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SC Court of Appeals

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ANDERSON COUNTY

R. Lawton McIntosh, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

FRANKIE BROOKS, JR.,

APPELLANT

APPELLATE CASE NO.2013-002352

RECORD ON APPEAL

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INDEX

INDEX.....i

GUILTY PLEA HEARING TRANSCRIPT (JULY 15, 2013) .....1

SENTENCING .....44

MOTION TO RECONSIDER TRANSCRIPT (OCTOBER 22, 2013) .....47

RULING BY THE COURT .....56

INDICTMENTS .....59

CERTIFICATE OF COUNSEL.....71

1 State of South Carolina ) In the Court of General Sessions  
2 County of Anderson )  
3 ) Indictments Nos:  
4 ) 2013GS0400053  
5 ) 2013GS0400239  
6 ) 2012GS0400761  
7 ) 2012GS0400764  
8 ) 2012GS0400773, and  
9 ) 2012GS04002137  
10 State of South Carolina )  
11 Plaintiff, )  
12 -vs- ) Transcript of Record  
13 ) Guilty Pleas  
14 ) Sentence of Court  
15 Frankie Brooks, Jr., )  
16 )  
17 )  
18 )  
19 Defendant. )

July 15, 2013  
Anderson, South Carolina

B e f o r e :

The Honorable R. Lawton McIntosh, Judge.

A p p e a r a n c e s :

Rame Campbell  
Assistant 10th Circuit Solicitor  
Attorney for the State

Jennifer Johnson  
Assistant 10th Circuit Public Defender  
Attorney for the Defendant

Robin Sue Hild, FCRR, RPR  
Circuit Court Reporter

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11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Index

Witnesses

Page

Frankie Brooks, Jr.,

Examination by the Court

4

Statement of Facts by Solicitor

12

Sentence of the Court

44

Certificate of Court Reporter

46

Exhibits

No.

Description

Id.

Ev.

No exhibits were introduced.

1   \*\* Start of Requested Certified Transcript of Record \*\*  
2           (Whereupon, the guilty pleas and sentencing  
3           commenced at approximately 3:18 p.m.)

4           **MR. CAMPBELL:** Your Honor, before you stands  
5 Frankie Brooks, Junior. He's pleading on several  
6 Indictments. The first being 2013-53, carjacking; and  
7 2013-239, failure to stop for a blue light. These two  
8 cases were listed on the trial docket for this week.

9           Also, he is pleading in several property crime  
10 cases: 2012-761, grand larceny between two and ten;  
11 2012-764, possession of a stolen vehicle between two and  
12 ten; 2012-773, grand larceny between two and ten; and  
13 2012-2137, receiving of stolen goods between two and  
14 ten.

15           There have been no plea negotiations except that  
16 all the cases are to run concurrent. There is a  
17 restitution amount involved in this case in which we are  
18 seeking a civil judgment in the matter. And I'm also  
19 gonna hand up the driver's license form.

20           **THE CLERK:** Sir, would you please raise your right  
21 hand.

22           (Whereupon, the Defendant was sworn by the Clerk of  
23 Court.)

24  
25

1 Whereupon,

2 Frankie Brooks, Jr.,

3 after first having been duly sworn, testified as

4 follows:

5 Examination by the Court:

6 Q. Are you Frankie Brooks, Junior?

7 A. Yes, sir.

8 Q. I will ask you to speak loudly so I can hear you  
9 and everybody else can. Okay?

10 A. Yes, sir.

11 Q. How far did you go in school?

12 A. Eleventh grade.

13 Q. Do you have a GED?

14 A. No, sir.

15 Q. Before you were incarcerated, did you have a job?

16 A. Not at the time I didn't.

17 Q. When was the last time that you held a job?

18 A. Sir?

19 Q. When was the last time that you held a job?

20 A. It was Electrolux about three months prior.

21 Q. Three months prior?

22 A. (Nodded head.)

23 Q. And so it was roughly the summer of 2012? Does  
24 that sound about right?

25 MS. JOHNSON: There are actually two different

1 incident dates involved in these transactions, Your  
2 Honor. Some are from 2011, and I think it was prior to  
3 the 2011 dates.

4 THE COURT: Okay.

5 By the Court:

6 Q. How long did you work at Electrolux?

7 A. For about eight months.

8 Q. When was the last time you held a job for a period  
9 of a year or more?

10 A. Probably with Robert Mann Roofing.

11 Q. And when was that?

12 A. It was probably from '08 to -- I had it for about a  
13 year and a half.

14 Q. Are you married?

15 A. No. I'm divorced.

16 Q. Do you have any children?

17 A. I have one son.

18 Q. Where does he reside?

19 A. In Greenville.

20 Q. With his mama?

21 A. Yes, sir.

22 Q. Before you were incarcerated did you pay child  
23 support?

24 A. No, sir.

25 Q. You are pleading guilty to a number of charges:

1 one, carjacking; failure to stop for a blue light; grand  
2 larceny between two and ten thousand; possession of a  
3 stolen vehicle valued at between two and ten thousand;  
4 grand larceny between two and ten thousand; and  
5 receiving stolen goods valued at between two and ten  
6 thousand. Is that correct?

7 A. Yes, sir.

8 Q. Do you understand that although there is a  
9 recommendation that you receive concurrent sentences  
10 today, I don't have to do that? I can sentence you to  
11 the maximum time provided by law. Do you understand  
12 this?

13 A. Yes, sir.

14 Q. If my math is correct, it looks like you are  
15 looking at 43 years potentially?

16 A. Yes, sir.

17 THE COURT: Do you disagree with that?

18 MS. JOHNSON: No, sir.

19 By the Court:

20 Q. Knowing that, and knowing I'm not bound by any  
21 recommendation, do you still want to go forward with  
22 your plea?

23 A. Yes, sir.

24 Q. Are you under the influence of any medications,  
25 drugs or alcohol today?

1 A. No, sir.

2 THE COURT: Ms. Johnson, are you satisfied that  
3 Mr. Brooks is competent to plead?

4 MS. JOHNSON: Yes, sir.

5 By the Court:

6 Q. Is there any medication, Mr. Brooks, that you  
7 should be taking that you are not taking?

8 A. No, sir.

9 Q. Has anybody forced, threatened, or promised you  
10 anything to get you to plead guilty?

11 A. No, sir.

12 Q. Are you doing so freely and voluntarily to all six  
13 Indictments?

14 A. Yes, sir.

15 Q. Do you understand that you have a right to a jury  
16 trial on this charge or charges?

17 A. Yes, sir.

18 Q. In fact, you were number one on the roster, trial  
19 roster for this term of court. Do you understand that?

20 A. Yes, sir.

21 Q. If you were to choose to go to trial, the State  
22 would have to prove each and every element of all  
23 charges against you beyond a reasonable doubt before you  
24 could be found guilty. Do you understand that?

25 A. Yes, sir.

1 Q. If you go forward with your plea today, you will  
2 give up or waive your right to have a jury trial with  
3 regard to all six of these Indictments. Has that been  
4 explained to you?

5 A. Yes, sir.

6 Q. Is that what you want to do?

7 A. Yes, sir.

8 Q. Do you freely and voluntarily waive your right to a  
9 jury trial with regard to all six of these Indictments?

10 A. Yes, sir.

11 Q. Mr. Brooks, if you were to exercise your right to a  
12 jury trial on any or all of these Indictments, during  
13 that trial or trials you would have a right to confront  
14 and cross-examine any of the State's witnesses who  
15 testified against you; you would have a right to present  
16 evidence in your own defense; you would have a right to  
17 subpoena people to come to court to testify on your  
18 behalf; and you would have the Fifth Amendment right to  
19 remain silent.

20 Have these rights been explained to you?

21 A. Yes, sir.

22 Q. Do you understand them?

23 A. Yes, sir.

24 Q. Do you understand that if you were to go to trial  
25 on any of these charges and did not testify, the Trial

1 Court would instruct the Jury that they couldn't hold  
2 your failure to testify against you at all and they  
3 couldn't even discuss it in their deliberations? Do you  
4 understand that?

5 A. Yes, sir.

6 Q. Now, if you go forward with your plea today, as a  
7 condition of me accepting this plea you will be required  
8 to admit your guilt to all Indictments that you are  
9 pleading guilty to. Do you understand?

10 A. Yes, sir.

11 Q. Is that what you want to do?

12 A. Yes, sir.

13 Q. Also, if you go forward today, you will waive your  
14 other Constitutional protections I've just gone over  
15 with you. Do you understand that?

16 A. Yes, sir.

17 Q. Mr. Brooks, do you freely and voluntarily waive  
18 your Constitutional rights in favor of pleading guilty  
19 today?

20 A. Yes, sir.

21 Q. Do you have any questions for me?

22 A. No, sir.

23 Q. Do you have any questions of your attorney?

24 A. No, sir.

25 Q. Do you want to go forward with your plea?

1 A. Yes, sir.

2 Q. Has your attorney explained to you that we have a  
3 strike system in South Carolina?

4 A. Yes, sir.

5 Q. And that the charge of carjacking is classified as  
6 most serious and violent. Do you understand that?

7 A. Yes, sir.

8 Q. And, if you were to ever come back with another  
9 most serious, the State could incarcerate you without  
10 the possibility of parole. Do you understand that?

11 A. Yes, sir.

12 Q. Or, if you come back with two more serious, you  
13 could go to jail without the possibility of parole. Do  
14 you understand?

15 A. Yes, sir.

16 Q. Under Indictment 2013-53 are you guilty of  
17 carjacking?

18 A. Yes, sir.

19 Q. Under Indictment 2013-239 are you guilty of failure  
20 to stop for a blue light, first offense?

21 A. Yes, sir.

22 Q. Under Indictment 2012-761 are you guilty of grand  
23 larceny between two and ten thousand dollars?

24 A. Yes, sir.

25 Q. Under Indictment 2012-764 are you guilty of

1 possession of a stolen vehicle valued between two and  
2 ten thousand dollars?

3 A. Yes, sir.

4 Q. Under Indictment 2012-773 are you guilty of grand  
5 larceny between two and ten thousand dollars?

6 A. Yes, sir.

7 Q. Under Indictment 2012-2137 are you guilty of  
8 receiving stolen goods valued between two and ten  
9 thousand dollars?

10 A. Yes, sir.

11 Q. Are you satisfied with the services of your  
12 attorney?

13 A. Yes, sir.

14 Q. Has she reasonably done all that you have asked her  
15 to do?

16 A. Yes, sir.

17 Q. As we stand here in court today, do you have any  
18 complaints about the services that have been rendered to  
19 you on all of these Indictments whatsoever?

20 A. No, sir.

21 Q. Are you totally and completely satisfied with the  
22 services you have received from your attorney?

23 A. Yes, sir.

24 THE COURT: Counsel, have you gone over the  
25 elements of each one of these charges that Mr. Brooks is

1 pleading guilty to with him, explained to him the time  
2 he could get on the charges, and explored whether or not  
3 he has any defenses to these charges, and explained to  
4 him his Constitutional rights?

5 MS. JOHNSON: Yes, sir, I have.

6 THE COURT: And do you agree with his decision to  
7 plead?

8 MS. JOHNSON: Yes, sir, I do.

9 THE COURT: Is there a substantial factual basis  
10 behind it?

11 MS. JOHNSON: Yes, sir.

12 THE COURT: All right. Very good.

13 All right. Mr. Brooks, the Solicitor is going to  
14 go over the facts of this case with me. I'm gonna come  
15 back and ask you whether or not you admit committing  
16 those acts, okay? So listen closely.

17 THE DEFENDANT: All right.

18 THE COURT: Solicitor?

19 Statement of Facts by Solicitor:

20 MR. CAMPBELL: May it please the Court, Your Honor,  
21 just for a couple of housekeeping matters. As a part of  
22 this agreement regarding this plea, we are T-I-C'ing six  
23 other cases that he is involved with.

24 And also I have 293 days? Is that about...

25 MS. JOHNSON: Actually, I have 328 in total

1 including the original arrest.

2 MR. CAMPBELL: Original arrest, okay.

3 THE COURT: 328 --

4 MS. JOHNSON: Yes, sir.

5 THE COURT: -- other...

6 MS. JOHNSON: Total jail days.

7 MR. CAMPBELL: Right. Total jail days he is to be  
8 given credit for.

9 THE COURT: Oh, okay. I thought you said he had  
10 328 other charges.

11 MS. JOHNSON: No, sir.

12 MR. CAMPBELL: No, Your Honor.

13 THE COURT: Okay. I got you.

14 MR. CAMPBELL: And I'll talk about restitution and  
15 his record in a little bit. The Officers who made the  
16 cases are present in the courtroom. I'm gonna let them  
17 give the facts of each of their cases.

18 Starting with the case at hand. Mr. Russell Howard  
19 is the victim in the case. He is present in the  
20 courtroom today. We're dealing with the carjacking  
21 first. And Detective Ray Graham, I'm gonna let him  
22 present the facts; and then Corporal Terry Bowers is  
23 also with the blue light case, he'll be talking to the  
24 Court about that after Mister -- after Detective Graham  
25 gets done.

1 THE COURT: Okay. I'll be glad to hear from you.  
2 Good morning -- good afternoon.

3 DETECTIVE GRAHAM: Thank you, Your Honor. Your  
4 Honor, on the 7th of October at approximately 10:47  
5 Mr. Howard, the victim, was located at Spinx at Highway  
6 153. A White male who was later identified in a photo  
7 line-up as being Mr. Brooks approached him and was  
8 speaking to him about his vehicle. Mr. Howard then went  
9 to get into his 2005 Toyota 4Runner in the driver's  
10 side.

11 At that time Mr. Brooks jumped into the passenger's  
12 side of the vehicle and pulled out a black-in-color  
13 revolver and stated, "You know what this is." Howard  
14 stated that he held his hands up and told the subject to  
15 take what he wanted.

16 At that time Howard states the male subject told  
17 him -- being Mr. Brooks, told him to call for a ride.  
18 Mr. Howard called his girlfriend to have him -- have her  
19 come back up there and pick him up. At that time  
20 Mr. Brooks took his phone and made him get up and exit  
21 out of the vehicle. At that point he left in the  
22 vehicle that he had taken from the victim.

23 THE COURT: All right, sir.

24 Mr. Brooks, did you hear those facts?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Do you admit committing those acts?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Sir, do you -- would you wish to speak?

4 THE VICTIM: Yes.

5 THE COURT: Okay. Would you state your name for  
6 the record.

7 MR. HOWARD: My name is Russell Howard.

8 THE COURT: Okay. Spell your last name.

9 MR. HOWARD: H-o-w-a-r-d.

10 THE COURT: Howard, okay. Go ahead. I'd be glad  
11 to hear from you.

12 MR. HOWARD: This man threatened my life with a gun  
13 and he took my car. And it's affected me pretty  
14 significantly. I don't sleep well anymore. I don't  
15 feel like I'm safe anywhere. I had to purchase a weapon  
16 so I would feel safe in my own home. And he needs to be  
17 put away.

18 THE COURT: Okay. Do you know -- did you ever know  
19 him, knew who he was? Did you ever have any  
20 acquaintances with him or see him out and around?

21 MR. HOWARD: No. Supposedly he went to high school  
22 with me, but I have no recollection.

23 THE COURT: All right, sir. Thank you.

24 MR. CAMPBELL: Corporal Terry Bowers will talk to  
25 you about the blue light --

1 THE COURT: Okay.

2 MR. CAMPBELL: -- which is a continuation of the  
3 carjacking.

4 CORPORAL BOWERS: Yes, sir. It was basically on  
5 that same night, it rolled in to October the 8th, 2012,  
6 a little after midnight. Investigator Dwayne Michael  
7 was in the vicinity of the area of Highway 86 and Old  
8 Williamston Road and believed he observed a; the stolen  
9 vehicle in this case, pulled into the Spinx at Highway  
10 86 and Old Williamston Road behind the car wash. They  
11 took off on him. He had lost them. Came back and  
12 stopped another vehicle that was involved.

13 I posted up on the side of Highway 86 near Highway  
14 17 facing eastbound. That's when the 4Runner that was  
15 taken in the carjacking to begin with approached me  
16 heading west. He had a green traffic signal but he  
17 stopped at that red light -- intersection for  
18 approximately about 30 seconds. Turned southbound  
19 heading in front of me.

20 I thought that was the vehicle. I pulled behind it  
21 and identified the tag, a spoiler off of it, and also a  
22 sticker that was in the lower glass. I knew this was  
23 going to be the suspect vehicle. Mr. Brooks, when he  
24 turned in front of me, that's who I believed it to be  
25 just by the brief visual I had on him; I pursued him for

1 approximately 1.2 miles, if I remember right, with siren  
2 and blue lights in that activated.

3 Turned right on to Highway -- correction -- Wren  
4 School Road. He wrecked the vehicle, bailed out on,  
5 from the driver's side and ran behind the vehicle.

6 I turned on the road right there, saw him. I was  
7 able to identify him from having prior dealings with  
8 him. Speeds in that reached over I'm gonna say around  
9 100 miles an hour. I didn't, can't recall exactly on  
10 that. And no traffic.

11 He ran off into the woods. I tried to pursue. Hit  
12 a wall of briars and had to stop and maintained my  
13 position until other personnel got on the scene. That's  
14 when the tracking team came in and tracked him down.

15 That's all I have.

16 **THE COURT:** Mr. Brooks, did you hear those facts?

17 **THE DEFENDANT:** Yes, sir.

18 **THE COURT:** Do you admit committing those acts?

19 **THE DEFENDANT:** Yes, sir.

20 **THE COURT:** Thank you.

21 **MR. CAMPBELL:** Your Honor, regarding also the  
22 carjacking, once the vehicle was processed, a pistol was  
23 recovered in the center console, it was a Taurus 38.  
24 And also, when they stopped the other vehicle that was  
25 involved, the other individual that was helping him, a

1 Ms. Merck, property from Mr. Howard's vehicle was found  
2 inside her car, so they had stopped at some point and  
3 started swapping, taking property out of Mr. Howard's  
4 vehicle and putting it into her car.

5 Detective Gene Culbertson also, he handled the  
6 property crimes, and if you wanted to go ahead and hear  
7 from him, I'll let him go ahead and do the facts --

8 **THE COURT:** Is there any restitution being sought  
9 in this one; is that right?

10 **MR. CAMPBELL:** We are actually seeking a civil  
11 judgment. At this point I don't know if it's gonna be  
12 contested or not. It's I think really to Duke Energy.  
13 Duke Energy actually, when he wrecked, he actually  
14 rolled the 4Runner one complete time, he had hit a power  
15 pole.

16 Duke Energy at that point, it was a Duke Energy  
17 pole, they actually were after Mr. Howard regarding  
18 restitution regarding that, and at some point they are  
19 now claiming to be a victim in this case and we are  
20 seeking restitution for the damage. It took down a  
21 power line of \$1,377.90.

22 Technically I don't -- do they qualify as a victim  
23 or not? That's kind of what Ms. Johnson and I were  
24 discussing. But, anyway, they are seeking restitution  
25 even though we are seeking a civil judgment because, I

1 mean, I don't really expect it ever to be paid.

2 THE COURT: Okay. Got you.

3 All right, Officer, I'll be glad to hear from you.

4 DETECTIVE CULBERTSON: Thank you, Your Honor.

5 Your Honor, I was investigating a series of motor  
6 vehicle thefts, auto break-ins back in November 2011.

7 Over the course of a week there were approximately 12  
8 incidents that I was investigating.

9 Through investigating all of the various incidents  
10 that went on, I was able to establish Mr. Brooks as a  
11 suspect along with several other Codefendants.

12 One of the charges in which he is pleading guilty  
13 to today was possession of a stolen vehicle, the victim  
14 being Ms. Kathy Jean Monroe (phonetic). The vehicle was  
15 taken from a gas station in Anderson, it was left  
16 running at the gas station. It was determined that  
17 Kenneth Joe Harris (phonetic) and Mr. Brooks was  
18 involved in that one. The vehicle was recovered.

19 The other one was from Larry's Used Cars, Belton  
20 Highway in Williamston. Mr. Brooks along with another  
21 Codefendant went to the location, test-drove the vehicle  
22 and never returned it. I then have some other incidents  
23 similar to that.

24 The third incident, being JPL Investments, which is  
25 also a car dealership, used cars, in which an Audi was

1 taken by Mr. Brooks and another Codefendant. The  
2 vehicle was later recovered after a test-drive. Got the  
3 salesman confused.

4 Over the last four and a half years I have worked  
5 the north end of the County, the Powdersville/Piedmont  
6 area, first as a Road Deputy and then later as an  
7 Investigator. Numerous times Mr. Brooks' name has come  
8 up in several of my cases, several community meetings.  
9 The residents, the citizens are very familiar with who  
10 he is. And I think it would be good for Mr. Brooks to  
11 be incarcerated for a while.

12 **THE COURT:** Mr. Brooks, did you hear the facts  
13 related to me by the Officer?

14 **THE DEFENDANT:** Yes, sir.

15 **THE COURT:** Do you admit committing those acts?

16 **THE DEFENDANT:** Yes, sir.

17 (Discussion off the record.)

18 **MR. CAMPBELL:** Your Honor, there was one more  
19 actually, I can go ahead and do it. There was a  
20 receiving, a possession of stolen goods, two to ten,  
21 it's Indictment Number 2012-2137.

22 Mr. Brooks and his sister were actually seen by the  
23 victim on his motorcycle that had been reported stolen  
24 out of his yard about a month prior. The victim had  
25 actually saw them and started chasing them down and

1 eventually was able to get to a -- they pulled over, I  
2 think it was a CVS parking lot. He had asked someone to  
3 call 9-1-1. They called law enforcement at that time.  
4 He took off. He was identified by the victim as the  
5 person who was on his motorcycle. And that's the  
6 2012-2137, I believe. He worked it, but I think he  
7 missed it on this.

8       **THE COURT:** All right. Mr. Brooks, did you hear  
9 those facts put on the record as to the receiving stolen  
10 goods by Mr. Campbell?

11       **THE DEFENDANT:** Yes, sir.

12       **THE COURT:** Do you admit committing those acts  
13 under that Indictment?

14       **THE DEFENDANT:** Yes, sir.

15       **THE COURT:** Very good.

16       **MR. CAMPBELL:** Your Honor, Detective Wayne Mills,  
17 Lieutenant with the CID of the Sheriff's Office, he  
18 wishes to address the Court, also.

19       Based on -- I'll go ahead and give you his prior  
20 history. He had an '08 DUS; 2010, petit larceny,  
21 shoplifting; 2010, petit larceny; 2011, receiving stolen  
22 goods between two and ten; 2011, obtaining goods under  
23 false pretense, a grand larceny between two and ten. He  
24 was actually on, at the time of this incident, on  
25 probation. He was actually on bond also with the

1 carjacking.

2 At the time we had ten cases pending, property  
3 cases that Detective Culbertson was working. Once the  
4 carjacking was -- he actually was out on bond for these  
5 other cases when the carjacking occurred. So I just  
6 wanted to give the Court that prior previous record.

7 Detective Mills said he wished to address the Court  
8 so I'm gonna let him speak.

9 **DETECTIVE MILLS:** Your Honor?

10 **THE COURT:** Yes, sir.

11 **DETECTIVE MILLS:** It's my job at the Sheriff's  
12 Office to run the Criminal Investigative Division at the  
13 Sheriff's Office. I have to read all these reports and  
14 go through them and assign them accordingly.

15 This morning I pulled up Mr. Brooks' name in our PD  
16 Manager, our report writing system that maintains all  
17 our reports. I got 34 hits on Mr. Brooks from 2009  
18 alone where he is actually listed as the suspect in  
19 these cases. Out of those 34 hits 20 of them he was  
20 actually booked and charged with other cases.

21 Looking back from 2009 to 2012, during that time --  
22 I have a staff of 19 Detectives. Seven of those, seven  
23 different Detectives have been assigned different cases  
24 involving Mr. Brooks. That's a third of my staff from  
25 the Sheriff's Office working on one individual.

1 For you to be a suspect in one case is, you know,  
2 one thing. To be a suspect in 34 is another. So I just  
3 wanted to bring that to your attention, sir. Thank you.

4 THE COURT: Thank you.

5 MR. CAMPBELL: There's also, Your Honor, the matter  
6 of restitution, which we're seeking a civil judgment.  
7 The amount that we had totaled with other cases that we  
8 have agreed to dismiss with regarding him entering into  
9 this plea agreement, we had totaled \$7,171.52 which we  
10 are seeking a civil judgment on.

11 THE COURT: Seven thousand seven --

12 MR. CAMPBELL: \$7,171.52.

13 THE COURT: All right.

14 Mr. Brooks, did you hear that amount being claimed  
15 as restitution in this matter?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you understand, or has it been  
18 explained to you that you have a right to a restitution  
19 hearing?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: During that hearing there would be  
22 testimony taken and a decision would be made as to  
23 whether or not any restitution would have to be paid.  
24 Do you understand that?

25 THE DEFENDANT: Yes, sir.

1           **THE COURT:** Now, if you go forward today with your  
2 plea -- well, that's not true. You have a right to  
3 demand a restitution hearing, you can either do that, or  
4 you can say \$7,171.52 is the correct amount of  
5 restitution. Which way would you like to proceed?

6           **MS. JOHNSON:** Your Honor, if I may interject at  
7 this point? I was presented with a Restitution Order  
8 listing several victims. There are some matters that  
9 Mr. Brooks and I are happy to consent to.

10           There were two matters, specifically one being Duke  
11 Power, the other being the restitution of a Philip Boyer  
12 (phonetic), that's the motorcycle referenced in the  
13 receiving stolen goods. I believe the property was  
14 returned. I don't know if that's -- and it's over  
15 \$3,000 in damages -- well, I guess it's damages since  
16 the property was returned. But those are the only two I  
17 had questions about.

18           **THE COURT:** Why wouldn't you think that Duke Power  
19 would be a victim if he knocked down one of their power  
20 poles and they had to spend that much to put it back?

21           **MS. JOHNSON:** Again, I understand that it was due  
22 to something that my client did. But I think  
23 technically speaking they are not a victim of failure to  
24 stop; the society certainly is a victim of that crime.  
25 And I just don't think that it's appropriate. I mean,

1 certainly think they could sue, anything like that. But  
2 I don't know as for a criminal Indictment where they are  
3 not a victim because he wasn't charged with anything  
4 relative to Duke Power.

5 I mean, if it were malicious damage or something  
6 along those lines, then I could understand under that  
7 theory how they might be entitled to recover through the  
8 criminal system. But I think the way that Mr. Brooks is  
9 charged -- and again, this is not him, this is me  
10 arguing this.

11 THE COURT: Sure.

12 MS. JOHNSON: -- the, I just don't know that we can  
13 have somebody who is not a victim in a case or an actual  
14 party in interest to recover under the criminal system.  
15 Certainly, if they choose to sue him, it sounds like  
16 they probably would have a pretty good case there,  
17 but --

18 THE COURT: Which two victims, Duke Power and this  
19 other motor vehicle?

20 MR. CAMPBELL: Philip Boyter (phonetic).

21 THE COURT: Boyger (phonetic)?

22 MR. CAMPBELL: Boyter. He's the one on 2012-2137.

23 THE COURT: He was the owner of the motorcycle?

24 MR. CAMPBELL: Yes, sir. And that's the number he  
25 provided to us, what he gave us when we sent out the

1 request ---

2 MS. JOHNSON: Right.

3 MR. CAMPBELL: --- on the Victim Impact Form.

4 THE COURT: I got you.

5 MS. JOHNSON: The request on the Victim Impact  
6 Form, right. And I don't know that he has -- and my  
7 understanding is that --

8 THE COURT: You're just disputing the amount on  
9 that?

10 MS. JOHNSON: Well, yes, sir. Well, I mean, I  
11 think there probably is some amount that is due, but I'm  
12 not certain whether that represents damage or whether it  
13 represents replacement cost, whether there was an  
14 insurance recovery or anything like that that might  
15 offset. So, again, this is, I think that's something we  
16 can resolve with a little more information. I don't  
17 know that we necessarily have to have a full-blown  
18 hearing.

19 THE COURT: If you are able to resolve it, if you  
20 all would submit me an Order.

21 MS. JOHNSON: Yes, sir.

22 THE COURT: Otherwise, as to Duke Power or as to  
23 Mr. Boyter, I'm not going to make a finding of  
24 restitution.

25 MS. JOHNSON: Okay.

1           **THE COURT:** If there needs to be a restitution  
2 hearing, we can set that for another date.

3           **MS. JOHNSON:** Okay.

4           **THE COURT:** Anything further from the State?

5           **MR. CAMPBELL:** Your Honor, you heard it all. Like  
6 I say, based on his past record, the fact that he was on  
7 bond, the amount of man hours, officers that are  
8 involved, the fact that he has gone to such a point as  
9 he is using a weapon in the case, we think that the  
10 sentence that is appropriate in this case is the maximum  
11 in this case, Your Honor, based upon he's been given  
12 plenty of opportunities.

13           **THE COURT:** All right. What would be, if you would  
14 subtract the amount of your restitution to Mr. Boyter  
15 and Duke Power and let me know what that figure is in  
16 just a minute, please.

17           **MR. CAMPBELL:** Yes, sir.

18           **THE COURT:** Ms. Johnson?

19           **MS. JOHNSON:** Thank you, Your Honor, may it please  
20 the Court?

21           **THE COURT:** Yes, ma'am.

22           **MS. JOHNSON:** Your Honor, I know that the State is  
23 painting a picture of my client that he is the world  
24 criminal mastermind of Anderson County. And while I do  
25 not dispute that he has been certainly in trouble with

1 the law on a number of occasions, what you heard about  
2 from 2011 regarding the property crimes, taking  
3 something for a test drive and not returning it, taking  
4 something that was running in the parking lot of a  
5 convenience store, up until that point he and this sort  
6 of group, I think it was part of this theft ring that we  
7 heard about a few years ago, part of this larger group  
8 were doing these sorts of property crimes.

9 I'm not here to certainly argue that was in any way  
10 the right thing to do.

11 On the night of the carjacking, though, Mr. Brooks  
12 was under the influence of drugs. He did approach  
13 Mr. Howard in his vehicle, no question that was a scary  
14 and dangerous situation. The weapon was not loaded, and  
15 I know he had no way of knowing that. But they did  
16 recover that weapon shortly after the offense, it was  
17 not loaded.

18 And, as was pointed out during the recitation of  
19 facts in this case, he did give him the opportunity to  
20 call a ride, he didn't leave him stranded in the middle  
21 of nowhere. It was a situation that obviously, although  
22 terrifying, I think it still showed on some level that  
23 Mr. Brooks had some basic concern about not hurting this  
24 individual any, any more than normal.

25 In talking with Mr. Brooks about what has gone on,

1 I mean, basically in 2007 he had some driving charges.  
2 The only time he's been to SCDC was for a 97-day  
3 sentence for driving under suspension.

4 The State is right. He has been out on bond. He  
5 was on actually probation in 2011.

6 But he had four property offenses, I think it was;  
7 obtaining goods by fraud, a receiving, grand larceny,  
8 and I think breaking into a motor vehicle that he pled  
9 to at one time and received a probationary sentence at  
10 that time.

11 And so I think on some level, I mean, I hate to say  
12 he kind of got a slap on the wrist and has gone on, but  
13 I think nothing until this point according to Mr. Brooks  
14 and according to his family members that I've spoken  
15 with had really sort of caught his attention.

16 And I can assure you that the Court, the criminal  
17 justice system has his full attention. From talking  
18 again to Mr. Brooks and family members, they've seen a  
19 real change in him since he's been locked up, just in  
20 his sort of approach to life.

21 He started talking to you about his employment  
22 history. He actually dropped out of school in the  
23 eleventh grade. He joined the National Guard. He did  
24 that for a couple of years. And he met his wife, he got  
25 married and he actually really tried to straighten

1 things up. He grew up in the Easley/Powdersville area.  
2 Then he moved to Anderson. He had a job here. Things  
3 were running okay.

4 But he has had trouble with his license basically  
5 since he was a teen, and so his wife was the only  
6 transportation that they had. She was in school  
7 full-time at Tech. Things just sort of led to some  
8 problems with, you know, transportation becoming an  
9 issue, getting him to work, her to school. She had a  
10 child from a previous relationship and then they had a  
11 child together. And the marriage just sort of under  
12 pressure did not do well. And at that time Mr. Brooks  
13 moved back to Easley and basically kind of got back into  
14 the drug scene and the thieving scene.

15 And that started, sadly, the drug part of it, when  
16 he was about sixteen years old. His far-back story is  
17 that his biological father was not somebody that was not  
18 in his life much, but when he was in his life, it was  
19 not a good thing for any member of his family. He and  
20 his mother both suffered abuse at the hands of his  
21 father. He was actually killed in a car or a motorcycle  
22 accident in two thousand and...

23 **THE DEFENDANT:** 1997.

24 **MS. JOHNSON:** 1997. Sorry. But he was nine years  
25 old when his father was killed in a motorcycle accident.

1           A few years after that his mother remarried, and  
2 that was even harder. The fellow that she married was  
3 involved with methamphetamines and was the one who  
4 introduced Mr. Brooks to using that. He offered him  
5 meth when he was sixteen years old. They started doing  
6 that together out in his shop.

7           And under -- I hate to say under his guidance or  
8 influence, but that's where this sort of small thieving  
9 started. He said he started by taking trailers I think  
10 that his stepfather would point out and things like  
11 that.

12           And so he did get away from it briefly. But when  
13 his marriage fell apart and he moved back home and he,  
14 you know, started using drugs again, it went right back  
15 to the same life that he had been living prior to all  
16 this.

17           And I don't tell you any of this because it's an  
18 excuse for what he's done. It's certainly not an excuse  
19 for what he's done. It doesn't excuse what Mr. Howard  
20 had to go through that night, nor any of the other  
21 victims in his cases.

22           But I tell you his back story so you understand the  
23 person who is before you, the person who is before you  
24 who started doing some things at a young age under some  
25 misguidance is probably a very nice way to put it, and

1 has never really fully addressed that situation. He's  
2 never had any sort of drug or alcohol treatment. He's  
3 never had any prior mental health history or anything  
4 like that.

5 THE COURT: Did you have any indication that there  
6 was a need for any kind of psychological evaluation --

7 MS. JOHNSON: No, sir.

8 THE COURT: -- about his understanding of what's  
9 going on ---

10 MS. JOHNSON: None whatsoever. No, sir. He's  
11 always been engaging in speaking to me and I've never  
12 had any question about his competence, Your Honor.

13 As you can see on the second row here he's got a  
14 lot of family here with him to support him. I think  
15 some of them may like to address the Court, so I would  
16 ask whoever would like to speak to come up to the gate  
17 at this point so they can come around.

18 THE COURT: Would you tell me your name for the  
19 record, please.

20 DEFENDANT'S MOTHER: Sharon Keeler (phonetic).

21 THE COURT: Sharon Kild (phonetic)?

22 DEFENDANT'S MOTHER: Keeler.

23 THE COURT: Okay. I'll be glad to hear from you.

24 DEFENDANT'S MOTHER: I'm Frankie's mother. And I  
25 know he's, he's done wrong, and there's, there's no

1 excuse for it. But I'm saying that, though, he's a good  
2 person. He's got a good heart. I mean, he's always  
3 been, it's really just been me and him. I mean, I feel  
4 like I'm the one to where he went wrong because of my  
5 poor motherhood or judgment that allowed him to be  
6 exposed of the drugs and the start to stealing.

7 I worked 12 or 14 hours a day trying to give him  
8 the best I could. I thought that's what he needed. But  
9 I realize that that's not what he needed. He needed his  
10 mama at home. I carry that burden with me every day,  
11 that he's always been there, even as a baby, to protect  
12 me. I mean, when I was getting struck or he was getting  
13 struck, he was always there to save me or to protect me.

14 And even now, you know, I know he's changed. I  
15 mean, in letters he's wrote me and all, he still worries  
16 more about me, my well-being, and he's abandoned me  
17 because he's not there to protect me or to keep me safe.  
18 That where he doesn't realize that I failed him, he  
19 failed me.

20 And I'm not proud of where he, what he did wrong,  
21 but I am proud of my son, very proud of him, that he  
22 acknowledges it and that he's honest. And if he does  
23 wrong, if he has done, and the crimes he has done, he  
24 will, if I ask him, he doesn't lie to me, regardless,  
25 you know?

1           And I know he has a drug problem, and he  
2 acknowledges it. He has had a hard, tough life since  
3 he's been born. I mean, we both have. I mean, I've  
4 been through counseling, and what he needed I couldn't  
5 provide, I couldn't give him that father figure or that,  
6 that childhood he needed.

7           But at the same time, everything he's seen  
8 happening, he didn't follow that path and be abusive in  
9 that sense. He broke that cycle because he's very  
10 protective, not just -- I mean on any female, mother, it  
11 doesn't matter if he knows them or not. I mean, he'll  
12 give them the shirt off his back. He's even brought  
13 strangers, females to my home because they had nowhere  
14 to go, and he seen they were in a bad situation.

15           And at the same time all I brought in was troubled  
16 kids, criminals, you know, where nobody else wanted  
17 them. At my home they were respectful. I'm not saying  
18 that they didn't do wrong 'cause some of them did. But  
19 I exposed my kids of that.

20           And at that same time I, I am responsible. I  
21 should be the one on trial and doing the time because of  
22 my bad motherhood and my bad judgment and putting my  
23 kids and my son and my daughter of these, of that type  
24 life and in that life-style.

25           He was a kid. I mean, things I didn't know that

1 was going on then I did find out later. How I found  
2 out? My son -- why my son didn't come tell me? He  
3 wanted his mama to be happy. That's all that mattered.

4 I mean, and I've got a terminal illness. He took  
5 care of me before that. I've had nobody but my son to  
6 carry me to bed. He's been my sole provider,  
7 everything. He's a good son, he's a good father.

8 I mean, yes, he's done wrong. I mean, if I stood  
9 before you and told you I haven't done wrong in my life  
10 and made bad choices, and even criminal things, I'd be  
11 lying, because I have. And in saying that, what kind  
12 of, what kind of example did I set for my son?

13 Because my son out of his own mouth has kind of  
14 opened my eyes. He says that, Mom, that's my problem.  
15 You got in trouble. He's always there to come rescue --  
16 Mom, you know, you can't -- he says, you know, you can't  
17 do that.

18 He went to -- was in jail in 2012. When he first  
19 went in 2011 he did not want nobody to bond him out. He  
20 didn't ask. He didn't want nobody to. And --

21 **THE COURT:** Okay. Thank you, ma'am.

22 **DEFENDANT'S MOTHER:** -- I just ask you to please  
23 have mercy on my son and see that he is a good person.  
24 Thank you.

25 **THE COURT:** Okay. Thank you.

1 MS. EADES: Good morning, Your Honor. My name is  
2 Teresa (phonetic) and Frankie is my ---

3 THE COURT: Teresa, what is your last name?

4 MS. EADES: Teresa Eades, I'm sorry.

5 THE COURT: That's okay.

6 MS. EADES: -- and Frankie Brooks is my nephew, and  
7 I used to watch him when he was a child. And, yes, he  
8 has had a tough life. He is my nephew. When I would  
9 baby-sit him, he is the most tender heartest [sic]  
10 person.

11 He, I can remember having a little kitten and he  
12 got killed and he cried all day for two days because of  
13 that little kitten. He does. He has a tender heart and  
14 this is not the Frankie that we know.

15 And I know, I blame it all on drugs, I do, because  
16 Frankie would not never ever do anything like this  
17 without drugs. And I would just like you to know I love  
18 him very much. I've tried to help her take care of him  
19 the best I could. And he has always been welcome at my  
20 home and he still is. And I just want you to know that  
21 this is not Frankie, it's the drugs that caused this.  
22 Thank you.

23 THE COURT: Thank you, ma'am.

24 MS. EADES: Thank you.

25 THE COURT: Yes, ma'am.

1 MS. JOHNSON: Give us your full name before you  
2 speak.

3 DEFENDANT'S GRANDMOTHER: Okay. My name is Lisa  
4 Hamilton. I'm Frankie's grandmother. And I just want  
5 to say something on his behalf.

6 THE COURT: Just take your time.

7 DEFENDANT'S GRANDMOTHER: I know it was drugs.  
8 He's such a great person. He's really a great person.

9 THE COURT: Just take your time.

10 DEFENDANT'S GRANDMOTHER: He's got a good heart.  
11 And I know it was drugs because he is such a good  
12 person. Excuse me. And he's really a great person.  
13 He's got a good heart. And I know it was drugs. Since  
14 he's been in jail I talked to him and had serious talks,  
15 and he tells me he knows he done wrong but it was the  
16 drugs that caused it.

17 (To Victim) And it really hurts him that he did  
18 you that way, and I know he wants to apologize to you  
19 because he told me he did.

20 And I love him with all my heart and I just want  
21 you to have mercy of the Court just to look on the other  
22 side of him, not this bad side that drugs caused him to  
23 be. Because he really is a great guy. He's a loving  
24 person. Everybody that knows him that, you know, that  
25 knows before these drugs, everybody likes him.

1           It's just two sides, the drug side and the good  
2 side, and this is the real Frankie. He's off of drugs.  
3 This is the Frankie we all know. And I wish to God  
4 there was something that could take place of these  
5 drugs. They are destroying our young people.

6           But I just wanted to say that on his behalf because  
7 we do love him and we know the real true Frankie. And I  
8 pray to God that y'all have mercy on him because he is a  
9 good child.

10          And I appreciate it. Thank you.

11          **THE COURT:** Yes, ma'am. Thank you.

12          **MS. JOHNSON:** Thank you, ma'am.

13          **MR. EADES:** My name is Herbert Paul Eades, I'm  
14 Teresa's husband, I'm Frankie's uncle-in-law I guess you  
15 would say.

16          I wasn't gonna say anything because I'm supposed to  
17 be a man. But I can't hardly talk when it comes to him.  
18 And I know all these gentlemen back here has got a job  
19 to do and I guess they do a very good job at it. And  
20 I'm sure that to them and the Court it may look like  
21 Frankie is a terrible person.

22          He's been in our home many a time. I met Teresa  
23 probably I guess maybe 12 years ago or more, and both of  
24 us were divorced and we got, you know, married each  
25 other and that's how I came in this family.

1           And Frankie played ball in Wren High School and he  
2 did a great job, and I would go sit and watch him play  
3 some. And I always had this gut feeling that there was  
4 a problem in the home, you know, and maybe with just him  
5 or something, maybe other students or something. But he  
6 was a straight guy for a long time and I don't know what  
7 happened. I just know he would come to stay with us a  
8 lot and he was a great kid in my home. I got three  
9 foster children.

10           And I talked to him sometimes and I actually cried  
11 and I said, Frankie, you need to -- you know, rather  
12 than getting out and getting in trouble, go to church.  
13 He would go to church with me some and do good for a  
14 good while, you know, different times.

15           And when he would go back home or with his friends,  
16 sometimes I'd hear things that would break my heart.  
17 And I try to be a praying person. I prayed a lot for  
18 that boy.

19           And I guess I've told him before, I said, Frankie,  
20 I love you like a son and I don't know how all this come  
21 about. I don't.

22           But I know I ask for mercy from the Court. And I  
23 don't, I can't even bear to think about him being, you  
24 know, in the prison for a long time. So, but if the  
25 Court would be merciful, I would ask to please, as much

1 as possible. Thank you.

2 THE COURT: Thank you very much, sir.

3 MS. JOHNSON: Thank you, sir.

4 Thank you, Your Honor. Obviously, this isn't new,  
5 and you have heard this before where you have people who  
6 otherwise seem like decent, decent folk and try to do  
7 the right thing and, you know, they start using drugs  
8 and it just completely, completely comes off the tracks,  
9 and it becomes a cycle of using and stealing and using.

10 I guess the only thing, that until 2012 that  
11 there's nothing in his criminal history that ever  
12 suggested any sort of personal violence, any kind of,  
13 there's not even an assault on his record, no charges,  
14 no convictions, anything other than thieving.

15 And why in 2012, on that night of October 7th, he  
16 decided to take someone's property by use of a weapon, I  
17 don't know if he knows at this point. I know, I know  
18 that he was messed up.

19 I know the Codefendant in this case, I mean, she  
20 was so messed up when the police interviewed her that  
21 they had to put her back in the jail cell and try again  
22 later. I mean, they both, both were extremely under the  
23 influence that night.

24 There are some things that Mr. Brooks remembers  
25 better than other things. But, you know, one of the

1 things they did was went through a car wash.

2 There's just not a whole lot of -- exactly. Why go  
3 through a car wash in a stolen car? I mean, there's  
4 just clearly not any rational thought as to what was,  
5 what was going on that night.

6 I'm gonna ask the Court to do something a little  
7 different. Obviously, I'm not -- this is a case where I  
8 don't think there is any doubt in my mind or Mr. Brooks'  
9 for that matter that prison time is appropriate in this  
10 situation. I don't, I'm not gonna suggest otherwise.

11 **THE COURT:** Good.

12 **MS. JOHNSON:** But what I am gonna ask the Court to  
13 consider doing is something a little different, is  
14 giving him time on the property offenses, perhaps even  
15 consecutive time on the property offenses, which would  
16 permit him to serve a nonviolent sentence. It would  
17 permit him, perhaps, to be able to go into some sort of  
18 work release and maybe start working on a little  
19 restitution, maybe start working on something that gives  
20 him the ability to restart his life after a sentence.

21 So the question in my mind is not whether he's  
22 going to prison, it's for how long he's going to prison  
23 and under what terms and conditions he's going to  
24 prison. I would ask the Court to suspend the carjacking  
25 sentence, there's no minimum sentence required with it,

1 to suspend it and run it consecutive to any active  
2 prison sentence.

3 Now, as I've explained to Mr. Brooks, that's, if he  
4 doesn't get his life together, that might be a death  
5 sentence, because if he serves active time and comes out  
6 and doesn't make probation on a sentence that is a  
7 no-parole offense, where there's 20 years hanging out  
8 there, he's, he's rolling big dice in essence.

9 But I'm asking the Court, because I do think this  
10 carjacking incident was something that was just so  
11 completely out of his character and out of his nature,  
12 and maybe he doesn't deserve this chance, but I'm asking  
13 the Court to give him a chance to serve a sentence where  
14 he's still gonna have to serve time. But perhaps he can  
15 do it in a way where he can start making amends for what  
16 he's already done and making a plan for how not to be in  
17 this position in the future.

18 So I would ask the Court to consider doing several  
19 of the property offenses as consecutive sentences, but  
20 suspend the carjacking sentence and run that consecutive  
21 to any active time, suspend that to probation.

22 **THE COURT:** What's the State's position on that,  
23 Mr. Campbell?

24 **MR. CAMPBELL:** We are opposed to it, Your Honor.  
25 He's been given plenty of chances. He's been on

1 probation before. He's done time, come back out and  
2 been put on probation. He was on bond for ten different  
3 incidents, different dates, and still commits this  
4 crime. He actually had a bench warrant when we were  
5 looking for him for this. So we are opposed to that.

6 THE COURT: All right. Anything from Mr. Brooks?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Other than admitting the facts and the  
9 criminal record by the State and the witnesses, do you  
10 have anything you would like to state to me or anybody?

11 THE DEFENDANT: Yes, Your Honor. I would just like  
12 to start off by saying I'm sorry for the crimes I did  
13 commit. I was under the influence. That doesn't  
14 justify it. It's not something that I've ever thought  
15 about doing. It's just something that happened. I am  
16 sorry for it and I know I deserve to be punished, but I  
17 just ask that you all have mercy, please.

18 THE COURT: Anything further?

19 MS. JOHNSON: Nothing further, Your Honor.

20 THE COURT: Ms. Johnson, you make a compelling  
21 argument and I will give that some real consideration.  
22 I actually did.

23 But, quite frankly, the situation we have with  
24 people coming into court, going into prison, coming back  
25 out and re-offending, particularly while they're on

1 bond, after being given the opportunity, the fact that  
2 he's a drug abuser doesn't give him any solace, as you  
3 well know.

4 That being said, this is the same day so obviously  
5 some of the people over here are speaking on behalf are  
6 upstanding people.

7

8 Sentence of the Court:

9

10 THE COURT: Here is the sentence of the Court. I  
11 accept your pleas as freely, voluntarily, knowingly and  
12 intelligently made as to all six Indictments with  
13 supervision and agreement of your attorney with whom you  
14 are well satisfied and find there is a substantial  
15 factual basis for your plea.

16 Under Indictment 2013-53, carjacking, the sentence  
17 is 20 years.

18 All these will be concurrent. Credit for 328 days.

19 There will be restitution with that one. I'm  
20 signing the Restitution Order.

21 On Indictment 239, it's three, which is failure to  
22 stop, concurrent; Indictment 764 is five years, that's  
23 possession of stolen goods between two and ten, is  
24 concurrent; Indictment 761, grand larceny between two  
25 and ten, is five, concurrent; Indictment 773, grand

1 larceny, two and ten, is five years concurrent; and  
2 Indictment 2137, receiving stolen goods, two and ten, is  
3 five years concurrent.

4 Credit on all Indictments, 328 days, and  
5 restitutions under all Indictments. I've signed the  
6 Restitution Order.

7 MR. CAMPBELL: Thank you, Your Honor.

8 MS. JOHNSON: Thank you, Your Honor.

9 THE COURT: Yes, ma'am.

10 (Whereupon, the guilty pleas and sentence of the  
11 Court were concluded at approximately 4:25 p.m.)

12 \*\* End of Requested Certified Transcript of Record \*\*

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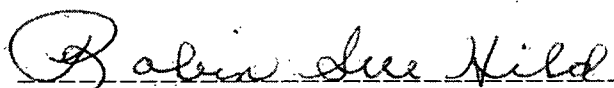
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## Certificate of Court Reporter

I, the undersigned, Robin Sue Hild, Federal Certified Realtime Reporter and Registered Professional Reporter, Official Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the guilty plea and sentencing hearing of the captioned case, relative to appeal, in the Court of General Sessions for Anderson County, South Carolina, on the 15th day of July, 2013.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

February 11, 2014



Robin Sue Hild, FCRR, RPR  
Circuit Court Reporter

STATE OF SOUTH CAROLINA ) IN THE EIGHTH JUDICIAL CIRCUIT  
COUNTY OF ANDERSON ) IN THE COURT OF GENERAL SESSIONS  
) 2012-GS-04-00761,764,773,2137  
STATE OF SOUTH CAROLINA,) 2013-GS-04-00053,00239  
)  
PLAINTIFF, )  
)  
VERSUS )  
)  
FRANKIE BROOKS, JR., )  
)  
DATE: OCTOBER 22, 2013  
DEFENDANT. ) ANDERSON, SOUTH CAROLINA

**MOTION TO RECONSIDER**

**B E F O R E:**

THE HONORABLE R. LAWTON MCINTOSH

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

RAME CAMPBELL, JR., ESQUIRE  
ATTORNEY FOR THE PLAINTIFF

JENNIFER JOHNSON, ATTORNEY AT LAW  
ATTORNEY FOR THE DEFENDANT

PROVIDED FOR: SCCID, PAMELA C. MCKOY

FOR COPIES CONTACT: Jo Rice  
jrice@sccourts.org  
Official Court Reporter  
South Carolina Judicial Department

1 THE COURT: Good morning.

2 MR. CAMPBELL: May it please the Court?

3 THE COURT: Yes, sir.

4 MR. CAMPBELL: We were back before Your Honor on July  
5 15, 2013. This case was actually, it was a carjacking  
6 case. Mr. Brooks was coming up for trial. He entered into  
7 a plea. As a result, he also pled to, besides the  
8 carjacking, a blue light, possession of stolen goods,  
9 criminal conspiracy, grand larceny and possession of stolen  
10 vehicles. As a result of that plea, we also agreed to  
11 dismiss thirteen other charges that were pending against  
12 him. A gun was actually used in the carjacking and as a  
13 result, you heard from the victim at that point in time.  
14 You sentenced Mr. Brooks to 20 years incarceration. He has  
15 been incarcerated ever since. Mr. Culbertson with the  
16 Sheriff's office was actually the arresting officer on that  
17 case, on numerous cases, and he is here representing the  
18 Sheriff's office on their behalf. Afterwards, Ms. Johnson  
19 told me she was going to file a motion, which she did, and  
20 this is the first opportunity we've had to bring it back  
21 before Your Honor.

22 THE COURT: Was this on a straight-up plea?

23 MR. CAMPBELL: Yes, sir.

24 MS. JOHNSON: Well, I think it was a recommendation  
25 for concurrent sentences to what he pled to, but that was

THE STATE OF SOUTH CAROLINA VERSUS FRANKIE BROOKS, JR.

1 the extent of the recommendation from the Solicitor's  
2 office, Your Honor.

3 THE COURT: All right.

4 MS. JOHNSON: May it please the Court.

5 THE COURT: Yes, ma'am.

6 MS. JOHNSON: Your Honor, during that hearing, and I  
7 realize it was a few months ago, there was some material  
8 that was presented to the Court that, frankly, I think was  
9 inappropriate and I should have objected at the time and  
10 because I was caught so off-guard by it, I did not object  
11 and so, basically, in order to protect Mr. Brooks's rights  
12 and to get this matter before the Court, I thought this was  
13 the best mechanism and best way to deal with it.

14 At that time, you may recall, I think that there were  
15 four or five members of the Sheriff's office who were with  
16 Mr. Campbell for that plea. One of them was Wayne Mills,  
17 who was a supervisor there. Because there were a number of  
18 cases, it didn't strike me as odd that Mr. Mills got you  
19 caught up to speed, but he spoke kind of generically on  
20 behalf of the Sheriff's office. One of the things that he  
21 did, however -- and I was not presented with this material  
22 prior to the hearing, he had some sort of spread sheet or  
23 data base, some sort of printout that he had in hand -- and  
24 he said, "Your Honor, we have, I ran his name through our  
25 data base and we have, I think it was something like 32 or

1 34 other cases where he was listed as a person of  
2 interest." He was never charged with those. There was not  
3 sufficient evidence for probable cause to even exist in  
4 those cases and, frankly, I think presenting that material  
5 -- I mean, it's one thing to say, "We're dismissing charges  
6 that exist as a part of a plea agreement. That's an  
7 entirely different matter and that's appropriate to be  
8 before the Court. However, to have law enforcement come up  
9 with no prior notice to me or my client -- and to this day,  
10 I still have not seen a copy of the spreadsheet. I don't  
11 know what kind of program they use or whether that  
12 information was accurate, but in any event, I think  
13 presenting that material was extremely prejudicial, it was  
14 inappropriate and for that reason, again, I should have  
15 objected at the time, but I was completely caught off  
16 guard. My bad that I didn't and for that reason, and I  
17 think you heard fully from the victim in that case of Mr.  
18 Brooks and his family.

19 He does have some family here today. Mr. Brooks'  
20 family, could you stand up? (They comply) Thank you. And  
21 I'm not here, I guess, to kind of reopen the entire plea,  
22 but simply to say that this was a situation where, you  
23 know, and it's hard to unring the bell, frankly. I don't  
24 know how we sort of scrub that information that was  
25 inappropriately before the Court, you know, from the

1 sentencing hearing and so for these reasons, and I will  
2 give you a little more background, because I know it's been  
3 a few months ---

4 THE COURT: Sure.

5 MS. JOHNSON: --- since you've heard this. In  
6 essence, Mr. Brooks had been charged back in 2011 with a  
7 number of auto theft kinds of cases. He, and there were  
8 several other individuals that were involved, basically,  
9 they would go to convenience stores and the like and find  
10 cars that were running and take off in them. There were  
11 several individuals that were involved. We had a number of  
12 charges from the end of 2011. He made bond on those cases  
13 and, I believe, went to Greenville for some period of time  
14 and then was re-arrested here in November of 2012 for the  
15 carjacking events.

16 THE COURT: And those took place after the other ---

17 MS. JOHNSON: The carjacking took place after and he  
18 had actually been continuously incarcerated and so he never  
19 made bond. As a matter of fact, I think his bond may have  
20 been revoked on those previous charges, so he was  
21 continuously incarcerated from that point forward. When we  
22 came before the Court to do the plea -- the thing about the  
23 carjacking that was interesting, the weapon was actually  
24 recovered, it was not loaded, it was not operable and,  
25 again, I understand from a victim's point of view they have

1 no way of knowing that, but it was a situation where Mr.  
2 Brooks did get in the car, but he gave the guy his cell  
3 phone and said, "Call somebody to come pick you up." And I  
4 know maybe there's not a nice way to do that kind of crime,  
5 but it was kind of queer from the surrounding events,  
6 handing the guy the phone and he didn't drive off with him  
7 or try to take him from the scene and, in fact, he gave him  
8 the opportunity to get away from the scene himself and then  
9 he did take off in the car.

10 Of course, he is all wrong here. I'm not trying to  
11 justify what he did, but just to put in perspective that  
12 that offense was vastly different from the offenses, these  
13 car thefts kind of things. It was the first time from the  
14 charges from his criminal history that there had been that  
15 sort of personal violence involved. It had always been an  
16 attempt to not have anybody personally involved in the  
17 situation and his prior -- basically, he had been in SCDC  
18 one time prior to this for 97 days on a driving under  
19 suspension charge and so this is, you know, his first time  
20 he's received a lengthy and active sentence.

21 At the time, I had asked the Court to consider running  
22 some of the non-violent charges consecutively so that he  
23 would still serve a lot of time. He understands that this  
24 is the kind of crime that he deserves to receive a  
25 significant sentence and I'm not stating otherwise, but

1 perhaps permitting him to be in a level of classification  
2 where he would be eligible for, perhaps, work release or  
3 something along those lines.

4 So, anyway, basically, that's the basis for our motion  
5 and we are just asking the Court for any relief in this  
6 situation that the Court can grant.

7 THE COURT: All right. Thank you. Mr. Culbertson, do  
8 you have anything you want to add?

9 MR. CULBERTSON: Your Honor, I feel the sentence was  
10 fair. I'm aware of the spreadsheet she's speaking of that  
11 Lieutenant Wayne Mills had. I was the officer in charge on  
12 numerous grand larcenies of automobiles before the  
13 carjacking. He was out on bond on my charges when the  
14 carjacking was committed. So, I feel if he was granted any  
15 work release, that would be indicative of what might take  
16 place if he's up for it if he's out committing these types  
17 of crimes while he's out on bond, for at least ten grand  
18 larcenies is what I had him charged with.

19 Some of these motor vehicle thefts took place, as I  
20 recall, two of them, I think, occurred within 15 minutes of  
21 each other. So, it was pretty rapid. There were several  
22 vehicles, I'm sure, that he wasn't charged with.

23 MS. JOHNSON: Objection, Your Honor. Again, we are  
24 talking about things that he's not ---

25 THE COURT: Listen. I'm a big boy. I can go through

1 it. Thank you, though. I note your objection for the  
2 record.

3 Let me make sure I'm clear. When I sentenced him back  
4 in July, it was to six counts or six indictments and  
5 thirteen charges or indictments were dismissed?

6 MR. CAMPBELL: That's correct.

7 MS. JOHNSON: Yes, sir. And if I may say, as to  
8 those, for each of these grand larcenies, because there  
9 were co-defendants involved, there was a related conspiracy  
10 count, so the State, you know, it sounds like it was  
11 thirteen cars and it wasn't. There were various counts and  
12 each grand larceny had a conspiracy count that went along  
13 with it.

14 MR. CULBERTSON: I believe it was ten vehicles, each  
15 defendant was charged with grand larceny, but also, there  
16 was a conspiracy attached because a lot of these they  
17 planned before they went to the gas station.

18 MR. CAMPBELL: There were eleven different incident  
19 dates on those indictments.

20 MR. CULBERTSON: I think it was forty charges with all  
21 the defendants.

22 THE COURT: Anything further?

23 MS. JOHNSON: Nothing, Your Honor.

24 THE COURT: Does your client wish to say anything?

25 (Ms. Johnson consults with Mr. Brooks)

THE STATE OF SOUTH CAROLINA VERSUS FRANKIE BROOKS, JR.

1 MS. JOHNSON: No, sir.

2 THE COURT: All right. Let me say several things.  
3 Number one, the sentence came before me with a  
4 recommendation for the plea. I think this case was up for  
5 trial and he pled right the day of trial or right before  
6 trial. Is that correct?

7 MS. JOHNSON: He did, Your Honor, but I will say this,  
8 that a part of that was, it wasn't that he did not want to  
9 enter a guilty plea. We had not had any sort of plea  
10 discussions. As a matter of fact, a plea offer had been  
11 made in February and that was two months before I received  
12 the discovery in the case, so it, you know, there was some  
13 back and forth that went on.

14 And the other thing is this, with sort of a full  
15 disclosure before the Court, he was charged with these,  
16 grand larceny incidents back in 2011 and a year later the  
17 carjacking offense comes up and, lo and behold, which  
18 offense is docketed for trial? The newest ones and I know  
19 we were still working through some of the issues and how  
20 that was going to present but I think for the State to say  
21 they docketed it in that way for any reason other than to  
22 prejudice Mr. Brooks I think is sort of a misnomer and,  
23 frankly, at the time I had spoken with Mr. Brooks and had  
24 the idea of making a motion at that time pursuant to the  
25 Langford decision, that basically, you know, there's no

1 reason not to try the older case first and the only thing  
2 you are doing is trying to gain strategic advantage over my  
3 client by your use of the docketing system which is what  
4 Langford was intended to overcome. Now, Mr. Brooks, to his  
5 credit, said, "I don't want to do that". He didn't want to  
6 sort of play games with the system, if you will, so, yes,  
7 he was on the trial docket, but, you know, there was a lot  
8 that went on behind the scenes about that that, you know, I  
9 don't want the Court to think that he, in some way, was  
10 trying to gain more advantage with the system.

11 THE COURT: I understand. Let me just say this:  
12 Number one, I am denying your motion. I'll tell you why  
13 I'm denying your motion. Number one, he was out on bond  
14 and he picked up these big charges, the use of a weapon,  
15 whether it was loaded or not. The sentence I gave him was  
16 in the range that was recommended to me at the time that he  
17 pled and that was explained to him at that point in time.

18 As to the person of interest information, number one,  
19 that didn't impact on my decision at all. You had a case  
20 where you had a guy who had multiple charges in the past.  
21 He was coming before the Court on six indictments and  
22 thirteen were being dismissed and the charges were fairly  
23 heinous and so I felt like 20 years was the appropriate  
24 amount and I still think that is the appropriate amount of  
25 time and so I note your motion. I deny your motion.

1 I'll tell you Mr. Brooks, that you have ten days to  
2 appeal the sentence and my decision denying your motion.

3 MS. JOHNSON: Yes, sir. Thank you, sir.

THE COURT: Yes, ma'am.

(WHEREUPON, THE HEARING IN THE ABOVE- ENTITLED MATTER  
WAS CONCLUDED.)



DOCKET NO. 2012GS04 00761

The State of South Carolina  
County of Anderson

COURT OF GENERAL SESSIONS

APR 17 2012

Term

THE STATE

vs.

COMMITMENT  
7/15/13 Rt

Frankie Hugh Brooks Jr  
Blw Issued 8/8/12 Rt  
Blw Recalled 7/15/13 Rt

AAM

Indictment for

Larceny/Grand Larceny, value more than \$2,000  
but less than \$10,000

SC Code: 16-13-30(B)  
CDR Code: 3420

59

WITNESSES

F G Culbertson, Anderson County Sheriff's Dept.

ARREST WARRANT NUMBER

J894235

ACTION OF GRAND JURY

TRUE BILL

APR 17 2012

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF Anderson )

## INDICTMENT

At a Court of General Sessions, convened on APR 17 2012, the Grand Jurors of Anderson County present upon their oath:

**Larceny/Grand Larceny, value more than \$2,000 but less than \$10,000**

That Frankie Hugh Brooks Jr did in Anderson County, on or about November 16, 2011, feloniously take and carry away the personal property of JLP Investments, to wit: a 2001 Audi A6 vehicle, with a total value of more than Two Thousand Dollars but less than Ten Thousand Dollars with the intent to deprive the owner permanently of such property. This is in violation of 16-13-30 of the South Carolina Code of Laws (1976) as amended

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
 ASSISTANT SOLICITOR

61

**WITNESSES**

R Anderson, Anderson County Sheriff's Dept.

**ARREST WARRANT NUMBER**

J911175

**ACTION OF GRAND JURY**

TRUE BILL

APR 17 2012

Foreperson of Grand Jury  
Date:

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO. 2012GS04 00764

**The State of South Carolina  
County of Anderson**

**COURT OF GENERAL SESSIONS  
APR 17 2012**

**Term**

**THE STATE**

**vs.**

Frankie Hugh Brooks Jr

Blw Issued 8/8/12-RT  
Blw Recalled 7/15/13-RT

COMMITMENT

7/15/13-RT

AAM

**Indictment for**

**Vehicle/Poss., conceal, sell., or dispose of  
stolen vehicle, value more than \$2,000 but less  
than \$10,000**

SC Code: 16-21-0080  
CDR Code: 3467

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF Anderson )

## INDICTMENT

At a Court of General Sessions, convened APR 17 2012, the Grand Jurors of Anderson County present upon their oath:

**Vehicle/Poss., conceal, sell, or dispose of stolen vehicle, value more than \$2,000 but less than \$10,000**

That Frankie Hugh Brooks Jr did in Anderson County, on or about November 21, 2011, willfully and unlawfully receive, possess, conceal, sell or dispose of a motor vehicle belonging to Cathey Monroe, described as a 2005 Mazda M3, valued at more than \$2,000 but less than \$10,000. Frankie Hugh Brooks Jr not being entitled to possession of the vehicle and knowing the vehicle to be stolen or converted under circumstances constituting a crime. This is in violation of 16-21-0080 of the South Carolina Code of Laws (1976) as amended

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ASSISTANT SOLICITOR

63

**WITNESSES**

F G Culbertson, Anderson County Sheriff's Dept.

DOCKET NO. 2011GS04 00773

**The State of South Carolina  
County of Anderson**

**COURT OF GENERAL SESSIONS**

APR 17 2012  
Term

**ARREST WARRANT NUMBER**

J894239

**THE STATE**

vs.

COMMITMENT  
7/15/13-RT

Frankie Hugh Brooks Jr

Blw Issued 8/8/12-RT  
Blw Recalled 7/15/13-RT

**ACTION OF GRAND JURY**

TRUE BILL

APR 17 2012

Foreperson of Grand Jury  
Date:

AAM

**Indictment for**

**VERDICT**

**Larceny/Grand Larceny, value more than \$2,000  
but less than \$10,000**

SC Code: 16-13-30(B)  
CDR Code: 3420

Foreperson of Petit Jury  
Date:

STATE OF SOUTH CAROLINA )  
COUNTY OF Anderson )

INDICTMENT

At a Court of General Sessions, convened on ~~Nov 17 2012~~ <sup>APR 17 2012</sup>, the Grand Jurors of Anderson County present upon their oath:

**Larceny/Grand Larceny, value more than \$2,000 but less than \$10,000**

---

That Frankie Hugh Brooks Jr did in Anderson County, on or about November 14, 2011, feloniously take and carry away the personal property of Larry's Used Car's , to wit: a 2001 Chevrolet Monte Carlo, with a total value of more than Two Thousand Dollars but less than Ten Thousand Dollars with the intent to deprive the owner permanently of such property. This is in violation of 16-13-30 of the South Carolina Code of Laws (1976) as amended

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
ASSISTANT SOLICITOR

DOCKET NO. 2012GS04 02137

**The State of South Carolina**

**County of Anderson**

**COURT OF GENERAL SESSIONS**

**OCT  
Term 2 3 2012**

**THE STATE**

**vs.**

**Frankie Hugh Brooks Jr**

**COMMITMENT**

*7/15/13 - RT*

**AAM**

**Indictment for**

**RSG/Receiving stolen goods, value more than  
\$2,000 but less than \$10,000**

**SC Code: 16-13-0180(A)  
CDR Code: 3426**

65

**WITNESSES**

**F G Culbertson, Anderson Co. Sheriff's Office**

**ARREST WARRANT NUMBER**

**J931433**

**ACTION OF GRAND JURY**

**TRUE BILL**

**OCT 23 2012**

**Foreperson of Grand Jury  
Date:**

**VERDICT**

**Foreperson of Petit Jury  
Date:**



DOCKET NO. 2012GS04 00053

The State of South Carolina  
County of Anderson

COURT OF GENERAL SESSIONS

JAN 22 2013

Term

THE STATE

vs.

Frankie Hugh Brooks Jr

COMMITMENT

7/15/13-RT

RLC

Indictment for

Carjacking / Take or attempt a vehicle from  
person by force

SC Code: 16-03-1075(B)(1)  
CDR Code: 2599

67

WITNESSES

R Graham, Anderson Co. Sheriff's Office

ARREST WARRANT NUMBER

J913122

ACTION OF GRAND JURY

JAN 22 2013  
*Don Pettit*

Foreperson of Grand Jury  
Date:

VERDICT

Foreperson of Petit Jury  
Date:

STATE OF SOUTH CAROLINA )  
 COUNTY OF Anderson )

## INDICTMENT

At a Court of General Sessions, convened on JAN 22 2012, the Grand Jurors of Anderson County present upon their oath:

**Carjacking / Take or attempt a vehicle from person by force**

---

That Frankie Hugh Brooks, Jr. did in Anderson County, on or about October 7, 2012, take or attempt to take a motor vehicle, a Toyota 4-Runner, from Russell Alan Howard by force and violence or by intimidation while Russell Alan Howard was operating and/or was in the said vehicle. This is in violation of §16-3-1075(B)(1) of the *South Carolina Code of Laws (1976)*, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

*Pamela Campbell*

ASSISTANT SOLICITOR

DOCKET NO. 2012GS04 00239

The State of South Carolina  
County of Anderson

COURT OF GENERAL SESSIONS  
FEB 19 2013

Term

THE STATE

vs.

Frankie Hugh Brooks Jr

COMMITMENT

7/15/13 RT

RLC

Indictment for

Traffic / Failure to stop for a blue light, no injury  
or death

SC Code: 56-05-0750(B)(1)  
CDR Code: 0065

69

WITNESSES

T Bowers, Anderson Co. Sheriff's Office

ARREST WARRANT NUMBER

J913120

ACTION OF GRAND JURY

TRUE BILL

FEB 19 2013

*D. L. [Signature]*

Foreperson of Grand Jury  
Date: Foreperson

VERDICT

Foreperson of Petit Jury  
Date:

STATE OF SOUTH CAROLINA )  
COUNTY OF Anderson )

INDICTMENT

At a Court of General Sessions, convened, on **FEB 19 2012**, the Grand Jurors of Anderson County present upon their oath:

**Traffic / Failure to stop for a blue light, no injury or death**

---

That Frankie Hugh Brooks, Jr. did in Anderson County, on or about October 8, 2012, while driving a vehicle on a road, street, or highway of this state; did fail to stop when signaled by a law enforcement vehicle by means of a siren or flashing light. All in violation of 56-5-750(b)(1), *Code of Laws of South Carolina (1976)*, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

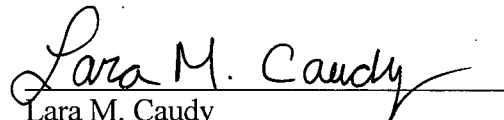


ASSISTANT SOLICITOR

## CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

May 22, 2014

  
Lara M. Caudy  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Anderson County

R. Lawton McIntosh, Circuit Court Judge

RECEIVED

MAY 22 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

FRANKIE BROOKS, JR.,

APPELLANT

APPELLATE CASE NO.2013-002352

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 22nd day of May, 2014.

*Brandon Hall*

Brandon Hall  
Administrative Specialist

SUBSCRIBED AND SWORN TO before me  
this 22nd day of May, 2014.

*[Signature]* (L.S.)

Notary Public for South Carolina  
My Commission Expires: July 24, 2022.