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**SC SUPREME COURT**

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

---

Appeal from Richland County

Brooks P. Goldsmith, Circuit Court Judge

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LARRY PROPHET,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-001089

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APPENDIX

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1 State of South Carolina ) In The  
2 County of Richland ) Family Court  
3  
4 Docket No.: 2010-JU-40-1524  
5 2010-JU-40-1525  
6 2010-JU-40-1527  
7 2010-JU-40-1528  
8  
9 State of South Carolina, )  
10 Plaintiff, )  
11 vs. ) Transcript of Record  
12 Larry Prophet, )  
13 Defendant. )

14 May 7, 2012  
15 Columbia, South Carolina

16 B E F O R E:

17 The Honorable Leslie Riddle, Judge.

18 A P P E A R A N C E S:

19 K. Luck Campbell, Deputy Solicitor  
20 Foster Matthews, Assistant Solicitor  
21 Attorney for the State

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1 THE COURT: This is the interest of Larry Prophett,  
2 Docket Number 10-JU-40-1524, 1525, 1527 and 1528.

3 Present in the courtroom today are -- is the  
4 defendant, along with his counsel and his mom; Ms.  
5 Armstrong is here.

6 Also present is the Solicitor's Office, the  
7 Department of Juvenile Justice -- I think.

8 DJJ OFFICER: I'm sorry.

9 THE COURT: That's okay. Anything else before we  
10 begin, Counsel?

11 MS. MCDUFFEY: Nothing from the State, Your Honor.

12 THE COURT: Ms. Armstrong?

13 MS. ARMSTRONG: Not at this time, Your Honor.

14 THE COURT: All right, then, call your first  
15 witness.

16 MS. MCDUFFEY: If it pleases the Court, the State  
17 will call Investigator Josh Mauldin?

18 THE COURT: Mauldin? Did you say Mauldin?

19 MS. MCDUFFEY: Yes, ma'am, Your Honor.

20 THE COURT: Mr. Mauldin, if you'll come around here  
21 and have a seat in the witness chair for me, please. Have  
22 a seat.

23 Joshua Mauldin,

24 Having been duly sworn, testified as follows:

25 THE COURT: State your name for the record.

Joshua Mauldin - Direct Examination by Ms. McDuffey

1 THE WITNESS: Investigator Joshua Mauldin, Richland  
2 County Sheriff's Department.

3 THE COURT: Your witness.

4 DIRECT EXAMINATION

5 BY MS. MCDUFFEY:

6 Q Investigator Mauldin, what are your duties with the  
7 Sheriff's Department?

8 A I am currently a major crimes investigator dealing  
9 with assaults of an aggravated nature and homicides with  
10 the sheriff's department.

11 Q And prior to being an investigator with the  
12 sheriff's department, where were you employed?

13 A I was a teacher at Sumter High School.

14 Q And what were your duties there?

15 A I was a Chemistry teacher. I also taught Earth  
16 Science classes and standard Physical Science classes as  
17 well.

18 Q And that was at Sumter High School?

19 A That's correct.

20 Q And on December 14th of 2010, did you respond to  
21 ?

22 A I did.

23 Q And is that in Richland County?

24 A It is.

25 Q And what was that in reference to?

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 A It was in reference -- in reference to a purported  
2 home invasion, robbery, and sexual assault of a 79 year old  
3 or 80 year old victim.

4 Q And please tell the Court what you observed when  
5 you arrived at

6 A I responded to the residence and walked up to the  
7 side to survey the crime scene, observed the residence to  
8 be a state of disarray. Drawers in some of the rooms had  
9 obviously been opened. And it looked like the contents had  
10 been, you know, strewn about the floor. Deputies would  
11 also show me or take me back to the rear bedroom and show  
12 me a -- a stain on the carpet area near the bed and stains  
13 on the -- I believe comforter itself that were supposed  
14 semen stains at that time.

15 Q And the victim had been -- had reported being  
16 assaulted in the bedroom?

17 A That's correct.

18 Q And while you present or at your direction, were  
19 those items of evidence collected?

20 A They were. I believe carpet cuttings were taken  
21 from the floor, the comforter; swabs or cuttings from that  
22 were taken as well.

23 Q And after you responded to the incident location,  
24 where did you then go?

25 A I proceeded to Palmetto Richland Memorial or

Joshua Mauldin - Direct Examination by Ms. McDuffey

1 Palmetto Richland Emergency Room, where I made contact with  
2 the victim, Ms. Elaine Henrick, as well as SANE Nurse, I  
3 believe, Temple Hart.

4 Q I'm going to show you State's Exhibit 5, have you  
5 had an opportunity to review those documents?

6 A I have, yes, the SANE report.

7 Q Can you tell the Court what is contained in State's  
8 Exhibit 5?

9 A This would be the SANE report. The Sexual Nurse --  
10 Sexual Assault Nurse Examiner's Report detailing the  
11 injuries to the victim as well as a narrative in which she  
12 describes the events that transpired that lead her to be in  
13 that --

14 Q Were you present during a portion of this interview  
15 and examination?

16 A I was.

17 Q And please tell the Court the statements that Ms.  
18 Henrick made to you and Nurse Temple Hart at that time.

19 A Ms. Henrick outlined the events that unfolded in  
20 reference to two men entering her home, holding her at  
21 gunpoint, robbing her, taking items from the home and then  
22 taking her into a bedroom or a bathroom where they made her  
23 disrobe, then took her into a bedroom where she was  
24 sexually assaulted.

25 Q And did you observe or was any injury observed on

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 Ms. Henrick at Palmetto Health Richland on December 14,  
2 2010?

3 A Yes, the SANE report does detail several entries  
4 to --

5 Q Would you please tell us what they were to the  
6 Court.

7 A Yes. According to the SANE report, there was  
8 bruising, in fact, bruising that was swollen and tender. A  
9 shiny area related to an edema on the labia majora. The  
10 labia minora also showed swelling or bruising. Within the  
11 vagina itself, the vaginal wall left side, a laceration is  
12 noted. It's described as a deep open laceration at the ten  
13 o'clock position, two centimeters in length of irregular  
14 margins and bleeding noted.

15 The vaginal wall, right side, also shows a  
16 laceration at the 1400 area with, also with irregular  
17 margins and bleeding. Apparently there was also on the  
18 posterior fourchette a positive dye uptake; which is also  
19 described as a tender with a laceration noted at the eight  
20 o'clock or 1800 position.

21 Q And were bloody tissues and things of that nature  
22 in addition to a Sexual Assault Kit collected from Ms.  
23 Henrick at the hospital?

24 A Yes, Ms. Henrick had a bloody -- a tissue that she  
25 was holding to her vaginal area that was collected.

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 Q And also a Sexual Assault Kit was performed?

2 A That's correct.

3 Q And that was collected and turned into Richland  
4 County evidence?

5 A It was.

6 Q And did you have the occasion to speak with Ms. --  
7 with Nurse Temple Hart about these injuries?

8 A I did speak with Nurse Hart about these injuries.  
9 She did describe them as severe. In fact, she informed me  
10 that actually had the, those injuries occurred in a younger  
11 woman and not one that was post-menopausal, the decreased  
12 blood flow actually decreased somewhat severity of the  
13 injuries in that had she been younger, she may have had to  
14 have some extensive surgery to repair those injuries, but  
15 because of decreased blood flow, that wasn't necessary.

16 Q And did you also meet Ms. Henrick at the hospital  
17 on December the 14th, of 2010?

18 A Yes, I did.

19 MS. MCDUFFEY: And, Your Honor, we would offer  
20 State's Exhibit 5?

21 THE COURT: Any objection, Ms. Armstrong?

22 MS. ARMSTRONG: Without objection, Your Honor.

23 THE COURT: Without objection and you marked it as  
24 no. 5?

25 MS. MCDUFFEY: Yes, Your Honor.

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 THE COURT: So you're kind of going around?

2 MS. MCDUFFEY: Yes, Your Honor?

3 THE COURT: Okay. All right. Without objection.

4 (WHEREUPON State's Exhibit No. 5 was entered into  
5 evidence.)

6 BY MS. MCDUFFEY:

7 Q And did you take any statement from Ms. Henrick on  
8 December the 14th of 2010?

9 A Yes, I did.

10 Q Marked State's Exhibit 4 and --

11 MS. MCDUFFEY: And Your Honor we'd offer State's  
12 Exhibit 4 into evidence.

13 THE COURT: Any objection, Ms. Armstrong?

14 MS. ARMSTRONG: Without objection, Your Honor.

15 THE COURT: Without objection.

16 (WHEREUPON State's Exhibit No. 4 was entered into  
17 evidence.)

18 BY MS. MCDUFFEY:

19 Q Investigator Mauldin, can you please publish that  
20 report.

21 A Yes. While meeting with Ms. Henrick, I took a  
22 written statement and asked her the following questions:

23 I asked her where do you currently live; to which  
24 Ms. Henrick replied, I live at

25 I asked her can you tell me what happened to you at

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 your home earlier this evening. Ms. Henrick replied, I was  
2 watching TV in my family room. I had just finished talking  
3 to one of my friends on the phone. I heard a noise in my  
4 sun room. Two men walked into the family room from the sun  
5 room. I don't know how they got in there. I usually lock  
6 the door, but I don't know if I did tonight. One of them  
7 pointed a gun at me and told me to take them to my money.  
8 I told them that I didn't have any money and they told me  
9 to go to a back bedroom. The younger guy was already back  
10 there opening drawers and putting some jewelry into his  
11 pockets.

12 The guy with the gun asked me where my hand --  
13 where my handbag was. And I told him and he went and got  
14 it. He dumped it out in the floor. I remember talking to  
15 the younger one. I asked him if he would do this to his  
16 grandmother; he said something about having three kids. He  
17 also said that his job didn't pay him enough and I asked  
18 him why he didn't just work. The guy who poured out my  
19 purse asked me where my money was. I picked up the case I  
20 keep in my purse and I took out about \$500 that I had for  
21 Christmas gifts. I told him that it was all the money that  
22 I had.

23 Then they took me to other rooms in the house.  
24 They ransacked those rooms. They took me back into the  
25 family room where the big guy tried to disconnect the TV.

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 He was pulling on the cable instead of unscrewing it from  
2 the TV. The younger guy told him that he had to unscrew  
3 it. I don't think he was very educated. He also took my  
4 DVD player and put into a plastic garbage bag. They ended  
5 up talking -- I'm sorry -- They ended up taking the TV, but  
6 not the DVD player and the bag. I think that they may have  
7 brought the bag with them.

8 They were talking about taking me with them. The  
9 big guy told me that to take my clothes off. He was  
10 pointing the gun at me. I told him that I wanted to go to  
11 the bathroom.

12 Q And may I stop you right there; based on your  
13 investigation, who was the big guy?

14 A The big guy that she was referring to is Larry  
15 Prophett; the young guy would be Zacoata Lopey.

16 Q And she said that Larry Prophett was the one that  
17 was holding the gun on her and told her to take her clothes  
18 off in the bathroom?

19 A That's correct.

20 Q Please continue.

21 A I thought they wanted me to undress so that I  
22 couldn't go outside. They followed me to the bathroom, but  
23 wouldn't let me close the door. I took off everything  
24 except my underwear. They told me to take it off and  
25 pointed the gun at me. I told the big guy that the gun

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 probably wouldn't work. He pulled some shells out of his  
2 pocket and put them in the gun. He asked --

3 Q I'm sorry, I'm going to stop you there. So Larry  
4 Prophett then loaded the gun in her presence?

5 A Yes.

6 Q Please continue.

7 A He asked me if I wanted to find out if it worked.  
8 I took off my underwear and they told me to go in the  
9 bedroom and lay down. I laid down on the bed. The big guy  
10 pulled my knees apart and penetrated me with his penis.

11 Q And again, that would be whom?

12 A That would Mr. Prophett she's referring to.

13 Q Please continue.

14 A They had covered my face because I was screaming.  
15 I think that the big guy ejaculated inside of me then the  
16 young guy tried to have sex with me. I asked him if he  
17 would rape his grandmother. He tried to cover my mouth.  
18 He had trouble so he turned me over and penetrated my  
19 rectum. I think he was, I think he also ejaculated inside  
20 of me. They left my home through the front door.

21 I asked Ms. Henrick, could you tell me, did you  
22 tell the responding officers that the substance on the  
23 floor in front of the bed and on the bedspread was semen?  
24 She replied, yes.

25 I asked do you know which man's semen this may have

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 been? The response was I think maybe the young one.

2 I asked can you describe the man who robbed and  
3 assaulted you this evening? Her reply was the young one  
4 was about 5 foot 6, was thin; he was wearing a gray shirt  
5 with brown stripes. It looked like he had on a black vest  
6 over that. His pants were baggy. He was also wearing a  
7 black stocking cap and had what looked like a bright green  
8 scarf around his neck and face. He seemed like he was in  
9 his early 20s.

10 The big guy was about 6 feet tall and weighed at  
11 least 200 pounds. He was wearing dark clothes and also had  
12 on a black vest and baggy jeans. He also had a bright  
13 green scarf around his face and neck as well as a black  
14 stocking cap. He seemed to be in his 20s as well.

15 I asked Ms. Henrick which one of the two men had  
16 the gun? Her reply was they passed it back and forth.

17 I asked if she could describe the gun? It looked  
18 like an old shotgun. It was all scuffed up. There was a  
19 flashlight taped on it, the barrel. I remember that the  
20 light from it was blue looking.

21 I asked can you tell which items were taken from  
22 your home by the two men? Her reply was they took my TV, I  
23 can't remember exactly what type of TV or how big it was.  
24 It is a flat screen with a black frame. They took about  
25 four or five watches; one was a gold Seiko; two had bands

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 that you could push into your arm; one was an animal print  
2 and one was gold. Then there was the watch with the light  
3 plastic band; then there was a silver colored Anne Klein  
4 watch; I hadn't worn that one yet. They took some 18 karat  
5 gold jewelry that I bought in Japan. They took my opal  
6 ring. I think they took my cell phone. They took a bunch  
7 of cheap jewelry. I'll have to look for anything else.  
8 They took my camera and my Itouch as well.

9 If I might add, she -- she would before I left the  
10 interview remind me that the TV was, in fact, a Samsung TV  
11 after the statement was taken.

12 When I asked Ms. Henrick do you know if the men who  
13 assaulted you were in a car, her response, I didn't hear a  
14 car when they left. I remember that they asked me about  
15 the keys to my car and I told them that the car was in the  
16 shop.

17 I asked did the men ever use names; her reply was  
18 the big one called the other one by name, but I don't  
19 remember.

20 I asked if there was anything else that she would  
21 like to add or that might aid my investigation and her  
22 response was I can't think of anything else.

23 And my final question was do you promise the  
24 statement you have given me has been true and correct and  
25 her reply was yes.

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 Q And this was the statement that the victim, Ms.  
2 Elaine Henrick, gave you on December the 14th of 2010?

3 A That is correct.

4 Q And do you see her in the courtroom today?

5 A I do.

6 Q And can you please point her out for the Court?

7 A Yes, Ms. Henrick is sitting in the back row behind  
8 the two women in the gray jacket.

9 Q And that's who you spoke with on December the 14th  
10 of 2010?

11 A Yes.

12 Q You mentioned that she identified a substance on  
13 the carpeting and comforter as potential semen?

14 A Correct.

15 Q And a rape kit was also done?

16 A That's right.

17 Q Please tell the Court whose semen was found on the  
18 carpet of the home of Ms. Elaine Henrick?

19 A The substance found did positively -- it was tested  
20 and did return -- I guess positively for semen, was seminal  
21 fluid and the DNA from that was matched to Mr. Prophett.

22 Q So Mr. Prophett's semen was found in the home of  
23 Elaine Henrick?

24 A Yes.

25 Q And Mr. Lopey's semen was also found on the -- in

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 accordance of the rape kit taken from Ms. Henrick?

2 A That is correct.

3 Q And that was testing done by Richland County  
4 Sheriff's Department?

5 A Correct.

6 Q After -- on December the 14th, 2010, when this  
7 occurred, was it during the nighttime?

8 A It was.

9 Q And so the next morning, please tell the Judge how  
10 your investigation proceeded.

11 A I relayed my statement and the preliminary results  
12 from the investigation that took place that night to my  
13 Sergeant, Kevin Isenhoward as well as Stan Smith, who is  
14 also in the courtroom. Stan would mobilize the -- or Major  
15 Smith rather, would mobilize the Richland County Sheriff's  
16 Department that morning prior to me returning. I think I  
17 had been out for a number of hours and went home to get a  
18 little bit of sleep. There were a number of investigators,  
19 in fact, the bulk of the Richland County Sheriff's  
20 Department Criminal Investigations Division was out, even  
21 some of the guys who aren't necessarily balls of fire, were  
22 out canvassing the neighborhood and, you know, trying to  
23 find out what they could from neighbors out there. It was  
24 a pretty impressive effort.

25 Q And you had deputies knocking on doors trying to

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 get any lead possible?

2 A That's correct.

3 Q And whose names have come out as potential suspects  
4 in this?

5 A As I understand it, a number of the neighbors told  
6 us that -- they were told investigators during the canvas  
7 that Zacoata Lopey was a person that they may need to talk  
8 to that they believed him responsible for burglaries and  
9 things like that that were going on in the area and one  
10 even said they saw him kind of being evasive that morning  
11 returning to his home.

12 Q And his home is located in what direction to Ms.  
13 Hendrick's house?

14 A It's -- if I'm not mistaken, across the street,  
15 kind of catty cornered to the victim's home.

16 Q On the same street?

17 A Yes, on the same street.

18 Q And as a result of that, did some of the  
19 investigators go out and try and locate Zacoata Lopey?

20 A They did. They did proceed to --

21 THE COURT: I hate to interrupt, but could you  
22 spell Zacoata for me, for the record.

23 MS. MCDUFFEY: Yes, it's Z-A-C-O-A-T-A.

24 THE COURT: All right. Thank you.

25 ///

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 BY MS. MCDUFFEY:

2 Q And did they locate Mr. Lopey?

3 A They did locate him at Spring Valley High School.

4 Q And were statements obtained from Mr. Lopey?

5 A Mr. Lopey did give statements to investigators  
6 Miller and Clerk.

7 Q And are those the statements in State's Exhibits 1  
8 and 2?

9 A Yes. Yes.

10 MS. MCDUFFEY: Your Honor, at this time, we'd offer  
11 State's 1 and 2 into evidence.

12 THE COURT: Ms. Armstrong?

13 MS. ARMSTRONG: Without objection, Your Honor.

14 THE COURT: Without objection.

15 (WHEREUPON State's Exhibits No. 1 and 2 were  
16 entered into evidence.)

17 BY MS. MCDUFFEY:

18 Q And if you could please publish the first statement  
19 that Zacoata Lopey gave to Investigators Miller and Clark  
20 at Spring Valley High School.

21 A Essentially he had given an initial statement,  
22 handwritten at Spring Valley High School in the presence of  
23 those investigators, as well as School Resource Officer Ben  
24 Fields. The questions asked by Investigator Miller and  
25 Clark at the time were: Did you enter a home or the home

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 at 2000 -- and I'm sorry -- what this says on

2 Q And this is dealing with a prior burglary?

3 A It may be, yes, I'm not certain.

4 Q If you could just jump to the part that deals with  
5 this case?

6 A Okay. I'm sorry.

7 The second question is did you ever go inside the  
8 home at ? Mr. Lopey's answer was yes,  
9 me and Larry Prophett went inside.

10 The question was asked, did you touch the aged lady  
11 that lives at that house? Mr. Lopey would initially answer  
12 no, but later changed his answer to yes.

13 On the question have you ever taken something in  
14 the neighborhood that did not belong to you? Yes, at the  
15 woman's home, was his response. Those items were an Ipod,  
16 and a flat screen TV.

17 Question, did you hold the shotgun on the woman?  
18 The response was I had it my hand, but I did not point it  
19 at her.

20 Question, what were you wearing? Response, I had  
21 on brown boots, black pants, brown sweater with a hood and  
22 a green scarf.

23 Question, what did you do with the clothes? Mr.  
24 Lopey's response, I burned the scarf in the street near  
25 Dawes Towing Service.

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 The question, who was Larry, what was Larry  
2 Prophett wearing? Mr. Lopey's response, he had a green  
3 scarf on.

4 Question, did he bring the shotgun. Response was I  
5 did; I came inside first.

6 Question, did Larry Prophett have sex with the  
7 woman? The response, yes, he told her to get naked; he  
8 told her to go into the room and he told her to get on her  
9 back, he got on top of her, she started to get up and he  
10 said turn around and he got onto her again.

11 Q And is that consistent with the statement that Ms.  
12 Henrick provided?

13 A It is not. It is -- it is for all intensive  
14 purposes a role reversal, which is not uncommon when we  
15 take statements for individuals to minimize their own  
16 involvement or flip, if codefendants exist, their  
17 involvement with that other codefendant.

18 The question, what was the woman doing? Response,  
19 she said please don't.

20 Question, did you ever put your penis inside of  
21 her? The response, yes, in her vagina.

22 Question, was she on her back or front? The  
23 response was back.

24 Question, what were you looking for when you went  
25 inside the woman's home? The response, money.

**Joshua Mauldin - Direct Examination by Ms. McDuffey**

1 Question, where is the shotgun? Response, Larry  
2 had the shotgun.

3 Question, what did you take from the home?

4 Response, the Ipod and a TV.

5 Question, what did you do with them? The response,  
6 we hid them; we threw them in the woods near the side of  
7 the road near Dawes Towing. I burnt the shirt. I burnt  
8 the shirt and some of the other items too.

9 Q And the second statement is also a statement given  
10 by Zacoata Lopey to Investigators Miller and Clark?

11 A That's correct, yes.

12 Q Please publish that statement No. 2?

13 A Upon returning to headquarters, Clark had taken a  
14 more thorough statement from Mr. Lopey.

15 Question, how old are you? Mr. Lopey's response,  
16 fourteen.

17 Where do you go live at this time? His response,  
18

19 Question, is English your first language? The  
20 response, yes.

21 Question, what is the highest level of education  
22 you have achieved? His response was ninth grade.

23 Question, you are able to read and write, correct?  
24 His response, yes.

25 Do you understand the Miranda Warnings I have read

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 to you? His response was yes.

2           Question, tell me about the night you and Larry  
3           Prophett went inside the old lady's home across the street  
4           from your house. His response, Larry and me rode his moped  
5           down to my house from Larry's house. Larry had the shotgun  
6           with him. We decided to go over to the old lady's house.  
7           We were looking for money. We went to the back door and  
8           opened it. We then walked across the street to her house.  
9           We went back to the door and opened it. Then we opened the  
10          sliding glass door and entered the home. I had the shotgun  
11          and we walked in on the woman as she was watching TV. She  
12          started to yell and go, uh.

13                I told her we were not going to hurt her. I asked  
14          where the money was and she did not have any money. I  
15          handed the shotgun to Larry and went to look for stuff. I  
16          came back into the room with the lady and Larry. He handed  
17          me back the shotgun. He then went to look for stuff.

18          Larry came back in the room and we took the lady to the  
19          bathroom. Larry told her to get naked. The woman said no.

20                We then took her to a bedroom and she took off her  
21          clothes. Larry laid the woman on the bed on her back. He  
22          was hard and pulled his dick out after unzipping his pants.  
23          I watched as he started to have sex with the woman. She  
24          said no. She then tried to get up and Larry told her to  
25          turn over. I stood there, but did not watch. He made the

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 woman moan as he started to do something in her butt. When  
2 he was done, I was hard and I unzipped my pants and pulled  
3 my dick out. I then started to have sex with the woman in  
4 her vagina. I didn't finish. I came in a napkin, which I  
5 placed in my pocket. I later found the napkin in my  
6 clothes this morning and flushed the napkin at my house.

7 I took a flat screen TV and Ipod from her house.  
8 Larry had already left the home. I took the TV and Ipod to  
9 Ridge Street and laid them on the ground near some woods.  
10 I then walked up Nancy Avenue. I took off the green shirt,  
11 which had hid my face. I threw the shirt under some  
12 bushes. I then took off my brown hooded shirt and threw it  
13 in the median on Nancy. I then walked to Larry's home on  
14 . I met with Larry. He did not have any  
15 stuff from the lady's house which I could see. I then  
16 slept in the chair at Larry's and then we walked home  
17 before catching the school bus at my home.

18 I asked what was the purpose for you to go to the  
19 woman's home -- or Clark asked that rather. His response  
20 was for money.

21 What made you decide to have sex with the woman?  
22 The response was I don't know; I just did.

23 Question, why did you ejaculate in the napkin? The  
24 response was because I did not want to bust in her.

25 Question, why would you care if you ejaculated

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 inside of her? His response, because I know y'all can find  
2 it like that.

3 Question, so you know breaking in and raping a  
4 woman was a crime. Response, I did not break in the door,  
5 it was unlocked.

6 Question, did you have permission to enter her  
7 home? Response, no.

8 Question, did you know that raping an 80  
9 year-old-woman was wrong? Response, yes, sir.

10 Question, well why did you take the shotgun with  
11 you? Response, we just took it.

12 Question, the shotgun was loaded, correct?  
13 Response, yes, sir.

14 Question, describe the shotgun to me? Response, it  
15 had a long barrel with a little bit of rust; it has a  
16 button on the top that makes the barrel open and holds one  
17 shell.

18 Question, did the shotgun have a flashlight taped  
19 to the barrel? The response, yes, sir.

20 Question, what did you take from the home?  
21 Response, a flat screen TV and an Ipod.

22 Question, did you burglarize any other home? The  
23 response was no.

24 Q You read from those two statements that Zacoata  
25 Lopey gave on December 15 of 2010?

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 A Yes.

2 Q And those were given to Investigators Miller and  
3 Clark?

4 A That is correct.

5 Q And as a result of these statements, what did you  
6 and Sergeant Isenhoward do?

7 A At that time, Sergeant Isenhoward and I immediately  
8 attempted to look at Mr. Prophett. We called the School  
9 Resource Officer at Blythewood Academy and discovered that  
10 Mr. Prophett had been released from school. Apparently he  
11 had early dismissal. We decided our best course of action  
12 at that -- let me go back.

13 Prior to all that, we did go by his home and we  
14 were unable to make contact with anyone. And we decided at  
15 that time to, to try the house again, the residence in the  
16 neighborhood. Carrie -- Investigator Carrie Johnson,  
17 earlier in the day, as soon as I came in, had actually told  
18 me that if anything in that particular neighborhood  
19 happened, one individual we may want to talk to would be  
20 Larry Prophett. And that we could find him riding a moped  
21 in that neighborhood.

22 So Kevin and I responded to the home, to Mr.

23 Prophett's home and -- I may be mistaken, it may be a

24 address. I'm not sure. We passed two young men on

25 a moped at which time we elected to go ahead and stop that

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 moped because we believed strongly that that may have been  
2 Mr. Prophett. We stopped the moped. I -- I exited and  
3 asked the driver of the moped if his name was Larry  
4 Prophett and he said it was. There was another individual  
5 on the back of the moped named Andrew Fisher. We told Mr.  
6 Prophett that we needed to talk to him. In the interim, I  
7 believe Lieutenant Scott McDonald also responded and was  
8 speaking to Mr. Fisher, who had on his person Ms. Henrick's  
9 telephone.

10 So we -- we took Mr. Prophett into custody and took  
11 him back to headquarters, where we spoke to him. We called  
12 his mother and then we proceeded to interview him regarding  
13 this incident.

14 Q And I'm going to show you State's Exhibit 3. Is  
15 that the advice of rights and the statement that you  
16 subsequently obtained from Larry Prophett?

17 A That is correct.

18 Q And did you advise Mr. Prophett of his rights --

19 A I did.

20 Q -- on December 15th, 2010?

21 A I did.

22 Q And please tell the Court how you did that.

23 A I -- I -- standard procedure, I will read.

24 Obviously everyone doesn't have the same degree of ability  
25 when it comes to, you know, literacy reading and writing.

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 So I like to read these things in detail and explain them  
2 to them, especially if I'm dealing with younger people that  
3 may have a hard time understanding Miranda. So I would  
4 read each of his rights, make sure that he understands them  
5 and if not, explain it to him in detail, which I always do  
6 on our bottom section when it comes to pressure and  
7 coercion and make sure they clearly have a understanding of  
8 what those words mean.

9 Q And please read -- or do the rights as you did them  
10 for Mr. Prophett on December the 15th, 2010.

11 A I would ask Mr. Prophett, before I ask you any  
12 questions, you must understand your rights. You have the  
13 right to remain silent. Anything you say can be used  
14 against you in Court.

15 Q Stop right there. You -- you checked each of these  
16 rights off as you read them to him?

17 A Yes.

18 Q And --

19 A We would have -- we would actually let Mr. Prophett  
20 check these rights off. If I'm not mistaken. And this is  
21 Eisenhower's handwriting. Typically I will -- I will have  
22 them initial as I go and I can't -- I'm not certain whether  
23 or not Isenhoward checked these off or Mr. Prophett checked  
24 these off.

25 Q But each box is checked off?

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 A Yes.

2 Q And did you get some sort of affirmation from Mr.  
3 Prophett that he understood what you were telling him?

4 A Yes, I mean there was no -- certainly he didn't  
5 like -- from years of teaching, looking at a student, I can  
6 usually tell if a young man is comprehending what I'm  
7 saying, you know, nodding in the affirmative, no blank  
8 stare, things like that.

9 Q And did Mr. Prophett appear to understand --

10 A Yes.

11 Q -- what you were saying to him?

12 A Yes.

13 Q And if you would please finish the rights.

14 A Anything you say can be used against you in court.  
15 You have the right to talk to a lawyer for advice before we  
16 ask you any questions and have a lawyer with you during any  
17 questioning. If you cannot afford a lawyer, one will be  
18 appointed for you before any questioning if you wish. If  
19 you decide to answer questions now without a lawyer  
20 present, you still have the right to stop answering at any  
21 time. You also have a right to stop answering at any time  
22 until you talk with a lawyer.

23 I would stop right there and ask if that -- if  
24 those rights that I have just read -- if you understand  
25 each of those rights.

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 Q Did Mr. Prophet indicate he had understood them?

2 A He did indicate that he understood each of those  
3 rights.

4 Q And did he sign the form saying he understood those  
5 rights?

6 A Yes, he understood or he signed the section under  
7 those points.

8 Q And did you then read him the waiver rights?

9 A Correct.

10 Q And please do that for the Court as you give them  
11 to Mr. Prophet?

12 A I would -- I'll read it as I read it. I have read  
13 the statement of my rights and I understand what my rights  
14 are. I am willing to talk and answer questions. I  
15 understand and know what I am doing. No promises have been  
16 made to me and no pressure or coercion of any time, of any  
17 kind has been used against me.

18 And then I would typically explain the meaning of  
19 pressure and coercion, that we are not forcing you in any  
20 way; I can make no promises in terms of what will happen to  
21 you or anything else to get you to talk to me. I'm not  
22 forcing you, I'm not threatening you. You talk to me of  
23 your own volition because you want to and you can --

24 MS. ARMSTRONG: Your Honor, I would ask that --  
25 actually it's happened a couple of times and the witness is

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 certain that he said those things to Mr. Prophett and  
2 that's fine, but saying I typically do something, I'm not  
3 sure that --

4 THE WITNESS: Well, I can assure you I explained  
5 the meaning of pressure and coercion.

6 THE COURT: Okay. All right. I'm going to sustain  
7 her objection. He really needs to be able to say what he  
8 believed -- I mean what he did.

9 BY MS. MCDUFFEY:

10 Q In this case you did explain pressure and  
11 coercion --

12 A Yes.

13 Q -- to Mr. Prophett?

14 A Yes.

15 Q And in this case, did Mr. Prophett appear to  
16 understand you?

17 A Yes.

18 Q And how do you know that?

19 A Again, looking at me as if he understood, nodding  
20 and you know, affirmatively.

21 Q And did he also sign saying that he waived his  
22 rights?

23 A Yes, he did.

24 Q And after that, did you and Investigator Isenhoward  
25 begin to speak to Mr. Prophett?

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 A We did speak to Mr. Prophett.

2 Q And you had mentioned earlier that his mother was  
3 called?

4 A She was.

5 Q And was she there at the time you began to speak to  
6 him?

7 A No, she showed up a little while later.

8 Q And did you, did Mr. Prophett make any admissions  
9 to you, tell you that he had any knowledge of what you were  
10 talking about?

11 A At that time, no, he said he had no recollect, or  
12 not no recollection, he did not participate in any such  
13 event.

14 Q And did you confront him with the statements of  
15 Zacoata Lopey that was given earlier?

16 A Yes.

17 Q And did he say that he was not --

18 MS. ARMSTRONG: Your Honor, I'd have to object to  
19 leading.

20 THE COURT: All right. Sustained. Solicitor, I  
21 know you're trying to move through, but let's not lead,  
22 okay?

23 All right. Thank you. Sustained.

24 MS. ARMSTRONG: Thank you, Your Honor.

25 ///

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 BY MS. MCDUFFEY:

2 Q Please tell the Court what Mr. Prophett's response  
3 was to your question.

4 A Mr. Prophett's response was that he did not  
5 participate in the home invasion, the burglary, the sexual  
6 assault. He went and he was confronted with, with Mr.  
7 Lopey statements indicating him in the incident and he  
8 effectively called Mr. Lopey a liar; that he did not have  
9 any part in that, that he did not know why he would say  
10 that.

11 Q And at some point, were you contacted by Major  
12 Smith?

13 A I was.

14 Q And what was that in reference to?

15 A I believe in reference to the arrival of Mr.  
16 Prophett's mother as well as an Aunt Tenisha -- oh my  
17 goodness. I can't recall her last name offhand. Martin --  
18 Martin, I believe.

19 Q And when you were notified that Mr. Prophett's  
20 mother had arrived at headquarters, what did you then do?

21 A I went downstairs and I brought them upstairs and I  
22 was down there talking to them. Ms. Martin told me that  
23 she actually had seen Larry and Zacoata and Mr. Fisher that  
24 evening at Larry's house and that they had a television.  
25 So at that time, I decided I needed to get that statement

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 immediately. I took them both upstairs. Mr. Prophett's  
2 mother was taken to the office of Major Smith. Isenhoward  
3 joined them in there along with Larry Prophett where they  
4 spoke. And I took a statement from Ms. Martin at that  
5 time.

6 Q And so you were not present while Major Smith and  
7 Larry Prophett and his mother were speaking?

8 A For some of it I was, yes, but for the majority of  
9 it, I was not.

10 Q And then at some point were you notified by Major  
11 Smith?

12 A I -- I was notified that, yes, that Mr. Prophett  
13 had made statements implicating himself in the burglary,  
14 but not the sexual assault.

15 Q And at that time, did you and Investigator  
16 Isenhoward then take a written statement from Mr. Prophett?

17 A We did take an additional statement from Mr.  
18 Prophett at that time.

19 Q And please publish that statement which is  
20 contained in State's Exhibit 3 for the Court.

21 A Investigator Isenhoward asked Mr. Prophett, Larry,  
22 did we let you speak to your mother before you gave this  
23 statement? Mr. Prophett's response was yes, sir.

24 He asked, did you and Zacoata Lopey rob an aged  
25 woman last night? The response was yes.

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 His question was tell me what happened. Mr.  
2 Prophett's response was we were at my house. Me, Zacoata  
3 and Andre Fisher. We walked to the Exxon on Shakespeare  
4 Road. We went there around eight o'clock p.m. We came  
5 back to my house and hung out. I asked Zacoata if I could  
6 borrow his Polo boots to wear to school tomorrow. Andre  
7 stayed at my house and me Zacoata went to his house on the  
8 moped to get the boots. We came back to my house with the  
9 boots and we were hanging out. Zacoata told me that he  
10 knew someone we could rob. He said she was an old Chinese  
11 woman who had some money. He said that if the car ain't  
12 there, she probably wasn't there. He went outside and then  
13 came back in. I think he smoked.

14 He asked me if I was ready. I told him I was. We  
15 rode my moped over to his house. We went into the house  
16 and came back out. Then we went in the back yard and got  
17 with a shotgun. It was broke and flopping. He came out  
18 and asked me if I was ready. He ran over to the woman's  
19 house and went inside through the back porch thing. I  
20 followed him and went to the carport. I was looking  
21 inside. He pointed the gun at her and asked her where the  
22 money was at.

23 I went inside behind him. She told him that she  
24 didn't have any money. He said you got a dollar and she  
25 said yes.

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 He made her get out of the chair and told her to  
2 show him where the money was. He told her not to walk  
3 fast. She went over to the front door. I heard him say  
4 jackpot. He got some cash from her. I went to another  
5 room and got a little fake ring and a chain, a little girl  
6 necklace. I started going through the dressers and stuff.  
7 I called for him and went out the back door. I went out  
8 and ran to my moped. I drove off and looked back, but  
9 never seen him leave the house. I just went home and ain't  
10 even talked to him since.

11 I got home at nine something. I watched TV and I  
12 smoked a cigarette and went to school this morning. The  
13 girl said that the gun don't work, but Zacoata said you  
14 want me to show you.

15 When you went back to your house -- I'm sorry.  
16 Question, when you went back to your house after the  
17 robbery, did Zacoata or Andre go home with you? Response,  
18 Andre never left; he was there when I come back. He didn't  
19 know what we were going to do.

20 Question, did you tell him what happened?  
21 Response, I told him we went ham, which means we went and  
22 did something. He was halfway asleep though.

23 Question, did you ever have the gun during the  
24 robbery? Response, I touched the gun in the yard. That's  
25 how I know it don't work.

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 Q Let me stop you right there. According to Ms.  
2 Henrick's statement, Mr. Lopey pointed the gun at her?

3 A I believe Mr. Prophett.

4 Q I'm sorry, Mr. Prophett.

5 A According to her statement, Mr. Prophett pointed  
6 the gun at her.

7 Q And Mr. Prophett was also the first one to engage  
8 in sexual assault on Ms. Henrick?

9 A Yes, according to her statement.

10 Q Please continue.

11 A Question, did you ever force the woman to have sex  
12 with you? The response was no.

13 Question, did Zacoata? The response, I don't know.

14 Question, did you that night or have you ever  
15 ejaculated in that woman's house? The response, no.

16 Q And please tell the Court whose semen was found in  
17 that home?

18 A It was, within the home itself, only Mr.  
19 Prophett's.

20 Q And in the rape kit, it was Mr. Lopey?

21 A That's correct.

22 Q Please continue.

23 A Did you that night, or have you ever ejaculated in  
24 that woman's house? The response was no.

25 Did that woman ever let you have sex with her? The

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 response, no, I ain't never did it to her.

2 Question, did you take that woman's television.

3 The response was no.

4 Question, did you take that woman's cell phone?

5 Again, the response was no, sir, I think she had it in her  
6 lap when he came in. I think she was talking on the phone  
7 with a blanket on her legs and the phone on top of the  
8 blanket. He grabbed it and took it apart.

9 Question, what all did you take from that woman?

10 Response, ring, chain, a little Chinese pocketbook that had  
11 a little Bible in it, also had a -- it also had a little  
12 change thing in it. That's it. I threw the stuff in the  
13 road at Zacoata's house is all.

14 Question, why did you do this? Response, I wanted  
15 to do it for a couple of dollars; I ain't got no job. We  
16 didn't know she was there. We were just going to break in.

17 Q And they said that they didn't know she was there?

18 A Correct.

19 Q But they specifically went and got a gun prior to  
20 doing this burglary, armed robbery and sexual assault?

21 A Yes, they took the gun with them.

22 Q Even though they didn't think she would be home?

23 A Correct.

24 Q Keep going.

25 A Did you see Zacoata rape that woman? Response, no,

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 sir.

2 Question, is there any way possible that your semen  
3 is in that house? Response, no.

4 Question, what did y'all buy at Exxon when you went  
5 there? Response, cigarettes, Newport Singles. Some dudes  
6 in there sold me some. He was playing the little game and  
7 stuff.

8 Question, can you take me to that woman's, take me  
9 to the woman's belongings that you stole? Response was  
10 yes, sir.

11 Question, did you give Andre the woman's phone?  
12 The response was no.

13 Question, do you know where the shotgun is now?  
14 The response was no, sir.

15 Question, describe the gun again? And the  
16 response, it was old, rusty, beat up, the handle flops and  
17 its rusted brown. It's long and still has the back on it.

18 Question, what were you wearing when you did this?  
19 The response was all black; my black jacket, blue jeans, my  
20 white J's and a green t-shirt over my face. He had the  
21 same shirt covering his face. The jacket and shoes were  
22 the same ones that you took from me today.

23 Question, were you wearing gloves? Response, no,  
24 sir.

25 Question, do you remember what else Zacoata had on?

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 The response, I know he had the Polo boots on.

2 Question, do you have anything else to say.

3 Response, I didn't want to do that junk. I just need  
4 money.. If I knew my mom give me some, I wouldn't. We were  
5 going to break in some houses tonight though. End of  
6 statement.

7 Q And that's contained in State's Exhibit 3?

8 A Yes.

9 MS. MCDUFFEY: Your Honor, at this time we'd offer  
10 that into evidence?

11 MS. ARMSTRONG: Without objection.

12 THE COURT: Without objection. What number is  
13 that?

14 MS. MCDUFFEY: Three, Your Honor.

15 BY MS. MCDUFFEY:

16 Q After that, please tell the Court what you and  
17 Investigator Isenhoward then did?

18 A At that time, we conferred with other investigators  
19 talked to Scott McDonald who spoke with Andre Fisher, with  
20 Major Smith. Mr. Prophett, the charge of documents for  
21 petition, what sheets were generated and we took them back  
22 for major case prints, fingerprints.

23 Q And is that done in every case?

24 A In our more violent, more serious cases, yes.

25 Q And please tell the Court what happened when you

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 took Mr. Prophet back for major case prints?

2 A I, Kevin Isenhoward actually was the first person  
3 to take him back while I was still working on the charging  
4 documents. He would come out a short time later and inform  
5 me that -- that Mr. Lopey and Mr. Prophet were back  
6 laughing like rapping about what they had done, high fiving  
7 each other and that he could not take it anymore. He  
8 needed to be removed from that situation. He asked me to  
9 go in. I went in and observed the same -- same behavior.  
10 I had someone to relieve me a short time later.

11 Q And why was that?

12 A For the same reason. I mean considering, there are  
13 two groups of people that we feel strongly about in law  
14 enforcement.

15 MS. ARMSTRONG: Your Honor, I would object to the  
16 relevance of that.

17 THE COURT: I've got to go with that one. I don't  
18 think this is relevant or -- I'm going to sustain it.

19 BY MS. MCDUFFEY:

20 Q So you had to remove yourself from that situation?

21 A It was hard to listen to. And yes, I wanted to be  
22 relieved from that situation.

23 Q And they were bragging?

24 MS. ARMSTRONG: Your Honor, I'm going to make the  
25 same objection.

## Joshua Mauldin - Direct Examination by Ms. McDuffey

1 THE COURT: All right. I don't mind you going into  
2 their behavior, but his thoughts as a result of that or --  
3 I'm going to sustain it.

4 BY MS. MCDUFFEY:

5 Q Please describe their behavior for the Court?

6 A Their behavior was, as I said, they were kind of  
7 high fiving, kind of laughing, you know, saying we're  
8 getting ready to go to jail for a long time, and I can't  
9 tell you the words. I just know that they were rapping and  
10 singing.

11 Q And you had to be relieved by another officer?

12 A Yes.

13 Q And after that, they were transported to the Alvin  
14 S. Glenn Detention Center?

15 A Yes.

16 Q To the juvenile portion?

17 A That's correct.

18 Q And you mentioned that, Ms. Henrick's phone was  
19 found on Andre Fisher?

20 A It was.

21 Q And who did he say he got that from?

22 A Mr. Prophet.

23 MS. MCDUFFEY: I beg the Court's indulgence.

24 BY MS. MCDUFFEY:

25 Q The person you took the statement from on December

**Joshua Mauldin - Cross-Examination by Ms. Armstrong**

1 the 15th, 2010, Mr. Prophett, do you see him in the  
2 courtroom today?

3 A I do.

4 Q Can you please point him out for the Court?

5 A Yes, he is the gentleman in the red jumpsuit seated  
6 at the table right there.

7 MS. MCDUFFEY: No further questions for this  
8 witness, Your Honor.

9 THE COURT: Ms. Armstrong?

10 MS. ARMSTRONG: Thank you, Your Honor, may it  
11 please the Court.

12 THE WITNESS: If I could get some water please?

13 THE COURT: I'm not sure I would want to drink this  
14 water --

15 THE WITNESS: I've got a bottle right there.

16 THE COURT: Okay. Yes, I'm not sure the last time  
17 these containers were washed.

18 THE WITNESS: Yes, my bottle is good. They won't  
19 allow me to have a cup.

20 THE COURT: Okay.

21 **CROSS-EXAMINATION**

22 BY MS. ARMSTRONG:

23 Q Good morning, Investigator, how are you?

24 A Very well.

25 Q Good. I just have a few -- few questions. When

## Joshua Mauldin - Cross-Examination by Ms. Armstrong

1 this incident first occurred on December 14th, 2010, I  
2 think you said that given the circumstances and -- and the  
3 facts since they were developing that a lot of the  
4 Sheriff's Department became involved in the investigation?

5 A Yes.

6 Q Okay. All right. This happened at  
7 Road?

8 A That is correct.

9 Q Okay. All right. And I think you said that after  
10 you went to the ER and met with the SANE nurse and got some  
11 details about what had happened, you had spoken to Nurse --

12 A Temple Hart.

13 Q Okay. And so she described the injuries and  
14 described that the victim didn't -- ultimately did not end  
15 up needing surgery?

16 A She did not.

17 Q Okay. She just -- she just -- it was a bad injury,  
18 but surgery was not necessitated at that time?

19 A It was not.

20 Q Okay. And to your knowledge, was there any follow  
21 up treatment or anything like that?

22 A I do not know.

23 Q Okay. All right. So you met and discovered there  
24 was evidence of sexual assault and started canvassing,  
25 along with a number of other people, sort of canvassing the

## Joshua Mauldin - Cross-Examination by Ms. Armstrong

1 neighborhood looking for suspects?

2 A Yes.

3 Q Okay. And I think you said that early on the name  
4 that kept popping up was Zacoata Lopey?

5 A Yes, on that street.

6 Q Okay. All right. So that -- the neighbors sort of  
7 had a -- they sort of had a -- on him -- they thought he  
8 was potentially responsible for some burglaries and some  
9 other things in the neighborhood?

10 A That is what they told our investigators.

11 Q Okay. All right. So you developed him as a  
12 suspect I believe and you went and found him at Spring  
13 Valley High School; is that right?

14 A Yes, Investigator Miller and Clark went and spoke  
15 with him at Spring Valley High School.

16 Q Okay. And that would have been the next day on the  
17 15th?

18 A Or later that, later that day. The initial  
19 incident went on to into the early morning hours of that  
20 same day, yes.

21 Q Oh, okay. All right. So in other words, very  
22 shortly thereafter?

23 A It was.

24 Q Okay. All right. And I think you said that Mr.  
25 Lopey gave two statements to law enforcement. One in which

## Joshua Mauldin - Cross-Examination by Ms. Armstrong

1 he tried to reverse the roles that you believed you were  
2 played as between Mr. Lopey and Mr. Prophet?

3 A Yes.

4 Q Okay. All right. And let's see, going back to the  
5 description provided by the victim, I think she, she  
6 thought both of them were in their early 20s?

7 A Yes.

8 Q And she thought the big guy was about 6 feet, 200  
9 pounds?

10 A Yes.

11 Q All right. And as a result of speaking with Mr.  
12 Lopey, you then went and went searching for Mr. Prophet?

13 A Yes.

14 Q And I think you said you had taught school before  
15 you entered law enforcement?

16 A I did.

17 Q All right. And when you, when you Mr. -- Mr.  
18 Prophet and started trying to speak to him about the  
19 incident, get his statements or his -- his version of what  
20 happened or didn't happen, I think you said that you  
21 advised him of his Miranda rights?

22 A Yes.

23 Q Were you aware at that time that Mr. Prophet, his  
24 IQ falls in the 20 range?

25 A I had no way to know what his IQ was.

## Joshua Mauldin - Cross-Examination by Ms. Armstrong

1 Q Okay.

2 A But I -- there was nothing that made me suppose  
3 that he was mentally retarded.

4 Q Okay. All right. So at the time you took the  
5 statement, you were unaware that he was mentally below a  
6 certain level of comprehension and academic ability; you  
7 didn't know any of that?

8 A I was not aware of that at all.

9 Q Okay. All right. And when you found Mr. Prophett,  
10 was that -- it wasn't out in Lexington County was it?

11 A It was not.

12 Q Okay. All right. He was on a moped with Andre  
13 Fisher?

14 A Yes.

15 Q And Mr. Fisher had -- was in, I guess, possession  
16 of stolen -- stolen goods, that being the cell phone of the  
17 victim?

18 A Yes, the cell phone.

19 Q All right. And did you speak with Mr. Fisher at  
20 all about it?

21 A Lieutenant Scott McDonald interviewed Mr. Fisher  
22 and I believe obtained a statement from him. I did not  
23 personally speak with Mr. Fisher.

24 Q Okay. Do you know if Mr. Fisher, was he ever  
25 charged with anything, possession of stolen goods or

**Joshua Mauldin - Recross-Examination by Ms. Armstrong**

1 anything?

2 A As far as I know, he was not.

3 Q All right. I believe, that's all the questions I  
4 have.

5 MS. MCDUFFEY: Briefly, Your Honor.

6 **REDIRECT EXAMINATION**

7 BY MS. MCDUFFEY:

8 Q In your conversations with Mr. Prophett, did he  
9 ever appear not to be able to understand you?

10 A No, I did not. No, I never got the indication that  
11 he could not comprehend why were talking to him and what  
12 was going on.

13 Q And were his answers to your questions appropriate  
14 or did they evidence that he did understand what you were  
15 asking?

16 A Yes, I mean, it's -- it's evident in the statement  
17 I believe.

18 Q Thank you. I have no further questions.

19 MS. ARMSTRONG: Just one followup.

20 **RECROSS-EXAMINATION**

21 BY MS. ARMSTRONG:

22 Q I understand you weren't aware of his -- his  
23 academic background.

24 A No.

25 Q Were you aware at all of his mental health

## James S. Smith - Direct Examination by Ms. Campbell

1. background?

2. A I have no knowledge of Mr. Prophet whatsoever --  
3. whatsoever. Other than hearing his name before this  
4. incident.

5. Q Okay. Thank you.

6. THE COURT: You can step down.

7. THE WITNESS: Thank you.

8. THE COURT: Call your next witness?

9. MS. CAMPBELL: The State would call Major Stan  
10. Smith.

11. THE COURT: If you'll have seat; raise your right  
12. hand.

13. JAMES STANDIN SMITH,  
14. having been duly sworn, testified as follows:

15. THE COURT: State your name for the record.

16. THE WITNESS: James Standin Smith. S-T-A-N-D-I-N.

17. THE COURT: Your witness.

18. DIRECT EXAMINATION

19. BY MS. CAMPBELL:

20. Q Major, where are you employed?

21. A The Richland County Sheriff's Department.

22. Q What do you do there, sir?

23. A I'm in the Criminal Investigator Division. I'm a  
24. major from the Criminal Investigative Division. I'm sort  
25. of over most of the detectives.

## James S. Smith - Direct Examination by Ms. Campbell

1 Q I'm going to turn your attention back to December  
2 of 2010, did you become involved in an investigation --

3 A I did.

4 Q -- involving the burglary and rape of an 80  
5 year-old-woman?

6 A I did, December the 15th, that morning, I did.

7 Q And how did you become, involved if you'll explain  
8 it to the Judge?

9 A I get a briefing every morning, even Saturday and  
10 Sunday on major crimes that occurred. And I got a briefing  
11 earlier that morning and took a personal interest and  
12 personal involvement, as I sometimes do still in cases,  
13 special cases of this magnitude. I became involved in this  
14 case personally that morning.

15 Q And when you got briefed, basically what  
16 information were you able to gather at the initial  
17 briefing?

18 A Well, I learned that there was a 80  
19 year-old-Asian-female victim who suffered a burglary first,  
20 or a nighttime burglary, armed robbery and sexual assault  
21 by two individuals.

22 Q And at that point, when you first became involved  
23 did y'all have any specific suspects?

24 A We did not have any suspects.

25 Q And did you personally become involved and take

## James S. Smith - Direct Examination by Ms. Campbell

1 steps to try to make sure that every lead was followed up  
2 on?

3 A Yeah, there were a couple of things that lead us to  
4 believe that the suspects would live in the area. Number  
5 one was the suspects had made mention of wanting the  
6 victim's car, but the car wasn't present. So that was  
7 indicative of the fact that they knew the victim did indeed  
8 own a car. It was being serviced at the time.

9 And another one was based on the way they entered  
10 the home through a sun porch in the rear. It was, we  
11 believed that they had some familiarity with the victim  
12 herself and her physical circumstances of her home. So  
13 those two factors together lead us to believe that they're  
14 probably gone be in the area, live in the area.

15 So one of the things we do in a most every crime of  
16 this magnitude, certainly, is we do a canvas and I  
17 organized a canvas. And this crime evoked a lot of emotion  
18 with a lot of my detectives and they were, I had to --  
19 everybody volunteered. Everybody wanted to be involved  
20 there. And so a large team of detectives, then went to the  
21 neighborhood.

22 Q And was the canvas actually done that morning?

23 A Yes.

24 Q And during the course of the morning, were  
25 certain -- was a certain suspect developed?

## James S. Smith - Direct Examination by Ms. Campbell

1 A Yes, I believe it was Investigator Gonzales and  
2 Investigator Galloway talked to a couple of neighbors,  
3 neighbors of the Lopey kid and they indicated that  
4 there's -- there had been some suspicious activity on his  
5 part of the night before right around a little bit before  
6 the incident time frame. And we sort of then sort of  
7 wanted to talk to him based on that.

8 Clark and Miller, two of my detectives, then went  
9 to Spring Valley High School. They had actually made  
10 contact with the School Resource Officer there and he said  
11 that he'd come, that Lopey had come to school that morning  
12 acting sort of unusual. And also some rumors were flying  
13 around about his possible involvement in something the  
14 night before.

15 So Clark and Miller went to Spring Valley High  
16 School based on that reason and interviewed him.

17 Q And prior to Mr. Lopey being interviewed, were you  
18 aware of whether or not he was advised of his rights?

19 A Yes, they did an interview there at the high school  
20 and advised him of his rights. He waived his rights is my  
21 understanding and freely talked with them and he  
22 subsequently confessed to his role in this incident.

23 Q To this burglary?

24 A Yes.

25 Q During the course of talking to Mr. Lopey did

## James S. Smith - Direct Examination by Ms. Campbell

1 another name come up?

2 A Yes, he implicated Larry Prophett as his  
3 codefendant.

4 Q And that's Larry Prophett that is here in the  
5 courtroom today?

6 A Yes.

7 Q And Mr. Prophett, I believe is actually older than  
8 Mr. Lopey?

9 A I believe he was 15 and Lopey was 14.

10 Q Based on the information that y'all were able to  
11 get from Mr. Lopey, did you do any followup?

12 A Yes, we were at -- actually able to identify him  
13 further. Lopey was actually brought to the Sheriff's  
14 Department. Clark secured another, more detailed statement  
15 from him. That statement, of course, would result -- both  
16 statements result in us basically getting a warranting  
17 status for Mr. Prophett.

18 Q Were you aware at that point that his name had  
19 already come up for another one of your investigators that  
20 morning?

21 A Yes, one of my investigators had some degree of  
22 familiarity with him from in that area. He had been  
23 involved in some other things before and his name had come  
24 up.

25 Q At that point, did y'all make any effort to try to

## James S. Smith - Direct Examination by Ms. Campbell

1 locate him?

2 A I believe Mauldin and Isenhoward were en route to  
3 Blythewood Academy, which is where we understood he went to  
4 school at the time. Coincidentally, they spotted him on a  
5 moped going down Shakespeare Road and they -- they stopped  
6 the moped and identified him and sure enough it was Larry  
7 Prophett. They took custody of him at that time.

8 Q Once he was taken into custody, where was he  
9 transported?

10 A He was brought back to Richland County Sheriff's  
11 Department.

12 Q And did y'all take any steps or any of your  
13 investigators take any steps to make sure his rights were  
14 honored?

15 A Yes, he was advised of his rights, as was testified  
16 to earlier and I understand he freely waived it. I didn't  
17 witness that, but he freely waived his rights and agreed to  
18 talk.

19 Q Ultimately that day, did you become involved in the  
20 actual interview of this Defendant?

21 A I did. His mother arrived at headquarters and I  
22 spoke to her in my office and she was very cooperative and  
23 she related to me that she felt like the most important  
24 thing was for her son to tell the truth at that time, but  
25 she was advised that he was denying total involvement in

## James S. Smith - Direct Examination by Ms. Campbell

1 the matter and at some point in time, I asked Investigator  
2 Isenhoward to actually bring him into my office so his  
3 mother could speak to him. He came in the office,  
4 immediately told his mother, Mom, I didn't rape anybody,  
5 you know, but he did admit that he was with Lopey at the  
6 time the events occurred so he had to be involved in it.

7 So that lead into him basically then admitting yes,  
8 that he was there. He admitted the participation in the  
9 burglary and the theft, but denied sexual assault.

10 Q Was his mother present during this whole colloquy  
11 as related to the Court?

12 A Yes.

13 Q And was she actually able to speak to him or did  
14 she speak to him that day?

15 A Yeah, she urged him to talk and then tell the truth  
16 in front of myself.

17 Q And ultimately as you just told the Court, he  
18 admitted to some participation in this crime?

19 A Yes.

20 Q Is it unusual in your experience -- how long have  
21 you been on the job?

22 A 27 years.

23 Q For a person to minimize their role?

24 A It's very normal. Most every confession I've ever  
25 gotten regarding a homicide or a violent crime, there's

**James S. Smith - Direct Examination by Ms. Campbell**

1 some degree of minimization. An example would be, you know  
2 I didn't mean for the gun to go off, things of that nature,  
3 and there was minimization.

4 MS. ARMSTRONG: Your Honor, I'm going to object to  
5 the relevance.

6 THE COURT: Let's move on with it, Ms. Campbell.  
7 Well, I'm going to sustain her objection.

8 BY MS. CAMPBELL:

9 Q As far as in this case, were you aware that there  
10 was forensic evidence that was gathered in this case?

11 A Yes.

12 Q And did the forensic evidence actually point to his  
13 participation in the sexual assault as well as the burglary  
14 and robbery?

15 A It did.

16 Q And what evidence was that?

17 A Well the first evidence was the victim's  
18 identification of him committing the sexual assault and  
19 then that was corroborated by the fact that their semen was  
20 found in her home. He denied a sexual assault. He denied  
21 in his statement that his semen would be anywhere in that  
22 home. In other words, he tried to say he masturbated or  
23 something of that nature; he denied that his semen would be  
24 there and indeed it was.

25 Q Ultimately that day, were you made aware that these

## James S. Smith - Direct Examination by Ms. Campbell

1 two young men were taken back to be fingerprinted?

2 A Yes, normal procedure would be to take them back  
3 there and fingerprint them for purposes of furthering the  
4 investigation in case prints were lifted at the scene.

5 Q And in the course -- you're over all the  
6 investigations?

7 A Yes.

8 Q During the course of the investigation, did you  
9 become aware that they had some -- that they said anything  
10 back there that was relevant to this case?

11 A It was brought to my attention that there was some  
12 cutting up, laughing, joking, which was -- shocked my  
13 detectives that were involved in that and they, Sergeant  
14 Isenhoward, who has a calm demeanor normally, he had to  
15 remove himself from the situation due to the passion that  
16 ignited with him.

17 Q And that behavior was directly related to what they  
18 had done?

19 A Yes.

20 Q During the time period that you were there when the  
21 Defendant was giving his statement and everything, did he  
22 ever evoke any of his rights?

23 A No.

24 Q Did he ever tell you he didn't want to talk about  
25 it?

**James S. Smith - Cross-Examination by Ms. Armstrong**

1 A No.

2 Q And was he cooperative when his mother was there?

3 A He was.

4 Q The person that basically confessed to some  
5 participation in this crime, is he in the courtroom?

6 A He is.

7 Q And can you point him out to the judge?

8 A In the red jumpsuit.

9 MS. CAMPBELL: Thank you, Your Honor. I have  
10 nothing further.

11 THE COURT: Ms. Armstrong?

12 MS. ARMSTRONG: Thank you, Your Honor, may it  
13 please the Court?

14 **CROSS-EXAMINATION**

15 BY MS. ARMSTRONG:

16 Q Good morning, Mr. Smith, how are you?

17 A Hi.

18 Q I just have a couple of questions.

19 When you met with Mr. Prophett, you saw him around  
20 the time that he was brought into the station and  
21 statements were being taken; is that correct?

22 A I probably saw him when they brought him in, yes.  
23 I wasn't there during the initial screening.

24 Q Okay. So you weren't there when he was discovered  
25 to be riding on a moped?

## James S. Smith - Cross-Examination by Ms. Armstrong

1 A No.

2 Q You were actually at the station after he was  
3 brought in?

4 A That's right.

5 Q Okay. And so you were present when his mother  
6 first came to the station?

7 A Yes.

8 Q Okay. And I think you said that she was very  
9 cooperative?

10 A Yes.

11 Q Okay. And she wanted -- she wanted her son to  
12 cooperate with law enforcement and to be truthful?

13 A She indicated the most important thing was for him  
14 to tell the truth.

15 Q Okay. So she was -- in other words, she was acting  
16 appropriately and encouraging him to do the right thing?

17 A That's correct.

18 Q And what did -- did you say you were present in --  
19 I may have this accurateness about this. Were you present  
20 when they read his Miranda rights?

21 A I was not.

22 Q You were not?

23 A I said I was made aware that he had been read his  
24 Miranda rights and waived his rights.

25 Q Okay. All right. And -- otherwise, he was brought

**James S. Smith - Cross-Examination by Ms. Armstrong**

1 in and you were already at the station and you weren't  
2 present for the statement taking, but were you aware of any  
3 disabilities or mental health problems Mr. Prophett had?

4 A His mother didn't make us aware of anything of that  
5 nature and seemed perfectly coherent and understood that he  
6 was -- he understood enough to deny the crime initially,  
7 you know, and then slowly admit involvement in the crime.  
8 So...

9 Q Okay. Do you remember anybody ever asking her mom,  
10 excuse me, his mom any--

11 A I don't believe I asked her, but she didn't bring  
12 that to anyone's attention.

13 Q Okay. All right. Just one final question. The  
14 forensic evidence that was discovered, obviously that  
15 wasn't known at the time the statements were taken; is that  
16 correct?

17 A I believe --

18 Q It was on the carpet and had to be tested?

19 A -- I believe it was semen that was recovered so  
20 quite naturally we would question him about that. I don't  
21 know that we knew whose was found.

22 Q Right, that evidence would obviously be sent to  
23 SLED and they'd have to test it and have known samples?

24 A We do it in house. We have our own DNA lab.

25 Q Okay.

## James S. Smith - Cross-Examination by Ms. Armstrong

1 A Yes, ma'am.

2 Q Okay. But that would take some time?

3 A It can be returned within 48 hours in a case like  
4 this. And I believe it did.

5 Q But the statements were taken the day after?

6 A The statements were taken the day after the  
7 incident, yes. And again, I know we were armed with the  
8 information that there was what appeared to be that  
9 substance in the home or in the rape kit, if you will.

10 Q Right.

11 A But the DNA matches, I don't think occurred for a  
12 day or so.

13 Q Okay. All right. Thank you. That's all the  
14 questions I have.

15 MS. CAMPBELL: Nothing further.

16 THE COURT: You can step down. Call your next  
17 witness.

18 MR. MATTHEWS: State calls Anthony McClain.

19 ANTHONY MCCLAIN,  
20 having been duly sworn, testified as follows:

21 THE COURT: State your name for the record.

22 THE WITNESS: Anthony McClain.

23 THE COURT: Your witness.

24 MR. MATTHEWS: Thank you, Your Honor.

25 ///

## Anthony McClain - Direct Examination by Mr. Matthews

## DIRECT EXAMINATION

BY MR. MATTHEWS:

Q Mr. McClain, where are you employed?

A Department of Juvenile Justice.

Q And what do you do there at the Department of Juvenile Justice?

A At this point, the current time, I'm a Drug Court Coordinator.

Q And regarding your dealings with Mr. Prophett, what was your role in dealing with Mr. Prophett?

A I was his probation officer.

Q And when did you first meet Mr. Prophett?

A I first met him October 4th of 2008.

Q All right. And before that are you aware of any prior involvement with him or adjudications in the juvenile system.

A Yes.

Q Well, what were his prior adjudications?

A His prior adjudications were disturbing schools, simple assault and battery, and community evaluation violation.

Q Okay. Was this the first one from 2008?

A Yes.

Q And do you know what sentence he received as a result of that?

**Anthony McClain - Direct Examination by Mr. Matthews**

1 A He was -- he came to Court on August 11th, 2010.

2 Q Can -- can we go back before that to the disturbing  
3 schools and simple assault from November 7th of 2008; it  
4 should be on this Form 5, if you have a copy of it?

5 A No, say that date again.

6 Q On November the 7th of 2008?

7 A Okay.

8 Q I don't know if you actually supervised him on that  
9 date, but you do have a copy of his juvenile history. Do  
10 you, in your file?

11 A Yes, sir.

12 Q And look at that Form 5, does he have any prior  
13 adjudications from 2008?

14 A Yes.

15 Q And what were those?

16 A I have the assault and battery, two counts of  
17 assault and battery.

18 Q And do you know what sentence he received?

19 A He was placed on six months probation.

20 Q Six months probation. Do you know what Judge  
21 placed him on probation?

22 A It looks like Your Honor, Judge Riddle.

23 Q Okay. And then your involvement with -- with his  
24 next adjudication?

25 A My involvement came once he was placed on probation

## Anthony McClain - Direct Examination by Mr. Matthews

1 on October 4th. He had pending charges where he was  
2 supposed to go to trial.

3 Q Okay. What are the charges that he still had  
4 pending that he had requested a trial on?

5 A Malicious injury to personal property and simple  
6 assault and battery.

7 Q And at the time of these events, was he on  
8 probation?

9 A Yes.

10 Q And what was he on probation for?

11 A The disturbing schools, simple assault and battery  
12 and violation of community evaluation.

13 Q So on those charges, did he initially receive a  
14 community evaluation?

15 A When he violated the community evaluation, he  
16 entered back into the Court and was sent to a mental  
17 evaluation center.

18 Q So he initially was ordered to undergo a community  
19 evaluation?

20 A Yes, sir.

21 Q And he violated that community evaluation?

22 A Yes.

23 Q How so?

24 A He received new charges for petty larceny.

25 Q Okay. And as a result of this violation of the

**Anthony McClain - Direct Examination by Mr. Matthews**

1 community evaluation, what occurred?

2 A He was sent out to Midland Evaluation Center for an  
3 evaluation.

4 Q And what happened at his dispositional hearing?

5 A He was placed on probation by Judge Riddle for 18  
6 months, 6 weekends of -- weekend determinate sentence at  
7 Department of Juvenile Justice.

8 Q Can you tell me all the terms of his probation  
9 please?

10 A Okay. Larry Prophett was ordered to obey all the  
11 rules and regulations of his mother's home, attend school  
12 with no unexcused absences, tardies, class cuts or  
13 disciplinary problems. Additionally he needs  
14 psycho-education testing to evaluate his verbal defects and  
15 to assure that he is receiving academic assistance.

16 THE COURT: I think it's deficits if I'm reading it  
17 correctly.

18 THE WITNESS: Excuse me, deficit.

19 THE COURT: Okay.

20 THE WITNESS: That he receive academic assistance  
21 best suited to his needs, 25 hours of community service.  
22 Larry is to continue to receive individual counseling and  
23 psychiatric medication management as needed through  
24 Columbia Area Mental Health Center, family therapy would  
25 also be beneficial with Larry to assist his mother in

**Anthony McClain - Direct Examination by Mr. Matthews**

1 providing appropriate consequences for Larry's behavior at  
2 home and school. Larry should participate in structured  
3 leisure activities such as sports or school activities; a  
4 male mentor; Larry and his mother should comply with any  
5 referrals made by the probation officer.

6 BY MR. MATTHEWS:

7 Q And --

8 A Also -- excuse me -- random drug screens through  
9 LRADAC; take all prior -- take all prescribed medication.

10 Q Is there anything additional in there about  
11 observing Court?

12 A Anything additional about what?

13 Q Him observing Court?

14 A Yes, in the Summer of 2011, Larry should come  
15 observe Judge Riddle's Juvenile Court date for four  
16 Wednesdays.

17 Q And what, did he successfully complete his  
18 probation?

19 A No.

20 Q Because?

21 A He's still on probation Mr. Matthews, as of today.

22 Q What terms of his probation has he complied with?

23 A I would say the school behavior policy, that's  
24 about it. He -- he didn't have any referrals like would  
25 have counted other than that. He didn't do any of the

## Anthony McClain - Direct Examination by Mr. Matthews

1 community service.

2 Q And how long had he been on probation before he  
3 picked up these new charges?

4 A About two months.

5 Q And so his incarceration is the reason he's been  
6 able to comply with most of these?

7 A Mostly, yes.

8 Q That's fine. I know this -- this dispositional  
9 hearing and where he had pled to these charges, were they a  
10 result of one incident or were there multiple incidents  
11 that were consolidated and resulted in a guilty plea?

12 A There were multiple incidents.

13 Q Can you give me the dates of those incidents and  
14 what happened on each of them he was charged with going  
15 back to, it looks like June of 2009?

16 A Simple assault and battery, June of 2009; he also  
17 received another charge June of 2009 at Blythewood Academy,  
18 he disturbed the normal operation of school by engaging in  
19 a physical altercation with another student while he was in  
20 class. Also he had a charge of -- he had more than one  
21 charge of disturbing schools. It says that Larry  
22 Prophett --

23 Q What's the date on this one?

24 A October of 2009, October the 2nd of 2009.

25 Q Okay.

## Anthony McClain - Direct Examination by Mr. Matthews

1 A It said Larry Prophett entered the room, McMichael  
2 made a comment to the subject was made, Prophett returned  
3 to the room. Prophett and McMichael exchanged words and  
4 Prophett punched McMichael in the left side of his face  
5 with a closed fist. The student, McMichael, fell to the  
6 ground and Prophett left the room. The school nurse was  
7 called and checked -- the spelling here is terrible, I'm  
8 sorry.

9 Q That's enough. That's all I need is basically what  
10 the charge is. And when was the next petition that was  
11 filed against him?

12 A The next one was petit larceny.

13 Q Do you have another disturbing schools in February  
14 of 2010?

15 A He had two counts of -- of disturbing schools.

16 Q Okay. And then you said the petit larceny?

17 A Yes, sir.

18 Q Which was while he was supposed to undergoing  
19 community evaluation?

20 A Yes, and that's when he stole a backpack blower  
21 from a landscape trailer while the owner was cutting the  
22 yard.

23 Q So in June of 2010 when he pled guilty, it was for  
24 the result of one, two, three separate incidents?

25 A June of 2010?

## Anthony McClain - Direct Examination by Mr. Matthews

1 Q Yes, sir.

2 A He pled guilty to the petit larceny June the 30th;  
3 that's when he came back from the -- for the petit larceny.

4 Q That's fine. Did you have a chance to meet with  
5 him after he was detained on these recent charges?

6 A Yes, when he came for the detention hearing.

7 Q And what -- did you speak with him on that day?

8 A Yes.

9 Q And what was his demeanor?

10 A Very angry.

11 Q Angry?

12 A Yes.

13 Q Can you be more descriptive about that?

14 A When I was asking him did he commit the crimes, he  
15 was very loud and angry telling me that the only thing he  
16 did was went into the house and took some items, but he did  
17 not actually sexually assault the woman and very angry and  
18 loud.

19 Q Okay. Was Mr. Lopey there as well?

20 A Yes.

21 Q And how was he acting?

22 A He was crying the whole time. He wouldn't respond;  
23 he just kept crying.

24 Q Did Larry act remorseful in any way?

25 A No.

## Anthony McClain - Direct Examination by Mr. Matthews

1 Q Did he say he was -- well did he seem concerned  
2 about the outcome of the charges at all?

3 MS. ARMSTRONG: Your Honor, I'm going to object.  
4 Court's discretion --

5 THE COURT: Counsel?

6 MR. MATTHEWS: Ma'am?

7 THE COURT: You want to respond?

8 MR. MATTHEWS: No, Your Honor.

9 THE COURT: All right, sustained.

10 BY MR. MATTHEWS:

11 Q And what are some of the services that he would  
12 have received through Department of Juvenile Justice?

13 A Counseling. He was ordered to continue with  
14 counseling with Columbia Mental Health. We made a referral  
15 also to Helping Hands for counseling.

16 Q What services would he receive if he was actually  
17 incarcerated through the Department of Juvenile Justice,  
18 just for example.

19 A I think he would still receive counseling.

20 Q And would he still receive -- if he's waived for  
21 General Sessions, would he still receive these services for  
22 a time?

23 A Yes.

24 Q Until when?

25 A Until he's 18 while in DJJ.

**Anthony McClain - Cross-Examination by Ms. Armstrong**

1 Q Thank you. I have nothing further.

2 THE COURT: Ms. Armstrong?

3 MS. ARMSTRONG: Thank you, Your Honor, may it  
4 please the Court?

5 **CROSS-EXAMINATION**

6 BY MS. ARMSTRONG:

7 Q Good morning, Mr. McBain?

8 A McClain, good morning.

9 Q McClain, I'm sorry. It's been a long morning.

10 So when was your first contact with Mr. Prophett;  
11 do you recall the date when you first started working with  
12 him?

13 A October the 4th of 2010.

14 Q Okay. All right. And describe your -- your role  
15 with Larry; you were his officer?

16 A Probation Officer.

17 Q Probation Officer. All right. And as his  
18 Probation Officer, were you ever made aware of some of his  
19 academic difficulties as well as his mental health issue;  
20 is that something that anybody ever brought up?

21 A I read his MEC Evaluation Report.

22 Q Okay. All right. Now -- and I noticed on the --  
23 when you were going through the list of things that his  
24 probation held, that there were a number of things that --  
25 that Larry Had been order to do or ordered to undergo or to

## Anthony McClain - Cross-Examination by Ms. Armstrong

1 be involved in. One of those was some psychoeducational  
2 testing. I think you said that he was only under your wing  
3 for a couple of months before this happened, so I take it  
4 that the psycho-ed testing was never completed during that  
5 time?

6 A No, ma'am.

7 Q Okay. All right. Did anyone ever make you aware  
8 of his mental health history; were you ever able to speak  
9 with his mom and discover, you know, his prior  
10 hospitalizations for psychiatric reasons?

11 A No, ma'am.

12 Q Okay. And did anybody ever bring to your attention  
13 that any -- that Larry is actually mentally retarded?

14 A Nobody ever made those statements to me.

15 Q Okay. All right. So in other words, you worked  
16 with him for a fairly brief period of time?

17 A Just two months.

18 Q Okay. And if Larry were kept as a juvenile in the  
19 juvenile justice system, would there be a possibility for  
20 him to continue education, you know, his education; would  
21 he --

22 A Yes, he would continue that at DJJ.

23 Q Okay. Do you think DJJ or to your knowledge, does  
24 DJJ have the ability to teach and educate someone with  
25 disabilities like mental retardation?

## Anthony McClain - Cross-Examination by Ms. Armstrong

1 A I have no, I mean ---

2 Q Is that beyond the scope of ---

3 A Yeah, I'm just a probation officer.

4 Q Okay. All right. But clearly you certainly have  
5 access to education for him in the DJJ system?

6 A Yes, ma'am.

7 Q Now, I think you said counseling would also be  
8 available to him?

9 A Yes.

10 Q That's all the questions I have.

11 THE COURT: You may step down.

12 Next witness?

13 MS. CAMPBELL: May we -- Your Honor, as far as the  
14 witnesses, there are a number of records which we may be  
15 able to stipulate to so we don't have to call those  
16 witnesses.

17 THE COURT: Okay.

18 MS. CAMPBELL: Other than that, we do have the  
19 doctor, which will move much faster, coming in at 1:30.

20 So if we could get together, I think there are a  
21 number of --

22 THE COURT: Okay. All right. You want to take a  
23 brief recess?

24 MS. CAMPBELL: If we could. And then the doctor is  
25 coming at 1:30 and that will be the majority of the rest of

1 our testimony.

2 THE COURT: All right. Let's take a brief recess  
3 then.

4 (WHEREUPON a brief recess was observed.)

5 THE COURT: All right.

6 MS. CAMPBELL: If it please the Court, Your Honor.  
7 I have met with Defense Counsel and we have a series of  
8 records that I think we can all agree to and we agreed to  
9 stipulate to some of their records as well.

10 THE COURT: All right.

11 MS. CAMPBELL: At this point, Your Honor, I would  
12 move into evidence State's Exhibit No. 6, which are the  
13 records, the discipline records from Summit Middle School;  
14 State's Exhibit No. 7, which are the discipline records  
15 from Alvin S. Glenn Detention Center since he's been  
16 incarcerated on these charges; and State's Exhibit No. 8,  
17 which are disciplinary records from Blythewood Academy  
18 where he attended.

19 THE COURT: Any objection to those?

20 MS. ARMSTRONG: No objection.

21 THE COURT: Then without objection those are now  
22 exhibits.

23 (WHEREUPON State's Exhibits 6, 7, and 8 were  
24 entered into evidence.)

25 MS. CAMPBELL: May I approach? Your Honor, in

1 addition to that I did bring up to her is, it has come out  
2 that he was on probation at the time of the prior offense.  
3 This is the offense and the Court's recommendation as well  
4 as disposition; and that includes the -- we handed up two  
5 evaluations on him; one was the waiver evaluation and the  
6 prior MEC evaluation. This would be the MEC Evaluation and  
7 the Court Order that accompanied it.

8 THE COURT: The one that I've got in my hand?

9 MS. CAMPBELL: Yes, ma'am.

10 THE COURT: Okay.

11 MS. CAMPBELL: This just includes the Court Order  
12 as well.

13 THE COURT: Okay. I think it -- the order is  
14 included in that packet.

15 MS. CAMPBELL: It is? And if we could just make  
16 that in the record?

17 THE COURT: Do you have any objection to the prior  
18 DJJ Evaluation that was done; that -- that's what she's  
19 asking for right now; and included in that does include  
20 prior history in these -- in these orders.

21 MS. ARMSTRONG: I think that's been testified to.

22 THE COURT: All right.

23 MS. CAMPBELL: Why don't we just make that either a  
24 Court's Exhibit or State's Exhibit?

25 THE COURT: You want to make it a State's Exhibit?

1 MS. CAMPBELL: We'd like to.

2 THE COURT: Any objection?

3 MS. ARMSTRONG: No objection, Your Honor.

4 THE COURT: All right, then you want to use this  
5 copy or do you want to use your copy?

6 MS. CAMPBELL: You want to keep --

7 THE COURT: I'll just keep this.

8 MS. CAMPBELL: Okay, this one. That will be  
9 State's Exhibit Number 9, Your Honor.

10 THE COURT: All right.

11 (WHEREUPON State's Exhibit No. 9 was entered into  
12 evidence.)

13 MS. CAMPBELL: And -- Your Honor, other than that,  
14 as far -- because we've been working with defense counsel  
15 so well, the only other witness I believe that we have to  
16 have testimony -- we would like to address -- the only  
17 other witness we do have would not be here, Your Honor,  
18 until 1:30. We originally had her coming in tomorrow, but  
19 luckily we have her coming in at 1:30.

20 THE COURT: On the pre-adjudicatory transfer waiver  
21 evaluation, are y'all putting in that in?

22 MS. CAMPBELL: That would come in with her.

23 THE COURT: Is that -- okay. All right.

24 MS. CAMPBELL: She's the one that actually did it.

25 THE COURT: Okay.

1 MS. CAMPBELL: So we would be putting that in with  
2 her and offering that. That would be our last exhibit,  
3 Your Honor.

4 THE COURT: Okay. All right.

5 MS. ARMSTRONG: Yes, Your Honor, and I have a  
6 couple of witnesses, but depending on -- if the doctor is  
7 here at 1:30, I would think we'd be finished at least by  
8 five.

9 MS. CAMPBELL: With the doctor?

10 MS. ARMSTRONG: Well, with everybody, doctor and I  
11 have two witnesses.

12 THE COURT: Let's just -- just --

13 MS. CAMPBELL: As far as your witnesses -- who they  
14 are?

15 MS. ARMSTRONG: Two witnesses. I have Ms.  
16 Grissett. Sheretha Brown.

17 THE COURT: All right. Why don't we just start  
18 back up at quarter to two. That way you can have a chance  
19 to talk to the witness when she comes up and we will just  
20 start -- you need you 30 minutes on her?

21 MS. CAMPBELL: That would be perfect.

22 THE COURT: Two o'clock then. We'll start back at  
23 two o'clock.

24 MS. ARMSTRONG: Great, Judge.

25 THE COURT: All right. We're in recess.

1 (WHEREUPON a recess was observed for lunch.)

2 THE COURT: All right. This is in the interest of  
3 Larry Prophett, Docket Number 10-JU-40-1424, 25, 27 and 28.  
4 We're back on the record.

5 I've been handed up Defendant's Exhibit 1, which is  
6 the medical records, Scott McKinney's medical records -- I  
7 mean the records from Dr. McKinney; is that correct?

8 MS. ARMSTRONG: Yes, Your Honor, those are from the  
9 admission to the Palmetto Baptist Hospital Psychiatric.

10 THE COURT: Okay, And you have no objection to  
11 that, Counsel?

12 MS. CAMPBELL: No.

13 THE COURT: All right. Then without objection it's  
14 marked as Defendant's Exhibit 1.

15 (WHEREUPON Defendant's Exhibit No. 1 was marked for  
16 evidence.)

17 THE COURT: You want me to take a second and take a  
18 look at it before you start?

19 MS. ARMSTRONG: I believe the State's familiar with  
20 it, Your Honor.

21 THE COURT: You want me to just wait until you  
22 get --

23 Okay. Then I'll look at it when we get to that  
24 point. Just remind me.

25 Okay. All right. Call your next witness.

**Lashonda Smith - Direct Examination by Ms. Campbell**

1 MS. CAMPBELL: The State would call Lashonda Smith.

2 THE COURT: Ms. Smith, if you'll come around here  
3 and have a seat in the witness chair for me please. Have a  
4 seat and raise your right hand.

5 LASHONDA SMITH,  
6 having been duly sworn, testified as follows:

7 THE COURT: State your name for the record.

8 THE WITNESS: Lashonda Smith.

9 THE COURT: Your witness.

10 **DIRECT EXAMINATION**

11 BY MS. CAMPBELL:

12 Q Ms. Smith, where are you employed?

13 A Department of Juvenile Justice.

14 Q And what do you do there, ma'am?

15 A I am psychologist.

16 Q And as a psychologist you've had certain training?

17 A Yes, ma'am.

18 Q And what are your fields of training in?

19 A I have a PHD in Clinical Psychology.

20 Q And I'm sure you've testified before as an expert  
21 in Clinical Psychology?

22 A I have.

23 Q I want to turn your attention -- did you come --  
24 pursuant to a Court Order, were you asked to evaluate a  
25 Larry Lorenzo Prophett, Jr.?

## Lashonda Smith - Direct Examination by Ms. Campbell

1 A I was.

2 Q And when did you first come into contact with Mr.  
3 Prophett?

4 A I met with him in May of 2011.

5 Q And the purpose of you meeting with Mr. Prophett  
6 starting in May of 2011 was what?

7 A To conduct a waiver evaluation.

8 Q Okay. Now as part of the waiver evaluation process  
9 and specifically in this case, what kind of information do  
10 you gather and ultimately assess?

11 A We look at various psychological aspects including  
12 intellectual functioning, academic functioning,  
13 personality, and also a clinical interview for information  
14 regarding mental illness and that sort of thing.

15 Q And prior to actually doing any -- meeting actually  
16 with the defendant or with his relatives, do you gather  
17 certain records?

18 A Yes, ma'am.

19 Q In this case, what records did you actually  
20 evaluate from prior to meeting with him?

21 A I had his, he had a previous evaluation through  
22 Department of Juvenile Justice. I had school records, I  
23 had records from Columbia Area Mental Health. I also had  
24 records regarding the incident.

25 Q And you said you had school records, specifically

**Lashonda Smith - Direct Examination by Ms. Campbell**

1 what records did you, what school records did you have?

2 A Blythewood Academy.

3 Q Did you ever get his records from Summit?

4 A No, ma'am.

5 Q So the only school records you had were those from  
6 Blythewood Academy?

7 A Yes, ma'am.

8 Q So you weren't privy to his elementary and/or  
9 middle school records?

10 A No.

11 Q Just the Blythewood Academy?

12 A Yes.

13 Q And what years were those covering that he was at  
14 Blythewood Academy that you had records on?

15 A It appears these records cover the 2010/2011 school  
16 year.

17 Q I believe they started in the fall?

18 A The dates of these records is October 2010 so the  
19 beginning of the 2010/2011 school year.

20 Q Okay. And he was just there I believe a couple of  
21 months I guess the records reflect?

22 A That's correct.

23 Q In the batch of records you got?

24 A Yes.

25 Q So you were not able to get his Summit Middle

## Lashonda Smith - Direct Examination by Ms. Campbell

1 School records or any of the other records?

2 A No.

3 Q In addition to that, you also mentioned that you  
4 got records from Columbia Area Mental Health?

5 A Yes.

6 Q And specifically there was also a prior evaluation  
7 you relied upon?

8 A Yes.

9 Q And that was the one done on the prior MEC  
10 evaluation?

11 A That's correct.

12 Q And that was done I believe in September of 2010;  
13 so not too long -- six months or seven months prior to this  
14 one?

15 A That's correct.

16 Q Did you ever get any of the Alvin S. Glenn  
17 Detention Center records?

18 A No, ma'am.

19 Q So you never considered those in your evaluations?

20 A No.

21 Q Okay. And as far as -- who have you actually  
22 interviewed in this case; who did you actually interview  
23 personally, yourself?

24 A I interviewed the juvenile and his mother.

25 Q And what's the purpose of doing those interviews,

## Lashonda Smith - Direct Examination by Ms. Campbell

1 ma'am?

2 A Again to get information regarding their mental  
3 health functioning, intellectual functioning and so forth'  
4 and to get -- with the mother, to get the medical history  
5 and to get her sense of how things were for him and to get  
6 a sense of how he was raised.

7 Q And the purpose of this evaluation overall is to  
8 get any pertinent information that may aid the Court at a  
9 later time in making a determination as to whether or not  
10 the juvenile should be waived to General Sessions Court?

11 A That's correct.

12 Q So in doing this, you assess those positives and  
13 negatives on behalf of the Defendant?

14 A Yes.

15 Q Okay. And as far as getting background  
16 information, during the course of that, I believe you  
17 interviewed his mother?

18 A Yes.

19 Q Ms. Juanita Grissett?

20 A Yes.

21 Q And was she able to give you pertinent information?

22 A She was.

23 Q And specifically did she give you some information  
24 about a prior -- some prior incidents involving -- that  
25 ultimately lead to him being actually committed to Baptist?

## Lashonda Smith - Direct Examination by Ms. Campbell

1 A Yes.

2 Q As well as William S. Hall?

3 A Yes.

4 Q What type of behavior did she indicate to you that  
5 he was exhibiting that lead to this? And that was on page  
6 3 on the back of the information.

7 A Thank you.

8 Q And I'm just going to walk through it, if that  
9 works for you.

10 A That's fine. This person indicated that Larry had  
11 a history of self-harming behavior and, and a quick temper.  
12 She indicated that he got frustrated with himself and that  
13 he ran away with her car and other sorts of behaviors that  
14 resulted in his hospitalization.

15 Q And that's the information she relayed to you?

16 A Yes, ma'am.

17 Q Did you do any further investigation into the real  
18 reason why he was admitted to the psychiatric wards on  
19 those occasions?

20 A I requested the records, but I never received them.

21 Q Did anyone ever give you the information about how  
22 he was in the street fighting with the police?

23 A No, ma'am.

24 MS. ARMSTRONG: Objection, Your Honor, leading the  
25 witness.

## Lashonda Smith - Direct Examination by Ms. Campbell

1 MS. CAMPBELL: And I believe under Rule 607 I have  
2 the right to impeach the witness on information she did not  
3 consider. And I'll be glad to provide you with a case.

4 THE COURT: All righty.

5 MS. CAMPBELL: This is Okatie River v. Southeastern  
6 Site Prep which cites 607 and goes to the State v. -- I'll  
7 hand it also to the defendant.

8 THE COURT: Thank you.

9 MS. CAMPBELL: And then of course, Your Honor, I  
10 would cite the Rule itself, which is Rule 607 which changed  
11 the old law where we doubt the credibility of the witness.  
12 The new law it doesn't have to be surprise as it did under  
13 the law. The credibility of the witness can be attacked by  
14 either party including the party calling the witness.

15 THE COURT: All right.

16 MS. CAMPBELL: I'll just hand you the rule, Your  
17 Honor.

18 THE COURT: All right. Ms. Armstrong, anything in  
19 response? You want to see everything she just handed me?

20 MS. ARMSTRONG: Yes.

21 THE COURT: Okay.

22 MS. ARMSTRONG: Nothing further.

23 THE COURT: And why do you feel like you need to  
24 impeach her?

25 MS. CAMPBELL: Just, Your Honor, I think in order

## Lashonda Smith - Direct Examination by Ms. Campbell

1 to go to the Kent factors and that's all I'm trying to  
2 address here. I think there were five Kent factors is  
3 basic and you -- you know those --

4 THE COURT: Yeah.

5 MS. CAMPBELL: Anyway, I'm trying to show that  
6 basically the behavior and things in the community did go  
7 to those factors as far as rehabilitation, remorse and all  
8 those different things, but I think his behavior in the  
9 past or reasons I'm assuming since she has entered those  
10 records into the record, that she's going to claim he has  
11 some mental illness where, in fact, it's more of a conduct  
12 disorder. And I'm just trying to explore the actual basis  
13 for the reasons he was put into the hospital, not just what  
14 the mother reported.

15 THE COURT: Okay. All right. I'll let you, I'll  
16 let you go a little ways with it. I'm not sure that she's  
17 necessarily going to go against you at this point. So...

18 MS. CAMPBELL: I think I've gone about as far as I  
19 can on this issue.

20 THE COURT: Yeah. Okay. All right.

21 BY MS. CAMPBELL:

22 Q So you weren't aware of that additional behavior  
23 that caused him to be admitted at least on one occasion?

24 A No, I was not.

25 Q Okay. In the course of getting background, do you

## Lashonda Smith - Direct Examination by Ms. Campbell

1 also try to get information from family on whether or not  
2 this defendant has ever been abused or neglected or sexual  
3 assaulted or anything?

4 A Yes.

5 Q What was the information you were able to get as  
6 far as that was concerned?

7 A I believe Ms. Grissett indicated he had not had any  
8 issues --

9 THE COURT: I can't hear you.

10 THE WITNESS: I'm sorry.

11 THE COURT: Just pull that microphone down a little  
12 bit closer. Thank you.

13 THE WITNESS: Is that better?

14 THE COURT: Yes. Thank you.

15 THE WITNESS: Ms. Grissett indicated that Larry had  
16 not been abused or neglected.

17 BY MS. CAMPBELL:

18 Q Did she indicate whether or not he had been in  
19 mental health counseling for a period of time?

20 A She did.

21 Q And did she indicate how old he was when these  
22 problems started -- and I can get back to that; that's  
23 later in your report.

24 On the next page, did she indicate whether or not  
25 he had been diagnosed with any kind of behavior disorder?

**Lashonda Smith - Direct Examination by Ms. Campbell**

1 A Are you asking if Ms. Grissett indicated that.

2 Q Or through the course of your investigation did you  
3 find out whether or not he had been diagnosed with various  
4 conduct disorders?

5 A Yes, the records from his counselor and also the  
6 previous MEC report indicated that he had a behavior  
7 disorder.

8 Q And what behavior disorder specifically was he  
9 diagnosed with?

10 A Disruptive Behavior Disorder not otherwise  
11 specified.

12 Q And what kind of behavior is that indicative of?

13 A Disruptive Behavior Disorder is sort of a catchall,  
14 the diagnosis for juveniles or adolescents who display  
15 various types of behavior problems that don't necessarily  
16 fall into the -- the criteria for Oppositional Defiant  
17 Disorder or Conduct Disorder.

18 Generally it's a mix of both, so you would see --  
19 well some of the types of behaviors that could be a part of  
20 Disruptive Behavior Disorder or physical aggression,  
21 oppositional behavior, spitefulness, those sorts of things.

22 Q Generally bad types of behavior?

23 A Yes.

24 Q And it can manifest itself in physical aggression?

25 A Yes.

## Lashonda Smith - Direct Examination by Ms. Campbell

1 Q And that's not unusual?

2 A Correct.

3 Q Okay. Thank you.

4 Were you also able to get information about the  
5 fact that he had been shot, I believe, on his front porch  
6 at one point and has a colostomy bag as a result of that?

7 A Yes.

8 Q And was she able to give you any background on why  
9 he was shot?

10 A I believe Ms. Grissett indicated that it was sort  
11 random. He -- some boys drove past and began shooting and  
12 she was unsure if it was gang related or not.

13 Q Okay. Did she ever indicate to you that they were  
14 actually trying to shoot his cousin who was in the gang?

15 A No, she did not.

16 Q Okay. Specifically moving down that same page,  
17 basically you were able to review the records from  
18 Blythewood Academy dated October 25th of 2010?

19 A That's correct.

20 Q And at that point, he had good attendance?

21 A Yes.

22 Q And what were his grades ranging at that point?  
23 It -- it's reflected in your report.

24 A I don't --

25 Q Okay.

**Lashonda Smith - Direct Examination by Ms. Campbell**

1 MS. CAMPBELL: I'm sorry, Your Honor.

2 THE COURT: That's okay.

3 THE WITNESS: His grades were good. Grades ranged  
4 from 86 to 90.

5 BY MS. CAMPBELL:

6 Q Okay. And those were the latest records right  
7 before his incarceration, I think?

8 A That's correct.

9 Q I'm going to move on. You have an entire part  
10 about his prior history with juvenile -- and we've already  
11 gone through that so I'm going to skip through that.

12 You also go into a part of it that's called family  
13 description.

14 A Yes.

15 Q And was Ms. Grissett working at the time?

16 A She indicated to me that she was looking for work.

17 Q Okay. Did she indicate whether or not her son  
18 usually stayed with her in the home?

19 A She indicated he did.

20 Q But?

21 A But he had left on occasion to go to an aunt's  
22 house.

23 Q So that he might be on a runaway status, that's  
24 why, but he left without permission?

25 A Correct.

## Lashonda Smith - Direct Examination by Ms. Campbell

1 Q Okay. As part of your evaluation, you also did the  
2 psychological report?

3 A Yes.

4 Q And you actually administer some of this testing  
5 yourself; is that correct?

6 A Yes, all these are testings that I administer.

7 Q And in this report you also refer to prior testing  
8 that was done that you got through school records and/or  
9 prior MEC reports; is that correct?

10 A That is correct.

11 Q Basically you go through whether or not -- and ask  
12 him specific questions about whether he feels like he's  
13 suffering from any mental problems; is that correct?

14 A That's correct.

15 Q And did he indicate whether he had any symptoms of  
16 mania or psychosis?

17 A No.

18 Q But that he had some depression and anxiety?

19 A He didn't directly say that he had depression or  
20 anxiety. The -- the symptoms that I questioned him about  
21 were suggestive of depression and anxiety.

22 Q Okay. Moving on down into the attention deficit  
23 hyperactivity disorders or behavior disorder, was there --  
24 were several things that Larry admitted to you that was  
25 significant as far as behavior concerns?

## Lashonda Smith - Direct Examination by Ms. Campbell

1 A Yes.

2 Q Specifically things that he had done when he was  
3 young?

4 A Yes.

5 Q What was -- what were some of those as explained in  
6 your report?

7 A He reported a history of fire setting. He said he  
8 attempted to set an apartment on fire when he was younger  
9 than 10. He also reported hurting a cat when he was  
10 younger than 10 and dog fighting. He admitted to stealing,  
11 fighting, and housebreaking.

12 Q Okay. Did he admit to being a member of a gang?

13 A No, he did not, but he admitted to associating with  
14 gang members.

15 Q When you asked him about behaviors that you recall  
16 such as setting things on fire, hurting cats, participating  
17 in dog fights, stealing, fighting, housebreaking, did he  
18 indicate whether or not that behavior was purposeful or if  
19 he understood it?

20 A He indicated that the fire setting behavior was  
21 purposeful.

22 Q And of course the stealing, fighting,  
23 housebreaking, he didn't indicate that was accidental, did  
24 he?

25 A He did not indicate it was accidental.

## Lashonda Smith - Direct Examination by Ms. Campbell

1 Q You also go through a history of substance abuse  
2 and he was 15 I believe when he was arrested, right?

3 A Yes.

4 Q And he was 15 when these offenses occurred?

5 A Yes, I believe so.

6 Q Okay. Did he indicate whether or not he had any  
7 history of drug use?

8 A Yes, he did.

9 Q And when did that drug use start?

10 A He said that he began smoking marijuana at age 13.

11 Q And did he also indicate any alcohol use --

12 A Yes.

13 Q -- as a 15 year old.

14 And what kind of -- what was his drink of choice?

15 A Four Loko.

16 Q And what kind of drink is that, if you know?

17 A It's an alcohol energy drink.

18 Q In addition to the marijuana and the alcohol, did  
19 he admit to any other abuse of substances?

20 A He reported taking pills on occasion; that he was  
21 not knowledgeable of the type of pills he had taken.

22 Q During the course of your investigation, did you  
23 also understand that he was supposed to be on some  
24 prescription medication?

25 A Yes.

## Lashonda Smith - Direct Examination by Ms. Campbell

1 Q And what medication was that? And I'm skipping  
2 around, I'm sorry.

3 A I believe he was on some ADHD medication that had  
4 been prescribed. Let me see.

5 Q Something like Risperdal?

6 A One moment.

7 Q It's on --

8 A I'm looking. Yes, he was prescribed Risperdal,  
9 that's correct.

10 Q And that is, as you just said, an ADHD medication?

11 A Actually no, it is a anti-psychotic medication,  
12 actually; and it's used oftentimes to control behavior of  
13 people who tend to have severe anger problems.

14 THE COURT: I can't hear you.

15 BY MS. CAMPBELL:

16 Q Severe what?

17 A Anger problems.

18 Q And during the course, were you able to see whether  
19 or not he was compliant with his actual prescription  
20 medication or not?

21 A At the time that I saw him at the detention  
22 center --

23 Q Not at the, let me back up. Prior to him being  
24 detained on these charges, had he been compliant with his  
25 anger management medication?

## Lashonda Smith - Direct Examination by Ms. Campbell

1 A According to his mother, he's inconsistent in  
2 taking the medication.

3 Q Okay. That's what I'm trying to get out.

4 A Okay.

5 Q And, in fact, he chose to medicate with these  
6 various other things we've discussed?

7 A Yes.

8 Q Did his mother or he indicate whether or not he had  
9 ever been physically aggressive with her?

10 A I don't believe that she indicated that he was  
11 aggressive with her.

12 Q Did Larry indicate in his own words that he had  
13 been? At the bottom.

14 A He indicated that he cursed his mother and had been  
15 physically aggressive. I don't believe that I was implying  
16 that he was aggressive towards his mother there, but that  
17 he had been aggressive in general.

18 Q Okay. So he cursed his mother, but physically  
19 aggressive towards at least someone on prior occasions?

20 A Correct.

21 Q And then he also mentioned that he had been  
22 psychiatrically hospitalized three or four times?

23 A Yes.

24 Q But that's not, in fact, true, according to your  
25 records?

## Lashonda Smith - Direct Examination by Ms. Campbell

1 A I had, only had indication of two hospitalizations.

2 Q Did you do a psychological examination?

3 A Yes.

4 Q And part of that long testing that he had to  
5 actually participate in; is that correct?

6 A That's correct.

7 Q And was he fully cooperative?

8 A He was mostly cooperative. As we got near the end  
9 of the testing, he decided that he didn't want to  
10 participate anymore and he refused to finish the final test  
11 measure.

12 Q What are the evaluations you do that are part of  
13 the Kent factors as to whether or not he shows sign on  
14 empathy, remorse or responsibility and that's in your  
15 report; is that correct?

16 A That's correct.

17 Q At the bottom of page 7?

18 A Yes.

19 Q And was he fully forthcoming -- you -- you reviewed  
20 copies of the incident reports?

21 A Yes.

22 Q I don't know if you have copies of the testing that  
23 was done, the forensic testing as far as semen presence and  
24 things of that nature?

25 A No, I did not.

## Lashonda Smith - Direct Examination by Ms. Campbell

1 Q Okay. But you did have the victim's statement and  
2 her account of what happened?

3 A Yes.

4 Q Was he fully forthcoming or contrite about what  
5 happened?

6 A He expressed remorse about the incident. He  
7 indicated that he felt that the victim was probably  
8 frightened and that he wished that he could say he was  
9 sorry to the victim.

10 Q Did he take full responsibility for what he did?

11 A He indicated that he was there, but that he did not  
12 participate in certain actions during the incident.

13 Q And, in fact, who does he blame for this?

14 A The codefendant.

15 Q And, in fact, he put all the blame on the  
16 codefendant; isn't that correct?

17 A That's correct.

18 Q And he flat out said he didn't sexually assault the  
19 woman?

20 A That is correct.

21 Q Did he also indicate whether or not he was under  
22 the influence of alcohol and/or drugs that day?

23 A Yes, he did.

24 Q But, in fact, he blamed the codefendant for what  
25 happened and denied sexually assaulting the woman?

## Lashonda Smith - Direct Examination by Ms. Campbell

1 A That's correct.

2 Q You also did psychological testing reflected on  
3 page 8?

4 A Yes, ma'am.

5 Q And I don't know -- and correct me if I'm wrong,  
6 because I get lost a little bit, and I'm going to refer to  
7 this a little bit, but in the DSM, there are basic levels  
8 of -- that we kind of try to scale IQ; is that correct?

9 A That is correct.

10 Q And with someone's typically in line, there IQ --  
11 absent some type of head trauma or other debilitating  
12 disease, brain disease, does IQ generally stay the same?

13 A Yes.

14 Q And it is tested from a young age to an old age and  
15 generally should be in the same -- it can be off a few  
16 points but generally stays the same range; is that correct?

17 A That's correct.

18 Q Are there certain tests that can be done as far as  
19 someone -- when you measure IQ, you have to actually  
20 administer testing; is that true?

21 A That's true.

22 Q And can someone, if they so choose, affect the  
23 outcome of that testing?

24 A They can.

25 Q And there are certain testing that should be done

## Lashonda Smith - Direct Examination by Ms. Campbell

1 to test for any presence of what they call malingering; is  
2 that correct?

3 A Right.

4 Q And I notice in your testing, you also reviewed, I  
5 believe, reports on prior testing that had been done; is  
6 that correct?

7 A Yes, ma'am.

8 Q And in a prior testing that had been done, your  
9 results in your testing were significantly different?

10 A Yes, the result that I got was a bit lower -- I'm  
11 sorry. I had the wrong file.

12 MS. CAMPBELL: May I approach?

13 THE COURT: Yes.

14 BY MS. CAMPBELL:

15 Q Just so we're all on the same page. A review of  
16 all the testing that had been done, I think you were aware  
17 of, it was a test in 2001, a test in 2004?

18 A Yes.

19 Q And the prior one from 9/8/2010?

20 A Yes.

21 Q And a later evaluation which I believe you  
22 completed in August of 2011?

23 A Yes.

24 Q Full scale IQ and the various tests and everything,  
25 varied here significantly; is that unusual? Prior --

## Lashonda Smith - Direct Examination by Ms. Campbell

1 without the idea -- like I said, if there's a head injury  
2 or some brain debilitating disease, shouldn't the IQ be  
3 like the first three, within that range?

4 A In general, yes you do expect to see consistency  
5 explored, however, I do want a caveat that I'm not sure if  
6 it's that unusual; but there was some difference in there  
7 because of the difference in the tests that were  
8 administered and if you want, I can explain further.

9 Q I'll get back to that in a second.

10 A Okay.

11 Q In addition, a person's effort or ability can  
12 impair the score; is that not true?

13 A That is true.

14 Q And in this case, you've already admitted that this  
15 defendant at least at some point became less cooperative?  
16 Was he aware of why you were testing him?

17 A Yes, he was and -- but he was cooperative during  
18 this part of the test.

19 Q As far as you know?

20 A Yes.

21 Q There was some additional testing that you refer to  
22 in this that wasn't ever done based on prior testing which  
23 you thought was accurate; is that correct?

24 A That's correct.

25 Q And you didn't feel the need to retest on those

## Lashonda Smith - Direct Examination by Ms. Campbell

1 scales and you admit the prior testing was accurate?

2 A That's correct.

3 Q And again, just for the record, a 16, 17 point  
4 difference in IQ is substantial?

5 A It is, yes.

6 Q Okay. And finally, I wanted to ask you one  
7 question. In the DSM IV they talk about mental  
8 retardation, and I don't know if I'm using the correct  
9 terminology anymore, but that's how they refer to it in the  
10 books and that's how I'm referring to it. 70 is kind of  
11 the point you want to be above; is that correct?

12 A That's correct.

13 Q Because generally more moderate -- mental -- mild  
14 mental retardation levels are 50 to 70 or below, right?

15 A That's correct.

16 Q So anything above 70 may be below average, but it  
17 would be above mental retardation?

18 A It would be above the mental retardation scale.

19 Q You also do some other testing such as the BSAC II?

20 A Yes.

21 Q And the RADS to measure different things too? And  
22 even in the BSAC II, you noticed that Larry may respond in  
23 an inconsistent manner and may have over reported his  
24 symptoms and problems?

25 A That's correct.

## Lashonda Smith - Direct Examination by Ms. Campbell

1 Q So that would be indicative of someone trying to  
2 manipulate the scale somewhat or even consciously or  
3 unconsciously?

4 A I -- no, I hesitate to say that. Over reporting  
5 many times is indicative of someone who feels a lot of  
6 emotional distress and is asking for help. It may not be  
7 manipulating.

8 Q May not be manipulative enough; maybe I have a poor  
9 choice, but it may skew the results?

10 A It may skew the results.

11 Q And then at the time when this offense was  
12 committed, of course, as you know from your report, he was  
13 on probation?

14 A Yes.

15 Q And was he fulfilling the terms of his probation at  
16 that time?

17 A No.

18 Q In your report on page 10 you then say Larry's  
19 exhibited behavior problems since a young child?

20 A Yes.

21 Q And then you go on with your diagnosis, which you  
22 actually diagnosed -- and not just with -- what was the  
23 prior diagnosis you were talking about differential?

24 A Distraction Behavior Disorder was the prior  
25 diagnosis.

## Lashonda Smith - Direct Examination by Ms. Campbell

1 Q And now you put him with an actual Conduct  
2 Disorder?

3 A Yes.

4 Q And again, what are the signs of that; and again,  
5 that's not a mental illness, that's a personality disorder;  
6 isn't that correct?

7 A It's a Behavioral Disorder.

8 Q Behavioral, I'm sorry.

9 A And basically it consists of behaviors that are  
10 sort of not acceptable. There's a whole gamut of things  
11 that fall under Conduct Disorders, but it basically is a  
12 disorder about breaking rules.

13 Q Okay. And I think his history -- and you haven't  
14 even seen his school records, most of them, he has a long  
15 history of breaking rules?

16 A Yes, he does.

17 Q And were you aware that he had prior assaults on  
18 fellow students?

19 A Yes.

20 Q On teachers?

21 A I'm not sure I knew about the teachers.

22 Q Calling teachers names?

23 A Yes.

24 Q Acting out in class?

25 A Yes.

## Lashonda Smith - Direct Examination by Ms. Campbell

1 Q And were you aware that he was in the IEP Program?

2 A Yes.

3 Q And the primary -- the reason for that was because  
4 of his behavior issues?

5 A Yes.

6 Q You also go into the levels of education --  
7 reasonable rehabilitation -- I'm sorry, page 11. You list  
8 a number of negative factors?

9 A Yes.

10 Q And then the positive factors you go over because  
11 he couldn't have time; are you aware of the guidelines for  
12 those?

13 A Yes.

14 Q In your opinion, he could be rehabilitated or  
15 that's just a positive possible?

16 A It's a positive possible. He was 15 at the time  
17 and that would have given him a couple of years to benefit  
18 from the services offered thorough DJJ.

19 Q And you also noted that his mother's emotional  
20 supportive, and she is?

21 A Yes.

22 Q And they're less likely to re-offend, but you're  
23 aware that he had offended in the past and was offending  
24 again?

25 A Yes.

## Lashonda Smith - Direct Examination by Ms. Campbell

1 Q Adequate protection of the public. You mentioned  
2 that if he was in DJJ, would be protected?

3 A Yes.

4 Q And, of course, if he was in a regular prison, once  
5 he got old enough, because he can't go until he's 21, he  
6 would be adequately protected; is that correct?

7 A That's correct.

8 Q And then you mention that he could be on community  
9 supervision for a period of time?

10 A Yes.

11 Q Was he on community supervision when this occurred?

12 A Yes, he was.

13 Q Also you go into the part about procedures,  
14 services, and facilities currently available. Of course  
15 you know that he would automatically be held at DJJ  
16 regardless of which Court he's prosecuted in until he's  
17 seventeen; you're aware of that?

18 A Yes.

19 Q And what kind of services are available to him now?

20 A At DJJ?

21 Q Uh-huh (affirmative response).

22 A There are educational services, our counseling  
23 services. He would be considered for our subclass  
24 inclusion, which is mental health services, there are also  
25 various programs at DJJ such as communities and schools,

## Lashonda Smith - Direct Examination by Ms. Campbell

1 JR0TC.

2 Q And you're aware that regardless of whether he was  
3 in DJJ custody or in an adult system custody, he would stay  
4 until at least he was seventeen?

5 A Yes.

6 Q Okay. And that recently they've also had a  
7 provision -- I spoke to Lisa Hill -- that now they even  
8 keep them until they're nineteen if they are participating  
9 in programs, getting their GED, they need services that are  
10 being provided by DJJ. DJJ has been actually appointed as  
11 an institution for the Department of Corrections to keep  
12 them there?

13 A Yes.

14 Q And that can be, they can send you until they're  
15 nineteen?

16 A Yes.

17 Q And that even at that point, even if they are in  
18 the adult system, they would ultimately transfer to  
19 Turbeville where there are certain other requirements?

20 A I was not aware of that part.

21 Q Okay. But you're aware that they've extended the  
22 services available and these extend to young men who are  
23 prosecuted as adults even if they are 14 --

24 MS. ARMSTRONG: Your Honor -- I'm just waiting for  
25 the question?

**Lashonda Smith - Direct Examination by Ms. Campbell**

1 THE COURT: Oh, okay. All right. She short of,  
2 just testify, okay. Let's refrain from testifying, okay.

3 BY MS. CAMPBELL:

4 Q And so this final line here in your thing, would in  
5 fact, what we just talked about be available?

6 A Yes.

7 Q So that's not correct as far as your final sentence  
8 in Subsection D?

9 A Actually that sentence there is referring to the,  
10 the subclass. He would not be eligible for subclass  
11 inclusion for mental health or Department of Disabilities  
12 and Special Needs if he were committed in the adult system.

13 Q You then go over to your recommendations?

14 A Yes.

15 Q And those recommendations include therapy and  
16 treatment?

17 A Yes.

18 Q And at the time when he committed this offense, was  
19 he in therapy and treatment?

20 A He was not actively participating. His emphasis --  
21 but his participation was in counseling.

22 Q And in your experience, can you force someone to  
23 accept counseling if they choose not to?

24 A You can force someone to go. Of course, you can't  
25 force someone to engage, correct.

**Lashonda Smith - Cross-Examination by Ms. Armstrong**

1 Q And had -- in your investigation, had he been  
2 involved in the system for a number of years?

3 A Yes.

4 Q And had any of the numerous programs, therapies,  
5 counseling, and all that, had he fully taken advantage of  
6 any of them?

7 A He had not.

8 MS. CAMPBELL: I beg the Court's indulgence.

9 BY MS. CAMPBELL:

10 Q Just one final thing. In fact, on that same page,  
11 page 4, his last counseling session was on what date? If I  
12 can just bring that to you.

13 A December 14th, 2010.

14 Q And do you know what date he committed this  
15 offense?

16 A I believe -- was it -- I believe it was the same  
17 day.

18 Q Thank you. Thank you, ma'am.

19 THE COURT: Ms. Armstrong?

20 MS. ARMSTRONG: Thank you, Your Honor, may it  
21 please the Court.

22 **CROSS-EXAMINATION**

23 BY MS. ARMSTRONG:

24 Q Good afternoon.

25 A Good afternoon.

## Lashonda Smith - Cross-Examination by Ms. Armstrong

1 Q I believe Ms. Campbell handed you sort of a  
2 breakdown of the IQ scores and I don't think you got to  
3 explain why you believe your scores differed from the  
4 previous ones. So I just want to redirect you or, or bring  
5 you back to the whole issue of the IQ testing. And I  
6 notice in your report on page 8, that Larry was -- excuse  
7 me -- administered an abbreviated IQ measure, which  
8 resulted in the 72, and then there was a previous IQ --  
9 well, there have been four total. And yours was 59, and I  
10 don't think you got to explain why you believe --

11 THE COURT: Could I interrupt you, Ms. Armstrong?

12 MS. ARMSTRONG: Yes, ma'am.

13 THE COURT: This sheet, are we wanting it admitted  
14 into evidence. Or are we wanting to just --

15 MS. CAMPBELL: No.

16 THE COURT: -- refer down it?

17 MS. CAMPBELL: We would move it into evidence, Your  
18 Honor.

19 THE COURT: Do you have any objection to it? I  
20 mean, I'm just sitting here. I got handed up -- everybody  
21 got handed up a copy of it, and I've try to kind of like,  
22 not look at it in case y'all wanted me to or not.

23 MS. CAMPBELL: We'd offer that, as well as -- I  
24 forgot. I apologize. But I forgot also the actual waiver  
25 evaluation.

**Lashonda Smith - Cross-Examination by Ms. Armstrong**

1 MS. ARMSTRONG: I have no objection to the waiver  
2 going in.

3 THE COURT: Okay. All right. That goes in then.

4 (WHEREUPON State's Exhibit No. 11 was entered into  
5 evidence.)

6 MS. ARMSTRONG: Well, since they've been relying on  
7 this --

8 THE COURT: Well, I think you're both getting ready  
9 to ask each other -- I mean she's asked about the  
10 differences and you're getting ready to ask the  
11 differences.

12 MS. ARMSTRONG: So that's fine. That's fine.

13 THE COURT: All right. So do you want to put it in  
14 as an exhibit? Larry Prophett's IQ scores? I think it's  
15 that 2001, '04, and then an evaluation in '10 and then an  
16 evaluation in '11; do you want me to mark it?

17 Any objection, Ms. Armstrong?

18 MS. ARMSTRONG: Not at this point, Your Honor.

19 MS. CAMPBELL: And I would also go ahead and mark  
20 this.

21 THE COURT: Okay. All right. And I apologize.

22 MS. ARMSTRONG: So we've got everything squared  
23 away?

24 THE COURT: For purposes of the record, 10 is the  
25 IQ Score and 11 is the Waiver evaluation.

## Lashonda Smith - Cross-Examination by Ms. Armstrong

1 MS. ARMSTRONG: Thank you, your Honor.

2 (WHEREUPON State's Exhibit No. 10 was entered into  
3 evidence.)

4 BY MS. ARMSTRONG:

5 Q I believe Ms. Campbell asked you about the  
6 differences -- she noticed that there was a difference --  
7 looks like the greatest difference would have been with the  
8 list three of 77 and the evaluation on list four of 59; can  
9 you explain why you believe the test you administered got  
10 the results that you got?

11 A There are various reasons why there could be a  
12 discrepancy in the scores. The 2001 score administered was  
13 when Larry would have been about 6 years old and although  
14 you generally do see scores be stable over time, it's  
15 important to note that he had significant academic deficits  
16 that as he has gotten older would have been more pronounced  
17 as we repeated testing. So because his academic skills are  
18 low, parts of the testing rely fairly heavy on learned,  
19 school learned information. So that's one reason. But the  
20 other thing to note -- or I guess there's two things to  
21 note is that the MEC evaluation, which was done very  
22 shortly before my evaluation, was an abbreviated test  
23 measure and the list four which is what I administered to  
24 Larry is a different test. It -- it's not only different  
25 from the abbreviated test, but it's significantly different

## Lashonda Smith - Cross-Examination by Ms. Armstrong

1 from the list three, which was given in '01 and '04.

2           The test -- it's basically the factors that are  
3 included in intellectual functioning are broken down  
4 differently in the list four and so it's not that unusual  
5 to see differences between a child whose had a list three  
6 and a child whose had a list four to see some differences  
7 in scores. What's -- what I tend to look at is try to  
8 compare when there are two different tests is the -- the  
9 indices that are similar. For example, verbal  
10 comprehension on the list four is similar, but not -- but  
11 not the same as the verbal IQ on the list three and the  
12 WASI as well. And there was a 10 point difference between  
13 the verbal comprehension score that I got and the verbal IQ  
14 score that he got at MEC. And it's not that significant;  
15 it's not that unusual, I should say, to have a 10 point  
16 difference.

17           His perceptual reason score, I obtained an 84 at  
18 MEC they got an 86 and those are virtually the same. The  
19 working memory and the processing speed scores are really  
20 the two indices that are different in the list four so you  
21 can't really do a direct comparison on the scores between  
22 that and the list three and the WASI on there. So the main  
23 thing pulling his score down for the full scale IQ that I  
24 got a 59 is the verbal comprehension.

25 Q           Okay.

## Lashonda Smith - Cross-Examination by Ms. Armstrong

1 A And again, I should reiterate that that relies very  
2 heavily on information learned in school.

3 Q Okay. All right. Did you have any concerns that  
4 Mr. Prophet was malingering or not doing his best?

5 A No.

6 Q Okay. Did you -- did you have any concerns about  
7 any of the other results that you got from the test that  
8 you administered?

9 A No, I -- the only concern I had was when he stopped  
10 participating and I -- I -- it actually took me by surprise  
11 because he had been cooperative up to that point.

12 MS. ARMSTRONG: I beg the Court's indulgence.

13 BY MS. ARMSTRONG:

14 Q I believe Ms. Campbell asked you about -- about  
15 some of the differences between the child, treated as a  
16 child and kept at DJJ versus what happens when they go to  
17 an adult institution. Given the nature of the offenses  
18 alleged, the criminal sexual conduct, isn't it true that  
19 there are some -- some services that he can receive, some  
20 counseling and that sort of thing that would be available  
21 through DJJ?

22 A Yes.

23 Q And that's in addition to the whole sort of host of  
24 counseling and medical intervention and that sort of thing?

25 A That's correct.

## Lashonda Smith - Cross-Examination by Ms. Armstrong

1 Q Okay. And he would be -- I believe you said, the  
2 DDSN services would be available through now because of his  
3 obvious mental retardation diagnosis, he would fall under  
4 that umbrella?

5 A He would be assessed for DDSN, and then they make  
6 their own decision about whether or not they qualify, but  
7 he would be assessed to see if he was eligible for these  
8 services.

9 Q Okay. And if they make the same or similar  
10 determination then he would be eligible for those services?

11 A Yes.

12 Q Okay. All right. And I believe that Ms. Campbell  
13 pointed out that Mr. Prophet was under supervision when  
14 these offenses occurred, but you would agree with me that  
15 when you're housed at the Department of Juvenile Justice or  
16 in a facility, that there's pretty tight controls on your  
17 behavior?

18 A Yes.

19 Q It's not one person or parent who also works going  
20 in and out the house; it's 24/7?

21 A That's correct.

22 Q Those are all the questions I have. Thank you very  
23 much.

24 ///

25 ///

## Lashonda Smith - Redirect Examination by Ms. Campbell

## REDIRECT EXAMINATION

BY MS. CAMPBELL:

Q She just asked you specific questions about being housed in DJJ, and while in detention and that would be better monitored; is that correct?

A Yes.

Q And you mentioned earlier to the judge that you didn't have an opportunity to see how he's done while he's been detained as a juvenile?

A Right.

Q And I show you this list of behaviors.

MS. CAMPBELL: Your Honor, we'd mark it for ID purposes to show the Court.

THE COURT: Any objection, Ms. Armstrong? This is Alvin S. Glenn behavior.

MS. ARMSTRONG: Well --

THE COURT: I've already got the report. They put them in as an exhibit and actually I've already looked at them. You want to, do you want me to condense it for you or you want me to have already read it and seen it myself, Ms. Campbell.

MS. CAMPBELL: Regarding that incident?

THE COURT: I have already read it?

MS. ARMSTRONG: But I just think it's necessary.

THE COURT: Yeah, I think it is too. I've got --

## Lashonda Smith - Redirect Examination by Ms. Campbell

1 you could show her.

2 MS. CAMPBELL: I could show her.

3 THE COURT: You could show her, but I don't need to  
4 see it because I've already read it.

5 BY MS. CAMPBELL:

6 Q Moving on to January 19th of 2011 as indicated on  
7 this. He was placed on lockdown?

8 A Yes.

9 Q For what?

10 A Failure to comply.

11 Q And what was the line above that for, refusing to  
12 do what?

13 A School work.

14 Q And then on January 28th of 2011 about a month  
15 after he was incarcerated --

16 MS. ARMSTRONG: Your Honor, I believe Ms. Campbell  
17 is testifying.

18 THE COURT: All right. Just -- just let her look  
19 at it and she can say -- let her review it and see if makes  
20 any difference.

21 BY MS. CAMPBELL:

22 Q January 28th of 2011, I turn your attention to that  
23 day; was he cited for various problems?

24 A Yes.

25 Q Including?

## Lashonda Smith - Redirect Examination by Ms. Campbell

1 A Vandalism --

2 MS. ARMSTRONG: Your Honor, same objection, reading  
3 this into the record is not proper.

4 THE COURT: Well, I mean, I think she's questioning  
5 the witness about her investigation as to what she believes  
6 this Court can do in the future, because she's the one  
7 that's got the waiver evaluation she's wanting me to  
8 consider. And I think that one of the things that I've  
9 looked at and I've probably got about four or five  
10 questions that I've thought about that she probably needed  
11 to have looked at or known when she gets up on the witness  
12 stand.

13 MS. ARMSTRONG: I just haven't heard a question.

14 THE COURT: Yeah, but I'm just -- I mean, I think  
15 she's got to right to ask her, have you asked this; have  
16 you asked that? I mean because if she didn't ask it, I'm  
17 going to ask it.

18 MS. ARMSTRONG: I don't mind -- she's leading.

19 MS. CAMPBELL: If you're going to ask it, I'm going  
20 to sit down.

21 THE COURT: Well, I'm just, I've got some questions  
22 I want to ask her.

23 MS. CAMPBELL: I have no further questions, Your  
24 Honor.

25 THE COURT: Have you looked -- have you talked to

## Lashonda Smith - Redirect Examination by Ms. Campbell

1 anybody at Alvin S. Glenn?

2 THE WITNESS: No, ma'am.

3 THE COURT: And do you not think his behavior at  
4 Alvin S. Glenn has an impact on his likelihood to be able  
5 to be rehabilitated and meet the requirements under Kent.

6 THE WITNESS: I do. But I would have to say that  
7 over the years as I've done waiver evaluations, I have  
8 never had access to records from the detention center and  
9 it's not just Alvin S. Glenn, but numerous --

10 THE COURT: How about school records, have you ever  
11 had access to school records.

12 THE WITNESS: Yes.

13 THE COURT: Okay. In your testimony you talked  
14 about having records from his time at Blythewood, correct?

15 THE WITNESS: Yes.

16 THE COURT: And he was there about two months,  
17 right?

18 THE WITNESS: Right.

19 THE COURT: Okay. And prior to that, he was at  
20 other schools, correct.

21 THE WITNESS: Yes.

22 THE COURT: Okay. When you went to get the school  
23 records, did you try to get the records from the other  
24 schools that he was at longer than the Blythewood.

25 THE WITNESS: I requested school records in general

**Lashonda Smith - Recross-Examination by Ms. Armstrong**

1 and all I received was the records from Blythewood.

2 THE COURT: After you only got two months, did you  
3 try to find it somehow, like contacting the Solicitor,  
4 contact someone to try to help you get those records.

5 THE WITNESS: I did not try to contact the  
6 Solicitor. I used the normal channels that we use at DJJ.

7 THE COURT: All right. That's what I wanted to  
8 ask.

9 Any other questions you want to ask?

10 MS. ARMSTRONG: Just briefly.

11 THE COURT: All right.

12 **RECROSS-EXAMINATION**

13 BY MS. ARMSTRONG:

14 Q In your -- in your work, are you at DJJ a good bit?

15 A I work at DJJ. Yes, I'm there.

16 Q And have you had an opportunity through the course  
17 of your career to see the -- to go into a detention  
18 facility?

19 A Yes.

20 Q Okay. Would you describe DJJ as being different  
21 than the detention facility?

22 A Yes.

23 Q Substantively different?

24 A Yes.

25 Q Its purpose is for a different purpose?

## Lashonda Smith - Recross-Examination by Ms. Armstrong

1 A Yes.

2 Q Okay. Do you believe that the facility at DJJ,  
3 could a juvenile be placed in if they were treated as a  
4 juvenile if that would be a more therapeutic environment  
5 than at a detention center?

6 A Yes.

7 Q Thank you.

8 THE COURT: All right. I have one more question,  
9 may be not related to this waiver, but something I want to  
10 know for the future.

11 When I order a child to get a MEC Evaluation and  
12 they go out there and they do IQ testing and risk scores  
13 and all of that, should I make sure that my order now says  
14 no longer will he be allowed to do an abbreviated tests?

15 I just want to know because that's been a big issue  
16 in here is the -- the IQ changes and stuff and relying on  
17 an abbreviated test versus not abbreviated test. And I'm  
18 just asking for future reference.

19 THE WITNESS: I think that would be a major change.  
20 The abbreviated test is what we at DJJ rely on. My regular  
21 position at DJJ is actually in the evaluation center. I'm  
22 at Coastal Evaluation Center and because of the time factor  
23 is why we rely on the abbreviated measures. They are  
24 considered valid and reliable, but just the fact that they  
25 are abbreviated just makes them a little bit more subject

## Lashonda Smith - Recross-Examination by Ms. Armstrong

1 to having changes than the full measure.

2 So if you were to put that in your Order, you would  
3 be making major changes to the way we do things at DJJ.

4 THE COURT: All right. Thank you. I appreciate  
5 your answer.

6 Any questions?

7 MS. CAMPBELL: Nothing further, Your Honor.

8 THE COURT: All right. You may step down.

9 Any other witnesses, Solicitor?

10 MS. CAMPBELL: No, ma'am.

11 THE COURT: All right. You want to take a slight  
12 recess and we'll --

13 MS. ARMSTRONG: Two minutes.

14 THE COURT: That's good. We'll take a slight  
15 recess.

16 (WHEREUPON the Court observed a brief recess.)

17 THE COURT: The State rests?

18 MS. CAMPBELL: Yes, ma'am.

19 THE COURT: All right. Ms. Armstrong?

20 MS. ARMSTRONG: Thank you, Your Honor, may it  
21 please the Court, I call Anita Grissett to the stand.

22 THE COURT: Ms. Grissett, if you will come around  
23 here and have a seat in the witness chair for me please.  
24 Have a seat and raise your right hand.

25 ///

**Anita Grissett - Direct Examination by Ms. Armstrong**

ANITA GRISSETT,

having been duly sworn, testified as follows:

THE COURT: State your name for the record.

THE WITNESS: Anita Seonya Grissett.

THE COURT: Spell your middle name.

THE WITNESS: S-E-O-N-Y-A.

THE COURT: All right. Your witness.

MS. ARMSTRONG: Thank you, Your Honor.

**DIRECT EXAMINATION**

BY MS. ARMSTRONG:

Q Ms. Grissett, how are you related to Larry Prophett?

A Larry's my oldest son.

Q Okay. And did you grow up here in South Carolina?

A Yes, ma'am.

Q Okay. Where do you live now?

A On

Q Okay. And how old are you?

A Thirty-seven.

Q Okay. Do you have any other children?

A Yes.

Q How many?

A One.

Q And how old is that child?

A Nine.

## Anita Grissett - Direct Examination by Ms. Armstrong

1 Q Boy or girl?

2 A Boy.

3 Q Okay. And are you a single parent?

4 A Yes.

5 Q Okay. So Larry was your first child?

6 A Yes.

7 Q Okay. Ms. Grissett, did there come a time when you  
8 noticed things about Larry that were a concern to you?

9 A Yes.

10 Q Can you describe for the Court what types of things  
11 you noticed about Larry?

12 A He had a anger problem and he tried to hurt himself  
13 a lot.

14 THE COURT: Did she say anger or ankle.

15 THE WITNESS: Anger.

16 THE COURT: Anger. Okay. All right.

17 BY MS. ARMSTRONG:

18 Q And, Ms. Grissett, thinking back about -- when did  
19 you notice those anger problems with Larry?

20 A Between the age of three and four.

21 Q Between three and four, okay. Did they continue?

22 A Yes.

23 Q Okay. What did you do as a result of noticing  
24 those problems?

25 A I took him to mental health.

## Anita Grissett - Direct Examination by Ms. Armstrong

1 Q Do you remember about when you did that?

2 A When he was around three or four I took him William  
3 S. Hall.

4 Q William S. Hall, okay. And what happened as a  
5 result of that, that intervention by William S. Hall, what  
6 happened?

7 A He attended daycare at the William S. Hall because  
8 he kept getting kicked out of the other day care because of  
9 his emotional problems.

10 Q Okay. So they said emotional problems?

11 A Yes.

12 Q What are some examples of some behaviors from that?  
13 Just things that happened that were a concern to you?

14 A When he was trying to harm himself.

15 Q And what would he do?

16 A He'd throw himself on the ground and hit himself  
17 head against the wall and tried to hurt himself.

18 Q What caused him to do those things?

19 A That's what I tried to figure out. I asked for  
20 help to see what was wrong with him.

21 Q Did anybody give you any answers?

22 A No.

23 Q No?

24 A Just go to counseling.

25 Q Okay. What kind of counseling was it; talk

## Anita Grissett - Direct Examination by Ms. Armstrong

1 therapy?

2 A At mental health.

3 Q And that's Columbia Area Mental Health?

4 A Yes.

5 Q Okay. What was Larry like socially; was he  
6 outgoing, was he kept --

7 A No, he always been to hisself.

8 Q And did he have friends?

9 A He ain't had many friends. He always been -- he  
10 ain't had no friends. He always been to hisself, just me  
11 and him.

12 Q Just the two of you?

13 A Yes.

14 Q Okay. When did he start developing social  
15 relationships and having friends and peers, when did that  
16 happen?

17 A Somewhere around five when I moved out there on

18

19 Q How old -- how old was he then, about eleven?

20 A Ten or eleven.

21 Q Ten or eleven. Okay. And so how would you  
22 describe him in a social setting with his peers and  
23 other -- and other kids? What was he like?

24 A He always just do what they tell him to do. I been  
25 trying to keep at home and they'll come get him or whatever

## Anita Grissett - Direct Examination by Ms. Armstrong

1 and he just follow them.

2 Q Would you say he's more of a follower than --

3 A Yes.

4 Q -- a leader?

5 A A follower.

6 Q Okay. All right. So he was by himself a lot as a  
7 young child and when he went out, he wasn't the one in  
8 charge?

9 A No.

10 Q All right. Did you have any other concerns about  
11 Larry? How did he do in school? Tell us a little bit  
12 about that. We've heard some from the -- from the lady  
13 from DJJ. What did you notice about Larry in school?

14 A That he get frustrated and he don't know -- because  
15 he get frustrated and he just shut down.

16 Q And when did he start taking special education  
17 classes?

18 A Elementary school.

19 Q Okay. When he first started to school or, or about  
20 --

21 A Started going to -- in 2004. 2004.

22 Q Okay. All right. And you said he would get real  
23 frustrated?

24 A He get frustrated and he shuts down.

25 Q He shut down; did he get in some trouble, some

## Anita Grissett - Direct Examination by Ms. Armstrong

1 behavioral trouble at school?

2 A Yes, when he get frustrated.

3 Q So he would act out?

4 A He would act out and he wouldn't do what he  
5 supposed to do.

6 Q Okay. All right. Do you think he just didn't have  
7 the ability to the work?

8 A Yeah, he was a slow learner.

9 Q Okay. All right. And no one ever told you that  
10 Larry was mentally -- excuse me -- mentally retarded, did  
11 they?

12 A No, ma'am.

13 Q Okay. All right. Well, Ms. Grissett, let me ask  
14 you about one more thing. I understand Larry has a  
15 colostomy?

16 A Yes, ma'am.

17 Q How did that happen; he's only, he's only 16?

18 A He got shot.

19 Q Okay. Were you around when the shooting incident  
20 occurred?

21 A I was in the house.

22 Q You were in the house. Okay. Did you witness it  
23 personally?

24 A No, ma'am.

25 Q All right. And how bad was that injury?

**Anita Grissett - Direct Examination by Ms. Armstrong**

1 A At the time I didn't think it was bad because he  
2 got shot in the butt. But then the ambulance said he had  
3 to go to the hospital and it could have been worse than  
4 what it was. So when we got there, it really was because  
5 the shot had been lodged in.

6 Q Okay.

7 A So it was worse.

8 Q Okay. And did Larry have some emotional problems  
9 after -- after the shooting?

10 A Yes.

11 Q Yeah. Do you recall him mentioning in any of the  
12 evaluations about him having post traumatic stress  
13 disorder?

14 A No, ma'am.

15 Q All right. But you did recognize some problems?

16 A I've been recognizing problems. I always ask about  
17 it. Every time I talked to somebody I ask. I mean  
18 something's wrong with him; I need some help. I never get  
19 the help that I needed for him.

20 Q All right. Thank you.

21 And let me ask you this. Whenever Larry is  
22 finished with whatever sentence he receives are you going  
23 to continue to support him?

24 A Yes.

25 Q Okay. You'll be with him?

## Shereka Brown - Direct Examination by Ms. Armstrong

1 A Yes.

2 Q And obviously if he's kept as a juvenile you would  
3 obviously go and continue to support him and try to help  
4 him --

5 A Yes, ma'am.

6 Q -- make better choices?

7 A Yes, ma'am.

8 Q Please answer any questions that Ms. Campbell might  
9 have.

10 MS. CAMPBELL: No questions.

11 THE COURT: All right. You can step down.  
12 Call your next witness?

13 MS. ARMSTRONG: Sheretha Brown.

14 THE COURT: Ms. Brown.

15 SHEREKA BROWN,

16 having been duly sworn, testified as follows:

17 THE COURT: State your name for the records.

18 THE WITNESS: Shereka Brown.

19 THE COURT: How about pull that microphone up just  
20 a little bit closer so I can hear you good, okay?

21 THE WITNESS: Yes, ma'am.

22 THE COURT: Okay. All right. Your witness.

23 DIRECT EXAMINATION

24 BY MS. ARMSTRONG:

25 Q Ms. Brown, you're very soft spoken so be sure and

## Shereka Brown - Direct Examination by Ms. Armstrong

1 bring your voice up so everybody can hear you, okay?

2 A Yes, ma'am.

3 Q Okay. Ms. Brown, how old are you?

4 A Sixteen.

5 Q Sixteen. And are you related to Larry Prophet?

6 A Yes, ma'am.

7 Q And how are you related to Larry?

8 A He's my first cousin.

9 Q He's your first cousin?

10 A Yes, ma'am.

11 Q And do you live with Larry and Ms. Grissett, his  
12 mom?

13 A Yes, ma'am.

14 Q Okay. How long have you lived with them?

15 A I'm not sure. She went and got custody of me.

16 Q So Ms. Grissett is your aunt and she has custody  
17 and it's been for a while now?

18 A For several years.

19 Q For several years, all right. Now are you in  
20 school?

21 A Yes, ma'am.

22 Q What grade are you in?

23 A Ninth.

24 Q Ninth, okay. And Ms. Brown, were you aware of the  
25 shooting incident that took place that caused Larry to

## Shereka Brown - Direct Examination by Ms. Armstrong

1 become injured and end up with a colostomy bag?

2 A Yes, ma'am.

3 Q And what do you remember?

4 A I just, I remember me and Larry, we was at Mom's.

5 We was on the porch. It was about just getting night time

6 and you really couldn't see nothing. We had the porch

7 light on and we was on the phone and I just remember the

8 Jeep keep riding around and then that's when they just

9 stopped at the stop sign and just -- he noticed it first.

10 I guess he seen like a gun come from out the window and

11 they just start shooting and I was right there on the porch

12 and I was just like stuck and he was telling me to get

13 down, go in the house; he was just screaming at me and I

14 couldn't move. I was in too much shock and he pushed me

15 down when they had started shooting directly on the porch.

16 And then that's when he fell on top of me and I had to drag

17 him in the house and he was screaming he got shot. And

18 that's -- and I asked him where at and he said in his foot

19 and nobody believed him at the time because -- and that's

20 when I see the blood coming from everywhere.

21 Q So he got shot trying to help you?

22 A Yeah, he came out there after me like, there was

23 like three minutes before they started shooting and he came

24 outside and that's when he got shot trying to push me down

25 and he ended up getting shot.

**Teresa Johnson - Direct Examination by Ms. Armstrong**

1 Q Okay. And you lived with Larry when he was at  
2 home?

3 A Uh-huh (affirmative response). He's my hero.

4 Q Thank you.

5 MS. CAMPBELL: No questions.

6 THE COURT: You can step down.

7 Ms. Armstrong, anything else?

8 MS. ARMSTRONG: Yes, Your Honor, one final witness,  
9 Teresa Johnson.

10 THE COURT: Ms. Johnson, if you'll come around here  
11 and have a seat in the witness chair for me please.

12 Ms. Johnson, if you'll have a seat. Pull your  
13 chair up close to the microphone for me and raise your  
14 right hand.

15 TERESA JOHNSON,  
16 having been duly sworn, testified as follows:

17 THE COURT: And your full name?

18 Teresa Denise Johnson.

19 THE COURT: Your witness.

20 MS. ARMSTRONG: Thank you, Your Honor.

21 **DIRECT EXAMINATION**

22 BY MS. ARMSTRONG:

23 Q Ms. Johnson, where do you live?

24 A

25 Q Okay. And who do you live with?

## Teresa Johnson - Direct Examination by Ms. Armstrong

1 A Sonja Grissett.

2 Q Ms. Grissett?

3 A Yes, sir.

4 Q Okay.

5 A Yes, ma'am.

6 Q And Ms. Brown?

7 A Ms. Brown, yes.

8 Q Okay. When he was at home, you also lived with  
9 Larry?

10 A Yes, ma'am, I did.

11 Q Okay. And are you related to the Grissetts and  
12 Larry Prophet?

13 A His mother's my first cousin, makes him my second  
14 cousin.

15 Q Okay. Great. And how long have you been living  
16 with the family?

17 A I've been living there since '06.

18 Q Okay. And during that time, have you had a chance  
19 to get to know Larry?

20 A I was the babysitter. His mother worked, so I had  
21 spent most of my time with Larry when he was a child.

22 Q Oh, okay.

23 A Before I got a little closer to him and know him  
24 this way. I'd say as a little boy he was pretty good, you  
25 know, lonely, by himself at first. And then as I moved

## Teresa Johnson - Direct Examination by Ms. Armstrong

1 into the home with him, I sat and let him hang out with his  
2 little friends because there was little boys.

3 THE COURT: I can't understand what she said.

4 THE WITNESS: Okay.

5 THE COURT: You said that you --

6 THE WITNESS: When I moved -- when I moved into the  
7 home with the Grissetts.

8 THE COURT: Okay. I'm sorry.

9 THE WITNESS: When I moved into the home with the  
10 Grissetts or whatever, so I was his babysitter. He was  
11 home for a while, you know, he stayed in the yard and  
12 whatever, never went nowhere and his little friends started  
13 coming through. So then I allowed him to, you know, go  
14 outside, ride bikes, and play with the other little boys.

15 So it wasn't really no behavior, you know, and no  
16 badness or whatever that they're seeing now, but I've also  
17 noticed that he had little anger issues. Like if he  
18 couldn't get his way or things didn't go, he'd have his  
19 little -- at the time I hadn't noticed and then, you know,  
20 I always felt something was wrong with him.

21 BY MS. ARMSTRONG:

22 Q And so were you around when his mother was trying  
23 to, to get some help for some of those problems?

24 A During the course of with things happening in  
25 school, the way she always had to go out to get him because

## Teresa Johnson - Direct Examination by Ms. Armstrong

1 the acting up in school and whatever and stuff like that,  
2 you know.

3 Q Did you also notice the self injury behavior?

4 A Yes, I've been through with that. I've heard him  
5 talk about going and jumping off bridges and stuff like  
6 that. He wants to kill himself, you know, he didn't think  
7 nobody cared because of the way he was when he was going  
8 through things and such.

9 Q Okay.

10 A So that part I witnessed.

11 Q All right. Now did you also notice anything with  
12 the school work, anything -- issues or --

13 A I can't really say about the school work, you know  
14 what I'm saying, because I didn't see much of that come in  
15 because like I said, he acted out so much to the point  
16 where he was going from one school to the other, you know  
17 what I'm saying so I can't say about the school work.

18 Q Okay. All right. Is there anything else you think  
19 the Court needs to know about Larry?

20 A No, not much except for he really needs some deep,  
21 deep help. He needs help, he's a sick child. He's not --  
22 I mean everybody got their own issues or whatever; his is  
23 real deep, the mental part. That's basically what I can  
24 say I saw.

25 Q Okay. Thank you.

1 MS. CAMPBELL: No questions.

2 THE COURT: All right. You can step down.

3 Ms. Armstrong?

4 MS. ARMSTRONG: Your Honor, those are all the  
5 witnesses.

6 THE COURT: All right. I'm going to take the case  
7 under advisement. And I'll see the lawyers in chambers in  
8 just briefly.

9 MS. ARMSTRONG: Thank you, Your Honor.

10 THE COURT: Thank you.

11 \* \* \* \* \* END OF TRANSCRIPT \* \* \* \* \*

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1 State of South Carolina )  
2 County of Aiken ) **Certificate of Reporter**

3  
4  
5  
6 I, THE UNDERSIGNED, Brenda J. Sigwald, Official  
7 Court Reporter for the Fifth Judicial Circuit of the State  
8 of South Carolina, do hereby certify that I reported the  
9 proceedings in the captioned case in the Family Court Court  
10 in and for the State of South Carolina on the 7th day of  
11 May, 2012.

12 I FURTHER CERTIFY that the foregoing pages  
13 constitute a true, accurate and complete transcript of said  
14 hearing.

15 I FURTHER CERTIFY that I am neither kin, counsel,  
16 nor of interest to any party hereto.

17 IN WITNESS WHEREOF, I have hereunto set my hand and  
18 seal at Aiken County, this 31st day of December 2014.

19  
20  
21  
22  
23  
24  
25

*Brenda J. Sigwald*

Brenda J. Sigwald,  
Court Reporter and Notary Public  
For the State of South Carolina  
My commission expires  
January 4, 2020

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE INTEREST OF:

Larry Prophet (DOB: )

A Minor Under the Age of  
Seventeen (17) YearsIN THE FAMILY COURT  
FIFTH JUDICIAL CIRCUIT

ORDER

2010JU401524, 25, 27, 28

PRESIDING JUDGE: Honorable Leslie K. Riddle

DATE OF HEARING: May 7, 2012

ATTORNEYS FOR THE STATE: Kathryn L. Campbell, Esq.

Joanna McDuffie, Esq.

Foster Mathews, Esq.

DEFENDANT: Larry Prophet

ATTORNEY FOR MR. PROPHET: Melissa Armstrong, Esq.

COURT REPORTER: Brenda Sigwald

This matter was before the Court on May 7, 2012, for a waiver hearing.

Appearing on behalf of the State was Kathryn Luck Campbell, Assistant Solicitor; Joanna McDuffie, Assistant Solicitor; and, Foster Mathews, Assistant Solicitor; appearing on behalf of the respondent was Larry Prophet, the minor-Respondent; Lonita Grissett, the minor-Respondent's mother; and the minor-Respondent's attorney, Melissa Armstrong, Esquire.

This Court heard one day of testimony and numerous exhibits were introduced into evidence by both sides. Among the State's exhibits is the statement of the co-defendant, Zacoata Lopey, dated December 15, 2010, the statement of Larry Prophet also dated December 15, 2010, a statement of Elaine Henrick, the victim, the minor-Respondent's Alvin S. Glenn Detention Center Disciplinary Records, and the minor-Respondent's school disciplinary records. Among the defense's exhibits are the minor-Respondent's Palmetto Health Baptist Records.

LM#1

The Court has reviewed all of these exhibits, and considered the testimony of all of the witnesses. The Court has given particular attention to the waiver evaluation. The Court has also reviewed pertinent case law including the case *Kent v. United States*, 383 US 541 (1966). The Court has reviewed the Transfer of Jurisdiction Statute, § 63-19-1210 of the South Carolina Code of Laws. The Court has given particular attention to the testimony and exhibits as they pertain to the eight (8) determinative factors for transfer that are set out in *Kent v. United States*.

The evidence reveals that this juvenile, Larry Prophet, was fifteen (15) years of age at the time of the commission of the alleged offenses. The charges against this juvenile, which are currently before me, and relevant to this waiver hearing, include Burglary in the First Degree, Kidnapping, Criminal Sexual Conduct in the First Degree, and Armed Robbery. It is alleged that these offenses occurred on December 14, 2010.

This juvenile has been given various psychological tests. The results of the tests were made an exhibit. The Court is aware of the juvenile's fluctuating IQ test results. The record reflects that he has had numerous behavioral problems at school and at other places, including the detention center.

The evidence shows that the minor-Respondent has a lengthy prior history and involvement in the juvenile justice system. The minor-Respondent was on probation when these offenses occurred.

The crimes alleged here are extremely aggravated and violent. Mr. Prophet, along with another juvenile who was slightly younger, entered into the home of an elderly woman, just a week shy of her 80th birthday, in the nighttime while armed with a shotgun. The woman was at home watching television in her family room when she heard a noise coming from her sunroom. At this point the victim saw "two men" walk into the family room. (See State's Exhibit 4, p. 1).

RN # 2

The defendant, along with the other juvenile, demanded money from the woman. The two juveniles then forced the woman to disrobe in her bathroom. When only her underwear remained, the juveniles threatened her with a shotgun, forcing her to remove her underwear as well. Completely disrobed, she was then raped by each of them. She was raped in both the vagina and the anus. When the juveniles left, they took money, a cellular telephone, a television, and several other items. The minor-Respondent has offered very little explanation as to why this was done other than two juveniles wanting "a couple dollars." (See State's Exhibit 3, p. 3).

When the two juveniles were taken to the Sheriff's Department, Investigator Mauldin testified that both juveniles, including Larry Prophet, were insensitive, high fiving each other laughing and joking about what they have done. This behavior made it difficult for him to remain in the room with the juveniles.

With regards to the eight (8) factors in *Kent v. United States*, the Court finds as follows:

1. The seriousness of the alleged offense to the community and whether the protection of the community requires a waiver.

The Court finds that this juvenile is charged with Kidnapping, Armed Robbery, Criminal Sexual Conduct in the First Degree, and Burglary in the First Degree.

These are serious charges, and the protection of the community would be enhanced by transferring jurisdiction of this juvenile to the Court of General Sessions.

2. Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.

The Court finds that this offense was committed in an aggressive, violent, and premeditated manner. The juvenile, along with another teenager, entered without

LMA#3

consent into the dwelling of an elderly woman who lived alone. The juveniles were armed with a shotgun upon which they had taped a flashlight. They required the woman to remove her clothes and each of the juveniles raped the woman. The woman was injured and had to go to the hospital for treatment. Additionally, the juveniles took some of the woman's property.

3. Whether the alleged offense was against persons or against property, greater weight being given to offense against persons, especially if injury resulted.

The Court finds that these offenses were committed against an elderly woman just a week before her 80th birthday, and the offenses resulted in rape and injury to the woman's body and show a complete disregard for the safety of a fellow citizen and lack of respect for life. The victim even asked the juveniles during the crime "would you do this to your grandmother?" and "would you rape your grandmother?" (See State's Exhibit 4, pp. 2, 3).

4. The merit of prosecuting the complaint, i.e., whether there is evidence upon which a grand jury may be expected to return an indictment.

The Court finds that there is an abundance of testimonial and forensic evidence upon which a grand jury may be expected to return an indictment against this juvenile.

5. The desirability of trial and disposition of the entire offense in one court when the child's co-defendants are adults.

The Court finds that this juvenile has one co-defendant, a juvenile. Mr. Prophet's co-defendant has already been waived from Family Court to the Court of General Sessions. It would be desirable to dispose of these charges in one court, the Court

DM# 4

of General Sessions. The Court is, of course, aware of the larceny charges that are still pending which are not subject to transfer. The Court further finds that the existence of additional larceny charges in Family Court should not prevent the transfer of these most serious charges before the Court.

6. The sophistication and maturity of the child as determined by consideration of his home, environmental situation, emotional attitude, and living pattern.

The Court finds that the juvenile's mother was his primary custodian. He has lived with his mother and some siblings for most of his life. It appears that his father has spent time in prison, and the minor-Respondent's contact with him is limited. The minor-Respondent's relationship with his mother appears to be confrontational at times, although his mother loves and supports him. It appears this juvenile has been diagnosed with various behavioral and emotional disorders. The juvenile has admitted regular abuse of marijuana and alcohol. There is a history of behavioral issues, suspensions, and other disturbances at school and other places.

7. The child's prior record and involvement in the juvenile justice system.

The Court finds that on February 25, 2009, Larry Prophet was adjudicated delinquent for one (1) count of Disturbing Schools and one (1) count of Simple Assault. He received a six (6) month probationary sentence. Larry Prophet successfully completed his probation on July 8, 2009. On June 19, 2009, Larry Prophet was charged with Malicious Injury to Personal Property (<\$1,000) and Simple Assault and Battery and released to his mother's custody. On October 2, 2009, Larry Prophet was charged with Simple Assault and Disturbing Schools and was released to his mother's custody. On February 24, 2010, Larry Prophet was charged with Disturbing

JM#5

Schools and released to the custody of his mother. On June 16, 2010, Larry Prophet was adjudicated delinquent for two (2) counts of Disturbing Schools, two (2) counts of Simple Assault and Battery, and one (1) count of Malicious Injury to Personal Property. One (1) count of Disturbing Schools was nolle prosequi. One (1) count of Malicious Injury to Personal Property and one (1) count of Simple Assault and Battery were continued for trial. On the same date, a community evaluation was ordered. On June 30, 2010, while undergoing his community evaluation, Larry Prophet was charged with Petit Larceny. On August 11, 2010, a hearing for violation of his community evaluation was held and Larry Prophet was ordered to undergo a secure evaluation at the Midlands Evaluation Center. On September 15, 2010, a dispositional hearing was held and Larry Prophet was ordered to complete eighteen (18) months of probation. On December 14, 2010, Larry Prophet was charged with these current offenses. The Court finds that the minor Respondent has had extensive involvement with the juvenile justice system and that he has received extensive interventions by the Department of Juvenile Justice which have been to no avail. This juvenile was actually afforded counseling on the day these alleged offenses were committed.

8. The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child by use of procedures, services, and facilities currently available to the Family Court.

The Court finds that although Larry Prophet has reasonably cooperated with the police and his waiver evaluation, there are numerous negative factors which suggest that successful treatment outcomes for the minor-Respondent's issues are

DWAH 6

poor. Some of these negative factors would be that the alleged offenses are serious and violent with the alleged surrounding acts demonstrating a propensity for criminal behavior. Moreover, Larry Prophet has a history of behavioral problems at school, while confined, and elsewhere. Furthermore, though Larry Prophet understands that there are consequences to his actions, he apparently does not consider these consequences prior to doing bad things. In addition, Larry Prophet admits to regular abuse of marijuana and alcohol. Consequently, Larry Prophet's prior involvement in rehabilitative efforts have demonstrated little progress resulting in this Court having little reason to believe that rehabilitation through the juvenile justice system is likely or even possible.

Based on the evidence in this case, the Court finds that the State has shown probable cause that Larry Prophet has committed all of the offenses that are before the Court: Burglary in the First Degree, Criminal Sexual Conduct in the First Degree, Armed Robbery, and Kidnapping. The Court further finds that the State has produced evidence relevant to the factors enumerated in *Kent v. United States*. The facts of this case require that the case be transferred to the Court of General Sessions.

#### CONCLUSIONS OF LAW

1. The Court has jurisdiction over this matter pursuant to the South Carolina Code of Laws, § 63-19-2010.
2. Based on the reasons stated above I find that it is in the best interest of Larry Prophet and the community to transfer jurisdiction to the Court of General Sessions.

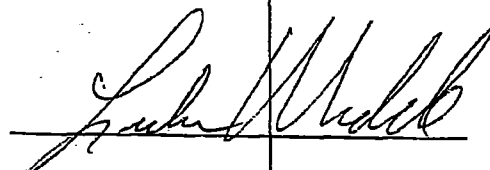
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3. Larry Prophet should be waived to the Court of General Sessions for proceedings on the charges alleged in Petition Number 2010JU401524, 2010JU401525, 2010JU401527, and 2010JU401528.

IT IS THEREFORE ORDERED THAT jurisdiction of this matter shall be transferred to the Court of General Sessions.

IT IS FURTHER ORDERED THAT bail be denied at this time and that bail may be considered by the Circuit Court when the General Sessions Indictments are presented to the Defendant or upon motion of Mr. Prophet's counsel.

AND IT IS SO ORDERED.



LESLIE K. RIDDLE  
FAMILY COURT JUDGE

Columbia, South Carolina

May 18<sup>th</sup>, 2012

1 STATE OF SOUTH CAROLINA  
2 COUNTY OF RICHLAND

} IN THE COURT OF GENERAL SESSIONS

3 The State,

4 -vs-

5 Larry Prophet,

6 Defendant.

} TRANSCRIPT OF RECORD  
2012-GS-40-3065;3067-3069

} March 18, 2013  
Columbia, South Carolina

8  
9 B E F O R E :

10 HONORABLE G. THOMAS COOPER, JR., JUDGE

11  
12  
13 A P P E A R A N C E S :

14 JOANNA ASHLYN MCDUFFIE, ESQUIRE  
15 KATHRYN LUCK CAMPBELL, ESQUIRE  
Attorneys for the State

16  
17 MELISSA ARMSTRONG, ESQUIRE  
Attorney for the Defendant

18  
19  
20  
21 Linda D. Moffitt  
22 Circuit Court Reporter  
23  
24  
25

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EXHIBITS

| <u>NO.</u> | <u>DESCRIPTION</u> | <u>ID.</u> | <u>EV.</u> |
|------------|--------------------|------------|------------|
| C-1        | Book               |            | 4          |

1 (Whereupon, the defendant was duly sworn.)

2 (Book marked Court's Exhibit No. 1.)

3 THE COURT: All right. Solicitor.

4 MS. MCDUFFIE: Thank you, Your Honor. May it please  
5 the Court.

6 Standing before you is Larry Prophet with his  
7 attorney, Melissa Armstrong, of the private bar.

8 Your Honor, Mr. Prophet was scheduled for trial this  
9 week. His lawyer has indicated that he desires to plead  
10 guilty as charged. He is pleading guilty to one count of  
11 burglary in the first degree, one count of C.S.C. first,  
12 one count of kidnapping, one count of armed robbery.

13 Your Honor, this defendant was 15 at the time these  
14 crimes were committed. The state did move to waive him up.  
15 A waiver hearing was held in front of Judge Leslie Riddle  
16 and waiver was -- the state's petition or motion for waiver  
17 was granted, and he was ordered waived to general sessions  
18 court.

19 Your Honor, standing with me is Investigator Josh  
20 Mauldin of the Richland County Sheriff's Department,  
21 Sergeant -- I'm sorry -- formerly of the sheriff's  
22 department and now with the South Carolina Criminal Justice  
23 Academy -- Sergeant Kevin Eisenhower of the Richland County  
24 Sheriff Department and Investigator Joe Forest of the  
25 Richland County Sheriff's Department, all of whom would

1 like to address Your Honor in this matter.

2 Also, present in the courtroom is SANE Nurse Temple  
3 Hart and the victim, Ms. Elaine Hendrick. Your Honor, both  
4 would also like to address the Court at the appropriate  
5 time.

6 Your Honor, if I may approach and hand up what we've  
7 marked as State's Exhibit 1 -- I'm sorry -- Court's Exhibit  
8 1, which is a statement of the victim, Ms. Elaine Hendrick,  
9 the SANE nurse, and the same reported testimony of the SANE  
10 nurse; Zacoata Lopey, his codefendant's statements; this  
11 defendant's statements; his juvenile record; and the order  
12 from Judge Riddle waiving him up from family court.

13 THE COURT: You've seen it, Ms. Armstrong?

14 MS. ARMSTRONG: Yes, Your Honor. I'm familiar with  
15 it.

16 THE COURT: Ms. Armstrong, are you with Ms. Davis?  
17 Represent the defendant?

18 MS. ARMSTRONG: Yes, Your Honor.

19 THE COURT: You advised your client of the charges  
20 contained in these indictments and the right to a trial by  
21 a jury?

22 MS. ARMSTRONG: Yes, sir, Your Honor, I have.

23 THE COURT: How does your client indicate he wishes to  
24 plead?

25 MS. ARMSTRONG: Your Honor, he wishes to plead guilty

1 to these offenses.

2 THE COURT: All right. Mr. Prophet, you're charged in  
3 four different indictments here, first being burglary in  
4 the first degree. That charge carries a potential penalty  
5 of from 15 years to life in jail. Do you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: You're charged in a second indictment with  
8 criminal sexual conduct in the first degree, a charge which  
9 carries a penalty of up to 30 years in jail. Do you  
10 understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: You're charged with armed robbery, a  
13 charge that carries a penalty from ten to 30 years in jail.  
14 Do you understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And you're charged with kidnapping, a  
17 charge that carries a penalty of up to 30 years in jail. Do  
18 you understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Understanding the charges you face and the  
21 punishment you could receive, how do you wish to plead,  
22 guilty or not guilty?

23 THE DEFENDANT: Guilty.

24 THE COURT: Guilty to all charges?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Do you understand by pleading guilty  
2 you're giving up your right to remain silent?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you understand by pleading guilty  
5 you're giving up your right to a trial by a jury?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: If you requested or demanded a trial by a  
8 jury the state would give you a trial. Do you understand  
9 that?

10 THE DEFENDANT: No, sir.

11 THE COURT: You don't understand that you can have a  
12 trial if you want one?

13 THE DEFENDANT: Oh, yes, sir.

14 THE COURT: You do understand that.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: At that trial you'd have the right to  
17 confront and cross-examine all witnesses against you.

18 You'd have a right to present any witnesses and/or  
19 evidence in your own defense.

20 And you'd have a right to testify in your own defense  
21 if you wished to do so. No one could make you testify at  
22 your own trial.

23 If you decide to go to trial and not testify the judge  
24 will tell the jury they could not hold your failure to  
25 testify against you. In fact, the jury could not even

1 consider your failure to testify in their deliberations on  
2 your guilt or innocence.

3 You'd be presumed innocent throughout your trial. The  
4 state would have to prove you guilty beyond a reasonable  
5 doubt to a jury of 12 people. All 12 people would have to  
6 unanimously agree that you were guilty in order for you to  
7 be convicted.

8 Even if you were convicted you'd still have the right  
9 to appeal that conviction.

10 Do you understand your rights with regard to a trial  
11 by a jury?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Understanding those rights, do you still  
14 want to plead guilty?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Has anyone promised you anything or held  
17 out any hope of reward, threatened you in any manner to  
18 make you plead guilty?

19 THE DEFENDANT: No, sir.

20 THE COURT: Are you satisfied with the manner in which  
21 your attorney has advised and represented you in this case?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Have you and your attorney fully discussed  
24 these charges against you?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Has she shown you all of your what's  
2 called Rule 5 evidence, all of your Rule 5 motions and all  
3 the documents that the state has available to present at a  
4 trial to prove that you're guilty?

5 THE DEFENDANT: I think.

6 THE COURT: Do you think she went over everything that  
7 you know of?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Has she not done anything you asked her to  
10 do?

11 THE DEFENDANT: No, sir.

12 THE COURT: She's done everything you asked her to do.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. Are you under the influence of  
15 any alcoholic beverages, drugs or prescription medications  
16 at this time?

17 THE DEFENDANT: No, sir.

18 THE COURT: Are you taking any medicine today?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Sir?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: You have? And what are you taking?

23 THE DEFENDANT: I forgot the name of it. It's new.

24 THE COURT: I couldn't quite hear you.

25 THE DEFENDANT: It's a new medicine I take.

1 THE COURT: Okay. What it's it for?

2 THE DEFENDANT: Stress.

3 THE COURT: Huh?

4 THE DEFENDANT: Stress.

5 THE COURT: Stress?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Oall right. Now, does that medication in  
8 any way cloud your judgment or make you feel like you don't  
9 understand what you're doing here today?

10 THE DEFENDANT: No, sir.

11 THE COURT: You clearly understand what you're doing  
12 here today?

13 THE DEFENDANT: No, sir.

14 THE COURT: You don't understand what you're doing  
15 here today?

16 THE DEFENDANT: No, sir.

17 THE COURT: All right. What do you not understand?

18 THE DEFENDANT: I don't know.

19 THE COURT: Well, does the medication affect you?

20 THE DEFENDANT: A little bit.

21 THE COURT: All right. How does it make you feel?

22 THE DEFENDANT: Lightheaded.

23 THE COURT: Huh?

24 THE DEFENDANT: Woozy.

25 THE COURT: Lightheaded and woozy. How much have you

1 taken -- how much have you taken?

2 THE DEFENDANT: Take one at night and one in the  
3 morning.

4 THE COURT: You take it by prescription?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Your doctor give it to you?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you realize what you're doing here  
9 today?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: You do?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. You're entering this plea  
14 freely and voluntarily.

15 THE DEFENDANT: What that mean?

16 THE COURT: Is this your -- you're doing this on your  
17 own free will and accord?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: This is your -- this is your day.

20 THE DEFENDANT: Yes, sir.

21 THE COURT: You're entering this plea voluntarily.

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. And the medication is not  
24 interfering with you making that decision. Does it?

25 THE DEFENDANT: No, sir.

1 THE COURT: Okay. Has your lawyer explained what's  
2 taking place to you today?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And what was going to take place today  
5 before you came in here?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: How long have you been in jail?

8 THE DEFENDANT: Two years.

9 THE COURT: Two years. At Alvin S. Glenn.

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Have you been taking medication all of  
12 that time?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: So you've been taking it for a long time.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. At some point in time you  
17 realize that the state said we've got to have -- we're  
18 going to have a trial.

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And then you and your lawyer talked about  
21 that, didn't you?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And you and she decided that you should  
24 plead guilty, is that correct?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And that's your -- that's your decision,  
2 isn't it?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: It's not her decision. It's your  
5 decision, right?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Okay. All right.

8 MS. ARMSTRONG: Your Honor, if I may clarify the  
9 record --

10 THE COURT: Sure.

11 MS. ARMSTRONG: -- I believe Mr. Prophet may have  
12 misunderstood some of the questions, but he has been  
13 medicated by a physician since he entered the department.

14 THE COURT: Since he --

15 MS. ARMSTRONG: Yes, sir. And they recently changed  
16 his medication. But he has been medicated throughout this  
17 stay. And I think -- I just wanted to make it clear he is  
18 on a new medication, but it is for a condition that has  
19 been existent according to the psychiatrist.

20 THE COURT: He says for stress.

21 MS. ARMSTRONG: Yes, sir, and various other diagnoses.  
22 I don't think --

23 THE COURT: Well, I understand. I just need to be  
24 clear and the record needs to be clear that it's a free and  
25 voluntary plea.

1 MS. ARMSTRONG: I have no doubt about that, Your  
2 Honor, yes.

3 THE COURT: And I assumed you went over with him a  
4 plea colloquy.

5 MS. ARMSTRONG: Yes.

6 THE COURT: That he would be asked those questions  
7 today.

8 MS. ARMSTRONG: That's correct, Your Honor. Yesterday  
9 I met with Mr. Prophet and we went over in detail.

10 THE COURT: Is that correct, Mr. Prophet?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And you tell me you're satisfied with the  
13 services of your lawyer.

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. Now, Mr. Prophet, what's going  
16 to happen now, I'm going to ask the state to tell me how we  
17 ended up here and how you got here.

18 You may want to sit down and listen to this because  
19 it's going to -- it's going to take a little while to do  
20 that. You can sit with your lawyer. And when that -- when  
21 that's over I'm going to ask you if those are the things  
22 that took place in this case. Do you understand?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: So listen carefully to what they have to  
25 say.

1 THE DEFENDANT: Yes, sir.

2 MS. ARMSTRONG: Thank you, Your Honor.

3 THE COURT: All right.

4 MS. MCDUFFIE: Your Honor, Investigator Mauldin will  
5 give you a factual basis for this plea.

6 JOSH MAULDIN: Your Honor, on December the 14th of  
7 2010 I received a call. I was the on-call investigator. I  
8 was working in our robbery and homicide unit at the time.  
9 I received a call in reference to a sexual assault that had  
10 apparently taken place at [REDACTED] in the  
11 Trenholm Acres subdivision of Richland County.

12 THE COURT: Is that Trenholm?

13 JOSH MAULDIN: Trenholm Acres.

14 I responded to a house where I made contact with the  
15 deputies, the crime scene investigators, who were present  
16 on scene. And they apprized me that earlier that evening  
17 an elderly female had been sitting at home when two  
18 individuals broke into the home and took various items from  
19 the home while holding her at gunpoint and then summarily  
20 sexually assaulted her.

21 THE COURT: Both of them?

22 JOSH MAULDIN: Yes.

23 I observed the house at [REDACTED] to be in a  
24 state of disarray -- cabinets been opened, drawers had been  
25 pulled out and contents strewn about the floor.

1 Electronics had clearly been moved around.

2 They also showed me some staining on the carpet and on  
3 a -- a comforter or bedspread that was alleged to be semen.

4 I then drove to Palmetto Richland Emergency Room where  
5 I made contact with Ms. Elaine Hendrick who is -- I believe  
6 was 79 years of age at the time. Ms. Hendrick was sitting  
7 in an examination room in a gown. She was clutching a wad  
8 of bloody toilet paper which apparently she was using to  
9 stem the flow of blood.

10 And she proceeded to give me a statement regarding  
11 what had happened that evening. And what Ms. Hendrick  
12 relayed to me is that she was sitting at home watching  
13 "Minute to Win It." She knew exactly what time it was  
14 because the show was coming to a conclusion.

15 She heard a noise from her sunroom at which time  
16 shortly thereafter two men entered her home from that  
17 direction, one of them armed with a shotgun.

18 The two men would then ask her about the location of  
19 her valuables. They began to -- to ransack the home  
20 opening drawers, pulling things out, disconnecting  
21 electronics.

22 At some point they would take her to the back room or  
23 to a back bathroom and ask her to disrobe. Ms. Hendrick  
24 said at the time she believed that she was going to be  
25 asked to get naked so that she couldn't flee or couldn't

1 call law enforcement. But that wasn't the case.

2 what happened next, I remember Ms. Hendrick, you know,  
3 began very strong -- a very good victim. She was -- she  
4 was able to relay the facts of what happened to me. But at  
5 this point when she starts relaying what happened next I  
6 remember her sobbing and breaking down at this point.

7 She says the two men took her to a bedroom where they  
8 laid her on the bed at the point of a shotgun at which time  
9 she was then sexually assaulted by an individual she  
10 described as the bigger one who would later be identified  
11 as Mr. Larry Prophet. He would sexually assault her  
12 vaginally while Mr. Prophet's codefendant, Coata Lopey,  
13 held the shotgun.

14 At the conclusion of that event he would then --  
15 Mr. Lopey would then pass the shotgun to Mr. Prophet who  
16 would also hold her at gunpoint while Mr. Lopey sexually  
17 assaulted both vaginally and anally.

18 The two men would then leave her on her bed and take  
19 items from the house to include a television, jewelry and  
20 cash.

21 I remember speaking to Ms. Temple Hart, the forensic  
22 nurse examiner who examined Ms. Hendrick, who would relay  
23 to me the state of Ms. Hendrick's injuries that -- the  
24 injuries to her -- her vaginal area were substantial and  
25 would have required surgery had she been a premenopausal

1 woman, had the blood flow not been less than it may have  
2 been.

3 At that time after speaking to Ms. Hendrick and trying  
4 my best to assure her family that the sheriff's department  
5 would do everything they could to bring this case to a  
6 conclusion and to arrest the parties responsible I went  
7 home late in the evening and got a few hours of sleep and  
8 came back in first thing in the morning where I discovered  
9 that the entire investigative division at the Richland  
10 County Sheriff's Department almost to a man was out  
11 canvassing the neighborhood trying to make a case.

12 In all of my years I have never seen the sheriff's  
13 department rally around a case the way they did this one in  
14 any instance, even our -- the worst and sorriest of  
15 investigators were out trying to do everything they could  
16 to see it through for Ms. Hendrick.

17 During the course of that canvass information would  
18 come to light that an individual named Zacoata Lopey may  
19 have been one of the persons responsible for the assault on  
20 Ms. Hendrick.

21 Investigator Forest who also stands before you today,  
22 Investigator John Miller who is no longer with the Richland  
23 County Sheriff's Department would go to Spring Valley High  
24 School where they enlisted the help of Deputy Ben Fields,  
25 school resource officer, to locate Mr. Lopey and speak to

1 him. Mr. Lopey would readily inform them that he was  
2 indeed responsible for the sexual assault and robbery of  
3 Ms. Hendrick.

4 He would also name a codefendant, Larry Prophet, as  
5 the person who was with him at this time or at that time.

6 Sergeant Eisenhower and I upon receiving that  
7 information would do our best to locate Mr. Prophet at the  
8 school where he allegedly attended at the time at the -- at  
9 his residence. We had received information that he -- he  
10 frequently rides around Trenholm Acres on a -- on a moped.

11 During the course of our search for him we passed two  
12 individuals on a moped and elected to stop them, which we  
13 did believing that they were Mr. Prophet, and we discovered  
14 that indeed the driver of that moped was Mr. Prophet and  
15 that another individual who was on the back of the moped --  
16 Andra Fisher.

17 Both of those gentlemen were taken to Richland County  
18 headquarters where we talked to Mr. Prophet at length.  
19 Mr. Prophet would deny that he had any involvement. That  
20 denial would later become an admission that he had  
21 burglarized the home and had robbed Ms. Hendrick but that  
22 no sexual assault had occurred.

23 And at this time I think it's pertinent that shortly  
24 thereafter we received D.N.A. information that semen found  
25 in the home of Ms. Elaine Prophet did, in fact, match that

1 of Mr. Prophet -- Ms. Hendrick rather.

2 while we were speaking to Mr. Prophet, again, he  
3 continues to deny any involvement in the sexual assault of  
4 Ms. Hendrick. But based on the evidence at hand and  
5 Mr. Lopey's statements as well he was charged with  
6 kidnapping, robbery, C.S.C. in the first degree, burglary  
7 first degree.

8 I then take a statement from a cousin, I believe  
9 Mr. Prophet's cousin, a young lady named Dequisha Martin  
10 who would tell me about that night and how she walked into  
11 Mr. Prophet's room and he and Mr. Fisher and Mr. Lopey were  
12 all in the room.

13 And she saw a television. She remembered the  
14 television distinctly because it was a Samsung. And the  
15 reason that struck her is that she believed that they had  
16 stolen her T.V. because she has the exact same T.V. And it  
17 would come to light that Ms. Hendrick's T.V. was a Samsung  
18 television the same size that Ms. Dequisha Martin had  
19 described.

20 Ms. Martin stated that she -- she asked the young men  
21 how they came to acquire a T.V. like that and that they  
22 told her that it an early Christmas present.

23 I distinctly remember finishing up the paperwork on  
24 Mr. Lopey and Mr. Prophet when Sergeant Eisenhower here who  
25 had taken Mr. Prophet and Mr. Lopey back to have major case

1 prints done stepped out of the room after about five to ten  
2 minutes and asked me to relieve him because he could not  
3 take it, he could not bear it any longer.

4 I stepped back into the front room with them and I  
5 realized what he was talking about. Mr. Lopey and  
6 Mr. Prophet not only showed zero remorse for what happened.  
7 They were laughing, rapping, high-fiving each other and  
8 joking about what they had been charged with and how long  
9 they were going to go to prison.

10 This truly is -- and I have worked, as I said in our  
11 previous plea. None of us here are strangers to violence  
12 at all. I have worked murders, robberies, countless  
13 criminal sexual conduct cases, murders up to and including  
14 the deaths of toddlers, small children. And I can honestly  
15 say that this is the most horrific incident I have ever  
16 investigated, ever.

17 And what struck me the most and bothered me the most  
18 was the utter lack of remorse. Even, you know, some people  
19 are sorry for what they've done. Some are sorry that  
20 they've been caught. These young men weren't sorry at all  
21 for anything at all.

22 I'm not angry about this case. I mean, this is what I  
23 do for a living. This is our bread and butter. What I do  
24 want to say is that I have grave, grave concerns about  
25 these young -- these two young men and what will happen

1 once they are released.

2 THE COURT: Are what?

3 JOSH MAULDIN: Once -- once they are released I have  
4 grave concerns about the safety of the community at large.  
5 I have nothing further.

6 MS. MCDUFFIE: Your Honor, just to clarify the facts,  
7 this did occur in Richland County.

8 Semen at the home was matched to this defendant, Larry  
9 Prophet. Semen on the tissue that Ms. Hendrick had between  
10 her legs and on the swabs from the criminal sexual conduct  
11 kit was matched to Zacoata Lopey. So both of their semen  
12 was found through D.N.A. analysis.

13 Your Honor, those are the facts of this case. And at  
14 the appropriate time the remaining officers, the victim and  
15 the SANE nurse would like to address the Court.

16 THE COURT: Hold that a minute. Ms. Armstrong.

17 MS. CAMPBELL: Thank you, Your Honor. May it please  
18 the Court.

19 THE COURT: No. Just have your client stand.

20 MS. ARMSTRONG: Yes, Your Honor.

21 THE COURT: Mr. Prophet, you heard the officer tell me  
22 what happened on December 14th of 2010.

23 As I told you earlier, there are four -- four  
24 different charges. And the officers described those to me.  
25 Are those facts true and correct?

1 THE DEFENDANT: No, sir.  
2 THE COURT: All right. What's not true and correct?  
3 THE DEFENDANT: The rape.  
4 THE COURT: Did you break into the house?  
5 THE DEFENDANT: No, sir.  
6 THE COURT: Did you rob this lady?  
7 THE DEFENDANT: Yes, sir.  
8 THE COURT: You did rob her.  
9 THE DEFENDANT: Yes, sir.  
10 THE COURT: Did you participate in the criminal sexual  
11 conduct or rape of this lady?  
12 THE DEFENDANT: Yes, sir.  
13 THE COURT: You did. Was -- were you or one of  
14 your -- or the other gentleman -- I don't know his name --  
15 one of you armed, you had a shotgun?  
16 THE DEFENDANT: No, sir.  
17 THE COURT: Nobody did?  
18 THE DEFENDANT: Yes, sir. No gun.  
19 THE COURT: Huh?  
20 THE DEFENDANT: It was no gun.  
21 THE COURT: What was it?  
22 THE DEFENDANT: It was just a pole.  
23 THE COURT: A pole?  
24 THE DEFENDANT: Yes, sir.  
25 THE COURT: Did it look like a gun?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Okay. And you -- this lady never did  
3 leave, did she? She couldn't leave. You didn't let her  
4 leave, did you?

5 THE DEFENDANT: No, sir.

6 THE COURT: All right. I find the decision of the  
7 defendant, Larry Prophet, to plead guilty to be freely,  
8 voluntarily and intelligently made. He has had the  
9 representation of competent counsel in the person of Ms.  
10 Davis and Ms. Armstrong with whom he says he is satisfied.

11 I find a factual basis for his plea and therefore I'll  
12 accept his plea.

13 Mr. Prophet, if you disagree with the sentence I give  
14 you, the proceeding we just completed, you have ten days  
15 from today's date within which to file notice of intent to  
16 the appeal. Do you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: You do?

19 THE DEFENDANT: No, sir.

20 THE COURT: Ms. Armstrong, tell him that.

21 MS. MCDUFFIE: Your Honor, if I could just clarify one  
22 thing, Ms. Davis represented the codefendant, Zacoata  
23 Lopey. Ms. Armstrong represents --

24 THE COURT: Oh, I thought that she said they both  
25 represented this defendant. That's a scrivener's error.

1           MS. Davis does not represent this individual.

2           MS. ARMSTRONG: No, Your Honor. Thank you,  
3           Ms. McDuffie.

4           THE COURT: I saw both of you sitting at the counsel  
5           table and just assumed that.

6           MS. ARMSTRONG: Yes, sir.

7           THE COURT: All right. Does he understand about his  
8           rights?

9           MS. ARMSTRONG: Yes, Your Honor. Yes, Your Honor, he  
10          understands that he has ten days to file a notice of appeal  
11          and it can be done through me if he makes a request for an  
12          appeal.

13          THE COURT: Ms. Armstrong --

14          MS. ARMSTRONG: Yes, Your Honor.

15          THE COURT: -- after reviewing the facts of this case,  
16          the investigation by the Richland County Sheriff's  
17          Department, the statements apparently given by the victim  
18          and your client, Mr. Prophet, do you believe that this plea  
19          is in his best interest at this time?

20          MS. ARMSTRONG: I do, Your Honor.

21          THE COURT: And have you fully reviewed all of the  
22          facts in this case?

23          MS. ARMSTRONG: Numerous times, Your Honor.

24          THE COURT: I understand. Has the state failed to  
25          produce for you anything that should be a part of this

1 file?

2 MS. ARMSTRONG: To my knowledge, no. I believe they  
3 have been forthcoming and made full disclosure.

4 THE COURT: All right. I find the decision of the  
5 defendant, Larry Prophet, to be plead guilty to be freely  
6 and voluntarily and intelligently made. He's had the  
7 representation of a competent attorney in the person of  
8 Ms. Armstrong with whom he says he is satisfied. I find a  
9 factual basis for his plea, and therefore I'll accept his  
10 plea.

11 Mr. Prophet, if you disagree with the sentence I give  
12 you or the procedure we just completed you have ten days  
13 from today's date within which to file that notice of  
14 appeal. You told me that you understand that.

15 All right. You may proceed.

16 MS. MCDUFFIE: Thank you, Your Honor. Investigator  
17 Joe Forest would like to address the Court at this time.

18 JOE FOREST: Thank you, Your Honor.

19 I wanted to mirror what Investigator Mauldin said in  
20 the fact that when this thing occurred the night -- the  
21 night of the incident he was the one that had the case and  
22 took the case as far as he could go, you know, as far as  
23 human -- his physical ability could go. He needed to get  
24 some rest.

25 That morning it was kind of an all-hands-on-deck thing

1 where Major Smith, the head of C.I.D., turned pretty much  
2 all of us loose to get out here and canvass the  
3 neighborhood and start checking leads and things.

4 At the time I was a burglary investigator and  
5 subsequently went to work robberies after the fact. But I  
6 was familiar with Larry Prophet fairly intimately because I  
7 had dealt with him before on some burglary issues some  
8 years before.

9 He was known in the area for riding a moped and  
10 generally being in the area, you know, and his name would  
11 pop up along with other men, young men, doing various  
12 things in the neighborhood.

13 My primary focus was his codefendant, Zacoata Lopey.  
14 And I was brought on board quickly and got his name due to  
15 the proximity of where Zacoata Lopey, his codefendant,  
16 lives in regard to the victim. We located Zacoata Lopey at  
17 Spring Valley High School.

18 Now, I say this for a reason. I was not fully aware,  
19 intimately aware, with all of the facts of this case at  
20 that time. I did not know the severity of the sexual  
21 assault.

22 I knew there had been a burglary of a woman's home, an  
23 elderly woman's home, and that property had been taken from  
24 her home. But I was hearing -- this was a fluid  
25 situation -- that she had also been sexually assaulted in

1 some way. But I was not aware of it.

2 So when I got the information from his codefendant,  
3 Zacoata Lopey, I was getting it really for the first time  
4 myself. I was getting it fresh, and I had no reason to  
5 even bring his name up. I did not know he was involved --  
6 Mr. Prophet.

7 In speaking with Zacoata Lopey he made it very clear  
8 in his statement that these people came into this woman's  
9 house armed with a shotgun while she's watching television  
10 in her home, the home that she had lived in her entire  
11 adult life. And each person took turns holding a shotgun  
12 on her forcing her to undress and then raped her both  
13 vaginally and anally.

14 THE COURT: Was the shotgun ever recovered?

15 JOE FOREST: No, sir. But Zacoata Lopey mentioned  
16 shotgun.

17 THE COURT: Okay.

18 JOE FOREST: Said shotgun. And the point of that is,  
19 is when you take his statement without me knowing the  
20 intimate details of what Larry Prophet may have done and  
21 you lay it across what the victim said, they match  
22 completely.

23 THE COURT: Does she say shotgun?

24 JOE FOREST: She said shotgun. She even questioned  
25 even the serviceability of the shotgun. You know, she knew

1 it was a shotgun. This is an elderly woman who's lived a  
2 long life and has seen a lot of things in her life.

3 The point is this is a woman who's in her home, in her  
4 castle, in the sanctity and safety of her home and two  
5 people kick in a back door, hold a shotgun on her and take  
6 turns sexually assaulting her and then rob her of personal  
7 property.

8 I'll finally finish this, Your Honor, is when I later  
9 looked at Larry Prophet I was present when they were doing  
10 rapinerts with each other, when they were high-fiving each  
11 other, as they were smiling about what was going on.

12 There was no remorse in any way, shape or form. In  
13 fact, it was defiance. And as he walked past me that  
14 evening with his mother behind him he was sneering at me as  
15 he walked by and said, "What are you looking at?" And that  
16 was the last time I saw Larry Prophet until today. Thank  
17 you.

18 THE COURT: Thank you.

19 MS. MCDUFFIE: Your Honor, Sergeant Kevin Eisenhower  
20 would like to address the Court.

21 THE COURT: Mr. Eisenhower.

22 KEVIN EISENHOWER: Your Honor, I'll be brief. And  
23 I've worked with the sheriff's department for 15 years.  
24 Thirteen of that has been as a major crime detective.

25 I've seen a lot of bad things just like these

1 officers. And this is obviously a brutal, brutal crime,  
2 brutal rape.

3 But I have never seen juvenile offenders just be so  
4 vicious and evil with no remorse or regret, just laughing  
5 and joking about -- I've never seen that before. It was --  
6 it angered and scared me to see people their age acting  
7 like that.

8 There is no doubt in my mind based on my experience in  
9 dealing with people who commit these offenses that if they  
10 are physically able to reoffend they will do it. There's  
11 no doubt in my mind.

12 And I -- you know, I wouldn't say that about every  
13 case or every person I've arrested. Every situation is  
14 different. But I could not feel more strongly about that  
15 fact than -- than any other case that I've ever worked.

16 THE COURT: All right.

17 MS. McDUFFIE: Your Honor, the victim, Ms. Elaine  
18 Hendrick, has prepared a statement. She's requested that  
19 our victim advocate, Ms. Wannawexler, read that to the  
20 Court.

21 THE COURT: Is that contained in the notebook?

22 MS. McDUFFIE: No, Your Honor. The statement that's  
23 in the notebook, Court's Exhibit 1, is the statement she  
24 provided to law enforcement about the incident. The  
25 statement that she prepared is a victim impact statement

1 for the Court.

2 THE COURT: Come on down so -- to that podium so the  
3 court reporter can hear what you have to say.

4 MS. WANNAWEXLER: "Your Honor, two years ago my life  
5 was changed forever in one terrifying night. I am an  
6 82-year-old widow and live alone. I was relaxing in my  
7 home where I have lived for almost 50 years when two men  
8 who I now know to be Zacoata Lopey and Larry Prophet came  
9 in my back door and pointed a rifle at me. They demanded  
10 my purse and money, and I gave them what I had. I had more  
11 than usual because I had just withdrawn cash to give my  
12 grandnieces for Christmas. But that wasn't enough for  
13 them. They began ransacking my home taking what they  
14 could. Some items were valuable but some were simply  
15 treasures from memories and irreplaceable. But that wasn't  
16 enough for them. They -- they then forced me to undress in  
17 front of them. They kept the rifle pointed at me at all  
18 times. I thought they would leave then since I would be  
19 unlikely to follow them naked. But that wasn't enough for  
20 them. Instead they covered my face and they forcefully and  
21 painfully raped me vaginally and in my anus. It is  
22 humiliating to say this out loud and even more difficult to  
23 think about it. But I think about it all of the time. I  
24 can't go back in time, so I have to move forward. But the  
25 rest of my life is scarred by that terrible night. At

1 first I wanted to move away. There wasn't a room in the  
2 house they hadn't defiled. And it was hard to be in my own  
3 home. It is still hard more than two years later. It  
4 distresses me that I was the one forced to think about  
5 disrupting my entire life. And at my age the cost and  
6 challenges of moving are overwhelming, so I've had a  
7 security system installed and have become more watchful.  
8 But that doesn't stop the nightmares or the feelings of  
9 hopelessness and sadness that come over me. I still have  
10 flashbacks about it two or three times a week and can't  
11 sleep. I lay awake reliving the whole thing over and over.  
12 I cry. I think why me. I'm a faithful Christian. I have  
13 been a good person, a law-abiding citizen and worked hard  
14 all my adult life until retirement. I hoped and believed I  
15 would live peacefully during what remains of my life. I  
16 think about how Zacoata Lopey living just a couple of  
17 houses from me must have watched me as I went about my  
18 daily life while he made his plans to steal from me. I  
19 have lived frugally. But to him I was a rich old Chinese  
20 lady who could be robbed for personal gain. That's what he  
21 told Larry Prophet as they plotted this terrible crime. I  
22 wish I had known before that night who they were and what  
23 they were capable of doing. Maybe I could have been more  
24 on my guard. I wonder those awful sleeplessness what I  
25 could have done differently when they broke into my home.

1 But I was so surprised and terrified I didn't know what to  
2 do, so many maybes and what-ifs. I pray to God every day  
3 to erase those horrible memories. Recently someone broke  
4 into my storage room and stole everything out of my  
5 freezer. A few years ago this would have been most  
6 upsetting and offensive. But because of this heinous  
7 crimes committed against me by those two men this latest  
8 theft made me feel even more vulnerable and unsafe in my  
9 own home. These men had no sympathy or compassion for me  
10 that night. I begged them to think about their own  
11 grandmothers going through what they were doing, but they  
12 did not stop. I cried out loud to God, but they did not  
13 stop. Words are not sufficient to convey what I endured  
14 and what I'm going through almost every day even now  
15 because of their coldhearted brutality and that of human  
16 decency. I believe they each deserve the maximum penalty  
17 allowed by law. I will suffer the rest of my life, and  
18 they should suffer the rest of theirs for what they did.  
19 They made a choice. I have no choices. They planned ahead  
20 to victimize me. I was not a person to them. They were  
21 clearly aware that what they were doing was wrong. They  
22 knew enough to cover their faces. They knew enough to rip  
23 the batteries out of my phone so that I couldn't call for  
24 help. I heard in the course that they celebrated when they  
25 were caught as if this were some sort of victory. If they

1 hadn't been caught I truly believe I would not have been  
2 the last victim of their fightings. I believe they would  
3 still be a danger to society if ever released from prison.  
4 There should be no possibility of these individuals  
5 committing this kind of horrific atrocity against anyone  
6 else ever. I would like to thank the Richland County  
7 Sheriff's Department for the professional and immediate  
8 action to find the criminals who did this and the  
9 solicitor's office for its pursuit of justice and sincere  
10 concern for victims. Statement of Elaine Hendrick." Thank  
11 you.

12 THE COURT: Thank you very much.

13 MS. MCDUFFIE: Your Honor, the treating nurse, Temple  
14 Hart, would just like to tell the Court about the injuries  
15 that Ms. Hendrick suffered.

16 THE COURT: All right.

17 TEMPLE HART: Your Honor, I would like to take just a  
18 few --

19 THE COURT: Ma'am, state your name.

20 TEMPLE HART: Temple Hart.

21 THE COURT: Thank you, Ms. Hart.

22 TEMPLE HART: Thank you. You are welcome.

23 I would like to take just a few moments to talk about  
24 how I became involved with Ms. Elaine Hendrick.

25 My name is Temple Hart. I've been a registered nurse

1 for over ten years. And on December 14th of 2010 I was the  
2 forensic nurse examiner on call for a sexual assault --

3 THE COURT REPORTER: I can't hear her.

4 THE COURT: Slow down, slow down. We're trying to  
5 take down what you have to say, but you're reading just a  
6 little bit too fast.

7 TEMPLE HART: Okay.

8 THE COURT: I know you may be a little bit nervous.

9 TEMPLE HART: I am.

10 THE COURT: But just read slowly, ma'am.

11 TEMPLE HART: Okay. I was the nurse on call when the  
12 call came in. The report I received was startling. I have  
13 performed over 200 sexual assault cases, and this was the  
14 first call I ever received for a 79-year-old woman.

15 Your Honor, Ms. Hendrick was one week away from her  
16 80th birthday. I distinctly remember arriving to the  
17 emergency room and seeing Ms. Hendrick laying on a  
18 stretcher.

19 Law enforcement officers were standing outside of her  
20 room, and inside was Investigator Mauldin and the E.R.  
21 nurse, along with Elaine's niece who was standing at her  
22 side holding her hand and trying to contain her tears.

23 Ms. Hendrick was wearing a green bathrobe and had a  
24 thick roll of toilet tissue between her legs because of her  
25 bleeding. She had put her robe on after being sexually

1 assaulted by two strangers prior to calling the police for  
2 help. She had visible bruising on her left hand and  
3 multiple bloodstains over her robe.

4 Ms. Hendrick recalled the details of her home invasion  
5 describing how her assailants ransacked her home and had  
6 carelessly strewn her possessions around the home.

7 Larry Prophet along with his buddy, Zacoata Lopey,  
8 just walked around intimidating Ms. Hendrick with their  
9 guns and yelling where's your money.

10 She tried to explain to them that she lived on a fixed  
11 income and didn't have any money, but they insisted on  
12 making her go to her bedroom to collect what little money  
13 she had available. She described each of them filling  
14 their pockets with her jewelry, prized possessions and  
15 anything else of value they could find.

16 Larry Prophet showed no mercy on his 79-year-old  
17 victim even though she cooperated with him from the very  
18 beginning. She was all alone up against these boys as they  
19 forced her throughout her own home threatening her and  
20 stealing her valuables.

21 They grabbed her by her frail fragile arm and pulled  
22 her from room to room until they finally forced her into  
23 the bathroom. It was in Ms. Hendrick's own bathroom that  
24 Larry Prophet and his partner forced her to get undressed.  
25 She begged to keep her underwear on, but they demanded that

1 she remove them. As evil and cruel as their actions were,  
2 it was unimaginable to her what they were about to do to  
3 her.

4 When I asked Ms. Hendrick to describe to me what  
5 happened to her she tearfully recalled her traumatic  
6 assault.

7 She talked about being made to lay down on her bed  
8 while her socks were used to cover her face. She laid  
9 there and begged her assailant, which we now know as Larry  
10 Prophet, not to rape her, crying out for help and praying,  
11 oh my God, oh my God. She pleaded with him saying could  
12 you do this to your grandmother. They continued.

13 Tears rolled down her face and she gracefully composed  
14 herself and continued with her assault history. She talked  
15 about how when Larry was finished raping her his partner  
16 then took advantage of her and raped her both vaginally and  
17 anally. Saying these humiliating private words out loud  
18 were as painful as her physical injuries.

19 Ms. Hendrick's demeanor did not prepare me for the  
20 injuries I would find during her forensic physical exam.  
21 Upon removing her bathrobe I discovered bruising on the  
22 inside of her right knee where her assailants had forced  
23 her legs apart. Her slight frame was no match for these  
24 tough street kids out having a good time.

25 When I performed her genital exam I found that she was

1 bleeding heavily. She was bruised and painfully swollen.  
2 Rarely do we call for a gynecologist to come and assess a  
3 sexual assault patient. However, in this case the injuries  
4 were extensive and required further treatment.

5 Unfortunately, additional painful pelvic exams were  
6 required. The bleeding was related to two extensive  
7 vaginal wall lacerations and they were very difficult to  
8 assess.

9 You can imagine the pain she continued to endure. Of  
10 the 200 plus sexual assault examinations I have performed  
11 Ms. Hendrick's injuries were among the worst I have  
12 treated.

13 These rapists took no mercy on Ms. Hendrick begging,  
14 praying, cooperation, or the fact that she was a  
15 grandmother figure.

16 It is with great sadness that my relationship with  
17 Elaine Hendrick began when she became my sexual assault  
18 patient.

19 It is apparent to anyone privileged enough to  
20 encounter her that she is not only respected and loved  
21 among her family, friends and community. But since that  
22 tragic December night she continues to be honored around  
23 the courtroom. She is the definition of strength and  
24 perseverance.

25 Your Honor, these exhausting, painful memories play

1 over and over for this innocent 81-year-old survivor. We  
2 would all agree that none of us can imagine such horror for  
3 our loved ones.

4 And while it's not my decision about the punishment of  
5 her assailants, I hope that you can recognize their true  
6 intentions and absence of any human compassion.

7 THE COURT: Thank you very much.

8 MS. MCDUFFIE: Your Honor, I'd like to at this time  
9 hand up Graham vs. Florida which is the case that deals --  
10 the United States Supreme Court case dealing with  
11 sentencing of --

12 THE COURT: Juveniles.

13 MS. MCDUFFIE: -- juveniles, Your Honor, in  
14 non-homicide cases. And if I could, direct the Court's  
15 attention to page 18.

16 MS. CAMPBELL: Yes, Your Honor.

17 THE COURT: I was wondering about this.

18 MS. MCDUFFIE: Your Honor, Graham vs. Florida, page  
19 18, says, "A state is not required to guarantee eventual  
20 freedom to a juvenile offender convicted of a non-homicide  
21 crime. What the state must do however is give defendants  
22 some meaningful opportunity to obtain release based on  
23 demonstrated maturity and rehabilitation. It is for the  
24 state in the first instance to explore means and mechanisms  
25 for compliance. It bears emphasis however that while the

1 Eighth Amendment forbids a state from imposing a  
2 life-without-parole sentence on a juvenile non-homicide  
3 offender, it does not require the state to release that  
4 offender during his natural life. Those who commit truly  
5 horrifying crimes as juveniles may turn out to be  
6 irredeemable and thus deserving of incarceration for the  
7 duration of their lives. The Eighth Amendment does not  
8 foreclose the possibility that persons convicted of  
9 non-homicide crimes committed before adultal -- adulthood  
10 will remain behind bars for life. It does forbid states  
11 from making a judgment to onset that those offenders will  
12 never be fit to reenter society."

13 Your Honor, in this case with these facts we ask the  
14 Court to give the state -- give this defendant the maximum  
15 sentence allowed by law.

16 We did make an offer of 50 years in this case, which  
17 this defendant through his attorney rejected and chose to  
18 plea straight up before Your Honor.

19 I think Graham vs. Florida makes it clear that given  
20 the facts of the case you cannot sentence a defendant to  
21 life without parole but can give him a determinant number  
22 of years, which is the equivalent of a life sentence, Your  
23 Honor. And that's what we ask you to do in this matter.

24 THE COURT: Anything further from the state?

25 MS. MCDUFFIE: Not at this time, Your Honor.

1 THE COURT: Ms. Armstrong.

2 MS. ARMSTRONG: Thank you, Your Honor. May it please  
3 the Court.

4 THE COURT: Stand there if you wish, or why don't you  
5 come on up?

6 MS. ARMSTRONG: Your Honor, standing before you today  
7 representing Mr. Prophet -- and this is not the first time  
8 that I have come before Your Honor on a tough case. The  
9 older I get the more thankful I am simply having the  
10 opportunity to choose how I spend my days.

11 I started off in general sessions court because I was  
12 young and somewhat naive and thought that I could truly  
13 help most of the people that I would represent.

14 The older I've got the more I realized how difficult  
15 that is to do in these types of cases. And for that reason  
16 I have -- I have migrated over to the juvenile court, and  
17 that's how I actually came to meet Mr. Prophet.

18 At that time he had been charged as a juvenile, and  
19 typically in family court you don't see cases like this.  
20 So at the outset I would just like to say that, you know,  
21 I'm very humble about this case. It makes me realize that  
22 no matter how hard you work for a client sometimes there is  
23 very little that you can do to help them given the  
24 situation.

25 So with that being said, you know, early on all I had

1 was paper. And I read many reports, the investigation, the  
2 statements that were given. And it really became very  
3 clear to me that what's on paper is truly horrific. And  
4 I'm not here to represent to the Court that anything is  
5 different than what was presented by the state. These are  
6 terrible facts.

7       However, with that being said, there are some  
8 additional facts that this Court needs to have in order to  
9 do justice in this case, and those are facts related to  
10 Mr. Prophet. You know, there is certainly a saying that  
11 the punishment needs to fit the crime.

12       Well, Your Honor, in order to do justice it's not just  
13 that the punishment fit the crime but that the punishment  
14 fit the offender.

15       And Larry Prophet is by no means in my view the more  
16 culpable of the two in this case. And there -- there are  
17 reasons for this. It's not just my opinion. It's not just  
18 because I'm the -- but Larry Prophet -- and I'm sure it's  
19 before Your Honor from the waiver hearing -- while he looks  
20 like an adult man he is and has been diagnosed with mental  
21 retardation.

22       Now, there was -- there was certainly some argument in  
23 the lower court -- or excuse me -- in the juvenile court  
24 about the extent of his mental retardation. But I think it  
25 is fair to say -- and the record bears out -- that even at

1 best he functions in the mild range or the borderline range  
2 of mental retardation.

3 THE COURT: Borderline.

4 MS. ARMSTRONG: Borderline, yes, Your Honor.

5 And so I just want, you know, for the Court to truly  
6 in order to do justice for this -- for this defendant and  
7 to do justice overall, I'm asking you to please take that  
8 into consideration.

9 And while I am not a -- an expert in any field related  
10 to education or mental functioning, I do have a witness  
11 that I would like the Court to hear from. And this witness  
12 is -- he is here not as a retained expert. He's not  
13 someone that is paid to show up and say things on behalf of  
14 Mr. Prophet. But he is someone who knew Mr. Prophet before  
15 these horrible events, who got to work with him in an  
16 educational setting.

17 And that gentleman is Mr. Hamrick. His name is Jack  
18 Hamrick. And at the appropriate time I would like Your  
19 Honor to hear from him.

20 THE COURT: I'll be glad to hear from him.

21 Let me ask you. Have you had your client evaluated?  
22 Has he ever been evaluated?

23 MS. ARMSTRONG: Your Honor, it's very unfortunate, but  
24 I believe the first full extensive evaluation of  
25 Mr. Prophet occurred in D.J.J. He had had an I.E.P., which

1 is basically an assessment by the school board about his  
2 level of functioning. And at that point -- and it's in the  
3 record -- the records indicated that he was functioning  
4 about a 77 I.Q. And that was the basis upon which  
5 Mr. Prophet was placed in a contained classroom and came to  
6 be instructed by Mr. Hamrick. So, yes, he has been  
7 evaluated.

8 THE COURT: All right.

9 MS. ARMSTRONG: After his arrest for these events he  
10 was reevaluated. And the department of juvenile justice  
11 and disabilities and special needs assessed him not at the  
12 77 level but at the 69 borderline mental retardation range.

13 You know, with medical and psychiatric testing there's  
14 a -- you know, there's a range. And not everybody's going  
15 to get the same -- you know, they're not going to walk away  
16 from the same patient or client with the same diagnosis.

17 THE COURT: It's not an exact science -- not an exact  
18 science.

19 MS. ARMSTRONG: Yes, yes. That's -- that's what I  
20 meant, Your Honor. There's certainly spectrum.

21 But suffice it to say, Mr. Prophet functions at a very  
22 low level of cognitive -- you know, he doesn't understand  
23 the way that people with higher I.Q.s understand what's  
24 going on around him. And he suffers from those -- those  
25 deficits. Certainly his involvement with the codefendant

1 was one in which while he was older --

2 THE COURT: Who? who's older?

3 MS. ARMSTRONG: Mr. Prophet. Mr. Prophet was older  
4 and therefore just based on appearances would have been  
5 more sophisticated.

6 But in reality based on his mental functioning I would  
7 certainly present to Your Honor that he was by far the less  
8 able to plan.

9 His mental functioning was lower than his  
10 codefendant's. And I believe that Your Honor has heard  
11 that his codefendant, Mr. Lopey, actually lived across  
12 from -- the street from the victim. And so certainly I  
13 would ask Your Honor to take into consideration the  
14 relative functioning and how that played into this. I  
15 think do this it's mitigating, Your Honor.

16 THE COURT: You used the term less culpable a few  
17 minutes ago. Explain that.

18 MS. ARMSTRONG: Yes, Your Honor.

19 Well, Your Honor, I was hoping to be able to make that  
20 argument after the benefit of Mr. Hamrick.

21 THE COURT: That's fine. I won't interrupt your  
22 presentation.

23 MS. ARMSTRONG: No. That's fine.

24 I certainly think he's responsible up here pleading  
25 guilty. You know, he's by no means not responsible for his

1 actions. But I think if you compare his functioning and  
2 his ability to reason and to make choices, I think that  
3 compared to the codefendant Mr. Prophet certainly should be  
4 held or given the benefit of having that -- that factor in  
5 play when these events took place.

6 Mentally -- mentally retarded people do not comprehend  
7 the world the way that people of normal or high I.Q.s  
8 comprehend what's going on. So I certainly think that that  
9 affected his -- his involvement in this case.

10 And I have a few more people I'd like to say to the  
11 Court, but I think this would be a good time to have  
12 Mr. Hamrick speak.

13 THE COURT: I'm glad to hear from him. Come around.  
14 Mr. Prophet, step aside and let this gentleman have the  
15 microphone.

16 JACK HAMRICK: Your Honor, my name is Jack Hamrick,  
17 and it's not easy to be here. I want to make it real clear  
18 that I'm not here as Larry's advocate or his friend. And  
19 I'm not an expert witness.

20 I -- I -- it's a personal -- it's a personal thing for  
21 me to have to be here and hear this. I'm just sickened by  
22 what the victim has had to go through. I do what I do as  
23 a -- as a special education teacher so that there'll be  
24 fewer victims.

25 Larry was my student. I worked very, very hard with

1 Larry. And I don't know what the confidentiality issues  
2 are, but Zacoata was also my student. They don't send me  
3 too many Girl Scouts in my position.

4 So obviously I really failed with Larry. And I had  
5 worked as many as 40 hours a week for approximately two  
6 years with Larry very, very closely.

7 And I've been doing this a long, long time, and I  
8 certainly don't want to suggest in any way, shape or  
9 form -- I've got law enforcement in my family -- that  
10 there's anything that I can say that should mitigate this  
11 process. I believe in natural consequences for my students  
12 as part of their behavior plan.

13 But what I can tell you is that I probably know Larry  
14 as well as anyone outside of his family, and in some  
15 respects probably better from the clinical standpoint. And  
16 I'm not an expert witness.

17 After Larry was referred to me -- I'd like -- I'd like  
18 to try to establish some type of rapport or at least  
19 contact with the family before the student is placed with  
20 me. I try to do my homework before the student is placed  
21 with me so I know more about the student.

22 So I drove out to Larry's house and got out of my  
23 truck, and I looked like a cop. And there were a bunch of  
24 gangbangers standing around in the yard in front of the  
25 house. I said, "Guys, I'm not a cop. I'm Larry's

1 teacher."

2       And they -- they looked at me, and they had their pits  
3 on chains. And then one of them nodded that I could go in.  
4 I didn't have to open the door. There wasn't a door. And,  
5 you know, that's -- that's not uncommon with the students  
6 that -- that I work with. They're -- they're black, poor,  
7 developmentally disabled, emotionally disabled. But I  
8 started working with this population in 1979.

9       I've only seen two students who were mentally  
10 retarded. And you can say whatever you want, but Larry is  
11 mentally retarded.

12       He was also learning disabled. Statistically that's  
13 almost impossible. That means he's having two  
14 standardizations below the meaning in a performance area.

15       And with the 69 I.Q. what that meant was that if you  
16 really worked real hard with Larry -- when he came to me he  
17 couldn't read. He couldn't -- he couldn't decode. He  
18 didn't know what ha, ha, ha was or su, su, su was. He  
19 had -- he had no -- he didn't have the basic academic  
20 skills of any kind. Couldn't count, couldn't read, very  
21 difficult to understand his speech.

22       So he didn't say anything for about a week. He was  
23 intimidated being in this new classroom with this male  
24 teacher. But I would talk to him anyway like I do my  
25 students. And finally he relaxed a little bit and opened

1 up and was talking about some of the things that he had  
2 done to get sent to my program.

3 And he said -- he said if I'm bad I can go live with  
4 my dad. And I said what makes you think that if you act  
5 out that you're going to get to live with your dad. He  
6 said if I be real bad I get to go stay with my dad. And I  
7 found out that he thought that he could go to prison and  
8 live with his dad.

9 Larry's a concrete thinker, and that may explain some  
10 of the discrepancies in the yeses and the noes that you got  
11 from him today. He has no idea what you're talking about.  
12 And there's -- there's -- a week of explanation from  
13 Ms. Armstrong is not going to change that.

14 He's -- Zacoata was -- we don't call them sociopathic.  
15 At that age we call them conduct disorder. But he was a  
16 stoned-cold, heartless sociopath from day one. Very few of  
17 my students are. Most of them have legitimate emotional  
18 disabilities, developmental disabilities and behavior  
19 problems. They act the way they do for a reason.

20 Occasionally you get a kid at that age who is a true  
21 antisocial personality disorder. And that was Zacoata. He  
22 wasn't capable of remorse. He took pleasure in other  
23 people's pain. And he was -- he was a nasty, sick kid.  
24 And if I was called to testify for Zacoata we wouldn't be  
25 having this conversation.

1        Larry was like most people with developmental  
2 disabilities. If he had three wishes, all three of them  
3 would be that he could be like other people. And that's --  
4 that's universal with people with mental retardation. They  
5 want to be like other people. They want to be with other  
6 people. They want to look like other people.

7        So Larry was the perfect storm for gang initiation and  
8 inclusion in peer groups. And I saw it week after week  
9 after week, year after year.

10       That, for example, if Zacoata had been crying in that  
11 interrogation room, Larry would have been crying. If he had  
12 been breakdancing, Larry would have been breakdancing. If  
13 he would have been high-fiving, Larry would have been  
14 high-fiving.

15       Zacoata was a charismatic, manipulative antisocial  
16 personality disorder. And he did obviously take pleasure.  
17 I didn't know the details of this case. I didn't want to  
18 know. I severed my ties with Larry when I heard that he had  
19 been arrested.

20       Larry came to visit me about three weeks before this  
21 happened. And I -- he hadn't been my student for years.  
22 But he stayed in touch with me.

23       And I remember talking to him and saying, you know,  
24 Larry, I know that you're into some bad shit, you know, and  
25 it doesn't have to be that way. And I talked to him about

1 working in his -- in his uncle's garage, because he did have  
2 mechanical aptitude. And I gave him -- I gave him a book  
3 about how -- how West Coast Choppers are made from basically  
4 just salvage, because he liked motorcycles.

5 So I was trying to -- even to the last trying to --  
6 encourage Larry to step away from the gangs. And it was  
7 just too powerful. He was -- he was vulnerable.

8 And, again, you know, he needs to suffer. He needs to  
9 pay for what he did. But his -- his suffering started when  
10 he was born because he was black, dark complected, retarded,  
11 learning disabled, born into a -- a shit storm, Your Honor.  
12 Excuse my language. And that's the way his life has been,  
13 and that's the way it is today.

14 THE COURT: What's the likelihood that that will ever  
15 change given the fact that inevitably he is going to be  
16 incarcerated?

17 JACK HAMRICK: Right. If Larry was released and fell  
18 under the influence of people like Zacoata he would offend  
19 again.

20 THE COURT: I meant what is -- what is his potential  
21 for development if at all, if any?

22 JACK HAMRICK: Larry could learn to be a -- if he  
23 could learn measurement Larry could be a gainfully employed  
24 mechanic.

25 THE COURT: But his mental functioning is not likely

1 to increase.

2 JACK HAMRICK: No. That's why it's called  
3 developmental disability because there are retardation --  
4 because as you know, Your Honor, there's -- he'll -- he'll  
5 be socially and emotionally and cognitively fixed at the  
6 age that he is now, which, you know, arguably is about  
7 eight years old.

8 THE COURT: Thank you, Mr. Hamrick.  
9 Okay.

10 MS. ARMSTRONG: Your Honor, there -- there's very  
11 little to offer by way of any additional information other  
12 than -- well, essentially there is a person that Larry  
13 assisted and that has -- she has shown up here today to  
14 speak on his behalf.

15 THE COURT: I'm sorry?

16 MS. ARMSTRONG: I said she is here to speak on his  
17 behalf.

18 THE COURT: Okay.

19 MS. ARMSTRONG: And I'd like to call her now. That  
20 would be Larry's cousin.

21 THE COURT: Stand right there, ma'am. I need your  
22 name.

23 SHABREKA BROWN: Shabreka Brown.

24 THE COURT: Brown?

25 SHABREKA BROWN: Yes, sir.

1 THE COURT: Ms. Brown, I'll be glad to hear from you.

2 SHABREKA BROWN: October 31st there were a shooting at  
3 a house, and Larry Prophet, which is my hero today, saved  
4 me and --

5 THE COURT: When did this shooting occur?

6 SHABREKA BROWN: Was it 2009 -- 2009 or 2010.

7 THE COURT: Four years ago. Okay.

8 SHABREKA BROWN: He saved me and took a bullet for me,  
9 and I'm here today just to say that and let y'all know that  
10 he's not as bad as y'all think he is. That's all.

11 THE COURT: Thank you, Ms. Brown.

12 MS. ARMSTRONG: I'd like to explain that a little bit,  
13 Your Honor.

14 THE COURT: Give it a shot.

15 MS. ARMSTRONG: Yes. And to this day he has a  
16 colostomy bag where he was shot.

17 It was a drive-by shooting, and his cousin was  
18 standing on the porch with Larry. And I guess reflectively  
19 he put himself between his cousin and the bullet and he was  
20 shot. And to this day he has a colostomy bag.

21 And while I know that that does not intersect with the  
22 facts in this case, I do think that it shows that despite  
23 the horror of what happened and the fact that he was  
24 involved in it that there are other sides to Larry than  
25 just the street criminal, which is what has been presented

1 here today. what has been presented here today is the  
2 worst of what Mr. Prophet is capable of. But he does have  
3 other -- other sides to him.

4 He -- you know, there's -- there is a natural  
5 good-instinct side of him as well. And that obviously did  
6 not come out in this horrible situation. And he  
7 followed -- he followed. He participated fully.

8 And I'm asking Your Honor to please take into  
9 consideration the factors that Mr. Hamrick brought out.  
10 And those are factors that truly I believe mitigate the  
11 circumstances in this case. And as Your Honor is well  
12 aware, the codefendant received a sentence of 30 years.

13 THE COURT: No. I was not aware of that. I'm not  
14 aware.

15 MS. ARMSTRONG: Oh, I apologize, Your Honor. It's my  
16 understanding -- and I thought the solicitor had pointed  
17 out -- that the codefendant had received 30 years  
18 incarceration with probation and 15 years additional  
19 suspended and perhaps, Your Honor --

20 THE COURT: You mean 45 suspended on 30 with five  
21 years? Is that what you mean?

22 MS. McDUFFIE: That's the sentence that Mr. Lopey  
23 received, Your Honor. That's correct. That's the sentence  
24 Mr. Lopey received.

25 MS. ARMSTRONG: I'm sorry. It was 30 years of an

1 active sentence with 15.

2 THE COURT: Well, it'd have to be 45.

3 MS. ARMSTRONG: It was 45 with 30 and five years  
4 probation.

5 MS. MCDUFFIE: That's correct.

6 THE COURT: Yeah.

7 MS. ARMSTRONG: I apologize. I got my facts screwed  
8 up --

9 THE COURT: Okay.

10 MS. ARMSTRONG: -- with the sentence. But, Your  
11 Honor, I would -- I would ask you to please consider the  
12 mitigation in this case.

13 Obviously, they're both equally guilty, but I do  
14 believe that Mr. Prophet's involvement needs to be seen  
15 taking into consideration just how impaired he is.

16 His I.Q., his learning disability, his life  
17 circumstances, that surely they mitigate his involvement in  
18 this case.

19 And so we're just simply here to ask you for mercy.  
20 And I know that there's been made -- several comments have  
21 been made about the lack of remorse. Well, I will tell  
22 Your Honor as an officer of the Court that I made it very  
23 clear to Mr. Prophet that there would come a time when he  
24 could express himself about his involvement in this cruel  
25 crime and his participation in it but that time would not

1 come until we went to court. So any lack of remorse since  
2 his initial interrogation was something that -- I knew it  
3 was something I prevented.

4 He told me in our discussions with one another that he  
5 was sorry for what he did and that he knew it was wrong and  
6 that he wished he could take it back. And today he knows  
7 that he'll have an opportunity to do that at the  
8 appropriate time.

9 THE COURT: Now is the appropriate time at this point.

10 MS. ARMSTRONG: Yes, Your Honor.

11 THE COURT: We're talking about mitigation.

12 MS. ARMSTRONG: Yes, Your Honor, so.

13 THE COURT: Do you have anything you want to tell me,  
14 Mr. Prophet?

15 THE DEFENDANT: Yes, sir. I'm sorry for what I had  
16 did. I ain't -- help with the things that went. That's  
17 all.

18 THE COURT: All right. Why don't everybody have a  
19 seat?

20 I want to look at this report that's been submitted by  
21 the state. I don't feel comfortable in announcing a  
22 sentence without having at least read this report. So  
23 everybody just be at ease for a few minutes.

24 (Whereupon, a recess was taken.)

25 THE COURT: Was codefendant's sentences concurrent?

1 MS. MCDUFFIE: Your Honor, it was 30 years on burglary  
2 first, 30 years on armed robbery and 30 years on C.S.C.  
3 first and 15 years consecutive on kidnapping. The  
4 kidnapping sentence was consecutive suspended to probation.

5 THE COURT: Burglary first?

6 MS. MCDUFFIE: Thirty years.

7 THE COURT: Thirty -- 30. So it was 30, 30, 30. And  
8 15 is consecutive. And that was suspended? That's what  
9 you told me.

10 MS. MCDUFFIE: Yes, Your Honor.

11 THE COURT: Fifteen was.

12 MS. MCDUFFIE: Yes, Your Honor.

13 THE COURT: So it's an active 30.

14 MS. MCDUFFIE: Yes, Your Honor.

15 THE COURT: Three charges of 15 consecutive.

16 MS. ARMSTRONG: I'm sorry. Mathematical.

17 THE COURT: Do you disagree with it?

18 MS. ARMSTRONG: I said total. I apologize for messing  
19 up the sentences.

20 THE COURT: Terms of the other sentences.

21 All right. Thank you.

22 What was the date of arrest?

23 MS. ARMSTRONG: Court's indulgence.

24 MS. MCDUFFIE: Your Honor, it was December 15th of  
25 2010.

1 THE COURT: December the 15th, the day after.

2 MS. McDUFFIE: Yes, Your Honor.

3 THE COURT: Any objection?

4 MS. ARMSTRONG: No, Your Honor.

5 THE COURT: All right. One more time. He says the  
6 kidnapping was suspended.

7 MS. McDUFFIE: It was 15 years consecutive on the  
8 other charges suspended upon the five years probation.

9 THE COURT: So that means that probation simply  
10 followed the two 30-year sentences. Probation. So there's  
11 no -- just saying the probation was consecutive?

12 MS. McDUFFIE: Right.

13 MS. ARMSTRONG: Right.

14 THE COURT: All right. Ms. Armstrong, Mr. Prophet,  
15 Solicitor.

16 All right. Mr. Prophet, let me go through each of  
17 your charges.

18 On Indictment No. 2012-GS-40-3068, charge of burglary  
19 in the first degree, Sentence of the Court you be committed  
20 to the state department of corrections for a period of 45  
21 years, provided however upon the service of 30 years the  
22 balance is suspended and you're placed on probation for  
23 five months -- five years.

24 On your armed robbery, the Sentence of the Court is  
25 you be committed to the state department of corrections for

1 a period of 30 years.

2 On your criminal sexual conduct, Sentence of the court  
3 is you be committed to the state department of corrections  
4 for a period of 30 years.

5 All of those sentences are to run concurrent with each  
6 other. You get credit for time served since December the  
7 15th of 2010.

8 On your kidnapping charge, the Sentence of the Court  
9 is you be committed to the state department of corrections  
10 for a period of 15 years, provided however that sentence is  
11 suspended and you're placed on probation for five years.

12 That sentence is to run consecutive to all of the  
13 previous three sentences, that indictment being No.  
14 2012-GS-40-3069. Good luck.

15 MS. McDUFFIE: Your Honor, we would ask that the  
16 probation run after the period of community supervision has  
17 ended.

18 THE COURT: All right. Any problem with that  
19 Ms. Probation? Probation?

20 PROBATION AGENT: Sir?

21 THE COURT: Any problem with that?

22 PROBATION AGENT: No, sir.

23 THE COURT: Thank you very much. That it will be.  
24 Thank you very much.

25 END OF REQUESTED TRANSCRIPT OF RECORD

CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Richland County, South Carolina, on the 18th day of March 2013.

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

April 12, 2014

A handwritten signature in cursive script, appearing to read "Linda D. Moffitt", written over a horizontal line.

Linda D. Moffitt  
Circuit Court Reporter

## FORM 5

STATE OF SOUTH CAROLINA

County of RichlandLarry L. Prophet, #354669

Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

## APPLICATION FOR

## POST-CONVICTION RELIEF

RECEIVED  
2013 NOV -6 PM 4:20  
CLERK OF COURT  
RICHLAND COUNTY

**INSTRUCTIONS - READ CAREFULLY**

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

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

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

1. Place of detention Lee Correction Institution - Kershaw North 1213  
990 Wisacky Hwy., Bishopville, S.C. 29010
2. Name and location of Court which imposed sentence Richland County Court  
of General Sessions 1701 Main Street, Cola., S.C. 29201
3. Name(s) of co-defendant(s) (if any) RACONATE LOPEY
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2011-GS-40-0367-Armed Robbery
  - (b) 2011-GS-40-0369-Kidnapping

- (c) 2011-GS-40-3065-Criminal Sexual Conduct  
~~2011-GS-40-0368-Burglary~~
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) 3/18/13
- (b) 3/18/13
- (c) 3/18/13, 3/18/13
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty Yes
- (b) after a plea of not guilty \_\_\_\_\_
- (c) after a plea of nolo contendere \_\_\_\_\_
7. Did you appeal from the judgment of conviction or the imposition of sentence?  
No
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (b) the result in each such Court to which you appealed:
- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (c) the date of each such result:
- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) Plea Counsel did not inform me of the right to appeal.  
COUNSEL FAILED TO MAKE ME AWARE OF ANY AND ALL
- (b) APPEALED ISSUES SHE COULD'VE RAISED IN A TIMELY + FASHION MANNER.

# INEFFECTIVE ASSISTANCE OF COUNSEL ON CONSTITUTIONAL VIOLATIONS.

- (c) \_\_\_\_\_
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Assistance of Counsel
- (b) See Attached sheet
- (c) \_\_\_\_\_
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See Attached Sheet
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(c) the disposition thereof:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(d) the date of each such disposition:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

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

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

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

No

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

(a) which grounds have been presented:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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

(a) First appeal on ineffective assistance of counsel

(b) \_\_\_\_\_

(c) \_\_\_\_\_

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

(a) your arraignment and plea? Yes

(b) your trial, if any? Yes

(c) your sentencing? Yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? No

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

No

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

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

i. M<sup>s</sup>. Melissa Armstrong, 4431 Sylvan Road

Columbia, S.C. 29206

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

i. Plea / Sentencing

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

Remand and Vacate the plea AND SENTENCE, NEW TRIAL

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

No

STATE OF SOUTH CAROLINA )

County of Richland )

VERIFICATION

I, Larry L. Prophet, #354669, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

LARRY Prophet

SWORN to and subscribed before me this 30  
day of Oct, 2013.

Debra Smith (L.S.)  
Notary Public

My Commission Expires: 11-4-2015

ATTACHED SHEET TO QUESTION (9) AND (10)

- 1) Ineffective assistance of counsel for failing to request a competency hearing and not establishing Applicant's competent to enter the plea when counsel was aware of the Applicant's mental status.
- 2) Ineffective assistance of counsel for failing to appeal the guilty plea after being told by the Applicant's mother to do so.
- 3) Ineffective assistance of counsel for failing to inform the Applicant of the right to appeal. Roe v. Flores - Ortega, 120 S.Ct. 1029 (2000).
- 4) Ineffective assistance of counsel for failing to file timely motions challenging the plea.
- 5) Counsel failed to fully pursue the Applicant's history of mental - emotional problems and prior diagnosis and to address those fully in the plea hearing, and sentencing.
- 6) Counsel was ineffective for not requesting a mental evaluation for competency and criminal responsibility.
- 7) Ineffective assistance of counsel for failing to request a Blair hearing.
- 8) Ineffective assistance of counsel, where counsel did not protect the defendant's rights during sentencing or any other phase of the proceeding.
- 9) Ineffective assistance of counsel, where counsel did not advise defendant how to plead.
- 10) Ineffective assistance of counsel for coercing Applicant to plea guilty when the counsel knew Applicant wasn't competent.
- 11) Counsel was ineffective for failure to maintain adequate communications with the defendant.

Conclusion

The Applicant has a right to expect that his attorney will use every skill, expend every energy, and tap every legitimate resource in exercise of independent pro-

professional judgment on behalf of Applicant and in undertaking representation.

Frazer v. United States, United States Constitution Amendment 6. Counsel owes a defendant duty of loyalty, unhindered by state or by counsel's being constitutionally deficient performance.

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

I, Larry L. Prophet, #354669, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

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

x Larry Prophet  
Applicant

SWORN or affirmed to and subscribed before me this

30 day of Oct, 2013.

Debra Jones

Notary Public

My Commission Expires:

11-4-2015

2013 NOV -6 PM 4:27  
 CLERK OF COURT  
 CLERK OF COURT

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS  
FOR THE FIFTH JUDICIAL CIRCUIT

Larry Prophet, #354669, )  
Applicant, )

2013-CP-40-6812

v. )

**RETURN**

State of South Carolina, )  
Respondent. )

Respondent, making its Return to the Application for post-conviction relief filed November 6, 2013, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. Applicant was indicted by the Richland County Grand Jury during the June 2012 term for Criminal Sexual Conduct in the First Degree (2012-GS-40-3065), during the January 2011 term for Armed Robbery (2012-GS-40-0367), and during the February 2011 term for Burglary in the First Degree (2012-GS-40-0368) and Kidnapping (2011-GS-40-0369). Applicant was represented by Melissa Armstrong, Esquire. On March 18, 2013, Applicant appeared before the Honorable G. Thomas Cooper, Jr., where he pled guilty as indicted. Judge Cooper sentenced him to 30 years for Criminal Sexual Conduct in the First Degree, a concurrent thirty years for Armed Robbery, a concurrent forty-five years suspended upon the service of thirty years with five years probation to follow for Burglary in the First Degree, and a consecutive fifteen years suspended upon the service of five years probation for Kidnapping. Applicant did not appeal his guilty pleas or sentences.

Attached herewith and incorporated herein are the records of the Richland County Clerk of Court regarding the subject convictions and Applicant's records from the South Carolina

Department of Corrections. Applicant's guilty plea transcript has been ordered and will be forwarded upon receipt. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## II.

In his Application, Applicant alleges that he is being held in custody unlawfully for the following allegations of ineffective assistance of counsel:

1. Failure to request a competency hearing and not establishing Applicant's competence to enter the plea when counsel was aware of Applicant's mental status;
2. Failure to appeal the guilty plea after being told by the Applicant's mother to do so;
3. Failure to inform Applicant of right to appeal;
4. Failure to file timely motions to challenge the plea;
5. Failure to fully pursue Applicant's history of mental-emotional problems and prior diagnosis and to address those fully in the plea hearing and sentencing;
6. Failure to request mental evaluation for competency and criminal responsibility;
7. Failure to request a Blair hearing;
8. Failure to protect the defendant's rights during sentencing or any other phase of proceeding;
9. Failure to advise Applicant how to plead;
10. Coercing Applicant to plead guilty when she knew Applicant wasn't competent;  
and
11. Failure to maintain adequate communications with the defendant.

Any claims not specifically enumerated in the application or amendments filed by counsel of record will be opposed by Respondent at an evidentiary hearing, and Respondent will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRPC.

### III.

Applicant alleges ineffective assistance of counsel. In a post-conviction relief action, the applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding

would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985).

Respondent submits that Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests a hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

#### IV.

Each and every allegation contained within the Application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

#### V.

WHEREFORE, having made its Return, Respondent requests that a hearing be held.

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

KAREN RATIGAN  
Senior Assistant Deputy Attorney General

MEGAN E. HARRIGAN  
Assistant Attorney General

By: Megan E. Harrigan  
ATTORNEYS FOR RESPONDENT  
Office of the Attorney General  
Post Office Box 11549  
Columbia, SC 29211

March 4, 2014.

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

LARRY PROPHET, #354669

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

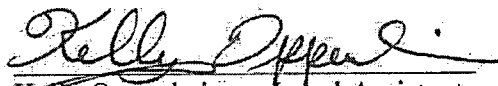
2013-CP-40-6812

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Kristy G. Goldberg, Esquire**  
**Law Office of Kristy Goldberg, LLC**  
**1720 Main Street, Suite 301**  
**Columbia, South Carolina 29201**

DATED this 4<sup>th</sup> day of March, 2014.

  
 Kelly Oppenheimer, Legal Assistant  
 For Respondent

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS  
FOR THE FIFTH JUDICIAL CIRCUIT

Larry Prophet, #354669,  
Applicant,

Case No. 2013-CP-40-6813

v.

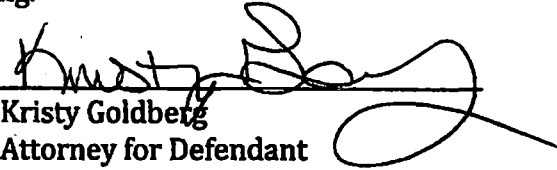
**AMENDED APPLICATION  
FOR POST-CONVICTION RELIEF**

State of South Carolina,  
Respondent.

RICHLAND COUNTY  
FILED  
2015 MAR 16 PM 1:28  
JENNIFER W. BRIDGEMAN  
C.C.P. & G.

Based upon further investigation and research, the Post-Conviction Relief Application filed on behalf of the above named Applicant is hereby Amended as follows:

11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- a) Ineffective assistance of counsel - Trial counsel failed to properly Appeal the Applicant's convictions and the Family Court's waiver of jurisdiction to the court of General Sessions.
  - b) Ineffective assistance of counsel - Trial counsel failed to investigate and call available witnesses in waiver hearing.

  
Kristy Goldberg  
Attorney for Defendant

Kristy Goldberg  
Law Office of Kristy Goldberg, LLC.  
1720 Main Street, Suite 301  
Columbia, SC 29201  
803-252-2299  
803-799-4059 (fax)  
kristy@kristygoldberglaw.com

Columbia, South Carolina  
This 10<sup>th</sup> day of March, 2015

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS  
FOR THE FIFTH JUDICIAL CIRCUIT

Larry Prophet, #354669,  
Applicant,

Case No. 2013-CP-40-6813

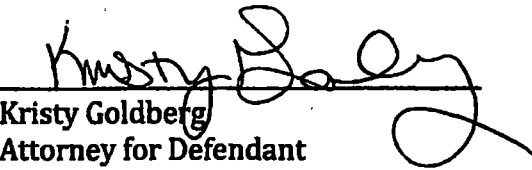
v.

**CERTIFICATE OF SERVICE**

State of South Carolina,  
Respondent.

RICHLAND COUNTY  
FILED  
2015 MAR 16 PM 3:28  
JEANNETTE W. MCBRIDE  
C.C.P. & G.S.

I certify that on this date I served the Amended Application for Post-Conviction Relief in this case on The State of South Carolina by delivering a copy of this application to the Office of the Attorney General via U.S. mail at Post Office Box 11549, Columbia, South Carolina 29211-1549.

  
Kristy Goldberg  
Attorney for Defendant

Kristy Goldberg  
Law Office of Kristy Goldberg, LLC.  
1720 Main Street, Suite 301  
Columbia, SC 29201  
803-252-2299  
803-799-4059 (fax)  
kristy@kristygoldberglaw.com

Columbia, South Carolina

This 16<sup>th</sup> day of March 2015

|                           |                              |
|---------------------------|------------------------------|
| State of South Carolina ) | In the Court of Common Pleas |
| County of Richland )      | Fifth Judicial Circuit       |
|                           | 2013-CP-40-6813              |

|                          |   |                      |
|--------------------------|---|----------------------|
| Larry Prophet,           | ) |                      |
|                          | ) |                      |
| Applicant,               | ) |                      |
|                          | ) |                      |
| vs.                      | ) | Transcript of Record |
|                          | ) |                      |
| State of South Carolina, | ) |                      |
|                          | ) |                      |
| Respondent.              | ) |                      |
|                          | ) |                      |
|                          | ) |                      |

April 1, 2015  
Columbia, South Carolina

B E F O R E:

The Honorable Brooks P. Goldsmith, Judge

A P P E A R A N C E S:

Kristy Grafton Goldberg, Esquire  
Attorney for Applicant

J. Clayton Mitchell, III, Esquire  
Attorney for Respondent

Maryann S. Nevers, CVR-M-CM  
Circuit Court Reporter

I N D E X

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EXHIBITS

| <u>NO.</u> | <u>DESCRIPTION</u>                                | <u>I.D.</u> | <u>EVID.</u> |
|------------|---------------------------------------------------|-------------|--------------|
| P-1        | Order                                             | 11          |              |
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## TRANSCRIPT OF RECORD

(Whereupon, the proceeding was commenced at 10:45 a.m.)

MR. MITCHELL: All right, Your Honor. May it please the Court: This is *Larry Prophet v. State of South Carolina*, 2013-CP-40-6812 [sic]. Mr. Prophet was indicted in the June of 2012 term for criminal sexual conduct in the first degree; and during the January 2011 term for armed robbery; the February 2011 term, for burg first and for kidnapping. He was represented on these charges by Ms. Melissa Armstrong.

He appeared before the Honorable Judge Cooper on March 18th of 2013, where he pled as indicted. He was sentenced to 30 years for criminal sexual conduct, first-degree; 30 years on armed robbery; 45 years, suspended upon the service of 30 years with -- with 5 years probation to follow, the first-degree-burglary conviction -- and that's going to be consecutive -- and then, a consecutive 15-year suspended sentence to 5 years probation on the kidnapping. He did not appeal these convictions or sentences.

Mr. Prophet filed this application for postconviction relief November 6th of 2013. And I'd note that he was a juvenile when he was charged with these crimes initially. And there was a waiver hearing held before Judge Riddle here at the family-court level, where she decided to -- where she ordered the case transferred to general sessions

1 after a full hearing. I believe that transcript is also in  
2 your packet.

3 Mr. Prophet is here and represented by Ms. Kristy  
4 Goldberg. Ms. Goldberg has filed an amended application in  
5 this case, where she has alleged ineffective assistance in  
6 not appealing the family court's order -- waiver order and  
7 in not calling a witness in that case. I believe those are  
8 the allegations we're going forward on today.

9 I'll turn it over to Ms. Goldberg now ---

10 THE COURT: Ms. Goldberg?

11 MR. MITCHELL: --- and let her clarify anything.

12 Thank you.

13 MS. GOLDBERG: Thank you, Your Honor. May it please  
14 the Court: And I do want to confirm, before we go forward,  
15 that Your Honor does have a copy of the plea transcript and  
16 the waiver-hearing transcript in your packet. There should  
17 -- so there should be two.

18 THE COURT: Let's see. I have transcript, May the 7th  
19 of 2012, Judge Leslie Riddle; and a transcript, March 8th,  
20 2013 ---

21 MS. GOLDBERG: Very good. Thank you, Your Honor.

22 THE COURT: --- Judge Cooper.

23 MS. GOLDBERG: The amended application in this case  
24 was filed March 16th of 2015. We are going forward on  
25 ineffective assistance of trial counsel during the waiver

DIRECT EXAMINATION BY MS. GOLDBERG - LARRY PROPHET

6

1 hearing; and then, also, ineffective assistance of by trial  
2 counsel for failing to appeal, understanding that an appeal  
3 would have been after the plea -- after the convictions  
4 that would've accomplished the convictions themselves and  
5 the waiver-order ruling.

6 THE COURT: All right.

7 MS. GOLDBERG: All right. At this time, Your Honor, I  
8 will call Larry Prophet briefly.

9 THE COURT: Please come around.

10 (Whereupon, the witness came forward.)

11 LARRY PROPHET, having been first duly sworn,  
12 testified as follows:

13 THE BAILIFF: Watch your step.

14 (Whereupon, the witness entered the witness stand.)

15 THE COURT: Ms. Goldberg?

16 MS. GOLDBERG: Thank -- thank you, Your Honor.

17 DIRECT EXAMINATION

18 BY MS. GOLDBERG:

19 Q Can you state your name, please?

20 A Larry Prophet.

21 Q And where are you housed?

22 A Lee County.

23 Q Who was your attorney before you went to prison?

24 A Oh, man.

25 Q Do you remember her name?

1 A (No audible response.)

2 Q Lisa Armstrong?

3 A Yes, ma'am.

4 Q Okay. Was she your attorney the entire time you were  
5 in jail?

6 A Yes, ma'am.

7 Q Okay. Can you lean up and talk into the microphone  
8 when you talk?

9 A Yes, ma'am.

10 Q Okay. She represented you at your waiver hearing in  
11 family court?

12 A Yes, ma'am.

13 Q And did she represent you during your guilty plea  
14 also?

15 A Yes, ma'am.

16 Q Did she come into the jail and talk with you several  
17 times?

18 A Yes, ma'am.

19 Q Did she talk with your family also?

20 A I don't know.

21 Q No.

22 Did she talk with some of your teachers and things  
23 also?

24 A Yes, ma'am.

25 Q You remember her talking with Mr. Hamrick?

DIRECT EXAMINATION BY MS. GOLDBERG - LARRY PROPHET

8

1 A Yes, ma'am.

2 Q After your guilty plea or before, at any time, did you  
3 and Ms. Armstrong ever talk about appealing your case?

4 A I don't remember.

5 Q You don't remember?

6 A (Shook head from side to side.)

7 Q Did you ever talk about filing a motion to reconsider?

8 A I don't know.

9 Q Do you remember those words?

10 A No, ma'am.

11 Q Do you remember the word "appeal" ever being talked  
12 about between the two of you?

13 A I don't know. No, ma'am.

14 Q Did she tell you that you had a right to appeal?

15 A Yes, ma'am.

16 Q She did tell you that?

17 A (Nodded head up and down.)

18 Q Did she tell you that she would do it for you or that  
19 you had to do it yourself?

20 A I don't think so.

21 Q You don't remember?

22 A Unh-unh.

23 Q Did you try and contact her after your guilty plea?

24 A Yes, ma'am.

25 Q How did you try and contact her?

1 A Mama called her for me, and I had called her.

2 Q And when you tried to contact her, what were you  
3 trying to say?

4 A That I want to go up for appeal.

5 Q You were trying to tell her you wanted to appeal?

6 A Yes, ma'am.

7 Q Could you get in touch with her?

8 A No, ma'am.

9 Q Did you write her any letters?

10 A No, ma'am.

11 Q You just called?

12 A Yes, ma'am.

13 Q Did you tell her that when you were in court?

14 A I ain't seen her -- well, I ain't seen her after  
15 court.

16 Q I mean, right at the very end of the plea, before you  
17 left.

18 A No, ma'am.

19 Q Okay. You just tried to call her afterwards?

20 A Yes, ma'am.

21 Q You couldn't get in touch with her?

22 A (Shook head from side to side.)

23 MS. GOLDBERG: Nothing further from this witness, Your  
24 Honor.

25 THE COURT: Cross-examination?

CROSS-EXAMINATION BY MR. MITCHELL - LARRY PROPHET

10

1 MR. MITCHELL: One second, Your Honor.

2 THE COURT: All right, sir.

3 CROSS-EXAMINATION

4 BY MR. MITCHELL:

5 Q All right, Mr. Prophet. How are you doing today?

6 A I'm good.

7 Q Let's see. Do you -- you pled guilty on March 18th,  
8 2013; is that correct?

9 A Yes, sir.

10 Q And that was to a number of charges; that's correct?

11 A (Nodded head up and down.)

12 Q And you were 15 at the time of the incident that led  
13 to these charges?

14 A Yes, sir.

15 Q Okay. Now, the judge here asked you -- advised you  
16 that you had ten days to appeal from that sentence; is that  
17 correct?

18 A Yes, sir.

19 Q Do you remember that?

20 A Yes, sir.

21 Q So you didn't say anything to Ms. Armstrong after the  
22 hearing about appealing, did you?

23 A I couldn't.

24 Q You couldn't?

25 A (No audible response.)

CROSS-EXAMINATION BY MR. MITCHELL - LARRY PROPHET 11

1 Q So you -- you -- your testimony is that you attempted  
2 to do that later on through a phone call?

3 A (Nodded head up and down.)

4 Q Okay.

5 A Yes, sir.

6 MR. MITCHELL: No further questions. Thank you.

7 THE COURT: Any redirect?

8 MS. GOLDBERG: No, Your Honor.

9 THE COURT: All right. Thank you, sir. You may step  
10 down.

11 THE BAILIFF: Watch your step.

12 (Whereupon, the witness exited the witness stand.)

13 THE COURT: You may call your next witness.

14 MS. GOLDBERG: At this time I would call Attorney  
15 Melissa Armstrong.

16 (Whereupon, the witness came forward.)

17 MS. GOLDBERG: (To the court reporter) Mark these as  
18 well.

19 THE COURT REPORTER: Ma'am?

20 MS. GOLDBERG: We need to mark these. Go ahead.

21 That'll be 1, and this will be 2. Thank you.

22 (Whereupon, Plaintiff's Exhibits 1 and 2 were marked  
23 for identification.)

24 (Whereupon, Ms. Goldberg and Mr. Mitchell conferred.)

25 MELISSA ARMSTRONG, having been first duly sworn,

DIRECT EXAMINATION BY MS. GOLDBERG - MELISSA ARMSTRONG 12

1 testified as follows:

2 (Whereupon, the witness entered the witness stand.)

3 THE COURT: Ms. Goldberg?

4 MS. GOLDBERG: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MS. GOLDBERG:

7 Q Ma'am, can you state your name for the record?

8 A Yes. It's Melissa Armstrong.

9 Q Did you represent Larry Prophet?

10 A Yes, I did.

11 Q How did you come to represent him?

12 A I was appointed to represent him through a family-  
13 court action. He had been charged with some crimes.

14 Q And in -- and in -- in explaining that, are you  
15 referring to the crimes he's been convicted of that we're  
16 here for today or were those crimes previous to those?

17 A I believe he was charged with some theft-related  
18 crimes. And during the pendency of those charges, he was  
19 charged with the crimes for which we're here today.

20 Q So then, you were appointed to these as well?

21 A Yes. Yes, ma'am.

22 Q Did you represent him during the entire time these  
23 charges were pending?

24 A Yes, I did.

25 Q So you represented him at the waiver hearing as well?

DIRECT EXAMINATION BY MS. GOLDBERG - MELISSA ARMSTRONG 13

1 A Yes, ma'am.

2 Q Have you received and reviewed a copy of the  
3 transcript of that waiver hearing?

4 A Yes, I did.

5 Q Now, there were seven -- several witnesses called by  
6 the state: law enforcement, DJJ, probation, and the  
7 psychologist.

8 A Yes.

9 Q Is that accurate?

10 A That's accurate. Yes, ma'am.

11 Q And then, you called some additional witnesses?

12 A I did at the -- the guilty plea.

13 Q Okay. You -- and you called a couple of brief,  
14 additional witnesses at the waiver hearing as well. Do you  
15 recall that?

16 A I'm sorry. I'm sure the transcript will speak for  
17 itself.

18 Q Okay. And if I said -- and these -- I don't know if  
19 these would strike any recollection, but if I said the  
20 names Anita Grissett, Sharika Brown, Teresa Johnson, do you  
21 vaguely remember ---

22 A Yes.

23 Q --- what they were testifying to?

24 A Yes. Those were family members.

25 Q Okay.

DIRECT EXAMINATION BY MS. GOLDBERG - MELISSA ARMSTRONG 14

1 A Yes, ma'am.

2 Q Only family members?

3 A Yes, correct.

4 Q Okay. Do you recall how long this waiver hearing  
5 lasted? Was it an all-day event?

6 A It was -- I remember it being pretty lengthy.

7 Q Now, the original incidents you were -- he was  
8 arrested for occurred December 14th of 2010; is that  
9 accurate?

10 A That's accurate.

11 Q The waiver hearing wasn't until May 7th of 2012. Do  
12 you remember why it took so long?

13 A You know, they had to do a number of evaluations. And  
14 the charges that we went to the waiver hearing for were  
15 different than those that originally got the case started.  
16 He's -- the original charges, I think, were for some thefts  
17 perhaps. He was riding on a -- maybe riding around on a  
18 moped, taking things.

19 My recollection was that the -- the charges for which  
20 we ended up at the waiver hearing were different than the  
21 original ones. So it -- it did take longer than -- than  
22 the norm.

23 Q Okay. In the waiver hearing, the psychologist from  
24 DJJ testified as to her evaluation recommendations; is that  
25 right?

DIRECT EXAMINATION BY MS. GOLDBERG - MELISSA ARMSTRONG 15

1 A That's correct.

2 Q And according to the transcript, she reviewed records  
3 from DJJ, Blythewood Academy, Columbia Area Mental Health.

4 A Yes.

5 Q Does that sound familiar?

6 A Yes, it does.

7 Q There were also several records that she did not have.  
8 Do you remember that?

9 A I don't specifically. It wouldn't -- I mean, it  
10 certainly would not have surprised me.

11 Q Based on the transcript, she did not have any  
12 educational records, other than the two months he was at  
13 Blythewood. Does that sound familiar?

14 A Yes, it does.

15 Q And that she also did not have his Alvin S. Glenn  
16 discipline records?

17 A Right.

18 Q She also did not have his records from William S. Hall  
19 or Palmetto Baptist; is that right?

20 A That's correct.

21 Q Based on the information that she did have, do you  
22 recall what her recommendations were, generally?

23 A Is this Ms. Smith?

24 Q Uh-huh. Yes.

25 A Okay. I can review it.

DIRECT EXAMINATION BY MS. GOLDBERG - MELISSA ARMSTRONG 16

1 Q And -- and it may just -- if you want to testify as to  
2 what you remember her essential ---

3 A I believe, if -- if I've got her correct, that she was  
4 the person who diagnosed the mental retardation; is that  
5 correct?

6 Q She was the only psychologist that testified.

7 A Right. Okay. All right. That's right. That she had  
8 found him to be in the mental-retardation range.

9 Q And as a result, was recommending therapy and  
10 treatment?

11 A Correct.

12 Q She also found that -- it was her opinion that he  
13 could possibly be rehabilitated?

14 A Right. I thought she was very positive for us. It  
15 was good to get a witness that we didn't generate say those  
16 sorts of things. I mean, this wasn't some hired, outside  
17 expert. This was one of the state's own people. So in my  
18 view, that was -- she was -- as the psychologist who gave  
19 him the favorable -- I thought it was pretty favorable  
20 diagnosis that he -- you know, he was less culpable but  
21 still able to be reformed.

22 Q Because -- and you thought her testimony was probably  
23 the best evidence in your -- in Mr. Prophet's favor?

24 A There's no question. Absolutely.

25 Q Because Ms. Smith -- or Dr. Smith did not have several

DIRECT EXAMINATION BY MS. GOLDBERG - MELISSA ARMSTRONG 17

1 documents, the solicitor actually challenged the doctor's  
2 credibility on the stand. Do you remember that?

3 A She did. She questioned whether or not the mental  
4 retardation was correct, because there were some other  
5 scores that were higher.

6 Q She didn't bring in another doctor to challenge the  
7 testimony; she just attacked her own credibility -- her own  
8 witness's credibility?

9 A That's -- yes.

10 Q Is that fair?

11 A That would be fair to say.

12 Q Essentially ---

13 A Yes.

14 Q --- treated her as hostile during the hearing?

15 A Yes.

16 Q At any point did you find that it would've been a more  
17 appropriate idea to ask that the hearing be continued until  
18 the doctor could have all the available records?

19 A You know, I didn't. Some of those records were not  
20 going to be helpful for us, I mean, frankly. The  
21 detention-center records would not have been helpful.

22 Q You thought it was in your best interest to go ahead  
23 and go forward?

24 A Right. What she had to say was positive. It was  
25 based on her own evaluation. And it put, in my opinion,

DIRECT EXAMINATION BY MS. GOLDBERG - MELISSA ARMSTRONG 18

1 Larry in the less-culpable position, as compared to his  
2 certified, who was younger, but didn't have mitigation in  
3 the form of mental retardation.

4 MS. GOLDBERG: May I approach, Your Honor?

5 THE COURT: Certainly.

6 Q Ms. Armstrong, I'm going to hand you a copy of  
7 Plaintiff's Exhibit No. 1.

8 A Okay.

9 MS. GOLDBERG: Your Honor, I'm just handing you  
10 another copy for your convenience.

11 THE COURT: Thank you.

12 Q Exhibit No. 1 -- well, can you tell me what that is  
13 ---

14 A Yes.

15 Q --- in there?

16 A This is the order from the hearing on whether or not  
17 Mr. Prophet should be waived to general-sessions court,  
18 signed by Judge Riddle. It goes through the procedural  
19 history, the information that was generated at the hearing,  
20 and it lists the eight factors under *Kent v. United States*.  
21 And she goes into her own fact findings as to how the  
22 factors shook out, as far as Mr. Prophet was concerned.

23 Q As to each factor?

24 A As to each factor. Yes, ma'am.

25 Q All right. Now, if you can look -- and it -- this may

DIRECT EXAMINATION BY MS. GOLDBERG - MELISSA ARMSTRONG 19

1 take a second. But if you can look briefly with me, she  
2 does lay these eight factors out and -- and numbers them so  
3 they're very easy to go ---

4 A Yes.

5 Q --- along with.

6 All right. If -- if you could just look at -- real  
7 quickly, at Factors 1 through 5 ---

8 A Uh-huh.

9 Q --- those are all pretty clear ---

10 A They are.

11 Q --- cut and dry, correct?

12 A They are.

13 Q Not a lot of dispute as to any of those factors?

14 A No. These -- the first five factors were -- were not  
15 good for Mr. Prophet.

16 Q Now, as to Factor No. 6, that is the sophistication  
17 and maturity of the child, as ---

18 A Right.

19 Q --- determined by consideration of his home  
20 environment, emotional attitude, living pattern. If you  
21 will read to yourself that finding. Does the order  
22 actually address anything about his sophistication or  
23 maturity?

24 A Only in that it -- he's been diagnosed with various  
25 behavioral and emotional disorders.

DIRECT EXAMINATION BY MS. GOLDBERG - MELISSA ARMSTRONG 20

1 Q Do you think that this response from the Court is --  
2 is responsive to that factor?

3 A Only -- a lot of it, no. But the -- the part about  
4 his having the behavioral and emotional disorders, I think  
5 that goes to the factor. The other stuff -- I -- I mean,  
6 you know, the fact that his father was in prison, I mean,  
7 that -- no.

8 Q Okay. Factor No. 7 in the order outlines the child's  
9 prior record and involvement in the juvenile-justice  
10 system. First of all, based on what's stated here and your  
11 recollection of representing him in family court, he  
12 originally did a six-month probationary sentence in 2009  
13 that was successfully completed, correct?

14 A Correct.

15 Q After that he was charged with several crimes that  
16 would've been adult-level misdemeanors; is ---

17 A Right.

18 Q --- it -- is that fair?

19 A That's fair.

20 Q And then, later he -- his -- he violated a community  
21 evaluation because of that petit-larceny arrest you  
22 represented him on; is that right?

23 A That's -- that's right.

24 Q When he ultimately was adjudicated for that or for one  
25 charge and put on probation ---

DIRECT EXAMINATION BY MS. GOLDBERG - MELISSA ARMSTRONG 21

1 A Uh-huh.

2 Q --- he was only on probation two months before this  
3 incident that has him here today happened, correct?

4 A Correct.

5 Q He was never placed in alternative placement?

6 A That's right.

7 Q He was -- never served any substantial time at DJJ?

8 A Correct.

9 Q Never on probation for any significant period of time  
10 where he could undergo services offered by DJJ?

11 A Correct.

12 Q Would you agree with all that?

13 A Yes, absolutely.

14 Q When the Court said that he exceed -- received  
15 extensive interventions by the Department of Juvenile  
16 Justice to no avail, would you agree with that  
17 characterization?

18 A Well, I would agree that he was caught up in the  
19 system for a while. But as far as getting services you --  
20 you've listed, no. He never got those. I mean, he was on  
21 probation and then got into more trouble, with the result  
22 being that he was not put -- put back out into the  
23 community. He was never alternatively placed or anything  
24 like that.

25 Q And Factor No. 8 talks about the prospects for

DIRECT EXAMINATION BY MS. GOLDBERG - MELISSA ARMSTRONG 22

1 adequate protection of the public, likelihood of reasonable  
2 rehabilitation by -- of the child by use of procedures,  
3 services, facilities available to family court. The  
4 psychologist who testified testifies positively in that  
5 regard, correct?

6 A She did.

7 Q That's ---

8 A She does ---

9 Q --- not mentioned in this order; is that true?

10 A That's right. She was never -- her testimony was not  
11 listed as a favorable circumstance on Factor 8.

12 Q The Court says (as read): "Larry Prophet's prior  
13 involvement in rehabilitation efforts have demonstrated  
14 little progress, resulting in this Court having little  
15 reason to believe rehabilitation through juvenile-justice  
16 system is likely or even possible." Would you agree with  
17 that statement, based on the testimony that was provided?

18 A Well, I'd say that that -- that conclusion is directly  
19 contrary to the one that the ---

20 Q The doctor ---

21 A --- psychologist ---

22 Q --- presented?

23 A Yes.

24 Q Now, once the order was issued by the Court, you  
25 weren't not procedurally able to appeal it at that point,

DIRECT EXAMINATION BY MS. GOLDBERG - MELISSA ARMSTRONG 23

1 right?

2 A Correct.

3 Q What would be the proper way of appealing or  
4 challenging that order?

5 A To object to it and then preserve that for direct  
6 appeal, I would think.

7 Q Do you think there are issues present in this order  
8 that could or should have been appealed to a higher court?

9 A I think there are some -- some -- you could certainly  
10 make some arguments that she didn't pay proper -- didn't  
11 pay proper deference to the psychologist and went with, you  
12 know, really, the behavioral stuff that was out there. I  
13 mean, he just continued to get in trouble. But she didn't  
14 pay -- she didn't give much weight to the psychologist's  
15 opinions.

16 Q In looking at this order now and at the factors that  
17 were analyzed, do you have any other concerns -- possible  
18 appeal issues that should've been appealed with how these  
19 factor laid out, specifically in Mr. Prophet's case?

20 A I'm sorry. Can you clarify that? I'm ---

21 Q Yeah. Regarding the fact that he was diagnosed, at  
22 least by some doctors, as -- had a diagnosis of mental  
23 retardation, given the fact that they're looking at  
24 rehabilitation, do you have any general concerns with how  
25 these factors were applied in his particular case?

DIRECT EXAMINATION BY MS. GOLDBERG - MELISSA ARMSTRONG 24

1 A Okay. Well, you know, Factor 6 and Factor 8 are  
2 almost in conflict one another. I mean, if he's less  
3 sophisticated, then that should work in his favor under  
4 Factor No. 6.

5 But if he's not able to be rehabilitated because of  
6 that lack of sophistication, especially in the -- you know,  
7 when it's a developmental problem that's not going to get  
8 better, then that seems to work against him. So, I mean,  
9 there's -- I think there's some inherent problems. You  
10 know, if you present mitigation under Factor 6, are you  
11 sort of undermining your -- you know, your argument for  
12 rehabilitation under Factor 8?

13 Q Now, after the waiver hearing, you continued to  
14 represent Mr. Prophet. During the plea you called a  
15 witness or an individual to speak on his behalf, John --  
16 Jack Hamrick?

17 A Yes.

18 Q Who is that?

19 A That is Mr. -- that was Mr. Prophet's teacher.

20 MS. GOLDBERG: And for the Court's information, that,  
21 on the -- in the guilty-plea transcript, is pages 46  
22 through 52. I know it's a lengthy transcript, so ---

23 Q How long did Mr. Hamrick know Mr. Prophet?

24 A Several years.

25 Q He actually worked closely with him?

DIRECT EXAMINATION BY MS. GOLDBERG - MELISSA ARMSTRONG 25

1 A He did. He did. He cared about Larry. He felt --  
2 you know, he went to the home. He saw that he lived in a  
3 house with no door. I mean, it was just really pitiful.  
4 It was ---

5 Q And even ---

6 A --- sad.

7 Q --- in the plea, he said that he had worked closely  
8 with Mr. Prophet for 40 hours a -- 40 hours every week; is  
9 that right?

10 A If it's in there. I -- I remember it was a lot. He  
11 was in his class.

12 Q So he would know Mr. Prophet better than his DJJ  
13 probation officer; is that fair?

14 A Absolutely. He spent more time with him.

15 Q Better than his psychologist who did an evaluation?

16 A Sure.

17 Q Is there any particular reason why you didn't call Mr.  
18 Hamrick to testify at the waiver hearing?

19 A I cannot think of a specific reason why he was not  
20 called. I don't know if it's that I had not heard of him  
21 at that point or had not interviewed him. I -- I can't  
22 tell you.

23 Q There was a dispute in the waiver hearing about Mr.  
24 Prophet's IQ?

25 A Yes.

DIRECT EXAMINATION BY MS. GOLDBERG - MELISSA ARMSTRONG 26

1 Q Dr. Smith testified it was 59? Does that sound close  
2 to accurate?

3 A Sounds low, but if that's what it's in there.

4 Q Well, regardless of that dispute, Mr. Hamrick would've  
5 been able to testify, as he did in the plea, that Mr.  
6 Prophet was not able to read, count ---

7 A Right.

8 Q --- had difficulty with speech, correct?

9 A Correct.

10 Q Do you think Mr. Hamrick's testimony would've been  
11 helpful in that regard at the waiver hearing?

12 A It could've been. It could've been.

13 Q Especially because there was a dispute over his IQ?

14 A Certainly. Certainly.

15 Q Ms. Armstrong, if I could direct you to Exhibit --  
16 Applicant's Exhibit No. 2.

17 MS. GOLDBERG: May I approach, Your Honor?

18 THE COURT: Certainly.

19 MS. GOLDBERG: It's just a copy for your convenience.

20 A There's only ---

21 Q Thanks.

22 A Sure.

23 Q And I'll actually have you look at the second page of  
24 that first -- I believe I stapled them in the wrong order.  
25 Yes. That was a motion to reconsider you filed?

DIRECT EXAMINATION BY MS. GOLDBERG - MELISSA ARMSTRONG 27

1 A It is.

2 Q Do you ---

3 A Yes.

4 Q --- remember why you did that?

5 A Yes. Mr. Prophet's mother called after the guilty  
6 plea, and she was very upset. She was upset by the amount  
7 of time that Mr. Prophet had received. She was -- you  
8 know, she was just very emotional.

9 And she said she thought that his mental health  
10 should've been more of an issue for the judge. And she  
11 asked me to file something for the judge. And I told her I  
12 would do it and ---

13 Q She wanted ---

14 A --- that I ---

15 Q --- the conviction challenged in some way?

16 A She wanted the sentence ---

17 Q Sentence challenged?

18 A Yes. She ---

19 Q That's ---

20 A --- felt like the sentence was grossly out of  
21 proportion to what he should've received.

22 Q And this document states that you signed this on March  
23 27th of 2013?

24 A Yes.

25 Q If you'll turn to the first page of that exhibit.

DIRECT EXAMINATION BY MS. GOLDBERG - MELISSA ARMSTRONG 28

1 A Sure.

2 Q What is that document?

3 A This is the dismissal of the motion for  
4 reconsideration and notice of intent to appeal.

5 Q Why did you file that?

6 A Well, after looking into some of the -- the mental  
7 health issues, there was really no basis. I mean, she  
8 wanted me to -- to go before the Court. And I tried to  
9 explain to her that there's really no basis for me to go  
10 and try to get any sort of consideration, based on what we  
11 had. And it was my opinion then that she would -- Larry  
12 would be better off to just pursue his remedies on appeal  
13 ---

14 Q Okay.

15 A --- either by -- by way of a PCR or, you know,  
16 whatever method would best ---

17 Q That document states that counsel withdraws this  
18 motion and will file notice of intent to appeal his  
19 conviction. Did you ever file an intent to seek notice of  
20 appeal?

21 A No. No. The PCR was really what he -- in my opinion,  
22 was what he needed to file. But there was no actual direct  
23 appeal filed.

24 Q But you did create and sign this document?

25 A I did. I did. And it may not have been worded the

CROSS-EXAMINATION BY MR. MITCHELL - MELISSA ARMSTRONG 29

1 way it should've been, but yes. He clearly needed an  
2 appellate remedy because there was nothing that I could do  
3 at that stage.

4 MS. GOLDBERG: No further questions.

5 THE COURT: Cross-examination?

6 MR. MITCHELL: Yes, sir.

7 CROSS-EXAMINATION

8 BY MR. MITCHELL:

9 Q All right. Good morning, Ms. Armstrong.

10 A Good morning.

11 Q Let's start with the psychologist, Dr. Smith.

12 A Yes.

13 Q That was a state's witness in this case?

14 A Yes, it was.

15 Q And you thought she gave the most favorable testimony  
16 to Mr. Prophet at the hearing?

17 A I thought so. Yes.

18 Q And as Ms. Goldberg stated, I -- I believe Ms.

19 Campbell treated her like a hostile witness almost. Is  
20 that how ---

21 A She was ---

22 Q --- you recall the hearing?

23 A Very much so.

24 Q She was hired by the state and then called by them in  
25 the case; is that right?

CROSS-EXAMINATION BY MR. MITCHELL - MELISSA ARMSTRONG 30

1 A She was.

2 Q So the new records that we were discussing earlier,  
3 you -- you think those would not have been helpful?

4 A Well, the detention-center records certainly would not  
5 have been helpful.

6 Q In what -- and why -- why is that?

7 A I think Mr. Prophet had difficulties with behavior in  
8 the -- in the jail.

9 Q So we also make an issue about his school records at  
10 the time. Do -- do you know whether those would've been  
11 helpful or not prior to him going to Blythewood?

12 A I don't.

13 Q In fact, the Blythewood Academy records, his grades  
14 ranged from an 86 to a 90. Do you recall that?

15 A I ---

16 Q Is that ---

17 A --- do not ---

18 Q --- correct?

19 Okay. But if his grades were in a range of 86 to 90,  
20 that would be favorable to you, do you believe?

21 A I guess ---

22 Q Or ---

23 A --- it depends on what the -- you know, what the --  
24 what he was studying. I mean, if he's ---

25 Q Uh-huh.

1 A --- mentally retarded, is -- is that, you know,  
2 consistent with that or not.

3 Q So you felt the first five factors of Judge Riddle's  
4 order go very much against Mr. Prophet; is that correct?

5 A They -- they seem to. Yes.

6 Q Okay. And then, I'd say No. 7 also goes very much  
7 against Mr. Prophet. Do you agree with that? His prior  
8 involvement in the juvenile system?

9 A Yeah. I -- I think -- yes. I -- I think, if you're  
10 just measuring it in terms of the number of contacts with  
11 the juvenile-justice system, it would work against him. I  
12 think, if you take the position, you know, that the prior  
13 involvements didn't make use of all the available  
14 resources, then maybe that's helpful to him. I mean, but  
15 he didn't get the benefit of those services. I mean, I  
16 think that was the argument that was made. And I would  
17 certainly agree that he wasn't alternatively placed and  
18 didn't have those things used for his benefit.

19 Q He still had a pretty extensive juvenile record,  
20 though, I guess, in the charges that were brought against  
21 him; is ---

22 A There's no ---

23 Q --- that ---

24 A --- doubt.

25 Q Okay. I'm counting 14 charges. Does that sound ---

CROSS-EXAMINATION BY MR. MITCHELL - MELISSA ARMSTRONG 32

1 A Yes.

2 Q Does that sound right?

3 A (No audible response.)

4 Q Mr. Prophet, he gave somewhat of a confession; is that  
5 correct?

6 A He did.

7 Q And that was ---

8 A He gave ---

9 Q --- a statement ---

10 A --- a statement ---

11 Q That was a statement to law enforcement?

12 A Yes, sir.

13 Q Okay. And as Ms. Goldberg stated, this was a -- a  
14 full-day hearing in family court. Is it -- do you recall  
15 that being the case?

16 A Yes. It was lengthy.

17 Q And you called Mr. Hamrick to testify in mitigation  
18 during the plea?

19 A Yes.

20 Q And you thought he gave favorable testimony at the  
21 plea hearing?

22 A I think he was believable. I mean ---

23 Q Uh-huh.

24 A --- he had no -- you know, he wasn't a family member.  
25 He wasn't -- you know, he wasn't a hired, paid expert. He

1 was just someone who knew Mr. Prophet and had seen him, you  
2 know, over a long period of time and understood where he  
3 came from and understood, you know, the real deficits that  
4 Mr. Prophet, you know, was -- was made from.

5 I mean, he had no dad. And the -- the situation at  
6 home was just -- was terrible. And I think he -- you know,  
7 he -- he showed him in a sympathetic light, as sympathetic  
8 as -- as we had.

9 Q All right. Let's talk about the IQ testing a bit. I  
10 think there was testimony that the IQ ranged between, like,  
11 around 20 points or so?

12 A 59 and -- was the lowest; and then, 70 -- 72 or 77 ---

13 Q Maybe ---

14 A There was a big disparity ---

15 Q There was ---

16 A --- I remember.

17 Q --- a large disparity in the IQ?

18 A There was.

19 Q What -- what is your understanding of the line for  
20 mental retardation?

21 A Below 70.

22 Q Okay.

23 A Some of the law on that has changed. I know in the  
24 death penalty context, there's been a lot of litigation  
25 because if you're mental or -- mentally retarded, you can't

CROSS-EXAMINATION BY MR. MITCHELL - MELISSA ARMSTRONG 34

1 be executed. So there's been a lot of litigation about  
2 mental retardation. I think, you know, the law may have  
3 changed some since then.

4 But, I mean, 70 used to be sort of the -- under 70,  
5 you were considered mentally retarded. And I think the --  
6 you know, that most specialists would say, you know, you  
7 either are or you aren't. And something has to surface  
8 before the age of 18. So you wouldn't expect these wildly  
9 varying scores.

10 Q And Dr. Smith testified that he was -- he tested at a  
11 59 at one point?

12 A Correct.

13 Q All right. And then, I think you brought up that it  
14 was -- well, it was also brought up, I think by the state,  
15 that it was also in the 80s maybe -- 77, maybe 84?

16 A On page 111 they discuss the IQ scores.

17 Q Uh-huh.

18 A 77 would've been the highest, and 59 . . .

19 Q You again presented that at the guilty-plea hearing  
20 during the mitigation phase; is that correct?

21 A That he was mentally retarded.

22 Q All right.

23 A Right.

24 Q And that's part of what Mr. Hamrick really kind of  
25 hammered on?

CROSS-EXAMINATION BY MR. MITCHELL - MELISSA ARMSTRONG 35

1 A Yeah. I mean, I think Mr. Hamrick was helpful because  
2 he had seen Mr. Prophet, you know, day in and day out and  
3 knew just how impaired he was.

4 Q Okay. You did file a motion for -- for  
5 reconsideration; is that correct?

6 A Yes, which was subsequently withdrawn.

7 Q Okay. And you testified earlier that you thought that  
8 was not properly filed because you had no basis to file is  
9 that; is that about correct?

10 A Well, once I had started -- yeah -- considering it and  
11 looking at what we had, it just didn't seem like there was  
12 anywhere to go. And, I mean, my concern was always that, I  
13 mean, if you go before a judge on a reconsideration, they  
14 can give you more time if they want to. And that was, you  
15 know, obviously somewhat of a concern because the facts  
16 were bad.

17 Q All right. And no new facts had come about to where  
18 you thought favorable to Mr. Prophet at that point?

19 A Unh-unh.

20 Q Okay. As far as the sentence goes, did you consider  
21 it a legal sentence, within the range of ---

22 A It was high, but yes.

23 Q Did you see any reason to file a notice of appeal in  
24 this case?

25 A For a direct appeal?

CROSS-EXAMINATION BY MR. MITCHELL - MELISSA ARMSTRONG 36

1 Q Yes.

2 A No. I don't really think there's anything that was  
3 preserved. I mean, if -- this would appear to be the right  
4 forum for relief.

5 Q No further questions. Thank you.

6 A You're welcome.

7 THE COURT: Redirect?

8 MS. GOLDBERG: No, Your Honor.

9 THE COURT: Thank you, ma'am.

10 THE WITNESS: Thank you.

11 THE COURT: You may step down.

12 THE BAILIFF: Watch your step.

13 THE WITNESS: Thank you.

14 (Whereupon, the witness exited the witness stand.)

15 THE COURT: Anything further from the applicant?

16 (Whereupon, the court reporter conferred with the  
17 witness to secure the exhibits.)

18 MS. GOLDBERG: No. The applicant rests.

19 MR. MITCHELL: No witnesses from the state.

20 THE COURT: May the witness be excused?

21 MS. GOLDBERG: Yes, Your Honor.

22 MR. MITCHELL: Yes, Your Honor.

23 THE COURT: All right. I'll be glad to hear argument.

24 Ms. Goldberg?

25 MS. GOLDBERG: Thank you, Your Honor. May it please

1 the Court: Two -- the two major issues we're presenting  
2 here today, the first of those would be ineffective  
3 assistance at the waiver hearing. Essentially, what we had  
4 is the most important witness as to a lot of Mr. Prophet's  
5 intellectual and emotional capabilities, ability to  
6 rehabilitation, was the psychologist. Psychologist did not  
7 have all of the possible records available. And there was  
8 this fluctuation in IQ. For that reason the state  
9 vigorously challenged their own witness to essentially hurt  
10 everything she said that was positive for Mr. Prophet.

11 What would have aided that waiver hearing, what would  
12 have aided Mr. Prophet, would have been to have that  
13 special education teacher who worked with Mr. Prophet daily  
14 for, as he testified in the plea hearing, 40 hours a week  
15 for several years who was able to really understand how  
16 well he can read, how well he can write, how well he could  
17 speak. Ms. Armstrong testified, I believe honestly, that  
18 she can't remember back to around the time of the waiver  
19 hearing whether she had already been in touch with Mr.  
20 Hamrick or not.

21 But I would point out to this Court that these charges  
22 that she began representing Mr. Prophet on were from  
23 December of 2010, and this waiver hearing was in May of  
24 2012. So it was a significant -- this wasn't right at the  
25 beginning of her representation. It was well -- years into

1 the representation.

2 So I would argue that she was ineffective for not  
3 calling that witness. I think, if she had called him,  
4 there's a substantial likelihood that the psychologist's  
5 testimony wouldn't have just stood alone and been able to  
6 be discredited that easily. There would've been something  
7 else to corroborate the psychologist's testimony in Mr.  
8 Prophet's favor.

9 The second issue would then be that she did not appeal  
10 after his convictions, based on -- mostly, it would be an  
11 appeal of that waiver. As I understand it, looking in case  
12 law, that would be the appropriate time. There's no  
13 interlocutory appeal of these issues. It would be after  
14 the convictions.

15 And you can appeal based on an abuse of discretion. I  
16 think that Ms. Armstrong said herself in her motion to the  
17 Court that she was going to seek notice of appeal. Mr.  
18 Prophet's mom called her; asked her to file whatever she  
19 could to fix the problem. I think filing that with the  
20 Court, stating that you're withdrawing that motion  
21 reconsider because you're not -- because you're going to  
22 appeal and then her not filing that, would be ineffective.

23 I -- I'm -- so I would be asking that this Court  
24 either remand his case for a new waiver hearing or, in the  
25 alternative, allow him the ability to appeal.

1 MR. MITCHELL: Your Honor, it's our position that when  
2 you plead guilty, you waive any nonjurisdictional defects.  
3 I mean, that's the clear law of the land here. He -- once  
4 he pled guilty, he waives any sort of challenge he'd have  
5 to that waiver hearing.

6 The waiver hearing at that point cannot be challenged.  
7 He cannot go back and allege that there was error. He  
8 cannot go back and allege that there was any constitutional  
9 violation. Because that's what the guilty plea does. He  
10 waives anything beforehand there.

11 That's our strong position on that. I think, even  
12 getting down to it, to whether Ms. Armstrong was  
13 ineffective at the waiver hearing, I don't think  
14 applicant's come close to meeting his burden on that. I  
15 think the state's psychologist -- I mean, I think that's --  
16 you know, it should be even more persuasive to the judge  
17 that the expert the state decides to call in support of  
18 their motion to move to general sessions, he gets up there  
19 and -- she gets up there and says that he's mentally  
20 retarded and that she would probably recommend it stays in  
21 family court or, you know -- or at least favorable  
22 testimony, maybe not that far. Excuse me. I don't want to  
23 misinterpret the record there.

24 But I think, you know, that was her most positive  
25 witness. And I think that it came from the state is --

1 makes it even more persuasive. She was very positive about  
2 -- to Mr. Prophet's case of his background and his mental  
3 capacity, because there were other reports -- or an IQ test  
4 done where he had scored well over what you would consider  
5 mental retardation.

6       Going back to look at an appeal from -- what -- what  
7 he would've had to do, he would've had to go to trial and  
8 then come back and preserve the appeal issue for the waiver  
9 hearing at that point. You -- you can't plead guilty and  
10 then come back and challenge it then. You -- he would've  
11 had to have gone through the trial, had it preserved, and  
12 then raised it on direct appeal at that point, if  
13 preserved.

14       And the standard of review in that kind of case would  
15 be any evidence. So I think, even if we get all the way  
16 back to it and say we're -- you know, we're going to look  
17 at this order to see whether it was proper, I mean, there's  
18 clearly evidence to satisfy these *Kent* factors. And that's  
19 the test we're using here.

20       I mean, and it's not like you have to meet every  
21 single factor. It's not -- I mean, you go through and this  
22 is what you consider. It's not that you don't -- oh, this  
23 one's not as strong as that, so we can't be transferred.  
24 It's just -- you know, it's just a list of factors. You  
25 can consider anything outside of those factors as well.

1           And I think, you know, Judge Riddle did a great job  
2 with that. And I think there's nothing wrong with that  
3 order. There's nothing appealable from that order. I  
4 understand Mr. Prophet may disagree with the outcome of  
5 that.

6           But I think what it comes down to is that at this  
7 point, since he pled guilty, he cannot now challenge what  
8 happened at that family-court waiver hearing. Thank you,  
9 Your Honor.

10          THE COURT: Ms. Goldberg?

11          MS. GOLDBERG: Thank you, Your Honor. I do have at  
12 least two cases that I'm aware of: *State v. Jones*, which  
13 is a 2011 Court of Appeals case; and *State v. Miller*, which  
14 is a 2005 Court of Appeals case. In both of those, the  
15 individual did plead guilty in general sessions and  
16 appealed, in part, because of the waiver hearing. And the  
17 Court of Appeals did hear it. So it is appealable, even if  
18 there is a guilty plea.

19          And in those -- in *Miller*, the question was whether  
20 the evidence supported the family court's waiver decision;  
21 and in *Jones*, whether the *Kent* factors were properly  
22 applied. All of these cases are so factually intensive,  
23 I'm not going to try and argue that -- and in that regard.  
24 But what I am just arguing is that procedurally and  
25 legally, it would be appropriate to appeal and argue that

1 it was an abuse of discretion or that the evidence did not  
2 properly meet the Kent factors.

3 THE COURT: All right. I haven't -- I have not read  
4 the cases. But based on what I -- what I don't hear from  
5 the attorney general, I'm -- I take it, the attorney  
6 general, for at least purpose of this hearing, concedes the  
7 fact -- the argument made by applicant concerning the right  
8 to appeal a waiver hearing ---

9 MR. MITCHELL: Your ---

10 THE COURT: --- following a guilty plea.

11 MR. MITCHELL: Your Honor, I -- I -- I would not  
12 concede that at this point. I'm not familiar with those  
13 cases. But it's our position that it's not appealable.  
14 Any guilty plea is a waiver of any constitutional challenge  
15 for anything that happened before. And that's my position  
16 on that. So I would not concede that.

17 THE COURT: Okay. Well, even -- even if the applicant  
18 has the legal right to appeal the waiver hearing after  
19 pleading guilty, I think that the evidence supports the  
20 trial judge -- the -- the family court judge's decision.  
21 And I'm looking for that now.

22 Help me, Ms. Goldberg. Where can I find that family-  
23 court order? Is it in the -- it's not part of the ---

24 MS. GOLDBERG: I don't -- I -- I handed you a copy.  
25 She'll ---

1 would've said during the waiver hearing. So that  
2 transcript would be the best evidence of that.

3 THE COURT: And -- and the majority of his testimony,  
4 I -- I -- I agree, is -- was favorable to the applicant,  
5 but -- but -- but not all. And on -- on being questioned  
6 by the Court, it's clear that, in his opinion, if an  
7 applicant were to be released -- I guess, if and when  
8 released -- it's likely that he -- because he goes into  
9 great detail in explaining why he reaches this conclusion  
10 -- but that it is high -- it is likely that he could not  
11 change and would be -- would offend again. And I think  
12 that would've certainly been something that the family-  
13 court judge would've considered.

14 For all those reasons, I'm going to deny the  
15 application and ask the attorney general to prepare an  
16 order. Let's take a five-minute recess.

17 MR. MITCHELL: Thank you, Your Honor.

18 MS. GOLDBERG: Thank you, Your Honor.

19 (Whereupon, the proceeding was concluded at 11:31 a.m.)

20 --- END OF TRANSCRIPT OF RECORD ---  
21  
22  
23  
24  
25

**CERTIFICATE**

I, THE UNDERSIGNED MARYANN S. NEVERS, CERTIFIED  
VERBATIM REPORTER - MASTER, CERTIFICATE OF MERIT,  
OFFICIAL COURT REPORTER FOR THE EIGHTH JUDICIAL  
CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY  
CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND  
COMPLETE TRANSCRIPT OF RECORD IN THE HEARING OF THE  
CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT  
COURT FOR RICHLAND COUNTY, SOUTH CAROLINA, ON THE 1ST  
DAY OF APRIL, 2015.

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



---

MARYANN S. NEVERS, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

JULY 28, 2015

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE INTEREST OF:

Larry Prophet (DOB: )

A Minor Under the Age of  
Seventeen (17) YearsIN THE FAMILY COURT  
FIFTH JUDICIAL CIRCUIT

ORDER

2010JU401524, 25, 27, 28

PRESIDING JUDGE: Honorable Leslie K. Riddle

DATE OF HEARING: May 7, 2012

ATTORNEYS FOR THE STATE: Kathryn L. Campbell, Esq.  
Joanna McDuffie, Esq.  
Foster Mathews, Esq.

DEFENDANT: Larry Prophet

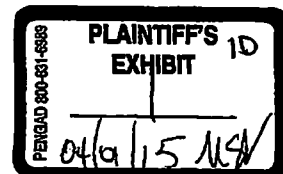
ATTORNEY FOR MR. PROPHET: Melissa Armstrong, Esq.

COURT REPORTER: Brenda Sigwald

This matter was before the Court on May 7, 2012, for a waiver hearing.

Appearing on behalf of the State was Kathryn Luck Campbell, Assistant Solicitor; Joanna McDuffie, Assistant Solicitor; and, Foster Mathews, Assistant Solicitor; appearing on behalf of the respondent was Larry Prophet, the minor-Respondent; Lonita Grissett, the minor-Respondent's mother; and the minor-Respondent's attorney, Melissa Armstrong, Esquire.

This Court heard one day of testimony and numerous exhibits were introduced into evidence by both sides. Among the State's exhibits is the statement of the co-defendant, Zacoata Lopey, dated December 15, 2010, the statement of Larry Prophet also dated December 15, 2010, a statement of Elaine Henrick, the victim, the minor-Respondent's Alvin S. Glenn Detention Center Disciplinary Records, and the minor-Respondent's school disciplinary records. Among the defense's exhibits are the minor-Respondent's Palmetto Health Baptist Records.



The Court has reviewed all of these exhibits, and considered the testimony of all of the witnesses. The Court has given particular attention to the waiver evaluation. The Court has also reviewed pertinent case law including the case *Kent v. United States*, 383 US 541 (1966). The Court has reviewed the Transfer of Jurisdiction Statute, § 63-19-1210 of the South Carolina Code of Laws. The Court has given particular attention to the testimony and exhibits as they pertain to the eight (8) determinative factors for transfer that are set out in *Kent v. United States*.

The evidence reveals that this juvenile, Larry Prophet, was fifteen (15) years of age at the time of the commission of the alleged offenses. The charges against this juvenile, which are currently before me, and relevant to this waiver hearing, include Burglary in the First Degree, Kidnapping, Criminal Sexual Conduct in the First Degree, and Armed Robbery. It is alleged that these offenses occurred on December 14, 2010.

This juvenile has been given various psychological tests. The results of the tests were made an exhibit. The Court is aware of the juvenile's fluctuating IQ test results. The record reflects that he has had numerous behavioral problems at school and at other places, including the detention center.

The evidence shows that the minor-Respondent has a lengthy prior history and involvement in the juvenile justice system. The minor-Respondent was on probation when these offenses occurred.

The crimes alleged here are extremely aggravated and violent. Mr. Prophet, along with another juvenile who was slightly younger, entered into the home of an elderly woman, just a week shy of her 80th birthday, in the nighttime while armed with a shotgun. The woman was at home watching television in her family room when she heard a noise coming from her sunroom. At this point the victim saw "two men" walk into the family room. (See State's Exhibit 4, p. 1).

RM # 2

The defendant, along with the other juvenile, demanded money from the woman. The two juveniles then forced the woman to disrobe in her bathroom. When only her underwear remained, the juveniles threatened her with a shotgun, forcing her to remove her underwear as well. Completely disrobed, she was then raped by each of them. She was raped in both the vagina and the anus. When the juveniles left, they took money, a cellular telephone, a television, and several other items. The minor-Respondent has offered very little explanation as to why this was done other than two juveniles wanting "a couple dollars." (See State's Exhibit 3, p. 3).

When the two juveniles were taken to the Sheriff's Department, Investigator Mauldin testified that both juveniles, including Larry Prophet, were insensitive, high fiving each other laughing and joking about what they have done. This behavior made it difficult for him to remain in the room with the juveniles.

With regards to the eight (8) factors in *Kent v. United States*, the Court finds as follows:

1. The seriousness of the alleged offense to the community and whether the protection of the community requires a waiver.

The Court finds that this juvenile is charged with Kidnapping, Armed Robbery, Criminal Sexual Conduct in the First Degree, and Burglary in the First Degree.

These are serious charges, and the protection of the community would be enhanced by transferring jurisdiction of this juvenile to the Court of General Sessions.

2. Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.

The Court finds that this offense was committed in an aggressive, violent, and premeditated manner. The juvenile, along with another teenager, entered without

LMA #3

consent into the dwelling of an elderly woman who lived alone. The juveniles were armed with a shotgun upon which they had taped a flashlight. They required the woman to remove her clothes and each of the juveniles raped the woman. The woman was injured and had to go to the hospital for treatment. Additionally, the juveniles took some of the woman's property.

3. Whether the alleged offense was against persons or against property, greater weight being given to offense against persons, especially if injury resulted.

The Court finds that these offenses were committed against an elderly woman just a week before her 80th birthday, and the offenses resulted in rape and injury to the woman's body and show a complete disregard for the safety of a fellow citizen and lack of respect for life. The victim even asked the juveniles during the crime "would you do this to your grandmother?" and "would you rape your grandmother?" (See State's Exhibit 4, pp. 2, 3).

4. The merit of prosecuting the complaint, i.e., whether there is evidence upon which a grand jury may be expected to return an indictment.

The Court finds that there is an abundance of testimonial and forensic evidence upon which a grand jury may be expected to return an indictment against this juvenile.

5. The desirability of trial and disposition of the entire offense in one court when the child's co-defendants are adults.

The Court finds that this juvenile has one co-defendant, a juvenile. Mr. Prophet's co-defendant has already been waived from Family Court to the Court of General Sessions. It would be desirable to dispose of these charges in one court, the Court

DMH 4

of General Sessions. The Court is, of course, aware of the larceny charges that are still pending which are not subject to transfer. The Court further finds that the existence of additional larceny charges in Family Court should not prevent the transfer of these most serious charges before the Court.

6. The sophistication and maturity of the child as determined by consideration of his home, environmental situation, emotional attitude, and living pattern.

The Court finds that the juvenile's mother was his primary custodian. He has lived with his mother and some siblings for most of his life. It appears that his father has spent time in prison, and the minor-Respondent's contact with him is limited. The minor-Respondent's relationship with his mother appears to be confrontational at times, although his mother loves and supports him. It appears this juvenile has been diagnosed with various behavioral and emotional disorders. The juvenile has admitted regular abuse of marijuana and alcohol. There is a history of behavioral issues, suspensions, and other disturbances at school and other places.

7. The child's prior record and involvement in the juvenile justice system.

The Court finds that on February 25, 2009, Larry Prophet was adjudicated delinquent for one (1) count of Disturbing Schools and one (1) count of Simple Assault. He received a six (6) month probationary sentence. Larry Prophet successfully completed his probation on July 8, 2009. On June 19, 2009, Larry Prophet was charged with Malicious Injury to Personal Property (<\$1,000) and Simple Assault and Battery and released to his mother's custody. On October 2, 2009, Larry Prophet was charged with Simple Assault and Disturbing Schools and was released to his mother's custody. On February 24, 2010, Larry Prophet was charged with Disturbing

LM#5

Schools and released to the custody of his mother. On June 16, 2010, Larry Prophet was adjudicated delinquent for two (2) counts of Disturbing Schools, two (2) counts of Simple Assault and Battery, and one (1) count of Malicious Injury to Personal Property. One (1) count of Disturbing Schools was nolle prosequi. One (1) count of Malicious Injury to Personal Property and one (1) count of Simple Assault and Battery were continued for trial. On the same date, a community evaluation was ordered. On June 30, 2010, while undergoing his community evaluation, Larry Prophet was charged with Petit Larceny. On August 11, 2010, a hearing for violation of his community evaluation was held and Larry Prophet was ordered to undergo a secure evaluation at the Midlands Evaluation Center. On September 15, 2010, a dispositional hearing was held and Larry Prophet was ordered to complete eighteen (18) months of probation. On December 14, 2010, Larry Prophet was charged with these current offenses. The Court finds that the minor Respondent has had extensive involvement with the juvenile justice system and that he has received extensive interventions by the Department of Juvenile Justice which have been to no avail. This juvenile was actually afforded counseling on the day these alleged offenses were committed.

8. The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child by use of procedures, services, and facilities currently available to the Family Court.

The Court finds that although Larry Prophet has reasonably cooperated with the police and his waiver evaluation, there are numerous negative factors which suggest that successful treatment outcomes for the minor-Respondent's issues are

RMAH 6

poor. Some of these negative factors would be that the alleged offenses are serious and violent with the alleged surrounding acts demonstrating a propensity for criminal behavior. Moreover, Larry Prophet has a history of behavioral problems at school, while confined, and elsewhere. Furthermore, though Larry Prophet understands that there are consequences to his actions, he apparently does not consider these consequences prior to doing bad things. In addition, Larry Prophet admits to regular abuse of marijuana and alcohol. Consequently, Larry Prophet's prior involvement in rehabilitative efforts have demonstrated little progress resulting in this Court having little reason to believe that rehabilitation through the juvenile justice system is likely or even possible.

Based on the evidence in this case, the Court finds that the State has shown probable cause that Larry Prophet has committed all of the offenses that are before the Court: Burglary in the First Degree, Criminal Sexual Conduct in the First Degree, Armed Robbery, and Kidnapping. The Court further finds that the State has produced evidence relevant to the factors enumerated in *Kent v. United States*. The facts of this case require that the case be transferred to the Court of General Sessions.

#### CONCLUSIONS OF LAW

1. The Court has jurisdiction over this matter pursuant to the South Carolina Code of Laws, § 63-19-2010.
2. Based on the reasons stated above I find that it is in the best interest of Larry Prophet and the community to transfer jurisdiction to the Court of General Sessions.

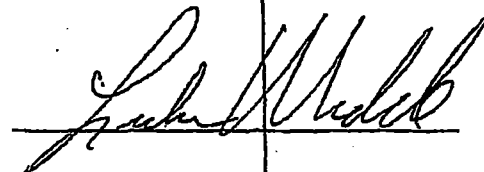
LM#7

3. Larry Prophet should be waived to the Court of General Sessions for proceedings on the charges alleged in Petition Number 2010JU401524, 2010JU401525, 2010JU401527, and 2010JU401528.

IT IS THEREFORE ORDERED THAT jurisdiction of this matter shall be transferred to the Court of General Sessions.

IT IS FURTHER ORDERED THAT bail be denied at this time and that bail may be considered by the Circuit Court when the General Sessions Indictments are presented to the Defendant or upon motion of Mr. Prophet's counsel.

AND IT IS SO ORDERED.



LESLIE K. RIDDLE  
FAMILY COURT JUDGE

Columbia, South Carolina

May 18<sup>th</sup>, 2012

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

G. THOMAS COOPER, JUDGE  
12-GS-40-3065

THE STATE OF SOUTH CAROLINA,

V.

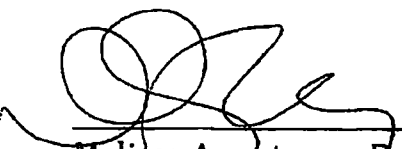
12-GS-40-3065

LARRY PROPHET

DISMISSAL OF MOTION FOR RECONSIDERATION  
AND NOTICE OF INTENT TO APPEAL

Defendant Larry Prophet, by and through Counsel hereby withdraws his Motion for Reconsideration of Sentence and files a notice of intent to appeal his conviction and sentence imposed by the Court on March 18, 2013.

RESPECTFULLY SUBMITTED,

  
Melissa Armstrong, Esquire  
3213 Amherst Avenue  
Columbia, S.C. 29205

This 31<sup>st</sup> day of October, 2013.

JEANETTE W. McBRIDE  
C.C.P. & G.S.

2013 NOV -5 PM 2:01

RICHLAND COUNTY  
FILED



STATE OF SOUTH CAROLINA  
IN THE GENERAL SESSIONS COURT

G. THOMAS COOPER, Circuit Court Judge

12-GS-40-3065

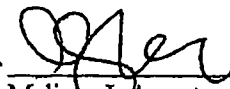
THE STATE,

V.

LARRY PROPHET,

MOTION TO RECONSIDER SENTENCE BASED UPON  
MENTAL HEALTH CONCERNS

Counsel for Defendant hereby moves this Court to reconsider its imposition of a thirty year sentence on March 18, 2013, based upon Counsel's discovery that the defendant suffers from mental health problems that were in existence at the time of the plea and at the time of the incident for which Defendant was charged and pleaded guilty.

  
Melissa J. Armstrong

ATTORNEY FOR DEFENDANT

March 27, 2013

RICHLAND COUNTY  
FILED  
2013 NOV -5 PM 3:01  
JEANETTE M. BRIDE  
C.C.P. & G.

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

Larry L. Prophet, #354669

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

2013-CP-40-06813

**ORDER OF DISMISSAL**

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed November 6, 2013. Respondent made its Return on March 6, 2014, requesting an evidentiary hearing be convened. Kristy G. Goldberg, Esquire, was appointed by the Richland County Clerk of Court. An evidentiary hearing was held on April 1, 2015, at the Richland County Courthouse. Applicant was present and represented by Counsel Goldberg. J. Clayton Mitchell, Esquire, of the South Carolina Attorney General's Office represented Respondent.

At the PCR hearing, Applicant testified on his own behalf. Also testifying was Applicant's plea counsel, Melissa J. Armstrong, Esquire. The Court had before it the Richland County Clerk of Court records, Applicant's South Carolina Department of Corrections records, the PCR application, the Return, the family court waiver hearing transcript, and the guilty plea transcript.

**I. PROCEDURAL HISTORY**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. Applicant was charged with first degree burglary, first degree criminal sexual conduct (CSC), armed robbery, and kidnapping in Petition Numbers 2010-JU-40-1524, -1525, -1527, -1528. On May 7, 2012, a contested waiver

hearing was held before the Honorable Leslie K. Riddle to determine whether the charges should be transferred from family court to the Court of General Sessions. Judge Riddle ruled that jurisdiction should be transferred by written order signed May 18, 2012. Applicant was then indicted by the Richland County Grand Jury at the June 2012 term for first degree CSC (2012-GS-40-03065), armed robbery (2012-GS-40-03067), first degree burglary (2012-GS-40-03068), and kidnapping (2012-GS-40-03069). On March 18, 2013, Applicant appeared before the Honorable G. Thomas Cooper, Jr., where he pleaded guilty as indicted. Judge Cooper sentenced him to thirty (30) years' for first degree CSC, a concurrent thirty (30) years' for armed robbery, a concurrent forty-five (45) years' suspended upon the service of thirty (30) years' with five (5) years' probation to follow for first degree burglary, and a consecutive fifteen (15) years' suspended upon the service of five (5) years' probation for kidnapping. Applicant did not appeal his guilty pleas or sentences.

In this action, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel in failing to appeal the family court's decision to waive jurisdiction and transfer the case to the Court of General Sessions.
  - a. Failing to file a motion for reconsideration; and
  - b. Failing to investigate and call witnesses at the waiver hearing.

## **II. SUMMARY AND EVIDENCE PRESENTED AT THE PCR HEARING**

### **Applicant's Testimony**

Applicant testified Counsel represented him on the charges he is currently challenging. Applicant testified there was no appeal taken in his case. He claimed he contacted Counsel and requested a notice of appeal be filed on his behalf.

**Counsel Melissa J. Armstrong's Testimony**

Counsel testified she represented Applicant on the charges currently before the Court. Counsel testified she was appointed to represent Applicant through the family court system. She testified Applicant was charged in 2010, and the waiver hearing was held in May 2012. Counsel testified Applicant underwent a number of evaluations. Dr. James Smith testified in the State's case at the waiving hearing. Counsel testified Dr. Smith was a very positive witness and supported much of Applicant's position. Counsel believed Dr. Smith's testimony was beneficial because he was the State's expert witnesses and gave testimony contrary to the State's position. Counsel believed Dr. Smith's testimony would be looked at favorably by Judge Riddle because he was an independent evaluator. Counsel noted the State really treated Dr. Smith as a hostile witness.

Counsel testified Dr. Smith did not have several documents such as older school records and Department of Juvenile Justice jail records. Counsel explained that those documents would not have been helpful as Applicant had problems and incidents in school and at the jail. Counsel testified Applicant had over a dozen juvenile charges on his record.

Counsel testified the order issued by Judge Riddle fully addressed each Kent<sup>1</sup> factor in bullet point format. Counsel testified that when analyzing the first five Kent factors, Judge Riddle was likely to find in favor of the State's argument because the incident was so violent and serious. Counsel testified the Kent factors were just that, factors, and the family court can give them the appropriate weight as it deems necessary. There is no requirement that each factor be established in order to transfer jurisdiction to general sessions. Counsel testified Applicant's intelligence quotient (IQ) score fluctuated dramatically. She testified the evaluators would not

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<sup>1</sup> Kent v. United States, 383 U.S. 541, 86 S. Ct. 1045 (1966).



expect to see a fluctuation that large. Counsel believed she highlighted this in her cross-examination of Dr. Smith.

Counsel testified she did not appeal the family court's decision because she did not believe an interlocutory appeal to be allowed. Counsel hoped to preserve the ruling for a direct appeal after the case had come to a final resolution.

In mitigation, Counsel had Jack Hamrick, Applicant's former teacher, speak in support of the mitigation phase of his plea. Counsel testified she did not call Hamrick as witness at the waiver hearing. Counsel testified she filed a Motion to Reconsider Sentence Based Upon Mental Health Concerns after Judge Cooper sentenced Applicant. Counsel testified she hoped to highlight Applicant's mental issues further in this filing and hoped for an amended, more lenient sentence.

### III. APPLICABLE LAW

In a post-conviction relief action, Applicant bears the burden of proving the allegations in the application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, Applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985).

#### IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the guilty plea transcript, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

As a matter of general impression, this Court finds Applicant's testimony and assertions to be not credible. In contrast, this Court finds counsel's testimony to be credible and persuasive on all matters. These credibility findings have been applied to the Court's findings and conclusions set forth below.



### **Ineffective Assistance of Counsel**

In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. See Al-Shabazz v. State, 338 S.C. 354, 363, 527 S.E.2d 742, 747 (1999) (citing Drayton v. Evatt, 312 S.C. 4, 9, 430 S.E.2d 517, 520 (1993)). An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the applicant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citations omitted). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985). To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S. Ct. 1709, 23 L.Ed.2d 274 (1969).

### **Notice of Appeal**

Applicant argues Counsel was ineffective in failing to file a notice of appeal to challenge Judge Riddle's order waiving jurisdiction to the Court of General Sessions. Applicant further alleges Counsel was ineffective in failing to file an interlocutory appeal from the waiver order. Respondent argues Applicant waived all nonjurisdictional challenges to his convictions and sentences by pleading guilty and therefore could not raise any issues from the family court's decision on appeal. Respondent also argues an interlocutory appeal was not proper because the family court's decision is not a final disposition to the case. This Court agrees with Respondent.



Even considering Applicant's allegations on the merits, this Court finds Applicant failed to meet his burden in proving Counsel ineffective and any resulting prejudice.

This Court finds State v. Rice<sup>2</sup>, persuasive. In Rice, the South Carolina Supreme Court held that "an erroneous order transferring a juvenile to general sessions court would be judicial error – not a jurisdictional error." Id at 333, 486. A juvenile would therefore waive any challenge to the judge's error by pleading guilty. The court in Rice encountered this same issue and expressly ruled a challenge to the family court's waiver order is *not* jurisdictional and is therefore waived if the juvenile pleads guilty. The court cited long-held authority for this proposition:

a guilty plea represents a break in the chain of events which has preceded it in the criminal process. When a criminal defendant has solemnly admitted in open court that he is in fact guilty of the offense with which he is charged, he may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the guilty plea. He may only attack the voluntary and intelligent character of the plea . . .

Id at 332, 4866 (citing Tollett v. Henderson, 411 U.S. 258, 267, 93 S. Ct. 1602 (1973)). This Court finds Applicant waived any challenge to Judge Riddle's order by pleading guilty and cannot now challenge the ruling.

To the extent Applicant alleges Counsel was ineffective for failing to file an interlocutory appeal, this Court finds the allegation without merit. A family court order transferring jurisdiction to general session is interlocutory and *not* subject to immediate appeal. State v. Lockhart, 275 S.C. 160, 267 S.E.2d 720 (1980).

#### Motion for Reconsideration

Applicant also alleges Counsel was ineffective for failing to file a motion for reconsideration of the family court's order. Counsel found no basis to file a motion for

<sup>2</sup> 410 S.C. 330, 737 S.E.2d 485 (2013).

reconsideration. This Court agrees. This Court finds Counsel's performance was objectively reasonable under the prevailing professional norms. Further, Applicant has failed to prove resulting prejudice. The record before this Court and testimony provided at the hearing firmly convinces this Court Applicant would have been no better off in filing a motion for reconsideration.

Failure to Investigate and Call James Hamrick

This Court finds Applicant failed to meet his burden to prove that Counsel's performance was either deficient or ineffective for failing to investigate and to call James Hamrick as a witness at the family court waiver hearing. "Criminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." Edwards v. State, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011) (internal citations omitted). The allegation rests entirely on speculation. See Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998) ("failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result."). Applicant failed to present any evidence or testimony from Hamrick. Even if Hamrick's testimony would have comported with his statements at the plea hearing, much of this testimony was not favorable to Applicant. He stated at plea hearing that if Applicant was released it is likely he would reoffend if he fell under the influence of others. This Court finds even if it were to consider Hamrick's statement, it would not have changed the result of the family court waiver hearing. Accordingly, this Court finds Applicant failed to meet his burden with regards to the allegations addressed above.

### **All Other Allegations**

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this order, the Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

### **V. CONCLUSION**

Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Applicant failed to demonstrate counsels' performance was unreasonable under prevailing professional norms. Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625; Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 594 (2009). Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

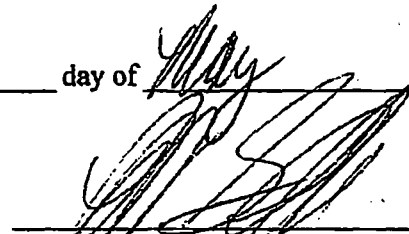
The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.



**IT IS THEREFORE ORDERED THAT:**

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant will remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 8 day of May, 2015.

  
\_\_\_\_\_  
BROOKS P. GOLDSMITH  
Presiding Judge

\_\_\_\_\_, South Carolina

**WITNESSES**

(S) Joshua Mauldin – Richland County  
Sheriff

**ARREST WARRANT NUMBER**

DP12124

**ACTION OF GRAND JURY****TRUE BILL**

Foreperson of Grand Jury

Date:

JUN 07 2012

**VERDICT**

Foreperson of Petit Jury

Date:

DOCKET NO. 2012 GS 40 03065

**The State of South Carolina**

County of

Richland

**COURT OF GENERAL SESSIONS**

JUNE TERM 2012

154

THE STATE  
vs.

LARRY PROPHET

Indictment for  
**CRIMINAL SEXUAL CONDUCT 1ST  
DEGREE**SC Code: 16-03-0652  
CDR Code: 0160

After being fully advised as to my  
legal rights, I hereby waive my right  
to the Grand Jury.

*X Larry Prophet*  
Defendant

I  
hereby appear in my own proper person and plead  
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY  
OF ORIGINAL FILED  
JUN 07 2012  
CLERK OF COURT  
RICHLAND COUNTY  
SOUTH CAROLINA

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

INDICTMENT

At a Court of General Sessions, convened on JUNE 6, 2012, the  
Grand Jurors of Richland County present upon their oath:

**CRIMINAL SEXUAL CONDUCT, FIRST DEGREE**

That LARRY PROPHET did in Richland County on or about December 14, 2010,  
engage in sexual battery with ELAINE HENRICK, while the victim was also the  
victim of forcible confinement, kidnapping, robbery, extortion, burglary,  
housebreaking, or any other similar offense or act, and/or actor uses aggravated  
force to accomplish sexual battery, all in violation of Section 16-03-0652, S. C.  
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.



---

DAN JOHNSON, SOLICITOR

288

**WITNESSES**

(S) Joshua Mauldin – Richland County  
Sheriff

**ARREST WARRANT NUMBER**

DP12125

**ACTION OF GRAND JURY**

**TRUE BILL**

**VERDICT**

Foreperson of Petit Jury  
Date:

**DOCKET NO. 2012GS4003067**

**The State of South Carolina**

**County of**

**Richland**

**COURT OF GENERAL SESSIONS**

**JUNE TERM 2012**

154

**THE STATE  
vs.**

**LARRY PROPHET**

**Indictment for  
ARMED ROBBERY**

**SC Code: 16-11-0330(A)  
CDR Code: 0139**

After being fully advised as to my  
legal rights, I hereby waive presentment  
to the Grand Jury.

~~Larry Prophet~~  
Defendant

I  
hereby appear in my own proper person and plead  
guilty to the within indictment or to

Defendant

Witness

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

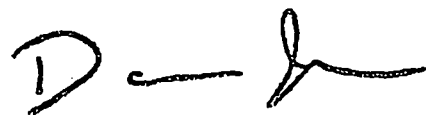
INDICTMENT

At a Court of General Sessions, convened on JUNE 6, 2012, the  
Grand Jurors of Richland County present upon their oath:

**ARMED ROBBERY**

That LARRY PROPHET did in Richland County on or about December 14, 2010, commit robbery by feloniously taking from the person or presence of ELAINE HENRICK, by means of force or intimidation, goods or monies of ELAINE HENRICK, such goods or monies being described as TELEVISION AND/OR US CURRENCY AND/OR CELL PHONE, with the intent to deprive the owner permanently of such property, while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by actions or words, that he or she was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon. All in violation of §16-11-330(A), SC 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.



DAN JOHNSON, SOLICITOR

**WITNESSES**

(S) Joshua Mauldin - Richland County  
Sheriff

**ARREST WARRANT NUMBER**

DP12126

**ACTION OF GRAND JURY****TRUE BILL**

Foreperson of Petit Jury

Date:

**DOCKET NO. 2012 GS 40 03068****The State of South Carolina****County of****Richland****COURT OF GENERAL SESSIONS****JUNE TERM 2012**

154

**THE STATE  
vs.****LARRY PROPHET****Indictment for  
BURGLARY 1ST DEGREE****SC Code: 16-11-0311****CDR Code: 0079**

After being fully advised as to my  
legal rights, I hereby waive presentment  
to the Grand Jury.

**Defendant**

I  
hereby appear in my own proper person and plead  
guilty to the within indictment or to

**Defendant****Witness:****C.C.C. PLS. AND G.S.**

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

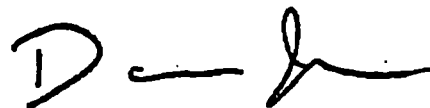
**INDICTMENT**

At a Court of General Sessions, convened on JUNE 6, 2012, the  
Grand Jurors of Richland County present upon their oath:

**BURGLARY, 1<sup>ST</sup> DEGREE**

That LARRY PROPHET did in Richland County on or about December 14, 2010, enter the dwelling of ELAINE HENRICK located at  
without consent and with the intent to commit a  
crime therein and when, in effecting entry or while in the dwelling or in  
immediate flight, the defendant and/or co-defendant(s) entered or  
remained in the dwelling during the hours of darkness and/or was armed  
with a deadly weapon and/or causes physical injury to a non-participant in  
the crime and/or used or threatened the use of a dangerous instrument  
and/or displayed what is or appears to be a knife or firearm, in violation of  
Section 16-11-0311(A), Code of Laws of South Carolina, 1976, as  
amended.

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



DAN JOHNSON, SOLICITOR

**WITNESSES**

(S) Joshua Mauldin – Richland County  
Sheriff

**ARREST WARRANT NUMBER**

DP12127

**ACTION OF GRAND JURY****TRUE BILL**

N  
Fo  
De

**VERDICT**

Foreperson of Petit Jury  
Date:

**DOCKET NO. 2012 GS 40 03069****The State of South Carolina****County of****Richland****COURT OF GENERAL SESSIONS****JUNE TERM 2012**

154

**THE STATE**  
**vs.**

**LARRY PROPHET**

**Indictment for**  
**KIDNAPPING**

**SC Code: 16-03-0910**  
**CDR Code: 0095**

After being fully advised as to my  
legal rights, I hereby waive presentment  
to the Grand Jury.

X Larry Prophet  
Defendant

I  
hereby appear in my own proper person and plead  
guilty to the within indictment or to

Defendant

Witness  
C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

INDICTMENT

At a Court of General Sessions, convened on JUNE 6, 2012, the  
Grand Jurors of Richland County present upon their oath:

**KIDNAPPING**

That LARRY PROPHET did in Richland County on or about December 14,  
2010, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry  
away one ELAINE HENRICK, without authority of law, in violation of  
Section 16-03-0910, S. C. 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.



DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE INTEREST OF:

IN THE FAMILY COURT

10JU401524

JUVENILE PETITION

Prophet, Larry Lorenzo DOB-  
\_\_\_\_\_  
\_\_\_\_\_

R 10 - 4 3 1 7

RECEIVED  
CC, CR, & FAMILY COURT  
2010 DEC 16 PM 12:18RICHLAND COUNTY  
FILED

Inv. J. C. Mauldin, RCSD petitioner, residing at Post Office Box 143, Columbia, SC 29202, having sufficient knowledge or information to believe that a case has arisen which invokes the juvenile jurisdiction of the Court, alleges:

1.

That the above named is less than seventeen years of age and resides in the County at the address shown above, or was found in the County as alleged herein.

2.

That the names and addresses of the child's parents or guardian or custodian is as follows:

| Name           | Relationship or Title | Address |
|----------------|-----------------------|---------|
| Sonya Grissett | Parent                | Same    |

3.

On 12/14/10, the respondent did commit the crime of Kidnapping, violation of SC Code 16-3-910, in that at \_\_\_\_\_ in Richland County he did unlawfully enter the 80 year old victim's home where he held the victim at gunpoint against her will for an extended period of time while they robbed and sexually assaulted her. The respondent was implicated in the crime by a co-defendant who provided a sworn written statement. The respondent also provided a written statement implicating himself in the crime. Petitioner and others are witness to prove the same (1012-0455-14)

Petitioner prays the Court to hear the case to determine whether the allegations are true and whether the child is in need of the care, protection, or discipline of the State.

This 16<sup>th</sup> day of December, 2010

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

Inv. J.C. Mauldin, RCSD, being duly sworn, says that he(he) is the petitioner herein, and that he(he) has read the foregoing Petition and knows the contents thereof; that the same is true of his(her) own knowledge, except as to the matters therein stated to be alleged on information and belief; and to those matters he(he) believes them to be true.

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 16<sup>th</sup> DAY OF December, 2010

[Signature]  
\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires Aug 5, 2015

[Signature]  
\_\_\_\_\_  
Petitioner

[Signature]  
\_\_\_\_\_  
Petitioner

STATE OF SOUTH CAROLINA

IN THE FAMILY COURT

COUNTY OF RICHLAND

1011401525

IN THE INTEREST OF:

JUVENILE PETITION

Prophet, Larry Lorenzo

DOB

R 10 - 4318  
 2010 DEC 16 PM 12:18  
 RICHLAND COUNTY  
 FILED  
 JUVENILE COURT

Inv. J.C. Mauldin, RCSD petitioner, residing at Post Office Box 143, Columbia, SC 29202, having sufficient knowledge or information to believe that a case has arisen which invokes the juvenile jurisdiction of the Court, alleges:

1.

That the above named is less than seventeen years of age and resides in the County at the address shown above, or was found in the County as alleged herein.

2.

That the names and addresses of the child's parents or guardian or custodian is as follows:

| Name           | Relationship or Title | Address |
|----------------|-----------------------|---------|
| Sonya Grissett | Parent                | Same    |

3.

On 12/14/10, the respondent did commit the crime of Armed Robbery, violation of SC Code 16-11-330, in that at in Richland County he unlawfully entered the 80 year old victim's home during the hours of darkness. The respondent then robbed the victim of cash, jewelry and electronics while armed with a shotgun. The respondent was implicated in the robbery by a co-defendant in a sworn statement. The respondent also provided his own sworn statement implicating himself in the crime. Petitioner and others are witness to prove the same (1012-0455-14).

Petitioner prays the Court to hear the case to determine whether the allegations are true and whether the child is in need of the care, protection, or discipline of the State.

This 16<sup>th</sup> day of December, 2010

STATE OF SOUTH CAROLINA  
 COUNTY OF RICHLAND

J. Q.  
 Petitioner

Inv. J.C. Mauldin, RCSD, being duly sworn, says that he(he) is the petitioner herein, and that he(he) has read the foregoing Petition and knows the contents thereof; that the same is true of his(her) own knowledge, except as to the matters therein stated to be alleged on information and belief; and to those matters he(he) believes them to be true.

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 16<sup>th</sup> DAY OF December, 2010

J. Q.  
 Petitioner

Shirley B. Bays  
 Notary Public for South Carolina

My Commission Expires Aug 5, 2015

STATE OF SOUTH CAROLINA

IN THE FAMILY COURT

COUNTY OF RICHLAND

10 J 401527

IN THE INTEREST OF:

JUVENILE PETITION

Prophet, Larry Lorenzo

DOB

2010 DEC 18 PM 12:18  
 FILED  
 RICHLAND COUNTY  
 JUVENILE COURT  
 CLERK  
 R 10 4

Inv. J.C. Mauldin, RCSD petitioner, residing at Post Office Box 143, Columbia, SC 29202, having sufficient knowledge or information to believe that a case has arisen which invokes the juvenile jurisdiction of the Court, alleges:

1.

That the above named is less than seventeen years of age and resides in the County at the address shown above, or was found in the County as alleged herein.

2.

That the names and addresses of the child's parents or guardian or custodian is as follows:

| Name           | Relationship or Title | Address |
|----------------|-----------------------|---------|
| Sonya Grissett | Parent                | Same    |

3.

On 12/14/10, the respondent did commit the crime of Criminal Sexual Conduct 1st, violation of SC Code 16-3-652, in that at \_\_\_\_\_ in Richland County, he unlawfully enter the 80 year old victim's home where he held the victim at gunpoint against her will. The respondent and a co-defendant then forced the victim to undress at gunpoint. The respondent was implicated in the crime by a co-defendant who provided a sworn written statement. The respondent also provided a written statement implicating himself in the crime. Petitioner and others are witness to prove the same (1012-0455-14)

Petitioner prays the Court to hear the case to determine whether the allegations are true and whether the child is in need of the care, protection, or discipline of the State.

This 16<sup>th</sup> day of December, 2010

STATE OF SOUTH CAROLINA  
 COUNTY OF RICHLAND

Inv. J.C. Mauldin, RCSD, being duly sworn, says that he(she) is the petitioner herein, and that he(she) has read the foregoing Petition and knows the contents thereof; that the same is true of his(her) own knowledge, except as to the matters therein stated to be alleged on information and belief; and to those matters he(she) believes them to be true.

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 16<sup>th</sup> DAY OF December, 2010

Notary Public for South Carolina

My Commission Expires Aug 5, 2019

Petitioner

Petitioner

STATE OF SOUTH CAROLINA

IN THE FAMILY COURT

COUNTY OF RICHLAND

10JU401528

IN THE INTEREST OF:

JUVENILE PETITION

Prophet, Larry Lorenzo

DOB-

R 10 - 43

2010 DEC 16 PM 12:18

FILED  
CLERK OF COURT  
FAMILY COURT

RICHLAND COUNTY

Inv. J.C. Mauldin, RCSD petitioner, residing at Post Office Box 143, Columbia, SC 29202, having sufficient knowledge or information to believe that a case has arisen which invokes the juvenile jurisdiction of the Court, alleges:

1.

That the above named is less than seventeen years of age and resides in the County at the address shown above, or was found in the County as alleged herein.

2.

That the names and addresses of the child's parents or guardian or custodian is as follows:

| Name           | Relationship or Title | Address |
|----------------|-----------------------|---------|
| Sonya Grissett | Parent                | Same    |

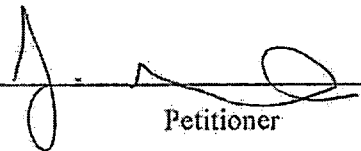
3.

On 12/14/10, the respondent did commit the crime of Burglary 1<sup>st</sup> Degree, violation of SC Code 16-11-311, in that at in Richland County he unlawfully entered the 80 year old victim's home during the hours of darkness. The respondent entered the residence through an unsecured rear door without the invitation or consent of the home owner. While inside the residence the respondent robbed the victim at gunpoint of cash, jewelry and electronics. The respondent also sexually assaulted the victim. The respondent was implicated in the crime by the co-defendant. He also implicated himself in his own written statement. Petitioner and others are witness to prove the same (1012-0455-14)

Petitioner prays the Court to hear the case to determine whether the allegations are true and whether the child is in need of the care, protection, or discipline of the State.

This 16<sup>th</sup> day of December, 2010

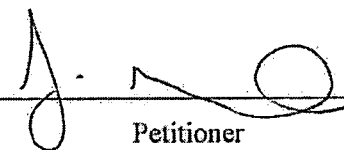
STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

  
Petitioner

Inv. J.C. Mauldin, RCSD, being duly sworn, says that he(she) is the petitioner herein, and that he(she) has read the foregoing Petition and knows the contents thereof; that the same is true of his(her) own knowledge, except as to the matters therein stated to be alleged on information and belief; and to those matters he(she) believes them to be true.

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 16<sup>th</sup> DAY OF December, 2010

  
Petitioner

Notary Public for South Carolina

My Commission Expires Aug 5, 2015