

RECEIVED

MAY - 7 2015

S.C. Supreme Court

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Kershaw County

James R. Barber, III, Circuit Court Judge

JARVIS GIBBS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-000447

SUPPLEMENTAL APPENDIX

JOHN H. STROM
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

MEGAN HARRIGAN
Assistant Attorney General

P. O. Box 11549
Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

INDEX

INDEXi
MISSING PAGES FROM TRIAL TRANSCRIPT (274-275, 284-285, 328-329)1

1 he gave Arthur the 20-piece of crack when he
2 dropped the bike off.

3 THE COURT: He just said that.

4 MR. MOAK: No, he is saying now he gave it to
5 him when he took the bike.

6 THE COURT: Right.

7 MR. MOAK: Later he says, no, I gave it to him
8 when I dropped the bike off.

9 (Video continues to be played for the Court.)

10 MR. OGBURN: This is not a drug trial, this is
11 a bank robbery.

12 THE COURT: I know. All right. You are not
13 going to play it?

14 MR. MOAK: No, Your Honor.

15 THE COURT: Okay. Because you can't redact
16 it?

17 MR. MOAK: No, Your Honor, there is no way I
18 can redact it.

19 THE COURT: Well, then the witness can say he
20 interviewed Mr. Gibbs and he told him that he gave
21 Mr. Macklin a crack rock for the bicycle. And if
22 he said it twice, he said it twice.

23 MR. MOAK: Uh-huh. But he said it twice two
24 different ends of when he had the bike.

25 THE COURT: Well, if it is just repeating what

1 he said earlier, the witness can say that.

2 MR. MOAK: Okay.

3 THE COURT: Clear?

4 MR. MOAK: Uh-huh.

5 THE COURT: Now, of course --

6 MR. OGBURN: Yes, Your Honor, for the record
7 we object to any testimony that refers to any type
8 of drug or crack use by the Defendant.

9 THE COURT: Well, he didn't say he used any
10 crack, he said he gave Macklin 20 crack for use of
11 the bicycle.

12 MR. OGBURN: Yes, Your Honor, but that would
13 constitute distribution of crack cocaine, which is
14 a crime. And, again, we're not here on a drug
15 case.

16 THE COURT: Well, if your client said it, I
17 can't help it. I mean, I think it is probative to
18 this case that that is how the bicycle got from
19 Mr. Macklin to your client, if that is what
20 happened, but -- and that is a jury question.

21 MR. OGBURN: Yes, Your Honor, but, again,
22 Mr. Macklin testified to that yesterday.

23 THE COURT: Okay. Overruled.

24 MR. MOAK: Thank you, Your Honor.

25 THE COURT: Now, Mr. Ogburn, it is your choice

1 MR. OGBURN: Without objection.

2 THE COURT: Okay.

3 (WHEREUPON, State's Exhibit No. 46 was
4 marked for identification and received
5 into evidence.)

6 Q Now, this 4-wheeler, y'all have that in evidence,
7 do you not?

8 A Yes, sir, we do.

9 Q Did y'all discuss a possibility of bringing it in
10 the courtroom?

11 A Yes, sir, we did.

12 Q And what was the fear?

13 A Because it has, you know, gasoline, oil and
14 everything in it, bringing it upstairs and into the
15 courtroom is a little difficult.

16 Q But that is the 4-wheeler?

17 A Yes, sir, that is the 4-wheeler. We have it now at
18 our -- I believe it is at our city lot, secured
19 there.

20 Q And y'all found the 4-wheeler after you talked to
21 Chad Moore?

22 A Yes, sir, it was the day after we talked to Chad
23 Moore.

24 (Pause.)

25 Q Detective Boan, you are the lead investigator,

1 correct?

2 A Yes, sir.

3 Q So on the incident report, is your name on the
4 incident report?

5 A Yes, sir, it is. See at the bottom here, on this
6 side is the officer who wrote the report, and then
7 that would be the approving officer and the
8 supervisor, which in this case Sergeant Moore wrote
9 the report and she approved it. And my name is
10 just below it here as investigator signs it.

11 Q And that is just the first page of the incident
12 report, is that correct?

13 A Yes, sir.

14 Q Isn't there a continuation with like witness
15 information on other pages?

16 A Probably is. Yes. Yes, we do have other --

17 Q Is that information you would have entered into the
18 system to put on there?

19 A There is supplementals or, you know, once we name
20 all our Defendants and all the charges we made, and
21 then we have investigative notes, which I'm looking
22 off here now, that I enter in in a different
23 section of the computer.

24 Q And your computer system, if you enter a suspect
25 name and y'all already have the information in

1 Jay, what you locked up for?

2 I was like, they got me here talking about,
3 yo, I robbed a bank, so you know what I'm saying.
4 So I'm like, no, man. You know, that was it, you
5 know.

6 Q But you never admitted to him to robbing the bank?

7 A No, sir.

8 Q Was he talking to other people about their crime?

9 A I don't know, like I don't -- like I don't really
10 be around everybody like that, so I don't be paying
11 everybody -- like what your charge is is your
12 charge, like, I mean, that is none of my concern,
13 you know what I'm saying.

14 Q Right. And so how long were you locked up?

15 A I was locked -- they locked me up from January 25th
16 of last year till January 8th of this year.

17 Q You were locked up the night of the burglary,
18 right -- excuse me, the robbery, right?

19 A Yes, sir.

20 Q And how long was it before you got out on bond?

21 A They set my bond at a half a million dollars. When
22 I got locked up they set my bond at half a million
23 dollars. Then like the next month they sent me to
24 Richland County Jail. I sat in Richland County
25 Jail for about another nine months. And then they

1 dropped my bond from half a million dollars -- they
2 said the feds will come got my case because the
3 bank is federally insured, but the feds never come
4 got the case.

5 So I had a lawyer here, but I fired the lawyer
6 I had here because I was like, yo, ain't nobody
7 coming to talk to me, ain't no nobody helping me.

8 So when I fired him, I wrote the U.S. Marshal,
9 because at Richland County you can write the U.S.
10 Marshal, so I wrote the U.S. Marshal and District
11 Attorney.

12 They was like, we are not indicting you on
13 these federal cases.

14 So when they wrote me about that, they gave me
15 another lawyer. So I was like, they not
16 indicting -- I said, the feds are not indicting me.
17 So the next thing I know, they dropped my bond from
18 half a million dollars to \$60,000, ten percent. I
19 ain't had to pay nothing but \$1,800 to get out of
20 jail, you see what I'm saying. That was it.

21 Q Okay. Let me take you back to when you were in
22 school. You went to school at what school?

23 A North Central.

24 Q Did you ever know a young lady by the name of
25 Melissa Roberts?