

There are 18 Exhibits
Dealing with Judge
E Lockemy and why
he should recuse him
Self and controversy
that he brought in his
Dismissal of My PCR
There are his ruling
that I was not credible
and the victim events
remain the same
I told both Attorneys
After I found out nothing
was brought to the higher
Courts Attention

Exhibits go to the
Explanation of case

RECEIVED

JUN 27 2016

S.C. SUPREME COURT

Exhibit 1



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332

Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Joseph L. Savitz, III, Chief Attorney
Wanda H. Carter, Deputy Chief Attorney

July 6, 2009

Mr. Bobby Jenkins, #271240
McCormick Correctional Institution
266 Redemption Way
McCormick, SC 29899

RE: June 24, 2009 letter

Dear Mr. Jenkins,

I am a law clerk with the Division of Appellate Defense. Your attorney, Ms. Robinson asked me to respond to your June 24, 2009 letter in which you request that she amend your petition for a writ of certiorari.

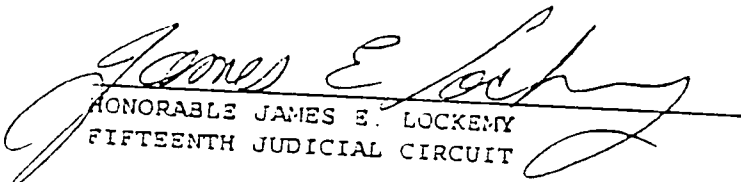
As you know, Ms. Robinson has already filed the petition. She has reviewed your argument concerning Judge James E. Lockemy's conflict of interest. She does not believe that this argument can be properly framed as an argument for ineffective assistance of counsel under *Strickland v. Washington*. I am attaching a synopsis of *Strickland*, which is both the two-part test in a petition for a writ of certiorari

Exhibit 243

Wherefore it is ORDERED that the employees and/or agents of the Conway Hospital Lab take blood, head hair, pubic hair and saliva samples from "John Doe" and "James Doe", upon such samples being taken release and deliver such samples to the Myrtle Beach Police Department so that such samples may be transported to the State Law Enforcement Division Lab, in Columbia, South Carolina, or other appropriate facility for the purpose of these samples being compared with items of evidence now in possession of law enforcement.

Failure to comply will be upon penalty of contempt. Further, it is ORDERED that the County and State shall be responsible for all costs related to the collection of these items of evidence.

AND IT IS SO ORDERED.


HONORABLE JAMES E. LOCKEMY
FIFTEENTH JUDICIAL CIRCUIT

JANUARY 19, 1998
CONWAY, SOUTH CAROLINA

Exhibit 242

General Sessions

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

IN THE COURT OF ~~COMMON PLEAS~~
FIFTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)
)
vs.)
)
"JOHN DOE", and)
)
"JAMES DOE")
)

ORDER

This matter comes before me on Motion of Roger P. Roy, Jr., Assistant Solicitor of the Fifteenth Judicial Circuit, for an order requiring the employees and/or agents of the Conway Hospital Lab to take blood, head hair, pubic hair, and saliva samples from "John Doe" and "James Doe", and to release and deliver said samples to the Myrtle Beach Police Department so that the said samples may be transported to the State Law Enforcement Division Laboratory, Columbia, South Carolina, or other appropriate testing facility for the purpose of these samples being compared with items of evidence now in the possession of law enforcement.

"John Doe" is present with his Attorney, ORRIS WEST.
Also present is "James Doe" and his Attorney, ORRIS WEST.

After hearing testimony from Myrtle Beach Police Detective Terry Altman, and arguments of Assistant Solicitor Roger P. Roy, Jr. of the Fifteenth Judicial Circuit, this Court finds that the property sought is reasonably related to the identity of the perpetrator of a violent rape. That the probative value of this property far exceeds any prejudice to "John Doe" and "James Doe". Further, I find the procedures to be used are not overly intrusive or in any manner harmful to the ~~persons~~ persons.

EXHIBIT 3

Myrtle Beach Police Department Investigative Follow Up Report

** FOLLOW UP REPORT **

January 15, 1998 Altman:

Upon reviewing the file today, I noticed that the 911 tapes had not been requested yet. I called Renee Hardwick and asked for a copy of the tapes. However, she advised me that they only keep the tapes for 60 days before destroying them. I then checked with Cpl. Carter to see if we had any recordings on file, but they had also been destroyed after 60 days.

January 16, 1998 Altman:

I received a call from Roger Roy to advise that the time for the court hearing had been changed to 11:00 a.m. on Monday. I called Theresa Bilton with Rape Crisis to advise her of the time change. She advised me that she had spoken with Roger the other day and was aware of the time change. She asked if it would be possible for me to arrange a ride to the hearing for Winstead, and I told her I would see what I could do. I then contacted the Victim Advocates and they stated they would be able to arrange for transportation. I typed a memo requesting that they assist me in finding a ride for Winstead.

January 19, 1998 Altman:

The court hearing for the Jenkins brothers was held today in front of Judge Lockemy at the Conway Court House. Judge Lockemy granted the order and signed it. Public Defender Orrle West represented the brothers. After the order was signed I returned to the PD and asked Lt. Ward to have two patrol officers accompany me to J. Reuben Long to pick the suspects up. Pfc. Kay and Ptl. Williams were assigned to assist me and transported the two from J. Reuben Long to Conway Hospital. RN JAMES LEE completed both of the tests. After the tests were done, the suspects were transported back to J. Reuben Long in order for their transfer back to Florence County Jail. I turned both suspect rape kits over to Officer Patty Daniels in Property & Evidence upon returning to the PD. I also completed the paperwork to have the evidence sent to SLED for comparison to the victim's kit. Det. King was with me.

Exhibit 4

41800004

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT

m
S-705

STATE OF SOUTH CAROLINA)

ORDER AND RULE

RULE TO SHOW CAUSE

vs.

"JOHN DOE", and

"JAMES DOE"

TO: JOHN DOE AND JAMES DOE, AND
ALLDALEY,

Bobby Jenkins - FDC

YOU ARE HEREBY ORDERED and required to appear before the Presiding
Judge, Fifteenth Judicial Circuit, at the Horry County Courthouse,
courtroom number one (1) on Monday, January 19, 1993, at 10:00 a.m., or
as soon thereafter as it can be heard, to show cause, if any, why an
order requiring you to give blood, head hair, pubic hair, and saliva
should not be issued by this court.

PRESIDING JUDGE
FIFTEENTH JUDICIAL CIRCUIT

Conway, South Carolina
December 18th, 1997

Exhibit 12.

Exhibit ~~11~~ ~~12~~ ~~13~~

July 1, 1998

Mr. Ali Muqtadir a/k/a
Bobby Jenkins
SS# 249-33-9206
Syca. East - Room 23
Post Office Box 518
Kershaw, SC 29067

Honorable Jeanne Roberts
Horry County Clerk of Court
1201 Third Avenue
Conway, South Carolina 29526

Dear Ms. Roberts:

Please be advised that the Plaintiff was ordered to appear in front of Presiding Judge Sidney T. Floyd on the date of Monday, January 19, 1998 at 10:00a.m., to show cause why a DNA did not have to be given. The Judge on the day ruled that the DNA was to be given by the Court, to show cause that Armed Robbery and Criminal Sexual Conduct in the the First Degree were committed by the Defendants "John Doe" and "James Doe".

The Assistant Solicitor was Roger P. Roy, Jr. for the Fifteenth Judicial Circuit. I am respectfully requesting the results of the DNA taken, statements by the Plaintiff to whom these crimes supposively happened to, all other statements, warrants and evidence by the Police Department of Myrtle Beach, indictments by the Solicitor's Office of the Motion of Discovery. Also, the transcript for January 19, 1998 Order and Rule to Show. My attorney was Orrie West. The docket number on the case was 980006.

Due to the fact that I am indigent and acting Pro Se. Please see below the cases in support of my request:

Call vs. McKenzie 220 S.E. 2d 665
Mayle vs. Ferguson 327 S.E. 2d 409
Smoot vs. Dinges S.E. 2d 471

Thank you in advance for your immediate attention and professional demeanor to this "most " important matter.

Respectfully,

Ali Muqtadir

Ali Muqtadir a/k/a Bobby Jenkins

Filed while
Locked up

~~11~~ ~~12~~ ~~13~~

Exhibit ~~11~~ ~~12~~ ~~13~~

Exhibit 6
CLERK OF COURT



MELANIE HUGGINS-WARD
CLERK OF COURT
1301 2ND AVENUE
CONWAY, SC 29526
(843) 915-5080 • Fax: (843) 915-6081

June 1, 2012

Bobby Jenkins #271240
C-X-14 PCI
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

Re: Letter Regarding Smueber Hearing Transcript
Indicted on Warrants
Grand Jury Minutes

Dear Mr. Jenkins:

This is in response to your letter regarding the above reference.

Please advise the year of the January 19th hearing. I am unfamiliar with a Smueber Hearing and checking into this. I will obtain your file from Archives as to when you were indicted. The date on the indictment will be the date the Grand Jury met. When the Grand Jury meets this is a closed session, there is no court reporter, therefore, no minutes.

Sincerely,

Melanie Huggins-Ward

Melanie Huggins-Ward
Horry County Clerk of Court

DEED Exhibit 7

SC. Court Administration
1015 Sumter St. Ste. 200
Columbia, SC 29201

RE: SMuber (D.N.A) Bobby C. Jenkins AKA ALI MAJID
AbDullah Muqtadir

I'm requesting the transcript of
DNA Held Jan. 19 1998 By Judge James
E. Lockemy. case and Docket number
was 980006.

pursuant to Freedom of Information
Act, 30-4-10, I request for the
grand Jury's Impaneling Judge's order
in indictment no. 2000-GS-26-849

I request this information so I
can see who was the Judge who
impaneled the grand Jury.

I also request all other documents
to show how many Women and men
was grand Jurys and etc.

7/19/12 SC
dated

CC: SC Court Admin
CC: Bobby Jenkins

Thank you

X ~~Bobby Jenkins~~
Bobby C. Jenkins
#271240 Q2 B101 P
430 Oak Lawn Rd
212 E. SC 296

Exhibit 8



South Carolina Court Administration
South Carolina Supreme Court
Columbia, South Carolina

ROSALYN W. FRIERSON
DIRECTOR

1015 SUMTER STREET, SUITE 200
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1800
FAX: (803) 734-0259

August 3, 2012

Bobby Jenkins #271240
PCI Q-2-B-101
430 Oaklawn Rd.
Pelzer, SC 29669

Dear Mr. Jenkins:

You have requested a copy of your transcript from proceedings heard in 1998. Unfortunately, pursuant to Rule 607, court reporters are not required to retain the records from proceedings for more than five years. Enclosed is a copy of that Rule for your review. We are sorry that we are unable to assist you further in this matter.

If you have further questions regarding *court reporters and/or transcripts*, please do not hesitate to contact this office again.

Respectfully,

Court Reporter Section

South Carolina Court Administration

2003-08-06-02

The Supreme Court of South Carolina

RE: Amendment to Rule 607, SCACR, Court Reporter Transcripts and Tapes

ORDER

We find that the retention schedule for court reporter tapes should be amended. Accordingly, pursuant to Article V, §4, of the South Carolina Constitution, we amend Rule 607(i), SCACR to read as follows:

(i) Retention of Tapes. Except as provided below, a court reporter shall retain the primary and backup tapes of a proceeding for a period of at least five (5) years after the date of the proceeding, and the court reporter may reuse or destroy the tapes after the expiration of that period. If the proceeding was a hearing or trial which lasted for more than one day, the time shall be computed from the last day of the hearing or trial. In any proceeding which has been transcribed, the court reporter shall retain the primary and backup tapes which have been transcribed for a period of at least thirty (30) days after the original transcript is sent to the requesting party, to allow any party to challenge the accuracy of the transcription. If no challenge is received by the court reporter within the thirty (30) day period, the tapes may be reused or destroyed.

This amendment shall become effective immediately. Further, the Order issued by this Court on June 26, 2002, ordering court reporters to cease destruction of all tapes in criminal and post-conviction relief cases is hereby vacated.

IT IS SO ORDERED.

s/Jean H. Toal C.J.s/James E. Moore J.s/John H. Waller, Jr. J.s/E.C. Burnett, III J.s/Costa M. Pleicones J.

Exhibit 10

SUBPOENA IN A CRIMINAL CASE

10/23/2014

SOUTH CAROLINA <u>General Session</u> COURT		COUNTY Horry
State of South Carolina v. "John Doe" and "James Doe"		CASE NO. n/a
		SUBPOENA FOR: ☒ PERSON ☐ DOCUMENT (S) OR OBJECT (S)
TO: Bobby Jenkins Effingham County Jail Effingham, SC		
☒ YOU ARE HEREBY COMMANDED to appear in the above named court at the place, date, and time specified below to testify in the above-entitled case.		
PLACE Horry County Court House 2nd Avenue Conway, SC	COURTROOM #1	DATE AND TIME 1/19/98 at 11:00AM
☐ YOU ARE ALSO COMMANDED to bring with you the following document (s) or object (s).		
LIST DOCUMENT (S) OR OBJECT (S)		
This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.		
CLERK OF COURT <i>Jeanne Roberts</i>		DATE
(BY) DEPUTY CLERK		1/13/98
THIS SUBPOENA IS ISSUED UPON APPLICATION OF THE: ☒ SOLICITOR ☐ DEFENDANT		ATTORNEY'S NAME AND ADDRESS Roger P. Roy, Jr. 248-1309

SCA 253, JULY 1, 1993

Esquire, and Delores Dewitt, the Applicant's sister. After the hearing, this Court took the matter under advisement, requesting that the parties submit authorities in support of their respective positions. Thereafter, the Respondent, in conjunction with its Brief, submitted a Motion to Supplement the Record, along with proffered transcripts from the trial of Eric Jenkins, the Applicant's nephew and co-defendant. The Applicant was given a chance to respond to the State's Motion, which he did, by and through his attorney of record, on November 8, 2007. After considering the proffer and response, this Court hereby grants the State's Motion to Supplement the Record, particularly with regard to: (1) the transcript from the State v. Eric Jenkins identification hearing, dated September 17, 2002, and (2) the transcript of the August 2-4, 2004 State v. Eric Jenkins trial. These transcripts are hereby incorporated into the record in this case, as are the Brief submitted by the State and the Memorandum of Law submitted by the Applicant.

In reaching its decision in this matter, the Court had before it Applicant's entire PCR file, the guilty plea transcript, the transcript from the first PCR hearing, the Eric Jenkins transcripts referenced above, the records of the Horry County Clerk of Court regarding the convictions, the Applicant's records from the South Carolina Department of Corrections, and the Applicant's appellate records.

FACTUAL FINDINGS

This Court finds the following facts by a preponderance of the evidence, pursuant to S.C. Code Ann. § 17-27-80 (2003); see Rule 71.1 (e), SCRPC.

Testimony and the Record

The charges in question stem from an incident that occurred on Ocean Boulevard in Myrtle Beach on September 24, 1997. The victim claimed that the Applicant was the "ringleader" in the incident. She claimed that the Applicant and Eric Jenkins, Applicant's nephew, jumped out of the bushes as she rode her bicycle down Ocean Boulevard, and that they grabbed her, both hit her with

Exhibit 12

9). In addition, there were two charges stemming from the incidents that took place on September 25, 1997, in Florence County, to which the Applicant pled guilty and received a two-year sentence. (Guilty Plea Transcript, page 14, lines 9-17).

Subsequently, the victim addressed the court. (Guilty Plea Transcript, page 14, line 21 – p. 15, line 9). She was very upset and had to sit down while she spoke. (Guilty Plea Transcript, page 14, lines 21-25). She asked the court to reassure her that “this man” never does this to another woman again. (Guilty Plea Transcript, page 15, lines 1-2). She told the court that since the incident, she had been unable to sleep at night, go out alone at night, or ride her bicycle. (Guilty Plea Transcript, page 15, lines 3-4). She stated that the event “totally turned her life around,” and without her faith in God, she did not think she would “be here.” (Guilty Plea Transcript, page 15, lines 4-6).

Ms. West then addressed the court on the Applicant’s behalf. She told the court that the Applicant was thirty-one years old and had finished the eleventh grade at Aynor High. (Guilty Plea Transcript, page 15, lines 16-18). She noted that the Applicant knew one of the assistant solicitors from high school. (Guilty Plea Transcript, page 15, lines 18-20). Ms. West then told the court about the “very serious automobile accident” in which the Applicant had been involved around age seventeen, which had ended his potential football career. (Guilty Plea Transcript, page 15, lines 21-24). She told the court that he suffered head and other injuries, and that his family members indicated that he was never the same after the accident. (Guilty Plea Transcript, page 15, line 25 – p. 16, line 2).

She explained that the Applicant admittedly had a drug problem, and was in fact high on drugs when the incident occurred. (Guilty Plea Transcript, page 16, lines 6-7). She noted that the Applicant had been on and off drugs since age seventeen, and that people often do things while on drugs that they would never do in their right mind. (Guilty Plea Transcript, page 16, line 12 – p. 17,

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, "[t]he 'prejudice,' requirement focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process. Hill v. Lockhart, 474 U.S. 52, 59 (1985). In other words, the applicant must prove prejudice by showing that, but for counsel's inadequacy, there is a reasonable probability he would not have pleaded guilty and, instead, would have insisted on going to trial. Suber, 371 S.C. at 558, 640 S.E.2d at 886." Stalk v. State, 375 S.C. 289, 298, 652 S.E.2d 402, 406 (Ct. App. 2007).

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

Because of the unique posture of this case, this Court has had the opportunity to review testimony of the Applicant, and of others, from a co-defendant's trial. This has been instructive as it goes to the issue of credibility. First, this Court finds the testimony of the Applicant's plea attorneys at the PCR hearing to be candid and highly credible, although several years have passed and their memories, admittedly, may not be exactly accurate as to all factual matters. On the other hand, this Court finds numerous reasons to doubt the credibility of the Applicant, particularly as it

relates to his subjective beliefs about his plea and his understanding of the consequences of the plea. At the outset, it is relevant that the Applicant previously pled guilty to general sessions charges before the plea at issue here; accordingly, he had some prior understanding of the guilty plea process. Secondly, this Court would note that the victim's version of events has remained, in all significant respects, the same since the beginning. Pursuant to the victim's account, throughout the assault, which lasted around fifteen minutes, she heard the pickup truck, which had a loud and distinctive muffler, circling around as if waiting on her attackers to complete the crime. Accordingly, in her version, there were at least four individuals involved in the crimes: the two black men who jumped out of the bushes, one Hispanic man who rifled through her belongings looking for valuables but did not rape her, and the driver of the pickup truck, whom she never saw and also did not rape her. Furthermore, the victim was certain that only two men raped her, and that those were the same two black males who jumped out of the bushes and grabbed her off of her bicycle. As mentioned above, only the Applicant's DNA was identified on the victim.

HLB
Jed

Under the Applicant's version of events, there were three men involved – himself, David Mitchell, and a third, unnamed, tall black man with an "afro" hairstyle, who was a friend of David Mitchell. The Applicant claimed that David Mitchell was driving the stolen truck at first, while the Applicant was asleep in the back of the truck. He woke and started driving the truck on Ocean Boulevard when David and the unnamed man asked him to drive so that they could go try to "talk" to the victim. Meanwhile, he drove down the street, parked at a beach access, and smoked crack. He then started to get "nervous" and he went to see what was going on. He stated that both of the other men raped her, and that after he approached the scene, he raped her as well while she was being held down. Importantly, in his trial testimony, the Applicant admitted that he previously lied to the police about this incident, and also admitted that there was no doubt in his mind that he would lie.

Exhibit 15

In sum, under the victim's version, she saw the two men who attacked her on Ocean Boulevard before the attack, both in the back of the pickup truck and on the sidewalk. She was sure that only two men raped her, and that David Mitchell was not one of them. In fact, she reliably identified the Applicant and Eric Jenkins as being her *only* rapists. The State never charged David Mitchell with anything related to these crimes. Conversely, under the Applicant's version, David Mitchell and his friend attacked and raped the victim initially, then the Applicant approached and raped her later – a total of *three* rapes. Also, he insisted that his nephew Eric was not involved and knew nothing of it – even that the Applicant was carrying guns – even though they were apprehended the next day together, in the truck that had been stolen near their neighborhood.

Obviously, the versions of events do not match up, and this Court finds the Applicant's version to be more implausible than not, particularly where he has already admitted that he would lie to suit his purposes. Accordingly, because this Court finds the Applicant's credibility to be more questionable than believable, under the preponderance of the evidence standard that is applicable in post-conviction relief, the Applicant has not proven to this Court that the factual matters he alleges are accurate, nor does this Court find the majority of his testimony to be credible.

Allegation #1 - Concurrent Sentences

#17
AJ
This Court finds that the Applicant did expect, and hope, that he would receive concurrent sentences after entering his plea of guilty. However, this Court also finds that the Applicant did not believe that he was actually guaranteed concurrent sentences, nor did he believe that his attorneys made any enforceable promises that he would receive concurrent sentences. This Court further finds that, even assuming that prior to the plea, the Applicant was under the mistaken impression that he had a guarantee of a concurrent sentence, such a mistaken belief would have been cured by the colloquy with the plea court.

X
ARGUMENT BY MS. PRATT

132

1 WERE OTHER CODEFENDANTS THAT HAD NEVER ACTUALLY BEEN
2 ARRESTED. MANY THINGS THAT IF BROUGHT TO JUDGE FLOYD'S
3 ATTENTION MIGHT HAVE MADE A DIFFERENCE AND I BELIEVE THAT
4 THAT PLEA ITSELF IN THEIR PRESENTATION WAS INEFFECTIVE
5 BASED ON THAT.

6 I THINK THAT THERE SHOULD HAVE BEEN MORE
7 MITIGATION BROUGHT, MORE INFORMATION IN THIS VERY, VERY
8 SERIOUS CHARGE. AS YOURSELF SAID YOU YOUR HONOR POINTED
9 OUT AND I AGREE THAT KIDNAPPING, CSC FIRST AND ARMED
10 ROBBERY ARE THE NEXT LEVEL TO ASSAULT, YOU KNOW, TO A
11 MURDER CHARGE. ASSAULT AND BATTERY WITH INTENT TO KILL IS
12 A LESSER FELONY THAN THOSE AND SO WE KNOW THAT THAT'S VERY
13 SERIOUS AND THE PREPARATION THAT WE DO FOR A PLEA TO THOSE
14 SERIOUS CHARGES SHOULD INCLUDE ALL OF THE MITIGATION AND
15 ALL OF THE FACTUAL INFORMATION THAT WE COULD HAVE INCLUDED.

16 I THINK THAT THERE WAS SOME CONFUSION BETWEEN THE
17 TWO ATTORNEYS AND COMMUNICATION PROBLEMS AND THAT LED TO
18 INEFFECTIVENESS AS WELL. YOU COULD TELL FROM THE TESTIMONY
19 THAT MR. GALMORE HAD CERTAIN THINGS THAT HE WAS RESPONSIBLE
20 FOR. MS. WEST CAME IN AT THE LAST MOMENT. THEY MAY NOT
21 HAVE KNOWN THE SAME THINGS ABOUT BOBBY OR ABOUT THE FACTS
22 AND CERTAINLY DIDN'T KNOW THE SAME KINDS OF THINGS ABOUT
23 HIS HISTORY AND AS MR. GALMORE STATED AND AS MS. DEWITT
24 STATED NO ONE CONTACTED THE FAMILY TO FIND THINGS OUT ABOUT
25 BOBBY AND I THINK AN EFFECTIVE MITIGATION TYPE OF PLEA

X
ARGUMENT BY MS. PRATT

133

1 INCLUDES ALL OF THOSE THINGS AND I WOULD ASK THE COURT TO
2 USE BY ANALOGY THE TYPES OF MITIGATION THAT WE PUT IN DEATH
3 PENALTY CASES AND THE INFORMATION THAT WE TRY TO PRESENT.

4 CERTAINLY, YOUR HONOR, THE THIRD PROBLEM THAT WE
5 HAVE HAS BEEN STATED VERY CLEARLY BY THE COURT OF APPEALS
6 IN THEIR UNPUBLISHED OPINION IN REGARDS TO THIS. BECAUSE
7 THERE WAS NO RECORD FOR THE MOTION TO RECONSIDER AND
8 BECAUSE THERE WERE NO NEW MATTERS AS FAR AS WE CAN TELL
9 BROUGHT UP IN THE MOTION TO CONSIDER AND NO RECONSTRUCTION
10 OF THE RECORD IN THE MOTION TO RECONSIDER THE COURT OF
11 APPEALS IN LOOKING AT HIS GUILTY PLEA HAD ABSOLUTELY
12 NOTHING TO RULE ON.

13 THERE WERE NO OBJECTIONS DURING THE GUILTY PLEA
14 AND I KNOW THAT IT'S NOT STANDARD FOR ANY ONE OF US TO
15 OBJECT DURING THE SOLICITOR'S ARGUMENT. SOMETIMES WE DO
16 BUT NORMALLY IT'S A MATTER OF ALLOWING THE SOLICITOR TO
17 HAVE HIS SAY AS TO THE FACTS. WE HAVE OUR SAY AS TO SOME
18 OF THE FACTS AND SOME OF THE MITIGATION AND THEN THE JUDGE
19 RULES AND, BUT IF THERE HAD BEEN AN OBJECTION AS TO SOME OF
20 THE FACTUAL MATTERS OR IF THERE HAD BEEN A INFORMATION
21 BROUGHT TO THE COURT ABOUT BOBBY'S UNDERSTANDING AND
22 POSSIBLY AN OBJECTION BY THE SOLICITOR OR A QUESTION OF
23 COMPETENCY THOSE WOULD ALL BE THINGS THAT THE COURT OF
24 APPEAL COULD RULE ON.

25 AS IT WAS, YOUR HONOR, THERE WAS NOTHING FOR THEM

X
ARGUMENT BY MS. PRATT

130

1 THE COURT: YOU DON'T WISH TO VACATE YOUR
2 CONVICTIONS?

3 APPLICANT JENKINS: NO, SIR.

4 THE COURT: ALL RIGHT, THANK YOU, I FIND YOU DO
5 THAT FREELY AND VOLUNTARILY.

6 MS. PRATT: AND, YOUR HONOR, I THINK IT'S CLEAR
7 FROM THE TESTIMONY OF MS. DEWITT, OF THE DEFENDANT, AND
8 ALSO MS. WEST THAT THERE WERE STATEMENTS MADE TO HIM THAT
9 LED HIM TO REASONABLY BELIEVE THAT THE SENTENCES WOULD BE
10 CONCURRENT RATHER THAN CONSECUTIVE AND I THINK THAT IT'S
11 SOMETHING THAT WE ALL DO. WE ALL TELL OUR CLIENTS WHAT WE
12 GENERALLY THINK WILL HAPPEN. I DO KNOW THAT WE'RE VERY,
13 VERY CAREFUL EVER SINCE MR. JENKINS CASE BECAUSE OF WHAT
14 HAPPENED IN THIS SITUATION.

15 I'M SURE THAT AT SOME POINT IT WAS SAID TO HIM
16 NOTABLY BY JUDGE FLOYD, WELL YOU COULD GET 90 YEARS, BUT I
17 THINK THAT IT'S CLEAR THAT HE HAD A REASONABLE BELIEF THAT
18 IF HE ENTERED A GUILTY PLEA THAT JUST AS IN THE FEDERAL
19 SYSTEM HIS ACCEPTANCE OF RESPONSIBILITY WOULD COUNT TOWARDS
20 A, A LESSER TYPE OF SENTENCE AND INSTEAD, YOUR HONOR, HIS
21 SENTENCES WERE AS YOU NOTED 25 PLUS 25 CONSECUTIVE AND THEN
22 ANOTHER 25 CONCURRENT.

23 YOUR HONOR, I BELIEVE THAT THAT EXPECTATION THAT
24 HE HAD THAT IT WOULD BE CONCURRENT WENT TO THE VERY HEART
25 OF WHAT HE CHOSE TO DO. IT CERTAINLY INFLUENCED HIS, HIS,

X

Exhibit 17

ARGUMENT BY MS. PRATT

131

1 INFLUENCED HIS VOLUNTARINESS, HIS UNDERSTANDING OF WHAT HE
2 WAS DOING, PROBABLY COMPLETELY AFFECTED WHAT HE WAS WILLING
3 TO SAY.

4 ALL THAT HE STATED TO THE JUDGE WAS ONE SENTENCE.
5 IF HAD THOUGHT THAT ANYTHING HE WAS GOING TO SAY MAY HAVE
6 MADE A DIFFERENCE AS FAR AS THE AMOUNT OF SENTENCING I'M
7 SURE THAT HE WOULD HAVE SPOKEN A LOT MORE ABOUT THE FACTS
8 AND HIS INVOLVEMENT AND SO ON AND, YOUR HONOR, THAT WOULD
9 BE THE SECOND POINT OF, OF OUR PRESENTATION THAT THE ENTIRE
10 GUILTY PLEA WAS INEFFECTIVE IN THAT THERE WERE FACTUAL
11 MATTERS THAT REALLY NEEDED TO BE BROUGHT TO JUDGE FLOYD'S
12 UNDERSTANDING AND TO HIS ATTENTION.

13 AS I REVIEWED THE RECORD TRYING TO IMAGINE MYSELF
14 AS THE JUDGE I REALIZED THAT THE ONLY FACTS IN THAT RECORD
15 THAT JUDGE FLOYD HAD AS FAR AS THE INCIDENT ITSELF WAS WHAT
16 MR. HEMBREE SAID AND MR. HEMBREE'S STATEMENTS WOULD BE IN
17 THE KIND OF ARGUMENTS OF COUNSEL COMING FROM THE FACTS THAT
18 HIS INVESTIGATOR HAD RAISED OR THE FACTS THAT HIS VICTIM
19 HAD STATED TO HIM AND CERTAINLY THEY WERE STATED IN SUCH A
20 WAY THAT THEY IMPLICATED ONLY MR. JENKINS BECAUSE IT WAS
21 HIS GUILTY PLEA AND DIDN'T MENTION THE THINGS THAT MIGHT
22 HAVE BEEN EXCULPATORY.

23 THERE WERE SEVERAL EXCULPATORY MATTERS WHICH HAVE
24 BEEN ALLUDED HERE. THE FACT THAT SHE DID NOT IDENTIFY HIM,
25 THE FACT THAT THERE WERE DIFFERENT DESCRIPTIONS, THAT THERE

ARGUMENT BY MS. PRATT

128

1 THE JAIL.

2 THE COURT: WHO'S OUT THERE JUDGE RUSSO OR JUDGE
3 MILLING?

4 A JUDGE RUSSO BUT IT WAS JUST LIKE TWO MORE
5 ATTORNEYS AND MR. WILSON HAD TO GO TO A FUNERAL.

6 THE COURT: ALL RIGHT --

7 MS. PRATT: THAT WOULD BE THE PETITIONER'S
8 SHOWING.

9 THE COURT: ALL RIGHT, WERE YOU PLANNING ON
10 HAVING ANY WITNESSES, MS. CATOE?

11 MS. CATOE: NO, YOUR HONOR.

12 THE COURT: ALL RIGHT, LET ME DO THIS, MR. -- I
13 NOTICED THAT THE ATTORNEYS IN THE NEXT CASE WHO ARE
14 WITNESSES ARE HERE. I KNOW ALSO MS. WILLIAMS IS HERE,
15 SHE'S OVER THERE, IT IS, WE ARE STILL ON THIS CASE AND WE
16 HAVE NOT EVEN TAKEN A LUNCH BREAK YET. I DON'T WANT TO
17 AFFECT YOU ALL'S SCHEDULES. I TOLD MR. ARCHER TO COME BACK
18 AT 3:30. I'M GOING TO LISTEN TO ARGUMENTS IN THIS MATTER,
19 IT WON'T TAKE MORE THAN 10 MINUTES A PIECE I THINK SO --

20 (WHEREUPON, A RECESS WAS TAKEN AND THE FOLLOWING
21 TAKES PLACE ON THE RECORD AFTER THE RECESS.)

22 THE COURT: NOW I'LL BE GLAD TO HEAR FROM YOU,
23 MS. PRATT, REGARDING YOUR CASE.

24 MS. PRATT: THANK YOU, YOUR HONOR. YOUR HONOR,
25 FIRST OF ALL WE WANT TO THANK THE COURT FOR THE AMOUNT OF

Exhibit 18

129

ARGUMENT BY MS. PRATT

1 TIME THAT YOU GAVE US TODAY. THERE WAS A LOT OF
2 INFORMATION THAT WE WANTED TO MAKE SURE WE GOT INTO THE
3 RECORD AND BEFORE YOUR HONOR AND, YOUR HONOR, AGAIN AS I
4 MAKE THIS CLOSING STATEMENT I WILL KIND OF FOLLOW THE PLAN
5 THAT I ANNOUNCED AT THE OPENING.

6 THE FIRST ISSUE I WANT TO ADDRESS IS BOBBY'S
7 EXPECTATION AND HOW THAT GOES TO THE VOLUNTARINESS OF THE
8 PLEA.

9 THE COURT: IF WE CAN FRAME IT, THOUGH, MS.
10 PRATT, AS I UNDERSTAND IT YOU MENTIONED TO ME AT SOME POINT
11 IN TIME YOU WERE NOT INTERESTED IN REQUESTING A NEW TRIAL
12 OR THAT THE GUILTY PLEA BE VACATED?

13 MS. PRATT: WHAT I'M ASKING FOR, YOUR HONOR, IS
14 AN EFFECTIVE SENTENCING PORTION OF THE GUILTY PLEA. MY
15 CLIENT DOES NOT WISH TO HAVE A TRIAL; HE DOES NOT WISH TO
16 ASSERT THAT HE IS NOT GUILTY. HE SAYS ---

17 THE COURT: IS THAT TRUE, MR. JENKINS?

18 APPLICANT JENKINS: YES, SIR.

19 THE COURT: ALL RIGHT, NOW IS THAT YOUR CHOICE,
20 SIR?

21 APPLICANT JENKINS: YES, SIR.

22 THE COURT: THAT'S YOU MADE THAT DECISION, YOU
23 THOUGHT ABOUT IT THAT'S WHAT YOU WANT; YOU'RE JUST SEEKING
24 A NEW HEARING FOR PURPOSES OF SENTENCING?

25 APPLICANT JENKINS: YES, SIR.

Exhibits 1A thru 24A

These Exhibits are Dealing
With my Mental Health
Issue and why there
should of been a mental
to stand trial test. These
Exhibit support my Arguments

Exhibit 1A

MR. JENKINS - CROSS EXAMINATION BY MS. CATOE

70

1 THE COURT: AND YOU HAD FAMILY MEMBERS THERE?

2 A YES, SIR.

3 THE COURT: ALL RIGHT, OKAY. LET'S SEE, NOW ARE
4 YOU GOING TO HAVE SOME MEDICAL EVIDENCE INTRODUCED, MEDICAL
5 EVIDENCE INTRODUCED TODAY REGARDING ANY AFFECT OF HIS HEAD
6 INJURIES ON A FREE AND VOLUNTARILY PLEA?

7 MS. PRATT: YOUR HONOR, HIS SISTERS WILL SPEAK
8 TO THAT. THE MEDICAL RECORDS ARE GONE IT'S SO OLD.

9 THE COURT: BUT ARE YOU, NO, NO, ARE YOU
10 CONTENDING THAT AT HIS PLEA HE DID NOT HAVE SUFFICIENT
11 MENTAL CAPACITY TO ENTER A VOLUNTARY PLEA?

* 12 MS. PRATT: I BELIEVE, YOUR HONOR, IF I CAN
13 STATE IT THAT SOME CARE SHOULD HAVE BEEN TAKEN IN THE WAY
14 HE WAS QUESTIONED DUE TO HIS LESSER UNDERSTANDING. I'M NOT
15 SURE THAT HE'S NOT COMPETENT AND I DON'T WANT TO SAY THAT
16 HE DIDN'T HAVE THE CAPACITY TO ENTER A GUILTY PLEA OR THAT
17 HE WAS, IN SAYING OR ANY OF THOSE KIND OF LEVELS BUT I
18 BELIEVE THAT WHEN JUDGE FLOYD WAS ASKING THE QUESTIONS THAT
19 BOBBY DID NOT HAVE THE UNDERSTANDING OF EXACTLY WHAT EACH
20 QUESTION MEANT BECAUSE OF HIS ---

* 21 THE COURT: WELL ARE YOU CONTENDING HE WOULD
22 HAVE RESPONDED DIFFERENTLY TO SOME OF THE QUESTIONS?

23 MS. PRATT: I THINK HE MIGHT HAVE EXPLAINED
24 THINGS DIFFERENTLY IF ---

25 THE COURT: NO, NO, WOULD MR. JENKINS HAVE

Exhibit 1A

MR. JENKINS - CROSS EXAMINATION BY MS. CATOE

71

1 RESPONDED DIFFERENTLY?

2 MS. PRATT: YEAH, I THINK HE MAY HAVE, YOUR
3 HONOR.

4 THE COURT: LIKE WHAT? GIVE ME AN EXAMPLE.

5 MS. PRATT: YOUR HONOR, WHEN HE WAS ASKED IF HE
6 HAD, LET ME TURN TO THE TRANSCRIPT. AT THE BEGINNING
7 COLLOQUY, YOUR HONOR, PAGE 3, FOR EXAMPLE, LINE 15, THE
8 COURT QUESTIONS, "NOW YOU ARE CHARGED FIRST OF ALL IN THIS
9 INDICTMENT THAT YOU DID ON THE 24TH DAY OF SEPTEMBER 1997
10 COMMIT THE OFFENSE OF KIDNAPPING AND THAT YOU DID SEIZE OR
11 CONFINE OR TAKE OR ABDUCT OR CARRY AWAY ONE SANDRA D.
12 WINSTEAD WITHOUT ANY AUTHORITY OF LAW; IS THAT CORRECT?"
13 AND BOBBY'S ANSWER WAS SIMPLY, "YES, SIR." I THINK, YOUR
14 HONOR, IF ---

15 THE COURT: WELL WAIT A MINUTE. WELL WHAT HE
16 JUST TOLD ME NOW HOW WOULD HE HAVE ANSWERED THAT
17 DIFFERENTLY?

18 MS. PRATT: WELL, YOUR HONOR, I'M NOT SURE FIRST
19 OF ALL THAT HE WOULD UNDERSTAND SEIZE, CONFINE, OR TAKE OR
20 ABDUCT, AND I THINK THAT IF HE'D ACTUALLY BEEN ASKED THE
21 QUESTION ABOUT WHETHER THIS IS THE ONE OR WHETHER IT WAS
22 EXPLAINED TO HIM THAT WITH KIDNAPPING HOLDING SOMEBODY
23 AGAINST THEIR WILL EVEN FOR A SHORT APPRECIABLE PERIOD OF
24 TIME IS KIDNAPPING THEN HE MIGHT HAVE ANSWERED DIFFERENTLY
25 BUT THAT ---

Exhibit 2A

MS. DEWITT - DIRECT EXAMINATION BY MS. PRATT

72

1 THE COURT: HOW, WHAT WOULD HE HAVE SAID THAT,
2 NO, I DID NOT, HE JUST, HE JUST TESTIFIED THAT HE DID IT?

3 MS. PRATT: I THINK WHAT BOBBY WOULD HAVE SAID
4 IF I MAY SAY THIS, YOUR HONOR, IS HE WOULD HAVE SAID I
5 DIDN'T KNOCK HER OFF THE BICYCLE. I DIDN'T DRAG HER INTO
6 THE WOODS AS MR. HEMBREE HAD SAID IN HIS STATEMENT BUT I
7 DID HAVE SEX WITH HER AND I, AND SHE WAS BEING HELD DOWN AT
8 THE TIME.

9 THE COURT: YOU DO REALIZE THAT THE RESPONSES TO
10 QUESTIONS OF THIS NATURE IN ALMOST ALL PLEAS ARE YES, SIR
11 OR NO, SIR AT THIS POINT IN TIME IN A GUILTY PLEA?

12 MS. PRATT: YES, SIR.

13 THE COURT: THAT YES, SIR OR NO, SIR ARE THE
14 COMMON ANSWERS THAT ARE GIVEN. IT'S LATER ON THAT SOMEONE
15 PARTICIPATES IN A EXPLANATION.

16 MS. PRATT: I UNDERSTAND, YOUR HONOR.

X 17 THE COURT: ALL RIGHT, BUT ANYWAY I WAS HOPING
18 THAT YOU WOULD HAVE SOME MEDICAL EVIDENCE THAT MAY INDICATE
19 A DIMINISHED MENTAL CAPACITY THAT HE HAS THAT HE WOULD
20 STILL HAVE AT THIS DAY I WOULD ASSUME. HAS HE GOTTEN ANY
21 MENTAL HEALTH TREATMENT IN THE DEPARTMENT OF CORRECTIONS?

X 22 MS. PRATT: HE RECEIVES ANTIDEPRESSANTS AND I
23 BELIEVE MR. JENKINS MAY BE ABLE TO ANSWER THAT QUESTION.
24 I'M NOT SURE WHETHER HE RECEIVED ANY TREATMENT ---

25 THE COURT: OTHER THAN ANTIDEPRESSANTS ARE YOU

X

Exhibit 2A

MS. DEWITT - DIRECT EXAMINATION BY MS. PRATT

73

1 RECEIVING ANY ---

2 MR. JENKINS: YES, SIR, I GO TO A COUNSELOR.

3 THE COURT: COUNSELOR.

4 MR. JENKINS: UH-HUH, YES, SIR.

5 THE COURT: OKAY, ALL RIGHT, I HAVE NO FURTHER
6 QUESTIONS AND YOU MAY STEP DOWN, SIR.

7 A YES, SIR.

8 THE COURT: UNLESS SOMEBODY HAS GOT ANY OTHER,
9 ANYBODY GOT ANY OTHER QUESTIONS OF HIM?

10 MS. CATOE: NO, SIR, YOUR HONOR.

11 MS. PRATT: YOUR HONOR, I WOULD CALL DELORES
12 DEWITT TO THE WITNESS STAND.

13 THE COURT: MS. DEWITT, GOOD AFTERNOON, HOW YOU
14 DOING, GOOD TO SEE YOU AGAIN.

15 MS. DEWITT: I'M DOING FINE, SIR.

16 DELORES DEWITT

17 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

18 THE COURT: OKAY, MS. DEWITT, IF YOU WOULD GIVE
19 US YOUR FULL NAME?

20 THE WITNESS: DELORES DEWITT.

21 THE COURT: AND WHAT'S HAPPENED TO YOUR LEG
22 THERE, MS. DEWITT?

23 THE WITNESS: I HAD FOOT SURGERY ABOUT TWO WEEKS
24 AGO.

25 THE COURT: SOMETHING ON A SPUR OR SOMETHING?

Exhibit 3A

MS. DEWITT - DIRECT EXAMINATION BY MS. PRATT

79

1 HOW TO PREPARE FOR THIS.

X 2 Q HOW DID IT HAPPEN THAT YOU WERE ACTUALLY AT
3 THE PLEA?

X 4 A I WORKED ACROSS THE HALL FROM THE
5 COURTROOM.

6 Q AND SO WHO CAME AND GOT YOU?

7 A IF I CAN RECALL I BELIEVE IT WAS, I CAN'T
8 REMEMBER. I WANT TO THINK IT WAS MR. GALMORE BUT I CAN'T
9 REMEMBER.

10 Q ALL RIGHT, AND WERE YOU PRESENT THROUGHOUT
11 THE WHOLE PLEA?

12 A YES.

13 Q NOW HOW, HOW DID IT COME ABOUT THAT YOU
14 SPOKE ON BOBBY'S BEHALF?

15 A WELL I WAS, MS. WEST AND MR. GALMORE WANTED
16 ME TO BE THERE FOR MORAL SUPPORT AND, YOU KNOW, JUST TO,
17 YOU KNOW, JUST TO SUPPORT HIM TO BE THERE BUT, YOU KNOW, I
18 DIDN'T HAVE AN OPPORTUNITY TO SAY THE THINGS THAT I, YOU
19 KNOW, REALLY WANTED TO SAY.

20 Q AND, MS. DEWITT, DID THEY, I THINK I MAY
21 HAVE ASKED THIS, DID THEY PREPARE YOU IN ANY WAY OR TELL
22 YOU THE KINDS OF THINGS YOU COULD SAY?

23 A NO.

24 Q SO YOU REALLY DIDN'T KNOW WHAT THINGS THE
25 JUDGE WANTED TO HEAR?

MS. DEWITT - DIRECT EXAMINATION BY MS. PRATT

78

1 Q OKAY, NOW IN REGARDS TO THE INVESTIGATION
2 AND IN PREPARATION FOR THE PLEA DID YOU EVER SPEAK PRIOR
3 TO, JUST BEFORE THE PLEA DID YOU EVER SPEAK TO MR. GALMORE
4 OR MS. WEST?

5 A JUST PRIOR TO, YES.

6 Q DID YOU HAVE AN OPPORTUNITY TO GIVE THEM
7 ANY INFORMATION ABOUT YOUR FAMILY HISTORY?

8 A NO, THEY NEVER ASKED FOR ANY INFORMATION
9 REGARDING THAT?

10 Q DID YOU ACTUALLY TELL THEM ABOUT BOBBY'S
11 ACCIDENT?

12 A NO.

13 Q DID YOU GIVE THEM ANY OTHER FACTS ABOUT
14 YOUR FAMILY THAT MAY HAVE HELPED JUDGE FLOYD TO UNDERSTAND
15 BEFORE HE SENTENCED HIM?

16 A I DON'T RECALL.

17 Q DID YOU TELL THEM ABOUT YOUR FATHER BEING
18 ILL OR --

19 A I DON'T REMEMBER, RECALL AS HAVING THAT
20 CONVERSATION, I COULD HAVE BUT I DON'T RECALL.

21 Q DID THEY PREPARE YOU SO THAT YOU WOULD KNOW
22 WHAT YOU SHOULD SAY TO THE JUDGE?

23 A NO ONE PREPARED ME OR PREPPED ME OR, YOU
24 KNOW, I REALLY DIDN'T KNOW WHAT TO EXPECT OR WHAT TO SAY,
25 NO ONE EVER, YOU KNOW, GAVE ME ANY INDICATION OF, YOU KNOW,

MS. DEWITT - DIRECT EXAMINATION BY MS. PRATT

80

1 A I REALLY DIDN'T KNOW, NO.

2 Q ALL RIGHT, AND I'M GOING TO POINT YOUR
3 ATTENTION TO THE TRANSCRIPT OF THE PLEA, PAGE 18, STARTING
4 FROM LINE 20 AND ASK IF YOU WOULD READ ---

5 THE COURT: WELL I'VE GOT IT IN FRONT OF ME SO
6 WHY DOES SHE NEED TO READ IT, READ IT TO HERSELF YOU MEAN?

7 MS. PRATT: WELL, YES, SIR.

8 THE COURT: ALL RIGHT, JUST READ IT TO YOURSELF,
9 MA'AM.

10 MS. PRATT: (CONTINUING)

11 Q MAY I JUST ACTUALLY HAND YOU PAGE 19 WHERE
12 IT FINISHES THE SENTENCE?

13 A DO YOU WANT ME TO READ THIS OUT LOUD?

14 Q NO, YOU'VE READ IT?

15 A YES.

16 Q SO BASICALLY WHAT WAS THE CONTENT JUST FOR
17 THE RECORD?

18 A JUST SAYING THAT I LOVED HIM AND, YOU KNOW,
19 I WAS THERE TO SUPPORT HIM, I'M NOT CONDONING HIM AND THAT,
20 YOU KNOW, ASKING THE JUDGE TO JUST BE LENIENT WITH HIM, YOU
21 KNOW.

22 Q IF YOU HAD BEEN INSTRUCTED TO SAY OTHER
23 THINGS ABOUT BOBBY WERE THERE GOOD THINGS THAT YOU COULD
24 HAVE TOLD THE COURT ABOUT HIM?

25 A SURE.

MS. DEWITT - DIRECT EXAMINATION BY MS. PRATT

81

1 Q WHAT KINDS OF THINGS WOULD YOU HAVE SAID TO
2 THE COURT AND WANTED JUDGE FLOYD TO CONSIDER?

3 A I WOULD HAVE LET HIM KNOW WHAT TYPE OF
4 FAMILY BACKGROUND THAT WE CAME FROM AND WE CAME FROM A
5 LOVING FAMILY WHERE THERE WERE BOTH PARENTS IN THE HOME,
6 SPIRITUAL UPBRINGING, THOSE TYPE THINGS. BOBBY WAS A VERY
7 CARING AND CONCERNED INDIVIDUAL AND JUST A LOVING PERSON.

8 Q WOULD YOU HAVE TOLD JUDGE FLOYD MORE ABOUT
9 THE ACCIDENT THAT OCCURRED?

10 A YES, AND I WOULD HAVE, YOU KNOW, BROUGHT
11 THAT TO HIS FOREFRONT AS WELL.

12 Q TELL THIS COURT AS IF HE WERE JUDGE FLOYD
13 WHAT YOU WOULD HAVE SAID ABOUT THAT ACCIDENT, WHAT
14 HAPPENED?

15 A WELL I WOULD HAVE LET JUDGE FLOYD KNOW THAT
16 AFTER THE ACCIDENT, YOU KNOW, WITH ALL THE INJURIES THAT
17 BOBBY SUSTAINED IT MADE HIM A DIFFERENT PERSON; HE WASN'T
18 THE SAME PERSON ANYMORE.

19 Q WHAT WAS BOBBY LIKE BEFORE THE ACCIDENT?

20 A BOBBY WAS LIKE I SAID VERY CARING, VERY
21 CONCERNED, VERY INTELLIGENT YOUNG MAN, VERY, LIKE I SAY, WE
22 COME FROM A SPIRITUAL BACKGROUND WHERE, YOU KNOW, WE WERE
23 IN CHURCH CONSTANTLY AND WHAT HAVE YOU AND, YOU KNOW, THOSE
24 TYPE THINGS THAT, YOU KNOW, HE'S JUST A VERY CONCERNED AND
25 LOVING AND CARING PERSON, NOT VIOLENT OR VOLATILE AT ALL.

Exhibit 5A

MS. DEWITT - DIRECT EXAMINATION BY MS. PRATT

82

X1 Q HAD HE EVER BEEN VIOLENT BEFORE THE
2 ACCIDENT? X

X3 A NO.

4 Q OKAY, AND AFTER THE ACCIDENT WHAT KINDS OF
5 THINGS CHANGED?

X6 A WELL HIS, THE TYPE OF FRIENDS THAT HE WAS
7 WITH. HE BECAME INVOLVED WITH DRUGS AND THOSE TYPE THINGS
8 THAT, YOU KNOW, HE NEVER WAS INVOLVED WITH PRIOR TO THIS.

9 Q WHAT KIND OF THINGS DID HE LOOSE BECAUSE OF
10 THE ACCIDENT?

11 A I DON'T UNDERSTAND.

X12 THE COURT: HIS OPPORTUNITY AS FAR AS GOING TO
13 FOOTBALL, GOING TO SCHOOL, GOING TO COLLEGE AND THINGS LIKE
14 THAT? X

15 A RIGHT, THOSE TYPE ---

16 THE COURT: ARE YOU TALKING ABOUT THAT, MS.
17 PRATT?

18 MS. PRATT: THAT'S EXACTLY WHAT I WAS MEANING,
19 YOUR HONOR.

X20 A EXACTLY, THOSE TYPE THINGS, YEAH, THAT HE
21 WOULD HAVE MISSED, WELL, HE MISSED OUT ON, YOU KNOW, HE HAD
22 THE SCHOLARSHIPS TO GO, YOU KNOW, TO CLEMSON OR CAROLINA.
23 HE DIDN'T GET THE OPPORTUNITY TO, YOU KNOW, WITH HIS HIGH
24 SCHOOL, YOU KNOW, PLAYING FOOTBALL IN HIGH SCHOOL, THOSE
X25 TYPE THINGS LIKE THAT, YOU KNOW, WERE TAKEN AWAY. X

Exhibit 5A

MS. DEWITT - DIRECT EXAMINATION BY MS. PRATT

83

1 Q DID HE COMPLETE HIGH SCHOOL?

2 A NO, HE DIDN'T.

3 Q ALL RIGHT, AND PRIOR TO HIS ACCIDENT HE WAS
4 DOING WELL SCHOLASTICALLY?

5 A UH-HUH, VERY WELL.

6 Q OKAY, AFTER HIS ACCIDENT ABOUT WHAT LEVEL
7 DO YOU THINK THAT HIS UNDERSTANDING WOULD HAVE BEEN REDUCED
8 TO?

9 A I WOULD SAY A SEVENTH OR EIGHTH GRADE
10 UNDERSTANDING, MAYBE EVEN A SIXTH GRADE.

11 Q AND YOU BASE THAT ON YOUR OWN OBSERVATIONS
12 OF HIM?

13 A YES.

14 Q AND DO YOU HAVE CHILDREN?

15 A YES, I DO.

16 Q SO YOU KNOW HOW A SIXTH, SEVENTH AND
17 EIGHTH-GRADER THINKS?

18 A YES.

19 Q OKAY, AND YOU BELIEVE THAT HIS
20 UNDERSTANDING WAS LESS?

21 A I THINK IT WAS IMPAIRED, YES.

22 Q NOW DO YOU REMEMBER EXACTLY WHAT HIS
23 INJURIES WERE?

24 A I BELIEVE HE SUSTAINED, I KNOW THAT HIS
25 COLLAR BONE WAS BROKEN, LUNGS PUNCTURED, HEAD INJURY,

Exhibit 6A

MS. DEWITT - DIRECT EXAMINATION BY MS. PRATT

84

1 BROKEN LEG. THERE WAS JUST A NUMBER OF, YOU KNOW, VERY
2 SERIOUS INJURIES.

3 Q DO YOU THINK THAT BOBBY COMPLETELY
4 UNDERSTOOD THE DISCUSSIONS THAT HAPPENED IN FRONT OF YOU?

5 A I DON'T THINK HE FULLY UNDERSTOOD BASED ON
6 HIS COMPETENCY, I DON'T, I DON'T THINK HE DID.

7 Q OKAY, WERE YOU PRESENT AT THE MOTION TO
8 RECONSIDER?

9 A YES, I WAS.

10 Q WHO ELSE WAS PRESENT?

11 A IF I CAN RECALL THERE WAS MY BROTHER IN LAW
12 WILLIAM GAUSE, MY SISTER BARBARA GAUSE, MY MOTHER, THE
13 SOLICITOR, AND I DO BELIEVE THE VICTIM CAME IN LATER, MS.
14 WEST AND MR. GALMORE AND THE JUDGE.

15 Q ALL RIGHT, AND WERE YOU SEATED IN SUCH A
16 POSITION IN THE COURTROOM THAT YOU COULD HEAR WHAT WAS
17 GOING ON?

18 A NO, WE WERE SORT OF OFF TO THE SIDE SO WE
19 REALLY COULDN'T HEAR THE DISCUSSIONS TO KNOW WHAT WAS
20 HAPPENING.

21 Q DID ANYONE ASK YOU TO SAY ANYTHING AT THE
22 MOTION?

23 A NO, THEY DID NOT.

24 Q DID THEY ASK YOU FOR AN AFFIDAVIT?

25 A NO, THEY DID NOT.

Exhibit 6A

MS. DEWITT - DIRECT EXAMINATION BY MS. PRATT

85

1 Q SO YOU HAD NO OPPORTUNITY TO PRESENT ANY
2 FACTUAL INFORMATION SUCH AS WHAT YOU JUST TOLD JUDGE
3 LOCKEMY AND MYSELF?

4 A THAT'S CORRECT.

5 Q DO YOU REMEMBER IF BOBBY SPOKE?

6 A NO, BOBBY DID NOT SPEAK.

7 Q AND WAS THERE A COURT REPORTER?

8 A THERE WAS NO COURT REPORTER PRESENT.

9 Q DO YOU REMEMBER ANY DISCUSSION ABOUT A
10 COURT REPORTER?

11 A LIKE I SAY WE WERE OFF TO THE SIDE SO I
12 COULDN'T REALLY UNDERSTAND WHAT WAS GOING ON OR HEAR WHAT
13 WAS BEING SAID.

14 Q AFTER THE GUILTY -- I THINK YOU SAID FIRST
15 OF ALL THAT NO ONE CONTACTED YOU BEFORE JUST BEFORE THE
16 PLEA; IS THAT RIGHT?

17 A THAT IS CORRECT.

18 Q AFTER THE PLEA AND BEFORE THE MOTION TO
19 RECONSIDER DID ANYONE FROM MS. WEST OR MR. GALMORE'S OFFICE
20 TALK TO YOU ABOUT WHAT NEEDED TO BE DONE IN THE MOTION TO
21 RECONSIDER?

22 A THE ONLY THING I CAN RECALL WAS AFTER THE
23 GUILTY PLEA THEY, MS. WEST AND MR. GALMORE SAID THAT THEY
24 WOULD DO A MOTION TO RECONSIDER THE SENTENCE AND THAT WAS
25 PRETTY MUCH IT THAT I CAN RECALL.

Exhibit 9A

MS. DEWITT - CROSS EXAMINATION BY MS. CATOE

86

1 MS. PRATT: THANK YOU, PLEASE ANSWER ANY
2 QUESTIONS THAT THE COURT OR MS. CATOE MAY HAVE FOR YOU.

3 THE COURT: ALL RIGHT, MS. CATOE.

4 MS. CATOE: MAY IT PLEASE THE COURT, YOUR HONOR.

5 CROSS EXAMINATION

6 BY MS. CATOE:

7 Q LET'S GET THIS ONE OUT OF THE WAY, YOU LOVE
8 YOUR BROTHER VERY MUCH, DON'T YOU?

9 A YES, I DO.

10 Q AND WOULD YOU LIKE HIM TO GET OUT OF PRISON
11 SOONER THAN HE CURRENTLY IS SCHEDULED TO DO?

12 A I WOULD LIKE THAT.

13 Q DIDN'T THE JUDGE AT THE PLEA INVITE YOU
14 BASICALLY TO SAY WHATEVER YOU WANTED TO SAY? IN FACT HE
15 SAID ANYTHING YOU WOULD LIKE TO SAY I'LL BE GLAD TO HEAR
16 YOU?

17 A BUT AT THAT TIME, YOU KNOW, I WAS NOT
18 INSTRUCTED ON WHAT TO SAY SO I WAS NOT FAMILIAR, YOU KNOW,
19 WITH WHAT I WAS TO SAY OR WHAT I WAS NOT TO SAY SO I JUST
20 THOUGHT IT WAS LIKE A MORAL SUPPORT ISSUE, YOU KNOW.

21 Q OKAY, AS A COURT EMPLOYEE WERE YOU AT ALL
22 FAMILIAR WITH THAT PARTICULAR JUDGE?

23 A YES, I KNEW JUDGE FLOYD FOR A VERY LONG
24 TIME.

25 Q OKAY, NOW YOU MENTIONED THAT BOBBY DIDN'T

Exhibit 9A

MS. DEWITT - REDIRECT EXAMINATION BY MS. PRATT

87

1 FULLY UNDERSTAND AT THE PLEA BUT HE DID TELL THE JUDGE THAT
2 HE DID UNDERSTAND, DIDN'T HE?

3 A RIGHT, BECAUSE BASED ON, YOU KNOW, WHAT HE
4 HAD SPOKEN WITH HIS ATTORNEYS ABOUT, YOU KNOW, HE WAS
5 ADVISED NOT TO SPEAK.

6 Q OKAY, NOW HAD MS. WEST KNOWN BOBBY FOR A
7 LONG PERIOD OF TIME?

8 A YES, MS. WEST HAD KNOWN BOBBY FOR A WHILE
9 SO SHE WAS VERY FAMILIAR WITH HIM.

10 Q SO SHE KNEW HIS BACKGROUND?

11 A YES.

12 MS. CATOE: OKAY, NOTHING FURTHER, YOUR HONOR,
13 THANK YOU.

14 THE COURT: ANYTHING ELSE, MS. PRATT?

15 REDIRECT EXAMINATION

16 BY MS. PRATT:

17 Q HOW LONG DO YOU THINK MS. WEST KNEW BOBBY?

18 A WELL SINCE HE HAD BEEN IN, WELL ALLEGEDLY
19 CHARGED, YOU KNOW, WITH THESE CRIMES AND JUST BACK FROM
20 '98, I BELIEVE.

21 Q SHE DIDN'T KNOW HIM PRIOR TO THIS INCIDENT?

22 A I DON'T RECALL, I DON'T RECALL, I DON'T
23 THINK SO. I BELIEVE IT WOULD HAVE BEEN '98.

24 Q OKAY, I THINK IN RESPONSE TO THE A.G.'S
25 QUESTIONS YOU SAID THEY TOLD BOBBY NOT TO SPEAK, DID YOU

MS. DEWITT - REDIRECT EXAMINATION BY MS. PRATT

88

1 SAY THAT?

2 A RIGHT, BECAUSE HE, WHENEVER WE WERE IN THE
3 COURTROOM AND WHAT HAVE YOU LIKE I SAID NO, NO ONE, YOU
4 KNOW, INSTRUCTED US AND WHAT HAVE YOU AND I, IF I CAN
5 RECALL CORRECTLY, I BELIEVE HE WAS TOLD, YOU KNOW, NOT TO
6 SAY ANYTHING AS FAR AS, YOU KNOW, AS FAR AS, I DON'T KNOW
7 WHAT I'M TRYING TO SAY HERE.

8 Q DO YOU REMEMBER ANYTHING THAT THEY DID TELL
9 HIM HE COULD SAY OR WHAT HE SHOULD SAY?

10 A MAYBE I GOT OFF A LITTLE, A LITTLE OFF
11 TRACK HERE BECAUSE I'VE HAD SO MUCH TO HAPPEN AND GOING ON
12 AND MAYBE I MISUNDERSTOOD WHAT, YOU KNOW, WHAT YOU WERE
13 SAYING AND WHAT HAVE YOU.

14 Q THAT'S FINE, THANK YOU, MS. DEWITT, I HAVE
15 NO OTHER QUESTIONS.

16 A I'M SORRY.

17 THE COURT: MS. DEWITT, COULD I ASK YOU
18 SOMETHING, PLEASE?

19 A SURE.

20 THE COURT: THIS THING ABOUT 20 YEARS. NOW MS.
21 WEST OR MR. GALMORE DID NOT TELL MR. JENKINS THAT THE JUDGE
22 HAD PROMISED HE'D GIVE HIM 20 YEARS, DID THEY?

23 A WELL THEY HAD SPOKE, I WAS IN THE CELL, THE
24 HOLDING CELL WITH HIM, HE AND MR. GALMORE, AND THAT WAS THE
25 DISCUSSION THAT HE WOULDN'T GET ANY MORE.

Exhibit 10A

MS. DEWITT - REDIRECT EXAMINATION BY MS. PRATT

89

1 THE COURT: I KNOW THAT, BUT WERE THEY GIVING
2 THAT AS THEIR OPINION OR DID THEY SAY THE JUDGE PROMISED
3 THEY WOULD NOT GIVE HIM --

4 A THEY DIDN'T SAY THE JUDGE, THEY JUST SAID
5 YOU WOULDN'T, YOU SHOULDN'T GET ANY MORE THAN 20 YEARS.

6 THE COURT: WELL SINCE YOU WERE AROUND THE COURT
7 SYSTEM DID YOU INTERPRET THAT AS THEM GIVING THEIR OPINION
8 OR THAT THE JUDGE HAD INDICATED THAT'S WHAT HE WOULD DO?

9 A I JUST, I FIGURED THAT THAT'S SOMETHING
10 THAT THEY HAD DISCUSSED PREVIOUSLY WITH THE JUDGE AND THAT
11 WAS MY ASSUMPTION OF IT.

12 THE COURT: SO YOU'RE SAYING THEY PROMISED HIM
13 HE WOULD GET NO MORE THAN 20 YEARS?

14 A THAT WAS MY ASSUMPTION.

15 THE COURT: WHY WOULD YOU ASSUME THAT

16 A BECAUSE, YOU KNOW, I TRUSTED THEM AND I
17 FIGURED BECAUSE THEY SAID THAT THEY HAD, YOU KNOW, HAD A
18 DISCUSSION PRIOR TO, YOU KNOW, BRINGING THIS INFORMATION TO
19 BOBBY AND MYSELF.

20 THE COURT: SO YOU THOUGHT THE JUDGE WOULD HAVE
21 MADE A DEAL WITH THEM IN THE BACK ROOM AND NOT HAVE SAID IT
22 ON THE RECORD?

23 A THAT WAS, THAT WAS MY ASSUMPTION. LIKE I
24 SAID I JUST ASSUMED THAT, YOU KNOW, THEY TALKED TO THE
25 JUDGE.

Exhibit 10A

90

MS. DEWITT - REDIRECT EXAMINATION BY MS. PRATT

1 THE COURT: SO MR. GALMORE, YOU HEARD MR.
2 GALMORE SAY EARLIER THAT HE THOUGHT HE WOULD GET 30 YEARS?

3 A WELL ACCORDING TO THE DISCUSSION THAT WE
4 HAD WITH BETWEEN BOBBY AND MYSELF AND MR. GALMORE HE SAID
5 NO MORE THAN 20 YEARS.

6 THE COURT: OKAY, BUT YOU HEARD HIM SAY EARLIER
7 TODAY 30 YEARS?

8 A YEAH, I HEARD HIM SAY THAT ON THE RECORD,
9 YES.

10 THE COURT: AND I DON'T THINK I HEARD MR.
11 JENKINS SAY ANYTHING ABOUT 20 YEARS, MS. PRATT? I THOUGHT
12 HE SAID HE WAS GOING TO GET CONCURRENT SENTENCES?

13 MS. PRATT: HE TELLS ME HE SAID 20, YOUR HONOR.

14 THE COURT: ALL RIGHT, ALL RIGHT, SO YOU'RE
15 TELLING ME THAT MS. WEST PROMISED HIM THAT HE WOULD GET NO
16 MORE THAN 20 YEARS?

17 THE WITNESS: (CONTINUING)

18 A THAT WAS MY ASSUMPTION.

19 THE COURT: NO, DID YOU HEAR HER SAY THAT?

20 A YES, SHE TALKED TO ME PERSONALLY, MS. WEST
21 CALLED ME OFF TO THE SIDE SEPARATE AND APART FROM MR.
22 JENKINS AND MR. GALMORE I SPECIFICALLY REMEMBER US STANDING
23 BESIDE THE OFFICE WHERE I WORKED ON THE OUTSIDE WALL AND
24 THAT'S WHAT SHE SAID.

25 THE COURT: AND SHE TOLD YOU THAT HE WOULD GET

Exhibit 11A

MS. DEWITT - REDIRECT EXAMINATION BY MS. PRATT

91

1 NO MORE THAN 20 YEARS?

2 A SHE SAID, SHE SAID NO MORE THAN 20 YEARS.

3 THE COURT: SHE DIDN'T SAY THAT WAS HER OPINION,
4 SHE SAID THAT WAS A FACT?

5 A THAT, THE STATEMENT WAS HE'S, HE'S LOOKING
6 AT NO MORE THAN 20 YEARS AND THAT WAS, YOU KNOW, THAT WAS
7 MY ASSUMPTION THAT SHE HAD SPOKEN TO SOMEBODY, THAT'S WHY,
8 YOU KNOW, I BELIEVED THEM.

9 THE COURT: SO WHEN YOU WERE IN THE COURTROOM
10 AND HEARD THE JUDGE SAY YOU GET THE 90 YEARS WHAT DID YOU
11 THINK?

12 A WELL I KNEW THAT THEY HAD TO GO THROUGH THE
13 FORMALITY, YOU KNOW, THAT THESE CHARGES CARRY, YOU KNOW, I
14 MEAN THESE CHARGES CARRY A CERTAIN NUMBER OF YEARS BUT I
15 JUST ASSUMED ---

16 THE COURT: OF COURSE THAT WOULDN'T BE 90, YOU
17 ONLY COULD GET 85.

18 A RIGHT.

19 THE COURT: BUT IN ANY EVENT YOU THOUGHT THE
20 JUDGE WAS JUST SAYING IT AS A FORMALITY, THAT THERE WAS NO
21 ESSENCE TO IT?

22 A WELL I THOUGHT HE WAS GOING THROUGH THE
23 PENALTIES IS WHAT I WAS SAYING, YOU KNOW, THAT'S WHAT I'M
24 PRETTY MUCH TRYING TO SAY, THE PENALTIES FOR THESE CHARGES.

25 THE COURT: WELL WHEN YOU HEARD ON THE RECORD

Exhibit 12A

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

93

1 WAS STILL UNDER THAT ASSUMPTION, YOU KNOW, THAT THAT WAS
2 WHAT, WHATEVER MS. WEST AND MR. GALMORE TOLD US WAS GOING,
3 YOU KNOW, WAS A FACT, YOU KNOW, THAT THEY HAD LED US TO
4 BELIEVE THAT THAT WAS, YOU KNOW, WHAT HE WOULD INITIALLY
5 GET.

6 THE COURT: WELL ONCE THE JUDGE SENTENCED HIM AS
7 THE JUDGE DID, DID YOU SPEAK TO MS. WEST?

8 A LIKE I SAID AFTER THE FACT AND WHAT HAVE
9 YOU THE ONLY THING THEY SAID WAS THEY WERE GOING TO FILE A
10 MOTION FOR RECONSIDERATION AND THAT WAS IT, THEY WERE OUT
11 OF THERE. I ALMOST HAD A NERVOUS BREAKDOWN. I HAD TO HAVE
12 SOMEBODY TO COME TO ME AND TAKE, YOU KNOW, TO ACTUALLY
13 DRIVE ME HOME.

14 THE COURT: WELL THE MOTION WASN'T HEARD UNTIL
15 THREE MONTHS LATER ---

16 A RIGHT.

17 THE COURT: --- DURING THAT PERIOD OF TIME DID
18 YOU SPEAK WITH THEM?

19 A NO.

20 THE COURT: YOU NEVER SPOKE WITH THEM?

21 A NO.

22 THE COURT: YOU NEVER CALLED THEM AND SAID, WAIT
23 A MINUTE THIS IS NOT WHAT YOU PROMISED?

24 A NO, I DIDN'T BECAUSE AFTER THEY SAID THEY
25 WERE GOING FILE THE MOTION FOR RECONSIDERATION I JUST

EXHIBIT 12A

MS. DEWITT - REDIRECT EXAMINATION BY MS. PRATT

92

1 FROM THE SOLICITOR AND FROM MS. WEST THAT THERE WERE NO
2 PROMISES, NO RECOMMENDATIONS, AND YOU HEARD THE JUDGE ASK
3 YOUR BROTHER HAS ANYBODY MADE YOU ANY PROMISE AND HE SAID,
4 NO, WHAT DID YOU THINK THEN?

5 A I WAS STILL UNDER THE ASSUMPTION THAT WHAT
6 THEY, THAT MR. GALMORE AND MS. WEST WHAT THEY HAD SAID.

7 THE COURT: SO YOU THOUGHT THE JUDGE WAS LYING?

8 A NO, I DIDN'T THINK THE JUDGE WAS LYING, I
9 JUST THOUGHT THAT HE WAS JUST GIVING ALL THIS INFORMATION
10 BECAUSE OF THE CHARGES AND THE PENALTIES AND WHAT HAVE YOU
11 AND I JUST ASSUMED LIKE I SAID THAT THIS IS, YOU KNOW, THAT
12 THEY HAD THIS DISCUSSION WITH THE JUDGE ---

13 THE COURT: SO YOU THOUGHT THAT MEANT NOTHING BY
14 SAYING THAT THERE HAD BEEN NO PROMISES AND NO
15 RECOMMENDATIONS AND THERE ARE NO ASSURANCES OF WHAT
16 SENTENCE YOU'RE GOING TO GET, YOU THOUGHT THAT THAT WAS
17 MEANT NOTHING?

18 A I, I KNOW IT MEANT SOMETHING BUT I JUST
19 ASSUMED THAT BASED ON THE INFORMATION THAT WAS GIVEN US
20 THAT THAT WOULD BE ---

21 THE COURT: SO IT DIDN'T ALARM YOU THAT THE
22 JUDGE AND MS. WEST AND, AND THE SOLICITOR AND EVERYBODY
23 ELSE WAS SAYING SOMETHING DIFFERENT THAT DIDN'T ALARM YOU,
24 IT DIDN'T CONCERN YOU AT ALL?

25 A IT CONCERNED ME BUT I JUST, LIKE I SAID I

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

106

1 MAKING BUT I THINK THAT ALL I, THAT ALL I'VE EVER DONE AND
2 ALL I READ THE STATUTE TO SAY THAT I HAVE TO DO IS MAKE A
3 WRITTEN MOTION WITHIN A CERTAIN AMOUNT OF TIME TO HAVE THE
4 COURT RECONSIDER THE SENTENCE AND I, AGAIN I'VE NEVER PUT
5 ARGUMENTS IN A MOTION TO RECONSIDER.

6 Q NOW AT THE PLEA ITSELF YOU SPOKE ABOUT
7 BOBBY'S AGE AND EDUCATION AND ABOUT HIS DRUG PROBLEM,
8 CORRECT?

9 A YES.

10 Q OKAY, AND YOU ALSO MENTIONED ABOUT HIS
11 ACCIDENT?

12 A I ACTUALLY FOUND OUT ABOUT THAT ACCIDENT
13 NOT EVEN FROM FAMILY MEMBERS BUT FROM A SOLICITOR WHO CAME
14 UP TO ME JUST BEFORE THE PLEA AND, AND TOLD ME THAT
15 INFORMATION.

16 Q AND THAT WAS JIMMY RICHARDSON?

17 A JIMMY RICHARDSON.

18 Q AND YOU HAD KNOWN NOTHING ABOUT IT?

19 A NOT UNTIL JUST THAT DAY AT THAT TIME AND
20 ACTUALLY INTERESTINGLY ENOUGH MR. JENKINS HAD NEVER
21 ACTUALLY SAID ANYTHING TO ME ABOUT IT EITHER.

22 Q OKAY, IN YOUR DISCUSSIONS WITH BOBBY DID
23 YOU THINK THAT HE HAD A GOOD UNDERSTANDING ABOUT WHAT WAS
24 GOING ON?

25 A NO, THAT WAS WHY I WAS ASSISTING.

Exhibit 13A

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

107

1 Q OKAY, CAN YOU EXPLAIN THAT A BIT MORE?

2 A INITIALLY, AND I KNEW HE HAD A SUBSTANCE
3 ABUSE PROBLEM, INITIALLY WHEN HE CAME TO THE DETENTION
4 CENTER IT WOULD BE A WHILE BEFORE THE NEGATIVE IMPACT OF
5 THE SUBSTANCE HE WAS ON WOULD WEAR OFF AND THEN USUALLY WE
6 WAIT A LITTLE WHILE FOR THAT TO HAPPEN AND THEN WE CAN HAVE
7 BETTER CONVERSATIONS CAUSE INITIALLY OBVIOUSLY A GIVEN
8 UNDER THE INFLUENCE OR EVEN THE, THE LATENT UNDER THE
9 INFLUENCE OF DRUGS CAN, CAN AFFECT YOU. BOBBY ENDED UP
10 SPENDING A CONSIDERABLE AMOUNT OF TIME AT THE JAIL BUT
11 AFTER, AFTER HE'D BEEN THERE FOR ABOUT A YEAR CAUSE HE
12 STILL APPEARED TO HAVE SOME OTHER ISSUES THAT IF I DIDN'T
13 KNOW BETTER I WOULD CONTRIBUTE TO A SUBSTANCE ABUSE.

14 Q OKAY --

15 A SO, YEAH.

16 Q YOU FELT THAT HE DID NOT COMPLETELY
17 UNDERSTAND?

18 A NO, I DID NOT.

19 Q DID YOU HAVE TO BREAK IT DOWN FOR HIM?

20 A YES, AND WE DID, AND WE DID. WE, WE, I, I
21 GAVE HIM THE STANDARD. ACTUALLY I PROBABLY EVEN BROUGHT A
22 BOOK AND EXPLAINED WHAT THE ELEMENTS WERE, YOU KNOW, WHAT
23 THEY HAVE TO SHOW AND HOW MUCH TIME YOU WOULD GET; AND LIKE
24 I SAID AT THAT POINT HE HAD THE 85 PERCENT RULE AND HOW
25 THAT WORKED AND I PROBABLY DID A LITTLE CHART WITH MATH TO

Exhibit 14A

MS. WEST - CROSS EXAMINATION BY MS. CATOE

114

1 THE COURT: NOW WE ALL KNOW WE DON'T JUST GUESS,
2 I MEAN YOU REMEMBER, YOU REMEMBER, IF YOU DON'T YOU DON'T.

3 A I WASN'T GOING TO SAY THAT I DID CAUSE I, I
4 DON'T, I MEAN I JUST KNOW THAT THAT WAS THE MAIN BASIS WAS
5 TO, TO RECONSIDER THE CONSECUTIVE SENTENCES.

6 Q DO PEOPLE WHEN THERE'S A MURDER AND A DEAD
7 BODY DO THEY GET THIS AMOUNT OF TIME?

8 A AGAIN ---

9 THE COURT: WELL NOW, MS. PRATT, YES, SOMETIMES,
10 YES, MORE, YES, LESS. I MEAN AM I CORRECT SOMETIMES MORE,
11 SOMETIMES LESS.

12 A THAT'S AN APPROPRIATE ANSWER, YES,
13 SOMETIMES MORE SOMETIMES LESS.

14 Q OKAY, AND REALLY UNTIL JIMMY RICHARDSON
15 TOLD YOU SOMETHING ABOUT THE ACCIDENT ---

16 A I HAD NO IDEA.

17 Q OKAY, SO YOU DIDN'T KNOW TO SAY ANYTHING TO
18 JUDGE FLOYD ABOUT ASKING DIFFERENT QUESTIONS?

19 A BUT WHEN JIMMY HAD MENTIONED IT I DID
20 MENTION AT THE ORIGINAL PLEA THAT HE HAD SUFFERED A PRETTY
21 DEBILITATING ACCIDENT AND THAT HE, NO, ACTUALLY I THINK I
22 SAID HE USED TO PLAY BALL AND THEN HAD SUFFERED THE
23 ACCIDENT AND THAT I HAD GOTTEN THAT INFORMATION FROM A
24 SOLICITOR WHO ACTUALLY HAD PLAYED FOOTBALL WITH HIM AND I
25 DIDN'T SAY THE SOLICITOR'S NAME BUT, BUT THE JUDGE KNEW IT

Exhibit 14A

MS. WEST - CROSS EXAMINATION BY MS. CATOE

115

X 1 WAS JIMMY RICHARDSON BUT I DON'T THINK JIMMY WAS THE ONE
2 THAT ACTUALLY DID THE PLEA IN THIS CASE UNLESS HE DID IT
3 ALONG WITH MR. HEMBREE. I THINK THAT WAS JUST SOME
4 INFORMATION THAT JIMMY IMPARTED TO ME WHEN I WAS GETTING
5 READY TO DO THE PLEA.

X 6 Q DID YOU TELL JUDGE FLOYD THAT BOBBY'S
7 UNDERSTANDING WAS, WAS SLOW OR DIFFERENT OR ASK HIM HIM TO
8 DEAL WITH THE QUESTIONS IN ANY DIFFERENT MANNER?

9 A NO, I DID NOT BECAUSE THAT WASN'T, IT
10 WASN'T THAT KIND OF DIFFICULTY IN UNDERSTANDING, NOT THE
11 ACTUAL NATURE OF THE QUESTION BUT THE WHOLE, SOMETIMES THE
12 CONCEPT OF WHAT WE WERE DOING AS OPPOSED TO NOT
13 UNDERSTANDING THE WORDS I WAS SAYING.

14 MS. PRATT: OKAY, THE COURT'S INDULGENCE. THANK
15 YOU, I HAVE NOTHING FURTHER, MS. WEST.

16 THE COURT: OKAY, MS. CATOE.

17 MS. CATOE: THIS SHOULD BE FAIRLY BRIEF, YOUR
18 HONOR, MAY IT PLEASE THE COURT.

19 CROSS EXAMINATION

20 BY MS. CATOE:

21 Q MS. WEST, DO YOU HAVE ANY IDEA WHERE A 20
22 YEAR FIGURE MIGHT HAVE COME FROM?

23 A NO.

24 Q OKAY --

25 A CAUSE I WOULD HAVE SAID 30, 25, LET'S SEE

Exhibit 15A

Exhibits

CONSULTATION REPORTNAME: BOBBY JENKINS AGE: 19 HOSPITAL #: 8052128 ROOM: ICUCONSULTING PHYSICIAN: P. DAWANI, M.D. DATE: 8-11-88SIGNATURE OF ATTENDING PHYSICIAN: [Signature] M.D.
P. GOPALAKRISHNAN, M.D.

HISTORY: This is a 19 year old black male who has a past history of being involved in a auto accident where he suffered a fracture of the ribs on the left side with some pneumothorax. On routine monitoring in the ICU, patient was found to be in atrial fibrillation and moderate ventricular response. Dr Thourani was asked to see this patient on consultation. The patient denies any history of rheumatic heart disease, any history of heart condition in the past. It is not definite he was in normal sinus rhythm before but apparently he should be.

On examination he had irregular rhythm with moderate ventricular response consistent with atrial fibrillation and moderate ventricular response. There was no murmurs. Otherwise head, eyes, ears, nose, throat were unremarkable. He had a chest tube on the left side. Abdomen soft. Extremities unremarkable. Neurological examination unremarkable.

IMPRESSION: ATRIAL FIBRILLATION WITH MODERATE VENTRICULAR RESPONSE.

SUGGESTIONS: Since patient is pretty stable with moderate ventricular response, he needs workup once his chest tubes are out. He may need a echocardiogram to rule out any valvular heart disease also to rule out any injury to the left atrium or right, which is a remote possibility. Dr Thourani will watch this patient with you.

[Signature] M.D.
P. DAWANI, M.D.

D: 8-11-88

T: 8-11-88

PD/ss

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Division of Medical and Professional Health Services

RELEASE OF MEDICAL INFORMATION TO THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

TO: Richland Memorial
5 Richland Medical Park
Columbia, S.C. 29203

DATE: 4-08-04

RE: Name & SCDC No. Bobby Jenkins
Alias Abdullah Muhammad Ali Majid
Soc. Sec. No. 5-11-7-7-7
Date of Birth 5-11-7-7-7

Injury/Illness: Overdose

Date of Treatment (Month and Year)

How long under treatment:

State if inpatient and/or outpatient:

Physician requesting information: S. Webb, Clinical Counselor / S. Blake, NP

Please furnish us with a copy or summary of the above named patient's medical record while he/she was under your treatment. This information will be confidential and privileged.

This is my authorization for you to release the requested information to the South Carolina Department of Correction:

Division of Medical and Professional Health Services for the purpose of: Mental Health
Concerns

Bobby Jenkins 271240
Patient's Signature SCDC #

April 08, 2004
Date

PLEASE SEND REPLY TO

Shonda Tate, CCC III
Institutional Medicine & Correctional Health

EX

SITS

EXHIBIT 17A

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Division of Medical and Professional Health Services

RELEASE OF MEDICAL INFORMATION TO THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

TO: Waccamaw Mental Health
164 Waccamaw Medical Park Drive
Conway, S.C. 29526

DATE: 4-08-04

RE: Name & SCDC No. Bobby Jenkins #271240
Alias Abdullah Muhammad, Ali Majid
Soc. Sec. No. [redacted]
Date of Birth [redacted]

Injury/Illness: Mental Health Treatment

Date of Treatment (Month and Year)

How long under treatment:

State if inpatient and/or outpatient:

Physician requesting information: S. Jabb, Clinical Counselor / S. Blatter, NP

Please furnish us with a copy or summary of the above named patient's medical record while he/she was under your treatment. This information will be confidential and privileged.

This is my authorization for you to release the requested information to the South Carolina Department of Corrections:

Division of Medical and Professional Health Services for the purpose of: Mental Health
Concerns.

Bobby Jenkins 271240
Patient's Signature SCDC #

April 08, 2004
Date

PLEASE SEND REPLY TO:

NAME: Yolanda Jabb, CCC III
INSTITUTION: McCormick Correctional Institute

MDCI880D
OMINMDCA

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
SCDC HEALTH SERVICES: MEDICAL SUMMARY

06/26/14
C045560

SCDC# 271240 JENKINS, BOBBY C.

PAGE 2

REMORSE AND GUILT. CCC COUNSELED THESE ARE NORMAL FEELINGS BUT NOT TO LET IT BECOME OVERWHELMING. I/M HAD NO OTHER QUESTIONS OR CONCERNS FOR CCC.

A DX: MOOD D/O NOS

GAF: 72

I/M APPEARED ALERT, ORIENTED AND NO OVERT PSYCHOSIS NOTED. THOUGHT PROCESS LINEAR. SPEECH/TONE NORMAL. AFFECT STRESSED, MOOD DYSTHYMIC. SLEEP POOR, APPETITE GOOD. DENIED SI/HI/AVH/SIB. GOOD EYE CONTACT, COOPERATIVE AND RESPECTFUL ATTITUDE.

P CCC WILL MONITOR AND SCHEDULE QUARTERLY PSYCH CLINICS PER SCDC POLICY. SIGNED OFF ON 05/13/14 @ 10:55 BY KARYN RAE MCGUCKEN, HUMAN SERVICES COORD I

** ENCOUNTER: 710 MENTAL HEALTH CLINIC 05/09/14 12:15 PERRY COMP
PT SCHEDULED BY MISTAKE, PT SAID HE IS DOING WELL, PLEASE KEEP APPOINTMENT
I SET ON 4/26/14
SIGNED OFF ON 05/09/14 @ 12:15 BY JIMMY PACHECO-PEREZ, UNCLASSIFIED
SIGNED OFF ON 05/13/14 @ 8:08 BY KARYN RAE MCGUCKEN, HUMAN SERVICES COORD I

** ENCOUNTER: 705 MENTAL HEALTH CLINIC 04/26/14 13:32 PERRY COMP
S- PT SEEN AND EVALUATED. PT DESCRIBES PROBLEMS WITH DEPRESSION, FLASHBACKS AND MOOD SWINGS. WE WILL TRY PAMLEOR WHICH HELPED SOME AT A LOWER DOSE A WHILE AGO SO WE WILL TITRATE TO 150. DEPAKOTE CAUSED BAD SIDE EFFECTS
PT DENIES SI/HI
O- AOX3 PLEASANT AND COOPERATIVE. MOOD MILDLY DEPRESSED AFFECT CONSTRICTED.
DENIES PSYCHOSIS. DENIES SI/HI
A- MOOD DISORDER NOS
P- PAMELOR TITRATE TO 150
RTC 6 WEEKS

P> NORTRIPTYLINE 50MG CAPS (PAMELOR)
SIG: 1 PO AT HS X 1 WEEK THEN 2 AT HS X 1 WEEK THEN 3 AT
SIG: HS
START DATE: 04/26/14 TOTAL DAYS: 180
MD: PACHECO, JIMMY -
SIGNED OFF ON 04/26/14 @ 13:36 BY JIMMY PACHECO-PEREZ, UNCLASSIFIED
WILL UPDATE MAR WHEN MEDICATION/STICKER ARRIVES FROM KCI PHARMACY. WILL FORWARD THIS ENC TO CCC SO RTC APPT. CAN BE SCHEDULED.
SIGNED OFF ON 04/28/14 @ 1:52 BY JAMILA P THOMAS, REGISTERED NURSE I
SIGNED OFF ON 04/28/14 @ 15:47 BY KARYN RAE MCGUCKEN, HUMAN SERVICES COORD I

** ENCOUNTER: 702 MENTAL HEALTH CLINIC 04/16/14 15:38 PERRY COMP
D CCC MET W/I/M AT HIS CELL DOOR IN SMU. I/M CONTINUES TO REPORT HE IS NOT DOING WELL AND WANTS TO KNOW WHEN HE'S SEEING THE DR. CCC INFORMED HIM SHE HAD SUBMITTED HIS NAME FOR PSYCH CLINIC AND WILL F/U ON IT. I/M SAID HE NEEDS HIS MEDS. HE TRIES TO READ BUT HAS DIFFICULTY CONCENTRATING. CCC ENCOURAGED HIM TO REMAIN PATIENT UNTIL HE CAN BE SEEN. I/M SAID HE'S TRYING BUT IT'S DIFFICULT. HE HAD NO OTHER QUESTIONS OR CONCERNS FOR CCC.
A DX: I.E.D., DEPRESSION

GAF: 72

I/M APPEARED ALERT, ORIENTED AND NO OVERT PSYCHOSIS NOTED. THOUGHT PROCESS AND CONTENT NORMAL. AFFECT DISTRESSED, MOOD DYSTHYMIC. SLEEP/APPETITE - "SO-SO." DENIED SI/HI/AVH/SIB. GOOD EYE CONTACT.

MDCI880D
OMINMDCA

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
SCDC HEALTH SERVICES: MEDICAL SUMMARY

06/26/14
C045560

SCDC# 271240 JENKINS, BOBBY C.

PAGE 5

I/M WAS PRESENTED TO TX TEAM. TX PLAN TO CONTINUE TO WORK ON ANGER MGMT SKILLS WAS APPROVED. HARD COPY IS IN HIS MEDICAL FILE. NEXT REVIEW 6/30/14 SIGNED OFF ON 01/14/14 @ 8:22 BY KARYN RAE MCGUCKEN, HUMAN SERVICES COORD I

** ENCOUNTER: 643 MENTAL HEALTH CLINIC 12/31/13 14:47 PERRY COMP
INC NOTE
CCC MET W/I/M AT PROGRAMS TO OBTAIN INPUT FROM I/M FOR HIS TX PLAN.
I/M SAID HE'S STILL DOING "ALRIGHT." HE SAID HE WORRIES A LOT ABOUT HIS FAMILY, GETTING OUT OF PRISON AND "DYING BACK THERE." HE SAID HE ALSO FEELS ANGRY A LOT. CCC ASKED IF HE'D BE INTERESTED IN ATTENDING AN ANGER MANAGEMENT GROUP AND I/M REPLIED HE WOULD. CCC WILL REFER HIM TO MS. HARRIS AS CCC'S GROUP IS ALREADY IN PROGRESS. CCC WILL DEVELOP TX PLAN AROUND THE ABOVE ISSUES.
SIGNED OFF ON 01/02/14 @ 8:53 BY KARYN RAE MCGUCKEN, HUMAN SERVICES COORD I

** ENCOUNTER: 629 MENTAL HEALTH CLINIC 11/19/13 15:47 PERRY COMP
MENTAL HEALTH NOTE 90 DAY F/U
D CCC MET W/I/M AT PROGRAMS. I/M REPORTED HE'S DOING ALRIGHT. HE STATED HE "SPAZED OUT" ON ANOTHER I/M AT WORK. HE STAYED MAD FOR THAT DAY AND ALL OF THE NEXT DAY AND WAS STILL ON HIS MIND. WE TALKED ABOUT WAYS OF LETTING GO OF ANGER. I/M SEEMED OPEN BUT UNSURE IF HE COMPREHENDED. HE SAID HIS MEDS ARE OK AND DENIED ANY SIDE EFFECTS. HE COMPLAINED ABOUT LOW ENERGY HE'S BEEN EXPERIENCING FOR 6 MOS.-A YEAR. HE SAID HE'S MADE SEVERAL SICK CALLS BUT HASN'T GOTTEN ANY INFO OR ANSWERS AS TO WHAT MIGHT BE CAUSING IT. I/M SAID IN HIS OFF TIME HE WORKS OUT OR WATCHES TV ON THE ROCK. I/M HAD NO OTHER QUESTIONS OR CONCERNS FOR CCC. CCC WILL LEAVE OPEN FOR MEDICAL.
A DX: IED, PTSD
GAF: 74
I/M APPEARED ALERT, ORIENTED AND NO OVERT PSYCHOSIS NOTED. THOUGHT PROCESS COHERENT/LOGICAL, CONTENT NORMAL. AFFECT NORMAL, MOOD EUTHYMIC. SLEEP AND APPETITE GOOD. DENIED SI/HI/AVH. PLEASANT, GOOD EYE CONTACT, NEATLY GROOMED.
P CCC WILL MONITOR AND SCHEDULE QUARTERLY PSYCH CLINICS PER SCDC POLICY.
SIGNED OFF ON 11/21/13 @ 14:27 BY KARYN RAE MCGUCKEN, HUMAN SERVICES COORD I
PLEASE REVIEW ENCS. I HAVE REVIEWED ALL SICK CALL ENC FOR THIS YEAR AND NO MENTIONED OF C/O DURING SICK CALL VISIT OR RECENT APPT WITH MD LEWIS
INMATE CAN SIGN UP FOR SICK CALL TO HAVE PROBLEM ADDRESSED
SIGNED OFF ON 11/21/13 @ 14:49 BY DONNA A GREEN, LICENSED PRACTICAL NURSE
SIGNED OFF ON 11/27/13 @ 15:49 BY KARYN RAE MCGUCKEN, HUMAN SERVICES COORD I

** ENCOUNTER: 626 MENTAL HEALTH CLINIC 11/08/13 14:06 PERRY COMP
NURSING REPORTS IM SIGNED REFUSAL FO R TRAZODONE
P. D/C TRAZODONE
SIGNED OFF ON 11/08/13 @ 14:07 BY EILEEN DELANY, UNCLASSIFIED
TRAZODONE REMOVED FROM MAR AND PILL PACK.
SIGNED OFF ON 11/08/13 @ 14:57 BY KATHERINE WATSON BURGESS, REGISTERED NURSE

** ENCOUNTER: 620 MENTAL HEALTH CLINIC 10/10/13 11:30 PERRY COMP
S. PSYCH MED CLINIC PER VIDEO
O. IM DOES NOT FEEL ANY BETTER SINCE STARTING DEPAKOTE. HE IS STILL HAVING

Exhibit 20A

MDCI880D
OMINMDCA

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS SCDC HEALTH SERVICES: MEDICAL SUMMARY

06/26/14
C045560

SCDC# 271240 JENKINS, BOBBY C.

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P: WILL SEE AGAIN IN 90 DAYS.

J. WILLIAMS, CCCV

SIGNED OFF ON 08/20/09 @ 23:39 BY JOHNNY N WILLIAMS, HUMAN SERVICES COORD II

** ENCOUNTER: 357 MENTAL HEALTH CLINIC 08/20/09 17:45 MCCORMICK COMP
CCC NOTE: I/M WAS A NO-SHOW FOR SUBSTANCE ABUSE GROUP. HE WAS PAGED OVER THE
PA. SYSTEM. HE WILL BE RESCHEDULED FOR NEXT TUESDAY GROUP.

J. WILLIAMS, CCCV

SIGNED OFF ON 08/20/09 @ 17:46 BY JOHNNY N WILLIAMS, HUMAN SERVICES COORD II

** ENCOUNTER: 356 MENTAL HEALTH CLINIC 08/18/09 16:18 MCCORMICK COMP
GROUP NOTE: I/M SEEN FOR SUBSTANCE ABUSE GROUP. THE MAIN FOCUS WAS TO ASSIST
I/M IN ENHANCING HIS AWARENESS OF THE DIFFERENCE BETWEEN USE & ABUSE, INFORM
ING I/M THAT HE HAS A CHOICE OF WHETHER OF NOT TO USE & THAT THE CHOICE IS
HIS & HIS ALONE AND HELP I/M REALIZE THAT MOST DECISIONS USUALLY RESULT IN
SOME TYPE OF IMPACT ON THEIR LIFE EITHER POSITIVE OR NEGATIVE. GOOD PROGRESS
AND PARTICIPATION.

J. WILLIAMS, CCCV

SIGNED OFF ON 08/18/09 @ 16:23 BY JOHNNY N WILLIAMS, HUMAN SERVICES COORD II

** ENCOUNTER: 355 MENTAL HEALTH CLINIC 08/13/09 14:55 MCCORMICK COMP
GROUP NOTE: I/M SEEN FOR SUBSTANCE ABUSE GROUP. THE MAIN FOCUS WAS TO
ADMINISTER PRE-TEST TO ASSESS INMATE'S KNOWLEDGE OF VARIOUS ASPECTS OF
SUBSTANCE ABUSE, GIVE OUT "SELF-ASSESSMENT" QUESTIONNAIRES, AND CONCLUDE WITH
THE NAME QUIZ GAME. GOOD PROGRESS/PARTICIPATION.

J. WILLIAMS, CCCV

SIGNED OFF ON 08/13/09 @ 14:58 BY JOHNNY N WILLIAMS, HUMAN SERVICES COORD II

** ENCOUNTER: 353 MENTAL HEALTH CLINIC 08/11/09 11:33 MCCORMICK COMP
GROUP NOTE: I/M SEEN FOR SUBSTANCE ABUSE GROUP. THE MAIN FOCUS WAS TO
PROVIDE CLIENT WITH A GENERAL OVERVIEW OF THE SUBSTANCE ABUSE GROUP TO
INCLUDE PURPOSE OF THE GROUP, RULES, GOALS & DEFINITION OF SOME TERMS THAT
WILL BE USED AND PROVIDE MENTALLY-ILL INMATES WITH HOLISTIC KNOWLEDGE OF
ALL ASPECTS ON SUBSTANCE ABUSE/DEPENDENCY. GOOD PROGRESS/PARTICIPATION.

J. WILLIAMS, CCCV

SIGNED OFF ON 08/11/09 @ 11:38 BY JOHNNY N WILLIAMS, HUMAN SERVICES COORD II

** ENCOUNTER: 346 MENTAL HEALTH CLINIC 05/30/09 10:41 MCCORMICK COMP
S: I/M SEEN FOR FOLLOW-UP. HAS A HISTORY OF DEPRESSION. STATES HE IS STILL
FEELING DOWN, DOESN'T FEEL LIKE THE ZOLOFT IS HELPING AND FEELS LIKE IT
HIM IN A FOG- ALSO WITH DRY MOUTH AND EYES. DIFFICULTY SLEEPING, POOR AP
PETITE, DECREASED INTERESTS. STATES HE HAS HAD SOME SI IN PAST BUT DENIES
CURRENTLY. WOULD LIKE TO TRY SOMETHING DIFFERENT FOR DEPRESSION. DENIES A
NY HISTORY OF MANIA BUT STATES THAT HIS ENERGY LEVEL WAS INCREASED ON WELBU
TRIN BUT 'WORE OFF.'

O: ALERT, ORIENTED, MOOD DOWN, AFFECT FULL APPEARING. TP LOGICAL. DENIES
SI/HI/AVH

A: MDD

P: WILL D/C ZOLOFT AND GIVE TRIAL OF CELEXA 20MG PO QAM. OBSERVE FOR ANY M
ANIC SYMPTOMS.

Exhibit 21A

MDCI880D
OMINMDCA

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS SCDC HEALTH SERVICES: MEDICAL SUMMARY

06/26/14
C045560

SCDC# 271240 JENKINS, BOBBY C.

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TIME FOR JUMA SERVICES IS CHANGED HE HOPES TO REENTER LONG TERM OFFENDER GROUP.

A: I/M A/O IN ALL SPHERES. AFFECT CALM, SMILING AND CONGRUENT TO MOOD. GOOD EYE CONTACT. CLEAR COHERENT SPEECH. LOGICAL THOUGHT PATTERN. GROOMING NEAT NO SIGNS OF DEPRESSION OR ANXIETY. SYMPTOMS APPEAR TO BE UNDER GOOD CONTROL WITH CURRENT MED REGIMEN. GAF-70.

P: WILL SEE AGAIN IND IN 90 DAYS. A. LOGAN, CCCIV.

SIGNED OFF ON 03/15/05 @ 9:46 BY ADRIENNE N LOGAN, HUMAN SERVICES COORD I

- ** ENCOUNTER: 156 MENTAL HEALTH CLINIC 01/28/05 14:25 MCCORMICK COMP
GROUP NOTE: I/M NO SHOW FOR LTO GROUP TODAY. A. LOGAN, CCCIV.
SIGNED OFF ON 01/28/05 @ 14:25 BY ADRIENNE N LOGAN, HUMAN SERVICES COORD I
- ** ENCOUNTER: 153 MENTAL HEALTH CLINIC 01/07/05 13:17 MCCORMICK COMP
GROUP NOTE: I/M PRESENT FOR LTO GROUP. A. LOGAN, CCCIV.
SIGNED OFF ON 01/11/05 @ 8:55 BY LEWIS ASHLEY, HUMAN SERVICES COORD I
- ** ENCOUNTER: 152 MENTAL HEALTH CLINIC 12/03/04 14:07 MCCORMICK COMP
GROUP NOTE: I/M PRESENT FOR LTO GROUP. A. LOGAN, CCCIV.
SIGNED OFF ON 12/03/04 @ 14:07 BY ADRIENNE N LOGAN, HUMAN SERVICES COORD I
- ** ENCOUNTER: 148 MENTAL HEALTH CLINIC 11/17/04 14:38 MCCORMICK COMP
GROUP NOTE: I/M NO SHOW FOR LTO GROUP. A. LOGAN, CCCIV.
SIGNED OFF ON 11/17/04 @ 14:38 BY ADRIENNE N LOGAN, HUMAN SERVICES COORD I
- ** ENCOUNTER: 146 MENTAL HEALTH CLINIC 11/09/04 15:16 MCCORMICK COMP
GROUP NOTE: I/M PRESENT FOR LTO GROUP. A. LOGAN, CCCIV.
SIGNED OFF ON 11/09/04 @ 15:16 BY ADRIENNE N LOGAN, HUMAN SERVICES COORD I
- ** ENCOUNTER: 144 MENTAL HEALTH CLINIC 10/28/04 10:57 MCCORMICK COMP
TX TEAM SUMMARY NOTE: CCCS ASHLEY, LOGAN AND RN BLEDSOE PRESENT. I/M STAFFE D FOR TX PLAN REVIEW; REVIEW ACCEPTED. A. LOGAN, CCCIV.
SIGNED OFF ON 10/28/04 @ 10:57 BY ADRIENNE N LOGAN, HUMAN SERVICES COORD I
- ** ENCOUNTER: 141 MENTAL HEALTH CLINIC 10/25/04 10:05 MCCORMICK COMP
GROUP NOTE: L/E FROM 10-08-04; I/M PRESENT FOR LTO GROUP. A. LOGAN, CCCIV.
SIGNED OFF ON 10/25/04 @ 10:12 BY ADRIENNE N LOGAN, HUMAN SERVICES COORD I
- ** ENCOUNTER: 137 MENTAL HEALTH CLINIC 10/11/04 15:01 MCCORMICK COMP
GROUP NOTE: L/E FROM 10-08-04; I/M PRESENT FOR LONG TERM OFFENDER GROUP. A. LOGAN, CCCIV.
SIGNED OFF ON 10/11/04 @ 15:01 BY ADRIENNE N LOGAN, HUMAN SERVICES COORD I
- ** ENCOUNTER: 128 MENTAL HEALTH CLINIC 08/20/04 14:36 MCCORMICK COMP
GROUP NOTE: I/M PRESENT FOR CURRENT EVENTS GROUP. A. LOGAN, CCCIV.
SIGNED OFF ON 08/20/04 @ 14:36 BY ADRIENNE N LOGAN, HUMAN SERVICES COORD I
- ** ENCOUNTER: 123 MENTAL HEALTH CLINIC 07/26/04 11:09 MCCORMICK COMP
GROUP NOTE: L/E FROM 7-23-04; I/M PRESENT FOR CURRENT EVENTS GROUP. A. LOGAN, CCCIV.

SCDC# 271240 JENKINS, BOBBY C.

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OPRIATE.MOOD AND AFFECT SOMEWHAT STRESSED.MILD DEPRESSION WITH ANXIETY.NO S
/H IDEATION.STABLE.ADJUSTMENT SATISFACTORY.GAF=75

P:REQUEST MED EVALUATION.SEE I/M AGAIN IN 90 DAYS.J.WILLIAMS,CCCIV.

SIGNED OFF ON 05/23/06 @ 11:04 BY JOHNNY WILLIAMS, HUMAN SERVICES COORD I

** ENCOUNTER: 190 MENTAL HEALTH CLINIC 05/12/06 15:03 MCCORMICK COMP
GROUP NOTE:I/M PRESENT FOR SELF-DISCOVERY GROUP.J.WILLIAMS,CCCIV.
SIGNED OFF ON 05/12/06 @ 15:04 BY JOHNNY WILLIAMS, HUMAN SERVICES COORD I

** ENCOUNTER: 187 MENTAL HEALTH CLINIC 04/13/06 15:00 MCCORMICK COMP
CCC NOTE/TX TEAM/6 MONTH REVIEW/GOOD PROGRESS ON TX PLAN.COMPLIANT WITH PSY
CH MEDS.CONTINUE WITH OBJS.AS OUTLINED.REVIEW AGAIN IN 6 MONTHS.TEAM MEMBER
S WERE CCCS TABB,WILLIAMS AND NURSE POWELL.J.WILLIAMS/CCCIV.
SIGNED OFF ON 04/13/06 @ 15:04 BY JOHNNY WILLIAMS, HUMAN SERVICES COORD I

** ENCOUNTER: 185 MENTAL HEALTH CLINIC 03/23/06 15:25 MCCORMICK COMP
GROUP NOTE:I/M PRESENT FOR GROUP.J.WILLIAMS/CCCIV.
SIGNED OFF ON 03/23/06 @ 15:26 BY JOHNNY WILLIAMS, HUMAN SERVICES COORD I

** ENCOUNTER: 183 MENTAL HEALTH CLINIC 02/15/06 9:54 MCCORMICK COMP
D/I/M SEEN TODAY FOR IND.SESSON.I/M REPORTS THAT HE IS DOING OKAY WITH NO
MAJOR COMPLIANTS.I/M STATED HE WAS A LITTLE DEPRESSED BECAUSE HE HASN'T HEA
RD FROM HIS FAMILY IN A COUPLE OF MONTHS.I/M SHARED WITH THIS COUNSELOR THA
T HE LOST HIS VISITATION RIGHTS FOR A YEAR DUE TO HIM BEING GUILTY OF FAILI
NG A DRUG TEST.I/M STATED HIS YEAR IS ALMOST UP.I/M STATED THAT HE MEDS ARE
HELPING,BUT HE FEELS THEY CAN BE A LOT MORE EFFECTIVE.I/M EXPLIANED TO WORK
ER WHAT HE WAS GOING THROUGH WHICH MADE THIS WRITER ACUTELY AWARE OF WHY TH
IS I/M FEELS HIS MEDS ARE NOT WORKING EFFECTIELY.THIS COUNSELOR EXPLIANED T
O THE I/M THE ROLE HIS DEPRESSION PLAYS IN HIS LIFE WHEN HE PLACES HIMSELF
IN SITUATIONS THAT ARE CONDUCIVE TO ONE BECOMING EXTREMELY DEPRESSED.THIS W
ORKER URGDED THE I/M TO CONTINUE TO REMAIN MEDICATION COMPLIANT AND UTILIZE
STRESS MGT TECHNIQUES.

A/I/M WAS COOPERATIVE AND PLEASANT DURING OUR SESSION TOGETHER.I/M WAS ORIE
NTED TO ALL SPHERES W/CLEAR THOUGHT PROCESS.BEHAVIOR IS APPROPRIATE.MOOD AN
D AFFECT WNL.I/M DENIED ANY S/H IDEATIONS OR PLANS.MILD DEPRESSION W/NO ANX
IETY.I/M APPEARS TO BE CLINICALLY STABLE.GAF=70

P/WILL BE SEEN PRN.

SIGNED OFF ON 02/15/06 @ 10:15 BY JOHNNY WILLIAMS, HUMAN SERVICES COORD I

** ENCOUNTER: 175 MENTAL HEALTH CLINIC 10/27/05 14:57 MCCORMICK COMP
CCC NOTE/TREATMENT TEAM/6 MONTH REVIEW/GOOD PROGRESS ON TREATMENT PLAN. HE
IS NOT FULLY SATISFIED WITH MEDS. SOME DAYS WHEN DEPRESSION IS BAD, BUT GEN
ERALLY IN GOOD CONTROL. CONTINUE WITH CURRENT PLAN AND REVIEW AGAIN IN 6
MONTHS. TEAM MEMBERS WERE CCCS TABB, ASHLEY AND NURSE POWELL. ASHLEY/CCCIV
SIGNED OFF ON 10/27/05 @ 15:00 BY LEWIS ASHLEY, HUMAN SERVICES COORD I

** ENCOUNTER: 174 MENTAL HEALTH CLINIC 10/24/05 9:52 MCCORMICK COMP
D>PATIENT SEEN TODAY FOR FOLLOW-UP. HE REPORTS THAT GENERALLY HE IS OK, BUT
STILL HAS SOME DAYS WHEN THE DEPRESSION IS VERY BAD. HE FEELS THAT THE WELL
BUTRIN HAS BEEN HELPFUL, BUT THAT MAYBE IT NEEDS TO BE INCREASED. "SOME

Exhibit 23A

MDCI880D
OMINMDCA

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS SCDC HEALTH SERVICES: MEDICAL SUMMARY

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DAYS I CAN HARDLY MOVE AROUND." SOME PROGRESS NOTED ON TREATMENT PLAN. I TOLD INMATE I WOULD DISCUSS THE MEDICATION ISSUE WITH MS DELANY.
A>PATIENT IS APPROPRIATELY ORIENTED WITH CLEAR THOUGHT PROCESS. BEHAVIOR IS APPROPRIATE. MOOD AND AFFECT WNL. MILD DEPRESSION WITH ANXIETY. NO S/H IDEA TION. STABLE. ADJUSTMENT SATISFACTORY. GAF=70.
P>REQUEST MED EVALUATION. SEE PATIENT AGAIN AT MED EVALUATION. ASHLEY/CCCIV SIGNED OFF ON 10/24/05 @ 10:01 BY LEWIS ASHLEY, HUMAN SERVICES COORD I

** ENCOUNTER: 173 MENTAL HEALTH CLINIC 10/18/05 14:25 MCCORMICK COMP
CCC NOTE/INMATE SCHEDULED FOR APPOINTMENT TODAY BY OTR. HE DID NOT APPEAR. RESCHEDULE. L. ASHLEY/CCCIV.
SIGNED OFF ON 10/18/05 @ 14:26 BY LEWIS ASHLEY, HUMAN SERVICES COORD I

** ENCOUNTER: 167 MENTAL HEALTH CLINIC 07/29/05 10:53 MCCORMICK COMP
D>PATIENT SEEN TODAY FOR FOLLOW-UP. HE REPORTS THAT HE IS DOING WELL WITH NO PROBLEMS OR COMPLAINTS. HE STATED THAT HIS MEDS ARE HELPING, BUT HE WOULD LIKE TO HAVE ANOTHER EVALUATION WHEN POSSIBLE. CONTINUES GOOD PROGRESS ON TREATMENT PLAN WITH ANXIETY IN GOOD CONTROL.
A>PATIENT IS APPROPRIATELY ORIENTED WITH CLEAR THOUGHT PROCESS. BEHAVIOR IS APPROPRIATE. MOOD AND AFFECT WNL. NO DEPRESSION OR ANXIETY NOTED. NO S/H IDEATION. STABLE. ADJUSTMENT GOOD. GAF=80
P>SEE AGAIN IN 90 DAYS. ARRANGE MED EVALUATION WHEN POSSIBLE. ASHLEY/CCCIV. SIGNED OFF ON 07/29/05 @ 11:24 BY LEWIS ASHLEY, HUMAN SERVICES COORD I

** ENCOUNTER: 163 MENTAL HEALTH CLINIC 04/28/05 12:22 MCCORMICK COMP
TX TEAM SUMMARY NOTE: CCCS ASHLEY, LOGAN, TABB AND RN POWELL PRESENT. I/M STAFFED FOR TX PLAN REVIEW. REVIEW ACCEPTED. A. LOGAN, CCCIV.
SIGNED OFF ON 04/28/05 @ 12:23 BY ADRIENNE N LOGAN, HUMAN SERVICES COORD I

** ENCOUNTER: 162 MENTAL HEALTH CLINIC 04/27/05 14:15 MCCORMICK COMP
GROUP NOTE: I/M PRESENT FOR STRESS MANAGEMENT GROUP. A. LOGAN, CCCIV
SIGNED OFF ON 04/27/05 @ 14:17 BY ADRIENNE N LOGAN, HUMAN SERVICES COORD I

** ENCOUNTER: 160 MENTAL HEALTH CLINIC 04/15/05 15:48 MCCORMICK COMP
GROUP NOTE: I/M DORM WAS ON LOCKDOWN THEREFORE INMATE WAS NOT ABLE TO ATTEN D LTO GROUP. A. LOGAN, CCCIV.
SIGNED OFF ON 04/15/05 @ 15:48 BY ADRIENNE N LOGAN, HUMAN SERVICES COORD I

** ENCOUNTER: 159 MENTAL HEALTH CLINIC 04/12/05 13:40 MCCORMICK COMP
GROUP NOTE: I/M PRESENT FOR STRESS MGMT GROUP. A. LOGAN, CCCIV.
SIGNED OFF ON 04/12/05 @ 13:41 BY ADRIENNE N LOGAN, HUMAN SERVICES COORD I

** ENCOUNTER: 157 MENTAL HEALTH CLINIC 03/15/05 9:35 MCCORMICK COMP
D:L/E FROM 3-11-05- I/M SEEN FOR IND SESSION.
I/M STATES THAT HE IS DOING OK. DEALING WITH STRESS AND FAMILY ISSUES. STATES THAT HE JUST RECENTLY STARTED COMMUNICATING WITH HIS MOTHER AGAIN AFTER BEING MAD WITH HER FOR A FEW MONTHS. STATES THAT HE CONTINUE TO TAKE MEDICATION. WORKER ACKNOWLEDGES TO INMATE THAT HE IS NOT COMPLIANT WITH THE MORNING DOSE. HE ADMITS THAT HE DOES NOT LIKE WAITING IN THE PILL LINE IN THE MORNINGS. NO ADDITIONAL COMPLAINTS OR CONCERNS. STATES THAT ONCE THE

Exhibit 24A

MDCI880D
OMINMDCA

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS SCDC HEALTH SERVICES: MEDICAL SUMMARY

06/26/14
C045560

SCDC# 271240 JENKINS, BOBBY C.

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SIGNED OFF ON 10/04/06 @ 15:00 BY MARGIE M CAYE, HUMAN SERVICES COORD I

- ** ENCOUNTER: 211 MENTAL HEALTH CLINIC 09/28/06 15:47 MCCORMICK COMP
GROUP NOTE: INMATE ATTENDED AA\NA MEETING TODAY.
M. CAYE, CCC III
SIGNED OFF ON 09/28/06 @ 15:47 BY MARGIE M CAYE, HUMAN SERVICES COORD I
- ** ENCOUNTER: 210 MENTAL HEALTH CLINIC 09/27/06 13:12 MCCORMICK COMP
GROUP NOTE: INMATE DID NOT ATTEND SUBSTANCE ABUSE GROUP
M. CAYE, CCC III
SIGNED OFF ON 09/27/06 @ 13:13 BY MARGIE M CAYE, HUMAN SERVICES COORD I
- ** ENCOUNTER: 208 MENTAL HEALTH CLINIC 09/25/06 14:17 MCCORMICK COMP
GROUP NOTE: INMATE WAS PRESENT FOR SUBSTANCE ABUSE STEP STUDY GROUP TODAY.
M. CAYE, CCC III
SIGNED OFF ON 09/25/06 @ 14:18 BY MARGIE M CAYE, HUMAN SERVICES COORD I
- ** ENCOUNTER: 207 MENTAL HEALTH CLINIC 09/21/06 15:56 MCCORMICK COMP
GROUP NOTE: INMATE WAS PRESENT FOR SUBSTANCE ABUSE GROUP.
M. CAYE, CCC III
SIGNED OFF ON 09/21/06 @ 15:57 BY MARGIE M CAYE, HUMAN SERVICES COORD I
- ** ENCOUNTER: 206 MENTAL HEALTH CLINIC 09/19/06 15:51 MCCORMICK COMP
GROUP NOTE: INMATE WAS PRESENT FOR SUBSTANCE ABUSE GROUP.
M. CAYE, CCC III
SIGNED OFF ON 09/19/06 @ 15:51 BY MARGIE M CAYE, HUMAN SERVICES COORD I
- ** ENCOUNTER: 205 MENTAL HEALTH CLINIC 09/18/06 14:38 MCCORMICK COMP
GROUP NOTE: INMATE WAS PRESENT FOR SUBSTANCE ABUSE GROUP.
M. CAYE, CCC III
SIGNED OFF ON 09/18/06 @ 14:39 BY MARGIE M CAYE, HUMAN SERVICES COORD I
- ** ENCOUNTER: 204 MENTAL HEALTH CLINIC 09/14/06 15:50 MCCORMICK COMP
GROUP NOTE: I\M ATTENDED AA\NA MEETING.
M. CAYE, CCC III
SIGNED OFF ON 09/14/06 @ 15:51 BY MARGIE M CAYE, HUMAN SERVICES COORD I
- ** ENCOUNTER: 203 MENTAL HEALTH CLINIC 09/13/06 15:17 MCCORMICK COMP
GROUP NOTE: INMATE WAS PRESENT FOR SUBSTANCE ABUSE GROUP.
M. CAYE, CCC III
SIGNED OFF ON 09/13/06 @ 15:18 BY MARGIE M CAYE, HUMAN SERVICES COORD I
- ** ENCOUNTER: 202 MENTAL HEALTH CLINIC 09/12/06 15:48 MCCORMICK COMP
GROUP NOTE: INMATE WAS PRESENT FOR SUBSTANCE ABUSE GROUP.
M. CAYE, CCC III
SIGNED OFF ON 09/12/06 @ 15:49 BY MARGIE M CAYE, HUMAN SERVICES COORD I
- ** ENCOUNTER: 200 MENTAL HEALTH CLINIC 09/07/06 12:45 MCCORMICK COMP
D\ LATE ENTRY: INMATE WAS SEEN ON 08-29-06 FOR AN INDIVIDUAL SESSION. IN-
MATE DISCUSSD HIS CRIME HISTORY WITH CCC SINCE THIS IS HIS FIRST SESSION

Exhibit ~~1~~B to 38B

These are the Exhibits
Dealing with the Withheld
Plea agreement I never
SAW from my Attorney
James Galmore and
Orrie West who was not
my Attorney of Record
According to her testimony.
This also shows that this
was the only time James
Galmore represented he admit
he sat down at my guilty
Plea. I also put a lawsuit
on him because he said
the victim was white and
I was black who could not
win a Trial who was they
going to believe I filed
a lawsuit but I did it
wrong.

State of South Carolina
Office of the Solicitor
Fifteenth Judicial Circuit
Exhibit AB

97-12-2154
SW/J



REPLY TO
P.O. BOX 1276
CONWAY, SC 29526
843-248-1309

REPLY TO
P.O. BOX 1688
GEORGETOWN, SC 29442
843-546-3751

J. GREGORY HEMBREE
Solicitor

April 7, 2000

APR 11 2000

Ms. Orrie West
Horry County Public Defender
PO Box 1666
Conway, SC 29526

In re: State Vs. Bobby Jenkins

Dear Orrie:

Enclosed please find indictments 00-GS-26-848 and 00-GS-26-849 on Bobby Jenkins which were true billed on 4/6/00. After carefully reviewing this case, the State offers the following plea offer:

In exchange for the defendant's guilty pleas to Kidnapping, Armed Robbery, Criminal Sexual Conduct 1st Degree, Possession of Firearm during Commission of a Felony, and Assault on a Correctional Employee, the State will dismiss Assault and Battery High and Aggravated Nature. The State will agree upon a sentence of 30 years with all time running concurrent.

This offer must be accepted or rejected by April 28th, 2000, and if accepted we will take the plea during the week of May 15th, 2000.

Never seen this
Plea and ~~to~~ Orrie West
in my Attorney's
James Galmone

Sincerely,

J. Gregory Hembree
Solicitor

DEFENDANT'S RESPONSE

TRIAL _____
GUILTY PLEA _____
DATE _____

Atty. for Defendant

Exhibit 28

MR. GALMORE - DIRECT EXAMINATION BY MS. PRATT

13

1 THE STATE: AND THAT WAS COMMUNICATED TO YOU AND
2 MS. WEST I PRESUME?

3 A YES, SIR.

4 THE COURT: AND YOU COMMUNICATED THAT TO MR.
5 JENKINS?

6 A YES, SIR.

7 THE COURT: ALL RIGHT, DID YA'LL COMMUNICATE A
8 RESPONSE BACK TO THE STATE?

9 A YES, SIR. HE DID NOT WANT TO ACCEPT IT.

10 THE COURT: ALL RIGHT.

11 A SO WHEN HE PLED GUILTY IN DECEMBER IT WAS
12 WITHOUT NEGOTIATION.

13 THE COURT: YOU'RE TELLING ME HE REJECTED THE
14 OFFER TO PLEAD TO 25 YEARS CONCURRENT?

15 A YES, SIR.

16 THE COURT: ALL RIGHT. I'M SORRY MS. PRATT, I
17 JUST WANTED TO MAKE SURE I HEARD IT RIGHT.

18 MS. PRATT: I'D LIKE TO ASK MR. GALMORE A FOLLOW
19 UP QUESTION.

20 Q (CONTINUING) DO YOU REMEMBER WHETHER HE
21 REJECTED OR HE JUST DIDN'T ACCEPT IT IN TIME?

22 A IT WAS NOT ACCEPTED IN TIME.

23 Q ALL RIGHT. THE MORNING OF THE PLEA WOULD
24 YOU HAVE ACCEPTED THAT?

25 A YES, WE WOULD HAVE TAKEN IT.

Exhibit 2B

MR. GALMORE - DIRECT EXAMINATION BY MS. PRATT

12

1 DAYS OF TIME SERVED. IS THAT CORRECT, MR. GALMORE?

2 THE WITNESS: THAT'S CORRECT.

3 MS. PRATT: ABOUT THREE AND A PINCH YEARS.

4 THE COURT: OKAY.

5 MS. PRATT: (CONTINUING)

6 Q NOW MR. GALMORE, YOU WERE ACTUALLY INVOLVED
7 IN PREPARING HIS CASE FOR TRIAL, IS THAT RIGHT?

8 A YES, MA'AM.

9 Q IT WAS ON THE TRIAL ROSTER FOR DECEMBER 5TH
10 OF THE YEAR 2000?

11 A YES, MA'AM.

12 Q AND DID MR. JENKINS ENTER A GUILTY PLEA AT
13 THAT TIME?

14 A YES, MA'AM, HE DID.

15 Q OKAY. SHORTLY BEFORE THE GUILTY PLEA WERE
16 THERE DISCUSSIONS ABOUT PLEA OFFERS OR WHAT MIGHT HAPPEN
17 MR. JENKINS?

18 A WELL THERE WAS A PLEA OFFER MADE AT ONE
19 POINT FOR A 25-YEAR SENTENCE FOR ALL THE CHARGES TO RUN
20 CONCURRENTLY. THAT PLEA OFFER WAS WITHDRAWN BECAUSE WE
21 WERE AT THE EVE OF TRIAL. SO WHEN HE ULTIMATELY MADE THE
22 DECISION TO PLEAD GUILTY ---

23 THE COURT: NO, SIR, YOU'RE CONFUSING ME NOW.
24 THE STATE MADE AN OFFER FOR HIM PLEAD FOR 25 YEARS?

25 A YES, SIR.

Exhibit 2B

MR. GALMORE - DIRECT EXAMINATION BY MS. PRATT

14

1 Q AND BOBBY WOULD HAVE AGREED TO THAT?

2 A THAT'S CORRECT.

3 Q NOW AT SOME POINT JUST BEFORE THE PLEA,
4 MAYBE A DAY OR SO BEFORE MS. WEST GOT INVOLVED, IS THAT
5 RIGHT?

6 A YES, MA'AM.

7 Q DID SHE SPEND ANY TIME WITH THE
8 INVESTIGATION OF THIS MATTER OR WAS SHE SIMPLY HELPING WITH
9 THE PLEA?

10 A SHE HELPING TO FACILITATE THE PLEA.

11 Q AND AT THE PLEA ITSELF SHE WAS THE ONE WHO
12 SPOKE, IS THAT RIGHT?

13 A YES, MA'AM.

14 Q AND YOU WERE PRESENT IN THE COURTROOM?

15 A YES, MA'AM.

16 Q AND I BELIEVE JUDGE FLOYD ACTUALLY SAID YOU
17 HERE IN THE COURTROOM COULD ADD SOMETHING IF YOU WANTED TO,
18 IS THAT RIGHT?

19 A YES, MA'AM, HE SAY THAT.

20 Q YOU DID NOT SPEAK THOUGH?

21 A NO, MA'AM.

22 Q OKAY. IN YOUR DISCUSSIONS WITH MR. JENKINS
23 DID YOU OR MS. WEST TALK TO HIM ABOUT WHAT NORMALLY HAPPENS
24 IN A GUILTY PLEA?

25 A YES, MA'AM.

Exhibit 2B

MR. GALMORE - DIRECT EXAMINATION BY MS. PRATT

15

1 Q DID YOU TALK TO HIM ABOUT THE KIND OF
2 SENTENCING HE COULD EXPECT?

3 A YES, MA'AM.

4 Q WHAT DID YOU TELL HIM?

5 A I TOLD HIM NOT TO EXPECT ANY MORE THAN 30
6 YEARS. I TOLD HIM THAT IN MY EXPERIENCE THESE THINGS WOULD
7 RUN CONCURRENT. I TOLD HIM WE WOULD BE ASKING FOR 25 YEARS
8 BECAUSE THAT WAS THE PLEA OFFER THAT HAD BEEN PUT FORTH BY
9 THE SOLICITOR'S OFFICE. AND I THINK WE WERE ALL VERY
10 SURPRISED WHEN HE ENDED UP RECEIVING A CONSECUTIVE
11 SENTENCE.

12 Q NOW, DURING THE GUILTY PLEA, DID YOU HEAR
13 THE FACTS AS STATED BY MR. HEMBREE?

14 A YES, MA'AM.

15 Q DID THEY AGREE WITH WHAT BOBBY HAD TOLD YOU
16 ABOUT WHAT HAD HAPPENED?

17 A BOBBY DID NOT, BOBBY CLAIMED HE WAS NOT THE
18 PRIMARY PERSON, THE PRIMARY AGGRESSOR IN THIS CASE.

19 Q AND DID HE TELL YOU THAT THROUGH OUT YOUR
20 DISCUSSIONS WITH HIM?

21 A YES, MA'AM.

22 Q AND THERE'S NO QUESTION THAT THE DNA MATCHED
23 BOBBY?

24 A THAT'S CORRECT.

25 Q AND BOBBY DIDN'T DENY BEING A PART OF THE

Exhibit 3B

MR. GALMORE - DIRECT EXAMINATION BY MS. PRATT

16

1 INCIDENT, CORRECT?

2 A THAT'S CORRECT.

3 Q [AND DID YOU HAVE OCCASION TO TALK TO BOBBY
4 ABOUT A DOCTRINE CALLED THE HAND OF ONE IS THE HAND OF ALL?

5 A YES, MA'AM.

6 Q DO YOU REMEMBER EXPLAINING THAT TO HIM?

7 A YES, MA'AM.

8 Q ALL RIGHT, DID HE SEEM TO UNDERSTAND THAT?

9 A YES, MA'AM.

10 Q CAN YOU TELL ME, IF YOU KNOW, IF THAT WAS
11 HIS REASON FOR PLEADING TO THE KIDNAPPING AND THE ARM
12 ROBBERY?

13 A I DON'T RECALL THAT.

14 Q THAT'S FAIR. NOW MR. GALMORE, IN YOUR
15 INVESTIGATION DID YOU LOOK INTO POTENTIAL MITIGATION FOR
16 MR. JENKINS?

17 A I DID NOT THINK THAT THERE WAS ANY
18 MITIGATION.

19 Q DID YOU TALK TO ANY OF HIS FAMILY MEMBERS?

20 A NO, MA'AM.

21 Q SO YOU DIDN'T CALL HIS SISTERS, DELORES,
22 KATHY OR BARBARA OR HIS MOTHER OR ANY OTHER MEMBERS OF HIS
23 FAMILY?

24 A NO, MA'AM, I DIDN'T.

25 Q DID YOU FIND ANYTHING OUT ABOUT AN ACCIDENT

Exhibit 3B

MR. GALMORE - DIRECT EXAMINATION BY MS. PRATT

17

1 THAT HE HAD THAT WOULD HAVE AFFECTED HIS UNDERSTANDING IF
2 THINGS?

3 A I DIDN'T ACTUALLY KNOW ABOUT THAT UNTIL THE
4 DAY OF THE PLEA WHEN MS. WEST INTRODUCED THAT INFORMATION
5 TO THE COURT.

6 Q IN HINDSIGHT DO YO THINK IT WOULD HAVE BEEN
7 A GOOD THING TO TALK TO SOME OF HIS FAMILY MEMBERS?

8 A YES, MA'AM. FROM WHAT I UNDERSTAND ABOUT
9 THE ACCIDENT IT TURNED BOBBY INTO A DIFFERENT PERSON.
10 MAYBE WE SHOULD HAVE DONE A COMPETENCY EVALUATION.
11 CERTAINLY I WOULD HAVE ADDRESSED THE ISSUE WITH HIM OR HIS
12 FAMILY, BUT I DID NOT.

13 Q AND SINCE YOU HAVE BEEN WITH THE PUBLIC
14 DEFENDER'S OFFICE YOU'VE HAD THE GREAT PLEASURE OF TRYING
15 DEATH PENALTY CASES OR PREPARING FOR IT HAVEN'T YOU?

16 A YES, MA'AM.

17 Q AND YOU UNDERSTAND THE MITIGATION THAT GOES
18 INTO THAT?

19 A YES, MA'AM. EVEN THOUGH THIS CASE ISN'T A
20 DEATH PENALTY CASE THE TYPE OF INFORMATION THAT I
21 SUBSEQUENTLY LEARNED I THINK IT WOULD HAVE INFLUENCED JUDGE
22 FLOYD'S SENTENCE IN THIS INSTANT.

23 Q IN FACT, IF YOU REVIEW THE TRANSCRIPT ISN'T
24 IT TRUE THAT THE ONLY FACTS THAT JUDGE FLOYD HAD TO GO ON
25 AS TO THE INCIDENT WAS WHAT MR. HEMBREE SAID?

Exhibit 4B

MR. GALMORE - DIRECT EXAMINATION BY MS. PRATT

18

1 A THAT'S CORRECT.

2 Q AND YOU DID NOT STAND UP OR OBJECT IN ANY
3 WAY TO THE THINGS THAT MR. HEMBREE SAID, IS THAT RIGHT?

4 A THAT'S RIGHT.

5 Q NOW, AS FAR AS MR. HEMBREE'S STATEMENT OF
6 THE FACTS, YOU HAVE THE TRANSCRIPT OF THE GUILTY PLEA DO
7 YOU?

8 A I DO. HOLD ON JUST A MINUTE. YES, MA'AM, I
9 HAVE IT.

10 Q ALL RIGHT. ON PAGE 10 OF THE TRANSCRIPT --

11 A YES, MA'AM.

12 Q LET ME LOOK AT MY NOTES, I APOLOGIZE. LINES
13 10 AND 11, MR. HEMBREE SAYS, "MR. BOBBY JENKINS AND A CO-
14 DEFENDANT JUMPED OUT OF THE BUSHES THERE AT THE EAST SIDE."
15 DOES THAT STATEMENT AGREE WITH WHAT BOBBY HAD TOLD YOU HE
16 HAD DONE?

17 A I DON'T SPECIFICALLY REMEMBER THAT. I DO
18 RECALL BOBBY SAYING THAT HE WAS NOT THE PRIMARY PERSON
19 INVOLVED IN THIS ASSAULT.

20 Q ALL RIGHT, LINES 15 AND 16, MR. HEMBREE
21 SAYS, "THEY JUMPED OUT OF THE WOODED AREA, KNOCKED HER OFF
22 THE BICYCLE, PISTOL WHIPPED HER, BOTH ARMED WITH SEMI-
23 AUTOMATIC PISTOLS." DID THAT AGREE WITH WHAT BOBBY HAD
24 TOLD YOU?

25 A I DON'T REALLY REMEMBER THAT, MS. PRATT.

Exhibit 4B

MR. GALMORE - DIRECT EXAMINATION BY MS. PRATT

19

1 Q OKAY. AND THEN ON LINES 22 AND 23, HE SAYS,
2 OR LET ME START AT 21, "THEY CONTINUED TO KIND OF MANHANDLE
3 HER AND PULLED HER DOWN AND THREATENED HER. THEY LITERALLY
4 HELD HER TO THE GROUND FACE DOWN." DO YOU REMEMBER THAT
5 BEING SOMETHING BOBBY TOLD YOU HE DID?

6 A NO, I THINK WHAT BOBBY WAS SAYING WAS HE
7 APPROACHED AT SOME POINT WHILE ALL THIS WAS ALREADY GOING
8 ON.

9 Q OKAY. AND YET NEITHER NOR MS. WEST OBJECTED
10 AT ANY POINT DURING THE SOLICITOR'S STATEMENT OF THE FACTS?

11 A NO, MA'AM.

12 Q I KNOW YOU'VE READ THE TRANSCRIPT. WOULD
13 YOU SAY THAT MR. HEMBREE'S STATEMENT OF THE FACTS WAS MORE
14 OF A STORY THAN A STRAIGHT FACTUAL RECITATION?

15 A SURE.

16 Q ALL RIGHT. HE WAS TELLING THE JUDGE IN A
17 WAY THAT PAINTED A PICTURE?

18 A YES, MA'AM.

19 Q AND MS. WEST SPOKE FOR BOOBY AT THE PLEA,
20 CORRECT?

21 A YES, MA'AM, SHE DID.

22 Q AND SHE SPOKE ABOUT HIS AGE AND HIS
23 EDUCATION BUT DIDN'T SAY ANYTHING ABOUT THE FACTS AT ALL?

24 A NO, SHE DIDN'T ADDRESS THE FACTS.

25 Q IN YOUR REVIEWING OF THE DISCOVERY DO YOU

Exhibit 5B

MR. GALMORE - CROSS EXAMINATION BY MS. CATOE

20

1 REMEMBER WHETHER OR NOT THE VICTIM ACTUALLY IDENTIFIED
2 BOBBY?

* 3 - * A I DO RECALL THAT SHE DID NOT IDENTIFY MR.
4 JENKINS.

5 Q AND WERE THERE PROBLEMS WITH THE
6 DESCRIPTIONS GIVEN?

7 A YES, SHE DESCRIBED A HISPANIC MALE. THAT
8 WAS THE ONLY PERSON SHE WAS ABLE TO DESCRIBE AND TO MY
9 KNOWLEDGE NO HISPANIC HAS EVER BEEN ARRESTED OR CHARGED OR
10 IMPLICATED. I THINK SHE SAID THAT THERE WERE THREE PEOPLE
11 INVOLVED. MR. JENKINS WAS ARRESTED. ANOTHER FAMILY
12 MEMBER, HIS COUSIN OR NEPHEW, WAS ARRESTED BUT I DON'T
13 RECALL A THIRD PERSON BEING ARRESTED AND CHARGED EVEN
14 THOUGH SHE SPECIFICALLY SAID A THIRD PERSON WAS PRESENT.

15 Q THE HISPANIC MALE, WOULD THAT HAVE BEEN THE
16 PERSON THAT WAS GOING THROUGH THE POCKETBOOK IN THE
17 ROBBERY?

18 A YES, THAT'S WHAT MR. HEMBREE RECITED TO THE
19 COURT.

20 Q AND THERE WAS ACTUALLY THIRD PERSON DRIVING
21 THE TRUCK AROUND THE NEIGHBORHOOD, IS THAT RIGHT?

22 A THAT'S CORRECT. THAT PERSON WAS NEVER TAKEN
23 INTO CUSTODY.

24 Q AND OUT OF THOSE FOUR PEOPLE THE VICTIM DID
25 NOT EVER IDENTIFY BOBBY?

Exhibit 5B

MR. GALMORE - CROSS EXAMINATION BY MS. CATOE

21

1 A NO, MA'AM.

2 Q HOW MANY TIMES DID YOU MEET WITH MR. JENKINS?

3 A I'M GUESSING PERHAPS THREE TIMES.

4 A DO YOU THINK MR. JENKINS WANTED TO ENTER A
5 GUILTY PLEA FROM YOUR DISCUSSIONS WITH HIM?

6 A YES, MA'AM.

7 Q WERE THERE ANY THINGS YOU SAID THAT YOU
8 BELIEVE THAT MR. JENKINS RELIED UPON, IF YOU CAN ANSWER
9 THAT QUESTION?

10 A I KNOW THAT WE TALKED ABOUT THE SENTENCING
11 AND I ASSURED HIM IT WOULDN'T BE MORE THAN 30 YEARS. I WAS
12 GOING ON THE ASSUMPTION THAT THIS WAS A SINGLE EVENT, THAT
13 HE WOULD BE GIVEN CONCURRENT SENTENCES. I ALSO TOLD HIM
14 THAT WE WERE GOING TO REQUEST THE 25 YEARS.

15 MS. PRATT: THANK YOU. PLEASE ANSWER ANY
16 QUESTIONS THAT THE COURT OR MS. CATOE MAY HAVE.

17 THE COURT: ALL RIGHT, MS. CATOE?

18 CROSS EXAMINATION

19 BY MS. CATOE:

20 Q THANK YOU, YOUR HONOR. JUST FOR BACKGROUND,
21 WHAT TYPE OF LAW DID YOU PRACTICE FOR THE THREE YEARS, FROM
22 '95 TO '98?

23 A I MOSTLY CIVIL BUT SOME CRIMINAL CASES.

24 Q OKAY. DID YOU HAVE AN UNDERSTANDING FROM
25 YOUR DISCUSSIONS WITH THE DEFENDANT WHO THE PRIMARY

Exhibit 6B

MR. GALMORE - CROSS EXAMINATION BY MS. CATOE

22

1 AGGRESSOR WAS?

2 A NO, MA'AM.

3 Q DID HE EVER BLAME THIS ACCIDENT AS A EXCUSE
4 OR A FACTOR IN HIS COMMITTING THE RAPE?

5 A I NEVER ASKED HIM ABOUT THE ACCIDENT. I DID
6 NOT KNOW THAT HE HAD BEEN IN A ---

7 Q BUT HE NEVER RAISED IT TO YOU?

8 A NO, MA'AM.

9 Q AS A POSSIBLE DEFENSE?

10 A NO, MA'AM.

11 Q DO YOU RECALL AT ALL THE ACCIDENT WAS OR HOW
12 LONG IT HAD BEEN?

13 A MY UNDERSTANDING WAS THAT THIS HAPPENED
14 WHILE HE WAD IN HIGH SCHOOL WHEN HE WAS 16 OR 17 YEARS OLD.

15 Q DO YOU RECALL HOW OLD HE WAS AT THE TIME OF
16 THE CRIME?

17 A THIRTY-ONE.

18 Q OR WAS THAT MAYBE AT THE PLEA?

19 A YEAH, THAT WAS AT THE PLEA.

20 Q WAS THERE ANY DNA EVIDENCE IN THIS?

21 A YES, MA'AM. THEY WERE ABLE TO RECOVER DNA
22 FROM THE VICTIM IN THE CASE THAT MATCHED MR. JENKINS.

23 Q OKAY. DID YOU THINK THAT HE WOULD WIN AT
24 TRIAL?

25 A NO, I DID NOT.

Exhibit 6B

MR. GALMORE - CROSS EXAMINATION BY MS. CATOE

23

1 Q NOW DID YOU EVER, DO YOU RECALL ANY
2 DISCUSSIONS ABOUT AN OPEN PLEA? WAS THAT TERM EVER USED OR
3 DO YOU RECALL?

4 A I KNOW I DIDN'T USE THAT TERM BUT MY
5 RECOLLECTION OF WHAT I SAID TO HIM WAS THAT HE SHOULD
6 EXPECT NOT TO RECEIVE ANY MORE 30 YEARS.

7 Q DID YOU GUARANTEE A SPECIFIC SENTENCE OR
8 CONCURRENT SENTENCES OR DID YOU INDICATE THAT BASED UPON
9 YOUR EXPERIENCE THAT'S WHAT YOU THOUGHT THE JUDGE WOULD DO?

10 A THAT'S WHERE I MADE MY MISTAKE. I DID NOT
11 GUARANTEE A SENTENCE BUT THAT'S WHERE I MADE MY MISTAKE. I
12 DIDN'T SPECIFICALLY TELL HIM THAT IT COULD HAVE BEEN RUN
13 CONSECUTIVELY.

14 Q BUT HE DID KNOW HAT AN OPEN PLEA WAS OR DID
15 HE EVER USE THAT TERM WITH YOU?

16 A NO, MA'AM.

17 Q OKAY. DID YOU TELL HIM THAT YOU TALKED TO
18 THE JUDGE AND THE JUDGE PROMISED A CONCURRENT SENTENCE?

19 A NO, MA'AM.

20 Q OKAY. DID YOU TELL HIM THAT THE SOLICITOR
21 PROMISED A CONCURRENT SENTENCE?

22 A NO, MA'AM.

23 Q NOW DO YOU RECALL THAT HE TOLD THE PLEA
24 JUDGE THAT NO PROMISES HAD BEEN MADE TO INDUCE HIS PLEA?

25 A YES, THE JUDGE ASKED THOSE QUESTIONS DURING

Exhibit 7B

MR. GALMORE - CROSS EXAMINATION BY MS. CATOE

24

1 THE PLEA.

2 Q AND HE RESPONDED AFFIRMATIVELY THAT NO
3 PROMISES HAD BEEN MADE?

4 A THAT'S CORRECT.

5 Q NO THREATS HAD BEEN MADE?

6 A YES, MA'AM.

7 Q OR FORCED HIM? DID THE COURT ADVISE HIM OF
8 THE POTENTIAL SENTENCES, THE POTENTIAL EXPOSURES?

9 A THE JUDGE DID SAY HE THAT HE COULD RECEIVE
10 90 YEARS FOR THE CHARGES HE WAS PLEADING TO.

11 Q OKAY. AGAIN, COULD WE GO OVER AGAIN -- WHAT
12 DID THE DEFENDANT TELL YOU ABOUT THE FACTS, WHATEVER YOU
13 RECALL?

14 A AS I RECALL HE WAS HE HAPPENED UPON THIS
15 ASSAULT IN PROGRESS AND PARTICIPATED IN IT.

16 Q DID HE KNOW THE OTHER INDIVIDUALS INVOLVED?

17 A I KNOW THAT HIS NEPHEW OR COUSIN WAS ALSO
18 ARRESTED AND CHARGED WITH THIS.

19 Q IS HE THE ONE WHO HAS HAD ALL THE MISTRIALS?

20 A YES, MA'AM.

21 Q REGARDING THE LACK OF RECORD ON THE MOTION
22 FOR RECONSIDERATION WAS THERE A -- DID YOU ASK THE JUDGE
23 ABOUT HAVING A COURT REPORTER?

24 A I BELIEVE I WROTE A LETTER SUBSEQUENT TRYING
25 TO EXPLAIN THIS THING TO COURT ADMINISTRATION OR TO THE

Exhibit 7B

MR. GALMORE - CROSS EXAMINATION BY MS. CATOE

25

1 APPELLANT COURT. IT WAS UNUSUAL TO SAY THE LEAST. I
2 ASSUMED THAT WE WOULD HAVE A COURT REPORTER AND A CLERK AND
3 CONDUCT COURT REGULAR MANNER. BUT IT WAS A VERY UNUSUAL
4 HEARING. JUDGE FLOYD CAME INTO THE COURTROOM. HE HAD HIS
5 ROBE ON BUT HE DIDN'T HAVE A TIE ON. SOMETIMES HE WOULD DO
6 THAT ON FRIDAYS.

7 THE COURT: FRIDAYS?

8 A WE WORK EVERY DAY.

9 THE COURT: NO, WHAT I'M SAYING IS YOU NEVER SA
10 HIM WITHOUT A TIE UNLESS IT WAS A FRIDAY?

11 A I MEAN IN THE COURTROOM HOLDING COURT.
12 SOMETIMES HE WOULD HOLD COURT WITHOUT A TIE BUT HE DID HAVE
13 HIS ROBE ON.

14 THE COURT: KNOWING JUDGE FLOYD AND GENTLEMAN
15 THAT HE WAS SOME PEOPLE HAVE KNOWN HIM TO HAVE NO TIE ON
16 EVEN WITHOUT IT BEING A FRIDAY.

17 A YES, SIR.

18 THE COURT: I'M AWARE WE WORK ON FRIDAYS, MR.
19 GALMORE.

20 A YES, SIR, YES, SIR. I DIDN'T WANT TO GIVE
21 YOU THAT IMPRESSION. IT WAS UNUSUAL BECAUSE HE DIDN'T TAKE
22 THE BENCH. WE WERE IN THE OLD COURTHOUSE ACROSS THE STREET
23 AND THAT COURTHOUSE HAS A ROW OF DESKS THAT SIT IN FRONT OF
24 THE BENCH. TYPICALLY THE CLERK OR OTHER COURT OFFICIALS
25 WOULD SIT DOWN THERE. HE SAT AT THAT ROW OF DESKS IN FRONT

Exhibit 8.B

MR. GALMORE - REDIRECT EXAMINATION BY MS. PRATT

30

1 A YES, MA'AM.

2 Q IN THE SECOND TO LAST PARAGRAPH DO YOU
3 DISCUSS THE ABSENCE OF A RECORD FOR THE MOTION TO
4 RECONSIDER?

5 A YES, MA'AM.

6 THE COURT: WHAT ARE YOU SHOWING HIM, MS. PRATT?

7 MS. PRATT: IT'S A LETTER THAT WAS SUBMITTED
8 WITH THE DOCUMENTS ON APPEAL.

9 THE COURT: TO THE COURT OF APPEALS?

10 MS. PRATT: YES, SIR.

11 THE COURT: OKAY.

12 THE WITNESS: (CONTINUING)

13 A THIS IS A LETTER ADDRESSED TO KATHERN LINK
14 OF THE SOUTH CAROLINA OFFICE OF APPELLANT DEFENSE. IT WAS
15 IN RESPONSE TO HER REQUEST FOR INFORMATION REGARDING WHY WE
16 DID NOT HAVE A COURT REPORTER AT THE MOTION TO RECONSIDER.
17 I INDICATED IN MY LETTER TO HER, AND IT'S DATED AUGUST 22,
18 2001. X I SAID, "PRIOR TO THE HEARING WE POINTED OUT TO
19 JUDGE FLOYD THAT THERE WAS NO COURT REPORTER AND HE SAID
20 THERE WAS NO NEED FOR ONE. JUDGE FLOYD DENIED THE
21 DEFENDANT'S MOTION." X

22 X Q AND THAT WOULD HAVE BEEN WRITTEN FOUR MONTHS
23 AFTER THE MOTION TO RECONSIDER, IS THAT RIGHT? X

24 A YES, MA'AM.

25 THE COURT: DO YA'LL HAVE A WRITTEN MOTION [SIC]

Exhibit 8B

MR. GALMORE - REDIRECT EXAMINATION BY MS. PRATT

31

1 FROM JUDGE FLOYD DENYING IT?

2 A YES, MA'AM, OR YES, SIR. IT'S JUST A ONE-
3 PAGE --

4 THE COURT: WHERE IS THAT?

5 A I ACTUALLY DRAFTED THAT.

6 THE COURT: BUT YOU'RE TELLING YOU KNOW FOR A
7 FACT MR. JENKINS WAS NOT THERE FOR THAT HEARING?

8 A I REMEMBER IF HE WAS THERE OR NOT.

9 THE COURT: YOU TOLD A WHILE AGO HE WAS.

10 A I SAID I THOUGHT HE WAS BECAUSE WE DID AN
11 ORDER OF TRANSPORTATION.

12 THE COURT: OH, YOU THOUGHT HE WAS THERE?

13 A RIGHT.

14 THE COURT: OH, I'M SORRY, OKAY.

15 MS. PRATT: (CONTINUING)

16 Q MR. GALMORE, DID YOU SAY YOU DRAFTED THIS
17 ORDER?

18 A YES, MA'AM.

19 Q ALL RIGHT, AND I'M GOING TO SHOW YOU THE
20 ORDER THAT I JUST HANDED UP TO THE JUDGE. IT IS ACTUALLY
21 EXHIBIT 7 IN THE COURT OF APPEALS PRESENTATION ON MOTION TO
22 REMAND AND ASK IF YOU RECOGNIZE THAT ORDER?

23 A YES, MA'AM. THIS IS THE ORDER THAT JUDGE
24 FLOYD SIGNED ON APRIL 3, 2001. I DRAFTED THIS ORDER.

25 Q MR. GALMORE, DOES THAT ORDER CONTAIN ANY

Exhibit 9B

MR. GALMORE - REDIRECT EXAMINATION BY MS. PRATT

32

1 FINDINGS OF FACT?

2 A NO, MA'AM.

3 Q DOES IT CONTAIN ANY RECONSTRUCTION AS TO THE
4 ACTUAL GROUNDS THAT WERE STATED OR THE TESTIMONY THAT WAS
5 GIVEN SUPPORTING THE MOTION TO RECONSIDER?

6 A NO, IT DOES NOT.

7 Q SO FROM THIS ORDER THE COURT OF APPEALS HAD
8 NOTHING TO RULE ON EITHER, CORRECT?

9 A THAT'S CORRECT.

10 THE COURT: NOW, MS. PRATT, IS YOUR POSITION ON
11 A DECISION OF A MOTION FOR RECONSIDERATION? THOSE MATTERS
12 HE CAN, HE OR SHE CAN BASICALLY SAY THAT THEY'VE ALREADY
13 MADE THOSE DECISIONS AT THE INITIAL SENTENCING AND THEY
14 JUST DENY THE MOTION FOR RECONSIDERATION. I GUESS THE
15 JUDGE'S OPTION COULD BE TO STATE VARIOUS THINGS BUT IF THE
16 JUDGE CHOOSES TO RECONSIDER WHAT THEY DID AND DECIDE THAT
17 WHAT THEY DID WAS APPROPRIATE, THAT'S ALL THAT'S NECESSARY
18 ON A RECONSIDERATION MOTION.

19 MS. PRATT: YOUR HONOR, IT'S, I READ THE OPINION
20 FROM THE COURT OF APPEALS, WHICH WAS AN UNPUBLISHED OPINION
21 THAT I BELIEVE THAT WE HANDED UP FOR YOUR REVIEW EARLIER,
22 TO SUGGEST THAT THERE SHOULD HAVE BEEN FINDINGS OF FACT OR
23 CONCLUSIONS OF LAW IN THE ORDER THAT COULD HAVE CONSIDERED
24 AND THAT THEY COULD NOT EVEN LOOK AT THAT.

25 THE COURT: ARE YOU TALKING ABOUT THE VACATING

Exhibit 9B

MR. GALMORE - REDIRECT EXAMINATION BY MS. PRATT

33

1 OF THE DECISION OF JUDGE HARWELL OR SOMETHING ELSE?

2 MS. PRATT: NO, YOUR HONOR, THE OPINION FROM THE
3 COURT OF APPEALS ON THE ACTUAL APPEAL OF THE GUILTY PLEA.
4 AND THAT WOULD BE, IF THE COURT WOULD GIVE ME A MOMENT. IT
5 IS UNPUBLISHED OPINION 2002 ---

6 THE COURT: I'M LOOKING AT IT. I'M READING IT.

7 MS. PRATT: UP-346. AND I WOULD POINT OUT TO
8 THE COURT THAT, LET ME FIND WHERE ---

9 THE COURT: I'M LOOKING AT THE PER CURIUM
10 DECISION.

11 MS. PRATT: IF THE COURT LOOKS AT FOOTNOTE
12 NUMBER FOUR IT SPECIFICALLY SAYS ---

13 THE COURT: WAIT A MINUTE, THOUGH, I'M LOOKING
14 AT A DIFFERENT OPINION. I'M LOOKING AT THE OPINION WHERE
15 THE COURT OF APPEALS CONSIDERED THE APPEAL OF JUDGE FLOYD'S
16 SENTENCING, UNPUBLISHED OPINION 2002-UP-346?

17 MS. PRATT: THAT'S CORRECT, YOUR HONOR, AND ON
18 THE ---

19 THE COURT: AND THERE'S FOOTNOTE NUMBER FOUR?

20 MS. PRATT: THE THIRD PAGE OF IT HAS A FOOTNOTE
21 ON IT.

22 THE COURT: I APOLOGIZE, I DIDN'T SEE THAT ONE.
23 BUT ---

24 MS PRATT: IN THAT OPINION, YOUR HONOR ---

25 THE COURT: WOW.

Exhibit 10 B

MR. GALMORE - REDIRECT EXAMINATION BY MS. PRATT

34

1 MS. PRATT: --- THE COURT STATES THAT JENKINS,
2 AND OBVIOUSLY THROUGH HIS ATTORNEYS, COULD HAVE MOVED TO
3 CONSTRUCT A SUFFICIENT RECORD, COULD HAVE ASKED THE COURT
4 TO INCLUDE IN THE RECORD A FINDING THAT HE OBJECTED TO THE
5 ABSENCE OF THE COURT REPORTER. AND THEN IN FOOTNOTE NUMBER
6 FOUR IT SPECIFICALLY REFERS TO THE TWO LETTERS SUBMITTED,
7 ONE BY MR. GALMORE AND ONE BY MR. HEMBREE, AND STATES, "THE
8 ORDER DENYING JENKINS MAKES NO REFERENCE TO THE ABSENCE OF
9 A COURT REPORTER." IT WOULD BE MY POSITION, YOUR HONOR,
10 THAT JUST AS IN ANY ORDER A JUDGE CAN MAKE FINDINGS OF FACT
11 AND CONCLUSIONS OF LAW.

12 THE COURT: WELL, I KNOW THAT BUT I THOUGHT YOU
13 MEANT IT WAS DISCUSSED IN THE DECISION OF THE APPELLANT
14 COURT.

15 MS. PRATT: WELL, I BELIEVE THE FACT THAT THEY
16 SAY THAT THERE'S NO REFERENCE AND FINDING INDICATES THAT YOU
17 CAN MAKE SUCH FINDS OR CONCLUSIONS. I GUESS I AM TAKING
18 THAT BY IMPLICATION, YOUR HONOR, FROM THIS FACT THAT THEY
19 SAY IT WAS ABSENT.

20 THE COURT: AND YOU'RE GETTING THAT OFF OF
21 FOOTNOTE NUMBER FOUR?

22 MS. PRATT: AS WELL AS THE STATEMENT THAT HE
23 COULD, AND IT WOULD BE LINE SIX ON THE THIRD PAGE, "HE
24 COULD HAVE ASKED THE COURT TO INCLUDE IN THE RECORD A
25 FINDING THAT HE OBJECTED TO THE ABSENCE OF A COURT REPORTER

Exhibit 10B

MR. GALMORE - REDIRECT EXAMINATION BY MS. PRATT

35

1 TO SHOW HE HAD PRESERVED THE ISSUE FOR APPELLANT REVIEW ---

2 THE COURT: OH, THAT'S DIFFERENT THAN WHAT
3 YOU'RE SAYING. I AGREE WITH YOU. I AGREE WITH WHAT YOU'RE
4 POINTING OUT THERE THAT MR. GALMORE COULD HAVE DONE THAT,
5 YES.

6 MS. PRATT: AND YOUR HONOR, IN THE ORDER THAT
7 MR. GALMORE DRAFTED, MY POINT WOULD BE HE DID NOT INCLUDE
8 THAT FINDING FOR THE COURT'S, FOR JUDGE FLOYD TO ---

9 THE COURT: HOW CAN HE INCLUDE A FINDING WHEN HE
10 DIDN'T MAKE AN OBJECTION? YOU DIDN'T OBJECT TO THE ABSENCE
11 OF A COURT REPORTER.

12 A LIKE I SAID IN THE LETTER, I DID TELL THE
13 JUDGE, OR POINT OUT TO THE JUDGE, THAT THERE WAS NOT A
14 COURT REPORTER AND HE SAID WE DIDN'T NEED ONE.

15 THE COURT: AND YOU DID NOT OBJECT.

16 A I POINTED OUT THAT THERE WAS NOT ONE.

17 THE COURT: ALL RIGHT, AND WHEN HE SAID YOU
18 DON'T NEED ONE DID YOU OBJECT TO THAT?

19 A NO, SIR.

20 THE COURT: ALL RIGHT, SO THEREFORE LIKE THE
21 COURT OF APPEALS SAYS MR. GALMORE COULD HAVE ASKED THE
22 COURT TO INCLUDE IN THE RECORD A FINDING THAT MR. GALMORE
23 OBJECTED TO THE ABSENCE OF A COURT REPORTER TO PRESERVE THE
24 ISSUE FOR APPELLANT REVIEW BUT MR. GALMORE DID NOT MAKE
25 OBJECTION TO PRESERVE IT. HE JUST ADMITTED THAT. OKAY.

Exhibit 11B

MR. GALMORE - REDIRECT EXAMINATION BY MS. PRATT

36

1 MS. PRATT: (CONTINUING)

2 Q ALL RIGHT, AND MR. GALMORE, IN HINDSIGHT DO
3 YOU THINK THAT IT WOULD HAVE BEEN WISE FOR YOU TO HAVE
4 OBJECTED AND PLACE THAT ON THE RECORD?

5 A YES. I ASK HOW IT WOULD HAVE BEEN DONE WHEN
6 THERE WAS NO RECORD? BUT, YES, I SHOULD HAVE SPECIFICALLY
7 OBJECTED TO GOING FORWARD WITHOUT A COURT REPORTER.

8 Q AND THAT REALLY IS THE PROBLEM BECAUSE IT'S
9 KIND OF CIRCULAR. THERE'S NO REPORTER TO OBJECT AND HAVE
10 IT ON THE RECORD THAT YOU OBJECTED TO THERE BEING NO
11 REPORTER, CORRECT?

12 A SOUNDS GOOD TO ME.

13 THE COURT: NOW, MS. PRATT, NO IT'S NOT THAT. I
14 MEAN, HAD MR. GALMORE SAID, JUDGE FLOYD WITH ALL DUE
15 RESPECT, SIR, I WOULD REQUEST A COURT REPORTER AND I OBJECT
16 TO A COURT REPORTER NOT BEING HERE. IF JUDGE FLOYD THEN
17 SAID, WELL, I'M SORRY, WE'RE GOING WITHOUT A COURT
18 REPORTER, THEN MR. GALMORE COULD HAVE PUT THAT IN THE ORDER
19 THAT THE COURT RULED THAT WE COULD GO FORWARD WITHOUT A
20 COURT REPORTER ALTHOUGH MR. GALMORE OBJECTED. BUT SINCE HE
21 OBJECT YOU CAN'T PUT IT IN THE ORDER YOU OBJECTED. SO THE
22 ORDER WAS DRAFTED PURSUANT TO HIM NOTING THERE WAS NO COURT
23 REPORTER BUT NOT OBJECTING TO IT. SO LET'S PROCEED ON TO
24 SOMETHING ELSE.

25 MS. PRATT: THANK YOU, YOUR HONOR.

Exhibit 11B

MR. GALMORE - REDIRECT EXAMINATION BY MS. PRATT

37

1 Q (CONTINUING) AND MR. GALMORE, AT HE MOTION
2 TO RECONSIDER DID YOU PRESENT ANY EVIDENCE IN REGARDS TO
3 MITIGATION FOR BOBBY?

4 A NO, AS I RECALL I PLED HIS CASE AND TRIED TO
5 GET HIS SENTENCE REDUCED.

6 Q AND SINCE THOSE THINGS HAD NOT BEEN SAID AT
7 THE ORIGINAL SENTENCING HEARING DO YOU THINK THEY WOULD
8 HAVE BEEN PROPER TO HAVE BEEN RAISED?

9 A YES, MA'AM.

10 Q AND YOU COULD HAVE AT LEAST RAISED THEM TO
11 SEE IF THE SOLICITOR OBJECTED TO THEM?

12 A YES, MA'AM.

13 Q AT THAT POINT SEVERAL OF THE FAMILY MEMBERS
14 OF MR. JENKINS WERE PRESENT, WERE THEY NOT?

15 A YES, THEY WERE.

16 Q WERE ANY OF THEM ASKED TO SPEAK?

17 A I DON'T REMEMBER BUT THEY PROBABLY WERE.

18 Q OKAY. WERE ANY OF THEM ASKED TO SUBMIT
19 AFFIDAVITS THAT WOULD NORMALLY BE USED IN MOTION PRACTICE?

20 A NO.

21 Q OKAY, EVEN IN FACT ---

22 THE COURT: ARE YOU TAKING ABOUT THE ORIGINAL
23 SENTENCING OR THE RECONSIDERATION MOTION?

24 MS. PRATT: I'M TALKING ABOUT THE MOTION TO
25 RECONSIDER, YOUR HONOR.

Exhibit 128

MR. GALMORE - EXAMINATION BY THE COURT

42

1 A NO COMMUNICATION BACK.

2 THE COURT: OKAY. WHEN YOU WENT BEFORE JUDGE
3 FLOYD YOU WERE SURPRISED OF JUDGE FLOYD'S SENTENCE OF 25
4 CONSECUTIVE ON THE ONE COUNT, I THINK COUNT THREE WAS
5 CONSECUTIVE ON COUNT ONE AND TWO OR SOMETHING OF THAT
6 NATURE, BUT YOU WERE SURPRISED AT THAT?

7 A YES, SIR, VERY MUCH SO.

8 THE COURT: HOW DID YOU COME OUT THINKING HE
9 COULD GET 30 YEARS BECAUSE ARM ROBBERY HAS A MINIMUM OF
10 TEN? KIDNAPING OR SOMETHING?

11 A YES, SIR.

12 THE COURT: OR WAS IT CRIMINAL SEXUAL CONDUCT?

13 A ALL OF THOSE HAVE MAXIMUM SENTENCES OF 30
14 YEARS.

15 THE COURT: ZERO TO 30 ON THOSE. SO YOU THOUGHT
16 THE JUDGE WAS GOING TO FORMULATE SOMETHING THAT WOULD BE
17 30?

18 A I THOUGH IT WOULD BE NO MORE THAN 30.

19 THE COURT: YOU THOUGHT IT WOULD BE LIKE 30 FOR
20 THE CSC OR 30 FOR THE KIDNAPING AND THE MAX ON THE ARM
21 ROBBERY AND ALL OF IT RUNNING CONCURRENT?

22 A YES, SIR. LIKE I SAID, IT ALL HAPPENED A
23 SINGLE CIRCUMSTANCE. I ASSUMED THAT HE WOULD BE SENTENCED
24 CONCURRENTLY INSTEAD OF CONSECUTIVE.

25 THE COURT: OKAY. ON THE MOTION TO RECONSIDER

Exhibit 12B

MR. GALMORE - EXAMINATION BY THE COURT

43

1 DID YOU HAVE ANYONE THERE PREPARED TO SWAY JUDGE FLOYD TO
2 RECONSIDER OTHER THAN YOUR AND MS. WEST'S LEGAL ARGUMENT OR
3 YOUR AND MR. WEST'S ENTREATIES TO HIM TO DO THAT? WAS
4 THERE ANY WITNESS YA'LL PLANNED TO CALL TO BE THERE?

5 A NO, SIR.

6 THE COURT: HO LONG AFTER THE SENTENCING? WAS
7 THIS THE SAME WEEK?

8 A NO, SIR.

9 THE COURT: WHEN WAS IT? DOES ANYBODY KNOW WHEN
10 IT WAS?

11 MS. PRATT: YOUR HONOR, THE MOTION WAS FILED THE
12 SAME WEEK BEFORE THEY SINI DIED, BUT THE ACTUAL MOTION WAS
13 HEARD ABOUT THREE MONTHS LATER ON APRIL 3, 2001.

14 THE COURT: OKAY. ALL RIGHT. DO YOU KNOW WHY
15 IT HAD TAKEN SO LONG TO HEAR THAT MOTION? I MEAN, IT WOULD
16 HAVE BEEN TOUGH FOR THE JUDGE TO HAVE REMEMBERED EVERYTHING
17 THREE MONTHS LATER.

18 A I RECALL HAVING TO SCHEDULE IT WITH JUDGE
19 FLOYD'S SECRETARY.

20 THE COURT: HE WAS NORMALLY HERE ALL THE TIME,
21 BASICALLY, AND I WAS JUST WONDERING WHY IT WAS TAKING THAT
22 LONG. HE DIDN'T TRAVEL AS MUCH AS I DO. HE WAS PRETTY
23 MUCH IN THE AREA MOST OF THE TIME WASN'T HE?

24 A YES, SIR. I DO REMEMBER HAVING TO COME OVER
25 TO JUDGE FLOYD'S OFFICE AND GET A DATE AND I THINK THAT'S

Exhibit 13B

MR. GALMORE - EXAMINATION BY THE COURT

44

1 HOW WE ENDED UP WITH THE DATE.

2 THE COURT: OKAY. DO YOU RECALL INDEPENDENTLY
3 WHAT YOU MAY HAVE TALKED TO JUDGE FLOYD ABOUT, WHAT YOU
4 MENTIONED TO HIM WHY HE SHOULD RECONSIDER OR WAS IT MS.
5 WEST'S DOING OR DO YOU REMEMBER AT ALL ANYTHING?

6 A I DON'T REMEMBER WHAT THE SPECIFIC ARGUMENTS
7 WERE.

8 THE COURT: EITHER SIDE?

9 A NO, SIR, EITHER SIDE.

10 THE COURT: EVEN WHAT MR. HEMBREE MAY HAVE SAID,
11 YOU DON'T REMEMBER THAT?

12 A NO, SIR.

13 THE COURT: WHAT ABOUT YOUR CLIENT? DID HE SAY
14 ANYTHING?

15 A I DON'T THINK SO.

16 THE COURT: AND NO ONE FROM THE FAMILY? IN
17 OTHER WORDS, YOU JUST DON'T KNOW?

18 A RIGHT. I KNOW THAT I DID NOT HAVE ANY NEW
19 ARGUMENTS FROM WHAT WAS INTRODUCED AT THE PLEA.

20 THE COURT: YOU WERE AWARE, I ASSUME, OF
21 APPELLANT PRACTICE THAT IF YOU DO HAVE A UNCERTAIN THING
22 ABOUT WHAT OCCURRED AT HEARING YOU GET THE JUDGE TOGETHER
23 WITH THE OTHER SIDE AND YOU ALL THREE SEE IF YOU CAN AGREE
24 THAT WHAT THE RECORD IS, WHAT WE USED TO CALL SETTLING THE
25 RECORD?

Exhibit 13B

MR. JENKINS - DIRECT EXAMINATION BY MS. PRATT

45

1 A YES, SIR.

2 THE COURT: AND YOU DIDN'T THINK TO DO THAT WHEN
3 THE MATTER WAS APPEALED?

4 A I WAS NEVER ASKED TO DO IT BY APPELLATE
5 DEFENSE, OR BY ANYONE.

6 THE COURT: ALL RIGHT. ANYBODY ELSE HAVE ANY
7 QUESTIONS AT ALL?

8 MS. PRATT: NO, YOUR HONOR.

9 MS. PRATT: NO, SIR.

10 THE COURT: YOU MAY STEP DOWN

11 MS. PRATT: YOUR HONOR, I WILL CALL BOBBY
12 JENKINS TO THE WITNESS STAND.

13 THE COURT: COME AROUND, MR. JENKINS.

14 BOBBY JENKINS

15 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

16 THE COURT: ALL RIGHT, MR. JENKINS, IF YOU WOULD
17 GIVE US YOUR NAME, SIR?

18 THE WITNESS: BOBBY JENKINS.

19 THE COURT: ALL RIGHT, YOU MAY PROCEED.

20 MS. PRATT: THANK YOU, YOUR HONOR.

21 DIRECT EXAMINATION

22 BY MS. PRATT:

23 Q BOBBY, YOU PLED GUILTY IN FRONT OF JUDGE
24 FLOYD TO CHARGES OF KIDNAPPING ---

25 THE COURT: BEFORE WE DO THIS, IS THAT A HAT OR

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

40

1 A IF I CAN ANSWER THAT QUESTION BY SAYING
2 SOMETHING IN ADVANCE, THIS WAS ALWAYS JAMES GALMORE'S CASE.
3 WHEN IT GOT CLOSE TO TIME FOR SOMETHING TO HAPPEN WITH EITHER
4 THE PLEA OR THE TRIAL I WAS ASKED TO BECOME INVOLVED IN IT.
5 IN HINDSIGHT I PROBABLY SHOULD NOT HAVE BEEN THE PERSON TO DO
6 THE ACTUAL TALKING ON THE RECORD BECAUSE MY INVOLVEMENT WAS
7 THE SHORTEST. NOW YOUR QUESTION WAS WHETHER OR NOT THERE HAD
8 BEEN INFORMATION GIVEN TO ME BY THE DEFENDANT ABOUT FACTUAL
9 MISREPRESENTATION?

10 Q OR BY MR. GALMORE; DID YOU HAVE UNDERSTANDING
11 THAT THINGS THAT MR. HEMBREE WAS SAYING TO THE JUDGE MIGHT
12 NOT BE ACCURATE IN REGARDS TO MR. JENKINS?

13 Q I HAD MORE INFORMATION ABOUT MR. JENKINS
14 BACKGROUND BECAUSE I HAD HAD SOME OPPORTUNITY TO TALK TO HIM
15 AS WELL AS FAMILY MEMBERS AND ONE OF THE PROSECUTORS IN THE
16 SOLICITOR'S OFFICE. I ALSO KNEW HIM FOR A LONG PERIOD OF
17 TIME SO I WAS, I WAS -- THE PRESENTATION THAT I MADE ABOUT
18 WHO HE WAS, HIS FAMILY BACKGROUND, WHERE HE CAME FROM, I KNEW
19 THAT WELL. YOUR QUESTION ABOUT HOW WELL I KNEW THE ACTUAL
20 UNDERLYING FILE AND FACTS MR. GALMORE KNEW THAT INFORMATION.

21 Q AND SO DO YOU BELIEVE THAT MR. GALMORE THEN
22 SHOULD HAVE SPOKEN AS TO THOSE THINGS?

23 A IN HINDSIGHT HE SHOULD HAVE PROBABLY BOTH OF
24 US PROBABLY SHOULD HAVE SPOKEN. I SHOULD HAVE SPOKEN AND HE
25 SHOULD HAVE SPOKEN. I SPOKE, I TALKED ABOUT MR. JENKINS

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

41

1 FAMILY AND HIS BACKGROUND AND ASKED THE COURT FOR MERCY.

2 Q WERE YOU SURPRISED BY THE SENTENCE?

3 A OH, YES, I WAS.

4 Q WHY? I MEAN AFTER ALL IF THE JUDGE HAD HAD
5 ASKED YOU HE KNEW ---

6 A AND THAT WAS WHY I MADE THE MOTION FOR
7 RECONSIDERATION.

8 A YOU KNEW HE COULD GET 90 YEARS.

9 Q THE COURT ALWAYS MAKES THAT STATEMENT. THE
10 COURT MAKES THAT STATEMENT TO US, WE'LL GO BACK IN THE
11 CHAMBERS AND TALK TO A JUDGE AND TALK TO HIM ABOUT, YOU KNOW,
12 RANGES AND WHAT WE'RE GOING TO DO; AND THE SAME IS ALWAYS
13 SAID TO THE DEFENDANT BECAUSE I DON'T KNOW FOR A FACT EXACTLY
14 WHAT I'M GOING TO DO.

15 THE COURT: HYPOTHETICALS.

16 A RIGHT, AND THIS ALWAYS HAPPENS, OKAY, BUT
17 NOWHERE, NEVER WHILE WE WERE BACK THERE TALKING ABOUT THE
18 RANGES AND THE POSSIBILITY WAS THE NUMBER ANYTHING THAT HIGH
19 OR CONCURRENT BECAUSE CONCURRENT JUST NEVER HAPPENS ON PLEAS.
20 THAT'S, THAT I MEAN CONSECUTIVE, CONCURRENT IS WHAT USUALLY
21 HAPPENS ON PLEAS. THAT'S THE, THAT'S THE ---

22 THE COURT: DID YOU GIVE HIM ANY REASON TO BELIEVE
23 HE WAS LOOKING AT A 20 YEAR SENTENCE?

24 A CONCURRENT SENTENCE, BIGGEST ONE BEING 30.
25 EVERYTHING RUN CONCURRENT WITH CRIMINAL SEXUAL CONDUCT

Exhibit 15B

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

42

1 BECAUSE THAT'S USUALLY WHAT OCCURS ON A PLEA. VERY, VERY,
2 VERY, VERY SELDOM IS IT CONSECUTIVE AND IS IT CONSECUTIVE FOR
3 THAT AMOUNT OF TIME ON A PLEA IN MY EXPERIENCE WITH THE
4 DEFENDANT'S THAT WE DEAL WITH WHICH IS ONE OF THE REASONS ---

5 THE COURT: BUT YOU DIDN'T PROMISE HIM AT HIS PLEA
6 THIS IS WHAT WE'RE GOING TO GET, THIS IS WHAT YOU'RE GOING TO
7 GET?

8 A I SAID IT ---

9 THE COURT: LOOKING AT THE TRANSCRIPT IT APPEARS
10 TO ME YOU DIDN'T ASSURE HIM OF ANYTHING. THE FACT IS YOU
11 TOLD THE JUDGE NO PLEAS; SOLICITOR AIN'T RECOMMENDING
12 NOTHING.

13 A THAT'S WHAT I TOLD THE JUDGE, YOUR HONOR, BUT
14 WHEN I HAD SPOKE TO HIM I TOLD HIM HE HAD ---

15 THE COURT: WELL HE HEARD THAT SO I'M ASSUMING
16 WHATEVER YOU SAID TO HIM HE'S GOING TO RELY ON WHAT YOU'RE
17 TELLING THAT JUDGE; HE'S HEARING IT AND YOU CAN'T CHANGE
18 THAT.

19 A YES, SIR. I AGREE WITH WHAT THE COURT'S
20 SAYING BUT WE DO THIS ALL THE TIME WITH OUR CLIENTS. THEY'LL
21 SAY WHAT'S GOING TO HAPPEN AND ---

22 THE COURT: BUT YOU TOLD HIM WHAT YOU THOUGHT ---

23 A YES, SIR.

24 THE COURT: --- BASED ON PAST HISTORY.

25 A MY EXPERIENCE.

Exhibit 15B

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

43

1 THE COURT: BUT YOU DIDN'T MAKE HIM ANY PROMISE,
2 LOOK YOU'RE GOING TO GET 20 YEARS AND YOU'RE GOING TO GET
3 CONCURRENT SENTENCES. YOU DIDN'T MAKE HIM THAT KIND OF
4 STATEMENT, DID YOU?

5 A THAT KIND OF STATEMENT, YES BECAUSE THAT'S
6 THE KIND OF STATEMENT THAT'S USUALLY MADE IN A PLEA IS THAT
7 THE SENTENCES ARE CONCURRENT USUALLY.

8 THE COURT: THAT'S LIKE PROMISING HE'S GOING TO
9 GET A SENTENCE.

10 A YES, SIR, BUT THE ONLY THING WE CAN DO IS
11 WHEN THEY ASK IS SAY THIS IS WHAT USUALLY HAPPENS.

12 Q AND, MS. WEST, ISN'T IT TRUE THAT ---

13 THE COURT: BUT YOU DIDN'T PROMISE HIM, YOU SAID
14 THIS IS WHAT I THINK, I ANTICIPATE?

15 A YES, SIR, THOSE ARE THE WORDS THAT WOULD HAVE
16 BEEN USED, BUT THOSE ARE THE WORDS THAT ARE ALWAYS USED WHEN
17 YOU'RE TALKING TO DEFENDANTS.

18 THE COURT: ALL RIGHT, YOU GO AHEAD AND PLACE THAT
19 OUT.

20 MS. PRATT: (CONTINUING)

21 Q ISN'T IT TRUE THOUGH, MS. WEST, THAT ON PAGE
22 17, THE LINE THE JUDGE IS SPEAKING OF LINE 5, SAYS THERE'S
23 BEEN NO PROMISES BY THE SOLICITOR'S OFFICE?

24 A NO, NO, NO, PAGE 17.

25 Q 17 LINE 5.

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

44

1 A THAT'S WHAT IT SAYS.

2 Q AND THAT IS TRUE, ISN'T IT, AND THAT THERE
3 HAS BEEN NO RECOMMENDATIONS -- WHO DID THAT REFER TO AS FAR
4 AS RECOMMENDATIONS?

5 A WELL THE RECOMMENDATION WOULD, OF COURSE,
6 BEEN THE SOLICITOR'S OFFICE.

7 Q ALL RIGHT, SO YOU'RE STATING TO THE COURT THE
8 SOLICITOR'S OFFICE HASN'T MADE ANY PROMISES, CORRECT?

9 A YES, MA'AM, BASED ON WHAT WAS SAID RIGHT
10 THERE, YES, MA'AM.

11 Q WHAT YOU'RE SAYING TO THE JUDGE NOW THEN IS
12 THAT IN YOUR DISCUSSIONS WITH BOBBY YOU MADE CERTAIN
13 COMMENTS?

14 A YES, MA'AM.

15 Q AND THOSE WOULD HAVE BEEN WHAT?

16 A THAT DURING A PLEA THE JUDGES GENERALLY RUN
17 THE SENTENCES CONCURRENT. CONCURRENT SENTENCE IS THE BIGGEST
18 SENTENCE YOU WOULD HAVE BEEN, HE WOULD HAVE BEEN ABLE TO GET
19 WOULD HAVE BEEN THE 30 YEARS BECAUSE THE CSC AND THE
20 KIDNAPPING WERE THE 30 YEARS, ARMED ROBBERY WAS 30 SO THAT
21 WOULD HAVE BEEN THE BIGGEST SENTENCE BECAUSE A PLEA GENERALLY
22 IS CONCURRENT SENTENCES NOT CONSECUTIVE SENTENCES.

23 Q DID YOU ALSO TALK TO HIM ABOUT HOW JUDGE
24 FLOYD NORMALLY FIGURES OUT HOW HE'S GOING TO SENTENCE ON A
25 PLEA. FOR EXAMPLE WOULD YOU HAVE SAID TO HIM HE STARTS AT

Exhibit 16B

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

45

1 HALF WAY AND GOES UP OR DOWN OR ANYTHING ALONG THOSE LINES?

2 A BASED ON THE FACTS OF THE CASE, YES, YES,
3 STARTS IN THE MIDDLE AND KIND OF GOES UP OR DOWN BASED ON THE
4 FACTS OF THE CASE.

5 THE COURT: LET ME ASK YOU THIS, IF YOU'RE KIND
6 ENOUGH, MS. PRATT, TO INDULGE ME. HE'S SAYING NOW HE'S
7 GUILTY OF CRIMINAL SEXUAL CONDUCT FIRST DEGREE WHICH UNDER
8 SECTION 16-3652 IS 30 YEARS. HE SAYS I AIN'T GUILTY OF ALL
9 THOSE OTHER THINGS.

10 MS. PRATT: BUT FOR --

11 THE COURT: DID HE EVER TELL YOU THAT?

12 A YES, YES, SIR. NOW THE HARDEST CONCEPT ---

13 THE COURT: AND YOU LET HIM PLEAD GUILTY TO
14 SOMETHING HE DENIES HE DID?

15 A NO, BUT THE REASON HE UNDERSTANDS HAND OF ONE
16 IS THE HAND OF ALL IS BECAUSE THAT WAS THE HARDEST CONCEPT
17 FOR US TO EXPLAIN TO HIM AND IT TAKES THE DEFENDANT'S A LONG
18 TIME AND IT'S REALLY HARD WHEN THE JUDGE OR WHOEVER IS
19 READING THE FACTS WHEN WHAT THEY'RE ACTUALLY PLEADING TO IS
20 THEIR ---

21 THE COURT: DID THESE CO-DEFENDANTS PLEAD?

22 A NC, YOUR HONOR, ONE, ONE OF THE CO-DEFENDANTS
23 HAD ALREADY GONE TO TRIAL TWICE WITH TWO MISTRIALS.

24 MS. PRATT: THEY HAVE NOT ARRESTED THE THIRD
25 PERSON INVOLVED.

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

52

1 THAT OPINION TO RECONSTRUCT THE RECORD OF WHAT HAPPENED IN
2 THAT MOTION?

3 A NO, I DID NOT. I DON'T KNOW, I MEAN I
4 UNDERSTAND WHAT, WHAT, WHAT IT SAYS THAT YOU SHOULD TRY TO
5 RECONSTRUCT IT BUT I HAVE NEVER ACTUALLY DONE THAT. I DID
6 NOT DO THAT.

7 Q AND YOU DIDN'T DO IT IN THIS CASE?

8 A I DID NOT DO IT IN THIS CASE. AND CAN I JUST
9 SAY ONE THING, OUR OFFICE DOESN'T REALLY DO THE APPELLATE
10 WORK; WE JUST FILE THE NOTICES, SENDS IT ON TO THE OFFICE OF
11 APPELLATE PUBLIC DEFENDERS.

12 Q ALL RIGHT, BUT IT WOULDN'T BE THE APPELLATE
13 DEFENSES BURDEN TO CREATE --

14 A IT WOULD HAVE BEEN MINE TO ESTABLISH THE
15 RECORD AND HAVE THE COURT REPORTER.

16 Q ALL RIGHT, IN YOUR EXPERIENCE AS A, AS A
17 TRIAL ATTORNEY WHAT IS THE AFFECT OF NOT PRESERVING SOMETHING
18 FOR A REVIEW?

19 A MEANS, OF COURSE, NOT ABLE TO MAKE A
20 DECISION.

21 THE COURT: YOU CAN'T TAKE IT UP.

22 Q AND IT CAN'T BE REVIEWED?

23 A THAT'S CORRECT.

24 Q AND, THEREFORE, IT CANNOT BE ANSWERED BY THE
25 SUPREME COURT OR THE COURT OF APPEALS?

Exhibit 17B

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

53

1 A THAT'S CORRECT.

2 Q AND, THEREFORE, WE WILL NEVER KNOW WHAT THE
3 COURT OF APPEALS OR THE SUPREME COURT MIGHT HAVE DONE IN
4 REGARDS TO THE RULING OF LAW ON THE MOTION; ISN'T THAT
5 CORRECT?

6 A THAT'S CORRECT.

7 MS. PRATT: THANK YOU, PLEASE ANSWER ANY QUESTIONS
8 THE ATTORNEY GENERAL MIGHT HAVE.

9 MS. TURNER: I DON'T HAVE ANY, NO QUESTIONS.

10 THE COURT: DO EITHER OF YOU HAVE ANY OBJECTION OF
11 MS. WEST BEING EXCUSED BY THE COURT?

12 MS. TURNER: NONE.

13 MS. PRATT: NO, YOUR HONOR.

14 MS. WEST: THANK YOU, YOUR HONOR.

15 THE COURT: YES, MA'AM. ALL RIGHT, WE'RE GOING
16 THE LUNCH BECAUSE WE'VE GOT MORE TESTIMONY WITH WITNESSES IN
17 THIS CASE AND WE'LL RETURN AT 2:15 OR SHORTLY THEREAFTER.

18 MS. PRATT: THANK YOU, YOUR HONOR.

19 THE COURT: HAVE A NICE LUNCH.

20 (WHEREUPON, COURT WAS ADJOURNED FOR LUNCH AND THE
21 FOLLOWING TAKES PLACE ON THE RECORD AFTER THE LUNCH RECESS.)

22 THE COURT: I SPOKE, I WANT YOU TO HEAR THIS, I
23 SPOKE WITH BOTH LAWYERS IN CHAMBERS. I INDICATED TO THEM
24 THERE'S STILL ANOTHER ATTORNEY INVOLVED IN THIS CASE AND
25 THERE ARE ADDITIONAL FAMILY MEMBERS OF BOBBY JENKINS PRESENT

Exhibit 18 B

54

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

1 ANTICIPATING THEY'RE GOING TO TESTIFY. BUT ORRIE WEST TOOK
2 THAT STAND AND TESTIFIED SHE TOLD HIM YOU CAN EXPECT A 20-
3 YEAR SENTENCE, THAT'S THE WAY I RECALL HER TESTIMONY. AND MY
4 EXPERIENCE HAS BEEN THAT IN CASES OF THIS KIND WITH
5 SUBSTANTIAL SENTENCES, TO PARAPHRASE IT, THAT THE JUDGES MAKE
6 THE SENTENCE RUN CONCURRENT. NOW THERE IS SOME DISAGREEMENT
7 AND DISPUTE BETWEEN THE STATE'S ATTORNEY MS. TURNER AND THE
8 APPLICANT'S ATTORNEY MS. PRATT AS TO HOW THEY INTERPRET THE
9 TRANSCRIPT SO I HAVE ASKED THEM DURING THE BREAK FOR LUNCH,
10 I JUST ENTERED THE COURTROOM, AND THEY BOTH WERE LISTENING TO
11 IT, REPLAY IT AND THEN I WILL HEAR BOTH OF THE LAWYERS
12 BECAUSE IF MS. WEST MADE THE REPRESENTATION EVEN THOUGH I
13 POINTED OUT IN THE RECORD BEFORE WE WENT TO LUNCH THAT MS.
14 WEST IN THE AFTER THE JUDGE HAD ACCEPTED THE PLEA THERE WAS
15 NO NEGOTIATION BETWEEN HIM AND THE SOLICITOR, SOLICITOR
16 MAKING NO RECOMMENDATION, WENT ON TO SAY PLEASE CONSIDER
17 MERCY, CONSIDER THAT HE'S ENTERING A PLEA TO THE OFFENSE, TO
18 THE CRIME. THE HAND OF ONE IS THE HAND OF ALL AND HE'S
19 CONVICTED NOT ONLY OF CRIMINAL SEXUAL CONDUCT FIRST DEGREE
20 BUT ALL OF THE OTHER CHARGES. BUT THE ISSUE IN THIS CASE IS
21 DID SHE MAKE SUCH A REPRESENTATION AND WOULD A REASONABLE
22 PERSON RELY UPON THE INFORMATION GIVEN TO THEM BY THE LAWYER?
23 MY INTERPRETATION IS AND I'M GOING TO HEAR IT, THERE'S A
24 DISPUTE BETWEEN YOU, IS SHE SAID YOU CAN EXPECT YOU'RE GOING
25 TO GET A 20-YEAR SENTENCE AND THE SENTENCES ON THE CHARGES

Exhibit 18B

100

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

55

1 THAT YOU'RE ENTERING A PLEA OF GUILTY TO, THE OTHER CHARGES
2 OF WHICH HE ADAMANTLY CLAIMS HE'S NOT GUILTY WHICH TELLS ME
3 HE COPPED A PLEA TO SOMETHING HE WASN'T GUILTY OF, OR THAT'S
4 WHAT HE CONTENDS, AND HE RELIED ON THAT AND HE WOULD NOT HAVE
5 OTHERWISE PLED GUILTY TO THOSE CHARGES.

6 NOW SHE MOVED FOR RECONSIDERATION BUT SHE COULDN'T
7 TELL ME SPECIFICALLY WHEN THAT HAPPENED AND IT DIDN'T HAVE A
8 RECORD OF THAT. IT WASN'T PRESERVED WHEN THE SECOND MOTION
9 WAS MADE. I DON'T KNOW WHY THE DELAY, IF THIS WOULD BE THE
10 DECISION, WHY THEY WAITED DAYS TO MAKE A MOTION FOR
11 RECONSIDERATION BECAUSE APPARENTLY YOU WOULD HAVE BEEN
12 SHOCKED IMMEDIATELY TO 50-YEAR SENTENCE. THEY'RE A LOT OF
13 UNANSWERED QUESTIONS, BUT I THINK SHE'S MADE A GOOD CASE FOR
14 INEFFECTIVE ASSISTANCE OF COUNSEL.

15 NOW I UNDERSTAND THE POLICY OF THE ATTORNEY GENERAL
16 THAT IN EVERY CASE WHERE ONE IS GRANTED IT'S GOING TO BE
17 APPEALED AND I ANTICIPATE THAT AND THAT DOESN'T BOTHER ME NOT
18 ONE IOTA. IT DOESN'T MAKE ANY DIFFERENCE WHAT I LIKE OR
19 DISLIKE BUT IF I KNOW THE LAW I'VE GOT TO ENFORCE IT, GOT TO
20 CALL IT AND BEFORE I DO THAT AND I'VE ALREADY INDICATED I
21 DON'T NEED TO HEAR ALL THIS OTHER TESTIMONY AFTER HEARING MS.
22 WEST TESTIMONY AND MY INTERPRETATION OF IT, BUT BEFORE I
23 GRANT IT I'M GOING TO GIVE MS. ADRIANNE TURNER THE
24 OPPORTUNITY TO TELL ME HOW SHE INTERPRETS SINCE SHE HAS HEARD
25 IT FOR THE SECOND TIME.

Exhibit 19B

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

56

1 MS. TURNER: YOUR HONOR, MY INTERPRETATION OF MS.
2 WEST TESTIMONY IS THAT SHE WITH QUALIFICATIONS EXPLAINED TO
3 THE APPLICANT THAT HE, THAT WHAT NORMALLY HAPPENS AND IT HAS
4 BEEN HER EXPERIENCE AT THE SENTENCES ---

5 THE COURT: DID SHE USE THAT SPECIFIC LANGUAGE?

6 MS. TURNER: YES, SIR, SHE SURE DID.

7 THE COURT: NORMALLY?

8 MS. TURNER: YES, SIR, AND IN HER EXPERIENCE AND
9 GENERALLY, YES, THAT'S, SHE DID, OF COURSE, THE TRANSCRIPT
10 WILL SPEAK FOR ITSELF, BUT THAT, THAT WOULD BE MY POSITION
11 THAT THERE IS NO TESTIMONY

12 THE COURT: I'M GOING TO HEAR IT, TOO, BEFORE I
13 RULE.

14 MS. TURNER: I JUST ---

15 THE COURT: WITH HER EXPERIENCE IT DID SAY YOU'RE
16 LOOKING AT 90 YEARS AND IT'S THE JUDGE DISCRETION TO DO THE
17 SENTENCING NOT TO WHERE THERE HASN'T BEEN ANY DEALS, NOT THE
18 SOLICITOR, NOT THE DEFENSE LAWYER, THAT'S THE DISCRETIONARY
19 POWER THAT THE JUDGE EXERCISED EXCLUSIVELY. BUT A PERSON
20 WITH THE EXPERIENCE OF AN EXPERIENCED, PARTICULARLY THE CHIEF
21 PUBLIC DEFENDER, KNOWS THAT THAT'S DANGEROUS GROUND TO TREAD
22 UPON TO IMPLY ANYTHING ABOUT HERE'S WHAT YOU REASONABLY CAN
23 EXPECT FROM MY EXPERIENCE. THAT RISES TO A HIGHER DEGREE
24 THAT EVEN BEING INEFFECTIVE, MY VIEW. HOW DO YOU INTERPRET?

25 MS. PRATT: WELL, YOUR HONOR, SHE SPOKE TO IT, I

Exhibit 19B

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

57

1 BELIEVE, IN OTHER PLACES THAN THE ONE THAT WE LISTENED TO,
2 BUT THE ONE THAT WE LISTENED TO IT WAS CLEAR TO ME THAT SHE
3 HAD TOLD BOBBY HE COULD EXPECT CONCURRENT SENTENCES AND THAT
4 THE HIGHEST SENTENCE, IN THE PART THAT WE LISTENED TO, THE
5 HIGHEST THAT HE COULD RECEIVE WAS 30 YEARS BECAUSE THAT WAS
6 THE MAXIMUM, THAT WAS THE PORTION THAT WE LISTENED TO.

7 THE COURT: ANY DISAGREEMENT ABOUT THAT?

8 MS. PRATT: AND I ---

9 MS. TURNER: NO, SIR, HOWEVER, I WOULD POINT OUT
10 THAT IT WAS OBVIOUSLY NOT A DONE DEAL WHAT HIS SENTENCE WOULD
11 BE BECAUSE SHE DID SAY THAT THE HIGHEST WOULD HAVE BEEN 30
12 YEARS.

13 THE COURT: I MAY ERR, BUT LIKE THE LATE JUDGE
14 NESS SAID I'M NOT IN DOUBT, GRANTED.

15 MS. PRATT: THANK YOU, YOUR HONOR.

16 THE COURT: DRAFT ALL OF THAT IN THAT LANGUAGE AND
17 YOU MAKE SURE YOU CROSS YOUR T'S AND DOT YOUR I'S.

18 MS. PRATT: I WILL, YOUR HONOR.

19 THE COURT: AND SEND A COPY OF IT AND I GENERALLY
20 SAY JUST SEND ME A BRIEF ORDER; YOU SEND ME A DETAILED ORDER
21 OF WHY I MADE THIS FINDING HE WAS GIVEN THE ASSURANCE TO
22 REASONABLY RELY THAT HE WAS GOING TO GET A 20 YEAR SENTENCE
23 WITH CONCURRENT ON THE OTHERS HE WAS PLEADING GUILTY TO. WE
24 DON'T NEED THE TESTIMONY OF THE OTHERS, BUT YOU MAKE A
25 PROFFER IN THE RECORD OF WHAT THE OTHER WITNESSES WOULD

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

58

1 TESTIFY TO THAT WAS AVAILABLE BECAUSE IF WE'RE REVERSED I'M
2 GOING TO GIVE YOU THE OPPORTUNITY TO AGAIN HAVE A BITE AT THE
3 APPLE TO CALL ALL THESE WITNESSES.

4 MS. PRATT: THANK YOU, YOUR HONOR, THANK YOU VERY
5 MUCH, YOUR HONOR, AND I'LL SEND MS. BABB A REQUEST FOR THE
6 TRANSCRIPT SO THAT I'LL MAKE SURE I HAVE EVERYTHING YOU'RE
7 CONCERNED ABOUT.

8 THE COURT: VERY GOOD. NOW THAT MEANS THERE'S
9 GOING TO BE SOME DELAY HERE AND I DON'T KNOW WHAT MY COURT
10 REPORTER'S SITUATION IS WITH BACKLOG. CAN YOU GIVE THIS, I
11 KNOW A STACK, CAN YOU GIVE THIS SOME PRIORITY AND GIVE ME
12 SOME TIME FRAME OF WHEN A TRANSCRIPT MAY BE AVAILABLE AND I
13 WON'T HOLD YOU TO IT?

14 COURT REPORTER: WITHIN 30 DAYS.

15 THE COURT: THAT'S GOOD. YOU AIN'T BEHIND.

16 COURT REPORTER: I'VE GOT ABOUT 25 REQUESTS RIGHT
17 NOW, HALF OF THEM PCR'S.

18 THE COURT: YOU LOOK AT ALL THE MONEY YOU'RE
19 EARNING. ALL RIGHT, WE'RE GOING TO TRY TO EXPEDITE AND TRY
20 TO GET YOU A TRANSCRIPT WITHIN 30 DAYS. I WANT THIS MATTER
21 CLOSED AFTER YOU RECEIVE THE TRANSCRIPT. WITHIN TEN DAYS I
22 WANT YOU TO THEN HAVE THAT ORDER TRANSMITTED TO MS. TURNER.
23 MS. TURNER, YOU'RE GOING TO HAVE TEN DAYS AFTER THAT TO REPLY
24 TO THAT PROPOSED ORDER ---

25 MS. TURNER: THANK YOU, YOUR HONOR.

EXHIBIT 20B

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

59

1 THE COURT: --- WITH ANY OBJECTIONS YOU MIGHT
2 HAVE. SO TODAY IS SEPTEMBER THE 22ND, NOVEMBER THE 22ND,
3 SOMETIME WITHIN THAT TIME FRAME OF THREE OR FOUR DAYS, IT
4 DON'T TAKE ME LONG TO LOOK AT A HOT HORSESHOE. I'M GOING TO
5 DECIDE IT AND I'VE ALREADY TOLD YOU WHAT MY DECISION IS GOING
6 TO BE, BUT I WANT TO GIVE YOU THE OPPORTUNITY TO ADDRESS SOME
7 OF THOSE ISSUES AND THERE AIN'T NO NEED TO MAKE NO MOTION FOR
8 RECONSIDERATION. I CAN READ AND I'M GOING TO GET A COPY OF
9 THAT TRANSCRIPT, TOO, AND I'LL FLUSH IT OUT. I HAVE AND I
10 MUST TELL YOU I'VE NOT GONE THROUGH ALL OF THE TESTIMONY THAT
11 WAS TAKEN IN THE PLEA. I DO NOT FEEL THERE'S ANY NECESSITY
12 AT THIS JUNCTURE, ALTHOUGH I'M GOING TO READ IT, TO DO IT.
13 BECAUSE ORRIE WEST SHOOTS THE ATTORNEY GENERAL IN THE FOOT.

14 MS. TURNER: YOUR HONOR, MAY I JUST CLARIFY WHAT
15 MY INSTRUCTIONS ARE.

16 THE COURT: SURELY, SURELY.

17 MS. TURNER: THE PETITION IS GRANTED AND THE ORDER

18 ---

19 THE COURT: PUT THIS IN A TIME FRAME ON A DIARY
20 FOR ME. YES, MA'AM, PLEASE GO AHEAD AND EXCUSE ME FOR
21 INTERRUPTING.

22 MS. TURNER: --- AND THE ORDER IS TO BE DRAFTED
23 AND SENT TO YOU WITHIN TEN DAYS AFTER THE, THE TRANSCRIPT IS
24 RECEIVED BY MS. PRATT?

25 THE COURT: YEAH, SHE'S GOING TO DO IT PROBABLY

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

1 AND GET IT DONE BEFORE THAT 30 DAYS KNOWING MS. BRENDA, BUT
2 WITHIN TEN DAYS SHE'S GOING TO SEND ME, MAIL ME A COPY OF IT,
3 TOO. SO WITHIN TEN DAYS OF RECEIPT OF THAT TRANSCRIPT MS.
4 PRATT IS GOING TO SEND ME THE PROPOSED ORDER THEN I'M GOING
5 TO GIVE YOU TEN MORE DAYS FROM THE RECEIPT OF THAT PROPOSED
6 ORDER MAILED TO ME WITH A COPY TO YOU TO RESPOND TO ANYTHING
7 IN THAT PROPOSED ORDER THAT YOU WANT TO. AND YOU CAN SEND A
8 MEMO OR BRIEF IF YOU CHOOSE TO, BUT IF, I DON'T KNOW THAT MS.
9 PRATT WILL HAVE TO RESPOND OR REPLY TO THAT MEMO OR BRIEF
10 BECAUSE YA'LL AIN'T GOING TO BE ABLE TO CHANGE NOT ONE WORD
11 IN THAT TRANSCRIPT. AND THAT TRANSCRIPT IS NOT ONLY
12 PERSUASIVE, I FIND IT'S CONVINCING. MS. WEST SHOULD NOT HAVE
13 UNDER ANY CIRCUMSTANCES ASSUMED WHAT THAT SENTENCE WOULD BE
14 OR WHETHER IT WOULD BE CONCURRENT AND SHE TOLD HIM THAT AND
15 HE ENTERED A PLEA TO IT. IN ADDITION TO THAT UNDER THAT
16 THEORY OF THE HAND OF ONE IS THE HAND OF ALL HE COPPED A PLEA
17 AND APPARENTLY SHE KNEW THAT OR SHOULD HAVE KNOWN THAT HE
18 SAID I DIDN'T DO THOSE THINGS. THAT CASE OR THIS CASE IS AN
19 HORRIFIC CASE. I CAN'T PREDICT WHAT THE RESULT WAS GOING TO
20 BE BUT IF I WAS DEFENSE COUNSEL I WOULD BE ANTICIPATING THERE
21 AIN'T GOING TO NO DEAL AS YOU INDICATED TO ME THAT MIGHT BE
22 WITH THE SOLICITOR. I KNOW THIS SOLICITOR AND THERE AIN'T
23 GOING TO BE NO DEAL OR LET HIM PLEA, GIVE HIM CREDIT FOR TIME
24 AND GIVE HIM A 30 YEAR CAP AND PLEAD ONLY TO CRIMINAL SEXUAL
25 CONDUCT. HE'S GOING TO TRIAL ON ALL COUNTS AND I DON'T KNOW

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

61

1 THAT IT MAKES ANY DIFFERENCE BETWEEN 50 YEARS AND 90 YEARS.
2 BUT HE COULD VERY WELL BE CONVICTED OFF ALL THESE THINGS
3 UNDER THAT THEORY OF ONE IS THE HAND OF ALL AND GET A 90 YEAR
4 SENTENCE, NOT THAT IT MAKES A GREAT DEAL OF DIFFERENCE FROM
5 A PRACTICAL STANDPOINT. HE AIN'T ELIGIBLE FOR PAROLE UNDER
6 THE CLASSIFICATION. I DON'T KNOW WHAT MAY HAPPEN. I ALSO
7 KNOW HIS CO-DEFENDANT HAS NOT BEEN CONVICTED AT THIS POINT.

8 MS. PRATT: CORRECT, YOUR HONOR.

9 THE COURT: AND THAT MIGHT, HE WAS INVOLVED IN THE
10 OTHER TRIALS, TOO, WHICH HE ABSOLVES THE CO-DEFENDANT WHICH
11 IS WHAT I UNDERSTAND WHICH IS WHY PROBABLY HE'S BEEN GETTING
12 A MISTRIAL.

13 MS. PRATT: CORRECT, YOUR HONOR. HE EVEN STATED
14 IT AT THE PLEA THAT HIS CO-DEFENDANT WAS NOT GUILTY.

15 THE COURT: LOOKS LIKE HE'S THE ONE THAT CAN CUT
16 A DEAL BUT HE AIN'T INTERESTED IN DOING IT, THAT IS THE CO-
17 DEFENDANT. WELL GOOD LUCK TO YOU; YOU GOT WHAT YOU ASKED
18 FOR.

19 DEFENDANT JENKINS: OKAY, THANK YOU.

20 THE COURT: NOW WHETHER IT STICKS OR NOT WHO KNOWS
21 BECAUSE THE STATE IS GOING THROUGH AN APPEAL JUST LIKE IF YOU
22 HAD OF LOST YOU WOULD HAVE WENT. THE STATE I CAN TELL YOU
23 WITH CERTAINTY IS GOING TO APPEAL BECAUSE THAT'S THE POLICY
24 OF THE ATTORNEY GENERAL'S OFFICE. THEY DON'T HAVE ANY WIGGLE
25 ROOM WITH THEIR FOLKS THAT THEY SEND AND FOR GOOD REASON; I

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

1 DON'T QUESTION THEIR POLICY. THANK YOU, MA'AM.

2 MS. PRATT: THANK YOU, JUDGE.

3 MS. TURNER: THANK YOU, JUDGE.

4 DEFENDANT JENKINS: THANK YOU, YOUR HONOR.

5 (WHEREUPON, COURT'S EXHIBIT NUMBER 1 IS MARKED.)

6 END OF REQUESTED TRANSCRIPT- - - -

7

8

9

10

11

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED BRENDA R. BABB, OFFICIAL COURT REPORTER THE SOUTH CAROLINA COURT ADMINISTRATION, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE COURT OF COMMON PLEAS FOR HORRY COUNTY, SOUTH CAROLINA.

I DO FURTHER CERTIFY THAT I AM NEITHER KIN, COUNSEL NOR INTEREST TO ANY PARTY HERETO.

January 7, 2005

Brenda R. Babb

BRENDA R. BABB, CVR

OFFICIAL REPORTER

Exhibit 23B

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

94

1 ASSUMED, YOU KNOW, THAT THEY WERE GOING TO HANDLE THIS
2 SITUATION FROM THIS POINT, YOU KNOW, THAT THEY WERE GOING
3 TO DO WHATEVER WAS NECESSARY TO TRY TO GET THE SENTENCE
4 REDUCED. I JUST LEFT IT IN THEIR HANDS TRUSTING THEM THAT
5 THEY WOULD HANDLE THE SITUATION.

6 THE COURT: SO YOU THOUGHT THE JUDGE HAD GONE
7 AWAY FROM THE DEAL THEY HAD MADE?

8 A YES, YES, PRETTY MUCH.

9 THE COURT: OKAY, ANY OTHER QUESTIONS FROM
10 ANYONE?

11 MS. PRATT: NO, YOUR HONOR.

12 MS. CATOE: NO, YOUR HONOR.

13 THE COURT: YOU MAY STEP DOWN.

14 MS. PRATT: AND, YOUR HONOR, I'LL CALL ORRIE
15 WEST AND SHE'LL BE MY LAST WITNESS.

16 THE COURT: MS. BABB, DO YOU WANT TO TAKE A
17 MINUTE, THIS IS THE LAST WITNESS I'M GOING TO HAVE, DO YOU
18 WANT TO TAKE A MINUTE OR ARE YOU OKAY TO STAY?

19 MADAM COURT REPORTER: I'M FINE.

20 THE COURT: ALL RIGHT, COME AROUND, MS. WEST.
21 MS. DEWITT, I HOPE EVERYTHING GOES WELL WITH THAT FOOT
22 THERE, TAKE CARE OF IT.

23 MS. DEWITT: THANK YOU, IT'S GOING TO MEND,
24 THANK YOU.

25 ORRIE WEST

Exhibit 23B

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

95

1 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

2 THE COURT: OKAY, AND YOUR NAME FOR MS. BABB.

3 THE WITNESS: ORRIE WEST.

4 THE COURT: ALL RIGHT, YOUR WITNESS.

5 MS. PRATT: THANK YOU.

6 DIRECT EXAMINATION

7 BY MS. PRATT:

8 Q MS. WEST, YOU ARE THE CHIEF PUBLIC DEFENSE
9 HERE IN HORRY COUNTY; ARE YOU NOT?

10 A YES, I AM.

11 Q AND HOW LONG HAVE YOU HAD THAT POSITION?

12 A SINCE 1992.

13 Q ALL RIGHT, AND MR. GALMORE WORKS FOR YOU?

14 A YES.

15 Q AND HE WAS WORKED FOR YOU SINCE 1998?

16 A YES.

17 Q AND IN FACT I WORKED FOR YOU, DIDN'T I?

18 A YES.

19 Q AND I CURRENTLY HAVE A CONTRACT WITH ---

20 A YES.

21 Q THE FACT THAT WE HAVE A CONTRACT WHERE I DO
22 SOME PUBLIC DEFENDER CLIENTS WON'T AFFECT YOUR TESTIMONY
23 TODAY, WILL IT?

24 A ALL RIGHT.

25 THE COURT: AND IT WILL NOT AFFECT YOUR

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

96

1 REPRESENTATION OF MR. JENKINS EITHER, WILL IT, MS. PRATT?

2 MS. PRATT: ABSOLUTELY NOT, YOUR HONOR.

3 THE COURT: THANK YOU, AND IS MR. JENKINS IS HE
4 AWARE OF THAT?

5 MS. PRATT: HE KNOWS THAT I DO WORK FOR MS., MS.
6 WEST, YOUR HONOR.

7 THE COURT: ON A CONTRACT, AND MR. JENKINS,
8 KNOWING THAT, SIR -- STAND UP FOR ME, MR. JENKINS, KNOWING
9 THAT, SIR, DOES THAT HAVE YOU, HAVE ANY CONCERN ABOUT MS.
10 PRATT AS YOUR LAWYER? DO YOU WANT HER TO CONTINUE BEING
11 YOUR LAWYER?

12 APPLICANT JENKINS: YES, SIR.

13 THE COURT: SPEAK LOUDER?

14 APPLICANT JENKINS: YES, SIR.

15 THE COURT: AND YOU DON'T PERCEIVE ANY CONFLICTS
16 SHE MAY HAVE?

17 APPLICANT JENKINS: NO, SIR.

18 THE COURT: YOU THINK SHE'S DONE A GOOD JOB FOR
19 YOU?

20 APPLICANT JENKINS: YES, SIR.

21 THE COURT: ALL RIGHT, YOU MAY BE SEATED,
22 CONTINUE ON.

23 MS. PRATT: THANK YOU, YOUR HONOR.

24 Q (CONTINUING) MS. WEST, YOU WEREN'T PRESENT
25 FOR MY OPENING STATEMENT, I'M GOING TO KIND OF DIVIDE MY

Exhibit 24B

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

97

1 QUESTIONS FOR YOU INTO THREE AREAS, OKAY. THE FIRST I WANT
2 TO ASK YOU ABOUT WILL BE ABOUT THE ACTUAL EXPECTATIONS OF
3 THE PLEA. THE SECOND WILL BE ABOUT THE PRESENTATION OF THE
4 PLEA, WHAT WAS STATED OR COULD HAVE BEEN STATED, AND THEN
5 THE THIRD WILL BE ABOUT THE MOTION TO RECONSIDER, OKAY?

6 A YES.

7 Q WHEN DID YOU ACTUALLY GET INVOLVED IN
8 HELPING BOBBY?

9 A NOW OFF THE TOP OF MY HEAD I DON'T REALLY
10 REMEMBER BUT I THINK THIS WAS A JAMES GALMORE FILE AND
11 BECAUSE IT GOT MORE AND MORE COMPLEX AND HE WAS KIND OF NEW
12 WHEN HE GOT THE FILE, TOO, SO I PROBABLY WAS OVERSEEING THE
13 FILE ALL ALONG ONLY BECAUSE HE WAS A NEW ATTORNEY IN THE
14 OFFICE SO PROBABLY FROM DAY ONE I HELPED HIM OFF AND ON.

15 Q ALL RIGHT, AND DO YOU REMEMBER WHEN THE
16 FIRST TIME THAT YOU TALKED TO BOBBY WOULD HAVE BEEN?

17 A NO, AND YOU KNOW SOMEWHERE THERE'S A FILE
18 ON HIM THAT WILL HAVE ALL MY NOTES AND STUFF BUT I TALKED
19 TO HIM, I THINK EACH TIME I EVER TALKED TO HIM I WAS WITH
20 JAMES GALMORE. I DON'T THINK I EVER TALKED TO HIM BY
21 MYSELF.

22 THE COURT: MS. WEST, DO YOU NEED TO GET YOUR
23 NOTES OR YOU DON'T THINK YOU WILL FIND THEM?

24 A I DON'T I KNOW WHERE THAT FILE IS ---

25 THE COURT: OKAY.

Exhibit 25B

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

112

1 THE COURT: I JUST DIDN'T KNOW WHICH APPEAL YOU
2 WERE ASKING ABOUT, WERE YOU ASKING ABOUT --

3 A THE MOTION TO RECONSIDER INITIALLY.

4 MS. PRATT: (CONTINUING)

5 Q AND SO --

6 THE COURT: THERE WAS AN APPEAL OF THE GUILTY
7 PLEA?

8 MS. PRATT: THERE WAS AN APPEAL OF THE GUILTY
9 PLEA WHICH RESULTED IN THE UNPUBLISHED OPINION THAT THE
10 COURT HAS REVIEWED.

11 THE COURT: I THOUGHT THE APPEAL THAT I REVIEWED
12 WAS AN APPEAL FROM THE PCR.

13 MS. PRATT: WELL THERE'S ACTUALLY BEEN TWO
14 APPEALS, YOUR HONOR.

15 THE COURT: I KNOW BUT WHAT WERE THE GROUNDS FOR
16 THE APPEAL OF THE SENTENCE?

17 MS. PRATT: THE APPEAL OF THE SENTENCE ---

18 THE COURT: WAS BASED ON WHAT ISSUE?

19 MS. PRATT: YOUR HONOR, I HAVE THE, IF THE COURT
20 GIVES ME A MOMENT, THE MAIN ISSUE IN REGARDS TO THE APPEAL
21 WAS THE FACT THAT THERE WAS NO COURT REPORTER FOR THE
22 MOTION TO RECONSIDER.

23 THE COURT: ALL RIGHT.

24 MS. PRATT: AND THAT RESULTED IN THE UNPUBLISHED
25 OPINION.

Exhibit 26B

MS. WEST - DIRECT EXAMINATION BY MS. PRATT

113

1 THE COURT: THAT'S WHEN WE LOOKED AT THE
2 FOOTNOTES AND ALL THAT, OKAY, VERY GOOD.

3 MS. PRATT: THAT'S CORRECT, YOUR HONOR, AND THAT
4 OPINION WAS ACTUALLY IN 2002 WHICH RESULTED IN US ---

5 THE COURT: RIGHT.

6 MS. PRATT: --- HAVING THE PCR HEARING 2004 AND
7 THEN NOW.

8 Q (CONTINUING) SO, MS. WEST, YOU DID NOT TRY
9 TO RECONSTRUCT A, THE ACTUAL HEARING ITSELF ON THE MOTION
10 TO RECONSIDER?

11 A NO, I DIDN'T.

12 Q OKAY, AND YOU, AND THERE WAS NO COURT
13 REPORTER SO THERE WAS NO ABILITY TO REVIEW THAT; IS THAT
14 RIGHT?

15 A THAT'S CORRECT.

16 Q OKAY, AT THE MOTION TO RECONSIDER DID YOU
17 ATTEMPT TO PRESENT ANY OF THE THINGS ABOUT BOBBY'S LACK OF
18 UNDERSTANDING OR FACTS, DIFFERENCES OR MITIGATION ABOUT
19 BOBBY?

20 A NO, I DON'T THINK WE DID, WE JUST REALLY
21 ASKED WANTED HIM TO RECONSIDER THE CONSECUTIVE NATURES OF
22 THE SENTENCES. I THINK IT, I THINK HE WAS CLEAR THAT
23 THAT'S WHAT WE WANTED, I THINK THAT'S WHAT WAS STATED.

24 Q OKAY, AND WHAT WOULD YOUR MAIN ARGUMENT
25 HAVE BEEN, DO YOU REMEMBER?

Exhibit 27B

MS. WEST - CROSS EXAMINATION BY MS. CATOE

116

1 ARMED ROBBERY IS 10 TO 30, KIDNAPING 0 TO 30; WHAT WAS THE
2 THIRD CHARGE?

3 THE COURT: CSC FIRST.

4 A AND THAT'S 0 TO 30?

5 THE COURT: UH-HUH.

6 A I PROBABLY WOULD HAVE SAID A 30 YEAR
7 FIGURE.

8 Q OKAY, DID YOU FEEL THAT BOBBY WAS LEGALLY
9 INCOMPETENT AT THE TIME OF HIS PLEA?

10 A AND, AND FORTUNATELY I DON'T HAVE TO
11 ACTUALLY MAKE THAT DECISION, IF I THINK MY CLIENTS HAVE AN
12 ISSUE THAT RAISES IT TO THE LEVEL WHERE THEIR COMPETENCY IS
13 CALLED IN QUESTION I WOULD HAVE AN EVALUATION. I AM JUST
14 NOT CERTAIN WHETHER OR NOT I REMEMBER WHETHER I DID
15 ACTUALLY HAVE HIM EVALUATED. I KNOW AS A MATTER OF COURSE
16 I HAVE SOMEONE EVALUATED IF THEY'RE CHARGED WITH A
17 HOMICIDE. I DON'T RECALL THIS PARTICULAR CASE WHETHER OR
18 NOT I HAD AN EVALUATION, WHETHER OR NOT IT WAS CALLED INTO
19 QUESTION.

20 Q BUT IF YOU DID HAVE AN EVALUATION ---

21 A THAT WOULD HAVE BEEN ---

22 Q --- AND WENT FORWARD WITH THE PLEA THEN HE
23 WOULD HAVE BEEN FOUND COMPETENT?

24 A IF I HAD CALLED INTO QUESTION HIS
25 COMPETENCY I WOULD HAVE HAD HIM EVALUATED. I WOULD RELIED

Exhibit 27B

MS. WEST - CROSS EXAMINATION BY MS. CATOE

117

1 ON WHAT WILLIAM S. HALL INSTITUTE, THEIR FORENSIC REPORT
2 WOULD HAVE SAID AS TO HIS COMPETENCY TO STAND TRIAL.

3 Q OKAY, WOULD YOU SAY THAT YOU GAVE BOBBY
4 YOUR, YOUR, YOUR LEGAL ADVICE BASED UPON YOUR EXPERIENCE
5 HAVING BEEN IN COURT FOR MANY YEARS?

6 A YES.

7 Q BASED UPON YOUR EXPERIENCE OF WHAT HAPPENS
8 AT A PLEA?

9 A YES.

10 Q DID YOU TELL HIM THAT YOU WERE GUARANTEEING
11 OR PROMISING CONCURRENT SENTENCE?

12 A OF COURSE I DON'T SAY THOSE WORDS.

13 Q SO THOSE WORDS WERE NOT USED?

14 A NOT TO MY CLIENT, I GUARANTEE NOT PROMISED,
15 NO, EXPECT --

16 Q WHY DO YOU NOT USE THOSE WORDS?

17 A I SAY EXPECT, I DON'T, I JUST DON'T, I MEAN
18 I SAY EXPECT, THIS IS WHAT YOU CAN EXPECT TO HAPPEN.

19 Q DID YOU TELL BOBBY THAT YOU SPOKE TO THE
20 JUDGE AND THE JUDGE HAD A DEAL FOR CONCURRENT SENTENCES?

21 A I KNOW WE WENT BACK TO THE CHAMBERS BUT I,
22 I DON'T KNOW THAT, THAT EVEN IF THE JUDGE HAD MADE A DEAL
23 TO SAY SOMETHING LIKE THAT IF I WOULD HAVE SOMETHING LIKE
24 THAT TO MY CLIENT.

25 Q DO YOU KNOW, WAS IT YOUR UNDERSTANDING THAT

Exhibit 28 B

MS. WEST - REDIRECT EXAMINATION BY MS. PRATT

118

1 BOBBY WAS HOPING FOR CONCURRENT SENTENCES?

2 A BOBBY WAS HOPING FOR CONCURRENT SENTENCES
3 CAUSE THAT'S WHAT I TOLD HIM:

4 Q DID YOU EXPLAIN THE PENALTY FOR EACH CHARGE
5 SEPARATELY, IN OTHER WORDS 30 YEARS FOR THIS, 30 YEARS FOR
6 THIS, 30 YEARS FOR THIS?

7 A YES.

8 Q DID YOU, DO YOU RECALL BOBBY EVER USING THE
9 TERM OPEN PLEA WITH YOU IN, IN YOUR DISCUSSIONS WITH HIM
10 ABOUT WHAT THE JUDGE COULD DO?

11 A NO.

12 Q IF YOU DON'T RECALL THAT'S FINE, NOW IN
13 THIS CASE THE MAXIMUM SENTENCE WAS NOT IN FACT IMPOSED; IS
14 THAT RIGHT? IN FACT IT WAS ---

15 THE COURT: THE COURT TAKES JUDICIAL NOTICE
16 CAUSE HE COULD HAVE GOTTEN 30 CONCURRENT, 30 CONCURRENT,
17 AND 20, EXCUSE ME, 30 CONCURRENT, 30 CONSECUTIVE, 25
18 CONSECUTIVE, I'LL TAKE JUDICIAL NOTICE OF THAT.

19 MS. CATOE: AND THAT'S ALL I HAVE.

20 THE COURT: ANYTHING ELSE?

21 MS. PRATT: JUST, JUST ONE FOLLOW UP QUESTION.

22 REDIRECT EXAMINATION

23 BY MS. PRATT:

24 Q MS. CATOE ASKED YOU ABOUT A POSSIBLE
25 DISCUSSION IN CHAMBERS, IN YOUR EXPERIENCE WITH JUDGE FLOYD

Exhibit 28B

MS. WEST - REDIRECT EXAMINATION BY MS. PRATT

119

1 WHAT DID HE USUALLY DO WHEN THERE WAS A DISCUSSION IN
2 CHAMBERS?

3 A HE JUST WANTED TO KNOW WHAT THE PLEA ABOUT
4 AND WANTED TO HEAR WHAT THE SOLICITOR HAS TO SAY WHAT THE
5 FACTS ARE ABOUT AND STUFF AND JUDGE FLOYD WAS ONE THAT WE
6 VERY RARELY WENT BACK THERE TO ASK ABOUT WHAT HE WAS GOING
7 TO DO AND EVEN IF HE DID HE WAS VERY RELUCTANT TO SAY
8 ANYTHING ABOUT IT IS MY RECOLLECTION. I KNOW WE PROBABLY
9 WENT BACK THERE BECAUSE, CAUSE IT WAS A SERIOUS CASE BUT I,
10 I DON'T RECALL HIS BEHAVIOR BEING ANY DIFFERENT THAN IT
11 WOULD HAVE BEEN ON ANYTHING ELSE.

12 Q DID HE LIKE RECOMMENDATIONS?

13 A NO, HE DID NOT.

14 Q AND THAT WAS A GIVEN, WASN'T IT?

15 A THAT'S CORRECT.

16 Q OKAY, DID HE HAVE A STANDARD FORMULA THAT
17 HE USUALLY USED?

18 A NO, HE DID NOT. THE ONLY THING THAT HE
19 REALLY HAD AN EXTREME DISLIKE FOR WAS THIEVES AND LIARS.

20 Q OKAY, ALL RIGHT, AND SO YOU DIDN'T TELL
21 BOBBY THAT THE JUDGE HAD PROMISED YOU ANY, HIM ANYTHING?

22 A AND AGAIN I WOULDN'T HAVE SAID THAT TO A
23 CLIENT. EVEN IF WE WENT AND THE JUDGE SAID I THINK THIS IS
24 WHAT I'LL DO I VERY RARELY GO BACK AND SAY TO THE CLIENT
25 THIS IS WHAT THE JUDGE SAYS HE'S GOING TO DO.

Exhibit 29 B

MS. WEST - REDIRECT EXAMINATION BY MS. PRATT

120

1 Q BUT DO YOU BELIEVE THAT YOU MADE A
2 STATEMENT TO BOBBY THAT HE BELIEVED?

3 A ABOUT CONCURRENT SENTENCES ABSOLUTELY.

4 MS. PRATT: THANK YOU, NOTHING FURTHER.

5 THE COURT: MS. WEST, WOULD YOU HAVE PLED MR.
6 JENKINS GUILTY OR PARTICIPATED IN THE GUILTY PLEA OF MR.
7 JENKINS IF YOU THOUGHT THERE WAS SOME QUESTION OF HIS
8 COMPETENCY?

9 A NO, I WOULD NOT.

10 THE COURT: WITHOUT HAVING A HEARING, SO,
11 THEREFORE, SINCE YOU PROCEEDED ON WITH THE MATTER YOU CAN
12 TELL THE COURT IN YOUR VIEW YOU HAD NO QUESTION REGARDING
13 HIS COMPETENCY TO PLEAD GUILTY?

14 A I HAD NO QUESTION.

15 THE COURT: AND IF YOU HAVE HAD A REPORT FROM
16 THE DEPARTMENT OF MENTAL HEALTH THAT SAID HE HAD, THAT HE
17 WAS INCOMPETENT OR THERE WAS SOME QUESTION ABOUT IT YOU
18 WOULD HAVE HAD A HEARING ABOUT IT?

19 A THAT'S CORRECT.

20 THE COURT: BUT SINCE THERE WAS NO HEARING ABOUT
21 IT THEN, THEREFORE, YOU MUST NOT HAVE GOTTEN ANYTHING FROM
22 THE DEPARTMENT OF MENTAL HEALTH?

23 A RIGHT.

24 THE COURT: ALL RIGHT, NOW THE NEXT THING IS,
25 REGARDING PROMISES, DID YOU PROMISE MR. JENKINS OR HIS

Exhibit 29B

MS. WEST - REDIRECT EXAMINATION BY MS. PRATT

121

1 FAMILY THAT HE WOULD RECEIVE 20 YEARS IN A SENTENCE?

2 A I WOULDN'T HAVE SAID PROMISE AND THE NUMBER
3 20 I DON'T KNOW WHERE IT'S COMING FOR BUT I WOULD HAVE
4 PROBABLY SAID 30.

5 THE COURT: OKAY, ALL RIGHT.

6 A BUT PROMISE WOULD NOT HAVE BEEN A WORD I
7 WOULD HAVE USED.

8 THE COURT: IN ANY EVENT?

9 A RIGHT.

10 THE COURT: WELL DID YOU PROMISE HIM HE WOULD
11 GET CONCURRENT SENTENCES?

12 A I DIDN'T PROMISE HIM BUT I TOLD HIM THAT IS
13 WHAT USUALLY OCCURS ON PLEAS CONCURRENT SENTENCES.

14 THE COURT: ARE YOU SAYING YOU TOLD HIM THAT'S
15 USUALLY WHAT OCCURS BUT YOU DIDN'T PROMISE HIM IT WOULD
16 OCCUR?

17 A I NEVER SAID THE WORD PROMISE BECAUSE THE
18 PERSON THAT ACTUALLY ENTERS THE SENTENCE IS THE JUDGE SO I
19 DON'T USE THE WORD PROMISE.

20 THE COURT: WELL BUT MS. DEWITT SAID IN ASKING
21 YOU ABOUT THE SENTENCE THAT SHE SAID YOU TOLD HIM 20 YEARS
22 BUT ARE YOU TELLING ME YOU WOULD HAVE TOLD HIM YOU'RE GOING
23 TO GET CONCURRENT SENTENCES?

24 A THAT IT WOULD BE CONCURRENT, I WOULD HAVE
25 SAID THAT THEY WOULD HAVE PROBABLY BEEN RUN CONCURRENT.

Exhibit 308

MS. WEST - REDIRECT EXAMINATION BY MS. PRATT

122

1 THE COURT: NO, MA'AM, WOULD YOU HAVE TOLD HIM
2 THAT THEY WOULD BE CONCURRENT?

3 A I WOULDN'T SAY A DEFINITIVE ANSWER LIKE
4 THAT BUT WHEN THE CLIENTS ASK ME WHETHER OR NOT IT WILL BE
5 CONCURRENT, CONSECUTIVE I WOULD SAY CONCURRENT.

6 THE COURT: WOULD YOU EXPLAIN TO HIM WHAT THE
7 DIFFERENCE IS?

8 A ABSOLUTELY.

9 THE COURT: SO YOU WOULD HAVE TOLD HIM THAT
10 THERE'S A DIFFERENCE IN CONCURRENT AND CONSECUTIVE AND HE
11 IS ---

12 A AND HIS WOULD BE CONCURRENT, PROBABLY
13 CONCURRENT.

14 THE COURT: SO ARE YOU TELLING ME THAT IN, IN,
15 IF HE BASED HIS PLEA UPON YOUR COMMUNICATION WITH HIM THAT
16 HIS PLEA WOULD HAVE BEEN BASED ON AN ASSURANCE HE WAS GOING
17 TO GET CONCURRENT SENTENCES?

18 A YES, BECAUSE GUILTY PLEAS ARE CONCURRENT
19 SENTENCES AND I'M SURE MR. GALMORE AND I BOTH WOULD HAVE
20 SAID THAT TO HIM BECAUSE THAT IS WHAT OCCURS.

21 THE COURT: SO ALTHOUGH ---

22 A 98, 99 PERCENT OF THE TIME.

23 THE COURT: SO WHEN YOU -- WELL I KNOW 99 BUT
24 THAT MEANS THAT ONE, WELL YOU SAID IT, I THINK, 90 PERCENT
25 AT ONE TIME AND NOW IT'S 99 PERCENT --

Exhibit 30B

MS. WEST - REDIRECT EXAMINATION BY MS. PRATT

123

1 A 98 PERCENT, I SAID TWO PERCENT ---

2 THE COURT: NOW IT'S 98?

3 A TWO PERCENT, I SAID TWO PERCENT OF PLEAS --

4 -

5 THE COURT: TWO PERCENT.

6 A --- ARE TRIALS ---

7 THE COURT: THAT'S RIGHT.

8 A --- AND 98 PERCENT ARE PLEAS.

9 THE COURT: ALL RIGHT, SO BUT IN GUILTY PLEAS
10 SOMETIMES A JUDGE SENTENCES PEOPLE TO CONSECUTIVE.

11 A SOMETIMES.

12 THE COURT: ALL RIGHT, NOW ARE YOU TELLING ME
13 THAT EVERY TIME A JUDGE HAS SENTENCED SOMEONE THAT YOU HAD
14 TO CONSECUTIVE SENTENCES YOU HAD TOLD THE CLIENT BEFOREHAND
15 THEY WOULD GET CONCURRENT?

16 A I'M JUST TRYING TO THINK REAL HARD OF THE
17 LAST TIME I HAD A GUILTY PLEA WHERE SOMEONE GOT A
18 CONSECUTIVE SENTENCE WITH THE EXCEPTION OF THIS ONE.

19 THE COURT: OKAY, YOU DON'T REMEMBER THEN?

20 A NO, YOUR HONOR.

21 THE COURT: I'M TRYING TO REMEMBER, TOO, BUT I
22 MEAN I COULD VERY WELL HAVE, I WAS JUST TRYING TO THINK IF
23 I COULD GIVE YOU AN EXAMPLE OF ONE. SO YOU WOULD HAVE TOLD
24 THE FAMILY THAT HE WOULD GET CONCURRENT SENTENCES SO YOU
25 THOUGHT IT WOULD BE 30 YEARS SO YOU WERE VERY SURPRISED :

Exhibit 31B

MS. WEST - REDIRECT EXAMINATION BY MS. PRATT

124

1 WHEN JUDGE FLOYD DID WHAT HE DID?

2 A YES, SIR.

3 THE COURT: DO YOU RECALL DISCUSSING IT WITH THE
4 FAMILY OR WITH MR. JENKINS AFTERWARDS REGARDING WHAT JUDGE
5 FLOYD DID?

6 A I THINK THE ONLY THING WE SAID CAUSE WE
7 WERE KIND OF IN SHOCK WAS CAUSE WE KNEW OUR RECOURSE WOULD
8 BE TO FILE A MOTION TO RECONSIDER. WE ALSO KNEW THAT HE
9 REALLY WASN'T EVEN SITTING, HE WASN'T SITTING GENERAL
10 SESSIONS IN HORRY COUNTY WHEN WE DID THE MOTION, I'M SORRY,
11 HE WAS SITTING GENERAL SESSIONS BUT THEN HE LEFT SO WE KNEW
12 HE WAS GOING TO BE GONE AND SO WHEN WE DID THE MOTION TO
13 RECONSIDER WE KNEW WE'D PROBABLY HAVE TO WAIT A PERIOD OF
14 TIME FOR HIM TO COME BACK, SO I'M SURE WHEN WE LEFT WE TOLD
15 HER THAT WE WOULD FILE THE MOTION TO RECONSIDER BECAUSE WE
16 KNEW AS SOON AS WE LEFT THE COURTHOUSE THAT DAY WE WOULD BE
17 DOING THAT.

18 THE COURT: ONCE YOU KNEW THAT THE PROPENSITY TO
19 GIVE THE CONSECUTIVE SENTENCE HERE CAUSE HE DID AND YOU
20 WENT TO A MOTION OF RECONSIDERATION IT DIDN'T OCCUR TO YOU
21 THEN THAT, BOY, WE NEED A LOT MORE HERE TO CHANGE THE
22 JUDGE'S MIND CAUSE HE'S DONE SOMETHING THAT I GUESS YOU'D
23 NEVER SEEN HIM DO BEFORE IN YOUR PLEAS SINCE YOU SAY YOU
24 DON'T RECALL ANY AND, OF COURSE, YOU'VE BEEN A PUBLIC
25 DEFENDER SINCE '92 AND HE HAD BEEN A JUDGE SINCE WAY BEFORE

Exhibit 31B

MS. WEST - REDIRECT EXAMINATION BY MS. PRATT

125

1 '92?

2 A RIGHT.

3 THE COURT: SO HE HAD DONE SOMETHING YOU HAD
4 NEVER SEEN DONE BEFORE IN FRONT OF HIM WITH YOU?

5 A YES, SIR.

6 THE COURT: AND, AND I GUESS WITH OTHER PEOPLE
7 IN YOUR OFFICE CAUSE YOU WOULD HAVE KNOWN ABOUT IT IF IT
8 HAD BEEN SOMEBODY IN YOUR OFFICE, SO SINCE HE DID SOMETHING
9 SO UNUSUAL WHEN YOU HAD THE MOTION FOR RECONSIDERATION IT
10 DIDN'T OCCUR TO YOU THAT WE REALLY NEED TO GET A LOT OF
11 GOOD STUFF ABOUT MR. JENKINS OR FAMILY STUFF ABOUT HIM TO
12 SEE IF WE CAN PERSUADE THE JUDGE TO CHANGE HIS MIND?

13 A AND, YOUR HONOR, IN RETROSPECT AND I
14 DIDN'T, I JUST DID A FLAT MOTION TO RECONSIDER. I DON'T
15 EVEN KNOW HOW MANY OF THOSE I'D EVER DONE IN THE PAST. I
16 MEAN FROM 1992 TO 2000 WHEN I ACTUALLY DID THAT MOTION TO
17 RECONSIDER I DON'T KNOW IF THAT WASN'T MAYBE THE SECOND
18 TIME I HAD ACTUALLY DONE SOMETHING OF THAT NATURE. IT'S
19 VERY RARE THAT I'VE ASKED THE COURT TO RECONSIDER A
20 SENTENCE THAT THEY'VE IMPOSED AND I PROBABLY SHOULD HAVE
21 GIVEN IT MORE SAUCE AND, AND DONE MORE OF A FULL COURT
22 PRESS AND HAD A WHOLE THING FULL OF WITNESSES BUT I JUST, I
23 DIDN'T. I THINK MAYBE THAT WAS THE SECOND TIME I'D EVER
24 DONE A MOTION TO RECONSIDER AND I THINK I WAS SUCCESSFUL
25 THE LAST TIME I DID A MOTION TO RECONSIDER CAUSE IT WAS A

Exhibit 32B

MS. WEST - REDIRECT EXAMINATION BY MS. PRATT

126

1 SIMPLE MATTER ABOUT SOMETHING ELSE IN A DIFFERENT KIND OF
2 CASE.

3 THE COURT: AND IT ALSO DIDN'T OCCUR TO YOU THAT
4 WHEN YOU NOTICE THERE WAS NO RECORD TO SAY, JUDGE, IT MIGHT
5 BE BEST SINCE WE'RE DEALING WITH AS FAR AS SENTENCES OTHER
6 THAN LIFE SENTENCES ABOUT A MOST SERIOUS THING YOU COULD
7 GET IN THE AMOUNT WITHOUT IT BEING A LIFE SENTENCE, DIDN'T
8 IT OCCUR TO YOU TO SAY, JUDGE, WE PROBABLY DO NEED A
9 RECORD?

10 A AND, YOUR HONOR, I MADE THE ONE STATEMENT I
11 MADE, HE SAID, WE DIDN'T NEED ONE, AND AGAIN THAT HAS NOT
12 HAPPENED SINCE THEN AND SOMETIMES, SOMETIMES ATTORNEYS ARE
13 A LITTLE RELUCTANT TO BE FORCEFUL ABOUT ISSUES.

14 THE COURT: WELL THE COURT'S AWARE MS. WEST, MS.
15 WEST HAS AN ABILITY TO BE FORCEFUL, TOO. WHAT I'M ASKING
16 YOU IS ARE YOU SAYING NOW YOU WOULD SAY, JUDGE ---

17 A I WON'T GO FORWARD WITHOUT IT, YES, SIR.

18 THE COURT: WELL YOU KNOW MR. GALMORE PREPARED
19 THE ORDER?

20 A YES, SIR, AND ACTUALLY THIS WAS PRIMARILY
21 JAMES' CASE, I WAS ASSISTING MR. GALMORE.

22 THE COURT: I'M AWARE OF THAT, YOU WERE
23 ASSISTING PREPARING THE ORDER TO SAY THAT PURSUANT TO THE
24 JUDGE'S INSTRUCTION THERE WAS NO RECORD MADE OF THIS CAUSE
25 IT DOESN'T SAY IT IN THE ORDER?

1 A AND YOU HAVE TO TELL ME AGAIN WHAT ORDER?
2 THE COURT: THE ORDER DENYING THE MOTION FOR
3 RECONSIDERATION JUDGE, MR. GALMORE PREPARED A SHORT ORDER
4 FOR THE JUDGE TO SIGN SAYING HE CONSIDERED BOTH THE STATE
5 AND DEFENSE THEIR ARGUMENTS AND DENIED THE MOTION FOR
6 RECONSIDERATION. THERE WAS NO COMMENT IN THERE ABOUT NO
7 RECORD.

8 A OH, OKAY.

9 THE COURT: YOU CAN BRING IT TO HER IF YOU WANT
10 TO, IT'S JUST A SHORT MOTION.

11 MS. PRATT: THANK YOU, YOUR HONOR.

12 THE WITNESS: (CONTINUING)

13 A I DON'T REMEMBER THIS AT ALL.

14 THE COURT: WELL THEN IT WON'T DO MUCH GOOD TO
15 REVIEW IT THEN, WILL IT? YOU DIDN'T ASSIST IN PREPARATION
16 OF THAT SHORT SORT OF TO THE POINT ORDER?

17 A I DON'T THINK SO, YOUR HONOR.

18 THE COURT: ALL RIGHT, THANK YOU, ANY OTHER
19 QUESTIONS, MS. PRATT?

20 MS. PRATT: NO, SIR.

21 THE COURT: ANY OTHER QUESTIONS, MS. CATOE?

22 MS. CATOE: NO, YOUR HONOR.

23 THE COURT: ALL RIGHT, THANK YOU, MS. WEST, YOU
24 MAY STEP DOWN.

25 A AND, THANK YOU, FOR LETTING ME GO OUT TO

Exhibit 338

Honorable Jeanne Roberts
Horry County Clerk of Court
1201 3rd Avenue
Conway, S.C. 29526

Mr Ali Magtadir
#144443/SyC E# 23
P.O. Box 518
Kershaw, S.C. 29067

DATE: 9-8-98

TO: THE PRESIDING JUDGE, SOLICITOR and CLERK OF COURT

Please be advised that I am currently incarcerated at Kershaw C.I. in Kershaw, S.C.

Although, I was notified by P.D. James Calmore of Horry County "by letter and subpoena" that the Solicitors Office had subpoenaed me to be in court during 9/8/98 - 9/11/98 term.

Which was received Sept 3, 1998, dated to me Sept 1, 98. To kept from getting a bench warrant - a continuing detainer. I respectfully request a transfer order to Horry County Court of General Sessions, for the above dates term of Court, to dispose of the charge E 730772.

Never served other warrants held by Myrtle Beach Police

DATE MAILED

Respectfully, I am
Ali Magtadir

RECEIVED

SEP 10 1998
CLERK OF COURT

97-08-1370 JG
Exhibit 34B
SUBPOENA IN A CRIMINAL CASE

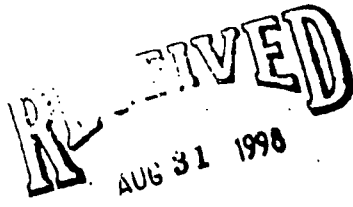
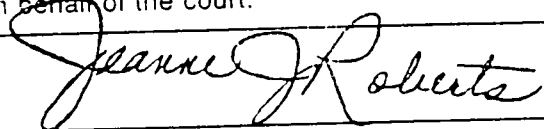
SOUTH CAROLINA <u>GENERAL SESSION COURT</u>		COUNTY <u>HORRY COUNTY</u>
STATE OF SOUTH CAROLINA V. ALI MUSTADIR		CASE NO. <u>53744 001</u> SUBPOENA FOR: ☒ PERSON ☐ DOCUMENT (S) OR OBJECT (S) XXXXXXXXXXXXXXXXXXXX
TO: MR. JAMES GALMORE PUBLIC DEFENDER'S OFFICE P. O. BOX 1666 CONWAY, SC <u>29526</u>		
☒ YOU ARE HEREBY COMMANDED to appear in the above named court at the place, date, and time specified below to testify in the above-entitled case.		
PLACE <u>HORRY COUNTY COURTHOUSE</u> <u>2ND AVENUE</u> <u>CONWAY, S.C.</u>	COURTROOM <u>L</u> DATE AND TIME <u>9/08/98 THRU 9/11/98</u> <u>08 30A M</u>	
☐ YOU ARE ALSO COMMANDED to bring with you the following document (s) or object (s):		
LIST DOCUMENT (S) OR OBJECT (S) <u>WARRANTS E760772</u> 		
This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.		
CLERK OF COURT 	DATE <u>8/19/98</u>	
(BY) DEPUTY CLERK		
THIS SUBPOENA IS ISSUED UPON APPLICATION OF THE: ☒ SOLICITOR ☐ DEFENDANT	ATTORNEY'S NAME AND ADDRESS <u>LUCIA SACOT</u> <u>PHONE 246-1843 OR 444-1843</u>	

Exhibit 35B

OFFENSE CODE 50176
DATE OF OFFENSE 5-8-97
DATE OF ARREST 8-5-97
ARRESTING AGENCY MBPD
TICKET/WARRANT(S) E 730772
ORIGINAL WARRANT CHARGE pos crack cocaine
PLED/CONVICTED

Went back to court only on this charge

SPECIAL CONDITIONS: ☐ Probation Terminated upon full payment ☐ Attend Voc. Rehab
☐ Random Drug/Alcohol Testing ☐ Public Service Employment ☐ days/hours ☐ Obtain GED
☐ Substance Abuse Counseling ☐ SC Central Registry OTHER CONDITIONS

Credit for jail time served on this offense 3 days/months.

~~PRESIDING JUDGE~~

RESTITUTION TO BE PAID AT
PROBATION AND PAROLE OFFICE

RESTITUTION \$ _____
SERVICE CHARGE(3%)\$ _____

TOTALS \$

55 INFORMATION ON DEFENDANT

DATE OF BIRTH 8-7-69 M ☒ F ☐
SS# 249-33-9206 RACE B
ATTORNEY B. Pigitt
SOLICITOR J. Crelag
COURT REPORTER D. Subark

BEGINNING 12-24-98 Jeanne K. Roberts
 incarcerated with 11-23-98



PUBLIC DEFENDER OF HORRY COUNTY

Exhibit 36B

Ali Muqtadir
Kershaw Correctional Inst.
P.O. Box 518
Kershaw, SC 29067

Re: State v. Ali Muqtadir S.S. No: 249-33-9206
File No: 97-08-1370
Attorney: James Galmore

Court Term: 9/8/98 - 9/11/98

Dear Ali Muqtadir:

Please be advised that we have been legally notified by the Solicitor's Office that you have been subpoenaed for Court during the above term. Please report to the main courtroom, second floor of the Horry County Courthouse, 3rd Avenue, Conway, at 8:30 am.

You MUST APPEAR on the first day of Court and answer roll call or else the Court will issue a Bench Warrant for your arrest and you will remain in jail until your case is disposed of. Also, you must remain in Court every day until your case is disposed unless the Court excuses you.

If your name does not appear on the Solicitor's trial roster, your attorney may request the Court to excuse you after roll call. Please remember that your attorney does not have the authority to release you from Court. If you are excused by the Court, you will be required to provide your attorney with a phone number where you can be reached immediately: please have phone numbers ready for this purpose if you want to be excused.

During roll call, the Solicitor will call your name: you should stand up, state your attorney's name ("My attorney is ----"), and then state your plea ("Guilty" or "Not Guilty"). If you need to talk with me further before deciding what your plea is, then answer "Not Guilty," and this will give us some more time to discuss the case after roll call is done. Please remember that entering a plea at roll call is not binding upon you.

James Galmore
Public Defender

Tuesday, September 01, 1998

Exhibit 36B

Exhibit 37 B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Civil Action No. 3:00-0022-23BC

BOBBY JENKINS, #77279, a/k/a
ALI MUQTADIR, #199443,

Plaintiff,

you can see where James Galmour

-versus-

~~TRACY SMITH, J. REUBEN LONG DETENTION CENTER,~~
TRACY SMITH, J. REUBEN LONG DETENTION
CENTER,

Defendants.

AFFIDAVIT OF
TRACY SMITH

Name was marked out.

PERSONALLY APPEARED before me TRACY SMITH, who after first being

duly sworn, deposes and says:

1. I am Pfc. Tracy Smith. On or about September 11, 1999, I was employed as a correctional officer at the J. Reuben Long Detention Center in Horry County, South Carolina.
2. On September 11, 1999, at approximately 16:45 I had served dinner to the top floor of B-1 Max Pod. As I walked to the officers' desk to retrieve the juice to begin serving to B-1 Max, an inmate threw his dinner tray against the fence causing the food to splatter on the floor in front of me and the bottom floor.
3. I left B-1 Max pod and advised Corporal Boone of the incident. I returned to B-1 Max and began to close the cell flaps.

Exhibit 38 B

474 U.S. 140 (1985). Additionally, any party who fails to file timely, written objections to the magistrate judge's report pursuant to 28 U.S.C. § 636(b)(1) waives the right to raise those objections at the appellate court level. United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).² No objections have been filed to the magistrate judge's report.

A review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. For the reasons articulated by the magistrate judge, it is hereby **ordered** that the complaint in the above-captioned case be **dismissed without prejudice** and without issuance and service of process as to defendant James Galmour, and that the complaint be served on defendant Tracy Smith.

ORDERED, that the magistrate judge's report and recommendation is adopted as the order of this Court.

Filed a lawsuit on
James Galmour for not
wanting to do his job and
investigate my case now look at
the court come he knew I filed

²In Wright v. Collins, 766 F.2d 841 (4th Cir. 1985), the court held "that a pro se litigant must receive fair notification of the consequences of failure to object to a magistrate judge's report before such a procedural default will result in waiver of the right to appeal. The notice must be 'sufficiently understandable to one in appellant's circumstances fairly to appraise him of what is required.'" Id. at 846. Plaintiff was advised in a clear manner that his objections had to be filed within ten (10) days, and he received notice of the consequences at the appellate level of his failure to object to the magistrate judge's report.

the lawsuit him and orriewes k
thats why I was sold out in
court but the what h

2
PMD

Exhibits 1C through 72C

Exhibits show that Sandra Winstead Weaver statement contradicted the police reports that she gave of her attackers and that it changed in all court proceedings. Sandra Weaver also was locked up at J.R.L Detention Center and was bonded out by the solicitors office. It also shows the suggestive D.N.A hearing that was supposed to take place.

Exhibit 1

EVENT

VICTIM NO. 1

SUBJECT NO. 1

NARRATIVE

PROPERTY

INVESTIGATION

INCIDENT TYPE

- 1. CRIMINAL SEXUAL CONDUCT
- 2. ROBBERY - ARMED

COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM
☒	☒	ROADSIDE	0	☐ Individual
☐	☐	ROADSIDE	0	☐ Business
☐	☐			☐ Financial Inst
☐	☐			☐ Government
☐	☐			☐ Relig. Org.
☐	☐			☐ Soc. Public
☐	☐			☐ Other
☐	☐			☐ Unknown
☐	☐			☐ Other

INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)				ZIP CODE		WEAPON TYPE	
33RD AVENUE N OCEAN BOULEVARD MYRTLE BEACH, SC				29577		HANDGUN	
INCIDENT DATE		DATE		TIME ARRIVED		LOCATION NO	
9-24-97		0530		9/24/97 0550		34B	
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)				RESIDENT	PAGE	SEX	AGE
SEE VICTIM				J S O U			
ADDRESS				CITY	STATE	ZIP CODE	LOCATION NO

RELATIONSHIP TO SUBJECT				RESIDENT	PAGE	SEX	AGE	ETH.	DAYTIME PHONE	EVENING PHONE
NONE				0 S O U	W F		35	N		
FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.										
HEIGHT	WEIGHT	HAIR	EYES	SSN	CITY	STATE	ZIP CODE	LOCATION NO		
505	111	RED	HAZ					43C		
ADDRESS										

VISIBLE INJURY (VICT. 1) YES NO				EXPLAIN - BRUISES & ABRASIONS			
VICTIM (NO. 1) USING ALCOHOL YES NO				DRUGS YES NO			
TWO-MAN VEH. ONE-MAN VEH. DETECTIVE/SALARY OTHER				ALONE ASSISTED			
RACE SEX AGE ETH DATE OF BIRTH				HEIGHT WEIGHT HAIR EYES			
B M 16 18 N				505 111 RED HAZ			
NAME (LAST, FIRST, MIDDLE)				FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.			
UNKNOWN				SHORT APPRO, DARK SKIN, MEDIUM BUILD			
FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.				BECKGOUND - STRIPED OR PLaid LONG SHIRT WITH SHORT SLEEVES (ARMED W/ GREY & BLK)			
ADDRESS				CITY STATE ZIP CODE LOCATION NO			
SUBJECT (NO. 1) USING ALCOHOL YES NO				ARRESTED NEAR OFFENSE SCENE YES NO			
DRUGS YES NO				TOTAL # ARRESTED			

ON THE ABOVE DATE & TIME P/O RESPONDED TO A "SHOTS FIRED" CALL AT 403 33RD AVE N. UPON ARRIVAL & SPEAKING WITH THE ORIGINAL COMPLAINANT THE ABOVE LISTED VICTIM APPROACHED P/O FROM OCEAN BOULEVARD'S PUSHING A BICYCLE & CRYING - VICTIM STATED SHE HAD BEEN SEXUALLY ASSAULTED & BEATEN BY 3 BLACK MALES - TWO OF WHICH WERE ARMED W/ GREY & BLACK SEMI-AUTOMATIC TYPE HANDGUNS W/ LONG BARRELS. AT. HOLDER & OFC PROCK WERE ALSO ON SCENE, CPL. ARINGTON ARRIVED ON SCENE & DET. SUSAN BAKER & CRIME SCENE OFC GRAHAM WERE NOTIFIED. P/O TRANSPORTED VICTIM TO COLUMBIA GRAND STRAND REGIONAL MEDICAL CENTER.

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY	
MYRTLE BEACH P.D.		TOTAL VALUE	
		20 +	

TYPE (GROUP)	CURRENCY
STOLEN	220-
DAMAGED	
LOST	
RECOVERED	

SUBJECT IDENTIFIED		SUBJECT LOCATED		EXTRACTION CENTER		APPROVING OFFICER	
YES		YES		YES		YES	
REASON FOR EXCEPTIONAL CLEARANCE		OFFENSE DEATH		NO PROSECUTION		DATE	
REPORTING OFFICER(S)		DATE		TIME		OFFICER	
9/24/97		1325		OFFICER		9-24-97 203	

AGENCY I.D. _____
SCS 250600

SUPP

ARY REPORT

CASE NUMBER

Exhibit 1C
Most read carefully

9-71163-97

☒ ORIGINAL REPORT
☒ MODIFIES ORIGINAL

☐ SUPPLEMENTAL REPORT
☐ CASE STATUS CHANGE

☐ ADDITIONAL VICTIMS
☐ ADDITIONAL OFFENDERS

☐ ADDITIONAL STOLEN PROPERTY
☐ ADDITIONAL RECOVERED PROPERTY

PAGE 1

NARRATIVE

UPON ARRIVAL AT 403 33RD AVEN. THE VICTIM RAN UP TO P/O 4d OFC. PROCK 4d LT. HOLDER ON THE CORNER OF 33RD AVE N. 4d N. OCEAN BLVD. (VICTIM RAN FROM ACROSS OCEAN BOULEVARD - PUSHING BICYCLE), VICTIM STATED SHE HAD JUST BEEN RAPED FROM 3 BLACK MALES, IN THE WOODED AREA ACROSS THE STREET SOME OF THE VICTIM'S PERSONAL BELONGINGS WERE STILL LYING ON THE SIDEWALK (IDENTIFICATION, ETC.) ON THE EAST SIDE OF THE BOULEVARD. LT. HOLDER 4d OFC. PROCK SECURED THE CRIME SCENE. VICTIM'S STATEMENTS TO P/O ARE AS FOLLOWS: VICTIM WAS RIDING HER BICYCLE SOUTH BOUND DOWN OCEAN BOULEVARD 4d OBSERVED A RED PICKUP TRUCK PASS HER ON MOVED THIN ONE OCCASION, TRUCK HAD WHITE CONSTRUCTION SIGNS ON THE SIDE W/ POSSIBLE BERGLUND LETTERING UNKNOWN COMPANY NAME 4d ONLY SAW ONE DRIVER IN THE VEHICLE SHE THEN OBSERVED 2 BLACK MALES (SUSPECT 1 4d 2) WALKING UP THE SIDEWALK, WHEN SHE PASSED THEM THEY SAID "HEY". VICTIM CONTINUED RIDING SOUTH BOUND DOWN THE BOULEVARD 4d THE TRUCK PASSED HER AGAIN. AT 34TH AVE N. SHE OBSERVED THE 2 SUSPECTS AGAIN (WHOM SHE BELIEVED THE TRUCK PICKED UP 4d RELOCATED TO FOLLOW HER) AT 34TH AVE N THEY RAN AT HER IN THE STREET 4d SHE ATTEMPTED TO HIT THEM, "RUN THEM OVER" WITH HER BICYCLE. THE SUSPECTS KNOCKED HER OFF OF HER BICYCLE IN THE MIDDLE OF THE ROADWAY 4d THEN CARRIED HER ACROSS THE BOULEVARD 4d INTO THE WOODED AREA. SUSPECTS BOTH HIT HER IN THE HEAD 4d ABOUT THE FACE W/ HANDGUNS. SUSPECT #1 THEN PULLED HER SHIRT OFF - AFTER ROLLING THE VICTIM ON HER STOMACH - 4d PULLED HER UNDERWEAR DOWN TO HER ANKLES. SUSPECT #2 HELD THE VICTIM'S FACE INTO THE GROUND 4d BOTH CONTINUED TO ATTEMPT TO COVER HER EYES WITH HER SWEATSHIRT 4d HAIR. 4d HOLD HER FACE INTO THE GROUND. SUSPECT #1 THEN PENETRATED THE VICTIM'S VAGINA WITH HIS PENIS, WHEN SUSPECT #1 "WAS FINISHED" - THEY SWITCHED" 4d SUSPECT #1 HELD THE VICTIM'S HEAD 4d FACE DOWN, SUSPECT #2 THEN ATTEMPTED TO PENETRATE VICTIM ANALLY 4d VICTIM BEGGED HIM TO STOP 4d TOLD HIM THAT HE COULDN'T BECAUSE SHE "JUST HAD SURGERY DOWN THERE", SUSPECT #2 STATE "THEN JACK IT UP" 4d HE PULLED HER UP 4d PENETRATED HER VAGINALLY. DURING THIS THE VICTIM NOTICED A 3RD SUSPECT WHO WAS SQUATTING DOWN NEAR HER SMOKING A CIGARETTE 4d SHE BELIEVES HE WAS POSSIBLY GOING THROUGH HER BACKPACK DURING THE SEXUAL ASSAULT BY SUSPECTS #1 4d #2. VICTIM STATES WHEN THEY CARRIED HER INTO THE WOODS SHE TOLD THEM "I HAVE 20 DOLLARS

SUBJECT IDENTIFIED
YES NO

SUBJECT LOCATED
YES NO

☒ ACTIVE ☐ ADM. CLOSED
☐ UNCHARGED

☐ ARRESTED UNDER 18
☐ ARRESTED 18 AND OVER

☐ EXCLEAR UNDER 18
☐ EXCLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1 ☐ OFFENDER DEATH 2 ☐ NO PROSECUTION 3 ☐ EXTRADITION CENTER 4 ☐ VICTIM DECLINES COOPERATION 5 ☐ JUVENILE - NO CR

REPORTING OFFICER(S)

DATE

POST OFFICER

APPROVING OFFICER

DATE

9-24-97

AGENCY I.D. _____
SCO 260600

SUPPLEMENTARY REPORT

Suspect Number one WHDO 9-7.1.1.6.3-9.7

CASE NUMBER

NOX

☐ ORIGINAL REPORT
☐ COPIES ORIGINAL

I suppose to be
can test
but recovered supposedly my D.N.A

☐ SUPPLEMENTAL REPORT
☐ CASE STATUS CHANGE

☐ ADDITIONAL VICTIMS
☐ ADDITIONAL OFFENDERS

☐ ADDITIONAL STOLEN PROPERTY
☐ ADDITIONAL UNCOVERED PROPERTY

PAGE 2 3

NARRATIVE

IN MY WALLET IN MY BAG - JUST TAKE IT," THEN SHE WAS THROWN DOWN ON HER STOMACH & VICTIM BELIEVED SHE WAS GOING TO BE SHOT IN THE BACK OF THE HEAD (VICTIM HAD SEEN BOTH SUSPECTS HANDGUNS WHEN THEY APPROACHED HER ON THE STREET & DESCRIBED THEM AS BEING SEMI-AUTOMATIC IN APPEARANCE & GREY & BLACK (NOT SHINY) W/ VERY LONG BARRELS, AT THAT POINT IS WHEN THEY BEGAN TO PULL HER SHORTS OFF, & CONTINUED TO HOLD THE GUNS TO HER HEAD & OCCASIONALLY BEAT HER ABOUT THE HEAD W/ THE GUNS. VICTIM STATES SHE KNOWS SUSPECT #1 ESCALATED IN HIS HAND BECAUSE WHEN SUSPECT #2 WAS FINISHED HE WIPE HIS SEMEN ON HER LEG & SUSPECT #1 YELLED AT HIM "I DID IT IN MY HAND - WIPE THAT OFF OF HER" & FURTHER STATED TO SUSPECT #2 - NOT W/ HER UNDERWEAR (SO SUSPECT #2 WIPE IT OFF WITH HIS OWN SHIRT) SUSPECT #1 ALSO STATED "WIPE HER PUSSY OFF", VICTIM STATES SUSPECT #1 ALSO MADE MENTION OF THE FACT THAT THE POLICE (THEY) CAN TEST THAT STUFF. AT ONE POINT ONE OF THE SUSPECTS (POSSIBLY SUSPECT # 1) STATED "KNOCK THE BITCH OUT", BUT THE OTHER SUSPECT TOLD HIM NOT TO HIT HER ANYMORE. & VICTIM AGREED TO STOP SCREAMING. VICTIM STATES DURING THE ASSAULT SHE COULD HEAR THE TRUCK & THAT THE TRUCK HAD A LOUD MUFFLER OR ENGINE; WHEN SUSPECTS WERE FINISHED SHE HEARD ONE SAY "OH MAN SOMEONE'S FOLLOWING HIM" & THEY LAID ON TOP OF THE VICTIM, WHEN THE VICTIM HEARD THE TRUCK PULL AROUND AGAIN THE SUSPECTS RAN TO IT VICTIM DID NOT SEE IF THEY GOT INTO THE TRUCK. WHEN SHE GOT UP & WAS COMING OUT OF THE WOODS SHE SAW THE TRUCK AGAIN DRIVING VERY FAST W/ POSSIBLY THE 2 SUSPECTS IN THE BACK OF THE TRUCK & VICTIM BELIEVED THE TRUCK PULLED UP 33RD AVE N & LEFT THE AREA. WHEN THE TRUCK DROVE AWAY VICTIM STATES SHE HEARD SEVERAL GUNSHOTS. VICTIM STATES WHILE SHE WAS BEING SEXUALLY ASSAULTED ONE OF THE SUSPECTS SAID "YOU KNOW YOU SHOULDN'T BE OUT HERE - MAYBE THIS WILL TEACH YOU A LESSON", SUSPECTS ALSO THREATENED HER NOT TO "CALL THE PO-LICE" & SUSPECTS COERCED THE VICTIM INTO TELLING THEM WHERE SHE WORKED & SAID THEY'D BE WATCHING IT. VICTIM STATES WHEN SHE CAME OUT OF THE WOODS SHE REMEMBERED LOOKING AT HER WATCH (WHICH SHE STATES IS SET 5 MINUTES FAST) & IT WAS 5 UNTIL 12 AM. VICTIM BELIEVES THE ASSAULT LASTED 10-15 MINUTE VICTIM HAS ABRASIONS ON HER LEFT KNEE - WHICH SHE BELIEVES THE WORST OF

SUBJECT IDENTIFIED
1-13 1-13

SUBJECT LOCATED
1-13 1-13

☒ ACTIVE ☐ ADM CLOSED
☐ UNFOUNDED

☐ ARRESTED UNDER 18
☐ ARRESTED 18 AND OVER

☐ EX-CLEAR UNDER 18
☐ EX-CLEAR 18

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION

3. ☐ EXTRADITION DENIED

4. ☐ VICTIM DECLINES COOPERATION

5. ☐ JUVENILE - 18

REPORTING OFFICER(S)

DATE

UNIT NUMBER

APPROVING OFFICER

SITE

1-17-1971 332

Chris Turner

1-17-1971

AGENCY I.D.
 SCO 260600

SUPPL

ARY REPORT

CASE NUMBER

Exhibit 1 C09-71163-97

☐ ORIGINAL
REPORT

☐ SUPPLEMENTAL
REPORT

☐ ADDITIONAL
VICTIMS

☐ ADDITIONAL
STOLEN PROPERTY

PAGE 3 3

☐ MODIFIES
ORIGINAL

☐ CASE STATUS
CHANGE

☐ ADDITIONAL
OFFENDERS

☐ ADDITIONAL
RECOVERED PROPERTY

MAY HAVE OCCURRED WHEN SHE FELL OFF OF HER BICYCLE & THAT THE OTHERS COULD HAVE BEEN CAUSED IN THE BUSHES DURING THE ASSAULT. VICTIM HAS A BLACK & BLUE SWOLLEN LEFT EYE & VICTIM COMPLAINS OF PAIN ALSO IN THE RIGHT SIDE OF HER FACE & THE BACK OF HER HEAD.

- VICTIM STATES APPROXIMATELY 3-4 MINUTES PASSED FROM THE FIRST TIME SHE OBSERVED THE SUSPECTS (POSSIBLY AROUND 50TH AVE N) TO THE SECOND TIME SHE SAW THE SUSPECTS AT APPROXIMATELY 34TH AVE N.

- VICTIM STATES WHEN SHE WAS LEAVING THE WOODS SHE PICKED UP SOME OF HER BELONGINGS & PLACED THEM BACK IN HER BACKPACK. THE BACKPACK WAS TURNED OVER TO DET. SUSAN BAKER AT GRAND STRAND REGIONAL MEDICAL CENTER.

- VICTIM STATES WHEN THE SUSPECTS RAN OUT OF THE WOODS SHE HEARD THE TRUCK & HEARD THE DOORS SLAM & THOUGHT THEY WERE GONE, BUT THEN SAW THE TRUCK CIRCLE BACK AROUND & HEARD GUNSHOTS.

- VICTIM BELIEVES SHE WAS ROBBED OF APPROXIMATELY 22 DOLLARS- WHICH WAS IN HER WALLET IN HER BACKPACK.

NARRATIVE

This is the victim report that suspect number one said he did it in his hand they can test that stuff he told suspect number two who got semen on victim leg and used his own shirt. I was suppose to be suspect number 1 but they supposively got my D.N.A out the victim. Victim was tested for alcohol but not drugs or pills.

NARRATIVE

SUBJECT IDENTIFIED

☐ YES

☒ NO

SUBJECT LOCATED

☐ YES

☒ NO

☒ ACTIVE ☐ ADM. CLOSED

☐ UNFOUNDED

☐ ARRESTED UNDER 18

☐ ARRESTED 18 AND OVER

☐ EX-CLEAR UNDER 18

☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION.

3. ☐ EXTRADITION DENIED.

4. ☐ VICTIM DECLINES COOPERATION.

5. ☐ JUVENILE - NO CUST.

REPORTING OFFICER(S)

DATE

UNIT NUMBER

APPROVING OFFICER

DATE

11/21/19 11:22

11/21/19 11:22

11/21/19 11:22

11-27-97

Exhibit ~~pages~~
~~72C~~ → 72C

MYRTLE BEACH POLICE DEPARTMENT

FOLLOW-UP REPORT

C.S.C. 1st. & Armed Robbery
INCIDENT TYPE

97-1934
CASE FILE #

***** PAUSE ****
VICTIM / COMPLAINANT

ADDRESS OF VICTIM

33rd. Ave. N. Ocean Blvd.
LOCATION OF INCIDENT

09-24-97
DATE OF INCIDENT

Detective Susan Baker
INVESTIGATOR (S)

09-71165-97
U.C.R. #

=====

09-24-97 BAKER

I was advised via ph. by Cpl. Arrington that I was needed to respond to the area of 33rd. Ave. N. Ocean Blvd. in ref. to a rape that had just occurred in which the victim was pistol whipped and the suspect/s had fired several rounds when chased by a resident in the area. Before leaving the P.D., I checked with dispatch and found that we had received 4 calls via 911 ref. this incident (calls come up on complaint computer but there is no print out trace/complaint sheet on any of them and the tapes will have to be later pulled). A witness who is said to live in the immediate vicinity called in a detailed description of the suspect veh. being a red and white pkp with some type logo on the doors bearing S.C. license plates of JKK532. I ran the tag thru the DMV (NCIC) and found it is registered to a female being Eunice Herrington, 2275 Hwy. 501, Galivants Ferry and will be a 1988 Chev. pkp. I checked telephone listings and directory assistance, but was unable to locate by name, nor by address, a contact phone number to ascertain who had that veh. at this time. A drivers license search for that registered owner of the suspect veh. did produce a valid SCOL for her, but it carried the same address. By request, dispatch notified MCPD and asked them to send an Officer to the address for the registered owner to ascertain any leads from that end. Lt. Daniels was notified and did also respond with me.

We were met on scene by Cpl. Arrington, Lt. Holder, & Ptlm. Prock. The victim had already been transported to the hospital. Moments after I did arrive on scene, Lt. Daniels advised me to proceed to the hospital to interview the victim and he would be calling additional personnel to the scene to assist them there.

I did interview the victim at length and taped same using recorder #407 micro-cassette. Ptlm. Himelseth was also present in the victim's room, ER #16, during the entire interview. The victim appeared extremely distraught, crying uncontrollably at times, very down cast eyed, and visibly shaking. Victim, hereout referred to as "Sardy", had the following obvious injuries (still fully clothed, rape kit not yet began): the left eye appeared to be slowly swelling and deep reddish purple bruising had already shown itself above and on the side of the eye, left knee had minor scrapes and black marks upon it which the victim believes to be from her

Exhibit 2C

bicycle, and she complained of a lot of pain atop the head from the pistol whipping being mostly on the left side above the temple and around the ear, and a lot of soreness to the right cheek of the buttocks. Her clothing was in a disarray, fresh ground in dirt kinda stains all about and what appeared to be leaves and grass was jammed inside the rear leg of her stretch bike shorts.

Victim related the following. Shortly before 6 a.m., she was heading southbound on Ocean Blvd. from her house, riding her bicycle on the sidewalk heading to work at Carolines Cafe. She first saw the suspect veh. pass by her in the area of the Cherry Tree Motel at 55th. Ave. N. At first she only saw 1 occupant being the driver. She noticed the veh. circled several times back by her and that now there were 2 B/M's riding in the rear bed of the truck apparently picked up in the vicinity. She continued southbound and again the truck passed by her, heading southbound also, as she neared the area of 34th. N. The 2 B/M subjects were still in the rear. Moments later the pickup passed her again, this time headed northbound, and the 2 B/M's were no longer in the rear bed of the pickup. This began to make her nervous knowing the subjects had been dropped off ahead of her. She then veered off the sidewalk onto the roadway with the intentions of riding on the opposite side of the street. However, soon as she pulled off the sidewalk, the 2 B/M's that had been in the back of the pkp. suddenly appeared in front of her on foot coming at her. She tried to turn sharp to the side but they lunged that way after her. They knocked her off of the bicycle and then immediately began hitting her in the head with the butt of a pistol. They dragged her onto the east sidewalk at which time both were seen to have pistols. Out of fear she was about to be killed, she told the suspects she had money in her backpack. They took the backpack, rumaged thru it and took her \$20.-\$22. cash, spilling some of the contents and papers out. They hit her a few more times with the pistol and then they dragged her into a wooded area there (toward the beach) and up an embankment. They shoved her down and told her to lay on her stomach. The gun was then held to the back of her head and the suspects then pulled her shorts completely off and her panties down to her ankles. The taller of the 2 suspects then got on top of her and did forceably penetrate her vagina with his penis, raping her, while the second B/M held her down. Each time during the assault that she would try to scream, the suspects would hit her with the pistol. She is not sure if the first taller subj. ejaculated inside her. When he climbed off of her, the suspects changed positions and the shorter suspect then got on top of her and also raped her vaginally. She feels sure this second suspect did not ejaculate inside her as a few minutes after her finished she heard him comment about coming in his own hand. Shorter suspect #2 then wiped the semen on the side of the victims leg. At that time, the other suspect angrily spoke up that he had better wipe her off cause they could test that. The suspect then used what appeared to possibly be his own shirt to wipe off the victim's vagina & leg. During the entire contact and assault with these suspects, they continuously ordered her to not look at them and kept pulling the victim's sweatshirt up over her face or pushing her face down in the dirt. At some point, she was able to look up briefly at which time she saw a 3rd suspect. He was a hispanic male who was squatting down, watching, and smoking a cigarette. When the second subj. finally got off her, unknown which one, but one of the 3 suspects then got atop her, pulled her hips up in the air and attempted to penetrate her anus. However, he was never successful although he kept yanking on

Exhibit 25

her hips and trying. Victim feels he was unsuccessful partially because she has had surgery there previously and is small and partially that she felt this suspect never achieved a full erection. Suddenly when a car was coming by on the roadway, the suspects dove on top of her again. They did not get up right away. Victim feels they were awaiting the pkp to come back around for them which it did shortly after that. She last saw the suspect veh. turn west on 33rd. Ave. N. at a high rate of speed. She then heard several gunshots as well.

Sandy gave the following descriptions of suspects & veh.

- SUSPECT #1: B/M, 16-18 YOA, 5'7"-5'8", slender athletic build, short cut hair, no facial hair noticed, dark complexion, heavy local black accent, wearing a short sleeve stripe or plaid shirt, long baggie jeans, carrying possibly a nickel plated semi-auto.
- SUSPECT #2: B/M, 15-16 YOA, 5'4"-5'5", slender athletic build, short cut hair, no facial hair noted, dark complexion, heavy local black accent, short sleeve shirt & long pants of unknown color, doesn't remember seeing the face of this suspect, carrying simular pistol.
- SUSPECT #3: Hispanic male, 16-18 YOA, short straight dark brown or black hair possibly with bangs style cut, smoker.
- VEHICLE: maroon pkp. with wide white stripe down the side, loud muffler, white unknown logo business type sign on drivers door with possibly maroon letters.

The victim feels that she may be able to complete a composite on the taller B/M suspect. Victim will be escorted to the P.D. by Phil. Himelseth when the hospital completes the kit and releases her. As my shift is ending and Det. Altman has been assigned to continue f/up today, I did inventory the victims interview tape and relinquish it to Altman so that he may review it if wanted. Per Lt. Daniels, I also did seize the victim's backpack that the suspects rumaged thru and took cash from so that it can be processed at the P.D. for latents. The contents are unknown to me as the possible latent evidence within was kept secure for processing. Later on return to the P.D., I did turn it over to CSS J. Graham.

After leaving the hospital, I did go back to the scene and brief Officers & detectives on the interview. Upon leaving the scene to return to the P.D., I found a black colored pair of men's boxer type underwear on the shoulder of the road at the northwest corner of 36th. N. Kings Hwy. They appeared to have been freshly laundered and had several wet in appearance spots on them. As this could possibly be what the suspect used to wipe off the victim with instead of his shirt, (very possible as well they have zero connection to the case), I did secure the area not disturbing them, called for crime scene personnel to respond for photos and collection.

I sent out a BOLO with the suspects & vehicle description to all of patrol via RCF.

Exhibit 2C

** PROGRESS REPORT **

September 24, 1997 ALTMAN:

Lt. Daniels called me at home today at approx. 06:30 hrs and asked me to respond to 33rd Ave. N. Ocn. Blvd. in reference to this incident. I then got ready and responded to the scene. Upon arriving at the incident scene at approx. 07:17 hrs I met with Lt. Daniels who briefed me on the incident. Also present at the scene was Lt. Holder, Cpl. Arrington, Pfc. Prock, and CSS Graham. Lt. Daniels directed me to assist CSS Graham in checking the crime scene of any further evidence and to make sure it was collected. Lt. Holder and I then began to canvass the crime scene again due to the fact it was beginning to get light outside. Within a few minutes we located an area approx. ten feet east from the sidewalk that had some pushed up dirt, several Hard Rock receipts, two pens, and a hair baret. I instructed CSS Graham to photograph the items and take them into evidence, which he did. Lt. Holder also told me that he had earlier found a green soda bottle that he had covered with a piece of paper due to the fact it had began to rain. I requested CSS Graham to also take that item into evidence. I then canvassed the area looking for any additional evidence, but did not find anything. Lt. Daniels also requested Crime Scene to use the lazer to check for any body fluids and hair/fibers where the items were found. CSS Lail was notified at that time to bring the lazer and a short time later he and Cpl. Joyce arrived with the lazer. CSS Graham then used the lazer light to check for the items requested, but due to the natural light in the area by now was unable to locate any. Det. Baker then arrived back on the scene after being at the hospital and advised she had a tarp in her car that may darken the area being checked if it was held over the area. Cpl. Joyce and Lt. Bellamy then held the tarp to create a dark enough atmosphere for CSS Graham to use the lazer, but no fluids, hairs, or fibers could be located.

Lt. Daniels also directed me to have CSS Graham photograph the southwest corner of 34th Ave. N. Ocn. Blvd. due to the fact someone had advised Lt. Daniels that the suspects truck ran over the grassy area when it fled the scene. I then advised CSS Graham and we went to the intersection and he photographed it. Det. Baker also called me on the radio around that time and advised me that she had located a pair of black shorts along side the road at 36th Ave. N. Kings Hwy. It was requested that CSS Graham respond there after he was finished at the scene to collect the shorts. Upon finishing at the crime scene and leaving there we went to 36th Ave. N. Kings Hwy where Det. Baker was and CSS Graham collected a pair of black Harley Davidson shorts that were located on the northwest corner of 36th Ave. N. Kings Hwy.

After clearing that location Lt. Daniels requested that I go to Arnold's Pool to locate any hispanics that may work there due to the fact an employee at a construction site next to the incident scene had told him there were several hispanics working there. Upon arriving at Arnold's Pool I met with Michelle Donovan and Bob Sacks. I told them who I was and that I was there to identify any hispanics working there because that may be related to an assault investigation from this morning. Sacks advised me that there were three hispanics working for them and that they lived above Arnold's Pool in an apartment. Donovan was able to retrieve their

Exhibit 2C

first names only for me; Jesus, Rodrigo, and Dionisio. She advised me that the office manager, Deborah V. Bailey, was on her way in and that she would be able to help me. A few minutes later Bailey arrived and I told her what I needed and she located files on two of the hispanics. The two that she had file on were: Jesus Mendoza Escobar (h/m 08-08-74 572-72-9362), and Rodrigo Bermudez (h/m 03-11-75 553-95-8679). Bailey advised me that she did not have a DOB or SS# for Dionisio Mendoza. While I was getting this information Linda Johnson called their office and asked to speak with me. Johnson advised me that she was Arnold's wife and the daughter of Judge Phipps and requested that I speak with Arnold concerning this matter and that he would be on his way to the office shortly. Being that I already had most of the information that I needed I told her that would be fine and returned to the PD. Upon arriving at the PD I received a call from Arnold and I explained to him that I was investigating an assault from early this a.m. and that a hispanic male was possibly one of the suspects and that a construction worker near the scene told us that some hispanics were working at his business. I assured him that they were not suspects in the case at that time and I was only trying to eliminate them. I told him what I wanted to do was obtain photographs and fingerprints from them so the victim could look at a line up with them in it. Arnold stated he understood and would help in any way that he could. He advised me that he would have the three workers at his office within half an hour. I then went back to Arnold's and spoke with him and he also advised me that he had spoken with the three and they told him they were sleeping during the incident time frame. Arnold also told me that none of the three have a vehicle and their only transportation was when they are working in his trucks. Upon meeting with the three Arnold advised me that they spoke very little english and he asked them if they would be willing to go to the PD and have a photograph and fingerprints taken of them. All three agreed and Arnold had one of his employee's, Wayne, drive them to the PD. Upon arriving there I escorted them back to the jail and photographs were taken of them and Lt. Bellamy completed master prints on them. I also had them sign a waiver to have these things done, which they signed and told me that they understood. After the photos were taken I prepared three separate line-ups with a photo of each in a different line-up. Criminal histories were also ran on all three, which revealed nothing. The three left after the photos and prints were taken and I thanked them for coming to the PD.

Photo line-up #1 consisted of:

- # 1 * Rodrigo Bermudez
- # 2 Altamiro Exequiel Rodriguez ID # 23364
- # 3 Yolel Almanza Almarales ID # 23136
- # 4 Enrique Ruiz ID # 24020
- # 5 Jose Macias ID # 20452
- # 6 John Robert Rivera ID # 19700

Photo line-up # 2 was:

- # 1 * Jesus Mendoza Escobar
- # 2 Nino Rodrigos ID # 23945
- # 3 Rafei Ahmad Ronshdi Al ID # 18740
- # 4 Javier Velez ID # 23557

Exhibit 2C

he walked. Sgt. Cottingham advised me that he had placed them into the trunk of his car at the scene and was ready to release them to us. I then retrieved a paperbag from CSS Graham's trunk and Sgt. Cottingham placed them into the bag as I held it open and I placed the bag into CSS Graham's trunk. Sgt. Cottingham also advised that the other clothes were at the Florence Co. Jail with SCHP Tony Dewitt.

After CSS Graham finished processing the truck I called the SCHP dispatcher and advised them that they could send a tow truck to pick it up and tow it to their impoundment lot. They advised that they would send a tow truck and advised me that a HP officer was waiting for us at the INS Exxon station

to escort us to the Florence Co. Jail. We then drove to that location and met with Sgt. Cottingham and SCHP Tony Dewitt. SCHP Dewitt advised us that the jailers at the detention center had turned the suspect's clothes over to him and that he had them bagged separately and that they were in the trunk of his patrol car. SCHP Dewitt then gave the clothes to CSS Graham and he took possession of them. CSS Graham then returned to MBPD and Det. King and I proceeded to Florence Co. Jail.

Upon arriving at the Florence Co. Jail we interviewed Ali Majid Muqtadir (aka: Bobby Cornell Jenkins). I recorded the interview on micro cassette #407. Ali was read his miranda warning by me from a miranda card and he waived his rights. Ali stated that he was not involved in this incident. However, his demeanor was indicative as very emotional as if he was guilty. After interviewing Ali the second suspect was brought to the interview room. The second suspect, Eric Marice Jenkins, stated that he wanted a lawyer upon being read his miranda warning. All tapes were to be placed into property and evidence.

After the interviews were completed Officer Eric Grice with Florence Co. Sheriff's Office completed a photo line-up with each suspect on their computer. Det. King picked out the photos to be compared for the line-ups. Det. King and I then returned to the MBPD after the line-ups were done. Lt. Vella was advised of the progress via cell phone as we were enroute back to Myrtle Beach.

September 26, 1997 Altman:

I called the victim today and advised her of the arrests from the stolen truck yesterday and she stated that she had heard it on the news. I told her that two line-ups were completed on the suspects and we wanted her to look at them. She advised me that she would be at the PD in about an hour. When she arrived at the PD Det. King showed her both line-ups separately and she was unable to pick the suspects out.

Ralph Wilson's office was also called this a.m. and I left a message for him to call me in regards to what would be needed to obtain a court order to get a suspect rape kit done on the suspects. I spoke to Janna Morrow and she stated she would have him call me.

I also received a call from a Bob Worcher of 511 31st Ave. N. (h) 448-7695 (w) 650-8534 today. He advised me that on the date of the incident he was coming out of his residence to go to work at approx. 05:40 hrs and he saw a pick-up truck (unknown color) with a very loud muffler speeding (approx. 60 mph) west on 31st Ave. N. Worcher also stated that the truck skidded to what he believed was a stop at the end of the road and he thought he heard someone jump out of the bed of the truck because he did not hear a door open or shut. Worcher stated that the truck had

Illegal
search
and
seizure

Wasnt under
Arrest

High and
drunk
testimony
cant be
use
against

Me
Also delusional
from ant bites.

News Media
already
convicted
US

Exhibit 2 C

stopped in front of some apts. at 519 31st Ave. N. when this occurred. Worcher also stated that he believed the truck had been at that residence before because he had heard a loud muffler coming from that direction earlier this week he thought. I asked Worcher if he could write all of this information down for me so I could place it in the case file and he stated that he would and drop it off at the PD.

X The Chief of Aynor PD also called and told me that he had a burglary in Aynor the night of the incident and a Clock 19 9mm and Ruger .22 were stolen, which matched the ones found on the suspect. I told the Chief that I did not have the serial numbers and gave him Sgt. Cottingham's number.

was not
arrested for
burglary
stolen goods

I advised Det. King of this information and then drove to 519 31st Ave. N. to speak with any tenants that may have been home. There were a total of 7 units in the complex and the only one with anybody home was # 5. At unit # 5 I spoke with Alex Hawkins and Tobina Bell (h) 448-0494. They advised me that they did not hear anything the morning of the incident and did not know of any blacks or hispanics that live in the neighborhood or complex. They also advised me that out of the apt. complex the following apts. do not have residence living in them due to the fact the owners live out of town and come in on certain weekends. The vacant apts. were: # 1; # 3; # 6. At the other apts.; # 2; # 4; and # 7.

When I returned to the PD I received a call from Florence Co. Jail and they advised me that the suspects were getting ready to be released on a \$4,000.00 surety bond each. I asked him about whether the SCHP charges were included in this and they advised that the only charges showing were for Florence City PD of failure to stop for a blue light and traffic offenses. I thanked them for calling and called the SCHP to speak with Sgt. Cottingham. I spoke with Sgt. McCracking and he advised that he was in the process of trying to reach Sgt. Cottingham. He advised me that he would have Sgt. Cottingham call me when he got a hold of him. I received a call from Sgt. Cottingham a few minutes later and he advised me that he was on his way to the Florence Co. Jail to get the warrant at that time. I thanked him and he stated he would call the jail and have a hold placed on him. A short time later after my call with Sgt. Cottingham I received a call from Officer John Lambert (665-9944 ext. 304), and he stated he had talked to Sgt. Cottingham and Aynor PD and that holds were placed on the suspects. Lambert advised that if we needed anything at the jail to let him know and he would be a contact person for us.

Illegal
Hold

I also called Ralph Wilson's again and spoke with Janna again and told her what our situation was and she stated she would try to locate Ralph. A few minutes later Cathy Floyd called me back and advised me that due to the fact our PD did not have charges on the suspects and that we did not have consent for the suspect rape kits we would have to present the case file to the Solicitor's Office and they would determine if there was enough evidence for a Rule to Show Cause for the court order. After that she said the Circuit Court Judge would have to sign the order. She also advised me that none of the Solicitor's would be in the office on Monday, but if it was an emergency to go to the Raddisson Resort that day and find her and she would contact Ralph to view the file. I thanked her for her assistance and advised Lt. Vella of my conversation with her.

DAVID Weaver #94752 SS-A144
Sandra Weaver #94747 FH-B108

Keep Separate
From

Bobby Jenkins #77279 SG-B233
ERIC Jenkins #94132 PT-B223

Sandra Weaver is the victim in
The Jenkins Brothers case.

Exhibit 4C

SUSPECT IN CRIMINAL SEXUAL CONDUCT THAT HAPPEN AT 33RD AVE NORTH OCEAN BLVD ON 09-24-97. SUBJECT IS A BLACK MALE 5'6" TO 5'7" 135LBS TO 140LBS WEARING DARK CLOTHING. SUSPECT WAS ALSO ARMED WITH A HANDGUN. ALSO THERE WAS ANOTHER BLACK MALE AND A MEXICAN OR HISPANIC MALE. SUSPECTS WERE LAST SEEN IN A RED AND WHITE CHEV.PICK-UP TRUCK WITH SC TAGS JKK-532. THIS VEHICLE WAS STOLEN FROM CALIVANTS FERRY AREA. ANYONE WITH INFORMATION IS ASKED TO CALL THE MYRTLE BEACH POLICE DEPARTMENT AT 913-1382.

97-1934 DET BAKER/DET ALTMAN/DET KING

Composite Done by Victim



103

59

Exhibit 56

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

MUNICIPALITY OF MYRTLE BEACH

DEC 1997 AFFIDAVIT
F-387572:46

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth and that such probable cause is based on the following facts:

On September 24, 1997, at approximately 05:45 hour's officers with the Myrtle Beach Police Department responded to the area of 33rd Avenue North Ocean Boulevard, located within the city limits of Myrtle Beach, South Carolina, in regards to an assault. Upon the officer's arrival it was learned that the victim had been traveling south riding her bicycle on Ocean Boulevard. The victim stated that a large red and white pick-up truck with a construction company name on the side panel kept passing her. The victim indicated that there were two black males in the bed of the truck. As she approached 33rd Avenue North the truck passed her again and she noticed the two black males were no longer in the bed of the truck. At that time, the two black males that were in the bed of the truck appeared from behind a bush and knocked her off her bicycle. Both individuals had semi-automatic pistols in their hands and carried her to a wooded area east of Ocean Boulevard. The black males then began to strike her with the pistols in the face and head area. They then robbed her of cash that she carried in her backpack. The black males then held the victim down against her will and removed her shorts and panties. One of the black males then got on top of her while the other held her down and penetrated her vagina with his penis. The two black males then switched positions and the second subject penetrated her with his penis.

Further investigation revealed that after the assault had taken place the black males jumped back into the bed of the red and white pick-up truck after it came back to the scene. A citizen who revealed the license plate on the truck as (SC) JKK 532 followed the truck. Investigation revealed that the license plate was registered to a 1988 Chevrolet pick-up truck that had been stolen from Galivant's Ferry, South Carolina on the same date. The victim was transported to Grand Strand Regional Medical Center for her injuries and a victim sexual assault kit was completed and sent to the South Carolina Law Enforcement Division for analysis.

On September 25, 1997, the stolen pick-up truck was involved in a pursuit with the South Carolina Highway Patrol in which two black males matching the description the victim gave as her assailants were arrested. One of the subjects was identified as the defendant.

A court hearing was held and ordered that the defendant provide blood, head hair, pubic hair, and saliva samples to compare to the victim's sexual assault kit. From this comparison test, a positive identification of the defendant's Deoxyribonucleic acid (DNA) profile matched that to the victim's kit at the South Carolina Law Enforcement Division.

Therefore, based on the above facts, there is probable cause that the defendant did commit the offense of Possession of a Firearm During the Commission of a Felony.

Sworn to and subscribed before me this 12th day of May, 1998

Linda J. Altman (L.S.)
Signature of the Judge

May S. Altman
Signature of the Affiant

TRANSFERRED
TO SOLICITOR

DEC

7

Exhibit 6C

AGENCY I.D.
SCD 260600

MYRTLE BEACH POLICE DEPARTMENT
SUPPLEMENTAL INCIDENT REPORT

PAGE 1
B/I
NCC

09-71165-97

INQ. ENT

☐ ORIGINAL REPORT
☒ SUPPLEMENTAL REPORT
☐ MODIFIED ORIGINAL
☐ CASE STATUS CHANGE
☐ ADDITIONAL VICTIMS
☐ ADDITIONAL OFFENDERS
☐ ADDITIONAL STOLEN PROPERTY
☐ ADDITIONAL RECOVERED PROPERTY

VICT/SUBJ. I.D. OVERFLOW

☐ COMPLAINT
☐ VICTIM #
☐ SUBJECT #
☐ RUNAWAY
☐ WANTED
☐ WARRANT
☐ ARREST
☐ JAIL
☐ SUMMONS

NAME (LAST, FIRST, MIDDLE): ADAMS - SUZANNE

VICTIM RELATIONSHIP TO SUBJECT: #1 #2 #3

RESIDENT: ☒ YES ☐ NO

RACE: W SEX: F AGE: 45 D.O.B.: N/A ETH: N

HEIGHT: 5'0" WEIGHT: 125 HAIR: B EYES: B FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.

ADDRESS: 3401 N. OCEAN BLVD. CITY: MB STATE: SC ZIP CODE: 29577 LOCATION NO.

DAY PHONE: 803 EVENING PHONE: 803

EXPLAIN: ☐ VICTIM NO. ☐ VEHICLE INJURY: ☐ NO ☐ YES

COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES

VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK

DRUGS: ☐ NO ☐ YES TYPE: ☐ UNK

☐ SUBJECT NO. ☐ USING ALCOHOL: ☐ NO ☐ YES ☐ UNK

USING DRUGS: ☐ NO ☐ YES ☐ UNK

☐ TWO-MAN VEHICLE ☐ DETECTIVE/PLASMIT ☐ ALONE

☐ ONE-MAN VEHICLE ☐ OTHER ☐ ASSISTED

VICT/SUBJ. I.D. OVERFLOW

☐ COMPLAINT
☐ VICTIM #
☐ SUBJECT #
☐ RUNAWAY
☐ WANTED
☐ WARRANT
☐ ARREST
☐ JAIL
☐ SUMMONS

NAME (LAST, FIRST, MIDDLE): HUCKS - ROBERT

VICTIM RELATIONSHIP TO SUBJECT: #1 #2 #3

RESIDENT: ☒ YES ☐ NO

RACE: W SEX: M AGE: 45 D.O.B.: N/A ETH: N

HEIGHT: 5'0" WEIGHT: 125 HAIR: B EYES: B FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.

ADDRESS: 1406 15th AVE S. #4 CITY: MB STATE: SC ZIP CODE: 29577 LOCATION NO.

DAY PHONE: 803 EVENING PHONE: 803

EXPLAIN: ☐ VICTIM NO. ☐ VEHICLE INJURY: ☐ NO ☐ YES

COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES

VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK

DRUGS: ☐ NO ☐ YES TYPE: ☐ UNK

☐ SUBJECT NO. ☐ USING ALCOHOL: ☐ NO ☐ YES ☐ UNK

USING DRUGS: ☐ NO ☐ YES ☐ UNK

☐ TWO-MAN VEHICLE ☐ DETECTIVE/PLASMIT ☐ ALONE

☐ ONE-MAN VEHICLE ☐ OTHER ☐ ASSISTED

NARRATIVE

WITNESS #1 (MS. ADAMS) STATED THAT SHE WAS AWAKENED BY THE SOUND OF VOICES (INAUDIBLE) COMING FROM THE AREA OF 34th AVE N. WHEN SHE LOOKED OUT HER WINDOW TO INVESTIGATE, SHE OBSERVED A RED & WHITE TRUCK TRAVELLING EAST BOUND ON 34th AVE N APPROACHING OCEAN BOULEVARD. DURING THE NEXT SEVERAL MINUTES WITNESS #1 (MS. ADAMS) OBSERVED THE TRUCK PAUSE THRU THE

(CONT)

VEH. / GUN / ETC. 1

STATUS: ☐ STOLEN ☐ RECOVERED ☐ FOUND ☐ TOWED ☐ SUSPECT ☐ VICTIM

TYPE: ☐ VEHICLE ☐ GUN ☐ BOAT ☐ LICENSE PLATE ☐ SECURITIES/BONDS, STOCKS ☐ ARTICLE

VIN AND/OR LICENSE NO.

BOAT HULL NO. AND/OR REG. NO.

SERIAL AND/OR OWNER APPLIED NO.

STATE

YEAR OF REGISTRATION

YEAR OF EXPIRATION

YEAR

MAKE

TYPE

MODEL

STYLE

COLOR

BRAND NAME

CALIBER

NIC NO.

DENOMINATION

ISSUER

SECURITIES DATE

MISCELLANEOUS

PROPERTY EST.

TYPE (GROUP)

STOLEN

DAMAGED

BURNED

RECOVERED

SEIZED

TOTAL VALUE

ADMINISTRATIVE

SUBJECT IDENTIFIED: ☒ YES ☐ NO

SUBJECT LOCATED: ☒ YES ☐ NO

☒ ACTIVE ☐ ADM CLOSED ☐ UNFOUNDED

☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER

☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRAJURISDICTION 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY

REPORTING OFFICER: PROCKS - M. W. DATE: 9-24-97 UNIT NUMBER: 281

APPROVING OFFICER: [Signature] DATE: 9/24/97 UNIT NUMBER: 331

FOLLOW-UP INVESTIGATION: ☐ YES ☐ NO

SCD 260600

09-71165-97

☐ ORIGINAL REPORT

☒ SUPPLEMENTAL REPORT

☐ ADDITIONAL VICTIM

☐ ADDITIONAL STOLEN PROPERTY

PAGE 2 of 3

☐ MODIFIED ORIGINAL

☐ CASE STATUS CHANGE

☐ ADDITIONAL OFFENDERS

☐ ADDITIONAL RECOVERED PROPERTY

NEIGHBORHOOD SEVERAL TIMES. WITNESS #1 STATED THAT THE LAST TIME ^{SHE} SAW THE VEHICLE IT WAS AGAIN TRAVELLING EAST BOUND ON 34th AVE N. W/ A WHITE CAR CHASING IT. WITNESS #1 STATED THAT SHE OBSERVED THE TRUCK SLOW DOWN & A MALE RUN & HOP INTO THE BACK OF THE TRUCK. AFTER THE MALE HOPPED IN WITNESS #1 ^{THEY} HEARD APPROX 3 GUNSHOTS. THE TRUCK WAS LAST SEEN! HEADING WEST BOUND ON 32ND AVE N.

(WITNESS #1 DESCRIBED THE SUBJECT WHO JUMPED INTO THE BACK OF THE TRUCK AS A HISPANIC MALE WEARING A WHITE T-SHIRT & DARK PANTS.)

NARRATIVE

WITNESS #2 (MR. HUCKS) STATED THAT HE HAD OBSERVED A WHITE CAR CHASING A RED & WHITE TRUCK. JUST PRIOR TO TURNING SOUTH BOUND ON OCEAN! BLVD FROM 34th AVE N., A PASSENGER IN THE TRUCK DISCHARGED A FIREARM SEVERAL TIMES. WITNESS #2 THEN FLED THE SCENE.

R/O SPOKE W/ A JIM MOORE (603 MAMMIE DR. MB-SC (H) 293-0127/(B) 451-1162), WHO IS A CONSTRUCTION FOREMAN ON A WORK SITE CLOSE TO THE INCIDENT LOCATION. MR. MOORE STATED THAT SEVERAL HISPANICS WORK AT HIS JOB SITE, HOWEVER THEY ALL WORK FOR ARNOLDS POOLS.

WHILE AT THE JOB SITE, R/O SPOKE W/ ANOTHER LABORER, A SCOTT RICKETTES (CONT)

ADMINISTRATIVE

SUBJECT IDENTIFIED ☐ YES ☒ NO	SUBJECT LOCATED ☐ YES ☒ NO	☒ ACTIVE ☐ ADM CLOSED ☐ UNFOUNDED	☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER	☐ EX CLEAR UNDER 18 ☐ EX CLEAR 18 AND OVER
REASON FOR EXCEPTAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE - NO CUSTODY				
REPORTING OFFICER'S PROCK-M.W.	DATE 9-24-97	UNIT NUMBER 281	APPROVING OFFICER 	DATE 9/24/97
FOLLOW-UP INVESTIGATION: ☐ YES ☒ NO			UNIT NUMBER 251	

☐ ORIGINAL REPORT	☒ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY
☐ MODIFIED ORIGINAL	☐ CASE STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY

(910-32D AVE N. #29 MB-SC 29577 448-251).
 MR. RICHETTES STATED THAT THE HISPANICS
 WHO WORK FOR "ARNOLDS POOLS" COULD HAVE
 POSSIBLY BEEN INVOLVED IN AN ASSAULT
 AGAINST HIS WIFE. (DET. CODE)

witnesses suppositively

NARRATIVE

SUBJECT IDENTIFIED ☐ YES ☒ NO	SUBJECT LOCATED ☐ YES ☒ NO	☒ ACTIVE ☐ NOW CLOSED ☐ UNFOUNDED	☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER	☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE - NO CUSTODY				
REPORTING OFFICER(S) P. H. H. - M. W.	DATE 9-24-97	UNIT NUMBER 281	APPROVING OFFICER J. J. J.	DATE 9/24/97
FOLLOW-UP INVESTIGATION ☐ YES ☐ NO			UNIT NUMBER 251	

Exhibit 7C

SANDRA D. WEAVER - DIRECT BY HEMBREE

9

1 I'm not exactly sure what avenue the Cherry Tree Inn is, but
2 it's probably a block and a half to two blocks north of the
3 Cherry Tree Inn when I first saw it.

4 Q. How close by -- how close did you come to these two
5 individuals when you passed them?

6 A. When I passed them, and one of them said hey, we also
7 measured the distance this morning. It was around six to
8 eight feet I was from them.

9 Q. They are walking down the street ---

10 A. And I got within six to eight feet, because there is
11 about six to eight feet of grass between the sidewalk and the
12 street that they were walking.

13 Q. Did you look at them?

14 A. Yes. I looked at them, and I didn't say anything to
15 them when I said -- I couldn't help from looking at them, they
16 were so close to me.

17 Q. Can you say, of the two, which one spoke to you?

18 A. It appeared to be the taller one that spoke to me.

19 Q. Would that be -- was one -- did one appear to be older
20 than the other?

21 A. Yes.

22 Q. And was the older one or the younger one that spoke?

23 A. That's a hard question to ---

24 Q. The taller one?

25 A. I would say the taller one. That's just -- that's a

Exhibit 8c

SANDRA D. WEAVER - DIRECT BY HEMBREE

28

Exhibit

1 person.

2 Q. And this is the one you testified was sort of in
3 charge; he was sort of the leader of the two?

4 A. Yes sir.

5 Q. Can you say how old the younger one was?

6 A. It -- I just felt like they were probably four or five
7 years difference, maybe, maybe three or four, and like I say
8 again, it's -- you cannot estimate someone's age.

9 Q. The younger one, can you describe him for us as far as
10 his -- black male, correct?

11 A. Medium build --

12 Q. Medium build. About how tall, if you know? Taller
13 than you?

14 A. There's no way of knowing that without a measuring
15 tape.

16 Q. I mean, just -- can you -- got any guess on it?

17 A. I'm pretty sure he was taller than me.

18 Q. How tall are you?

19 A. I'm five five.

20 Q. How about his skin tone, light, dark, medium?

21 A. It wasn't light, wasn't real -- you are talking about
22 the younger one now?

23 Q. Yes, the younger one.

24 A. Wasn't dark, dark, wasn't light. I would say medium,
25 medium to medium dark.

Exhibit 9C

1 A. Yes sir.

2 Q. Did they have a similar accent?

3 A. Yes sir.

4 Q. Let me move -- just kind of take you forward. The
5 assault was on September 24th. The police arrived. We kind
6 of know -- and the case was -- the scene was processed. A lot
7 of things are happening at that point in time. I'm sure you
8 were questioned. You went to the hospital, I believe, and a
9 lot of different activities that really don't have any -- you
10 know, any relevance to this particular hearing, but I do want
11 to take you up to Friday, two days after the assault, on
12 September the 26th. Were you asked to come back -- come down
13 to the Police Department on that Friday ---

14 A. Yes sir.

15 Q. ---For purposes of reviewing a photo lineup?

16 A. Yes sir.

17 Q. And did you have an opportunity to review that lineup?

18 A. Yes sir.

19 Q. I'm going to show you -- I'm going to show you these
20 two copies. See if you can just identify those for us, please
21 the record.

22 A. Identify the copies that these were the ones that were
23 showed, were showed me?

24 Q. Uh huh (indicating positive)

25 A. Well, it -- that's good to do because you've got these

Exhibit 10C

1 little small pieces of paper, and they could have mixed them
2 around and ---

3 Q. Were these -- do these appear to be the lineups that
4 were presented to you on the 26th?

5 A. Possibly. They could have switched them around on me -
6 --

7 Q. Okay.

8 A. ---But possibly they are the ones they showed me.

9 Q. Now, Detectives with the Myrtle Beach Police Department
10 presented these to you?

11 A. Someone there. I spoke with so many detectives, I
12 don't remember which one.

13 Q. Did you pick anybody out, anybody out of either one of
14 these lineups, and indicate that they were the ones involved
15 in the assault?

16 A. I wasn't very comfortable with that procedure.

17 Q. Why is that?

18 A. You can't tell what someone looks like from the photos,
19 from the small photos they gave me. I needed to see a -- a
20 whole body. I wanted a human lineup. *LIVE LINEUP*
illegal

21 Q. So what did you -- so you didn't -- did you even try to
22 pick somebody out?

23 A. I glanced at them and I told them there was no way
24 that I was going to try to make a positive I.D. when I
25 couldn't get a human lineup, because I would not want to mis-

Exhibit A/C

1 wrongly accuse someone.

2 Q. You didn't want any chance of misidentification?

3 A. I did not want any chance of that.

4 Q. Did you ask the detectives if they could do a physical
5 live lineup for you? Did mis Identified

6 A. I didn't beg for it. I questioned it. I asked my
7 legal advocate at the time. I asked people in the Police
8 Department, and at that time I'm not even -- I think they had
9 been -- they had been arrested, but I think -- I don't know if
10 they could have gotten me a human lineup at that time.

11 Q. But did you communicate in any way that this would be
12 helpful; ---

13 A. Yes, I did, on many ---

14 Q. ---You would prefer to do this as a physical lineup?

15 A. ---On many occasions.

16 Q. And so you didn't try -- you didn't try to pick anybody
17 out?

18 A. No, I didn't.

19 Q. How long did you take a look at this -- at these -- the
20 lineup, I mean, how much -- did you study on it a long time?

21 A. No, I didn't. I didn't even -- I didn't take that many
22 minutes, many seconds, maybe a couple of minutes, if that
23 long, not long. It just wasn't a comfortable situation for
24 me.

25 Q. And you told the detectives that?

Exhibit 12C

1 A. As I best recall, I told the one that was showing them
2 to me, most definitely.

3 Q. And you also took that issue up with -- you indicated
4 you took it up with the representative from Rape Crisis?

5 A. Yes sir.

6 Q. And who was that? She had met you the morning of the
7 assault at the hospital?

8 A. Yes sir.

9 Q. Teresa Bilton ---

10 A. Yes sir.

11 Q. ---Who is a volunteer working on Rape Crisis at the
12 time?

13 A. Uh huh (indicating positive)

14 Q. And you expressed some concern and told them you -- did
15 you talk about doing a live lineup with her, in more details?

16 A. I questioned why I told her we needed to do that in
17 order for me to make a positive I.D., because I told her if I
18 saw them in -- in life size, in person, I would know them.

19 Q. Did you feel convinced, I mean a hundred percent, that
20 you could spot them if you saw them in a lineup?

21 A. I felt a hundred percent.

22 Q. Let me take you up to -- kind of move you forward, and
23 of course a lot of things happened after the 26th too, but not
24 relevant to this hearing. Take you up the January the 19th
25 of 1997. You were contacted by whom about a hearing that was

Exhibit 13C

1 going to involve Bobby and Eric Jenkins?

2 A. To my best recollection it was Teresa Bilton, but it
3 could have been Detective Altman. It was one or the other, or
4 maybe both.

5 Q. Okay. And they called you about what?

6 A. They are trying -- they had arrested two males that had
7 met a description. With the license plate number and
8 everything, they had arrested two individuals, and they were
9 trying to get a court-ordered D.N.A. sample from them.

10 Q. Get a sample, like a -- for blood and hair and fibers
11 and things like that?

12 A. Yes sir.

13 Q. Now, who brought you to court that day, if any --

14 A. I rode with Teresa Bilton.

15 Q. And she kind of was taking care of you that day?

16 A. Yes sir.

17 Q. Y'all got to court. Do you remember if it was in the
18 morning or the afternoon?

19 A. It seems like it was morning. It's like I -- you know,
20 and it seems like you have no sense of time or something when
21 you have to go to hearing or something. It's -- I -- I felt
22 like it was mid-morning.

23 Q. Ms. Weaver, did you -- when you got to the courthouse,
24 were the Defendants sitting right there when you first
25 arrived?

Exhibit 14C

1 A. I was asked if I wanted to go in the courtroom, or did
2 I want to go behind a glass two-way mirror. I didn't feel
3 comfortable being in the same room.

4 Q. Now, tell us, which courtroom were you in? Which
5 courthouse were you in, would be a better question. Which
6 courthouse were you in?

7 A. Conway, the old court ---

8 Q. Main courthouse, Horry County Courthouse, the old
9 courthouse, not ---

10 A. The old courthouse.

11 Q. And you were in the main courtroom, the big one,
12 upstairs?

13 A. Yes sir.

14 Q. And you indicated that you -- you told whoever made
15 this invitation, that you didn't want to stay in the
16 courtroom; you wanted to go in the little room that's off to
17 the side?

18 A. It's the coffee room.

19 Q. The coffee room. We know -- we -- all the lawyers in
20 Horry County know about the coffee room. It's just off to the
21 side of the courtroom and they've got a two-way glass that's
22 in that -- in that doorway that leads into the coffee room?

23 A. Yes sir.

24 Q. And while you -- how long did you wait in the coffee
25 room?

Exhibit VSC

1 A. Oh, it could have been twenty to forty-five minutes. I
2 think it was more like forty-five minutes.

3 Q. And did the -- did law enforcement -- did Detective
4 Altman, or anyone else in law enforcement, give you any
5 instructions while you were in that courtroom?

6 A. Not that I can remember. I don't think so.

7 Q. Okay. How about -- I think the Assistant Solicitor
8 handling the case at that time was Mr. Roger Roy; is that
9 correct?

10 A. Yes sir.

11 Q. And was he present, was around during that same time
12 frame?

13 A. Yes sir.

14 Q. Did he give you any instructions while you were waiting
15 back there in the coffee room?

16 A. He gave me nothing but support. No instructions, just
17 support, told me to hang in there.

18 Q. Kind of emotional -- more emotional support?

19 A. Uh huh (indicating positive)

20 Q. Take it easy. Fair enough.

21 A. Yes sir.

22 Q. Now, did you have occasion to see the two individuals
23 that raped you on the 24th? Did you have occasion to see them
24 on the morning of January the 19th, 1983?

25 A. Yes sir.

Exhibit 16C

1 Q. Ms. Weaver, I want you to describe to this court the
2 circumstances of identifying the two individuals that
3 assaulted you.

4 A. Everybody was just sitting around, or standing around
5 in the coffee room, and occasionally I was walking over to the
6 glass to peep out and there was a time when I just happened to
7 walk over to the glass and peeped out and I remember freezing
8 dead in my tracks there. I'm going, oh, my God, there they
9 are right there. And when I -- I guess I got really --
10 Roger -- Solicitor Roy's attention, and I got Teresa's
11 attention. They came over there to the glass and I -- I
12 pointed the two men out to them.

13 Q. How many people -- what were they dressed -- what were
14 the two individuals -- what kind of clothes were they wearing?

15 A. They had orange jumpsuits on.

16 Q. And were they -- were the two of them brought out by
17 themselves, or were there others that were brought out at the
18 same time?

19 A. There was probably ten or twelve different prisoners.

20 Q. The way I'm -- I guess I'm picturing this, seen it so
21 many times, they just bring a whole -- a couple of rows full
22 of people to take a seat in the Grand Jury box that's right
23 across the -- right across the way there from the coffee room.

24 A. Yes sir.

25 Q. There are about ten or twelve individuals. All wearing

Exhibit 17C

1 orange jumpsuits?

2 A. Yes sir.

3 Q. Of these ten or twelve individuals, how many of them
4 were black males?

5 A. If there was a white one, I don't know. Maybe one or
6 two. It seems like they were all black. But when I saw them
7 I just -- I didn't even look at any of the other ones. I just
8 looked at them, and was focusing on the two.

9 Q. Was your -- did this take you a period of time for you
10 to look, and think, and watch, or was this immediate?

11 A. No. I -- I saw them immediately, their size, their
12 shapes of their heads, the way they held their head.

13 Q. The way they walked?

14 A. Well, like -- sort of the way they walked, but it was
15 kind of hard to walk when they've got you chained together. I
16 think they were chained together.

17 Q. Was -- was Bobby Jenkins in court, Bobby Jenkins and
18 Eric Jenkins, one right behind the other, or not -- right next
19 to the other?

20 A. I believe they were beside each other. I just knew
21 them immediately.

22 Q. And you could see their relative size to one another?

23 A. Yes.

24 Q. Their relative shape to one another. Well, obviously
25 the courtroom is well-lit. It is open to observe them

Exhibit 18C

1 was very clear.

2 A. (NODS HEAD AFFIRMATIVE) The men I saw in that
3 courtroom that day were the same men that I saw walking up the
4 street, and the same men that beat me with guns, and that's
5 all my heart was telling me, these are the men that hurt me.

6 Q. Can you identify the man who is in court today at
7 defense table?

8 A. His hair is different but his face is the same.

9 Q. Is he the younger or the older one that accosted you?

10 A. Excuse me?

11 Q. Was he the younger one or the older one that assaulted
12 you?

13 A. In the courtroom today?

14 Q. Yes Ma'am.

15 A. The younger one.

16 MR. HEMBREE: Please answer any questions defense
17 counsel has for you.

18 CROSS-EXAMINATION BY MR. LONG:

19 MR. LONG: Ma'am. I'm Russell Long. We haven't had the
20 opportunity to meet.

21 The Court has appointed me to represent Mr. Jenkins in
22 this case. In fact, the Court appointed me in May of 2000 to
23 represent Mr. Jenkins in this case, and that's what we are
24 here to do today, is to delve into the matters only about
25 your identification of Mr. Jenkins as suspect number two in

Exhibit 19C

1 this case. Do you understand my role in this, and also what
2 we are here to do today?

3 A. Yes sir.

4 Q. Okay. Now, you have described, on several occasions,
5 today being the last of those occasions, two black men, and I
6 wanted to get back into some things that you said today first,
7 and then we are going to go back to the start. You identified
8 two black men that assaulted you, one being an older black
9 man, and one being younger than that black man; is that
10 correct?

11 A. Yes sir.

12 Q. When you identified the older black man today in the
13 courtroom you said that would have been Mr. Bobby Jenkins, who
14 has already pled guilty, and is serving fifty years in prison;
15 is that correct?

16 A. Yes sir.

17 Q. And you are now identifying the younger black man as my
18 client, Mr. Eric Jenkins, who was Bobby Jenkins' nephew; is
19 that correct?

20 A. Yes sir.

21 Q. Okay. You testified at a point earlier today that one
22 was taller than the other?

23 A. Yes sir.

24 Q. And when you were asked about Bobby Jenkins, or
25 actually you were asked about the other one, and Mr. Hembree

Exhibit 20C

1 Q. Which one -- okay, let's talk about the one that was in
2 charge, the one that you -- you said you thought he was the
3 older one, and you said he was in charge. Would you say the
4 one that was in charge was the taller one or the shorter one?

5 A. At the time I wouldn't know that, which one was the
6 older.

7 Q. What about today? You have given the Court some
8 information today. Today would you say Bobby Jenkins was the
9 taller one or the shorter one?

10 A. At the time I felt like he was the taller one ---

11 Q. Okay. Do you recall ---

12 A. ---Because I didn't know which one was older.

13 Q. The older one was the taller one. Is what you are
14 saying?

15 A. At the time ---

16 Q. Okay.

17 A. ---It appeared to me.

18 Q. And you would agree with me, wouldn't you, that twenty
19 minutes after this assault your memory of what happened to you
20 was very vivid?

21 A. Yes sir.

22 Q. And you would agree with me, twenty minutes after
23 this assault you were questioned by Officer Patty Hemalri of
24 the Myrtle Beach Police Department? You ---

25 A. Yes. I guess. I have talked several ---

Exhibit 21C

SANDRA D. WEAVER - CROSS BY LONG

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1 asked you to describe him, you said he was tall, medium build,
2 short hair, distinctive lazy walk, you didn't recall facial
3 hair, he was the one in charge, and he dressed like a younger
4 person. Is all of that correct?

5 A. Yes sir.

6 Q. When you said that Bobby Jenkins was tall, how tall
7 would you say he was?

8 A. Taller than me.

9 Q. Okay.

10 A. It would be a wild guess to guess anyone's height, but
11 I'd say five -- five seven or maybe five six.

12 Q. Okay. Then you described the younger one. Today in
13 the courtroom you described the younger one as being medium
14 built, taller than you, and you are five-five, not light
15 skinned, not dark skinned, but medium complexion. Is all of
16 that correct?

17 A. Yes sir.

18 Q. Is it fair to say, based on all of that, that you are
19 testifying that the older one, in every way that you
20 described, is certainly Bobby Jenkins?

21 A. Yes sir.

22 Q. Would it also be fair to say that in your description
23 today, that the older one is also the taller one?

24 A. At the time I -- I -- I don't know which one
25 was the older one at -- that's not a fair question.

Exhibit 22C

SANDRA D. WEAVER - CROSS BY LONG

43

1 Q. ---Remember being questioned by ---

2 A. I talked to a lot of police officers and detectives.

3 Q. I'm talking about a blonde, thin, young, very
4 attractive female Myrtle Beach police officer.

5 A. Is that the one that took me to the hospital?

6 Q. I'm sure it was. Do you recall her?

7 A. Yes sir.

8 Q. Do you recall giving her a full-blown statement?

9 A. I recall giving a female police officer a statement.

10 Q. Do you recall giving her descriptions of the two men
11 who assaulted you?

12 A. Yes sir.

13 Q. Do you recall telling her about suspect number one
14 being the one who was in charge?

15 A. I guess they refer to them as suspect number one.

16 Q. Do you recall -- and let's assume that you -- that in
17 the statement suspect number one is the one that you said was
18 in charge. Do you recall telling her that suspect number one
19 was the one who assaulted -- who sexually assaulted you first?

20 A. Yes sir.

21 Q. And you have now testified that Bobby Jenkins was
22 the one who sexually assaulted you first?

23 A. In my best knowledge.

24 Q. So based on all of that, would you agree with me that
25 Bobby Jenkins collated with you -- twenty minutes after

Exhibit 23 C

SANDRA D. WEAVER - CROSS BY LONG

44

1 this assault, was suspect number one?

2 A. I'm not following you. I -- if the police officer is
3 calling him suspect number one, yes sir.

4 Q. Okay. You told, did you not, Betty Hemalri, that
5 suspect number one was five nine to six feet tall, between the
6 age of sixteen and eighteen years old was a black man.

7 A. I'm pretty sure I did that, but when you are riding on
8 a bike you can't tell how tall someone is. You just know that
9 there is a difference between them.

10 Q. Okay.

11 A. There was a tall one and a short one, or shorter one.

12 Q. Exactly. And you told her that suspect number two,
13 that the man the -- the other man the sexually assaulted you
14 was five-five, so that would correlate correctly with your
15 description that Bobby Jenkins was in charge, was suspect
16 number one, and was taller than the other suspect; is that
17 correct?

18 A. It's really hard to say that's correct. Like I say, I
19 didn't know the ages at the time.

20 Q. But suspect number one, the one who sexually assaulted
21 you first, was certainly taller than suspect number two, the
22 one who sexually assaulted you second, is that correct?

23 A. One was taller than the other.

24 Q. As we all are, unless you are of equal height, but you
25 are identifying ---

Exhibit 24C

SANDRA D. WEAVER - CROSS BY LONG

45

1 A. I'm assuming that the one that spoke, was the ring
2 leader, that was -- was the one that sexually assaulted me
3 first -- when you are pushed down you have to go with what you
4 -- as far as the voice, from what I heard first, the voice, is
5 the one that sexually assaulted me first.

6 Q. And you told the Court here today, and you told Patty
7 Hemalri back, just after this thing happened, that suspect
8 number one was that person who was in charge, that suspect
9 number one was the older one, and suspect number one was the
10 taller one. You would agree with all that, right?

11 A. Yes sir.

12 Q. And you testified earlier that suspect number one, an
13 suspect number two were, I think you said, three or four years
14 apart, or at least in your estimate, because we would all
15 agree ---

16 A. I knew there was a difference in their ages, three to
17 four, or five.

18 Q. One was certainly younger than the other?

19 A. One was certainly younger.

20 Q. Back to the -- your first contact with the two black
21 men that were walking down the sidewalk. Where were you?
22 About what avenue were you when you had first contact with
23 two black men walking down the sidewalk?

24 A. It's around Fifth Street. That is about a block
25 and a half, two blocks east of the Tree Inn.

Exhibit 25C

SANDRA D. WEAVER - CROSS BY LONG

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1 MR. HEMBREE: Your Honor, I -- there was never any
2 testimony that the men were on the sidewalk. The testimony
3 was they were on the street.

4 I know you are not trying to trap her with that, but
5 that's just not what -- that's not what was in the record when
6 he prefaced that question.

7 THE COURT: I understand that, but I'm going to allow
8 the questions.

9 Go ahead, Mr. Long.

10 Q. The -- and where were you -- estimating the avenue,
11 where were you when you first saw or heard or noticed this red
12 truck driving by you?

13 A. Avenue -- Fifty something.

14 Q. Well, in -- and -- I'm fairly aware with that stretch
15 because I live right there so if you --, tell me what you
16 are --.

17 A. Do you know where the Cherry Inn is?

18 Q. Yes.

19 A. Do you know where that really -- section is of
20 Ocean Boulevard?

21 Q. The cabana section?

22 A. Halfway down that.

23 Q. So you were sitting your bicycle on the sidewalk on
24 the cabana section?

25 A. Yes sir.

EXhibit 26C

SANDRA D. WEAVER - CROSS BY LONG

47

1 Q. Where there's no -- there are no buildings between you
2 and the ocean ---

3 A. (NODS HEAD AFFIRMATIVE)

4 Q. ---And that's where you first saw the truck?

5 A. Yes sir.

6 Q. And you say that you felt so uncomfortable about the
7 truck that you almost pulled into the Cherry Tree to call the
8 police?

9 A. Well, not the truck. I felt uncomfortable about the
10 two black males. The truck made me feel uncomfortable when it
11 was going back and forth and watching me. It seems like they
12 were slowing down and I -- I just tried to convince myself
13 that they were construction workers, but the truck made me
14 feel uncomfortable.

15 The two black males are the ones that made me feel
16 uncomfortable enough where I wanted to pull in the Cherry
17 Tree.

18 Q. And this was -- at the time that you saw these two
19 black males north of the Cherry Tree, which would be something
20 like 58th or 59th Avenue, would you agree with that? Maybe
21 less than that.

22 A. Less than that, I believe.

23 Q. Maybe 57, 55, somewhere in there?

24 A. Around 55, maybe.

25 Q. It was before 1970 -- was it in September; is that

Exhibit

27c

SANDRA D. WEAVER

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1 correct?

2 A. It was probably after 5:30, because I lived at
3 76, and I left the

4 Q. The -- you were saying it was dark out; the sun is
5 not -- had not risen.

6 A. The sun has not risen. It's well lit on that street,
7 as you should know since you lived in the area.

8 Q. Right. And you are saying it's well lit by street
9 lights, not by the sun?

10 A. By street lights.

11 Q. Correct.

12 A. Yes sir.

13 Q. In fact, all the way down to 34th Avenue, at the
14 estimated time of 5:30, that I believe is the time that's been
15 estimated, or the dispatched time at least, the sun still had
16 not risen; it was still nighttime, or at least dusk, or dawn,
17 and the street lights would have been the only light; is that
18 correct?

19 A. Yes sir.

20 Q. Okay. So twenty minutes after this assault, when you
21 gave Patty Hemalri your description of the two people who
22 assaulted you, were you satisfied that you had given as
23 detailed description as you could have given her?

24 A. Yes sir, in the initial state that I was in, I was
25 satisfied.

Exhibit 28C

SANDRA D. WEAVER - CROSS BY LONG

49

1 Q. Okay. And several months later -- oh, I'm sorry, no.
2 Several days later you were given a photographic lineup; is
3 that correct?

4 A. Approximately a couple of days later. Yes sir.

5 Q. And is it true that you didn't even point out anybody
6 that said that might be them; you just looked at it and said,
7 I'm uncomfortable with this?

8 A. Yes sir. Because I believe I needed to be a hundred
9 percent sure, and a photo doesn't show their body.

10 Q. Okay. And then you say you appeared at the Horry
11 County Courthouse on whose invitation?

12 A. It was either Teresa Bilton or Detective Altman who had
13 called me.

14 Q. All right. Who did Teresa Bilton work for?

15 A. She was a volunteer for the Rape Crisis Center.

16 Q. All right. And you don't know which one?

17 A. It was probably either or, or both, because Detective
18 Altman and Teresa both kept me informed on every -- all the
19 hearings.

20 Q. Okay. Did Detective Altman ever tell you that there
21 had -- may -- been an arrest made in the case?

22 A. He had told me but I, unfortunately, saw it on the news
23 beforehand.

24 Q. What did you see on the news?

25 A. I was in my living room, and it was very unexpected. I

1 saw the truck and I'm going, oh, my God, that's that truck,
2 and that's pretty much -- I missed the rest of it, because all
3 I pretty much saw was the truck. And other people told me
4 about what was on it.

5 Q. Did you see any pictures of anybody as far as suspects
6 on there?

7 A. No, I sure didn't.

8 Q. Okay. Who was the first person to call and tell you
9 that the people who had been charged with the crime were Eric
10 and Bobby Jenkins?

11 A. I'm not sure. I talked with so many people at the
12 police department.

13 Q. Who was the person who told you that they were uncle
14 and nephew?

15 A. I believe that it could have been Detective Altman or
16 Teresa Bilton.

17 Q. And you state that, upon one of those two inviting you
18 to the Horry County Courthouse you hung out in the coffee room
19 until you happened to see a group of ten brought into the
20 courtroom.

21 A. It was ten or twelve. I didn't count them.

22 Q. Okay. Do you recall which door they were brought in
23 from?

24 A. I'm facing this way. They came out that way in front
25 of me. (indicating)

Exhibit 300

SANDRA D. WEAVER - CROSS BY LONG

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1 Q. So they would have come in the door opposite -- on the
2 opposite side of the courtroom. Is that what you are saying?

3 A. I was in the coffee room, looking out here, and someone
4 came out on the side door there. I mean, the group of
5 prisoners came out on the side door.

6 Q. From the side door. How many feet away from you?

7 A. From me?

8 Q. Yes.

9 A. I was behind the coffee room, so it's -- it's probably
10 where these people are sitting in the first row, maybe.

11 Q. So across the courtroom; is that correct?

12 A. Yes sir.

13 Q. And where did that string of ten or twelve people go?

14 A. They put them up in the some chairs, or they -- I
15 didn't know where they ended up. I just couldn't look but so
16 long. It made me nauseated.

17 Q. Did you see Eric and Bobby Jenkins chained together?

18 A. As I recall they weren't beside each other.

19 Q. And there is no doubt in anybody's mind, nobody's mind
20 in this courtroom, that Bobby Jenkins sexually assaulted you;
21 is that correct?

22 A. Yes sir.

23 Q. And when you saw Bobby Jenkins in the courtroom that
24 day, it made you very upset?

25 A. Yes.

Exhibit 3K

SANDRA D. WEAVER - CROSS BY LONG

52

1 Q. And when you became very upset you said to somebody,
2 oh, my God, there they are?

3 A. Yes.

4 Q. And then you identified Bobby Jenkins, and his nephew
5 who was chained to him, as being the two people who sexually
6 assaulted you?

7 A. Yes.

8 Q. If I told you that Eric Jenkins is two, maybe three
9 inches taller than his uncle, would that raise a question in
10 your mind about identifying him as the other assailant?

11 A. No sir.

12 Q. If I told you that he is almost nine years younger than
13 his uncle, would that raise a question in your mind about your
14 identification of him as the second assailant?

15 A. Absolutely not.

16 Q. And you know, in fact, that D.N.A. evidence collected
17 in this investigation positively identified Bobby Jenkins as
18 your assailant, and you also know, don't you, that there is no
19 such evidence at all on Eric Jenkins?

20 A. Yes sir.

21 Q. Does that raise a question in your mind about your
22 identification of Eric Jenkins?

23 A. Absolutely not.

24 Q. Does the fact that the sun had not risen that morning,
25 and it was dark outside, raise your question about identifying

Exhibit 32C

SANDRA D. WEAVER - CROSS BY LONG

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1 Eric Jenkins as your assailant?

2 A. No.

3 Q. So, Ma'am, in review of all of that, you were wrong
4 about who the taller one was between my client and his uncle.

5 A. Uh huh (indicating positive)

6 Q. You say suspect number two was shorter, but my client
7 is taller, but you still think my client is the second person?

8 A. At the time I knew that there were -- I didn't know
9 their ages.

10 Q. I'm not asking about their ages. I'm talking about
11 their heights.

12 A. One was taller than the other.

13 Q. And you identified, in the Incident Report twenty
14 minutes afterwards, to Patty Hemalri, and earlier in this
15 courtroom, that Bobby Jenkins was the taller one.

16 A. At the time I thought he was the older and the taller.

17 Q. And Ma'am, I'm telling you right now, Eric Jenkins is
18 taller than him, so isn't it possible that the second person
19 that assaulted you, who is shorter than Bobby Jenkins, is not
20 in this courtroom?

21 A. He is in this courtroom. He's sitting right beside
22 you.

23 Q. And the first time that you ever laid eyes on him was
24 in the Horry County Courthouse when he was chained to his
25 uncle; isn't that correct?

Exhibit 33

SANDRA D. WEAVER - CROSS BY LONG

54

1 A. Would you repeat that, please?

2 Q. The first time you ever laid eyes on Eric Jenkins is in
3 the Horry County Courthouse when he was chained to his uncle?

4 A. That was the fourth time I seen him. The first time
5 was walking up the street. The second time was in the back of
6 the truck. The third time was in the middle of the road when
7 he beat me with guns. The fourth time is when I identified
8 him.

9 Q. Okay. The beating you with guns part, the sexual
10 assault part, the holding you down part, all of that was in
11 the dark, in the grass, with your face down ---

12 A. Yes sir.

13 Q. ---Isn't that correct?

14 A. Yes sir.

15 Q. And you did not lay eyes on anybody during all of that;
16 isn't that correct?

17 A. Not during the assault, the sexual assault.

18 Q. Before that you laid eyes on two black men walking
19 toward you once, and as -- and you were riding a bicycle; is
20 that correct?

21 A. Yes sir.

22 Q. How fast were you riding?

23 A. A good steady pace.

24 Q. What time were you suppose to be at work?

25 A. Six o'clock.

Exhibit

34C

ROGER ROY - DIRECT BY HEMBREE

55

1 Q. And it was 5:50?

2 A. I have clocked myself. I have made five miles in
3 thirteen minutes.

4 Q. So you were going fast?

5 A. Yep.

6 Q. Five miles in thirteen minutes on a bicycle is booking.
7 You would agree with that?

8 A. I book.

9 Q. And at that rate of speed, at that time of day, you are
10 telling this court, and you are telling me, that you are one
11 hundred percent certain, without any doubt in your mind, that
12 Eric Jenkins was the shorter, younger assault suspect?

13 A. I'm telling you that he is one of the men. The other
14 one is serving time.

15 MR. LONG: That's all I have. Thank you.

16 MR. HEMBREE: Nothing further, Your Honor, from this
17 witness.

18 THE COURT: All right. You may step down, Ma'am.

19 A. Thank you.

20 MR. HEMBREE: The State calls Roger Roy to the witness
21 stand.

22 THE COURT: Please come around.

23 ROGER ROY, first duly sworn,
24 testified as follows:

25 DIRECT-EXAMINATION BY MR. HEMBREE:

ROGER ROY - DIRECT BY HEMBREE

1 MR. HEMBREE: Mr. Roy, I've got lots and lots of
2 questions of you, but I'm going to confine my direct-
3 examination to the issues at hand today.

4 Q. Back in late '97, early '98, you were employed with the
5 Fifteenth Circuit Solicitor's Office as an Assistant
6 Solicitor; is that correct?

7 A. That's correct.

8 Q. And during that time period, were you assigned to
9 prosecute a case, or cases against Eric Jenkins and Bobby
10 Jenkins?

11 A. Yes, I was.

12 Q. And this, of course, were -- were on charges of
13 criminal sexual conduct, and there was kidnapping, a variety
14 of charges that grew out of the assault of Sandy Weaver back
15 on September 24th of 1997?

16 A. That's correct.

17 Q. In January of 1998, January 19th to be specific, you
18 had a hearing scheduled involving the two Jenkins Defendants,
19 correct?

20 A. That's correct.

21 Q. Tell the Court, if you would, what type of a hearing
22 was scheduled.

23 A. It was scheduled to get an order to secure samples for
24 testing, saliva, hair, blood samples, to go ahead and run
25 D.N.A. testing on both individuals.

Exhibit 36C

STATE'S SUMMATION (HEMBREE)

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1 THE COURT: Thank you, Mr. Roy.

2 MR. HEMBREE: That concludes our proffer to the Court,
3 Your Honor.

4 THE COURT: All right. Mr. Long, anything that you
5 would like to present to the Court, other than -- other than
6 arguments?

7 MR. LONG: No evidence. Just ---

8 THE COURT: All right. All right. Gentlemen, I'll
9 be glad to hear your arguments then. I'll let the Solicitor
10 argue, then I'll let you argue, Mr. Long.

11 MR. HEMBREE: Thank you, Your Honor. This -- this case
12 is -- there is a case that is directly on point. The facts in
13 this case are remarkably similar, the case of State versus
14 Tamongo James William McCord, a case that was decided -- only
15 decided April of 2002 -- hand this case up to the Court. Your
16 Honor, State versus McCord the victim, the victim in -- also
17 in an assault case, a C.S.C. case, a female victim, Mr. McCord
18 broke into her business and home. She owned a gift shop, and
19 she lived in one part of the gift shop and ran her business
20 out of the front of the gift shop. She was awoken, breaking
21 glass, the defendant confronted her in the hallway. She --
22 the defendant demanded money first, then he decided to rape
23 her. Did that, then committed the robbery, not unlike the
24 facts in this case. What's particularly interesting is, she
25 was shown a photo lineup. She was presented a photo lineup by

STATE'S SUMMATION (HEMBREE)

1 law enforcement shortly after the -- after the assault. She
2 indicated that she could not -- she didn't feel comfortable
3 with that type of a procedure. She also indicated that she
4 wanted to have a -- she wanted to have a live lineup; she felt
5 like that could be helpful to her in making a judgment, or
6 making an identification, and then it went on to -- they never
7 did conduct a physical lineup in that case, however, the
8 victim was allowed to identify the defendant in court, so the
9 identification procedure was allowed.

10 They -- I guess the only real issue in the case before
11 us is, did the, I guess the flashing, or the presentation,
12 however brief it might have been, of the photo lineup to the
13 victim in this case, somehow taint her subsequent lineup in
14 the -- in the courtroom some four months later. I would
15 submit that McCord stands for the proposition that that does
16 not taint the lineup. She didn't -- she didn't focus on the
17 lineup. She really didn't even -- as she testified, she kind
18 of glanced at it, gave it back to the police officers and said
19 that she wasn't comfortable with that procedure. Again, the
20 in court identification was upheld.

21 The thing that's better about the facts in this case,
22 and make this an even more, I guess, admissible lineup, or a
23 better quality lineup, is that she did have an intervening
24 step where the victim did get an opportunity to see the
25 individuals. She selected them immediately. As Mr. Roy

1 described, she just -- she came unglued when she saw the two
2 individuals. She didn't say, there's the guy, and I think
3 that other guy. She said, there are the two men that did it
4 to me, and without hesitation, without any prompting. This
5 was not a physical lineup in the tradition sense. It wasn't -
6 - it wasn't administered by law enforcement. It wasn't
7 arranged by law enforcement, so it's not really -- it doesn't
8 trigger the same legal requirements that a normal physical
9 lineup administered by law enforcement would, however, it
10 was -- it gave her an opportunity to see them, and she has had
11 the chance to see them and identify them, so she kind of got
12 the benefit of a physical lineup without having to -- having
13 gone through it in the traditional way.

14 THE COURT: Thank you.

15 Mr. Long.

16 MR. LONG: Your Honor, I would disagree, obviously,
17 with the Solicitor, in that this situation is better than the
18 Tamongo case, because in this situation what we've got is,
19 we've got a victim of a crime, who has clearly identified her
20 two assailants. Two individuals have been arrested, one,
21 suspect number one, Bobby Jenkins, matches the description of
22 the person that assaulted her first. The second one, his
23 nephew, doesn't match the description at all. They show her a
24 photo lineup with Eric Jenkins' picture in it, and she cannot
25 identify anybody in the lineup as being somebody who assaulted

1 or in this Victim's Advocate's mind, but the point here is,
2 she was unsure about who it was that assaulted her, and she
3 wanted to lay eyes on them, and when she saw Bobby Jenkins she
4 freaked out, as well she should, because that was the man that
5 did it to her, and there's Eric, strapped to him, nowhere to
6 go, charged with a crime. It's awfully easy to say, there
7 they are, instead of there he is, and who is the guy beside
8 him, the same guy that she couldn't pick out in a photo
9 lineup.

10 So, Your Honor, based on all that, we think it's
11 entirely unfair, the process was tainted, and we believe,
12 respectfully so, that you should keep out any identification
13 of Eric Jenkins when we go to trial in this matter.

14 THE COURT: Thank you.

15 MR. HEMBREE: Your Honor, I have a -- just to address a
16 couple of points raised by defense counsel.

17 First let's go -- I would like to touch on the
18 identification, the factors to be considered by the Court when
19 evaluating the totality of the circumstances regarding
20 identification. We -- first we go to the witness's
21 opportunity to view the perpetrator at the time of the crime.
22 I think that's critical here. I understand defense counsel's
23 effort to try to move that along, and sort of gloss over that,
24 but you've got to -- she's seen these people three different
25 times, which does have some significance. It's not just one

Exhibit 40C

STATE'S SUMMATION (HEMBREE)

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1 event. She sees them once while she's riding down the
2 sidewalk. She passes directly by them. She glances over at
3 them, looking at them. She is suspicious of them. She's
4 scared. She's a single woman, out riding her bike at 5:45 in
5 the morning, and she's concerned about this truck that keeps
6 driving by and slowing down, and now these guys are out here.
7 Something is not right. She sees them on that occasion.
8 They've got her attention. The second time she views them in
9 the back of the truck. She notices them again, and now, you
10 know, it's confirmed. That memory of their identity is now
11 confirmed the second time. It's a second impression, a second
12 distinct impression, that -- as they go by in the truck. Of
13 course at this point she gets some relief because she feels
14 that they've been picked up for their construction job, they
15 are going on down the road, you know, great; it wasn't -- it's
16 nothing scary; it's just normal stuff. They pull -- the truck
17 pulls in. The third time she observes them, as she comes
18 around the corner they are standing there to block her, face
19 to face, this close. They knock her off the bike and begin
20 beating her, right -- just like this, just inches away. It
21 was a brief opportunity to see them, but yet again, another
22 opportunity. That impression is now further strengthened by
23 that third chance to look at them, and of course it's in very
24 close quarters at this point. During the -- they beat her,
25 knock her down, beat her onto the ground, then they drag her

1 into the woods. Let's get that clear. And at that point they
2 stick her head down in the dirt so she can't see anything. Up
3 to that point she's able to, at least in passing, and through
4 all this motion, get an opportunity to observe both of those
5 defendants.

6 Second point to be evaluated, the witness's degree of
7 attention. It think it was clear from her testimony that she
8 was scared. She was watching these guys. They were the only
9 other people that were out at 5:45 in the morning. There is
10 nobody else to look at. There is nobody else to pay attention
11 to. Consider her circumstances at the time. Clearly she had
12 cause to be concerned, and to be paying a -- giving this a
13 high degree of attention.

14 Third, the witness -- I'm sorry, the accuracy of the
15 witness's prior description of the perpetrator. Now this is
16 where -- this is where Mr. Long thinks he's going to try to
17 say, tag, you are it. He's two inches taller than what she
18 said, or he's two inches taller than this one. Well, Your
19 Honor, you've got -- you know, it's -- it's very close. These
20 fellows aren't -- you don't have one guy that's six foot five
21 and one that's five foot six. Their heights are very close.
22 We will stipulate to that. We would agree with that. I don't
23 doubt that Eric Jenkins may be a couple inches taller than
24 Bobby Jenkins. He may be. I don't know if her perception was
25 that the other one was slightly taller. Perhaps because of

1 his leadership role, perhaps the way he carried himself, the
2 fact that he was the older of the two, and seemed to be taking
3 charge, that may have played a trick on her. She may have
4 just gotten it wrong, but whatever it was, it's two inches,
5 it's two inches, and to say, well, you get to go home because
6 of two inches, it seems to be a pretty dramatic way to resolve
7 this matter.

8 Fourth, the level of certainty demonstrated by the
9 witness at the confrontation. Again, Mr. Long kind of says,
10 well, you know, she doesn't really know; she's just making it
11 up; she just picked out a second guy because. The testimony
12 before the Court is, from Sandy Weaver, I immediately knew who
13 the two of them were, both of them, picked them out, straight
14 away, no hesitation; those are the guys. She tells Assistant
15 Solicitor -- then Assistant Solicitor Roger Roy, identifies
16 the two of them to him, in no uncertain terms, very quickly,
17 very directly. That's the testimony before the Court. I
18 don't know what doubt there would be there. And admittedly,
19 the length of time between the -- between the time of the
20 crime and the confrontation was a lengthy period of time,
21 however, it was -- it was -- she was certain of it.

22 I guess second -- a second point I would like to touch
23 on is that, Mr. Long seems to keep saying that the victim
24 could not pick out the Defendants from the photo lineup. That
25 is not the case. She did not attempt to pick the Defendants

Exhibit 43 C

STATE'S SUMMATION (HEMBREE)

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1 out of the lineup. She said, I'm not comfortable with this; I
2 need to see their whole bodies; I need to see -- I don't feel
3 -- she -- her testimony was, she didn't want to make a mis-id
4 -- she didn't want to make a mis-identification. She wanted
5 to be right. She wanted to be a hundred percent. And those
6 little postage stamp pictures on there, she didn't feel were
7 sufficient. She wanted a physical lineup, and even told law
8 enforcement about it. She's taking the extra step to try to
9 say, I want to be extra careful; this is serious business to
10 me, so it wasn't a question of couldn't pick her out, it was a
11 question of won't pick her out -- won't pick them out, because
12 it's not -- this isn't a procedure that I'm comfortable with
13 as a victim.

14 And lastly -- and we've kind of touched on the issue of
15 taint. I think it's a -- it's a real important distinction
16 between taint of a State administered lineup, and I think
17 that's what Mr. Long was trying to suggest was going on here,
18 but nobody told Sandy Weaver, you are here -- nobody from law
19 enforcement said, come down here and try to identify these
20 guys. It was not a State action. It wasn't a State lineup
21 procedure, identification procedure. It was merely a hearing.

22 And Your Honor, we've got the case of State versus
23 Antonio Tisdale that goes -- this is -- applies here, directly
24 on point on this particular issue. In Tisdale you had a
25 victim of an armed robbery, that saw on television,

Exhibit 44C

DEFENDANT'S SUMMATION (LONG)

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1 photographs of the suspects, then she goes and identifies the
2 suspects out of a photo lineup after that. They tried to
3 throw that out, saying that the television station had -- in
4 showing of these pictures, had somehow affected her ability to
5 identify these guys. The Court said no, if it's not a State
6 action, if it's not something that was a State identification
7 procedure, then it doesn't count; it's not going to be held
8 against you; there is nothing we can do about that. It's just
9 like this situation. You've got a -- you've got a court
10 hearing. It's no different than if she had walked into the
11 Wal-Mart and had seen these two guys coming down the way.

12 I think it's interesting too, there were twelve -- ten
13 or twelve guys up there. He keeps saying, well, this guy was
14 shackled to Bobby Jenkins. Well, there was somebody shackled
15 on the other side too, and there's a bunch of other guys
16 around him. They are all standing there together. Why didn't
17 she pick out number three, or number seven, or number four?
18 She picked out these two straight away, not because they were
19 hand-cuffed together, but because they are the ones that
20 committed the crime.

21 I don't have anything further.

22 THE COURT: Mr. Long, anything else you want to say
23 before closing?

24 MR. LONG: Just two short things, Your Honor.

25 THE COURT: Yes sir.

EXHIBIT 44C

COURT'S RULING

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1 MR. LONG: Mr. Hembree said we are talking about two
2 inches. We are talking about at least six inches. She
3 indicated to Patty Hembree that the second guy was five-five,
4 and Eric Jenkins is five eleven.

5 Secondly, Mr. Hembree's Wal-Mart analogy, if two people
6 were walking through Wal-Mart chained together in orange
7 suits, I could understand that. This was State action. This
8 was a hearing that was set up. They knew that these guys were
9 both going to be there. They notified her to come there. She
10 had no role in that hearing. This was a hearing to decide
11 whether or not they were going to give up samples to go off
12 and be D.N.A. tested. She wasn't going to testify. She
13 wasn't going to be there for any other reason but to stand
14 behind a two-way glass and identify these people. So they can
15 say all they want that this was not set up by the State, but
16 I'll guarantee you, Eric Jenkins didn't want to be there. It
17 wasn't set up by his lawyer. It wasn't set up by a T.V.
18 station. There wasn't a photo run and broadcast out over the
19 world. It was something that happened in a courtroom, so
20 therefore the case that he submitted, Antonio Tisdale case,
21 claiming that, if it's not State action it's not to be
22 suppressed doesn't apply.

23 THE COURT: Thank you. That's enough, Solicitor.

24 MR. HEMBREE: Okay.

25 THE COURT: Thank you.

1 All right, gentlemen. I think you both pretty well
2 identified the case law that the Court needs to look at, but
3 just so that the record is clear, it is set out that -- under
4 the due process clause, that evidence of an identification of
5 an accused must be excluded if the process used to obtain the
6 identification was so unnecessarily suggestive as to give rise
7 to a very substantial likelihood of mis-identification. In
8 doing that the Court has to look at -- and it says there is a
9 two-step process. One, I've got to find that the
10 identification -- basically that process was unduly
11 suggestive. I have to find that first. Then, after that's
12 found, then you go to, was the identification, nevertheless,
13 so reliable, but no substantial likelihood of mis-
14 identification existed, and that's when you get into that five
15 part test that both of y'all have been talking about. From
16 your arguments it would seem that both of you assume that the
17 identification process was unduly suggestive. I don't know
18 that I'm certain about that. But even if that was the case --
19 and number one, the purpose of this hearing was, you know, not
20 for identification. It was Smeurber, it was D.N.A. -- to get
21 D.N. A. testing. It's clear that's what it was.

22 The prior photos that she looked at, I take it, from the
23 information presented to me, that she just refused to try and
24 make an identification from the photo lineup, not that she
25 couldn't, but she refused to participate in that process,

Exhibit 46C

COURT'S RULING

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1 saying, I'm not comfortable with it; I'm not going to identify
2 anybody from this type of process, so she didn't even attempt
3 to identify anybody, so there wasn't any prior identification,
4 or attempt to identify anybody.

5 When these two individuals were brought in with ten or
6 twelve other people, and from the testimony -- the only
7 testimony we have was, the majority of them were black men.
8 As she stated, there may have been a couple -- one or two
9 white guys in the ten to twelve, but the majority of them were
10 black, that -- certainly there was no determination of guilt
11 on behalf of Bobby Jenkins. He hadn't pled guilty at that
12 time, so there was no determination of guilt on his behalf at
13 that time.

14 She had an opportunity, three different times, to look
15 at and see these individuals prior to being in court that day.
16 She had the same opportunity to look at both of them on those
17 three different occasions. For the purpose of this, I'm going
18 to say, or I'm just going to basically just skip over the
19 first step of this, because I tell you, I'm not even convinced
20 that the out-of-court identification was unduly suggestive,
21 but just even assuming that, when you get to the second part
22 of it, I certainly find that the identification was certainly
23 reliable, and that there is no substantial likelihood of mis-
24 identification, and that mis-identification did not exist.
25 Looking at those factors, she had -- had the same

1 opportunity -- number one, she had the same opportunity to
2 view the individuals at the time of the crime, and she had
3 ample opportunity, in this Court's mind, to form some basis
4 for identification on those three different times, when they
5 were walking, when they were in the truck, and when she saw
6 them at the curve of the road. Her degree of attention --
7 from her testimony, her degree of attention increased, or
8 ratcheted up every time she saw them, so her degree of
9 attention by the third time was certainly as best that she was
10 able to give it her attention. Her prior description is
11 consistent enough for this Court to not say that there is some
12 kind of mis-identification. Her level of certainty at
13 confrontation, her testimony, and the testimony of Mr. Roy,
14 who was Assistant Solicitor at the time, was, she made an
15 immediate identification of these two men when they came in
16 the courtroom. She wasn't there. She said, I just happened
17 to be going by the two-way glass; they are coming in the
18 courtroom; I see them. She immediately identifies them. No
19 hesitation, no wait, no looking at all the other ones. She
20 focused in immediately on those two people as the perpetrators
21 of this act.

22 The time between the crime and the confrontation,
23 obviously it wasn't immediate, but I don't see that as a
24 factor. It wasn't that great a length of time. I don't even
25 see that as a factor in this matter.

Exhibit 48C

TERRY ALTMAN - CROSS BY LONG

1 MR. von HERRMANN: I'm going to object, Your Honor.
2 He's going to be called as a witness. He can ask the witness
3 all these questions. Hearsay.

4 THE COURT: If he remembers he can answer it.
5 If you don't remember, just say I don't remember.

6 Q. You did interview him, right?

7 A. I remember talking to -- I don't remember if I actually
8 sat down and interviewed, but speaking with him, yes.

9 Q. All right. And didn't he tell you that there was one
10 black man and several Mexican men?

11 A. I don't remem -- remember specifically saying a black
12 man, but I don't remember anybody else.

13 Q. Okay. And who else did you interview?

14 A. I spoke with Mr. Herrington, his daughter. I spoke
15 with Sandra Weaver, and also Bobby Jenkins, and also Eric
16 Jenkins, I spoke with.

17 Q. When did you talk to Eric Jenkins?

18 A. On September 25th.

19 Q. And where was he when you talked to him?

20 A. He was in the Effingham County Jail, in Florence,
21 Effingham Correctional Center.

22 Q. Do you know why -- I mean the identification that Ms.
23 Weaver did three months after this, over at the courthouse,
24 were -- that's a long period of time between a crime and an
25 opportunity to identify someone. Do you know why Eric Jenkins

Exhibit 482
TERRY ALTMAN - REDIRECT BY von HERRMANN

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1 A. We -- myself and Detective King began to ask him
2 questions about the case.

3 Q. Hold on one second. You've got to answer just the
4 specific questions. Have you ever had a conversation and
5 discussed this case with Eric Jenkins?

6 A. No.

7 Q. Mr. Long asked you about going to Mr. Jenkins' home and
8 searching. Did you get an arrest warrant for Mr. Jenkins when
9 on September 25th?

10 A. No.

11 Q. When did you get an arrest warrant for him?

12 A. Arrest warrant for him was actually -- I want to say
13 anywhere from two years on afterwards. It would have been
14 several years later.

15 Q. It would have certainly been after Ms. Weaver
16 identified him, correct?

17 A. Yes.

18 Q. ~~So~~ So there would have been no probable cause, or no
19 reason to get a search warrant that day, would there?

20 A. ~~That's correct.~~ No probable cause
At all

21 Q. So at that point you felt like you had all the evidence
22 you were going to get?

23 A. Yes.

24 Q. Did you have any evidence that Eric or Bobby Jenkins,
25 either one, went home, or went back to Aynor after the rape?

Exhibit 49C

SANDRA WINSTEAD-WEAVER - DIRECT BY von HERRMANN

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1 Q. You may have a seat.

2 Let me show you State's Exhibit Number 10 right now. Is
3 that the northbound view, from the area where the assault
4 occurred?

5 A. That looks like the trees I can identify, the curving.

6 Q. So this goes around where it's difficult to see, and
7 there is a driveway right here?

8 A. Yes sir.

9 MR. von HERRMANN: Your Honor, we would like to publish
10 State's Exhibit Number 10 to the jury.

11 THE COURT: Without objection.

12 Q. So the truck ends up backing out of the driveway, and
13 driving past you again, and you notice there is nobody in ---

14 A. There is no one in there.

15 Q. Tell me, what did you do at that point?

16 A. I got real scared then, and I'm thinking, oh my God. I
17 just -- I just -- something told me to get off the sidewalk,
18 and try to go -- get away, because I felt like they were -- I
19 don't know, I just felt like they were -- they were not there
20 in that truck anymore; they had to be somewhere.

21 Q. Were you coming around like a slight bend?

22 A. Yes.

23 Q. And that would have been coming from where that picture
24 is taken?

25 A. Yes.

1 Q. Or excuse me, the other side. Tell me what happened
2 when you came around the bend.

3 A. I got off the sidewalk, to go around the bend, to try
4 to get on the other side of the road, and the two black males
5 were in the middle of the road, and they, I guess, lunged me,
6 and just yanked me off my bicycle.

7 Q. Did they say anything to you?

8 A. Not at the time. They were just -- they started
9 beating me immediately with the guns.

10 Q. Okay. You are riding down the road and you decided --
11 or riding down the sidewalk, decided to get in the road. Did
12 you see them prior to that?

13 A. No.

14 Q. Did they kind of come out from around the bend?

15 A. They were in the road, behind -- around the bend. You
16 could not see them until you got around the bend.

17 Q. Tell me about the -- how dark the -- just the regular --
18 -- without street lights -- is it a fairly dark -- are there
19 shadows and placed to kind of hide?

20 A. It's well lit, but I guess every area has got a shadow.
21 You can hide in the woods, but this street is well lit.

22 Q. When you came around the bend, and these two
23 individuals had -- did you recognize those two men from being
24 in the truck?

25 A. Yes sir.

1 Q. Were they the ones in the back of the truck?

2 A. Yes.

3 Q. Were they the ones that had stopped and said hello to
4 you?

5 A. Yes.

6 Q. Did you see any other people around?

7 A. No one else was around.

8 Q. What about the truck? Did you see the truck at that
9 time?

10 A. I didn't see it. It was out of sight, but you could
11 still hear it.

12 Q. Tell me -- tell the jurors what you mean when you can
13 still hear it.

14 A. The whole time they -- they approached me in the street
15 and were beating me, the whole time they drug me into the
16 woods you could hear the truck circling. It had a loud
17 muffler. There was no -- no one else out there, no other
18 cars.

19 Q. Was it -- I mean, you say loud. Was it a distinctive
20 muffler that you could tell, kind of time and time again?

21 A. Very -- yes.

22 Q. And they had passed you three or four times, or five
23 times, and you could under -- you knew what it sounded like?

24 A. I could under -- I could hear it right now and identify
25 that truck.

1 Q. Tell me what happened, Ms. Weaver, when they stopped
2 you and started beating you. What did they say to you at that
3 point?

4 A. Well, I don't know if it was at that point or when I
5 was in the woods, but they told me I shouldn't be out there,
6 out here, and at one point during the beating I was told this
7 would teach me a lesson.

8 Q. The individual, or Eric and Bobby Jenkins is who you
9 came to know those people as, correct?

10 A. Yes

11 Q. When they approached you, did you see the gun?

12 A. Yes sir.

13 Q. And how did they stop the bicycle?

14 A. They just grabbed it, and I mean, it -- they just ran
15 right into it. I kin -- I ran right into them, and they
16 stopped it.

17 Q. When they pulled you off the bike, did they hit you
18 before they pulled you off, or did they pull you off and hit
19 you?

20 A. They -- I was stopped there on the bike before they
21 yanked me off of it, and they just -- just repeatedly started
22 beating me. I was still on the bicycle for a short time when
23 they were beating me, but they beat me all the way to the
24 ground, so ---

25 Q. You indicated they dragged you into the woods. Let me

1 show you State's Exhibit Number 10 -- or excuse me -- State's
2 Exhibit Number 11. Do you recognize that?

3 A. Yes.

4 Q. Can you explain to the jury what that is?

5 A. It's a wooded area, and it's got an embankment, with a
6 lot of -- some trees and leaves, and it -- it's kind of --
7 probably about a two or three foot little embankment, that I
8 was drug over, and into the wooded area.

9 Q. And we are going to talk about the assault later, but
10 is this where the rape and the assault occurred?

11 A. Yes sir.

12 MR. von HERRMANN: Your Honor, we would publish State's
13 Exhibit Number 11 to the jury.

14 THE COURT: Very well.

15 Q. So they are beating you, and they are dragging you off
16 the road into that wooded area. What are they saying at that
17 point?

18 A. I -- I guess I could say I don't know if it was the
19 time on the street or in the woods that they are saying that I
20 shouldn't be out there; they are, what are you doing out here.
21 They are trying to get me to -- they were asking me where I
22 worked, and I was so afraid I couldn't think of a fake place,
23 so I told them where I worked. It just came out, I was so
24 afraid.

25 Q. When they got you to the woods, tell us what happened.

1 A. They pushed me on my stomach, and put my sweatshirt
2 over my head, and they are beating me off and on the whole
3 time, and pulled my bike shorts down.

4 Q. How many people are there that you know of right then?

5 A. At the time I only saw the two, and eventually I got my
6 head turned to the side, and then the -- a Mexican guy was
7 squatted, smoking a cigarette, with a ball cap, looking at me.

8 Q. Was he going through your backpack?

9 A. Somebody had gone through it before. I could hear it
10 rustling. I don't know which one went through it.

11 Q. Did you ever get any of your money back?

12 A. No.

13 Q. Was there ever any money after these three quit
14 assaulting you?

15 A. Excuse me.

16 Q. Was there ever any money there after they quit
17 assaulting? Did you ever see money again?

18 A. No.

19 Q. So you indicated that one of them pulled your bike
20 shorts down. Was there any conversation that was going on
21 between the two? Were they still striking you?

22 A. Yes. At one time one -- he was sitting me so -- one of
23 them was hitting me so hard the other one said, don't hit
24 her -- man, don't hit her any more.

25 Q. Tell the jury what happened after the first one pulled

Exhibit 522

SANDRA WINSTEAD-WEAVER - DIRECT BY von HERRMANN

1 your bike shorts down.

2 A. I -- I mean it's -- after the first one -- could you
3 repeat that. I'm sorry.

4 MR. von HERRMANN: That's okay. I understand it's
5 difficult.

6 Q. Just tell the jury when they -- when the first one
7 pulled your bike shorts down, and your sweatshirt over your
8 head -- tell the jury what they did.

9 A. They inserted me. They wanted to -- I don't know if I
10 have this in order. I -- it just -- you know ---

11 Q. That's fine. Just tell us what happened.

12 A. One of them tried to do it anal, and I -- I was able to
13 tell them that I had had surgery there and they couldn't get
14 in anyway, and they believed it, and one of them said, jack it
15 up then, so I was trying to do what they wanted me to do so I
16 wouldn't get killed.

17 Q. Ms. Weaver, did the first black male, Bobby or Eric
18 Jenkins, did he rape you?

19 A. They both raped me. I'm not sure which one raped me
20 first.

21 Q. Tell me what, if anything, that was said between the
22 two of them about ejaculating.

23 A. They used -- one of them said, wipe her p.u.s.s.y off;
24 they can test that shit. That was their exact words.

25 Q. Did you have any indication that that's what he did?

Exhibit 52C

1 A. Yes. I felt one of them wipe my leg -- was wiping the
2 back of my leg, after it was said.

3 Q. Was that -- or do you recall whether that was the first
4 or the second person that raped you?

5 A. It was -- I believe it was the first. Like I said,
6 it's -- the order -- I don't know what order.

7 Q. After you were taken off the bike, and beaten, and
8 taken in the -- or after you were beaten and taken off the
9 bike, did you ever see their faces, Bobby and Eric Jenkins'
10 faces again?

11 A. After I was taken off the bike ---

12 Q. During the assault, did you ever see Bobby or Eric
13 Jenkins' face?

14 A. During the assault, no. In the street, yes, walking
15 down the street, yes, and in the back of the truck. They had
16 the sweatshirt over my head during the actual assault.

17 Q. After both of them raped you, tell me what you hear, or
18 what causes it all to stop.

19 A. I hear another car -- I hear the truck circling
20 repeatedly around, and then I hear another car. I heard --
21 one of them pushed me back down in the ground and said, man,
22 he's being followed, and shortly after that I hear gunshots.

23 Q. Stop. You say, man, they are being followed. Then
24 what do the three do?

25 A. They -- they, like got way down in the ground. They

1 pushed me -- I was already pushed down, but they pushed me
2 down even further, and laid on top of me, and they -- so there
3 wouldn't be a shadow of them being seen, I guess, in the
4 woods, and they were like -- not -- they didn't want to be
5 seen until, I guess they had a chance to get back in the
6 truck.

7 XQ. Did you hear the truck muffler getting louder and being
8 clo ---

9 XA. It was getting closer.

10 Q. And then what happened?

11 XA. Eventually it got closer and louder, and they jumped
12 up, and he told me not to go to the police. They -- they told
13 me that they knew where I worked, and they ran out of the
14 woods.

15 XQ. There were three of them at that point?

16 A. Yes.

17 XQ. It was Bobby and Eric Jenkins and a Mexican?

18 XA. And a Mexican.

19 Q. How -- do you know -- do you see one of the people that
20 raped you that day and attached you in this courtroom today?

21 XA. Yes.

22 Q. Can you please tell the jury who that person is, or
23 point them out?

24 A. It's that man right there.

25 MR. von HERRMANN: Your Honor, we would like the record

Exhibit 532

SANDRA WINSTEAD-WEAVER - DIRECT BY von HERRMANN

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1 to reflect that he pointed out -- she -- the witness in the
2 case has identified Eric Jenkins, the Defendant, as the
3 individual that raped her.

4 Q. How sure are you, Ms. Weaver, that that is the man that
5 raped you?

6 A. I wouldn't be here if I wasn't a hundred percent sure.

7 Q. They showed you -- I say they, the police showed you
8 several -- several what we know as line-ups to identify the
9 two people that attacked you. Do you remember that?

10 A. Yes sir.

11 Q. Do you remember how many there were?

12 A. There was two pages, with six people on it, on each
13 page.

14 Q. When the Detective showed you this, do you know how
15 close after the incident it was?

16 A. It seemed like a couple of days, but I don't know how
17 long. This has been -- I have had to go through so many bond
18 hearings, court hearings. I don't know how many days it was.
19 I think it's a couple of days.

20 Q. Can you tell the jury what you told the investigator
21 when he presented the photo line-ups of Eric and Bobby Jenkins
22 in separate photo line-ups?

23 A. I insisted on a full body line-up. I told them I
24 wasn't comfortable with the procedure of picking someone out
25 of head shots; I wanted to see the full body, the heights, the

1 X shapes of the head, everything, not just a piece of paper.

2 Q. Were you, at that point, unable to pick somebody out,
3 or were you unwilling to pick somebody out?

4 X A. I refused. I was unwilling.

5 Q. Did you ask for anything to be done where you would be
6 available to see the individual? Live lineup

7 X A. I begged, actually, for a body line-up. I wanted to
8 see people, not pictures. I called the Police Department
9 several times and asked for that, and it's something that they
10 don't do.

11 Q. Why were you so adamant that you wouldn't pick out
12 individuals from the photo line-up?

13 A. I didn't want to make a mistake and pick out an
14 innocent person.

15 Q. Let me show you State's Exhibit Number 17 and 18. Is
16 this the photos -- is this the line-up that you were shown?

17 X A. Yes.

18 Q. And you declined to choose someone out of this?

19 X A. I could have done a process of elimination, but I
20 didn't even want to do that.

21 X Q. Now, sitting here today, do you know that the upper
22 right-hand corner, number seventeen, is Eric Jenkins.

23 A. Yes.

24 Q. That's the Defendant in this case.

25 X A. His hair is shorter there, but ---

1 Q. Did you -- let me show you Defendant's Exhibit Number

2 1. Did you do a composite drawing?

3 A. Yes.

4 Q. And is this the composite drawing that you did?

5 A. Yes.

6 THE COURT: Just a moment now. She did a composite
7 drawing?

8 MR. von HERRMANN: Well, I guess --

9 A. A computer generated.

10 MR. von HERRMANN: Let me -- let me clear that up.

11 Q. Did you and a Detective go on a computer ---

12 A. That may have been the couple of days later thing I
13 did.

14 Q. Tell us about how the composite was done.

15 A. Detective King asked me to come down and do what they
16 call a computer composite, where you pick out eyes and nose
17 and lips, and hair.

18 THE COURT: That's all I wanted to say. You didn't
19 actually get a pencil and draw somebody.

20 A. No. I've got to pick out hair and eyes and nose and
21 lips from different selections.

22 Q. And Defense's Exhibit Number 1 is that composite
23 drawing?

24 A. Yes, it is.

25 MR. von HERRMANN: Your Honor, we would like to publish

Exhibit 552

SANDRA WINSTEAD-WEAVER - DIRECT BY von HERRMANN

1 State's Exhibit Number 17 and Defendant's Exhibit Number 1.

2 THE COURT: Very well.

3 XQ. Did you attempt to give them the best information you
4 had about who assaulted you that day?

5 XA. Yes sir.

6 XQ. Did you attempt to give them the best description and
7 information you could?

8 XA. Yes sir.

9 XQ. Were you upset that they wouldn't get everybody and put
10 them together in a line-up, a body line-up?

11 XA. Yes, very upset.

12 XQ. Let's talk about when you came to court in January.
13 Can you tell the jury what you were there for?

14 XA. They were going to get -- or try to get D.N.A. from the
15 two suspects.

16 Q. So at this point they hadn't made an arrest in this
17 case?

18 XA. No sir.

19 XQ. And that's several months later, correct?

20 XA. Yes sir.

21 XQ. Were you given any instructions by any detectives, or
22 any folks that were there with you to support you?

23 XA. No instructions. They just actually told me about it.
24 They didn't even invite me to it, but I wanted to be involved
25 in every aspect of this case, so I asked could I go.

1 Q. And of course you were told when and where to be there?

2 A. (Nods Affirmative)

3 Q. Were you told when anybody was going to come -- whether
4 Eric and Bobby Jenkins were going to come in the courtroom?

5 A. No. *She said yes at the Neiln-Bigger*

6 Q. Tell the jury about where you were, or what room you
7 were in. *Hearing*

8 A. I was behind a -- it was called the coffee room. I was
9 behind a glass that you can't see in, but you can see out.

10 Q. How many people were in the courtroom; do you recall?

11 A. In the courtroom, I -- I don't know, twenty-five,
12 thirty maybe, at the time.

13 Q. Was it a fairly busy day, with a lot of people walking
14 around?

15 A. It was -- yes, it was in and out people.

16 Q. And they were doing guilty pleas and things like that?

17 A. Yes sir.

18 Q. Were they all white people, black people, or was there
19 a mix?

20 A. There was a mix.

21 Q. Was it all males or females, or was it mixed?

22 A. Are you talking about when the ---

23 Q. Just in general, just the courtroom.

24 A. The courtroom, it was a mixture.

25 Q. At some point did a number of inmates come in the

Exhibit 56C

SANDRA WINSTEAD-WEAVER - DIRECT BY von HERRMANN

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1 courtroom?

2 A. Yes sir.

3 Q. And tell us about that. Tell us how many there were.

4 A. I would say about twelve, fifteen of them. They were
5 in orange suits.

6 Q. Were they handcuffed together?

7 A. Yes sir.

8 Q. Kind of in a link, or a chain?

9 A. Well, they -- they had shackles on too.

10 Q. Were they all white, all black, or was there a mixture?

11 A. There was a mixture, but I believe a higher percentage
12 of black.

13 Q. And at some point in that proceeding, did you notice
14 anybody? Did you recognize anybody?

15 A. I noticed the two suspects right away.

16 Q. And who were those? You ---

17 A. The men I saw on the street that night, and the men
18 that dragged me off my bicycle.

19 Q. Was Eric Jenkins one of the men that you saw in that
20 courtroom?

21 A. He was one of the men.

22 Q. Tell me what you did when you saw him.

23 A. I -- emotionally almost -- I almost threw up. I -- I
24 just saw them right away. I -- I was -- I told my advocate,
25 my counselor at the crisis center, they they are, they are

1 right there; they are the ones, right there, and she came over
2 to the window and I pointed them out, and Roger Roy, which was
3 a Solicitor at the time, I told him who they were.

4 Q. And did you indicate to him at that point that those
5 are the ones -- those are the men that raped you?

6 A. Yes.

7 Q. And Eric Jenkins was one of the men that raped you?

8 A. Yes sir.

9 Q. Bobby Jenkins, his uncle, the other one that raped you?

10 A. Yes sir.

11 Q. Ever been anybody of Hispanic origin that you know has
12 been arrested in this case?

13 A. No.

14 Q. Do you know if the Hispanic male ever raped you?

15 A. No. I was raped by two men, and they were both the
16 ones that were in the street, because the Hispanic was just
17 watching me. He was probably going to be number three.

18 Q. Any doubt in your mind that the men that were in that
19 courtroom, Eric and Bobby Jenkins, were the men that raped
20 you?

21 A. No doubt.

22 Q. Any doubt in your mind that Eric Jenkins was the man
23 that you saw on Ocean Boulevard September 24th, 1997?

24 A. No doubt.

25 Q. Is there any doubt in your mind, as you sit here today,

1 that that man right there raped you?

2 A. I have no doubt.

3 Q. Did you hear any gunshots after they left you, after
4 they raped you?

5 A. Yes.

6 Q. How many gunshots; do you know?

7 A. It sounded like around maybe -- I don't know, bang,
8 bang, bang.

9 Q. It was a couple, three, four, something like that?

10 A. Yes.

11 Q. It wasn't extended for long, like ten or twelve?

12 A. No, I didn't hear that many.

13 MR. von HERRMANN: Court's indulgence one second, Your
14 Honor.

15 Ms. Weaver, I have no further questions. If you will
16 please answer any questions Mr. Long has for you.

17 MR. LONG: Thank you, Your Honor.

18 CROSS-EXAMINATION BY MR. LONG:

19 Q. Ms. Weaver, you and I have met several times before, so
20 I won't introduce myself again.

21 Ma'am, would you consider your memory of what happened
22 to you on September 24th to be better today, or the very day
23 after?

24 A. Could you repeat that question?

25 Q. Would you consider your memory of what happened to you

1 to be better the very day after it happened, or today?

2 A. I think when you are raped it's in your memory -- it's
3 going to be there forever, so that's a hard question to
4 answer. It's very -- it's almost like it happened yesterday,
5 right now.

6 Q. If you were -- well, so then is your answer to my
7 question that your memory is just as good, or better today
8 than it was September the 25th, 1997?

9 A. I would say just as good.

10 Q. And September the 27th, 1997, you were interviewed by a
11 female officer, a City of Myrtle Beach female officer -- I'm
12 sorry, September the 24th you were interviewed, the day of
13 your assault, by Officer Patricia Himelrigh. Do you remember
14 here?

15 A. Patricia Himelrigh. I was -- I remember Susan Baker,
16 but as far as -- I had so many -- was that the lady that took
17 me to the hospital, that was on the scene?

18 Q. She's a tall thin ---

19 A. Blonde, yes.

20 Q. ---Blonde-haired girl.

21 A. I didn't know her name, but I do remember her.

22 Q. Her name -- and she goes by Patti Himelrigh.

23 A. Patti.

24 Q. And so you do remember meeting her, and you remember on
25 that very day giving her a full statement about what happened

1 to you.

2 A. Yes sir.

3 Q. Would you say that you gave her that statement within
 4 minutes, hours, or days -- obviously not days because it was
 5 the same day. So did you give her the statement within
 6 minutes or within hours of the assault?

7 A. It wasn't minutes probably, because -- it was probably
 8 less than an hour, because I was at a hospital, and she was in
 9 the room with me, so it took a few minutes to get to the
 10 hospital, so I would say less than an hour.

11 Q. So this statement was taken at the hospital, at Grand
 12 Strand Regional?

13 A. If it's the same one that took me to the hospital, she
 14 didn't question me. She -- somebody questioned me on the
 15 street, but I also got questioned again at the hospital.

16 Q. Did a female question you on the street?

17 A. I had a couple of officers question me on the street.

18 Q. I'm sorry. I have to ask you again, was it -- were one
 19 of those officers a female?

20 A. There was a female and male there.

21 Q. Okay. And then another female talked to you at the
 22 hospital afterwards; is that right?

23 A. Yes. Actually I believe Patti was there too, but Susan
 24 Baker also -- a Detective, also questioned me.

25 Q. Susan -- the Detective, Susan Baker. She's a dark-

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SANDRA WINSTEAD-WEAVER - CROSS BY LONG

1 haired lady, right.

2 A. Uh huh (indicating positive)

3 Q. So Patti Himelrich -- she questioned you both on the
4 street at the scene of this thing, and then later at the
5 hospital?

6 A. As I recall.

7 Q. Okay. Do you recall giving her descriptions of the
8 people that assaulted you?

9 A. To my best knowledge.

10 Q. Okay. And do you recall that you described for her a
11 scene where there was one older, taller man, who seemed to be
12 in charge, and there was another younger, shorter man, who
13 seemed to be following advice of the older man. Do you
14 remember telling her about that?

15 A. At that time that was my good guess, older, shorter,
16 taller.

17 Q. And this was within an hour or two ---

18 A. There was a short one and a tall one.

19 Q. Right. And you described -- again, you described one
20 as being older and taller, and the other as being shorter and
21 younger, and the older and taller one was in charge, correct?

22 A. That's probably what I said.

23 Q. Okay. And you also indicated to her that the older and
24 taller one was the one who first raped you, and that the
25 younger, shorter one, then followed, and raped you again, as

Exhibit 52C

SANDRA WINSTEAD-WEAVER - CROSS BY LONG

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1 well, correct?

2 A. I was guessing the age.

3 Q. Okay. So you guessed their ages, but you certainly
4 gave the subject number one -- you gave him an older age ---

5 A. Uh huh (indicating positive)

6 Q. ---Than you did subject number two.

7 A. That's because he looked very close in age.

8 Q. Okay. But you definitely thought, at the time, that
9 subject number one, the first one that raped you, was at least
10 a few years older than subject number two, correct?

11 A. Being that they were perfect strangers, I gave my --
12 all my best knowledge, as a good guess.

13 Q. And I'm sorry. I need you to answer my questions. If
14 you need to explain them you can, but I have to ask questions
15 a certain way by the rules, and I have to ask you to answer
16 them, so I'm looking for a yes or a no, and then an
17 explanation.

18 A. Could you repeat the question?

19 Q. The question was, you certainly described an older,
20 taller man in charge, as being the first one that raped you,
21 and a younger, shorter following advice of the type suspect,
22 being the second one that raped you. Isn't that what you told
23 her?

24 A. That's -- if that's on the report.

25 Q. Okay. And you know Bobby Jenkins?

1 A. Unfortunately.

2 Q. And you know that Bobby Jenkins pled guilty to rape
3 kidnapping, robbing and raping you, right?

4 A. Yes sir.

5 Q. And you know that Bobby Jenkins is in prison for such
6 right now.

7 A. Yes sir.

8 Q. And you identified Bobby Jenkins at the old Horry
9 County Courthouse, from behind the coffee room glass?

10 A. Yes sir.

11 Q. And you know that Bobby Jenkins is Eric Jenkins' uncle?

12 A. Yes sir.

13 Q. And you know that Bobby Jenkins is much older than Eric
14 Jenkins?

15 A. Now I do.

16 Q. Okay. And, in fact, now you know, don't you, that
17 Bobby Jenkins is actually shorter than Eric Jenkins; isn't
18 that correct?

19 A. Uh huh (indicating positive)

20 Q. But the second suspect you described, as being the
21 younger, shorter suspect, you told Patti Himelrich that your
22 guess of his height was five foot five inches; is that right?

23 A. Uh huh (indicating positive)

24 Q. How tall are you, Ma'am?

25 A. Five five.

Exhibit 60C

SANDRA WINSTEAD-WEAVER - CROSS BY LONG

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1 Q. So you described him as being right about your height;
2 is that ---

3 A. Which one are you talking about?

4 Q. The second suspect, the younger, shorter, following
5 advice ---

6 A. I gave them that age though.

7 Q. You did ---

8 A. I don't -- they are strangers. I don't know their age,
9 sir.

10 Q. Well, I'm going to get to that.

11 A. Okay.

12 Q. I'm just trying to ---

13 A. Because there is not much difference in the way they
14 look.

15 Q. Okay. Well, suspect number one you said was a good bit
16 taller than you, five foot nine to six feet tall. That was
17 the older one.

18 A. I don't know how to measure people's height. I'm
19 sorry.

20 Q. No Ma'am. I'm -- and I don't want to argue with you.

21 A. I'm not arguing. I'm ---

22 Q. That's the last thing ---

23 THE COURT: Excuse me. Let's try to do it this way.

24 Ask a question, and then try to answer the question, if you
25 can, Ma'am, yes or no, and then you can explain your answer.

1 A. Okay.

2 Q. So I'm going to ask another question. You indicated
3 that suspect number one, who you said was the older and the
4 taller, and the one in charge -- you told Patti Himelrich that
5 very day that he was between five foot nine inches tall and
6 six feet tall; isn't that correct?

7 A. That was what was on -- I said on the report.

8 THE COURT: Yes or no, and then you can explain your
9 answer.

10 A. Yes. Okay.

11 Q. Okay. And you have already indicated, I believe,
12 several times -- and we were actually in this courtroom back
13 in September of 2002 -- remember that, where we had a hearing
14 in this case, had a hearing on the identification of people?

15 A. Yes.

16 Q. And you indicated at that hearing that Bobby Jenkins,
17 the man who has already pled guilty for raping you, was, in
18 fact, the man in charge, and was suspect number one. Do you
19 remember that?

20 A. I -- yes. It's been a while.

21 Q. Okay. Now, so it would rea -- it would make reason to
22 me -- and I don't know if it makes sense to you, but it makes
23 sense to me, Ma'am, that suspect number two that you've been
24 describing in here, if, in fact, Eric Jenkins did assault you,
25 he would have to be suspect number two; is that correct?

Exhibit 61C

SANDRA WINSTEAD-WEAVER - CROSS BY LONG

1 A. I don't know how I can put who was suspect number one
 2 and suspect number two, sir. I'm sorry. I can't answer that,
 3 because I can't say which one was suspect number two and which
 4 was suspect number one. *Now she don't know who is*
suspect 1 or 2

5 Q. If you go back to my first line of questioning, and you
 6 try and remember what you told Patti Himelrich, there was an
 7 older, taller man in charge, and you said that that person was
 8 Bobby Jenkins, later on, and you described a younger, shorter
 9 following advice, assailant. My question is, wouldn't it make
 10 reason -- doesn't it make sense that, if Eric Jenkins was the
 11 person who assaulted you he would be suspect number two.
 12 That's all I'm asking you.

13 A. I don't know how to even answer that. I'm sorry. That
 14 is just -- I feel like I'm being confused. *Lie*

15 Q. All right. You know today, don't you, that Eric
 16 Jenkins is like five ten, five eleven, right? Do you know
 17 that? *Taller than me*

18 A. Uh huh (indicating positive)

19 Q. You know that he's a good bit taller than you are.

20 A. (NODS AFFIRMATIVE)

21 Q. And you described him to Patti Himelrich as being five
 22 foot five, correct?

23 A. That's -- can I -- sir, can I see --

24 Q. Yes. If you will answer me yes or no.

25 A. Yes. That is on the report.

1 Q. Go ahead.

2 A. At the time, how am I suppose to know who was younger
3 and who was taller, and who was shorter?

4 Q. Ma'am, you described them as younger and taller and
5 shorter. You did that. And I'm only asking you on things
6 that you said.

7 A. Okay. On the report, yes. Now I can say something?

8 THE COURT: You may.

9 A. I know that a taller man and a shorter man raped me. I
10 identified these guys. Okay. I'm sorry, I didn't know their
11 ages, or their heights, or anything at the time.

12 Q. And I understand you didn't check their I.D., or have
13 any clue how old they were. You were making estimations on
14 their age.

15 A. Exactly.

16 Q. And isn't it true that you identified the second
17 suspect which, in make -- in reasonable explanation of how you
18 made this description, would have had to have been the second
19 person who raped you, you described that person as being --
20 estimating, fifteen or sixteen years old, correct?

21 A. Correct, on the report.

22 Q. Okay. And you have learned later that, at the time of
23 September 24th, 1997, Eric Jenkins was twenty-one years old.
24 You have learned that now, haven't you?

25 A. Yes.

Exhibit 62C

SANDRA WINSTEAD-WEAVER - CROSS BY LONG

1 Q. You would agree with me that your description of this
2 person that raped you does not match the description of Eric
3 Jenkins, wouldn't you?

4 A. Which description are you saying now, sir?

5 Q. I'm saying that suspect number two is five five, and
6 between the ages of fifteen and sixteen, and Eric Jenkins was
7 five ten to five eleven, and twenty years old. You would
8 agree with me that those descriptions don't match?

9 A. No. On that one it's probably the other suspect then.

10 Q. Okay. The other suspect you listed as suspect number

11 one. Judge Lockemy said her version
12 never change because he did that

13 A. Uh huh (indicating positive).

14 Q. And I believe you have testified before, and I believe
15 you just testified during my examination, that Bobby Jenkins

16 was suspect number one, the one who was in charge.

17 MR. von HERRMANN: Your Honor, I'm going to have to
18 object. I don't think she has ever identified these people as
19 suspect number one or suspect number two.

20 A. That's why I'm confused.

21 THE COURT: Overrule your objection.

22 A. I don't understand how I got to these -- just ---

23 MR. LONG: Ma'am, I've got an Incident Report.

24 A. Okay.

25 Q. And the Incident Report is based on a conversation you
had with Officer Patti Himelrich just an hour or so after

She
changed
I must
be number
two

Exhibit 622

1 this.

2 A. Uh huh (indicating positive)

3 Q. And on the Incident Report Patti Himelrigh listed
4 subject number one, and she listed subject number two, and you
5 went on to describe for her that subject number one seemed to
6 be in charge, and was telling suspect number two how to do
7 this.

8 A. Uh huh (indicating positive)

9 Q. And you described in your Incident Report that suspect
10 number one was older, and he was taller, and that's what I'm
11 asking you. You did that? You made that description one hour
12 after this rape. And my question is, based on all of that,
13 isn't it true that the description you made of suspect number
14 two on here, and the actual description of Eric Jenkins are
15 completely different; isn't that true?

16 A. I don't know how to answer that.

17 Q. All right. I think I've made my point.

18 Now, the next day -- you testified under direct-
19 examination that you don't know how long after -- it was a day
20 or two, or maybe three, I think was your testimony, if I
21 remember it right. I didn't write it down. But you said that
22 it was a day or two or three before you saw this, that's
23 already been entered as State's Exhibit Number 18.

24 A. Okay. I'm not even sure when that was comparison with
25 the composite. I'm not sure.

Exhibit 63C

SANDRA WINSTEAD-WEAVER - CROSS BY LONG

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1 Q. Detective Altman testified it was the very next day.
2 Could that be true?

3 A. It could be.

4 Q. Okay. So let's assume it was the very next day that
5 you were shown this photo line-up ---

6 A. Uh huh (indicating positive)

7 Q. ---Which includes a picture of Eric Jenkins, and you
8 did not identify him as being any of the assailants, or
9 suspects, or kidnapers, or rapists; isn't that true?

10 A. I would not, not did not.

11 Q. I'm going to try and understand what the difference is
12 between did not and would not, but if you will answer my
13 question. Did you identify Eric Jenkins as a rapist, a
14 kidnapper, and a robber?

15 A. I refused to identify him on that piece of paper.

16 Q. So your answer is no?

17 A. I refused to. Yes sir. No.

18 Q. All right. Now, within twenty-four hours of being
19 raped by a man, if he showed up on this sheet, and you were
20 able to look at it as closely as I've got it in front of you,
21 or closer, why in the world didn't you recognize him?

22 A. Because I wanted to see his full body, the shape of his
23 head and ---

24 Q. What was it about his full body that would have
25 anything to do with identifying him?

1 A. You can tell a lot about somebody's body.

2 Q. Okay. Could you tell ---

3 A. ---The shapes of their heads, their height.

4 Q. You can tell if he was five foot five or five foot ten?

5 A. I could -- no, I couldn't say if -- yes, five inches,
6 yes.

7 Q. What about the hair style of these two people assaulted
8 you; do you remember that?

9 A. It -- yes, it was short.

10 Q. Both?

11 A. Both of them had short hair.

12 Q. Okay. And what about the clothing that they wore; do
13 you remember that?

14 A. It's been seven years. I'm sure I told them at the
15 time.

16 Q. All right. And didn't you, in fact, tell Patti
17 Himelrigh that suspect number two, which I -- we have made the
18 leap now, I think, that that -- you were describing the second
19 person, not Bobby Jenkins, but the other person, wore a dark,
20 long shirt, with short sleeves, correct?

21 A. If that's what in the Report, yes sir.

22 Q. Okay. And that person then, that wore that dark, long
23 shirt with short sleeves, would have used that long shirt with
24 short sleeves to wipe evidence from your body; is that
25 correct?

Exhibit 64C

SANDRA WINSTEAD-WEAVER - CROSS BY LONG

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1 A. Not necessarily.

2 Q. And why not?

3 A. It could have been the Hispanic guy's clothing that
4 never got picked up. I'm sorry.

5 Q. Okay. Now didn't you tell Patti Himelrigh, during your
6 Report here, that he used his own clothing ---

7 A. It could have been -- at -- during that Report it could
8 have been his own clothing.

9 Q. Suspect number two used his own clothing.

10 A. It could have been, if that's what's in the Report.

11 Q. After he was told by suspect number one, they can test
12 that stuff.

13 A. I was on my stomach.

14 Q. You were on your stomach.

15 A. I was on my stomach, so, I know it was wiped off, but I
16 don't know whose clothing it was. I remember saying it could
17 have been his own clothing.

18 Q. Let's talk about you being face down, Ma'am. You said
19 that there is absolutely no -- no question in your mind, no
20 doubt about it, that that man seated right over there raped
21 you.

22 A. It ---

23 Q. You didn't see the faces of the men that raped you, did
24 you?

25 A. I saw the faces of the two men that drug me in the

1 woods.

2 Q. You saw faces of two men that approached you on
3 bicycle, right?

4 A. And that drug me in the woods.

5 Q. Okay. So as far as who did what to you over in the
6 bushes, you were face down?

7 A. Not -- I didn't get my face -- shirt over my head until
8 I was in the woods, and there was no one else in the woods.

9 Q. Right. Well, there was a pick-up driving around, --

10 A. Uh huh (indicating positive)

11 Q. ---So there must have been a person driving that,
12 right?

13 A. Yes.

14 Q. And there has been a description before of two, three,
15 four five, who knows how many people involved in the pick-up
16 truck, right?

17 A. Uh huh (indicating positive)

18 Q. So what I'm trying to point out here is, and what I'm
19 trying to ask you is, as this assault was taking place over
20 here on this grass, of these pictures that we have seen, as
21 this assault was taking place over there, you don't know, do
22 you, exactly who was assaulting you?

23 A. Yes, I do.

24 Q. All right. Ma'am, how? You were face down.

25 A. Because it was the two men that took me in the woods.

Exhibit 63C
SANDRA WINSTEAD-WEAVER - CROSS BY LONG

1 No one else -- they didn't change. They had their hands on me
2 the whole time. They didn't take their hands off of me, so
3 how could -- you would have felt them taking their hands off
4 of you, to switch up.

5 Q. Did you feel them take their hands off you to switch
6 up?

7 A. No. They had their hands on me -- both suspects had
8 their hands on me at all time, whether it was holding down my
9 legs, or doing something, nobody took their hands off of me,
10 so they would have to be magicians to have switched up.

11 Q. Well, I thought your testimony was that they did switch
12 up, Ma'am.

13 A. They did switch up, but they had to keep me held down.
14 I mean, there was hands of the same person on me the entire
15 time, the same two people. I never felt them release my body
16 at any point. Yes, they switched up, but I -- you know, I'm
17 going to squirm. I'm going to try to get away.

18 Q. You were riding down -- you were southbound on Ocean --
19 you were actually southbound on the sidewalk, on the ocean
20 side of Ocean Boulevard, right?

21 A. Yes sir.

22 Q. You are riding your bicycle on the sidewalk ---

23 A. Excuse me. Yes sir.

24 Q. ---Going toward work. And you would agree with me that
25 the sidewalk on Ocean Boulevard in Myrtle Beach, in that area,

1 is overgrown with -- all of the homes there have shrubs and
2 bushes and trees that line Ocean -- that line the sidewalk,
3 and most of them grow up over the sidewalk; isn't that
4 correct?

5 A. In a certain area, not down there by the beach where
6 the gazeboes and stuff are.

7 Q. Of course not. But right here around 33rd, 34th, 35th,
8 between the Cherry Tree Inn at 54th Avenue North, and the Sea
9 Captain's House at 25th Avenue, or whatever avenue that is,
10 29th Avenue North, that whole area is a sidewalk that runs
11 from north to south, on the east side of 17th, and it's pretty
12 grown up with bushes and shrubs and trees?

13 A. Uh huh (indicating positive)

14 Q. And you were riding down that sidewalk, and you got to
15 a point in that sidewalk where the sidewalk turned, actually
16 turned toward the ocean a little bit, and as you came around
17 that turn you saw two black men walking toward you; is that
18 correct?

19 A. That was the fourth time -- third or fourth time I had
20 seen them.

21 Q. Right. You saw them in the truck. There were some

22 A. Some ---

23 Q. ---Other things you described. I'm talking about this
24 scene right here.

25 A. Yes.

Exhibit 66C

SANDRA WINSTEAD-WEAVER - CROSS BY LONG

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1 Q. You saw two men walking toward you. Where were they?

2 Were they on the sidewalk?

3 A. They were in the middle of the street.

4 Q. Okay. And when you saw them in the middle of the
5 street, what did you try and do?

6 A. I had already gotten off the sidewalk. When I saw the
7 truck come by without the guys in the back of the truck I got
8 suspicious and scared, and I got off the sidewalk, and tried
9 to go on the other side, or maybe go in the neighborhood,
10 because I felt like they were there.

11 Q. Well, Ma'am, as I understand it -- and you tell me if
12 I'm wrong -- you were getting off of the sidewalk when you saw
13 them in the middle of the street; is that correct?

14 A. I had already gotten off the sidewalk. I was in the
15 middle of the street, rounding the curve, trying to get across
16 the other side when I saw them.

17 Q. But you were still on the east side of 17?

18 A. Well, yes in -- yes, in that lane, but in the street.

19 Q. You were on the east side of 17, in the oncoming
20 traffic lane, getting ready to go across ---

21 A. Uh huh (indicating positive)

22 Q. ---When you saw them standing in the middle of Ocean
23 Boulevard. And then what did you do?

24 A. I ran right into them. I had no choice. They were
25 right there.

1 Q. And they jumped on you, and started beating you, and
2 drug you off your bicycle, right?

3 A. Yes.

4 Q. So you would agree with me that your opportunity to see
5 those -- whoever those two men were, was very quick; is that
6 right?

7 A. The last time, yes.

8 Q. Okay. And now -- so whoever those two men were, the
9 two men who assaulted you off of your bicycle, and drug you
10 into the bushes, and raped you, whoever those two men were,
11 you have a very quick look at them, very quick; you would
12 agree?

Close Range

13 A. Very close range quick look, yes.

14 Q. And now sometime earlier, on up north, you saw a truck
15 with some people in it, and you saw those people, in that
16 truck, earlier, a couple of times, right?

17 A. I saw the two men, yes.

18 Q. The time that it took -- when you made impact, you were
19 riding your bicycle and you made impact, or they made impact
20 with you, I should say, and they knocked you off that bicycle,
21 to the time that they got you over to that grassy area, how
22 long did that take?

23 A. I don't know. Maybe fifteen, twenty seconds.

24 Q. And how many gunshots did you say you heard?

25 A. It sound -- I guess it was like, bamb, bamb, bamb.

Exhibit 67C

1 Q. Your estimation ---

2 A. I'm saying three, because it was like, yes, bang, bang,
3 bang.

4 Q. And that was way after the assault, right?

5 A. Yes. Not way after, because the assault didn't last
6 that long. It seemed like eternity, but ---

7 Q. Are you certain that they were gunshots? Could it have
8 been a truck backfiring?

9 A. No, definitely. I know -- I've had a car that
10 backfires. I know what that sounds like.

11 Q. Have you heard a gunshot before?

12 A. Yes. I have been to a shooting range.

13 Q. So you definitely know they were gunshots? You
14 definitely know they were gunshots?

15 A. Yes.

16 Q. And so the very next day you did not identify any of
17 these people as being the person who assaulted you, and you
18 asked the police to give you a in-person line-up?

19 A. Yes sir.

20 Q. And then about three months later you found out --
21 well, the next day you found out they had two suspects, right?
22 September the 25th ---

23 A. Yes sir.

24 Q. ---You knew they had two suspects, because there were
25 two people in this truck, up in Florence County, right?

1 A. Uh huh (indicating positive) Yes sir.

2 Q. And the very next day you were told -- you learned,
3 didn't you, that the names of those two suspects was Jenkins,
4 right?

5 A. Yes sir.

6 Q. So you know they had two people named Jenkins locked up
7 up there in a stolen truck -- truck -- and that truck was
8 involved in your assault; right?

9 A. Yes sir.

10 Q. And you knew that, in January of 1998, three months
11 later, they were going to bring these two Jenkins guys, who
12 were the suspects in your rape, over to the courthouse, right?

13 A. Which date was that?

14 Q. January, 1998.

15 A. That was for the D.N.A.?

16 Q. Yes Ma'am.

17 A. I knew that they were going to be there, but I didn't
18 know they were going to be in the court -- I knew they were
19 going to have D.N.A. taken. I wasn't sure if they were going
20 to be in the courtroom. I just wanted to be involved in all
21 the -- everything.

22 Q. You knew they were there for a hearing to see whether
23 or not they were going to be able to -- whether or not the
24 State was going to be able to take samples from them and
25 take ---

Suggest
Lineup her statement

Contradicted itself

Judge Lockemy

Exhibit 68C

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1 A. Yes.

2 Q. So you didn't know they were actually going to come
3 into the courtroom?

4 A. I -- I didn't know what was going to happen, actually.
5 I just wanted to be there to find out if they were going to be
6 able to get the D.N.A..

7 Q. Did you request to be behind the door of the coffee
8 room, or did somebody from the Solicitor's Office or the
9 Myrtle Beach Police Department ask you to stand behind the
10 coffee room door?

11 A. At the time Teresa Bilton, with the Crisis Center,
12 thought -- you know, asked me if I wanted to be in the coffee
13 room, if I would be uncomfortable to be in the courtroom.

14 Q. And what did you say?

15 A. I said I would rather be in the coffee room. <sup>why would you rather be
in coffee room if you knew we
wasnt going to be there</sup>

16 Q. And why would it make you to be uncomfortable if --

17 A. Just in case they did come out. I just didn't want to
18 be in the same room with them. <sup>Live Line up if I ever
heard one</sup>

19 Q. So you did expect them to be in the courtroom?

20 A. I said, just in the case they did come out. I wasn't --
21 I was afraid of every prisoner at that time. I didn't want to
22 be in the -- in the courtroom with any prisoner at that time.

23 Q. The whole truth -- the whole truth here. You really
24 did think they were going to be in the courtroom?

25 A. I was hoping. <sup>YES she knew
illegal line-up</sup>

1 Q. Okay. So, at some point the door opened, and a bunch
2 of people, predominately black men, came out chained together,
3 right?

4 A. Yes sir.

5 Q. And Bobby Jenkins, the man who raped you, was chained
6 to his nephew, the other Jenkins guy, right?

7 A. Yes, the other rapist.

8 Q. I understand. And when you saw Bobby Jenkins, and Eric
9 chained to him, you identified them both as being the people
10 who raped you?

11 A. I sure did, yes sir.

12 Q. Can you explain to me how you could do that from that
13 distance? Well, I'm ask -- that distance is longer -- it's
14 more than from where you are to that door over there, right?

15 A. Yes.

16 Q. It's almost double that distance, isn't it, a long way.
17 And you were behind the glass window ---

18 A. Uh huh (indicating positive)

19 Q. ---That actually had blinds hanging there, didn't it?
20 You had to look between the blinds?

21 A. I don't think there was blinds, unless they had them,
22 pulled up.

23 Q. Okay. Well, they could have been pulled up, actually.
24 But double the distance that you are sitting right here you
25 identified them. Can you explain how you could do that, but

Exhibit 629C

SANDRA WINSTEAD-WEAVER - CROSS BY LONG

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1 you couldn't do this? State's Exhibit Number 18, the very
2 next day.

3 A. I explained why I -- I wouldn't do that. I just see
4 them in person. I -- it was easy. It -- just like all of a
5 sudden there they were, and they were the men I saw walking up
6 the street.

7 Q. Well, they were seated -- they were in the Grand Jury
8 box, over on the other side of the courtroom. They were
9 sitting in the Grand Jury box.

10 A. They walked out first though. I saw them.

11 Q. Just the two of them?

12 A. No, there were several men. They weren't sitting. I
13 actually saw them walk out into the room.

14 MR. LONG: Excuse me.

15 Q. Ma'am, do you wear glasses or contacts?

16 A. No sir.

Dont believe this

17 Q. You never have?

18 A. No sir. I have been trying to disguise myself, because
19 I -- I fear for my life, so I decided not to wear my big
20 glasses today.

21 Q. Okay. You wear fake glasses now?

22 A. I wore fake glasses at every trial I've been in,
23 because I'm trying not to be identified. I live in fear of my
24 life.

25 Q. Okay. Why do you live in fear when you believe that

Exhibit 692

SANDRA WINSTEAD-WEAVER - REDIRECT BY von HERRMANN

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1 the first man that raped you just got fifty years in prison?

2 A. I don't know if there is anybody in this courtroom
3 that's his family members that can follow me home.

4 Q. Have you ever -- has anybody ever indicated to you that
5 you need to be in fear of your life? Has anybody ever
6 threatened you in any way?

7 A. No, but I am a rape victim, and I was almost killed ---

8 Q. I understand.

9 A. ---So I am sorry. I do live in fear.

10 MR. LONG: I don't have any other questions. Thank
11 you, Ma'am.

12 A. Thank you.

13 REDIRECT-EXAMINATION BY MR. von HERRMANN:

14 Q. When you gave your description to the police
15 immediately after the assault, were you attempting to assist
16 them in identifying a suspect, if they could arrest one?

17 A. Yes sir.

18 Q. And were you just trying to do your best?

19 A. Yes sir.

20 Q. And you indicated that one of them's height, that raped
21 you, was five -- five nine to six feet tall?

22 A. Yes sir.

23 Q. And this individual is five nine, five ten?

24 A. I -- yes, I guess.

25 Q. And you indicated that one of the individuals that

1 raped you was five five, about?

2 A. My best knowledge of guessing.

3 Q. Bobby Jenkins is five five?

4 A. Yes sir.

Indicating I'm the second suspect now

5 Q. So you did a pretty good job on height?

6 A. Yes sir.

7 Q. Okay. You were shown a photo line-up with Bobby
8 Jenkins. Did you pick Bobby Jenkins out of that particular
9 photo line-up?

10 A. I didn't want to pick any photo line-up.

11 Q. But even -- but you were shown one with his picture in
12 it?

13 A. Yes sir.

14 Q. And there is no doubt in anybody's mind today that
15 Bobby Jenkins raped you?

16 A. Yes sir.

17 Q. And you identified him in January of 1998, just like
18 you did Eric Jenkins, the same identical procedure?

19 A. Yes sir.

20 Q. No doubt about that. Is there any doubt in your mind
21 that those individuals were the individuals that assaulted
22 you?

23 A. I have no doubt.

Lie

24 Q. Is there any doubt in your mind -- and tell us if there
25 is -- is there any doubt in your mind that the two individuals

Exhibit 702

SANDRA WINSTEAD-WEAVER - REDIRECT BY von HERRMANN

115

1 that assaulted you were the two individuals in the back of the
2 truck?

3 A. That's the individuals. I have no doubt.

4 Q. Is there any doubt in your mind that the two
5 individuals in the truck were the same individuals that were
6 stopped on the side of the road that said, hey you, or
7 whatever it was they said? Is there any doubt in your mind
8 that those were?

9 A. No sir.

10 Q. Is there any doubt in your mind that the four or five
11 times you saw this red and white pick-up truck, that I've
12 shown you a photograph of, that those -- all those individuals
13 got in that truck and escaped, and left you?

14 A. No doubt.

15 Q. Do you have any idea, absolute knowledge, what the man
16 that ejaculated used to wipe you off with?

17 A. No sir.

18 Q. Do you remember the voice that told the person, Mr.
19 Jenkins, Eric Jenkins, to wipe you off? Do you remember that
20 voice?

21 A. I remember both of the voices. I just don't know which
22 one is Bobby and which one is Eric at the time.

23 Q. Is there any doubt in your mind that the two people
24 that snatched you off that bike, that had guns, that beat you
25 all the way, were the same two that raped you in the woods?

EXHIBIT 71C
SANDRA WINSTEAD-WEAVER - RECROSS BY LONG

1 A. I have no doubt.

2 MR. von HERRMANN: I have no further questions, Your
3 Honor.

4 MR. LONG: Very briefly, Your Honor.

5 RECROSS-EXAMINATION BY MR. LONG:

6 Q. Ma'am, is there any doubt in your mind that you told
7 Patti Himelrigh that day there was an older and a younger
8 suspect?

9 A. There was an older, yes sir. There was older and
10 younger.

11 Q. And is there any doubt in your mind that you described
12 the younger suspect as being five foot five? *Me suppose to*

13 A. I -- at the time I didn't know which one was ^{be} younger
14 and which one was older, so if that's in the Report, that's --
15 that was just a guess. I'm sorry, I just -- could you repeat
16 the question.

17 Q. Is there any doubt in your mind that you told Patti
18 Himelrigh that the younger person was five foot five?

19 A. That was a guess, but if it's in the Report, that's
20 what I said, but that was an estimate. *The truth is*

21 Q. I understand. Is there any doubt in your mind that you
22 told her that?

23 A. Oh, if -- if it's in the Report -- it was seven years
24 ago. If it's in the report there is no doubt in my mind that
25 I told her that.

Exhibit 71C

1 Q. And is there any doubt in your mind that you described
 2 the first suspect as being the one in charge, the older one
 3 was in charge? Me

4 A. What -- could you -- I'm sorry. I'm not following your
 5 questions. Lie never identified me

6 MR. LONG: I'm -- that's. All right. Thank you.

7 MR. von HERRMANN: Your Honor, we have no further
 8 questions. Judge Lockemy said her statement
 9 never change bias, prejudice corrupt motive

10 THE COURT: Thank you, Ma'am. You may step down.
 11 All right. Ladies and gentlemen, it's 5:25. We have
 12 gone a little past five o'clock, because I don't like to
 13 interrupt someone's testimony while they are on the stand, if
 14 possible.

15 We are going to break now and we are going to start back
 16 tomorrow morning at 9:30. Please be in your jury room at 9:30
 17 in the morning.

18 And let me make sure you understand this. Now that you
 19 have been chosen, and started the trial, and you have been
 20 chosen as a juror -- as a jury in this case, it's imperative
 21 that you not discuss this matter with anyone. That includes
 22 your husband, or your wife, or your significant other, other.
 23 If they want to talk about it just say, I can't talk about it
 24 with you now, but I'll talk about it with you as soon as this
 25 case is over. When the case is over I encourage you to talk
 about it. I think that's healthy, but until it is, don't

Exhibit 792C

ROGER ROY - DIRECT BY von HERRMANN

119

1 THE COURT: Good morning, Mr. Foreman, ladies and
2 gentlemen of the jury. We are ready to proceed with the
3 trial.

4 Please call your next witness.

5 MR. von HERRMANN: Thank you, Your Honor. The State
6 would call Roger Roy to the stand.

7 THE COURT: Mr. Roy, come around, please.

8 ROGER ROY, first duly sworn,
9 testified as follows:

10 DIRECT EXAMINATION BY MR. von HERRMANN:

11 Q. Mr. Roy, can you please tell the jury what you do for a
12 living?

13 A. I'm an attorney in private practice in the City of
14 North Myrtle Beach.

15 Q. In September of 1997, can you tell the jury -- or
16 excuse me -- January of 1998, can you tell the jury where you
17 were employed?

18 A. I was employed at the Horry County Solicitor's Office
19 as a prosecutor.

20 Q. Were you an Assistant Solicitor?

21 A. I was.

22 Q. Have you ever worked with me in the Solicitor's Office?

23 A. No sir.

24 Q. Have you ever -- I ever -- we have never been
25 supervised, or any formal relationship within the Solicitor's

Exhibit 722

SANDRA WINSTEAD-WEAVER - RECROSS BY LONG

118

1 discuss it with anyone, including your fellow jurors, until
2 the matter is over, or until it's time for you to deliberate.

3 Enjoy your evening. Be back in your jury room at 9:30
4 in the morning. We will resume the case at that time.

5 Thank you.

6 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
7 JURY.)

8 THE COURT: All right, folks. We'll start back at 9:30
9 in the morning.

10 Is there anything we need to take up now, or before we
11 start back in the morning?

12 MR. von HERRMANN: The State has nothing, Your Honor.

13 MR. LONG: No sir.

14 THE COURT: Thank you.

15 MR. LONG: Thank you, Judge.

16 (THE FOLLOWING TAKES PLACE ON THE FOLLOWING DAY, AUGUST
17 3, 2004, OUTSIDE THE PRESENCE OF THE JURY.)

18 THE COURT: All right, sir. Are we ready for the jury,
19 gentlemen?

20 MR. von HERRMANN: The State is ready, Your Honor.

21 THE COURT: Is the defense ready?

22 MR. LONG: Yes sir.

23 THE COURT: Let's have the jury back, please.

24 (THE FOLLOWING TAKES PLACE WITHIN THE PRESENCE OF THE
25 JURY.)

Exhibit 5
Roger Roy 104 through 220
Solicitor

Illegal suggestive
Hearing conducted
by Judge James
E Lockemy, Detective
Altman x Roger Roy
Solicitor

Said That we came
in with other inmates
at the County Jail.
Said all of us had on
orange jumpsuit
and these were
inmates going for bond
hearing that bond was
to high or did not have
a bond

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER

TO: NAME:	TITLE:	DATE:
Ms. Merchant	Mailroom	3-28-14
INMATE'S NAME:	SCDC #:	
Bobby Jenkins	271240	
INSTITUTION:	LIVING QUARTERS:	
Perry CI	D-Y-11	

Ms. Merchant I really don't
know what have all changed
but I know a lot have this
is a lawyer that I have written
in the past and it was through
another Attorney to contact
these attorneys. Like I say
we have already corresponded
before.

Sincerely
IAM
Mr. Jenkins

DISPOSITION BY STAFF MEMBER:

mailed on 3/31/14

DATE:

SIGNATURE:

Exhibit D

TERRY ALTMAN - CROSS BY LONG

2

1 Q. Okay. And when you testified that you knew that there
2 were at least two, maybe three, maybe four or more people
3 involved in this assault, isn't that a little unusual, that
4 you don't know how many people were involved in this?

5 A. Not necessarily. That was from talking to witnesses
6 that observed the truck, seeing other people get into the
7 truck as it left.

8 Q. Did you talk to a witness named Scott Chaisson?

9 A. I believe so. I don't remember his name. If he's the
10 one that lived with Pam that's who I talked to, but I can't
11 remember his name right now.

12 Q. Isn't it correct that he was a witness that got in a
13 car and followed this truck for a while?

14 A. If that's his name. I can't remember his name off the
15 top of my head.

16 Q. Do you recall how many people he indicated were
17 involved in this, (inaudible) in and out of the truck from
18 time to time?

19 A. Anywhere from four to five people.

20 Q. Okay. And how did he describe those people?

21 A. I don't really remember. I know a black male, maybe
22 Hispanic male. I can't remember. Definitely black male
23 though.

24 Q. Didn't he -- didn't he testify, or didn't he tell you --
25 - I'm sorry.

Exhibit 1A

TERRY ALTMAN - REDIRECT BY von HERRMANN

36

1 like that would have led her to believe ---

2 A. No.

3 Q. Let's talk about Ocean Boulevard. There was some talk
4 about how dark it was. Is there any street lights or anything
5 on Ocean Boulevard?

6 A. Yes, there is.

7 Q. Can you tell the jury about how -- how intermittent, or
8 how spaced out they were?

9 A. From my estimate I would probably say the street lights
10 ranged about a hundred feet apart.

11 Q. Do they keep that place pretty well lit?

12 A. Yes.

13 Q. Do you all routinely identify individuals and license
14 plates when you are in patrol?

15 A. Yes.

16 Q. So it's not so dark that you just can't see?

17 A. That's correct. It's a very well lit neighborhood.
18 Being the cost of the homes there, everybody's yards are well
19 manicured, and the street lights are free from any kind of
20 overhanging branches or debris, or anything like that.

21 Q. There is some indication that you went to Florence.

22 A. Yes.

23 Q. And I want you to answer this very, very specific
24 question. Did you, at any time, discuss this case with Eric
25 Jenkins?

Exhibit 2B

TERRY ALTMAN - REDIRECT BY von HERRMANN

1 what we do then is put the victim in a patrol car, drive her
2 up to the scene, and let her look at the individual that's
3 been stopped by the other officer.

4 Q. Do you give many instructions prior to them bringing up
5 -- bringing the person ---

6 A. No.

7 Q. And with regards to this, did you give Ms. Weaver any
8 instructions with regard to whether or not Bobby Jenkins and
9 Eric Jenkins were going to be in the courtroom that day?

10 A. No.

11 Q. And how many people were in the courtroom that day?

12 A. That day you had -- you had several lawyers, court
13 reporters, probably anywhere from twenty to twenty-five people
14 that actually work in and out of the courtroom, and Bobby
15 Jenkins, Eric Jenkins were handcuffed together, but there was
16 also anywhere from eleven to fifteen other defendants, for
17 other cases there, handcuffed to them also.

18 Q. ~~Suppose to be bond hearing~~
19 Were they all white males, black males, white females,
20 black females, or a combination?

21 A. There was a combination of white males, black males.

22 Q. You are talking fifty to a hundred people?

23 A. In the whole -- in the whole courtroom, I would say at
24 least fifty people. ~~Fifty people but solicitor~~
25 ~~and victim statement is different~~

Q. And did you instruct her at any point and say, all
right, coming through that door right there may be -- anything

Exhibit 2D

461

TERRY ALTMAN - REDIRECT BY von HERRMANN

3

1 Q. And what was that?

2 A. She requested a live line-up.

3 Q. And what did you or your detectives tell her with
4 regard to that?

5 A. We advised her that we can't do a live line-up.

6 Q. And with regards to this, what's been called a show-up,
7 is that a show-up as you know it in law enforcement?

8 A. No.

9 Q. Tell the jury what a show-up means to you.

10 A. What a show-up would mean would be showing the photo
11 line-up, and what you do is, you show six lines -- six
12 photographs of the individual, and plus five others that
13 resemble him in height, weight, color, facial features, and
14 you let them look at the photographs.

15 Q. With regard to -- if you go to a scene where there has
16 been a recent committed armed robbery, or burglary, or rape or
17 that thing, and you think you've got a suspect, or you've got
18 a suspect detained, is it common to do, or sometimes common to
19 do a show-up?

20 A. Yes. I refer to it as a drive-by, but show-up also,
21 yes.

22 Q. Tell the jury what a drive-by is.

23 A. A drive-by is -- say an incident happens at 33rd Avenue
24 North, Ocean Boulevard, we have a description, ten blocks away
25 a patrol officers stops somebody that resembles a suspect,

Exhibit 3D

TERRY ALTMAN - REDIRECT BY von HERRMANN

3.

1 Q. You didn't?

2 A. No.

3 Q. So you went up there to interview a guy, you didn't
4 know if he had a record or not?

5 A. That's correct.

6 Q. Okay. At the point when you did find out that he did
7 have a criminal record, and he did have a probation officer, a
8 parole officer, did you ever go and speak with his probation
9 or parole officer about the case?

10 A. I didn't know he had a probation officer until not that
11 long ago.

12 Q. Okay. All right.

13 MR. LONG: That's all I have. Thank you.

14 MR. von HERRMANN: Thank you, Your Honor.

15 REDIRECT-EXAMINATION BY MR. von HERRMANN:

16 Q. You indicated that she wouldn't pick anybody in the
17 line-up. Do you know what she said, or why she wouldn't pick
18 anybody out of the line-up?

19 A. She said she couldn't look at a picture and tell if
20 that was somebody involved, and that she refused to look at
21 the line-up.

22 Q. Did she make any request of you, or any of the
23 detectives, to give her a better opportunity to see Mr.
24 Jenkins in a

25 A. Yes.

TERRY ALTMAN - CROSS BY LONG

3

1 together. You had Bobby Jenkins, and you had his nephew, Eric
2 Jenkins, and you went and interviewed both of them. Did you
3 get a warrant to then go search their homes for guns,
4 anything? Did you get a warrant to search the home?

5 A. No.

6 Q. Why?

Nowarrant

7 A. We had the guns at the scene, and we had the clothing
8 that they had on.

9 Q. So you assumed that the clothing that they had on on
10 September 25th was the same clothing they would have had on
11 September 24th; is that right?

12 A. That's correct.

13 Q. So you did not go -- whether you got a warrant or not,
14 did you go to Eric Jenkins' house, to go through his clothing
15 and other items, to see what you might find?

16 A. No.

17 Q. Did you ever interview Mr. Carl Jenkins, Eric's father?
18 A. No.

19 Q. Did you ever talk to his probation officer, Eric
20 Jenkins' probation officer?

21 A. I was unaware he had a probation officer.

22 Q. When you went to speak with him at Effingham, surely
23 you had the benefit of his criminal record, or his past,
24 right?

25 A. Not at that time, no.

Exhibit 4D

TERRY ALTMAN - CROSS BY LONG

3

1 wasn't brought over to Myrtle Beach for y'all to have a line-
2 up or anything like that?

3 A. Why he wasn't brought over for a line-up?

4 Q. Yes.

5 A. We don't do live line-ups.

6 Q. The City of Myrtle Beach never does a live line-up?

7 A. I've been there for twelve years. We've never done a
8 live line-up.

9 Q. You've got a live line-up room over there though, don't
10 you?

11 A. No.

12 Q. You don't?

13 A. No.

14 Q. There is not a live line-up room at the City of Myrtle
15 Beach?

16 A. That's correct.

17 Q. Is there a live line-up room at J. Reuben Long
18 Detention Center?

19 A. I don't know.

20 Q. And your testimony is, you've never done a live line-up
21 like we see on T.V.? You have never done a live line-up in
22 the City of Myrtle Beach?

23 A. That's correct.

24 Q. After you -- the day after this happened you had two
25 suspects, because they were arrested up in Florence County

TERRY ALTMAN - CROSS BY LONG

28

1 MR. LONG: Request permission to publish this, Your
2 Honor.

3 THE COURT: Very well.

4 Q. What happened -- if I were coming down -- what avenue
5 did this happen on?

6 A. Between the block of -- 3300 North Ocean Boulevard.

7 Q. So if I were out on Business 17, and I turned toward
8 the ocean on 33rd Avenue, and I drove straight down 33rd
9 Avenue to Ocean Boulevard, and stopped, with Ocean Boulevard
10 in front of me, where in -- would this -- did this assault

11 happen straight ahead, and across the Boulevard, over to the
12 right and across the Boulevard?

13 A. If you are looking at the ocean from 33rd, go to your
14 left. Almost halfway between 33rd and 34th roughly half way.

15 Q. Okay. So it definitely happened on the east side of
16 the Boulevard?

17 A. Yes.

18 Q. Did it happen on the east side of the sidewalk?

19 A. Yes.

20 Q. Did it happen on City or State property or on private
21 property?

22 A. Where they first encountered her would have been on --
23 when she was on her bicycle, would have been on South Carolina
24 Highway 73, which is Ocean Boulevard. Then they dragged her
25 over the sidewalk, onto a private residence front yard.

Exhibit 5B

TERRY ALTMAN - CROSS BY LONG

27

1 Q. What time did you learn that this assault happened?

2 A. I was called -- I want to say roughly about 5:35 in the
3 morning, maybe six o'clock, somewhere around there.

4 Q. 5:35 in the morning, September 24th, would be dark
5 outside, right?

6 A. Yes.

7 Q. When you arrived at the crime scene, would you
8 characterize it as being light, dark, or somewhere in the
9 middle. I guess that would be dusk.

10 A. Dusk. I had my headlights on going to the scene. I
11 remember that.

12 Q. You had your headlights on going to the scene?

13 A. Yes.

14 Q. I'm going to show you what's been marked and entered
15 into State's evidence as State's Number 8, and this is a
16 picture of a sidewalk out there. Now, just for light purposes
17 only, do you recognize that as being about what the light
18 conditions were when you showed up?

19 A. I believe it was lighter than that. It wasn't that
20 dark.

21 Q. It was lighter.

22 A. Correct.

23 Q. So you believe this picture might have been taken
24 before you got there?

25 A. It possibly may have. I'm not sure.

TERRY ALTMAN - CROSS BY LONG

1 at that time, so I don't know what she said.

2 Q. But now -- but you know, and you have learned, through
3 your investigation, being the lead investigator in this case,
4 and then you have worked on this case ever since, that at tha
5 very moment, behind that door, is when she identified who
6 raped her.

7 A. That's correct.

8 MR. von HERRMANN: Your Honor, I'm going to have to
9 object. If he doesn't know that. I don't think he can
10 testify to it. We are going to put Ms. Weaver up. He can
11 certainly ask her that question.

12 THE COURT: I overrule your objection.
13 You may proceed.

14 A. That's correct.

15 Q. And you say that you didn't take any part in the crime
16 scene investigation over there, on the corner of 31st, 32st,
17 33rd and Ocean Boulevard?

18 A. Well, I was there, but I didn't collect anything
19 myself, no.

20 Q. What time did you get there?

21 A. About seventeen minutes after seven.

22 Q. 7:10 A.M., September 24th, 1997. How dark was it out?

23 A. The sun was starting to come up.

24 Q. The sun was just getting ready to come up?

25 A. From what I remember, yes.

Exhibit 6B
TERRY ALTMAN - CROSS BY LONG

1 hearings, guilty pleas, bond hearings, and in this particula
2 case what they call a Smurber hearing. They were brought in
3 from a door over here on this side of the courtroom, right?
4 A. That's correct.

5 Q. And they were, in fact, brought into this side of the
6 courtroom, and they were seated over here in what we used to
7 call the Grand Jury box, way over here, right?

8 A. That's correct.

9 Q. And you would also agree with me that Eric Jenkins was
10 in an orange jumpsuit.

11 A. I don't remember if it was orange or beige. I'm not --
12 ~~Detective said orange~~
13 ~~Beige~~

14 Q. But he was in a prison jumpsuit?

15 A. Correct.

16 Q. He had a chain around his waist, and his hands chained
17 to it, and he had chains around his ankles.

18 A. That's correct.

19 Q. And he was chained directly to Bobby Jenkins.

20 A. That is correct. ~~We was chained together~~
21 ~~the solicitor said we wasn't~~

22 Q. And so Bobby Jenkins and Eric Jenkins were brought into
23 the courtroom, and they were seated over here in the Grand
24 Jury box, and at that point, through this glass door over here
25 in that old coffee room, Ms. Weaver said, that's who raped me,
right?

A. I wasn't -- I don't remember being in the coffee room

The solicitor said him and victim
advocate and Detective was in the coffee

Exhibit 6B

TERRY ALTMAN - CROSS BY LONG

24

1 coffee room, right?

2 A. That's correct.

3 Q. And it had a window in the door?

4 A. Correct.

5 Q. And the window was such that you could see out, but you
6 couldn't see in, one of those one-way glass deals.

7 A. That's true.

8 Q. And you would agree with me that Ms. Weaver was behind
9 that door during this show-up that they had in January, 1998?

10 A. You call it a show -- it was actually a hearing, but
11 yes.

12 Q. Well, there was a hearing scheduled ---

13 A. Correct.

14 Q. ---But Ms. Weaver came for that hearing, and decided to
15 stay behind the glass door.

16 A. That's correct.

17 Q. And you would agree with me that, up to this moment,
18 January, 1998, middle part of January, 1998, that Ms. Weaver
19 had not identified who it was that raped her; is that correct?

20 A. I believe so, yes.

21 Q. Okay. And that was -- you would agree with me as well
22 that that was about three months after the assault.

23 A. Yes.

24 Q. And you would also agree with me that, when the
25 defendants were brought into the courtroom for whatever

Exhibit 7A

TERRY ALTMAN - CROSS BY LONG

21

1 A. How many miles?

2 Q. Uh huh (indicating positive)

3 A. I would probably say a mile and a half total radius, if
4 that much.

5 MR. von HERRMANN: I have no further questions. Please
6 answer -- I do. Excuse me. One more question.

7 Q. In being a Detective, did you ask someone to process
8 the crime scene?

9 A. Yes.

10 Q. And do you know -- do you recall what crime scene
11 specialist that is?

12 A. It was Joe Graham.

13 Q. And do you process crime scenes?

14 A. No, I don't.

15 MR. von HERRMANN: I have no further questions, Your
16 Honor.

17 Please answer anything Mr. Long might have.

18 CROSS-EXAMINATION BY MR. LONG:

19 Q. Detective Altman, you participated -- the day after
20 this assault you participated in the photographic line-up,
21 didn't you?

22 A. Yes.

23 Q. I'm going to show you what I have had -- I'm sorry --
24 I'm going to show you what's been marked as State's Exhibit
25 Number 18 -- it's already into evidence -- and I'm going to

TERRY ALTMAN - CROSS BY LONG

23

1 MR. LONG: May I publish this to the jury?

2 (STATE'S EXHIBIT NUMBER 18 PUBLISHED TO THE JURY.)

3 Q. Now, you participated in January, 1998, three months
4 after this, in a show-up, what we call a show-up, over at the
5 old courthouse, right?

6 A. Yes.

7 Q. And you would agree with me, wouldn't you, that the way
8 that that worked was that, in the old courthouse -- if I could
9 use this courtroom -- remember the old courthouse had the big
10 courtroom? It was a lot bigger than this room, right?

11 A. Yes.

12 Q. And it was wider and it was deeper?

13 A. Correct.

14 Q. It was more -- would you say it was more like the size
15 of the first courtroom we were in, where we drew this jury?

16 A. Correct.

17 Q. So the old courtroom and the old courthouse were
18 similar to the size of that big room that we were just in, and
19 you would agree with me that it's set up such -- sort of like
20 the other courtroom too, where the Judge sits in the middle,
21 and there are witness chairs on both sides, and there are jury
22 boxes on both sides, right?

23 A. Correct.

24 Q. And you would agree with me that back about this far to
25 the courtroom there's a door, what we used to call the old

Exhibit 8-D

TERRY ALTMAN - CROSS BY LONG

1 ask you if that's a photographic line-up that you participa
2 in.

3 A. Yes, it is.

4 Q. Okay. And that's a photographic line-up, has picture
5 of six different black men, right?

6 A. That's correct

7 Q. And in the top right-hand corner is a picture of Eric
8 Jenkins, right?

9 A. That's correct.

10 Q. And who was this line-up shown to on September 25th,
11 1997?

12 A. It was shown to the victim, Sandra Weaver.

13 Q. Did Sandra Weaver identify anybody in that line-up that
14 assaulted her?

15 A. I wasn't present when she was shown the line-up.

16 Q. Well, you know if she identified anybody or not.

17 A. That's correct, yes.

18 Q. Did Sandra Weaver identify anybody in that line-up?
19 A. Not from the line-up, no.

20 Q. So she -- she could not identify anybody in here as
21 being one of her kidnappers?

22 A. That's my recollection. She refused to look at it.

23 MR. LONG: Okay. Request permission to publish this to
24 the jury, Your Honor.

25 THE COURT: I'm sorry.

Exhibit 8 D

JURY IN/COURT TO JURY/OPENING BY STATE AND DEFENSE
TERRY ALTMAN - DIRECT BY von HERRMANN

1 Q. Were you able, through the course of your
2 investigation, to identify where Eric Jenkins lived?

3 A. Yes.

4 Q. And how about Bobby Jenkins?

5 A. Yes.

6 Q. And what about where the guns were stolen?

7 A. Yes, I was.

8 Q. And what about where the truck was stolen?

9 A. Also out of Aynor.

10 Q. Step down, Detective Altman, if I could, please.
11 Again, this is -- you had indicated that you had marked this
12 with me at some point. Can you please point out where Bobby
13 and Eric Jenkins lived?

14 A. They lived here, off of Nutmeg Road.

15 Q. And where was the truck stolen?

16 A. The truck was stolen off of Highway 501, at Mr.
17 Herrington's residence at that time.

18 Q. And where was the guns stolen?

19 A. The guns were stolen off of Maple Street, also in
20 Aynor, South Carolina.

21 Q. And which way on this map is the Beach; do you know?

22 A. If you are heading this way it would be toward Myrtle
23 Beach, and this way would be toward Florence.

24 Q. How many miles would you say within the Eric Jenkins'
25 house were all the guns and the truck stolen?

Exhibit 9D
JURY IN/COURT TO JURY/OPENING BY STATE AND DEFENSE
TERRY ALTMAN - DIRECT BY von HERRMANN

1 Q. And can you please tell the jury where those guns were
2 stolen from, if you know?

3 A. They were stolen from Aynor, South Carolina.

4 Q. Have you had an opportunity to review State's Exhibit
5 Number 2, marked in evidence?

6 A. Yes.

7 Q. And did you assist me in labeling this?

8 A. Yes, I did.

9 Q. Have you been able to locate -- let me say this. What
10 suspects, through your investigation, were you able to
11 identify, that were involved in the rape and C.S.C. and armed
12 robbery?

13 A. Bobby Jenkins, and the Defendant, Eric Jenkins.

14 Q. During the course of your investigation, do you know
15 how many people were involved in the actual armed
16 robbery/rape/criminal sexual -- or excuse me -- the
17 kidnapping?

18 A. The exact number, no. At least two people. Probably
19 anywhere up to three or four people.

20 Q. So there were additional people that were never found
21 out?

22 A. Correct.

23 Q. Have you ever identified anybody as a suspect in those
24 people -- the other people outside of Bobby and Eric?

25 A. No.

Exhibit 9D

JURY IN/COURT TO JURY/OPENING BY STATE AND DEFENSE
TERRY ALTMAN - DIRECT BY von HERRMANN

1 our supervisor, indicating that the Highway Patrol was in a
2 high speed pursuit with the truck, and they were heading from
3 Florence toward Horry County, on 501.

4 Q. Did you respond to that location?

5 A. Yes.

6 Q. Did you have reason to believe, at that time, that
7 truck was involved in the rape that occurred in Myrtle Beach?

8 A. Yes.

9 Q. And again, how long of a time frame was there between
10 the rape and the time that truck was found?

11 A. Probably about -- I'd say about thirty hours.

12 Q. Okay. With regard to any firearms, was there any
13 indication that firearms were involved in the armed robbery or
14 the rape or the kidnapping?

15 A. Yes.

16 Q. Can you please tell the jury, based on your
17 investigation, how many guns were used?

18 A. Two guns were used.

19 Q. And did you have any leads, or any information with
20 regard to the recovery of those -- excuse me -- the theft of
21 any firearms in that location?

22 A. Yes, we did.

23 Q. And did you believe that those were involved in this
24 particular case?

25 A. Yes.

Exhibit 10D

JURY IN/COURT TO JURY/OPENING BY STATE AND DEFENSE
TERRY ALTMAN - DIRECT BY von HERRMANN

1

1 Q. Do you know what method of transportation Ms. Weaver
2 was using that morning?

3 A. Yes.

4 Q. Would you please tell the jury?

5 A. She was riding a bicycle.

6 Q. Were you able to get any -- through interviewing
7 witnesses and doing your investigation, to get any leads on
8 potential suspects in this case?

9 A. Yes, we did.

10 Q. Were you able to discover what type of vehicle this
11 individual or individuals were driving?

12 A. Yes.

13 Q. And can you please tell the jury what type of vehicle
14 that was?

15 ~~A.~~ It was a red and white pick-up truck, with a Herrington
16 Construction sign tag on it.

17 Q. Were you able to find out where that truck was next
18 seen?

19 A. Yes.

20 Q. And when would that have been?

21 A. On September 25th myself and another Detective were in
22 route to Aynor, to actually follow-up with the owner of the
23 truck. We arrived at his house, but he wasn't there. We
24 spoke with his daughter. We then left the residence to go do
25 some more follow-ups. At that time we received a call from

Exhibit D

JURY IN/COURT TO JURY/OPENING BY STATE AND DEFENSE
TERRY ALTMAN - DIRECT BY von HERRMANN

1 A. This is an aerial view of the north end of the City
2 of -- north end of the city limits of Myrtle Beach, and it
3 goes down to this area right here. It's Myrtle Square Mall.
4 This would probably be about 23rd Avenue North and Ocean
5 Boulevard, all of which are the north end of the city limits.

6 Q. Detective Altman, can you please tell the jury, were
7 you able to ascertain where the victim was living, Ms. Weaver?
8 A. Yes.

9 Q. And is that marked on this particular map?

10 A. Yes. It is marked right here on Porcher Avenue.

11 Q. And were you told exactly where the assault took place?
12 A. Yes.

13 Q. And can -- is that identified on this particular
14 exhibit?

15 A. It is identified right here. This is Ocean Boulevard,
16 where this arrow ---

17 Q. Now, back in 1997 -- and I know that things have
18 changed a lot. Can you please tell the jury a little bit
19 about the type area this was in 1997?

20 A. It's a -- it's mainly a residential area, high dollar
21 value homes. The area in question had a berm up around it,
22 that went up about this high off the ground, and then into a
23 wooded area, and which is actually somebody's front yard, but
24 it's all wooded area over a berm.

25 MR. von HERRMANN: You may have a seat, if you would.

JURY IN/COURT TO JURY/OPENING BY STATE AND DEFENSE
TERRY ALTMAN - DIRECT BY von HERRMANN

1 A. Yes.

2 Q. And what was your interaction in this particular case?

3 A. I was one of the lead Detectives on the case.

4 Q. Can you tell us what you did on September 24th, 1997?

5 A. I received a call at home in reference to a reported
6 rape, an assault that had occurred in the area of 34th and
7 33rd Avenue North and Ocean Boulevard. I responded to the
8 scene, arrived there about twenty after seven in the morning.

9 I met with my immediate supervisors there, was briefed on the
10 incident, and then began to interview witnesses from that
11 point on.

12 Q. In interviewing witnesses, can you tell the jury
13 exactly what type of witnesses you were looking for, what type
14 of assault you were responding to.

15 A. The kind of assault we were responding to was -- the
16 victim, Sandy, had been beaten with a pistol, robbed, and also
17 raped, and witnesses we were looking for is anybody that may
18 have seen or heard anything.

19 Q. And what location was the reported incident?

20 A. It was 3301 Ocean -- North Ocean Boulevard.

21 Q. And that's here in Horry County?

22 A. Yes.

23 Q. In conducting your investigation -- let me ask you to
24 step down and start off with State's Exhibit Number 1, marked
25 into evidence. Can you tell the jury what this is?

Exhibit 11D

JURY IN/COURT TO JURY/OPENING BY STATE AND DEFENSE.
TERRY ALTMAN - DIRECT BY von HERRMANN

1 (COURT'S EXHIBIT NUMBER 1 ADMITTED INTO EVIDENCE, NOT 1
2 GO TO THE JURY.)

3 (STATE'S EXHIBIT NUMBERS 1 THROUGH 23 ADMITTED INTO
4 EVIDENCE.)

5 (DEFENDANT'S EXHIBIT NUMBER 1 THROUGH 5 ADMITTED INTO
6 EVIDENCE.)

7 DIRECT-EXAMINATION BY MR. von HERRMANN:

8 Q. Detective Altman, can you please tell the jury where
9 you are employed.

10 A. City of Myrtle Beach Police Department.

11 Q. And can you tell them what you do at Myrtle Beach?

12 A. I'm the Sergeant of the Detective Division.

13 Q. Tell the jury, in 1997, around September, what was your
14 -- what did you do there, and what were your job
15 responsibilities.

16 A. I was a Detective with the same organization.

17 Q. And what are your general duties and responsibilities
18 with regard -- as a detective?

19 A. Detectives -- you respond to crimes, and you
20 investigate them by following up with witnesses, defendants,
21 directing Evidence Technicians to gather the evidence and then
22 process everything, complete the case file and send it to the
23 Prosecutor's Office.

24 Q. And in this particular case, are you pretty familiar
25 with it?

EXHIBIT 2 D

215

10/23/2014

#67475

HORRY COUNTY JAIL
JAIL OR CONFINEMENT RECORD
RALPH J. VAUGHT, JR., DIRECTOR

AGENCY ID SC 0260400

NAME Bobby C. Jenkins ADDRESS 300 51 Aynor S.C
RACE B SEX M DOB 4-14-41 HT. 5'8 WT. 155 HAIR Black EYES Brown
SOCIAL SECURITY DRIV. LIC. None
OCCUPATION(S) Unemployed PHONE 358-837
OFFICER JRDC Graham BOND
DATE OF ARREST 1-14-98 TIME 2024 AM PM JUDGE
OFFENSE Back for Court
DATE OF RELEASE 01/21/98 AUTHORITY FOR RELEASE to Florence County
mailed Ruby L. Jenkins ADDRESS PHONE
NEXT OF KIN Shyers
ATTORNEY
AUTHORIZED VISITORS
DISCIPLINARY ACTIONS
REMARKS Hold FOR Florence County MEDICAL RECORDS -- OVI

59 136

EXHIBIT 12 D

216

10/23/2014

ANY KNOWN ALLERGIES YES IF YES, WHAT SINGLES, PENICILLIN
ANY HISTORY OF HEART DISEASE NO DIABETES NO EPILEPSY NO HIGH BLOOD PRESSURE NO
IS SUBJECT NOW UNDER DOCTOR'S CARE AND/OR TAKING ANY MEDICATIONS NO IF YES, WHAT _____
ANY HISTORY OF NARCOTICS USE? YES IF YES, WHAT COCAINE, MARIJUANA

REMARKS _____

SIGNATURE OF RECEIVING OFFICIAL

X

Trump Suit

PROPERTY

NOT RESPONSIBLE FOR PROPERTY OVER 30 DAYS.

X Bobby C. Jenkins

DEFENDANT'S SIGNATURE AT TIME OF ARREST

CASH
TIME OF ARREST

BOOKING OFFICER

I HEREBY STATE THAT THE ABOVE LISTED PROPERTY WAS RETURNED TO ME, IN SATISFACTION OF ALL CLAIMS TO PROPERTY ON MY PERSON AT THE TIME OF MY ARREST, ON THE DATE OF MY RELEASE. I HAVE BEEN ADVISED OF THE CHARGES, THE DATE, THE TIME, AND THE PLACE IN WHICH I AM TO APPEAR IN COURT REGARDING THE CHARGES AGAINST ME.

X

Bobby C. Jenkins

10/23/2014

Exhibit B

214

10/23/2014

Print Key Output
5716SS1 V3R7M0 961108

HORRY

Page 1
01/21/98 20:59:15

Display Device : DET5
User : SMARTIN

BOOKING REPORT: Close Out/Release Screen # 0067575

Released By

Cash: Receipt#... F-Fine B-Bond \$Amount
Bond: (non-cash) Enter X .00
Court: Judge#
Time Served: yr mth days
Other: BACK TO FLORENCE CO W/DALE GRAHAM

Releasing Officer# 406 MARTIN, SHARON
If released to Agency, enter Agency name. FLORENCE COUNTY
Time Released 18 : 30
Date Released 12198

This Booking Report has Detaining Agencies
Sentences not Completed

CMD Key 1. New Docket 2. Update Screen

Enter 1. Personal Data 4. Medical 7. Weekender
Option: 2. Charges 5. Property 8. Detaining Agencies
3. Bonds 6. Out To 9. Close Out

56

10/23/2014

Exhibit 13D

213

10/23/2014

DEFENDANT NAME: JENKINS, BOBBY C

DEFENDANTS PERSONAL PROPERTY RECEIPT

QUANTITY	ITEM
1	JUMP SUIT

QUANTITY	ITEM

I HEREBY STATE THAT THE PROPERTY LISTED ABOVE CONSTITUTES ALL CLAIMS TO PROPERTY ON MY PERSON AT THE TIME OF MY INCARCERATION AND I HAVE BEEN OFFERED THE USE OF THE TELEPHONE.

X Bobby C. Jenkins

DEFENDANTS SIGNATURE AT TIME OF INCARCERATION

[Signature]
WITNESS

I HEREBY ACKNOWLEDGE THAT THE COUNTY OF HORRY NOR THE J. REUBEN LONG DETENTION CENTER WILL BE RESPONSIBLE FOR PROPERTY REMAINING IN THE CENTER OVER (30) THIRTY DAYS. PROPERTY REMAINING (30) THIRTY DAYS AFTER RELEASE WILL BE DISPOSED OF IN ACCORDANCE WITH DETENTION CENTER POLICY.

I. HEREBY STATE THAT THE ABOVE LISTED PROPERTY, EXCEPT AS INDICATED, WAS RETURNED TO ME, IN SATISFACTION OF ALL CLAIMS TO PROPERTY ON MY PERSON AT THE TIME OF MY INCARCERATION ON THE DATE OF MY RELEASE.

X Bobby C. Jenkins

COOR

EXHIBIT 140

210

10/23/2014

TIME 20:24 DATE: 1/16/98 DOCKET NUMBER: 0067675 PAGE 2

***** B-O-N-D-S *****
DATE TYPE / AMOUNT AND/OR TYPE AMOUNT

***** O-U-T T-O *****
DATE OUT TIME OUT OUT TO DATE IN TIME IN

***** W-E-E-K-E-N-D-E-R *****
DATE FROM TIME FROM DATE TO TIME TO DAYS SERVED TOTAL

***** D-E-T-A-I-N-I-N-G A-G-E-N-C-I-E-S *****
HOLD FOR FLORENCE COUNTY PD 01-16-98 PE

***** C-L-O-S-E O-U-T *****
DATE RELEASED TIME RELEASING OFFICER AGENCY RELEASED TO

0/00/00 00HH 00MM .00
CASH: RECEIPT# B-BOND F-FINE TIME SERVED: YR: 00 MH: 00 DAYS: 00

COURT: JUDGE
OTHER:

COPY

10/23/2014

EXHIBIT 14D

209

10/23/2014

ORJ: CASE#: 00-00-000-
AGENCY: TIME 20:24 DATE: 1/16/98 DOCKET NUMBER: 0067675 PAGE 1
ARRESTING: J. REUBEN LONG DETENTION CTR. OFFICER: JRLDC GRAHAM
ASSIGNED: GENERAL SESSIONS COURT ACCOUNT# 7081

DEFENDANTS NAME: JENKINS (LAST) BOBBY C (FIRST) ALIAS:
ADDRESS: GUM ST PHONE# HOME: 3598379
AYNOR SC 29511 CELL: SG B136
SOCIAL SECURITY#

RACE SEX DATE OF BIRTH AGE H-HISP HEIGHT WEIGHT EYES
B M 28 FT. 5 IN. 08 155 BRO

HAIR: COLOR LENGTH STYLE FACIAL COMPLEXION SCARS/MARKS
BLK SH CUR MOUSTACHE DARK NONE

PLACE OF BIRTH DRIVERS LICENSE#
COUNTY: MARION ST: SC NONE ST:

NEXT OF KIN ADDRESS
RUBY LEE JENKINS (MOTHER) SAA

BOOKING OFFICER I.D. DATE I.D. OFFICER
ENGLISH, PATRICIA 0/00/00

JUVENILE: N CLOSED: WEEKENDER: N
IN THIS JAIL PREVIOUSLY: Y 0/19/92 ACTIVE MILITARY: N
STATIONED: PHONE# STATIONED: 0000000000
MARITAL STATUS: 2 OCCUPATION: BUS.PH: 0000000000
EMPLOYER: UNEMPLOYED HIGHEST GR. ATTENDED: 11
ADDRESS:
RELIGION: B ATTORNEY ASSIGNED: N PUBLIC DEFENDER: N

***** C-H-A-R-G-E-S *****

MISCELLANEOUS AND NONDISCERNABLE COURT: GENERAL SESSIONS COURT
(USE SPECIFIC OFFENSE WHENEVER POSSIBLE)
DATE: 30/01/69 WARRANT#: JUDGE: ASSIGNED JUDGE
BOND#: 00 0 JUVENILE: N CLOSED: HOLD/ANOTHER AGENCY: Y

DISPOSITION SENTENCE: 00 YRS 00 MTHS 00 DAYS \$F .00
TIME SERVED: 00 00 00
GOOD TIME: 00 00 00
BALANCE: 00 00 00 DATE SENTENCE COMPLETE 0/00/00
CHARGE RELEASED: 0/00/00 00:00 OFFICER
REQUESTED BOND: NOT SET
CHARGE IS BACK FOR COURT

SG

Exhibit 15A

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Temporary Custody Receipt for SCDC Inmate

10/23/2014

Name: <u>Wendell D. Williams</u>	SCDC Number: <u>199443</u>	Custody Grade: <u></u>
Institution: <u>Personnel</u>	Date: <u>11/23/98</u>	Time: <u></u>

The above named inmate has been received by Wendell D. Williams of Personnel Receiving Official:

I clearly understand that the security, custody, and well being of this inmate is the responsibility of Personnel Receiving County/Agency.

and is being temporarily removed from the custody of the South Carolina Department of Corrections for the purpose of

☐ Appearance in Court as defendant or witness	☐ Illness in Family
☐ Death in Family	☐ Investigation
☐ Habeas Corpus	☐ Post Conviction Hearing
☒ Other - Specify: <u>Release to Prisoner</u>	

I understand that the above inmate must be returned to the South Carolina Department of Corrections.

I further understand that I may call Wendell D. Williams at 737-3306 SCDC Official or SCDC Central Control at 737-1990 at any time for assistance.

S/ <u>Wendell D. Williams</u> Receiving Official	<u>DALE HATHAM</u> Name and Title (Please Print/type)
S/ <u>Wendell D. Williams</u> Releasing SCDC Official	<u>Wendell D. Williams</u> Name and Title (Please Print/type)

Return of Inmate to the SCDC

Date: <u></u>	Time: <u></u>
S/ <u></u> Returning Official	<u></u> Name and Title (Please Print/type)
S/ <u></u> Receiving SCDC Official	<u></u> Name and Title (Please Print/type)

Custody Grades

Trusty "AA"	- Freedom of movement in South Carolina without security supervision.
Trusty "A"	- Require security supervision - not armed.
Medium "B"	- Require armed security supervision.
Closed "C"	- High Security risk - requires armed security supervision.
Maximum "M"	- Requires full security measures at all times.

Instructions

Subject will be carried as authorized absentee from the losing institution and will remain in the institution count.

Original - Institution
Pink - Receiving Official
Yellow - Central Records

10/23/2014

47

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 228



Fax

From: Detective Terry S. Altman

Page 2

15. 10/24/95

cc: USAF/AFM

☐ Urgent ☐ For Review ☒ Please Comment ☒ Please Reply ☐ Please Reply via Email

2. Law Enforcer: Arrested Individual at the South Carolina Dept. of Corrections on the release date of Al Moadh Almaghrabi near Bohoy Springs. Our agency currently has outstanding warrants on him for 1st Degree Murder, Armed Robbery, AGGRAV. & Poss. Of a Firearm During Commission of a Felony.

The release of Murphadr is on November 24, 1988, at Kershaw CI. They request arranger must be made to have someone there by 1000 p.m. to pick him up. I have included in the file the north gate key sent to me.

Your assistance in this matter is greatly appreciated.

1 A. Correct.

2 Q. There has been some indication from defense counsel
3 that some things have changed. What Solicitor did you work
4 for?

5 A. Ralph Wilson.

6 Q. And what Solicitor is currently in office?

7 A. Gregg Hembree.

8 Q. And did you leave right after Gregg was elected
9 Solicitor?

10 A. I did.

11 Q. Did you have any indication in your file, or through
12 any information, that one of the suspects had wiped off the
13 semen before he left the scene?

14 A. I can't recall.

15 Q. Do you recall that?

16 A. I can't recall.

17 MR. von HERRMANN: Thank you.

18 I have no further questions, Your Honor.

19 MR. LONG: One more, Your Honor.

20 RECROSS-EXAMINATION BY MR. LONG:

21 Q. Did you realize, in reviewing the file, that the police
22 had never gone and executed a search warrant on Eric Jenkins's
23 house?

24 A. I can't recall.

25 Q. And you say that Eric Jenkins was not arrested, but he

1 in advance, I would guess, you contacted Terry Altman to let
2 him know y'all were going to be have the hearing, he needed to
3 come over and testify.

4 A. Correct.

5 Q. And you contacted the victim's advocate at the Rape
6 Crisis Center, to let her know, please let Ms. Weaver know
7 that, if she desires to come she can come.

8 A. Correct.

9 Q. Okay. Did you ever get a phone call, or any contact
10 from Ms. Weaver, trying to find out when and where you were
11 going to have a hearing, or anything like that? There was
12 some question as to whether y'all contacted her, or she
13 contacted you about the hearing.

14 A. Actually I contacted Teresa Bilton. If I remember
15 correctly I believe Ms. Weaver did call, and Teresa called me
16 back. I was in court, I believe, and I just called Teresa
17 back, because I did not have a number for her.

18 MR. LONG: Okay. That's all I have. Thank you.

19 MR. von HERRMANN: Just a couple of things.

20 REDIRECT-EXAMINATION BY MR. von HERRMANN:

21 Q. Was this Defendant under arrest at the time of hearing,
22 for this charge? *NO ONE WAS ARRESTED*

23 A. For this charge, no, he was not.

24 Q. So that's what you were trying to determine, is to --
25 or to help decide whether or not an arrest should be made?

1 Q. ---Anything found on or around Ms. Weaver?

2 A. That's correct.

3 Q. What about the clothing that Mr. Jenkins was wearing at
4 the time of his arrest up in Florence County? Did you know if
5 that -- part of this hearing was to get access to that
6 clothing, or did they already have that clothing?

7 A. The hearing was not for access to that clothing. It
8 was simply to collect samples from both of the Jenkins in
9 order to test against what was found in the rape kit.

10 Q. In your studying about the case during that three or
11 four days that you had, you knew that Eric Jenkins had been
12 arrested on September the 25th, and here it was January when
13 you got a file, so for three months he had been in custody,
14 and they had had his clothing in custody. Did you know if
15 they had done any testing of his clothing?

16 A. I can't recall.

17 Q. Other than knowing about the -- what did you do to
18 learn about this case, just read the Incident Report?

19 A. Went through what the case file -- I can't remember
20 what it consisted of at that point, but it had the Incident
21 Report, statements that were taken, probably an Investigative
22 Report done by the Defendant, and some descriptions of what
23 was in evidence at that point in time.

24 Q. Okay. And when it came time to have this hearing over
25 at the courthouse, you contacted -- at least a couple of days

Exhibit 17D

ROGER ROY - CROSS BY LONG

126

1 Q. Okay. Why did you -- scratch that. What did you know
2 about Ms. Weaver's ability or inability to identify the
3 suspects?

4 A. It was understanding at that point in time she had not
5 made a positive identification after looking through the
6 photos at the police department.

7 Q. Had you been given the benefit of State's Exhibit
8 Number 18, which was the actual photo line-up she was given
9 the next day. Did you have that in your file?

10 A. I don't recall if I did.

11 Q. Okay. And did you have the benefit of knowing that
12 they had, in fact, taken a C.S.C. kit, rape kit, of Ms. Weaver
13 at the hospital, that they had done all the things that they
14 needed to do to gather evidence from her?

15 A. Yes, I did.

16 Q. And so -- and you know -- did you know, at that time,
17 that they, in fact, had found some D.N.A. of another
18 individual?

19 A. I knew that they had secured certain items from her.
20 As far as -- I don't know if there was a D.N.A. -- D.N.A.
21 tests had come back at that point, but I knew that there was
22 semen found, I believe public hairs at that point in time.

23 Q. Okay. And so the purpose of the hearing was to gather
24 things from these two suspects to see if they matched ---

25 A. Correct.

Exhibit 18B

ROGER ROY - CROSS BY LONG

125

1 distance between the -- but it could have been.

2 Q. You had -- how long was it that you had -- had had, I
3 guess is the way to ask that -- how long was it that you had
4 had this case. On that day, how long had you had had this
5 case?

6 A. Probably about three or four days.

7 Q. And so you had just gotten it?

8 A. Correct.

9 Q. On September the 25th of 1997, when Eric Jenkins was
10 arrested, you did not have the case at that point?

11 A. At that point, no, I hadn't been assigned. Typically
12 it took a couple of months before we got the case files from
13 the police departments.

14 Q. Okay. That system has changed now. They get it right
15 away, I believe, don't they?

16 A. I'm assuming they do, based on the beeper system.

17 Q. Okay. So you would have had the case for three or four
18 days, and during that three or four days before this hearing,
19 did you study up on it, or talk to anybody about it, and try
20 and learn a little bit about the case?

21 A. I basically read through the case file that was, I
22 believe, prepared by Detective Altman. I discussed with
23 Detective Altman the case, and then we had discussed that we
24 had a need to have a hearing to collect evidence for the
25 prosecution of the case.

ROGER ROY - CROSS BY LONG

12

1 The Grand Jury box was here. There -- at that point in time I
2 believe there was only one door here, coming into the
3 courtroom. I can't remember. They changed it at some point
4 in time, and there was another door here where there was a
5 holding facility for the prisoners. Over here was the jury
6 box, and then here was a door with a two-way mirror, and as
7 far as where the conference room, or the coffee room was. In
8 between there were the defense tables, and tables just like
9 there are here, and then there's a bench here where the Clerk
10 sat. We were in the coffee room here, and the Defendants came
11 on that end of the courtroom.

12 Q. Was there a bar across here?

13 A. There was a bar right about here.

14 Q. With a place to walk through it?

15 A. Correct.

16 MR. von HERRMANN: That's fine. Thank you.

17 Q. How close do you think she came, in terms of feet? Can
18 you estimate?

19 A. Probably from here to the exit doors.

20 MR. von HERRMANN: I have no further questions. Thank
21 you, Mr. Roy.

22 CROSS-EXAMINATION BY MR. LONG:

23 Q. Roger, that courtroom was certainly wider than from
24 here to that exit door, right?

25 A. From where I'm sitting it looks to be about the same

Exhibit 9 D

551

ROGER ROY - DIRECT BY von HERRMANN

The victim said it was a mix¹²

Q. And where they ~~male or female?~~ ^{women and men}

A. My recollection, they were probably all male. ^{perjury}

Q. And tell me about the -- do you have any idea as to how many of them were black, how many of them were white or Hispanic?

Misconduct

A. I have no idea. It was a mix as far as ethnic makeup.

Q. Did you instruct the jail, or anybody else, to handcuff, or to chain Bobby and Eric together?

A. No, I did not.

Q. When they brought in -- when they all came in, was there anything -- did Ms. Weaver say anything that caused you some concern?

A. When they brought them out into the courtroom -- they came in from the sides to sit down. We were in the coffee room, where there is a two-way glass where you can see out, but they -- can't be seen in. She was in there. She looked out and there was a -- she gasped, and was visibly shaken, and started to cry, and we looked at her and said, what's wrong, and she said, that's them, that's them.

Q. Did she then indicate to you who she was talking about?

A. Yes, she did.

Q. And do you know the names of the two individuals she was talking about?

A. I believe it was Bobby and Eric Jenkins.

Q. And this Defendant would be one that she said raped

Exhibit 19A

ROGER ROY - DIRECT BY von HERRMANN

123

1 her?

2 A. Yes sir.

3 Q. As far as your perception, how sure was she of that?

4 A. She was very sure.

5 Q. Did she hesitate in any way?

6 A. None.

7 Q. Did she -- you knew the two that she pointed out?

8 A. Yes sir.

9 Q. And were they on the end, in the middle, or do you
10 recall?

11 A. My recollection, they were in the middle. I don't
12 think they were handcuffed together, but they were pretty
13 close to each other.

14 Q. So there might have been somebody in between them in
15 the chain?

16 A. Correct.

17 Q. Let me ask you, if you would -- we'll just use the back
18 -- we have been talking a lot about the courtroom in the old
19 courthouse, and fortunately we are not there any more. Can
20 you step down for me? Can you just take this pen and draw for
21 me kind of a simi -- this entire thing is the courtroom -- and
22 kind of where the coffee room would be, where the Grand Jury
23 box would be, and where the Defendant came in?

24 A. Okay. This would be where the Judge sat. There was a
25 door here, and a door here, and then a jury room back here.

Exhibit 20A

TERRY ALTMAN - REDIRECT BY von HERRMANN

3

1 A. No.

2 Q. To this day do you have any evidence that anybody ever
3 went back to their home after the rape?

4 A. None.

5 Q. There is some question about a probation officer. How
6 recently did it come to your attention -- and you are the lead
7 investigator in this case -- that this individual was on some
8 type of supervised release?

9 A. Just over one month.

10 Q. So this occurred in 1997.

11 A. Yes.

12 Q. He was taken to Florence County Jail?

13 A. Correct.

14 Q. You went up there?

15 A. Yes.

16 Q. Did they say anything to you about that?

17 A. No.

18 Q. Did -- has anybody ever, up until recently, in the last
19 month, month and a half, ever told you, or had any reason to
20 believe that Mr. Jenkins was on some type of supervised
21 release?

22 A. I was never advised that he was on any kind of a
23 release program.

24 MR. von HERRMANN: I have no further questions. Thank
25 you.

Exhibit 20D
TERRY ALTMAN - RECROSS BY LONG

39

1 MR. LONG: Very briefly, Your Honor. I have a follow-
2 up.

3 THE COURT: Very well.

4 RECROSS-EXAMINATION BY MR. LONG:

5 Q. Terry, you said that, at the old courthouse, during
6 this -- when Ms. Weaver finally did, in January, identify the
7 people that she said were involved in this assault, and Mr.
8 von Herrmann asked you if you had given her any instructions
9 about the fact that they were going to be there, and you said
10 no. But why was she there?

11 A. We were there for a hearing, to gather D.N.A. samples
12 from them, and she indicated she wanted to be involved in the
13 process.

14 Q. So you were there for a hearing, for the two people,
15 Bobby and Eric Jenkins, who you had arrested three months
16 earlier, and they were suspects in her rape, and she was told
17 about it, and she chose to come to that hearing, right?

18 A. She chose to come to the hearing, yes.

19 Q. So she knew that the suspects ---

20 MR. von HERRMANN: Objection, Your Honor. He can ask
21 her that. How would he know whether she knew or not.

22 THE COURT: Let's hear the question. Don't answer till
23 I hear the question.

24 Q. You -- she knew that the suspects in her case were
25 going to be in the courthouse that day?

Exhibit 21B

DALE HERRINGTON - DIRECT BY von HERRMANN

40

1 A. Well, we were there for a hearing.

2 THE COURT: You can answer the question.

3 A. We were there for a hearing, to gather their D.N.A.
4 samples, yes.

5 Q. And therefore she knew that they were going to be
6 there?

7 A. I would presume that, yes.

8 Q. Okay. And they came to that hearing and in fact, you
9 were able, after that hearing, to gather D.N.A. samples from
10 Eric Jenkins?

11 A. Yes.

12 Q. Do you know if the D.N.A. samples that you gathered
13 from Eric Jenkins ever matched up with all the D.N.A. you ---

14 MR. von HERRMANN: Your Honor, I'm going to have to
15 object. That's outside the scope of redirect.

16 THE COURT: Sustained.

17 MR. LONG: That's all I have. Thank you.

18 MR. von HERRMANN: We have no further questions, Your
19 Honor.

20 THE COURT: Thank you. You may step down.

21 MR. von HERRMANN: The State would call Dale Herrington
22 to the stand, please, Your Honor.

23 DALE HERRINGTON, first duly sworn,
24 testified as follows:

25 DIRECT-EXAMINATION BY MR. von HERRMANN:

Exhibit 210
DALE HERRINGTON - DIRECT BY von HERRMANN

1 Q. Mr. Herrington, could you please tell the jury what you
2 do for a living?

3 A. I own Herrington Construction.

4 Q. Tell the jury a little bit about what type of
5 construction and information or ---

6 A. Well, we do lot clearing, septic tanks, do some -- on
7 the construction.

8 Q. Tell the jury where your main operation, or where you
9 keep your equipment, and all of that is.

10 A. Well, we keep the equipment on Joyner Swamp Road, but
11 at that time I lived on Highway 501.

12 Q. And did you have a particular truck that you let people
13 that worked for you use?

14 A. Yes. We had the '88 Chevrolet extended cab, red and
15 white pick-up.

16 Q. Is there any particular markings on that vehicle?

17 A. Yes. It had a sign on the -- each side door, a
18 magnetic sign, about thirty-six inches long, about eighteen
19 inches high, giving our name and telephone number.

20 Q. Do you know Mr. Jenkins, Eric Jenkins?

21 A. Yes sir, I -- yes sir.

22 Q. Tell the jury how you know Mr. Jenkins.

23 A. Well, he was my neighbor, and I had been knowing him
24 ever since he was small.

25 Q. Has he worked for you?

Exhibit ~~22D~~

ROGER ROY - DIRECT BY von HERRMANN

121

1 A. I told her -- well, I had called Detective Altman, to
 2 inform him of the hearing, to be present, that I needed him to
 3 testify to certain aspects of the hearing, and that -- also I
 4 called Teresa Bilton and asked her to contact the victim,
 5 because at that point in time she was the one who had the most
 6 contact with her, and inform her of the hearing, and tell her
 7 if she wanted to come she could, but she didn't have to come.

8 Q. At some point -- tell us about how busy the courtroom
 9 was that particular day.

10 A. That day there was probably about twenty or thirty
 11 lawyers in the courtroom, and then there's defendants that
 12 were brought in from J. Reuben Long for bond hearings. It's a
 13 lot of hassle and bustle going on. Probably a total of about
 14 forty or fifty people in the courtroom during that time
 15 period.

16 Q. At some point did they bring a number of defendants in?

17 A. They did. They brought probably -- I think there were
 18 like ten or twelve of them, all chained together, in orange
 19 jumpsuits, into the courtroom, which had two separate sides,
 20 one where the jury sat, and one where the Grand Jury sat. The
 21 side where the jury was - there's a little coffee room off to
 22 the side of it, which is where I was in there with Ms. Bilton,
 23 Ms. Weaver and Detective Altman. On the other side of the
 24 courtroom there's what's called the Grand Jury box, and that's
 25 where the defendants were brought into.

Contradicting statement because Detective

Altman said he was not in there and
 he didn't know if we had on orange. Altman
 was officers brought in

ROGER ROY - DIRECT BY von HERRMANN

12

1 Office at all?

2 A. That's correct.

3 Q. Can you please tell the jury if you are familiar with
4 the case that we are here today about?

5 A. Yes. I was assigned that case when I was an Assistant
6 Solicitor. It was one of the last cases that I had, I guess,
7 before I left the office. I was in charge that day -- I was
8 charged that day with a motion hearing to collect samples from
9 two defendants for a rape case.

10 Q. Can you please tell the jury who was present, and where
11 were y'all located?

12 A. We were over at the old courthouse, in what was called
13 the big courtroom. There was a coffee room that sits off to
14 the side of it, that has a two-way glass in it, and I was in
15 there, prior to the hearing. I believe it was on a Friday,
16 and which we normally did bond hearings, so there was a lot of
17 activity in the courtroom. And at that point in time we were
18 going to have a hearing to collect samples from two defendants
19 in a case, and present with me, I believe, was the victim in
20 this case, plus a victim advocate from C.A.S.A., and Detective
21 Terry Altman.

22 Q. Ms. Weaver here, is that the victim in the case?

23 A. That's correct.

24 Q. Did you indicate to her that Eric and Bobby Jenkins
25 were being brought over that day?

Exhibit 1E through 20E

Exhibits show that
Solicitor used perjury
testimony to get a
Conviction and sentence
Defendant. It also shows
where the truck was
never tested when
the owner said it was
a bullet hole through
his tool box. It also
fabricated documents
that each of us had
a gun, as well as other
documents.

(READ This on stand and refer to Transcripts page
and Line numbers).

Exhibit Page 3 of 3

1 STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
2 COUNTY OF HORRY) (00-GS-26-0849)
3
4 STATE)
5 VERSUS) TRANSCRIPT OF RECORD
6 BOBBY JENKINS)
7) December 6, 2000
) Conway, South Carolina

8 B E F O R E:

9 HONORABLE SIDNEY T. FLOYD, Judge.

10

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

11

GREG HEMBREE, ESQ.

12

SOLICITOR FOR HORRY COUNTY

ATTORNEY FOR STATE

13

ORRIE WEST, ESQ.

14

PUBLIC DEFENDER FOR HORRY COUNTY

15

JAMES GALMORE, ESQ.

16

ASSISTANT PUBLIC DEFENDER FOR HORRY COUNTY

ATTORNEYS FOR DEFENDANT

17

18

19

20

21

22

23

24

25

DIXIE COX EUBANK
CIRCUIT COURT REPORTER
FIFTEENTH JUDICIAL CIRCUIT

Exhibit 2E

3

1 add to it you may. Okay.

2 Now, Ms. West, you and Mr. Jenkins -- Mr. Galtmore, of
3 course, represent Mr. Bobby Jenkins. Do you agree with what
4 he's attempting to do ---

5 MS. WEST: Yes, I do, Your Honor.

6 THE COURT: ---That is, to plead guilty to kidnapping
7 and criminal sexual conduct in the first degree, and also

8 armed robbery? (agreed to unlawful conviction and sentence, unlawful
9 because indictment did not get present per SCRCrimP Rule 3(c) which has
10 MS. WEST: Yes, I do, Your Honor. Force of Law see rules of SC
RC Procedures "Scope" of Rules.

11 Judge: THE COURT: Mr. Jenkins, I'm going to ask you some
12 questions. Please answer them as best you can, and if there
13 is something you don't understand, you stop me and say, Judge,
14 I don't understand that. Will you do that?

15 A. Yes sir. Yes sir.

16 THE COURT: All right, sir. Now you are charged, first
17 of all, in this indictment, of (0849), that you did, on the
18 24th day of September of 1997, 'commit the offense of
19 'kidnapping', in that 'you did' 'seize' or 'confine', or 'take', or
20 'abduct', or 'carry away' one Sandra D. Winstead, without any
21 authority of law; is that correct? - Elements "

22 see 16-3-652(1)(b) see CSC 1st Degree and armed robbery have element
23 which is same as above version in Transcript pg. 2, Lns. 19-20. all same
24 elements of "Force"

25 THE COURT: You did take against her particular will.

26 A. Yes sir.

27 THE COURT: It was not a voluntary thing at all.

28 A. No sir.

(Transcripts p. 02-
Lines 14-25; and
p. 03; Lns. 01-09)

EXHIBIT 4E

4

1 THE COURT: All right. Now, do you understand the
2 penalty for that could be up to thirty years?

3 A. Yes sir.

4 THE COURT: All right. Now you are further charged
5 that you did, at the same time and place, on all of these as I
6 understand it, that you did commit criminal sexual conduct,
7 that you did -- that is, that you had sexual activity, what we
8 know as sexual battery, some type of sexual activity with
9 Sandra D. Winstead, against her -- "against her will," and "with
10 some type of "aggravated force," or "threats of force" or

11 "intimidation;" is that correct? = Elements "
12 *(Trans pg. 4 - Lines 11-12) see again CSC 1st Degree 46-3-652(b) same element of some type of force or intimidation in armed robbery and kidnapping.* = Force

13 THE COURT: Threats of violence or ---

14 A. Yes sir.

15 THE COURT: And that you further -- that you did hit
16 her in the head; is that correct?

17 A. Yes sir.

18 THE COURT: Then held her down and then had sexual
19 relationship with her?

20 A. Yes sir.

21 THE COURT: All right. And do you understand that
22 that -- you could get up to thirty years for that?

23 A. Yes sir.

24 THE COURT: "And then further," Mr. Jenkins, "you are
25 charged that you did, on the same time and place, that you

Exhibit SE

5

1 did, while armed with a deadly weapon, a -- some type of
2 automatic pistol, "take" from the person of her, "by some type of
3 force" or "intimidation", monies of hers that -- or either some
4 merchandise, or some -- I assume it's money; is that right?

5 Did you take some money from her? = Elements. " = Force

6 A. Yes sir. *Trans. pg. 4 - Lines 24-25
Transcripts pg. 5, Lines 1-2*
Same elements as CSO 1st Degree & Kidnapping.

7 THE COURT: All right. And did you have some type of
8 semi-automatic, or a pistol of some sort?

9 A. Yes sir.

10 THE COURT: And you understand you could get thirty
11 years for that?

12 A. Yes sir.

13 THE COURT: What you are attempting to plead guilty to

14 "I could" sentence "you to a total of ninety years; you *Consecutive reading*
15 understand that. *(Threat that shows coercion of sentence because*
counsel advised me of same and this violates 317-25-50 because

16 A. Yes sir. *elements are all same "force" or "intimidation").*
(consecutive sentence unlawful and excessive).

17 THE COURT: Now, Mr. Jenkins, you -- do you know what a
18 jury trial is?

19 A. Yes sir.

20 THE COURT: And you understand you have the right for a
21 trial by jury?

22 A. Yes sir.

23 THE COURT: Realizing that you do have the right for a
24 trial by jury, and the possible punishment, do you still wish
25 to plead guilty?

Exhibit 6E

6

1 A. Yes sir.

2 THE COURT: Has anyone promised you anything, or
3 threatened you, or used any force to get you to plead guilty?

4 A. No sir. *yes 20 year concurrent sentence*

5 THE COURT: Are you doing it freely and voluntarily,
6 that is, your plea of guilty?

7 A. Yes sir. *(Trans. p. 06/105. (2) 01) {Can not know, if given to Court by misinformation and you just found out this fact recently by reading 516-3-652 (IX 6) and crimes charged with and 17-25-50.}*

8 THE COURT: Are you doing it because you are guilty?

9 A. Yes sir.

10 THE COURT: Now Mr. Jenkins, you have a lot of rights,
11 sometimes called Constitutional Rights or Civil Rights. You
12 have the right to remain silent, you have the right to face
13 your accusers, you have the right for unreasonable search and
14 seizure, you have the right of an appeal. There are just lots
15 of rights you have just by being a citizen; you understand?

16 A. Yes sir. *Didnt tell me all my rights*

17 THE COURT: Now if any of those rights have been
18 violated -- and I don't know if they have been or not -- but
19 if any of them have been violated, by your plea of guilty you
20 would be waiving any of those violations, if any have
21 occurred. You understand that?

22 A. Yes sir. *{FRAUD is an exception where Solicitor had 'superior' knowledge of Law and Deceived Court and me. White v. Mul- Van 145 575 S.W. 2d 184 (Mo. 1978).}*

23 THE COURT: Now, have you had anything to drink of an
24 alcoholic nature, or taken any drugs in the last twenty-four
25 hours?

Exhibit 7E

7

1 A. No sir.

2 THE COURT: Now tell me about, if you will, Mr. Galmore
3 and Ms. West, your attorneys. Did you tell them everything
4 you know about this matter?

5 A. Yes sir. (False statement).

6 THE COURT: Are you aware of anything more that they
7 can do for you than what they have?

8 A. No sir. ("FRAUDED").

9 THE COURT: You are not aware of anything at this time
10 at any rate; is that right?

11 A. Yes sir. Yes. ("FRAUDED").

12 THE COURT: All right, sir. Well, let me ask you this,
13 are you perfectly satisfied with the representation and the
14 advice that you have received thus far from Ms. West and Mr.
15 Galmore? *No because was forced to plea guilty Galmour said we couldn't win at trial. I was black and the victim white.*

16 A. Yes sir. (Misinformed in unprofessional manner).

17 THE COURT: "Ms. Clerk," I find that Bobby Jenkins does,
18 of his own freewill and accord, knowingly and understandingly,
19 enters his plea of guilty to this indictment, with the three
20 counts. There's one count, count four, that's not -- as I

21 understand it, Mr. Solicitor, you -- (Clerk of Court involved call to
22 stand and question about filing indictment).
MR. HEMBREE: It's being nolle prossed. (See Below)

23 THE COURT: Nolle crossing that? (See Below)

24 MR. HEMBREE: Yes sir. (inducement furthered on Fraudulent
documents and cosecutive sentence threat)

25 THE COURT: All right. But I find that, of these,

Exhibit 8 E

1 working the morning shift at Caroline's Cafe down in Myrtle
2 Beach on the Boulevard. She was working the breakfast shift
3 and she had to be there early in the morning, had to be there
4 by six o'clock.

5 On this particular morning, and as she had been doing
6 for a period of time, she rode a bicycle. She lived at about
7 76th Avenue, in that general vicinity of Myrtle Beach, and she
8 would -- it was her habit to leave early in the morning, carry
9 her work clothes in a backpack, and ride her bike down the
10 Boulevard, down to Caroline's Cafe, and I think it was around
11 17th Avenue.

12 This particular day she noticed a red and white truck
13 that had construction signs on the side of it that passed her
14 several times as she came down the Boulevard. On one occasion
15 as it passed her she kind of noticed it, it gave her some
16 concern, but a real quiet morning. There weren't any cars out
17 at all, but she noticed -- she noticed two black males walk
18 down the sidewalk toward her. Or excuse me, she was riding
19 down the sidewalk. They were walking up, kind of like, I
20 guess where the gutter is, on the side of the road. They
21 spoke to her. It gave her a little bit of concern, but she
22 kept on pedaling, and then she realized that the truck had
23 picked up to two -- the two individuals, and she assumed that
24 they were construction workers looking for a job.

25 The truck came by once again, now traveling South, in

Exhibit 9 E

10

1 the direction she is going, with the two males in the back of
2 the truck. As she rounded a bend at about 34th Avenue North
3 in Myrtle Beach, a very nice residential section there in
4 Myrtle Beach, she noticed that the truck was pulling in at a
5 driveway, coming in her direction, and she realized that the
6 two black males that had been in the back of the truck were no
7 longer there, and she had sort of -- fear struck her at that
8 point. She knew something wasn't right. And just as she
9 started -- she actually started to take her bike off the
10 sidewalk and then kind of go the other direction, Mr. Bobby
11 Jenkins, and a co-defendant, jumped out of the bushes there at
12 the -- on the East side of Ocean Boulevard, in a residential
13 section. There is some wooded area, and I've got a
14 photograph. You can kind of see over there what it looks
15 like. Basically they jumped out of the wooded area, knocked
16 her off her bicycle. They pistol whipped her. They were both
17 armed with semi-automatic pistols. They struck her about the
18 head, behind the ear, in the eyes, and dragged her, literally
19 dragged her -- it wasn't very many feet -- left her bike
20 there, and dragged her into the woods. They continued to beat
21 her. They continued to kind of man-handle her and hold her
22 down, and threaten her. They literally held her to the
23 ground, face down, while they pulled her -- pulled her pants
24 off of her, pulled her underwear off of her, and began having
25 sexual intercourse with her.

Exhibit 10E

11

1 Mr. Bobby Jenkins was the first individual to have
2 sexual intercourse with her, and he had sex with her while the
3 other -- while the other -- a co-defendant was holding her to
4 the ground. She described it to me as if he was sort of
5 conducting the whole operation, that he was sort of telling
6 the other one what to do; he was the boss.

7 There was a third individual that was in the woods with
8 them, a Hispanic man, who was going through her backpack and
9 her things, looking for money. She told them all she had was
10 a Twenty Dollar bill. They got that.

11 They continued to hold her down. Mr. Bobby Jenkins
12 finished the act of criminal sexual conduct with the victim,
13 then he began to hold her down and the second black male began
14 to rape her. This went on for a fairly short period of time.

15 While this was going on the red and white pickup truck
16 that had dropped Mr. Jenkins and his co-defendants off,
17 continued to circle around, and a neighbor noticed that
18 something didn't look quite right. He was out getting his
19 paper and he kept hearing this truck. It had a loud -- had
20 glasspack mufflers on it. It had been stolen the night
21 before. But it had -- it was being driven around, and it kind
22 of caught his attention, and so he got out in his car, a
23 fellow that was just kind of across the street from all this,
24 and started following the red and white truck, going around
25 the block with it.

1 He got the license tag number of the red and white
2 truck, realized it had construction signs on it. The -- this
3 went kind of around several times. At some point during the
4 assault Mr. Jenkins and his co-defendants realized that the
5 truck was being followed, that they had problems. They
6 discontinued the assault, again, threatened Ms. Weaver a
7 number of times, said that she -- you know, hit her with the
8 gun and repeatedly said if she told anybody they knew where
9 she worked, she -- they made her tell them that she worked at
10 Hard Rock Cafe, and they said they would be watching her, and
11 if she told the police they were going to come back and --
12 they would come back for her.

13 The -- as the two -- the three Defendants jumped out of
14 the bushes and got back in the truck, shots were fired at the
15 car, at the citizen who was following the red and white truck.
16 Your Honor, we have no idea who was firing those shots, but
17 that was just sort of how this thing unfolded.

18 Actually the call came into the police because shots
19 were fired. Neighbors, early in the morning, getting ready
20 for work and school, heard this and they called the police.

21 The police were there real quickly after the shots were
22 fired, and they were even kind of surprised when Ms. Weaver
23 came out of the woods, with her busted up bicycle, and you
24 know, she was all busted up. Her legs were scraped up. She
25 had dirt and -- dirt and leaves all over her, and very

1 disheveled, and distraught, and of course, she was -- then
2 gave a statement to the police and was taken to the hospital.

3 The Defendants went on to -- went on to Florence County.
4 There was a -- the car had been reported stolen, as I
5 mentioned earlier. The Florence City Police got a call about
6 the car. He actually was the owner of the truck, the red and
7 white truck they were driving around, and one of his family
8 members was in Florence and saw the truck, and knew it was
9 stolen, so he called -- this is the following day. This was
10 the 25th. He calls the local police and says, you know, my
11 uncle's truck is here; it's been stolen and there is somebody
12 driving around in it.

13 The police responded. It was a high speed chase through
14 Florence. The -- actually Mr. Bobby Jenkins' nephew, Eric
15 Jenkins, was the one driving the vehicle. Bobby Jenkins was
16 the passenger in the truck. But they went on a high speed
17 chase through Florence, out of the City limits. Highway
18 Patrol picked up the chase, went on into Marion County, where
19 the truck went into a field. The Defendants bailed out of it.
20 They were apprehended at that point, as well as two guns were
21 recovered. Two semi-automatic pistols were recovered from the
22 vehicle. False statement

23 Your Honor, I think that's about all I have to say about
24 the facts of the case.

25 To touch on Mr. Bobby Jenkins' prior criminal record, he

Exhibit 13 E

and also copies of the three suspects in their case. The suspects are Juan Graves b/m 14yoa, Chaunte Epps b/m 19yoa, and Frederick Brigman b/m 19yoa. It was stated that Epps is still at large. Graves has been taken to Columbia Juvenile Center. Det Altman and I then went to Marion County jail to interview Brigman. He was advised of his Miranda Warnings and stated that he would talk with us. This interview was recorded on Det Altman assign recorder. Brigman stated that he does not know anything about this incident and that the last time he was in Myrtle Beach was prom night. Upon interviewing Brigman he does not fit the suspect description, (note that he has a mustache, a little chin beard, and has the twist knots in his hair. This interview was ended.

This investigator and Det Altman were headed back to the police department and I called Lt. Vella to advised him of the above. It was then stated that Highway Patrol had the vehicle stopped in Florence and that they had two b/m's under arrest. Lt. Vella advised this investigator to turn around and head back to the scene where the vehicle was stopped. The vehicle was located in a cotton field just pass Capps Used Cars headed toward Florence on hwy 501. Upon our arrival TV -13 were on the scene along with several Highway Patrol units. The suspects that were in the vehicle had been taken to the Effinham jail in Florence.

Lie
The location where the vehicle was stopped is located in Marion County. It was stated that the vehicle was in a wreck in Florence and then there was a high speed chase until the vehicle wrecked again in the cotton field and the suspects got out and ran. Each suspect had a weapon on their person which was a 9mm and a 22. The Highway Patrol is charging the suspects with the gun violations and other traffic offenses. The vehicle was towed to the Highway Department garage to be process because it was raining, Smithy's Wrecker Service towed this vehicle.

Ptl Joe Graham responded to process the vehicle, (it should be noted that the vehicle was very muddy on the outside because of being in the cotton field). This investigator talked with Lt. Vella and he advised after finishing processing the vehicle he wanted us to go to the jail and attempt to interview the suspects that were arrested. Also Lt. Vella stated that the suspect clothing had been place in a bag for us by Florence jail. Det Altman will do a follow-up concerning what he did on this date, and Ptl Graham will do a follow-up concerning what he did. It should also be noted that the owner of the vehicle was on the scene and that after processing the vehicle will be released back to the Highway Patrol.

Drunk
Det Altman and I then met with Highway Patrol units before going to Effinham jail. The suspects clothing were turned over to Ptl Graham by the Highway Patrol. Det Altman and I then interviewed Bobby Cornell Jenkins AKA Ali Majid Muqtadir b/m DOB 08-07-69 ssn 249-33-9206 home address is Aynor. He was advised of his Miranda Warnings and he stated that he would answer some questions this interview was recorded on Det Altman recorder. Bobby did not want to answer any questions concerning who was driving the vehicle during the

14 E

State of South Carolina
Office of the Solicitor
Fifteenth Judicial Circuit



REPLY TO 2
P.O. BOX 1278
CONWAY, SC 29628
543-848-1308

REPLY TO 0
P.O. BOX 1688
GEORGETOWN, SC 29442
843-646-3751

J. GREGORY HEMBREE
Solicitor

MEMORANDUM

TO: TOM FOX, DIRECTOR OF DETENTION
J. REUBEN LONG DETENTION CENTER

FROM: FRANCIS A. HUMPHRIES, JR., DEPUTY SOLICITOR

RE: BOBBY JENKINS

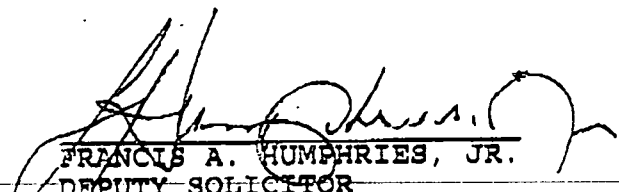
DATE: DECEMBER 5, 2000

MX

PLEASE BE ADVISED THAT WE ARE THIS DAY DISMISSING THE FOLLOWING
CHARGE AGAINST THE DEFENDANT, BOBBY JENKINS

WARRANT NO. F-387572 Possession of Firearm During
Commission of a Felony

IF YOU HAVE NO OTHER REASON FOR DETAINING MR. JENKINS, HE SHOULD NOW
BE RELEASED.


FRANCIS A. HUMPHRIES, JR.
DEPUTY SOLICITOR

14 E

10/23/2014

J. REUBEN LONG DETENTION CENTER
Disciplinary Hearing

Hearing Date/Time: 11-14-00 10:40

Committee Members:

Chairperson: LT. Cunningham

Inmate Name

ID#

Location

Date and Time of Incident

Bobby Jenkins 77279 A-2 11-04-00 0734

Other inmates involved in this incident:

Name

ID#

Location

Charge

Plea

Finding

Sentence ^{IN}

1. <u>Assault</u>	<u>NB</u>	<u>G</u>	<u>Review 30 DAYS</u>
2. <u>Habitual Offender</u>			
3.			
4.			
5.			

Comments:

Chairperson Cunningham

Date 11/07/00
11/14/00

15E

State of South Carolina
Office of the Solicitor
Fifteenth Judicial Circuit



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GEORGETOWN, SC 29444
843-546-3731

J. GREGORY HEMBREE
Solicitor

FAX TRANSMITTAL

Date: 12-6-00

To: Dale, JRL

Phone: _____ Fax: _____

From: J. Hembree

Phone: _____ Fax: _____

Number of Pages, Including Fax Transmittal: 2

MESSAGE: Booby yakins

CONFIDENTIALITY NOTICE

THIS TRANSMISSION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION WHICH IS PRIVILEGED AND CONFIDENTIAL. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISCLOSURE, DISTRIBUTION, OR COPYING OF THIS INFORMATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY BY CALLING THE ABOVE TELEPHONE NUMBER. THANK YOU FOR YOUR ASSISTANCE AND COOPERATION.

10/28/2014

ANY KNOWN ALLERGIES 7 IF YES, WHAT Hay Fever

ANY HISTORY OF HEART DISEASE N DIABETES N EPILEPSY N HIGH BLOOD PRESSURE N

IS SUBJECT NOW UNDER DOCTOR'S CARE AND/OR TAKING ANY MEDICATIONS 7 IF YES, WHAT

ANY HISTORY OF NARCOTICS USE? 7 IF YES, WHAT Cocaine

REMARKS

REMARKS

SIGNATURE OF RECEIVING OFFICIAL

x John Heron

PROPERTY					
<u>SHIRT</u>	/	RAZORS			
PANTS		pens / pencils			
towel		comb			
LACES		2 T Brushes			
MISC BOOKS		1 CARV			
1 p/cup					

NOT RESPONSIBLE FOR PROPERTY OVER 30 DAYS.

(x) Ali Mustad -

TOTAL CASH AT TIME OF ARREST \$ _____ . ____

NOT RESPONSIBLE FOR PROPERTY OVER 30 DAYS.

(x) Ali Mustafiev
DEFENDANT'S SIGNATURE AT TIME OF ARREST

TOTAL CASH AT
TIME OF ARREST

BOOKING OFFICER

I HEREBY STATE THAT THE ABOVE LISTED PROPERTY WAS RETURNED TO ME, IN SATISFACTION OF ALL CLAIMS TO PROPERTY ON MY PERSON AT THE TIME OF MY ARREST, ON THE DATE OF MY RELEASE I HAVE BEEN ADVISED OF THE CHARGES, THE DATE, THE TIME, AND THE PLACE IN WHICH I AM TO APPEAR IN COURT REGARDING THE CHARGES AGAINST ME

X Bohley Jenkins

Exhibit 16E

victim seen on TV Sept 25th
So why now it's us,

* suspects were the one's who raped her when she saw them on the news the night the Highway Patrol arrested them. Capt. Hendrick asked how she knew they were the one's and I told him that is all she said. He advised me to approach her again and ask if she was positive the suspect's were the ones, and if she was positive to go ahead with the warrants.

December 8, 1997 Altman:

X I stopped by the victim's residence, but nobody was home.

December 9, 1997 Altman:

I called Roger Roy and left a message for him to call me.

December 11, 1997 Altman:

I called Roger Roy's office today and spoke with Jenny. I asked her to have Roger call me when he had a chance. She said that he was in court today, and that she would give him the message.

December 15, 1997 Altman:

I had a message from Roger Roy that he had called. I returned his call, but he was not in. I left a message that I had called.

December 16, 1997 Altman:

Roger Roy left a message that he had called. Called back, but he had already left for the day.

December 17, 1997 Altman:

X Called Roger Roy and asked him the progress of the court order for the suspects. Roger advised me that he had completed the court order, and that he had just reviewed it today to make sure everything was in order. He told me that it would not be until the week of the 19th before he could present it in front of the Circuit Court Judge. I told him to contact our office and someone would attend if needed. He said he would advise when the hearing would be held. Edward L. Daniels.

* I called the victim, advised her, and asked her about the videotape she saw of the suspects on the news the day they were arrested. I asked her if she was positive the suspects were the ones who assaulted her, and she stated that she was positive, and would bet her life on it. I asked her exactly what she saw on the news that night, and she told me she saw the head of one of the suspects. She did not see the entire newscast of the suspects being arrested, but only the end of it. However, she said upon

Exhibit ME

11-05-97 King

This date this investigator met with Deputy Solicitor Blake Martin concerning a search warrant in this case. This search warrant is for a suspect rape kit on the two suspects in this case that are now in Florence jail. After discussing this case and the facts Blake suggested that I first attempt to ask the suspects for consent and if the suspects does not consent he stated that he would then prepare the necessary paperwork to attempt to get the samples from the suspects. After discussing this matter further Blake ask that I give him copies of the incident report and the detective follow-up reports, he then stated that he would get his secretary to start preparing the paperwork just in case the suspects do not consent. All of this information will be passed on to Lt. Daniels and Capt. Hendrick.

CONSPIRACY NO WARRANTS

11-06-97 King

This date this investigator talked with Capt. Hendrick concerning the above information, I then called Blake Martin back and advised him again that Eric Jenkins had already asked for a lawyer during the first interview. Blake stated that he would then go ahead and prepares the order on Eric, and that I should got to Florence and asks Bobby Jenkins if he would consent. This investigator went to the Effingham County Jail and talked with Bobby Jenkins concerning him giving consent for blood, hair, and saliva. Bobby Jenkins stated that he would not give consent and that he would have to talk with his lawyer Todd Tucker. He was advised that I would seek a court order for the blood, saliva and hair.

Told Myrtle Beach Police something

11-13-97 King

This date I talked with Blake Martin concerning this case, he stated that his secretary Peggy was out due to a family sickness. He also stated that he would have her to further prepare the paperwork when she returns. He stated that once the paperwork is completed he will call me and let me know. Blake stated that it would probable be around the first of December before he could get in front of a judge for this hearing.

Exhibit 17E

October 10, 1997 ^{1/2} Altman:

Florence Invo
Det. King advised me today that he had spoken with Blake Martin and that he was moving forward with the Court Order for the DNA testing. Det. King requested that I call the Florence County Jail and see if the two suspects were still incarcerated there. I called the Florence County Jail (903) 565-9944 and spoke to Officer Dawn Ackerman and she advised that the two suspects, Eric & Bobby Jenkins, were still being held there. A copy of this follow up was left in the basket for Capt. Henderick and I noted it in the pass-on book for his information.

November 4, 1997 Altman:

I had a message to call the victim today. I called her at her residence (497-5398) and she asked me why the suspects had not been arrested yet. I explained to her that we were in the process with the Solicitor's Office to obtain a court order to have blood samples taken from them. I told her that Blake Martin had to first research the law on the order and that we had just received a confirmation from him earlier this week that he had determined it would be feasible. I assured her that once the court order was obtained she would be notified. In regards to what will happen once the samples are taken I advised her that it may be several weeks thereafter to link the samples to that of what was collected as evidence the date of the incident. She told me that she was very frustrated with the slow process and wants to make sure they are charged with attempted murder.

Detected ~~by~~
Altman and Solicitor
Roy Roger tied
And said they
Didn't not contact
the victim to
show up at DNA
Hearing

Exhibit 18E

Myrtle Beach Police Department Investigative Follow Up Report

** FOLLOW UP REPORT **

November 17, 1997 Altman:

THE VICTIM INVOLVED
Lt. Bellamy advised me this morning that Sandra had called and was very displeased the suspects had not been arrested. Lt. Bellamy told her that he would have me call her. He also told me that she feels like her case had been put on the "back burner."

Chain of Custody Broken
I called Sandra at approx. 11:45 hrs and explained to her that we were waiting for Blake Martin to prepare a court order for the blood tests on the suspects. I told her that Blake had called here on Friday and spoken to Det. King and said that it would be around the first week of December before he could present the court order. I told her that once this order was done we would have the samples taken. I also told her that the case was not on the "back burner" and that we were just waiting on the Solicitor's Office to act. She thanked me for calling. She also told me that she had a call into Blake Martin and was going to speak with him on why it was taking so long for him to act. *Solicitor involved with illegal arrest*
After speaking with Sandra, I checked the file to make sure the rape kit had been sent to SLED. However, it had not been sent as of yet. I called SLED and spoke to Nancy McKey in regards to the clothes from the suspects and if they would except them. Nancy advised that their protocol was to only except the rape kit first, and that if there was no evidence in the kit to link a suspect to send their clothes for further analysis. I thanked Nancy for her assistance and then prepared the SLED paperwork and forwarded it to the Property and Evidence Section. I also spoke with Tonya of the Victim's Advocate and asked her to make contact with Sandra. I told her displeasure with the case and requested that she may be a go between with the Solicitor's Office.

December 5, 1997 Altman:

X I called Blake Martin today and asked him the progress on the Court Order for the suspects at the Florence County Jail. He stated he had been busy this week and had not had time to get to it. Blake told me that he would pass the project onto Ass. Solicitor Roger Roy. Blake said that Roger would be handling cases of this magnitude from now on so he would handle it. I told Blake that I would call Blake next week to find out his progress.

I advised Capt. Hendrick of the conversation with Blake. We also discussed the case and it came up that the victim told me she knew the

Exhibit 18E

9/11/97
20991717 MK

chase. Bobby stated that he and his brother left from and they found the truck on the side of the road. He stated that the keys were in the vehicle and they just took off in it. He then changes his story and stated that he was at his brother house and that he and his nephew got into the vehicle. Bobby did tell Det Altman that the house was near a dirt road near a trailer and that it was near a farm. He stated that an older white hair man was in the house. Bobby stated that they got the vehicle on this date around 11am. He did not tell anymore concerning the vehicle and he stated that he does not know anything concerning the incident in Myrtle Beach. The interview was ended.

Det Altman and I then interviewed Eric and after being advised of his Miranda Warnings he stated that he did not want to talk and the interview was ended. Eric Grice with Florence County Sheriff Office then completed two separate photo line-ups with each suspect. (It should be noted that this investigator picked out the photos for the line-up as Grice pulled them up on the photo computer. Lt. Vella was advised of the above.

9/26/97 King

This date the line-up was placed together by this investigator and Ptl Graham. The victim came to the police department to view the line-ups. The victim did not pick either suspect out of the two line-ups. The victim was then advised that we would try to get a court order for a suspect rape kit on the two suspects that was arrested in Marion yesterday. The victim stated that she was aware that two subjects were arrested and also stated that she saw the truck on the news and stated that there is no doubt that it is the same truck that she saw riding back and forth before she was assaulted.

Later this date this investigator received a phone call from Sgt Cameron with Florence City Police department. He was advising this investigator of the following: Eric Jenkins charges, failure to stop for blue light, leaving scene of accident property damage, possession of stolen vehicle, and driving under suspension. Bobby Jenkins charges, possession of stolen vehicle. Sgt Cameron was calling in reference to any charges in Myrtle Beach because both subject bond had been set at \$4,000 surety. This investigator advised that at this time we do not have any charges but are working on getting charges. This investigator then advised Sgt Cameron that the Highway Patrol has charges concerning weapons violation.

Det Altman then spoke with the Highway Patrol Sgt and he stated that he was in the process of doing their warrants on the two subjects. This investigator then called the Florence County jail and spoke with Cpl Lynch to advise him that the Highway Patrol is getting warrants and needed a hold placed on the subjects. This investigator then talked with the Highway Patrol Sgt concerning the hold and he stated that he would also call and may sure the hold is placed on the subjects. Lt. Vella was advised.

Exhibit 19 E

DALE HERRINGTON - DIRECT BY von HERRMANN

411

42

1 A. Well, he's done some yard work for my wife around the
2 house and stuff when he was just -- early teens, or just
3 before he was a teenagers or something.

4 Q. Tell me about how people -- or who uses this red truck.

5 A. Well, everybody -- all the -- anybody that worked with
6 us used the truck, whatever was necessary. Yes.

7 Q. How did they start the truck and move it around?

8 A. Well, we generally kept the key -- there was a console
9 right in the center of the truck, where the coffee cup and
10 stuff, and we generally kept the key in that console.

11 Q. Tell me about where you live. Is it like a lot of
12 people around, a lot of traffic, or is it pretty ---

13 A. Well, we live on 501. It's fairly busy, yes, and
14 there's apartment house nextdoor to me.

15 Q. Is it mainly just your employees that know where those
16 keys are?

17 A. Yes.

18 Q. You -- I mean you try to keep that kind of a guarded
19 secret.

20 A. Well, it's not anything you publish, but anybody that
21 works for us knows it's there.

22 Q. And Mr. Jenkins worked for you, correct?

23 A. Well, he's worked in the yard around there, yes. He
24 didn't ever work for the company, but he worked -- did yard
25 work and stuff around there.

EXHIBIT 18E
DALE HERRINGTON - DIRECT BY von HERRMANN

4.

1 Q. Just do odd jobs. What about Bobby Jenkins, did he
2 ever work for you?

3 A. I don't recall Bobby ever working there, but I knew him
4 by -- well, I knew Carl, his mother, his dad. I knew all of
5 them.

6 Q. Tell us about when the truck was stolen, on September
7 24th, early morning hours.

8 A. It was sometime between 11:30 and 12 o'clock.

9 Q. So late September 23rd or early the 24th?

10 A. Yes sir.

11 Q. And it was parked in your yard and did -- how did you
12 discovery that it was stolen?

13 A. We woke up the next morning at six o'clock to go to
14 work and it was gone.

15 Q. Did you call around, or check to find out if anybody
16 else had borrowed the truck?

17 A. I checked with all the employees, and my sons, and none
18 of them had it. By that time I reported it stolen.

19 Q. Anything distinctive about that truck, outside of the
20 signs on it?

21 A. Well, it had a glasspack exhaust system that was pretty
22 distinct and loud, and it was a -- it was the only truck -- it
23 was a long extended -- it had an eight foot body, plus an
24 extended cab, which made it extremely long.

25 Q. Did it also make it extremely identifiable?

DALE HERRINGTON - DIRECT BY von HERRMANN

44

1 A. Yes sir. I've never seen but one other one like it.

2 Q. How was the inside of the truck?

3 A. The condition of the truck?

4 Q. Yes sir.

5 A. It was in good shape. Yes.

6 Q. Let me show you State's Exhibit Numbers 12, 13 and 14,
7 in evidence. Can you identify that for us, please?

8 A. Yes. That's the truck, and that's the way they crashed
9 the inside of it, but the way the radios and debris and all
10 that, part of that, papers I had in the briefcase and stuff,
11 but they just crashed it. I mean, beer ---

12 Q. What about the outside? Or tell us what the other two
13 photographs.

14 A. These photographs is the truck, but I think that most
15 of that mud and stuff got on the truck when it was ran out in
16 the cotton field, when the Highway Patrol put up a road block,
17 and the stuff in the back part of it is trash, and part of it
18 is debris. And the signs are in the back of the truck, but
19 that night, when I parked the truck, they were on the doors of
20 the truck.

21 Q. Okay. Let me show you State's Exhibit Number 23,
22 marked for identification. Can you identify that -- or excuse
23 me, in evidence. Can you identify that?

24 A. Yes. That's the signs. There was one on each door.

25 MR. von HERRMANN: Your Honor, we would like to publish

EXHIBIT 19E
DALE HERRINGTON - DIRECT BY von HERRMANN

4

1 these to the jury, please.

2 THE COURT: You may.

3 Q. Were there any firearms in that particular car -- kept
4 in that truck -- excuse me?

5 A. No sir. I didn't own any firearms.

6 Q. Have you owned a 9mm Glock pistol?

7 A. No sir.

8 Q. What about a .22 caliber Ruger pistol?

9 A. No sir.

10 Q. Is there any reason that you can think of that a 9mm
11 Glock clip should have been found in there?

12 A. No sir.

13 Q. Tell me about the -- did you have -- well, you
14 ultimately recovered your truck?

15 A. Yes sir.

16 Q. Tell me about any damage that was caused to any of your
17 tools in there.

18 A. Yes. I had a Dewalt Saws-all box that was metal, and
19 it had a gunshot through it. Somebody had shot through it
20 with a pistol, or some type gun. gunshot never

21 Q. And where was that located? sent to sled

22 A. Sir?

23 Q. Where was it located, in the back of the truck?

24 A. It was in the back of the truck, behind the back seat.

25 Q. Let me just get you to step down one second. Are you

1 familiar with where Eric and Bobby Jenkins both live?

2 A. Yes sir.

3 Q. Are you familiar with State's Exhibit Number 2 in
4 evidence?

5 A. Yes sir.

6 Q. Have you had a chance to review this?

7 A. Yes sir.

8 Q. Can you please point out where the truck was, and where
9 Bobby and Eric lived?

10 A. My truck was right here, on 501, and they live right
11 here, about a quarter of a mile apart.

12 Q. Now they did live together, didn't they?

13 A. I'm not sure whether they lived in the same house or
14 not. I don't know.

15 Q. But you know they hung around in the same ---

16 A. Yes. I've seen them go back and forth, because that
17 was his home.

18 Q. So no doubt, early morning hours of September 24th, the
19 day this rape occurred, or late the 23rd, is when the truck
20 was stolen?

21 A. Yes sir.

22 MR. von HERRMANN: No further questions, Your Honor.

23 MR. LONG: Thank you, Your Honor.

24 CROSS-EXAMINATION BY MR. LONG:

25 Q. Mr. Herrington, you -- I believe -- and you tell me if

DALE HERRINGTON - CROSS BY LONG

Exhibit 20E

1 I'm wrong. I believe you just testified that all the
2 employees of the Herrington Construction Company would know
3 that the keys to that truck were in the center console.
4 A. Yes sir.

5 Q. And I believe that you testified -- and you tell me if
6 I'm wrong -- that all of those employees, from time to time,
7 would have driven that truck, and used the key from the center
8 console to drive the truck, put the keys back in the center
9 console?

10 A. I had one employee, and he drove the truck during
11 working hours, under super -- under directions.
12 Q. Okay. So you ---

13 A. He didn't have it at liberty to drive it at any time
14 they wanted to. No.

15 Q. So you would tell an employee, Mr. employee, go take
16 the truck over to so and so, pick up something, come back
17 here, something like that?

18 A. Right. From seven in the morning till five in the
19 afternoon.

20 Q. Okay. And I believe you just testified that, in fact,
21 Eric Jenkins was never an employee of your company.

22 A. Not an employee, but he worked in our yards.

23 Q. Right. When he was an early teenager he made a little
24 bit of side money ---

25 A. Right. Yes sir.

Exhibit 1F through 36F

Exhibits show the serious Brady violation destruction of these 91-1 tapes that could prove that my credibility was credible and the the solicitor and the victim credibility was not credible. They committed Perjury, They destroyed evidence to get an conviction. These Exhibits show a Alibi witness placing defendant ~~as the~~^{BT} ~~was~~^{BT} was the driver of this vehicle. Evidence prove this because in my property sheet it shows I was wearing glasses and I got proof I been wearing glasses for years. It shows Scott Chaisson testimony of a man with glasses. It shows David Wade Gaine & Joe Graham who testified glass was taken off my persons.

Exhibit 1 F

Myrtle Beach Police Department
Investigative Follow Up Report

" FOLLOW UP REPORT "

January 15, 1998 Altman:

Upon reviewing the file today, I noticed that the 911 tapes had not been requested yet. I called Renee Hardwick and asked for a copy of the tapes. However, she advised me that they only keep the tapes for 60 days before destroying them. I then checked with Cpl. Carter to see if we had any recordings on file, but they had also been destroyed after 60 days.

January 16, 1998 Altman:

I received a call from Roger Roy to advise that the time for the court hearing had been changed to 11:00 a.m. on Monday. I called Theresa Bilton with Rape Crisis to advise her of the time change. She advised me that she had spoken with Roger the other day and was aware of the time change. She asked if it would be possible for me to arrange a ride to the hearing for Winstead, and I told her I would see what I could do. I then contacted the Victim Advocates and they stated they would be able to arrange for transportation. I typed a memo requesting that they assist me in finding a ride for Winstead.

January 19, 1998 Altman:

The court hearing for the Jenkins brothers was held today in front of Judge Lockemy at the Conway Court House. Judge Lockemy granted the order and signed it. Public Defender Orrle West represented the brothers. After the order was signed I returned to the PD and asked Lt. Ward to have two patrol officers accompany me to J. Reuben Long to pick the suspects up. Pfc. Kay and Ptl. Williams were assigned to assist me and transported the two from J. Reuben Long to Conway Hospital. RN JAMES LEE completed both of the tests. After the tests were done, the suspects were transported back to J. Reuben Long in order for their transfer back to Florence County Jail. I turned both suspect rape kits over to Officer Patty Daniels in Property & Evidence upon returning to the PD. I also completed the paperwork to have the evidence sent to SLED for comparison to the victim's kit. Dar King was advised.

January 21, 1998 Altman:

They came to pick up the suspects for the hearing. We left straight from the court house to the hospital by Myrtle Beach police.

Exhibit 2F
~~pages~~

MYRTLE BEACH POLICE DEPARTMENT

FOLLOW-UP REPORT

C.S.C. 1st. & Armed Robbery
INCIDENT TYPE

97-1934
CASE FILE #

VICTIM / COMPLAINANT

ADDRESS OF VICTIM

33rd. Ave. N. Ocean Blvd.
LOCATION OF INCIDENT

09-24-97
DATE OF INCIDENT

Detective Susan Baker
INVESTIGATOR (S)

09-71165-97
U.C.R. #

=====

09-24-97 BAKER

I was advised via ph. by Cpl. Arrington that I was needed to respond to the area of 33rd. Ave. N. Ocean Blvd. in ref. to a rape that had just occurred in which the victim was pistol whipped and the suspect/s had fired several rounds when chased by a resident in the area. Before leaving the P.D., I checked with dispatch and found that we had received 4 calls via 911 ref. this incident (calls come up on complaint computer but there is no print out trace/complaint sheet on any of them and the tapes will have to be later pulled). A witness who is said to live in the immediate vicinity called in a detailed description of the suspect veh. being a red and white pkp with some type logo on the doors bearing S.C. license plates of JKK532. I ran the tag thru the DMV (NCIC) and found it is registered to a female being Eunice Herrington, 2275 Hwy. 501, Galivants Ferry and will be a 1988 Chev. pkp. I checked telephone listings and directory assistance, but was unable to locate by name, nor by address, a contact phone number to ascertain who had that veh. at this time. A drivers license search for that registered owner of the suspect veh. did produce a valid SCDL for her, but it carried the same address. By request, dispatch notified HCPD and asked them to send an Officer to the address for the registered owner to ascertain any leads from that end. Lt. Daniels was notified and did also respond with me.

We were met on scene by Cpl. Arrington, Lt. Holder, & Ptlm. Prock. The victim had already been transported to the hospital. Moments after I did arrive on scene, Lt. Daniels advised me to proceed to the hospital to interview the victim and he would be calling additional personnel to the scene to assist them there.

I did interview the victim at length and taped same using recorder #407 micro-cassette. Ptlm. Himelseth was also present in the victim's room, ER #16, during the entire interview. The victim appeared extremely distraught, crying uncontrollably at times, very down cast eyed, and visibly shaking. Victim, hereout referred to as "Sandy", had the following obvious injuries (still fully clothed, rape kit not yet began): the left eye appeared to be slowly swelling and deep reddish purple bruising had already shown itself above and on the side of the eye, left knee had minor scrapes and black marks upon it which the victim believes to be from her

EXHIBIT 3F

CP 3 Comp to you. Inmate

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

98 08-15

THE DEFENDANT,

Robley Jenkins

IS COMMITTED TO THE

STATE DEPARTMENT OF CORRECTIONS/COUNTY FOR A TERM OF

Two

DAYS/MONTHS YEARS AND/OR PAY A FINE OF \$

PROVIDED UPON THE

SERVICE OF

DAYS/MONTHS/YEARS AND/OR THE PAYMENT OF A FINE

OF PLUS PAY/WAIVE ASSESSMENTS AS APPLICABLE*

BALANCE IS SUSPENDED WITH PROBATION FOR

YEARS/MONTHS

RESTITUTION - YES/NO

FOR PROPERTY DAMAGE \$

12

FOR PHYSICAL INJURY \$

12

TO BE PAID AT THE RATE OF \$ PER MONTH BEGINNING

TO THE FLORENCE COUNTY CLERK OF COURT FOR

OTHER CONDITIONS:

CREDIT FOR TIME SERVED (since 7/25)

\$30.9 due 60 days after release

Destroying

Evidence to get conviction anyway

Illegal sentence

DATE January 15, 1998

The same day the 911

type was destroyed

Presiding Judge

ASSESSMENTS

(100 % of fine added back)

\$100.00

\$12.00 for 12% (only)

\$12.00

\$12.00

CERTIFIED COPY REC'D BY SCSD

1-16-98

H. C. Anderson Jr.

CERTIFIED: A TRUE COPY

CLERK OF COURT
FLORENCE COUNTY, S.C.

Therese, J. Parker

Exhibit 4R

INDICTMENT NO. 98 -CS-21- 105

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

NOW COMES THE DEFENDANT(S) Bobby Jenkins

IN OPEN COURT AND PLEADS GUILTY TO

GT#3 Conspiracy to Possess Stolen Vehicle

GT#4 Unlawful Pistol and GT#5 Unlawful Pistol

AND CONSENTS FOR SAID PLEA TO BE ENTERED ON RECORD AGAINST HIM(HER/THEM).

Bobby Jenkins
SIGNATURE OF DEFENDANT(S)

ATTEST: Connie B. Lee
FLORENCE COUNTY CLERK OF COURT

CERTIFIED: A TRUE COPY
Theresa B. Jenkins
CLERK OF COURT C.P.D.C.
FLORENCE COUNTY, S.C.

105

2

Exhibit F

AGENCY I.D.
SCO 260600

MYRTLE BEACH POLICE DEPARTMENT
SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER
09-71163-97

NO. 1
E

☒ ORIGINAL REPORT
☒ MODIFIED ORIGINAL
☒ SUPPLEMENTAL REPORT
☐ CASE STATUS CHANGE
☐ ADDITIONAL VICTIMS
☐ ADDITIONAL OFFENDERS
☐ ADDITIONAL STOLEN PROPERTY
☐ ADDITIONAL RECOVERED PROPERTY

VICT/SUBJ. I.D. OVERFLOW

☒ COMPLAINANT
☐ VICTIM #
☐ SUBJECT #
☐ RUNAWAY
☐ WANTED
☐ WARRANT
☐ ARREST
☐ JAIL
☐ SUMMONS

NAME (LAST, FIRST, MIDDLE): CHAISSON, SCOTT
VICTIM RELATIONSHIP TO SUBJECT: NONE
RESIDENT: 000
RACE: WM
SEX: M
AGE: 30
D.O.B.: [REDACTED]
HEIGHT: 6'01"
WEIGHT: 165
HAIR: BRO
EYES: BRO
FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.: [REDACTED]
ADDRESS: [REDACTED]
CITY: [REDACTED]
STATE: [REDACTED]
ZIP CODE: [REDACTED]
LOCATION NO.: [REDACTED]
DAY PHONE: [REDACTED]
EVENING PHONE: [REDACTED]
☐ VICTIM NO. [REDACTED] VISIBLE INJURY: ☐ NO ☐ YES
COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES
VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK
DRUGS: ☐ NO ☐ YES TYPE: [REDACTED]
EXPLAIN: [REDACTED]
☐ SUBJECT NO. [REDACTED] USING ALCOHOL: ☐ NO ☐ YES
USING DRUGS: ☐ NO ☐ YES ☐ UNK TYPE: [REDACTED]

VICT/SUBJ. I.D. OVERFLOW

☐ COMPLAINANT
☐ VICTIM #
☐ SUBJECT #
☐ RUNAWAY
☐ WANTED
☐ WARRANT
☐ ARREST
☐ JAIL
☐ SUMMONS

NAME (LAST, FIRST, MIDDLE): [REDACTED]
VICTIM RELATIONSHIP TO SUBJECT: [REDACTED]
RESIDENT: JSOU
RACE: [REDACTED]
SEX: [REDACTED]
AGE: [REDACTED]
D.O.B.: [REDACTED]
HEIGHT: [REDACTED]
WEIGHT: [REDACTED]
HAIR: [REDACTED]
EYES: [REDACTED]
FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.: [REDACTED]
ADDRESS: [REDACTED]
CITY: [REDACTED]
STATE: [REDACTED]
ZIP CODE: [REDACTED]
LOCATION NO.: [REDACTED]
DAY PHONE: [REDACTED]
EVENING PHONE: [REDACTED]
☐ VICTIM NO. [REDACTED] VISIBLE INJURY: ☐ NO ☐ YES
COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES
VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK
DRUGS: ☐ NO ☐ YES TYPE: [REDACTED]
EXPLAIN: [REDACTED]
☐ SUBJECT NO. [REDACTED] USING ALCOHOL: ☐ NO ☐ YES
USING DRUGS: ☐ NO ☐ YES ☐ UNK TYPE: [REDACTED]

NARRATIVE

1/0 RESPONDED TO A SHOTS FIRED CALL AT 403 33RD AVEN. & ABOVE LISTED SUBJECT WAS THE ORIGINAL COMPLAINANT. SUBJECT STATED HE SAW A MEXICAN MALE RUN THROUGH HIS YARD & THEN JUMP IN THE BACK OF A RED TRUCK (EXTENDED CAB - SILVERADO-TYPE W/ A LONG WHEEL BASE) & CONSTRUCTION EMBLEMS/ SIGNS ON THE SIDE. COMPLAINANT CHASED THE TRUCK AFTER IT CIRCLE THE BLOCK & STATED APPROXIMATELY 3-4 OTHER SUBJECTS RAN FROM THE BUSINES & JUMPED INTO THE TRUCK. COMPLAINANT FOLLOWED IN HIS CAR & SUSPECTS FIRED SHOTS AT HIM. KC 9-1-1 TAPES REVEALED A SCAROLINA LICENSE TAG OF JFX532, OFC PROCK. JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY: [REDACTED] JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY: [REDACTED]
COMPLETED FOLLOW-UP W/ ORIGINAL COMPLAINANTS.

VEH. / GUN / ETC. 1

STATUS: ☐ STOLEN ☐ RECOVERED ☐ FOUND ☐ TOWED ☐ SUSPECT ☐ VICTIM
TYPE: ☐ VEHICLE ☐ GUN ☐ BOAT ☐ LICENSE PLATE ☐ SECURITIES/BONDS, STOCKS ☐ ARTICLE

VIN AND/OR LICENSE NO.: [REDACTED] BOAT HULL NO. AND/OR REG. NO.: [REDACTED]
SERIAL AND/OR OWNER APPLIED NO.: [REDACTED] STATE: [REDACTED]
YEAR OF REGISTRATION: [REDACTED] YEAR OF EXPIRATION: [REDACTED] YEAR: [REDACTED] MAKE: [REDACTED] TYPE: [REDACTED]
MODEL: [REDACTED] STYLE: [REDACTED] COLOR: [REDACTED] BRAND NAME: [REDACTED] CALIBER: [REDACTED]
NIC NO.: [REDACTED] DENOMINATION: [REDACTED] ISSUER: [REDACTED] SECURITIES DATE: [REDACTED]
MISCELLANEOUS: [REDACTED]

PROPERTY EST.

TYPE (GROUP): CURRENCY
STOLEN: 20-
DAMAGED: [REDACTED]
BURNED: [REDACTED]
RECOVERED: [REDACTED]
SEIZED: [REDACTED]

THE VICTIM WHO WAS ON THE PHONE WITH THE 911 OPERATOR
THE ONE WHO DESCRIBE GUY WITH GLASSES

ADMINISTRATIVE

SUBJECT IDENTIFIED: ☐ YES ☒ NO
SUBJECT LOCATED: ☐ YES ☒ NO
☒ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED
☐ ARRESTED UNDER 18 ☐ EX-CLEAR UNDER 18
☐ ARRESTED 18 AND OVER ☐ EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY
REPORTING OFFICER(S): [REDACTED] DATE: 9/24/97 UNIT NUMBER: 322
APPROVING OFFICER: [REDACTED] DATE: 9-24-97 UNIT NUMBER: 20

AGENCY I.D.
SCO 260600

MYRTLE BEACH POLICE DEPARTMENT
SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

09-71163-97

INQ.

PAGE 2 3

ORIGINAL REPORT

REQUIRES ORIGINAL

SUPPLEMENTAL REPORT

CASE STATUS CHANGE

ADDITIONAL VICTIMS

ADDITIONAL OFFENDERS

ADDITIONAL STOLEN PROPERTY

ADDITIONAL RECOVERED PROPERTY

VICT/SUBJ. I.D. OVERFLOW

- ☐ COMPLAINTANT
☐ VICTIM #
☒ SUBJECT # 2
☐ RUNAWAY
☐ WANTED
☐ WARRANT
☐ ARREST
☐ JAIL
☐ SUMMONS

NAME (LAST, FIRST, MIDDLE)

UNKNOWN

VICTIM RELATIONSHIP TO SUBJECT

#1 NONE #2 NONE #3 NONE

RESIDENT

RACE

SEX

AGE

D.O.B.

HEIGHT

WEIGHT

HAIR

EYES

FACIAL HAIR, BEARDS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.

ADDRESS

CITY

STATE

ZIP CODE

LOCATION NO.

DAY PHONE

EVENING PHONE

☐ VICTIM NO. _____ VEHICLE INJURY: ☐ NO ☐ YES

COMPLAINT OF NON-VISIBLE INJURIES:

☐ NO ☐ YES

VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK

DRUGS: ☐ NO ☐ YES TYPE: _____

☐ TWO-MAN VEHICLE ☐ DETECTIVE/PLASMIT ☐ ALON

☐ ONE-MAN VEHICLE ☐ OTHER

EXPLAIN:

☒ SUBJECT NO. 2: USING ALCOHOL: ☐ NO ☐ YES

USING DRUGS: ☐ NO ☐ YES → TYPE: _____

VICT/SUBJ. I.D. OVERFLOW

- ☐ COMPLAINTANT
☐ VICTIM #
☒ SUBJECT # 3
☐ RUNAWAY
☐ WANTED
☐ WARRANT
☐ ARREST
☐ JAIL
☐ SUMMONS

NAME (LAST, FIRST, MIDDLE)

UNKNOWN

VICTIM RELATIONSHIP TO SUBJECT

#1 N/A #2 N/A #3 N/A

RESIDENT

RACE

SEX

AGE

D.O.B.

HEIGHT

WEIGHT

HAIR

EYES

FACIAL HAIR, BEARDS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.

ADDRESS

CITY

STATE

ZIP CODE

LOCATION NO.

DAY PHONE

EVENING PHONE

☐ VICTIM NO. _____ VEHICLE INJURY: ☐ NO ☐ YES

COMPLAINT OF NON-VISIBLE INJURIES:

☐ NO ☐ YES

VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK

DRUGS: ☐ NO ☐ YES TYPE: _____

☐ TWO-MAN VEHICLE ☐ DETECTIVE/PLASMIT ☐ ALON

☐ ONE-MAN VEHICLE ☐ OTHER

EXPLAIN:

☐ SUBJECT NO. _____: USING ALCOHOL: ☐ NO ☐ YES

USING DRUGS: ☐ NO ☐ YES → TYPE: _____

NARRATIVE

JURISDICTION OF THEFT
LAW ENFORCEMENT AGENCY

MYRTLE BEACH P.D.

JURISDICTION OF RECOVERY
LAW ENFORCEMENT AGENCY

VEH. / GUN / ETC. 1

- STATUS TYPE
- ☐ STOLEN ☐ VEHICLE
- ☐ RECOVERED ☐ GUN
- ☐ FOUND ☐ BOAT
- ☐ TOWED ☐ LICENSE PLATE
- ☐ SUSPECT ☐ SECURITIES/BONDS/STOCKS
- ☐ VICTIM ☐ ARTICLE

VIN AND/OR LICENSE NO.

BOAT HULL NO. AND/OR REG. NO.

SERIAL AND/OR OWNER APPLIED NO

STATE

YEAR OF REGISTRATION

YEAR OF EXPIRATION

YEAR

MAKE

TYPE

MODEL

STYLE

CC/LDR

BRAND NAME

CAUSE

RIC NO.

DENOMINATION

ISSUER

SECURITIES DATE

MISCELLANEOUS

ADMINISTRATIVE PROPERTY EST.

TYPE/GROUP	CURRENCY	STOLEN	DAMAGED	BURNED	RECOVERED	SEIZED	TOTAL VALUE
	@ 20-						20-

SUBJECT IDENTIFIED

☐ YES ☒ NO

SUBJECT LOCATED

☐ YES ☒ NO

☒ ACTIVE ☐ ADM CLOSED

☐ UNFOUNDED

☐ ARRESTED UNDER 18

☐ ARRESTED 18 AND OVER

☐ EX-CLEAR UNDER 18

☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1 ☐ OFFENDER DEATH 2 ☐ NO PROSECUTION

3 ☐ EXTRADITION DENIED

4 ☐ VICTIM DECLINES COOPERATION

5 ☐ JUVENILE - NO CUSTODY

REPORTING OFFICER(S)

DATE

UNIT NUMBER

APPROVING OFFICER

DATE

UNIT NUMBER

9-24-97

9/24/97

322

Howe

9-24-97

203

INVESTIGATOR

☐ YES ☒ NO

OFFICER

7F
Exhibit

MYRTLE BEACH POLICE DEPARTMENT

FOLLOW-UP REPORT

G.I.C. 1st. & Armed Robbery
INCIDENT TYPE

77-1214
CASE FILE #

VICTIM / COMPLAINANT

ADDRESS OF VICTIM

11rd. Ave. N. Ocean Blvd.
LOCATION OF INCIDENT

09-24-97
DATE OF INCIDENT

Detective Susan Baker
INVESTIGATOR (S)

09-71165-97
U.C.R. #

09-24-97 BAKER

I was advised via ph. by Cpl. Arrington that I was needed to respond to the area of 11rd. Ave. N. Ocean Blvd. in ref. to a rape that had just occurred in which the victim was pistol whipped and the suspect/s had fired several rounds when chased by a resident in the area. Before leaving the P.D., I checked with dispatch and found that we had received 4 calls via 911 ref. this incident (calls come up on complaint computer but there is no print out trace/complaint sheet on any of them and the tapes will have to be later pulled). A witness who is said to live in the immediate vicinity called in a detailed description of the suspect veh. being a red and white pkp with some type logo on the doors bearing S.C. license plates of JKK532. I ran the tag thru the DMV (MCIC) and found it is registered to a female being Eunice Herrington, 2275 Hwy. 501, Galivants Ferry and will be a 1988 Chev. pkp. I checked telephone listings and directory assistance, but was unable to locate by name, nor by address, a contact phone number to ascertain who had that veh. at this time. A drivers license search for that registered owner of the suspect veh. did produce a valid SCDL for her, but it carried the same address. By request, dispatch notified MCPD and asked them to send an officer to the address for the registered owner to ascertain any leads from that end. Lt. Daniels was notified and did also respond with me.

We were met on scene by Cpl. Arrington, Lt. Holder, & Palm. Prock. The victim had already been transported to the hospital. Moments after I did arrive on scene, Lt. Daniels advised me to proceed to the hospital to interview the victim and he would be calling all the personnel to the scene to assist them there.

I did interview the victim at length and taped same using recorder 4127 micro-cassette. Palm. Himmelfarth was also present in the victim's room, ER #15, during the entire interview. The victim appeared extremely distraught, crying on and off, very down cast eyes, and visibly shaking. Victim's husband referred to me and said the following: "My wife was raped and I was told that she had minor injuries and was taken to the hospital." I did not see any physical injuries on her.

Exhibit 8 F

SOLICITORS CASE REPORT CONTINUED

YES	N/A	NO	DOCUMENTS
	X		Sketch, Charts or Maps Of Crime Scene (Depicting Where Evidence Was Located)
X			Copy of Photoline Up Or Live Line Up
		X	911 Tape (Required On All Violent Crimes If Exists)
	X		Audio/Video Tape Of Crime
X			Current and Permanent Address Of All Potential Witnesses Including Date Of Birth And Social Security Number
X			Name, Titles, Addresses Of All Chain Of Custody Witnesses
			Medical Records On Victim And Defendant, Including EMS Run Sheets And Hospital Emergency Room Report
X			Evidence (Weapons, Money, Stolen Property, etc.) Seized Before, During Or After Arrest.
	X		Photo's Of Any Items Of Evidence Or Seized Property Returned To Victim, By Whom Returned And Date Returned

Exhibit 9F

SOLICITOR'S CASE REPORT CONTINUED

For Any Items Checked NO, Please Explain Why:
Deceit

911 tape had already been copied over by the time a request was made for a copy.

SUMMARY

Chief Case Officer: Detective Terry S. Altman Date Of Report: September 24, 1998
Other Officers : Detective Susan Baker, CSS Joe Graham, Pfc. Patty Himelrigh

On September 24, 1998, at approx. 0545 a.m. officers with the MBPD responded to 34th Ave. N. Ocn. Blvd. in regards to an assault. Upon the officers arrival it was learned that the victim had been traveling south riding her bicycle on Ocn. Blvd. The victim stated that a large red and white pick-up truck with a construction company name on the side panel kept passing her. The victim indicated that there were two black males in the bed of the truck. As she approached 33rd Ave. N. the truck passed her again and she noticed the two black males were no longer in the bed of the truck. At that time, the two black males that were in the bed of the truck appeared from behind a bush and knocked her off her bicycle. Both individuals had semi-auto pistols in their hands and carried her to a wooded area east of Ocn. Blvd. The black males then began to strike her with the pistols in the face and head area. They then robbed her of cash that she carried in her backpack. The black males then held the victim down against her will and removed her shorts and panties. One of the black males then got on top of her while the other held her down and penetrated her vagina with his penis. The two black males then switched positions and the second subject penetrated her with his penis. One of two subjects ejaculated into his shirt and took it with him.

Further investigation revealed that after the assault had taken place the black males jumped back into the bed of the red and white pick-up truck after it came back to the scene. A citizen who revealed the license plate on the truck as (SC) JKK 532 followed the truck. Investigation revealed that the license plate was registered to a 1988 Chevrolet pick-up truck that had been stolen from Galivant's Ferry, SC on the same date. The victim was transported to GSRMC for her injuries and a sexual assault kit was completed and sent to SLED for analysis.

On September 25, 1997, the stolen pick-up truck was involved in a pursuit with the SCHP in which two black males matching the description the victim gave as her assailants were arrested. The two arrested were Eric Jenkins and Bobby Jenkins. A court hearing was held and ordered that the two provide blood, head hair, pubic hair, and saliva samples to compare to the victim's sexual assault kit. From the

ROGER ROY - RE-REDIRECT BY von HERRMANN
SCOTT CHAISSON - DIRECT BY von HERRMANN

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1 was in custody at the time, obviously, right?

2 A. Correct.

3 MR. LONG: Okay. That's all I have. Thank you.

4 MR. von HERRMANN: Just one more to clarify that.

5 RE-REDIRECT EXAMINATION BY MR. von HERRMANN:

6 Q. But he wasn't in custody on these charges, correct?

7 A. That's my understanding, correct.

8 MR. von HERRMANN: No further questions, Your Honor.

9 THE COURT: Thank you. You may step down.

10 A. Thank you, Your Honor.

11 MR. von HERRMANN: Your Honor, we would request that he
12 be excused from his Subpoena.

13 THE COURT: Any objection?

14 MR. LONG: No objection, Your Honor.

15 THE COURT: Thank you. You may be excused.

16 A. Thank you, Your Honor.

17 MR. von HERRMANN: Thank you, Roger.

18 The State would call Scott Chaisson to the stand,
19 please.

20 SCOTT CHAISSON, first duly sworn,
21 testified as follows:

22 DIRECT-EXAMINATION BY MR. von HERRMANN:

23 Q. Mr. Chaisson, I want to talk to you about September
24 24th of 1997. Can you please tell the jury where you lived at
25 that time?

ROGER ROY - RE-REDIRECT BY von HERRMANN
SCOTT CHAISSON - DIRECT BY von HERRMANN

131

1 A. I lived on 33rd Avenue and Ocean Boulevard.

2 Q. Is that down close to the scene that we are talking
3 about today?

4 A. Absolutely. About -- within about -- my home at the
5 time was about forty yards from the -- from where this took
6 place.

7 Q. That morning, can you tell the jury about what time you
8 woke up and ---

9 A. Around five, five-thirty, I guess.

10 Q. Anything particular happen to you, or did you notice
11 anything when you woke up?

12 A. Actually as I woke up for my morning run on Ocean
13 Boulevard, which I did for quite a while, I noticed a red and
14 white pick-up truck was riding around in -- on my street, and
15 the headlights were -- he was -- this vehicle was turning
16 around in my driveway, kept turning around in my driveway, so
17 I went outside and got into my vehicle and started to figure
18 out -- or tried to figure out what was going on, why this
19 vehicle -- why this vehicle was circling around in our
20 neighborhood, or in my neighborhood.

21 Q. Can you tell me what drew your attention to this truck?

22 A. It was loud. It had loud mufflers on it. You could
23 hear it.

24 Q. Was it distinctive?

25 A. Right. It was very loud.

ROGER ROY - RE-REDIRECT BY von HERRMANN
SCOTT CHAISSON - DIRECT BY von HERRMANN

132

1 Q. Okay. Tell me what you did?

2 A. So anyway, I backed out of my driveway, in my vehicle,
3 and I went door to door with this pick-up truck, which was
4 kind of dusty and dirty, and it had a logo on the side, like a
5 magnetic logo, you know, like a business or something was
6 advertised on it, and I went door to door with the driver, and
7 I -- basically I put my window down and asked him, I said,
8 what are you doing, you know, real stern with him, and he put
9 the window back up and pursued, you know, like -- I mean, got
10 on the gas, and drove real fast off from where I lived, off of
11 33rd Avenue, away from Ocean Boulevard, heading to Kings
12 Highway.

13 Q. What was the lighting like at that point?

14 A. Real dark.

15 Q. Were you able to see and identify who was driving the
16 vehicle?

17 A. To my knowledge it had -- he had glasses on, because it
18 was still dark. It was way dark. And there is not -- at that
19 time there wasn't that great a lighting on -- around that
20 area.

21 Q. Was there anybody else in the truck, in the front or on
22 the back?

23 A. Not that I could tell, until I turned around and
24 pursued the truck.

25 Q. Okay.

1 A. Once I went door to door with the truck the truck took
2 off to Kings Highway, leaving Ocean Boulevard, on 33rd, and I
3 turned around in my vehicle and began to pursue this vehicle.

4 Q. Tell the jury what happened when you -- when you
5 followed ---

6 A. So anyway, I started pursuing the vehicle, and I got or
7 my cell phone in my car and I called 911, and I got the -- and
8 the truck headed out toward Kings Highway, on 33rd Avenue, and
9 then rounded off and went north to 34th Avenue, real fast, and
10 then down 34th Avenue back around to Ocean Boulevard,
11 basically like a complete circle, 33rd, 34th, Kings High --
12 you know, so at that point I'm talking to 911, and giving them
13 the tag number, and they had, at that point, realized the
14 truck had been stolen, I guess, because it had been reported
15 stolen in Galivants Ferry, or whatever the truck originated.
16 I can't recall, but anyway, I continued pursuing the vehicle,
17 and the fourth time I pursued the vehicle around he was
18 getting really -- the truck was losing control, and it almost
19 wrecked two or three times, and I -- I had no problem staying
20 with my vehicle behind it, and -- so anyway, the fourth time,
21 on 34th Avenue, as it approached Ocean Boulevard I didn't
22 quite get there fast enough because traffic was starting to
23 come on Kings Highway, so I couldn't make the corners like
24 they were doing, or he was doing, or the person was doing
25 driving the vehicle, so at that point the vehicle got away

Exhibit 12 F

ROGER ROY - RE-REDIRECT BY von HERRMANN
SCOTT CHAISSON - DIRECT BY von HERRMANN

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1 from me, and at that point when I entered -- when I entered
2 onto 34th Avenue the shooting began to shoot at my car. Some
3 gunfire was starting to shoot at my car.

4 Q. How many shots did you hear?

5 A. You know I was thinking about at least ten, or seven to
6 ten, but I'm not quite sure. I don't -- I can't remember that
7 well.

8 But anyway, numerous vehicles -- numerous people started
9 running out from different homes on 34th Avenue, and at that
10 point I'm almost on Kings Highway, or I'm getting closer to
11 the vehicle but they started shooting -- some people started
12 shooting at me, and running toward the pick-up truck.

13 Q. Did you see anybody come from the woods on 34 -- where
14 you ultimately found out this occurred?

15 A. Actually no. We were still on 34th Avenue, and there's
16 a beach access there, so the vehicle was basically -- if it
17 would have went across Ocean Boulevard it would have went into
18 the beach access, okay. So we were still on 34th Avenue, and
19 I'm about halfway down the street, and there's -- all of a
20 sudden there's people -- there's numerous people coming from
21 back of homes, and they are firing at my vehicle.

22 Q. Did the truck turn on Ocean Boulevard?

23 A. Yes, it did. It went south on Ocean Boulevard.

24 Q. And do you know where the rape occurred?

25 A. Right. Behind this big pampas grass --- what
pampas grass

1 Q. Did anybody come out of that area?

2 A. Absolutely. There was two gentlemen -- at -- once the
3 shooting started I backed off some, and then the truck rounded
4 the corner, but the home on 34th Avenue doesn't sit close to
5 the highway, or doesn't sit close to the intersection, so as
6 that vehicle turned, as I moved up I could see that vehicle
7 still moving, so at that point I saw two people running from
8 the back -- or from that -- now it's a gated home now, but at
9 the time it wasn't, and there was a big pampas grass which
10 they removed, but anyway, two guys ran from there, and jumped
11 in the vehicle, or two people ran from that area.

12 But I continued to pursue the vehicle until it -- until
13 the police arrived, which was around that time. But at the
14 time I -- from the beginning of the chase, or I guess you can
15 call it a chase, I was on the phone with 911, the whole time.

16 Q. We've had this discussion before. You are aware that
17 no tape exists of that conversation. Li 2

18 A. Right. I learned after that that something hap -- or,
19 right.

20 Q. Can you step down and kind of just point out to the
21 jury, if you would, where you lived?

22 A. Right on 35th Avenue, right here at the corner.

23 Q. Take this, if you would, and just circle the house, if
24 you would. And show the jury, just kind of, if you would, in
25 a circular motion, exactly how it was -- how the truck

Exhibit 13F

ROGER ROY - RE-REDIRECT BY von HERRMANN
SCOTT CHAISSON - DIRECT BY von HERRMANN

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1 traveled back to Ocean Boulevard.

2 A. Is this Ocean Boulevard?

3 Q. No. This is Ocean Boulevard.

4 A. All right. I've got you.

5 COURT REPORTER: Excuse me. I need to hear you.

6 A. All right. I lived here.

7 COURT REPORTER: Excuse me. I need to hear you.

8 THE COURT: How about speak so the Court Reporter can
9 hear you.

10 A. Okay. What road is this here? That's Kings Highway
11 here? Okay. All right. I lived here, on 33rd, in the
12 corner here, so the vehicle basically went this route here,
13 basically in a circle, or a square, four times.

14 MR. von HERRMANN: Thank you. Please have a seat.

15 Q. Was there any shooting that occurred after the initial
16 seven to ten shots?

17 A. I -- actually there were, because my neighbors and all
18 came out, and as a matter of fact, the Chief of Police used to
19 live on the corner. He used to be my neighbor, at Myrtle
20 Beach, and a lot of the folks that know me there said they
21 heard continuous shots, even after the vehicle was leaving,
22 but they weren't -- the ones that were concerning me -- that I
23 was concerned with was whenever I was following his vehicle,
24 but after the vehicle turned right on Ocean Boulevard, I think
25 it was more or less that it felt like -- I guess everyone that

1 came with this vehicle, I assume, got back to the vehicle,
2 because I was thinking the whole time this vehicle didn't want
3 to leave the area because there was people out there, but I'm
4 not sure how many total shots were fired, but it seemed like
5 it was continuing on, because once I made a right on Ocean
6 Boulevard the vehicle, as it proceeded to the Sea Captain's
7 House, or toward south on Ocean Boulevard, and then the police
8 came just right after that.

9 Q. Let me show you State's Exhibit Number 12 in evidence.

10 Is that the truck you saw that ---

11 A. Yes, I did.

12 Q. And doubt in your mind?

13 A. No. Not at all.

14 MR. von HERRMANN: Court's indulgence.

15 A. And after the -- I guess after the truck sped off,
16 that's when I ran -- that's whenever I discovered that this
17 lady right here came out behind the bushes with her bicycle,
18 and fell out right near my driveway.

19 Q. Is that the same location you saw the two individuals
20 running from?

21 A. Right. Right. She came out of that pampas grass, that
22 big shrub, that big bush, right under -- the lighting is not
23 that great at that point because there is so much overgrowth
24 in trees, and -- but as she came out she came out from 33rd
25 Avenue and fell -- I mean, and just basically fell to the

1 ground there right close to my driveway.

2 Q. Right in that particular area you said the lighting
3 wasn't particularly good, but up and down the boulevard it's
4 fairly lit?

5 A. There's a lot of -- there's a lot of trees, lot of
6 growth there, but now they've done a lighting project, and
7 it's very lit now, but at the point there was -- you could
8 hardly see there.

9 Q. At that particular point, but up and down the Boulevard
10 was still lit, right?

11 A. Right.

12 MR. von HERRMANN: I have no further questions, Your
13 Honor.

14 CROSS-EXAMINATION BY MR. LONG:

15 Q. Mr. Chaisson, it was certainly dark outside when all
16 this happened, right?

17 A. Absolutely.

18 Q. And you gave a statement to Officer Patti Himmelrich --
19 do you remember her -- at the scene?

20 A. I don't recall.

21 Q. Tall, thin, blonde-haired Myrtle Beach Police Officer
22 in uniform?

23 A. I don't -- I ---

24 Q. You don't remember that?

25 A. No. I don't recall.

1 Q. If I told you that you gave her a statement, would you
2 disagree with that?

3 A. Well, I'm sure if you say that, but I don't recall --
4 I've done a lot of things since 1997.

5 Q. Okay. Have you -- have you done so many things since
6 1997 that your memory of this is a little different than it
7 was the day that it happened?

8 A. No, but I'm just saying, I don't know exact, word for
9 word, what I would have said.

10 Q. Do you recall telling anyone there that you saw a
11 Mexican male running through your yard, and that's why you
12 originally became alerted that there was something going on?

13 A. Well, there was people -- there was people all around,
14 I mean, there was numerous people coming around.

15 Q. How many people?

16 A. Originally it was roughly around seven people.

17 Q. You've got seven people running in and out of yards?

18 A. Well, I mean, when I'm pursuing the pick-up truck,
19 there was numerous people came back to this truck, okay, so I
20 don't -- you know, like if there -- there might have been more
21 people. I don't know how many total people came to the area
22 when this truck came to the area.

23 Q. All right. But tell me when I'm wrong here. You say
24 there were seven people coming in and out -- jumping in and
25 out of the back of the pick-up truck?

1 A. Right.

2 Q. There is one person driving the pick-up truck, right?

3 A. Right.

4 Q. You came door to door with that person, and actually
5 looked him square in the eye?

6 A. Almost. The window was not all the way down. It was
7 real dirty. The truck was real dirty.

8 Q. Okay. And did you give a description -- the best
9 description you could have?

10 X A. I just said he was wearing glasses, or she -- he or she
11 was wearing glasses. I'm not ---

12 X Q. You didn't even know if it was a man?

13 X A. No.

14 Q. And so that's ---

15 A. Because the window was about this high, and whoever was
16 driving didn't have the window all the way down.

17 Q. All right. And then you said there were two people
18 ran from the pampas grass. Those were different people than
19 any of the seven or the eight ---

20 A. Right.

21 Q. ---Persons driving the truck?

22 A. Right. Actually a vehicle moved around the corner,
23 around at 34th Avenue and took a right there, there was --
24 there was two more people that came out of the bushes, plus
25 what came out originally from that -- whenever I was getting

1 shot at:

2 Q. So estimating probably about ten people ---

3 A. Roughly.

4 Q. ---Running around your neighborhood?

5 A. Roughly. Yes.

6 Q. With guns?

7 A. Well, I don't know if they all had guns, but a few of
8 them had guns.

9 Q. How many would you say were shooting at you?

10 A. At least a couple, because there was -- there was
11 different -- different shots were fired off at different
12 times.

13 Q. And how do you know that different shots were being
14 fired off at different times?

15 A. Well, I mean, I -- I do a lot of shooting at shooting
16 ranges, and I have a collection of guns. I mean, I'm a
17 hunter, so I mean you just -- you know, I could hear -- you
18 know, I hear a gun fire then I -- it -- it -- it actually
19 sounded like different caliber of guns. That's probably what
20 made me think, maybe.

21 Q. You and -- didn't you, in fact, see fire shooting out
22 of barrels of guns?

23 A. Yes. Yes, I did.

24 Q. And you saw fire shooting out of barrels of guns from
25 all different locations, right?

SCOTT CHAISSON - CROSS BY LONG

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1 A. From -- shooting toward where my car was, as I was
2 pursuing 34th Avenue.

3 Q. And how many of those shots that were fired at you
4 actually hit your car?

5 A. None.

6 Q. None.

7 A. Because I wasn't close enough. Yes. I backed up -- I
8 stayed away from the vehicle once I started hearing shots.

9 Q. And how do you know that those shots were being fired
10 at you?

11 A. Well, I would assume me because I was pursuing a
12 vehicle that wouldn't leave my neigh -- the neighborhood that
13 I lived in, so I don't know who else they would be -- they
14 would be shooting at, because the police hadn't arrived at
15 that time.

16 Q. And you said you saw two -- I believe what you said
17 was, I saw two guys run from the pampas grass, or two people
18 run from the pampas grass ---

19 A. Right.

20 Q. ---And jump in the back of the truck.

21 A. Two bodies, I guess.

22 Q. You don't even know if they were men?

23 A. Well, I mean, they were -- they were dark figured guys,
24 okay, or dark figured individuals.

25 Q. You didn't say that though. You said two guys ran from

1 the pampas grass, or two people ran from the pampas grass ---

2 A. From what I saw -- from what I saw they didn't look
3 like females, so that's why I said guys.

4 Q. And you don't know if they were Mexican ---

5 A. Well, I wasn't like ---

6 Q. ---Latinos?

7 A. No. I was probably about from here to the door or
8 further, a little bit further from here to that door from
9 them.

10 Q. Okay.

11 A. Because you've got to remember, there was fire -- there
12 were shots being fired at my vehicle and me, so ---

13 Q. There's no doubt about it that there was a major ruckus
14 going on in your neighborhood that morning.

15 A. Absolutely.

16 Q. And you say you got on 911 and called about this truck
17 shooting at you. About what time was that?

18 A. Actually I called -- I called 911 immediately when I
19 started pursuing this pick-up truck. I called 911 and I got -
20 -- I'm driving a car that could probably go a hundred and fifty
21 miles an hour, so I'm not really -- the vehicle never could
22 leave, really, my sight too long, and then I got the tag
23 number and they -- I gave the tag number to the operator at
24 911. But immediately I was on the phone with 911.

25 Q. The car you were driving was certainly capable of

Exhibit 17F

SCOTT CHAISSON - CROSS BY LONG

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1 /speeding up and slowing down better than this old ---

2 A. Absolutely. It was a new Mercedes Benz, about a year
3 old, less than a year old Mercedes Benz.

4 Q. Convertible?

5 A. Yes.

6 Q. Did you have the top down?

7 A. No.

8 Q. Now, so you got on the phone with 911 and what time did
9 you say that was?

10 A. Probably -- I don't know the exact times, but it was f
11 five. I got up around five, so it was probably five-thirty,
12 five-fifteen, five-thirty, somewhere -- I'm not even sure
13 about the time.

14 Q. Okay.

15 A. But I talked to 911 throughout the whole process.

16 Q. Right. And I believe you testified that you learned
17 from your phone call with 911 that the truck was -- had been
18 reported stolen?

19 A. Right.

20 Q. You sure?

21 A. I want to say when I -- I talked to the operator the
22 whole time during this process, but you know, maybe after the
23 fact that we found out about it, so ---

24 Q. Okay.

25 A. I know at some point in time throughout that morning,

1 when all this was happening, they had found out that the
2 vehicle had been -- had report -- had been reported stolen
3 from somewhere close to ---

4 Q. Your statement that you learned from the 911 call ---

5 A. May have not been from them, but from numerous people
6 talked with.

7 Q. You may have learned that later?

8 A. Right.

9 Q. You, in fact, may have learned that later that day?

10 A. Right.

11 Q. You might have learned it the next day?

12 A. Later that day.

13 Q. Okay. And -- okay now, explain to me how you -- and
14 I'm not -- I'm really not going to be argumentative with you,
15 but you just testified, pretty clearly, that you were talking
16 to 911 and they told you that that truck was stolen.

17 A. No, I re -- not neces -- throughout that day, or
18 throughout the process of talking to numerous people,
19 detectives, and so I -- I miscommunicated that. It was
20 throughout the process of that day, so ---

21 Q. Right. Okay. And you say there were seven to ten
22 gunshots fired at you?

23 A. Right.

24 Q. And you say that you learned from the neighbors and
25 other people that there were other gunshots fired after you --

Exhibit 18 F

SCOTT CHAISSON - CROSS BY LONG

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1

-

2

A. I think they kept firing at me. I lost distance from the vehicle when their firing happened, so I backed up on 34th Avenue, but when the vehicle rounded the corner, and the two figures, or two men, or whatever, came from the pampas grass to the vehicle, I feel like there was still shooting going on, according to sources that lived in the neighborhood, and competent people that live in the neighborhood.

9

10

11

12

Q. So from all the evidence that you gathered, and from what you saw with your own eyes, you would say there were at least more than twelve shots fired, a dozen shots fired in your neighborhood that morning.

13

14

15

A. You know what, I'm sure there were, you know, but I know there were some directed at me when I'm pursuing this truck.

16

17

Q. Did you get out and walk around this scene ---

18

19

A. No, I didn't.

Q. ---After it was all over with ---

20

21

A. No, I didn't.

Q. ---And the police came?

22

23

24

Q. Did you ever, in walking through the neighborhood, or walking your dog, or whatever you do, ever find any shell casings laying anywhere?

25

A. Never did. Never -- I never looked for that.

Exhibit 18 R

1 Q. And again, there is no doubt that there was a big mess
2 going on at -- I mean a horrible mess, sounds like Vietnam in
3 your neighborhood.

4 A. Right.

5 Q. And there is no doubt about it that a horrible crime
6 was committed to Ms. Weaver ---

7 A. Absolutely.

8 Q. ---In your neighborhood.

9 A. I learned that after the vehicle sped away.

10 Q. Right. No doubt.

11 A. Right.

12 Q. The doubt that we are talking about here today was
13 whether or not this man was involved in it all. Now look at
14 him. Did you see him there?

15 A. You know, I mean, I didn't get close enough to his
16 face, but -- so ---

17 Q. You -- you saw the driver of the truck. You were
18 behind a truck that a bunch of people were in, jumping in and
19 out, and you saw the two men that were in the pampas grass,
20 and you were at the distance from you to that door, the same
21 distance that Ms. Weaver was when she saw them in a courtroom,
22 and what I'm asking you is, did you see that man on 34th
23 Avenue and Ocean Boulevard on September the 24th, 1997?

24 A. I didn't see him face to face because they were
25 running. These -- the individuals are running away from the

1 scene of the crime to this vehicle.

2 Q. Can you -- can you answer me yes or no? Did you see
3 that man?

4 A. I didn't see him face to face.

5 Q. So your answer is no?

6 A. No.

7 Q. You did not ---

8 A. No, I did not see him face to face.

9 Q. ---See Eric Jenkins ---

10 MR. LONG: That's all I have. Thank you.

11 MR. von HERRMANN: I've just got a couple of questions.

12 REDIRECT-EXAMINATION BY MR. von HERRMANN:

13 Q. Do you know whether he was there or not?

14 A. I mean, I didn't physically get close enough to him to
15 see him.

16 Q. Were you a little bit nervous, was the heart beating a
17 little bit fast with people shooting at you, and people coming
18 through the bushes?

19 MR. LONG: Your Honor, he's leading him.

20 THE COURT: Sustained.

21 A. Right. Sure. I mean, you know, I -- I knew something
22 wasn't right with the whole situation but I never knew there
23 was a crime being committed behind this pampas grass, but I
24 just -- I felt like there was something not right, why this
25 vehicle wouldn't leave the area. There was a reason why this

1 vehicle wouldn't leave that area, if you are going to circle
2 around a neighborhood four times, so ---

3 Q. You indicated there could have been more people. Could
4 there have been less people that jumped in the truck?

5 A. No, I -- there was quite a few people coming from the
6 back of homes and ---

7 Q. But it could have been less than seven, or is it ---

8 A. Right.

9 MR. LONG: Your Honor, asked and answered. He said no.

10 THE COURT: Sustained.

11 Q. All right. Are you absolutely positive the number of
12 people?

13 A. Sure.

14 MR. von HERRMANN: No further questions, Your Honor.

15 THE COURT: Thank you. You may step down.

16 MR. von HERRMANN: Your Honor, we would request that he
17 be excused from his Subpoena as well.

18 MR. LONG: No objection, Your Honor.

19 THE COURT: Without objection. You may be excused.
20 Thank you, Mr. Chaisson.

21 Call your next witness.

22 MR. von HERRMANN: We would call Detective Joe Graham
23 to the stand, Your Honor.

24 JOE GRAHAM, first duly sworn,
25 testified as follows:

1 MR. von HERRMANN: Okay.

2 Q. Let's review this sheet on Bobby Jenkins. He was
3 wearing two pairs of shorts; is that correct?

4 A. Yes sir.

5 Q. And he was wearing a couple of pairs of ten -- of t-
6 shirts as well?

7 A. From my memory, yes.

8 Q. And we know that who raped Ms. Weaver here had on long
9 pants?

10 A. Yes.

11 Q. So Bobby Jenkins, who we know raped her, was wearing
12 shorts, and we know that everybody that raped Ms. Weaver was
13 wearing long pants. Does that tell you that somebody changed
14 clothes?

15 A. Yes, normally.

16 MR. LONG: Your Honor, I -- I've got to object right
17 now. There is no evidence in the record that anybody was
18 wearing long pants. The only description of the two
19 assailants in this Incident Report was about their shirts.
20 There's nothing about their pants in this Incident Report.

21 MR. von HERRMANN: Long baggy pants, long pants.

22 THE COURT: You don't -- you need to him. You don't
23 need to show him.

24 MR. LONG: Who wrote that? That's not in evidence.

25 MR. von HERRMANN: That's not in evidence either, Your

Exhibit 20F

JOE GRAHAM - CROSS BY von HERRMANN

21

1 wasn't wearing a pair of pants on top of that, did he?

2 A. People normally don't wear five pair of shorts.

3 Q. Isn't it true -- have you had an opportunity to review,
4 or to figure out, or to determine what the description was of
5 what the assailants were wearing?

6 A. From my understanding, and from what I was ---

7 Q. Just tell me yes or no, if you would, Detective.

8 A. Yes.

9 Q. Isn't it there that one -- that both of the suspects
10 were identified as having long baggy jeans and long pants?

11 A. Correct.

12 Q. Not shorts?

13 A. Yes sir.

14 Q. So -- and we know Bobby Jenkins raped her.

15 A. Yes sir.

16 Q. We all agree about that. And we know Bobby Jenkins
17 wasn't wearing the same clothes when he was arrested that he
18 was wearing when he raped this woman?

19 MR. LONG: Your Honor, I would object. We don't know
20 that. There is no evidence to the contrary, not about Bobby
21 Jenkins, no evidence in the record about what Bobby Jenkins
22 was wearing, or not wearing at the time.

23 MR. von HERRMANN: Your Honor, let me lay a better
24 foundation.

25 THE COURT: Please do.

1 they are -- you have a propensity to commit a crime.

2 MR. von HERRMANN: Your Honor, if there is ---

3 MR. LONG: He's getting ready to testify that, because
4 they wear layers of clothing they've got a propensity to
5 commit a crime.

6 THE COURT: Overrule your objection. He's asking him,
7 in his experience as a police officer, what is that commonly
8 - what does that commonly indicate?

9 Q. Isn't it true that, when you attempt to apprehend
10 defendants, or suspects ---

11 THE COURT: Before you go any further, you are leading
12 the witness.

13 MR. von HERRMANN: I'm on cross-examination, Your
14 Honor.

15 THE COURT: You are, aren't you. I'm sorry. I thought
16 it was still your case. I apologize. Go right ahead.

17 MR. von HERRMANN: Thank you, Your Honor.

18 Q. Isn't it true that, when you see suspects that are
19 commonly layered with multiple layers of clothes, that they do
20 that so they can quickly change clothes ---

21 A. Exactly.

22 Q. ---And that makes it more difficult to be detected?

23 A. That's correct. It's a common occurrence.

24 Q. And we have no reason to believe, if Mr. Jenkins is
25 wearing four pairs of shorts, or five pairs of shorts, that he

Exhibit 21F

JOE GRAHAM - CROSS BY von HERRMANN

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1 CROSS-EXAMINATION BY MR. von HERRMANN:

2 Q. Detective, Eric Jenkins was wearing five pairs of
3 shorts; is that correct?

4 A. From my understanding, yes sir.

5 Q. And he was wearing two t-shirts?

6 A. Yes sir.

7 Q. And how long have you been in law enforcement?

8 A. What -- fifteen years now.

9 Q. What significant, if any to you, do five pair of shorts
10 and two t-shirts mean when a suspect is wearing them? What
11 commonly goes through your mind?

12 A. Well, that's what we call commonly as layering, wearing
13 different layers of clothing so they can shed them.

14 Q. What do you see that generally in?

15 A. In those characters of ill repute, that are committing
16 crimes.

17 Q. So ---

18 A. So they can readily change clothes.

19 Q. Isn't it true that one of the reasons they wear this,
20 so they can change their clothes quickly and ---

21 MR. LONG: Your Honor, I would object to that. I don't
22 know if he's -- he's a crime scene officer, and they realized
23 what my line of questioning was going to be when I recalled
24 him, so they came up with this. That -- there is no -- just
25 because somebody wears layers of clothing doesn't mean that

1 shorts.

2 Q. So there was a black t-shirt in Bobby Jenkins' ---

3 A. Yes.

4 Q. Were you ever told by anyone what items of clothing
5 here each one was wearing? Because there were a couple of
6 extra items of clothing that you collected, right? Do you
7 know which ones Eric was wearing?

8 A. Yes. I was advised that the bag of evidence that I
9 collected from Tony DeWitt from the Highway Patrol -- those
10 were the items that he was actually -- that was actually taken
11 from him at the Effingham facility.

12 Additionally, there was a pair of "Boss" black shorts
13 that he apparently ran out of, and that was collected by
14 Sergeant Glen Cottingham of the Highway Patrol on the scene.

15 Q. Okay. So, as you understand it from that list, at the
16 time that Eric Jenkins was arrested he was wearing a white t-
17 shirt and some black shorts, right?

18 A. Actually five pair of shorts and two shirts, and other
19 items.

20 Q. White t-shirts?

21 A. Yes.

22 Q. Okay.

23 MR. LONG: That's all I have. Thank you.

24 MR. von HERRMANN: Just a couple of questions, Your
25 Honor.

1 MR. LONG: Yes sir. Yes.

2 MR. von HERRMANN: No objection, Your Honor.

3 THE COURT: Without objection. It's admitted.

4 (DEFENDANT'S EXHIBIT NUMBER 5 ADMITTED INTO EVIDENCE.)

5 Q. Now, those being all the things that you received from
6 the Highway Patrol, which included the things that Eric
7 Jenkins was wearing when he was arrested, is there, on that
8 list, a dark long shirt with short sleeves?

9 A. Let's see. On the list from Eric Jenkins there's a
10 pair of Converse shoes, a pair of white socks, white t-shirt
11 with possible blood stain, another white t-shirt with the
12 "First Down" logo, grey-black stripped shorts, light blue
13 shorts, dark blue shorts and another pair of silver shorts.

14 Q. So the only shirt that appears on -- the only shirts
15 that appear on that list is white t-shirts?

16 A. Correct.

17 Q. And you also received a bag of items that were
18 collected by the Highway Patrol from Bobby Jenkins, and his
19 clothing; is that correct?

20 A. Yes, sir, I did.

21 Q. And what -- what about shirts received from Bobby
22 Jenkins?

23 A. Bobby Jenkins, in his bag there was one "Boss" black t-
24 shirt, a pair of eye glasses, pair of nylon pants, a watch,
25 socks, pair of blue shorts with a belt and pair of boxer

Exhibit 23

MY. E BEACH LAW ENFORCEMENT PROPERTY EVIDENCE REPORT

Pg. #3

1. STATUS: ☒ EVIDENCE ☐ FOUND ☐ RECOVERED ☐ OTHER
 2. CASE# 9-7165-97 3. DATE/TIME: 9-25-97 1935 4. DETECTIVE CASE # 97-193

5. CASE TYPE: CSC

6. FOUND OR RECOVERED FROM: ☒ PERSON ☐ PLACE NAME: SCHP Trooper Tony Davis
 ADDRESS: SCHP Ph 661 4705 CITY: Myrtle Beach ST SC ZIP 29579

* Birth Name - Bobby Cornell Jenkins *

7. OWNER'S NAME: Ali Majid Mgtadiri OWNER'S PHONE: _____

8. OWNER'S ADDRESS: 1427 Gum St CITY Ayer ST SC ZIP 29511

9. ITEM	QUANTITY	DESCRIPTION	NCIC YES	HIT NO
1	1	<u>Evidence</u>		
2	1	<u>Black T-shirt (Muddy)</u>		
3	1	<u>Pair of Eyeglasses Right Lens Missing</u>		
4	1	<u>Nylon Camouflage Pants (Muddy)</u>		
5	1	<u>Times-Tide Watch</u>		
6	1	<u>Pair of Socks (Muddy)</u>		
7	1	<u>Pair of Underwear Blue Shorts "Belt"</u>		
		<u>Pair of Black Socks</u>		

10. DEFENDANT (S):
Ali Majid Mgtadiri

11. CHARGES:
Pass Stolen Auto & Others

12. ITEM #	RECEIVED BY	REASON	DATE	TIME
<u>1 THRU 7</u>	<u>STRAWHORN</u>	<u>EVIDENCE IN PERSON</u>	<u>9-26-97</u>	<u>1520</u>

OFFICER: J. D. Graham

SIGNATURE: [Signature]

AUTHORIZATION FOR DISPOSITION:

☐ OWNER NOTIFIED RELEASE AUTHORIZED

DATE AND TIME: _____

☐ CLEARED FOR DISPOSAL: ITEMS: _____

HOLD ACTIVE CASE: ITEMS: _____

☐ PHOTO & DISPOSE: ITEMS: _____

AUTHORIZING OFFICER: _____

☐ RELEASED TO: _____

ITEMS: _____

ADDRESS: _____ CITY _____ STATE _____ ZIP _____

WHITE AND YELLOW - RECORDS

PINK - INVESTIGATIONS

GOLD - OFFICER

FAXED
A-5-66

TRAY NO.	ARRIVAL DATE / TIME	WANTED	MON	TUES	WED	THUR	FRI	SAT
101	10/10/1968 10:10							

7 FILE SCALATION HQ

MI-70

ACTIVATION

FALUNG CA LTD.

11/18/2017

NO. DISTANCE	R	SPHERE	CYLINDER	AXIS	PRISM	DIRECTION	IN DEG OUT		COLOR OR TINT
		-3.50							
	L	-3.50							
R		HEIGHT	INSET	TOTAL	DIST	NEAR	INDUSTRIAL SAFETY	PLASTIC LENS	
								CHEMICAL TEMPER	
L							POLY CARBONATE	HEAT TREAT	
								GLASS LENS	
OTHER	PROGRESSIVE	BLENDED	EXECUTIVE TYPE	ROUND SID	TRIFOVAL AND TYPE		STRAIGHT TOP	SCRATCH RESISTANT	
								UV-400	

FRONT OF SHAPE	COLOR	EYE SIZE	NOSE BRIDGE SIZE	TEMPLE LENGTH AND STYLE
70F		48	22	

FRAME TYPE	FRAME	DATE REC.	LENS	SUPPLY	EMBOSS	TO COME
EVL	METAL					
FRAMELESS	PLAST					
NYLON	GRIND					
	☐ REPLACE FRAME SAMPLE			LENS ONLY		
				EDGE		

CREOLE INSTRUCTIONS

SIA _____ HANX 501 _____

A	B	C
LENS	FRAME	INSPECT

E. Lemon PO 2-4-09

REORDER AOL RX2



4445

3E

EXHIBIT 25F)

6-21-07

LC
015010

McCormick CT



TRAY NO.		ARRIVAL DATE / TIME		WANTED	MON	TUES	WED	THUR	FRI	SAT	
NAME JENKINS, BOBBY					PRESCRIPTION NO.						
# 271240											
LENSES					AS TO						
					ADJUSTMENT NO.						
FRAME OR MTD.											
OTHER											
DISTANCE	SPHERE	CYLINDER	AXIS	PRISM	DIRECTION	IN	DEC	OUT	COLOR OR TINT		
	R	-3.25	50								
	L	-3.25									
ADD	HEIGHT	INSET	TOTAL	DIST	NEAR	INDUSTRIAL SAFETY		PLASTIC LENS			
						POLY CARBONATE		CHEMICAL TEMPER			
								HEAT TREAT			
								GLASS LENS			
OTHER	PROGRESSIVE	BLENDED	EXECUTIVE TYPE	ROUND SED	TRIFOVAL AND TYPE	STRAIGHT TOP		SCRATCH RESISTANT			
								UV-400			
FRAME OR SHAPE		COLOR		EYE SIZE		BRIDGE SIZE		TEMPLE LENGTH AND STYLE			
SC 900				52		14					
FRAME TYPE		FRAME	DATE REC.		LENS	SUPPLY	ENCLOSURE	TO COME			
ZYL		METAL									
RIMLESS		FACTORY			LENS ONLY					UNOUT	
NYLON		GRANITE			EDGE						
SPECIAL INSTRUCTIONS					CIR					BLANK FOR	
					A					3	15
					LENS					FRAME	INSPECT

REORDER ROL RXZ

Exhibit 267



McCormick

TRAY NO.		ARRIVAL DATE / TIME		WANTED		MON		TUE		WED		THUR		FRI		SAT																			
NAME JENKINS BOBBY																																			
PRESCRIPTION NO.																																			
<table border="1"> <tr> <td>2</td><td>7</td><td>1</td><td>2</td><td>4</td><td>0</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td> </tr> </table>																		2	7	1	2	4	0												
2	7	1	2	4	0																														
LENS CODE		UNIT		DOE																															
BILL TO ADDRESS																																			
ACCOUNT NO.																																			
SHIP TO ADDRESS																																			
SHIP PER CODE																																			
FRAME CODE																																			
DISTANCE	A	SPHERE		CYLINDER		AXIS		PRISM		DIRECTION		IN DEG		OUT		COLOR OR TINT																			
		2.75		0.00																															
ADD	L	2.75																																	
		HEIGHT		WGT		TOTAL		DIST		LENS		INDUSTRIAL SAFETY		PLASTIC LENS		CHEMICAL TEMPER																			
								65/62				POLY CARBONATE		HEAT TREAT		GLASS LENS																			
OTHER		PROGRESSIVE		BLENDED		EXECUTIVE TYPE		ROUND BOW		TRIFOCAL AND TYPE		STRAIGHT TOP		SCRATCH RESISTANT		UN - 400																			
FRAME OR SHAPE		SC 900		COLOR		BYE SIZE		52		BRIDGE SIZE		14		TEMPLE LENGTH AND STYLE																					
FRAME TYPE		ZYL		METAL		FRAME		DATE REQ.		LENS		SUPPLY		ENCLOSED		TO COME																			
		RIMLESS		FACT		SUPPLY		ENCLOSED		TO COME		LENS ONLY		UNOUT		EDGE																			
		NYLON		DRILLED		REPLACE FRAME SAMPLE						GIR		BLANK SIZE																					
SPECIAL INSTRUCTIONS																																			
SIGNATURE		E. L. LEMMON		DATE		10-1-03																													

REORDER ROL RX4

Division of Health Services
ANALYTICAL EYE RECORD

Exhibit

27F

INSTITUTION Mc Cormick AGE 31 DOB 8-7-69 DATE 11/12 SEX M

OCCUPATION _____ DATE OF RELEASE _____

OCULAR HISTORY

Patient's Statement of Complaints
OD 20/100
OS 20/100
OU 20/100

Where Employed _____
Physical Condition _____
Are you taking any Kind of Treatment? _____

Diagnosis & Recommendations Rx glasses

Old Rx: WORN, NOT WORN (CROSS OUT ONE)
SPH CYL AX PRISM BASE
OD _____ OS _____
ADD. O.D. _____ O.S. _____ RANGE _____ TO _____

PURPOSE
NAKED O.D. ACUITY O.D. NEAR POINT O.D. PIN HOLE O.D.
VISION O.S. OLD RX O.S. ACUITY O.S. RANGE O.S. TO O.S.

EXTERNAL EXAMINATION
COVER TEST For Near Far Suppression Tension
Rotation Versions WNL BU 21 Diplopia Test
Lids Lachrymal Cornea Conjunctiva
Iris Pupils Amplitude of Accommodation
Fixations

1. OPHTHALMOSCOPE
3 c/d m.
NAP on.

PROGRESS REPORT Date _____
R Sphere Cylinder Axis Prism Add
OD _____ OS _____
SC90
14
52

SYMPTOMS 3-20-03 DISTANCE NEAR PD 165
1 O.D. OPHTHALMOMETER NEG
2 O.D. STAB POS
3 O.D. STAB POS
4 O.D. STAB POS
5 O.D. STAB POS

White: Head Yellow: OPTOMETRIST
NAME William J. Doherty
DATE 11/12/70

U.S. DEPARTMENT OF CORRECTIONS
Division of Health Services
ANALYTICAL EYE RECORD

Exhibit 28 F

INSTITUTION McLennan AGE 39 DOB 08/07/69 DATE 12/2/08 SEX M

OCCUPATION _____ DATE OF RELEASE _____

OCULAR HISTORY
Patient's Statement of Complaints
Glasses Broken

SYMPTOMS (Circle Symptom)
1 Headaches Frontal, Temporal, Occipital, Vertex, Intracocular, Periodic Constant, After Reading.
2 Blur Far, Near
3 Eyes Burn, Ache, Tired
4 Pains Smarting, Throbbing, Shooting.
5 Amblyopia
6 Epiphora
7 Granulation
8 Diplopia Far, Near
9 Hordeolum
10 Photophobia
11 Redness
12 Muscle Volitantes
13 Nausea or Dizzy
14 Pross
15 Irritation
16 Nervous

Where Employed _____
Physical Condition _____
Are you taking any Kind of Treatment? _____
Date _____ Exam _____
Oral _____ X-Ray _____
Dom Hand _____ R _____ L _____
Dom Eye _____ R _____ L _____

ANALYSIS OF VISUAL TASKS
BUSINESS RECREATION SOCIAL
Writing _____ Motion Picture _____
Reading _____ Motoring _____
Computing _____
Inspecting _____
Art Work _____ Fishing _____ Church _____
Typing _____ Cards _____
Needle Work _____ Reading _____
Tennis _____ Television _____

DIAGNOSIS & RECOMMENDATIONS
Re glasses

SPECIAL VISUAL TASKS (Indicate Distance)

OLD RX: WORN, NOT WORN (CROSS OUT ONE)						PURPOSE		WHEN PRESCRIBED			O.D., M.D.	
SPH	CYL	AX	PRISM	BASE		NAKED	OD	ACUITY	OD	NEAR POINT	OD	PIN HOLE
OD						VISION	OS	OD	OS	ACUITY	OS	
OS							OU		OU		OS	
ADD. O.D.		OS		RANGE	FO							

EXTERNAL EXAMINATION
COVER TEST Far Near Suppression Fusion
Rotation Versions
Lids Lachrymal
Iris Pupillary Reflexes
Fixations Amplitude of Conjugation
LENS OD OS

1. OPHTHALMOSCOPE
3 c/d cu
NAP cu

EXAM	DATE	DISTANCE NEAR PD	PROGRESS REPORT	DATE	Rx	Sphere	Cylinder	Axis	Prism	Base
1	2-4-09	165								
2										
3										
4										
5										

White: Health Record Yellow: OPTOMETRIST
NAME _____
Signature _____
DATE _____

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
 Division of Health Services
ANALYTICAL EYE RECORD

EXHIBIT 29F

Bu

INSTITUTION Kershaw AGE 31 DOB 8-7-69 DATE 4/10/01 SEX M
 OCCUPATION _____

OCULAR HISTORY

Patient's Statement of Complaints: Lost glasses 3 yrs ago. Has
trouble seeing far off. 110 blurry vision
when attempting to focus long distance
Get blurry for long
OD 20/200 OS 20/1200 OV 20/1200
Distance blurry

Where Employed _____
 Physical Condition Good

Are you taking any kind of Treatment? No

Date Seen _____ Exam _____
 Exam Eyes _____

DIAGNOSIS & RECOMMENDATIONS: Myopia - CR
RX Specs

SYMPTOMS (Circle Symptom)

1. Headache	10. Photophobia
2. Blurred Vision	11. Redness
3. Eyes Burn, Ache, Itch	12. Muscle Volantures
4. Pain, Stinging, Itching	13. Nausea or Dizzy
5. Shooting	14. Indigestion
6. Epiphora	15. Nervous
7. Graduation	

RECEIVED
APR 11 2001
MEDICAL RECORDS

ANALYSIS OF VISUAL TASKS

BUSINESS	RECREATION	SOCIAL
Writing		Motion Picture
Reading	Motoring	
Computing		
Inspecting		
Art Work	Fishing	Church
Typing		Cards
Needle Work	Reading	Television
	Golfing	

SPECIAL VISUAL TASKS (Indicate Distance)

OLD RX: WORN, NOT WORN (CROSS OUT ONE)					PURPOSE		WHEN PRESCRIBED				O.D.: M.D.	
SPH	CYL	AX	PRISM	BASE	NAMED	ACUITY	OD	NEAR POINT	OS	PIN HOLE	OD	OS
OD												
OS												
ADD O.D.												

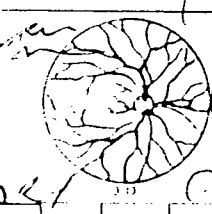
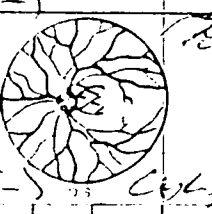
EXTERNAL EXAMINATION

COVER TEST: Far _____ Near _____ Stigmata _____
 Refraction: _____
 Lids: _____
 Iris: _____
 Pupils: _____
 Conjunctiva: _____
 Cornea: _____
 Lens: _____
 Vitreous: _____

OPHTHALMOSCOPE

REFRACTION: 6571
2-50
2-50

RETINOSCOPY: 22
150
(R)

1 MR. von HERRMANN: Just a couple of questions, Your
2 Honor.

3 REDIRECT-EXAMINATION BY MR. von HERRMANN:

4 Q. What color are the jumpsuits for inmates at Effingham?

5 A. Orange. *lie I was on lock-up*

6 Q. Orange.

7 MR. von HERRMANN: No further questions, Your Honor.

8 Thank you.

9 That would -- excuse me. I'm sorry. Let me apologize.

10 Let me ask you one more.

11 Q. Do you know when this photograph was taken?

12 A. I don't know when it was taken.

13 Q. Do you know anything about this photograph?

14 A. No. We don't stay around for booking.

15 Q. Could this picture have been taken in Horry County?

16 A. It's a possibility.

17 Q. Could have been taken way before September of 1997?

18 A. Possibility.

19 MR. von HERRMANN: No further questions, Your Honor.

20 RECROSS-EXAMINATION BY MR. LONG:

21 Q. But you did testify, didn't you, when I asked you the
22 question, is that the way Eric Jenkins looked on the day that
23 you arrested him, and you did say yes, right?

24 A. His face -- yes, it looks like his face.

25 Q. So it looks like his face?

1 with guns on them, to find out if they've got bullets in them?

2 A. Well, I consider all weapons to be loaded. He was
3 already in handcuffs in my custody. I turned the weapons over
4 to Sergeant Cottingham in Marion County, since that was in
5 their jurisdiction.

6 Q. Did they have the clips in them?

7 A. I didn't look to see.

8 Q. Did you look at the -- did you go back and look in the
9 truck to see what kind of evidence was in and around the
10 truck?

11 A. I did not touch the truck at all. I didn't process the
12 truck. I just ---

13 Q. Did you touch those guns?

14 A. Yes. I took them out of his pockets when I caught him.

15 Q. Okay. And how did you do that?

16 A. I patted him down. I felt the guns, reached in, pulled
17 the guns out.

18 Q. You just reached in with your hand and grabbed the guns
19 and pulled them out?

20 A. Yes sir.

21 Q. You didn't use gloves, or a piece of handkerchief or
22 anything like that?

23 A. No. We were out in the middle of a cotton field, up to
24 our knees in mud.

25 MR. LONG: That's all I have. Thank you.

1 A. No, I got -- I got Bobby, yes. I got Bobby.

2 Q. You got Bobby?

3 A. Yes.

4 Q. And somebody else got Eric?

5 A. Yes.

6 Q. And who was it that got Bobby (sic)?

7 A. Bobby (sic) was caught by Sergeant Cottingham, and a
8 transport police officer.

9 Q. Okay. So when those two fellows caught Bobby (sic),
10 they found two pistols on Bobby?

11 A. I caught Bobby.

12 Q. I'm sorry ---

13 A. I was by myself when I caught Bobby.

14 Q. I'm sorry. You caught Bobby?

15 A. Yes.

16 Q. And you found two pistols on Bobby?

17 A. Yes.

18 Q. And they looked just like that?

19 A. Yes.

20 Q. Those are the two pistols that Bobby had on him?

21 A. They were just like those, yes.

22 Q. Those two pistols, did they have any live ammunition in
23 them?

24 A. I don't recall.

25 Q. That's not important to you when you catch somebody

1 sheets of paper, and I'm going to ask you if you can identify
2 that?

3 (EXHIBIT MARKED BUT NOT MOVED INTO EVIDENCE.)

4 A. Yes. This is a driver's record.

5 Q. That's Eric Jenkins' driving record?

6 A. Yes.

7 Q. And based on that driving record right there, can you
8 confirm that, in fact, when you pulled in behind him that day
9 he had a suspended license?

10 A. Well, this record shows -- see, when was this issued?
11 Yes. His license were suspended for failure to ---

12 Q. Can you tell from that record why his drivers license
13 was suspended?

14 MR. von HERRMANN: Your Honor, I'm going to have to
15 object to the relevance.

16 MR. LONG: Your Honor, the -- he obviously ran from the
17 police. This is relevant to why he ran from the police.

18 THE COURT: Sustained. You may continue. It's cross-
19 examination.

20 A. Looks like he failed to pay three traffic tickets.

21 Q. So he had failed to pay three traffic tickets, his
22 drivers license was suspended?

23 A. Yes.

24 Q. All right. Now, you said that, when you -- now, did
25 you actually do the tackling of Bobby Jenkins?

EXHIBIT 32F

1 A. I believe I transported him to Effingham. I'm not sure
2 if I booked him or if Florence P.D. was waiting for me when I
3 got there.

4 Q. Let me show you a picture of him. State's Exhibit
5 Number 17, and it's a part of State's Exhibit Number 18, as a
6 photo line-up, however, that's his booking picture from
7 Effingham the day that you arrested him.

8 A. Okay.

9 Q. Is that the way he looked when you arrested him?

10 A. Yes.

11 MR. LONG: Request permission to publish, Your Honor.

12 THE COURT: Very well.

13 Q. Now, you -- you got in behind this red and white pick-
14 up truck, and Eric Jenkins was driving ---

15 A. Right.

16 Q. ---Right. And you found out later that, at the time
17 you got in behind him he actually had a suspended license,
18 didn't he?

19 A. I don't think I ran his license. Florence probably ran
20 his license for their accident, the hit and run they were
21 working.

22 Q. Okay. I'm going to show you what I'm going to have
23 marked as State's -- I'm sorry -- Defendant's whatever I am --
24 Defendant's 4, as a group. Okay. I've had it marked
25 Defendant's Number 4, as a group of sheets of paper, four

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

3 THE COURT: Ladies and gentlemen of the jury, Ms.
4 Blackburn, as you know, got ill, and we've sent her to the
5 doctor. I think her blood sugar dropped.

6 And Mr. Martin, you have been activated to a regular
7 juror now.

8 You may continue with your questions.

9 MR. LONG: Thank you, Your Honor.

10 CROSS-EXAMINATION CONTINUED:

11 Q. Now, you say you didn't -- Trooper, you say you didn't
12 know what Eric Jenkins was wearing when you arrested him. I
13 have the benefit of the -- I have the benefit of the Evidence
14 Report, of items of clothing that were collected from Eric
15 Jenkins that day, and I noticed on that list that the only
16 shirts -- the only shirt on there is a white shirt, so would
17 you agree with me that Eric Jenkins was wearing a white shirt
18 when you arrested him?

19 A. I cannot recall. That's seven years ago. I can't
20 remember.

21 Q. How about black shorts?

22 A. I can't recall his clothing.

23 Q. Do you know if he was wearing shorts or long pants?

24 A. I don't recall his clothing.

25 Q. Did you book him at Effingham?

1 City handled everything.

2 THE COURT: Excuse me. We are going to have to stop
3 for just a moment, ladies and gentlemen. Please step back to
4 your jury room. We will call you back out.

5 Don't discuss the case while you are in the jury room.

6 (THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE
7 JURY.)

8 THE COURT: We'll stay at ease for a moment. I think
9 one of the jurors needed to use the restroom.

10 We can take a break if you would like.

11 You can step down if you would like.

12 A. Thank you, Your Honor.

13 THE COURT: Don't discuss your testimony with anyone.

14 (THE FOLLOWING TAKES PLACE AFTER A BREAK, AND OUTSIDE
15 THE PRESENCE OF THE JURY.)

16 THE COURT: We've lost a juror. She got sick. One of
17 the jurors got sick and had to go to the doctor. She's a
18 diabetic, and apparently her blood sugar dropped, and she had
19 broken out in a sweat, was feeling real woozy, and we took her
20 to Doctor's Care. That's where her doctor is, so we will
21 activate the alternate.

22 Are we ready for the jury now?

23 MR. von HERRMANN: Yes sir.

24 MR. LONG: Yes sir.

25 THE COURT: Bring the jury back.

1 actual police chase?

2 A. It was approximately -- probably fifteen miles of
3 chasing, so we were running speeds of seventy-five to ninety,
4 so it didn't take us long.

5 Q. Five or ten minutes?

6 A. Yes.

7 MR. von HERRMANN: I have no further questions. Thank
8 you, Trooper.

9 THE COURT: Mr. Long.

10 MR. LONG: Thank you, sir.

11 CROSS-EXAMINATION BY MR. LONG:

12 Q. Trooper, what was Eric Jenkins wearing when you chased
13 him through the cotton field?

14 A. I don't recall.

15 Q. I'm going to show you -- did you do a report in this
16 case?

17 A. No, I didn't.

18 Q. Did you do a U.C.R.?

19 A. No sir. I wasn't my case. I didn't even write a
20 ticket.

21 Q. Who did the report in this case?

22 A. Florence. They were turning it over to Florence City
23 because of the hit and run that happened in the City of
24 Florence, and they initiated the chase, so I didn't even write
25 a ticket for him failing to stop for a blue light. Florence

Exhibit 347

1 police officer had went around the edge of the field, which i.
2 -- was more firm -- you could run faster in it, because the
3 field was like soup. They ran around the edge, and by the
4 time Eric had turned to run, Glen had the shotgun in his face
5 and he gave up. They put him on the ground and made arrest o.
6 Eric. I had already handcuffed Bobby.

7 Q. So Eric and Bobby were arrested together?

8 A. Yes.

9 Q. At the -- when you searched Bobby -- I'm assuming you
10 searched him, or frisked him at the time of the arrest -- did
11 you find anything on him?

12 A. Yes. Well, I had Bobby on the ground. I went ahead
13 and placed him in handcuffs. I rolled him over on his side.
14 Usually you check pockets first for large items. I rolled him
15 over on his right side. I reached in his right pocket and he
16 had a Glock handgun, 9 millimeter, in his right pocket. I
17 secured it. Rolled him over on his left side and he had a
18 Ruger .22 pistol in his left pocket.

19 Q. Let me show you State's Exhibit Number 15 and 16, and I
20 guess -- well, let me show you 19. That will be the easiest
21 way. Do you recognize those firearms?

22 A. Yes.

23 Q. Are those the firearms that you recovered off Bobby?

24 A. Yes.

25 Q. How long did you pursue this vehicle? How long was the

1 things of that nature. Did y'all pull your service revol --
2 or service weapon?

3 A. Not at that point I didn't. I didn't see any weapons
4 when they jumped out to run, so -- and we were running pretty
5 hard, so I didn't take my weapon out.

6 Q. Did anybody on the scene have their weapon out, from
7 the troopers?

8 A. Glen -- Sergeant Glen Cottingham, when he got out of
9 his car he grabbed his shotgun.

10 Q. Were you able to catch up and arrest one of the two
11 suspects in the vehicle?

12 A. Yes. We run probably two hundred yards across this
13 cotton field, and it was muddy, and I caught Bobby Jenkins,
14 which was the passenger.

15 Q. Okay. Were you hollering? I mean, what type of
16 situation -- kind of tell the jury how it was.

17 A. Eric Jenkins was ahead of Bobby. He was a bit faster,
18 but they were only probably ten yards apart from each other
19 when they were running across the field. They stayed together
20 pretty good. Usually people split. They stayed together. I
21 was able to catch up to Bobby, and I ordered him to stop. He
22 stopped. I put him on the ground, held him on the ground, and
23 I ordered Eric to stop. Eric stopped, and hesitated, but
24 his -- looked at Bobby, looked at me, and turned around to go
25 again, and by that time Sergeant Cottingham and the transport

Exhibit 358

1 whatever, to run with, getting prepared to run, because most
2 of the time they can't out run us in their vehicle, so they
3 will run on foot.

4 As I pursued the vehicle the -- we went into Marion
5 County. There was two troopers waiting in Marion County, and
6 a transport police officer. When we went into Marion County
7 we went approximately -- probably five or six miles into
8 Marion County. We had an open field on both sides of us. The
9 trooper -- two troopers came across in their vehicles, into
10 the oncoming lane, in front of the pick-up truck. He swerved
11 to the right to go around them, and there was traffic on the
12 right lane, so he took the shoulder. When he hit the shoulder
13 it was real wet and muddy from all the rain we've had all that
14 week. He went into a field and grounded out.

15 I stopped on the roadway, slightly on the shoulder,
16 behind the vehicle, and both the passenger and driver jumped
17 out of the truck and started running across the cotton field.

18 Q. How many troopers were on the scene at that particular
19 time?

20 A. There were myself behind him, my corporal, which is
21 David Miller, was behind him -- me, and in front of the
22 vehicle was Sergeant Glen Cottingham, and Jeff Young, so it
23 was quite a bit of us, and then a transport police officer,
24 which works for the State also.

25 Q. You indicated that you were concerned about weapons, or

1 A. There was two people, driver and a passenger.

2 Q. Driver and a passenger. Tell me where your car was
3 located in relation to the truck?

4 A. Directly behind it.

5 Q. Let me show you a picture, so we are all kind of on the
6 same page here. Let me show you State's Exhibit Number 12.
7 Do you recognize that vehicle?

8 A. Yes.

9 Q. And tell the jury what that vehicle is.

10 A. It's a red and white Chevrolet pick-up.

11 Q. Is that the vehicle you were chasing there?

12 A. Yes.

13 Q. Okay. Continue and tell the jury what happened as you
14 were following them?

15 A. I had informed radio that I was in pursuit of this
16 vehicle. My supervisor was less than a half a mile behind me.
17 He caught up to the chase. As we were pursuing down U.S. 76
18 we got past the Francis Marion University traffic. We got
19 toward Dupont plant, and we got through that traffic, and we
20 were in that traffic taking the shoulder. It was a really
21 dangerous situation. As I was pursuing the truck I noticed
22 that I could see the driver and the passenger, and they were
23 moving around a lot in the truck. Any time we see movement in
24 trucks we are alerted that they may be -- having weapons, or
25 they may be exchanging -- giving someone the drugs, or

EXHIBIT 36F

1 Q. Are you familiar with an arrest that took place of Eric
2 and Bobby Jenkins in Florence County?

3 A. Yes.

4 Q. Can you please tell this jury how you became involved
5 in that?

6 A. I was working an accident off of U.S. 76, in Florence
7 County. I had just finished up and I was heading back toward
8 U.S. 76, and through radio communications I was informed that
9 Florence City had just had a hit and run, and were in pursuit
10 of a red and white pick-up truck, and it was heading toward my
11 location. I proceeded up to U.S. 76 to a redlight. I
12 observed the red and white pick-up come through, at a high
13 rate of speed. I looked behind the truck and I didn't see
14 Florence Police Department, so I assumed that they had broke
15 off the chase, because they were outside their jurisdiction.
16 I fell in behind the pick-up truck. I activated blue light,
17 siren. We proceeded at a high rate of speed, eastbound on 76
18 toward Marion County. It was a very -- it was raining
19 outside. It had been raining all week, and the ground was
20 real wet, and the roads were real wet, and the Francis Marion
21 University had just let out. The traffic was heavy. Dupont
22 plant had just let out, so traffic was fairly heavy, and it
23 was a real dangerous situation.

24 Q. Let me stop you right there for one second. Can you
25 tell me how many people were in the vehicle?

Exhibit 36F

DAVID WADE GAINNEY - DIRECT BY von HERRMANN

179

1 Q. ---That the clothing he was wearing the day he was
2 arrested didn't match the clothing that she described on the
3 assailant?

4 A. That's correct.

5 MR. LONG: Thank you.

6 MR. von HERRMANN: No further questions, Your Honor.

7 THE COURT: Thank you. You may step down.

8 MR. von HERRMANN: Your Honor, can we approach for a
9 scheduling matter? Can we approach?

10 THE COURT: You may.

11 (BENCH CONFERENCE TAKES PLACE OFF THE RECORD.)

12 MR. von HERRMANN: Your Honor, the State would call
13 Trooper Wade Gainney to the stand.

14 DAVID WADE GAINNEY, first duly
15 sworn, testified as follows:

16 DIRECT-EXAMINATION BY MR. von HERRMANN:

17 Q. Trooper Gainney, can you please tell the jury where you
18 are employed, and what your job responsibilities were in
19 September of 1997?

20 A. I was assigned to Florence County, with the South
21 Carolina Highway Patrol. I was assigned to work in the east
22 side of Florence County.

23 Q. Can you tell this jury specifically -- and -- are you
24 familiar with this case?

25 A. The case, no, I'm not.

Exhibits 16 through 86

Exhibits 16 through 86
Show that I was appointed
three different attorneys
and all my issues was
not raised that was
amended in my Application
it was neither preserved
on appeal even though
959 E was drawn up nor
was my other Amended
issued raise by my last
Attorney Barbara Pratt

STATE OF SOUTH CAROLINA
COUNTY OF HORRY
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2002-CP-26-3241

State of South Carolina

DEFENDANT(S)

PLAINTIFF(S)

CHECK ONE:

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other _____
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j) SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other _____

IT IS ORDERED AND ADJUDGED: ☐ See attached order; ☐ Statement of Judgment by the Court:

PCR Applicant request for PCR: Applicant states he is dissatisfied with his attorney. Judge Harwell relieved Atty V Lee Moore as counsel and appointed Atty Clay Brittain. Applicant and Atty Moore disagree on strategy.
Dated at Conway, South Carolina, this 28th day of April, 2004.

PO Box 1290
Myrtle Beach, SC 29577

Betha...
PRESIDING JUDGE

The matter has been continued

This judgment was entered on the _____ day of _____, 20____, and a copy mailed first class this 28th day of April, 2004 to attorneys of record or to parties (when appearing pro se) as follows:

Atty V Lee Moore

Atty Adrienne Turner

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Jeanne Roberts
CLERK OF COURT

Exhibit 2G

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS OF THE
15TH JUDICIAL CIRCUIT COURT
FILE NO. 2002-CP-26-3241

BOBBY JENKINS, 271240)
PLAINTIFF (S))

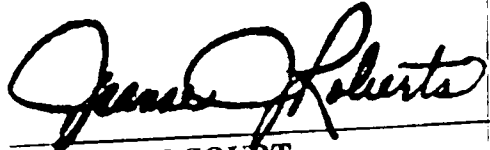
VS)

STATE OF SOUTH CAROLINA)
DEFENDANT (S))

ORDER VACATING APPOINTMENT
OF COUNSEL

FILED
HORRY COUNTY
01 JUN 14 AM 9:38
JEANNE J. ROBERTS
CLERK OF COURT

It appears that the attorney that was previously appointed as counsel in the above matter is no longer necessary due to being relieved per Judge Steven John. Therefore, upon good cause being shown, the Order appointing Clay Brittain as counsel is hereby vacated.


CLERK OF COURT

Dated: June 11, 2004

Conway, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

IN THE CIRCUIT COURT OF THE
15TH JUDICIAL CIRCUIT COURT

STATE OF SOUTH CAROLINA
PLAINTIFF (S)

VS

Bobby Jenkins

DEFENDANT (S)

WARRANT(S) NO(S):

2002-CP-26-3241

ORDER OF APPOINTMENT OF
LEGAL COUNSEL FOR AN
INDIGENT DEFENDANT

FILED
HORRY COUNTY
01, JUN 11 AM 9:38
JEANNE J. ROBERTS
CLERK OF COURT

The defendant named above, contends that he/she is indigent and in need of services of
an attorney as contemplated by law. Therefore,

Barbara Pratt

Attorney-at-Law, is appointed as counsel for the defendant.

This 11th day of June, 2004, at 9:25 (a.m. - p.m.)

Jeanne J. Roberts

Jeanne J. Roberts
Horry County Clerk of Court

Exhibit 5G
MOORE & JOHNSON
Law Firm, P.A.

823-A Surfside Drive
P.O. Box 14737
Surfside Beach, SC 29587-4737
Phone: 843-839-3400
Fax: 843-839-3404

Virginia Lee Moore
Sarah A. Johnson*
*Also member of NC and NY Bar

February 13, 2003

Mr. Bobby Jenkins
McCormick Correctional Institute
Rt. 2, Box 100, F1B, Inmate #271240
McCormick, SC 29835-9697

Re: Jenkins, Bobby (Court Appointment - PCR)
Our File No.: S0255LM

Dear Mr. Jenkins:

Enclosed please find the Discovery Requests and Amended Application which I have filed on your behalf. Please note that I am not required to submit an amended application containing allegations for which I believe there is not basis and to do so would be in violation of Rule 11, SCRPC. I hope that you feel the amended application adequately addresses a majority of the concerns raised in the draft which you previously forwarded to me. Please feel free to forward any questions or concerns that you may have as to either document. With my trial and office schedule, it appears that I will not be able to get to McCormick to meet with you personally before April and once scheduled, I will advise you as to the date.

With kindest personal regards, I remain,

Sincerely,



V. Lee Moore

/vlm
Enclosures as stated.

Exhibit - 5G

Mr. Bobby Jenkins
July 17, 2002
Page -2-

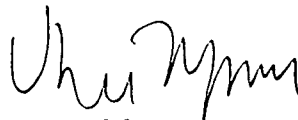
your only argument presented with regard to the indictment is that the original indictment does not bear the clocked stamp of the Clerk of Court. Is that correct or are you claiming that you did not sign the indictment?

4. Ineffective assistance of counsel. I will be able to address this matter in greater detail once I have reviewed the transcript of the guilty plea and the appellate record. I will also attempt to speak with your public defender's to see what their position is.

If there are any additional matters which you feel need to be addressed in a PCR application, please so advise so that I may amend the application accordingly.

With kindest personal regards, I remain,

Sincerely,


V. Lee Moore

/vlm

Also gave copies
of petition for
preliminary Hearing
Bond,
Speedy
trial Dismissal
of charges



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

June 12, 2007

Barbara Wilson Pratt, Esquire
P.O. Box 442
Little River, SC 29566

Re: Jenkins, Bobby v. State, 2002-CP-03241

Dear Counsel:

As you know, this Court, by order dated October 19, 2006, granted the State's petition for a writ of certiorari, vacated the order under appeal and remanded the case to the circuit court for a full hearing on the PCR application. The remittitur was sent on November 7, 2006.

Enclosed is correspondence received from Mr. Jenkins expressing concerns about the fact that no hearing has been held. Since you apparently continue to represent him before the lower court, no action will be taken on this pro se letter. Jones v. State, 348 S.C. 13, 558 S.E.2d 517 (2002); State v. Stuckey, 333 S.C. 56, 508 S.E.2d 564 (1998); Foster v. State, 298 S.C. 306, 379 S.E.2d 907 (1989). Instead, if it is appropriate to seek any relief, that relief will have to be sought by you, most likely in the circuit court where the matter is pending. Rule 229, SCACR.

Very truly yours,

CLERK

Enclosure

cc: Assistant Deputy Attorney General Salley W. Elliott (with enclosure)
Mr. Bobby Jenkins, #271240
Assistant Appellate Defender Robert M. Pachak

Exhibit G

action will be taken on your *pro se* petition.

Very truly yours,

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a horizontal line and a small flourish.

CLERK

Enclosures

cc: Office of the Attorney General
Division of Appellate Defense

Exhibit 76
MOORE & JOHNSON
Law Firm, P.A.

823-A Surfside Drive
P.O. Box 14737
Surfside Beach, SC 29587-4737
Phone: 843-839-3400
Fax: 843-839-3404

Virginia Lee Moore
Sarah A. Johnson*
*Also member of NC and NY Bar

January 14, 2003

Mr. Bobby Jenkins
McCormick Correctional Institute
Rt. 2, Box 100, F1B, Inmate #271240
McCormick, SC 29835-9697

Re: Jenkins, Bobby (Court Appointment - PCR)
Our File No.: S0255LM

Dear Mr. Jenkins:

*These are the
reasons filed*

I spoke with your sister today and advised her that I did not feel you had any viable PCR claims; however, after discussing some of your issues in further detail with some attorneys who practice criminal law on a regular basis, I am revising my opinion but will caution you to limit your PCR claim to those issues with the most valid argument. Otherwise, the attention that is given your claim by the trial judge who ultimately hears this case will be distracted by claims which have little to no basis.

I am in receipt of your proposed amendment to your PCR application. I am going to first address those issues that you have raised both in your initial application as well as your proposed amendment that I do not believe you should pursue.

INDICTMENT

I pulled the courthouse file and the Grand Jury issued a True Bill on April 6, 2000 and although I see no indictment with a clocked stamp, I do not believe you will be granted relief based on this claim because it is apparently routine for the Solicitor to maintain indictments in a movable alphabetical filing cabinet until either a plea is entered or a true bill issued. Furthermore, the Attorney General will argue that jurisdiction vested upon the filing of the True Bill on April 6, 2000 and that there is no prejudice to you by the indictment not having been previously filed. The claim which you raised regarding Lack of Subject Matter Jurisdiction relative to the sufficiency of the indictment will fail because although utilizing the statutory language the indictment for Kidnapping does identify the date, locale and victim and describes the act. Following the statutory language, in and of itself, does not render the indictment deficient.

Exhibit 66

EXCESSIVE SENTENCE

Each crime for which you were indicted has distinct elements not included in the other (CSC: sexual battery; Armed Robbery: robbery armed with a pistol; Kidnapping: abduct, seize or confine a person). None are lesser included offenses of the other. Furthermore, the Judge ran the convictions for CSC and Kidnapping concurrently.

180 DAY RULE

As far as the 180 day rule is concerned, the remedy if the Defendant files a Motion for a Speedy trial is to get a trial. Since the decision to enter a plea was made, there was no reason for Defense Counsel to request a Speedy trial.

INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL

You have made some blanket statements that Trial Counsel failed to make you aware of the potential defenses. Have you been made aware of defenses that your trial counsel failed to explore? The burden is upon you to prove what defense you would have had that trial counsel failed to address. Are you aware of a problem with the Evidence Chain of Custody? Once again the burden is upon you to show what problems exist with the chain of custody. What are your meritorious defenses? What erroneous advice did you receive?

INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL

The scope of review is limited to the record and there is no viable claim which you have to pursue against Appellate Counsel.

GUILTY PLEA

- A. There is no requirement that you be placed under oath for a guilty plea.
- B. According to your sister, the Public defender had indicated that the judge would give you 10-15 years leading you to believe that a deal had been struck; however, the record is clear regarding the questions to you regarding the fact that no promises had, in fact, been made. Trial Counsel will certainly deny that they promised you anything or that they told you the questions were simply routine. Wolfe and Moorehead make it clear that your claim in this regard will fail.
- C. Trial Counsel nor the Judge is under any duty to advise you as to collateral consequences of a guilty plea (i.e. parole eligibility; service of 85% or community service before release). Had either advised you incorrectly as to such consequence and you had entered a plea in reliance, then this could serve as a basis.

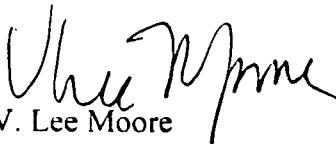
Now after having told you all of the "BAD" news, here is where I think you have a shot. The Judge clearly did not advise you as to the 10 year minimum sentence applicable to armed robbery and the caselaw (Pittman) appears clear as to Trial Judge being required to advise of any mandatory minimum sentence. Not to give you unrealistic hopes, keep in mind that the guilty plea in Pittman was also defective in other ways and it may have been the number of errors which caused the Supreme Court to overturn the plea but I would recommend that you amend your application to raise this issue.

Exhibit 6G

Keep in mind that if your application were to be granted, the only relief that you may receive is a vacation of your plea and a remand for trial. Your sentence will not be vacated with prejudice nor would you simply be entitled to a reduction of sentence. You would be put back into the same position you were before the plea was entered, facing four charges with a potential exposure if the next Judge (after a jury verdict of guilty or a plea of guilty) of 95 years. Be careful in making the assumption that you would be better off. Please review this letter and let me know how you wish for me to proceed as far as your amendment is concerned. I will be making arrangements within the next 30 to 45 days to come see you. In the meantime, please continue to correspond with me as you have in the past.

With kindest personal regards, I remain,

Sincerely,


V. Lee Moore

/vlm
cc: Deloris Dewitt

fired this lawyer

State of South Carolina

County of Horry

Bobby Jenkins, #271240,

Applicant,

vs.

State of South Carolina,

Respondent.

In the Court Of Common Pleas
For the Fifteenth Judicial Circuit
Civil Action No. 02-CP-26-3241

AMENDED APPLICATION FOR
POST CONVICTION RELIEF

COPY
Didn't bring up my issues

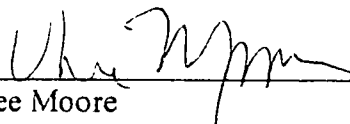
On June 4, 2002, Applicant filed a Post Conviction Relief Application to which no return has been filed.

Bobby Jenkins, by his undersigned counsel, would amend his original Application to include additional grounds for relief as follows:

1. The Circuit Court of Horry County lacked subject matter jurisdiction due to the fact that the indictment was not filed with the Clerk of Court before being presented to the Grand Jury as required by Rule 3(c)(1) of the South Carolina Rules of Criminal Procedure. Failure by trial counsel to raise such issue constitutes ineffective assistance of counsel.
2. The Circuit Court lacked subject matter jurisdiction to accept a plea based on a defective indictment, such defect being that Applicant's indictment simply restated the definition of a kidnapping as stated in S. C. Code Annotated §16-3-910 rather than providing specific facts to reasonably apprise Applicant of the nature of the accusation against him. Failure of trial counsel to raise such issue constitutes ineffective assistance of counsel.

3. Applicant's guilty plea was not voluntary due to the fact that he was not advised by Trial counsel nor the Trial Judge as to the mandatory minimum sentence, and had Applicant been made aware of the fact that there was a ten (10) year mandatory minimum sentence applicable to armed robbery, he would not have plead guilty.
4. Trial counsel failed to adequately investigate the underlying facts and evidence and to advise Applicant of the available defenses.

MOORE & JOHNSON LAW FIRM, P.A.
Attorneys for Applicant

By: 
V. Lee Moore
P. O. Box 14737
Surfside Beach, SC 29587-4737
(843) 839-3400

February 13, 2003

Exhibit 8 G
Barbara Wilson Pratt, Attorney at Law

Post Office Box 442
Little River, South Carolina 29566
USA

Phone (843) 248-7135
Fax (843) 248-0270
e-mail: Bprattatty@aol.com

200 Elm Street
Conway, SC 29526

December 28, 2004

Bobby Jenkins, SCDS# 271240
F4A177
McCormick Correctional Institution
386 Redemption Way
McCormick, SC 29899

RE: Bobby Jenkins Vs. State of South Carolina

Dear Bobby,

Enclosed please find a copy of the Final Order in the above-referenced matter. The Order has been signed by Judge Harwell and filed with the office of the Clerk of Court for Horry County.

The State has filed an appeal on this matter and we have forwarded the case to the appellate defense.

Due to the Judge granting the Post Conviction Relief, your file with my office is now closed. I wish you well in this matter.

Sincerely,

Barbara Pratt

Barbara Wilson Pratt

BWP/pgl
Enclosure

Exhibits 1H through 14H

Exhibits 1H through 14H
Shows my codefendant
got 10 years in 2009 and
I got 50 years. It shows
Prejudice and miscarriage
of Justice because
it can be proven that
I was neither suspect
Number 1 or 2 according
to Evidence.

Exhibit 1H

General Sessions

CASE HISTORY FOR CASE F387549

FILED DATE: 5/24/2000

The State of South Carolina VS Eric Marice Jenkins

CASE TYPE: GS

JUDGE: Clerk Of Court C P, G S, And Family Court

STATUS: Disposed

CASE PARTIES:

Defendant Jenkins, Eric Marice

UKN, UKN, SC 999999999

Bond Entity Ruby Lee Jenkins

GUM STREET, AYNOR SC, , 29511

CASE HISTORY FOR CASE F387549

Jenkins, Eric Marice

UKN

Age: 35

DL#: 999999999

DOB:

SSN:

UKN, SC 999999999

CHARGE

CHARGE	VIOL. DATE	DISPOSITION	DISP. DATE
0095 KIDNAPPING	5/22/2000	Nolle Prosequi Indicted	10/2/2009

COST

	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
Charge: KIDNAPPING				
Fine to State 44%	\$0.00	\$0.00	\$0.00	999
Fine to General Fund	0.00	0.00	0.00	999
Victim Services Asm 38.0013% / 5.783	0.00	0.00	0.00	999
Victim Conviction Surcharge \$100 / \$2	0.00	0.00	0.00	999
Law Enforcement Funding Surcharge \$	0.00	0.00	0.00	999
SC Criminal Justice Academy Training	0.00	0.00	0.00	999
State Assessment	0.00	0.00	0.00	999
Total:	\$0.00	\$0.00	\$0.00	

DATE	TIME	EVENT DESCRIPTION
0/29/2004	3:07 pm	CONVERSION recorded the following Case Note: 10/29/04 MOTION AND DEMAND FOR SPEEDY TRIAL. DL
1/12/2004	3:07 pm	CONVERSION recorded the following Case Note: 11/12/04 SENT DEF REQ FOR INDICT INFO. PW.
3-28/2006	3:07 pm	CONVERSION recorded the following Case Note: 3-28/06 LETTER FROM INMATE - FORWARDED TO SOL OFFICE MC
4/04/2006	3:07 pm	CONVERSION recorded the following Case Note: 4/4/06 MOTON FOR BOND REDUCTION HEARING LJ

Int Date: 07/12/2012

Int Time: 10:52:24AM

Requested By:

CaseHistory rpt

112-38962 Page 1 of 2

General Sessions
CASE HISTORY FOR CASE F387563

The State of South Carolina VS Eric Marice Jenkins

FILED DATE: 5/24/2000

CASE TYPE: GS

STATUS: Pled Guilty

Exhibit 2H
 JUDGE:

CASE PARTIES:

Defendant Jenkins, Eric Marice

1163 Nutmeg Road, Galivants Ferry, SC 29544

Bond Entity Ruby Lee Jenkins

1427 GUM STREET, AYNOR SC, , 29511

Court Reporter Babb, Brenda R.

Post Office Box 4800, Calabash, NC 28467

Solicitor Livesay, Nancy R

Horry County Solicitors Office, Po Box 1275, Conway, SC 29526

Defendant Attorney Taylor, Robert Paul

900 4Th Avenue, Conway, SC 29526

CASE HISTORY FOR CASE F387563

Jenkins, Eric Marice

1163 Nutmeg Road

Galivants Ferry, SC 29544

Age: 35

DL#: 999999999

DOB: 10/27/1976

SSN:

CHARGE

CHARGE	VIOL. DATE	DISPOSITION	DISP. DATE
0160 CRIMINAL SEXUAL CONDUCT - FIRST DEGREE	5/22/2000	Pled.Guilty	9/17/2009

SENTENCING

Sentenced - NC vs ALFORD. 10 years suspended to time served. CTS. Defendant to be given credit for all time served since initial arrest for this offense. Must pay court costs.

COST

ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY

Charge: CRIMINAL SEXUAL CONDUCT - FIRST DEGREE

Fine to State 44%	\$0.00	\$0.00	\$0.00	999
Fine to General Fund	0.00	0.00	0.00	999
Victim Services Asm 38.0013% / 5.783	0.00	0.00	0.00	999
Victim Conviction Surcharge \$100 / \$2	100.00	100.00	0.00	999
Law Enforcement Funding Surcharge \$	25.00	25.00	0.00	999
SC Criminal Justice Academy Training	5.00	5.00	0.00	999
State Assessment	0.00	0.00	0.00	999
Collection Fee 3%	3.90	3.90	0.00	3
Total:	\$133.90	\$133.90	\$0.00	

Print Date: 06/14/2012

Print Time: 2:08:28PM

Requested By

CaseHistory rpt

Page 1 of 2

02-3896

Exhibit 34

General Sessions

CASE HISTORY FOR CASE F387566

FILED DATE: 5/24/2000

The State of South Carolina VS Eric Marice Jenkins

CASE TYPE: GS

JUDGE: Clerk Of Court C P, G S, And Family Court

STATUS: Dispose

CASE PARTIES:

Defendant Jenkins, Eric Marice

UNK, UNK, SC 999999999

Bond Entity Ruby Lee Jenkins

1427 GUM STREET, AYNOR SC, , 29511

CASE HISTORY FOR CASE F387566

Jenkins, Eric Marice

UNK

Age: 35

DL#: 999999999

DOB: 10/27/1976

SSN:

UNK, SC 999999999

CHARGE

CHARGE	VIOL. DATE	DISPOSITION	DISP. DATE
0549 POSS. WEAPON DURING VIOL. CRIME, IF NOT	5/22/2000	Nolle Prosequi Indicted	10/2/2009

COST

	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
Charge: POSS. WEAPON DURING VIOL. CRIME, IF NOT				
Fine to State 44%	\$0.00	\$0.00	\$0.00	999
Fine to General Fund	0.00	0.00	0.00	999
Victim Services Asm 38.0013% / 5.783	0.00	0.00	0.00	999
Victim Conviction Surcharge \$100 / \$2	0.00	0.00	0.00	999
Law Enforcement Funding Surcharge \$	0.00	0.00	0.00	999
SC Criminal Justice Academy Training	0.00	0.00	0.00	999
State Assessment	0.00	0.00	0.00	999
Total:	\$0.00	\$0.00	\$0.00	

DATE	TIME	EVENT DESCRIPTION
6/07/2000	3:07 pm	CONVERSION recorded the following Case Note: 6-7-00 ORDER APPOINTING CONFLICT ATTORNEY
6/07/2000	3:07 pm	CONVERSION recorded the following Case Note: 6-7-00 CERT OF REP AND APPOINTMENT - RUSSELL LONG
6/07/2000	3:07 pm	CONVERSION recorded the following Case Note: 6-7-00 NOT AND MOT FOR PRODUCTION OF SPECIFIC EVID AND DISC OF WITNESSES
6/29/2004	3:07 pm	CONVERSION recorded the following Case Note: 10/29/04 MOTION AND DEMAND FOR SPEEDY TRIAL, DL

Print Date: 07/12/2012

Print Time: 10:58:12AM

Requested By:

CaseHistory rpt

Page 1 of 2

Exhibit 418

General Sessions

CASE HISTORY FOR CASE F387564

FILED DATE: 5/24/2000

The State of South Carolina VS Eric Marice Jenkins

CASE TYPE: GS

JUDGE: Clerk Of Court C P, G S, And Family Court

STATUS: Dispose

CASE PARTIES:

Defendant Jenkins, Eric Marice

UNK, UNK, SC 999999999

Bond Entity Ruby Lee Jenkins

1427 GUM STREET, AYNOR SC, , 29511

CASE HISTORY FOR CASE F387564

Jenkins, Eric Marice

UNK

Age: 35

DL#: 999999999

DOB: 10/27/1976

SSN:

UNK, SC 999999999

CHARGE

		VIOL. DATE	DISPOSITION	DISP. DATE
0139	ARMED ROBBERY, ROBBERY WHILE ARMED WITH	5/22/2000	Nolle Prosequi Indicted	10/2/2009

COST

	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
Charge: ARMED ROBBERY, ROBBERY WHILE ARMED WITH				
Fine to State 44%	\$0.00	\$0.00	\$0.00	999
Fine to General Fund	0.00	0.00	0.00	999
Victim Services Asm 38.0013% / 5.783	0.00	0.00	0.00	999
Victim Conviction Surcharge \$100 / \$2	0.00	0.00	0.00	999
Law Enforcement Funding Surcharge \$	0.00	0.00	0.00	999
SC Criminal Justice Academy Training	0.00	0.00	0.00	999
State Assessment	0.00	0.00	0.00	999
Total:	\$0.00	\$0.00	\$0.00	

DATE	TIME	EVENT DESCRIPTION
5/22/2000	8:07 pm	CONVERSION recorded the following Case Note: 5-22-00 APP FOR PD
6/06/2000	8:07 pm	CONVERSION recorded the following Case Note: 6/6/00 PUBLIC DEFENDER APPLICATION
6/07/2000	8:07 pm	CONVERSION recorded the following Case Note: 6-7-00 ORDER APPOINTING CONFLICT ATTORNEY
6/07/2000	8:07 pm	CONVERSION recorded the following Case Note: 6-7-00 CERT OF REP AND APPOINTMENT - RUSSELL LONG

Print Date: 07/12/2012

Print Time: 10:57:32AM

Requested By:

CaseHistory rpt

Page 1 of 2

General Sessions
CASE HISTORY FOR CASE F387563

The State of South Carolina VS Eric Marice Jenkins

FILED DATE: 5/24/2000

Exhibit 5A CASE TYPE: GS
 JUDGE:

STATUS: Pled Guilty

CASE PARTIES:

Defendant Jenkins, Eric Marice

1163 Nutmeg Road, Galivants Ferry, SC 29544

Bond Entity Ruby Lee Jenkins

1427 GUM STREET, AYNOR SC, , 29511

Court Reporter Babb, Brenda R.

Post Office Box 4800, Calabash, NC 28467

Solicitor Livesay, Nancy R

Horry County Solicitors Office, Po Box 1275, Conway, SC 29526

Defendant Attorney Taylor, Robert Paul

900 4Th Avenue, Conway, SC 29526

CASE HISTORY FOR CASE F387563

Jenkins, Eric Marice

1163 Nutmeg Road

Galivants Ferry, SC 29544

Age: 35

DL#: 999999999

DOB: 10/27/1976

SSN:

CHARGE

	VIOL. DATE	DISPOSITION	DISP. DATE
0160 CRIMINAL SEXUAL CONDUCT - FIRST DEGREE	5/22/2000	Pled Guilty	9/17/2009

SENTENCING:

Sentenced - NC vs ALFORD. 10 years suspended to time served. CTS. Defendant to be given credit for all time served since initial arrest for this offense. Must pay court costs.

COST

Charge: CRIMINAL SEXUAL CONDUCT - FIRST DEGREE

	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
Fine to State 44%	50.00	50.00	50.00	999
Fine to General Fund	0.00	0.00	0.00	999
Victim Services Asm 38.0013% / 5.783	0.00	0.00	0.00	999
Victim Conviction Surcharge \$100 / 32	100.00	100.00	0.00	999
Law Enforcement Funding Surcharge 3	25.00	25.00	0.00	999
SC Criminal Justice Academy Training	5.00	5.00	0.00	999
State Assessment	0.00	0.00	0.00	999
Collection Fee 3%	1.90	1.90	0.00	999
Total:	3133.90	3133.90	50.00	

Print Date: 06/14/2012

Print Time: 2:08 23PM

Printed By:

CaseHistory.rpt

Page 1 of 2

2-3896

Exhibit 642 General Sessions

CASE HISTORY FOR CASE F387549

FILED DATE: 5/24/2000

The State of South Carolina VS Eric Marice Jenkins

CASE TYPE: GS

JUDGE: Clerk Of Court C P, G S, And Family Court

STATUS: Dispo

CASE PARTIES:

Defendant Jenkins, Eric Marice

UKN, UKN, SC 999999999

Bond Entity Ruby Lee Jenkins

1427 GUM STREET, AYNOR SC, . 29511

CASE HISTORY FOR CASE F387549

Jenkins, Eric Marice
UKN

Age: 35

DOB: 10/27/1976

DL#: 999999999

SSN:

UKN, SC 999999999

CHARGE

CHARGE	VIOL. DATE	DISPOSITION	DISP. DATE
0095 KIDNAPPING	5/22/2000	Nolle Prosequi Indicted	10/2/2009

COST

Charge: KIDNAPPING
Fine to State 44%

Fine to General Fund

Victim Services Asm 38.0013% / 5.783

Victim Conviction Surcharge \$100 / \$2

Law Enforcement Funding Surcharge \$

SC Criminal Justice Academy Training

State Assessment

Total:

ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
\$0.00	\$0.00	\$0.00	999
0.00	0.00	0.00	999
0.00	0.00	0.00	999
0.00	0.00	0.00	999
0.00	0.00	0.00	999
0.00	0.00	0.00	999
0.00	0.00	0.00	999
\$0.00	\$0.00	\$0.00	999

DATE	TIME	EVENT DESCRIPTION
10/29/2004	3:07 pm	CONVERSION recorded the following Case Note: 10-29-04 MOTION AND DEMAND FOR SPEEDY TRIAL, DL
11/12/2004	3:07 pm	CONVERSION recorded the following Case Note: 11-12-04 SENT DEF REQ FOR INDICT INFO, PW.
3/23/2006	3:07 pm	CONVERSION recorded the following Case Note: 3-23-06 LETTER FROM INMATE - FORWARDED TO SOL OFFICE MC
4/4/2006	3:07 pm	CONVERSION recorded the following Case Note: 4-4-06 MOTION FOR BOND REDUCTION HEARING LJ

Date: 07/12/2012

Time: 10:52:24AM

Tested By:

CaseHistory.rpt

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Exhibit 7

General Sessions

CASE HISTORY FOR CASE F387566

The State of South Carolina VS Eric Marice Jenkins

FILED DATE: 5/24/2000

CASE TYPE: GS

JUDGE: Clerk Of Court C P, G S, And Family Court

STATUS: Dispos

CASE PARTIES:

Defendant Jenkins, Eric Marice

UNK, UNK, SC 999999999

Bond Entity Ruby Lee Jenkins

1427 GUM STREET, AYNOR SC, . 29511

CASE HISTORY FOR CASE F387566

Jenkins, Eric Marice
UNK

Age: 35

DOB: 10/27/1976

DL#: 999999999

SSN:

UNK, SC 999999999

CHARGE

CHARGE	VIOL. DATE	DISPOSITION	DISP. DATE
0549 POSS. WEAPON DURING VIOL. CRIME, IF NOT	5/22/2000	Nolle Prosequi Indicted	10/2/2009

COST

Charge: POSS. WEAPON DURING VIOL. CRIME, IF NOT

ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY

Fine to State 44%	\$0.00	\$0.00	\$0.00	999
Fine to General Fund	0.00	0.00	0.00	999
Victim Services Asm 38.0013% / 5.783	0.00	0.00	0.00	999
Victim Conviction Surcharge \$100 / \$2	0.00	0.00	0.00	999
Law Enforcement Funding Surcharge \$	0.00	0.00	0.00	999
SC Criminal Justice Academy Training	0.00	0.00	0.00	999
State Assessment	0.00	0.00	0.00	999
Total:	\$0.00	\$0.00	\$0.00	

DATE	TIME	EVENT DESCRIPTION
5/07/2000	3:07 pm	CONVERSION recorded the following Case Note: 6-7-00 ORDER APPOINTING CONFLICT ATTORNEY
5/07/2000	3:07 pm	CONVERSION recorded the following Case Note: 6-7-00 CERT OF REP AND APPOINTMENT - RUSSELL LONG
5/07/2000	3:07 pm	CONVERSION recorded the following Case Note: 6-7-00 NOT AND MOT FOR PRODUCTION OF SPECIFIC EVID AND DISC OF WITNESSES
10/29/2004	3:07 pm	CONVERSION recorded the following Case Note: 10/29/04 MOTION AND DEMAND FOR SPEEDY TRIAL, DL

Print Date: 07/12/2012

Print Time: 10:58:12AM

Printed By:

CaseHistory.rpt

Exhibits

General Sessions

CASE HISTORY FOR CASE F387564

The State of South Carolina VS Eric Marice Jenkins

FILED DATE: 5/24/2000

CASE TYPE: GS

STATUS: Disposed

JUDGE: Clerk Of Court C P, G S, And Family Court

CASE PARTIES:

Defendant Jenkins, Eric Marice

UNK, UNK, SC 999999999

Bond Entity Ruby Lee Jenkins

1427 GUM STREET, AYNOR SC, 29511

CASE HISTORY FOR CASE F387564

Jenkins, Eric Marice

UNK

Age: 35

DL#: 999999999

DOB: 10/27/1976

SSN:

UNK, SC 999999999

CHARGE

VIOL. DATE

DISPOSITION

DISP. DATE

0139	ARMED ROBBERY, ROBBERY WHILE ARMED WITH	5/22/2000	Nolle Prosequi Indicted	10/27/2009

COST

ORIGINAL

BALANCE DUE

DISBURSED

PAY PRIORITY

Charge: ARMED ROBBERY, ROBBERY WHILE ARMED WITH

Fine to State 44%	\$0.00	\$0.00	\$0.00	999
Fine to General Fund	0.00	0.00	0.00	999
Victim Services Asm 38.0013% / 5.783	0.00	0.00	0.00	999
Victim Conviction Surcharge \$100 / \$2	0.00	0.00	0.00	999
Law Enforcement Funding Surcharge \$	0.00	0.00	0.00	999
SC Criminal Justice Academy Training	0.00	0.00	0.00	999
State Assessment	0.00	0.00	0.00	999
Total:	\$0.00	\$0.00	\$0.00	

DATE

TIME

EVENT DESCRIPTION

5/22/2000	8:07 pm	CONVERSION recorded the following Case Note: 5-22-00 APP FOR PD
6/06/2000	8:07 pm	CONVERSION recorded the following Case Note: 6-6-00 PUBLIC DEFENDER APPLICATION
6/07/2000	8:07 pm	CONVERSION recorded the following Case Note: 6-7-00 ORDER APPOINTING CONFLICT ATTORNEY
6/07/2000	8:07 pm	CONVERSION recorded the following Case Note: 6-7-00 CERT OF REP AND APPOINTMENT - RUSSELL LONG

Print Date: 07/12/2012

Print Time: 10:57:32AM

Requested By:

CaseHistory rot

Page 1 of 2

Exhibit
9th thru 15

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

State of South Carolina,

Plaintiff,

vs.

Eric Jenkins

Defendant.

IN THE GENERAL SESSIONS COURT
2002-GS-26-03896

TRANSCRIPT OF RECORD

September 17, 2009
CONWAY, SOUTH CAROLINA

BEFORE:

The Honorable, Larry B. Hyman

APPEARANCES:

BY: Nancy R. Livesay, Esq.
Attorney for State of South Carolina

BY: R. Paul Taylor, Esq.
Attorney for Eric Jenkins

BRENDA R. BABB
Circuit Court Reporter

Exhibit 2 H

INDEX

Call of Case	2
Acceptance of Plea by Court	3
Sentence	11
Certificate of Reporter	14
	15

Exhibit 3H

Guilty Plea - September 17, 2009

3

1 The Court: Ms. Livesay?

2 Ms. Livesay: Thank you, Your Honor. Standing
3 before is Eric Jenkins with his attorney, Paul Taylor under
4 indictment 2002-GS-26-3896, Your Honor, that's for criminal
5 sexual conduct of a first degree. It has been true billed.
6 He is here to plead guilty to that charge. The
7 recommendation by the State is ten years.

8 The Court: Criminal sexual conduct first
9 degree?

10 Ms. Livesay: Yes, sir.

11 The Court: Okay, very well. All right, Mr.
12 Taylor, I understand that your client is pleading under
13 North Carolina v. Alford?

14 Mr. Taylor: Yes, sir, Your Honor.

15 The Court: Is that correct?

16 Mr. Paul: Yes, sir.

17 The Court: Have you explained to him the
18 nature of a North Carolina v. Alford plea?

19 Mr. Taylor: Yes, sir, Your Honor.

20 The Court: All right, does he understand
21 that?

22 Mr. Taylor: Yes, sir.

23 The Court: Does he understand that I will
24 treat it just like any other plea?

25 Mr. Taylor: Yes, sir.

Exhibit 4H

Guilty Plea - September 17, 2009

1 The Court: Just as if he had pled guilty as
2 far as sentencing is concerned?

3 Mr. Taylor: I told him it would still show up
4 on his record as though he had pled under a regular plea.

5 The Court: All right. And have you explained
6 to him the nature of this offense and the possible
7 penalties he's looking at?

8 Mr. Taylor: Yes, sir.

9 The Court: Have you explained to him his
10 constitutional rights he's giving up?

11 Mr. Taylor: Yes, sir.

12 The Court: And did he understand these
13 conversations?

14 Mr. Taylor: He did, Your honor.

15 The Court: And you had an opportunity to
16 review the discovery materials in this case?

17 Mr. Taylor: Yes, sir.

18 The Court: All right, do you feel that the
19 State does have sufficient evidence to convince a jury of
20 his guilt beyond a reasonable doubt?

21 Mr. Taylor: Yes, sir. And I'm sure the
22 Court's aware this case has been to trial twice. It's been
23 a hung jury both times, a mistrial both times as a result
24 and I've explained to my client that half of that jury, or
25 a portion of that jury, wanted to convict him. I

Exhibit 5H

Guilty Plea - September 17, 2009

5

1 explained to him that the State could call it again and try
2 it and maybe all convict him so he's well aware of that.

3 The Court: All right. And, Mr. Taylor, do
4 you concur with your client's decision to enter this plea?

5 Mr. Taylor: Yes, sir, I do, Your Honor.

6 The Court: Now, Mr. Jenkins, I see here
7 you're thirty-two years of age; is that correct?

8 Mr. Taylor: He's actually thirty-three, Your
9 Honor, he's had a birthday.

10 The Court: Okay. He's thirty-three, is that
11 right?

12 Mr. Taylor: Court's indulgence, Your Honor.

13 (Whereupon, Mr. Taylor confers with his client.)

14 Mr. Taylor: I'm sorry, Your Honor, he's
15 thirty-two.

16 The Court: Thirty-two? All right, Mr.
17 Jenkins, how far did you go in school?

18 Mr. Jenkins: Eleventh.

19 The Court: And what kind of work did you do
20 before your incarceration?

21 Mr. Jenkins: Menial work?

22 The Court: Okay. Are you married?

23 Mr. Jenkins: No, sir.

24 The Court: Do you have any children?

25 Mr. Jenkins: No, sir.

Exhibit 64

Guilty Plea - September 17, 2009

6

1 The Court: Have you ever been treated for
2 addictions or any mental health issues?

3 Mr. Jenkins: No, sir.

4 The Court: Okay. Has your client ever been
5 evaluated, Mr. Taylor?

6 Mr. Taylor: Not that I'm aware of, Your Honor,
7 but I do not see any need to.

8 The Court: All right. You have no doubts as
9 to his competency?

10 Mr. Taylor: No doubt whatsoever.

11 The Court: Mr. Jenkins, can you think of any
12 reason whatsoever why you would not understand what we're
13 doing here today?

14 Mr. Jenkins: No, sir.

15 The Court: Okay. Do you understand why we're
16 here today?

17 Mr. Jenkins: Yes, sir.

18 The Court: Mr. Jenkins, I have before me a,
19 an indictment that alleges several counts but the one that
20 is before the Court, I understand, is criminal sexual
21 conduct in the first degree. It alleges that on September
22 24th, 1997, that you did engage in sexual battery with one
23 Sondra Weaver and that it was accomplished by aggravated
24 force, or with threat of aggravated force, and actually
25 involved a hand gun. Now, I know you're not pleading

Exhibit 7H

Guilty Plea - September 17, 2009

1 straight up but you are pleading under North Carolina
2 versus Alford. What I want to know is do you understand
3 the charge? Do you understand what you're charged with?

4 Mr. Jenkins: Yes, sir.

5 The Court: Okay. All right, if you would,
6 Ms. Livesay, give me the facts.

7 Ms. Livesay: Your Honor, just briefly. What
8 happened is, in Myrtle Beach, on or around 1997, September,
9 the victim was riding her bike to work. A truck started
10 circling around the block. The victim noticed the truck.
11 A couple of people in the truck made a comment to her. The
12 truck then did not circle back around. She was on her
13 bike. Two or three gentlemen approached the victim at that
14 time. She tried to run over them with her bike in order to
15 get away. At that time they take her into control. Two
16 gentlemen drag her into the woods where she, with two hand
17 guns. Both victims, I mean, both subjects at that time
18 then, while one held the victim down the other one
19 penetrated her and then the subject two, which is Mr.
20 Jenkins, then held the victim down while the other
21 defendant, Bobby Jenkins, who's already pled guilty,
22 penetrated the victim vaginally. They did wait until the
23 truck circled back around. At that time they left the
24 victim, got back on the truck and then left the scene.

25 The Court: All right, Mr. Jenkins, you heard

Exhibit 8 H

Guilty Plea - September 17, 2009

8

1 the facts that have been stated to me by the Solicitor.

2 Mr. Jenkins: Yes, sir.

3 The Court: Now as I understand a North
4 Carolina v. Alford plea you are neither admitting it nor
5 denying it, you're just admitting that the State does have
6 sufficient evidence by which it could possibly convict you
7 if you went to trial again on this thing; do you understand
8 that?

9 Mr. Jenkins: Yes, sir.

10 The Court: Is that why you're pleading under
11 North Carolina v. Alford?

12 Mr. Jenkins: Yes, sir.

13 The Court: All right. Do you understand that
14 you have a right to a jury trial? It's my understanding
15 that you've already been tried twice with hung juries but
16 you still have the right again to a jury trial; do you
17 understand that? You don't have to enter any kind of plea;
18 do you understand that?

19 Mr. Jenkins: Yes.

20 The Court: You need to speak up, Mr. Jenkins,
21 because this lady over her has to record what you're
22 saying, okay? Do you understand that?

23 Mr. Jenkins: Yes, sir.

24 The Court: All right. Now, Mr. Jenkins, do
25 you understand that I could give you up to thirty years for

Exhibit 9H

Guilty Plea - September 17, 2009

9

1 this offense and that it is a violent most serious offense
2 and that any sentence that you will receive be a no parole
3 offense; so you understand that?

4 Mr. Jenkins: Yes, sir.

5 The Court: That I could do that?

6 Mr. Jenkins: Yes, sir.

7 The Court: All right, do you also understand,
8 sir, that this offense would require registry as a sexual
9 offender; do you understand that?

10 Mr. Jenkins: Yes, sir.

11 The Court: The significant think about this
12 being a violent most serious no parole offense, is that if
13 you were to have another offense like this in your
14 lifetime, that you would be looking at life without parole;
15 do you understand that? If you had another violent most
16 serious offense; do you understand that?

17 Mr. Jenkins: Yes.

18 The Court: Mr. Jenkins, you've just got to
19 speak up. I can't hear you and I know that the court
20 reporter cannot. We have to have your answers, okay?

21 Now, Mr. Jenkins, tell me about Mr. Taylor. Are
22 you satisfied with his representation?

23 Mr. Jenkins: (No response)

24 The Court: Are you satisfied with his
25 representation?

Exhibit 10H

Guilty Plea - September 17, 2009

10

1 Mr. Jenkins: Yes, sir.

2 The Court: Okay. Do you need any more time
3 with him or do you need to discuss this matter with him any
4 further?

5 Mr. Jenkins: No, sir.

6 The Court: All right. Has anyone promised
7 you anything to get you to plead guilty?

8 Mr. Jenkins: I was promised time served.

9 The Court: All right, well let me explain
10 this to you. I don't have to give you time served. I
11 could give you thirty years; you understand that?

12 Mr. Jenkins: Yes, sir.

13 The Court: Now the Solicitor is recommending
14 a ten-year sentence; you understand that? But that's just
15 a recommendation. I could give you the whole thirty; you
16 understand that?

17 Mr. Jenkins: Yes, sir.

18 The Court: All right. Has anything else been
19 promised to you?

20 Mr. Jenkins: No.

21 The Court: All right. Now, has anyone
22 threatened or intimidated you or tried to force or coerce
23 you into pleading guilty?

24 Mr. Jenkins: No they didn't.

25 The Court: All right. Are you pleading, and

Exhibit 10H

Guilty Plea - September 17, 2009

11

1 I said guilty and I didn't mean to do that, are you
2 pleading under North Carolina v. Alford freely and
3 voluntarily?

4 Mr. Jenkins: Yes, sir.

5 The Court: Is this what you want to do?

6 Mr. Jenkins: Yes, sir.

7 The Court: You want me to accept your plea?

8 Mr. Jenkins: Yes, sir.

9 The Court: Do you understand that you could
10 appeal anything that I've done here today if you do so
11 within the next ten days? The way you do that is you file
12 a Notice of Intent to Appeal. You don't have to know how
13 to do that, Mr. Taylor will do it for you. Right, Mr.
14 Taylor?

15 Mr. Taylor: Yes, sir, Your Honor.

16 The Court: But you have got to tell him that
17 you want to do it in time for him to do it within ten days.
18 Ten days is the key you have to remember; do you understand
19 that?

20 Mr. Jenkins: Yes, sir.

21 The Court: All right. I find that there's a
22 substantial basis for the plea. I find that it's made
23 freely, voluntarily, knowingly, intelligently after the
24 advice of a very competent attorney with whom the defendant
25 says that he is satisfied. I will accept his plea. All

Exhibit H

Guilty Plea - September 17, 2009

12

1 right, Mr. Taylor, I'll hear from you in mitigation.

2 Mr. Taylor: Thank you, Your Honor. If it
3 please the Court -

4 The Court: Let me do this first. Is the
5 victim going to speak?

6 Ms. Livesay: Yes, Your Honor, just briefly.
7 Can I give you his prior record?

8 The Court: Yes.

9 Ms. Livesay: 1994 he has a possession of a
10 illegal weapon; 1996, common law robbery; 1997, failure to
11 stop for a blue light, possession of a stolen vehicle and
12 hit and run; then the charge he's pleading to now, Your
13 Honor; and of course, the State is dismissing the other
14 charges that are pending against Mr. Jenkins involving this
15 incident.

16 The Court: All right. I'll hear from the
17 victim.

18 Ms. Livesay: Thank you.

19 The Court: Yes, ma'am.

20 Ms. Weaver: It's really hard for me to speak.
21 I just want to say if he is let out in society I just hope
22 and pray he doesn't do this to someone else. That's all I
23 want to say. I just, I worry about someone else being
24 harmed, so please take that into consideration.

25 The Court: Thank you, ma'am. All right, Mr.

Exhibit 12H

Guilty Plea - September 17, 2009

13

1 Taylor.

2 Mr. Taylor: Thank you, Your Honor, if it
3 please the Court. Your Honor, as my client stated he's
4 thirty-two years old. He was born and raised in Aynor,
5 South Carolina. He has an eleventh education and he's been
6 locked up since he was twenty-one years old. He is, as
7 stated before, he's been to trial twice, both with hung
8 juries. He got out for a six-month period of time and then
9 went back in. Other than that he has been incarcerated
10 since around the time he was twenty-one, originally back
11 during the time that this originally came down as far as
12 the charge back in September, 1997. The Solicitor offered
13 ten years but it's right at twelve that's he's been
14 incarcerated. It's my understanding that he's the longest
15 inmate that they've ever had at J. Reuben Long Detention
16 Center. Based on, I understand the victim's standpoint.
17 Based on the length of time he's been in jail we believe
18 that he's certainly not going to put, commit any action
19 that's going to place him back here since he has spent the
20 better part of his life in jail.

21 The Court: All right.

22 Mr. Jenkins: I ask that the Court give him
23 time served for the amount of time that he's been in since
24 it's right at twelve years towards the ten-year sentence.

25 The Court: All right. Does Mr. Jenkins want

Exhibit 13H

Guilty Plea - September 17, 2009

14

1 to address the court?

2 Mr. Jenkins: No, sir.

3 Mr. Taylor: No, sir, Your Honor.

4 The Court: Okay. All right, the sentence of
5 the Court that he be confined to the State Department of
6 Corrections for a period of ten years. I am following the
7 recommendation of the State and I will, of course, give him
8 credit for the time that he's served. Thank you.

9 Mr. Taylor: Thank you, Your Honor.

10 Ms. Livesay: Thank you, Your Honor.

11 End of requested transcript - - - -

12

13

14

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25

Exhibit 14H

Guilty Plea - September 17, 2009

15

CERTIFICATE OF REPORTER

I, the undersigned Brenda R. Babb, official court reporter the South Carolina Court Administration, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in the Court of General Sessions for Horry County, South Carolina.

I do further certify that I am neither kin, counsel nor interest to any party hereto.

January 7, 2015

Brenda R. Babb

Brenda R. Babb, CVR-Master
OFFICIAL REPORTER

Exhibits I through 4I

Exhibits I through 4I
It show no court of General
Session was in April 6, 2000
When the Solicitor said
Defendant was indicted
The clerk wrote me back
the first when I was request-
ing this info. The other
states in her letter there
was no General session
held April 6, 2000 and
General session was in April 10th
and April 17th, 2000
There is no impaneling Judge
order.

Exhibit II

APRIL 3	NO COURT	
APRIL 10 ✓	~~HORRY GS-COURTROOM #1~~ ~~HORRY GS-COURTROOM #2~~	HOWARD P. KING MARC H. WESTBROOK
APRIL 17 ✓	~~HORRY GS-COURTROOM #1~~ HORRY CP-COURTROOM #2 HORRY CPNJ-COURTROOM #3	Dean Hall - MARC H. WESTBROOK DANIEL E. PEEPER HOWARD P. KING
APRIL 24	HORRY CP-COURTROOM #1	HOWARD P. KING
MAY 1 ✓	HORRY CP-COURTROOM #1 HORRY CPNJ/PCR-COURTROOM #2 HORRY CPNJ-COURTROOM #3	SIDNEY T. FLOYD HOWARD P. KING B. HICKS HARWELL, JR.
MAY 8	NO COURT	
MAY 15 ✓	HORRY GS-COURTROOM #1 HORRY GS-COURTROOM #2 HORRY CPNJ-COURTROOM #3	SIDNEY T. FLOYD HOWARD P. KING RODNEY A. PEEPLES
MAY 22 ✓	HORRY GS-COURTROOM #1 HORRY GS-COURTROOM #2 HORRY CP-COURTROOM #3	HOWARD P. KING RODNEY A. PEEPLES SIDNEY T. FLOYD
MAY 29 ✓	HORRY CP-COURTROOM #1 HORRY CP-COURTROOM #2 HORRY CPNJ-COURTROOM #3	SIDNEY T. FLOYD RODNEY A. PEEPLES B. HICKS HARWELL, JR.
JUNE 5 ✓	HORRY GS-COURTROOM #1 HORRY GS-COURTROOM #2 HORRY CPNJ-COURTROOM #3	HOWARD P. KING RODNEY A. PEEPLES SIDNEY T. FLOYD
JUNE 12 ✓	HORRY GS-COURTROOM #1 HORRY GS-COURTROOM #2	HOWARD P. KING RODNEY A. PEEPLES
JUNE 19 ✓	HORRY CP-COURTROOM #1 HORRY CP-COURTROOM #2 HORRY CPNJ-COURTROOM #3	HOWARD P. KING RODNEY A. PEEPLES B. HICKS HARWELL, JR.
JUNE 26 ✓	HORRY CP-COURTROOM #1 ~~HORRY CPNJ-COURTROOM #2~~	SIDNEY T. FLOYD RODNEY A. PEEPLES

EXHIBIT A 1

44

STATE OF SOUTH CAROLINA :)
)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions convened on April 6th, 2000, the Grand Jurors of Horry County present upon their oath:

COUNT ONE: KIDNAPPING
(CDR: 0095 16-03-0910)

That Bobby Jenkins did in Horry County on or about the 24th day of September, 1997, commit the offense of kidnapping in that he did unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away one Sandra Dee Winstead without authority of law.

COUNT TWO: CRIMINAL SEXUAL CONDUCT, 1ST DEGREE
(CDR: 0160 16-03-0652)

That Bobby Jenkins did in Horry County on or about September 24, 1997, engage in sexual battery, to wit: that Bobby Jenkins did sexually assault Sandra Dee Winstead by penetrating her vagina with his penis. Such sexual battery was accomplished by aggravated force, the threat of force and violence of a high and aggravated nature, to wit: that the Defendant knocked her off a bicycle, carried her into a wooded area, hit her in and about the face with a handgun, held her face into the ground and threatened that if she told police he would be watching for her.

COUNT THREE: ARMED ROBBERY
(CDR: 139 16-11-330 (A))

That Bobby Jenkins did in Horry County on or about the 24th day of September, 1997, while armed with a deadly weapon, to wit: a semi-automatic pistol, feloniously take from the person or presence of Sandra Dee Winstead by means of force or intimidation, goods or monies of Sandra Dee Winstead; such goods or monies being described as goods, wares, merchandise, and/or good and lawful monies of the United States of America.

COUNT FOUR: POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME
(0549 16-23-0490)

That Bobby Jenkins did in Horry County, on or about the 24th day of September, 1997, possess or visibly display a weapon during the commission of a violent crime, to wit: a semi-automatic pistol in violation of code section 16-23-490, 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.


SOLICITOR

CLERK OF COURT



MELANIE HUGGINS-WARD
CLERK OF COURT
1301 2ND AVENUE
CONWAY, SC 29526
(843) 915-5080 • Fax: (843) 915-6081

July 11, 2012

Bobby C. Jenkins 3271240
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

Re: Grand Jury
General Sessions
2000-GS-26-849

Dear Mr. Jenkins:

This is in response to your letter regarding the above reference.

The Grand Jury met April 6, 2000 which is the date your indictment was true billed as reflected on the indictment. General Session's court was not being held April 6, 2000. It is not a requirement that this be scheduled at the same time as the Grand Jury. General Sessions was in April 10th and April 17th, 2000.

As to the witnesses before the Grand Jury, this is a closed sessions and we do not have this information. I am not sure what you are asking for in State V Rector and your indictment was true billed and not waived before the Grand Jury if this is what you mean.

Sincerely,

Melanie Huggins-Ward
Horry County Clerk of Court

Enc: Copy of Indictment

Exhibit 3 I

CLERK OF COURT



MELANIE HUGGINS-WARD
CLERK OF COURT
1301 2ND AVENUE
CONWAY, SC 29526
(843) 915-5080 • Fax: (843) 915-6081

August 2, 2012

Bobby Jenkins #271240
Perry Correctional Institute Q2B101
4300 Oaklawn Road
Pelzer, SC 29669

Re: Grand Jury Impaneling Judge
Smerber Hearing
Eric Jenkins File

Dear Mr. Jenkins:

Do not Exist
illegal sentence

This is in response to your letter regarding the above reference.

My letter to you dated July 26, 2012 advised that we are unable to locate this information as to the Grand Jury Impaneling Judge April 2000. As to the Smerber Hearing, yes we are the record keepers, but if this paperwork is not received in our office we will have not have a record of it.

As to the plea agreement transcript for Eric Jenkins, you will have to obtain this from the court reporter in his plea proceedings. This is Brenda Babb, P. O. Box 4800, Calabash, NC 29511. Will obtain file for Eric Jenkins and forward a copy to you.

Sincerely,

Melanie Huggins-Ward

Melanie Huggins-Ward
Horry County Clerk of Court

STATE OF SOUTH CAROLINA)

Exhibit 4F
INDICTED

COUNTY OF HORRY)

At a Court of General Sessions convened on April 6th, 2000, the Grand Jurors of Horry County present upon their oath:

COUNT ONE: ASSAULT ON EMPLOYEE OF A CORRECTIONAL FACILITY
(CDR: 2525 16-03-630)

That Bobby Jenkins did in Horry County on or about the 11th day of September, 1999, knowingly, wilfully and intentionally assault Officer Tracy Smith, an employee of the J. Reuben Long Detention Center, by grabbing Officer Smith about the groin area and refusing to let go.

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30
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95
85

+ 5
90

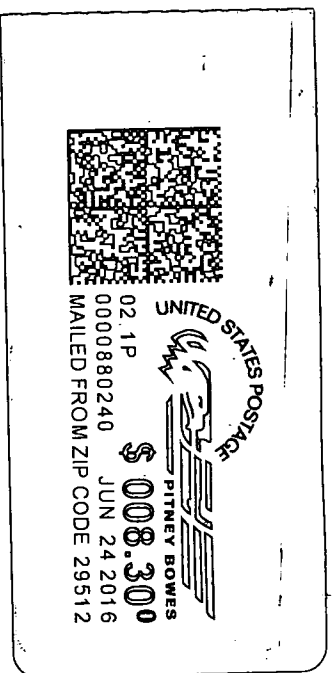
~~Thomas Griffin~~
Thomas Griffin

Mrs. Orris West
Handwriting

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


SOLICITOR

Bobby Jenkins #271240
Rt 2 B 108 (ECI)
610 Hwy 9 West
Remmettsville, SC 29512



The Honorable Danielle Shearouse
Clerk of Court
South Carolina Supreme Court
Columbia, SC 29211

2nd Exhibits