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STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY

Carmen T. Mullen, Circuit Court Judge

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JUL 23 2015

SC Court of Appeals

THE STATE,

RESPONDENT,

v.

MICHAEL E. HAWKINS,

APPELLANT

APPELLATE CASE NO. 2013-001296

RECORD ON APPEAL

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INDEX

INDEX.....i

PLEA TRANSCRIPT.....1

TRANSCRIPT OF STATE V. VERONICA MACK AND ROBERT LANE (APRIL 23, 2013)...26

DEFENDANT’S MOTION TO VACATE/ WITHDRAW GUILTY PLEA.....62

RESPONSE TO DEFENSE MOTION .....69

ORDER DATED MAY 13, 2013 .....79

INDICTMENTS .....81

CERTIFICATE OF COUNSEL.....95

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT ) GENERAL SESSIONS COURT

STATE OF SOUTH CAROLINA)
STATE, ) TRANSCRIPT OF RECORD
12-GS-07-721
12-GS-07-722
v. ) 12-GS-07-723
) 12-GS-07-724
MICHAEL HAWKINS, ) 12-GS-07-763
) 12-GS-07-764
DEFENDANT. ) 12-GS-07-923

April 18, 2013
Beaufort, South Carolina

BEFORE :

THE HONORABLE CARMEN T. MULLEN, JUDGE

APPEARANCES:

MARY CONCANNON, ESQ.
Assistant Solicitor

CHRISTOPHER W. LEMPESIS, JR., ESQ.
Attorney for Defendant

FRANCES BAKIS-RAY, RPR
Circuit Court Reporter

**INDEX**

	Page
Voir dire of defendant	4
Facts by the assistant solicitor	16
Remarks by the victim	20
Mitigation remarks by Mr. Lempesis	20
Remarks by the defendant	22
Sentence of the Court	23

(There were no exhibits submitted.)

1 THE COURT: The case of the State of South  
2 Carolina versus Eric Mack, Veronica Mack, Robert  
3 Lane and Michael Hawkins is on next week's trial  
4 roster. There was a motion to sever that I heard  
5 that I have denied, and so the case is going forward  
6 as of Monday. It's my understanding that some  
7 defendants, if not all, are interested in entering a  
8 plea today. Is that correct, Ms. Campbell?

9 MS. CAMPBELL: That's correct, Your Honor.  
10 On behalf of Eric Mack I'd like to inform the Court  
11 that Eric Mack is prepared to enter his guilty plea  
12 today to the charges. He has signed the sentencing  
13 sheet and is prepared to stand before Your Honor  
14 this morning.

15 THE COURT: Okay. I think just out of  
16 abundance of caution we will take them separately,  
17 Ms. Campbell, if you don't mind, unless you have any  
18 great preference. I understand that we're gonna end  
19 up having duplicating some facts; but again, I think  
20 it will all be on the record so we should be fine.  
21 Is that all right with you?

22 MS. CAMPBELL: Okay.

23 THE COURT: So you want to go ahead and go  
24 forward with Mr. Mack first?

25 MS. CAMPBELL: We'll be happy to step

1 forward.

2 THE COURT: Come on forward, Mr. Mack.

3 (Plea of Mr. Mack was taken.)

4 THE COURT: All right, you want to go  
5 ahead and come forward, sir. You're Michael  
6 Hawkins, sir?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: How old are you, sir?

9 THE DEFENDANT: 24.

10 THE COURT: How far did you go in school?

11 THE DEFENDANT: College.

12 THE COURT: What did you study in college?

13 THE DEFENDANT: Automotive tec.

14 THE COURT: Did you graduate?

15 THE DEFENDANT: No, ma'am.

16 THE COURT: Do you have any children?

17 THE DEFENDANT: No, ma'am.

18 THE COURT: Are you married?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: And you're from Charleston; is  
21 that correct, sir?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: All right, sir. Mr.

24 Lempeis -- oh, I'm sorry, go ahead and swear him  
25 in, Cassandra, I'd appreciate it.

1 THE CLERK OF COURT: Would you raise your  
2 right hand for me, please.

3 WHEREUPON,

4 MICHAEL HAWKINS,  
5 having been duly sworn by the Clerk of Court,  
6 testified as follows:

7 THE CLERK OF COURT: Put down your hand.

8 THE COURT: Mr. Lempesis, have you  
9 explained, does your client understand the charges  
10 against him, the possible punishment, and his  
11 constitutional rights?

12 MR. LEMPESIS: Yes, Your Honor.

13 THE COURT: Mr. Hawkins, do you wish to  
14 plead guilty under North Carolina versus Alford to  
15 burglary in the first degree, two counts of  
16 kidnapping, one count of possession of a weapon  
17 during the commission of a violent crime, criminal  
18 conspiracy, assault and battery of a high and  
19 aggravated nature, and armed robbery?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Mr. Lempesis, based on your  
22 investigation does the State have adequate evidence  
23 to prove your client's guilt on all these charges  
24 beyond a reasonable doubt?

25 MR. LEMPESIS: Yes, ma'am.

1 THE COURT: Under North Carolina versus  
2 Alford, sir, is that correct?

3 MR. LEMPESIS: Yes, ma'am, Your Honor.  
4 With that caveat we'd like to plead under North  
5 Carolina v. Alford; and also, I can go into some  
6 discussion that we touched on at another point in  
7 the plea if you'd like.

8 THE COURT: Okay, thank you. It's my  
9 understanding, Mr. Lempesis, that based on your  
10 investigation and everything you've seen, you do  
11 think there could be adequate evidence or would be  
12 adequate evidence to prove your client guilty on all  
13 these charges which is why your client is going  
14 forward and pleading under North Carolina versus  
15 Alford.

16 MR. LEMPESIS: Yes, ma'am, I think there's  
17 adequate evidence to support a conviction.

18 THE COURT: All right.

19 MR. LEMPESIS: Yes, ma'am.

20 THE COURT: And Mr. Hawkins, you need to  
21 appreciate that pleading under North Carolina versus  
22 Alford is simply a guilty plea as well and you  
23 understand it's gonna go down as a guilty plea. You  
24 understand that, sir?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: All right, sir. Sir, have you  
2 taken any medication or drank any alcohol in the  
3 last 24 hours?

4 THE DEFENDANT: No, ma'am.

5 THE COURT: Do you suffer from any mental  
6 or physical condition that would prevent you from  
7 understanding what we're doing here today?

8 THE DEFENDANT: No, ma'am.

9 THE COURT: Sir, I'm gonna go through each  
10 of the indictments just as I did with Mr. Mack; I  
11 know you were sitting in the courtroom. And again,  
12 I'm gonna ask you if you understand the charges  
13 against you and if you wish to plead guilty to them  
14 under North Carolina versus Alford, all right, sir?  
15 Okay. The first one is 2012-720, it's for burglary  
16 in the first degree. It states that you did in  
17 Beaufort County on or about March 19th of 2012, did  
18 unlawfully enter the dwelling of Loretta and Laron  
19 Jackson located at [REDACTED] Bluff Road on Saint  
20 Helena without their consent with intent to commit a  
21 crime therein and that you either did it during the  
22 darkness hours or while armed with a deadly weapon.  
23 And of course, as we've explained in the last case,  
24 as in yours, there is the legal theory of the hand  
25 of one is the hand of all. You all went together

1 and based on what you or your co-defendants did, it  
2 can be imputed to you, that if one brought a gun or  
3 if one did something specifically, that because you  
4 all conspired to go commit this burglary that you're  
5 all guilty under that, and you're pleading guilty  
6 until North Carolina versus Alford. Do you  
7 understand that, sir?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: And understanding that, sir,  
10 do you still wish to plead guilty under North  
11 Carolina versus Alford to burglary in the first  
12 degree?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Sir, the next indictment is  
15 for kidnapping, and actually, it's the next two  
16 indictments. These indictments state that you did  
17 in Beaufort County on or about March 19th of 2012  
18 did unlawfully seize, confine, or carry away both  
19 Laron Jackson and Loretta Jackson. Sir, do you  
20 understand the charges contained in these two  
21 indictments?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: And how do you wish to plead  
24 to them, guilty or not guilty?

25 THE DEFENDANT: Guilty.

1 THE COURT: Are you pleading guilty to  
2 those charges because you are, in fact, guilty?

3 THE DEFENDANT: Yes, I'm guilty.

4 THE COURT: All right, sir. I need to  
5 explain to you, and I apologize, I should have told  
6 you. You understand that pleading guilty to  
7 burglary in the first degree carries a mandatory  
8 minimum sentence of 15 years and up to life in  
9 prison, do you understand that?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Additionally, sir, it is a  
12 violent offense which means that you're gonna serve  
13 a minimum of 85 percent of any sentence I give you  
14 on that charge, do you understand that?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Additionally, sir, it is a  
17 most serious offense. It means that once you get  
18 out of prison, if you commit a second or most  
19 serious offense you are going to be looking at life  
20 without the possibility of parole. Do you  
21 understand that?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: And understanding that do you  
24 still wish to plead guilty?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: All right. As to the  
2 kidnapping charges, it carries up to 30 years in  
3 prison. Do you understand that, sir?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Again, you understand those  
6 are violent charges and most serious charges. Do  
7 you understand that?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: All right, sir. The next  
10 indictment is for possession of a weapon during the  
11 commission of a violent crime. This indictment  
12 states that you did in Beaufort County on or about  
13 March 19th of 2012 did while armed, or one of your  
14 co-defendants was armed with a deadly weapon, did  
15 commit or attempt to commit a violent crime which  
16 includes burglary in the first degree, armed  
17 robbery, kidnapping, or assault and battery of a  
18 high and aggravated nature. Sir, do you understand  
19 the charge contained in this indictment?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: And do you wish to plead  
22 guilty to it under North Carolina versus Alford?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: And understanding that, sir,  
25 do you still wish to plead guilty under North

1 Carolina versus Alford?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: All right, sir, possession of  
4 a weapon during the commission of a violent crime  
5 carries up to five years in prison. Do you  
6 understand that?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Sir, you're also pleading  
9 guilty to criminal conspiracy. This indictment  
10 states that you did in Beaufort County on or about  
11 March 19th of 2012 did conspire with others for the  
12 purpose of committing a burglary first degree, armed  
13 robbery, kidnapping, and assault and battery of a  
14 high and aggravated nature. Sir, do you understand  
15 the charge contained in this indictment?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: And do you wish to plead  
18 guilty to it under North Carolina versus Alford?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Sir, you understand criminal  
21 conspiracy carries up to five years in prison?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: And understanding that, sir,  
24 do you still wish to plead guilty?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: You're also pleading guilty to  
2 assault and battery of a high and aggravated nature.  
3 This indictment states that you did in Beaufort  
4 County on or about March 19th of 2012 did  
5 unlawfully, or commit, or under the hand of one is  
6 the hand of all theory an assault and battery  
7 constituting unlawful injury to Laron Jackson. Sir,  
8 do you understand the charge contained in this  
9 indictment?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: And do you wish to plead  
12 guilty to it under North Carolina versus Alford?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Lastly, sir, you are pleading  
15 guilty under North Carolina versus Alford to armed  
16 robbery. This indictment states that you did on  
17 March 19th of 2012 in Beaufort County at [REDACTED]  
18 Bluff Road at Saint Helena did by force, threats, or  
19 intimidation and while armed with deadly weapon, did  
20 take and carry away goods and/or moneys from the  
21 person or immediate presence and house of Loretta  
22 and Laron Jackson with the intent to permanently  
23 deprive them of their property. Do you understand  
24 the charge contained in this indictment?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: And do you wish to plead  
2 guilty to this indictment under North Carolina  
3 versus Alford?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Sir, you understand I could  
6 run these sentences consecutively which means one  
7 after the other and you'd be looking at 120 --  
8 excuse me, life plus 120 years in prison?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: And understanding that do you  
11 still wish to plead guilty?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Under North Carolina versus  
14 Alford. Sir, you have the right to have a jury  
15 trial on this case. Do you understand you are  
16 scheduled for a jury trial coming up on Monday, do  
17 you understand that, sir?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Sir, at a jury trial you have  
20 the right to testify or not testify on your own  
21 behalf. And if you chose not to testify I'd tell  
22 the jury they couldn't hold it against you.  
23 However, sir, when you plead guilty you're waiving  
24 that right. You understand you're coming forward  
25 and you're telling the Court that you are guilty

1 under North Carolina versus Alford. Do you  
2 understand that?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Also, sir, were you to go to a  
5 jury trial your attorney Mr. Lempesis would have the  
6 ability to cross-examine the State's witnesses as  
7 well as present witnesses in your defense. You  
8 could also attempt to suppress various evidence.  
9 Again, I want to make sure you understand that  
10 you're gonna have convictions for all of these  
11 charges under North Carolina versus Alford just as  
12 if a jury of twelve people convicted you. Do you  
13 understand that?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: And understanding all that do  
16 you still wish to plead guilty?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Sir, are you completely  
19 satisfied with how Mr. Lempesis has represented you?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Has he done everything you've  
22 asked him to do?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Have you understood all your  
25 conversations with him?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Has he done anything you did  
3 not want him to do?

4 THE DEFENDANT: No, ma'am.

5 THE COURT: Sir, has anyone promised you  
6 anything or held out any hope of reward to get you  
7 to plead guilty here today?

8 THE DEFENDANT: No, ma'am.

9 THE COURT: Has anyone pressured you or  
10 threatened you or told you now to plead guilty?

11 THE DEFENDANT: No, ma'am.

12 THE COURT: Has anyone from law  
13 enforcement or the Solicitor's Office mistreated you  
14 in any way regarding these charges?

15 THE DEFENDANT: No, ma'am.

16 THE COURT: Have you understood all my  
17 questions?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: And have you been truthful in  
20 your responses to the Court?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: You have the right to appeal  
23 this guilty plea and the sentence of this Court but  
24 you must do so within ten days of today's date. If  
25 you can't afford an attorney for an appeal one will

1 be appointed for you at no cost to you, but you must  
2 request it. Do you understand that, sir?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: All right, sir.

5 Solicitor, if you'll just put the facts  
6 again briefly on the record.

7 MS. CONCANNON: Yes, Your Honor. On  
8 March 19th, 2012 at around, between 3:30 and 4  
9 Mr. Hawkins along with Mr. Mack, Mr. Anderson,  
10 Mr. Lane entered the house located [REDACTED] Bluff  
11 Road on Saint Helena Island here in Beaufort County.  
12 They were wearing bandannas to obscure their  
13 identity at which point he and his co-defendants  
14 bound the two occupants Ms. Loretta Jackson and  
15 Laron Jackson using duct tape. They then began  
16 taking items from the home and making rather  
17 taunting statements to the victims. Ms. Jackson is  
18 very vehement that Mr. Hawkins began mocking her  
19 when she began praying for her life, and this has  
20 really stuck with her. Mr. Jackson was able to free  
21 himself from his restraints, jump out the second  
22 story balcony and get help. By the time law  
23 enforcement arrived to [REDACTED] Bluff Road the  
24 defendants, including Mr. Hawkins, had fled in a van  
25 that Mr. Hawkins had -- let's just go with borrowed

1 from his girlfriend in North Charleston. She  
2 initially reported that van stolen by Mr. Hawkins,  
3 but that was found to be unfounded so it's believed  
4 that he borrowed his girlfriend's van from North  
5 Charleston. Mr. Mack was driving the van.

6           They were stopped at the base of Woods  
7 Bridge. They then led police on a many mile car  
8 chase reaching top speeds of 140 miles per hour  
9 ultimately in being in the area of Dale in Beaufort,  
10 South Carolina. Mr. Hawkins was one of the two who  
11 fled when the car was ultimately stopped.  
12 Subsequently — during this car chase, Your Honor,  
13 on the video you can see where a AK-47 is tossed  
14 while the car is going over a hundred miles per hour  
15 on to Highway 17. That was collected. But  
16 Mr. Hawkins was able to run from the car. Perimeter  
17 was set up. Several hours after the car chase had  
18 ended Mr. Hawkins was spotted walking down the road  
19 in Dale. And then when law enforcement got there  
20 it -- they discovered he had entered into a elder  
21 care facility that's located in Dale. They asked  
22 several residents of that facility, hey, have you  
23 seen a man; and they're like, there's the guy you're  
24 looking for. He was standing in the lobby wet from  
25 his waist down in his pants.

1           He's transported to the investigator's  
2 office, mirandized, waived his Miranda. He states  
3 that he had gotten a ride with a friend, an Erin  
4 Jones, who every effort has been made to locate  
5 Mr. Jones and it does not appear that he exists.  
6 That Mr. Jones and he got into a fight, and he  
7 walked from Saint Helena to where he was located in  
8 Dale, which is roughly a 30, 35-mile walk. He was  
9 located southbound, more further south than north  
10 from where the ra-- the chase ended. And when asked  
11 how he walked so far having never been to Beaufort  
12 before and why he was walking on the wrong side of  
13 the road, he said he had a good sense of direction.  
14 And when asked to describe things that he saw while  
15 on his walk he stated he saw McDonalds at the  
16 bridge.

17           THE COURT: Mr. Hawkins, do you plead  
18 guilty under North Carolina versus Alford to the  
19 facts as stated by the Solicitor?

20           THE DEFENDANT: Yes, ma'am.

21           THE COURT: I find a substantial factual  
22 basis for this plea, that your decision to plead  
23 guilty is made freely and voluntarily, knowingly and  
24 intelligently with the consent of competent counsel  
25 with whom you tell me you're satisfied and I am

1 gonna accept your plea.

2 Ms. Concannon, the AK-47 that was thrown  
3 out of the van, was that something that you believe  
4 they carried to the robbery with them or was that  
5 stolen from the house?

6 MS. CONCANNON: They brought it with them  
7 to the robbery. My victims state that they did see  
8 a larger weapon which we believe to be the AK-47.

9 THE COURT: And were there guns stolen  
10 from the victim's home as well?

11 MS. CONCANNON: There was, I believe, a  
12 gun stolen.

13 THE COURT: A gun?

14 MS. CONCANNON: And it was actually  
15 located in the van, and the clip was separate from  
16 the gun, and that's how we could tell it was a  
17 different gun from the victim.

18 THE COURT: What type of gun was it?

19 MS. CONCANNON: Which, the one that was  
20 stolen?

21 THE COURT: The one that was stolen from  
22 the home.

23 MS. CONCANNON: It was a handgun. I  
24 believe it was a 9-millimeter handgun. A  
25 9-millimeter handgun —

1 THE COURT: Okay. Okay, thank you.

2 MS. CONCANNON: ---that belonged to a  
3 deceased uncle.

4 THE COURT: Okay, all right. I have heard  
5 from the victims. If they would like to speak again  
6 they are welcome to; I certainly have heard you.

7 Mr. and Mrs. -- I apologize, Ms. Jackson and your  
8 son, unless you want to say anything further, ma'am.

9 THE VICTIM: I stand before you again,  
10 Your Honor. This voice will be a voice that always  
11 will be embedded in my mind. When I close my eyes I  
12 can hear the voice so I just hope that justice is  
13 done because my life is shaken, it's torn.

14 THE COURT: Thank you.

15 Mr. Lempesis.

16 MR. LEMPESIS: Thank you, Your Honor. You  
17 know, Your Honor, I've had a chance to talk with  
18 Mr. Hawkins a good bit. We've -- we're on a first  
19 name basis, and I've gotten to know Michael really  
20 well. You know, he's an intelligent person. He is  
21 a sensitive and caring person. He has a family that  
22 he cares about. He's got family in North  
23 Charleston.

24 This is a bad situation obviously based on  
25 the facts. And in terms of the facts as to

1 Mr. Hawkins, the reason that he's come before you  
2 under North Carolina v. Alford is that, you know,  
3 Mr. Hawkins has maintained his innocence but agrees  
4 and acknowledges that there are enough facts to  
5 support a conviction. And we have discussed, for  
6 instance, the idea of the voice identification the  
7 victim just referenced in her statement. We've  
8 discussed that in context, in the context of a Neil  
9 v. Biggers hearing. I've explained that to  
10 Mr. Hawkins. He's aware of the fact that there may  
11 be some question as to the admissibility of these  
12 sort of later identifications; but weighing  
13 everything together, Mr. Hawkins has decided that he  
14 wants to take a guilty plea under North Carolina v.  
15 Alford for the very reason that he does not want to  
16 face the exposure of 120 years plus life and  
17 essentially take a gamble under the facts as  
18 presented by the State.

19 That said, you know, Mr. Hawkins is 24  
20 years old. As you know he's from North Charleston.  
21 He was in school studying automotive tec and hopes  
22 to continue to do that. I think that having an  
23 opportunity to put this bad situation behind him is  
24 going to allow him to move forward and he is looking  
25 at significant time. However, he is still gonna

1 have the opportunity to have a life and that's what  
2 we're counting on.

3 We ask that Mr. Hawkins not be required to  
4 register as a sex offender as there is no sexual  
5 component to the kidnapping charges. We ask that  
6 Your Honor sentence him to 15 years total, that the  
7 burg first be sentenced under the mandatory minimum,  
8 and that all of the charges fall in line and to run  
9 concurrent such that his sentence does not exceed 15  
10 years total. We ask that he receive credit for time  
11 served. We ask, if possible and if it's in the  
12 judge's control, that Mr. Hawkins be placed as close  
13 as possible to North Charleston, South Carolina. He  
14 has by last count, I believe, 13 or 11 nieces and  
15 nephews that have been asking where he is and  
16 they're gonna need to see him.

17 THE COURT: Mr. Hawkins, what would like  
18 to say, sir?

19 MR. LEMPESIS: And Your Honor, he would  
20 also like a shaving pass if possible, if you'd  
21 address that.

22 THE DEFENDANT: You know, I'm just, I  
23 would like to apologize and say, you know, I'm sorry  
24 for the situation that happened and, you know, the  
25 tragic situation that they were exposed to or

1 whatever. I have a family. I don't want these type  
2 events happening to them either, you know what I'm  
3 saying so, I'd like to say I'm sorry with everything  
4 that happened with the case or whatever.

5 THE COURT: All right. Anything further,  
6 Mr. Lempesis?

7 MR. LEMPESIS: No, ma'am.

8 THE COURT: Indictment 2012-720, it is for  
9 burglary in the first degree violent. The sentence  
10 of this Court is you be committed to the Department  
11 of Corrections for a period of 15 years. Indictment  
12 2012-721 for kidnapping, the sentence of this Court  
13 is you be committed to the Department of Corrections  
14 for a period of 15 years, and I'm putting on here  
15 that there is no sex registry as there's no sexual  
16 component to the kidnapping. Indictment 2012-923  
17 for kidnapping, the sentence of this Court is you be  
18 committed to the Department of Corrections for a  
19 period of 15 years. Again, there is no sexual  
20 registry. There is a finding of the Court that  
21 there's no sexual component.

22 Indictment 2012-764 for possession of a  
23 weapon during the commission of a violent crime, the  
24 sentence of this Court is you be committed to the  
25 Department of Corrections for a period of 5 years.

1 Indictment 2012-723, criminal conspiracy, the  
2 sentence of this Court is you be committed to the  
3 Department of Corrections for a period of five  
4 years. Indictment 2012-722 for assault and battery  
5 of a high and aggravated nature, the sentence of  
6 this Court is you be committed to the Department of  
7 Corrections for a period of 15 years. And lastly,  
8 under indictment 2012-763 for armed robbery, the  
9 sentence of this Court is you be committed to the  
10 Department of Corrections for a period of 15 years.  
11 Those are to run concurrent to each other, and I'm  
12 giving you credit for the time you've served. Good  
13 luck to you, sir.

14

15

16 \* \* \* END OF REQUESTED TRANSCRIPT OF RECORD \* \* \*

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**C E R T I F I C A T E   O F   R E P O R T E R**

STATE OF SOUTH CAROLINA )  
COUNTY OF FLORENCE        )

I, FRANCES BAKIS-RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Twelfth Judicial Circuit, do hereby certify that the foregoing proceeding is a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina, this 16th day of December, 2013.

  
FRANCES BAKIS-RAY, RPR



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## INDEX TO PROCEEDINGS

	PAGE
PROCEEDINGS	4
<u>JACKSON V. DENNO HEARING</u>	
JOHN KELLEHER	
Direct Examination by Ms. Bannon	5
Cross-Examination by Mr. Vaux	14
CHRIS CARTER	
Direct Examination by Ms. Bannon	16
LORETTA JACKSON	
Proffer by Mr. Vaux	30
Proffer by Ms. Bannon	32
PLEAS	43
CERTIFICATE OF COURT REPORTER	61

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EXHIBITS

[None]

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 against his mother, Loretta Jackson. They were  
2 provided by the prosecution to me. That's all I know  
3 that she's referring to.

4 THE COURT: Well --

5 MS. BANNON: Your Honor, and the State would  
6 argue those are inadmissible, as they're improper  
7 character evidence. These threats occurred four to  
8 five years prior to any of this occurring.

9 THE COURT: All right.

10 MR. LAFORCE: We certainly don't intend to try  
11 and introduce them unless there's testimony --

12 THE COURT: They won't put them in unless you  
13 open the door for it.

14 Anything else?

15 MS. BANNON: Not by the State, Your Honor.

16 MR. LAFORCE: One moment, Your Honor, for a  
17 minute.

18 THE COURT: Sure.

19 MR. VAUX: Your Honor, on behalf of Mr. Lane,  
20 we'll move to suppress Ms. Loretta Jackson, one of the  
21 victims, her out-of-court identification of Robert  
22 Lane and any in-court identification of Robert Lane,  
23 under Neil v. Biggers.

24 MS. BANNON: Your Honor, I believe the burden --

25 THE COURT: That's right.

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 MS. BANNON: -- is on the defense.

2 THE COURT: Okay.

3 MR. VAUX: Call her as a witness and proffer her  
4 testimony, Your Honor?

5 THE COURT: Okay.

6 MR. VAUX: Your Honor, the State calls Ms.  
7 Loretta Jackson. Sorry, Your Honor. I just  
8 remembered I'm not the State anymore. The defense  
9 calls Ms. Loretta Jackson.

10 [Off the record momentarily]

11 [Whereupon, Ms. Jackson comes forward]

12 THE CLERK OF COURT: If you'll step over.

13 Place your left hand on the Bible, please.

14 Raise your right hand, please.

15 [Whereupon, Ms. Jackson is duly sworn by the  
16 clerk of court as follows: do you solemnly swear or  
17 affirm that the testimony you give shall be the truth,  
18 so help you God]

19 THE WITNESS: Yes, ma'am.

20 THE CLERK OF COURT: Thank you. You can have a  
21 seat, please.

22 [Whereupon, Ms. Jackson takes the witness stand]

23 THE CLERK OF COURT: And if you'll state your  
24 name for the record.

25 THE WITNESS: Loretta Jackson.

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 MR. VAUX: Good morning, Ms. Jackson.

2

3

LORETTA JACKSON,

4

Having Been First Duly Sworn,

5

was Examined and Testified as Follows:

6

PROFFER

7

BY MR. VAUX:

8

Q. On March the 19th of last year, about 4:00 a.m.,

9

I believe that you were interviewed by Lance Corporal

10

O'Neil of the Beaufort County Sheriff's Office?

11

A. Yes.

12

Q. Do you remember that interview?

13

A. Somewhat.

14

Q. Do you remember telling him that you saw two

15

black males, dressed in all black, wearing masks and

16

wielding a sawed-off shotgun and handgun?

17

A. No, sir.

18

Q. You don't remember telling him that?

19

A. Three masked men.

20

Q. Okay. Do you remember that you told him that

21

two black males told you that they knew that you had money

22

and jewelry and wanted to know where it was?

23

A. Yes.

24

Q. Okay. Do you remember talking with Investigator

25

Kelleher, also at the sheriff's office, sometime later?

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 A. Yes.

2 Q. Okay. Do you remember telling him that you woke  
3 up to a thud and that you saw two to three shadowed  
4 figures standing over you?

5 A. Yes.

6 Q. Do you remember telling him that they duct-taped  
7 your hands and feet and threw you to the floor?

8 A. Yes.

9 Q. And that they also duct-taped your head which in  
10 effect covered your eyes?

11 A. Yes.

12 Q. Okay. Do you remember telling him that you had  
13 no other information as to who the suspects were, other  
14 than hearing the voice of Eric Mack?

15 A. Yes.

16 Q. Now, I believe as this case has unfolded that  
17 you've had an opportunity to view Robert Lane?

18 A. Yes.

19 Q. Do you remember meeting with the solicitor in  
20 preparation for this trial I would imagine a few weeks  
21 ago?

22 A. Yes.

23 Q. Do you remember her showing you a picture? Can  
24 you tell us about that picture?

25 A. Yes. She showed me the picture of all -- of

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 Mr. Robert Lane and I can't -- I couldn't identify him but  
2 I heard voices.

3 Q. Yes, ma'am. So you couldn't identify him in the  
4 picture?

5 A. No, sir.

6 MR. VAUX: Okay. Your Honor, we would move to  
7 suppress any out-of-court identification or in-court  
8 identification of Robert Lane.

9 THE COURT: If she couldn't identify him, she  
10 can't identify him.

11 MS. BANNON: Your Honor, if I could flesh this  
12 issue out a little bit more?

13 THE COURT: Yes.

14 PROFFER

15 BY MS. BANNON:

16 Q. Ms. Jackson, at some point -- you've attended  
17 every pretrial hearing, haven't you?

18 A. Yes.

19 Q. And at some point, were you able to figure out  
20 which defendant belonged to which voice in the house?

21 A. Yes.

22 Q. How were you able to do that?

23 A. By the voice.

24 Q. So were you able to ascribe certain actions to  
25 certain defendants?

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 A. Yes.

2 Q. How were you able to do that?

3 A. When I heard the defendant, I listened to  
4 different voices and I matched the different faces with  
5 the different voices and Mr. Robert Lane's voice matched  
6 the person that was in my closet.

7 Q. So it's not based on a visual recognition but  
8 rather hearing them speak at prior hearings you were able  
9 to figure out what he did in the house?

10 A. Yes.

11 Q. When I pulled up the pictures to show you, was  
12 that to figure out who belonged to what voice in the  
13 house?

14 A. Yes.

15 Q. Had you already told me Mr. Lane had done  
16 certain things inside your house?

17 A. Yes.

18 Q. Based on this voice recognition of Mr. Lane,  
19 what do you believe he did inside your house during your  
20 home invasion?

21 A. I believe that he was the one that was in the  
22 closet and was told to put stuff in the bags, or whatever  
23 they were putting it in.

24 MS. BANNON: Your Honor, based on this, the  
25 State feels that Ms. Jackson can testify to this voice

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 ID. It is not a physical ID. As she freely admits,  
2 she didn't physically see him but rather based on her  
3 hearing what she's always stated. Additionally,  
4 attending pretrial hearings is not a State action and  
5 it's not bound to -- any ID obtained through  
6 attendance at court hearings is valid and doesn't  
7 violate anyone's rights. Therefore, the State asks  
8 that she is allowed to identify Mr. Lane as such.

9 THE COURT: Had she ever heard his voice before  
10 the State presented it?

11 MS. BANNON: Prior to this day or prior to the  
12 home invasion, Your Honor?

13 THE COURT: Right.

14 MS. BANNON: No. She had never met Mr. Lane  
15 prior to that day.

16 MR. VAUX: Your Honor, she never said that she  
17 had heard his voice in court, either. She said that  
18 she matched his face with his voice. We would move to  
19 suppress her identifying him by voice or by his  
20 physical features.

21 THE COURT: Yeah. That's just too sketchy. I'm  
22 not going to let that in. Sorry. I mean, she had no  
23 prior knowledge of his voice. She listens to voices,  
24 she knows who's charged as a defendant, and then says  
25 that's that person.

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 MS. BANNON: Your Honor, the State would just  
2 contend that it goes to striking the testimony, not  
3 the admissibility of the testimony and that that would  
4 certainly be something that Mr. Vaux could cross-  
5 examine her on but it shouldn't affect the  
6 admissibility.

7 MR. VAUX: Your Honor, it affects her  
8 reliability. And there's a very substantial  
9 likelihood of irreparable misidentification.

10 THE COURT: If she only heard him after she's  
11 shown a picture and then she hears voices, that's just  
12 too suggestive, I think. That's what I heard  
13 happened. I don't know that that's what happened.

14 MS. BANNON: No, Your Honor. She --

15 THE COURT: Well, see, I -- you know, y'all have  
16 been working on this. It's unfair to me, bottom line,  
17 to try this case when Judge Mullen has been dealing  
18 with it for months. All this is novel to me. I don't  
19 know anything about what happened. Judge Mullen's law  
20 clerk knows all the parties, what they were going to  
21 testify to, and everything. So all I can do is what I  
22 heard. May be more to it. But what I heard, she  
23 didn't know anything about his voice before she went  
24 there. She's shown a picture and then hears his voice  
25 and said, that's what I heard.

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1           Isn't that what I heard?

2           MR. VAUX: That's what I heard, Your Honor.

3           THE COURT: I'm not saying what you think she  
4           says. I'm only saying what I heard.

5           MS. BANNON: Your Honor, she wasn't shown a  
6           picture until two weeks ago. She heard the voice for  
7           the past year. So it is she heard a voice --

8           THE COURT: She has heard the voice while he's  
9           been in custody as she's gone to hearings.

10          MS. BANNON: Correct.

11          THE COURT: And then you show her something and  
12          she matches it to a voice she's -- a picture which she  
13          can't identify him from the picture. That's just not  
14          enough.

15          All right. You can step down.

16          [Whereupon, Ms. Jackson is excused and exits the  
17          witness stand]

18          MR. VAUX: Your Honor, we would just have a  
19          motion to sequester the witnesses.

20          THE COURT: All right. How many do you need to  
21          sequester? I mean, it's just a lot of witnesses.  
22          Some of them don't know anything.

23          MR. VAUX: Judge, I would say everybody but the  
24          victims in the case. I don't know that all thirty --

25          THE COURT: Chief investigating officer, the

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 victims.

2 MR. VAUX: Yes, sir.

3 THE COURT: All right. Now, here's my rule on  
4 that. After they have testified, they can stay in the  
5 courtroom if they want to but they can't re-take the  
6 stand if they hear something that triggers something.  
7 So if you think you might have to re-call a witness,  
8 you need to have them leave the courtroom because my  
9 rule is if they stay in the courtroom, they can't be  
10 re-called. Just from prior experience, I've found  
11 once they sit in here and they hear what other  
12 witnesses say, they say, oh, yeah, now I want to  
13 change that story. So there you go. So that's y'all  
14 call. After they've testified, they're free to go,  
15 they can stay in the courtroom, or they can go back to  
16 sequestration if you think you might have to re-call  
17 them.

18 MR. VAUX: Yes, sir.

19 THE COURT: Anything else I can help y'all with?

20 MR. LAFORCE: Not from Ms. Mack, Your Honor.

21 THE COURT: Now, before we get way into the  
22 case, what is this about possession of a weapon during  
23 the commission of a violent crime?

24 MS. BANNON: Yes, Your Honor.

25 This is a hand of one, all of all case. They

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 had --

2 THE COURT: Well, I understand that.

3 But bottom line, if that's all it is and they  
4 didn't have a weapon and they didn't go in, unless you  
5 show knowledge that they had weapons going in, that's  
6 gone.

7 MS. BANNON: -- Your Honor. Shell casings  
8 before they --

9 THE COURT: I'm only giving you a heads-up on  
10 that. That's an idiotic penalty anyway when you've  
11 got thirty years for armed robbery? How are you going  
12 to commit armed robbery unless you're armed? You  
13 know? So I have never added to that. So it doesn't  
14 even matter. It just confuses things. Hand of one,  
15 hand of all. If they didn't have knowledge that they  
16 had weapons when they went in -- it doesn't have to be  
17 slam-duck knowledge. Just, you know, you can argue  
18 that and then it goes. So anything else?

19 MR. VAUX: Not from Robert Lane, Your Honor.

20 THE COURT: The last time I was down here, I had  
21 a sad one over in Hampton on the hand of one, the hand  
22 of all. Did a video identification before we picked a  
23 jury and I said the video can come in. Got two boys  
24 in a store without guns. One guy has a gun. He  
25 blasts somebody away. They knew he had a gun. The

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 State offered them ten years strong arm robbery and  
2 they wanted their attorneys relieved, you know. I  
3 said, I'll relieve your attorneys and I won't take  
4 your plea if you change your mind now, but that is a  
5 dumb situation, y'all are going to get convicted of --  
6 because a person shot somebody, the one with the gun.

7 MR. VAUX: That was the Lena Quick Stop, Judge.

8 THE COURT: Whatever.

9 Well, one of them said, Judge, it was just petit  
10 larceny, all we got was \$100. I said, you need to  
11 talk to lawyers, not the people in the jail. And then  
12 I -- two months later I saw a new elected judge who  
13 tried the case. The jury found them guilty. Gave  
14 them thirty-five years. Thirty for the armed robbery  
15 and five for having a gun, you know. Got to serve  
16 eighty-five percent of the thirty. But, you know, not  
17 for me to say.

18 Okay. If there's nothing else I can help you  
19 with, I'm across the hall.

20 [Whereupon, a recess is taken from 10:16 a.m. to  
21 10:25 a.m.]

22 THE COURT: We have an issue already. I'll have  
23 to explain it to Tabor, but his client is here.

24 And one of the jurors, you know, just came in  
25 early, was not in the courtroom but was sitting

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 outside by one of the defendants --

2 THE BAILIFF: One of the State's witnesses;  
3 right?

4 THE COURT: One of the State's witnesses. And  
5 they may or may not have talked. I don't know. So  
6 I'm going to bring her in. I don't know whether --

7 THE BAILIFF: It is a she, Your Honor.

8 THE COURT: And this is not male chauvinistic,  
9 but probably was talking to --

10 [Whereupon, Mr. Vaux enters the courtroom at  
11 10:25 a.m.]

12 THE COURT: All right. Tabor, one of the jurors  
13 came in early. Didn't come in the courtroom, but was  
14 sitting by -- outside by one of the State's witnesses.  
15 I don't know which one. But I'm going to bring her  
16 in, swear her, and see if they said anything or what-  
17 have-you.

18 THE BAILIFF: Ready, Your Honor?

19 THE COURT: Do you know what the name is?

20 THE BAILIFF: Yes, sir. It's Ms. Craciola.  
21 Craciola. C-R-A-C-I-O-L-A.

22 THE COURT: Okay.

23 THE BAILIFF: Bring her in, sir?

24 THE COURT: Sure.

25 [Whereupon, Ms. Craciola enters the courtroom]

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 THE BAILIFF: Juror entering, Your Honor.

2 THE CLERK OF COURT: If you'll raise your right  
3 hand.

4 [Whereupon, Ms. Craciola is duly sworn by the  
5 clerk of court as follows: do you solemnly swear or  
6 affirm the testimony you give will be the truth, so  
7 help you God]

8 MS. CRACIOLA: Yes.

9 THE BAILIFF: Right here, ma'am.

10 [Whereupon, Ms. Craciola takes the witness  
11 stand]

12 THE COURT: Ms. Craciola, just relax. No  
13 problem. You haven't done anything inappropriate.

14 You got here a little early, they tell me.

15 MS. CRACIOLA: Yes, sir.

16 THE COURT: We were having motions in the  
17 courtroom involving the case, where I made various  
18 rulings. Did you hear any of that?

19 MS. CRACIOLA: No, sir.

20 THE COURT: You didn't hear any of that?

21 MS. CRACIOLA: No, sir.

22 THE COURT: I was advised that you were sitting  
23 by a witness who may testify during the trial. Did  
24 you have any conversation with anybody out there --

25 MS. CRACIOLA: No, sir.

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 THE COURT: -- while you were waiting?

2 MS. CRACIOLA: No, sir.

3 THE COURT: State, do you want to question her  
4 any further?

5 MS. BANNON: No, Your Honor.

6 THE COURT: Any of y'all?

7 MR. VAUX: I would just ask her: did you  
8 overhear anything from any of the State's witnesses?  
9 Or any other witnesses, for that matter?

10 MS. CRACIOLA: No, sir.

11 MR. VAUX: Judge, we have no objection.

12 MR. LAFORCE: No objection, Your Honor.

13 THE COURT: No problem. You can go back.

14 [Whereupon, Ms. Craciola is excused and exits  
15 the witness stand]

16 THE COURT: Just better now than later. Okay.

17 THE BAILIFF: All rise, please.

18 [Whereupon, a recess is taken from 10:26 a.m. to  
19 11:50 a.m.]

20 THE COURT: All right. Are y'all ready?

21 MS. BANNON: Actually, Judge, there have been  
22 some developments in the case and we wish to talk to  
23 you in chambers, if that's okay.

24 [Whereupon, an off-the-record in-chambers  
25 conference is held]

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

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PLEA

MS. BANNON: Your Honor, a plea agreement has been reached in both of the defendants.

THE COURT: All right. They need to come up, I guess.

MR. VAUX: Judge, do you want to do them at the same time?

THE COURT: I'll give them their rights at the same time and then listen to y'all individually.

Swear them both.

THE CLERK OF COURT: Sure.

If you'll both raise your right hands, please.

[Whereupon, Ms. Mack and Mr. Lane are duly sworn by the clerk of court as follows: do you solemnly swear or affirm to truthfully answer all questions asked of you by this Court]

MR. LANE: Yes.

MS. MACK: Yes, ma'am.

THE COURT: Okay. Ms. Mack, are you doing all right?

MS. MACK: Yes, sir. How are you doing?

THE COURT: We have selected a jury and could proceed with the trial. Do you understand that?

MS. MACK: Yes, sir.

THE COURT: Mr. Lane, same thing. You

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 understand that?

2 MR. LANE: Yes, sir.

3 THE COURT: We have selected a jury and could  
4 proceed to trial.

5 Now, if we went on into trial, of course you  
6 would be entitled to be present in the courtroom.  
7 You've already heard me tell the jury that you were  
8 presumed innocent, the State has the burden of proof  
9 beyond a reasonable doubt in a trial. Each of y'all  
10 understand if you plead guilty, even to lesser-  
11 included charges, you waive your right to proceed with  
12 a trial --

13 MS. MACK: Yes, sir.

14 THE COURT: -- on any of these charges. Do  
15 y'all understand that?

16 MR. LANE: Yes, sir.

17 THE COURT: Do both of y'all understand that?

18 MS. MACK: Yes, sir.

19 THE COURT: Of course, Mr. Lane, you're  
20 represented by Mr. Vaux; is that right?

21 MR. LANE: Yes, sir.

22 THE COURT: And you've talked this over with  
23 him?

24 MR. LANE: Yes, sir.

25 THE COURT: And what I've been advised is that

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 the State is going to recommend that some charges be  
2 changed from burglary first to burglary second, from  
3 assault and battery of a high and aggravated nature to  
4 a lesser form of assault, and kidnaping is straight  
5 up, and armed robbery becomes strong arm robbery. And  
6 you're still pleading to conspiracy, I take it.  
7 Anything else?

8 MS. BANNON: ABHAN, Your Honor.

9 THE COURT: I said we were dropping ABHAN down,  
10 I understand. It's not?

11 MS. BANNON: No, Your Honor, we're not dropping  
12 ABHAN down.

13 THE COURT: All right. That's fine.

14 So if you plead guilty, we don't go forward with  
15 the trial. You waive your right to question any of  
16 these thirty-something witnesses, that the State said  
17 they were going to call, through your attorneys.

18 Do each of you understand that?

19 MS. MACK: Yes, sir.

20 MR. LANE: Yes, sir.

21 THE COURT: And you have a right, of course, to  
22 put up a defense. Both of y'all have apparently said,  
23 we didn't do it. You could still do that if you  
24 wanted a trial. But if you plead guilty, you assume  
25 guilt.

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 Do you each understand that?

2 MR. LANE: Yes, sir.

3 MS. MACK: Yes, sir.

4 THE COURT: And of course you can make motions  
5 throughout a trial. You've already made some motions,  
6 you know, and I can rule what would be in your favor  
7 or not. And I can rule to exclude evidence, you know,  
8 or to admit evidence, as the trial rolls along. But  
9 if you enter guilty pleas, you can't put up a defense,  
10 waive the requirement that the jury find you guilty  
11 beyond a reasonable doubt on any of these charges, and  
12 you just get sentenced. Although I understand that  
13 the State, on both of your accounts, are recommending  
14 suspended sentences with a twenty-five year cap.

15 Is that y'all's understanding?

16 MR. LANE: Yes, sir.

17 MS. MACK: Yes, sir.

18 MR. VAUX: Your Honor, the suspended -- the  
19 twenty-five being suspended?

20 THE COURT: Huh?

21 MR. VAUX: The twenty-five being suspended?

22 THE COURT: Yeah.

23 MR. VAUX: Yes, sir.

24 THE COURT: That's what I understood, that it  
25 was -- like kidnaping carries thirty. It's capped at

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 twenty-five, is what I understood. The other --

2 MR. VAUX: Yes, sir. The way that I explained  
3 it to Mr. Lane was that the State's recommendation was  
4 the twenty-five suspended to six. Yes, sir.

5 THE COURT: Right.

6 So that's your understanding, also? Not that --

7 MR. LAFORCE: Suspended to five, Your Honor.

8 THE COURT: Suspended to five. That's your  
9 understanding?

10 MR. LAFORCE: Yes, Your Honor.

11 THE COURT: Mr. Lane, you are taking some  
12 medication?

13 MR. LANE: Yes, sir.

14 THE COURT: And how often do you take it?

15 MR. LANE: In the morning and at night.

16 THE COURT: It doesn't impact your ability to  
17 comprehend what's going on?

18 MR. LAFORCE: No, sir.

19 THE COURT: What about you, Ms. Mack? You  
20 don't -- you indicated you weren't taking any --

21 MS. MACK: No, sir.

22 THE COURT: -- thing at all?

23 And do y'all have any questions about any of  
24 your trial rights that you would give up?

25 MR. LANE: No, sir.

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 MS. MACK: No, sir.

2 THE COURT: Do you both understand that  
3 kidnaping is classified as a crime of violence?

4 MR. LANE: Yes, sir.

5 MS. MACK: Yes, sir.

6 THE COURT: And you've heard that about one  
7 strike you're out, two strikes you're out? That  
8 constitutes a strike.

9 MR. LANE: Yes, sir.

10 MS. MACK: Yes, sir.

11 THE COURT: So if in the future you commit a  
12 most-serious offense or a violent crime, the State can  
13 ask for life without parole even though the penalty  
14 for the crime that you might commit in the future  
15 wouldn't be life.

16 Do you each understand that?

17 MR. LANE: Yes, sir.

18 MS. MACK: Yes, sir.

19 THE COURT: Are you both satisfied with your  
20 attorneys?

21 MS. MACK: Yes, sir.

22 MR. LANE: Yes, sir.

23 THE COURT: Do either of you have anything you  
24 want to ask about sentences --

25 MR. LANE: No, sir.

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 THE COURT: -- that can be imposed?

2 MS. MACK: No, sir.

3 THE COURT: Your attorneys have explained to you  
4 the maximum that can be imposed on each of these,  
5 kidnaping being the highest. And, of course, y'all  
6 indictment like burglary in the first degree was  
7 fifteen and on up, but burglary second, maximum of  
8 fifteen --

9 Do y'all understand that?

10 MS. MACK: Yes, sir.

11 MR. LANE: Yes, sir.

12 THE COURT: -- and so forth.

13 So what you're talking about is a maximum  
14 sentence of twenty-five years, even though some of the  
15 sentences would be less than that. Kidnaping I  
16 believe would be the only one I believe I could hit  
17 you with -- well, I could hit you on a couple of them,  
18 I guess. But that's the major one.

19 All right. Ms. Bannon, what about it?

20 MS. BANNON: Thank you, Your Honor.

21 Your Honor is pretty well acquainted the facts  
22 at this point. On March 19th of 2012, both Ms. Mack  
23 and Robert Lane, Germain Anderson [phonetic], Eric  
24 Mack and Michael Hopkins [phonetic] went to [REDACTED]  
25 Bluff Road [phonetic], here in Beaufort County, on

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 St. Helena Island about 4:00 in the morning.

2 Ms. Mack, it is believed, stayed in the van. I  
3 believe that the other four went inside the house  
4 where they duck-taped the two residents who were  
5 sleeping inside, Loretta Jackson and Laron Jackson.  
6 They held a gun to Loretta Jackson's head, threatened  
7 to kill her, made various incriminating statements  
8 implying that Ms. Mack had planned and encouraged them  
9 to do this.

10 Mr. Lane is believed to have been focused on  
11 removing items of value from the home during the home  
12 invasion.

13 Codefendant cut off Laron -- the tip of Laron  
14 Jackson's toe. He was able to escape to about the  
15 second-floor balcony, run across the yard. As he was  
16 running across the yard, he heard Ms. Mack's voice  
17 screaming for her husband and Scott to help track them  
18 down. A brief chase for Mr. Jackson -- with the  
19 defendants looking for Mr. Jackson ensued. They were  
20 unable to find him.

21 Everyone loaded into the car -- van that was  
22 stolen from another codefendant's girlfriend. They  
23 were stopped coming off the Woods Bridge after an APB  
24 was put out for the van. They briefly pulled over in  
25 front of USCB and then the van took off. Eric Mack,

State v. Verónica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 Veronica Mack's husband, was driving. Veronica Mack  
2 was in the passenger seat. Mr. Lane was in the first-  
3 row passenger seat, along with Germain Anderson, with  
4 a large flat-screen TV between them. And then -- I'm  
5 sorry. Michael Hopkins was next to them and Germain  
6 Anderson was in the last row of the van.

7 The car chase lasts from USCB, past Highway 21,  
8 past Laurel Bay, Hergon's Corner [phonetic]. They  
9 drove north on 17 headed towards Charleston, sometimes  
10 in the wrong lane, almost slamming head-on into an  
11 eighteen-wheeler. They then threw an AK-47 out of the  
12 van.

13 The van came to a stop. Ms. Mack was placed  
14 under arrest. She was found with almost \$500 on her  
15 and some various jewelry.

16 Mr. Lane ran from the van before law enforcement  
17 could get out of the car. He was found several hours  
18 later after an extensive manhunt where he was covered  
19 in dirt and scratches and he had stated that he had  
20 gotten into a girlfriend -- a fight with his  
21 girlfriend and thrown into a pond.

22 Ms. Mack was interviewed by law enforcement.  
23 Her statement was rather hard to decipher, but  
24 initially she said she was staying at [REDACTED]  
25 Lane, which is the house owned by the victims that she

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 had been evicted from several months prior, had no  
2 electricity, and was about five to ten minutes in the  
3 wrong direction coming off St. Helena. Then she  
4 stated that all the defendants were threatening to  
5 kill her and that is why her husband did not stop the  
6 van.

7 Mr. Lane was interviewed. He stated that he had  
8 been helping the Macks move, smoked some pot, fell  
9 asleep in the van, woke up there in front of the log  
10 cabin, which [REDACTED] Bluff Road is a log cabin,  
11 everyone was gone, he honked the horn, everyone came  
12 back to the car, he fell back asleep during the car  
13 chase that lasts -- that went over 140 miles per hour,  
14 that he woke up and he ran out of the van because he  
15 was scared.

16 And then we had various DNA. Mr. Lane's DNA was  
17 found on a roll of duct-tape found in the van that we  
18 believe used -- was used to bind the defendants [sic].  
19 Ms. Mack's DNA was found on a straw in the front  
20 passenger's seat of the van.

21 THE COURT: What about prior records, if any?

22 MS. BANNON: Yes, Your Honor.

23 For Ms. Mack, she does have a prior record. In  
24 2008 she was convicted of possession of cocaine and  
25 possession of crack.

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 For Mr. Lane, in 2009 he was convicted of  
2 possession of cocaine, misuse of a bicycle, driving  
3 without a license; 2011, possession of crack third  
4 offense, unlawful carrying and possession of a stolen  
5 pistol.

6 THE COURT: Okay. And do any of the victims  
7 want to say anything?

8 MS. BANNON: I believe so, Your Honor.

9 THE COURT: Now would be the time.

10 MS. JACKSON: Your Honor, I am numb. I can't  
11 sleep. I'm scared. My life has been torn apart.

12 THE COURT: It had to be real traumatic. I  
13 mean --

14 MS. JACKSON: My life has been torn apart, but  
15 I'm going to be okay. I have to look at my son and I  
16 have to look at the cut. I have to look at, you know,  
17 the reason he's going on. And I'm going to go on  
18 because I have God on my side. And I just pray that  
19 they would get God on their side and they will know  
20 that it's not right, it's not right.

21 THE COURT: Okay.

22 MR. LAFORCE: Nothing from Ms. Mack, Your Honor.

23 MR. VAUX: Your Honor, Mr. Lane, as you heard,  
24 is from Charleston.

25 I think with Ms. Mack's recommendation of five

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 years, Mr. Lane's recommendation is six years. We  
2 would ask that you give Mr. Lane the same of five  
3 years active time.

4 It wasn't that he wouldn't flip initially -- or  
5 I guess in the last few minutes leading up to this  
6 trial, it was that he couldn't remember anything that  
7 would necessarily help the State. His story has been  
8 the same from the beginning and that was that he was  
9 passed out in the back after drinking and smoking for  
10 most of the night and that he didn't go in the house.

11 His father died at a young age and he grew up on  
12 the streets of North Charleston and was raised in  
13 foster homes and by family. He's still -- he's still  
14 young and at his age, Judge, and we -- we think that  
15 this is a fair resolution to the case, given the  
16 circumstances, and that it will allow both Ms. Mack  
17 and Mr. Lane to get out of prison, as Ms. Jackson  
18 said, to find God, and to hopefully become productive  
19 members of society.

20 There was not a sexual component of any of the  
21 allegations and I don't think that the State will  
22 oppose there to be no sex registry requirement, Your  
23 Honor.

24 THE COURT: Okay. Now, each of you have the  
25 right to they call it elocute, which means you can

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 speak if you would like. You don't have to. Is there  
2 anything you would like to add?

3 MR. LAFORCE: Your Honor, I do not wish to  
4 elocute.

5 THE COURT: I'm talking to her.

6 MR. LAFORCE: I'm sorry. She does not wish to  
7 elocute.

8 THE COURT: You don't want to say anything?

9 MR. LAFORCE: That's right, Your Honor.

10 THE COURT: And you understand what you're  
11 looking at?

12 MR. LAFORCE: Yes, Your Honor.

13 THE COURT: Okay. And what about you, Mr. Lane?  
14 Do you want to say anything?

15 MR. LANE: I would just like to say, like my  
16 lawyer just said, my story never changed. I never  
17 been involved. That's it.

18 [Whereupon, the Court reviews documents]

19 THE COURT: I mean, there's just lots of things  
20 I'm writing down. Don't panic out there.

21 [Whereupon, the Court reviews documents]

22 THE COURT: All right. Ms. Mack, I'm going to  
23 have to check to make sure I've done everything right  
24 or they send them back sometimes if you don't check  
25 something.

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1           On the kidnaping under the indictment that ends  
2           in the three digits 919, I sentence you to twenty-five  
3           years. I suspend it on the service of five years and  
4           put you on probation on five years. I wrote on there  
5           that it's not sexual and no registration. And I  
6           checked it's going to be concurrent with the other  
7           sentences and you're to be given credit for any time  
8           you've been incarcerated.

9           Now, you understand that the kidnaping charge is  
10          a strike, and I think you have another strike in here,  
11          also. Well, a violent crime that is classified as a  
12          strike.

13          MR. LAFORCE: Yes, Your Honor.

14          THE COURT: On the possession of a weapon, I  
15          just sentenced her to five years. That's concurrent,  
16          and you should get credit for time served.

17          On the common law robbery, that's where the  
18          armed robbery was reduced, it's not classified as a  
19          crime of violence but it carries up to fifteen. So I  
20          sentence you to fifteen years suspended on the service  
21          of five with five years probation. Now, that is  
22          concurrent and you'll be given credit for the time  
23          that you've been in jail.

24          On the conspiracy charge, I just sentenced you  
25          to five years. Of course, that's concurrent.

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1           On the assault and battery of a high and  
2           aggravated nature, I sentenced you to twenty years  
3           suspended on the service of five with five years  
4           probations. The same thing. Concurrent with credit  
5           for time served.

6           On the second kidnaping that ends in 725, the  
7           last three digits of the indictment number, twenty-  
8           five years suspended on the service of five with five  
9           years probation. Checking concurrent. Get credit for  
10          time served. And I'm writing on there non-sexual, no  
11          registration.

12          Finally, it looks like I have a burglary charge  
13          where I sentence you to fifteen suspended on five with  
14          five years probation. And, again, that's concurrent.  
15          You get credit for time served.

16          Do you have any questions?

17          MR. LAFORCE: No, Your Honor.

18          THE COURT: And, of course, your attorney has  
19          explained to you you have the right to appeal but  
20          you've got to do that pretty quick.

21          MS. MACK: Yes, sir.

22          THE COURT: And, you know, you can appeal and it  
23          might be successful. But rarely are appeals from  
24          guilty pleas successful.

25          Okay. Mr. Lane. On the kidnaping that ends in

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 921 -- it may not be in the same order that I went  
2 over them with Ms. Mack, but it's the order in which  
3 the indictments -- sentencing sheets were handed to  
4 me. I sentence you to twenty-five years. You've got  
5 a little more of a record than she has. You've got  
6 three drug charges and so forth. I'm going to split  
7 the difference. Sentence you to sixty-six months,  
8 probation for five years. It is concurrent. You need  
9 to get credit for time served. And I'm writing on  
10 here non-sexual, no registration.

11 Believe it or not, they might send it back and  
12 say he didn't say no registration required, he just  
13 said no registration.

14 On the robbery, which has been reduced from  
15 armed robbery to strong arm robbery, I sentence you to  
16 fifteen suspended on the service of five with five  
17 years probation -- I mean, with service of sixty-six  
18 months is what I said, wasn't it? That is concurrent  
19 and you'll be given credit for time served.

20 You heard me tell Ms. Mack that the kidnaping,  
21 which I had already told you was a violent crime,  
22 constitutes a strike. And it does.

23 [Off the record momentarily]

24 THE COURT: On the conspiracy charge, I just  
25 sentenced you to five years. That's concurrent. And

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 you get credit for time served.

2 On the assault and battery of a high and  
3 aggravated nature, twenty years suspended on the  
4 service of sixty-six months, probation for five years,  
5 concurrent, credit for time served.

6 On the second burglary one with the last three  
7 digits 717, I sentence you to twenty-five years  
8 suspended on the service of sixty-six months,  
9 probation for five years. That's concurrent. You get  
10 credit for time served. And it's non-sexual. No  
11 registration. But it does constitute a violent crime.  
12 It is a strike.

13 Do you understand that?

14 MR. LANE: Yes, sir.

15 THE COURT: All right. And, finally, we have  
16 the burglary second that was reduced from a burglary  
17 first. And had the jury convicted you of burglary  
18 first, they just have to prove it happened during the  
19 nighttime, you know, and so forth. Just carried  
20 fifteen rather than fifteen to life. I sentence you  
21 to fifteen suspended on sixty-six months, probation  
22 for five years. That's concurrent and you get credit  
23 for time served.

24 The same situation. You have the right to  
25 appeal but you've got to do it pretty quickly. Your

State v. Veronica Mack and Robert Lane  
Pretrial Motions and Pleas  
April 23, 2013

1 attorney has explained all that to you, I'm sure.

2 Do you have any -- do either of you have any  
3 questions about anything?

4 MR. LAFORCE: No, Your Honor.

5 MS. MACK: [Indicates negatively]

6 MR. LANE: [Indicates negatively]

7 THE COURT: All right. Now, you do understand  
8 you have to serve about every day that you were  
9 sentenced to before you get released. They'll tell  
10 you if -- on good behavior when your release date is  
11 but it's not like you're going to get out in a year or  
12 anything like that. Okay.

13 MR. LAFORCE: Thank you, Your Honor.

14 [MOTIONS AND PLEA CONCLUDE AT 12:11 P.M.]

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M057337-340  
M057350-351

STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS  
 )  
 COUNTY OF BEAUFORT ) CASE NO.: 2012GS0700720-23;  
 ) 2012GS0700763-764  
 STATE OF SOUTH CAROLINA, )  
 ) NOTICE OF MOTION AND  
 PLAINTIFF, ) DEFENDANT MICHAEL EUGENE HAWKINS'  
 ) MOTION TO VACATE/WITHDRAW GUILTY PLEA  
 VS. )  
 )  
 MICHAEL EUGENE HAWKINS, )  
 )  
 DEFENDANT. )

2013 APR 25 PM 2:59  
 JEREMY A. ROSEHEAD  
 BEAUFORT COUNTY S.C.  
 CLERK OF COURT

TO: MEREDITH BANNON, ASSISTANT SOLICITOR, FOURTEENTH JUDICIAL CIRCUIT:

YOU WILL PLEASE TAKE NOTICE that Defendant Michael Eugene Hawkins (hereinafter "Defendant"), by and through his undersigned counsel, will move before the Honorable Carmen T. Mullen, Presiding Judge, as soon as the matter may be heard<sup>1</sup>, for an Order vacating the Defendant's guilty plea in the above referenced matters on the basis of Rule 29 of the South Carolina Rules of Criminal Procedure, the United States Constitution, the Constitution of the State of South Carolina; and the law cited below. In support of this motion, Defendant would show the Court the following:

Defendant asserts that his plea should be vacated because of the circumstances under which the plea occurred; that there is now newly discovered evidence concerning the identification of Michael Hawkins; and/or that the subsequent pleas and sentences of co-defendants Robert Lane and Veronica Mack are representative of disparate treatment.

In numerous discussions prior to the Defendant's guilty plea and in oral and written arguments in court, the State repeatedly asserted that the alleged victims were adamant about

<sup>1</sup> The Defendant acknowledges that this motion may, in the discretion of the court, be determined on briefs filed by the parties without oral argument. Rule 29, SCRCrimP.

their identification of the alleged assailants; and that the victims had always been able to identify the alleged assailants.<sup>2</sup>

Throughout proceedings and discussions pertaining to this case, the State maintained that the co-defendants were guilty of all charges as indicted, that all Defendants were present in the home of the alleged victims, that all defendants were guilty under “the hand of one is the hand of all”; and that later that the victims were able to specifically identify the defendants but that the identifications were absent from the Rule 5 (SCRCrimP) and Brady materials as a result of poor investigative police work.

On Thursday, April 18, 2013, Michael Hawkins pleaded guilty<sup>3</sup> to the charges of first degree burglary, two counts of kidnapping, assault and battery of a high and aggravated nature, conspiracy, armed robbery, and possession of a weapon during a violent crime and received a sentence of fifteen (15) years, with respective time for each charge to run concurrently so that he would not be sentenced to serve more than fifteen (15) years in total.

On April 23, 2013, during pre-trial motions of the trial of co-defendants Veronica Mack and Robert Lane, co-defendant Robert Lane moved to suppress the out of court identifications made by the alleged victims under a Neil v. Biggers<sup>4</sup> motion. Apparently, during that hearing, one of the alleged victims, Loretta Jackson, testified that she was able to identify the defendants in this matter after seeing the defendants at bond hearings and after the assistant solicitor in charge of the case showed her five mug shots of the five defendants and instructed her to identify

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<sup>2</sup> The fact that representations from the State are oral does not make those statements less credible or reliable from the standpoint of the Defendant. See Custodio v State, 373 S.C. 4, 11 n.3, 644 S.E.2d 36, 39 n.3. Also, promises made by an assistant solicitor are binding. Id. at 13 n.6, 644 S.E.2d at 40 n.6.; see also Santobello v. New York, 404 U.S. 257, 262.

<sup>3</sup> Defendant Hawkins entered his plea pursuant to North Carolina v. Alford, 400 US 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970).

<sup>4</sup> 409 US 188, 93 S.Ct. 375, 34 L.Ed.2d 401 (1972).

each defendant by matching each defendant to a photograph. This contradicts information previously offered by the State in the context of Rule 5/Brady Motion discovery discussions; at oral argument and in pleadings to the Court that the victims in this matter were always able to specifically identify the defendants; and/or that the victims were adamant in these identifications.

Apparently, on the basis of the above summarized testimony from the alleged victim, the trial court granted Lane's Motion to Suppress and thereafter, the State offered twenty-five (25) years suspended upon service of five years with five years of probation and twenty-five (25) years suspended upon service of six years with five years of probation to Veronica Mack and Robert Lane respectively.

#### Argument

1. The Circumstances surrounding the guilty plea of Hawkins dictate that the Court should vacate that plea.

The State's agreement not to object during the sentencing phase of the plea is an enforceable plea agreement. Santobello v. New York, 404 U.S. 257, 262 (1971); Custodio v State, 373 S.C. 4, 644 S.E.2d 36. In this instance, as part of the plea agreement discussions, the State offered that the victims could specifically identify the defendants and/or that the victims were adamant in these specific identifications, and as a result, the State would not agree to offer lesser charges but would agree not to object to a sentence which did not exceed the mandatory minimum of fifteen (15) years for Burglary in the first degree.

A. Neither the Court nor the Defendant were properly informed of the facts concerning the victims' ability to identify Hawkins.

"If justice is to be done, a sentencing judge should know all the material facts." State v. Franklin, 267 S.C. 240, 245, 226 S.E.2d 896, 897 (1976). "...[A] sentence cannot be predicated on false information. Id. at 246 (citing Townsend v. Burke, 334 U.S. 736, 68 S.Ct. 1252, 92 L.Ed.

1690 (1948). The United States Supreme Court has considered misinformation supplied to the Court as a basis for infringement on the Constitutional rights of Defendants. See United States v. Tucker, 404 U.S. 443, 447, 92 S.Ct. 589, 591-92 (1972). In the context of plea negotiations where the State does not uphold its end of the bargain, the United States Supreme Court has specifically concluded "... that that the interests of justice and appropriate recognition of the duties of the prosecution in relation to promises made in the negotiation of pleas of guilty will be best served by remanding the case..." . Santobello v. New York, 404 U.S. 257, 262 (1971) (allowing a defendant to withdraw a guilty plea where a prosecuting attorney did not honor the State's commitment not to recommend a sentence) .

Further, a trial court's ruling or factual conclusion without evidentiary support is considered an abuse of discretion but more importantly, such an event entitles a Defendant to relief. See State v. Baccus, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006); State v. Preslar, 364 S.C. 466, 472, 613 S.E.2d 381, 384 (Ct.App.2005).

In this case, misinformation concerning material facts about the victims' ability to identify Hawkins therefore deprived the Court of the knowledge necessary to do justice. State v. Franklin, 267 S.C. 240, 226 S.E.2d 896 (1976). In addition, in the same light, the negotiations leading to the plea, the plea and subsequent sentence were predicated on this misinformation and therefore must be vacated.

The deprivation of knowledge necessary to do justice in this case also extends to the Defendant in his examination of the information produced by the State pursuant to Rule 5/Brady Motions filed by this Defendant. This misinformation concerning the victims' ability to identify Hawkins created an infringement on the Constitutional rights of Michael Hawkins. See United States v. Tucker, 404 U.S. 443, 447, 92 S.Ct. 589, 591-92 (1972). Further, Hawkins relied on

misinformation, which, after the victim's sworn testimony, turned out to be false and he now argues that these misrepresentations are a grounds for vacating his guilty plea under the concepts of fairness and justice discussed in Santobello v. New York, 404 U.S. at 262.

B. A plea premised on factually incorrect disclosures from the State is a violation of the Defendant's Federal and State Constitutional rights, including but not limited to the right to Due Process; Rule 5, SCRCrimP; and Brady v. Maryland, 373 US 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963) and its progeny.

A defendant's fundamental and constitutional rights are implicated when a Defendant is induced to plead guilty with a plea agreement. Reed v. Becka, 333 S.C. 676, 685, 511 S.E.2d 396, 401 (Ct. App. 1999) ; see also, United States v. Squirrel, 588 F.3d 207, 217 (4th Cir. 2009). A plea or plea agreement reached on the basis of misinformation concerning the victims ability to identify a defendant, is violations of the fundamental and constitutional rights to due process of law that protect Michael Hawkins from such behavior. Additionally, factually incorrect information concerning the victims' ability to identify Michael Hawkins serves as a violation of the disclosures required under either or both Rule 5, SCRCrimP; and Brady v. Maryland, 373 US 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963) and its progeny and in this light serves as an independent basis under which the plea may be vacated.

2. The testimony of Loretta Jackson is new material evidence which requires that the Court vacate the plea of Hawkins.

South Carolina Code Section 17-27-20(a)(4) provides that a Defendant may initiate a post-conviction procedure where the Defendant claims that there exists evidence of material facts, not previously presented and heard, that requires vacating a conviction or sentence in the interest of justice. The testimony of Loretta Jackson indicating that she was not able to independently identify the defendants without benefit of the prior court proceedings and/or the photographs supplied by the State served to provide new information and/or material facts which require vacating the conviction

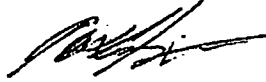
and/or sentence of Mr. Hawkins. South Carolina Code Section 17-27-20(a)(4); South Carolina Rules of Criminal Procedure, Rule 29.

3. The disparity in the sentencing of Hawkins, Lane and Veronica Mack dictates that the plea should be vacated.

“ ...[W]hen the record clearly reflects an appropriate basis for a disparate sentence, the sentencing judge may impose a different sentence on a co-defendant in a criminal trial.” State v. Follin, 352 S.C. 235, 257, 573 S.E.2d 812, 824 (Ct. App. 2002). In this case, the record does not reflect a basis for a disparate length of incarceration of Michael Hawkins as compared to the evidence and information available as to co-defendants Veronica Mack and Robert Lane. Michael Hawkins will likely serve approximately three times the prison term as that of co-defendants Veronica Mack and Robert Lane. The State has consistently maintained that all of the co-defendants in this case were similarly situated and in fact, sought to prosecute all co-defendants under the “hand of one – hand of all” theory for all of the same charges. On the basis of the misinformation concerning the victims’ ability to identify Hawkins, Hawkins decided to plead to charges that his co-defendants Veronica Mack and Robert Lane did not. If his plea to those charges were vacated, Hawkins may have the opportunity to plea to charges that would allow a sentencing judge to sentence him to a lesser sentence to put his sentence more in line with that of his similarly situated co-defendants Veronica Mack and Robert Lane. Even if he is not presented with an opportunity to plead to lesser charges, vacating his plea would at least give him the opportunity to adequately assess the information the State would offer against him at trial. Admittedly, co-defendants Lane and Veronica Mack did not plead guilty to the same charges, however, the resulting difference in prison time and/or sentencing suggest that vacating the plea of Defendant Hawkins is the appropriate action to take.

Therefore, on the bases as set forth above, Defendant Michael Hawkins respectfully moves for an Order vacating his guilty plea; and for all other appropriate relief.

Respectfully submitted,



Christopher W. Lempesis, Jr.  
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(843) 321-9529  
1 (888) 663-9627  
[chris@lempesis-law.com](mailto:chris@lempesis-law.com)  
Attorney for Defendant Michael Hawkins

Beaufort, South Carolina  
April 25, 2013

CERTIFICATE OF SERVICE

The undersigned hereby certifies that s/he has, on this 25<sup>th</sup> day of April, 2013, caused copies of the foregoing document to be transmitted to counsel of record and/or the individual and/or agency hereinafter named.

2013 APR 25 PM 2:59  
CHRISTOPHER W. ROSENBLUM  
CLERK OF COURT  
BEAUFORT COUNTY, SC

Case: State v. Michael Eugene Hawkins  
Served: 14<sup>th</sup> Circuit Solicitor's Office, as Prosecuting Agency (via email consent of counsel)

Respectfully submitted,



Christopher W. Lempesis, Jr.  
Attorney for Defendant Michael Hawkins

Beaufort, South Carolina  
April 25, 2013

STATE OF SOUTH CAROLINA )

COUNTY OF BEAUFORT )

STATE OF SOUTH CAROLINA )

VS. )

Michael Hawkins, )

Defendant )

IN THE COURT OF GENERAL SESSIONS  
INDICTMENT NO(S):

2012-GS-07-720 through 723

2012-GS-07-763, 764

2012-GS-07-923

RESPONSE TO DEFENSE MOTION  
TO VACATE GUILTY PLEAAPR 29 AM 11:30  
CLERK OF COURT  
BEAUFORT COUNTY, S.C.  
COURT HOUSE

COMES NOW, the State of South Carolina, by the 14<sup>th</sup> Circuit Solicitor and through the undersigned Assistant, hereby asks this Court to deny the Defendant's Motion to Vacate his guilty plea.

**I. Issue**

Whether the Defendant knowingly, intelligently, willingly and voluntarily entered his guilty plea and it was properly accepted?

**II. Facts**

On March 19, 2012 at 3:30 am, Loretta and Laron Jackson were asleep in their home located at [REDACTED] St. Helena, SC. Loretta Jackson is Laron Jackson's mother. Ms. Jackson awoke to find two or three masked men standing above her. The men bound her and threw her to the floor. The men demanded money and jewelry. The assailants proceeded to ransack the room. After several minutes, the men wrapped duct tape around Ms. Jackson's head, covering her eyes. One of the men told Ms. Jackson, "I didn't want to do this. I'm not going to hurt you or your son. We are following the boss's orders." He further stated, "She makes the decisions. You know she doesn't like you." From this statement, Ms. Jackson recognized the

voice as that of her son-in-law, Eric Mack. Eric Mack is married to Ms. Jackson's step-daughter, Veronica Mack. Eric Mack then whispered to her, "Well, I think we got everything we need." Another man told her "I got to do what I got to do" and pressed a pillow and gun to Ms. Jackson's head. Ms. Jackson was able to feel the barrel of a gun through the pillow and feared she would be killed. Suddenly, the pillow was taken away and the man left her room.

Several of the men went upstairs to Laron Jackson's bedroom. The men turned on the light and awakened Mr. Jackson. Mr. Jackson observed a masked black man standing in the doorway to his bedroom holding a gun. The man hit him across the face with his gun several times. Another Defendant used duct tape to tie Mr. Jackson to his bed, rendering him unable to move. Mack again spoke and demanded money and wanted to know why Mr. Jackson is "messing" with him. Mr. Jackson immediately recognized the voice as that of Eric Mack, his brother-in-law. Mr. Jackson responded to this inquiry and Eric Mack removed his mask. Eric Mack stated, "Now you got to die." Mr. Jackson was able to see Eric Mack clearly. While they are talking, another defendant was sharpening a kitchen knife. Eric Mack threatened to cut off Mr. Jackson's big toe. Eventually, Jamin Anderson cut off part of Mr. Jackson's big toe. A Defendant with gold teeth then wrapped Mr. Jackson's head and eyes with duct tape. The Defendants left Mr. Jackson restrained and ransacked the other rooms. Mr. Jackson was able to free himself of his bindings and jump off his second story balcony. As he was fleeing to seek help, Mr. Jackson observed a van and recognized the driver's voice as Veronica Mack, his step-sister. Veronica Mack observed Mr. Jackson fleeing and began alerting the Defendants who remained inside the house.

Mr. Jackson went to his neighbor's house. The neighbors were holding a vigil for their dying father. They reported hearing someone whispering for help and then observing people

with flashlights looking for someone. Eventually, all of the Defendants left in the van when they are unable to find Mr. Jackson.

Law Enforcement was contacted and an APB was placed on the van based upon the description provided by the victims. The van was located heading west off Woods Bridge. The van refused to pull over resulting in a long car chase northbound on Highway 21 with speeds reaching over 100 miles per hour. Once on Highway 17 headed north, the van crashed into a ditch. Prior to stopping, Law Enforcement observed an AK-47 being thrown from the driver's side of the van. This gun was collected and submitted into evidence.

Michael Hawkins and Robert Lane fled from the van. Eric Mack was driving. Veronica Mack and Jamin Anderson were found inside the van along with a stolen television, two handguns and several other items. Lane was found muddy and scratched walking down a side road. Several hours later, Hawkins was found soaking wet from his knees down in a nursing home in the area of the car chase.

All of the Defendants were interviewed after being advised of and waiving their constitutional rights under *Miranda*. Eric Mack took full responsibility for the crime but denied that anyone else was involved or knew what was happening. Eric Mack stated Veronica Mack was with a friend at the Circle K on Sam's Point Road during the incident.

Veronica Mack stated she was at [REDACTED] Lane, her former home, with Eric Mack all evening. Veronica Mack stated she was not hanging out with a girlfriend nor was at the Circle K. Veronica Mack stated that the men in the car, who she claimed to not know, kept discussing killing her on the drive. She stated that Eric Mack prevented this. Veronica Mack then stated that the three unknown men provided stolen guns to Eric Mack who was supposed to

sell them on St. Helena. These guns were stolen by the victim, Mr. Jackson, and the four men went to get them back. Veronica Mack then stated she was scared for her life.

Anderson stated that Mack picked him up in Summerville and came to Beaufort to party and meet girls. Anderson stated he fell asleep in the van and awoke when the van was stopped on Highway 17. Anderson pled guilty to all of the charges in January 2013 and received a sentence of 15 years.

When interviewed, Lane was wearing a set of gold teeth. Lane stated that he had been at the Macks' home helping them move. All of them had been smoking marijuana and drinking. Lane stated he was afraid of Veronica Mack and believed her to be insane. Lane stated he fell asleep in the van and awoke to find it parked in front of a log cabin. He then honked the horn and everyone came back to the van. Lane stated he then fell back asleep throughout the car chase, only to awaken when the van came to a stop. Lane stated he ran when the van came to a stop because he was scared.

Hawkins stated this was his first visit to Beaufort. He stated that Aaron Jones brought him to Beaufort from Charleston and he was helping some people he did not know move on St. Helena Island. Hawkins then stated he got into an argument with Jones, the basis of which he did not know and began walking to Charleston. Hawkins stated he had walked until the police arrested him. Hawkins was arrested while he was at an elderly care facility near where the van stopped. When confronted with the absurdity that he had walked 20 to 30 miles from St. Helena to where he was arrested, Hawkins asserted he was telling the truth. Mr. Hawkins was also unable to explain why his pants were wet and he was covered in debris as if he had been hiding.

Sonya White was located as the owner of the van that the group was riding in. Ms. White had originally reported the van stolen out of North Charleston by her ex-boyfriend, Michael

Hawkins. Several days later, it was determined Ms. White loaned Hawkins her van and filed a false police report.

Further, it was discovered that Mack, Hawkins, Anderson and Lane have known each other from childhood. Mack, Hawkins and Lane have arrest records documenting where they have been committing crimes together since 2003. Additionally, all the Defendants are featured in the Macks' wedding photos.

Mr. Jackson's toe was able to be reattached. Mr. and Mrs. Jackson are adamant in their identifications of the defendants as those who broke into their house and terrorized them. One of the neighbors who called 911 picked Eric Mack out of a photo lineup. Several items were seized from the van and analyzed for DNA.

On April 18, 2013, a pretrial conference was held in front of Judge Mullen. At this time, the identification issues were discussed in chambers with the counsel for all four remaining co-defendants present. Mr. Mack and Mr. Hawkins pled guilty and received the minimum sentences for the crimes they committed after these discussions. Hawkins pled guilty pursuant to *Alford*. Both Mack and Anderson pled as charged and received a sentence of 15 years, the minimum allowed under the Burglary 1<sup>st</sup> statute. Jamin Anderson pled guilty pursuant to *Alford* in January 2013 as charged and received a sentence of 15 years. Veronica Mack and Robert Lane did not enter pleas at that time.

On April 22, 2013, a jury was selected for the trials of Veronica Mack and Robert Lane as overseen by Judge J. Ernest Kinard. On April 23, 2013, a series of pretrial hearings were conducted. Tabor Vaux, Mr. Lane's counsel, called the victim, Loretta Jackson, to the stand and began questioning her ability to identify the various defendants. Judge Kinard suppressed an in-court identification of the remaining Defendants stating he felt they were "suspect" and the

victim could not identify the defendants by name for certain actions. Judge Kinard did not rule on the showing of photographs as permissible or impermissible. Judge Kinard was more focused on the identification occurring after seeing the defendants in court for the past year. The activities of the individuals in the house were not suppressed. Additionally, the prior threats made by Veronica Mack were suppressed by Judge Kinard who stated it was a Lyle issue and would be overruled on appeal if admitted at trial.

Robert Lane's defense was he never went inside the house and was asleep throughout the home invasion. Without Ms. Jackson's ability to ascribe certain actions to certain defendants, the State believed it would have difficulty overcoming reasonable doubt given his specific defense. As such, Mr. Lane pled guilty to Kidnapping, Assault and Battery of a High and Aggravated Nature, Kidnapping, Strong Arm Robbery, Criminal Conspiracy and received a sentence of 25 years suspended to 5 ½ years SCDC and 5 years probation. These are violent, most serious offenses. Mr. Lane's prior convictions include Possession of Cocaine and Misuse of a Bicycle and Driving on a Suspended License in 2009. Mr. Lane was convicted of Possession of Crack 3<sup>rd</sup> Offense, Unlawful Carrying of a Pistol and Possession of Stolen Pistol in 2011.

Veronica Mack's defense was that she was unaware of the home invasion and was threatened once she was picked up by the defendants after it occurred. Without Ms. Mack's direct threats to her mother, the State could not prove beyond a reasonable doubt that she knew of the crime and participated in some manner. As such, Ms. Mack pled to Kidnapping, Assault and Battery of High and Aggravated Nature, Kidnapping, Strong Arm Robbery, Criminal Conspiracy and Possession of a Weapon During the Commission of a Violent Crime and

received 25 years suspended to 5 years and 5 years probation. Ms. Mack's prior convictions included Possession of Cocaine and Possession of Crack in 2009.

Mr. Hawkins has a long criminal record. He was convicted of four counts of ABHAN in 2004 which were committed along with Eric Mack. Mr. Hawkins was also convicted of Strong Arm Robbery and Assault on a Police Officer in 2006.

Eric Mack and Jamin Anderson have very similar criminal records to Mr. Hawkins as they have been committing crimes together for over a decade. Mr. Mack has the following convictions: ABHAN in 2003; Petty Larceny, Burglary-3<sup>rd</sup> Degree, and Possession of a Stolen Vehicle in 2005; Possession of Cocaine and Driving Under Suspension in 2007; and Possession of Marijuana and Unlawful Entry On to Lands. Mr. Anderson has the following convictions: Attempted Burglary, simple assault and Interfering with Schools in 2003; Possession of a stolen vehicle, Receiving Stolen Goods, Driving without a License, ABHAN, and Burglary 3<sup>rd</sup> in 2006; PWID Cocaine and PWID Cocaine within 1/2 mile of school in 2008; and Driving on a Suspended License and Possession of Stolen Vehicle in 2010. Mr. Hawkins and Mr. Mack were Co-Defendants in their earlier ABHAN convictions. Mr. Mack and Mr. Anderson were codefendants in their Burglary 3<sup>rd</sup> convictions.

### III. Law

A defendant has no constitutional right to a plea offer. *State v. Miller*, 375 S.C. 370, 652 S.E.2d 44 (2007); *State v. Chisolm*, 312 S.C. 235, 439 S.E.2d 850 (1994); *State v. Becka*, 33 S.C. 676, 511 S.E.2d 396 (Ct. App. 199). By pleading guilty, a Defendant acknowledges to the court that he is waiving his right to any due process claims. *State v. Broce*, 488 U.S. 563, 209 S.Ct. 757 (1989); *State v. Thomason*, 341 S.C. 524, 534 S.E.2d 708 (Ct. App. 2000). A guilty plea

cannot be accepted unless it is voluntarily and understandingly made. *State v. Barton*, 325 S.C. 522, 481 S.E.2d 439 (1997). A defendant's displeasure at the sentence imposed does not mean that his plea was not knowing and voluntary. *Id.* A guilty plea generally acts as a waiver of all non-jurisdictional defects and defenses. *State v. Munsch*, 287 S.C. 313, 338 S.E.2d 329 (1985). Only the sufficiency of the indictment is open for review. *Id.* A plea may be overturned for lack of prosecutorial disclosure of material facts to the defense if there is a reasonable probability that the plea would not have been entered had the defendant known. *Gibson v. State*, 334 S.C. 515, 514 S.E.2d 320 (1999) (failure to disclose that State's main witness had changed story after being confronted with its implausibility was held material).

#### IV. Argument

The State provided all additional, different and new information as it was found. No additional information occurred from Ms. Jackson's testimony. The witness disclosures were not unknown facts but may have been contradictory. The risk of a co-defendant being acquitted or found guilty of a lesser charge is the chance one takes when entering a plea deal. Mr. Hawkins was fully aware of all the evidence the State was intending to present at trial when he decided to plead guilty. Mr. Hawkins was aware he was waiving any un-argued pretrial motions when he entered his plea. The State had a good faith basis to believe the victim could identify the Defendants as she was able to describe them physically and by name of doing certain actions. The fact the codefendant's trial court did not allow the victim to state this identification does not change the fact that the identification existed. No one possesses clairvoyance and it was with good faith the State expected Ms. Jackson's identifications to be admissible.

Further, the State would still have been able to present testimony regarding the number and location of the men in the house since merely the identification was suppressed, not the entire testimony. Mr. Hawkins stated he was never at the house, did not know his co-defendants and had walked from St. Helena Island to his arrest location, approximately 30 miles. All of the co-defendants were tied to the van which was owned by Mr. Hawkins's girlfriend. The State also intended to present evidence at trial that Mr. Hawkins knew the Macks as he was in attendance at their wedding. Mr. Hawkins's DNA was located on a glove found in the van. This supports the inference that he wore the glove to enter the house. This evidence provides a much stronger case against Mr. Hawkins even without the identification by Ms. Jackson.

Mr. Hawkins's co-defendants did not receive disparate sentencing. In fact, two of his co-defendants received the same sentence. Mr. Hawkins's prior record and stronger evidence provided the basis of him pleading guilty and receiving the minimum sentence. A plea offer is not a right. Further, even if the Court vacates Mr. Hawkins's plea, he would be facing his original charges which carry a minimum of 15 years to life. The pretrial hearings in the Mack and Lane trials do not apply to Mr. Hawkins. These issues would be relitigated. Even if a judge decided similarly, the State would proceed against Mr. Hawkins given the strength of the State's case.

This case is easily differentiated from *Gibson*. Rather than misrepresent our witness identification or hide a change in testimony, the State informed counsel every step of the way of anything which may have been perceived as new or different information. Whenever someone testifies, there is the possibility of their testimony changing. The State has no control over this. There have been instances where once cooperative witnesses experience "amnesia" or recant a previous identification on the stand. To hold the State accountable for such an occurrence would

be an unbearably high standard of control. In the instance at bar, Ms. Jackson did not present any new testimony or evidence that was previously unknown to the Defendant. The Defendant raised the issue prior to his plea and counsel even provided co-counsel with a copy of his motion. To allege lack of knowledge of Ms. Jackson's testimony prior to the acceptance of his plea is contradictory to fact.

#### V. Conclusion

As Mr. Hawkins knowingly, willingly, intelligently and voluntarily entered his plea of guilt prior to trial, he has no basis for his sentence to be vacated. He is not entitled to receive a plea agreement or the same agreement his co-defendants who went to trial received. To allow Mr. Hawkins to vacate his plea due to displeasure over a codefendant's conviction would undermine the entire justice system. Mr. Hawkins received the same sentence as two of his codefendants. The State's evidence was strongest against Mr. Hawkins, Mr. Mack and Mr. Anderson. The two codefendants who received less time despite pleading to violent and most serious crimes had substantially smaller criminal records. The evidence against Ms. Mack and Mr. Lane was the weakest given their defenses and prior statements to the police. Therefore, the State humbly requests this Court to deny the Defendant's Motion to Vacate Plea.



Meredith A. Banton,  
Assistant Solicitor  
14<sup>th</sup> Judicial Circuit

MO57337-340<sup>79</sup>  
MO57350-351

STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT

) IN THE COURT OF COMMON PLEAS  
) FOURTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,

) CIVIL ACTION NO: 2012-GS-07-00720-23;  
) 2012-GS-07-00763-764

vs.

ORDER

MICHAEL EUGENE HAWKINS,

Defendant.

2013 MAY 15 PM 3:25  
BEAUFORT COUNTY, S.C.  
CLERK OF COURT

This matter is before the Court on Defendant's Motion to vacate or in the alternative to withdraw the guilty plea. On April 18, 2013, Defendant Michael Eugene Hawkins plead guilty to the charges of first degree burglary, two counts of kidnapping, assault and battery of a high and aggravated nature, conspiracy, armed robbery, and possession of a weapon during a the commission of a violent crime. The Defendant received 15 years, with respective time for each charge to run concurrently. After consideration of the briefs provided by counsel the motion to vacate or in the alternative to withdraw the guilty plea is denied without a hearing. This court finds that the Defendant knowingly intelligently, willing and voluntarily entered his guilty plea and his plea was properly accepted.

Accordingly, the motion to reconsider is DENIED.

IT IS SO ORDERED.



\_\_\_\_\_  
Carmen T. Mullen  
Presiding Judge  
Fourteenth Judicial Circuit

May 13, 2013  
Beaufort, SC

**Do you want me to schedule this or decide on briefs?**

*Deny w/o  
rehearing*

**WITNESSES**

J.Kelleher-BCSO

**ARREST WARRANT NUMBER**

M057350

**ACTION OF GRAND JURY**

**True Bill**

*Jeffery J. Hock*  
Foreperson of Grand Jury  
Date: APR 19 2012

**VERDICT**

Foreperson of Petit Jury  
Date:

INDICT

DOCKET NO. 2012GS0700763

**The State of South Carolina**  
**County of Beaufort**

**COURT OF GENERAL SESSIONS**

**April Term 2012**

**THE STATE**

**vs.**

**Michael Eugene Hawkins**

**Indictment for**

**Robbery / Armed Robbery, robbery while armed  
or allegedly armed**

SC Code: 16-11-0330(A)  
CDR Code: 0139

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I  
Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.



WITNESSES

J. Kelleher-BCSO

ARREST WARRANT NUMBER

M057338

ACTION OF GRAND JURY

True Bill

*Jeffery J. Hark*  
Foreperson of Grand Jury

Date: APR 19 2012

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2012GS0700721

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

April Term 2012

THE STATE

vs.

Michael Eugene Hawkins

Indictment for

Kidnapping / Kidnapping

SC Code: 16-03-0910

CDR Code:0095

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I  
Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.



**WITNESSES**

J. Kelleher-BCSO

DOCKET NO. 2012GS0700722

**The State of South Carolina**

**County of Beaufort**

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

April Term 2012

Hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

M057339

THE STATE

vs.

Michael Eugene Hawkins

ACTION OF GRAND JURY

True Bill

Defendant

Witness:

*Jeffery J. Hancek*

Foreperson of Grand Jury

Date: APR 19 2012

VERDICT

Indictment for

Assault and Battery High and Aggravated Nature

SC Code: 16-03-0600(B)(2)  
CDR Code:3411

C.C.C. PLS. and G.S.

Foreperson of Petit Jury

Date:

INDICT



**WITNESSES**

J. Kelleher-BCSO

**ARREST WARRANT NUMBER**

M057340

**ACTION OF GRAND JURY**

**True Bill**

*J. Kelleher*  
Foreperson of Grand Jury

Date: **APR 19 2012**

**VERDICT**

Foreperson of Petit Jury

Date:

**INDICT**

**DOCKET NO. 2012GS0700723**

**The State of South Carolina**

**County of Beaufort**

**COURT OF GENERAL SESSIONS**

**April Term 2012**

**THE STATE**

**vs.**

**Michael Eugene Hawkins**

**Indictment for**

**Conspiracy / Criminal Conspiracy**

SC Code: 16-17-0410

CDR Code:0049

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I  
Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.



**WITNESSES**

J. Kelleher-BCSO

**ARREST WARRANT NUMBER**

2012GS0700923

**ACTION OF GRAND JURY**

**True Bill**

*J. Kelleher*  
Foreperson of Grand Jury

Date: **APR 19 2012**

**VERDICT**

Foreperson of Petit Jury

Date:

**INDICT**

DOCKET NO. 2012GS0700923

**The State of South Carolina**

**County of Beaufort**

**COURT OF GENERAL SESSIONS**

**April Term 2012**

**THE STATE**

vs.

**Michael Eugene Hawkins**

**Indictment for**

**Kidnapping / Kidnapping**

SC Code: 16-03-0910

CDR Code:0095

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I  
Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.



**WITNESSES**

J. Kelleher-BCSO

**ARREST WARRANT NUMBER**

M057325

**ACTION OF GRAND JURY**

**True Bill**

*Jeffery J. Hark*  
Foreperson of Grand Jury  
Date: **APR 19 2012**

**VERDICT**

Foreperson of Petit Jury  
Date:  
**INDICT**

DOCKET NO. 2012GS0700724

**The State of South Carolina**

County of Beaufort

**COURT OF GENERAL SESSIONS**

April Term 2012

**THE STATE**

vs.

Veronica Ruby Mack

**Indictment for**

**Burglary 1<sup>st</sup> Degree (After 6/20/85)**

SC Code: 16-11-0311  
CDR Code:0079

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I \_\_\_\_\_

Hereby appear in my own proper person and plead guilty to the within indictment or to

\_\_\_\_\_

\_\_\_\_\_

Defendant

Witness:

\_\_\_\_\_

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BEAUFORT )

INDICTMENT  
2012GS0700724

At a Court of General Sessions, convened on April 19, 2012, the Grand Jurors of Beaufort County present upon their oath:

**Burglary/Burglary 1<sup>st</sup> Degree (After 6/20/85)**

That Veronica Ruby Mack did in Beaufort County on March 19, 2012, willfully and unlawfully enter the dwelling of Loretta Jackson and/or Laron Jackson located at [REDACTED], St. Helena Island, SC without consent and with the intent to commit a crime therein and the defendant entered during the hours of darkness and/or the defendant was armed with a deadly weapon, all in violation of Code Section §16-11-311, Code of Laws of South Carolina (1976, as amended).

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

*Gene M. Stinson*

**WITNESSES**

J. Kelleher-BCSO

**ARREST WARRANT NUMBER**

M057351

**ACTION OF GRAND JURY**

**True Bill**

*Tiffany J. Hobbs*  
Foreperson of Grand Jury  
Date: **APR 19 2012**

**VERDICT**

Foreperson of Petit Jury  
Date:

**INDICT**

DOCKET NO. 2012GS0700764

**The State of South Carolina**

**County of Beaufort**

**COURT OF GENERAL SESSIONS**

**April Term 2012**

**THE STATE**

**vs.**

**Michael Eugene Hawkins**

**Indictment for**

**Weapons / Poss. weapon during violent crime**

SC Code: 16-23-0490  
CDR Code:0549

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

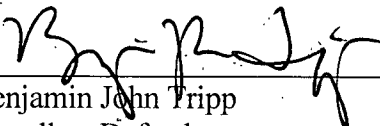
C.C.C. PLS. and G.S.



## CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

July 23<sup>rd</sup>, 2015

  
\_\_\_\_\_  
Benjamin John Tripp  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT

**RECEIVED**  
JUL 23 2015  
SC Court of Appeals

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

 ORIGINAL

\_\_\_\_\_  
Appeal from Beaufort County  
Carmen T. Mullen, Circuit Court Judge  
\_\_\_\_\_

RECEIVED  
JUL 23 2015  
SC Court of Appeals  
RESPONDENT,

THE STATE,

V.

MICHAEL E. HAWKINS,

APPELLANT

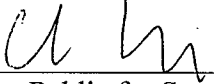
APPELLATE CASE NO. 2013-001296  
\_\_\_\_\_

CERTIFICATE OF SERVICE  
\_\_\_\_\_

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon J. Benjamin Aplin, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 23rd day of July, 2015.

  
\_\_\_\_\_  
Cruise Mitchell  
Administrative Specialist

SUBSCRIBED AND SWORN TO before me  
this 23rd day of July, 2015.

  
\_\_\_\_\_  
(L.S.)  
Notary Public for South Carolina

My Commission Expires: May 12, 2025.