

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Spartanburg County

R. Lawton McIntosh, Circuit Court Judge

RECEIVED

AUG 26 2014

S.C. Supreme Court

RONNIE GOGGINS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-002756

APPENDIX

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1 STATE OF SOUTH CAROLINA)
 2 COUNTY OF SPARTANBURG) COURT OF GENERAL SESSIONS

3
 4 STATE OF SOUTH CAROLINA,)
 5 PLAINTIFF,)
 6 VS.)
 7 RONNIE L. GOGGINS,)
 8 DEFENDANT.)
 9

TRANSCRIPT
 OF
 RECORD
 09-GS-42-1068

10
 11 October 14th, 2009
 12 Spartanburg, South Carolina

13 B E F O R E:

14 THE HONORABLE ROGER L. COUCH, Judge, and a jury.

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

16 MATT KENDALL
 17 ASSISTANT SOLICITOR
 18 Attorney for the State

19 ROBERT HALL
 20 ASSISTANT PUBLIC DEFENDER
 21 Attorney for the Defendant

22
 23
 24 PAMELA E. GREEN
 25 Circuit Court Reporter
 Seventh Judicial Circuit

I N D E X O F W I T N E S S E S

(There were no exhibits marked or testimony taken
during this hearing.)

1 PROCEEDINGS

2
3 THE COURT: Yes, sir, Mr. Hall.

4 MR. HALL: Your Honor, this, again, is a speedy trial
5 motion. This is another one of the cases that has come up
6 several times. He's been in jail. Matter of fact, today is
7 the anniversary and he has been unable to make bond. And
8 we, again, want to make, ensure that we don't have another
9 case put off because they can't find the victim.

10 Mr. Goggins, as I said, has been ready to go to trial
11 since it, six months ago when it came up the first time.
12 We've been anxious---

13 THE COURT: Let me see what the State has to say about
14 giving this gentleman a speedy trial.

15 SOLICITOR KENDALL: Well, Your Honor, this case is
16 currently on the docket for October 26th, Number 24, which
17 makes him the 15th defendant overall. Mr. Ellis, who is
18 currently handling the case, has also tried to put it on the
19 docket for November 9th. Because you can't be on two
20 dockets at the same time he's been unable to do that.

21 Subpoenas have been sent out in this case on three separate
22 times. He's been ready for trial since early June. Just
23 hasn't been able to go yet. We're actively trying to push
24 this case forward as fast as possible.

25 THE COURT: Okay. Well, again, I won't continue

1 Goggins unless someone dies or something un, untoward
2 happens.

3 MR. HALL: Okay.

4 THE COURT: So, get it moved up as quickly as possible.
5 Tell the State to be ready.

6 SOLICITOR KENDALL: Yes, sir. Yes, sir, Your Honor.

7 MR. HALL: Thank you, Your Honor.

8 SOLICITOR KENDALL: Thank you, Your Honor.

9 THE COURT: All right.

10

11 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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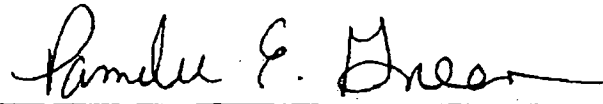
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I, Pamela E. Green, Official Court Reporter for the seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the court of General Sessions for Spartanburg County, South Carolina, on the 14th day of October, 2000

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

August 11th, 2010



PAMELA E. GREEN, Court Reporter

1 STATE OF SOUTH CAROLINA
2 COUNTY OF SPARTANBURG

COURT OF GENERAL SESSIONS

4 STATE OF SOUTH CAROLINA,
5 PLAINTIFF,
6 vs.
7 RONNIE L. GOGGINS,
8 DEFENDANT.

TRANSCRIPT

OF

RECORD

09-GS-42-1068

10 October 28th and 29th, 2009
11 Spartanburg, South Carolina

12
13 B E F O R E :

14 THE HONORABLE ROGER L. COUCH, Judge, and a jury.

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

16 ZACH ELLIS
17 ASSISTANT SOLICITOR
18 Attorney for the State

19 ROBERT HALL
20 ASSISTANT PUBLIC DEFENDER
21 Attorney for the Defendant

22
23
24 PAMELA E. GREEN
25 Circuit Court Reporter
Seventh Judicial Circuit

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
	<u>State's Exhibits</u>		
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(whereupon, the following takes place outside the presence of the entire jury panel.)

THE COURT: All right. Mr. Hall, has your client been arraigned on the charges?

MR. HALL: Yes, sir, it's my understanding he was arraigned in Magistrate's Court after he was arrested October 11th.

THE COURT: And I assume he is pleading not guilty and demanding a trial by jury?

MR. HALL: Yes, sir.

THE COURT: All right. Have you -- do you wish to have any specific voir dire other than---

MR. HALL: No, sir.

THE COURT: ---what we talked about in the pretrial conference?

MR. HALL: Just victim of violent crime and Mr. Ellis and I looked at his voir dire number two.

THE COURT: Uh-huh. (Affirmative).

MR. HALL: Since we don't anticipate calling witnesses and I always had a problem with the way that sentence states defendant's witnesses---

THE COURT: I won't, I won't, I won't ask it in that fashion.

1 MR. HALL: Yes, sir, and that's the only issue there.

2 SOLICITOR ELLIS: Just as more for the record and also
3 Mr. Hall's benefit as well, there were two charges initially
4 brought in this case, armed robbery and also pointing and
5 presenting a firearm. The State's only planning to proceed
6 on the armed robbery charge alone. The firearm charge,
7 we're not going forward on that, Your Honor.

8 THE COURT: Okay. Does that mean you're going to not
9 prosecute it?

10 SOLICITOR ELLIS: Yes, sir.

11 THE COURT: All right. Anything else, gentlemen,
12 before I bring the jury panel in?

13 SOLICITOR ELLIS: Not from the State, Your Honor.

14 MR. HALL: Nothing from the defense.

15 THE COURT: Okay. Bailiffs, you can bring the jury
16 panel in.

17 (Pause.)

18 THE COURT: 21 and -- gentlemen?

19 Gentlemen?

20 SOLICITOR ELLIS: Yes, sir.

21 THE COURT: Twenty-one and seventy-six are not gonna be
22 here. So, they're not in the pool any longer for this case.

23 Do you have the indictment, Mr. Ellis?

24 SOLICITOR ELLIS: Your Honor, I gave it to the clerk
25 earlier. It's right here.

1 THE COURT: Pass it up.

2 SOLICITOR ELLIS: May I approach?

3 THE COURT: Yes, sir, thank you.

4 SOLICITOR ELLIS: And Your Honor, just to avoid
5 confusion when you, on the calling of the names of the
6 witnesses, number three on our list is -- the last name is
7 pronounced Hrycaj.

8 THE COURT: Hrycaj?

9 SOLICITOR ELLIS: Hrycaj, yes, sir.

10 THE COURT: Hrycaj?

11 SOLICITOR ELLIS: Yes, sir, that's correct, isn't it?

12 WITNESS: Yes, sir.

13 THE COURT: All right.

14 (Whereupon, the following takes place within the
15 presence of the jury.)

16 THE COURT: We're about to begin the trial of the case
17 of the State of South Carolina versus Ronnie L. Goggins.
18 There's some questions that I'm going to ask you that
19 pertain specifically to this case and it is necessary that
20 I, I show on the record that the answers to my questions are
21 truthful, honest, and complete. And so, therefore, it's
22 necessary that you take an oath at this time concerning your
23 responses to these questions I'm about to ask.

24 Madam Clerk, please swear the prospective jury panel
25 for that purpose.

1 (Whereupon, the jury panel was placed under oath at
2 this time.)

3 THE COURT: Now, if there was any member of the
4 prospective jury panel who failed or refused to take the
5 oath just administered by the clerk, I'd ask that you now
6 please stand.

7 (No response.)

8 THE COURT: All right. The Court record then will
9 reflect that all jurors have been sworn for purposes of my
10 questioning at this time.

11 Now, before I begin the questioning I'm going to have
12 the attorneys who are involved in the trial of this case
13 introduce themselves, and in the case of the defendant, I'll
14 ask the defense attorney to introduce the defendant to the
15 jury panel as well.

16 For the State.

17 SOLICITOR ELLIS: Thank you, Your Honor. Please the
18 Court.

19 Good afternoon. My name is Zach Ellis and I represent
20 the people of South Carolina.

21 THE COURT: And I believe you work in the
22 Seventh Circuit solicitor's Office, is that correct?

23 SOLICITOR ELLIS: Yes, sir, it is.

24 THE COURT: All right. Mr. Hall.

25 MR. HALL: Thank you, Your Honor.

1 I'm Robert Hall. I'm an attorney here. I represent
2 Mr. Ronnie Goggins.

3 THE COURT: Sir, if you would, please stand and turn so
4 the jury panel can put a face with your name.

5 (Defendant complies.)

6 THE COURT: Thank you very much.

7 Now, as I ask the questions that I'm about to ask, I
8 will be asking that if you have a response to those
9 questions I'll ask that you stand. It will be necessary
10 that I put your name and number on the record before I
11 receive your response.

12 Now, before I begin my questioning as well, I'm going
13 to go over with you the indictment that's in this case,
14 that's been issued in this case. The indictment is the
15 document that brings the case before the Court for trial.
16 It informs the defendant of the charge that's been lodged
17 against the defendant, and it informs this Court of the, of
18 the charge to be tried.

19 I will advise you at this time that an indictment can
20 not be used by a jury in any fashion in determining the
21 guilt or the innocence of someone charged in that
22 indictment. It simply is the formal document again that
23 brings the case before the Court.

24 The indictment in this case is in Case Number
25 09-GS-42-1068. The charge is armed robbery. The indictment

1 states that Ronnie L. Goggins did, in Spartanburg County, on
2 or about August the 2nd of 2008, while armed with a firearm,
3 feloniously take property and or currency from the person or
4 presence of Albert Geter, to wit, money, by means of force,
5 violence, and/or intimidation with the intent to deprive him
6 permanently of such property in violation of Section
7 16-11-330(a) of the Code of Laws of South Carolina, 1976 as
8 amended, against the peace and dignity of the State and
9 contrary to the statute in such case made and provided.

10 Again, that's the charge that's before the Court and I
11 go over it with you at this time so that you can more fully
12 and completely answer some of the questions that I'm about
13 to ask.

14 The first question that I have for you, has any member
15 of the jury panel ever been related by marriage or are you
16 related by blood to either the defendant, Ronnie L. Goggins,
17 or the alleged victim, Albert Geter, if that's true, please
18 stand.

19 (No response.)

20 THE COURT: Has any member of the jury panel ever had a
21 close personal or a social relationship with either the
22 defendant, Ronnie L. Goggins, or the alleged victim, Albert
23 Geter, if that's true, please stand.

24 (No response.)

25 THE COURT: Has any member of the jury panel ever been

1 represented by either of the attorneys that are involved in
2 the trial of this case or have they ever appeared on the
3 other side of some legal matter from you, if that's true,
4 please stand.

5 (No response.)

6 THE COURT: Now, is there any member of the jury panel
7 whose ever been related by marriage or are you related by
8 blood or have you had a close personal or a social
9 relationship with either of the attorneys who are involved
10 in the trial of this case, if that is true, please stand.

11 (Juror responds.)

12 THE COURT: I need your name and number.

13 JUROR: Pat Anderson, Number 4.

14 THE COURT: And Ms. Anderson, I know you're a member of
15 the bar and I'm sure you have that acquaintance with both
16 attorneys, is that correct?

17 JUROR: Yes, sir.

18 THE COURT: Any other acquaintance that you'd like to
19 disclose?

20 JUROR: No, sir.

21 THE COURT: All right. Thank you very much.

22 Anyone else?

23 (No response.)

24 THE COURT: I'm going to go over a list of people who
25 are potential witnesses in the trial of this case at this

1 time. If they are present in the courtroom I'm going to ask
2 that they stand when I call their names and face the jury
3 panel so again that you can place a face with the name that
4 I have called.

5 The first name is Mr. Albert Geter, Junior.

6 (Witness stands.)

7 THE COURT: Sir, if you'll please stand and face the
8 jury panel for me.

9 (Defendant faces jury panel at this time.)

10 THE COURT: Thank you very much. You can be seated.

11 Ericka Williams.

12 I don't believe she's present.

13 Deputy Susan Hrycaj.

14 (Witness stands.)

15 THE COURT: If you'd please stand and face the jury
16 panel, ma'am.

17 (Witness complies.)

18 THE COURT: Thank you.

19 Investigator Russell Porter.

20 (Witness stands.)

21 THE COURT: Thank you, sir.

22 Officer Shane Morrow.

23 I don't believe he is present.

24 Investigator Lorin Williams.

25 I don't believe that individual is present.

1 Now, as to the individuals that I just named as
2 potential witnesses in the trial of this case, is there any
3 member of the jury panel who is ever been related by
4 marriage or are you related by blood or do you have any
5 close personal or a social relationship with any of the
6 individuals that I just identified as potential witnesses in
7 this case, if that's true, please stand.

8 (No response.)

9 THE COURT: Has any member of the jury panel or a
10 member of your immediate family ever been the victim of a
11 violent crime or robbery, if that's true, please stand.

12 (Juror responds.)

13 THE COURT: Ma'am, I need your name and number first.

14 JUROR: Jean A. Nigh, Number 118.

15 THE COURT: Your situation, ma'am?

16 JUROR: Our home was burglarized and our cars.

17 THE COURT: All right. Now, ma'am, would that fact --
18 I assume that that matter is either been resolved or is not
19 in litigation, is that right?

20 JUROR: It's a long time ago.

21 THE COURT: Okay. would that affect your ability to be
22 fair and impartial in this trial, ma'am?

23 JUROR: No, sir.

24 THE COURT: Thank you. You can be seated.
25 Your name and number please?

1 JUROR: Kathy Lawter, Number 92.

2 THE COURT: Yes, ma'am.

3 JUROR: My mother was robbed outside a grocery store a
4 few years ago, and also our -- we had a vehicle broken into.

5 THE COURT: All right. Are either of those matters
6 still in some type of litigation?

7 JUROR: No, sir.

8 THE COURT: Now, ma'am, would the fact that those
9 events occurred, would that affect your ability to be fair
10 and impartial in this trial?

11 JUROR: No, sir.

12 THE COURT: Thank you, ma'am. You can be seated.
13 I'll start with the lady in the green top there.
14 Your name and number?

15 JUROR: Eden Long, Juror Number 96.

16 THE COURT: Yes, ma'am.

17 JUROR: Our home was burglarized.

18 THE COURT: And is that matter still in litigation in
19 any fashion?

20 JUROR: No, sir.

21 THE COURT: Ma'am, would that fact affect your ability
22 to be fair and impartial in this case?

23 JUROR: No, sir.

24 THE COURT: Thank you.

25 Yes, ma'am, your name and number?

1 JUROR: Juror 120, Laura Olson. My mother's home was
2 robbed by a friend.

3 THE COURT: Now, ma'am, would that fact -- let me find
4 out first is it being litigated still?

5 Is there any kind of prosecution or anything going on?

6 JUROR: No, sir.

7 THE COURT: would that affect your ability to be fair
8 and impartial in this trial?

9 JUROR: No, sir.

10 THE COURT: Thank you very much.

11 Yes, ma'am, your name and number?

12 JUROR: Number 90, Lynn Smith. I haven't been robbed,
13 but I've been held hostage at gun point.

14 THE COURT: All right. Now, ma'am, would that fact
15 affect your ability to be fair and impartial in this trial?

16 JUROR: No, sir.

17 THE COURT: Thank you. You can be seated.

18 Sir, your name and number?

19 JUROR: Billy Cothran, Number 42.

20 THE COURT: Yes, sir.

21 JUROR: My home was burglarized.

22 THE COURT: All right. Is that matter still being
23 litigated in any fashion?

24 JUROR: No, sir.

25 THE COURT: would that fact affect your impartiality in

1 this trial?

2 JUROR: No, sir.

3 THE COURT: Thank you. You can be seated.

4 Yes, ma'am, your name and number.

5 JUROR: Julia Anderson, Number 4. We had a car stolen,
6 a lawn mower stolen, and money from a business stolen.

7 THE COURT: All right, ma'am. Would that fact --
8 again, is it in litigation or prosecution at this time?

9 JUROR: No.

10 THE COURT: Would that fact affect your ability to be
11 fair and impartial in the trial?

12 JUROR: No, sir.

13 THE COURT: Thank you, ma'am.

14 Anyone else have a response?

15 (No response.)

16 THE COURT: Has any member of the jury panel or a
17 member of your immediate family ever been investigated by
18 either state or federal law enforcement, I guess to your
19 knowledge, if that's true, please stand.

20 (Jurors respond.)

21 THE COURT: Yes, ma'am, your name and number?

22 JUROR: Juror 120, Laura Olson. My sister was
23 investigated on drug charges.

24 THE COURT: All right. Would that fact affect your
25 impartiality in this trial?

1 JUROR: No, sir.

2 THE COURT: Thank you, ma'am.

3 Yes, ma'am, your name and number?

4 JUROR: Crystal Escamilla, Number 51. My uncle was
5 also investigated and he's in now for armed robbery and---

6 THE COURT: All right. would that fact affect your
7 ability to be fair and impartial in this case?

8 JUROR: No, sir.

9 THE COURT: Thank you, ma'am.

10 Anyone else?

11 (No response.)

12 THE COURT: Is there any member of the jury panel who
13 is aware of any bias or prejudice that you might have either
14 for or against the law enforcement officers, if that's true,
15 please stand.

16 (No response.)

17 THE COURT: Is there any member of this jury panel who
18 has ever been previously prosecuted by the Seventh Circuit
19 solicitor's office, that's the prosecutor's office here in
20 Spartanburg and Cherokee Counties, if that's true, please
21 stand.

22 (No response.)

23 THE COURT: Has any member of the jury panel either
24 formed or expressed an opinion about any issue or matter
25 which might be involved in the trial of this case, if that's

1 true, please stand.

2 (No response.)

3 THE COURT: Is there any member of this jury panel who
4 is aware of any bias or prejudice that you might have either
5 for or against the State or the defendant in this matter, if
6 that's true, please stand.

7 (No response.)

8 THE COURT: Is there any member of the jury panel who
9 is a member of or a contributor to, to groups which have as
10 its primary aim or concern the promotion of law enforcement
11 or victims rights. These groups included, but are not
12 limited to, such groups as Mothers Against Drunk Driving,
13 Students Against Drunk Driving, Citizens Against Violent
14 Crime, the South Carolina Troopers Association, the South
15 Carolina Sheriff's Association, or other similar
16 organizations, if that's true, please stand.

17 (Jurors respond.)

18 THE COURT: All right. I'll start over here.

19 Yes, ma'am, your name and number?

20 JUROR: Candy McNamara, 59.

21 THE COURT: Yes, ma'am.

22 JUROR: I was a former member of the Troopers
23 Association and contribute to it.

24 THE COURT: Ma'am, would that affect your impartiality
25 in the trial?

1 JUROR: I don't believe so.

2 THE COURT: Thank you. You can be seated.

3 Yes, ma'am, your name and number?

4 JUROR: Cynthia Sapp, Number 140.

5 THE COURT: Yes, ma'am.

6 JUROR: In the past I've contributed to the Troopers

7 Association.

8 THE COURT: And would that affect your impartiality in

9 this trial?

10 JUROR: No, sir.

11 THE COURT: Thank you.

12 Yes, ma'am.

13 JUROR: Jean Nigh, Number 118. And, again, I

14 contributed to the Sheriff and Troopers Association and it

15 would not affect my decision.

16 THE COURT: Thank you, ma'am. You can be seated.

17 I know you've spoken several times. But your name and

18 number again.

19 JUROR: Juror 120, Laura Olson. In the past I have

20 contributed to the State, the State Troopers Association.

21 THE COURT: And would it affect your impartiality?

22 JUROR: No, sir.

23 THE COURT: Thank you.

24 Yes, ma'am.

25 JUROR: Christy Tesnear, Juror 151. I have contributed

1 in the past to law enforcement benefits association and
2 that's dealing with law enforcement officers.

3 THE COURT: And would it affect your impartiality?

4 JUROR: No, sir.

5 THE COURT: Thank you, ma'am.

6 Anyone else?

7 (No response.)

8 THE COURT: Does any member of this jury panel know of
9 any reason whatsoever why he or she should not serve as a
10 juror in this case with particular emphasis being placed on
11 your ability to be both fair and impartial to the state and
12 the defense, if that's true, please stand.

13 (No response.)

14 THE COURT: Any additional questions at this time from
15 the State?

16 SOLICITOR ELLIS: No, sir, Your Honor.

17 THE COURT: Any additional questions from the defense?

18 MR. HALL: No, sir, Your Honor.

19 THE COURT: All right. I'm gonna declare then that the
20 jury, as now constituted, is qualified to serve in this
21 case. We're going to, at this point in time, ask that the
22 clerk use a computer program that we now have to randomly
23 select a list of jurors for service in this case.

24 In this case the State will have five strikes and the
25 defense will have ten strikes. We'll be picking one

1 alternate with the State having one strike and the defense
2 having two.

3 Once that list is generated it will be distributed
4 among the Court personnel, and we will begin to call your
5 names in the order in which they appear on that list. When
6 your name is called we'll ask that you come forward.
7 They'll be a bailiff here in the center. Bring with you any
8 personal belongings that you may have brought into the
9 courtroom with you because if you're selected to sit on the
10 jury you'll be going directly to the jury box. So, if you
11 have a purse or other items, please bring those up with you
12 when you come.

13 As soon we have those lists, we'll be in a position to
14 begin striking the jury.

15 (Pause.)

16 THE COURT: All right. Madam Clerk, if you are ready,
17 you can begin the jury selection process.

18 (Whereupon, the jury panel was selected at this time.)

19 THE COURT: We're now selecting the alternate.

20 Again, the State having one strike. The defense has
21 two.

22 (Whereupon, an alternate juror was selected at this
23 time.)

24 THE COURT: Any objection to the jury selection process
25 from the State?

1 SOLICITOR ELLIS: No, sir, Your Honor.

2 THE COURT: Any from the defense?

3 MR. HALL: No, sir, Your Honor.

4 THE COURT: All right.

5 (Pause.)

6 THE COURT: All right. Ladies and gentlemen, you've
7 been selected to serve on the jury in this case, and I've
8 got some matters that I do have to go over with the
9 attorneys before we begin, and I suspect this is gonna take
10 about a half an hour or so. So, the bailiffs are going to
11 make you comfortable in the jury room. If you need a snack
12 or anything of that nature, just let them know. We'll try
13 to make you as comfortable as you can while I take care of
14 some preliminary matters in this trial.

15 I know you know very little about this case at this
16 point in time other than I have gone over the indictment.
17 You're aware of the people involved. But I'm going to ask
18 you not to discuss the case in any fashion whatever, even
19 what the charges are about, because you've been selected as
20 fair and impartial jurors with an open mind concerning this
21 matter, and I hope you realize, even the most innocent
22 conversation that you might have with a fellow juror, even
23 about what the charges are about or who the parties are that
24 are involved may, in some fashion, color your ultimate
25 decision, and I'm going to ask you to keep an open mind

1 concerning all the matters that are going to be involved in
2 this trial of the case and until such time as you've heard
3 all the arguments, you've heard all the evidence, and I've
4 charged you concerning the law, and then and only then begin
5 to discuss this case or what's it's about.

6 So, again, don't even begin to discuss it among
7 yourselves because, when you come back, you'll be asked to
8 take an oath to decide this case solely upon the evidence
9 and upon the law, and, of course, I'm going to ask that you
10 keep an open mind until we begin those deliberations.

11 So, at this point in time the bailiffs will be showing
12 you back to the jury. They'll take care of you and as soon
13 as we're ready to start we'll let you know.

14 (Whereupon, the following takes place outside the
15 presence of the jury.)

16 THE COURT: All right. And during our pretrial
17 conference Mr. Hall made the Court aware that he had some
18 pretrial motions that he felt needed to be considered and,
19 Mr. Hall, at this time you can make your motions.

20 MR. HALL: Thank you, Your Honor.

21 In this case, through the discovery, and that has
22 continued up until this past week, it's clear that there
23 were two lineups six days apart. One on the original, the
24 date of the alleged event, and the next six days later. It
25 has always been an issue in our mind and I think that the,

1 the way it was done is my understanding the State says the
2 victim did not pick him out of the, the first lineup done by
3 the original responding officer. Eight days later there was
4 a second lineup that the victim allegedly picked my client
5 out of that lineup.

6 I -- today, in seeing the second lineup for the first
7 time in color, I've had photocopies that -- the way we do
8 discovery sometimes they're not very clear. Excuse me. I
9 think I saw it yesterday for the first time. And I think
10 the lineups are very suggestive. The only repeat person in
11 both these lineups is my client, and I was informed last
12 week that the alleged victim in this case has a different
13 story than the officer's story on the original lineup. I
14 think the lineup is suggestive and I move to suppress the
15 identity of my client as the person involved in this case,
16 Your Honor.

17 THE COURT: All right. Mr. Ellis, I'm sure you're
18 resisting that motion.

19 Do you wish to put any evidence up concerning these
20 matters?

21 SOLICITOR ELLIS: Yes, sir, Your Honor, we'd be happy
22 to. And in summary, Your Honor, basically Mr. Hall is
23 largely correct. The second lineup was on, six days after
24 the first lineup. Not eight. But, but aside from that,
25 there was a lineup shown on August 2nd, which was the day

1 of the incident. There was no positive identification made
2 by the victim at that time. It was roughly within an hour
3 or two of the incident occurring, Your Honor.

4 Basically -- there are, there are slightly conflicting
5 stories about that potentially, but, but basically the gist
6 is that no positive ID was made at that time. Six days
7 later Investigator Porter showed a second lineup, a
8 different lineup to Mr. Geter, the victim, and he did make a
9 positive identification at that time of this defendant as
10 being one of the two men who robbed him on August 2nd, Your
11 Honor.

12 THE COURT: All right. You may call your first
13 witness.

14 SOLICITOR ELLIS: Thank you, Your Honor.

15 MR. HALL: Your Honor, before we call the witnesses,
16 can we have the witnesses, in particular the officer and the
17 victim, sequestered for purposes of this hearing.

18 THE COURT: I'll -- I will, I'll grant that. I don't
19 know who you're calling first.

20 Mr. Ellis, who do you wish to call first?

21 SOLICITOR ELLIS: Your Honor, I'll call Albert Geter
22 first, the victim.

23 THE COURT: All right. I'm gonna ask that the officer
24 step outside while this testimony is been delivered that's
25 involved in the lineup or the identification.

Albert Geter - Direct examination
by Solicitor Ellis

1 ALBERT GETER, being first duly
2 sworn, testified as follows:

3 THE COURT: Sir, I ask that you have a seat in the
4 witness stand, and once you're seated, please state your
5 name for the record.

6 WITNESS: My name is Albert Geter.

7 THE COURT: And Mr. Ellis, this would be your witness.

8 SOLICITOR ELLIS: Thank you, Your Honor.

9 THE COURT: Yes, sir.

10 DIRECT EXAMINATION

11 BY SOLICITOR ELLIS:

12 Q Excuse me.

13 Mr. Geter, do you recall the events of August 2nd,
14 2008, that morning?

15 A Yes, I do.

16 Q What were you doing that morning?

17 A I was on my way to help my aunt clean up an urban park
18 because she works for the city, the Chamber of Commerce
19 where she goes around cleaning up the parks.

20 Q And do you recall about what time you were going to
21 help her?

22 A It was -- I was suppose to be at her house at six
23 o'clock.

24 Q So, when you woke up that morning you were at your
25 house, is that right?

Albert Geter - Direct examination
by Solicitor Ellis

- 1 A Yes, sir.
- 2 Q where is that?
- 3 A I was -- at the time I was staying at 549 North Forest
- 4 Street.
- 5 Q And do you remember about what time you woke up
- 6 roughly?
- 7 A No, I don't.
- 8 Q Pretty early?
- 9 A Yeah, it was pretty clear.
- 10 Q And at that point you started over to your, your
- 11 relative's house?
- 12 A Yes, she stays in Northside Apartments, which is
- 13 probably a ten minute walk from where I stayed.
- 14 Q Okay. So, you were talking then?
- 15 A Yes, sir.
- 16 Q what was the route you were gonna take?
- 17 A Go down Folsom, and at the end of Folsom make a left
- 18 and go up to the top of Northside Apartments and make a
- 19 right.
- 20 Q And at some point that day did you encounter someone
- 21 else on your walk?
- 22 A Yes, I did.
- 23 Q And about how far away from, from, from your house were
- 24 you at that point?
- 25 A I was at, almost at the end of Folsom Street.

Albert Geter - Direct examination
by Solicitor Ellis

1 Q If you would, just describe please for the record how
2 that encounter happened.

3 A As I was walking down Folsom Street, there was a guy, I
4 noticed as I was coming down the street, sitting up against
5 a brick wall, and when I got close to him, he presented his
6 self and said hey, my name is Little Bull and he proceeded
7 to shake my hand. And as I shook his hand, bent over to
8 shake his hand, and when I stood up straight there was a gun
9 to the back of my head.

10 Q Okay. Could you describe for the, the Court what that
11 man that you say identified himself as Little Bull what he
12 looked like that morning?

13 A He was dark skin, short, had on a white wife beater,
14 and baggie blue jeans.

15 Q Okay. If you had to guess at a height, what, what
16 height would you say he was just roughly?

17 A Probably about 5'7". 5'6", 5'7", somewhere around in
18 there.

19 Q Okay. Was he a thin guy?

20 Was he stout?

21 How, how would you describe him?

22 A Kind of stocky.

23 Q Okay. By stocky, do you mean fat or muscular or both?

24 A Yeah, muscular.

25 Q Kind of strong?

Albert Geter - Direct examination
by Solicitor Ellis

- 1 A Yeah. Yes, sir.
- 2 Q Okay. What else stood out in your mind about his
3 appearance?
- 4 A His eyes.
- 5 Q What about his eyes?
- 6 A The way his eyes, they were just, just deep and cold
7 looking. I just remember looking, seeing that that morning.
- 8 Q Were there any other characteristics about his face
9 that you noticed?
- 10 A It was a little spot on his cheek and that's about all
11 I remember.
- 12 Q All right. Do you remember anything about what kind of
13 haircut he had?
- 14 A It was a low -- kind of like mine, but real, kind of --
15 like I said, just kind of like mine with just a little fuzz
16 showing.
- 17 Q So, a little bit of hair, but---
- 18 A Yeah.
- 19 Q ---not lots?
- 20 A Correct.
- 21 Q And, of course, just for the record, you said, of
22 course, he was a -- you said he was dark skinned.
- 23 Do you mean a dark skinned black man, is that right?
- 24 A Yes, sir.
- 25 Q Okay. You mentioned that he, he introduced himself to

Albert Geter - Direct examination
by Solicitor Ellis

- 1 you?
- 2 A Yeah.
- 3 Q And he called himself Little Bull?
- 4 A Uh-huh. (Affirmative).
- 5 Q And he reached out to shake your hand?
- 6 A Yes, sir.
- 7 Q You mentioned you had to bend over to shake his hand.
- 8 How tall are you?
- 9 A I'm 6'6".
- 10 Q Okay. And again, about how tall roughly did you say he
- 11 was?
- 12 A Probably about 5'6", 5'7".
- 13 Q Okay. So, he said hi, I'm Little Bull, you bent over
- 14 and shook his hand, stood back up, and there was a gun at
- 15 the back of your ear, is that right?
- 16 A Yes, sir.
- 17 Q Did this defendant -- oh, I'm sorry.
- 18 Did the man that identified, identified as Little Bull,
- 19 did he have the gun?
- 20 A No, sir.
- 21 Q So, there's a second individual?
- 22 A Yes, sir.
- 23 Q Where was he located in relation to you and Little
- 24 Bull?
- 25 A He, like I said, when I shook Mr. Goggins hand when I

Albert Geter - Direct examination
by Solicitor Ellis

1 stood up, he was, he come from behind me somewhere. I don't
2 know.

3 Q Did you spin around and face him or did you continue
4 facing Little Bull?

5 A I continued facing Little Bull.

6 Q Okay. Tell me what happened after the gun got placed
7 to your head.

8 A He asked me -- the guy with the gun asked me where were
9 the, where the money was and I told him I didn't have any
10 and that's when Mr. Goggins proceeded to go into my pockets
11 and took my money out.

12 Q Okay. By Mr. Goggins, do you mean -- who is
13 Mr. Goggins?

14 A Little Bull.

15 Q Little Bull?

16 A Yeah.

17 Q The short, stocky man in front of you?

18 A Yes, sir.

19 Q Okay. And you said he reached into your pockets?

20 A Yes, sir.

21 Q Did he go in the I guess jean, jean pockets, is that
22 right, or---

23 A No.

24 Q What did you have on?

25 A I had on some cargo pants that morning I remember, and

Albert Geter - Direct examination
by Solicitor Ellis

1 he just went in my pockets and searched around till he found
2 the money.

3 Q Okay. During, during this whole time, who were you
4 looking at?

5 A Mr. Little Bull.

6 Q Okay. Mr. Goggins --

7 A Correct.

8 Q -- we identified a moment ago?

9 A Yes, sir.

10 Q About how long would you say -- I'm sorry. Let me back
11 up briefly.

12 After -- from -- did he find some money in your
13 pockets?

14 A Yes, he did.

15 Q And after he found the money, what happened next?

16 A They told me to get out of there. They told me to run
17 and I told them I wasn't gonna run because they already got
18 my money. So, I proceeded to walk off slow with my hands in
19 the air.

20 Q Okay. While you were walking away did you happen to
21 ever look back at them again?

22 A Yes, I did. But they were running up Folsom Street
23 when I managed to turn around and see, when I felt it was
24 safe enough to turned around.

25 Q Okay. How long would you, would you estimate this

Albert Geter - Direct examination
by Solicitor Ellis

1 incident lasted from the moment you first saw Little Bull
2 leaning against the wall as you were approaching him to the
3 moment where you saw them running away?

4 A From the time I saw him approaching me when, when I was
5 approaching him?

6 Q Yes.

7 A I'd say roughly five minutes, the whole, whole thing.

8 Q Okay.

9 A whole account.

10 Q And how long would you, would you guess maybe you were
11 able to, you were looking at him while he basically
12 introduced himself to the point he ran off?

13 A About three minutes.

14 Q Okay. would you say you paid close attention or, or
15 not close attention to, to either of these men?

16 A I was actually kind of afraid at the time. So, I was
17 really thinking what was going on and what might happen to
18 me. So, I was looking at him, but I was thinking about a
19 lot of other things at that time.

20 Q Uh-huh. (Affirmative).

21 You said you were afraid at the time?

22 A Yes.

23 Q Why were you afraid?

24 A Well, I had a gun to the back of my head.

25 Q When you had, when you had the gun to your head, who

Albert Geter - Direct examination
by Solicitor Ellis

1 were you facing again?

2 A Little Bull.

3 Q And obviously you just said a moment ago your mind was
4 racing through various thoughts, but were, were focusing on
5 him during this crime or not?

6 A Yes, I was.

7 Q Do you see the man in court today who robbed you?

8 A Yes, I do.

9 Q And where is he?

10 A He's the defendant.

11 Q The defendant?

12 A Right here.

13 Q This is Ronnie Goggins---

14 A Yes.

15 Q ---or Little Bull?

16 A Yes, sir.

17 Q So, sitting at the defense table?

18 A Yes, sir.

19 Q Okay.

20 THE COURT: The record will reflect that the witness
21 indicated the defendant, gestured in his direction.

22 You may proceed.

23 SOLICITOR ELLIS: Thank you, Your Honor.

24 Q How certain are you that he's the man who was standing
25 in front of you during the robbery?

Albert Geter - Direct examination
by Solicitor Ellis

- 1 A A hundred percent.
- 2 Q After the robbery you walked off from the two men, the
3 defendant and the other man that run away.
- 4 Did you call the police?
- 5 A Yes, I did.
- 6 Q And did an officer respond?
- 7 A Yes.
- 8 Q After she took your report at the scene, did you go to
9 the police station, the Public Safety Department?
- 10 A Yes, I did.
- 11 Q And while you were there, were you shown a lineup?
- 12 A Yes, I was.
- 13 SOLICITOR ELLIS: Permission to approach the witness,
14 Your Honor?
- 15 THE COURT: You may.
- 16 Q Mr. Geter, do you recognize that?
- 17 A Yes, I do.
- 18 Q What is that?
- 19 A That's the lineup that was originally shown to me on
20 the night of, well, that morning of August the 2nd.
- 21 Q Okay. And was that shown by Officer Hrycaj?
- 22 A Yes, sir.
- 23 Q Okay. Which she was the only officer who appeared at
24 the time?
- 25 A Yes, sir.

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Albert Geter - Direct examination
by Solicitor Ellis

1 Q Female officer in this case?

2 A Yeah.

3 Q And tell the, tell the Court how -- well, basically let
4 me back up again.

5 When did you arrive at the police station in, in
6 relation to the crime?

7 How long after the crime occurred did you go to the
8 police station?

9 A It was probably about, after the police officer showed
10 up, probably ten minutes.

11 Q Okay. Did the police officer arrive at the scene
12 quickly after you called?

13 A Yeah, I think they were patrolling the area already.
14 So, when I, when I called, it was like they showed up
15 instantly.

16 Q Okay. So, you're back at the Public Safety Department
17 within say half an hour at the most?

18 Is that fair to say?

19 A Correct.

20 Q And what -- about how long after you got there do you
21 think you were shown the photo lineup?

22 A I really can't say. I don't know.

23 Q Was it within a few hours?

24 A No, it wasn't no longer than an hour. It was probably,
25 probably, probably about 20, 30 minutes. I wasn't there

Albert Geter - Direct examination
by Solicitor Ellis

1 Long before they showed the lineup.

2 Q Okay. You mentioned earlier that you were afraid, your
3 mind was racing through a lot of things when the gun was to
4 your head out in the road.

5 A Correct.

6 Q How are you, how are you feeling after the robbery?
7 what was, what was going through your mind?

8 A I was still shook up because I hadn't never had
9 anything like that happen to me personally. So, I was still
10 shook up after that happened cause anything could of went
11 wrong right there and I wouldn't be sitting here and not
12 talking to you.

13 Q That was the first time you had a gun pointed at you?

14 A Correct.

15 Q Did you think you might die that day?

16 A Yes.

17 Q What other concerns were going through your mind
18 because of that?

19 A Well, my, my girlfriend was pregnant with my son in
20 which he was born 25 days later. So, I was worried about
21 him, worried about my other kids, and her, and everything.

22 Q You said a minute ago that you were, you were shaken up
23 from the time the gun was put to you all the way through to
24 the point you saw the lineup, is that right?

25 A Correct.

Albert Geter - Direct examination
by Solicitor Ellis

1 Q On a scale of one to ten, how shaken up were you?

2 A Ten.

3 Q So, were you -- how, how clearly were you thinking at
4 the time the lineup was shown to you?

5 A I was thinking pretty clearly cause I, like I said, the
6 whole time during this event I was focusing on the
7 defendant, Mr. Goggins, and I, I got a pretty good look at
8 him.

9 Q All right. You said the lineup that's in evidence,
10 that's in front of you there and the one that was shown to
11 you at the police station that day on August 2nd, correct?

12 A Yes, sir.

13 Q Do you see Mr. Goggins in that lineup?

14 A Yes, sir.

15 Q Where is he just in relation to other photos on the
16 page?

17 A Top left.

18 Q When you saw it that day, when Officer Hrycaj showed
19 you that lineup, were you able to positively pick him up?

20 A I wasn't -- well, I, I pointed to the guy who I thought
21 it was, and she -- the officer told me that that wasn't the
22 person that, that robbed him. So --.

23 Q Okay.

24 A -- I was thinking okay, this guy can't be in this
25 lineup because that's the only one that's here that looks

Albert Geter - Direct examination
by Solicitor Ellis

1 like the guy that just robbed me.

2 Q Okay. Well, did you make a positive ID at that time or
3 did you -- tell me when you said you thought it was him or
4 you were sure it was him.

5 A Well, like I said, I remember his eyes, and I -- when I
6 looked at the lineup I pointed to this picture right here
7 and she said well, it, that's not him. So --.

8 Q All right. And, again, was it the eyes mostly that
9 drew you to that photo?

10 A Correct.

11 Q Okay. But were you certain it was him at that time or
12 did you think it might be him or you weren't sure?

13 A In my mind I was certain it was him.

14 Q Okay. Do you recall if you told the officer that or
15 not?

16 A No, I did not.

17 Q Do you recall what you did say, say to the officer?

18 A I said well, it must be somebody that look like him
19 cause this guy right here is the one I remember that just
20 robbed me.

21 Q All right.

22 THE COURT: For the Court's identification or
23 edification, on that particular photo lineup---

24 SOLICITOR ELLIS: Yes, sir.

25 THE COURT: ---is the defendant the upper left

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Albert Geter - Direct examination
by Solicitor Ellis

1 individual?

2 SOLICITOR ELLIS: Yes, sir, he is.

3 THE COURT: Okay. Go ahead.

4 SOLICITOR ELLIS: I apologize, Your Honor.

5 Could we mark this State's Exhibit No. 1 for
6 identification?

7 THE COURT: Any objection to it being marked for
8 purposes of this hearing---

9 MR. HALL: No objection.

10 THE COURT: ---as State's Exhibit No. 1?

11 MR. HALL: No objection.

12 THE COURT: It will be so marked.

13 SOLICITOR ELLIS: Thank you, Your Honor.

14 (Whereupon, the photographic lineup was marked as
15 State's Exhibit No. 1 and received into evidence for
16 purposes of this hearing only.)

17 THE COURT: All right. Mr. Ellis, you may proceed.

18 SOLICITOR ELLIS: Thank you, Your Honor.

19 Q Mr. Geter, do you recognize what this is?

20 A Yes, sir, I do. That's the second lineup I was shown
21 six days later.

22 Q Is that the lineup that you saw on August 8th?

23 A Yes, sir.

24 Q Was that lineup shown to you by Investigator Porter?

25 A Correct.

Albert Geter - Direct examination
by Solicitor Ellis

1 Q All right. And do you see the man who robbed you in
2 that lineup?

3 A Yes.

4 Q Where is he in relation to the other photos?

5 A Bottom right.

6 Q And that's Ronnie Goggins, Little Bull?

7 A Yes, sir.

8 SOLICITOR ELLIS: Your Honor, permission to admit this
9 into, as State's Exhibit No. 2 at this time.

10 MR. HALL: No objection.

11 THE COURT: Without objection, it will be so marked.

12 (Whereupon, the photographic lineup was marked as
13 State's Exhibit No. 2 and received into evidence for
14 purposes of this hearing only.)

15 Q Mr. Geter, I'm showing you State's Exhibit No. 2 again.

16 What about that photo of the -- well, first of all, is
17 that the same photo of the defendant you saw in the first
18 lineup as State's Exhibit 1?

19 Is that the same photo or a different photo as you saw
20 the first time?

21 A It's a different photo.

22 Q Okay. What stands out to you in that, in that second
23 photo you have there?

24 A It's the eyes.

25 Q The eyes again.

Albert Geter - Direct examination
by Solicitor Ellis

1 And, and how sure are you that that's the man who was
2 standing in front of you during the robbery?

3 A I'm a hundred percent sure that's him.

4 Q Okay. Did you make any kind of marks on that lineup to
5 indicate it was him?

6 A I circled it and initialed it and dated it.

7 Q And that was, that was in front of Investigator Porter,
8 is that correct?

9 A Correct.

10 Q when you were looking at either one of these lineups,
11 Exhibit 1 or Exhibit 2, did either one of these officers
12 ever indicate to you who you should pick out?

13 A No, sir.

14 Q Did they, did they ever tell you for a fact that the
15 man was definitely in the lineup?

16 A No, sir, they didn't.

17 Q what were their instructions to you?

18 Do you recall what their instructions were?

19 A They told me to pick out the guy that I thought robbed
20 me.

21 Q I'm showing what's been marked as State's Exhibit No. 1
22 again and comparing it to State's Exhibit No. 2.

23 Again, State's Exhibit No. 1, there's no markings on
24 that lineup, is that correct?

25 A No markings at all.

Albert Geter - Direct examination
by Solicitor Ellis

1 Q On State's Exhibit No. 2, you circled the bottom right
2 picture which is of the defendant, Ronnie Goggins, and
3 initialed it, is that right?

4 A Correct.

5 Q Again, are those the same photos of Mr. Goggins in
6 those two lineups or are they different photos?

7 A They're different photos.

8 Q Okay. But it is your testimony that you picked him out
9 definitively both times?

10 A Correct.

11 Q And seeing him in Court in front of you today, is that,
12 is that also the man who robbed you?

13 A Yes, it is.

14 SOLICITOR ELLIS: Nothing further at this time, Your
15 Honor.

16 THE COURT: Your witness, Mr. Hall.

17 MR. HALL: Thank you, Your Honor.

18 THE COURT: Yes, sir.

19 MR. HALL: May I approach the witness?

20 THE COURT: You may.

21 CROSS-EXAMINATION

22 BY MR. HALL:

23 Q All right. Officer Hrycaj gave you this photo, is that
24 correct?

25 A Yes.

Albert Geter - Cross-examination
by Mr. Hall

- 1 Q And you, your testimony is you put your finger on this
2 picture and said that's it and she goes no, that's not the
3 guy?
- 4 A Yes, sir.
- 5 Q Okay. You're absolutely certain of that, that you put
6 your finger on that picture?
- 7 A Yes, sir.
- 8 Q All right. Now, you went over this I think last week
9 with Mr. Ellis.
- 10 Is that the first time you told him that or anybody
11 else?
- 12 A Yeah, that's the first time.
- 13 Q All right. And that was fourteen and a half months
14 after the events approximately?
- 15 A Yeah.
- 16 Q Okay. And you say it's the eyes that call you to these
17 pictures, the top left in Exhibit 1 and the bottom right in
18 Exhibit 2.
- 19 A (Witness nods affirmatively.)
- 20 Q What distinguishes it in say from the eyes of, in
21 Exhibit 1 number three, the right-hand top corner?
- 22 A His eyes are just -- they're kind of -- they're just
23 like deep looking. They just look cold looking like there's
24 no feeling in them at all.
- 25 Q Okay.

Albert Geter - Cross-examination
by Mr. Hall

1 A I remember seeing that.

2 Q But you wouldn't describe these eyes as similar to
3 these in number three and it's similar to one in Exhibit 1?

4 A No, sir, because I haven't seen his eyes in person.

5 Q But in these pictures, are they different?

6 A They're different. Those are different eyes.

7 Q Okay. How are they different, if you would describe
8 that?

9 A His eyes are clear.

10 Q Uh-huh. (Affirmative).

11 A And like I said, I've never seen him in person before
12 and I would never know what his eyes looked like, but the
13 guy that robbed me that night, I had three minutes, three to
14 five minutes standing there staring at him and I remember
15 what his eyes looked like.

16 Q Okay. In Exhibit 2, the quality is not as good in that
17 lineup, is it?

18 A No, sir.

19 Q All right. And the picture above him, I'll call that
20 number three in Exhibit 2, his eyes don't look cold to you?

21 They're---

22 A No, sir.

23 Q ---that different?

24 All right. Now, you said that each of these officers
25 said pick the guy out who robbed you?

Albert Geter - Cross-examination
by Mr. Hall

1 A Yes, sir.

2 Q All right. They didn't say here's the guy in one, is
3 the guy in this lineup or later is the guy in this one, said
4 pick the guy out who robbed you?

5 A Yes, sir.

6 Q Okay. Now, what time are you saying this happened
7 approximately?

8 A It had to be about I say 5:30. It was somewhere before
9 six o'clock.

10 Q All right. Somewhere before six o'clock?

11 A Uh-huh. (Affirmative).

12 Q And this was in August.

13 Was it daylight?

14 A No, it was still kind of dark.

15 Q Still dark.

16 And were there any other people around?

17 A No, sir.

18 Q And I just ask you for my edification, but other than
19 the duplicate picture of the, in Exhibit 1, the top left
20 corner, and Exhibit 2 the bottom right, are any of the other
21 people duplicated in the lineups?

22 A No, sir.

23 MR. HALL: All right. All right. Nothing further,
24 Your Honor.

25 THE COURT: Anything further from the State from this

Albert Geter - Redirect examination
by Solicitor Ellis

1 witness?

2 SOLICITOR ELLIS: Yes, sir, briefly.

3 THE COURT: Yes, sir.

4 REDIRECT EXAMINATION

5 BY SOLICITOR ELLIS:

6 Q Mr. Geter, when Mr., Mr. Hall alluded a few moments ago
7 to the fact that you and I met last week to discuss the
8 case, is that right?

9 A Yes, sir.

10 Q And you answered that was the first time that you had
11 told us that you had picked out a person from the first
12 lineup and identified him as the man in front of you during
13 the robbery, is that right?

14 A Yes, sir.

15 Q At the time you told me that, were you able to actually
16 look at that lineup or did you just remember he was in
17 there?

18 A I just remember picking the top left corner. That's
19 all I remember doing.

20 Q Did I have the first lineup there from August 2nd
21 there to show you?

22 A Sir?

23 Q Did -- were you able to look at the August 2nd
24 lineup, the first lineup, were you able to look at it at
25 that time when you told me that?

Albert Geter - Redirect examination
by Solicitor Ellis

1 A No, sir.

2 Q But as you recall, the man who was in front of you
3 during the robbery, Little Bull or Ronnie Goggins, he was
4 the man in the top left that you had selected him?

5 A Yes, sir.

6 Q And again, where is Ronnie Goggins, Little Bull's
7 picture in that list lineup in relation to the other photos?

8 A In the top left corner.

9 Q Did either officer tell you that man who robbed you was
10 definitely in one of those lineups or they just asked you to
11 pick the person in there if you, if you saw him?

12 A They just told me to pick the person that I was, you
13 know, that robbed me. So, I, like I said, I just pointed to
14 it and they told me that wasn't the one.

15 Q Despite the fact that you were told on the first lineup
16 on August 2nd that you had not picked the right person,
17 you were still sure that that was the man who robbed you
18 August 8th?

19 A Correct.

20 Q You're still sure today?

21 A Yes, sir.

22 Q Have you ever doubted it anytime between today and
23 August of '08?

24 A No, I haven't.

25 Q When the robbery was occurring, how many inches or how

Albert Geter - Redirect examination
by Solicitor Ellis

1 many feet away were you from the defendant?

2 A Probably two feet.

3 Q Two feet.

4 So, very close to him?

5 A Yeah.

6 Q Also close enough to shake his hand before it happened,
7 right?

8 A Yes, sir.

9 Q And you indicated that it wasn't very light out at that
10 time, but did you get a good look at him?

11 A Yes, I did.

12 Q For basically the entire three to five minutes?

13 A Yes, sir.

14 Q And again, how certain are you that he's the man that
15 confronted you during the robbery?

16 A A hundred percent.

17 Q Thank you.

18 THE COURT: Anything further on recross?

19 RECROSS EXAMINATION

20 BY MR. HALL:

21 Q Just to reiterate, Mr. Ellis asked you, in regards to
22 picking the person out, you, again, said pick the person out
23 who robbed you, and both officers told you that?

24 A Yes, sir.

25 MR HALL: Okay. Nothing further.

Susan Hrycaj - Direct examination
by Solicitor Ellis

1 THE COURT: You may step down, sir.

2 State wish to call additional witnesses?

3 SOLICITOR ELLIS: Yes, sir, the State would call
4 Officer Susan Hrycaj.

5 THE COURT: If you'd have her step in please.

6 Ma'am, come forward to my left to be sworn please.

7 SUSAN HRYCAJ, being first duly
8 sworn, testified as follows:

9 THE COURT: Have a seat, officer, and once you're
10 seated I'd ask that you state your name for the record
11 please.

12 MR. HALL: My name is Deputy Susan Hrycaj.

13 THE COURT: Mr. Ellis, it's your witness.

14 SOLICITOR ELLIS: Thank you, Your Honor.

15 DIRECT EXAMINATION

16 BY SOLICITOR ELLIS:

17 Q Officer, are you employed at the Spartanburg Public
18 Safety Department -- or I'm sorry. Let me back up.

19 On August 2nd, 2008, were you employed with the
20 Spartanburg Public Safety Department?

21 A Yes, sir, I was.

22 Q Okay. Where do you work now?

23 A I am currently employed by the Spartanburg County
24 Sheriff's Office.

25 Q Okay. Thank you.

Susan Hrycaj - Direct examination
by Solicitor Ellis

1 On August 2nd, 2008, were you on duty that morning?

2 A Yes, sir.

3 Q And did you receive a call regarding an armed robbery?

4 A Yes, sir, I did.

5 Q Did you respond to it?

6 A I did.

7 Q And, and where did you respond?

8 A [REDACTED] Street.

9 Q When you arrived there, who did you find?

10 A Mr. Geter standing in the parking lot.

11 Q And what did he tell you?

12 A He said some guy had put a gun to him and took his
13 money.

14 Q Did he say if it's just one person or more than one
15 person who was there?

16 A He described two individuals, sir. Two black males.

17 Q Did he identify either one of them by a name or a
18 nickname?

19 A Yes, sir, specifically he described a five foot seven
20 tall black male wearing a white wife beater t-shirt that had
21 approached him and started a conversation and introduced
22 himself as Bull.

23 Q And after you spoke with him there on the scene, did
24 you take him back to the police station, the Public Safety
25 Department?

Susan Hrycaj - Direct examination
by Solicitor Ellis

- 1 A Yes, sir.
- 2 Q while you were there, did you generate a, a six photo
- 3 lineup?
- 4 A Yes, sir, I did.
- 5 Q Did you show that to him?
- 6 A I did.
- 7 Q I'm going to show you what's been marked as State's
- 8 Exhibit No. 1 for identification.
- 9 Does that look familiar to you at all?
- 10 A Yes, sir.
- 11 Q what, what is that?
- 12 A A lineup of six black males meeting the specific
- 13 details that Mr. Geter had supplied me with as far as
- 14 appearance.
- 15 Q All right. And is -- the, the man known as Bull or
- 16 Little Bull, did you know who that would be in that area of
- 17 town?
- 18 A Yes, sir.
- 19 Q All right. who is that person?
- 20 A Mr. Goggins. Ronnie Goggins.
- 21 Q Is he present in that photo lineup?
- 22 A Yes, sir, he is.
- 23 Q And where is his picture?
- 24 A Upper left corner or I'm sorry. Right there.
- 25 Q Okay.

Susan Hrycaj - Direct examination
by Solicitor Ellis

- 1 A Upper right, upper left.
- 2 Q Is it upper left I guess?
- 3 As you're looking at it dead on it's upper left,
- 4 correct?
- 5 A Yes, sir.
- 6 Q Okay. And you, you showed that lineup to Mr. Geter at
- 7 the station, correct?
- 8 A Yes, sir, I did.
- 9 Q What instructions did you give him?
- 10 A I instructed him to take his time, look at the
- 11 photographs of the individuals on the lineup. Didn't
- 12 indicate. I asked him to look and see if maybe one of the
- 13 gentlemen was one of the gentlemen that had introduced
- 14 himself as Bull to him on the street.
- 15 Q Okay. Did you do anything, you know, with your hands
- 16 or any other kind of objects to indicate who he should pick?
- 17 A No, sir.
- 18 Q Did you tell him who he should pick?
- 19 A No, sir.
- 20 Q Did you tell him the person who robbed him was
- 21 definitely in the photo, in the lineup?
- 22 A No, sir.
- 23 Q You just asked him to identify a photo, if he, if any
- 24 of the people matched one of the---
- 25 A If he should see the individual in the photos.

Susan Hrycaj - Direct examination
by Solicitor Ellis

- 1 Q And did he pick anyone?
- 2 A No, sir, not at that time.
- 3 Q Did he say anything to you?
- 4 A He was still in shock. He couldn't believe it had
- 5 happened to him.
- 6 Q Shaken?
- 7 A Absolutely.
- 8 Q So, did he ever ask or use his hand or a pen or
- 9 anything like that and point at any of the photos and say
- 10 that's the guy or I think that's the guy that you recall?
- 11 A That I recall, no, sir, he never did.
- 12 Q You recall -- excuse me. Well, strike that.
- 13 Did he ever say that he definitely did see, not see
- 14 that person, the person, the person who robbed him was
- 15 definitely not in that lineup?
- 16 A He -- his demeanor was such that he, he just appeared
- 17 so traumatized from the incident, and I can not say
- 18 verbatim, but he was just I don't, I just don't know right
- 19 now, I'm just, I'm just stressed, more or less.
- 20 Q Once you got the call for the robbery, the robbery, the
- 21 robbery had occurred, about how long would you estimate it
- 22 took you to arrive on the scene?
- 23 A Arrived on the scene, I -- the incident was dispatched
- 24 to me at 5:15 in the morning. I arrived on scene at 5:17.
- 25 Q And do you recall approximately how long you spent on

Susan Hrycaj - Direct examination
by Solicitor Ellis

1 scene with Mr. Geter?

2 A Roughly maybe 30 minutes, 40 minutes out there.

3 Q And then, of course, you went to the, the police
4 station with him, correct?

5 A Yes, sir.

6 Q Given that time frame, roughly how long was it from the
7 time you were dispatched to the incident to the time you
8 showed him the lineup?

9 A Best approximation might be two hours.

10 Q What was his demeanor during that entire time?

11 A Stressed, traumatized, shaken, just not believing.

12 Q Okay. After the lineup was shown to him, how did, how
13 did he get home?

14 A I believe we transported him back to his residence,
15 sir.

16 Q Do you recall what his demeanor was during that entire
17 time?

18 A He, he was upset. If memory serves me correctly, his
19 girlfriend at the time was pregnant. He was concerned about
20 her. The money that had been taken from him was rent money
21 and it was just his -- I don't mean to infer that he was
22 crying, but he was emotional. It was stressing him, the
23 whole incident.

24 Q To the best of your knowledge, he, when you showed him
25 the lineup, which is State's Exhibit 1 in front of you, he

Susan Hrycaj - Direct examination
by Solicitor Ellis

1 did not select, either by words or by some kind of action,
2 anyone in that lineup as the person or as one of the persons
3 who robbed him, is that right?

4 A No, sir, he did not indicate.

5 Q Just said he, he couldn't tell, couldn't be sure at
6 that time?

7 Is that your recollection?

8 A Yes, sir.

9 SOLICITOR ELLIS: Nothing further at this time, Your
10 Honor.

11 THE COURT: Mr. Hall.

12 CROSS-EXAMINATION

13 BY MR. HALL:

14 Q So, you were dispatched at about 5:15 a.m., is that
15 correct?

16 A Yes, sir.

17 Q And so, at some time after 7:00 is when you got the
18 lineup to show to him?

19 A It -- approximate, sir.

20 Q In there, in there, I want to be certain, he did -- if
21 I may approach the witness, Your Honor?

22 THE COURT: You may.

23 Q Did he ever put his finger on any of these people and
24 you say that's, that's not the guy that robbed you?

25 A No, sir.

Susan Hrycaj - Cross-examination
by Mr. Hall

1 Q And you certainly didn't say pick the guy out that
2 robbed you?

3 A No, sir, I never did.

4 Q Okay. And let me ask you, since certainty is a issue
5 here, how certain are you that he did not pick out anybody
6 in that lineup right there?

7 A I'm very certain, on my lineup that I generated.

8 Q Uh-huh. (Affirmative).

9 He did not pick anyone out?

10 A Correct.

11 Q Thank you.

12 I have no further questions at this point, Your Honor.

13 THE COURT: Anything further from this witness?

14 SOLICITOR ELLIS: No, sir, Your Honor.

15 THE COURT: You may step down, ma'am.

16 SOLICITOR ELLIS: The State would call Investigator
17 Russell Porter.

18 THE COURT: Ask Investigator Porter to come in please.
19 Come forward to my left to be sworn please.

20 RUSSELL PORTER, being first duly
21 sworn, testified as follows:

22 THE COURT: Have a seat please. And once you're
23 seated, please state your name for the record.

24 WITNESS: Russell Porter.

25 THE COURT: Your witness, Mr. Ellis.

Russell Porter - Direct examination
by Solicitor Ellis

1 SOLICITOR ELLIS: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY SOLICITOR ELLIS:

4 Q Investigator Porter, where are you employed?

5 A Spartanburg Public Safety Department.

6 Q And what are some of your general roles and functions
7 or what is, what is your duties?

8 A I'm an investigator in the criminal investigation
9 division.

10 Q At some point were you assigned to the case, the armed
11 robbery with the defendant, Mr. Ronnie Goggins?

12 A Yes, I was.

13 Q And do you recall approximately what day that was?
14 was it the same day of the incident or afterwards some
15 time?

16 A It was afterwards on the 8th, I mean the 4th.

17 Q August 4th, 2008?

18 A August 4th, 2008.

19 Q All right. Were you present at anytime on August
20 2nd, 2008, when Officer Hrycaj was showing the lineup
21 which is presently in front of you marked State's Exhibit 1?

22 A No, I wasn't. No, I was not.

23 Q Had you seen that lineup?

24 A I had not.

25 Q Okay. Once you got involved, please tell the Court

Russell Porter - Direct examination
by Solicitor Ellis

1 basically what steps you took in your investigation.

2 A Once I was assigned the case, I followed up with the
3 victim at his residence, which was on the 8th at
4 approximately 2:45 p.m. in the afternoon. At that time I
5 had the lineup with me that I had compiled myself and
6 presented it to Mr. Geter.

7 SOLICITOR ELLIS: Okay. Approach the witness, Your
8 Honor?

9 THE COURT: Yes, you may.

10 Q Investigator Porter, showing you what's been marked as
11 State's Exhibit 2.

12 Do you recognize that?

13 A Yes.

14 Q What is that?

15 A This is the lineup that I compiled for Mr. Geter.

16 Q And, again, when you do that lineup, did you actually
17 view the first lineup, State's Exhibit 1, you seen that at
18 this point?

19 A I had not.

20 Q Is, is Ronnie Goggins present in your lineup, State's
21 Exhibit 2?

22 A He is.

23 Q And where is he located in that lineup?

24 A It's the number six position on the bottom right,
25 bottom right corner.

Russell Porter - Direct examination
by Solicitor Ellis

1 Q All right. Does Ronnie Goggins have a nickname or do
2 you know?

3 A He does. He does.

4 Q And what is that?

5 A Bull or Little Bull.

6 Q All right. And is that the man you placed in the
7 number six position you just described?

8 A Yes.

9 Q Please tell the Court the instructions you would of
10 given Mr. Geter when asking him to view that lineup.

11 A Before I -- excuse me. Before I presented it to
12 Mr. Geter, I stated, you know, I have a, some photos here to
13 take a look at. The suspect may or may not be in this
14 lineup. Go ahead and take a look at it to see if you can or
15 see if he is in there. And if so, I need you to circle it,
16 sign your name and date it if you, if you see that subject.

17 Q And after you gave him those instructions, what
18 happened?

19 A He looked at the lineup approximately -- not even a
20 minute. ~~Circled or immediately identified Mr. Goggins. I~~
21 ~~had him to circle it, sign it, date it, and put the time.~~

22 Q So, ~~within roughly one minute of showing him that~~
23 ~~lineup, State's Exhibit 2, he had made a positive~~
24 ~~identification of Ronnie Goggins or Little Bull?~~

25 A That's correct.

Russell Porter - Direct examination
by Solicitor Ellis

- 1 Q And you said he did circle and initial it also, is that
- 2 right?
- 3 A Yes, that's, that's his writing.
- 4 Q Did he seem confused about the identification in
- 5 anyway?
- 6 A No, sir, went directly to him.
- 7 Q Did he seem hesitant?
- 8 A No hesitation.
- 9 Q Did he seem like he was not sure at all?
- 10 A No. No, he was not.
- 11 Q At what level would you estimate his degree of
- 12 certainty when he picked out that photo?
- 13 A Estimated a hundred percent.
- 14 Q So, that -- is it your recollection there was no doubt
- 15 in his mind that the man he circled, who is Ronnie Goggins,
- 16 and that was the man that he believed robbed him --
- 17 A Yes.
- 18 Q -- on the date in question?
- 19 A Yes.
- 20 Q When you were showing him the lineup, did you do
- 21 anything to indicate who he should pick out, if anyone?
- 22 A I did not.
- 23 Q Never pointed at anyone?
- 24 A Excuse me?
- 25 Q You never pointed at any of the pictures?

Russell Porter - Direct examination
by Solicitor Ellis

1 A I did not, no.

2 Q Didn't, didn't tell him that the man was in any certain
3 row or any certain position or anything like that?

4 A I did not.

5 Q Did you tell him that the man was even definitely in
6 the lineup?

7 A I did not.

8 Q You just asked him to look at it and then pick out the
9 man if he saw him?

10 A That's correct.

11 SOLICITOR ELLIS: Nothing further.

12 THE COURT: Mr. Hall, your witness.

13 MR. HALL: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. HALL:

16 Q Investigator Porter, did you have the responding
17 officer's report at some point in that eight day period of
18 time?

19 A The initial incident report that, that was assigned to
20 me, yes.

21 Q Okay. And you say you didn't know about the previous
22 lineup or you didn't look at it?

23 A I did not look at it. I knew about it. I knew, in
24 her -- the last line of her report she says she showed him a
25 lineup and he wasn't able to pick him out.

Russell Porter - Cross-examination
by Mr. Hall

1 Q Okay. So, you didn't think it important to check to
2 see who was or was not in that lineup?

3 A Actually called evidence. There was no lineup in
4 evidence and it wasn't in -- she didn't provide me one and
5 there was not one in evidence. So, I made my own.

6 MR. HALL: Okay. If I may approach the witness?

7 THE COURT: You may.

8 Q And you see -- this is State's Exhibit 1.

9 I think y'all found that in January or some time when I
10 got the first copy of it?

11 A I just pulled this the other day myself. Just a couple
12 days ago myself.

13 Q You sure you didn't back in February, excuse me,
14 January or early February?

15 I'm gonna -- I have my copy, but I'm getting the
16 State's.

17 Did you generate that back in February?

18 A I don't think so. No, I didn't.

19 Q All right. Now, I want to give you something I got in
20 discovery with that lineup. This is I believe your report.

21 Do you have that?

22 A That's my supplemental, yes.

23 Q Okay. And when did you generate that supplemental?

24 A I began it on August the 8th, 2008, and made a second
25 notation August the 15th, 2008.

Russell Porter - Cross-examination
by Mr. Hall

1 Q And that's when the warrants were issued?

2 A That's correct.

3 Q All right. And there's a edit date on that of
4 January 8th, 2009.

5 what does that mean up at the top?

6 A It may have either looked at it or whenever you -- any
7 kind of activity, you pulled it up or look at it, the
8 computer documents that, any kind of activity in that
9 system.

10 Q All right. And that I think is evidenced by both files
11 as that lineup came with that report that I had not had
12 previous to that dated February 2nd, '09.

13 So, are you sure you didn't pull this lineup then?

14 A I'm sure.

15 Q Do you have any idea how the State got it on February,
16 in February?

17 A No, sir, I didn't pull it. I don't know if the liaison
18 officer may of pulled it for the preliminary case file. He
19 may have pulled it.

20 Q All right. Did you -- you said you looked in the case
21 file.

22 You didn't see the first lineup before you did the
23 second, is that correct?

24 A Property and evidence. I had the case file.

25 Q Okay.

Russell Porter - Cross-examination
by Mr. Hall

1 A Property and evidence did not have a copy of it in
2 evidence.

3 Q Okay. Now, if I can ask you, what would you have done
4 if you were able to find that first lineup?

5 would that influence how you did the second lineup or
6 would you of done a second lineup?

7 A I still would of done a second lineup. would have
8 chose a different picture of Mr. Goggins instead of the same
9 one that she used and put him in a different position.

10 Q Okay. And that's what you would of done differently?

11 A Yes, sir.

12 MR. HALL: All right. No other questions.

13 THE COURT: Redirect?

14 SOLICITOR ELLIS: Yes, sir, briefly.

15 REDIRECT EXAMINATION

16 BY SOLICITOR ELLIS:

17 Q Mr -- Investigator Porter, now just to make sure it was
18 clear on the record, this incident occurred on August 2nd,
19 2008, is that right?

20 A That's correct.

21 Q And that was the date the first lineup, State's Exhibit
22 1, was shown to the victim, is that right?

23 A That's correct.

24 Q On what date was it that your second lineup, State's
25 Exhibit 2, on what date was that shown to the victim?

Russell Porter - Redirect examination
by Solicitor Ellis

1 A On August the 8th.

2 Q So, six days later?

3 A Right.

4 Q Okay. You mentioned a moment ago that you had to
5 essentially retrieve the first lineup, State's Exhibit 1,
6 because it was not present in the case file given to you or
7 in property and evidence when you were assigned the case, is
8 that right?

9 A That's correct.

10 Q And you retrieved that lineup fairly recently, is that
11 right?

12 A That's correct.

13 Q Just to be absolutely clear on the record, and would
14 you just basically explain how you did that?

15 A Have to call the jail system, have them, our system
16 download from the jail's, from the jail system. Have to go
17 back and put the particular, give them a particular date.
18 You have to go back and look through the server to find out
19 that item, that lineup was created. Once you create a
20 lineup, you have to save it in the system. We don't store.
21 We still work off the jail's server. So, I had to download
22 it from that information, give them the date, the particular
23 date I'm looking for.

24 Q And so, what information did you enter into the server
25 when you're trying to locate a lineup from some time in the

Russell Porter - Redirect examination
by Solicitor Ellis

1 past?

2 A That information that was usually was to, just a date.
3 Put anywhere around the date, 8/8/2008. Anything created
4 back in that from 8/11 to 8/30 and see if any lineups were
5 created with his name. I found two lineups that were
6 created. Officer Hrycaj's was created before mine, and
7 mine was created on the 8th.

8 Q All right. And then that -- the one that you
9 mentioned, the first one you saw, Officer Hrycaj, that was
10 the one you retrieved previously?

11 A Yes.

12 Q And that's also the one that's marked State's Exhibit
13 1, is that right?

14 A That's right.

15 Q You mentioned a moment ago what your procedure would of
16 been had you had the first lineup to look at while you were
17 making your second lineup, and you did say you would make a
18 second lineup anyway, is that right?

19 A That's correct.

20 Q And you said that you would of picked a different photo
21 and moved it to a different position on the second lineup,
22 is that right?

23 A That's correct.

24 Q Just looking at -- you saw them up there.

25 A Yes.

Russell Porter - Redirect examination
by Solicitor Ellis

1 Q Just, just viewing both lineups side-by-side, are those
2 the same photos or different photos of the defendant?

3 A Different photos of Mr. Goggins.

4 Q And are they in the same position or different position
5 within those lineups?

6 A Different position.

7 Q So, even though you did not have a chance to view the
8 first lineup prior to making yours, you still would of done
9 it essentially that way?

10 A That's correct.

11 Q Thank you. Nothing further.

12 THE COURT: Anything further?

13 RE CROSS EXAMINATION

14 BY MR. HALL:

15 Q But the discovery that Mr. Ellis gets to give to us
16 comes through your department and he would of contacted you
17 to try to get something?

18 A He would of contacted the liaison officer and he would
19 of developed a case file from what I have and what's in
20 evidence and put those items together and take it over to
21 him.

22 Q So, on February 2nd Sergeant Sutton could of gotten
23 this?

24 A Right.

25 Q Okay.

Russell Porter - Recross examination
by Mr. Hall

- 1 A Right.
- 2 Q Along with your report---
- 3 A That's correct.
- 4 Q ---referring to your lineup?
- 5 A That's correct.
- 6 Q So, that edited doesn't mean you changed the report?
- 7 A That's correct.
- 8 Q So, your system, everytime you look at a report, it
- 9 says it's been edited?
- 10 A It does. Everytime you log into a report, open it up
- 11 and look in it -- if you open it up, if you actually want to
- 12 save it, make any change, save any changes, whether you make
- 13 any changes or not, you have to save it before you exit out
- 14 of it, and that's our records management system.
- 15 Q So, based on that, there would be no way of knowing if
- 16 somebody added something to a report?
- 17 A Unless you actually type something in it, yes.
- 18 Q But if somebody else had done something or you done
- 19 something and saved it on, between August say and October,
- 20 if you had done something, and then you looked at it again
- 21 in I think January 8th, and then exited out, it would say
- 22 you edited it on January 8th?
- 23 A That's correct.
- 24 Q And it wouldn't make any notations about the edit that
- 25 was done say in October or whenever?

Russell Porter - Recross examination
by Mr. Hall

1 A It would of replaced it previously.

2 Q Yes.

3 A Each time you do it it would replace it previously. It
4 wouldn't say, wouldn't have 15 edits on it. It just keeps
5 replacing the one, the next one.

6 Q I thought our computer program was bad.

7 Nothing further.

8 MR. HALL: Nothing further, Your Honor, at this time.

9 THE COURT: You may step down.

10 WITNESS: Thank you, sir.

11 SOLICITOR ELLIS: That would be the evidence the State
12 would present on this issue.

13 THE COURT: All right. Defense wish to call any
14 witnesses on the issue?

15 MR. HALL: No, sir, Your Honor.

16 THE COURT: All right. I'll hear you. You may argue
17 in favor or your motion, Mr. Hall.

18 MR. HALL: Yes, sir, Your Honor.

19 What we have, the second lineup, the, Investigator
20 Porter did, there's, as he said, there's a change in the
21 photograph of my client. There's a change in the position
22 of the photograph. But the one thing he did was put it in a
23 white shirt, which I think the testimony was the description
24 was in a white, I think the word she used, wife beater,
25 which is, as I, as I understand it, a sleeveless t-shirt.

1 But the testimony of that first lineup, Mr. Geter said
2 I'm 100 percent certain I pointed him out, put my finger on
3 the top left corner. I'm 100 percent certain. I was upset.
4 I was shook up, but I'm absolutely certain, and the officer
5 said no, that's not him.

6 The officer testified that she is certain he did not
7 identify anybody. He looked at it. She says -- she denied
8 that she said he picked the guy out who robbed you, but she
9 is certain that he did not pick anybody out. I think the
10 inference there, Your Honor, is he was upset, he didn't pick
11 anybody out, and between the two lineups, there's one
12 picture in common.

13 He's seen in the top right-hand corner. It's the only
14 duplicate in there. I think the identity of my client is
15 tainted based on that. It's a suspect lineup and the
16 reliability of his identification that my client is the
17 person involved in this event, and, therefore, should be
18 excluded.

19 THE COURT: Mr. Ellis.

20 SOLICITOR ELLIS: Thank you, Your Honor.

21 Under the case of Neal v. Biggers, Your Honor, and
22 other cases along that line, Your Honor, there are several
23 factors that are laid out, and I'm sure the Court's very
24 well aware---

25 THE COURT: Five of them.

1 SOLICITOR ELLIS: Yes, sir. And the State would argue
2 that all those in this particular case have been met to, to
3 indicate a, a good identification, Your Honor, that should
4 go to the jury. Your Honor, he did have several minutes to
5 view the person who robbed him very closely at the time of
6 the crime. He did state that he paid a good deal of
7 attention to that, what that person looked like.

8 Your Honor, he, he also provided a fairly accurate
9 description of him as far as height, clothing, eyes. He
10 identified several factors, Your Honor, that he, that he
11 recalled, build, factors along those lines, Your Honor. He
12 said he was absolutely certain who that person was, and,
13 and, again, Your Honor, the time between the first
14 identification was, was, an, hours. Within the second
15 identification, State's Exhibit 2, was six days after the,
16 after the fact, Your Honor, and, of course, he identified
17 the defendant again with absolute certainty today from the
18 stand, Your Honor.

19 The State would, of course, argue that the victim
20 identification has been consistent throughout, that he has
21 accurately described the defendant as being one of the two
22 men who robbed him. Clearly there is some discrepancy in
23 the testimony of Officer Hrycaj and Mr. Geter as far as the
24 manner in which State's Exhibit No. 1, the first lineup, was
25 shown and was not shown, but the way that it was --

1 Mr. Geter's answers were presented with that lineup I should
2 say.

3 However, however, Your Honor, again, the, the victim's
4 statement is that, that is the man who robbed him. Even
5 when he could not see a photo on that first line in front of
6 him, he was still identifying that person in the top left as
7 in his mind the person who was Ronnie Goggins or Little
8 Bull, the defendant. And, of course, State's Exhibit No. 1
9 is exactly where Mr. Goggins picture is. He knew that
10 without even looking at it by his own testimony and when he
11 was first able to speak to me about it, Your Honor.

12 Therefore, the State would argue that there is
13 certainty in this case, and the totality of the
14 circumstances that the identification is accurate and is an
15 issue that should be presented to the jury.

16 THE COURT: All right.

17 MR. HALL: If I may, Your Honor?

18 THE COURT: Yes, sir.

19 MR. HALL: Certainty is, unfortunately, is very
20 subjective. Just here we have Mr. Geter saying I'm certain
21 I pointed at that, and we have the officer who had not been
22 robbed who was doing her job, and she's been a law
23 enforcement officer for years says she's certain that he did
24 not. I think we can draw an inference that Mr. Geter's
25 mistaken. we have an officer who---

1 THE COURT: Well -- but now the issue here is the
2 certainty of the identification. Not the certainty of
3 whether they have a, a similar recollection of what happened
4 when the identification took place, and I, I recognize that
5 you'll have the right to cross-examine them on, you know, on
6 their failure to recollect what happened at that, that first
7 confrontation, cause there is a difference and certainly
8 that would go to the weight of the testimony that they
9 offer.

10 Now, the question is, again, given the five Biggers,
11 Biggers factors, I don't see the fact that the police
12 officer disagrees with the witness on how and the manner in
13 which that took place is one of the Biggers factors, and the
14 witness himself says that he identified the same individual
15 on both occasions. There's no evidence that he identified
16 different individuals.

17 MR. HALL: I'm sorry. I couldn't hear the last.

18 THE COURT: I said there's no evidence that he
19 identified different individuals. Had he not identified
20 someone at the first show up I'm not sure that would
21 invalidate the second show up. So --.

22 MR. HALL: Yes, sir, I understand your ruling, Your
23 Honor. As just a procedural matter in the trial, it's not
24 my practice in trials to be disruptive and I think to
25 preserve this issue, technically I might, I think under

1 Govan I need to renew my objection at the appropriate time
2 when he's about to identify---

3 THE COURT: Well, I'll allow you to do that and it
4 won't be disruptive. That's no problem.

5 MR. HALL: Yes, sir. Sometimes I might get excited,
6 Your Honor. I don't want to be offensive.

7 THE COURT: I tend to keep the courtroom under, under
8 pretty good control. I think we'll be able to do that.

9 MR. HALL: Yes, sir, even though, even though I'm a
10 little decrepit sometimes I do move fast.

11 THE COURT: All right. Well, I'm gonna rule that the,
12 the evidence of identification will be allowed to come in.
13 Of course, you, again, would have the right to cross-examine
14 them as to what happened and what they say happened and any
15 differences in those stories can be commented on for the
16 jury.

17 MR. HALL: Yes, sir.

18 THE COURT: Any other pretrial matters that we need to
19 take up, Mr. Hall?

20 MR. HALL: Nothing from the defense, Your Honor.

21 THE COURT: State.

22 SOLICITOR ELLIS: Nothing from the State, Your Honor.
23 If, if the Court doesn't mind, I wouldn't mind having a rest
24 room break.

25 THE COURT: We're gonna take a five minute break. I'm

1 gonna stay on the bench, but we'll take about a five minute
2 break.

3 The Court will be in recess for that length of time.

4 MR. HALL: Thank you.

5 SOLICITOR ELLIS: Thank you, Your Honor.

6 THE COURT: Is the defendant still in custody?

7 MR. HALL: Yes, sir.

8 THE COURT: He is. If he wishes to take a break, he
9 needs to talk to the officer. They'll take care of him.

10 (Whereupon, a short recess was taken at this time.)

11 THE COURT: Are we ready to proceed?

12 SOLICITOR ELLIS: Yes, Your Honor.

13 THE COURT: You ready, defense?

14 MR. HALL: Yes, Your Honor.

15 THE COURT: All right. Bring the jury in.

16 (Whereupon, the following takes place within the
17 presence of the jury.)

18 THE COURT: All right. The record will reflect that
19 the jury has returned to the courtroom.

20 I told you that when you came back you'd be taking an
21 oath concerning your duties and responsibilities as jurors
22 in this case, and at this time I'm going to ask that the
23 clerk please swear the jury panel for purposes of this
24 trial.

25 (Whereupon, the jury panel was placed under oath at

1 this time.)

2 THE COURT: Ladies and gentlemen, before we begin the
3 trial there's some matters that I'm going to go over with
4 you. Probably, for most of you, this is your first
5 experience in serving on a jury in which a case is actually
6 being tried in a Court. Perhaps some of you have already
7 been in that situation, but I'm gonna talk primarily to the
8 ones that are new to this process.

9 And probably, for those of you who are in that
10 position, most of what you know about what goes on in trials
11 or in courts or in, in the context of being on a jury you
12 would know from such things as television shows you may of
13 seen, or movies that you've watched, or books that you might
14 of read, or perhaps some of your educational process may
15 have covered that sort of thing. But not from the
16 prospective of actually being on a jury.

17 And in the case of television shows and movies, those
18 are very interesting. They keep your attention. They have
19 good plots and good acting and they're intended to do that.
20 And, of course, that's because they're intended primarily
21 for your entertainment.

22 The process that you're involved in today is intended
23 for anything but your entertainment. What you're involved
24 in today is a fundamental part of our democracy. I hope you
25 understand that. Because, if you look around our world

1 today at most of the justice systems that exist throughout
2 the world, those justice systems do not allow for direct
3 participation by citizens in the important decisions that go
4 on between the government in this case and a person who has
5 been charged by that government with the commission of a
6 crime.

7 Our jury system is one that was first envisioned in the
8 Magna Carta which was signed in England in 1215, and it is
9 come down through that tradition to our Constitution here in
10 this state and in our nation. I hope the right to a trial
11 by jury and the direct participation by citizens in the
12 justice system of our country is a right that we all
13 understand and, and are willing to participate in and be
14 involved in. It's my personal belief that service on a jury
15 panel is the second highest service that a citizen can
16 render to your state or your government. Of course, the
17 first being service in the military. So, I want to thank
18 you very much for your willingness to participate in this
19 trial and in your process.

20 What you're engaged in here again is not for your
21 entertainment. It's a search for the truth. It's an effort
22 to see that justice is done between the parties that are
23 appearing in this Court this afternoon and perhaps and
24 probably into tomorrow. A search for the truth you can
25 expect to be slow. You can expect that it will be

1 repetitive and, and just as you would expect a search for
2 the truth to be.

3 This courtroom is a place of honor. It's dedicated to
4 the preservation of citizen's rights under our laws and our
5 Constitution that exist in this state, and many people
6 believe that our justice system is the greatest one ever
7 devised on the face of the earth. Not a perfect system
8 because nothing operated and run by man is ever perfect.
9 But again, it's an effort to see that justice is done in
10 this situation.

11 The attorneys who are going to be appearing in front of
12 this Court today and tomorrow are here to represent their
13 client's interest, and I'm sure they'll do an excellent job
14 in presenting their client's cases before this Court and
15 before you as the trial goes on.

16 But first and foremost, those lawyers are also officers
17 of this Court. They have appeared at some other time and
18 some other place in front of some other tribunal in this
19 state and taken an oath, and that oath is to assist you in
20 your search for the truth. You can expect from them that
21 they'll act in a reasonable, ethical, and a professional
22 manner in the presentation of their client's cases before
23 you during this trial.

24 And I'll remind you too that each of you have now taken
25 an oath as jurors in this case, and you're also expected to

1 act in a reasonable, professional, and an ethical manner in
2 the discharge of your duties in this case. Again, I want to
3 thank you very much for your willingness to accept that
4 responsibility. And if it weren't for good citizens such as
5 yourselves who are willing to accept that responsibility our
6 system couldn't function as it was designed by our
7 forefathers to function. So, again, thank you very much for
8 your willingness to participate.

9 what I'm telling you now is not intended to be a
10 instruction or a charge concerning the law in this case.
11 You will find, as I explain the process to you today, that
12 that will happen at the close of the trial. Once all the
13 evidence has been presented and all the arguments have been
14 made, at that time I will instruct you concerning the law to
15 be applied in this case. What I'm trying to do now is to
16 explain to you the procedure that we'll follow, the roles
17 and responsibilities that each of us has in the conducting
18 of this trial.

19 In this case, I've already gone over with you the
20 indictment in this case. The indictment is for armed
21 robbery. I'm not going to read it to you again at this
22 point in time. And I've explained to you that that
23 indictment is the formal charge that brought this case
24 before this Court. It informs the defendant of the charge
25 that's been lodged against him. It informs this Court and

1 you as well as jurors of the charge that is to be tried in
2 this case.

3 The indictment is simply the charge, and to that charge
4 the defendant has pled not guilty. Now, under our law and
5 under our Constitution, a defendant's plea of not guilty
6 places the burden upon, upon the State to prove the elements
7 contained in the indictment, the charge that's before this
8 Court, each and every one of those elements by proof beyond
9 a reasonable doubt. I'll be going over that standard of
10 proof and the requirement of the State's obligation to meet
11 that standard during my trial, charge on the law at the
12 close of the trial. But it's going to be your duty, ladies
13 and gentlemen, as jurors in this case, to decide, at the
14 close of the trial when I tell you to begin your
15 deliberations, whether or not the State has met that burden
16 of proof that I've just gone over with you.

17 I will tell you now that a defendant is never required
18 to have any burden of proof, never required to prove himself
19 or herself innocent in a criminal trial in this state. And
20 again, I'll explain that in more detail later on. You, the
21 jury, are to determine the facts from the testimony that you
22 hear during this trial, and the other evidence that might be
23 introduced into the record of the case through that
24 testimony. It's up to you to determine what inferences that
25 you feel might be properly drawn from the evidence that you

1 hear and as you find it to be.

2 It's especially important that you, as jurors, perform
3 your duties in this trial both conscientiously and
4 diligently because I will explain to you, under our system
5 of government and under our system of justice, ordinarily
6 there's no means by which an erroneous determination of a
7 fact made by a jury can be corrected.

8 Now, the same law that makes you the sole judges of the
9 facts in this case, and that's what you are, the sole judges
10 of the facts in this case, makes me the sole judge of the
11 law in this case. The law, as I give it to you at the close
12 of the trial, will be the only law that you can use in
13 deciding this case. If you came into this courtroom with
14 any notion or idea as to what the law is or what it ought to
15 be, you should leave that notion outside of the jury room
16 before your deliberations.

17 Under the oath that you have just taken, you're to take
18 the law as I give it to you, then apply it to the facts as
19 you find them to be since you're the sole judges of the
20 facts. You should then be in a position to render a just
21 and a true verdict according to the law and your oath that
22 you have taken in this case.

23 Now, until I advise you to begin your deliberations,
24 I've already told you I don't want you to begin any
25 discussions with anyone about this case even among

1 yourselves. Because, again, even the most innocent
2 conversation made on partial information or partial evidence
3 might color your ultimate decision before you have all the
4 information that you need to make that decision.

5 So, keep an open mind throughout this trial. Don't
6 discuss the case with anyone else and be in a position, at
7 the close of the trial with an open mind, to evaluate all of
8 the evidence that you've heard, and my charge concerning the
9 law, and the arguments of counsel before you begin that
10 decision making process that you'll be making during those
11 deliberations.

12 I will tell you and you'll find out everytime that you
13 leave the courtroom that I'm going to give you that same
14 instruction. I'm also going to advise you that you have
15 taken an oath to decide this case solely upon the evidence
16 presented during the trial.

17 Now, you may ask yourself well, just what is the
18 evidence. Well, the evidence is testimony given by sworn
19 witnesses, witnesses who've been sworn to tell the truth.
20 They'll testify from this witness stand during the trial of
21 the case and whatever evidence, such as documents or other
22 matters might be introduced into evidence through that
23 testimony. That's the only evidence that you'll hear during
24 the trial of this case.

25 For that reason it would be highly improper for you,

1 once we take our evening break, to go out and try to gather
2 any information from any other source concerning this
3 particular case or it would be improper to listen to, watch
4 or read any media reports concerning this case cause I can
5 assure you those sources of information quite often contain
6 information that's not admissible in evidence in a trial and
7 a trial in a courtroom such as this under our rules of
8 evidence and rules of procedure that we're required to
9 follow. And so, therefore, it would be highly improper for
10 you to consider any of that information in reaching your
11 ultimate verdict.

12 Your oath is to decide the case on the evidence and
13 upon the law. The only place that you will hear that is in
14 this courtroom. So, don't try to gather any information
15 outside of the courtroom. Don't allow anyone to discuss
16 this case with you during the course of the trial.

17 As I indicated to you, it is important that you keep
18 that open mind throughout the trial and until you begin your
19 deliberations because, at the close of the trial, it's going
20 to be your solemn responsibility to determine the guilt or
21 the innocence of the defendant in this case.

22 In a minute I'm going to start the trial by allowing
23 the attorneys to make what's called an opening statement.
24 Now, opening statements made by attorneys and the closing
25 statements made by attorneys at the close of the trial,

1 those statements are not evidence in the case. At the
2 beginning of the trial the statement will tell, the
3 statements will tell you what the case is about or what they
4 expect to prove during the trial. At the close of the trial
5 they'll sum up the evidence that you've heard from their
6 client's prospective and suggest to you how they ask of,
7 think you should view that evidence.

8 But those statements made by attorneys are not
9 evidence. They can't be used directly by you in determining
10 the guilt or the innocence of a defendant. That can only be
11 done by your view and your weighing of the evidence. And
12 again, the only evidence in the case is sworn testimony and
13 whatever evidence comes into the record through that
14 testimony during the trial. Excuse me.

15 Now, from time to time during the trial -- I am the
16 presiding officer of the trial. It will be my
17 responsibility to rule on questions of the admissibility of
18 evidence or the appropriate, appropriateness of questions
19 that have been asked. And in doing so, I will be attempting
20 to apply and follow the rules of evidence and procedure that
21 we use in the courtroom here.

22 I will tell you now that please don't take any, from
23 anything that I do in the discharge of my duties as such
24 that I have any opinion whatsoever as to how you determine
25 the facts in this case. The law does allow me an opinion on

1 what, how you determine the facts in this case. You're the
2 sole judges of the facts in this case, and I have no opinion
3 as to how you determine the facts in this matter. It will
4 be me doing my job. That is to see to it that you only hear
5 properly admissible evidence under the rules and, of
6 evidence that we follow. So, don't take from anything that
7 I say that I have any opinion as to how you determine the
8 facts in this case.

9 Also, in that regard, from time to time it may be
10 necessary for me to discuss those issues of admissibility of
11 evidence with the attorneys. It also may be my belief that,
12 in those discussions, we may be talking about something that
13 is not admissible into evidence and should not be considered
14 by you in reaching a verdict. If, if it's my belief that
15 the discussions are moving in that direction, I will ask you
16 to step outside the courtroom while I have those discussions
17 with the lawyers.

18 Once I've completed the discussions and made a ruling
19 I'll ask you to step back into the courtroom. And, again,
20 don't take from the fact that I've asked you to step outside
21 the courtroom that I have any opinion whatsoever as to how
22 you determine the facts. It's simply, again, me doing my
23 job to see to it that you only consider properly admissible
24 evidence in reaching that decision. Once we've completed
25 that process I'll announce my decision, and we'll proceed

1 with the trial at that time.

2 Now, in determining what the facts are in the case,
3 you're the sole judges of the facts. It's gonna be
4 necessary that you determine the credibility or the
5 believability of each and every witness who will testify
6 during this trial. Credibility simply means that,
7 believability. So, it's important that you pay close
8 attention to the witnesses as they testify. Try not to let
9 your thoughts wonder. Try to pay attention and we'll take
10 breaks from time to time to give you a chance to refresh
11 yourself during that process.

12 But as the sole judge of the facts, you have the right
13 to believe all of what a witness tells you, part of what a
14 witness tells you, or none of what a witness tells you. You
15 have the right to believe one witness against all the others
16 who testify or all the others against one. You're the sole
17 judges of the facts. You're the sole judges of their
18 credibility, and you're the sole judge of the weight you
19 choose to give to each witness' testimony.

20 I'll tell you in that process to use your own good
21 common sense that you walked into this courtroom with.
22 Because, on a daily basis, every minute of your lives you
23 make decisions as to what you choose to believe and what you
24 choose not to believe, again, using your own good common
25 sense. So, again, use that common sense and weigh the

1 evidence as you hear it. Be in a position -- listen to it
2 so at the close of the trial you can discuss those decisions
3 with your fellow jurors in your deliberations.

4 In deciding whether to believe a witness, use your
5 common sense. You can consider such factor as whether or
6 not the witness has a stake in the outcome of the trial,
7 whether or not the witness has some perceived bias or
8 prejudice one way or the other in the case, whether or not
9 the witness actually has the ability to know the facts about
10 which that witness testifies. Finally, you'll be watching
11 the witnesses as they testify, how, as, as they speak, how
12 they deliver the testimony.

13 You can take all of those factors into consideration
14 along, again, using your own good common sense and reach a
15 determination as to the credibility and believability of the
16 witnesses as they testify in this case. You have the right
17 to consider anything that's in the record of this case. So,
18 again, pay, pay close attention to what goes into the record
19 and what is said on the record.

20 Now, I'm a little different than some judges and
21 especially the TV judges. I don't appoint a foreperson of
22 the jury at the beginning of the trial. That person has no
23 greater say in the outcome of a trial than any other juror.
24 That's simply the person who's going to preside over your
25 deliberations, who will write any questions that you might

1 have during your deliberations back to the court, and will
2 fill out the verdict form for you at the close of the trial
3 once a verdict has been reached.

4 But as I'll explain to you at the close of the trial,
5 this jury can not reach a verdict unless each and every one
6 of the 12 jurors who are deliberating agree upon that
7 verdict. So, therefore, each and every one of you has the
8 same responsibility to listen to what goes on in the trial.
9 Each and every one of you will be making that decision as to
10 whether or not you agree with the verdict. And the
11 foreperson, again, has no greater voice in the verdict than
12 any other juror.

13 So, I don't want anybody to sit back and say well, that
14 person's the foreperson, they'll handle it. I want
15 everybody to pay attention during the trial. At the close
16 of the trial, when I make my charge on the law, I'll appoint
17 a foreperson at that point in time and instruct them on how
18 to proceed in that function. But, again, I make that
19 appointment at the close of the trial, and I have not
20 forgotten that factor and will certainly let you know about
21 that at that time.

22 Now, I want to be sure that I haven't violated anyone's
23 rights by what I told you at the beginning of the trial.

24 Is there any objection from the State?

25 SOLICITOR ELLIS: No, sir, Your Honor.

1 THE COURT: Any objection from the defense?

2 MR. HALL: None from defense, Your Honor.

3 THE COURT: Now, I've explained to you that the burden
4 of proof is on the State in this trial. That means we let
5 the State go first with its opening argument followed by the
6 defense. Also the State then is allowed to present its
7 evidence first, and, again, followed by any evidence the
8 defense chooses to put up, and, again, I've told you the
9 defense has no burden of proof in this case.

10 Once we've taken all the evidence that the parties wish
11 to put into the record, we will allow the attorneys then to
12 make a closing statement or argument followed by my charge
13 on the law. So, that's the order that we're going to go in
14 as the trial proceeds. The state will be going first.

15 And Mr. Ellis, you may proceed with the opening
16 argument for the State.

17 SOLICITOR ELLIS: Thank you, Your Honor.

18 Please the Court?

19 THE COURT: Yes, sir.

20 SOLICITOR ELLIS: August 2nd, 2008, was a day off
21 from work for Albert Geter. He didn't have to go in. He
22 didn't have to get up early and go waste away all day like
23 most of us do and make some money. It's his day to relax,
24 take some time for himself, hang around the house if he
25 chose. That's what a lot of us do on our days off. At

1 least some of the time.

2 On August 2nd of 2003 that wasn't what Mr. Geter was
3 gonna do. He woke up very very early so he could go help a
4 cousin clean a park, a city park that was in need of some,
5 some repairs, some work. He was gonna go work on that park
6 some, and he chose to get up early, sacrifice part of his
7 day off to go help him.

8 So, he got up very very early that morning. He got
9 dressed and got ready at his house and he began to walk to
10 her house to meet her so they could go to the park together.
11 And on his way to the, her house, he was walking down the
12 streets fairly near his house, his own home, he saw a man
13 standing up on the sidewalk. As he approached that man, the
14 man stood, turned, blocked his path. That man spoke to him
15 and reached out to shake his hand.

16 And as Mr. Geter, being polite, bent down and reached
17 his hand out to shake the hand of that individual who was
18 blocking his way, a second person came up behind Mr. Geter,
19 put a gun to his head, and demanded his money. Mr. Geter's
20 day of rest, Mr. Geter's day of community service was over.
21 He was being robbed at gunpoint.

22 And after these two men took the money Mr. Geter had,
23 Mr. Geter did what most anybody else would do. He went up
24 the road. He got away from the situation. He called the
25 police.

1 Now, ladies and gentlemen, we're here today to talk
2 about the case involving a charge of armed robbery. The man
3 who I just told you was standing on the sidewalk and blocked
4 the path of Mr. Geter, kept him from going past, was that
5 man, Ronnie Goggins. Mr. Goggins was doing something on the
6 side of the road that day. We don't know what. But as Mr.
7 Geter came by, he and his friends saw an opportunity to make
8 some cheap money.

9 Didn't care what Mr. Geter wanted. They didn't care
10 how he got that money. They didn't care about what his
11 plans were for that day. Mr. Goggins and his friend held
12 Mr. Geter up at gunpoint and robbed him.

13 Ladies and gentlemen, you're gonna hear a lot more
14 later on in the trial from the judge about exactly what
15 armed robbery is. But just kind of a basic definition,
16 definition of it is a robbery by itself would be an unlawful
17 or an illegal taking of someone else's property. That could
18 be money or other items. Doesn't matter what it is.

19 And the taking, the taking of that item or those items
20 must be by some kind of force, violence, or even just
21 intimidation. No force or injury has to be had. It's
22 basically taking someone's property by some kind of
23 intimidation or violence.

24 What makes it an armed robbery, of course, is like, by
25 your common sense, I'm sure you know this, some kind of

1 weapon was present, some weapon was used.

2 You're going to hear testimony from several different
3 witnesses during the course of this trial. They'll present
4 testimony and evidence to you based on what happened to
5 them, what actions they took, how this all played out on
6 August 2nd, 2008, and going forward. All I'm gonna ask
7 you to do is basically what the judge asked you to do a few
8 moments ago. I'm gonna ask that you listen very carefully
9 to what everyone has to say, that you keep a very open mind,
10 and you evaluate each person and what they have to say about
11 this incident, this, this crime that occurred.

12 And if you listen to this evidence, also want you to
13 use your good common sense that you-all have. You-all have
14 been supplied with that. You've picked up your life
15 experiences through your backgrounds and we'd ask that you
16 use that as well. And as you listen to this testimony, you
17 think about the evidence, apply your common sense to it,
18 about what really happened on August 2nd, 2008, and I
19 think if you do that you'll agree, at the end of this trial,
20 that that defendant, Ronnie Goggins, is guilty of armed
21 robbery.

22 Thank you.

23 THE COURT: Mr. Hall, it's your opportunity to make an
24 opening statement.

25 MR. HALL: Please the Court.

1 THE COURT: Yes, sir.

2 MR. HALL: Solicitor.

3 Ladies and gentlemen of the jury, first of all, let me
4 introduce myself. I'm Robert Hall. I'm an attorney here
5 Spartanburg. I've been a prosecutor, I've been a
6 magistrate, and now I'm doing this defense work. And
7 introductions are important. And so, I wanted to introduce
8 myself. I want you to think about that through this trial.

9 I also want to thank you for serving because we've been
10 waiting for our day in court, Mr. Goggins and myself. And
11 we're here today and we're putting the case in your hands.
12 And as the judge told you, you need to listen, keep an open
13 mind, retain what's being said because, at some point, you
14 have to decide what has been proven by the State beyond a
15 reasonable doubt. In this instance you're going to have to
16 decide what makes sense and what doesn't make sense in a
17 trial, what they have proved beyond a reasonable doubt.

18 I anticipate you're going to hear testimony from the
19 State's witness and that's what you're gonna hear in this
20 case, and you're gonna hear some differences in there.
21 You're gonna have to decide, to decide what that means to
22 you.

23 Don't say this man's charged with a horrible crime --
24 armed robbery's horrible. It is. Crime is bad in society.

25 I've been referred to as a history nut because after I

1 became a lawyer I became more and more interested in the
2 legal history, and this led me into American history and the
3 importance of exactly what you're doing here. We have a
4 system that has been fought for over generations to have
5 you, for us to impose upon you to come in here and hear
6 these cases and decide them.

7 It's very important. But it doesn't work unless you
8 show up and it doesn't work properly unless you keep an open
9 mind and listen to the evidence. And at the appropriate
10 time, decide what has been proven beyond a reasonable doubt
11 and apply it to the law as the judge has given it to you.

12 A reasonable doubt, I believe at the end of this case,
13 when it comes to the decision, has the State proven the
14 defendant, the defendant guilty beyond a reasonable doubt, I
15 think you're gonna have a reasonable doubt.

16 Thank you.

17 THE COURT: Mr. Ellis, you may call the first witness
18 for the State.

19 SOLICITOR ELLIS: Thank you, Your Honor.

20 The State calls Albert Geter.

21 THE COURT: Sir, come forward to my left please to be
22 sworn.

23 ALBERT GETER, being first duly
24 sworn, testified as follows:

25 THE COURT: Sir, have a witness, a seat in the witness

Albert Geter - Direct examination
by Solicitor Ellis

1 stand, and once you're seated I'm going to ask that you
2 state your name for the record.

3 WITNESS: My name is Albert Geter.

4 THE COURT: Mr. Ellis, it's your witness. You may
5 proceed.

6 SOLICITOR ELLIS: Thank you, Your Honor.

7 DIRECT EXAMINATION

8 BY SOLICITOR ELLIS:

9 Q Mr. Geter, have you lived in Spartanburg your entire
10 life?

11 A Yes, I have.

12 Q And just generally speaking, where do, where do you
13 live in Spartanburg?

14 A In the Arkwright community.

15 Q Do you have a job?

16 A Yes, I do.

17 Q And what's your job?

18 A I'm a granite and laminate table tops and table bases
19 for cafe table and commercial tops.

20 Q How long have you been doing that?

21 A About two years now.

22 Q All right. Talking about your family a little bit, do
23 you have any children?

24 A Yes, I have six kids and I just had a newborn daughter
25 two weeks ago.

Albert Geter - Direct examination
by Solicitor Ellis

1 Q Congratulations.

2 A Thank you.

3 Q Do you recall the events of August 2nd, 2008?

4 A Yes, I do.

5 Q Tell the jury please, if you don't mind, just what,
6 what you were planning to do that day.

7 A I was planning to help my cousin clean up an urban
8 park. She works for the Spartanburg City Chamber of
9 Commerce and she goes around cleaning up the parks, and she
10 asked me to volunteer to help her that Saturday morning.
11 And so, I said yeah, sure. She said we want to, I'm wanting
12 to be gone by six o'clock. So, I got up pretty early and
13 started on my way over to her house.

14 Q Now, when you got up, was it, was it daylight out?

15 A No, it wasn't.

16 Q And you got up early just to go help her out?

17 A Yes.

18 Q Any idea of just roughly about what time you got up
19 that day?

20 A A little bit before 5:00.

21 Q And after you got dressed and got ready, do you have
22 any idea about what time you, you left the house?

23 A No, I actually don't know what time it was that I left
24 the house. But I did leave the house a little bit, a little
25 bit after 5:00.

Albert Geter - Direct examination
by Solicitor Ellis

1 Q So, around 5:00 a.m. or a little bit afterwards?

2 A Yes.

3 Q How far away does your cousin live?

4 A From where I was staying at the time on Forest Street,
5 approximately about ten minutes. It was about a ten minute
6 walk from my house to her house.

7 Q And what would be the route you would of taken to, to
8 get towards her house?

9 A You go down Forest Street and get on Folsom Street, and
10 then get on Howard Street to get to Northside Apartments.

11 Q As you're walking down the street that morning, did you
12 see anybody?

13 A Yes, I did.

14 Q And basically, if you would, just describe how you
15 first saw that person.

16 A As I was coming up the hill on Folsom Street I noticed
17 there was some, a guy leaning up against a brick wall
18 standing there. And as I approached him, he stepped out in
19 front of me and introduced his self as Little Bull and I
20 proceeded to shake his hand. And when I shook his hand,
21 bent down to shake his hand, I stood back up straight, there
22 was a gun to the back of my head.

23 Q Did you get a good look at who this person was?
24 could you tell me what he looked like?

25 A Yes.

Albert Geter - Direct examination
by Solicitor Ellis

- 1 Q Do you recall what he was wearing?
- 2 A Yes.
- 3 Q And basically could you tell the jury what that was?
- 4 A He was a short, dark skinned black male wearing a wife
5 beater t-shirt with baggy jeans on and tennis shoes.
- 6 Q When you say wife beater t-shirt, do you mean,
7 basically mean a white sleeveless T-shirt?
- 8 A Yes.
- 9 Q You say he was leaning against the wall up the road as
10 you were walking in that direction?
- 11 A Correct.
- 12 Q When you got near him, did he move to get in front of
13 you?
- 14 A Yes, he did.
- 15 Q Is it fair to say he blocked your path?
- 16 A Yes.
- 17 Q And can you tell the jury again what it was he said to
18 you?
- 19 A He said hey, man, my name is Little Bull and I, like I
20 said, he had his hand out. So, I reached down to shake his
21 hand, and, like I said, when I stood back up straight, there
22 was a gun to the back of my head.
- 23 Q And he said his name was Little Bull, is that correct?
- 24 A Yes, sir.
- 25 Q Had you ever met this man before?

Albert Geter - Direct examination
by Solicitor Ellis

1 A No, I haven't.

2 Q Did, did you know who he was at that time?

3 A No, I didn't.

4 Q So, since he offered his hand, did you do the polite
5 thing and shake his hand?

6 A Correct.

7 Q Again, about what was the size of this person if you
8 know?

9 A Roughly about 5'6", 5'7", stocky build, little low
10 haircut.

11 Q And how big are you?

12 A I'm 6'6".

13 Q How much do you weigh?

14 A 230 pounds.

15 Q So, you're 6'6" and he's roughly 5'6", 5'7", he's about
16 a foot shorter than you, correct?

17 A Yes.

18 Q So, that's why you had to bend over to shake his hand?

19 A Yeah.

20 Q And you said when you straightened back up there was a
21 gun to your head?

22 A Yes.

23 Q Where was the gun pointed at your head?

24 A It was in a, on the back left side of my head.

25 Q Was it touching your head or just near it or how did

Albert Geter - Direct examination
by Solicitor Ellis

1 you know it was there?

2 A No, it was touching my head. It was cold steel on the,
3 on the back of my head.

4 Q Okay. Did, did the man in front of you who introduced
5 his self as Little Bull, is he the man who had the gun or
6 was it a different person?

7 A No, the gun in front of me -- Mr. Goggins, he did not
8 have the gun. I don't know where the second person came
9 from. But there was somebody. Like I said, after I shook
10 his hand and stood back up straight, there was a gun to the
11 back of my head and I don't know which direction this guy
12 came from or what.

13 Q Were you able to get a decent look at the man behind
14 you with the gun?

15 A Not really a good, a good look at him. But as I turned
16 to the side I could see that he was a light skinned male
17 with a, red hair, red facial hair and freckles, and I
18 noticed he had a white doo rag on his head and a white
19 t-shirt.

20 Q When the gun was placed to your head, was anything said
21 to you?

22 A Yes, it was. They asked me where the money was and I
23 told him I didn't have any, and that's when Mr. Goggins
24 proceeded to go into my pockets and find my money and took
25 it out.

Albert Geter - Direct examination
by Solicitor Ellis

1 Q Let me back up one second.

2 You said they said where's the money at.

3 was it---

4 A No, the guy, the guy with the gun is the one that

5 actually asked me where the money was.

6 Q When the gun was pressed to your head or when the man

7 behind you asked where the money is, did you turn around or

8 anything or are you still facing forward?

9 A I'm still facing forward.

10 Q And had the man identified as Little Bull, the short

11 man, was he still standing in front of you?

12 A Yes, he was.

13 Q You said at that, at that point the man behind you with

14 the gun, he said where's the money, correct?

15 A Yes, he did.

16 Q And what did you tell him?

17 A I told him I didn't have any money.

18 Q What happened next?

19 A Mr. Goggins proceeded to go into my pockets. I had on

20 some cargo pants that morning and he rummaged around until

21 he did find the money that I had in my pockets.

22 MR. HALL: Your Honor, if I can, since he was referring

23 to Mr. Goggins, if I can raise my earlier objection at this

24 point?

25 THE COURT: All right. Earlier objection---

Albert Geter - Direct examination
by Solicitor Ellis

1 WITNESS: Or Little Bull.

2 THE COURT: Just one second.

3 The earlier objection's noted. Same ruling.

4 You may proceed.

5 SOLICITOR ELLIS: Thank you, Your Honor.

6 Q Just so we can be fairly clear at this point, the man
7 who introduced himself as Little bull, do you see him in the
8 courtroom today?

9 A Yes, I do.

10 Q And where is he?

11 A Right there.

12 Q What's he wearing?

13 A He's wearing a blue, blue dress shirt and khaki pants
14 and Sebagos, something like sandal shoes.

15 SOLICITOR ELLIS: Okay. Your Honor, the State asks
16 that the record reflect that the victim has identified the
17 defendant, Ronnie Goggins.

18 THE COURT: The record will so reflect.

19 You may proceed.

20 SOLICITOR ELLIS: Thank you, Your Honor.

21 Q Now, you said Mr. Goggins or Little Bull, he then
22 searched your pockets in your cargo shorts, is that right?

23 A Yes.

24 Q About how long did that take?

25 A Roughly about five minutes. The whole ordeal took

Albert Geter - Direct examination
by Solicitor Ellis

1 about roughly five minutes.

2 Q Well, I just meant at this point the search of your
3 pockets.

4 How long did that take?

5 A Oh, that didn't take -- it took probably like 20
6 seconds.

7 Q Had to dig around a little bit?

8 A Yeah.

9 Q And did you have anything in your pockets that day?

10 A Yes, I did.

11 Q And what did you have?

12 A I had \$250, my rent money.

13 Q Cash?

14 A Yes.

15 Q And you were gonna -- you say that was your rent money,
16 correct?

17 A (Witness nods affirmatively.)

18 Q Were you gonna go pay that that day or something?

19 A Yes, after I get finished helping my cousin I was gonna
20 go pay my rent.

21 Q After he dug around in your pockets and found the
22 money, what happened?

23 A They told me to get out of there, and I told them I
24 said I'm not -- they actually told me just to run off, and I
25 told them I'm not running cause y'all already had my money.

Albert Geter - Direct examination
by Solicitor Ellis

1 So, I proceeded to walk away from them slowly with my hands
2 in the air, and I could hear footsteps behind me like they
3 were running. So, I turned around at that point and seen
4 that they were running up Folsom Street. And at that, and
5 at that point I ran from where I was to the Money Tree and
6 called Spartanburg, Spartanburg Public Safety Department.

7 Q All right. Have you ever had a gun pointed at you
8 before?

9 A No, I haven't.

10 Q Is it also fair to say you never had a gun pressed
11 against the back of your head before?

12 A No, I haven't.

13 Q Ever been robbed before?

14 A No, I haven't.

15 Q A traumatic experience for you then I guess, is that
16 right?

17 A Say what now?

18 Q And that's, that's a fairly traumatic experience for
19 you then?

20 A Yes, it was. It was a traumatic experience.

21 Q While this was going on, about how long would you say
22 it lasted from the, the first moment you saw Little Bull or
23 Ronnie Goggins leaning against the wall up the road until
24 the point where they ran off?

25 A Five to seven minutes at the most.

Albert Geter - Direct examination
by Solicitor Ellis

1 Q And how long would you say it was from the time where
2 you first shook his hand learning he was Little Bull until
3 the time that they ran off?

4 A Three, three or four minutes.

5 Q After you shook his hand and they told you to run off,
6 about how close were you, about how far away were you?

7 A When they told me to run off?

8 Q No, I'm sorry. From the -- well, let me back up.

9 When you shook the defendant's hand in the road, about
10 how far away from, from him were you at that point?

11 A About two feet.

12 Q And for the rest of that incident until they ran off
13 and you went your way and they went theirs, were you, were
14 you roughly that same distance away from him?

15 A Yes, I was.

16 Q So, basically right next to him the entire time?

17 A Yes, I was.

18 Q Did you get a good look at him?

19 A Yes, I did.

20 Q What were you focusing on?

21 A I was -- actually I was focusing on his eyes and the
22 thoughts that were going through my head were my kids and my
23 girlfriend. I had a pregnant girlfriend at the time, and
24 just a little bit of everything was going through my head at
25 that time.

Albert Geter - Direct examination
by Solicitor Ellis

1 Q Was there anything in particular that, that stood out
2 about his eyes?

3 You mentioned his eyes a moment ago.

4 A They just looked deep, dark, and cold. You know, like
5 I meant nothing to him or nobody meant nothing to him. So,
6 it wasn't no compassion in them at all, at all. Nothing.

7 Q While you were looking -- I'm sorry.

8 While the gun was being held to your head, again, where
9 were you focused the entire time?

10 A On the guy that I referred to as Little Bull.

11 Q That being the defendant, yes?

12 A Yes.

13 Q When -- the second man you didn't see very well, when
14 he came up behind you with a gun, tell me what kind of
15 reaction the defendant had.

16 Did he seem surprised?

17 A No, he didn't.

18 Q Seemed startled?

19 A No, he didn't.

20 Q Was he scared?

21 A No, he wasn't. He was just -- just dropped his hands
22 down to his side and just started looking at me. And as I
23 said, the guy with the gun asked me where the money was and
24 he was still looking at me. So, I just stood there.

25 Q And again, who was the man that put his hands in your

Albert Geter - Direct examination
by Solicitor Ellis

1 pockets and found the money?

2 A The guy I referred to as Little Bull.

3 Q After they told you to get out of there, and you began,
4 as you said, walk away with your hands up --

5 A Yes, sir.

6 Q -- you said you heard some footsteps basically running
7 away, is that right?

8 A Yes.

9 Q You turn and looked?

10 A Uh-huh. (Affirmative).

11 Q Were they running in different directions, together,
12 how, what were they doing?

13 A They were running together up Folsom Street away from
14 me.

15 Q So, both the defendant and the other man who had the
16 gun ran off together?

17 A Yes, they did.

18 Q At that point did you go up the road and call the
19 police?

20 A Yes, I did.

21 Q And did officers respond to you pretty quickly?

22 A Yes, they did.

23 Q Now, you mentioned earlier that you spent several
24 minutes at about two foot distance from the man who was
25 standing in front of you who said his name was Little Bull,

Albert Geter - Direct examination
by Solicitor Ellis

- 1 is that right?
- 2 A Yes.
- 3 Q And you also just a moment ago identified that man,
- 4 Ronnie Goggins, the defendant, as the man who was known as
- 5 Little Bull who was in front of you that day, is that right?
- 6 A Yes.
- 7 Q How certain are you that's him?
- 8 A A hundred percent sure.
- 9 Q Is there any doubt in your mind?
- 10 A No doubt. No doubt at all.
- 11 Q Following the -- everything that happened that day on
- 12 August 2nd, did you ever run into Little Bull again,
- 13 Ronnie Goggins?
- 14 You see him again?
- 15 A Yes, I did. One night, one night me and my girlfriend
- 16 and my friend guy was standing on the porch and he proceeded
- 17 to walk down the sidewalk, and he yelled out to me, hey, I'm
- 18 Little Bull, come get at me. And at that point I was
- 19 already kind of mad. So, I started to go off the porch
- 20 after him, but my friend grabbed me and told me no, the only
- 21 reason why he did that is cause he's got a gun on him. So,
- 22 just be smart and stay on the porch and that's about it.
- 23 Q But he came down the road to your house?
- 24 A Yes, he came down the sidewalk in the direction to my
- 25 house.

Albert Geter - Direct examination
by Solicitor Ellis

1 Q About how much time had passed from the date of the
2 robbery until that happened?

3 A Oh, about a month.

4 Q And he came down the road and said come get at me?

5 A Yes.

6 Q What did you take that to mean?

7 A Like he wanted to fight or I don't know. I really
8 couldn't tell what was going through his mind at that time
9 cause I had tried to put the situation out of my mind ever
10 since it happened. But he came and, like I said, identified
11 his self and say hey, I'm Little Bull, come get at me. And
12 I, I felt automatic rage at that point and I wanted to do
13 something about it. But better judgment stopped me.

14 Q So, in the end, you just went back in your house and
15 you didn't try to fight him, you didn't confront him?

16 A I didn't confront him at all.

17 Q When the gun was to your head, what were you, what were
18 you feeling?

19 A Terror.

20 Q What was going through your mind?

21 A I was terrified. I didn't -- cause I didn't know what
22 was gonna happen. And you know, even if they would of found
23 some money, they probably still would of shot me. I didn't
24 know what was going on, go on or what to think at that point
25 in time.

Albert Geter - Direct examination
by Solicitor Ellis

1 Q You mentioned that your girlfriend was pregnant.

2 Did you -- did she later have the baby?

3 A Twenty-five days later. My son was born on the [REDACTED].

4 Q And, again, you got a very good look you said at the
5 man in front of you, Little Bull.

6 A Yes, sir.

7 Q Is that that man at the defense table there in the blue
8 shirt?

9 A Yes, that's him.

10 Q Ronnie Goggins?

11 A Yes.

12 Q Any doubt in your mind that that's him?

13 A No doubt.

14 Q Thank you.

15 Nothing further at this time.

16 THE COURT: Mr. Hall, your witness.

17 CROSS-EXAMINATION

18 BY MR. HALL:

19 Q Now, Mr. Geter, do you recall talking to Officer
20 Hrycaj, Susan Hrycaj on August 2nd?

21 A Yes, I do.

22 Q About 5:30, six o'clock that morning?

23 A Yes, I do.

24 Q And isn't it true, at that time, you said I was
25 approached, let me see, that a short guy calling, introduced

Albert Geter - Cross-examination
by Mr. Hall

1 himself as Little Bull, was engaging you in conversation?

2 A Yes.

3 Q Right?

4 And then a tall male came up behind you and put a
5 9-millimeter to your head?

6 A Yes.

7 Q Okay. And you said, at that time, you said you didn't
8 have any money, but the guy with the gun proceeded to go in
9 my pants pocket and take \$250 from me?

10 A Yes, sir, I, I remember writing that down, but at the
11 time, sir, after, after the events of that happening to you,
12 everything was jumbled in my mind, I was disoriented, and I
13 was scared, and I was terrified.

14 Q But, but you did say that?

15 A Yes, I did.

16 Q And now you're saying that it was the other guy?

17 A Yes, sir.

18 Q Okay. And you watched, through this robbery, you
19 watched the shorter guy in front of you, is that correct?

20 A Yes, I did.

21 Q And you told Mr. Ellis you watched him the whole time?

22 A Yes, I did.

23 Q Until apparently you started up walking away with your
24 hands up?

25 A Yes, sir.

Albert Geter - Cross-examination
by Mr. Hall

- 1 Q And this was five o'clock in the morning, somewhere in
2 there?
- 3 A Uh-huh. (Affirmative).
4 Yes, sir.
- 5 Q Still not light, right?
- 6 A Yes.
- 7 Q And you're certain that behind you, that you never
8 turned around and looked at, that it was a 9-millimeter gun?
- 9 A Yes, I know what guns look like.
- 10 Q Didn't you say you were watching the person in front of
11 you the whole time?
- 12 A Yes, sir.
- 13 Q Somebody came up behind you?
- 14 A Yes, I did.
- 15 Q If you were looking forward, Mr. Geter, how did you
16 know that it was a 9-millimeter gun?
- 17 Just from the feel of the barrel?
- 18 A No, because he was standing kind of off to the side
19 behind me right here and I could turn my eyes and see. But
20 I was focusing on the guy called Little Bull.
- 21 Q Now, did you tell the officers that or---
- 22 A Yes, sir.
- 23 Q ---in any of the statements you'd given to them?
- 24 A Yes, I did.
- 25 Q Now, as Mr. Ellis asked you when you testified that the

Albert Geter - Cross-examination
by Mr. Hall

1 shorter person blocked your way and the guy came up from
2 behind you, but now you say he kind of came to the side, is
3 that right?

4 A He -- yes, sir, but he still came up behind me.

5 Q All right.

6 A I didn't know where he came from. He wasn't in my view
7 as I was walking up Folsom Street.

8 Q All right. If you're walking up the street, are you on
9 the left side or the right side of the street?

10 A I'm on the right side of the street.

11 Q The right side of the street.

12 And the shorter person who introduced himself as Bull
13 or Little Bull, was he on the right side of the street or
14 left side of the street?

15 A He was on the right side of the street.

16 Q So, is there a sidewalk?

17 A Yes, sir.

18 Q All right. And a street?

19 A Yes.

20 Q But he blocked you and the guy came up behind and took
21 the side of you from your left side or your right side?

22 A From my left side.

23 Q Left side.

24 Okay. And you didn't see him till he was there, is
25 that right?

Albert Geter - Cross-examination
by Mr. Hall

1 A No.

2 Q You don't know where he came from?

3 A Don't know where he came from.

4 Q Okay. And when he got to you, he had the gun---

5 A Yes, he did.

6 Q ---at your head?

7 That's when you noticed it?

8 A Yes, sir.

9 Q Okay. Now, do you remember telling the officer in your
10 statement when the guy pulled the gun out of his back pocket
11 he pointed the weapon at my head and said where's the money
12 at?

13 A No, I don't recall that.

14 MR. HALL: Your Honor, if I just may approach the---

15 THE COURT: You may.

16 MR. HALL: ---witness?

17 Object to marking this for identification?

18 SOLICITOR ELLIS: No objection.

19 MR. HALL: Just for identification please.

20 (Whereupon, the statement was marked as Defendant's
21 Exhibit No. 1 for identification purposes only at this
22 time.)

23 Q I'm gonna hand you what's marked for identification No.
24 1.

25 Is that the statement you gave August the 2nd to

Albert Geter - Cross-examination
by Mr. Hall

1 Officer Hrycaj?

2 A Yes, it is.

3 Q Did you write that or did she write that?

4 A I wrote it.

5 Q what's that last sentence say?

6 A when the guy pulled the gun out of his back pocket he
7 pointed the weapon at my head and said where's the money at.

8 Q Thank you.

9 Have nothing further of this witness at this time, Your
10 Honor.

11 THE COURT: Redirect?

12 SOLICITOR ELLIS: Thank you, Your Honor.

13 Permission to approach the witness again, Your Honor?

14 THE COURT: You may.

15 REDIRECT EXAMINATION

16 BY SOLICITOR ELLIS:

17 Q Mr. Geter, I want to show you what Mr. Hall just showed
18 you. It's marked Defense Exhibit for identification No. 1.

19 That's your statement that you gave the day of the
20 incident, is that right?

21 A Yes.

22 Q Now -- well, if you wouldn't mind, let's just read the
23 entire statement out loud.

24 A I was walking down Folsom Street headed to my cousin's
25 house when two guys approached me. The short one called

Albert Geter - Redirect examination
by Solicitor Ellis

- 1 himself Bull and engaged in conversation with me, and his
2 friend, a six foot male, came out behind me and pulled out a
3 9-millimeter pistol and said to me where's the money at. I
4 told him I didn't have any, but the guy with the gun
5 proceeded to go in my pockets and took \$250 from me. Then
6 the guy said get the hell out of here before I cap you.
7 That's when I ran to the pay phone at the Money Tree and
8 called the police department. And then when the guy pulled
9 the gun out of his back pocket point, he pointed the weapon
10 at my head and said where's the money at.
- 11 Q So, that's pretty much exactly what you testified to a
12 moment ago, isn't it?
- 13 A Yes.
- 14 Q You were walking down Folsom Street, right?
- 15 A Yes.
- 16 Q You were going to your cousin's house?
- 17 A Yes.
- 18 Q Two guys end up approaching you, correct?
- 19 A Yes.
- 20 Q The short guy called himself Bull?
- 21 A Yes.
- 22 Q He started a conversation with you?
- 23 A Yes.
- 24 Q And then a taller 6-foot a man, his friend, came up
25 from behind you?

Albert Geter - Redirect examination
by Solicitor Ellis

1 A Yes.

2 Q He pulled a pistol and said where's the money at?

3 A Yes.

4 Q You said you didn't have any?

5 A That's correct.

6 Q And then obviously you lost your money at that point
7 and they ran off, correct?

8 A Yes.

9 Q Pretty consistent, isn't it?

10 A Yes.

11 MR. HALL: Your Honor, I object.

12 THE COURT: I'll sustain the objection and strike the
13 comment from the record.

14 MR. HALL: Thank you, Your Honor.

15 Q Again, you did, you did write in your statement that
16 the man with the gun took the money from your pocket?

17 A Yes, I did.

18 Q When did you give that statement?

19 How long after the robbery did you, you give that
20 statement?

21 A Probably like 20 minutes, 20, 30 minutes after the
22 incident happened I wrote that down.

23 Q What was your mind set right then?

24 A It was messed up. It was jumbled up. Like I said, I
25 didn't know what was going on. I really couldn't register

Albert Geter - Redirect examination
by Solicitor Ellis

1 or process what had just happened to me, and I was just
2 disoriented, distraught.

3 Q when you say messed up, do you mean that you didn't
4 know what had happened to you or just that some of the
5 details---

6 A Oh, I knew what happened to me. It's just I couldn't
7 believe what had happened to me, and, you know, why, why it
8 had happened to me. I didn't, you know, just didn't know
9 why.

10 Q And so, your testimony today is that you were confused
11 about whose hand went into your pocket and took the money
12 out?

13 A Yes.

14 Q Is there anything else that was, you're confused about?

15 A No.

16 Q Everything else in that statement you gave is
17 substantially the truth?

18 A Yes.

19 Q Who did take the money out of your pocket?

20 A The guy that I referred to as Little Bull.

21 Q And is that the defendant, Ronnie Goggins?

22 A Yes.

23 Q That's the man, the short man who was in front of you?

24 A Yes.

25 Q At some point you did obviously look behind you at

Albert Geter - Redirect examination
by Solicitor Ellis

1 least for a second or two, didn't you, once the gun got
2 pressed to your head?

3 A Yeah, for a split second.

4 Q So, you were able to get at least a glimpse---

5 A Of the gun.

6 Q ---of what that person looked like and what the gun
7 looked like, correct?

8 A Yes.

9 Q Once the gun was against your head, were you looking
10 forward or were you looking back?

11 A I did like that real quick and then I focused on the
12 guy in front of me.

13 Q So, you looked backwards very quickly and then focused
14 in front of you the rest of the time?

15 A Yes.

16 Q So, is it fair to say that your main focus for those
17 three to five minutes was on the man in front of you, Little
18 Bull?

19 A Yes.

20 Q And not so much on the man behind you?

21 A Yes.

22 Q Given the second man ran up, ran up and showed a gun,
23 pointed the gun at your head, did the defendant, Mr.
24 Goggins, did he run away?

25 A No, he did not.

Albert Geter - Redirect examination
by Solicitor Ellis

1 Q He act scared?

2 A No, he did not.

3 Q You sort---

4 A He just---

5 Q I'm sorry. Go ahead.

6 A He just stood there, you know, like I said, dropped his
7 arms down and just stood there just looking up at me in my
8 eyes. That's all I remember from that whole ordeal. He
9 just stood there just staring at me.

10 Q with those eyes that you noticed?

11 A Yes.

12 Q And after you began to walk away and they told you to
13 get out of there, they ran off together?

14 A Yes, they did.

15 SOLICITOR ELLIS: I have nothing further.

16 THE COURT: Recross.

17 MR. HALL: I just want to retrieve my statement, Your
18 Honor. I think it's up here.

19 THE COURT: Sir, you may step down.

20 All right. Ladies and gentlemen of the jury, it's
21 about ten minutes till 5:00. So, we're gonna stop at this
22 point in time and you resume in the morning.

23 I will caution you, during the break, not to discuss
24 the case with anyone. It's okay to tell people at home
25 you've been selected on a jury and then tell them you'll

1 tell them all about it when it's over. But don't discuss it
2 any further than that with anyone else. I don't allow
3 anyone to discuss it with you. And if anyone attempts to do
4 that, please report that upon your return to the court
5 house. I can assure you I take jury tampering very
6 seriously, and I'll see that proper investigations are begun
7 if someone attempts to contact you about your service on the
8 jury.

9 Please don't watch, listen to, or read any media
10 reports. I don't know that this case will be reported in the
11 media, but I don't control the media. So, whatever they
12 report on, they have a right to do so. But don't listen to
13 or watch those reports, again, because it may contain
14 information not, that should not be considered by you in
15 reaching a verdict in this case.

16 we're gonna resume the trial in the morning at 9:30.
17 The bailiffs will show you the jury room and its
18 relationship to the remainder of the court house. Report to
19 the jury room, not back to the assembly room, to that jury
20 room in the morning at 9:30 and we should be in a position
21 to start shortly thereafter.

22 So, at this point in time you're free to go. The
23 bailiffs will show you out.

24 Thank you very much.

25 (whereupon, the following takes place outside the

1 presence of the jury.)

2 THE COURT: All right. Anything from the State before
3 we close for the evening?

4 SOLICITOR ELLIS: No, sir, Your Honor.

5 THE COURT: Anything from the defense?

6 MR. HALL: No, sir, Your Honor.

7 THE COURT: All right. The defendant is in custody.
8 He will remain in custody during our break.

9

10 (whereupon, Court was in recess for the evening.)

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1 Thursday, October 29th, 2009

2

3 THE COURT: All right. Mr. Ellis, are you ready to go
4 forward?

5 SOLICITOR ELLIS: Yes, sir, Your Honor.

6 THE COURT: And Mr. Hall?

7 MR. HALL: We're ready, Your Honor.

8 THE COURT: All right. Let's bring the jury in.

9 (Whereupon, the following takes place within the
10 presence of the jury.)

11 THE COURT: All right. The record will reflect that
12 the jury has come into the courtroom.

13 Ladies and gentlemen, I want to, first of all, thank
14 you for your patience this morning and apologize for our
15 late start. However, there was some matters that came up
16 that we disposed of. Four rather serious cases by, without
17 the necessity of a jury this morning. And so, I took those
18 matters. We started at nine o'clock. I thought we would be
19 through a little quicker than we were. It turned out they
20 were a little more, maybe a little more serious than I
21 thought they were.

22 So, we took the time necessary. But that's -- those
23 are four cases that juries don't have to consider now. So,
24 we've taken care of those things. So, I thank you for your
25 patience.

1 When we broke yesterday we were in the process of
2 receiving evidence from the State, and we'll continue with
3 that this morning.

4 Mr. Ellis.

5 SOLICITOR ELLIS: Thank you, Your Honor.

6 Please the Court.

7 State calls Investigator Russell Porter.

8 THE COURT: Sir, if you'll come forward to my left to
9 be sworn.

10 RUSSELL PORTER, being first duly
11 sworn, testified as follows:

12 THE COURT: Sir, once you're seated I'm going to ask
13 that you state your name for the record.

14 WITNESS: Russell Porter

15 THE COURT: Mr. Ellis, your witness.

16 SOLICITOR ELLIS: Thank you, Your Honor.

17 THE COURT: Yes, sir.

18 DIRECT EXAMINATION

19 BY SOLICITOR ELLIS:

20 Q Good morning, Investigator Porter.

21 A Morning.

22 Q Where are you employed?

23 A With the Spartanburg Public Safety Department.

24 Q And how long have you been working there?

25 A Approximately 17 years.

Russell Porter - Direct examination
by Solicitor Ellis

1 Q In what capacity?

2 A Patrol and currently I'm an investigator.

3 Q And how long have you been an investigator?

4 A About -- almost ten years..

5 Q Are you assigned any certain area in your
6 investigation?

7 A Generally I do violent crime and assaults.

8 Q Now, at some point after August 2nd, 2008, were you
9 made aware or assigned to this case involving the defendant,
10 Ronnie Goggins?

11 A I was.

12 Q And how were you made aware of that case?

13 A Usually patrol officers would take a report, and the
14 criminal investigator supervisor will assign those reports
15 to investigators, and I was assigned this report on August
16 the 4th of 2008.

17 Q So, at that point it became your case, correct?

18 A Yes.

19 Q Well, once you received the report and learned
20 basically the facts of the case, what, what did you do
21 first?

22 A I looked over the report several days later. I
23 contacted the victim and followed up with him.

24 Q And do you recall where you contacted him first?

25 A August 8th, 2008, at 2:45 p.m. I went to his

Russell Porter - Direct examination
by Solicitor Ellis

1 residence and talked with him.

2 Q When you arrived there, what did you, what did you,
3 what -- I'm sorry.

4 what did he tell you?

5 A When we got there I talked to Mr. Geter who was the
6 victim. I had a lineup prepared for him. I showed him that
7 lineup and just followed the description of the suspect.

8 SOLICITOR ELLIS: All right. Permission to approach
9 the witness, Your Honor?

10 THE COURT: Yes, you may.

11 Q Investigator Porter, I show you what's been premarked
12 as State's Exhibit No. 2 for identification.

13 Do you recognize that?

14 A Yes.

15 Q What is that?

16 A It's the lineup that I compiled.

17 Q Tell the jury how you compiled the lineup.

18 A Given the physical description and the name that the
19 victim gave me, I was aware of the subject already. I knew
20 him to be a guy from around the area. Compiled the lineup
21 with him, put him in that lineup, and developed this
22 picture, photo lineup.

23 Q You mentioned you used the description that was given
24 to you.

25 what description was given to you by Mr. Geter of his,

Russell Porter - Direct examination
by Solicitor Ellis

1 basically of his attacker?

2 A He gave me the street name of Little Bull. Said the
3 subject was short, stocky build, had kind of a wide nose,
4 deep eyes. Once he gave me that description I knew Little
5 Bull to be Ronnie Goggins. So, I developed a lineup.

6 Q Now, would Little Bull be considered a nickname or a
7 street name?

8 A Yes.

9 Q Is that fairly common in that area of town?

10 A Yes.

11 Q And would people in that area of town know him, know
12 him by, by a nickname also?

13 A Yes, they would.

14 Q So, would it be uncommon for someone to go by their
15 nickname and introduce themselves as other people?

16 A More so than often, yes.

17 Q So, typically speaking, someone might introduce himself
18 as say Little Bull as opposed to Ronnie Goggins if they met
19 on the street?

20 A That's correct.

21 Q Once you realized it was Little Bull or Ronnie Goggins,
22 you said you placed his, a photo of him in, in that photo
23 array you have there?

24 A Yes.

25 Q And if you could just show it to the jury please?

Russell Porter - Direct examination
by Solicitor Ellis

1 Just hold it up.

2 A (Witness complies.)

3 Q Where is his picture located?

4 A It's in the number six position on the top side, top
5 left corner. It would be the bottom picture here. Be
6 number six of the bottom right picture.

7 Q When you showed that photo array to Mr. Geter, what
8 were the instructions you gave him?

9 A When I presented the lineup to him, I tell any, any,
10 any, any victim or any person looking at a lineup, the
11 person may or may not be in this, this photo array. But if
12 you would, look at it, see if you do find him. If you do, I
13 have you signify that by circling the picture, signing your
14 name, and putting the date, and usually I put the time also,
15 have them write the time.

16 Q Did you do anything to indicate who the person might be
17 or if he was even in the lineup at all?

18 A I did not.

19 Q And once you give him that lineup to look at, what did
20 he do?

21 A He looked at it. Just a matter of seconds, not even a
22 minute, immediately picked Mr. Ronnie Goggins. I had him,
23 at that time, I had him circle it, sign it, date it, and put
24 the time.

25 Q Did he hesitate at all?

Russell Porter - Direct examination
by Solicitor Ellis

1 A No hesitation.

2 Q How certain did he seem?

3 A A hundred percent.

4 Q And then he's the one that circled that, that photo
5 there?

6 A Yes.

7 Q And again, that photo is Ronnie Goggins?

8 A Yes.

9 Q Also known as Little Bull?

10 A Yes.

11 Q The defendant sitting at the table over there?

12 A Yes.

13 Q Following that, what did you do next?

14 A After that was done, I then went to speak with a
15 magistrate and had two warrants signed on Mr. Goggins on
16 8/15/2008 for pointing a firearm and robbery.

17 SOLICITOR ELLIS: Court's indulgence please, Your
18 Honor.

19 (Pause.)

20 SOLICITOR ELLIS: Nothing further at this time, Your
21 Honor.

22 THE COURT: Mr. Hall, it's your witness.

23 MR. HALL: Thank you, Your Honor.

24 THE COURT: Yes, sir.

25 CROSS-EXAMINATION

Russell Porter - Cross-examination
by Mr. Hall

1 BY MR. HALL:

2 Q And you have that lineup.

3 You also have that case file, is that correct?

4 A That's correct.

5 Q Did something else happen on August 8th with victim
6 assistance people in your file?

7 Is there a notice in your file about some contact with
8 victim assistance on August 8th specifically Specialist
9 Gosnell?

10 A Her supplemental states on August 8th, 2008, received
11 call from Mr. Geter saying he received her message, and she
12 told him who she was or explained who she was.

13 Q And was he seeking some assistance from victim
14 assistance with rent help or something?

15 A It says at the bottom of her supplemental he was given
16 three referrals to Salvation Army, Greater Ministries, and
17 Piedmont Community Action.

18 Q That was some, some letters that victim assistance will
19 produce that somebody's been the victim of a crime and they
20 need some help, is that correct?

21 A They usually -- yes.

22 Q All right. That was on August 8th, the same day you
23 went to his house?

24 A That's correct.

25 Q All right. Do you know if this was before or after?

Russell Porter - Cross-examination
by Mr. Hall

- 1 A I'm not sure. She -- you'd have to talk to
2 Mrs. Gosnell about that. I'm not sure when she, what time
3 of day she went out.
- 4 Q Okay. But he was at the city at some point on that day
5 the same day you went to see him at his house?
- 6 A That's correct.
- 7 Q Okay. Now, did he give you a description at his house
8 and then you do the lineup or did you already have a
9 description from somewhere else?
- 10 A I had a description from the incident report.
- 11 Q From the incident report.
- 12 Okay. And from that you put together the lineup?
- 13 A That's correct.
- 14 Q All right. Was this the first lineup?
- 15 A The first lineup that I did, yes.
- 16 Q Had somebody else done a lineup?
- 17 A According to the incident report, the responding patrol
18 officer also presented him a lineup.
- 19 Q Okay. And does your file indicate whether or not Mr.
20 Goggins was in that first lineup?
- 21 A I didn't make mention to Mr. Geter about---
- 22 Q No, I'm not asking that. I'm just -- was Mr. Goggins
23 to, based on your case file---
- 24 A Uh-huh. (Affirmative).
- 25 Q ---included in an earlier lineup?

Russell Porter - Cross-examination
by Mr. Hall

1 A Yes.

2 Q And that was presented, according to the case file, to
3 Mr. Geter?

4 A That's correct.

5 Q And was Mr. Geter able to pick Mr. Goggins out of that
6 first lineup according to your file?

7 A No.

8 Q All right. And have you now seen that first lineup?

9 A I have.

10 Q All right. And is it safe to say that Mr. Goggins is
11 the only repeat picture in those two lineups?

12 A That's correct.

13 Q Okay. Now, Mr. Ellis asked you about the nickname and
14 they're very common.

15 Is it safe to say a lot of people are just known by
16 their nicknames?

17 A Yes.

18 Q And in your investigation of other things, sometimes
19 you have somebody tell you well, so and so saw this or did
20 this and they only give you a nickname, that's the only
21 thing they know about them, isn't that accurate?

22 A That's, that's correct.

23 Q All right. So, to some extent, the nickname's just
24 like a name?

25 A That's correct.

Russell Porter - Cross-examination
by Mr. Hall

1 Q That's how people are known?

2 A That's correct.

3 Q All right. And -- let's see and let me get this
4 straight in my mind for the jury.

5 You had not seen the first lineup when you did the
6 second lineup?

7 A That's correct.

8 MR. HALL: All right. Just one moment.

9 (Pause.)

10 MR. HALL: Nothing further of this witness at this
11 time, Your Honor.

12 THE COURT: Mr. Ellis, redirect.

13 SOLICITOR ELLIS: Thank you, Your Honor, just briefly.

14 REDIRECT EXAMINATION

15 BY SOLICITOR ELLIS:

16 Q Investigator Porter, you mentioned a moment ago that
17 you compiled a lot of it based on information you received
18 from the report you were given from the responding officer,
19 is that correct?

20 A That's correct.

21 Q Did you also ask Mr. Geter at some point if he recalled
22 what the person looked like yourself?

23 A That's correct, yes.

24 Q And, and what did he tell you?

25 A Same description, short male, stocky build, wide nose,

Russell Porter - Redirect examination
by Solicitor Ellis

1 kind of dark complexion.

2 Q So, consistent with what you've been told earlier from
3 the report, is that correct?

4 A That's correct.

5 Q And, again, when you showed that lineup, State's
6 Exhibit No. 2, to Mr. Geter, he was able to identify the
7 defendant?

8 A Yes.

9 Q Did he hesitate?

10 A No hesitation.

11 Q Was he certain?

12 A A hundred percent sure.

13 SOLICITOR ELLIS: Your Honor, at this time, permission
14 to admit State's Exhibit No. 2 into evidence.

15 MR. HALL: No objection.

16 THE COURT: Without objection, it will be admitted as
17 marked.

18 (Whereupon, State's Exhibit No. 2 was received into
19 evidence at this time.)

20 SOLICITOR ELLIS: Nothing further, Your Honor.

21 THE COURT: Recross?

22 MR. HALL: No, sir.

23 THE COURT: You may step down, sir.

24 Mr. Ellis, the State may call its next witness.

25 SOLICITOR ELLIS: Your Honor, at this time the State

1 rests.

2 THE COURT: Ladies and gentlemen, the State resting
3 means that the State has, the State has completed the
4 presentation of its evidence in this matter. At this stage
5 of the proceeding there's some things I have to go over with
6 the attorneys.

7 So, at this point in time I'll ask the bailiff to
8 assist you in returning to the jury room. And as always,
9 I'll advise you not to begin any discussion until you've
10 heard all the evidence, all the arguments, and I've charged
11 you concerning the law.

12 You may retire to the jury room.

13 Thank you very much.

14 (Whereupon, the following takes place outside the
15 presence of the jury.)

16 THE COURT: All right. Any motions at this time?

17 MR. HALL: Yes, sir, Your Honor. We make a motion for
18 a directed verdict and the evidence does not substantiate a
19 charge of armed robbery against Mr. Goggins. There's a
20 suspect lineup that was -- they're two lineups. My client
21 was the only one in both lineups. The evidence that's
22 presented to the jury just is not sufficient. The nickname,
23 anybody could of used the name Little Bull with a general
24 description of 5'7" and stocky.

25 He -- and, again, he was the only one that was

1 duplicated in that. And the evidence that's been presented
2 to the jury is that he was picked out of the second lineup
3 and unable to pick out in the first. And I think that is
4 not sufficient for a jury to find him guilty of armed
5 robbery.

6 THE COURT: Mr. Ellis, I'll hear from you.

7 SOLICITOR ELLIS: Thank you, Your Honor.

8 Your Honor, of course, as the Court knows, the evidence
9 must be taken in the light most favorable to the State. The
10 State would obviously argue that the victim has made a
11 positive identification of the defendant, Ronnie Goggins, as
12 the, one of the two men who robbed him. He did state, in
13 qualification, that there was a gun held to his head and
14 that money was taken from his person by force or
15 intimidation by Mr. Goggins, Your Honor.

16 And, again, he was able to positively identify,
17 identify him both in Court and from the lineup, which has
18 been admitted into evidence. His description throughout has
19 been consistent. The State would argue that this is a case
20 that should go forward to the jury.

21 THE COURT: I do find that there is sufficient evidence
22 for the matter to go to the jury, and I'll deny the motion
23 at this time.

24 Any other motions from the defense?

25 MR. HALL: Not at this time, Your Honor. I would

1 request a few moments to speak to my client and---

2 THE COURT: I'll give you an opportunity to do so.

3 After you finish, I'll inquire concerning his right to

4 testify or not testify.

5 we'll take, we'll take about a five to ten minute break

6 at this time.

7 The Court's in recess.

8 (Whereupon, a short recess was taken at this time.)

9 THE COURT: Swear the defendant.

10 (Whereupon, the defendant was placed under oath at this
11 time.)

12 THE COURT: You can be seated.

13 (Defendant complies.)

14 THE COURT: Sir, Mr. Goggins, at this time I'm going to
15 explain to you certain of your constitutional rights. If
16 you do not understand my explanation I will give you an
17 opportunity to ask questions about that when I finish my
18 explanation.

19 Do you understand what we're about to do?

20 DEFENDANT: Yes, sir.

21 THE COURT: We've reached the stage of this trial where
22 you have the right to present your defense. You have the
23 right to claim the protections which are given to you under
24 the Fifth Amendment to the United States Constitution. That
25 amendment reads in part that no person shall be compelled,

1 in any criminal case, to be a witness against himself.

2 Now, that, excuse me, that first phrase means that you
3 can not be required to testify in this case. You have the
4 right to testify on your own behalf, but no one can make you
5 testify. The right to remain silent is a personal right and
6 no one can waive or give up that right except yourself.

7 Now, I will tell you that if you decide to testify you
8 will be subject to the same rules that govern the testimony
9 of any other witness in the case. That means that you would
10 be examined by your lawyer. You would also be
11 cross-examined on any relevant issue in the case by the
12 State's attorney. In addition, the State, if you have
13 convictions involving dishonesty, false statements, or for
14 crimes which were punishable by the imprisonment, by
15 imprisonment for more than one year, and this Court makes a
16 determination that the probative value of admitting that
17 evidence outweighs its prejudicial effect to you, in that
18 case the solicitor would be able to introduce your criminal
19 record to attack your credibility.

20 Now, if you decide to testify, the decision on your
21 part must be made freely, voluntarily, and intelligently
22 with knowledge of the protections given to you by the Fifth
23 Amendment as I've described it to you and also the
24 consequences that can result of your decision, from your
25 decision to, to testify.

1 I will advise you further that if you decide not to
2 testify that I will instruct the jurors in this case that
3 they can not give the fact that you did not testify any
4 consideration whatsoever, and that there will be absolutely
5 no prejudice to you or your case because you did not
6 testify. The decision as to whether or not to testify is
7 left entirely up to you. You have the right to discuss that
8 decision with your attorney and with anyone else you choose
9 to discuss it with. However, the final decision is yours.

10 Now, Mr. Goggins, do you understand what I've explained
11 to you?

12 DEFENDANT: Yes, sir.

13 THE COURT: Do you have any questions about what I have
14 explained to you?

15 DEFENDANT: No, sir.

16 THE COURT: Have you discussed the decision as to
17 whether or not to testify with your lawyer?

18 DEFENDANT: Yes, sir.

19 THE COURT: Do you wish to discuss it any further with
20 your attorney or anyone else?

21 DEFENDANT: No, sir.

22 THE COURT: Do you intend to testify in this case?

23 DEFENDANT: No, sir.

24 THE COURT: All right. Anything further you wish to go
25 over with your client on the record, Mr. Hall?

1 MR. HALL: No, sir, I think you've covered it, Your
2 Honor.

3 THE COURT: All right. Now, Mr. Hall, do you intend to
4 call any other witnesses in your case?

5 MR. HALL: No, sir, we do not.

6 THE COURT: All right. What I'll do then is when we
7 bring the jury back in I will ask if you have any witnesses
8 and allow you to rest on the record. We will be then going
9 into the closing arguments, and since you have not offered
10 any evidence, the State will be going first followed by the
11 defense.

12 MR. HALL: Thank you, Your Honor.

13 Before we do that, I do need---

14 THE COURT: Yes, sir.

15 MR. HALL: ---if I can, I need to apologize. It was
16 pointed out to me by the bailiff I addressed the Court
17 without standing when I said I need to talk to my client. I
18 apologize for that. It was -- I meant no disrespect. It's
19 just sometimes easier not to stand up when---

20 THE COURT: I understand.

21 Mr. Ellis, anything further before we go into the
22 closing argument?

23 SOLICITOR ELLIS: No, sir, Your Honor. I just inquire
24 as to whether you would charge the hand of one is the hand
25 of all in your charge.

1 THE COURT: Well, I have put that in the charge that I
2 have in front of me. My concern was that there did not
3 appear to be a great deal of evidence as to a prior (A)
4 arrangement. However, I am required to view the facts in
5 the light most favorable to the State at this point in time,
6 and I'm also required to take all inferences that can be
7 reasonably drawn from the evidence in favor of the State in,
8 in deciding what I present to a jury.

9 And in this particular case, given the fact that there
10 appears to have been a stop or an alleged stop by the
11 defendant, of this defendant, and acting in concert with
12 someone else who was unseen and came up from behind with a
13 gun, I believe that you could infer from that evidence that
14 there was some type of an arrangement. That will be up to
15 the jury to decide though.

16 SOLICITOR ELLIS: Thank you, Your Honor.

17 THE COURT: Do you wish to be heard on that, Mr. Hall?

18 MR. HALL: No, sir, I, I understand your ruling on it
19 and it's up to my argument. I'm gonna---

20 THE COURT: You can certainly argue the issue both
21 ways. The jury will make a decision as to whether or not
22 they think that's appropriate or not.

23 MR. HALL: I intend to argue it one way.

24 THE COURT: I kind of expected that.

25 MR. HALL: If I -- can I see the, my exhibit for

1 identification?

2 THE COURT: I intend to charge both accomplice
3 liability and hand of one, hand of all.

4 SOLICITOR ELLIS: Yes, sir.

5 THE COURT: All right. Anything further, gentlemen,
6 before I bring the jury back?

7 SOLICITOR ELLIS: Not from the State, Your Honor.

8 THE COURT: Anything from the defense?

9 MR. HALL: Not from the defense, Your Honor.

10 THE COURT: Let's bring the jury in.

11 (Whereupon, the following takes place within the
12 presence of the jury.)

13 THE COURT: All right. When we broke earlier the State
14 had completed the presentation of its evidence and I had
15 indicated that the defense has the right to present any
16 evidence if the defense chooses to.

17 Does the defense wish to call any witnesses?

18 MR. HALL: No, sir, Your Honor, the State -- the
19 defense rest.

20 THE COURT: All right. Ladies and gentlemen, that
21 completes the presentation of evidence in this matter. I
22 told you that when we reached this stage of the proceedings
23 we would have closing or final arguments from the attorneys
24 before I charge you concerning the law.

25 Mr. Ellis, the State will be going first.

1 You may proceed.

2 SOLICITOR ELLIS: Thank you, Your Honor.

3 Please the Court?

4 THE COURT: Yes, sir.

5 SOLICITOR ELLIS: Albert Geter, walking down the road,
6 minding his own business, innocently going to his cousin's
7 house to go work on a park on Saturday morning. Those plans
8 were derailed by that man, Little Bull, Ronnie Goggins, the
9 defendant. That man and a second man surrounded Mr. Geter,
10 put a gun to his head, and stole all the money he had on
11 him. Something about having a cold steel gun pressed to the
12 skin of your head brings things into a sharp focus.

13 Your mind might start to race on a lot of different
14 things. Memories of the past, dreams for the future, your
15 children, your friends, your family. But it brings what's
16 happening right at that moment into very sharp clear belief.
17 Having a gun to your head makes you focus on what's
18 happening to you right then and what's in front of you.

19 (Whereupon, a microphone in the courtroom began making
20 noises.)

21 THE COURT: Just one minute. Just step back. Maybe
22 it's that microphone right there. Either step in front of
23 it or back up. You're right under it.

24 SOLICITOR ELLIS: Yes, sir.

25 THE COURT: So, see if that's it.

1 SOLICITOR ELLIS: They put a gun to his head. Albert
2 was focused on just one thing. Once the gun was placed to
3 his head, he turned and briefly saw the man behind him. He
4 saw a silver 9-millimeter handgun, a pistol. The entirety
5 of that three to five minutes where he thought he might die,
6 where he was being robbed, he was focused on just one thing,
7 and that was the man standing two feet in front of him.
8 That defendant over there, Little Bull, Ronnie Goggins.

9 I told you there's one thing in particular that really
10 stood out to him. He noticed a lot of things about the man
11 in front of him. He noticed his haircut. It was kind of a
12 low haircut he said. Noticed he was a dark skinned man. He
13 noticed that he was about 5'7", fairly stocky. But he
14 really noticed his eyes. If you remember what he said on
15 the stand, eyes were just cold, hard, emotionless,
16 unfeeling. Uncaring.

17 The focus on those eyes that were two feet in front of
18 him, right about this far away, that gun was pressed to his
19 head. It was those eyes that made him know 100 percent this
20 man right here in this lineup, that man at that table was
21 the man standing in front of him robbing him.

22 Ladies and gentlemen, I told you at the beginning of
23 this trial it would be very important to use your common
24 sense when -- there's one thing to think about. That
25 defendant over there, as you've heard, different people say

1 it from the stand, he's about 5'7". He's not a, he's not a
2 very big man. I'm sure he's strong, but he's not that big.

3 Look at Mr. Geter. 6'6", 230 pounds. For a man that
4 big to be robbed, there better be a gun. There better be a
5 second person. There better be something to help -- if
6 you're that small robbing someone that big, there's got to
7 be a weapon there because otherwise a man that big, he's not
8 gonna let himself be robbed.

9 But there was a gun to his head. May not of been the
10 hand of that man, but his friend, his partner, and that man
11 reached his hand into Albert's pockets and stole his rent
12 money. Money he worked hard for at his job, money he needed
13 to pay so he could continue to live at his residence. That
14 man stole his money while his partner held a gun to Albert's
15 head, and all the while Albert just kept focusing on those
16 eyes, those deep set unfeeling hard eyes that were right in
17 front of him.

18 You heard Albert say from the stand several times
19 100 percent sure, without a doubt, the man in front of me is
20 the defendant, Little Bull, Ronnie Goggins. You heard
21 Investigator Porter say the same thing. That when he spoke
22 with Mr. Geter days after the fact, Mr. Geter was 100
23 percent sure it was this man. He was 100 percent sure the
24 man's name was Little Bull, and Investigator Porter told
25 you, in that area of town, people go by their nicknames, and

1 there's one man named Little Bull over there. It's that man
2 right there, the defendant.

3 Ladies and gentlemen, as I told you at the beginning of
4 this, robbery is the illegal or unlawful take or stealing of
5 some kind of property from another person using force or
6 intimidation. No one has to actually get physically
7 injured. Intimidation's enough. And what makes it an armed
8 robbery, which is the charge before you today, in the
9 presence of any kind of weapon. Having a gun placed to your
10 head, you can't intimidate anybody anymore than that to make
11 someone think their life might end any second for \$250 of
12 rent money. Being terrified.

13 Mr. Geter told you how this affected him. He was just,
14 just all scared for the rest of the day, for days
15 afterwards. Scared. But that fear, that fighter kind of
16 syndrome that kind of kicks in when our bodies experience
17 things like that with a gun to our head, it also makes
18 everything very clear, very sharp, and details like eyes,
19 like a, like a height, like a haircut stand out. You can
20 remember them.

21 The judge is also going to charge you on a concept
22 known in the law of the hand of one is the hand of all.
23 Basically what that means is if people are acting together
24 in a crime, the fact that one person did one part doesn't
25 mean that the other person is not a party basically. In

1 other words, if one person is holding a gun during a
2 robbery, both people are basically assumed to have committed
3 that armed robbery.

4 In this case, Mr. Goggins didn't have the gun in his
5 hand. You never heard Mr. Geter say Mr. Goggins held, had
6 the gun. But, again, the hand of one is the hand of all.
7 Mr. Goggins partner had a gun, and Mr. Goggins reached his
8 hand into Albert's pants and stole his money while the gun
9 was pressed to his head.

10 These men were working together.

11 How do we know they worked together?

12 If you're minding your own business and just
13 introducing yourself to someone on the street, hi, I'm
14 Little Bull, that's all you're gonna do, have a friendly
15 conversation, that second man runs up with a gun, you'd run
16 away. You don't stand there. If you stand there, you're
17 certainly surprised there's a man there with a gun there all
18 of a sudden. Mr. Geter told you from this stand here
19 yesterday the second man came up, put a gun to the back of
20 Mr. Geter's head, Little Bull, Ronnie Goggins was not
21 surprised. He was not startled. He was not afraid. He
22 didn't run away. He didn't do anything, anything. He
23 didn't do anything. He put his hands by his side and a few
24 moments later went into his pockets, stole his money. This
25 defendant had a plan and they carried it out to rob Albert

1 Geter.

2 Ladies and gentlemen, as I said earlier, again, your
3 common sense is very important. Your life experiences are
4 important in evaluating everything you've seen and heard.
5 Use that common sense.

6 Albert Geter is a hundred percent sure. No doubt in
7 his mind that man robbed him. Investigator Porter, when he
8 talked to Albert Geter, had exactly the same impression.
9 He's a hundred percent sure it's that man. He robbed him.

10 Ladies and gentlemen, I just ask you consider all the
11 evidence and that man was robbed. He's here today asking
12 for justice and justice is that you find that defendant,
13 Ronnie Goggins, Little Bull, to be guilty of armed robbery.

14 Thank you.

15 THE COURT: Mr. Hall, you may proceed for the defense.

16 MR. HALL: Please the Court?

17 THE COURT: Yes, sir.

18 MR. HALL: Ladies and gentlemen of the jury, I want to
19 thank you for your service. You've -- this has been a
20 fairly short trial, but you've paid attention. I always try
21 to watch a jury to see that they're paying attention, and I
22 do appreciate your attentiveness throughout this trial.

23 The burden, as I said before, is on the State to prove
24 the defendant, Mr. Goggins, guilty of armed robbery beyond a
25 reasonable doubt. Now, the judge is gonna tell you

1 reasonable doubt and exactly what armed robbery is again.
2 But the State doesn't just need to prove that Mr. Geter was
3 robbed. They don't just need to prove that he was robbed by
4 two people, and that one of those persons identified himself
5 as Little Bull. They have to prove that that person sitting
6 there, Ronnie Goggins, is the one who did it.

7 I told you at the opening statement, introductions are
8 very important. We've all heard something along the lines
9 hello, my name's John, I'll be your waiter tonight or your
10 server tonight. They introduce themselves so you know who
11 they are. If you need something, while you're dining, you
12 can say, my waiter, John, I need him. More importantly,
13 John -- when you say I need to leave a tip for my waiter,
14 John, it goes to the right person.

15 You've called customer service for a computer or some
16 problem you're having with Duke Power or whatever. They
17 introduce themselves so you know who you're talking to. If
18 some issues comes up later, you can say I called Duke Power
19 and I talked to Jane and she says this was gonna happen.
20 Yeah, we see where that, where she spoke to you and we'll
21 get that taken care of right away, thank you very much, or I
22 called, spoke to Jane, she's very rude to me, I want to
23 complain, or Jane did a great job. We identify ourselves in
24 our society to get credit for what we do, so you know who
25 you're dealing with.

1 what we do know is that Mr. Geter reported a robbery to
2 the police by a tall man and a short man and he said the
3 short man identified himself as Little Bull, a nickname.
4 Nickname known to everybody in this community. That one of
5 those two people put their hand in the pocket of Mr. Geter
6 and took out \$250 that he was gonna pay rent with some time
7 later on that day. Oh, yes, and the tall man had a gun.

8 And we also know that on August 8th he looked at a
9 lineup, Mr. Geter looked at a lineup and said that's the
10 man, the picture of Mr. Geter.

11 What we also heard testimony on though was on
12 August 2nd, and you'll remember August 2nd is when it
13 happened, when Mr. Geter said he was robbed, another officer
14 showed him a lineup that Investigator Porter said he saw,
15 and it had Mr. Goggins in it.

16 Was he able to identify Mr. Goggins in that first
17 lineup?

18 No, he wasn't.

19 We have some inconsistencies in the State's case. You
20 heard his testimony. I'm watching him, I'm watching him so
21 I'm certain that that's the man. I'm looking at him. I had
22 to ask him about his statement he made that day when things
23 were fresh in his mind, when he could not pick Mr. Goggins
24 out of a lineup.

25 How did you know it was a 9-millimeter if you were

1 looking forward?

2 Oh, well, I glanced back at the gun when he put the gun
3 to my head. Oh, okay.

4 So, the first time you knew the tall guy with the gun
5 was there, he had put the gun to your head and then you
6 glanced back?

7 Yeah.

8 well, then how could you say when the guy pulled the
9 gun out of his back pocket he pointed the weapon to my head
10 and said where's the money at?

11 How do you see him pull the gun out of his pocket if
12 you're looking straight ahead engaged in a conversation with
13 this person who has identified himself as Little Bull?

14 How can you see the things behind you?

15 He can't have it both ways.

16 Now, later he said that that person came by his house.
17 Mr. Goggins came by his house or where he was and challenged
18 him. That's what he said.

19 what he didn't say is did he call the police?

20 I submit to you if somebody has robbed you, been
21 involved in a robbery of you, and they come by your house
22 later, it's common sense that you call the police. There's
23 been no testimony from the police or the victim that that
24 ever happened. No call to the police.

25 we can't have it both ways. You can't be -- you can't

1 have a statement that's accurate that has inconsistencies
2 with the testimony that's presented. You can look in a
3 lineup right after you've been staring somebody in the face
4 for three to five minutes, whatever it was, forgetting that
5 we looked behind, and seen things that we didn't see, or
6 just glanced back and saw the gun, and knew it was a
7 9-millimeter or look back and see him pull the gun out of
8 his pocket, and which version we go with.

9 On the day of this robbery, the day he says he was
10 robbed, he could not pick Ronnie Goggins out. Six days
11 later he picked him out of a lineup that they put in
12 evidence. They didn't give a, give you the first one. But
13 Investigator Porter said yeah, there were five people and
14 Mr. Goggins in the first, and the only repeat in the second
15 lineup was Mr. Goggins.

16 He's seen him twice now in a lineup. Of course he
17 picked him out. I agree with Mr. Ellis. You have to use
18 your common sense.

19 Does it make sense to say hi, I'm Little Bull, I'll be
20 your robber today?

21 No, it doesn't.

22 I submit to you it does not.

23 Could somebody else have said they were Little Bull?

24 It's a nickname. Somebody else who was 5'7", black
25 male, Folsom Street off Howard Street, in Spartanburg, yeah,

1 I'm Little Bull. I submit to you that could of happened.

2 The cold fact is August 2nd, when it was fresh in his
3 memory, he said the tall guy with the gun, the 9-millimeter
4 gun, that the guy that came up behind me with a gun put the
5 gun to my head, and I, then he testified I glanced back and
6 saw that it was a 9-millimeter. At that time he said I saw
7 him pull the gun out of his pocket. I don't know how you
8 can see a gun pulled out of a pocket when the first time you
9 know the person's there the gun's at your head.

10 But that was the testimony in the statement. That tall
11 guy took the money. Oh, no, no, no, it was the guy in front
12 of me that took the money, the short guy in front of me, not
13 the tall guy behind me. He's remembering things differently
14 as they go on, as we go through time.

15 Ladies and gentlemen of the jury, I submit to you that
16 our memories are best right after the events. The tall guy
17 came up behind him. He saw him coming up. Somebody
18 identified him, themselves as Little Bull, stepped up and
19 blocked him even though there's a sidewalk and the street,
20 and another sidewalk, that was sitting on a fence or leaning
21 on a wall, leaning on a wall or whatever it was, stepped up
22 in front of him, hi, I'm Little Bull, engaged him in
23 conversation. He says I saw the guy pull the 9-millimeter
24 out of his back pocket, he put it to my head, he said
25 where's the money, I said I didn't have any money, he took

1 it out of my pocket.

2 The State wants you to believe that when he looked at
3 that first lineup, for some reason he couldn't identify him,
4 but six days later he could, and today he say yeah, that's
5 him. Well, the only thing consistent in those two lineups
6 was Ronnie Goggins. They put him in there because he's
7 known as Little Bull. There's no doubt about that. But he
8 didn't identify him right after it happened. Of course he
9 identified him six days later. It's the only picture that's
10 repeated in that lineup.

11 Unfortunately we don't have that lineup for you to look
12 at, at this point in evidence. But I think it's clear that
13 it did exist, and I don't doubt Mr. Geter now has convinced
14 himself that that's the man who did it. But it's very
15 clear, on August 2nd, he could not identify him as the
16 person who was standing in front of him.

17 Now, Mr. Ellis says well, if that person in front of
18 him, the shorter person identified himself as Little Bull
19 wasn't involved in the robbery, why didn't he run when the
20 guy pulled the gun on him?

21 People react differently. I don't know.

22 Mr. Geter says they ran off in the same direction. I
23 didn't hear him say that who was in front of who or who was
24 behind him or they were running hand in hand skipping up the
25 street or whatever they were doing. But it could be the guy

1 with the gun was chasing the shorter guy at that point. I
2 don't know. The testimony wasn't clear on that.

3 But what the State has to prove, and I submit to you
4 they haven't, is that if Ronnie Goggins was that shorter
5 man, not only do they have to prove that somebody robbed,
6 robbed him, they have to prove that Ronnie Goggins was
7 involved, and they've not done that. He couldn't pick him
8 out on the 2nd. He even looked at a picture of him for five
9 other people, and then he looked at the picture of him six
10 days later with five different people. No repeats except
11 Mr. Goggins. Of course he picked him out. And as time went
12 by, he convinced himself more and more that's the man.

13 I submit to you there's a reasonable doubt in this case
14 that Ronnie Goggins was the person there, that he was
15 involved in this, and I ask that you return a verdict of not
16 guilty.

17 Thank you.

18 THE COURT: All right. Ladies and gentlemen of the
19 jury, that completes the arguments by counsel in this case,
20 and I told you when we reached this stage of the proceedings
21 I would charge you concerning the law that you're to apply
22 to this situation.

23 When we started the case I went over with you the
24 indictment, and, again, the indictment is the document that
25 brings the case before this Court. It is the document that

1 informs the defendant of the charge that's been lodged
2 against him, and it informs the Court of the charge to be
3 tried. That indictment charges the defendant with armed
4 robbery under Code Section 16-11-330(a) of the South
5 Carolina Code of Laws, and I'll go over that charge with you
6 in just a minute.

7 I, however, at this time will remind you that the fact
8 that a defendant has been arrested, charged, and even
9 indicted in the case is not evidence in the case. It can
10 not be considered by you, the jury, as evidence of guilt in
11 this case nor does it create any presumption of guilt or
12 inference of guilt. The document, the indictment, again, is
13 simply the written document that contains the charges. It
14 brings this, that case before this Court, and the defendant
15 has pled not guilty to that indictment.

16 Under the Constitution and the laws of this state, that
17 plea places the burden upon the State to prove the defendant
18 guilty. A defendant charged with the, committing of a
19 criminal offense, no matter what the seriousness of that
20 offense might be, is never required to prove himself
21 innocent of the charges. It's an important rule of law that
22 a defendant, in a criminal case, no matter, again, what the
23 seriousness of that case may be, will always be presumed to
24 be innocent of the crime for which the indictment was issued
25 unless guilt has been proven to you, the jury, by evidence

1 satisfying you of that guilt beyond a reasonable doubt.

2 The presumption of innocence doesn't end when you begin
3 your deliberations. People describe this presumption of
4 innocence sometimes like the robe that I wear into this
5 courtroom. It remains about the defendant's shoulders
6 throughout the trial and accompanies him into your
7 deliberations. It remains about his shoulders until such
8 time as it has been stripped from him by evidence that
9 satisfies you of that defendant's guilt beyond a reasonable
10 doubt.

11 The presumption of innocence is not a mere legal theory
12 and it's not just a legal phrase. It's a substantial right
13 that every defendant is entitled to you, entitled to until
14 you, the jury, are satisfied from the evidence of the
15 defendant's guilt beyond a reasonable doubt.

16 Now, probably you can tell from the, my charge thus far
17 that the concept or the phrase beyond a reasonable doubt or
18 proof beyond a reasonable doubt is an important concept and
19 standard of proof in our criminal juris prudence, and you
20 may be asking yourself well, what is meant, what does that
21 phrase reasonable doubt mean.

22 A reasonable doubt is that kind of doubt which would
23 cause a reasonable person to hesitate to act. The State has
24 the burden of proving the defendant guilty beyond a
25 reasonable doubt. Now, some of you may have been involved

1 or served in juries that were, that were involved in civil
2 matters, and I've already indicated civil matters are cases
3 where someone is seeking monetary damages from another
4 person or company such as in an automobile accident or a
5 contractual dispute or things of that nature.

6 So, those are civil cases and the burden of proof in
7 those cases is by the greater weight or the preponderance of
8 the evidence. The scales of justice tilting ever so
9 slightly in, one way or the other. That's the standard of
10 proof in a civil case.

11 In a criminal case the standard of proof is proof
12 beyond a reasonable doubt. It's a more powerful proof than
13 proof by the greater weight or the preponderance of the
14 evidence. Proof beyond a reasonable doubt is that kind of
15 proof that would leave you firmly convinced of the
16 defendant's guilt.

17 Now, there's very few things that go on in our lives
18 that can be proven by any doubt, and the State's not put to
19 that standard. That's not the standard that's required.
20 They do not have to overcome every possible doubt.

21 I will tell you that if, based on your consideration of
22 the evidence, you are firmly convinced of the defendant's
23 guilt of the crime charged, you must find the defendant
24 guilty. On the other hand, if there's a real possibility
25 that the defendant is not guilty, you must give the

1 defendant the benefit of that doubt and find the defendant
2 not guilty.

3 I remind you that, in this trial, you and I have
4 different functions to perform. It's been my responsibility
5 to preside over the trial of this case, and there's not been
6 that much that I've had to rule on. But it's my job to
7 preside over the trial of the case, and you are to consider
8 only the competent evidence that has been admitted into the
9 record of this case. And if there was anything that was
10 left out or was ordered stricken from the record, you must
11 not, disregard those matters in their entirety. You're to
12 consider only the testimony which has, which has been
13 presented from the witness stand and any exhibits that have
14 come into the record by agreement of counsel or through that
15 testimony.

16 I told you at the beginning of the trial it's my duty
17 to charge you concerning the law, and I told you then that I
18 am the sole judge of the law in this case. It's your duty,
19 under the oath that you've taken, to take the law as I give
20 it to you now, apply it to the facts as you find them to be.

21 Now, in every case tried before a jury in this state
22 the jury becomes the sole and exclusive judge of the facts.
23 A trial judge can not indicate in any fashion whatsoever
24 that I have any inclination one way or the other concerning
25 how you should view those facts. So, please don't take from

1 anything that I do in the discharge of my duties that I have
2 an opinion on that subject. I'm well aware the law doesn't
3 allow me an opinion on that subject. I have no opinion as
4 to how you determine the facts in this case.

5 However, the same law that makes you the sole judge of
6 the facts makes me the sole judge of the law. And, again, I
7 will explain if you have a notion one way or the other as to
8 what the law is or what the law ought to be when you came
9 into the courtroom, that notion should be left outside of
10 the jury room. You should take the law only as I give it to
11 you again, apply it to the facts as you find them to be, and
12 you should be in a position then to reach a just and a true
13 verdict in this case.

14 It's your duty, as jurors, to determine the effect of
15 the evidence that you've heard. You also have the duty of
16 deciding the credibility or the believability of the
17 evidence that you've heard. You're the sole judges of the
18 facts. You're also the sole judges of those matters as
19 well.

20 Now, in making a decision in any case in a court of
21 law, you have the right to consider two types of evidence,
22 and let me explain what I mean by two types of evidence.
23 The first type I'll discuss with you is what is called
24 direct evidence.

25 Now, direct evidence is testimony by a witness who

1 claims to have direct knowledge of the facts about which
2 that person testifies such as an eye witness or a
3 participant in the event, someone who claims to have direct
4 knowledge of those facts about which that witness testifies.
5 Again, that's what we refer to as direct evidence.

6 The other type of evidence that you have a right to
7 consider in reaching a verdict is what we call
8 circumstantial evidence. Now, circumstantial evidence is
9 proof of a chain of facts or circumstances which indicate
10 the existence of another fact. Sometimes it's described as
11 evidence which establishes collateral facts from which a
12 main fact might be reasonably inferred.

13 I like to give a very simple example as to what I mean
14 by proof of a fact by circumstantial evidence. Let's say
15 last night before you went to bed you looked outside the
16 window of your home. The stars were shining. It was a
17 beautiful night. You went to bed. You slept well all
18 night. You woke up the next morning. When you looked
19 outside, the sun was shining, but there's water dripping
20 from all the trees. There's puddles on the sidewalk in
21 front of your house or in the road. Everything outside is
22 wet.

23 Now, you didn't see it rain. You didn't hear it rain.
24 But from those collateral facts that you know to be true,
25 you could reasonably infer that at some time during the

1 night it did rain. So, that's what we mean by proof of
2 collateral facts from which a main fact might be reasonably
3 inferred. So, therefore, circumstantial evidence is based
4 upon inference and not upon personal knowledge or
5 observation.

6 Now, the law makes absolutely no distinction whatsoever
7 between the weight or the value that you can give to either
8 direct or circumstantial evidence. Nor is there a greater
9 degree of certainty required of circumstantial evidence than
10 that of direct. You, as the jury, have the right to weigh
11 all of the evidence in the case, and I'll advise you, if,
12 after weighing all the evidence, you are not convinced of
13 the defendant's guilt beyond a reasonable doubt, you must
14 find the defendant not guilty. If, however, on the other
15 hand, you are firmly convinced of the defendant's guilt
16 beyond a reasonable doubt, you must find the defendant
17 guilty.

18 Now, I told you earlier that you're the sole judges of
19 the credibility of the evidence, of the testimony. It's
20 your duty to analyze that evidence, evaluate the evidence,
21 and determine which evidence convinces you of its truth. I
22 told you earlier that in determining the believability of
23 witnesses use your own good common sense in making those
24 decisions.

25 You can believe all of what a witness told you, part of

1 what a witness told you, or none of what a witness tells
2 you. You can believe one witness against all the others or
3 all the others against one. You choose to -- the weight
4 that you choose to assign to each witness' testimony, and,
5 therefore, you are the sole judges of the credibility of the
6 witnesses. Also the weight you choose to assign to that
7 testimony. You may consider whether or not the witness had
8 an interest, bias, or prejudice or other motive in the case,
9 and you can consider the appearance or the manner in which
10 the testimony was delivered.

11 Now, I'm going to instruct you and I'm going to
12 emphasize to you the fact that the defendant did not testify
13 in this case is not a factor to be considered by you in any
14 way in your deliberations and in your consideration of the
15 question of guilt or innocence. It must not be considered
16 by you in any manner whatsoever.

17 I will charge you that a defendant has a constitutional
18 right to remain silent. The assertion of this right or the
19 exercise of the right should not be considered by you at all
20 in reaching your decision and you are to draw no conclusion
21 whatsoever from the fact that a defendant did not testify in
22 this case. The fact that the defendant did not testify
23 should not even be discussed by you in your deliberations in
24 this case.

25 The defendant is not required to prove himself

1 innocent. The burden of proof is on the State in this case
2 and the State alone to prove the defendant guilty beyond a
3 reasonable doubt.

4 Now, one of the issues in this case has been the
5 identification of the defendant as the person who committed
6 the crime, and I charge you the State has the burden of
7 proving identity, again, by the same standard, beyond a
8 reasonable doubt. You must be satisfied, beyond a
9 reasonable doubt, of the accuracy of the identification of
10 the defendant before you can convict the defendant of the
11 crime.

12 Identification testimony is an expression of belief or
13 an impression by a witness. You must determine the accuracy
14 of the identification of the defendant. You must consider
15 the believability of each identification witness the same as
16 any other witness. You can consider whether the witness had
17 an adequate opportunity to observe the offender at the time
18 of the offense. This will be affected by things such as how
19 long or short a time was available, how far or close was the
20 witness from the, the alleged perpetrator, the weather
21 conditions, the lighting conditions, whether a chance,
22 whether or not the witness had a chance to know or see the
23 person in the past. Once again, I instruct you the burden
24 of proof is upon the State and it extends to every element
25 of the crime charged, and this specifically includes the

1 burden of proving beyond a reasonable doubt the identity of
2 the defendant as the person who committed the crime.

3 Again, if, after examining the testimony, you have a
4 reasonable doubt as to the accuracy of the identification
5 you must find the defendant not guilty. On the other hand,
6 if you're convinced beyond a reasonable doubt of the
7 accuracy of the identification and the other elements of the
8 crime I will tell you about, then you have the right to find
9 the defendant guilty.

10 Now, in order to establish criminal liability in any
11 case, criminal intent is a matter that is required. For
12 example, that's the mental state that's required to be
13 proven by the State for a particular crime, and that can be
14 purpose, intent, knowledge, even recklessness, or criminal
15 negligence in some case, cases is the required intent.
16 Criminal intent must be proven by the State beyond a
17 reasonable doubt. Criminal intent is always a matter that
18 must be determined by the jury from the circumstances
19 surrounding the situation.

20 There's no way to prove criminal intent by direct
21 evidence. There's no way that you can open someone's head
22 and look at their brain and tell what they intend to do in
23 any given situation. Our science doesn't allow us to do
24 that. So, criminal intent is a matter that must always be
25 proved from the facts and circumstances shown to have

1 existed, again, by circumstantial evidence. That's how you
2 make a determination as to whether or not the element
3 requiring intent is present.

4 It, again, can't be established by direct or positive
5 evidence. But it can be established taking into
6 consideration the acts of the party, parties, all of the
7 facts and circumstances of the case.

8 Now, criminal intent is a mental state. It's a
9 conscious wrongdoing. It's up to you to determine what the
10 defendant intended to do based on the circumstances that
11 were shown to have existed at the time of the alleged
12 offense. Criminal intent can arise from action or it can
13 arise also from a failure to act.

14 Now, I'll tell you a person who is present at the scene
15 of, scene of the crime and intentionally, or through a
16 common plan, aided, abetted, or assisted in the commission
17 of a crime or some overt act is guilty as an accomplice. To
18 be liable as an accomplice, the defendant must have had
19 knowledge of the principal's criminal conduct. Again, mere
20 presence at the scene of a crime is not sufficient to
21 establish guilt as an accomplice.

22 Now, intentionally means willfully intending the result
23 which actually occurs. Not accidentally or involuntarily.

24 I also will charge you that if a crime is committed by
25 two or more people who are acting together in committing a

1 crime, the act of one becomes the act of all. A person who
2 joins with another to commit an unlawful act is criminally
3 responsible for everything that is done by the other person
4 which happens as a natural and probable consequence of the
5 acts done in carrying out the common plan and purpose.

6 For example, two people could be guilty of killing
7 another person when only one of them, one of the two had a
8 gun and there was only one bullet that did the damage to the
9 individual and only one of the two fired the shot that
10 caused the death. If two or more people are together,
11 acting together, assisting each other in the commission of a
12 crime, the act of one is the act of all or it sometimes has
13 been referred to in our law the hand of one is the hand of
14 all.

15 Prior knowledge that a crime is going to be committed
16 without more is not sufficient to make a person guilty of
17 that crime. Mere knowledge that someone is going to commit
18 a crime, even if the defendant is present when the crime is
19 committed, is not sufficient to convict the defendant as a
20 principal. Guilt as a principal is shown by actual or
21 constructive presence at the scene as a result of a prior
22 arrangement. Therefore, a finding of a prior arrangement or
23 a common plan or scheme is necessary to find someone guilty
24 as a principal. The State must prove, beyond a reasonable
25 doubt, by competent evidence, the theory of the hand of one

1 is the hand of all.

2 Now, a principal in a crime is one who actually commits
3 the, the crime or has, who is present aiding, abetting, or
4 assisting in the commission of the crime. When a person
5 does an act in the presence of and with the assistance of
6 another, the act is done by both. Where two or more acting
7 with a common plan or scheme or intent and are present at
8 the commission of the crime, it does not matter who actually
9 commits the crime. All are guilty in that situation. The
10 hand of one is the hand of all. Presence at a crime, of, of
11 the commission of a crime means to be sufficiently near so
12 as to aid, abet, or assist in the commission of the crime.

13 Again, mere presence at the scene of the crime is not
14 sufficient to convict one as a principal on the theory of
15 aiding and abetting. Intent is also a necessary element for
16 there must of been a common design or intent to commit the
17 crime, and the crime must have been committed pursuant
18 thereto with the other person aiding, abetting by some overt
19 act. Intent means intending, again, the result which
20 actually occurs. Not accidentally or involuntarily. And
21 again, as I've told you, intent can be shown by acts and
22 conduct in other circumstances from which you might
23 reasonably and naturally infer intent.

24 Now, the charge in this case is armed robbery. That is
25 Code Section 16-11-330. In order to prove this offense, the

1 State must prove, beyond a reasonable doubt, that the
2 defendant took personal property from the person or presence
3 of another person. Property is in the presence of a person
4 if it's within that person's reach or inspection,
5 observation, or control so that the person could, if not
6 overcome with violence or fear, keep possession of the
7 property.

8 The State must also prove, beyond a reasonable doubt,
9 that the defendant carried the property away intending to
10 permanently deprive the owner of the property, and to keep
11 the property for the defendant's own use. The slightest
12 removal of property or the complete possession of the
13 property, even for an instant by the defendant, is
14 sufficient to show a taking or carrying away of the
15 property. Taking, the taking and carrying away of the
16 property must have been done with violence or by putting the
17 owner of the property in fear of violence.

18 Finally, the State must prove, beyond a reasonable
19 doubt, that the defendant was armed with a deadly weapon
20 during the robbery. A deadly weapon is, is an article,
21 instrument, or substance which is likely to cause death or
22 great bodily harm. Whether an instrument is considered as a
23 deadly weapon depends upon the facts and circumstances of
24 the case.

25 The following are examples which have been determined

1 by juries or by Courts to be deadly weapons. That would be
2 a pistol, a shotgun, a rifle, a dagger, a knife, slingshots,
3 metal knuckles, razors, gasoline, fire bombs, Molotov
4 cocktails, and even lighter fluid. And a gun can be a
5 deadly weapon even if it is not operating.

6 Now, ladies and gentlemen, Susan Cash, raise your hand.
7 (Juror complies.)

8 THE COURT: You're gonna be the foreperson of this
9 jury. That means that you will be the person who will be
10 responsible for conducting the deliberations of the jury.
11 If, during the deliberations, the jury has a question about
12 any matter they wish to ask, it will be your job to place
13 that question or inquiry in writing. So, in other words,
14 you'll need to get the jury to agree on the form of the
15 inquiry, place it in writing, you'll knock on the jury door,
16 pass the question to the bailiff who will be seated outside
17 of the door. That question then will be delivered to me and
18 I'll consider my response.

19 I'll advise you I can't answer each and every question
20 that you may have in your deliberations. As I've explained,
21 we have different functions and I can't comment on your
22 determination of the facts. I can, however, answer
23 questions concerning the procedure we follow, the law that
24 I've charged you, the evidence you've seen. I'm not asking
25 you to edit any of the questions. Whatever the question

1 might be, put it in writing, submit it to the bailiff, I'll
2 decide the appropriate answer in, in conjunction with my
3 conferring with the attorneys.

4 Also, it will be your responsibility to record the
5 verdict once it's been reached. I'll go over the verdict
6 form with you in just a minute to be sure you understand
7 that. Once the jury has reached a verdict, and that
8 requires unanimous agreement upon that verdict, you'll
9 record that in writing on the form, sign it, and, again,
10 knock on the door, inform the bailiff. We'll then return
11 you to the courtroom and we can accept the verdict.

12 I've told you already, and I'll inform the rest of the
13 jury, you have no greater say in the outcome of the case
14 than any other juror. All of you, all 12 of you must agree
15 upon the verdict before it becomes the verdict of this jury.
16 And so, again, each and every one has the same say in this
17 verdict as any other juror in the case.

18 Now, I've gone over several things with you and I want
19 to be sure I haven't misstated something or left something
20 out. Also, I have to be sure that only the properly
21 admitted evidence will be going with you to the jury room.
22 So, there's some things I have to take up with the attorneys
23 before you begin your deliberations.

24 I'm going to ask you one more time to step into the
25 jury room.

1 Do not begin deliberations, Madam Forelady, until such
2 time as I've advised you to do so.

3 You may retire to the jury room.

4 (Whereupon, the following takes place outside the
5 presence of the jury.)

6 THE COURT: Any objections to the charge from the
7 State?

8 SOLICITOR ELLIS: No, sir, Your Honor.

9 THE COURT: Any from the defense?

10 MR. HALL: None from the defense, Your Honor.

11 THE COURT: I'll ask you to come forward. I don't
12 think there's a lot of evidence. But be sure we put on,
13 what, on this -- if you put it over here to the side so the
14 bailiff will know what we'll be going back to the jury.

15 I have the verdict form here. I'll ask you to step up
16 and review that.

17 MR. HALL: Fine with me.

18 SOLICITOR ELLIS: Yes, sir.

19 THE COURT: All right. As soon as we get the verdict
20 form printed we'll bring them back.

21 (Pause.)

22 THE COURT: All right. Let's bring the jury in.

23 (Whereupon, the following takes place within the
24 presence of the jury.)

25 THE COURT: Madam Forelady, I'm going to pass over to

1 you the verdict form that we'll be using in this case. I'll
2 go over it with you briefly. At the top you'll see that it
3 indicates the state and county that we're located in and the
4 court we're in. It has a caption. It indicates the State
5 versus the defendant, Mr. Goggins.

6 Below that is the, is the actual verdict form and
7 there's one question, and the jury is, is stating that you
8 unanimously find, as to the indictment, and you'll have that
9 with you in the jury room, the indictment in the, in this
10 case. You find him either guilty or not guilty. There's
11 two choices.

12 Please don't take from the fact that I placed those in
13 any order in that form that I have, again, have an opinion
14 as to how you determine this case. There's only two choices
15 and they're in the order they're in and I really couldn't
16 tell you what order they're in right now. So, so, I don't
17 know.

18 But you'll check the line beside the appropriate
19 verdict and put an X on it. Just mark it so we know that is
20 the verdict. So, which ever one the jury chooses, put that
21 mark beside it, then you'll sign it at the appropriate line
22 below that, knock on the door, tell the bailiff that a
23 verdict's been reached, and we'll take you back to get the
24 verdict.

25 Now, at this point in time I'm going to ask you to step

1 back to the jury room to begin your deliberations.

2 Ma'am, you are the alternate. I'm going to ask you to
3 remain seated while the jury retires to do that.

4 You may retire.

5 Thank you very much.

6 (Whereupon, the following takes place outside the
7 presence of the jury with the alternate being dismissed at
8 this time.)

9 THE COURT: Any objection to my final charge?

10 SOLICITOR ELLIS: No, sir, Your Honor.

11 THE COURT: And from the defense?

12 MR. HALL: No objections, Your Honor.

13 THE COURT: All right. We're gonna remain in recess
14 then until such time as a verdict, a verdict is reached.

15 Thank you very much.

16 MR. HALL: Thank you, Your Honor.

17 (Whereupon, the jury began deliberations at 11:42 and
18 returned with a question at 12:25.)

19 THE COURT: All right. Let's bring the jury in.

20 (Whereupon, the following takes place within the
21 presence of the jury.)

22 THE COURT: All right. The record will reflect the
23 jury has returned to the courtroom.

24 I've received an inquiry from you, the jury, asking
25 that we reread the statements given by the victim in the

1 initial report to the responding officer on August 2nd and
2 the statement given by the victim when the officer went to
3 the victim's home for the visit. Those statements
4 themselves are not in evidence. They were not introduced
5 into evidence, and so, therefore, I just can't give you the
6 statements.

7 We have checked the testimony and, Madam Foreperson,
8 those particular statements were mentioned in the
9 investigator's cross-examination and redirect testimony, and
10 you, and we've gotten that up to replay the testimony to be
11 able to answer the questions.

12 FORELADY: Yes, sir.

13 THE COURT: All right. We will replay the testimony of
14 the investigator.

15 (Whereupon, the cross and redirect examination of Mr.
16 Geter was played for the jury at this time.)

17 THE COURT: All right. Madam Forelady, I believe that
18 is the testimony that you indicated that you wished to hear.
19 Let me make you aware of one thing. We will order lunch for
20 you if that is necessary. You can check your other members
21 of the jury if you do wish for us to order lunch. It takes,
22 usually takes about an hour for it to be ordered, picked up,
23 and brought here to the courthouse. So, you probably ought
24 to make that inquiry pretty quick if that's what you want to
25 do. I'll just make you aware that is available if the jury

1 wishes for lunch to ordered.

2 If you decide to do that, when the clerk comes in to
3 take your orders, please don't discuss the case with her or
4 among yourselves. You can resume once the order has been
5 done and don't communicate with her or any person about
6 anything except the orders.

7 You may retire to your deliberations.

8 (Whereupon, the following takes place outside the
9 presence of the jury.)

10 (Whereupon, the note from the jury was marked as
11 Court's Exhibit No. 1 for identification purposes only at
12 this time.)

13 THE COURT: Any objection to my response from the
14 State?

15 SOLICITOR ELLIS: No, sir, Your Honor.

16 THE COURT: Any from the defense?

17 MR. HALL: Other than I don't like to hear my voice,
18 no.

19 THE COURT: Can't help that.

20 All right. We'll be in recess until a verdict is
21 reached.

22 (Whereupon, the jury began deliberations again at 12:40
23 and returned with a verdict at 12:53.)

24 THE COURT: I've been informed the jury has reached a
25 verdict.

1 Is the State ready to proceed?

2 SOLICITOR ELLIS: Yes, sir.

3 THE COURT: Defense ready?

4 MR. HALL: Yes, sir.

5 THE COURT: Bring the jury in.

6 (Whereupon, the following takes place within the
7 presence of the jury.)

8 THE COURT: Madam Forelady, I've been informed by the
9 bailiff that you have indicated a verdict has been reached.
10 Is that true?

11 FORELADY: Yes, sir.

12 THE COURT: Pass the verdict please to the bailiff.
13 (Forelady complies.)

14 THE COURT: Thank you.

15 Madam Clerk, you can publish the verdict.

16 CLERK: State of South Carolina, County of Spartanburg,
17 State versus Ronnie L. Goggins, as to Indictment Number
18 2009-GS-42-1068, we, the jury, unanimously find the
19 defendant, Ronnie L. Goggins, concerning the charge of armed
20 robbery, guilty, certified correct, today's date,
21 Foreperson, Susan Cash.

22 Ladies and gentlemen, if this is your verdict and still
23 your verdict, please raise your right-hand.

24 (Whereupon, all jurors raise their hands at this time.)

25 THE COURT: Anything further from the State before I

1 release the jury?

2 SOLICITOR ELLIS: No, sir, Your Honor.

3 THE COURT: Anything further from the defense?

4 MR. HALL: Request polling of the jury, Your Honor.

5 THE COURT: All right. Madam Clerk, if you will
6 proceed with polling the jury.

7 CLERK: Ladies and gentlemen, I will pose to you a
8 question and that question being is this your verdict and
9 still your verdict. When I call your name, please answer
10 yes or no.

11 Kelvin Tanner.

12 JUROR: Yes.

13 CLERK: William Goodrich.

14 JUROR: Yes.

15 CLERK: Bobby Cranford.

16 JUROR: Yes.

17 CLERK: George Gramling.

18 JUROR: Yes.

19 CLERK: Kathryn Angle.

20 JUROR: Yes.

21 CLERK: Jean Nigh.

22 JUROR: Yes.

23 CLERK: David Babb.

24 JUROR: Yes.

25 CLERK: Susan Cash.

1 JUROR: Yes.

2 CLERK: Tequila Miller.

3 JUROR: Yes.

4 CLERK: Jan Brown.

5 JUROR: Yes.

6 CLERK: Cynthia Sapp.

7 JUROR: Yes.

8 CLERK: And Charles Henderson.

9 JUROR: Yes.

10 CLERK: The jury has been polled, Your Honor.

11 THE COURT: Thank you, Madam Clerk.

12 Anything further from the defense before I release the
13 jury?

14 MR. HALL: Nothing further from the defense at this
15 point in time.

16 (Whereupon, the jury was dismissed at this time.)

17 THE COURT: All right. Are you ready to proceed with
18 sentencing?

19 MR. Hall: Your Honor, just have a couple motions
20 before sentencing.

21 THE COURT: Yes, sir, that will be fine.

22 MR. HALL: Motions for a new trial and judgment
23 notwithstanding the verdict based on the evidence and
24 there's not, as a matter of law, not suspicion, the jury to
25 find him guilty and we ask for a new trial or either a

1 judgment notwithstanding the verdict in this case.

2 THE COURT: All right. Motions are noted and they are
3 denied.

4 Have you got your sentencing sheet ready?

5 MR. HALL: Your Honor, I've not had Mr. Goggins sign
6 it.

7 THE COURT: All right.

8 (Pause.)

9 THE COURT: Mr. Hall, I'll be happy to hear from you in
10 mitigation on sentencing.

11 Just one second. Let's -- okay. You may proceed.

12 MR. HALL: All right. Your Honor, the jury has found
13 him guilty, but Mr. Goggins denied that he was that person.
14 He -- excuse me. Throughout my representation of him he has
15 denied that he's involved in the robbery. He did see the
16 robbery. He contended that there was a drug transaction
17 between Mr. Geter and an individual who I think they
18 referred to as Red, that Mr. Geter was upset with the
19 quantity or quality of drugs he got from that drug dealer,
20 was complaining, the drug dealer robbed him, and that was
21 basically what happened, that he had nothing to do with the
22 robbery.

23 We ask the Court, given him the, what has been
24 presented and I think it was a lot of discrepancies in the
25 State's case, that he be given some benefit of the doubt,

1 and we ask that -- we understand he has to have a mandatory
2 minimum sentence of ten years. And I think that would,
3 given everything, it would probably be more appropriate as a
4 sentence as opposed to something more than the ten to
5 thirty.

6 He is not married. I believe he has one, excuse one,
7 he has one child. He does have his GED. He just maintains
8 he didn't have anything to do with the robbery. He just
9 happened to be the person that talked to Mr. Geter before he
10 was robbed by the, the 6-foot something tall guy or drug
11 dealer named Red.

12 THE COURT: Anything you'd like to say, Mr. Goggins?

13 DEFENDANT: Yes, sir, it's, it's, as I come before you
14 right now, I'm standing here and I realize that my life is
15 in jeopardy right now. But I can't see how I have been
16 found guilty of armed robbery when I'm, I didn't have
17 nothing to do with it. That was -- they had dealings
18 between themselves. I didn't have nothing to do with it.

19 I didn't take no, I didn't take no money out of his
20 pocket. I ain't do nothing to him. I ain't had nothing to
21 do with that, and I'm still saying that I'm innocent in
22 front of you, Your Honor. I'm asking that you would take
23 that into consideration because me going to trial, I
24 understand that, the consequence of me losing and my life is
25 on the line. But I'm innocent. It just didn't go that way

1 today.

2 THE COURT: Prior record.

3 SOLICITOR ELLIS: Yes, sir, Your Honor.

4 1997, assault and battery of a high and aggravated
5 nature.

6 1999, failure to stop for a blue light, receiving
7 stolen goods, probation revocation.

8 2000, probation revocation.

9 2004, unlawful carrying of a weapon, distribution of
10 crack.

11 2006, assault and battery of a high and aggravated
12 nature.

13 2007, simple assault, petit larceny, and assault and
14 battery of a high and aggravated nature.

15 MR. HALL: Your Honor, that last I think was going to
16 prison on an assault and battery of a high and aggravated
17 nature for---

18 THE COURT: I'm sorry. I misunderstood you.
19 What did you say?

20 MR. HALL: He had -- he said another assault and
21 battery of a high and aggravated nature. That was the
22 Department of, I believe going to the Department of
23 Corrections for assault and battery of a high and aggravated
24 nature from---

25 THE COURT: So, you're saying in the last couple of

1 years there's only been one?

2 MR. HALL: Yes, sir, he has it -- the way I read it, he
3 had a simple assault and battery and that, and that violated
4 the probation time he was on for ABHAN. And in 2007, he
5 went to the Department of Corrections if not a---

6 THE COURT: Is that right, Mr. Ellis?

7 MR. HALL: Spartanburg -- South Carolina Department of
8 Corrections.

9 THE COURT: Is that correct?

10 SOLICITOR ELLIS: That's possible, Your Honor, yes,
11 sir.

12 THE COURT: I'm looking at the sentencing sheet, and
13 the defendant's last name is spelled G-O-G-G-I-N-N-S.

14 That's incorrect, isn't it?

15 MR. HALL: Yes, sir.

16 SOLICITOR ELLIS: Yes, sir, it is. It's one I. I
17 apologize for that.

18 THE COURT: All right. Is there any objection to my
19 changing that to the correct spelling?

20 MR. HALL: No objection, Your Honor.

21 SOLICITOR ELLIS: No, sir.

22 THE COURT: My understanding of the potential sentence
23 is ten to thirty years. Not eligible for parole until after
24 seven with no suspended sentences.

25 Is that your understanding as well?

1 MR. HALL: That's my understanding, Your Honor.

2 THE COURT: Mr. Goggins, the Sentence of this Court is
3 that you be confined in the State Department of Corrections
4 for a period of 15 years.

5 Good luck to you, sir.

6 SOLICITOR ELLIS: Thank you, Your Honor.

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8 * * *END OF REQUESTED TRANSCRIPT OF RECORD * * *

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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

Roger L. Couch, Special Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RONNIE LEANEAR GOGGINS,

APPELLANT

FINAL ANDERS BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial judge err in refusing to suppress identification testimony when law enforcement showed the complaining witness two separate photo line-ups each containing a photo of the appellant rendering the out of court identification procedure unduly suggestive and resulting in the substantial likelihood of irreparable misidentification.

STATEMENT OF THE CASE

In February of 2009, the Spartanburg County Grand Jury indicted Goggins for armed robbery, indictment #09-GS-42-1068. On October 28, 2009, Goggins proceeded to jury trial before the Honorable Roger L. Couch. The jury returned a verdict of guilty and Judge Couch sentenced Goggins to fifteen years. A timely notice of intent to appeal was served on November 3, 2009. This appeal follows.

ARGUMENT

The trial judge erred in refusing to suppress identification testimony when law enforcement showed the complaining witness two separate photo line-ups each containing a photo of the appellant rendering the out of court identification procedure unduly suggestive and resulting in the substantial likelihood of irreparable misidentification.

Prior to trial Goggins moved to suppress identification testimony based on the fact that the identification procedure was unduly suggestive. (R. p. 25, lines 16 – p. 26, lines 1-16). The trial judge heard testimony in regard to the identification. Officer Susan Hrycaj testified that in the early morning hours of August 2, 2008, she was working for the Spartanburg Public Safety Department and received a call regarding an armed robbery. (R. p. 52, lines 3 – p. 53, lines 1-6). The officer met Albert Geter on Church Street and Geter told her that he had been robbed by two black males. (R. p. 53, lines 11-16). One of the males identified himself as “Bull.” (R. p. 53, lines 17-22). Goggins and the officer went to the Public Safety Department where the officer compiled a photo line-up that included a photo of Goggins. The officer knew Goggins as “Little Bull.” (R. p. 54, lines 2 – 25; R. exhibit has been transported to the Court). According to the officer, Geter was unable to identify anyone from the photo line-up. (R. p. 56, lines 1-19).

Geter also testified during the pre-trial suppression hearing. Geter testified, however, that he identified an individual from the photo line-up shown to him by officer Hrycaj but the officer told him that was not the person who robbed him. (R. p. 40, lines 9-23). According to Geter, he pointed to the upper left photograph which is a photo of Goggins. (R. p. 40, lines 9-23; p. p. 41, lines 22 – p. 42, lines 1-2; p. 49, lines 6- p. 50, lines 1-8). Geter testified that six days later Investigator Porter showed him a second line-up. (R. p. 42, lines 18-25; R. exhibit has been transported to the Court). In the second line-up, Geter

identified Goggins as one of the men who robbed him on August 2, 2008. (R. p. 43, lines 1-7). In the second photo line-up Goggins' photo appears on the lower right. (R. p. 43, lines 4-5; p. 61, lines 23-25).

Investigator Russell Porter with Spartanburg Public Safety testified during the pre-trial suppression hearing. Investigator Porter testified that on August 8, 2008, six days after the report, he showed Geter a second photo line-up. (R. p. 60, lines 4 – p. 61, lines 1-25). Geter identified Goggins as one of the men who robbed him on August 2, 2008. (R. p. 62, lines 11 – p. 63, lines 1-25).

Goggins moved to suppress the identification testimony as tainted by the fact that Goggins' photo is the only photo that appeared in both line-ups. (R. p. 72, lines 19 – p. 73, lines 1-18). The judge denied the motion. The judge said, "Now the question is, again, given the five Biggers, Biggers [sic] factors, I don't see the fact that the police officer disagrees with the witness on how and the manner in which that took place is one of the Biggers factors, and the witness himself says that he identified the same individual on both occasions. There's no evidence that he identified different individuals." (R. p. 76, lines 10-16). The judge erred.

A criminal defendant may be deprived of due process of law by an identification procedure that is unnecessarily suggestive and conducive to irreparable mistaken identification. Stovall v. Denno, 388 U.S. 293, 87 SCt. 1967, 18 L.Ed.2d 1199 (1967). In Neil v. Biggers, 409 U.S. 188, 93 S.Ct. 375, 34 L.Ed.2d 401 (1972) the Court developed the two-prong inquiry to determine the admissibility of an out of court identification. Pursuant to Neil v. Biggers, a court must determine if the identification procedure is unduly suggestive. If the procedure is suggestive, the court must determine, under the totality of the

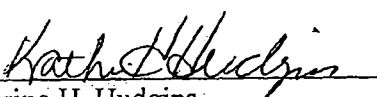
circumstances, whether there was a substantial likelihood of misidentification. The factors to be considered are: 1.) the witness's opportunity to view the perpetrator at the time of the crime; 2.) the witness's degree of attention; 3.) the accuracy of the witness' prior description of the perpetrator; 4.) the level of certainty demonstrated by the witness at the confrontation; and 5.) the length of time between the crime and the confrontation. Neil v. Biggers, 409 U.S. at 199. The burden is on the state to show by clear and convincing evidence that an in-court identification of a defendant was not tainted by suggestive action on the part of police, or, presumably, other state officials. State v. LaRue, 271 S.C. 256, 246 S.E.2d 890 (1978).

In the present case the State failed to show that the in court identification was not tainted by the suggestive action of the police in showing the complaining witness two separate line-ups where appellant's photo was the only photo that appeared in both line-ups. Under the totality of the circumstances, the identification procedure was so unnecessarily suggestive and conducive to the substantial likelihood of irreparable misidentification as to be a denial of due process. See Foster v. California, 394 U.S. 440, 89 S.Ct. 1127 (1969). The judge erred in refusing to suppress the identification testimony.

CONCLUSION

Based on the above argument, the sentence and conviction should be reversed and the case remanded for a new trial

Respectfully submitted,


Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR APPELLANT

This 29th day of March, 2011.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County
Roger L. Couch, Special Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RONNIE LEANEAR GOGGINS,

APPELLANT

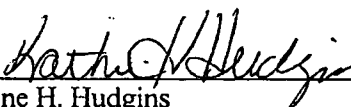
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Ronnie Leaneer Goggins states:

1. She is 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 Roger L. Couch, which was held on October 29, 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 Ronnie Leaneer Goggins.

Respectfully submitted,


Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR APPELLANT

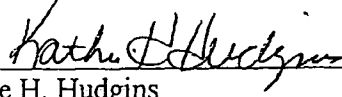
This 29th day of March, 2011.

CERTIFICATE OF COUNSEL

203

The undersigned certifies that to the best of my ability this Final Brief of Appellant 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."

March 29th, 2011



Kathrine H. Hudgins
Appellate Defender

S.C. Commission on Indigent Defense
Division of Appellate Defense
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, South Carolina 29211-1589

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

Roger L. Couch, Special Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RONNIE LEANEAR GOGGINS,

APPELLANT

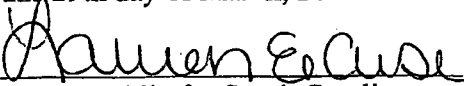
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, South Carolina 29201; and on Ronnie Leaneur Goggins, # 264540 at Kirkland Correctional Institution, 4344 Broad River Road, Columbia, SC 29210, this 29th day of March, 2011.


Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 29th day of March, 2011.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: August 23, 2014.

2012-CP-42-1197

205

STATE OF SOUTH CAROLINA

COUNTY OF SpartanburgBonnie Goldins 264540
Full name and prison number (if any) of Applicant.

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

APPLICATION FOR
POST-CONVICTION RELIEFINSTRUCTIONS - 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 McCormick Corr. Inst.
2. Name and location of Court which imposed sentence Spartanburg County General Sessions
3. Name(s) of co-defendant(s) (if any) NONE
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 (a) 10-29-09/Ind. # unknown Armed Robbery
 (b) _____
 (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 (a) 10-29-09/15 YEARS
 (b) _____

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- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty X _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?

8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court Appeals _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Denied _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. See above _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. See Above _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Inlet of Counsel _____

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J. H. HARRIS COUNTY

- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Counsel Failed to investigate my case fully
- (b) Counsel Failed to call my witness
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? yes
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (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? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. South Carolina Court of Appeals / Appeal
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. South Carolina Court of Appeals
- ii. _____
- iii. _____
- iv. _____
- (c) the disposition thereof:
- i. Denied
- ii. _____
- iii. _____
- iv. _____
- (d) the date of each such disposition:

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- 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?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i.
- ii.
- iii.

(b) the proceedings in which each ground was raised:

- i.
- ii.
- iii.

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) See 10 Above, this is my first raising the issue
- (b)
- (c)

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea?
- (b) your trial, if any? yes
- (c) your sentencing? yes

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(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? NONE

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. Robert B. Hall / Public Defender Office Spartanburg County

ii. _____

iii. Kathrine H. Hudgins

(b) the proceedings at which each such attorney represented you:

i. Trial / sentencing

ii. _____

iii. Appeal

19. State clearly the relief you seek in filing this application:

A new trial and any other further relief the court deems justice and fair.

20. Are you now under sentence from any other court that you have not challenged?

No

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STATE OF SOUTH CAROLINA

VERIFICATION

County of York

I, Ronnie Collins, 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.

Ronnie Collins

SWORN to and subscribed before me this 6
day of March, 2012

Joyce L. Young (L.S.)
Notary Public

My Commission Expires: 10 11 2021

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APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, Ronnie Collette, 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.

Ronnie Collette
Applicant

SWORN or affirmed to and subscribed before me this
4 day of March, 2012.

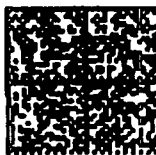
Joyce L. Young
Notary Public

My Commission Expires: 10 11 2021

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*Therese Higgins #264539
386 Fredericksburg way.
Marriott D.C.
29899*

2012-CP-42-107



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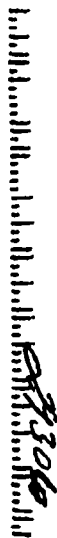
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P.O. Box 3483
Spartanburg S.C.*



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
	)	
Ronnie Goggins, #264540,	)	2012-CP-42-1197
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

In response to the post-conviction relief application filed on March 15, 2012, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Spartanburg County Clerk of Court's orders of commitment. The Spartanburg County Grand Jury indicted the Applicant at the February 2009 term of General Sessions for armed robbery (09-GS-46-1068). Robert B. Hall, Esquire, represented the Applicant. On October 28, 2009, the Applicant was convicted of this charge by a jury. The Honorable Roger L. Couch sentenced the Applicant to confinement for fifteen years for armed robbery.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected. An Anders brief was filed on Applicant's behalf. The South Carolina Court of Appeals affirmed Applicant's conviction and sentence. State v. Goggins, Op. No. 2012-UP-092 (filed February 22, 2010). The Remittitur was returned on March 12, 2012.

Attached herewith and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina

Department of Corrections, appellate records, and the trial transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his application for post conviction relief the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of trial counsel, in that;
 - a. Counsel failed to investigate my case,
 - b. Counsel failed to call my witnesses.

III.

Respondent asserts that the Applicant's allegation of ineffective assistance of trial counsel is without merit. Respondent asserts that the Applicant's attorney rendered effective assistance well within the standard of reasonableness within professional norms for a criminal defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Petitioner 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. Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064 (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. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668, 104 S. Ct. 2052. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney

performance is measured by its reasonableness under professional norms. Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland v. Washington. Second, counsel's deficient performance must have prejudiced the Applicant such that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. Cherry, 300 S.C. at 117, 386 S.E.2d at 625. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. Respondent requests an evidentiary hearing to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

The Respondent denies each allegation that is not expressly admitted, qualified or explained.

V.

WHEREFORE, the Respondent requests an evidentiary hearing solely for the purpose of determining whether the Applicant's trial counsel was ineffective.

Respectfully submitted,

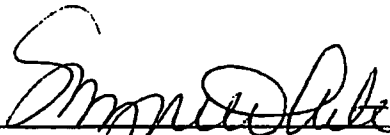
HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

SUZANNE H. WHITE
Assistant Attorney General

By:



Attorneys for the Respondents

P.O. Box 1549

Columbia, S.C. 29211

(803) 734-3737

February 20, 2013

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF COMMON PLEAS
3
4 Ronnie Goggins,)
5 Applicant,) TRANSCRIPT OF RECORD
6 -vs-) 2013-CP-42-1197
7 The State,)
8 Respondent.) June 27, 2013
9) Spartanburg, South Carolina
10

11 B E F O R E:

12 HONORABLE R. LAWTON MCINTOSH, JUDGE
13
14

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

16 KENNETH P. SHABEL, ESQUIRE
17 Attorney for the Applicant

18 SUZANNE H. WHITE, ESQUIRE
19 Attorney for the Respondent
20
21
22

23 Margaret A. Woods
24 Circuit Court Reporter
25

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
A-1	Second statement of Albert Geter	10	10
A-2	Second statement of Albert Geter	14	14
A-3	First lineup	19	19

1 THE COURT: Ms. White.

2 MS. WHITE: Thank Your Honor. This is the case of Ronnie
3 Goggins vs. the State, it's Case Number 2012-CP-42-1197, he's
4 represented today by Mr. Ken Shabel. Mr. Goggins was indicted
5 February of '09 for armed robbery, he wa -- proceeded to trial
6 represented by Robert Hall, was convicted that charge October
7 28th 2009 and received a 15-year sentence, they did not
8 proceed with a pointing and presenting firearm charge, I think
9 that he had also been charged with. An Anders brief was
10 filed, an appeal was, um, his conviction sentence were
11 affirmed and he's alleged ineffective assistance of counsel in
12 that counsel failed to investigate the case and counsel failed
13 to call certain witnesses so I'll turn it over to Mr. Shabel
14 this time.

15 THE COURT: Mr. Shabel.

16 MR. SHABEL: May it please the Court. Uh, I believe
17 Ms. White has accurately stated the issues in the case, in
18 particular we'll be focusing on improper investigations as
19 relates to, uh, law enforcement records as well as
20 contradictory statements made by one of the primary witnesses
21 at trial.

22 THE COURT: Yes, sir.

23 MR. SHABEL: We are prepared to go forward this time.

24 THE COURT: Yes, sir, I am.

25 MR. SHABEL: Call Mr. Goggins.

RONNIE GOGGINS - DIRECT EXAMINATION BY MR. SHABEL

1 (Whereupon, the applicant came forward.)

2 RONNIE GOGGINS, having been
3 first duly sworn, testified as follows:

4 THE BAILIFF: Have seat please, sir.

5 MR. SHABEL: May it please the Court.

6 THE COURT: Yes, sir.

7 DIRECT EXAMINATION BY MR. SHABEL:

8 Q. Sir, would you state your full name for the record.

9 A. Ronnie Goggins.

10 Q. Mr. Goggins, how old are you?

11 A. Thirty-two.

12 Q. And what's the highest level of education you
13 completed?

14 A. Uh, tenth grade.

15 Q. Are you currently incarcerated?

16 A. Yes, sir.

17 Q. What correctional facility?

18 A. Kershaw Correctional.

19 Q. Approximately how long have you been at Kershaw?

20 A. Uh, maybe five months, six months.

21 Q. Alright. And you were at another facility within the
22 Department a Corrections prior to that.

23 A. Yes, sir.

24 Q. In October of 2009, were you sentenced on a charge of
25 armed robbery?

RONNIE GOGGINS - DIRECT EXAMINATION BY MR. SHABEL

- 1 A. Yes, sir.
- 2 Q. What sentence did you receive?
- 3 A. Uh, fifteen years.
- 4 Q. And was that a result of a guilty plea or was that a
- 5 result of a trial before a ---
- 6 A. A tr ---
- 7 Q. --- jury?
- 8 A. --- a trial.
- 9 Q. And who were you represented by?
- 10 A. Uh, Mr. Hall.
- 11 Q. And was Mr. Hall privately retained or was he a public
- 12 defender?
- 13 A. He was a public defender.
- 14 Q. How soon after you were arrested did you apply for a
- 15 public defender?
- 16 A. Uh, maybe three weeks.
- 17 Q. And after you applied for a public defender did you get
- 18 to cheat -- did you get to meet with Mr. Hall or did you meet
- 19 with someone else?
- 20 A. Uh, I met with Mr. Hall.
- 21 Q. Okay. Did you meet with anybody else involved with the
- 22 Public Defender's Office in addition to Mr. Hall?
- 23 A. Yes, I met with, uh, Mr. Cheeks.
- 24 Q. Okay. And is that James Cheeks to the best of your
- 25 knowledge?

RONNIE GOGGINS - DIRECT EXAMINATION BY MR. SHABEL

1 A. Yes, sir.

2 Q. Did you have any reason to believe that James Cheeks was
3 acting in any other capacity other than to assist Mr. Hall or
4 to assist the Public Defender's Office in representation of
5 you?

6 A. Yes, I do.

7 Q. Alright. In your time while you were waiting, uh, to go
8 to trial, were you in jail, were you outta jail, where were
9 you?

10 A. I was in jail.

11 Q. You were in jail the whole time, ---

12 A. Um-hum.

13 Q. --- never made bond.

14 A. No, sir.

15 Q. During the time that you were in jail awaiting trial,
16 first of all approximately how long were you in jail awaiting
17 trial?

18 A. Uh, maybe eleven months, twelve months.

19 Q. And during those eleven or twelve months that you were in
20 jail, how many visits did you receive from either Mr. Hall or
21 Mr. Cheeks?

22 A. Maybe three.

23 Q. And did you have any visits with them here at the
24 courthouse in addition to those three?

25 A. Uh, maybe one right before my trial.

RONNIE GOGGINS - DIRECT EXAMINATION BY MR. SHABEL

1 Q. During those meetings did you have an opportunity to
2 explain your case to Mr. Hall or Mr. Cheeks?

3 A. Yes, I did.

4 Q. Do you believe they had an adequate knowledge of what
5 your position on the case was?

6 A. Yes, I do.

7 Q. Without diving too far into the facts, you were accused
8 of participating in an armed robbery.

9 A. Yes, sir.

10 Q. Was there another individual supposedly involved?

11 A. Yes, but, uh, this victim, this this person was never
12 charged, uh, ---

13 Q. Alright. You never had a co-defendant.

14 A. No, sir.

15 Q. Alright. But you were charged.

16 A. Yes, sir.

17 Q. Do you know the name of the person that alleged that you
18 had robbed them?

19 A. Uh, Mr. Albert Geter.

20 Q. Okay. Uh, let me start with him. Did he make statements
21 to police?

22 A. Yes, he made, uh, ---

23 Q. How ---

24 A. --- two, ---

25 Q. --- many?

RONNIE GOGGINS - DIRECT EXAMINATION BY MR. SHABEL

1 A. --- he made two statements.

2 Q. And can you, and can you briefly give a time line as far
3 as how far apart those statements were.

4 A. Yes, he made, uh, they were fourteen months apart.

5 Q. When was the first one made in proximity to the alleged
6 incident?

7 A. Uh, I think the first statement was made maybe August the
8 2nd ---

9 Q. Okay. And you ---

10 A. --- of of August the 2nd of 2008.

11 Q. And do they -- did he identify you in that statement as
12 the person who robbed him?

13 A. No, sir, he identified a a light skinned black male with
14 a, uh, with a gun, ---

15 Q. Alright.

16 A. --- he said the that that was the guy ---

17 Q. Alright.

18 A. --- who had, uh, pointed the gun at him and took the
19 money out his pocket.

20 Q. Okay. The second statement, the one that was made months
21 later, ---

22 A. Fourteen months later.

23 Q. --- fourteen months later.

24 A. Uh, the second statement he said that the fi -- he
25 started his statement off saying' the first statement that I

RONNIE GOGGINS - DIRECT EXAMINATION BY MR. SHABEL

1 wrote was incorrect, Mr. Goggins, uh, went in his pocket and
2 took his money.

3 Q. Okay.

4 (Whereupon, a discussion was held off the record.)

5 MR. SHABEL: May I approach the witness, Your Honor?

6 THE COURT: Yes.

7 BY MR. SHABEL:

8 Q. Mr. Goggins, I'm handing you a piece of paper, do you
9 recognize that (indicating)?

10 A. Yes, sir.

11 Q. From your involvement with Mr. Hall and your
12 investigation on your own of your case, is this in fact the
13 second statement that Mr. Geter made, ---

14 A. Yes, sir.

15 Q. --- the one that was made fourteen months after the first
16 one?

17 A. Yes, sir.

18 MR. SHABEL: Your Honor, I've shown this to Ms. White, I
19 would ask that this be marked and admitted as Applicant's
20 Exhibit 1.

21 THE COURT: Any objection?

22 MS. WHITE: No objection, Your Honor.

23 THE COURT: Admitted without objection.

24 (Second statement of Albert Geter marked Applicant's
25 Exhibit No. 1 for identification and admitted into evidence.)

RONNIE GOGGINS - DIRECT EXAMINATION BY MR. SHABEL

1 BY MR. SHABEL:

2 Q. Now, Mr. Goggins, if you would, you indicated that
3 earlier that he ch -- in in in this statement he basically
4 changes his position and said you were the guy, ---

5 A. Yes, sir.

6 Q. --- have you already been by the time this sene -- this
7 statement is written had you already been charged with this
8 crime?

9 A. Yes, sir.

10 Q. Still the other guy hadn't.

11 A. No, sir.

12 Q. Now fourteen months later he makes this new statement.

13 A. Yes, sir.

14 Q. Would you read the last paragraph there, the one that
15 begins "About a month after..."

16 A. Uh, "About a month after the robbery I was at my home on
17 Fourth Street and I saw a guy walkin' down the sidewalk, the
18 guy called to me and said, 'I am bored come get at me'. I
19 started to go down off the porch but my friend stopped me and
20 said that boy was probly carryin' a gun."

21 Q. Okay. Thank you. Is that a true statement that you just
22 read?

23 A. Yes, sir.

24 Q. Okay. So you were at the house.

25 A. No, sir, the the the statement, that was the second

RONNIE GOGGINS - DIRECT EXAMINATION BY MR. SHABEL

- 1 statement, I was sayin' that that was the sta -- second ---
- 2 Q. Okay, no, ---
- 3 A. --- statement.
- 4 Q. --- let me, then let me rephrase my question.
- 5 A. Okay.
- 6 Q. What you just read that Mr. Geter had wrote, ---
- 7 A. Yes.
- 8 Q. --- is that a true statement?
- 9 A. No, sir.
- 10 Q. Had you ever been to that house?
- 11 A. No, sir.
- 12 Q. Did you tell your attorney that?
- 13 A. Yes, I told him that.
- 14 Q. Did he -- did you tell him, Look, I'd I'd never been
- 15 there, I, there's no way that could happen?
- 16 A. Yes, sir.
- 17 Q. Did he do any investigation to back you up on that?
- 18 A. No, sir.
- 19 Q. Was that statement brought in to the attention of the
- 20 Court?
- 21 A. No, sir, it wasn't.
- 22 Q. Alright. Did Mr. Geter testify at trial?
- 23 A. Yes, sir, he he testified to that statement.
- 24 Q. Okay. He testified that you were the person who robbed
- 25 him?

RONNIE GOGGINS - DIRECT EXAMINATION BY MR. SHABEL

1 A. Yes, sir.

2 Q. Did Mr. Hall introduce his first statement into evidence
3 at trial?

4 A. No, he didn't.

5 Q. The first statement where he does not name you at all.

6 A. No, sir, he didn't.

7 Q. Did he have a copy?

8 A. Yes, sir.

9 Q. Did he explore that at all with Mr. Geter when he was on
10 the stand to the best of your knowledge?

11 A. To, uh, he he mighta went over it a little bit but he
12 coulda did a a lot better.

13 MR. SHABEL: Alright, may I approach the witness, Your
14 Honor?

15 THE COURT: Yes.

16 BY MR. SHABEL:

17 Q. Mr. Goggins, I'm handing you another document. Have you
18 seen this document before?

19 A. Yes, sir.

20 Q. From your investigation of the case, is this (indicating)
21 Mr. Geter's first statement to ---

22 A. Yes, ---

23 Q. --- the Court?

24 A. --- yes, sir.

25 Q. To your knowledge did Mr. Hall have a copy of this?

RONNIE GOGGINS - DIRECT EXAMINATION BY MR. SHABEL

1 A. Yes, sir.

2 Q. Your Honor, I offer this as Applicant's Exhibit No. 2,
3 I've also shown this to Ms. White.

4 MS. WHITE: No objection, Your Honor.

5 THE COURT: Admitted without objection.

6 (First statement of Albert Geter marked Applicant's
7 Exhibit No. 2 for identification and admitted into evidence.)

8 MR. SHABEL: Thank you.

9 COURT REPORTER: You're welcome.

10 BY MR. SHABEL:

11 Q. Now, Mr. Geter [sic], let me change gears a little bit,
12 talk about another piece of evidence. Was there evidence
13 presented of photo lineups?

14 A. Yes, sir, it was. It was, uh, ---

15 Q. How many photo lineups were talked about during the
16 course of a trial?

17 A. Two.

18 Q. Was there a suppression hearing involving those photo
19 lineups?

20 A. Yes, sir.

21 Q. Tell the Court a little bit about the time line of the
22 two photo lineups.

23 A. Uh, one photo was on August the 2nd ---

24 Q. Okay.

25 A. --- and the next photo was six six days later.

RONNIE GOGGINS - DIRECT EXAMINATION BY MR. SHABEL

1 Q. Alright.

2 A. The, uh, in the first photo lineup, the, uh, the officer
3 wrote in his initial report ---

4 Q. Well we'll get to the report in just a second but let me
5 ask you about the actual photos themselves. Are you in both
6 lineups?

7 A. Yes, sir.

8 Q. Is anybody else in both lineups?

9 A. No, sir.

10 Q. Okay. Now in the second, let's talk about the second
11 photo lineup, the one that occurred wha'd you say August the
12 8th? 9th?

13 A. Eighth somewhere.

14 Q. 'bout six days later.

15 A. Right.

16 Q. The officer testified in the suppression hearing, who did
17 he testify that Mr. Geter identified in the second lineup?

18 A. He, uh, he testified that he identified me.

19 Q. Alright. Did that officer also testify during the course
20 of the trial that the jury heard on the second photo lineup?

21 A. Uh, repeat the question.

22 Q. Sure. You remember there was a suppression hearing when
23 the jury wasn't present ---

24 A. Right.

25 Q. --- but then after that suppression hearing the jury was

RONNIE GOGGINS - DIRECT EXAMINATION BY MR. SHABEL

1 brought in, opening arguments began and the State called
2 witnesses, ---

3 A. Yes, sir.

4 Q. --- did that officer who did the second lineup testify at
5 trial?

6 A. Yes, sir.

7 Q. Okay. And did he also testify then that Mr. Geter
8 identified you in the second photo lineup?

9 A. Yes, sir.

10 Q. Okay. The first photo lineup, okay, did that officer
11 testify during the suppression hearing ---

12 A. Uh, ---

13 Q. --- to the best of your knowledge?

14 A. --- yes, sir.

15 Q. To the best of your knowledge, what did the suppression
16 officer testify to as far as what was done in that, ---

17 A. Uh, the the ---

18 Q. --- what identification was made?

19 A. --- the officer said that that the victim didn't point
20 anybody out ---

21 Q. Okay.

22 A. --- in the first lineup.

23 Q. Alright, now for the record did Mr. Geter testify to
24 something completely different?

25 A. Yes, sir.

RONNIE GOGGINS - DIRECT EXAMINATION BY MR. SHABEL

1 Q. What did he testify to?

2 A. He testified the, uh, that he had pointed me out in
3 the ---

4 Q. Okay.

5 A. --- first lineup and that the officer had told him --
6 well he actually he stated, uh, I wasn't -- well I pointed to
7 the guy who I thought it was and she, the officer, told me
8 that that was the person that robbed him.

9 Q. So Mr. Geter testified, I did point to somebody, ---

10 A. Right.

11 Q. --- the officer who did the first photo lineup testified
12 at trial he didn't point to anybody.

13 A. Right.

14 Q. You've seen the police reports that were done in your
15 case, ---

16 A. Yes, sir.

17 Q. --- have you seen anything in the police reports to
18 contradict what the officer specifically testified to at
19 trial?

20 A. The officer, uh, stated that, uh, that the victim didn't
21 choose any photo, a -- or didn't choose the correct photo.

22 Q. Okay, so he testified at trial that he didn't choose any
23 photo but you saw something to indicate that he didn't choose
24 a correct photo.

25 A. Right, right. That was in, that was in his police report

RONNIE GOGGINS - DIRECT EXAMINATION BY MR. SHABEL

1 at the end.

2 MR. SHABEL: May I approach the witness, Your Honor?

3 THE COURT: Yes.

4 BY MR. SHABEL:

5 Q. Mr. Goggins, once again I'm handing you another piece of
6 paper. Have you seen this (indicating) piece of paper before?

7 A. Yes, sir.

8 Q. Is there writing on both sides?

9 A. Yes, sir.

10 Q. What do you believe this to be?

11 A. Uh, the initial police report.

12 Q. Is this from the first officer that did the first
13 lineup?

14 A. Yes, sir.

15 Q. And does it go on the s -- on the back page, uh, to talk
16 about the fact that he ha -- you had a lineup of six similar
17 pictures of black males?

18 A. Right.

19 Q. Would you read the last sentence of that report for the
20 Court.

21 A. "He said he was not able to choose the correct photo."

22 Q. Thank you.

23 MR. SHABEL: I offer this as Applicant's Exhibit 3, I
24 have shown this to Ms. White.

25 MS. WHITE: No objection, Your Honor.

RONNIE GOGGINS - DIRECT EXAMINATION BY MR. SHABEL

1 THE COURT: Admitted without objection. This the second
2 lineup?

3 MR. SHABEL: First, Your Honor.

4 (First lineup marked Applicant's Exhibit No. 3 for
5 identification and admitted into evidence.)

6 BY MR. SHABEL:

7 Q. Mr. Goggins, in your mind is there a difference between
8 he did not choose a photo and he did not choose a correct
9 photo?

10 A. Yes, because if he said that he didn't choose a correct
11 photo, that that means that's evidence showin' that a photo
12 was was picked.

13 Q. Okay.

14 A. When you say "correct", you you you would be thinkin'
15 that, uh, you you get the impression that there was one
16 someone was picked out in this lineup ---

17 Q. Did ---

18 A. --- and "any" meaning, you know, wasn't nobo -- wasn't no
19 one picked out the lineup.

20 Q. Right.

21 A. Right.

22 Q. Did Mr. Hall talk about that police report at all in the
23 suppression hearing?

24 A. Uh, ---

25 Q. Did he make that argument in any way whatsoever?

RONNIE GOGGINS - DIRECT EXAMINATION BY MR. SHABEL

- 1 A. About as far as?
- 2 Q. The correct photo versus not picking out anybody?
- 3 A. No, sir.
- 4 Q. Did that ever come before the Court in the suppression
- 5 hearing?
- 6 A. No, sir. He he just argued that I was in the same lineup
- 7 both times ---
- 8 Q. Okay.
- 9 A. --- in the suppression hearin'.
- 10 Q. Now we talked about the fact that the second officer
- 11 testified before the jury at the trial who did the second
- 12 photo lineup, did the officer who did the first lineup testify
- 13 at trial?
- 14 A. Yes, he did. Yes, she did.
- 15 Q. Okay. Did -- she she did testify at the suppression
- 16 hearing?
- 17 A. Yes.
- 18 Q. Did she testify in front of the jury a second time?
- 19 A. Uh, I think by my knowledge she did.
- 20 Q. Okay. The transcript says otherwise, do you agree with
- 21 what the transcript says?
- 22 A. Right, right.
- 23 Q. Thank you. During your meetings with Mr. Hall or
- 24 Mr. Cheeks or with anyone else at the, uh, office of the
- 25 public defender, did you indicate to anybody that you had an

RONNIE GOGGINS - DIRECT EXAMINATION BY MR. SHABEL

1 alibi witness?

2 A. Yes, I did.

3 Q. Who did you tell them was an alibi witness ---

4 A. Uh, ---

5 Q. --- for you?

6 A. --- Shawana Carpenter.

7 Q. And what is Shawana Carpenter's relationship to you or
8 what was it at the time of this alleged incident?

9 A. Uh, we was just friends.

10 Q. Okay. What did you tell Mr. Hall or Mr. Cheeks -- first
11 of all, who'd you tell?

12 A. Mr. Hall.

13 Q. Alright, wha'd ya tell him?

14 A. I told him that she could testify to, uh, she would ju --
15 she was my alibi witness ---

16 Q. Okay.

17 A. --- and I asked him to subpoena her.

18 Q. Did he do that?

19 A. No, he didn't. It wa -- it wasn't in the subpoena to
20 send out in my case from my understandin'.

21 Q. Okay.

22 A. Uh, I hadn't seen any, no.

23 Q. Okay. Do you know, do you have any evidence to believe
24 he even talked to your alibi witness?

25 A. He said that, uh, he said that he had spoke with I

RONNIE GOGGINS - DIRECT EXAMINATION BY MR. SHABEL

1 believe.

2 Q. Okay. Did he say whether or not she corroborated your
3 story ---

4 A. Um...

5 Q. --- one way or the other?

6 A. No, he never said anything.

7 Q. Mr. Goggins, ultimately you were convicted of armed
8 robbery and are now sentenced to serve time, ---

9 A. Um-hum.

10 Q. --- the things we've talked about today do you believe
11 Mr. Hall erred in in in not going into the the two statements
12 from Mr. Geter?

13 A. Yes, 'cause if he woulda, if he woulda brought up both
14 the statements in their entirety, it woulda showed, it it
15 woulda showed a difference ---

16 Q. Okay.

17 A. --- you know.

18 Q. And do you believe that Mr. Hall erred in not going over
19 the police report with the officer who did the first lineup?

20 A. Yes, 'cause if he did then it it woulda never been a
21 second identification ---

22 Q. You believe that would have assisted in your suppression
23 hearing?

24 A. Right, if it was, uh, if if if someone was picked out the
25 first lineup then it woulda never been a, it it shoulda never

RONNIE GOGGINS - CROSS-EXAMINATION BY MS. WHITE

1 been a second lineup, it a never been a trial.

2 Q. Okay. And do you believe as a result of those mistakes
3 it affected the outcome of the trial?

4 A. Yes, sir.

5 Q. You believe if he had not made those mistakes you woulda
6 been found innocent or found not guilty of the charges?

7 A. I woulda been found not guilty.

8 Q. And as a result you wouldn't be where you're sittin'
9 today.

10 A. Right.

11 Q. Mr. Goggins, thank you, please answer any other questions
12 Ms. White or the Court has for you.

13 THE COURT: Cross-examination.

14 MS. WHITE: Thank Your Honor.

15 CROSS-EXAMINATION BY MS. WHITE:

16 Q. Mr. Goggins, uh, in regards to the photo lineup, your
17 attorney did file or move for a pretrial suppression hearing
18 on that.

19 A. Yes, ma'am.

20 Q. And there was pretty good argument you and he both
21 thought you had on the fact that your picture was the only
22 common one within the first and the second photo lineups, is
23 that right?

24 A. Yes, ma'am.

25 Q. And there were witnesses both of the officers that showed

RONNIE GOGGINS - CROSS-EXAMINATION BY MS. WHITE

1 the lineup as well as the victim testified, is that right?

2 A. Yes, ma'am.

3 Q. And he cross-examined each of those during the
4 suppression hearing?

5 A. Yes, ma'am.

6 Q. But the judge denied your motion and allowed the
7 identification of the lineups to proceed.

8 A. Yes, ma'am.

9 Q. Now your attorney cross-examined the victim about his
10 identification of you and the fact that he claimed he pointed
11 to someone at the beginning and the officer said, No, that's
12 not the person, is that right?

13 A. Yes, ma'am.

14 Q. Okay. So he tried to talk to him about the different
15 stories because he said somethin' about the first time you
16 mentioned anything about this is fourteen and a half months
17 after the events, right?

18 A. Yes, ma'am.

19 Q. So he brought up the fact that there were different
20 stories from Mr. Geter as to who robbed him.

21 A. But he he didn't bring 'em into that, into the whole
22 entirety, he coulda read out the whole statements ---

23 Q. Okay.

24 A. --- of of of what happens.

25 Q. And in fact Mr. Geter he got him to say pretty much he

RONNIE GOGGINS - CROSS-EXAMINATION BY MS. WHITE

1 identified you by the eyes or somethin', that he recognized
2 eyes, is that correct?

3 A. Yes, ma'am.

4 Q. Okay. Uh, when your attorney also renewed his objection
5 during the trial about the identification, is that right, and
6 argued during trial outside of the presence of the jury again
7 that the identification and lineup was improper, do you recall
8 that?

9 A. No, I I don't recall it.

10 Q. Okay. But if the transcript shows that he has taken time
11 when Officer Porter was testifying and objected to the the
12 validity of the lineups, would that be correct?

13 A. (The witness nodded in the affirmative.)

14 Q. Okay. And you said you testified that you were not aware
15 you'd given him one name for an alibi witness, did you give
16 him several names maybe that he could talk to?

17 A. No, I gave him one.

18 Q. Just one? And you believe that he may have talked to
19 Ms. Carpenter but you don't know what the result was.

20 A. No, ma'am.

21 Q. Okay.

22 MS. WHITE: Your Honor, that's all I have at this time.

23 MR. SHABEL: No redirect. Thank Your Honor.

24 THE COURT: Thank you, sir, you may step down. Could you
25 call your next witness please, sir.

ROBERT HALL - DIRECT EXAMINATION BY MS. WHITE

1 MR. SHABEL: Applicant rests.

2 MS. WHITE: Your Honor, the State would call Robert Hall.

3 (Whereupon, the witness came forward.)

4 ROBERT HALL, having been first
5 duly sworn, testified as follows:

6 THE BAILIFF: Have a seat please, sir.

7 DIRECT EXAMINATION BY MS. WHITE:

8 Q. You could state your name for the record.

9 A. Robert Hall.

10 Q. And, Mr. Hall, uh, is it true that you were appointed to
11 represent Mr. Goggins?

12 A. Yes, it is.

13 Q. And, uh, can you recall he had stated that he thought he
14 met with you and/or Mr. Cheeks perhaps maybe three times prior
15 to trial and once outside of the jail prior to trial, does
16 that sound correct?

17 A. I believe we met, well I I'm not sure how many times, uh,
18 Mr. Cheek met with him but, uh, Mr. Cheek's job is to see if
19 he can work out pleas in cases and, uh, does a pretty good job
20 a that but I know I have a note that I met with him I think
21 one time with Mr. Cheek, uh, uh, closer to the time of trial.
22 Uh, I know I've met with him in December, uh, within a couple
23 months of getting the file, uh, and then in February, uh,
24 April and a couple times in April and then August and, uh,
25 September, then October for trial.

ROBERT HALL - DIRECT EXAMINATION BY MS. WHITE

1 Q. Okay. And during your visits with, uh, Mr. Goggins, were
2 the discussions, what were the discussions focused on in
3 regards to a defense?

4 A. Well the first, uh, meeting we went into some detail
5 about, uh, if he knew who the other person was and he would
6 not say who the person was but he did say that, uh, Thomas
7 Martin a name that had been bounced around, uh, was not the
8 person known as "Red", uh, and, uh, and I had the impression
9 that he probably knew who that person was and I said, You know
10 if you know that person is and that person did the robbery,
11 that could help you, and he never did divulge who that person
12 woulda been, uh, that he was just the guy came up while he was
13 kinda havin' a conversation with the fella, maybe some drug
14 activity goin' on and the "Red" came from behind the fella and
15 robbed him ---

16 Q. So ---

17 A. --- but he had nothin' to do with it.

18 Q. --- Mr. Goggins acknowledged being present at the scene
19 but denied having any knowledge of or connection to the
20 robbery?

21 A. That's correct.

22 Q. But the person that he says was a s -- a second person
23 that had been talked about that was apparently never arrested
24 was someone referred to as "Red"?

25 A. Yes.

ROBERT HALL - DIRECT EXAMINATION BY MS. WHITE

1 Q. Okay. And what else, uh, did you talk to him about the
2 identification or at that point was it an issue yet?

3 A. I'm not sure if it was at that point, we got, uh, I'm not
4 exactly sure of the date I got discovery, uh, it was probably,
5 uh, it was probly before that meeting I'd gotten the discovery
6 so saw that there were two lineups, uh, where, uh, Officer
7 Brickside (phonetic), uh, was -- did the original lineup and
8 said he couldn't identify somebody. Eight days, six or eight
9 days later when the victim came for assistance in paying his
10 rent, uh, that they were able, they presented the lineup, uh,
11 with Mr. Goggins being the only repeat picture and he just
12 miraculously picked him out at that point ---

13 Q. An ---

14 A. --- and ---

15 Q. I'm sorry.

16 A. No, I think, I think we had that discussion from the
17 start.

18 Q. And was that a concern when you say he was the second,
19 the only person that was in the same, the second lineup, was
20 that a concern of yours?

21 A. Yes, it was and we did some, uh, research, I I think I
22 got if sittin' over there some case law, uh, in how that, uh,
23 uh, the, uh, I think there five points: opportunity of the
24 witness to see the witness, uh, degree of attention, those
25 type things, and think it was the *Biggers* case and, uh, we

ROBERT HALL - DIRECT EXAMINATION BY MS. WHITE

1 pulled that and, you know, had done some research and was
2 ready on that issue.

3 Q. And did you talk with him about what would happen if if
4 the lineups came in at trial and how that would affect the
5 case?

6 A. Yes, said we'd do everything we could to keep it out but,
7 uh, no disrespect to our court, our judges, I said, You know
8 there's a good chance the judge is gonna let it in and we have
9 to depend on appellate courts to, uh, right that wrong.

10 Q. And in fact that was raised and dismissed unfortunately
11 for Mr. Goggins on the appellate ---

12 A. Said ---

13 Q. --- level.

14 A. --- I remember the judge said, Well the witness says he's
15 certain and I'd argued it's not just the witness saying he's
16 certain, he has to show that he's certain, but that didn't
17 carry the day.

18 Q. Okay. Now in regards to, um, witnesses he testified that
19 that he did give you an alibi witness, a Ms. Carpenter and
20 asked you to subpoena her, he said he thought you'd talked to
21 her but was not aware of what she said, uh, is that accurate
22 or how do you recall?

23 A. Well in my meeting with him in February, uh, uh, first
24 thing I did, back back at that point we had an attorney who
25 did the preliminary hearin's and, uh, the that attorney had

ROBERT HALL - DIRECT EXAMINATION BY MS. WHITE

1 offered her opinion of the case and, uh, I had to, I've had to
2 spend some time explaining to him that her opinion and the
3 solicitor's opinion and whether it goes forward or not are two
4 different things, uh, but he gave me the name Sha -- Shawana
5 Carpenter, gave me a phone number, uh, and said that she knows
6 who else was there and could say, you know, what happened.
7 Uh, it took me a good bit a time to track her down, uh, and I
8 actually, uh, was able on into I think April to find out where
9 she lived. I contacted the apartment complex, uh, was able to
10 convince them to receive a faxed letter from me because they
11 knew she was there at the time, that they could hand deliver
12 the letter that I was trying to talk to her and also, uh, I
13 believe mailed a copy of the letter out to her and in April
14 was finally able to meet with her, uh, and, uh, she, uh, told
15 a story that, uh, kinda placed him not in the robbery. She
16 was under the impression if she gave a written statement to me
17 I could deliver it to the police and they would drop the
18 charges, I said no, ma'am, you would have to come and testify
19 to these things in court and she said, I will not do that, and
20 that to me that said what she had just told me was not
21 truth.

22 Q. Were there ever any other witnesses or names that
23 Mr. Goggins gave you that you investigated or spoke with?

24 A. Yes. Uh, after I've told him about Ms. Carpenter sayin'
25 she would not testify, uh, it was several months later he gave

ROBERT HALL - DIRECT EXAMINATION BY MS. WHITE

1 me the name of Emma Sanders, uh, and phone number, uh, and I
2 was able to track her down. It took close to a month to
3 finally find her, again I have some, uh, know some people in
4 the apartment, uh, business from my last job and, uh, they
5 seemed willin' to give -- help me find people and I was able
6 to track her down and it pretty much went the same way with
7 her. She thought she could just give a statement and, uh, I
8 would show that to the State, to the police and they would
9 dismiss the charge, I again explained to her no, we're gonna
10 have to come testify. Her story was not going to be quite as
11 much, said she had been with him prior to it and it evolved
12 to, I'd seen him before, he had been by before but I have no
13 idea what happened 'cause I was nowhere around so she wasn't
14 going to be any benefit.

15 Q. In regards to the cross-examination of the victim and
16 whether or not you coulda brought in this first and second
17 statement, what was your feelin' on that?

18 A. If if I may just, I have one more note for Ms. Sanders.
19 Uh, when I met with, uh, Mr. Goggins getting on to the trial,
20 uh, he felt that she would testify. I did try to make it, I
21 did attempt to try contact her, uh, as late as the I think the
22 evenin' before the trial started and the phone number that she
23 had given me was disconnected, was no longer good. I'm sorry
24 if you'll go back, if you'll repeat the question.

25 Q. No, that's fine. In regards to the cross-examination,

ROBERT HALL - DIRECT EXAMINATION BY MS. WHITE

1 uh, Mr. Goggins testified that he felt you could have done
2 more to show the discrepancies between the victim's first and
3 second statement by maybe entering the statements into
4 evidence, was there anything you felt that you could've done
5 differently?

6 A. I I felt like we covered it, that he, uh, uh, the I
7 believe the police memory of it and his memory were different,
8 uh, and, uh, we, uh, I think explored those type things,
9 discrepancies, in, uh, in fact, before closing statements I
10 think I went over a lotta things and pretty much my outline
11 with Mr. Goggins. Uh, I think a couple a things we agreed or
12 he said wasn't as important but there were things that were
13 important, uh, and thought that we had covered everything, in
14 fact, I have a note, uh, the the thing it was somethin' 'bout
15 the gun and that the man testified that he was looking at the
16 person in front of him that he identified as Mr. Goggins, uh,
17 but he was able to see the gun in his back and that, you know,
18 the gun, where the gun came out and all that and just a lotta
19 discrepancies in his, uh, statements and, uh, you know,
20 that's, we had, I had a whole litany different things that,
21 you know, he he could, he was lookin' forward but he could see
22 what was behind him and all that, I thought we covered it well
23 and my conversation with him after, uh, we finished with our
24 closing statements he agreed.

25 Q. Okay. Thank you, that's all I have.

ROBERT HALL - CROSS-EXAMINATION BY MR. SHABEL

1 THE COURT: Cross-examination.

2 MR. SHABEL: May it please the Court.

3 CROSS-EXAMINATION BY MR. SHABEL:

4 Q. Mr. Hall, do you by any chance have a copy of the
5 transcript in front of you?

6 A. I've -- I left it over there since it's so thick.

7 MR. SHABEL: If I may approach the witness.

8 THE COURT: Yes, sir.

9 BY MR. SHABEL:

10 Q. Mr. Hall, I want the record to reflect I've just handed
11 you a copy of the transcript from where you were seating, I
12 would like you if you would please turn to Page 119 of the
13 transcript.

14 A. Yes.

15 Q. Uh, starting about Line 7 I believe you're
16 cross-examining Mr. Geter at this point. I'm sorry, I'm on
17 Page 114 of the transcript, I had a different number 'cause I
18 think I was looking at the record on appeal page.

19 A. Yeah, it's, I've run into that problem too lookin' at
20 this.

21 Q. Yeah. Okay, 'bout Line 7 I believe you're
22 cross-examining Mr. Geter at this point.

23 A. Okay.

24 Q. And I think you go into details about the fact that he
25 accused one guy of holding the gun and robbing him and then

ROBERT HALL - CROSS-EXAMINATION BY MR. SHABEL

1 later says it was somebody else.

2 A. Okay.

3 Q. Would you read Lines 10 through 13 for the Court and I
4 believe this is actually Mr. Geter's testimony.

5 A. "Yes, sir, I I remember writing that down but at the
6 time, sir, after after the events of that happening to you
7 everything was jumbled in my mind, I was disoriented and I was
8 scared and I was terr -- terrified."

9 Q. Okay. At any point did you cross-examine Mr. Geter on
10 the diff -- on the time difference between the two
11 statements ---

12 A. I don't recall, uh, if I did.

13 Q. --- cause if he testifies, My mind got jumbled, I was
14 disoriented and I was scared, don't you think it was important
15 for the jury to hear how different in time those two
16 statements were?

17 A. I thought to me the major point was that he gave
18 different statements, different accounts ---

19 Q. Right, ---

20 A. --- of it ---

21 Q. --- but his testimony ---

22 A. --- and ---

23 Q. --- was that he got it wrong, he just got confused.

24 A. And I think in my, that was one of the things in my
25 closing statements that right after it he remembered but much

ROBERT HALL - CROSS-EXAMINATION BY MR. SHABEL

1 later he remembered it differently which was and I think which
2 was better the one right after versus the one months later.

3 Q. But again closing argument is not evidence at trial,
4 correct?

5 A. Correct.

6 Q. Okay. Did the first officer or the first officer who did
7 the first lineup did she or he testify at the trial of the
8 case or just at the suppression hearing?

9 A. Just that she testified just at the suppression
10 hearing.

11 Q. Did you find that odd?

12 A. Somewhat yeah but, uh, I don't try the State's case.

13 Q. Understand. Did you think to cross-exa -- or to call her
14 as a witness in your case to testify to the discrepancies in
15 the two lineups and discrepancy ---

16 A. I ---

17 Q. --- as far as the identification in the two lineups?

18 A. We discuss that Mr. Goggins and I but, uh, we felt that
19 having the final argument was and not presenting evidence
20 because he probly was not going to testify.

21 Q. Okay.

22 A. Uh, if he wa -- if he had decided to testify, yes we
23 probly woulda called her. She ---

24 Q. Okay.

25 A. --- was under subpoena, uh, and, uh, when he decided not

ROBERT HALL - CROSS-EXAMINATION BY MR. SHABEL

1 to testify, we felt after discussion felt like, uh, havin' the
2 final argument was important enough not to bring her back,
3 that ---

4 Q. Okay.

5 A. --- uh, there was already testimony that he had had
6 conflicting statements and that he had not identified somebody
7 in the first one according to the police records but he said
8 that he had tried to or did.

9 Q. Okay. So the jury actually heard that he did not
10 identify anybody in the first lineup.

11 A. That was my recollection. I've I've not read this page
12 for page.

13 Q. Okay.

14 MR. SHABEL: Beg the Court's brief indulgence.

15 THE COURT: Yes.

16 BY MR. SHABEL:

17 Q. Did you at any point cross-examine that first officer in
18 the suppression hearing about her police report?

19 A. I don't know if I referred to the police report but I did
20 refer to her, you know, what I had that, you know, he did not
21 identify anybody, he was not able to identify anybody and that
22 was from her records from the police report that I ask those
23 questions ---

24 Q. Okay.

25 A. --- and I believe I even ask in the suppression hearin'

ROBERT HALL - CROSS-EXAMINATION BY MR. SHABEL

1 and trial the other officer that he was unable, according to
2 the records, he was unable identify anybody in the first
3 lineup.

4 Q. Would you agree that there is a difference between not
5 being able to to identify anybody and not being identi -- able
6 to identify the correct person?

7 A. Yes.

8 Q. What's the difference in your mind?

9 A. If he, the correct, not identify the correct person means
10 he would've picked out somebody that the police felt like, uh,
11 was not, uh, their suspect.

12 Q. Okay. And from your recollection didn't the police
13 report say he didn't pick out the correct individual?

14 A. I don't, I don't have it in front of me ---

15 (Cross-talk.)

16 MR. SHABEL: Your Honor, may I approach and hand the
17 witness Applicant's Exhibit 3?

18 THE COURT: Yes, sir.

19 BY MR. SHABEL:

20 Q. Mr. Hall, this is what's already been introduced as
21 Applicant's Exhibit No. 3, would you take a look at the last
22 line on back page of that a -- of that exhibit.

23 A. Okay, sorry.

24 Q. That's okay.

25 A. Yeah.

ROBERT HALL - CROSS-EXAMINATION BY MR. SHABEL

1 Q. Okay. The police report says he didn't pick out the
2 correct photo, is that that correct?

3 A. That's what it stays, yeah.

4 Q. Okay. You never cross-examined that first officer about
5 picking correct photo, did you?

6 A. The, I ask her, let's see, Did, uh, he pick, that was he
7 able to pick out anybody, said he didn't pick out anybody, uh,
8 never pointed to anyone, ---

9 Q. Alright.

10 A. --- I just don't know right now.

11 Q. Okay. In your mind is that statement that she testified
12 to at trial different from what's written in the police
13 report?

14 A. On appearance yeah, but, uh, I talked to her before her
15 testimony, I don't and, you know, she just said what she --
16 what that indicated, uh, is that he was not able to pick out
17 anybody, uh, ---

18 Q. But you would agree that neither the jury nor the Court
19 at the suppression hearing heard the statement ---

20 A. Yes.

21 Q. --- inable [sic] to pick out the correct photo.

22 A. That's correct.

23 Q. And one of your major arguments in the suppression
24 hearing was it was strange that he didn't pick out anybody and
25 then eight days later he picks out the one guy that was in the

ROBERT HALL - CROSS-EXAMINATION BY MR. SHABEL

1 same lineup both times.

2 A. Yeah.

3 Q. In your opinion had the jur -- had had that come out the
4 fact that nobody picked out the correct photo, don't you think
5 that would have helped your argument a little bit?

6 A. Well I knew that the officer was gonna say that that's
7 poor wording if nothin' else, that, uh, he, ya know, he just
8 did not pick out anybody.

9 Q. Okay. Now you spoke with Ms. Carpenter the alibi,
10 the ---

11 A. Um-hum.

12 Q. --- purported alibi witness ---

13 A. Yes.

14 Q. --- and she was not willing to come to court testify.

15 A. Neither she nor Ms. Crosby, ---

16 Q. Alright, but I think the sec ---

17 A. --- Ms., uh, Sanders.

18 Q. Apologize, I think Ms. Sanders you indicated even if she
19 had come and testified to what she told you it wasn't gonna
20 really make a difference in the case.

21 A. I got the impression at the end a my conversation that,
22 uh, with meeting with her that she was not, you know, couldn't
23 even say that she had seen him that evening in all honesty.

24 Q. I understand but had Ms. Carpenter come to testify and
25 say what she would -- what she had told you, what she was

ROBERT HALL - CROSS-EXAMINATION BY MR. SHABEL

1 willing to put in the statement, that would have been
2 beneficial to the case, would it not?

3 A. She was not telling the truth.

4 Q. Okay.

5 A. She told me she would not, it was she could not come and
6 testify under oath to what she had told me ---

7 Q. Okay.

8 A. --- which told me if she had testified, she woulda been
9 tellin' a lie and I can't put her on the stand ---

10 Q. Okay.

11 A. --- but that -- but she wa -- even if I was willin' to
12 overlook the ethical obligations and put her on the stand, she
13 was not willin' to do it.

14 Q. Reason I ask you that is 'cause I think under direct
15 examination you said she would not come to testify, now you're
16 saying she said she could not testify under oath.

17 A. She said she -- basically both.

18 Q. Okay.

19 A. She said what she could not come and testify to that and
20 I sa -- and she won't come testify. I mean, if she's, if
21 she's told me she's gonna lie, I can't call her.

22 Q. Okay. Uh, was the jury instructed on the hands of one
23 hands of all theory?

24 A. I don't recall, I've not reviewed that.

25 Q. Okay. Take a look if you would at the transcript

ROBERT HALL - CROSS-EXAMINATION BY MR. SHABEL

1 specifically, Your Honor, Page 1 -- 143 and 144, take a look
2 at those two pages.

3 A. Are you referrin' to the pa -- the numbers at the top?

4 Q. No, I'm referrin' ---

5 MS. WHITE: No, ---

6 Q. --- to the, to the pages at the bottom, I'm sorry.

7 A. Okay. Oh, alright.

8 THE COURT: It's 143?

9 MR. SHABEL: 143 and 144, starting at the very bottom of
10 143.

11 MS. WHITE: Yeah, I was gonna say 148 and 149 of the
12 record on appeal which ---

13 MS. SHABEL: Right.

14 MS. WHITE: Yeah.

15 THE WITNESS: Okay. Think this is mine.

16 THE COURT: You talkin' about the paragraph that
17 starts ---

18 (Cross-talk.)

19 THE WITNESS: Yeah, which -- what are ---

20 MR. SHABEL: Uh, Your -- I'm referring specifically to
21 the very last Solicitor Ellis say, No, sir, Your Honor, I just
22 inquire as to whether you will charge the hand of one, hand of
23 all charge ---

24 THE COURT: The record ---

25 MR. SHABEL: --- and then ---

ROBERT HALL - CROSS-EXAMINATION BY MR. SHABEL

1 THE COURT: --- on appeal numbers are different, that's
2 why I think it's ---

3 THE WITNESS: Okay.

4 THE COURT: --- confusing to one ---

5 MR. SHABEL: Yeah.

6 THE WITNESS: Yeah, okay, so I see what you're talkin'
7 about, Inquire, just inquiring whether you will charge the
8 hand of one, yeah, I see.

9 BY MR. SHABEL:

10 Q. And then going on to the top the next page.

11 (Pause.)

12 A. Okay.

13 Q. Did you believe that was an appropriate charge for the
14 jury based on the facts that were given?

15 A. Facts that were testified to that there were two people
16 that the victim felt like they were acting in concert.

17 Q. Okay.

18 A. Yeah.

19 Q. But again, that other defendant was never charged to the
20 best of your knowledge.

21 A. To the best of my knowledge.

22 Q. You did not object to that, uh, particular charge ---

23 A. No, ---

24 Q. --- at any point.

25 A. --- obviously didn't, no.

ROBERT HALL - CROSS-EXAMINATION BY MR. SHABEL

1 Q. You indicate you did a lotta research on this, on the
2 lineups, pulled up lots of cases.

3 A. I said I did research.

4 Q. Yes, yes. Uh, were you surprised that an Anders brief
5 was filed in the case?

6 A. I don't know if and once a case is a appealed, a lotta
7 times we don't know anything about it ---

8 Q. Right.

9 A. --- for until even if there's a decision or not, uh,
10 occasionally ---

11 Q. Sure.

12 A. --- we'll get contacted. I think, uh, my only contact
13 information 'bout the appeal was they wanted to know the date
14 of the speedy trial motion and who the court reporter was.

15 Q. But invol -- but after doing the research that you did, I
16 understand, let me, let me, let me clarify this for the
17 record. It is standard practice for the Public Defender's
18 Office to refer the appeals to the Office of Appellate
19 Defense ---

20 A. That's correct.

21 Q. --- so this isn't anything you do at any and even in the
22 normal course of business you don't do the appeals, that's
23 correct?

24 A. Not involved at all.

25 Q. Alright, but based on the research that you've done did

ROBERT HALL - CROSS-EXAMINATION BY MR. SHABEL

1 you anticipate this being a appeal that would ultimately get
2 heard by the Court of Appeals somewhere?

3 A. Yes, I thought it would.

4 Q. Do you believe it was a good case on appeal?

5 A. Yes.

6 Q. Did the Office of Appellate Defense have all the case law
7 that you did to the best of your knowledge?

8 A. I told ---

9 THE COURT: Let me stop you right there, ---

10 MR. SHABEL: Sure.

11 THE COURT: --- Mr. Shabel. Uh, issues that you told me
12 at the beginning of trial was failed to investigate my case
13 fully and failed to call my witnesses.

14 MR. SHABEL: That's correct, Your Honor.

15 THE COURT: Now I have not heard any allegation as to
16 Appellate Defense.

17 MR. SHABEL: And at this point I was just gonna ask
18 whether or not he gave his file to the office of Appellate
19 Defense ---

20 THE COURT: And ---

21 MR. SHABEL: --- and ---

22 THE COURT: --- excuse me, ---

23 MR. SHABEL: --- and and ---

24 THE COURT: --- I'm sorry.

25 MR. SHABEL: --- and we'll get to that if necessary.

ROBERT HALL - REDIRECT EXAMINATION BY MS. WHITE

1 BY MR. SHABEL:

2 Q. Did at any point you give your file to the Office of
3 Appellate Defense?

4 A. They did not, uh, ask for a -- if they ask for somethin',
5 we give it to 'em, if they don't, we don't.

6 Q. Alright. Thank you, that's all I have for the witness.

7 THE COURT: Any ---

8 MS. WHITE: Just ---

9 THE COURT: --- redirect?

10 MS. WHITE: --- brief redirect, Your Honor.

11 REDIRECT EXAMINATION BY MS. WHITE:

12 Q. Uh, I think the question had been presented whether or
13 not information about Mr. Geter failing to identify someone at
14 the first lineup was ever presented, can you turn to Page 139
15 of the record on appeal.

16 THE COURT: Top or bottom?

17 MS. WHITE: Bottom, Your Honor.

18 THE COURT: Okay.

19 BY MS. WHITE:

20 Q. This is your cross-examination of Officer Porter -- oh,
21 when you said "top or bottom" you mean number?

22 THE COURT: Yes, ma'am.

23 MS. WHITE: I -- it's the top, it's the record on appeal
24 number, I'm sorry, that's where my mind is on this.

25 THE COURT: Okay.

ROBERT HALL - REDIRECT EXAMINATION BY MS. WHITE

1 BY MS. WHITE:

2 Q. Bottom of the page though, uh, it talks about your
3 cross-examination of Officer Porter asking him about the
4 lineup and he's -- you asked was there a first lineup, you
5 know, ---

6 A. Um, okay.

7 Q. --- was Mr. Goggins included in that earlier lineup and
8 as you flip the page you ask if Mr. Geter was able to pick
9 someone up outta that -- pick Mr. Goggins outta that lineup
10 and he said no ---

11 A. Yes.

12 Q. --- and is it safe to say Mr. Goggins was the same only
13 repeat person in there?

14 A. Yes.

15 Q. So that information was presented to the jury the fact
16 that Mr. Geter had not id -- originally identified Mr.
17 Goggins.

18 A. That's correct.

19 Q. Okay. And although a hand of one, hand of all charge was
20 given, uh, mere presence and requirement prior knowledge was
21 also given to the jury, was it not?

22 A. Yes, it was.

23 Q. Okay, thank you.

24 MS. WHITE: That's all I have, Your Honor.

25 THE COURT: Recross?

MOTIONS AND MATTERS

1 MR. SHABEL: No, Your Honor, thank you.

2 THE COURT: Alright, thank you, sir, you may step down.

3 THE WITNESS: Thank you.

4 (Whereupon, the witness left the stand.)

5 MS. WHITE: The State has no other witnesses, Your Honor.

6 THE COURT: Any reply?

7 MR. SHABEL: Your Honor, we have no reply testimony, we
8 just ask for a finding of ineffective assistance of counsel
9 based on all of the evidence presented. Thank Your Honor.

10 THE COURT: Okay, thank you, sir, thank for attorneys for
11 your presentation. Uh, issues before the Court in this in,
12 this, uh, petition is failure to investigate and failure to
13 call witnesses that's constituted ins -- ineffective
14 assistance of counsel. Uh, as attorneys well know the burden
15 is on, uh, the applicant to establish ineffective assistance
16 of counsel. Uh, as to the calling of witnesses, uh, uh, the
17 burden would be on the applicant to present the testimony of
18 either Ms. Carpenter or any other witness in this matter to
19 establish alibi or some other type defense, uh, having failed
20 to call anyone in this matter, the the the applicant has not
21 met that, uh, burden of proof; furthermore, if the applicant
22 admitted to his attorney he was present at the scene, alibi
23 would be inapplicable whatsoever notwithstanding this just
24 failed to meet his burden of proof whatsoever 'cause there's
25 been no testimony just allegations. Uh, as to the failure to

MOTIONS AND MATTERS

1 investigate, uh, the way, and correct me, Mr. Shabel, if I'm
2 co -- incorrect on this, the failure to investigate really
3 means the failure to fully cross-examine the officers or the
4 victim regarding the inconsistent statements and the lineup.

5 MR. SHABEL: I believe that would be inconsistent, uh,
6 that would be consistent with my client's argument, yes, Your
7 Honor.

8 THE COURT: Thank you, sir. Well at the beginning I
9 would note that even if what he says is true, I'm not
10 certainly not making that finding that shoulda been more fully
11 developed on cross-examination or the fact that this lineup
12 said that they picked out the wrong person versus, uh, he
13 didn't pick out anyone, uh, I note that the cases say that a
14 person's not entitled to a perfect trial but is must have or
15 receive a constitutionally adequate trial; in other words,
16 they must receive effective assistance of counsel. Uh, those
17 matters were delved into by Mr. Hall, uh, and it is up to the
18 Court to make those determinations and ultimately up to the
19 jury to make the determinations. I don't find that it is any,
20 uh, deviation from the standard expected of an attorney, uh,
21 we all pro -- used to try cases and I don't think anyone's
22 ever tried a perfect case and and even so, uh, doesn't rise to
23 the level of ineffectiveness, uh, in fact, the cases say that
24 counsel is not required to be infallible and that's *State vs.*
25 *Lewis* at 255 South Carolina 466; therefore, I'm gonna find

MOTIONS AND MATTERS

1 that the plaintiff has failed to meet the first prong in the
2 Strickland ke -- test and that is establish in, uh, that there
3 was a deviation from the competency expected by Mr. Hall in
4 this matter; therefore, has failed to meet his burden of
5 proof. I will note for the record that in his testimony the
6 applicant said that the first statement which was Exhibit No.
7 2 if I'm not mistaken that, uh, the that the statement says it
8 was a light skin black male with a gun, I've read that, uh,
9 uh, statement thoroughly and I find absolutely no reference to
10 a light skin black male whatsoever contained in that statement
11 so all said and done I'm denying your application, uh, sir,
12 and I find that you failed to meet your burden of proof. Good
13 luck to you.

14 MR. SHABEL: Thank Your Honor.

15 THE COURT: Would you, would you ---

16 MS. WHITE: Thank Hon ---

17 THE COURT: --- prepare me an order please, Ms. White?

18 MS. WHITE: Certainly, Your Honor.

19

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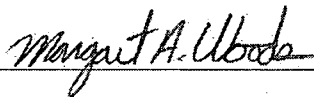
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CERTIFICATE OF REPORTER

I, Margaret A. Woods, Court Reporter in and for the State of South Carolina at Large, hereby certify that I reported the preceding case on June 27, 2013 at the time and place heretofore set forth; and that the foregoing pages numbered from 4 through 49, inclusive, constitute a true and accurate transcription of my stenographic notes of the said proceeding.

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties connected to the action, nor am I financially interested in the action.

March 10, 2014



Margaret A. Woods, Court Reporter
in and for the State of South Carolina at Large.

CASE# <u>05 0061 05</u>		(19-21-49) <u>000000</u>		PAGE of	
STATEMENT OF: <u>ALBERT H. CETER, JR.</u>			AGE: <u>32</u>	DATE: <u>Oct. 21, 2009</u>	
ADDRESS:	<u>OK</u>	<u>OK</u>	<u>OK</u>	<u>OK</u>	<u>OK</u>
PHONE #	<u>OK</u>	DOB:	<u>OK</u>	SSN:	<u>OK</u>

I, ALBERT CETER, AM MAKING THIS STATEMENT AS A CORRECTION TO A STATEMENT GIVEN BY ME TO SPARTANBURG PUBLIC SAFETY ON THE DATE OF AUG. 02, 2008 IN REFERENCE TO AN ARMED ROBBERY. IN THE FIRST STATEMENT IT WAS SAID THAT THE "GUY WITH THE GUN PROCEEDED TO GO IN MY POCKETS AND TOOK \$250 DOLLARS FROM ME." THIS STATEMENT IS INCORRECT. ACTUALLY, "BULL", WHO WAS STANDING IN FRONT OF ME DURING THE ROBBERY AND WHO INITIALLY APPROACHED ME IS THE PERSON WHO WENT INTO MY POCKETS AND TOOK THE MONEY.

ABOUT A MONTH AFTER THE ROBBERY I WAS AT MY HOME ON FOREST ST AND I SAW A GUY WALKING DOWN THE SIDE WALK. THE GUY CALLED TO ME AND SAID "I'M BULL, COME GET AT ME." I STARTED TO GO DOWN OFF THE PORCH, BUT MY FRIEND STOPPED ME AND SAID THAT BULL WAS PROBABLY CARRYING A GUN.

I have read this statement consisting of 1 pages(s), and I swear that the statement that I have just given is the truth, the whole truth, and nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement.

This statement was completed at 11:12 A M. on the 21 day of OCT. 20 09.

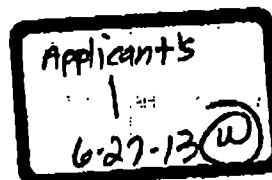
WITNESS:

Signature of person giving voluntary statement

SWORN to before me this 21

day of October 2009
Wendy A. Howell (Seal)
 Notary Public in South Carolina

My Commission expires: 8-8-12



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Page 5 of 5

PUBLIC SAFETY DEPARTMENT

CITY OF SPARTANBURG
P.O. BOX 1710 - 146 W. BROAD ST.
SPARTANBURG, S.C. 29304

Applicant's

2-27-13 @

WAGE ROLL

08 0061 08

WITNESS INTERVIEW FORM

Name:

Albert N. Geter, JR

Address:

[REDACTED]

Spky SC 29302

Telephone Number:

[REDACTED]

Social Security Number:

[REDACTED]

Date of Birth:

[REDACTED]

Today's Date:

8/2/08

Time:

0538

X I was walking down Folsom St. headed to my cousin's house when two guys approached me. The short guy who called himself "Bull" engaged a conversation with me and his friend a 6 foot male came up behind me and pulled out a 9mm pistol and said to me, "Where is the money at?" I told them I didn't have any but the guy with the gun proceeded to go in my pockets and took \$250 dollars from me. Then the guy said get the hell out of here before I rap you. That's when I ran to the payphone at Money Tree and called the police department - when the guy pulled the gun out of his back pocket he pointed the weapon at my head and said "Where is the money at?"

Time Interview Began: 0538 A.m.

Time (Statement/Interview) was completed: 0550 A.m.

I have read this statement consisting of 1 page(s), and I swear or affirm that the facts contained therein are true and correct.

I further state that I have received a copy of this statement.

SWORN TO AND SUBSCRIBE TO BEFORE ME

THIS DAY OF , 20

NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES:

Signed:

Witness:

Witness:

Police
LIEING

270

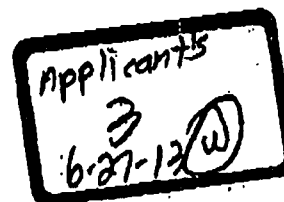
ADDITIONAL NARRATIVE

Agency Name SPARTANBURG PUBLIC SAFETY DEPARTMENT	ORI # SC0420100	Report Date/Time 08/02/2008 8:15:00 AM	OCA # 08005108
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AT HIS TEMPLE. MR GETER THEN ADVISED THIS MALE ASKED HIM WHERE'S THE MONEY AT? MR GETER STATED HE TOLD THE MALE HE DIDN'T HAVE ANY MONEY BUT THE MALE WENT INTO HIS POCKETS AND TOOK \$250.00 FROM HIM. MR GETER DESCRIBES THIS MALE AS STANDING 6' 01" TALL WEIGHING 200 POUNDS. HE STATED THIS MALE IS VERY LIGHT SKINNED, RED BEARD, AND WAS WEARING A WHITE DEW RAG WHICH WASN'T TIED, AS WELL AS A WHITE SHORT SLEEVED T-SHIRT, LONG BAGGY JEANS. HE STATED THAT AFTER THE MALE TOOK THE MONEY FROM HIS POCKETS HE TOLD MR GETER TO GET THE HELL OUT OF THERE BEFORE HE POPPED A CAP IN HIM. MR GETER HAS PROVIDED A VOLUNTARY WRITTEN STATEMENT WHICH I HAVE PLACED INTO EVIDENCE. HE REFUSED MEDICAL ATTENTION STATING HE WAS NOT INJURED. I HAD MR GETER VIEW A LINE UP CONSISTING OF 6 SIMILAR PICTURES OF BLACK MALES MEETING THE DESCRIPTION OF THE SUBJECT IDENTIFIED AS "BULL." HE WAS NOT ABLE TO CHOOSE THE CORRECT PHOTO.

REVIEWED BY SGT A BLEDSOE 8-2-08

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MARC KITCHENS



SPARTANBURG PUBLIC SAFETY
DEPARTMENT
SC0420100

INCIDENT REPORT

INFORMATION
ONLYCASE NUMBER
08008108INC.
No

INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE IN OUT FR CR RE SU UN PO
16-11-0330(A) Robbery/Armed or alleged w/ deadly weapon 120 ROBBERY		☒ YES ☐ NO	☐ YES ☐ NO	HIGHWAY/ROADSIDE		
		☐ YES ☐ NO	☐ YES ☐ NO			
		☐ YES ☐ NO	☐ YES ☐ NO			

INCIDENT LOCATION (BUDDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)				2P CODE	WEAPON HANDG
200 FOLSOM ST, Spartanburg SC				20303	

INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISP. DATE	DISP. TIME	TIME ARRIVED	DEPARTURE	LOCATION
08/02/2008	05 15		08/02/2008	06 00	08/02/2008	05 15	05 17	08 00	1

COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE/SEX	AGE	BTH	DAYTIME PHONE	EVENING
		#1	#2						

ADDRESS		CITY	STATE	ZIP CODE	LOCATION

VICTIM'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE/SEX	AGE	BTH	DAYTIME PHONE	EVENING
GETER, ALBERT, NELSON		#1	#2	J	B	M	31	N	254-550-9790

HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC				
605	230	BLACK	BROWN					

ADDRESS		CITY	STATE	ZIP CODE	LOCATION
		Spartanburg	SC	29303	

VERIFICATION (YES/NO) EXPLAIN		COMPLAINANT'S SIGNATURE		Y/N
VICTIM USING ALCOHOL ☐ YES ☐ NO ☐ UNK ☐				
DRUGS ☐ YES ☐ NO ☐ UNK ☐				
TWO-WHEELER ☐ OTHER ☐				

SUBJECT		NAME (LAST, FIRST, MIDDLE)	UNKNOWN	RACE	SEX	AGE	BTH	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR
☒ SUBJECT				U	M	25	N	35	5	165	BLACK

WANTED		FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC		DAYTIME PHONE	EVENING
☒ WANTED					

ARREST		ADDRESS		CITY	STATE	ZIP CODE	LOCATION
☒ ARREST							

JAIL		SUBJECT USING ALCOHOL ☐ YES ☐ NO ☐ UNK ☐		ARRESTED NEAR OFFENSE CODE ☐ YES ☐ NO ☐		DATE/TIME OF OFFENSE		DATE/TIME OF ARREST	
☒ JAIL						08/02/2008 5:15:00 AM			

SUMMONS		CRIMES ☐ YES ☐ NO ☐ UNK ☐		TOTAL # ARRESTED		DATE/TIME OF OFFENSE		DATE/TIME OF ARREST	
☒ SUMMONS						08/02/2008 5:15:00 AM			

DAY OF THE WEEK		HOW REPORTED		A= OFFICER DISPATCHED ON CALL		B= COMPLAINT WRITTEN IN		C= OFFICER INITIATED		D= FACTOR		A= RESISTANCE/AGGRESSION		B= WEAPONS		C= UNFOUNDED CALLS		D= MENTAL ILLNESS		COMPLAINANT PREVIOUSLY INTOXICATED		DOMESTIC		NORMAL	
S M T W T F S U N K																									

ORIGINAL - HRYCAJ, S M

ON 08-02-2008 AT 0517 HOURS I WAS DISPATCHED TO N CHURCH STREET TO MEET WITH THE VICTIM OF AN ARMED ROBBERY.

I SPOKE WITH THE VICTIM/COMPLAINANT MR GETER. HE ADVISED THAT HE HAD JUST RUN FROM TWO BLACK MALES ON FOLSOM STREET CLOSEST TO BRAWLEY STREET WHO HAD ROBBED HIM. MR GETER STATED HE HAD LEFT HIS RESIDE AND WALKED DOWN BRAWLEY STREET TURNING ONTO FOLSOM STREET TOWARDS HOWARD STREET. HE STATED THAT A SHORT BLACK MALE DESCRIBED AS STANDING 5' 07" TALL WEARING A WHITE WIFE BEATER T-SHIRT APPROACHED HIM / STARTED A CONVERSATION, EVEN INTRODUCING HIMSELF AS "BULL". HE STATED THAT AS HE SPOKE TO BULL ANOTHER BLACK MALE WALKED UP FROM BEHIND HIM AND TO HIS SIDE PULLING A SILVER 9MM HANDGUN FROM HIS BACK AND PLACED

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY SC0420100		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY	

TYPE GROUP	MONEY/CASH	TOTAL VALUE
STOLEN	250	250
DAMAGED	0	0
BURNED	0	0
RECOVERED	0	0
SEIZED	0	0

SUBJECT IDENTIFIED		SUBJECT LOCATED		ACTIVE		ADM. CLOSED		ARRESTED UNDER 18		EX-CLEAR UNDER 18	
☐ YES ☐ NO ☐		☐ YES ☐ NO ☐		☐ UNFOUNDED		☐		☐		☐	

REASON FOR EXCEPTIONAL CLEARANCE		OFFENSE DEATH		NO PROSECUTION		EXTRADITION DENIED		VICTIM DECLINED COOPERATION		OTHER	
☐		☐		☐		☐		☐		☐	

REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE
HRVCAJ, S M	08/02/2008 5:15:00	0141		

FOLLOWUP		OFFICER	

272

RECEIPT FOR EXHIBITS

PCR

Case # 2012 GSCP - 1197 Judge R. Lawton McIntosh
Plaintiff Ronnie baggins Ally Kenneth P.
Defendant The state Ally Suzanne H. White

Received from Maggie Woods, Circuit Court Reporter, the following exhibits:

P=Plaintiff, D=Defendant, S=State, C=Court, J=Joint

A1	2nd statement of Albert Geter	EV	
A2	1st statement Albert Geter	✓	
A3	1st lineup / Incident Report	✓	

Received by Knack Koenig, Clerk of Court

Date 6/27/13

Charles Dwyer

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)
Ronnie Goggins, #264540,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2012-CP-42-1197

RECEIVED
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S.C. Supreme Court

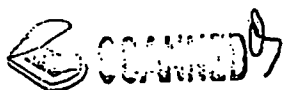
ORDER OF DISMISSAL

This matter comes before the Court by way of an Application for Post-Conviction Relief filed March 15, 2012. The Respondent made its Return on or about February 21, 2012. An evidentiary hearing into the matter was convened on June 27, 2013, at the Spartanburg County Courthouse. The Applicant was present at the hearing and was represented by Kenneth P. Shabel, Esquire. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office represented the Respondent.

At the hearing, the Applicant testified on his own behalf. Robert B. Hall, Esquire, also testified. This Court also had before it a copy of the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the Return, the Appellate Court records, and the trial transcript.

PROCEDURAL HISTORY

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Spartanburg County Clerk of Court's orders of commitment. The Spartanburg County Grand Jury indicted the Applicant at the February 2009 term of General Sessions for armed robbery (09-GS-46-1068). Robert B. Hall, Esquire, represented the Applicant. On

 SCANNED

October 28, 2009, the Applicant was convicted of this charge by a jury. The Honorable Roger L. Couch sentenced the Applicant to confinement for fifteen years for armed robbery.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected. An Anders brief was filed on Applicant's behalf. The South Carolina Court of Appeals affirmed Applicant's conviction and sentence. State v. Goggins, Op. No. 2012-UP-092 (filed February 22, 2010). The Remittitur was returned on March 12, 2012.

ALLEGATIONS

In his application, the Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of trial counsel, in that;
 - a. Counsel failed to investigate my case,
 - b. Counsel failed to call my witnesses.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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 (2003).

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing 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

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process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (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. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland).

The Applicant claimed that Counsel was ineffective for failing to properly investigate his case and for failing to call witnesses on his behalf at trial. Applicant testified that he met with Counsel soon after his arrest and met a total of three times in jail and once before trial. Applicant testified that he did have a chance to discuss the case and his position with Counsel. Applicant testified that the victim had given two statements to police more than a year apart, which were inconsistent, but Counsel never brought up the second statement during trial. Applicant testified that the 1st statement referenced the person with the gun, while the 2nd

statement mentioned "Bull," Applicant's nickname. Applicant introduced both statements as exhibits, as Applicant's #1 (2nd statement) and Applicant's #2 (1st statement). Applicant testified that there were two photo lineups discussed at the suppression hearing, but the officer who did the 2nd lineup testified at the trial, while the officer who did the 1st lineup only testified at the suppression hearing. Applicant introduced the incident report, which documents the 1st lineup as Applicant's #3. Applicant did acknowledge that he reviewed Counsel's outline for closing and thought Counsel had covered everything during the trial.

Applicant testified that he asked Counsel to interview and subpoena Shawana Carpenter as an alibi witness. Applicant testified that Counsel told him that Counsel spoke with Ms. Carpenter, but did not tell Applicant if she corroborated his story.

Counsel testified that he met with the Applicant in December, February, April, and August prior to the plea. Counsel testified that he did complete research on and file a motion to suppress the photo lineup because Applicant had been the only repeat in the lineups. Counsel agreed that the officer who handled the 1st lineup did not testify, but was under subpoena. However, Counsel testified that he thought that the issue was addressed during closing argument.

Counsel testified that the Applicant gave him Ms. Carpenter's phone number and he was able to track her down and meet with her. Counsel testified that Ms. Carpenter informed him that she would not testify to anything at court. Counsel also testified that he spoke with a Ms. Emma Sanders, who was alleged to have been with the Applicant prior to the time of the robbery. Ms. Sanders refused to come to court to testify and during a second conversation, indicated that she had no idea where Applicant had been prior to the robbery.

This Court finds that the Applicant has failed to meet his burden of proof on both claims. In regards to the claim that Counsel failed to investigate or effectively bring out particular issues

to the jury, this Court finds no evidence that Counsel was deficient. Applicant failed to offer any testimony or evidence as to anything that Counsel could have discovered or used to assist at trial had more investigation been completed. "The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight." Yarborough v. Gentry, 540 U.S. 1, 6, 124 S.Ct. 1, 157 L.Ed.2d 1 (2003). This Court finds that the Applicant failed to offer any testimony or evidence to show that Counsel deviated from the standard expected from an attorney. Therefore, this claim is denied and dismissed.

As to the claim that Counsel was ineffective from failing to interview or call alibi witnesses, this Court finds that the Applicant failed to meet his burden of proof. Prejudice from trial counsel's failure to interview or call witnesses cannot be shown where the witnesses do not testify at post-conviction relief. Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992); Bassette v. Thompson, 915 F.2d 932 (4th Cir. 1990), cert. denied, 499 U.S. 982 (1991). Applicant's mere speculation as to what a witnesses' testimony would have been cannot, by itself, satisfy his burden of showing prejudice. Clark v. State, 315 S.C. 385, 434 S.E.2d 266 (1993); Glover v. State, 318 S.C. 496, 458 S.E.2d 538 (1995). An Applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial. Bannister v. State, 333 S.C. 298, 509 S.E.2d 807 (1998).

Further, this Court notes that Applicant's alibi defense would not be successful based upon his admitted presence at the scene. Therefore, because the Applicant failed to produce the alleged alibi witnesses to testify and because Counsel's testimony that he spoke to the alleged witnesses and they refused to testify to an alibi is credible, this Court finds that the Applicant has failed to meet his burden of proof. These claims are denied and dismissed.

Summary

This Court finds that, in regards to the allegations of ineffective assistance of counsel, the testimony of Counsel was most credible. This Court further finds Counsel adequately conferred with the Applicant, conducted a proper investigation, was thoroughly competent in his representation, and that Counsel's conduct does not fall below the objective standard of reasonableness.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in his representation of the Applicant.

This Court also finds the Applicant has failed to prove the second prong of Strickland that he was prejudiced by Counsel's performance. This Court concludes the Applicant has not met his burden of proving Counsel failed to render reasonably effective assistance. *See* Pasier *supra*. Therefore, this allegation is denied.

CONCLUSION

Based on all 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 cautions Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the

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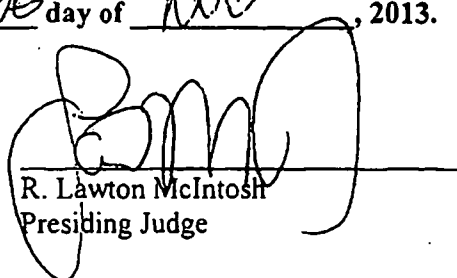
denial of PCR. Rule 71.1(g), SCRPC, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

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 26 day of Nov, 2013.

Anderson, Sc


R. Lawton McIntosh
Presiding Judge

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SPARTANBURG COUNTY
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M. HOPE BLACKLEY

WITNESSES

Spartanburg Public Safety Department

Trey Gowdy

2. REPORT ENDED

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND

ARREST WARRANT NUMBER

M-181789 8. TRAFFIC VIOLATION COPY

DOCKET NO.

09-GS-42-1068

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

Computer

COURT OF GENERAL SESSIONS

FEB 23 2009

TERM

Computer

THE STATE

VS.

RONNIE L. GOGGINS

ACTION OF GRAND JURY

Trey Bill

Forfeiture of Grand Jury
Date: 2-14-09

VERDICT

Guilty

Indictment for

ARMED ROBBERY

SC Code: 16-11-330 (A)

CDR Code: 139

Class: FEL/A

Forfeiture of Petit Jury
Date: 10-27-2009

2009 FEB 27 PM 3:12

MARC KITCHENS

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

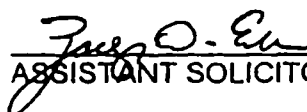
INDICTMENT

At a Court of General Sessions, convened on FEB 19 2009, the Grand
Jurors of Spartanburg County present upon their oath:

ARMED ROBBERY

That Ronnie L. Goggins did in Spartanburg County on or about August 2, 2008,
while armed with a firearm, feloniously take property and/or currency from the person or
presence of Albert Geter, to wit: money, by means of force, violence, and/or intimidation
with the intent to deprive him permanently of such property, in violation of §16-11-330
(A), *THE 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