

 ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM COLLETON COUNTY

Brian M. Gibbons, Circuit Court Judge

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JUL 20 2015

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

RODERICK GREENE,

APPELLANT

APPELLATE CASE NO. 2014-002067

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA
2 COURT OF GENERAL SESSIONS
3 COUNTY OF COLLETON
4 2013-GS-15-00720
5

6 State of South Carolina

7 vs.

8 Roderick Greene
9

10

11 Walterboro, South Carolina

12 September 17-18, 2014

13 Before the Honorable Brian Gibbons
14

15 APPEARANCES

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17 For the Defendant: Pro Se with stand-by counsel, Dave
18 Matthews
19

20 Reported by: Mona Manley, (Edited by Michael Watkins)
21 Official Court Reporter
22
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24
25

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PRETRIAL MOTIONS

1 THE COURT: All right. Well good afternoon, ladies and
2 gentlemen. It's now the middle of the week. As I told you
3 Monday when I qualified you, this term of court is for one
4 week, so your jury service will end in two days. However,
5 there is another matter I believe which the parties are
6 ready to try, and I believe -- is the State ready to call
7 the case?

8 MR. EVANS: That is, correct, Your Honor.

9 THE COURT: You may call the call the case.

10 MR. MATTHEWS: Can I say something?

11 THE COURT: Mr. Matthews?

12 MR. MATTHEWS: Your Honor, the jury is here so this is
13 really a difficult time to talk about this. Mr. Greene
14 wants to represent himself but he had matters that he wants
15 to bring up outside the presence of the jury.

16 THE COURT: All right. Well, jury panel, I'll ask that
17 y'all exit outside just for a moment before we proceed to
18 strike the jury.

19 (The jury panel left the courtroom.)

20 THE COURT: All right. The jury panel has cleared the
21 courtroom. All right. Mr. Matthews, what is the situation?

22 MR. MATTHEWS: Your Honor, Mr. Roderick Greene, the
23 defendant's in this case, states he wants to represent
24 himself.

25 THE COURT: Greene?

PRETRIAL MOTIONS

1 MR. MATTHEWS: Greene, G-r-e-e-n-e.

2 THE COURT: Greene.

3 MR. MATTHEWS: And he has matters that he wanted to
4 bring to the Court's attention. I have tried to fashion
5 motions and so forth but he's made it very clear that he
6 wants to do it in his own particular way and I'll let him
7 address the Court.

8 THE COURT: How Long have you been representing Mr.
9 Greene on this charge?

10 MR. MATTHEWS: For about a year now, Your Honor. We've
11 had difficulty communicating all along and I don't -- I
12 never think that it's a good idea for a client to represent
13 themselves, however Mr. Greene has been adamant about this
14 for quite sometime. He's prepared papers and stuff, it's a
15 fairly simple case --

16 THE COURT: What's he charged with?

17 MR. MATTHEWS: Possession of a firearm by someone
18 convicted of a violent crime. But he was charged with two
19 other charges. He was charged with grand larceny of an
20 automobile, which was dismissed, and resisting arrest, which
21 was dismissed, and this is the charge he was left with.

22 MR. EVANS: The resisting arrest was remanded to a
23 local --

24 MR. MATTHEWS: Okay, remanded. So the other two
25 charges were dismissed, this is what we are left with. We

PRETRIAL MOTIONS

1 received a plea offer of 90 days followed by probation, he
2 has rejected that. He does have a witness here, if I were
3 representing him that would be the only witness I would call
4 is the one he has here. There are three or four officers,
5 him and Mr. McCray that is here. There are no witnesses
6 that I would call if I were handling the case. Like I said,
7 it's a matter of probable cause for the search and whether
8 or not the jury believes that the gun belonged to Mr.
9 Greene. And he is --

10 THE COURT: Is he currently in the Colleton County
11 Detention Center?

12 MR. MATTHEWS: He is not, Your Honor.

13 THE COURT: So he made bond and he's out of jail.

14 MR. MATTHEWS: Yes, sir.

15 THE COURT: Okay.

16 MR. MATTHEWS: Like I said, this doesn't appear to be a
17 particular complex case. I said I would be willing to sit
18 here and help him if he would take help him if he wanted it
19 but not just get the case on.

20 THE COURT: So you're willing to be stand-by counsel if
21 I point you as such?

22 MR. MATTHEWS: Yes, sir.

23 THE COURT: All right. Mr. Greene, let me hear from
24 you.

25 MR. GREENE: Your Honor, I don't know how many of these

PRETRIAL MOTIONS

1 motions that I would bring before you right now. I would
2 add to some of the things that Mr. Matthews just commented.

3 THE COURT: You've got to be loud.

4 MR. GREENE: I would address some of the things Mr.
5 Matthews just got through talking about on the motions that
6 he spoke to me about and how that I guess he said that I
7 wasn't willing to take these motions. Your Honor, I can --
8 he's had this case for probably nearly 400 days. He
9 explained to me at 5:30 yesterday that I was supposed to go
10 to trial today. I have only been given notice just then. I
11 have never been arraigned on these charges. This motion to
12 suppress if you were to allow us to go through to the
13 motions right now or I don't know how you want to go do it,
14 and I also have an issue about the jury. He just give me
15 this information about the jury. Monday I was in the office
16 when the jury was qualified, the only problem is that I
17 didn't get to see my attorney, they kind of think that I'm
18 always rude because I'm always trying to speak to him, that
19 is any defendant when you're sitting on a trial or have a
20 case and wants to speak to his attorney. And Mr. Matthews,
21 like I said, he's filed one motion in this case and this is
22 the first time that I have ever seen him file anything in my
23 case.

24 THE COURT: All right. So what motions do you want
25 me --

PRETRIAL MOTIONS

1 MR. GREENE: The motions that he has, that Mr. Matthews
2 has here. If you could just look at it, Judge, to see what
3 he has.

4 THE COURT: You've got to talk up. Come up to the mic.
5 and talk to me.

6 MR. GREENE: Yes, sir. The motion to suppress that Mr.
7 Matthews has here, if you could just look at it.

8 THE COURT: All right. Let me ask you -- first thing,
9 raise your right hand for me.

10 (The defendant was sworn.)

11 THE COURT: All right. Thank you. I've got a couple
12 of questions for you. You can lower your hand. How old are
13 you, Mr. Greene?

14 MR. GREENE: 36.

15 THE COURT: What do you do for living?

16 MR. GREENE: I go to school. I attend Georgetown
17 Technical and I have about five classes before I graduate
18 from business school.

19 THE COURT: Do you have a GED?

20 MR. GREENE: Yes, sir.

21 THE COURT: How long have you had a GED?

22 MR. GREENE: For probably nearly about 20 years.

23 THE COURT: All right. Do you have any history of any
24 mental illness or anything like that?

25 MR. GREENE: No, sir.

PRETRIAL MOTIONS

1 THE COURT: All right. I find you're competent and
2 capable of representing yourself and I'm going to allow you
3 to represent yourself. Do you seek to represent yourself or
4 do you want Mr. Matthews to represent you?

5 MR. GREENE: Well, I would like the guiding hand of
6 counsel.

7 THE COURT: You would like what?

8 MR. GREENE: I would like the guiding hand of counsel.
9 At the crucial stages where I don't know the law anytime he
10 can come in and he can give the Court a clearer view,
11 anytime he can straighten up anything that I would like to
12 legally --

13 THE COURT: Okay. So you want him to be what's called
14 stand-by counsel.

15 MR. GREENE: Yes. I would like for him to help me.

16 THE COURT: Any objection to that, Mr. Matthews?

17 MR. MATTHEWS: No, Your Honor.

18 THE COURT: Any objection by the State?

19 MR. EVANS: No, sir.

20 THE COURT: Let's first address then this motion to
21 suppress. Mr. Matthews, you filed this motion, what are you
22 seeking suppress?

23 MR. MATTHEWS: Actually, Your Honor, I've just drafted
24 it, it has not been filed. I won't say proforma, that's not
25 exactly right, but this was a roadblock. Anytime that you

PRETRIAL MOTIONS

1 have a roadblock there's a question of whether or not it was
2 a legally constitutional roadblock. And the second issue,
3 which I think has more teeth, is whether there was probable
4 cause to get Mr. Greene out of the car. He actually has a
5 witness, Mr. McCray, has him here today, he would testify on
6 that issue if testimony was required by the Court.
7 Otherwise, that would be the fruit of a poisonous tree to
8 suppress the pistol which was taken as a result of what
9 would may be an illegal stop and the defense would argue is
10 an illegal search.

11 THE COURT: All right. Is the State ready to proceed
12 on that issue?

13 MR. EVANS: Your Honor, Chief Long of the Colleton
14 Police Department would be a necessary witness as to the
15 constitutionality of the traffic stop. He is not available
16 today, had a preexisting meeting in Columbia. I've spoken
17 to him on the phone today, he will be here at 8:45 tomorrow
18 ready to proceed and give his testimony as far as the
19 constitutionality. As far as getting Mr. Greene out of the
20 car, I suppose that Officer Cook, who was the one who asked
21 him to step out of the car, is here to give that testimony
22 if you want to bifurcate the motions, it sounds like one
23 motion to me. But we can address that issue I believe
24 without Chief Long.

25 THE COURT: Why don't we do this: Mr. Greene, I

PRETRIAL MOTIONS

1 understand your motion and I think that it's something that
2 I do need to deal with on that motion. What I'm going to do
3 is since I have a whole jury panel here, I'm going to go
4 ahead and draw a jury. Okay. We're not going to start the
5 trial today, I have a matter that I've got to get home to
6 late this evening and that's almost a three hour drive so
7 we're not starting the trial today. We're going to pick a
8 jury and tell them to be back at a certain time tomorrow
9 morning. Before they come back I'll hear arguments and any
10 proffered testimony as to any legal issue you have. If you
11 prevail on those legal issues, you know, we can -- when the
12 jury arrives we can simply turn them around and say that the
13 case is over with. If you don't prevail on that, the jury
14 will be sworn and ready to go.

15 MR. GREENE: So --

16 THE COURT: Yes, sir?

17 MR. GREENE: So it should for any review of another
18 court, sir, dealing with the temporary objection, if the
19 jury was sworn in these objections --

20 THE COURT: I didn't say I was going to swear the jury
21 today, I was just picking the jury.

22 MR. GREENE: Along with that, this is my first time
23 seeing the description of the jury, Your Honor.

24 THE COURT: You said you were here Monday and you --

25 MR. GREENE: Yes, when you qualified them. I didn't

PRETRIAL MOTIONS

1 have any type of talks with my attorney or anything. As far
2 as going through -- I know this is a very, very, very
3 critical part of the process and for those people -- I do
4 only have five strikes and I would like to view and know
5 exactly what I'm dealing with before I just up and pick them
6 as well as consult with counsel.

7 THE COURT: Do you have any proposed voir dire
8 questions of the jury panel, Mr. Greene?

9 MR. GREENE: That's the whole thing about it, I can't
10 because I don't know anything about these people.

11 THE COURT: Do you have anything for him, Mr. Matthews?

12 MR. MATTHEWS: Your Honor, just the standard voir dire
13 and the Court's standard anybody been a victim of violent
14 crimes as violent crime is mentioned or their family, a
15 member of law enforcement, supporting organizations, those
16 are the ones generally asked. I don't have any particular
17 to this case. And as to reviewing the panel, this is all
18 that we ever do for any of the clients. I see no -- it's
19 the Court's pleasure but I see no reason to delay on a jury
20 argument. This is all that my client's ever sees and he was
21 here, the same as I was, to look at the jury panel and got
22 the panel report the same time as I did.

23 THE COURT: All right. Objection noted, Mr. Greene. I
24 overrule your objection and we're going to go forward with
25 voir dire and jury selection today. Any other issue before

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1 we bring the jury panel back in?

2 MR. EVANS: The State has one motion in limine as far
3 as the proof of the element of the fact that he has
4 committed a violent crime in the past. I've spoken to
5 Mr. Matthews and I understand that the defendant is not
6 going to stipulate to jurisdiction. I do have printouts of
7 certified copies of his sentencing sheet and indictment from
8 Georgetown County, I was just hoping to address that today
9 in case Your Honor rules against me and we need to have
10 someone from the Georgetown Clerk's Office come down and
11 testify.

12 THE COURT: Let me go ahead and hear it.

13 MR. EVANS: Thank you, Your Honor. I tracked down this
14 sentencing sheet, it's printed on -- that is actually a
15 different individual -- but this is the defendant, Lamont
16 Brown, aka Roderick L. Greene, sentenced on a charge of
17 armed robbery on April the 30th, 1997 in Georgetown County.
18 I also have his indictment, indictment 96-GS-22-672 from
19 Georgetown County, the State v. Sakena (phonetically) and
20 Lamont Brown, aka Roderick Greene, that is for armed
21 robbery, and that is printed on two pages. It has all been
22 stamped and certified. And this is a printout that I
23 printed from an email of these certified copies from
24 Georgetown. My contention is that there's no best evidence
25 rule and it is a self authenticating document, certified

PRETRIAL MOTIONS

1 copy.

2 THE COURT: I can take judicial notice of it if you
3 show me the document.

4 MR. EVANS: May I approach?

5 THE COURT: Yes, sir. All right. Mr. Greene, you
6 object to the Court having jurisdiction over this charge?

7 MR. GREENE: I object, Your Honor. In the matter -- a
8 few different reasons.

9 THE COURT: Yes, sir.

10 MR. GREENE: First of all, just the comments as far as
11 what he said about my prior bad acts or any record that I
12 might have, I believe that it falls outside of any
13 exception, or doesn't fall within the exception. I was
14 stating from a Lyles perspective is that it has nothing to
15 do with the res justis of this criminal -- crime that
16 occurred here. That would only go to leading to the
17 prosecution to make it seem like I committed the crime.
18 Other objection also would be that as far as my
19 confrontational clause rights, never one time have I been
20 confronted by my accuser in my indictment. I went to the
21 preliminary hearing, my accuser was not present. Chief Long
22 tried to -- well, he did, he testified to a lot of the facts
23 and the Judge, Peter Constantine, he stopped the trial in
24 the middle of it. And before this trial took place they
25 wanted me to plea. I wanted you to understand, Judge, a few

PRETRIAL MOTIONS

1 of those different things about what happened with that,
2 too. Chief Long pulled me back before the charges -- before
3 the preliminary hearing started and he said, "I told you I
4 was going to look out for you, Mr. Greene." He said, "I
5 have a plea for you, an agreement for you. You plead to no
6 jail time, city ordinance and this is over with." I was
7 like, "Well, you got my money, you took all of my money out
8 of my pocket for what reason, you know?" And he said then
9 that he could take the money from me, that it was legal, and
10 he said that he had the law behind him on that. And so he
11 said he asked Mr. Matthews if legally he could take the
12 money and Mr. Matthews told him there was three different
13 reasons he might expound to why he could not to take the
14 money. Getting to the point of what I'm saying is Mr. Cook
15 was not there at the time at my preliminary hearing. The
16 judge rescheduled the preliminary hearing as that other
17 basis and the fact of the inconsistencies and contradictory
18 statements that the officers had gave at the hearing. So
19 the probable cause of determination at that time was
20 never -- it should not stand for me sitting here at trial.
21 The preliminary hearing is a critical part of the
22 adversarial process and the trial process and whole pretrial
23 process. I told Mr. Matthews that the whole crux of my
24 case was in pretrial, because when we get there the
25 testimony can be conflicting and I told him that we probably

PRETRIAL MOTIONS

1 needed to secure some depositions so that when we get to
2 trial but none of these things ever happened. My point is
3 at the hearing, the preliminary hearing, the judge did not
4 find preliminarily for probable cause to be found in the
5 case. They dismissed it at that time because of the issue
6 of duplicity, the recusing -- the resisting arrest with the
7 use of a firearm. They kept the other charges on me. I
8 don't really understand about the charges being remanded.
9 What I'm saying is this incident took place based on my
10 accuser and all he said. Mr. Cook wasn't there and present
11 until the end. Do you understand what I'm saying?

12 THE COURT: Let me ask you this, Solicitor, let's cut
13 to the chase, and Mr. Matthews I want you to wrap it up
14 assisting Mr. Greene in his argument. I understand pretty
15 much what you're telling me. Talk about the preliminary
16 hearing. Was the matter dismissed at preliminary hearing
17 for lack of probable cause? And then if it does, did the
18 state pursue a direct indictment with the Colleton County
19 Grand Jury?

20 MR. EVANS: No, Your Honor. It was continued on
21 August the 20th of last year, that was the initial
22 preliminary hearing at which Chief Long was testifying on
23 behalf of Lieutenant Cook, the arresting officer. Some
24 motions were made. The magistrate, Judge Constatine,
25 decided the best course would be to continue the preliminary

PRETRIAL MOTIONS

1 hearing so that the actual arresting officer could be
2 present to testify. It was continued, it was rescheduled on
3 January the 14th of this year. The car charge, the stolen
4 vehicle charge was dismissed at the preliminary hearing,
5 however, the gun charge was bound over. I do have a copy
6 from my file of the remand form indicating that the
7 resisting arrest with a deadly weapon offense was remanded
8 on August 21st of last year, the day after the preliminary
9 for resisting arrest local ordinance, that plea deal that
10 was made at Chief Long's request of me at that initial
11 prelim. I said, "If that's what you want, that's fine."
12 And as I said, the car charge survived until the January
13 prelim at which point Judge Constatine upon my
14 recommendation, I believe, dismissed it and bound over the
15 gun charge.

16 THE COURT: Okay. Mr. Matthews, anything that you wish
17 to add?

18 MR. MATTHEWS: I believe that Mr. Greene has a point.
19 On cross examination as to the money he did ultimately get
20 his money back, I didn't see any reason for them to take it.
21 They did take it and they gave it back as far as I know.
22 That may go to the impeachment of an officer but I don't
23 know what it has to do with the prelim.

24 THE COURT: All right. As to the issue, Mr. Matthews,
25 then on the State's motion in limine for the Court to take

PRETRIAL MOTIONS

1 judicial notice of the indictment of Georgetown County as
2 well as the sentence for Mr. Greene, what is your position
3 on that?

4 MR. MATTHEWS: Your Honor, I had discussed with Mr.
5 Greene the possibility of asking the State to stipulate
6 jurisdiction so that the jury wouldn't know that he was
7 convicted of armed robbery. It would require less proof on
8 behalf of the State but it would also keep the jury from
9 having to hear that he was convicted of armed robbery unless
10 he chose to testify. He indicated that he wanted to
11 testify. My feeling was that probably Mr. McCray, who Mr.
12 Greene to his credit brought here, found him and brought him
13 over here. He, in fact, was the driver actually of the car.
14 My feeling is as a matter of strategy it would be better to
15 just call Mr. McCray and ask the State to stipulate
16 jurisdiction so that wouldn't come into evidence and the
17 State could take notice that he was convicted of a violent
18 crime and the jury wouldn't have to hear about it, they
19 could have direct testimony from Mr. McCray. But Mr. Greene
20 believes that it's best that the jury hears what he has to
21 say in that event. He could be cross examined on the armed
22 robbery charge because even though it was more than ten
23 years ago he's only been out of prison for five or six and
24 so I believe that would be admissible. However, if he wants
25 to testify then there's no point in stipulating jurisdiction

PRETRIAL MOTIONS

1 if it's coming in anyway.

2 THE COURT: Mr. Greene, did you just hear what Mr.
3 Matthews said about that?

4 MR. GREENE: Yes, sir.

5 THE COURT: Is that correct?

6 MR. GREENE: As far as I know that much. He did speak
7 with me about it, I just don't understand it.

8 THE COURT: Well, let me ask you this and let me make
9 sure that you understand. Of course, I'm going to ask you
10 this later anyway, but of course, you understand that you
11 have the 5th Amendment right not to testify. Nobody can
12 force you to testify against yourself in a criminal case,
13 and you've heard the old saying that you have the right to
14 remain silent and anything that you say can and will be used
15 against you in a court of law. Well, you're in court right
16 now. And, of course, if you testify the State can make you
17 look bad in cross examination and bring up that previous
18 conviction which gives the Court jurisdiction over this
19 charge. Do you understand that?

20 MR. GREENE: I understand it a little bit, yeah. But
21 without it they wouldn't have jurisdiction is what you're
22 saying, if I don't testify?

23 THE COURT: No. What I'm asking you is do you intend
24 on testifying?

25 MR. GREENE: I want to consult counsel about that one

PRETRIAL MOTIONS

1 more time. Can I make a point as to --

2 THE COURT: Yes, sir.

3 MR. GREENE: There is no order. And he said there was
4 two preliminary hearings, I was never notified about any
5 other preliminary hearing other than the one that we went to
6 the first time. If there was another preliminary hearing I
7 was never advised, and I never knew that it took place.

8 THE COURT: Solicitor?

9 MR. EVANS: Yes. He was represented by Mr. Matthew
10 Walker substituting at that time at the January preliminary
11 hearing.

12 THE COURT: Okay. What is your objection then as to
13 the indictment, Mr. Greene?

14 MR. GREENE: My motion to quash the indictment, first
15 of all the fact that it violates the defendant's right to
16 confrontation as he has never been confronted with his
17 accusers. And I also believe that the solicitor must have
18 appeared as the sole witness before the grand jury in
19 violation of State versus (inaudible). And I think for
20 Chief Long to have appeared before the grand jury and given
21 testimony that he wasn't the actual accuser, he wasn't
22 present to witness or even understand anything about what
23 happened at that time when the incident occurred. Also, if
24 you look at the verdict part of the indictment, Your Honor,
25 it also lends credence that there's some type of fatal flaw

PRETRIAL MOTIONS

1 with the indictment. There's no verdict, not guilty or
2 guilty, and it kind of challenges the fact of whether this
3 hearing even took place. If it did, you know, Your Honor --
4 and I'm not trying to be smart -- it allows the defendant to
5 be able to plead to a criminal conviction barring any
6 subsequent prosecution. The fact that the solicitor
7 appeared as the sole witness and the fact that also the
8 officer has never been in front of the Court to testify or
9 give facts, it was things that he wrote. He's never
10 testified to the grand jury so they have no facts as to what
11 my accuser actually said about me. Do you understand what
12 I'm saying?

13 THE COURT: Yes, sir.

14 MR. GREENE: My objection, if -- I can go down further
15 Just give me a second, Your Honor.

16 THE COURT: Go ahead.

17 MR. GREENE: At the preliminary, like I said, I'm
18 wondering about the order that was actually justifying
19 probable cause. I asked counsel, he never prepared an
20 order, the judge never took an order from either one of
21 these people. As a matter of fact, when we were walking out
22 of the courtroom they both mentioned that they had an
23 understanding that this case was basically about the fact
24 that Mr. Crook took the money from me, they had said that
25 right in front of me. The judge, he told them in an

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1 interest of fairness and justice he cannot do this young man
2 like that. I'm here today, a year later, and they're saying
3 that this judge, Mr. Constantine, said all of this in front
4 of me and then rescheduled another hearing 30 days later
5 without me present and he ruled in the presence of the
6 State. The whole nexus of this whole crime, Your Honor,
7 it's like they stopped the car, I gave Officer Cook my
8 driver's license, he immediately -- even though I was not
9 the driver, I was the passenger, when I gave him my driver's
10 license he immediately came around to my side and took me
11 out of the car. From that point right there he had no
12 reason to say anything. There's an issue about beverages or
13 an alcoholic beverage in there and I have an objection to
14 that, also, because he never --

15 THE COURT: That will have to come up later on. Hang
16 on one second. As to the motion to the quash the
17 indictment, what is the State's position on that?

18 MR. EVANS: Your Honor, I was not a witness in front of
19 a grand jury. I have ever testified in front of a grand
20 jury and I never will testify in front of a grand jury
21 unless I become a law enforcement officer which is not very
22 likely. Chief Long represented the police department when
23 we ask them to present one of their cases, he was the
24 testifying officer. He was on scene during this event
25 although he's not listed as the case officer, he is clearly

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1 qualified and he testified to the grand jury about it.

2 THE COURT: Thank you. Mr. Matthews, anything else you
3 wish to add on behalf of Mr. Greene?

4 MR. MATTHEWS: No, sir.

5 THE COURT: Okay. The motion to quash the indictment
6 is denied. The Court is going to take judicial notice of
7 the sentencing sheet and indictment from Georgetown County
8 and I find that this Court has jurisdiction to commence the
9 trial of the case, this case against Mr. Greene. In
10 indictment number 13-GS-15-720, I find that any alleged
11 Fourth Amendment violation or probable cause issue we will
12 deal with tomorrow morning prior to the trial jury being
13 sworn and the testimony ensuing. Okay. Anything else
14 before I bring this jury panel in, Mr. Greene?

15 MR. GREENE: Yes, Your Honor. I would like to also
16 make another motion based on Franks versus Delaware. I
17 would like to preserve this motion for later on in the
18 morning also, so I can break it down a little more. As
19 counsel gave the case of Franks versus Delaware to me I
20 haven't been able to retrieve it, but I will have it
21 tomorrow.

22 THE COURT: What does the case say?

23 MR. GREENE: Well, in the case it says if for any
24 reason the officer has given information that is untruthful
25 or that can be -- how does it exactly state the case? If he

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1 is giving information inside the four corners of the
2 affidavit or inside the warrant information that is deemed
3 false then probable cause can be found or not be found for
4 the whole entire case dealing with the issue. And the thing
5 about it is that I have substantial proof as to evidence
6 where the officer has misled the Court, both officers, with
7 the facts with dealing with the paperwork just alone.

8 THE COURT: All right. We'll deal with all of that in
9 the morning. Anything else before we strike a jury?

10 MR. GREENE: Well, like I said, Your Honor, I haven't
11 had enough time really to even prepare for that part of the
12 trial, just as of Monday and I wanted --

13 THE COURT: Are you asking for a continuance?

14 MR. GREENE: I would ask for a little more time, yes,
15 sir.

16 THE COURT: Okay. What's the State's position on a
17 continuance?

18 MR. EVANS: The State notified Mr. Greene through
19 counsel more than 30 days ago that this case was on the
20 trial roster.

21 MR. GREENE: That's not true.

22 MR. EVANS: The State noticed it more than 60 days ago,
23 I believe for the August term. Mr. Greene has, to his
24 credit, come into general sessions court every month since
25 his case was indicted, and probably before then, requesting

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1 a trial. In fact, he quite loudly demanded one in I want to
2 say July when he was -- it was not called but he was asked
3 to appear in court to check in and check back out again and
4 I think that he's had substantial notice. He was present
5 during jury qualification on Monday. He asked for a trial
6 on Monday and we asked Your Honor if we could move him up
7 the roster to accommodate that desire. I think that a
8 continuance is unnecessary and I think that you should deny
9 the motion.

10 THE COURT: Mr. Matthews, anything that you wish to say
11 as stand-by counsel?

12 MR. MATTHEWS: No, sir.

13 THE COURT: Are you ready to go forward with the case,
14 Mr. Matthews?

15 MR. MATTHEWS: Yes, sir.

16 THE COURT: Mr. Greene, I'm going to deny your motion
17 for a continuance. You get your day in court both today,
18 tomorrow, and Friday, if necessary. Bring the jury panel
19 in. All other arguments and objections are reserved for
20 tomorrow morning.

21 (The Jury entered the courtroom.)

22 THE COURT: Ladies and gentlemen of the jury, I
23 apologize for the delay. I had legal issues that I had to
24 take up outside of your presence. Like I told you Monday,
25 this is criminal court or what we call general sessions

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1 court going on this week, and your jury service will end
2 this Friday. So, at this point in time before -- I do have
3 some more questions to ask you about this particular trial.
4 Let me swear you in. If you all would please stand for me
5 and all of you raise your right hands.

6 (The jury panel was sworn.)

7 THE COURT: Thank you. Everybody has been sworn, you
8 may have a seat. All right. Solicitor, are you ready to
9 call the case?

10 MR. EVANS: Yes, Your Honor.

11 THE COURT: All right. You may call the case.

12 MR. EVANS: State calls the case of State versus
13 Roderick Greene, indictment 2013-GS-15-00720. I believe
14 that you have the indictment.

15 THE COURT: I do. Thank you. Ladies and gentlemen of
16 the jury panel, we're about to begin the trial in the case
17 of the State of South Carolina against Roderick Greene,
18 charged with possession of a firearm or ammunition by a
19 person convicted of a violent felony. Before we select a
20 jury there's several question which I need to ask you. Now
21 remember, you're sworn. And before I ask you these
22 questions I always like to have the lawyers stand up and
23 introduce themselves as well as any possible witnesses which
24 may be testifying in the trial of this case. And Mr.
25 Greene, you're certainly allowed to turnaround and introduce

VOIR DIRE

1 yourself to the jury panel as well. All right. First for
2 the State, Solicitor?

3 MR. EVANS: Good afternoon. My name is Reed Evans, I
4 work for the 14th Circuit Solicitor's Office here in
5 Walterboro. Potential witnesses for the State in this case
6 include Lieutenant Jeffrey Cook of the Cottageville Police
7 Department who is here with me, the case officer, along with
8 Charles Long, Cottageville Police Department. Deputy Cephus
9 Rogers, formerly Cottageville, now Colleton County, and
10 Adrian Riser who works for our office.

11 THE COURT: Thank you, Solicitor. Mr. Matthews?

12 MR. MATTHEWS: Thank you, Your Honor. Good afternoon.
13 I'm Dave Matthews from the public defenders office. Mr.
14 Greene is going to be representing himself but I'm going to
15 be assisting him in that matter. In addition to Mr. Greene
16 who may or may not choose to testify, Willy McCray, plus any
17 witnesses that the State will call may also be defense
18 witnesses. Thank you.

19 THE COURT: Thank you very much. So the first
20 question, and if you're going to respond to the question I
21 need you to stand and in a loud clear voice please tell me
22 your juror number, what your juror number is and then I'll
23 have more questions from there. First question, is any
24 member of the jury panel related by blood or marriage to
25 Roderick Greene or any of the attorneys or witnesses

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1 involved in this case? If so, please stand. No response.
2 Any perspective juror have any close, personal or social
3 relationship with Roderick Greene or any of the lawyers
4 involved in this case, or any of the witnesses who may
5 testify in this case? If so, please stand. All right. No
6 response. Has any member of the jury panel ever been
7 represented by any of the attorneys involved in this case or
8 by his or her law firms? If so, please stand. No response.
9 Has any juror or close friend or family member ever been the
10 victim of a violent crime? If so, please stand. All right.

11 Juror number?

12 THE JUROR: 144.

13 THE COURT: Juror number 144. Yes, ma'am?

14 THE JUROR: My father and stepmother were murdered.

15 THE COURT: How long ago did that happen?

16 THE JUROR: Quite a long time ago, back in '73.

17 THE COURT: Would that affect your ability to be fair
18 and impartial in this case?

19 THE JUROR: No.

20 THE COURT: All right. Ma'am?

21 THE JUROR: Could you repeat the question again for me?

22 THE COURT: Has any perspective juror or close friend
23 or family member of a juror ever been the victim of a
24 violent crime?

25 THE JUROR: Yes.

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1 THE COURT: What's your juror number, ma'am?

2 THE JUROR: 30.

3 THE COURT: How does that apply to you?

4 THE JUROR: My son.

5 THE COURT: Your son was a victim of a violent crime?

6 THE JUROR: Yes.

7 THE COURT: What was the crime?

8 THE JUROR: Murder.

9 THE COURT: How long ago did that happen?

10 THE JUROR: Two years ago.

11 THE COURT: How long?

12 THE JUROR: Two years ago.

13 THE COURT: All right. Would that affect your ability
14 to be fair and impartial in this case?

15 THE JUROR: No.

16 THE COURT: Thank you, ma'am. Yes, sir?

17 THE JUROR: Charles Craven.

18 THE COURT: Do you know what your juror number is, sir?

19 THE JUROR: 51.

20 THE COURT: Okay. How does this apply to you?

21 THE JUROR: I was attacked and pretty well beaten up by
22 a man trying to steal a four-wheeler. He was locked up in
23 prison for six months.

24 THE COURT: How long ago did that happen, sir?

25 THE JUROR: About four years ago.

VOIR DIRE

1 THE COURT: Would that affect your ability to be fair
2 and impartial in this case?

3 THE JUROR: No, sir.

4 THE COURT: Thank you, sir. Anybody else? All right.
5 No further response. Has any member of the jury panel
6 formed or expressed an opinion about any issue or matter
7 involved in this case? If so, please stand. No response.
8 Is any member of the jury panel aware of any bias or
9 prejudice toward either the State or the defendant in this
10 case? If so, please stand. No response. Is there any
11 member of the jury panel that has a religious, philosophical
12 or moral reason why they cannot be a fair and impartial
13 juror in this case? If so, please stand. No response. Is
14 there any member of the jury panel who is a member of or
15 contributor to any group which has as its primary concern
16 the promotion of law enforcement or victim's rights? These
17 groups include but are certainly not limited to groups like
18 Mothers Against Drunk Driving, MADD or SADD or CAVC, which
19 stands for Citizens Against Violet Crime. Police
20 Association, Fraternal Order of Police, Troopers
21 Association? If this question applies to you, please stand.
22 All right. No response. All right. Any additional voir
23 dire questions from the State?

24 MR. EVANS: Not from the State, Your Honor.

25 THE COURT: Any from the defense, Mr. Matthews?

VOIR DIRE

1 MR. MATTHEWS: No, sir.

2 THE COURT: All right. All right. Well, let's strike
3 the jury, Madam Clerk. Five and five.

4 THE CLERK: As I call your name, come all the way up to
5 my desk, turn and face counsel table. Juror 33, Clyde J.
6 Brownly. What say you for the State?

7 MR. EVANS: Please present the juror.

8 THE CLERK: What say you for the defendant?

9 MR. GREENE: Please strike the juror.

10 THE CLERK: Sorry, say that again.

11 MR. GREENE: Strike the juror.

12 THE CLERK: Okay. Have a seat in the back. 99,

13 Crystal N. Jones. What say you for the State?

14 MR. EVANS: Please present the juror.

15 THE CLERK: What say you for the defendant?

16 MR. GREENE: Seat the juror.

17 THE CLERK: Seat the juror. Please have a seat in the
18 jury box. 155, Jimmy L. Robinson, what say you for the
19 State?

20 MR. EVANS: Please present the juror.

21 THE CLERK: What say you for the defendant?

22 MR. GREENE: Please present the juror.

23 THE CLERK: Please have a seat in the jury box. 95,

24 Leah A. Jasper. What say you for the State?

25 MR. EVANS: Please present the juror.

VOIR DIRE

- 1 THE CLERK: What say you for the defendant?
- 2 MR. GREENE: Please seat the juror.
- 3 THE CLERK: Please have a seat in the jury box. 144,
- 4 Rita F. Padgett. What say you for the State?
- 5 MR. EVANS: Please present the juror.
- 6 THE CLERK: What say you for the defendant?
- 7 MR. GREENE: Please strike the juror.
- 8 THE CLERK: Please have a seat back with the panel.
- 9 199, India M. Willaford. What say you for the State?
- 10 MR. EVANS: Please present the juror.
- 11 THE CLERK: What say you for the defendant?
- 12 MR. GREENE: Please present the juror.
- 13 THE CLERK: Please have a seat in the jury box. 80,
- 14 Brandy A. Hagwin. What say you for the State?
- 15 MR. EVANS: Please present the juror.
- 16 THE CLERK: What say you for the defendant?
- 17 MR. GREENE: Please present the juror.
- 18 THE CLERK: Please have a seat in the jury box. If you
- 19 could speak a little louder for me.
- 20 MR. GREENE: Yes, ma'am.
- 21 THE CLERK: Thank you. 88, Brandon A. Hiott,
- 22 H-i-o-t-t. What say you for the State?
- 23 MR. EVANS: Please present the juror.
- 24 THE CLERK: What say you for the defendant?
- 25 MR. GREENE: Please strike the juror.

VOIR DIRE

- 1 THE CLERK: Please have a seat back in the panel. 188,
2 Harriett V. Wade. What say you for the State?
- 3 MR. EVANS: Please excuse the juror, Ms. Wade, from the
4 trial of this case.
- 5 THE CLERK: Please have a seat back in the panel. 177,
6 Teresa R. Spires. What say you for the State?
- 7 MR. EVANS: Please present the juror.
- 8 THE CLERK: What say you for the defendant?
- 9 MR. MATTHEWS: Is that 177?
- 10 THE CLERK: Yes, sir.
- 11 MR. MATTHEWS: Thank you.
- 12 MR. GREENE: Please strike the juror.
- 13 THE CLERK: Please have a seat back with the panel.
14 170, Nicole M. Singleton. What say you for the State?
- 15 MR. EVANS: Please present the juror.
- 16 THE CLERK: What say you for the defendant?
- 17 MR. GREENE: Please seat the juror.
- 18 THE CLERK: Please have a seat in the jury box. 129,
19 Janet L. Moya. What say you for the State?
- 20 MR. EVANS: Please present the juror.
- 21 THE CLERK: What say you for the defendant?
- 22 MR. GREENE: Please seat the juror.
- 23 THE CLERK: Please have a seat in the jury box. 119,
24 Roger L. Mercer. What say you for the State?
- 25 MR. EVANS: Please present the juror.

VOIR DIRE

1 THE CLERK: What say you for the defendant?

2 MR. GREENE: Please strike the juror.

3 THE CLERK: You may have a seat back with the panel.

4 That is your last strike. 36, Nancy J. Buckner. What say
5 you for the State?

6 MR. EVANS: Please present the juror.

7 THE CLERK: Does defendant have any strike for cause?

8 MR. GREENE: No.

9 THE CLERK: Please have a seat in the jury box. 23,
10 Shana Day Bowman.

11 THE JUROR: Shanda.

12 THE CLERK: Shanda, excuse me.. What say you for the
13 State?

14 MR. EVANS: Please present the juror.

15 THE CLERK: Does the defendant have any strikes for
16 cause?

17 MR. GREENE: No.

18 THE CLERK: Please have a seat in the jury box. 169
19 Monique S. Singleton. What say you for the State?

20 MR. EVANS: Please present the juror..

21 THE CLERK: Does the defendant have any strike for
22 cause?

23 MR. GREENE: No.

24 THE CLERK: Please have a seat in the jury box. Number
25 49, Chelsea N. Cox. What say you for the State?

VOIR DIRE

1 MR. EVANS: Please present the juror.

2 THE CLERK: Does the defendant have any strikes for
3 cause?

4 MR. GREENE: No.

5 THE CLERK: Please have a seat in the jury box. Number
6 46, Lawrence Bassett, Jr. What say you for the State?

7 MR. EVANS: Please present the juror.

8 THE CLERK: Does the defendant have any strikes for
9 cause?

10 MR. GREENE: No, ma'am.

11 THE CLERK: Please have a seat in the jury box. We
12 will draw one alternate.

13 THE COURT: The Defense has two strikes, the State has
14 one strike.

15 THE CLERK: 140, Derrick A. Oliver. What say you for
16 the State?

17 MR. EVANS: Your Honor, the State moves to the strike
18 Mr. Overall for cause.

19 THE CLERK: Can he have a seat back?

20 THE COURT: Is that a preemptory strike?

21 MR. EVANS: No, Your Honor, it is for the same reasons.

22 THE COURT: All right. Mr. Matthews approach, and
23 Solicitor approach.

24 (A bench was conference held.)

25 THE COURT: All right. The Court strikes juror 140.

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1 THE CLERK: Okay. 46, Barbara A. Coffin. What say you
2 for the State?

3 MR. EVANS: Please present the juror.

4 THE CLERK: What say you for the defendant?

5 MR. GREENE: Please seat the juror.

6 THE CLERK: Please have a seat in the jury box. The
7 jury has been drawn, Judge.

8 THE COURT: Thank you.

9 (The remaining panel was excused.)

10 THE COURT: While they are leaving, ladies and
11 gentlemen of the trial jury, I want you here tomorrow
12 morning at 10:30 a.m. Now remember, try to be on time, try
13 to be a little bit earlier, if you get here early we may be
14 able to start early. Okay. So the bailiff is going to go
15 show you to your jury room now and that's where you will
16 report tomorrow morning. Okay. Thank you very much. All
17 right.

18 (The jury left the courtroom.)

19 THE COURT: Any matters of law regarding the jury
20 selection from the State?

21 MR. MATTHEWS: Nothing from the State, Your Honor.

22 THE COURT: Anything from the defense?

23 MR. GREENE: No, Your Honor.

24 THE COURT: All right. Gentlemen, we are going to be
25 in recess then until tomorrow morning at 9:30. We can take

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1 care of all pretrial from 9:30 to 10:30 and depending on the
2 outcome of that we will be ready to the start at 10:30.
3 Okay.

4 (Court recessed for the evening and resumed on
5 Thursday, September 18, 2014.)

6 THE COURT: My apologies, I26. All right. Solicitor,
7 I believe that we have some pretrial issues to address.
8 From what I understand, Mr. Greene, you are challenging the
9 constitutionality of the traffic safety checkpoint as well
10 as probable cause to make you exit the vehicle; is that
11 correct?

12 MR. GREENE: Yes.

13 THE COURT: Is that correct, Mr. Matthews?

14 MR. MATTHEWS: Yes, Your Honor.

15 THE COURT: All right. So I believe at this time the
16 State needs to offer testimony as to both issues so I can
17 make a ruling.

18 MR. EVANS: Thank you, Your Honor.. The State calls
19 Chief Charles Long.

20 The witness, CHARLES LONG, was first duly sworn
21 and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. EVANS:

24 Q Chief, where are you employed?

25 A Town of Cottageville.

PRETRIAL MOTIONS

1 Q Cottageville Police Department?

2 A Yes, sir.

3 Q How long have you had that post?

4 A Going on four years.

5 Q So were you the chief on of last year?

6 A Yes, sir.

7 Q Was there a traffic safety checkpoint set up for that
8 day?

9 A Actually there were four total.

10 Q Why don't you tell us a little bit about setting up the
11 checkpoint, how you picked the locations, why you set up the
12 checkpoint, those sort of things.

13 A Usually we go with officer safety first on picking a
14 precise location and heavy traffic flow. Usually 17A
15 average anywhere from eleven to 14,000 depending on what day
16 of the week of traffic in a 24 hour grace period, and that
17 is measured through South Carolina DOT. The locations are
18 picked by traffic flow and safety overall of officers.

19 Q This is -- we call it around here Cottageville Highway,
20 but this is 17A, South Carolina 17A?

21 A That is US 17 Alternate.

22 Q US 17, I apologize. Is that the main drag so to speak
23 in Cottageville?

24 A That is the main highway that runs through to the
25 center of the town of Cottageville, it is 2.1 miles.

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1 Q And is there any other road that you would set up a
2 traffic safety checkpoint on in Cottageville?

3 A Any main entrance into the town of Cottageville such as
4 651, which is a South Carolina Highway, Pierce and Griffin
5 Acres and Amber Court.

6 Q But what do those roads look like in comparison to 17?

7 A Usually Griffith Acres averages anywhere from 1,150 to
8 1,200 daily.

9 Q And you said 17A?

10 A Anywhere from 11,000 to --

11 Q So ten times as much.

12 A Ten times the flow, that's right.

13 Q Now, what is the problem that you were trying to combat
14 by setting up these checkpoints?

15 A Anything up under Title 56 of South Carolina Motor
16 Vehicle Law.

17 Q So you're trying to find problems with people driving
18 their cars?

19 A Driver's license violations, i.e., such as tags,
20 improper display, faulty (sic) equipment, anything that
21 falls up under Title 56.

22 Q And why do you do that?

23 A To provide overall safety of occupant safety as well.

24 Q Safety on the roadways of Cottageville?

25 A Yes, sir.

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1 Q What do you expect to find when you set up on these
2 checkpoints?

3 A Usually what we tend to find is either driver's license
4 violations or some safety ABC violations which is, i.e.,
5 open containers or public intoxication or DUI.

6 Q Do you occasionally find evidence of other crimes that
7 aren't related to the traffic infractions?

8 A Yes, sir.

9 Q Such as why we're here today?

10 A Yes, sir.

11 Q Was that the reason that you set up this checkpoint?

12 A Overall of Title 56, yes, sir.

13 Q Title 56 is general crime deterrence?

14 A General crime deterrence, that's right.

15 Q So you're setting it up to make the roadway safer, is
16 that your testimony?

17 A Roadways safer, that's right.

18 Q This particular checkpoint, what kind of success did
19 you have with that goal?

20 A We wrote 26 citations for that evening.

21 Q Citations related to what?

22 A Improper lighting, speeding, vehicle violations and
23 others.

24 Q Okay.

25 A And then others will followup anything non-traffic such

PRETRIAL MOTIONS

1 as, i.e., open container, weapon violation, anything.
2 nonmoving.

3 Q Roughly how many vehicles went through to the
4 checkpoint that night?

5 A No more than two but no less than 100, 200. 100 to
6 200.

7 Q 100 to 200 range. And you wound up with how many
8 tickets?

9 A 26.

10 Q So between 13 and 26 percent?

11 A Roughly, yes, sir.

12 Q For the folks that did not end up with a citation,
13 folks where they came through and you found no problems,
14 roughly how long were they detained?

15 A Anywhere from three to five seconds roughly, just quick
16 enough to check the license and the tag, three to five
17 seconds.

18 Q So if the license and the tag look fine and you don't
19 notice that they appear to be impaired or smell or anything
20 like that, they are sent on their way, three to five
21 seconds?

22 A Three to five seconds, yes, sir.

23 Q Who decides to set up these checkpoints?

24 A Usually what I do is I correspond with my lieutenant,
25 Cephus Rogers, who is a coordinator for the South Carolina

PRETRIAL MOTIONS

1 LEN.

2 Q What is that?

3 A That's the South Carolina Law Enforcement Network and
4 that's where AGC's from the 14th Circuit such as Allendale,
5 Hampton, Jasper, Beaufort, Colleton, come together as a team
6 or as a group to enforce, you know, saturation of patrol.

7 Q So you bring in help from other agencies?

8 A Yes, sir.

9 Q Why do you do that?

10 A Basically manpower. I mean, for that big of highway
11 you've got to have at least over ten men for that area, yes,
12 sir.

13 Q That's around what you had on this night?

14 A We had anywhere from 15 to 50.

15 Q How long in advance did you set this up?

16 A About a week.

17 Q Did you make the public aware that a checkpoint was
18 going to be in place that night?

19 A Yes, sir.

20 Q How did you do that?

21 A By newspaper.

22 Q You posted it in the newspaper. Do you recall which
23 one?

24 A The Colletonian, if I'm not mistaken.

25 Q The other one could be the Press and Standard?

PRETRIAL MOTIONS

1 A Press and Standard.

2 Q One of those?

3 A One of those, yeah.

4 Q What kind of indications on the road did you give?

5 Since this was at night, correct?

6 A What we did is we had the area well lit and about

7 roughly 50 to 75 yards from the actual checkpoint there was

8 signs designated that there was a slow checkpoint ahead,

9 slowdown on all three areas. That road butts into a

10 T-intersection to Bama Road which is a secondary highway of

11 South Carolina that feeds into US 17A.

12 Q What kind of the instructions -- well, first of all for

13 this particular checkpoint who decided what procedures you

14 were going to use?

15 A As in the --

16 Q When a car came through, what were the instructions

17 given to the officers?

18 A Usually the officers decide that on their own. If I

19 find a say violation, "Sir, if you would, pull to the side

20 of the road for me." That way we don't slowdown anybody

21 without violations and hinder them to continue forward.

22 Q Do you tell them which vehicle to stop?

23 A If there's a violation I point to it and say a

24 violation.

25 Q Did you check every car that night?

PRETRIAL MOTIONS

- 1 A Not every car.
- 2 Q Why not?
- 3 A It's whoever the car is pulled up to the officer's were
- 4 lined up. It makes a speedy process. What we're trying to
- 5 do is speed the process. In other words, you have an
- 6 officer on the driver's side and one on the passenger.
- 7 Q And if they see it they check to the vehicles for --
- 8 what are you telling them to the check for?
- 9 A Anything. Open containers, weapon violations, child
- 10 restraints, anything up under Title 56.
- 11 Q Title 56 meaning the traffic code.
- 12 A Traffic code, that's right.
- 13 Q Okay. That's what you're look for?
- 14 A Uh-huh.
- 15 Q And you said earlier three to five seconds if there is
- 16 no violation found?
- 17 A Yes, sir.
- 18 Q All right. Let's talk about this vehicle that led to
- 19 the case that we're here about today.
- 20 A Okay.
- 21 Q Who was the first officer to encounter Mr. Greene and
- 22 his driver?
- 23 A I would be the one that encountered the driver.
- 24 Q You came cross the car first?
- 25 A Yes, sir.

PRETRIAL MOTIONS

1 Q Tell us how it came about.

2 A Actually what it done it actually slowed down real
3 slow.

4 Q At the beginning of the checkpoint?

5 A Like it just slowed down.

6 Q Which direction was it coming from?

7 A It was heading from Summerville to Walterboro, so it
8 was traveling towards.

9 Q East to west?

10 A Well, southbound with us, north, south, it was
11 traveling southbound.

12 Q Sure. What happened when you encountered the vehicle?

13 A When I went up to talk to the driver, which is Mr.

14 McCray, he stated he didn't have a driver's license. Then I
15 observed an open container of beer in the cup holder, and
16 it's not an ordinary open container of beer, it's a big boy,
17 20 to 24 ounces, alcoholic beverage.

18 Q That's how you could tell it was an alcoholic beverage
19 as opposed to a carbonated soda beverage?

20 A No, it was a alcoholic beverage.

21 Q And what did you do when you noticed there was an
22 alcoholic beverage in the vehicle?

23 A I instructed the vehicle to pull to the shoulder.

24 Q You detained the vehicle?

25 A Yes, sir.

PRETRIAL MOTIONS

1 Q Did you ask them out?

2 A I was not the one that asked them out.

3 Q What did you do after you told them to pull over?

4 A After I seen the officers walk to the vehicle I
5 continued on to the checkpoint.

6 Q So you saw the vehicle pull over?

7 A Yes.

8 Q Did you speak to Officer Cook?

9 A Sergeant Cook, at the time, yes, sir, I instructed him.

10 Q What did you instruct him?

11 A Check the vehicle and go ahead and issue a citation for
12 the open container.

13 Q For a open container?

14 A Yes, sir.

15 Q What did you observe with your own eyes, not saying
16 anything that anybody said after that, just briefly?

17 A Are you talking about after the car pulled to the
18 shoulder or during the actual talking to the driver?

19 Q When the car pulled over to the shoulder, what happened
20 next? But don't say anything anybody said, just what could
21 you see?

22 A Basically I heard a commotion.

23 Q Okay. You were dealing with other cars at the time?

24 A Yes, sir. And when I heard commotion I went and eased
25 forward to the front of the suspect's vehicle and that's

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1 when the commotion got louder and then --

2 Q And then what happened?

3 A Mr. Greene here was resisting at a given time after he
4 was told to stop.

5 Q Resisting how?

6 A By trying to get loose.

7 Q Okay.

8 A And Sergeant Cook, if I'm not mistaken, the door when
9 it was open, he had him wedged between the door jam and the
10 door itself trying to get the suspect to come out.

11 Q To cooperate?

12 A To cooperate, yes, sir.

13 Q Okay. And then what happened?

14 A I noticed that they was tussling not know I'm hearing,
15 but I heard the word "gun" loud. So I eased up, Mr. Greene
16 was still trying to flight off. When Mr. Greene finally --
17 one of the officers let go of the legs of the defendant I
18 tased Mr. Greene.

19 Q Why did you do that?

20 A Because he was flight -- he was resisting.

21 Q He was trying to get away?

22 A Yes, sir.

23 MR. EVANS: Those are all of the question that I have
24 for the chief at this time.

25 THE COURT: Mr. Greene, your witness, as to the issue

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1 of the constitutionality of the checkpoint and as to
2 probable cause. Remember to talk loud. Okay. All right.
3 Thank you. Yeah, you can go to the podium right there, that
4 way you can spread your papers out. All right.

CROSS EXAMINATION

5
6 BY MR. GREENE:

7 Q Good morning, Judge. Chief, how you doing?

8 A Good morning.

9 Q My first question. When you noticed that the car went
10 by and you said you moved it by, who is the officer that did
11 after that point -- had contact with the car?

12 A Which car?

13 Q The vehicle that you had just told --

14 A The vehicle that you were in? The one you were in?

15 Q -- that the defendant was in.

16 A It should be Sergeant Cook had contact, that's the
17 gentleman seated right behind you.

18 Q You said there was 15 to 20 other officers on the
19 scene.

20 A Uh-huh.

21 Q Do you know about how many officers were -- dealt with
22 this situation other than -- I mean, because some of them --
23 I don't see all of the officers listed, that's what I'm
24 questioning.

25 A At that particular time, Mr. Greene, I couldn't tell

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1 you --

2 Q The report doesn't say any of those officers' names at
3 all, other than --

4 A The ones that had contact with you, which was me --

5 Q Right. Let me ask you this, my next question and I'll
6 move on. Which officer was it that yelled gun?

7 A Which one?

8 Q Uh-huh.

9 A That would be Mr. Cephus Rogers right there, the
10 gentleman in the black Colleton County Sheriff's Department
11 uniform.

12 Q No. Okay. Cephus Rogers? All right. Did you tell
13 Officer Cook to just write tickets for the offense?

14 A Usually that's what we do. Usually we write citations
15 for minor offenses.

16 Q Did you tell him to write the defendant tickets for the
17 offenses that he had, even the supposedly gun?

18 MR. EVANS: Your Honor, I'm not sure who he means by
19 the defendant, if he's referring to himself or Mr. McCray.

20 THE COURT: Okay. Referring to you.

21 MR. GREENE: Yes, sir.

22 THE COURT: Can you answer that question, sir?

23 A If any violation occurs, that officer there in his
24 knowledge -- I don't tell them to write a ticket, that's
25 their discretion.

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1 MR. GREENE: Your Honor, I would like to put this in
2 evidence.

3 THE COURT: What's the evidence for?

4 MR. GREENE: These are the tickets that I was written
5 for the gun, the unlawful weapon ticket and simple
6 possession of marijuana, also, to transcribe in the court
7 record documents --

8 MR. EVANS: I haven't seen those.

9 THE COURT: All right.

10 MR. GREENE: While he is --

11 THE COURT: Hang on.

12 MR. GREENE: I was just going to talk to you about
13 something.

14 THE COURT: Hang on.

15 MR. EVANS: I'm not sure what his bond has to do with
16 this motion.

17 THE COURT: Any objection to those documents coming in?

18 MR. EVANS: Not for the purposes of the motion.

19 THE COURT: Well, they will come in as Defense 1.

20 Mr. Matthews, will you come up and assist him in having
21 exhibits marked and et cetera, et cetera?

22 MR. MATTHEWS: Yes, sir.

23 MR. GREENE: Your Honor, I wish to establish the
24 record.

25 THE COURT: I'm allowing you to introduce those into

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1 evidence.

2 MR. GREENE: Yesterday I had different things that I
3 said.

4 THE COURT: You can't talk right now while she's doing
5 that, hang on. Okay. Now, what were you saying, Mr.
6 Greene?

7 MR. GREENE: Yesterday I had some different things that
8 I said to the Court and the record really wasn't established
9 on them. The solicitor said that he had a document which
10 that there was -- and I'm not meaning to the interrupt you,
11 I know that you have a trial to go on with, Judge, please --
12 I'm respectful, but real quickly.

13 THE COURT: Yes, sir.

14 MR. GREENE: In those documents he said that he had an
15 extension granted from a second preliminary hearing and all
16 of those documents I would ask also be made the record, I
17 would like to see them just like he was able to see the
18 documents that I have as part of the disclosure. They said
19 that my money was given back to me also, I think you heard
20 him say that.

21 MR. MATTHEWS: Your Honor, may I have a moment to -- I
22 know that I am just stand-by.

23 MR. GREENE: These deal with the probable cause of
24 everything.

25 THE COURT: Yes, sir. Mr. Greene, respectfully I've

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1 made a ruling on your motion to quash the indictment, that
2 issue has been dealt with. The issue before the Court now
3 is whether or not the traffic stop was constitutional and
4 whether or not the resulting you getting out of the vehicle
5 or them searching the vehicle was constitutional. If I
6 determine that it wasn't the case is over with. If I
7 determine that it was, the case goes forward. So that's the
8 issue before me now. I've already ruled on the issues
9 yesterday, I'm not going to rehash those issues. Okay.

10 MR. GREENE: Your Honor, the only point that I was
11 trying to make was this, that yesterday the solicitor put on
12 record and he said that the only evidence that he had --
13 that's what I'm trying to explain to you about being
14 informed about these charges, Monday was my first knowledge
15 of the trial and I'm trying to gather the evidence as I'm
16 going on so it's kind of difficult for me just to go on and
17 deal with this also. My point being is that he said that he
18 had that evidence.

19 THE COURT: What evidence?

20 MR. GREENE: He said the record of the preliminary
21 hearing --

22 THE COURT: The preliminary hearing has nothing to do
23 with the trial of this case. The preliminary hearing is
24 simply a procedural stage prior to evidence being offered at
25 a criminal trial. I heard that yesterday, I made a decision

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1 that your grounds to quash the indictment were --

2 MR. GREENE: He said that's the only evidence that he
3 had, Judge, that's all I was saying.

4 THE COURT: Okay. I missed that.

5 MR. GREENE: Judge, he said the only evidence he had
6 was two testimonies, that's the point I was trying to make.

7 THE COURT: Okay. Regardless --

8 MR. GREENE: Today he has more evidence is what I'm
9 trying to say that I haven't prepared for.

10 THE COURT: Mr. Greene, I'm going to ask you now
11 because I don't want you to look bad in front of the jury,
12 when I'm talking you don't interrupt me. I don't want it to
13 affect your appearance in front of the jury, so while we're
14 here having a non-jury hearing I want to make sure you
15 understand that. Okay. Now, let me explain to you for the
16 purpose of the record, I heard yesterday your arguments as
17 to whether or not the indictment was appropriate in this
18 case. I denied those arguments, denied your position based
19 upon my understanding of the procedure used. Preliminary
20 hearings -- whether or not a case is dismissed at a
21 preliminary hearing, the State can choose to have you
22 directly indicted. Okay. There was a grand jury indictment
23 issued in this case and the solicitor offered argument that
24 there was a preliminary hearing. That issue was over with,
25 we don't need to rehash that issue. Again, the only issue

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1 before me right now is whether or not the traffic stop was
2 constitutional. Proceed with your questioning.

3 MR. GREENE: Thank you, Judge. I'm sorry.

4 THE COURT: Yes, sir.

5 BY MR. GREENE:

6 Q Chief, did you initialize the money?

7 A What's that?

8 Q The money that was confiscated.

9 MR. EVANS: Object to the relevance.

10 THE COURT: Sustained. Move on to something else.

11 Q Were there cameras on the vehicles that you guys had in
12 that area there?

13 A No, sir.

14 MR. GREENE: Your Honor, I would object to the DUI stop
15 if these vehicles didn't have cameras.

16 THE COURT: All right. Solicitor, what is the State's
17 position on that?

18 MR. EVANS: Your Honor, the only criminal charge I'm
19 aware of in this state where video is -- any car video is
20 required is a DUI and he's not charged with a DUI.

21 THE COURT: All right. This is a traffic safety
22 checkpoint and not a DUI. Well, a DUI could fall under
23 Title 56.

24 MR. EVANS: It could have resulted -- and I would be
25 happy to the pull some testimony out of the chief, I've

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1 actually dealt with him on this issue before.

2 THE COURT: All right. I'm going to overrule your
3 objection on that. Move on to something else.

4 MR. GREENE: Let me see if I have anything to ask the
5 chief.

6 THE COURT: Mr. Matthews is available anytime you
7 believe you need help, Mr. Greene, he's willing to help you.

8 MR. GREENE: Mr. Matthews has told me that he's not
9 going to help me to be honest with you, he said that there's
10 nothing that he can do.

11 MR. MATTHEWS: Your Honor, that's a
12 mischaracterization. I am available to help Mr. Greene if
13 he wants it.

14 THE COURT: Yes, sir. All right.

15 MR. GREENE: Thank you. I have a question for the
16 chief if you'll just bear with me just a second.

17 THE COURT: Yes, sir.

18 BY MR. GREENE:

19 Q Chief, I want to ask you this question but I don't want
20 to make it the wrong way. At the end of the whole scuffle,
21 the taser episode and all of that, you made a comment
22 about --

23 MR. EVANS: Object to relevance of this motion.

24 THE COURT: Well, I'm going to overrule it right now, I
25 don't know where he's going into. What are you asking

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1 about?

2 Q Well, chief --

3 THE COURT: Well, just tell me what you want to know of
4 him.

5 MR. GREENE: I'm just about to get to that.

6 THE COURT: And I may be able to ask the question for
7 you. Go ahead and tell me.

8 MR. GREENE: They basically had the weapon on the
9 ground, it wasn't around anybody, I was around the officers,
10 the weapon was way somewhere else. The chief then wanted to
11 know if anybody seen the weapon fall off of me or was around
12 me, he asked the question and there was one officer who
13 responded.

14 THE COURT: Okay. Do you understand what he's saying?
15 Just go ahead and try to explain your answer to that.

16 WITNESS: I don't see where that's coming from with the
17 constitutionality of the traffic stop.

18 THE COURT: Just answer the question, I'll make that
19 decision. Did you see the firearm?

20 WITNESS: Yes, sir, I did, Your Honor.

21 THE COURT: And where did you see the firearm?

22 WITNESS: As he was turning to run and bolt the gun
23 flew out in front of the defendant while being tased.

24 BY MR. GREENE:

25 Q Did you see where it came from?

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1 A I didn't see where it come from, I seen the gun come
2 from the defendant's hand.

3 THE COURT: All right.

4 MR. GREENE: Your Honor?

5 THE COURT: Yes, sir.

6 MR. GREENE: The statements are kind of contradictory
7 in the sense of what I just heard. I'm trying to find out
8 exactly what he was trying to say. He said that he didn't
9 see the gun, when he first gave testimony earlier he said
10 that he didn't see the gun, he said that he didn't see the
11 gun. The officer's --

12 THE COURT: I believe it's clear what he said, you just
13 heard what he said. Move on to something else.

14 MR. EVANS: This is argumentative, Judge.

15 THE COURT: Yes, sir, it's argumentative. Move on to
16 somewhere else. I know that you may disagree with that --

17 MR. GREENE: The witness is contradicting --

18 THE COURT: Mr. Greene, again, don't interpret me. I
19 know that you may disagree with what he said, that's why you
20 get to the tell your side of the story if you wish to, but
21 that's an improper question just because you disagree with
22 the way that the witness testifies.

23 Q My last question would be relating to the money and
24 ticket situation. When you got me beside the vehicle and
25 like you said, these vehicles had no cameras, was there

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1 money counted right there?

2 MR. EVANS: Object to the relevance, you've already
3 ruled on it.

4 THE COURT: You're right, but I'm going to allow it for
5 the purpose of this hearing. Did you count the money right
6 there at the traffic stop?

7 WITNESS: Yes, sir, it was counted by three officers.

8 MR. GREENE: Now that he's answered that, can I ask the
9 question if he initialized it?

10 THE COURT: Sure. Did you initialize that?

11 WITNESS: Initialize what?

12 Q The bills were initialized by some office, you might be
13 here to give some credence on that.

14 A In other words, I'm not going to initial every little
15 bill that's in there. It was taken and counted and put in a
16 brown paper bag and signed on the front of it.

17 Q So none of the bills were marked by any individual
18 officer?

19 A No.

20 THE COURT: Mr. Matthews, any additional questions on
21 the -- I think it would be helpful to your client if you
22 were to ask some additional questions -- well, not your
23 client, but since you're standing by. Thank you,
24 Mr. Matthews.

25 CROSS EXAMINATION

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1 BY MR. MATTHEWS:

2 Q Chief, you said that the original reason you waived the
3 car over was because you saw an open container, correct?

4 A Yes, sir.

5 Q Did you take that open container into evidence?

6 A At the given time I didn't seize it, it was in the
7 vehicle. I can't attest to what my officer did and that's
8 in a lower court on alcohol.

9 Q Okay. Are you the custodian, or was the custodian --
10 have you brought all of the evidence over that you're going
11 to bring over?

12 A I got the evidence here, the gun, not alcohol, the open
13 container. The gun is here.

14 Q Okay. The container, whatever happened to it it's not
15 here today.

16 A It's not here today, that's right.

17 Q And your normal procedure would be -- and you basically
18 write a ticket for the open container to the driver of the
19 car, correct?

20 A Not to the driver, whoever's container it was. At the
21 given time it was nobody's.

22 Q I see. And who made that arrest, Officer Rogers or
23 Officer Cook?

24 A Officer Cook.

25 Q Okay. And you indicated I think in your direct that

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1 the purpose is general crime suppression, correct?

2 A Yes, sir.

3 Q How many different cars were out there, police cars?

4 A At a given number?

5 Q At that particular time.

6 A If you had 15 officers, probably 15 to 20 different
7 police cars. I just don't count, you know, cars.

8 Q And is it your testimony that none of them had in-car
9 cameras?

10 A At the given time none of us had them on.

11 Q Okay. Did you have an -- did you have a camera in your
12 car?

13 A No, sir. My car was down on the left-hand side.

14 Q I see. And why were none of them on?

15 A It was just a checkpoint.

16 Q I understand. I mean, was that by your direction or --

17 A No. I mean, if they wanted to have it on they could
18 have had it on, but we just didn't have it on the scene
19 particularly.

20 Q Okay. Some of them may have had it on --

21 A I can't answer that for them because I don't know.

22 Q There was no directive as far as that goes.

23 A That's right.

24 Q All right.

25 MR. MATTHEWS: Nothing further.

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1 THE COURT: Thank you. Any redirect?

2 MR. EVANS: Yes. Thank you, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. EVANS:

5 Q Chief, you've given us sort of two different answers
6 about what the purpose of this traffic safety checkpoint
7 was. Was it for Title 56 or general crime patrol? Because
8 those is two different things.

9 A You actually can do it in two things, Title 56 and
10 non-traffic violators, which is crime deterrents.

11 Q Where did you learn that?

12 A Crime deterrents?

13 Q Yes.

14 A At the academy.

15 Q What was the purpose of this checkpoint?

16 A Saturation.

17 Q What does that that?

18 A Saturation is an abundance of officers at one location
19 at one given time.

20 Q What were you looking at?

21 A Anything dealing with Title 56 and crime deterrents
22 which is non-traffic violations.

23 Q What happens if you find evidence and you need to
24 investigate a DUI since these cameras were not on, what do
25 you do then?

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1 A If that is the case every officer knows if it is a DUI
2 it goes in front of a camera.

3 Q So you initiate the camera --

4 A But this wasn't a DUI case.

5 Q I understand that. We're talking about the checkpoint.

6 A The checkpoint, yeah.

7 Q If you find evidence that you need to further
8 investigate a DUI, do you put them in front of a camera?

9 A Yes, sir.

10 Q And there were vehicles there that were equipped with
11 cameras.

12 A Yes, sir.

13 Q Are all of the Cottageville Police Department vehicles
14 equipped with cameras?

15 A All but two.

16 Q So that's an update.

17 A Yes.

18 Q Because in the past you have -- not all had cameras
19 because of budget issues.

20 A That's right. Yep.

21 MR. EVANS: That is all for redirect, Your Honor.

22 THE COURT: Any further questions, Mr. Matthews or Mr.
23 Greene, on the issue?

24 MR. MATTHEWS: No, Your Honor. Just our argument
25 unless the State intends to call another witness.

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1 THE COURT: Any other witness?

2 MR. EVANS: Yes, Your Honor.

3 THE COURT: Thank you, sir, you can step down. Call
4 your next witness.

5 The witness, JEFFREY COOK, was first duly sworn
6 and testified as follows:

7 WITNESS: My name is Lieutenant Jeffrey David Cook,
8 C-o-o-k, last name.

9 DIRECT EXAMINATION

10 BY MR. EVANS:

11 Q Lieutenant, were you employed by the Cottageville
12 Police Department on the night that we're talking about?

13 A Yes, sir.

14 Q Do you recall the events of this traffic safety
15 checkpoint?

16 A Yes, sir, I do.

17 Q Can you tell us about your role in it just briefly?

18 A Yes, sir. I was on the opposite side of the road. In
19 the beginning I was issuing out a citation. My chief, I was
20 coming back towards my chief, chief met me in the middle of
21 the road and said, "There's an open container in here," I
22 issued a citation for it. I went to the opposite side of
23 the car, I observed both gentlemen in there. Mr. Greene, to
24 me as being an 18 year veteran of law enforcement, he was
25 very nervous, wouldn't look at me. I could tell he was kind

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1 of fidgety, went to his side of the car asking for his
2 driver's license.

3 Q Before we get into that, could you see the open
4 container that the chief referenced in his testimony?

5 A Yes, sir. Once I got to the window it was in plain
6 view.

7 Q And you could tell that it was an alcoholic beverage,
8 not a non-alcoholic beverage?

9 A Yes, sir. You could look at the can and tell, there
10 was not a doubt in my mind it was a beer can.

11 Q Do you recall what brand of beer or anything like that
12 and other details?

13 A Without being completely truthful, sir, I can't tell
14 you, but I believe that it is a Bud Light can.

15 Q So please continue. What happened when you got to the
16 window?

17 A When I got to the window, saw the beer can right there,
18 once again it was in plain view. I wanted to continue to
19 search to see if there was anymore alcohol inside the
20 vehicle. I asked the gentleman to step out of the vehicle
21 due to the officer's safety, and this is -- out here you've
22 got a bunch of officers and a bunch of people out here. I
23 wanted to pat the people down to make sure he had no weapons
24 before he would be asked to go to the side of the road.

25 Q And why did you have a feeling that that would be

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1 necessary?

2 A Because as fidgety as he was and as nervous as he was I
3 thought maybe he had a beer on him.

4 Q You thought that it was possible --

5 A Yeah. At that time I wasn't thinking about a weapon at
6 that time.

7 Q Okay. So you asked him out of the car; is that
8 correct?

9 A Yes, sir.

10 Q And then what happened?

11 A I let him know -- I said, "Listen here, you're being
12 detained right now because of the beer. Do you understand?"

13 I asked him, "Do you understand that?"

14 Q You used to the word detained.

15 A Detained. At that time he was being detained. And the
16 reason being is the beer is right there and also as fidgety
17 as he was I didn't know if he was holding anything else.

18 Also, I can't search right there by him if he's inside the
19 vehicle because that's an officer safety issue because I'm
20 not going to search underneath somebody's feet if they're
21 sitting there.

22 Q So you're planning to search the vehicle.

23 A Planning to search that area, yes, sir.

24 Q For what reason?

25 A For alcohol.

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1 Q Additional evidence of the crime that you suspected.

2 A Yes, sir.

3 Q What happened then?

4 A Asked him to put his hands on top of the car, do a
5 brief pat down of weapons, wasn't going in his pockets, just
6 pat him down. He stepped back off of the car because it
7 kind of surprised him. He backed up off the car, he started
8 looking around him. It's also -- as a veteran of law
9 enforcement when somebody starts looking right and left
10 they're getting ready to run, they're getting ready to flee.

11 Q That was what your experience told you?

12 A Yes, sir. And without a doubt I knew what was going to
13 happen. He bucked off me again and then I told him, I said,
14 "Hey, man, you're under arrest," and tried to get him up
15 against the car.

16 Q What was he being arrested for?

17 A At that time he was being arrested for the alcohol and
18 is also not to mention what further -- I could not assume
19 there was a further crime there but in my experience it
20 seems to me that there was more going on with the gentleman
21 than just the open beer there.

22 Q Why did you decide to the arrest him versus just
23 writing him a citation?

24 A Because at this time he is fleeing.

25 Q He is attempting other than just ticket for open

PRETRIAL MOTIONS

1 container?

2 A Yes, sir, he was attempting to flee me.

3 Q And that was what his bodily actions --

4 A Yes, sir. To me I was in a fight at this time. It
5 wasn't a pushing match, I was in a fight at this time.

6 Q Okay. Please continue.

7 A Mr. Greene, trying to pin him right there in the
8 vehicle, trying to -- on the side of the vehicle and trying
9 to get his hands behind his back, he's makes a move, and I'm
10 steady fighting him. I'm trying to grapple him to the
11 ground so therefore I won't hurt him because he's a smaller
12 guy and don't want to hurt nobody. So he gets away. I hear
13 Sergeant Rogers' voice and I hear it at night sometimes,
14 "gun," just as clear and plain as day. I'm looking right
15 here and I see something, I cannot testify that that was a
16 gun but I saw something. I grab this guy. I've already
17 done grabbed him by the legs, I'm hearing "gun," veteran law
18 enforcement, I'm rolling off and I'm grabbing my gun, that's
19 the reason why I turned him loose because we were so close.
20 I did not know at this moment that this man was going to
21 shoot me or not.

22 Q You were preparing to draw your own service weapon?

23 A I was preparing to the defend myself, yes, sir.

24 Q Did you at any point observe a gun?

25 A After the fact. Like I said, sir, I saw something. I

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1 cannot testify that it was a gun but I saw something. But
2 then after the fact, there it was, there was a gun.

3 Q There was a gun where?

4 A There was a gun there by the front of the vehicle.

5 Q Is this where you and he were having a physical
6 altercation?

7 A Yes, sir. Well, he was right there at, like I said,
8 the passenger side door. I grabbed him, he moved forward of
9 the car. So in that direction I would say, yes, he is
10 moving into that direction. So if you want to look at the
11 momentum of the force at the time, that's the way the weapon
12 would have went.

13 Q Okay. You were the arresting officer for this
14 particular charge that we're here for, correct?

15 A Yes, sir.

16 Q When was he arrested for that?

17 A For the weapon?

18 Q Yes.

19 A Well, he was actually under arrest before the weapon
20 was produced?

21 Q Under arrest for other charges --

22 A Yes, sir. And then after that I heard a taser go off
23 and then another taser go off and he was being actively
24 aggressive after he was tased. I mean, he's still actively
25 trying to resist. This is something that I observed. I did

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1 not tase him but I observed this. And then he was put into
2 handcuffs and EMS came to him because that is a part of our
3 policy and protocol.

4 Q All right.

5 MR. EVANS: That's all of the question that I have for
6 the purposes of this motion, Judge.

7 THE COURT: All right. Mr. Matthews or Mr. Greene, any
8 questions from the officer?

9 CROSS EXAMINATION

10 BY MR. GREENE:

11 Q My first question would be -- I might be jumping the
12 fence -- but you said that you never really seen a gun.
13 I'll make that short. You said the tussle and where the gun
14 ended up landing at was where now? Well, you tell me.

15 A Yes, sir. Right there by the front of the car, up in
16 that area. I mean, I can't pinpoint right there by the tire
17 or something like that, but it's in that general area, yes,
18 sir, in front of the car.

19 Q At what point did you search -- pat the individual
20 down?

21 A Once again, remember, when I got you out of the car and
22 I told you to put your hands on top of the car and you were
23 being detained and I said, "Sir, I'm detaining you, do you
24 understand what that means?" And the reason I said do you
25 understand is because some folks don't know what detainment

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1 means. And then I was going to pat you down for weapons.

2 Q Was there a tussle at that point?

3 A At the initial point of me asking you if you were being
4 detained? No. Not at that point, no.

5 Q How many beverages of alcohol did would you say there
6 was?

7 A One can of beer in there.

8 Q Did you ever establish control as to which person
9 inside the car -- since there was two people in the car, who
10 had control of the beverage?

11 A No, sir, I did not. And the reason being is simply
12 this right here, after the tussle with you and with the gun
13 and everything else, no, I didn't ask.

14 Q Did you or did you not know there was a gun in the car
15 prior?

16 A No, I did not.

17 Q You didn't know there was already a gun?

18 A No, I did not.

19 Q But you said that you were going to search for alcohol,
20 right?

21 A That's correct.

22 Q Did you ever continue to search for alcohol?

23 A Yes, sir. After you were placed in handcuffs we went
24 back and searched the vehicle.

25 Q Will you tell the Court a little bit about that search

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1 a little bit and explain what happened after that?

2 A Very simple. After you were in handcuffs, after EMS
3 got with you, once again, we continue to search. We went
4 right there to your side of the car, that's where the
5 Newport box of cigarettes were found and produced the
6 marijuana cigarettes. There was no other alcohol that was
7 produced from that vehicle.

8 Q Did you write these tickets?

9 A Yes, I did.

10 Q Who told you to write these tickets?

11 A Nobody. I'm a law enforcement officer, I can -- have
12 discretion to write who I want to.

13 MR. MATTHEWS: Your Honor, I believe the -- I believe
14 that he's referring to Defendant's Exhibit Number 1.

15 THE COURT: Okay.

16 MR. GREENE: My last question, Your Honor.

17 THE COURT: Yes, sir.

18 Q Is there any pictures -- I think that it's been
19 established somewhat -- of any of the physical evidence that
20 you found, you never -- because I was trying to get you to
21 explain what all you did find and you never did get to the
22 extent to that point.

23 A Okay. I've already established that we have found the
24 beer, already established about the gun, already established
25 the Newport pack of cigarettes with the marijuana cigarettes

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1 in there. And that is as far as that was found inside the
2 vehicle. That's done been established, sir.

3 MR. GREENE: Do you have any questions?

4 THE COURT: Mr. Matthews, any additional questions?

5 MR. MATTHEWS: Yes, I think so, Your Honor. I just --

6 CROSS EXAMINATION

7 BY MR. MATTHEWS:

8 Q So you've seen Defendant's Exhibit Number 1.

9 A The citations, yes, sir.

10 Q Okay.

11 MR. MATTHEWS: May I approach the witness, Your Honor?

12 THE COURT: Yes, sir.

13 Q Okay. Just take a look.

14 A Yes, sir.

15 Q Did you issue any additional tickets other than those
16 listed in 1?

17 A Yes, sir, I did, for the unlawful weapon.

18 Q For the unlawful weapon.

19 A Yes, sir.

20 Q Okay. So those two tickets in that and the unlawful
21 weapon and that's it.

22 A As far as I see here and can remember, sir, yes, sir.

23 MR. MATTHEWS: No further questions.

24 THE COURT: Any redirect?

25 REDIRECT EXAMINATION

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1 BY MR. EVANS:

2 Q What is a ticket for an unlawful weapon, what is that?

3 A Basically the South Carolina statute equivalent to that
4 would be unlawful carrying of a weapon, of a pistol. Mr.
5 Greene had this pistol on his person, he is not a carrier of
6 a concealed weapons permit so therefore it is unlawful in
7 this state for a person to carry a pistol on their person
8 without a CWP.

9 Q And you charged him for that in addition to the charge
10 that we're here for?

11 A Yes, sir.

12 Q Why?

13 A Well, it's real simple, he has been found convicted of
14 a violent crime, of a felony.

15 Q But why two charges for one gun?

16 A Okay. Because here's the thing, under the town law
17 with the unlawful weapon that is a charge into itself.

18 Q Okay. What are the differences?

19 A The differences is is that he is in possession and
20 carrying the gun, he is carrying the gun.

21 Q Okay.

22 A Do you understand what I'm trying to say?

23 Q For which one?

24 A For the unlawful weapon. He unlawfully possesses it
25 under town law.

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1 Q Is that charge pending or has it been disposed of?

2 A Yes, sir, it is.

3 Q It is still pending now?

4 A Yes, sir, it is.

5 Q Was Mr. McCrary (sic) also asked out of the vehicle in
6 regards to this open container?

7 A No, sir, he was not.

8 Q He was not?

9 A After the fact -- now, this was after the fact of the
10 situation, he was not asked out of the vehicle yet because
11 we was dealing with Mr. Greene at the time and then that's
12 when things went bad with him.

13 Q Why were you only dealing with Mr. Greene, the
14 passenger versus the driver?

15 A Because there was another officer there on the other
16 side.

17 Q That's what I'm asking about. Was there another
18 officer working with Mr. McCrary (sic) for purposes of --

19 A Yes. There was another officer talking to him on the
20 other side and that's the reason why I was talking to Mr.
21 Greene.

22 Q And that for the purposes of the open container?

23 A And no driver's license, because they were trying to
24 verify --

25 Q They were working on him and you were working with Mr.

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1 Greene.

2 A Yes, sir.

3 Q And both of them were suspected of the open container?

4 A Yes, sir.

5 Q Were you trying to the ascertain who possessed it?

6 A Initially that was what I was trying to do, I was
7 trying to establish who had the beer, was there any other
8 beer in the vehicle and then things turned after that and I
9 never got back to that, sir.

10 MR. EVANS: Okay. Those are all of the questions I
11 have, Judge.

12 THE COURT: Any additional questions, Mr. Matthews or
13 Mr. Greene, based upon than redirect?

14 MR. MATTHEWS: No, Your Honor.

15 THE COURT: Okay. Thank you, sir, you may step down.
16 Argument, gentlemen?

17 MR. EVANS: Your Honor, I just have the last officer
18 and I'm going to limit him to the three questions.

19 THE COURT: What are you offering him for?

20 MR. EVANS: Because he's the one who observed the gun
21 and I know that that's part of the motion.

22 THE COURT: Go ahead and call your witness.

23 MR. EVANS: The State calls Deputy Cephus Rogers.

24 The witness, CEPHUS ROGERS, was first duly
25 sworn and testified as follows:

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1 DIRECT EXAMINATION

2 BY MR. EVANS:

3 Q What's your rank?

4 A Sergeant.

5 Q Sergeant, were you at this checkpoint that we have been
6 talking about this morning?

7 A Yes, I was.

8 Q Did you observe the gun on the defendant's person?

9 A Yes, sir.

10 Q Can you describe how you saw that?

11 A I was standing at the driver's side door speaking with
12 the driver.

13 Q You were speaking with Mr. McCray?

14 A I think I was and possibly another officer. And when
15 Sergeant Cook -- or Lieutenant Cook, then sergeant -- I
16 believe, was speaking with the defendant or suspect, then
17 when he was getting out during the commotion I saw what
18 appeared to be a weapon.

19 Q You saw what appeared to be a weapon where?

20 A In the back portion of his body. I screamed "gun" and
21 it went down hill from there.

22 Q Okay. Did you see that same weapon or what you
23 observed or believed to be a weapon go on to the ground?

24 A I didn't see it go on to the ground. I don't know
25 where it went. It was later found on the ground in the

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1 vicinity.

2 Q Okay. Is it still your belief that that was the gun
3 that you saw in his pants?

4 A Well, we recovered a gun from that vicinity.

5 Q I'm asking about --

6 A Yes.

7 Q -- the moment that you saw what you said was a gun.

8 A Realize that it's dark and --

9 Q Right.

10 A -- so what I saw I believed it to be a weapon and I
11 screamed gun and later a gun was found and taken into
12 evidence.

13 Q So you still believe that that was a gun?

14 A Yes, sir.

15 MR. EVANS: That's all of the questions, Your Honor.

16 THE COURT: Any questions?

17 CROSS EXAMINATION

18 BY MR. MATTHEWS:

19 Q Sergeant Rogers, you yelled gun as soon as you saw it,
20 correct?

21 A Yes, sir.

22 Q Okay. And you were dealing with Mr. McCray, and so
23 what was going on with Mr. Cook was not your main concern,
24 with Officer Cook and -- you were dealing with McCray and as
25 soon as you saw a gun at that moment you yelled gun.

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1 A Well, I was on the shoulder of the road or somewhere
2 else initially and then I walked over once I heard about
3 what they had going on for added security, and standing at
4 the driver's side door I saw it and screamed gun.

5 Q Okay. But like I said, the moment you saw it you
6 yelled it.

7 A Yes. Simultaneously, yes.

8 MR. MATTHEWS: Nothing further, Your Honor.

9 MR. GREENE: I have a question.

10 THE COURT: Yes, sir.

11 CROSS EXAMINATION

12 BY MR. GREENE:

13 Q You seen the gun visibly but you said that you didn't
14 see it on the ground.

15 A I saw what appeared to be a gun visibly on your person,
16 yes.

17 Q And was it exposed? Was the gun exposed?

18 A Enough for me to identify that it was.

19 MR. GREENE: No further questions.

20 THE COURT: All right. Thank you, you may step down.

21 All right. Let's hear argument. And specifically, I
22 want -- I don't know what case you're relying on, obviously
23 in the Supreme Court it's the Brown case, Brown versus
24 Texas, with three prongs that the Court has to look at. So
25 kind of tailor your arguments toward that. Who is going to

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1 argue? Mr. Matthews?

2 MR. MATTHEWS: Thank you, Your Honor. Your Honor,
3 briefly as to the roadblock. Officer Cook said that it was
4 for general crime control, and although traffic may have
5 been a component of it, that's not favored and that would be
6 the defendant's argument on the legality of the stop, you
7 can't do it for general crime suppression and that was what
8 the chief said it was for. There may have been another
9 purpose, too, but it's general crime suppression. That
10 would be basically on that argument.

11 THE COURT: That's the second prong argument.

12 MR. MATTHEWS: Yes, sir.

13 THE COURT: Well, the State versus Vickery is the most
14 recent case I could find on that, the South Carolina Court
15 of Appeals case where the court of appeals reversed and
16 remanded the trial court which found that the roadblock was
17 not constitutional, and in that case I believe there was
18 testimony about the checkpoint was to prevent traffic
19 offenses and people driving without a license. And I
20 thought that's what the officer's testimony was, that
21 anything under Title 56, and then he also said general crime
22 prevention. I don't want to steal your thunder, Solicitor,
23 but is that your argument in particular?

24 MR. EVANS: That's correct, Your Honor. He
25 specifically referenced Title 56 which deals with traffic.

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1 The Indianapolis case was one in which that checkpoint on
2 all facts in the record was only for general crime control
3 and so I don't think that that's directly applicable. It
4 also says that those are all okay if there is individualized
5 suspicion. It's a tough standard to me but that's not
6 really what we're working with here because that's a very
7 particular kind of thing where they weren't making any
8 attempt to find traffic violations. That's not what we're
9 dealing with here. The three prongs that -- the gravity of
10 the public interest being number one, I didn't hear any
11 argument, but I'll just make one. I think that Your Honor
12 knows that the roads are, as you experienced today, a key
13 public interest that law enforcement has to deal with. I
14 don't think there's really a credible argument to be made
15 against that. The effectiveness would be the second prong.
16 We tried to put in some evidence of the numbers that they
17 brought back, so between a hundred and 200 cars, that's
18 obviously a difficult number to calculate but that is of
19 their recollection. And they do have hard numbers as to how
20 many infractions resulted, 26 I believe over the course of
21 the night. I've seen in these cases justified as low as one
22 percent, they were pulling in 13 to 26 percent violations.
23 So the roads were made safer on that night. The third
24 prong, Your Honor --

25 THE COURT: The severity of the interference of

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1 personal liberty.

2 MR. EVANS: We dealt with some testimony on that. I
3 said how long were those that didn't have a violation, which
4 again is 74 to 87 percent of them, how long were they
5 delayed? He said but a couple of seconds. They checked the
6 license, they checked the tags, they don't find any other
7 indication that another crime like a DUI or drug case is
8 going on, they send them down to the road, three to five
9 seconds. That's certainly within the range that the courts
10 have found acceptable under the 4th Amendment.

11 THE COURT: All right.. Any further argument, Mr.
12 Matthews, on the constitutionality?

13 MR. MATTHEWS: I think Mr. Greene wants to the say some
14 more things.

15 THE COURT: Yes, sir, Mr. Greene?

16 MR. GREENE: The only argument that I would make based
17 on Title 56, there was no Title 56 arrest made. If there
18 was any intent there was no evidence that the Court has to
19 go on to know that was the officers intention. There's no
20 proof stated that there was any Title 56 violation. The
21 only violation that could have occurred were more serious as
22 counsel argued.

23 THE COURT: Is the open container statute, is that
24 under Title 56?

25 MR. EVANS: I don't have it in front of me.

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1 MR. MATTHEWS: No, sir.

2 THE COURT: What's that under?

3 MR. MATTHEWS: Title 61.

4 THE COURT: All right. I note your objection. I'm
5 going to overrule that, Mr. Greene, but your position is
6 certainly in the record. Okay. I do find based upon the
7 facts and circumstances and testimony and evidence presented
8 and my understanding of the law that the traffic checkpoint
9 was constitutional in this case, therefore I'm going to
10 uphold to the constitutionality of the traffic checkpoint.
11 Now let's deal with the probable cause for the arrest.
12 Mr. Matthews?

13 MR. MATTHEWS: Thank you, Your Honor. Just briefly,
14 the record seems pretty clear. Officer Cook said that when
15 he pulled him out he pulled him out to search the car for
16 alcohol. He said that Mr. Greene was under arrest, no
17 ticket was issued, and in fact, he also testified he wasn't
18 sure whose it was. So at that time he was under arrest and
19 the tussle took place, he was under arrest for something
20 that he was never given a ticket for and, in fact, the
21 officer says he was still investigating.

22 THE COURT: Do you agree that it's constitutionally
23 permissible for an officer to ask a passenger to exit a
24 vehicle without violating the 4th Amendment?

25 MR. MATTHEWS: I think under the circumstances,

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1 perhaps. If -- the reason that he gave us is not an
2 offensive one. I mean, he said that it was to search the
3 car for further alcohol as far as asking him to get out of
4 the car, so I think probably the State met their burden on
5 that. It's just when they went to arrest him and detain him
6 further, not just get out of the car and get away from the
7 car but to detain him, to further investigate, they're
8 conceding they didn't have probable cause to write the
9 ticket at that point. So yeah, they could have had him get
10 out of the car but not to detain but to search the car and
11 that's not what they did. They continued to question Mr.
12 Greene, they tried to detain him and at that point the
13 tussle broke out and that's when Officer Rogers -- Officer
14 Cook said they were tussling when he heard "gun," they were
15 already at that point. So they were already tussling and at
16 that point Officers Rogers says he yelled gun as soon as he
17 saw it. Officer Cook says that he heard gun when they were
18 already tussling on the ground. So he was being detained at
19 the point where at that point there was not probable cause
20 to arrest him for anything or to detain him further. They
21 could have taken him out of the car to search the car but
22 not to detain him, which is what they did and that's where
23 they found the gun.

24 THE COURT: Got it.

25 MR. EVANS: Your Honor, the testimony was that it

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1 developed quite rapidly as I recall, from asking him out of
2 the car -- and I'm relying on a recent 2013 South Carolina
3 Supreme Court case, McHam, M-c-h-a-m, v. South Carolina,
4 that is 404SC465. That's a PCR case, Judge, but they did
5 get into the issue whether it's reasonable to ask a driver
6 or the passenger out of a vehicle at a checkpoint for
7 officer safety reasons, they did, in fact, find that that
8 was reasonable. I've got a copy of that case if Your Honor
9 could review it. It immediately -- perhaps not immediately,
10 but rapidly devolves into a tussle as I recall because
11 officer -- Lieutenant now -- Cook said he inspected from the
12 actions inside the car that more could be afoot. He wanted
13 to check him under Terry for officer's safety and for
14 investigation of the crime that he was suspected of, more
15 beer on his person, that's not an impossible thing that he
16 could have found. He was trying to check him under Terry
17 for that purpose and that's when, in the officer's words,
18 Mr. Greene started bucking. It immediately devolved from
19 there, Judge. That's how we get from pulling him out of the
20 car, telling him that he was detained to investigated right
21 into there's a gun.

22 THE COURT: All right. Thank you. Mr. Matthews, any
23 further argument from you or Mr. Greene?

24 MR. MATTHEWS: None from me, perhaps Mr. Greene.

25 THE COURT: Mr. Greene, anything further on the issue?

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1 MR. GREENE: Yes.

2 THE COURT: Yes, sir. Stand up.

3 MR. GREENE: Your Honor, for probable cause the State
4 has spoken before about officers even touching a door that
5 is already even opened and they have shunned on that. There
6 are other cases that rely on -- there must have been some
7 type of suspicion for the officer to -- if he supposedly did
8 see alcohol and that was the only suspicion or reason for
9 him having me step out of the car, that was not the first
10 thing that he looked for. The officer said after he got me
11 out of the car, he detained me and then he said I was under
12 arrest. He never says what I was under arrest for, that was
13 never established. After that point, like counsel said,
14 officers then say that a tussle broke out.

15 THE COURT: I understand your analysis, and I think
16 that's a very relevant argument you made. However, relying
17 on the law as I understand it, our most recent South
18 Carolina Supreme Court case is the McHam case where almost
19 this exact situation happened. And relying upon that and my
20 understanding of the probable cause law concerning traffic
21 stops, I'm going to respectfully deny your motion to
22 suppress the arrest and find that there was probable cause
23 for the arrest. All right. Any other pretrial issues to be
24 dealt with?

25 MR. GREENE: Your Honor, the last pretrial issue on

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1 that, the State yesterday put on record that the only
2 evidence that they had that they were going to use for trial
3 or pretrial were two testimonies, and I think that that was
4 almost the solicitor's exact words. I would object to any
5 other evidence, testimony or physical, to be given outside
6 of the trial or given to the jury.

7 THE COURT: All right. Solicitor?

8 MR. EVANS: I believe that I said that I would need one
9 or two officers for the purposes of the pretrial hearing,
10 getting into the constitutionality of the stop. They have
11 been on notice of all the parties, of all of the individuals
12 who would testify. They are all named in the report, it's
13 been 14 months --

14 THE COURT: Okay. In your representation of Mr.
15 Greene, Mr. Matthews, were you notified of the State's
16 potential witnesses?

17 MR. MATTHEWS: Unless it's the folks here -- is there
18 anybody other than who is here?

19 MR. EVANS: Potentially, Ms. Riser if he contests the
20 prior conviction and that's it.

21 MR. MATTHEWS: I don't have any objections to any of
22 those witnesses. And in terms of the number of them, I have
23 the incident report, the names of people are people that are
24 on the incident report. Is Cephus on here?

25 MR. EVANS: Yes, he is.

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1 MR. MATTHEWS: These are all people named in the
2 incident report which I've had for some time. They
3 testified here, presumably their testimony won't be much
4 different than what they've already testified to.

5 THE COURT: All right. And Mr. Greene, your objection
6 is certainly noted for the record and preserved in the
7 record. I'm going to respectfully deny your objection. Any
8 other pretrial issues?

9 MR. MATTHEWS: Your Honor, if I might have one more
10 moment -- two minutes to the talk to Mr. Greene.

11 THE COURT: Okay. Let's take a five minute recess then
12 and then we'll go.

13 THE BAILIFF: All of the jurors are here, sir.

14 THE COURT: Okay.

15 (A recess was taken.)

16 THE COURT: We are ready for the jury.

17 (The jury entered the courtroom.)

18 THE COURT: All jurors are present. Madam clerk,
19 please swear the jury in.

20 (The jury was sworn.)

21 THE COURT: Thank you, Madam Clerk. Ladies and
22 gentlemen, I'm sorry we're getting started a little late
23 this morning, not the lawyers' fault, my fault. I-26, I
24 don't need to say anything else. I went home yesterday
25 evening, I had a meeting at church and was on the way back

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1 this morning and I apologize. Okay. If you're mad at
2 anybody be mad at me. I'm sorry. I'm going to talk to you
3 briefly and let you know how we're going to proceed today so
4 you kind of have an understanding of what happens in a
5 trial. I always like to give this instruction to you before
6 we start and I think it's important so you can understand
7 fully what your role is here to our justice system. Many
8 people don't have the chance to attend actual court sessions
9 like you're doing right now and think that everything they
10 see on TV or read in books or see in movies is the way court
11 really is. They think every trial, and you may think this
12 way as well, is always full of intense action, high drama
13 and riveting circumstances. While some of that may be true
14 at times, you know, this trial here today is not for
15 entertainment. It is a fundamental part of our democracy.
16 It's a search for the truth in an effort to make sure that
17 justice is done between the parties before the Court. Now,
18 searching for the truth and making sure that justice is done
19 can often be a repetitive and slow process, the opposite of
20 what you may have seen in movies and television or read in
21 books. Now, this courtroom, ladies and gentlemen, is a
22 place of honor dedicated to the preservation of citizen's
23 rights through what many have called the greatest justice
24 system ever created. Now, the attorneys who appear before
25 the Court are advocates for the parties that they represent,

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1 but first and foremost they're officers of the Court sworn
2 to uphold the integrity and fairness of our judicial system
3 and to help you in the search for the truth. You should
4 expect them to be professional, competent and ethical in how
5 they represent their client's interest, but remember, you've
6 just taken an oath to do that as well. So you're expected
7 to be professional, reasonable and ethical. Thank you for
8 accepting this important responsibility. Let me tell you
9 how a trial proceeds. First, the State of South Carolina is
10 going to make an opening statement to you. An opening
11 statement is not evidence, it's simply an outline to help
12 you understand what the State thinks the evidence will show
13 in the case. The defendant may if he wishes present an
14 opening statement, but yet he doesn't have to for reasons
15 that I will explain. Now, following openings statements you
16 will then hear testimony and evidence in the case. This
17 will consist of testimony from various witnesses as well as
18 any physical exhibits which may come into evidence. Now,
19 following the completion of all of that the parties again
20 will have an opportunity to make what is called a closing
21 argument or closing statement to you. Again, this isn't
22 evidence, this is just an opportunity for each side to
23 summarize the case or their respective points of view for
24 you to consider when you go to deliberate the case. After
25 the closing arguments, that's when I'll instruct you on the

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1 law in the case and that's when you'll be able to apply the
2 law as I give it to you and apply it to the facts as you
3 find them to be in order to reach your verdict. Now, as I
4 indicated to you yesterday, this is a criminal case brought
5 by the State of South Carolina. The State of South Carolina
6 has charged the defendant with possession of a firearm or
7 ammunition by a person convicted of a violent felony. Now,
8 this charge is contained in what's called an indictment.
9 Now, this indictment is not evidence of anything, it's
10 simply the formal written instrument by which a case comes
11 into court. It's simply a description of the charge made by
12 the State of South Carolina against the defendant. Now, the
13 defendant has pled not guilty to this charge and is presumed
14 innocent unless you -- unless and until proven guilty by the
15 State beyond a reasonable doubt. I will describe this later
16 to you in more detail, but a reasonable doubt is a doubt
17 which may cause a reasonable person to hesitate to act. A
18 defendant has the right not to testify and never has to
19 prove innocence or present any evidence. The burden of
20 proof is always on the State of South Carolina, and in this
21 case Mr. Greene has chosen to represent himself. You are to
22 draw no negative inference from that. Anybody in the United
23 States is capable of representing themselves if they wish to
24 do so, and Mr. Greene in this case has chosen to, so you are
25 not to hold that against him. Now, some things that you may

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1 hear are not evidence. I've already told you that opening
2 and closing statements aren't evidence. Also questions that
3 the lawyers may ask and Mr. Greene may ask is not evidence,
4 and objections that the lawyers make is not evidence. And
5 it's going to be your duty then, ladies and gentlemen of the
6 jury, to decide from the evidence what the facts are. You
7 and you alone are the fact finders in this case. You hear
8 the evidence, you decide what the facts are and then you
9 apply the facts to the law which I will give you at the
10 conclusion of everything, that's how you reach your verdict.
11 And in doing so you must follow the law that I give you,
12 whether you agree with it or not. And again, don't take
13 anything that I may say or do during the trial as indicating
14 what I think the evidence shows or what your verdict should
15 be. Now, just like the rules which govern sports and other
16 activities, like we're in football season right now so we
17 all know that you can't jump offsides, we all know that you
18 can't interfere with a receiver, stuff like that, we have
19 rules of evidence in court. And these rules control what
20 can be received into evidence. And when a lawyer asks a
21 question or offers an exhibit into evidence and the other
22 side objects, if I overrule the objection the question can
23 be answered or the exhibit can come into evidence. If I
24 sustain it the question cannot be answered or the exhibit
25 cannot be received. Now, whenever I sustain an objection to

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1 a question or deny a motion to admit something into
2 evidence, you must ignore the question or the existence of
3 that thing and you must not guess what the answer would have
4 been or what the exhibit would have shown. And sometimes it
5 may be necessary for me to ask you to go to the jury room
6 while I deal with matters of law concerning the parties
7 which may come up during the trial. If this occurs don't
8 speculate about what we're talking about or the reason why
9 you were asked to leave the room. This is simply a
10 procedure that the law requires when certain legal issues
11 arise. There also may be occasions where I ask the
12 attorneys to come up here to the bench so that I can discuss
13 a legal issue with them in private. Now, I will do this as
14 much as possible to keep you from getting up and going back
15 and forth to your jury room. When we do this don't think
16 that anybody is trying to hide anything from you or keep
17 anything from you, we're not. This is simply a procedure
18 used by all lawyers and all courts to determine and decide
19 legal questions. Now, in deciding the facts of this case,
20 ladies and gentlemen, you may have to decide which witnesses
21 to believe and which witnesses not to believe. You can
22 believe everything a witness says or only part of it or none
23 of it. Remember, you are the fact finders. You're not
24 going to be able to take notes during the trial, so please
25 pay very close attention to what you hear and what you see.

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1 At the end of the trial you're going to have to make your
2 decision based upon what you've heard and based upon what
3 you've seen. You don't have a written transcript of the
4 trial to consult and it is difficult and time consuming for
5 my court reporter to read back or play back lengthy
6 testimony, so please pay close attention as this case
7 progresses. Okay. And lastly, I'll tell you until I advise
8 you to begin your deliberations you must not discuss this
9 case with anyone, including your fellow jurors, friends,
10 family members or anyone else involved in this case. You
11 cannot do any independent research on this case. During
12 lunch break you can't get on your smart phone or get on your
13 laptop and pull up the people involved in this case, just do
14 not do it. Don't go onto social media and brag about being
15 a juror serving on a trial, do not do it. If you do it
16 you're violating my order and you could be held in contempt
17 of court. Okay. And don't let others try to talk to you
18 about this case in violation of this rule. If somebody
19 tries to do that you let me know and I'll take care of that.
20 Now, it's important lastly, ladies and gentlemen, that you
21 keep an open mind and not decide any issue in this case
22 until you've heard everything. And remember, your verdict
23 must be based only on what you've heard and seen in this
24 courtroom. It is your solemn responsibility to determine
25 the guilt or innocence of the defendant and your verdict

OPENING STATEMENTS

1 must be based solely on the evidence here in this courtroom
2 at trial and the law as I tell you at the end of the trial.
3 Thank you very much for accepting this important
4 responsibility. We will now proceed with opening
5 statements. Solicitor?

6 MR. EVANS: Thank you, Your Honor. May it please the
7 Court?

8 MR. MATTHEWS: Your Honor, may we approach?

9 THE COURT: Yes, sir.

10 (A bench conference was held.)

11 MR. EVANS: Good morning, ladies and gentlemen. The
12 reason y'all are here is because about 14 months ago Mr.
13 Robert Greene, sitting over at the counsel table with
14 Mr. Matthews, committed a crime. You are here to speak the
15 truth. You're going to listen to evidence that is going to
16 come from that witness stand from the State, potentially
17 from the defense if they so choose, and it is your job to
18 decide what the truth is, to find the truth, that's what
19 verdict means, to find the truth, speak the truth. And it
20 is an awesome responsibility that you have here. We're
21 going to try to move this case along quickly but that
22 doesn't mean that it's not serious. It's serious to the
23 State of South Carolina, to Colleton County and it's serious
24 to Mr. Greene, too, so that's why I'm asking y'all first and
25 foremost to pay close attention to what you hear coming from

OPENING STATEMENTS

1 that stand. Now, on , 2013, officers with the
2 Cottageville Police Department, which is here in Colleton
3 County, set up a traffic safety checkpoint. Y'all have
4 probably all been through one of these, they're not much
5 fun, but they're important and help keep the roads safe, or
6 at least safer than they were before. Now, sometimes those
7 checkpoints lead to other crimes and that's how we're here
8 today. Mr. Greene was going through the checkpoint, he was
9 the passenger in a vehicle, an officer with Cottageville
10 asked to talk to him about something that was going on,
11 something that looks criminal and suspicious, Mr. Greene
12 didn't like that. Mr. Greene started to resist and a
13 different officer saw that he had on him a pistol. He
14 didn't tell the officers before then that he had a pistol,
15 they only heard it after he started resisting their
16 authority. It turns out after checking Mr. Greene has done
17 something in his past which makes it illegal for him to own
18 that weapon, not just to own but even to possess it, to hold
19 it in his hand. We have rights under the Constitution of
20 the United States and the Constitution of the State of South
21 Carolina and one of those is the right to possess a firearm,
22 but rights aren't absolute. Mr. Greene lost that right some
23 time ago but he chose to ignore that fact. He endangered
24 the lives of the gentlemen that are going to talk to you
25 today and he endangered the people of Colleton County. Once

OPENING STATEMENTS

1 you hear all of the evidence the State is confident you're
2 going to believe that that was the case and you'll return a
3 verdict of guilty. Thank you.

4 THE COURT: Thank you, Solicitor. And Mr. Greene?

5 MR. GREENE: Good afternoon members of the jury.

6 was the night of my birthday. I was about to
7 meet my mother down there in Florida. My brother had just
8 had a, baby. I was traveling. It was my birthday. I was
9 happy and joyous. My federal student aid had just came in,
10 I'm a college student I would have you know. I was
11 traveling with my uncle, we were traveling from Georgetown
12 where we're from just passing through. I got sleepy. I was
13 driving first, I do have a driver's license, I got a little
14 sleepy and I let my uncle get the wheel. He said it was a
15 back road, he could drive the back road until we get to 95.
16 Everything in my mind told me I shouldn't do that because I
17 know that he did not have a driver's license. Today, to
18 make a long story short, jury, the defendant was stopped.
19 Upon being stopped he immediately handed over his ID, his
20 driver's license to police and let them know that he was a
21 legal driver. I explained to the police at that time that
22 my uncle was driving because I had got a little sleepy. At
23 that point evidence will be given and law enforcement will
24 testify to what pretty much happened at that time, I won't
25 take too much of the Court's time. But one thing that I do

OPENING STATEMENTS

1 want the jury to know, in this case you will see also
2 evidence of numerous charges that I was charged with
3 initially, the State is down to one. You will see no
4 evidence of any of the different reasons why the State
5 initially said they wanted to stop or had a reason to. You
6 will see evidence of money that I had in my pocket that I
7 had papers to prove that was my student loan, federal aid
8 for college, I attend Horry Georgetown Technical College
9 right there in Georgetown. And you will also find at the
10 end of this there's only one evidence that the State has and
11 the State will point out that they found this or they seen
12 it on the ground. A lot of people will give you different
13 testimony about this whatever was found on the ground. In
14 closing I would just say this, if I had \$3,640 I would have
15 probably bought me an attorney and let him face the jury.
16 You will hear testimony that this money was confiscated but
17 you won't hear any testimony about this money ever being
18 give back to me. You won't hear testimony about where it's
19 at now or much of the other items. Thank you.

20 THE COURT: Thank you, Mr. Greene. State ready to
21 present its case?

22 MR. EVANS: Yes, Your Honor.

23 THE COURT: Call your witness.

24 MR. EVANS: The State calls Charles Long.

25 The witness, CHARLES LONG, was first duly sworn

CHARLES LONG

1 and testified as follows:

2 THE CLERK: Please have a seat in the witness stand and
3 state your name for the record.

4 WITNESS: Chief Charles M. Long.

5 DIRECT EXAMINATION

6 BY MR. EVANS:

7 Q State your name.

8 A Chief Charles Long.

9 Q Sir, where are you employed?

10 A Cottageville Police Department.

11 Q How long have you been with the Cottageville Police
12 Department?

13 A Four years.

14 Q Do you have any prior law enforcement experience?

15 A Yes, sir, I do.

16 Q Where were you employed before CPD?

17 A I started my career in the Town of Estill in 2002, then
18 I went to the town of Varnville in 2008.

19 Q So all in the low country.

20 A Yes, sir.

21 Q Okay. Do you recall the events of , 2013?

22 A Yes, sir, I do.

23 Q What was the Cottageville Police Department doing on
24 that night?

25 A We had a joint effort with the 14th Circuit LEM, which

CHARLES LONG

1 is the LEM law enforcement network, that's where Allendale,
2 Jasper, Hampton, Walterboro, Colleton area all come together
3 as one to assist the agency in conducting safety checkpoints
4 throughout that area.

5 Q What is a safety checkpoint?

6 A "A safety checkpoint? It's designed to alert on Title
7 56, that's a code of law for traffic. We check the safety
8 of the vehicle, tags, equipment and so on.

9 Q So you stop vehicles and try to make sure that
10 they're --

11 A Driver's license possession, vehicle license in
12 possession, everything.

13 Q About how often do y'all do that?

14 A Once, maybe twice a month maybe.

15 Q And when do you plan them?

16 A We plan them about two weeks out before they are
17 executed.

18 Q Is that what you did in this case?

19 A Yes, sir. It was about a week on this one.

20 Q Can you describe briefly what the setup was?

21 A Basically the setup was like on 17A you're talking
22 about?

23 Q Yes.

24 A 17A is a choice because the high traffic that travels
25 through there. On a given day it's around 11,000 to 13,000,

CHARLES LONG

1 in that ballpark, per day.

2 Q Around what intersection did you set it up at?

3 A We set up on the Bama and Cottageville Highway. For
4 those not familiar with it, it has a side street that we can
5 pull cars off to the side of the shoulder for officers'
6 safety.

7 Q And that intersection, is that within the Town of
8 Cottageville?

9 A Yes, sir.

10 Q And is Cottageville in Colleton County?

11 A Yes, sir.

12 Q So tell us about how you conduct these checkpoints.

13 A What we normally do is we set up the roads checks,
14 checkpoints, safety checkpoint, we put up signs in all four
15 areas but this is a T-intersection, it looks like this.
16 Bama feeds into US 17 Alternate, we put signs 50 to 75 yards
17 from the actual checkpoint alerting slow, checkpoint ahead.
18 And then we illuminate it.

19 Q So people know that they're coming up on one and they
20 can see what's in front of them.

21 A That's right.

22 Q Around how many vehicles went through the checkpoint
23 that night?

24 A No more than 200, anywhere from 100 to 200, about that
25 ballpark.

CHARLES LONG

1 Q Did one of these vehicles lead to the reason that we're
2 here today?

3 A Yes, sir, it did.

4 Q Can you tell us about that?

5 A On the particular night the two individuals, the
6 defendant here and Mr. McCray --

7 Q Now, by the defendant you mean this gentlemen in the
8 blue shirt?

9 A Mr. Roderick Greene, passenger, and Mr. McCray, which
10 is in the back there in the red shirt.

11 Q Also in the courtroom?

12 A Also in the courtroom.

13 Q All right.

14 A He was the driver that entered the checkpoint. And at
15 first they were kind of slowed down and it was a gap between
16 one car and the next, and finally they were motioned to
17 brake forward.

18 Q Who encountered them?

19 A I did first.

20 Q You were the first officer to see them?

21 A Yes, sir.

22 Q And what happened when you met up with that vehicle?

23 A Met up with -- Mr. McCray was the driver. Once I
24 walked up to the car I noticed that a 22 to 24 ounce
25 alcoholic beverage -- because I can't recall what brand --

CHARLES LONG

1 was in the cup holder.

2 Q And what did that make you think?

3 A It was an open container so I asked him to shift to the
4 next -- to the shoulder of the road.

5 Q You asked them to move the vehicle?

6 A I asked them to pull to the shoulder of the road.

7 Q Why did you do that?

8 A That way it takes the time infraction to move them
9 along to the shoulder and it gets officer safety out of the
10 roadway to the shoulder and it does not prevent everybody
11 else being slowed down.

12 Q So you wanted to keep traffic for everybody else
13 moving?

14 A Yep, the flow.

15 Q Did you accomplish that?

16 A We accomplished that.

17 Q All right. You said there was an open container. So
18 what did you plan to do about that?

19 A Usually what I do is if I find an infraction, I'll get
20 it to the shoulder and I instructed Sergeant Cook to write
21 the infraction.

22 Q And did you return to other vehicles?

23 A I returned to other vehicles, that's right.

24 Q You instructed Sergeant Cook to do what exactly?

25 A To handle the vehicle itself.

CHARLES LONG

- 1 Q Did you give him any additional instructions?
- 2 A I told him it was an open container.
- 3 Q You told him what was going on.
- 4 A That's right.
- 5 Q Do you direct any other officers?
- 6 A No. I just went back to my location in the center of
- 7 the roadway and was proceeding on normal business.
- 8 Q Roughly how many officers were the vicinity?
- 9 A I would say 15 to 20 roughly.
- 10 Q Somewhere in that range but you're not sure?
- 11 A Not sure.
- 12 Q And how many other cars were passing through unrelated
- 13 to the one that Mr. Green was in at that time?
- 14 A At that time probably two to three that was in front of
- 15 them, then when they eased forward and I shift them over two
- 16 or three came in behind them.
- 17 Q And that's in their direction?
- 18 A That's their direction.
- 19 Q To other direction?
- 20 A Yes, sir.
- 21 Q Any other vehicles coming to and from those other
- 22 directions?
- 23 A Yes. We have officers on all three sides and if I'm
- 24 checking the southbound side, which is heading towards
- 25 Walterboro, the officers over hear are checking the north

CHARLES LONG

1 bound heading to Summerville.

2 Q So you have the other officers that are dealing other
3 people?

4 A Other people, that's right.

5 Q What did you notice next in regards to Mr. Greene?
6 Your testimony just moment ago was you went to two other
7 vehicles. What drew your attention, if anything, back to
8 him?

9 A It was the loud burst of guns.

10 Q What do you mean, you heard a gun fired or --

11 A No. Somebody shouted out "gun."

12 Q Okay. And what do you then see with your own eyes?

13 A Well, by that time I was position of the front of the
14 defendant, Mr. Greene?

15 Q You're moving back to where he was from where you were?

16 A In front, that's right. Once I heard --

17 Q I'm sorry, in front of what?

18 A In front of the vehicle, the vehicle that's on the
19 shoulder.

20 Q The vehicle that is parked?

21 A Yes, sir, that's parked.

22 Q Was he in or out of the vehicle.

23 A He was out of it at the time.

24 Q Who was next to him if anyone?

25 A Sergeant Cook at the time.

CHARLES LONG

1 Q Okay. Were there any other people around that car?

2 A Sergeant Rogers. There was maybe some other officers
3 around, but like I said, I can't name them.

4 Q How about Mr. McCray who you referred to earlier, where
5 was he?

6 A The driver's side seat.

7 Q Was he still in the vehicle?

8 A Yes.

9 Q And he was the driver?

10 A Yes, sir.

11 Q Now what did you notice going on when you saw these
12 individuals?

13 A Once he said gun there was a tussle in between the door
14 jam of the car, that's when you open the car and it's the
15 jam of the door hinge. There was a tussle there.

16 Q Between who?

17 A Between Sergeant Cook and the defendant, Mr. Greene.

18 Q Did you see how that started?

19 A No. Like I said, when I heard the pointed gun I was
20 already in position to the front of the vehicle.

21 Q Okay.

22 A And the tussle began right there in the door jam.

23 Q And what if anything did observe after that?

24 A Once Sergeant Cook tried to wrap him up and after I
25 heard the word gun he kind of slipped from his grasp, and

CHARLES LONG

1 that's when I send the defendant was coming my way and while
2 the sergeant had him by his legs trying to apprehend him the
3 gun flew out in front of the defendant.

4 Q You can see a gun?

5 A Yes, sir.

6 Q And what do you mean it flew?

7 A While sergeant had him around the lower extremities to
8 try to wrap him up the gun flew out in front of the
9 defendant which is probably about catty cornered to the
10 front bumper of the car.

11 Q You saw the gun moving?

12 A All I seen, the gun was coming out of the air.

13 Q It was in midair.

14 A Midair, right.

15 Q And then what else?

16 A By that time I already had the taser out and I tased
17 him.

18 Q Why did you do that?

19 A Because he was resisting.

20 Q Resisting who?

21 A Sergeant Cook.

22 Q Okay. Did you know anything about how this fight
23 started --

24 A No --

25 Q -- at that time?

CHARLES LONG

1 A At that time, no sir, afterwards, yes. But all I know
2 was Sergeant Cook was wrestling him, gun was yelled by Mr.
3 Rogers there, Cephus Rogers and a tussle was going on, the
4 sergeant lost grip of the suspect's legs, and by that time
5 towards the front of the vehicle the gun flew out in front.

6 Q Now, when you saw that what happened next?

7 A I drew my taser on him and I deployed my taser and I
8 think one struck him in the chest and one on the leg, and he
9 was still combative then.

10 Q Okay. How long did it take to get him under control,
11 or could you --

12 A I give him four cycles of taser, which is five second
13 bursts, and then finally, finally after I got him cuffed,
14 361, which is Lonnie Nettles, was there. He assisted me on
15 placing the cuffs, and when we stood him up the defendant
16 then stated, Mr. Greene, "See what you did, you caused me to
17 urinate on myself."

18 Q That was a result of the taser?

19 A Yes, sir.

20 Q By your understanding?

21 A Yes, sir. He said, "See what you caused me to do?"

22 Q Were you the arresting officer?

23 A No, sir.

24 Q Who was?

25 A Sergeant Cook.

CHARLES LONG

1 Q All right. I see that you brought something up to the
2 stand with you. What do you have there?

3 A Here is the possession of a pistol that the defendant
4 had?

5 MR. EVANS: All right. Your Honor, may he step down to
6 show that to Mr. Greene?

7 THE COURT: Yes.

8 Q Now Chief, that doesn't look like a gun, that looks
9 like a box to me. Tell us about that box.

10 A This box here in particular, anytime a pistol is
11 apprehended by the Cottageville Police Department we send it
12 off to SLED for ballistics.

13 Q Okay. Why do you do that?

14 A Just for a precaution, you never know. You deal with
15 so many guns, this helps track the gun if it was involved --

16 Q Just if it was associated with a crime?

17 A Yeah.

18 Q What's that yellow stuff around the box?

19 A This is an integrity seal and it's signed by SLED
20 August 26th, 2014, they sealed the box.

21 Q All right. Now, who took the gun up to Columbia?

22 MR. MATTHEWS: Your Honor, I have a matter of law at
23 this point.

24 THE COURT: Okay. Ladies and gentlemen of the jury, if
25 you would please go back to your jury room, don't talk about

CHARLES LONG

1 the case.

2 (The jury left the courtroom.)

3 THE COURT: All right. The jury is gone. Mr.
4 Matthews?

5 MR. MATTHEWS: Your Honor, if that's been to SLED we
6 have to have a chain of custody, we don't know if that's the
7 same gun that was taken from the scene or not. If it has
8 been to Columbia and back we've got to have witnesses to
9 verify that chain. So I think Officer Rogers testified in
10 the hearing before, the suppression hearing, that he saw a
11 gun, but in terms of that particular gun there's no chain of
12 custody for that and I would object to that being entered
13 into evidence.

14 MR. EVANS: Your Honor, he's got the chain report. As
15 long as the report is going to be put in evidence, and
16 preparing to bring that testimony out, I think the cases
17 show that the testimony of each and every individual witness
18 is not necessary. This isn't fungible evidence. I think
19 that there's ample evidence without the chain here that we
20 are prepared to bring out. Granted, it's not ready to be
21 entered, that's what I'm attempting to do.

22 THE COURT: You haven't gotten to that yet. Anything
23 else?

24 MR. MATTHEWS: Your Honor, I think there's a specific
25 rule of evidence as to chain of custody and stipulating to

CHARLES LONG

1 that are done with drugs but I don't know that there is for
2 the weapon. And like I said, we don't know what happened to
3 it up there, we don't know who even to ask about what
4 happened to it. I guess that I object to that gun coming
5 into evidence on the basis of a list and being able to ask
6 questions of people saying, "Did you hand it to so and so?
7 Did you hand it to so and so?" Again, they still presumably
8 have a case because Detective Rogers testified earlier that
9 he saw a gun. But as far as that being the gun, I would
10 object.

11 THE COURT: All right. Anything else?

12 MR. EVANS: Your Honor, I'm not sure what could have
13 happened to the gun. This isn't drugs, it's not something
14 where the character can be changed.

15 THE COURT: Well, this is really a preliminary
16 objection, it hadn't at the time and certainly the State
17 hasn't moved to introduce it into evidence yet. As such, my
18 inclination is to overrule your objection, but, you know, we
19 will deal with it at the time. If I need to revisit my
20 decision I'll do so in the appropriate manner. But right
21 now I think, you know, they haven't asked to introduce it
22 yet, so my gut is that I'm going to let it in provided that
23 a proper foundation is laid.

24 MR. MATTHEWS: Your Honor, can this be a continued
25 objection?

CHARLES LONG

1 THE COURT: Absolutely. It will be a continuing
2 objection. And let the record reflect that there is a
3 continuing objection over this gun or this pistol coming
4 into evidence. All right?

5 MR. EVANS: Thank you, Your Honor. And I suppose just
6 out of an abundance of caution, if you could instruct the
7 chief, I know I've been asking the questions but if he can
8 refrain from holding it up.

9 THE COURT: Right. Let him lead you down the path.
10 All right. Bring the jury in.

11 (The jury returned to the courtroom.)

12 THE COURT: All right. All members of the jury are
13 present. Solicitor?

14 MR. MATTHEWS: Thank you, Your Honor.

15 BY MR. EVANS:

16 Q Let's backtrack a little bit, Chief.

17 A Okay.

18 Q From the time you saw I believe that you testified a
19 moment ago that there was a gun on the ground, what happened
20 to that gun?

21 A After the suspect was locked up it was secured and
22 placed in the evidence locker.

23 Q By who?

24 A By myself.

25 Q Yourself?

CHARLES LONG

1 A Yes, sir.

2 Q Is that part of your responsibility as the chief?

3 A I am the chief and custodian of all evidence.

4 Q So you are the chief of police and you're the chief
5 custodian?

6 A Yes, sir.

7 Q The contents of that box, you believe it's the same?

8 A Yes, sir.

9 Q How do you know that?

10 A By the actual incident report of 13-128 and description
11 of evidence.

12 Q Okay. What does that mean?

13 A Anytime an article or any kind of evidence such as a
14 firearm is listed on our report and description.

15 Q Okay. What did you do with the gun from the scene?

16 A I placed it in a secure lock box.

17 Q How is it secured?

18 A It's the only one that has a key and I am the only one
19 that possesses it.

20 Q That's out at your headquarters?

21 A Yes, sir.

22 Q And where did it go, if anywhere, from there?

23 A Once I carried it from there I boxed it to carry it to
24 SLED?

25 Q You carried it your own self?

CHARLES LONG

- 1 A Personally, yes, sir.
- 2 Q And you took it where?
- 3 A SLED headquarters.
- 4 Q And where is that?
- 5 A Located at 5200 Broad River Road, Columbia.
- 6 Q And it's been there --
- 7 A Ever since.
- 8 Q Until?
- 9 A Until yesterday when I went and got it.
- 10 Q How do you know that what's in that box is the same
- 11 item that you gave to them?
- 12 A I had to sign for it and it's sealed by SLED.
- 13 Q They sealed that up?
- 14 A Yes, sir.
- 15 Q And what does that show?
- 16 A It showed that after it was tested it was sealed by the
- 17 technician.
- 18 Q Who was the technician?
- 19 A Give me a minute. Tracy J. Thrower.
- 20 Q Is that the same person that you gave it to when you
- 21 took it up there in the first place?
- 22 A No, sir. They have a little evidence log that logs it
- 23 in with their techs. there.
- 24 Q And you checked it in with them?
- 25 A Yes, sir.

CHARLES LONG

1 Q And they certified to you yesterday, Ms. Tracy, I'm
2 sorry, what is her last name?

3 A Tracy Thrower.

4 Q That is the same -- the same firearm that you brought
5 to them.

6 A Yes, sir.

7 Q When did you bring it to them, what date?

8 A August 8th.

9 Q So between . . . of last year -- you mean
10 August 8th of 2013?

11 A 2013, yes, sir.

12 Q So it's been more than a year?

13 A Yes, sir.

14 Q So between . . . and August 8th of last year it was
15 in your evidence locker?

16 A Yes, sir.

17 Q Which only you can control.

18 A Yes.

19 Q Did you at anytime take it out of that evidence locker?

20 A No, sir.

21 Q Then you took it to Columbia?

22 A Yes, sir.

23 Q It has been there since?

24 A Ever since then.

25 Q And they certified to you yesterday that the item they

CHARLES LONG

1 placed in that box and sealed is the same that you brought
2 to them on August 8th, 2013.

3 A Yes, sir.

4 MR. EVANS: Your Honor, the State would now move the
5 contents of the box into evidence.

6 THE COURT: Objection noted. Overruled. All right.

7 MR. EVANS: May he be allowed to unseal the box?

8 THE COURT: Yes.

9 MR. EVANS: And I had mentioned, Judge, that Mr. Greene
10 should see the contents of the box before it's shown to the
11 jury. Would that be fair?

12 THE COURT: Yes.

13 MR. EVANS: Can you please step down and show --

14 WITNESS: If y'all will give me a second I'll secure
15 the weapon before I pull it out.

16 THE COURT: Yes, sir.

17 BY MR. EVANS:

18 Q Chief, would you mind describing to the jury what
19 you're doing right now?

20 A What I'm doing right now is I'm putting a gun safe lock
21 on there for everyone's safety here and I will place the key
22 to the bailiff. It is secured, Your Honor.

23 THE COURT: All right.

24 BY MR. EVANS:

25 Q Chief, to the best of your recollection is that the

CHARLES LONG.

1 same weapon that you retrieved from the scene?

2 A Yes, sir.

3 Q How can you tell?

4 A The serial number is obliterated here, was removed and
5 it's a Smith and Wesson 40F which I placed in the box.

6 MR. EVANS: Your Honor, as long as that can be marked
7 as State's 1, I believe that is all that I have.

8 THE COURT: All right. And objection noted.

9 MR. MATTHEWS: May I flesh that out at a break a little
10 more on that?

11 THE COURT: Yes, sir. Objection noted. Go ahead and
12 mark it. Are you asking to introduce it?

13 MR. EVANS: Yes, sir. I ask that the contents of the
14 box be introduced, but really that's the exhibit so that
15 would be our State's Exhibit.

16 THE COURT: All right. Introduced over defense
17 objection and I will hear more about that at another time.

18 (The gun was received as State's 1.)

19 THE COURT: Anything further of this witness,
20 Solicitor?

21 MR. MATTHEWS: No, Your Honor.

22 THE COURT: All right. Mr. Matthews or Mr. Greene?

23 CROSS EXAMINATION

24 BY MR. MATTHEWS:

25 Q Chief, you indicated that that -- you brought that to

CHARLES LONG

1 Tracy Thrower, you handed it to the Tracy Thrower, that --

2 A It was handed to the --

3 Q Not it was, what you did?.

4 A What I done was hand it to the evidence custodians.

5 Q Who was that?

6 A At SLED.

7 Q Who?

8 A I can't remember her name.

9 Q Do you have any papers or anything indicating who you
10 gave it to?

11 A No, sir, not at this given time.

12 Q Okay. So you gave it to somebody but you don't know
13 who it was.

14 A A SLED technician.

15 Q Do you know who the SLED technician gave it to?

16 A To Tracy Thowler (sic).

17 Q Tracy Thrower?

18 A Thowler, Thrower.

19 Q Okay. Do you know who Tracy Thrower gave it to?

20 A That's the only one.

21 Q Okay. Did you take it from Tracy Thrower?

22 A It goes in the evidence lock.

23 Q Do you know who put it there?

24 A No, sir.

25 Q All right.

CHARLES LONG

1 MR. MATTHEWS: I don't have any further questions, I
2 know that Mr. Greene does.

3 THE COURT: All right.

4 CROSS EXAMINATION

5 BY MR. GREENE:

6 Q Were Mr. Greene's fingerprints found on the gun? Was
7 there any fingerprints --

8 A We sent it off for ballistics, not fingerprints.

9 Q There was no fingerprints that were checked for and
10 found?

11 A I didn't check for fingerprints because I sent it for
12 ballistics.

13 Q All right. That report never showed that there was any
14 fingerprints for Mr. Greene on the gun?

15 A When I sent it off for ballistics they check for
16 ballistics and ballistics only, Mr. Greene.

17 MR. GREENE: What actually is he saying, Your Honor?
18 Is he saying --

19 THE COURT: He answered the question, sir. It's
20 inappropriate for me -- let me make the record -- it's
21 inappropriate for me to explain the witness' answer. All
22 right. The jury has to make a decision based on the
23 witness' answer. You may follow up with any question that
24 you want.

25 Q All right. Mr. Cook, do you know about the \$3,640 that

CHARLES LONG

1 was taken from Roderick Greene, from Mr. Greene's pockets?

2 A Yes, sir.

3 Q Was he ever given it back?

4 A No, sir.

5 Q You said that there was a gun found, you found
6 marijuana. There was also listed a can of beer and the
7 money was taken.

8 A Okay.

9 Q Do you have any of that evidence other than that gun
10 here with you?

11 A Only the gun is what you're being charged with.

12 Q Is any pictures available to show the jury that you
13 obtained marijuana or anything other than -- or even
14 pictures of the gun on the seat?

15 A No, sir. Only you're being charged with the gun.

16 MR. GREENE: Just give me some time.

17 THE COURT: Okay.

18 BY MR. GREENE:

19 Q When the car was pulled off of the road.

20 A Okay.

21 Q Let's just say this is the road.

22 A Okay.

23 Q The cars that were out there, did they have cameras at
24 all inside the cars to be able to view anything that was
25 going on?

CHARLES LONG

1 A The cars out there, the Cottageville cop cars, they had
2 cameras in them but they were not rolling at the time.

3 Q They weren't on?

4 A No, sir.

5 Q Were there any other cars on this side of the road, or
6 can you tell me where the cars were located?

7 A Which car are you talking about? Yours?

8 Q The police cars.

9 A No. I can't recall all the cars, where they park at.

10 Q Was there any -- was the vehicle that me and Mr. McCray
11 in, was that the only vehicle that was on the opposite side
12 of the road or were there others?

13 A I only recollect yours.

14 Q You can't remember if there was any other --

15 A I only remember your incident.

16 Q You can't say whether there was anybody else pulled --
17 it's a traffic stop, license check -- if this is the only
18 car that is pulled right now at the moment? I'm just trying
19 to --

20 A I only can recall your incident and your incident only.

21 Q Was the -- it was very, very late at night. Was the
22 area dark or was it what --

23 A It was pretty well lit with what they call a light
24 balloon. And for people that don't know what that is, it's
25 a big ole' stick.

CHARLES LONG

1 Q Where was that light placed?

2 A Sir?

3 Q Where was the light placed at?

4 A In the middle of the intersection, that's the T of the
5 intersection.

6 Q If this is the intersection right here, if this was the
7 intersection, let's say this was the intersection, could you
8 tell us where the car was located?

9 A Number one, I can't see what's on the other side of
10 you.

11 Q I can give a description to you.

12 MR. GREENE: I'm just trying to make a point, Your
13 Honor.

14 THE COURT: Okay. Why don't you step over there and do
15 it.

16 Q Sir, if this is the intersection, where would you
17 place -- the intersection is going -- which way? Can you
18 describe it to the jury so they know?

19 THE COURT: Y'all just talk loud, okay.

20 A This is the intersection, correct?

21 Q Right.

22 A All right. This is southbound?

23 Q Right.

24 A That balloon was in the center line, the center lane,
25 that's the yellow line in the middle of the road, it was

CHARLES LONG

- 1 placed there.
- 2 Q And approximately how big is it?
- 3 A It goes up pretty far. It's called a lit balloon.
- 4 Q How many lights are shown on this?
- 5 A If I'm not mistaken you have four street lights in that
6 area because I'm in charge of SCE and G which is street
7 lights.
- 8 Q Which side of the road was the car on?
- 9 A You was on the right side, the southbound side.
- 10 Q Can you explain exactly from -- if this is the lane
11 where your car is -- where the police car is and this is the
12 car that me and Mr. McCray were in.
- 13 A I'm talking about your car, your car was on the
14 right-hand shoulder of this road.
- 15 Q Where was it at versus the police cars?
- 16 A I don't recall, that's what I told you a minute ago.
- 17 Q You know where my car was but you don't know where the
18 police cars were?
- 19 A Sir, your car is the one in question, not the police
20 cars.
- 21 Q Did you ever say yourself or promise the defendant that
22 you would look out for him? Did you ever say that?
- 23 A I don't know what you're talking about.
- 24 Q You never said that to me?
- 25 A Nuh-uh.

CHARLES LONG

1 MR. GREENE: No further questions.

2 THE COURT: All right. Any redirect?

3 MR. EVANS: Yes, Your Honor.

4 BY MR. EVANS:

5 Q Mr. Greene asked you about some questions about \$3,600.

6 A Yes, sir.

7 Q What can you tell us about that?

8 A The reason that we took it, later on that night we
9 found a large stash of drugs in the back seat of the
10 Sergeant's car.

11 Q So what does that have to do with money?

12 A Usually with money when you've got that large amount of
13 drugs we went ahead and seized it because you can be a
14 potential buyer or seller.

15 Q And you found that on his person when and how?

16 A Well, he was placed in the patrol car.

17 Q I'm referring to the money that he asked you about.

18 A The money was in his possession, right pocket.

19 Q And how was it found?

20 A After he was arrested.

21 Q Is that customary?

22 A Well, I mean, you inventory everything on the person.

23 Q And why do you do that?

24 A Preventive measures.

25 Q Does the money have anything to do with this charge?

CHARLES LONG

1 A No, sir, it don't.

2 MR. EVANS: That is all that I have.

3 MR. GREENE: Can I redirect?

4 THE COURT: All right. Just what was brought up on
5 redirect, yes, sir.

6 FURTHER CROSS EXAMINATION

7 BY MR. GREENE:

8 Q You said that you took the money out of my possession,
9 right? I mean, that's what the warrant says.

10 A Out of your possession.

11 Q All right. I'm trying to ask you what purpose? Why?

12 A I just explained to the solicitor why.

13 Q You said later on something was found but you already
14 had took the money.

15 A We search our cars before and after.

16 Q But did -- you had already taken the money before this
17 was even found.

18 A Yes, sir, we still would take it.

19 Q This money hasn't been given back?

20 A No, sir. I've still got it in my possession.

21 Q Did you charge me with the drugs that you found in the
22 car later on?

23 A No, sir, we did not.

24 MR. GREENE: No further questions.

25 THE COURT: Thank you, sir, you may step down. Call

JEFFREY COOK

1 your next witness.

2 The witness, JEFFREY COOK, was first duly sworn

3 and testified as follows:

4 THE CLERK: Have a seat and state your full name for
5 the record and spell your last name.

6 WITNESS: Good morning. My name is Lieutenant Jeffrey
7 David Cook, C-o-o-k, last name.

8 DIRECT EXAMINATION

9 BY MR. EVANS:

10 Q Lieutenant, where do you work?

11 A I work for the Cottageville Police Department, sir.

12 Q How long have you worked for them?

13 A I've worked for them approximately close to four years
14 now, sir.

15 Q Do you have any prior law enforcement experience?

16 A Yes, sir, 18 years.

17 Q And the first 14, where were they with?

18 A I got started in a small town, Gearhart, South
19 Carolina, worked there a year and a half as interim chief.
20 Then I worked for the City of Orangeburg Department of
21 Public Safety. Then I came back home to the Hampton Police
22 Department.

23 Q Hampton is your home?

24 A Yes, sir. And then I was hired over here,
25 Cottageville.

JEFFREY COOK

1 Q Do you recall the events of , 2013?

2 A Yes, sir, I do.

3 Q What can you tell us about what you were doing on that
4 day?

5 A In the beginning I was writing a citation, this is a
6 traffic safety checkpoint. At the time I was a sergeant,
7 now I'm a lieutenant, second in command there.. I was
8 writing tickets that night, and I had just finished up
9 writing a citation and my chief turned around --

10 Q For a different vehicle?

11 A For a different vehicle, yes, sir. My chief came up
12 and he said, "There's a beer in the car and I told him to
13 pull over and you issue him a citation," and that's what I
14 was going to do. Prior to walking up to the car, I believe
15 that I saw Mr. Greene on the passenger's side. I cannot
16 remember the officer's name right now, there was an officer
17 there talking to the driver, which is Mr. McCray back here,
18 and I went to go to the passenger's side.

19 Q So another officer dealt with the driver.

20 A Yes.

21 Q And why did you go talk to the passenger?

22 A Well the passenger to me as I was walking up to the
23 vehicle and the passenger is Mr. Roderick Greene which is
24 sitting there.

25 Q The defendant in this case?

JEFFREY COOK

1 A Yes, sir. Mr. Greene was acting very fidgety, didn't
2 seem to be right. I was going to approach him anyway
3 regardless but I was observing his actions while I was going
4 up to the vehicle because that's what I do. I mean, it's
5 11:30 at night, the last thing I wanted to do was get shot.
6 So as I was walking up to the vehicle I saw Mr. Glean in
7 there, saw the beer in plain view, I could see the beer
8 there in the center console. I asked for Mr. Greene to get
9 out of the vehicle, and the reason why I asked Mr. Greene to
10 get out of the vehicle is because, well, first of all, we
11 have the right to search the vehicle, especially the area
12 that he was sitting at which is the front passenger seat,
13 and the reason why I wanted to search there further is for
14 more beer. If there's one beer there's a possibility there
15 might be two beers.

16 Q So, what did you do to look for that?

17 A I asked Mr. Greene to exit the vehicle.

18 Q Is that common for you to do in traffic safety
19 checkpoints?

20 A Yes, sir, it is. The reason why I asked him to get out
21 of the vehicle is because I wanted to search there in case
22 there was a beer under the seat or something like that. I'm
23 not going to search a vehicle with somebody sitting in the
24 seat, I'm not going to search there on the side or under the
25 seat in that direction. The reason being is is pretty

JEFFREY COOK

1 common sense, I don't want to get shot while I'm searching
2 the vehicle, so I asked Mr. Greene to step out of the
3 vehicle. All right.

4 Q Did you tell him what you were doing?

5 A Yes, sir. Actually I said, "Come on, Man. Do you mind
6 getting out of the vehicle for me? Have you got anymore
7 beer in there?" He said no. He turned around -- actually I
8 told him to turn around, I wanted him to put his hands on
9 top of the hood of the car. There's two reasons why I do
10 that, one reason is because it's advantageous for me. So
11 when I go to pat him down if he does have a weapon he
12 doesn't take me head-on, all right, because officers have
13 been shot actually doing that, searching the person to their
14 front versus searching them to their back. Okay. Also
15 another reason is, and one of the main reasons that I
16 experienced as an officer, if his hands are on top of the
17 car I can later retrieve fingerprints if he decides to run
18 because I know exactly who he is for later. It's tactically
19 sound basically, I'm killing two birds with one stone here.

20 Q That's something that you do regularly?

21 A Yes, sir, it is. Then I told Mr. Greene, I said listen
22 here -- he was acting very fidgety, nervous and he was
23 making me nervous. I said, "Listen here, you are being
24 detained. Do you know what detained means?" The reason
25 that I ask if somebody knows that they're being detained or

JEFFREY COOK

1 not is not everybody knows legal terms. Basically what
2 being detained is is not under arrest, I'm not going to
3 arrest him at all, but at the same time I want to pat him
4 down. I want to make sure there's nothing on him, want to
5 make sure there's no more alcohol or whatever the case may
6 be, or if there's a gun on him or whatever I have the right
7 to do that for my safety as well as Mr. Greene's safety a
8 well as the safety of everybody else that is out there on
9 the roadside at the time. There's more than just us out
10 there.

11 Q And what, if anything, did he do when you told him or
12 asked him?

13 A What Mr. Greene done -- and in my experience I've seen
14 it multiple, multiple times working for the City of
15 Orangeburg, what will happen is if a person decides that
16 they want to run, what they'll do is they'll look both sides
17 like this right here, they're looking for an avenue of
18 escape, that's basically what's going on. Mr. Greene did
19 that. All right.

20 Q So you thought that he might be escaping?

21 A All of my experience showed me that he's getting ready
22 to run, I know he's getting ready to run. Okay. So I get a
23 little bit closer up on him to trap him up there inside the
24 car, don't want him to run, don't want him to get away, and
25 definitely don't want to get in a fight. So what he does is

JEFFREY COOK

1 backs off of me and I tell him at this time, "You're under
2 arrest, you ain't going nowhere."

3 Q What were you arresting him for?

4 A The alcohol inside the vehicle.

5 Q Okay.

6 A Then what it is, he goes and makes the run and he's
7 moving his arms and he's trying to get me off of him. And
8 basically, at this time, I don't know if you know anything
9 about football, I grab him in a football tackle. And then
10 he's a little small fella right there so a little small
11 fellow that's pretty slick can get away from me, he attempts
12 to do that. So just to paint a picture here, the passenger
13 side of the vehicle, we're on the passenger side of the
14 road, the door is open, I'm standing here, he's also
15 standing and he's moving back toward the rear to spin
16 around. All right. At this time -- we're fighting at this
17 time. I grab him, he moves this way and he's moving around
18 back toward the front of the vehicle. All right. That is
19 when I hear Sergeant Rogers, say "gun."

20 Q You heard somebody shout that?

21 A I heard it just as clear as I'm hearing it, right, I
22 heard that man say "gun."

23 Q What did that mean to you?

24 A To me being an experienced tactical officer, that means
25 that we're getting ready to probably get into a gunfight and

JEFFREY COOK

1 I'm going to lose my life. I had him by the legs, I trip
2 him up, he falls to the ground and then immediately I go for
3 my gun.

4 Q Why did you do that?

5 A Because I don't want to die. It's for self defense,
6 also for -- as all of this is going on the traffic safety
7 checkpoint is still going on, there is still people in cars
8 right beside us. There's innocent people out there as well.

9 Q You were concerned for their safety as well?

10 A Yes, sir, I was.

11 Q What did you do next?

12 A At that time -- when he hit the ground I heard the
13 nitrogen capsules inside of a taser that popped, "pop," and
14 that's when the taser went off.

15 Q So that was not by you?

16 A That was not by me, I did not tase the gentleman.

17 Corporal Nettles of the Colleton County Sheriff's

18 Department, he initially tased and then it was almost

19 simultaneous I heard my chief's taser also go off. The

20 nitrogen inside of it, it's a very distinct pop and I knew

21 at that time he was being tased. I looked and I saw the

22 gentleman just actually trying to fight. Now, when you're

23 being tased there's not really much that you can do about

24 it, but in between tasings the gentleman was being very

25 aggressive and trying to get away and fight very actively in

1 mutual combat, sir.

2 Q Could you observe a gun at any point?

3 A When he turned around I saw something. Now, I cannot

4 tell you a hundred percent what I saw was a gun, I saw

5 something come out this man. All right. It was later found

6 that indeed it was the .40 caliber that's here.

7 Q What do you mean by it was later found that it was --

8 A It was found right there in front of the vehicle.

9 Q The gun was found?

10 A The gun was found there on the ground right there by

11 the vehicle.

12 Q Was that close proximate to where you were scuffling

13 with him?

14 A Oh, yes, sir. I mean, you look at it, once again, his

15 movements was moving back toward that direction, the gun

16 came out and it was found very closely there from where me

17 and him was fighting.

18 Q So you believe that the gun that was found on the

19 ground is the same object that you saw on him but which you

20 couldn't swear was a gun.

21 A I can't swear to you that what I saw is a hundred

22 percent to be a gun, but what I believe that come out of

23 this man's hand was this right here, the .40 caliber, I

24 believe it.

25 Q You're the arresting officer?

JEFFREY COOK

1. A Yes, sir, I am.

2. Q Why did you charge him with what he's charged with?

3. A All right. Well, once again when we make an arrest on

4 somebody we do a criminal history, basically what it is.

5 Not everybody -- if you do a felony you lose your Second

6 Amendment right to bear arms. The gentleman here in his

7 past to be fair had a felony.

8. Q Is it any kind of felony?

9. A Violent felony?

10. Q What does that mean?

11. A Basically to not call the charge out itself, violent

12 felony to be used a very violent infamous act had to occur.

13. Q Is there a source that you go to to find out what those

14 acts are?

15. A Yes, sir, NCIC. NCIC tells us that a person is

16 forbidden.

17. Q And you did that with Mr. Greene?

18. A Yes, sir, I did.

19. Q And you determined that he had something in his past

20 that --

21. A Yes, sir.

22. MR. EVANS: Begging the Court's indulgence.

23. THE COURT: All right.

24. (Break in proceedings.)

25. Q Now, you spoke a moment ago about the other gentleman,

JEFFREY COOK

1 Mr. McCary (sic) who was the driver of the vehicle?

2 A Mr. McCray.

3 Q McCray, excuse me. Was he charged with anything?

4 A Yes, sir. His driver's license was under suspension
5 and I can't remember right off the bat the reason why it's
6 under suspension, but the gentleman's license was under
7 suspension so he was arrested and charged with driving under
8 suspension.

9 Q There's been some testimony already this morning about
10 an amount of drugs that was found. What can you tell us
11 about that, if anything?

12 A Once again, me being a supervisor on the scene I'm
13 issuing tickets and citations, I had my subordinates that
14 was actually using my car at the time to transfer folks to.
15 the county jail. When they returned I searched the back of
16 my car, that is something that I do, there in the back of
17 the seat was a large amount of marijuana as well as a large
18 amount of methamphetamines, crystal meth. The reason why he
19 was not charged with that is because I can't put it in his
20 hand. I'm not going charge somebody with something when I
21 don't have probable cause to believe that he did it.

22 Q And the money that was found on him?

23 A The money that was found on him was not for me, but the
24 reason why that money was seized is because before he was
25 sent to the county jail searched by myself turned up a

JEFFREY COOK

1 Newport Cigarette box, inside of that Newport cigarette box
2 were marijuana cigarettes, rolled up marijuana inside the
3 Newport Cigarette box. That's the reason for the money
4 seizure.

5 Q Is that charge before us today?

6 A No, sir.

7 Q Why not?

8 A It's in a lower court.

9 Q I see.

10 A Yes, sir.

11 MR. EVANS: Those are all of the questions that I have
12 at this time, Your Honor. Please answer any questions that
13 Mr. Greene have may have.

14 THE COURT: Mr. Matthews or Greene?

15 CROSS EXAMINATION

16 BY MR. MATTHEWS:

17 Q To be clear, you found you said crystal meth. and
18 marijuana in the back of your car?

19 A Yes, sir.

20 Q And you didn't charge him because you couldn't put it
21 in his hand.

22 A That is affirmative, yes, sir.

23 Q All right. And what did you do with the drugs?

24 A The drugs have been sent to SLED for destruction.

25 Q All right.

JEFFREY COOK

1 MR. MATTHEWS: I know Mr. Greene has some questions.

2 THE COURT: Mr. Greene?

3 CROSS EXAMINATION

4 BY MR. GREENE:

5 Q Is there a SLED report on those drugs?

6 A I don't have it with me, sir, no, sir.

7 Q How many different charges did you charge this
8 individual with?

9 A Okay. How many charges did I charge you with? I
10 charged you with unlawful weapon, I charged you with
11 resisting arrest, I charged you with felon in possession of
12 a firearm. Without having all of that right in front of me,
13 sir, I really can't remember, that was quite a time ago.

14 Q You charged me with stolen vehicle also. What was your
15 reason for charging the defendant with a stolen vehicle?

16 A Okay. The reason why you were charged with the vehicle
17 is because the vehicle was -- Georgetown Police Department
18 had made contact with me and said that the lady that had
19 rented the vehicle said that you had took it without her
20 consent so that therefore the Georgetown Police Department
21 actually had issued warrants for your arrest. The vehicle
22 was stolen at the time so therefore that's the reason why
23 you were charged with possession of a stolen vehicle.

24 MR. GREENE: Your Honor, I would like to put in an
25 exhibit, a sworn statement as well as the dates and time.

JEFFREY COOK

1 These are the --

2 THE COURT: Hang on.

3 MR. EVANS: Your Honor, before he gets into the
4 contents of his proposed exhibit I would like to see it.

5 THE COURT: Okay. Show that to the solicitor.

6 MR. EVANS: I'm not certain as to how Officer Cook can
7 testify to the foundation of this so I would object to it
8 being entered.

9 MR. GREENE: Would you like to see this, Your Honor?

10 THE COURT: You can attempt to introduce it into in
11 evidence, yes, sir, through a witness and I will determine
12 if it comes in.

13 MR. GREENE: Well, Your Honor, this is a statement --

14 MR. EVANS: Your Honor, he is testifying as to the
15 contents of the exhibit.

16 THE COURT: You can't testify, sir. You're acting as
17 your own attorney at this point in time.

18 MR. GREENE: Your Honor, the point I'm trying to make
19 is this, Georgetown reported about this car after all of
20 this happened --

21 MR. EVANS: Same objection.

22 MR. GREENE: -- after all of this had happened because
23 the car hadn't gotten back yet because they already had
24 locked me up.

25 THE COURT: Okay.

JEFFREY COOK

1 MR. GREENE: So he didn't get any information from
2 Georgetown on 7-26 and when he charged me with these
3 offenses of having a stolen vehicle, and it wasn't stolen,
4 it was a rental car, but he charged me with this offense
5 along with -- I was trying to ask him why did you charge me
6 with resisting arrest with using a deadly weapon. These
7 charges I don't have anymore, I'm just trying to ask him
8 what happened to the charges if there's only one left.

9 THE COURT: All right. Objection is sustained. Move
10 on.

11 BY MR. GREENE:

12 Q Who was standing next to you at the point where you
13 said the defendant was kind of jittery and moving around?
14 And at this point did the defendant have cuffs on when you
15 brought him out of the car, did he have any -- did you put
16 cuffs on?

17 THE COURT: The first question is who was standing next
18 to me and then the second question.

19 A No. Nobody was standing beside me when I got you out
20 of the car.

21 Q All right. Did you put cuffs on the defendant?

22 A I attempted to.

23 Q It sounded like your testimony was before that you were
24 talking and there is a brief conversation going on like
25 that. What would you say to the fact that the chief had

JEFFREY COOK

1 just gave testimony that the tussle was inside the door of
2 the car? You're saying that the tussle took place outside
3 of the car.

4 A No, sir, that's incorrect. The actual tussle happened
5 there inside the car. Because you have to remember and
6 understand this too, how can you put your hands on top of
7 the car if we're away from the car?

8 Q Okay. So I'm inside the car and I've got my hands up
9 on top of the car?

10 A No, sir. You're outside of the car and you're turned
11 around --

12 Q So then --

13 THE COURT: Hang on, let him answer.

14 A Because I've testified and actually demonstrated here
15 to the fact that the gentleman was outside of the car, he
16 was facing toward the car with his hands on top of the car.
17 Also explained testimony that therefore it is advantageous
18 to me so I can search this person so therefore if they
19 decide to flee or run or to attack me then I can properly
20 defend myself very quickly. I can't search the man while
21 he's sitting inside the car.

22 THE COURT: Now you can followup with your question.
23 Go ahead.

24 BY MR. GREENE:

25 Q You testified -- you said that you didn't see a gun.

JEFFREY COOK

1 When you had me right beside the car you didn't see a gun
2 when you touched me?

3 A No, sir, I didn't have time to, sir.

4 Q You didn't feel a gun?

5 A You didn't let me pat you down, sir, because
6 immediately you tried to flee.

7 Q You didn't see a gun on my visible person at all?

8 A Sir -- can I answer the question, sir?

9 THE COURT: Yeah. Y'all don't interrupt each other.
10 Go ahead and answer the question.

11 A All right. I've explained to the Court, to the jury
12 and to you, sir, that when I had got you out of the car and
13 I asked you to put your hands on top of the car and I told
14 you that you were being detained and I asked you, "Do you
15 understand what that means? And you said, "Yes." Then you
16 started looking around and I said, "I'm going to pat you
17 down." And then, sir, that is when the altercation began --

18 Q So my question to you, sir --

19 A -- then, sir -- let me finish. You didn't give me time
20 to actually do a pat down, put my hands there on your
21 waistband or --

22 Q My question is did you see a gun on the defendant
23 during that period?

24 A I'm trying to answer your question, sir.

25 THE COURT: Please don't interpret the witness and

JEFFREY COOK

1 witness, please don't interrupt Mr. Greene. Go ahead.

2 Witness, you finish your answer.

3 WITNESS: Yes, sir.

4 A Once again, I apologize, I'm not trying to be
5 argumentative to you, Mr. Greene. What I'm trying to
6 explain is is that I didn't see anything because I didn't
7 have time to actually put my hands on you. I did not see a
8 visible gun outside of your clothes, no.

9 Q Next question. When -- because this is really funny.
10 You said that supposedly the gun slipped out or fell or -- I
11 mean, you've said so many different things I'm just trying
12 to figure out exactly what your story is about the gun,
13 because you said you grabbed the individual, so you see a
14 gun. You didn't pull your gun but you grabbed Roderick or
15 Mr. Greene instead of -- even you didn't use your taser, you
16 just grabbed him by the feet, that's what the report says is
17 you grabbed him by the bottom legs of --

18 MR. EVANS: Your Honor, is there a question?

19 THE COURT: Yes, sir.

20 Q That's the question.

21 A I don't understand your question.

22 Q When you said that you seen a gun -- because you didn't
23 see one on me at first when I was there with you, you said
24 that you seen it later on. What I'm saying is instead of --
25 I'm trying to figure out -- if a person has a gun that's not

JEFFREY COOK

1 just normal police activity. You're not going to grab a
2 taser at a person that has a gun. You're not going to grab
3 a fork at a person who has a gun. You're not going to go
4 tackle somebody if you see a gun. So I'm just trying to
5 figure out why didn't you -- when you seen the gun why did
6 you grab him and then you said you grabbed him and then we
7 went to the ground and then you pulled your gun.

8 A I see where --

9 THE COURT: I think that I understand the question.
10 Why did you tackle him when you thought he may have had a
11 gun?

12 A Okay. Well, first of all, Mr. Greene -- which I have
13 done testified and I have been very clear on this, I have
14 not twisted my words -- the reason why I grabbed Mr. Greene
15 was not because I thought he had a gun, because at the time
16 I didn't know that he had a gun. The reason why I grabbed
17 Mr. Greene is because that he was leaving, he was fleeing
18 the area, he was trying to fight. That is the reason why I
19 grabbed Mr. Greene. Also, Mr. Greene, as you can see by his
20 statute, he's a small man, that means that he is wiry, that
21 means that he is able to get away, us big guys is not as
22 agile as the smaller gentleman here is. Okay. He was
23 trying to get away from me, that is the reason why I grabbed
24 him. Not the fact that I saw a gun or even felt a gun,
25 didn't even know the gentleman had a gun at the time until I

JEFFREY COOK

1 heard Sergeant Rogers here actually say the word "gun."

2 Q Can you tell me where Sergeant Rogers was at, where he
3 was located? This is the intersection, and this is the
4 middle of Bama Road, the chief testified that the car was on
5 the southbound side. Can you tell me where your car was
6 parked?

7 A I can tell you exactly where. My car was parked on
8 the --

9 Q Can you tell it so that the jury can understand where
10 the car I was in was and where the cars that --

11 A Yes, sir. My car was parked on the northbound side
12 facing northbound. I was approximately, have a fair
13 estimate, 20 yards away, the front of my patrol car was
14 20 yards away. The car was turned off, the camera was not
15 turned on. There was patrol cars there. I want to say --
16 there was a bunch of patrol cars out there, I want to say
17 probably four or five more deep behind my patrol car. There
18 was patrol cars that was in front of me, there was patrol
19 cars on the northbound -- southbound side but they were not
20 as far as where Mr. Greene's car was parked. The reason
21 being is simply this, that was the parking that was assigned
22 to people coming in from that lane, they could have a place
23 to pull over right there, because actually the safety is
24 very important. That's the reason why we chose that
25 location because the sides of the road is very wide. We

JEFFREY COOK

1 like to have a place that these people can get out or we
2 need to get them out, whatever the case may be so nobody
3 gets hit by a car.

4 Q Was there any other people on the side of the road
5 southbound -- because you said your car was on the
6 northbound, so their car was on the opposite side, you said
7 there were also cars -- did any of these cars have cameras
8 on them? You said that your car's was turned off, right?

9 A Yes, sir.

10 Q Were there any other people outside of the sheriff's
11 department or police individuals that were on the side of
12 the road that Mr. Greene and Mr. McCray were on?

13 A You're asking me were there -- I'm trying to clarify.
14 You're asking me if there was officer --

15 Q No. Were there any other individuals other than
16 officers -- other people that you guys pulled over?

17 A You're talking about other violators?

18 Q Right.

19 A At the moment, sir, I can't remember to be honest with
20 you. I don't think there was nobody in front of you.

21 MR. GREENE: Your Honor, I have another question, I
22 can't remember it right now. If I may, will you allow me to
23 question him later?

24 THE COURT: Any objection to him being allowed to
25 recall this witness?

JEFFREY COOK

1 MR. EVANS: In his own case, no, but in recross, yes.

2 THE COURT: Okay. Do you want time to confer with Mr.
3 Matthews?

4 MR. GREENE: That might be good.

5 THE COURT: Okay. Well, why don't we hold off one
6 second.

7 (Break in proceedings.)

8 BY MR. GREENE:

9 Q Did you arrest the defendant for the open container?

10 A In other words, did I charge you with open container?
11 Without actually having that list in front of me right now
12 in the lower court I cannot testify if I did or if I didn't.
13 Once again, this is -- well, actually -- may I review back
14 to my incident report?

15 Q Exhibit 1 is here for the Court. These are the only
16 things that were charged?

17 THE COURT: Hand those to the witness.

18 Q You never charged me with alcoholic beverages.

19 A Correct.

20 Q There's no evidence of alcoholic beverages even here
21 today. These are the things that I was talking about before
22 the jury that aren't here.

23 THE COURT: Is that correct, sir?

24 A This is correct, sir, yes, sir.

25 THE COURT: Sir, do you wish for the jury to see those?

JEFFREY COOK

1 MR. GREENE: Yeah, they can look at them.

2 THE COURT: Any objection to those coming in,
3 Solicitor?

4 MR. EVANS: No, Your Honor.

5 THE COURT: All right. Defense 1 is introduced into
6 the record.

7 MR. MATTHEWS: Your Honor, may I -- I don't know
8 whether he wanted to introduce that or not, may I talk to
9 him one moment?

10 THE COURT: Sure.

11 (Break in proceedings.)

12 MR. MATTHEWS: That's fine. I don't know if he has
13 anymore questions, but yes, he does intend for it to go into
14 evidence.

15 THE COURT: And without objection then from the State.
16 Defense 1 is introduced into evidence.

17 (The documents were received as Defendant's 1.)

18 THE COURT: Any other questions, Mr. Greene?

19 ATTORNEY2: One last question.

20 THE COURT: Okay.

21 BY MR. GREENE:

22 Q You said that there were no officers in back of you.
23 There was no officers -- I asked you also a question that I
24 never got the answer to, where was Officer Rogers when you
25 had me outside of the car?

JEFFREY COOK

1 A Okay. Once again --

2 Q Where was he placed at, can you at all remember?

3 A Actually, I can't. The reason being is because I was
4 dealing with you and at that time --

5 MR. GREENE: No further questions.

6 THE COURT: Go head and finish your answer.

7 A Yes, sir. Because at that time I'm sitting here
8 fighting the guy, I have no earthly idea, I know there's
9 officers around me, I cannot tell you the exact location. I
10 can tell you where we all ended up. But at the time of the
11 actual altercation and the time that we had got into this
12 altercation I have no earthly idea where the officers were
13 at.

14 THE COURT: All right. Thank you, sir, you can step
15 down.

16 MR. EVANS: Redirect, Your Honor?

17 THE COURT: You've already had redirect. Thank you.
18 We are going to take a recess for lunch, ladies and
19 gentlemen. I want you back in your jury room promptly at
20 2:00 p.m. Please do not discuss the case with anyone or
21 allow anyone to discuss the case with you. Have a good
22 lunch.

23 (The jury left the courtroom.)

24 THE COURT: Anything else before we break for lunch?

25 Mr. Matthews, did you want to go into your chain of custody

JEFFREY COOK

1 issue again?

2 MR. MATTHEWS: Your Honor, I think that basically
3 there's nobody identified other than the technician who
4 performed a ballistics test on it. Nothing to show the
5 names of the people that gave it one to the other to the
6 other. And so, Your Honor, I do not believe that pistol
7 should come in. There's nobody testifying and there's not
8 even a list of the people and their positions who handled
9 the gun other than the person who did the ballistics test,
10 so I don't think that it should be admissible.

11 THE COURT: All right. Under the Brockmeyer case,
12 which is less than a year old, our South Carolina Supreme
13 Court talked about the chain of custody analysis and held
14 differently as I understand it. And so based upon the
15 testimony and evidence presented I respectfully deny --
16 well, overrule your objection. But your position is
17 certainly set forth in the record. We're down for lunch,
18 see you back at 2:00.

19 (A lunch break was taken.)

20 THE COURT: Anything before the jury comes in?

21 MR. EVANS: Not from the State.

22 MR. MATTHEWS: No, Your Honor.

23 THE COURT: All right. Bring them in.

24 (The jury returned to the courtroom.)

25 THE COURT: Good afternoon. You have had a nice lunch

CEPHUS ROGERS

1 and look refreshed. Ms. Singleton, I'm appointing you as
2 forelady over the jury. Congratulations. It'll be your
3 duty to preside over the jury room and you will also be the
4 jury spokesperson here in court. It'll also be your duty to
5 write the verdict on the verdict form that I'll give you at
6 the close of instructions. Now, your verdict that you write
7 on the verdict form must not be just your verdict alone, it
8 must be the unanimous verdict. I'll explain that more here
9 this afternoon but you will be the only one who writes on
10 the verdict form. Okay. Thank you very much. All right.
11 Solicitor, call your next witness.

12 MR. EVANS: Thank you, Your Honor. The State calls
13 Cephus Rogers.

14 The witness, CEPHUS ROGERS, was first duly
15 sworn and testified as follows:

16 THE CLERK: Please have a seat in the witness box and
17 state your name and spell your last.

18 WITNESS: Cephus Henley Rogers, R-o-g-e-r-s, Jr.

19 DIRECT EXAMINATION

20 BY MR. EVANS

21 Q Mr. Rogers, where do you work?

22 A Colleton County Sheriff's Office.

23 Q What is your rank there?

24 A Sergeant.

25 Q How long have you worked for the Colleton County

CEPHUS ROGERS

1 Sheriff's Office?

2 A Since December of between (inaudible.)

3 Q Did you have any prior law enforcement experience?

4 A Yes, I did.

5 Q Where did you work before Colleton County Sheriff's
6 Office?

7 A Department of the Public Safety, Highway Patrol.

8 Q Here in South Carolina? When did you start with them?

9 A Since 1989.

10 Q For quite awhile. Were you involved in the checkpoint
11 that we were talking about this morning?

12 A Yes, I was.

13 Q Tell us about your involvement.

14 A I am the coordinator for the 14th Circuit Law
15 Enforcement.

16 Q The people that were put the checkpoint together?

17 A Yes, sir. The night in question, we were scheduled for
18 Cottageville Police Department.

19 Q Even though you are not with them, you go and help them
20 out?

21 A Yes, sir.

22 Q Were you one checking cars and that type of stuff?

23 A Yes, I was.

24 Q Did you become involved with the particular vehicle
25 that we are here to talk about?

CEPHUS ROGERS

1 A Initially I was on the shoulder of the road watching
2 the vehicles and officers perform their duties.

3 Q You were just supervising?

4 A Semi.

5 Q Something like that?

6 A Yes, sir. And then I had an opportunity to the move
7 into the roadway and did approach the vehicle in question
8 that the defendant and driver were occupying on the night.

9 Q You indicated people in the courtroom, who were they?

10 A Mr. Greene.

11 Q Mr. Greene sitting at the counsel table, the defendant
12 in this case?

13 A Yes, the defendant. And the driver sitting in the red
14 shirt.

15 Q In the gallery?

16 A Yes, sir.

17 Q That that is the other individual that you saw driving
18 the car?

19 A Yes, it is.

20 Q You remember him from the 14 months ago?

21 A Yes, I do. While I was assisting all of the sudden a
22 commotion started.

23 Q Where?

24 A On the passenger's side.

25 Q The other side of the vehicle?

CEPHUS ROGERS

1 A And I could see over to the passenger's side where now
2 Lieutenant Cook was engaged with the defendant, Mr. Greene.
3 This happened so quick, but in a moment's notice I saw what
4 appeared to be a weapon on the defendant.

5 Q Where on him?

6 A In the back area.

7 Q Could you give a little more description on that?

8 A In this area as in maybe stuck down in his pants or
9 something.

10 Q Okay.

11 A And I hollered -- I shouted, "Gun."

12 Q Why did you do that?

13 A For officer's safety, and to let those officers know,
14 or specifically Lieutenant Cook, what the defendant, Mr.
15 Greene, had on his person.

16 Q Had you received or heard any indication that there was
17 a gun anywhere in that vehicle before you saw one?

18 A No, sir.

19 Q You say you're certain that it was a gun that you saw.

20 A From my vantage point, from my view I determined from
21 what I saw that it was a weapon and I shouted "Gun."

22 MR. EVANS: May I approach the witness, Your Honor?

23 THE COURT: Yes, sir.

24 Q This is what's been previously marked and entered as
25 State's Exhibit 1. Is that, or could that be the gun that

CEPHUS ROGERS

1 you observed at that time.

2 A Yes, it is.

3 Q You believe it is?

4 A Yes, sir.

5 Q How can you tell?

6 A Well, the serial number is gone and this is the same
7 weapon that I along with the other officers, specifically
8 Chief Long and Lieutenant Cook, had in our possession.

9 Q Can you see what happened to gun from the time you saw
10 it in the defendant's back region to where it ended up?

11 A No, sir, I couldn't tell where it ended up. I just saw
12 initially what appeared to be the weapon and made the
13 announcement as quickly as I possibly could.

14 Q Did you assist in any other capacity after you made
15 that announcement?

16 A There were other officers there. So, you know, after
17 the tasing was over and he was arrested or essentially
18 detained -- not detained but handcuffed and everything, we
19 got him up, EMS came, and then we went through the searching
20 of the car for any other thing and then we took care of the
21 driver. And that led to this gun and everything else that
22 has been mentioned.

23 Q Okay. Who were the individuals that tased him? We've
24 heard some testimony about that. Do you recall?

25 A I didn't exactly see who, but from everything that has

CEPHUS ROGERS

1 been said it was lieutenant -- excuse me, Chief Cook and I
2 think now Sergeant Nettles who is with the Sheriff's Office.

3 Q Sergeant Nettles with the Sheriff's Office, not with
4 the Cottageville Police?

5 A Yes, that's correct.

6 Q Are you aware where he is today?

7 A I am not sure. Today may be his day off, I'm not sure.

8 MR. EVANS: Begging the Court's indulgence.

9 THE COURT: Yes, sir.

10 (Break in proceedings.)

11 MR. EVANS: Those are all of the questions that I have
12 at this time, Your Honor.

13 THE COURT: All right. Mr. Greene, any questions?

14 MR. GREENE: Yes, sir.

15 CROSS EXAMINATION

16 BY MR. GREENE

17 MR. GREENE: Your Honor, I would like to proffer
18 another page from the police report, it's use of force
19 report just to establish the record quite clearly from --

20 Q Let me ask my first question. Officer Rogers, you said
21 that it was dark, right?

22 A It was nightttime, yes, sir.

23 Q But you can't recall about what time it was?

24 A I don't know exactly without the reports.

25 Q You said that you were on the driver's side when you

CEPHUS ROGERS

1 seen the gun. The witness report says Deputy Nettles
2 said --

3 MR. EVANS: I would object to him reading a report into
4 evidence, particularly one that --

5 THE COURT: Sustained.

6 Q Nettles deployed his taser striking the subject's left
7 side near --

8 THE COURT: I sustained the objection, sir.

9 MR. GREENE: I can't --

10 THE COURT: You cannot introduce an incident report
11 unless it's this particular officer who made the incident
12 report, then to do that you need to establish a proper
13 foundation before that evidence can come in to be received
14 as evidence. You haven't done any of that so that's why I
15 sustained the objection. You may want to talk to your
16 stand-by counsel about proper procedure of how you do that.
17 All right.

18 MR. GREENE: I apologize. I will do that.

19 THE COURT: All right.

20 (Break in proceedings.)

21 BY MR. GREENE:

22 Q You said that you couldn't see the individual defendant
23 being tasered, is that true or false? You said that you
24 didn't see who tased him.

25 A I said I didn't know exactly who, except during the

CEPHUS ROGERS

1 course of our investigation on the night in question it was
2 determined that Chief Cook and Sergeant Nettles deployed
3 their tasers, that is a known fact.

4 Q Okay. My point is this to make a long story kind of
5 short, if you're on the driver's side and I'm on
6 the passenger's side and I'm shot with a taser here -- first
7 of all you said you seen the gun on the front side of the
8 car, now you're saying that you seen the gun but I'm facing
9 the officer, he said I had my hands right here. How were
10 you able to see a gun? If I had my hands on the top of the
11 car, how could you see a gun from the opposite side and my
12 back is to the woods area, how could you possibly see one?

13 A In your attempt to flee?

14 THE COURT: Don't ask a question, just answer the
15 question. Go ahead and answer his question. The question
16 was how did you see the gun on him if he was facing the car
17 with his hands on top of the car?

18 A When he turned.

19 MR. GREENE: That's not what I was asking.

20 Q Also when you seen the gun, the only reaction that you
21 had was that you just yelled gun.

22 A Yes, sir.

23 Q You didn't pull your gun.

24 A No, sir.

25 MR. GREENE: No further questions.

CEPHUS ROGERS

1 THE COURT: Any redirect?

2 MR. EVANS: Yes, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. EVANS

5 Q You said that you could see the gun when he turned.

6 Can you -- was that during the scuffle that you testified

7 about?

8 A Yes, sir.

9 Q Can you tell us a little bit more about that?

10 A Well, when Lieutenant Cook asked him to get out of the

11 vehicle and he got out, in that quick process and he

12 attempted to flee or resist, then I saw the weapon in the

13 back area.

14 Q You could see it because he was fleeing or assisting?

15 A That's correct, when he turned I could see that. And

16 it's nighttime, whatever time it was, but we -- I used

17 artificial lighting, which is a tower light that's placed in

18 the center of the road and it lights up a circumference

19 area, so we have great artificial lighting.

20 Q That's in your capacity as the coordinator for the LEN?

21 A Yes, sir.

22 Q For setting up for the traffic checkpoint.

23 A Yes, sir.

24 Q And that allowed you to see the gun?

25 A Yes.

CEPHUS ROGERS

1 Q And you're quite certain that it was a gun.

2 A Yes.

3 MR. EVANS: That's all.

4 MR. MATTHEWS: May I?

5 THE COURT: Yes, sir.

6 RECROSS EXAMINATION

7 BY MR. MATTHEWS

8 Q Officer Rogers, the tower that you're talking about,
9 that was in the middle of the road?

10 A Yes, sir.

11 Q And you were on -- okay. The driver's side would be
12 closer to the center lane, right?

13 A Yes.

14 Q Always, right, unless it's going the wrong direction.

15 A Yes.

16 Q Okay. And so you're in the center lane or side of the
17 car talking to the driver and the officer that's talking to
18 the driver, right?

19 A Yes, sir.

20 Q And the tower light is on the other side of you?

21 A It's right there.

22 Q Right next to you?

23 A It's right there.

24 Q And how tall?

25 A Sir?

CEPHUS ROGERS.

1 Q How tall?

2 A From where I'm seated almost to the ceiling.

3 Q Okay. All right.

4 A Because it's inflatable, it goes up and then it

5 illuminates around --

6 Q What kind of car was it?

7 A I don't remember without a report, sir.

8 Q Well, I mean, there's a car obviously between you and
9 the other two people scuffling, between Officer Cook and
10 Mr. Greene who were scuffling at this point, right? You are
11 here, the car is there --

12 A Wherever the car is so am I.

13 Q Okay. You're right here, on this side of the car right
14 here.

15 A At the car door.

16 Q They're on that side.

17 A Yes, sir.

18 Q Obviously. So the car is between you and them.

19 A Yes, sir.

20 Q And how far, 10 feet, 20 feet, 20 yards, how far had
21 the defendant gotten by the time you were able to see him
22 turn the other way?

23 A He was just on the other side of the car.

24 Q Well, if he was right up against the car you wouldn't
25 have been able to see it because his back would have been

CEPHUS ROGERS

1 against the car, right?

2 A I don't know in feet and distance.

3 Q But he was far enough away from the car where you could
4 see him, right?

5 A He was close enough to the car, or close enough on the
6 other side of the car that I could see.

7 Q How tall was to roof, like this maybe?

8 A I'm taller than the roof, so --

9 Q You're taller than the roof. So how tall are you?

10 A Five-ten.

11 Q Okay. So the roof is something short of five-ten.

12 A Shorter than, yes.

13 Q And you saw it -- a bulge in the back part of his
14 pants?

15 A The back area, I can't pinpoint exactly where.

16 Q Okay. And it was a budge that you believed to be some
17 sort of weapon.

18 A Yes.

19 Q Okay. All right. It wasn't between the door jam and
20 the car.

21 A No, sir.

22 Q All right. And obviously the scuffle had been ongoing
23 at the time that you yelled gun.

24 A The initial beginning of the scuffle.

25 Q Had he tackled him yet?

CEPHUS ROGERS

1 A That came afterwards, I believe.

2 Q You yelled gun and then he tackled him?

3 A Yes, sir.

4 MR. MATTHEWS: Okay. No further questions.

5 THE COURT: Thank you, sir, you can step down. The
6 State can call its next witness.

7 MR. MATTHEWS: Your Honor, at this point the State
8 would move into what's been previously marked State's 2, 3
9 and 4, these are the documents you took judicial notice of
10 pretrial, and after that the State would rest.

11 THE COURT: All right. Same objection, Mr. Matthews
12 and Mr. Greene, as to introduction of this exhibit?

13 MR. MATTHEWS: Yes, sir.

14 THE COURT: Okay. Objection overruled, introduced as
15 the State's Number 2.

16 (The document was received as State's 2.)

17 MR. EVANS: May I publish, Your Honor?

18 THE COURT: Yes.

19 MR. MATTHEWS: As to 3 and 4, may I publish them as
20 well.

21 THE COURT: Yes. Defendant's (sic) 3 and 4, objection
22 noted, same series of documents -- State's 3 and 4,
23 objection noted by the defense and objection overruled.

24 (The documents were received as State's 3 and
25 4.)

1 MR. EVANS: The State rests, Your Honor.

2 THE COURT: All right. Ladies and gentlemen of the
3 jury, we're going to take a brief comfort recess, we will
4 try to get you back out here in about five minutes. Okay.
5 Thank you. Don't talk about the case.

6 (The jury left the courtroom.)

7 THE COURT: All right. Mr. Greene and Mr. Matthews?

8 MR. MATTHEWS: Your Honor, Mr. Greene would make a
9 motion for a directed verdict of acquittal. The evidence in
10 the light taken in most favorable to the State does not
11 support a conviction particularly in light of the arguments
12 of the iffy roadblock. I know that the Court has ruled on
13 these issues, but cumulatively it doesn't appear there was
14 probable cause for the stop, the lighting conditions weren't
15 great and I would ask the Court to direct a verdict of
16 acquittal.

17 MR. EVANS: Probable cause was not the standard for the
18 stop, Your Honor, as you know. There's certainly evidence
19 that -- Your Honor has ruled on the admissibility of the
20 probable cause for the arrest, all that was done pretrial.
21 We have evidence that Mr. Greene is a violent felon through
22 exhibits two, three and four. We have testimony that
23 officers saw a gun, we had testimony that officers found a
24 gun directly near where Mr. Greene was and we ask you to
25 deny the motion.

1 THE COURT: Well, Rule 19 is any evidence standard, not
2 weight of the evidence standard, so I respectfully deny the
3 motion to direct a verdict. All right. Mr. Greene, if
4 you'll please stand for me, sir, and raise your right-hand.

5 (The defendant was sworn.)

6 THE COURT: Thank you. Please be seated and answer out
7 loud. You've done a good job of talking loud so far, keep
8 talking out. Okay. All right. Now, I'm going to explain
9 to you at this time certain rights that you have. If you
10 don't understand anything that I say, please let me know.
11 If you don't -- you can be seated. I like them to be
12 seated, it makes defendants more at ease when I talk to
13 them. If you want me to explain anything more to you I
14 will, just let me know. Okay. Now, we've reached the
15 stage of the trial where the State has rested so now is your
16 opportunity to present your defense. Now, I know earlier
17 yesterday I asked you about if you intended on testifying
18 and you told me yes, you do intend on testifying. Now, I do
19 want to make sure that you know that you have the right not
20 to testify, because under the Fifth Amendment of our United
21 Constitution it says that no person shall be compelled in
22 any criminal case to be a witness against themselves. That
23 means you cannot be required to testify in this case if you
24 don't want to. Now, you can testify if you want to but
25 nobody can make you testify. Do you understand that?

1 MR. GREENE: Yes, sir.

2 THE COURT: Now, if you decide to testify, you of
3 course as you know are going to be subject to being
4 cross-examined by the solicitor and, of course, he's a
5 trained lawyer with experience in the courtroom and he can
6 try and make your testimony look not believable and try to
7 make you look bad in front of the jury. You understand
8 that.

9 MR. GREENE: Yes, sir.

10 THE COURT: And, of course, the solicitor I'm sure will
11 cross-examine you about your armed robbery conviction. Is
12 there any other impeachable offense, Solicitor?

13 MR. MATTHEWS: No, Your Honor.

14 THE COURT: Do you understand that?

15 MR. GREENE: Yes, sir.

16 THE COURT: All right. Now, understanding all of these
17 things -- and also, I previously allowed you to represent
18 yourself and I appointed Mr. Matthews to be your stand-by
19 counsel. Have you spoken with Mr. Matthews about your right
20 to not testify?

21 MR. GREENE: Yes, sir, I have.

22 THE COURT: And have you decide to testify..

23 MR. GREENE: Yes, sir.

24 THE COURT: All right. Do you understand everything
25 that I said to you?

1 MR. GREENE: Yes, sir.

2 THE COURT: Do you have any questions about anything
3 else?

4 MR. GREENE: No.

5 THE COURT: Okay. So it's my understanding that when
6 the jury comes back out you have two witnesses, that will be
7 yourself and the driver.

8 MR. GREENE: Yes, sir.

9 THE COURT: Okay. Who do you intend on calling first?

10 MR. GREENE: The driver.

11 THE COURT: The driver? Okay. Now, I will tell you,
12 you know, since you are pro se that means that you have to
13 follow the same rules that lawyers have to follow in court.
14 Now, I have been very flexible in the trial of this case in
15 allowing you to have assistance of Mr. Matthews. In fact,
16 one would say y'all have been double teaming the State and I
17 did that in fairness to you since you're not a lawyer, that
18 means that I've been allowing you to question and then
19 Mr. Matthews to mop up anything you may have forgotten to
20 do. I didn't have to do that, I'm simply doing that to be
21 fair to you. Do you understand that?

22 MR. GREENE: Yes, sir.

23 THE COURT: Okay. Now, when you facilitate testimony
24 on direct examination you have to ask a question of the
25 witness and let the witness answer. It's hard for my court

1 reporter to have two different people talking at the same
2 time. Okay. So remember, the rules of the direct is who,
3 what, where, when, and you can sometimes ask why if you
4 want -- you can ask any question you want, but just try not
5 to lead the witness. Okay. I'll allow you a little leeway
6 just to help the case move along, but I want to make sure
7 you understand the rules. Okay?

8 MR. GREENE: Okay.

9 THE COURT: Any questions?

10 MR. GREENE: No, sir.

11 THE COURT: Anything further from the State?

12 MR. EVANS: Not at this time, Your Honor.

13 (A recess was taken and the jury returned to
14 the courtroom.)

15 THE COURT: All right. All Members of the Jury are
16 present. Mr. Greene, you may call your witness.

17 The witness, WILLIAM MCCRAY, was first duly
18 sworn and testified as follows:

19 THE COURT: State your full name and spell your last
20 name.

21 WITNESS: William James McCray.

22 DIRECT EXAMINATION

23 BY MR. GREENE:

24 Q If you could for the jury and for the Court here, could
25 you tell us what actually took place? Take your time and

WILLIAM MCCRAY

1 just tell us what happened as you seen it the night on

2

3 A I was driving the car, going to Jacksonville, and we
4 was getting around this curve right here in Walterboro,
5 right before you get to Walterboro. And the -- they had a
6 roadblock, call this checking. I didn't have no driver's
7 license.

8 THE COURT: Sir, is there any possible way you can lean
9 up and get into the mic? You're relatively soft spoken.

10 WITNESS: Can you hear me now?

11 THE COURT: That's good?

12 A And I run and I stopped the car and that man right
13 there, Wild Bill -- I call him Wild Bill -- he went straight
14 to the driver's seat, he asked if I had a driver's license,
15 I told him, "No, I ain't have none on me." And he went
16 around to the driver's side but he showed them his
17 license --

18 Q At that time did I give the police my driver's license?
19 Did I give the police my drive's license already?

20 A Yes.

21 Q And by that time he --

22 A He went on around and grabbed you out of the car,
23 opened the car door and snatched you out. I said, "Why are
24 you doing it?" So at that time that man right there tell me
25 to pull up over there before he snatched you out of the car,

WILLIAM MCCRAY

1 and when I pulled on up over there on the side of the road.
2 he came up and you showed the first man your license, but
3 this other man come up on this side. He was suppose --
4 yeah, you -- he pulled the car door open and grabbed you you
5 all just start fussing. And I said, "What are you doing?"
6 And the other man talking to me to the car, all I hear then
7 is a pow, pow, pow, and I said, "Are y'all trying to kill
8 him?" And they was tussling on down and that's all that
9 happened at that time. There was more policemen out there
10 than this now. You, you was in front of the car because you
11 wouldn't let me use the restroom, do you remember? Sir?

12 MR. EVANS: Your Honor, he's asking the State's
13 witness, if he could answer the questions.

14 THE COURT: Yeah. Just answer the question that
15 Mr. Greene asks. Thank you, sir.

16 A All right.

17 Q Could you finish explaining what happened after they
18 got me down on the ground, could you tell the Court what
19 happened? Could you tell the jury what happened after that?
20 Could you tell them how many times you think I was tased?

21 A About six.

22 MR. EVANS: Objection.

23 THE COURT: I'm going to overrule that objection. Tell
24 us what happened after what you just said.

25 A Yeah. That's when they was tussling when they tried to

WILLIAM MCCRAY

1 get him out of the car and they went over by the ditch,
2 across the ditch to the fence, about from yonder to where
3 them police at from the car. And they had him down and he
4 couldn't move, they had put their knee back, arm braced and
5 they done shoot him like eight times, and when he come back
6 from across there I thought they had a fishing net on him
7 there was so many times pow, pow, pow. And then one of them
8 hollered "gun," after they had him down over there across
9 the road, and that man said, "If I knowed that was a gun I
10 would have killed your mother fucking ass."

11 Q Say that one more time. Who said that?

12 A That one there.

13 Q Can you give us a name and point him out?

14 A The one right there. You.

15 THE COURT: Let the record reflect that he's pointing
16 to the officer on the left, Officer Cook.

17 A That one there. That's the one that you couldn't talk
18 to him.

19 Q Is there anything else that you seen or you would like
20 the jury to know?

21 A Well, they pull you from over by them bushes and pull
22 back your arms and your back and stuff, and they carry you
23 to this side of the road and took all the money and put it
24 out on the car.

25 Q Let me ask you this question, when the police was

WILLIAM MCCRAY

1 tussling with me, did I already have cuffs on or did I have
2 both of my hands available?

3 A When he first grabbed you right there he put one cuff
4 on you, and then he tried to grab you up again but he
5 done -- another police shoot. They done shoot you before
6 they hollered gun. They hollered gun after they had you in
7 the bushes over there, that is when they shoot you four more
8 times down in them bushes. And you hollered gun -- you said
9 you hollered gun, that's why you -- that's why I don't
10 understand everybody's story. Because this gentleman said I
11 dropped the charges and he tried me for driving under
12 suspension and I wasn't charged with driving under
13 suspension. Y'all just come in here and tell this story
14 right in front of the judge and don't care nothing about it.
15 You said yesterday -- look back on your report -- you said
16 you give him the money and your lawyer agreed with it. That
17 was a story. Then the paper, you stand up here and the
18 Judge take that thing and throw it in the trash can. Get
19 real with this, this is people's life that they're dealing
20 with. That boy ain't had no gun.

21 THE COURT: Mr. Matthews, any additional questions?

22 MR. MATTHEWS: No, sir, Your Honor.

23 THE COURT: Thank you. Cross examination?

24 MR. EVANS: Thank you, Your Honor.

25 CROSS EXAMINATION

WILLIAM MCCRAY

1 BY MR. EVANS

2 Q So Mr. McCray, you were not charged with driving under
3 suspension, that's your testimony just now?

4 A That's right.

5 Q But you did say that you didn't have a driver's
6 license?

7 A That's right.

8 Q So you weren't supposed to be driving.

9 A I know that.

10 Q You were breaking the law.

11 A Yes, I did. I paid for it, too.

12 Q You said that Mr. Greene didn't have a gun, that was
13 what you just finished up with; isn't that right?

14 A I know he ain't have no gun.

15 Q So the gun that police found came out of nowhere.

16 A It might have come back from all them people back there
17 parked on the other side and parking in front of us, who
18 knows.

19 Q They dropped it on the ground?

20 A I don't know what they did.

21 Q Could it come from the police, a gun without a serial
22 number?

23 A It could have come from anywhere, you've got crooked
24 police.

25 Q You think police carries guns without serial numbers on

WILLIAM MCCRAY

1 them?

2 A I don't know, do you?

3 Q Mr. McCray, this is not your first time in a courtroom,
4 is it?

5 A No, I done did my time.

6 Q You've been convicted of some crimes.

7 A Yes. I was bad back in my younger days.

8 Q Uh-huh. In 2008 you were convicted of a criminal
9 domestic violence third offense?

10 A I had some charges back then.

11 Q You were convicted of habitual traffic offender?

12 A A who?

13 Q Habitual traffic offender.

14 A What you talking about?

15 Q And you were convicted of possession of meth or crack
16 third offense.

17 A Meth? I don't know nothing about that now.

18 Q Crack cocaine?

19 A I know cocaine.

20 Q Cocaine? Were you convicted of that in 2008?

21 A I was convicted of that and I got 21 years in '84.

22 Q I see.

23 MR. EVANS: Nothing further, Your Honor.

24 THE COURT: All right. Any redirect?

25 MR. MATTHEWS: No, Your Honor.

RODERICK GREENE

1 THE COURT: Thank you, sir, you may step down.

2 Mr. Greene, you may call your next witness.

3 The witness, RODERICK GREENE, was first duly
4 sworn and testified as follows:

5 THE COURT: All right. Mr. Greene, just have a seat
6 there. And I want you to take a deep breath and relax. And
7 I want you to tell the jury anything that you want to tell
8 them.

9 MR. GREENE: Okay. I appreciate it, Judge.

10 THE COURT: Yes, sir.

11 MR. GREENE: The first thing I wanted to the bring
12 across to you guys, the jury, they handed you a document
13 that showed you something that me and Sakena (phonetically)
14 did. I was the age of 17, she was 24 years old at the time.
15 Her boyfriend worked at the PD Quicks, a little fast food
16 restaurant. And there was no weapons, it was an inside job
17 and we went up there and he gave us the money. We ended up
18 doing time, I did 15 years at the age of 17, I just got out
19 about six years ago. That is why -- the only evidence that
20 they want to use to try to say that I'm a criminal. I
21 haven't had any trouble. Six years I've been going to
22 school, I'm five classes away from my degree. That \$3,600
23 that they took was a part of my student loan money, my loans
24 are now in default. I've been fighting these people for a
25 whole year to get that money back, still nobody knows where

RODERICK GREENE

1 the money is at. Any of the evidence -- the only thing that
2 they had was this gun but nobody seen it on me. They see it
3 on the ground and they put it on me. There is guys that's
4 on this side of the road, that side of the road with no
5 handcuffs on out there in the public but they blame me with
6 the gun. I don't understand. By the time they said that I
7 was in the front of the car and that the weapon was
8 somewhere over here -- like they make it look like the
9 weapon just dropped right in front of them. If that was the
10 case you don't think Mr. Cook would have seen the weapon?
11 He says he sees a weapon from way across the other side of a
12 vehicle in the pitch black of midnight dark. How is that
13 possible? My only point to the jury is this, I haven't been
14 that guy that I was at 17, I'm a totally different person.
15 When he stopped me that night I wasn't drinking, I didn't
16 have any alcohol, I was just sitting in the car ready to go
17 see my family. He pulled me out of the car immediately. He
18 didn't ask any questions, he didn't ask me if this was your
19 alcohol, he didn't ask any questions, pulled me out of the
20 car, started roughing me up, told me to put my hands on top
21 of the car, slammed my head down every time I kept looking
22 back at him. Yeah, he reached in my pockets and he said,
23 "What are you doing with all of this money?" And I said,
24 "Man, what you mean? You can't have money?" He said,
25 "You've got too much money on you." I said, "Man, this is

RODERICK GREENE

1 my student loan money, it's for college, for school." He
2 started asking me different questions, whatever, like that.
3 Never once did the officer say anything about me being
4 jittery. I mean, what reason did I have? I have a driver's
5 license. I didn't have any reason to be jittery or to run.
6 I didn't have any drugs on me, they never charged me with no
7 drugs so I'm trying to figure out -- I'm here today because
8 the police found a gun on the ground and you've heard three
9 different testimonies. And lastly and I'll let it go, none
10 of these see -- they don't have a ballistics reports, they
11 don't have the information with -- remember one of the first
12 things I asked you guys -- there was three or four different
13 things they would have charged us, they would have none of
14 them but one thing. And all of them have a different story
15 about how they seen it happen, how they seen the gun fall.
16 Nobody has the same conclusive story. Everybody is in a
17 different position. Why you ask them where they were, why
18 is it not on videotape? These are just -- when we talk
19 about doubt there's more than enough doubt in my case I
20 would believe myself. All I'm asking you guys to do is to
21 review the evidence, realize the truth. Please do not hold
22 something that I did more than 20 years ago at 17 years of
23 age to justify the solicitor bringing this charge on me
24 right now.

25 THE COURT: Thank you, sir. Stay right there. Cross

RODERICK GREENE

1 examination?

2 MR. EVANS: Thank you, Your Honor.

3 CROSS EXAMINATION

4 BY MR. EVANS:

5 Q Your testimony is that you didn't commit armed robbery
6 back in 1996?

7 A I didn't tell you that. I told you that I was with a
8 female and I told you basically that that's exactly what we
9 did. He gave us the money, it wasn't no armed robbery,
10 wasn't no guns.

11 Q So it wasn't an armed robbery?

12 A They name it automatically armed robbery.

13 Q But you went to prison for it?

14 A Yeah. I did 15 years, sir.

15 Q And you were told that you couldn't have a gun anymore.

16 A And I still didn't have a gun that night either.

17 Q You've never had a gun?

18 A What you mean I never had a gun?

19 Q I'm asking you.

20 A As in when?

21 Q Since you were convicted of armed robbery.

22 A Nope.

23 Q Never?

24 A I've never owned a gun.

25 Q Never owned a gun.

RODERICK GREENE

1 A No, sir.

2 Q So the gun just materialized out of thin air.

3 A What do you mean it materialized?

4 Q Well, it didn't come from you, that's what you're
5 saying so it had to come from somewhere. Where did it come
6 from?

7 A You tell me, Solicitor? The officers have given all
8 kind of statements about where the gun come from.

9 Q No. You're the one testifying now, this is your case
10 and you're saying that it wasn't from you. I'm asking you
11 where it came from.

12 A Do you have any prints? I mean, you bring this gun --

13 Q I'm asking you a question, sir.

14 A I'm trying to answer your question as best as possible.
15 You bring a, gun. You have no evidence that this is the gun
16 that you guys even found a year ago and you're trying to
17 still make it look like this is a valid gun. Nobody knows
18 where this gun even came from.

19 Q Except the officers who already testified.

20 A And they don't know where it came from.

21 Q You didn't deny just now that there was an open
22 container in the vehicle.

23 A I never said anything about an open container being in
24 the vehicle. I said that I was never charged with open
25 container.

RODERICK GREENE

1 Q You didn't deny it?

2 A What do you mean? I'm not saying that there was. I
3 never seen an open container. I know that there was open
4 containers as beverages as in Pepsi. I had some other --
5 Red Bull in there. I had a bunch of like drinks as far as
6 packaged. None of these was taken --

7 Q The one that you --

8 A Gatorade.

9 THE COURT: Hand on. One at a time.

10 MR. EVANS: Thank you, Your Honor.

11 BY MR. EVANS:

12 Q You've been listening to all of the testimony, correct?
13 And you're trying your own case; is that right? You heard
14 the officers talk about an open container of an alcoholic
15 beverage; is that right? And just now you referenced that
16 they asked you on the side of the road is that yours but you
17 didn't deny that it was an alcoholic beverage, you didn't
18 deny that it was yours when you yourself had a chance to
19 tell your story; is that right?

20 A That is not right at all.

21 Q All right. You talked a lot about this money, \$3,600,
22 that's from your student loan?

23 A (Nods in the affirmative).

24 Q Did you bring any paperwork to back that up?

25 A Well, today I didn't bring it but --

RODERICK GREENE

1 Q You didn't bring it?

2 A I did bring it in the preliminary and you showed it to
3 you, though, so you know the answer to that question.

4 Q We're talking about today, sir?

5 A But have you seen it before?

6 Q I'm asking the questions. This is today. You don't
7 get direct deposit of your student loans, you get them in
8 cash.

9 A No, I don't.

10 Q Well, you had cash.

11 A It's a federal student loan, I don't get it --

12 Q I'm asking the questions.

13 A I'm just telling you they mail you a check, man.

14 Q I'm asking you. And you cashed it rather than take it
15 to your school. You wanted to have that cash on you at
16 11:30 at night two counties away from where you lived.

17 A It was my birthday, Solicitor. Can you imagine --

18 Q You're going to use your student loan money for your
19 birthday to celebrate?

20 A I don't know many students that wouldn't on their
21 birthday.

22 Q You were never charged with drugs.

23 A Never charged with drug charges ever, never been
24 convicted, never even had a charge on drugs.

25 Q That's not what I asked. You testified a moment ago

RODERICK GREENE

1 that you were not charged with drugs.

2 A Did you have evidence of drugs? How could you be
3 talking about drugs when you have no evidence of any drugs
4 here whatsoever?

5 Q You entered this into evidence, did you not?

6 A Yeah. That's because they charged me with five
7 charges. Where are they at? Where are the rest of them at?
8 There's only one.

9 Q You were charged with simple possession of marijuana.

10 A Where? When? By whom?

11 Q On this ticket that you entered into evidence.

12 A It's been a whole year. Simple marijuana possession is
13 a misdemeanor.

14 Q Yes. That's why you're not on trial for it.

15 A So what happened to the charge? You guys told me I had
16 one charge, all the rest of the charges were dismissed.
17 What does that have to do with all of your officers lying?
18 Every last one of them lied today.

19 Q Sir, you just said you weren't charged with drugs. Is
20 marijuana a drug or isn't it?

21 A Of course marijuana is a drug, I was charged with that.
22 Did they find it on me? Did they find it in my possession?

23 Q That's not what we're here about.

24 A Why did you ask me about the marijuana then?

25 THE COURT: All right. I will ask once again and then

RODERICK GREENE

1 after that I'm going to start ordering stuff, quit
2 interrupting each other. He asks a question, you answer.
3 Quit arguing with him.

4 MR. GREENE: Yes, sir.

5 THE COURT: Go ahead.

6 BY MR. EVANS

7 Q You seem upset about the charges that were dismissed.
8 Why is that?

9 A Because you guys took my money, man, y'all beat me up.
10 I've been coming here a year. I came here. Every time I
11 come here for you guys, do you know what you do? You won't
12 even talk to me. You make me sit in the courtroom until
13 5:00 or 6:00 in the afternoon. Why don't you tell the Judge
14 some of things you've done to me for a whole year and a
15 half? And I'm not supposed to be upset? I get a trial that
16 you just told me about two days ago? I never even knew
17 about a trial. I didn't even know that my preliminary
18 hearing, you guys said that I had one, or another one,
19 twice, a second preliminary hearing that was held, I know
20 nothing about it.

21 Q Where one of your cases was dismissed.

22 MR. MATTHEWS: Nothing further, Your Honor.

23 THE COURT: Any testimony you would like to say in
24 response to his questions, sir? Anything else?

25 MR. GREENE: You want me to say it from right here?

RODERICK GREENE

1 THE COURT: Anything else that you want to say.

2 MR. GREENE: Yes, sir. Lastly, if -- put any of
3 yourselves in my shoes. If the police did this to you, if
4 the police did it to your children, if the police did this
5 to your brother and they didn't have substantial reasoning
6 to do this, you don't think you would be upset or you don't
7 think that person would be upset? I realize that I made a
8 mistake a long, long time ago, and I could have chose not to
9 testify and tried to hide that fact. You cannot run from
10 that anymore. My life is not the same as it was. I am a
11 totally different person. I'm 36 years old, I was 17 at
12 that moment in time. Right now they have not offered any
13 physical evidence whatsoever. They have not offered one bit
14 of proof that lends to say that somebody can know for a fact
15 that I had a gun, I had drugs or I had any of these things
16 that I was charged with. I had five charges. They even had
17 the county that I was in charge me when I bonded out, all of
18 those charges were dismissed. They took my money and I
19 asked them, "For what reason did you take my money?" They
20 never gave it back still to this day. How could I even
21 prepare a defense? How could I buy a lawyer? My last thing
22 is this, if you guys that know that you guys took my money,
23 where is it? Why still haven't I gotten that back?

24 THE COURT: All right. Thank you, sir, you may be
25 seated. Mr. Matthews, any other witnesses?

RODERICK GREENE

1 MR. MATTHEWS: No, sir.

2 THE COURT: Mr. Greene, any other witnesses?

3 MR. GREENE: No, sir.

4 THE COURT: The defense has rested. Ladies and
5 gentlemen, you have now --

6 MR. EVANS: Your Honor, we would ask for a rebuttal
7 witness.

8 THE COURT: You do have a reply witness? Go ahead and
9 call that reply witness.

10 MR. EVANS: The State calls Chief Long.

11 THE COURT: Sir, you're still under oath.

12 WITNESS: Yes, sir.

13 The witness, CHARLES LONG, remained under oath
14 and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. EVANS:

17 Q Chief, I'm going to ask you some questions about the
18 money.

19 A Yes sir.

20 Q What, if anything, did you tell Mr. Greene about that
21 money?

22 A About the money?

23 Q About the money.

24 A First of all he needed to bring proof of what the money
25 came from.

RODERICK GREENE

1 Q Have you ever been provided that?

2 A I have told him that.

3 Q Does this money have anything to do with the gun
4 charge?

5 A No, it don't, sir.

6 Q If he had been suspected of only the gun charge at the
7 time would you have seized it?

8 A He'd have kept his money.

9 Q Why haven't you given the money back?

10 A Due to the fact of simple possession of marijuana and
11 for the fact that he hasn't brung proof yet.

12 Q If he provides those at a later date, what will happen?

13 A He will get a check from the Town of Cottageville in
14 the amount of \$3,640.

15 Q Where is the money now?

16 A It is locked up in my safe with initials on it still,
17 still to this day.

18 MR. EVANS: That's all, your Honor.

19 THE COURT: Thank you, sir, you can step down. Yes,
20 sir? Hang on a second.

21 CROSS EXAMINATION

22 BY MR. GREENE

23 Q Now Chief, I asked you a question at the beginning of
24 this, I asked if you initialized my money.

25 A I initialized the bag, not individual currency.

CLOSING ARGUMENTS

1 MR. GREENE: Thank you.

2 THE COURT: Thank you, sir, you can step down. Any
3 reply witnesses?

4 MR. EVANS: That's all, Your Honor.

5 THE COURT: All right. Ladies and gentlemen of the
6 jury, we have now finished the phase of the trial of
7 testimony and evidence, and we will enter into the last part
8 of the trial -- do you need a break before closing arguments
9 or are y'all okay? Everybody is shaking their head. We
10 will move into what is called closing arguments. And
11 remember, this isn't evidence, this is just a chance for
12 either side to summarize what they believe the evidence
13 showed. At the conclusion of that I will then instruct you
14 on the law and then you can begin deliberating. All right.
15 Mr. Greene?

16 MR. GREENE: I won't say much, jury, I think enough has
17 already been said. I think the law on the case, I'm not
18 going to talk about the law but the plain and simple. A
19 reasonable doubt. If any of you have reasonable doubt
20 you're supposed to find me not guilty. If you can't find
21 that these officers acted like -- or acted in a way that you
22 as any jurors feel like these officers and what they've done
23 has been justified, how they've come in here and not had
24 their stuff together whatsoever. In light of the aftermath
25 of people like I think his name is Mike Brown, Travon

CLOSING ARGUMENTS

1 Martin, there are a lot of different names that I can name
2 that these guys have been shot and killed, at least I still
3 have my life right now. My point is this, that if the
4 police -- these guys had no weapons and they were killed
5 dealing with just the police stopping them. Now, if I had a
6 weapon and the police seen it, do you think that they would
7 have been fighting me with tasers? Six -- five or six
8 different police officers, I'm just one little ole me, the
9 tasers wasn't enough. My point being is if I had a weapon,
10 the officers probably would have killed me too.

11 THE COURT: Thank you, Mr. Greene. Solicitor?

12 MR. EVANS: Thank you, Your Honor. Ladies and
13 gentlemen of the jury, Mr. Greene is actually quite right.
14 We are held to a standard of beyond a reasonable doubt, and
15 just like him I'm going to ask you to hold us to it because
16 I don't want you to convict him for what he's done in the
17 past. The reason that you know about his prior crimes is
18 because that is an element of the offense as the Judge is
19 going to tell you. Don't hold it against him that he's done
20 this in the past, hold it against him what he has done this
21 time. He didn't come out and try to become a productive
22 member of society again, he ignored those lessons. Under
23 the law of the State of South Carolina a person convicted of
24 a violent felony cannot own or possess even a firearm, they
25 have lost that right, lost that privilege. He's not guilty

JURY CHARGE

1 today because he was guilty back then, he's guilty today
2 because he cared more about himself than about the safety of
3 others. Now, we're held to the standard of beyond a
4 reasonable doubt. But what he's asking you for is
5 unreasonable. He wants you to believe that this gun, which
6 was found on the side of 17A Cottageville Highway on
7 of last year, was not from him. He wants you to
8 believe that Corporal Rogers, who wasn't even there for his
9 own agency, who was conducting/coordinating this effort to
10 make the roads of Colleton County safer on behalf of the
11 Cottageville Police, he didn't stand anything to gain for
12 any tickets written out there. They want you to believe
13 that he made up what he saw, and that by the most incredible
14 of coincidences a gun was found right near where Cook and
15 Greene were tussling. Now, nobody likes going through these
16 checkpoints, we all know that, that is not a question that
17 you have to decide here today. Nobody likes getting traffic
18 tickets either. But when you're talking to an officer and
19 they're asking you questions that are reasonable based on
20 what they can see through the window and you immediately try
21 to bolt, don't cooperate, won't even give them the little
22 bit of information that they are asking for, won't even
23 answer a simple question, that's when you've taken the
24 experience of the checkpoint away from it's unpleasant to me
25 and you've put them in a situation where they're at risk.

JURY CHARGE

1 You heard these three officers talk a lot about officer
2 safety. Okay. That's why they asked him out of the car
3 because they were concerned, as they have every right to be.
4 They don't know what they're getting in to when they first
5 start to talk to somebody in one of these vehicles. You
6 heard Cook say that he was becoming nervous based on what
7 Mr. Greene was doing. All he wanted to do was ask the man
8 if he had weapons on him, pat him down to check and see if
9 that was the case and he's within his rights to do that.
10 Mr. Greene couldn't answer that question. Why? Because the
11 answer was yes, because he knew what he had done. You heard
12 testimony from the driver of the vehicle, a man that
13 shouldn't have been driving that night as he himself
14 admitted. I'm not quite sure what he was getting at, but he
15 seems to believe, as Mr. Greene does, that the gun was
16 planted somewhere. You have the right, indeed you have the
17 responsibility to examine the credibility of every witness
18 that you heard today, all five of them. I'm asking you,
19 ladies and gentlemen of the jury, who do you believe? These
20 three men who go out and they do something that we may not
21 like but we know is necessary to keep our roads safe? Are
22 you going to believe Mr. McCray, a felon himself? Are you
23 going to believe Mr. Greene who's the only one who actually
24 has something at stake here? He's the only one with any
25 motivation to lead y'all down the wrong path. Think about

JURY CHARGE

1 that when you're back in that room. Think about what is
2 more reasonable, that two individuals coming from Georgetown
3 passing through Cottageville made a mistake, brought
4 something they shouldn't have brought, put the wrong man in
5 the driver's seat and they're paying the price for it?
6 Isn't that more reasonable than their theory that I suppose
7 Cottageville Police knew this guy was coming, planned in
8 advance to plant a gun on the side of the road to rough him
9 up? Is that reasonable? You already know it's not. You
10 are here to decide one thing and one thing only, did
11 Mr. Greene possess a firearm on _____ of 2013. You are
12 not here about any of the other things that he was charged
13 with, they were dismissed. He wants to distract you with
14 that fact. You are here to decide what did happen in this
15 case, not in any other case, that's why those cases are gone
16 because they can't be proven. This case has been. Mr.
17 Greene wants you to believe that the State needs to have
18 fingerprints and ballistics tests for a gun that wasn't
19 fired. You know from those officers there was a gun on his
20 person, that it flew out and landed on the ground. Make the
21 connection from one to the other. Hold us to our burden
22 beyond a reasonable doubt, that is not all doubt. Listen to
23 what the Judge tells you about the law, go into that room
24 and decide what is the truth. When you come out here I'm
25 confident you will know what it is, you will tell us and

JURY CHARGE

1 it'll be guilty. Thank you.

2 THE COURT: Thank you, Solicitor. Ladies and gentlemen
3 of the jury, I'm going to ask that you look at me and pay
4 attention to me while I go through the law that you have to
5 apply to the facts as you find them to be. And from time to
6 time I'll glance down at my notes, and the reason I do that
7 -- I'm not just going to sit up here and just read at you, I
8 know that's boring, but the reason I do that is everything I
9 tell you is important and I want to make sure I get it
10 right. Okay. Now, Madam Forelady and members of the jury,
11 you have heard the evidence and the arguments of the State
12 and the defendant. I will now explain to you the law that
13 applies to this case. Under the constitution and laws of
14 South Carolina you are the finders of the facts in this
15 case. I do not have the right to pass upon the facts or
16 even to express any opinion that I might have as to them
17 because this is a matter solely for you, the jury, to
18 determine. As jurors then it is your duty to determine the
19 effect, the value, the weight and the truth of the evidence
20 presented during this trial. Now, as the trial judge it has
21 been my responsibility to preside over the trial of this
22 case and to rule upon the admissibility of the evidence
23 offered during the trial. You are to consider only the
24 testimony which has been presented from this witness stand
25 together with any exhibits which have been made a part of

JURY CHARGE

1 the record. I have the additional duty to charge you the
2 law applicable to this case and as the presiding judge I am
3 the sole judge of the law of this case. It is your duty as
4 jurors to accept as correct and apply the law as I now state
5 it to you and then reach your verdict. The fact that I may
6 instruct you on various subjects in this case must not be
7 taken as indicating an opinion of this Court as to what you
8 should find the facts to be or what your verdict should be.
9 Finally I charge you that you should not be concerned with
10 what you think the law ought to be but rather what I charge
11 you the law is. You are also the judges; the sole judges of
12 the credibility, that is the believability of the witnesses
13 who have testified and of the evidence which has been
14 presented during this trial. In passing upon credibility
15 you may take into consideration many things, such as the
16 demeanor or manner of testifying; whether the witness had
17 reason to be biased or prejudiced; or whether a witnesses'
18 testimony was contradicted on the one hand or supported and
19 corroborated on the other hand. All these things you will
20 consider bearing in mind that you should give the defendant
21 the benefit of any reasonable doubt. It becomes your duty
22 as jurors to analyze and to evaluate the evidence and
23 determine that evidence which convinces you of its truth.
24 Now, the fact that the defendant was arrested, charged and
25 indicted is not evidence in this case and cannot be

JURY CHARGE

1 considered by you as evidence of guilt in this case, nor
2 does it create any presumption or inference of guilt. The
3 indictment is simply the formal written instruments which
4 contain the charge made against the defendant. An
5 indictment is merely the formal document by which a case is
6 brought into court. A person who has a past criminal record
7 is competent to testify during a trial. A past record does
8 not affect the ability of that witness to testify. The past
9 record may only be considered by you, if at all, in
10 determining the witness' believability. Remember, you are
11 the sole judges of the facts in the case and of the
12 believability of any and all of the witnesses. Now, ladies
13 and gentlemen of the jury, there are two types of evidence
14 which are generally presented during a trial, direct and
15 circumstantial evidence. Direct evidence is the testimony
16 of a person who claims to have actual knowledge of a fact,
17 such as an eyewitness. It is evidence which immediately
18 establishes the main fact to be proved. Circumstantial
19 evidence -- I'll give you the law school definition first
20 and then give you an example. Circumstantial evidence is
21 proof of a chain of facts and circumstances indicating the
22 existence of a fact. It is evidence which immediately
23 establishes collateral facts from which the main fact may be
24 inferred. Circumstantial evidence is based on inference and
25 not on personal knowledge or observation. For example, if

JURY CHARGE

1 on a winter night you look outside and see brown grass on,
2 your lawn, you go to bed, then you wake up and see snow and
3 footprints on your lawn. First you can infer that it
4 snowed, and secondly that someone walked on your lawn.
5 These are things that you can infer, even though you did
6 not see it snow and even though you did not see someone on
7 your lawn. The law makes absolutely no distinction between
8 the weight or the value to be given to either direct or
9 circumstantial evidence, nor is a greater degree of
10 certainty required of circumstantial evidence than of direct
11 evidence. You should weigh all of the evidence in the case
12 and after weighing all of the evidence if you are not
13 convinced of the guilt of the defendant beyond a reasonable
14 doubt you must find the defendant not guilty. The defendant
15 has pled not guilty to the charge in the indictment and that
16 plea places the burden on the State to prove the defendant
17 guilty. A person charged with committing a criminal offense
18 in South Carolina is never required to prove himself
19 innocent. I charge you that it is an important rule of law
20 that the defendant in a criminal trial, no matter what the
21 seriousness of the charge may be, will always be presumed to
22 be not guilty of the crime for which the indictment was
23 issued unless guilt has been proven by evidence satisfying
24 you of that guilt beyond a reasonable doubt. The
25 presumption of innocence does not end when you begin your

JURY CHARGE

1 deliberations but it accompanies the defendant throughout
2 the trial until you reach a verdict. The presumption of
3 innocence is like a robe of righteousness placed about the
4 shoulders of the defendant which remains with the defendant
5 until it has been stripped from the defendant by evidence
6 satisfying you of the defendant's guilt beyond a reasonable
7 doubt. Now, the presumption of innocence is not a mere
8 legal theory, it is not just a legal phrase, it is a
9 substantial right to which every defendant is entitled
10 unless you, the jury, are satisfied from the evidence of the
11 defendant's guilt beyond a reasonable doubt. I know you're
12 wondering, "What is a reasonable doubt? We've heard it like
13 20 times during this trial." Ladies and gentlemen of the
14 jury, a reasonable doubt is a doubt which makes an honest,
15 sincere, conscientious juror in search of the truth to
16 hesitate to act. Proof beyond a reasonable doubt must
17 therefore be proof of such a convincing character that a
18 reasonable person would not hesitate to rely and act upon it
19 in the most important of his or her own affairs. Proof
20 beyond a reasonable doubt can also be described as proof
21 that leaves you firmly convinced of the defendant's guilt.
22 Now, there are very few things we know in this world with
23 absolute certainty and in criminal cases the law does not
24 require proof that overcomes every possible doubt. If based
25 on your consideration of the evidence you are firmly

JURY CHARGE

1 convinced that the defendant is guilty, then you must find
2 him guilty. If on the other hand you think there is a real
3 possibility that he is not guilty, you must then give him
4 the benefit of the doubt and find him not guilty. Now,
5 ladies and gentlemen of the jury, as you heard at the
6 beginning of the trial the defendant has been charged with
7 unlawful possession of a firearm by a person convicted of a
8 felony. It is unlawful for a person who has been convicted
9 of a violent crime that is classified as a felony offense,
10 to possess a firearm or ammunition within this state. Armed
11 robbery is defined as a violent crime under South Carolina
12 codes of law. To prove possession the State must prove
13 beyond a reasonable doubt that the defendant had both the
14 power and the intent to control the disposition or use of
15 the gun. Possession may be either actual or constructive.
16 Actual possession means that the object was in the actual
17 physical custody of the defendant. Constructive possession
18 means that the defendant had dominion and control, or the
19 right to exercise dominion or control over either the gun
20 itself or the property on which the object was found. Mere
21 presence at the scene where the drugs were found is not
22 enough to prove possession. The defendant's knowledge and
23 possession may be inferred when a substance is found on the
24 property under the defendant's control. However this
25 inference is simply an evidentiary fact to be taken into

JURY CHARGE

1 consideration by you, along with the other evidence in the
2 case and to be given the weight you decide it should have.
3 A firearm means any machine gun, automatic rifle, revolver,
4 pistol, or any weapon which will, is designed to, or may be
5 readily converted to expel a projectile. Now, let me say
6 something about your deliberations. The word deliberation
7 is defined as careful consideration, weighing up with a view
8 to decision. The genius of our jury system is that it
9 allows 12 good people both men and women, from differing
10 backgrounds, life experiences, and perspectives to consider
11 the evidence, talk about it, and ultimately reach a verdict.
12 The task of a juror is called deliberations for a reason,
13 you, the jurors, are to consider the evidence in the case
14 carefully and deliberately and discuss it in a calm,
15 thorough and courteous manner. Remember, you are not
16 partisans or advocates for either side favoring one side
17 over the other. You are the judges of the facts. Your sole
18 duty is to sort through the information that you have
19 received in this trial and find the truth from the evidence
20 presented in this courtroom. The supreme law of the land,
21 The U.S. Constitution, affords everyone a day in court and a
22 fair trial, so this case is very important to both sides
23 because it is their day. I charge you to listen to the
24 views of your fellow jurors carefully, consider their
25 viewpoints and courteously discuss the evidence. Remember,

JURY CHARGE

1 you are doing something deliberately, you are not in a big
2 hurry and you are tasked with a duty of utmost importance.
3 In conclusion, you have been selected by both the State and
4 the defendant to be fair and impartial jurors. It is your
5 duty then in your deliberations to determine the truth in
6 this case, giving the defendant the benefit of every
7 reasonable doubt on the charge. And from the facts which
8 you determine to be true you take and apply the law which I
9 have just given you and thus arrive at a verdict which
10 speaks the truth in this case. I have told you the
11 standards you have to apply to the charge of criminal sexual
12 conduct with a minor in the first degree. You've heard the
13 evidence and now you have heard the law. Whatever your
14 verdict as to the indictment, guilty or not guilty, Madam
15 Forelady, you will indicate it by marking the jury's
16 decision in the blank on the verdict form. You will then
17 sign and date the verdict form. Remember that although the
18 forelady is the only juror who writes the verdict, it is not
19 hers alone. The verdict has to be a unanimous verdict.
20 Madam Forelady, you are not authorized to write the verdict
21 until all of you have agreed as to what the verdict should
22 be. Ladies and gentlemen, I'm going to send you to your
23 jury room, but do not begin to discuss the case until you
24 have received the exhibits and the verdict form. Once you
25 receive these things that will be your signal to begin your

JURY CHARGE

1 deliberations. Once you start deliberating you will
2 deliberate until you've reached a verdict, at which time
3 you'll knock on the door, advise the bailiff and we will
4 bring you out to receive your verdict. At this time I will
5 ask everyone, except madam alternate, I believe it is
6 Ms. Cauthen, I will ask all other jurors to exit and to go
7 to your jury room. Do not begin to discuss the case until
8 you have received the exhibits and the verdict form.

9 (The jury left the courtroom.)

10 THE COURT: All right. Any exceptions to the charge
11 from the State?

12 MR. EVANS: No, sir, Your Honor.

13 THE COURT: From the defense?

14 MR. MATTHEWS: No, Your Honor.

15 THE COURT: Thank you.

16 MR. EVANS: I do have actually one note, Your Honor. I
17 think that your charge covers it, but the statute in
18 question does require that you make a specific finding on
19 the record that the offense is a violent offense. I think
20 the charge covers that, but I just wanted to bring it to
21 your attention.

22 THE COURT: Right. The charge does cover that. I do
23 make a finding that the offense of armed robbery is a
24 violent offense.

25 MR. EVANS: Thank you, Your Honor.

VERDICT

1 (The alternate juror was dismissed and the jury
2 began deliberations.)

3 THE COURT: All right. It's my understanding that we
4 have a verdict. Bring the jury in.

5 (The jury returned with a verdict.)

6 THE CLERK: Madam Forelady, have you reached a verdict?

7 JURY FOREPERSON: Yes.

8 THE COURT: All right. All members of the jury are
9 present. Madam Forelady, it's my understanding that the
10 jury has been able to reach a verdict?

11 JURY FOREPERSON: Yes, sir.

12 THE COURT: Was the verdict unanimous?

13 JURY FOREPERSON: Yes, sir.

14 THE COURT: Did you fill out the verdict form?

15 JURY FOREPERSON: Yes, sir.

16 THE COURT: Thank you. All right. Madam Clerk, you
17 may publish the verdict.

18 THE CLERK: In the Case of 2013GS0015720, the State of
19 South Carolina versus Roderick Green for unlawful possession
20 of firearm by a person convicted of a violent offense we
21 find the defendant guilty by unanimous decision of the jury.
22 Signed by Madam Forelady. Ladies and gentlemen of the Jury,
23 if this is your verdict, please raise your right-hand.

24 (Jurors comply.)

25 THE CLERK: Thank you.

VERDICT

1 THE COURT: Thank you very much, ladies and gentlemen
2 of the jury for your service. That now concludes your jury
3 service. You are more than welcome to stay for sentencing
4 if you wish, you are not required to, however. This also
5 concludes your jury service this week. Thank you so much
6 for your service to Colleton County, the United States, and
7 State of South Carolina. Thank you very much. If you want
8 to stick around you can, if you don't you don't have to.

9 (The jury left the courtroom.)

10 THE COURT: All right. Solicitor, do you have a
11 sentencing sheet prepared?

12 MR. EVANS: Yes, sir, Your Honor. May I approach?

13 THE COURT: Yes, sir. All right. Well, let me here
14 then, from the State as to any recommended sentence?

15 MR. EVANS: Your Honor, I don't have a recommendation
16 for you. As Judge Buckner says it's your providence, you
17 are aware of his record.

18 THE COURT: Did he have anything other than an armed
19 robbery?

20 MR. EVANS: That is the only conviction as I could
21 find. As he testified, it was when he was a young man, he
22 served quite a few years on it and he was released in 2009
23 or 2011, I'm not quite certain, but he hadn't been out that
24 long. I guess my recommendation would be just that you take
25 that into consideration.

VERDICT

1 THE COURT: All right. Mr. Matthews, I'll be glad to
2 hear from you on behalf of Mr. Greene, and then Mr. Greene,
3 I'll hear from you at the end.

4 MR. MATTHEWS: Your Honor, this was not a -- Your Honor
5 has heard the facts of the case. This didn't involve -- he
6 wasn't meddling outside of a grocery store or something like
7 that looking to rob a place. This was -- you know, he was
8 at a traffic stop and, you know, since he had done his time
9 he hasn't had any other trouble. It's -- he was in jail
10 about I think he said six weeks, something like that before
11 he was able to bond out.. Your Honor, I -- I would submit
12 that perhaps some probation, that the six weeks that he did
13 would be a sufficient penalty but that would also be in the
14 Court's discretion. And obviously Mr. Greene would probably
15 also like to be heard.

16 THE COURT: Thank you. Mr. Greene?

17 MR. GREEN: Well, Your Honor, the only thing that I
18 could say is that the State didn't -- the whole time they
19 had this charge on me, no jail time that they were offering
20 me from the very beginning, and the reason why I told them
21 no was, for one, I wasn't guilty of it. But then they took
22 my money also. But anyway, I'm not going to --

23 THE COURT: Okay. Anything further from the State?

24 MR. EVANS: No.

25 THE COURT: All right. Sir, please stand for

SENTENCING

1 sentencing.

2 MR. EVANS: If he had told the officers he had a gun on
3 him I might be able to go along with the six weeks and
4 probation, but everything --

5 THE COURT: Yes, sir. The sentence of the Court is
6 five years, I'm going to suspend that upon the service of
7 two years, balance suspended and place you on probation for
8 two years. Good luck to you.

9 MR. GREEN: Can I ask you a question, Your Honor, about
10 the money issue? You know that I cannot -- am I going to be
11 able to get my money back now that they have done that?

12 THE COURT: I don't have any control over that, sir.
13 This weapon case has now ended, you can take him into
14 custody, sir. All right. Anything further from the State
15 today?

16 MR. EVANS: No, sir, Your Honor.

17 THE COURT: Anything further from the defense?

18 MR. MATTHEWS: No, Your Honor.

19 THE COURT: All right. This Court is adjourned. This
20 trial is over. Thank you very much, ladies and gentlemen.
21 Have a good day. Do you all have any questions about what
22 happened? I sentenced him to five years but I suspended it,
23 two years to jail and after that probation for two. Okay.
24 Thank you.

25 (End of trial proceedings.)

1 I, the undersigned, Michael C. Watkins, Official Court
2 Reporter for the Sixth Judicial Circuit of the State of South
3 Carolina, do hereby certify that the foregoing is a true,
4 accurate and complete transcript of the proceedings had and
5 evidence introduced in the trial (as reported by Mona Manley
6 and edited by Michael Watkins) of the captioned case relative
7 to appeal, in the Court of General Sessions for Colleton
8 County, South Carolina, on the 17th-18th days of September,
9 2014.

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

12

13

November 25, 2014

14

15


Michael C. Watkins
Court Reporter

16

17

(Reported by Mona Manley)

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STATE OF SOUTH CAROLINA)
)
 COUNTY OF Colleton)

INDICTMENT

2013GS1500720

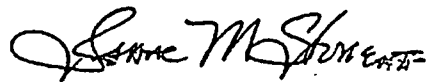
At a Court of General Sessions, convened on February 20, 2014, the Grand Jurors of Colleton County present upon their oath:

Possession of Firearm or Ammunition by Person Convicted of Violent Felony

That in Colleton County, South Carolina, on or about July 26, 2013, the Defendant, Roderick Greene, having been previously convicted of a crime defined as violent under Section 16-1-60 of the South Carolina Code of Laws (1976, as amended), did possess a Smith and Wesson .40 caliber model 40F, in violation of Section 16-23-500 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.

FILED
 2014
 FEB 20
 10:00 AM



Isaac M. Stone
 Solicitor

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."

July 20, 2015



Robert M. Pachak
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
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ATTORNEY FOR APPELLANT

RECEIVED
JUL 20 2015
SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Colleton County

Brian M. Gibbons, Circuit Court Judge

THE STATE,

V.

RODERICK GREENE,

RECEIVED
JUL 20 2015
RESPONDENT,
SC Court of Appeals

APPELLANT

APPELLATE CASE NO. 2014-002067

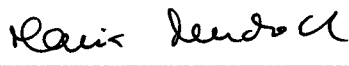
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon David Spencer, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 20th day of July, 2015.



Cruise Mitchell
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 20th day of July, 2015.

 (L.S.)

Notary Public for South Carolina
My Commission Expires: July 3, 2023.