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SC SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Horry County

Michael G. Nettles, Circuit Court Judge

ANTHONY M. RIGGINS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-001635

APPENDIX

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF HORRY) FIFTEENTH JUDICIAL CIRCUIT
2008-GS-26-02589

THE STATE OF SOUTH CAROLINA,)
))
Plaintiff,)
-VS-) TRANSCRIPT OF RECORD
))
ANTHONY MAURICE RIGGINS,)
))
Defendant.)

June 20-21, 2013
Conway, South Carolina

B E F O R E:

HONORABLE JOHN C. HAYES, III, Judge.

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

GEORGE H. DeBUSK, Jr., Esquire
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Attorney for the State

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Attorney for the Defendant

DIXIE COX EUBANK
Circuit Court Reporter
Fifteenth Judicial Circuit

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IN CAMERA HEARING

1 **THE COURT:** All right. Are we ready to start the
2 next trial?

3 **MR. DeBUSK:** Your Honor, could Ms. Wilson and I
4 approach for a moment?

5 **THE COURT:** Yes.

6 **(A BENCH CONFERENCE WAS HELD OFF THE RECORD.)**

7 **THE COURT:** All right. Is the State ready to proceed
8 on Anthony Riggins?

9 **MR. DeBUSK:** Yes, Your Honor.

10 **THE COURT:** Okay. And do we have any matters before
11 we get the jury up?

12 **MR. DeBUSK:** Your Honor, we do have the Neil v.
13 Biggers hearing, if you would like to hear that this
14 morning.

15 **THE COURT:** All right. Why don't we proceed.
16 Is this Mr. Riggins?

17 **MS. WILSON:** Yes, Your Honor.

18 **MR. DeBUSK:** Just for the record, Your Honor, this is
19 Indictment 2008-GS-26-02589, the State v. Anthony Maurice
20 Riggins, armed robbery. The State has an identification
21 hearing. We would like to call as our first witness Chase
22 Mitchell.

23 **THE COURT:** All right. Mr. Mitchell, please come up
24 and be sworn.

25 **CHASE JOSEPH MITCHELL,** being first duly sworn,

IN CAMERA - CHASE JOSEPH MITCHELL - DIRECT BY DeBUSK

1 testifies as follows:

2 **THE DEPUTY CLERK:** Please state your full name and
3 spell your last name.

4 **MR. MITCHELL:** Chase Joseph Mitchell,
5 M-I-T-C-H-E-L-L.

6 **DIRECT-EXAMINATION BY MR. DeBUSK:**

7 Q. Mr. Mitchell, on May 7th, 2008, did you report a
8 robbery?

9 A. Yes.

10 Q. The individual that you saw that you reported having
11 robbed you, where did this happen?

12 A. On 7th Avenue North at Sea Palms Motel.

13 Q. Where were you at that time?

14 A. I was in the back office at the time.

15 Q. Okay. When the robbery occurred?

16 A. The robbery took place in the front of the office.

17 Q. Okay. Did you see the individual who robbed you
18 there?

19 A. Yes.

20 Q. How long did you get to observe him?

21 A. Three to five minutes.

22 Q. Okay. How was the lighting at that spot?

23 A. Very bright.

24 Q. Did you get a good look at the face of this
25 individual?

IN CAMERA - CHASE JOSEPH MITCHELL - DIRECT BY DeBUSK

1 A. Yes.

2 Q. Did you get a good look at the clothing ---

3 A. Yes.

4 Q. --- and the build?

5 A. Yes.

6 Q. And after the robbery, where did that individual go?

7 A. He was on foot, and he ran down towards the parking
8 lot across from First Baptist Church.

9 Q. Now, let me ask you, did you see that individual
10 again that night?

11 A. Yes.

12 Q. Where did you see him?

13 A. Probably fifteen minutes, fifteen or twenty minutes
14 after the robbery took place.

15 Q. And where -- where did you see him?

16 A. In the parking lot on the ground on Kings Highway in
17 front of the ---

18 Q. How far was that from where the robbery actually
19 occurred?

20 A. Less than a mile.

21 Q. Okay. And you say it was about fifteen minutes
22 afterwards, is that right?

23 A. Yes.

24 Q. Where you saw him again, was there good lighting?

25 A. Yes.

IN CAMERA - CHASE JOSEPH MITCHELL - DIRECT BY DeBUSK
CROSS BY WILSON

1 Q. Were you able to observe the individual?

2 A. Yes.

3 Q. Could you see his face?

4 A. Yes.

5 Q. And his clothing and his build?

6 A. Uh huh (**indicating positive**).

7 Q. Was that the same individual you saw ---

8 **THE COURT REPORTER:** Excuse me. Your answer?

9 A. Yes ma'am.

10 Q. Was that the same individual that robbed you?

11 A. Yes.

12 Q. Were you a hundred percent certain?

13 A. Yes.

14 **MR. DeBUSK:** Please answer any questions of the
15 Defense.

16 **CROSS-EXAMINATION BY MS. WILSON:**

17 Q. Good afternoon, Mr. Mitchell. Isn't it true that
18 the lighting was actually pretty poor ---

19 A. No.

20 Q. --- in that area?

21 A. No.

22 Q. And you didn't actually get out of the car, did you?

23 A. I did not.

24 Q. So you are in a police car. How far away would you
25 say you were?

IN CAMERA - CHASE JOSEPH MITCHELL - CROSS BY WILSON

1 A. Three feet.

2 Q. Three feet away?

3 A. Yeah. They pulled pretty close.

4 Q. And from three feet away in the dark, inside, was
5 there a light on that police vehicle?

6 A. There was not.

7 Q. So you're in a dark police car you say about three
8 feet away?

9 A. Uh huh (**indicating positive**).

10 **THE COURT REPORTER:** Excuse me. You have to answer
11 yes or no.

12 A. Yes.

13 Q. You're in the dark. It's nighttime, correct?

14 A. Yes.

15 Q. And it is a full moon that night?

16 A. I'm not sure.

17 Q. So at least not a bright enough moon that you would
18 notice it?

19 A. The parking lot was lit.

20 Q. The parking lot was lit?

21 A. Yeah.

22 Q. So from three feet away in a dark car, you pull up
23 and you are expecting us to believe that you can
24 identify ---

25 A. I had a good enough look at him when he was robbing

IN CAMERA - CHASE JOSEPH MITCHELL - CROSS BY WILSON

1 me that I looked him right in the eyes and basically still
2 to this day I could still give a pretty good description of
3 what he looks like.

4 Q. Well, you did say that his face was covered,
5 correct?

6 A. For the first part. He came in. He started pacing
7 back and forth. He was muffling and continued to cover his
8 face a little bit, and he was sweating profusely, so I was
9 under the impression that something was on his face. I
10 asked him is everything all right? Are you okay? And he
11 proceeded to say yeah, how about you go ahead and empty out
12 the drawer, and then he made the notion that he had a
13 weapon.

14 Q. So his face was covered, right?

15 A. No, not -- once he -- once he said how about empty
16 out the drawer, his face was uncovered the whole time.

17 Q. And that's not in the reports, correct?

18 A. I'm not aware of it.

19 Q. Did you tell the police that?

20 A. Yes, I did.

21 Q. And in no report is it written that you saw his
22 face, but today you're telling us you did?

23 A. Oh, yeah, yeah, I saw his face.

24 Q. Well, let's have a look at that. There was no
25 particular officer that you recall telling that you saw

IN CAMERA - CHASE JOSEPH MITCHELL - CROSS BY WILSON

1 this gentleman's face?

2 A. I can't remember.

3 Q. So you don't actually recall telling anyone that you
4 saw his face that night when it was fresh, correct?

5 A. Yes, I saw him.

6 Q. Again, my question for you is at what point did you
7 tell an officer that you saw his face when you gave a
8 statement about your recollection from that night?

9 A. I gave them a description of what he looked like.

10 Q. You did, but you did not describe his facial
11 features in that description?

12 A. I described them on the tape.

13 Q. And when was that taped statement given?

14 A. Right after he left the office.

15 Q. So in your -- you're talking about the 911 call,
16 correct?

17 A. Uh huh (**indicating positive**).

18 Q. So the 911 call, I believe that you said that he was
19 a dark-skinned male. I think you said oily ski?

20 A. Uh huh (**indicating positive**).

21 **THE COURT REPORTER:** Excuse me. You have to answer
22 yes or no.

23 A. Yes.

24 Q. And that he was around five feet, maybe five,
25 five ---

IN CAMERA - CHASE JOSEPH MITCHELL - CROSS BY WILSON

1 A. Yes.

2 Q. --- in height?

3 A. Yes.

4 Q. With maybe a stocky build?

5 A. Yes.

6 Q. And at no point did you describe anything about his
7 facial features, correct?

8 A. I described them to the police officer verbally.

9 Q. Okay. I'm sorry. I thought you just told me a
10 second ago that you did so on the 911 call?

11 A. Well, I believe it's on the tape.

12 Q. So there is no description anywhere of you being --
13 expressed about what his face looked like, correct?

14 A. Yes.

15 Q. So there's no report, there's no officer's report
16 that you gave, and there is no taped statement where you
17 were -- expressed about what this person's facial features
18 looked like?

19 A. Well, at the time span that I saw him in, I -- the
20 robber, the robbery, he had such a distinct nose, and just
21 facial features that I knew it was him. There was no lapse
22 in time. I mean, this was not an hour or two hours later.
23 I mean, it was definitely him, so no doubt about it. He
24 still had the same clothes on.

25 Q. And it's your testimony today that you observed all

IN CAMERA - CHASE JOSEPH MITCHELL - CROSS BY WILSON

1 of this information and that you saw his face, but that was
2 not your testimony that night? That was not what you told
3 them that night, correct?

4 A. No, I -- I told them that was him, distinctly, I
5 mean, his facial features to the clothes that he was
6 wearing. I mean, there was no doubt. I was a hundred
7 percent sure. There was no doubt.

8 **MS. WILSON:** The Court's indulgence.

9 Q. Do you recall telling Officer Bresadola and Miller
10 that the buzz came in and that he buzzed the door, ---

11 A. Uh huh (**indicating positive**).

12 Q. --- the robber?

13 A. Uh huh (**indicating positive**).

14 Q. That he came in ---

15 **THE COURT:** You've got to say yes or no.

16 A. I'm sorry. Yes sir.

17 Q. That he was sweaty, oily, and holding his shirt over
18 his nose like he had something in his face?

19 A. Yes.

20 Q. At no other point in this statement do you say
21 anything about I saw his entire face?

22 A. I did not in the report, but explaining to the
23 officers, yes, this is what he looks like, this is what his
24 facial features look like, this is what he was wearing,
25 that is proof enough that I know exactly who this person is

IN CAMERA - CHASE JOSEPH MITCHELL - CROSS BY WILSON

1 if I was going to identify him.

2 Q. Well, actually, I'm not sure it is proof enough.
3 You're telling me ---

4 THE COURT: Well, let me interrupt you. Is that
5 something he signed or is that a report from ---

6 MS. WILSON: This is his report from the police, Your
7 Honor.

8 THE COURT: When you say his report, did he sign it?

9 MS. WILSON: No, sir. This is the report ---

10 THE COURT: So you're examining him off of some --
11 somebody else's report?

12 MS. WILSON: Yes sir.

13 THE COURT: Okay. I just want to make sure I
14 understand.

15 MS. WILSON: Yes sir. He -- his actual written
16 statement, which I'm going to come back to ---

17 THE COURT: Okay. Well, let's just make sure I know
18 what he -- what you're talking about.

19 MS. WILSON: Yes sir.

20 Q. Did you -- so your testimony here today is that you
21 did not -- that you did tell the officers that you saw his
22 face?

23 A. Yes.

24 Q. And that somehow they have neglected to put it in
25 their report?

IN CAMERA - CHASE JOSEPH MITCHELL - CROSS BY WILSON

1 A. Yes.

2 Q. Okay. I do have a copy of your statement?

3 A. Yes.

4 Q. Do you remember giving a statement that night?

5 A. I -- I do, yes.

6 Q. And in your statement, the details are very black,
7 oily skin, five/five, husky, shaved bald head, painted flat
8 -- pointed, excuse me, flat, wide nose. I Love New York
9 white t-shirt with bluejeans, black?

10 A. Yes.

11 Q. Anything about facial features?

12 A. The nose is the most distinct part about this person
13 for me.

14 Q. And nothing saying that the shirt was not over his
15 face?

16 A. No.

17 Q. So you did not write that even in your own statement
18 that night ---

19 A. I guess not.

20 Q. --- that you saw his face?

21 A. No, ma'am.

22 Q. Okay.

23 **MS. WILSON:** No further questions. Thank you.

24 **THE COURT:** Mr. DeBusk, are you going to have him
25 make an in-court identification so I know what this is all

IN CAMERA - CHASE JOSEPH MITCHELL - REDIRECT BY DeBUSK

1 about?

2 **MR. DeBUSK:** I'm sorry, Your Honor?

3 **THE COURT:** Is he going to make an in-court
4 identification? I mean, that ---

5 **REDIRECT-EXAMINATION BY MR. DeBUSK:**

6 Q. Have you seen -- do you see in this courtroom the
7 person that robbed you that night?

8 A. Yes.

9 Q. Who is it?

10 A. Right over ---

11 **THE COURT:** Describe him.

12 Q. Is he -- is it the Defendant beside Ms. Wilson?

13 A. What ---

14 Q. Are you saying the Defendant that is beside Ms. ---

15 A. Yes sir.

16 Q. Okay.

17 **MR. DeBUSK:** Your Honor, for the record, that is Mr.
18 Riggins.

19 A. Yes.

20 Q. In the statement you wrote in your hand that night,
21 you described his nose?

22 A. Yes.

23 Q. Could you have seen his nose if you didn't see his
24 face?

25 A. Yes.

IN CAMERA - CHASE JOSEPH MITCHELL - REDIRECT BY DeBUSK

1 Q. So you saw his face?

2 A. I saw his face.

3 Q. The parking lot where you saw him the second time,
4 was it light?

5 A. Yes. It was brightly light. It was a brand new
6 parking lot that they had just redone, and it was as bright
7 as anything.

8 Q. So you didn't have lights on in your car that
9 interfered with your viewing out of the car, did you?

10 A. I did not, but I was close enough that I could
11 definitely tell clothing-wise and ---

12 Q. He was lit and you were in the dark?

13 A. Yes.

14 Q. And looking out of the dark into the light, you were
15 able to see his face and identify him?

16 A. Yes.

17 Q. And, in fact, were you one hundred percent sure the
18 person you saw ---

19 A. One hundred percent ---

20 Q. --- was in that parking lot?

21 A. Yes.

22 **THE COURT REPORTER:** Excuse me, please.

23 **THE COURT:** Yeah, y'all was talking -- y'all are kind
24 of jabbering.

25 **THE COURT REPORTER:** One at a time.

RULING OF THE COURT

1 **MR. DeBUSK:** I apologize.

2 **THE COURT:** Y'all are kind of jabbering at ---

3 **MR. DeBUSK:** I'm sorry, Your Honor.

4 **THE COURT:** Go ahead.

5 **MR. DeBUSK:** I'll slow down.

6 **Q.** Are you one hundred percent certain that the person
7 you saw in the courtroom today is the person that robbed
8 you?

9 **A.** Yes sir.

10 **MR. DeBUSK:** Thank you.

11 **THE COURT:** Recross?

12 **MS. WILSON:** No, Your Honor.

13 **THE COURT:** You may step down.

14 All right. I find that the in-court identification is
15 admissible. This is a one-person show up and by its very
16 nature is unduly suggestive, but I still find that the in-
17 court identification, I find, is by clear and convincing
18 evidence, is reliable.

19 This type show-up was proper where they occur shortly
20 after the crime, as this one did, occurs near the scene of
21 the crime, as this one did. The witness's memory is still
22 fresh. Here it was. The suspect did not have time to
23 alter his looks. That, based on the testimony, is the
24 case.

25 The witness had a full opportunity to view the

RULING OF THE COURT
MOTIONS

1 criminal at the time of the crime, that his attention was
2 direct. He conversed with him, that his description that
3 he gave of who he saw and who he later identified are the
4 same. He was a hundred percent certain at the time of his
5 confrontation. The clothing was the same, and the length
6 of the time between the crime and the confrontation was
7 very, very short, so I'll allow the in-court identification
8 by the witness.

9 All right. What else before we get the jury up?

10 **MR. DeBUSK:** Nothing further from the State, Your
11 Honor.

12 **MS. WILSON:** Your Honor, I do have a couple of
13 motions. I would ask, Your Honor, that I believe that the
14 State has submitted to me as of this week a booking report.
15 I do not know if they intend to use it ---

16 **MR. DeBUSK:** No, Your Honor. It was -- it was sent
17 in the original discovery. I just got another copy and so
18 I forwarded the second copy to her.

19 **MS. WILSON:** And I just wanted to make sure, Your
20 Honor, there's some statements or there's -- it addresses
21 the other charge in this case, and I would want to make
22 sure that there is no mention of that attempted armed
23 robbery in the mention -- in the processing of this case.

24 **MR. DeBUSK:** We don't intend to present any evidence
25 of the other attempted armed robbery, Your Honor.

MOTIONS

1 **MS. WILSON:** My final motion, Your Honor, -- well, I
2 have two more. I would ask that any statements by my
3 client as alleged by the officers who made the arrest in
4 this case, I would ask that any reference to drugs or drug
5 use, as they claim admitted -- was admitted to by my client
6 be suppressed.

7 **MR. DeBUSK:** Gladly, Your Honor.

8 **MS. WILSON:** And finally, Your Honor, I would just
9 ask to sequester any witnesses in this case.

10 **MR. DeBUSK:** We would ask that our chief investigator
11 and our victim be allowed to ---

12 **THE COURT:** All right. The chief investigator and
13 the victim may both remain. Are there any other witnesses?

14 **MR. DeBUSK:** I would ask Officer Bresadola and
15 Officer Miller to step out in the waiting room.

16 **MS. WILSON:** Thank you, Your Honor.

17 **THE COURT:** All right. Ready for the jury to get up?

18 **MR. DeBUSK:** Yes, Your Honor.

19 **MS. WILSON:** Yes sir.

20 **THE COURT:** Any particular voir dire from the State?

21 **MR. DeBUSK:** We would just ask for the standard,
22 including whether anyone has been prosecuted by the
23 Fifteenth Circuit Solicitor's Office.

24 **THE COURT:** All right. Do you have a witness list,
25 Mr. DeBusk?

MOTIONS
JURY IN/VOIR DIRE

1 **MR. DeBUSK:** Yes, Your Honor. I put one up there.

2 **THE COURT:** This is your list? Okay.

3 Do you have a witness list?

4 **MS. WILSON:** Yes sir, Your Honor.

5 **THE COURT:** And do you have any other voir dire?

6 **MS. WILSON:** No, sir.

7 **THE COURT:** All right. Let's get the jury up here.

8 **(THE FOLLOWING TAKES PLACE IN THE PRESENCE OF THE JURY**
9 **PANEL.)**

10 **THE COURT:** Members of the jury panel, we're going to
11 start a trial today, and I assure you we will not go into
12 Saturday. I wouldn't be starting it if I thought it would,
13 so I don't want any of you to think that we're going to
14 impinge on your weekend.

15 This is a case of the State versus Anthony Riggins.

16 Mr. Riggins, would you please stand and let the jury
17 see who you are. (Mr. Riggins stands.)

18 Mr. Riggins is represented by Ms. Kia Wilson. Is that
19 the right pronunciation?

20 **MS. WILSON:** Yes sir, that's correct.

21 **THE COURT:** You may be seated. (Mr. Riggins is
22 seated.)

23 The State is represented by Mr. George DeBusk.

24 Mr. Riggins is charged with having committed armed
25 robbery on May 7th, 2008, it's alleged at the Sea Palms

VOIR DIRE

1 Motel. I believe that's in the Myrtle Beach area.

2 Mr. Riggins entered the office, demanded money while
3 leading the victim to believe that he, Mr. Riggins, was
4 armed with a deadly weapon, and that he took away property
5 of the inn and of the -- Mr. Chase Mitchell, who was the
6 individual there in the office.

7 Any of you -- are any of you related by blood or
8 marriage to Mr. Riggins? If so, please stand. Or are you
9 a close personal friend or acquaintance of his? If so,
10 stand. No one stands.

11 Have any of you been represented by Ms. Wilson, Mr.
12 DeBusk, or have any of you had any involvement with the
13 Solicitor's Office here in Horry County? If so, please
14 stand -- prosecuted by them, a victim, represented as a
15 victim by or anything like that? If so, please stand. No
16 one stands.

17 Have any of you heard about this case from any source
18 whatsoever, or have any of you formed or expressed an
19 opinion about any matter or issue involved in this case?
20 If so, please stand. No one stands.

21 Were any of you members of the Grand Jury which passed
22 on this Indictment at an earlier time? If so, please
23 stand. No one stands.

24 Are any of you or a member of your immediate family
25 involved in law enforcement at any level or in the

VOIR DIRE

1 prosecution of criminal cases at any level? If so, please
2 stand.

3 All right. Like we did the other day, if you'll just
4 tell me your name and number and why you're standing.
5 We'll start over here. Yes sir.

6 **JUROR NUMBER 251:** Your Honor, it's Juror 251, Mark
7 Singleton. I'm a counter-terrorism advisor to the SWAT
8 Team here for the Horry County Police Department.

9 **THE COURT:** Thank you.

10 **JUROR NUMBER 255:** Deborah Smith, Juror Number 255.
11 My husband is an Horry County police officer.

12 **JUROR NUMBER 280:** Juror 280. Nancy Vinesett. My
13 daughter is with the Winston-Salem Police Department.

14 **THE COURT:** Yes sir?

15 **JUROR NUMBER 210:** Mike Prosser, Juror 210. My
16 father is a Conway City Police Officer.

17 **THE COURT:** Yes ma'am.

18 **JUROR NUMBER 244:** Juror 244, Barbara Shick. My son
19 is a North Myrtle Beach police officer.

20 **THE COURT:** All right. This is the Myrtle Beach
21 Police Department, is involved in this. None of those
22 entities are, but if any of you would be unable to be fair
23 and impartial because of this relationship to someone in
24 law enforcement, please raise your right hand. No one
25 does. Thank you. You may be seated.

VOIR DIRE

1 The following are possible witnesses in this case. I
2 do not know that all will testify, but I want to go over
3 their names because their names may come up during the
4 testimony. Chase Mitchell, and he is the alleged victim of
5 the event at Sea Palms. From the Myrtle Beach Police
6 Department, Joe Graham, Mark Jackson, Henry Bresadola,
7 Scott Williamson. Also a law enforcement officer, Randy
8 Miller, and then three individuals who are -- four
9 individuals, I'm sorry, who are not indicated to be
10 involved in law enforcement, James Joyce, John Iaonne,
11 Travis Preston, and L. L. Riggins.

12 Any of you related by blood or marriage or a close
13 personal friend, acquaintance to any of them? If so,
14 please stand. No one stands.

15 Anything further from the State?

16 **MR. DeBUSK:** No, Your Honor.

17 **THE COURT:** Defense?

18 **MS. WILSON:** Nothing, Your Honor.

19 **THE COURT:** Do any of you know of any reason
20 whatsoever why you could not or should not serve as a fair
21 and impartial juror in the trial of this case? If so,
22 please stand. No one stands.

23 Now, if you will remember, I believe all of you were
24 up here Monday when we drew the jury. You come forward,
25 stand by the bailiff, turn. Mr. DeBusk will either say

JURY SELECTION

1 present the juror or excuse the juror. Excuse the juror
2 means you may return to your seat. Present the juror means
3 you turn and face the table where Mr. Riggins is seated.

4 Ms. Wilson will say either swear the juror or excuse
5 the juror. If you hear the words swear the juror, take a
6 seat in the jury box. We will draw twelve jurors and one
7 alternate. Of course, if you hear the words excuse the
8 juror, return to your seat.

9 **THE DEPUTY CLERK:** Juror Number 94, Philip Goguen.
10 What say the State?

11 **MR. DeBUSK:** Present the juror.

12 **THE DEPUTY CLERK:** Defense?

13 **MS. WILSON:** Please seat the juror.

14 **THE DEPUTY CLERK:** Please be seated in the jury box.
15 Juror Number 1, Janice Adams.

16 What say the State?

17 **MR. DeBUSK:** Please present the juror.

18 **THE DEPUTY CLERK:** Defense?

19 **MS. WILSON:** Please excuse the juror.

20 **THE DEPUTY CLERK:** You're excused from this
21 particular case.

22 217 Paul Repik.

23 What say the State?

24 **MR. DeBUSK:** Please present the juror.

25 **THE DEPUTY CLERK:** Defense?

JURY SELECTION

1 **MS. WILSON:** Your Honor, could we approach for a
2 second.

3 **(A BENCH CONFERENCE WAS HELD OFF THE RECORD.)**

4 **MR. DeBUSK:** Please present the juror, Your Honor.

5 **THE DEPUTY CLERK:** Defense?

6 **MS. WILSON:** I'm sorry. What did he say?

7 **THE COURT:** He said present.

8 **MS. WILSON:** The Court's indulgence.

9 **THE COURT:** All right. Certainly.

10 **MS. WILSON:** Please excuse the juror.

11 **THE DEPUTY CLERK:** You're excused from this
12 particular case.

13 222, Victor Rivera.

14 What say the State?

15 **MR. DeBUSK:** Please excuse the juror.

16 **THE DEPUTY CLERK:** You're excused from this
17 particular case.

18 255, Deborah Smith.

19 What say the State?

20 **MR. DeBUSK:** Please present the juror.

21 **THE DEPUTY CLERK:** Defense?

22 **MS. WILSON:** Please swear the juror.

23 **THE DEPUTY CLERK:** Please be seated in the jury box.

24 257, Carl Snyder.

25 What say the State?

JURY SELECTION

1 **MR. DeBUSK:** Please present the juror.

2 **THE DEPUTY CLERK:** Defense?

3 **MS. WILSON:** Please excuse the juror.

4 **THE DEPUTY CLERK:** You're excused from this
5 particular case.

6 218, James Revell, Jr.

7 **THE COURT:** I don't know if we put on the record, the
8 strikes are five and ten.

9 **THE DEPUTY CLERK:** What say the State?

10 **MR. DeBUSK:** Please present the juror.

11 **THE DEPUTY CLERK:** Defense?

12 **MS. WILSON:** Please excuse the juror.

13 **THE DEPUTY CLERK:** You're excused from this
14 particular case.

15 20, Peter Bennett.

16 What say the State?

17 **MR. DeBUSK:** Please present the juror.

18 **THE DEPUTY CLERK:** Defense?

19 **MS. WILSON:** Please swear the juror.

20 **THE DEPUTY CLERK:** Please be seated in the jury box.

21 234, Wanda Schmitt.

22 What say the State?

23 **MR. DeBUSK:** Please present the juror.

24 **THE DEPUTY CLERK:** Defense?

25 **MS. WILSON:** Please seat the juror.

JURY SELECTION

1 **THE DEPUTY CLERK:** Please be seated in the jury box.

2 181, Steven Meyer.

3 What say the State?

4 **MR. DeBUSK:** Please present the juror.

5 **THE DEPUTY CLERK:** Defense?

6 **MS. WILSON:** Please excuse this juror.

7 **THE DEPUTY CLERK:** You're excused from this

8 particular case.

9 139, Melissa Johnson.

10 What say the State?

11 **MR. DeBUSK:** Please present the juror.

12 **THE DEPUTY CLERK:** Defense?

13 **MS. WILSON:** Please swear this juror.

14 **THE DEPUTY CLERK:** Please be seated in the jury box.

15 166, Jeanne Madeiras.

16 What say the State?

17 **MR. DeBUSK:** Please present the juror.

18 **THE DEPUTY CLERK:** Defense?

19 **MS. WILSON:** Please excuse this juror.

20 **THE DEPUTY CLERK:** You're excused from this

21 particular case.

22 118, Lena Hemingway.

23 What say the State?

24 **MR. DeBUSK:** Please present the juror.

25 **THE DEPUTY CLERK:** Defense?

JURY SELECTION

1 MS. WILSON: Please seat this juror.

2 THE DEPUTY CLERK: Please be seated in the jury box.
3 280, Nancy Vinesett.

4 What say the State?

5 MR. DeBUSK: Please present the juror.

6 THE DEPUTY CLERK: Defense?

7 MS. WILSON: Please excuse this juror.

8 THE DEPUTY CLERK: You're excused from this
9 particular case.

10 148, Sandra Kline.

11 MS. WILSON: What number is it? I'm sorry.

12 THE DEPUTY CLERK: 148.

13 What say the State?

14 MR. DeBUSK: Please present the juror.

15 THE DEPUTY CLERK: Defense?

16 MS. WILSON: Please seat this juror.

17 THE DEPUTY CLERK: Please be seated in the jury box.
18 69, Barbara Dorman.

19 What say the State?

20 MR. DeBUSK: Please present the juror.

21 THE DEPUTY CLERK: Defense?

22 MS. WILSON: Please excuse this juror. Thank you.

23 THE DEPUTY CLERK: You're excused from this
24 particular case.

25 188, June Monroe.

JURY SELECTION

1 What say the State?

2 MR. DeBUSK: Please present the juror.

3 THE DEPUTY CLERK: Defense?

4 MS. WILSON: Please excuse this juror.

5 THE DEPUTY CLERK: You're excused from this
6 particular case.

7 298, Donna Wynn..

8 What say the State?

9 MR. DeBUSK: Please present the juror.

10 THE DEPUTY CLERK: Defense?

11 MS. WILSON: Please seat this juror.

12 THE DEPUTY CLERK: Please be seated in the jury box.
13 127, Elisa Wilson.

14 What say the State?

15 MR. DeBUSK: Please present the juror.

16 THE DEPUTY CLERK: Defense?

17 MS. WILSON: Please seat this juror.

18 THE DEPUTY CLERK: Please be seated in the jury box.
19 235, Terri Schwartz.

20 What say the State?

21 MR. DeBUSK: Please present the juror.

22 THE DEPUTY CLERK: Defense?

23 MS. WILSON: Please excuse this juror.

24 THE DEPUTY CLERK: You're excused from this
25 particular case.

JURY SELECTION

1 16, Heather Beall.

2 What say the State?

3 **MR. DeBUSK:** Please excuse the juror.

4 **THE DEPUTY CLERK:** You're excused from this
5 particular case.

6 272, Janice Todd.

7 What say the State?

8 **MR. DeBUSK:** Please present the juror.

9 **THE DEPUTY CLERK:** Defense?

10 **MS. WILSON:** Please excuse this juror.

11 **MR. DeBUSK:** Your Honor, may we approach?

12 **(A BENCH CONFERENCE WAS HELD OFF THE RECORD.)**

13 **THE COURT:** She's excused. That's 10. That's what I
14 thought.

15 **THE DEPUTY CLERK:** You're excused from this
16 particular case.

17 122, Renee Hill.

18 What say the State?

19 **MR. DeBUSK:** Please present the juror.

20 **THE DEPUTY CLERK:** Defense?

21 **MS. WILSON:** Please seat this juror.

22 **THE DEPUTY CLERK:** Please be seated in the jury box.

23 251, Mark Singleton.

24 What say the State?

25 **MR. DeBUSK:** Please present the juror.

JURY SELECTION

1 **THE DEPUTY CLERK:** Defense?

2 **MS. WILSON:** Please seat this juror.

3 **THE DEPUTY CLERK:** Please be seated in the jury box.
4 132, Belinda Jeffers.

5 **MS. WILSON:** I'm sorry. What was that number?

6 **THE DEPUTY CLERK:** 132.

7 **MS. WILSON:** Thank you.

8 **THE DEPUTY CLERK:** What say the State?

9 **MR. DeBUSK:** Please present the juror.

10 **THE DEPUTY CLERK:** Defense?

11 **MS. WILSON:** Please seat this juror.

12 **THE DEPUTY CLERK:** Please be seated in the jury box.

13 **THE COURT:** The alternate strikes will be one for the
14 State and two for the Defense.

15 **THE DEPUTY CLERK:** 296, Anthony Woodle.

16 What say the State?

17 **MR. DeBUSK:** Please excuse the juror.

18 **THE DEPUTY CLERK:** You're excused from this
19 particular case.

20 48, Mary Chandler.

21 What say the State?

22 **MR. DeBUSK:** Please present the juror.

23 **THE DEPUTY CLERK:** Defense?

24 **MS. WILSON:** Please excuse this juror.

25 **THE DEPUTY CLERK:** You're excused from this

JURY SELECTION

1 particular case.

2 244, Barbara Shick.

3 **MS. WILSON:** I'm so sorry. What was that number
4 again?

5 **THE DEPUTY CLERK:** 244.

6 **MS. WILSON:** Thank you.

7 **THE DEPUTY CLERK:** What say the State?

8 **MR. DeBUSK:** Please present the juror.

9 **THE DEPUTY CLERK:** Defense?

10 **MS. WILSON:** Please excuse this juror.

11 **THE DEPUTY CLERK:** You're excused from this
12 particular case.

13 210, Michael Prosser.

14 What say the State?

15 **MR. DeBUSK:** Please present the juror.

16 **THE DEPUTY CLERK:** Defense?

17 **MS. WILSON:** Please seat this juror.

18 **THE DEPUTY CLERK:** Please be seated in the jury box.

19 **THE COURT:** Anything from the State involving the
20 striking of the panel?

21 **MR. DeBUSK:** Not from the State, Your Honor.

22 **THE COURT:** Anything from the Defense?

23 **MS. WILSON:** Nothing, Your Honor.

24 **THE COURT:** All right.

25 We're just going to do one alternate.

COURT TO JURY

1 All right. If all of you will stand now, I'm going to
2 have the Clerk administer the oath, and Mr. Singleton, I'm
3 going to ask you to come down there and let those four
4 ladies slide that way and let you be the Foreperson, so why
5 don't we go ahead and do that.

6 All right. Raise your right hand.

7 (THE JURY IS PLACED UNDER OATH BY THE DEPUTY CLERK OF
8 COURT.)

9 THE COURT: Those of you who were not chosen, I'm
10 going to allow you to leave. We're not going to draw
11 another jury this week, so you are through. You will be
12 mailed a check, and we appreciate your service this week.
13 I'm going to ask you to leave quietly so I can start
14 talking to this panel. Thank you so very much.

15 Those of you who were chosen, I'm going to chat with
16 you just a minute, and then the attorneys have an
17 opportunity to stand up in front of you and make opening
18 statements. They are not testifying because they are not
19 witnesses, and they are not trying to convince you of
20 anything at this time. They're simply outlining the trial.

21 You are the sole judges of the facts in this case, and
22 I am the sole judge of the law, and you have to apply the
23 law as I charge it and are not to infer from anything I say
24 or do as being an indication of an opinion of mine on the
25 facts.

COURT TO JURY

1 Mr. Riggins, to this charge, has entered a plea of not
2 guilty. He is presumed innocent of this charge and does
3 not prove his innocence. The State has to prove his guilt
4 beyond a reasonable doubt.

5 If you can't see or you can't hear, let me know. Do
6 not discuss the case and try to make up your own mind until
7 I instruct you to jointly deliberate and return a unanimous
8 verdict. Prior to that time, you're going to have all the
9 tools you need to make a fair decision.

10 We take breaks about every hour and a half. If you
11 need a break at any time, raise your right hand and we'll
12 take a break with no questions asked.

13 When you are outside the courtroom, do not let anyone
14 discuss the case with you, and do not start a conversation
15 with anybody about the case. If anyone tries to discuss
16 this case with you, report that back to me and hopefully
17 giving me that person's identity.

18 Do not go on-line. We have access to the world now,
19 but we cannot access it in regard to this trial. Don't
20 look up anything on any type of research vehicle, whether
21 it is electronic or otherwise. Don't look up anything to
22 deal with Mr. Riggins' charge, the attorneys, courtroom
23 procedure, evidence, me. Don't look up anything about the
24 case. If there's any news coverage of the case, don't let
25 yourself be exposed to it.

COURT TO JURY
OPENING STATEMENT FOR THE STATE (DeBUSK)

1 I think this case will go over to tomorrow, but I
2 assure you it will not go into Saturday, as I have already
3 told you, but please pay attention as the attorneys make
4 their opening statements.

5 **MR. DeBUSK:** Thank you, Your Honor.

6 Ladies and gentlemen, on May 7th, 2008, the Defendant,
7 Mr. Riggins, entered the Sea Palms Motel on 7th Avenue down
8 in Myrtle Beach, 7th Avenue North. While he was in there,
9 he was acting erratically and he got the attention of the
10 guy that was working there, Mr. Chase Mitchell, who was
11 working there alone.

12 He was looking at this individual acting oddly in this
13 hotel and he asked him was anything the matter. At that
14 point, Mr. Riggins made a motion like he had a gun and
15 demanded the money in the register. That's what we're here
16 today about. He's charged with armed robbery.

17 My name is George DeBusk. I'm a prosecutor here in
18 Horry County. I'm a Senior Assistant Solicitor. Senior
19 means I've been here a while. Solicitor means I represent
20 the State.

21 The Judge has told you, and he's going to tell you
22 again, the State has the burden of proof in this case. I
23 take that seriously. That's one of the most important
24 guarantees we have in the Constitution, the right to be
25 considered innocent until proven guilty.

OPENING STATEMENT FOR THE STATE (DeBUSK)

1 The Defendant doesn't have to disprove his guilt. I
2 have to prove his guilt. It's my burden, and I take it
3 seriously. Because it's my burden, it's very important to
4 me that you know exactly what that burden is. I've got to
5 prove the elements of the case and the elements of the
6 charge of armed robbery, taking and carrying away property
7 of another. That's about the robbery part, and you have
8 to prove the armed part.

9 There's two ways that you can prove the armed part of
10 armed robbery. One is to prove that he had a weapon, a
11 deadly weapon, a pistol, a slingshot, a dirk or something
12 like that. The other is to show that he had an object
13 which he by actions or words represented to be a weapon and
14 that if someone involved in the robbery, someone -- a
15 victim of the robbery reasonably believed that that was, in
16 fact, a weapon. That's the case here.

17 That's why Chase Mitchell gave up his -- the money of
18 the hotel. That's why he kneeled down to the floor when he
19 was ordered to do so by a man that was much smaller than
20 him. That's what the question is here today.

21 Now, at the end of the case, we're going to come back
22 and make arguments about the facts you hear from that
23 stand, and it won't be a long trial. Then the Judge is
24 going to explain to you the law, and you take the law
25 directly from the Judge.

OPENING STATEMENT FOR THE STATE (DeBUSK)

OPENING STATEMENT FOR THE DEFENDANT (WILSON)

1 The Judge will also explain to you the burden of
2 proof. In this case, it's proof beyond a reasonable doubt.
3 Now, the Judge will give you some instructions on that, but
4 he can't really draw you a picture of reasonable doubt. He
5 can't put a number on it. He can tell you things like it's
6 proof that leaves you firmly convinced.

7 I say to you that you're the reason for reasonable
8 doubt. You are, as a cross-section of the community, here
9 to decide whether there's sufficient proof presented here
10 today to punish the Defendant for his actions.

11 Right now all you have to do is to listen carefully to
12 the evidence you get from that stand just a few feet away,
13 and at the end of this case to listen carefully to the
14 arguments and render a true verdict. Thank you.

15 **MS. WILSON:** Thank you, Your Honor.

16 Good afternoon, ladies and gentlemen. My name is Kia
17 Wilson and I represent Mr. Anthony Riggins. Mr. DeBusk was
18 correct in some of the things he told you. This is a
19 serious charge. An armed robbery case is a serious case to
20 try, and I take my job just as seriously in defending Mr.
21 Riggins.

22 I'm not going to bore you with a lengthy statement of
23 this case. What I do want you to remember is that I want
24 you to listen with a critical ear and an active mind, think
25 about what you hear the witnesses say on the stand, think

OPENING STATEMENT FOR THE DEFENDANT (WILSON)

1 about whether or not you believe that's actually what could
2 actually have been the case. You are the determiners of --
3 of the truthfulness of the statements that you hear today.

4 And finally, I would let you know that my client's
5 defense is that he was not the person, that this is a case
6 of mistaken identity. I will leave it to you to listen
7 very carefully to everything that you hear today and to
8 decide for yourselves whether or not you believe that's the
9 case, and I believe that you will. Thank you.

10 **THE COURT:** All right. Before we get into the first
11 witness, I don't know whether y'all ate before you got here
12 or not, but we have some lunch ordered. I'm not sure if
13 it's here yet, but we're going to take a break at this time
14 and let you go to the jury room. If the lunch is here,
15 just go ahead and eat that.

16 The bailiff will get back with me and let me know if
17 lunch is here, and we'll work from that. I don't want to
18 keep you out too long. The reason we ordered lunch is
19 since we're at the end of the week, so we can take maybe a
20 half hour or forty-five minutes instead of an hour and a
21 half. I'm going to let you go to the jury room with the
22 idea there's going to be some flexibility in how we proceed
23 from here.

24 I understand that lunch is here for this panel, so I'm
25 going to give them a little bit of time to eat lunch.

JURY OUT/JURY IN
CHASE JOSEPH MITCHELL - DIRECT BY DeBUSK

1 (THE FOLLOWING TAKES PLACE AFTER A LUNCH BREAK AND
2 OUTSIDE THE PRESENCE OF THE JURY.)

3 THE COURT: All right. Is the State ready for the
4 jury?

5 MR. DeBUSK: Yes, Your Honor.

6 THE COURT: Defense?

7 MS. WILSON: Yes sir.

8 THE COURT: Bring in the jury.

9 (THE FOLLOWING TAKES PLACE IN THE PRESENCE OF THE
10 JURY.)

11 THE COURT: Call your first witness.

12 MR. DeBUSK: Thank you, Your Honor.

13 The State calls Chase Mitchell.

14 THE COURT: Please come up and be sworn.

15 CHASE JOSEPH MITCHELL, being first duly sworn,
16 testifies as follows:

17 THE DEPUTY CLERK: Please state your full name and
18 spell your last name.

19 MR. MITCHELL: Chase Joseph Mitchell,
20 M-I-T-C-H-E-L-L.

21 DIRECT-EXAMINATION BY MR. DeBUSK:

22 Q. Mr. Mitchell, where do you live at this time?

23 A. In Washington, D.C.

24 Q. What do you do?

25 A. I work for Tipton Hotels.

CHASE JOSEPH MITCHELL - DIRECT BY DeBUSK

1 Q. Okay. How about in 2008, May of 2008, where --
2 where were you?

3 A. Working at the Sea Palms Motel.

4 Q. Tell us about the Sea Palms Motel. Are you
5 apparently familiar with it?

6 A. Yes. It is my family's property.

7 Q. Okay. Where is it located?

8 A. 7th Avenue North, downtown, one block away from the
9 Pavilion.

10 Q. I want to show you what's been marked as State's
11 Exhibit 1 and ask if you recognize this?

12 A. Yes sir.

13 Q. What is that?

14 A. That's the area, a view for Building 1 where the Sea
15 Palms office is.

16 Q. Okay. What is the property indicated with the white
17 box in it?

18 A. The Sea Palms Motel.

19 Q. Is that the correct name and address there?

20 A. Yes sir.

21 MR. DeBUSK: At this time we would move State's
22 Exhibit 1 into evidence.

23 MS. WILSON: No objection.

24 THE COURT: In without objection.

25 (LARGE PHOTO INTRODUCED INTO EVIDENCE AS STATE'S

CHASE JOSEPH MITCHELL - DIRECT BY DeBUSK

1 **EXHIBIT NUMBER 1.)**

2 Q. Tell me specifically about the evening of May 7th of
3 2008. Who was working then?

4 A. Just me.

5 Q. Were you usually alone there?

6 A. Not usually, but just -- it was the weekend before
7 Harley weekend, and it just happened I was in the back
8 office typing up reports, and I -- we have this window that
9 is tinted at night -- we're supposed to close the windows,
10 and I forgot because it was my first day back from college,
11 and so at night you could see in, but I can't see out to
12 see you, so I was back there for a while just typing
13 reports, and then I hear the buzzer ring.

14 Q. What's the buzzer?

15 A. The buzzer is at the front door, and then basically
16 I got up, went to the front office and then came into the
17 office area, and there is a gentleman pacing back and
18 forth, kind of muffling, and ---

19 Q. Let me back up for just a minute.

20 A. Okay.

21 Q. I hate to ask you the obvious, but what county is
22 that hotel in?

23 A. Horry.

24 Q. You -- you mentioned the back office and another
25 part of the office?

CHASE JOSEPH MITCHELL - DIRECT BY DeBUSK

1 A. Yes. The back office, it's kind of adjacent. I
2 mean, they're right next door to each other.

3 Q. Let me show you what's been marked as State's
4 Exhibits 2 through 5. Well, first of all, State's Exhibit
5 2, what is that?

6 A. That's Building 1, Sea Palms Motel.

7 Q. Is that where the office you were referring to?

8 A. It's right in front of this red truck.

9 Q. Right in front of the red truck?

10 A. That's the back office, and the front office is
11 right where that red car is.

12 Q. Okay.

13 MR. DeBUSK: I would offer State's Exhibit 2 into
14 evidence.

15 MS. WILSON: Without objection.

16 THE COURT: In without objection.

17 (SMALL PHOTO INTRODUCED INTO EVIDENCE AS STATE'S
18 EXHIBIT NUMBER 2.)

19 Q. Let me show you State's Exhibits 3 through 5 and ask
20 if you recognize those?

21 A. Yes sir. That's the front office.

22 Q. And the front office you refer to, is that where you
23 would deal with customers?

24 A. Yes. That's where people would come in. You have
25 to come in to register to check in.

CHASE JOSEPH MITCHELL - DIRECT BY DeBUSK

1 Q. What are those items on the wall? They look like
2 little numbers with ---

3 A. In this picture?

4 Q. In -- it's shown in a couple of the pictures.
5 There's a -- sort of a board on the wall there.

6 A. Yeah. That's the board for our reservations.

7 Q. Okay. So that is sort of a reservation for guests?

8 A. Yes.

9 Q. Okay. To go back, you're alone in the office and
10 you hear the buzzer. Please resume your ---

11 A. So I went up front and there is a gentleman in the
12 front desk area, and he's pacing back and forth and just
13 sweating profusely and muffling. He really wasn't making
14 any sense, and finally, I was kind of puzzled and I finally
15 just -- I asked -- I was like is everything okay? Are you
16 all right? And he said, well, how about you go ahead and
17 empty out the drawer, and then the notion of a weapon was
18 made, a gesture.

19 Q. How -- how was -- explain how ---

20 A. Under his shirt.

21 Q. I'm sorry?

22 A. Under his shirt.

23 Q. Okay. Was it his hand under his shirt, or more than
24 a hand?

25 A. There was an imprint of something, and if I had to

CHASE JOSEPH MITCHELL - DIRECT BY DeBUSK

1 guess, it was a gun, and the gestures that were being made,
2 kind of lunging actions was making notion that there was a
3 weapon.

4 Q. Okay. What happened -- well, first of all ---

5 MR. DeBUSK: Your Honor, I would like to move
6 Exhibits 3 through 5 into evidence at this time.

7 MS. WILSON: Without objection, Your Honor.

8 THE COURT: In without objection.

9 (THREE SMALL PHOTOS INTRODUCED INTO EVIDENCE AS
10 STATE'S EXHIBIT NUMBER 3, 4, AND 5.)

11 Q. Could you demonstrate on these pictures where he was
12 pacing when he drew your attention?

13 A. Right where this flower is ---

14 MR. DeBUSK: Your Honor, may he ---

15 THE COURT: You may stand in front of -- and if you'd
16 like to move over to where you can see, Ms. Wilson.

17 A. So right where this flower is. I was standing here
18 right where this cash drawer is, and he was pacing back and
19 forth right in front of me.

20 Q. How far away was he?

21 A. A foot. He was pretty -- then he proceeded to get
22 closer to the counter after he said how about empty out the
23 drawer.

24 Q. How long did you see him walking back and forth?

25 A. For a good ten seconds.

CHASE JOSEPH MITCHELL - DIRECT BY DeBUSK

1 Q. Okay. How long in total did you have that encounter
2 with him in that room?

3 A. Three minutes, but it seemed longer than that.

4 Q. How was the lighting? Were you able to see him?

5 A. Very bright. I mean, the sun was still up. I mean,
6 it was about to set, you know, and the lights were all on
7 in the office, so, I mean, I could see him very good.

8 Q. Did you see his face?

9 A. I did, not when he first came in because he was
10 wiping his -- I thought he was wiping his face just because
11 he had so much sweat on him, and then he kept on putting it
12 over -- above his nose, and then after I asked is
13 everything okay, and he said how about empty out the
14 drawer, then I saw the full face.

15 Q. Okay. What was he wearing?

16 A. I Love New York t-shirt, very baggy, and then
17 bluejeans.

18 Q. Was the decal on the shirt in the front?

19 A. Yes, it was on the front.

20 Q. And was it outside -- it was ---

21 A. Yes.

22 Q. --- right side out?

23 A. Yes.

24 Q. Okay. And did you see what it was he had under his
25 shirt?

CHASE JOSEPH MITCHELL - DIRECT BY DeBUSK

1 A. I could not see exactly what it was at the time.

2 Basically I could see the imprint of something.

3 Q. At that time did you believe him to be armed?

4 A. Yes, because when I went to go to the drawer, he got
5 very hostile, and I finally -- I was like I'm just getting
6 the keys, just getting the keys, and then his -- then I got
7 the keys, opened up the drawer and gave him -- which was
8 only Forty bucks, I believe, and then he proceeded to go
9 outside to leave the office. He got half-way ---

10 Q. Let me go back just a moment there. Under that
11 threat of the weapon, you gave him the money from the cash
12 register, is that correct?

13 A. Yes.

14 Q. Did he take that?

15 A. Yes.

16 Q. Did you get any of that back?

17 A. No.

18 Q. Did it leave with him?

19 A. Yes.

20 Q. Thank you. What happened next?

21 A. He proceeded to leave the front office. He got
22 half-way out the door and turned around.

23 Q. And what did he do?

24 A. I came back to the counter, basically told me to get
25 back on the ground -- back up and kind of get on the

CHASE JOSEPH MITCHELL - DIRECT BY DeBUSK

1 ground, get -- get -- lay down on the ground, and at that
2 time I thought whatever was going to happen -- I thought he
3 was going to shoot me because just with the actions that he
4 was doing. It was very obvious that he had a weapon of
5 some sort.

6 Q. So you believed that he had a weapon?

7 A. Most definitely.

8 Q. Would you have given the money or knelt down like
9 that if you didn't believe he had a weapon?

10 A. More than likely, no.

11 Q. How tall are you?

12 A. Six, four.

13 Q. How tall is he?

14 A. Five, five.

15 Q. About five, five, and again, after you knelt down,
16 what happened?

17 A. I basically pleaded with him. I was just like I'm
18 not going to call the police. Just go, and was basically
19 on my knees pleading with him.

20 Q. What did he do?

21 A. He turned around and left.

22 Q. Did you see which way he went?

23 A. Yeah. He ran towards Kings Highway.

24 Q. Would that be along 7th Avenue?

25 A. Yes, which is where they found him.

CHASE JOSEPH MITCHELL - DIRECT BY DeBUSK

1 Q. You have the hotel here, and the ocean here, and he
2 ran away from the ocean?

3 A. Yeah. He ran this way.

4 Q. At that point, had you ever been robbed before?

5 A. Never.

6 Q. Had that hotel ever been robbed before?

7 A. Never.

8 Q. Did you have any cameras to record ---

9 A. No, ---

10 Q. --- to help with security?

11 A. --- because we've never been robbed.

12 Q. So then did you install a camera?

13 A. Yes, lots.

14 Q. Had you seen that person who robbed you before that
15 night?

16 A. No; no, sir.

17 Q. Did you know him?

18 A. No, sir.

19 Q. Did he give you a name?

20 A. No, sir.

21 Q. What did you do next?

22 A. When he left the office, I ran to the door and
23 locked that door and then called 911, and then I called my
24 parents.

25 Q. After you called 911, did the police respond?

CHASE JOSEPH MITCHELL - DIRECT BY DeBUSK

- 1 A. Yes.
- 2 Q. How long did it take them?
- 3 A. Ten minutes, if that.
- 4 Q. Did you give the police a description of the fellow?
- 5 A. Yes.
- 6 Q. Did you tell them what happened?
- 7 A. Yes sir.
- 8 Q. Do you remember which officers came?
- 9 A. No.
- 10 Q. Do you remember if they were in cars or on bikes?
- 11 A. Cars.
- 12 Q. Okay. Now, this person that robbed you, again, you
- 13 got a good look at him?
- 14 A. Yes.
- 15 Q. And in the course of three minutes, you looked at
- 16 him, is that correct?
- 17 A. What did you say?
- 18 Q. For the course of three minutes, approximately three
- 19 minutes, ---
- 20 A. Yes.
- 21 Q. And did you see him again that night?
- 22 A. Yes sir.
- 23 Q. How much later?
- 24 A. Fifteen minutes after the robbery.
- 25 Q. All right. Where did you see him?

CHASE JOSEPH MITCHELL - DIRECT BY DeBUSK

1 A. Kings Highway right in front of First Baptist Church
2 in a litted (sic) parking lot.

3 Q. Do you remember what the cross-street is there?

4 A. No, I can't remember.

5 Q. But it's in front of First Baptist?

6 A. Yes.

7 Q. How did you get there?

8 A. Say it again.

9 Q. How did you get to that location?

10 A. The police escorted me over there by vehicle.

11 Q. Where did you see him?

12 A. He was in front of the office building right there
13 in the parking lot on the ground.

14 Q. Was that parking lot well-lit?

15 A. Yes.

16 Q. Were there street lamps and street lights shining
17 along ---

18 A. Yes sir.

19 Q. Were you able to see clearly?

20 A. Yes sir.

21 Q. How far away from him were you approximately?

22 A. Three feet.

23 Q. Did you recognize the individual?

24 A. Yes.

25 Q. You recognized him and recognized his clothing?

CHASE JOSEPH MITCHELL - DIRECT BY DeBUSK.

1 A. Yes.

2 Q. All right. Was he still wearing the same I Love New
3 York t-shirt?

4 A. He was. It was reversed, though, but you could
5 still see the em- -- the sign. You could still see ---

6 Q. So instead of the decal side out, it was the decal
7 side in?

8 A. Uh huh (**indicating positive**).

9 **THE COURT REPORTER:** Excuse me.

10 A. Yes ma'am. Yes.

11 Q. So was that the same individual that robbed you?

12 A. Yes sir.

13 Q. Were you a hundred percent certain?

14 A. A hundred percent.

15 Q. Is that individual in the courtroom today?

16 A. Yes sir.

17 Q. Who is it?

18 A. Anthony Riggins.

19 Q. Were you indicating the Defendant there in the green
20 shirt?

21 A. Yes sir.

22 Q. Just to be clear to the jury, when this robbery
23 happened, where were you standing and where was the
24 Defendant standing?

25 A. Right where this little label is on this drawer, I

CHASE JOSEPH MITCHELL - DIRECT BY DeBUSK
CROSS BY WILSON

1 was standing there, and he was standing right here.

2 Q. How much distance was between the two of you?

3 A. (Inaudible.)

4 **THE COURT REPORTER:** I'm sorry?

5 **THE COURT:** I couldn't hear that last answer. What
6 was the distance between you?

7 A. A foot.

8 **MR. DeBUSK:** Your Honor, may I publish these to the
9 jury?

10 **THE COURT:** Yes sir.

11 **MR. DeBUSK:** Thank you. Please answer any questions
12 Ms. Wilson has.

13 **CROSS-EXAMINATION BY MS. WILSON:**

14 Q. Mr. Mitchell, you just stated to Mr. DeBusk that the
15 person that you identified was lying on the ground,
16 correct?

17 A. He was sitting on the ground, yes, ma'am.

18 Q. And he was sitting how, Indian-style?

19 A. With his legs out and his hands behind his back,
20 because he was handcuffed.

21 Q. Okay. And he's sitting down, but you're able to see
22 him?

23 A. Yes.

24 Q. Were you able to see his face?

25 A. Uh huh (**indicating positive**), because he looked up.

CHASE JOSEPH MITCHELL - CROSS BY WILSON

1 Yes ma'am.

2 Q. And at this time, it is dark, correct?

3 A. It's starting to get dark.

4 Q. I thought it was starting to get dark at the time
5 that you say that the person came to your hotel?

6 A. No. The sun was still up. It was setting.

7 Q. Setting.

8 A. It was afternoon.

9 Q. So it was actually getting dark at the hotel, but
10 then it had already set at the time you ---

11 A. Exactly.

12 Q. So it was dark outside, correct?

13 A. Not at the time of the robbery.

14 Q. But at the time that you went out to the parking
15 lot, it was dark, correct?

16 A. Yes. Yes ma'am.

17 Q. Okay. And you're pretty certain you recall
18 everything?

19 A. Oh, most definitely, yes ma'am.

20 Q. And part of that recollection would be that you
21 recall telling the police that the person who robbed you
22 had his hand in his pants as opposed to under his shirt?

23 A. When he was -- basically when he came into the
24 hotel, into the front desk area and he was pacing, he had
25 his hands in his pockets.

CHASE JOSEPH MITCHELL - CROSS BY WILSON

1 Q. In his pockets.

2 A. But once he told me to empty out the drawer, the
3 hand ended up under his shirt, but he was so close to the
4 counter, I couldn't tell what was on him.

5 Q. And when you say he -- so when you say that his
6 hands were in his pants, ---

7 A. Uh huh (**indicating positive**).

8 Q. --- you're saying they were in his pockets, not in
9 the pants?

10 A. They were in his pants when he was pacing.

11 Q. So your testimony then has changed? Originally you
12 said that his hands were under his shirt, correct?

13 A. During the process of the robbery.

14 Q. Yes, and then in your statement you said something
15 different, that his hands were in his pants? Do you recall
16 that?

17 A. I don't.

18 **MS. WILSON:** Your Honor, may I approach?

19 **THE COURT:** You may.

20 Q. Do you recognize this statement?

21 A. Uh huh (**indicating positive**). Yes ma'am.

22 Q. Is that your statement?

23 A. Yes ma'am.

24 Q. Is that your signature at the bottom of it?

25 A. Yes ma'am.

CHASE JOSEPH MITCHELL - CROSS BY WILSON

1 Q. Do you recall writing it?

2 A. Yes ma'am.

3 Q. And in that statement, you described his hands as
4 being where?

5 A. Pacing back and forth in front of the counter -- it
6 doesn't really say.

7 MS. WILSON: May I approach again, Your Honor?

8 THE COURT: Yes.

9 Q. If I can help you.

10 A. Yeah.

11 Q. My question is are you stating in your statement
12 that you wrote his hands were in his pants?

13 A. Yes.

14 Q. And your recollection from that night was that when
15 you wrote this statement, and I assume you gave this
16 statement on the night of this incident, correct?

17 A. Yes.

18 Q. So on that night you recall his hand being in his
19 pants?

20 A. When he came in, he was pacing, and then after he
21 told me to empty out the drawer, all of a sudden he was so
22 close to the counter, his hand was under his shirt, but he
23 was so close to the counter that, I mean, I really couldn't
24 tell. There was something underneath the shirt.

25 Q. So it wasn't that important for you to remember it

CHASE JOSEPH MITCHELL - CROSS BY WILSON

1 that night? You did not recall it that night that there
2 was something under his shirt?

3 A. Not when I had just been robbed, no.

4 Q. So then your recollection from that night is not
5 terribly clear?

6 A. No, it is clear. It's a hundred percent clear.

7 Q. Well, we just got a couple of conflicting statements
8 here. You just told me that you are not a hundred percent
9 sure because at the moment of this inci- -- when you wrote
10 this report out, this is when everything was really fresh,
11 correct?

12 A. Yeah.

13 Q. You told the police his hands were in his pants?

14 A. No. I mean, when he came in and he was pacing and
15 muffling, his hands were in his pants. And then all of a
16 sudden, he started wiping his nose and his face, covering
17 his face, and then I asked him is everything all right?
18 Are you okay? How about you go ahead and empty out the
19 drawer. All of a sudden he was so close to the counter,
20 there was something underneath his shirt.

21 Q. And again, not in your statement, correct?

22 A. No, it's not.

23 Q. But your recollection is supposed to be better today
24 than it was then, correct?

25 A. Yes. I mean, I'm a hundred percent sure this is the

CHASE JOSEPH MITCHELL - CROSS BY WILSON

1 man. There's no doubt in my mind that that is not the man
2 that robbed me and made me get on the ground at my family's
3 business.

4 Q. But you're not certain that he actually had his hand
5 under his shirt or under -- in his pants?

6 A. They were in his pants when he came in and he
7 started pacing back and forth, and then they proceeded to
8 -- one hand was up his shirt during the robbery process.

9 Q. So it switched?

10 A. No, it didn't switch.

11 Q. So he had one hand in his pants and one hand under
12 his shirt is what you're telling me?

13 A. There was a hand underneath the shirt.

14 Q. But that did not make it into your statement,
15 correct?

16 A. It did not.

17 Q. The statement you made that night?

18 A. It did not.

19 Q. So that is now your statement?

20 A. That's my statement now.

21 Q. Okay.

22 **MS. WILSON:** The Court's indulgence, Your Honor.

23 Q. One other question about the hands in the pants
24 situation.

25 A. Uh huh (**indicating positive**).

CHASE JOSEPH MITCHELL - CROSS BY WILSON
REDIRECT BY DeBUSK

1 Q. You did subsequently -- you spoke to the officers
2 and then you wrote this statement, correct?

3 A. Yes.

4 Q. And in your statement to the officers, you also said
5 that the hands were in the pants, correct?

6 A. When he came in, yes.

7 Q. Okay. But you never told any of the officers that
8 the hand was actually under the shirt?

9 A. Yes. I mean, he had something under his shirt.
10 There was an imprint of some sort.

11 Q. And I understand what you're saying. My question is
12 did you tell one of the officers this pertinent
13 information?

14 A. Yes.

15 Q. Do you recall the officer?

16 A. I don't.

17 **MS. WILSON:** Thank you. No further questions.

18 **THE COURT:** All right.

19 Redirect?

20 **MR. DeBUSK:** Thank you.

21 **REDIRECT-EXAMINATION BY MR. DeBUSK:**

22 Q. When you saw the Defendant over there across from
23 the church, he was sitting down?

24 A. Yes.

25 Q. And you were sitting down in the car as well?

CHASE JOSEPH MITCHELL - REDIRECT BY DeBUSK

1 A. Yes.

2 Q. So you were very close to ---

3 A. Yes.

4 Q. --- eye level? Again, are you certain that was the
5 individual that robbed you?

6 A. Positive.

7 Q. And you are certain that Mr. Riggins, sitting at
8 that table today, is the individual?

9 A. Yes sir.

10 Q. Now, tell me about the hands in the pants again.
11 How -- how much difference are we talking about? Are we
12 talking about here to here, or how far apart was it would
13 his hands have been from when they were in the hand (sic)
14 or when they were in the shirt?

15 A. I mean, just regular pants. I mean, you know, the
16 thing is that this happened so fast and caught me so off-
17 guard, everything was impulse, so basically the hands were
18 in the pants during the pacing process, and I'm thinking
19 this person has something on his face, you know, like
20 what's wrong with you? What is the matter?

21 And then basically when I asked him was everything
22 okay, he goes go ahead and empty out the drawer, and then
23 he gets so close to the counter, and I'm just like was this
24 really happening, and then there was something under -- I
25 don't know what it was, but there was something under the

CHASE JOSEPH MITCHELL - REDIRECT BY DeBUSK

1 shirt and it was the notion that there was a weapon
2 involved.

3 Q. So I'm just asking, is there a big difference
4 between whether his hand was in his pants or under his
5 shirt?

6 A. It doesn't matter.

7 Q. All right.

8 A. There was the gesture and the -- the actions that
9 were made. There was -- actions were made that I have a
10 weapon. Do what I tell you to do.

11 Q. So his hand was somewhere around his belt line,
12 whether it was under the shirt or ---

13 A. I mean, it was near his belt line.

14 Q. Yeah, and you saw something under his shirt, so it
15 could be more than his finger, is that what you ---

16 A. Exactly, yes sir.

17 Q. And that was what you thought was a weapon?

18 A. Yes.

19 Q. And that is why you gave him the money?

20 A. Yes.

21 Q. And that is why you laid down in the floor when he
22 told you to?

23 A. Exactly, yes sir.

24 Q. And when you wrote that statement out, what was your
25 emotional state? Were you still upset?

CHASE JOSEPH MITCHELL - REDIRECT BY DeBUSK
RECROSS BY WILSON

1 A. Just still couldn't believe it happened. I mean,
2 for somebody -- I'm sitting back there typing reports.
3 Obviously this person has seen me working, and then I come
4 into the front office and I'm getting robbed. And I don't
5 know if there's a weapon involved, but obviously the way he
6 is acting, and gesturing, and has me sitting on -- laying
7 on the ground, kneeling on the ground, I mean, I'm pretty
8 frazzled.

9 Q. At the point that he was standing up there at that
10 counter close to you or when you looked down, his hand
11 appeared to be under his shirt, did you believe he had a
12 weapon?

13 A. Yes.

14 MR. DeBUSK: Thank you.

15 MS. WILSON: Just briefly, Your Honor.

16 **RECROSS-EXAMINATION BY MS. WILSON:**

17 Q. You say that the motion that was involved helped you
18 to know, correct, ---

19 A. Yes.

20 Q. --- that this is a robbery?

21 A. Yes.

22 Q. And there was a weapon?

23 A. Yes.

24 Q. And when he is standing so close to the desk that
25 you don't know whether his hand is in his shirt or in his

CHASE JOSEPH WILSON - RECROSS BY WILSON

1 pants during this robbery, that had you frazzled, correct?

2 A. Yes.

3 Q. You still aren't really clear, because you can't be,
4 isn't that right?

5 A. The lunging gestures he was making, and he made it
6 like he had something.

7 Q. So you had a notion that there was a weapon ---

8 A. Yes.

9 Q. --- is what you're saying?

10 A. Uh huh (**indicating positive**). That's right. Yes
11 ma'am.

12 Q. And your being frazzled did not impact your ability
13 to recall the details from that night is what you're
14 telling us?

15 A. No, ma'am.

16 Q. But you do admit to being frazzled?

17 A. Yes.

18 Q. And you admit that you don't -- you didn't see him
19 from the waist down because he was standing too close to
20 the counter? I believe that's what you said earlier,
21 correct?

22 A. Yes. He was pretty close to the counter because he
23 was basically hunching over like kind of lunging.

24 Q. So there was no actually any weapon pointed at you?
25 There was no weapon that you could actually see at this

CHASE JOSEPH WILSON - RECROSS BY WILSON
HENRY BRESADOLA - DIRECT BY DeBUSK

1 point, but you believed he had one?

2 A. Yes.

3 Q. And that's it?

4 A. That's it.

5 **MS. WILSON:** Thank you.

6 No further questions, Your Honor.

7 **THE COURT:** All right.

8 You can step down. Thank you.

9 The State can call their next witness.

10 **MR. DeBUSK:** The State calls Pfc. Henry Bresadola.

11 **HENRY BRESADOLA,** being first duly sworn, testifies
12 as follows:

13 **THE DEPUTY CLERK:** Please state your full name and
14 spell your last name.

15 **OFFICER BRESADOLA:** Henry Bresadola,
16 B-R-E-S-A-D-O-L-A.

17 **DIRECT-EXAMINATION BY MR. DeBUSK:**

18 Q. Officer Bresadola, who is your employer?

19 A. The City of Myrtle Beach Police Department.

20 Q. What are your duties?

21 A. I work Ocean Boulevard. I'm a police officer, bike
22 patrol.

23 Q. Okay. How about in May of 2008?

24 A. I was on bike patrol on Ocean Boulevard.

25 Q. On May 7th of 2008, did you respond to the Sea Palms

HENRY BRESADOLA - DIRECT BY DeBUSK

1 Hotel?

2 A. Yes, I did.

3 Q. What did you do?

4 A. We got a call in reference to a armed robbery.
5 Myself and Officer Miller responded. I met with the
6 victim, Chase Mitchell. We got a description of the
7 subject, at which time Officer Miller rode off to look for
8 the suspect.

9 Q. Officer Miller was also on a bike?

10 A. Yes, he was. And I stayed with Mr. Mitchell and had
11 him fill out a witness statement, and I notified my
12 supervisor who, in turn, notified detectives in Crime
13 Scene.

14 Q. Did there come a time when the Defendant -- I'm
15 sorry -- the victim, Mr. Mitchell, left the scene?

16 A. Yes, he did.

17 Q. Where did he go, do you know?

18 A. He went to identify the suspect.

19 Q. Do you know who took him?

20 A. I think it was Sergeant Joyce, but I don't ---

21 Q. Do you know where Sergeant Joyce is now?

22 A. He's retired, in Ohio.

23 Q. Did anyone come to process the crime scene?

24 A. Yes sir. It was Crime Scene Officer Iaonne.

25 Q. Was there an investigator?

HENRY BRESADOLA - DIRECT BY DeBUSK
CROSS BY WILSON

1 A. Investigator Graham responded.

2 MR. DeBUSK: Thank you. Please answer any questions
3 of the Defense.

4 CROSS-EXAMINATION BY MS. WILSON:

5 Q. Officer Bresadola, approximately how long do you
6 think it was between the time that you arrived on scene to
7 take a statement from Mr. Miller -- or excuse me, from Mr.
8 Mitchell and the time that he actually was taken out to his
9 on-scene identification?

10 A. I would say probably thirty minutes. It wasn't very
11 long at all.

12 Q. During the -- I just want to ask this. You took his
13 statement -- and you are the one who took a statement,
14 correct?

15 A. Yes.

16 Q. Of Mr. Mitchell?

17 A. The written statement, yes ma'am.

18 Q. Yes sir. When you spoke with him, your report, I
19 believe, reflects that he told you that the person had
20 their hands in their pants, is that correct?

21 MR. DeBUSK: I'm going to object as to hearsay, Your
22 Honor.

23 MS. WILSON: Your Honor, I'll rephrase it.

24 Q. When you took your statement down, do your notes
25 reflect that the information that was given to you reflects

HENRY BRESADOLA - CROSS BY WILSON

1 that the person who robbed -- allegedly robbed Mr. Mitchell
2 had his hands in their pants?

3 A. I'm -- in my report ---

4 **MR. DeBUSK:** Your Honor, I'm going to object. That
5 still calls for hearsay.

6 **THE COURT:** I sustain the objection.

7 Q. Do you have your notes with you from the night of
8 this incident, from the report you took?

9 A. No, ma'am. My only notes would have been the
10 statement and what's in the report. I usually go off of
11 the written statement that the victim gives me.

12 Q. All right. And when the witness gives you their
13 written statement, I assume that you talk with them -- do
14 it with them beforehand, is that correct, or you just have
15 them write it out?

16 A. I just have them write it out. I explain to them
17 what information as far as their name, and date of birth,
18 and all that, what to give out, and then to give me as
19 detailed a statement as they can remember.

20 Q. So you do ask for a very detailed statement for
21 anything they can remember, correct?

22 A. Yes ma'am.

23 **MS. WILSON:** Nothing further for this witness, Your
24 Honor.

25 **MR. DeBUSK:** Nothing further, Your Honor.

JOE GRAHAM - DIRECT BY DeBUSK

1 **THE COURT:** And you can step down and be excused.

2 Thank you.

3 Call your next witness.

4 **MR. DeBUSK:** The State calls Master Corporal Joe
5 Graham with the Myrtle Beach Police Department.

6 **JOE GRAHAM,** being first duly sworn, testifies as
7 follows:

8 **THE DEPUTY CLERK:** Please state your full name and
9 spell your last name.

10 **OFFICER GRAHAM:** My name is Joe Graham, G-R-A-H-A-M.

11 **DIRECT-EXAMINATION BY MR. DeBUSK:**

12 Q. Officer Graham, where are you employed?

13 A. I'm employed with the City of Myrtle Beach Police
14 Department.

15 Q. What are your duties currently?

16 A. Currently I'm assigned as one of the Special
17 Operations night shift supervisors on the waterfront.

18 Q. How about in May of 2007, what were you -- 2008, I'm
19 sorry, 2008, ---

20 A. At that time, I was actually assigned to the
21 Investigations Division as a violent crimes detective.

22 Q. Okay. Did you respond to the Sea Palms Hotel that
23 night?

24 A. Yes sir, I did.

25 Q. I'm going to ask you something in reference to

JOE GRAHAM - DIRECT BY DeBUSK

1 State's Exhibit 1 here. Is this a fair and accurate
2 representation of the location of the Sea Palms?

3 A. Yes, it is.

4 Q. And is that in Horry County?

5 A. Yes, it is.

6 Q. And what city is that?

7 A. It's in the City of Myrtle Beach.

8 Q. Okay. Did you respond to the Sea Palms Motel on May
9 7th of 2008?

10 A. Yes sir. I was working the night shift. Myself and
11 a fellow detective responded.

12 Q. What was your role there?

13 A. I would be the primary investigator at the scene.
14 The secondary detective was just for assistance at the
15 time.

16 Q. What investigation was done under your supervision?

17 A. The incident was reported as an armed robbery, and I
18 responded to the scene, reviewed the information from the
19 officers, spoke -- actually interviewed the victim, Mr.
20 Mitchell, as far as the circumstances, and from that point
21 in time, we were advised that the Defendant was stopped, so
22 the investigation continued to the point of the officers
23 drove the victim over to the incident location and a
24 positive identification was made of the Defendant.

25 Q. Did any Crime Scene analyst respond to the scene?

JOE GRAHAM - DIRECT BY DeBUSK

1 A. Yes. Crime Scene Specialist Iaonne responded to the
2 scene.

3 Q. What is the role of crime scene investigators in a
4 case like this?

5 A. In an instance like this, Crime Scene is called to
6 generally take photographs. Over time, buildings change,
7 things change, so we document the scene as it was or as it
8 was seen that night with photographs.

9 We collect any physical evidence that may be left
10 behind or transferred to the scene to include any of a wide
11 variety of things from fingerprints to sometimes weapons
12 are dropped, wallets are dropped, all kinds of items can be
13 left behind.

14 Q. I show you State's Exhibits 3, 4, and 5. Are those
15 photos, crime scene photos, you referred to?

16 A. Yes, they are.

17 Q. During the course of your investigation, was any
18 physical evidence recovered from the scene?

19 A. The only physical evidence from the scene that was
20 recovered was a partial print that was lifted from the door
21 of the Sea Palms.

22 Q. Was that identified to anyone in particular?

23 A. No. We actually ran the print through the AFIS
24 system, or Specialist Iaonne did, and it come back as a no-
25 match. It was also compared against the Defendant and come

JOE GRAHAM - DIRECT BY DeBUSK

1 back as a -- as a no-match.

2 Q. Now, you said back then you were an investigator?

3 A. Yes sir.

4 Q. And now you work the waterfront, as it were?

5 A. Yes sir.

6 Q. What did you do in between?

7 A. Actually for close to four years in between, I spent
8 time as the Crime Scene and Forensic supervisor, which
9 would have been my second tour as the Crime Scene and
10 Forensic supervisor with the police department.

11 Q. In your two tours as Crime Scene investigator --
12 supervisor -- you said supervisor, did you receive
13 specialized training in the analysis of crime scenes?

14 A. Yes.

15 Q. Do you have -- how many years experience total do
16 you have between the two tours in crime scene
17 investigation?

18 A. I think eight or nine years as the Crime Scene
19 supervisor, several years as a Crime Scene specialist, and
20 like I said, numerous years as an investigator as a
21 property crimes or a violent crimes detective.

22 Q. Beyond your on-the-job training, what kind of
23 training, specialized training, do you receive in crime
24 scene analysis?

25 A. In crime scene, you can receive any of a wide

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1 variety of specialized training in a number of fields,
2 everything from DNA collection, to fingerprints, to trace
3 evidence. It's a very huge field nowadays. If anybody
4 watches the CSI shows on t.v., I'm sure you kind of get an
5 idea.

6 Q. Have you received specialized training in all those
7 areas?

8 A. In a lot of areas, yes sir.

9 Q. Have you ever been qualified as a crime scene
10 expert?

11 A. Yes. I have been qualified once before as a crime
12 scene expert in a case back, I believe, in '96 or '97.
13 Hold on a second.

14 Q. And since then, you've had further experience and
15 training as a crime scene investigator?

16 A. Quite a good bit, yes, sir.

17 MR. DeBUSK: At this time we would present Corporal
18 Graham as an expert in the area of general crime scene
19 investigation.

20 THE COURT: Any voir dire?

21 MS. WILSON: Your Honor, I actually -- I have to
22 object, and I would.

23 THE COURT: Well, do you have any questions to ask
24 him?

25 MS. WILSON: Yes, I do.

JOE GRAHAM - VOIR DIRE BY WILSON

1 **EXAMINATION BY MS. WILSON:**

2 Q. Detective Graham, you are still a detective, right?
3 I don't want to ---

4 A. Actually, I was an investigator. Our department has
5 transferred the investigator rank to the Master Corporal
6 rank, so Master Corporal is actually correct now.

7 Q. Master Corporal Graham, there actually are certified
8 analysts in your office, correct, or in your department?

9 A. Yes. With my tenure as the crime scene supervisor,
10 actually all six specialists are certified AFIS operators
11 and certified in other specific fields.

12 Q. And -- but you, yourself, are not certified, are
13 you?

14 A. No. As a supervisor, I don't do a lot of whole --
15 well, I don't do a lot of direct one-to-one comparisons as
16 they would be, because as a supervisor, I have different
17 duties that do not tie me up as much as certain cases.

18 Q. Yes sir. And so you actually don't, as you just
19 said, don't do the day-to-day comparison?

20 A. Only if there's a question, or an issue, or a
21 problem that arises with a specialist would I get involved
22 in that. As a procedure and protocol with Myrtle Beach, if
23 an AFIS match is made by one specialist, it will be
24 confirmed and reviewed by a second specialist.

25 Q. So I understand that you said you have a number of

JOE GRAHAM - VOIR DIRE BY WILSON

1 years experience. How many years -- and I understand --
2 and you say you took certain classes?

3 A. Uh huh (**indicating positive**).

4 Q. I assume that everyone that works in your
5 department would have -- who deals with fingerprint
6 analysis would have that training as well?

7 A. Yes. The only difference is, is there is
8 specialized training required just for the AFIS system, and
9 that is actually sponsored by SLED, and that's where you
10 get certified. I have never been certified with that
11 training because I've never actually needed to use the AFIS
12 system myself as a supervisor.

13 Q. So any analysis that you do comes after the fact?

14 A. I'm not sure I understand your ---

15 Q. Any time that you are coming into contacts with any
16 fingerprint analysis work that's been done, it's after it's
17 already been done by one of the certified techs, correct?

18 A. For reviewing their work, but also as a crime
19 scene supervisor, I have responded to and worked thousands
20 of crime scenes and probably hundreds of homicides. I've
21 actually collected and made numerous matches and had them
22 verify them over the years, and as far as the day-to-day
23 operations with the last few years, my job was basically
24 just to review and check their work.

25 **MS. WILSON:** No further questions, Your Honor.

JOE GRAHAM - DIRECT BY DeBUSK

1 **THE COURT:** And you object to his qualifications?

2 **MS. WILSON:** Yes sir.

3 **MR. DeBUSK:** Your Honor, I'm just moving him for the
4 purpose of general crime scene analysis, not on
5 fingerprints.

6 **THE COURT:** I find he is qualified in general crime
7 scene investigation and analysis.

8 **MR. DeBUSK:** Thank you, Your Honor.

9 **MS. WILSON:** Thank you, Your Honor.

10 **CONTINUING DIRECT-EXAMINATION BY MR. DeBUSK:**

11 Q. Okay. Corporal Graham, Master Corporal Graham,
12 drawing on your years experience in crime scene analysis,
13 is it unusual for someone to go to the scene and not leave
14 any useable prints?

15 A. No, it's not unusual.

16 Q. In fact, if someone touches a surface that is
17 printable and smooth enough to get a print, can it not
18 leave a print?

19 A. It's possible, yes.

20 Q. Why is -- why is that?

21 A. It could depend on the surface conditions. It could
22 depend on the conditions of the hands. We all know that
23 some people sweat more than others. Some people are
24 secretors, some people are non-secretors. A lot of that
25 depends on the amino acids and the oils and stuff that

JOE GRAHAM - DIRECT BY DeBUSK

1 actually come out of the fingertips.

2 Some people have dry hands. Some people have oily
3 hands. Then you also consider the factors of humidity,
4 dust, dirt, salt spray. There could be any of a wide
5 variety of things.

6 I've seen instances and worked cases where
7 individuals have actually ran into a glass door with their
8 entire hand and gone out that door and not left a print,
9 and the reason for that is, is the door could have salt
10 spray, it could have dust or residue build-up. It could be
11 any of a number of things.

12 Q. From the standpoint of the crime scene analyst, what
13 is a useable print?

14 A. A useable print is one that actually has details in
15 it which will make it identifiable, and details would be
16 specific points that are based on the ridge patterns in the
17 fingertips.

18 Q. So if you touch a door, like if you push a door open
19 and your finger moves, would that leave a useable print?

20 A. You could actually smudge it and not leave any
21 identifiable ridges. With smooth surfaces, when you touch
22 something as a -- as a straight down contact, you're
23 actually transferring to it, but by sliding that, you're
24 actually wiping what you just put down, so ...

25 Q. So this door, the door in question that's shown in

JOE GRAHAM - DIRECT BY DeBUSK

1 State's Exhibit 3, would you have any way of knowing how
2 many people touch that door in the course of a day or week?

3 A. There would really be no way to tell unless you
4 actually, like I said, worked at the motel to kind of get
5 an idea of numbers. You could actually have a door like
6 this that's on a summer day that fifty to a hundred people
7 touch it, it could be so oily that when you go up and open
8 or close a door, and I'm sure we've all done this, we open
9 a door and you get that little greasy feeling on your hand,
10 a lot of that is actually oil residue from other people's
11 fingertips that you are actually picking up, so it's ---

12 Q. But it would not be unusual for somebody unrelated
13 to this robbery in any way to have left a print on there?

14 A. No. You would expect some people to leave a print
15 or something at one point in time, yes.

16 Q. Or for any number of people to touch that door and
17 not leave a useable print?

18 A. Right.

19 Q. Thank you. On this day in question, did the victim,
20 Mr. Chase Mitchell, was he sent over to do a viewing of the
21 suspect?

22 A. Yes, he was.

23 Q. Did you go there?

24 A. I didn't actually go to the incident location where
25 the Defendant was detained, no.

JOE GRAHAM - DIRECT BY DeBUSK
CROSS BY WILSON

1 Q. Okay. Do you know who took him over there?

2 A. I believe Sergeant Jim Joyce, who has now since
3 retired.

4 Q. Does he live in this state or elsewhere?

5 A. I'm sorry. I couldn't hear you.

6 Q. Where does Mr. -- Sergeant Joyce live?

7 A. He's retired, I think, to the State of Ohio. I'm
8 not really sure of the actual location.

9 MR. DEBUSK: Thank you. Please answer any questions
10 Ms. Wilson might have.

11 CROSS-EXAMINATION BY MS. WILSON:

12 Q. So if someone touches the door, and I think Mr.
13 Mitchell's statement was it contained some -- something
14 about the hands being on the glass. I'm assuming that case
15 would have been tested as well for fingerprints?

16 A. Yes ma'am. Crime Scene Specialist Iaonne responded
17 and he was directed actually to process the entire door,
18 so ...

19 Q. And so out of this entire door, hands on the door,
20 hands on the glass, there was no fingerprint that matches
21 Mr. Riggins, right?

22 A. No, no there's not.

23 Q. And Crime Scene Specialist Iaonne ---

24 A. Yes.

25 Q. --- is actually the person that originally processed

JOE GRAHAM - CROSS BY WILSON
REDIRECT BY DeBUSK

1 the door?

2 A. That is correct.

3 Q. And did you oversee the processing?

4 A. Yes. I was actually on the scene when he was
5 processing the door.

6 Q. Okay. And so you made sure that he was doing his
7 job correctly? That's part of what you're saying your job
8 is?

9 A. Yeah. I actually checked he was actually processing
10 the door, yes.

11 Q. Yes. And in the processing, he got all the use- --
12 the conceivable prints he could have gotten off of that
13 door?

14 A. Yes.

15 Q. And not one came back to match Mr. Riggins, is that
16 correct?

17 A. No, they did not.

18 **REDIRECT-EXAMINATION BY MR. DeBUSK:**

19 Q. Again, would it be unusual for him to process ---

20 **THE COURT:** Wait; wait.

21 **MS. WILSON:** I'm so sorry.

22 **MR. DeBUSK:** Oh, I'm sorry. I thought she was ---

23 **MS. WILSON:** The Court's indulgence.

24 All right, no further questions, Your Honor.

25 **MR. DeBUSK:** Thank you, Your Honor. I apologize.

JOE GRAHAM - REDIRECT BY DeBUSK

80

RECROSS BY WILSON

RANDY SCOTT MILLER, JR. - DIRECT BY DeBUSK

1 Q. Again, would it be unusual for a person to have gone
2 and even touched that door and maybe not left a useable
3 print?

4 A. It's not uncommon for that to happen, no.

5 MR. DeBUSK: Thank you. No further questions.

6 **RECROSS-EXAMINATION BY MS. WILSON:**

7 Q. It's not uncommon for there to be an unusable print,
8 but generally everybody who touches something is going to
9 leave some imprint behind, correct?

10 A. They're going to leave some transfer, yes.
11 Sometimes it's readable, sometimes it's not.

12 MS. WILSON: Thank you.

13 THE COURT: You can step down and be excused. We
14 appreciate your time.

15 Call your next witness.

16 MR. DeBUSK: The State calls Agent Randy Miller of
17 the Horry County D.E.U.

18 RANDY SCOTT MILLER, JR., being first duly sworn,
19 testifies as follows:

20 **DIRECT-EXAMINATION BY MR. DeBUSK:**

21 Q. Agent Miller, who is your employer?

22 A. The Myrtle Beach Police Department.

23 Q. And what do you do today?

24 A. I'm currently assigned to the Fifteenth Circuit Drug
25 Enforcement Unit.

RANDY SCOTT MILLER, JR. - DIRECT BY DeBUSK

1 Q. How about in May of 2008, what were you doing then?

2 A. I was on the Myrtle Beach Bike Patrol Unit.

3 Q. Specifically on May 7th of 2008, did you respond to
4 Sea Palms Motel?

5 A. Yes, I did.

6 Q. Do you know about what time that was?

7 A. Approximately 8:45.

8 Q. And what did you do?

9 A. I responded to the scene. I had received a call
10 from Dispatch in reference to an armed robbery that had
11 just occurred at the Sea Palms, 308 7th Avenue North. I
12 arrived on scene. On my arrival, I met with the victim.

13 Q. Was there another officer with you when you did
14 that?

15 A. Officer Bresadola.

16 Q. Thank you. Did you receive a description of the
17 robber from the victim?

18 A. Yes, I did. He gave me a description of a black
19 male, shorter, five foot range, stocky build, bald head,
20 wearing bluejeans, a white t-shirt with I Love New York
21 written on it.

22 Q. What did you do next?

23 A. After I received the description, I left the hotel
24 and went to comb the area for the suspect.

25 Q. Did you find anything?

RANDY SCOTT MILLER, JR. - DIRECT BY DeBUSK

1 A. Yes.

2 Q. What did you find?

3 A. In the area of 4th Avenue North and Chester Street,
4 I observed a suspect matching the description that I had
5 received run across Chester Street westbound from the area
6 of Flagg, the ocean, towards Kings Highway. At that
7 point ---

8 Q. Did you say he was running?

9 A. Yes.

10 Q. Was he at a regular crossing, in the middle of the
11 block, or where was he?

12 A. He was in the middle of the block between 4th Avenue
13 and 5th Avenue. I was more towards the intersection of 4th
14 Avenue.

15 Q. Was he headed towards the ocean or away from the
16 ocean?

17 A. Away from the ocean, west.

18 Q. Okay. I've got State's Exhibit 1 here and ask if
19 you recognize this?

20 A. Yes.

21 Q. Could you indicate on here, with that arrow
22 pointing, the spot where you first saw that suspect.

23 A. (Witness indicating.)

24 Q. Okay. What happened next?

25 A. I was -- like I said, I was in the area of 4th

RANDY SCOTT MILLER, JR. - DIRECT BY DeBUSK

1 Avenue North and Chester Street right here when I seen the
2 suspect matching the description run westbound across
3 Chester Street into this wooded parking lot area, so I
4 proceeded westbound on 4th Avenue to -- sorry, this way, --
5 4th Avenue to Kings Highway and entered the parking lot
6 here thinking that I would be able to cut him off.

7 Once I entered the parking lot, I observed the
8 Defendant enter the parking lot from this side of the
9 building and I kind of met him in the middle of the parking
10 lot. I dismounted my bicycle, ordered him to place his
11 hands in the air, and at that point I detained him in
12 handcuffs.

13 Q. Is that what's investigative detention?

14 A. Yes.

15 Q. Would you put the point of the arrow right where you
16 first saw him run?

17 A. That's Kings Highway. This is ---

18 Q. I'm sorry.

19 A. It's a little small. This is Chester Street, so
20 that would be the street there.

21 Q. Would you put this arrow at the point where you
22 detained the suspect?

23 A. (Witness indicating.)

24 Q. From the point where you detained the suspect, where
25 is the Baptist church?

RANDY SCOTT MILLER, JR. - DIRECT BY DeBUSK

- 1 A. The Baptist church ---
- 2 Q. This is on Kings Highway, right?
- 3 A. That's right.
- 4 Q. Is there a church across the street from that
- 5 location?
- 6 A. Yes.
- 7 Q. Do you know what that church is?
- 8 A. Yes, I do.
- 9 Q. Okay. What is it?
- 10 A. The Baptist church you're referring to.
- 11 Q. Is that the Baptist church? Am I correct there?
- 12 A. Yes.
- 13 Q. Okay. Thank you.
- 14 A. I believe so; it is the Baptist church. I know
- 15 there's a church there. I'm pretty sure it's a Baptist
- 16 church.
- 17 Q. Thank you. What did you do after you detained the
- 18 suspect?
- 19 A. I patted him down for weapons and called for the
- 20 investigator that was on duty.
- 21 Q. What was he wearing?
- 22 A. He was wearing bluejeans, a white t-shirt. The t-
- 23 shirt was -- I noticed was inside out, but you could still
- 24 see through it, and the writing had an I and then a big
- 25 heart in red letters, and then I Love New York.

RANDY SCOTT MILLER, JR. - DIRECT BY DeBUSK

1 Q. I Love New York?

2 A. Yes. It was inside out.

3 Q. Okay. What happened after you called the
4 investigator?

5 A. They -- they brought the victim to the scene. At
6 that point I was advised that they got a positive
7 identification and he was put -- you know, advised he was
8 under arrest at that point.

9 Q. Where was the victim when you viewed him?

10 A. In a police vehicle.

11 Q. How far was he from the suspect?

12 A. It's a -- it's a narrow parking lot. We were in the
13 middle of the parking lot, so the best I remember, it would
14 probably be around ten foot, nowhere -- not more than ten
15 foot.

16 Q. So something less than ten foot?

17 A. Yes.

18 Q. Who was present at that line-up?

19 A. I was -- I was present. I believe Sergeant Jim
20 Joyce and possibly Detective Verder. Detective Graham, I'm
21 not sure.

22 Q. And the victim?

23 A. And the victim.

24 Q. And the Defendant?

25 A. The Defendant.

RANDY SCOTT MILLER, JR. - DIRECT BY DeBUSK
CROSS BY WILSON

1 Q. The person you arrested in that parking lot or you
2 detained in that parking lot, did you ultimately arrest him
3 -- did you ultimately arrest that person and detain him in
4 that parking after he was identified?

5 A. Yes.

6 Q. Who was that individual?

7 A. Anthony Riggins

8 Q. Is that individual present in court today?

9 A. Yes, he is.

10 Q. Could you indicate him?

11 A. (Pointing) The gentleman.

12 Q. You indicated the Defendant in the green shirt
13 there?

14 A. Yes sir.

15 MR. DeBUSK: Thank you. Please answer any questions
16 the Defense may have.

17 CROSS-EXAMINATION BY MS. WILSON:

18 Q. Do you recall in your statement saying that -- or
19 writing that you actually looked inside the shirt?

20 A. Yes.

21 Q. And -- but you are saying now that you could see
22 from the outside?

23 A. Yes.

24 Q. So that night, though, you had to check inside?

25 A. The shirt was inside out. I could see the

RANDY SCOTT MILLER, JR. - CROSS BY WILSON

1 lettering, and I lifted the shirt up, just lifted it up and
2 looked underneath it.

3 Q. Is it probable that there's more than one I Love New
4 York t-shirt out there? I mean, it is probable, isn't it?

5 A. Could be.

6 Q. And it's also possible that there's more than one
7 dark-skinned black guy, correct?

8 A. Yes.

9 Q. Wearing jeans, correct?

10 A. Correct.

11 Q. Now, you said that you were about ten feet away with
12 Mr. Riggins at the time that Mr. Mitchell showed up to do
13 the I.D.?

14 A. I would say no more than ten feet.

15 Q. No more. Would you say it was like a foot?

16 A. I -- I don't recall that. As I say, I know the
17 parking lot was narrow. It was a narrow, long parking lot.
18 We were probably in the middle of the parking lot, and the
19 victim was in a police car, so the best I can remember, it
20 wouldn't have been any more than ten feet.

21 Q. Okay. Would you say, though, that it was perhaps
22 this close?

23 A. As I said, I'm telling you ten -- up to ten feet, no
24 more than ten feet maybe. It could have been about --
25 about where you are standing to me. That would be pretty

RANDY SCOTT MILLER, JR. - CROSS BY WILSON
REDIRECT BY DeBUSK

1 accurate.

2 Q. Yes sir. Okay. And you actually say you saw the t-
3 shirt that my client was supposedly wearing that night,
4 correct?

5 A. That's correct.

6 Q. And when you saw the t-shirt, did you call out
7 anyone from Crime Scene to take the shirt, take a picture
8 of him in the shirt?

9 A. I don't recall if Crime Scene was on the scene. I'd
10 have to maybe refer to a report.

11 Q. Would you not have been able to call someone?

12 A. I -- I could have.

13 Q. And yet there is no picture of him in that shirt, is
14 there, from that night?

15 A. At that point, when the detectives came on scene,
16 that was pretty much the extent of my involvement. If
17 there was any crime scene photos or anything like that, I
18 don't -- I don't have any knowledge of that.

19 Q. And you certainly didn't think to do that for
20 yourself?

21 A. I did not take any pictures, no.

22 MS. WILSON: Thank you. No further questions.

23 REDIRECT-EXAMINATION BY MR DeBUSK:

24 Q. Is there any doubt in your mind that that Defendant
25 that night was wearing an I Love New York t-shirt?

RANDY SCOTT MILLER, JR. - REDIRECT BY DeBUSK
RE CROSS BY WILSON

1 A. No doubt.

2 Q. Any doubt that it was inside out?

3 A. No, sir.

4 Q. Now, she -- Ms. Wilson asked you was it possible
5 somebody else was out there wearing an I Love New York t-
6 shirt, right?

7 THE REPORTER: Mr. DeBusk, I'm sorry -- I can't ---

8 MR. DeBUSK: I'm sorry.

9 Q. Ms. Wilson asked you if there could have been
10 someone else out there with an I Love New York t-shirt,
11 another dark-skin black male. To your knowledge, was there
12 anyone else out there identified by the witness as the
13 individual that robbed him?

14 A. No.

15 Q. And the only individual out there identified by the
16 victim as the robber was the Defendant?

17 A. Yes, that matched the description perfectly that I
18 was given.

19 MR. DeBUSK: Thank you.

20 THE COURT: Recross?

21 MS. WILSON: Just very briefly, Your Honor.

22 RE CROSS-EXAMINATION BY MS. WILSON:

23 Q. You have no clue, though, do you, about who was
24 actually at the Sea Palms, do you?

25 A. Who are you referring to?

RANDY SCOTT WILSON, JR. - RECROSS BY WILSON
THE STATE RESTS

1 Q. As in the person who robbed the Sea Palms. You have
2 no first-hand knowledge of that, do you?

3 A. I received a description and located a defendant who
4 matched the description.

5 Q. And again, my question to you is do you have any
6 first-hand knowledge, did you -- were you there at the time
7 of ---

8 A. I was not present when the robbery took place.

9 Q. So you did not actually see anyone during the
10 robbery commission, correct?

11 A. That's correct.

12 MS. WILSON: No further questions.

13 THE COURT: You can step down and be excused. Thank
14 you. Appreciate your time.

15 MR. DeBUSK: Your Honor, may I ask the Court Reporter
16 are these all in, 1 through 5?

17 THE REPORTER: Yes.

18 MR. DeBUSK: Your Honor, at this time the State
19 rests.

20 THE COURT: All right.

21 At this time the State is resting. That means they
22 are telling us that they have presented their case, so this
23 is the time when we have to take a short break, so I'm
24 going to let you go to the jury room for about ten
25 minutes.

JURY OUT/MOTIONS

1 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
2 **JURY.)**

3 **THE COURT:** Anything from the State?

4 **MR. DeBUSK:** No, Your Honor.

5 **THE COURT:** Defense?

6 **MS. WILSON:** Your Honor, the Court's indulgence for
7 one second.

8 Your Honor, I do have a motion at this time. I would
9 move for a directed verdict based on the insufficiency of
10 the evidence.

11 We have a witness who I believe has given a statement
12 about an identification that I do not believe to be a good
13 quality identification. It was dark. He has given
14 testimony that he was a foot away. The officer says that
15 he was up to ten feet away. There's quite a discrepancy
16 between that, being that close and being that far away.

17 In addition, we don't have any evidence presented by
18 the State of any clothes, any money, nothing that would
19 otherwise connect my client to this crime, and that's the
20 basis for our motion for a directed verdict.

21 **THE COURT:** That motion is denied. What you are
22 presenting is basically a jury argument, and all of that
23 goes to the weight and credibility of witnesses. The
24 victim directly identified this gentleman as the man who
25 robbed him on that night, and that's, I think, enough

JURY OUT/MOTIONS
COURT TO DEFENDANT

1 direct evidence in which a jury could determine that Mr.
2 Riggins was, in fact, the person that did this event and it
3 did occur.

4 Now, Mr. Riggins, can you -- so the motion is denied.

5 **MS. WILSON:** Thank you.

6 **THE COURT:** Mr. Riggins, can you hear me?

7 **MS. WILSON:** Your Honor, I'm so sorry. If you could
8 give me one second.

9 Thank you, Your Honor.

10 **THE COURT:** Mr. Riggins, can you hear me?

11 **MR. RIGGINS:** Yes sir.

12 **THE COURT:** We've reached the point in the trial
13 where you have a right to present witnesses if you wish,
14 and you also have a right to present a defense, but you're
15 not required to present a defense and, of course, you're
16 not required to testify, and I'll discuss that more with
17 you in a moment, but you have a right to call witnesses and
18 have them sworn in and take the stand.

19 You also have the right to testify or not testify. In
20 any event, you are presumed innocent of this charge and the
21 State needs to prove your guilt beyond a reasonable doubt
22 before this jury could convict you. You do not have to
23 prove your innocence. If you take the stand, you'll be
24 subject to cross-examination.

25 And let me ask the State at this point, are there any

COURT TO DEFENDANT

1 impeachable offenses?

2 **MR. DeBUSK:** Yes, Your Honor. In September of 2004,
3 a strong arm robbery conviction here in Horry County. On
4 September 15th, 2004, breaking and entering an auto in
5 Horry County. December 3rd, 2003, petit larceny in the
6 City of Myrtle Beach -- North Myrtle Beach.

7 **THE COURT:** Well, okay. That -- okay, go ahead.

8 **MR. DeBUSK:** From the State of North Carolina,
9 sentence date August 9th, 2012, a felony breaking and
10 entering and larceny after breaking and entering. Then
11 there are from August of 2012, that's driving while
12 impaired. From ---

13 **THE COURT:** What offense, driving impaired? How much
14 does it carry?

15 **MR. DeBUSK:** The sentence was sixty days, Your Honor.
16 I'm not aware of the full sentencing range of it.

17 **THE COURT:** I would skip that one, then.

18 **MR. DeBUSK:** From sentence date, December 13th, 2001,
19 a charge of possession with intent to sell or deliver
20 marijuana.

21 **THE COURT:** What sort of sentence did he receive?

22 **MR. DeBUSK:** Six to eight months in the North
23 Carolina Department of Corrections, Your Honor.

24 **THE COURT:** I would skip that one, too. That's
25 outside of ten years.

COURT TO DEFENDANT

1 **MR. DeBUSK:** Then from April of 1997, a common law
2 robbery in the State of North Carolina, which he received
3 thirteen to sixteen months imprisonment.

4 **THE COURT:** All right. That would be outside the ten
5 years, too.

6 **MR. DeBUSK:** And also from 1997 another charge of
7 common law robbery, thirteen to sixteen months, and also
8 from the same date, discharging a firearm into an occupied
9 dwelling, for which he received twenty to thirty-three
10 months.

11 **THE COURT:** All right.

12 What's the position, Ms. Wilson, on those?

13 **MS. WILSON:** Your Honor, my -- I don't know that it's
14 going to be an issue. My client tells me that he does not
15 wish to take the stand, but we will have a witness.

16 **THE COURT:** Okay. Well, let me finish, then.

17 Mr. Riggins, if you did take the stand, they'd be able
18 to ask you about these offenses, not all of them, but any
19 of them that occurred within the last ten years or which
20 involve theft or anything like that and any within the ten
21 years that carried more than one year. They could ask you
22 those regarding your credibility.

23 They could not ask you those and then argue to the
24 jury that you committed this offense based on the fact that
25 you committed those others. In fact, I will tell the jury

COURT TO DEFENDANT

1 that if you were to testify and those would come into the
2 record, those offenses, I would tell them they could not
3 consider that as evidence that you committed this offense,
4 but only regarding your believability.

5 Now, you have a right to remain silent, and if you
6 remain silent, I will tell the jury you have exercised your
7 right to remain silent. I will tell them that you have
8 that right, that you are presumed innocent, that the State
9 must prove your guilt beyond a reasonable doubt, that they
10 cannot discuss in the jury room your right -- your exercise
11 of your right to remain silent, nor can they even factor
12 into their own mental deliberations your exercise of that
13 right. Do you understand all that?

14 **MR. RIGGINS:** Yes sir.

15 **THE COURT:** All right. And you're going to exercise
16 your right to remain silent?

17 **MR. RIGGINS:** Yes sir.

18 **THE COURT:** Okay. And you do have a witness. Is the
19 witness available?

20 **MS. WILSON:** Your Honor, it is the Crime Scene
21 Specialist who actually re-analyzed the fingerprint, and he
22 will be available at nine o'clock in the morning.

23 **THE COURT:** All right. Well, let's then get the jury
24 back in and we'll excuse them until, let's say, nine-thirty
25 in the morning, and I will meet with Counsel for a few

JURY IN/COURT TO JURY

1 minutes afterwards.

2 MS. WILSON: Thank you.

3 THE COURT: All right. Bring in the jury.

4 You can sit down, Mr. Riggins.

5 (THE FOLLOWING TAKES PLACE IN THE PRESENCE OF THE
6 JURY.)

7 THE COURT: Members of the jury panel, we're going to
8 stop for the day. There's apparently one more witness who
9 will be called who is not available until in the morning,
10 so we're going to start back at 9:30 in the morning. We
11 have one witness, as I understand, and then we'll have the
12 arguments and charge, so we'll have this case in your hands
13 by lunchtime tomorrow.

14 Keep in mind that you're not to let yourself be
15 exposed to any news coverage, not to go on-line or do any
16 sort of independent research of any kind whatsoever, not to
17 try and make up your own mind and discuss the case among
18 yourselves, not to let anyone discuss the case outside the
19 courtroom.

20 You have a pleasant evening.

21 Is there anything else the State wants to cover
22 before ---

23 MR. DeBUSK: No, Your Honor.

24 THE COURT: Defense?

25 MS. WILSON: Nothing, Your Honor.

JURY IN/COURT TO JURY
JURY OUT/ON RECORD

1 **THE COURT:** All right.

2 Have a pleasant evening and we'll see you back in the
3 jury room, and the bailiffs will tell you how to get in and
4 out while you're serving as a juror and about wearing your
5 badge and all.

6 We'll see you at 9:30 in the morning. Have a pleasant
7 evening.

8 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
9 **JURY.)**

10 **THE COURT:** We'll be at ease until 9:30, and if I can
11 just see the attorneys just for a second, we can talk about
12 it back in chambers.

13 END DAY.

14 **(THE FOLLOWING TAKES PLACE ON JUNE 21, 2013, OUTSIDE**
15 **THE PRESENCE OF THE JURY.)**

16 **THE COURT:** I understand you have some further
17 requests to charge, Ms. Wilson?

18 **MS. WILSON:** Yes sir. Your Honor, I ask that the
19 Court consider charging a petit larceny. I understand
20 under State v. Al-Amin, it's 353 S.C. 405, 425, 578 S.E.2d
21 32 out of the Court of Appeals. That case -- that case
22 notes that a petit larceny is considered a lesser included
23 offense of armed robbery, and we would respectfully ask
24 this Court to charge it in this case.

25 **THE COURT:** Have you got a copy of that case?

JURY OUT/ON RECORD

1 **MS. WILSON:** No, sir, I do not have a copy. I'm
2 using my Ferguson. I could certainly make the Court a
3 copy.

4 **THE COURT:** Why don't you see if you can get a copy.

5 **MS. WILSON:** Yes sir.

6 **THE COURT:** Do you have a copy?

7 **MS. WILSON:** Your Honor, Eric Fox from my office has
8 stepped out to try to obtain that copy, and it will be
9 forthcoming, Your Honor.

10 **THE COURT:** All right. Give me just a minute.

11 **MS. WILSON:** Your Honor, we're just asking the
12 Court's indulgence for another second.

13 **THE COURT:** That's fine.

14 **MS. WILSON:** Your Honor, we have someone bringing a
15 copy of that case to the Courthouse for us, but we cannot
16 find the relevant portion because Al-Amin actually cites
17 another case called Parker, and we're looking through the
18 case and through Parker to find the relevant portion, and
19 we're having trouble finding it.

20 **THE COURT:** Okay. Well, if I were sophisticated
21 enough, I could go on-line and we could be doing this all
22 on West Law, but I've got -- I'm set up for my charge, and
23 so if I mess that up, it will put us back an hour probably.

24 **MS. WILSON:** I understand, Your Honor. We should
25 have it shortly, but we are trying to pull it up on the

JURY OUT/ON RECORD

1 computer as we speak.

2 THE COURT: Okay.

3 MS. WILSON: Thank you, and I apologize for that.

4 THE COURT: Let me see what you were referencing.

5 You had a book that you were ---

6 MS. WILSON: Yes sir.

7 THE COURT: It says State versus Parker was overruled
8 by State versus Gentry in 2005. The Al-Amin case you were
9 citing to is a 2003 case, which cited Parker, and it says
10 Parker was overruled by Gentry. Let's see if I can do this
11 without messing up. It doesn't seem that Gentry even
12 addresses that particular issue. Let's see what Parker ---

13 MS. WILSON: Right. Your Honor, it's my
14 understanding, and I -- it's been a while, but it's my
15 understanding that Gentry is overruling the grand larceny
16 as a lesser included of armed robbery and not a petit
17 larceny, and I -- I could be mistaken about that. I
18 certainly ---

19 THE COURT: Well, I think you are. I think -- I just
20 skimmed through it, but what it appears to me, the only
21 thing dealing with robbery was, it says that illegal drugs
22 could be subject to armed robbery, so that's all I see in
23 Gentry, but let's -- now that I am in here, let me look at
24 Parker.

25 All right, Parker says that the Supreme Court held

JURY OUT/ON RECORD

1 that grand larceny was not a lesser included offense of
2 armed robbery, overruling Lawson, Young, and Zeigler.
3 That's a 2002 case. It seems to say the opposite of what
4 Mr. Ferguson says in his book, but let's see. Grand
5 larceny is not a lesser included offense of armed robbery.
6 Larceny has been found to be a lesser included offense of
7 robbery by this Court on several occasions. The monetary
8 value of the goods taken is an element of the defense of
9 grand larceny.

10 All right. So now that doesn't help us, so let's
11 finally look at Al-Amin.

12 **MS. WILSON:** Your Honor, if I can hand up this case,
13 Al-Amin, there is a relevant portion in here that actually
14 cites State v. Parker, and what it's talking about is it's
15 actually dealing with whether or not an armed robbery is a
16 crime of dishonesty, but what the discussion goes into is
17 whether or not -- what actually constitutes the actual
18 larceny, and they, in that discussion, they actually talk
19 about the fact that a larceny is simply a taking that
20 occurs without force, which is definitely still going to be
21 an element.

22 What excludes the grand larceny from being an element
23 -- from actually being a lesser included is the fact that
24 there is a requirement of a monetary value, which is
25 missing in the petit larceny, and that's how they come

JURY OUT/ON RECORD

1 about the idea that a petit larceny would be considered a
2 lesser included of an armed robbery. If I could hand it up
3 to the Court.

4 **THE COURT:** You may. It's got a definite sentence.
5 It says larceny is a lesser included offense of armed
6 robbery, and cites back to State versus Parker and State
7 versus Austin. There's some negative history, but not
8 overruled, so I'll charge petit larceny as a lesser
9 included.

10 **MR. DeBUSK:** Your Honor, if I may just for the
11 record, I'll argue that in this case there isn't sufficient
12 evidence to support petit larceny. In this case the victim
13 testified that he handed over the money under force of
14 threat.

15 Should the jury choose not to believe the element of
16 force of threat, then he's just got a donation to an
17 aggressive panhandler, Your Honor. There was no taking
18 without the force of threat, so in this case, in this
19 particular case on these facts, there would not be
20 sufficient evidence to support petit larceny.

21 **MS. WILSON:** Your Honor, if I might, I would argue
22 that certainly as the Court has stated before, the jury is
23 going to be the final determiner of fact in this case, and
24 if the jury finds that his tes- -- that Chase Mitchell's
25 testimony is not credible as to what -- whether or not

JURY OUT/ON RECORD/JURY IN
SUMMATION FOR THE STATE (DeBUSK)

1 there was actually force, whether or not he was actually
2 threatened, whether they believe he actually believes he
3 was threatened, they could find that there was a taking
4 without there actually having been any force, and that
5 would be a petit larceny, which would bring us back full
6 circle, so I would ask the Court to please go ahead and
7 charge it.

8 **THE COURT:** Well, I'm going to charge it, and I'll
9 submit it to the jury.

10 All right. Are we ready for the jury?

11 **MR. DeBUSK:** Yes sir.

12 **MS. WILSON:** Yes sir.

13 **THE COURT:** All right. Bring in the jury.

14 **(THE FOLLOWING TAKES PLACE IN THE PRESENCE OF THE**
15 **JURY.)**

16 **THE COURT:** I apologize for keeping you waiting, but
17 we are now ready to go with the arguments of the attorneys.

18 **MR. DeBUSK:** Thank you, Your Honor. May it please
19 the Court.

20 Well, as promised, this was a fairly short trial. Now
21 you're down to the point where we get to have closing
22 arguments. We argue the facts to you, how you should find
23 when you go back there and deliberate.

24 I would argue to you that this case is more a case of
25 ice-cold busted than it is of Columbo-style detective work,

SUMMATION FOR THE STATE (DeBUSK)

1 and so the first thing you do when you get back there is
2 you find, one, that it's Anthony Riggins that committed
3 that robbery at the Sea Palms Motel. The answer is
4 obviously yes.

5 Let's start by looking at it from the standpoint of
6 the arresting officer, Officer Miller, who was up there.
7 He was on a bicycle. He went to the scene of the robbery,
8 heard the description from the mouth of the victim, and he
9 went out looking for the -- the assailant, and what did he
10 find?

11 First of all, he finds the Defendant in the same area
12 as the robbery. How does he know it was him? There
13 probably were a few dozen people maybe in that same area.
14 Several of them might have been outside, but then there was
15 more. When he saw him, he was running.

16 Now, if he had shorts on, and a t-shirt, and running
17 shoes, and a big number on, he might be participating in
18 the Myrtle Beach half-marathon, but he was wearing
19 bluejeans, so he clearly wasn't out for a jog. He was just
20 running. He was fleeing. Two things. He's in the area,
21 and he's fleeing.

22 Three. He was acting furtive. He was -- he was
23 running. He was crossing the middle of the block, running
24 through backyards. He wasn't running along the street. He
25 was trying to hide. Three factors.

SUMMATION FOR THE STATE (DeBUSK)

1 Now, the -- the officer, he had just been over to the
2 scene of the crime and he had heard the description
3 straight from the lips of the victim, and he had the
4 description in his mind, and when he saw this person
5 running in the area, hiding in backyards, he saw some other
6 things.

7 He fit the description of the victim precisely. The
8 gender, he was male, race, skin tone, hairstyle, height
9 range, build, all those things that all match, so obviously
10 his attention is going to focus on this person who fits the
11 description and is acting like he's fleeing and furtive.

12 So he goes around the corner where the Defendant is
13 going and heads him off at the pass. He approached him.
14 He notices more things that were matching the description.
15 He's wearing bluejeans, just as described by the victim.
16 He's wearing a t-shirt, as described by the victim. So he
17 goes up there and stops him.

18 He draws down on him, puts him in what's called
19 investigative detention and checks him for weapons. When
20 he does that, he notices something else that matches the
21 description, the shirt he's wearing. It's an I Love New
22 York t-shirt. It's on inside out now, but it's I Love New
23 York. He pulled it up and checked it. That's another
24 piece.

25 He's wearing the I Love New York t-shirt, and more

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1 furtive action, he's turned that t-shirt inside out to hide
2 the decal. That's twelve clues that officer had that he
3 had the right man. He knew he had the right man. He
4 stopped him because of each one in narrowing down the
5 possible pool of suspects a little more. You've got
6 twelve.

7 Take your social security number, nine little numbers.
8 If they match, they can identify any person in the United
9 States, any citizen or resident alien of the United States,
10 just nine numbers. Here you've got twelve clues pointing
11 directly to Mr. Riggins as the robber.

12 But he didn't stop there. He closed the loop. After
13 he put him in investigative detention, he had the victim
14 sent over there, the victim, who had just seen this
15 individual for about three minutes in a well-lighted room,
16 very close.

17 You have the exhibit here. You can see he said he was
18 over there by the white chair and by that short counter,
19 just feet away, approximately three minutes in what's known
20 as a high-attention situation, and this person was acting
21 oddly, so he was paying attention to him while this guy is
22 standing here, pacing up and down and acting nervous,
23 wiping his face with his shirt.

24 Then he starts acting like he has a gun in his belt
25 under his shirt, he's got a gun, more of a high-attention

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1 situation. He's pulling out the robbery, so the victim's
2 attention is clearly on this individual. He's feet from
3 him in a well-lighted room for three minutes.

4 He saw him so well he could describe his clothing, the
5 label on his shirt, the bluejeans he was wearing. He
6 described the shape of his nose to the officers, all of
7 that, took this individual who had seen this robber so well
8 over to the scene in a car, and here is the Defendant
9 sitting on the ground.

10 The victim is sitting in the car, just feet apart,
11 very close, close as I am to the center of the jury here.
12 Three to ten feet was the range, so as close as I am to
13 this juror, or as close as I am to the foreman, closer even
14 than the juror in the corner there.

15 He looked at him in a well-lighted parking lot, and he
16 said that is the man who robbed me, within minutes, within
17 minutes of the robbery. Ice-cold busted.

18 He also told you it's the same guy he saw in court
19 yesterday. He pointed to Anthony Riggins and said that is
20 the man who robbed me May 7th, 2008, the same man I saw in
21 the parking lot right there across from the Baptist church.
22 Remember the arrows that Officer Miller put on there when
23 he first saw him fleeing through the backyards, to where he
24 stopped him right across from the church where the victim
25 viewed him. Again, ice-cold busted right there close to

SUMMATION FOR THE STATE (DeBUSK)

1 the scene.

2 And what about the fingerprints? There was a lot of
3 talk about fingerprints on that door. I've got it over
4 here. That's the door here that was behind the burgundy
5 car, on the front door, got a closer picture of it here.
6 You notice you have to push on that door to go in.

7 They went over there and they found one fingerprint on
8 that door and it didn't belong to the Defendant. That
9 should be a little surprising because that's a very
10 heavily-traveled door. Dozens of people probably go
11 through that just in an hour in the middle of the day,
12 maybe hundreds during the course of a day.

13 Each person has ten fingers. There's probably a
14 number of people who go through that door with ten fingers
15 and however long a fingerprint lasts, a week, a month, make
16 it higher, thousands of fingers, and there was one useable
17 print. There might have been a lot of smudges.

18 Maybe when you're pushing a door your hand tends to
19 slide and just not leave good prints, you know, but there's
20 only one useable print out of the thousands of fingers that
21 went through that door. So if the Defendant went through
22 that door and didn't leave a fingerprint, he's in good
23 company. Almost everybody else who went through that door
24 didn't leave a fingerprint either.

25 He didn't have the money or the gun on him. Well, he

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1 was in that area for a few minutes before he tried to flee.
2 He had enough time to take his shirt off, turn it inside
3 out and put it back on to try to hide the decal, could have
4 easily hid the money, hid a weapon in some location in one
5 of those backyards where he could go back and get it later,
6 but the fact is just minutes after the robbery, Chase
7 Mitchell went and saw him in a parking lot, just feet from
8 him, a well-lighted parking lot, said that's the man I saw
9 robbing me just a few minutes ago.

10 Was it armed robbery? Clearly the intention of Mr.
11 Riggins when he went into that Sea Palms Motel was to
12 convince Chase Mitchell that he had a weapon, that he would
13 shoot him or harm him with that weapon if he didn't turn
14 over the money. That's armed robbery.

15 You heard he had the hand down by the belt under the
16 shirt. He had something. He said it was something more
17 than his finger pointing under that shirt, pointing again,
18 acting like he would shoot him, approaching towards him.
19 Clearly he was asserting by his mo- -- by his actions that
20 he had a weapon.

21 And Chase Mitchell, he -- he received the message loud
22 and clear. That big strapping, athletic, six foot, four,
23 young man, he probably could have thrown Mr. Riggins out on
24 his ear. He turned over the money and he knelt down. He
25 wouldn't have done that if he didn't think he was armed.

SUMMATION FOR THE STATE (DeBUSK)

1 But then you're going to wonder, but was he actually armed
2 or was it just a bluff? The fact is under the law of the
3 State of South Carolina it doesn't matter.

4 Could I get the screen, please.

5 Now, I'm going to talk to you about the law here.
6 Remember that at the end of the case the Judge is going to
7 instruct you on the law, and it's the Judge's word that
8 goes. I have to talk to you about the law because that's
9 what this case turns on. The law of the State of South
10 Carolina of armed robbery is defined by statute.

11 Just a moment here. Again, no doubt what message the
12 Defendant was trying to send. The question was what did he
13 have hidden under his shirt at his belt-line there? Was it
14 a gun or was it something else? And that is what under the
15 law doesn't matter. It's armed robbery. It's defined by
16 statute again.

17 That's elements, the taking, carrying away property of
18 another. He took and carried away the money that belonged
19 to Chase Mitchell and the Sea Palms Motel, something under
20 -- just under Forty Dollars, with the intent to deprive the
21 owner of possession. He wasn't going to give that money
22 back. It was a robbery. He took that money.

23 And he was armed or alleging to be armed. The statute
24 gets very complex here, so I'm going to break it down to
25 pieces for you. Either he was armed with a deadly weapon.

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1 If you find he was armed with a deadly weapon, that's
2 enough for armed robbery.

3 That could be a pistol, dirk, slingshot, metal
4 knuckles, razor, a few examples to give you, or
5 alternatively, while alleging either by action or words, he
6 was armed while using a representation of a deadly weapon
7 or any object that a person present during the commission
8 of the robbery reasonably believed to be a deadly weapon.
9 That's a mouthful. That's an earful.

10 Let's break that one down a little bit. Alleging to
11 be armed. Alleging either by actions or words he was
12 armed. This case was alleging by actions. He was acting
13 like he had a gun. You heard Chase Mitchell describe it.

14 He was alleging by his actions that he was armed, and
15 he was using a representation of a deadly weapon or any
16 object that a person present during the commission of the
17 robbery reasonably believed to be a deadly weapon.

18 You heard his testimony. He reasonably believed he
19 was armed with a gun. He believed it. That's why he gave
20 up his money. That's why he knelt down. An object. He
21 had some object under his shirt. Just a hand, just a hand
22 is an object. He had more than one hand.

23 He said here -- Chase's words on the stand were it
24 appeared to be more than his hand. It could have been
25 anything. It could have been a lighter. It could have

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1 been a small piece of pipe. It could have been a piece of
2 what he picked up outside. It could have been his finger.
3 It's an object each one of us have several of.

4 Just his hand, each one of us has two, two of those
5 objects, or it could have been a gun. It doesn't matter.
6 Whatever object it was, because he was alleging through his
7 actions that he was armed, that makes it armed robbery.
8 That means he is guilty of armed robbery whether it was a
9 gun or something else.

10 So what happened here? Clearly, Anthony Riggins
11 entered the Sea Palms with the intent to rob, with the
12 intent to send that message that was received by Chase
13 Mitchell that I have a gun, his hand under his shirt down
14 by his belt-line, acting like he had a gun, whatever object
15 that was, even if that object was merely a hand or a
16 finger.

17 He was alleging through his actions that he was armed,
18 and he took the money. He took and carried away the money
19 with intent to deprive while alleging he was armed. That
20 makes it armed robbery.

21 It wasn't petit larceny. He never would have given up
22 that money if he hadn't been under threat, and it wasn't a
23 threat of getting beat up because you could see Chase, a
24 big guy, he's not going to be intimidated.

25 And you might ask why is it that you don't have to

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1 prove a weapon in armed robbery? Well, that goes down to
2 the policy behind the law, and although armed robbery is a
3 deadly game -- not a game, it's a deadly business, I'm
4 going to refer to a game that gives you an idea what's
5 going on.

6 The game is poker. In poker, you don't know what the
7 other guy has, but you know what your cards are. In this
8 case, I see my cards. I know I've got a full house, aces
9 and kings. I'm in good shape. That's a very good hand in
10 poker. I'm in a good situation.

11 This other guy, he's betting all that money, but he
12 might just be bluffing. He might not have anything. He
13 might call my bluff if he doesn't have anything, if he's --
14 this poor cat here's got nothing that matches, I win the
15 money. I walk away with the money. If I'm wrong, if he's
16 got one of the few hands in poker that will beat that full
17 house, looks like he's got a royal flush. If I lose, I
18 lose my money, well, not money.

19 Remember, in the State of South Carolina, you can't
20 play for money. That's illegal. Chips. I lose my chips
21 if I lose at poker, but if I call somebody's bluff in the
22 deadly business of armed robbery, I could lose my life, and
23 the State of South Carolina doesn't want people calling
24 that bluff. They don't want people that are victims of
25 armed robbery to feel like they have to call the bluff in

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1 order to see the Defendant punished.

2 That's why merely alleging to be armed when you don't
3 see a gun is sufficient for armed robbery. That's why this
4 Defendant, Anthony Riggins, is guilty of armed robbery.
5 Again, just minutes after the robbery, Anthony Riggins
6 found in the area running, hiding in the backyards, wearing
7 the same clothes, fitting exactly the description given by
8 the victim. The victim hadn't seen him yet except at that
9 armed robbery, but he described him to a tee.

10 And the officer, as soon as he saw him, he knew that's
11 him. The officer stops him and he closes the loop. He
12 brings the victim over there, eye to eye confrontation,
13 that's him, one hundred percent certainty that's the man
14 that robbed me just minutes ago. Again in this courtroom
15 yesterday, eye to eye contact with the victim at that table
16 -- the Defendant at that table by the victim. That's the
17 man that robbed me, one hundred percent certain.

18 He took the money under threat of force, under threat
19 of armed force. That makes it armed robbery, and the only
20 just verdict in this case is guilty of armed robbery. I
21 thank you for your attention.

22 **THE COURT:** All right. Now, this is a little
23 unusual. We're going to take a break between -- before we
24 hear the next arguments, so we will let you go to the jury
25 room.

1 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
2 **JURY.)**

3 **THE COURT:** For the purposes of this trial, and also
4 for the purpose of the Wright trial, which we just
5 concluded, I see Mr. Martin is here. I took him off the
6 golf course.

7 Come on up, Mr. Martin and Mr. DeBusk. I think you
8 can stand in for the Solicitor in this regard.

9 **MR. DeBUSK:** Yes, Your Honor.

10 **THE COURT:** I think -- and this has to do -- also,
11 Ms. Wilson, you pay attention, too. I think sort of like
12 Cool Hand Luke, maybe I've had a failure, if not to
13 communicate, to understand.

14 Mr. Cobb, the bailiff, told me this morning that he
15 received a call from the alternate. I thought he was
16 talking about the alternate in the Wright case, but I think
17 now he's talking about Mr. Prosser, who is the alternate in
18 this case, and Mr. Prosser related that he is a seventh
19 cousin to Mr. Chase Mitchell, who testified. That's what
20 he said.

21 Now, I thought they were talking about the Wright
22 case, so I alerted Mr. Martin and the Solicitor's Office
23 that we may have a situation involving a juror in the
24 Wright case. I was wrong. It was not the Wright case.
25 It's the current case.

JURY OUT/ON RECORD

1 So I was going to allow Mr. Martin to make any motions
2 regarding an alternate in his case that was a seventh
3 cousin of a witness, but it turns out that that is not, in
4 fact, the case, so I apologize for getting you up here. I
5 just -- it was a misunderstanding of mine, and I just
6 looked down and saw where Mr. Prosser is on this case, so
7 I appreciate you coming up, and good luck on the golf
8 course.

9 And then Mr. Cobb was clear. I just -- I guess I was
10 just -- over-reacted out of an abundance of caution to make
11 sure that we didn't have problems with Mr. Wright's case.

12 Take care. Have a good day. (Mr. Martin exits the
13 courtroom.)

14 And Ms. Wilson, of course he is the alternate. We
15 have the twelve others, so I'm going to -- do you want to
16 dismiss this alternate who is the seventh cousin of the --
17 okay, we'll dismiss Mr. Prosser then, and that's why I
18 wanted to do it before ---

19 I apologize. We've sort of been in bits and starts
20 this morning, but that's just because of the way things
21 have occurred, so we'll bring back in the jury and I'll
22 excuse Mr. Prosser when they get back in, and then we'll
23 hear Ms. Wilson on behalf of Mr. Riggins, and then I'll
24 charge.

25 **MS. WILSON:** Thank you.

JURY IN/ON RECORD
SUMMATION FOR THE DEFENDANT (WILSON)

1 **(THE FOLLOWING TAKES PLACE IN THE PRESENCE OF THE**
2 **JURY.)**

3 **THE COURT:** Mr. Prosser, I'm going to excuse you from
4 further service. You haven't done anything wrong, but
5 you're the alternate anyway, so I'm going to let you leave,
6 and for the members of the jury panel, he didn't do
7 anything wrong. In fact, he did something right.

8 (Mr. Prosser, the alternate juror, exits the
9 courtroom.)

10 **THE COURT:** All right. Ms. Wilson.

11 **MS. WILSON:** Thank you, Your Honor.

12 Good morning, ladies and gentlemen. Now, the State
13 has given you lots of information to think about, lots of
14 information about what happened and who said what, but what
15 I want to talk to you about this morning is what is missing
16 in this case, and there's lots of things missing.

17 He told you about his, I believe, twelve points, but
18 there's things that he's not telling you about that are, I
19 think, are the most important in this case. Now, the State
20 has a really high burden of proof here.

21 They have to prove beyond a reasonable doubt that they
22 have the right person. They have to convince you that
23 Anthony Riggins is the person who committed this crime, and
24 that's a very difficult task to overcome, because Anthony
25 Riggins, as he sits there, is innocent. He wears a cloak

SUMMATION FOR THE DEFENDANT (WILSON)

1 of innocence. He is not guilty of anything. The State has
2 to prove to you beyond a doubt that he's the person
3 responsible.

4 Now, beyond a doubt seems like some really vague
5 concept, but it's actually pretty simple. You have to
6 believe that there is no other way that this could have
7 happened, no other way. There can't be a single shred of
8 doubt about what you've heard here in this courtroom.

9 So let's talk about what's missing. Number one, we
10 know that there are no clothes in evidence. You haven't
11 seen any. You heard about them, but nobody has a picture
12 of the clothing. Nobody has the shirt itself, the I Love
13 New York t-shirt, not in evidence. I would daresay that if
14 it existed, the State would have been flashing it around,
15 just like they've been flashing around these pictures to
16 you. It would be somewhere in this courtroom. It would be
17 in evidence. They would have it.

18 There are no fingerprints. I would also suggest to
19 you that if there was a fingerprint that matched Anthony
20 Riggins, they would have flashed that little card around
21 here, walked in front of this jury so many times you
22 probably would have it memorized yourself. There is no
23 fingerprint because it would not match this man over here.
24 It does not match Anthony Riggins.

25 Detective Joe Graham got on the stand, explained to

SUMMATION FOR THE DEFENDANT (WILSON)

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1 you that fingerprints can be smudged, that they can be very
2 difficult, that there could be lots of fingerprints, but
3 there's no question that a fingerprint was left by this
4 robber. We know that it was left because Chase Mitchell
5 testified that he had his hands on the door.

6 That fingerprint would have been on top of all the
7 other fingerprints, right? It wouldn't be under hundreds
8 of fingerprints. It would have been the last fingerprint
9 on the door, but the fingerprint they managed to take did
10 not match Anthony Riggins.

11 Now, as to this weapon, there is no weapon in
12 evidence. Within fifteen minutes, according to what Chase
13 Mitchell's testimony was, he was taken out to a scene to
14 identify someone. Yet there is no gun, there is no knife,
15 there is no lighter, as the detective suggested it might
16 have existed. There was nothing found on the person that
17 they arrested.

18 Now, there's many reasons for this obviously. The
19 State suggested that, oh, yeah, you know, they don't have
20 that but it's only because he probably tossed it in fifteen
21 minutes. Maybe, but a more reasonable explanation is that
22 in light of the other things they don't have that don't
23 match Mr. Riggins is that they got the wrong person.

24 They had the person that they happened to see who
25 happened to be wearing what they say was an I Love New York

SUMMATION FOR THE DEFENDANT (WILSON)

1 t-shirt, but it was turned inside out. Again, we won't
2 know about that for sure because there is no shirt in
3 evidence. There's nothing. There's nothing to confirm
4 what they're saying. They're standing up there on the
5 stand and they want you to take what they say as gospel.
6 They can't back any of it up.

7 Now, what I need you to understand is that each of you
8 sits on this jury and as a group you do have to make a
9 decision, and I know it's a difficult task. I know it must
10 be. However, as much as you may like the witnesses that
11 you saw on the stand that you heard from, Mr. Riggins sits
12 there as an innocent person.

13 He sits there being accused of something and he has
14 every right to be believed in his innocence. He has every
15 right to be believed as a normal person walking the street
16 just living his life, and his life was interrupted by an
17 identification from someone who cannot remember if the
18 person had their hand in their shirt or in their pants, by
19 whom by their own admission was frazzled that night. I
20 think that's the exact word he used, he was frazzled.

21 Certainly I think a person would be frazzled if
22 someone came in and accosted them, but his being frazzled
23 and making an I.D. does not mean that he's correct in the
24 I.D., and everything that the State has told you this
25 morning has suggested that you should just bypass the

SUMMATION FOR THE DEFENDANT (WILSON)

1 identification issue and jump straight into what the law
2 says.

3 The law is what it is. I'm certainly not going to try
4 to blind-side you or -- or convince you otherwise. The
5 Judge is going to tell you what the law says. What I need
6 you to understand is there is an issue about
7 identification. You don't get to just go straight to he
8 did it or he didn't do it. There is a real question about
9 who actually committed this crime, and you're missing a lot
10 of the substantive pieces of information that suggest that
11 my client, Mr. Riggins, is actually the person who did it.

12 There's an identification at night after a flight.
13 Mr. Mitchell says he was frazzled, a little
14 discombobulated, a little confused. His statement differs
15 now from what it did that night, the one he actually wrote
16 and signed. All of those things play into the possibility
17 that he's made a mistake, and given the lack of
18 information, the lack of evidence, physical evidence to
19 corroborate his story, there's a substantial likelihood
20 that he has made a mistake.

21 Now, I don't want to belabor these points too terribly
22 long. I think you all understand exactly what I'm saying.
23 There is no gun, no weapon, no lighter. There are no
24 clothes, not one shred of clothing. There's no matching
25 fingerprint, as testified to by Detective Joe Graham, not

SUMMATION FOR THE DEFENDANT (WILSON)
CHARGE OF THE COURT

1 one matching fingerprint.

2 I just want to reiterate to you that the State has a
3 very high burden of proof in this case, very high. It is
4 not overcome simply by suggesting that this is how it had
5 to have been. They need to provide you with something
6 solid, something tangible, and they haven't done that.

7 Now, as I said before, each of you sit on a jury, but
8 each of you has to come to a conclusion on your own about
9 what you think about the facts that have been presented to
10 you in this case, about the sufficiency of those facts.

11 Andrew Jackson once said that one man with courage
12 makes a majority. Now, I would switch that around a little
13 bit and say one person, but the end result is the same.
14 Each of you has to make a decision, and I am asking you to
15 be critical in looking at what you have -- looking at the
16 evidence that's been presented and recognizing what you
17 have not seen that would have made this probably a slam-
18 dunk case, but the fact that they -- those things are not
19 here mean it's not a slam-dunk, and I'm going to ask you to
20 find Anthony Riggins not guilty of this charge. Thank you.

21 **THE COURT:** All right. Members of the jury panel,
22 I'm going to ask you to now give me your attention. I'm
23 going to charge you the law which you are to apply to the
24 facts as you determine them to be in this case.

25 Mr. Riggins is charged with armed robbery, and I'll go

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1 over that in just a moment, but it's alleged this occurred
2 at the Sea Palms Motel in Myrtle Beach, Horry County, on or
3 about May 7th, 2008, and Mr. Riggins, while armed with a
4 deadly weapon, or an object which one would reasonably
5 believe to be a deadly weapon, committed a robbery at the
6 Sea Pines (sic) by taking money away from the presence --
7 from and in the presence of Chase Mitchell with intent to
8 deprive him and the Sea Pines (sic) -- Sea Palms of that
9 money.

10 And the fact that he is charged, the fact that he is
11 on trial, the fact that we are at this stage of the trial
12 is not any indication that he committed this offense.
13 That's just the way our system works. When someone is
14 charged with a crime, they are arrested, their case is
15 processed, and ultimately we go to trial.

16 Again, the fact that we are in trial, the fact that he
17 was charged, after he was indicted, is no evidence that he
18 committed this offense. He, under the laws of our State,
19 is presumed innocent of this charge. This presumption of
20 innocence is a substantial right which enures to the
21 benefit of anyone charged with any offense in our legal
22 system. It is a substantial right, not just a legal theory
23 or a legal -- not just a legal theory, a substantial right.

24 This presumption of innocence attaches to an
25 individual at the time they are arrested, remains with them

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1 as their case is processed through our court system,
2 remains with them throughout the trial. The presumption of
3 innocence in Mr. Riggins' favor exists at this moment and
4 even exists as you deliberate. The presumption of
5 innocence in his favor is removed if and when, and only if
6 and when, you, as the trial jury in this case, determine
7 that the State has proven his guilt beyond a reasonable
8 doubt.

9 Now, the State does not have to prove his guilt beyond
10 all -- beyond every doubt. We understand that absolute
11 certainty is not required and that there are very few
12 things in our world that we can know with absolute
13 certainty.

14 Our courts have described a reasonable doubt as the
15 kind of doubt that would cause a reasonable person to
16 hesitate to act. Proof beyond a reasonable doubt is proof
17 that leaves you firmly convinced of an individual's guilt.
18 If based on your consideration of the evidence you are
19 firmly convinced that Mr. Riggins committed this offense,
20 you would find him guilty.

21 If, on the other hand, you think there is a real
22 possibility he is not guilty, you would give him the
23 benefit of that doubt and find him not guilty. He is the
24 -- entitled to the benefit of any issue on which you have a
25 reasonable doubt in this case.

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1 I remind you that I am the sole judge of the law in
2 this case and you must take, accept, and apply the law as I
3 charge it. This is true, even if you think I charged the
4 law in error, or if you think the law should be something
5 other than it is.

6 You are not to infer from anything I say or do, or
7 have said or done at any time during this trial as being an
8 opinion of mine on the facts. Our law does not allow a
9 trial judge to formulate or express to a jury any opinion
10 on the facts. That is solely up to you to examine the
11 evidence and give to the evidence the effect, the value,
12 the weight, and the truth you believe it to have.

13 And doing this, you may believe one witness as opposed
14 to several, several witnesses as opposed to one. You may
15 believe all, part, or none of a witness's testimony. Use
16 your common sense, your sense of logic, your sense of
17 reason. Use your experiences in life as you analyze the
18 evidence.

19 As judges of the facts, you necessarily must judge the
20 credibility, that is the believability, of the witnesses
21 who have testified. In assessing the believability, look
22 at the things I've already talked about. Look at what you
23 consider to be truthfulness in individuals on a day to day
24 basis, and you can use certain evaluators, the witness's
25 demeanor, how they acted on the stand, were they hesitant

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1 or straightforward, was their testimony consistent or
2 inconsistent.

3 Consider the opportunity a witness had to actually
4 know those things they testified to, and look at any bias
5 or prejudice a witness may have, that is whether a witness
6 would have any reason to help or hurt one side or the
7 other. All of these things you consider and you will be in
8 a position to determine the true facts, apply the law, and
9 return a verdict that, in fact, speaks the truth.

10 In cases such as this, there are generally two types
11 of evidence presented, direct evidence and circumstantial
12 evidence. Direct evidence is the testimony of someone who
13 claims to have actual knowledge of a fact, such as an eye
14 witness. Direct evidence is evidence which immediately
15 establishes the facts sought to be true.

16 Circumstantial evidence is proof of a chain of facts
17 and circumstances which indicates the existence of a fact.
18 Circumstantial evidence is evidence which immediately
19 establishes collateral facts in which the main fact sought
20 to be proven may be inferred. Circumstantial evidence is
21 based on inference and not on personal knowledge or
22 observation.

23 Our law makes absolutely no distinction between direct
24 and circumstantial evidence. Our law does not require a
25 greater degree of certainty for circumstantial evidence

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1 than it does of direct evidence. What you should do in
2 this case is weigh all of the evidence. If after weighing
3 all the evidence you're not convinced of Mr. Riggins' guilt
4 beyond a reasonable doubt, you would find him not guilty.

5 I emphasize to you and instruct you that the fact that
6 Mr. Riggins exercised his constitutional right to remain
7 silent cannot be used against him in any fashion
8 whatsoever. Anyone in our system charged with an offense
9 has an absolute right to remain silent. If exercised by a
10 defendant of that right, it is not to be used against him
11 or mitigate against him in any way whatsoever.

12 You cannot discuss in the jury room the fact that he
13 exercised his constitutional right to remain silent, nor
14 can you even factor it into your own deliberations, in your
15 own mind. Mr. Riggins is presumed by law innocent of the
16 charge and the State must prove his guilt beyond a
17 reasonable doubt, so you cannot use against him in any
18 fashion whatsoever or even discuss the fact that he
19 exercised his right to remain silent.

20 Mr. Riggins is charged under a statute passed by our
21 legislature, and it makes it illegal to commit what is
22 called robbery or attempted armed robbery with a deadly
23 weapon. A person commits armed robbery when they -- while
24 armed with a deadly weapon or while alleging either by
25 actions or words that they are armed while using a

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1 representation of a deadly weapon or any object which a
2 person presents during the commission of the robbery which
3 one would reasonably believe to be a deadly weapon is
4 guilty of armed robbery.

5 In order to prove this offense, the State must prove
6 beyond a reasonable doubt that Mr. Riggins took the
7 personal property from another person or the presence of
8 another person. Property is in the presence of another
9 person if it is within that person's reach, control,
10 inspection, or observation so that that person could, if
11 not overcome with violence or prevented by fear, keep
12 possession of that property, and money is considered
13 property.

14 The State must prove also beyond a reasonable doubt
15 that the Defendant carried the property away intending to
16 permanently deprive the owner of the property and to keep
17 the property for the Defendant's own use.

18 The taking and carrying away of the property must have
19 been done as a result of violence or by putting the owner
20 of the property in fear of violence. The State must prove
21 beyond a reasonable doubt that the Defendant was armed with
22 a deadly weapon during the robbery, that the weapon is any
23 article, instrument, or substance which is likely to cause
24 death or great bodily harm. A pistol would be a deadly
25 weapon.

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1 In order to convict Mr. Riggins of armed robbery, the
2 State must prove that he either was armed or that the
3 taking of the property occurred under circumstances from
4 which a victim would reasonably believe that the Defendant,
5 Mr. Riggins, was armed with a deadly weapon. The State
6 must prove those elements beyond a reasonable doubt, that
7 he was armed or the victim reasonably believed, based on
8 the actions of the Defendant, that the Defendant was armed
9 and that the Defendant took personal property.

10 Now, as to armed robbery, there are two what we call
11 lesser included offenses. They are offenses which are not
12 set forth in the indictment but which are a lesser category
13 of the offense with which he's charged.

14 I use the example of a set of steps. You have a top
15 step, which is armed robbery, and you have a step below it,
16 which is common law or strong arm robbery, and then you
17 have a third step below that, which is called petit larceny
18 or just larceny, so the highest would be armed robbery.
19 The next most severe or the next step down would be common
20 law or strong arm robbery, and then the third would be
21 petit larceny.

22 If you find the State has failed to prove Mr. Riggins
23 was armed with a deadly weapon and you find that he has, in
24 fact, committed a robbery, you would be able, if you
25 unanimously determine such to be the case, to find him

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1 guilty of common law or strong arm robbery.

2 In order to prove robbery, the State must prove beyond
3 a reasonable doubt all the elements for armed robbery
4 except for the element that Mr. Riggins, or the Defendant,
5 was armed or took actions from which the victim reasonably
6 believed that he was armed. That is that robbery would in
7 essence be a taking of property, just like armed robbery,
8 but not while armed or appearing to be armed.

9 The third step down is that of petit larceny or just
10 larceny. To prove larceny, and, of course, again, the
11 State must prove any of these offense beyond a reasonable
12 doubt before you could convict Mr. Riggins, the third step
13 down would be larceny.

14 To prove larceny, the State must prove beyond a
15 reasonable doubt that Mr. Riggins took and carried away the
16 property of another against that person's will or without
17 the consent of that person, and the State must also prove
18 that the person taking it, here the Defendant is alleged to
19 be that person, with the intent to permanently deprive the
20 owner of that property. The State must prove any of these
21 offenses beyond a reasonable doubt before you could convict
22 Mr. Riggins as to any.

23 The verdict must be unanimous. All twelve jurors must
24 agree on the verdict. Once all twelve jurors have agreed,
25 the foreman will, on your behalf, write the unanimous

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1 verdict. I'm going to go over the verdict form in just a
2 moment.

3 If, while you're deliberating, you have any questions,
4 you may write them down, send them out by way of the
5 bailiff. I may be able to respond to the question by
6 writing the answer on the note. If I do, keep the note and
7 turn it in with the -- at the end of the trial with the
8 verdict forms.

9 If you have any questions which I cannot answer by
10 writing a response on the note, I would bring you back here
11 in open court to answer the question. I can bring you back
12 in.

13 I'm not sending in a written charge on the law. If
14 you wish me to go over any part or all of my charge on the
15 law, let me know and I will bring you back here in open
16 court and re-charge you any part or all of the law. We can
17 have testimony re-played if you wish to hear any testimony.

18 When you first go into the jury room, do not start
19 deliberating. I must go over with the attorneys my charge.
20 If I have made an error, I'll have to bring you back out
21 and correct it. If not, the bailiff will bring you the
22 verdict form and the indictment, and incidentally, the
23 indictment contains just the charge against Mr. Riggins.
24 It is not evidence, is not to be considered evidence to any
25 degree. It is simply the paperwork by which this case is

CHARGE OF THE COURT
JURY OUT/ON RECORD

1 processed through our court system, and it will ultimately
2 have -- be enrolled as part of the records of this trial.

3 So I'm going to let you go to the jury room, but do
4 not start deliberating until the bailiff tells you to start
5 doing so, so I may go over with the attorneys whether I
6 need to supplement or correct anything about my charge.

7 (AT 11:03 A.M., THE FOLLOWING TAKES PLACE OUTSIDE THE
8 PRESENCE OF THE JURY.)

9 THE COURT: Anything?

10 MR. DeBUSK: Your Honor, I hate to be nit-picky, but
11 on two occasions during your charge you said that if the
12 State didn't prove he was armed, without further qualifying
13 that he -- alleging to be armed or alleging to be armed.

14 THE COURT: Well, but I also ---

15 MR. DeBUSK: You did it correctly mostly, but on two
16 occasions, I'm just ---

17 THE COURT: Okay, but most of the time I did say, or
18 at least twice I believe I -- of course, I read from the
19 statute and then I also at the end talked about armed or a
20 victim would have reasonably believed that he was armed, so
21 I think I -- looking at the whole context.

22 MS. WILSON: No objection, Your Honor.

23 THE COURT: All right. Take a look at the
24 indictment, and I've hand-written out the verdict form
25 because -- I just did, and so see if all of that -- both of

JURY OUT/ON RECORD
JURY IN/COURT TO JURY

1 that suits you and -- let me bring them back in. I did not
2 go over the verdict form with them.

3 All right. Bring the jury back in. I need one more
4 thing.

5 (AT 11:08 A.M., THE FOLLOWING TAKES PLACE IN THE
6 PRESENCE OF THE JURY.)

7 THE COURT: Mr. Foreman, I neglected to go over one
8 thing, and that is there is a verdict form that has four
9 types of -- four options on it, the options I've been
10 talking about basically, and the order in which they are
11 set forth is of no importance. I have to set them, of
12 course, in some order, and so I always set them forth in
13 this order.

14 Whatever unanimous verdict the jury determines, you
15 put an X or a check in front of that line or in front of
16 that sentence where I've drawn a short line.

17 First is we find the Defendant guilty of armed
18 robbery, which you use if you determine that the State has
19 proven beyond a reasonable doubt the charge of armed
20 robbery. If you find that the State has failed to prove
21 that offense beyond a reasonable doubt, but has proven Mr.
22 Riggins guilty of strong arm or common law robbery, the
23 next lesser included, you would use the second line. I
24 think it says that.

25 The third says we find the Defendant guilty of petit

JURY IN/COURT TO JURY
JURY OUT/ON RECORD

1 larceny, and you would use that if you have found the State
2 has failed to prove either of the other two, armed robbery
3 or strong arm or common law robbery, but has proven the
4 Defendant is guilty of petit larceny.

5 The last line says we find the Defendant not guilty,
6 and you put an X or a check in front of that if you find
7 that the State has failed to prove Mr. Riggins guilty of
8 any of those three possible options of verdicts.

9 I'm going to let you go back. Don't yet start your
10 deliberation.

11 (AT 11:09 A.M., THE FOLLOWING TAKES PLACE OUTSIDE THE
12 PRESENCE OF THE JURY.)

13 THE COURT: Anything from the State?

14 MR. DeBUSK: No, Your Honor.

15 THE COURT: Defense?

16 MS. WILSON: Nothing, Your Honor.

17 THE COURT: All right. We'll take a look at the
18 verdict form again, and if it's okay, get Mr. Cobb to take
19 it back, and Ms. Wilson, this fell out of your book you
20 gave me. I don't know that it's important, but ...

21 MS. WILSON: Thank you.

22 THE COURT: All right. We will be at ease.

23 MR. DeBUSK: The evidence, Your Honor?

24 THE COURT: Right. The evidence goes in.

25 (AT 11:10 A.M., THE EXHIBITS AND VERDICT FORM ARE

JURY OUT/ON RECORD
JURY IN/VERDICT

1 **TAKEN TO THE JURY BY THE BAILIFF.)**

2 **(AT 11:47 A.M., THE FOLLOWING TAKES PLACE OUTSIDE THE**
3 **PRESENCE OF THE JURY.)**

4 **THE COURT:** Ms. Wilson and Mr. DeBusk, I don't want
5 to preclude your client being here, but the questions that
6 we get from the jury are when did Mr. Riggins first wipe
7 his face, how did he wipe his face, was it with his hands
8 or shirt, and, of course, my only response is you must rely
9 on the evidence presented during the trial. Does anybody
10 object to me writing that on there?

11 **MS. WILSON:** No, sir.

12 **MR. DeBUSK:** No, not from the State, Your Honor.

13 **THE COURT:** Okay. Then we don't need Mr. Riggins at
14 this time.

15 **(NOTE FROM JURY AND RESPONSE TO THE JURY BY THE COURT**
16 **IS MARKED AS COURT'S EXHIBIT NUMBER 1.)**

17 **THE COURT:** All right. We'll be at ease until we
18 hear from the jury.

19 I understand we have a verdict. We'll have to get Mr.
20 Riggins in. (Mr. Riggins enters the courtroom.)

21 I understand we have a verdict. If you will bring in
22 the jury.

23 **(AT 12:00 P.M., THE FOLLOWING TAKES PLACE IN THE**
24 **PRESENCE OF THE JURY.)**

25 **THE COURT:** Mr. Foreman, I understand the jury has

JURY IN/VERDICT
POLLING OF THE JURY

1 reached a verdict.

2 **THE FOREMAN:** We have, Your Honor.

3 **THE COURT:** If you will hand it to the bailiff, he
4 will hand it up to me.

5 Madam Clerk.

6 **THE DEPUTY CLERK:** Indictment Number 2008-GS-26-2589,
7 State of South Carolina versus Anthony Maurice Riggins, we
8 find the Defendant guilty of armed robbery. Dated June
9 21st, 2013, signed by Foreperson, Mark Singleton.

10 Ladies and gentlemen of the jury, if this is your
11 verdict, so signify by raising your right hand.

12 (ALL JURORS AFFIRM BY RAISING THEIR RIGHT HAND.)

13 **THE COURT:** All right. Anything from the State
14 before the jury is dismissed?

15 **MR. DeBUSK:** No, Your Honor.

16 **THE COURT:** Anything from Defense?

17 **MS. WILSON:** Yes sir, Your Honor. I would ask that
18 the jury be polled.

19 **THE COURT:** All right.

20 Members of the jury panel, the Clerk is going to ask
21 you to affirm your verdict individually.

22 **THE DEPUTY CLERK:** Please stand when I call your name
23 -- call your juror number, sorry.

24 Juror Number 94. Is this your verdict?

25 **JUROR NUMBER 94:** Yes.

POLLING OF THE JURY

1 **THE DEPUTY CLERK:** Is this still your verdict?
2 **JUROR NUMBER 94:** Yes.
3 **THE DEPUTY CLERK:** Thank you.
4 255. Is this your verdict?
5 **JUROR NUMBER 255:** Yes ma'am.
6 **THE DEPUTY CLERK:** Is this still your verdict?
7 **JUROR NUMBER 255:** Yes ma'am.
8 **THE DEPUTY CLERK:** Thank you.
9 20. Is this your verdict?
10 **JUROR NUMBER 20:** Yes ma'am.
11 **THE DEPUTY CLERK:** Is this still your verdict?
12 **JUROR NUMBER 20:** Yes ma'am.
13 **THE DEPUTY CLERK:** Thank you.
14 234. Is this your verdict?
15 **JUROR NUMBER 234:** Yes ma'am.
16 **THE DEPUTY CLERK:** Is this still your verdict?
17 **JUROR NUMBER 234:** Yes ma'am.
18 **THE DEPUTY CLERK:** Thank you.
19 139. Is this your verdict?
20 **JUROR NUMBER 139:** Yes ma'am.
21 **THE DEPUTY CLERK:** Is this still your verdict?
22 **JUROR NUMBER 139:** Yes ma'am.
23 **THE DEPUTY CLERK:** Thank you.
24 118. Is this your verdict?
25 **JUROR NUMBER 118:** Yes ma'am.

POLLING OF THE JURY

1 **THE DEPUTY CLERK:** Is this still your verdict?
2 **JUROR NUMBER 118:** Yes ma'am.
3 **THE DEPUTY CLERK:** Thank you.
4 148. Is this your verdict?
5 **JUROR NUMBER 148:** Yes ma'am.
6 **THE DEPUTY CLERK:** Is this still your verdict?
7 **JUROR NUMBER 148:** Yes ma'am.
8 **THE DEPUTY CLERK:** Thank you.
9 298. Is this your verdict?
10 **JUROR NUMBER 298:** Yes ma'am.
11 **THE DEPUTY CLERK:** Is this still your verdict?
12 **JUROR NUMBER 298:** Yes ma'am.
13 **THE DEPUTY CLERK:** Thank you.
14 127. Is this your verdict?
15 **JUROR NUMBER 127:** Yes ma'am.
16 **THE DEPUTY CLERK:** Is this still your verdict?
17 **JUROR NUMBER 127:** Yes ma'am.
18 **THE DEPUTY CLERK:** Thank you.
19 122. Is this your verdict?
20 **JUROR NUMBER 122:** Yes ma'am.
21 **THE DEPUTY CLERK:** Is this still your verdict?
22 **JUROR NUMBER 122:** Yes ma'am.
23 **THE DEPUTY CLERK:** Thank you.
24 251. Is this your verdict?
25 **JUROR NUMBER 251:** Yes ma'am.

POLLING OF THE JURY
JURY OUT/MOTIONS

1 **THE DEPUTY CLERK:** Is this still your verdict?

2 **JUROR NUMBER 251:** Yes ma'am.

3 **THE DEPUTY CLERK:** Thank you.

4 132. Is this your verdict?

5 **JUROR NUMBER 132:** Yes ma'am.

6 **THE DEPUTY CLERK:** Is it still your verdict?

7 **JUROR NUMBER 132:** Yes ma'am.

8 **THE DEPUTY CLERK:** Thank you.

9 **THE COURT:** All right. Anything else before the jury
10 is dismissed?

11 **MR. DeBUSK:** Not from the State, Your Honor.

12 **MS. WILSON:** Nothing from the Defense, Your Honor.

13 **THE COURT:** All right.

14 Members of the jury panel, you are excused to leave.

15 Thank you for your help this week. We have taken care of
16 two cases, and one took four days and this one took a day
17 and a half, so we've had a good week, so thank you for your
18 help. You will be mailed a check, and I do appreciate your
19 help, and you can leave at this time.

20 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**
21 **JURY.)**

22 **THE COURT:** All right. Anything from the Defense?

23 **MS. WILSON:** Yes sir, Your Honor. Your Honor, at
24 this time, I would move for a judgment in arrest of verdict
25 or in the alternative a new trial. Your Honor, the basic

JURY OUT/MOTIONS
SENTENCING PROCEEDINGS

1 argument is that this verdict is contrary to the
2 preponderance of the evidence.

3 Certainly there were a lot of bits and pieces of
4 information that the jury never got to consider, never was
5 placed in front of them. They have gone solely off of, you
6 know, testimony that I think, again, by one of the
7 witness's own statements was somewhat frazzled, and I'm
8 just asking the Court to consider a judgment in arrest of
9 the decision that the jury has made in here today.

10 **THE COURT:** The motion is denied. I believe just
11 like I found when I denied any motions for directed verdict
12 that the evidence, direct and circumstantial, substantial
13 circumstantial, was sufficient for the jury to consider the
14 charges that it charged and return the verdict that it did.

15 All right, do you have a sentencing sheet?

16 **MR. DeBUSK:** I'm sorry, Your Honor. I do not. I can
17 go in the back and make one in five minutes.

18 **THE COURT:** All right. Could the State go over his
19 prior record again. I know you briefly -- well, not
20 briefly, but you went over it earlier.

21 **MR. DeBUSK:** I will, Your Honor.

22 In the State of North Carolina in 1997, discharging a
23 firearm into a dwelling and two counts of common law
24 robbery. Both of those were reduced from robbery with a
25 dangerous weapon.

SENTENCING PROCEEDINGS

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1 From 2001, possession with intent to sell or deliver
2 marijuana. In 2012, impaired driving, breaking and
3 entering, felony, and larceny after breaking and entering.

4 And then from the State of South Carolina, in 2003,
5 petit larceny; 2004, B & E auto, and strong arm robbery,
6 which was reduced from armed robbery.

7 Your Honor, the victim is present, and Karon Mitchell,
8 who is his mother and also the owner of the hotel, and also
9 the victim would like to address the Court.

10 **THE COURT:** I'll be glad to hear from them at this
11 time.

12 **MS. WILSON:** Your Honor, if we could approach for a
13 quick second.

14 **THE COURT:** Yes.

15 **(A BENCH CONFERENCE WAS HELD OFF THE RECORD.)**

16 **MS. WILSON:** Your Honor, at this time I would object
17 to Karon Mitchell speaking. She is not the victim of this
18 case. She is not someone who was present at the time that
19 this robbery was supposed to have occurred, and I would say
20 that she has nothing of any real credibility that she can
21 offer to the Court in the way of being a victim to this
22 offense.

23 I understand that she and her family own the hotel,
24 but certainly she is not the person who was subject to this
25 crime.

SENTENCING PROCEEDINGS

1 **THE COURT:** Well, I would guess the State would
2 contend that that Forty Dollars was her money.

3 **MR. DeBUSK:** It was, Your Honor, and she is also the
4 mother of the person who was robbed.

5 **THE COURT:** Yeah. I'm going to allow her.

6 **MS. WILSON:** Thank you, Your Honor.

7 **KARON MITCHELL:** Thank you. My name is Karon
8 Mitchell, K-A-R-O-N M-I-T-C-H-E-L-L. I am the owner of
9 the Sea Palms Motel. We have been on that street operating
10 thirty-six years. We have never had anything like this to
11 happen to us. It -- it -- it hurt us so bad that night
12 when we got the call that our son had been robbed and put
13 down on the floor. It has done something to us.

14 We made sure that Chase was not left alone for many
15 weeks and days on end after that. You know, I -- he came
16 into our neighborhood and he -- he -- he violated our --
17 our area, and it is very evident by his own history that he
18 is not a -- he is not a productive citizen, nor does he
19 contribute to society in any way other than drain it, and I
20 ask, Judge -- I mean, it's very evident he does this over
21 and over.

22 Even since he's -- even since he did this to Chase,
23 he's done it again, you know. I believe he needs to --
24 he's not productive in society and I ask that -- I don't
25 think there should be any leniency.

SENTENCING PROCEEDINGS

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1 **THE COURT:** All right. Thank you.

2 Mr. Chase Mitchell.

3 **CHASE MITCHELL:** Just basically the fact that this
4 person watched me, and it was premeditated and it was
5 planned, this shows that he's not safe to be in the public,
6 so I just feel like there should be no leniency whatsoever
7 because his history has proven that this person is not
8 reliable, or honest, or trustworthy, or safe.

9 **THE COURT:** Thank you.

10 All right. Ms. Wilson.

11 **MS. WILSON:** Your Honor, my client is thirty-four
12 years old. He is single, has two sons, has a G.E.D., as
13 well as a year at Vance-Granville Tech in Durham, North
14 Carolina. He tells me that prior to being incarcerated, he
15 was working for Star News as a delivery person.

16 Certainly the jury has made a decision in this case.
17 They've spoken, and my client understands that he is bound
18 by that decision. He understands that he's looking at a
19 very serious sentence. He has maintained his innocence
20 from the outset and continues to do so, but we all
21 understand that this has been a process and he is amenable
22 to the process.

23 Certainly I am aggrieved for the victim in this case.
24 No one should have to be subject to any situation such as
25 an armed robbery or any crime against their person. My

SENTENCING PROCEEDINGS

1 client, however, maintains that he was not that person.

2 In light of that, I understand that this Court has to
3 make a decision today about what an appropriate sentence is
4 in this case, and I am asking the Court to consider the
5 minimum sentence of ten years. This is an eighty-five
6 percent offense. It is violent. It is non-parolable. It
7 is a most serious. My client understands exactly what
8 those things mean.

9 We've gone over them ad nauseam, but maintaining his
10 innocence was important enough to him that he decided to
11 have a trial. He could have taken a plea, but he decided
12 to have a trial, and I'm going to ask this Court today not
13 to punish him for that decision.

14 I believe that my client has great family support.
15 His parents have been in touch with my office and they are
16 here today in the courtroom to be here in a show for their
17 son. My client stands to have his freedom taken away, and
18 I daresay that no one is ever prepared for that, but he
19 understands what has to happen here, and we are asking the
20 Court for any leniency that the Court might show.

21 **THE COURT:** All right.

22 **MS. WILSON:** And, Your Honor, I believe that my
23 client might wish to address the Court.

24 **THE COURT:** Yeah. I'm going to ask. Mr. Riggins,
25 anything you want to say?

1 **MR. RIGGINS:** Yes sir. First, Your Honor, I want to
2 apologize to that family because I really didn't do this
3 charge, but, you know, it is what it is, but what I'm
4 asking is for, you know what I said, you heard the evidence
5 in my case, and ain't nothing come back to me about me did
6 nothing because I didn't do it.

7 If I did it, he got my rap sheet over there. If I did
8 anything and he even look at it and it tell you I always
9 pled out to anything that I've done. If I know that I --
10 that I did something, I pled out to it. This right here, I
11 did not plead to it because I knew in my heart that I
12 didn't do it.

13 They didn't show nothing that I did nothing.
14 Fingerprint, everything came back negative. You heard the
15 evidence in my case, so I'm asking you, you know, don't put
16 my life away all because of someone said I did something.

17 I mean, since I been in jail, I got -- I done took the
18 101 class. I got -- I done did everything that the jail
19 got to offer. I got certificates of it. You know, I mean,
20 before I -- I mean, before I got locked up, I was working
21 at Food Lion. I mean, I was a chef at John Crab's, I mean,
22 so I know I didn't do that, and they know I didn't do that,
23 and you know, and like I say, I apologize to them, but I
24 know I didn't.

25 You know, I mean, you made a mistake, you know, but

SENTENCING PROCEEDINGS

1 I'm here today to ask you for your leniency, you know, and
2 I promise you I'll never come back in your courtroom again
3 in my life, man.

4 **MR. DeBUSK:** Your Honor, we'd like to submit the
5 prior conviction for strong arm robbery with the attached
6 warrant, and I would call to the Court's attention the
7 facts are almost identical to the facts in the case today,
8 and this is the fourth conviction for robbery, Your Honor.

9 **THE COURT:** All right. Make it a Court's Exhibit.
10 You can just have them to make it a Court's Exhibit. I
11 take your word.

12 **MR. DeBUSK:** Thank you, Your Honor.

13 **(DEFENDANT'S PRIOR RECORD IS MARKED AS COURT'S EXHIBIT**
14 **NUMBER 2.)**

15 **THE REPORTER:** Court's Exhibit Number 2.

16 **MR. DeBUSK:** Thank you, Your Honor.

17 **THE COURT:** Mr. Riggins, there's a term for people
18 who engage in the conduct that you've been engaging in
19 since -- for the last fifteen years, which includes this
20 being your fourth robbery, and actually it took place in
21 2008, so it was only within eleven years you had four
22 robberies, and that term for someone who does that is
23 incorrigible, and you are incorrigible. I hate to burden
24 the State with the cost of providing for you, but when you
25 are on the street, you're a menace to society.

SENTENCING PROCEEDINGS

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1 The sentence of the Court is thirty years, giving you
2 credit for any time you've already served on this charge.
3 Thank you.

4 **MR. DeBUSK:** Thank you, Your Honor.

5 **MS. WILSON:** Thank you, Your Honor.

6 Your Honor, my client would like me to point out to
7 the Court, if the Court is agreeable to hearing it, that it
8 would be four thefts, but not four actual armed robberies.

9 **THE COURT:** No. They were common law robberies, at
10 least three, ---

11 **MR. RIGGINS:** I had ---

12 **MS. WILSON:** Okay. He understands that. He's saying
13 he understands.

14 **THE COURT:** I understand. Thank you.

15 All right. Anything else from the Solicitor?

16 **MR. DeBUSK:** No, Your Honor. Thank you very much.

17 **THE COURT:** All right. Well, we will stand
18 adjourned.

19 (CONCLUSION OF TRANSCRIPT OF RECORD.)

20

21

22

23

24

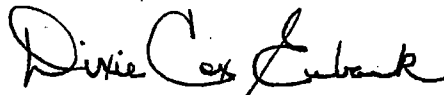
25

C E R T I F I C A T E

I, the undersigned, DIXIE COX EUBANK, Official Court Reporter for the Fifteenth 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 hearing of the captioned case, relative to appeal, in the Court of Common Pleas for Horry County, South Carolina, on the 22nd day of September, 2008.

I DO FURTHER CERTIFY that I am neither of kin, counsel nor interest to any party hereto.

SEPTEMBER 18, 2013



DIXIE COX EUBANK

CIRCUIT COURT REPORTER

FIFTEENTH JUDICIAL CIRCUIT

FORM 5

STATE OF SOUTH CAROLINA)

County of Horry)

IN THE COURT OF COMMON PLEAS

20 14 CP26 2120Anthony Maurice Riggins)

Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

APPLICATION FOR)

POST-CONVICTION REVIEW)

HORRY COUNTY
14 MAR - 8 PM 1:30
CLERK OF COURTINSTRUCTIONS B 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 Horry County Detention Center - J. Ruben Long Det.
2. Name and location of Court which imposed sentence Horry County General Sessions
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 (a) June 21st 2013, 30 years 2008-GS-26-02589

- (b) Arm Robbery
- (c) _____

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

- (a) June 21st 2013, 30 years
- (b) _____
- (c) _____

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty _____
- (b) after a plea of not guilty N/A
- (c) after a plea of nolo contendere N/A

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

yes

8. If you answered Ayes@ to (7), list:

- (a) the name of each Court to which you appealed:
- i. SC Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Dismiss appeal on April 2, 2014
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. N/A
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. N/A
- iii. _____

9. If you answered Ano@ to (7), state your reasons for not so appealing:

- (a) N/A

- (b) _____
 (c) _____

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

- (a) Ineffective Assistance of Counsel
 (b) Due Process Violation
 (c) Prosecution misconduct

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

- (a) See attached pages
 (b) See attached pages
 (c) See attached pages

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

- (a) any petition in a State Court under South Carolina Law? N/A
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
 (d) any other petitions, motions or applications in this or any other Court? N/A

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

(a) the specific nature thereof:

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

(b) the name and location of the Court in which each was filed:

- i. _____
 ii. N/A
 iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

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

N/A

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

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

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

i. _____

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 Post Conviction Relief application
 (b) _____
 (c) _____

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

(a) your arraignment and plea? _____
 (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? yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

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

(a) the name and address of each attorney who represented you:
 i. At trial Kia Wilson Horry Co. Public Defender
 ii. At sentencing Kia Wilson Horry County Public Defender
 iii. Court of Appeals Laura Candey SC indigent defense
 (b) the proceedings at which each such attorney represented you:
 i. Trial
 ii. sentencing
 iii. Direct Appeal

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

In the Alternative, that the Judgment be vacated and A
Verdict of "Not guilty" be entered Notwithstanding the
Verdict (Nay), or A New trial be granted.

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

NO

Revised 3/2003

20 14 CP26 2120

STATE OF SOUTH CAROLINA)

County of _____)

VERIFICATION

I, Anthony Maurice Riggins, 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.

Anthony Maurice Riggins

SWORN to and subscribed before me this 21st
 day of March 2014.

Susan H. Frye (L.S.)
 Notary Public

My Commission Expires: _____

My Commission Expires
 March 5, 2018

CLERK OF COURT
 14 APR - 8 PM 1:38
 FELKIE HUGHES-WARD
 JURY ROOM

20 14 CP26 2120

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

I, Anthony Maurice Higgins, 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.

Anthony Maurice Higgins
Applicant

SWORN or affirmed to and subscribed before me this
21st day of March, 2014.

Susan H. Frye
Notary Public

My Commission Expires
March 5, 2018

My Commission Expires: _____

HARRIS COUNTY
CLERK OF COURT
14 APR - 8 PM 1:30
JANIE HIGGINS-WARD

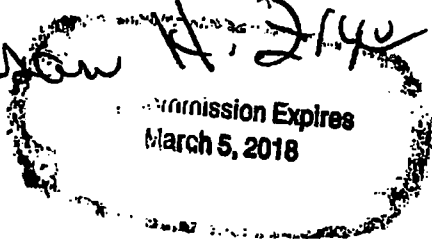
- (A) My Counsel at trial was ineffective, because she failed to Preserve ~~155~~ Right to appeal my Neil v. Biggers hearing pertaining to identification, when she failed to object to the hearing for it to be reviewed by the appeal court.
- (B) My Counsel at trial was ineffective because she failed to impeach the victim properly on Neil v. Bigger hearing pertaining to his written statement that he wrote and signed about suspect shirt being up over his nose.
- (C) My Counsel at trial was ineffective for not putting the victim written statement into Evidence pertaining to Neil v. Biggers.
- (D) my Counsel at trial was ineffective for not asking the Judge to sequester officer Miller and Officer BRESADOLA doing Neil v Bigger hearing.
- (E) my Counsel at trial was ineffective for Not Calling officer Henry BRESADOLA and Officer Miller as witness for Neil v Bigger hearing pertaining to their reports of what the victim told them that night of the DESCRIPTION of the suspect.
- (F) my Counsel at trial was ineffective because she failed to put Officer Henry BRESADOLA Police Report into Evidence on identification, showing were the victim stating that the suspect had his shirt up over his nose.
- (G) my Counsel at trial was ineffective because she failed to put officer Henry BRESADOLA Incident Report pertaining to Neil v. Bigger into Evidence. when He asking the the victim Can He identify the offender and the victim stated on the report (unknown).
- (H) my Counsel at trial was ineffective on Neil v Bigger hearing when the Judge ask her about the victim stating about the shirt Being up over suspect nose He ask her is it something he signed and she stated "no".
- (I) my Counsel at trial was ineffective because she failed to present exculpatory Evidence A Booking Report at the detention center would have shown that the witness prior written statement and testimony for identification was in error. the clothing description differed from the clothes I was wearing at the time of the Alleged Crime.
- J my Counsel at trial was ineffective for not asking the victim and officer on the Height of the suspect the victim said suspect was 5'5 and officer said victim told him suspect was around 5 feet tall I'm 5'10.

- 1) My Counsel at trial was ineffective because she failed to impeach the testimony of the victim properly using the statement the victim gave at the time of the Alleged Crime. the statement and his testimony were contradictory and she failed to put it into Evidence and not allowing the Jury the opportunity to Read his statement that He gave that night of the alleged Crime about were the suspect hand were.
- 2) my trial Counsel was ineffective when she failed to ask the Judge to charge the Juror asking the Juror's If any of them are related to the victim.
- 3) my trial Counsel was ineffective when she failed to ask for A mistrial after Juror 210 Michael Prosser called the Horry County bailiff that mourning before Court started telling the bailiff that He was the 7th Cousin of the Victim I was on trial for. The mistrial should've been ask for even though the Court dismissed Juror Prosser. He was in the Jury Room the entire time during my trial and He knew before hand that He was related of the victim and He stated on voir dire his dad work for City of Conway Police Department.
- 4) my trial Counsel was ineffective because she failed to ask the Judge to Poll the Jury, asking the Jury if Mr. Prosser discussed anything concerning the case with them.
- 5) my trial Counsel was ineffective for not objecting to Juror 210 stating He was the 7th Cousin
- 6) my trial Counsel was ineffective for not calling Crime scene specialist Jannone to testify about were he got the finger print from off of Glass door. Because victim wrote on his written statement that the suspect touched the "Top portion" of the Glass door. and to ask him how many finger print he got off of Door. which came back Negative to me the Accused.
- 7) my trial Counsel was ineffective for not having the 911 Tape at my trial on Identification dealing with what the victim wrote and testify to at trial.
- 8) my trial Counsel was ineffective for not investigating Crime scene dealing with victim testimony about which way He seen suspect Run and Officer Miller testimony about seeing A suspect matching description Runing Across cheser which is on the Ocean and the victim said He seen the suspect that Rob him Run from Motel to King Hwy and she was ineffective for not objecting to Contradictory statements.
- 9) my trial Counsel was ineffective when she failed to object to the victim testimony at trial about were police stop me the Accused at on page 48 in my transcript 22-25.
- 10) my trial Counsel was ineffective for not asking the victim pertaining to the clothes he said suspect had on in his written statement. Victim said on written statement suspect had on a "I Love NY" shirt and Blue Jean (Black) and at trial the testimony that the suspect had on a New York and that the suspect had on a New York and that the suspect had on a New York

My trial Counsel was ineffective for not questioning the officer's and victim prior to trial on description of the shirt. Because victim said suspect had on a I Love NY white shirt and officer Miller testified that he stop me matching that description and he said the shirt had a I ♡ and then I love New York no shirt exist and was never made.

on the 4th of April, 2014

Susan A. 2140



STATE¹⁵⁸ OF SOUTH CAROLINA
COUNTY OF HORRY

IN THE COURT OF GENERAL SESSIONS
FIFTEENTH JUDICIAL CIRCUIT

CASE NO: 2014-CP-26-02120

Anthony Maurice Riggins ,
Petitioner ,
VS. ,
STATE ,
Respondent ,

Notice OF Amendment To PCR

FILED
HORRY COUNTY
2014 MAY 21 PM 1:47
MELANIE HUGGINS-WARD
CLERK OF COURT

Issue 1 #

There wasn't enough PRIMA FACIE to Convict Petitioner for Arm
robbery under legislature's Amendment to § 16-11-330(A) alleged he
was armed with a deadly weapon. In State v. Muldrow 559 S.E.2d 847,
(C. 2002) Number 6. Says either by action or words while using a
representation of a deadly weapon to establish armed robbery offense
under that provision state had to show evidence corroborating allegation of
being armed or in other words the use of a physical representation
of a deadly weapon. State v. Moore 649 S.E. 2d 84. Says Arm Robbery
occurs when a person commits robbery while either armed with a
deadly weapon or alleging to be armed by the representation of a
deadly weapon. State v. AL-AMIN 578 S.E.2d 32. Says Arm Robbery occurs
when a person commits robbery either while armed with a deadly weapon
or while the person was alleging he was armed and was using a
representation of a deadly weapon. In the Trial Transcript of petitioner
victim stated on page 44 line -- --

under shirt line 25 victim stated there was an imprint¹⁵⁹
of something. Page 45 line 1 victim stated if I had to
guess it was a Gun. Page 54 (cross by Petitioner lawyer
line 17-22 victim was ask do you recall everything of that night
line 19 the stated most definitely then on line 20-22 victim was ask
to part of that recollection remember telling the police that the
person who Robbed him had there hand in their pants as to opposed to under
his shirt Page 55 line 14 lawyer ask victim do you recall in your state-
ment that his hand were in his pants? line 17 victim stated I don't.

then from line 20-25 and on Page 56 Petitioner lawyer impeached the
victim on his written statement that He wrote about hands being
in the pants. line 11 Petitioner lawyer ask the victim are you stating
in your statement that you wrote that his hand was in pants? line 13
victim stated YES. line 14-17 Petitioner lawyer ask the victim your
recollection from that night was that when you wrote this statement? line 17
victim stated YES. Page 57 line 1 Petitioner lawyer ask the victim you
did not recall it that night that there was something under his shirt. line 13
victim stated Not when I had just been Robbed No. Redirect by the State
Page 61 line 11 State ask the victim so his hand was somewhere around
his belt line? line 13 victim stated it was near his belt line. Then Recross
14 Petitioner lawyer Page 63 line 18-21 ask the victim you admit that you
didn't see him from the waist down because he was standing too close
to the Counter? line 22 victim stated "yes" He was pretty close to the Counter
because he was basically hunching over like kinda lunsing. line 24-25
Petitioner lawyer ask the victim c. 11.

If you? There was no weapon that you could actually see at this point? Page 64 line 1-2. but you believed he had one line 2 victim stated 'yes'. so the state didn't have enough PRIMA FACIE to convict Petitioner for Arm Robbery under legislature's Amendment to § 16-11-330 alleged he was armed with a deadly weapon either by action or words while using a representation of a deadly weapon. Because victim admits hand was down by belt line and also victim admits He didn't see suspect from the waist down and victim admits that He didn't see a weapon and there was nothing pointed at him. So on state v Ford 513 S.E.2d 385 hand in pants on Ford case is Common Law Robbery.

ISSUE 2#

Prosecutorial Misconduct allowing the victim to testify falsely knowing willfully Neil v. Bigser hearing on see suspect face. victim testimony was contradictory to what He wrote on his written statement and also what he told Responding officer PFC Henry Bresadola that night of the alleged crime. on page 61 line 24 state ask the victim did you get a good look at the face of this individual? Page 7 line 1 victim stated yes. Page 8 line 3-4 state ask the victim could you see his face and victim stated yes. on victim written statement of the night of the incident victim wrote suspect came into the office with his shirt pulled up over his nose. officer Henry Bresadola Responding officer who obtain a statement from the victim stated in his report victim stated and described the suspect as being sweaty and holding his shirt over his nose like he had something in his face. also on officer Henry Bresadola Incident Report were it say's Person 1# an identify offender: unknown. on page 10 line 15 cross by petitioner lawyer victim stated once he said how about empty out the drawer his face was uncovered the whole time. line 17 lawyer ask victim that's not in the reports. Correct? line 18 victim stated I'm not aware of it.

sk victim Did you tell the Police that? line 20 victim stated yes I
 did. There were 2 Responding officer's PFC Henry BRESADLA and Randy Miller
 , PFC Henry BRESADLA Report it state's. Upon Arrival PFC BRESADLA made
 contact with Chase Mitchell the victim. Mr. Mitchell stated that the suspect
 was Sweaty, Oily And Holding his shirt over his nose like He had some-
 thing in his face. PFC Randy Miller Report state's: I Responded to the
 Incident Location. Upon my ARRIVAL I Received A Description of the
 Subject from the victim. Victim DESCRIBED the Subject AS A Black
 Male APPROXIMATELY 5 FOOT TALL, BALD, stocky Build, wearing A white-T shirt
 with I Love new York and Blue Jeans. line 21 lawyer stated in no
 report is it written that you saw his face but today you're telling
 us you did line 24-25 lawyer ask victim There no Particular officer
 that you recall telling you saw page 11 1-2 this Gentleman's face? line 2
 victim stated I Can't Remember, line 6-8 lawyer ask the victim at what
 point did you tell A officer that you saw his face when He gave a State-
 ment about his recollection from that night? line 9 victim stated I gave
 them a description of what he looked like. line 10 lawyer said
 You did, but you did not describe his facial features in that description
 line 12 victim stated I described them on the tape. line 13 lawyer ask
 the victim when was that tape Statement given? line 14 victim stated Right
 after he left the office. line 15 lawyer ask the victim you're talking
 about the 911 tape? line 17 victim stated YES. Then from line 18-25 on page
 lawyer explain to the victim what was on the tape and nothing about
 suspect face features. page 12. line 6-7 lawyer ask victim at no point
 did you describe anything about his facial features Correct? line 8 victim
 line 11. On line officer verbally. line 9-10

lawyer stated, O.Kay I'm Sorry, I thought you just told me a second ago that you did so on the 911 call? line 11 victim stated well I believe it's on the tape. line 12-13 lawyer ask victim so there is no description anywhere of you being expressed about what his face looked like correct? line 14 victim stated Yes. line 15-18 lawyer ask victim so there no report there's no officer's report that you gave, and there is no taped statement where you were expressed about what this person's facial features looked like? line 19 victim stated from the time span he saw the robber in the car such a distinct nose and on page 15 line 12-13 victim stated the nose is the most distinct part about this person for me. and on line 14 lawyer ask the victim nothing saying that the shirt was not over his nose line 16 victim stated no line 17-18 lawyer ask victim so you didn't write that even in your own statement that night? line 19 victim stated I guess not. line 20 that you saw his face? line 21 victim stated NO Ma'am. And on page 81 state ask Randy Miller on line 16-17 did you receive a description of the robber from the victim? on line 18-21 Miller stated Yes I did. He gave me a description of a black male, shorter five foot range. stocky build bald head wearing blue jeans. A white T-shirt with I Love New York written on it. Nothing about Facial features.

ISSUE 3#

Prosecutorial Misconduct allowing the victim and officer Miller to testify solely on the clothes of the alleged crime and the petitioner clothes he was wearing. Page 12 victim stated on line 23-24 it was definitely him. Still had the same...

as he wearing? line 16 victim stated I Love New York t-shirt
 w/ baggy. line 17 Blue Jean. on the victim written report he stated suspect
 had on I Love NY white T-shirt and Blue Jean (Black) and also
 n Henry Bresadola Responding officer statement victim description is I Love
 NY and Blue Jean (Black) And Officer Randy Miller Testified to Page 81
 line 16-21 that He recived A description of the robber from the victim.
 Miller stated He gave me A description of A Black male. Shorter. 5' Foot
 inge. Stocky Build Bald head, wearing blue Jeans, a white t-shirt w. th I
 ove New York written on it. Page 82 line 4 Miller stated I observed
 a suspect matching the description. Page 84 line 22-25 Miller stated He
 was wearing blue jeans a white T-shirt He noticed was inside out, but you
 could still see through it, and the writing had an I and then a Big heart
 n red letters, and then I Love New York. when Petitioner was stop
 that night He had on A Plain white T-shirt and his Booking report
 state's the same (white T-shirt). And the victim wrote on his written
 statement the person had on Black Jean But at trial there Blue. And
 also Petitioner was question and read his right By the lead Det. Joe Graham
 that night and there no report stating By him suspect had A I Love New York
 T-shirt Because Randy Miller stated Page 84 line 23-24 I noticed was in-
 side out, but you could still see through it.

Issue 4 #

Secutorial Misconduct allowing the victim to testify falsely about hand
 eing under shirt. Because the victim written Statement state, He said how
 but you give me the money. Then while I was getting the money he had
 is hand in his Pants as if he had a gun. Responding Officer Bresadola
 tated in his report victim stated while suspect was doing st... ..
 Hina his l... l... o l... ..

164
Petitioner lawyer ask the victim You did not recall it that night that there was something under his shirt? line 13 victim stated not when I had just been Robbed NO. Page 58 line 14-18 victim admit He didn't write it in his statement about hand being under shirt.

Issue 5#

Prosecutorial misconduct for stating in his closing Argument on Page 107 line 21-24. So if the Defendant went through that door and didn't leave a finger print he in good company Almost everybody else who went through that door didn't leave a finger print either.

Victim stated on his written statement that the suspect touched the top portion of the glass. Crime Scene Specialist Jaonne responded And used Black Slik Powder on the Glass door and received one Partial print off the Glass door, which came back negative to Petitioner. Page 70 line 17-18 State ask Det Joe GRAHAM During the course of your investigation was any physical evidence recovered from the scene? line 19-21 et Joe GRAHAM stated the only physical evidence from the scene that was recovered was a Partial Print that was lifted from the door of the Sea Palms. line 25 It was also compared against the Defendant and came back as a no-match Page 71 line 1. Page 79 line 2-17 Petitioner lawyer ASK Det Joe Graham was He on the scene when Crime Scene Specialist Jaonne was processing the door line 11 He stated Yes. Then He ask him In line 11 do Specialist Jaonne get All the conceivable prints he could have gotten off that door line 14 Det Joe Graham stated YES. line 15 Petitioner lawyer ask Det not one came back to match Petitioner is that correct?

Issue 6#

Prosecutorial misconduct allowing the victim to testify falsely about where suspect was arrested at. Page 48 line 23-25 victim stated he ran towards King Highway. line 24 state ask victim would that be long 7th Ave? line 25 victim stated yes, which is where they found him from. on officer Randy Miller Report it said. I LOCATED the Subject in A parking Lot AT 4th Ave north And King Hwy.

Issue 7#

trial Counsel was ineffective for not object to the state assertion that the previous convictions were made with a common scheme or plan on the 145 4-7 state submitted strong arm robbery conviction saying the facts are most identical to the facts in the case today. counsel was ineffective for not forcing the state to prove how the previous crime were made w/ a common scheme or plan with the crime on trial.

on the 19th day of May, 2014
Susan H. Frye

My Commission Expires
March 5, 2018



Myrtle Beach Police Department
1101 N. Oak Street, Myrtle Beach SC 29577
Telephone: 843-918-1382
Fax: 843-918-1320

Statement of: ☒ Victim ☐ Witness ☐ Defendant

Name of Officer Taking Statement: H. Bresadula
Date & Time: 05-07-08 2027 Case File Number: 0107-32849
Incident Location: 308 7th Ave N Myrtle Beach SC 29577
Incident Type: Armed Robbery
Statement Of: Chase Mitchell
DOB: [REDACTED] Hgt: [REDACTED] Wgt: [REDACTED] Hair: [REDACTED] Eye: [REDACTED]
Home Address: [REDACTED] N MB SC 29577
Local Address: [REDACTED]
Home Phone Number: [REDACTED] Work Phone Number: [REDACTED]
Cell Phone Number: [REDACTED] Misc: [REDACTED]

Details:

Very Black oil skin
5'5 husky - shaved bald head - Painted flat wide nose
I have NY white T-shirt w/ Blue Jeans (Black). ~~He~~
He first rung the buzzer up front (Pulse) like 7 times then
pushed down on it really hard before I came up front. He opened
the door by putting his hands on the top portion of the glass.
When he came to the office he was sneaky and sily and
was muttering some words with his shirt over his nose like he
had something in his face. Passing back and forth along the count.
I asked him if something was wrong and he said "How about
you give me the money." I gave him about \$37 (20s, 25s, & 10s)
Then while I was getting the money he had his hands in his
pockets as if he had a gun. When I gave him the money he
went for the door and turned around and came back for the door
and told me to get on the floor. Acting like he would shoot me if I
Unlawful to Make False Complaint: It is unlawful for any person to knowingly make a false complaint, or
after notice of a criminal investigation, to give false information to any law enforcement officer concerning the
alleged commission of any crime by another. . . . Any person violating the provisions of this section is guilty of
a misdemeanor and upon conviction must be punished by a fine not to exceed two hundred dollars or by a term
of imprisonment not to exceed thirty days. S.C. § 16-17-725.

By signing below, I certify that I have read the provisions of the above section (§ 16-17-725) and understand its
contents. In addition, I certify I have read the above statement, and it is true and correct to the best of my
knowledge and I have been furnished a copy of this statement.

Chase Mitchell

MYRTLE BEACH POLICE DEPARTMENT

Report Date/Time 05/07/2008 22:32

Incident Report

File # 01-08-032849

Topic

ORIGINAL

1 ON 05-07-08, PFC. BRESADOLA AND PFC. MILLER RESPONDED TO THE SEA PALMS MOTEL IN REFERENCE TO AN ARMED ROBBERY. UPON ARRIVAL, PFC. BRESADOLA MADE CONTACT WITH CHASE MITCHELL. MR. MITCHELL STATED THAT HE WAS IN THE BACK OF THE OFFICE WHEN A BLACK MALE APPROACHED THE FRONT DOOR AND RANG THE BUZZER (OUTSIDE THE DOOR) SEVERAL TIMES. WHEN MR. MITCHELL CAME UP FRONT, THE BLACK MALE OPENED THE DOOR (UNLOCKED) AND CAME IN. MR. MITCHELL FURTHER STATED THAT THE SUSPECT WAS "SWEATY, OILY AND HOLDING HIS SHIRT OVER HIS NOSE LIKE HE HAD SOMETHING IN HIS FACE". THE SUSPECT PACED BACK AND FORTH ALONG THE COUNTER. MR. MITCHELL ASKED HIM IF SOMETHING WAS WRONG AND THE SUSPECT SAID, "HOW ABOUT YOU GIVE ME THE MONEY" MR. MITCHELL THEN GAVE HIM ALL THE MONEY IN THE REGISTER. HE BELIEVES IT TO BE ONE \$20, TWO \$5'S AND TWO \$1'S. WHILE THE SUSPECT WAS DOING THIS, HE WAS HOLDING HIS HAND IN HIS PANTS AS IF HE HAD A GUN. THE SUSPECT THEN TOOK THE MONEY AND STARTED OUT THE DOOR. WHEN HE GOT THE DOOR OPEN, HE TURNED AROUND AND CAME BACK TO THE COUNTER AND TOLD MR. MITCHELL TO GET ON THE FLOOR, ACTING LIKE HE WOULD SHOOT HIM IF HE DIDN'T.

INV. JACKSON AND SGT. JOYCE RESPONDED TO THE SCENE. CRIME SCENE OFFICER IANNONE RESPONDED AND PROCESSED THE SCENE. INV GRAHAM RESPONDED AND INTERVIEWED THE VICTIM. PFC. BRESADOLA OBTAINED A WRITTEN STATEMENT FROM MR. MITCHELL AND PROVIDED HIM WITH APPROPRIATE VICTIMS ASSISTANCE PAPERWORK.

Reporting Officer PFC HENRY BRESADOLA (7326)	Department MYRTLE BEACH POLICE DEPT	Report Status: Approved
Officer Name		Date/Time
Approving Officer	Department MYRTLE BEACH POLICE DEPT	Date / Time 05/07/2008 23:42

01-08-0321

National Standard Incident

Report Date/Time 05/08/2008 00:34

Incident Report

File # 01-08-032855

File # 1-08-032855	Report Date/Time 05/08/2008 00:34	Occurred From	Occurred To	Report Type Supplemental
Incident Type ROBBERY: ARMED	Case Status CLEARED BY ARREST	Case Status Date 05/08/2008	Cleared	
Incident Location Information				
Total Damaged Property Value : \$0.00		Total Recovered Property Value : \$0.00		
Total Stolen Property Value : \$0.00				

Topic SUPPLEMENTAL

1 ON 5-7-2008, I RESPONDED TO THE INCIDENT LOCATION, IN REFERENCE TO AN ARMED ROBBERY. UPON MY ARRIVAL, I RECEIVED A DESCRIPTION OF THE SUBJECT FROM THE VICTIM. VICTIM DESCRIBED THE SUBJECT AS A BLACK MALE APPROXIMATELY 5 FOOT TALL, BALD, STOCKY BUILD WEARING A WHITE T-SHIRT (WITH "I LOVE NEW YORK") AND BLUE JEANS. I OBSERVED A SUBJECT MATCHING THAT DESCRIPTION RUN WEST ACROSS CHESTER STREET TOWARD KINGS HWY. I LOCATED THE SUBJECT IN A PARKING LOT AT 4TH AVE NORTH AND KINGS HWY. THE SUBJECT MATCHED THE DESCRIPTION AND I NOTICED THAT HIS WHITE T-SHIRT WAS TURNED INSIDE OUT AND HE WAS SWEATING HEAVILY. I DETAINED THE SUBJECT AND PATTED HIM DOWN FOR WEAPONS. I NOTICED THAT THE SUBJECTS SHIRT WAS INSIDE OUT AND LOOKED AT THE INSIDE OF HIS SHIRT AND IT SAID "I LOVE NEW YORK".

THE VICTIM WAS TRANSPORTED TO 4TH AVE NORTH AND KINGS HWY AND POSITIVELY IDENTIFIED THE SUBJECT. THE SUBJECT WAS PLACED UNDER ARREST AND TRANSPORTED TO MBPD JAIL.

DISPATCH ADVISED THAT THERE WAS AN ARMED ROBBERY AT THE HOLIDAY SANDS NORTH (LOCATED AT 4TH AVE NORTH AND THE BLVD). DISPATCH ADVISED THAT THE SUBJECT WAS A STOCKY BLACK MALE, BALD, WEARING A WHITE T-SHIRT AND BLUE JEANS. I RESPONDED TO THE HOLIDAY SANDS AND REVIEWED THE VIDEO SURVEILLANCE AND POSITIVELY IDENTIFIED THE SUBJECT.

Reporting Officer SFC RANDY S MILLER (7325)	Department MYRTLE BEACH POLICE DEPT	Report Status: Signed
Officer Name		Date/Time
Approving Officer	Department	Date / Time

01-08-032855

Approved

--

Myrtle Beach Police Department
1101 N. Oak Street, Myrtle Beach SC 29577
Telephone: 843-918-1382
Fax: 843-918-1320

Crime Scene Unit

Incident #: 01-08-032849
Date: 5/7/2008
Incident Type: Armed Robbery
Incident Location: 308 7t Ave North
Victim: Sea Palms
Suspect: Anthony Wiggins
Officer/Supervisor/Detective: Bresadola/ Jackson/ Graham
Crime Scene Specialist: Iannone

Original Report

On 5/7/2008 at approx 2030 Hrs, Investigator M. Jackson contacted me to respond to the above incident location reference to an armed robbery. Upon arrival I spoke to Inv. Jackson who stated a black male walked into the main office and demanded money from the desk clerk (Chase Mitchell). Inv. Jackson stated the suspect had pushed the doorbell several times before he pushed the glass door open. I took photos of the door he entered and the office area. According to the desk clerk, the suspect did not touch anything inside the office. I used black silk powder on both the glass door and doorbell receiving a partial print on the exterior portion on the glass door. No further processing was requested. When I returned to the crime scene lab, I transferred the photos onto the main database onto a CD-R. The CD-R will be placed in property and evidence.



Myrtle Beach Police Department
1101 N. Oak Street, Myrtle Beach SC 29577
Telephone: 843-918-1382
Fax: 843-918-1320

AFIS Analysis Request

Incident #: 01-08-032849

Request Date: 5/7/2009

Incident Type: Armed Robbery

Requesting Officer: Iannone

Items Submitted for Testing (check all boxes that apply):

- ☐ Inked Impressions ([indicate quantity])
- ☒ Latent Lifts ([indicate quantity])
- ☐ Other:

Test Requested:

- ☒ AFIS
- ☒ Manual Comparison

- Subject's Name: Wiggins, Anthony
- DOB: [REDACTED]
- SID # / FBI #:
- Race/Gender: B/M

- Victim's Name:
- DOB:
- SID # / FBI #:
- Race/Gender:

Comments:

Approved

--

Myrtle Beach Police Department
1101 N. Oak Street, Myrtle Beach SC 29577
Telephone: 843-918-1382
Fax: 843-918-1320

AFIS Analysis Results

Incident #: 01-08-032849
AFIS Analysis Date: 5/10/2009
Incident Type: Armed Robbery
Incident Location: 301 7th Ave North (Sea Palms)
Items Submitted: 1 Latent Print
Requesting Officer: Iannone
AFIS Operator Name: Iannone

I-1= B

AFIS Response Codes:

- A. Latent has been searched against the SLED database with positive results.
- B. Latent has been searched against the SLED database with negative results. An image of the latent has been stored in the unsolved latent file for continuous search against all new cards entering the system.
- C. Latent submitted is not of sufficient quality for entry and search in the AFIS system.

MYRTLE BEACH POLICE DEPARTMENT

Report Date/Time 05/07/2008 22:32

Incident Report

File # 01-08-032849

File # 01-08-032849	Report Date/Time 05/07/2008 22:32	Occurred From 05/07/2008 20:20	Occurred To 05/07/2008 20:27	Report Type Original
Incident Type ROBBERY: ARMED		Case Status OPEN/ACTIVE	Case Status Date 05/07/2008	Cleared 05/07/2008 21:20
Incident Location Information SEA PALMS MOTEL - 308 N 7TH AV MYRTLE BEACH, SC 29577 (HORRY County)				
Dispatched : 05/07/2008 20:27		Alcohol Related : NO		
En Route : 05/07/2008 20:27		Drug Related : NO		
Arrived : 05/07/2008 20:27		Total Damaged Property Value : \$0.00		
Census Tract : D		Total Stolen Property Value : \$32.00		
Premise Type : HOTEL/MOTEL/ETC./ALSO TEMP LODGING		Total Recovered Property Value : \$0.00		
Patrol Area : WATERFRONT SHORT SOUTH				

State Classification ROBBERY		Attempted/Completed COMPLETED	
Statute/Ordinance		Location Type HOTEL/MOTEL/ETC./ALSO TEMP LODG	Disposition Date 05/07/2008
1 CHASE MITCHELL (VICTIM, Primary Role); UNKNOWN (SUSPECT/ARRESTEE, Primary Role); SEA PALMS MOTEL (VICTIM, Primary Role) Hate Bias : Anti Asian/Pacific Islander Forced Entry : NO		Computer Theft : NO Case Disposition : ACTIVE Exceptional Clearance : NOT EXCEPTIONALLY CLEARED	

Person Type VICTIM		Business/Person Name CHASE JOSEPH MITCHELL		Daytime Phone [REDACTED]	
Evening Phone		Person Address [REDACTED] MYRTLE BEACH, SC 29577		Census Trac C	
1 Other Phone [REDACTED]		Employer Address Use Address from Incident Location Information		Census Trac	
Race WHITE	Sex Male	SSN	DL Exp. Date	DL Number [REDACTED]	
Birth Date [REDACTED]		Birth Location			
Age : 021		Victim Type : INDIVIDUAL			
DL State : SC		Will File Charges : YES			
Ethnic Origin : NON-HISPANIC		Can Identify Offender : UNKNOWN			
Min. Height : 6'04"		Sobriety of Victim : SOBER			
Min. Weight : 180 lbs		Hair Color : BROWN			
Adult/Juvenile : ADULT		Eye Color : BROWN			
Employer : SEA PALMS MOTEL		Residency Type : JURISDICTION			
Relationship : 851 UNKNOWN					

Person Type SUSPECT/ARRESTEE		Business/Person Name UNKNOWN		Daytime Phone	
Evening Phone		Person Address		Census Trac	
2 Other Phone		Employer Address		Census Trac	
Race BLACK	Sex Male	SSN	DL Exp. Date	DL Number	
Birth Date		Birth Location			

Reporting Officer PC HENRY BRESADOLA (7326)	Department MYRTLE BEACH POLICE DEPT	Report Status: Approved
Officer Name		Date/Time
Approving Officer	Department MYRTLE BEACH POLICE DEPT	Date / Time 05/07/2008 23:42

01-08-032

Dear MS. MELANIE HUGGINS-WARD

Could you please send me A Copy and Clock
Stamp

Anthony Maurice Higgins

974
STATE OF SOUTH CAROLINA
COUNTY OF HORRY

IN the COURT OF GENERAL SESSION
FIFTEENTH JUDICIAL CIRCUIT

Case No: 2014-LP-26-02120

Anthony Maurice Riggins ,
Petitioner ,
VS. ,
STATE Respondent ,

Notice OF Amendment TO PCR

FILED
14 MAY 30 PM 1:39
CLERK OF COURT

Issue 7 #

trial Counsel was ineffective for not calling Bishop L.C. Riggins as
a witness. 6 Amendment and Failed to investigate.

Issue 8 #

trial Counsel was ineffective for not asking for a mistrial, Because Judge
told the Jury on Page 133 line 9 Don't start your deliberation yet. line 11 11:09 AM
line 25 11:10 AM Page 134 line 2 11:47 A.M line 4-10 Jury had a Question
and line 25 and over on Page 135 Jury reached A verdict. Judge never told
Jury to start deliberation.

on the 28th day of May, 2014
Susan H. Frye

My Commission Expires
March 5, 2018



ALAN WILSON
ATTORNEY GENERAL

June 4, 2014

The Honorable Melanie Huggins-Ward
Horry County Clerk Of Court
Common Pleas Division (PCR)
PO Box 677
Conway, SC 29528-0677

RECEIVED
Horry County Clerk
JUN-5 PM 1:31
MELANIE WARD

RE: Anthony M. Riggins, #305169 v. State of South Carolina
2014-CP-26-2120

Dear Ms. Huggins-Ward:

I received the attached Notice of Amendment to PCR in the aforementioned matter on May 21, 2014. Please be advised that Rule 11 of the South Carolina Rules of Civil Procedure requires every pleading, motion, or other paper of a party represented by counsel to be signed by at least one attorney of record who is an active member of the South Carolina Bar. If a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. Rule 11, SCRCP.

Therefore, the State does not consider this document part of this action. According to our records, Inmate Anthony Riggins, is represented by Tristan M. Shaffer, Esquire. By copy of this letter, I am notifying counsel of the State's position.

Sincerely,

Joshua L. Thomas
Assistant Attorney General

cc: Tristan M. Shaffer, Esquire

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

Anthony M. Riggins, #305169,

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS
) FOR THE FIFTEENTH JUDICIAL CIRCUIT

) Case No. 2014-CP-26-2120
)
)
)
)
)
)
)
)
)
)
)

RETURN

Respondent, making its Return to the Application for Post-Conviction Relief filed April 8, 2014, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Horry County Clerk of Court. In July 2008, the Horry County Grand Jury indicted Applicant for armed robbery (2008-GS-26-2589). Kia T. Wilson, Esquire, represented Applicant. On June 20, 2013, Applicant proceeded to trial before the Honorable John C. Hayes III and a jury. On June 21, 2013, the jury found Applicant guilty as indicted. Judge Hayes sentenced Applicant to thirty (30) years imprisonment.

Applicant filed a timely notice of appeal. Lara M. Caudy, Esquire, of the Office of Appellate Defense, perfected the appeal with the filing of an Anders¹ brief. Applicant voluntarily withdrew his appeal, and the South Carolina Court of Appeals dismissed the appeal on April 2, 2014. The court of appeals returned the remittitur to the circuit court on April 18, 2014.

¹ Anders v. California, 386 U.S. 738 (1967).

II.

In his Application, Applicant alleges he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel"
 - a. Failure to preserve objection to ruling on Neil v. Biggers, 409 U.S. 188 (1972), hearing.
 - b. Failure to impeach victim at Neil v. Biggers hearing.
 - c. Failure to enter victim's statement into evidence at Neil v. Biggers hearing.
 - d. Failure to move to sequester witnesses at Neil v. Biggers hearing.
 - e. Failure to call witnesses at Neil v. Biggers hearing.
 - f. Failure to enter police report into evidence at Neil v. Biggers hearing.
 - g. Failure to enter incident report into evidence at Neil v. Biggers hearing.
 - h. Failure to properly respond to judge's questions at Neil v. Biggers hearing.
 - i. Failure to enter jail booking report into evidence.
 - j. Failure to elicit testimony about suspect's height.
 - k. Failure to impeach victim.
 - l. Failure to request voir dire questions.
 - m. Failure to request mistrial after a juror reported a relationship to the victim.
 - n. Failure to request polling of jury.
 - o. Failure to object to a juror.
 - p. Failing to call the crime scene specialist as a witness.
 - q. Failure to present a 911 tape.
 - r. Failure to investigate crime scene.
 - s. Failure to object to victim's testimony.
 - t. Failure to cross-examine the victim regarding identification.
 - u. Failure to cross-examine the arresting officer about identification.
2. "Due Process Violation"
 - a. "Erroneous advice of counsel"
3. "Prosecution Misconduct"

Respondent denies Applicant is entitled to relief on any of these claims, and demands strict proof thereof. Any claims not specifically enumerated in the Application or amendments thereto

will be opposed by Respondent at the evidentiary hearing. All amendments should be made well in advance of hearing and should be filed in compliance with Rule 11, SCRCP.

Attached to this Return and incorporated herein are the records of the Horry County Clerk of Court regarding the subject conviction(s), Applicant's records from the South Carolina Department of Corrections, the trial transcript, and Applicant's appellate records. Any records not attached will be forwarded upon receipt. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

Respondent submits Applicant's allegation of ineffective assistance of trial counsel is without merit. In a post-conviction relief action, the applicant bears the burden of proving the allegations in the application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of trial counsel as a ground for relief, the applicant must prove "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." Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The court strongly presumes trial counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove trial counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, trial counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625.

Respondent submits Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Respondent moves pursuant to Rule 12(e), SCRPC, to require Applicant to provide a more definite statement of his allegations of due process violations and prosecutorial misconduct. The Uniform Post-Conviction Procedure Act requires applicants to "*specifically set forth the grounds upon which the application is based.*" S.C. Code Ann. § 17-27-50 (1985) (emphasis added). Furthermore, Rule 8(a), SCRPC, requires all civil pleadings include "a short and plain statement of the facts showing that the pleader is entitled to relief."

Question 11 of the PCR application asks Applicant to state concisely the supporting facts for each of his grounds for relief. In response to that question, Applicant only explains his grounds of ineffective assistance of counsel; he fails to set forth any specific facts to explain his allegations of due process violations and prosecutorial misconduct. Respondent submits Applicant's allegations are so vague and

ambiguous that Respondent cannot be reasonably required to frame a responsive return. Therefore, Respondent moves to require Applicant to file an amended application well in advance of the hearing scheduled in this matter.

V.

Without waiving its motion for a more definite statement in Part IV, supra, Respondent submits Applicant's allegations of due process violations are without merit. In the event these allegations are merely recitations of his grounds for ineffective assistance of counsel, Respondent submits these allegations are without merit and incorporates its response in Part III, supra.

In the event Applicant alleges independent claims of due process violations, Respondent submits such claims are likewise without merit. A due process violation only occurs "when a defendant in a criminal trial is denied the fundamental fairness essential to the concept of justice." State v. Hornsby, 326 S.C. 121, 129, 484 S.E.2d 869, 873 (1997) (citing 21 Am.Jur.2d, Criminal Law § 640 (1981)). Respondent submits the record fully demonstrates Applicant's trial procedures fully complied with the requirements of due process. Accordingly, Respondent submits this allegation should be dismissed.

VI.

Without waiving its motion for a more definite statement in Part IV, supra, Respondent submits Applicant's allegations of prosecutorial misconduct are without merit. Prosecutorial misconduct is not an issue for post-conviction relief. Rather, this allegation is a direct appeal issues that is procedurally barred by S.C. Code Ann. § 17-27-20(b). Post-conviction relief is not a substitute for an appeal. Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993). Applicant could have raised the issue of prosecutorial misconduct on appeal. The failure to do so has waived this allegation as grounds for relief. Regardless, it is applicant's burden to prove actual

prosecutorial misconduct. Alabama v. Smith, 490 U.S. 794 (1989). Respondent submits petitioner cannot demonstrate the State knowingly failed to "disclose evidence in its possession favorable to the accused and material to guilt or punishment." Clark v. State, 315 S.C. 385, 388, 434 S.E.2d 266, 268 (1993) (citing Pennsylvania v. Ritchie, 480 U.S. 39 (1987)). Accordingly, this allegation should be dismissed.

VII.

Respondent denies each and every allegation not hereinbefore expressly admitted, qualified, or explained.

VIII.

WHEREFORE, having made its return, Respondent requests Applicant provide a more definite statement of his claims, and an evidentiary hearing be held on any claims so requiring one.

Respectfully submitted,

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Jan. 13, 2014

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

ANTHONY M. RIGGINS, #305169

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

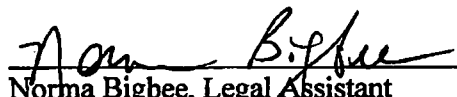
2014-CP-26-2120

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** on the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Tristan Michael Shaffer, Esquire
4701 Oleander Drive
Myrtle Beach, SC 29577

DATED this 13TH day of January, 2015.


Norma Bigbee, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY) 2014-CP-26-02120

ANTHONY M. RIGGINS,)

Applicant,)

vs.)

STATE OF SOUTH CAROLINA,)

Respondent.)

Transcript of Record
(PCR Hearing)

May 12, 2015

B E F O R E:

Honorable Michael G. Nettles
Horry County Courthouse
Conway, South Carolina

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

Tristan M. Shaffer, Esquire
Attorney for Plaintiff

Joshua L. Thomas, Esquire
Attorney for Defendant

Kay H. Richardson
Circuit Court Reporter

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BY THE COURT

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1 (May 12, 2015 - 2:15 P.M.)

2 THE COURT: Yes, sir. You're recognized, Mr. Thomas.

3 MR. THOMAS: Thank you, Your Honor. This is Anthony
4 Riggins versus The State of South Carolina, 2014-CP-26-2120.
5 He was indicted in July of 2008 for armed robbery, represented
6 on that charge by Kia Wilson, went to trial June 20th through
7 21st, 2013, convicted as indicted. The Honorable John C.
8 Hayes sentenced him to thirty years for that conviction. He
9 did file initially an Anders brief on appeal, however, he
10 voluntarily withdrew his appeal. This PCR was filed in April
11 2014 alleging various allegations of ineffective assistance of
12 counsel, due process and prosecutorial misconduct. He is
13 present in the courtroom represented by Tristan Shaffer. The
14 State is ready to proceed and I think Mr. Shaffer wants to
15 sort of clarify the issues for you.

16 THE COURT: All right. Yes, sir, Mr. Shaffer. Be glad
17 to hear from you.

18 MR. SHAFFER: Your Honor, the first issue deals with the
19 *Neil v. Biggers* hearing that was -- that was conducted. We're
20 alleging that trial counsel was ineffective for failing to
21 present certain pieces of information during that hearing, put
22 those on record at the correct time; that she was ineffective
23 for failing to properly reserved the *Neil v. Biggers* issue for
24 appeal; that trial counsel was ineffective for failing to
25 impeach the witness with -- or the complaining victim with

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BY THE COURT

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1 previous statements that were made; that trial counsel was
2 ineffective for failing to move to strike for cause Juror 251,
3 which was a Lieutenant in the -- I believe it's 251 -- he is a
4 Lieutenant in the Horry County -- Horry County Police. I
5 believe he is the Lieutenant in charge of the SWAT division at
6 the time and he ended up getting on the jury and ended up
7 being the jury foreperson. So, we're moving to strike for --
8 that counsel was ineffective for failing to strike for cause.

9 THE COURT: Is that true, Mr. Thomas?

10 MR. THOMAS: Well, Your Honor, just to clarify that. He
11 was in fact -- he did stand up and say that in jury selection
12 -- in voir dire and she was out of strikes.

13 THE COURT: What's your understanding of the law? I
14 thought -- it's always been my understanding of the law, if
15 you have the power of arrest you can't serve as a juror.
16 There's a specific statute that deals with sheriffs and there
17 have been a number of cases that say that it applies to all
18 law enforcement officers because they are all sworn to assist
19 deputy sheriffs.

20 MR. THOMAS: If I can find that -- my understanding is he
21 didn't work for the Sheriff's office, he was a consultant to
22 them. I don't know that he ---

23 THE COURT: Oh, okay, well, that's a very big
24 difference. That's different than what Mr. Shaffer said. He
25 didn't have the power of arrest?

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BY THE COURT

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1 MR. THOMAS: That's not clear from the record, Your
2 Honor. I don't -- I mean, the voir dire we have where that
3 comes up is after the qualifications. So, I would assume if
4 he -- if that was the case, he probably would've been
5 disqualified at that stage.

6 MR. SHAFFER: Your Honor, perhaps -- my understanding of
7 it and I'm looking at it -- first, I'm looking at the issue
8 with -- I'm looking at the statement, him standing up on Page
9 23 of the transcript, it's Line 6 through 8. It says, Your
10 Honor, Juror 251, Mark Singleton, I'm a counter terrorism
11 advisor to SWAT team here for Horry County Police. Then, I
12 believe he said something similar to that another time during
13 that week but in that situation, they removed him for cause.
14 Your Honor, I apologize if I misspoke.

15 THE COURT: They did remove him for cause. I thought you
16 said he was the foreman.

17 MR. SHAFFER: He was not for this case.

18 MR. THOMAS: And I don't have any information ---

19 MR. SHAFFER: I apologize and perhaps -- my client handed
20 me another inmate who went to trial that week, his transcript,
21 which my client somehow procured parts of his transcript.
22 With that being said, I apologize if I misspoke. I -- he's an
23 advisor for the Horry County Sheriff's Department or Horry
24 County Police according to his testimony.

25 THE COURT: Well, is it -- now, you're confusing me now.

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BY THE COURT

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1 Did he sit on this jury or not?

2 MR. SHAFFER: He sat on my client's jury, he did not sit
3 on the other person who went to trial that week's jury. We're
4 saying that he was -- that trial counsel was ineffective for
5 failing to move to strike him for cause.

6 MR. THOMAS: And I would just say anything about that
7 other trial is pure speculation at this point or I've never
8 heard that. It's not part of this record.

9 THE COURT: All right. All right. So, we're talking
10 about *Neil v. Biggers* issue and failure to strike Number 251.
11 And what are the other issues?

12 MR. SHAFFER: Your Honor, failure to -- failure to call
13 his father as a witness; failure to ---

14 THE COURT: Whose father?

15 MR. SHAFFER: My client's father. Failure to argue a
16 directed verdict as to the armed robbery, the weapon element
17 of armed robbery. Some indication, I think, that there -- she
18 didn't specifically argue that for the directed verdict. She
19 was arguing identification for the directed verdict but
20 essentially no one ever saw an actual gun and, you know, and
21 saw -- I imagine the State would have a counterargument for
22 that but no one actually saw a gun in his possession.

23 THE COURT: All right. So, those are the four issues; is
24 that correct? *Neil v. Biggers*, Juror 251, failure to call the
25 Defendant's father and improper motion for directed verdict.

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ANTHONY M. RIGGINS - DIRECT BY SHAFFER

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1 MR. SHAFFER: That's correct, Your Honor.

2 THE COURT: Okay. All right. Be glad to hear from you.

3 MR. SHAFFER: Applicant would call -- I'll go ahead and
4 call my client, Anthony Riggins.

5 THE COURT: Yes, sir. If you could come forward. I'm
6 gonna ask you if you could to place your left hand on the
7 Bible and raise your right hand as the Clerk administers the
8 oath.

9 ANTHONY M. RIGGINS, HAVING BEEN DULY
10 SWORN, TESTIFIES AS FOLLOWS:

11 CLERK: Please state your name and spell your last name
12 for the record.

13 MR. RIGGINS: Anthony Riggins.

14 THE COURT: Mr. Riggins, have a seat in that witness
15 chair and pull up real close to that microphone, speak loudly,
16 clearly and slowly.

17 Yes, sir.

18 DIRECT EXAMINATION OF ANTHONY M. RIGGINS BY MR. SHAFFER:

19 Q: Mr. Riggins where are you currently housed at?

20 A: Broad River Correction.

21 Q: And what sentence are you currently serving?

22 A: Thirty years.

23 Q: And is that for this charge?

24 A: Yes, sir.

25 Q: Tell us a little bit about the allegations against you.

1 What do they claim you did?

2 A: The claimed that I did a robbery and that's basically the
3 -- they claim I did a robbery that everything came back
4 negative to me and ---

5 Q: Well, tell me this, Where did they claim you robbed?

6 A: A motel.

7 Q: Which motel?

8 A: Sea Palms.

9 Q: Where is that located at?

10 A: It's in Myrtle Beach.

11 Q: Do you have any idea about the address?

12 A: Nah.

13 Q: How did you end up getting, getting arrested?

14 A: Well, walking along minded my business and my dad just had
15 dropped me off and I was walking minding my business, a bike
16 patrol pulled up on me, started talking to me and he asked me
17 where I was from. I told him where I was from. And all of a
18 sudden, as we was talking, a car pulled up, a police car
19 pulled up and it's dark, I don't -- don't even know who it is
20 or what. All I know lights flash. When the lights flashed,
21 he told me to put my hands around my back and he was like, you
22 know what this is? And I was like, no, I don't know what this
23 is. He said, we'll tell you when we get down there. So, when
24 I get there, then I stayed in the jail two days. Then they
25 tell me I got a armed robbery charge.

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ANTHONY M. RIGGINS - DIRECT BY SHAFFER

9

1 Q: And what jail are you talking about?

2 A: Myrtle Beach City Jail.

3 Q: And they told you you had a armed robbery charge?

4 A: Yes.

5 Q: What were you wearing the night you were arrested?

6 A: The night I was arrested I was wearing a white T-shirt and
7 blue jeans but they was light blue jeans that I was wearing,
8 acid blue jeans.

9 Q: And how tall are you, sir?

10 A: I'm 5'10".

11 Q: Okay. Did the T-shirt have anything on it?

12 A: No, sir.

13 Q: Was it turned inside/outward?

14 A: No, sir.

15 Q: Was there anything up underneath on the other side of it?

16 A: No, sir.

17 Q: Who was your attorney for this? Who was your first
18 attorney?

19 A: I had Mr. Ed Chrisco at first. He kept trying to get me
20 to plead.

21 Q: What was the plea offer?

22 A: Five years, violent.

23 Q: Okay.

24 A: And I kept telling him, nah, I wasn't pleading to that,
25 you know what I'm saying. So, then we obtained to -- we

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ANTHONY M. RIGGINS - DIRECT BY SHAFFER

10

1 obtained Mr. Carroll Padgett and we had paid him money and
2 then he had a -- he had a assistant named Michael Suggs that
3 came to me and told me, said he knew the victim's grandmother
4 and they was some very good people and he -- and all of a
5 sudden I tell Mr. Carroll Padgett about it and Mr. Carroll
6 Padgett takes my bread, he takes me in front of the Judge and
7 said we got a conflict of interest and he take my money. So,
8 then I got stuck with Ms. Kia Wilson.

9 Q: All right. And she was court appointed?

10 A: Yes.

11 Q: Prior to her being appointed, have you had a chance to
12 review your discovery?

13 A: Yes.

14 Q: Okay. How long prior to your trial was she appointed?
15 When did she get appointed?

16 A: Probably -- I would say probably a year, you know, this
17 has been -- this case was like five years old before they even
18 took me to trial.

19 Q: How many times did you meet with her?

20 A: I met with her probably about -- I went to her office one
21 time and she came to visit me at the jail. I would say
22 probably about two -- probably two or three times we had
23 talked.

24 Q: What was your strategy or what strategy did y'all discuss
25 about going forward with this trial?

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ANTHONY M. RIGGINS - DIRECT BY SHAFFER

11

1 A: The really wasn't no strategy, you know, we never talked
2 -- she telled me that, when I asked her about producing
3 witnesses and stuff, evidence and stuff, she tell me that I
4 don't -- you know, that if she do that that I won't be able to
5 have -- she won't be able to have the last closing argument or
6 something like that she's telling me, so that's what she told
7 me.

8 Q: Did you talk about you testifying?

9 A: I don't remember -- now, I know we talked about me
10 testify, I was trying to get her to put things in evidence for
11 me and things like that. She keep telling me she couldn't do
12 that because she wanted the last closing arguments.

13 Q: Did -- did you ever ask that she call any witnesses
14 specifically?

15 A: Yes.

16 Q: What witnesses did you want called?

17 A: I wanted the crime scene called, I wanted my dad called, I
18 wanted -- let's see, crime scene and my dad, and I never --
19 the officer, the officer that supposedly had did the
20 confrontation that night with the victim supposed to have ID'd
21 me or something because I never know -- I don't know who was
22 in that car. You know, I don't know if anybody was in that
23 car or not, you know. And but at trial they testified that he
24 was a hundred percent sure on confrontation, you know, nowhere
25 a record was, nobody testifying that this guy picked me out of

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1 nowhere. You know, they saying he picked me but the person
2 who supposed to've drove that night, he wasn't there. He
3 wasn't at my trial.

4 MR. SHAFFER: Court's indulgence.

5 APPLICANT'S EXHIBIT NUMBER ONE

6 MARKED FOR IDENTIFICATION

7 BY MR. SHAFFER:

8 Q: I'm showing you what's been marked Applicant's Exhibit One
9 for the purposes of identification. Do you recognize that
10 document?

11 A: Yes, sir.

12 Q: And without specifically saying what it is or specifically
13 telling us what's in it, is that one of the documents you
14 thought your attorney should introduce?

15 A: Yes.

16 Q: Okay.

17 A: Because they have -- you know, he got his mom and dad name
18 in parenthesis on my paperwork, you know, Cal and Karen's son,
19 you know, his name -- got the victim name and in parenthesis
20 you got Karen and Cal's son in parenthesis, so you made this
21 case biased from the beginning.

22 Q: So, basically, you think the officers were bias because of
23 that?

24 A: Exactly. They made the case bias and I kept trying to
25 tell her to do that, to show, you know, to put it in the

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ANTHONY M. RIGGINS - DIRECT BY SHAFFER

13

1 evidence and stuff but she's telling me that she don't want to
2 lose her job because she don't, you know, she don't know what
3 that's about but, come on, man, you can see it. It's just in
4 the evidence. Karen and Cal's son and got it in parenthesis.

5 APPLICANT'S EXHIBIT NUMBER TWO

6 MARKED FOR IDENTIFICATION

7 Q: I'm showing you what's been marked Applicant's Exhibit Two
8 for the purposes of identification. If you could, is that one
9 of the issues or one of the documents that you wanted
10 introduced through your attorney?

11 A: Yes, yes.

12 Q: Why did you want that introduced through your attorney?

13 A: Because the victim -- this is the arresting officer, Mr.
14 Randy Miller, and the victim said that he told the officer
15 that night that he seen the person's face. Now, there was two
16 officers on the scene that night. It was Officer ---

17 Q: When did he say this? Was this during the pretrial
18 hearing, the *Biggers* hearing?

19 A: Yeah. During the in camera hearing, yes.

20 Q: So, during the *Biggers* hearing, he said he saw the
21 person's face?

22 A: Yes.

23 Q: And why did you think that that document should've been
24 introduced then?

25 A: Because this -- this right here was the arresting officer

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ANTHONY M. RIGGINS - DIRECT BY SHAFFER

14

1 and the officer said plainly that he got a description from
2 the victim cause the victim said he told the officer on the
3 *Neil v. Biggers* hearing that he seen the person's face. And
4 so, but, you know, this right here shows that he perjured
5 because the police officer, the arresting officer that night
6 said that the victim gave him a description of clothing and,
7 you know what I'm saying, and of skin complexion. He -- and I
8 was Officer Bresadola, he had said the same thing, you know,
9 but five years later now he's seen the person's face but on
10 his written statement and on the police report, he said the
11 person's face was covered.

12 APPLICANT'S EXHIBIT NUMBER THREE

13 MARKED FOR IDENTIFICATION

14 Q: And I'm showing you what's been marked Applicant's Exhibit
15 Three, is that another document that basically goes to what
16 you just talked about?

17 A: Yes. That's Officer Bresadola's statement saying that the
18 victim said the person's face was covered.

19 Q: Now, so, it was a point of contention whether or not there
20 -- the victim -- I mean, the victim said that the person who
21 robbed him's face was covered, right?

22 A: Exactly.

23 Q: Okay. And at the *Biggers* hearing and in front of the
24 jury, he said he saw the ---

25 A: His face -- five years later and now you seen his face.

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ANTHONY M. RIGGINS - DIRECT BY SHAFFER

15

APPLICANT'S EXHIBIT NUMBER FOUR

MARKED FOR IDENTIFICATION

1
2
3 Q: Okay. I'm showing you what's been marked as Applicant's
4 Exhibit Number Four for the purposes of identification.

5 A: Yes. That's the victim's written statement.

6 Q: Okay. And that supports the same issue, correct?

7 A: Exactly, say it's the exact same thing about the person's
8 face was covered.

9 Q: Do you think that that, those three documents would've
10 been beneficial to introduce pretrial at the *Biggers* hearing?

11 A: Yes.

12 Q: And I'm asking you specifically about were they
13 introduced?

14 A: No, sir. They was never introduced.

15 Q: Okay. In front of the jury, and I'm asking you
16 specifically about Applicant's Exhibit Four. What's
17 Applicant's Exhibit Four again?

18 A: Victim's statement.

19 Q: Okay. So, that's the signed statement by the victim,
20 right?

21 A: Yes.

22 Q: Specifically regarding that exhibit, do you think that it
23 would've been beneficial to introduce that during the trial of
24 the case?

25 A: Yes.

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ANTHONY M. RIGGINS - DIRECT BY SHAFFER

16

1 Q: In front of the jury so that the jury could've seen the
2 actual statement?

3 A: Yes.

4 Q: Because essentially, you were arguing identification; is
5 that fair to say?

6 A: Yes.

7 Q: Or your attorney was. In the transcript or during the
8 testimony, did anyone ever say they saw you with a gun?

9 A: No, sir.

10 Q: What did they say specifically? Why did they charge you
11 with armed robbery?

12 A: Well, the victim, the victim's statement said the person
13 had his hands in his pants as if he had a gun. Then, five
14 years later, it turns into he had his hands under his shirt.

15 Q: Did anyone say that you had your hands under your shirt
16 pointing and making believe that you had a gun?

17 A: No, not in those statements. The victim testified to
18 that.

19 Q: The victim, the victim testified that they thought you had
20 a gun, right?

21 A: Yes, they thought I had a gun.

22 Q: Did they think the gun was pointing at you or at them,
23 excuse me?

24 A: Nah, that ain't what he testified to.

25 Q: He just thought you had a gun?

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ANTHONY M. RIGGINS - DIRECT BY SHAFFER

17

1 A: He said ---

2 Q: You had your hands in your pants, right?

3 A: He said that the person had their hands in their pants --
4 that they had their hands up under their shirt and he said
5 that he -- if he had to guess, it was a gun.

6 Q: Now, at the end of your -- at the end of the State's case,
7 your attorney moved for a directed verdict, right?

8 A: Yes, sir.

9 Q: Did she raise that issue about the -- about not having any
10 evidence of a firearm?

11 A: I think -- I already -- I don't have my transcript to what
12 he say.

13 Q: Okay. You don't have a transcript up there with you?

14 A: It's right there.

15 MR. SHAFFER: Your Honor, I'm gonna let him review his
16 notes if that's all right.

17 THE COURT: Yes.

18 MR. SHAFFER: I'm referring to Page 91, Your Honor. It
19 looks like Line 6 through 20.

20 BY MR. SHAFFER:

21 Q: Does that appear to be your attorney's directed verdict
22 motion?

23 A: Yes, sir.

24 Q: Does she ever mention that they didn't prove that you were
25 armed?

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ANTHONY M. RIGGINS - DIRECT BY SHAFFER

18

1 A: No, sir.

2 Q: I'm gonna refer you to Page 23.

3 A: Yes, sir.

4 Q: At some point, Juror 251 was allowed to be on the jury,
5 correct?

6 A: Yes, sir.

7 Q: What issue do you take with that?

8 A: Well, they had two trials that week. They had Mr. Wright
9 trial, which is -- he's in my transcript too because they
10 thought they had made a error but they had two trials that
11 week and Juror 251, Mr. Mark Singleton, stood up on his trial
12 transcript and said that he was the SWAT advisor and the
13 counter terrorism advisor for the County, for the Horry County
14 Police Department. Well, the Judge said, all right, well,
15 we'll -- he said I'll excuse you then. So, they excused him
16 off the case because they said that he was tied with the Horry
17 County Police Department so they excused him off of that case
18 and then they allowed that same juror on my trial and the
19 Judge picked him himself to be the foreperson on my trial.

20 MR. THOMAS: And, Your Honor, I'm gonna object to that
21 response. That's a -- there's no evidence of what happened in
22 the other trial in this record.

23 A: I've got it over there. I got it right over there.

24 THE COURT: Okay. Well, that'll speak for itself. He
25 can say whatever he'd like to say if he is under oath and he

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19

1 can testify to that but if the transcript says otherwise, I'm
2 sure you're gonna point it out to me.

3 BY MR. SHAFFER:

4 Q: Did you believe that he should've been struck as a juror
5 in your case?

6 A: Yes, because you've got -- him with the police, Horry
7 County Police Department.

8 Q: Did your attorney strike him for cause or strike him
9 otherwise?

10 A: No, sir.

11 Q: You ended up withdrawing your direct appeal, correct?

12 A: Yes, sir.

13 Q: Why did you withdraw your direct appeal?

14 A: Because I had Ms. Laura Cotty (spelled phonetically) and
15 she took, you know, she took the time out and explained to me
16 what direct appeal -- what a direct appeal is really is and my
17 lawyer didn't preserve no issues, you know, she didn't
18 preserve no issues but the expert of the crime scene, that's
19 the only issue that she objected to, so she didn't preserve my
20 -- she didn't preserve my identification, *Neil v. Biggers* or
21 she didn't preserve no issues in my favor, so that's what they
22 had to do a Anders brief on me.

23 Q: Are there any other issues that I have not addressed that
24 you wanted me to address here today?

25 A: That's -- that -- well, Juror Number 210, Michael Prosser,

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20

1 I -- even though -- I feel like even though this, you know, he
2 even though he was a alternate, he knew that he was the
3 victim's cousin and, you know, he, he -- when the Judge asked
4 do you know -- anybody related to the victim or something like
5 that and he said, you know, to stand up and he didn't stand,
6 up, he didn't say that he wasn't related. He stayed through
7 the whole trial. And just before they got ready to sentence
8 me that morning, they waited till Mr. George DeBusk did his
9 closing arguments first and then the Judge said, well, we
10 gonna do something unusual. And we had another break and, you
11 know, and all of a sudden, that's when they brought the
12 alternate, what he told Ms. Wilson then, said, we had a call
13 this morning from the bailiff's office or the bailiff had a
14 call this morning saying that Michael Prosser is -- that he
15 was a cousin of the victim, so they thought he was talking
16 about the Wright case because they brought Mr. Martin in, it's
17 in my trial transcript. They brought Mr. Martin in but then
18 they found that he was talking about my trial and then he said
19 that he called this morning and said he was the seventh cousin
20 of the victim in my trial. And so, he didn't ask -- you know,
21 he just told Mr. Wilson, said, well, we gonna just excuse him
22 then because he is the alternate, you know, and they didn't
23 even -- they didn't even poll the jury to ask that he is asked
24 anything, you know, to say anything back there to them or
25 nothing. You know, he didn't do none of that, you know, he

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1 just said I'm just gonna excuse him, and you know and I feel
2 like, you know, he knew that he was a cousin of the victim
3 when they first, first was picked, but they allowed this man
4 in my trial.

5 Q: When you mentioned the Wright case, that's Marcus Dwayne
6 Wright?

7 A: Yes, sir.

8 Q: That's the other case that was going that week?

9 A: Yes, sir.

10 Q: No further questions at this time.

11 A: I would like to put ---

12 Q: May I ask him ---

13 THE COURT: You may.

14 Q: You seemed to just have motioned for me. Was there
15 another issue you wanted to talk about?

16 A: I would like to put that is -- that as an exhibit on about
17 Mr. Dwayne Wright, dealing with what the Judge -- how the
18 Judge excused Juror 251 off of his case saying that he retired
19 with the Horry County Police Department. I would like to put
20 that as an exhibit and he handpicked him to be the foreperson
21 on my trial.

22 MR. SHAFFER: Your Honor, the transcript, I had
23 previously spoken to him, he got the transcript through Mr.
24 Wright ---

25 A: Mr. Wright.

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22

1 MR. SHAFFER: --- Dwayne Wright's transcript through the
2 Court. I previously spoke to him and I said that I could try
3 to admit it. After speaking to him, I sort of came to the
4 conclusion that while the Court might be able to take judicial
5 notice of outside trial transcripts and things like that, I
6 don't know if I can necessarily admit it through what I have
7 here today. I understand that I previously told my client
8 that I would try to but I don't know if I necessarily -- I
9 don't know if it's necessarily proper and with that being
10 said, I mean, it certainly supports his position. It might
11 not necessarily be crucial to his position either, so.

12 THE COURT: What's the State's position?

13 MR. THOMAS: Obviously, we would object to that, Your
14 Honor, anything that went on in that other trial is not
15 relevant to the issues in this trial. Also, there's the
16 problem of, from what I understood, Mr. Shaffer is -- we have
17 some random pages from what could be a transcript from another
18 case, it could be from something else, we just can't authentic
19 those items. I don't know that we even have this court
20 reporter's signature page from those and that would just be
21 ---

22 THE COURT: I'll sustain the objection.

23 MR. SHAFFER: Thank you. No further questions at this
24 time.

25 THE COURT: Cross examination.

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23

1 MR. THOMAS: May it please the Court.

2 CROSS EXAMINATION OF ANTHONY M. RIGGINS BY MR. THOMAS:

3 Q: Mr. Riggins, how many times do you think you met with Ms.
4 Wilson before your trial?

5 A: I'll say about two or three times.

6 Q: And y'all talked about all the State's evidence they had
7 that they were gonna use?

8 A: No, sir. We just talked about my case and dealing with,
9 you know, about the victim and stuff like that but we didn't
10 talk about the State's -- I mean, I had all the State's
11 evidence.

12 Q: Okay, so you ---

13 A: Most of the discovery.

14 Q: Okay. So, you knew that basically the State's case
15 involved around the victim identifying you?

16 A: Yes, sir.

17 Q: And you had an opportunity during your meetings to tell
18 Ms. Wilson that your defense was you didn't do it, you weren't
19 there, you had no idea what they're talking about?

20 A: Exactly.

21 Q: And you told her about your dad being somebody that could
22 testify for you?

23 A: Yes.

24 Q: And you remember her at trial arguing that the State never
25 introduced the T-shirt that you were allegedly wearing when

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24

1 you were arrested?

2 A: Yes.

3 Q: And she also argued that the victim's testimony about
4 where your hands were was inconsistent; do you remember her
5 saying that -- or where your hands allegedly were.

6 A: During the trial, she said that -- during the trial, she
7 was impeaching the victim on his written statement that he
8 wrote that night and what he was testifying to. That's what
9 she did, she never put it into the evidence that by giving the
10 jury a chance to see it.

11 Q: Thank you, Mr. Riggins, that's all I have for you.

12 MR. SHAFFER: I don't have any redirect.

13 THE COURT: All right. You may step down, thank you,
14 sir.

15 Is that the Applicant's case?

16 MR. SHAFFER: Your Honor, we have one more witness.

17 THE COURT: Very good.

18 MR. SHAFFER: Court's indulgence.

19 THE COURT: Sure.

20 MR. SHAFFER: Applicant would call L.C. Riggins.

21 THE COURT: Yes, sir. If you could please come forward
22 and place your left hand on the Bible and raise your right as
23 the Clerk administers the oath.

24 L.C. RIGGINS, HAVING BEEN DULY SWORN,

25 TESTIFIES AS FOLLOWS:

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1 CLERK: Please be seated and please state your name and
2 spell your last name for the record.

3 MR. L.C. RIGGINS: L.C. Riggins. R-I-G-G-I-N-S. Just
4 initials only.

5 DIRECT EXAMINATION OF L.C. RIGGINS BY MR. SHAFFER:

6 Q: Mr. Riggins, you are near -- you were with your son during
7 part of the time that -- or part of the evening that this
8 allegedly happened?

9 A: Yes.

10 Q: When was the last time you saw your son?

11 A: Well, about 1 o'clock, I took him to the bus station.

12 Q: You said 1 o'clock?

13 A: About 1:00, 1:00.

14 Q: Okay.

15 THE COURT: A.M. or P.M.?

16 A: That give you what -- 12 o'clock will give you what?

17 THE COURT: Do what?

18 A: A.M.?

19 THE COURT: Was it in the afternoon or at night?

20 A: Afternoon.

21 THE COURT: Okay, P.M. Go ahead.

22 BY MR. SHAFFER:

23 Q: So you dropped him off at the bus station about 1 o'clock
24 afternoon?

25 A: Uh-huh (affirmative response).

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1 Q: Okay. When did you first learn about the robbery?

2 A: The next day.

3 Q: Okay. What was your son wearing that night?

4 A: Well, during that time, he was wearing a, a New York
5 jersey shirt, just like he said, a New York shirt just like he
6 say he was wearing.

7 Q: Okay. You're saying jersey shirt?

8 A: No, no, no. No, no, no. Just like he say he was wearing,
9 that's what he was wearing.

10 Q: Okay. No further questions.

11 (REPORTER'S NOTE: Applicant indicates negatively to witness
12 and speaks inaudibly.)

13 A: Excuse me.

14 THE COURT: First of all, we need -- you need to testify
15 as to your recollection. You can't be taking ---

16 A: I am telling my recollection what he had on just, you know
17 ---

18 THE COURT: Cross examination.

19 MR. THOMAS: No cross examination, Your Honor.

20 THE COURT: Very good.

21 MR. SHAFFER: The Applicant rests.

22 THE COURT: Very good, you may step down.

23 MR. THOMAS: The State would call Kia Wilson.

24 THE COURT: Ms. Wilson, please come forward. Place your
25 left hand on the Bible and raise your right hand as the Clerk

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1 administers the oath.

2 KIA WILSON, HAVING BEEN DULY SWORN,

3 TESTIFIES AS FOLLOWS:

4 CLERK: Please be seated. Please state your name and
5 spell your last name for the record.

6 MS. WILSON: My name is Kia Wilson, W-I-L-S-O-N.

7 DIRECT EXAMINATION OF KIA WILSON BY MR. THOMAS:

8 Q: Thank you, Ms. Wilson. Just a brief sort of background
9 information. How long have you been practicing law?

10 A: April of this year has been eleven years at the PD's
11 office.

12 Q: And how did you become involved in Mr. Riggins' case?

13 A: I was appointed, I believe, it was back in 2011. As he
14 had stated, he was actually represented originally by Ed
15 Chrisco in my office. Apparently, he -- I don't know if he
16 fired Ed or just asked to have another attorney or if he just
17 went out and hired somebody but then my understanding is that
18 Carroll Padgett was then hired. And my understanding was that
19 he was -- that he said he had a conflict so that I was then
20 appointed on this case. So, I was appointed, I believe, as of
21 January 2011.

22 Q: And at that time, had, had you already -- had his
23 attorneys prior to your receiving discovery from the State?

24 A: Yes, they had been some discovery received at that point.

25 Q: Did you have a chance to go through all that?

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1 A: I had gone through a portion of it. Some things were
2 missing. I still had some discovery come in after I became
3 the attorney of record.

4 Q: And did you have a chance to go over all that with Mr.
5 Riggins?

6 A: Yes. We met a number of times. Quite a few times.

7 Q: Did you ever feel like you'd had enough meetings to be
8 prepared to try this case?

9 A: Yeah, actually, I did. I met with him initially twenty
10 days after I was appointed, out at the jail. No, actually, he
11 came in to the office for what we call an ACC. I made a note
12 at that time that while we had the basic discovery about what
13 had occurred, the statements, things of that nature, we didn't
14 have any video or audio and apparently there was some -- there
15 was actually some video in the case. So, I made a note to get
16 those items and, of course, I'm refreshing myself from my
17 notes at this point. It was very clear that he was declaring
18 that he was innocent in this case, so I knew it was gonna be a
19 trial pretty much from the outset and that's kind of the tact
20 that I took as far as preparation.

21 Q: And as far as your preparation goes, what was your sort of
22 strategy to attack the State's evidence?

23 A: Well, the main problem I felt was the identification,
24 which my client had told me that he wasn't wearing the items
25 that the officer stated that he was wearing at the time of his

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1 arrest. There wasn't any fingerprint that matched my client
2 at the scene and that was the other issue. So, I was trying
3 to focus in more on that. I actually went out to both of the
4 hotels that were at issue in this case as far as the armed
5 robberies were concerned to see and actually speak to the
6 people that claimed that they witnessed something to find out
7 whether or not they actually were giving statements consistent
8 with what they had originally stated. I wanted to see the
9 locations as well.

10 Q: Okay. And I guess you brought this up, this wasn't really
11 clear, but there was a -- of course, there was another robbery
12 that happened?

13 A: Yes. Apparently, within a short period of time from the
14 robbery at Sea Palms, the one or the other hotel had a video,
15 the video wasn't the best quality. I watched it over and over
16 again trying to see if maybe, you know, there might be
17 something we could blow up but the witnesses in that case
18 didn't have any ability to ID, so I wasn't as concerned. They
19 certainly wouldn't have impacted this case.

20 Q: But in this case you had an identification?

21 A: Yes.

22 Q: Did you do a hearing pretrial to sort of suppress that
23 identification?

24 A: I did. And, of course, I've had to refresh myself about
25 that as well from the transcript. Had a hearing, I was pretty

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1 clear that -- I felt that the witness was not being as
2 truthful as he could be which is why I kept trying to hammer
3 home the point about the inconsistencies between what he wrote
4 and what he said. I was hoping that -- I mean, clearly he was
5 definite that he had seen Mr. Riggins and that he knew him, he
6 knew his face in that short period of time, even though he
7 admitted that he was frazzled, I think, was the word that I
8 saw in the transcript. But he was very definite despite my
9 attempts to impeach him that he saw what he saw and he knows
10 -- that he knew what he saw.

11 Q: And as far as the impeachment goes, what did you use to
12 impeach him, what were you looking at while you were doing
13 that?

14 A: I'll have to refer back. I believe it was his statement,
15 his initial statement. I'm sorry, I'm having to flip through.
16 And actually, I think I used the report -- this says I used
17 the report from one of the officers because that was not what
18 he had apparently told the officer in that instance.

19 Q: Let me ask you this, why didn't you move to introduce
20 those reports as exhibits?

21 A: It was my understanding that I could not. Now, you know,
22 maybe I should've attempted but I didn't think that it was
23 proper.

24 Q: That's because the rules of evidence don't allow that?

25 A: No, right.

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1 Q: Let's talk -- we've talked about Juror Number 251. Have
2 you had a chance to review the voir dire in this case?

3 A: I did go back and look at that and until it was mentioned
4 to me prior to this hearing, I don't think I really focused in
5 on it. I don't -- I remember -- at this point, I was -- I had
6 to have been out of strikes. I can't imagine I would've just
7 let that slide. However, with that being said, I don't --
8 certainly, I probably should've objected to that. I don't
9 have anything else to say about it other than clearly it
10 probably would've been a better choice to object to his
11 presence on the jury even though I was out of strikes for
12 cause. So, I don't -- I think I probably did what I thought
13 was best at the time but in hindsight, maybe it was a mistake.

14 Q: Well, let me -- let me direct your attention, I guess, in
15 here to -- it's gonna be Page 23 of the transcript and it
16 starts on Line 20 down there. Do you remember Judge Hayes
17 asking Juror Number 251 if he could be fair and impartial?

18 A: Not specifically but certainly I know that the judges
19 usually do go through and ask and I'm pretty sure that if he
20 remained on the jury panel that it was because the Judge felt
21 that he could do so and that he had answered in the
22 affirmative that he could.

23 Q: Could that have factored into your decision to not move to
24 strike him for cause?

25 A: It's probable. At that point, you know, and again, I

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1 don't remember second-for-second what my thought processes
2 were. But I would have to believe that there was nothing
3 outstanding to me at that moment that this was gonna be
4 problematic. So, I think I was probably making the best
5 decision at that moment based on what was in front of me.

6 Q: And as far as the other juror that knew, that was related
7 to the victim, you did bring that up with the Judge and that
8 juror ended up getting excused?

9 A: That's my recollection and I don't -- it's been a little
10 bit of time but, yeah, I think that's correct.

11 Q: And as far as your directed verdict motion goes, do you
12 remember making a directed verdict motion regarding the ID,
13 identification?

14 A: I think so.

15 Q: And regarding basically the fact that they had no evidence
16 to tie him to any armed robbery?

17 A: Right. And I think I -- I'm pretty sure based on what I
18 had read earlier that I commented about the fact that there
19 was no matching fingerprint, there was no weapon, and that, of
20 course -- and I'm sorry, I called him Chase, I can't remember
21 his last name -- that Chase's statements were inconsistent
22 about what he saw and what he actually observed from the night
23 of the incidents, of this incident, and then of course at
24 trial.

25 Q: Did you get any instructions on lesser included offenses?

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1 A: I did get one in. It was for petite larceny. The Judge
2 was not really inclined to hear us on that initially. We had
3 to do a little bit of fast footwork to get the printout but we
4 did manage to get the Judge to agree to a charge of petite
5 larceny.

6 Q: And also common law robbery?

7 A: I think so, yes.

8 Q: Okay. Thank you, Ms. Wilson, I'll let you answer any
9 questions Mr. Shaffer has.

10 THE COURT: Mr. Shaffer.

11 CROSS EXAMINATION OF KIA WILSON BY MR. SHAFFER:

12 Q: You were second up for trial, correct?

13 A: I don't recall that with any specificity but probably we
14 were pretty high up there.

15 Q: Okay. Did you start the trial on Monday?

16 A: I do not recall.

17 Q: Okay.

18 A: I'm sorry.

19 Q: It's okay.

20 A: Apparently, I wasn't the first one. It's says, are we
21 ready to start this next trial on the front of the -- on the
22 first page of this transcript. So, there had to be at least
23 one ahead of me.

24 Q: You said that you didn't think it was proper for the
25 pretrial to get into the police reports. Do you think that --

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- 1 that's obviously a pretrial hearing, correct?
- 2 A: The *Neil v. Biggers*?
- 3 Q: Yeah.
- 4 A: Yes.
- 5 Q: Okay. So, the rules of evidence don't necessarily apply,
- 6 correct?
- 7 A: What do you mean?
- 8 Q: The rule -- South Carolina Rules of Evidence aren't
- 9 applicable to pretrial hearings under Rule 1101?
- 10 A: I felt that it was probably not the most appropriate thing
- 11 to put in front of the Court.
- 12 Q: Okay.
- 13 A: I questioned about it and, like I said before, I did what
- 14 I thought was right at the time.
- 15 Q: Now, during the course of the trial, do you ever consider
- 16 introducing the witness statement, I mean the complaining
- 17 witness' statement?
- 18 A: I ---
- 19 Q: And just for housekeeping real quick ---
- 20 A: Yeah.
- 21 Q: I'm going to show you what's been marked Applicant's
- 22 Exhibit One through Four.
- 23 A: Okay.
- 24 Q: And these have been marked into identification.
- 25 Applicant's One, can you take a look at that? Do you

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1 recognize that document? What is that document?

2 A: It's a original report from the Crime Scene Unit.

3 Q: Does it appear to be a true and accurate copy of that
4 original report from the Crime Scene Unit?

5 A: From what I recall, yes.

6 MR. SHAFFER: We'd move Applicant's Exhibit One into
7 evidence.

8 MR. THOMAS: No objection.

9 THE COURT: Into evidence, without object.

10 APPLICANT'S EXHIBIT NUMBER ONE

11 ADMITTED INTO EVIDENCE

12 BY MR. SHAFFER:

13 Q: I'm showing you what's been marked Applicant's Exhibit Two
14 for the purposes of identification. What does that appear to
15 be?

16 A: All right. It's an incident report.

17 Q: All right. Have you ever seen that incident report
18 before?

19 A: Yes. I believe so.

20 Q: Did that incident report, does that appear to be a true
21 and accurate copy of one of the incident reports that came out
22 of your file?

23 A: From what I recall, yes.

24 MR. SHAFFER: All right. We'd move Applicant's Exhibit
25 Two into evidence.

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1 MR. THOMAS: No objection.

2 THE COURT: Into evidence.

3 APPLICANT'S EXHIBIT NUMBER TWO

4 ADMITTED INTO EVIDENCE

5 BY MR. SHAFFER:

6 Q: I'm showing you Applicant's Exhibit Three for the purposes
7 of identification, does that appear to be an incident report?

8 A: Yes, it does.

9 Q: Does it appear to be a true and accurate copy of the
10 incident report that came from your file?

11 A: Yes, I think so.

12 MR. SHAFFER: We'd move Applicant's Exhibit Three into
13 evidence.

14 MR. THOMAS: No objection.

15 THE COURT: All right. Into evidence.

16 APPLICANT'S EXHIBIT NUMBER THREE

17 ADMITTED INTO EVIDENCE

18 BY MR. SHAFFER:

19 Q: I'm showing you Applicant's Exhibit Four for the purposes
20 of identification. What does that appear to be?

21 A: All right. This looks like a statement of the victim by
22 Officer -- it says Bresadola.

23 Q: Do you ever recall seeing that picture before? I mean
24 that statement before. I apologize.

25 A: Oh, yes. I remember the details about how he described

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1 Mr. Riggins or the person that he says committed the robbery.

2 Q: Does that appear to be a true and accurate depiction of
3 the statement that was provided to you in discovery?

4 A: Yes.

5 MR. SHAFFER: We'd move Applicant's Exhibit Four into
6 evidence.

7 MR. THOMAS: No objection.

8 THE COURT: Into evidence.

9 APPLICANT'S EXHIBIT NUMBER FOUR

10 ADMITTED INTO EVIDENCE

11 BY MR. SHAFFER:

12 Q: I'm gonna show you -- and I'll go ahead and hand these up
13 to the Court -- I'm gonna show you Applicant's Exhibit Four
14 and then ask you a couple of questions about it. Did you ever
15 consider introducing that document into evidence in this case?

16 A: At this point, since apparently I did not, I don't know
17 the true answer to that question.

18 Q: Okay.

19 A: I will say that I know I used it for my questioning of
20 this -- of Chase in this instance.

21 Q: And Chase had previously claimed that or previously made
22 statements to law enforcement and his written statement that
23 he did not see the person who robbed him's face, correct?

24 A: That's -- yes, that's my recollection.

25 Q: Okay. And that's actually reflected in that statement,

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1 correct?

2 A: Yes, it is.

3 Q: How did he go about explaining how he was able to identify
4 the Defendant?

5 A: Basically, at one point, he indicated that after he was
6 asked for money or asked to pull out the money that basically
7 he couldn't hold the shirt up to his face, so he was able to
8 see the facial features, if I remember correctly.

9 Q: Okay.

10 A: That was the claim.

11 Q: So, he was able to see him, was that for a brief period or
12 for a long period?

13 A: Well, he claimed it was long enough because I questioned
14 him about that as well. Especially given the fact that he
15 stated -- and I think I tried to make a point that he was
16 nervous and I think his words were that he was frazzled,
17 discombobulated and he said, I think his response was that he
18 was a hundred percent sure basically, based on the transcript.

19 Q: There was a lot of, I guess, hay that was made at the
20 trial regarding the I Love NY or I Love New York T-shirt,
21 correct?

22 A: Tried.

23 Q: Tell us a little bit about that.

24 A: What do you want to know specifically?

25 Q: He -- what was the statement of -- the description of the

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1 person who robbed him?

2 A: Apparently, they had said it was a I Love New York white
3 T-shirt with blue jeans. Okay? Is what this -- is what Chase
4 was saying. I was -- I checked with the jail because I wanted
5 to know what kind of clothes Mr. Riggins had actually been
6 brought in in. And he had mentioned to me that the officer on
7 scene and, again, I'm trying to remember details. I think he
8 mentioned that the officer on scene had looked at him and
9 said, yeah, you match. The clothing matches the description.
10 But his point was he didn't have an I Love New York T-shirt.
11 Now, because he had bonded out, those clothes were no longer
12 in evidence. And I think that one of the things I tried to do
13 during a trial is make a point to the jury that there was no
14 T-shirt to be flashed around, they didn't take any photos,
15 nothing -- there is nothing concrete about what he was
16 actually wearing that night. I don't think that there was any
17 descriptive information on that booking report about what he
18 was wearing, what clothes he had taken that indicated it was
19 an I Love New York T-shirt. It just says a plain T-shirt.

20 Q: Okay.

21 A: And I think that that was part of my point during the
22 trial.

23 Q: Did you attempt to introduce the booking report?

24 A: I do not recall. I'd have to look and see. But I assume
25 if you're asking me that, it's not in there. So, probably

Riggins v. State - 2014-CP-26-02120
KIA WILSON - REDIRECT BY THOMAS

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1 not. But I do recall asking about it.

2 And I want to say there was something else on the booking
3 that I didn't want in. Let me see if I can -- and I'm sorry,
4 I'm asking the Court's indulgence for one second while I try
5 to find this. Well, maybe I don't have it in here. I was
6 trying to remember what it was but I don't know that for a
7 certainty. I certainly -- it's been awhile and I certainly
8 don't have that written in front of me anywhere. But, no, it
9 was not entered in, I don't believe.

10 Q: No further questions.

11 THE COURT: Yes, sir, Mr. Thomas.

12 MR. THOMAS: Just briefly, Your Honor.

13 REDIRECT EXAMINATION OF KIA WILSON BY MR. THOMAS:

14 Q: Ms. Wilson, I think you said you didn't introduce anything
15 into evidence. Did you introduce anything into evidence?

16 A: I don't recall. And I'm sorry. I'll have to refresh
17 myself. I'm not seeing anything offhand but I'm skimming
18 through pretty quickly.

19 Q: Well, maybe -- if I told you you didn't, would that sound
20 right to you?

21 A: Yes.

22 Q: Okay.

23 A: Yes, it would.

24 Q: Do you normally do that because you want to preserve last
25 closing argument?

Riggins v. State - 2014-CP-26-02120
KIA WILSON - REDIRECT BY THOMAS

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1 A: It depends on what it is. Certainly, if it's something
2 that I can't get in any other way, I'm gonna get it -- I'm
3 gonna ask to have it admitted into evidence. Certainly, in
4 this situation, we had an eyewitness and other officers who
5 were on scene who testified about what they say they saw.
6 Now, the descriptive nature or the lack thereof on the booking
7 report, I didn't think was gonna ultimately save the day when
8 you've got people on the stand testifying to something. I
9 felt that if the jury thought it was believable enough then
10 that was gonna end up being what, what ended up, you know,
11 taking the day. I just -- I guess I just didn't feel that it
12 was going to really change anything. The lack of information
13 as opposed to it saying that it absolutely couldn't have been
14 that. And I think there was some allegation at one point that
15 the shirt was on inside/out by one of the officers and I can't
16 remember that with any certainty either. But, yeah, that was
17 the decision I made at the time.

18 Q: Is it safe to say that would've been -- or let me ask you,
19 would that have been sort of your same thought process on why
20 you didn't introduce the victim's statement as well?

21 A: Uh-huh (affirmative response), because I grilled him -- I
22 think after the *Neil v. Biggers* hearing, I grilled him for
23 quite a period of time. I'm not gonna say it was like an hour
24 and a half or anything, but we went into pretty great detail
25 about the inconsistencies in his statement and I tried to make

1 that inconsistency apparent in the other cross examinations
2 that I did and I think that the point was made, he just was
3 very definite about what he says he now remembers five years
4 later.

5 Q: Thank you so much, Ms. Wilson. That's all I have.

6 MR. SHAFFER: Your Honor, just ---

7 THE COURT: Direct, cross and redirect?

8 MR. SHAFFER: Yes, Your Honor, this will be recross if

9 ---

10 THE COURT: There's no such thing as recross.

11 MR. SHAFFER: Thank you, Your Honor.

12 THE COURT: All right. You may step down.

13 MS. WILSON: Thank you, sir.

14 MR. THOMAS: And that's all from the State, Your Honor.

15 THE COURT: Be glad to hear any argument that either
16 might have.

17 ARGUMENT OF COUNSEL:

18 MR. SHAFFER: Your Honor, I would ask that that the Court
19 -- if you look at the transcript, it's clear that throughout
20 the transcript, first of all nobody -- there's a lot of
21 conflicting statements but nobody actually says that there was
22 a gun pointed at them or that he certainly had a gun.
23 Basically, he says he's grabbing at his shirt or has his hands
24 under his shirt and they think there might be a gun. As a
25 result, I don't think it's sufficient evidence to get past the

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ARGUMENTS OF COUNSEL

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1 directed verdict on the armed robbery. That being said, the
2 next issue involving the *Neil v. Biggers* hearing, there was
3 evidence that wasn't presented at the *Neil v. Biggers* hearing
4 that might've cast some doubt in the Judge's mind. I also
5 don't think that the *Neil v. Biggers* was necessarily properly
6 preserved. The Judge just sort of made a ruling on it and I
7 didn't think that it necessarily was preserved for appeal.
8 But the -- essentially they had -- the bike cop stopped him,
9 he's there on the side of the road, the officer pulls up in a
10 car with the alleged victim in the back who identifies him at
11 that point when they show up, it's between fifteen and thirty
12 minutes after the alleged robbery. You know, obviously,
13 there's a bunch of -- there's a bunch of statements saying
14 that maybe, maybe the alleged victim didn't properly see or
15 didn't have a real good chance to see the face for a
16 sufficient period of time. There's also some indication that
17 much of his ability to ID him relied on this clothing match.
18 The Courts have -- there's case law saying that the clothing
19 match is insufficient on its own. I understand that there
20 might be some identification as well but that is part of the
21 ID here and obviously the -- I believe it was properly
22 preserved and properly presenting all the evidence that would
23 support his claim that maybe the alleged victim didn't see it,
24 it would've been a better issue for appeal. It would've
25 possibly ended up in the reversal. The advisor -- and I

1 apologize for saying that he was part of the SWAT team. I
2 think I misread something in a letter. But, that being said,
3 he's still an advisor to the SWAT team. I think he
4 sufficiently should've been struck for cause, obviously, the
5 Judge would agree with that because he struck him for cause.
6 According to my client, he struck him for cause previously on
7 a case earlier that week. You know, obviously, we don't have
8 the actual full copy of the other guy's transcript and I'm not
9 -- I didn't try to introduce that to support it but my
10 client's testimony should stand on its own so that that could
11 happen or that that did happen. Your Honor, I would also -- I
12 would just ask that based off the issues he raised, that the
13 Court grant some relief in this case.

14 THE COURT: All right. Mr. Thomas, tell me about *Neil v.*
15 *Biggers*, what your position is on that?

16 MR. THOMAS: Your Honor, I think Ms. Wilson's testimony
17 was pretty clear. She had all of this in front of her while
18 she was cross examining the witnesses. She crossed on every
19 single inconsistency. If you look through her cross
20 examination of him, it's very thorough of the victim -- I
21 apologize -- it's very thorough. He admits that his statement
22 is different but he says that my statement then was wrong,
23 what I'm saying now is the truth. I don't know that
24 introduction of the statement would have changed the result.
25 I think she testified the reason she didn't do it is because

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ARGUMENTS OF COUNSEL

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1 she didn't think she needed it. I think under the facts of
2 this case, that's certainly a valid strategic reason.

3 As far as the police reports go, I understand that you
4 can -- there's an argument to be made that you could admit
5 those in a pretrial hearing but again she testified that she
6 used them to the best of her ability. So, I think she has a
7 strategic reason for that. As far as the preservation issue
8 goes, the identification came from the first witness. The
9 *Biggers* hearing was lengthy, the Judge ruled on it. I think
10 at that point it's preserved. The case law basically says
11 that you don't have to renew it if it's the first witness that
12 testifies anyway. So, I don't think there's any preservation
13 problems. This was clearly preserved. And even if it wasn't
14 properly preserved and had been preserved, I would again
15 submit to the Court that the victim was very clear that he saw
16 the Defendant in a well-lit area for a length of time, a mere
17 fifteen minutes later or something along those lines, a short
18 time later, he saw the victim again in another well-lit area.
19 He was one hundred percent positive about the identification.
20 So, I just submit that it's a valid identification and it was
21 properly admitted.

22 THE COURT: All right. How about Juror Number 251?

23 MR. THOMAS: Your Honor, again, I've looked at -- I
24 pulled the -- or had Mr. Hunter here pull the statute.
25 Disqualifications for jury service and that's South Carolina

1 Code 14-7-820 is any sheriff, magistrate or other county
2 officer. Juror Number 251 did not say he was an officer. He
3 said he was an advisor to the counter terrorism -- to the
4 counter terrorism -- he was a counter terrorism advisor to the
5 SWAT team. That doesn't -- to me, that doesn't sound like
6 he's employed by Horry County. So, I would submit that he's
7 not automatically disqualified and if he's not automatically
8 disqualified, that's not necessarily a challenge for cause.
9 Again, I would also just submit that if we wanted to really
10 talk about what Mr. 251, Mr. Singleton's job, his relationship
11 was, best evidence of that would've been Mr. Singleton's
12 testimony here and the Applicant has not met his burden in
13 that regard. It would just be my position, and again, she
14 testified she was out of strikes so she couldn't use a strike.

15 THE COURT: 251's name is Singleton?

16 MR. THOMAS: Yes, Your Honor, Mark Singleton and that's
17 on Page 23, Line 6 of the transcript.

18 THE COURT: In addition to that, there was some query
19 with regard to whether or not he could be fair and impartial
20 and he answered affirmatively; isn't that correct?

21 MR. THOMAS: Correct, Your Honor. Further down on Page
22 23, starting on Line 20, Judge Hayes asked them all if they
23 could -- if that relationship would impair their ability to be
24 fair and impartial and none of them raised their hands, so...

25 THE COURT: What about failure to call the father as a

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ARGUMENTS OF COUNSEL

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1 witness?

2 MR. THOMAS: Your Honor, I -- we both -- we all heard his
3 testimony here today. I haven't heard anything from Ms.
4 Wilson about why she didn't call him. I didn't think I needed
5 to ask her that because I think his testimony was pretty clear
6 that it wouldn't have been helpful.

7 THE COURT: How about failure to make a directed verdict
8 with regard to the weapon?

9 MR. THOMAS: Well, with regard to that, Your Honor, there
10 -- the testimony from the victim was clear that he thought
11 there was a weapon. Her directed verdict motion said that
12 there was no evidence to tie him to the crime and I think she
13 articulated here today that that meant that he had no gun, the
14 T-shirt wasn't there or not introduced into evidence but,
15 again, the testimony of the victim was I thought he had a gun,
16 his actions made me believe he had a gun. Under our
17 jurisprudence, the representation of a weapon is sufficient
18 for an armed robbery, so -- I think that survives the DV
19 motion.

20 THE COURT: And upon your review of the record, she did
21 make mention of the fact that they didn't have a weapon, they
22 didn't have a gun, they didn't have a shirt or fingerprints.

23 MR. THOMAS: Your Honor, her directed verdict motion is
24 on Page 91 and it starts on Line 6. Her exact words are along
25 -- it's not exactly that and I'll tell you what it exactly

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BY THE COURT

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1 says. She first challenges, she says the identification is
2 not good. And then she says that we don't have any evidence
3 presented by the State of any clothes, any money, nothing that
4 would otherwise connect my client to this crime. So, she
5 doesn't specifically mention the gun. I don't want to mislead
6 the Court in that regard. She does say no evidence.

7 BY THE COURT:

8 THE COURT: All right. Mr. Riggins, these are important
9 matters and I'm gonna review these transcripts, take a look at
10 the law, think about it, ponder on it and I'll make a decision
11 and your lawyer will provide you with a copy of the order.
12 Good luck to you.

13 MR. RIGGINS: Thank you, Your Honor.

14 (ADJOURNED - 4:03 P.M.)

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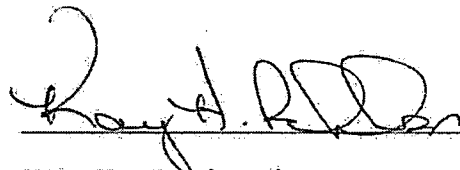
Riggins v. State - 2014-CP-26-02120
CERTIFICATE OF COURT REPORTER

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C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of Anthony M. Riggins versus State of South Carolina, held in the Court of Common Pleas for Horry County, Horry County Courthouse, Conway, South Carolina, on May 12, 2015.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.



Kay H. Richardson

Official Court Reporter

August 18, 2015.



SB

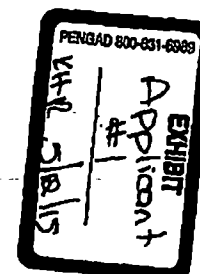
Sea Palms

**MYRTLE BEACH POLICE DEPARTMENT
INVESTIGATIVE REPORT
CONFIDENTIAL**



Incident Type: Armed Robbery
Incident Location: Sea Palms 308 7th Avenue North
Incident Date & Time: 03-07-08 2045
Victim Name: Chase Mitchell (Karen & Kyle's Son)
Suspect Name: Riggins, Anthony
Case File / UCR: 08-0974 01-08-032849
Detective: Graham

**** FOLLOW UP REPORT ****



Approved

Myrtle Beach Police Department
1101 N. Oak Street, Myrtle Beach SC 29577
Telephone: 843-918-1382
Fax: 843-918-1320

Crime Scene Unit

Incident #: 01-08-032849
Date: 5/7/2008
Incident Type: Armed Robbery
Incident Location: 308 7t Ave North
Victim: Sea Palms
Suspect: Anthony Wiggins
Officer/Supervisor/Detective: Bresadola/ Jackson/ Graham
Crime Scene Specialist: Iannone

Original Report

On 5/7/2008 at approx 2030 Hrs, Investigator M. Jackson contacted me to respond to the above incident location reference to an armed robbery. Upon arrival I spoke to Inv. Jackson who stated a black male walked into the main office and demanded money from the desk clerk (Chase Mitchell). Inv. Jackson stated the suspect had pushed the doorbell several times before he pushed the glass door open. I took photos of the door he entered and the office area. According to the desk clerk, the suspect did not touch anything inside the office. I used black silk powder on both the glass door and doorbell receiving a partial print on the exterior portion on the glass door. No further processing was requested. When I returned to the crime scene lab, I transferred the photos onto the main database onto a CD-R. The CD-R will be placed in property and evidence.

National Standard Incident Incident Report

Report Date/Time 05/08/2008 00:34

File # 01-08-032855

File # 01-08-032855	Report Date/Time 05/08/2008 00:34	Occurred From	Occurred To	Report Type Supplemental
Incident Type ROBBERY: ARMED	Case Status CLEARED BY ARREST	Case Status Date 05/08/2008	Cleared	
Incident Location Information				
Total Damaged Property Value : \$0.00		Total Recovered Property Value : \$0.00		
Total Stolen Property Value : \$0.00				

N A R R A T I V E	Topic	SUPPLEMENTAL
	ON 5-7-2008, I RESPONDED TO THE INCIDENT LOCATION, IN REFERENCE TO AN ARMED ROBBERY. UPON MY ARRIVAL, I RECEIVED A DESCRIPTION OF THE SUBJECT FROM THE VICTIM. VICTIM DESCRIBED THE SUBJECT AS A BLACK MALE APPROXIMATELY 5 FOOT TALL, BALD, STOCKY BUILD WEARING A WHITE T-SHIRT (WITH "I LOVE NEW YORK") AND BLUE JEANS. I OBSERVED A SUBJECT MATCHING THAT DESCRIPTION RUN WEST ACROSS CHESTER STREET TOWARD KINGS HWY. I LOCATED THE SUBJECT IN A PARKING LOT AT 4TH AVE NORTH AND KINGS HWY. THE SUBJECT MATCHED THE DESCRIPTION AND I NOTICED THAT HIS WHITE T-SHIRT WAS TURNED INSIDE OUT AND HE WAS SWEATING HEAVILY. I DETAINED THE SUBJECT AND PATTED HIM DOWN FOR WEAPONS. I NOTICED THAT THE SUBJECTS SHIRT WAS INSIDE OUT AND LOOKED AT THE INSIDE OF HIS SHIRT AND IT SAID "I LOVE NEW YORK".	
	THE VICTIM WAS TRANSPORTED TO 4TH AVE NORTH AND KINGS HWY AND POSITIVELY IDENTIFIED THE SUBJECT. THE SUBJECT WAS PLACED UNDER ARREST AND TRANSPORTED TO MBPD JAIL.	
	DISPATCH ADVISED THAT THERE WAS AN ARMED ROBBERY AT THE HOLIDAY SANDS NORTH (LOCATED AT 4TH AVE NORTH AND THE BLVD). DISPATCH ADVISED THAT THE SUBJECT WAS A STOCKY BLACK MALE, BALD, WEARING A WHITE T-SHIRT AND BLUE JEANS. I RESPONDED TO THE HOLIDAY SANDS AND REVIEWED THE VIDEO SURVEILLANCE AND POSITIVELY IDENTIFIED THE SUBJECT.	



Reporting Officer PFC RANDY S MILLER (7325)	Department MYRTLE BEACH POLICE DEPT	Report Status: Signed
Officer Name		Date/Time
Approving Officer	Department	Date / Time

MYRTLE BEACH POLICE DEPARTMENT

Report Date/Time 05/07/2008 22:32

Incident Report

File # 01-08-032849

Topic ORIGINAL

ON 05-07-08, PFC. BRESADOLA AND PFC. MILLER RESPONDED TO THE SEA PALMS MOTEL IN REFERENCE TO AN ARMED ROBBERY. UPON ARRIVAL, PFC. BRESADOLA MADE CONTACT WITH CHASE MITCHELL. MR. MITCHELL STATED THAT HE WAS IN THE BACK OF THE OFFICE WHEN A BLACK MALE APPROACHED THE FRONT DOOR AND RANG THE BUZZER (OUTSIDE THE DOOR) SEVERAL TIMES. WHEN MR. MITCHELL CAME UP FRONT, THE BLACK MALE OPENED THE DOOR (UNLOCKED) AND CAME IN. MR. MITCHELL FURTHER STATED THAT THE SUSPECT WAS "SWEATY, OILY AND HOLDING HIS SHIRT OVER HIS NOSE LIKE HE HAD SOMETHING IN HIS FACE". THE SUSPECT PACED BACK AND FORTH ALONG THE COUNTER. MR. MITCHELL ASKED HIM IF SOMETHING WAS WRONG AND THE SUSPECT SAID, "HOW ABOUT YOU GIVE ME THE MONEY" MR. MITCHELL THEN GAVE HIM ALL THE MONEY IN THE REGISTER. HE BELIEVES IT TO BE ONE \$20, TWO \$5'S AND TWO \$1'S. WHILE THE SUSPECT WAS DOING THIS, HE WAS HOLDING HIS HAND IN HIS PANTS AS IF HE HAD A GUN. THE SUSPECT THEN TOOK THE MONEY AND STARTED OUT THE DOOR. WHEN HE GOT THE DOOR OPEN, HE TURNED AROUND AND CAME BACK TO THE COUNTER AND TOLD MR. MITCHELL TO GET ON THE FLOOR, ACTING LIKE HE WOULD SHOOT HIM IF HE DIDN'T.

INV. JACKSON AND SGT. JOYCE RESPONDED TO THE SCENE. CRIME SCENE OFFICER IANNONE RESPONDED AND PROCESSED THE SCENE. INV GRAHAM RESPONDED AND INTERVIEWED THE VICTIM. PFC. BRESADOLA OBTAINED A WRITTEN STATEMENT FROM MR. MITCHELL AND PROVIDED HIM WITH APPROPRIATE VICTIMS ASSISTANCE PAPERWORK.

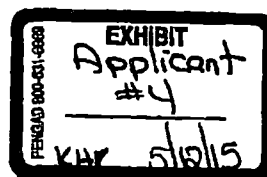


Reporting Officer PFC HENRY BRESADOLA (7326)	Department MYRTLE BEACH POLICE DEPT	Report Status: Approved
Officer Name		Date/Time
Approving Officer SGT JAMES R JOYCE (2865)	Department MYRTLE BEACH POLICE DEPT	Date / Time 05/07/2008 23:42

01-08-03284



Myrtle Beach Police Department
1101 N. Oak Street, Myrtle Beach SC 29577
Telephone: 843-918-1382
Fax: 843-918-1320



Statement of: ☒ Victim ☐ Witness ☐ Defendant

Name of Officer Taking Statement: H. Brescuduly
Date & Time: 05-07-08 2027 Case File Number: 01-07-32849
Incident Location: 308 7th Ave N Myrtle Beach SC 29577
Incident Type: Armed Robbery
Statement Of: Chase Mitchell
DOB: [REDACTED] Hgt: [REDACTED] Wgt: [REDACTED] Hair: [REDACTED] Eye: [REDACTED]
Home Address: [REDACTED] N MB SC 29577
Local Address: [REDACTED]
Home Phone Number: [REDACTED] Work Phone Number: [REDACTED]
Cell Phone Number: [REDACTED] Misc: [REDACTED]

Details:

Very Black oil skin
5'5" husky - shaved bald head - Painted flat with Rose
I have NY white T-shirt w/ Blue jeans (black).
He first rang the buzzer up front (Pulse) like 7 times then
pushed down on it really hard before I came up front. He opened
the door by putting his hands on the top portion of the glass.
When he came in the office he was silent and oily and
was muttering some words with his shirt over his nose like he
had something in his face. Pacing back and forth along the count.
I asked him if something was wrong and he said how about
you give me the money. I gave him about \$37 (200, 2.50, 2.00)
Then while I was getting the money he had his hands in his
pockets as if he had a gun. When I gave him the money he
went for the door and turned around and came back to the desk
and told me to get on the floor. Acting like he would shoot me if I did.

Unlawful to Make False Complaint: It is unlawful for any person to knowingly make a false complaint, or after notice of a criminal investigation, to give false information to any law enforcement officer concerning the alleged commission of any crime by another. . . . Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction must be punished by a fine not to exceed two hundred dollars or by a term of imprisonment not to exceed thirty days. S.C. § 16-17-725.

By signing below, I certify that I have read the provisions of the above section (§ 16-17-725) and understand its contents. In addition, I certify I have read the above statement, and it is true and correct to the best of my knowledge and I have been furnished a copy of this statement.

Chase Mitchell
(signature of person making statement)

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT

Anthony M. Riggins, #305169,)

Case No. 2014-CP-26-2120

Applicant,)

v.)

State of South Carolina,)

Respondent.)

ORDER OF DISMISSAL

HORRY COUNTY
2015 JUN 26 PM 1:34
HOLLY ANN JONES-WARD
CLERK OF COURT

This matter comes before the Court by way of an Application for Post-Conviction Relief filed April 8, 2014. Respondent made a timely Return on or about January 13, 2015. The Court convened an evidentiary hearing into the matter on May 12, 2015, at the Horry County Courthouse. Applicant was present at the hearing and represented by Tristan M. Shaffer, Esquire. Joshua L. Thomas, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

The following individuals testified at the evidentiary hearing: Applicant, Applicant's father, and Kia T. Wilson, Esquire. The Court had before it a copy of the trial transcript, the records of the Horry County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, the pleadings, and the exhibits introduced at the hearing. The Court finds as follows:

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Horry County Clerk of Court. In July 2008, the Horry County Grand Jury indicted Applicant for armed robbery (2008-GS-26-2589). Kia T. Wilson, Esquire ("trial counsel"), represented Applicant. On June 20, 2013, Applicant proceeded to trial before

copy

the Honorable John C. Hayes III and a jury. On June 21, 2013, the jury found Applicant guilty as indicted. Judge Hayes sentenced Applicant to thirty years imprisonment.

Applicant filed a timely notice of appeal, and Lara M. Caudy, Esquire, of the Office of Appellate Defense, perfected the appeal with the filing of an Anders¹ brief. Applicant voluntarily withdrew his appeal, and the South Carolina Court of Appeals dismissed the appeal on April 2, 2014. The Court of Appeals returned the remittitur to the circuit court on April 18, 2014.

II. ALLEGATIONS

In his application, Applicant alleged he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel"

- a. Failure to preserve objection to ruling on Neil v. Biggers, 409 U.S. 188 (1972), hearing.
- b. Failure to impeach victim at Neil v. Biggers hearing.
- c. Failure to enter victim's statement into evidence at Neil v. Biggers hearing.
- d. Failure to move to sequester witnesses at Neil v. Biggers hearing.
- e. Failure to call witnesses at Neil v. Biggers hearing.
- f. Failure to enter police report into evidence at Neil v. Biggers hearing.
- g. Failure to enter incident report into evidence at Neil v. Biggers hearing.
- h. Failure to properly respond to judge's questions at Neil v. Biggers hearing.
- i. Failure to enter jail booking report into evidence.
- j. Failure to elicit testimony about suspect's height.
- k. Failure to impeach victim.
- l. Failure to request voir dire questions.
- m. Failure to request mistrial after a juror reported a relationship to the victim.
- n. Failure to request polling of jury.
- o. Failure to object to a juror.
- p. Failing to call the crime scene specialist as a witness.

¹ Anders v. California, 386 U.S. 738 (1967).

- q. Failure to present a 911 tape.
- r. Failure to investigate crime scene.
- s. Failure to object to victim's testimony.
- t. Failure to cross-examine the victim regarding identification.
- u. Failure to cross-examine the arresting officer about identification.
- 2. "Due Process Violation"
 - a. "Erroneous advice of counsel"
- 3. "Prosecution Misconduct"

At the evidentiary hearing, Applicant proceeded on only the following allegations of ineffective assistance of trial counsel:

- 1. Failure to properly argue and preserve issues relating to the Neil v. Biggers, 409 U.S. 188 (1972), hearing.
- 2. Failure to strike Juror #251 for cause.
- 3. Failure to present Applicant's father as a witness.
- 4. Failure to argue for a directed verdict because there was no evidence Applicant possessed a gun.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court has reviewed the record in its entirety and has heard the testimony and arguments presented at the evidentiary hearing. The Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. The Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80.

A. Summary of Testimony

Applicant testified he was arrested while walking down the street. He testified he was wearing a white t-shirt and light colored jeans. Applicant testified trial counsel did not discuss trial strategy with him and did not share discovery with him. He stated trial counsel told him she could not enter evidence. He also stated she never told him he could testify. Applicant testified he wanted several witnesses called and evidence introduced at the Biggers hearing. He testified trial counsel failed to use several police reports (See Applicant's Ex. Nos. 1-4) to impeach the

victim at the Biggers hearing.

Applicant also testified trial counsel failed to argue for a directed verdict on the grounds there was no evidence a gun was used in the robbery. Applicant alleged trial counsel should have attempted to strike Juror #251 for cause because he worked for the Myrtle Beach Police Department. He also testified he wanted trial counsel to call his father as an alibi witness.

Applicant's father testified he was with Applicant the day Applicant was arrested. He testified he last saw Applicant at 1:00 P.M. when he dropped Applicant off at a bus stop. He also testified Applicant was wearing a New York t-shirt when he dropped Applicant off at the bus stop.

Trial counsel testified she has been practicing law for almost eleven years. She recalled being appointed in January 2011 as Applicant's third attorney. Trial counsel testified she reviewed all of the discovery in the case and met with Applicant a number of times. She testified Applicant denied committing the crime, and she developed a trial strategy to challenge the victim's identification of Applicant. She recalled thoroughly challenging the victim's identification in the Biggers hearing. Trial counsel testified she impeached the victim with his written statements from the night of the crime and with the information in the incident reports. Trial counsel maintained she did not believe she needed to introduce the statement and reports as evidence because the victim admitted to the inconsistencies despite being positive of his identification. She also testified she did not introduce any of these items at trial because she would have lost the right to last closing argument.

Trial counsel testified she was out of strikes when Juror #251 was presented. She testified she did not think she could challenge the juror for cause because he testified in voir dire he could be fair and impartial. She also recalled nothing about the juror at that time caused her

to be concerned with seating him. Trial counsel testified she argued for a directed verdict on the grounds the state had not presented evidence of Applicant's guilt.

B. Ineffective Assistance of Trial Counsel

In this post-conviction relief action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of trial counsel as a ground for relief, Applicant must prove trial 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." Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

The proper measure of performance is whether trial counsel provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The Court strongly presumes trial counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland, 466 U.S. at 690). Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The Court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, Applicant must prove trial counsel's performance was deficient. Id. Under this prong, the Court measures trial counsel's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, trial counsel's 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.

1. Biggers Hearing

The Court finds Applicant failed to meet his burden to show trial counsel performed ineffectively in any aspect of her conduct of the Biggers hearing. Applicant's allegation trial counsel failed to utilize the victim's statement and the police report is without merit. Trial counsel conducted an extensive and thorough cross examination of the victim at the pre-trial hearing. She cross-examined the victim on the circumstances of his identification, the inconsistencies in his written statement, and the lack of details in his report to police. (Trial Tr. p. 8, line 17-p. 15, line 22). The fact that the victim's statement or police reports were not introduced is inconsequential in light of this thorough cross-examination. See Delaware v. Fensterer, 474 U.S. 15, 20 (1985) (per curiam) ("[T]he Confrontation Clause guarantees an opportunity for effective cross examination, not cross examination that is effective in whatever way, and to whatever extent, the defense might wish"); see also Simpson v. Moore, 367 S.C. 587, 598 n.2, 627 S.E.2d 701, 707 n.2 (2006) ("Though hindsight may provide a different view of counsel's actions, Simpson is not entitled to a new trial for the sole purpose of presenting a 'fancier' case." (citing Jones v. State, 332 S.C. 329, 504 S.E.2d 822 (1998))). Furthermore, Applicant failed to show how introduction of these materials as exhibits would have provided additional information that was not presented through the victim's testimony. Jackson v. State, 329 S.C. 345, 351, 495 S.E.2d 768, 771 (1998). Accordingly, the Court finds Applicant failed to demonstrate trial counsel's performance during the Biggers hearing was deficient or that he was prejudiced by her performance.

Applicant's allegation trial counsel failed to preserve the suppression motion for appellate review is also without merit. Trial counsel thoroughly argued the suppression motion in a pre-trial hearing. The victim was the first witness to testify. Trial counsel did not need to make a contemporaneous objection to the victim's identification because no evidence was taken between the trial court's ruling on the admissibility of the identification and the victim's testimony. State v. Forrester, 343 S.C. 637, 642-43, 541 S.E.2d 837, 840 (2001). Accordingly, trial counsel was not deficient because this issue was properly preserved for appellate review. Regardless, Applicant has also not shown prejudice because the trial judge properly denied the suppression motion. See State v. Brown, 356 S.C. 496, 507, 589 S.E.2d 781, 787 (Ct. App. 2003) ("show-up" identification admissible where totality of circumstances indicates identification is reliable). Therefore, relief is denied on this ground.

2. Juror #251

The Court finds Applicant failed to meet his burden to demonstrate trial counsel ineffective for failing to move to strike Juror #251 for cause. Regarding this allegation, the Court finds trial counsel's testimony credible and gives it great weight. Initially, the Court notes trial counsel could not have struck Juror #251 for cause. S.C. Code Ann. § 14-7-820 disqualifies from jury service any "clerk or deputy clerk of the court, constable, sheriff, probate judge, county commissioner, magistrate or other county officer, or any person employed within the walls of any courthouse[.]" Juror #251 testified in voir dire that he was a "counter-terrorism advisor to the SWAT team" in Horry County. (Trial Tr. p. 23, lines 6-8). Applicant failed to present any testimony from Juror #251 at the evidentiary hearing to demonstrate Juror #251 was "vested with like powers and duties of a law enforcement officer" to disqualify him from jury service. State v. Hughey, 339 S.C. 439, 450, 529 S.E.2d 721, 727 (2000) overruled on other

grounds by Rosemond v. Catoe, 383 S.C. 320, 680 S.E.2d 5 (2009) (citing State v. Johnson, 123 S.C. 50, 115 S.E. 748 (1923)). Because no such evidence was presented, the Court will not speculate on whether Juror #251 was disqualified. Porter v. State, 368 S.C. 378, 386, 629 S.E.2d 353, 358 (2006) ("Mere speculation of what a witness' testimony may be is insufficient to satisfy the burden of showing prejudice[.]") (citations omitted)); Clark v. State, 315 S.C. 385, 388, 434 S.E.2d 266, 267 (1993) (finding of prejudice cannot be based on "pure conjecture").

The only evidence of Juror #251's employment is his testimony in voir dire. That testimony does not indicate Juror #251 is a "sheriff" or deputy sheriff such that he would be automatically disqualified under the statute. See Bryant v. State, 264 S.C. 157, 158, 213 S.E.2d 451, 452 (1975) (statute "does not specifically disqualify a special deputy sheriff from jury duty"). Juror #251 also acknowledged in voir dire that he could still be fair and impartial regardless of his relationship with law enforcement. (Trial Tr. p. 23, lines 20-25). Therefore, Applicant has not demonstrated trial counsel had valid grounds to move to strike Juror #251 for cause. Bryant, 264 S.C. at 158, 213 S.E.2d at 452 (special deputy not disqualified where there was "no showing of bias or prejudice"); Hughey, 339 S.C. at 450, 529 S.E.2d at 727 (2000) ("In light of the fact that the voir dire of [corrections officer] reveals no bias, [corrections officer's] subjective view of his employment does not disqualify him[.]"). Furthermore, the Court also notes trial counsel used all of her preemptory strikes before Juror #251 was presented. (Trial Tr. p. 31, line 22-p. 32, line 2).

Because trial counsel had no grounds to move to exclude Juror #251 from the jury, she was not deficient in failing to do so. Palacio v. State, 333 S.C. 506, 514, 511 S.E.2d 62, 67 (1999) (counsel not deficient for failing to make specific arguments where "it would have been futile for [counsel] to have made such arguments"). Furthermore, Applicant has not

demonstrated prejudice from trial counsel's decision to not strike Juror #251 because Applicant received a trial before a fair and impartial jury. State v. Stanko, 376 S.C. 571, 576, 658 S.E.2d 94, 96-97 (2008) ("While the Sixth and Fourteenth Amendments to the United States Constitution provide a defendant with the constitutional right to a fair and impartial jury of his peers, this right does not entitle a defendant to handpick a jury."). Accordingly, relief is denied on this ground.

3. Applicant's Father

The Court finds Applicant failed to meet his burden to demonstrate trial counsel ineffective for failing to call Applicant's father as a witness. Applicant's father testified at the evidentiary hearing that he last saw Applicant at 1:00 P.M. wearing a tee shirt similar to the one police and the victim described him wearing when he was arrested at 8:00 P.M. Because this testimony would have been more harmful than helpful if presented at trial, trial counsel was not ineffective in failing to call Applicant's father as a witness.

4. Directed Verdict Motion

The Court finds Applicant failed to meet his burden to demonstrate trial counsel ineffective in failing to further argue for a directed verdict. Trial counsel argued for a directed verdict on the grounds there was no evidence to connect Applicant to the crime. (Trial Tr. p. 91, lines 6-20). This argument is sufficient. The fact trial counsel did not specifically point out the absence of a gun is not significant where she otherwise argued no evidence supported submission of the case to the jury. Accordingly, trial counsel was not deficient in her argument for a directed verdict. Furthermore, the victim's testimony indicates Applicant created the appearance of having a weapon under his shirt during the robbery. Such testimony is sufficient to sustain a conviction for armed robbery. See S.C. Code Ann. § 16-11-330(A) ("A person who commits

robbery [...] while alleging, either by action or words, he 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, is guilty of a felony[.]"). Therefore, Applicant was not prejudiced when trial counsel did not specifically mention the lack of a gun in her directed verdict motion.

5. Overwhelming Evidence of Guilt

Independent of the above analysis, the Court finds Applicant has not demonstrated he was prejudiced by trial counsel's performance in any regard because there is overwhelming evidence of Applicant's guilt. The victim testified he observed Applicant in the well-lit hotel lobby on 4th Avenue when Applicant demanded money making a representation of a weapon. He described Applicant as wearing an "I love NY" tee shirt. Fifteen minutes later, Police apprehended Applicant on 7th Avenue wearing an "I love NY" tee shirt turned inside-out. The victim positively identified Applicant as the man who robbed him. This evidence overwhelmingly implicates Applicant in this crime. Accordingly, the Court finds Applicant cannot demonstrate any of the above alleged errors of trial counsel contributed to his conviction. See Brown v. State, 383 S.C. 506, 518, 680 S.E.2d 909, 916 (2009) (no prejudice where there exists overwhelming evidence of guilt); Franklin v. Catoe, 346 S.C. 563, 574, 552 S.E.2d 718, 724 (2001) (same).

C. 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.

IV. CONCLUSION

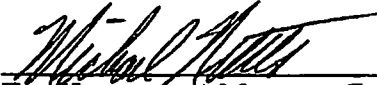
Based on the foregoing, the Court finds and concludes Applicant has not established by a preponderance of the evidence any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed 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 must be remanded to the custody of the Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 16 day of June, 2015.


 THE HONORABLE MICHAEL G. NETTLES
 Presiding Judge

Hence, South Carolina

WITNESSES

J Graham Myrtle Beach Police Department

DOCKET NO. 2008-GS-26-02589

The State of South Carolina
County of Horry

Sanford Cox Graves
08H02048

COURT OF GENERAL SESSIONS

July, 2008 TERM

ARREST WARRANT NUMBER

J737635

CDR: 0139 16-11-0330(A)

DOA: 5/8/2008

THE STATE

VS.

Anthony Maurice Riggins
B/ M

Tabor City, NC 28463-0000

DOB: [REDACTED]

SSN: [REDACTED]

ATTORNEY: Chrisco, William Edward

ACTION OF GRAND JURY

TRUE BILL
James Wilburn
Foreperson of Grand Jury
Date: JUL 10 2008

VERDICT

Indictment for

Armed Robbery

J. Gregory Hembree, Solicitor

ORIGINAL

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on July 10, 2008, the Grand Jurors of Horry County present upon their oath:

ARMED ROBBERY

CDR: 0139 16-11-0330(A)

That Anthony Maurice Riggins did in Horry County on or about May 7, 2008, while armed with a deadly weapon or while alleging, either by action or words, was armed while using a representative of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, to wit: Entered the office of the Sea Palms Motel and demanded money while holding his hand around the belt area in a threatening manner leading the victim to believe he was armed with a deadly weapon, take and carry away personal property of Chase Mitchell from or in the immediate presence of Chase Mitchell with intent to deprive Chase Mitchell of possession by use of force, threats or intimidation, in violation of Section 16-11-0330(A), 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.


J. GREGORY HEMBREE
FIFTEENTH CIRCUIT SOLICITOR