute, "We, the jury, by unanimous
20 consent, find the defendant guilty."

21 Indictment Number 2008-GS-22-728, on the charge of
22 possession with intent to distribute marijuana, "We, the
23 jury, by unanimous consent, find the defendant guilty."

24 Indictment Number 2008-GS-22-729, on the charge of
25 assault of an officer while resisting arrest, "We, the jury,

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1 by unanimous consent, find the defendant guilty."

2 Ladies and gentlemen of the jury, was this your verdict
3 and is it still your verdict? If it is, please say yes.

4 (All jurors answer in the affirmative.)

5 THE COURT: All right, does the State wish the jury
6 polled?

7 MR. ANDREW: No, Your Honor.

8 THE COURT: Does the defendant wish the jury polled?

9 MR. ROBINSON: I would like to move for a direct ---

10 THE COURT: Yes, sir. We'll go into that in just a
11 second. This is as to the jury affirming their verdict. Do
12 you wish to have them polled?

13 MR. ROBINSON: Have them what?

14 THE COURT: There's a particular question the Clerk can
15 ask for the jury to affirm their verdict or say yes to their
16 verdict. Do you want that to happen?

17 MR. ROBINSON: No, sir.

18 THE COURT: All right, very good.

19 All right, ladies and gentlemen of the jury, I want to
20 thank you for your service in this particular case and for
21 your particular purposes, I'm going to be able to excuse the
22 -- basically the thirteen of you with the alternate for the
23 balance of the week. We will not -- since you have served in
24 this particular case, we will not need your services for the
25 remainder of the week.

1 There are plenty of other jurors that have not had an
2 opportunity to serve that can accommodate the Court for the
3 rest of the week since, you know, we -- as I told you before,
4 we had summoned an extra number of jurors in case the case
5 that pled out or the defendants pled guilty to on Monday had
6 gone to trial, we would have needed a lot more jurors to
7 actually try and pick a jury for that particular case, so I
8 want to thank you for your service.

9 Besides this particular case and the other one that
10 resolved itself on Monday, there are a number of other cases
11 that have resolved themselves that were on the trial roster
12 this particular week, and the only reason that was is because
13 you and the other jurors were here Monday morning ready,
14 willing, and able to be jurors in those cases, and by that,
15 by your presence, we were able to resolve those particular
16 cases.

17 I hope with this particular week you've had a little bit
18 better understanding about how your criminal justice system
19 works and also that it cannot work without the active
20 participation of the citizens of the county. I want to thank
21 you for your service. You've earned an exemption for three
22 years now for Circuit Court jury duty, so if your fine Clerk
23 of Court, Ms. Alma White, sends you a notice to come here for
24 Circuit Court jury duty in the next three years, you can tell
25 her that you have done your service and you get that

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1 exemption.

2 Now, if your local City Judge or your local Magistrate
3 sends you a summons to go to their court for jury duty, you
4 do have to go accommodate them for that, all right? With
5 that, thank you for your service. You're now excused.

6 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
7 JURY.)

8 THE COURT: All right, Mr. Robinson, I'll be glad to
9 hear from you regarding any motions for a new trial or any
10 other motions that you might have.

11 MR. ROBINSON: Yeah. I got a motion for a direct
12 appeal.

13 THE COURT: All right, sir.

14 MR. ROBINSON: Direct appeal.

15 THE COURT: A direct appeal? Well, the first thing you
16 would need to do is if you want to go into that is, you would
17 need to make a motion for a new trial.

18 MR. ROBINSON: Well, a motion for a new trial.

19 THE COURT: All right.

20 MR. ROBINSON: All right.

21 THE COURT: Regarding your motion for a new trial on
22 any grounds presented, I do find that the evidence presented,
23 that there was more than sufficient evidence, as I indicated
24 before, that if so believed by the jury, and they must have
25 believed that evidence to find you guilty of the crimes

1 charged, that there was more than sufficient evidence to find
2 you guilty of the three crimes charged beyond a reasonable
3 doubt, and I do find that there is competent evidence to
4 sustain the jury's verdict, and I may not substitute my
5 judgment for the jury's collective judgment in this matter
6 and, therefore, I respectfully decline to grant your motion
7 for a new trial.

8 Now, you have the ability to file an appeal regarding
9 this matter within ten days of today's date. It will be up
10 to you to do so, but you understand that you must file that
11 appeal within ten days of today's date in accordance with the
12 South Carolina Rules of Appellate Court Procedure.

13 MR. ROBINSON: Yeah, but how do I file that appeal?

14 THE COURT: Sir, I can't tell you how to do that. That
15 would be telling you how to practice law. I cannot do that.
16 You may make maybe an application to the South Carolina
17 Appellate Defense or Indigent Defense to help you, but I
18 can't tell you how to do that. That, again, would be telling
19 you how to practice law. My job is to tell you you have ten
20 days to file that appeal with the appellate court. Thank you
21 very much.

22 MR. ROBINSON: I file the appeal to who?

23 THE COURT: With the appellate courts of this State.

24 MR. ROBINSON: All right.

25 THE COURT: All right. Is the State ready to proceed

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1 with sentencing?

2 MR. ANDREW: If you could give me one moment to finish
3 the sentencing sheets, Your Honor.

4 THE COURT: All right, sir.

5 You can have a seat for just a minute, Mr. Robinson.

6 MR. ANDREW: Do I need to get him to sign these, Your
7 Honor?

8 THE COURT: No, sir.

9 MR. ANDREW: And I was trying to check -- what I was
10 trying to make sure of is, I don't think that these are
11 violent or serious offenses. I was trying to find out, but I
12 don't know if I got ---

13 THE COURT: The assault, where is the assault?

14 MR. ANDREW: I didn't see it in there, and I ---

15 THE COURT: Just hold on one second. The assault is
16 not. It's a felony, but it is not listed as a violent or
17 serious offense. The possession with intent to distribute
18 marijuana is not. Now, are you presenting these are third
19 offenses?

20 MR. ANDREW: Well, they were indicted, and the CDR Code
21 reads second offense, so I think that's probably - we should
22 do it as a second offense ---

23 THE COURT: Second offense, yes, sir. All right. Very
24 good.

25 Yes, sir, that would be correct then, and they would not

1 be listed then as ---

2 MR. ANDREW: It's just non-violent and ---

3 THE COURT: Yes, sir. None of them are listed as
4 violent.

5 MR. ANDREW: Okay. Thank you, Your Honor.

6 THE COURT: All right, Solicitor, anything that you'd
7 like to present to the Court before I impose sentence in this
8 matter?

9 MR. ANDREW: Well, just the prior record, Your Honor.
10 We touched on it during the trial, but just for the Court,
11 2002, there's two counts of shoplifting. Later in that same
12 year -- I'm sorry; he was charged in 2002, was convicted in
13 2003 of manufacturing or distribution of cocaine. That's
14 when he got -- it looks like he got the hundred day deal that
15 we used to do.

16 Then in 2003, he had a probation violation, and 2004,
17 they revoked him again and he had two charges accompanying
18 that, a burglary second degree non-violent and possession of
19 cocaine. It looks like he got five years with his probation
20 violation on that one, and then in 2008, it looks like he got
21 interference with or hindering officers at the City level,
22 two counts of that, and he had to pay some fines on that, but
23 I think it's pretty obvious from the record and the facts
24 that were presented to the Court today, this individual is
25 selling drugs in our community, and not only that, he's gone

1 so far as to put himself and the officers' lives in danger in
2 an attempt to get away because he's aware of the penalties.
3 Therefore, we'd ask for significant time or whatever Your
4 Honor feels is appropriate.

5 THE COURT: All right, thank you very much.

6 All right, Mr. Robinson, is there anything that you'd
7 like to say to me before I impose sentence for these
8 offenses?

9 MR. ROBINSON: No, sir.

10 THE COURT: All right, sir; thank you.

11 All right, 2008-GS-22-727, the State of South Carolina,
12 County of Georgetown, versus Corey Jawan Robinson regarding
13 possession with intent to distribute cocaine base, second
14 offense, the sentence of the Court is the defendant is
15 committed to the State Department of Corrections, a
16 determinate term of fifteen years. The defendant is given
17 credit for the time he has already served.

18 2008-GS-22-728, possession with intent to distribute
19 marijuana, second offense, the defendant is committed to the
20 State Department of Corrections, a determinate term of ten
21 years concurrent with 08-727.

22 And the 2008-GS-22-729, assault on a police officer
23 while resisting arrest, the defendant is committed to the
24 State Department of Corrections, a determinate term of ten
25 years concurrent with 08-GS-22-727.

1 Thank you very much.

2 MR. ANDREW: Thank you, Your Honor.

3 THE COURT: We'll be back tomorrow morning at 9:30,
4 9:30 in the morning.

5 (At 6:10 P.M., Conclusion of Transcript of Record.)

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1 STATE OF SOUTH CAROLINA)

2 COUNTY OF HORRY)

3

4 I, the undersigned Bettye S. Gum, Certified Court
5 Reporter and Notary Public in and for the State of South
6 Carolina, do hereby certify that the foregoing is a true,
7 accurate and complete Transcript of Record of all the
8 proceedings had and evidence introduced in the hearing of the
9 captioned case, as taken by Dixie Cox Eubank, Official
10 Reporter, and transcribed by me, relative to appeal, in the
11 Court of General Sessions for Horry County, South Carolina.

12 I do further certify that I am neither of kin,
13 counsel, nor interest to any party hereto.

14

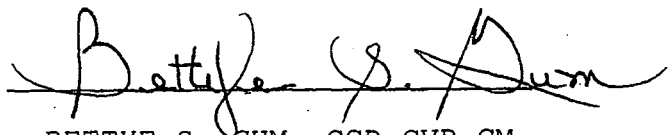
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July 24, 2009

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BETTYE S. GUM, CCR-CVR-CM

20

Certified Court Reporter and

21

Notary Public for South Carolina

22

My Commission Expires: 7/13/14

23

24

25

Georgetown County Circuit Court RANDOM STRIKE SHEET

March 17, 2009

JUDGE NAME : Steven H. John

TRIAL TYPE : Civil

Sorted by: Random Nbr

NEL ID : 2008GS22727

DESCRIPTION : ST VS. ROBINSON

Trial

COURTROOM CTR

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
1 Walker, Benjamin L	283	W	M	()	()	()	✓ ⁽¹⁾
2 Rice, Minnie Ruth	225	B	F	X ⁽¹⁾	()	()	X ⁽⁵⁾
3 Kennedy, Betty J	154	B	F	()	()	()	✓ ⁽²⁾
4 Howard, Rhonda G	136	W	F	X ⁽²⁾	()	()	X ⁽⁵⁾
5 Chalker, Carol A	35	W	F	()	X ⁽¹⁾	()	X ^(D)
6 Robb, Marcy L	231	W	F	()	()	()	✓ ⁽³⁾
7 Young, Stephen	300	B	M	X ⁽³⁾	()	()	X ⁽⁵⁾
8 McClellan, Murphy C	179	W	M	()	X ⁽²⁾	()	X ^(D)
9 Onions, Jacqueline	206	W	F	()	X ⁽³⁾	()	X ^(D)
10 Derrick, Russell L	65	W	M	()	()	()	✓ ⁽⁴⁾
11 Parreno, Mary Rosalette M	210	A	F	()	X ⁽⁴⁾	()	X ^(D)
12 Rastello, Diane L	222	W	F	()	()	()	✓ ⁽⁵⁾
13 Sullivan, Beckie S	261	W	F	()	()	()	✓ ⁽⁶⁾
14 Williams, Lois M	293	W	F	X ⁽⁴⁾	()	()	X ⁽⁵⁾
15 Hendriks, Janet S	128	W	F	()	()	()	✓ ⁽⁷⁾
16 Boykin, Robert E	20	W	M	()	()	()	✓ ⁽⁸⁾
17 Tucker, Richard A	276	B	M	()	X ⁽⁵⁾	()	X ^(D)
18 Chandler, Lucile G	36	W	F	()	()	()	✓ ⁽⁹⁾
19 Himmelrick, Michael J	131	W	M	()	()	()	✓ ⁽¹⁰⁾ Foreman
20 Bowers, Robert	19	W	M	()	()	()	✓ ⁽¹¹⁾
21 Ford, John H	85	B	M	X ⁽³⁾	()	()	X ⁽⁵⁾
22 Smith, Dean L	251	W	M	()	()	()	✓ ⁽¹²⁾
23 Drayton, Michelle	68	B	F	()	X ⁽¹⁾	()	X ^(D)
24 Dennison, Paulette T	63	B	F	()	()	()	✓ ⁽¹⁾ alternate

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Georgetown County
Steven H. John, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

COREY JAWAN ROBINSON,

APPELLANT

FINAL ANDERS BRIEF OF APPELLANT

WANDA H. CARTER
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

The lower court erred in allowing appellant to appear pro se at trial because there was no valid waiver of the right to counsel in the case.

STATEMENT OF THE CASE

Appellant Corey Jawan Robinson was convicted per jury trial of possession with intent to distribute marijuana and assault on a police officer while resisting arrest during the March 2009 term of the Georgetown County General Sessions Court before the Honorable Steven H. John, Judge. Appellant was sentenced to imprisonment for an aggregate period of fifteen years. Appellant appealed. This brief follows.

ARGUMENT

The lower court erred in allowing appellant to appear *pro se* at trial because there was no valid waiver of the right to counsel in the case.

At trial, police Officer John Seale testified that on June 3, 2008, he was dispatched to a residential neighborhood in Georgetown per a call made by a neighbor who witnessed a drug sale in progress. Thereafter, Officer Seale stopped a male in the area who matched the caller's description of the perpetrator in the case. Officer Seale testified that after he asked the male for identification and began to search for weapons, the male punched him in the face and fled. Officer Seale stated that he gave chase and caught the male and then subdued him following a difficult struggle between them. Marijuana and crack cocaine were found on the ground in the area where the two men fought. R. p. 69, line 14 –p. 88, line 14.

Prior to trial, appellant apprised the court of his desire to proceed pro se. Counsel reiterated appellant's request and asked to be relieved as counsel for appellant. R. p. 39. The trial court proceeded to query appellant regarding his, age, education and desire to proceed pro se. Also, the trial judge advised appellant of the dangers and disadvantages of self-representation and of his right to appointed counsel in the case. R. p. 40, line 10 – p. 49, line 13.

As a rule, the Sixth and Fourteenth Amendments guarantee the assistance of counsel at trial, but an accused can knowingly and intelligently waive the right to counsel if he is advised of the right to counsel and warned of the dangers of self-representation. State v. Bryant, 383 S.C. 410, 680 S.E.2d 11 (2009). Although there are many factors used to assess the voluntariness of a waiver of in terms of whether the accused understands the dangers of

self-representation,¹ one factor specific troubling factor applies in this case. That factor is the question of whether the accused's waiver of his right to counsel resulted from either coercion or mistreatment. State v. Bryant, *supra*. Here, it appears that appellant believed he had been mistreated by his appointed counsel. For example, appellant testified that counsel was "leading [him] in the blind" and that counsel "ain't (sic) representing me . . . he ain't (sic) helping me and he's working against me . . . that's why I've got a problem . . . and that counsel "didn't do nothing (sic) I wanted him to do . . . [nor] say nothing I wanted him to say." R. p. 44, line 5 – p. 45, line 8. Thus, appellant felt coerced to represent himself due to his complaints with counsel, which in turn meant that his waiver to counsel was not voluntarily given. In other words, appellant did not want to waive his right to counsel, but rather he desired to waive his right to his appointed counsel in the case.

Instead of relieving appointed counsel and allowing appellant the opportunity to appear pro se, the trial judge should have replaced appointed counsel with counsel of appellant's choice if appellant or his family members had the resources or connections to retain or secure another attorney. Although the right to an attorney of one's choosing is not unlimited, the Sixth Amendment does give some protection to a criminal defendant's selection of retained counsel. State v. Sanders, 341 S.C. 386, 534 S.E.2d 696 (2000); citing to Wheat v. United States, 486 U.S. 153 (1988).

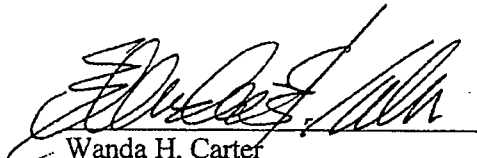
¹ (1)The accused's age, educational background, and physical and mental health; (2) whether the accused was previously involved in criminal trials; (3) whether the accused knew the nature of the charge and possible penalties; (4) whether the accused was represented by counsel before trial or whether an attorney indicate to the accused the difficulty of self-representation in the case; (5) whether the accused was attempting to delay or manipulate the proceedings; (6) whether the court appointed stand-by counsel; (7) whether the accused knew [s]he would be required to comply with the rules of procedure at trial; (8) whether [s]he knew of legal challenges [s]he could raise in defense to the charges against him/her; (9) whether the exchange between the accused and the court consisted merely of pro forma answers to pro forma questions and; (10) whether the accused's waiver resulted from either coercion or mistreatment.

The lower court erred in allowing appellant to appear pro se at trial because he did not voluntarily and intelligently waive his right to counsel in the case, which violated the right to counsel guaranteed under the Sixth and Fourteenth Amendments to the United States Constitution and article 1, §14 of the South Carolina State Constitution was violated here.

CONCLUSION

Based on the foregoing argument, appellant's conviction should be reversed and his case remanded to the Georgetown County General Sessions Court for a new trial.

Respectfully submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

December 29, 2009

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Georgetown County
Steven H. John, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

COREY JAWAN ROBINSON,

APPELLANT

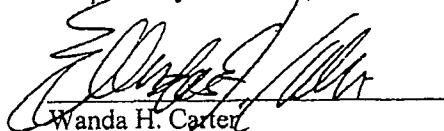
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Corey Jawan Robinson states:

1. She is Deputy Chief Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge Steven H. John, which was held on Mach 17, 2009, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Corey Jawan Robinson.

Respectfully submitted,



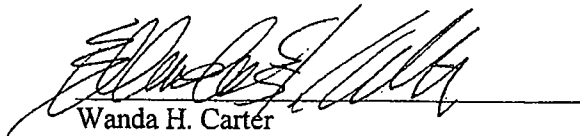
Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

December 29, 2009

A handwritten signature in black ink, appearing to read "Wanda H. Cartér", is written over a horizontal line.

Wanda H. Cartér
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

Attorney for Appellant

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Georgetown County

Steven H. John, Circuit Court Judge

THE STATE,

RESPONDENT,

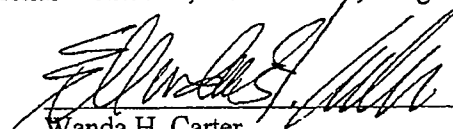
V.

COREY JAWAN ROBINSON,

APPELLANT

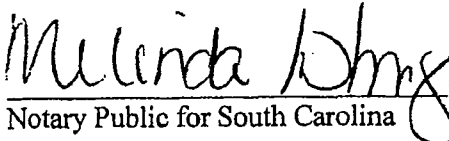
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Anders Brief of Appellant in the above referenced case has been served upon Salley W. Elliott, Esquire, Assistant Deputy Attorney General, Office of the Attorney General, Rembert Dennis Building, 1000 Assembly Street, Rm. 519, Columbia, SC 29201; and the Final Anders Brief of Appellant and Record on Appeal have been served upon Corey Jawan Robinson, #294233 at Lieber Correctional Institution, PO Box 205, Ridgeville, SC 29472, this 29th day of December, 2009.


Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 29th day of December, 2009.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: October 30, 2018

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Georgetown County
Steven H. John, Circuit Court Judge

RECEIVED

APR 18 2010
SC Court of Appeals

THE STATE

RESPONDENT

V.

COREY JAWAN ROBINSON

APPELLANT

PRO SE APPELLANT BRIEF

Corey Jawan Robinson
Pro Se Appellant

Lieber Correctional Inst
Post Office Box 265
Ridgeville South Carolina

29472

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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Georgetown County
Steven H. John, Circuit Court Judge

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THE STATE

RESPONDENT

V.

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Corey Jawan Robinson
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STATEMENT OF ISSUE ON APPEAL.

The lower court erred in allowing arresting officer to make an illegal arrest without probable cause, which result from illegal detention, illegal search and illegal seizure of an unlawful arrest and denial of motion to suppress. State failed to prove actual possession by defendant of crack cocaine and marijuana found in bag on ground near where defendant was apprehended, state failed to prove constructive possession by defendant of crack cocaine and marijuana, defendant was entitled to judgment of acquittal. Appellant raise the facts, errors and prejudice on the grounds of false testimonies of witnesses, grounds of violation of motion in limine, hearsay evidence and money as evidence. The lower court erred in not granting appellant motion to quash the warrants and the defective of the COR code in the indictments. Error in appellant sentencing sheet for possession with the intent to distribute cocaine Base.

STATEMENT OF THE CASE

Appellant Corey Jawan Robinson was convicted per jury trial of possession with intent to distribute crack cocaine, marijuana and assault on a police officer while resisting arrest during the March 2009 term of the Georgetown County General Sessions Court before the Honorable Steven H. John, Judge. Appellant was sentenced to imprisonment for an aggregate period of fifteen years. Appellant appealed. This brief follows.

ARGUMENT

The Lower Court erred in allowing arresting officer to make an illegal arrest without probable cause, which result from illegal detention, illegal search and illegal seizure of an innocent arrest, and denial of motion to suppress.

March 10 2009 appellant counsel stated a motion on the grounds of illegal seizure, being an illegal stop of Mr. Robinson and an illegal chase of him, an unlawful search of the area where Mr. Robinson was, he was not under arrest. He had a right to walk away and ran away from the officer. R.p. 23 line 18 through R.p. 24 line 10. According to the United States Supreme Court There is no threshold requirement and indeed the individual may refuse to answer or ignore the request and go on his way if he chooses. Hodges v. State, 460 S.E.2d 91 (Ga. App. 1995). Ordinarily, search of private property without proper consent is "unreasonable" unless it has been authorized by a valid search warrant. Mansouri v. Defortez, 788 S.Ct. 2121 (1968). I agree that the dispositive federal issue in this case is whether the petitioner used an unreasonable amount of force in resisting what on this record must be regarded as an illegal attempt by the police to search his person. I find this record too opaque to permit any satisfactory adjudication of that question. City of New Orleans, Louisiana v. Wainwright, 88 S.Ct. 2245 (1968). The right of personal liberty is one of the fundamental rights guaranteed to every citizen, and any unlawful interference with it may be resisted. Every person has a right to resist an unlawful arrest; and, in preventing such illegal restraint of his liberty, he may use such force as may be necessary. City of New Orleans, Louisiana v. Wainwright, 88 S.Ct. 2252 (1968). The records before us do not even approach establishing probable cause for arrest. The officers had no warrant. They did not see petitioner commit any crime. There was no arrest which could be justified under the heading of vagrancy. To be sure he did not have identification papers on him and very little funds. But those factors obviously could not be ingredients of a crime under our present system of government. City of New Orleans, Louisiana v. Wainwright 88 S.Ct. 2255 (1968). It was said that "failure to obey the command of a police officer constitutes a traditional form of breach of the peace we made a qualification" obviously however, one cannot be punished for failing to obey the command of an officer if that command is itself a violation of the Constitution. Wright v. State of Georgia, 373 U.S. 394, 391-392, 83 S.Ct. 1246, 10 W.Ed. 2d 349. A citizen had the right to offer some resistance to an unconstitutional "seizure or search" Must he now stand quietly and supinely while officers "put him down" when him arrested and throw him in the wagon? City of New Orleans, Louisiana v. Wainwright,

§ 801.225 (1962) that all personal intercourse between policeman and citizen involves some degree of there is serious only when officer, by means of physical force or show of authority, has some way restricted citizen's liberty. Terry v. State of Ohio, 333 U.S. 1309 (1948). Courts are responsible to guard against police conduct which is overbearing or harassing or which reaches upon personal security without objective evidentiary justification which Constitution requires, and when such conduct is identified, it must be condemned by judiciary and its fruits must be excluded from evidence in criminal trials. Terry v. State of Ohio, 392 U.S. 808 (1968). Deputy John Seale testified and stated I asked him to put his hands down behind his back and was going to grab him and hold him to keep him. Rp. 24 line 23 through line 25. Before Law officer I places a hand on the person of a citizen in search of any thing, he must have constitutionally adequate, reasonable grounds for doing so. Hodges v. State, 460 S.E.2d 91 (Ga. App. 1995). A person is seized only if, in view of all the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave. Satchel v. Com, 460 S.E.2d 256 (Va. App. 1995). During Trial Deputy John Seale testified that the witness Karen Furham complainant did not wish to speak to a officer, they did not tell him her name, she never gave her name on the 911 tape Rp. 96 line 3 through line 15. Therefore the complainant was anonymous not a reliable informant. Probable cause arises from information provided to police officer from confidential informant and then passed to another officer from confidential informant and then passed to another officer who conducts the search, so long as officer who receives the tip can establish the reliability of the informant. Smith v. State, 460 S.E.2d 115 (Ga. App. 1995). Where the officer receiving the tip could not establish the credibility of the informant, probable cause was not demonstrated. Collins v. State, 188 Ga. App. 172, 173, 372 S.E.2d 503 (1988). The Supreme Court does not tolerate government agent intrusion on a person, property or liberty without a search warrant, in the appellant's case the magistrate judge was misled by the affiant affidavit in the warrant, that the affiant known as should of known was false. Task of court of appeals, upon review of magistrate judge's issuance of search warrant is to decide whether magistrate had substantial basis for concluding probable cause existed. State v. Arnold, 460 S.E.2d 403 (S.C. App. 1995).

ARGUMENT:

State failed to prove actual possession by defendant of crack cocaine and marijuana and in bag on ground near where defendant was apprehended, state failed to prove constructive possession by defendant of crack cocaine and marijuana, defendant was entitled to judgment of acquittal.

Deputy John Seale testified that the reputation of Mayo's Club is known for narcotics, illegal activity and guns R.p. 19 line 3 and line 4, Deputy Seale continued his testimony later in trial stating defendant was four to five feet ahead of him the entire time, he never saw defendant take anything from his pockets, he testified that there was few people up at the parking area and none of the time did he see defendant throw anything out of his pockets. R.p. 75 line 12 through R.p. 76 line 13. Deputy also stated during cross examination that the drugs was found not in defendant possession but in your immediate area then in recross examination he testified again that he did not see defendant drop nor did he see him throw anything (R.p. 102)(1 through) R.p. 102 line 11 through R.p. 104 line 14. State failed to prove "actual possession" of crack cocaine in trial on charge of possession of crack cocaine with intent to distribute, where evidence established that police found bag containing crack cocaine on ground near where defendant was apprehended, but none of the officer who participated in arresting defendant saw defendant take anything from his pocket and drop it and did not see anything fall from pocket. STATE V. BALLENGER, 454 S.E.2d 355, 356 (S.C. App. 1995). Mere presence in the area where drugs are found does not constitute constructive possession. State v. Kimbrell, 294 S.C. 51, 362 S.E.2d 630 (1987); State v. Tabery, 260 S.C. 355, 196 S.E.2d 111 (1973) and STATE V. BALLENGER, 454 S.E.2d 357 (S.C. App. 1995). The State is required to prove every element of the crime for which an accused is charged. STATE V. BALLENGER, 454 S.E.2d 357 (S.C. App. 1995). State did not prove "constructive possession" by defendant of crack cocaine for purposes of conviction for possession of crack cocaine with intent to distribute, where evidence established that drugs were found in bag on ground near where defendant was apprehended but none of the arresting officers saw defendant take anything from his pocket and drop it nor did officers see anything fall from pocket, that drug dealers often hid drugs around area where defendant was arrested, and there was no evidence that defendant had knowledge or dominion or control over premises where drugs were found. STATE V. BALLENGER, 454 S.E.2d 456 (S.C. App. 1995). Although state

presented evidence in trial in charge of possession of crack cocaine with intent to distribute which might raise suspicion of defendant's guilt. It did not present any direct or circumstantial evidence which showed defendant had actual or constructive possession of drugs, and thus, defendant was entitled to judgment of acquittal. STATE V. BALLENGER, 434 S.E.2d 356 (S.C. App. 1995)

Deputy John Seale testified and stated, I drove down Meadow Street to try and find somebody that fit that description. Nobody was at that -- on Meadow Street, but that's a relatively short street, and I looked a little bit further and found someone fitting that description, probably a couple hundred yards, maybe four or five hundred yards at the most on Greentown Road. I immediately noticed the orange hat and the white jersey with number 32 on it, and when I got a little bit closer, I could tell it was a black male and I attempted to identify him. I got out and made contact with him. At first he was very polite and you know complied with what I had to -- what I was asking him. I asked for his -- if he had any identification on him and he stated no, he didn't have it, but he was acting real nervous, and he walked toward me with his hands in his pockets and made me a little nervous the way he was fidgeting around and look -- I could tell he was holding some thing in his pocket. R.p. 14 line 19 through R.p. 16 line 2. Deputy John Seale continued pushed me off of him and then got back on -- tried to get back on top of me and swung at me again and then attempted to run, I was able to get him back on the ground and held him until he was fatigued enough where I could put the hand cuffs on him. R.p. 17 line 15 through line 19. Never once did Deputy Seale ever said the appellant thrown, drop or take anything from his pockets, he never indicated he less chase or took an eye off appellant, then therefore how can he actually say this is appellant drugs?

ARGUMENT

Appellant asks the facts, errors and prejudice on the grounds of false testimonies of witnesses.

March 16, 2009 Cross examination by Mr. Goetz before being relieved, Deputy John Seale testified after asked by Mr. Goetz Deputy, did you find the drugs or did one of the other deputies find the drugs? Deputy Seale stated Agent Gene actually recovered them and turned them over to me. R.p. 21 line 3 through line 6. The Court asked Deputy John Seale did you walked with Deputy or Agent Gene to the place where you had struggled with the defendant, is that correct? R.p. 22 line 8 through line 10. Deputy John Seale stated Yes, Sir, the - exact spot R.p. 22 line 11 through line 13.

This was a false testimony because Agent Gene testified during direct examination and stated it was warm that day, and took me where, you know, the fight had taken place R.p. 109 line 6 through line 7. With that statement shows perjury because John Seale stated he walked with Agent Gene to the place where he had struggled with the defendant but Agent Gene states John Seale told him and not walked him. And Agent Gene continues and states and while I was back there looking in the ground, I found some plastic baggies R.p. 109 line 17 through line 18.

During direct examination by Mr. Andrews, Deputy John Seale testified that the defendant was four or five feet ahead of him the entire time, he also testified he did not notice defendant take anything out of his pockets, he state defendant was running full steam ahead. R.p. 75 line 18 through line 22.

Then later during redirect examination Deputy John Seale committed perjury of false testimonies when he changed his story and stated he was digging in his pockets trying to get rid of -- why he was running R.p. 103 line 12 through line 13.

During my cross examination, I question Deputy John Seale, why would he state Mayo's Club and then in your narrative report say the words? Deputy John Seale stated I think it's been made clear that we were in the woods and there's no argument that we were in the woods when he was taken into custody R.p. 98 line 14 through line 21. Then I continue to question Deputy Seale and I question him All right, and then you said you took the defendant out of the woods and then you escorted him to the parking lot of Mayo's, Deputy Seale Responded Correct. R.p. 99 line 4 through line 7.

Then Deputy Scale conducted a perjury of some testimony by stating when I questioned him, we wasn't in the woods? Deputy Scale responded Right on the edge of the woods, R.p. 101 line 16 through line 17. Deputy Scale answer after being questioned were these drugs found in the defendant's possession? Deputy Scale answer No, they were not found in his possession. They were found next to him: period clothing and where we had been struggling in the briars and brush in the woods R.p. 98 line 24 through R.p. 99 line 1 through line 3. Which one is it on the edge of the woods or in the woods, according to his testimony he does not know. I also questioned Deputy Scale again about the possible contraband and I stated All right, and your agent, one of the agents, Gene, went back into the woods to look for any possible contraband? Deputy Scale answer Right. I took him to the exact spot R.p. 99 line 23 through line 25. But according to agent Gene, Deputy Scale told him not took or walked him to the exact spot. R.p. 109 line 6 through line 7.

March 16 2009 Deputy John Scale testified in a answer My sergeant informed me that a citizen had called central dispatch and said she just witnessed a drug transaction in front of her house R.p. 14 line 6 through line 8. During trial on March 17 2009 Karen Fordham testified that it was a she and then gave a false testimony saying it was her son, then she said it was two people and added a third party including me, but in the 911 report it only mention a black male and a young white boy, never did it mention a female. R.p. 67 line 13 through R.p. 68 line 15. Therefore the court knows that there was never a young white boy or his mother, the Deputy Scale nor his sergeant did not receive this information from 911, Deputy Scale never went to a house where the witness Karen Fordham mention the transaction of drugs took place also Karen Fordham did mention she was a reason the defendant get fired from his job when she stated No, not really R.p. 64 line 17, therefore the court knows Karen Fordham fabricated a story along with a false statement to a landlord and 911 knowing the defendant would be stopped in a well known drug environment and possibility drugs would be found and defendant may go to jail. like Deputy John Scale did testified on March 16, 2009 a day before trial in exact words that Mayo's club has a reputation for narcotics, illegal activity and guns R.p. 19 line 3 through line 5.

ABSTRACT

Appellant raise the facts error, and prejudice on the grounds of violation of motion in limine, hearsay evidence and money as evidence.

March 16, 2009 Mr. Goode stated Your Honor, the second part of our motion in limine would be that we want the Court to order that the prosecution produce no witness and no testimony regarding any hearsay evidence, specifically being that some citizen has called in saying that Mr. Robinson was selling drugs in their house, or yard, or the highway in front of their house. That would be hearsay and we would object to it, and want to do a motion in limine before it would ever come out, if it would come out. R.p. 31, line 8 through line 16.

The Court stated all right I will hear you at that time that the witness is presented and the tape is presented, Mr. Goode. I don't think at this point in time the court is prepared to rule on your motion. R.p. 32 line 8 through 11.

Mr. Goode was relieve after selection of jury being Mr. Robinson felt restricted and continue to represent himself at trial and Mr. Robinson objected to Karen Fordham being a credibility of a witness and to the 911 tape being introduced and allowed as evidence R.p. 61 line 5 through line 9. because of hearsay evidence and to Deputy Linn Seale testimony of Karen Fordham being anonymous and did not give her name on the 911 tape. R.p. 96 line 10 through line 14. which she makes the 911 tape an anonymous call.

Karen Fordham also testified she was outside in her yard, because she was getting ready to cut her grass, she saw the defendant was standing across the street at the next house in front of the store R.p. 58 line 22 through R.p. 59 line 10. This was all hearsay evidence and should of been thrown out of court because Karen Fordham was not a reliable witness.

March 16, 2009 also Mr. Goode stated Your Honor, the third part of our motion in limine would be that the prosecution present no witness or no testimony that having cash money is evidence of a person being involved in drug activity. R.p. 62 line 23 through R.p. 63 line 2.

The Court stated I would like to see what comes up in cross examination or in some case further, that you would not be asking a direct question of his father, other than what did he have. I mean, you can certainly say -- he can certainly say what he received and some one what the defendant did in his hands was present to him, but not some conclusion that that would then automatically have him dealing in drugs R.p. 37 line 4 through line 16.

The motion in limine was violated, during the direct examination by Mr. Andrew when witness Agent Gero testified after Mr. Andrew question him how about some money, was there any money ever collected from the scene? Agent Gero stated there was. I received the money, and I do -- also one of my duties, I do the seizures and the consent forms for any money that's seized, you know, that's consistent with drug activity, or drug dealing, or in close proximity to drugs R.p. 110 line 30 through line 25.

I Mr. Robinson after the motion in limine was violated objected to state exhibit 6 money as evidence coming in and introduced as evidence and stated, it's not no evidence of the crime, the money is -- ain't no drugs was found on me and no drugs -- or they didn't find no drugs on my person -- I mean possession, so I can use money as a motive, That's leading the jury. R.p. 111 line 19 through line 25 and R.p. 112 line 1 through 5

Also in error and prejudice Mr. Andrew also violated the motion in limine of having cash money as evidence by stating And his closing argument, He didn't get rid of the money. He was going to keep that. I mean, that's just further evidence that he was dealing in drugs. R.p. 171 line 3 through line 5. Then Mr. Andrew continue by saying We've got an officer that stops him and notice he's got a large (amount) sum of money, which I would suggest to you is consistent with selling drugs. R.p. 172 line 6 through line 8 and he use it to show the jury defendant guilty with Karen Fordham stated in other words I had a job she stated No, I didn't work with you. I worked at the same building and then totally on a different job. R.p. 64 line 4 and 5. The motion in limine was violated.

ARGUMENT

The lower court erred in not granting appellant motion to quash the warrants and the defective of the COR code in the indictments

In one warrant the defendant was charged with resisting arrest and assault while resisting arrest all in the same warrant, therefore the warrant on them two charges should of been quash due to duplicity in the warrant. The warrants for possession of cocaine base with intent to distribute read 1st offense of manufacturing, distribution of cocaine base and the COR code read 3014 on warrant but read 3015 on indictment, which the COR code on the indictment is for manufacturing and distribution of cocaine base and not what I was found guilty of which is possession with intent to distribute cocaine base. Also Mr. Andrew stated I have two priors, therefore making that a third R.p. 5 line 11 and line 12 but on the COR code of the indictment it read second offense. Now both warrants for the intent with possession to distribute cocaine base and marijuana those warrants was fabricated to have the defendant arrested, the warrants for both charges states the cocaine base and marijuana was both found in my possession located in Mayo's parking lot. Also Deputy John Seale testified to that what the warrants say found in my possession, located in Mayo's parking lot Deputy Seale also testified he did not fill out the warrant that it was done by someone else. R.p. 95 line 20 through R.p. 98 line 12. In result of an error Mr. Andrew stated, well just the prior record, Your Honor, we touched on it during the trial, but just for the court, 2002 there's two counts of shoplifting later in that same year -- I'm sorry; he was charge in 2002, was convicted in 2003 of manufacturing or distribution of cocaine. R.p. 198 line 9 through line 13 This is not true I was convicted in 2003 for possession with the intent to distribute crack cocaine and not manufacturing or distribution of cocaine, which means I am being illegally detain in prison for manufacturing or distribution of cocaine base second offense, when the jury found me guilty of possession with intent to distribute cocaine base.

The crack cocaine that was found by agent some did not weigh more than a gram nor did the marijuana found weigh 28 grams or more, when the court stated to the jury. Now, possession of more than one or more grams of crack cocaine creates an inference that the defendant possessed that particular drug with the intent to distribute. Again, that inference does not relieve the State from proving beyond a reasonable doubt that the defendant had the intent to distribute. If you find the state has failed to prove to you beyond a reasonable doubt that the defendant is guilty of possession with intent to distribute crack cocaine, you can consider whether or not the state has proved to you beyond a reasonable doubt the defendant is guilty of simple possession of crack cocaine. You consider again the circumstance, the amount, the manner in which it was possessed, the place where it was possessed, any other factors you deem important, and again, possession of more than twenty-eight grams or one ounce of marijuana is enough to create an inference that the defendant possessed the drug with intent to distribute. Again, that inference doesn't mean the state is relieved from its responsibility to prove to you beyond a reasonable doubt the defendant has the intent to distribute the drug. If you find the state hasn't proved to you the crime of possession with intent to distribute marijuana, you may consider simple possession of marijuana, and then you consider whether or not the state has proved to you beyond a reasonable doubt that the defendant knowingly or intentionally possessed the marijuana. Again, the simple possession of marijuana does not require an intent to distribute R.p. 182 line 24 through R.p. 185 line 10.

ARGUMENT

Error in appellant sentencing sheet for possession with the intent to distribute Cocaine Base.

March 17, 2009, Judge Steven H. John sentenced appellant to an aggregate period of fifteen years. On the sentencing sheet the Judge sentenced appellant under his first offense and under the wrong CDR code 3015 44-58-0375 (B)(1)

with is for manufacturing and distribution with appellant was conviction of possession with the intent to distribute crack cocaine. And the indictment read second offense with the same COA code but different offense from sentencing sheet, which means appellant is being retried in prison for a charge of manufacturing and distribution which is illegal because he was convicted for possession with the intent to distribute. Both cracks became according to verdict forms from the jury.

CONCLUSION

Based on the foregoing arguments, appellant's conviction of all charges should be reversed, overturned, vacated and dismissed and appellant should be released from any imprisonment he is confined to.

Respectfully Submitted,

Corey J. Robinson

Corey Jaiwan Robinson
Pro Se Appellant

January 12, 2010

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Georgetown County
Steven H. John, Circuit Court Judge

THE STATE,

RESPONDENT,

V

COREY JAWAN ROBINSON

APPELLANT

DESIGNATION

To include the following:

- (1) Entire Transcript
- (2) Original Indictment(s)
- (3) Original Warrant(s)
- (4) Sentencing Sheet(s)

January 12, 2010

Respectfully Submitted,

Corey J. Robinson

Corey Jawan Robinson
Pro Se Appellant

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Georgetown County
Steven H. John, Circuit Court Judge

THE STATE

v.

RESPONDENT,

COREY JAWAN ROBINSON

APPELLANT

CERTIFICATE OF SERVICE

The undersigned pro se appellant hereby certifies that a true copy of the pro se brief of Appellant in the above referenced case has been served upon Jeannette F. Barber, The South Carolina Court of Appeals Clerk of Court, Post Office Box 11629 Columbia South Carolina 29211, this 12th day of January, 2010

Corey J. Robinson

Corey Jawan Robinson
Pro Se Appellant

RECEIVED

JAN 19 2010

SC Court of Appeals

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.

Corey Jawan Robinson, Appellant.

Appeal From Georgetown County
Steven H. John, Circuit Court Judge

Unpublished Opinion No. 2011-UP-191
Submitted April 1, 2011 – Filed April 28, 2011

APPEAL DISMISSED

Deputy Chief Appellate Defender Wanda Carter, of
Columbia, for Appellant.

Attorney General Alan M. Wilson, Chief Deputy
Attorney General John W. McIntosh, and Assistant
Deputy Attorney General Salley W. Elliott, all of
Columbia; and Solicitor J. Gregory Hembree, of
Conway, for Respondent.

PER CURIAM: Corey Jawan Robinson appeals his convictions for possession with intent to distribute (PWID) marijuana, PWID crack cocaine, and assault on a police officer while resisting arrest. On appeal, Robinson argues the trial court erred in allowing him to proceed pro se because Robinson did not validly waive his right to counsel. In addition, Robinson raises several issues in his pro se brief. After a thorough review of the record, counsel's brief, and Robinson's pro se brief pursuant to Anders v. California, 386 U.S. 738 (1967), and State v. Williams, 305 S.C. 116, 406 S.E.2d 357 (1991), we dismiss^[1] the appeal and grant counsel's petition to be relieved.

APPEAL DISMISSED.

HUFF, SHORT, and PIEPER, JJ., concur.

^[1] We decide this case without oral argument pursuant to Rule 215, SCACR.

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF GEORGETOWN)Corey Jawan Robinson #294233
Full name and prison number (if any) of Applicant.)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2011-CP-22-0088

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
JUL 11 PM 2:04
CLERK OF COURT
ALMA Y. WHITE
GEORGETOWN COUNTY, S.C.INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lieber Correctional Institution
2. Name and location of Court which imposed sentence Georgetown County General Session
3. Name(s) of co-defendant(s) (if any) N/A (None)
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2008-GS-22-727; possession of crack cocaine with intent to distribute
 - (b) 2008-GS-22-728; possession of marijuana with intent to distribute
 - (c) 2008-GS-22-729; assault while resisting arrest
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) March 17, 2009 15 years
 - (b) March 17, 2009 10 years (concurrent)

- (c) March 17, 2009 10 years (concurrent)
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. The South Carolina Court of Appeals
- ii. The South Carolina Supreme Court
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Appeal Dismissed
- ii. Appeal Dismissed (Petition for writ of certiorari)
- iii. _____
- (c) the date of each such result:
- i. April 28, 2011
- ii. June 28, 2011
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Answer on back of page for additional space
- ii. Answer on back of page for additional space
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing: Please disregard error
- (a) ~~_____~~ →
- (b) ~~_____~~
- (c) ~~_____~~
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

* Note: answers continue on reverse side for page 2 of question number 8.

8. If you answered "yes" to (7) list ..

(d) If known citations of any written opinion or order enter pursuant to such result.

i. Pursuant to Ander v. California, 386 U.S. 738 (1967) and State v. Williams, 305 S.C. 116, 406 S.E.2d 357 (1991), We dismiss the appeal and grant counsel's petition to be relieved.

ii. Pursuant to State v. Lyles, 381 S.C. 442, 673 S.E.2d 811 (2009), this Court held that it "will no longer entertain petitions for writs of certiorari where the Court of Appeals has dismissed an appeal after conducting an Anders review." Accordingly, this petition for a writ of certiorari is dismissed.

- (a) Const. 4th Amendment of the United States Constitution and Article I §10 of SC
 (b) Const 14th Amendment beyond a reasonable doubt failure to prove actual &
 (c) Const 6th Amendment and 14th Amendment Right to counsel to the →
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See attached additional pages being submitted
 (b) see attached additional pages being submitted
 (c) see attached additional pages being submitted
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)? NO
 (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:
- -
 -
 -
- (b) the name and location of the Court in which each was filed:
- -
 -
 -
- (c) the disposition thereof:
- -
 -

* Note: answers continue on reverse side of page for question #10

Revised 3/2003

10. state concisely the grounds on which you base your allegation that you are being held in custody unlawfully

(a) United States Constitution and Article I § 10 of the South Carolina Constitution
S.C. Code Ann § 17-13-140 (1985)

(b) and constructive possession and was entitled to judgment of acquittal.

(c) United States Constitution and article I § 14 of the South Carolina State Constitution.

(d) 14th Amendment fair and impartial trial

(e) Ineffective Assistant of Counsel

(f) Subject Matter Jurisdiction and Exceeding Maximum sentence.

(g) Perjury

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) Prior to trial a pretrial hearing was held and Mr. Goude stated that Mr. Robinson saying basically that the indictments are defective, as well as the arrest warrants. Mr. Robinson also move to suppress for not having probable cause, Mr. Goude stated the arrest warrant was issued after the arrest was made. Then Mr. Goude argued I will make a--my motion of suppressing on the grounds of illegal seizure, being an illegal stop of Mr. Robinson and an illegal chase of him. He was not under arrest and he had a right to walk away from the officer if he wanted to since he was not under arrest, and he did walk away and ran away from the officer. If the officer had a right to put him down when he was talking with him, or if Mr. Robinson left and went away, the officer would no longer be under a threat because Mr. Robinson would be leaving the area and not be in his presence, and therefore, we say it was an illegal chase by the police officer of Mr. Robinson, therefore an illegal seizure of Mr. Robinson and, therefore, if it were drugs and if it was Mr. Robinson's drugs, they would be fruit of the unlawful activity and should be suppressed on that grounds as an unlawful seizure, and following from the unlawful seizure, an unlawful search of the area where Mr. Robinson was. Tr.p. 10, line 1 - Tr.p. 29, line 22. Deputy Seale testified his sergeant informed him a citizen had called central dispatch and said she just witnessed a drug transaction in front of her house. Tr.p. 14, line 6 - line 8. This complainant was not reliable as a witness, it was hearsay and she never left her name or wish to speak with an officer that day she remained anonymous, which Deputy Seale testified to. Tr.p. 90 line 3 - line 17. Which no information in the warrants provides anything about the anonymous tip, which the magistrate judge never received such information and the officer obtaining the warrants never communicate with the magistrate judge about an anonymous tip to

11(a) establish probable cause. Franks v. Delaware. Bostick reiterated that the fourth Amendment inquiry to be applied to persons confronted with such question on public carriers remains the same as that to be applied to a person walking on the street, Florida v. Bostick, whether a reasonable person would have felt free to decline the officers requests or otherwise terminate the encounter taking into account all of the circumstances surrounding the encounter. Where the encounter takes place is one factor, but not the only one, to determine whether consent is voluntary a court must apply a totality of all the surrounding circumstances test. Other relevant circumstances have been held to include the time of day, the officer's tone of voice and whether the officer displayed a weapon or handcuffs, wore a uniform, touched the individual without permission, threatened or physically intimidated him, or retained his identification or travel ticket. U.S. v. Randolph. However once consent is given and a voluntary search is commenced, it appears that this consent may be withdrawn or limited at any time prior to the completion of the search. A determination of whether consent was withdrawn or limited in the case by virtue of defendant running when officer Seale touched applicant without permission and displayed handcuffs to conduct the patdown, defendant felt violated and felt as he was under arrest, officer did not advise the applicant of his right to refuse to consent to a search if he had to be placed in handcuffs, applicant refused consent of being placed in handcuffs in order to be patdown, which when applicant turned to walk away officer grabbed him without permission applicant then scratched away and ran where other individuals was at. Tr.p. 26, - Tr.p. 27, line 15. The court stated for the record However, a person has the right to resist an unlawful or illegal arrest and may use such force as is reasonably necessary to prevent an unlawful arrest. Tr.p. 187, line 4 - line 7. Applicant freely answered questions about identification, whiles consented to search for weapon and patdown of person but not to be placed in handcuffs, applicant refusal was honored until he turned around to leave that when officer grabbed applicant, applicant broke free and ran. Tr.p. 14, - Tr.p. 17, line 19. Where we

11(a) held that an officer's prolonged and persistent questioning after the suspect had conveyed an unequivocal unwillingness to engage in further conversation amounted to a nonconsensual intrusion to which Fourth Amendment protections apply, United States v. Wilson. The majority would bring the Fourth Amendment into play at the point when Deputy Seale grabbed applicant when refused a patdown and search after handcuffs was displayed while turning around to leave, but holds that this seizure was supported by reasonable, articulable suspicion of wrongdoing, like in U.S. v. McFarley the court should disagree. Not only applicant was seized, the seizure was not based on reasonable suspicion that applicant was engaged in criminal activity at the time, Terry v. Ohio. At trial Karen Fordham testified she was on her porch and applicant was across the street on another person's porch, she testified she knew it was drugs being transacted because she saw it, she testified as far as her eyes saw it it looked like cocaine when questioned it was cocaine she testified yes. Then she testified using false statement saying she didn't say whether it was powder or it was crack -- crack. Tr.p. 65 line 2 - line 16. The anonymous tip was vague in that there was no indication that citizen was knowledgeable about drugs being transacted and not corroborated by officers surveillance and no information giving about future illegal activity. State v. Gentile, Karen Fordham testified added a new party and did not know whether it was a she or he. Tr.p. 67, line 13 - Tr.p. 68, line 15.

Based on the foregoing: Applicant's arrest was illegal without probable cause, which resulted from illegal detention, illegal search and illegal seizure of unlawful arrest.

11. State concisely and in the same order the facts which support each of the grounds set out in (10);

(b) The lower state failed erred in proving actual and construction possession and applicant was entitled to direct verdict judgment of acquittal. The state is required to prove every element of a crime beyond a reasonable doubt Jackson v. Virginia. There is no sufficient evidence on record that applicant had actual or construction possession of these drugs, or where the drugs was found or where the officer John Seale was during the discovery of the drugs. When question by Mr. Goude on record and when--when Deputy Geno found it, were you in the grown up area, too, with him looking, or were you back at the highway or the cleared land part? Deputy Seale testified I was back in the parking lot area with my supervisor and lieutenant were with me trying to help me from--recover from being fatigued Tr.p. 21, line 20-line 25. How is this true when Deputy Seale testified they were within sight of, you know, twenty-five yards of me the entire time Tr.p. 20, line 9-line 17. Deputy Seale testified Probably, I would guess about fifty yards from the parking lot to where the struggle took place. Tr.p. 77, line 2-line 3. Deputy Seale also testified and I remained within twenty-five yards of Agent Geno. I could see him. He was from me from here to the back wall where it took place, and he located the crack cocaine and the marijuana in the immediate area where we were struggling. Tr.p. 85, line 11-line 15. This can't be true because Deputy Seale testified to being in the parking lot area when Geno found it. Tr.p. 21, line 20-line 25, so that means he was not twenty-five yards within sight of the discovery of drugs, if it was fifty yards from the parking lot to where the struggle took place. Tr.p. 77, line 2-line 3. Deputy Seale did not know where the drugs was found. Deputy Seale testified Right. There was a few people up at the parking area a couple cars. I don't

11(b) remember exactly how many. Tr.p. 75, line 25 - Tr.p. 76, line 1. Deputy Seale testified he was alone in the woods the whole time while struggle with Mr. Robinson Tr.p. 82, line 2 - line 4. He testified Mayo club was open to the public at the time but we were in the middle of the woods. Tr.p. 91, line 25 - Tr.p. 92 line 1, than Deputy Seale testified to being in the woods again. Tr.p. 92, line 3 - line 4. He testified that the warrant says drugs located in the parking lot of Mayo Club. Tr.p. 97, line 4 - line 24. Than Deputy Seale testified again to the warrant says located in the parking lot of Mayo Club. Tr.p. 97, line 25 - Tr.p. 98, line 1. Deputy Seale testified they were not found in his possession but where we had been struggling in the briars and brush in the woods he continue to testify after being question about the middle of woods, Deputy Seale testified Because once -- once you were take into custody, I can't leave you in the woods. Tr.p. 99, line 1 - line 22. Deputy Seale testified using false statement Deputy Seale testified to not being in the middle of woods but right on the edge of the woods. Tr.p. 101, line 8 - line 17. Deputy Seale also testified before the discovery of drugs applicant was handcuff turned over to Corporal Barton who took defendant to the detention center, Tr.p. 75, line 1 - line 9. Deputy Seale testified he was four to five feet behind the defendant the entire time and did not notice defendant take any thing out of his pockets. Tr.p. 75, line 16 - line 22. Deputy Seale testified he chased defendant around back and none of this time defendant was not throwing anything out of his pockets. Tr.p. 76, line 9 - line 13. Deputy Seale testified he never seen defendant drop anything or throw anything. Tr.p. 104 line 11 - line 14.

Based on the foregoing: The state failed to prove actual or constructive possession beyond a reasonable doubt and applicant was entitled to direct verdict judgment of acquittal.

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(c) The lower court erred in allowing applicant to appear pro se at trial because there was no valid waiver of the right to counsel in the case, applicant did not voluntarily and intelligently waive right to counsel, waiver was resulted from mistreatment and coercion. The district court was quick--perhaps too quick to interpret applicant expression of dissatisfaction with his lawyer as a request to represent himself. In other words, appellant did not want to waive his right to counsel but rather he desired to waive his right to his appointed counsel in the case. State v. Bryant. Applicant testify the morning before trial that he did not had any kind of formal training as to how matters are to be presented in court. Tr.p. 41, line 12-line 19. Applicant testified also I didn't prepare no opening statement because I was listening to my lawyer, and then--now he's telling me--he's telling me I--he's fabricating a story. He--what he was telling me I was going for then that's why he's leading me in the blind--and then he ain't representing me. He ain't helping me. He's working against me. That's why I've got a problem. (Applicant continue) he had put--argue my motion and he say he was going to say this and say that, but when we got into court, he didn't mention nothing and he didn't object to nothing that--he told me to write stuff on the paper what I have him to ask and cross examine the witnesses but whiles applicant was writing on the paper he just pushed my paper back. Tr.p. 44, - Tr.p. 45. Applicant testified but we had altercation in the past, refused to show D.V.D tape, public defender running from him when.

11.(C) he calls, he wrote Bar Association and him and public defender had problems before. Tr. p. 45, line 17—line 21.

Based on foregoing: Applicant felt mistreated by appointed counsel, Applicant felt coerced to represent himself due to his complaints with counsel, which in turn meant that his waiver to counsel was not voluntarily and intelligently given. In other words, applicant did not want to waive his right to counsel but to appointed counsel.

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

1d) Pretrial Judge prejudice my trial for failure to grant motion to suppress drugs and clothing and by not dismissing or quashing warrants and indictments when magistrate judge was misled by affiant affidavit that was different from arresting officer John seale narrative and testimony which the affiant known or should of known was false. Tr.p. 9 - Tr.p. 35. Allowing drugs admissible at trial when it was insufficient to support conviction after officer testimony, and using perjury testimony during trial under oath.

Trial Judge prejudice my trial for allowing money admissible at trial after pretrial judge granted motion in limine of money not to be introduce in trial as evidence. Tr.p. 32, line 23 - Tr.p. 33, line 16, motion violated. Tr.p. 110, line 26 - Tr.p. 111, line 25. Also Tr.p. 172, line 6 - line 8, and allowing 911 tape admissible when it was an anonymous call hearsay evidence by anonymous complainant witness insufficient to support conviction. Allowing perjury testimony at trial insufficient to support conviction.

Trial Judge prejudice my trial by not conducting a Boston hearing, when applicant was prose and jury was consist of 13 members including the alternative, which the alternative was a black female but had no part in the deliberation of the verdict, out of the 12 original jury there was only one black person a female, there was no black male on the jury, or a member that was the applicant peer. Tr.p. 36, line 1 - line 25.

Trial Judge prejudice my trial, trial court instruction that possession of more than 28 grams or one ounce of marijuana was prima facie evidence of guilt on charge of possession with intent to distribute marijuana impermissibly shifted burden of

11(d) proof from state to defendant, there was some evidence presented at trial tending to rebut presumption of intent to distribute. Thompson v. State, Tr.p. 184, line 21 - line 24.

11.(d) Trial Judge prejudice my trial failure to instruct that "intent to distribute" was essential element of crime constituted reversible error. U.S. v. Pope, Tr.p. 176 - Tr.p. 190.

Trial Judge prejudice my trial by commenting upon my right to exercise his right to remain silent or be represented by an attorney. Edmond v. State, Tr.p. 179, line 10 - line 15.

Trial Judge prejudice my trial by not granting motion of direct verdict of acquittal when evidence was insufficient to prove elements of actual or constructive possession beyond a reasonable doubt.

Based on foregoing: Applicant did not have a fair and impartial trial.

11. State concisely and in the same order the facts which support each of the grounds set out in (10).

(e) Counsel was ineffective at pretrial hearing, counsel failed to argue applicant two motion to suppress evidence, motion to quash warrants and indictments as well as the improper search and seizure of applicant. Tr.p. 26, line 9 - Tr.p. 28, line 15.

Counsel did not conduct a substantial investigation, failed to converse with applicant. Counsel failed to prepare a defense for applicant, did not ensure applicant received a preliminary hearing. Counsel failed to receive original warrants from the solicitor, counsel hid discovery of evidence of the anonymous witness and DVD tape.

Counsel refused applicant a Batson Hearing after denying applicant to strike or keep member of the jury and counsel intentionally strike black member and black males, this was the reason defendant felt mistreated and coerced. Applicant did not waive constitution right to counsel by refusing to accept court appointed counsel where refusal was based on lack of communication and lack of preparation of counsel, effective assistance of counsel was denied after attorney was discharged because of defendant's persistent objections, and defendant attempt to represent himself. United States v. Woods.

Based on foregoing: Applicant counsel was ineffective assistance.

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(F) Indictment not charging offense failure to establish jurisdiction or state offense constitutes jurisdictional defect, defendant may challenge indictment at anytime. In the applicant indictment for possession with intent to distribute the statute does not fully defines and describes the language of the statute the offense, and the charging instrument does not fully informs accused of the particular statute which he is charged. On applicant indictment the statute codes of offense and CDR code read Possession, distribution or Manufacture Cocaine Base which is wrong because applicant was suppose to be indicted for possession with intent to distribute cocaine base and was found guilty for possession with intent to distribute crack cocaine, which the indictment defines possession with intent to distribute cocaine base but the statute and CDR code read 44-53-375 CDR code 0315 which possession, distribution or manufacture cocaine base, therefore the description of the offense in the indictment does not define the statute of the code of law applicant was indicted with which is a jurisdictional defect. Also the CDR code on applicant warrant read 0314 which is different from the indictment. Applicant was sentence exceeding maximum sentence because on indictment he was sentence under 44-53-110 second offense less than one gram accordance to the law second offense under section 44-53-110, a person possessing or attempting to possess less than one gram of methamphetamine or cocaine base for a second offense, the offender is guilty of a felony and upon conviction, must be imprisoned not more

11.(f) than five years or fined not more than seven thousand five hundred dollars, which applicant was sentence to fifteen years exceeding maximum sentence.

Based on foregoing: Applicant indictment for possession with intent to distribute crack cocaine (cocaine base) is defective and it exceeds maximum sentence of over five years which applicant was sentence to fifteen years. Court lacked subject matter jurisdiction over indictments and warrants.

- iv. _____
- (d) the date of each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. _____
- 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?
- yes
15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
- i. Const. 4th Amendment of the United States Constitution and Article I § 10 of →
- ii. Const. 14th Amendment beyond a reasonable doubt failure to prove actual →
- iii. Const 6th Amendment and 14th Amendment Right to Counsel to the
- (b) the proceedings in which each ground was raised:
- i. direct appeal
- ii. direct appeal
- iii. direct appeal
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) 14th Amendment Fair and Impartial trial; PCR issue
- (b) Ineffective Assistance of counsel; PCR issue
- (c) Exceeding Maximum sentence; PCR issue newly discovered evidence
17. Were you represented by an attorney at any time during the course of:

* Note: answers continue on reverse side of page for question # 15.(a) and 16.

Revised 3/2003

11. State concisely and in the same order the facts which support each of the ground set out in (10):

(g) The witnesses Deputy John Seale and Karen Fordham testified during trial under oath using false statements and perjury testimony. Deputy John Seale used perjury testimony of where he was when the drugs was found. Tr.p. 21, line 20-line 25; Tr.p. 20, line 9-line 17; Tr.p. 77, line 2-line 3 and Tr.p. 85, line 11-line 15. Deputy Seale used perjury testimony where the drugs was located at. Tr.p. 75, — Tr.p. 101, line 17. Karen Fordham used perjury testimony of what type of drugs she saw and who the drugs was being transacted to. Tr.p. 65, — Tr.p. 68, line 15.

Based on the foregoing: The witnesses Deputy John Seale and Karen Fordham used perjury testimonies under oath during trial.

15. If you answered "yes" to (14) identify: (a) Which grounds have been presented:

- i. the South Carolina Constitution S.C. code Ann § 17-13-140 (1985)
- ii. and constructive possession and was entitled to judgment of acquittal
- iii. United States constitution and article I § 14 of the South Carolina State Constitution
- iiii. Subject Matter Jurisdiction

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:

(d) Perjury; PCR issue

- (a) your arraignment and plea? Yes (up to my pretrial hearing)
- (b) your trial, if any? No (pro se)
- (c) your sentencing? No (pro se)
- (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? N/A
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. C. Reuben Goude, Esquire, P.O. Box 7060, Georgetown, SC 29460
- ii. Wanda Carter, P.O. Box 11589 Columbia, SC 29211
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. General Sessions Court
- ii. Direct Appeal
- iii. _____
19. State clearly the relief you seek in filing this application:
Applicant conviction reversed and remanded for a new trial.
20. Are you now under sentence from any other court that you have not challenged?
No.

STATE OF SOUTH CAROLINA

County of Georgetown

VERIFICATION

I, _____, 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.

Cory Aaron Robinson

SWORN to and subscribed before me, this 5th
day of July, 2011

Beyla Jones (L.S.)
Notary Public

My Commission Expires: 1/24/2018

FILED
GEORGETOWN COUNTY, S.C.
2011 JUL 11 PM 2:05
ALISA Y. WHITE
CLERK OF COURT

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.

Corey James Robinson
Applicant

SWORN or affirmed to and subscribed before me this
5th day of July, 2011.

Sylvia Jones
Notary Public

My Commission Expires: 1/24/2018

FILED
CLERK OF COURT
ALMA Y. WHITE
2011 JUL 11 PM 2:05
SEMPER PARVUS OMNIBUS

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GEORGETOWN	)	FIFTEENTH JUDICIAL CIRCUIT
	)	
Corey Jawan Robinson, # 294233,	)	2011-CP-22-00884
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	(Attorney Appointment Requested)
State of South Carolina,	)	
	)	
Respondent.	)	

Respondent, making its Return to the Application for post-conviction relief filed July 11, 2011, by Corey Jawan Robinson, would respectfully show this Court:

I. – Procedural History

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to convictions from Georgetown County. The Applicant was indicted in August 2008 for possession with intent to distribute ("PWID") crack cocaine (2008-GS-22-727); possession with intent to distribute ("PWID") marijuana (2008-GS-22-728); and assault on a police officer while resisting arrest (2008-GS-22-729). He was also indicted for assault and battery of a high and aggravated nature (2009-GS-22-966) and resisting arrest (2008-GS-22-967). C. Reuben Goude, Esquire, represented the Applicant. On March 16-17, 2009, the Applicant proceeded to trial on the first three charges - PWID crack, PWID marijuana, and assault on an officer while resisting arrest - before the Honorable Steven H. John and a jury. The State did not go forward on the other two charges and they were ultimately dismissed. Prior to trial, Judge John granted the Applicant's motion to proceed *pro se*. (See Trial Transcript, pages 39-49). The jury found the Applicant guilty on all three charges, and Judge John sentenced the Applicant to 15 years for PWID crack, 10 years for PWID marijuana, and 10 years for assault on an officer while resisting

arrest.¹ A notice of appeal was timely filed, and Wanda H. Carter, Esquire, filed an Anders brief on the Applicant's behalf.² The Applicant also submitted a *pro se* Brief. The South Carolina Court of Appeals affirmed the conviction on April 28, 2011. (2011-UP-191). The Applicant's petition for rehearing was denied on June 1, 2011, and his petition for writ of certiorari was denied on June 28, 2011. The case was remitted to the circuit court on July 1, 2011.

Incorporated herein by reference are the records of the Georgetown County Clerk of Court regarding the convictions, the Applicant's records from the Department of Corrections, the trial transcript, and the direct appeal records. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II. – Allegations and Relief Sought

In his Application, Mr. Robinson alleges that his custody is unlawful for the following reason(s):

- (1) U.S. Constitution and Article I, § 10 of the South Carolina Constitution and S.C. Code Ann. § 17-13-140 – Applicant's arrest was illegal without probable cause which resulted from illegal detention, illegal search, and illegal seizure of unlawful arrest;
- (2) Constructive possession and was entitled to judgment of acquittal – the State failed to prove actual or constructive possession beyond a reasonable doubt and Applicant was entitled to directed verdict judgment of acquittal;
- (3) U.S. Constitution and Article I, § 10 of South Carolina Constitution – Applicant felt mistreated by Applicant's counsel, Applicant felt coerced to represent himself due to his complaints with counsel, which in turn meant that his waiver of his right to counsel was not voluntarily and intelligently given. In other words, Applicant did not want to waive his right to counsel but to appointed counsel;
- (4) 14th Amendment Fair and Impartial Trial – the judge prejudiced Applicant's trial by:

¹ The drug offenses were second drug offenses, subjecting the Applicant to a sentence of 5-30 years for PWID crack and not more than 10 years for PWID marijuana. (See Trial Transcript, pages 197, line 20 – p. 198, line 19). See S.C. Code Ann. § 44-53-375(B)(2) & § 44-53-370(B)(2).

² The issue raised in the Anders brief was as follows: "The lower court erred in allowing appellant to appear *pro se* at trial because there was no valid waiver of the right to counsel in the case."

- a. Failing to grant the motion to suppress;
 - b. Allowing money and 911 tape into evidence at trial;
 - c. Not conducting a Batson hearing;
 - d. By giving a jury instruction that impermissibly shifted the burden of proof on the PWID marijuana charge, see page 184, lines 21-24;
 - e. Failing to instruct the jury that "intent to distribute" is an essential element of the crime constituted reversible error, see pages 176-190;
 - f. Commenting upon the defendant's right to remain silent, see page 179, lines 10-15;
 - g. Not granting a directed verdict when evidence was insufficient to prove the elements of actual or constructive possession beyond a reasonable doubt;
- (5) Ineffective assistance of counsel – counsel was ineffective at the pre-trial hearing where he failed to argue the Applicant's two motions to suppress evidence, and the motion to quash warrants/indictments as well as the improper search and seizure of Applicant, see pages 26-28. Counsel did not conduct a substantial investigation, failed to converse with Applicant. Failed to prepare a defense for the Applicant, did not ensure Applicant received a preliminary hearing. Counsel failed to receive the original warrants from the solicitor, counsel hid discovery of evidence of the anonymous witness and DVD tape. Counsel refused Applicant a Batson hearing after denying Applicant to strike or keep member of the jury and counsel intentionally struck black member and black males, this was the reason defendant felt mistreated and coerced. Applicant did not waive constitutional right to counsel by refusing to accept court appointed counsel where refusal was based on lack of communication and lack of preparation of counsel, effective assistance of counsel was denied after attorney was discharged because of defendant's persistent objections, and defendant's attempt to represent himself.
- (6) Subject matter jurisdiction and exceeding maximum sentence – indictment for PWID crack cocaine is defective and it exceeds the maximum sentence of 5 years which Applicant was sentenced to 15 years. Court lacked subject matter jurisdiction over indictments and warrants; and
- (7) Perjury – the witnesses Deputy John Seale and Karen Fordham used perjured testimony under oath during trial.

The Applicant states he is seeking to have his convictions reversed and remanded for a new trial.

III. – Issues # 1-4 – Allegations of Trial Court Error

The Applicant's issues 1-3 were raised at trial and/or on direct appeal. Allegation #4 alleges that the trial judge's rulings prejudiced his case in numerous ways. To the extent the Applicant is now alleging trial court error regarding issues 1-4, the issues are inappropriate for PCR. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). "PCR is not a substitute for appeal or a place for asserting errors for the first time which could have been reviewed on direct appeal." Humbert v. State, 345 S.C. 332, 338, 548 S.E.2d 862, 866 (2001) (citation omitted). Nor is the PCR court a place for re-asserting direct appeal issues. See Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 519 (1993). Further, claims already raised to the appellate court are barred by the doctrines of res judicata and/or collateral estoppel. See Pye v. Aycock, 325 S.C. 426, 432-33, 480 S.E.2d 455, 458-59 (1997). Accordingly, Respondent moves for dismissal of all improper allegations of trial court error pursuant to S.C. Code Ann. § 17-27-70(c).

In any event, as to the merits of allegation # 3, wherein the Applicant claims that he did not make a voluntary and intelligent waiver of counsel, Respondent submits that the record will support that the Applicant's waiver of counsel, and his decision to represent himself, was free and voluntary and was not the result of coercion or any other improper factor. Notably, the Applicant never once asked the judge for substitute counsel or any other relief; instead he stated only that he wanted to represent himself. (See Trial Transcript, pages 39-47). The judge thoroughly questioned the Applicant on the record as to whether his was fully aware of what he was doing. (See Trial Transcript, pages 40-47). See Faretta v. California, 422 U.S. 806, 807 (1975). Therefore, Respondent submits that the Applicant's waiver of counsel and decision to proceed *pro se* was freely, voluntarily, and intelligently made, and that the Applicant is not entitled to any relief on this ground. See State v. Bryant, 383 S.C. 410, 680 S.E.2d 11 (Ct. App. 2009).

IV. – Issue # 5 – Ineffective Assistance of Counsel

In a post-conviction relief action, the applicant bears the burden of proving his or her allegations by a preponderance of the evidence. Stalk v. State, 375 S.C. 289, 297, 652 S.E.2d 402, 405 (Ct. App. 2007) (citations omitted); Rule 71.1(e), SCRPC. "Where ineffective assistance of counsel is alleged as a ground for relief, the applicant must prove that 'counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result.'" Dalton v. State, 654 S.E.2d 870, 873 (Ct. App. 2007) (citing Strickland v. Washington, 466 U.S. 668, 669 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985)). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id.

A two-pronged test is used to evaluate allegations of ineffective assistance of counsel. Dalton v. State, 654 S.E.2d 870, 873 (Ct. App. 2007). "In order to prove that counsel was ineffective, a PCR applicant must show that: (1) counsel's performance was deficient; and (2) there is a reasonable probability that, but for counsel's errors, the result of the trial would have been different." Smith v. State, 375 S.C. 507, 515, 654 S.E.2d 523, 527-28 (2007) (citations omitted). "A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial." Id. (citations omitted). "Furthermore, when a defendant's conviction is challenged, 'the question is whether there is a reasonable probability that, absent the errors, the fact finder would have had a reasonable doubt respecting guilt. Id. (citations omitted). "There is a strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in the case." Id. (citations omitted). The applicant must overcome this strong presumption in order to obtain relief. Stalk, supra (citation omitted).

Respondent submits that the Applicant will not be able to meet his burden of proof regarding his claim of ineffective assistance of counsel. Further, he will not be able to show

prejudice since he ultimately represented himself at trial. However, because the allegation of ineffective assistance of counsel may raise questions of fact that the record does not conclusively refute, Respondent requests an evidentiary hearing to fully resolve any issues. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V. – Issue # 6 - Subject Matter Jurisdiction and Exceeding Maximum Sentence

In his sixth allegation, the Applicant claims that the court lacked subject matter jurisdiction over his indictments and warrants. He further claims that his 15-year sentence for PWID crack cocaine exceeds the maximum sentence for that charge, which he asserts is 5 years. First, the State submits that the circuit court clearly had subject matter jurisdiction over the Applicant's case. See State v. Gentry, 363 S.C. 93, 101, 610 S.E.2d 494, 499 (2005) (circuit courts obviously have subject matter jurisdiction to try criminal matters; the indictment is merely a notice document and has nothing to do with subject matter jurisdiction). Second, the Applicant's sentence of 15 years is within the statutory range for PWID crack cocaine, second offense. See S.C. Code Ann. § 44-53-375(B)(2) (providing a sentence of 5 to 30 years for second-offense PWID crack cocaine). Although it appears that there was a clerical error on the *sentence sheet*, wherein the solicitor wrote § 44-53-375(B)(1) instead of (B)(2), the Applicant was clearly indicted under S.C. Code Ann. § 44-53-375(B)(2) and did not dispute that this was his second drug offense. A clerical error on the *sentence sheet* has no bearing upon the validity of the Applicant's sentence. Therefore, his allegations on this issue are without merit.

VI. – Issue # 7 - Perjury

The Applicant claims that two witnesses, Karen Fordham and Deputy Seale, gave perjured testimony at trial. Even assuming this is true, this was an issue that should have been raised at trial, and on direct appeal, and cannot properly be raised in a PCR. See Roscoe v. State, *supra*, and Humbert v. State, *supra*. In any event, Respondent submits that the Applicant's

personal disagreement with the witnesses' factual testimony does not render the testimony perjury, especially where the Applicant was given the opportunity to fully cross-examine the witnesses during trial. Accordingly, Respondent submits that this issue is without merit.

VII.

Each and every allegation, statement, or claim contained within the Application not expressly admitted, qualified, or explained is hereby DENIED.

VIII.

WHEREFORE, having made its Return, the Respondent requests that counsel be appointed and an evidentiary hearing held to determine whether the Applicant has any allegations that merit relief.

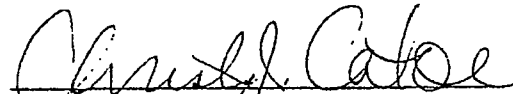
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

CHRISTINA J. CATOE
Assistant Attorney General



ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737

September 15, 2011

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

Corey Jawan Robinson, # 294233.

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT

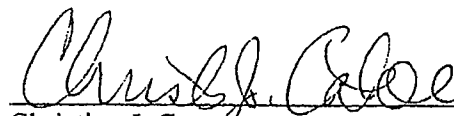
2011-CP-22-00884

CERTIFICATE 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 State's RETURN in the above-captioned matter on the following person(s) by depositing in the United States mail, postage prepaid:

**Corey Jawan Robinson, # 294233
Lieber Correctional Institution
P.O. Box 205
Ridgeville, SC 29472**

DATED this 15th day of September, 2011.


Christina J. Catoe
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737

Alma Y. White
Georgetown County Clerk of Court,
Court of Common Pleas
P.O. BOX 479
Georgetown, SC 29442

26

February 15, 2012

RE: Corey Juan Robinson v. State of South Carolina G/A No. 2011-CP-22-00884

Dear Ms. White,

Enclosed is my Amended Application for Post-Conviction Relief, this Amended Application is only to be attached to the end of my original PCR application, I am just adding new issues and new grounds so please keep my original PCR application on file but add this to it so the PCR judge can hear them also. I am having some problems, your clerk office sent me a appointed counsel sheet saying I was appointed ~~James B. Moore Jr.~~ James B. Moore Jr. McNair Law Firm but I had my dad check into it and he said no one out the McNair Law Firm is appointed to my PCR case but he gave me the name of a lawyer name Band Jason or Jason Band out of Surfside Beach S.C. who said he was my PCR appointed counsel but I tried to write him and the mailroom lady said she called the Bar Association and he is not listed as an attorney, I was sending all my paper work to James B. Moore Jr. McNair Law Firm in Pawleys Island, which included Motion for New Trial, Motion for Franks v. Delaware hearing, Motion for grand jury record, Motion for Discovery and Amended PCR Application and he never returned my mail or wrote me saying he received them, so therefore I am filing my motions through this Clerk of Court like the Honorable Benjamin Culbertson informed me to do, I also would like this Clerk office to send me something in writing to inform me who was appointed to represent me in my PCR case.

Respectfully Submitted,

Corey Juan Robinson

Corey Juan Robinson 294293
Lieber Corr. Inst. S.M.V. A-104
P.O. BOX 205
Ridgeville, S.C. 29472

FILED
GEORGETOWN COUNTY, S.C.
2012 MAR -1 AM 11:45
ALMA Y. WHITE
CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

Corey Jawan Robinson #294233
Applicant

v.

State of South Carolina
Respondent

IN THE COURT OF COMMON PLEAS
Case No. 2011-CP-22-00884

AMENDED APPLICATION FOR
POST-CONVICTION RELIEF

Applicant Corey Jawan Robinson through his undersigned counsel, pursuant to Rule SCRPC Rule 15(A)(C) Requests Leave To File an Amended Application For Post-Conviction Relief.

1) Applicant is Amending his original PCR Application only adding to it the grounds of Ineffective Assistance of Appellate Counsel raising issues of facts.

2) Applicant is Amending the grounds of 14th Amendment Fair and Impartial Trial in his original PCR Application only adding two (2) additional issues of abuse of trial judge discretion of relieving Appointed Counsel and not giving curative instruction on improper incompetent evidence of money to be disregarded.

3) This Court should grant leave freely to Amend PCR Application (Foman v. Davis, 83 S.Ct 227 (1962)).

SWORN to and subscribed before me this

15th day of February, 2012

Sylvia Jones
Notary Public

My Comm. Exp. 1/24/2018

Corey Jawan Robinson

Corey Jawan Robinson #294233
Lieber Corr. Inst. SMU-A-104

P.O. Box 205

Ridgeville, S.C. 29472

adding to D.) 14th Amendment Fair and Impartial Trial: The trial judge abused his discretion by relieving appointed counsel, not appointing another counsel and allowing applicant to proceed pro se at trial.

Woods was convicted in a jury trial of escaping from the custody of the Attorney General of the United States in violation of 18 U.S.C. A § 751. In this appeal, the central issue is whether the trial court's action in requiring woods to stand trial without benefit of counsel after discharging wood's court-appointed attorney at wood's request, was violative of his sixth Amendment right to assistance of counsel. Woods also contends that his Fifth Amendment privilege against self-incrimination was violated and that evidence of wood's state court conviction was error. We reversed and remand for a new trial. United States v. Woods, 487 F.2d 1218-1219 (1973). At no time did the trial judge inquire as to the merit of wood's allegation nor did counsel proffer any statement as to his ability or willingness to proceed. Id. 487 F.2d at 1219. There is nothing on record that applicant waived his right to counsel. R.p. 39, line 16-R.p. 48, line 1. The Court stated on record but you could have filed, as you have now filed, a motion to relieve him --- R.p. 46, line 4-line 8. Which prove I file a motion to relieve my appointed counsel. The court question me on record You can waive that right if the court finds that that is a knowing and intelligent decision. Do you understand that? I stated Yes, sir R.p. 40, line 25-R.p. 41, line 3. The Court only ask me if I understand that, never did the court ask me generally or specifically do I want to waive my right to counsel. In woods the trial judge there upon reminded woods that he was enjoying the services of highly competent counsel and that woods must either accept these services or be relegated to defending himself. United States v. Woods, 487 F.2d at 1219 (1973). On record of Applicant case the judge basically said the same thing the court stated on record You understand obviously if you can not afford an attorney, the court would appoint and has appointed Mr. Goude to represent you in this matter. R.p. 41, line 4-line 7. The Court stated All right, sir You understand and that we have started the case and we are going to go forward with this trial at the present time; You understand that? R.p. 43, line 13-line 16. The Court also stated for the record You understand that if I accede to your request to represent yourself, that will not delay the trial in this matter? R.p. 43, line 17-line 19. The judge made applicant feel as either take Mr. Goude as an counsel or proceed on your own. Applicant testified and stated on record the mistreatment of Mr. Goude not arguing my motions, hiding evidence from me, running from me when I call, fabricating story, telling me this and telling me that, working against me, leading me in the blind and other mistreatments. R.p. 43, line 25-

R.p. 47, line 4. Nor did counsel proffer any statement as to his ability and willingness to proceed. The Court stated on record Mr. Goude, what's your position? Mr. Goude stated on record My position is, Judge, that Mr. Robinson is saying here in open Court that he wishes to represent himself and that he is comfortable to do so. We have a state agency that's just recently examined Mr. Robinson and they say he is competent and and they say he is sane, and under our state and Federal Constitution, he has the right to represent himself. I therefore, join in his motion and ask that I be relieved and dismissed from the courtroom. R.p. 47, line 6 - line 14. The trial judge abused his discretion and prejudice me of a fair and impartial trial of my 14th Amendment due process right equal protection under the sixth (6th) Amendment right to counsel.

D) Additional Issue: Applicant assert the trial judge erred by abuse of his discretion for failure to give instruction curative instruction to disregard incompetent evidence of the improper admission of money allowed into evidence over applicant objection and violation of motion in limine. during motion in limine at pretrial the court stated on record I mean, you can certainly -- he can certainly say what he observed and saw and what the defendant had in his hand and presented to him, but not some conclusion that would then automatically have him dealing in drugs. R.p. 33, line 6 - line 16. Motion was violate by Mr. Andrew direct examination R.p. 110, line 20 - line 25. Applicant object to the money coming into evidence R.p. 111, line 17 - R.p. 112, line 2. Motion in limine violated again by Mr. Andrew in closing argument R.p. 172, line 6 - line 8. The trial judge erred in abusing his discretion by not instruction to disregard incompetent evidence. Instruction to disregard incompetent evidence usually is deemed to have cured error in its admission unless, on facts of particular case, it is probable that notwithstanding such instruction or withdrawal, accused was prejudice. State v. Simpson, 479 S.E.2d 58 (S.C. 1996).

H) Ineffective Assistance of Appellate Counsel: Appellate Counsel Wanda Carter was ineffective in neglecting to file a merit brief is that enunciated in Strickland and I was prejudiced.

As a practical matter, the equal protection and due process clauses of the fourteenth Amendment largely converge to require that a state's procedure afford adequate and effective appellate review to indigent defendant, and a state procedure provides such review so long as it reasonably ensure that an indigent's appeal will be resolved in a way that is related to the merit of that appeal. Although an indigent must receive substantial equality compared to the legal assistance that a defendant with paid counsel would receive in a criminal appeal, absolute equality is not required. In determining whether a particular state procedure satisfies the standard of ensuring that an indigent's appeal will be resolved in a way that is related to the merit of that appeal, it is important to focus on the underlying goals that the procedure should serve: to ensure that those indigent whose appeals are not frivolous receive the counsel and merits brief required by Douglas, and also to enable the state to protect itself so that frivolous appeals are not subsidized and public moneys not needlessly spent. In reviewing state criminal procedure, Supreme Court addresses not what is prudent or appropriate, but only what is constitutionally compelled. An "arguable issue", that is, an issue arguably supporting the appeal even though the appeal is initially frivolous, does not warrant a merits brief from appellate counsel, but "arguable" in the more normal sense of being non-frivolous warrants a merit brief. With a claim that appellate counsel erroneously failed to file a merit brief, a defendant can satisfy that first part of the Strickland test by showing that a reasonably competent attorney would have found one non-frivolous issue warranting a merit brief. Appellate counsel who files a merits brief need not, and should not, raise every non-frivolous claim, but rather may select from among them in order to maximize the likelihood of success on appeal; nonetheless, it is possible to bring a Strickland claim based on counsel's failure to raise a particular claim, though it is difficult to demonstrate that counsel's ~~failure to raise a particular claim~~ ^{incompetence} and generally, only when ignored issues are clearly stronger than those presented will the presumption of effective assistance of counsel be overcome. Smith v. Robbins, 1205 Ct 748-49 (2000). Appellate counsel could have raised the trial judge erred in not granting motion to suppress and motion for direct verdict failure to prove actual or constructive possession it was ruled on so it was preserved for direct appeal. Appellate counsel could have raised in a merits brief the improper admission of money into evidence by trial judge, the motion in limine was violated and applicant object to it coming into evidence with a specific reason so that was preserved for direct appeal review also. The applicant must show that appellate counsel's performance was deficient and that he was prejudiced by the deficiency. When a claim of ineffective assistance of counsel is based upon failure to raise viable issues, the court must examine the level to determine whether Appellate

Counsel failed to present significant and obvious issues on Appeal. Generally, presumption of IAC will be overcome only when ignored issues are clearly stronger than those usually raised on appeal. Thrift v. State, 347 S.E.2d 523; Gilchrist v. State, 612 S.E.2d 702; Anderson v. State, 581 S.E.2d 834 (2003). Appellate Counsel errors was an effect on the judgment dismissing my direct appeal. The issues I raised warranted a merits brief she could of add my issues to her issue and file a merit brief and I would of prevailed on my direct appeal. Where result of Appeal would have been different had counsel not been deficient, the appropriate remedy is to grant a new trial. Ezell v. State, 548 S.E.2d 852 (2001).

Respectfully Submitted,

Corey Jawon Robinson

Corey Jawon Robinson #294233

Lieber Corr. Inst. SMU-A-104

P.O. BOX 205

Ridgeville, S. C. 29472

February 15, 2012
Ridgeville, South Carolina

STATE OF SOUTH CAROLINA)
 County of GEORGETOWN)

VERIFICATION

2012 MAR -1 AM 11:45

I Corey Jawan Robinson, being duly sworn, depose and say that I have subscribed to the foregoing Amended Application For Post-Conviction Relief; that I know the contents thereof; that it includes every ground that I would like to amend to my original Application for Post-conviction Relief only adding to it and relief on original Post-Conviction Relief Application remains the same; and that the matters and allegations therein set forth are true.

Corey Jawan Robinson

SWORN to and subscribed before me this

15th day of February, 2012

Sylvia Jones
 Notary Public

My Comm. Exp. 1/24/2018

FILED
 GEORGETOWN COUNTY, S.C.
 2012 MAR -1 AM 11:45
 ALMA Y. WHITE
 CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

Corey Jawan Robinson #294233
Applicant

v.

State of South Carolina
Respondent

IN THE COURT OF COMMON PLEAS
Case No. 2011-CP-22-00884

AMENDED APPLICATION FOR
POST-CONVICTION RELIEF

CLERK OF COURT
ALMA Y. WHITE
2013 FEB 25 PM 3:56
FILED
GEORGETOWN COUNTY, S.C.

Applicant Corey Jawan Robinson through his undersigned counsel, pursuant to Rule 5 SCRPC Rule 15(A)(C) Request leave to file a Amended Application for Post-Conviction Relief.

1) Applicant has already Amended his original PCR Application before only adding to it the grounds of Ineffective Assistance of Appellate Counsel raising issues of facts. Also Applicant Amended the grounds of 14th Amendment fair and Impartial Trial only adding two additional issues of abuse of trial judge discretion of relieving Appointed Counsel and not giving curative instruction on improper incompetent evidence of money to be disregard. Applicant also Amended his PCR Application for the 2nd time only adding to his original and Amended PCR the issue of Prosecutorial Misconduct, including newly after discovery evidence

2) Now Applicant is requesting to Amend his PCR Application for the 3rd time only adding to Ineffective Assistance of Appellate Counsel raising additional facts and issues.

3) This Court should grant leave freely to Amend PCR Application (Roman v. Davis, 83 S.Ct. 227 (1962)).

Sworn to and subscribed before me this

15th day of February, 2013

Sylvia Jones
Notary Public

My Comm. Exp. 1/24/2018

Corey Jawan Robinson #294233

Lieber Corr. Inst. S.M.U.-A-208

P.O. Box 205

Ridgeville, S.C. 29472

CLERK OF COURT
ALMA Y. WHITE

2013 FEB 25 PM 3:56

FILED
GEORGETOWN COUNTY, S.C.

7) Ineffective Assistance of Appellate Counsel: Appellate Counsel Wanda Carter was ineffective in erroneously failed to file a merit brief on direct verdict issue of applicant was legally entitled to flee from the officer because he did not have probable cause nor reasonable suspicion to stop Applicant and I was prejudiced.

At page Tr.p. 145, lines 9 - lines 23 Applicant made a motion for a direct verdict. The court "I respectfully decline to grant your motion for a direct verdict. Applicant renews his motion for a direct verdict. Tr.p. 163, lines 25 - Tr.p. 164, lines 3. The court I respectfully deny your motion for a direct verdict at this point in time, thus, as a initial matter the motion for a direct verdict were preserved for appeal pursuant to S.C.R.E. 103 Pike v. S.C. Dept. of Transportation, 506 S.E.2d 516, 521 (1998) (for issue to be preserved for appeal it must have been raised and ruled upon) State v. Brownstein, 530 S.E.2d 406, 412 (SC 2000).

In Person v. Ohio, 488 U.S. 75, 109 S.Ct. 346, 102 L.Ed.2d 300, the court described Anders as simply erecting safeguards. Not infrequently, an attorney appointed to represent an indigent defendant on appeal concludes that an appeal would be frivolous and requests that the appellate court allow him to withdraw or that the court dispose of the case without the filing of merits briefs. We found inadequate California's procedure, which permitted appellate counsel to withdraw upon filing a conclusory letter stating that appeal had "no merit" and permitted the appellate court to affirm the conviction upon reaching the same conclusion following a review of the record. Smith v. Ribbins, 120 S.Ct. 746. In Person v. Ohio we described Anders as simply erecting its safeguards. "It is true that in Person we used some language suggesting that Anders is mandatory upon the states, but the language was not necessary to the decision we reached. We had no reason in Person to determine whether the Anders procedure was mandatory because the procedure at issue clearly failed under Douglas v. California, 372 U.S. 353, 83 S.Ct. 814 (1963). An additional problem with the old California procedure was that it apparently permitted an appellate court to allow counsel to withdraw and thereafter to decide the appeal without appointing new counsel. Anders v. California. We resolved any doubt on this point in

Person, where we struck down a procedure that allowed counsel to withdraw before the court had determined whether counsel's evaluation of the case was accurate, 109 S.Ct. 346, and, in addition, allowed a court to decide the appeal without counsel even if the court found arguable issues, *Id.*, 109 S.Ct. 346 (stating that this latter flaw was the most significant one). Thus, the Person procedure permitted a basic violation of the Douglas right to have counsel until a case is determined to be frivolous and to receive a merits brief for a nonfrivolous appeal. Person v. Ohio supra. It is important to emphasize that the denial of counsel in this case left petitioner completely without representation during the appellate court's actual decisional process"; (defendant was "entirely without the assistance of counsel on appeal"). *Id.* In Person we distinguished denial of counsel altogether on appeal, which warrants a presumption of prejudice, from mere ineffective assistance of counsel on appeal, which does not. see Person v. Ohio, supra. The defendant in Person faced a denial of counsel because, as we have discussed, not only was an invalid state procedure followed, but that procedure was clearly invalid insofar as it denied the defendant his right to appellate counsel under Douglas, see Person, supra. Our holding in Person was consistent with Strickland v. Washington itself, where we said that we would presume prejudice when a defendant had suffered an actual or constructive denial of the assistance of counsel altogether. Strickland 104 S.Ct. 2052. While we normally apply a "strong presumption of reliability" to judicial proceedings and require a defendant to overcome that presumption, Strickland, supra, when, as in Person, there has been a complete denial of counsel, we understandably presume the opposite. In Person, we worried that requiring the defendant to establish prejudice would leave him "without any of the protection afforded by Anders." Person v. Ohio, 109 S.Ct. at 346 see also Smith v. Robbins, 120 S.Ct. 740.

The U.S. Supreme Court has already ruled on cases like this in applicant PCR "Probable cause" to arrest exists when law enforcement officials have facts and circumstances within their knowledge sufficient to warrant a reasonable belief that the suspect had committed or was committing a crime. Beck v. Ohio. In Illinois v. Gates, the Supreme Court approved a "totality of the circumstances" approach to determining when information provided by an informant is sufficient to create probable cause. *Id.* at 230-34, 103 S.Ct. at 2328-30. The Court decided that, while an informant's veracity, "reliability," and basis of knowledge are relevant factors in the probable cause analysis, corroboration of the

details of informant's tip by independent police work is of significant value, particularly in the context of anonymous informant. *Id.* at 103 S.Ct. at 2328-34. In United States v. Wilhelm, 80 F.3d 116 (4th Cir. 1996), after receiving an anonymous telephone tip that an informant had seen marijuana being sold in the defendant's home within the past 48 hours, an officer applied for a search warrant. *Id.* at 117-18. The officer did not meet the informant before or after receiving the tip and did not know the informant. *Id.* at 118. In support of the warrant, the officer described the informant as a "concerned citizen" and a mature person with personal connections with the suspects who has projected a truthful demeanor to this applicant. *Id.* The officer's only corroborating information was that she had confirmed directions to the residence and that the description of the marijuana packaging and sale transaction was consistent with her knowledge of marijuana packaging and sales. *Id.* see Wilhelm, 80 F.3d at 120 noting that upholding the warrant would ratify police use of an unknown, unproven informant with little or no corroboration. The Supreme Court's cases on corroboration indicate that confirmation of the informant's truthfulness about just any set of facts will not do. Instead, the court has asked whether the informant's knowledge of the facts verified by the police indicates that he was also in a position to know about the criminal activity allegedly being carried out by the subject of the tip. In Florida v. J.L., 529 U.S. 266, 120 S.Ct. 1375, 146 L.Ed.2d 254 (2000), for example, an anonymous caller told police that a young black male wearing a plaid shirt at a certain bus stop was carrying a gun. The police went to the bus stop and saw a young black male who was wearing a plaid shirt; one police man frisked the young man after ordering him to put his hands upon the bus stop. *J.L.*, 529 U.S. at 268, 120 S.Ct. 1375. The court held that the tipster's truthfulness about the suspect's physical appearance and location did not establish the reasonable suspicion required for a Terry stop because it did not show that the tipster had knowledge of concealed criminal activity. The reasonable suspicion here at issue requires that a tip be reliable in its assertion of illegality, not just in its tendency to identify a determinate person. *Id.* at 272, 120 S.Ct. 1375. In Alabama v. White, 496 U.S. 325, 110 S.Ct. 2412, 110 L.Ed.2d 301 (1990), it said in explaining the value of police corroboration of the tip, the court disting-

wished between "easily obtained facts and conditions existing at the time of the tip" and "future actions of third parties ordinarily not easily predicted." *Id.* (quoting *Gates*, 462 U.S. at 245, 103 S.Ct. 2317). It said that the tip's predictions of future actions were more important in establishing the credibility of the tip because they demonstrated inside information a special familiarity with the defendant's affairs. Because only a small number of people are generally privy to an individual's itinerary, it is reasonable for police to believe that a person with access to such information is likely to also have access to reliable information about that individual's illegal activities. *Id.* Thus, both *Wilhelm* and the Supreme Court's cases on corroboration suggest that partial corroboration of an informant's tip support the reliability of the tip's unverified allegations of criminal activity to the extent that the corroboration shows that the informant has inside information about the subject of the tip. Here by contrast, the tip in Applicant Corey Robinson case made no prediction about future behavior by which its reliability could be tested. The tip alone "provided virtually nothing from which one might conclude that the caller is either honest or her information reliable; likewise, the tip gave absolutely no indication of the basis for the caller's predictions regarding the suspect's criminal activities. By requiring something more we merely apply what we said in *Adams v. Williams*, 407 U.S. 143, 92 S.Ct. 1921, 32 L.Ed.2d 612 (1972) some tips, completely lacking in indicia of reliability, would either warrant no police response or require further investigation before a forcible stop of a suspect would be authorized. In Applicant Corey Robinson case Although the tip may have certainly warranted police investigation, further observation and corroboration was required before a forcible stop was authorized. *U.S. v. Bynum* 293 F.3d 192 (4th Cir 2002). A person is not entitled to resist an illegal, but not a legal arrest. *State v. McGowan*. Not only may a person resist, but his subsequent flight from an unlawful arrest can not be considered as a circumstance to establish probable cause for an arrest. *State v. Williams* (S.E.2d). Defendant argues that he was legally entitled to flee from the officer's because they did not have reasonable suspicion to stop him. We note that no one is protected by the Constitution against the mere approach of police officer in a public place. *State v.*

street (S.E.2d) Defendant is correct only if the officers attempted an illegal investigatory stop State v. Lynch (S.E.2d) An investigatory stop does not constitute an unreasonable seizure nor violate an individual constitutional rights if: the officer's actions are both "justified at the inception, and reasonably related in scope to the circumstances which justified the inception, and reasonably related in scope to the circumstances which justified the interference in the first place. State v. Thompson, 100 S.E.2d 1978 (Citing Terry v. Ohio) To stop a suspicious individual to determine his identity or to gather more information, the United States Supreme Court requires "specific and articulate facts, which taken together with rational inferences from these facts, reasonably warrant the intrusion. Id Our Supreme Court "requires only that the officer have a reasonable or "founded" suspicion as justification for a limited investigative seizure.

see Exhibit of Transcript, Deputy Seale testified his sergeant informed him a citizen had called central dispatch and said she just witnessed a drug transaction in front of her house. This complainant was not reliable as a witness, it was hearsay and she never left her name or wish to speak with an officer that day she remained anonymous. Which Deputy Seale testified to. Tr. p. 78 - Tr. p. 90, line 17. Deputy Seale testified that applicant punched him two to three times and fled after he tried to conduct a pat down for weapon and this was his reasons to arrest applicant Tr. p. 73, line 15 - Tr. p. 91. Which this is false testimony because the Exhibit of the DVP tape shows that applicant never punched Deputy Seale at all but only snatched away and fled after Deputy Seale tried to force applicant into handcuffs to make an unlawful search and unlawful seizure because it must be reasonable suspicion to stop a suspect, reasonable suspicion to then detain the suspect, further reasonable suspicion to frisk the suspect after detaining him and reasonable suspicion to believe the suspect is arm and dangerous to pat him down for weapons. At trial Karen Fordham testified she was on her porch and applicant was across the street

on another person porch, she testified she knew it was drug being transacted because she saw it, she testified as far as her eyes saw it it looked like cocaine when questioned it was cocaine she testified yes. Then she testified using false statement saying she didn't say whether it was powder or it was crack--crack Tr.p. 65, line 2-line 6. The anonymous tip was vague in there was no indication that citizen was knowledgeable about drugs being transacted and not corroborated by officer surveillance and no information giving about future illegal activity State v. Gentile, S.C. /S.E.2d/ Karen Fordham testified added a new party and did not know whether it was a she or he. Tr.p. 67, line - Tr.p. 68, line 15. The court should agree, not only applicant was seized, the seizure was not based on reasonable suspicion that applicant was engaged in criminal activity at the time, see original post-conviction Application citing Florida v. Bostick as long as the officer does not convey a message that compliance with his request is required. see Exhibit of Newly after discovery of evidence of officer John Seale Narrative statement made at the Georgetown County Sheriff on June 3, 2008 time 5:47 pm to J. Ketchum with is appropriate under SCRE 613; S.C. Code Ann § 19-1-80, 19-1-90 and 19-1-100. In this newly after discovery of evidence on page 2 of Narrative John Seale used perjury or false statements or however inconsistent statement. (McMillan v. Ridge, 229 S.C. 799 1 S.E.2d 883 (1956) which John Seale stated I asked the subject if I could pat him down for weapons and he stated Yes I could and put his hands above his head. I then put his hands behind his back and told him I was going to detain him while I patted him down. I was prejudice because see Exhibit of Transcript at Tr.p. 16, lines 10-lines 22 when he answered the solicitor question saying I was the one who put my hands behind my back and at Tr.p. 24 lines 12-Tr.p. 25 "when question by the court he used perjury, false and inconsistent testimony he said he asked all at once. but in Narrative page 2 he asked first to pat me down, then he put my hands behind my back and told me he was going to detain me while he patted me down. I was also prejudice by these same statement and testimony at trial at Tr.p. 72, lines 14 - Tr.p. 73, line 19. when deputy John Seale stated he then put his hands behind his back and I grabbed with my left hand his two arms and reached for my handcuffs. This was also Prosecutorial Misconduct the solicitor, who knew the witnesses testimony to be false and failed to correct it. Riddlev. Ozmint and I was prejudice. which proves there was no consent due to these

perjury, false and inconsistent testimonies also see Exhibit of DVD tape which shows applicant never punched Deputy Seale two to three times as Deputy Seale stated was his reasons for the arrest Tr.p. 73, - Tr.p. 91 and I was prejudice due to the evidence John Seale changed it from I put his hands behind his back to he put his hands behind his back, it can't be both.

RELIEF

Based on the foregoing applicant conviction should be vacated and all charges against him dismissed with prejudice and automatically released from imprisonment. Further applicant would make a settlement out of court for the sum of \$200,000.00, for false imprisonment.

February 21, 2013
Ridgeville, South Carolina

Respectfully Submitted,
Corey Jawan Robinson #244233
Corey Jawan Robinson #244233
Lieber Corr. Inst. SNU-A-208
P.O. Box 205
Ridgeville, S.C. 29472
February 21, 2013

Alma Y. White
 Georgetown County Clerk of Court
 Court of Common Pleas
 P.O. Box 479

RE: Corey Jawan Robinson v. State of South Carolina C/A No. 2011-CP-22-00884
 C/A No. 2011-CP-22-00884 PCR Schedule of Docket List

Dear Clerk of Court,

I am the applicant Corey Jawan Robinson listed in the above case action Note dealing with my post-conviction relief application. This letter is to have this clerk office to enclose in a envelope mailed back to me a copy of the PCR schedule docket list of when PCR court is going to be in session in Georgetown County. I was told that I had to write you and other inmates in prison said when they went up for PCR in Georgetown they wrote the clerk office ahead of time requesting a schedule order or docket list when PCR is to be in session. So therefore I would very truly appreciate it if this court would send me a copy of the PCR schedule order or docket list for the year of 2013 of when PCR court is to be held in Georgetown County Courthouse.

Respectfully Submitted,

February 20, 2013
 Midgeville, South Carolina

Corey Jawan Robinson #294235
 Corey Jawan Robinson #294235
 Lieber Corr. Inst. SMO-B-150
 P.O. Box 205
 Midgeville, S.C. 29472

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF GEORGETOWN	)	CIVIL ACTION NO. 2011-CP-22-00884

Corey Jawan Robinson, #294233,	)	
	)	
Petitioner,	)	
	)	
vs.	)	AMENDED ATTACHMENTS
	)	TO PETITION FOR POST
State of South Carolina,	)	CONVICTION RELIEF
	)	
Respondent.	)	
	)	

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) Petitioner received Ineffective Assistance of Counsel under the Sixth and Fourteenth Amendments to the United States Constitution and Article 1 §14 of the South Carolina State Constitution.

(b) Petitioner received Ineffective Assistance of Appellate Counsel under the Sixth and Fourteenth Amendments to the United States Constitution and Article 1 §14 of the South Carolina State Constitution.

(c) The Trial Judge abused his discretion and/or Petitioner did not receive a fair trial under the due process clauses of the 5th, 6th, and 14th Amendments to the United States Constitution and Article 1 §14 of the South Carolina State Constitution.

11. State Concisely and in the same order the facts which support each of the grounds set out in (10):

A. PRE-TRIAL COUNSEL

1. Petitioner received Ineffective Assistance of Counsel under the Sixth and Fourteenth Amendments to the United States Constitution and Article 1 §14 of the South Carolina State Constitution where pre-trial counsel failed to accurately inform Petitioner of the

charges for which he had been indicted and his possible punishments. Counsel informed Petitioner, prior to Petitioner's decision to proceed with trial, that Petitioner was facing indictments for Possession with Intent to Distribute Cocaine Base 3rd offense, Possession with Intent to Distribute Marijuana 3rd offense, and Assaulting a Police Officer while Resisting Arrest when, in actuality, Petitioner had only been indicted for Possession with Intent to Distribute Cocaine Base 2nd offense, Possession with Intent to Distribute Marijuana 2nd offense, and Assaulting a Police Officer while Resisting Arrest. Petitioner would have pled guilty had he known that he faced the possibility of only receiving 5 years for a Possession with Intent to Distribute Cocaine Base 2nd offense instead of the mandatory 15 years for a Possession with Intent to Distribute Cocaine Base 3rd offense. Pre-trial counsel also never communicated any plea offers to Petitioner.

2. Petitioner received Ineffective Assistance of Counsel under the Sixth and Fourteenth Amendments to the United States Constitution and Article 1 §14 of the South Carolina State Constitution where pre-trial counsel failed to properly argue Petitioner's Motions to Suppress any evidence of the controlled substances at issue in this case. Pre-trial counsel argued that the seizure of Petitioner's person was unlawful thus making the later discovered controlled substances fruit of the poisonous tree. Pre-trial counsel failed to argue Petitioner's right to refuse an unlawful arrest and failed to argue that Petitioner could use force in evading such an unlawful arrest.

3. Petitioner received Ineffective Assistance of Counsel under the Sixth and Fourteenth Amendments to the United States Constitution and Article 1 §14 of the South Carolina State Constitution where pre-trial counsel failed to argue Petitioner's Motions to quash the warrants and the indictments.

4. Petitioner received Ineffective Assistance of Counsel under the Sixth and Fourteenth Amendments to the United States Constitution and Article 1 §14 of the South

Carolina State Constitution where pre-trial counsel failed to file a Motion for a hearing based on Franks v. Delaware, 438 U.S. 154, 98 S.Ct. 2674 (1978).

5. Petitioner received Ineffective Assistance of Counsel under the Sixth and Fourteenth Amendments to the United States Constitution and Article 1 §14 of the South Carolina State Constitution where pre-trial counsel failed to conduct a substantial investigation, adequately converse with and advise Petitioner prior to trial, prepare a defense, procure original warrants from Solicitor, or disclose discovery of the anonymous witness and the DVD to Petitioner.

6. Petitioner received Ineffective Assistance of Counsel under the Sixth and Fourteenth Amendments to the United States Constitution and Article 1 §14 of the South Carolina State Constitution where pre-trial counsel failed to follow Petitioner's instructions regarding jury selection and failed to make a Motion under Batson v. Kentucky, 476 U.S. 79, 106 S. Ct. 1712 (1986).

B. APPELLATE COUNSEL

7. Petitioner received Ineffective Assistance of Appellate Counsel under the Sixth and Fourteenth Amendments to the United States Constitution and Article 1 §14 of the South Carolina State Constitution where appellate counsel failed to file a merits brief arguing the legitimate issue that the Petitioner should not have been sentenced to second offenses on both the Possession with Intent to Distribute Cocaine Base and Possession with Intent to Distribute Marijuana charges where the State did not offer any evidence to prove a prior conviction, as required.

8. Petitioner received Ineffective Assistance of Appellate Counsel under the Sixth and Fourteenth Amendments to the United States Constitution and Article 1 §14 of the South Carolina State Constitution where appellate counsel failed to file a merits brief arguing the legitimate issue that the Motion to Suppress the introduction of the controlled substances into

evidence should have been granted, as the controlled substances, even if believed to be in Petitioner's possession, were the fruit of an unlawful search and seizure of Petitioner.

9. Petitioner received Ineffective Assistance of Appellate Counsel under the Sixth and Fourteenth Amendments to the United States Constitution and Article 1 §14 of the South Carolina State Constitution where appellate counsel failed to file a merits brief arguing the legitimate issue that Petitioner's Motion for a Directed Verdict at the close of the State's case should have been granted based on the lack of probable cause for the seizure of Petitioner.

10. Petitioner received Ineffective Assistance of Appellate Counsel under the Sixth and Fourteenth Amendments to the United States Constitution and Article 1 §14 of the South Carolina State Constitution where appellate counsel failed to file a merits brief arguing the legitimate issue that Petitioner's Motion for a Directed Verdict at the close of the State's case should have been granted based on the lack of a shred of evidence that Petitioner was in either actual or constructive possession of the controlled substances allegedly found at the place of Petitioner's arrest.

11. Petitioner received Ineffective Assistance of Appellate Counsel under the Sixth and Fourteenth Amendments to the United States Constitution and Article 1 §14 of the South Carolina State Constitution where appellate counsel failed to file a merits brief arguing the legitimate issue that the indictments for Possession with Intent to Distribute Cocaine Base and Possession with Intent to Distribute Marijuana were, on their face, insufficient to inform Petitioner that he was facing charges of Possession with Intent to Distribute Cocaine Base Second Offense and Possession with Intent to Distribute Marijuana Second Offense.

12. Petitioner received Ineffective Assistance of Appellate Counsel under the Sixth and Fourteenth Amendments to the United States Constitution and Article 1 §14 of the South Carolina State Constitution where appellate counsel failed to file a merits brief arguing the

legitimate issue that Petitioner did not make a free, voluntary, and informed waiver of his right to have counsel represent him at his trial.

C. OTHER

13. The Trial Judge abused his discretion and Petitioner did not receive a fair trial under the due process clauses of the 5th, 6th, and 14th Amendments to the United States Constitution and Article 1 §14 of the South Carolina State Constitution where he was denied representation by counsel for his trial. Petitioner's decision to not go forward with appointed counsel did not constitute a knowing waiver of all counsel nor was it a knowing and intelligent request to proceed pro se. The Court never inquired of counsel whether Petitioner's allegations against him were true, and the Court never specifically asked Petitioner if he wanted to waive his right to counsel and proceed pro se.

14. Petitioner did not receive a fair trial under the due process clauses of the 5th, and 14th Amendments to the United States Constitution and Article 1 §3 of the South Carolina State Constitution where the solicitor elicited testimony from his witnesses that he knew to be false based on their previous testimony in a pre-trial hearing.

15. Trial Judge abused his discretion and Petitioner did not receive a fair trial under the due process clauses of the 5th, and 14th Amendments to the United States Constitution and Article 1 §3 of the South Carolina State Constitution where the State intentionally violated the Court's Order in Limine not to suggest that any money found on Petitioner was linked to drugs or the selling of drugs, and the Court failed to ask the jury to disregard those statements.

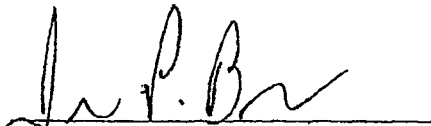
16. The Trial Judge abused his discretion and Petitioner did not receive a fair trial under the due process clauses of the 5th, and 14th Amendments to the United States Constitution and Article 1 §3 of the South Carolina State Constitution where the Petitioner was sentenced to second offenses on both the Possession with Intent to Distribute Cocaine Base and Possession

with Intent to Distribute Marijuana charges although the State did not offer any evidence to prove a prior conviction, as required.

17. Petitioner did not receive a fair trial under the due process clauses of the 5th, and 14th Amendments to the United States Constitution and Article 1 §3 of the South Carolina State Constitution where the indictments for Possession with Intent to Distribute Cocaine Base and Possession with Intent to Distribute Marijuana were, on their face, insufficient to inform Petitioner that he was facing charges of Possession with Intent to Distribute Cocaine Base Second Offense and Possession with Intent to Distribute Marijuana Second Offense.

This Motion is based on the fact that the Petitioner was unrepresented when he filed his original petition and that new grounds have been discovered with the help of counsel.

Respectfully submitted,


Jason P. Boan
Boan Law Firm
Post Office Box 15849
Surfside Beach, SC 29587
(843) 232-0750
(843) 232-0770 Facsimile
Attorney for Petitioner

Surfside Beach, South Carolina

March 5, 2013

ORIGINAL

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF GEORGETOWN) 2011-CP-22-00884

COREY JAWAN ROBINSON,)

Plaintiff,)

Transcript of Record

vs.)

April 26, 2013

STATE OF SOUTH CAROLINA,)

Defendant.)

B E F O R E:

Honorable Larry B. Hyman, Jr.
Georgetown County Courthouse
Georgetown, South Carolina

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

Jason P. Boan, Esquire
Attorney for Plaintiff

Tyson Andrew Johnson, Sr., Esquire
Attorney for Defendant

Kay H. Richardson, CVR
Circuit Court Reporter

Robinson v. State - (2011-CP-22-00884)
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20	<u>E X H I B I T S</u>		
21	<u>No.</u>	<u>ID</u>	<u>EV</u>
22			
23	(There were no exhibits marked during the hearing.)		
24			
25			

Robinson v. State - (2011-CP-22-00884)
BY THE COURT

5

1 (April 26, 2013)

2 MR. JOHNSON: This is Corey Jawan Robinson versus South
3 Carolina. It's 2011-CP-22-884.

4 THE COURT: Good morning, Mr. Robinson. How are you?

5 MR. ROBINSON: I'm doing all right.

6 THE COURT: Mr. Robinson, you're here for a post-
7 conviction relief application or on your post-conviction
8 relief application. You are represented by counsel, I see; is
9 that right?

10 MR. ROBINSON: Yes, sir.

11 THE COURT: And do you understand, Mr. Robinson, that if
12 you were granted relief on your application, the best thing
13 that I could do would be to say you start again at square one.
14 That is all your charges including any that may have been
15 dismissed against you would have be brought back, then you
16 would have your original charges and you'd be looking at
17 trial. Do you understand that?

18 MR. ROBINSON: Yes, sir.

19 THE COURT: Is that what you want?

20 MR. ROBINSON: Yes, sir.

21 THE COURT: All right. Let me hear from your attorney.

22 MR. BOAN: Your Honor, we're ready to proceed.

23 THE COURT: Okay. Do you want to make an opening
24 statement, either of you?

25 MR. JOHNSON: The State does not, Your Honor.

Robinson v. State - (2011-CP-22-00884)
COREY JAWAN ROBINSON - DIRECT BY MR. BOAN

6

1 MR. BOAN: Your Honor, real brief opening statement.
2 This is a PCR that has been amended a couple of times. We
3 would just ask the Court to allow us to work through the
4 allegations contained in the amended petition starting with
5 the pre-trial counsel arguments on through and provide the
6 testimony and make a short closing statement.

7 THE COURT: All right. Okay. All right. Call your
8 first witness.

9 MR. BOAN: Corey Jawan Robinson.

10 THE COURT: Come around, Mr. Robinson and be sworn.

11 COREY JAWAN ROBINSON, HAVING BEEN
12 SWORN, TESTIFIED AS FOLLOWS:

13 CLERK: Please state and spell your last name for the
14 record.

15 MR. ROBINSON: Corey Jawan Robinson, R-O-B-I-N-S-O-N.

16 CLERK: You may be seated.

17 MR. BOAN: May it please the Court?

18 THE COURT: All right.

19 DIRECT EXAMINATION OF COREY JAWAN ROBINSON BY MR. BOAN:

20 Q: Mr. Robinson, in your petition for post-conviction relief,
21 you've alleged several grounds, one of which is ineffective
22 assistance of counsel; is that correct?

23 A: Yes, sir.

24 Q: And within your ineffective assistance of counsel
25 argument, there's a couple of reasons that you argue that you

Robinson v. State - (2011-CP-22-00884)
COREY JAWAN ROBINSON - DIRECT BY MR. BOAN

7

1 would be entitled to post-conviction relief, correct?

2 A: Yes, sir.

3 Q: In your petition, you state that counsel informed you
4 prior to your decision to proceed with trial that you were
5 facing indictments for possession with intent to distribute
6 cocaine, third offense; possession with intent to distribute
7 marijuana, third offense; and assaulting of a police officer
8 while resisting arrest. That's what you were informed,
9 correct?

10 A: Yes, sir.

11 Q: Actually, when you went to trial, your indictment did not
12 indicate which offense you were being tried for, did it?

13 MR. JOHNSON: Your Honor, I apologize, I ---

14 THE COURT: That is leading.

15 MR. JOHNSON: I hate to object.

16 THE COURT: I'm sure that's what you were about to do.

17 I know we don't have a jury but let's try not to lead too
18 much. Okay?

19 BY MR. BOAN:

20 Q: What were you actually convicted of?

21 A: Second offenses.

22 Q: Okay. And what ---

23 THE COURT: Excuse me, I didn't catch that. He was
24 convicted of what?

25 MR. BOAN: Second offenses on ---

Robinson v. State - (2011-CP-22-00884)
COREY JAWAN ROBINSON - DIRECT BY MR. BOAN

8

1 THE COURT: Second offenses of ---

2 A: PWID crack cocaine and PWID of marijuana.

3 THE COURT: So, you've had a jury trial; is that right?

4 A: Yes, sir.

5 THE COURT: Okay.

6 BY MR. BOAN:

7 Q: And prior to the trial, you were informed what you were
8 facing was third offenses?

9 A: Yeah, they said I was on a case of third offense, I was
10 looking at fifteen to thirty years. That was on -- disclosed
11 from the Solicitor, they never told me I was indicted on a
12 second offense and the least I could get was five years, five
13 years.

14 THE COURT: The least or the most?

15 A: The least.

16 THE COURT: Okay.

17 BY MR. BOAN:

18 Q: And your -- what would you have done different had you
19 known that you were only facing second offenses?

20 A: Well, at the time, my lawyer wasn't doing all the
21 investigations or whatever so, I was kind of confused and I
22 didn't know the law really. So, at that time, I was trying to
23 look for the easiest way out but then after I developed
24 knowledge of my own, then I was find out that an anonymous tip
25 was enough -- was not enough to establish probable cause or

Robinson v. State - (2011-CP-22-00884)
COREY JAWAN ROBINSON - DIRECT BY MR. BOAN

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1 raise suspicions for the forcible stop. So, therefore, I told
2 him, really I told him I didn't want to go under my
3 suppression motion and then we didn't get it under the
4 suppression motion that that was preserved for the record, the
5 record peer review, so therefore I take a plea. So, he told
6 me that the Solicitor didn't have no plea. So, I said, I'll
7 go forward with my trial.

8 Q: Was there ever any plea bargains or any negotiations
9 entered into that you are aware of?

10 A: Well, I never had a verbal plea or I never seen nothing in
11 writing. I remember when I first had Richard Colvin, I talked
12 to him in the county jail and he said let's work something on
13 the assault while resisting an officer and the drugs get
14 thrown out because the drugs wasn't found on me. So, I told
15 him why would I plea to something when he didn't have no
16 reason to even stop me. So, then they say no like a month
17 later, they relieved him and Reuben Goude was my lawyer.

18 Q: You had asked of your lawyer prior to trial to make a
19 motion to suppress. What motion to suppress did you wish he
20 make?

21 A: I had wanted to make a motion to suppress on lack of
22 probable cause on the anonymous tip, illegal search and
23 seizure and I request on Franks v. Delaware on the lack of
24 issue of sworn testimony to the Magistrate because he was
25 misled because they got a DVD tape that shows I didn't hit

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1 the officer but the Solicitor allowed false presentation of
2 evidence, allow the officer to come up on the stand to say
3 that I hit him two to three times, establish probable cause
4 when the DVD tape showed I didn't hit him at all.

5 Q: Slow down and break down your argument again a little bit.

6 A: All right.

7 Q: Your argument is that a motion to suppress motion should
8 have been made?

9 A: Yes.

10 Q: Hold on. I don't want to stop you but let me just work
11 you through something. Your position is -- why do you think
12 an anonymous tip is not grounds for probable cause?

13 A: Because under Florida v. JL, you know, what I mean, they
14 received an anonymous tip that a person wearing a plaid shirt
15 was in possession of a firearm at a certain location. The
16 officer received the tip, he went to the bus stop, saw the
17 individual with a plaid shirt, frisked him and found a firearm
18 and the Court held that it was lack of additional -- sworn --
19 I mean lack of -- absent further information because anonymous
20 tip didn't establish the part of causing suspicion for the
21 frisk -- for the stop -- they got to be more corroboration and
22 observation before the frisk ---

23 THE COURT: Got to be more what?

24 A: Huh?

25 THE COURT: Got to be more what?

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1 A: Corroboration and ---

2 THE COURT: Corroboration?

3 A: Yeah, corroboration and observation before a forcible stop
4 can be authorized. So, therefore, the officer have to put
5 surveillance and try to catch me in some kind of drug dealings
6 or whatever before he did forcible stop because I was walking
7 down the street and he turned on his blue light and he
8 approached me. He made me feel like that I was under arrest.
9 He ask me consent to pat me down. I said yes. He then asked
10 me for consent to put -- place me in handcuffs. I refused and
11 tried to turn around because he didn't have no reason to
12 detain me. As I turned around, he grabbed me and tried to
13 force me in the handcuff, me being in fear, and knowing I was
14 a regular citizen, I could walk the street like any other
15 citizen, I snatched away and -- I'm at Mayo's Club, my momma
16 and them family club, I'm in a family community. I mean, the
17 officer, he tried forcible, made a forcible stop without real
18 suspicion. I mean, the anonymous tip that he got didn't
19 establish probable cause that I was dealing in any criminal
20 activity at the time or any crime was committed.

21 Q: And you think that argument should have been made as a
22 motion to suppress. And if it had been made, you think that
23 would've granted you relief by keeping out the evidence
24 involving the drugs, correct?

25 A: Yeah, it would keep the evidence out involving the drugs

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1 and also it would keep out the DVD -- I mean, well, it would
2 show that I didn't hit the officer to establish probable cause
3 because they were basically going on, they were saying that
4 the probable cause was that me hitting the officer two to
5 three times but the DVD tape shows that I never even hit the
6 officer. So, therefore, this -- fraudulent evidence misled
7 the jury. So, I said that prosecutor misconduct because the
8 solicitors knew that the evidence was false, still allowed a
9 officer to come on stand and testify to false statement to the
10 jury.

11 Q: Now, when the trial got started there was a falling out
12 with you and Reuben, basically, kind of during the jury
13 presentation when y'all were picking the jury. Tell the Judge
14 about that.

15 A: Well, they had a black male came in with dreadlocks and I
16 had wanted him on the jury stand but he strike the black man
17 for no apparently reason so I would like my -- my jury consist
18 of eleven white juries and one black female. I was like, I
19 don't have no jury of my peers or my gender, black male, on my
20 jury, so I would like -- you know what I mean, cause he was
21 telling me to write this on the paper but -- strike or keep.
22 So, every time I write keep, he would push it back so I was
23 like he was working against me, so I felt like that he wasn't
24 in my best interest at trial. So, I asked to be -- I asked to
25 relieve him but I never said I wanted proceed pro se. I just

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1 have him relieved him counsel.

2 Q: I understand and we'll get to that in a minute. You also
3 would argue that there should've been a Batson motion made in
4 your ---

5 A: Yeah, I was trying to ask him for a Batson motion made but
6 he didn't made it so that's why I asked for him to be
7 relieved.

8 Q: Okay.

9 THE COURT: A Batson based on his striking?

10 A: A Batson based on -- I say him and the Solicitor
11 conspiracied [sic] to keep black members off my jury panel.
12 Well, not only black members but black males.

13 THE COURT: All right. How many were struck?

14 A: I had it in my -- it's over there. I can't really
15 remember off the top of my head. I got it over there in my
16 ---

17 THE COURT: All right.

18 A: But I know he struck, I think ---

19 THE COURT: It's not what he struck, it's what the
20 Solicitor struck that concerns me.

21 A: Yeah, the Solicitor struck -- I don't want to give no
22 perjury statement but -- I can't remember off the top of my
23 head. It's in my paperwork.

24 THE COURT: Okay.

25 BY MR. BOAN:

1 Q: When you -- when you and Reuben Goude parted ways, was
2 there any questioning by the Court of your understanding about
3 your right to proceed pro se or your right to have counsel?
4 What was your understanding of your right to have counsel at
5 the time you moved forward representing yourself?

6 A: I don't understand the question.

7 Q: Well, you have alleged that you didn't knowingly waive
8 your right to counsel.

9 A: No, I just ask for him to be relieved.

10 Q: Explain how that would've prejudiced your case or how that
11 affected your case?

12 A: When asked to relieve him, they -- they automatic made me
13 represent myself. The Judge like either I was gonna take him
14 or I wasn't gonna take him so therefore I felt mistreated in
15 court with -- to represent myself because my lawyer wasn't
16 helping me at all and I'm looking at all this time and I know
17 I'm in the right and they got all this evidence to prove my
18 innocence but therefore he wasn't doing nothing for me so I
19 felt prejudiced because they allowed me to represent myself
20 knowing that I just have them relieve him. So, they made me
21 represent myself cause he say he wasn't gonna give me, this
22 weren't gonna stop the trial or whatever. So, I know my
23 lawyer wasn't gonna help me, so...

24 Q: You have raised some allegations regarding appellate
25 counsel and their failure to raise certain issues on your

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1 behalf; is that correct?

2 A: Yes, sir.

3 Q: One of them is the argument that they should have raised
4 the issue that you should not have been sentenced to second
5 offenses when in fact there was no evidence ever presented
6 that you had any priors?

7 A: Uh-huh (affirmative response).

8 Q: Is that one of the issues you would ask Judge Hyman to
9 consider as ineffective assistance of counsel?

10 A: Yeah, that was one of the issues but that wasn't my big
11 issue. My big issue was the direct verdict issue; it was
12 preserved it -- I move for direct -- I move for direct verdict
13 twice in my trial so for direct appeal and review cause that I
14 was legally entitled to hear from the officer because he
15 didn't had no real suspicions or probable cause to stop me
16 based on an anonymous tip and I -- the case that I used
17 Illinois v. Gates, Adams v. Williams, Florida v. JL, Florida
18 v. Bostick.

19 Q: And you also make the argument that she failed to properly
20 brief your voluntarily and free, knowingly waiver of your
21 right to counsel?

22 A: Yeah, I said, under Penson v. Ohio, she -- my case warrant
23 a merit brief and she erroneously failed to file a merit brief
24 and if she had filed a merit brief, I would prevail at trial,
25 I mean I would've prevailed in my direct appeal.

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1 THE COURT: A what kind of brief?

2 A: A merit brief.

3 THE COURT: What is that?

4 A: That's a brief saying my case had merits. She filed a
5 Anders brief. A Anders brief ---

6 THE COURT: You keep saying she; who is she?

7 A: Wanda Carter. She filed a Anders brief saying my ---

8 THE COURT: Who is she? Wanda Carter?

9 A: My appellate counsel.

10 THE COURT: Okay.

11 A: She filed a Anders brief saying my case -- my case didn't
12 have any merits. So, before she had filed a Anders brief, I
13 had called her and I write her letter saying that my case do
14 have merits under the trial judge error in not granting my
15 motion to suppress the evidence. And the direct verdict issue
16 of failure to prove actual constructive possession and I was
17 illegal -- I was legal to try to flee from the officer because
18 he didn't have probable cause or real suspicions to even stop
19 me based on the anonymous tip.

20 BY MR. BOAN:

21 Q: A couple of other allegations that we -- you have raised,
22 that we have raised in your complaint involves the Solicitor.
23 You argue that the Solicitor elicited testimony from the
24 witnesses ---

25 MR. JOHNSON: Your Honor, I'm gonna object to any

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1 testifying of counsel on behalf of the Applicant. He can ask
2 him what his allegations are but he can't testify for him.

3 MR. BOAN: Your Honor, I'm not trying to present ---

4 A: I didn't finish ---

5 MR. BOAN: Let the Judge rule on an objection, first, Mr.
6 Robinson.

7 THE COURT: Repeat your question.

8 MR. BOAN: My question was, and maybe I was phrasing it
9 wrong. I was trying to state for ---

10 A: The violation for the motion in limine that the money
11 wasn't supposed to be contributed as me dealing drugs and I
12 objected to it coming into trial and he presented the money as
13 evidence because it was incriminating statement ---

14 Q: What motion in limine did you make?

15 A: I made a motion in limine saying that no money can be used
16 as saying I was consisted [sic] in any drugs or any drug
17 dealings or whatever.

18 Q: And what did Judge John rule?

19 A: It wasn't Judge John, it was Benjamin.

20 Q: What did the trial judge rule?

21 A: The trial judge ruled that the Solicitor can use no
22 evidence or no witness saying that I was -- anything that said
23 I was guilty of drugs consistent with the money.

24 Q: And what did they do in spite of that instruction during
25 the trial?

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- 1 A: Well, they presented the money as evidence and I objected
2 to it and he overruled my objection. And I felt like I was
3 prejudiced because this money contributed to the verdict
4 obtained of finding me guilty and I felt that if the jury
5 didn't know about this money then they probably would've
6 changed their verdict.
- 7 Q: And what would you have asked your appellate counsel to do
8 regarding that issue?
- 9 A: I would've asked her to raise a merit brief on the wrongly
10 admission of the money into evidence and I was prejudiced.
- 11 Q: Mr. Robinson, what else, if ---
- 12 A: Abuse of Trial Judge discretion allowing money into
13 evidence.
- 14 Q: What else would you ask the Court to consider regarding
15 your appellate counsel?
- 16 A: The perjury statements and the inconsistency statements of
17 the officer.
- 18 Q: Okay. Let's break that down for the Court.
- 19 A: That was -- he give three different location where the
20 drugs was found. First, he said the drugs was found in the
21 woods; then he said the drugs was found behind the club; then
22 he said the drugs was found not in the woods but on the edge
23 of the woods. And then he said the warrant said the drugs was
24 found in the parking lot. So, we had a club with all these
25 individuals and he used inconsistent statements and perjury

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1 statements where the drugs was found. And the Solicitor allow
2 him to make these statements and knowing they were false.

3 Q: Mr. Robinson, in your complaint, you allege you didn't
4 receive a fair trial because the indictments on their face
5 were insufficient to inform you that you were being charged
6 with second offense. Explain that.

7 A: Repeat that question.

8 Q: It's alleged that the indictments for possession with
9 intent to distribute cocaine base and possession with intent
10 to distribute marijuana were on their face insufficient to
11 inform you that you were facing charges of possession with
12 intent to distribute second offense and cocaine base and
13 possession with intent to distribute marijuana second offense.

14 A: Oh, yeah, I said that statute, the statute and the CDR
15 Code is invalid. I mean, the statute say -- the statute on my
16 indictment said possession with intent to distribute cocaine
17 base but under Title 44-53-3 -- under Title 44 -- under the
18 Statute 44-53-375, possession, manufacture, distribution --
19 cocaine base and it said first offense is a misdemeanor and
20 second offense is -- less than one gram you should not
21 receive more than five years. Therefore, what I said, I was
22 gave too -- I was sentenced to too much time because on my
23 indictment on CDR Code read 314 that I believe for number one,
24 it'd be 315. And that's possession, manufacture and
25 distribution.

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1 Q: Mr. ---

2 THE COURT: On the warrant or your indictment?

3 A: On my indictment. On my indictment they got possession --
4 I mean, possession with intent to distribute cocaine base but
5 it's defective because under Title 44, 44-53-375, second
6 offense, less than one gram if they find what they allegedly
7 say they find, I shouldn't receive more than five years.

8 THE COURT: All right.

9 A: But I was given fifteen.

10 THE COURT: Let me ask you something. I'm looking at
11 your transcript and I find this sort of pretrial colloquy that
12 goes on and it says, The Court, the Judge says -- you were
13 complaining about your attorney not arguing your motions and
14 the Court said, Okay, well, you put in your four written
15 motions all the things that you wanted presented to the Court;
16 is that correct? And you said, Yes, sir. And the Court
17 said, Okay, and I went through those and I specifically told
18 you that I denied all those motions. Now, is that what
19 happened? Did the Judge hear your motions in the trial?

20 A: If you look back at it, he asked Reuben Goude twice if he
21 had any arguments to make on my motion and he said no, those
22 then one I -- that I -- I think that's on Page 15, 16, 17, one
23 of them, he asked him twice and he didn't argue my motions.

24 THE COURT: Well, the Judge says he went through those
25 motions.

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1 A: But he -- he asked Mr. Goude to make arguments but he did,
2 that's what I'm -- I'm not making an argument that he didn't
3 preserve it because he did rule upon it, he denied it, but I'm
4 saying ineffective appellate counsel because the Judge -- he
5 should've granted the motion to suppress based on the
6 anonymous tip in a illegal search and seizure because of the
7 illegal search, the illegal frisk, the illegal detention,
8 without probable cause because he didn't have me suspicious to
9 stop me. He didn't further have reasonable suspicions to
10 detain me, he didn't further have suspicious to pat me down
11 after detaining me.

12 THE COURT: Didn't you make those motions before the
13 Court?

14 A: I didn't make -- they wasn't verbally spoken when I -- he
15 said that he had but I don't know what he had but he said Mr.
16 Goude ---

17 THE COURT: Wasn't that in one of your written motions?

18 A: Yes, sir. It was part of my written motions for lack of
19 probable cause.

20 THE COURT: One of the four that you submitted to the
21 Court?

22 A: Yeah, but ---

23 THE COURT: And didn't the Judge say that he went through
24 all four of them and denied them?

25 A: Yes, sir, because it's a miscarriage of justice of the law

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1 because the law states, the law say anonymous tip cannot
2 establish probable cause for arrest.

3 THE COURT: All right. Did you tell the Judge that?

4 A: No, at the time I was listening to my lawyer. I had a
5 lawyer at the time.

6 THE COURT: Did you address that on direct appeal?

7 A: No, that's why I said it was ineffective assistance of
8 appellate counsel because I told her to file this and she
9 filed a Anders brief saying my case didn't have merit when the
10 issue have merit under Penson v. Ohio.

11 THE COURT: All right.

12 BY MR. BOAN:

13 Q: I'm almost done, Your Honor. We've got -- I think there's
14 two other issues that you have raised. One alleges newly
15 discovered evidence or after the fact evidence.

16 A: Yeah, newly discovered evidence.

17 Q: Explain that.

18 A: Newly discovered evidence in the -- I want to put that
19 under prosecutory misconduct and under the trial judge abuse,
20 ineffective assistance of appellate counsel, direct verdict
21 and not -- because the officer testified that he put my hand
22 -- he asked me for consent and he put my hands behind my back
23 but then when the judge questioned him at pretrial and ask did
24 he put his hands behind my back or did I put my hands behind
25 my back -- he put his ---

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1 MR. JOHNSON: Object ---

2 A: I put my own hands behind my back and his statement that
3 was ---

4 MR. JOHNSON: We have an objection.

5 THE COURT: What's your objection?

6 MR. JOHNSON: To the extent that this allegation is an
7 allegation that has not been made in his petition, I can't
8 find it, it's not one that the State was put on notice of.

9 A: I sent it to the Clerk. I got it on my file.

10 MR. BOAN: Your Honor, may I approach and I can show what
11 I've shown to the ---

12 A: I got it notarized and I got it on -- I sent it to the
13 Court.

14 MR. BOAN: These are the two documents my client handed
15 to me this morning. They are notarized amendments to his
16 application. We amended it once ourselves after meeting with
17 ---

18 THE COURT: I don't see those in the Court's file. When
19 did you file them, Mr. ---

20 A: I can't remember -- it's notarized and the Clerk of Court
21 sent me back a proof said I had to write a proof of service
22 and I had amended it and I had sent it to my lawyer. I sent
23 all both of them to my lawyer and I sent it the Clerk. I got
24 all the letters in my ---

25 THE COURT: Did you serve them on the State?

1 A: Yeah, I served them on the State too.

2 THE COURT: Well, that would be Mr. Johnson. Did you
3 serve him a copy? How did you do it?

4 A: That was Albert Wilson, the Attorney General.

5 THE COURT: All right. How did you serve him?

6 A: I had to go through the Regional Correctional Institution
7 postal service. I put it in the mailbox. And I also sent it
8 to Administrative Judge, Chief Judge, Benjamin Culbertson,
9 whatever his name is.

10 THE COURT: All right. Go ahead.

11 MR. BOAN: Thank you, Your Honor.

12 BY MR. BOAN:

13 Q: You've alleged in your, the last two that we were gonna
14 talk about, prosecutorial misconduct and newly discovered
15 evidence. Explain to the Court your reasoning for those
16 arguments.

17 A: Newly discovered evidence was that the officer write a
18 statement saying that he put my hands behind my back and then
19 as to detaining. But when we were in pretrial hearing and the
20 Judge asked him specifically did he put -- did he put my hands
21 behind my back for consent or did I put my own hands behind my
22 back and he switch it and say that I put my own hands behind
23 my back so that's a perjury statement because in his narrative
24 statement he said that he grabbed me and then he said he was
25 gonna put my hands behind my back or put my hands behind my

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1 back but then when he got in front of the Judge with pretrial
2 and in trial he said I put my own hands behind my back and
3 gave consent, which I never gave consent at all.

4 THE COURT: He asked you about after-discovered evidence.

5 A: Yeah, that's the after-discovered evidence.

6 THE COURT: What do you mean it was after-discovered?

7 A: Because I never had it because I had belief in my attorney
8 and I ---

9 THE COURT: Well, it was available, wasn't it?

10 A: No, I -- not to me.

11 THE COURT: It was available through discovery, wasn't
12 it? You could've put the officer up and made him testify?

13 A: No, I didn't have the evidence at the time.

14 THE COURT: Well, the evidence was in existence, wasn't
15 it?

16 A: Not to me at the time.

17 THE COURT: Well, not to you but it was in existence,
18 okay.

19 BY MR. BOAN:

20 Q: All right. Mr. Robinson, have we ---

21 A: And then as a impeachment, I'm not trying to impeach the
22 witness, I'm showing perjury, I'm using all this to show
23 perjury.

24 THE COURT: All right.

25 A: Of consent, there's no consent ---

1 THE COURT: Answer the questions that your attorney asks
2 you.

3 BY MR. BOAN:

4 Q: Mr. Robinson, have we covered your grounds that you wanted
5 us to present for your post-conviction relief action?

6 A: I still have prosecutory [sic] misconduct of the Solicitor
7 knowing that -- that -- I mean, Solicitor and the officer
8 testimony be false and still present it to the jury and fail
9 to correct it on where the drugs was found. The different
10 locations where the drugs was found was perjury and the
11 Solicitor had his narrative statement and ---

12 THE COURT: Do you have proof of that or is that just an
13 unsupported allegation?

14 A: I got proof of it in my newly discovered evidence and in
15 my transcript. I don't have the transcript with me but it ---

16 THE COURT: If you've got anything, Mr. Robinson, you
17 need to put it on the record right now.

18 A: Well, can I get my stuff?

19 BY MR. BOAN:

20 Q: What would you want, Mr. Robinson? I've got a copy of
21 your transcript.

22 A: I need my big folder right there.

23 MR. BOAN: Your Honor, may I approach the witness?

24 THE COURT: Yes.

25 A: Right here where I said the lower state failed and errored

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1 to prove actual constructive possession of -- is entitled to a
2 directed verdict to acquittal. The State is required to prove
3 any evidence beyond a reasonable doubt under Jackson v.
4 Virginia. Where I said, the officer, he said, when questioned
5 by Mr. Goude on the record and when Deputy Geno find -- were
6 you in the grewed up area too with him looking or were you
7 back at the highway or the cleared land property. Deputy
8 Seale testified was back in the parking lot, I was with my
9 supervisor and the Lieutenant were with me trying to help me
10 from recovering from being fatigued -- transcript Page 21,
11 Line 20 through 25. And I said how is this true when Deputy
12 Seale testified they were with within sight of Geno, twenty-
13 five yards of me the entire time, transcript Page 20, Line 9,
14 Line 17. Deputy Seale testified probably I would guess about
15 fifty yards from the parking lot to where the struggle took
16 place, transcript Page 77, Line 2 and Line 3. Deputy Seale
17 also testified and I remained with him twenty-five yards with
18 Geno, I could see him, he was from me -- from here to the
19 backyard it took place. He located the crack cocaine and the
20 marijuana in the immediate area where we were struggling.
21 Transcript Page 85, Line 11 through Line 15. This could not
22 be true because Deputy Seale testified again in the parking
23 lot area when Geno found it, transcript Page 21, Line 20
24 though Line 25. So, that means he was not twenty-five yards
25 within sight of the drugs, discovery of the drugs, if it was

1 fifty yards from the parking lot to where the struggle took
2 place, transcript Page 75, Line 2 through Line 3. Deputy
3 Seale said he did not know where the drugs were found. Deputy
4 Seale testified there was a few people up at the parking lot,
5 a couple of cars. I don't remember correctly how many,
6 transcript Page 75, Line 25 through transcript Page 76, Line
7 1.

8 THE COURT: Let me ask you something. Let me ask you
9 something. You say that's what the deputy testified to in
10 trial?

11 A: Uh-huh (affirmative response).

12 THE COURT: Why didn't you cross examine him?

13 A: I did cross examine ---

14 THE COURT: Why didn't you bring out those discrepancies
15 if there are discrepancies?

16 A: Because it's false statement. What I'm saying is I'm
17 using the same ---

18 THE COURT: Did you ask him about it?

19 A: Yeah, but I couldn't know that it was perjury statement
20 until after I received the transcript. So, what I'm saying is
21 that ---

22 THE COURT: Why couldn't you? You heard it, didn't you?

23 A: Yeah, but it was false testimony that convicted me. So,
24 that was a direct appeal issue.

25 THE COURT: Listen to me. Why didn't you question this

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1 witness about those discrepancies that you say are in his
2 testimony during the trial?

3 A: I did question him. That's how I cross examined -- that's
4 how I ---

5 THE COURT: So, it was there for the jury to consider?

6 A: Well, I'm not really putting it on record for them that
7 whether the jury was wrong or what they heard. I'm putting on
8 the record that false testimony ---

9 THE COURT: Did the jury hear it?

10 A: Yes.

11 THE COURT: And the jury heard you question him about it?

12 A: Yes.

13 THE COURT: Okay. And the jury was able to consider
14 whether it was true or not?

15 A: Yeah, but I'm saying I was entitled to a direct verdict
16 cause the State failed to prove actual and constructive
17 possession beyond a reasonable doubt.

18 THE COURT: All right.

19 A: So, what I'm saying is three different location where they
20 said they found these drugs at. They didn't find the drugs on
21 me so therefore if they -- if the jury was misled by his false
22 statements then therefore this inconsistent statement
23 contributed to find me guilty. So, therefore, you use perjury
24 statement to find me guilty.

25 THE COURT: All right, sir.

1 BY MR. BOAN:

2 Q: Mr. Robinson, is there any additional evidence that you
3 wish to provide that would support your grounds for post-
4 conviction relief?

5 A: Well, no, I really ain't finished with this right here to
6 show that what he said that it was found in the woods and then
7 he said that it wasn't found in the woods but the warrant say
8 it was found in the parking lot. So, therefore, the Judge --
9 the Judge -- it was fabricated to the Judge where the drugs
10 was found at. So, what I'm saying is if the Judge had known
11 all this, maybe he wouldn't have even issued a warrant for
12 probable cause and the lack of additional information about
13 the anonymous tip. That wasn't even put in front of the
14 Judge, so he was misled with defraudulent [sic] information to
15 establish probable cause. And then the person who was
16 obtaining the warrant wasn't even the person who made the
17 arrest. So, therefore, how can a person get warrants and he
18 wouldn't have knowledge of the incident. So, therefore, he
19 wasn't -- he wasn't entitled to even go get the warrant
20 because he didn't have no knowledge of the incident because he
21 went -- he went with information saying that the drugs was
22 found in the parking lot but when the officer testified, the
23 officer said the drugs was found in the woods and he changed
24 and said the drugs was found in the edge of the woods. But
25 then in the Rule B form, he said it was found behind Mayo's

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1 Club. So, how could you say that you proven me guilty beyond
2 a reasonable doubt when you got ten, twenty, thirty other
3 individuals out there and you didn't find any drugs on me.

4 Q: All right. Mr. Robinson, have we covered your grounds for
5 post-conviction relief today?

6 A: No, I still got my issue about the anonymous tip. I
7 didn't really go into my issue about the anonymous tip, about
8 the forcible stop.

9 Q: And I think we briefly covered it but just to make sure we
10 got it out right. Your belief is because the officer stopped
11 you ---

12 A: Yeah, I ---

13 Q: --- based on an anonymous tip, that that did not give him
14 probable cause to arrest you and put you in handcuffs?

15 A: Yeah, the initial stop was illegal. So, therefore, the
16 drugs the fruits of the poisonous tree, they should be
17 tainted, the drugs should be tainted and suppress it from the
18 evidence because this initial stop, the stopping me, he didn't
19 even have information that a crime was committed and when he
20 stop me, I wasn't even committing a crime.

21 Q: And that -- do you believe that that would have prejudiced
22 the result of your trial?

23 A: Yeah, allowing the drugs in evidence prejudice me because
24 the State allow him to stop me and frisk me based on the
25 anonymous tip that he didn't even talk to the citizen, he

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1 didn't even know who called 911 at the time or nothing. So,
2 therefore, he was going off a prank call, really, someone
3 called 911 -- dispatch, they don't -- speak to an officer, she
4 remained anonymous, so therefore it was a prank call.

5 Q: Have we covered everything that you wish we cover?

6 A: Yeah, now we did, yeah.

7 MR. BOAN: Okay. Your Honor, that's our showing.

8 THE COURT: All right. Mr. Johnson?

9 CROSS EXAMINATION OF COREY JAWAN ROBINSON BY MR. JOHNSON:

10 Q: I want to ask a few questions but let me start with this
11 most recent allegation, the one you just talked about,
12 referring the Court's attention to Page 73 of the transcript.
13 Do you remember the officer's testimony about your search and
14 the incident where he claims you punched him and ran away? Do
15 you remember his testimony?

16 A: I can't remember his testimony but I know it was false
17 because the DVD tape showed that I didn't even touch him.

18 Q: Well, do you remember ---

19 A: Which I want to know why they don't have it subpoenaed
20 because I asked my lawyer to subpoena the DVD tape as evidence
21 because the tape show that I didn't even hit the officer at
22 all.

23 Q: All right. Well, do you remember, Page 73, Line 11, for
24 the Court's reference, that the officer said you were not
25 under arrest at that time and the pat down was for officer

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1 safety and so the jury was allowed to hear his version of this
2 which you disagreed with.

3 A: Yeah, but the pat down for the officer safety, he didn't
4 have no reason to stop me so therefore he didn't have to make
5 no pat down for no officer safety. He put himself and his
6 safety, he did it illegally. He went beyond his duties.

7 Q: But the jury was allowed to hear your version and his
8 version and they decided who they believed; is that correct?

9 A: Yeah, but I'm going by the law. And y'all wrote this in
10 the law. So, therefore you should go by your law. The law
11 said that anonymous tip before -- before a forcible stop, it
12 could be observation, surveillance and -- he put the charge --
13 he put -- catch me in dealing in some type of drug activity,
14 he can't just stop me cause I'm walking down the street and
15 ask -- and ask if -- frisk me because I could decline his
16 questions and go about my way cause he don't have no warrant
17 or search warrant or nothing.

18 Q: I'm gonna try to stay just for my own organizational
19 efficiency, go down the list of your allegations and I'm sort
20 of grouping number 2 and number 3 together. This is the
21 amended -- this is of the amended attachments to the post --
22 to the petition for post-conviction relief. And I'm looking
23 at the second page, number 2 and number 3. In those two
24 allegations, you're essentially saying that counsel --
25 pretrial counsel as you call them, failed to properly argue

1 motions. Both 2 and number 3, these motions would've been --
2 would've been argued but you basically fired Mr. Goude before
3 he could argue those motions; isn't that true?
4 A: No, I fired him after the trial -- the pretrial hearing
5 was held before the trial. At my trial, the judge
6 specifically asked him two times, do you want to argue Mr.
7 Robinson's motion. He said, no, then are Mr. Robinson's.
8 Therefore, I make a motion on the grounds of this -- he made
9 his own motion. He didn't argue my motion. That was at the
10 pretrial. Then at trial, we picked a jury, then I fired him
11 because he didn't -- I felt like he was working against me.
12 But at my pretrial hearing, the Judge asked him twice if he
13 was gonna argue my motion and he did not argue. But then
14 instead he made an argument of his own. When I asked about
15 lack of probable cause and reasonable suspicions for the
16 record but he made a -- a illegal search or seizure or illegal
17 stop but he didn't even argue that because the Judge asked him
18 again for the -- Mr. Goude about the verbal motion that you
19 made and he didn't -- he said, I have no arguments, Your
20 Honor, so he didn't even argue his motion. And the Judge
21 asked him before he even decided on it, before he even rule on
22 the motion if he had further arguments to make.
23 Q: If he had an opportunity to argue your motions prior to
24 being relieved by you or fired by you, don't you think that he
25 had a obligation to only argue those things which he felt, as

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1 an attorney, had merit? Don't you think he had the ability to
2 choose only those arguments that he felt had good solid ground
3 and legal merit in which to argue?

4 A: Yeah, the best argument is the anonymous tip. That's the
5 solid ground that they arrest me based on the anonymous tip.
6 If he's a competent lawyer and pass the bar association -- if
7 I know, he should know that these -- it ain't like the Court
8 ain't never ruled on these issues before, these issues go the
9 United States Supreme Court. So, therefore -- he should know.
10 If he's a competent lawyer, he should know that a anonymous
11 tip did not establish reasonable suspicion for probable cause
12 to arrest or search someone. And false -- I mean, further
13 observation, investigation, before a forcible stop. So,
14 therefore, by me walking down the streets, a officer just
15 can't approach me and say, hey, I want to frisk you. He got
16 to more suspicions than that.

17 Q: And not even for a pat down for officer safety?

18 A: No, not even a pat down for officer safety. Not the
19 initial stop. If a crime was committed or I wasn't getting --
20 crime at the time, the officer can't just stop me and say he's
21 gonna frisk me.

22 Q: Okay. All right. So, I'm looking at number five on your
23 amendment and you're alleging here that he failed to conduct a
24 substantial investigation. What I want to ask you is what
25 would he have discovered if in your eyes he had conducted a

- 1 substantial investigation, what else would he have found out?
- 2 A: He would've found out that the tape -- that the officer
3 didn't had no injuries, what he was complaining about. He
4 would found out the tape showed that I didn't even hit the
5 officer. He would've found out that there was other
6 individuals at this club, these drugs wasn't even found on me
7 and he would've found out that the person who supposedly made
8 this anonymous tip, the officer never talked to that day. She
9 never went to speak to nobody.
- 10 Q: Okay. But then you don't have the tape here today to play
11 for us, do you?
- 12 A: I'm saying that's on my lawyer. He came to see me back in
13 March 2012.
- 14 Q: Sir, do you have the tape?
- 15 A: March -- no, I don't have the tape.
- 16 Q: And the witnesses that you're talking about, are they here
17 today?
- 18 A: I asked the lawyer to subpoena them. I can't subpoena
19 them -- I went through my lawyer.
- 20 Q: They're not here today and you don't plan to call those
21 witnesses?
- 22 A: Well, I did, I plan to call the witness but I told my
23 lawyer and he -- he wrote it all down and I -- now a year and
24 some change later, I'm here.
- 25 Q: So, with regard to all these things that you say that he

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1 would've discovered had he done a better investigation, you
2 yourself are not prepared to put those things before the Court
3 today either, are you?

4 A: I had the lawyer. I'm not representing myself. I went
5 through lawyer -- I went through my lawyer.

6 Q: I'm referring to allegation number six, moving on to the
7 next one here. You claim that he failed to follow your
8 instructions regarding jury selection. I'm not sure I
9 understand that. I'd like to be clear for the record. What
10 do you mean by that? Failure to follow Petitioner's
11 instructions regarding jury selection. On Page 3 of your ---

12 A: I gave -- when we first came into trial, he -- well,
13 before trial started, he gave me a yellow piece of paper, he
14 was like write down strike or keep. So, when we was picking
15 the jury, when we were picking the jury selection, he was
16 asking me strike or keep, so I was writing it down but he just
17 keep pushing it away from me, pushing away from me and he was
18 striking juries that I was wanting to keep.

19 Q: But you understand he's got to be able to articulate a
20 certain kind of a reason, a race neutral, gender neutral
21 reason -- he's got to be able to articulate a legitimate
22 reason for striking a juror. He probably was asking you how
23 do you feel about this juror but then he still would've had to
24 find a reason that was a legal reason to strike that juror.

25 A: Well, I don't know what his reason to strike.

1 Q: So, is it your understanding that all you had to do was
2 tell him to strike the juror and that he would've had the
3 ability to strike that juror with no reason given?

4 A: Well, I'm saying it was more than that -- basically it was
5 more than that anyways but that was the last straw anyway.
6 I'm like, well, he's still being incompetent so I would rather
7 represent myself. I felt like I could argue my case better,
8 better than him because I know my case best so who else can
9 argue better than me so I want to go ahead and represent
10 myself.

11 Q: What if I told you that just by virtue of your handing him
12 a keep or strike that he still had to have more in order to
13 strike a juror? How would that change your allegation?

14 A: I didn't heard him.

15 Q: If I told you that just because you hand him a sheet of
16 paper that says strike this juror or keep this juror that he's
17 got to have more than that legally to strike a juror. How
18 would that change your allegation?

19 A: Well, present -- how you mean he got to have more than
20 that legally?

21 Q: Okay. We can move on.

22 A: I'm saying, I want you to present that -- you read that
23 allegation, can you present it to me?

24 Q: I asked you if your understanding that was under the law
25 he had to have something more than your direction to strike a

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1 juror, he had to have a legally sufficient reason, then do you
2 still think its ineffective assistance that he didn't strike a
3 juror just because you told him to?

4 A: But he didn't have no reason. I just felt like he didn't
5 have no reason. I don't ---

6 Q: How do you know?

7 A: Huh?

8 Q: How do you know?

9 A: Because he didn't give me no reason, he didn't state no
10 reason.

11 Q: Did you ask?

12 A: Did I ask?

13 Q: Yes, sir.

14 A: I'm saying I couldn't ask, he keep going -- he ---

15 Q: You don't know if he had a reason because you didn't ask.

16 A: Well, we were ---

17 Q: Well, do you know now?

18 A: No. I'm saying if he -- if he take the stand we'll find
19 out.

20 Q: All right. So, I'm looking at Appellate counsel's
21 allegations and it appears to me -- you tell me if I'm wrong
22 -- it appears to me that each of these alleges that Appellate
23 counsel failed to file a merits brief with regard to -- and
24 each one is different, different issues. Is that right so
25 far?

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1 A: I say she erroneously failed to file a merit brief and I
2 was prejudiced.

3 Q: Yes, sir.

4 A: Yeah, I said that I -- well, that under Penson v. Ohio
5 requiring me -- would deny me any and all right I have under
6 the Constitution -- under that law, but anyway I -- well, the
7 allegation and merits in my transcript warrant a merit brief.
8 And by her filing a Anders brief, she deprived me of my right.

9 Q: But now you understand that Appellate counsel has a
10 similar duty to only argue those issues that she believes in
11 her professional capacity have merit.

12 A: Yeah, but she didn't argue no -- nothing under the merit
13 brief. She filed a Anders brief saying my appeal was -- had
14 no merits and it was automatically dismissed and I couldn't
15 even go to the Supreme Court to petition that.

16 Q: Please answer any questions Mr. Boan may have for you.

17 REDIRECT EXAMINATION OF COREY JAWAN ROBINSON BY MR. BOAN:

18 Q: With regard to the jury strike issue, you're beef was that
19 he struck someone you wished he wouldn't have, correct?

20 A: Um, my issue was that the Solicitor and my counsel
21 conspired [sic] to keep not only black members but black
22 males off the jury panel.

23 Q: And the evidence that you would allude to that might
24 support that would be that Mr. Goude struck a black juror when
25 you asked that that jury be added to the panel?

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1 A: Yeah.

2 THE COURT: You got any other evidence of conspiracy?

3 A: Um, no ---

4 THE COURT: How do you know that juror would have made
5 any difference in your case?

6 A: I'm not saying that he would've made any difference but
7 I'm saying that I should've had a jury of my peers or my
8 gender or somewhat. I'm saying that -- they said I sold drugs
9 to a white boy, then they said I assaulted a white officer and
10 then I got this jury panel full of white people, white
11 citizens, so I feel like they all was against me going to
12 trial -- but that's how felt. I felt -- I mean, they said I
13 sold drugs to a young white boy and they said I assaulted a
14 white man, a white police officer and I was in front of jury
15 panel of white people, citizens whatever, Caucasian whatever,
16 and I felt like I was already tried and guilty right there.

17 THE COURT: Well, you've made a serious allegation here.
18 You allege that your attorney conspired with the Solicitor to
19 deprive you of your Constitutional right to a jury trial.
20 Now, what proof do you have that they conspired together?

21 A: Because the members or the people that was striked.

22 THE COURT: Well, tell me about that. You told me about
23 one African-American male that you said had dreadlocks that
24 you wanted on your jury and your ---

25 A: And I ---

1 THE COURT: --- and your attorney struck him. Is that
2 the only one that got struck that you wanted?

3 A: No, they strucked all -- they strucked all -- I think she
4 was a lady, she was a Native American, I think she was a
5 Indian or whatever, he didn't give no reason why they struck
6 that down neither.

7 THE COURT: And the Solicitor was in on that?

8 A: Yeah, yeah. But I'm saying I ---

9 THE COURT: How do you know that?

10 A: I had to look down because I had the strikes or whatever
11 and I went through the strikes he made and he made and there
12 wasn't but so much black people on the jury -- the jury list
13 anyway.

14 THE COURT: All right. Anything further, Mr. Boan?

15 MR. BOAN: That's all from this witness, Your Honor.

16 MR. JOHNSON: Nothing further, Your Honor.

17 THE COURT: You can step down, Mr. Robinson.

18 MR. BOAN: Your Honor, if the Court would give me thirty
19 seconds with my client.

20 THE COURT: Okay.

21 MR. BOAN: Your Honor, with the Court's permission, we
22 would call Reuben Goude to the stand.

23 THE COURT: All right.

24 REUBEN GOUDE, HAVING BEEN SWORN,

25 TESTIFIED AS FOLLOWS:

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1 CLERK: Please state and spell your name for the record.

2 MR. GOUDE: Reuben Goude, R-E-U-B-E-N G-O-U-D-E.

3 THE COURT: Good morning, Mr. Goude.

4 MR. GOUDE: Good morning, Judge.

5 MR. BOAN: May it please the Court?

6 DIRECT EXAMINATION OF REUBEN GOUDE BY MR. BOAN:

7 Q: Mr. Goude, how did you come to know Mr. Corey Jawan

8 Robinson?

9 A: In the end of September of early October 2008, we received

10 -- we being me or my office -- received an order relieving

11 Richard Colvin as the lawyer for Mr. Robinson due to a

12 conflict of interest and appointing me to represent Mr.

13 Robinson.

14 Q: And what charges were you representing him in?

15 A: The charges I had down was possession with intent to

16 distribute cocaine, third offense; possession with intent to

17 distribute marijuana, third offense; resisting arrest, the B

18 section, assaulting an officer; assault and battery of a high

19 and aggravated nature on the officer.

20 Q: And you represented him up through at least the beginning

21 of trial, right?

22 A: Yes.

23 Q: Meaning there would've been true billed indictments

24 available to you at the time the trial began, correct?

25 A: Yes.

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1 Q: What was he true billed for? What did his indictments say
2 he was being charged with?

3 A: Well, I wrote down on my trial notebook checklist which I
4 use in every case was that he had five charges on him and
5 that's what I wrote on the timesheet that I wrote when we came
6 to the courtroom which was possession with intent to
7 distribute crack, I didn't put the offense number; and
8 possession with intent to distribute marijuana; assault and
9 battery high and aggravated nature; assault on the officer
10 while resisting arrest; and simple resisting arrest.

11 Q: During discovery or any time leading up to trial, were you
12 ever provided a certified copy of his arrest record?

13 A: Of his arrest record? Yeah, we had the rap sheet.

14 Q: What if any evidence were you provided or if you know that
15 was entered into court that would establish the Defendant's
16 prior criminal record?

17 A: Well, the rap sheet would have on it and the Solicitor's
18 office sent us their plea offer dated July -- this was in
19 2008, end of 2008 when I got appointed and we came to court
20 March of 2009. As far as his record and the charges that I
21 was provided, the Solicitor sent us a plea offer they'd given
22 the Defendant and Mr. Richard Colvin dated July 2008 before I
23 ever got appointed saying that you're charged with possession
24 with intent to distribute cocaine and on that one they listed
25 second offense; and possession with intent to distribute

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1 marijuana and on that one they listed second offense; and
2 assault while resisting arrest. And that we offer you, if you
3 pled guilty to assault while resisting arrest and possession
4 with intent to distribute cocaine, second offense, we'll
5 recommend a six to ten year sentence.

6 Q: Now, from that understanding, was he charged with second
7 offense or third offense?

8 A: Well, in November the 4th of '08, the Solicitor sent me a
9 letter saying, We also gonna -- they had three charges back in
10 July when Richard Colvin was representing him. The Solicitor
11 in November said they're also gonna indict him with assault
12 and battery of a high and aggravated nature, that would make
13 four charges; and simple resisting arrest, that would make
14 five. And then on November the 10th of '08, the Solicitor
15 sent me a letter saying, I called the Clerk of Court's office
16 today to get his certified convictions and I was informed he
17 has two prior drug convictions. He was indicted for second
18 offense on the drug charges. I believe the prior convictions
19 -- during the sentencing I will ask the Judge to sentence him
20 as a third-time offender in the event of conviction. The --
21 nothing on them about prior convictions. The only indication
22 your client was indicted under a second offense is on the back
23 of the indictment under the CDR. As soon as I receive the
24 certified convictions through the Clerk I will forward them to
25 you.

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1 Q: At the time your client went to trial, was he, in your
2 opinion, facing trial for third offenses or facing trial for
3 second offenses.

4 A: Well, on the transcript, when the prosecutors called the
5 case, now this -- I was just looking while y'all were talking
6 awhile ago -- on Page 5, the Solicitor says -- the Court says,
7 What's the docket number? Call your case. And the Solicitor
8 says, Your Honor, he has five counts -- and this is on Page 5
9 -- that have been to the Grand Jury, true billed, possession
10 of cocaine base with intent to distribute. He has two priors
11 therefore making that a third. The same for 2008-728, that's
12 possession of marijuana with intent to distribute. And then
13 there's assault while resisting arrest, assault and battery of
14 a high and aggravated nature and simple resisting arrest.
15 That's what the prosecutor said they were charging us with.

16 Q: Yes, sir, I agree that's what the prosecutor said to y'all
17 at the beginning of the case, correct?

18 A: Yeah.

19 Q: Will you flip all the way to Page 197 in your transcript?

20 A: Okay.

21 Q: And will you read what Mr. Andrew says starting on Line
22 20?

23 A: They were indicted and the CDR code reads second offense,
24 but I think that probably we should do it as a second offense.

25 Q: So, at the end of the trial, they did it something

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1 different than what you thought my client was being prosecuted
2 for at the beginning?

3 A: I didn't think that, that's what they told me they was
4 gonna do.

5 Q: All right. And do you think that that prejudiced the
6 outcome for your client not knowing what he was really being
7 tried as?

8 A: No. The reason, like he just got through saying is
9 ignorant. And the reason it's ignorant in my opinion and
10 stupid and silly, is because he's now arguing that he thought
11 he was facing a minimum of fifteen years in prison by being he
12 was going to trial for possession with intent to distribute
13 cocaine third offense. So, he thought he was facing a minimum
14 of fifteen years at trial. However, now he's says if he'd
15 have known he was only facing five years, not fifteen years,
16 then he would've done something different. He would've been
17 more afraid to get five years than he was afraid to get
18 fifteen years. He thought he was -- could get fifteen years.
19 So, why would he change his mind and ask for a trial because
20 he asked for a trial and if you're saying he could -- would've
21 made a decision to have pled something different -- pled
22 guilty.

23 Well, in December, we came to court on a motion hearing,
24 December the 15th, '08 and we were here in court with Mr.
25 Robinson, who represented himself and the prosecutors and the

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1 Judge in court on a motion and the Judge -- I've got down here
2 on my timesheet -- motion at sidebar -- the Judge says, let
3 him plead to possession with intent to distribute cocaine
4 second offense, we'll give him the minimum sentence for five
5 years. Right there on the timesheet. I told the Defendant
6 and repeated the possible maximum penalty he was facing. He
7 said, which I wrote down then, knowing that this would come up
8 one of these days, he said on December the 15th -- I wrote
9 down, I told the Defendant again -- and this time wrote it
10 down knowing that ignorance is gonna have a penalty for it and
11 one of these days I was gonna be up here on the PCR witness
12 stand -- so I wrote down that I told the client again that he
13 was, according to the prosecutors, facing fifteen to thirty
14 years on PWID cocaine, eighty-five percent, serve eighty-five
15 percent, no parole; zero to one year for simple resisting
16 arrest; zero to ten years assault and battery high and
17 aggravated nature; zero to ten years resisting arrest
18 assaulting an officer; zero to ten years possession with
19 intent to distribute marijuana. None of the time -- December
20 15th, I told the Defendant that the Judge said that he'd give
21 him the range of five to thirty years, he'd give him the five-
22 year minimum sentence. The Defendant says, no, no. I want
23 somebody with some sense to represent me. I want to represent
24 myself. I do not want five years. I did nothing. I am not
25 guilty and I ain't pleading guilty. And that's what he said.

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1 So, he did not get the five years and he did not get out in
2 the four-and-a-half years. He represented himself and went to
3 trial and he got fifteen years.

4 Q: Mr. Goude, did you or anyone on Mr. Robinson's behalf make
5 a motion to suppress the evidence obtained after he was
6 arrested?

7 A: Yes, on our trial checklist, he's got down, motion to
8 suppress search and seizure, suppress the drugs, suppress it
9 on the ground of illegal chase and a illegal seizure, suppress
10 on its a unlawful arrest, suppress it on if we ran away that
11 he's no threat to the officer and the officer does not need to
12 pat him down if he's running away from him, he's no threat to
13 the office if he's running away. And he's not under arrest,
14 he can leave at any time he wants to so if he wants to run
15 away he can because he's not arrested, he can go where he
16 wants to, it's a free country. So, yeah, I heard the
17 Defendant said awhile ago, we did not argue the motion. I
18 looked back at the transcript and on Page -- he sent in all
19 the jailhouse lawyer motions, most of them which is usual is
20 ignorant and has no sense attached to them, told to him by
21 other ignorant people that's in jail. If they had sense they
22 wouldn't be in jail. But anyway, he sent me the motions, of
23 the Defendant did, and we submitted those to the Court along
24 with our -- and then the Judge says, do you have the motion
25 and seem like on the transcript there, I said, yes -- this is

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1 like on Page 23 of the transcript -- we submitted all of his
2 motions which is -- on Page 9, on the right-hand side of the
3 page -- Mr. Robinson, there's some handwritten motions, I'll
4 pass up stack, I've given a copy to the prosecutor, it's
5 several motions. And then the Court talked on it. And then
6 on Page 23, at the bottom, the Judge summarized it that we
7 filed these motions and there I note the Defendant says I did
8 not argue his motions or mine or anything else, I just let
9 say, you got any questions or motions, I said no, trying to
10 conspire to hurt my client, is what he says. But there is my
11 argument down there which is just what I'd written down, my
12 motion to suppress it as an illegal seizure, an illegal stop,
13 an illegal chase. He was not under arrest. He had a right to
14 walk away from the officer if he wanted simply by walking
15 away, he did walk, he ran away. If the officer had a right to
16 pat him down when he was talking with him or if Mr. Robinson
17 left and went away, the officer would no longer be threatened
18 because he was leaving the scene. Therefore, it was an
19 illegal chase, therefore it's was an illegal seizure and if
20 there was any drugs and if they were his, it was an unlawful
21 activity by the deputy should be suppressed as unlawful
22 seizure and the unlawful search of the area, so we moved to
23 suppress the stuff, so that was our motion.

24 THE COURT: There's no question there was a motion made
25 to suppress the drugs?

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1 A: No, we tried to suppress the drugs. We went over to the
2 scene where the club was and made -- which was we was gonna
3 try to help the client in the defense, was advising him to
4 take that deal if the judge told us he would give us the five
5 years, the minimum on the second offense, and he'd be out in
6 four and a half years but the client wouldn't do it. We did a
7 mental evaluation to try to have him say if he was crazy, so
8 if he was crazy he couldn't be charged and the Department of
9 Mental Health said he was sane. So, that came back and we
10 went over to the club where he was at and photographed it.
11 It's a junky run-down dope addict, wino infested area, got old
12 tires all around the back of the building and the clubs. So,
13 my point and arguments, the note that I had made to ask the
14 policemen in all this stuff was witness -- by, God, anybody
15 could've threw the drugs down there. The drug addicts and
16 users hand out down there. It is a filthy place. There are
17 probably dead cats or dead skunks and stuff laying all around,
18 empty beer bottles that anybody could've thrown those drugs
19 down at any time. But Mr. Robinson saw fit to relieve me, so
20 that type of question didn't come out. We'd also, since he
21 was charged with possession with intent to distribute, we got
22 down and figured out that the little bit of drugs he had was
23 something like one or two grains. So, what I had down to ask
24 the SLED officer and the police officers was -- we took our
25 little calculator for math and stuff and figured out just what

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1 the one grain of cocaine was, which is two-thousandths of an
2 ounce of a material. To try to ask the SLED and the police
3 officers that this tiny little bit of stuff for the jury to
4 believe it'd be like -- and I've got down there on my
5 arguments to argue that if you go to Walmart and you buy a
6 twelve-pack of cocola, you don't buy but one cocola. When you
7 buy a carton of cigarettes, you buy -- all that's on my
8 argument -- you buy ten packs of cigarettes because it's
9 cheaper and you don't have to come back to Walmart every few
10 minutes to get another cigarette. So, we was trying to argue
11 the same thing on the drugs that if he bought two or three
12 packs, it was just to use the stuff, simple possession, and
13 not intent to distribute because it was such a small amount.
14 But none of that got to be presented since Mr. Robinson
15 relieved me.

16 BY MR. BOAN:

17 Q: Mr. Goude, did you get to see a DVD from the police?

18 A: On my notes, I've got down that what the DVD said or --
19 and the way I -- and I don't remember the DVD but I've got in
20 my notes there where I viewed it. And the date on it and all
21 that -- and I wrote that down -- it said it was 6:02 P.M. and
22 it's -- basically, all I've got down is that it's words. So,
23 I don't have anything down where there was -- where the people
24 were in the line of the video because the camera just shoots
25 straight and if you're off to the side of the police car, you

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1 don't get the picture but you can hear the words. So, all
2 I've got down there is -- are words, where it shows words that
3 I wrote down on my notes was there was a struggle on the road,
4 or I wrote that down, that there is a struggle on the road
5 maybe a hundred yards from the club, the Defendant ran away.
6 The policeman said, Mind if I check you for weapons, I will be
7 putting cuffs on you to detain you, the Defendant ran, and you
8 ran on the highway and got to the club and it was daylight;
9 and the rest is just the deputy saying I'm in the woods, I
10 need help and stuff like that.

11 Q: Do you remember whether or not you were able to show the
12 DVD to your client?

13 A: I would've not shown the DVD to the client because at that
14 time, he was in jail. I think I did not have a laptop
15 computer at that time, I don't think.

16 Q: Did you attempt to verify whether or not the officer had
17 any injuries or anything that would corroborate the allegation
18 that he was punched in the face three times?

19 A: I don't remember seeing anything about any injuries.

20 Q: There is an allegation that you struck a black male as
21 part of picking a jury. What was your reason for doing that?

22 A: That was -- every case, I do a trial notebook, that's one
23 -- when I got out of law school, I went into the Air Force
24 with JAG and that's one thing that they taught us is always --
25 one prosecutor asked me one time, do you this work in every

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1 case -- John Hilliard was the prosecutor that was just in
2 here -- and I told him only the cases that I care whether I
3 win them or lose them or not, which is every case. So, yes,
4 with every case, we do a checklist where we've got all of our
5 little motions and what we're gonna ask the people and our
6 jury charges and our directed verdicts and all that mess.
7 Anyway, part of that little story is I've got a little
8 checklist on impaneling juries where I write down the juror
9 number, and I've got a column if they're sworn or not, so when
10 we get to the bottom, I've got twelve. The one that was
11 excused by the state, one was excused by the Defense and one
12 that's excused for cause. Now, on mine, and I know what my
13 client said, but I'd be an idiot to try and harm my own
14 client. My God, I've been a lawyer all my life, that's all I
15 do. I want people to come hire me and if everybody thought I
16 was trying to cheat them, I wouldn't stay in business. So,
17 that was an ignorant and a stupid, false statement to make.
18 But anyway, to answer it, what I've got down is I struck --
19 number one, I struck a white female, WF, because she's got
20 glasses and she's skinny. I just didn't like the way she
21 looked as far as being helpful to us. Number two, his uncle
22 is deputy, that was a white male; I struck that one. Number
23 three, was a white female; I struck that one for -- I think
24 her husband was undercover, that's what I think that word is.
25 Number four, is a white female because the Defendant said to

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1 excuse her. Number five, was the son of the deputy and I
2 didn't write down that one's race, so he could've been a black
3 guy or he could've been a white guy but I know he's a male
4 because it says son of a deputy. And then on the alternates
5 -- there was no black male, unless it was that one that was
6 the son of the deputy that I struck on the twelve jurors. And
7 then on the alternates, I struck one that says she's a black
8 female because she's a cousin of a deputy. So, that's who I
9 struck. And I've got down for the Solicitors, that the
10 Solicitor struck one black female, a white female, a black
11 male, a white female, a black male. So, I've got that they
12 struck two black males, one black female and two white
13 females.

14 Q: Could you look through your file and see whether or not
15 you have copies of the Defendant's arrest record?

16 A: I never paid attention to whether it was certified or not
17 but we usually get the rap sheet. Let me see.

18 Q: For the purposes of sentencing and verification of whether
19 or not a Defendant has priors or not, we don't just rely on
20 the NCIC, do we?

21 A: Usually, I go by the rap sheet that the Solicitor's office
22 sends and I'd go over it with the client and if he says, no, I
23 didn't do that that I'll try to jog his memory. If he goes,
24 no, I didn't do that then I will tell the Solicitor, well, he
25 said, no, he didn't do that. That's whether we're pleading

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1 guilty or not guilty or whatever. And then you've got a
2 motion in limine you can make at the beginning of the trial
3 when you ask that the Court order that the Solicitor tell you
4 the record the Defendant has so you'll know whether to call
5 him as a witness or not.

6 MR. BOAN: While he's looking at that, Your Honor, I'm
7 going to look over it with my client.

8 A: Okay, I found it.

9 BY MR. BOAN:

10 Q: Is what you're looking at copies of sentencing sheets or
11 something other than an NCIC report?

12 A: No, it's the NCIC, the rap sheet the Solicitor sent me.

13 Q: Was there ever provided to you or if you know to the Court
14 itself a certified proof or certification that the information
15 contained in there is accurate?

16 A: No, because I was not involved when they went to court
17 because -- I don't know what happened after I was relieved.

18 Q: There was supposedly in this case, Reuben, a phone call to
19 the police officers or to dispatch saying that someone was
20 selling drugs in the street, something along those lines; does
21 that sound right?

22 A: Yep, that's the way it all got started.

23 Q: Was there any effort or any ability to corroborate whether
24 or not that tip was in fact accurate?

25 A: Well, we were making a motion to suppress all of that --

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1 all of that being the arrest, the search, the seizure and all
2 that that I've got on my motion in limine on the checklist to
3 ask the Court to order that there will be hearsay testimony
4 admitted of any alleged report of any drug sale being the tip
5 that was made from 911. Just refreshing myself on the
6 transcript, I saw that the -- while y'all were testifying
7 awhile ago, I saw that the prosecutor said he was gonna call
8 the woman that made the tip and I remember looking -- last
9 night, when I was going through this stuff, the woman that
10 called the tip in and called it in and said there's somebody
11 selling drugs out front of my house or something like that on
12 the street and described the guy and the -- said he was
13 wearing a white football jersey and something like an orange
14 cap. The police went over there to that section of town and
15 saw Mr. Robinson, my client, the Defendant, the Applicant, was
16 wearing a white football jersey and an orange cap. He was a
17 black man -- the woman said he was a black man, he didn't say
18 he was white woman or white -- black female or a white female,
19 said he was a black man. So, the police stopped Mr. Robinson
20 and the rest it y'all told already.

21 Q: Last question, what type of corroboration was used in this
22 case -- Was there any other evidence that would justify a
23 problem, that would justify probable cause to stop Mr.
24 Robinson, if you know, other than the anonymous tip?

25 A: Remember I was -- Mr. Robinson, I was on his side, so we

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1 made the motion and I argued it, we said on Page 23, I think
2 it was, that there was no probable cause, that it was the
3 woman's tip to the man or the woman there that dispatches the
4 policemen and the policeman stopped a black man with a white
5 football jersey and the orange cap that the woman had
6 described in the 911 tip, and the dispatcher told the officer.
7 My point was that that was not the basis for them to arrest
8 Mr. Robinson so he could leave, that he didn't have to be pat
9 down if he didn't want to, that he was going away. It was a
10 illegal stop and illegal arrest and illegal search and
11 seizure, the drugs was inadmissible and all that stuff. So, I
12 was arguing on Mr. Robinson's side, so I'm not here to argue
13 the prosecutor's side.

14 Q: Agree with you Reuben. So, what I guess my point was,
15 when you made your motion that there was no other probable
16 cause to stop Mr. Robinson, did the State provide any evidence
17 that would support probable cause?

18 A: This -- what I saw in the transcript was that after the
19 policeman had testified the Judge said that the call from the
20 woman on the 911 and the description she gave and the police
21 coming over there and seeing Mr. Robinson fit the description,
22 that gave the policeman something like a articulate suspicion
23 or whatever it was the way the judge worded it and denied my
24 motion but I was trying to get the evidence suppressed and the
25 Judge said that that was enough for the policeman to question

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1 Mr. Robinson and because it's in a drug area and a crime area,
2 gave the officer the right to pat Mr. Robinson down, which
3 also -- perfectly legal, according to the Court and then Mr.
4 Robinson punched the officer in the face and therefore that
5 committed a new crime simple assault and battery, if you want
6 to call it that. And that's when Mr. Robinson ran, that gave
7 the officer to run and chase him. And then Mr. Robinson
8 fought him more. And the police found the drugs in the route
9 that Mr. Robinson was running in and that gave them the right
10 to arrest and charge him with all the drugs and it was up to
11 the jury to believe that Mr. Robinson threw them down there or
12 they was down there by other drug addicts before or when the
13 saw the police running. There were some other persons
14 standing around, seems like they said there was other people
15 standing around. I think it was six o'clock in the evening.
16 So, that's what the judge ruled.

17 Q: Thank you, Reuben. Last question. If there were no other
18 probable cause other than the allegation of the anonymous tip,
19 would you agree that would've been an issue worthy of
20 appealing and asking the Court of Appeals to listen to ---

21 MR. JOHNSON: Objection. He's not appellate counsel.
22 He's not entitled to render an opinion on that.

23 THE COURT: Well, I'll let him answer it.

24 A: Well, I -- if I was appealing the case and I, I as the
25 trial lawyer since I've been doing public defender work and

1 appellate defense ---

2 (REPORTER'S NOTE: Mr. Robinson begins to confer with Mr.
3 Boan.)

4 THE COURT: Of course, he's asked you that question, Mr.
5 Goude, but you have no idea what was produced in the trial or
6 what happened or what occurred after they -- he asked to have
7 you relieved, do you?

8 A: No, sir, I don't.

9 Q: Last question, Mr. Goude, when presented motions that you
10 identified as being the jailhouse motions, did you attempt to
11 argue those motions on his behalf?

12 A: I did, that was all part of the same argument. They were
13 all saying the same thing, just saying it in a different way.

14 (REPORTER'S NOTE: Mr. Boan confers with Mr. Robinson.)

15 Q: Mr. Goude, may I -- Your Honor, may I approach the
16 witness?

17 THE COURT: Certainly.

18 Q: There were a couple of motions that the Defendant had
19 filed. And right here, Judge, the transcript, Judge John is
20 asking you, All right, very good. Mr. Goude, I'll be glad to
21 hear from you regarding the two motions to suppress that the
22 Defendant filed, the motion to quash, the one that the
23 Defendant filed, the motion to quash the indictment that the
24 Defendant filed, as well as your motion regarding improper
25 seizure and search of the Defendant. Be glad to hear from you

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1 -- be glad to hear any arguments that you have on all of these
2 motions and what was your response to the Court?

3 A: My response to the Court on Page 26 was, I have no other
4 argument to make, Your Honor, because I've already made my
5 motion two pages earlier, which was on Pages 23 and 24; I've
6 already made the argument on those motions.

7 Q: And on Page 23 and 24, those were the motions, those were
8 your motions?

9 A: His motions and my motions, I'm still trying to suppress
10 the drugs and the stop and the tip from the woman.

11 THE COURT: Counsel, I believe you ---

12 (REPORTER'S NOTE: Mr. Boan confers with Mr. Robinson.)

13 MR. BOAN: Your Honor, that's all the questions we have
14 of this witness.

15 THE COURT: All right. Mr. Johnson?

16 CROSS EXAMINATION OF REUBEN GOUDE BY MR. JOHNSON:

17 Q: I just have a few questions for you, Mr. Goude. It's my
18 understanding that Judge John did rule on all of the motions,
19 his and what he would call his and yours; is that true?

20 A: Well, it was my understanding.

21 Q: So there were no motions that were made by Mr. Robinson or
22 by you that were not ruled on; is that correct?

23 A: I don't -- I don't remember anything other than just
24 looking at the transcript and the notes on all this stuff but
25 on -- what I see on Page 23 is the Court says you have two

1 trial motions to suppress and a motion to -- well, one in
2 December and one in February, and a motion to quash the
3 warrant, a motions to quash the indictments. And I said that
4 those ones Mr. Robinson hand-wrote, that was his four and I
5 said, I will make my motions to suppress on the grounds of
6 illegal seizure. So, I just argued all of the stuff at one
7 time is the way I understood it. And then I think he -- I
8 guess if he'd have granted the motions, Mr. Robinson never
9 would've gone to court and wouldn't be here in prison.

10 Q: At some point, Judge John says that things at this point
11 have not been dealt with yet. But then he goes on to deal
12 with them; is that correct? He goes on to make a ruling of
13 them.

14 A: It's -- if it's the ruling when I was there, that's
15 correct. If it's something that happened later, if he made
16 some ruling later, after I was off, I don't know anything
17 about.

18 Q: All right. I'm gonna -- I want to ask a few questions
19 about this marijuana, possession of marijuana second versus
20 third.

21 THE COURT: Before we move on, Mr. Johnson, let me
22 clarify one thing. Mr. Goude, I'd like to refer you to Page
23 11 of the transcript.

24 A: Yes, sir.

25 THE COURT: Beginning with Line 10, I believe, or

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1 actually -- yes, I think, Line 10 where the Court is speaking
2 and it goes on down. Is that where the Court was dealing with
3 Mr. Robinson's motions to quash the warrant and suppress the
4 evidence? That's different from Page 23, I think, where you
5 where making a motion.

6 A: I think that in the middle of Page 11.

7 THE COURT: Goes on down to the bottom, actually goes
8 over to the next page. I'm looking at that language.

9 A: They way it looks to me is that's Mr. Robinson's motion
10 we're talking about on Page 11.

11 THE COURT: So, it looks like that's what the Court
12 addressed, those motions? It goes right on through to Page
13 12.

14 A: The way I understood it, I can be wrong, I have not
15 studied this stuff and just looking over it there when Mr.
16 Robinson was testifying, I made the motions, I presented Mr.
17 Robinson's stuff and suggested to the Court that -- before
18 ruling on some of that stuff like suppressing the evidence,
19 they ought to hear the evidence and then the prosecutor called
20 the policeman that stopped Mr. Robinson and he called him and
21 gave his testimony and after he gave his testimony, which was
22 finished like on that Page 23, that we repeated that we got
23 all these four motions.

24 THE COURT: Okay.

25 A: We've heard the policeman talk about whether it was -- how

1 he went there and how he saw Mr. Robinson and whether he had a
2 tip from ---

3 THE COURT: So, there's about twelve pages there or
4 longer or more dealing with those motions.

5 A: That's the way I understand it.

6 THE COURT: Okay.

7 All right, Mr. Johnson, go ahead. I'm sorry to interrupt
8 you, I just wanted to make sure that that has been addressed.

9 MR. JOHNSON: Yes, Your Honor.

10 BY MR. JOHNSON:

11 Q: Mr. Goude, I want to bounce back to the first claim on his
12 amendment which is dealing with the difference between PWID
13 second and third. And in listening to your testimony and I
14 wasn't real clear but I wanted to be sure I understood it that
15 at some point an offer was made to allow Mr. Robinson to plea
16 to PWID second on both those charges, dismissing the others,
17 check me on that, and he would've gotten five years. So, he
18 was made aware at that time that he could plead to PWID
19 second, five years, with the rest of it dismissed.

20 A: Yes, sir.

21 Q: And at some point, there was another letter which dealt
22 with that if this case was tried and he was found guilty that
23 the Solicitor would ask that he be sentenced as if these were
24 PWID thirds because of his record; is that right?

25 A: Yes, that's right. The Solicitor says that November --

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1 that he met with -- in court on these mental evaluations, I
2 think, in December and that's when the Judge said to get rid
3 of the stuff, he would let him plead and give him the five-
4 year minimum on the second offense. And I told the client
5 that and the client wouldn't do it.

6 Q: And you conveyed also that he would be -- that the State
7 would seek sentencing under PWID third because of his record.

8 A: That's what the prosecutors had told me and that's what I
9 told Mr. Robinson.

10 Q: And based on that information, who made the decision to go
11 to trial?

12 A: He did. If it was my decision, he'd be facing -- he'd
13 have got a five-year sentence instead of fifteen-year
14 sentence.

15 Q: And I tried to write your answer down, when you conveyed
16 the offer of five years, I tried to write your answer down and
17 I don't know if I got it word-for-word, but essentially, he
18 just said, no, I ain't gonna plead to that.

19 A: He said, No, I didn't do nothing and I'm not pleading
20 guilty.

21 Q: All right. Did you feel that you needed to conduct
22 further investigation?

23 A: What?

24 Q: He's got an allegation that you failed to conduct a
25 substantial investigation. I just wanted to ask you, do you

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1 feel that there as anything else that you could've discovered
2 if you had continued to investigate?

3 A: I did everything I knew to do. I had got -- went over to
4 the club, photographed it, saw the scene where all this mess
5 happened, reviewed all the evidence I had, talked with the
6 client, talked with his dad, even did a mental evaluations on
7 him, had all the little trial notebook ready to go for the
8 trial. So, I did everything I knew to do.

9 Q: All right. We've already talked about jury selection and
10 I think you covered that in your direct. So, please answer
11 any questions Mr. Boan may have.

12 MR. BOAN: No further questions of this witness, Your
13 Honor.

14 THE COURT: Mr. Goude, as I understand it, you were
15 relieved at the request of your client. Any further
16 participation on your part was terminated; is that correct?

17 A: Yes, sir.

18 THE COURT: So, any other thing that you could've done
19 wasn't done because you were relieved?

20 A: That's correct.

21 THE COURT: All right. Thank you. You may step down.
22 Thank you, Mr. Goude.

23 MR. BOAN: Your Honor, I would ask the Court to allow me
24 to recall Mr. Corey Robinson.

25 THE COURT: All right. I'll let you but I would limit it

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1 to recall him only to what Mr. Goude said.

2 MR. BOAN: Thank you, Your Honor.

3 THE COURT: We're not gonna go over his case again.

4 MR. BOAN: Thank you. I'll try to do exactly that.

5 REPLY DIRECT EXAMINATION OF COREY JAWAN ROBINSON BY MR. BOAN:

6 Q: Mr. Robinson, regarding the motions that Mr. Goude
7 testified to, is it your position that the motions were never
8 argued, not that the Court didn't rule on them but that they
9 were never properly argued?

10 A: What I was saying, he would just misguided his questions
11 about the twelve pages of the transcript that deal with the
12 motions but the Judge told him that he would deal with my
13 motion to dismiss based on lack of the merits and duplicity in
14 the warrant but he say he gonna reserve the motion to
15 suppress, lack of probable cause and the rest of this motion
16 -- the rest of the Defendant's motions till after the officer
17 testify so that later on so the twelve page that he was
18 talking about ---

19 THE COURT: Well, who was his lawyer after the officer
20 testified?

21 A: Sir?

22 THE COURT: Who was your lawyer after the officer
23 testified?

24 A: Mr. Goude.

25 THE COURT: Well, wasn't Mr. Goude gone at that time?

1 A: No, he wasn't gone at that time.

2 THE COURT: Okay. Well, that's what he did beginning on
3 Line 23, isn't it?

4 A: No, on Line 23 ---

5 THE COURT: I mean, Page 23.

6 A: Page 23, he did the motion. The Judge asked him twice do
7 he got any arguments about Mr. Robinson motion and he said no,
8 so Mr. Robinson motions, I make the suppression on my motion.
9 Now, it appears they do talk about -- they do talk to him but
10 from 11 through 23, them -- them pages right there deal with
11 the suppression of the -- not suppression but -- duplication
12 in the arrest warrant and the motion to dismiss. The Judge
13 say well, we've got the officer here as a witness, we gonna
14 reserve the motions with lack of probable cause till after the
15 officer testify.

16 THE COURT: But the officer testifies then.

17 A: So, my motion never was argued at all.

18 THE COURT: Okay. And that's your position that they
19 didn't argue your motion. Now, which motion was yours?

20 A: My motion was a lack of probable cause, the motion to
21 suppress ---

22 THE COURT: Well, lack of probable cause seeking what
23 relief?

24 A: To suppress the evidence.

25 THE COURT: Okay.

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1 A: Based on the anonymous tip.

2 THE COURT: Okay. And did that get argued?

3 A: No, that never got argued.

4 THE COURT: All right, sir.

5 A: It never got argued. He asked him twice did he want to
6 argue. The only thing I got to argue was the motion to
7 dismiss and the duplicate of the arrest warrant but when he
8 asked about my filed motion on February or December -- I mean
9 January, the Judge said, Well, we gonna reserve those till
10 later after the officer testify and after the officer
11 testified, then the Judge say, Well, Mr. Goude, I'll be glad
12 to hear from you right now regarding the motion. Mr. Goude
13 say, I have no argument. Then again, he asked Mr. Goude
14 before I -- the one we didn't dealt with, he asked him again
15 did he want say something and he just sit -- do I have
16 anything to say and Mr. Goude said no. Well, the whole time
17 I'm trying to tell Mr. Goude that I want my motion argued, a
18 lack of probable cause.

19 THE COURT: All right. Go ahead, Mr. Boan.

20 BY MR. BOAN:

21 Q: Mr. Robinson, what was conveyed to you regarding the plea
22 offer?

23 A: Nothing was said to me regarding the plea offer. My main
24 concern was to see the DVD tape. He came to visit me one time
25 in county jail and I was asking about my DVD tape.

1 THE COURT: Have you seen the DVD tape?

2 A: I didn't have need to see the DVD.

3 THE COURT: Have you seen it?

4 A: I seen it at trial.

5 THE COURT: All right. You did see it at trial?

6 A: Yeah.

7 THE COURT: And it didn't show you hitting the officer,
8 did it?

9 A: No, I never hit the officer.

10 THE COURT: And it didn't show -- it didn't show you and
11 the officer the whole time either, did it?

12 A: It showed me and officer, it showed the whole thing,
13 showed me and the officer walk up, it showed the officer, it
14 showed me snatched away from the officer and ran, it showed
15 the whole thing, the -- right there, but I didn't had to see
16 the DVD tape because I know I didn't hit the officer.

17 THE COURT: All right, sir. That DVD tape was shown to
18 the jury?

19 A: Yeah, but it prove my innocence because what ---

20 THE COURT: Wait a minute. And the jury didn't -- still
21 convicted you; is that correct?

22 A: But I was trying to make an objection because the
23 Solicitor was all in front of the tape when they was showing
24 it to the jury, they didn't never -- when they presented the
25 tape, presented the tape, they was in front of the tape and

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1 the ---

2 THE COURT: Oh, so, you're saying that they had the tape
3 blocked from the jury?

4 A: I'm saying they showed the tape but they -- when they got
5 to that part, they started talking in front the tape, talking
6 in front of the tape, but I know the tape didn't show me hit
7 the officer because I never did hit the officer.

8 THE COURT: All right, sir. The jury saw the tape.

9 A: And that's why I -- I asked him to subpoena it but --
10 that's presentation of false evidence. You allowed the
11 officer to come on the stand and testify -- when the tape show
12 that I never hit the man. So, therefore, you -- that's
13 miscarriage of justice because I'm locked up for hitting a
14 man, hitting a man that I never hit, but anyway, the law says,
15 like the Judge instructed, a person ---

16 THE COURT: Mr. Robinson, I asked you one question. Was
17 the tape presented in court for the jury?

18 A: Yes, sir.

19 THE COURT: All right, sir.

20 BY MR. BOAN:

21 Q: Mr. Robinson, is there anything else you would like to
22 respond to the testimony of Mr. Goude right now before we
23 conclude our case?

24 A: Yeah. He never presented nothing -- no plea offer to me
25 at all. I never seen no plea offer or nothing. He never

1 negotiated -- the only thing I see -- was disclosed to me, his
2 paralegal, Amber Cox, I went to school with her and, I mean,
3 we were talking on the phone and she -- she disclosed some
4 material to me, Ms. Amber Cox, and the first thing she
5 disclosed to me, it had first offense on it, that's when Ms.
6 Dory (spelled phonetically), whatever her name was, on my
7 case. And then later on, they disclosed another Rule 5 that
8 had third offenses on there or whatever. So, when I had
9 talked to him, the day of pre-trial hearing, he was talking to
10 me, talking to me, talking to me, talking to me, and talking
11 me and I asked him about a plea offer because I didn't -- I
12 was ignorant to the law. I didn't know -- I had know about
13 the anonymous tip but he was telling me his and telling me
14 that and I was like, well, I got a handwritten motion, I want
15 you to argue my motion and if they deny my motion, then I will
16 take any plea because that will be preserved for the record
17 for appeal review. And he said there was no plea, there was
18 no plea, I didn't never get no plea. But my main issue was to
19 get my motion on file and then after my motion was denied,
20 they -- I had that preserved for the record for appeal review
21 because I know a anonymous tip did not establish probable
22 cause and the officer didn't reasonable suspicious to stop me
23 because it was not based on any criminal activity at the time.
24 I was walking down the road, I was minding my business and --
25 Mayo's, it's -- to my momma and them people, you know what I

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1 mean, so I -- it ain't like I'm trespassing on somebody else
2 community when I -- it family community, my aunts, my uncle,
3 my cousin or whatever. And then another thing, when the
4 police had stopped me, I mean, I -- I said, he didn't tell me
5 no rights that I could refuse it, I was trying to leave and he
6 grabbed me and try to force me to come -- he force the arrest.
7 I never touched that man, though, I never touched -- I never
8 touched the police. The only thing I did was snatch away. My
9 jersey came off, I fled and I tripped and fell. I never went
10 in no woods, it was never no woods, or nothing, I tripped and
11 fell right there by the club.

12 THE COURT: We've heard all that, Mr. Robinson.

13 A: Oh, yeah, I was just saying, for the ---

14 MR. BOAN: Your Honor, that's all the questions I have of
15 this witness.

16 THE COURT: You may -- anything you want to ask him, Mr.
17 Johnson?

18 MR. JOHNSON: Could I have one or two follow-ups?

19 THE COURT: Certainly.

20 REPLY CROSS EXAMINATION OF COREY JAWAN ROBINSON BY MR.

21 JOHNSON:

22 Q: Mr. Robinson, as I understand your testimony previously
23 and then just now, you're main complaint is that Mr. Goude
24 only argued his motions, didn't argue yours. And your motions
25 would've been that the stop was illegal, that what was

1 discovered on your person should've been suppressed. But when
2 I look at Page 23, help me understand this ---
3 A: My motion would've been -- my motion would've been ---
4 Q: Let me ask my question.
5 A: All right.
6 Q: Let me ask my question. Now, we're talking about after
7 the officer testified, okay, after the officer testified, Page
8 23, Line 20 -- Mr. Goude is speaking -- illegal stop of Mr.
9 Robinson, illegal chase of him. He was not under arrest.
10 These are arguments from Mr. Goude. He had a right to walk
11 away from the officer if he wanted to since he was not under
12 arrest. And he did walk away and ran away from the officer.
13 If the officer had a right to pat him down when he was talking
14 with him or if Mr. Robinson left and runaway, the officer
15 would no longer be under a threat because Mr. Robinson would
16 be leaving the area and not be in his presence and therefore
17 we say it was an illegal chase. This is Mr. Goude talking.
18 An illegal chase by the police officer of Mr. Robinson,
19 therefore an illegal seizure of Mr. Robinson and therefore, if
20 it were drugs and if it were Mr. Robinson's drugs, they would
21 be fruit of unlawful activity and should be suppressed, should
22 be suppressed. On that grounds, as an unlawful seizure and
23 following from the unlawful seizure and unlawful search of the
24 area where Mr. Robinson was so that we add my motion to Mr.
25 Robinson's handwritten motions, Your Honor -- and he made

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1 those arguments on your behalf.

2 A: What I was saying is that he didn't cite no cases and
3 argue and then the Judge asked him again after that as to a
4 motion that we didn't dealt with including Mr. Goude's
5 motions. He could've argued more and cite cases to back his
6 facts up.

7 Q: Oh.

8 A: And then my motion was lack of probable cause, I was
9 saying under Frank v. -- lack of additional sworn information
10 to the magistrate that the magistrate was misled about the
11 record disregarding the truth to say that these drugs were
12 found in the parking lot when the officer said the drugs was
13 found in the woods on the edge of the woods and behind the
14 club. So, therefore, the person who obtaining the warrants
15 had no knowledge of the incident so he shouldn't never
16 obtained the warrant saying that it was found in my possession
17 located near the parking lot. That's why I was saying lack of
18 probable cause that the magistrate ---

19 Q: I understand. I understand.

20 A: Well, I was saying that the magistrate judge had've known
21 about the anonymous tip that was never disclosed to the
22 magistrate judge ---

23 Q: We're not talking about that.

24 A: He would've never -- that's what I'm talking about.

25 THE COURT: Mr. Robinson, answer the questions.

1 A: That's what my motion ---

2 Q: I've just read from the transcript. Does that refresh
3 your recollection that Mr. Goude did in fact argue these
4 motions on your behalf?

5 A: No, he argued his motion. I'm talking about my motion.
6 My motion didn't dealt with that. That was his motion that
7 that was my motions dealt with that was -- with the probable
8 cause of the arrest warrant being that the magistrate judge
9 was misled by fabrication evidence in the warrant saying that
10 these drugs were found in my possession located in the middle
11 of parking lot when it wasn't. That was my probable cause
12 lack of additional sworn information to the magistrate about
13 the anonymous tip, the 911 tip, that was never disclosed to
14 the magistrate. He never know about this 911 tape. That is
15 not in my warrant. That's what mine deal with. Mr. Goude's
16 deal with illegal stop. My deal with illegal stop, too, being
17 the anonymous tip was -- couldn't been corroborated and
18 observation and surveillance before a forcible stop. That's
19 -- my motion because my motion dealt with before that was
20 dealt with the arrest warrant that didn't establish probable
21 cause to arrest me. And then ---

22 THE COURT: Mr. Robinson, you keep saying that that's
23 your motion and you keep saying that the Court didn't take it
24 up.

25 A: Yeah.

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1 THE COURT: But have you looked at the Court's testimony
2 beginning on Page 28 of the transcript, Line 19, and
3 continuing on through Page 29? Have you looked at that?

4 A: Yeah, I looked at it. He said that ---

5 EXAMINATION OF COREY JAWAN ROBINSON BY THE COURT:

6 THE COURT: And doesn't he clearly say that he's taking
7 up your motions? Doesn't he clearly say or find that there
8 was a 911 call with sufficient particularity for, for, for a
9 -- police to be able to pick out a particular person to stop
10 and question based on that illegal activity described and the
11 description of a person that the officer conducted a proper
12 stop, a proper investigative detention of the defendant and
13 that he was properly and also with consent attempting to do a
14 pat-down search for the officer's safety. He being in an area
15 of Georgetown County that is particularly known for drug
16 activity, criminal activity and persons in possession of guns
17 and/or weapons, that thereafter the Defendant's actions in
18 this matter, when the officer attempted a proper
19 investigation, did an investigation detention and proper
20 search for the officer's safety, assaulted the Defendant
21 thereby committing a crime thereby giving the officer a proper
22 reason to stop and detain the Defendant and therefore, there
23 being probable cause for all the matters for which he was
24 indicted and proper evidence and testimony had been presented
25 to allow the presentation of the evidence seized.

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1 Now, how more specific could Judge John have been in
2 making that ruling on the record?

3 A: Well, it was -- it wasn't a ruling, I'm saying it's a
4 miscarriage of justice because being in a location ---

5 THE COURT: Why didn't you address it on direct appeal?

6 A: Well, because my counsel was ineffective appellate counsel
7 filed an Anders brief and not a merits brief on the case --
8 Penson vs. Ohio. My case was on merits but it was a
9 miscarriage of justice because the United States Supreme Court
10 already ruled on these case of dealing with anonymous tip and
11 where suspicious -- suspicious that I'm in a well-known drug
12 area, not a reason being suspicious to stop and detain me and
13 frisk me.

14 THE COURT: All right. Thank you, sir.

15 A: All right.

16 MR. BOAN: No further questions, Your Honor.

17 THE COURT: And Mr. Johnson has no other questions.

18 MR. BOAN: That's our showing, Your Honor.

19 THE COURT: All right. You may step down.

20 A: Appreciate it.

21 THE COURT: All right. That's your showing, Mr. Johnson?
22 Do you have any witnesses?

23 MR. JOHNSON: We rest, Your Honor.

24 THE COURT: Okay. All right. I find that the
25 Petitioner's grounds for relief are without merit except I

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COREY JAWAN ROBINSON - EXAMINATION BY THE COURT

1 want you each to address for me the issue of whether or not he
2 made a knowing and intelligent waiver of his right to counsel.

3 MR. BOAN: Would you like to hear from me, Your Honor?

4 THE COURT: Yes, Mr. Boan.

5 MR. BOAN: Thank you, Your Honor. This situation involves
6 a Defendant who by his own lawyer's testimony has competency
7 issues. They had to have him evaluated in Columbia and there
8 was some -- clearly some issues regarding his understanding of
9 what was going on. Clearly, there's some misunderstanding of
10 even what the nature of the charges were, whether it was third
11 offense or second offense and while it might be the argument
12 that he got the benefit of that, the fact that it was just
13 never presented to him properly makes it difficult for someone
14 who is gonna represent themselves to do an adequate job
15 representing themselves. When he chose to fire his lawyer, he
16 was not choosing to represent himself. He was simply trying
17 to, in his opinion, get a lawyer that he felt he could trust
18 and a lawyer that he felt was gonna look out for his best
19 interest. Now, it's what's in his mind at the time he makes
20 that decision. He felt at the time he was making that
21 decision that -- from his perspective, this was the only way
22 he was going to be able to get a fair trial. The reality was
23 to knowingly and intelligently waive your right to a trial,
24 you have to ---

25 THE COURT: Counsel.

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1 MR. BOAN: --- to knowingly waive your right to counsel,
2 you have to understand what you're actually waiving. And he
3 did not feel at the time that he was waiving a lawyer that was
4 going to defend him. Now, I'm not gonna disparage Mr. Goude
5 and say Mr. Goude would not have done his best job but at the
6 time the client is making the decision to waive him, the
7 client did not think that Mr. Goude was gonna be able to do a
8 competent job, so he felt that he was forced or coerced into
9 making that decision. Now, he would've gladly accepted
10 additional counsel, he would have probably been well served to
11 have had this matter continued, appointed another counsel or
12 just to be better explained about the consequences ---

13 THE COURT: Didn't Judge John -- didn't Judge John make
14 his relieving Mr. Goude conditional upon Mr. Robinson agreeing
15 that it would not result in a delay of the trial? Isn't that
16 on the record?

17 MR. BOAN: Yes, sir, Your Honor. And that puts him in an
18 awkward position where he had to chose between representing
19 myself or representing someone -- being represented by someone
20 who I personally as a client don't think is going to do a good
21 job for me. Now, if that's really his belief and he's being
22 told you've got one -- you have two choices, you either stick
23 with him, who you don't think is going to do you a good job or
24 you represent yourself because I'm not gonna delay this
25 matter, it forced him into having to take that decision. He

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1 had to say, okay, I'll look out for myself. I think I can do
2 this better than this situation that I believe I'm in. So, he
3 made a decision.

4 THE COURT: What do you think that the Judge was required
5 to place on the record as far as informing Mr. Robinson of his
6 rights? What do you think -- did the Judge have the duty to
7 inform Mr. Robinson of his rights to counsel and the prejudice
8 that he would be placing himself in or the jeopardy he'd be
9 placing himself in if he decided to proceed pro se. You know,
10 we usually have a little litany that we go through when
11 clients want to do that. Did the Judge do it? Was it
12 incumbent upon the Judge to do it? Was it -- what the Judge
13 did adequate to inform Mr. Robinson to knowingly and
14 intelligently waive his right to counsel?

15 MR. BOAN: It was incumbent upon Judge John to express to
16 him that he had to knowingly and voluntarily waive it. And I
17 will represent to the Court from a review of the transcript
18 Judge John did inquire about those questions. Judge John did
19 ask some questions ---

20 THE COURT: All right. Tell me where that is? That gave
21 me some concern. I was reviewing the transcript and I did not
22 see that.

23 MR. JOHNSON: Page 40.

24 THE COURT: Page 4?

25 MR. HOLFORD: Page 4-0.

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1 THE COURT: 40?

2 MR. JOHNSON: Yes, sir.

3 MR. BOAN: Starts on Page 39 and continues on for a few
4 pages from there.

5 THE COURT: Okay.

6 MR. BOAN: Your Honor, a careful review of all of this
7 testimony, you will never see the question asked, Do you want
8 to waive your right to counsel?

9 THE COURT: Yes, sir. I see that he did.

10 MR. BOAN: Where is that, Your Honor?

11 THE COURT: I'm sorry. Your statement was that the Judge
12 never asked him that specifically?

13 MR. BOAN: Yes. The Court never asked Mr. Robinson, does
14 he want to waive his right to counsel.

15 THE COURT: This was the information I was looking for,
16 it's on Page 47, beginning at Line 17, the Court addressing
17 Mr. Robinson, said, All right, sir. Mr. Robinson,
18 understanding all the problems that are associated with
19 representing yourself, the dangers, the pitfalls that are
20 encountered by a person who has no formal training in the law
21 and does not know the rules of procedure, does not know the
22 rules of evidence, does not know how to present things in
23 court, you still want to represent yourself? Mr. Robinson:
24 Yes, sir. -- Very good, I'm going to relieve your attorney and
25 let you represent yourself in this particular matter.

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1 Now, it would appear to me there that Judge John made in
2 inquiry, very specific inquiry after a detailed explanation of
3 Mr. Robinson's right to counsel and advising him of the fact
4 that he should have counsel. He asked him specifically -- as
5 specific as I think you could get there if that's what he
6 wanted to do and Mr. Robinson said he did. So, he relieved
7 Mr. Goude.

8 Now, it's your position that he should've at that time
9 appointed another attorney or told Mr. Robinson that he
10 wouldn't have another attorney. And isn't it sufficient that
11 he said you'll be representing yourself? I mean, doesn't that
12 exchange between the Court and Mr. Robinson make it clear that
13 he'd be representing himself?

14 MR. BOAN: Your Honor, the Court is at that time in an
15 awkward situation. It wants to properly make sure someone has
16 intelligently and knowingly waived their right to trial. At
17 the same time, they want to continue to move the case since
18 the case is ready to be tried and a lot of people are there
19 ready to do the job that was at their hand. The problem we've
20 got is in looking at the whole picture, you've got a Defendant
21 who is having trouble understanding exactly he's been charged
22 with, you've got a Defendant that has had to be evaluated for
23 competency, you've got a Defendant whose own lawyer knows that
24 he's making some bad decisions, and you've got a court that is
25 doing its job in asking a certain set of questions. I don't

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1 disagree, Judge John is fine judge, as all our judges are in
2 this circuit. The question was, did this Defendant knowingly
3 waive his right to counsel and taking in all the
4 considerations of everything that this Defendant could -- all
5 the things that would imply what his level of understanding
6 is, I don't think he understood the ramifications of
7 knowingly, intelligently waiving. Now, did Judge John ask the
8 technically correct questions? No. I think he did except the
9 specific question, Do you realize that you were waiving
10 counsel? He asked him did he want to represent himself and
11 given the two choices that were posed to him, Mr. Goude or go
12 to trial, the only option he had was to say, yes, I will
13 represent myself. That was kind of an imposed decision he had
14 to make. He may've said I know what I'm doing, I'm doing this
15 intelligently, but given the two options that were presented
16 to him -- one, have someone, your lawyer that you have no
17 faith in or take it upon yourself to do it yourself; and the
18 choice that was presented with him was to do it himself.
19 That's -- there is good language in the transcript ---

20 THE COURT: So, you think that the Court should've said,
21 Do you understand that by representing yourself, you won't
22 have a lawyer with you? I mean, what are you -- are you
23 saying that's what the Court should've said?

24 MR. BOAN: I can't think -- I'm not sure of the magic
25 words, Your Honor, that would've helped Mr. ---

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1 THE COURT: But in the -- when we look at it, isn't that
2 the crux of your argument, that he didn't understand that he'd
3 be representing -- by representing himself he wouldn't have a
4 right to an attorney?

5 MR. BOAN: Yes, Your Honor.

6 THE COURT: Okay. All right. Mr. Johnson.

7 MR. JOHNSON: Your Honor, I see this from time to time,
8 not only in a PCR context but in the actual PCR itself where
9 an applicant wants to represent himself. And I -- in the
10 transcript that I've read and the times that I've seen this, I
11 don't think I've ever seen a more detailed exchange of
12 information than what I have here between Judge John and Mr.
13 Robinson. Of, you know, the information that Judge John gave
14 to him, and the questions that Judge John asked to ensure that
15 there was a knowing and intelligent waiver of counsel. And he
16 begins on, just for your reference, Page 40, about 20, 21,
17 getting down to 21, Very good. Do you understand you have the
18 constitutional right to have an attorney present to represent
19 you in court? But what's key is starting around 25, it says
20 you can waive that right if the Court finds that this is a
21 knowing and intelligent decision, you can waive that right to
22 have an attorney present. It was clear from Judge John that
23 Mr. Robinson was not going to have an attorney there. It
24 doesn't surprise me that, and I see this often that someone
25 wants to avail themselves of the benefits of self-

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1 representation and then they want to come in and complain of
2 the burden of self-representation and if we allow that, that
3 would be everyone's out would be to try to get rid of their
4 lawyer, say what they wanted to say and if they lost, they
5 could always come back and say, well, I didn't make knowing
6 and intelligent waiver of counsel. That's really what we have
7 here. But I -- from Page 40, and you mentioned it yourself,
8 Your Honor, to Page 48, is an extensive set of questions where
9 Mr. Robinson is advised of the consequence and given the
10 opportunity really to change his mind and he doesn't change
11 his mind. He still wants to represent himself, still -- Judge
12 John asked him, Have you read the rules of evidence? He
13 indicates that he had, it's been about two months but that he
14 had read the rules of evidence. Judge John asked him, What
15 training do you have? -- trying to get him to understand, you
16 might be making a mistake, but it was up to Mr. Robinson and
17 he made that decision very knowing and completely voluntarily.
18 So the State would take the position this was a knowing and
19 voluntary waiver of counsel and Mr. Robinson can't avail
20 himself of the benefit without also being stuck with some of
21 the burdens of representing yourself.

22 THE COURT: All right. As I look at Mr. Robinson's case,
23 it's my understanding that there are several components of his
24 argument or reasons for seeking relief under his petition.
25 They fit in the two general categories, the first category is

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1 -- or one category is ineffective assistance of Appellate
2 counsel. That seems to be based on the fact that Appellate
3 counsel filed an Anders brief asserting that there was no
4 merit to the arguments that he wanted to set forth. The
5 specific information that I'm provided through this testimony
6 is that she did not allege error on the part of Judge John
7 when he failed to suppress the evidence which was the result
8 of this allegedly illegal search. He complains that there was
9 not enough probable cause to allow the officer to conduct a
10 Terry frisk, essentially that's what the officer did which
11 later evolved into other things. Judge John ruled very
12 clearly on that evidentiary matter. It was addressed
13 substantially in Judge John's transcript or the transcript of
14 this case. I find that his allegations concerning appellate
15 counsel are without merit.

16 The second group would be those allegations made
17 concerning the ineffectiveness of his trial attorney. Of
18 course, the trial attorney was relieved before the
19 presentation of evidence by the State began. He did
20 participate in the selection of a jury as well as the arguing
21 of several motions that had been filed apparently by trial
22 counsel and by Mr. Robinson. He alleges that there was
23 ineffectiveness in the trial preparation. From what I saw
24 from this witness stand, Mr. Goude did substantial trial
25 preparation. He visited the scene, he took photographs, he

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1 prepared motions. He had discussions with the -- his client,
2 his family, concerning the case. He essentially did all of
3 the things that would be apparent to this Court that he
4 should've done. Certainly, there has been nothing to suggest
5 that his performance fell below that of the professional norm.

6 It's also alleged that he did not adequately argue
7 certain motions. That is not borne out by the transcript. As
8 I said earlier, there is substantial testimony and statements
9 in the transcript both of the -- not the testimony, the
10 statements and arguments to and by the Court concerning these
11 motions and they were addressed by Judge John.

12 There's also allegations of conspiracy on the part of Mr.
13 Goude with the Solicitor's office to subvert the selection of
14 his jury. There is nothing to suggest that at all. There is
15 an allegation concerning one juror that he said should not
16 have been struck. Mr. Goude says that he has a detailed list
17 of the jurors that were struck and the reasons which he went
18 through, I find that there is no, nothing to or no merit to
19 that argument.

20 What other arguments did your client have, Mr. Boan?
21 Have I address all of them? And I've already spoken
22 concerning the waiver of his right to counsel. I think Judge
23 John did an outstanding job of informing him of his rights and
24 that his waiver was knowingly and intelligently made.

25 MR. BOAN: Your Honor, there was an argument regarding a

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1 motion in limine designed to exclude certain evidence that it
2 was alleged that the Solicitor presented testimony in
3 contradiction to the judge's order. And that the Judge
4 should've granted the directed verdict and a appeals -- his
5 appeal lawyer should have appealed the issue of the denial of
6 the directed verdict.

7 THE COURT: Those are other issues that go to the
8 effectiveness of his appellate lawyer. And again, I do not
9 think that any of those matters have been shown to have been a
10 breach of the -- our professional norms or that but for any
11 defect, any other result would have come from any appeal.

12 MR. BOAN: Last argument^e, Your Honor, and I'll sit down,
13 was the argument that no evidence was submitted regarding any
14 prior conviction, so there was no certified records to
15 corroborate a prior conviction.

16 THE COURT: Would that not have been, Mr. Johnson, a
17 matter that would've been taken up for sentencing?

18 MR. JOHNSON: It would've, Your Honor. I would also
19 submit that there was no evidence presented today that records
20 Mr. Goude relied upon were incorrect. There was never a
21 dispute about what the Solicitor provided Mr. Goude. They've
22 not shown us anything today that would ---

23 THE COURT: Is there a rule that would say that it has to
24 be a certified record? I mean, when was it used? Was it only
25 used at sentencing? They didn't put it into evidence during

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1 the trial, did they?

2 MR. BOAN: Your Honor, at the very opening statement, Mr.
3 Andrews makes mention, and Mr. Goude spoke to this, makes
4 mention that these are third offenses. Then when they get to
5 the end of the trial, they are -- it's argued that because
6 it's CDR coded in the indictment as a second that it should be
7 treated as a second. In no -- never ---

8 THE COURT: I saw that, Mr. Andrews said that.

9 MR. BOAN: Never did I see where it was presented as fact
10 what his priors were. And it's my understanding if you're
11 gonna be sentenced at an enhanced rate that there should be
12 some reasonable evidence to justify the enhancement. I'm not
13 -- and I -- I don't have a law that says the NCIC is not
14 reliable but I don't have a law or any evidence that says that
15 you can just lean on an NCIC for an enhancement. An
16 enhancement has to be based on actual priors and I'm not sure
17 where those are ever actually presented to the Court except
18 Mr. Andrews in his very beginning says he has two priors.

19 THE COURT: And Mr. Robinson did not object to the
20 statements made by Mr. Andrews at the end of the trial, did
21 he?

22 MR. BOAN: Your Honor, those were -- that was done at the
23 very beginning of the trial when Mr. Goude was still ---

24 THE COURT: How about at the end of the trial when they
25 were, Mr. Andrews was making the comments about the fact that

Robinson v. State - (2011-CP-22-00884)
RULING BY THE COURT

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1 perhaps they should just handle it as a second rather than a
2 third because he was indicted under -- or he had an indictment
3 that had this CDR Code as a second.

4 MR. BOAN: No, Your Honor, he didn't -- he didn't know to
5 make that argument.

6 THE COURT: Wouldn't that be a waiver? He undertook to
7 represent himself, he's held to the same standard as an
8 attorney, wasn't he?

9 MR. BOAN: Your Honor, my thoughts would be this, that if
10 someone is going to be sentenced as a third or as a second,
11 that there should be reliable evidence presented to the Court
12 that there was a second, that this is in fact a second or a
13 third. My understanding is that there was never any evidence
14 presented as to what those priors are. It was stated by Mr.
15 Andrews at the very beginning of the trial but it's not my
16 understanding that it was ever delineated with record or
17 during the trial.

18 THE COURT: So, when it got down to where it really
19 counted, he didn't object?

20 MR. BOAN: No, Your Honor, I don't think he objected nor
21 did the Appellate counsel raise his failure to object on
22 appeal.

23 THE COURT: He didn't object, it wouldn't have been
24 preserved, would it?

25 MR. BOAN: The Appellate counsel has the right to raise

Robinson v. State - (2011-CP-22-00884)
RULING BY THE COURT

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1 arguments that should've been made that weren't and it would
2 -- that's up to their discretion by filing a brief if they so
3 choose.

4 THE COURT: All right. Anything further, Mr. Johnson?

5 MR. JOHNSON: Nothing further.

6 THE COURT: Again, I will deny the relief on all grounds.

7 Have I covered all the grounds? I don't want to leave
8 anything out, but I think I've addressed everything.

9 All right. Thank you, gentlemen.

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(Adjourned.)

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ORIGINAL

Robinson v. State - (2011-CP-22-00884)
CERTIFICATE OF COURT REPORTER

93

C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of Corey Jawan Robinson versus State of South Carolina, held in the Court of Common Pleas for Georgetown County, Georgetown County Courthouse, Georgetown, South Carolina, on April 26, 2013.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.



Kay H. Richardson, CVR

Official Reporter

September 20, 2013.

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

Corey Jawan Robinson, 294233

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
11-CP-22-884**ORDER OF DISMISSAL**

This matter is before this Court by way of an application for post-conviction relief (PCR) filed December 2, 2011. The State made a timely Return. A hearing on the matter was convened at the Horry County Courthouse on April 26, 2013. Applicant was present and represented by Jason P. Boan, Esquire. The State was represented by Tyson Andrew Johnson, Sr., Esquire, of the South Carolina Office of the Attorney General.

Applicant testified on his own behalf at the hearing. His trial counsel, C. Reuben Goude, Esquire, also testified. In addition, this Court had before it the trial transcript, the Clerk of Court's records regarding the subject convictions, the Applicant's records from the Department of Corrections, the PCR application and the State's return.

ALLEGATIONS

Applicant alleged in his Application for PCR that he is being held in custody unlawfully as a result of ineffective assistance of counsel. Applicant provided numerous allegations in his "Amended Attachments to Petition for Post Conviction Relief." Applicant also alleged his appellate counsel was ineffective in failing to file a merits brief on his issues.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

FILED
GEORGETOWN COUNTY, S.C.
JUN -4 AM 11:35
ALEX Y. WHITE
CLERK OF COURT

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing and to closely pass upon their credibility. This Court has weighed the testimony accordingly.

Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (1985).

Ineffective Assistance of Counsel

Applicant alleges his conviction at trial is the result of ineffective assistance of counsel. The burden of proof is on the applicant in a PCR proceeding to prove the allegations in his application. Bell v. State, 321 S.C. 238, 467 S.E.2d 926 (1996); Rule 71.1(e), SCRCP.

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); Judge v. State, 321 S.C. 554, 471 S.E.2d 146 (1996).

In order to prove prejudice, an applicant must show that but for counsel's errors, there is a reasonable probability the result at trial would have been different. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Id. Where trial counsel articulates a valid reason for employing certain trial strategy, such conduct should not be deemed ineffective assistance of counsel. Roseboro v. State, 317 S.C. 292, 454 S.E.2d 312 (1995); Stokes v. State, 308 S.C. 546, 419 S.E.2d 778 (1992).

This Court will now address the allegation of ineffective assistance of counsel:

Applicant represented himself

Applicant alleges that his counsel was ineffective, and refers to him as "pre-trial counsel" in his PCR because Applicant represented himself for his trial. It is clear to this Court that Applicant by making an informed and voluntary decision to fire his lawyer and choosing to represent himself after being thoroughly advised and questioned about this decision by the trial judge, that Applicant's decision was knowing and voluntary, and that Applicant created the peril for which he now complains and blames "pre-trial counsel" for.

First, in the period leading up to trial, Applicant claimed counsel did not convey the state's offer to plea to PWID second to Applicant. This is sharply disputed by counsel, who testified that Applicant was charged with PWID third, resisting arrest, assault and battery of high and aggravated nature, and assaulting an officer, and that he made it clear to Applicant that he had the opportunity to enter a plea to PWID second, but Applicant refused.

Counsel testified that on November 4, 2008 the assistant solicitor handling the case for the State mailed counsel a letter advising that as Applicant has two prior drug convictions for second offense, that if Applicant rejected the plea offer, the State would ask the judge to sentence Applicant under a third offense. Counsel testified he relayed this information and offer to Applicant, but that the offer made no difference to Applicant, who still chose a trial where he represented himself.

Counsel indicated that when the case was called the solicitor announced the charge would be a third offense, and that Applicant was told this and that he was facing a fifteen year minimum. Regarding the offer to plead to PWID second, counsel testified "I told Defendant" and "he said no, I ain't pleading guilty." Applicant now attempts to blame his trial counsel for the resulting verdict consequences of his decision to represent himself.

This Court finds counsel's version of events credible and Applicant not credible. This Court finds Applicant was aware of the consequences of waiving counsel, of proceeding as his own counsel, and the dangers of representing himself and Applicant's testimony to the contrary is not credible. This Court further finds Counsel's testimony credible and gives it great weight. This Court finds counsel relayed the plea offer to Applicant and that Applicant rejected the offer and elected to go to trial, where he lost. This claim is therefore denied.

Next, Applicant claims that counsel failed to argue his motions. The transcript reflects all of Applicant's motions were properly before the trial court, and that counsel gave competent representation in the face of a difficult client who sought to have him relieved. The Court notes that page 23 and 28-29 of the trial transcript reflect counsel submitted all of Applications motions, as well as his own, and the trial court ruled upon all of counsel and Applicants' motions. It is clear all of Applicant's motions were properly before the trial court, and the trial court dealt with those motions, but the court simply disagreed and ruled against Applicant. The record supports counsel's version of the trial, and casts a shadow over the credibility of Applicant's testimony and version of events. Therefore for this and the abovementioned reasons, this Court denied this allegation.

Finally, Applicant claims counsel struck a black male from the jury in some attempt to intentionally sabotage Applicant's case. Counsel in referring to his notes from the jury selection indicated the black male was struck because he was the son of a deputy, and a black female was the cousin of a deputy. In addition to failing to show errors of counsel in this regard, Applicant has failed to show prejudice resulting therefrom. This Court is not moved by Applicant's claims and is instead persuaded by counsel's version of the events, therefore this claim is denied.

Claims against Appellate counsel

Applicant claims his appellate counsel was ineffective for failing to file a merit brief on all Applicant's issues. Applicant provided no legal or factual support for this allegation. It is clear that appellate counsel appointed to represent an indigent defendant in his appeal from a criminal conviction does not have a constitutional duty to raise every non-frivolous issue requested by the defendant. Jones v. Barnes, 463 U.S. 745 (1983). Indeed, an indigent defendant has no constitutional right to compel appointed counsel to press non-frivolous points requested by the client, if counsel, as a matter of professional judgment, decides not to present those points. Id. Appellate counsel's representation will not be deemed ineffective if he makes an informed decision based on reasonable professional judgment not to pursue a particular issue on appeal. Griffin v. Aiken, 775 F.2d 1226 (4th Cir. 1985). Furthermore, under the two part test of Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984), an Applicant must show not only that counsel's performance was deficient, but that this deficiency prejudiced his defense. Applicant has failed to show with credible evidence either error or prejudice resulting therefrom, therefore this claim is denied.

CONCLUSION

Based on the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this Application for Post-Conviction Relief must be denied and dismissed with prejudice.

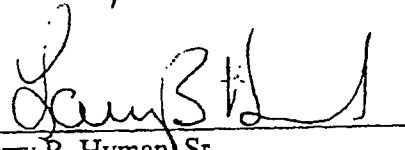
This Court advises the parties that in order to secure the appropriate appellate review, notice of appeal must be served and filed within thirty (30) days after receipt by counsel of notice of entry of this order. See Rules 203 and 243 of the South Carolina Appellate Court Rules. This Court notes that post-conviction relief counsel must advise an applicant of the right

to seek appellate review of a post-conviction relief order. State v. Bray, 366 S.C. 137, 620 S.E.2d 743 (2005). Also, pursuant to Austin v. State, 305 S.C. 453, 409 S.E. 2d 395 (1991), an applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a notice of appeal on an applicant's behalf.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 9 day of May, 2013.


Larry B. Hyman, Sr.
Presiding Judge
15th Judicial Circuit

Conway, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

COREY JAWAN ROBINSON, #294233

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

2011-CP-22-884

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 filed copy of the Order of Dismissal in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Jason P. Boan, Esquire
P.O. Drawer 15849
Surfside Beach, SC 29587

DATED this 18TH day of June, 2013.


Norma Bigbee, Legal Assistant
For Respondent

ARREST WARRANT

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of

Georgetown

THE STATE

against

Corey Jawan Robinson

Address:

Georgetown, SC 29440-

Phone:

Sec

M

Race:

B

Height:

6

Weight:

145

DOB:

DL #:

Agency ORI #:

SC0220000

Prosecuting Agency:

Georgetown County Sheriff

Prosecuting Officer:

Jim Ketcham - 0056

Offense:

Drugs / manufacture, distribution, etc. of cocaine

base, 1st

Offense Code:

3014

Code/Ordinance Sec:

44-53-0375 (B)(1)

This warrant is

CERTIFIED FOR SERVICE

in the

County/ Municipality of

Georgetown

The accused

is to be arrested and brought before me to be

dealt with according to the law.

(L.S.)

Signature of Judge

RETURN

A copy of this arrest warrant was delivered to

defendant

Corey Jawan Robinson

on

6-9-08

Signature of Undersigned Law Enforcement Officer

General Sessions

P. O. Drawer 421270

129 Screven Street, Room 221

Georgetown, SC 29442

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STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of)
 Georgetown)

AFFIDAVIT

Personally appeared before me the affiant Jim Ketcham

being, duly sworn, deposes, and says that defendant Corey Jawan Robinson

did within this County, and state on or about 06/03/2008

violate the criminal laws of the State of South Carolina, in or out of the following particulars:

Drugs / manufacture, distribution, etc. of cocaine base, 1st

ALLEN T. WHITE

CLERK OF COURT

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

THAT ON OR ABOUT JUNE 3, 2008 IN GEORGETOWN COUNTY, WHILE MAKING A LAWFUL ARREST, THE DEFENDANT COREY J. ROBINSON DID HAVE IN HIS POSSESSION TWO INDIVIDUALLY BAGS OF A OFF WHITE IN COLOR ROCK LIKE SUBSTANCE WHICH IS BELIEVED TO CRACK COCAINE WITH THE INTENT TO DISTRIBUTE, LOCATED IN THE PARKING LOT OF MAYO'S CLUB, THIS BEING AGAINST THE PEACE AND DIGNITY OF THE STATE OF SOUTH CAROLINA AND A VIOLATION OF SOUTH CAROLINA CODE OF LAW 44-53-0375 (B)(1). CASE#06080365/ SEALE

Signature of Affiant

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
 Georgetown

Affiant's Address
 430 N. Fraser Street
 Georgetown, SC 29440-
 Affiant's Telephone (843) 436-3600

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

it appearing from the above affidavit that there are reasonable grounds to believe that

on or about 6/3/2008 defendant Corey Jawan Robinson

did violate the criminal laws of the State of South Carolina (or ordinance of) as set forth below:
☒ County/ ☐ Municipality of Georgetown

DESCRIPTION OF OFFENSE: Drugs / manufacture, distribution, etc. of cocaine base, 1st

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 06/04/2008

Signature of Issuing Judge

Isaac Lester Pyatt (Magistrate)

Judge Code: 5899

Judge's Address

Post Office Box 807

Georgetown, SC 29442

Judge's Telephone (843) 545-3381

Issuing Court

Magistrate

Municipal

Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by

Judge

on

Type and Amount

Name of Surety:

Dunn
6/4/108
25,000.00

PRELIMINARY HEARING held by

Judge

on

Defendant Attorney:

Decision:

DISPOSITION before

Judge

on

by

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition:

Sentence:

JURORS

WITNESSES

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

CODEFENDANTS

WITNESSES

Georgetown County Sheriff

DOCKET NO. 2008-GS22-00727 *xl*

The State of South Carolina

County of Georgetown

Dorie Biagiardi

08GG0372

gcb

COURT OF GENERAL SESSIONS

AUGUST, 2008 TERM

ARREST WARRANT NUMBER

JS12017

CDR: 3015 §44-53-0375 (B) (2)

DOI: June 3, 2008

THE STATE

VS.

COREY JAWAN ROBINSON

Georgetown, SC 29440

DOB:

SSN:

B / M

ACTION OF GRAND JURY

TRUE BILL

ATTORNEY: Colvin, Richard F.

Indictment for

POSSESSION OF COCAINE BASE
WITH INTENT TO DISTRIBUTE

Foreperson of Grand Jury

Date:

20

August

2008

VERDICT

Foreperson of Petit Jury

Date:

J. Gregory Hembree, Solicitor

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

INDICTMENT

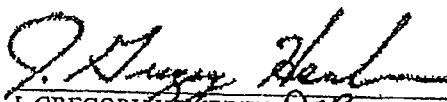
At a Court of General Sessions, convened on August 20, 2008, the Grand Jurors of Georgetown County present upon their oath:

POSSESSION WITH INTENT TO DISTRIBUTE
COCAINE BASE

CDR: 3Q15 44-53-0375(B)(2)

That Corey Jawan Robinson did in Georgetown County on or about June 3, 2008, possess with intent to distribute, dispense or deliver, or did aid, abet, attempt or conspire to distribute, dispense or deliver a quantity of Cocaine Base, a controlled substance under the provisions of Section 44-53-110, et seq., Code of Laws of South Carolina, 1976, as amended, such distribution not having been authorized by law, and being in violation of Section 44-53-375(B), S. C. 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.


J. GREGORY PEMBREE
FIFTEENTH CIRCUIT SOLICITOR

SCANNED

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

IN THE COURT OF GENERAL SESSIONS
FIFTEENTH JUDICIAL CIRCUIT
2008-GS-22-0727

THE STATE OF SOUTH CAROLINA,

v.

COREY JAWAN ROBINSON,

DEFENDANT.

VERDICT FORM

I. POSSESSION OF CRACK COCAINE WITH INTENT TO DISTRIBUTE

On the charge of Possession of Crack Cocaine with Intent to Distribute, we, the Jury, by unanimous consent find the Defendant (*Check only one of the following boxes*):

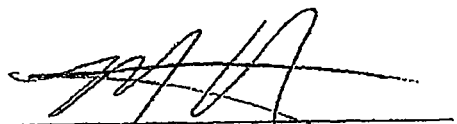
☐

Not Guilty

OR

☒

Guilty.


FOREPERSON'S SIGNATURE

March 17, 2009

Georgetown, South Carolina

NOTE: If the Jury finds the Defendant "Not Guilty" of Item I, Proceed to Item II on Page 2. If the Jury finds the Defendant "Guilty" of Item I, Skip Item II on Page 2 and Proceed to Item III on Page 3.

STATE OF SOUTH CAROLINA

COUNTY OF Georgetown
 STATE VS.
Corey Jawan Robinson

AKA: _____

Race: B Sex: M Age: 24

DOB: _____ SSN: _____

Address: GEORGETOWN, SC 29440DL#: _____ SID#: SC01420243

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE# 2008-GS22-00727A/W#: J512017 2nd Cocaine BaseDate of Offense: 6/3/2008S.C. Code § : 44-53-0375 (B) (1)CDR Code #: 3015

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
 TO: Possession with Intent to Distribute Cocaine Base 2nd OFFENSE

in violation of § 44-53-375 (B) (1) of the S.C. Code of Laws, bearing CDR Code # 3015

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

D. Will Andrew

Defendant

Attorney for Defendant

SC Bar# _____

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 15 ~~months~~ years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ 100.00

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ 6.90§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5.00TOTAL \$ 236.90Candice K. Riley

Clerk of Court/ Deputy Clerk

Court Reporter: Dixie Eubank

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ 20.00 beginning 1mo after release

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel \$35.13 TP
 Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE [Signature]

Judge Code: _____

Sentence Date: 3/17/09SCCA 217 (07/2008)
 SCANNED

ARREST WARRANT

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of

Georgetown

THE STATE

06080265

Corey Jawan Robinson

Address:

Georgetown, SC 29440-

Phone:

Sex

M

Race

B

Height

6

Weight

145

Age

S.C.

DL #

Agency ORI #

SC0220000

Prosecuting Agency:

Georgetown County Sheriff

Prosecuting Officer:

Jim Ketcham - 0056

Offense:

Drugs / Manuf. poss. of other sub. in Sch. I, II, III

or flunitrazepam or analogue, with intent to

Offense Code:

0186

Code/Ordinance Sec:

44-53-0370(b)(2)

This warrant is

CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law.

(L-S.)

Signature of Judge

RETURN

A copy of this arrest warrant was delivered to
 defendant Corey Jawan Robinson
 on 6-4-08

Signature of Court/Clerk/Deputy Clerk

RETURN WARRANT TO:

General Sessions

P. O. Drawer 421270

129 Sctaven Street, Room 221

Georgetown, SC 29442

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Georgetown

Personally appeared before me the affiant Jim Ketchambeing duly sworn, deposes and says that defendant Corey Jawan Robinsondid, within this county, appear on or about 06/03/2008State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

Georgetown

in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Manuf. poss. of other sub. in Sch. I, II, III or flunitrazepam or analogue, with intent to
 distribute, 1st offense

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

THAT ON OR ABOUT JUNE 3, 2008 IN GEORGETOWN COUNTY, WHILE MAKING A LAWFUL ARREST, THE DEFENDANT COREY J. ROBINSON DID HAVE IN HIS POSSESSION TWO SMALL, TAN BAGS OF A GREEN LEAFY SUBSTANCE WHICH IS BELIEVED TO MARIJUANA WITH THE INTENT TO DISTRIBUTE, LOCATED IN THE PARKING LOT OF MAYOS CLUB, THIS BEING AGAINST THE PEACE AND DIGNITY OF THE STATE OF SOUTH CAROLINA AND A VIOLATION OF SOUTH CAROLINA CODE OF LAW 44-53-0370(B)(2).
 CASB#06080365/ SEALE

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Georgetown

Affiant's Address

430 N. Fraser Street

Georgetown, SC 29440-

Affiant's Telephone

(843)436-3600

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

If appearing from the above affidavit that there are reasonable grounds to believe that

on or about 6/3/2008defendant Corey Jawan Robinson

did violate the criminal laws of the State of South Carolina (or ordinance of Georgetown) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Manuf. poss. of other sub. in Sch. I, II, III or flunitrazepam or analogue, with intent to

distribute, 1st offense

Having found probable cause and the above affidavit having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.
 Sworn to and subscribed before me on 6/04/2008

Signature of Issuing Judge

Isaac Lester Pyatt (Magistrate)

Judge Code: 5899

Judge's Address

Post Office Box 807

Georgetown, SC 29442

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

Judge's Telephone

(843)545-3381

BAIL set by

Judge

on

Type and Amount

Name of Surety

PRELIMINARY HEARING held by

Judge

on

Defendant Attorney

Decision

DISPOSITION before

Judge

on

by

(Indicate jury trial, bench trial, plea, not. pros., etc.)

Disposition

Sentence

JURORS

WITNESSES

Name

Address

Telephone

Name

Address

Telephone

Name

Address

Telephone

Name

Address

Telephone

Name

Address

Telephone

Name

Address

Telephone

Name

Address

Telephone

Name

Address

Telephone

CODEFENDANTS

WITNESSES

Georgetown County Sheriff

DOCKET NO. 2008-GS22-00728 XL

The State of South Carolina

County of Georgetown

Dorte Blagant

08G00372

DB

COURT OF GENERAL SESSIONS

AUGUST, 2008 TERM

ARREST WARRANT NUMBER

J512018

CDR: 0187 §44-53-0370(b)(2)
DOI: June 3, 2008

THE STATE

VS.

COREY JAWAN ROBINSON

Georgetown, SC 29440

DOB:

SSN:

B/M

ACTION OF GRAND JURY

TRUE BILL

ATTORNEY: Colvin, Richard F.

Indictment for

POSSESSION OF MARIJUANA
WITH INTENT TO DISTRIBUTE

VERDICT

Person of Grand Jury

Date: 20 Aug 2008

Foreperson of Petit Jury
Date:

J. Gregory Hembree, Solicitor

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

INDICTMENT

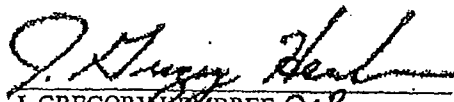
At a Court of General Sessions, convened on August 20, 2008, the Grand Jurors of Georgetown County present upon their oath:

POSSESSION OF MARIJUANA WITH INTENT TO DISTRIBUTE

CDR: 0187 §44-53-0370(b)(2)

That Corey Jawan Robinson did in Georgetown County, on or about June 3, 2008, possess with intent to distribute, dispense or deliver a quantity of Marijuana, a controlled substance under provisions of Section 44-53-110, et. seq., S. C. Code of Laws, 1976, as amended, such possession not having been authorized by law, and in violation of Section 44-53-0370(b)(2), S. C. 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.


J. GREGORY PEMBREE
FIFTEENTH CIRCUIT SOLICITOR

SCANNED

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

IN THE COURT OF GENERAL SESSIONS
FIFTEENTH JUDICIAL CIRCUIT
2008-GS-22-0728

THE STATE OF SOUTH CAROLINA,

v.

COREY JAWAN ROBINSON,

DEFENDANT.

VERDICT FORM

III. POSSESSION WITH INTENT TO DISTRIBUTE MARIJUANA

On the charge of Possession with Intent to Distribute Marijuana, we, the Jury, by unanimous consent find the Defendant (*Check only one of the following boxes*):

☐ Not Guilty

OR

☒ Guilty.


FOREPERSON'S SIGNATURE

March 17, 2009

Georgetown, South Carolina

NOTE: If the Jury finds the Defendant "Not Guilty" of Item III on Page 3, Proceed to Item IV on Page 4. If the Jury finds the Defendant "Guilty" of Item III on Page 3, Skip Item IV on Page 4 and Proceed to Item V on Page 5.

STATE OF SOUTH CAROLINA

COUNTY OF Georgetown
STATE VS.Corey Jawan Robinson

AKA:

Race: B Sex: M Age: 24DOB: SS#:Address: GEORGETOWN, SC 29440DL#: SID#: SC01420243

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008-GS22-00728A/W#: J512018 PRED MarijuanaDate of Offense: 6/3/2008S.C. Code §: 44-53-0370(b)(2)CDR Code #: 2187 0187

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS TO: Possession with Intent to Distribute Marijuana 2nd OFFENSEin violation of § 44-53-370(b)(2) of the S.C. Code of Laws, bearing CDR Code # 2187☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

T. Will
Diagianti, Doris G.
T. Will

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 08-68-22-727☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§ 33.7, 1B TP (Drug Court Surcharge)	\$100	\$ 100.00
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$ 6.90
§ 90.11 TP (SCCJA Surcharge)	\$5	\$ 5.00
TOTAL		\$ 236.90

Candice K. Allen
Clerk of Court/ Deputy ClerkCourt Reporter: Dirie Eubank

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/B beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ 20.00 beginning 1mo after release

\$ _____ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel §35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

3 SCANNED
SPCA 2/10/2008

ARREST WARRANT

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
 Georgetown

Georgetown

 THE STATE against
 06080365

Corey Jawan Robinson

Address:

Georgetown, SC 29440-

Phone:

Sex:

M

Race:

B

Height:

6

Weight:

145

SSN:

DL #:

Agency ORI #:

SC0220000

Prosecuting Agency:

Georgetown County Sheriff

Prosecuting Officer:

Jim Kercham - 0056

Offense:

Resisting / Resisting Arrest, Oppose, resist, or

assault law enforcement officer serving process

Offense Code:

0326

Code/Ordinance Sec:

16-09-0320(A)

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law.

(L.S.)

Signature of Judge

RETURN

 A copy of this arrest warrant was delivered to
 defendant Corey Jawan Robinson
6-4-08

Signature of Constable

RETURN WARRANT TO:

General Sessions

P. O. Drawer 421270

129 Screven Street, Room 221

Georgetown, SC 29442

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
 Georgetown

Personally appeared before me the affiant

Jim Kercham

being duly sworn, deposes and says that defendant Corey Jawan Robinsondid within this county and state on or about 06/03/2008

violate the criminal laws of the

in the following particulars:

☒ County/ ☐ Municipality of
 Georgetown

 A DESCRIPTION OF OFFENSE: Resisting / Resisting Arrest, Oppose, resist, or assault law enforcement officer serving process
 CLERK OF COURT

 I further state that there is probable cause to believe that the defendant named above did commit
 the crime set forth and that probable cause is based on the following facts:

THAT ON OR ABOUT JUNE 3, 2008 IN GEORGETOWN COUNTY, THE DEFENDANT CORY J. ROBINSON DID
 KNOWINGLY AND WILLFULLY ASSAULT LAW ENFORCEMENT DEP. JOHN SEALE BY PUNCHING HIM SEVERAL
 TIMES IN THE FACE WHILE BEING PAT DOWN FOR WEAPONS. THE DEFENDANT DID RESIST ARREST SEVERAL
 TIMES BY RUNNING FROM ME ON NUMEROUS TIMES WHILE PLACING HIM INTO CUSTODY. THIS BEING
 AGAINST THE PEACE AND DIGNITY OF THE STATE OF SOUTH CAROLINA AND A VIOLATION OF SOUTH
 CAROLINA CODE OF LAW 16-09-0320(A).
 CASE#06080365/ SEALE

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
 Georgetown

Affiant's Address

430 N. Fraser Street

Georgetown, SC 29440-

Affiant's Telephone

(843)436-3600

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 6/3/2008defendant Corey Jawan Robinson

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of
 Georgetown

) as set forth below:

DESCRIPTION OF OFFENSE: Resisting / Resisting Arrest, Oppose, resist, or assault law enforcement officer serving process

 Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
 her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
 soon thereafter as is practicable
 Sworn to and subscribed before me
 on 06/04/2008

Signature of Issuing Judge

Isaac Lester Pyatt (Magistrate)

(L.S.)

Judge's Address

Post Office Box 807

Georgetown, SC 29442

Judge's Telephone

(843)545-3381

Issuing Court

☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by

WITNESSES

Judge

on

Type and Amount

Name of Surety

Pian

1000.00 cks

PRELIMINARY HEARING held by

Judge

on

Defendant Attorney

Decision

DISPOSITION before

Judge

on

by

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition

Sentence

JURORS

Name

Address

Telephone

Name

Address

Telephone

Name

Address

Telephone

Name

Address

Telephone

Name

Address

Telephone

Name

Address

Telephone

Name

Address

Telephone

Name

Address

Telephone

CODERENDANTS

WITNESSES

Georgetown County Sheriff

DOCKET NO. 2008-GS22-00729 *X*

The State of South Carolina

County of Georgetown

Dorie Biagianti

08G00372

qeb

COURT OF GENERAL SESSIONS

AUGUST, 2008 TERM

REST WARRANT NUMBER

J512019

CDR: 0256 \$16-09-0320(B)
DOI: June 3, 2008

THE STATE

VS.

COREY JAWMAN BOONSON

Georgetown, SC 29440

DOB:

SSN:

B/M

ACTION OF GRAND JURY

TRUE BILL

ATTORNEY: Colvin, Richard F.

Indictment for

ASSAULT WHILE RESISTING
ARREST

VERDICT

William Kennedy
person of Grand Jury
Date: *20 August 2008*Foreperson of Petit Jury
Date:

J. Gregory Hembree, Solicitor

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

INDICTMENT

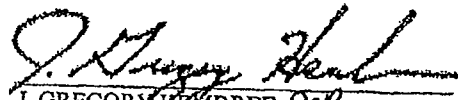
At a Court of General Sessions, convened on August 20, 2008, the Grand Jurors of Georgetown County present upon their oath:

ASSAULT WHILE RESISTING ARREST

CDR: 0256 §16-9-320(B)

That Corey Jawan Robinson did in Georgetown County on or about June 3, 2008, knowingly and willfully assault, beat or wound John Seale, a law enforcement officer of the Georgetown County Sheriff's Office, while said officer was attempting to arrest the defendant, who knew or reasonably should have known the victim was a law enforcement officer, in violation of Section 16-9-320(B), S. C. 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.


J. GREGORY HEMBREE DCB
FIFTEENTH CIRCUIT SOLICITOR

SCANNED

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

IN THE COURT OF GENERAL SESSIONS
FIFTEENTH JUDICIAL CIRCUIT
2008-GS-22-0729

THE STATE OF SOUTH CAROLINA,

v.

VERDICT FORM

COREY JAWAN ROBINSON,

DEFENDANT.

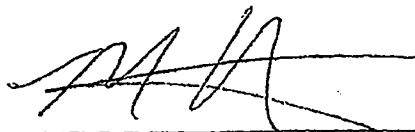
V. ASSAULT OF AN OFFICER WHILE RESISTING ARREST

On the charge of Assault of an Officer while Resisting Arrest, we, the Jury, by unanimous consent find the Defendant (*Check only one of the following boxes*):

☐ Not Guilty

OR

☒ Guilty.



FOREPERSON'S SIGNATURE

March 17, 2009

Georgetown, South Carolina

NOTE: If the Jury finds the Defendant "Not Guilty" of Item V on Page 5, Proceed to Item VI on Page 6. If the Jury finds the Defendant "Guilty" of Item V on Page 5, Skip Item VI on Page 6 and Notify the Bailiff.

STATE OF SOUTH CAROLINA

COUNTY OF Georgetown
STATE

VS.

Corey Jawan Robinson

AKA:

Race: B Sex: M Age: 24DOB: - SS#: -Address: GEORGETOWN, SC 29440DL#: - SID#: SC01420243

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008-GS22-00729A/W#: J512019 Motor Vehicle Assault while Dr. Dr.Date of Offense: 6/3/2008S.C. Code §: 16-09-0320(B)CDR Code #: 0326 256

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS TO: Assault on Police Officer while Resisting Arrestin violation of § 16-9-320(B) of the S.C. Code of Laws, bearing CDR Code # 256☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC) ☐ §17-25-45 w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

T. Will AndrewMagistrate, Dorie G.T. Will Andrew

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 08-GS-22-727☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5%) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ 3.90§ 90.11 TP (SCCJA Surcharge) \$5 \$ 5.00TOTAL \$ 133.90[Signature]

Clerk of Court/ Deputy Clerk

Court Reporter: Dixie Eubank

PRESIDING JUDGE

Judge Code: 1Sentence Date: 3/17/09

SCCA/217 (07/2008)