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WITNESSES

PAGE

Christopher Page:

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EXHIBITS

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<u>NO.</u>	<u>DESCRIPTION</u>	<u>EV.</u>
C-1	Summary of calls	7

1 THE COURT: Solicitor?

2 MR. REDMOND: May it please the court Your Honor? We
3 are before you on order of the Court of Appeals. The
4 appellate case number is 2014-000569. An order signed by
5 Chief Judge Few on the 30th of March, 2015, to reconstruct
6 the record of particular jail calls.

7 The case before you is actually The State v. Julius
8 Curry. He was indicted on several charges, 2013 -GS-700, for
9 attempted murder. He was actually convicted of assault and
10 battery, first-degree, at trial in March 2015; 2013-GS-13-698
11 is for assault and battery of a second-degree, he was found
12 guilty of that charge; 2013-GS-13-699, that was for resisting
13 arrest with a deadly weapon, he was found guilty on that; and
14 2013-GS-13-697, that was CDV, high and aggravated, he was
15 found not guilty on that particular charge. He was sentenced
16 to 10 years on the A&B first; 10 years old resisting arrest
17 consecutive; and then, also consecutive was a year and a half
18 on the assault and battery, second-degree.

19 With that said, Your Honor, -- and, of course, just for
20 the record we were all under the mistaken impression that the
21 -- that the jail calls were being -- when they were played
22 and published for the jury we were under the mistaken
23 impression that it was being recorded. Of course, I have
24 found out that it is normal procedure for it not to be
25 recorded when something is played out in open court. Did not

1 know that at the time. With that said, Your Honor, we were
2 not able to get a disk so that's why we literally had to play
3 it from the database on Sergeant Wayne Jordan's laptop at the
4 trial. We have since come to find out that the recording has
5 now been deleted from the database of the company that
6 actually administers that particular recording system. So
7 with that said, Your Honor, we have got Chris Page here
8 today, fortunately, he actually had provided notes on the
9 contents of these calls. He is here today to testify on the
10 content of the calls since he actually personally did hear
11 the calls. He did not testify at trial but given the issue
12 that's come up with reconstructing the record and since we do
13 not have an actual recording, his notes from those calls is
14 the easiest and best way to reconstruct the record. And so,
15 with that said, Your Honor, we would -- the State is
16 prepared to proceed at the appropriate time. I do think
17 there is a matter to be heard by the -- from the defense.

18 THE COURT: Mr. Swilley?

19 MR. SWILLEY: Your Honor, thank you. I've spoken with
20 appellant counsel and, Your Honor, I just put on the record
21 that I would object to the reconstructing of the record on
22 the grounds that it's not truly a reconstructed hearing due
23 to the fact that or rather not enough time for motion to
24 reopen the record due to the fact that new evidence, why it
25 should be entered into the record, I believe through Chris

1 Page who is not a -- was a witness at the time of the trial,
2 Your Honor. So I just wanted to make that clear and clarify
3 for the record later on for the appeal. Thank you.

4 THE COURT: That's fine. Well, we'll do the best we can
5 and, of course, we will try our best to meet the order of the
6 Court of Appeals and let's get it on the record and if
7 anybody is in a disagreement, remembers that something was
8 different from the way it pans out today, let's get that on
9 the record where the Court of Appeals can see it because
10 we're under a strict deadline on this.

11 MR. REDMOND: Yes, sir.

12 THE COURT: All right. Solicitor?

13 MR. REDMOND: Your Honor, if it please the court the
14 State would call, Chris Page.

15 (Witness was sworn)

16 MR. PAGE: Yes, sir.

17 BAILIFF: Give your full name for the record please.

18 MR. PAGE: Christopher John Page.

19 CHRISTOPHER PAGE, first
20 being duly sworn, testified as follows:

21 **DIRECT EXAMINATION BY MR. REDMOND:**

22 Q. And -- are you currently employed with the sheriff's
23 office in Chesterfield County?

24 A. No, sir, I'm retired.

25 Q. Okay. And were you employed with the Chesterfield

1 County Sheriff's Office at the time, I guess, at the time in
2 question being between September 12, 2013 and September 25,
3 2013?

4 A. Yes, sir.

5 Q. Okay. And in what capacity were you employed?

6 A. I was a lieutenant over the narcotics section.

7 Q. Okay. Now, did you -- as a part of your employment with
8 the sheriff's office, did you occasionally listen to recorded
9 jail calls?

10 A. Yes, sir.

11 Q. Okay. Did you listen to any jail calls between 12th of
12 September, 2013 and 25th of September 2013, calls involving
13 the defendant Julius Curry?

14 A. Yes, sir.

15 Q. Now, before we get into that if I may and I have shown
16 it to the defense if I could have this marked as a Court's
17 Exhibit I should've done this at the beginning I apologize --

18 -

19 MR. SWILLEY: And, Your Honor, I would just like to
20 object under my previous reason at that. Thank you.

21 THE COURT: So noted. I guess I need to overrule the
22 objection.

23 (SUMMARY OF CALLS HAS BEEN MARKED AND ENTERED INTO
24 EVIDENCE AS COURT'S EXHIBIT NUMBER 1)

25 Q. I'll hand you up what's been marked -- I'm going to hand

1 you what's been marked as Court's Exhibit Number One and
2 regarding those calls in reference to Mr. Curry, did you take
3 notes and are those notes reflected in what you've typed up
4 being a summary of what you heard on those calls?

5 A. That's correct.

6 Q. Now -- and is that prepared by you? Was that prepared
7 by you?

8 A. Yes, sir. This is something that I turned in.

9 Q. Now, in these particular calls and I'm just going to go
10 through each call and -- for the record, to make sure the
11 record is clear, first I'm going to go through the calls that
12 from my recollection were actually the portions were played
13 and then I'll get into it a section -- see they were some
14 statements that we didn't get into that we had agreed that
15 needed to be excluded but for right now I'm going to actually
16 ask Lieutenant Page what was actually played for the jury ---

17 THE COURT: Yeah, definitely we don't want to get that
18 mixed up.

19 MR. REDMOND: Exactly. So that's why I want to make the
20 record clear that what I'm asking him now is what the State
21 contends was played in court at the time of trial, the
22 summary of what was played in court and then after that I'll
23 get into what we had agreed was not played in court.

24 THE COURT: Okay.

25 Q. But with that said, I'm gonna ask you about -- and

1 starting on 13th of September, did you listen to a call about
2 seven o'clock that was made between Mr. Curry and someone by
3 the name of Shell?

4 A. All right, I need to explain something, that seven ---

5 Q. Yes

6 A. --- is the time frame of the call. That would've been
7 the time frame in that call that is not the correct time of
8 that call.

9 Q. Okay. I gotcha.

10 A. If it was fifteen minutes that would've been seven
11 minutes within that time frame.

12 Q. I gotha. Well, that first call -- it's the second call,
13 it says seven minutes could you tell from the best of your
14 recollection what that call -- what was discussed during that
15 call between the defendant and Shell?

16 A. The conversation basically entailed, Curry and Shell are
17 talking about paying Quan a \$1,000.00 to \$1,500.00 to not
18 appear in court. Curry tells Shell to make sure Quan does
19 not make it to court.

20 Q. Now, below that is mentioned is 9:45, a nine
21 minute/forty-five second call, could you explain what the
22 contents of that -- the summary of the contents of that call?

23 A. This call is, Shell describing to Curry what he did to
24 her and Quan.

25 Q. Okay. And to be clear, do you have any recollection of

1 all of the details that were mentioned in those calls or is
2 this the summary of the key portions of the call?

3 A. No, sir. There were other calls that were not recorded
4 that had no content to this. There were also some calls that
5 they had asked me to listen for, for another case that had
6 also would have probably -- probably they were a few calls
7 that was used on his card from another defendant in another
8 case.

9 Q. I understand.

10 A. That aren't reflected on this sheet.

11 Q. Okay. Now, then we get to eleven minute/ twenty second
12 call, could you tell us what the summary of the contents of
13 that call were?

14 A. Curry is talking to Shell and trying to get her to tell
15 law-enforcement officers that she is dropping her charges.

16 Q. Okay. And then a twelve minute/fifty second call?

17 A. Shell tells Curry that she is worried he would kill her
18 if he gets out of jail.

19 Q. Now, there's a fourth call indicated in there but for
20 the record the fourth call was not played in court. Now,
21 let's move to 14th of September, 2013, a four minute call,
22 what were the contents of that call?

23 A. Shell told Curry that he did it and can't fix it.

24 Q. And then a nine minute/fifteen second call?

25 A. Shell told Curry he did this to himself.

1 Q. Okay. And a eleven minute/two second call?

2 A. Shell told Curry she told law-enforcement officers she
3 wasn't drug into the room but she was.

4 Q. Now, the third call, five minute and two seconds?

5 A. Shell told Curry that she was afraid he would kill her
6 the next time.

7 Q. Now, let's move on to 15th of September, 2013. That
8 first call at eight minute/ten second call?

9 A. Shell admits to a recent arrest for shoplifting at
10 Walmart.

11 Q. Okay. And the next one is ten minutes/thirteen seconds?

12 A. Shell told Curry that the night of the incident he said
13 he was going to kill the police.

14 Q. Okay. Now let me get you to repeat that one. The ten
15 minutes/thirteen second, what did he say?

16 A. Shell told Curry that the night of the incident he said
17 he was going to kill the police.

18 Q. Now, 16th of September, 2013, the third call is an
19 eleven minute call?

20 A. Curry tells Shell the charges will be dropped due to
21 Wallace not writing an incident report.

22 Q. Then we skipped to 17th of September, 2013, that first
23 call which was the first call, six minutes and thirty
24 seconds?

25 A. Curry told Shell not to go to the court hearings. Curry

1 said there is no crime if there is no victim in court.

2 Q. Okay. And ten minutes and forty seconds of that first
3 call?

4 A. Shell and Curry are arguing. Curry told Shell to quit
5 saying he deserves time in prison.

6 Q. Now, let's move to the 21st of September, 2013, the
7 second call, an eight minute call and I'm gonna ask you to
8 first do the first sentence of that call?

9 A. Of the eight minute call?

10 Q. Yes, the eight minute call.

11 A. Both Shell and Curry said the deputy was telling him,
12 Curry, to stop.

13 Q. Okay.

14 MR. REDMOND: Now, for the record, Your Honor, in
15 Court's Exhibit One, the next sentence, Curry said, "he would
16 plead to probation," that was excluded at trial by agreement
17 of the parties. We didn't even try to present that
18 particular portion where there's a discussion within that
19 call where he says that he would plead to probation. So that
20 was never played for the jury.

21 Q. Now, that third sentence after the probation sentence,
22 what was said?

23 A. Curry told Shell that her and Quan had to drop their
24 charges.

25 Q. Okay. And were these the end of the calls?

1 A. All the -- any content that I notated for the case.

2 Q. Yes. Okay.

3 A. Yes, sir.

4 Q. All right. Now, let me go back for just a minute to the
5 17th of September, the second call it fourteen minutes --
6 and, Your Honor, this is the section -- that concludes what
7 we had actually introduced for the jury. Now, I'm going to
8 get in for the record what we excluded from the jury so the
9 jury did not hear what I'm about to get into with Lieutenant
10 Page. All right. That second call, fourteen minutes?

11 A. Shell tells Curry he has threatened to punch her in the
12 past.

13 Q. Okay. And then again just for the record the second
14 call of 21st of September, the eight minute call, that second
15 sentence?

16 A. Curry said he would plead to probation.

17 Q. And again does that conclude the calls that you took
18 notes on from the defendant and Shell?

19 A. Yes, sir.

20 MR. REDMOND: I beg the Court's indulgence. Be all the
21 questions I would have at this time.

22 THE COURT: Thank you, Solicitor.

23 MR. SWILLEY: Just very briefly, Your Honor.

24 **CROSS EXAMINATION BY MR. SWILLEY:**

25 Q. Mr. Page, you -- I think you stated that you -- you

1 didn't listen to these calls live, did you, you announced
2 before you were on a secure software?

3 A. Yes, sir. That's correct.

4 Q. Okay. And about approximately how long after you listen
5 to these calls did you actually make these notes?

6 A. This is a guess because of something else I had going on
7 but, I believe it was in the middle -- to the middle of
8 October to the middle of November.

9 Q. Okay. And that's approximately about a month after you
10 listen to them?

11 A. Well, if you look at the last one I'm going to say two
12 to three weeks. The last one that I had documented which was
13 21st of September.

14 Q. Okay. So just -- just to be clear, you didn't make
15 these notes contemporaneously with you're listening to the
16 calls, right?

17 A. Sir?

18 Q. You didn't make these notes at the same time you were
19 listening to these calls, correct?

20 A. I took notes from the call.

21 Q. Okay. So you're telling -- so you're listening -- okay,
22 so you're listening to these calls and you're taking notes
23 while you're listening to them, is that what you're saying?

24 A. Yes, sir.

25 Q. Okay. All right. And you don't contend that your notes

1 are verbatim, exactly what was said on the calls, right? Just
2 summations, correct?

3 A. Yes, sir. That was all I was asked to do was to ---

4 Q. Okay. Okay. And these calls -- your notes -- do you
5 have -- do you have exact time ranges from when how long
6 these calls ran?

7 A. No, sir. They would have been on the secure site.

8 Q. Okay. So each one of these notes you made we're not
9 really sure how long each call last, is that correct?

10 A. No, sir.

11 Q. Okay. All right.

12 A. Not without that record of documentation.

13 Q. All right. Thank you, Mr. Page. That's all I have.

14 **CROSS EXAMINATION BY THE COURT:**

15 Q. You were the lead investigator on this case?

16 A. No, sir. I was asked to assist with the phone calls
17 because I had done them before. And generally and basically
18 I was asked to do was if there was something of value they
19 could use to let them know which calls to get.

20 Q. So you would have been the most familiar with these
21 calls?

22 A. From the start, yes, sir.

23 Q. Yes. And you were present in court when these calls
24 were played to the jury?

25 A. No, sir, I wasn't. I wasn't involved with this trial at

1 all.

2 Q. But to the best of your memory, everything that you have
3 covered for the record this morning you know that your exerts
4 were directly taken from what you heard from the recordings?

5 A. Yes, sir. There's actually, should be a sheet in the
6 case file of the hand written notes that I took also.

7 Q. Is that different from what you have today?

8 A. No, sir. I mean, there may be a couple of extra things
9 written on the hand written notes. To be honest with you,
10 Your Honor, I didn't get this until Monday night.

11 A. Right. I understand. Okay.

12 Q. If you give me a minute or two I don't mind looking over
13 it.

14 MR. REDMOND: I'll leave that to the Court's discretion
15 in that regard.

16 THE COURT: Well, in the twenty-four years I've been on
17 the bench I know I remember one time we had to reconstruct
18 the record on a case and Chief Justice Finney issued an order
19 and I'm just sitting here thinking that probably to avoid
20 confusion we need to stick with exactly what has been said
21 today and not put in any other exhibits. I don't know that,
22 that would be proper and that could cause confusion.

23 MR. REDMOND: And, Your Honor, I guess just to be on the
24 safe side I would -- the State had no intention of
25 introducing anything other than this. But to be clear for

1 the record, Court's Exhibit Number One and I didn't make this
2 clear, Lieutenant Page did allude to the fact that it was
3 part of the case file, that was actually provided to the
4 defense. The type written portion for sure was provided to
5 the defense because we were actually discussing that as we
6 were going through in determining what the best sections were
7 to play for the jury and what needed to be excluded. So I
8 just wanted the record to be clear that Court's Exhibit
9 Number One is something that was prepared as he's already
10 testified to on cross but it was actually available at the
11 time of trial. So I just wanted it to be clear that this is
12 something that was in existence at the time of trial.
13 Obviously, we didn't use it because we had the recording
14 itself.

15 THE COURT: All right. This is what I want to do now
16 to try to clarify this. I've tried so many cases I remember
17 some of this case and I remember -- I remember that we did
18 have a recording we presented to the jury but, you two
19 attorneys would be the most familiar with what was actually
20 played to the jury, let's get it straight now, does anybody
21 -- does either one of you disagree or maintain what has been
22 said this morning was not part of that record?

23 MR. REDMOND: The State does not contend that. I mean,
24 obviously, it was not verbatim but the contents, the
25 substance was what was played in front of the jury in

1 addition what was excluded we also discussed that as well.

2 THE COURT: Mr. Swilley, what's your memory?

3 MR. SWILLEY: Judge, I can remember several I guess
4 you'd call snippets from what was played. Specifically I re-
5 call one time, Marchel told Mr. Curry over the phones that
6 "Jay, you crazy," and I quote, and I do remember -- I do
7 recall there being some kind of, ah, -- I do remember a
8 conversation about Mr. Curry trying to persuade her to tell
9 the authorities to drop the charges and go up and ask the
10 charges to be dropped. Your Honor, in all candor I don't
11 remember much else more than that.

12 THE COURT: Okay. Anything said today by Mr. Quick or
13 anything said that we -- that so far that you maintain was
14 not in that recording or at least the substance of it?

15 MR. SWILLEY: Your Honor, in all candor and I can't --
16 I can't -- I couldn't answer that question in the affirmative
17 or negative. I really don't know. I can't I can't remember.

18 THE COURT: Okay. Solicitor, you're the most familiar
19 with the prosecution side ---

20 MR. REDMOND: Yes, sir.

21 THE COURT: Do you take exception that something was ---

22 MR. REDMOND: I do not. And, in fact, with what we had
23 decided would come in and wouldn't come in, Court's Exhibit
24 Number One was our guide. That's what we were using as our
25 guide to determine what needed to be played and what would be

1 excluded. So to my recollection -- and we pretty much stuck
2 to that, I do remember that much. Again is not verbatim but
3 as it relates to those snippets that are in Court's Exhibit
4 Number One, the state does not have any -- contends that
5 there was nothing that was not accurate that was testified to
6 by Mr. Page.

7 THE COURT: In your opinion, what has been presented
8 this morning that is the best available documentation we have
9 to reconstruct this ---

10 MR. REDMOND: And ---

11 THE COURT: --- record?

12 MR. REDMOND: And, if I could say thankfully Lieutenant
13 Page and it shows the type of officer he was when he was in
14 law enforcement, if we didn't have this and I will be honest
15 with you, we would be in a pickle but this we had prior to
16 the trial and this was what we used to guide us on what was
17 going to be played to the jury. So it is extremely important
18 and thankfully he did do that because if he hadn't like I
19 said we would be in a pickle.

20 THE COURT: All right. Take a few minutes, the three
21 of you -- you can step down -- and I said Mr. Quick I
22 apologize I was wrong. I don't know where that came from.
23 All right. What we're doing now we're having Deputy Chris
24 Page, Solicitor, Kinard Redmond, and the defense attorney,
25 Matt Swilley, are going to look at these other notes to see

1 if anything else needs to be put on the record at this time,
2 however; subject to previous objection by counsel that still
3 in play.

4 (Paused during hearing so all parties could look over
5 documents)

6 MR. SWILLEY: Your Honor, it would appear from looking
7 at former Deputy Page's notes that the verbiage is the same
8 from what the court entered into as courts exhibit, other
9 than the notes would have the actual numbers from which the
10 calls were received, but I believe the actual words and
11 verbiage are the same on the hand written notes from Deputy
12 Page as in the word process copy that was entered into
13 evidence.

14 MR. REDMOND: And I would agree, Your Honor.

15 THE COURT: So, nothing else to put in?

16 MR. REDMOND: No, sir, Your Honor. I mean, as defense
17 indicated Mr. Swilley, the notes he pretty much typed up what
18 he had written to be direct about it. He just wrote out the
19 notes and typed up pretty much verbatim what he had written
20 so we think Court's Exhibit Number One is a fair
21 representation of what Lieutenant Page heard and what he's
22 testified to today.

23 THE COURT: All right. Anything else?

24 MR. SWILLEY: Your Honor, just for the record I want to
25 object to the reconstruction of the record specifically --

1 one moment please. I beg the Court's indulgence.

2 MR. REDMOND: And, there is one quick matter once Mr.
3 Swilley finishes, just since we've had this reconstruction
4 just to be on -- just to air on the side of caution just a
5 quick matter I need to do this.

6 MR. SWILLEY: Your Honor, I just want to object to any
7 finding of the court that the record has been adequately
8 reconstructed for appellate review. Thank you.

9 THE COURT: I'll overrule the objection and all I can
10 say to that is that we've done the best that we can do and I
11 want to thank Investigator Page for being here and helping us
12 and going out of the way to try to accomplish what the a
13 Court of Appeals has ask us to do. Solicitor?

14 MR. REDMOND: Yes, sir, Judge, and the only other issue
15 that I would have is that, obviously, when we get into these
16 recordings, we did do a probative versus prejudicial
17 assessment and so I just want to make sure that, that was
18 clear for the record as well since we are -- especially since
19 we discussed items that were excluded and items that were
20 played for the jury. So I just wanted to make sure that was
21 part of the record as well.

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

23 MR. REDMOND: Thank you, Judge.

24 THE COURT: All right. Now, I'll have to do a report
25 and we need an expedited transcript priority over everything

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else.

COURT REPORTER: Yes, sir.

THE COURT: Thank y'all.

(Court adjourned at 10:28)

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CERTIFICATE

I, the undersigned Lisa S. Carter, Official Court Reporter for the Fourth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete excerpt of transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Fourth Circuit Court for Darlington County, South Carolina, on the 8th day of April, 2015.

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

Lisa Carter

Lisa Carter

Circuit Court Reporter

APRIL 14, 2015

RECEIVED

APR 20 2015

**ATTORNEY GENERALS
OFFICE**



ALAN WILSON
ATTORNEY GENERAL

April 21, 2015

HAND-DELIVERY

The Honorable Jenny A Kitchings
Clerk of Court, South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

RECEIVED
APR 21 2015
SC Court of Appeals

Re: The State v Julius Curry
Appellate Case No 2012-000569

Dear Ms. Kitchings:

Enclosed is the circuit court Order and transcript from the reconstruction hearing in the above-referenced appeal. I received the transcript and the filed copy of Judge Burch's Order on April 20, 2015, and I provided copies of both to Katherine Hudgins, Esquire, counsel for the Appellant via email

Please do not hesitate to contact me if you need any further information from this office.

Sincerely,

Deborah R J. Shupe
Senior Assistant Deputy Attorney General

DRJS/sbe

cc: Katherine Hudgins, Esquire (w/o enclosures)
Victim Services



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