

STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
J.C. Nicholson, Jr., Circuit Court Judge

Appellate Case No. 2015-000362
Lower Court Case No. 2012-CP-10-2655

RECEIVED

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S.C. Supreme Court

DARRYL LOUIS, #279494,

PETITIONER,

v.

STATE OF SOUTH CAROLINA,

RESPONDENT.

**APPENDIX
TO
PETITION FOR WRIT OF CERTIORARI**

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

CASE NO. 07-GS-10-7478
7479, 7480, 7481

STATE OF SOUTH CAROLINA

versus

DARRYL KEITH LOUIS,

DEFENDANT

TRANSCRIPT OF RECORD

DATE:

MAY 28, 2008

BEFORE:

HONORABLE JAMES C. WILLIAMS, JR., PRESIDING JUDGE
AND A JURY.

APPEARANCES:

NATHAN WILLIAMS, ESQUIRE
ASSISTANT SOLICITOR
FOR THE STATE

F. RENEE GATERS, ESQUIRE
ATTORNEY AT LAW
FOR THE DEFENDANT

HARRY A. WALKER (MRS.)
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I N D E X

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NOTE: ALL EXHIBITS ATTACHED.

1 DATE:

2 MAY 28, 2008

3 (The following takes place
4 out of the presence of
5 the jury panel.)

6 THE COURT: ALRIGHT.

7 SOLICITOR WILLIAMS: THANK YOU, YOUR
8 HONOR, MAY IT PLEASE THE COURT, THE STATE NOW CALLS
9 STATE V. DARRYL LOUIS, INDICTMENTS, FOUR INDICTMENTS FOR
10 ARMED ROBBERY, 2007-GS-10-7478, 7481, 7480, 7479.

11 THE COURT: ALRIGHT. AND I'M JUST
12 LOOKING TO SEE, APPARENTLY, THIS WAS FOUR INDIVIDUALS
13 WHO WERE ROBBED AT THE SAME TIME AT THE SAME PLACE?

14 SOLICITOR WILLIAMS: YES, YOUR
15 HONOR, I BELIEVE THE WAY THE INDICTMENTS READ IT'S
16 ACTUALLY THREE INDIVIDUALS NAMED AS WELL AS A FOURTH
17 INDICTMENT WHICH LISTS, EMPLOYEES OF. CERTAINLY, YOUR
18 HONOR, I HAVE SUBMITTED TO THE COURT AND TO MS. GATERS
19 THAT THE PEOPLE THAT ARE NAMED INDIVIDUALLY WERE
20 EMPLOYEES BUT THEY WERE ROBBED INDIVIDUALLY AND THE
21 EMPLOYEES AS REPRESENTED BY THE BUSINESS AND OTHERS THAT
22 WERE EMPLOYED THERE.

23 THE COURT: ALRIGHT, MS. GATERS, ARE
24 YOU READY FOR TRIAL?

25 MS. GATERS: YES, YOUR HONOR, I'M

1 READY FOR TRIAL. THERE ARE A COUPLE OF PRETRIAL MATTERS
2 THAT WE'D ASK THE COURT TO CONSIDER.

3 THE COURT: ALRIGHT.

4 MS. GATERS: NUMBER ONE, WE HAVE
5 AGREED TO A MOTION TO SEQUESTER THE WITNESSES, - - -

6 THE COURT: ALRIGHT.

7 MS. GATERS: --- NATHAN AND I BOTH
8 AGREE WITH THAT.

9 THE COURT: ALRIGHT.

10 MS. GATERS: I PRESENTED THE COURT
11 WITH THE DEFENDANT'S REQUEST FOR VOIR DIRE - - -

12 THE COURT: YES, MA'AM.

13 MS. GATERS: --- WHICH I WOULD
14 STRONGLY ASK THE COURT TO CONSIDER, AND TO QUESTION THE
15 PANEL ON.

16 NUMBER THREE, YOUR HONOR, THIS IS A
17 SERIES OF ARMED ROBBERIES. WE ARE TRYING THE ONE
18 INVOLVING EIGHTY-TWO QUEEN. I WOULD ASK THE COURT IN MY
19 MOTION IN LIMINE TO INSTRUCT THE STATE NOT TO ALLOW ANY
20 OF HIS WITNESSES TO DISCUSS, BRING BEFORE THIS COURT ANY
21 OF THOSE OTHER ARMED ROBBERIES, NUMBER ONE. NUMBER TWO,
22 I PREVIOUSLY ASKED THE COURT REGARDING CROSS-EXAMINATION
23 ON ONE OF THE STATE'S WITNESSES, SPECIFICALLY, CURTIS
24 BURNS, REGARDING HIS TAKING OF A POLYGRAPH EXAM AND
25 GIVING UNTRUTHFUL INFORMATION BUT THAT INFORMATION BEING

1 DEEMED TRUTHFUL. AND AT THAT POINT IN TIME I DO NOT, I
2 BELIEVE THE STATE HAS THE RIGHT TO REHABILITATE THAT
3 WITNESS IF I SHOULD GO THERE, BUT I DO NOT THINK THE
4 STATE SHOULD HAVE THE RIGHT TO BRING UP ANY OTHER ARMED
5 ROBBERIES IN ITS QUEST FOR THAT REHABILITATION. THERE
6 ARE MANY WAYS THEY CAN DO IT WITHOUT BRINGING UP THE
7 OTHER ARMED ROBBERIES, YOUR HONOR. SO, I CERTAINLY ASK
8 THE COURT TO DO SO.

9 THE COURT: ALRIGHT, WELL, WE'LL
10 TALK ABOUT THAT IN CHAMBERS. AND WHAT I WOULD SUGGEST,
11 THE FIRST THING, I WANT TO GET THE JURY DRAWN SO WE CAN
12 BE DEALING WITH TWELVE OR FOURTEEN PEOPLE INSTEAD OF
13 FORTY-FIVE OR FIFTY DOWNSTAIRS. AND THEN I CAN HEAR YOU
14 FULLY, MORE FULLY, AND HEAR THE STATE ON THAT MOTION.
15 BUT PROBABLY WE NEED TO WAIT UNTIL THE STATE'S
16 EXAMINATION OF THAT WITNESS AND SEE HOW, AND TAKE THAT
17 UP BEFORE YOU CROSS-EXAMINE THE WITNESS.

18 MS. GATERS: I UNDERSTAND.

19 THE COURT: BUT I DON'T WANT TO DO
20 ANYTHING THAT WILL PREJUDICE YOUR CASE. IF YOU THINK IT
21 NEEDS TO BE HEARD AND YOU GET A DEFINITIVE RULING PRIOR
22 TO THAT - - -

23 MS. GATERS: I THINK THAT WOULD BE
24 FINE, YOUR HONOR. HOWEVER, I BELIEVE THE MOTION PRIOR
25 TO THAT ABOUT NOT ALLUDING TO ANY OF THE OTHER ARMED

1 ROBBERIES - - -

2 THE COURT: WELL, YOU DON'T, YOU
3 DON'T PLAN TO ALLUDE TO ANY OTHER ARMED ROBBERIES, DO
4 YOU, MR. WILLIAMS?

5 SOLICITOR WILLIAMS: THE ONLY THING
6 I WOULD ALLUDE TO, YOUR HONOR, IS, I BELIEVE THAT MR.
7 BURNS WILL TESTIFY THAT BEFORE THEY ROBBED THE EIGHTY-
8 TWO QUEEN THAT THEY WENT TO DOCHERS TO LOOK AT ROBBING
9 IT BUT DIDN'T ACTUALLY ROB IT. IT WAS ROBBED AT A
10 DIFFERENT INCIDENT BUT I'M NOT GOING TO TALK ABOUT OTHER
11 INCIDENTS.

12 MS. GATERS: I WOULD HAVE NO PROBLEMS
13 WITH THAT, YOUR HONOR.

14 THE COURT: ALRIGHT, THAT'S FINE.
15 IS THERE ANYTHING ELSE, THEN, BEFORE
16 I BRING IN THE JURY?

17 SOLICITOR WILLIAMS: WE DO HAVE
18 OTHER PRETRIAL MOTIONS I'VE LINED UP.

19 THE COURT: BUT BEFORE I BRING IN
20 THE JURY?

21 SOLICITOR WILLIAMS: NO, YOUR HONOR.

22 THE COURT: ALRIGHT. I BRIEFLY
23 LOOKED AT YOUR VOIR DIRE.

24 YOU CAN BRING THE JURY UP.

25 BAILIFF: YES, SIR.

1 THE COURT: SEND THEM UP.

2 I WOULD NOT ASK NUMBER NINE OF THE
3 DEFENSE'S REQUEST, AND I'VE GOT A WITNESS LIST, I THINK,
4 FROM THE STATE, IS THERE A LIST FOR THE DEFENSE?

5 MS. GATERS: NONE, YOUR HONOR.

6 THE COURT: I WOULD NOT ASK NUMBER
7 SEVENTEEN OR EIGHTEEN, AND I THINK WHAT I DO ASK AND
8 TELL THE JURY WILL COVER THOSE ISSUES BUT WHEN I ASK
9 YOU, IS THERE ANYTHING ELSE, YOU CAN EITHER COME FORWARD
10 AND SPEAK AT THE BENCH AND RAISE ANY OBJECTIONS YOU
11 HAVE, OR IF YOU JUST, IF IT'S LIMITED TO THOSE THREE YOU
12 CAN OBJECT TO ME NOT ASKING NINE, SEVENTEEN AND
13 EIGHTEEN, AND WE'LL MAKE THIS A COURT'S EXHIBIT.

14 MS. GATERS: THANK YOU VERY MUCH,
15 YOUR HONOR.

16 THE COURT: ALRIGHT.

17 MS. GATERS, YOU'RE WITH THE PUBLIC
18 OFFICE, RIGHT?

19 MS. GATERS: NO, YOUR HONOR, I'M
20 NOT.

21 THE COURT: OH, YOU'RE NOT?

22 MS. GATERS: I AM IN PRIVATE
23 PRACTICE, I'M A SOLO PRACTITIONER, I WAS APPOINTED ON
24 THIS CASE IN TWO THOUSAND SIX, I'VE BEEN PRACTICING
25 SINCE NINETEEN EIGHTY-FOUR, AND I'VE BEEN APPOINTED TO

1 REPRESENT THIS CLIENT.

2 THE COURT: AND YOUR OFFICE IS IN
3 CHARLESTON OR - - -

4 MS. GATERS: YES, SIR, I HAVE AN
5 OFFICE IN CHARLESTON, AND AN OFFICE IN CLARENDON COUNTY.

6 THE COURT: OKAY. IN MANNING?

7 MS. GATERS: NO, SIR, IT'S ACTUALLY
8 IN SUMMERTON.

9 THE COURT: SUMMERTON.

10 COURT REPORTER: DO YOU WANT THAT
11 MARKED AS A COURT'S EXHIBIT?

12 THE COURT: I HAVEN'T MADE IT ONE
13 YET.

14 COURT REPORTER: OH, I THOUGHT YOU
15 SAID IT WAS A COURT'S EXHIBIT.

16 THE COURT: NO, IF SHE OBJECTS, IF
17 SHE WANTS TO AT THE TIME I WILL.

18 MS. GATERS: YOUR HONOR, ARE YOU
19 GOING TO ALLOW -- AGREE TO SEQUESTER THE WITNESSES?

20 THE COURT: I WAS JUST GOING TO
21 BRING THEM IN WHEN WE QUALIFY THE JURY SO THAT - - -

22 MS. GATERS: I UNDERSTAND, YES, SIR.

23 THE COURT: --- AND THEN THEY'LL GO
24 BACK OUT.

25 MS. GATERS: OKAY. THANK YOU.

1 (Whereupon, the entire jury venire
2 enters the courtroom.)

3 THE COURT: GOOD MORNING, LADIES AND
4 GENTLEMEN, MY NAME IS JIMMY WILLIAMS, I'M A CIRCUIT
5 COURT JUDGE FOR THE STATE OF SOUTH CAROLINA, I'M ONE OF
6 FORTY-SIX JUDGES WHO TRAVEL AROUND THE STATE HOLDING
7 COURT. I'M A RESIDENT OF ORANGEBURG COUNTY AND A
8 RESIDENT JUDGE IN THE FIRST JUDICIAL CIRCUIT, WHICH IS
9 ORANGEBURG, CALHOUN AND DORCHESTER COUNTIES. BUT WE
10 JUDGES DO TRAVEL ALL OVER THE STATE. I BELIEVE I'VE BEEN
11 IN EIGHT OR NINE COUNTIES SO FAR IN TWO THOUSAND AND
12 EIGHT, AND I ALWAYS LOOK FORWARD TO COMING TO
13 CHARLESTON. YOU HAVE A GREAT COURTHOUSE AND GREAT FOOD
14 DOWN HERE.

15 YOU'VE BEEN BROUGHT IN TO BE
16 QUALIFIED TO SERVE AS JURORS FOR A CRIMINAL CASE THAT
17 WE'RE ABOUT TO TRY.

18 ARE YOU READY TO CALL YOUR CASE OR
19 DO YOU WANT ME TO CALL IT?

20 SOLICITOR WILLIAMS: I CAN CALL IT,
21 YOUR HONOR.

22 THE COURT: ALRIGHT.

23 SOLICITOR WILLIAMS: MAY IT PLEASE
24 THE COURT, THE STATE CALLS STATE OF SOUTH CAROLINA
25 VERSUS DARRYL LOUIS ON FOUR INDICTMENTS, INDICTMENT

1 2007-GS-10-7478, ARMED ROBBERY, INDICTMENT 2007-GS-10-
2 7481, INDICTMENT FOR ARMED ROBBERY, INDICTMENT 2007-GS-
3 10-7480, ANOTHER INDICTMENT FOR ARMED ROBBERY, AND THE
4 FINAL INDICTMENT, 2007-GS-10-7479, ARMED ROBBERY.

5 THE COURT: ALRIGHT, THANK YOU, SIR.

6 LADIES AND GENTLEMEN, AS YOU HEARD,
7 THE STATE HAS CHARGED THE DEFENDANT IN THIS CASE, MR.
8 DARRYL KEITH LOUIS, WITH FOUR COUNTS OF ARMED ROBBERY.

9 I HAVE SOME QUESTIONS TO ASK YOU,
10 LADIES AND GENTLEMEN, -- WERE YOU PLACED UNDER OATH THIS
11 MORNING?

12 (Affirmative response from jury panel.)

13 THE COURT: ALRIGHT, REMEMBER, YOU
14 ARE STILL UNDER OATH AS YOU ANSWER THESE QUESTIONS.

15 BOTH THE STATE AND THE DEFENDANT IN
16 THIS CASE ARE ENTITLED TO A FAIR AND IMPARTIAL JURY.
17 AND WHAT WE MEAN BY THAT IS, A JURY WHICH CAN MAKE ITS
18 DECISION IN THE CASE SOLELY ON THE TESTIMONY AND THE
19 EVIDENCE THAT YOU HEAR IN THIS COURTROOM, A JURY WHICH
20 WOULD NOT BE INFLUENCED BY ANYTHING THAT MIGHT HAVE
21 HAPPENED TO YOU OUTSIDE OF THIS COURTROOM, OR SOME
22 FRIEND OF YOURS, OR ANYTHING THAT YOU'VE HEARD OUTSIDE
23 THE COURTROOM ABOUT THIS CASE OR SOME OTHER CASE; IN
24 OTHER WORDS, A JURY WHICH WOULD NOT BE INFLUENCED BY
25 ANYTHING EXCEPT WHAT YOU HEAR IN THIS COURTROOM, AND

1 WOULD LIMIT YOUR DECISION TO THAT INFORMATION. AND SO,
2 I HAVE A NUMBER OF QUESTIONS TO ASK YOU TO GET
3 INFORMATION FROM YOU AND TO DETERMINE THAT BOTH THE
4 STATE AND THE DEFENDANT HAVE A FAIR AND IMPARTIAL JURY.

5 LADIES AND GENTLEMEN, YOU MUST, BY
6 YOUR OATH YOU'RE REQUIRED TO ANSWER THESE QUESTIONS. IF
7 THE QUESTION, YOU THINK THE ANSWER WOULD BE EMBARRASSING
8 TO YOU OR WOULD REQUIRE PERSONAL INFORMATION YOU WOULD
9 NOT LIKE TO SHARE WITH EVERYBODY IN THIS COURTROOM YOU
10 CAN COME FORWARD AND SPEAK WITH ME ABOUT IT PRIVATELY,
11 YOU CAN WAIT UNTIL I HAVE ASKED ALL OF THE QUESTIONS AND
12 THEN COME FORWARD AND SPEAK WITH ME ABOUT A PARTICULAR
13 QUESTION, BUT PLEASE DO NOT WITHHOLD ANY INFORMATION
14 THAT MIGHT BE REQUIRED BY ANY OF THESE QUESTIONS. IF
15 YOU HAVE A QUESTION AS TO WHETHER IT APPLIES YOU STAND
16 UP AND LET ME MAKE THAT DECISION, PLEASE, IF YOU WILL.

17 NOW, LADIES AND GENTLEMEN, THE STATE
18 HAS PREPARED FOUR INDICTMENTS, THIS IS JUST A SHEET OF
19 PAPER, CHARGING MR. LOUIS WITH EACH OF THESE FOUR
20 CRIMES. THESE INDICTMENTS ARE NOT EVIDENCE, THESE
21 INDICTMENTS ARE SIMPLY DOCUMENTS DRAWN UP BY THE STATE
22 TO ADVISE THE DEFENDANT OF THE CHARGES THAT HE'S FACING.
23 TO THESE CHARGES HE HAS PLED NOT GUILTY. THAT PLACES
24 THE BURDEN ON THE STATE TO PROVE HIM GUILTY BEYOND A
25 REASONABLE DOUBT. A DEFENDANT IS NEVER REQUIRED TO

1 PROVE HIMSELF INNOCENT.

2 NOW, I'M GOING TO READ YOU THESE
3 INDICTMENTS SO THAT YOU WILL KNOW WHAT THE CHARGES ARE,
4 AND THEN I WILL ASK YOU THE QUESTIONS THAT I NEED TO ASK
5 YOU CONCERNING THIS TRIAL.

6 LADIES AND GENTLEMEN, WE'LL START
7 WITH INDICTMENT 2007-GS-10-7478, AND THE INDICTMENT
8 ALLEGES THAT ON MARCH TWENTY-FIFTH, TWO THOUSAND AND
9 SIX, IN CHARLESTON COUNTY, SOUTH CAROLINA, AT EIGHTY-TWO
10 QUEEN STREET, CHARLESTON, BY USE OF FORCE, THREATS OR
11 INTIMIDATION AND WHILE ARMED WITH A DEADLY WEAPON, A
12 HAND GUN, THE DEFENDANT, DARRYL KEITH LOUIS, ALONE OR
13 WHILE ACTING IN CONCERT WITH OTHERS, DID TAKE AND CARRY
14 AWAY THE PERSONAL GOODS OR MONEY FROM THE PERSON OR
15 PRESENCE OF EMPLOYEES OF THE EIGHTY-TWO QUEEN RESTAURANT
16 WITH THE INTENT TO PERMANENTLY DEPRIVE THEM OF THE
17 POSSESSION OF THAT MONEY AND GOODS. AND I'M SURE I
18 DON'T HAVE TO TELL YOU, EIGHTY-TWO QUEEN STREET IS AN
19 ADDRESS BUT IT'S ALSO ONE OF THOSE NICE PLACES TO EAT
20 DOWN HERE.

21 ALRIGHT, LADIES AND GENTLEMEN,
22 INDICTMENT 7479 ALLEGES EXACTLY THE SAME THING, THAT ON
23 THE TWENTY-FIFTH OF MARCH, TWO THOUSAND AND SIX, THE
24 DEFENDANT, DARRYL KEITH LOUIS, WAS GUILTY OF THE ARMED
25 ROBBERY OF AN INDIVIDUAL NAMED EDGAR DICKSON.

1 INDICTMENT 7480 MAKES THE SAME
2 ALLEGATIONS, THE SAME DATE, THE SAME TIME, THE
3 ALLEGATIONS ARE THAT HE WAS GUILTY OF COMMITTING AN
4 ARMED ROBBERY ON DANIEL KILLORAN. AND I THINK THESE
5 INDIVIDUALS WERE CUSTOMERS OR WERE THEY ALSO EMPLOYEES,
6 MR. WILLIAMS?

7 SOLICITOR WILLIAMS: EMPLOYEES, YOUR
8 HONOR.

9 THE COURT: ALL OF THEM EMPLOYEES,
10 ALL OF THEM NAMED?

11 SOLICITOR WILLIAMS: YES, SIR.

12 THE COURT: ALRIGHT. AND THE FOURTH
13 INDICTMENT, NUMBER 7481, MAKES THE IDENTICAL CHARGE IN
14 REGARD TO THE ROBBERY OF ONE ROBERT EMERY. AND AS I
15 SAID, THESE ARE ALLEGED TO HAVE OCCURRED ON MARCH THE
16 TWENTY-FIFTH, TWO THOUSAND AND SIX, AT EIGHTY-TWO QUEEN
17 STREET, -- ABOUT WHAT TIME OF DAY, SOLICITOR?

18 SOLICITOR WILLIAMS: IT WAS EARLY
19 EVENING, YOUR HONOR.

20 THE COURT: EARLY EVENING ON THAT
21 DATE.

22 SOLICITOR WILLIAMS: YES, SIR.

23 THE COURT: NOW, AS I SAID, THESE
24 ARE SIMPLY ALLEGATIONS. WHAT I'VE READ YOU IS NOT
25 EVIDENCE AGAINST THE DEFENDANT.

1 FIRST, MR. LOUIS, WOULD YOU PLEASE
2 STAND AND TURN AROUND SO THE JURY CAN IDENTIFY YOU, AND
3 LET'S SEE IF ANY OF THEM ARE ACQUAINTED WITH YOU.

4 LADIES AND GENTLEMEN, THIS IS MR.
5 DARRYL KEITH LOUIS.

6 THANK YOU, MR. LOUIS, YOU MAY BE
7 SEATED.

8 IS ANY MEMBER OF THE JURY PANEL
9 RELATED BY BLOOD, CONNECTED BY MARRIAGE, CLOSE PERSONAL
10 FRIEND, HAVE ANY KNOWLEDGE OR ACQUAINTANCE WITH MR.
11 LOUIS? IF YOU KNOW MR. LOUIS IN ANY CAPACITY WHATSOEVER
12 WOULD YOU PLEASE STAND.

13 (Negative response from jury panel.)

14 THE COURT: MR. LOUIS IS REPRESENTED
15 BY MS. RENEE GATERS.

16 MS. GATERS, WOULD YOU STAND AND FACE
17 THE JURY, PLEASE.

18 THIS IS MS. RENEE GATERS. THANK
19 YOU, MA'AM.

20 MS. GATERS IS AN ATTORNEY, SHE
21 PRACTICES HERE IN CHARLESTON AND ALSO HAS AN OFFICE IN
22 SUMMERVILLE -- SUMMERTON, SUMMERTON, ACROSS THE LAKE
23 OVER THERE IN CLARENDON COUNTY. IS ANY MEMBER OF THE
24 JURY PANEL RELATED BY BLOOD, CONNECTED BY MARRIAGE,
25 CLOSE PERSONAL FRIEND, HAVE ANY KNOWLEDGE OR

1 ACQUAINTANCE WITH MS. GATERS, OR IF YOU ARE NOW OR HAVE
2 EVER BEEN REPRESENTED BY HER WOULD YOU PLEASE STAND?

3 (Negative response from jury panel.)

4 THE COURT: LADIES AND GENTLEMEN,
5 THIS CASE IS BEING PROSECUTED BY MR. NATHAN WILLIAMS, OF
6 THE SOLICITOR'S OFFICE.

7 MR. WILLIAMS IS STANDING BEFORE YOU
8 AT THIS TIME. THANK YOU, SIR.

9 ANY MEMBER OF THE JURY PANEL RELATED
10 BY BLOOD, CONNECTED BY MARRIAGE, CLOSE PERSONAL FRIEND,
11 HAVE ANY KNOWLEDGE OR ACQUAINTANCE WITH MR. WILLIAMS, OR
12 IF YOU'RE ACQUAINTED WITH ANY OTHER MEMBERS OF THE
13 SOLICITOR'S OFFICE, EITHER LEGAL OR NON-LEGAL STAFF,
14 WOULD YOU PLEASE STAND AT THIS TIME.

15 (Negative response from jury panel.)

16 THE COURT: LADIES AND GENTLEMEN,
17 I'M GOING TO READ YOU THE NAMES OF SOME PEOPLE WHO MAY
18 TESTIFY AS WITNESSES IN THIS CASE, THEY MAY OR MAY NOT
19 TESTIFY, I'M SURE AS TO HOW THINGS MOVE FORWARD, BUT
20 THEY OBVIOUSLY HAVE SOME KNOWLEDGE ABOUT THIS CASE.
21 MOST OF THEM ARE NOT HERE IN THE COURTROOM. IF THEY ARE
22 PRESENT IN THE COURTROOM I WOULD ASK THAT THEY STAND
23 WHEN I CALL THEIR NAME. IF YOU KNOW ANY OF THESE
24 WITNESSES IN ANY CAPACITY WHATSOEVER, I WOULD ASK THAT
25 YOU STAND WHEN I CALL THEIR NAME. PLEASE DO NOT WAIT

1 UNTIL I HAVE FINISHED, IT'S A PRETTY GOOD LIST, SO
2 PLEASE, WHEN I CALL THEIR NAME IF YOU THINK YOU MIGHT
3 RECOGNIZE THAT PERSON WOULD YOU PLEASE STAND. FIRST,
4 MS. AMANDA WALKER, WHO LIVES ON KING CHARLES COURT IN
5 CHARLESTON. MATT DERMANOSKI, LIVES ON MEPKING ROAD,
6 CHARLESTON. DANIEL KILLORAN, ORVID STREET, CHARLESTON.
7 BRAD JONES, DAVENPORT DRIVE, CHARLESTON. DANA
8 ZELKOVITZ, CANNER STREET, CHARLESTON. CLAUD SYKES,
9 STEFAN AVENUE OR STREET IN CHARLESTON. ROBERT EMERY,
10 ELESAN DRIVE IN CHARLESTON. EDGAR DICKSON, SEMINOLE
11 STREET IN MT. PLEASANT. CLEVELAND HOLMES, HARRIS STREET
12 IN CHARLESTON. JOHN REAVES, ASHLEY RIVER ROAD IN
13 CHARLESTON. CURTIS BURNES, WOODLEAF COURT IN
14 CHARLESTON. AND THE FOLLOWING MEMBERS OF THE CHARLESTON
15 POLICE DEPARTMENT, LADIES AND GENTLEMEN, OFFICER
16 BROADWATER, OFFICER R. CHARLES, DETECTIVE COOPER,
17 DETECTIVE FLEMING, DETECTIVE OSBORNE, WHO'S STANDING
18 BEFORE YOU AT THIS TIME. THANK YOU, SIR. AND SERGEANT
19 HULL.

20 (Negative response from jury panel.)

21 THE COURT: LADIES AND GENTLEMEN,
22 DOES ANY MEMBER OF THE JURY PANEL HAVE A CLOSE FAMILY
23 MEMBER OR PERSONAL FRIEND WHO IS PRESENTLY OR FORMERLY
24 INCARCERATED AT ANY STATE PENITENTIARY? IF SO, WOULD
25 YOU PLEASE STAND.

1 (Affirmative response from jury panel.)

2 THE COURT: YOUR NAME, PLEASE, AND
3 NUMBER?

4 JUROR WIGFALL: JUROR TWO NINETY-TWO,
5 MY NAME IS CORENDA WIGFALL.

6 THE COURT: YES, MA'AM, AND WAS IT
7 SOME FRIEND OF YOURS?

8 JUROR WIGFALL: IT'S MY STEP SON,
9 HE'S CURRENTLY IN PRISON.

10 THE COURT: HE'S CURRENTLY THERE,
11 WOULD THAT HAVE ANY EFFECT ON YOUR ABILITY TO BE A FAIR
12 AND IMPARTIAL JUROR IN THIS CASE?

13 JUROR WIGFALL: NO, SIR.

14 THE COURT: THANK YOU, MA'AM, YOU'RE
15 QUALIFIED TO SERVE.

16 YES, SIR?

17 JUROR MOORE: YES, SIR, MY BROTHER
18 WAS IN JAIL, HE'S OUT NOW.

19 THE COURT: ALRIGHT, SIR, AND YOUR
20 NAME AND NUMBER?

21 JUROR MOORE: MY NAME IS ANDRE
22 MOORE, MY NUMBER IS ONE EIGHTY-THREE.

23 THE COURT: IS HE STILL
24 INCARCERATED?

25 JUROR MOORE: NO.

1 THE COURT: WOULD THE FACT THAT HE
2 HAS BEEN, WOULD THAT AFFECT YOUR ABILITY TO BE A FAIR
3 AND IMPARTIAL JUROR IN THIS CASE?

4 JUROR MOORE: NO, SIR.

5 THE COURT: THANK YOU, SIR, YOU ARE
6 QUALIFIED.

7 YES, SIR?

8 JUROR WHITE: I'VE GOT A FIRST
9 COUSIN, TIMOTHY WHITE, WHO'S IN PRISON.

10 THE COURT: ALRIGHT, SIR, AND YOUR
11 NAME, PLEASE?

12 JUROR WHITE: MORRIS WHITE, TWO
13 NINETY-ONE.

14 THE COURT: AND WOULD THAT FACT
15 AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR?

16 JUROR WHITE: NO, SIR.

17 THE COURT: THANK YOU, SIR, YOU'RE
18 QUALIFIED TO SERVE.

19 YES, MA'AM?

20 JUROR WESLEY: FAITH WESLEY.

21 THE COURT: YOUR NAME AND NUMBER?

22 JUROR WESLEY: I'M THREE TWENTY.

23 THE COURT: ALRIGHT, IS IT A FRIEND
24 OR A RELATIVE?

25 JUROR WESLEY: I HAVE A SON, THEN I

1 HAVE MY BOY FRIEND.

2 THE COURT: ALRIGHT, AND WOULD THAT
3 FACT AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL
4 JUROR FOR BOTH THE STATE AND THE DEFENSE IN THIS CASE?

5 JUROR WESLEY: YES, IT WOULD.

6 THE COURT: IT WOULD. ALRIGHT, I'LL
7 EXCUSE YOU FROM SERVING ON THIS CASE BUT YOU'LL NEED TO
8 REMAIN WITH US FOR RIGHT NOW.

9 JUROR WESLEY: THANK YOU.

10 THE COURT: ALRIGHT. YOU WILL NOT
11 HAVE TO STAND UP ON ANY OTHER QUESTIONS, THOUGH.

12 ANYONE ELSE?

13 (Negative response from jury panel.)

14 THE COURT: LADIES AND GENTLEMEN,
15 DOES ANY MEMBER OF THE JURY PANEL HAVE A FAMILY MEMBER
16 OR A CLOSE PERSONAL FRIEND WHO WAS, OR IS BEING
17 PROSECUTED BY THE NINTH CIRCUIT SOLICITOR'S OFFICE?
18 THAT'S THE PROSECUTOR FOR CHARLESTON AND BERKELEY
19 COUNTIES. IF YOU HAVE A CLOSE FAMILY MEMBER OF A FRIEND
20 WHO IS BEING PROSECUTED, OR WAS PROSECUTED IN THE PAST
21 BY THIS OFFICE WOULD YOU PLEASE STAND.

22 (Negative response from jury panel.)

23 THE COURT: HAS ANY MEMBER OF THE
24 JURY PANEL HAD SUCH AN UNPLEASANT EXPERIENCE WITH ANY
25 LAW ENFORCEMENT OFFICER OR POLICE OFFICER THAT IT WOULD

1 PREJUDICE YOUR ABILITY TO SERVE AS A FAIR AND IMPARTIAL
2 JUROR IN THIS CASE? IF SO, WOULD YOU PLEASE STAND.

3 (Negative response from jury panel.)

4 THE COURT: DOES ANY MEMBER OF THE
5 JURY PANEL HAVE SUCH STRONG RELIGIOUS OR PERSONAL
6 BELIEFS THAT WOULD PROHIBIT YOU FROM SITTING ON A JURY
7 OF THIS NATURE? IF SO, WOULD YOU PLEASE STAND.

8 (Negative response from jury panel.)

9 THE COURT: HAS ANY MEMBER OF THE
10 JURY PANEL OR A CLOSE FAMILY MEMBER EVER BEEN, PRESENTLY
11 OR IN THE PAST, EMPLOYED BY ANY LAW ENFORCEMENT AGENCY,
12 AND THAT WOULD BE COUNTY SHERIFF, POLICE DEPARTMENT,
13 FBI, OR ANY TYPE OF LAW ENFORCEMENT AGENCY? IF SO,
14 WOULD YOU PLEASE STAND.

15 (Affirmative response from jury panel.)

16 THE COURT: ALRIGHT, SIR, YOUR NAME
17 AND NUMBER, PLEASE?

18 JUROR QUINN: FREDERICK QUINN, MY
19 NUMBER IS THREE TWELVE, MY UNCLE IS A PROSECUTOR FOR THE
20 DNR.

21 THE COURT: ALRIGHT, AND WOULD THAT
22 FACT AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL
23 JUROR IN THIS CASE?

24 JUROR QUINN: NO, SIR.

25 THE COURT: DOES HE WORK IN

1 CHARLESTON COUNTY?

2 JUROR QUINN: NO, HE WORKS IN THE
3 COLUMBIA OFFICE.

4 THE COURT: ALRIGHT, THANK YOU, SIR.
5 YES, SIR, YOUR NAME AND NUMBER?

6 JUROR LONG: MY NAME IS SEAN LONG,
7 NUMBER ONE SIXTY-TWO.

8 THE COURT: YES, SIR.

9 JUROR LONG: AND I WAS WITH THE
10 RALEIGH POLICE DEPARTMENT.

11 THE COURT: ALRIGHT, AND WOULD THAT
12 FACT AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL
13 JUROR?

14 JUROR LONG: NO.

15 THE COURT: THANK YOU, SIR.
16 YES, SIR?

17 JUROR BEDINGFIELD: MY NAME IS
18 CHARLES BEDINGFIELD, THREE O FOUR, I HAVE TWO EX-
19 BROTHER-IN-LAWS THAT ARE POLICE OFFICERS, ONE SISTER'S
20 FIANCE` THAT'S A DETECTIVE, MY SISTER WAS A PROBATION
21 OFFICER, MY BROTHER WAS WITH A.L.E., ALL NORTH CAROLINA.

22 THE COURT: ALL IN NORTH CAROLINA?

23 JUROR BEDINGFIELD: NORTH CAROLINA.

24 THE COURT: WOULD ANY OF THOSE
25 FACTORS AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL

1 JUROR?

2 JUROR BEDINGFIELD: NO.

3 THE COURT: THANK YOU, SIR.

4 HAS ANY MEMBER OF THE JURY PANEL NOW
5 OR FORMERLY EVER CONTRIBUTED TO ANY GROUP WHICH HAS AS
6 IT'S PRINCIPAL GOAL THE ENFORCEMENT OF VICTIM'S RIGHTS
7 OR LAW ENFORCEMENT AGENCIES, ORGANIZATIONS SUCH AS
8 MOTHERS AGAINST DRUNK DRIVING, PEOPLE AGAINST RAGE,
9 CITIZENS ADVOCATING DECENCY AND RETURN TO ETHICS, OR
10 CADRE, PARENTS EMPOWERED TO SAVE TEENS, CAVE, CITIZENS
11 AGAINST VIOLENT CRIME, OR ANY OTHER SUCH ORGANIZATION?
12 IF YOU'VE EVER BEEN A MEMBER OF OR CONTRIBUTED TO, WOULD
13 YOU PLEASE STAND.

14 (Affirmative response from jury panel.)

15 THE COURT: YES, MA'AM, YOUR NAME
16 AND NUMBER?

17 JUROR WILLIAMS: CHRISTINE WILLIAMS,
18 NUMBER THREE TWENTY-ONE. I WAS A MEMBER OF MADD.

19 THE COURT: ALRIGHT, WOULD THAT FACT
20 AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR IN
21 THIS CASE?

22 JUROR WILLIAMS: NO.

23 THE COURT: THANK YOU, MA'AM.

24 IS THERE ANY MEMBER OF THE JURY
25 PANEL THAT HAS BEEN A VICTIM OF A SERIOUS CRIME WITHIN

1 THE PAST FIVE YEARS? IF SO, WOULD YOU PLEASE STAND, OR
2 IF YOU'VE HAD A CLOSE FAMILY MEMBER OR RELATIVE THE
3 VICTIM OF SERIOUS CRIME WOULD YOU PLEASE STAND.

4 (Affirmative response from jury panel.)

5 THE COURT: YES, SIR, YOUR NAME AND
6 NUMBER.

7 JUROR VINCENT: ED VINCENT, TWO
8 SEVENTY-NINE.

9 THE COURT: AND WAS IT YOU OR
10 SOMEONE ELSE?

11 JUROR VINCENT: IT WAS MY SON.

12 THE COURT: AND IS THAT MATTER STILL
13 PENDING?

14 JUROR VINCENT: NO, SIR.

15 THE COURT: IT'S RESOLVED. WOULD
16 THAT FACT AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL
17 JUROR IN THIS CASE?

18 JUROR VINCENT: NO, SIR.

19 THE COURT: THANK YOU, SIR.

20 YES, SIR?

21 JUROR VALUBELLE: CHARLES VALUBELLE,
22 THREE O FOUR, I DON'T KNOW IF THIS IS A SERIOUS CRIME,
23 BUT I'M PERSONALLY A VICTIM OF THEFT, PERSONAL
24 IDENTIFICATION, NOT IDENTITY THEFT, BUT ACTUALLY A
25 WALLET, USE OF A CREDIT CARD, APRIL EIGHTH OF THIS YEAR,

1 IT'S AN ONGOING INVESTIGATION IN CONCORD, NORTH
2 CAROLINA.

3 THE COURT: AND WOULD THAT AFFECT
4 YOUR ABILITY TO BE A FAIR AND IMPARTIAL JUROR?

5 JUROR VALUBELLE: NO, SIR.

6 THE COURT: THANK YOU, SIR, YOU'RE
7 QUALIFIED TO SERVE.

8 DOES ANY MEMBER OF THE JURY PANEL
9 OWN A BUSINESS SUCH AS A STORE OR ANY OTHER RETAIL
10 BUSINESS? IF SO, WOULD YOU PLEASE STAND.

11 (Affirmative response from jury panel.)

12 THE COURT: YES, MA'AM, YOUR NAME
13 AND NUMBER?

14 JUROR WALTERS: I AM MARTHA WALTERS.

15 THE COURT: DID YOU SAY, WILSON?

16 JUROR WALTERS: WALTERS.

17 THE COURT: WALTERS. AND WAS IT YOU
18 OR - - -

19 JUROR WALTERS: I OWN A BUSINESS.

20 THE COURT: ALRIGHT, AND HAVE - - -

21 JUROR WALTERS: TWO EIGHTY-THREE,
22 EXCUSE ME.

23 THE COURT: MA'AM?

24 JUROR WALTERS: NUMBER TWO EIGHTY-
25 THREE.

1 THE COURT: ALRIGHT. WOULD THE FACT
2 THAT YOU OWN A BUSINESS AND THIS WAS A BUSINESS THAT WAS
3 ROBBED, WOULD THAT HAVE ANY EFFECT ON YOUR ABILITY TO BE
4 A FAIR AND IMPARTIAL JUROR IN THIS CASE?

5 JUROR WALTERS: NO, SIR.

6 THE COURT: THANK YOU, MA'AM.

7 I THINK I MIGHT HAVE COVERED THIS,
8 BUT IF YOU OR A CLOSE MEMBER OF YOUR FAMILY HAS EVER
9 BEEN A VICTIM OF ANY TYPE OF ROBBERY, WOULD YOU PLEASE
10 STAND?

11 (Affirmative response from jury panel.)

12 JUROR NELSON: CLAY NELSON.

13 THE COURT: ALRIGHT, AND THAT WAS
14 YOUR SON?

15 JUROR NELSON: YES, SIR.

16 THE COURT: ALRIGHT, THANK YOU, SIR.
17 YES, MA'AM.

18 JUROR SMITH: MEGHAN SMITH, TWO
19 SIXTY-ONE. MY HOUSE GOT ROBBED ONE TIME.

20 THE COURT: ALRIGHT, AND WOULD THAT
21 FACT AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL
22 JUROR IN THIS CASE?

23 JUROR SMITH: NO, SIR.

24 THE COURT: ALRIGHT, THANK YOU,
25 MA'AM.

1 YES, MA'AM, YOUR NAME AND NUMBER?

2 JUROR PELT: JENNIFER PELT, TWO
3 FOURTEEN, AND I WAS ROBBED TWICE ABOUT TEN YEARS AGO,
4 BOTH IN COLLEGE.

5 THE COURT: ALRIGHT, AND WOULD THOSE
6 FACTS AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL
7 JUROR?

8 JUROR PELT: NO, SIR.

9 THE COURT: THANK YOU, MA'AM.
10 STAND UP IF YOU WANT TO BE HEARD,
11 PLEASE.

12 JUROR WATSON: MY SON WAS ROBBED.

13 CLERK: NAME AND NUMBER?

14 THE COURT: ALRIGHT, SIR.

15 JUROR WATSON: JAMES WATSON.

16 THE COURT: WATSON?

17 JUROR WATSON: MY SON WAS INVOLVED
18 IN A SERIOUS CRIME BUT IT WAS RESOLVED.

19 THE COURT: ALRIGHT, AND WOULD THAT
20 FACT AFFECT YOUR ABILITY TO BE A FAIR AND IMPARTIAL
21 JUROR?

22 JUROR WATSON: NO.

23 THE COURT: THANK YOU, SIR.

24 IS THERE ANY MEMBER OF THE JURY
25 PANEL EMPLOYED, OR A CLOSE MEMBER OF YOUR FAMILY

1 EMPLOYED IN A RETAIL BUSINESS? IF SO, WOULD YOU PLEASE
2 STAND.

3 (Negative response from jury panel.)

4 THE COURT: HAS ANY MEMBER OF THE
5 JURY PANEL EVER DINED AT THE EIGHTY-TWO QUEEN STREET
6 RESTAURANT? IF SO, WOULD YOU PLEASE STAND?

7 (Affirmative response from jury panel.)

8 THE COURT: DO YOU WANT ME TO CALL
9 THEIR NAMES AND NUMBERS?

10 MS. GATERS: I THINK IT WOULD BE
11 APPROPRIATE.

12 THE COURT: ALRIGHT, I'LL DO THAT,
13 I'LL JUST ASK YOU TO GIVE ME YOUR NAME AND NUMBER AND
14 TELL ME WHETHER THAT WOULD AFFECT YOUR ABILITY TO BE A
15 FAIR AND IMPARTIAL JUROR.

16 YES, SIR, WE'LL START RIGHT ON THE
17 FRONT ROW.

18 JUROR KEATING: MICHAEL KEATING, ONE
19 THIRTY-FIVE, NO, IT SHOULDN'T BE A PROBLEM.

20 THE COURT: ALRIGHT, THANK YOU, SIR.

21 JUROR MEGGETT: ASHLEY MEGGETT, ONE
22 SEVENTY-TWO, AND NO, IT WOULD NOT.

23 THE COURT: THANK YOU, MA'AM.

24 JUROR HACKNEY: DENISE HACKNEY, ONE
25 O SIX, NO, SIR, IT WOULD NOT.

1 THE COURT: THANK YOU, MA'AM.

2 JUROR STEMPLE: TWO SIXTY-NINE, MARY
3 JO STEMPLE, NO.

4 THE COURT: THANK YOU, MA'AM.

5 JUROR VINCENT: TWO SEVENTY-NINE, ED
6 VINCENT, YEARS AGO, IT WOULDN'T AFFECT ME.

7 THE COURT: THANK YOU.

8 JUROR WALTERS: MARTHA WALTERS, TWO
9 EIGHTY-THREE, NO, IT WOULD NOT.

10 THE COURT: THANK YOU, MA'AM.

11 JUROR MCKEEHAN: NANCY MCKEEHAN, ONE
12 SEVENTY, AND NO, IT WOULD NOT.

13 THE COURT: THANK YOU, MA'AM.

14 JUROR EDWARDS: TYLER EDWARDS,
15 NUMBER SEVENTY-EIGHT, NO, IT WOULD NOT.

16 THE COURT: THANK YOU, SIR.

17 JUROR QUINN: RICHARD QUINN, THREE
18 TWELVE, NO.

19 THE COURT: THANK YOU, SIR.

20 YES, MA'AM?

21 JUROR WILLIAMS: CYNTHIA WILLIAMS,
22 THREE TWENTY-ONE, NO, IT WOULD NOT.

23 THE COURT: THANK YOU, MA'AM.

24 JUROR VALUBELLE: CHARLES VALUBELLE,
25 THREE O FOUR, NO.

1 THE COURT: YES, SIR?

2 JUROR ANDERSON: CHARLES ANDERSON,
3 THREE ZERO TWO, NO.

4 THE COURT: THANK YOU, SIR.

5 JUROR BEACH: KLEIN BEACH, NUMBER
6 SIXTEEN, YEAH, JOE SPIGNER, THE OWNER, IS A VERY GOOD
7 FRIEND OF MINE, AND I USED TO SERVE ON THE RESTAURANT
8 COMMITTEE WITHIN EIGHT YEARS AGO, SO, I CONSIDER HIM A
9 FRIEND.

10 THE COURT: ALRIGHT, SIR, AND YOU
11 WOULD NOT BE COMFORTABLE SERVING?

12 JUROR BEACH: NO.

13 THE COURT: I UNDERSTAND, I EXCUSE
14 YOU FROM THIS CASE, BUT REMAIN WITH US FOR RIGHT NOW.

15 JUROR BEACH: YES, SIR.

16 THE COURT: I'M SORRY, WE DIDN'T GET
17 YOUR NUMBER, SIR.

18 JUROR BEACH: ME? SIXTEEN.

19 THE COURT: SIXTEEN.

20 YES, SIR?

21 JUROR MOORE: ANDRE MOORE, ONE
22 EIGHTY-THREE, NO, SIR.

23 THE COURT: THANK YOU, SIR.

24 JUROR PELT: JENNIFER PELT, TWO
25 FOURTEEN, AND NO.

1 THE COURT: THANK YOU, MA'AM.

2 LADIES AND GENTLEMEN, I DON'T KNOW
3 WHETHER THERE WAS ANY INFORMATION ABOUT THIS ROBBERY IN
4 THE NEWSPAPER WHEN IT OCCURRED OR AT SOMETIME SINCE THAT
5 TIME, IT CERTAINLY COULD HAVE BEEN. IF YOU HAVE ANY
6 INFORMATION ABOUT THIS CASE FROM ANY SOURCE WHATSOEVER,
7 WHETHER IT WOULD HAVE BEEN NEWSPAPER ARTICLES, T.V.,
8 RADIO AT THE TIME IT HAPPENED OR SOMETIME SUBSEQUENT TO
9 THAT, IF YOU HEARD SOMEBODY TALKING ABOUT IT AT THE
10 BEAUTY SHOP OR THE BARBER SHOP OR CHURCH OR ANYWHERE
11 ELSE, AT THE GROCERY STORE, AND YOU MIGHT HAVE BEEN A
12 CUSTOMER THERE THAT NIGHT FOR ALL I KNOW, BUT IF YOU
13 KNOW ANYTHING ABOUT THIS ROBBERY, OR ALLEGED ROBBERY
14 FROM ANY SOURCE WHATSOEVER WOULD YOU PLEASE STAND?

15 (Affirmative response from jury panel.)

16 THE COURT: ALRIGHT, YES, MA'AM,
17 YOUR NAME AND NUMBER?

18 JUROR STEMPLER: TWO SIXTY-NINE, MARY
19 JO STEMPLER. I THINK I REMEMBER READING SOMETHING ABOUT
20 THIS IN THE NEWSPAPER.

21 THE COURT: ALRIGHT. DID YOU FORM
22 ANY OPINION ABOUT THE CASE?

23 JUROR STEMPLER: NO, IT JUST KEPT ON
24 MY MIND BECAUSE IT WAS THE EIGHTY-TWO QUEEN STREET
25 RESTAURANT.

1 THE COURT: CAN YOU PUT ASIDE
2 WHATEVER YOU HEARD IN THE NEWSPAPER AND MAKE A DECISION
3 BASED SOLELY ON WHAT YOU HEAR IN THIS COURTROOM?

4 JUROR STEMPLE: I THINK SO.

5 THE COURT: ALRIGHT, THANK YOU,
6 MA'AM, YOU'RE QUALIFIED TO SERVE.

7 YES, MA'AM, YOUR NAME AND NUMBER?

8 JUROR WIGFALL: CORENDA WIGFALL,
9 TWO NINETY-TWO, AND I ALSO READ IT IN THE PAPER, SIR.

10 THE COURT: ALRIGHT. AND DID YOU
11 FORM ANY OPINION ABOUT THE CASE?

12 JUROR WIGFALL: NO, SIR.

13 THE COURT: CAN YOU PUT ASIDE WHAT
14 YOU REMEMBER AND BASE YOUR DECISION SOLELY ON WHAT YOU
15 HEAR IN THIS COURTROOM?

16 JUROR WIGFALL: YES, SIR, I CAN.

17 THE COURT: THANK YOU, MA'AM, YOU'RE
18 QUALIFIED.

19 YES, SIR.

20 JUROR ANDERSON: THREE ZERO TWO,
21 CHARLES ANDERSON, I, TOO, READ ABOUT IT IN THE
22 NEWSPAPER.

23 THE COURT: ALRIGHT, SIR, AND HAVE
24 YOU FORMED ANY OPINION ABOUT IT?

25 JUROR ANDERSON: NO, SIR.

1 THE COURT: CAN YOU MAKE YOUR
2 DECISION BASED SOLELY ON WHAT YOU HEAR IN THIS
3 COURTROOM?

4 JUROR ANDERSON: YES, SIR.

5 THE COURT: THANK YOU, SIR, YOU'RE
6 QUALIFIED TO SERVE ALSO.

7 HAS ANY MEMBER OF THE JURY PANEL
8 EVER SERVED ON A JURY PANEL PREVIOUS TO THIS WEEK? IF
9 SO, WOULD YOU PLEASE STAND.

10 (Affirmative response from jury panel.)

11 THE COURT: ALRIGHT, I JUST NEED
12 YOUR NAME AND NUMBER AND TELL ME IF THERE WAS ANYTHING
13 ABOUT THAT EXPERIENCE THAT WOULD AFFECT YOUR ABILITY TO
14 BE A FAIR AND IMPARTIAL JUROR IN THIS CASE.

15 YES, MA'AM?

16 JUROR MCKEEHAN: NANCY MCKEEHAN, ONE
17 SEVENTY, AND NO, THERE WASN'T.

18 THE COURT: THANK YOU, MA'AM.

19 JUROR SWAIN: DIANE SWAIN, TWO
20 SEVENTY-TWO, NO.

21 THE COURT: THANK YOU, MA'AM.

22 JUROR VINCENT: ED VINCENT, TWO
23 SEVENTY-NINE, NOTHING.

24 THE COURT: THANK YOU, SIR.

25 JUROR WILLIAMS: CYNTHIA WILLIAMS,

1 THREE TWENTY-ONE, NO, SIR.

2 THE COURT: THANK YOU, MA'AM.

3 JUROR ANDERSON: CHARLES ANDERSON,
4 THREE ZERO TWO, NO, SIR.

5 THE COURT: ALRIGHT. LADIES AND
6 GENTLEMEN, IS THERE ANYTHING PARTICULAR ABOUT THE NATURE
7 OF THE CRIME, THE ARMED ROBBERY ITSELF, THAT WOULD MAKE
8 IT DIFFICULT FOR YOU TO SERVE AS A FAIR AND IMPARTIAL
9 JUROR? IF SO, WOULD YOU PLEASE STAND.

10 (Negative response from jury panel.)

11 THE COURT: IS THERE ANY MEMBER OF
12 THE JURY PANEL THAT NEEDS TO COME FORWARD AND ANSWER ANY
13 OF THE QUESTIONS THAT I'VE PREVIOUSLY ASKED OR IF YOU
14 KNOW OF ANY OTHER REASON THAT MIGHT AFFECT YOUR ABILITY
15 TO BE A FAIR AND IMPARTIAL JUROR, FOR BOTH THE DEFENDANT
16 AND THE STATE IN THIS CASE? IF SO, WOULD YOU PLEASE
17 COME FORWARD AND SHARE THAT WITH ME AT THIS TIME.

18 (Affirmative response from jury panel.)

19 THE COURT: YES, MA'AM, COME ON UP.

20 (Whereupon, the following bench conference is
21 had with the Juror, Court and Counsel,
22 out of the hearing of the jury panel.)

23 JUROR: WILL THIS CASE LAST MORE
24 THAN THIS WEEK?

25 THE COURT: SHE WANTED TO KNOW IF IT

1 WOULD TAKE MORE THAN THIS WEEK. I SAID, NO. OKAY.

2 (Whereupon, the following takes
3 place in the hearing of all the
4 jury panel.)

5 THE COURT: ANYONE ELSE?

6 (Negative response from jury panel.)

7 THE COURT: ANYTHING ELSE FROM THE
8 STATE?

9 SOLICITOR WILLIAMS: NO, YOUR HONOR.

10 THE COURT: FROM THE DEFENSE?

11 MS. GATERS: NOTHING FURTHER FROM
12 THE DEFENSE, YOUR HONOR.

13 THE COURT: DO YOU WISH YOUR VOIR
14 DIRE TO BE MADE A COPY OF THE COURT'S RECORD?

15 MS. GATERS: ABSOLUTELY, YOUR HONOR,
16 A COURT'S EXHIBIT.

17 THE COURT: THAT WOULD BE COURT'S
18 EXHIBIT ONE.

19 (Court's Exhibit One
20 marked and filed.)

21 THE COURT: ALRIGHT, LADIES AND
22 GENTLEMEN, UNDER OUR SYSTEM BOTH THE STATE AND THE
23 DEFENSE HAS A RIGHT TO EXCUSE A CERTAIN NUMBER OF PEOPLE
24 FROM SERVING ON THIS JURY, AND THEY DO THAT FOR ANY
25 REASON THAT COMES INTO THEIR HEAD. THEY DO NOT HAVE TO

1 GIVE ANY REASON FOR EXERCISING ONE OF THEIR STRIKES, AS
2 WE CALL IT, OR EXCUSING YOU FROM SERVING ON THE JURY.
3 AND SO, IN JUST A MINUTE THE CLERK WHO HAS ALL OF YOUR
4 NAMES IN THOSE CAPSULES IN THIS BOX, IS GOING TO CALL
5 THE NAMES OUT ONE AT A TIME, AND I WANT YOU TO COME
6 FORWARD, PLEASE. JUST COME UP TO THAT PODIUM, AND JUST
7 LIKE YOU WERE GOING TO ADDRESS THE COURT, BUT TURN
8 AROUND AND LOOK BACK AT THE DOOR. DON'T BOLT FOR IT,
9 BECAUSE THEY'LL STOP YOU BACK THERE. BUT JUST TURN
10 AROUND AND LOOK AT THE DOOR SO THE LAWYERS GET ONE LAST
11 LOOK AT YOU, AND THEN YOU'LL EITHER BE SEATED IN THE
12 JURY BOX OR YOU'LL BE EXCUSED AND YOU CAN HAVE YOUR
13 SEAT. SO, IF YOU HAVE A COAT OR A HAT OR SOMETHING WITH
14 YOU, OR AN UMBRELLA OR A BOOK, BRING THAT WITH YOU WHEN
15 YOU COME UP BECAUSE YOU MAY BE GOING TO SIT IN THE JURY
16 BOX.

17 IS THE STATE READY TO STRIKE?

18 SOLICITOR WILLIAMS: YES, YOUR
19 HONOR.

20 THE COURT: IS DEFENSE READY?

21 MS. GATERS: DEFENSE IS READY, YOUR
22 HONOR.

23 THE COURT: THE STRIKES WILL BE FIVE
24 AND TEN?

25 SOLICITOR WILLIAMS: YES, SIR.

1 MS. GATERS: THAT'S CORRECT.

2 THE COURT: ALRIGHT, MR. CLERK, YOU
3 MAY PROCEED WHEN YOU ARE READY.

4 CLERK: YES, SIR, YOUR HONOR.

5 JUROR NUMBER THREE ELEVEN, SARA
6 POUCH.

7 THE COURT: YOU'LL BE OUR FIRST
8 EXAMPLE. NOBODY'S GOING TO HURT YOU, I PROMISE.

9 CLERK: WHAT SAY YOU FOR THE STATE?

10 SOLICITOR WILLIAMS: PLEASE PRESENT
11 THE JUROR.

12 CLERK: WHAT SAY YOU FOR THE
13 DEFENSE?

14 MS. GATERS: PLEASE SEAT THE JUROR.

15 CLERK: MA'AM, YOU'VE BEEN SELECTED
16 FOR THE TRIAL OF THIS CASE. IF YOU WOULD, PLEASE HAVE
17 A SEAT IN OUR JURY BOX.

18 THE COURT: THAT WASN'T SO BAD, WAS
19 IT?

20 JUROR POUCH: NO.

21 CLERK: JUROR NUMBER ONE SIXTY-TWO,
22 SEAN LONG. WHAT SAY YOU FOR THE STATE?

23 SOLICITOR WILLIAMS: PLEASE PRESENT
24 THE JUROR.

25 CLERK: WHAT SAY YOU FOR THE

1 DEFENDANT?

2 MS. GATERS: PLEASE SEAT THE JUROR.

3 CLERK: SIR, YOU'VE BEEN SELECTED
4 FOR THE TRIAL OF THIS CASE. PLEASE HAVE A SEAT IN THE
5 JURY BOX.

6 JUROR NUMBER TWO EIGHTY-THREE,
7 MARTHA WALTERS. WHAT SAY YOU FOR THE STATE?

8 SOLICITOR WILLIAMS: PLEASE PRESENT
9 THE JUROR.

10 CLERK: WHAT SAY YOU FOR THE
11 DEFENDANT?

12 MS. GATERS: PLEASE SEAT THE JUROR.

13 CLERK: MA'AM, YOU'RE SELECTED FOR
14 THE TRIAL OF THIS CASE. PLEASE HAVE A SEAT IN THE JURY
15 BOX.

16 JUROR NUMBER ONE SEVENTY-ONE,
17 CHRISTOPHER MCRAE. WHAT SAY YOU FOR THE STATE?

18 SOLICITOR WILLIAMS: PLEASE EXCUSE
19 THE JUROR.

20 CLERK: SIR, YOU'VE BEEN EXCUSED
21 FROM THE TRIAL OF THIS CASE. PLEASE HAVE A SEAT BACK IN
22 THE AUDIENCE.

23 JUROR NUMBER TWO O FOUR, ROBERT
24 OLLERHEAD. WHAT SAY YOU FOR THE STATE?

25 SOLICITOR WILLIAMS: PLEASE PRESENT

1 THE JUROR.

2 CLERK: WHAT SAY YOU FOR THE
3 DEFENDANT?

4 MS. GATERS: PLEASE EXCUSE THE
5 JUROR.

6 CLERK: SIR, YOU'VE BEEN EXCUSED
7 FROM THE TRIAL OF THIS CASE. PLEASE HAVE A SEAT BACK IN
8 THE AUDIENCE.

9 JUROR NUMBER SEVENTY-EIGHT, TYLER
10 EDWARDS.

11 THE COURT: WHAT NUMBER WAS THAT?

12 CLERK: SEVENTY-EIGHT, YOUR HONOR.
13 WHAT SAY YOU FOR THE STATE?

14 SOLICITOR WILLIAMS: PLEASE PRESENT
15 THE JUROR.

16 CLERK: WHAT SAY YOU FOR THE
17 DEFENDANT?

18 MS. GATERS: PLEASE SEAT THE JUROR.

19 CLERK: SIR, YOU'VE BEEN SELECTED
20 FOR THE TRIAL OF THIS CASE. PLEASE HAVE A SEAT IN THE
21 JURY BOX.

22 JUROR NUMBER FORTY-SEVEN,
23 CHRISTOPHER CAUDELL. WHAT SAY YOU FOR THE STATE?

24 SOLICITOR WILLIAMS: PLEASE PRESENT
25 THE JUROR.

1 CLERK: WHAT SAY YOU FOR THE
2 DEFENDANT?

3 MS. GATERS: PLEASE SEAT THE JUROR.

4 CLERK: SIR, YOU'VE BEEN SELECTED
5 FOR THE TRIAL OF THIS CASE. PLEASE HAVE A SEAT IN THE
6 JURY BOX.

7 CLERK: JUROR NUMBER TWO FORTY-
8 SEVEN, CHRISTINE SEABROOK. WHAT SAY YOU FOR THE STATE?

9 SOLICITOR WILLIAMS: PLEASE PRESENT
10 THE JUROR.

11 CLERK: WHAT SAY YOU FOR THE
12 DEFENDANT?

13 MS. GATERS: PLEASE SEAT THE JUROR.

14 CLERK: MA'AM, YOU'VE BEEN SELECTED
15 FOR THE TRIAL OF THIS CASE. PLEASE HAVE A SEAT IN THE
16 JURY BOX.

17 JUROR NUMBER THREE O EIGHT, ANDREA
18 ROBERTS. WHAT SAY YOU FOR THE STATE?

19 SOLICITOR WILLIAMS: PLEASE PRESENT
20 THE JUROR.

21 CLERK: WHAT SAY YOU FOR THE
22 DEFENDANT?

23 MS. GATERS: PLEASE EXCUSE THE
24 JUROR.

25 CLERK: MA'AM, YOU'VE BEEN EXCUSED

1 FROM THE TRIAL OF THIS CASE. PLEASE HAVE A SEAT BACK IN
2 THE AUDIENCE.

3 JUROR NUMBER THIRTY-SEVEN, TERESA
4 BROWN. WHAT SAY YOU FOR THE STATE?

5 SOLICITOR WILLIAMS: PLEASE PRESENT
6 THE JUROR.

7 CLERK: WHAT SAY YOU FOR THE
8 DEFENDANT?

9 MS. GATERS: PLEASE SEAT THE JUROR.

10 CLERK: MA'AM, YOU'VE BEEN SELECTED
11 FOR THE TRIAL OF THIS CASE. PLEASE HAVE A SEAT IN THE
12 JURY BOX.

13 JUROR NUMBER TWO O SEVEN, RONALD
14 PADGETT, II. WHAT SAY YOU FOR THE STATE?

15 SOLICITOR WILLIAMS: PLEASE EXCUSE
16 THE JUROR.

17 CLERK: SIR, YOU'VE BEEN EXCUSED
18 FROM THE TRIAL OF THIS CASE. PLEASE HAVE A SEAT BACK IN
19 THE AUDIENCE.

20 JUROR NUMBER SEVENTY-SIX, ELOISE
21 EADY. WHAT SAY YOU FOR THE STATE?

22 SOLICITOR WILLIAMS: PLEASE EXCUSE
23 THE JUROR.

24 CLERK: MA'AM, YOU'VE BEEN EXCUSED
25 FROM THE TRIAL OF THIS CASE. IF YOU WOULD, PLEASE HAVE

1 A SEAT BACK IN THE AUDIENCE.

2 JUROR NUMBER EIGHTY, ANASTASIA
3 EMELIANOFF. WHAT SAY YOU FOR THE STATE?

4 SOLICITOR WILLIAMS: PLEASE PRESENT
5 THE JUROR.

6 CLERK: WHAT SAY YOU FOR THE
7 DEFENDANT?

8 MS. GATERS: PLEASE SEAT THE JUROR.

9 CLERK: MA'AM, YOU'VE BEEN SELECTED
10 FOR THE TRIAL OF THIS CASE. PLEASE HAVE A SEAT IN THE
11 JURY BOX.

12 JUROR NUMBER TWO SEVENTY-TWO, DIANE
13 SWAIN.

14 MS. GATERS: WHAT WAS THAT NUMBER?

15 CLERK: TWO SEVENTY-TWO.

16 MS. GATERS: THANK YOU, SIR.

17 CLERK: YOU'RE WELCOME.

18 WHAT SAY YOU FOR THE STATE?

19 SOLICITOR WILLIAMS: PLEASE PRESENT
20 THE JUROR.

21 CLERK: WHAT SAY YOU FOR THE
22 DEFENDANT?

23 MS. GATERS: PLEASE SEAT THE JUROR.

24 CLERK: MA'AM, YOU'VE BEEN SELECTED
25 FOR THE TRIAL OF THIS CASE. PLEASE HAVE A SEAT IN THE

1 JURY BOX.

2 JUROR NUMBER TWO FOURTEEN, JENNIFER
3 PELT. WHAT SAY YOU FOR THE STATE?

4 SOLICITOR WILLIAMS: PLEASE PRESENT
5 THE JUROR.

6 CLERK: WHAT SAY YOU FOR THE
7 DEFENDANT?

8 MS. GATERS: PLEASE EXCUSE THE
9 JUROR.

10 CLERK: MA'AM, YOU'RE EXCUSED FROM
11 THE TRIAL OF THIS CASE. PLEASE HAVE A SEAT BACK IN THE
12 AUDIENCE.

13 JUROR NUMBER FOUR, JERRY ALLEN.
14 WHAT SAY YOU FOR THE STATE?

15 SOLICITOR WILLIAMS: PLEASE PRESENT
16 THE JUROR.

17 CLERK: WHAT SAY YOU FOR THE
18 DEFENDANT?

19 MS. GATERS: PLEASE SEAT THE JUROR.

20 CLERK: MA'AM, YOU'VE BEEN SELECTED
21 FOR THE TRIAL OF THIS CASE. PLEASE HAVE A SEAT IN THE
22 JURY BOX.

23 JUROR NUMBER TWO SIXTY-NINE, MARY
24 STEMPLE. WHAT SAY YOU FOR THE STATE?

25 SOLICITOR WILLIAMS: PLEASE PRESENT

1 THE JUROR.

2 CLERK: WHAT SAY YOU FOR THE
3 DEFENDANT?

4 MS. GATERS: PLEASE EXCUSE THE
5 JUROR.

6 CLERK: MA'AM, YOU'VE BEEN EXCUSED
7 FROM THE TRIAL OF THIS CASE. PLEASE HAVE A SEAT BACK IN
8 THE AUDIENCE.

9 JUROR NUMBER ONE SEVENTY, NANCY
10 MCKEEHAN. WHAT SAY YOU FOR THE STATE?

11 SOLICITOR WILLIAMS: PLEASE PRESENT
12 THE JUROR.

13 CLERK: WHAT SAY YOU FOR THE
14 DEFENDANT?

15 MS. GATERS: PLEASE EXCUSE THE
16 JUROR.

17 CLERK: MA'AM, YOU'VE BEEN EXCUSED
18 FROM THE TRIAL OF THIS CASE. PLEASE HAVE A SEAT BACK IN
19 THE AUDIENCE.

20 JUROR NUMBER EIGHTY-ONE, LANA
21 EUBANKS. WHAT SAY YOU FOR THE STATE?

22 SOLICITOR WILLIAMS: PLEASE PRESENT
23 THE JUROR.

24 CLERK: WHAT SAY YOU FOR THE
25 DEFENDANT?

1 MS. GATERS: PLEASE EXCUSE THE JUROR.

2 CLERK: MA'AM, YOU'VE BEEN EXCUSED
3 FROM THE TRIAL OF THIS CASE. PLEASE HAVE A SEAT BACK IN
4 THE AUDIENCE.

5 JUROR NUMBER EIGHTY-ONE, LANA
6 EUBANKS. WHAT SAY YOU FOR THE STATE?

7 SOLICITOR WILLIAMS: PLEASE PRESENT
8 THE JUROR.

9 CLERK: WHAT SAY YOU FOR THE
10 DEFENDANT?

11 MS. GATERS: PLEASE EXCUSE THE
12 JUROR.

13 CLERK: MA'AM, YOU'VE BEEN EXCUSED
14 FROM THE TRIAL OF THIS CASE. PLEASE HAVE A SEAT BACK IN
15 THE AUDIENCE.

16 JUROR NUMBER THREE O SEVEN, LACY
17 HILT. WHAT SAY YOU FOR THE STATE?

18 SOLICITOR WILLIAMS: PLEASE PRESENT
19 THE JUROR.

20 CLERK: WHAT SAY YOU FOR THE
21 DEFENDANT?

22 MS. GATERS: PLEASE EXCUSE THE
23 JUROR.

24 CLERK: MA'AM, YOU'VE BEEN EXCUSED
25 FROM THE TRIAL OF THIS CASE. PLEASE HAVE A SEAT BACK IN

1 THE AUDIENCE.

2 JUROR NUMBER ONE SEVENTY-SIX,
3 RICHARD MINER. WHAT SAY YOU FOR THE STATE?

4 SOLICITOR WILLIAMS: PLEASE PRESENT
5 THE JUROR.

6 CLERK: WHAT SAY YOU FOR THE
7 DEFENDANT?

8 MS. GATERS: PLEASE EXCUSE THE JUROR.

9 CLERK: SIR, YOU'VE BEEN EXCUSED
10 FROM THE TRIAL OF THIS CASE. PLEASE HAVE A SEAT BACK IN
11 THE AUDIENCE.

12 THE COURT: WE HAVE THREE AND EIGHT.

13 SOLICITOR WILLIAMS: THAT'S CORRECT,
14 YOUR HONOR.

15 CLERK: JUROR NUMBER TWENTY-EIGHT,
16 GREGORY BOEVIN. WHAT SAY YOU FOR THE STATE?

17 SOLICITOR WILLIAMS: PLEASE PRESENT
18 THE JUROR.

19 CLERK: WHAT SAY YOU FOR THE
20 DEFENDANT?

21 MS. GATERS: PLEASE SEAT THE JUROR.

22 CLERK: SIR, YOU'VE BEEN -- PLEASE
23 HAVE A SEAT IN THE JURY BOX, YOU'VE BEEN SELECTED FOR
24 THE TRIAL OF THIS CASE.

25 JUROR NUMBER ONE O SIX, DENISE

1 HACKNEY. WHAT SAY YOU FOR THE STATE?

2 SOLICITOR WILLIAMS: PLEASE PRESENT
3 THE JUROR.

4 CLERK: WHAT SAY YOU FOR THE
5 DEFENDANT?

6 MS. GATERS: PLEASE EXCUSE THE
7 JUROR.

8 CLERK: MA'AM, YOU'VE BEEN EXCUSED
9 FROM THE TRIAL OF THIS CASE. PLEASE HAVE A SEAT BACK IN
10 THE AUDIENCE.

11 DEFENDANT HAS ONE STRIKE REMAINING.
12 JUROR NUMBER EIGHTY-EIGHT, ULAS
13 FOSTER, JUNIOR. WHAT SAY YOU FOR THE STATE?

14 SOLICITOR WILLIAMS: PLEASE PRESENT
15 THE JUROR.

16 CLERK: WHAT SAY YOU FOR THE
17 DEFENDANT?

18 MS. GATERS: PLEASE SEAT THE JUROR.

19 CLERK: SIR, YOU'VE BEEN SELECTED
20 FOR THE TRIAL OF THIS CASE. PLEASE HAVE A SEAT IN THE
21 JURY BOX.

22 YOUR HONOR, WE HAVE OUR TWELVE
23 JURORS.

24 THE COURT: GIVES US TWO ALTERNATES
25 PLEASE, AND THE STRIKES WILL BE ONE AND TWO AS TO EACH.

1 CLERK: YES, SIR. JUROR NUMBER TWO
2 SIXTY-ONE, MEGHAN SMITH. WHAT SAY YOU FOR THE STATE?

3 SOLICITOR WILLIAMS: PLEASE PRESENT
4 THE JUROR.

5 CLERK: WHAT SAY YOU FOR THE
6 DEFENDANT?

7 MS. GATERS: PLEASE EXCUSE THE JUROR.

8 CLERK: MA'AM, YOU'VE BEEN EXCUSED
9 FROM THE TRIAL OF THIS CASE. PLEASE HAVE A SEAT BACK IN
10 THE AUDIENCE.

11 JUROR NUMBER TWO NINETY-TWO, CORENDA
12 WIGFALL. WHAT SAY YOU FOR THE STATE?

13 SOLICITOR WILLIAMS: PLEASE EXCUSE
14 THE JUROR.

15 CLERK: MA'AM, YOU'VE BEEN EXCUSED
16 FROM THE TRIAL OF THIS CASE. IF YOU WOULD PLEASE HAVE
17 A SEAT BACK IN THE AUDIENCE.

18 JUROR NUMBER TWO SEVENTY-NINE,
19 CHARLES VINCENT, THE THIRD. ANY CHALLENGE FROM THE
20 STATE?

21 SOLICITOR WILLIAMS: NO CHALLENGE.

22 CLERK: WHAT SAY YOU FOR THE
23 DEFENDANT?

24 MS. GATERS: NO CHALLENGE. PLEASE
25 SEAT THE JUROR.

1 CLERK: SIR, YOU'VE BEEN SELECTED
2 FOR THE TRIAL OF THIS CASE. IF YOU WOULD PLEASE HAVE A
3 SEAT IN THE JURY BOX.

4 JUROR NUMBER TWO EIGHTY-SEVEN, JAMES
5 WATSON. WHAT SAY YOU FOR THE STATE?

6 SOLICITOR WILLIAMS: PLEASE PRESENT
7 THE JUROR.

8 CLERK: WHAT SAY YOU FOR THE
9 DEFENDANT?

10 MS. GATERS: PLEASE EXCUSE THE
11 JUROR.

12 CLERK: SIR, YOU'VE BEEN EXCUSED FROM
13 THE TRIAL OF THIS CASE. PLEASE HAVE A SEAT BACK IN THE
14 AUDIENCE.

15 JUROR NUMBER ONE SEVENTY-TWO, ASHLEY
16 MEGGETT. WHAT SAY YOU FOR THE STATE?

17 SOLICITOR WILLIAMS: PLEASE PRESENT
18 THE JUROR.

19 CLERK: WHAT SAY YOU FOR THE
20 DEFENDANT?

21 MS. GATERS: PLEASE SEAT THE JUROR.

22 CLERK: MA'AM, YOU'VE BEEN SELECTED
23 FOR THE TRIAL OF THIS CASE. PLEASE HAVE A SEAT IN THE
24 JURY BOX.

25 YOUR HONOR, THE JURY HAS BEEN

1 SELECTED.

2 THE COURT: THANK YOU, SIR.

3 ANY MATTERS REGARDING JURY SELECTION
4 FROM THE STATE?

5 SOLICITOR WILLIAMS: NONE, YOUR
6 HONOR.

7 THE COURT: FROM THE DEFENSE?

8 MS. GATERS: NONE, YOUR HONOR.

9 THE COURT: ALRIGHT, LADIES AND
10 GENTLEMEN WHO WERE NOT SELECTED ON THIS JURY, I'M SORRY
11 BUT YOU'LL GET ANOTHER CHANCE.

12 DO THEY NEED TO CALL IN?

13 CLERK: AFTER SIX TONIGHT, YOUR
14 HONOR.

15 THE COURT: CALL IN, YOU SHOULD HAVE
16 A CALL IN NUMBER. PLEASE CALL IN AFTER SIX O'CLOCK THIS
17 AFTERNOON AND FOLLOW WHATEVER INSTRUCTIONS YOU FIND. IT
18 MIGHT TELL YOU TO COME BACK IN THE MORNING, IT MIGHT
19 TELL YOU TO CALL BACK, OR WHATEVER, I DON'T KNOW. WE
20 WON'T KNOW UNTIL WE'VE FINISHED AND THE OTHER JUDGE IS
21 FINISHED. IF YOU WOULD LIKE TO REMAIN IN THE COURTROOM
22 YOU'RE WELCOME TO DO THAT, WE'LL BE GLAD TO HAVE YOU
23 STAY AND OBSERVE WHAT'S GOING ON. WE HAVE A FEW LEGAL
24 MATTERS WE'RE GOING TO TAKE UP AND THEN WE'RE GOING TO
25 PROBABLY START THE TRIAL OF THIS CASE, I'M NOT QUITE

1 SURE, BUT WE'LL HAVE SOME MATTERS GOING ON PRETTY
2 QUICKLY. BUT YOU'RE FREE TO LEAVE NOW IF YOU WOULD LIKE
3 TO.

4 WOULD THE LAWYERS APPROACH THE
5 BENCH?

6 (Whereupon, a bench conference
7 is held out of the hearing of
8 the jury and court reporter.)

9 THE COURT: LADIES AND GENTLEMEN, WE
10 HAVE SOME LEGAL MATTERS WE NEED TO TAKE UP IN THIS CASE.
11 THERE'S NO REASON, -- BUT WE CAN DO THE OPENINGS, RIGHT,
12 AND SWEAR THE JURY?

13 SOLICITOR WILLIAMS: YES, YOUR
14 HONOR.

15 THE COURT: ALRIGHT. LADIES AND
16 GENTLEMEN, IF YOU WOULD STAND AT THIS TIME, PLEASE, AND
17 THE CLERK WILL ADMINISTER TO YOU THE JUROR'S OATH.
18 PLEASE STAND AND RAISE YOUR RIGHT HAND.

19 ALRIGHT, MR. CLERK.
20 (Whereupon, the jurors are
21 duly sworn and impaneled.)

22 CLERK: PLEASE BE SEATED.

23 THE COURT: LADIES AND GENTLEMEN, I
24 DON'T KNOW IF ANY OF YOU HAVE EVER SERVED ON A JURY
25 BEFORE. I KNOW YOU'RE ALL SOMEWHAT EXPERTS IN T.V., I

1 MEAN, COURT ON T.V. WELL, IT DOESN'T HAVE MUCH
2 RELATIONSHIP WITH WHAT GOES ON IN THE COURTROOM, AND
3 THESE SHOWS THEY PUT ON THEY ALL WRITE THEM AND THEY
4 KNOW WHEN THEY START WRITING THEM WHAT THE ENDING'S
5 GOING TO BE. WE DON'T KNOW THAT IN THE COURTROOM, THIS
6 IS THE REAL THING.

7 AS I TOLD YOU EARLIER, THE STATE HAS
8 THE BURDEN OF PROOF IN THIS CASE. THE DEFENDANT DOES
9 NOT HAVE TO TESTIFY, HE DOES NOT HAVE TO OFFER ANY
10 WITNESSES, HE HAS NOTHING TO PROVE WHATSOEVER. THE
11 STATE HAS TO PUT UP EVIDENCE TO CONVINCE YOU BEYOND A
12 REASONABLE DOUBT THAT THE DEFENDANT IS GUILTY. AND I'LL
13 TELL YOU MORE ABOUT THAT LATER ON.

14 BECAUSE THE STATE HAS THE BURDEN
15 THEY GO FIRST. AND THE FIRST THING THAT WE WILL DO IS
16 HAVE THE OPENING STATEMENTS, AND THEY'LL BE RELATIVELY
17 BRIEF. THE ATTORNEYS WILL TELL YOU WHAT THEY THINK THE
18 EVIDENCE IS GOING TO SHOW IN THE CASE SO YOU'LL HAVE A
19 KIND OF AN IDEA OF HOW THE CASE IS GOING TO PROCEED.
20 IT'S KIND OF LIKE A ROAD MAP FOR THE CASE.

21 ONCE YOU HEAR THE OPENING
22 STATEMENTS, AND WE'RE PROBABLY GOING TO DO THAT TODAY
23 AND THEN RECESS AS FAR AS YOU'RE CONCERNED, THEN WE'LL,
24 THE STATE WILL PUT UP ITS CASE, THEY'LL CALL WITNESSES
25 TO TESTIFY. THEY PROBABLY HAVE A NUMBER OF WITNESSES

1 AND A NUMBER OF EXHIBITS THAT THEY MIGHT INTRODUCE IN
2 THE TRIAL OF THIS CASE. ONCE THEY'VE PUT UP THEIR
3 TESTIMONY AND EVIDENCE THE DEFENDANT HAS AN OPPORTUNITY
4 TO DO THE SAME THING, BUT AS I TOLD YOU, HE DOES NOT
5 HAVE TO TESTIFY OR OFFER ANY WITNESSES. BUT IF HE
6 CHOOSES TO DO SO HE WOULD DO THAT AFTER THE STATE
7 FINISHES PUTTING UP THEIR CASE.

8 THEN AFTER YOU'VE HEARD ALL OF THE
9 EVIDENCE IN THE CASE THE ATTORNEYS WILL COME BACK TO YOU
10 AND THEY WILL MAKE THEIR CLOSING ARGUMENTS, AND THEY
11 WILL TRY TO PERSUADE YOU TO SEE THE FACTS IN THIS CASE
12 IN FAVOR OF THEIR RESPECTIVE POSITIONS IN THIS CASE.
13 YOU ARE THE JUDGES OF THE FACTS, WHICH MEANS YOU
14 DETERMINE THE TRUTH, YOU DETERMINE WHAT ACTUALLY
15 HAPPENED IN THIS CASE. I'M THE JUDGE OF THE LAW. THAT
16 MEANS I PRESIDE IN THE COURTROOM, I RULE ON EVIDENTIARY
17 MATTERS, OR OBJECTIONS THAT MIGHT BE MADE, AND
18 OCCASIONALLY I MIGHT HAVE TO ASK YOU TO STEP OUT TO YOUR
19 JURY ROOM IF IT'S A LEGAL MATTER THAT I NEED TO TAKE
20 CARE OF, WHICH REALLY DOESN'T CONCERN YOU, I MIGHT ASK
21 YOU TO STEP OUT TO THE JURY ROOM WHILE I DEAL WITH THAT
22 MATTER.

23 ONCE YOU'VE HEARD ALL OF THE
24 TESTIMONY AND ALL OF THE EVIDENCE IN THE CASE AND THE
25 CLOSING ARGUMENTS I WILL CHARGE YOU ON THE LAW. I WILL

1 TELL YOU WHAT THE LAW IS IN SOUTH CAROLINA THAT MIGHT
2 APPLY TO THIS CASE, DEPENDING UPON WHAT YOU FIND THE
3 FACTS TO BE IN THIS CASE. AND THEN YOU'LL BEGIN YOUR
4 DELIBERATIONS.

5 NOW, AS I'VE TOLD YOU SEVERAL TIMES,
6 YOU MUST MAKE YOUR DECISION IN THIS CASE BASED SOLELY ON
7 THE TESTIMONY AND THE EVIDENCE THAT YOU HEAR IN THIS
8 COURTROOM. YOU SHOULD NOT BE INFLUENCED BY ANYTHING
9 OUTSIDE OF THIS COURTROOM AT ALL. THE LAW ALSO REQUIRES
10 THAT YOU MUST CONSIDER EVERYTHING THAT YOU HEAR IN THIS
11 COURTROOM, THAT IS FROM THE FIRST OPENING STATEMENT TO
12 THE LAST CLOSING ARGUMENT, THE FIRST WITNESS TO THE LAST
13 WITNESS, AND MY INSTRUCTIONS TO YOU ON THE LAW WHICH
14 WILL BE THE LAST THING THAT YOU'VE HEARD. AND UNTIL YOU
15 HAVE ALL OF THAT INFORMATION YOU'RE NOT IN A POSITION TO
16 START MAKING UP YOUR MIND IN THE CASE. AND SO, I'LL ASK
17 YOU NOT TO TALK ABOUT THE CASE. IF YOU TALK ABOUT THE
18 CASE YOU'LL START FORMING AN OPINION ABOUT THE CASE,
19 YOU'LL START MAKING UP YOUR MIND ABOUT THE CASE AFTER
20 YOU'VE HEARD ONE OR TWO WITNESSES AND IT MIGHT BE HARD
21 FOR YOU TO CHANGE YOUR MIND LATER ON IF OTHER WITNESSES
22 TESTIFY DIFFERENTLY. IF YOU GO HOME AND START TALKING
23 ABOUT THE CASE, IF I WENT HOME AND TOLD MY WIFE WHAT I
24 WAS TRYING SHE'D IMMEDIATELY HAVE AN OPINION ABOUT THE
25 CASE, I PROMISE YOU. AND SO, YOU DON'T TALK ABOUT IT

1 WITH ANYBODY. IF YOU GO TO LUNCH AMONG YOURSELVES YOU
2 DON'T DISCUSS IT, AND IF YOU GO HOME TONIGHT YOU DON'T
3 DISCUSS IT, YOU JUST SAY, I'M SITTING ON THE JURY, THE
4 JUDGE SAID WE COULD NOT DISCUSS IT UNTIL THIS CASE IS
5 OVER, BECAUSE SOMEBODY ELSE MIGHT SAY, OH, I KNOW ALL
6 ABOUT THAT CASE, LET ME TELL YOU ABOUT IT. AND THAT
7 WOULD BE INFORMATION YOU'VE LEARNED ABOUT THE CASE
8 OUTSIDE OF THIS COURTROOM, THAT WOULD DISQUALIFY YOU
9 FROM SERVING ON THIS JURY. SO, WE JUST PREVENT THAT
10 FROM HAPPENING BY NOT TALKING ABOUT THE CASE WITH
11 ANYBODY ELSE UNTIL YOU BEGIN YOUR DELIBERATIONS PROBABLY
12 SOMETIME TOMORROW, IT MAY BE THE NEXT MORNING, I DON'T
13 KNOW. WE'RE NOT GOING TO WASTE ANY TIME BUT WE'RE NOT
14 GOING TO RUSH THINGS EITHER.

15 SO, PLEASE GIVE THE ATTORNEYS YOUR
16 ATTENTION AT THIS TIME AS THEY ADDRESS YOU AT THIS TIME,
17 FIRST, ATTORNEY FOR THE STATE, AND THEN FOR THE DEFENSE,
18 AND THEN WE'LL PROBABLY SEND YOU HOME AND ASK YOU TO
19 COME BACK IN THE MORNING.

20 ALRIGHT, MR. WILLIAMS, YOU MAY
21 PROCEED.

22 SOLICITOR WILLIAMS: THANK YOU, YOUR
23 HONOR, MAY IT PLEASE THE COURT.

24 THE COURT: YOU WANT ME TO EXCUSE
25 THE DETECTIVES?

1 MS. GATERS: YES, YOUR HONOR.

2 THE COURT: WE'LL SEE YOU IN THE
3 MORNING. IS HE THE CASE OFFICER?

4 SOLICITOR WILLIAMS: I TOLD HIM HE
5 NEEDED TO BE HERE. I'M FINE.

6 OPENING STATEMENT BY SOLICITOR WILLIAMS

7 THIS IS A CASE ABOUT TAKING, ABOUT
8 FOUR MEN WORKING TOGETHER AND TAKING. BACK IN TWO
9 THOUSAND SIX THEY ROBBED EIGHTY-TWO QUEEN, AND THEY
10 TOOK. THEY TOOK PROPERTY, THEY TOOK CELL PHONES, THEY
11 TOOK MONEY, THEY TOOK WALLETS. BUT THEY TOOK A LOT MORE
12 THAN THAT FROM THE EMPLOYEES THAT WERE WORKING AT
13 EIGHTY-TWO QUEEN, THEY LOST MORE THAN JUST MONEY, THEY
14 LOST MORE THAN JUST THEIR WALLETS, THEY LOST THEIR SENSE
15 OF SECURITY, THEIR SENSE OF SAFETY. THEY LOST, THEY HAD
16 TAKEN FROM THEM THE RIGHT TO DO THEIR JOB WITHOUT HAVING
17 TO WORRY ABOUT GUNS BEING STUCK IN THEIR FACE, ABOUT
18 GUNS BEING STUCK IN THEIR MOUTHS, WITHOUT HAVING TO LAY
19 DOWN IN THE FLOOR AT GUN POINT AND BE ROBBED. THIS
20 DEFENDANT, DARRYL LOUIS, WAS RIGHT IN THE MIDDLE OF THAT
21 ARMED ROBBERY. THIS DEFENDANT WAS THE ONE STICKING GUNS
22 IN PEOPLE'S MOUTHS, AND TAKING MONEY. AND WHAT YOU'RE
23 GOING TO HEAR IN THIS CASE IS ABOUT THOSE FOUR CO-
24 DEFENDANTS. YOU'RE GOING TO HEAR HOW THEY GOT TOGETHER
25 AND DECIDED THAT THEY WERE JUST GOING TO DO AN ARMED

1 ROBBERY, THREE OF THEM HAD DRESSED FOR IT, THEY HAD
2 MASKS THAT COVERED PART OF THEIR FACE, AND THERE WAS A
3 FOURTH ONE INVOLVED THAT KIND OF GOT IN AT THE LAST
4 MINUTED. AND THEY PLANNED IT. ONE OF THE CO-DEFENDANTS,
5 JOHN REAVES, HE USED TO WORK AT EIGHTY-TWO QUEEN, AND
6 HE KNEW WHERE THEY HAD THE MONEY. HE KNEW ABOUT WHAT
7 TIME THEY CLOSED UP, AND THOSE FOUR CO-DEFENDANTS, ONE
8 OF THEM BEING THIS DEFENDANT, ALL GOT TOGETHER AND THEY
9 PARKED FAR AWAY AND THEY CAME AROUND AND THEY WAITED
10 AROUND THE BACK OF THE EIGHTY-TWO QUEEN.

11 YOU'RE GOING TO SEE A BUNCH OF
12 PICTURES OF HOW THE PLACE IS LAID OUT, BUT IT'S A REAL
13 LONG BUILDING, IT'S GOT A BUNCH OF BUILDINGS ALL KIND OF
14 COBBLED TOGETHER. AND THEY WAITED AT THE BACK OF THE
15 RESTAURANT UNTIL THEY FELT LIKE THE COAST WAS PRETTY
16 MUCH CLEAR. AND AT FIRST THEY JUMPED OVER A WALL, CAME
17 INTO THE KITCHEN, AND THEY HAD GUNS, THEY HAD MASKS, AND
18 THEY GOT THE PEOPLE IN THE KITCHEN ALL ROUNDED UP, TOOK
19 THE PROPERTY OFF THEM. AND THEN THEY WENT TO THE
20 DISHWASHING ROOM AND TOOK SOME OF THE DISHWASHERS,
21 LOOKED FOR CASH IN THERE. THEY TOOK THEM AS WELL INTO
22 THE BAR AREA. IN THE BAR AREA ONE OF THE EMPLOYEES WAS
23 ACTUALLY COUNTING THE MONEY OUT, AND THEY TOOK ALL THOSE
24 EMPLOYEES AND PUT THEM ALL ON THE GROUND. ONE OF THE
25 EMPLOYEES, A CHEF THERE ACTUALLY, A BIGGER GUY, WILL

1 TESTIFY THAT HE STARTED TO FIGHT A LITTLE BIT, AND THEY
2 HIT HIM OVER THE HEAD WITH A GUN. THEY HELD ALL THOSE
3 PEOPLE THERE ON THE GROUND. A YOUNG MAN NAMED MR. SYKES
4 WAS BEHIND THE BAR, HE ACTUALLY REACHED AND TRIED TO HIT
5 A HAND BUTTON. HE WAS GRABBED, THROWN TO THE GROUND AND
6 A GUN WAS STUCK INSIDE OF HIS MOUTH. AND THEY TOOK
7 PROPERTY OFF OF PEOPLE, THEY TOOK THE CASH THAT WAS
8 BEHIND THE BAR. AND ONCE THEY'D TAKEN THAT MONEY, ONCE
9 THEY'D TAKEN ALL THAT PROPERTY, ONCE THERE WAS NOTHING
10 LEFT THERE TO TAKE, THEY LEFT OUT THE BACK THE SAME WAY
11 THEY CAME IN.

12 WHAT YOU'RE GOING TO HEAR IS, THERE
13 WASN'T ANY PHYSICAL EVIDENCE FOUND AT THAT POINT IN THIS
14 INVESTIGATION THAT LED DETECTIVES TO THESE DEFENDANTS.
15 IT WASN'T ANY FINGERPRINTS OR DNA IN THERE, THEY HAD
16 GLOVES ON. IT WASN'T A VIDEO CAMERA RUNNING. THE
17 PEOPLE THAT SAW THEM SAID THEY WERE WEARING MASKS, THEY
18 DIDN'T RECOGNIZE ANY OF THEIR FACES. WHAT YOU WILL HEAR
19 ABOUT, HOWEVER, IS THAT A THOROUGH AND EXHAUSTIVE
20 INVESTIGATION WAS DONE BY THE CHARLESTON POLICE
21 DEPARTMENT. YOU SEE, THE CASE DIDN'T END THERE, THEY
22 DIDN'T STOP AND SAY, NO, WE DON'T HAVE ANYTHING, RIGHT
23 AWAY. THEY WENT OUT AND THEY CANVASED AND THEY WORKED,
24 AND THEY KEPT WORKING. THEY FOLLOWED LEADS, THEY
25 STARTED TALKING WITH PEOPLE. AND EVENTUALLY, THROUGH

1 TALKING TO DIFFERENT PEOPLE THEY WERE LED TO A YOUNG MAN
2 NAMED CURTIS BURNS, AND A YOUNG MAN, NOT A YOUNG MAN, AN
3 OLDER MAN NAMED JOHN REAVES. AND THEY WERE TWO OF THE
4 PEOPLE INVOLVED IN THIS ROBBERY. LIKE I SAID, MR.
5 REAVES USED TO WORK THERE. AT FIRST THEY DIDN'T WANT TO
6 TELL THE POLICE WHAT HAD HAPPENED, BUT EVENTUALLY THEY
7 STARTED TALKING AND THEY TOLD THE POLICE WHAT HAPPENED.
8 AND YOU'LL HEAR THEM TESTIFY IN THIS CASE. AND I'LL
9 TELL YOU, THE WITNESSES A LOT OF THE TIME ARE KIND OF
10 LIKE FAMILY, YOU DON'T GET TO PICK WHO YOUR FAMILY IS,
11 AND I DON'T GET TO CHOOSE WHO THE WITNESSES ARE IN SOME
12 OF THESE CASES. I'M NOT PROUD OF PUTTING YOUNG PEOPLE
13 WHO ARE INVOLVED IN ROBBERIES, BUT I'LL TELL YOU RIGHT
14 NOW, THEY'RE GOING TO GET FIFTEEN TO THIRTY YEARS,
15 THEY'RE PLEADING GUILTY TO WHAT THEY DID, THEY'RE GOING
16 TO TAKE RESPONSIBILITY FOR IT. BUT I WANT YOU TO LISTEN
17 TO WHAT THEY SAY WHEN THEY TESTIFY IN THIS CASE. AND
18 YOU'RE GOING TO HEAR THAT THEY GAVE INFORMATION THAT HAD
19 DETAILS, INFORMATION THAT ONLY THE PEOPLE WHO DID IT
20 COULD KNOW AT A TIME BEFORE THEY HAD A CHANCE TO GET
21 THAT INFORMATION FROM OTHER PLACES. SO, YOU'RE NOT
22 GOING TO SEE VIDEO TAPE OF PEOPLE ROBBING A STORE,
23 YOU'RE NOT GOING TO SEE ANY FINGERPRINTS THAT TELLS YOU
24 WHO WAS THERE. YOU ARE GOING TO HEAR FROM TWO OF THE
25 PEOPLE WHO WERE RIGHT THERE COMMITTING THE CRIMES. AND

1 YOU'RE GOING TO SEE IN THIS CASE THAT THE STATEMENTS
2 THEY GAVE ARE CREDIBLE, THAT THE STATEMENTS THEY GAVE
3 WERE EARLY ON AND HAD DETAIL.

4 YOU'RE GOING TO HEAR FROM THOSE TWO
5 INDIVIDUALS, MR. BURNS AND MR. REAVES, YOU'RE GOING TO
6 HEAR FROM THE VICTIMS THAT WERE INSIDE THAT STORE.
7 YOU'RE GOING TO HEAR FROM THE DETECTIVES THAT DID THAT
8 INVESTIGATION.

9 AT THE END OF THIS CASE WHAT YOU'RE
10 GOING TO HEAR IS A CASE ABOUT TAKING, A LOT MORE THAN
11 JUST TAKING MONEY, A LOT MORE THAN JUST TAKING WALLETS,
12 TAKING SECURITY AND TAKING PEOPLE'S SENSE OF SAFETY,
13 TAKING PEOPLE'S RIGHT TO DO THEIR JOB WITHOUT HAVING A
14 GUN STUCK IN THEIR FACE.

15 AT THE END OF THIS CASE, AFTER
16 YOU'VE HEARD THAT EVIDENCE I'M GOING TO COME BACK AND
17 ASK YOU TO FIND THIS DEFENDANT GUILTY AND HOLD HIM
18 ACCOUNTABLE FOR THAT CRIME.

19 THE COURT: THANK YOU, SIR.

20 MS. GATERS.

21 MS. GATERS: MAY IT PLEASE THE
22 COURT, YOUR HONOR.

23 THE COURT: YES, MA'AM.

24 OPENING STATEMENT BY MS. GATERS

25 LADIES AND GENTLEMEN OF THE JURY, AS

1 YOU'VE PREVIOUSLY HEARD, MY NAME IS RENEE GATERS. I HAVE
2 THE PRIVILEGE AND THE PLEASURE OF REPRESENTING DARRYL K.
3 LOUIS. THERE'S NO QUESTION THAT DARRYL HAS BEEN ACCUSED
4 OF AND INDICTED ON FOUR COUNTS OF ARMED ROBBERY.

5 NOW, LET ME TELL YOU WHAT WE AGREE
6 WITH. EIGHTY-TWO QUEEN WAS ROBBED BY MASKED MEN, NO
7 QUESTION ABOUT THAT. WE WON'T TELL YOU ANYTHING
8 DIFFERENT FROM THAT. BUT WHAT WE ARE GOING TO TELL YOU
9 IS THAT ONE OF THOSE MASKED MEN WAS NOT DARRYL K. LOUIS.

10 NOW, THE STATE IS NOT GOING TO
11 PRESENT, AS THE SOLICITOR HAS SAID, ANY DNA TESTIMONY,
12 THEY'RE NOT GOING TO PRESENT FINGERPRINTS, I KNOW WE'RE
13 ALL INTO THIS NCIS WORLD NOW, THERE'S NOT GOING TO BE
14 ANY OF THAT. YOU'RE NOT GOING TO GET VIDEO, YOU'RE NOT
15 GOING TO GET THE VICTIMS TO SAY THAT DARRYL K. LOUIS
16 ROBBED THEM, NONE OF THAT. WHAT YOU ARE GOING TO GET IS
17 TWO PEOPLE WHO CUT A DEAL. AND YOU KNOW, HE TALKS ABOUT
18 THE FIFTEEN TO THIRTY YEARS. HE DIDN'T SAY ANYTHING
19 ABOUT WHAT THEY WERE REALLY LOOKING AT BEFORE THEY CUT
20 THOSE DEALS. SO, WHAT THEY DID IS, THEY CUT A DEAL, MR.
21 REAVES HAS ALREADY BEEN TO PRISON BEFORE, ACTUALLY BEEN
22 TO PRISON FOR A ROBBERY. SO, WHAT THEY DID WAS TO CUT
23 A DEAL, SAVE THEMSELVES, BOTH REAVES AND BURNS. AND
24 WHAT WE BELIEVE IS THEIR CREDIBILITY, THEIR
25 BELIEVABILITY IN THIS CASE IS TOTALLY TAINTED. LISTEN

1 TO THEM, LISTEN TO WHAT THEY'RE GOING TO TELL YOU.
2 LISTEN TO HOW THEY'RE GOING TO TELL YOU. LOOK AT THEM,
3 SEE WHETHER OR NOT YOU BELIEVE THEM, BECAUSE, YOU SEE,
4 I BELIEVE MR. WILLIAMS IS RIGHT, THIS CASE IS ABOUT
5 TAKING. THERE'S NO QUESTION IN MY MIND ABOUT THAT.
6 IT'S ABOUT TAKING THE FREEDOM OF A TWENTY-THREE YEAR OLD
7 MAN AND THROWING AWAY THE KEY. THAT'S WHAT IT'S ABOUT.
8 IT'S ABOUT HAVING NO REAL EVIDENCE AND JUST TWO PEOPLE,
9 JOHN, WHO THEY CALL MARK REEVES, AND CURTIS BURNS.
10 INTERESTINGLY ENOUGH, YOU CUT THE DEAL WITH MARK WHO
11 WORKED AT EIGHTY-TWO QUEEN, WHO KNEW WHERE EVERYTHING
12 WAS, WHO SET UP HIS FORMER EMPLOYER AND THE PEOPLE WHO
13 WORKED THERE. THAT'S WHAT HE DID. HE BROUGHT THEM
14 THERE, THAT'S WHAT HE DID.

15 WE BELIEVE THAT YOU WILL FIND A
16 VERDICT THAT SPEAKS THE TRUTH, A VERDICT THAT FINDS
17 DARRYL LOUIS NOT GUILTY, BECAUSE YOU SEE, THE STATE OF
18 SOUTH CAROLINA HAS TO PROVE THIS YOUNG MAN GUILTY BEYOND
19 A REASONABLE DOUBT. AND DOUBT, LADIES AND GENTLEMEN, IS
20 WRITTEN ALL OVER THIS CASE.

21 THANK YOU.

22 THE COURT: THANK YOU, MA'AM.

23 LADIES AND GENTLEMEN, AS I'VE SAID,
24 WE HAVE SOME MATTERS WE NEED TO TAKE UP BEFORE WE START
25 THE ACTUAL TRIAL IN THIS CASE, SO RATHER THAN KEEP YOU

1 HERE WAITING I'M GOING TO SEND YOU HOME AND LET YOU COME
2 BACK IN THE MORNING AT NINE:THIRTY. THE BAILIFF WILL
3 TAKE YOU OUT AND SHOW YOU THE JURY ROOM AND THE BAILIFF
4 WILL TELL YOU HOW TO GET TO THAT JURY ROOM WHEN YOU COME
5 BACK IN THE MORNING. I DON'T KNOW HOW YOU GET THERE BUT
6 HE'LL TELL YOU HOW YOU CAN GET THERE. YOU DON'T HAVE TO
7 COME THROUGH THE REGULAR CHANNELS, I DON'T THINK. BUT
8 WHEN YOU COME IN THE MORNING YOU COME STRAIGHT TO THAT
9 JURY ROOM. DON'T COME BACK IN THE COURTROOM BUT GO
10 STRAIGHT TO THAT JURY ROOM. AND PLEASE REMEMBER, DO NOT
11 DISCUSS THE CASE WITH ANYONE.

12 THANK YOU VERY MUCH, HAVE A GOOD
13 EVENING, AND WE'LL SEE YOU IN THE MORNING.

14 (Whereupon, the jury leaves
15 the courtroom for the day.)

16 THE COURT: ALRIGHT, ARE WE READY
17 FOR THE PRETRIAL MATTERS OR DO YOU WANT TO TAKE A FEW
18 MINUTES?

19 SOLICITOR WILLIAMS: JUDGE, I THINK
20 MY DETECTIVE ACTUALLY WHEN HE LEFT AND WENT OUT IN THE
21 HALL HE LEFT THE BUILDING. HE'S THE MOTION WITNESS.

22 THE COURT: I'M SORRY, I TOLD HIM,
23 I'LL SEE YOU IN THE MORNING, SO I'M PROBABLY
24 RESPONSIBLE. DO YOU WANT TO GET HIM BACK?

25 SOLICITOR WILLIAMS: I CAN CALL HIM,

1 JUDGE. I'VE GOT HIS CELL NUMBER HERE.

2 THE COURT: ALRIGHT, DO YOU WANT TO
3 TAKE A FEW MINUTES WHILE YOU TRY TO GET HIM?

4 SOLICITOR WILLIAMS: YES, THAT'S
5 FINE.

6 (Recess)

7 THE COURT: ALRIGHT.

8 MS. GATERS: THE FIRST MOTION I
9 BROUGHT TO THE COURT'S ATTENTION BEFORE WAS REGARDING
10 THE MOTION IN LIMINE. SHOULD THE CO-DEFENDANT, CURTIS
11 BURNS, TESTIFY, -- BURNS BEFORE HAS TAKEN A POLYGRAPH
12 EXAMINATION, AND DURING THAT POLYGRAPH EXAMINATION MR.
13 BURNS LIED WHILE TAKING IT, AND IT INDICATED THAT HE
14 SHOWED NO DECEPTION. AND IF WE WERE TO ALLOW HIM NOT TO
15 BE CROSS-EXAMINED ON HIS CREDIBILITY AND BELIEVABILITY
16 IT CERTAINLY PREJUDICES ANYTHING THAT WE COULD DO IN
17 DEFENSE OF MR. LOUIS.

18 NOW, I UNDERSTAND THAT THE STATE HAS
19 SAID IF I DO THAT THEY HAVE THE RIGHT TO REHABILITATE
20 HIM. I CERTAINLY DON'T HAVE A PROBLEM WITH THAT.
21 HOWEVER, YOUR HONOR, TO ALLOW THEM TO REHABILITATE AND
22 GO INTO OTHER ARMED ROBBERIES, THE PREJUDICIAL EFFECT OF
23 THAT OUTWEIGHS ANY PROBATIVE VALUE AS IT RELATES TO MY
24 CLIENT. SO, I THEN AM HINDERED, I'VE CLEARLY GOT A CO-
25 DEFENDANT WHO'S GOING TO TESTIFY AGAINST MY CLIENT, AND

1 HE'S GOING TO SAY THAT THIS MAN WAS WITH THEM. IF I
2 CAN'T CROSS-EXAMINE HIM ABOUT HIS CREDIBILITY AND
3 BELIEVABILITY WITHOUT WORRYING ABOUT A BUNCH OF OTHER
4 ARMED ROBBERIES COMING, MY HANDS ARE TIED. THERE'S NO
5 WAY I COULD LEGITIMATELY DEFEND MR. LOUIS, PROPERLY
6 CROSS-EXAMINE CURTIS BURNS. SO, I'M ASKING THE COURT IF
7 IN HIS REHABILITATION, THERE'S A NUMBER OF WAYS I'M SURE
8 THAT HE CAN DO IT OTHER THAN TALKING ABOUT OTHER ARMED
9 ROBBERIES.

10 THE COURT: ALRIGHT. MR. WILLIAMS?

11 SOLICITOR WILLIAMS: YOUR HONOR, I
12 THINK THERE ARE TWO WAYS TO GET THERE. ONE IS THE
13 POLYGRAPH ITSELF, AND WE DON'T THINK IT'S ADMISSIBLE.
14 I DON'T THINK BRINGING IN THE RESULTS OF IT OR EVEN THAT
15 HE TOOK IT, LET ALONE WHAT THE RESULTS WERE, IS
16 IMPORTANT, ESPECIALLY GIVEN THAT WHEN HE TOOK THAT
17 POLYGRAPH IT WAS WITH REGARDS TO A STATEMENT IN A
18 DIFFERENT CASE ALTOGETHER. BUT WHEN HE GAVE A STATEMENT
19 ABOUT A DOCTOR'S ROBBERY AND TOOK A POLYGRAPH REGARDING
20 THAT CASE, AND THEN LATER GAVE A STATEMENT ABOUT THE
21 QUEEN CASE, I DON'T THINK THAT THE POLYGRAPH NEEDS TO BE
22 MENTIONED AT ALL, ALTHOUGH I THINK MENTIONING IT MAY BE
23 OKAY WITHOUT GETTING INTO ITS RESULTS. I CERTAINLY THINK
24 THE RESULTS ARE EITHER HEARSAY OR JUST NOT RELEVANT. I
25 THINK IT'S PRETTY WELL ESTABLISHED THAT THE CREDIBILITY

1 OF A WITNESS CAN'T BE MEASURED BY A POLYGRAPH
2 EXAMINATION, AND WE CAN'T BRING THOSE RESULTS IN FOR
3 THAT VERY REASON.

4 AS FAR AS THE CREDIBILITY GOES, YOUR
5 HONOR, I THINK THAT MS. GATERS WILL MAKE IT NECESSARY IN
6 THIS CASE TO REHABILITATE MY WITNESSES. AND IF SHE'S
7 GOING TO GET UP AND SAY THAT THEY LIED, I AM CERTAINLY
8 JUSTIFIED IN GETTING UP AND SAYING WHAT THEY SAID THAT
9 WAS TRUE, TO BRING IN THEIR TRUTHFUL STATEMENTS TO SHOW
10 THIS JURY THAT ALTHOUGH THEY MAY HAVE -- I THINK THEY'LL
11 CONCEDE THAT THEY STARTED SAYING SOME THINGS THAT
12 WEREN'T TRUE BECAUSE THEY DIDN'T WANT TO GET IN TROUBLE,
13 BUT THAT THEY WERE TRUTHFUL. AND AFTER SHE ACCUSES THEM
14 OF THAT I THINK THAT THE JURY IN ORDER TO PROPERLY GAUGE
15 THEIR CREDIBILITY HAS TO LOOK AT THE NUMBER OF TIMES
16 THEY TOLD THE TRUTH, THE EXTENT TO WHICH THEY TOLD THE
17 TRUTH, AND MORE IMPORTANTLY THE DETAILS OF THOSE
18 STATEMENTS AND THE STATEMENTS, MORE IMPORTANTLY, THAT
19 SHOW, OR SUBJECT THEM TO PUNISHMENT. SO, CERTAINLY,
20 THEIR WILLINGNESS TO GO IN AND ADMIT TO OTHER ARMED
21 ROBBERIES AND TO GIVE DETAILS OF THOSE ARMED ROBBERIES
22 SHOULD CERTAINLY MAKE THEM MORE CREDIBLE. SO, I THINK
23 THAT MS. GATERS WILL CERTAINLY OPEN THAT DOOR. I DON'T
24 INTEND TO GET INTO THIS DEFENDANT'S INVOLVEMENT IN THOSE
25 PRIOR ARMED ROBBERIES IN MY CASE IN CHIEF. HOWEVER, I

1 DO INTEND, I THINK MS. GATERS HAS ALREADY STARTED
2 OPENING THAT DOOR TO GET INTO THE FACT THAT THEY'VE
3 ALREADY PLED GUILTY TO OTHER ARMED ROBBERIES, THAT THEY
4 WERE INVOLVED IN OTHER ARMED ROBBERIES, AND THEY GAVE
5 STATEMENTS OF OTHER ARMED ROBBERIES, BECAUSE OBVIOUSLY,
6 THE FIFTEEN TO THIRTY YEAR DEAL WOULD NOT BE ANY KIND OF
7 NEGOTIATION ON A SINGLE COUNT, AND THEY HAVE PLED
8 STRAIGHT UP, AND IT WOULDN'T BE A FIFTEEN TO THIRTY
9 RANGE. SO, SHE'S ALREADY STATED THAT THEY'VE GOTTEN
10 SOME KIND OF DEAL, AND I THINK THEY'RE GOING TO HAVE TO
11 TESTIFY THAT THEY WERE INVOLVED IN TWO OR THREE ARMED
12 ROBBERIES AND THAT THEY GAVE STATEMENTS ACCORDINGLY, GOT
13 THEMSELVES IN TROUBLE, AND I THINK WE CAN BRING THAT OUT
14 IN DIRECT. AND THEN THE DETAIL OF THIS DEFENDANT'S
15 INVOLVEMENT WOULD CERTAINLY BE THE TYPE OF DETAIL I
16 WOULD BRING OUT ON CROSS TO SHOW THAT THEY DIDN'T JUST
17 LIE, BUT GAVE CONSISTENT AND THOROUGHLY DETAILED
18 STATEMENTS.

19 MS. GATERS: WELL, ACTUALLY, YOUR
20 HONOR, I DIDN'T BRING IT OUT FIRST. HE OPENED, AND HE
21 OPENED BY SAYING THEY'RE GETTING DEALS OF FIFTEEN TO
22 THIRTY. I RESPONDED IN MY OPENING REGARDING THAT. IF
23 YOU WILL RECALL, WHEN HE DID HIS OPENING STATEMENT HE
24 SAID, THEY ADMITTED TO THEIR INVOLVEMENT, THEY'RE
25 GETTING FIFTEEN TO THIRTY YEARS. THAT CAME FROM THE

1 PROSECUTION.

2 NOW, I AM LEFT IN A SITUATION NOW
3 WHERE CREDIBILITY AND BELIEVABILITY HAS NOTHING TO DO
4 WITH THIS CASE, WHEN IN FACT, IT HAS EVERYTHING TO DO
5 WITH THIS CASE.

6 THE COURT: WELL, THE FALSE
7 STATEMENT THAT HE GAVE ON THE POLYGRAPH WHICH THE
8 POLYGRAPH OPERATOR THOUGHT WAS TRUE DID NOT INVOLVE THIS
9 CASE?

10 MS. GATERS: NO, IT INVOLVED ANOTHER
11 CASE, ANOTHER ARMED ROBBERY.

12 THE COURT: SO, YOU WANT PERMISSION
13 TO QUESTION HIM ABOUT THAT, BUT NOT TO TELL THEM IT WAS
14 ANOTHER CASE?

15 MS. GATERS: WELL, LET ME ASK YOU
16 THIS, YOUR HONOR, - - -

17 THE COURT: I'M ASKING YOU FIRST.

18 MS. GATERS: OH, ABSOLUTELY.

19 THE COURT: WELL, THEN, IT SEEMS
20 KIND OF HARD FOR YOU TO SAY THE STATE CAN'T GO INTO
21 OTHER CASES.

22 MS. GATERS: BUT I'M NOT GOING INTO
23 THE CASE, ALL I'M SAYING IS, DID YOU TAKE A POLYGRAPH,
24 AND DID YOU PASS THAT POLYGRAPH? AND DID YOU NOT ASK
25 ONE OF THE CO-DEFENDANTS HOW TO PASS A POLYGRAPH?

1 BECAUSE THAT'S WHAT HE DID. HE ASKED ONE OF THE OTHER
2 CO-DEFENDANTS TO TEACH HIM HOW TO PASS A POLYGRAPH.

3 THE COURT: WELL, I WOULD BE
4 RELUCTANT TO LET ANY INFORMATION ABOUT THE POLYGRAPH IN
5 THE RECORD AT ALL. IF ANYTHING WERE TO COME IN, AND I'M
6 NOT SURE IT WOULD, BUT IF ANYTHING WERE TO COME IN IT
7 WOULD JUST BE, DID YOU TELL THE POLICE, DID YOU LIE TO
8 THE POLICE OR THE INVESTIGATORS? IT'S NOT RELEVANT,
9 IT'S NOT NECESSARY THAT YOU SAY, THE LIE WAS IN REGARD
10 TO A POLYGRAPH TEST IN ORDER TO MAKE YOUR POINT ABOUT
11 TRUTHFULNESS. I CAN'T SEE HOW IT WOULD BE RELEVANT THAT
12 HE LIED IN THE CONTEXT OF A POLYGRAPH RATHER THAN HE
13 JUST LIED IN THE CONTEXT OF AN INVESTIGATION OR A
14 QUESTIONING BY A POLICE OFFICER. AND I THINK THAT'S THE
15 EASY WAY AND THE PROPER WAY, TO LEAVE THE POLYGRAPH OUT
16 OF IT COMPLETELY, BECAUSE YOU'RE JUST OPENING ALL KINDS
17 OF DOORS.

18 MS. GATERS: OKAY. AND SO, IF I,
19 AND NOW - - -

20 THE COURT: I'M NOT SAYING YOU CAN,
21 I'M JUST SAYING IF YOU DO IT AT ALL I THINK WE'RE GOING
22 TO LEAVE THE POLYGRAPH OUT OF AND JUST TALK ABOUT
23 INTERROGATION OR QUESTIONING BY POLICE.

24 MS. GATERS: OKAY.

25 THE COURT: BUT YOU WANT TO QUESTION

1 HIM ABOUT A TOTALLY UNRELATED INCIDENT WHERE HE FAILED
2 TO TELL THE TRUTH AND THEN DON'T WANT THE STATE TO HAVE
3 THE SAME RIGHTS TO QUESTION HIM ABOUT OTHER UNRELATED
4 INCIDENCES WHERE HE DID TELL THE TRUTH. I'M NOT SURE I
5 CAN DRAW THAT LINE FOR YOU.

6 MS. GATERS: OKAY. IS IT MY
7 UNDERSTANDING THEN BY THIS COURT THAT I CAN ASK HIM
8 WHETHER OR NOT HE LIED TO THE POLICE AND NOT HAVE THESE
9 OTHER ARMED ROBBERIES OPENED UP?

10 THE COURT: WELL, WHAT ARE YOU GOING
11 TO DO IF HE SAYS, NO, I DIDN'T LIE TO THE POLICE?

12 MS. GATERS: I FEEL CERTAIN HE'S NOT
13 GOING TO SAY THAT, YOUR HONOR.

14 THE COURT: WELL, I DON'T KNOW, BUT
15 WHAT ARE YOU GOING TO DO IF HE DOES? THEN YOU'RE GOING
16 TO CALL THE POLICE OFFICERS TO TESTIFY THAT HE LIED TO
17 THEM?

18 MS. GATERS: WELL, CAN I?

19 THE COURT: AND I THINK THE STATE
20 HAS A RIGHT TO HAVE THE POLICE OFFICERS TESTIFY TO THE
21 INCIDENCES OF TRUTHFULNESS. NOW, I DON'T KNOW THAT THE
22 STATE COULD GET INTO DETAILS ABOUT EACH ARMED ROBBERY,
23 AND I, AND THE TESTIMONY FROM THE STATE COULD NOT TIE
24 THIS DEFENDANT INTO ANY OTHER ARMED ROBBERIES, JUST TIE
25 THE WITNESS INTO THE OTHER ARMED ROBBERIES. BUT WHY

1 COULDN'T YOU JUST ASK THEM ABOUT, WERE THERE MANY OTHER
2 TIMES THAT HE TOLD YOU THE TRUTH ABOUT OTHER MATTERS,
3 WITHOUT GETTING INTO SPECIFIC ARMED ROBBERIES?

4 SOLICITOR WILLIAMS: YOUR HONOR, I
5 THINK THE, IF THE LINE OF QUESTIONING IS, DID YOU LIE TO
6 THE POLICE, MY QUESTION IS GOING TO BE, WELL, YOU LIED
7 THAT ONE TIME, HOW MANY TIMES DID YOU TELL THE TRUTH?
8 AND I THINK THAT, IT'S ONE THING TO SAY, I TOLD THE
9 TRUTH ABOUT THE TIME OF DAY AND THE COLOR OF THE SKY,
10 IT'S ANOTHER THING TO SAY, I ADMITTED TO ARMED
11 ROBBERIES, AND I WENT SO FAR AS TO GIVE NAMES. TELLING
12 THE TRUTH IS ONE THING, TELLING THE TRUTH TO THE EXTENT
13 OF THE DETAIL THAT HE DID GOES TO HIS CREDIBILITY. SO,
14 I JUST DON'T THINK IT GIVES A FAIR PICTURE TO THE JURY
15 OF HOW CREDIBLE HE WAS, GIVEN THAT THOSE STATEMENTS WERE
16 MADE PRIOR TO THE TIME OF THE PLEA AGREEMENT. SO, I
17 JUST DON'T THINK THAT IT GIVES HIS CREDIBILITY IN A
18 REFLECTIVE WAY TO LEAVE OUT THE DETAILS OF HIS
19 STATEMENTS. THAT'S WHY I CAN'T JUST DO THAT, WELL, YOU
20 TOLD THE TRUTH? WELL, YEAH, I DID. I THINK THE JURY HAS
21 TO MEASURE THE CREDIBILITY OF A WITNESS THROUGH THE
22 DETAILS AND THE QUALITY OF THEIR TESTIMONY, NOT JUST BY
23 THEIR PRUDENCE.

24 THE COURT: COULD YOU ACCOMPLISH
25 THAT BY HAVING HIM ADMIT THAT HE TOLD THE TRUTH WHICH,

1 IN INCRIMINATING MATTERS, IN MATTERS WHICH COULD HAVE,
2 AND DID LEAD TO HIM BEING, FACING OTHER CHARGES FOR
3 WHICH THE PUNISHMENT WAS VERY SERIOUS, WITHOUT GOING
4 INTO THE SPECIFICS OF THE ARMED ROBBERIES?

5 SOLICITOR WILLIAMS: I THINK I CAN
6 GO, I THINK I CAN GET INTO IT, JUDGE, YOU TOLD OF OTHER
7 PEOPLE THAT WERE INVOLVED? YES, I DID. I MEAN, I DON'T
8 KNOW THAT I'D HAVE TO GIVE NAMES, I MEAN, I COULD AVOID
9 THAT. AND I THINK I CAN SAY, YOU GAVE A FOUR PAGE
10 STATEMENT ABOUT ANOTHER ARMED ROBBERY AND YOU PLED
11 GUILTY TO THAT. I DON'T KNOW IF HE NEEDS TO GET INTO
12 NAMES OF CO-DEFENDANTS, BUT I'M AFRAID THE DOOR CAN BE
13 OPENED PRETTY QUICKLY IN ALL OF THAT. BUT I'LL
14 CERTAINLY ABIDE BY THAT, THAT'S NO PROBLEM.

15 THE COURT: WE'RE JUST TREADING ON
16 THIN, ON SLIPPERY GROUND HERE, AND IT MIGHT - - -

17 MS. GATERS: HE'S LOOKING AT LIFE
18 WITHOUT PAROLE, I KNOW I'M TREADING.

19 THE COURT: BUT YOUR CLIENT MIGHT
20 SLIP OFF, HE MIGHT BE THE ONE THAT SLIPS OFF, I DON'T
21 KNOW.

22 MS. GATERS: AT THIS POINT, YOUR
23 HONOR, I KNOW THAT MY CLIENT IS LOOKING AT LIFE WITHOUT
24 PAROLE, BECAUSE THERE WERE A NUMBER OF OTHER ARMED
25 ROBBERIES. I'M SWEATING, I ADMIT THAT, BUT I HAVE NO

1 CHOICE IN THIS CASE. I REALLY DON'T.

2 SOLICITOR WILLIAMS: YOUR HONOR, IF
3 YOU WANT TO ADDRESS THAT, HE'S NOT LOOKING AT LIFE
4 WITHOUT PAROLE, HE HAS NOT BEEN SERVED NOTICE, HE HAS
5 NOT BEEN CONVICTED TWICE, AND THE STATE HAS, I THINK WE
6 ALREADY HAVE AN OBJECTION IN THE OPENING WHICH HE'S
7 LOOKING AT THROWING AWAY THE KEYS TO THE REST OF HIS
8 LIFE. THAT IS SIMPLY NOT TRUE.

9 MS. GATERS: I DIDN'T SAY, THE REST
10 OF HIS LIFE, I SAID, THROWING AWAY THE KEYS. I NEVER
11 USED, REST OF HIS LIFE.

12 THE COURT: WELL, I WAS SURPRISED
13 THE STATE DIDN'T OBJECT TO THAT STATEMENT THAT YOU MADE,
14 BECAUSE, AND UPON OBJECTION I'LL CHARGE THE JURY THAT
15 PUNISHMENT IS NOT THEIR PREROGATIVE AND NOT SOMETHING
16 THAT THEY ARE TO CONSIDER. I THINK THE JURY KNOWS IT'S
17 A SERIOUS MATTER WITH ARMED ROBBERY, BUT ANY COMMENTS
18 ABOUT PUNISHMENT I THINK ARE INAPPROPRIATE.

19 SO, ANYHOW, I THINK WE'VE KIND OF
20 SET SOME GUIDELINES. IF YOU OPEN THE DOOR MR. WILLIAMS
21 WILL LIMIT IT TO GENERAL TESTIMONY OR TESTIMONY ABOUT
22 GENERAL CRIMINAL CONDUCT WHICH WOULD LEAD TO SERIOUS
23 PUNISHMENT WITHOUT GOING INTO SPECIFICS OF ANY ARMED
24 ROBBERIES, WITHOUT THE NAMES OF ANY CO-DEFENDANTS. BUT
25 HE'S ALLOWED TO DO THAT.

1 MS. GATERS: AND WITHOUT THE NAME OF
2 MR. LOUIS?

3 THE COURT: CERTAINLY, THERE CAN BE
4 NOTHING THAT WOULD IMPLICATE MR. LOUIS IN ANY OTHER
5 CRIMES.

6 SOLICITOR WILLIAMS: YOUR HONOR, - -
7 -

8 THE COURT: BUT THAT'S WHERE YOU'RE
9 TAKING A RISK THAT YOU CAN GUIDE YOUR WITNESSES.

10 SOLICITOR WILLIAMS: YOUR HONOR, I
11 THINK THEY CAN TALK ABOUT OTHER CO-DEFENDANTS THAT DON'T
12 AFFECT THIS CO-DEFENDANT, CERTAINLY.

13 THE COURT: THERE'S NO NEED FOR THEM
14 TO DO THAT. IF HE JUST SAYS, I WAS INVOLVED IN OTHER
15 ROBBERIES WITH OTHER PEOPLE, AND I TESTIFIED TRUTHFULLY
16 TO THAT AT THE RISK OF SERIOUS CRIMINAL PENALTIES, I
17 THINK THAT WOULD ACCOMPLISH WHAT YOU NEED TO DO.

18 SOLICITOR WILLIAMS: THAT'S FINE.

19 MS. GATERS: OKAY.

20 THE COURT: ALRIGHT, WHAT'S NEXT?

21 SOLICITOR WILLIAMS: I BELIEVE
22 THERE'S -- IS MR. BURNS UP HERE? I THINK WE HAVE SEVERAL
23 LINEUPS, THE DETECTIVES HERE AND MR. BURNS WHO'S IN
24 JAIL, WILL BE THE NEXT WITNESS. I WOULD CALL THE
25 DETECTIVE NOW.

1 THE COURT: SO, WE'VE GOT A NEAL-
2 BIGGERS?

3 SOLICITOR WILLIAMS: YES, SIR.

4 THE COURT: ALRIGHT.

5 SOLICITOR WILLIAMS: SHOULD I CALL
6 THE WITNESS NOW, YOUR HONOR, MAY I CALL THE FIRST
7 WITNESS?

8 THE COURT: YES, SIR.

9 SOLICITOR WILLIAMS: THE STATE CALLS
10 DETECTIVE DAVID OSBORNE.

11 CLERK: SIR, IF YOU WOULD, PLEASE
12 PLACE YOUR LEFT HAND ON THE BIBLE AND RAISE YOUR RIGHT
13 HAND.

14 (Whereupon, Davis Osborne
15 is duly sworn.)

16 CLERK: PLEASE BE SEATED. PLEASE
17 STATE YOUR FULL NAME TO THE COURT AND SPELL YOUR LAST.

18 WITNESS: DAVID OSBORNE, O-S-B-O-R-
19 N-E.

20 SOLICITOR WILLIAMS: MAY IT PLEASE
21 THE COURT, YOUR HONOR?

22 THE COURT: YES, SIR.

23 (NOTE: Blank lines on this page do not indicate any
24 part of record has been omitted.)

DIRECT EXAMINATION, IN CAMERA, OF DAVID OSBORNE

BY SOLICITOR WILLIAMS:

Q. SIR, WHERE DO YOU WORK?

A. CHARLESTON POLICE DEPARTMENT.

Q. WHAT DO YOU DO FOR THE POLICE DEPARTMENT?

A. INVESTIGATOR.

Q. HOW LONG HAVE YOU WORKED AT LAW ENFORCEMENT?

A. GOING ON ELEVEN YEARS.

Q. DID YOU GET INVOLVED IN AN INVESTIGATION OF A
SERIES OF ARMED ROBBERIES BACK IN, I THINK IT WAS
MAY OF TWO THOUSAND AND SIX?

A. YES.

Q. DID YOU EVENTUALLY SPEAK WITH SOMEBODY NAMED
CURTIS BURNS?

A. YES.

Q. DID YOU PRESENT TO HIM ANY PHOTO LINEUPS INVOLVING
A MAN NAMED DARRYL LOUIS?

A. YES.

Q. HOW DID YOU ARRIVED AT PRESENTING THOSE LINEUPS TO
MR. BURNS?

A. MR. BURNS WORKED AT THE DODGERS GROCERY STORE ON
SAVANNAH HIGHWAY WHICH WAS ROBBED. HE WAS WORKING
AT THAT TIME. WHEN I SPOKE TO HIM DURING ONE
OCCASION HE IMPLICATED OTHER INDIVIDUALS WHO HAD
COMMITTED THAT ROBBERY AND MR. LOUIS WAS ONE OF

1 THOSE INDIVIDUALS.

2 Q. AND HOW MANY PHOTO LINEUPS DID YOU PRESENT TO MR.
3 BURNS?

4 A. ON MAY THE SEVENTEENTH I PRESENTED HIM A LINEUP
5 WITH MR. LOUIS. THROUGH OTHER INFORMATION I FOUND
6 OUT THAT THERE WAS OTHER ROBBERIES THAT MR. BURNS
7 WAS INVOLVED IN. I MET WITH HIM AGAIN AND
8 PRESENTED HIM A SEPARATE LINEUP WITH MR. LOUIS AND
9 HE IDENTIFIED HIM A SECOND TIME ON MAY THE
10 THIRTIETH.

11 SOLICITOR WILLIAMS: I WANT TO HAVE
12 THESE MARKED AS STATE'S ONE AND TWO JUST FOR THE
13 PURPOSES OF THIS HEARING RIGHT NOW.

14 THE COURT: SURE.

15 COURT REPORTER: WOULD THAT BE ID OR

16 - - -

17 THE COURT: ID.

18 (State's Exhibits One and Two
19 Photo lineups,
20 marked for identification.)

21 Q. DETECTIVE, I'M GOING TO SHOW YOU WHAT'S BEEN
22 MARKED STATE'S PROPOSED ONE AND TWO FOR THE
23 PURPOSES OF THIS HEARING. DO YOU RECOGNIZE THOSE
24 ITEMS?

25 A. YES.

1 Q. WHAT ARE THEY?

2 A. THE TWO LINEUPS THAT I PRESENTED TO CURTIS BURNS.

3 Q. DO BOTH HAVE YOUR SIGNATURE ON THEM?

4 A. YES.

5 Q. PLEASE HAND THOSE BACK TO ME.

6 SOLICITOR WILLIAMS: I'M GOING TO
7 SHOW THEM TO DEFENDANT'S COUNSEL.

8 Q. DETECTIVE, WHAT WAS YOUR PROCEDURE WHEN -- I WANT
9 TO TALK FIRST ABOUT STATE'S ONE, THAT'S THE ONE
10 FROM FIVE/SEVENTEEN/O-SIX. WHAT'S YOUR NORMAL
11 APPROACH OR PROCEDURE WHEN YOU PRESENT A PHOTO
12 LINEUP TO A WITNESS, AND WHAT DID YOU DO IN THIS
13 CASE?

14 A. I READ THE LINEUP ADMONITION FORM WHICH IS THAT
15 FIRST SHEET RIGHT THERE. THEN I WOULD ASK,
16 ACCORDING TO THIS CASE, CURTIS IF HE UNDERSTOOD
17 WHAT I HAD READ TO HIM. HE INDICATED HE DID, AND
18 I WOULD HAND HIM THAT LINEUP WHICH IS STAPLED TO
19 THE LINEUP ADMONITION FORM.

20 Q. AND HOW DO YOU CREATE THE ACTUAL LINEUP ITSELF.

21 A. WELL, THERE'S A COUPLE OF DIFFERENT WAYS. WITH
22 THIS FIRST ONE RIGHT HERE, BECAUSE WE DIDN'T HAVE
23 A BOOKING PHOTOGRAPH OF DARRYL LOUIS I HAD TO USE
24 DMV PHOTOGRAPHS. AND THEN I WOULD JUST TAKE HIS
25 DMV PHOTOGRAPH AND THEN FIND FILLS IN AND THEN PUT

1 IT TOGETHER IN A LINEUP.

2 Q. IS THIS A PHOTOCOPY OF YOUR ACTUAL ORIGINAL?

3 A. YES.

4 Q. THE ORIGINAL WOULD BE IN THE CASE FILE?

5 A. YES.

6 Q. AND THAT'S WITH A DIFFERENT DETECTIVE?

7 A. RIGHT.

8 Q. AND THE PICTURES ALL LOOK SIMILAR?

9 A. YES.

10 Q. DID YOU EVER SUGGEST TO MR. BURNS WHO TO PICK?

11 A. NO.

12 Q. DID YOU EVER POINT ANYTHING POINT TO ANYTHING ON
13 THERE OR GIVE HIM ANY HINT OF WHO IT MIGHT BE YOU
14 WANTED HIM TO PICK?

15 A. NO.

16 Q. AND YOU READ HIM THE ADMONITION FORM?

17 A. YES.

18 Q. DID HE SIGN THAT, OR AT LEAST INITIAL THAT FOR THE
19 ADMONITION FORM?

20 A. YES.

21 Q. AND HE SIGNED IT AS WELL AS DATED IT?

22 A. RIGHT.

23 Q. AND THAT WAS PRIOR TO SEEING THE LINEUP?

24 A. NO, USUALLY IT'S AFTER. I WOULD HAVE DONE IT AFTER
25 THAT.

1 Q. SO, YOU WOULD HAVE READ THE ADMONITION, THEN SHOWN
2 HIM THE LINEUP, OR WHAT'S THE PROCEDURE, WHAT'S
3 THE - - -

4 A. THAT'S THE WAY I WOULD HAVE DONE, I WOULD HAVE
5 READ THE ADMONITION FORM, HE INDICATED HE
6 UNDERSTOOD, I WOULD HAVE HANDED HIM THE LINEUP AND
7 THE ADMONITION, HE WOULD HAVE LOOKED AT IT, AND
8 THEN WE WOULD HAVE GONE FROM THERE.

9 Q. OKAY. SO, A PART OF THIS SAYS, DO YOU UNDERSTAND
10 THESE INSTRUCTIONS? DOES HE SIGN THAT BEFORE HE
11 SIGNS THE BOTTOM PART ABOUT ANY IDENTITY?

12 A. I MEAN, USUALLY, IT DEPENDS, I MEAN, IN THIS CASE
13 RIGHT HERE I'M PRETTY SURE I WOULD HAVE DONE IT
14 AFTER, I MEAN, I DON'T KNOW.

15 Q. OKAY.

16 A. IT COULD HAVE GONE EITHER WAY.

17 Q. SO, ONCE YOU HAD READ THE ADMONITION TO HIM THAT
18 SAYS YOU'RE GOING TO SHOW HIM THE PHOTOGRAPHS, YOU
19 MAY OR MAY NOT SHOW THE PERSON BEING INVESTIGATED,
20 YOU WOULD HAVE SHOWN HIM THE LINEUP, THE SECOND
21 PAGE?

22 A. RIGHT.

23 Q. DID HE IDENTIFY ANYBODY IN THAT LINEUP?

24 A. YES.

25 Q. DID HE INDICATE WHO HE IDENTIFIED AS FAR AS

1 CIRCLING OR AUTOGRAPHING OR SIGNING THE ACTUAL
2 PICTURE?

3 A. YEAH, I HAD HIM CIRCLE THE PHOTOGRAPH OF THE
4 INDIVIDUAL THAT HE IDENTIFIED. IN THIS CASE IT
5 WAS DARRYL LOUIS. AND I HAD HIM SIGN IT AND PUT
6 THE DATE AND TIME.

7 Q. AND HE DID THAT ON THE SECOND PAGE?

8 A. YES, AS WELL AS THE FIRST PAGE.

9 Q. AND ON THE FIRST PAGE HE PUT COMMENTS, HE WROTE,
10 ACTUALLY, YOU WROTE, "THAT'S LOU, ONE OF THE GUYS
11 THAT ROBBED DOCHERS."

12 A. RIGHT.

13 Q. AND HE WROTE, "C.B.".

14 A. AND I HAD HIM PUT HIS INITIALS AFTER THAT, RIGHT.

15 Q. OKAY. SO, AFTER HE HAD IDENTIFIED THE DOCHERS
16 INDIVIDUAL, OR IDENTIFIED KNOWING LOU ON THE
17 SEVENTEENTH, THERE WAS A LATER PHOTO LINEUP. WHY
18 WAS THERE ONE DONE LATER?

19 A. WELL, I DID IT LATER BECAUSE WITH THE, WHEN I WENT
20 BACK TO INTERVIEW HIM AGAIN ON THE THIRTIETH HE
21 HAD MENTIONED THAT LOU WAS INVOLVED IN OTHER
22 ROBBERIES. SO, I WANTED TO MAKE SURE WE'RE STILL
23 TALKING ABOUT THE SAME PERSON.

24 Q. AND WHAT, WAS EIGHTY-TWO QUEEN ONE OF THE OTHER
25 ROBBERIES?

1 A. YES.

2 Q. SO, WHAT DID YOU DO AT THAT POINT AFTER YOU GOT
3 THE INFORMATION THAT CURTIS BURNS AS WELL THIS
4 DEFENDANT WERE INVOLVED IN THE DOCHERS AND THE
5 EIGHTY-TWO QUEEN ROBBERIES?

6 A. WELL, AT THAT POINT WE HAD WE HAD A BOOKING
7 PHOTOGRAPH OF DARRYL LOUIS, SO I COMPOSED A
8 PHOTOGRAPHIC LINEUP USING THAT BOOKING PHOTOGRAPH
9 AND WENT THROUGH THE SAME PROCEDURE.

10 Q. AND THAT'S, LET ME SHOW YOU STATE'S EXHIBIT TWO?

11 A. YES.

12 Q. OKAY. AND THAT'S, WHAT DAY WAS THAT DONE?

13 A. MAY THE THIRTIETH.

14 Q. AND YOU SAY YOU WENT THROUGH THE SAME PROCEDURE,
15 THE SAME ADMONITION FORM?

16 A. RIGHT.

17 Q. YOU WOULD HAVE WENT THROUGH THE SAME FORM BY
18 PUTTING TOGETHER A PHOTO LINEUP?

19 A. RIGHT.

20 Q. THE FIGURES ARE DIFFERENT IN THE SECOND PHOTO
21 LINEUP?

22 A. YES.

23 Q. YOU SAID YOU USED BOOKING AND DMV PHOTOS?

24 A. RIGHT.

25 Q. AND DID YOU SUGGEST TO MR. BURNS ANYBODY TO SELECT

1 OUT OF THAT LINEUP?

2 A. NO. AND JUST THE OTHER THING, WHEN YOU WERE
3 TALKING ABOUT THE ORDER, YOU SEE, ACTUALLY IT SAYS
4 IS, "UPON VIEWING THESE PHOTOGRAPHS DO NOT DISCUSS
5 YOUR RESULTS OR PROCEDURE WITH OTHER WITNESSES."
6 WE DID THAT AFTER HE HAD MADE THE ID.

7 Q. OKAY. SO, IN THE SECOND LINEUP WAS HE ABLE TO
8 CHOOSE ANYONE?

9 A. YES.

10 Q. DID HE ALSO INDICATE BY SIGNING THE ONE THAT HE
11 HAD IDENTIFIED?

12 A. THE SAME WAY, YES, SIR.

13 Q. AND HE SIGNED THE FRONT PAGE AGAIN?

14 A. YES.

15 Q. WHAT WAS HIS COMMENT WHEN HE IDENTIFIED THAT?

16 A. "THAT'S LOU."

17 Q. WAS THERE ANY KIND OF HESITATION ON HIS PART ON
18 EITHER ONE OF THOSE LINEUPS?

19 A. NO.

20 Q. AND YOU DIDN'T SUGGEST TO HIM EITHER PERSON?

21 A. NO.

22 SOLICITOR WILLIAMS: YOUR HONOR, I
23 WOULD HAND UP TO THE COURT STATE'S PROPOSED ONE AND TWO.
24 I HAVE NO FURTHER QUESTIONS OF THE WITNESS.

25 THE COURT: WELL, LET ME ASK YOU A

1 QUESTION, THIS IS THE CO-DEFENDANT THAT WE'RE TALKING
2 ABOUT?

3 SOLICITOR WILLIAMS: YES, AND I'M
4 FINISHED WITH THAT.

5 THE COURT: WELL, I KNOW, BUT HE WAS
6 THE CO-DEFENDANT WITH THIS DEFENDANT IN THE ROBBERY OF
7 THE EIGHTY-TWO QUEEN?

8 SOLICITOR WILLIAMS: AND THE DOCHERS
9 AS WELL.

10 THE COURT: HAVE YOU MADE A MOTION
11 QUESTIONING HIS IDENTITY, COURTROOM IDENTIFICATION?

12 MS. GATERS: YES, SIR, YOUR HONOR.

13 THE COURT: ON WHAT BASIS, IF HE
14 KNEW THE GUY AND HE WAS A CO-DEFENDANT?

15 MS. GATERS: WELL, MY SPECIFIC
16 QUESTION REGARDING THIS, YOUR HONOR, IS BRINGING IN THAT
17 DOCHERS LINEUP INTO THIS EIGHTY-TWO QUEEN ROBBERY. I
18 MEAN, IF I'M NOT MISTAKEN IT STATES ON THERE, THIS IS
19 LOU WHO COMMITTED THE DOCHERS ROBBERY. I DON'T SEE HOW
20 WE CAN BRING THAT INTO THIS TRIAL ON EIGHTY-TWO QUEEN.
21 I MEAN, WE'VE GOT A LINEUP FOR EIGHTY-TWO QUEEN.

22 SOLICITOR WILLIAMS: I THINK IT'S
23 FAIR TO REDACT THAT PART OF THE STATEMENT, YOUR HONOR,
24 I UNDERSTAND THAT, AND I DIDN'T REALIZE THAT WAS ON
25 THERE UNTIL I JUST LOOKED AT IT MYSELF. I CAN

1 UNDERSTAND NOT BRINGING IN THE PRIOR ACT, BUT I
2 CERTAINLY THINK HAVING TWO IDENTITIES IS BETTER THAN
3 ONE, ESPECIALLY BEFORE ANY KIND OF OFFERS OR DISCUSSIONS
4 WERE HAD BY THE STATE.

5 THE COURT: WELL, I MEAN, A LOT OF
6 HIS TESTIMONY ABOUT OTHER ROBBERIES, AND MR. LOUIS
7 BEING INVOLVED IN OTHER ROBBERIES, OBVIOUSLY, THAT'S A
8 MISTRIAL IF THAT COMES OUT IN THE TRIAL OF THIS CASE.
9 I, BUT THAT'S THE SECONDARY CONSIDERATION. I DON'T
10 UNDERSTAND IF THESE PEOPLE KNEW EACH OTHER WHY YOU'RE
11 CHALLENGING HIS ABILITY TO IDENTIFY YOUR CLIENT.

12 MS. GATERS: ACTUALLY, YOUR HONOR,
13 WHAT I'M CHALLENGING IS THAT DOCHERS ROBBERY, NOT THE
14 IDENTIFICATION. YOU KNOW, HE SAYS HE KNOWS, BUT IF
15 YOU'RE GOING TO ALLOW THAT FIRST FIVE/SEVENTEEN/O-SIX IN
16 THAT'S WRITTEN ON THERE, THIS IS LOU WHO COMMITTED THE
17 DOCHERS ROBBERY, WE'RE PREJUDICED IN THAT CASE. I MEAN,
18 FOR HIM TO COME IN AND SAY, YEAH, I KNOW LOU, DARRYL
19 LOUIS, AND THAT'S DARRYL LOUIS, FINE, AS IT RELATES TO
20 EIGHTY-TWO QUEEN, BUT NOT AS IT RELATES TO DOCHERS.

21 THE COURT: THAT'S RELATED, BUT
22 FIRST, I MEAN, THEY WERE ACQUAINTED SO THEY KNEW EACH
23 OTHER. I JUST DON'T SEE HOW YOU'RE QUESTIONING THE
24 IDENTITY, I DON'T SEE HOW YOU CAN QUESTION THE WITNESS'S
25 ABILITY TO IDENTIFY YOUR CLIENT IF THEY WERE

1 ACQUAINTANCES PRIOR TO THE ROBBERY, ANY ROBBERY.

2 MS. GATERS: I UNDERSTAND, YOUR
3 HONOR, I UNDERSTAND.

4 THE COURT: SO, I DON'T UNDERSTAND
5 THE WHOLE PURPOSE OF THIS MOTION.

6 SECONDLY, I DON'T SEE HOW YOU COULD
7 POSSIBLY GET INTO HIS IDENTIFICATION IN REGARD TO THE
8 DOCHERS ROBBERY.

9 SOLICITOR WILLIAMS: YOUR HONOR, I'M
10 MORE THAN HAPPY TO REDACT THE PART, I THINK IT SAYS,
11 "THAT'S LOU." ANYTHING BEYOND THAT I'LL BE HAPPY TO
12 REDACT IT OFF OF THE LINEUP, THAT'S FINE WITH ME. I DO
13 BELIEVE IT DOES BRING IN A PRIOR WHICH, LIKE YOU SAID,
14 IS INAPPROPRIATE.

15 THE COURT: BUT YOU'RE STILL
16 BRINGING IN IDENTIFICATION THAT THE JURY'S GOING TO
17 THINK IT'S TWO SEPARATE CASES.

18 SOLICITOR WILLIAMS: YOUR HONOR, I
19 THINK THAT THE WITNESS, WELL, I THINK IT'S IMPORTANT FOR
20 THE WITNESS TO BE ABLE TO TESTIFY THAT HE WAS
21 COOPERATIVE WITH THE POLICE IN IDENTIFYING LOU, OR THIS
22 DEFENDANT EARLY ON IN THE CASE. MS. GATERS IS GOING TO
23 ALLEGE THAT THERE WAS CORROBORATION BETWEEN CO-
24 DEFENDANTS, THAT THEY TALKED, AND I THINK THE MORE THAT
25 I CAN ESTABLISH HIS COOPERATION THE MORE IMPORTANT THE

1 CASE, THE MORE CREDIBLE HE BECOMES. SO, I DON'T KNOW IF
2 IT'S, I CAN UNDERSTAND WHAT YOUR HONOR IS SAYING IS THAT
3 HE, IT MAY IMPLY THAT THERE WAS OTHER ARMED ROBBERIES,
4 BUT I THINK THE WAY THE INVESTIGATION IS GOING TO RUN
5 IS, THEY'RE GOING TO SAY, THIS CURTIS BURNS IDENTIFIED
6 DARRYL LOUIS EARLY ON THROUGH A PHOTO LINEUP AND THEN
7 AGAIN LATER. I DON'T KNOW IF THEY WILL BE ABLE TO BRING
8 IT IN ANY OTHER WAY.

9 THE COURT: WELL, IS THAT THE ONLY
10 WAY HE IDENTIFIED HIM, THROUGH THE PHOTO LINEUPS?

11 SOLICITOR WILLIAMS: NO, IT'S THE
12 ONLY WAY THAT THE JURY WILL UNDERSTAND THAT HE
13 IDENTIFIED HIM EARLY ON. AND I THINK IT'S IMPORTANT IN
14 THE CASE WHERE IT'S GOING TO BE ALLEGED HE LIED THAT THE
15 SOONER HE IDENTIFIED SOMEBODY THE MORE CREDIBLE THAT ID
16 IS.

17 THE COURT: SO, ACTUALLY, WHAT
18 HAPPENED WAS, MR. BURNS, THE CO-DEFENDANT, GAVE THE
19 POLICE THE NAME OF MR. LOUIS AS ONE OF HIS CO-
20 DEFENDANTS?

21 SOLICITOR WILLIAMS: IN A DIFFERENT
22 CASE, BUT EARLY ON. HE WAS THE FIRST ONE APPROACHED,
23 AND SO THE FACT THAT HE GIVES THAT INFORMATION EARLY
24 BEFORE OTHER CO-DEFENDANTS ARE TALKED TO, I THINK GOES
25 TO HIS CREDIBILITY. HE CERTAINLY WOULD NOT HAVE HAD

1 TIME TO GO AND TRY TO COME UP WITH A CONSPIRACY TO FRAME
2 THIS DEFENDANT, AND I THINK THAT'S IMPORTANT. THAT HAS
3 TO BE THE DEFENDANT'S THEORY, HE'S FRAMING HIM, AND THEN
4 OTHER CO-DEFENDANTS DO THE SAME THING. SO, I THINK IT'S
5 VERY HARD FOR ME TO SAY IT'S NOT RELEVANT THAT HE DID
6 THAT EARLY BEFORE THAT OPPORTUNITY WOULD HAVE ARISEN.

7 THE COURT: HOW ARE YOU GOING TO DO
8 THAT WITHOUT THE JURY GETTING THE VERY CLEAR IMPRESSION
9 THAT THIS WAS, HE IDENTIFIED HIM IN A TOTALLY SEPARATE
10 CASE?

11 SOLICITOR WILLIAMS: YOUR HONOR, I
12 THINK THE DETECTIVE WILL SAY PRETTY MUCH WHAT HE DID
13 WITHOUT TALKING ABOUT ACTUAL CASES. WE SPOKE TO HIM,
14 AND I -- YOUR HONOR, I HATE TO SAY IT BUT I THINK CURTIS
15 BURNS IS GOING TO SAY, I TOLD THEM ABOUT THE ARMED
16 ROBBERY THAT I WAS INVOLVED IN AT DOCHERS THAT I PLED
17 GUILTY TO. DID YOU TELL THEM WHO ELSE WAS INVOLVED?
18 YES, I DID. AND I THINK THAT AT SOME POINT IT MAY BE
19 IMPLIED TO THE JURY, WE CAN TRY TO CLARIFY IT AS MUCH AS
20 WE CAN, BUT YOU KNOW, MR. BURNS IS GOING TO SAY THAT,
21 AND I THINK FAIRLY THAT HE IDENTIFIED THIS DEFENDANT AND
22 TALKED ABOUT HIM EARLY ON, AND I THINK IT'S HARD FOR MS.
23 GATERS TO ARGUE THAT THE DEFENDANT -- THE WITNESS IS
24 LYING, BUT WE CAN'T GET INTO THE FACT THAT HE STARTED
25 IDENTIFYING THIS DEFENDANT EARLY ON EVEN IF IT'S IN

1 OTHER CASES. SO, I GUESS I'M NOT REAL SURE HOW WE CAN
2 MAKE IT CLEAR TO THE JURY, BUT IF YOU'RE GOING TO ATTACK
3 HIS CREDIBILITY I HAVE TO BE ABLE TO REHABILITATE HIM,
4 AND ONE OF THOSE WAYS IS BY HIM SAYING, YOU KNOW, I
5 IDENTIFIED THIS DEFENDANT LONG BEFORE THAT. WHEN THEY
6 FIRST CAME TO ME I SAID HE WAS INVOLVED IN ARMED
7 ROBBERIES, OR - - -

8 THE COURT: SO, YOU WOULD ANTICIPATE
9 THIS TESTIMONY IN REDIRECT?

10 SOLICITOR WILLIAMS: I ANTICIPATE
11 WITH CURTIS BURNS, AND I'LL SAY, DID YOU IDENTIFY MR.
12 LOUIS WHEN YOU SPOKE TO THE POLICE? AND I THINK HE'S
13 GOING TO SAY, YES, I DID. I CAN KEEP IT THAT CLEAN. WE
14 DON'T HAVE TO TIE TO OTHER ROBBERIES, BUT I THINK
15 DETECTIVE OSBORNE IS GOING TO TESTIFY THAT HE WAS
16 INVESTIGATING ROBBERIES, THAT HE PRESENTED A PHOTO
17 LINEUP, AND THAT HE WAS IDENTIFIED. I DON'T KNOW THAT WE
18 HAVE TO GET INTO WHICH ROBBERY, BUT THEY'VE GOT TO KNOW
19 THAT HE STARTED THE INVESTIGATION OF ONE OR THE OTHER AT
20 THE TIME.

21 THE COURT: HELP ME.

22 MS. GATERS: YOUR HONOR, IT WOULD
23 SEEM TO ME THAT YOU HAVE A LINEUP THAT WAS DONE ON MAY
24 THIRTIETH THAT INVOLVES EIGHTY-TWO QUEEN WHEREIN CURTIS
25 BURNS PICKED OUT DARRYL LOUIS. NOW JUST BECAUSE WE

1 STACK THEM DOESN'T MAKE IT ANY BETTER. THAT ONE APPLIES
2 TO THIS CASE, AND THAT IS THE ONE THAT SHOULD BE USED,
3 NOT THE ONE BEFORE. THAT ONE INVOLVES AN ENTIRE OTHER
4 CASE.

5 THE COURT: SOLICITOR, IN YOUR CASE
6 IN CHIEF I THINK YOU SHOULD BE LIMITED IN YOUR
7 EXAMINATION OF THIS WITNESS TO TESTIMONY THAT WOULD SHOW
8 THAT AFTER HE WAS PROVIDED THE NAME OF MR. LOUIS BY THE
9 CO-DEFENDANT IN THIS CASE, JUST FOR HIM TO VERIFY THE
10 NAME AND IDENTITY OF MR. LOUIS WHO ALL HE HAD WAS A
11 NAME, THAT HE PREPARED THE PHOTO LINEUP, JUST TO SEE
12 THAT MR. BURNS DID IDENTIFY MR. LOUIS, WHOSE NAME HE HAD
13 GIVEN. I THINK THAT'S PROPER. BUT I DO NOT THINK, AND
14 WITHOUT GIVING SOME OTHER REASON I WILL NOT ALLOW HIM TO
15 GO INTO ANY IDENTIFICATION IN ANY OTHER CASE WHETHER
16 WE'RE GOING TO CALL IT ANOTHER CASE OR NOT. IT JUST
17 DOESN'T HAVE ANY RELEVANCE TO HIS IDENTIFICATION OF HIM
18 IN THIS CASE, ESPECIALLY WHEN HE KNEW HIM, IF THEY WERE
19 ACQUAINTED, BECAUSE APPARENTLY THEY KNEW EACH OTHER
20 BEFORE ANY OF THESE ROBBERIES. THAT'S THE CRUCIAL THING
21 I THINK THAT GOES TO THE IDENTITY QUESTION IS, THEY WERE
22 NOT STRANGERS. I MEAN, THE JURY IS GOING TO BE WONDERING
23 JUST LIKE I WAS, IF THESE PEOPLE KNEW EACH OTHER WHY. IN
24 THE WORLD DO THE POLICE WANT TO SHOW HIM A PICTURE, ARE
25 YOU SURE THAT'S THE FELLOW YOU KNOW? BUT, I MEAN, I

1 UNDERSTAND THE LOGIC IN THAT, AND I THINK THAT'S PROPER
2 FOR YOU TO DO THAT, BUT I DON'T THINK IT'S PROPER FOR
3 YOU TO GO FARTHER WITH SOME OTHER IDENTIFICATION IN SOME
4 OTHER CASE, ESPECIALLY PRIOR TO THIS. THE JURY CAN DO
5 NOTHING BUT DRAW A CONCLUSION THAT HE WAS INVOLVED IN A
6 CRIME PRIOR TO THIS ONE.

7 SOLICITOR WILLIAMS: I'M ASKING,
8 YOUR HONOR, SIMPLY, HE'S GOING TO HAVE TO TESTIFY TO THE
9 FACT THAT HE PLED GUILTY TO A PRIOR CHARGE. THAT'S PART
10 OF HIS PLEA AGREEMENT.

11 THE COURT: SURE.

12 SOLICITOR WILLIAMS: CAN HE SAY THAT
13 HE PROVIDED STATEMENTS AND IDENTIFIED CO-DEFENDANTS
14 WITHOUT GETTING INTO WHO THEY ARE?

15 THE COURT: HE CAN DO THAT, SAY HE
16 COOPERATED WITH THE POLICE. BUT THERE CAN BE NO
17 IMPRESSION GIVEN THAT THIS MAN IS INVOLVED IN ANY CRIME
18 OTHER THAN THE ONE HE'S ON TRIAL FOR.

19 SOLICITOR WILLIAMS: I CAN KEEP IT
20 AT THAT POINT.

21 THE COURT: OR YOU'RE RISKING A
22 MISTRIAL.

23 SOLICITOR WILLIAMS: I CAN DO THAT,
24 YOUR HONOR, I'LL LEAVE IT AT, HE COOPERATED AND MADE IDS
25 WITHOUT GETTING INTO WHO HE IDENTIFIED.

1 THE COURT: RIGHT.

2 SOLICITOR WILLIAMS: UNLESS IT COMES
3 UP IN REBUTTAL SOMEHOW.

4 MS. GATERS: NEAL VERSUS BIGGERS IS
5 WITHDRAWN, YOUR HONOR.

6 THE COURT: OKAY.

7 SOLICITOR WILLIAMS: OKAY, YOU CAN
8 COME DOWN.

9 THE COURT: I'M NOT SAYING YOU CAN
10 GO HOME, I'M JUST SAYING YOU CAN TAKE HIM OFF THE STAND.
11 I ALREADY GOT THE SOLICITOR IN TROUBLE ONCE.

12 SOLICITOR WILLIAMS: I THINK THAT'S
13 ALL THE MOTIONS WE HAVE, JUDGE.

14 MS. GATERS: EVERYTHING ELSE WE HAD
15 RESOLVED BETWEEN US, YOUR HONOR.

16 THE COURT: ALRIGHT.

17 SOLICITOR WILLIAMS: YOUR HONOR, I
18 DO HAVE COPIES OF ALL, RECORDS OF ALL THE WITNESSES,
19 I'LL GIVE THOSE TO YOU IF YOU WANT TO COPY THEM.

20 THE COURT: AND YOU HAVE NO
21 WITNESSES?

22 MS. GATERS: NONE.

23 THE COURT: BECAUSE HE HAS A RIGHT
24 TO RUN RAP SHEETS ON THEM.

25 MS. GATERS: I UNDERSTAND.

1 THE COURT: ALRIGHT.

2 SOLICITOR WILLIAMS: JUDGE, DID YOU
3 WANT TO, WE HAVE MR. REAVES HERE.

4 THE COURT: SURE, I'LL BE GLAD TO.

5 IN THIS CASE WE'LL BE IN RECESS
6 UNTIL NINE:THIRTY. I'LL BE IN CHAMBERS BEFORE NINE
7 O'CLOCK, IF SOMETHING COMES UP COME ON IN EARLY AND
8 LET'S DEAL WITH IT SO WE DON'T HAVE TO KEEP THAT JURY
9 WAITING BACK THERE.

10 (Recess for the day.)

11 DATE:

12 MAY 29, 2008

13 (Whereupon, the following
14 takes place in chambers.)

15 THE COURT: WE ARE IN CHAMBERS, BUT
16 WE ARE ON THE RECORD. THE COURT REPORTER IS HERE, SHE'S
17 MAKING A RECORD OF WHAT WE ARE DOING JUST AS IF WE WERE
18 SITTING OUT IN THE COURTROOM, BUT WE WANTED TO DO IT
19 BACK HERE.

20 THE SOLICITOR TELLS ME HE'S GOT
21 SIXTEEN CHARGES OF ARMED ROBBERY AGAINST YOU IN THREE
22 DIFFERENT COUNTIES, CHARLESTON COUNTY, BERKELEY COUNTY
23 AND DORCHESTER COUNTY. EACH ONE OF THOSE CHARGES OF
24 ARMED ROBBERY CARRIES UP TO THIRTY YEARS IN JAIL. EACH
25 ONE IS NO PAROLE, WHICH MEANS WHATEVER SENTENCE YOU GET,

1 AND THE MINIMUM IS TEN YEARS ON ANY ONE, BUT WHATEVER
2 SENTENCE YOU GET YOU HAVE TO SERVE EIGHTY-FIVE PER CENT
3 OF THAT SENTENCE. DO YOU UNDERSTAND THAT?

4 DEFENDANT LOUIS: YES, YOUR HONOR.

5 THE COURT: AND OF COURSE, IF YOU GO
6 TO TRIAL AND GET CONVICTED OF ONE ARMED ROBBERY, IT
7 DOESN'T MATTER WHAT THE SENTENCE IS, BUT YOU'LL SERVE
8 THAT TIME AND LIKE I SAY, IT WOULD BE A MINIMUM OF TEN
9 YEARS. IF THE SOLICITOR BRINGS YOU BACK, HE'S GOT
10 FIFTEEN MORE CHARGES AGAINST YOU FOR ARMED ROBBERY. HE
11 TELLS ME SOME OF THOSE CASES ARE STRONG, THE EVIDENCE IS
12 REAL GOOD, SOME OF THEM THE EVIDENCE IS NOT QUITE SO
13 STRONG, BUT HE'S GOT FIFTEEN LEFT IF HE GETS ONE, LIKE
14 WE'VE GOT THE ONE TODAY. IF YOU GET CONVICTED OF ANY
15 TWO OF THOSE CHARGES, ANY TWO OUT OF THE SIXTEEN THE LAW
16 REQUIRES THAT YOU BE SENTENCED TO LIFE WITHOUT THE
17 POSSIBILITY OF PAROLE. THERE'S NO DISCRETION IN THE
18 SOLICITOR'S OFFICE. ISN'T THAT RIGHT, MR. WILLIAMS?

19 SOLICITOR WILLIAMS: THAT'S CORRECT,
20 JUDGE.

21 THE COURT: LIFE WITHOUT PAROLE
22 MEANS YOU WOULD DIE IN THE PENITENTIARY. YOU MIGHT DIE
23 AT AGE FORTY OR FIFTY OR SIXTY OR SEVENTY OR EIGHTY, BUT
24 WHEN YOU DIE YOU WILL BE STILL IN THE PENITENTIARY.

25 NOW, THE SOLICITOR TELLS ME THAT HE

1 HAS OFFERED YOU A RECOMMENDATION OF THIRTY YEARS IF
2 YOU'RE WILLING TO PLEAD GUILTY TO ONE COUNT IN
3 CHARLESTON COUNTY, ONE COUNT IN BERKELEY COUNTY, ONE
4 COUNT IN DORCHESTER COUNTY, ALL THE REST OF THEM WILL BE
5 DISMISSED, CAN NEVER BE BROUGHT BACK AGAINST YOU. YOU
6 WOULD GET ONE SENTENCE OF THIRTY YEARS. YOU WOULD HAVE
7 TO SERVE EIGHTY-FIVE PER CENT OF THAT THIRTY YEARS. YOU
8 WOULD GET CREDIT FOR THE TIME THAT YOU'VE SERVED
9 ALREADY. I THINK YOU'VE BEEN IN JAIL ABOUT TWO YEARS,
10 SOMETHING LIKE THAT?

11 DEFENDANT LOUIS: YES, YOUR HONOR.

12 THE COURT: AND THAT'S A LONG TIME.

13 I'M CERTAINLY NOT HERE TO TELL YOU THAT THAT'S A LONG
14 TIME. BUT I AM HERE TO TELL YOU, AND YOUR LAWYERS IS
15 VERY CONCERNED THAT YOU MAKE A GOOD, REASONABLE AND
16 RATIONAL DECISION WHEN YOU'RE FACING THIS MATTER. I'M
17 HERE TO TELL YOU IT'S A WHOLE LOT OF DIFFERENCE IN A
18 SENTENCE OF THIRTY YEARS AND A SENTENCE OF LIFE WITHOUT
19 PAROLE. AND SHE'S NOT SURE THAT YOU'RE THINKING REAL
20 CLEARLY ABOUT THIS CASE. I'VE SENTENCE A GOOD MANY
21 PEOPLE TO LIFE WITHOUT PAROLE, AND WHEN THEY WALK OUT OF
22 MY COURTROOM I KNOW THEY WILL NEVER EVER WALK ON THE
23 STREETS AGAIN. HOW OLD ARE YOU?

24 DEFENDANT LOUIS: TWENTY-FOUR.

25 THE COURT: WELL, AND YOU'VE ALREADY

1 GOT TWO YEARS, SO YOU WOULD BE GETTING OUT OF JAIL, YOU
2 WOULD BE FIFTEEN YEARS YOUNGER THAN I AM NOW WHEN YOU
3 WOULD BE GETTING OUT OF JAIL. AND I'M NOT TRYING TO
4 CONVINCE YOU THAT THAT'S A GOOD THING TO LOOK FORWARD
5 TO, THAT'S A LIGHT SENTENCE, IT'S NOT. THAT'S A TOUGH
6 SENTENCE. BUT YOU'VE GOT YOURSELF IN A TERRIBLE BIND
7 HERE. AND YOU MIGHT BEAT SOME OF THESE CASES, THE JURY
8 MIGHT FIND YOU NOT GUILTY. I REALLY DON'T KNOW ANYTHING
9 ABOUT YOUR CASES BECAUSE I DON'T KNOW THE EVIDENCE IN
10 YOUR CASE, OR ANY OF YOUR CASES. I KNOW A LITTLE BIT
11 ABOUT THE ONE WE'RE FIXING TO TRY RIGHT NOW, THAT'S THE
12 ONLY ONE I KNOW ANYTHING ABOUT, AND I DON'T KNOW WHAT
13 THE WITNESSES ARE GOING TO SAY IN THAT CASE. BUT I'M
14 TELLING YOU, WITH SIXTEEN CHARGES AGAINST YOU, FOR YOU
15 TO GET A BETTER DEAL NOW THAN YOU'VE BEEN OFFERED YOU'D
16 HAVE TO GET A JURY TO FIND YOU NOT GUILTY IN ALL BUT
17 ONE, AND THAT WOULD BE KIND OF HARD TO DO I WOULD THINK,
18 FROM WHAT THE SOLICITOR TELLS ME, EVEN THOUGH SOME OF
19 THE CASES ARE WEAK, SOME OF THEM ARE REAL STRONG. DO
20 YOU UNDERSTAND THAT YOU'RE FACING REALISTIC,
21 LEGITIMATELY, YOU'RE FACING LIFE WITHOUT PAROLE?

22 DEFENDANT LOUIS: YES, YOUR HONOR.

23 THE COURT: AND DO YOU UNDERSTAND
24 WHAT THE OFFER IS IF YOU PLEAD GUILTY, ACCEPT THE OFFER
25 THIS MORNING, THAT THE SENTENCE WOULD BE THIRTY YEARS,

1 THAT WOULD TAKE CARE OF ALL OF YOUR CASES IN ALL THREE
2 COUNTIES, DO YOU UNDERSTAND THAT?

3 DEFENDANT LOUIS: IF YOU DON'T MIND
4 ME ASKING, IS THAT WITH COOPERATION OR WITHOUT
5 COOPERATION?

6 SOLICITOR WILLIAMS: AT THIS POINT,
7 JUDGE, IT'S WITHOUT COOPERATION.

8 THE COURT: WITHOUT COOPERATION, YOU
9 WOULD NOT HAVE TO TESTIFY AGAINST ANYBODY.

10 SOLICITOR WILLIAMS: THAT IS A
11 CHANGE FROM PRIOR AGREEMENTS.

12 THE COURT: YOU'RE JUST LOOKING OUT
13 FOR NUMBER ONE. AND I WANT YOU TO UNDERSTAND SOMETHING,
14 MY JOB IS TO TRY CASES, THAT'S WHY I BECAME A JUDGE,
15 BECAUSE I ENJOY TRYING CASES. I COULD TAKE GUILTY PLEAS
16 ALL DAY LONG, AND I'VE TAKEN AS MANY AS FIFTY GUILTY
17 PLEAS IN ONE DAY, THAT'S MY JOB, THAT'S WHAT I DO. IF
18 I'M NOT TRYING YOUR CASE I'M GOING TO BE TAKING GUILTY
19 PLEAS. IT'S A LOT EASIER FOR ME TO SIT UP THERE AND LET
20 THE LAWYERS DO ALL THE WORK THAN FOR ME TO DO GUILTY
21 PLEAS ALL DAY. SO, REALLY, I DON'T WANT YOU TO THINK
22 I'M PRESSURING YOU TO PLEAD GUILTY, BUT I WANT YOU TO
23 UNDERSTAND THE RISK THAT YOU'RE TAKING. I DON'T WANT YOU
24 TO GO TO TRIAL, GET CONVICTED, COME BACK HERE IN ANOTHER
25 MONTH, GET CONVICTED AGAIN, AND GET LIFE WITHOUT PAROLE,

1 AND THEN YOU'LL SAY, WELL, I DIDN'T REALIZE THAT, I
2 DIDN'T THINK THIS WAS GOING TO HAPPEN TO ME. THERE'S A
3 REAL GOOD POSSIBILITY THAT THAT'S WHAT'S GOING TO HAPPEN
4 TO YOU. I MEAN, I DON'T, I HAVEN'T HAD MANY PEOPLE IN
5 MY COURTROOM THAT HAD SIXTEEN CASES AGAINST THEM. I'VE
6 HAD THEM WITH TWO OR THREE OR FOUR, AND THEY MIGHT RUN
7 THE RISK OF NOT GETTING TWO CONVICTIONS AND SO NOT
8 GETTING THAT LIFE WITHOUT PAROLE. BUT WITH SIXTEEN, AND
9 THE SOLICITOR, FOR BETTER OR FOR WORSE, HE'S DETERMINED
10 HE'S GOING THROUGH WITH THE CASES. AND SO, I JUST WANT
11 TO BE SURE THAT YOU UNDERSTAND WHAT YOUR OPTIONS ARE.
12 AND YOUR LAWYER HAS IMPRESSED ME VERY MUCH, BUT SHE'S
13 NOT A MIRACLE WORKER, I MEAN, YOU KNOW, SHE MIGHT GET
14 YOU OFF ON THIS ONE, AND THEN YOU'VE GOT FIFTEEN MORE TO
15 LOOK AT. THAT'S WHAT I WANT TO BE SURE OF, THAT YOU
16 UNDERSTAND THE RISK YOU'RE TAKING IF YOU TURN DOWN THE
17 RECOMMENDATION THAT THE SOLICITOR HAS MADE. DO YOU
18 UNDERSTAND THAT?

19 DEFENDANT LOUIS: YES, YOUR HONOR.

20 THE COURT: DO YOU WANT TO TALK WITH
21 YOUR LAWYER SOME MORE ABOUT IT?

22 DEFENDANT LOUIS: I'M ASSUMING THAT
23 IF I DID ACCEPT THIS OFFER THIS WOULD HAPPEN TO ME
24 BEFORE, THIS WOULD HAVE TO BE BEFORE I ACTUALLY GET OUT
25 OF THIS ROOM OR - - -

1 COURT REPORTER: BEFORE WHAT?

2 THE COURT: I DIDN'T UNDERSTAND YOU.
3 BEFORE WHAT? WAIT A MINUTE, NOW, IF YOU ACCEPT THE
4 OFFER IT WILL HAVE TO BE BEFORE WHAT?

5 DEFENDANT LOUIS: BEFORE I LEFT OUT
6 OF YOUR CHAMBERS OR - - -

7 THE COURT: NO, NO, NO, HUH UH. YOU
8 CAN GO TALK WITH YOUR LAWYER ABOUT IT AND WE CAN START
9 THIS TRIAL. THE JURY IS SITTING BACK THERE WAITING. DO
10 YOU HAVE SOMEBODY THAT YOU NEED TO TALK TO ABOUT IT? DO
11 YOU HAVE ANY FAMILY OR ANYBODY YOU'VE BEEN CONFERRING
12 WITH ABOUT THIS?

13 DEFENDANT LOUIS: THAT WAS ACTUALLY
14 ABOUT TO BE MY NEXT QUESTION.

15 THE COURT: ALRIGHT, WHAT IS YOUR
16 NEXT QUESTION?

17 DEFENDANT LOUIS: WOULD I BE ALLOWED
18 TO SPEAK WITH MY SIBLINGS BEFORE I MAKE MY DECISION?

19 THE COURT: WHERE ARE YOUR SIBLINGS?

20 MS. GATERS: I HAVE CALLED THEM, YOUR
21 HONOR, AND MY OFFICE HAS CALLED THEM. I DON'T KNOW
22 WHETHER THEY'RE IN ROUTE, I CAN CALL MY OFFICE AGAIN AND
23 SEE WHETHER OR NOT THEY'RE IN ROUTE HERE. ONE SISTER IS
24 IN GEORGIA, I LEFT THAT MESSAGE FOR HER YESTERDAY
25 MORNING, SHE'S NOT CALLED BACK. AND HE GAVE ME A SISTER

1 HERE, WE CALLED HER THIS MORNING. SO, I CAN CHECK WITH
2 MY OFFICE AND SEE IF THEY'RE IN ROUTE.

3 THE COURT: HOW ABOUT GO CHECK.

4 MS. GATERS: CERTAINLY, I WOULDN'T
5 THINK ABOUT - - -

6 THE COURT: HOW ABOUT USE THAT PHONE
7 OUT THERE AND CHECK WITH YOUR OFFICE AND SEE.

8 MS. GATERS: OKAY, EXCUSE ME.

9 THE COURT: I MEAN, WE CAN'T WAIT
10 ALL DAY. I MEAN, I WANT YOU TO UNDERSTAND WHAT YOU'RE
11 DOING, BUT WE, YOU KNOW, YOU'VE HAD, I UNDERSTAND YOU'VE
12 ALREADY SIGNED UP ONE TIME TO PLEAD GUILTY AND THEN
13 CHANGED YOUR MIND. SO, IT'S NOT LIKE THIS WAS SOMETHING
14 NEW FOR YOU. AND WE'VE GOT A JURY DRAWN, AND ALL
15 FOURTEEN OF THOSE PEOPLE ARE SITTING THERE IN THAT ROOM
16 DOWN THERE WAITING ON US TO GET STARTED. I CAN'T KEEP
17 THEM WAITING MUCH LONGER. SO, I MEAN, REALLY, THE TIME
18 HAS COME, YOU'VE GOT TO FISH OR CUT BAIT, AS YOU HEARD
19 THEM SAY. BUT YOU CERTAINLY CAN TALK TO YOUR LAWYER
20 ABOUT IT, AND LIKE I SAY, AND WE'LL SEE WHAT PROGRESS
21 HAS BEEN MADE IN TRYING TO CATCH UP WITH YOUR SISTER AND
22 SEE, RIGHT NOW IN JUST A MINUTE.

23 DEFENDANT LOUIS: AND THIS WOULD BE
24 A NEGOTIATED THIRTY?

25 THE COURT: YES, SIR. I MEAN, IT'S

1 GOING TO BE THIRTY YEARS, YOU DON'T HAVE TO WORRY ABOUT
2 THAT. I MEAN, IF YOU, IF YOU ACCEPT THE OFFER, IT'S
3 NEGOTIATED, THIRTY YEARS, THE SENTENCE WILL BE THIRTY
4 YEARS, NO MORE AND NO LESS, THAT'S WHAT IT WILL BE. IT
5 WILL BE ON THREE CHARGES, ONE IN DORCHESTER, ONE IN
6 BERKELEY, ONE IN CHARLESTON, THIRTY YEARS ON EACH ONE,
7 CONCURRENT. CREDIT FOR ALL THE TIME YOU'VE SERVED SINCE
8 THE FIRST DAY YOU CAME INTO JAIL.

9 DEFENDANT LOUIS: A NEGOTIATED PLEA
10 MEANS THERE'S NO REDUCTION AND THERE'S NO SUSPENSION,
11 JUST STRAIGHT OUT THIRTY?

12 THE COURT: THAT'S RIGHT. A
13 NEGOTIATED PLEA MEANS THE JUDGE CAN'T CHANGE IT. IF
14 IT'S A RECOMMENDATION I CAN FOLLOW IT OR I CANNOT FOLLOW
15 IT, I CAN GO UP OR DOWN. NEGOTIATED MEANS I ACCEPT IT
16 OR I REJECT IT, I CAN'T CHANGE IT. AND IT'S, THE
17 RECOMMENDATION OF THE STATE IS A NEGOTIATED THIRTY
18 YEARS, SO I COULDN'T CHANGE THAT EITHER WAY, UP OR DOWN.

19 DEFENDANT LOUIS: AND WITH A PLEA I
20 WOULD BE ELIGIBLE FOR PAROLE?

21 THE COURT: NO, SIR, THERE IS NO
22 PAROLE. YOU HAVE TO SERVE EIGHTY-FIVE PER CENT OF IT, A
23 MINIMUM OF EIGHTY-FIVE PER CENT. BUT EVEN IF YOU GO TO
24 TRIAL THERE'S NO PAROLE. THIS IS A NO PAROLE OFFENSE.
25 SO, YOU -- BUT AFTER YOU SERVE EIGHTY-FIVE PER CENT OF

1 THAT THIRTY YEARS YOU WOULD BE ELIGIBLE TO BE RELEASED,
2 AND YOU WOULD BE ON COMMUNITY SUPERVISION, WHICH IS KIND
3 OF LIKE BEING ON PAROLE OR PROBATION. BUT IT'S NOT A
4 PAROLABLE CASE, NO, SIR. THE MINIMUM IS EIGHTY-FIVE PER
5 CENT YOU WOULD HAVE TO SERVE, WHICH IS EIGHTY-FIVE PER
6 CENT OF THIRTY, WHATEVER THAT IS, TWENTY-SEVEN OR SO
7 YEARS, I DON'T KNOW EXACTLY, A LONG TIME. BUT ON THE
8 OTHER HAND, IF YOU GET TWO CONVICTIONS AGAINST YOU, THE
9 SOLICITOR DOESN'T HAVE ANY CHOICE AND THE JUDGE DOESN'T
10 HAVE ANY CHOICE, IT'S LIFE. AND LIFE MEANS LIFE, NOW,
11 AS I TOLD YOU EARLIER, THAT MEANS YOU WILL DIE IN THE
12 PENITENTIARY, THEY'LL SHIP YOU OUT IN A BOX.

13 WHAT'S THE STORY?

14 MS. GATERS: MY SECRETARY HAD TO GO
15 TO CITY COURT, I NEED FIFTEEN MINUTES BEFORE I CAN TALK
16 BACK TO HER, IF IT'S OKAY WITH THE COURT. I DIDN'T KNOW
17 WHETHER OR NOT SHE REACHED HIS SISTER.

18 THE COURT: DO YOU HAVE YOUR
19 SISTER'S NUMBER?

20 DEFENDANT LOUIS: I HAVE HER CELL
21 PHONE NUMBER.

22 THE COURT: WELL, GIVE IT TO YOUR
23 LAWYER AND LET YOUR LAWYER CALL HER RIGHT NOW. AND I'LL
24 LET YOU GO BACK WHEREVER Y'ALL HAVE BEEN SITTING, YOU
25 CAN MEET WITH YOUR LAWYER, AND I'LL GIVE YOU TWENTY-FIVE

1 MINUTES. AND UNDERSTAND, I'M NOT TRYING TO FORCE YOU,
2 I JUST CAN'T KEEP THIS JURY WAITING BACK HERE ANY LONGER
3 THAN THAT, WE'VE GOT TO GET STARTED. SO, SHE'LL MAKE
4 EVERY EFFORT TO GET IN TOUCH WITH YOUR SISTER, BUT LIKE
5 I SAY, YOU'VE BEEN FIGHTING THIS THING FOR A LONG TIME,
6 AND I UNDERSTAND YOU HAD SIGNED ALL THE GUILTY PLEA
7 SHEETS AT ONE TIME AND AGREED TO ACCEPT A SENTENCE MORE
8 THAN THE THIRTY YEARS, THIRTY TO FORTY RANGE, OR
9 SOMETHING, AND CHANGED YOUR MIND. SO, YOU'VE HAD LONG
10 ENOUGH TIME TO MAKE UP YOUR MIND WHAT YOU WANT TO DO.
11 THE ONLY THING THAT I WANTED TO BE SURE, AND YOUR LAWYER
12 WANTED TO BE SURE IS THAT YOU UNDERSTAND THE RISK YOU
13 ARE TAKING IF YOU PASS UP THIS OFFER, THAT YOU'VE GOT A
14 LEGITIMATE CHANCE OF GETTING A LIFE WITHOUT PAROLE
15 SENTENCE. SO, YOU GO TALK WITH YOUR LAWYER, IT'S
16 TEN:TWENTY-FIVE, I'LL GIVE YOU UNTIL ELEVEN O'CLOCK,
17 THAT'S THIRTY-FIVE MINUTES.

18 MS. GATERS: THANK YOU VERY MUCH,
19 JUDGE.

20 THE COURT: LET ME KNOW BY ELEVEN
21 O'CLOCK. ALRIGHT.

22 SOLICITOR WILLIAMS: THANK YOU,
23 JUDGE.

24 THE COURT: DO YOU HAVE ANY
25 QUESTIONS, MR. LOUIS, THAT YOU WANT TO ASK ME BEFORE WE

1 DISMISS THIS LITTLE MEETING?

2 DEFENDANT LOUIS: IT DOESN'T PERTAIN
3 TO THIS CASE.

4 THE COURT: WELL, I MIGHT NOT ANSWER
5 IT, BUT IF YOU WANT TO ASK IT I MIGHT ANSWER IT.

6 DEFENDANT LOUIS: IF I WOULD ACCEPT
7 THIS THIRTY YEAR PLEA, ARE YOU AWARE IF THERE'S ANY
8 REHABILITATION PROGRAMS IN SCDC?

9 THE COURT: FOR DRUGS?

10 DEFENDANT LOUIS: NO, JUST - - -

11 THE COURT: THERE ARE DRUG PROGRAMS,
12 THERE ARE EDUCATIONAL PROGRAMS.

13 DEFENDANT LOUIS: NO, I MEAN, FOR AN
14 INDIVIDUAL WHO IS JUST, FOR THE GROUNDS THAT I'M ACCUSED
15 OF - - -

16 COURT REPORTER: I'M SORRY, PLEASE
17 SPEAK UP.

18 DEFENDANT LOUIS: I'M SORRY. FOR
19 THE GROUNDS THAT I'M ACCUSED OF, AND THE NATURE OF IT, -
20 - - -

21 THE COURT: YES, SIR?

22 DEFENDANT LOUIS: --- I THINK AN
23 INDIVIDUAL LIKE THAT REALLY HAS A PROBLEM, LIKE, YOU PUT
24 HIM BEHIND A WALL CONFINED FOR THIRTY YEARS, IS HE
25 REALLY GOING TO CHANGE, IS HE REALLY, YOU KNOW, IS THERE

1 ANY REHABILITATION FOR AN INDIVIDUAL LIKE THAT?

2 THE COURT: THERE ARE PROGRAMS,
3 REHABILITATION PROGRAMS IN PRISON. IT WOULD BE UP TO YOU
4 TO TAKE ADVANTAGE OF THEM. SOME PEOPLE DO, SOME PEOPLE
5 GO ON AND GET THEIR EDUCATION, SOME PEOPLE COME OUT WITH
6 A COLLEGE DEGREE, THEY DO IT THROUGH MAIL ORDER. SOME
7 PEOPLE GO THERE AND SIT THERE AND GET MAD AND CRY AND
8 WRING THEIR HANDS AND FIGHT AND CARRY ON, AND THEY COME
9 OUT MEANER THAN THEY WENT IN. BUT THERE ARE PROGRAMS
10 THAT CAN HELP SOMEBODY WHO WANTS TO BE HELPED, WHO WANTS
11 TO FURTHER THEIR EDUCATION AND TRY TO REHABILITATE
12 THEMSELVES SO THEY DON'T GET BACK IN TROUBLE AGAIN.
13 THAT'S THE WHOLE GOAL, ONE OF THE MAIN GOALS, IS TO HELP
14 YOU WHEN YOU GET BACK OUT THAT YOU WON'T GET INTO THIS
15 PROBLEM AGAIN.

16 DEFENDANT LOUIS: BESIDES GOING TO
17 SCHOOL FOR EDUCATION, ARE YOU AWARE OF ANY OF THESE
18 PROGRAMS OR WHAT THE NAMES OF THEM ARE?

19 THE COURT: NO, I'M NOT,
20 SPECIFICALLY I'M NOT, THAT'S NOT MY DEPARTMENT. I JUST
21 KNOW THEY EXIST.

22 DEFENDANT LOUIS: YES, SIR. I
23 APPRECIATE YOUR TIME.

24 THE COURT: ALRIGHT, SURE.

25 (Recess)

1 (Whereupon, the following
2 takes place in open court.)

3 SOLICITOR WILLIAMS: AS YOUR HONOR
4 KNOWS, WE WERE THROUGH THE OPENING STATEMENTS AND
5 MOTIONS IN THE TRIAL AGAINST DARRYL LOUIS. YOUR HONOR,
6 I'VE SPOKEN WITH MS. GATERS AND YOUR HONOR EXTENSIVELY
7 ABOUT THE STATUS OF THIS CASE AND IT'S MY UNDERSTANDING
8 AT THIS TIME THAT MR. LOUIS IS GOING TO ENTER A PLEA OF
9 GUILTY TO THE EIGHTY-TWO QUEEN STREET ARMED ROBBERY AS
10 WELL AS THE INDICTMENT OUT OF DORCHESTER COUNTY FOR AN
11 ARMED ROBBERY THAT YOUR HONOR HAS THE AFFIDAVIT THERE,
12 THAT WAS FOOD LION BACK ON APRIL TWENTY-THIRD OF TWO
13 THOUSAND AND SIX. THERE WAS A NEGOTIATION IN THIS CASE
14 OF THIRTY YEARS, AND YOUR HONOR, THERE WAS A FURTHER, I
15 DON'T WANT TO SAY A NEGOTIATION BUT AN UNDERSTANDING
16 THAT THIS CHARGE WILL RESOLVE -- THAT THE SENTENCE WILL
17 RESOLVE ALL CHARGES AGAINST MR. LOUIS. SEVERAL OF THE
18 VICTIMS, I THINK ALL OF THE VICTIMS, YOUR HONOR, THAT
19 ARE HERE FOR TRIAL IN THE EIGHTY-TWO QUEEN STREET
20 ROBBERY ARE IN COURT TODAY, THEY WERE HERE TO TESTIFY.
21 THEY'RE HERE NOW, BUT I DON'T BELIEVE THEY WANT TO
22 SPEAK. THEY DO UNDERSTAND THAT THERE'S A NEGOTIATED
23 THIRTY YEARS, THAT HE'LL DO THIRTY YEARS AT EIGHTY-FIVE
24 PER CENT. I HAVE TALKED WITH THE SOLICITOR IN BERKELEY
25 COUNTY, HE INFORMED ME THAT THERE IS NO PENDING CHARGE

1 AT THIS TIME ON MR. LOUIS OUT OF THE CONDUCT IN THAT
2 JURISDICTION IN THAT COUNTY, AND SO WE WILL NOT BE
3 SEEKING ANY WARRANT, AND IF THERE IS A WARRANT OUT THERE
4 THIS WILL COVER THE BERKELEY COUNTY CONDUCT AS WELL.
5 AND CERTAINLY, YOUR HONOR, AS I MENTIONED, THIS COVERS
6 ALL THE CONDUCT. HOWEVER, I WILL GIVE A CHANCE TO THE
7 OTHER VICTIMS IN THE OTHER CASES UNDER THE VICTIMS
8 RIGHTS ACT TO BE PRESENT SHOULD THEY WANT TO BE HERE AT
9 THE SENTENCING OF ALL CO-DEFENDANTS AS WELL AS TO SPEAK
10 IF THEY WANTED TO ON THIS CASE. I WILL TELL THE FOLKS
11 THAT ARE IN THE COURTROOM HERE THAT THERE ARE OTHER CO-
12 DEFENDANTS THAT STILL HAVE TO BE SENTENCED. WE WILL
13 SENTENCE THEM ON A DIFFERENT DAY AND THEY WILL HAVE A
14 CHANCE TO SPEAK ON MR. REAVES, MR. EVANS, AS WELL AS
15 CURTIS BURNS WHO ARE ALL STILL PENDING. SO, THIS DOES
16 ONLY COVER THIS ONE DEFENDANT; HOWEVER, THIS SHOULD
17 RESOLVE ALL OF HIS CHARGES WITH A NEGOTIATED THIRTY YEAR
18 SENTENCE.

19 THE COURT: ALRIGHT. AND OF COURSE,
20 THE VICTIMS WILL HAVE AN OPPORTUNITY TO SPEAK THIS
21 MORNING IF THEY WOULD LIKE TO DO SO.

22 MR. LOUIS, RAISE YOUR RIGHT HAND,
23 PLEASE, SIR.

24 (Whereupon, Darryl Keith Louis
25 is duly sworn.)

1 THE COURT: ALRIGHT, SIR. I'LL ASK
2 YOU TO SPEAK A LITTLE LOUDER. THIS NICE LADY HAS TO
3 WRITE DOWN EVERYTHING THAT YOU AND I SAY, AND SHE'S KIND
4 OF HARD OF HEARING.

5 ALRIGHT, SIR, YOU CAN PUT YOUR HAND
6 DOWN.

7 (NOTE: Blank lines on this page do not indicate any
8 part of record has been omitted. Headers on testimony
9 pages and hard page breaks between testimony are now
10 required by the Court. See next ensuing page for
11 sequential continuation of record.)

EXAMINATION, IN CAMERA, OF DARRYL K. LOUIS

BY THE COURT:

Q. HOW OLD ARE YOU, SIR?

A. TWENTY-FOUR YEARS OLD, YOUR HONOR.

Q. HOW FAR DID YOU GO IN SCHOOL?

A. ELEVENTH GRADE, BUT I OBTAINED MY G.E.D. SHORTLY
AFTER.

Q. ALRIGHT. HAVE YOU EVER BEEN TREATED FOR DRUG
ABUSE, ALCOHOL ABUSE, OR MENTAL ILLNESS?

A. NO, YOUR HONOR.

Q. HAVE YOU HAD ANY DRUGS, ALCOHOL, MEDICATION OR
ANYTHING IN THE LAST TWENTY-FOUR HOURS THAT WOULD
KEEP YOU FROM UNDERSTANDING WHAT'S GOING ON IN
COURT TODAY?

A. NO, YOUR HONOR.

(NOTE: Blank lines on this page do not indicate any
part of record has been omitted. Headers on testimony
pages and hard page breaks between testimony are now
required by the Court. See next ensuing page for
sequential continuation of record.)

EXAMINATION, IN CAMERA, OF DEFENSE COUNSEL GATERS

BY THE COURT:

Q. COUNSELOR, HAVE YOU EXPLAINED TO YOUR CLIENT THE CHARGES HE IS FACING, THE EVIDENCE THE STATE HAS AGAINST HIM, THE POSSIBLE PENALTY, TWO COUNTS OF ARMED ROBBERY, THEY CARRY UP TO THIRTY YEARS EACH, EACH IS A VIOLENT MOST SERIOUS, NO PAROLE OFFENSE, AND HAVE YOU EXPLAINED TO HIM HIS CONSTITUTIONAL RIGHTS?

A. YOUR HONOR, I HAVE, AND IN GREAT DETAIL.

Q. AND I BELIEVE YOU'VE BEEN REPRESENTING HIM ABOUT TWO YEARS?

A. SINCE TWO THOUSAND AND SIX, WHEN I WAS APPOINTED, YOUR HONOR.

Q. AND DO YOU BELIEVE THAT HE UNDERSTANDS ALL OF THOSE MATTERS?

A. YOUR HONOR, HE UNDERSTANDS IT FULLY.

Q. AND HOW HAS HE ADVISED YOU HE WISHES TO PLEAD?

A. MR. LOUIS HAS ADVISED ME, YOUR HONOR, THAT HE WISHES TO ENTER A PLEA OF GUILTY TO THE TWO COUNTS OF THE INDICTMENT IN RESOLUTION OF ALL CASES PENDING AGAINST HIM IN CHARLESTON, BERKELEY AND DORCHESTER COUNTIES.

Q. AND DO YOU CONCUR WITH HIS DECISION TO PLEAD GUILTY?

1 A. ABSOLUTELY, YOUR HONOR.

2 (NOTE: Blank lines on this page do not indicate any
3 part of record has been omitted. Headers on testimony
4 pages and hard page breaks between testimony are now
5 required by the Court. See next ensuing page for
6 sequential continuation of record.)

EXAMINATION, IN CAMERA, OF DARRYL K. LOUIS

BY THE COURT CONTINUES:

Q. MR. LOUIS, YOUR ATTORNEY TELLS ME SHE HAS EXPLAINED TO YOU THE CHARGES THAT YOU ARE FACING, THE EVIDENCE THE STATE HAS AGAINST YOU, THE POSSIBLE PENALTY AND YOUR CONSTITUTIONAL RIGHTS. SHE SAYS THAT SHE BELIEVES YOU UNDERSTAND ALL OF THOSE MATTERS AND YOU WANT TO PLEAD GUILTY. IS THAT RIGHT?

A. YES, YOUR HONOR.

Q. NOW, IN ORDER TO PLEAD GUILTY YOU HAVE TO GIVE UP CERTAIN RIGHTS THAT YOU HAVE. THE FIRST OF THESE IS YOUR RIGHT TO REMAIN SILENT. THAT IS YOUR RIGHT TO SAY NOTHING ABOUT THESE CHARGES. YOU CANNOT BE FORCED TO TESTIFY AGAINST YOURSELF, BUT IF YOU PLEAD GUILTY YOU GIVE UP THAT RIGHT IN ORDER TO ADMIT THE TRUTH OF THE CHARGES AGAINST YOU. THAT'S WHAT A GUILTY PLEA IS, AN ADMISSION THAT THE CHARGES ARE TRUE.

AND YOU HAVE A RIGHT TO A JURY TRIAL. THAT IS YOUR RIGHT TO HAVE A JURY DETERMINE WHETHER OR NOT YOU ARE, IN FACT, GUILTY OF THESE CHARGES BEYOND A REASONABLE DOUBT. A JURY WOULD BASE ITS DECISION ON THE TESTIMONY AND THE EVIDENCE PUT UP BY THE STATE'S WITNESSES. YOUR ATTORNEY COULD CROSS-

1 EXAMINE THOSE WITNESSES AND CALL WITNESSES ON YOUR
2 OWN BEHALF AND PUT UP ANY DEFENSE THAT YOU MIGHT
3 HAVE TO THE CHARGES. YOU WOULD BE PRESUMED TO BE
4 INNOCENT IF YOU HAD A JURY TRIAL, THE BURDEN WOULD
5 BE ON THE STATE TO CONVINCE ALL TWELVE JURORS OF
6 YOUR GUILT. DO YOU UNDERSTAND BOTH YOUR RIGHT TO
7 REMAIN SILENT AND YOUR RIGHT TO HAVE A JURY TRIAL?

8 A. YES, YOUR HONOR.

9 Q. DO YOU UNDERSTAND THAT IN ORDER TO PLEAD GUILTY
10 YOU HAVE TO GIVE UP BOTH OF THOSE RIGHTS?

11 A. YES, YOUR HONOR.

12 Q. AND THAT'S WHAT YOU WANT TO DO?

13 A. YES, YOUR HONOR.

14 Q. YOU DON'T WANT A JURY TRIAL?

15 A. NO, YOUR HONOR.

16 Q. ALRIGHT. THE INDICTMENT FROM DORCHESTER -- AND
17 YOU HAVE A RIGHT TO HAVE THIS CASE HEARD IN
18 DORCHESTER. SO, IF YOU WANT TO YOU CAN WAIT TO DO
19 THIS ONE UNTIL I'M IN DORCHESTER NEXT WEEK AND
20 COME UP THERE TO ST. GEORGE AND DO THIS PLEA. DO
21 YOU UNDERSTAND YOU HAVE A RIGHT TO HAVE IT HEARD
22 IN ST. GEORGE?

23 A. YES, YOUR HONOR.

24 Q. DO YOU WANT TO WAIVE THAT RIGHT AND LET ME HEAR IT
25 DOWN HERE TODAY, OR DO YOU WANT TO COME TO ST.

1 GEORGE.

2 A. I'LL WAIVE THAT RIGHT, YOUR HONOR.

3 Q. ALRIGHT, SIR. THE INDICTMENT SAYS THAT HERE, IN
4 DORCHESTER COUNTY, THERE IN DORCHESTER COUNTY, ON
5 OR ABOUT THE TWENTY-THIRD OF APRIL, TWO THOUSAND
6 AND SIX, THAT YOU FELONIOUSLY OR WRONGFULLY TOOK
7 FROM THE PERSON OR PRESENCE OF TERRANCE MOORE,
8 TERESA MACK, CHRISTOPHER SKINELLA, AND/OR KELLY
9 HAMILTON, BY MEANS OF FORCE OR INTIMIDATION WHILE
10 ARMED WITH A PISTOL, SOME MONEY AT THE FOOD LION.
11 SO, YOU'RE CHARGED WITH ARMED ROBBERY OF THESE
12 EMPLOYEES OF THE FOOD LION. DO YOU UNDERSTAND
13 THAT CHARGE?

14 A. YES, YOUR HONOR.

15 Q. AND HOW DO YOU PLEAD TO THAT CHARGE?

16 A. GUILTY, YOUR HONOR.

17 Q. THE INDICTMENT FROM CHARLESTON SAYS THAT IN
18 CHARLESTON COUNTY, ON OR ABOUT THE TWENTY-FIFTH OF
19 MARCH, TWO THOUSAND AND SIX, AT EIGHTY-TWO QUEEN
20 STREET, WHICH IS RIGHT ACROSS THE BACK STREET
21 HERE, A RESTAURANT, THAT BY USE OF FORCE OR
22 INTIMIDATION, WHILE YOU WERE ARMED WITH A DEADLY
23 WEAPON, A HAND GUN, THAT YOU TOOK FROM THE PERSON
24 OR PRESENCE OF THE EMPLOYEES OF THE EIGHTY-TWO
25 QUEEN RESTAURANT SOME MONEY AND OTHER GOODS WITH

1 THE INTENT TO PERMANENTLY DEPRIVE THEM OF THIS
2 PROPERTY. THIS CHARGE OF ARMED ROBBERY OF THE
3 EMPLOYEES OF THE EIGHTY-TWO QUEEN STREET
4 RESTAURANT HERE IN CHARLESTON. DO YOU UNDERSTAND
5 THAT CHARGE?

6 A. YES, YOUR HONOR.

7 Q. HOW DO YOU PLEAD TO THAT CHARGE?

8 A. GUILTY, YOUR HONOR.

9 Q. NOW, THE RECOMMENDATION OF THE STATE IS THAT YOU
10 RECEIVE A SENTENCE OF THIRTY YEARS. AS I'VE
11 ALREADY EXPLAINED TO YOU IN CHAMBERS ON THE RECORD
12 AND IN THE COURTROOM, THAT'S NO PAROLE, IT'S A
13 VIOLENT OFFENSE, MOST SERIOUS OFFENSE, AND THE
14 OTHER NEGOTIATION WITH THE STATE IS THAT ALL OTHER
15 CHARGES AGAINST YOU WILL BE DISMISSED AS A RESULT
16 OF THIS GUILTY PLEA. DO YOU UNDERSTAND THAT?

17 A. YES, YOUR HONOR.

18 Q. AND WE HAD A CONFERENCE, AS I SAID, IN CHAMBERS,
19 BUT ON THE RECORD EARLIER, YOUR LAWYER AND THE
20 SOLICITOR AND ME AND OFFICERS WERE BACK THERE AND
21 WE TALKED ABOUT THIS PLEA AND THE FACT THAT YOU
22 WERE FACING A NUMBER OF OTHER CHARGES THAT IF YOU
23 WERE ABLE, YOU KNOW, IN ADDITION TO THE TRIAL THAT
24 WE'VE GOT STARTED ALREADY, YOU TOLD ME THAT YOU
25 UNDERSTOOD ALL THOSE THINGS. OTHER THAN WHAT WE

1 TALKED ABOUT HAS ANYBODY PROMISED YOU ANYTHING TO
2 GET YOU TO PLEAD GUILTY?

3 A. NO, YOUR HONOR.

4 Q. HAS ANYBODY THREATENED YOU TO GET YOU TO PLEAD
5 GUILTY?

6 A. NO, YOUR HONOR.

7 Q. ARE YOU BEING PRESSURED, DO YOU FEEL LIKE YOU'RE
8 BEING PRESSURED BY ME OR BY YOUR LAWYER OR BY
9 ANYBODY ELSE TO PLEAD GUILTY?

10 A. NO, YOUR HONOR.

11 Q. ARE YOU SATISFIED WITH YOUR LAWYER?

12 A. ABSOLUTELY, YOUR HONOR.

13 Q. DID YOU TELL HER EVERYTHING ABOUT ALL OF THESE
14 CASES, ALL FIFTEEN OR SIXTEEN OF THEM, SO SHE
15 COULD GIVE YOU GOOD ADVICE?

16 A. YES, SIR.

17 Q. HAS SHE FAILED TO DO ANYTHING THAT YOU THINK SHE
18 NEEDS TO DO TO HELP YOU IN THIS CASE?

19 A. NO, YOUR HONOR.

20 Q. HAVE YOU UNDERSTOOD ALL OF THE QUESTIONS THAT I
21 HAVE ASKED YOU?

22 A. YES, YOUR HONOR.

23 Q. HAVE YOU ANSWERED THEM TRUTHFULLY?

24 A. YES, YOUR HONOR.

25 Q. DO YOU UNDERSTAND THAT IF YOU WANT TO FILE AN

1 APPEAL IN THIS CASE YOU WOULD HAVE TO DO THAT
2 WITHIN TEN DAYS? IF YOU DECIDE YOU WANT TO APPEAL
3 YOUR DECISION TO PLEAD GUILTY YOU HAVE A TEN DAY
4 TIME PERIOD TO DO THAT. IF YOU WAIT MORE THAN TEN
5 DAYS IT'S TOO LATE, IF YOU DECIDE YOU WANT TO DO
6 THAT. DO YOU UNDERSTAND THAT?

7 A. YES, YOUR HONOR.

8 THE COURT: ALRIGHT, I'LL ACCEPT HIS
9 PLEA, I FIND A SUBSTANTIAL FACTUAL BASIS FOR HIS PLEA,
10 HIS DECISION TO PLEAD GUILTY IS FREELY AND VOLUNTARILY
11 MADE, HE'S KNOWINGLY AND INTELLIGENTLY WAIVED HIS RIGHT
12 TO A JURY TRIAL, AND HE'S HAD THE SERVICES OF AN
13 ATTORNEY WITH WHOM HE SAYS HE'S SATISFIED.

14 BEFORE I HEAR FROM YOU, SOLICITOR,
15 I WANT TO BRING THE JURY OUT, PLEASE, MR. BAILIFF.
16 THEY'VE BEEN SITTING BACK THERE ALL MORNING, SO WE'LL
17 BRING THEM BACK OUT AND LET THEM KNOW WHAT'S GOING ON.

18 MR. LOUIS, YOU'RE GOING TO JAIL FOR
19 A LONG, LONG TIME, BUT I THINK YOU MADE A GOOD DECISION,
20 BECAUSE YOU WERE RISKING AN AWFUL LOT MORE THAN THE
21 SENTENCE YOU'RE GOING TO GET, AND I THINK YOU HAVE A
22 VERY GOOD LAWYER REPRESENTING YOU, I THINK SHE'S DONE A
23 GOOD JOB REPRESENTING YOU, AND I THINK YOU MADE A GOOD
24 DECISION HERE THIS MORNING.

25 (Whereupon, the jury enters

1 the courtroom and the following
2 takes place in the presence of
3 the jury.)

4 THE COURT: GOOD MORNING, LADIES AND
5 GENTLEMEN, I APOLOGIZE FOR KEEPING YOU BACK THERE
6 WAITING SO LONG, AND IN A LITTLE WHILE I'M GOING TO TELL
7 YOU WHAT WE'VE BEEN DOING THIS MORNING WHILE YOU'VE BEEN
8 BACK THERE, BUT FOR RIGHT NOW I WANT TO TELL YOU THAT AS
9 A RESULT OF WHAT WE'VE BEEN DOING HERE THIS MORNING AND
10 YESTERDAY AFTERNOON AFTER YOU LEFT, THE DEFENDANT, MR.
11 LOUIS, HAS CHANGED HIS PLEA FROM NOT GUILTY TO GUILTY.
12 HE HAS PLED GUILTY TO THE ROBBERY OF THE EIGHTY-TWO
13 QUEEN STREET RESTAURANT WHICH IS RIGHT ACROSS THE
14 STREET, AND HE'S ALSO PLED GUILTY TO A ROBBERY WHICH
15 OCCURRED AT THE HOUSE OF PANCAKES IN DORCHESTER COUNTY.
16 THAT CHARGE WAS ALSO PENDING -- NO, THE FOOD LION, THE
17 FOOD LION IN DORCHESTER COUNTY. AND SO, I HAVE ACCEPTED
18 THOSE PLEAS, I HAVE QUESTIONED HIM TO BE CERTAIN THAT HE
19 UNDERSTANDS WHAT HE'S DOING, THAT HE'S GIVING UP HIS
20 RIGHT TO REMAIN SILENT AND HE'S GIVING UP HIS RIGHT TO
21 A JURY TRIAL, AND THAT HE UNDERSTANDS THE CONSEQUENCES
22 OF THAT DECISION TO PLEAD GUILTY. AND I HAVE DETERMINED
23 THAT HE DOES UNDERSTAND THOSE RIGHTS AND THAT HE HAS
24 MADE HIS DECISION FREELY AND VOLUNTARILY. AND SO, NOW
25 THE SOLICITOR IS ABOUT TO TELL ME ABOUT THE FACTS OF THE

1 CASE AND THEN I WILL SENTENCE MR. LOUIS. AND SO, I
2 WANTED TO BRING YOU OUT SINCE YOU HAVE BEEN WAITING BACK
3 THERE ALL THE MORNING AT THIS POINT IN TIME.

4 ALRIGHT, SOLICITOR.

5 SOLICITOR WILLIAMS: YOUR HONOR, I'M
6 GOING TO COVER THE DORCHESTER COUNTY CASE FIRST. I AM
7 READING OFF OF THE INFORMATION PROVIDED TO ME FROM
8 ASSISTANT SOLICITOR HARRISON BELL. YOUR HONOR, IT'S MY
9 UNDERSTANDING IN THAT CASE IT WAS APRIL THIRTY-THIRD OF
10 TWO THOUSAND AND SIX. THIS DEFENDANT ALONG WITH TWO CO-
11 DEFENDANTS ESSENTIALLY WENT TO THE FOOD LION ARMED WITH
12 PISTOLS. THEY WENT INSIDE IN MASKS, FORCED EMPLOYEES
13 AND CUSTOMERS ONTO THE FLOOR, STOLE CASH BY USING METAL
14 TONGS TO TRY TO GET MONEY FROM A SAFE. WHILE INSIDE
15 THEY DESTROYED THE SECURITY RECORDER, SOME TAPE THAT WAS
16 BEING USED TO RECORD AS WELL AS TELEPHONES. THEY THEN
17 FLED AND GOT INTO ONE OF THE CO-DEFENDANT'S VEHICLE AND
18 THAT CASE WAS MADE, THAT CASE IN DORCHESTER COUNTY WAS
19 MADE BASED ON STATEMENTS OBTAINED BY DETECTIVE OSBORNE
20 HERE IN CHARLESTON FROM CO-DEFENDANTS.

21 YOUR HONOR, THE CASE THAT YOUR HONOR
22 IS MORE FAMILIAR WITH, AT EIGHTY-TWO QUEEN, THAT WE
23 BEGAN TRIAL ON INVOLVED THIS DEFENDANT AS WELL AS THREE
24 CO-DEFENDANTS. THEY WENT INTO THE EIGHTY-TWO QUEEN
25 STREET RESTAURANT. THEY HAD MASKS, THREE GUNS AMONG THE

1 FOUR OF THEM. THEY STARTED AT THE BACK WITH THE COOKS,
2 SOME OF THEM ARE IN COURT TODAY, PROCEEDED DOWN TO THE
3 FRONT OF THE STORE, PUT PEOPLE ON THE FLOOR AT GUN
4 POINT. ONE OF THE INDIVIDUALS THAT'S HERE WAS, HAD A
5 GUN PUT INTO HIS MOUTH. MONEY WAS STOLEN FROM
6 INDIVIDUALS AS WELL AS FROM THE BAR REGISTER THAT WAS
7 BEING COUNTED OUT.

8 YOUR HONOR, THE, ALL OF THE FOLKS
9 THAT WERE HERE TO TESTIFY TODAY ARE IN COURT TODAY AND
10 THEY ARE ESSENTIALLY THE MAIN VICTIMS IN THE CASE AS
11 WELL. I DON'T BELIEVE THEY WANT TO SPEAK; HOWEVER,
12 CERTAINLY, YOUR HONOR, THEIR PRESENCE IS WHAT ACHIEVED
13 THE PLEA IN THIS CASE AS WELL AS THE INVESTIGATION THAT
14 WAS CONDUCTED BY THE CITY POLICE DEPARTMENT AND
15 DETECTIVE OSBORNE. AND AS YOUR HONOR KNOWS, THERE'S A
16 THIRTY YEAR NEGOTIATION IN THIS CASE AND I THINK THAT'S
17 AN APPROPRIATE SENTENCE GIVEN THE CONDUCT.

18 THE COURT: ALRIGHT, ANY OF THE
19 VICTIMS WANT TO BE HEARD?

20 (Negative response from victims.)

21 THE COURT: ALRIGHT, THANK YOU VERY
22 MUCH.

23 ALRIGHT, COUNSELOR.

24 MS. GATERS: YOUR HONOR, MAY IT
25 PLEASE COURT. YOU'RE VERY FAMILIAR WITH THE FACTS AND

1 CIRCUMSTANCES OF THIS CASE. I WAS APPOINTED TO
2 REPRESENT MR. LOUIS BACK IN TWO THOUSAND AND SIX BY
3 CHARLESTON COUNTY. I HAVE WORKED WITH HIM VERY
4 DILIGENTLY THROUGH THOSE TWO YEARS, AND IT HAS BEEN A
5 LONG ROAD TO GET TO THIS POINT. HE'S, HE WAS TWENTY-TWO
6 WHEN I BEGAN REPRESENTING HIM, HE'S TWENTY-FOUR NOW. HE
7 HAS A TWO YEAR OLD DAUGHTER, THAT CHILD WAS BORN JUST
8 BEFORE HE WENT TO PRISON. HIS MOTHER DIED WHEN HE WAS
9 ELEVEN YEARS OLD IN LOUISIANA. HE HAS NO CONTACT WITH
10 HIS FATHER AND HAS NEVER HAD ANY CONTACT WITH HIS
11 FATHER. HE HAS TWO SISTERS, ONE WHO IS CRYSTAL LOUIS,
12 THE OTHER SHANIKA DICKSON. ONE SISTER RESIDES IN
13 CHARLESTON, WORKS AT THE NAVAL BASE, THE OTHER SISTER
14 NOW LIVES IN GEORGIA. HE ALSO HAS A YOUNGER BROTHER.
15 HIS CONCERN, OF COURSE, HAS BEEN FOR HIS SIBLINGS AND
16 FOR HIS DAUGHTER THROUGHOUT THIS. HE COMES, HE ADMITS
17 WHAT HE'S DONE. THERE IS A NEGOTIATION WHICH, OF
18 COURSE, CLEANS THE SLATE WITH THE OTHER CASES. I WOULD
19 ASK YOUR HONOR CERTAINLY TO ACCEPT THE RECOMMENDATION
20 AND TO SENTENCE HIM IN ACCORDANCE WITH THAT, YOUR HONOR.

21 THE COURT: ALRIGHT, I THINK IT'S A
22 PROPER RESOLUTION OF THE MATTER.

23 SENTENCE OF THE COURT

24 THE SENTENCE OF THE COURT IS, MR.
25 LOUIS, THAT YOU BE COMMITTED ON EACH OF THESE TWO

1 INDICTMENTS TO THE DEPARTMENT OF CORRECTIONS FOR A
2 PERIOD OF THIRTY YEARS. THE SENTENCES ARE CONCURRENT,
3 AND YOU GET CREDIT FOR ALL OF THE TIME THAT YOU HAVE
4 SERVED IN THE JAIL.

5 GOOD LUCK TO YOU, SIR.

6 THANK YOU VERY MUCH.

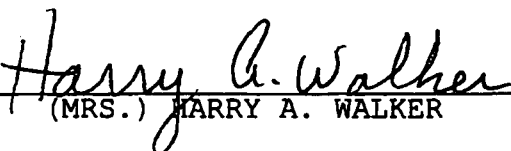
7 SOLICITOR WILLIAMS: THANK YOU, YOUR
8 HONOR.

CERTIFICATE

I, THE UNDERSIGNED, MRS. HARRY A. WALKER, OF ROWESVILLE, SOUTH CAROLINA, OFFICIAL COURT REPORTER FOR THE FIRST 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 EVIDENCE INTRODUCED IN THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE COURT OF GENERAL SESSIONS FOR CHARLESTON COUNTY, SOUTH CAROLINA, ON THE TWENTY-EIGHTH DAY OF MAY, 2008.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST TO ANY PARTY HERETO.

DATE: JANUARY 3, 2009


(MRS.) HARRY A. WALKER

COUNTY: CHARLESTON
Case No.: 07-GS-10-7478

DATE: MAY 28, 2008

VOIR DIRE

Judge: JAMES C. WILLIAMS, JR.

Pl./State:
STATE OF SOUTH CAROLINA

State/Pl's.Atty:
NATHAN WILLIAMS

Defendant:
DARRYL KEITH LOUIS

Defense Atty:
RENEE GATERS

Court Reporter: (Mrs.) Harry A. Walker

Juror No.	Name	Sex Race	Strikes:			Accept
			Pl.	Def.		
311	SARA POUCH	F	U			X
162	SEAN LONG	M	W			X
283	MARTHA WALTERS	F	W			X
171	CHRISTOPHER MCRAE	M	W	X		
204	ROBERT OLLERHEAD	M	W			X
78	TYLER EDWARDS	M	W			X
47	CHRISTOPHER CAUDELL	M	W			X
247	CHRISTINE SEABROOK	F	B			X
308	ANDREA ROBERTS	F	U			X
37	TERESA BROWN	F	W			X
207	RONALD PADGETT, II	M	W	X		
76	ELOISE EADY	F	B	X		
80	ANASTASIA EMELIANOFF	F	W			X
272	DIANE SWAIN	F	B			X
214	JENNIFER PELT	F	W			X
4	JERRY ALLEN	F	B			X
269	MARY STEMPLER	F	W			X
170	NANCY MCKEEHAN	F	W			X
81	LANA EUBANKS	F	W			X
307	LACY HILT	F	U			X
176	RICHARD MINER	M	W			X

COUNTY: CHARLESTON
Case No.: 07-GS-10-7478

DATE: MAY 28, 2008

VOIR DIRE

Judge: JAMES C. WILLIAMS, JR.

Pl./State:
STATE OF SOUTH CAROLINA

State/Pl's.Atty:
NATHAN WILLIAMS

Defendant:
DARRYL KEITH LOUIS

Defense Atty:
RENEE GATERS

Court Reporter: (Mrs.) Harry A. Walker

Juror No.	Name	Sex	Race	Strikes:		Accept
				Pl.	Def.	

28	GREGORY BOEVIN	M	W			X
106	DENISE HACKNEY	F	W			X
88	ULAS FOSTER, JR.	M	B			X
ALTERNATE NO. 1						
261	MEGHAN SMITH	F	W			X
292	CORENDA WIGFALL	F	B		X	
279	CHARLES VINCENT, III	M	W			X
ALTERNATE NO. 2						
287	JAMES WATSON	M	B			X
172	ASHLEY MEGGETT	F	B			X

STATE OF SOUTH CAROLINA

County of CharlestonDarryl Keith Louis Jr. #279494

Full name and prison number (if any) of Applicant

v.

State of South Carolina

08-CP-10-6010
IN THE COURT OF COMMON PLEAS**FILED**

OCT 21 2008

**JULIE J. ARMSTRONG
CLERK, C.P. & G.S.**

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Charleston County Detention Center
- 2) Name and location of Court which imposed sentence Charleston County Court of General Sessions - Chas., S.C.
3. Name(s) of co-defendant(s) (if any) Curtis Emory Burns / Then Reaves / James Stanley Blanding / Thomas Evans / Travis Wiggins
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) Armed Robbery w/handgun - case no. #0605982
 - (b) Armed Robbery w/handgun - case no. #0609575

(c) A.R. # 07-65-1007478 warrant # H913141

5) The date upon which sentence was imposed and the terms of the sentence:

(a) May 28th, 2008

(b) guilty plea of two Armed Robberies not to exceed

(c) 30 years and dismissal of all other charges mentioned

6. Check whether a finding of guilty was made:

(a) after a plea of guilty ✓

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

No

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. N/A

ii. "

iii. "

(b) the result in each such Court to which you appealed:

i. "

ii. "

iii. "

(c) the date of each such result:

i. "

ii. "

iii. "

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. "

ii. "

iii. "

9) If you answered "no" to (7), state your reasons for not so appealing:

(a) Under the advisement of counsel of the plea who was totally ineffective

(b) _____

(c) _____

10) State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) INEFFECTIVE ASSISTANCE OF COUNSEL; SUBJECT MATTER
(b) JURISDICTION OR JURISDICTIONAL ISSUES; DUE PROCESS VIOLATION
(c) 5th, 6th, 14th AMENDMENT VIOLATIONS

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) SEE MEMORANDUM
(b) U
(c) U

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? NO
(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
(d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
i. N/A
ii. N/A
iii. U
iv. U
(b) the name and location of the Court in which each was filed:
i. U
ii. U
iii. U
iv. U

(c) the disposition thereof:

- i. N/A
- ii. U
- iii. U
- iv. U

(d) the date of each such disposition:

- i. U
- ii. U
- iii. U
- iv. U

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. U
- ii. U
- iii. U
- iv. U

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. SEE MEMORANDUM
- ii. G
- iii. U

(b) the proceedings in which each ground was raised:

- i. U
- ii. U
- iii. U

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) ineffective assistance of counsel
(b) 4
(c) 4

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? yes
(b) your trial, if any? yes
(c) your sentencing? yes
(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? nila
(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

nila

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

- i. Renée Gaters 128 Cannon St.
P.O. Box 1015
ii. Chas, S.C. 29402

iii.

(b) the proceedings at which each such attorney represented you:

- i. trial/arraignment and plea/sentencing

ii.

iii.

19. State clearly the relief you seek in filing this application:

vacating of case and conviction; order
issued to expunge criminal record

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA)

VERIFICATION

County of Charleston)

I, Darryl Keith Louis Jr., being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Darryl Louis

SWORN to and subscribed before me this 9
day of October, 2008.

Rajal W. Lee (L.S.)
Notary Public

My Commission Expires: 5 April 2016

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, Darryl Keith Lewis Jr., hereby apply for leave to
proceed in this action without prepayment of fees or costs or security therefor. In support of my
application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give
security thereof.

Darryl Lewis
Applicant

SWORN or affirmed to and subscribed before me this

9 day of October, 2016

Reginald W. Day
Notary Public

My Commission Expires: 5 Apr. 1 2016

10/22/2008 11:22

CHARLESTON CRIMINAL SYSTEM
*** CRIMINAL DISPOSITION INQUIRY ***

BLC MA07 R1PIQ01

FUNCTION _

CASE ID: YEAR: 2007 COURT: GS LOC: 10 NUMBER: 007478 DEF ID: A COUNT: 01
WARRANT/CITATION: H913141 OF: A OF: 01

DEFENDANT: LOUIS, DARRYL KEITH

ALIAS FLAG:

EVENT CODE: HEA EVENT DATE: 05 28 2008 EVENT TIME: 08 00 EVENT JUDGE: 2114

-----TRIAL DATA-----

TYPE: 1 DATE: 05 28 2008

STATUTE CONVICTED: 16-11-0330(A)

REPT GRP: 0139 GOC: G FINES/COSTS:

SENTENCE : 30Y

SENTENCE - CONT:

-----DISPOSITION DATA-----

CODE: 1000 DATE: 05 28 2008 JUDGE: 2114

ISHMEL:

DESCR: ARMED ROBBERY

DISPOSITION ENTRY DATE: 05 28 2008

DISP DKTS/CHGS:

ADDTL DKT/CHGS:

LAST UPDATE: 05 28 2008 OPERATOR: TMM

ENTER FS,PS,DK,PD,EV,SS OR PF1

- all others were nolle prossed

COUNTY OF Charleston
STATE

VS.

DARRYL LOUIS

AKA:

Race: B Sex: M Age: 24DOB: SS#Address: 108 LARKSPUR DRIVE
GOOSE CREEK, SC 294450000DL#: SID#INDICTMENT/CASE#: 2007GS1007888 7475A/W#: 1596766 H 913141Date of Offense: 5-11-2006 3125706S.C. Code § : 16-11-0330(A)CDR Code #: 0139

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Armed Robberyin violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Nathan Williams
Williams, NathanDarryl Louis
DefendantAttorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 30 YEARS☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3. 1B TP (Law Enforce. Funding) \$25 \$ 25.00

§ 33.7. 1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ 3.75TOTAL \$ 128.75

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, §35.13 TP
Requires \$500 be paid to Clerk during probation.PRESIDING JUDGE James L. ...Judge Code: 2114Sentence Date: 5-28-08

Clerk of Court/ Deputy Clerk

Court Reporter: H. Walker

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

INDICTMENT

At a Court of General Sessions, convened on June 4, 2007 the Grand Jurors of Charleston County present upon their oath:

Armed Robbery

That on or about March 25, 2006, in Charleston County, South Carolina, at 82 Queen Street, Charleston, by use of force, threats or intimidation and while armed with a deadly weapon, to wit: a handgun, the Defendant, DARRYL KEITH LOUIS, alone or while acting in concert with another or others, did take and carry away goods and/or monies from the person or immediate presence of the employees of 82 Queen Restaurant with the intent to permanently deprive them of possession thereof, in violation of Section 16-11-330(A) of the South Carolina Code of Laws, 1976, as amended.

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


NATHAN WILLIAMS
ASSISTANT SOLICITOR

NSW20060500355

WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

0605982

ARREST WARRANT NUMBER

H913141

DATE OF ARREST

2006-06-07

ACTION OF GRAND JURY

JUN 11 2006
JUN 11 2006

Foreperson of Grand Jury

Date: *SM, Jr*

VERDICT

Foreperson of Petit Jury

Date:

INDICT.DOT

DOCKET NO. 2007GS1007478

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

June Term 2007

THE STATE

vs.

DARRYL KEITH LOUIS

Indictment for

Armed Robbery

FILED

2007 JUN -7 PM 2:35

JULIE J. ARMSTRONG
CLERK OF COURT

SAR

(2)

06-3255

STATE OF SOUTH CAROLINA)
☒ County/ ☐ Municipality of)
CHARLESTON)

AFFIDAVIT

Personally appeared before me the affiant INV M ANDREW COOPER who
being duly sworn deposes and says that defendant DARRYL KEITH LOUIS
did within this county and state on 03-25-06 violate the criminal laws of the
State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of CHARLESTON)
in the following particulars:

ARMED ROBBERY WITH A HANDGUN
16-11-330

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

SEE ATTACHED AFFIDAVIT

Signature of Affiant

STATE OF SOUTH CAROLINA)
☒ County/ ☐ Municipality of)
CHARLESTON)

Affiant's Address 108 LOCKWOOD DRIVE
CHARLESTON, SC 29403
Affiant's Telephone 843-577-7434

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on 03-25-06 defendant DARRYL KEITH LOUIS
did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of CHARLESTON) as set forth below:

DESCRIPTION OF OFFENSE:

ARMED ROBBERY WITH A HANDGUN

16-11-330

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on May 30, 2006

Signature of Issuing Judge *Sam Rittenberg* Judge's Address 1720 SAM RITTENBERG BLVD.
CHARLESTON, SC 29407
Judge's Telephone 843-766-6531

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ARREST WARRANT

H- 913141

STATE OF SOUTH CAROLINA
☒ County/ ☐ Municipality of
CHARLESTON

THE STATE
against

DARRYL KEITH LOUIS
108 LARKSPUR DRIVE
GOOSE CREEK, SC 29445

Phone: SSN:
Sex: M Race: B Height: 6 Weight: 180
DL State: #
DOB: Agency ORI #:
Prosecuting Agency: CPD
Prosecuting Officer: COOPER
Offense: ARMED ROBBERY WITH A
HANDGUN Offense Code:
Code/Ordinance Sec. 16-11-330

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of

The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge (L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Darryl Keith
on 6/7/06

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

BAIL set by

Lyndell

JUN 07 2006

Judge

at

Type and Amount

\$100,000.00

Name of Surety

PRELIMINARY HEARING held by

Judge

at

Date and Amount

by

DISPOSITION

2006 JUN 16 PM

Judge

at

by

(Indicate jury trial, bench trial, plea not, pro se, etc.)

22

Disposition

by

JUPORS

CHECKLIST

SUM. CRT. CASE #

ON CASE #

REPORT GROUP

DIST. CODE

3255

039

1000

WITNESSES

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

NOTICE TO REPORT

YOU MUST REPORT FOR ARRAIGNMENT OR
PLEA ON THE CHARGE HEREIN TO THE
COURT OF GENERAL SESSIONS LOCATED IN
THE CHARLESTON COUNTY JUDICIAL CENTER,
100 BROAD STREET, CHARLESTON AT
ON **SEP 08 2006** IF YOU DO NOT
REPORT, AN ARREST WARRANT WILL BE ISSUED
CODEFENSE YOUR ARREST

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF CHARLESTON

Personally appeared before me, a magistrate of this county, one Inv. M. Andrew Cooper, first being duly sworn, deposes and says that the Defendant Darryl Keith Louis did within this County and State on 25-March-2006 violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE

Armed Robbery with a Handgun
16-11-330

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth and that such probable cause is based on the following facts:

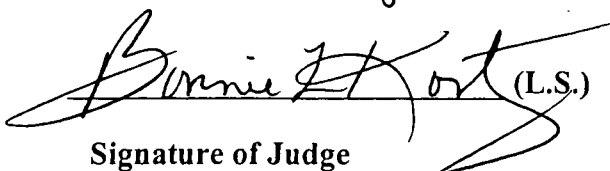
That on 25-March-2006 at approximately 2340hrs, while at the 82 Queen restaurant located at 82 Queen Street, in the City of Charleston, South Carolina, the defendant Daryl Keith Louis (b/m, 04-13-1984) did knowingly, willingly, and unlawfully violate South Carolina Code of Laws 16-11-330, Armed Robbery with a Handgun in the following particulars:

That the above named defendant along with co-defendants John Tyrone Reaves, Curtis Emory Burns, and Thomas Jermaine Evans, did enter 82 Queen under the cover of darkness, ordered all employees from the rear of the business and forced them to the front bar at gunpoint. The Defendant and Co-defendants next removed currency from the above business totaling \$868.00 dollars.

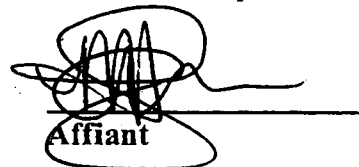
During the course of the investigation, Charleston Police Investigators interviewed the co-defendants who admitted to being one of the subjects that robbed the above business. The Co-defendant statements were consistent with the statement of victims and witnesses to the robbery.

The above statement is true and believable based on the statements by the victims, witnesses, co-defendant, and the investigation of the Charleston Police Department.

Sworn to and Subscribed before me
this 30th day of May, 2006.

 (L.S.)
Signature of Judge

Form 157A
Complaint #: 0605982


Affiant

Inv. M. Andrew Cooper
180 Lockwood Blvd
Charleston, SC 29403
(843) 577-7434

CMTI330D SCDC OFFENDER MANAGEMENT SYSTEM 01/14/14
 OMCOMITA RELEASE DATE SCREEN C023981
 SCDC# > 279494 LOC: MCCORMICK
 LOUIS, DARRYL KEITH SCDC CLASSIFICATION...: VIOLENT
 OFFENDER TYPE...: ADULT-STRAIGHT SENTENCE SEXUAL REGISTRY...: N
 SEXUAL PREDATOR...: NOT APP
 DNA STATUS.....: COMPLETED
 GPS REQUIREMENT...: N
 PREA DECISION.....
 CURRENT SENTENCE: 030-00-000 CONSECUTIVE SENTENCE ...: N
 030-00-000 CURRENT SENT START DATE: 05/27/2008
 PROJECTED COMPLETION DATES
 MAXOUT DATE: 11/19/2033 CURRENT EWC ..: 3 F 5
 YOA SIX YEAR DATE: / / CURRENT EEC ..: NOT CURRENTLY EARNING EEC
 INITIAL PAROLE DATE: 00/00/0000 NEXT PAROLE HEARING DATE: 00/00/0000

 TOTAL GT DAYS EARNED: 000000 LABOR CREW/WORK PROG DATE: 99/99/9999
 TOTAL EARNED WORK CREDITS ...: 000482 LABOR CREW DISQ REASON:
 TOTAL EDUCATION CREDITS: 000000 CATEGORY 4 OR 5 OFFENSE
 TOTAL EXTRA EARNED CREDITS ..: 000 SUPERVISED REENTRY DATE...: 00/00/00
 TOTAL SERVICE TIME EARNED ...: 002027 ISS.....:

PFKEYS: 5:HISTORY OF DATE CHANGES
 4-© 1 Sess-1 167.7.50.33 SCDC1300 3/11

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
RECORD SUMMARY REPORT DATED 01/14/14

C0239

LOUIS, DARRYL KEITH FBI # 547546TB9 SID# SC01377838 SCDC # 279494
OFFENDER TYPE.: ADULT-STRAIGHT SENTENCE
INSTITUTION ... MCCORMICK CORR INST
SECURITY/CUST.: 3 MINIMUM IN
CURR INCARC SENT...: 30 YRS 0 MOS 0 DYS
CENTRAL MONITORING.: YES SEPREQ
SOCIAL SECURITY #... [REDACTED]

DORM.....: F30164A
RACE....:B SEX....:M
PROJ MAXOUT DATE: 11/19/2033
PROJ PAROLE DATE: 00/00/0000
EWC JOB...: GENERAL WORKER
EDUC PGM.: NO CURR EDUC PROGRAM
EWC LEVEL: 3F5 EEC LEVEL:
ASSIGNMENT...: BLDING DETAIL BLDG.

CURRENT PROGRAM...: NO CURRENT PROGRAM
AGE...: 29 DATE OF BIRTH...: [REDACTED]

PREVIOUS NUMBERS:
Y00279494

CURRENT OFFENSES	SENTENCE YRS MOS DYS COUNTY	SENTENCE START V/NV CATEGORY
ARMED ROBBERY	30 0 0 DORCHESTER	5/27/20 8 V 4
ARMED ROBBERY	30 0 0 CHARLESTON	6/ 7/20 6 V 4

PRIOR COMMITMENTS OVER 90 DAYS:

INMATE HAS NO PRIORS

DETAINERS (HOLD, WANTED, NOTIFY):

NO DETAINERS

ESCAPES:

NO ESCAPE HISTORY

CRIMINAL CHARGES:

NO CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

NO ASSAULTIVE DISCIPLINARY HISTORY

NON-ASSAULTIVE DISCIPLINARIES:

12/11/13 STEALING	DROPPED	MAJOR
12/11/13 POSS. OR/ATTEMPT TO POSS	DROPPED	MAJOR
3/25/13 DAMAGE, DESTROY, PROP. VALU	PENDING	UNDER
5/ 7/12 POSSESSION OF CONTRABAND	DROPPED	MAJOR
7/ 4/11 SMUGGLING/CONSPIRACY SMU	NOT GUILTY	MAJOR
11/10/ 9 POSSESSION OF CONTRABAND	CONVICTED	ADMIN

HISTORY OF MOVEMENTS:

2/ 6/12	MCCORMICK	INCARCERATED	ADMINISTRATIVE
1/19/10	LIEBER	INCARCERATED	ADMINISTRATIVE
1/15/10	KIRKLAND	INCARCERATED	RETURN FROM COURT
1/14/10	CHARLESTON CO	AUTH ABSENCE (AWL)	TO COURT
9/21/ 9	LIEBER	INCARCERATED	RETURN FROM COURT
9/18/ 9	CHARLESTON CO	AUTH ABSENCE (AWL)	TO COURT
9/17/ 9	KIRKLAND	INCARCERATED	ADMINISTRATIVE
7/16/ 8	LIEBER	INCARCERATED	ADMINISTRATIVE
5/29/ 8	KIRKLAND	INCARCERATED	R&E PROCESSING
5/29/ 8	LIEBER	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL
GENERAL WORKER	04/16/13	0/ 0/ 0		3F5
GENERAL WORKER	02/28/13	3/25/13	PLACED IN ST/SP CUSTODY	3F5
FOOD SERVICE AIDE	03/01/12	1/27/13	PLACED IN ST/SP CUSTODY	3F5
GENERAL WORKER	02/07/12	2/29/12	INSTIT TRANSFER	3F5
CONSTRUCTION TRAINEE	09/14/11	2/ 6/12	INSTIT TRANSFER	3F5
CUSTODIAL WORKER	05/06/10	7/ 5/11	PLACED IN ST/SP CUSTODY	3F5
WARDKEEPER ASSISTANT	04/16/10	5/ 5/10	LATERAL TRANSFER	3F5
MECHANIC HELPER	01/20/10	4/15/10	LATERAL TRANSFER	3F5
MECHANIC HELPER	09/23/09	1/19/10	INSTIT TRANSFER	3F5

MECHANIC HELPER

08/08/08

9/17/ 9

INSTIT TRANSFER

3F5

LOUIS, DARRYL KEITH FBI # 547546TB9 SID# SC01377838 SCDC # 279494 (CONTINUED)

HISTORY OF EARNED EDUCATION CREDITS:

EEC	START	END	TERMINATION
DESCRIPTION	DATE	DATE	REASON
LVL 2 - FULL TIME (NO EWC)	12/21/01	12/22/ 1	INSTIT TRANSFER
LVL 2 - FULL TIME (NO EWC)	12/07/01	12/20/ 1	MI ELIGIBLE FOR LEVEL 2
***** END OF REPORT *****			

STATE OF SOUTH CAROLINA

COUNTY OF Charleston
STATE DORCHESTER

VS.

DARRYL LOUIS

AKA: _____

Race: BSex: MAge: 24

DOB: _____

SS#: _____

Address: 108 LARKSPUR CT
GOOSE CREEK, SC 294450000

DL#: _____

SID#: _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012 - GS-18-1264A/W/ PO 00334 1091537Date of Offense: 4/23/06SIC Code: 16-11-0330(A)CDR Code #: 0139

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: Armed Robberyin violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Nathan Williams
Williams, NathanDarryl Louis
Defendant[Signature]
Attorney for DefendantWHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*, the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: all other☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

Set by SCDPPPS

Recipient: _____

Fine: \$ _____

14-1-206 (Assessments 107.5 %) \$ _____

14-2-111(A)(1) (Conv. Surcharge) \$100 \$ 100.00

14-2-111(A)(2) (DUI Surcharge) \$100 \$ _____

56-5-2995 (DUI Assessment) \$12 \$ _____

39-13 (Public Def/Prob) \$500 \$ _____

33.7.1B TP (Law Enforce. Funding) \$25 \$ 25.00

33.7.1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ 3.75TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk

Court Reporter: H. Walker

PTUP _____

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: 0119Sentence Date: 5-28-08

SCCA/217 (10/2007)

STATE OF SOUTH CAROLINA

COUNTY OF Charleston
STATE VS.

DARRYL LOUIS

AKA:

Race: B Sex: M Age: 24DOB: [REDACTED] SS#: [REDACTED]Address: 108 LARKSPUR DRIVE
GOOSE CREEK, SC 294450000DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2007GS1007403 7478A/W#: 1096766 H 913141Date of Offense: 5/17/2006 3125706S.C. Code § : 16-11-0330(A)CDR Code #: 0139

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Armed Robberyin violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☐ Without Negotiations or Recommendation ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

[Signature]
Williams, Nathan[Signature]
Defendant[Signature]
Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: [Signature]☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 35.13 (Public Def/Prob) \$500 \$ _____

§ 73.3. 1B TP (Law Enforce. Funding) \$25 \$ 25.00

§ 33.7. 1B TP (Drug Court Surcharge) \$100 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ 3.75TOTAL \$ 128.75[Signature]
Clerk of Court/ Deputy ClerkCourt Reporter: H. Walker

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, §35.13 TP

Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE [Signature]Judge Code: 2114Sentence Date: 5-28-08

SCCA/217 (10/2007)

I N D E X

WITNESSES

All witnesses:	Page
DARRYL K. LOUIS	
Direct Examination by MR. BROOKS	9:14
Cross-Examination by MR. FRIEDMAN	22:7
F. RENEE GATERS	
Direct Examination by MR. BROOKS	24:6
Cross-Examination by MR. FRIEDMAN	27:7

NO EXHIBITS MARKED

1 THE COURT: This is Darryl Louis versus the
2 State of South Carolina, 2008-CP-10-6010. It's before
3 the Court on an application for post-conviction
4 relief.

5 The state is represented by Matthew Friedman.
6 The applicant is represented by Charles T. Brooks,
7 III. The guilty plea counsel was F. Renee Gaters of
8 the Charleston County bar.

9 The application was filed on October 21st,
10 2008. The return was filed on March 26th of 2009. It
11 appears that the defendant was indicted in various
12 counties on 15 counts of armed robbery. However, he
13 was indicted in Charleston County on indictments
14 2007-GS-10-7478, 7479, 7480 and 7481.

15 He pled guilty on May 28th, 2008, to indictment
16 2007-GS-10-7478, and the other indictments I have
17 referenced were non-prossed. He also waived venue and
18 pled guilty on a Berkeley County indictment, as well
19 as a Dorchester County indictment for a negotiated
20 plea of 30 years.

21 And all the other indictments in both Berkeley
22 and Dorchester counties were non-prossed as a result
23 -- as part and parcel of that negotiated plea, as well
24 as the other Charleston County indictments that I have
25 already referenced.

1 He pled guilty before Judge Williams, and was
2 sentenced consistent with the negotiated plea to 30
3 years. He got credit for any time that he had served
4 pursuant to 24-13-40, to be calculated and applied by
5 the Department of Corrections.

6 It is my understanding that he had already
7 served approximately two years pre-detention time,
8 And those sentences were concurrent to his other two
9 indictments.

10 He has alleged ineffective assistance of
11 counsel. And I got a little ahead of myself. He did
12 not file a direct appeal of his conviction or
13 sentence. He alleged ineffective assistance of
14 counsel, lack of subject matter jurisdiction, and a
15 vague allegation regarding a due process violation.

16 Is the State ready to proceed?

17 MR. FRIEDMAN: Yes, Your Honor.

18 THE COURT: Is the applicant ready to proceed?

19 MR. BROOKS: May it please the Court.

20 THE COURT: Yes, sir.

21 MR. BROOKS: Judge, we had submitted a written
22 motion for a continuance.

23 THE COURT: Okay.

24 MR. BROOKS: On behalf of Mr. Louis.

25 THE COURT: When was that?

1 MR. BROOKS: I think I may have actually sent
2 it off this Monday or Tuesday of this week.

3 THE COURT: Okay. I got it here.

4 MR. BROOKS: Basically, Judge, I can talk about
5 it orally. My client has indicated that he wished to
6 have a bit more time to be prepared for today's
7 hearing.

8 THE COURT: Are you prepared for today's
9 hearing?

10 MR. BROOKS: I am, Judge.

11 THE COURT: Okay.

12 MR. BROOKS: But that is because I do handle a
13 great many post-conviction relief applications. But I
14 did explain that to my client, what I thought the
15 Court might or might not do based on my experience.

16 And I did tell him we were still going to have
17 this motion on his behalf. But he feels that he is
18 not ready, so I did want to bring it to the Court's
19 attention.

20 THE COURT: But you are ready, correct?

21 MR. BROOKS: Yes, ma'am.

22 THE COURT: And you've explained to him that
23 when we deal with a guilty plea, what is dispositive
24 is the transcript?

25 MR. BROOKS: That's basically correct, yes,

1 ma'am.

2 THE COURT: Okay.

3 MR. BROOKS: Also, Judge, if you want to also
4 explain to my client on the record in regards to the
5 relief he could receive if he should be successful.

6 THE COURT: Okay. What's the State's position
7 on the motion for continuance?

8 MR. FRIEDMAN: Your Honor, we would oppose the
9 motion. I believe Mr. Brooks is prepared to go
10 forward, the State is prepared, Ms. Gaters is here and
11 she's prepared.

12 THE COURT: The motion for a continuance is
13 denied. There has been no basis articulated to
14 justify a continuance. The Court has had extensive
15 experience with Mr. Brooks and his abilities in
16 post-conviction relief actions.

17 This is a very -- there is nothing particularly
18 complicated about this case. It is a post-conviction
19 relief application from a guilty plea, which in guilty
20 pleas what is most dispositive is the transcript of
21 record, unless there are some other allegations of
22 some undue influence or otherwise.

23 There are no allegations in this case of that
24 where other witnesses would be required, therefore the
25 motion for continuance is denied.

1 Now, Mr. Louis, raise your right hand to be
2 sworn.

3 Do you swear or affirm the testimony you give
4 will be the truth?

5 THE APPLICANT: Yes, ma'am.

6 THE COURT: You can put your right hand down.

7 Sir, do you understand the relief that you can
8 receive in a post-conviction relief action?

9 THE APPLICANT: Yes, ma'am.

10 THE COURT: Because in your application what
11 you ask for, and I'm going to state it, what you've
12 asked is that vacating of case and conviction, order
13 issued to expunge criminal record.

14 Sir, do you understand that in a
15 post-conviction relief action that none of that relief
16 is available to you?

17 THE APPLICANT: (No response.)

18 THE COURT: Do you understand the Court cannot
19 do what you've asked, even if you were granted what --
20 even if the post-consistent relief were granted. Do
21 you understand that?

22 THE APPLICANT: Well, I do now.

23 THE COURT: Do you understand that the only
24 relief you can receive is a new trial?

25 THE APPLICANT: Yes, ma'am.

1 THE COURT: Do you understand that each of your
2 15 indictments will be reinstated if you are granted a
3 new trial?

4 THE APPLICANT: Yes, ma'am.

5 THE COURT: Do you understand that the State
6 then could try you on each one of those 15
7 indictments?

8 THE APPLICANT: Yes, ma'am.

9 THE COURT: Do you understand that each of
10 those indictments are classified as -- each of those
11 offenses are classified as violent and most serious?

12 THE APPLICANT: Yes, ma'am.

13 THE COURT: And do you understand that if the
14 State were to convict you on two of those, that you
15 would face and would more likely would receive life
16 without the possibility of parole?

17 THE APPLICANT: Yes, ma'am.

18 THE COURT: And you understand that if you were
19 granted what you are asking for, that you're giving
20 yourself a tremendous amount of exposure that is
21 greater than the sentence that you are actually now
22 serving?

23 THE APPLICANT: Yes, ma'am.

24 THE COURT: Okay. You may take your seat.

25 All right. Ready to proceed, Mr. Brooks?

DARRYL LOUIS

1 MR. BROOKS: Yes, ma'am.

2 THE COURT: Call your first witness.

3 MR. BROOKS: Call Mr. Louis to the stand.

4 THE COURT: Sir, if you would come to the
5 witness stand to be sworn -- I mean, you've already
6 been sworn. We don't have to swear him again.

7 Sir, I just remind you, you are still under
8 oath.

9 You can question him

10 DARRYL K. LOUIS,
11 after having first been sworn to tell the truth, the
12 whole truth and nothing but the truth testified on her
13 oath as follows:

14 DIRECT EXAMINATION

15 BY MR. BROOKS:

16 Q Mr. Louis, you were represented by Ms. Gaters;
17 is that correct?

18 A Yes, that is correct.

19 Q Were you -- was she court-appointed or did you
20 hire her?

21 A She was court-appointed.

22 Q Were you ever out on bond, or were you in jail
23 the whole time?

24 A I was in jail the whole time.

25 Q Now, you brought this application alleging

DARRYL LOUIS

1 ineffective assistance of counsel. Is that correct,
2 Mr. Louis?

3 A That is correct.

4 Q And one of your issues is regarding your
5 sentence and community supervision aspect of that
6 sentence; is that correct?

7 A That is correct.

8 Q What -- can you explain to the Court what you
9 have found out in regards to the community supervision
10 requirements?

11 A It is my understanding -- sorry. It is my
12 understanding that with the 30-year negotiated plea
13 that I took that it's mandatory that I do two years
14 community service -- excuse me -- community
15 supervision.

16 And that my sentencing and conviction is not
17 successfully completed until community supervision has
18 been successfully completed.

19 Q And what happens if you violate during that
20 community supervision time?

21 A If I were to violate I would be re-sentenced to
22 approximately one to two years in the department of
23 corrections. And at that point in time I would be
24 subject to another two years.

25 Q So, basically what it appears what you are

1 looking at is that with this mandatory community
2 supervision, if you get to that point, you get out and
3 you're violated, you could end up doing a total
4 aggregate of more time than that 30 years; is that
5 correct?

6 A According to section 24-21-560(d), I could go
7 up to a total amount of the original sentence just in
8 the revocation of the supervision. So instead of me
9 doing 30 years, I could be doing possibly 60 years.

10 THE COURT: Have you explained to your client
11 that that is inaccurate, and that based on Justice
12 Beatty's most recent opinion, you can only receive up
13 to your actual sentence when your community
14 supervision is revoked? So you will never serve more
15 than 30 years.

16 MR. BROOKS: I did not, Judge, but I will
17 explain that to him. Give me a minute.

18 THE COURT: The supreme court has clarified
19 that. You cannot receive any more than your actual
20 sentence on community supervision revocations.

21 MR. BROOKS: Do you understand that?

22 THE APPLICANT: No, I do not understand it.

23 THE COURT: That is the status of the law, sir.

24 Q (By Mr. Brooks) Basically, what the Court has
25 informed you is that you cannot do more than 30 years

DARRYL LOUIS

1 in any situation; whether you did 85 percent and got
2 out on community supervision and violated, your total
3 time cannot exceed 30 years.

4 Do you understand that?

5 A So you're saying if I do 85 percent, was to
6 violate -- excuse me -- violate supervision, I would
7 only do up to approximately 15 years?

8 Q No. Listen to me carefully. This is what the
9 Court has indicated. Your sentence is 30 years.

10 A Okay.

11 Q All right. You get out on community
12 supervision after doing 85 percent of your time, 85
13 percent of 30 years. Do you understand that?

14 A Correct.

15 Q Okay. Now, at 85 percent of 30 years you could
16 be released and go out on community supervision. Do
17 you understand that?

18 A Correct.

19 Q What the Court has informed you is that if you
20 violated that, no matter what the situation is, you
21 cannot do total time more than 30 years.

22 Do you understand that?

23 A 30 years of revocation?

24 Q 30 years. When you add up all the time that I
25 sit behind bars, it cannot be more than 30 years.

1 That is what the Court is informing you in regards to
2 the supreme court opinion.

3 Do you understand that now? Did you understand
4 what Judge Jefferson explained to you?

5 A She said the supreme court clarified that?

6 THE COURT: The supreme court clarified last
7 year that you cannot get anymore than your original
8 sentence on a community supervision violation. It is
9 unconstitutional for you to receive more than your
10 actual sentence.

11 So if you max out at 25.5 years, which is 85
12 percent, the only exposure you have on community
13 supervision is an additional 4.5 years, which is the
14 maximum of your original sentence.

15 Q (By Mr. Brooks) Do you understand that?

16 A I'm not sure. I understand what the Judge just
17 stated. It's just that --

18 Q So based -- do you understand that in regards
19 to the community supervision, there is no way you can
20 do more than 30 years actual jail time. When you get
21 out at 25 and a half, violate community supervision,
22 violate again, the total aggregate time cannot be more
23 than 30 years because that's what you have been
24 sentenced to. That's what she explained.

25 Do you understand that?

DARRYL LOUIS

1 A I understand what the Judge is saying, but
2 that's not what I'm reading from the statute.

3 THE COURT: Sir, statutes are clarified by
4 opinions.

5 THE APPLICANT: Yes, ma'am.

6 THE COURT: That's why they evolve. That's why
7 they are what we call a living and breath document.
8 The statute is clarified -- it's the Court's function
9 to clarify what the legislature -- what the plain and
10 ordinary meaning of a statute means. And the supreme
11 court has clarified what that statute means. So
12 that's how it is to be interpreted.

13 THE APPLICANT: Yes, ma'am.

14 THE COURT: Now, previously, you are correct.
15 You could have gotten successive periods of community
16 supervision violations. And they could have had a
17 cumulative, consecutive effect that had you serve more
18 than your actual sentence.

19 That is not the status of the law anymore. Do
20 you understand that?

21 THE APPLICANT: Yes.

22 Q (By Mr. Brooks) Knowing that, that that's not
23 -- that you have no risk of that, do you still want to
24 go forward with your application?

25 A would it be possible to have more time to think

1 on that?

2 THE COURT: It's State v. McGrier, 378 S.C.
3 320, 663 S.E.2d 15. It's a 2008 supreme court
4 decision that was refiled on June 23rd, 2008. And the
5 supreme court held that community supervision program
6 statute providing that the defendant may be required
7 to serve additional periods of community supervision
8 for successive revocations was unconstitutional.

9 Therefore, a person can only serve the amount
10 of their actual sentence.

11 Q (By Mr. Brooks) Did you understand what the
12 Judge said?

13 A Yes.

14 Q That's on the record.

15 A Yes, sir.

16 THE COURT: Because the supreme court found
17 that a two-year period could produce a never-ending
18 cycle of participation, and an incarceration period
19 which would exceed to extend past the originally terms
20 of the incarceration, and that that would not be what
21 the intent of the statute was.

22 And that revocations for successive community
23 supervision program violations should not exceed, or
24 exceed the term of incarceration that was originally
25 ordered for the underlying offense, citing code

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1 section 24-21-560(d).

2 So, sir, that is not -- I want you to be aware
3 of what the status of the law is, and that is the
4 status of the law. You can only serve up to the
5 amount of your original sentence, which is 30 years.

6 Q (By Mr. Brooks) Knowing that, now that that
7 issue has been cleared up, do you still want to go
8 forward with your application understanding the risk
9 that's involved?

10 MR. BROOKS: Beg the Court's indulgence, Your
11 Honor.

12 THE COURT: Uh-hum.

13 (Whereupon, Mr. Brooks and the applicant have a
14 private discussion.)

15 Q (By Mr. Brooks) Is there anything else you
16 want to say to the Court, Mr. Louis?

17 A I would like to state that the -- I would like
18 to address the Court, if it would please the Court.

19 Q What is it that you want to make the Court
20 aware of?

21 A In regards to the continuance, I don't mean
22 to --

23 THE COURT: Sir, the Court has already ruled on
24 continuance. There is no hybrid representation.
25 Mr. Brooks has articulated the basis for the

1 continuance and the Court has ruled.

2 If there is something you would like to state
3 for the record in response to a question regarding the
4 grounds for your post-conviction relief application,
5 Mr. Brooks, you should feel clear to articulate those
6 for the record. Feel free, rather, to articulate
7 those for the record.

8 And he has three grounds. Ineffective
9 assistance of counsel; subject matter jurisdiction,
10 which really amounts to venue; and he alleges a
11 violation of due process violation, 5th, 6th and 14th
12 amendment violations, which he does not specify.

13 (Whereupon, Mr. Brooks and the applicant have a
14 private discussion.)

15 Q (By Mr. Brooks) Now, Mr. Louis, in regards to
16 the subject matter jurisdiction issue, that deals with
17 the indictment; is that correct?

18 A I believe so.

19 Q Okay.

20 THE COURT: Mr. Louis, I need to make an
21 observation for the record. You need to cooperate
22 with Mr. Brooks. He is your lawyer. You do not
23 represent yourself. There is no hybrid
24 representation; either you have a lawyer, or you
25 don't.

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1 Your failing to cooperate with him only
2 prejudices you. This is your only time to present
3 this case. You need to tell him everything he needs
4 to know so that he can advocate in your best interest.

5 If you have any witnesses you want him to call,
6 you need to tell him. If there is any testimony or
7 things you want on this record, you need to answer his
8 questions. Your body language and your posture is
9 telling me that you are making it very difficult for
10 him to represent you. That is hurting you, it is not
11 hurting Mr. Brooks.

12 You only get one record. I suggest you make
13 the best of it. Now, I am going to ask Mr. Brooks to
14 ask you the question again, and I'm going to direct
15 you to answer his questions yes or no, and then to
16 explain your answers. Okay?

17 Mr. Brooks, you may proceed.

18 MR. BROOKS: Yes, ma'am.

19 Q (By Mr. Brooks) Mr. Louis, in regard to the
20 subject matter jurisdiction issues, can you explain to
21 the Court what that issue is in regards to your
22 application?

23 A No. I cannot explain that.

24 Q Let me help you out. In regards to the
25 ineffective assistance of counsel, are you saying that

1 -- you are telling this Court that that plea was not
2 voluntarily entered into; isn't that correct?

3 A That is correct.

4 Q And you didn't understand what you were doing
5 when you pled guilty; is that correct?

6 A That is correct.

7 Q And what is it that you know now that you
8 didn't know then that would have changed the entire
9 process of how you disposed of your case, which would
10 have caused you to end up going to trial?

11 A (No response.)

12 THE COURT: Do you need Mr. Brooks to restate
13 the question, sir?

14 THE APPLICANT: Please.

15 THE COURT: Please restate the question.

16 Q (By Mr. Brooks) what is it that you know now
17 that you didn't know back when you pled guilty when
18 Ms. Gaters was your counsel that would have changed
19 and caused you to go forward in trial as opposed to
20 pleading guilty?

21 A (No response.)

22 THE COURT: Sir, do you have an answer for the
23 question?

24 THE APPLICANT: Sorry, Your Honor, I am
25 thinking about the question.

1 Q (By Mr. Brooks) Did you understand what you
2 were doing when you stood in front of Judge Fields?

3 THE COURT: Judge Williams.

4 Q (By Mr. Brooks) Judge Williams.

5 A No, sir.

6 Q Can you tell this Court what you did not
7 understand?

8 A I didn't have a full understanding of the
9 severity of the plea, that I could actually do 30
10 years. That I would be giving pretty much my whole
11 life over to the department of corrections where I
12 still have the possibility of freedom and liberty even
13 if I would have went to trial.

14 Q Let me make sure I understand what you're
15 saying. Are you saying that if you had gone to trial,
16 and assuming that you had been convicted, are you
17 saying that you now know you would have had a lesser
18 sentence, or not that much greater sentence? Is that
19 what you are saying? I'm not sure.

20 A My counsel at the time had advised me that if I
21 were not to accept the plea, that one or more of the
22 cases would convict me, and that I would most likely
23 be sentenced or exposed to three strike clause.

24 whereas had I known that there was a
25 possibility I could have taken them all to trial and

1 beating them all instead of losing, and being led to
2 believe that I will lose and not having an
3 understanding that I could lose.

4 Q So basically what you are saying is your --
5 Ms. Gaters, your plea counsel, tricked you into
6 pleading guilty as opposed to going to trial and
7 trying to vindicate you on all these charges; is that
8 correct?

9 A In so many words, correct.

10 Q And is there anything else you care to add in
11 regards to that guilty plea, and why it should be
12 vacated?

13 A At the time I did not have a full comprehension
14 of what I was pleading to.

15 Q What did you not -- what didn't you know back
16 then about what you were pleading guilty to that you
17 know now?

18 A About 30 years.

19 Q Is there anything else you want to tell the
20 Court about your application?

21 A No, sir.

22 Q Do you understand the risks that going along
23 with having this application granted?

24 A Yes, sir.

25 Q And you still want it granted; is that correct?

DARRYL LOUIS

1 A That is what I would like, sir.

2 MR. BROOKS: Answer any questions of the
3 attorney general.

4 THE COURT: Mr. Friedman.

5 MR. FRIEDMAN: Thank you, Your Honor.

6 THE COURT: You're welcome.

7 CROSS-EXAMINATION

8 BY MR. FRIEDMAN:

9 Q Mr. Louis, at your plea hearing do you recall
10 telling the Judge that you understood the possible
11 punishments for armed robbery?

12 A That is not what I said.

13 Q That's not what you said? Do you have a copy
14 of the transcript?

15 A I don't believe I do.

16 Q Okay. Do you recall telling the Judge that you
17 didn't want a jury trial?

18 A On the advise of my counsel, I believe that is
19 correct.

20 Q Okay. And you had one Dorchester charge that
21 you pled to. Do you recall telling the Court that you
22 wanted to waive your right to have that Dorchester
23 charge heard in St. George, and you'd go ahead do it
24 in Charleston?

25 A I don't recall.

1 Q You don't recall. Do you recall telling the to
2 no one threatened you or coerced you to plead guilty?

3 A I believe that was one of the questions.

4 Q You were also asked if you were satisfied with
5 your attorney and you said that you were. Do you
6 remember that?

7 A Counsel at the time advised me that that was
8 what needed to be said.

9 Q Do you recall that you also had some other
10 charges pending, I believe for kidnapping, some gun
11 possession charges and carjacking and those were
12 dismissed. Do you recall that?

13 A I do recall that.

14 Q Do you understand that if you are successful
15 here on post-conviction relief that all those charges
16 come back on the table, not just the armed robbery?

17 A I am aware of that.

18 MR. FRIEDMAN: Nothing further, Your Honor.

19 THE COURT: Any redirect?

20 MR. BROOKS: No, ma'am.

21 THE COURT: Any further witness?

22 MR. BROOKS: We would call Ms. Gaters.

23 THE COURT: Ms. Gaters, if you would come to
24 the witness stand for me, please.

25 F. RENEE GATERS,

F. Renee Gaters

1 after having first been sworn to tell the truth, the
2 whole truth and nothing but the truth testified on her
3 oath as follows:

4 THE COURT: You may proceed.

5 DIRECT EXAMINATION

6 BY MR. BROOKS:

7 Q Ms. Gaters, you represented Mr. Louis?

8 A Yes, sir, I did.

9 Q Court-appointed?

10 A That is correct.

11 Q Do you recall how long you were on the case?

12 A Approximately two years. I was originally
13 given one appointment for an armed robbery,
14 kidnapping. And then they evolved into about 16 armed
15 robberies and kidnappings and carjackings and gun
16 charges.

17 Q And basically all of those came to you as well
18 to represent him on?

19 A That is correct. We ended up with all of them.

20 Q This case started out as a trial on one of
21 those; is that correct?

22 A The 82 Queen case we did openings, the first
23 police officer testified, and I think one other
24 witness may have testified before the plea was
25 entered.

1 Q Now, 82 Queen, that's near here; isn't that
2 correct?

3 A That is correct. It's right near the
4 courthouse.

5 Q Can you take you us back and tell us how it
6 went from a trial where one witness had testified, to
7 it ended up being what I presume to be a negotiated
8 plea; is that correct?

9 A That is correct. Prior to the trial, the week
10 before, the two weeks before, I meet with Darryl
11 approximately four to five times because there was a
12 plea offer on the table.

13 My concern had always been with him his age and
14 looking at life without parole. And he understood
15 that very carefully. And he was willing to, as he
16 told me, I'm willing to go to trial. And so we did.

17 And so we pulled the jury and proceeded. In
18 the midst of that, we found that there had been some
19 documentation floating from Darryl to his codefendant
20 at the Charleston County jail, and that was presented
21 to me by the prosecutor.

22 I then presented it to Darryl, and Darryl at
23 that point chose to proceed with the guilty plea.

24 Q What was the -- can you give us the gist of
25 what that correspondence was?

1 A Pretty much the correspondence was telling them
2 what they needed to do or what they needed to say, in
3 effect, on his behalf. Because there were already
4 codefendants cutting deals out of the other five.

5 Q And you did obviously give that information to
6 Darryl?

7 A We went in one of the lock-up rooms and
8 reviewed it. He looked at it and he smiled and he
9 said, I guess I will go ahead and plead.

10 Q Did you have any -- perhaps have any questions
11 about his mental state, or that he understand exactly
12 what was going on?

13 A During the course of my representation with
14 Darryl, the one thing I never had any question about
15 was his mental state. I think Darryl is a very smart
16 young man; unfortunately, finding himself in this
17 situation.

18 But clearly never in my mind did I find
19 anything about his mental capacity to be questionable.

20 Q Did you have a conversation with his family?

21 A Yes, I did. I met with an older sister.
22 Darryl's mother died when Darryl was young. I also
23 spoke with his uncle who lives out of state who gave
24 some background on Darryl and what I was dealing with.
25 I met a girlfriend, I met another sister, I met a

1 brother. I had a chance to talk to his family.

2 MR. BROOKS: Your Honor, I have no other
3 questions of this witness.

4 THE COURT: Any questions for the witness?

5 MR. FRIEDMAN: Briefly, Your Honor. Thank you.

6 CROSS-EXAMINATION

7 BY MR. FRIEDMAN:

8 Q Ms. Gaters, do you recall about how many times
9 you met with the applicant?

10 A Over 20. Way over 20.

11 Q Do you recall if you discussed the elements of
12 the charges and what the State was required to prove?

13 A Yes, I did.

14 Q Did you discuss potential sentences?

15 A I did. Again, my concern always with Darryl
16 was there were so many changes, even if I was good
17 enough as a defense lawyer to win one, maybe even two,
18 the number out there gave me the possibility to think
19 that this young man could end up with life without
20 parole. And I made no bones about letting him know
21 that.

22 Q And he received a negotiated sentence; is that
23 right?

24 A We are very fortunate to get a 30 year sentence
25 for Darryl.

1 Q Do you think he understood what that meant, the
2 negotiated sentence?

3 A Yes, he did.

4 Q Who's decision was it to plead guilty?

5 A It was Darryl's decision to proceed.

6 Q And I believe he pled to one Dorchester charge?

7 A That is correct. The solicitor at that time
8 was Nathan Williams. And there was no way of getting
9 around the Dorchester case. And what we could not
10 afford to do was to enter a plea and then have Darryl
11 go to Dorchester County and possibly end with a
12 successive sentence.

13 Q So he waived jurisdiction on that charge?

14 A Yes, he did.

15 Q Okay.

16 MR. FRIEDMAN: I have nothing further.

17 THE COURT: Any cross-examination of the
18 witness?

19 MR. BROOKS: No, ma'am.

20 THE COURT: You may step down

21 THE WITNESS: Thank you.

22 THE COURT: Anything further from the
23 applicant?

24 MR. BROOKS: Your Honor, we have no more
25 witnesses. I do have a brief argument for the Court.

1 THE COURT: Let me ask, has your client made
2 you aware of any witnesses he wished for you to call
3 in this case?

4 MR. BROOKS: No, ma'am.

5 THE COURT: Does the State have any witnesses?

6 MR. FRIEDMAN: No, Your Honor.

7 THE COURT: Mr. Brooks, I will be glad to hear
8 from you.

9 MR. BROOKS: Briefly, Judge. It's our position
10 that this post-conviction relief application should be
11 granted and that Mr. Louis receive a new trial.

12 He has testified that he did not fully
13 understand what he was pleading guilty to, what the
14 total ramifications of that was. As a very young man
15 it could be presumed by the Court that obviously he's
16 relatively new to the court system. He really didn't
17 fully appreciate this actual process.

18 We would basically submit to the Court that my
19 client should be granted a new trial. Thank you.

20 THE COURT: You're welcome.

21 Would the State like to respond?

22 MR. FRIEDMAN: I would, Your Honor. Just going
23 through the three issues that he raised, the State
24 would submit that he has failed to meet his burden.
25 There is nothing to indicate that Ms. Gaters was

1 ineffective.

2 The community supervision program, that's also
3 a collateral consequence of the plea. So we would
4 submit that that's not proper for a PCR anyway, it's
5 not a direct consequence of the plea.

6 The subject matter jurisdiction issue. Clearly
7 from the record, he waived jurisdiction on the
8 Dorchester charge, so that allegation is without
9 merit.

10 And the last allegation, the due process
11 violation, he was vague about what he's referring to
12 and there is nothing addressing that today. So we
13 would ask that you deny and dismiss the application.

14 THE COURT: In an application for
15 post-conviction relief, the applicant bears the burden
16 of proving that he received deficient representation.

17 The proper measure is whether the attorney
18 provided representation within the range of competence
19 required in criminal cases. The Court presumes
20 counsel rendered adequate assistance and made all
21 significant decisions in the exercise of reasonable,
22 professional judgment.

23 The applicant has the burden of overcoming this
24 presumption in order to receive relief. There is a
25 two-prong test in evaluating an ineffective assistance

1 of counsel claim. First, the applicant must prove
2 that counsel's performance was deficient. Under that
3 prong he must prove that his counsel's performance
4 fell below the reasonableness, unprofessional norms.

5 He must then also prove the second prong, which
6 is that counsel's deficient performance must have
7 prejudiced him, and that there is a reasonable
8 probability that but for these unprofessional errors,
9 the result of the proceeding would have been
10 different.

11 with respect to a guilty plea, the applicant
12 must show that there's a reasonable probability that
13 but for counsel's alleged errors, he or she would not
14 have pled guilty and would have insisted on going to
15 trial.

16 This case is in a little bit of a different
17 posture because the applicant clearly understood his
18 right to a jury trial. He decided to plead guilty on
19 second day of his jury trial, after he had already
20 gone through jury selection and was about to begin the
21 jury process.

22 He was facing 15 indictments of armed robbery.
23 And from the colloquy with the Court in chambers it is
24 clear, and the solicitor acknowledges, some of the
25 cases were strong, and some were not so strong. But

1 of the ones that were strong, there was a reasonable
2 probability, in fact a great likelihood, that he would
3 have been convicted on at least two of those and would
4 have faced life without the possibility of parole, and
5 that that was the State's intention to try him in that
6 manner.

7 If he did not get convicted in Charleston, they
8 simply would have sent him out to Dorchester and then
9 to Berkeley counties, but not necessarily in that
10 order, for the purpose of seeking convictions on each
11 of those indictments.

12 Counsel's -- applicant's counsel worked out a
13 negotiated plea of 30 years with the solicitor, which
14 greatly inured to his benefit.

15 It resulted in essence 12 indictments, if not
16 more, being non-prossed against him, and reducing his
17 exposure from a maximum penalty of life without parole
18 to that of a negotiated sentence of 30 years with him
19 receiving credit for any pre-detention time.

20 We have already disposed of his misapprehension
21 regarding community supervision, so I will not go back
22 over that again. But I would expect that to be
23 covered in any final order regarding resolution and
24 the Court's findings on this case.

25 The Court would also reflect for the record

1 that the applicant appeared recalcitrant in assisting
2 his attorney. And the Court advised him that this was
3 his only opportunity for the complete presentation of
4 his case, and that he should cooperate with counsel.

5 The Court also reflects that it has questioned
6 counsel about whether his client has advised him that
7 he had other witnesses he wished to call, or other
8 evidence, and he has advised the Court that the
9 applicant did not make him aware of any such evidence.

10 The record in this case is extensive, and it is
11 clear that the applicant at the time was 24 years of
12 age; had an 11th grade education, had received his
13 GED; that he was not under the influence of any drugs
14 or alcohol or other medication; that he had sufficient
15 education and experience to understand the
16 proceedings; that he was clearly advised of the
17 elements of the offense, his constitutional rights,
18 and the consequence of his decision to enter a plea of
19 guilty.

20 And that is found on page 110, lines 1 through
21 15; page 111, lines 1 through 25. And that is where
22 his attorney was questioned regarding advising him of
23 these things; and page 112, line 1 where he
24 acknowledges that he did have all of these things
25 explained to him; as well as page 113, lines 1 through

1 10.

2 He was clearly apprised by the Court of his
3 right to a jury trial, as well as the waiver of his
4 other constitutional rights at page 113, lines 1
5 through 25; page 114, lines 1 through 13. And the
6 waiver of his jury trial, page 114, lines 12 through
7 14, where he clearly acknowledges the waiver of that
8 right, and where he clearly acknowledges he wishes to
9 give up his rights and that he wants to plead guilty.

10 And the colloquy was: And that's what you want
11 to do?

12 The answer: Yes, Your Honor.

13 Line 14: You don't want a jury trial?

14 Line 15: No, Your Honor.

15 He clearly waived any jurisdictional questions
16 or venue at page 114, line 16 through 25, and lines --
17 115, lines 1 through 2 where he specifically stated: I
18 will waive that right, Your Honor.

19 At page 116, lines 9 through 17, he clearly
20 understood the classification of the offenses, that
21 they were violent and most serious, and how it would
22 affect the serving of any time he received. And that
23 is also at page 116, lines 9 through 17.

24 It is clear that he received no threats, no
25 pressure and no promises, that's at page 116, lines 18

1 through 25; page 117, lines 1 through 3; page 117,
2 lines 4 through 6; and page 117, lines 7 through 10.

3 He, at the time when he was questioned
4 regarding the satisfaction of his attorney, indicated:
5 Absolutely, Your Honor. As a regard to being
6 satisfied with Ms. Gaters' services at page 117, lines
7 11 through 12; and page 117, lines 13 through 19.

8 He also acknowledged to the Court that he was
9 giving truthful and complete answers, and that he
10 understood the proceedings. And that is at page 117,
11 lines 20 through 24. And that he clearly understood
12 his appellate rights, page 117, line 25; and page 118,
13 lines 1 through 7.

14 what is clearly most dispositive regarding his
15 understanding of the plea is the colloquy that took
16 place in chambers, which was extensive. And I'm not
17 going to go through all of that. I will just make
18 reference to it for purposes of the record. And that
19 starts at page 94, and goes for quite a while.

20 And Judge Williams is quite clear with him
21 regarding the strength or weakness of the State's
22 case; his exposure; his right to a jury trial; the
23 Court's willingness to go forward with his jury trial;
24 the nature of the negotiated plea; and how he will
25 serve any time that he receives, that it's an 85

1 percent no parole offense.

2 Ms. Gaters, of course, is also involved in that
3 colloquy. And even facilitates -- because he wants to
4 speak with his siblings, and she is given the
5 opportunity to check, to follow up on them being
6 present for him to speak with him.

7 And basically Judge Williams tells him: I
8 understand that this is a hard and bitter pill to
9 swallow, but of the alternatives it is the best one
10 available and the only one available. And that he
11 takes no posture one way or the other to whether he
12 accepts it or not. But he wants to make sure if he
13 rejects it that he does it freely and voluntarily,
14 being fully apprised of the consequences of his
15 decision.

16 That colloquy goes all the way to page 107, and
17 up to and leading into the guilty plea. So the record
18 is really quite clear that the applicant has failed to
19 meet his burden of proof in regard to this matter.
20 And the motion is -- the application for
21 post-conviction relief is denied.

22 The court will do a form order preliminarily.
23 Mr. Friedman will do a written order. The Court gives
24 him leave to make any other findings consistent with
25 case law of the facts of this record.

1 Thank you all very much.

2 (whereupon, the proceedings in this matter

3 before the Court were adjourned.)

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C E R T I F I C A T E

I, the undersigned, ANNE BOULEY MEYER,
Official Court Reporter for the Ninth Judicial
Circuit of the State of South Carolina, do hereby
certify that the foregoing is a true, accurate, and
PARTIAL transcript of record, and of all the
proceedings had and evidence introduced in the
above captioned case, relative to appeal, in the
Circuit Court for South Carolina, on the indicated
date.

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

-----*Anne Bouley Meyer*-----

Anne Bouley Meyer, RPR
Circuit Court Reporter

CC
AG
PT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
)
Darryl Louis, #279494,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
2008-CP-10-6010

ORDER OF DISMISSAL

BY

JULIE J. ARMSTRONG
CLERK OF COURT

2010 FEB -9 PM 12:49

FILED

Presiding Judge:
Applicant's Attorney:
Respondent's Attorney:
Plea Counsel:
Date of Hearing:
Court Reporter:

Deadra L. Jefferson
Charles T. Brooks, III, Esq.
Matthew J. Friedman, Esq.
F. Renee Gaters, Esq.
January 15, 2010
Anne Meyer

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed October 21, 2008 and an amended PCR filed January 12, 2010. The Respondent made its Return on March 25, 2009. An evidentiary hearing into the matter was convened on January 15, 2010 at the Charleston County Courthouse. The Applicant was present at the hearing and represented by Charles T. Brooks, III, Esquire. Matthew J. Friedman, Esquire, of the South Carolina Attorney General's Office represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Applicant's plea counsel, F. Renee Gaters, Esquire, also testified at the hearing. This Court had before it the guilty plea transcript, the records of the Charleston County Clerk of Court, the Applicant's records from the South Carolina Department of Corrections, the PCR application, and Respondent's Return thereto.

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[Signature]

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. The Applicant was indicted at the June 2007 term of the Charleston County Grand Jury for four counts of armed robbery (2007-GS-10-7478, 7479, 7480, and 7481). F. Renee Gaters, Esquire, represented the Applicant. On May 28, 2008, the Applicant pled guilty as indicted to one count of armed robbery. The State dismissed the other charges in exchange for the plea. Pursuant to a negotiated plea agreement, the Honorable James C. Williams, Jr. sentenced him to confinement for thirty (30) years. The sentence was to run concurrently with Applicant's armed robbery sentences in Berkeley County and Dorchester County. The Applicant did not appeal his conviction or sentence.

ALLEGATIONS

The Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.
2. Lack of subject matter jurisdiction.
3. Due process violation and unconstitutional sentence.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon his or her credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

The Applicant testified that counsel told him if he did not plead guilty, then he could be

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[Signature]

found guilty of more than one armed robbery and could face life in prison. He asserted that he did not fully comprehend what he was doing during the plea hearing and that he did not understand that he could be sentenced to 30 years. Applicant testified that counsel did not explain the subject matter jurisdiction issue to him. Applicant also argued that he did not understand the community supervision program (CSP), under which he could end up serving more than thirty (30) years in prison. The Applicant didn't request any additional witnesses to be called at the hearing and was uncooperative with the Court and his PCR counsel during the hearing.

Plea counsel testified that she was originally appointed to represent Applicant on one armed robbery and one kidnapping, but the Applicant was subsequently charged with sixteen armed robberies and several counts of kidnapping, carjacking, and gun possession. She testified that she was concerned about a life without parole (LWOP) sentence. Counsel testified that she met with Applicant more than twenty times. She asserted that the Solicitor presented documents which had been floating around the jail from Applicant to his co-defendants, in which Applicant told the co-defendants what to do and say during trial. Counsel testified that when she showed Applicant the documents, he smiled and agreed to accept a plea offer.

Ineffective Assistance of Counsel

The Applicant alleges that he received ineffective assistance of counsel. In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. S.C. R. Civ. P. 71.1(e); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be

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relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668, 686, 104 S.Ct. 2052, 2054 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668, 104 S.Ct. 1052. The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test to evaluate allegations of ineffective assistance of counsel. First, the applicant must prove that counsel’s performance was deficient. Under this prong, attorney performance is measured by its “reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (citing Strickland, 466 U.S. at 688, 104 S.Ct. at 2065). Second, counsel’s deficient performance must have prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Id. (citing Strickland, 466 U.S. at 694, 104 S.Ct. at 2068). A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997).

When there has been a guilty plea, the applicant must prove that counsel’s representation was below the standard of reasonableness and that, but for counsel’s unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59, 106 S.Ct. 366, 370 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

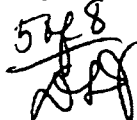
To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S.Ct.

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1709, 1712 (1969); Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 650 (2000) (citing Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984)). When a defendant pleads guilty on the advice of counsel, the plea may only be attacked through a claim of ineffective assistance of counsel. Roscoe, 345 S.C. at 20, 546 S.E.2d at 419 (citations omitted).

This Court finds that Applicant's testimony is not credible while also finding that counsel's testimony is credible. This Court finds that counsel is a trial practitioner who has extensive experience in the trial of serious offenses. Counsel conferred with the Applicant on numerous occasions. During conferences with the Applicant, counsel discussed the pending charges, the elements of the charges and what the State was required to prove, Applicant's constitutional rights, Applicant's version of the facts, and possible defenses or lack thereof. (Tr. 111:1-25; 113:1-10.)

The record reflects that the Applicant had sufficient education and experience to understand the proceedings. (Tr. 110:1-15.) The Applicant understood the nature of the charges against him, his Constitutional rights, including his right to present witnesses at trial and his right to a jury trial, and the possible punishments for his charges. (Tr. 111:3-17; 113:1-114:13.) Applicant told the court that he wanted to waive his right to a jury trial and wanted to waive his right to have the Dorchester armed robbery charge heard in St. George. (Tr. 114:12-115:2.) In regards to the Dorchester charge, the Applicant specifically stated, "I'll waive that right, your honor." (Tr. 115:2.) Applicant understood that the plea was negotiated and that the offense was a "violent," "most serious," and "no parole" offense. (Tr. 102:9-103:12; 116:9-17.)

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The Applicant told the court he was “absolutely” satisfied with his attorney and that he gave his attorney truthful information so that she could advise him. (Tr. 117:11-19.) The Applicant also testified that no one threatened him or promised him anything to get him to plead guilty and that no one had pressured him to plead guilty. (Tr. 116:18-117:10.) The Applicant told the Court that he understood the questions asked and had answered all questions truthfully. (Tr. 117:20-24.) The Applicant also told the Court that he understood his appellate rights. (Tr. 117:25-118:7.) This Court finds that it was Applicant’s decision to plead guilty, and he entered the plea freely, voluntarily, knowingly, and intelligently and not as the result of any duress or the influence of drugs, alcohol or other impairments. (Tr. 110:8-15; 116:18-117:10.)

Regarding the Applicant’s claims of ineffective assistance of counsel, this Court finds the Applicant has failed to meet his burden of proof. This Court finds that Applicant’s attorney demonstrated the normal degree of skill, knowledge, professional judgment, and representation that are expected of an attorney who practices criminal law in South Carolina. State v. Pendergrass, 270 S.C. 1, 239 S.E.2d 750 (1977); Strickland, 466 U.S. 668, 104 S.Ct. 2052; Butler, 286 S.C. 441, 334 S.E.2d 813. This Court further finds counsel adequately conferred with the Applicant, conducted a proper investigation, and was thoroughly competent in her representation. Counsel successfully negotiated a favorable sentence for the Applicant. This Court finds that counsel’s representation did not fall below an objective standard of reasonableness.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test, specifically that counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that counsel committed either errors or omissions in her representation of the Applicant. The

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Applicant failed to show that counsel's performance was deficient. This Court also finds the Applicant has failed to prove the second prong of Strickland, specifically that he was prejudiced by plea counsel's performance. Applicant's complaints concerning counsel's performance are without merit and are denied and dismissed.

Subject Matter Jurisdiction

The Applicant alleged that the plea court did not have jurisdiction to hear his Dorchester County armed robbery charge. This Court finds that Applicant knowingly and voluntarily waived jurisdiction on his Dorchester charge. (Tr. 110:8-15; 114:16-115:2; 116:18-117:10.) This allegation is without merit.

Community Supervision Program (CSP)

The Applicant alleged that he did not understand the CSP program when he pled guilty.. He asserted that under the CSP he could end up serving more time than the length of his original sentence and that the CSP program creates an unconstitutional sentence. This Court explained during the hearing and hereby finds for the record that the Supreme Court of South Carolina clarified this issue in State v. McGrier, 378 S.C. 320, 663 S.E.2d 15 (2008), finding that the maximum aggregate amount of time the prisoner may be required to serve when sentenced for successive revocations may not exceed an amount of time equal to the length of incarceration imposed for the original "no parole offense." Moreover, the CSP is a collateral consequence of the plea, and thus counsel was not ineffective for failing to advise Applicant of the CSP requirement.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, including the due process claim, this Court

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finds the Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds the Applicant waived such allegations and failed to meet his burden of proof regarding them. Therefore, they are hereby denied and dismissed.

CONCLUSION

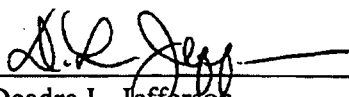
Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner, nor was the Applicant prejudiced by counsel's representation. Therefore, this application for PCR must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of written notice of entry of this Order to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 227 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely served and filed.

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 5th day of Feb., 2010.



Deadra L. Jefferson
Presiding Judge
9th Judicial Circuit

Charleston, South Carolina.



STATE OF SOUTH CAROLINA

COUNTY OF *Charleston*

Darryl K. Louis, # 279494

Plaintiff(s)

vs.

State of South Carolina

Defendant(s)

(Please Print)

Submitted By:

Address:

IN THE COURT OF COMMON PLEAS

2012-CP-10-2655

CIVIL ACTION COVERSHEET

~~*2008-CP-10-6010*~~

SC Bar #:

Telephone #:

Fax #:

Other:

E-mail:

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

**If Action is Judgment/Settlement do not complete*

- ☐ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|--|
| ☐ Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Breach of Contract (140)
☐ Other (199) | ☐ Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20 <u>-CP-</u>
☐ Notice/ File Med Mal (230)
☐ Other (299) | ☐ Torts - Personal Injury
☐ Assault/Slander/Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Other (399) | ☐ Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) |
| ☒ Inmate Petitions
☒ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) | ☐ Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured Settlement Payment Rights Application (760)
☐ Other (799) | ☐ Administrative Law/Relief
☐ Reinstate Driver's License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899) | ☐ Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Administrative Law Judge (980)
☐ Public Service Commission (990)
☐ Employment Security Comm (991)
☐ Other (999) |
| ☐ Special/Complex/Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699) | ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)
☐ Sexual Predator (510) | | |

Submitting Party Signature:

Darryl Louis

Date:

April 12, 2012
04/12/2012

STATE OF SOUTH CAROLINA)

County of Charleston)2012-CP-10-2655
IN THE COURT OF COMMON PLEAS#279494
Darryl Keith Louis Jr.)
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

APPLICATION FOR
POST-CONVICTION RELIEFFILED
2012 APR 20 PM 4:25
CLERK OF COURTINSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention McCormick Correctional Institution,
386 Redemption Way, McCormick, SC 29899
2. Name and location of Court which imposed sentence Charleston County
Courthouse of Common Pleas and General Sessions
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 2008-CP-10-6010

- (b) _____
(c) _____

5. The date upon which sentence was imposed and the terms of the sentence:

- (a) Plea Agreement on May 28th, 2008
(b) to one count of armed robbery;
(c) and dismissal of all other charges

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty ✓
(b) after a plea of not guilty N/A
(c) after a plea of nolo contendere N/A

7. Did you appeal from the judgment of conviction or the imposition of sentence?

NO

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

- i. _____
ii. N/A
iii. _____

(b) the result in each such Court to which you appealed:

- i. _____
ii. N/A
iii. _____

(c) the date of each such result:

- i. _____
ii. N/A
iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

- i. _____
ii. N/A
iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

- (a) Plea Counsel advised applicant not to

- (b) _____
(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective assistance of Counsel
(b) Due Process violation and Unconstitutional Sentence
(c) Lack of subject matter jurisdiction

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) Counsel failing to object when Plea court failed to advise
(b) applicant of the full consequences of his plea
(c) Counsel and Court failed to apprise applicant of mandates of S.C. Code Ann. §24-21-560 (D), which results in DOUBLE SENTENCING

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? N/A
(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? Yes
(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
(d) any other petitions, motions or applications in this or any other Court? N/A

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
i. Post Conviction Relief
ii. _____
iii. _____
iv. _____
(b) the name and location of the Court in which each was filed:
i. the Charleston County Courthouse
ii. 100 Broad Street, Suite 106
iii. Charleston, S.C. 29401-2258

- iv. _____
(c) the disposition thereof:
i. denied and dismissed with prejudice;
ii. Applicant be remanded to the custody
iii. of the Respondent
iv. _____

- (d) the date of each such disposition:
i. February 5th, 2010
ii. _____
iii. _____
iv. _____

- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
i. _____
ii. _____
iii. _____
iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

- (a) which grounds have been presented:

i. _____
ii. N/A
iii. _____

- (b) the proceedings in which each ground was raised:

i. _____
ii. N/A
iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) _____
(b) N/A
(c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? Yes
(b) your trial, if any? _____
(c) your sentencing? Yes
(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

- i. Plea Counsel: F. Renee Gaters

ii. P.C.R. Counsel: Charles T. Brooks III
309 Broad Street, Sumter, SC 29150
iii. _____

(b) the proceedings at which each such attorney represented you:

- i. Plea Counsel

ii. Post Conviction Relief Counsel

iii. _____

19. State clearly the relief you seek in filing this application: Applicant seeks Appellate Review for Post Conviction Relief due to P.C.R. Counsel failure to timely appeal the hearing.

Pursuant: "Austin v. State," 409 S.E. 2d 395 (1991)

20. Are you now under sentence from any other court that you have not challenged?

NO

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Charleston)

VERIFICATION

I, Darryl Keith Lewis Jr., being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Darryl Lewis

SWORN to and subscribed before me this 12
day of April, 2012

Jose L. Young (L.S.)
Notary Public

My Commission Expires: 10-11-2021

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Darryl Keith Lewis Jr, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Darryl Lewis
Applicant

SWORN or affirmed to and subscribed before me this

12 day of April, 2012

Joyce L Young
Notary Public

My Commission Expires: 10/1/2021

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	NINTH JUDICIAL CIRCUIT
	)	
	)	
Darryl K. Louis,	)	2012-CP-10-2655
S.C.D.C. No. 279494,	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN AND MOTION TO DISMISS
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

The Respondent, making its Return to the Application for post-conviction relief filed April 20, 2012, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Charleston County. The Applicant was indicted at the June 2007 term of the Charleston County Grand Jury for four (4) counts of armed robbery (2007-GS-10-7478, 7479, 7480, 7481). F. Renee Gaters, Esquire, represented the Applicant.

On May 28, 2008, the Applicant pled guilty as indicted to one (1) count of armed robbery. The Honorable James C. Williams, Jr., sentenced the Applicant to thirty (30) years imprisonment pursuant to a negotiated plea agreement. The sentence was to run concurrently with Applicant's armed robbery sentences in Berkeley and Dorchester Counties. The Applicant did not appeal.

2008-CP-10-6010

Applicant subsequently filed an application for post-conviction relief (PCR) on October 21, 2008. The Applicant raised the following grounds for relief:

1. Ineffective assistance of counsel.
2. Lack of subject matter jurisdiction.
3. Due process violation and unconstitutional sentence.

The Respondent made its Return on March 25, 2009. An evidentiary hearing into the matter was convened on January 15, 2010 at the Charleston County Courthouse. The Applicant was present and represented by Charles T. Brooks, Esquire. By Order of Dismissal dated February 5, 2010 and filed February 9, 2010, the Honorable Deadra L. Jefferson denied and dismissed the application with prejudice. The Applicant did not appeal.

II.

In his current application for post-conviction relief, the Applicant alleges that he is being held unlawfully for the following reasons:

1. Ineffective assistance of counsel.
 - a. "Counsel failed to object when plea court failed to advise Applicant of the full consequences of his plea."
 - b. "Counsel and Court failed to apprise Applicant of mandates of S.C. Code Ann. § 24-21-560(D), which results in DOUBLE SENTENCING."
2. Due process violation and unconstitutional sentence.
3. Lack of subject matter jurisdiction.

For the purposes of this Return, the Respondent incorporates herein and by reference the records of the Charleston County Clerk of Court, the prior PCR records, and the Applicant's records from the Department of Corrections. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

The Respondent submits that this Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10 to -160. S.C. Code Ann. §17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant was convicted of the offenses he challenges in this Application on May 28, 2008. This Application was filed on April 20, 2012, which was well after the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (1985) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, the Respondent requests that this Court summarily dismiss the application for post conviction relief for failure to file within the time mandated by the Post Conviction Procedure Act.

IV.

Respondent submits that the current application for post-conviction relief must be summarily dismissed because it is successive to Applicant's prior application for post-conviction relief. S.C. Code Ann. §17-27-90 provides that:

All grounds for relief available to an application under this chapter must be raised in his original, supplemental or amended Application. Any ground finally adjudicated or not so raised, knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding Applicant has taken to secure relief, may not be the basis for a subsequent Application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental or amended Application.

Successive applications are disfavored and the burden is on Applicant to establish that any new ground raised in a subsequent application could not have been raised by him in a previous application. Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 309 S.C. 157, 420 S.E.2d 834 (1992).

Respondent submits that the current allegations were or could have been raised in the proceedings based on Applicant's prior application for post-conviction relief and thus the current application is successive and barred under S.C. Code § 17-27-90. Applicant has failed to establish sufficient reason why he could not have raised his current allegations in his previous application for post-conviction relief; therefore, he has failed to meet the burden imposed upon him. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980); Aice v. State, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 420 S.E.2d 834 (1992).

V.

The Respondent denies each allegation that is not expressly admitted, qualified or explained.

VI.

WHEREFORE, Respondent moves to summarily dismiss the application because it was filed after the statute of limitations had expired, and it was successive to the prior application for post-conviction relief.

Respectfully submitted,

ALAN WILSON
Attorney General

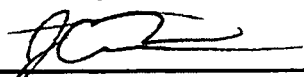
JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

J. CROOM HUNTER
Staff Attorney

P.O. Box 11549
Columbia, S.C. 29211

By:


Attorneys for the Respondents

Columbia, South Carolina
March 31, 20 14

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS

2012-CP-10-2655

DARRYL K. LOUIS, #279494

Applicant,

vs

AFFIDAVIT OF SERVICE BY MAIL

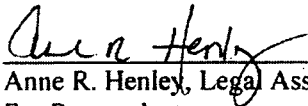
STATE OF SOUTH CAROLINA,

Respondent.

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return and Motion to Dismiss** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Darryl K. Louis, # 279494
McCormick Correctional Institution
386 Redemption Way
McCormick, SC 29899

DATED this 31st day of March , 2014



Anne R. Henley, Legal Assistant
For Respondent

CC
AG
AT

AW9

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

COUNTY OF CHARLESTON)

CASE NO.: 2012-CP-10-2655

Darryl K. Louis,

S.C.D.C. No. 279494,

Applicant,

v.

CONDITIONAL ORDER OF DISMISSAL

State of South Carolina,

Respondent.

FILED
2014 APR 23 AM 11:30
JULIE B. CLARK, CLERK
BY

In response to the post-conviction relief application filed April 20, 2012, the Respondent would show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Charleston County. The Applicant was indicted at the June 2007 term of the Charleston County Grand Jury for four (4) counts of armed robbery (2007-GS-10-7478, 7479, 7480, 7481). F. Renee Gaters, Esquire, represented the Applicant.

On May 28, 2008, the Applicant pled guilty as indicted to one (1) count of armed robbery. The Honorable James C. Williams, Jr. sentenced the Applicant to thirty (30) years imprisonment pursuant to a negotiated plea agreement, to run concurrently with Applicant's armed robbery sentences in Berkeley and Dorchester Counties. The Applicant did not appeal.

2008-CP-10-6010

Applicant subsequently filed an application for post-conviction relief (PCR) on October 21, 2008.

The Applicant raised the following grounds for relief:

1. Ineffective assistance of counsel.
2. Lack of subject matter jurisdiction.
3. Due process violation and unconstitutional sentence.

1 of 4

The Respondent made its Return on March 25, 2009. On January 15, 2010, an evidentiary hearing into the matter was convened at the Charleston County Courthouse. The Applicant was present and represented by Charles T. Brooks, Esquire. By Order of Dismissal dated February 5, 2010, and filed February 9, 2010, the Honorable Deadra L. Jefferson denied and dismissed the application with prejudice. The Applicant did not appeal.

II.

In his current application for post-conviction relief, the Applicant alleges that he is being held unlawfully for the following reasons:

1. Ineffective assistance of counsel.
 - a. "Counsel failed to object when plea court failed to advise Applicant of the full consequences of his plea."
 - b. "Counsel and Court failed to apprise Applicant of mandates of S.C. Code Ann. § 24-21-560(D), which results in DOUBLE SENTENCING."
2. Due process violation and unconstitutional sentence.
3. Lack of subject matter jurisdiction.

III.

This Court finds that the current application for post-conviction relief must be summarily dismissed because it is successive to his prior application for post-conviction relief. S.C. Code Ann. §17-27-90 provides that:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended Application. Any ground finally adjudicated or not so raised, knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding Applicant has taken to secure relief, may not be the basis for a subsequent Application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental or amended Application.

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Successive applications are disfavored and the burden is on Applicant to establish that any new ground raised in a subsequent application could not have been raised by him in a previous application. Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 309 S.C. 157, 420 S.E.2d 834 (1992).

This Court finds that the current allegations were or could have been raised in the proceedings based on Applicant's prior application for post-conviction relief and thus the current application is successive and barred under S.C. Code § 17-27-90. Applicant has failed to establish sufficient reason why he could not have raised his current allegations in his previous application for post-conviction relief; therefore, he has failed to meet the burden imposed upon him. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980); Aice v. State, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 420 S.E.2d 834 (1992).

IV.

This Court finds, further, that this Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10 to -160. S.C. Code Ann. §17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant was convicted of the offenses he challenges in this Application on May 28, 2008. This Application was filed on April 20, 2012, which was well after the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994).

QAM
3

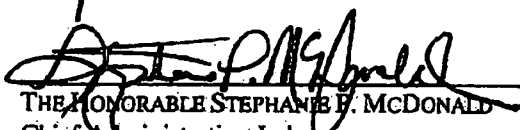
In addition, S.C. Code Ann. §17-27-70(c) (2003) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Therefore, this Court finds that the application for post-conviction relief should be summarily dismissed for failure to file within the time mandated by statute and for being successive.

V.

Pursuant to S.C. Code Ann. § 17-27-70(b), the Court intends to dismiss this Application with prejudice unless the Applicant provides specific reasons, factual or legal, why the Application should not be dismissed in its entirety. The Applicant is granted twenty (20) days from the date of service of this Order upon him to show why this Order should not become final. The Applicant shall file any reasons he may have with the Charleston County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General
Attn: J. Croom Hunter, Esquire
P.O. Box 11549
Columbia, South Carolina 29211

AND IT IS SO ORDERED this 21st day of April, 2014.


THE HONORABLE STEPHANIE F. McDONALD
Chief Administrative Judge
Ninth Judicial Circuit Court

Charleston, South Carolina

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

DARRYL LOUIS, #279494,)

Applicant,)

v.)

STATE OF SOUTH CAROLINA,)

Respondent.)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE NO.: 2012-CP-1032655

AMENDED APPLICATION FOR
POST-CONVICTION RELIEF

JULIE S. HARRINGTON
CLERK OF COURT

2014 MAY 19 PM 2:53

FILED

NOW COMES the Applicant in the above-captioned case, acting by and through undersigned counsel, respectfully moving to amend his Application for Post-Conviction Relief. The Applicant would amend his Application for Post-Conviction Relief to contain the following specific allegation of ineffective assistance of PCR counsel:

1. Post-Conviction Relief counsel was ineffective for failing to file an appeal on the Applicant's behalf following the denial of his PCR application. See Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991).

The Applicant hereby withdraws any other allegations raised in his original Application for Post-Conviction Relief.

Respectfully submitted,

Jeremy A. Thompson

Attorney and Counselor at Law

Law Office of Jeremy A. Thompson, LLC

P.O. Box 12891

Columbia, SC 29211

803-779-2555

803-779-2556 FAX

jeremyatlaw@yahoo.com

Attorney for the Applicant.

This 16th day of May, 2014.

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
DARRYL LOUIS, #279494,)
)
Applicant,)
)
v.)
)
STATE OF SOUTH CAROLINA,)
)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE NO.: 2012-CP-10-2655

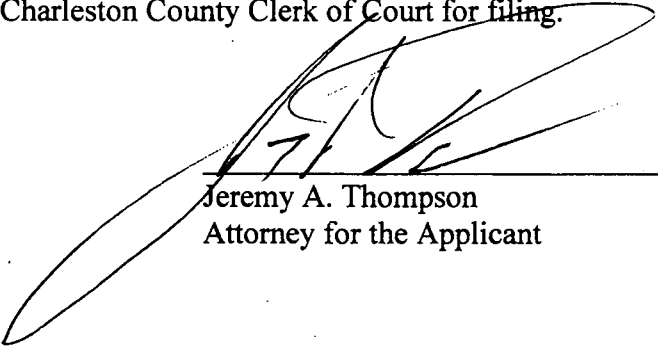
CERTIFICATE OF SERVICE

FILED
2014 MAY 19 PM 2:53
JULIE S. ARMSTRONG
CLERK OF COURT

The undersigned hereby certifies that a true copy of the Amended Application for Post-Conviction Relief in the above matter has been served on opposing counsel this 16th day of May, 2014, by depositing in the U.S. mail with proper postage to:

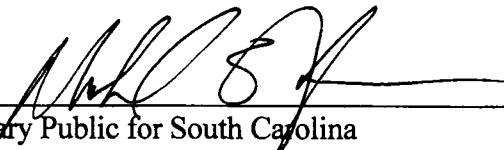
Ashleigh R. Wilson, Assistant Attorney General
Office of the Attorney General
P. O. Box 11549
Columbia, SC 29211

The original having been sent to the Charleston County Clerk of Court for filing.



Jeremy A. Thompson
Attorney for the Applicant

SWORN TO BEFORE ME this 16th day of
May, 2014.



Notary Public for South Carolina (L.S.)

My Commission Expires: 7/10/2022

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
DARRYL LOUIS, #279494,)
Applicant,)
v.)
STATE OF SOUTH CAROLINA,)
Respondent.)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE NO.: 2012-CP-10-2655

RESPONSE TO CONDITIONAL ORDER
OF DISMISSAL

2014 MAY 19 AM 2:52
JULIE J. HARRINGTON
CLERK OF COURT

FILED

NOW COMES the Applicant in the above-captioned action, acting by and through undersigned counsel, hereby submitting this response to the Conditional Order of Dismissal filed on April 23, 2014, and served on counsel for the Applicant on April 30, 2014. The Applicant would argue that the Conditional Order of Dismissal should not become final for the following reasons:

The Respondent's Return and Motion to Dismiss and the Conditional Order of Dismissal both characterize the Applicant's current PCR application as an attempt to renew the issues raised, and denied, in his first PCR. If this was the Applicant's intent in filing this PCR, then the Conditional Order would be correct in concluding that this PCR should be dismissed. The Applicant, however, is not seeking to rehash his first PCR's grounds in his second PCR. Instead, the Applicant filed this PCR to obtain a belated appeal from the denial of his first PCR pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991). In a portion of the Applicant's PCR which was not mentioned by either the Motion to Dismiss or the Conditional Order, the Applicant clearly set forth his reason for filing this PCR:

19. State clearly the relief you seek in filing this application:
Applicant seeks Appellate review for Post Conviction Relief due to

P.C.R. Counsel failure to timely appeal the hearing. Pursuant:
"Austin v. State," 409 S.E.2d 395 (1991).

2012 PCR Application at 6. Consequently, it is clear that the true purpose of the Applicant's current PCR is to obtain a belated PCR appeal.¹

The Conditional Order dismisses this PCR on successiveness and statute of limitations grounds. However, a claim brought pursuant to Austin should not be dismissed under either basis. On successiveness grounds, the Supreme Court has held that "[t]his Court has allowed successive PCR applications where the applicant has been denied complete access to the [PCR] appellate process." Odom v. State, 337 S.C. 256, 261, 523 S.E.2d 753, 755 (1999). When a PCR applicant alleges ineffective assistance of PCR counsel for failure to file an appeal from the denial of his first PCR, the PCR court should hold "an evidentiary hearing on the issue of whether [the Applicant] knowingly and intelligently waived his right to appellate counsel. ... [The Applicant] will be entitled to an Austin appeal if it is determined that he did not knowingly and intelligently waive his right to appellate counsel." Id. at 263, 523 S.E.2d at 756. On statute of limitations grounds, the Supreme Court has been even more explicit: "The one-year statute of limitations for PCR applications is not applicable to appeals filed pursuant to Austin." Id. Accordingly, this Court should not dismiss the Applicant's PCR on either successiveness or statute of limitations grounds inasmuch as the Applicant's PCR is filed to obtain relief pursuant to Austin.

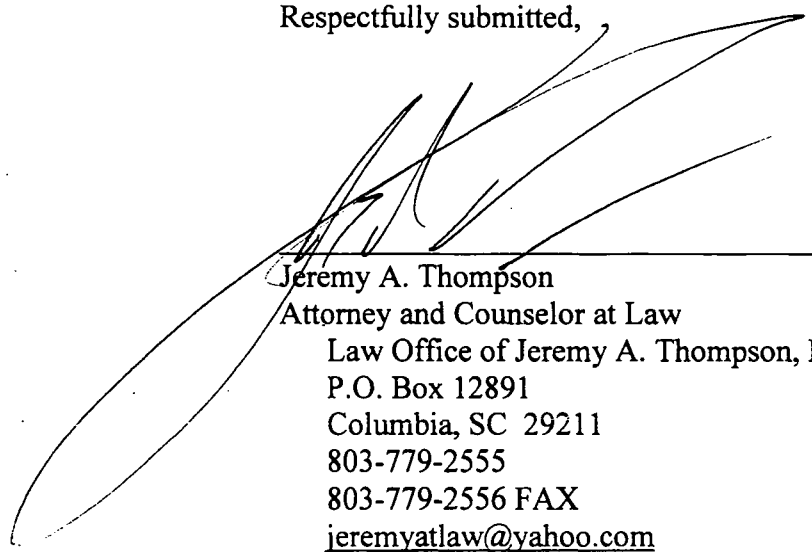
Additionally, undersigned has been in contact with PCR counsel from the first PCR, Charles T. Brooks, III, Esquire, and PCR counsel has admitted to undersigned counsel that he

¹ In an abundance of caution, the Applicant is filing an amended PCR application in conjunction with this Response, through counsel, specifically alleging ineffective assistance of PCR counsel pursuant to Austin.

intended to file an appeal from the denial of the first PCR, but that he neglected to do so.² PCR counsel's admission that he intended to file an appeal but did not do so is exactly the type of harm Austin was crafted to remedy: "An Austin appeal is used when an applicant is prevented from seeking appellate review of a denial of his or her PCR application, *such as when an attorney fails to seek timely review.*" Odom, *supra*, 337 S.C. at 261, 523 S.E.2d at 756 (emphasis added). At no point in time did the Applicant ever waive his right to an appeal. Therefore, the Applicant has made out a valid claim for relief pursuant to Austin, and this case should not be dismissed.

WHEREFORE, having set forth his grounds, the Applicant respectfully submits that this Court should not make its Conditional Order of Dismissal final, and should hold an evidentiary hearing on all of the Applicant's allegations.

Respectfully submitted,



Jeremy A. Thompson
Attorney and Counselor at Law
Law Office of Jeremy A. Thompson, LLC
P.O. Box 12891
Columbia, SC 29211
803-779-2555
803-779-2556 FAX
jeremyatlaw@yahoo.com
Attorney for the Applicant.

This 16th day of May, 2014.

² Although undersigned counsel has sought an affidavit from PCR counsel to this effect, undersigned counsel has been unable to obtain such an affidavit as of the date of this filing. Undersigned counsel is attaching a series of e-mails between undersigned counsel and PCR counsel which concludes with PCR counsel's statement that he "did NOT file an appeal. I have notes to do it but it was never done." Attachment 1 at 1. Undersigned counsel has also attempted to obtain opposing counsel's consent to an Austin appeal, which would obviate the need for this Response, but has been told that opposing counsel will not be able to review her file and respond to undersigned counsel until after Memorial Day.

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

DARRYL LOUIS, #279494,)

Applicant,)

v.)

STATE OF SOUTH CAROLINA,)

Respondent.)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE NO.: 2012-CP-10-2655

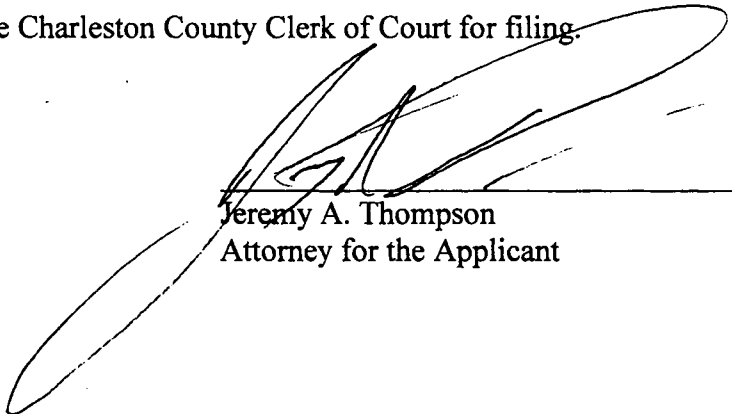
CERTIFICATE OF SERVICE

FILED
2014 MAY 19 PM 2:52
JULIE J. ARMSTRONG
CLERK OF COURT

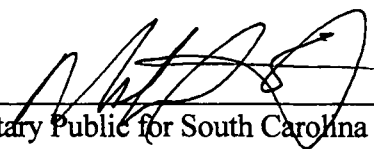
The undersigned hereby certifies that a true copy of the Response to Conditional Order of Dismissal in the above matter has been served on opposing counsel this 16th day of May, 2014, by depositing in the U.S. mail with proper postage to:

Ashleigh R. Wilson, Assistant Attorney General
Office of the Attorney General
P. O. Box 11549
Columbia, SC 29211

The original having been sent to the Charleston County Clerk of Court for filing.


Jeremy A. Thompson
Attorney for the Applicant

SWORN TO BEFORE ME this 16th day of
May, 2014.


Notary Public for South Carolina

(L.S.)

My Commission Expires: 7/10/2022

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

DARRYL LOUIS, #279494,)
)
Applicant,)
)
v.)
)
STATE OF SOUTH CAROLINA,)
)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE NO.: 2012-CP-10-2635

CERTIFICATE OF SERVICE

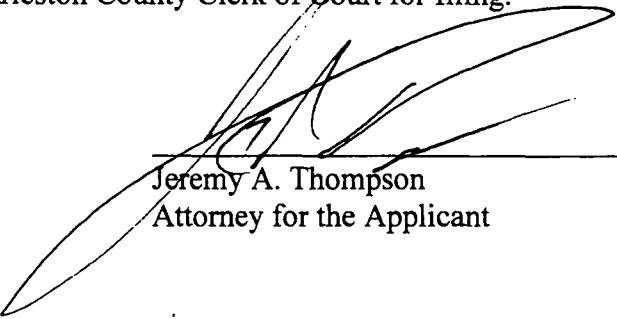
2014 MAY 19 PM 2:52
JULIE J. AMISIRONG
CLERK OF COURT

FILED

The undersigned hereby certifies that a true copy of the Response to Conditional Order of Dismissal in the above matter has been served on opposing counsel this 16th day of May, 2014, by depositing in the U.S. mail with proper postage to:

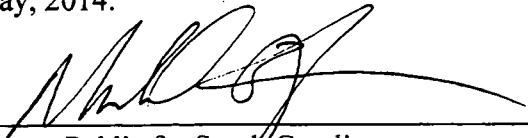
J. Croom Hunter, Assistant Attorney General
Office of the Attorney General
P. O. Box 11549
Columbia, SC 29211

The original having been sent to the Charleston County Clerk of Court for filing.



Jeremy A. Thompson
Attorney for the Applicant

SWORN TO BEFORE ME this 16th day of
May, 2014.



Notary Public for South Carolina (L.S.)

My Commission Expires: 7/10/2022

Jeremy A. Thompson

From: cbrooks@ctbrooks.com
Sent: Thursday, May 01, 2014 5:28 PM
To: Jeremy A. Thompson
Subject: RE: FW: Darryl Louis

Jeremy, in looking back in my file, we did NOT file an appeal. I have notes to do it but it was never done. Hope this helps

On May 1, 2014 at 3:19 PM "Jeremy A. Thompson" <jeremyatlaw@yahoo.com> wrote:

Basically, what I need is for you to review it and make sure that you didn't file an appeal from the order dismissing the PCR, as all we're seeking is an Austin appeal. If you've got any letters to Darryl regarding the order and any appeal, that would be helpful too.

Jeremy A. Thompson
Attorney and Counselor at Law
Law Office of Jeremy A. Thompson, LLC
P.O. Box 12891
Columbia, SC 29211
803-779-2555 Phone
803-779-2556 Fax
jeremyatlaw@yahoo.com

From: cbrooks@ctbrooks.com [<mailto:cbrooks@ctbrooks.com>]
Sent: Thursday, May 01, 2014 3:17 PM
To: Jeremy A. Thompson
Subject: Re: FW: Darryl Louis

found the file. tell me what you need. I may be able to scan it and send it to you either today or tomorrow.

On May 1, 2014 at 1:01 PM "Jeremy A. Thompson" <jeremyatlaw@yahoo.com> wrote:

Charles,

Got your message. These are the documents for the new PCR and the old PCR. The order of dismissal (which lists you as counsel of record) from the first PCR is attached. Let me know once you've had a chance to track the file down and refresh your recollection. Thanks!

Jeremy

Jeremy A. Thompson
Attorney and Counselor at Law
Law Office of Jeremy A. Thompson, LLC
P.O. Box 12891
Columbia, SC 29211
803-779-2555 Phone
803-779-2556 Fax
jeremyatlaw@yahoo.com

From: Ashleigh Wilson [<mailto:arwilson@scag.gov>]
Sent: Wednesday, April 30, 2014 10:20 AM
To: Jeremy A. Thompson (jeremyatlaw@yahoo.com)
Subject: Darryl Louis

Jeremy,

Attached are the records filed with the State's Return and Motion to Dismiss in the above referenced matter as requested.

Ashleigh R. Wilson

Assistant Attorney General
South Carolina Office of the Attorney General
Post-Conviction Relief Section
9th and 14th Circuits
(803) 734-3737
ARWilson@SCAG.gov

*Please remember the environment before printing this email.

CC
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GS
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RECEIVED
6/25/14

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

2012-CP-10-2655

Darryl K. Louis,
S.C.D.C. No. 279494,

Applicant,

v.

State of South Carolina,

Respondent.

ORDER

RY
2014 JUN 23 AM 10:24
CLERK OF COURT

In response to the post-conviction relief application filed April 20, 2012 and amended on May 16, 2014, this Court finds:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Charleston County. The Applicant was indicted at the June 2007 term of the Charleston County Grand Jury for four (4) counts of armed robbery (2007-GS-10-7478, 7479, 7480, 7481). F. Renee Gaters, Esquire, represented the Applicant.

On May 28, 2008, the Applicant pled guilty as indicted to one (1) count of armed robbery. The Honorable James C. Williams, Jr., sentenced the Applicant to thirty (30) years imprisonment pursuant to a negotiated plea agreement. The sentence was to run concurrently with Applicant's armed robbery sentences in Berkeley and Dorchester Counties. The Applicant did not appeal.

The Applicant subsequently filed an application for post-conviction relief (PCR) on October 21, 2008 (2008-CP-10-6010). The Applicant raised the following grounds for relief:

APR 1

1. Ineffective assistance of counsel.
2. Lack of subject matter jurisdiction.
3. Due process violation and unconstitutional sentence.

The Respondent made its Return on March 25, 2009. An evidentiary hearing into the matter was convened on January 15, 2010 at the Charleston County Courthouse. The Applicant was present and represented by Charles T. Brooks, Esquire. By Order of Dismissal dated February 5, 2010 and filed February 9, 2010, the Honorable Deadra L. Jefferson denied and dismissed the application with prejudice. The Applicant did not appeal.

II.

In his current and original application for post-conviction relief, the Applicant alleges that he is being held unlawfully for the following reasons:

1. Ineffective assistance of counsel.
 - a. "Counsel failed to object when plea court failed to advise Applicant of the full consequences of his plea."
 - b. "Counsel and Court failed to apprise Applicant of mandates of S.C. Code Ann. § 24-21-560(D), which results in DOUBLE SENTENCING."
2. Due process violation and unconstitutional sentence.
3. Lack of subject matter jurisdiction.

The State filed a Return and Motion to Dismiss on March 31, 2014. In its Return, the State asks this Court to summarily dismiss the Applicant's application for post-conviction relief as being successive and untimely filed. The Honorable Stephanie P. McDonald conditionally dismissed the Applicant's application for post-conviction relief by Order filed on April 23, 2014. In the Applicant's Response to the Conditional Order of Dismissal dated May 16, 2014, he claims this application should not be dismissed because the "Applicant seeks Appellate review for Post-Conviction relief due to P.C.R. Counsel failure to timely appeal the hearing." On May 16, 2014, the Applicant also amended his application for post-conviction to allege "Post-Conviction Relief counsel was ineffective for failing to file an appeal on the Applicant's behalf

OPM
2

following the denial of his PCR application. See Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991).” In his amended application, the Applicant withdrew “any other allegations raised in his original Application for Post-Conviction Relief.”

III.

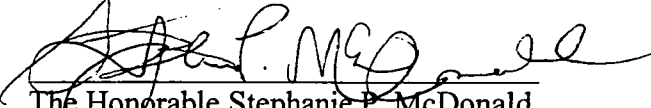
Based on the Applicant’s representations in his amended application and Response to the Conditional Order of Dismissal, this Court finds all allegations raised in the Applicant’s original application for post-conviction relief filed April 20, 2012 are hereby deemed withdrawn by the Applicant. This Court also orders an evidentiary hearing be held solely to address the issue of whether “Post-Conviction Relief counsel was ineffective for failing to file an appeal on the Applicant’s behalf following the denial of his PCR application. See Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991)” which was raised by the Applicant in his amended application for post-conviction relief.

THEREFORE, THIS COURT FINDS:

1. That all allegations raised in the Applicant’s original application for post-conviction relief are deemed withdrawn; and
2. That an evidentiary hearing be convened to address the sole issue of whether post-conviction relief counsel was ineffective for failing to file an appeal of the denial of the Applicant’s first application for post-conviction relief.

IT IS SO ORDERED this 19th day of June, 2014.

June 19, South Carolina


The Honorable Stephanie P. McDonald
Chief Administrative Judge
9th Judicial Circuit

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

DARRYL K. LOUIS, JR.

Plaintiff

vs.

STATE OF SOUTH CAROLINA

Defendant

THE COURT OF COMMON PLEAS

DOCKET NO. 2012-CP-10-2655

TRANSCRIPT OF RECORD

December 10, 2014

Charleston, South Carolina

B E F O R E:

THE HONORABLE J. C. NICHOLSON, JUDGE

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

JEREMY A. THOMPSON, ESQ.
Attorney for the Plaintiff

ASHLEIGH R. WILSON, ESQ.
Attorney for the State

JOYCE C. RUEGER, CVR-M
Circuit Court Reporter

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No exhibits were introduced

PROCEEDINGS

THE COURT: Mr. Lewis, how you doing today. Please have a seat.

MS. WILSON: May it please the court, Your Honor?

THE COURT: Yes, ma'am.

MS. WILSON: This is Ashleigh Wilson for the state of South Carolina. This is Darryl Louis versus the State, docket number 2012-CP-10-2655. Mr. Louis was indicted in June 2007 for four counts of armed robbery. He pled guilty on May 28th, 2008. He pled to a negotiated 30 sentence for three of those four armed robbery indictments were nolle prossed and his 30 year sentence to run concurrent with the armed robbery sentence that he is also serving from Dorchester County. He filed an application for post conviction relief ---

THE COURT: --- how much time did he receive?

MS. WILSON: He received a 30 year negotiated sentence.

THE COURT: 30 years, okay.

MS. WILSON: Yes, Your Honor, just for one count of -- one of the counts ---

THE COURT: --- and they are all to run concurrent?

MS. WILSON: Yes.

THE COURT: Okay.

MS. WILSON: He filed an application for post

1 conviction relief on -- well, he filed his -- we're here
2 today on his second application but he filed his first
3 application for post conviction relief on October 21st,
4 2008. He had a hearing on that on January 15th, 2010.
5 He was represented by Mr. Charles Brooks at that P-C-R
6 hearing and Judge Jefferson dismissed and denied his
7 application for post conviction relief by order dated
8 February 9th, 2010.

9 He filed this second application for post conviction
10 relief on April 20th, 2012.

11 THE COURT: April 20th, 2012?

12 MS. WILSON: Yes, Your Honor.

13 THE COURT: Okay.

14 MS. WILSON: And he is represented by Mr. Jeremy
15 Thompson on that. And in his second application he
16 raised ineffective assistance of counsel claims. The
17 State filed a return and a motion to dismiss and also
18 submitted a conditional order of dismissal to the court
19 because it was successive and untimely.

20 Judge McDonald signed the conditional order of
21 dismissal on April 23rd, 2014. Mr. Thompson who was
22 retained by Mr. Louis filed a conditional order of
23 dismissal on Mr. Louis's behalf and amended his P-C-R
24 application to raise a claim of ineffective assistance of
25 P-C-R counsel for failing to file an appeal of his P-C-R.

1 By order dated June 23, 2014 Judge McDonald ordered that
2 a hearing be held to address solely whether P-C-R counsel
3 was ineffective for failing to file an appeal of his
4 first P-C-R application, and then she also deemed that
5 all other claims raised in his application were withdrawn
6 by the applicant.

7 So we're here today solely on the claim of whether
8 Mr. Brooks was ineffective for failing to file a notice
9 of appeal for his P-C-R application. Your Honor, the
10 State has spoken to Mr. Brooks and he's indicated that he
11 did not file an appeal on behalf of Mr. Louis so the
12 State would agree to -- consent to him being granted a
13 belated appeal without the taking of any testimony.

14 THE COURT: Okay. You got a proposed order?

15 MS. WILSON: I can submit one, Your Honor.

16 THE COURT: Okay.

17 MR. THOMPSON: Your Honor, may it please the court?
18 My name is Jeremy Thompson and I'm here for Mr. Louis. I
19 would request that we be permitted to have a very short
20 hearing this morning. While I certainly appreciate the
21 State's offer to consent to relief I know that there are
22 orders that have -- without a record that get reversed on
23 appeal and vacated when there is no factual basis to
24 support the relief granted where the State agrees to give
25 petitioner a belated P-C-R appeals and belated direct

1 appeals those orders get vacated when there is no
2 evidence below. I would not like to get all the way up
3 on appeal a year and a half from now and then the Supreme
4 Court send it back to us to do what we are here today to
5 do. Additionally, Your Honor, I ---

6 THE COURT: --- I mean well the appeal is going to
7 come from the P-C-R application, right; the second P-C-R
8 application that was dismissed because it was outside the
9 statute and it was successive right? I assume there was
10 a record made there. Now he's sued that P-C-R attorney
11 because he didn't appeal that is that correct?

12 MR. THOMPSON: The first P-C-R was timely.

13 THE COURT: Right. I'm talking about the second
14 one.

15 MR. THOMPSON: Right.

16 THE COURT: The one he has filed a P-C-R against
17 the attorney representing him in the second one right ---

18 MR. THOMPSON: --- yes ---

19 THE COURT: --- because he didn't appeal.

20 MR. THOMPSON: Yes.

21 THE COURT: So why do you need an evidentiary
22 hearing today? I mean the issue she's granted your right
23 to appeal the denial -- dismissal of the second P-C-R ---

24 MR. THOMPSON: --- because ---

25 THE COURT: --- so whatever transpired at that

1 hearing is what transcript you need.

2 MR. THOMPSON: It's not that, Your Honor. It's
3 whether or not the issue on appeal from this court
4 because we have to -- the Supreme Court has to grant the
5 review of this order. The Supreme Court has to issue an
6 order saying there was a factual basis to support Your
7 Honor's finding that my client did not validly waive his
8 right to appeal from the first P-C-R hearing. That is
9 not included in the record in his first P-C-R. The only
10 opportunity to make that record is here today.

11 MS. WILSON: Your Honor and I can provide some
12 assistance on this. When the State consents that does
13 not become an issue particularly because when the
14 petition for cert is filed they also have to -- they file
15 kind of it's like a duel process ---

16 THE COURT: --- I mean the legal issue going to the
17 Supreme Court was whether or not it was timely and
18 whether it was successive or it was new information; not
19 whether he voluntarily waived his right. She's consented
20 to that so that's a non issue.

21 MS. WILSON: That's a non issue Your Honor with the
22 State ---

23 THE COURT: --- that's a non issue.

24 MR. THOMPSON: It's not, Your Honor. There are
25 cases where the State has consented to belated appeals.

1 MS. WILSON: And Your Honor, I can ---

2 MR. THOMPSON: --- and they have been ---

3 THE COURT: --- wait a minute. I can't listen to
4 both of you.

5 MR. THOMPSON: And they have been vacated on appeal
6 when there has not been an evidentiary record made below
7 to support the P-C-R Judge's finding.

8 MS. WILSON: And Your Honor, I can provide some
9 distinguishing factors because this one case that he is
10 talking about is actually my case. And he's talking
11 about the case of Osiel Narciso. And in that case it was
12 different because in that case they had -- the State
13 consented to an appeal and in addition to his claim of
14 ineffective assistance of P-C-R counsel for failing to
15 file an appeal he had other claims.

16 And at that hearing he waived those claims. So the
17 reason that the court remanded it and vacated that order
18 was based on the fact that they weren't sure that he knew
19 that he was waiving those other P-C-R claims ---

20 THE COURT: --- the only thing he is raising I this
21 is that he didn't get the appeal from the first one. So
22 I don't see any reason why you've got to have an
23 evidentiary hearing on that issue when they are
24 consenting to letting him appeal.

25 MR. THOMPSON: Because Your Honor we have to have a

1 factual basis for ---

2 THE COURT: --- no, sir ---

3 MR. THOMPSON: --- that finding.

4 THE COURT: No, sir. There is no finding. The
5 State has consented to letting your gentleman appeal the
6 second application. And that's the basis, you need that
7 transcript.

8 MR. THOMPSON: And we have that transcript.

9 THE COURT: Okay. Well that's what you're going
10 to appeal from.

11 MR. THOMPSON: The appeal, we're asking for a
12 belated appeal but on appeal we have to argue both that
13 there is an error on the merits in the first P-C-R ---

14 THE COURT: --- right, that's number one.

15 MR. THOMPSON: And number two that Your Honor
16 validly granted him a right to a belated appeal.

17 THE COURT: I'm not granting him the right. She's
18 consenting to it.

19 MR. THOMPSON: Your Honor ---

20 THE COURT: --- I'm not granting him the right to
21 appeal. She's consenting to it; it's over.

22 MR. THOMPSON: It's not, Your Honor. On appeal we
23 have to make a showing that Your Honor properly found
24 that my client did not validly waive his right to appeal
25 from his first P-C-R and that he's entitled to a belated

1 appeal from that decision. We have to make a showing on
2 appeal. When I appeal -- when I file the petition for a
3 writ of certiorari I have to make in that statement I
4 have to file issue one, whether or not there is a factual
5 basis for your decision; whether or not you made a proper
6 decision ---

7 THE COURT: --- I'm not making a decision. The
8 State has consented to the appeal.

9 MR. THOMPSON: But I have to ---

10 THE COURT: --- there is no issue. It's a moot
11 issue now that the State has consented to it. I'm not
12 going to make any findings. I don't have to.

13 MR. THOMPSON: I respectfully disagree, Your Honor.
14 I think you do have to. I think when -- if Ms. Wilson
15 submits a proposed order the proposed order will contain
16 findings of fact and conclusions of law Your Honor is
17 required under South Carolina code section ---

18 THE COURT: --- no, it's not ---

19 MR. THOMPSON: --- 17-27-80 ---

20 THE COURT: --- it's not going ---

21 MR. THOMPSON: --- to make a factual finding ---

22 THE COURT: --- it's not going to find any facts.
23 It's not going to be any facts. The order is going to
24 say the State has consented to allow him to appeal from
25 the second application P-C-R period. That's what the

1 order is going to say. I'm not going to make any
2 findings. I'm not going to rule on whether it
3 voluntarily or involuntarily dismissed it because that's
4 not the issue. The issue is whether he can appeal. The
5 State has consented to it.

6 MR. THOMPSON: Your Honor, all I have to say is I
7 respectfully disagree with that ---

8 THE COURT: --- well, fine. You can respectfully
9 disagree all you want. I'm going to sign an order saying
10 it's a moot issue. The State has consented to it. He
11 has the right to appeal with the State's consent. And
12 you appeal whether you've got any merit from the second
13 application. There is no other issues before me today
14 other than that denial of that appeal right?

15 MR. THOMPSON: That's correct ---

16 THE COURT: --- no other issues?

17 MR. THOMPSON: That's correct.

18 THE COURT: All right. It's now moot. The State
19 has agreed you can do it. It's a moot issue before this
20 court so I'm not going to make any findings of fact of
21 anything.

22 MR. THOMPSON: Then, again Your Honor ---

23 THE COURT: --- you want to type me up an order Ms.
24 Wilson?

25 MS. WILSON: Your Honor, the State will prepare an

1 order based on your language today.

2 THE COURT: Okay. Thank you so very much.

3 MS. WILSON: Thank you, Your Honor.

4 *****END OF TRANSCRIPT OF RECORD*****
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C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official
Circuit Court Reporter for the Ninth Judicial Circuit of
the State of South Carolina, do hereby certify that the
foregoing is a true, accurate, and complete Transcript of
Record of the proceedings had and evidence introduced in
the trial of the captioned case, relative to appeal, in
the Court of Common Pleas for Charleston County, South
Carolina on the 10th day of December, 2014.

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

March 11, 2015


Joyce C. Rueger, CVR-M
Court Reporter

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1/24/15

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

Darryl K. Louis, #279494,)

Applicant,)

vs.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS

2012-CP-10-2655

**ORDER GRANTING AN APPEAL
PURSUANT TO AUSTIN V. STATE**

2015 JAN 20 PM 4:54
JULIE CLEGG, CLERK OF COURT
BY

Presiding Judge:

Applicant's Attorney:

Respondent's Attorney:

Original PCR Counsel:

Date of Hearing:

Court Reporter:

The Honorable J.C. Nicholson

Jeremy Thompson, Esquire

Ashleigh R. Wilson, Esquire

Charles T. Brooks, III, Esquire

December 10, 2014

Joy Rueger

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed April 20, 2012. The Respondent made its return and motion to dismiss on March 31, 2014. A conditional order of dismissal was signed by the Honorable Stephanie McDonald on April 23, 2014. Counsel filed a response to the conditional order of dismissal amending the application for post-conviction relief and waiving all claims other than post-conviction relief counsel's failure to file an appeal. On June 23, 2014, Judge McDonald issued an order calling for a hearing to address whether the Applicant's first PCR counsel failed to file an appeal and deeming withdrawn all other claims raised by the Applicant in his second application. An evidentiary hearing on the matter was convened on December 10, 2014 at the Charleston County Courthouse. The Applicant was present at the hearing and represented by Jeremy Thompson,

Esquire. Ashleigh R. Wilson, Esquire of the South Carolina Office of the Attorney General represented the Respondent. Also present was Charles T. Brooks, III, Esquire who represented the Applicant on his first post-conviction relief application.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Applicant alleges that he was denied the right to appeal the dismissal of his previous post-conviction relief application. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), a post-conviction relief applicant may petition the South Carolina Supreme Court for discretionary review of the dismissal of their application.

After review of the facts and circumstances surrounding the waiver of the Applicant's right to appeal the denial of allegations in the Applicant's post-conviction relief application, the parties in this matter have consented to the granting of an appeal pursuant to Austin v. State of the Applicant's first post-conviction relief application (2008-CP-10-6010). The parties agreed at the Applicant's evidentiary hearing on December 10, 2014 that the Applicant did not voluntarily waive his right to appeal the post-conviction relief court's denial and dismissal of the Applicant's application for post-conviction relief. Charles T. Brooks, III, Esquire, who represented the Applicant on his first PCR application, has indicated to the Respondent that he inadvertently failed to file a timely Notice of Appeal of the Applicant's first PCR application.

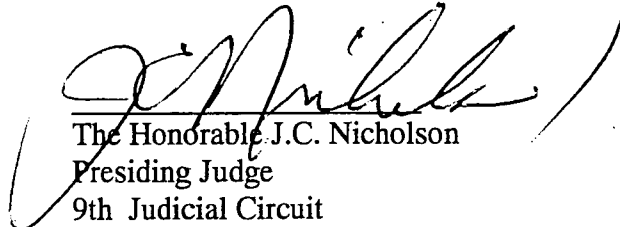
Based upon the foregoing, this Court will accept the consent of the parties and finds that the granting of an appeal of the Applicant's first PCR proceeding (2008-CP-10-6010) pursuant to Austin v. State is warranted.

[Order continues on the following page.]

IT IS THEREFORE ORDERED:

1. That the Applicant remain in the custody of the South Carolina Department of Corrections and/or the South Carolina Parole and Community Corrections Department if under the supervision of either agency; and
2. That the Applicant be granted an appeal of case 2008-CP-10-6010 pursuant to Austin v. State.

AND IT IS SO ORDERED this 13 day of JAN, 2015.


The Honorable J.C. Nicholson
Presiding Judge
9th Judicial Circuit

Charleston, South Carolina.

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Presiding Judge

2012-CP-10-2655

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S.C. Supreme Court

DARRYL LOUIS, #279494,

Petitioner,

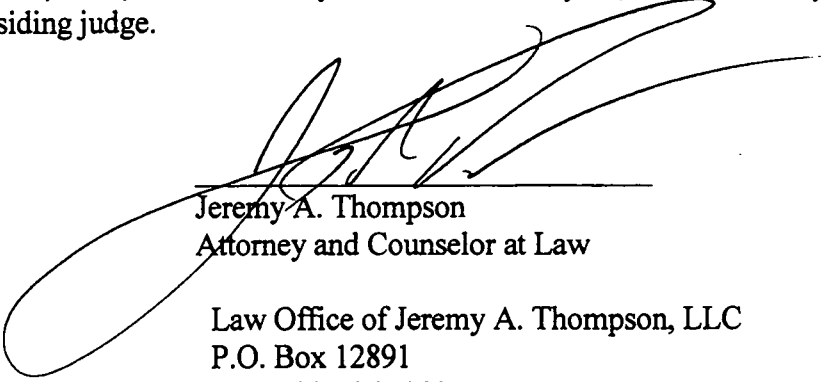
v.

STATE OF SOUTH CAROLINA,

Respondent.

NOTICE OF APPEAL

Darryl Louis, #279494, appeals the Order of Dismissal denying his Application for Post-Conviction Relief filed January 20, 2015, and received by counsel on January 26, 2015, issued by the Honorable J.C. Nicholson, presiding judge.



Jeremy A. Thompson
Attorney and Counselor at Law

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P.O. Box 12891
Columbia, SC 29211
803-779-2555 Phone
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jeremyatlaw@yahoo.com E-mail

ATTORNEY FOR PETITIONER

This 23rd day of February, 2015.

Other Counsel of Record:
Ashleigh R. Wilson, Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211
Attorney for Respondent
(803) 734-3737

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Presiding Judge

2012-CP-10-2655

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S.C. Supreme Court

DARRYL LOUIS, #279494,

Petitioner,

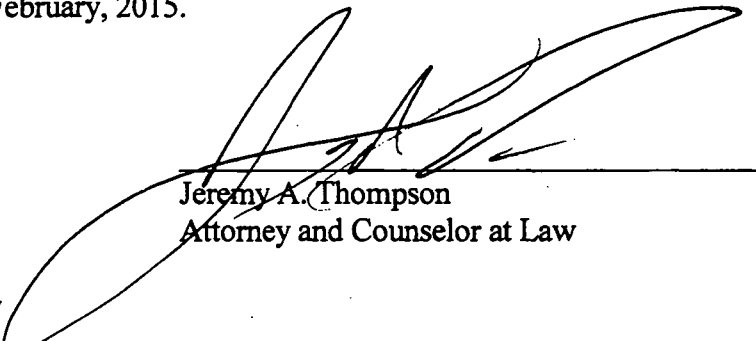
v.

STATE OF SOUTH CAROLINA,

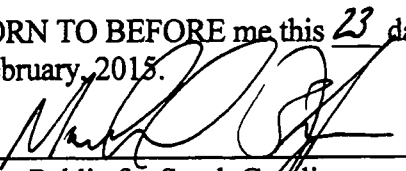
Respondent.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that one copy of the Petitioner's Notice of Appeal in the above-entitled case has been served upon opposing counsel, Ashleigh R. Wilson, Assistant Attorney General, P.O. Box 11549, Columbia, SC 29211, by mailing in an envelope properly addressed with postage prepaid on this 23rd day of February, 2015.


Jeremy A. Thompson
Attorney and Counselor at Law

SWORN TO BEFORE me this 23 day
of February, 2015.


Notary Public for South Carolina

My Commission Expires: 7/10/2022

(L.S.)