

21852

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

J. C. Buddy Nicholson, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JEROME RAYMOND WILLIS

APPELLANT

APPELLATE CASE NO. 2014-001221

RECORD ON APPEAL

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No Respondent's Brief Filed

SC Court of Appeals

NO DEF. BRIEF

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STATE OF SOUTH CAROLINA	)	
	)	IN GENERAL SESSIONS COURT
COUNTY OF CHARLESTON	)	2012-GS-10-07267
State of South Carolina,	)	
	)	
PLAINTIFF,	)	TRANSCRIPT OF RECORD
	)	
VS.	)	June 5-7, 2013
	)	
Jerome R. Willis,	)	Charleston, South Carolina
	)	
DEFENDANT.	)	
	)	

B E F O R E:

THE HONORABLE J.C. NICHOLSON, JR., Judge

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Court Reporter

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P R O C E E D I N G S

June 5, 2013

(Whereupon, Court convened with all parties present with counsel when the following matters were had:)

THE COURT: All right. Has the Defendants got his -- their voir dire? And have you got a witness list?

MR. WARING: Yes, Your Honor.

THE COURT: How about the Defendants?

MS. EHRLICH: Your Honor, the only person we would potentially call is Mr. Willis.

THE COURT: Okay. Does the State have any requests for voir dire?

MR. WARING: Yes, Your Honor.

THE COURT: You want to pass them up or have you already passed them up?

MR. WARING: I had already passed a copy to the court reporter, Your Honor. I'll give you a copy too.

THE COURT: You got any objection to the State's voir dire?

MS. EHRLICH: No, Your Honor.

THE COURT: Does the State have any objection to Defendant's voir dire?

MR. WARING: No, Your Honor.

THE COURT: Y'all must have traded them around. You used the same thing.

1 MS. EHRLICH: I think they're pretty much the
2 same with the exception of him wanting to know if they've
3 been victims.

4 THE COURT: The jury's going to get tired of
5 hearing that, but that's neither here nor there.

6 Are y'all ready to voir dire the jury?

7 MR. WARING: Yes, Your Honor.

8 THE COURT: Okay. Can you get them up? How many
9 are you going to bring up?

10 THE CLERK: 50.

11 THE COURT: 50. Okay. Can you get 50 in here?

12 THE CLERK: Yes, sir.

13 THE COURT: All right. If y'all will get the
14 jury up, we'll go through the voir dire process and strike
15 the jury.

16 (Pause.)

17 (WHEREUPON, the jury panel entered the courtroom at
18 approximately 2:50 PM.)

19 THE COURT: All right. Mr. Willis, stand and
20 raise your right hand.

21 **JEROME WILLIS,**

22 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

23 THE COURT: Madam Clerk, if you would do an
24 arraignment of Mr. Willis, please, ma'am. Do you want the
25 indictment?

1 THE CLERK: Yes, please.

2 Case number 2012-GS-10-7267, The State of South
3 Carolina vs. Jerome Willis, indictment for indecent
4 exposure. If you answer to that name, please raise your
5 right hand.

6 (Defendant complied.)

7 THE CLERK: You may put it down.

8 You stand indicted by the name Jerome Raymond Willis.
9 In Charleston County, South Carolina, on or about September
10 15th, 2012, the Defendant, Jerome Raymond Willis, willfully,
11 maliciously, and indecently did expose in a public place of
12 property of others or to the view of another person on a
13 street or highway. To wit, the Defendant did expose
14 himself while on Highway 17 on the Ravenel Bridge in Mount
15 Pleasant, South Carolina.

16 How say you? Are you guilty or not guilty?

17 THE DEFENDANT: Not guilty.

18 THE CLERK: How will you be tried?

19 THE DEFENDANT: By God and my country.

20 THE CLERK: May He send you a true deliverance.

21 Are you ready for trial?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Okay. Thank you very much. You may
24 have a seat.

25 Do we have everybody?

1 THE BAILIFF: Yes.

2 THE COURT: Ladies and gentlemen of the jury
3 panel, the State is calling the case of State vs. Jerome
4 Raymond Willis, who is charged with indecent exposure and
5 the Clerk just arraigned Mr. Willis. I'm going to ask you
6 some questions about the trial. And first thing I'm going
7 to do is call out a list of names and I'm going to ask you
8 the same question about each name. I'm going to ask you
9 are you related by blood or marriage or do you know the
10 individuals.

11 All right. The first name is Rebecca Dew. Is anybody
12 related by blood or marriage, does anybody know Rebecca
13 Dew? If so, please stand.

14 Yes, ma'am, your name?

15 POTENTIAL JUROR: Katherine McDonald, juror 165.

16 THE COURT: 165. Yes, ma'am, Ms. McDonald. How
17 do you know her?

18 POTENTIAL JUROR: She's married to a friend of
19 mine.

20 THE COURT: How close are you with her?

21 POTENTIAL JUROR: Not very.

22 THE COURT: Do you see her very often?

23 POTENTIAL JUROR: About four or five times a
24 year.

25 THE COURT: What type of functions do you see

1 her?

2 POTENTIAL JUROR: Social and business.

3 THE COURT: All right. Would it cause you any
4 difficulty sitting on the jury assuming she testifies?

5 POTENTIAL JUROR: No, sir.

6 THE COURT: Can you be fair to both the State and
7 the Defendant?

8 POTENTIAL JUROR: Yes, sir.

9 THE COURT: Can you base your decision on the
10 testimony you hear in the courtroom?

11 POTENTIAL JUROR: Yes, sir.

12 THE COURT: Thank you, Ms. McDonald.

13 All right. The next name is JoAnne Lewis. Is anybody
14 related by blood or marriage, does anybody know JoAnne
15 Lewis? If so, please stand.

16 (No response elicited.)

17 THE COURT: The next name is Christopher Goode of
18 the Mount Pleasant Police Department... Is anybody related
19 by blood or marriage, does anybody know Christopher Goode?
20 If so, please stand.

21 (No response elicited.)

22 THE COURT: The next name is Gary Myers of the
23 Mount Pleasant Police Department. Is anybody related by
24 blood or marriage, does anybody know Gary Myers? If so,
25 please stand.

1 (No response elicited.)

2 THE COURT: The next name is Jerome Raymond
3 Willis.

4 Mr. Willis, if you'll stand and face the jury, please.

5 (Defendant complied.)

6 THE COURT: Thank you, Mr. Willis.

7 Is anybody related by blood or marriage to Jerome
8 Raymond Willis who stood in front of you to my left? Does
9 anybody know Mr. Willis? If so, please stand.

10 (No response elicited.)

11 THE COURT: Solicitor, if you'll stand and
12 introduce yourself, please.

13 MR. WARING: Good afternoon. I'm Richard Waring,
14 assistant solicitor for the State. This is Timmy Finch,
15 assistant solicitor for the State.

16 THE COURT: All right. Is any member of the jury
17 panel close personal friends with anyone in the solicitor's
18 office either here in Charleston County or Berkeley County?
19 If so, please stand.

20 (No response elicited.)

21 THE COURT: And turn off your phone or I'm going
22 to own it. Okay?

23 Would you stand and introduce yourself, please, ma'am?

24 MS. EHRLICH: My name is Megan Ehrlich and I'm an
25 attorney at the Charleston County Public Defender's Office.

1 And assisting me today is going to be Mary Ford, also from
2 our office.

3 THE COURT: Does any member of the jury panel
4 have a close personal friend in the public defender's
5 office here in Charleston or Berkeley County or has anybody
6 been represented by the public defender's office? If so,
7 please stand.

8 (Potential juror stood.)

9 THE COURT: Yes, ma'am. Your name?

10 POTENTIAL JUROR: Jennifer Germuth.

11 THE COURT: I'm sorry. What number?

12 POTENTIAL JUROR: Jennifer Germuth. My jury
13 number is 53. I'm out of order. It might be under Jenny
14 Craig or Jennifer Craig.

15 THE COURT: Okay. Yes, ma'am. Who do you know?

16 POTENTIAL JUROR: My sister's boyfriend is a
17 public defender.

18 THE COURT: Who -- what's his name?

19 POTENTIAL JUROR: John.

20 THE COURT: Do you know his last name?

21 POTENTIAL JUROR: Do I have to say his name?
22 John McKowsky.

23 THE COURT: How often do you see him?

24 POTENTIAL JUROR: Weekly..

25 THE COURT: Would that cause you any problems

1 with sitting on this jury?

2 POTENTIAL JUROR: No, sir.

3 THE COURT: Can you be fair to both the State and
4 the Defendant?

5 POTENTIAL JUROR: Yes.

6 THE COURT: All right. Thank you so very much.
7 Juror number 53.

8 Has any member of the jury panel or member of your
9 family or close personal friend ever been accused of a
10 violent or sexual crime? If so, please stand.

11 (No response elicited.)

12 THE COURT: Does any member of the jury panel
13 have reservations about following the laws as instructed by
14 the Court even if they personally believe that the law is
15 wrong or unfair? If you believe that, please stand.

16 (No response elicited.)

17 THE COURT: Does any member of the jury panel
18 have any religious convictions, philosophical, moral
19 beliefs, or political orientations that would make it
20 difficult for you to sit in judgment of another person? If
21 so, please stand.

22 (No response elicited.)

23 THE COURT: Is any member of the jury panel a
24 former member of law enforcement or any member of your
25 immediate family a member of law enforcement either now or

1 in the past? If so, please stand.

2 (Potential juror stood.)

3 THE COURT: Yes, ma'am. What's your number?

4 POTENTIAL JUROR: 136.

5 THE COURT: I'm sorry?

6 POTENTIAL JUROR: 136.

7 THE COURT: Ms. Joyner, I believe your husband
8 retired from the Charleston Police Department four years
9 ago; is that correct?

10 POTENTIAL JUROR: Yes, sir. That's correct.

11 THE COURT: All right. Would that fact cause you
12 any difficulty in sitting on the jury?

13 POTENTIAL JUROR: Not at all.

14 THE COURT: Can you be fair and impartial to both
15 the State and the Defendant?

16 POTENTIAL JUROR: Yes.

17 THE COURT: Can you make your decision on the
18 testimony you hear in the courtroom?

19 POTENTIAL JUROR: Yes, sir.

20 THE COURT: All right. Thank you, Ms. Joyner.
21 Juror number 136.

22 Does any member of the jury panel have particular
23 opinions or feelings about the crime of indecent exposure
24 which would make it difficult for you to serve on a jury
25 where the defendant is charged with this crime? If so,

1 please stand.

2 (No response elicited.)

3 THE COURT: Has any member of the jury panel or your
4 close friends or relatives been a victim of a crime? If
5 so, please stand.

6 Yes, sir, your name and number?

7 POTENTIAL JUROR: Yes, sir. Richard Davis, juror
8 number 55. My mother was a victim of robbery, burglary
9 about 15 years ago.

10 THE COURT: Would that cause you any problem, Mr.
11 Davis, sitting on this jury?

12 POTENTIAL JUROR: None at all.

13 THE COURT: And can you be fair to both the State
14 and the Defendant?

15 POTENTIAL JUROR: Yes, sir.

16 THE COURT: All right. Thank you, Mr. Davis.

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

18 POTENTIAL JUROR: Jennifer Witt, 291.

19 THE COURT: Yes, ma'am, Ms. Witt?

20 POTENTIAL JUROR: I was the victim of a DUI
21 driver.

22 THE COURT: How long ago?

23 POTENTIAL JUROR: Eighty ---

24 THE COURT: I'm sorry?

25 POTENTIAL JUROR: '86.

1 THE COURT: '86? Would that cause you any
2 problems in sitting on this jury?

3 POTENTIAL JUROR: No.

4 THE COURT: Can you be fair to both the State and
5 Defendant?

6 POTENTIAL JUROR: Yes, sir.

7 THE COURT: All right. Thank you, Ms. Witt.
8 Juror number 291.

9 Has any member of the jury panel served on a jury
10 before? If so, please stand.

11 All right. Starting on my left with the lady on the
12 -- in the black on the front. What is your name and number
13 and just tell me where you served and when.

14 POTENTIAL JUROR: Deborah Burdick. My juror
15 number is 37. I served on a jury here in Charleston County
16 about 20 years ago.

17 THE COURT: Okay. Can you be fair and impartial
18 in this case?

19 POTENTIAL JUROR: Yes, sir.

20 THE COURT: Thank you, Ms. Burdick.

21 Yes, ma'am? The lady next to her.

22 POTENTIAL JUROR: My name is Wilhemena Campbell,
23 jury number 41.

24 THE COURT: Yes, ma'am, Ms. Campbell?

25 POTENTIAL JUROR: And I think I served about

1 three years ago.

2 THE COURT: Here?

3 POTENTIAL JUROR: Yes, sir.

4 THE COURT: Was it civil or criminal?

5 POTENTIAL JUROR: I think it was civil.

6 THE COURT: Civil? All right. Can you be fair
7 and impartial in this case?

8 POTENTIAL JUROR: Yes, sir.

9 THE COURT: Thank you, Ms. Campbell.

10 Yes, ma'am? The lady on my far left.

11 POTENTIAL JUROR: Cassandra Aiken, juror number
12 2. I served Monday and yesterday.

13 THE COURT: Juror number what, two?

14 POTENTIAL JUROR: Yes. And I served on a civil
15 jury yesterday, Monday, and Tuesday here.

16 THE COURT: Okay. Can you be fair and impartial
17 in this case?

18 POTENTIAL JUROR: Yes.

19 THE COURT: Thank you, Ms. Aiken.

20 Yes, ma'am?

21 POTENTIAL JUROR: Corliss Bannister, juror number
22 10. I served here, civil, Monday and Tuesday.

23 THE COURT: Can you be fair and impartial in this
24 case?

25 POTENTIAL JUROR: Yes.

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

2 Yes, sir?

3 POTENTIAL JUROR: Donnie King, juror 140. I
4 served Monday and Tuesday here.

5 THE COURT: 140?

6 POTENTIAL JUROR: Yes, sir.

7 THE COURT: Okay.

8 POTENTIAL JUROR: I served Monday and Tuesday
9 here on civil court.

10 THE COURT: On a civil case?

11 POTENTIAL JUROR: Yes. Yes, sir.

12 THE COURT: All right. Can you be fair and
13 impartial in this case?

14 POTENTIAL JUROR: Yes, sir.

15 THE COURT: All right. Thank you, Mr. King.

16 Yes, sir?

17 POTENTIAL JUROR: Tim Rakar, 213. I served right
18 here in a civil court about five or six years ago.

19 THE COURT: Okay. Can you be fair and impartial
20 in this case?

21 POTENTIAL JUROR: Yes, sir.

22 THE COURT: All right. Thank you, Mr. Rakar.

23 Yes, sir?

24 POTENTIAL JUROR: Norman McNair, 171. I served
25 in San Antonio about 15 years ago.

1 THE COURT: Can you be fair and impartial in this
2 case?

3 POTENTIAL JUROR: Yes, sir.

4 THE COURT: Thank you, Mr. McNair.

5 The lady in the green top.

6 POTENTIAL JUROR: Yes, sir. Jessica Oliver,
7 194.

8 THE COURT: One what?

9 POTENTIAL JUROR: 94.

10 THE COURT: Okay, Ms. Oliver.

11 POTENTIAL JUROR: I served on a civil court case
12 Monday and Tuesday of this week.

13 THE COURT: All right. Can you be fair and
14 impartial in this case?

15 POTENTIAL JUROR: Yes, sir.

16 THE COURT: Thank you very much.

17 Yes, ma'am?

18 POTENTIAL JUROR: Edna Young, 297.

19 THE COURT: 297?

20 POTENTIAL JUROR: Yes, sir.

21 THE COURT: Yes, ma'am, Ms. Young?

22 POTENTIAL JUROR: Court of common pleas about
23 ten years ago.

24 THE COURT: Can you be fair and impartial in this
25 case?

1 POTENTIAL JUROR: Yes, sir.

2 THE COURT: Thank you, Ms. Young.

3 Yes, sir?

4 POTENTIAL JUROR: Michael Haskins, 101.

5 THE COURT: Yes, sir, Mr. Haskins?

6 POTENTIAL JUROR: I served on a burglary trial
7 about 15 years ago.

8 THE COURT: Okay. Can you be fair and impartial
9 in this case?

10 POTENTIAL JUROR: Yes.

11 THE COURT: Thank you, Mr. Haskins.

12 Yes, sir?

13 POTENTIAL JUROR: William Paggi, jury number 196.
14 I served 35 years ago in Charleston County in a criminal
15 case.

16 THE COURT: Can you be fair and impartial in this
17 case?

18 POTENTIAL JUROR: Yes, sir.

19 THE COURT: Thank you, Mr. Paggi.

20 Yes, ma'am?

21 POTENTIAL JUROR: Tara Saunders, 227.

22 THE COURT: 237?

23 POTENTIAL JUROR: 27.

24 THE COURT: 227.

25 POTENTIAL JUROR: And I served Monday and Tuesday

1 on a civil case here.

2 THE COURT: Okay. Can you be fair and impartial
3 in this case?

4 POTENTIAL JUROR: Yes, sir.

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

6 POTENTIAL JUROR: Leah Lorenzo, number 155.

7 THE COURT: 155?

8 POTENTIAL JUROR: Yes, sir. I served Monday and
9 Tuesday on a civil case here.

10 THE COURT: This week?

11 POTENTIAL JUROR: Uh-huh, yes, sir.

12 THE COURT: Okay. Can you be fair and impartial
13 in this case, Ms. Lorenzo?

14 POTENTIAL JUROR: Yes, sir.

15 THE COURT: Thank you very much.

16 POTENTIAL JUROR: Thank you.

17 THE COURT: Yes, ma'am?

18 POTENTIAL JUROR: Sally Weil, 278. I served
19 Monday and Tuesday of this week and also about four years
20 ago, civil as well.

21 THE COURT: Ms. Witt, can you be fair and
22 impartial in this case? I mean Ms. Sally Weil. Excuse me.

23 POTENTIAL JUROR: Yes, sir.

24 THE COURT: Can you be fair and impartial in this
25 case?

1 POTENTIAL JUROR: Yes, sir.

2 THE COURT: All right. Juror number 278. Thank
3 you very much.

4 Is any member of the jury panel a member or
5 contributes money to any of the following organizations;
6 Citizens Against Violent Crime, CAVE; People Against Rape,
7 PAR; Mothers Against Drunk Driving, MADD; Persons Empowered
8 to Save Teens, PEST; any community watch program or any
9 other organization or like organization? If so, please
10 stand.

11 Yes, sir, your name and number?

12 POTENTIAL JUROR: 233, Geoff Scott.

13 THE COURT: Yes, sir, Mr. Scott. You contribute
14 to MADD; is that correct?

15 POTENTIAL JUROR: Yes, sir.

16 THE COURT: Have been contributing for several
17 years; is that correct?

18 POTENTIAL JUROR: Yes, Your Honor.

19 THE COURT: Can you be fair and impartial in this
20 case?

21 POTENTIAL JUROR: Yes, sir.

22 THE COURT: All right. Thank you, Mr. Scott.

23 Is any member of the jury panel or your family -- I'm
24 sorry. Where?

25 POTENTIAL JUROR: I moved.

1 THE COURT: You were sitting in the middle on the
2 front row.

3 POTENTIAL JUROR: I know.

4 THE COURT: You dislocated -- you're not located
5 in the right spot. I was looking for you a while ago to
6 stand up. What's your name and number?

7 POTENTIAL JUROR: Stamatia Digiovanni, number 60.

8 THE COURT: And you're a member of MADD; is that
9 correct?

10 POTENTIAL JUROR: Yes, sir.

11 THE COURT: You've been a member of MADD for
12 quite a while?

13 POTENTIAL JUROR: Yes.

14 THE COURT: Can you be fair and impartial in this
15 case?

16 POTENTIAL JUROR: Yes, I can.

17 THE COURT: All right. Juror number 60. Thank
18 you very much.

19 Is any member of the jury panel or a member of your
20 family a member of the Fully Informed Jury Organization
21 which recommends to its membership that you serve on juries
22 and a jury should secretly disregard the applicable law as
23 they're defined by the Court and apply their own standards?
24 If you are a member of that organization, please stand.

25 (No response elicited.)

1 THE COURT: Has any member of the jury panel
2 formed or expressed any opinion or issued any opinion about
3 the issue or matter in this particular case? If so, please
4 stand.

5 (No response elicited.)

6 THE COURT: Is any member of the jury panel aware
7 of any bias or prejudice towards either the State or the
8 Defendant in this case? If so, please stand.

9 (No response elicited.)

10 THE COURT: Does any member of the jury panel
11 know of any reason whatsoever, personal or otherwise, as to
12 why they cannot serve on this jury? If so, please stand.

13 (No response elicited.)

14 THE COURT: If anybody does not want to stand in
15 front of the group and answer the questions that I have
16 asked, I'll be glad to line you up and deal with it in
17 private up here at the bench if you are not inclined to
18 stand up in front of the group.

19 Any further questions from the Defendant?

20 MS. EHRLICH: No, Your Honor.

21 THE COURT: Any further questions from the State?

22 MR. WARING: No, Your Honor.

23 THE COURT: Okay. Is there anybody that needs to
24 discuss anything in private with the Court? If you do,
25 stand up and I'll be happy to let you come up front.

1 (Prospective jurors came forward.)

2 THE COURT: All right. What's your name?

3 POTENTIAL JUROR: Darren Hart, juror number 99.

4 THE COURT: Juror number 99?

5 All right. The attorneys can join me up here.

6 (WHEREUPON, the following sidebar was reported.)

7 THE COURT: Mr. Hart, how have you been?

8 POTENTIAL JUROR: I'm fine.

9 THE COURT: What can I help you with?

10 POTENTIAL JUROR: I'm familiar with her. She ---

11 THE COURT: You're what?

12 POTENTIAL JUROR: I'm familiar with Ms. Megan

13 here.

14 THE COURT: How do you know her?

15 POTENTIAL JUROR: She represented one of my

16 cousins last year. It was last year, right?

17 MS. EHRLICH: Over a year ago.

18 THE COURT: Over a year ago?

19 POTENTIAL JUROR: Yes.

20 THE COURT: Were you involved in the trial?

21 POTENTIAL JUROR: No, no, no.

22 THE COURT: You just know that she represented

23 your cousin?

24 POTENTIAL JUROR: Yes, sir.

25 THE COURT: What was your cousin charged with?

1 MS. EHRLICH: He was charged with armed robbery
2 and he pled to strong arm and went to prison.

3 THE COURT: Okay. Would that cause you any
4 problem sitting on this jury?

5 POTENTIAL JUROR: Yes, sir.

6 THE COURT: Pardon?

7 POTENTIAL JUROR: Yes, sir.

8 THE COURT: In what respect?

9 POTENTIAL JUROR: I felt like he was wrongly --
10 wrongly tried.

11 THE COURT: You think he was wrongly convicted?

12 POTENTIAL JUROR: Yes, sir.

13 THE COURT: You would take it out on her?

14 POTENTIAL JUROR: I don't know who to take it out
15 on, sir.

16 THE COURT: Who are you going to take it out on?

17 POTENTIAL JUROR: I don't know.

18 THE COURT: Pardon?

19 POTENTIAL JUROR: I don't know, sir.

20 THE COURT: Well why don't you think you could be
21 fair to her?

22 POTENTIAL JUROR: Because I just felt like it was
23 unfair to him and the judicial system isn't fair. I just
24 feel like it's not fair.

25 THE COURT: All right. Well I'll excuse you

1 since you said you can't be fair. Okay. Juror number 90
2 is excused for cause.

3 THE CLERK: 90 or 99?

4 THE COURT: Was it 99? 99, excuse me. 99.

5 PROSPECTIVE JUROR: Thank you, Your Honor.

6 (WHEREUPON, the side bar was concluded.)

7 THE CLERK: Judge, I have one more.

8 THE BAILIFF: 195.

9 (WHEREUPON, the following sidebar was reported.)

10 POTENTIAL JUROR: Leon Ortner.

11 THE COURT: 195.

12 POTENTIAL JUROR: I'm not sure. I may have
13 ridden up in the elevator with the Defendant this morning.

14 THE COURT: Okay.

15 POTENTIAL JUROR: I'm not sure if it was him or
16 not. He had a woman -- there was a women with him as well.

17 THE COURT: I don't know either. Is that going
18 to affect you in any way?

19 POTENTIAL JUROR: No, sir. I just wanted to
20 bring that up.

21 THE COURT: Just wanted to bring it up, may have
22 been in the elevator but you're not sure.

23 POTENTIAL JUROR: Not sure.

24 THE COURT: Okay. Well I don't know either.

25 POTENTIAL JUROR: That might have been him. He

1 was wearing a black coat suit and he had a woman with him.

2 THE COURT: But you don't think it will cause you
3 any problem?

4 POTENTIAL JUROR: No, sir. I just wanted to
5 bring it to the Court's attention.

6 THE COURT: All right. Thank you so very much.

7 POTENTIAL JUROR: You're welcome.

8 THE COURT: I appreciate it.

9 POTENTIAL JUROR: Yes, sir.

10 (WHEREUPON, the side bar was concluded.)

11 THE COURT: All right. Any further questions or
12 motions from the State?

13 MR. WARING: No, Your Honor.

14 THE COURT: Any further questions or motions from
15 the Defendant?

16 MS. EHRLICH: No, Your Honor.

17 THE COURT: How much time do you need to look at
18 the strike sheet and be ready to strike?

19 MS. EHRLICH: Five minutes is sufficient -- five
20 minutes is sufficient for us.

21 MR. WARING: Yes, Your Honor. That's about
22 right.

23 THE COURT: All right. She'll give you a sheet
24 shortly.

25 (Pause.)

1 THE COURT: Madam Clerk?

2 THE CLERK: Ladies and gentlemen, when your name
3 is called please come forward with your belongings to the
4 podium, turn and face the audience.

5 Juror number 250, Aaron Sonnefeld.

6 (Juror number 250, a white male, came forward.)

7 THE CLERK: What say you for the State?

8 MR. WARING: Please present this juror.

9 THE CLERK: What say you for the Defendant?

10 MS. EHRLICH: Please present this juror.

11 THE CLERK: Please have a seat in the jury box.

12 Juror number 60, Stamatia Digiovanni.

13 (Juror number 60, a white female, came forward.)

14 THE CLERK: What say you for the State?

15 MR. WARING: Please present this juror.

16 THE CLERK: What say you for the Defendant?

17 MS. EHRLICH: Please seat the juror.

18 THE CLERK: Please have a seat in the jury box.

19 Juror number 297, Edna Young.

20 (Juror number 297, a white female, came forward.)

21 THE CLERK: What say you for the State?

22 MR. WARING: Please present this juror.

23 THE CLERK: What say you for the Defendant?

24 MS. EHRLICH: Please present this juror.

25 THE CLERK: Please have a seat in the jury box.

1 Juror number 139, Laura Kerrigan.

2 (Juror number 139, a white female, came forward.)

3 THE CLERK: What say you for the State?

4 MR. WARING: Court's indulgence.

5 (Pause.)

6 MR. WARING: Please excuse the juror.

7 THE CLERK: Please have a seat back in the
8 audience.

9 Juror number 227, Tara Saunders.

10 (Juror number 227, a black female, came forward.)

11 THE CLERK: What say you for the State?

12 MR. WARING: Please seat this juror.

13 THE CLERK: What say you for the Defendant?

14 MS. EHRLICH: Please seat the juror.

15 THE CLERK: Juror number 291, Jennifer Witt.

16 (Juror number 291, a white female, came forward.)

17 THE CLERK: What say you for the State?

18 MR. WARING: Please seat this juror.

19 THE CLERK: What say you for the Defendant?

20 MS. EHRLICH: Please excuse this juror.

21 THE CLERK: Juror number 171, Norman McNair.

22 (Juror number 171, a white male, came forward.)

23 THE CLERK: What say you for the State?

24 MR. WARING: Please seat this juror.

25 THE CLERK: What say you for the Defendant?

1 MS. EHRLICH: Please seat this juror.

2 THE CLERK: Mr. McNair, please have a seat in the
3 jury box.

4 Juror number 152, Charlotte Little.

5 (Juror number 152, a black female, came forward.)

6 THE CLERK: What say you for the State?

7 MR. WARING: Court's indulgence.

8 (Pause.)

9 MR. WARING: Please excuse this juror.

10 THE CLERK: Ms. Little, please have a seat back
11 in the audience.

12 Juror number 136, Sara Joyner.

13 (Juror number 136, a white female, came forward.)

14 THE CLERK: What say you for the State?

15 MR. WARING: Please present this juror.

16 THE CLERK: What say you for the Defendant?

17 MS. EHRLICH: Please excuse this juror.

18 THE CLERK: Ma'am, please have a seat back in the
19 gallery.

20 Juror number 165, Katherine McDonald.

21 (Juror number 165, a white female, came forward.)

22 THE CLERK: What say you for the State?

23 MR. WARING: Please present this juror.

24 THE CLERK: What say you for the Defendant?

25 MS. EHRLICH: Please excuse this juror.

1 THE CLERK: Three strikes for the Defendant.

2 Juror number 105, Nicholas Hearn.

3 (Juror number 105, a white male, came forward.)

4 THE CLERK: What say you for the State?

5 MR. WARING: Please present this juror.

6 THE CLERK: What say you for the Defendant?

7 MS. EHRLICH: Please seat this jury.

8 THE CLERK: Juror number 2, Cassandra Aiken.

9 (Juror number 2, a black female, came forward.)

10 THE CLERK: What say you for the State?

11 MR. WARING: Court's indulgence.

12 (Pause.)

13 MR. WARING: Please seat this juror.

14 THE CLERK: What say you for the Defendant?

15 MS. EHRLICH: Please seat this juror.

16 THE CLERK: Have a seat in the jury box.

17 Juror number 196, William Paggi.

18 (Juror number 196, a white male, came forward.)

19 THE CLERK: What say you for the State?

20 MR. WARING: Please present this juror.

21 THE CLERK: What say you for the Defendant?

22 MS. EHRLICH: Please seat the juror.

23 THE CLERK: Juror number 54, Emily Daniel.

24 (Juror number 54, a white female, came forward.)

25 THE CLERK: What say you for the State?

1 MR. WARING: Please present this juror.
2 THE CLERK: What say you for the Defendant?
3 MS. EHRLICH: Please seat the juror.
4 THE CLERK: Juror number 24, Miriam Boles.
5 (Juror number 24, a white female, came forward.)
6 THE CLERK: What say you for the State?
7 MR. WARING: Please present this juror.
8 THE CLERK: What say you for the Defendant?
9 MS. EHRLICH: Please excuse the juror.
10 THE CLERK: Juror number 53, Jennifer Germuth.
11 (Juror number 53, a white female, came forward.)
12 THE CLERK: What say you for the State?
13 MR. WARING: Please excuse this juror.
14 THE CLERK: Three strikes for the State.
15 Juror number 64, Doreen Ducey.
16 (Juror number 64, a white female, came forward.)
17 THE CLERK: What say you for the State?
18 MR. WARING: Please present this juror.
19 THE CLERK: What say you for the Defendant?
20 MS. EHRLICH: Please seat the juror.
21 THE CLERK: Have a seat in the jury box.
22 Juror number 205, Frances Pittman.
23 (Juror number 205, a white female, came forward.)
24 THE CLERK: What say you for the State?
25 MR. WARING: Please present this juror.

1 THE CLERK: What say you for the Defendant?

2 MS. EHRLICH: Please seat the juror.

3 THE CLERK: Juror number 63, Lisa Downs.

4 (Juror number 63, a white female, came forward.)

5 THE CLERK: What say you for the State?

6 MR. WARING: Please present this juror.

7 THE CLERK: What say you for the Defendant?

8 MS. EHRLICH: Please excuse the juror.

9 THE CLERK: Please have a seat back in the
10 gallery.

11 The defense has exhausted its strikes.

12 Juror number 198, Arthur Parker.

13 (Juror number 198, a white male, came forward.)

14 THE CLERK: What say you for the State?

15 MR. WARING: Please present this juror.

16 THE CLERK: Any challenges from the Defendant?

17 MS. EHRLICH: Please seat the juror.

18 THE CLERK: Please have a seat.

19 Striking for the first alternate.

20 Juror number 233, Geoffrey Scott.

21 (Juror number 233, a white male, came forward.)

22 THE CLERK: What say you for the State?

23 MR. WARING: Please present this juror.

24 THE CLERK: What say you for the Defendant?

25 MS. EHRLICH: Please seat the juror.

1 THE CLERK: Mr. Scott, have a seat in the jury
2 box. You've been selected as an alternate.

3 Striking for the second alternate.

4 Juror number 42, Eileen Canali.

5 (Juror number 42, a white female, came forward.)

6 THE CLERK: What say you for the State?

7 MR. WARING: Please present this juror.

8 THE CLERK: What say you for the Defendant?

9 MS. EHRLICH: Please seat the juror.

10 THE CLERK: Have a seat in the jury box. You've
11 also been selected as an alternate.

12 THE COURT: All right. Ladies and gentlemen of
13 the jury, if you'll follow the bailiff to the jury room,
14 I'll get you back very shortly. Please don't discuss the
15 case amongst yourselves. If you'll follow the bailiff,
16 they'll show you where to go.

17 (WHEREUPON, the jury leaves the courtroom at 3:32 PM.)

18 THE COURT: Any motions from the State on drawing
19 the jury?

20 MR. WARING: No, Your Honor.

21 THE COURT: Any from the Defendant?

22 MS. EHRLICH: No, Your Honor.

23 THE COURT: Okay. Thank you very much.

24 All right. Ladies and gentlemen of the jury panel, I
25 think that's the last jury we're going to draw this week.

1 (WHEREUPON, the jury panel was excused.)

2 THE COURT: Do all your motions need to be heard?

3 Can y'all agree on the sequestration?

4 MS. EHRLICH: We're in agreement on that one.

5 THE COURT: But all the rest of them need to be
6 heard?

7 MS. EHRLICH: They do, Your Honor.

8 THE COURT: All right.

9 MS. EHRLICH: I think the Biggers will take the
10 longest.

11 THE COURT: Pardon me?

12 MS. EHRLICH: I think the Neil v. Biggers will
13 take the longest.

14 THE COURT: How long do you thing the Biggers
15 will take?

16 MS. EHRLICH: I would say maybe 30 to 45 minutes.
17 It just depends on how long.

18 THE COURT: All right. Are we still on trial for
19 the other one?

20 MR. LIETZOW: Yes, sir.

21 THE COURT: Pardon me?

22 MR. LIETZOW: Yes, sir.

23 THE COURT: All right. How long is it going to
24 take? It will probably be sometime tomorrow. What do you
25 think?

1 MR. LIETZOW: Assuming we start today we'll
2 probably get through three, maybe four witnesses in the
3 next hour and a half depending on how late you want to run.
4 I might have one or two in the morning. We'll definitely
5 be done before lunch tomorrow.

6 THE COURT: All right. On this case why don't we
7 plan on -- you know, it's hard to predict. Why don't y'all
8 be up here at 11:30. What I'm going to do is bring the
9 jury back at 12:30. We can hear those motions hopefully
10 11:30 to 12:30. It may be from 12 to 1, but I'll bring the
11 jury back at 12:30 tomorrow. If we can get started before
12 lunch, fine. If we can't, we'll just take an early lunch
13 and start after lunch. Okay?

14 MR. WARING: Yes, Your Honor.

15 THE COURT: All right. I'm going to try to get
16 you started at 11:30 tomorrow if we can. Okay.

17 MR. WARING: Sounds good.

18 THE COURT: All right. I'll bring the jury in
19 and excuse them until 12:30 tomorrow. Would you bring that
20 jury, the Willis jury, the one you just sent out, in?

21 (WHEREUPON, the jury enters the courtroom at 3:40
22 PM.)

23 THE BAILIFF: All seated, Your Honor.

24 THE COURT: Thank you very much. We've got another
25 jury. We're going to try that case before we try this

1 case. I'm getting ready to start it here shortly. So I'm
2 going ask you to be back in the jury room tomorrow at
3 12:30. And if you'll -- the bailiff will show you where to
4 come. When you come to the courthouse, come straight to
5 the jury room. And I will -- hopefully I can get started
6 tomorrow at 12:30 when you get here. We'll just have to
7 see. Be here at 12:30. If you'll follow the bailiff.

8 Please don't discuss the case amongst yourselves or
9 do any research on the Internet or anywhere else trying to
10 find out about the case. I want you to make your decision
11 on what you hear in the courtroom, not what you find out
12 outside the courtroom. I'll see you tomorrow at 12:30.

13 JUROR: I have a question, Your Honor.

14 THE COURT: Pardon me?

15 JUROR: I have a question.

16 THE COURT: Yes, ma'am?

17 JUROR: Will we be finished Friday because I'm
18 going out of state on Sunday for a week.

19 THE COURT: Will we be finished when?

20 JUROR: Oh, tomorrow is Thursday. Sorry. Okay.
21 We'll be finished by Friday, right?

22 THE COURT: Yes, ma'am.

23 JUROR: Okay.

24 THE COURT: Yes, ma'am.

25 JUROR: I thought it was Friday. I'm off by one.

1 THE COURT: We'll be through Friday. You're not
2 leaving until Sunday?

3 JUROR: Sunday.

4 THE COURT: Okay. Yeah, we'll be through by
5 Sunday, okay? We'll finish in time for you to make your
6 trip, all right? All right. I'll see y'all tomorrow.

7 (WHEREUPON, the jury exited the courtroom at 3:42 PM.)

8 THE COURT: All right. I'll see y'all at 11:30
9 tomorrow.

10 MR. WARING: Yes, sir.

11 THE COURT: Be ready for that Biggers hearing,
12 whatever you're going to put up.

13 (WHEREUPON, the trial of this case was recessed until
14 Thursday, June 6, 2013.)

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P R O C E E D I N G S

June 6, 2013

(WHEREUPON, Court convened with all parties present and the following matters were had prior to the jury entering the courtroom:)

THE COURT: Ms. Ehrlich, I understand you have two motions, a motion on the statement that the Defendant made at the scene and a second motion about a phone or cell phone or something.

MS. EHRLICH: Yes, sir.

THE COURT: Be glad to hear you.

MS. EHRLICH: With regard to the statement, the background or the allegations are that the police arrived on scene, that Mr. Willis, upon seeing the blue lights, tries to take off. He does take off for a short period of time. They arrest him and he makes a statement to the police. After they asked him and they cuffed him, they say, Why did you run? And he says, I didn't want to be arrested. That's done before he's given his Miranda warnings.

I think it's clear he was in custody. He wasn't free to leave the scene. He had been cuffed, patted down. There were officers securing the area. And on that basis I believe that that statement should not come in.

THE COURT: Okay. Solicitor?

1 MR. WARING: Your Honor, the State argues that
2 the Defendant gave the statement voluntarily. He had just
3 instigated a foot chase in which the officer had to pursue
4 him for roughly 200 yards. I think it's -- I don't think
5 that's really interrogation when he asked him why he ran.
6 We would argue that it was freely and voluntarily given and
7 that it wasn't interrogation; and so therefore, Miranda
8 wasn't necessary, Your Honor.

9 THE COURT: So your argument is simply it was not
10 interrogation?

11 MR. WARING: Well, Your Honor, we're -- we're
12 arguing that it was freely and voluntarily given and that
13 it was more or less ---

14 THE COURT: That's beside the point whether it
15 was voluntarily given if you didn't give him the Miranda
16 rights.

17 MR. WARING: But I also believe it was
18 spontaneous, Your Honor. I mean he had just been in a foot
19 chase and the officer asked him a quick question and he
20 spurted out that statement, Your Honor.

21 THE COURT: I didn't want to get arrested. Okay?

22 MS. EHRLICH: Your Honor, I think they're
23 intending to introduce that to show that he was trying to
24 not be arrested because he was the person that they were
25 looking to arrest. I don't think it's a matter of whether

1 or not it's freely and voluntarily given. It's whether or
2 not ---

3 THE COURT: I agree with that.

4 MS. EHRLICH: I think it's whether or not he was
5 given his Miranda rights and he wasn't. It's not like it's
6 a -- it's not like he said it and then the police started
7 asking him questions. He answered in response to the
8 officer saying, Why did you run?

9 THE COURT: I presume neither one of you have any
10 cases that address the issue of spontaneality, do you?

11 MR. FINCH: I didn't hear the question, Your
12 Honor.

13 THE COURT: Pardon?

14 MR. FINCH: We didn't hear the first part of the
15 question.

16 THE COURT: Do you have any cases on the issue
17 before the Court?

18 MR. FINCH: Court's indulgence, Your Honor.

19 (Pause.)

20 MR. WARING: Your Honor, I do have one case.

21 THE COURT: Do you want to hand it up? I'll take
22 a look at it.

23 MR. WARING: Yes, Your Honor. It's Rhode Island
24 v. ---

25 (Document handed up to the Court.)

1 THE COURT: A Rhode Island case?

2 MR. WARING: Yes, Your Honor.

3 THE COURT: All right. I'm going to allow the
4 statement. I'm going to find that the actual interrogation
5 was not -- not being subject to interrogation, that the
6 police officer should not have known it was reasonably
7 likely to elicit an incriminating response. And I'm not
8 even sure it's really an incriminating response. I guess
9 circumstantial evidence, from that standpoint, you could
10 probably say -- you could draw that conclusion. But I'll
11 allow the statement.

12 All right. Let me hear you on your ---

13 MS. EHRLICH: Your Honor, I just want to clarify
14 that that's the only statement that the State intends on
15 offering from him?

16 THE COURT: That's the only one I've heard about.
17 What else -- any other statements he made?

18 MR. WARING: Your Honor, the only other thing I
19 was going to get into was his verbal consent.

20 THE COURT: Which is what?

21 MR. WARING: His verbal consent to allow the
22 officers to look at his phone, but I guess that goes to her.
23 next ---

24 THE COURT: Doesn't go to this.

25 MR. WARING: Yes, Your Honor.

1 MS. EHRLICH: Your Honor, my understanding is
2 that after he was in custody, police did read him his
3 Miranda rights and that he consented to allow police to
4 look at his phone. The phone was locked in some sort of
5 way and I guess he gave them permission to look at the
6 phone. When the police officer looked at the phone, he
7 indicated that there was a pornographic website that comes
8 up. And we are asking the Court to not allow any testimony
9 about the phone. We're not -- it's undisputed that he gave
10 consent.

11 THE COURT: Okay. All right.

12 MS. EHRLICH: That's not the issue. Our issue

13 ---

14 THE COURT: What does that have -- are you
15 planning on letting the officer testify what he found on
16 the phone?

17 MR. WARING: Yes, Your Honor.

18 THE COURT: What did he -- what do you plan on
19 offering that the police officer found on the phone?

20 MR. WARING: Your Honor, there was a pornographic
21 website on the phone pulled up.

22 THE COURT: What does that have to do with
23 whether he's guilty or innocent of this crime?

24 MR. WARING: Well, Your Honor, it goes to -- it
25 goes toward showing that he was in fact on the bridge

1 masturbating.

2 THE COURT: He was what?

3 MR. WARING: On the bridge masturbating, Your
4 Honor.

5 THE COURT: Because he had a pornography site on
6 the thing?

7 MR. WARING: It's just another piece of ---

8 THE COURT: What's the pornography site show?

9 MR. WARING: It shows a close up of a vagina.

10 THE COURT: Does it show people masturbating?

11 MR. WARING: No, Your Honor.

12 THE COURT: What does it have to do with the
13 crime?

14 MR. WARING: I think it's relevant, Your Honor.

15 THE COURT: In what respect?

16 MR. WARING: In the sense that he was on the
17 bridge performing a sexual crime and ---

18 THE COURT: Because he had a pornography website
19 on his phone that means he was on the bridge masturbating?

20 MR. WARING: No, Your Honor, not necessarily.
21 But ---

22 THE COURT: Well that's what you are insinuating.

23 MR. WARING: I need a moment, Your Honor.

24 THE COURT: Pardon?

25 MR. WARING: Court's indulgence, Your Honor.

1 (Pause.)

2 MR. WARING: Your Honor, the State would also
3 argue that he was holding something in his other hand.

4 THE COURT: He did what?

5 MR. WARING: The State would argue that he was
6 holding something in his other hand and we believe it was a
7 phone. We think he was looking at it while he was
8 masturbating, Your Honor.

9 THE COURT: Well for now I'm going to grant her
10 motion. I'm not going to allow the officer to testify what
11 he found on the phone. Now if at some point in time during
12 the trial it becomes relevant as -- in cross or direct or
13 whatever, we can revisit it. Okay?

14 MR. WARING: Yes, sir.

15 THE COURT: I'm not going to allow him to testify
16 he had a pornography site on the phone and then y'all
17 insinuate that because he had a pornography site he was
18 masturbating. I don't think that bridge is crossed. Okay?

19 MR. WARING: Yes, Your Honor.

20 THE COURT: The motion is granted.

21 MR. WARING: Thank you, Your Honor.

22 MS. EHRLICH: Your Honor, our only ---

23 THE COURT: I mean it may become relevant at a
24 later time. Okay. I'm not trying to preclude that from
25 happening. Okay. You can revisit that at that time.

1 MR. WARING: Yes, Your Honor.

2 MS. EHRLICH: Your Honor, the only other pretrial
3 issue that we have that doesn't require testimony is
4 related to a video that I believe that the State intends on
5 introducing. It's a video of the stop of Mr. Willis. If
6 they intend ---

7 THE COURT: You mean when he was running?

8 MS. EHRLICH: Yes, Your Honor, and then also when
9 they're speaking to the victim. It's kind of in and out.
10 You can hear some of it.

11 THE COURT: I think you said y'all weren't
12 planning on using the video, right?

13 MR. WARING: Your Honor, I was going to show --
14 there's multiple video clips on the disk. I was planning
15 on showing the one of them that shows him running away.

16 THE COURT: Well he's going to testify he ran
17 away. Why do you want to show him running away?

18 MR. WARING: It just shows -- I mean at one
19 point.

20 THE COURT: Take your pick. Either show the
21 video of him running away or let the officer testify he ran
22 away. I mean that's just repetitive.

23 MR. WARING: I'll let the officers testify.

24 THE COURT: Pardon?

25 MR. WARING: I'll let the officers testify, Your

1 Honor.

2 THE COURT: Okay. All right.

3 Anything else?

4 MS. EHRLICH: No, Your Honor, just the Biggers
5 motion.

6 THE COURT: All right. We've got the Biggers
7 hearing?

8 Are the other attorneys back yet? Are they ready for
9 closing arguments?

10 (WHEREUPON, proceedings in this case recessed briefly
11 while other matters were taken up by the Court. After
12 which, the following matters were had outside the presence
13 of the jury:)

14 MS. EHRLICH: Your Honor, we have ---

15 THE COURT: Let's deal with the motion. Which
16 juror -- which juror is it?

17 MS. EHRLICH: I'm not sure which number it is,
18 but they're all ---

19 THE COURT: Where are the jurors -- where is the
20 juror you're taking about?

21 MR. WARING: I think he's sitting out in the
22 hallway.

23 MR. COCHRAN: We'll take care of that. You stay
24 in here.

25 MS. EHRLICH: Your Honor, they are all kind of

1 floating around so any other ---

2 THE COURT: They're all in the room now because
3 we've got them back in the room.

4 MS. EHRLICH: I know they are now, but I don't
5 know if anybody else was in the hallway because some of
6 them were sitting out there.

7 THE COURT: I thought y'all said there was just
8 one juror sitting out there.

9 MS. EHRLICH: I know one for sure was sitting out
10 here.

11 THE COURT: Well which one was it? That's what I
12 need to know.

13 MR. COCHRAN: We didn't get his number or
14 anything.

15 THE COURT: Well what's he look like?

16 MR. COCHRAN: He's a white guy, older, gray hair
17 I think.

18 THE COURT: A white guy?

19 MR. COCHRAN: He had like a plaid shirt on.

20 THE COURT: Was it Mr. McNair? Was it Mr.
21 McNair?

22 MS. EHRLICH: It's not Mr. McNair. He's the one
23 who's 82 I think. It's not him.

24 THE COURT: He said it was a gray headed older
25 man.

1 MR. COCHRAN: Well middle aged.

2 THE COURT: Do you know which one it was?

3 MR. COCHRAN: No.

4 THE COURT: Well if you don't know which one it
5 was how am I going to help you?

6 MS. EHRLICH: They separated them.

7 THE COURT: Pardon?

8 MS. EHRLICH: Your Honor, I don't know what
9 happened before I got here. All I know is that they
10 separated him once they figured out that he was out in the
11 lobby. But I don't know which one it is.

12 THE DEPUTY: I put 'em in the main lobby is where
13 I put 'em.

14 THE COURT: All right.

15 MS. EHRLICH: I can go look.

16 MR. COCHRAN: Plaid shirt, white guy.

17 THE DEPUTY: He's right there against the wall.

18 THE COURT: Why don't I do this? When we bring
19 them into the courtroom, y'all come up here and tell me
20 which one it is and I'll voir dire him and send the rest of
21 them back. Okay?

22 Let's do the Biggers hearing.

23 So when I bring them in the courtroom, y'all come up
24 here and y'all tell me which one it is and I'll send the
25 jury back and I'll voir dire that individual.

1 MR. COCHRAN: Okay.

2 THE COURT: Yes, sir. Where is the officer?

3 MR. WARING: The State calls Rebecca Dew.

4 (WHEREUPON, juror number 196 walks into the
5 courtroom.)

6 THE COURT: I understand you were sitting
7 outside.

8 JUROR NUMBER 196: Yes, sir.

9 THE COURT: And I understand the lawyers were out
10 talking about the case. Is that correct?

11 JUROR NUMBER 196: I don't ---

12 THE COURT: Did you hear the lawyers'
13 conversation?

14 JUROR NUMBER 196: No, sir. No, sir.

15 THE COURT: What's your name?

16 JUROR NUMBER 196: William Paggi.

17 THE COURT: William Paggi?

18 JUROR NUMBER 196: Paggi, 196.

19 THE COURT: Okay. What I'm going to do is let
20 you take the witness stand. I'm going to ask you a few
21 questions under oath, okay?

22 JUROR NUMBER 196: Yes, sir.

23 THE COURT: Mr. Paggi, if you'll go put your left
24 hand on the Bible and raise your right.

25 (WHEREUPON, WILLIAM PAGGI, juror number 196, was duly

1 sworn.)

2 THE COURT: I believe your name is William M.
3 Paggi; is that right?

4 JUROR NUMBER 196: Paggi.

5 THE COURT: Paggi, I'm sorry.

6 JUROR NUMBER 196: Yes, sir.

7 THE COURT: Juror number 196; is that correct?

8 JUROR NUMBER 196: Yes, sir.

9 THE COURT: All right. I understand from -- the
10 Court's been informed that you were sitting outside when
11 some of the lawyers were talking about the cases. Did you
12 hear any of the conversation that was going on with the
13 lawyers?

14 JUROR NUMBER 196: I didn't. I did not. I heard
15 the word case, I can tell you that, but that's all I heard.
16 I was reading.

17 THE COURT: Do you know who was even doing the
18 talking?

19 JUROR NUMBER 196: No, sir.

20 THE COURT: Do you recognize any of the lawyers
21 in here that were talking or was it someone else?

22 JUROR NUMBER 196: I think it was someone else.
23 I recognize those two, but I -- but I don't think they were
24 the ones doing the talking. I'm not sure.

25 THE COURT: So it was another group of attorneys?

1 JUROR NUMBER 196: I think.

2 THE COURT: But you didn't hear anything?

3 JUROR NUMBER 196: No, sir.

4 THE COURT: Okay.

5 JUROR NUMBER 196: No, sir.

6 THE COURT: All right. Can you just sort of
7 disregard this and put it aside and still be fair?

8 JUROR NUMBER 196: Yes, sir.

9 THE COURT: All right. I hated to bother you,
10 but if you'll go on back to the jury room. I appreciate
11 you talking with me. Okay?

12 JUROR NUMBER 196: You're welcome.

13 THE COURT: Thank you very much.

14 (WHEREUPON, the juror left the courtroom.)

15 MR. WARING: State calls Rebecca Dew.

16 **REBECCA DEW,**

17 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

18 THE CLERK: State your full name and spell your
19 last name.

20 THE WITNESS: My name is Rebecca Dew, D-E-W.

21 DIRECT EXAMINATION BY MR. WARING (IN-CAMERA):

22 Q. Good afternoon, Rebecca.

23 A. Good afternoon.

24 Q. Rebecca, do you know the Defendant?

25 A. No.

1 Q. Have you ever seen him before?

2 A. Only on the bridge.

3 Q. Did you get a good look at the Defendant on
4 September 15th, 2012, ---

5 A. Yes.

6 Q. --- when he was sitting on the bench?

7 A. Yes.

8 Q. What did he look like?

9 A. He was a tall African American man, wearing dark
10 pants and a white shirt, with a bicycle.

11 Q. Would you say -- were you attentive that day?

12 A. Absolutely.

13 Q. How sure are you that the Defendant is the person
14 you saw masturbating on the bridge?

15 A. Absolutely positive.

16 Q. When you spoke with the police officers on the
17 bridge and you pointed the Defendant out, how sure were you
18 at that point that the Defendant was the one who you saw
19 masturbating?

20 A. Absolutely positive.

21 Q. Did the officers suggest to you anything about who
22 this Defendant was, about him being the guy, or did you
23 come up with this on your own free will?

24 A. It was my free will.

25 Q. So you formulated your own decision?

1 A. Absolutely.

2 Q. About how long was it between the crime -- when the
3 crime was committed and when you made the identification?

4 A. Five to ten minutes, somewhere, I mean, around that
5 time.

6 Q. Do you see the Defendant in the courtroom today?

7 A. Yes.

8 Q. Would you point him out, please?

9 A. It's the gentleman in the blue button-down sitting
10 next to ---

11 Q. Will you point him out?

12 A. Right here [indicated].

13 MR. WARING: Let the record reflect the victim
14 has identified the Defendant.

15 Court's indulgence.

16 (Pause.)

17 Q. Rebecca, did you give the description to the police?

18 A. Yes.

19 Q. And how did you do that?

20 A. How did I do that?

21 Q. Did you -- when you called 911?

22 A. Oh, yeah, I called 911 and described the man on the
23 bridge specifically so that when they came up on the bridge
24 they would know exactly who they would be looking for.

25 MR. WARING: Court's indulgence.

1 Please answer any questions the defense has.

2 THE COURT: Cross-examination.

3 MS. EHRLICH: Thank you, Your Honor.

4 CROSS-EXAMINATION BY MS. EHRLICH (IN-CAMERA):

5 Q. When the incident occurred, was -- the person was
6 sitting on the bench, right?

7 A. Yes.

8 Q. And how long did you look at the person before
9 turning and walking away?

10 A. I would say five seconds.

11 Q. And at that moment, I mean, were you surprised?
12 Scared?

13 A. Surprised, scared, all of the above, yes.

14 Q. And was your focus getting out of -- getting away
15 and getting out of the situation?

16 A. Number one priority, yes.

17 Q. I think in your statement to the police you said
18 that you walked away immediately?

19 A. Yes, as soon as I realized what was happening, yes.

20 Q. When you walked away you lost sight of the person
21 who had been sitting on the bench?

22 A. For a couple of minutes, yes.

23 Q. And then I think you also told police that you saw
24 the person again walking behind you?

25 A. Uh-huh.

1 Q. And that was after about a few minutes ---

2 A. Yes.

3 Q. --- of you losing sight? And when you saw the
4 person, was the person walking or riding a bike?

5 A. Walking.

6 Q. And at that point that's when you called police and
7 gave a description?

8 A. I had already called the police. I was making my
9 descent back towards downtown.

10 Q. Okay.

11 A. And ---

12 Q. Did you give your description to police before or
13 after he reappeared behind you?

14 A. Before.

15 Q. When you gave your description to police you weren't
16 able to give any sort of specific description of his facial
17 features, right?

18 A. No.

19 Q. And they didn't have you give any sort of written
20 description before having you do the identification, did
21 they?

22 A. I'm sorry. Say that again.

23 Q. They didn't have you give any sort of -- write down
24 your description before they had you identify the person,
25 did they?

1 A. No.

2 Q. How did you -- where were you when you made the
3 identification?

4 A. When I was describing to the police?

5 Q. No, when you -- at some point you make an
6 identification of Mr. Willis?

7 A. Yes.

8 Q. That's when he was handcuffed I think?

9 A. Yes.

10 Q. And the police were around?

11 A. Uh-huh.

12 Q. And the police -- there were probably I think three
13 other police officers total maybe in the area?

14 A. Yes.

15 Q. Where were you when you made the identification ---

16 A. I was stand ---

17 Q. --- in relation to Mr. Willis?

18 A. --- standing on the bridge probably within -- I'm
19 really bad with distance -- but I would say probably twenty
20 feet from him.

21 Q. Okay. And how did you get there? Did you walk
22 there or did the police drive you to that location?

23 A. I walked.

24 Q. Were you escorted by the police?

25 A. No.

1 Q. At the time that you made the identification -- and
2 when I say identification I'm not talking about the
3 description -- when you said, That's the guy, ---

4 A. Uh-huh.

5 Q. You -- were you aware that the person that they had
6 in custody had run from the police?

7 A. Absolutely, yes.

8 Q. When you made the identification was there a police
9 officer standing next to Mr. Willis?

10 A. Yes.

11 Q. When they had you make the identification did they
12 have you fill out any sort of form where they gave you
13 warnings and said this person may or may not be the guy
14 that you saw on the bench?

15 A. I don't remember.

16 Q. Did they give you any sort of -- what did they --
17 what did they say to you when they were asking you to make
18 the identification? Do you remember?

19 A. They -- they just said, you know, Was this the
20 gentleman that was on top of the bridge? And I said, Yes,
21 absolutely.

22 Q. When you made the identification did the police tell
23 you that they had had contact with him an hour before?

24 A. No.

25 Q. And when you made the identification do you remember

1 if he was sitting or standing?

2 A. I would -- I don't remember. There were cop cars.

3 I know he was up there.

4 MS. EHRLICH: Court's indulgence?

5 THE COURT: Yes, ma'am.

6 (Pause.)

7 MS. EHRLICH: Your Honor, I don't have any other
8 questions.

9 THE COURT: Pardon?

10 MS. EHRLICH: I do not have any other questions.

11 THE COURT: Redirect?

12 MR. WARING: Just a few questions, Your Honor.

13 REDIRECT EXAMINATION BY MR. WARING (IN-CAMERA):

14 Q. Rebecca, did you regain sight of the Defendant after
15 you initially walked away and lost sight of him?

16 A. Yes.

17 Q. You're positive of that?

18 A. Yes.

19 Q. Okay. And did you see him run?

20 A. Yes.

21 Q. When the police were chasing him?

22 A. Yes. He jumped over the barrier that separates the
23 pedestrians from traffic. He was clearly trying to get
24 away.

25 MR. WARING: Court's indulgence.

1 (Pause.)

2 MR. WARING: No further questions, Your Honor.

3 THE COURT: Ms. Dew, I may not have heard, but
4 was the person that you identified ever out of your view
5 from the first time you saw him on the bench, until the
6 police came, until he ran and you saw the cops stop him?

7 THE WITNESS: No.

8 THE COURT: Did you see all that?

9 THE WITNESS: I saw the whole thing.

10 THE COURT: You saw the whole thing?

11 THE WITNESS: The whole thing, yes.

12 THE COURT: Okay. Thank you very much.

13 Any recross?

14 MS. EHRLICH: Just -- just ---

15 THE COURT: And I apologize. I just -- I was
16 afraid I didn't hear it. I didn't hear some of the
17 questions. You were talking very softly. I wanted to make
18 sure I understood.

19 RECROSS-EXAMINATION BY MS. EHRLICH (IN-CAMERA):

20 Q. Just to follow up on the judge's question, Ms. Dew,
21 you saw the person on the bench masturbating, right?

22 A. Yes, correct.

23 Q. You looked at them for five seconds?

24 A. Yes.

25 Q. Then you turned and walked away?

1 A. Yes.

2 Q. And I believe that when I was asking you questions,
3 you indicated that you did lose sight of that person for a
4 couple of minutes?

5 A. Correct.

6 Q. And then you saw the person again when he was
7 running from the police and jumping over the barrier into
8 traffic?

9 A. Yes.

10 Q. And so there was a period of time, even if it was
11 just minutes, that you did lose sight of somebody?

12 A. Correct.

13 MS. EHRLICH: Okay.

14 THE COURT: All right. Thank you very much. I
15 appreciate your clarification.

16 All right. Do you have anything subject to the
17 question I asked or anything you want to ask before we ---

18 MR. WARING: Court's indulgence, Your Honor.

19 MR. FINCH: Your Honor, if I may just ask this
20 question?

21 THE COURT: No, sir. He can ask. You can tell
22 him what to ask if you want, but he's going to have to do
23 the asking. You can do the advising.

24 MR. FINCH: I got it.

25 (Pause.)

1 RE-REDIRECT EXAMINATION BY MR. WARING (IN-CAMERA):

2 Q. Rebecca, from the time you made the identification
3 to the time he was arrested, did you lose sight of him?

4 A. I'm sorry. Can you repeat the question?

5 Q. From the time that you made the identification, not
6 the initial identification, ---

7 A. Okay.

8 Q. --- but the one when the police arrived, ---

9 A. Yes.

10 Q. --- and you pointed him out, from that point to when
11 he was arrested, ---

12 A. Yes.

13 Q. Did you lose sight of him?

14 A. No.

15 MR. WARING: Court's indulgence.

16 (Pause.)

17 Q. Let me clarify that. Rebecca, after you initially
18 lost sight of him and then you regained sight of him, ---

19 A. Yes.

20 Q. --- from that point until he was arrested, did you
21 ever lose sight of him again?

22 A. No.

23 MR. WARING: Court's indulgence.

24 No further questions, Your Honor.

25 THE COURT: Anything else, Ms. Ehrlich? I'll

1 give you an opportunity also to ask.

2 MS. EHRLICH: No, Your Honor.

3 THE COURT: Okay. Thank you very much. You may
4 step down. Thank you very much.

5 MR. WARING: State calls Officer Sawyers.

6 **JEFFREY SAWYERS,**

7 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

8 THE CLERK: State your full name and spell your
9 last name.

10 THE WITNESS: Jeffrey Sawyers, S-A-W-Y-E-R-S.

11 DIRECT EXAMINATION BY MR. WARING (IN-CAMERA):

12 Q. Officer Sawyers, were you present when the victim
13 made an identification of the Defendant?

14 A. Yes, sir.

15 Q. And what was the length of time since the crime had
16 occurred that she made that identification?

17 A. Approximately 15, 20 minutes.

18 Q. And what did you mention to the victim before she
19 made that identification?

20 A. I spoke with her, just telling her who I was, and
21 then I explained to her that I was going to write down
22 exactly what she told me. Told her to just start from the
23 beginning, go all the way to the end, not to stop, and then
24 to be short and concise and I would write down exactly what
25 she said.

1 Q. Did you ever suggest anything to her?

2 A. No.

3 Q. So about how long did it take the victim to ID the
4 Defendant as the man she saw masturbating?

5 A. Minutes.

6 Q. Once she started -- once you started talking to her?

7 A. Once I started talking to her, within the taking of
8 the statement. So minutes.

9 Q. Okay. How certain was the victim that the Defendant
10 was the man that she saw?

11 A. She said one-hundred percent.

12 Q. Was there anyone else on the bridge at that time who
13 matched the Defendant's description?

14 A. No.

15 Q. Was the victim in close proximity -- in close
16 proximity to the Defendant when you spoke with her?

17 A. Yes.

18 Q. Were there a lot of people on the bridge that day.
19 on that portion of the bridge?

20 A. Not on that portion of the bridge, no, sir.

21 MR. WARING: Court's indulgence.

22 (Pause.)

23 Q. I just have one more question. At any point when
24 you were speaking with Ms. Dew, did you at any point
25 suggest that she should pick the Defendant?

1 A. No.

2 MR. WARING: Court's indulgence.

3 Please answer any questions the defense has.

4 THE COURT: Ms. Ehrlich?

5 CROSS-EXAMINATION BY MS. EHRLICH (IN-CAMERA):

6 Q. At the time of the identification Mr. Willis was
7 handcuffed, correct?

8 A. Yes.

9 Q. And I know we're not going to get into the video
10 today, but I know on your video there were -- you can see
11 that there's an officer with him the whole time after he's
12 detained, right?

13 A. Correct.

14 Q. And I think there were three officers that
15 responded, so I imagine there were two to three police cars
16 in the area?

17 A. Correct.

18 Q. At the time that the identification was made was Mr.
19 Willis sitting or standing?

20 A. He was leaning against the railing in between the
21 pedestrian walkway and the lane of travel.

22 Q. Was he facing Ms. Dew?

23 A. I believe he was facing -- he was facing
24 perpendicular to the lane of travel. So he was either
25 facing towards the water or towards the lane of travel. I

1 believe he was facing towards the water.

2 Q. What about towards the witness, Ms. Dew?

3 A. I don't recall which way she was facing.

4 Q. When you got -- when you were responding to the
5 area, you got a description, I assume, through dispatch?

6 A. Correct.

7 Q. And that was a black male, tall, white shirt and
8 dark pants?

9 A. Correct.

10 Q. You did not have any specific estimate as to how
11 tall?

12 A. I don't recall the exact description that was given
13 by dispatch.

14 Q. Okay. Do you remember if you got any specifics
15 about weight?

16 A. I don't recall.

17 Q. Do you remember if you got any specifics about
18 facial features or hair length, anything like that?

19 A. I don't believe so.

20 Q. Before you had the witness make the identification
21 did you ask her for any additional description of what the
22 person looked like?

23 A. I did not.

24 Q. Did she give you any sort of information about
25 anything that really stood out to her about his appearance?

1 A. I didn't ask her any additional description. So she
2 just told me exactly what she saw. And then she confirmed
3 that the person that ran from the police was the individual
4 that she saw.

5 Q. Okay. Do you remember how she got to the area where
6 she made the identification?

7 A. She -- she never left. She -- she was in the same
8 spot that she was in when she was trying to escape from his
9 proximity.

10 Q. Okay. When she made the identification she was
11 aware that Mr. Willis had run from you guys, right?

12 A. Correct.

13 Q. Had you told her that either you, or I think it
14 might have actually been Officer Goode, had had contact
15 with Mr. Willis an hour before?

16 A. I did.

17 Q. Was that before or after the identification?

18 A. It was before I had took the statement.

19 Q. Okay. What about when you actually had her identify
20 him?

21 A. I don't recall my exact statement with her prior to
22 the speaking.

23 Q. Okay.

24 A. So prior to me writing the statement.

25 Q. You wrote her statement for her though?

1 A. Yes, ma'am.

2 Q. And I believe in the statement you wrote, The person
3 who ran from the police is the person -- you asked, Is the
4 person who ran from the police the person you saw
5 masturbating?

6 A. If -- if that's what -- yes, I believe I did write
7 that. Yes.

8 Q. Okay. And as a police officer you guys at Mount
9 Pleasant have a policy on how to do identifications?

10 A. Not that I'm aware of. We -- I'm a traffic officer.
11 I generally work wrecks and DUIs. So taking statements, I
12 don't do it on a regular basis, but when I was a patrol
13 officer I did. And when I was a patrol officer we did them
14 just the way I did that day.

15 Q. Did you get training as an officer about how to do
16 lineups or show-up identifications?

17 A. We do have a form that's called a show-up admonition
18 form.

19 Q. Okay. And no form was done in this case, right?

20 A. That's correct.

21 Q. And so the only reporting of her identification as
22 far as forms or writing is the statement that you helped
23 her write out?

24 A. As far as written forms, yes, ma'am.

25 MS. EHRLICH: I don't have any other questions,

1 Your Honor.

2 THE COURT: Thank you very much. Any redirect?

3 MR. WARING: Just one question -- two questions,

4 Your Honor.

5 REDIRECT EXAMINATION BY MR. WARING (IN-CAMERA):

6 Q. Officer Sawyers, while you were taking Ms. Dew's
7 statement, at what point during the statement were you
8 asking her -- did she mention that the Defendant was the
9 guy who she had seen?

10 A. She seemed pretty adamant from just as soon as I
11 arrived on the scene that she -- that he was the individual
12 that he saw -- that she had seen. So I didn't suggest any
13 -- I didn't ask any questions until the very end. I just
14 explained to her that I would -- you know, she needed to
15 tell me exactly what she saw.

16 Q. Is there any reason why you said you waited until
17 the end to ask those questions?

18 A. I always wait until the end, because if I ask
19 questions in the beginning it would suggest things
20 subconsciously or anything to the person that I'm taking
21 to.

22 MR. WARING: Court's indulgence.

23 No further questions.

24 THE COURT: Recross?

25 MS. EHRLICH: No, Your Honor.

1 THE COURT: All right. You may step down. Thank
2 you very much.

3 Call your next witness.

4 MR. WARING: No further witnesses, Your Honor.

5 THE COURT: Does the defense have any witnesses
6 as to the ---

7 MS. EHRLICH: We do not, Your Honor.

8 THE COURT: --- identification?

9 MS. EHRLICH: We do not.

10 THE COURT: Be glad to hear your arguments.

11 MS. EHRLICH: Thank you, Your Honor.

12 I believe it's appropriate in the this case to go
13 through the two-prong test for *Neil v. Biggers*, the first
14 prong being whether the identification resulted from
15 unnecessary and unduly suggestive police procedures. I
16 think it's throughout case law they talk about show-up
17 identifications being disfavored because they're highly
18 suggestive.

19 In this case you have Mr. Willis who is handcuffed.
20 There are at least three police cars, I think, in the area.
21 He's standing by a police officer during the time. The
22 witness in the situation would have been aware that he had
23 run from the police and witnessed running from the police.
24 But I think it -- it's still appropriate to look at the
25 fact that she lost sight of him at some point. And once

1 they actually decided to do the identification and have him
2 in custody, it's a show-up, he's handcuffed, surrounded by
3 the police, police cars in the area, and I think at that
4 point we meet the first prong.

5 I won't argue the second prong if you won't agree
6 with me on the first prong.

7 THE COURT: I don't agree with you. Okay?

8 I'll be glad for the State to make whatever comments
9 you want to make.

10 MR. WARING: Thank you, Your Honor.

11 With regard to the identification, it was the middle
12 of the day. The victim and the Defendant were on the
13 bridge. She made the identification and turned her back
14 for a few moments before turning back and regaining sight
15 of the Defendant. She watched him get chased by the
16 police. She watched the whole thing go down. I mean she
17 lost sight of him for very -- you know, a few minutes, and
18 then regained sight.

19 Also with regard to the suggestiveness, as Officer
20 Sawyers just pointed out, he let her do most of the
21 talking. He didn't really get into the questions until the
22 end. She didn't need any prompting.

23 He was arrested on site. She was the one who pointed
24 him out without any suggestions.

25 THE COURT: Okay. Thank you very much.

1 All right. As far as suppression of the
2 identification, first of all the Court would like to say
3 this is not a traditional Biggers type situation where
4 there's a lineup. The way the Court understands from the
5 testimony given was Ms. Dew was on the site. It was a
6 criminal scene and she was there. She pointed, identified
7 the Defendant to the police. The police gave chase. They
8 arrested him. She viewed the whole thing. It was all part
9 of the crime scene.

10 And from going through the likelihood of
11 misidentification, the opportunity of the witness to view
12 the accused was there. She never lost sight of him except
13 for very briefly and saw him running from the police and
14 then they brought him back to her. She saw all of that.

15 The degree of attention was apparently, according to
16 her, was very acute.

17 The accuracy of the witness's prior description,
18 there was no need for a description. She said, That's the
19 man. Saw him run. And again said, That's the man.

20 The level of certainty demonstrated by the witness at
21 the confrontation at the scene was good; and the length of
22 time between the crime and the confrontation, there was no
23 length of time. She was there the entire time.

24 So your motion is denied.

25 Let me see the attorneys up here just a second.

1 (WHEREUPON, an off-the-record bench conference was
2 had. Then this case was briefly at recess while other
3 matters were had. After which, the following matters were
4 had:)

5 THE COURT: All right. Bring us the jury,
6 please.

7 (WHEREUPON, the jury enters the courtroom at
8 approximately 3:07 PM.)

9 THE BAILIFF: All present, Your Honor.

10 THE COURT: Mr. Paggi, I'm going to appoint you
11 as foreman. If you'll swap seats with the lady here on the
12 end, please, sir.

13 Clerk, if you'll swear the jury, please.

14 (WHEREUPON, the jury was given their oath.)

15 THE COURT: Solicitor.

16 MR. WARING: Thank you, Your Honor. May it
17 please the Court?

18 OPENING STATEMENT BY MR. WARING:

19 Respect and responsibility, that's what this case is
20 about. This Defendant pulled his penis out in broad
21 daylight on the Ravenel Bridge and masturbated. With that
22 act he displayed a total lack of respect for the other law-
23 abiding citizens that were on the bridge that day. We need
24 to hold him responsible for that act.

25 On September 15th, 2012, at approximately 12:45 in the

1 afternoon, the victim, Rebecca Dew, was walking the Ravenel
2 Bridge with a friend of hers. It was a Saturday. The
3 weather was perfect. It was just a beautiful September day
4 in Charleston. They were out walking the bridge. They
5 were enjoying the scenery. Well at the same time there was
6 somebody else on the bridge that day who was enjoying a
7 whole different kind of scenery.

8 They proceeded to walk to the top of the bridge and
9 when they got to the top, there's a little area up there
10 where there are some benches. They stopped nearby that,
11 had a conversation, and enjoyed the view. Well somebody
12 else was enjoying the view too.

13 At one point Rebecca looks over and sees the
14 Defendant sitting on a bench with his penis out and
15 masturbating in broad daylight. She's shocked. She
16 doesn't really know what to do. She grabs her friend and
17 they quickly walk past the Defendant.

18 They get to a safe spot. Neither one of them has a
19 phone so they can't call 911. Luckily they see another
20 woman who's walking by. Her name is JoAnne Lewis. And she
21 allows them to use her phone. They call 911.

22 Meanwhile, during that time, the Defendant is walking
23 down the bridge towards the Charleston side towards the
24 victim and her friend. Cops arrive on the scene and they
25 pull up and they yell at the Defendant to stop in his

1 tracks. He flees. In an attempt to evade, he risks his
2 life by jumping over the guardrail and virtually into
3 oncoming traffic to evade the police.

4 He's captured. And based on the act of indecently
5 exposing himself in public he was charged with indecent
6 exposure.

7 Now what does that mean? Well in order to prove that
8 the Defendant committed the crime of indecent exposure the
9 State has to prove beyond a reasonable doubt that he
10 willfully, maliciously, and indecently exposed his person
11 in a public place. I'm confident that after the
12 presentation of all the evidence you'll decide that the
13 State has carried that burden and determine that he's
14 guilty of indecent exposure and hold him responsible for
15 his total lack of respect.

16 THE COURT: Ms. Ehrlich?

17 OPENING STATEMENT BY MS. EHRLICH:

18 Jerome Willis is sitting at this table because he was
19 at the wrong place at the wrong time and had a run-in with
20 the wrong police officers.

21 On September 15th, 2012, when he was riding his bike
22 in the area, police happened to get a call about a man
23 masturbating on the bridge. And they got a description of
24 a black male. Police had just stopped a black male in the
25 area about an hour earlier suspecting him of having some

1 sort of stolen property. They had to let him go.

2 When they arrived back in the bridge area and they
3 saw Mr. Willis, the gentleman they had stopped earlier,
4 they decided it was him. This had to be their guy.

5 Now it's undisputed that Mr. Willis ran from the
6 police. It's not surprising considering his earlier
7 interactions with them when they had harassed him about an
8 hour before and had to let him go. And when Mr. Willis was
9 being handcuffed by the police, he stands up and asks why
10 he's being stopped. They tell him, Don't treat us like
11 we're stupid. We don't ask questions we don't already know
12 the answers to. Translation, they already decided he was
13 guilty.

14 The evidence in this case is going to come from just
15 a few witnesses. You're going to hear from police officers
16 who decided that they had the right guy right from the
17 start, who didn't do much of a thorough investigation at
18 all, and officers who wanted to make an arrest. They
19 wanted to arrest him earlier in the day and decided that
20 they had all the answers.

21 You're also going to hear from a woman who says that
22 she saw a black male masturbating on the bridge, sitting
23 down on a bench; that she immediately walks away; that she
24 was startled; and that she loses sight of the individual on
25 that bench.

1 She's going to tell you that he appeared later,
2 minutes later, behind her. And that's when she sees the
3 police try to stop him. He runs. And they ask her, Are
4 you a hundred percent certain that the person running was
5 the gentleman that you saw exposing himself? She was
6 better safe than sorry and said, That's the guy.

7 This case isn't just about what you are going to
8 hear; it's about what you're not going to hear. You're not
9 going to hear about any other calls from any other people
10 despite others walking on the bridge, jogging on the
11 bridge, riding their bikes, saying, Hey, this guy is out
12 here masturbating. No other calls.

13 You're not going to hear about any other witnesses
14 that the police talked to to confirm that this actually
15 even happened. You're not going to hear about this other
16 woman that was with Rebecca Dew at the time because the
17 police don't even know who she is. They don't even get her
18 name.

19 It's not a complicated case. I know you guys have
20 been sitting around for a while today. The testimony is
21 going to be short.

22 But it's not just about the police thinking that they
23 know all the answers. Today's the day when you get to
24 question the State's case, the witness's credibility, how
25 an identification was conducted by police. And you can't

1 just make assumptions and decide somebody's guilty. Think
2 about the circumstances surrounding the identification and
3 how the events unfolded that day. And when you do, you're
4 going to find Mr. Willis not guilty.

5 THE COURT: Thank you.

6 All right. Mr. Foreman, ladies and gentlemen of the
7 jury, I'm going to say something to you very briefly before
8 we start the testimony. Talking with the Clerk of Court
9 and checking on this storm, it hasn't got to Georgia yet.
10 It'll be coming in through Charleston later tonight. It'll
11 be gone tomorrow. And we're going to stop this afternoon
12 probably around five or 5:30. The courthouse is going to
13 be closed tomorrow morning. And the Clerk's checked with
14 everybody and the courthouse is going to be open tomorrow
15 at 12. So if we don't finish this afternoon, we'll finish
16 tomorrow afternoon starting about 12 or 12:30. So you'll
17 have ample time to get out of here. High tide is not until
18 7:00 tonight. So we'll stop sometime this afternoon
19 between five and 5:30.

20 Call your first witness, please.

21 MR. WARING: The State calls Ms. Rebecca Dew.

22 REBECCA DEW,

23 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

24 THE CLERK: State your full name and spell your
25 last name.

1 THE WITNESS: My name is Rebecca Dew, D-E-W.

2 DIRECT EXAMINATION BY MR. WARING:

3 Q. Good afternoon, Ms. Dew. How are you doing today?

4 A. Doing all right, thank you.

5 Q. Good. Would you tell the jury where you are from.

6 A. From Charleston.

7 Q. And what town do you live in today?

8 A. Charleston.

9 Q. Can you tell jury what your occupation is?

10 A. I work for the Carolina Brewery as a sales rep.

11 COURT REPORTER: I'm sorry?

12 THE COURT: Speak up. She can't hear you.

13 THE WITNESS: Oh, I'm sorry. Okay.

14 A. I am a sales rep for the Carolina Brewery. And I'm
15 also a nursing student.

16 Q. Now I want to switch gears for a moment. Were you
17 in Charleston on the date of September 15th, 2012?

18 A. Yes.

19 Q. And where were you at close to one o'clock in the
20 afternoon on that day?

21 A. I was on the Ravenel Bridge walking with a friend.

22 Q. Which direction were you headed?

23 A. I started on the Mount Pleasant side and was heading
24 towards downtown.

25 Q. Was where you were on the bridge that day a public

1 place?

2 A. Yes.

3 Q. And did you in fact see other people on the bridge
4 that day?

5 A. Yes.

6 Q. What was the weather like that day?

7 A. It was a beautiful blue-sky day.

8 Q. So was there any rain?

9 A. No.

10 Q. Did anything out of the ordinary happen that day?

11 A. Yes. I was walking with my friend and we got to the
12 top of the bridge where the benches are and we stopped to
13 take in the sights. It was my friend's first time on the
14 Ravenel Bridge. And my friend was to the left of me and we
15 were talking and I was looking towards the Shem
16 Creek/Sullivan's side and she was looking at the downtown
17 peninsula. And we were just wrapped up in conversation.
18 And I felt a presence to the left of me. And I looked over
19 and there was a gentleman sitting with his penis out. And
20 that's what happened.

21 Q. Okay. I want to back you up a second. Can you
22 describe where the Defendant was on the bridge compared to
23 where you were standing when you saw him masturbating?

24 A. I would say within ten feet of me.

25 Q. Was he holding his penis?

1 A. Yes.

2 Q. And was his penis exposed outside of his pants?

3 A. Yes.

4 Q. Was he holding anything with his other hand?

5 A. Yes, he did appear to have something in his other
6 hand. It looked like a piece of paper. It could have been
7 a flip phone or something.

8 Q. So how far away from the Defendant would you say you
9 were when you saw him?

10 A. From where I am now to where you are.

11 Q. So about, what, 15 feet?

12 A. Yes.

13 Q. For how long did you get a chance to see the
14 Defendant?

15 A. I looked at him and then immediately realized what
16 was happening. I would say five seconds. As soon as I
17 realized what was happening I immediately turned and got
18 out of the situation.

19 Q. Is five seconds, is that really enough time to
20 really see what he was doing?

21 A. Yes.

22 Q. Do you wear glasses or contacts?

23 A. No.

24 Q. So would you -- have you -- would you have needed
25 contacts that day?

1 A. No, I've never worn glasses or lenses or anything.

2 Q. Was the Defendant alone?

3 A. Yes. Although he had a bicycle with him.

4 Q. Do you see him in the courtroom today?

5 A. Yes.

6 Q. Would you point him out for the jury, please?

7 A. Yeah, he's right there [indicated].

8 Q. In the blue shirt?

9 A. Yes.

10 MR. WARING: Let the record reflect the victim
11 has identified the Defendant.

12 Q. Had you ever seen the Defendant before that day?

13 A. No.

14 Q. So is it true that you don't know him at all?

15 A. Yes.

16 Q. Now earlier you mentioned the Defendant had a bike
17 with him; is that correct?

18 A. Yes.

19 Q. Did the Defendant make any facial expressions
20 towards you while you saw him masturbating?

21 A. His facial expression did not change; however, he
22 did have a look of pleasure on his face.

23 Q. Was he looking directly at you or was he looking
24 away?

25 A. He was looking at me.

1 Q. And how did that make you feel?

2 A. Extremely uncomfortable.

3 Q. What did you do after you saw the Defendant
4 masturbating?

5 A. I immediately said to my friend, Let's go, abruptly,
6 and grabbed her and turned and started walking towards
7 downtown to immediately get out of the situation.

8 Q. Did y'all call 911?

9 A. We did.

10 Q. About how long after you saw the Defendant did you
11 call 911?

12 A. Within minutes. As soon as I could get a phone.
13 Neither myself, nor friend, had a phone with us. So we had
14 to locate someone with a telephone.

15 Q. And why did you feel the need to call 911 in the
16 first place?

17 A. Just for obvious reasons. It was a beautiful
18 Saturday. There are children in strollers, other women
19 walking around.

20 Q. Did you see the Defendant again on the bridge after
21 the initial incident?

22 A. I did, yes. After I placed the phone call to the
23 police, I then turned around and noticed that he was
24 walking towards downtown. He was walking his bicycle
25 heading in our direction.

1 Q. What happened next?

2 A. At that point, you know, we had had already made the
3 call to the cops and it was just anticipating, waiting,
4 hoping that the cops were going to come. And then I saw
5 the cop cars coming up from downtown. And at that point,
6 you know, I turned around. The cop cars came up. Turned
7 around and saw him. He was starting to -- he changed
8 direction, started heading back up towards Mt. Pleasant.
9 And then the cops approached him. He then jumped from the
10 pedestrian lane, over the barrier, into oncoming traffic.
11 And then that's when the cops got him.

12 Q. So is the person who ran, is that the same person as
13 the Defendant?

14 A. Yes.

15 Q. And how sure are you that the person who ran from
16 the police and jumped over the guardrail into traffic is
17 the Defendant?

18 A. Absolutely positive.

19 Q. Did the police suggest to you that the Defendant was
20 the man you saw?

21 A. No.

22 Q. Or did you identify him on your own free will?

23 A. I identified him with my own free will.

24 Q. Now I want to switch gears for a moment. In your
25 written statement you provided the name to the police of

1 Ms. Rebecca Brown. Is that a real last name?

2 A. No, it's not.

3 Q. And why didn't you just give your real name to the
4 police?

5 A. I didn't feel comfortable. I've never been involved
6 in anything like this before. Female. I didn't feel
7 comfortable sharing my last name just out of pure fear and
8 wanting my security.

9 Q. So would you say you did this out of concern for
10 safety?

11 A. Absolutely.

12 Q. There's a signature at the bottom of that statement.
13 Is that your real signature?

14 A. It is.

15 Q. Now I want to talk about your friend for a moment,
16 who you were on the bridge that day with. Why have you not
17 provided her name to law enforcement?

18 A. Obviously this is a very uncomfortable situation and
19 I don't want to be here and neither would she. And, you
20 know, she did not -- she was looking in the opposite
21 direction. I didn't feel it necessary to bring someone
22 else into this.

23 Q. So did your friend see the Defendant?

24 A. No.

25 Q. Do you really want to be here right now?

1 A. Absolutely not.

2 Q. Why not?

3 A. This is -- I have a lot of anxiety. This has been
4 very uncomfortable for me. And I've never been involved in
5 something like this. And that's why.

6 Q. Is that why you don't want your friend brought into
7 this?

8 A. Yes, definitely.

9 Q. How was this experience affected you?

10 MS. EHRLICH: Objection, Your Honor. Relevance.

11 THE COURT: I'll sustain it as being too general.
12 Be a little more specific.

13 MR. WARING: Yes, Your Honor.

14 Q. Has this experience been difficult to deal with
15 after it occurred?

16 A. It has. I ---

17 MS. EHRLICH: Objection, Your Honor.

18 THE COURT: What's your legal objection?

19 MS. EHRLICH: They're trying to elicit victim
20 impact ---

21 THE COURT: Pardon?

22 MS. EHRLICH: It's irrelevant to the trial.

23 They're trying to elicit victim-impact testimony.

24 THE COURT: Overruled. I mean, I think, -- let
25 me see how far he goes, okay? But for now it's overruled.

1 Go ahead.

2 Q. You can answer the question.

3 A. Can you repeat the question?

4 Q. Sure. Has it been difficult for you dealing with
5 this experience after it occurred?

6 A. It has. I've definitely had images after the first
7 couple of nights after it happened. It was definitely on
8 my mind. Currently I'm not feeling very good. And I'm
9 just scared for my safety.

10 MR. WARING: Court's indulgence.

11 (Pause.)

12 Q. I just have one more question. What was going
13 through your mind when you first saw the Defendant
14 masturbating on the bridge?

15 A. Absolute just shock and get me out of here.

16 MR. WARING: Court's indulgence.

17 (Pause.)

18 Please answer any questions the defense has.

19 THE COURT: Cross-examination.

20 MS. EHRLICH: Thank you, Your Honor.

21 CROSS-EXAMINATION BY MS. EHRLICH:

22 Q. Good afternoon, Ms. Dew. You said that this
23 happened in the middle of the day?

24 A. Yes.

25 Q. Okay. And that there were other people on the

1 bridge?

2 A. Yes.

3 Q. Other people walking?

4 A. Yes.

5 Q. Other people jogging?

6 A. Yes.

7 Q. Biking?

8 A. Sure, yes.

9 Q. Okay. Common scene for Charleston in September for
10 people to be on the bridge?

11 A. Yes.

12 Q. Okay. And while you were at the top of the bridge,
13 that's when you say that you saw a man sitting on the bench
14 masturbating?

15 A. Yes.

16 Q. And I believe you indicated you looked at him for
17 approximately five seconds?

18 A. Yes.

19 Q. And then immediately grabbed your friend and started
20 walking away?

21 A. Yeah.

22 Q. And you kept walking until you found somebody with a
23 phone?

24 A. Yes.

25 Q. And when you saw the guy on the bench, you were -- I

1 think you testified you were absolutely shocked?

2 A. Yeah, I mean just, I know what was going on, yes.

3 Q. You were shocked? You were not expecting to see
4 that that day?

5 A. Yes, correct.

6 Q. And it's not something that happens in your everyday
7 life?

8 A. Thankfully, no.

9 Q. Okay. And in that moment your focus was getting out
10 of there?

11 A. Correct.

12 Q. I think you said previously it was your number one
13 priority to get out?

14 A. Yes.

15 Q. And so when you had this thing happen to you, you
16 didn't stop, pause, and study this guy's facial features at
17 all, did you?

18 A. No, I didn't take a picture or anything.

19 Q. I mean you weren't like, he's got facial hair, he
20 doesn't have facial hair; you weren't thinking that?

21 A. No, I didn't stop to write down what he looked like,
22 but I know what he looked like, yes.

23 Q. Okay. When you walked away you lost sight of the
24 person that had been on the bench?

25 A. Correct.

1 Q. I think you said that you were walking towards
2 downtown?

3 A. Correct.

4 Q. And I assume that when this whole thing happened you
5 didn't want the person to know that you saw him?

6 A. I didn't want to give him the pleasure.

7 Q. But you said that he was looking at you?

8 A. Yes.

9 Q. All right. There was no confrontation between the
10 two of you at all?

11 A. No.

12 Q. You didn't exchange words or anything like that?

13 A. No.

14 Q. When you turned around that's when you started
15 walking and looking for somebody to call the police or help
16 you call the police?

17 A. Yes.

18 Q. Right? And at some point you see a black male
19 walking behind you?

20 A. Correct.

21 Q. And when you gave that description to the police you
22 told the police he was a black male?

23 A. Correct.

24 Q. I think you described him as tall?

25 A. Yes, correct.

1 Q. And that he was wearing a white shirt?

2 A. Light colored shirt, dark pants, yes.

3 Q. Dark pants.

4 A. With a bicycle.

5 Q. And I guess you said that you didn't get a good look
6 at his face so you didn't give any additional description
7 or they didn't ask you for any other descriptors of what he
8 looked like, did they?

9 A. No.

10 Q. They didn't ask you about his skin tone or
11 hairstyle, anything like that?

12 A. No, not from my memory. No.

13 Q. When you made the identification of Mr. Willis on
14 the bridge, you were with a police officer?

15 A. Correct.

16 Q. And at that time you were aware that he had run from
17 the police?

18 A. I watched him run from the police, correct.

19 Q. Okay. So you knew that he was -- he had run from
20 them or you saw him run?

21 A. Yes. I knew that the man who was running from the
22 police was the same man that was sitting on top of the
23 bridge masturbating, yes.

24 Q. When you identified him to police that was after you
25 saw him run?

1 A. Correct.

2 Q. He was handcuffed?

3 A. Yes.

4 Q. He was standing next to a police officer?

5 A. Correct.

6 Q. And there were several officers who had responded in
7 the area to help you?

8 A. Yes.

9 Q. And so there were a couple different police cars in
10 the area as well?

11 A. There were two police cars, yes.

12 Q. Okay. And you testified that he had -- you believe
13 that he had something in his hand at the time that you saw
14 him?

15 A. Uh-huh.

16 Q. The person that was masturbating, I know you didn't
17 say anything to him. He didn't say anything to you either,
18 right?

19 A. No.

20 Q. When you called police you did that because you
21 wanted the person to be arrested, right?

22 A. I didn't -- yeah, I don't -- I mean there are
23 babies. There are children. This is a public place. This
24 is not something normal that's happening. Yes, I wanted
25 ---

1 Q. You called them so that somebody would -- the person
2 would be arrested.

3 A. Correct.

4 Q. Because you wanted that person to be prosecuted?

5 A. Correct.

6 Q. And you wanted to be able to cooperate with the
7 police as much as you could so that there would be
8 successful prosecution. That's why you waited out there,
9 right?

10 A. Sure, yes.

11 Q. And to be able to prosecute the case, we all need to
12 know who you are, right?

13 A. Yes.

14 Q. And you know that when somebody gets arrested -- I
15 know you've never been in a situation before -- but you
16 know when somebody gets arrested eventually there's going
17 to be a court hearing whether or not it's a trial or
18 something else. I assume you know that.

19 A. I wasn't thinking that far in advance. I've never
20 been involved in anything like this before. And the number
21 one priority for me was to have that situation taken care
22 of and for me to not have to be part of it anymore.

23 Q. But we can agree that you didn't give your correct
24 name?

25 A. I did say that earlier, yes, ma'am.

1 Q. Okay. And I believe that you told police that you
2 were giving them your maiden name?

3 A. Excuse me?

4 Q. I believe at the time you had a conversation with
5 the police about wanting to give them your maiden name?

6 A. My maiden name? Yeah, I did get married recently.

7 Q. Okay. Is Brown your maiden name?

8 A. No.

9 Q. Okay. And Brown has never been your last name?

10 A. Brown is my mother's name.

11 Q. Okay. But it's not your last name?

12 A. No.

13 Q. So we can agree that you gave the police false
14 information about your name?

15 A. Yes.

16 MS. EHRLICH: Court's indulgence.

17 (Pause.)

18 Q. Ms. Dew, when you were talking to the police
19 officers I think you told them that you wanted to remain
20 anonymous on the police report?

21 A. I guess.

22 Q. Okay. And they agreed to that?

23 A. I don't remember. I know that I had to give them a
24 name, so.

25 MS. EHRLICH: Court's indulgence.

1 (Pause.)

2 MS. EHRLICH: I don't have any other questions,
3 Your Honor.

4 THE COURT: Redirect.

5 MR. WARING: Thank you, Your Honor.

6 REDIRECT EXAMINATION BY MR. WARING:

7 Q. Just a couple quick questions, Ms. Dew. Any doubt
8 the Defendant was the guy you saw on the bridge
9 masturbating?

10 A. No.

11 Q. And is that the reason you are here today to
12 prosecute the case?

13 A. That would be why I'm here, yes.

14 MR. WARING: Court's indulgence.

15 (Pause.)

16 MR. WARING: No further questions, Your Honor.

17 THE COURT: Any recross?

18 MS. EHRLICH: No, Your Honor.

19 THE COURT: You may step down. Thank you very
20 much.

21 Call your next witness.

22 MR. WARING: The State calls JoAnne Lewis.

23 THE COURT: Who wants the notebook?

24 JUROR: I apologize. I'll continue writing on
25 cards.

1 THE COURT: No, we'll give you a notebook. Are
2 you the only person who wants a notebook?

3 JUROR: I've been writing ---

4 THE COURT: Well put it aside. Who wants to take
5 notes? Raise your hand.

6 All right. Give the people that raised their hand
7 notepads if you would, please.

8 All right. Is there anybody else who wants a
9 notepad to take notes?

10 (WHEREUPON, notebooks were handed out.)

11 THE COURT: All right. Does everybody have
12 something to write with? All right. Write your name
13 inside the pad. When you leave the courtroom leave it in
14 your seat, please.

15 Please swear the witness.

16 JOANNE LEWIS,

17 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

18 THE CLERK: State your full name and spell your
19 last name.

20 THE WITNESS: It's JoAnne Renee Lewis, L-E-W-I-S.

21 DIRECT EXAMINATION BY MR. WARING:

22 Q. Good afternoon, JoAnne. How are you doing today?

23 A. I'm fine. How are you?

24 Q. Good. Good. Will you tell the jury where you're
25 from?

1 A. Originally Miami, Greenville, now here.

2 Q. So you currently live in Charleston?

3 A. Yes, sir.

4 Q. And what do you do for a living?

5 A. I work in the medical field.

6 Q. And specifically what?

7 A. I'm a radiology technologist.

8 Q. Were you in Charleston on the day of Saturday,

9 September 15th, 2012?

10 A. Yes, sir.

11 Q. Where were you at close to one o'clock on that day?

12 A. I was on the Ravenel Bridge.

13 Q. Were you alone?

14 A. Yes.

15 Q. And what exactly were you doing?

16 A. I wanted to walk the bridge. I was excited. I had
17 just moved ---

18 COURT REPORTER: I'm sorry. Can I get her to
19 speak up, Your Honor.

20 A. I wanted to walk the bridge. I just moved to
21 Charleston, so.

22 Q. Had you walked the bridge before that day?

23 A. No, sir.

24 Q. Which direction were you headed?

25 A. I was headed downtown.

1 Q. And which part of the bridge were you on?

2 A. I guess you would say it's right at the beaker or
3 something, I mean, where it comes down, the side bars.

4 Q. Is that at the top?

5 A. Yes, sir.

6 Q. What was the weather like that day on Saturday?

7 A. It was beautiful. Like 85, sunny and warm, and not
8 a cloud in the sky. It was really pretty. I was excited.

9 Q. Did anything out of the ordinary happen that day
10 while you were on the bridge?

11 A. Yes, unfortunately; yeah.

12 Q. Will you tell the jury what happened?

13 A. Well I -- I was walking and I came upon a gentleman
14 and I got nervous because he was like -- he acted like he
15 was startled when I walked up. And he had his hands in his
16 lap and he looked at me wide-eyed and kind of not in a -- I
17 don't know. It was like the way he looked at me made me
18 feel very uncomfortable and -- and scared, you know.

19 So I kind of like brushed against the side as I
20 walked around him to keep going and looking at him. He
21 just had his hands in his lap and he just stared at me kind
22 of and made me, you know, very nervous. And tell
23 everything?

24 Q. Well I want to slow you down for a minute. Can you
25 describe where the Defendant was on the bridge compared to

1 where you were?

2 A. Just a few feet away sitting on one of the bench
3 chairs right there, one of the benches.

4 Q. Okay. And can you continue your story?

5 A. Oh, yes, sir. So he was sitting there and he just,
6 like, as I walked up, he just acted like, he was, I don't
7 know. It was like I took him by surprise. I thought at
8 first I had scared him, but it scared me and he had his
9 hands on his lap and his shirt was rolled up and he just
10 kind of stared -- scared at -- you know, stared at me,
11 like, wide-eyed and made me very nervous. And so I kept
12 looking at him as I walked beside him to go -- to keep
13 going. And then -- tell you the whole story?

14 Q. Well what was his demeanor when this was going on?

15 A. Well he acted like surprised or, like, I caught him,
16 you know. I don't know what he was do -- you know, he
17 just, like, I don't know. You ever -- somebody surprised
18 you, came upon you and you didn't know that they were about
19 to come up and they did. And just kind of, I don't know, I
20 didn't like the way he looked at me. It made me feel
21 nervous, like scared.

22 Q. So were you suspicious of this man?

23 A. Yeah, because of his body language when I walked by
24 him. I thought that he was going to get up and come
25 towards me.

1 Q. What happened after that?

2 A. Well after that I thought to myself, you know, I
3 watched him and he didn't come after me. So I, you know, I
4 felt bad. I thought, Well I shouldn't judge people. And I
5 just kept walking. And not very long, just a few minutes
6 after that, two ladies ran up to me and they explained to
7 me what had happ -- they had saw and that explained to me
8 why he acted the way when I had came up to him. I mean it
9 all made sense, you put two together.

10 So they asked -- she asked to use my cell phone to
11 call 911. And then what made me even more scared was then
12 he -- he started following us, walking his bike at first.
13 Then got on his bike, was coming towards us.

14 Q. So how long after the other women passed by the
15 Defendant did you pass by him?

16 A. Just -- just a few -- few minutes to my knowledge.

17 Q. And after speaking with the other women, what was
18 your understanding of what happened?

19 A. That he was masturbating on the bridge.

20 MS. EHRLICH: Objection, Your Honor.

21 THE COURT: What's your legal objection?

22 MS. EHRLICH: Hearsay.

23 THE COURT: I'll sustain the objection.

24 Disregard that comment that she just made.

25 Please proceed.

1 Q. Did the Defendant get up from the bench?

2 A. He -- he did after the ladies came up. They -- they
3 got -- when they came to me to use the phone to call 911 he
4 got up and he started following us, walking his bike. And
5 then he got on his bike and started riding his bike towards
6 us.

7 Q. How did that make you feel?

8 A. I was very, very scared.

9 Q. And what happened next?

10 A. He kept following us and she was on the phone with
11 911 and then the police officer showed up. And he -- then
12 he stopped following us and he turned around and he started
13 going in the opposite direction. And then the officer went
14 to try to talk to him and he like ran from him and then ran
15 onto ongoing traffic onto the Ravenel Bridge, which was
16 very frightening because he could have got hit by a car; he
17 could have got hurt; or he could have made two other cars
18 hit each other and somebody else get hurt.

19 Q. So did he actually jump the guardrail into oncoming
20 traffic?

21 A. Yes. I was very scared for -- for -- actually I was
22 scared for him even though I thought he was going to hurt
23 me. I -- I was scared for him. He could have -- he could
24 have easily got hit by a car or made another car hit
25 another car. And ---

1 Q. Were you watching the whole thing go down?

2 A. Yes. We stood there and we -- we did watch it. You
3 know, we wanted to make sure nobody got hurt. I mean
4 that's what I do. I've been in the medical field for ten
5 years and I like to help people, not hurt people. And I
6 was really scared. I was actually scared for him that he
7 was going to get hit by a car even though I thought he was
8 going to hurt us because that was -- that seemed to be his
9 intent.

10 MR. WARING: Court's indulgence.

11 (Pause.)

12 Q. Do you know if you can ID the Defendant now?

13 A. Yeah, sitting right there. I remember him
14 [indicated].

15 Q. Who, the man in the blue shirt?

16 A. Yes.

17 MR. WARING: Let the record reflect the witness
18 has identified the Defendant.

19 Court's indulgence.

20 Please answer any questions the defense has.

21 THE COURT: Cross-examination.

22 CROSS-EXAMINATION BY MS. EHRLICH:

23 Q. Ms. Lewis, when you were on the bridge, you didn't
24 see the individual masturbating?

25 A. No, I did not.

1 Q. And when the police responded to the area, you
2 cooperated as best you could with them?

3 A. Yes, I just told the truth, only what I saw.

4 Q. And you gave them your name?

5 A. Yes, I did.

6 Q. You gave them your correct name?

7 A. Yes, JoAnne Lewis is my name.

8 MS. EHRLICH: Thank you.

9 Court's indulgence.

10 (Pause.)

11 MS. EHRLICH: No other questions, Your Honor.

12 THE COURT: Redirect?

13 MR. WARING: Nothing further, Your Honor.

14 THE COURT: You may step down. Thank you very
15 much.

16 Call your next witness.

17 MR. WARING: The State calls Officer Goode.

18 **CHRISTOPHER GOODE,**

19 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

20 THE CLERK: State your full name and spell your
21 last name.

22 THE WITNESS: Christopher Goode. Last name's G-
23 O-O-D-E.

24 DIRECT EXAMINATION BY MR. WARING:

25 Q. Good afternoon, Officer Goode. How are you doing

1 today?

2 A. Good. How are you?

3 Q. Good. Can you tell the jury where you are employed?

4 A. Mount Pleasant Police Department.

5 Q. And how long have you been with Mount Pleasant?

6 A. About two years now.

7 Q. What is your current position?

8 A. I'm a patrol officer.

9 Q. And can you tell the jury what some of your duties
10 and responsibilities as a patrol officer are?

11 A. Patrol neighborhoods, keep Mount Pleasant safe,
12 respond to dispatch calls, and any criminal activity going
13 on.

14 Q. Were you involved with the Jerome Willis case on
15 September 15th, 2012?

16 A. Yes, sir, I was.

17 Q. And how did you get brought into that case?

18 A. I was dispatched on a call.

19 Q. And can you explain to the jury what that means?

20 A. Dispatch advised that there was a complaint in which
21 a concerned citizen had called in stating that there was a
22 black male on the Ravenel Bridge in the pedestrian walkway,
23 which was masturbating. That was the information that I
24 received.

25 Q. Do you remember about what time you got that call?

1 A. It was close to one o'clock.

2 Q. PM?

3 A. Yes, sir.

4 Q. About how long did it take you to respond to the
5 call?

6 A. We were there within a few minutes.

7 Q. Was this in Charleston County?

8 A. Yes, sir, it was.

9 Q. And what happened when you got there?

10 A. The way to get to the pedestrian walkway for us is
11 we have to go over the Ravenel Bridge into Charleston city,
12 turn around and come back Northbound on 17 Ravenel Bridge
13 where we're lined up beside the pedestrian walkway. As we
14 were pulling up, observed a black male wearing a white T-
15 shirt, black pants, walking his bicycle. That was the
16 original information that we received, that the suspect
17 looked like and was wearing. Got out with that suspect.

18 As I advised him to stop, the subject turned around
19 and started going back up towards the peak of the Ravenel
20 Bridge towards Mount Pleasant. Corporal Myers was the
21 patrol car in front of mine. He advised me to go farther
22 ahead to get out the subject while he stayed behind.

23 So I got back in my patrol car, drove farther up the
24 Ravenel Bridge to get back beside the subject. As I did, I
25 put my patrol car in park, got out, advised him to stop

1 several other times. He turned around and fled me again..

2 Q. So can you tell the jury what the description was
3 that was put on over dispatch?

4 A. It was a black male wearing a white T-shirt, dark
5 colored pants, and they advised at the time he was walking
6 a bicycle towards the Charleston city side.

7 Q. Was the Defendant a black male with a white shirt
8 and dark pants?

9 A. Yes, sir, he was.

10 Q. Carrying a bicycle?

11 A. Yes, sir, he was.

12 Q. At that time did you see anybody else on the bridge
13 who matched the same description?

14 A. No, sir, did not.

15 Q. When you initially approached the Defendant in your
16 police vehicle, which direction were you headed?

17 A. 17 northbound. We were coming from the Charleston
18 city side back up the Ravenel Bridge. That's basically
19 going into Mount Pleasant side. He was walking towards us,
20 so he would be walking towards the Charleston city side.

21 Q. Did he ever change directions?

22 A. Yes, sir, he did.

23 Q. And will you tell the jury about that? Which
24 direction did he head?

25 A. So initially made contact as we were going 17

1 northbound pulling up and he was walking towards us. So we
2 were going to meet face to face. Got out to make contact
3 with him and he turned around with his bicycle and
4 proceeded to go back up to the peak of the Ravenel Bridge
5 towards Mount Pleasant side. And that's when I went to go
6 make contact with him again. Get out. Advise him to stop
7 several times. Changed his direction again. Got back on
8 his bike, started driving back down towards the Charleston
9 city side.

10 Q. So did he see you?

11 A. Yes, sir, he did.

12 Q. And how do you know he saw you?

13 A. When I was advising him to stop, he actually turned
14 around around and looked at me.

15 Q. Were your blue lights activated during this time?

16 A. Yes, sir, they were.

17 Q. And about how many times did you have to tell the
18 Defendant to stop?

19 A. It was several times.

20 Q. More than once though?

21 A. Yes, sir.

22 Q. So did you have to chase him?

23 A. Yes, sir. I did actually initiate a foot pursuit
24 while still advising him, during the pursuit, to stop.

25 Q. About how far did you have to chase him?

1 A. I ran about close to 200 yards approximately before
2 he tried to ditch his bike and jump into the lane of travel
3 on the Ravenel Bridge. At that point in time I jumped over
4 the pedestrian walk into the lane of traffic as well to
5 apprehend the suspect.

6 Q. Would you consider that scenario a dangerous
7 situation?

8 A. Yes, sir, extremely dangerous.

9 Q. And why?

10 A. It was a Saturday, 1:00 in the afternoon. The
11 Ravenel Bridge is very busy with traffic and pedestrian
12 traffic. The only other car that was blocking the lane of
13 travel was Corporal Myers' car which was on down the bridge
14 with his lights initiated. So we're essentially standing
15 there in the roadway where people tend to travel above the
16 speed limit. The speed limit is 55 miles an hour. So
17 we're standing there with cars that are just going by us.

18 Q. Could the Defendant have been hit by a vehicle?

19 A. Yes, sir, he could have.

20 Q. Now did he make a statement on the bridge that day?

21 A. Yes, sir, he did. After we were able to apprehend
22 the suspect, place him in handcuffs, and get him to a safe
23 location back over the Jersey barrier there to the
24 pedestrian walkway, asked him why he was -- asked him why
25 he was running from me and he stated because he didn't want

1 to be arrested.

2 MS. EHRLICH: Your Honor, I just would renew my
3 prior objection.

4 THE COURT: Renew your previous objection?

5 MS. EHRLICH: Yes, sir.

6 THE COURT: Overruled.

7 Q. Did you force him to say that statement?

8 A. No, sir, I did not.

9 Q. Were y'all able to locate the victim?

10 A. Yes, sir. Officer Sawyers was able to make contact
11 with the victim.

12 Q. And were they already on scene when y'all pulled up?

13 A. Yes, sir. They were still in the pedestrian walkway
14 a little ways down from where I was at with the Defendant,
15 but still in eyesight, yes, sir.

16 Q. Did the victim indicate that the Defendant was the
17 man she saw masturbating?

18 A. Officer Sawyers took the original statement from her
19 and he did advise me through the radio that ---

20 MS. EHRLICH: Objection, Your Honor. Hearsay.

21 THE COURT: Overruled. Go ahead.

22 Q. You can answer it.

23 A. Officer Sawyers, like I said, was on down the bridge
24 taking the statement from her. He advised me through the
25 radio that she confirmed, in fact, the guy I was talking to

1 was the Defendant and he was the suspect that was
2 masturbating.

3 Q. Did you or any of the other officers suggest to the
4 victim that the Defendant was the perpetrator?

5 A. No, sir.

6 Q. So what happened next, after y'all chased him?

7 A. Placed him in handcuffs. Got him in a safe
8 location. Advised him at that time he was being detained
9 because he did match the suspect description that was given
10 over the radio and he was running from me. Why -- why he
11 was running was I didn't know at the time. After we
12 received more information and had more knowledge of what
13 was going on, then I advised him he was being placed under
14 arrest.

15 Q. Okay. Now I want to switch gears and talk about the
16 charge for a minute. Y'all charged him with indecent
17 exposure?

18 A. That's correct.

19 Q. Why did you do that?

20 A. Because of what he was doing on the Ravenel Bridge,
21 masturbating in a public area. The pedestrian walkway is
22 an access that all public has access to. They could walk
23 on it. People ride bikes on it. It's a very popular area
24 for people to go and tourists to go walk on.

25 Q. So that walkway, you're referring to the Ravenel

1 bridge?

2 A. Yes, sir.

3 Q. And that's a public place?

4 A. Yes, sir, it is.

5 Q. And is it illegal for a person to expose his
6 genitals in public?

7 A. Yes, it is.

8 MS. EHRLICH: Objection, Your Honor.

9 THE COURT: I'll sustain the objection.

10 Q. Did you end up writing a report for this case?

11 A. Yes, sir, I did.

12 Q. Other than what you mentioned to the jury, did you
13 have any other involvement in this case?

14 A. No, sir.

15 MR. WARING: Court's indulgence.

16 Please answer any questions the defense has.

17 THE COURT: Cross-examination.

18 CROSS-EXAMINATION BY MS. EHRLICH:

19 Q. Officer Goode, as soon as you guys did catch up with
20 Mr. Willis, I think he was on the ground and you handcuffed
21 him, right?

22 A. When I was -- are you referring to ---

23 Q. You caught up -- when you caught up with him after
24 getting the 911 call and you had to chase him and you guys
25 finally stopped him, you guys did put him in handcuffs?

1 A. That's correct.

2 Q. Okay. And he remained in handcuffs the entire time
3 he was out on the bridge with Mount Pleasant Police?

4 A. That's correct.

5 Q. And to your knowledge at no time the handcuffs were
6 removed?

7 A. Not to my knowledge.

8 Q. Okay. And it was your car and, I think you said,
9 Officer Sawyers' car?

10 A. And my corporal at the time, Corporal Myers.

11 Q. So three different police cars who responded?

12 A. That's correct.

13 Q. And did you remain with Mr. Willis the entire time
14 or did somebody else take over, kind of standing with him
15 after you guys had him in custody?

16 A. I don't recall exactly. I believe there was a
17 couple of us standing there at different points in time.

18 Q. You didn't have any involvement with having him
19 stand up and turn around and face anybody for an
20 identification, did you?

21 A. Not that I recall.

22 Q. All right. And when you got the description through
23 dispatch your only description was black male, white shirt,
24 black pants?

25 A. Walking a bicycle.

1 Q. Okay. You didn't have any information about skin
2 tone?

3 A. Not -- I don't recall.

4 Q. Light or dark -- to your -- to your memory?

5 A. I don't recall.

6 Q. Okay. Do you remember writing a police report in
7 this case?

8 A. Yes.

9 Q. Would referring to your police report remind you of
10 if there was anything about skin tone from the description
11 from dispatch?

12 A. I don't recall. I don't believe it would. I don't
13 recall.

14 Q. Looking at your police report would not help you
15 remember?

16 A. I don't recall if I wrote it in the police report
17 referring to skin tone or not or if dispatch advised me of
18 skin tone or not.

19 Q. Let me try another way to ask you the question.

20 THE COURT: Show him the report and see if it
21 refreshes his memory.

22 MS. EHRLICH: Thank you, Your Honor. May I
23 approach the court reporter to mark it?

24 THE COURT: Yes, ma'am. Show him the report.
25 Give him an opportunity to look at it.

1 (WHEREUPON, an incident report was marked as
2 Defendant's exhibit number 1 for identification purposes
3 only.)

4 Q. Officer Goode, I'm going to show you what's been
5 marked Defendant's exhibit 1 just for identification
6 purposes. Do you recognize this document?

7 A. I do.

8 Q. Is that your police report?

9 A. It appears to look the same.

10 Q. Okay. And take a second if you need to to review
11 your report and let me know if that refreshes your memory
12 about if you had any other details as far as a description
13 of the suspect.

14 A. I'm sorry. Can you repeat that last question?

15 Q. Is there anything in your -- to your -- after
16 looking at your police report, do you recall or does this
17 refresh your memory about if there was anything about --
18 any other additional description of the Defendant besides
19 what we've already talked about?

20 A. I don't think so.

21 Q. Okay. Thank you. When you -- how long have you
22 been an officer with Mount Pleasant?

23 A. Almost two years now.

24 Q. So you probably went through training relatively
25 recently with the police department?

1 A. That's correct. Well two years ago.

2 Q. And when you go through training I assume that you
3 guys go through the policies of the Mount Pleasant Police
4 Department as part of your training?

5 A. That's correct.

6 Q. And are you aware that your police department has a
7 section on identifications and how to conduct
8 identifications?

9 A. Yes, I am.

10 Q. And part of what your training is as a police
11 officer is that show-up identifications can be considered
12 suggestive.

13 A. Is that a question?

14 Q. Yes, it is a question.

15 A. Okay. Can you repeat it for me?

16 Q. Okay. Part of your training as a police officer you
17 learn that show-up identifications can be suggestive to
18 witnesses.

19 A. I don't think I've ever been taught that if that's
20 what you're asking.

21 Q. When you became a police officer you reviewed the
22 Mount Pleasant Police policies?

23 A. I have.

24 MS. EHRLICH: Court's indulgence.

25 (Pause.)

1 MR. WARING: Your Honor, we object to the
2 relevance.

3 THE COURT: Pardon?

4 MR. WARING: We object to the relevance of that
5 document.

6 THE COURT: She hasn't offered it yet. I don't
7 know what she's going to do with it. Please proceed.

8 Q. Officer Goode, if I showed you your Mount Pleasant
9 policies on identifications, would that help refresh your
10 memory?

11 A. It may.

12 MS. EHRLICH: Permission to approach the court
13 reporter.

14 THE COURT: Yes, ma'am.

15 (WHEREUPON, a document outlining Mount Pleasant
16 policies was marked as Defendant's exhibit number 2 for
17 identification purposes only.)

18 Q. Do you recognize that document?

19 THE COURT: Can you point him out in that
20 document where you are referring to, please?

21 MS. EHRLICH: I can, Your Honor.

22 Let the record reflect that I'm showing what's been
23 marked as Defense exhibit 2 for identification only.

24 Q. Do you see at the bottom of the page where it says
25 physical show-ups?

1 A. I do.

2 THE COURT: Thank you very much.

3 Q. And I believe that's -- that's the Mount Pleasant
4 policies on identifications, correct?

5 A. It appears to be.

6 Q. And there's a statement in that document that
7 indicates that show-up identifications are suggestive?

8 A. There is a statement stating that they are
9 suggestive in nature.

10 Q. Okay. And in the Mount Pleasant policies on doing
11 identifications they give you kind of what you are supposed
12 to do to avoid prejudicing a witness, correct?

13 A. It does, unless there are articulable extenuating
14 circumstances.

15 MR. WARING: Objection, Your Honor.

16 THE COURT: I'm sorry. What's your legal
17 objection?

18 MR. WARING: It's not admitted into evidence,
19 Your Honor.

20 THE COURT: Pardon?

21 MR. WARING: It's not admitted into evidence,
22 Your Honor.

23 THE COURT: Well she didn't offer it.

24 MR. WARING: He's reading from it.

25 THE COURT: She can ask questions about it. Do

1 you have an objection to the question?

2 MR. WARING: Court's indulgence.

3 (Pause.)

4 MR. WARING: Your Honor, she's asking to publish
5 the document.

6 THE COURT: Pardon?

7 MR. WARING: She's asking to publish the
8 document.

9 MS. EHRLICH: I'm not asking to publish the
10 document.

11 THE COURT: She didn't ask to publish. She asked
12 a question about the document. Do you have an objection to
13 that question?

14 MR. WARING: It's hearsay, Your Honor.

15 THE COURT: Pardon?

16 MR. WARING: It's hearsay.

17 THE COURT: Overruled. Go ahead.

18 Q. Part of the Mount Pleasant policy as an -- as an
19 officer is that you are supposed to follow these procedures
20 to avoid prejudicing a witness, correct? To the best of
21 your ability.

22 A. That's correct. Not every circumstance is going to
23 go exactly step for step, with the exception of the
24 extenuating circumstances that it labels.

25 Q. Okay. And part of your policies is that to avoid

1 prejudice you do what's -- let's back up a little bit.

2 Show-up identification is different than a six person

3 lineup, right?

4 A. Correct.

5 Q. Show-up identification would be like if I was the

6 suspect and you showed me to a victim and I was the only

7 person around and they have to say if it's me or not,

8 that's a show-up, correct?

9 A. Roughly.

10 Q. Right? I mean you don't have a lineup of people.

11 A. Right.

12 Q. There's only one person there?

13 A. That's correct.

14 Q. Okay. And when you do a show-up identification, you

15 guys have what's called an admonition form.

16 A. Yes, we do.

17 Q. And in that form you advise the witness whose

18 identifying somebody that that person may or may not be the

19 individual who committed the crime.

20 A. That's correct.

21 Q. That, you know, take a good look, but you don't, you

22 know, you have them fill out this form to avoid prejudicing

23 the witness?

24 A. That's correct.

25 Q. Okay. To your knowledge, as an officer involved

1 with this case, -- and I know that you weren't the one who
2 did the identification -- are you aware of any admonition
3 form being completed with Ms. Dew?

4 A. I'm not aware of one.

5 Q. Okay. To your knowledge and your involvement in the
6 case, are you aware of whether or not Ms. Dew was advised
7 whether or not -- that the person who was standing next to
8 that officer in handcuffs may or may not be the person that
9 you saw on the bridge?

10 A. I couldn't tell you.

11 Q. Okay. You were involved with speaking with Rebecca
12 in this case, correct? The victim.

13 A. No, ma'am.

14 Q. You never spoke to her?

15 A. No, ma'am.

16 MS. EHRLICH: May I approach Your Honor?

17 THE COURT: Yes, ma'am.

18 Q. Did you do a supplemental report in your case?

19 A. I did a short -- very brief supplemental report, I
20 believe, referring to why I didn't have the suspect or --
21 excuse me -- the witness's information in the report.

22 Q. Okay. So in the initial police report you agreed to
23 leave her information out of that report?

24 A. That's correct, for confidentiality.

25 Q. And that was at her request?

1 A. That's correct.

2 Q. And instead you agreed to do it as an anonymous
3 report because she indicated she didn't want the suspect to
4 know who she was?

5 A. In fear of retaliation.

6 Q. Right. And in your supplemental report you listed
7 her name as Rebecca Brown, right?

8 A. I'm going to have to look at the report to be
9 completely accurate.

10 MS. EHRLICH: Permission to approach the court
11 reporter?

12 THE COURT: Pardon?

13 MS. EHRLICH: May I approach the court reporter,
14 Your Honor?

15 THE COURT: Yes, ma'am.

16 (WHEREUPON, a supplemental incident report was
17 marked as Defendant's exhibit number 3 for identification
18 purposes only.)

19 Q. I'm going to show you what's been marked as
20 Defendant's exhibit number 3 for identification purposes
21 only. If you could review your report and let me know if
22 that refreshes your memory.

23 (Pause.)

24 A. Okay.

25 Q. Okay. You listed her name as Rebecca Brown in

1 there?

2 A. Yes, ma'am.

3 Q. Okay. And you did that to take the extra step by
4 not putting it in the initial police report at her request,
5 right?

6 A. That's correct.

7 Q. When you stopped Mr. Willis, you had seen him
8 earlier that day, right?

9 A. Are you asking?

10 Q. I'm asking.

11 A. Yes, ma'am, I had.

12 Q. Okay. About an hour before you had contact with Mr.
13 Willis.

14 A. Approximately.

15 Q. Approximately?

16 A. Sure.

17 Q. I think that you suspected him of maybe having a
18 stolen -- there was something weird about the bike he had?

19 A. That's correct. He had two bikes at the time.

20 Q. Okay. And you thought it looked suspicious?

21 A. I didn't think it looked suspicious, no, ma'am.

22 Q. Well you stopped him?

23 A. No, ma'am. I was dispatched on a concerned citizen
24 call.

25 Q. Okay. So because somebody called, you went out and

1 you talked to Mr. Willis earlier that day?

2 A. That's correct.

3 Q. All right. And we think that that's approximately
4 about an hour before you responded to the second call?

5 A. That's ---

6 Q. Approximately.

7 A. --- approximately.

8 Q. And I believe that you testified that you were the
9 one who said something along the lines of like, Why did you
10 run? And he said, I didn't want to get arrested?

11 A. That's correct.

12 Q. Do you remember also him asking you why he was
13 detained?

14 A. I don't recall exactly.

15 Q. Do you remember telling him, We don't ask you
16 questions when we don't already know the answer?

17 A. I don't recall.

18 Q. You don't recall?

19 A. Don't recall.

20 Q. Okay. When you responded to this call about the
21 person on the bridge masturbating, did you interview any
22 other witnesses?

23 A. I didn't interview witnesses, no, ma'am.

24 Q. Did you guys do anything to try to corroborate
25 Rebecca's statement?

1 A. As far as?

2 Q. See if anybody else saw anything?

3 A. I can't say what the other officers did or did not
4 talk to, but for myself I didn't speak to anyone.

5 Q. Okay. And when you responded were you aware that
6 somebody else had been with her at the time that she said
7 that she saw what she saw?

8 A. I don't recall if I was aware at the time.

9 Q. Okay. Do you remember getting that person's name?

10 A. Like I said, I don't recall.

11 Q. You don't remember?

12 A. No, ma'am.

13 MS. EHRLICH: Court's indulgence.

14 (Pause.)

15 Q. If she told you that somebody else had been out
16 there with you -- or with her, you could have followed up
17 on that information if she had told you, right?

18 A. I'm sure we could have.

19 MS. EHRLICH: I don't have any other questions,
20 Your Honor.

21 THE COURT: Redirect.

22 REDIRECT EXAMINATION BY MR. WARING:

23 Q. Officer Goode, was the Defendant the only -- was he
24 the only one on the bridge at that time who fit the
25 description put out by dispatch?

1 A. Yes, sir, he was.

2 Q. Was he arrested on the spot at the scene?

3 A. He was at first detained and after we corroborated
4 the information through the eyewitness that he was in fact
5 the suspect, I advised him he was under arrest.

6 Q. Now did he run the first time you saw him earlier
7 that day?

8 A. No, sir, he did not.

9 Q. Did he run the second time you saw him on top of the
10 bridge after he was caught masturbating?

11 A. Yes, sir, he did.

12 MR. WARING: Court's indulgence.

13 (Pause.)

14 MR. WARING: No further questions, Your Honor.

15 THE COURT: Recross.

16 MS. EHRLICH: Just briefly, Your Honor.

17 RECROSS-EXAMINATION BY MS. EHRLICH:

18 Q. You just testified that nobody else on the bridge
19 matched the description that you had?

20 A. Not to my knowledge, no, ma'am.

21 Q. You didn't cross the whole bridge when you were
22 responding to the area, did you?

23 A. Yes, ma'am, I did.

24 Q. You crossed all the way across?

25 A. That's the only way to get back to the pedestrian

1 walkway side is to go over the bridge southbound to
2 Charleston city side, turn back around, and come back.

3 Q. But you weren't on the pedestrian side when you
4 crossed?

5 A. Usually when we get a dispatch call to something on
6 the Ravenel Bridge and pedestrian walkway such as a jumper
7 or something of that sort, the entire time you're crossing,
8 while keeping a mindful eye on the road, you're also
9 looking to get an idea where your suspect ---

10 Q. Okay.

11 A. --- or potential suspect would be.

12 Q. But once you saw Mr. Willis on the bike that's who
13 you honed in on, right?

14 A. When we saw a suspect with a white T-shirt walking a
15 bicycle towards the Charleston city side, yes, ma'am.

16 Q. Right. The same guy you saw an hour before?

17 A. Yes, ma'am.

18 MS. EHRLICH: Thank you.

19 THE COURT: You may step down. Thank you very
20 much.

21 THE WITNESS: Thank you.

22 THE COURT: Call your next witness.

23 MR. FINCH: The State calls officer Gary Myers.

24 GARY MYERS,

25 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

1 THE CLERK: State your full name and spell your
2 last name.

3 THE WITNESS: Gary Myers, M-Y-E-R-S.

4 DIRECT EXAMINATION BY MR. FINCH:

5 Q. Is it corporal?

6 A. It is corporal.

7 Q. Good afternoon, Corporal Myers.

8 A. Good afternoon.

9 Q. If you would, tell the jury where it is that you are
10 employed.

11 A. Mount Pleasant Police Department.

12 Q. And how long have you been with Mount Pleasant?

13 A. Since 2003.

14 Q. And were you a corporal back in September of 2012?

15 A. Yes.

16 Q. And do you recall being dispatched into service for a
17 call on the Ravenel Bridge on September 15th, 2012?

18 A. Yes.

19 Q. What was the nature of that call?

20 A. We responded to the Ravenel Bridge in the pedestrian
21 path for a report of a man masturbating on the bridge.

22 Q. And when you get that call where were you located?

23 A. Somewhere down in the south end of town. I believe I
24 was on 17 near Houston Northcutt area.

25 Q. And if you would, tell us how it is that you got to

1 the suspect in this case? What was your travel?

2 A. Went across the Ravenel Bridge down onto Meeting
3 Street where I got off the Ravenel Bridge, looped around,
4 came back northbound on the Ravenel, at which time I got in
5 lane number four, which is the lane closest to the barrier
6 between the traffic and the pedestrian walkway, at which
7 time I stopped my vehicle with my emergency lights on.

8 Q. And why did you stop?

9 A. I observed a person fitting that description walking
10 down the bridge pushing a bicycle.

11 Q. And what was the description that you had?

12 A. A black male wearing a white shirt and dark colored
13 pants, I believe black pants.

14 Q. Were there any other individuals that you observed in
15 your travel from the south end of town until you
16 encountered the suspect that was eventually arrested that
17 matched that description?

18 A. No.

19 Q. Did you have an opportunity to view individuals on the
20 bridge during your time of travel from the south end of
21 town until you encountered the suspect?

22 A. Yes.

23 Q. And how did you do that?

24 A. Coming across the bridge towards the city, if you look
25 across the lane of traffic you see most of the pedestrian

1 walkway as you drive across. And then as you loop around,
2 you see almost the entire bridge up to the top of the
3 bridge from the city side as you get onto the Ravenel
4 Bridge.

5 Q. If you had seen multiple individuals or even just one
6 more person that matched that description, would you have
7 tried to detain those multiple individuals?

8 A. Yeah. Yes.

9 Q. How many people did you detain in this case?

10 A. One.

11 Q. And was that the Defendant?

12 A. Yes.

13 Q. When you stopped your -- I believe you testified you
14 stopped your vehicle and initiated your blue lights; is
15 that correct?

16 A. Correct.

17 Q. What did you do after that?

18 A. Exited my vehicle. I crossed over the barrier onto
19 the pedestrian walkway.

20 Q. Did you encounter the suspect at that time?

21 A. He was walking down towards me. He was a ways off up
22 ahead of me.

23 Q. Did you say anything to the Defendant at that time?

24 A. No, sir. He was a little bit too far away and at that
25 time he turned around and started back up the bridge

1 towards Mount Pleasant.

2 Q. Was it your understanding that the Defendant could see
3 you at that time?

4 A. Absolutely.

5 Q. Did you draw a weapon at that time?

6 A. Not at that time, no.

7 Q. Did you -- let me back up. So after the Defendant
8 turned around, went back towards Mount Pleasant, was he on
9 foot or was he on his bicycle?

10 A. He was pushing it initially. Then I believe he got
11 back on it as he was attempting to go back up.

12 Q. And was he peddling the bicycle?

13 A. At one point, yes. I'm not sure if it was at that
14 point or when he turned and came back toward me. I don't
15 recall at which point he got on the bike.

16 Q. Did you -- did any other officers stop at this scene?

17 A. Yes, sir, Officer Goode.

18 Q. Did you give any instructions to Officer Goode?

19 A. I asked him to go up ahead of the person that I saw
20 coming down the bridge and that he was attempting to go
21 back towards Mount Pleasant away from me.

22 Q. And did you identify the individual that you wanted
23 him to get in front of?

24 A. Yes.

25 Q. And again, was that the Defendant?

1 A. Yes.

2 Q. And what did you observe Officer Goode do?

3 A. He went up ahead of him. He appeared to stop about
4 where the gentleman was on the bike or near the bike. And
5 he then proceeded past him and pulled over with his
6 emergency lights on along the pedestrian walkway.

7 Q. Did you see Officer Goode get out of his vehicle?

8 A. I did.

9 Q. Did you see him approach the Defendant?

10 A. Yes.

11 Q. And what did the Defendant do?

12 A. He -- as Officer Goode was attempting to get over the
13 railing or the barrier, cement barrier, that gentleman was
14 on his bike at that point and was riding back towards me.

15 Q. Did you encounter the suspect again?

16 A. As he got close enough that I could yell, I advised
17 him multiple times to stop, now whether he was still a
18 short distance from me, yes.

19 Q. And what did the Defendant do at that time?

20 A. Officer Goode was coming behind him. The gentlemen
21 tried to get his pedal bike over the cement barrier into
22 the lane of travel. He couldn't get the bike over, at
23 which time he jumped over himself and attempted to run out
24 into traffic.

25 Q. And did you eventually capture the Defendant?

1 A. We did. He -- as he attempted to run, he took one or
2 two steps and fell onto the concrete and at which time
3 Officer Goode and I approached.

4 Q. And that was in the vehicle lane?

5 A. Correct. It was in front of my police car in the
6 number four lane along the barrier.

7 Q. And about how fast were cars going there? And we know
8 the speed limit, but how fast were they going?

9 A. 55 to 65, in that vicinity, for the most part.

10 Q. And then at that point what did you do with the
11 suspect?

12 A. He was detained in handcuffs. He was then brought
13 back over the cement barrier so nobody got hit by a
14 vehicle.

15 Q. Did you communicate with anybody at that point?

16 A. Yeah. I actually observed a group of a couple females
17 walking down the bridge ahead of them. They were just a
18 short distance behind me at that point. And at that point
19 I went over and made contact.

20 Q. And what information did you get from them?

21 A. That they did indeed call us and that they had
22 witnessed the person. They identified him as the person
23 that they saw on top of the bridge with his penis exposed
24 and that he had his hand on his penis.

25 Q. Did you speak with the victim in this case, Ms.

1 Rebecca Dew?

2 A. Yes.

3 Q. And what was her demeanor when you spoke with her?

4 A. Initially hesitant. She appeared that she was nervous
5 about talking with us. She stated that it was them that
6 called us, but she didn't necessarily want to be involved
7 in the investigation. She said that she was a little
8 nervous that he may come after her or come back to do
9 something at a later time.

10 MS. EHRLICH: Objection, Your Honor. Hearsay.

11 THE COURT: Overruled. Go ahead.

12 Q. When you went up and approached the victim, did you
13 indicate to her, anybody on the bridge that you wanted to
14 identify as the Defendant -- or as the suspect in this
15 case?

16 A. Actually I believe I just asked her what happened.

17 Q. And what was her response?

18 A. That they were on top of the bridge. The person
19 that had ran from us was indeed the person that she had
20 called about and that he was fully exposed at the top and
21 he had looked at them and smiled I believe is what she
22 said.

23 Q. Did she have any doubt -- when you were talking to
24 her did she seem to have any doubt that the man you had in
25 custody at that point was the man that she saw on top of

1 the bridge masturbating?

2 A. No.

3 Q. Did you initiate that portion of the investigation
4 with her or did she volunteer that information?

5 A. No, I believe I just walked up and asked her what
6 happened, why they called.

7 Q. And that's when she identified the Defendant and
8 what he did?

9 A. Correct.

10 MR. FINCH: Please answer any questions the
11 defense may have.

12 THE COURT: Cross-examination.

13 MS. EHRLICH: Court's indulgence.

14 (Pause.)

15 MS. EHRLICH: Your Honor, we don't have any
16 questions for Corporal Myers.

17 THE COURT: Okay. You may step down. Thank you
18 so very much.

19 THE WITNESS: Thank you.

20 THE COURT: Call your next witness.

21 MR. WARING: Your Honor, the State rests.

22 THE COURT: Okay. All right, Mr. Foreman, ladies
23 and gentlemen of the jury, the people who are taking note
24 pads, leave -- notes, leave your note pads in your chairs.
25 I'm going to ask you to go to the jury room. I've got to

1 take up some matters with the attorneys at this time. I'll
2 get you back hopefully very shortly. If we have any -- I
3 tell you what. We're going to take a short break. If we
4 have any smokers, let the bailiff know. They'll take you
5 to the proper place to smoke. If you'll follow the bailiff
6 to the jury room.

7 (WHEREUPON, the jury was excused from the courtroom at
8 4:26 PM.)

9 THE COURT: Any motions from the State?

10 MR. WARING: No, Your Honor.

11 THE COURT: Any motions from the Defendant?

12 MS. EHRLICH: Your Honor, we would just move for
13 a directed verdict in this case. We'd ask that -- we'd ask
14 that the Court find that the State has not provided enough
15 evidence for this case to go to the jury and hasn't met all
16 of the elements of indecent exposure.

17 THE COURT: All right. Motion denied.

18 Are you going to offer any testimony or do you know?

19 MS. EHRLICH: I am not going to offer any
20 testimony.

21 THE COURT: Pardon?

22 MS. EHRLICH: I am not.

23 THE COURT: You're not?

24 MS. EHRLICH: No, I am not.

25 THE COURT: Has your client decided not to take

1 the stand?

2 MS. EHRLICH: In all our conversations he said
3 no. I think it would be -- I think we should take five
4 minutes to talk to him and just make sure that hasn't
5 changed.

6 THE COURT: Okay.

7 MS. EHRLICH: Can we put him in the booth, Your
8 Honor?

9 THE COURT: All right, Mr. Willis. Stand up
10 please and raise your right hand.

11 **JEROME WILLIS,**

12 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

13 THE COURT: Speak up so I can hear you, okay?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: You understand under the Fifth
16 Amendment to the Constitution you have the right to remain
17 silent. You can put your hand down. Do you understand?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: No one can compel you to testify
20 against yourself. Do you understand?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Has your attorney explained that to
23 you previously?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Did you understand what she was telling

1 you?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do you understand that this is a
4 personal privilege that belongs to you?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And only you can make the decision
7 whether you want to testify or not testify. Do you
8 understand?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Your attorney cannot make that
11 decision for you. Do you understand?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: You have the right not to testify,
14 but you also have the right to testify. Do you understand?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Have you had ample opportunity to
17 talk to your attorney about your right to testify?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Pardon?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Have you understood the
22 conversations?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you understand if you elect not to
25 testify, your failure to testify cannot be used by the

1 State as an inference of guilt and your failure to testify
2 cannot be considered by the jury in its deliberations? So
3 I will so instruct the jury. Do you understand?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Now if you do decide to testify you
6 will assume the role as a witness. You'll have to answer
7 the questions. Do you understand?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: You can't say I take the Fifth one
10 question and answer the next question, okay?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: If you take the stand you'll have to
13 answer all the questions if they're relevant under the
14 rules and admissible under the rules of evidence. Do you
15 understand?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Has anybody forced you, threatened
18 you, coerced you to make you plead -- excuse me -- to make
19 you not testify?

20 THE DEFENDANT: No, sir.

21 THE COURT: Has anybody forced you, threatened
22 you, intimidated you to try to make you testify?

23 THE DEFENDANT: No, sir.

24 THE COURT: Have you understood everything I have
25 told you?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Have you understood what I've
3 explained to you?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Do you desire to talk to your
6 attorney any more about your right to testify?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: What's his prior criminal history,
9 Solicitor?

10 MR. WARING: Court's indulgence, Your Honor.

11 THE COURT: Just tell me what you think is
12 impeachable.

13 MR. WARING: Your Honor, he's got some prior ---

14 MR. FINCH: He's got a burglary from -- he's got
15 several burglaries from 1999.

16 THE COURT: He's got several burglaries?

17 MR. FINCH: Yes, sir.

18 THE COURT: Okay.

19 MR. FINCH: Receiving stolen goods also from the
20 late '90s, shoplifting, receiving stolen goods, I think
21 he's got three or four -- four counts of burglary. If he
22 were to take the stand and open the door, there's a
23 previous indecent exposure. There's property offense.
24 This is receiving stolen goods from 2003; a burglary second
25 degree violent, 2003; burglary second from 2005; possession

1 of stolen goods from -- possession of stolen vehicle from
2 2005. Again if the door was opened, failure to stop for a
3 blue light, 2008; receiving stolen goods, 2009. Those are
4 the -- those are essentially what we'd be seeking in this
5 case.

6 THE COURT: I assume all of them are within ten
7 years?

8 MR. FINCH: Ten years from the end of the date --

9 THE COURT: It sounds like all of them are over a
10 year.

11 Do you understand if you do take the stand that they
12 will be able to ask you about those prior convictions? Do
13 you understand?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do you -- as I asked you earlier, do
16 you want more time to talk to your attorney about whether
17 you desire to testify or not testify?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: You want more time?

20 THE DEFENDANT: Just a few minutes.

21 THE COURT: All right. We'll take a short break
22 and I'll give you some time to talk with your attorney.
23 Okay.

24 MS. EHRLICH: Thank you.

25 THE COURT: All right. We'll take about a 15 or

1 20-minute break.

2 Ms. Ehrlich, let me know when you're ready to
3 proceed, okay?

4 MS. EHRLICH: I will, Your Honor.

5 THE COURT: All right. Thank you.

6 (WHEREUPON, a brief recess was taken. After which,
7 the following proceedings were had:)

8 THE COURT: Mr. Willis, have you had an
9 opportunity to talk to your attorney?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: During the break have you made a
12 decision whether you want to testify or not?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: What's your decision?

15 THE DEFENDANT: No, sir.

16 THE COURT: Pardon?

17 THE DEFENDANT: No, sir.

18 THE COURT: You do not want to testify?

19 THE DEFENDANT: No, sir.

20 THE COURT: Okay. All right. What we'll do
21 then, we'll just -- I think we'll -- it's quarter to five.
22 We'll just have closing arguments and charge tomorrow. I'm
23 going to bring the jury back at 12:30. They said the
24 courthouse will open at 12. I'll just bring the jury back
25 at 12 and have closing arguments and charge at that time.

1 Okay.

2 MS. EHRLICH: Your Honor, do you ---

3 THE COURT: Do y'all want me to bring ---

4 MS. EHRLICH: Do you want -- do you want me to
5 rest now?

6 THE COURT: Pardon?

7 MS. EHRLICH: Do you want us to rest in front of
8 the jury now or do you want us to do it tomorrow?

9 THE COURT: We might as well since I'm getting
10 ready to bring them out here, okay?

11 MS. EHRLICH: Okay.

12 THE COURT: Okay. Bring us the jury, please.

13 (WHEREUPON, the jury returned to the courtroom at
14 approximately 4:45 PM.)

15 THE BAILIFF: All present, Your Honor.

16 THE COURT: Thank you very much.

17 Is the defense going to offer any testimony?

18 MS. EHRLICH: No, Your Honor. The defense rests.

19 THE COURT: Okay. Thank you so very much.

20 Mr. Foreman, ladies and gentlemen of the jury, what
21 we are going to do is stop at this time. The courthouse
22 will open tomorrow at 12. If you'll be back in your jury
23 room at 12:30 tomorrow afternoon, we'll finish this trial.
24 The only thing left will be closing arguments and charge.
25 Please don't discuss the case amongst yourselves or with

1 anyone else. See you tomorrow at 12:30.

2 If that varies or something -- leave your note pads
3 in the chairs. We'll give them back to you tomorrow. If
4 for some reason that varies because of water on the streets
5 or something, it will be on the radio, television. Or it
6 will be where?

7 THE CLERK: We have the jury hotline. I also
8 have their phone numbers to call.

9 THE COURT: You have a what? Y'all have the
10 number for the jury hotline that was given to you Monday.
11 There will be a message on the jury hotline if something
12 changes and I don't want you back at 12:30 tomorrow. Okay.
13 All right. See you at 12:30 tomorrow.

14 Yes, sir?

15 JUROR: Your Honor, I had taken some notes in the
16 notebook from work that I need.

17 THE COURT: Leave them in your chair. Or tear
18 them out.

19 JUROR: Okay.

20 THE COURT: Okay. Just tear them out of your
21 notebook and leave them in your chair. You're welcome to
22 use them. Just leave them in the courtroom, okay?

23 JUROR: Yes, sir. Somebody must have picked my
24 notebook up.

25 THE COURT: Okay. That will be fine. Thank

1 y'all very much. See you tomorrow.

2 (WHEREUPON, the jury was excused from the courtroom at
3 4:47 PM.)

4 THE COURT: All right. We'll adjourn. Do you
5 want to renew your motions? I guess you don't have to, do
6 you? You've already done it.

7 MS. EHRLICH: Your Honor, I just would renew all
8 my prior motions.

9 THE COURT: All right. For the record, your
10 motions are denied.

11 MS. EHRLICH: Thank you, Your Honor.

12 THE COURT: All right. We'll adjourn until 12:30
13 tomorrow. See you then.

14 MR. WARING: Thank you, Your Honor.

15 (WHEREUPON, the trial of this case was at recess
16 until Friday, June 7, 2013.)

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18 *****

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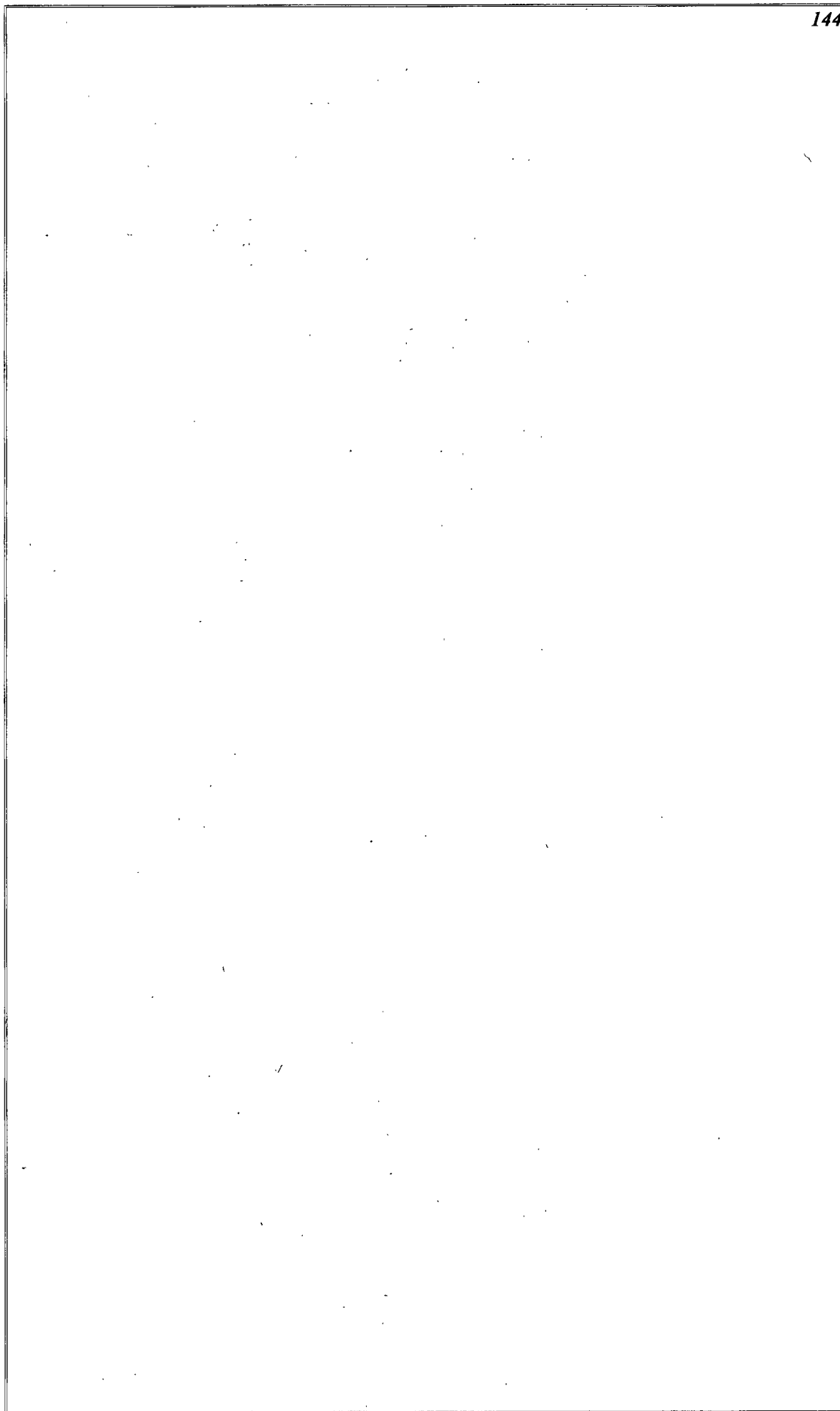
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P R O C E E D I N G S

June 7, 2013

1
2
3 (WHEREUPON, Court convened with all parties present
4 and the following matters were had prior to the jury
5 entering the courtroom:)

6 THE COURT: Anything from the State before we
7 bring the jury?

8 MR. WARING: No, Your Honor.

9 THE COURT: Anything from the defense?

10 MS. EHRLICH: No, Your Honor.

11 Do we need to talk about charges at all?

12 THE COURT: I'm sorry. What?

13 MS. EHRLICH: Do you want to handle the charges
14 now? I don't have any special requests for the charge.

15 THE COURT: I mean y' all looked at it yesterday,
16 didn't you?

17 MS. EHRLICH: No.

18 MR. FINCH: No, we didn't look at it.

19 THE COURT: You didn't? I thought you did.

20 MR. FINCH: No, sir.

21 THE COURT: All right. Come take a look at it.
22 Have y'all got any requests?

23 (WHEREUPON, a bench conference was had off the
24 record.)

25 THE COURT: Bring us the jury, please.

1 (WHEREUPON, the jury entered the courtroom at
2 approximately 12:52 PM.)

3 THE BAILIFF: All present, Your Honor.

4 THE COURT: Thank you very much.

5 Solicitor?

6 MR. WARING: Thank you, Your Honor. May it
7 please the Court?

8 CLOSING ARGUMENT BY MR. WARING:

9 Respect and responsibility. At the beginning of the
10 trial I mentioned those words because that's what this case
11 is about. This Defendant was caught on top of the Ravenel
12 Bridge masturbating in public in broad daylight. With that
13 act he had a total lack of respect for the laws and for the
14 law-abiding citizens on the bridge that day. We need to
15 hold him responsible.

16 Now in this short trial you've heard a little bit of
17 testimony. I want to take you back through some of that
18 testimony and discuss what proves the Defendant is guilty
19 of indecent exposure.

20 First up we heard from the victim, Ms. Rebecca Dew,
21 who's sitting in the gallery. You heard her testify that
22 she was on the Ravenel Bridge on Saturday September 15th,
23 2012, and that she saw the Defendant with his penis in his
24 hand and masturbating.

25 You also heard her testify that she had never seen

1 the Defendant before that day, that she doesn't know the
2 Defendant. She has no reason, no motive whatsoever, to
3 concoct a story like that to try to pin it on the
4 Defendant. There's no motive.

5 Next you heard from the witness JoAnne Lewis, who
6 testified that she walked by the Defendant shortly after
7 the victim and she testified that he looked startled as if
8 she had just caught him doing something while his hands
9 were in his lap.

10 Well I would argue to you that they did catch him
11 masturbating and that's why he looked startled and that's
12 why he looked wide-eyed.

13 You heard testimony from the police officers, Mount
14 Pleasant Police Department, testified that they scoured the
15 entire Ravenel Bridge and didn't find any other people that
16 matched the Defendant's description of a tall black man
17 with a white shirt and dark pants walking a bike. There
18 was nobody else on the bridge that matched that
19 description.

20 You also heard them testify about having to chase the
21 Defendant after repeatedly telling him and commanding him
22 to stop.

23 Lastly you have the Defendant who ran from the
24 police, and not only ran, but in order to evade capture
25 risked his life by jumping over the guardrail into oncoming

1 traffic on a Saturday on a highly traffic [sic] bridge, the
2 Ravenel Bridge. He risked his life.

3 You know often times the simplest explanation is the
4 best. In this case I think that holds true. He ran
5 because he had been caught masturbating on the bridge and
6 he knew the game was up. That's why he ran. There's no
7 other elaborate explanation. There's no conspiracy. He
8 ran because he knew he was caught and he didn't want to get
9 arrested.

10 Now earlier in the trial I also mentioned to you the
11 elements of indecent exposure and what the State has to
12 prove in order to find him guilty beyond a reasonable
13 doubt. The State has to prove that he willfully,
14 maliciously, and indecently exposed his person in a public
15 place.

16 Well he was caught masturbating on the Ravenel
17 Bridge. The Ravenel Bridge is a public place. He was
18 exposing his person. That is by definition indecent
19 exposure.

20 Now when you go back to the jury room, I want you --
21 I want to challenge you to use your common sense on this
22 and think about the testimony. I'm asking you to return a
23 verdict of guilty for indecent exposure for the Defendant
24 and hold him responsible for his actions. Thank you.

25 THE COURT: Yes, ma'am?

1 CLOSING ARGUMENT BY MS. EHRLICH:

2 Mr. Willis was at the wrong place at the wrong time
3 around the wrong people. And now he's sitting at this
4 table falsely accused. The police wanted to make an
5 arrest. They relied on the the statement of a woman who
6 testified. She was absolutely shocked by what she saw.
7 And they failed to really investigate this case.

8 According to Officer Goode they had stopped Jerome
9 Willis about an hour before they got a call about the man
10 on the bridge. They had suspected him of some sort of
11 stolen property and they had to let him go. When the call
12 comes back an hour later with a description of a black male
13 on the bridge, their minds go directly to Jerome Willis,
14 the man that they had just had an encounter with about an
15 hour before. And they go straight to him. They do not
16 hesitate to stop him.

17 And when the police had just been bugging him an hour
18 before and they come back and you're a young black man in
19 Charleston County, you know you're going to jail when they
20 stop you. So he runs. And we don't dispute that he ran.
21 This isn't a resisting arrest trial. This is about what
22 happened on the bridge.

23 But you know what is important about the running is
24 that Rebecca Dew saw him run and JoAnne Lewis saw him run.
25 And to them running meant guilt. They didn't have any idea

1 that he had contact with the police an hour before.

2 Let's talk a little bit about the identification that
3 happened in the case. There are certain safeguards that
4 you put in place to make sure that they are not suggestive
5 to a witness. Officer Goode didn't seem to know about
6 them, or didn't want to remember them, or didn't want to
7 tell you about them, but they exist.

8 And in this case Mr. Willis was handcuffed by police
9 cars and right next to a police officer he was identified.
10 But the stop -- them stopping him is based on this very
11 generic description. Where is the detail? How long was
12 his hair? What was his skin tone? You cant just go, He's
13 a black man. What about facial hair? Eyes, nose, mouth,
14 age, details. How tall was he? How much did he weigh?
15 And where is the description of the bicycle?

16 Why aren't there any details? Because the witness
17 doesn't have any details. She didn't get a good look. She
18 testified that she was absolutely shocked by what she saw,
19 that her number one priority was getting out of there, that
20 she couldn't get away fast enough. And she told you that
21 she immediately turned around and walked away with her
22 friend.

23 No threats were -- happened. There were no words
24 exchanged. This was not a long encounter. This was very
25 short, very quick amount of time. So there are no details.

1 All she's able to tell the police is, Black male, white
2 shirt, dark pants, maybe -- I think Officer Goode said
3 tall. Well Jerome Willis is black and, yeah, he was
4 wearing a white shirt and some dark pants. Very common
5 clothing, white shirt, dark pants. You see it every day.
6 Bicycle, multiple people on the bridge with bicycles. So
7 it would not be uncommon to see somebody on a bicycle.

8 What I think is interesting is that none of the
9 witnesses in the trial made a big deal about the tall
10 comment. You guys have been here now I think three days on
11 a trial that probably lasted just about an hour with
12 testimony. And every time you come in the courtroom you
13 see Jerome Willis stand up. He's not just tall. He is
14 really tall. He is basketball player tall. And you didn't
15 hear anybody say, I know it was him. His height stood out
16 to me. He was -- it's unmistakable. I, you know, I looked
17 at him and that guy was so tall I could never misidentify
18 him. You did not hear that from any of the witnesses. And
19 that just doesn't make much sense.

20 And we know that Rebecca Dew lost sight of the person
21 on the bench at one point. She says that it was minutes,
22 that she was walking down the bridge towards the city. At
23 some point a black male reappears behind her and she
24 assumes that that black male is the same person that she
25 saw on the bench. She's wrong. She was in an adrenalin-

1 filled situation. She had very little information to go
2 by. She wanted to get out of the situation very quickly.
3 And she just sees a black male and she thinks it's the same
4 person.

5 If all this really happened and she saw what she says
6 she saw, there were two black males on the bridge that day.
7 One guy on a bench, who after getting caught would have
8 gone to Mount Pleasant. He wouldn't follow the victim. He
9 wouldn't go towards her where the police were surely going
10 to be called to. That guy is gone. In the amount of time
11 it took for her to walk down the bridge towards the city,
12 find somebody with a phone, make the phone call, give the
13 description to the police, wait for them to get there, that
14 is plenty of time for the person on the bench to walk all
15 the way towards Mount Pleasant and somebody else to be
16 crossing the bridge. The somebody else is Jerome Willis.
17 That's the person that reappears behind them.

18 You heard a little bit of testimony from JoAnne Lewis
19 who said that she was walking on the bridge around the same
20 time. She couldn't tell you -- give you any testimony
21 about a person masturbating on the bridge. She didn't see
22 that. She didn't see that. She didn't give a statement to
23 the police that we heard about during the trial. She
24 didn't make an identification to the police that we heard
25 about during the trial. She runs into Rebecca Dew at some

1 point and they see this guy coming and they assume it's the
2 same person they had seen before, but they're wrong.

3 I'm not saying that they're trying to railroad Mr.
4 Willis, but they did make a mistake. And the
5 identification in court of Ms. Lewis of Mr. Willis, I
6 didn't ask many questions about it. I mean it's almost
7 ridiculous to ask at this point when there was no
8 identification by her before. Do you see the person in the
9 courtroom? There's only one black male sitting at the
10 defense table. She's going to identify Mr. Willis.

11 A couple other troubling things about this case. How
12 about when Ms. Dew decided that her friend didn't need to
13 be a part of this case. I'm sorry, but it's just not up to
14 her who gets to be a part of the case. She decided to cut
15 her out of the case. She didn't give the police that
16 person's name and it's not her job to decide what's
17 important or what's not important. And the State didn't
18 find that witness. And the police didn't find that
19 witness. And nobody interviewed that witness. We don't
20 even know that person's name.

21 What does matter is that Ms. Dew did give a fake name
22 to the police. The police testified, it was Officer Goode,
23 that they went out of their way to leave her anonymous in
24 the initial police report, that they agreed to do that.
25 But she still gave them a fake name. In you want to give

1 her the benefit of the doubt and say that it's because she
2 was scared and frazzled by the situation, that's fine. But
3 if she was scared and frazzled enough to give the police a
4 fake name, is she really sure of what she saw? Maybe she
5 overreacted. Maybe she saw somebody who creeped her out,
6 but maybe she didn't really see what she says she saw.

7 This case is really about people jumping to
8 conclusions. It's about the description, black male. But
9 the real person who did this, if this happened, walked back
10 to Mount Pleasant or rode back to Mount Pleasant, because
11 he's not sitting at that table. Jerome Willis wasn't that
12 guy.

13 THE COURT: Mr. Foreman, ladies and gentlemen of
14 the jury, I'll give you a copy of these instruction in
15 written form and during your deliberations you may refer to
16 the instructions to guide your decision making. You must
17 consider the instructions as a whole and not follow some
18 and ignore others. Please return the instructions, Mr.
19 Foreman, to the Court after you've reached a verdict.

20 The Court's permitted some of you to take notes
21 during the course of this trial. You have not been
22 obligated to take notes, but if you've taken notes they
23 should be used only as memory aids. You should not give
24 your notes preference over your independent recollection of
25 the evidence. If you chose not to take notes, you should

1 rely on you own independent recollection of the proceedings
2 and you should not be influenced by the notes of other
3 jurors. Emphasize that notes are not entitled to any
4 greater weight than the recollection and impression of each
5 juror as to what the testimony may have been. These notes
6 are your notes. You may destroy them yourself or the Court
7 will destroy them for you.

8 I instruct you and emphasize that the fact that the
9 Defendant did not elect to testify on his own behalf is not
10 a factor to be considered by you in any way in your
11 deliberations and your consideration on the question of the
12 guilt or the innocence of the Defendant. It must not be
13 considered by you in any manner whatsoever.

14 A defendant has the constitutional right to remain
15 silent. An assertion of this right must not be considered
16 by you in your deliberations. I repeat, under your oath
17 you are to draw no conclusion whatsoever from the fact that
18 the Defendant in this case did not testify. The fact that
19 this Defendant did not testify, should not even be
20 discussed in the jury room.

21 The burden of proof, as I stated to you, is on the
22 State. The Defendant is not required to prove his
23 innocence. The burden of proof remains on the State to
24 prove guilt beyond a reasonable doubt.

25 The Defendant has pled not guilty to these

1 indictments, which places the burden on the State to prove
2 the Defendant guilty. A person charged with committing a
3 criminal offense in South Carolina never is required to
4 prove himself innocent. I charge you as a vital important
5 rule of law that a defendant in a criminal trial, no matter
6 what the seriousness of the charge may be, must always be
7 presumed to be innocent until his guilt has been proven
8 beyond a reasonable doubt.

9 This presumption of innocence remains with the
10 defendant at all times from the moment he appears in this
11 court, throughout the trial, until you, the jury, reach a
12 verdict of guilt beyond a reasonable doubt based on the
13 testimony and evidence which has been presented. This
14 presumption of innocence is a substantial right to which
15 every defendant is entitled, unless until you reach a
16 verdict of guilt beyond a reasonable doubt.

17 If you, the jury, do not find the Defendant guilty
18 beyond a reasonable doubt, it's your duty to acquit the
19 Defendant.

20 Now what is reasonable doubt? A reasonable doubt is
21 the kind of doubt that would cause a reasonable person to
22 hesitate to act. The State has the burden of proving the
23 Defendant guilty beyond a reasonable doubt.

24 Some of you may have served as jurors on civil cases
25 where you were told it's only necessary to prove a fact is

1 more likely true than not, such as the greater weight of
2 the evidence or a preponderance of the evidence.

3 In criminal cases the State's proof must be more
4 powerful than that. It must be beyond a reasonable doubt.
5 Proof beyond a reasonable doubt is proof that leaves you
6 firmly convinced of the defendant's guilt. There are very
7 few things in this world that we know with absolute
8 certainty and in criminal cases the law does not require
9 proof that overcomes every possible doubt. If based on
10 your consideration of the evidence, you're firmly convinced
11 that the Defendant is guilty of the crime charged, you must
12 find the Defendant guilty.

13 On the other hand, if you think there's a reasonable
14 possibility that the Defendant is not guilty, you must give
15 the Defendant the benefit of the doubt and find the
16 Defendant not guilty.

17 There are two types of evidence generally presented
18 during a trial, direct evidence and circumstantial
19 evidence. Direct evidence is the testimony of a person who
20 claims to have actual knowledge of a fact, such as an
21 eyewitness. It is evidence which immediately establishes
22 the main fact to be proved.

23 Circumstantial evidence is proof of a chain of facts
24 and circumstances indicating the existence of a fact. It
25 is evidence which immediately establishes collateral facts

1 in which the main fact may be inferred. Circumstantial
2 evidence is based on inference and not on personal
3 knowledge or observation.

4 The law makes absolutely no distinction between the
5 weight or value to be given to either direct or
6 circumstantial evidence, nor is a greater degree of
7 certainty required of circumstantial evidence than of
8 direct evidence. You should weigh all the evidence in the
9 case. After weighing all the evidence, if you're not
10 convinced of the guilt of the Defendant beyond a reasonable
11 doubt, you must find the Defendant not guilty.

12 The evidence or lack of evidence in which you are to
13 decide the facts include the following: the sworn testimony
14 of the witnesses both on direct and cross-examination,
15 regardless of who called the witness; the exhibits that
16 have been received into evidence by the Court and any facts
17 agreed or stipulated to by all the lawyers.

18 The following things are not evidence and you may not
19 consider them in deciding the facts. Arguments and
20 statements made by the lawyers are not evidence. The
21 lawyers are not witnesses. Their opening statements,
22 closing arguments, and other statements are intended to
23 help you interpret the evidence, but it's not evidence. If
24 the facts, as you remember them, differ from the lawyer's
25 statement, your memory controls. Questions and objections

1 by the lawyers are not evidence.

2 Lawyers have a duty to their client to make
3 objections when they believe a question is improper under
4 the rules of evidence. You should not allow any objection
5 or the Court's ruling on the objection to influence you.

6 Testimony that's been stricken, in which you have
7 been instructed to disregard, is not evidence and must not
8 be considered. Anything you may have seen on the
9 television, read in the newspaper or on the Internet; or
10 heard from others when court was not in session is not
11 evidence. You should base your decision solely on the
12 sworn testimony of the witnesses and exhibits received into
13 evidence by the Court and any facts agreed or stipulated to
14 by the attorneys.

15 The fact the Defendant was arrested, charged, and
16 indicted in this case is not evidence and cannot be
17 considered as evidence of guilt, nor to create any
18 presumption or inference of guilt. The indictment is
19 simply the formal written instrument which contains the
20 charges made against the Defendant.

21 An issue in this case is identification of the
22 Defendant as the person who committed the crime charged.
23 The State has the burden of proving identity beyond a
24 reasonable doubt. You must be satisfied beyond a
25 reasonable doubt of the accuracy of the identification of

1 the Defendant before you may convict the Defendant.
2 Identification testimony is expression or belief or
3 impression by a witness. You must determine the accuracy
4 of the identification of the Defendant. You must consider
5 the believability of each identification witness in the
6 same way as any other witness. You may consider whether
7 the witness had an adequate opportunity to observe the
8 Defendant at the time of the offense. This could be
9 affected by things like how long or how short of time is
10 available, how far or how close the witness was, the
11 lighting conditions, whether the witness had the chance to
12 see or know the person in the past.

13 Once again I instruct you, the burden of proof on the
14 State extends to every element of the crime charged and
15 this specifically includes the burden of proof beyond a
16 reasonable doubt the identity of the Defendant as the
17 person who committed the crime. If after examining the
18 testimony, you have a reasonable doubt as to the accuracy
19 of the identification, you must find the Defendant not
20 guilty.

21 Attempts to run away may be considered as evidence of
22 guilt, knowledge, and intent. To find that Defendant was
23 in flight, you must find beyond a reasonable doubt that the
24 Defendant departed with a consciousness of guilt in order
25 to avoid arrest from the crime with which he is charged.

1 If after a consideration of all the evidence you find
2 beyond a reasonable doubt that the Defendant was in flight,
3 then this flight is a circumstance which you may consider
4 with all the other evidence in this case in determining the
5 question of the Defendant's guilt.

6 However, if you have a reasonable doubt that the
7 Defendant was not in flight, then the fact the man --
8 departure is not circumstances for you to consider.

9 Under our constitution and code of laws, only you,
10 the jury, can make findings of fact in this case. I am not
11 permitted to indicate to you how I may feel about the
12 testimony and evidence which has been presented.
13 Throughout this trial it's been my intention to be fair and
14 impartial towards each of the parties involved.

15 Necessarily you must determine the credibility of
16 witnesses who have testified in this case. Credibility
17 simply means believability.

18 It is your duty as jurors to analyze and evaluate the
19 evidence and determine which evidence convinces you of its
20 truth. As you decide whether or not to believe a witness's
21 testimony about an event, you may consider the following:
22 the manner and appearance of the witness while on the
23 witness stand. Was he or she straightforward or hesitant
24 in answering? The testimony of a witness; was it
25 consistent or inconsistent? How the witness came to know

1 the facts that he or she testified to; was the witness
2 present during the incident? Did the witness happen on the
3 scene after the incident occurred? The reason the witness
4 would want to give testimony which would help or hurt; has
5 the witness exhibited to you any interest, bias, or
6 prejudice or other motive in this case?

7 Thus you may consider whether a particular witness
8 may gain some reward, payment, personal advantage, or
9 vindication for his or her testimony. The strength of the
10 testimony of the witness; was the testimony of the witness
11 strengthened or weakened by other testimony or evidence?
12 The duration and length of time between the incident and
13 when they were reported; would the duration or length of
14 time weaken or strengthen the memory of the witness? All
15 prior statements made by the witness; were the prior
16 statements made by the witness consistent or inconsistent
17 with the witness's testimony?

18 In determining the believability of witnesses who
19 have testified you may believe one witness over several or
20 several over one. You may believe a part of the testimony
21 of a witness and reject the remaining part of the testimony
22 of the same witness. You may believe the testimony of a
23 witness in its entirety or reject the testimony of a
24 witness in its entirety.

25 The same constitution and laws which designate and

1 make you the finders of fact, make me the sole instructor
2 of the law. It's my duty to charge you the law applicable
3 to this case and it's your duty as jurors to accept and
4 apply the law as I now state it to you. The lawyers are
5 not the instructors of the law. You must accept the law
6 and apply the law exactly as I stated it to you. You must
7 not base your decision making on your idea of what the law
8 is or what you think the law should be.

9 The Defendant is charged with indecent exposure. The
10 State must prove beyond a reasonable doubt that the
11 Defendant willfully, maliciously, and indecently exposed
12 his private parts in a public place on property of others
13 in the view of any person on a street or highway.

14 Willfully means that the act is not done by accident,
15 but it's done knowingly, consciously, and of a stubborn
16 purpose. Maliciously means that the act was done with
17 wicked or mischievous intentions or motives, wrongfully and
18 intentionally, without just cause or excuse. Indecent
19 means offensive, immodest, grossly vulgar, obscene,
20 unseemly, unbecoming, unfit to be seen or heard.

21 You've been selected as fair and impartial jurors,
22 sworn to impartiality to try and determine the facts of
23 this case. When you comply with your oath to do so, no one
24 will have the right to criticize your verdict. You will
25 have fully discharged your duty as jurors. You decide this

1 case according to the testimony that you have heard from
2 the lips of the sworn witnesses, along with the other
3 evidence introduced.

4 I charge you as jurors you must make your decision in
5 this case without bias and without prejudice to any party
6 and not allow yourself to be governed by sympathy,
7 prejudice, passion, public opinion, or any other arbitrary
8 factor. Both the State and the Defendant have the right to
9 expect that each of you will carefully and impartially
10 consider all the evidence in this case and will follow the
11 law as I explained it to you.

12 Nothing I may have said or done during the course of
13 this trial has been in any way intended to express a view
14 of the case or opinion as to the facts, the weight of the
15 evidence, the credibility of the witnesses. If you believe
16 any of my actions or words have indicated otherwise, you
17 must disregard such and form your own view of this case,
18 your own opinion, as to the facts, weight of the evidence,
19 or the credibility of the witnesses.

20 Now, Mr. Foreman, ladies and gentlemen of the jury, I
21 would tell you that your verdict has to be unanimous. All
22 12 of you have to agree. I would ask you to respect each
23 other's opinions, reevaluate your opinions if you think
24 it's necessary. If you don't, don't reevaluate your
25 opinions. It's a give-and-take process. It's a

1 collective-reasoning process and a collective decision on
2 your part.

3 And, Mr. Foreman, I have the indictment here. And on
4 the back down here at the bottom has, Verdict. After you
5 have unanimously reached a verdict of guilt or not guilty
6 just write below where it says verdict guilt or not guilt
7 -- guilty, just right below where it says, Verdict, guilty
8 or not guilty. There's a place for you to sign and date
9 today. And I will submit this back to you to record your
10 verdict either guilty or not guilty.

11 And I'm going to ask you to go to the jury room. You
12 may take your note pads with you; however, do not start
13 your deliberations until the Court or the bailiff brings
14 you all the exhibits and instruct you to begin your
15 deliberations. I may have to bring you back and charge
16 something else. I may have to take something away from
17 what I charged.

18 And, Mr. Scott, Ms. Canali, if y'all would just keep
19 your seats while the jury goes to the jury room.

20 If you'll follow the bailiff, please.

21 (WHEREUPON, the jury exited the courtroom at 1:20 PM.)

22 THE COURT: All right. Any exceptions to the
23 charge from the State?

24 MR. WARING: No, Your Honor.

25 THE COURT: Any from the Defendant?

1 MS. EHRLICH: No, Your Honor.

2 THE COURT: All right. If y'all would come
3 forward. There's no exhibits. Okay.

4 (Pause.)

5 THE COURT: We don't have any exhibits. Tell
6 them they can begin their deliberations. We'll stand at
7 ease until we get the verdict.

8 Do the two alternates want to step out in the hall?

9 (WHEREUPON, the jury was instructed to begin their
10 deliberations at approximately 1:28 PM and the alternates
11 were excused.)

12 THE COURT: Would you bring us the jury, please?

13 THE BAILIFF: Yes, sir.

14 (WHEREUPON, the jury enters the courtroom at
15 approximately 2:50 PM. Court's exhibits numbers 1 and 2,
16 notes from the jury, were marked and made a part of the
17 record.)

18 THE COURT: All right. Madam Clerk, if you'll
19 publish the verdict, please.

20 THE CLERK: Indictment 2012-GS-10-7267,
21 indictment for indecent exposure for Jerome Willis. The
22 jury finds the Defendant, Jerome Willis, guilty. Signed
23 foreperson, William Paggi.

24 Mr. Foreman, ladies and gentlemen of the jury, if
25 this is your verdict, please raise your right hand.

1 THE COURT: All right. Let the record reflect
2 that all 12 jurors have raised their right hand.

3 Anything from the State for the jury?

4 MR. WARING: No, Your Honor.

5 THE COURT: Anything for the defense?

6 MS. EHRLICH: Your Honor, we ask that the jury be
7 polled.

8 THE COURT: All right. Madam Clerk, would you
9 poll the jury, please, ma'am?

10 (WHEREUPON, the jury was polled.)

11 THE CLERK: Your Honor, the jury's been polled
12 and the verdict stands.

13 THE COURT: Do you have a sentence sheet?

14 MR. WARING: No, Your Honor. Can I go run get
15 one real quick?

16 THE COURT: Why don't you have a sentence sheet?

17 MR. WARING: Your Honor, I didn't want to count
18 my chickens before they hatched.

19 THE COURT: Okay. All right.

20 Solicitor, what's his prior criminal record? Do you
21 have his rap sheet?

22 MR. WARING: Yes, Your Honor. Court's
23 indulgence.

24 (Pause.)

25 MR. WARING: Did you want to see it, Your Honor?

1 THE COURT: No, I want you to tell me what it is.

2 MR. WARING: Your Honor, he's got a 1998 burglary
3 third; and 1999 grand larceny and burglary third, looks
4 like three counts; 1998, receiving stolen goods; 1999,
5 shoplifting; 1999, receiving stolen goods; 2001, indecent
6 exposure.

7 THE COURT: 2001, indecent exposure?

8 MR. WARING: Yes, Your Honor.

9 THE COURT: Okay. What was the sentence on that?

10 MR. WARING: You've got 30 days, had to pay a
11 \$400 fine.

12 THE COURT: All right. Go ahead and read the
13 rest of it.

14 MR. WARING: Driving under suspension in 2001; a
15 2002 property crime enhancement; 2003, burglary second
16 degree; 2005, burglary second degree; 2003, grand larceny;
17 2008, driving under suspension; 2008, failure to stop for a
18 blue light; 2009, receiving stolen goods; 2009, financial
19 transaction card fraud; 2011, driving under suspension
20 second; and that's it, Your Honor.

21 THE COURT: So the only thing he had was the one
22 indecent exposure?

23 MR. WARING: Yes, Your Honor.

24 THE COURT: Well have you had -- is there
25 anything from the sexual standpoint that's been dismissed,

1 not a conviction?

2 MR. FINCH: There's a 2011 indecent exposure and
3 a voyeurism.

4 THE COURT: What happened to that charge?

5 MR. FINCH: The voyeurism was dismissed as part
6 of a plea deal that included receiving stolen goods in
7 2012.

8 THE COURT: So that was dropped when he pled to
9 the receiving stolen?

10 MR. FINCH: Yeah, the second charge that he pled
11 to the receiving stolen.

12 THE COURT: Okay.

13 MR. FINCH: I do not -- it's a magistrate charge
14 it looks like for the 2011 indecent exposure. That's out
15 of the City and I don't have a disposition on this sheet.

16 THE COURT: When was this?

17 MR. FINCH: It's 2000 --- this was actually 2012,
18 Your Honor.

19 THE COURT: 2012. What was the City charge?

20 MR. FINCH: 2011. And it was -- it had another
21 charge of entering after warning. It's no disposition on
22 either one of those charges.

23 THE COURT: Okay. All right.

24 Ms. Ehrlich, as I told you before, I'm going to have
25 him evaluated by a doctor first, okay? Now you're going to

1 have to talk to Mr. Pennington and see how we can get some
2 funds to have that done before I sentence him. If you'll
3 talk to Mr. Pennington, get with me next week, and we'll
4 sign whatever order is necessary to get him evaluated by
5 Dr. Burke. I want him to make an evaluation as to whether
6 or not ---

7 MS. EHRLICH: Your Honor, can I be heard on that?

8 THE COURT: Yeah, I'll be glad to hear you, but I
9 -- I told you before when we were talking about how to work
10 it out I was going to do that whether it was a plea or
11 whether it was a guilty plea.

12 MS. EHRLICH: I understand, Your Honor. I have a
13 couple concerns about ordering an evaluation. One is
14 obviously he denies the action. And when he's going
15 through an evaluation process and he's being questioned, I
16 think that's going to be held against him.

17 THE COURT: I'm not asking for counseling. I
18 just want an evaluation, okay? I think you're correct if
19 he was going into counseling the first thing he'd have to
20 do is admit he did something wrong. But I still want to
21 have him evaluated by Dr. Burke before I sentence him.

22 MS. EHRLICH: All right.

23 THE COURT: Okay..

24 MS. EHRLICH: I understand, Your Honor. I just
25 think I have to put this on the record for my client's

1 benefit. I think at this point he's maintained his
2 innocence. He's exercised his right to remain silent. By
3 ordering him to undergo an evaluation and provide the Court
4 with potentially information that can be used against him,
5 I think would violate his rights. I understand the Court's
6 position, but I do want to place that on the record.

7 THE COURT: All right. I'm going to order an
8 evaluation. Get with Mr. Pennington so we can sign
9 whatever order to get the funds to pay Dr. Burke for having
10 that done. Okay?

11 MS. EHRLICH: I'll talk to Mr. Pennington.

12 THE COURT: All right. Is there anything else
13 that anybody needs as far as the jury is concerned?

14 MS. EHRLICH: No, Your Honor.

15 THE COURT: All right. Mr. Foreman, members of
16 the jury, I want to thank you very much for your service
17 this week. Who needs a letter from the Clerk for their
18 employer? Anyone?

19 All right. Are you going to give it to them here or
20 let them go downstairs?

21 THE CLERK: I can give it to you now.

22 THE COURT: All right. But thank you so very
23 much for your service. You're excused from service this
24 week. Have a good weekend. If you want your letter just
25 hang around. Mr. Foreman, she'll get it for you right now.

1 Does anybody else need a letter for their employer?

2 (No response elicited.)

3 THE COURT: All right. Thank you so very much.

4 (WHEREUPON, the jury was excused at approximately
5 3:00 PM.)

6 THE COURT: All right. Here are some notes that
7 I want you to read and I'm going to give you ten days to
8 file whatever motions you need. I want you to read these
9 notes because you may want to include those in your new
10 trial motion. Okay. I responded to them and I thought it
11 was a proper response, but they were wanting the police
12 report and exhibits. There were no exhibits.

13 MR. WARING: Right.

14 (The Court showed Court's exhibits numbers 1 and 2 to
15 attorneys.)

16 THE COURT: So I'll give you ten days to file
17 whatever written motions you want to file.

18 MR. FINCH: So he has to stay in custody until
19 you sentence him?

20 THE COURT: Pardon?

21 MR. FINCH: He has to stay in custody?

22 THE COURT: Yeah. Did you get me the sentence
23 sheet?

24 Okay. So I'll give you ten days. If you want to
25 include these in any motions feel free to do it. Okay?

1 MS. EHRLICH: All right.

2 THE COURT: I wanted to at least share them with
3 you.

4 MR. FINCH: Thank you very much.

5 (WHEREUPON, the trial was concluded.)

6 ***END OF REQUESTED TRANSCRIPT OF RECORD***

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1 CERTIFICATE OF REPORTER

2 I, the undersigned Missy Brown, Official Court
3 Reporter for the Fourteenth Judicial Circuit of the State
4 of South Carolina, do hereby certify that the foregoing is
5 a true, accurate and complete transcript of record of all
6 the proceedings had and evidence introduced in the hearing
7 of the captioned case as taken by Sharon Vizer and
8 transcribed by me, relative to appeal, in the Circuit Court
9 for Charleston County, South Carolina, on the 5th, 6th, and
10 7th days of June 2013.

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

13 August 10, 2014

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15
16 s/ Missy Brown

17 Court Reporter
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25

State of South Carolina)
County of Charleston) Court of General Sessions
) Ninth Judicial Circuit

State of South Carolina,)
) Plaintiff,)
) vs.)
) Case No. 2012-GS-10-07267
Jerome R. Willis,)
) Defendant.)

August 29, 2013

Charleston, South Carolina

B E F O R E:

The Hon. J.C. Buddy Nicholson, Jr., Judge

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

Richard Waring, Esq.
Attorney for the State

Megan Ehrlich, Esq.
Attorney for the Defendant

Brenda Cooley
Circuit Court Reporter

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(There were no exhibits.)

1 (On Thursday, August 29, 2013, the
2 defendant being present with counsel, the hearing
3 convenes at approximately 10:00 a.m., and the following
4 proceedings were had:)

5 THE COURT: Ms. Ehrlich, I was reading your
6 motion. I was trying to refresh my memory about the
7 case. Is this the case that was on the bridge?

8 MS. EHRLICH: This is the Ravenel --- the
9 Ravenel Bridge, yes, sir.

10 THE COURT: On the bridge?

11 MS. EHRLICH: Yes, sir.

12 THE COURT: Okay. All right. And it was
13 concerning a bicycle?

14 MS. EHRLICH: Yes, sir.

15 THE COURT: There was a bicycle involved?

16 MS. EHRLICH: Yes, sir.

17 THE COURT: Okay. I was just trying to
18 refresh my memory and remember which case it was. Will
19 you tell me briefly about the case so I can refresh my
20 memory.

21 MS. EHRLICH: Your Honor, the allegations
22 were that Mr. Willis was sitting on a bench on the
23 bridge and the accuser was walking by and as she saw him
24 exposing himself to her. She testified at trial. And
25 then there was a second individual ---

1 THE COURT: And there was a police officer
2 that came, came by and...

3 MS. EHRLICH: They had stopped him earlier.
4 And then I believe they called police after ---

5 THE COURT: Okay.

6 MS. EHRLICH: --- they said they saw what
7 they saw. The police came almost immediately. He ran.
8 This is the case where he ran into traffic.

9 THE COURT: He jumped over the ---

10 MS. EHRLICH: Yes, sir.

11 THE COURT: --- the cement wall and got in
12 the traffic lane, right?

13 MS. EHRLICH: Yes, sir, and they identified
14 him on the scene.

15 THE COURT: Well, wasn't one of the issues,
16 if I remember correctly -- I know it was a one-on-one
17 identification on the scene, right?

18 MS. EHRLICH: Yes, sir.

19 THE COURT: And if I remember correctly,
20 didn't the witness testify that the gentleman never left
21 her vision and or she was -- he was in her sight all the
22 time throughout the process, or is that incorrect?

23 MS. EHRLICH: I think that's how the state
24 viewed the testimony.

25 THE COURT: That was what?

1 MS. EHRLICH: I think that's how the state
2 viewed the testimony. We thought that she had said that
3 she lost sight of him at some point but then regained
4 sight.

5 MR. WARING: That's correct, Your Honor. I
6 think she testified that she momentarily lost sight of
7 him but then regained it.

8 THE COURT: So it was just instantaneously,
9 wasn't it, Mr. Waring?

10 MR. WARING: Yes. Yes, Your Honor.

11 THE COURT: All right. Okay. I remember
12 the case. I'll be glad to hear you.

13 MS. EHRLICH: Your Honor, I don't have any
14 further argument on the motion to new trial. My main
15 purpose for requesting the hearing was on the second
16 motion, the motion to reconsider the evaluation that you
17 ordered. So I don't know if you want to rule on the
18 motion for new trial first.

19 THE COURT: I mean, that's fine. Do you
20 want to make any arguments other than what you've
21 written?

22 MS. EHRLICH: No, sir.

23 THE COURT: Okay. Does the state want to
24 make any arguments on the new trial?

25 MR. WARING: Your Honor, it's the state's

1 position that the defendant was given a fair trial and
2 we think the conviction should stand.

3 THE COURT: All right. Reading the motion,
4 it appears you're making a motion for new trial because
5 of the what you call is an improper lineup I.D., it was
6 one-on-one; is that correct, basically a summation of
7 your argument?

8 MS. EHRLICH: Yes, sir.

9 THE COURT: Okay. All right. Based upon
10 reviewing your motion and having tried the case, your
11 motion is denied on a new trial.

12 Now, tell me about the evaluation process,
13 okay? That's very hazy, okay? I remember the occasion,
14 remember the facts, but...

15 MS. EHRLICH: Your Honor, Your Honor after
16 he was convicted ordered that he undergo an evaluation
17 through Dr. Burke.

18 THE COURT: Right.

19 MS. EHRLICH: I think your main reason in
20 ordering the evaluation was to determine whether or not
21 he should have to register as a sex offender. We
22 objected to the evaluation. You indicated you wanted
23 the evaluation still and you asked me to speak to
24 Mr. Pennington about funding.

25 THE COURT: Okay.

1 MS. EHRLICH: When I talked to
2 Mr. Pennington, he did agree that we could get funding
3 approved through Indigent Defense, but another issue
4 came up for us as far as Dr. Burke completing an
5 evaluation. He was involved as a defense expert in our
6 case. Obviously, we didn't use anything that he
7 produced, but our position would be that Dr. Burke would
8 have a conflict in doing an evaluation for the Court.

9 THE COURT: Well, is there someone else you
10 would prefer?

11 MS. EHRLICH: I have an order, Your Honor,
12 if you would like to go forward with the evaluation that
13 MUSC would do.

14 THE COURT: I'm going to go forward with
15 the evaluation, but I'll be happy to change who's going
16 to do the evaluation.

17 MS. EHRLICH: I have an order authorizing
18 funds as well as a petition as to why he is indigent and
19 can get funding through Indigent Defense. I can submit
20 that to Your Honor and then we can schedule the
21 evaluation.

22 THE COURT: Who do you want to evaluate
23 him?

24 MS. EHRLICH: It would be through MUSC,
25 Dr. Dwyer who would do the testing that Dr. Burke does

1 and then Dr. Knight, Susan Knight, would do the
2 interview portion.

3 THE COURT: Does the state have any
4 objection to these folks doing the evaluation?

5 MR. WARING: No, Your Honor.

6 THE COURT: All right. Hand me the order.

7 (Ms. Ehrlich tenders document to the
8 Court.)

9 THE COURT: Have you talked to Indigent
10 Defense about the claim?

11 MS. EHRLICH: I haven't, but Mr. Pennington
12 assured me that that's how we would -- this is how we
13 would go forward with it. I can contact them if you
14 think there might be a problem.

15 THE COURT: Well, occasionally, and I don't
16 know what prompts it, but occasionally they like to be
17 heard on the issue of spending the money.

18 MS. EHRLICH: I can tell Your Honor that
19 we've routinely requested these types of evaluations for
20 our clients, that were hired as defense experts, and we
21 have not had any issue.

22 THE COURT: I mean, because I don't know
23 why sometimes they decide to come in and say, hey,
24 Judge, we don't want you to do this or -- most of the
25 time they don't, but I have seen them do that.

1 MS. EHRLICH: I don't think we've ever had
2 any problem with this type of evaluation, that cost,
3 these doctors. I've used them before.

4 THE COURT: Okay. Do you think the costs
5 are reasonable?

6 MS. EHRLICH: I think it's reasonable given
7 the extensive evaluation they do. It's more expensive
8 than Dr. Burke, but it's also more extensive.

9 THE COURT: Okay. Here's your order.

10 MS. EHRLICH: Thank you, Your Honor.

11 THE COURT: Mr. Waring, anything you have
12 to add?

13 MR. WARING: No, Your Honor.

14 THE COURT: Would y'all let me know when
15 the evaluation comes back and give me a copy of it, and
16 we'll move forward with the sentencing at that time.

17 MS. EHRLICH: Yes, sir.

18 MR. WARING: Yes, Your Honor.

19 MS. EHRLICH: Thank you very much.

20 THE COURT: All right. Thank you.

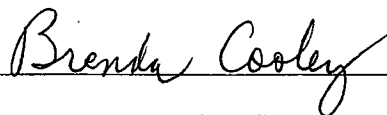
21 (Whereupon, the hearing is concluded at
22 approximately 10:05 am.)
23
24
25

1 CERTIFICATE OF THE COURT REPORTER

2
3 I, the undersigned, Brenda Cooley, Circuit
4 Court Reporter, for the Ninth Judicial Circuit of the
5 State of South Carolina, do hereby certify that the
6 foregoing is a true and accurate transcript of record of
7 the proceedings had and the evidence introduced in the
8 hearing of the captioned case, pages 3 through 9,
9 inclusive, relative to appeal, in the Court of General
10 Sessions for Charleston County, Charleston, South
11 Carolina, on the 29th day of August 2013.

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

14
15
16 October 20, 2014

17
18 

19 Brenda Cooley

20 Circuit Court Reporter
21
22
23
24
25

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON) GENERAL SESSIONS COURT

STATE OF SOUTH CAROLINA)

STATE,)

v.)

TRANSCRIPT OF RECORD
12-GS-10-07267

JEROME R. WILLIS,)

DEFENDANT.)

May 28, 2014
Charleston, South Carolina

B E F O R E :

THE HONORABLE J. C. BUDDY NICHOLSON, JR.,
JUDGE

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

TIMMY FINCH, ESQ.
Assistant Solicitor

MEGAN S. EHRICK, ESQ.
Attorney for Defendant

FRANCES BAKIS-RAY, RPR
Circuit Court Reporter

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Sentence of the Court	16

EXHIBITS

COURT'S:

No.	Description	I.D./EVD.
1	Evaluation from MUSC	5/5

1 THE COURT: Okay, how long has he been in
2 jail?

3 MS. EHRICK: 620 days.

4 THE COURT: 620 days?

5 MS. EHRICK: Yes, sir.

6 THE COURT: I think we've already taken
7 the guilty plea, right?

8 MR. FINCH: Your Honor, this was a
9 conviction at trial.

10 THE COURT: We were delaying sentencing
11 pending evaluation and I've got the evaluation here.
12 I'll mark this as Court Exhibit Number 1.

13 (Court's Exhibit Number 1, MUSC report,
14 was marked and made a part of the record.)

15 THE COURT: I'll be glad to hear from the
16 State on sentencing.

17 MR. FINCH: Thank you, Your Honor. May it
18 please the Court, just to clarify, this is a
19 sentencing on a conviction at a trial you presided
20 over. We did -- prior to the beginning of the trial
21 we had talked about any potential plea offers, and
22 the hangup at that time was sex offender registry,
23 this being an indecent exposure case. At that time
24 you had indicated that you would waive the report
25 from Doctor Burke, and we would proceed with that,

1 whether it was a plea or trial.. After the
2 conviction at trial the sentencing was delayed until
3 Doctor Burke could evaluate the defendant. The
4 Defense raised a conflict with that particular
5 evaluation at which time Ana Gomez, Doctor Ana
6 Gomez -- was from MUSC -- was essentially assigned
7 this evaluation. You are in receipt of the
8 evaluation as is the State and the Defense. The
9 State's position is that although Ms. Gomez is
10 recommending that the defendant not be required to
11 register on sex offender registry, the State feels
12 that he is a risk for future sexual crime and that
13 the community would be served by Mr. Willis
14 registering as a sex offender in Charleston County.

15 Specifically regarding this evaluation,
16 Doctor Gomez did not take into account the facts
17 that led to the conviction of Mr. Willis, the fact
18 that he was masturbating in full view of the public
19 on the middle of the day on Saturday,
20 September 12th. On his phone, although it did not
21 come out at trial because Your Honor was not gonna
22 have that evidence in as it was too prejudicial; but
23 when police arrested Mr. Willis during an inventory
24 search of his person, they took out his phone which
25 had on it displayed at that time pornographic

1 material. He was alleged to have been holding
2 something in his hand and the State's position is
3 that he was looking at that pornographic material on
4 his phone while masturbating in the pedestrian lane
5 of the Ravenel bridge.

6 Your Honor, also the evaluation, the --
7 Doctor Gomez notes that although Mr. Willis doesn't
8 seem to have a particular sexual paraphilia, he does
9 have an anti-social personality disorder and leads
10 to his criminal activities based on opportunity for
11 all intents and purposes. The State's position is
12 that if that were the case and it was just based on
13 opportunity, Mr. Willis would have found a less
14 public space than arguably the most public space in
15 Charleston County, at least the city of Charleston,
16 on a pedestrian bridge in the middle of a September
17 day. He was caught immediately afterwards and
18 arrested and spent time in jail since that arrest,
19 which is September 15th, 2012. Doctor Gomez based
20 this, not including that arrest or conviction I
21 apologize, the conviction on this count, because
22 Mr. Willis passed a polygraph examination; however,
23 throughout her evaluation report she notes that on
24 the Static 99 he's a high risk for reoffending. And
25 in going over some of the other test questions she

1 ---

2 THE COURT: Now part of the thing that she
3 found was that he's anti-social personality that his
4 behavior is more likely -- there's no more likely to
5 be sexual or nonsexual. I mean, she said he'd
6 likely commit another crime because he's antisocial
7 but doesn't necessarily have to be sexual because
8 it's no she found basically -- I'm quoting, she
9 found no underlying sexual pathology. I mean,
10 that's her findings.

11 MR. FINCH: And that's her findings.

12 THE COURT: However, at that point I
13 wasn't sure what she said ---

14 MR. FINCH: She didn't take into account
15 ---

16 THE COURT: What's his criminal history?
17 Quit arguing about the report; you're not a
18 psychiatrist.

19 MR. FINCH: I'm not a psychiatrist.

20 THE COURT: All right, sir, so I got to
21 take what she says at face value so please tell me
22 what his prior record is and tell me about
23 sentencing.

24 MR. FINCH: You want his criminal history
25 or conviction?

1 THE COURT: Pardon?

2 MR. FINCH: His criminal history or his
3 conviction?

4 THE COURT: Yeah, criminal history.

5 MR. FINCH: Starting 1998 he was arrested
6 for burglary third. He was convicted of that
7 burglary third receiving a YOA sentence. 1998,
8 while receiving stolen property receiving, that's
9 two counts of that. Found guilty, he has two
10 burglary thirds, grand larceny, another burglary
11 third, convicted of grand larceny and a burg third,
12 again receiving a YOA sentence 1998, another
13 burglary third from 1999. 1999, shoplifting
14 conviction. 1999, receiving stolen goods, and a
15 revocation of the youthful offender sentence 1999.
16 In 2000 it was an indecent exposure conviction. In
17 2000 he was arrested again for burglary in the first
18 degree. 2001, driving under suspension, convicted
19 of that. 2001, also failure to appear for traffic
20 violation. There's four counts of that, six counts.

21 THE COURT: I'm sorry, what was that?

22 MR. FINCH: Failure to appear, six counts.
23 2001, another DUS, possession of stolen vehicle,
24 unlawful use of a tag, driving under suspension,
25 convicted of that. 2001, parole revocation,

1 property offense, was convicted of that. In 2002,
2 2002, again, arrest for burglary first degree.
3 Again in 2002, another burg first, grand larceny.
4 In 2002 another burglary first arrest, pled to a
5 burglary second; 2003, and was received into prison
6 sentence for grand larceny and burglary.

7 THE COURT: 2003, grand larceny and
8 burglary?

9 MR. FINCH: 2003, burglary, grand larceny
10 second degree. 2004, driving offenses. Another
11 burglary second 2004 and grand larceny.

12 THE COURT: Did he get any time for that?

13 MR. FINCH: He did. He got six years,
14 credit for 293 days and grand larceny.

15 THE COURT: How much time did he serve on
16 that?

17 MR. FINCH: He was given six years. I
18 don't know how much time he actually served in 2004.
19 He was credited with ---

20 THE COURT: What was it, grand larceny?

21 MR. FINCH: That was a burglary second.

22 THE COURT: Probably served two, I don't
23 know.

24 MR. FINCH: Nonviolent.

25 THE COURT: Probably served -- nonviolent,

1 he probably served less than two. Everybody says we
2 don't need to put this on sentencing in this state.

3 MR. FINCH: It'd be easier for us to
4 calculate.

5 THE COURT: Pardon?

6 MR. FINCH: It's be easier for us to
7 calculate at that stage. Possession of stolen
8 vehicle in 2004, driving under suspension 2008 times
9 two; DUS, failure to stop for blue light; in 2008,
10 convicted of failure to stop; DUI third or more,
11 2009 -- or 2008, I'm sorry, 2008; possession of a
12 stolen vehicle, failure to stop for blue lights;
13 failure to appear, receiving stolen goods; another
14 receiving stolen goods. Was convicted of receiving
15 stolen goods and received four years in 2009. Was
16 then arrested for FTC fraud.

17 THE COURT: For what?

18 MR. FINCH: Financial transaction card
19 fraud.

20 THE COURT: Okay.

21 MR. FINCH: Convicted, given one year in
22 2009; convicted of two more DUS's in 2011; arrested
23 for indecent exposure and entering premises in 2011
24 for voyeurism.

25 THE COURT: That was this case, right?

1 MR. FINCH: Pardon me? No, sir, that was
2 a different case. And I can — I can speak to that
3 if you have any questions about it. Failure to
4 appear, 2012.

5 THE COURT: What were the factors on that
6 case in 2011?

7 MR. FINCH: In that case, actually a
8 Charleston police officer arrived to his own, to his
9 home, an apartment complex, went out to walk his
10 dog. He was still in uniform, parked his vehicle,
11 and was walking the dogs behind some of the units
12 and he saw the defendant in the bushes looking into
13 a window with his penis out and exposed. He had
14 used a flashlight to see who it was and stopped him
15 at that point in time. He then asked him what he
16 was doing. The defendant said he was urinating. He
17 looked on the ground to see if there was any wet
18 spot and there wasn't. He looked inside and inside
19 that window was two sleeping children. At that
20 point they took him out front, another officer
21 responded with backup.

22 THE COURT: Do you know the facts of the
23 first indecent exposure?

24 MR. FINCH: That's correct, Your Honor.
25 He was masturbating in a car and I believe near the

1 College of Charleston and a CPD officer walked by
2 and was passing by and saw the defendant
3 masturbating I believe in the driver's seat of the
4 vehicle.

5 THE COURT: All right. Did you supply
6 Doctor Gomez his criminal history or did anybody
7 supply it to her? Was she aware of his criminal
8 history when ---

9 MS. EHRICK: Your Honor, she would have
10 had his criminal history since we provided discovery
11 so all that is in there.

12 THE COURT: But was she ---

13 MS. EHRICK: She was provided with his
14 wrap sheet. 2011 case that Mr. Finch just spoke
15 about was actually not prosecuted so I don't know if
16 she had discovery from that, but she did ---

17 THE COURT: All she had was convictions?

18 MS. EHRICK: She has -- no, she would have
19 had arrests as well, and she also reviewed the
20 police report from the incident where he was in the
21 car. She had that police report.

22 MR. FINCH: But not the 2011 ---

23 THE COURT: What happened to the 2011
24 case? It got dropped or what?

25 MR. FINCH: Your Honor, there was

1 difficulty when it got to trial because it was a
2 witness issue.

3 THE COURT: Pardon?

4 MR. FINCH: It was -- it got dropped as
5 part of a plea deal. At that point in time not
6 knowing that ---

7 THE COURT: I mean, he's got a substantial
8 criminal history, you know.

9 MR. FINCH: At that point in ---

10 THE COURT: He keeps getting out of jail
11 and he gets arrested again. At some point in time
12 y'all need to quit cutting deals with him and put
13 him off the streets.

14 MR. FINCH: I agree, Your Honor, and
15 that's -- the point I'm trying to make is that the
16 doctor is saying he's gonna reoffend and he's just
17 as likely to be sexual/nonsexual or property crime.

18 THE COURT: That's what she says and
19 that's another recommendation.

20 MR. FINCH: Exactly, Your Honor. And
21 accordingly the State would ask he be on sex
22 offender registry to help protect the citizens of
23 the county.

24 THE COURT: Okay, glad to hear you.

25 MS. EHRICK: Thank you, Your Honor. As I

1 said, Mr. Willis has been in jail now 620 days.
2 He — I don't think the fear of him just reoffending
3 in general should put him on the sex offender
4 registry. I get where the State is coming from, but
5 I think you have a very thorough report from Doctor
6 Gomez and she explained the reasons behind her
7 recommendation that he not be required to register.
8 He's been in jail now for a significant period of
9 time. He's been working in the kitchen and the jail
10 the majority of the time that he's been there.

11 THE COURT: How old is he, 31?

12 Mr. Willis, since you turned 18 how many
13 years did you spend in jail how many years did you
14 spend in jail the last ten years?

15 THE DEFENDANT: Most of that ten.

16 THE COURT: Pardon?

17 THE DEFENDANT: Most of that ten.

18 THE COURT: 7, 8 years in the last ten
19 years? I mean, apparently putting you in jail
20 doesn't do you any good. I mean, what's it gonna
21 take to get you to sort of straighten up and get a
22 job and be a productive member of society instead of
23 a menace to society?

24 THE DEFENDANT: Yes, sir. If y'all help
25 me I ---

1 THE COURT: Pardon?

2 THE DEFENDANT: I'm not guilty of every
3 crime that's on my record.

4 THE COURT: Oh, you're not guilty of those
5 crimes, that's your position?

6 THE DEFENDANT: Yes, sir, not every crime
7 that's on my record. And sometimes I take deals
8 just so I can get on about my life.

9 THE COURT: Well, that's not my question
10 to you. My question to you is what's it gonna take
11 till you get off criminal trial, stop committing
12 crimes? What's it gonna take? Apparently jail
13 hadn't done it. Or do you even care? I guess if
14 you're hand anti-social you don't really care one
15 way or the other, do you?

16 THE DEFENDANT: Yes, sir, I care about my
17 life.

18 THE COURT: Well, what's it gonna take?
19 You know, at some point in time you're gonna wind up
20 in jail for 20, 25, 30 years. Somebody sooner or
21 later is going to get you off the streets for a
22 substantial period of time. I can't do it in this
23 case; if I could, I would. I'll be perfectly honest
24 with you. I think you're a menace to society. I
25 can't get you off but for three years in this case.

1 But you're gonna catch some substantial time with
2 your criminal history so it's up to you. Only you
3 can decide, hey, I'm gonna turn my life around.

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And I don't know what it's
6 gonna take. You got to make that decision. I can
7 promise you, if you keep going where you're going
8 you're gonna wind up in jail for a substantial
9 period of time. You'll look at your 85 percent
10 sooner or later. Some of these burglaries, you
11 probably should have got it then. You got anything
12 you want to tell me?

13 THE DEFENDANT: I really don't know what I
14 can say at this point.

15 THE COURT: Pardon?

16 THE DEFENDANT: I really don't know what I
17 can say at this point.

18 THE COURT: All right, glad to hear you,
19 Ms.

20 MS. EHRICK: Thank you, Your Honor. He
21 has been working in the jail in the kitchen pretty
22 much the entire time he's been in jail without any
23 problems. If he had any problems there they would
24 have not allowed him to work. He tells me that when
25 he gets out he's gonna be residing with his mother

1 in north Charleston. He has some possible job
2 opportunities and he does have job skills. At one
3 point ---

4 THE COURT: What kind of job skills does
5 he have?

6 MS. EHRICK: At one point he went to
7 school and got a welding trade. He's not certified
8 right now. He has to go back through the
9 certification process, but he does -- he has the
10 potential to work. And he's also, I think, inside
11 the jail and then also community working restaurants
12 before so he has the -- he has job skills to be able
13 to work in the restaurant industry or maybe for a
14 catering business. He tells me he may be able to
15 work for a roofing company. So he has some skills
16 out there that would allow him to work. As I say,
17 he's been in a significant period of time. I think
18 he's likely maxed out a three year sentence, and we
19 would just ask that you follow the recommendation of
20 Doctor Gomez with regard to registry, Your Honor.

21 THE COURT: All right, Mr. Willis,
22 sentenced to the State Department of Corrections for
23 a period of three years, give you credit for 620
24 days. You'll register as a sex offender when you
25 get out of jail. Thank you very much.

C E R T I F I C A T E O F R E P O R T E R

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

I, FRANCES BAKIS-RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Third Judicial Circuit, do hereby certify that the foregoing proceeding is a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina, this 22d day of September, 2014.

Frances B Ray

FRANCES BAKIS-RAY, RPR

FILED

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
 2013 JUN 14 AM 11:17) FOR THE NINTH JUDICIAL CIRCUIT

COUNTY OF CHARLESTON JULIE J. ARMSTRONG, Clerk of Court
 Warrant: 2012A1010201471
 BY MT Charge: Indecent Exposure

STATE OF SOUTH CAROLINA)

vs.)

JEROME RAYMOND WILLIS.)

Defendant)

MOTION FOR NEW TRIAL

The Defendant, indicted for Indecent Exposure, proceeded to trial before the Honorable J.C. Nicholson on June 6, 2013. The jury returned a verdict on June 7, 2013, finding the Defendant guilty of Indecent Exposure. The Court deferred sentencing pending an evaluation by Dr. William Burke.

Pursuant to Rule 29(a) of the Rules of Criminal Procedure, the Defendant hereby moves for a new trial on the following grounds:

1. The identification of the defendant should have been suppressed.

The identification resulted from unnecessary and unduly suggestive police procedures. Single person show-up identifications are disfavored because they are suggestive by their very nature. Testimony was that police conducted a single person show-up identification in this case. The defendant was handcuffed, standing near a police officer, and there were police cars in the area. The police failed to complete an admonition form with the witness and did not follow their own policies.

In addition, the out-of-court identification was not so reliable that no substantial likelihood of misidentification existed. The witness testified that after seeing the perpetrator, she immediately turned to get her friend and get out of the situation. Her number one priority was getting out of there, not paying attention to the perpetrator. She did not view the person for more than five seconds. The witness testified that she lost sight of the person she believed to have been exposing his penis on the bridge. Her description to police was generic (black male, tall, white shirt, dark pants, bicycle). She did not offer nor did police officers elicit a detailed description prior to an identification being made. Testimony was that she did indicate she was 100 % sure that the person who ran from police was the man

who had exposed himself and the identification was done within a short time period. However, under the totality of the circumstances, the out-of-court identification was not so reliable that no substantial likelihood of misidentification existed. Therefore, the identification should have been suppressed.

2. The defendant's statement to the police should have been suppressed;
3. All defense objections made but overruled during all pre-trial hearings and throughout the trial; and
4. All other defense motions made but denied by the Court during pre-trial hearings and throughout the trial.

WHEREFORE, the Defense respectfully requests this Court order a new trial in this matter.

Respectfully Submitted,



Megan Ehrlich
Assistant Public Defender
Attorney for Jerome Willis

Charleston, South Carolina
Dated: June 14, 2013

FILED
2013 JUN 14 AM 11:17
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

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STATE OF SOUTH CAROLINA

) IN THE COURT OF GENERAL SESSIONS
) FOR THE NINTH JUDICIAL CIRCUIT

COUNTY OF CHARLESTON

) Indictment: 2012GS1007267
) Warrant: 2012A1010201471
Charge: Indecent Exposure

STATE OF SOUTH CAROLINA

vs.

JEROME RAYMOND WILLIS,

Defendant

2013 SEP 17 PM 2:19

JULIE J. ARMSTRONG
CLERK OF COURT

AMENDED ORDER AUTHORIZING FUNDS
FOR THE SERVICES OF AN EXPERT FOR A COURT ORDERED EVALUATION

On August 29, 2013, the Honorable J.C. Nicholson, Jr., Presiding Judge for General Sessions in Charleston County approved up to Five Thousand and 00/100's (\$5,000.00) Dollars to retain the services of Susan Knight, Ph.D., and R. Gregg Dwyer, MD, Ed.D, who are qualified psychologists, for a psychosexual evaluation for the purpose of assisting the Court in the sentencing of the Defendant. A copy of the order is attached.

The Defendant, Jerome Raymond Willis, through the Charleston County Public Defender's Office and its attorney, Megan S. Ehrlich, now moves for an amended order approving up to Six Thousand and 00/100's (\$6,000.00), to retain the services of MUSC Community & Public Safety Psychiatry Division for the aforementioned evaluation.

THEREFORE IT IS ORDERED that the cost of these services shall not exceed a total Six Thousand and 00/100's (\$6,000.00) Dollars without further order from the court. The defense is entitled to seek reimbursement from the Office of Indigent Defense for these expenses pursuant to South Carolina Code § 17-3-50 (B)(C) (1976, as amended).

IT IS FURTHER ORDERED that this order shall be *sealed* with copies provided to defense counsel for the processing of appropriate vouchers.

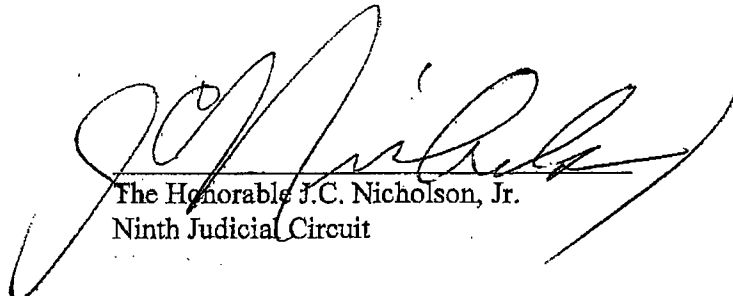
ATTEST: A TRUE COPY

JULIE J. ARMSTRONG (SEAL)

CLERK OF COURT

DEPUTY CLERK

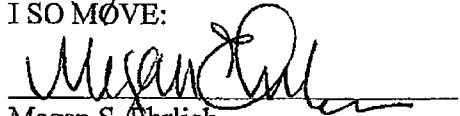
IT IS SO ORDERED.


The Honorable J.C. Nicholson, Jr.
Ninth Judicial Circuit

Charleston, South Carolina

Dated: 9/12, 2013.

I SO MOVE:

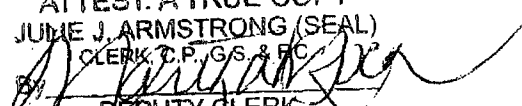

Megan S. Ehrlich
Attorney for Jerome Raymond Willis

BY _____

JULIE J. ARMSTRONG
CLERK OF COURT

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FILED

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JUNE J. ARMSTRONG (SEAL)
CLERK, C.P., G.S. & F.C.

DEPUTY CLERK

FILED

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 STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
 JULIE J. ARMSTRONG
 COUNTY OF CHARLESTON) CLERK OF COURT FOR THE NINTH JUDICIAL CIRCUIT
 BY *[Signature]* Warrant No.: 2012A1010201471
 STATE OF SOUTH CAROLINA,

v.
 JEROME WILLIS,
 DEFENDANT.

**MOTION FOR THE REQUEST OF FUNDS IN AN AMOUNT
 EXCEEDING \$500.00 FOR THE SERVICES OF AN EXPERT TO
 COMPLETE COURT ORDERED EVALUATION**

This matter is before the Court upon the motion of Jerome Willis, for an order pursuant to South Carolina Code §17-3-50(C), and *Ake v. Oklahoma*, 470 U.S. 68 (1985), permitting defense counsel to obtain the services of a qualified expert at State expense to complete the court ordered evaluation. In support of this motion, the Defendant notes the following:

1. The Defendant had been charged with Indecent Exposure;
2. The Defendant is indigent and is currently being represented by Megan S. Ehrlich of the Charleston County Public Defender's Office;
3. The Defendant was found guilty at trial of Indecent Exposure and the Court has ordered the Defendant to participate in a psychosexual evaluation to assist the Court in determining if he shall be required to register as a sex offender;
4. That it is imperative that he see a psychologist to comply with the Court's order that he undergo the evaluation prior to sentencing;
5. The Defense requests the Court approve retaining the services of the MUSC Community & Public Safety Division;

6. That the MUSC Community and Public Safety Division is informed of this request and believes that the cost of these services should not exceed thirty (30) hours at the hourly rate of Seventy-Five (\$75.00) Dollars per hour for testing; Three Hundred (\$300.00) Dollars per hour for test analysis and report on findings; and Two Hundred Fifty (\$250.00) Dollars per hour for records review, interview with the Defendant, and report writing; respectively, for a total amount of Six Thousand and No/100 (\$6,000.00) Dollars.

For all of the foregoing reasons, the Defendant requests that the Court grant this motion.

Respectfully submitted,


Megan S. Ehrlich
Attorney for Jerome Willis

Charleston, South Carolina

September 10, 2013.

BY _____

JULIE J. ARMSTRONG
CLERK OF COURT

2013 SEP 17 PM 2:20

FILED

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
STATE OF SOUTH CAROLINA,)
v.)
JEROME WILLIS,)
DEFENDANT.)

**ORDER AUTHORIZING FUNDS FOR THE
SERVICES OF AN EXPERT FOR A COURT ORDERED EVALUATION**

This motion comes before me in a proceeding as authorized by South Carolina Code of Laws, § 17-3-50 (1976 as amended). Specifically, this Court has ordered the Defendant to undergo a psychosexual evaluation for the purpose of deciding if he shall be required to register as a sex offender after being found guilty at trial of Indecent Exposure. The Defendant is indigent and unable to afford the cost of the evaluation. Therefore, the Defense requests that the Court approve the expenditure of funds for the purpose of the court-ordered evaluation.

The Court has reviewed the Defendant's motion and the applicable law. Based upon the record, the Court concludes that the Defendant is indigent and entitled to have the examination paid for by the State of South Carolina Defense of Indigents Fund.

Accordingly, the Court orders that for purpose of assisting the Court in the sentencing of the Defendant, the services of Susan Knight, Ph.D., and R. Gregg Dwyer, MD., Ed.D., of the Medical University of South Carolina, Department of Psychiatry, Forensics Division, who are qualified psychologists, shall be retained.

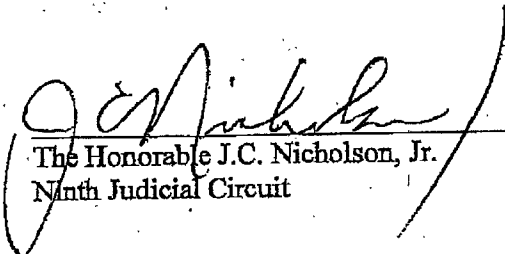
The cost of these services shall not exceed a total of Five Thousand and 00/100 (\$5,000.00) Dollars without further order of this Court. It is specifically found that these expenses are

TEST: A TRUE COPY
LILIE J. ARMSTRONG (SEAL)
CLERK OF, G.S. & F.C.
By [Signature]
DEPUTY CLERK

reasonably and necessarily incurred in the preparation of this case for sentencing by the Court. These expenses shall be paid by the Defense of Indigents Fund pursuant to South Carolina Code of Laws, § 17-3-50 (1976 as amended).

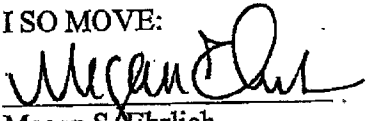
IT IS FURTHER ORDERED that this Order shall be *sealed* with copies provided to defense counsel for the processing of appropriate vouchers.

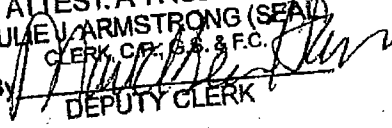
IT IS SO ORDERED.


The Honorable J.C. Nicholson, Jr.
Ninth Judicial Circuit

Charleston, South Carolina
August 29, 2013.

I SO MOVE:


Megan S. Ehrlich
Attorney for Jerome Willis

ATTEST: A TRUE COPY
JULIE V. ARMSTRONG (SEAL)
CLERK, C.F., S.S. & F.C.
By 
DEPUTY CLERK

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2013 AUG 29 PM 4:37
CLERK OF COURT
BY 

FCH20120906824

WITNESSES

Mt. Pleasant Police Department

AGENCY CASE NUMBER

2012P11762

ARREST WARRANT NUMBER

2012A1010201471

DATE OF ARREST

September 15, 2012

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

INDICT

DOCKET NO. 2012GS1007267

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

December Term 2012

THE STATE

vs.

JEROME RAYMOND WILLIS

Indictment for

Indecent Exposure

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)

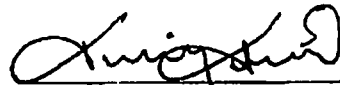
INDICTMENT

At a Court of General Sessions, convened on December 3, 2012 the Grand Jurors of Charleston County present upon their oath:

Indecent Exposure

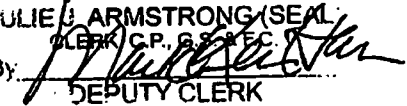
That in Charleston County, South Carolina, on or about September 15, 2012, the Defendant, JEROME RAYMOND WILLIS, willfully, maliciously, and indecently did expose his person in a public place or property of others or to the view of another person on a street or highway; to wit: the defendant did expose himself while at Highway 17 on the Ravenel Bridge, Mt. Pleasant, South Carolina. All in violation of Section 16-15-130 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.



TIMMY FINCH
 ASSISTANT SOLICITOR

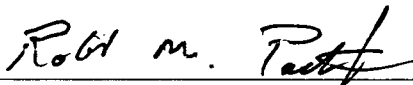
ATTEST: A TRUE COPY
 JULIE J. ARMSTRONG (SEAL)
 CLERK C.P. & S.E.C.

By: 
 DEPUTY CLERK

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

This 22nd day of December, 2014



Robert M. Pachak
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

ORIGINAL

IN THE COURT OF APPEALS

RECEIVED

Appeal from Charleston County

DEC 22 2014

J. C. Buddy Nicholson, Jr., Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JEROME R. WILLIS,

APPELLANT

APPELLATE CASE NO. 2014-001221

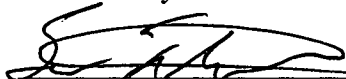
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 22nd day of December, 2014.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 22nd day of December, 2014.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: October 30, 2022