

STATEMENT OF ISSUE ON APPEAL

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MAR 30 2015

Fraud upon the Court

SC Court of Appeals

I. Did the trial court erred in allowing intrinsic fraud evidence (Perjured testimony) to be allowed as the reason for not allowing Directed Verdict to be granted?

This raises; "Fraud UPon The Court"

STATEMENT OF THE CASE

On July 9, 2013, a Saluda County grand jury indicted appellant, "Gerald Rudell Williams," for three counts of attempted murder TR 762 — TR. 767.

ON October 14, 2013, Appellant was tried before the Honorable J. Michael Baxley and a jury. "Ervin J. Maye" represented the state, "Bennett E. Casto," and "Robert M. Madsen" represented Appellant. The jury convicted appellant TR. 722 At 23 — Tr. 723 At 17. Judge Baxley sentenced appellant to concurrent terms of twenty Years' imprisonment. TR. 738, At 4+11. This Appeal follows.

STATE OF SOUTH CAROLINA
County OF SALUDA,

THE STATE

RESPONDENT,

V.

Gerald Rudell Williams
APPELLANT,

IN THE COURT OF APPEAL
RECEIVED

Motion To Submit ^{MAR 30 2015}
AS Pro-SE Counsel SC Court of Appeals

ISSUE TO Be Considered
To Appellant's Appeal;
Appellant's case # 2013-002304.

1. Trial court erred in failing to grant directed Verdict by allowing intrinsic fraud evidence (perjured testimony) to be his reason for denial. This Raises;
"Fraud Upon The Court"

Come now "Pro-SE Counsel, Gerald Rudell Williams," here-in after, Appellant, Seeking relief in this Court, Pursuant to Fourteenth Amendment right to a fair trial was violated as well, this being protected by the Due Process clause, and Pursuant to Rule 60(b)(3) SC R.C.P.

Fundamental / Plain Error

The trial court erred in allowing intrinsic fraud Evidence (Perjured testimony) to be his reason for denial of a directed Verdict to Appellant's case. Tr. 636 At Line "20" — Tr. 637 At Line "2". The record reflect Appellant's trial as a whole was damaged by the testimony of "Oriental Jermaine Charley's" (Perjured testimony). Tr. 576 At Line 1 — Tr. 631 At Line 24.

In a review of the record the record reflects that "there's absolutely no evidence of anything on the three indicted offenses". Tr. 716 At Line 18-21. This response came from the state.

Appellant, through the issue presented, and citations of authorities relied on will show unto this court, Appellant's entitlement to the requested relief stated herein. Appellant set forth the grounds upon which issue is based. (make at least a prima facie showing which would entitle Appellant to relief before this court of Appeal. Tr. Dated October 14-17, 2013 is Attached.

IN reviewing the refusal to grant a directed verdict, this court must determine whether there is any evidence, either direct or circumstantial, which reasonably tend to prove the guilt of the accused. State v. Creech, 314 S.C. 76, 441 S.E.2d 635 (Ct. App. 1993), (see) Tr. 716 At Line 18-21; the record reflect there is absolutely no evidence of anything on the three indicted offenses.

If the evidence is consistent with both innocence and guilt it cannot support a conviction. United State v. Varoz, 740 F.2d 772, 775 (10th Cir. 1984). The record reflects perjured testimony from testifying witness, consistent with both innocence and guilt. Tr. 576 At Line 1 — Tr. 631 At Line 24. This being the testimony of Mr. Charley. A directed verdict should be granted when there is an absence of competent evidence tending to prove the offense charged because the jury should not be allowed to decide the case based on conjecture. (perjured testimony) which only a mere suspicion of the defendant's guilt. State v. Lyles-Gray, 328 S.C. 458, 492 S.E.2d 802 (Ct. App. 1997), State v. Barsdale, 311 S.C. 210, 428 S.E.2d 498 (Ct. App. 1993).

Doing a renew of all Prior motion and Objections at Pretrial and during trial, Tr. 636 At Line 15-19.

Trial court denied all motions and allowed intrinsic fraud evidence (PerJured testimony) by Mr. Charley, "to be his reason for his denial of a directed Verdict.

PerJured testimony was allowed to be determine by the Jury. Tr. 632 At Line 25— Tr. 633 At Line 5.

Trial court Positively Asserts by, commenting on, "Mr. Charley's testimony as being the most noncredible witness he's ever seen" in his 14 Year's on the Job." Tr. 734 At Line 20-22.

Appellant's trial as a whole was damage by the PerJured testimony of, "Mr. Charley". When there was Absolutely no evidence in the three indicted offenses tending to Prove the guilt of the Appellant. (see) Tr. 716 At Line 18-21.

ARGUMENT

The trial court erred in allowing intrinsic fraud evidence (perjured testimony) from "Mr. Charley" to be the reason for his denial of Appellant's Directed Verdict, Fraud Upon The Court.

Relevant Facts

Charley testified for the defense, Tr. 576 At Line 1-10. ON direct-examination, Charley testified that he told Appellant he would pay him to drive Charley that night. Tr. 584 At Line 5-585 At 11. Charley told Appellant he was "going to see some girls. Tr. 585 At Line 23-25. Charley never told Appellant anything about a shooting, or guns, or his dispute with Young. Tr. 586 At Line 1- Tr. 587 At 2.

Charley testified that he told Appellant to "Park far away Tr. 589 At Line 12-23. While Appellant waited in the van, Charley and Rico went to Young's trailer. Tr. 590 At Line 3- Tr. 591 At Line 7. Charley heard Young shout. Tr. 591 At Line 14-19. Young opened the door of the trailer and fired two shots in the air. Tr. 592 At 2-6. Charley then fired one shot in the air. Tr. 592 At Line 17-18. When Charley got back to the van, Appellant was still in the van. Tr. 593 at Line 16-18. Appellant never had any knowledge of the crime. Tr. 594 At Line 17-19.

ON cross-examination the solicitor immediately Suborn Mr. Charley which induce Mr. Charley to

Commit an unlawful act in a secret and Underhand manner confronted Charley with the fact that he had already Pled guilty but had not yet been sentenced. Tr. 601 At Line 21— Tr. 604 At Line 4. Charley responded that he believed he was going to receive a sentence of eight years. Tr. 604 At Line 4-6. The solicitor accused Charley of double-crossing the state and mentioning his plea deal did Charley recant his direct-examination testimony and implicate Appellant in the shooting. Tr. 604 At Line 11— Tr. 631 At Line 24. (See) Burns v. Clayton 117 S.E.2d 300, 237 S.C. 316.

During a renewal of all prior Motion and Objections at Pretrial and during trial Tr. 636 At Line 15-19.

Trial court denied all motions and allowed intrinsic fraud evidence (Perjured Testimony) from Mr. Charley to be his reason for his denial of a directed Verdict. Tr. 636 At Line 20— Tr. 637 At Line 2.

Perjured testimony was allowed to be determined by the Jury. Tr. 632 At Line 25— Tr. 633 At Line 5.

Trial court positively asserts by commenting on Mr. Charley's testimony as being the most noncredible witness he's ever seen in his 14 years on the job. Tr. 734 At Line 20-22.

Appellant trial as a whole was damaged by the perjured testimony of Mr. Charley. When there was absolutely no evidence in the three indicted offenses tending to prove the guilt of the accused. Tr. 716 At Line 18-21.

Discussion

The trial court erred by allowing PerJured testimony to be heard by the Jury, and the same PerJured testimony was the basis for denying Appellant's directed Verdict. There was absolutely no evidence as stated by the State, Tr. 716 At Line 18-21, Appellants trial as a whole was damaged by the trial court's actions for allowing such PerJured testimony from Mr. Charley. This was Prejudicial and crucial to the case by allowing the use of PerJured testimony. This was a clear violation of Due Process that bars state from invoking judicial or any other proceedings against Appellant (See) Lambert V. Blackwell, 962 F. Supp. 1521, vacated 134 F.3d 506, as amended, and rehearing and suggestion for rehearing denied. Under these circumstances by allowing intrinsic fraud evidence to be the reason for denial of directed Verdict and allowing this PerJured testimony to be heard by the Jury. When the witness testimony is determined to be truthful or nontruthful by the jury. The witness Mr. Charley testified to two (2) different accounts of events; to one (1) question of fact. The use of intrinsic fraud evidence (PerJured testimony) is one of the many violations in Lambert V. Blackwell.

The trial court demonstrated the appearance of Bias and impartiality which amounts to extrinsic fraud. The trial court admitted that Mr. Charley's credibility was the worst in the (14) years of Judge Baxely's career. Furthermore a clear and convincing abuse of Discretion took place by the "Honorable Judge Baxely".

- 1.) The Judge is not a Judge of the facts,
- 2.) The Judge is the Judge of the law; IN which Mr. Charley's testimony is a violation of § 16-9-10 which it amounts to extrinsic fraud by the Judge for allowing intrinsic fraud to take place. (Perjured Testimony)

Last defense counsel objected in references to seek the truth, trial court also decline to alter the charge as given. Tr. 720 At Line 14 - Tr. 721 At Line 19.

CONCLUSION

For the foregoing reasons, this court should reverse Appellants convictions and grant a new trial.

Respectfully Submitted
Gerald Rudell Williams
Appellant.

This 11 day of march 2015

STATE OF SOUTH CAROLINA
IN The Court of Appeals

Appeal from Saluda County
J. Michael Baxley, Circuit
Court Judge

The State

Respondent,

V.

Gerald Rudell Williams

Appellant.

I, Gerald R. Williams Pro-SE Counsel hereby certifies
that a true copy of this Motion has been served
UPON "Jenny ABBOTT Kitchings, Clerk, Address P.O. Box 11629,
Columbia, S.C. 29211

Subscribed and sworn to before me
this 11 day of March 2015

J. Franklin
(Notary Public for S.C.)

my commission Expires 12/16/2019

x Gerald R. Williams
Gerald Rudell Williams
S.C. D.C. # 279073
(Date) _____

State of South Carolina,
IN THE COURT OF APPEAL

County of Saluda

Case #NO. 2013-002304

Gerald Rudell Williams #279073

Appellant,

Vs.

STATE of South Carolina

Respondent,

RECORD

S.C.D.C. #279073
Gerald Rudell Williams
McCormick Corr. Inst.
386 Redemption Way
McCormick, S.C. 29899

VOL II of II

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM SALUDA COUNTY

J. Michael Baxley, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

GERALD RUDELL WILLIAMS,

APPELLANT

APPELLATE CASE # 2013-002304

RECORD ON APPEAL

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I N D E X

	<u>WITNESS</u>	<u>PAGE</u>
1		
2		
3	Courtney Smith	
	Direct Examination By Mr. Young	527
4	Amanda Webb	
	Direct Examination By Mr. Young	533
5	Cross-Examination By Mr. Madsen	543
	Hue Tang	
6	Direct Examination By Mr. Casto	562
	Cross-Examination By Mr. Maye	566
7	Redirect Examination By Mr. Casto	568
	Oriental Jermaine Charley	
8	Direct Examination By Mr. Casto	576
	Cross-Examination By Mr. Maye	601
9	Redirect Examination By Mr. Casto	628
	Recross-Examination By Mr. Maye	629
10	Closing Argument	
	By Mr. Casto	641
11	By Mr. Maye	657
12	Charge of the Court	690
13	Verdict of the Jury	722
14	Sentence of the Court	738
15	Certificate of Reporter	742

Page 90

1 ORIENTHAL JERMAINE CHARLEY,
2 having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. CASTO:

5 Q Mr. Charley, I'd like to ask you a few
6 questions, all right. Would you spell your first
7 name -- or spell your full name for the court
8 reporter, please?

9 A Orienthal, O-r-i-e-n-t-h-a-l, Jermaine,
10 J-e-r-m-a-i-n-e, Charley, C-h-a-r-l-e-y.

11 Q Mr. Charley, were you involved in this
12 incident, the shooting incident that took place on
13 April 13th, 2012?

14 A Yes, I was.

15 Q All right. Before we get into that, I want to
16 take you back to the day before all that happened,
17 okay? Now, a couple days before this happened, did
18 you meet up with Al Young?

19 MR. MAYE: Your Honor, I'm going object to the
20 leading of this witness. These are leading
21 questions.

22 THE COURT: Sustained.

23 Let's talk to the jury about that for a moment.
24 We haven't had that come up previously. But when
25 you call your own witness, you cannot ask what's

1 necessary for the Court to go further, but I do
2 believe those two convictions would clearly fall
3 within the realm of admissibility when looking at a
4 prejudicial versus a probative value under Colf.
5 I'm well aware that the Supreme Court -- our
6 appellate court actually has not yet extended the
7 Colf factors to witnesses, but I believe that it
8 should be clear on this record that we did examine
9 those, reviewed those, counsel's reached a consent,
10 and thus we're ready to go forward. The Court
11 accepts that consent and believes it's within the
12 ambit of the Colf factor analysis.

13 And thus please bring in the -- let's begin by
14 bringing in the jury. Let's bring them first.

15 (The jury returns to the courtroom.)

16 **THE COURT:** All right. Ladies and gentlemen,
17 thank you for your patience, your courtesy. Welcome
18 back. We've resolved the issues that were before
19 us. Now, Mr. Casto, please call your next witness.

20 **MR. CASTO:** The defense calls O.J. Charley.

21 **THE COURT:** All right. Please bring in
22 Mr. Charley.

23 Please come forward, sir, if you would, right
24 here to take the oath of a witness.

25

witness
vs
co-defendant

1 A Yes, sir.

2 Q And what day was that?

3 A Thursday night coming into Friday morning,
4 about midnight -- close to midnight.

5 Q Okay. And did you talk anyone into going with
6 you?

7 A I talked -- I asked Gerald if he would drive
8 for me.

9 Q Did you talk with anyone else?

10 A Yeah, I talked to Rico.

11 Q Who is Rico?

12 A Rico's the dude with the guns.

13 Q Okay. And how do you know Rico?

14 A I met him pulling some watermelons at the
15 watermelon market.

16 Q Does Rico have a last name?

17 A He told me it was Riverez.

18 Q And you know him from the watermelon field. Is
19 that the type of work that you all were involved in?

20 A Yes, sir.

21 Q And let me ask you this: Why take Gerald?

22 A I needed a driver.

23 Q Okay. Well, can you drive?

24 A Yes, I can drive, but I don't have a license.

25 Q Okay. Now, does Gerald have a license?

1 A I don't know.

2 Q But you needed a driver and so that's why you
3 asked Gerald to go?

4 A Yes.

5 Q And let me ask you this: Why does Gerald even
6 want to go?

7 A Because I told him I would pay him for going.

8 Q I'm sorry?

9 A I told him I would pay him for going.

10 Q Pay him with what?

11 A I'd pay him some money.

12 Q Now, let me ask you this: What vehicle did
13 y'all take to go down there?

14 A We went in a van.

15 Q Okay. And who owns that van?

16 A At that time, my wife was the owner.

17 Q And in order to take her van, what did you tell
18 the wife?

19 A Well, I told her that I had to go to the store
20 and get some things and that I'll be back.

21 Q And, and that wasn't true, was it?

22 A Not all true, no.

23 Q Okay. And what did you tell Gerald that you
24 were going to do that night?

25 A I told him I was going to see some girls.

1 Q Okay. Did you ever mention anything about
2 getting money back?

3 A No.

4 Q Did you ever mention anything about being
5 robbed before?

6 A No.

7 Q You ever mention anything about Al Young?

8 A No.

9 Q Did you ever mention anything about guns?

10 A No.

11 Q Did you ever mention anything about doing a
12 shooting?

13 A No.

14 Q Did Gerald have any idea about what you were up
15 to or what you were going to do?

16 A No. Not to my knowledge, no.

17 Q Okay. Was there anything on you or in the van
18 that would give him an idea?

19 A Not -- I mean, not if he -- I don't know. I
20 don't think so. I didn't have no guns or nothing in
21 there.

22 Q And so before this incident, did Gerald have
23 any idea what was going on?

24 A No.

25 Q And during this incident when it was going on,

1 did he have any idea what was really happening?

2 A No.

3 Q And let's stop here. You -- do you have a
4 conviction for giving false information to the
5 police in 2005?

6 A Yes.

7 Q Okay. And do you have a conviction for
8 attempted murder in 2012?

9 A No.

10 Q Did you --

11 A Yes, yes. I'm sorry. I apologize. Yes.

12 Q Did you plead guilty in this case to attempted
13 murder?

14 A Yes.

15 Q And when did that take place?

16 A June the 11th.

17 Q Of what year?

18 A 2012.

19 Q So you've already pled guilty?

20 A Yes.

21 Q All right. And you've told us all this, but
22 it's in the first time -- let me ask you this: Did
23 -- so you have Gerald and he's driving. Did someone
24 else follow you down there?

25 A Yes.

- 1 Q Were those in the van that night?
- 2 A Yes.
- 3 Q And about -- what time did y'all leave?
- 4 A Probably about 11:30, between 11:30 -- about
- 5 11:30, 11:45, somewhere up in there.
- 6 Q Was there anything in that van that would
- 7 communicate to Gerald what was really going on?
- 8 A No.
- 9 Q Let me ask you this: How did Gerald know where
- 10 to go?
- 11 A I told him.
- 12 Q One question, when you arrived, why did you
- 13 park so far away?
- 14 A I didn't want the van to be there at -- well, I
- 15 didn't want the van to be there.
- 16 Q And why not?
- 17 A Because I didn't want -- I didn't want them to ~~X~~
- 18 see -- I didn't want J to see me coming.
- 19 Q What did you tell Gerald about parking so far
- 20 away?
- 21 A I told him just to sit here. I was going to
- 22 the girl house to see what they was talking about
- 23 and I'll come back.
- 24 Q And once you arrive, when is Rico dropped off?
- 25 A Rico is dropped off, like, when we was riding,

1 I told Gerald to hit the brakes right quick and then
2 Rico was dropped off wherever he hit the brakes at.

3 Q And once you arrive and you get out of the van,
4 what are your instructions to Gerald?

5 A I told him to wait till I come back. I'd be
6 right back.

7 Q And does he sit in the van?

8 A He was there when I left.

9 Q And do you leave Gerald at the van and -- and
10 once you leave Gerald at the van, where do you walk
11 to?

12 A I walked down the road to the trailer.

13 Q At what point -- where did you meet up with
14 Rico?

15 A Before I got to the trailer.

16 Q Okay. Now, does Rico have anything with him?

17 A Yes.

18 Q And what does he have?

19 A He gave me a Tec-9 and he had another hand --
20 he had a handgun.

21 Q And before this point, did you have a gun?

22 A No.

23 Q What gun did Rico have?

24 A It looked like a .40 caliber. I don't know
25 exactly.

1 Q Do you know what color it was?

2 A It was like -- it look like silver. We call
3 that chrome, that's what we call it.

4 Q And once you meet up with Rico, where do y'all
5 walk towards?

6 A Walked up the dirt road and down -- up the dirt
7 road and down by the trailer.

8 Q And as you get to the house, were there any
9 lights on?

10 A There's TV on, wasn't no lights. It was a TV
11 on.

12 Q No lights. Is the TV on?

13 A There's a TV on.

14 Q Could you hear anything from inside the home as
15 you got close?

16 A The TV was on in the den. I heard J shout,
17 Where the MF is that.

18 Q How do you know it was him?

19 A I know his voice.

20 Q How long have you known Al Jerome or J?

21 A Roughly three to four years.

22 Q And so you hear that. And did the people
23 inside that house, did they open up that door?

24 A No.

25 Q They didn't?

1 A No.

2 Q Okay. Did they -- throughout this incident,
3 did anyone ever open up their door?

4 A Yeah, J did.

5 Q What did he do when he opened it?

6 A He came out and fired two shots in the air.

7 Q Did he shoot first?

8 A Yes.

9 Q And after he shoots, what did you do?

10 A I shot one shot in the air.

11 Q And so you fired -- is it the 9mm?

12 A Yes, sir.

13 Q Okay. Now, how many shots did you fire?

14 A One.

15 Q Okay. And in what direction did you fire it?

16 A In the air.

17 Q Okay. And what about Rico; did he shoot?

18 A He had to shoot.

19 Q Okay. Now, after you shoot, did you have any
20 problems with the 9mm?

21 A It jammed.

22 Q Okay. Were you able to shoot it anymore?

23 A No.

24 Q And so what did you do?

25 A I ran.

1 Q Why?

2 A Because the gun jammed.

3 Q Okay. Did you have another weapon?

4 A No.

5 Q Do you know where or what direction Rico shot?

6 A I'm guessing he was shooting at the house. I
7 don't know because I didn't stay to see.

8 Q As you ran, did you hear other shots?

9 A Yeah, there were shots. I wasn't counting
10 them, though.

11 Q And based on that incident, do you know how
12 Rico got out of there?

13 A No, I really don't.

14 Q Do you know if Rico ever got arrested?

15 A No, I don't.

16 Q And so when you make it back to the van, is
17 Gerald, is he still in the van?

18 A Yes, he was in the van when I got back.

19 Q Okay. Now, almost immediately did you see law
20 enforcement lights?

21 A When I got in the van, they pulled up within,
22 within five seconds, saying, within five seconds,
23 they pull up behind us.

24 Q And, at that point, does Gerald Williams, does
25 he ask you what happened?

1 **THE COURT:** Counselor, hang on. Don't lead
2 your witness, all right. So let's talk about that.
3 You just said, Did the defendant ask you what
4 happened? The appropriate question is what happened
5 then, not whether someone asked him something or
6 what they did. Just let him tell the story, not
7 you.

8 **MR. CASTO:** Yes, sir.

9 **THE COURT:** So be careful because this is a
10 witness that you've called and it's not appropriate
11 for you to testify for him.

12 **MR. CASTO:** Yes, sir.

13 **THE COURT:** So let's strike that question and
14 move to your next issue.

15 **MR. CASTO:** Yes, sir.

16 BY MR. CASTO:

17 **Q** When you got back into the van, did Gerald say
18 anything?

19 **A** Yeah.. He asked me, he said, What happened?

20 **Q** Did he look shocked?

21 **THE COURT:** Counsel, move to the next issue.
22 I'm going to preclude the remainder of that issue
23 because that's an inappropriate question.

24 Ladies and gentlemen, please disregard that.

25 This is not for the lawyer to testify as to what was

1 you, talking about the pistol being jammed,
2 Mr. Williams being involved. All of that was placed
3 on the record at the time of that plea, wasn't it?

4 **A** To my understanding, both of us had agreed --
5 you had agreed to eight years for both of us. He
6 didn't take it and I took it.

7 **Q** You didn't get eight years. You hadn't even
8 been sentenced yet. You don't have any idea what
9 you're going to get, do you?

10 **A** No, not now obviously.

11 **Q** The bottom line is your sentence was deferred
12 until after you were supposed to cooperate against
13 Mr. Williams; isn't that right?

14 **A** I'm guessing that's how it's turning out to be.

15 **Q** And you're double-crossing the State now after
16 agreeing to testify and providing all the
17 information about this crime to the State; isn't
18 that right?

19 **A** Yes, I guess that's how it's looking.

20 **Q** That's exactly how it's looking because that's
21 exactly how it is, isn't it?

22 **A** Yeah, but I don't remember agreeing to testify
23 against him.

24 **Q** Were you standing in the courtroom when we put
25 all of that on the record --

1 A Yes, sir.

2 Q -- as a reason for the judge about why we were
3 dismissing those other two charges against you?

4 A Yes, sir, I was there.

5 Q Do you think the State just out of the goodness
6 of its heart, would have just thrown out two charges
7 on you?

8 A I don't know.

9 Q It was because you had given information on
10 your co-defendant and implicating him completely in
11 this case, isn't it?

12 A Yes, sir.

13 Q And now you want to try to pull his fat out of
14 the fire after you got a deal and come up here and
15 lie to this jury to help him; isn't that right?

16 A Yes, sir.

17 Q So you concede what you -- all this tale that
18 you've told the jury up here is just a lie to try to
19 pull his fat out of the fire?

20 A Yes, sir.

21 Q All of it's a lie because Gerald Williams was
22 with you, wasn't he?

23 A Yes, sir.

24 Q You'd previously told Zeb that this was about
25 drugs and you got ripped off and you were mad; isn't

1 that correct?

2 **A** No.

3 **Q** You're still maintaining that he robbed you?

4 **A** Yes, he did.

5 **Q** But Zeb went through and talked with you about
6 that and you gave him a version of the story where
7 you had been robbed, but then you backed up after
8 Zeb said, well, you know there's a camera out there
9 at the laundry mat that's going to make a liar out
10 of you; isn't that right?

11 **A** Yeah.

12 **Q** And you started telling a different tale when
13 Zeb was smart enough to tell you there was a camera
14 out at the laundry mat?

15 **A** No. I still said I got robbed.

16 **Q** When did you go to the police, O.J., if you got
17 robbed?

18 **A** I didn't go.

19 **Q** You're telling this jury up here -- you've
20 already admitted that you're a liar and you got up
21 here and just told a whole passel of lies in front
22 of them trying to pull his fat out of the fire,
23 you're still maintaining that he robbed you there?

24 **A** Yeah.

25 **Q** But you didn't go to the police. You want them

1 to believe that somebody took \$32,000 because you
2 were a good samaritan and wanted to help somebody
3 out, but you wouldn't go to the police over a 32,000
4 dollar armed robbery?

5 A No. I mean, they wasn't going to give me back
6 my money.

7 Q So you were going to go get your money back one
8 way or another; isn't that right?

9 A Yeah, I was going to get it back.

10 Q You went with five guys out there to this
11 trailer to, didn't you, the day before?

12 A No.

13 Q You deny doing that. You didn't go out there
14 with five people?

15 A No, I didn't go out there with five people.

16 Q You called Al Young and told him, I'm here with
17 your family, threatening his family wanting him to
18 give you the money back to let him know that you had
19 found his family, threatening them in hopes he'd
20 give you the money back?

21 A No.

22 Q You didn't talk to Ycedra out there and ask for
23 his cell phone number and ask where he was?

24 A I asked her where he was at.

25 Q And you called him and said, I'm here with your

1 family. Because you knew if there was any hope of
2 you getting that money back, you'd have to let him
3 know that you were going to kill his family; isn't
4 that right?

5 A No.

6 Q Well, what was the purpose of going there with
7 five thugs from Williston if it wasn't to intimidate
8 him into trying to give you the money back?

9 A I didn't go there with five thugs from
10 Williston.

11 Q Who did you go there with?

12 A I went there by myself.

13 Q You went there right by yourself?

14 A Yeah.

15 Q And you're as sure about that as everything
16 else you've told this jury under oath?

17 A Yes.

18 Q The truth of the matter is you threatened him
19 because you wanted that 32 grand back; isn't that
20 right?

21 A No.

22 Q You never threatened him?

23 A No.

24 Q You just asked him politely, now, you've
25 committed an armed robbery on me. And you just

1 stood around there at that house politely and asked
2 where he was?

3 A Yeah.

4 Q Okay. And in the conversations that you had
5 with Al Young, you just politely said, Mr. Young,
6 you know, you've robbed me of 32 -- you say it's
7 \$32,000, and I'd please like my money back?

8 A No. I didn't tell him I'd please like my money
9 back. I told him I need it back. I told him I need
10 at least 20 of it. You can keep 10 or 12. I just
11 need 20. I got a family. I need to take care of my
12 family. I can't take care of my family if I don't
13 have no money. And he said --

14 Q You were just going to -- this guy that
15 committed an armed robbery on you, you were just
16 going to let ten slide?

17 A Yeah, he could have got 12. As long as I would
18 have had 20, I would've had enough. I would've had
19 enough to get by for a little while at least.

20 Q But you didn't get your money back that day
21 because he wasn't there in spite of your threats
22 towards his family, did you?

23 A I didn't threaten his family.

24 Q Did you get your money back that day?

25 A No, sir.

1 Q So you came back with Gerald Williams to kill
2 him, didn't you?

3 A No. I came back to get my money. If killing
4 was in the process, I mean, I don't -- I can't say
5 what would have happened, but I did come back to get
6 my money.

7 Q With Gerald Williams and he knew full well what
8 was going on; isn't that right?

9 A He knew.

10 Q He knew. Of course, he knew. And you took up
11 this ugly looking -- which pistol did you have now?
12 You already told one version of this to Zeb about
13 who had which gun. Which one did you have and which
14 one did Gerald have?

15 A Gerald didn't have any of the guns. He knew,
16 but he didn't have no gun.

17 Q He went down there to this trailer without a
18 gun?

19 A He didn't have a gun.

20 Q You took both guns?

21 A I had the Tec.

22 Q How did this other one get out there shooting
23 up that trailer?

24 A Rico had that one.

25 Q You're still going to try to tell the jury that

1 there's some unknown dude out there named Rico
2 Riverez that shadowed you without Gerald Williams
3 knowing it. You're going to still try to tell them
4 that?

5 A Yeah.

6 Q You realize you can get charged with perjury
7 for lying over and over again up here? Have you
8 talked with Mr. Screen about that?

9 A Yes, sir.

10 Q Do you need time to talk to him again?

11 A Nah.

12 Q So you're going to sit here and try to convince
13 12 intelligent people that Gerald Williams and you
14 rode up here and he's still -- are you going to try
15 to tell them that he stayed in the car still?

16 A No.

17 Q He went with you to the scene, didn't he?

18 A Yeah.

19 Q Are you sure you want to stick with the part
20 about this unknown dude, Rico Riverez?

21 A No.

22 Q Do what?

23 A No.

24 Q Because that's a lie, isn't it?

25 A Yeah.

1 Q The bottom line is you went out there to the
2 trailer to get your money back and y'all shot this
3 trailer up, didn't you?

4 A Yeah.

5 Q And you ran?

6 A Yeah.

7 Q And y'all ditched some gloves?

8 A Yes, sir.

9 Q Because you weren't going to put on rubber
10 gloves to come down there and visit somebody if you
11 didn't have evil intent. You had rubber gloves to
12 cover your tracks; isn't that right?

13 A Yes, sir.

14 Q Which gun did you have and which one did Gerald
15 have?

16 A I had the Tec.

17 Q The Tec?

18 A Yes, sir.

19 Q How many rounds did you get off in the Tec
20 before it jammed?

21 A One.

22 Q Just one?

23 A Yes, sir.

24 Q Well, it's got a 20-round magazine. You're
25 telling the truth now. It's got a 20-round

1 magazine.

2 A Yes.

3 Q How many rounds did you have loaded in it?

4 A I really don't know. I know it wasn't full.
5 To my knowledge, I think it -- you said it was 20?

6 Q It holds 20.

7 A I thought it held 30. I got off one round.

8 Q They make a 30-round for it, but this one's
9 only a 20.

10 A Yeah.

11 Q Do you remember how many rounds you had in it?

12 A No. I know I didn't -- it didn't get but one
13 round off because when I shot it, it jammed.

14 Q Why would you have gone down there with this
15 big 'ol ugly thing, this assault-style pistol, with
16 a 20-round magazine and not fully loaded it?

17 A I don't know. I didn't check.

18 Q You didn't even check to see if it was loaded?

19 A No, I didn't check to see if it was fully
20 loaded.

21 Q But Gerald's was fully loaded, wasn't it?

22 A I don't know. I didn't check.

23 Q But it was empty when the police found it and
24 it got empty, didn't it?

25 A Yeah.

1 Q Okay. Gerald wasn't very smart, though. After
2 y'all had gone to all of the trouble to put rubber
3 gloves on to not leave fingerprints and to not leave
4 evidence behind in this case, he tore off part of
5 that glove and left his DNA there in that pile,
6 didn't he?

7 A To my knowledge, that's what you say. I didn't
8 see it, but that's what you say.

9 Q And, in fact, when Investigator Shorter
10 informed you, when they brought Gerald up here to
11 the jail and he still had two pieces of those blue
12 -- purple rubber gloves stuck to his fingers, that's
13 when you knew it was all over; isn't that true?

14 A Yes, sir.

15 Q Because y'all were caught at that point in time
16 and you told Investigator Shorter the truth, didn't
17 you?

18 A Yes, sir.

19 Q It's hard to keep up with what you say when you
20 start telling lies, isn't it?

21 A Well, I tried to help him. I mean, yeah,
22 you're right.

23 Q Because the bottom line is he didn't have --
24 Gerald Williams did not have any involvement in the
25 beef that you had with Al over the money, right?

1 **A** No, he didn't.

2 **Q** How were you able to persuade him to come up
3 here and help you?

4 **A** I get the money back, I'd pay him some.

5 **Q** And so he was going to come up here and do
6 whatever had to be done just for money?

7 **A** I guess.

8 **Q** Was he -- were you not concerned about the fact
9 that there might have been those little kids in the
10 house when y'all opened fire on it?

11 **A** I know they wasn't in there.

12 **Q** How did you know the little kids weren't in
13 there?

14 **A** Because the girl, Ycedra, she had looked so
15 scared, like she -- when I came -- when I went and
16 asked was her brother there, she looked like she was
17 scared, like she had knew what had happened, but I
18 didn't never threaten her. I don't quarrel with
19 women, that's not my thing.

20 **Q** But when the two of you opened up on the
21 house --

22 **A** It wasn't -- the van that they drive -- the
23 Explorer that they drive wasn't in the yard.

24 **Q** Yeah, but Ycedra was in there. Ycedra is a
25 cousin of Gerald's. You didn't have any beef with

1 Ycedra?

2 A No.

3 Q And you didn't have any beef with Joseph, did
4 you?

5 A No.

6 Q Why in the world would you have shot the whole
7 house up not caring about whether they lived or
8 died?

9 A I can't say I was not caring about whether they
10 lived or died. He shot, so I shot in the air,
11 that's how it happened.

12 Q Y'all blew this trailer apart, man. Look at
13 that door. Isn't that right?

14 A It's not a 9mm bullet in that door.

15 Q So Gerald Williams had to be the one that shot
16 this trailer all up?

17 A I guess. I don't know. I know I didn't.

18 Q Well, if you didn't do it, he had to then,
19 didn't he?

20 A Yeah.

21 Q About how many bullets do you think you had
22 loaded in this .40?

23 A I don't know. I didn't check.

24 Q Who loaded the .40?

25 A It was already loaded when I bought it.

1 Q And you didn't even look at it?

2 A No.

3 Q Y'all were going to go down there and shoot it
4 out with a man that y'all knew had a gun, you knew
5 Al had a gun from -- if you're still going to stick
6 to this story about the armed robbery, you already
7 knew this guy had robbed you at gunpoint?

8 A Yes, sir.

9 Q And you -- did you supply this to Gerald or did
10 he bring it himself?

11 A I gave it to him.

12 Q You gave it to him, but you didn't even look in
13 the magazine to see how many were in there?

14 A No.

15 Q You took the time to get rubber gloves to cover
16 your track, y'all got stocking masks, you got the
17 bandanna, all of that stuff?

18 A The stocking -- the hats, those are my kids'
19 hats. Those are always in the van. The glove --

20 Q Y'all just went down there without anything
21 covering your identity?

22 A I had on something.

23 Q What did you have on to cover your identity?

24 A I had a bandana.

25 Q You had the bandanna on?

No
objection

1 A Yes, sir.

2 Q What did Gerald have? Did he just go down
3 there for all the world to see?

4 A Yes, sir.

5 Q Now, you're telling the ladies and gentlemen of
6 the jury that you only got -- managed to get one
7 shot off before your nine jammed, right?

8 A Correct.

9 Q How many more shots did you hear Gerald fire at
10 the house afterwards?

11 A I don't know if he fired shots. I don't know
12 which way they was going. I know he shot, but I
13 don't know which way they were going.

14 Q Well, y'all ran right back there together?

15 A Actually, I left him.

16 Q How did the guns end up in the same pile
17 together? For goodness' sakes, tell the truth at
18 this point in time.

19 A I'm telling you the truth. I left him, but he
20 caught up with me. I'm telling you the truth.

21 Q Okay. And so the guns end up in a -- because
22 the police have got the pictures -- the guns end up
23 in a big pile right there together. The purple
24 glove that Gerald tore off his hand, for goodness'
25 sakes, it's laying on top of the gun.

1 A I know.

2 Q Why didn't y'all throw them up further in the
3 woods? Were y'all just not thinking?

4 A Just wanted to get away. I heard the police
5 cars coming. They was coming. They were responding
6 to the call. They didn't see us, so we just --

7 Q Did you see them come by the first go-round?

8 A I seen them come every time.

9 Q Where were y'all hiding at that point in time?

10 A We wasn't hiding. We was walking.

11 Q Did they just blow by you on the road?

12 A They blew by us.

13 Q How were y'all dressed? All in black?

14 A This is what I had on, what I got on right now.

15 Q And they just didn't see you?

16 A Couldn't.

17 Q But there was nobody in the van. The van was
18 empty because the cops had already checked it?

19 A Well, I didn't see them stop. When I seen them
20 coming, they just kept coming. I didn't see no cops
21 stop and check no van. They kept coming. They went
22 on the dirt road. When we made it to the van, then
23 they came back. That's when they pull up behind us.

24 Q He got in the driver's side, right?

25 A Correct.

1 **Q** Okay. When Long pulled up, where were you?
2 Were you still laying in the ditch when Long pulled
3 up and made the circle to get behind you?

4 **A** No. Long didn't never pull up and make a
5 circle.

6 **Q** How did he get around behind you then to get
7 in, because he had come from up at the church?

8 **A** No. This is how it happened: The law, I guess
9 they was responding to the call, they come from,
10 like, say from that way, if -- that window right
11 there {indicating}.

12 **Q** Okay.

13 **A** They come this way. They go past. They turn
14 and go right there. Then I guess somebody must have
15 radioed and said something about it's a van up the
16 road. So he comes back --

17 **Q** Who came back?

18 **A** The law. He came back. When he came back, he
19 was going back up that way, then he pulled behind us
20 like that.

21 **Q** Do you remember getting up out of the ditch
22 when the officer got behind you with the lights on;
23 do you remember that?

24 **A** No. I was in the van.

25 **Q** Are you saying that you beat all the officers

1 back up there getting in the van?

2 A Yes.

3 Q Okay.

4 A I did.

5 Q Do what now?

6 A I did.

7 Q You beat them back up there?

8 A Yes.

9 Q Okay. So you're sure that you weren't laying
10 in the ditch or anything when the officer got back
11 up there?

12 A No, I wasn't laying in the ditch. I was in the
13 van sitting down.

14 Q All right. What were y'all going to do when
15 you kept pulling up and stopping and starting and
16 opening the doors? Were y'all going to jump out and
17 run or what were you doing?

18 A We never pulled up, start and stopped. We sat
19 there for, like, two or three minutes. They never
20 approached the van.

21 Q Well, the officer was screaming and yelling at
22 you with his gun drawn, wasn't he?

23 A No. They -- they started screaming and yelling
24 after the police pulled aside of us and told us to
25 pull over. When we pull over, then it was red dots

1 all over the place.

2 Q Red dots all over the place?

3 A Yeah, there was red dots all over the place.

4 Said, Driver, shut off the engine, stick your hands
5 out the window.

6 Q Uh-huh.

7 A Open the door from the outside. Then he did
8 that. After he did that, said, Passenger, do the
9 same. And I did that.

10 Q And you got caught and took you into custody,
11 right?

12 A Yeah.

13 Q And you knew the game was up when they got the
14 gloves off of him and he wasn't even smart enough to
15 get rid of the guns?

16 A Yes, sir.

17 Q I guess, you should have brought somebody
18 smarter with you to do this?

19 A I should have never did it at all.

20 Q And Gerald should have never agreed to come
21 with you to potentially murder someone for money
22 either, should he?

23 A No.

24 Q Well, I guess, I need to ask you some of this.
25 Now, we did agree to drop the two charges against

1 the other two people; that's correct?

2 A Correct.

3 Q And ask you to come and testify against Gerald
4 since he wanted a trial, correct?

5 A Yes.

6 Q And you did agree to do that; isn't that
7 correct?

8 A According to the document -- according to the
9 record in McCormick, yes.

10 Q Well, there's been nothing misleading about
11 what I read you here --

12 A That's what I said. According to the record in
13 McCormick, yes, sir, that is correct.

14 Q And you remember all of that, don't you?

15 A Yes, sir.

16 Q And Investigator Shorter treated you with
17 courtesy when you were cooperating once you realized
18 that the game was up, did he not?

19 A No.

20 Q He did not treat you with courtesy?

21 A No. His words were, Whatever's going to happen
22 to you is going to happen to you; I can't say
23 nothing about a man that's defending his house.
24 That's what he told me.

25 Q Well, you know -- you don't disagree with Al

1 Young shooting back out when y'all are shooting up
2 this house?

3 A He shot first.

4 Q You're saying he came outside and shot?

5 A Yes, sir.

6 Q But you're saying he shot up in the air?

7 A Yes, sir.

8 Q So y'all are going to blister this house from
9 one end to another with three people inside of it in
10 retaliation for him shooting up in the air?

11 A I didn't shoot at the house.

12 Q Well, if you didn't shoot, then Gerald Williams
13 tore that house up from one end to the other with
14 his .40 and emptied it; isn't that right?

15 A I don't know. I guess. I don't know. I
16 wasn't there for all of that.

17 Q Well, you don't think he stopped along the way
18 and ditched out some rounds? I mean, when the
19 police found his gun, it's completely and totally
20 empty?

21 A I didn't stay to see -- I didn't stay to see
22 the gunfight.

23 Q You didn't empty it, did you? You're saying
24 you didn't fire this .40. So if you didn't have to,
25 who had to have emptied this gun into that trailer?

1 **A** I mean, if it was emptied into the trailer, I
2 guess it was him.

3 **Q** It had to be him, didn't it, if what you're
4 telling them is true, if you didn't really have 20
5 rounds in there and you didn't get off a boatload of
6 them before it jammed?

7 **A** No, that jammed trust me.

8 **Q** Well, then he ended up having a lot more nerve
9 than you did because he stuck around in spite of the
10 fact that you say somebody had shot up in the air.
11 Now, he wasn't shooting up in the air because the
12 bullets were coming out of this door. They were
13 coming from both ways. You know there are bullet
14 holes in this door both directions. You still want
15 to stick to that stuff about how he was shooting in
16 the air in spite of that?

17 **A** The man came out the door, he shot in the air,
18 closed the door.

19 **Q** When do the bullets come back out?

20 **A** I guess he was in the house shooting. I guess
21 when the gunfight happened, he didn't come back out.
22 He must have been shooting from inside the house to
23 shoot back out.

24 **Q** Well, if he didn't point the gun at you and he
25 only shot in the air, why did you take off running?

1 **A** Why did I take off running?

2 **Q** Why did you take off running if he was only
3 shooting in the air and he wasn't shooting at you?

4 **A** Because I shot in the air and my gun jammed.

5 **Q** So you had a jammed gun, so you --

6 **A** I wasn't going to stay to no gunfight with a
7 jammed gun, I can't shoot it.

8 **Q** But obviously Gerald Williams didn't have a
9 jammed gun because he poked that trailer full of
10 holes. You would tell them -- isn't that right?

11 **A** If it's coming from both directions, I guess
12 that has to be correct. I can't --

13 **Q** Well, only a few came from the inside, but a
14 boatload came from the outside in; isn't that right?

15 **A** I don't know because I didn't stay to see it.

16 **Q** You couldn't hear it?

17 **A** I could hear the shots, but I didn't stay to
18 see it. Just because I hear the shots don't mean I
19 could tell you which way it was coming from.

20 **Q** But you know you heard a lot of shots, right?

21 **A** I heard a few.

22 **Q** It was more than a few?

23 **A** It all depends on what you call a few. Between
24 two guns...

25 **Q** A lot of shots got fired, didn't they?

1 **A** About ten probably, might be ten, I don't know.
2 I don't know. I didn't count them, but I'm just
3 saying a lot of shots to me would be like 50.

4 **Q** You would have shot that house up 50 times with
5 three people inside of it?

6 **A** I didn't say I would have shot it up. I told
7 you what a lot of shots to me is. A lot of shots, a
8 lot is 50.

9 **Q** This trailer is eaten up with bullet holes,
10 isn't it?

11 **A** (Witness reviewing document.)

12 **Q** Looks pretty bad, doesn't it? That door looks
13 pretty rough, doesn't it?

14 **A** It all depends on -- I mean, you said look
15 rough, but there's holes -- there's holes in that
16 door that come from inside. So I don't know which
17 holes come from inside and which holes go in the
18 door. It might be just as many holes that go from
19 the inside as it go on the outside. So it could --
20 I mean, it could be either way, either way the door
21 took the damage. It just took the damage both ways.

22 **Q** Whatever bullet holes are in that trailer from
23 the outside in had to have been fired by Gerald
24 Williams because you're saying they weren't fired by
25 you?

1 **A** No, they weren't fired by the Tec.

2 **THE COURT:** Anything further?

3 **MR. MAYE:** I think that's about it.

4 **THE COURT:** All right. Thank you.

5 Is there redirect?

6 **MR. CASTO:** Yes, sir, Your Honor.

7 **THE COURT:** You may proceed.

8 **MR. CASTO:** Briefly.

9 REDIRECT EXAMINATION

10 BY MR. CASTO:

11 **Q** Did Al Jerome shoot first?

12 **A** Yes.

13 **THE COURT:** Counsel, excuse me, that's a
14 leading question. Again, this is your witness you
15 called. And there's been no declaration of
16 hostility, thus you cannot lead your witness.

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

18 BY MR. CASTO:

19 **Q** Who shot first?

20 **A** Al Jerome.

21 **Q** And where did you come up with the eight years?

22 **A** They told me that -- they told me that --

23 **Q** Who told you?

24 **A** It was agreed between my lawyer and the
25 Solicitor that eight years would be what the

1 sentence would be. When we got to McCormick, we was
2 offered eight years a piece. He didn't take it and
3 I took it. And I guess between -- somewhere in
4 between there, it switched, I guess because he
5 didn't take it, that the only way that I could have
6 got it or something like that was that if I testify.
7 I'm guessing that's -- that's how it's looking now.
8 But to my understanding that -- what I was thinking,
9 that I had pled to eight years, which was an
10 agreed -- was an agreed negotiation sentence between
11 my lawyer and the Solicitor.

12 Q And when did you find out that was gone?

13 A Just now.

14 Q Is that when your story changed?

15 A I can't really say that it is.

16 MR. CASTO: Thank you.

17 THE COURT: Redirect.

18 MR. MAYE: Just one or two.

19 RECROSS-EXAMINATION

20 BY MR. MAYE:

21 Q Mr. Charley, you agree that when you plead
22 guilty, everything gets put on the record so there
23 are no misconceptions about what's going on; isn't
24 that right?

25 A Yes, sir.

1 Q And you actually just pleaded to one count and
2 nobody told you anything about what sentence you
3 were going to get, did they?

4 A You and my lawyer had negotiated a deal of
5 eight years.

6 Q It's right on the record here. There's no deal
7 in this and you are pleading straight up and your
8 sentence was going to be deferred, and it's right
9 here in the transcript; isn't that right?

10 A Yeah, it's in the transcript, but I would have
11 never plead to no open plea to attempted murder.

12 Q So you're now going to try to claim that we had
13 some outside deal that's contrary to what's written
14 down here?

15 A Yes, sir.

16 Q You know the judge told you if anything wasn't
17 placed on the record, that you lose it. Do you
18 remember the judge telling you that?

19 A No, I don't. But it's a possibility that he
20 did state it, but I don't remember him saying that.

21 Q Would you agree the judge said, Any plea
22 bargains the State might have made with you, any
23 agreement about dropping charges, reducing charges,
24 recommending sentences, anything like that, they
25 have to say it on the record in open court here or

1 you're going to lose it; you understand? Remember
2 the judge saying that?

3 **A** No, I don't remember him saying that, but he
4 might have did say that.

5 **Q** He certainly said that, didn't he?

6 **A** If it's on the record, I guess he had to say
7 it.

8 **Q** And you said that you agreed with it, okay, all
9 right.

10 Are you trying now to hedge your bet and work
11 yourself out some deal on the back side of this now
12 and say you got some deal in hopes it'll get you a
13 lighter sentence?

14 **A** No, sir. I'm just -- I'm telling the truth. I
15 mean, I tried to help -- tried to help him out. And
16 this -- I mean, the right thing to do is just tell
17 the truth.

18 **Q** And you tried to help your co-defendant by
19 getting up here and lying, bald-faced lying, to 12
20 people, didn't you? More than 12, but 12 actual
21 jurors?

22 **A** Yes, sir, I did. It's wrong. I'm wrong. I'm
23 sorry. I mean, that's just -- it is what it is, a
24 lie. I apologize and it's not right.

25 **THE COURT:** Anything further?

Tr. 636 cc 22-2
Additional
Evidence
Tr. 674 cc 5
Closing State
Tr. 675 at 15-18
Closing State

1 And, you know, and we talked about, in analysis of
2 the case, the way that Gerald wanted to proceed and,
3 you know, we fulfilled that, Your Honor.

4 Your Honor, I will say with regard, and if I
5 could place this on the record, the only thing that
6 suggests to me with regard to the co-defendant, O.J.
7 Charley, is several months ago, maybe even last --
8 well, probably earlier at the turn of this year,
9 Your Honor, I did obtain a sentencing sheet from the
10 clerk's office, and I'm pleased to pass it up to the
11 Court for its review. It's signed by the Solicitor,
12 Oriental Charley, Mr. Screen and Judge Keesley
13 where he pled but sentencing was deferred. It
14 appears that --

15 **THE COURT:** But, respectfully, Counsel, even if
16 there is -- and I believe you're getting ready to
17 tell me you believe there is an eight in the
18 sentence block and it is whited out because
19 Mr. Charley's sentence was deferred until after he
20 testified, which I must say Mr. Charley was probably
21 the most noncredible witness I think I've ever seen
22 in 14 years of this job. But this Court is in no
23 way bound by any alleged agreement which may have
24 existed with Mr. Charley, and I'm sure that
25 Mr. Williams understands that. This is not a matter

1 and the Court will be here a little bit earlier than
2 that as we prepare for closing arguments to make
3 sure that we're ready to go at 9:30, but we would
4 ask that you be here at 9:30.

5 Now, the last thing I want to say to you, and
6 then I'm going to hush so you can go on about your
7 business, that please keep an open mind because,
8 first of all, you have not heard the law that
9 affects the charges that are alleged here against
10 the defendant from the Court. You haven't heard the
11 charge on the law. You haven't heard the arguments
12 of counsel. And so, please, keep an open mind.
13 Just get a good night's rest and come back tomorrow
14 morning at 9:30.

15 Any questions now about scheduling from anyone?

16 All right. Then we'll see all 14 of you
17 tomorrow at 9:30. And out of respect for you, we'll
18 sit where we are while you leave the courtroom.

19 Have a good day, ladies and gentlemen.

20 (The jury was excused for the day.)

21 **THE COURT:** All right. Counsel, now here at
22 the close of all evidence, but before we take up any
23 motions, is there an objection to the
24 contemporaneous charge that the Court gave so that I
25 would still have an opportunity to correct any error

1 in that charge tomorrow morning, from either side,
2 about the discussions of sentencing, the sentencing
3 prerogatives, the sentencing parameters? What says
4 the State?

5 **MR. MAYE:** Your Honor, I don't have any
6 objection. Really, it's almost a matter of first
7 impression. It's filled, if ever -- my tenure came
8 up with a most unusual case, but I don't have any
9 objection.

10 **THE COURT:** What says the defense?

11 **MR. CASTO:** No objection, Your Honor.

12 **THE COURT:** All right. Now, are there motions
13 here at the close of all the evidence from either
14 party? First, the defense.

15 **MR. CASTO:** Yes, sir, Your Honor. At this
16 time, we renew all prior motions and objections
17 raised at pretrial, during the trial. We'd also
18 renew our motion for a directed verdict at this
19 time.

20 **THE COURT:** All right. Based upon the Court's
21 previous rulings on your pretrial motions, again, I
22 will deny those motions. And, of course, the Court
23 will deny any directed verdict request at this
24 juncture as there was additional evidence against
25 the defendant put in during the testimony of the

Review
Te 552 at 2375

Te 677 at 8-9

1 last witness. For those reasons, the Court denies
2 the motions.

3 And, Counsel, we will -- we are printing and
4 going to give to you the -- what we believe will be
5 the appropriate charge. You can take it home with
6 you and study it tonight. I'd ask you to be back at
7 nine o'clock tomorrow morning here. We'll have a
8 charge conference at 9:00 after you've had a chance
9 to review it. Then at 9:30 promptly with the jury,
10 we will proceed.

11 Anything else for the record before we close
12 for the day from the State?

13 **MR. MAYE:** None from the State, Your Honor.

14 **THE COURT:** From the defense?

15 **MR. CASTO:** No, sir, Your Honor.

16 **THE COURT:** Then this court is adjourned until
17 9:30 tomorrow morning.

18 (The proceedings were concluded for October
19 16, 2013.)

20 (The following proceedings were held on
21 October 17, 2013.)

22 **THE COURT:** All right. Ladies and gentlemen,
23 we are advised that all of the jurors are here.
24 We've given you a copy of the verdict form. We'll
25 have an opportunity to talk about it before we

1 subvert or otherwise alter evidence to the detriment
2 of the defendant. And I simply would, at this
3 juncture, decline to bring the jury back out and
4 give the spoliation charge for those reasons.

5 **MR. CASTO:** Our third objection, Your Honor, on
6 the issue that we raised is we had requested lesser
7 included charges to include assault and battery of a
8 high and aggravated nature, assault and battery
9 first degree and assault and battery second degree.

10 Specifically, there's been no testimony of any
11 injuries with any of the people inside this home.
12 There is no physical evidence of any of these
13 bullets or slugs that has been entered into
14 evidence. In fact, the testimony was that these
15 slugs are not even matched to these guns outside.

16 **THE COURT:** All right. And what says the State
17 with regard to the lesser included offenses?

18 **MR. MAYE:** Your Honor, I think in a review of
19 the record, there's absolutely no evidence of
20 anything other than up or down or guilty or not
21 guilty on the three indicted offenses. The two
22 theories that were posited were either that he was
23 totally not present and unaware of this and had
24 absolutely no involvement, criminal involvement at
25 all or he was completely involved in it. And I

1 what may be a threat to the family the day before
2 this shooting incident occurred, that certain family
3 members left as a result of that, that there was a
4 common scheme and plan with the intent to go out and
5 kill the individual, that the defendant's co --
6 defendant along with the co-defendant put in
7 operation that plan and used a deadly weapon in
8 doing so.

9 The Court finds that's just one of multiple
10 indicators here that would infer malice. And for
11 that reason, I would respectfully decline to alter
12 the charge in light of the Belcher decision.

13 Anything further now from the defense?

14 **MR. CASTO:** Respectfully, Your Honor, our
15 initial objection is references to seek the truth or
16 to specifically take into the care or the
17 preservation the honor of the community, the state
18 and of the country. And we object to this because
19 it's -- under the burden of proof, the jury is to
20 hold the State to the burden of proof to find
21 whether there's guilt that exists beyond a
22 reasonable doubt under the facts and solely the
23 facts in the world of this trial under these facts
24 and to not include or consider anything outside of
25 that, Your Honor.

1 similarities, and I will decline to alter that
2 charge at this point that I've given to the jury.

3 **MR. CASTO:** Yes, sir, Your Honor. And our
4 fifth objection is the Court's charge, the inference
5 of malice from the use of a deadly weapon. We'd
6 object to this under State versus Belcher.

7 There was testimony presented that Al Jerome
8 Young shot first. Specifically, O.J. also testified
9 Al Jerome had threatened to shoot him beforehand and
10 anyone that even tried to return this money,
11 including shooting up not only him, his possessions,
12 his car and the like. And we would hold that just
13 because there's a deadly weapon present, doesn't
14 automatically mean malice is involved, and we'd
15 object to that under State versus Belcher.

16 **THE COURT:** All right. Thank you. And in
17 reply without hearing from the State, I would tell
18 you that it is the Court's understanding of the
19 Belcher decision that when the use of a deadly
20 weapon is the only indicia, the only fact from which
21 malice can be inferred, then that is inappropriate.

22 But in this case, the Court finds there are
23 multiple other evidentiary inferences of malice,
24 including the State's allegations that the defendant
25 -- a co-defendant of the defendant went and posed

1 **THE COURT:** All right. And the Court
2 understands the argument that you make, but I would
3 respectfully respond to you by saying that the
4 operation of this court continues within the greater
5 operation of society, that what happens in this
6 court should not only be fair and just, but also
7 comport with the protection and preservation of the
8 honor of the community, county, state and nation.

9 I have used this language in, I'm certain, well
10 over a hundred cases. It is the standard language
11 that I use to impress upon the jurors the importance
12 of their responsibility. In no way does the Court
13 believe that it adds a component of either
14 retribution or some other directive to the jury
15 because I clearly explain to the jury, in other
16 parts of the charge, that the State bears the burden
17 of proof and what the State must do to meet that
18 proof. And for that reason, respectfully, I would
19 decline to alter the charge as given to them.

20 Anything further?

21 **MR. CASTO:** Nothing further, Your Honor.

22 **THE COURT:** All right. Then, Gentlemen, we
23 will stand down this matter and await the call of
24 the jury, the response of the jury. This court, for
25 this case, is now in recess. We're going to stand

1 down probably about ten minutes while other matters
2 are prepared. And we'll begin administrative
3 business while we await the jury decision. This
4 case is in recess.

5 **MR. YOUNG:** Thank you, Your Honor.

6 (A recess transpired.)

7 **THE COURT:** Please bring in the jury.

8 (The jury returns to open court to report
9 its verdict at 12:19 p.m.)

10 **THE COURT:** All right. Ladies and gentlemen,
11 welcome back to the courtroom.

12 Mr. Foreman, I'm advised that you have reached
13 a verdict; is that correct?

14 **MR. FOREMAN:** Yes, sir.

15 **THE COURT:** All right. Would you please give
16 your verdict form to our bailiff? Thank you.

17 (The Clerk hands the verdict to the Judge.)

18 **THE COURT:** Let's let the record reflect that
19 the verdict form is appropriately filled out and it
20 is signed by the Foreperson. The defendant will
21 please rise.

22 And, Madame Clerk, please, publish the verdict.

23 **THE CLERK:** State of South Carolina versus
24 Gerald R. Williams, indictment number
25 2013-GS-41-257, 2013-GS-41-258 and 2013-GS-41-259.

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6 (A recess transpired.)

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23 **THE CLERK:** State of South Carolina versus
24 Gerald R. Williams, indictment number
25 2013-GS-41-257, 2013-GS-41-258 and 2013-GS-41-259.

1 As to the charge of attempted murder of Al Jerome
2 Young, we, the jury, unanimously find the defendant,
3 Gerald R. Williams, guilty.)

4 As to the charge of attempted murder of Ycedra
5 Nicole Williams, we, the jury, unanimously find the
6 defendant, Gerald R. Williams, guilty. .

7 As to the charge of attempted murder of Joseph
8 Christopher Wrighton, we, the jury, unanimously find
9 the defendant, Gerald R. Williams, guilty. Signed
10 by the Foreman with today's date. .

11 **THE COURT:** All right. Ladies and gentlemen of
12 the jury, if this is your verdict, please raise your
13 hand. Please raise your right hand if the verdict
14 is as was published by the Clerk.

15 And let's let the record reflect that all of
16 the jurors have raised their hands. You may place
17 your hands down.

18 Now, while we're still in the presence of the
19 jury, are there further motions or issues for which
20 a jury response may be necessary from the defense?

21 **MR. CASTO:** No, sir, Your Honor.

22 **THE COURT:** And from the State?

23 **MR. MAYE:** Not from the State, Your Honor.

24 Thank you.

25 **THE COURT:** Then just one moment, ladies and

C E R T I F I C A T E

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MAR 30 2015

SC Court of Appeals

STATE OF SOUTH CAROLINA

COUNTY OF SALUDA

I, the undersigned, Stacy L. Sheppard, Circuit Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the trial of the captioned cause, relative to appeal in the Criminal Court for Saluda County, South Carolina, on the 14th - 17th of October, 2013.

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

April 7, 2014



Stacy L. Sheppard, RPR
Circuit Court Reporter

WITNESSES

SCSO

PADGET

ARREST WARRANT NUMBER

DIRECT

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

JUL 09 2013

JUL 09 2013

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2013-GS-41- 257

The State of South Carolina

County of SALUDA

COURT OF GENERAL SESSIONS

JULY TERM 2013

THE STATE

vs.

GERALD RUDELL WILLIAMS

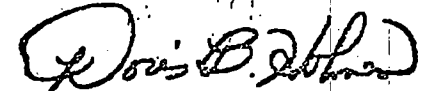
CDR#3410

Indictment for

ATTEMPTED MURDER

DONALD V. MYERS, SOLICITOR

ATTEST: TRUE COPY

Clerk of Court
Saluda, S. C.

STATE OF SOUTH CAROLINA)
COUNTY OF SALUDA)

INDICTMENT FOR
ATTEMPTED MURDER

At a Court of General Sessions, convened on July 9, 2013 the Grand Jurors of Saluda County present upon their oath:

That GERALD RUDELL WILLIAMS along with Oriental Jermaine Charley, did in Saluda County on or about April 13, 2012, feloniously, willfully and with malice aforethought, attempt to murder the victim, Joseph Christopher Wrighton, in that the defendant, Gerald Rudell Williams along with Oriental Jermaine Charley, did shoot a firearm into the residence that the victim was then staying, with the intent to kill the victim, Joseph Christopher Wrighton, in violation of §16-3-29, South Carolina Code of Laws, 1976, as amended.

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


ASSISTANT SOLICITOR

764

WITNESSES

SCSO

PADGET

ARREST WARRANT NUMBER

DIRECT

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TRUE BILL

Foreperson of Grand Jury

Date: JUL 09 2013

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2013-GS-41- 258

The State of South Carolina

County of SALUDA

COURT OF GENERAL SESSIONS

JULY TERM 2013

THE STATE

VS.

GERALD RUDELL WILLIAMS

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ATTEST: TRUE COPY

Dois B. White

Clerk of Court
Saluda S.C.

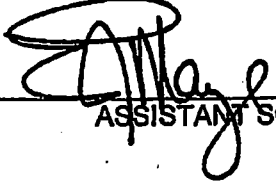
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Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

WITNESSES

SCSO

PADGET

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DIRECT

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TRUE BILL

Foreperson of Grand Jury

Date: JUL 9 2012

VERDICT

Foreperson of Petit Jury

Date:

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The State of South Carolina

County of SALUDA

COURT OF GENERAL SESSIONS

JULY TERM 2013

THE STATE

vs.

GERALD RUDELL WILLIAMS

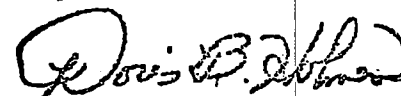
CDR#3410

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ATTEMPTED MURDER

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Clerk of Court
Saluda, S. C.

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COUNTY OF SALUDA)

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


ASSISTANT SOLICITOR

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MAR 30 2015

SC Court of Appeals

Jenny Abbott Kitchings (clerk)

P.O. Box 11629

Columbia, S.C. 29211