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STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

S.C. Supreme Court

Appeal from Georgetown County

Kristi Lea Harrington, Circuit Court Judge

DONOVAN RAHEAM PRINGLE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-000017

APPENDIX

SUSAN B. HACKETT
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

JOSHUA L. THOMAS
Assistant Attorney General

P. O. Box 11549
Columbia, SC 29211

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

INDEX

INDEX.....	i
TRIAL TRANSCRIPT DATED DECEMBER 14-15, 2009.....	1
FINAL BRIEF OF APPELLANT.....	192
FINAL BRIEF OF RESPONDENT.....	202
<u>STATE V. PRINGLE</u> , 2012-UP-303 (S.C. CT. APP. FILED MAY 16, 2012).....	212
APPLICATION FOR POST-CONVICTION RELIEF.....	214
MEMORANDUM OF LAW IN SUPPORT OF APPLICATION FOR POST-CONVICTION RELIEF.....	221
RETURN	250
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED AUGUST 28, 2014	255
ORDER OF DISMISSAL	345
MOTION TO ALTER OR AMEND AND MOTION TO RECONSIDER.....	354
ORDER DENYING MOTION TO ALTER OR AMEND AND MOTION TO RECONSIDER	358
INDICTMENTS AND SENTENCE SHEETS	360

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF GEORGETOWN)	2009-GS-22-836, 837
State of South Carolina)	
Plaintiff,)	Transcript of Record
vs.)	
Donovan Raheam Pringle,)	December 14-15, 2009
Defendant.)	

B E F O R E :

Honorable Benjamin H. Culbertson
 Georgetown, County Courthouse
 Georgetown, South Carolina

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

Nancy Coté, Esquire
 Attorney for Plaintiff

Reuben Goude, Esquire
 Attorney for Defendant

Grace L. Hurley, CVR-CM
 Circuit Court Reporter

Georgetown County Circuit Court RANDOM STRIKE SHEET

JUDGE NAME : Culbertson, Benjamin H

TRIAL TYPE : Criminal

PANEL ID : 09GS2200836-837

COURTROOM CTR

DESCRIPTION : STATE vs DONOVAN R. PRINGLE

Sorted by: Random Nbr

Trial

NAME	JUROR NBR	RACE	SEX	STRIKE	DEE	CRT	REMARKS
1 Stafford, Glen Levi	123	B	M	(✓)	(✓)	()	
2 Holt, Howard J	68	W	M	(✓)	(X)	()	
3 Hoyle, William R	73	W	M	(X)	()	()	
4 Richardson, Bruce D	108	W	M	(✓)	(✓)	()	
5 Gamble, Kathy R	48	B	F	(X)	()	()	
6 Wood, Stephen H	148	W	M	(✓)	(✓)	()	
7 Rogers, Suzanne M Mrs	110	W	F	(✓)	(X)	()	
8 Wilson, Hunter G	146	W	M	(✓)	(✓)	()	
9 Frye, Mitzi S	46	W	F	(✓)	(X)	()	
10 Ruhle, Carol H	112	W	F	(✓)	(X)	()	
11 Harle, Larue E	61	W	F	(✓)	(X)	()	
12 Jones, Kathryn M	79	W	F	(✓)	(X)	()	
13 English, Karen M	40	W	F	(✓)	(X)	()	
14 Ellis, Elizabeth T	39	W	F	(✓)	(✓)	()	
15 La, Baugh Michael J	81	W	M	(✓)	(✓)	()	
16 Pringle, Dorothy L	106	B	F	(X)	()	()	
17 Van, Vlaka Lisa M	136	W	F	(✓)	(X)	()	
18 Thompson, Christine C	132	W	F	(✓)	(X)	()	
19 Nason, Joy F	94	W	F	(✓)	(X)	()	
20 Guyton, Lorinda L	59	W	F	(✓)	(✓)	()	
21 Alderson, Frances Marie G	3	W	F	(✓)	(✓)	()	
22 Banks, Lisa D	7	W	F	(✓)	(✓)	()	
23 Hughes, Mitzi J	76	W	F	(X)	()	()	
24 Poteet, David L	105	W	M	(✓)	(✓)	()	

Georgetown County Circuit Court

RANDOM STRIKE SHEET

3

JUDGE NAME : Culbertson, Benjamin H
 TRIAL TYPE : Criminal
 PANEL ID : 09GS2200836-837
 COURTROOM CTR.

DESCRIPTION : STATE vs DONOVAN R. PRINGLE

Sorted by: Random Nbr
 Trial

NAME	JUROR NBR	RACE	SEX	ST/PLTFF	DEF	CRT	REMARKS
25 Baxley, Amanda K	8	W	F	(X)	(X)	()	
26 Aklin, Shana L <i>alt. 1</i>	2	B	F	(X)	(X)	()	
27 Taylor, Teressa G	131	W	F	(X)	(X)	()	
28 Russ, Cindy M <i>alt 2</i>	113	W	F	(X)	(X)	()	
29 Swanson, Mary Jo	127	W	F	(X)	(X)	()	
30 Aklin, Arkeyra N	1	B	F	()	()	()	
31 White, Zawontay L	140	B	F	()	()	()	
32 Bromell, Janice P	16	B	F	()	()	()	
33 Budzinski, Stanley S	17	W	M	()	()	()	
34 Howard, Van Thomas	71	W	M	()	()	()	
35 Walters, Stephen M	138	W	M	()	()	()	
36 Wright, Neil A	150	W	M	()	()	()	
37 Harvey, Daniela D	62	B	F	()	()	()	
38 Williams, Marie S	144	W	F	()	()	()	
39 Thuener, Gary L	133	W	M	()	()	()	

Total Number of Jurors:

39

** END OF REPORT **

Index

2

1	I N D E X	
2	(Monday December 14, 2009.)	
3	Motions.	5
4	Voir Dire.	22
5	Jury Selection	45
6	Opening Instructions by Court.	53
7	Opening Statement by State	63
8	Opening Statement by Defense	68
9	Herman Lee Michau, Jr.	
10	Direct by State.	68
11	Cross by Defense	88
12	Redirect by State.	90
13	(Tuesday, December 15, 2009.)	
14	Richard Floyd	
15	Direct by State.	98
16	Genene Alston	
17	Direct by State.	106
18	Cross by Defense	121
19	Shane Pringle	
20	Direct by State.	123
21	Cross by Defense	142
22	Redirect by State.	142
23	Motions.	144
24	Questioning of Defendant Re: Rights	144
25	Motions.	148

Index

1	Closing Argument by State.	150
2	Closing Argument by Defense.	158
3	Charge	165
4	Question from Jury	176
5	Verdict.	179
6	Motions.	182
7	Sentencing	182
8	Certificate.	189
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

Index

4

E X H I B I T S			
		ID	EVD
1			
2			
3	S-1 Photograph		75
4	S-2 Photograph		75
5	S-3 Photograph		75
6	S-4 Photograph		75
7	S-5 Photograph		75
8	S-6 Photograph		75
9	S-7 Photograph		75
10	S-8 Photograph		75
11	S-9 Photograph		75
12	S-10 CD - 911 Call		87
13	C-1 12-9-09 Letter from Goude to Coté	10	
14	C-2 Foreperson Selection		
15	C-3 11-3-09 Letter from Coté to Fox		
16	C-4 Question from Jury	137	
17	C-5 Question from Jury	137	
18			
19			
20			
21			
22			
23			
24			

Motions

5

1 (On the record, December 14, 2009.)

2 THE COURT: All right, what have we got?

3 MS. COTÉ: Your Honor, we just have a few pre-trial
4 matters. The only issue that the State has is the matter
5 regarding the Defendant's alibi.

6 THE COURT: All right, let's, let's put the case on.
7 Which case are we talking about?

8 MS. COTÉ: Thank you, I apologize, Your Honor. This
9 is State versus Donovan Pringle. These are indictments,
10 indictment numbers 2009-GS-22-836 and 2009-GS-22-837. He is
11 charged with both armed robbery and possession of a weapon
12 during the commission of a violent crime.

13 THE COURT: All right, Mr. Goude, you represent Mr.
14 Pringle in this case?

15 MR. GOUDE: Yes, Your Honor.

16 THE COURT: All right, and is Mr. Pringle present?

17 MR. GOUDE: He is, Judge.

18 THE COURT: All right, all right, let me go ahead and
19 hear from the State then, their position first.

20 MS. COTÉ: Thank you, Your Honor. We were notified
21 this past Wednesday of the Defendant's notice of alibi. We
22 were served with his notice of alibi on that date. According
23 to the South Carolina Criminal Rules of Procedure, Rule 5-E-1,
24 it states upon written request of the Prosecution stating the
25 time, date and place at which the alleged offense occurred,

1 the Defendant shall serve within ten days or at such time as
2 the Court may direct upon the Prosecution a written notice of
3 its intention to offer an alibi defense. Your Honor, our
4 position is that we were - we are prejudiced by the lack of
5 notice of the alibi. This case was on the trial roster last
6 term and we were prepared to go forward at that time but with
7 the scheduling conflict with Your Honor being torn between
8 here and Horry, we were unable to proceed at that time. The
9 Defendant has had plenty of time to get us that notice. We,
10 the State served him our written notice requesting notice of
11 his intention to offer an alibi defense on May 21st, 2009, and
12 we would just ask that you exclude any evidence of his alibi,
13 or any witnesses testifying to his alibi.

14 THE COURT: All right, Mr. Goude, let me hear from
15 you.

16 MR. GOUDE: If the Solicitor wants to continue the
17 trial and not have it this week because of they had three days
18 notice, I think we sent it to them Tuesday or Wednesday of
19 last week, telling them that his household relatives were
20 going to say that my client is in the house with them at the
21 time of the robbery, and if they don't have time to check with
22 those three household members, if they would have even checked
23 with them at all if we would have given them a year's notice
24 when they've got a full-time investigator, about 50 deputies,
25 about 50 Georgetown City policemen and about 15 people working

Motions

7

1 in the Solicitor's Office, if they don't have time to check
2 with his household members, if the household members would
3 even talk with the Prosecutors, to say that my client was in
4 the house asleep at night instead of being in the motel
5 robbing them, I have no objection to continuing the case.
6 Secondly, we've been negotiating on the case for, well, since
7 I've been appointed, trying to work out a deal. His Co-
8 Defendant has pled guilty to the charge of armed robbery that
9 we're facing. These are very serious charges. The girlfriend
10 has pled guilty and I think we just found out in the last week
11 or so that they're both definitely pleading guilty, the Co-
12 Defendant and the girlfriend. So, it's hard to know exactly
13 what to do up until the, up until the present, but anyway,
14 that's our position on that.

15 THE COURT: All right, so the alibi witnesses, they're
16 household members that he lives with?

17 MR. GOUDE: Relatives are going to say that we were in
18 the house asleep at night at five o'clock in the morning
19 instead of robbing the Carolinian Motel in Georgetown.

20 THE COURT: All right.

21 MS. COTÉ: Your Honor.

22 THE COURT: All right, that's fine. I understand he
23 was arrested on December the 23rd, 2008, for an event, alleged
24 crime that occurred December 23rd, 2008. He waited until last
25 Wednesday to provide the alibi defense. With these being

Motions

8

1 household members, he's known since December. So, I'm going
2 to exclude any evidence of an alibi defense. The rules are
3 pretty clear where you've got to give the notice and he's
4 waited from December 23rd, 2008, until the Wednesday before
5 trial. I'm not going to allow it.

6 MS. COTÉ: Thank you, Your Honor.

7 THE COURT: All right.

8 MS. COTÉ: Those are all the pretrial issues on
9 behalf of the State, Your Honor, but I believe Mr. Goude has a
10 few issues that he would like to take up with the Court.

11 THE COURT: All right, Mr. Goude.

12 MR. GOUDE: Yes, Judge, I may as well do the offer of
13 proof as far as giving the Court the names of the household
14 members so that if Mr. Pringle loses this case and he gets
15 sentenced for 10 to 30 years and it's reversed on appeal, the
16 Court will know, the Appeals Court will know who the witnesses
17 were, and if it's not reversed and he gets convicted of this
18 and does a PCR a year or two years from now, and it's reversed
19 then and the Prosecution has to try the case all over again,
20 it will be on the record who the witnesses were that Mr.
21 Pringle wanted me to call for him to court. So, would the
22 Court please as I will read those names right now.

23 THE COURT: All right.

24 MR. GOUDE: Judge, Mr. Pringle had asked me to bring
25 in as alibi witnesses for him, which we had provided to the

Motions

9

1 Solicitor's Office dated December the 9th, and Judge, I will
2 give a copy of this letter to the court reporter so the court
3 reporter can put this in, if it please the Court, as an
4 appellant exhibit.

5 Judge, we would offer this - present this to the Court as
6 an appellant exhibit..

7 THE COURT: Any objection?

8 MS. COTÉ: No objections, Your Honor, but I would
9 like to clarify for the record Mr. Goude is terming these
10 people household members and I believe that only three of
11 these people are household members. Two of them, Antoine
12 Simmons and Hakeem Johnson do not live with the Defendant and
13 were not members of his household. So, I would object to them
14 being deemed members of his household.

15 THE COURT: Okay, but as I understand the witnesses
16 are Collete Thompson, Carla Thompson, Shavan Thompson, S-A-V -
17 - S-H-A-V-A-N, Paul.

18 MR. GOUDE: Yes, Your Honor, and these ----

19 THE COURT: Antoine Simmons and Hakeem Johnson?

20 MR. GOUDE: The last two witnesses, Judge, my
21 secretary wrote this up while I was over here in juvenile
22 court or something else, anyway, the first three witness:
23 Carletta Thompson, Carla Thompson and Shavan Paul are family
24 members or friends that were going to say that my client was
25 in his - in the house asleep at night during the robbery. The

1 other two witnesses should not be on there, which is Antoine
2 Simmons and Hakeem Johnson. What they were was, my client
3 told me that Hakeem Johnson, an inmate in jail, told him that
4 Antoine Simmons, another inmate in jail, said that he, Antoine
5 Simmons, committed the robbery, told that to this Hakeem
6 Johnson. So, they're not really alibi but my secretary she
7 made an error and wrote their names on there.

8 THE COURT: Okay, so your alibi witnesses were
9 Carlette Thompson, Carla Thompson and Shavan Paul.

10 MR. GOUDE: Yes, Your Honor.

11 THE COURT: Okay, all right, let's put this Court's
12 Exhibit One and admit it.

13 (Court's Exhibit Number One [12-9-09 Letter from Goude to
14 Coté] appropriately marked.)

15 MR. GOUDE: Judge, the - Judge, the Defense motions
16 are, the first one is a production of the Prosecution
17 witnesses' statements. If the Prosecutor has not given us all
18 of the Prosecution witnesses' statements we would ask that
19 they be provided to us at this time.

20 THE COURT: All right, Ms. Coté.

21 MS. COTÉ: Your Honor, we have, we have provided Mr.
22 Goude with Lee Michau, which is our first witness. We
23 provided him with his statement. We have provided the Co-
24 Defendant, Shane Pringle-Tillman's statement as well as Genene
25 Alston's statement, and those are the only witnesses that have

Motions

11.

1 provided statements and we have turned those over to the
2 Defense.

3 THE COURT: All right, what are their - what's their
4 names again?

5 MS. COTÉ: Herman Lee Michau, M-I-C-H-A-U, Jr., Shane
6 Pringle-Tillman and Genene Alston, and Your Honor, at this
7 time I'll hand out our witness list.

8 THE COURT: All right, Mr. Goude, is there any
9 additional statements that you were looking for? That you're
10 aware of ---

11 MR. GOUDE: And Judge ---

12 THE COURT: --- or they say they've given you those
13 three statements.

14 MR. GOUDE: And Judge, could we ask the Prosecutor,
15 are those written statements or is that the audio, DVD, CD
16 statements or ---

17 MS. COTÉ: They all are on audio. I believe there is
18 one written statement that's by Herman Lee Michau, but I can
19 tell you in one minute. I believe it was also turned over.
20 Your Honor, I'm not showing whether or not the Defense was
21 given a copy of that. So, out of an abundance of caution,
22 we'll make a copy of that right now and hand it over to the
23 Defense, a one-page sworn statement of Herman Lee Michau.

24 THE COURT: All right, so, you've delivered two audio
25 statements, one by Ms. Pringle-Tillman, one by Genene Alston

1 and then a written statement by Herman Michau?

2 MS. COTÉ: There were three audio statements: one by
3 Herman Michau, one by Genene Alston and one by Shane Pringle-
4 Tillman. There's an additional written statement of Herman
5 Michau that we're turning over at this time.

6 THE COURT: All right, good, all right.

7 MR. GOUDE: Thank you very much.

8 Judge, you ready for our next motion?

9 THE COURT: All right, does that satisfy that motion?

10 MR. GOUDE: Yes, sir, that's all the statements they
11 have, it does, yes, sir.

12 THE COURT: All right, those, the State acknowledges
13 that that's all of the pretrial statements given; is that
14 correct? Ms. Côté?

15 MS. COTÉ: Sir, Your Honor?

16 THE COURT: Those are the all the statements?

17 MS. COTÉ: Yes, sir, those are all the statements
18 that the State has, Your Honor.

19 THE COURT: Okay, good.

20 All right, Mr. Goude?

21 MR. GOUDE: Your Honor, the next motion is a motion in
22 limine instructing the Prosecutor not to have any witness
23 testify or present any evidence on any criminal record of Mr.
24 Donovan Pringle unless Mr. Donovan Pringle testifies. As I
25 understand there is no impeachable record, that there is a

Motions

13

1 record of simple possession of marijuana and a driving under
2 suspension, which the Prosecutor has advised me it's their
3 position that that's not impeachable offenses.

4 THE COURT: All right, Ms. Coté?

5 MS. COTÉ: That's correct, Your Honor. We're of the
6 understanding that we will not go into any of his criminal
7 history and it's also my position that we don't have anything
8 that's impeachable against the Defendant.

9 THE COURT: All right, unless the door's opened by the
10 Defendant then no mention of the criminal record will be
11 introduced into evidence.

12 MS. COTÉ: Yes, Your Honor.

13 MR. GOUDE: Your Honor, the next motion is a motion to
14 sequester the witnesses. This is an armed robbery and
15 identification is at issue. I understand there are two Co-
16 Defendants, a Shane Pringle who's pled guilty to the same
17 charge, and a Genene Alston who is pleading or has pled guilty
18 to accessory before or after the fact to the same robbery as
19 well as the desk clerk and maybe some other witnesses, too.
20 Being that this is an armed robbery charge so serious and the
21 credibility of the witnesses important as well as the identity
22 of the robber who has not pled guilty, I'd ask you to
23 sequester the witnesses.

24 THE COURT: All right, Ms. Coté?

25 MS. COTÉ: Yes, Your Honor, the State is in agreement

1 with sequestering the witnesses. I would ask that my lead
2 investigator, Investigator Ricky Floyd, be allowed in the
3 courtroom and not be sequestered. I, I have asked - two of
4 the witnesses are in lock-up and I've asked also that they be
5 kept separate. Your Honor, I would also, Your Honor, there
6 were two armed robberies. We're only trying this Defendant on
7 one right now but it's the same, same location, same, same
8 witnesses, but - and I have instructed them not to say both
9 and to only focus on this one.

10 THE COURT: Okay, all right, so, the motion to
11 sequester witnesses is granted. I will allow the lead
12 investigator, Ricky Floyd, to be present.

13 MS. COTÉ: Thank you, Your Honor.

14 MR. GOUDE: Your Honor, in an abundance of caution
15 based on - pursuant to what the Prosecutor just said about,
16 there are two armed robberies: one December the 23rd, 2008,
17 one December the 30th, 2008, Judge, both of the Carolinian
18 Motel in Georgetown, both - two Defendants charged with the
19 same robbery. We would ask that the Court instruct the
20 Prosecutor not to bring out any testimony particularly from
21 that desk clerk, it was the same desk clerk at the motel that
22 was robbed, that he not be allowed to testify or anybody else
23 testify about a second robbery, one on December the 30th, that
24 we're not being tried with here today.

25 THE COURT: All right, I'll grant your motion. There

Motions

15

1 will be no mention of any of the December 30th incident.

2 MS. COTÉ: Your Honor, as it relates to that, we will
3 have a small issue with the Co-Defendant's statement if we are
4 forced to impeach him with that audio statement. We'll have
5 to redact a portion of that and we'll take that up when the
6 time comes, but I'd like to make Your Honor aware that there
7 is a point in the audio statement that he refers to both
8 incidents and doing it both times. So, we may have to deal
9 with that if that comes up later in the trial.

10 THE COURT: Okay, is it possible to redact that
11 portion?

12 MS. COTÉ: Yes, Your Honor, it - he goes through and
13 he says, "Yeah, it was me and Donovan both times," and so, we
14 have, it's on audio and video, but we have the ability to just
15 do the audio of it and redact the audio.

16 THE COURT: Okay, all right.

17 MS. COTÉ: And we also would intend just to play a
18 portion of it, if that's necessary.

19 THE COURT: All right, as long as we just redact that
20 portion. That'll be - I'll grant the Defendant's motion.

21 MS. COTÉ: Thank you.

22 THE COURT: All right.

23 MR. GOUDE: And, Judge, a third motion in limine would
24 be for the Prosecutor to reveal if there's been any admissions
25 or confessions by Donovan Pringle of having committed the

1 offense because there's none I see in the police report, but I
2 would make that motion.

3 THE COURT: All right, so, it's a motion to produce
4 any admissions, oh, by the Defendant?

5 MR. GOUDE: Yes, Your Honor.

6 THE COURT: Okay, any admissions?

7 MS. COTÉ: No, Your Honor, the Defendant did not
8 speak to police.

9 THE COURT: All right.

10 MR. GOUDE: Thank you, Judge. The next motion, Judge,
11 would be a motion to disclose prosecution agreements with the
12 prosecution witnesses. Supposedly there is a Co-Defendant,
13 Shane Pringle, that's pled guilty to the charge of armed
14 robbery and a Defendant, co or otherwise, Genene Alston that's
15 charged with telling the robbers about the layout of the motel
16 and suggesting that they rob it. So, we would ask the Court
17 to instruct the Prosecution to tell us what the agreements are
18 with these two witnesses now.

19 THE COURT: All right, all right, I'll grant that
20 motion. Any agreements or promises?

21 MS. COTÉ: Your Honor, there have been no agreements
22 or any promises made to these witnesses. As for Shane
23 Pringle-Tillman, the - he was - he was the guy that performed
24 the armed robbery with this Defendant. He pled guilty but
25 we've held, withheld sentencing and I have informed him that I

Motions

17

1 cannot promise him anything in exchange for his testimony.
2 Genene Alston was also a Co-Defendant. She's charged with
3 accessory before the fact. I've also told her that I cannot
4 promise her anything in exchange for her testimony, and I've
5 also instructed both of them to tell the truth. Lee Michau is
6 facing charges in Horry County. He's the desk clerk. Kia
7 Wilson is his attorney. He asked both Deputy Solicitor Hixson
8 and Steve Brown from our office today if we could help him out
9 with those charges. He was told both times that we couldn't
10 talk about those trials. He even threatened at one point not
11 to testify unless we helped him and we told him that we could
12 not help him, well we could not help him at this time and we
13 could not promise him anything.

14 THE COURT: All right.

15 MS. COTÉ: Oh, and Deputy Solicitor Hixson told him
16 that we would call his attorney after his testimony.

17 THE COURT: All right, so, there have been no promises
18 or agreements with these witnesses, however, the Co-
19 Defendants, Genene Alston, Shane Pringle-Tillman, they have
20 pled guilty but sentencing has been ---

21 MS. COTÉ: Shane Pringle has pled guilty. Genene
22 Alston has not pled guilty.

23 THE COURT: Okay.

24 MS. COTÉ: Her, her, her case is still pending.

25 THE COURT: All right, so, Shane Pringle-Tillman has

Motions

18

1 pled guilty but sentencing has been withheld pending ---

2 MS. COTÉ: His cooperation.

3 THE COURT: --- his cooperation in testifying?

4 MS. COTÉ: Yes, Your Honor.

5 THE COURT: All right, Genene Alston, charges are
6 still pending against her?

7 MS. COTÉ: That's correct.

8 THE COURT: Herman Lee Michau, there's charges pending
9 in Horry County but there's been no promises or any
10 agreements?

11 MS. COTÉ: That's correct, Your Honor.

12 THE COURT: All right.

13 MR. HIXSON: That's correct, Your Honor. Scott Hixson,
14 Deputy Solicitor, for the purpose of the record. I mentioned
15 to him, as a full disclosure, Mr. Goude and told him ahead of
16 time also that he asked me about help. I told him we couldn't
17 give him any, I can't talk about his pending charges and that
18 I would contact Kia Wilson in the event he wanted to bring
19 that issue up with Kia Wilson prior to trial or after, but
20 there is no promises made, just to clarify for the record.

21 THE COURT: All right.

22 MR. HIXSON: Thank you, Your Honor.

23 THE COURT: All right, Mr. Goude, anything else?

24 MR. GOUDE: Judge, can we ask the Prosecutor to tell
25 us what the Co-Defendant Shane Pringle was charged with and

Motions

19

1 what he pled guilty to?

2 MS. COTÉ: He was charged with the same thing as Donovan
3 Pringle. He was charged with two counts of armed robbery and
4 two counts of possession of a weapon during the commission of
5 a violent crime. He pled guilty to one count of armed
6 robbery. I believe he also had a lynching charge pending in
7 our office that I also dismissed in exchange for his plea, and
8 I believe I also dismissed that at the request of the victim.
9 I don't have that file with me, but I believe that victim was
10 not willing, not wanting to prosecute him and Linda Canteen,
11 our victim advocate, is in the courtroom and she is telling me
12 that that is correct, my memory is not failing me right now,
13 that that victim did not want to testify, did not want to
14 prosecute.

15 THE COURT: All right, so, for Mr. Tillman you dropped
16 two possessions of a firearm during the commission of a
17 violent crime. You dropped one armed robbery and you dropped
18 a lynching and he pled guilty to armed robbery.

19 MS. COTÉ: That's correct, Your Honor. There may
20 have been another charge in connection with that lynching, but
21 I'm not sure. I don't have that, I don't have, I don't have
22 recollection of that.

23 THE COURT: All right.

24 MR. GOUDE: But I can, I can go get the file if it's
25 important.

1 MR. GOUDE: Could the Solicitor tell us lynching and
2 what degree it was, Judge?

3 MS. COTÉ: Lynching, second degree.

4 MR. GOUDE: Thank you, and could the Solicitor, Judge,
5 tell us the charges that Genene Alston is charged with?

6 MS. COTÉ: Genene Alston is charged with accessory
7 before the fact of a felony.

8 MR. GOUDE: Thank you, Your Honor.

9 THE COURT: All right.

10 MR. GOUDE: Judge, our last motion would be to produce
11 the criminal records of the prosecution witnesses,
12 particularly including the Co-Defendant Shane Pringle, Genene
13 Alston and Mr. Michau, the desk clerk.

14 MS. COTÉ: I do not have Shane Pringle's file with me
15 and I will go get that. Herman Michau's record, thank you,
16 Your Honor, do you wish me to produce a copy?

17 THE COURT: Yeah, let's - I'll go ahead and grant that
18 motion. Just produce those copies to him.

19 MS. COTÉ: I will, Your Honor. People from our
20 office are headed downstairs to get those for us right now.

21 THE COURT: All right, that'll be good.

22 MS. COTÉ: Thank you.

23 THE COURT: All right, Mr. Goude, anything else?

24 MR. GOUDE: No, Your Honor, no, sir.

25 THE COURT: All right, the jury should be coming in

Motions

21

1 here shortly. So, let's go ahead and take about a 15 minute
2 break. That'll give you an opportunity to get those criminal
3 records turned over to Mr. Goude and we'll come back probably
4 in about 15 minutes and do the voir dire and jury selection.
5 If you have any particular voir dire questions let me know.
6 Any - I've got potential witness lists from the State.

7 MS. COTÉ: I have, I have requested voir dire from
8 the State, Your Honor.

9 THE COURT: All right.

10 MR. GOUDE: Judge, this is the Prosecutor's and my
11 voir dire.

12 THE COURT: All right, all right, give me a chance to
13 take a look over these. We'll stand in recess for about 15
14 minutes; okay?

15 MS. COTÉ: Thank you, Your Honor.

16 THE COURT: Thank you.

17 OFF THE RECORD

18 On the record.

19 (Whereupon, the following takes place in the presence of
20 the jury.)

21 THE COURT: Thanks very much, please be seated. All
22 right, ladies and gentlemen, welcome back. I hope everyone
23 had a good lunch. We are getting ready to start the case of
24 the State of South Carolina vs. Donovan, how do you pronounce
25 that middle name Raheam?

Voir Dire

22

1 MR. PRINGLE: Raheam.

2 THE COURT: -- Raheam Pringle. Mr. Pringle has been
3 charged and indicted by the Grand Jury on the crime of armed
4 robbery and the crime of possession of a weapon during the
5 commission of a violent crime, both of these incidences having
6 allegedly occurred on December the 23rd, 2008, at the
7 Carolinian Inn here in Georgetown, South Carolina.

8 Now, I've got some questions that I need to go over with
9 you. You've all been qualified to serve as jurors this week
10 during General Sessions Court, but these next questions as I
11 explained to you earlier are what's called voir dire
12 questions. These are questions to determine whether or not
13 you're qualified to serve as jurors on this particular case,
14 and it also gives the attorneys some additional information
15 that assists them in their jury selection process. So, as I
16 told you during qualifications, if you're going to serve on
17 jury duty, you've got to constantly be taking an oath and
18 now's the time to take another oath to respond to these voir
19 dire questions truthfully and honestly. So, everyone would
20 please stand and raise your right hand while the clerk
21 administers the oath.

22 (Jury sworn by the Clerk.)

23 THE COURT: All right, is there anybody in the jury
24 panel who did not respond to the questioning or respond to the
25 oath by saying, "I do", if so please stand.

Voir Dire

23

1 (No response.)

2 THE COURT: All right, ladies and gentlemen, please
3 listen up. As I said, these charges are against the
4 Defendant, Donovan Raheam Pringle. Is there any member of the
5 jury panel related by blood or marriage, have a personal
6 relationship, a social relationship, a business relationship
7 or any other type of relationship with the Defendant Donovan
8 Raheam Pringle? If so, please stand.

9 (No response.)

10 THE COURT: Is there any member of the jury panel
11 related by blood or marriage, have a business relationship, a
12 social relationship or personal relationship or related to
13 anyone employed with the Carolinian Inn? If so, please stand.

14 (No response.)

15 THE COURT: All right, I need you to listen carefully
16 because these are potential witnesses in this case: Ricky
17 Floyd of the Georgetown Police Department; Jonathan Giles of
18 the Georgetown Police Department; Herman Lee Michau, Jr.;
19 Shane Pringle-Tillman; Genene Alston; or Robbie Owens with
20 Central Communications 911. Is there any member of the jury
21 panel related by blood or marriage, have a business
22 relationship, social relationship, personal relationship or
23 any other type of relationship with any of these potential
24 witnesses? If so, please stand.

25 Yes, sir, your name and number.

1 MR. HOLT: 68, Howard J. Holt.

2 THE COURT: All right, Mr. Holt, which one of these
3 witnesses do you know?

4 MR. HOLT: Ricky Floyd is a second cousin of mine.

5 THE COURT: All right, he's a second cousin. How
6 often do you see Mr. Floyd?

7 MR. HOLT: I don't see him very much.

8 THE COURT: All right, would that relationship
9 prohibit you in any way from giving both the State and the
10 Defendant in this case a fair and impartial trial?

11 MR. HOLT: I doubt it.

12 THE COURT: All right, would you be able to set that
13 relationship aside and base any decision that you might be
14 asked to render in this case exclusively on the testimony and
15 evidence presented in trial?

16 MR. HOLT: Yes, sir.

17 THE COURT: Okay, thank you very much for bringing
18 that to our attention.

19 Anybody else related to any of these potential witnesses.
20 If so, please stand. (No response.)

21 Any other potential witnesses that I failed to call?

22 MS. COTÉ: No, Your Honor, that's all the State's
23 witnesses.

24 THE COURT: All right, the State in this case is
25 represented by Ms. Coté of the Solicitor's Office and I'm

Voir Dire

25

1 sorry, your first name again?

2 MS. COTÉ: Nancy.

3 THE COURT: Nancy, I'm sorry, Ms. Nancy Coté of the
4 Fifteenth Circuit Solicitor's Office. The Defendant in this
5 case is represented by Attorney Reuben Goude, an attorney here
6 in Georgetown. Is there any member of the jury panel related
7 by blood or marriage, have a social relationship, business
8 relationship, personal relationship or any type relationship
9 with either one of these attorneys? If so, please stand.

10 Yes ma'am, your name and number?

11 MS. GAMBLE: 48, Kathy Gamble.

12 THE COURT: All right, Ms. Gamble, which attorney are
13 you acquainted with?

14 MS. GAMBLE: Reuben Goude.

15 THE COURT: All right, and is that a social, business,
16 personal? Has he represented you?

17 MS. GAMBLE: Yes, sir.

18 THE COURT: He's represented you?

19 MS. GAMBLE: Yes, sir.

20 THE COURT: Is he currently representing you?

21 MS. GAMBLE: Not at the moment.

22 THE COURT: All right, how long ago has it been since
23 he represented you?

24 MS. GAMBLE: About six, seven years ago.

25 THE COURT: All right, since that representation, have

1 you maintained any type of contact with Mr. Goude?

2 MS. GAMBLE: No, sir.

3 THE COURT: Would the fact that he has represented you
4 in the past prohibit you from giving both the State and the
5 Defendant in this case a fair and impartial trial?

6 MS. GAMBLE: No, sir.

7 THE COURT: Would you be able to set that relationship
8 aside and base any decision that you might be asked to render
9 in this case exclusively on the testimony and evidence
10 presented at trial?

11 MS. GAMBLE: Yes, sir.

12 THE COURT: Okay, thank you for bringing that to our
13 attention.

14 All right, aside from Ms. Gamble, is there any member of
15 the jury panel who has ever been represented by either of
16 these parties? If so, please stand.

17 (No response.)

18 THE COURT: Is there any member of the jury panel ever
19 been involved in any type of legal action in which either of
20 these attorneys represented the opposing party or another
21 party in that legal action? If so, please stand.

22 (No response.)

23 THE COURT: Is there any member of the jury panel who
24 either personally or has a family member employed by the
25 Fifteenth Circuit Solicitor's office or the Law Office of

Voir Dire

27

1 Reuben Goude? If so, please stand,

2 (No response.)

3 THE COURT: All right, other potential witnesses in
4 this case are Donovan Pringle, Shane Pringle, Hakeem Johnson,
5 Carlette Thompson, Carla Thompson, Shavan Paul and Antoine
6 Simmons. Is there anybody, any member of the jury panel
7 related by blood or marriage, have a business relationship,
8 social relationship or any other type of relationship with any
9 of these potential witnesses? If so, please stand.

10 Yes, ma'am, your name and number?

11 MS. BOWSER: Juror Number 13.

12 THE COURT: Ms. Bowser?

13 MS. BOWSER: Yeah.

14 THE COURT: All right, Ms. Bowser, which witness are
15 you acquainted with?

16 MS. BOWSER: Ms. Paul, we go to the same church.

17 THE COURT: All right, so, how often do you see Ms.
18 Paul?

19 MS. BOWSER: Every Sunday.

20 THE COURT: Every Sunday?

21 All right, Ms. Bowser, I'm going to excuse you from this
22 first case. Thank you, ma'am. Yeah, if you'd please stay
23 with us right now.

24 Anybody? Yes, ma'am, your name and number?

25 MS. CAPELL: My name is Loxie Capell. My juror number

1 is 18.

2 THE COURT: All right, Ms. Capell, which?

3 MS. CAPELL: I'm pretty sure I taught Antoine Simmons.

4 THE COURT: Okay, do you recall how long ago that
5 would have been?

6 MS. CAPELL: Yes, sir, a good while ago.

7 THE COURT: Okay, have you maintained any contact with
8 Mr. Simmons since then?

9 MS. CAPELL: No, sir.

10 THE COURT: All right, would that relationship in any
11 way impair your ability to give both the State and the
12 Defendant in this case a fair and impartial trial?

13 MS. CAPELL: No, sir.

14 THE COURT: Would you be able to put that relationship
15 aside and base any decision you might be asked to render in
16 this case exclusively on the testimony and evidence?

17 MS. CAPELL: Yes, sir.

18 THE COURT: All right, thank you for bringing that to
19 our attention.

20 Anyone else have any type of relationship? Yes ma'am,
21 your name and number?

22 MS. WHITE: 140, Zawontay White.

23 THE COURT: All right, Ms. White, which witness or
24 witnesses are you acquainted with?

25 MS. WHITE: Shavan Paul.

Voir Dire

29

1 THE COURT: All right, and how do you know Ms. Paul?

2 MS. WHITE: We went to high school together.

3 THE COURT: All right, and how long has it been since
4 you or how often do you maintain contact with Ms. Paul?

5 MS. WHITE: Once every blue moon.

6 THE COURT: Okay, would your relationship be such that
7 it would impair your ability to give both the State and the
8 Defendant a fair and impartial trial?

9 MS. WHITE: No.

10 THE COURT: Would you be able to set that relationship
11 aside and base any decision you might be asked to render in
12 this case exclusively on the testimony and evidence presented
13 at trial.

14 MS. WHITE: Yes.

15 THE COURT: Okay, thank you for bringing that to our
16 attention. Any other witnesses, excuse me, jury panel members
17 acquainted with any of these witnesses. If so, please stand.

18 (No response.)

19 THE COURT: Is there any member of the jury panel who
20 has seen anything, read anything, heard anything, discussed
21 anything or know anything about this case? If so, please
22 stand.

23 (No response.)

24 THE COURT: Is there any member of the jury panel
25 formed or expressed an opinion about any issue or matter

1 involved in this case? If so, please stand.

2 (No response.)

3 THE COURT: Is there any member of the jury panel
4 aware of any bias or prejudice towards either the State or the
5 Defendant in this case? If so, please stand.

6 (No response.)

7 THE COURT: Any member of the jury panel a member of
8 the Grand Jury that passed the indictment in this case? If
9 so, please stand?

10 (No response.)

11 THE COURT: Is there any member of the jury panel who
12 is a member of or a contributor to any group which has as its
13 primary concern the promotion of law enforcement or victims'
14 rights? Some of these organizations, not all-inclusive, but
15 some of them are Mothers Against Drunk Driving, or MADD,
16 Students Against Drunk Driving, SADD, CASA, Citizens Against
17 Spousal Abuse or CAVC, Citizens Against Violence Crime.
18 Anybody a contributor to or member of any of these
19 organizations? If so, please stand.

20 All right, starting to my right. Your name and number?

21 MS. ANDERSON: Karen Anderson, Juror Six.

22 THE COURT: All right, Ms. Anderson, which
23 organization?

24 MS. ANDERSON: Well, I'm a member of Mothers Against
25 Drunk Drivers, but our church also sponsors for the - like the

Voir Dire

31

1 CASA Christmas parties and we just finished on that Monday
2 night.

3 THE COURT: All right, would your membership or
4 contribution to those organizations affect your ability to
5 give both the State and the Defendant in this case a fair and
6 impartial trial?

7 MS. ANDERSON: It shouldn't.

8 THE COURT: All right, and I understand that you say
9 it shouldn't, but the, I have to ensure ---

10 MS. ANDERSON: Okay.

11 THE COURT: --- that both sides receive a fair and
12 impartial trial from an unbiased jury.

13 MS. ANDERSON: Right.

14 THE COURT: And so I have to be certain that you're
15 not going to be influenced by your association with any of
16 those organizations.

17 MS. ANDERSON: Well, I tend to get upset with people that
18 do things while they're drinking and, you know, and driving or
19 anything or perform crimes or anything, you know, while
20 they're drunk because I've lost a couple of relatives to drunk
21 driving.

22 THE COURT: All right, well, I don't know whether
23 alcohol plays into this case or not, but for the sake of, just
24 to play devil's advocate, if alcohol or drugs was involved in
25 this case, and I'm not saying it is because I don't know.

1 MS. ANDERSON: Right.

2 THE COURT: But if it was would that affect your
3 ability to give the Defendant or the State, whichever side is
4 affected by it, a fair and impartial trial?

5 MS. ANDERSON: I can't say because that's, like I said, I
6 stand so hard against the drinking.

7 THE COURT: Okay, all right, Ms. Anderson, thank you.
8 I'm going to excuse you from this first case, okay?

9 Yes, ma'am, your name and number?

10 MS. LINDSTRAND: 61, Larue Harle Lindstrand. It was
11 under Harle this morning but they changed it to Lindstrand.

12 THE COURT: All right, I'm sorry. Your last name
13 again?

14 MS. LINDSTRAND: It was under Harle when you
15 originally sent me the notice, but this morning we changed it
16 to Lindstrand.

17 THE COURT: Lindstrand? Can you spell that last name
18 for me?

19 MS. LINDSTRAND: L-I-N-D-S-T-R-A-N-D.

20 THE COURT: All right, Ms. Lindstrand, which
21 organization are you associated with?

22 MS. LINDSTRAND: Well, I'm involved in several
23 organizations like the Board of Realtors and they had a
24 function this summer that collected money for Mothers Against
25 Drunk Driving and also several other organizations I belong to

Voir Dire

33

1 collect goods and things for CASA.

2 THE COURT: All right, would that association affect
3 your ability to give both the State and the Defendant in this
4 case a fair and impartial trial?

5 MS. LINDSTRAND: No.

6 THE COURT: All right, would you be able to set that
7 relationship aside and base your decision, if you're asked to
8 render one in this case, exclusively on the testimony and
9 evidence presented at trial?

10 MS. LINDSTRAND: Yes.

11 THE COURT: Okay, thank you very much for bringing
12 that to our attention.

13 Anyone else a member of or contributor to any
14 organization that has as its primary purpose the support and
15 promotion of law enforcement or victims' rights? If so,
16 please stand.

17 Yes ma'am, your name and number?

18 MS. NASON: Joy Nason, Juror Number 60, excuse me, 92
19 [sic].

20 THE COURT: All right, Ms. Nason, what organization?

21 MS. NASON: Well, it's my husband is a pastor at Belin
22 United Methodist Church and our women's group, the United
23 Methodist Women, we sponsor things for CASA and we do things
24 for them all the time and we have speakers come there, come
25 and talk to our women's group.

1 THE COURT: Would that association affect your ability
2 to give both the State and Defendant a fair and impartial
3 trial?

4 MS. NASON: I don't believe so.

5 THE COURT: All right, well there again, I have to be
6 sure. I've got to make sure that both parties, everyone
7 involved in this case receives a fair and impartial trial from
8 an unbiased jury.

9 MS. NASON: I think I can be fair.

10 THE COURT: Okay.

11 MS. NASON: I'm pretty sure.

12 THE COURT: Well.

13 MS. NASON: I just want you to know this.

14 THE COURT: And I understand but I'm going to need you
15 to convince me without a doubt that you could be fair and
16 impartial to both sides.

17 MS. NASON: Okay, without a doubt I can be fair and
18 impartial to both sides.

19 THE COURT: All right, could you base your decision, if
20 you're rendered, you're asked to render one in this case,
21 exclusively on the testimony and evidence presented at trial
22 without any influence from any outside source? Could you base
23 your decision on just the testimony and evidence?

24 MS. NASON: Absolutely.

25 THE COURT: All right, thank you for bringing that to

Voir Dire

35

1 our attention, Ms. Nason.

2 Anybody else a member of any organization or contributor
3 to any such organization? Please stand.

4 (No response.)

5 THE COURT: Is there any member of the jury panel,
6 either personally or has a family member employed in law
7 enforcement? If so, please stand.

8 MS. SEMAN: I do, but not here.

9 THE COURT: Okay, your name?

10 MS. SEMAN: My name is Marion Seman and I'm Juror
11 Number 118.

12 THE COURT: All right, Ms. Seman, who is it that's in
13 law enforcement? What's ---

14 MS. SEMAN: My son just became a deputy with the
15 Sheriff's Department in Maryland and my son-in-law is a police
16 officer for the county up in Maryland.

17 THE COURT: All right, would that association prohibit
18 you from giving both the State and the Defendant a fair and
19 impartial trial in this case?

20 MS. SEMAN: Would it? No.

21 THE COURT: Okay, would you be able to put that
22 association aside and render your verdict, if you're called to
23 render one in this case, exclusively on the testimony and
24 evidence?

25 MS. SEMAN: Absolutely, absolutely.

1 THE COURT: All right, thank you for bringing that to
2 our attention.

3 All right, the gentleman right beside her, your name and
4 number?

5 MR. HOLT: Juror Number 68, Howard Holt.

6 THE COURT: All right, and ladies and gentlemen, Mr.
7 Holt, I want to apologize to you and to others, every time you
8 stand I'm going to need you to give me your name and number so
9 that we can build a record in this case. If the case is ever
10 reviewed or whatever, they don't know who's speaking unless we
11 put it on the record. So, Mr. Holt, who is it that you are
12 related to?

13 MR. HOLT: Kevin Holt is a deputy with the sheriff
14 department. He's my nephew.

15 THE COURT: Georgetown County Sheriff's Department?

16 MR. HOLT: Yes, sir.

17 THE COURT: All right, is the Sheriff's Department
18 involved in this case?

19 MS. COTÉ: No, Your Honor.

20 THE COURT: Okay, all right, Mr. Holt, would that
21 association prohibit you from giving both the State and the
22 Defendant in this case a fair and impartial trial?

23 MR. HOLT: No.

24 THE COURT: Would you be able to put that association
25 aside and render any verdict you might be asked to render in

Voir Dire

37

1 this case exclusively on the testimony and evidence?

2 MR. HOLT: Yes, sir.

3 THE COURT: Okay, thank you for bringing that to our
4 attention. All right, the gentleman behind him, your name and
5 number?

6 MR. WALTERS: Steve Walters, Juror Number 138. I have a
7 cousin that's in law enforcement.

8 THE COURT: All right, and what agency is your cousin?

9 MR. WALTERS: State trooper.

10 THE COURT: And what county is he assigned to?

11 MR. WALTERS: Here in Myrtle Beach, in Horry County.

12 THE COURT: In Horry County?

13 MR. WALTERS: In Horry County.

14 THE COURT: All right, would that association prohibit
15 you in any way from giving both the State and the Defendant in
16 this case a fair and impartial trial?

17 MR. WALTERS: No, sir.

18 THE COURT: Would you be able to put that association
19 aside and render any decision you may be called to render in
20 this case exclusively on the testimony and evidence?

21 MR. WALTERS: Yes, sir.

22 THE COURT: All right, thank you for bringing that to
23 our attention.

24 All right, the lady behind him, your name and number.

25 MS. BROMELL: Number 16, Janice Bromell.

1 THE COURT: All right, Ms. Bromell, who is it that
2 you're related to?

3 MS. BROMELL: I'm married to the Bromell family and my
4 husband is related to Judge Jan Bromell-Holmes.

5 THE COURT: All right, all right, she's a judge.
6 That's not really law enforcement.

7 MS. BROMELL: Okay.

8 THE COURT: But do you feel that that association
9 would affect your ability to give both the State and Defendant
10 a fair and impartial trial in this case?

11 MS. BROMELL: No, sir.

12 THE COURT: All right, thank you very much for
13 bringing that to our attention. Yes, sir, your name and
14 number?

15 MR. POPE: Juror 104, Rupert Pope. My son's a
16 Corporal with the State Highway Patrol in Georgetown County.

17 THE COURT: All right, he's in Georgetown County with
18 the Highway Patrol?

19 MR. POPE: Yes.

20 THE COURT: All right, and the Highway Patrol involved
21 in this case?

22 MS. COTÉ: No, Your Honor.

23 THE COURT: All right, Mr. Pope, would that
24 association affect your ability to give both the State and
25 Defendant in this case a fair and impartial trial?

Voir Dire

39

1 MR. POPE: No, sir.

2 THE COURT: Could you put that association aside and
3 render any verdict in this case exclusively on the testimony
4 and evidence presented at trial?

5 MR. POPE: Yes, sir.

6 THE COURT: All right, thank you for bringing that to
7 our attention. Is there any member of the jury panel who has
8 ever had an encounter with law enforcement that left you with
9 certain feelings about law enforcement, whether it's good
10 feelings or bad feelings? If so, please stand.

11 MR. BUDZINSKI: Number 17, Stan Budzinski.

12 THE COURT: All right, Mr. Budzinski, would your
13 dealings with law enforcement, excuse me.

14 MR. BUDZINSKI: I am - I'm retired from law
15 enforcement.

16 THE COURT: Oh, you are retired from law enforcement?

17 MR. BUDZINSKI: Yes.

18 THE COURT: All right, and where were you?

19 MR. BUDZINSKI: In Maryland.

20 THE COURT: You were?

21 MR. BUDZINSKI: I was a State Trooper.

22 THE COURT: All right, and how long have you been
23 retired?

24 MR. BUDZINSKI: Fourteen years.

25 THE COURT: Would that employment affect your ability

1 to give both the State and the Defendant in this case a fair
2 and impartial trial?

3 MR. BUDZINSKI: No, Your Honor.

4 THE COURT: Would you be able to render a decision in
5 this case exclusively on the testimony and evidence presented
6 at trial without any influence from your prior employment?

7 MR. BUDZINSKI: Yes, Your Honor.

8 THE COURT: All right, thank you for bringing that to
9 our attention.

10 Anybody else had any other encounters with law
11 enforcement? If so, please stand.

12 Yes, ma'am, your name and number again.

13 MS. GAMBLE: Kathy Gamble, Juror Number 48.

14 THE COURT: All right, Ms. Gamble, would your prior
15 dealings with law enforcement affect your ability to give the
16 State and the Defendant in this case a fair and impartial
17 trial?

18 MS. GAMBLE: No, sir.

19 THE COURT: Excuse me?

20 MS. GAMBLE: No, sir.

21 THE COURT: All right, so, would you be able to render
22 a verdict in this case exclusively on the testimony and
23 evidence and not be influenced by those prior dealings with
24 law enforcement?

25 MS. GAMBLE: Yes, sir.

Voir Dire

41

1 THE COURT: All right, thank you for bringing that to
2 our attention.

3 Is there any member of the jury panel who has ever been
4 the victim of a crime? If so, please stand.

5 MS. JONES: Kathryn Jones, Juror Number 79.

6 THE COURT: All right, Ms. Jones, you were the victim
7 of a crime?

8 MS. JONES: Yes, it was probably about nine years ago,
9 I was - our home was robbed.

10 THE COURT: Would that incident affect your ability
11 to give both the State and the Defendant in this case a fair
12 and impartial trial?

13 MS. JONES: No, I was robbed of a lot of sentimental
14 jewelry and so on, but that's - I have a difficulty getting
15 over that but that, if that - I don't know if that case is
16 robbery or what it is, but ---

17 THE COURT: Well, let me ask you this, would that
18 incident, the fact that you were a victim of a crime, would
19 that affect your ability to presume the Defendant innocent in
20 this case?

21 MS. JONES: I'm sorry, the question again.

22 THE COURT: Would it affect your ability to presume
23 the Defendant to be innocent in this case?

24 MS. JONES: No, Your Honor.

25 THE COURT: All right, would it affect your ability to

1 require the State to prove his guilt beyond a reasonable
2 doubt?

3 MS. JONES: No, Your Honor.

4 THE COURT: Would you be able to render any decision
5 you may be asked to render in this case exclusively on the
6 testimony and evidence and not be influenced by your prior
7 victim?

8 MS. JONES: Yes, yes, Your Honor.

9 THE COURT: All right, thank you for bringing that to
10 our attention. Anybody else been the - yes ma'am, your name
11 and number.

12 MS. RUHLE: Carol Ruhle, Juror Number 112. I had a
13 similar situation. I had my household jewelry robbed eight
14 years ago.

15 THE COURT: Would that incident affect your ability to
16 be fair and impartial to both the State and the Defendant in
17 this case?

18 MS. RUHLE: No.

19 THE COURT: Would you be able to disregard that
20 incident totally and base any decision you might be asked to
21 render in this case exclusively on the testimony and evidence?

22 MS. RUHLE: Yes.

23 THE COURT: Okay, thank you for bringing that to our
24 attention. Anybody else been the victim of a crime? If so,
25 please stand.

Voir Dire

43

1 (No response.)

2 THE COURT: Does any member of the jury panel know of
3 any reason whatsoever why he or she should not serve as a
4 juror in this case with particular emphasis being placed on
5 your ability to be fair and impartial to both the State of
6 South Carolina and the Defendant in this case? If so, please
7 stand.

8 (No response.)

9 THE COURT: All right, any additional questioning from
10 the State?

11 MS. COTÉ: Your Honor, may we approach?

12 THE COURT: Yes.

13 (Bench conference is held in the presence but out of the
14 hearing of the jury venire.)

15 THE COURT: Does any member in the jury panel have
16 charges currently pending against him or her? If so, please
17 stand.

18 All right, sir, your name and number.

19 MR. MCCLARY: Number 87, James McClary, criminal
20 domestic violence.

21 THE COURT: All right, Mr. McClary, I'm going to
22 excuse you from this particular case. Thank you. Please just
23 remain with us right now. I'll excuse you in just a minute.
24 That's Juror Number 87.

25 Any additional questioning from the State?

1 MS. COTÉ: Nothing further from the State, Your
2 Honor.

3 THE COURT: Anything from the Defense?

4 MR. GOUDE: No, Your Honor.

5 THE COURT: All right, all right, ladies and
6 gentlemen, that concludes the voir dire questioning. Certain
7 ones have been excused. You all made notes on the ones that
8 were excused? All right, and then likewise, let's see. Let
9 me see the attorneys for a second.

10 (Bench conference is held in the presence but out of the
11 hearing of the jury venire.)

12 THE COURT: All right, ladies and gentlemen, the way
13 the selection process works now is that your names are fed
14 into a computer and the computer spits your names out at
15 random and you will be called one at a time. The State gets
16 so many strikes in this case, the Defense gets so many strikes
17 in this case and when your name is called, you'll come
18 forward. When you come forward, you will stand here in front,
19 face the attorneys and then the State's going to look at you
20 and then look at their notes a little while and then look back
21 at you and look at their notes a little while and then they're
22 going to decide whether they want you as a juror or not, and
23 if they decide they want you as juror, then the Defendant's
24 going to look at you a little and look back at his notes and
25 talk to his client and look back at his notes and decide

Jury Selection

45

1 whether he wants you as a juror, and we go through this
2 process until we have selected 12 jurors and two alternate
3 jurors. So, when your name is called, if you would please
4 come forward and bring with you any pocketbooks, umbrellas,
5 coats, whatever you may have and stand in front and turn and
6 face the attorneys until you're directed further to either
7 take a seat in the jury box or to resume your seat. Now, when
8 you're called forward, if you are struck in this case, please
9 do not take offense to that. All that means is for whatever
10 reason, whichever attorney strikes you just feels that you do
11 not fit the profile they're looking for in this particular
12 case. It doesn't mean that you're not a good juror or that
13 they don't want you, it just means that they're trying to
14 posture to get the best jury for their client and it just
15 means for this particular case they choose to excuse you.

16 So, it'll take just a few seconds for the computer to
17 print out the list, and when the list is produced, then we'll
18 call your name up one at a time. All right, while we're
19 waiting on that list, we're going to take about a 10-minute
20 break. If everybody please be back in the courtroom in your
21 seat at 25 till three.

22 OFF THE RECORD

23 (On the record.)

24 (The following takes place in the presence of the jury
25 venire.)

1 THE COURT: Thank you very much, please be seated.
2 Strikes are five and ten; is that correct?

3 MS. COTÉ: That's correct, Your Honor.

4 THE COURT: All right, ladies and gentlemen, when your
5 name is called if you would please come forward. Stand about
6 midway between me and the attorneys' tables and if you would
7 face the attorneys and wait for further instructions. Please
8 bring with you any umbrellas, pocketbooks, coats, whatever you
9 may have with you if your name is called. Please listen up
10 while the Clerk calls your name.

11 CLERK: Juror number 123, Glen Stafford.
12 What says the State?

13 MS. COTÉ: Please present this juror.

14 CLERK: What says the Defense?

15 MR. GOUDE: Swear the juror.

16 CLERK: Please take a seat in the jury box.

17 Juror number 68, Howard Holt.

18 What says the State?

19 MS. COTÉ: Please present this juror.

20 CLERK: What says the Defense?

21 MR. GOUDE: Excuse the juror.

22 CLERK: You may return to your seat.

23 Juror number 73, William Hoyle.

24 What says the State?

25 MS. COTÉ: Please excuse this juror.

Jury Selection

47

1 CLERK: Juror Number 108, Bruce Richardson.
2 What says the State?
3 MS. COTÉ: Please present the juror.
4 CLERK: What says the Defense?
5 MR. GOUDE: Swear the juror.
6 CLERK: Please take a seat in the jury box.
7 Juror Number 48, Kathy Gamble.
8 What says the State?
9 MS. COTÉ: Please excuse this juror.
10 CLERK: You may return to your seat.
11 Juror number 148, Stephen Wood.
12 What says the State?
13 MS. COTÉ: Please present the juror.
14 CLERK: What says the Defense?
15 MR. GOUDE: Swear the juror.
16 CLERK: Please take a seat in the jury box.
17 Juror Number 110, Suzanne Rogers.
18 What says the State?
19 MS. COTÉ: Please present this juror.
20 CLERK: What says the Defense?
21 MR. GOUDE: Excuse the juror.
22 CLERK: You may return to your seat.
23 Juror Number 146, Hunter Wilson.
24 What says the State?
25 MS. COTÉ: Please present this juror.

Jury Selection

48

1 CLERK: What says the Defense?
2 MR. GOUDE: Swear the juror.
3 CLERK: Please take a seat in the jury box. Juror
4 Number 46, Mitzi Frye. What says the State?
5 MS. COTÉ: Please present this juror.
6 CLERK: What says the Defense?
7 MR. GOUDE: Excuse the juror.
8 CLERK: You may return to your seat.
9 Juror Number 112, Carol Ruhle.
10 What says the State?
11 MS. COTÉ: Please present this juror.
12 CLERK: What says the Defense?
13 MR. GOUDE: Excuse the juror.
14 CLERK: You may return to your seat.
15 Juror Number 61, Larue, Larue Harle.
16 What says the State?
17 MS. COTÉ: Please present this juror.
18 CLERK: What says the Defense?
19 MR. GOUDE: Excuse the juror.
20 CLERK: You may return to your seat.
21 Juror number 79, Kathryn Jones.
22 What says the State?
23 MS. COTÉ: Please present this juror.
24 CLERK: What says the Defense?
25 MR. GOUDE: Excuse the juror.

Jury Selection

49

1 CLERK: You may return to your seat.
2 Juror number 40, Karen English.
3 What says the State?
4 MS. COTÉ: Please present this juror.
5 CLERK: What says the Defense?
6 MR. GOUDE: Excuse the juror.
7 CLERK: You may return to your seat.
8 Juror Number 39, Elizabeth Ellis.
9 What says the State?
10 MS. COTÉ: Please present this juror.
11 CLERK: What says the Defense?
12 MR. GOUDE: Swear the juror.
13 CLERK: Please take a seat in the jury box.
14 Juror Number 81, Michael La Baugh.
15 What says the State?
16 MS. COTÉ: Please present this juror.
17 CLERK: What says the Defense?
18 MR. GOUDE: Swear the juror.
19 CLERK: Please take a seat in the jury box.
20 Juror Number 106, Dorothy Pringle.
21 What says the State?
22 MS. COTÉ: Please excuse this juror.
23 CLERK: You may return to your seat.
24 Juror number 136, Lisa Van Vlake.
25 What says the State?

Jury Selection

50

1 MS. COTÉ: Please present this juror.
2 CLERK: What says the Defense?
3 MR. GOUDE: Excuse the juror.
4 CLERK: You may return to your seat.
5 Juror Number 132, Christine Thompson.
6 What says the State?
7 MS. COTÉ: Please present the juror.
8 CLERK: What says the Defense?
9 MR. GOUDE: Excuse the juror.
10 CLERK: You may return to your seat.
11 Juror Number 94, Joy Nason.
12 What says the State?
13 MR. GOUDE: What number is that, Ms. Clerk?
14 CLERK: Ninety-four.
15 What says the State?
16 MS. COTÉ: Please present this juror.
17 CLERK: What says the Defense?
18 MR. GOUDE: Excuse the juror.
19 CLERK: You may return to your seat.
20 Juror Number 59, Lorinda Guyton.
21 What says the State?
22 MS. COTÉ: Please present this juror.
23 CLERK: Are there any challenges from the Defense?
24 MR. GOUDE: Swear the juror.
25 CLERK: Please take a seat in the jury box.

Jury Selection

51

1 Juror Number 3, Frances Alderson.
2 What says the State?
3 MS. COTÉ: Please present this juror.
4 CLERK: Are there any challenges from the Defense?
5 MR. GOUDE: Swear the juror.
6 CLERK: Please take a seat in the jury box.
7 Juror Number 7, Lisa Banks.
8 What says the State?
9 MS. COTÉ: Please present this juror.
10 CLERK: Are there any challenges from the Defense?
11 MR. GOUDE: Swear the juror.
12 CLERK: Please take a seat in the jury box.
13 Juror number 76, Mitzi Hughes.
14 What says the State?
15 MS. COTÉ: Please excuse this juror.
16 CLERK: You may return to your seat.
17 Juror Number 105, David Poteet.
18 What says the State?
19 MS. COTÉ: Please present this juror.
20 CLERK: Are there any challenges from the Defense?
21 MR. GOUDE: Swear the juror.
22 CLERK: Please take a seat in the jury box.
23 Juror Number 8, Amanda Baxley.
24 What says the State?
25 MS. COTÉ: Please present this juror.

Jury Selection

52

1 CLERK: Are there any challenges from the Defense?
2 MR. GOUDE: Swear the juror.
3 CLERK: Please take a seat in the jury box.
4 Juror Number 2, Shana Aklin.
5 What says the State?
6 MS. COTÉ: Please present this juror.
7 CLERK: Any challenges from the Defense?
8 MR. GOUDE: Swear the juror.
9 CLERK: Please take a seat in the jury box.
10 THE COURT: All right, let's select two alternates.
11 For each alternate, the State gets one challenge and the
12 Defense gets two.
13 CLERK: Juror Number 131, Teressa Taylor.
14 What says the State?
15 MS. COTÉ: Please present this juror.
16 CLERK: What says the Defense?
17 MR. GOUDE: Excuse the juror.
18 CLERK: You may return to your seat.
19 Juror Number 113, Cindy Russ.
20 What says the State?
21 MS. COTÉ: Please present this juror.
22 CLERK: What says the Defense?
23 MR. GOUDE: Swear the juror.
24 CLERK: Please take a seat in the jury box.
25 THE COURT: All right, for the second alternate, State

Jury Selection

53

1 gets one strike, Defense gets two.

2 CLERK: Juror number 127, Mary Jo Swanson.

3 What says the State?

4 MS. COTÉ: Please present this juror.

5 CLERK: What says the Defense?

6 MR. GOUDE: Swear the juror.

7 CLERK: Please take a seat in the jury box.

8 THE COURT: All right, ladies and gentlemen, you will

9 be the jury that will preside over this first case we have

10 this week. At this point in time, I'm going to excuse you

11 back to the jury room, let you stretch your legs, use the

12 restroom, get something to drink, whatever it might be, but

13 I'll bring you out shortly and we'll start this case. I'll

14 give you some preliminary instructions, introduce you to the

15 Court personnel, and then we'll begin the trial of this case.

16 I am going to excuse you back to the jury room at this time.

17 You don't know anything about this case, so you can't discuss

18 this case; however, while you're in the jury room, if I could

19 get you to select a foreperson to preside over this jury. If

20 you're unable to do so, don't worry about it, I can appoint

21 someone to serve as foreperson. Many judges appoint their own

22 foreperson for a jury. I like to give the jury the

23 opportunity to try to select one on their own if they're able

24 to do so. As I said, if you're not able to do so, don't worry

25 about it. I can appoint someone.

Opening Instructions by Court

54

1 Now, the foreperson has absolutely no more authority, no
2 more influence, no more importance than any other juror. The
3 only difference is that the foreperson is the liaison between
4 the Court and the jury. If the jury has a need, the
5 foreperson lets the Court know. If the jury has a question,
6 the foreperson lets the Judge know, and at the time to
7 deliberate, the foreperson will preside over the
8 deliberations, but other than that the foreperson has no more
9 influence, importance or authority than any other juror. The
10 only restriction is that, Ms. Russ and Ms. Swanson, at this
11 present time you are the alternates. So, you would not be
12 eligible to serve as foreperson for this jury. The rest of
13 you, anyone is eligible to serve as foreperson; and so, I'll
14 let you select a foreperson. When you select one, if you'd
15 just write the foreperson's name and number on a sheet of
16 paper, give it to the bailiff and we'll bring it back into the
17 Court.

18 Now, when you come back into the courtroom, the
19 foreperson will always occupy this first seat, closest to the
20 witness. The alternates, Ms. Russ, Ms. Swanson, you'll always
21 occupy the two seats where you now sit. The rest of you are
22 at liberty to sit wherever you'd like. If you want to sit in
23 the same seat throughout the trial of the case, you can. If
24 you want to alternate seats throughout the trial of the case,
25 you can do that. It's whatever makes you feel more

Opening Instructions by Court

55

1 comfortable you're at liberty to do. So, at this point in
2 time I'm going to excuse you back to the jury room. Stretch
3 your legs, select a foreperson and let us know when you have
4 got someone selected. Everyone else please remain seated
5 while the jury's excused. Yes, sir, you're excused.

6 (Whereupon, the following takes place outside the
7 presence of the jury.)

8 THE COURT: All right, any challenges to the selection
9 or composition of the jury by the State?

10 MS. COTÉ: None from the State, Your Honor.

11 THE COURT: Any from the Defense?

12 MR. GOUDE: No, Your Honor.

13 (Remaining jury venire excused by Court with call-in
14 instructions.)

15 THE COURT: All right, let's give the jury about five,
16 ten minutes, see if they can select a foreperson and then
17 we'll get started. Bring them in and I'm going to introduce
18 them to the Court personnel, give them preliminary
19 instructions and then do we want to go straight into opening
20 arguments?

21 MS. COTÉ: Yes, Your Honor.

22 THE COURT: Okay, all right. Have they got a
23 foreperson? All right, they've already got one.

24 All right, they have selected Juror Number 105, David
25 Poteet, as the foreperson. All right, let's mark this, that

1 would be Court's Exhibit Two. All right, let's - I hate to
2 just send them out and bring them right back. Let's give them
3 about five minutes and then we'll bring them back in. Let's
4 make sure, I understand we're going to be sequestering
5 witnesses. Make sure that we do not have any witnesses who
6 are going to be testifying in the trial with the exception of
7 chief investigator, or the lead investigator, can be present.
8 the Defendant can be present. All other witnesses, the bailiff
9 will have to sequester them into a witness room. Okay?

10 MS. COTÉ: Yes, Your Honor.

11 THE COURT: All right, so, let's get that straight and
12 then when we bring the jury in we'll get started.

13 OFF THE RECORD

14 (On the record, outside the presence of the jury,)

15 MS. COTÉ: Your Honor, may we approach?

16 THE COURT: Yes..

17 (Whereupon, a bench conference was held.)

18 THE COURT: All right, anything from the State before

19 we bring the jury in?

20 MS. COTÉ: No, Your Honor.

21 THE COURT: Anything from the Defense?

22 MR. GOUDE: No, Your Honor.

23 THE COURT: All right, let's bring the jury in.

24 (Whereupon, the following takes place in the presence of
25 the jury.)

Opening Instructions by Court

57

1 THE COURT: All right, ladies and gentlemen, welcome
2 back. I understand, Mr. Poteet, you've been selected as
3 foreperson of the jury and I thank you for serving in that
4 capacity, if you'd always occupy that seat right there. The
5 two alternates, Ms. Russ, Ms. Swanson, if you'd always occupy
6 your seats, and as I said the rest of you are at liberty to
7 sit in whichever seat you like. You can occupy the same
8 throughout the trial, alternate seats, whichever you feel more
9 comfortable doing.

10 We're getting ready to start the case of the State of
11 South Carolina vs. Donovan Raheam Pringle, and as I told you
12 during qualifications and voir dire, you're constantly taking
13 oaths; and so, now I'll need you to stand and raise your right
14 hand while the Clerk administers an oath for you to preside
15 over this particular trial.

16 (Whereupon, the jury is sworn by the clerk.)

17 THE COURT: All right, is there any member of the jury
18 who did not respond to the oath by saying I do; please stand?

19 (No response.)

20 THE COURT: All right, ladies and gentlemen, we are
21 getting ready to begin the trial of this case, but before we
22 do so I want to just quickly and briefly introduce you to the
23 Court personnel that you'll be working with during the trial
24 of this case and then I'll give you some preliminary
25 instructions.

1 (Court personnel introduced by Court.)

2 THE COURT: Now, before we begin the trial I want to
3 tell you that this trial will probably be a little bit
4 different than what you're accustomed to. From watching
5 television, the movies, things of that nature, trials are
6 often full of a lot of suspense and high anxiety and a lot of
7 action, and while that may be the case in this trial it
8 probably won't be. Often people find trials slow and
9 deliberate, not exciting, not much action, and that'll
10 probably be like this case because the main function of this
11 case is to search for the truth, to find the truth, and that
12 is often a deliberate, repetitive process, but be that as it
13 may, I hope that you do find this trial educational. I hope
14 that you do find it interesting and I do want to thank you in
15 advance for your service as jurors in this case.

16 The attorneys appearing before you are advocates for the
17 parties they represent, but first and foremost they're
18 officers of the court. They're sworn to uphold the integrity
19 and fairness of the judicial system and to help you in the
20 search for the truth. You can expect them to be professional,
21 competent and ethical in the performance of their duties and
22 in the representation of their clients; and likewise, they
23 expect you to be conscientious as jurors during the trial of
24 this case.

25 Now, what I now say is intended to serve as an

Opening Instructions by Court

59

1 introduction to the trial of this case. These remarks are not
2 a charge on the law of the case. I'll charge you and instruct
3 you on the law to be applied in this case at the end of the
4 trial or at the end of the testimony stage, before you begin
5 your deliberations. This is merely an explanation of the
6 procedure that we'll follow in the trial of this case so that
7 you can better understand what might be happening.

8 Now, the Defendant in this case is charged with armed
9 robbery and with possession of a weapon during the commission
10 of a violent crime. He has been indicted on these charges;
11 however, the indictment is simply the charge by which the case
12 is brought into court and it is not in any sense evidence of
13 any of the allegations contained in the indictment. The
14 Defendant has pled not guilty to these indictments; and
15 therefore, the State has the burden of proving each element of
16 the indictments beyond a reasonable doubt. It will be your
17 duty, ladies and gentlemen, to decide whether or not the State
18 has met that burden. Your purpose as jurors is to find and
19 determine the facts. You are the sole judge of the facts. If
20 at any time I make a comment regarding the facts of this case
21 you're to disregard my comments. You are to determine the
22 facts from the testimony you hear and the other evidence
23 introduced in court. It is up to you to determine the
24 inferences that you may feel may be properly drawn from that
25 evidence. It is especially important that you perform your

1 duty in determining the facts of this case diligently and
2 conscientiously because ordinarily there is no way to correct
3 any errors determined by a jury in determining the facts of a
4 case. On the other hand and with equal emphasis, the same law
5 that makes you the judge of the facts makes me the judge of
6 the law. The law as given by the Court is the only law you
7 can consider. You must accept and follow the law as I give it
8 to you, even though you may disagree with the law. Just as I
9 cannot tell you what the facts of this case are, you cannot
10 disagree with me as to what the law is to be applied in this
11 case. It is your job to take the law as I give it to you and
12 apply it to the facts as you find those facts to be and that
13 is the way you reach a verdict in this case, a true and just
14 verdict under the solemn oath that you just took as jurors.

15 Now, until I advise you to begin your deliberations you
16 must not discuss this case with anyone, including your fellow
17 jurors. Do not discuss it with any friends, family members or
18 anyone involved in the case. After the case is submitted to
19 you you must discuss it only in the jury room with your fellow
20 jurors. The attorneys and parties in this case have been
21 advised that they're not to talk to you at all. So, if you
22 see anyone involved in the case and they do not speak or say
23 anything to you, they're not being rude. They're just
24 following the instructions of the Court.

25 Now, during the trial you are not to read, listen to or

Opening Instructions by Court

61

1 watch any news reports about the case. This includes anything
2 that might be in the newspaper or on the Internet, radio or
3 any other medium. You must not consider anything that you may
4 have read or heard about the case outside of the courtroom
5 whether before or during the trial of this case. It's
6 important that you keep an open mind and not decide any issue
7 in the case until all of the evidence has been presented, the
8 parties have made their closing arguments and I've instructed
9 you on the law to be applied in this case. It is your solemn
10 responsibility to determine the guilt or innocence of the
11 Defendant, and your verdict must be based solely on the
12 evidence as it is presented to you in the trial of this case
13 and on the law as I instruct you during and at the close of
14 the trial. Now, in just a moment the Solicitor will make what
15 is called an opening statement in which the Solicitor will
16 explain to you the issues in the case or at least what the
17 Solicitor thinks the issues of this case are. The attorney
18 for the Defendant may also make an opening statement, although
19 the Defendant is not required to do so. What the attorneys
20 tell you during their opening statements is not evidence in
21 this case. It is only their contention as to what they feel
22 the issues of this case are. The evidence in this case will
23 be presented to you by testimony from sworn witnesses from the
24 witness stand and or by any exhibits that may be introduced
25 into evidence.

1 Now, in determining what the true facts are in this case
2 you must decide whether or not the testimony of the witness or
3 the other evidence is believable. It'll be my responsibility
4 to rule as a matter of law as to whether certain testimony is
5 admissible at all or not, but once testimony is admitted,
6 whether or not you believe it is solely for you to determine.
7 In deciding whether to believe a witness, you have the right
8 to consider the interest of any witness, the bias of any
9 witness, the prejudice of any witness, the opportunity for the
10 witness to have seen the matters and things about which the
11 witness may testify and the way the witness acts on the
12 witness stand. You have the right to consider anything that
13 is in the record that will help you evaluate the testimony of
14 the witnesses. That means that it is your duty to pay close
15 attention to these witnesses, to observe the witnesses, to
16 listen to the witnesses and to pay close attention to the
17 attorneys and to the Court. Don't let your thoughts wander
18 but give strict attention to the testimony in this case so at
19 the end of all of the testimony, after the arguments of
20 counsel and a charge of the law by the Court you will then be
21 in a position to determine what the true facts are and to
22 apply the law to those facts and thus render a true and just
23 verdict.

24 Now, are there any additions or challenges to the opening
25 charges by the State?

Opening Instructions by Court

63

1 MS. COTÉ: None, Your Honor.

2 THE COURT: Any by the Defendant?

3 MR. GOUDE: No, sir.

4 THE COURT: All right, ladies and gentlemen, at this
5 time as I told you, the Solicitor will make the State's
6 opening argument and then the Defendant, if the Defendant
7 chooses, can make an opening statement, but these statements
8 are not evidence in this case.

9 All right, Ms. Coté?

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

12 THE COURT: Yes, ma'am.

13 MS. COTÉ: On December 23rd, 2008, almost one year
14 ago, the Defendant in this case, Donovan Pringle, decided to
15 use the Carolinian Inn on Church Street, here in Georgetown,
16 as his own personal piggy bank. On that day he entered, he
17 entered the lobby of that inn armed with a knife, with his
18 face covered where he took money out of the cash register and
19 also out of the clerk's wallet, thus breaking open his own
20 personal piggy bank. This incident began with a woman by the
21 name of Genene Alston. She was a disgruntled former employee
22 of the Carolinian Inn who also happened to be the Defendant's
23 girlfriend. She was a disgruntled former employee because she
24 was accused of taking money out of the cash drawer by the
25 owner of the Inn, a woman by the name of Mrs. Sepal, excuse

1 me. Now, Genene denied that she had taken money out of the
2 cash drawer, which, and she quit. She became - she was upset
3 to begin with, and then when she found out that the money had
4 been taken - the missing money had been taken out of her
5 check, she became further enraged. She went to her boyfriend,
6 the Defendant, and said, "Someone needs to rob her", her being
7 Mrs. Sepal, the owner of the Inn. Now, he took her at her
8 word and he did what she asked. December 23rd, 2008, he drove
9 into town with, excuse me, with another man and they both
10 armed themselves with knives, covered their faces and entered
11 the lobby of the Carolinian Inn.

12 They knew the layout of the lobby from talking with Ms.
13 Alston. She told them where everything would be, where the
14 desk would be, how high it would be and who would be working
15 that night. She gave them a description of the man, Mr.
16 Michau, who would be working. As they arrived, their plan
17 came into play. One of them bolted over the, over the desk,
18 another went around the back of the desk. They held knives in
19 the air on the desk clerk, took money from the cash drawer and
20 from the clerk's wallet.

21 Now, my name is Nancy Coté, and sitting at the State's
22 table with me is Deputy Solicitor Scott Hixson and
23 Investigator Steve Brown. We're all employed by the
24 Solicitor's Office here in Georgetown. It's our office's job
25 to prosecute all crimes that occur in Georgetown County. We

Opening Statement by State

65

1 will prosecute the case against Donovan Pringle by bringing
2 you evidence and witness testimony in the events that occurred
3 on December 23rd, 2008.

4 As a result of his actions on December 23rd, the Defendant
5 is here charged with armed robbery and possession of a weapon
6 during the commission of a violent crime. The State has the
7 burden of proof in this case, as it does in every criminal
8 prosecution, and we welcome that burden. We have to prove
9 every element of each crime that the Defendant is charged with
10 beyond a reasonable doubt.

11 The elements of armed robbery are the taking and carrying
12 away of the personal property of another with intent to
13 deprive him of possession by the use of force, threats or
14 intimidation while armed with a deadly weapon or while having
15 in possession an object which the victim reasonably believed
16 to be a deadly weapon and alleging by words and actions that
17 he is armed. So, even if you find that the Defendant did not
18 have a knife in his possession but he's alleging to the victim
19 or the victim believes that he has a knife, you could find
20 that to be armed robbery.

21 Now, possession of a weapon during the commission of a
22 violent crime is fairly simple. It's unlawful to be in
23 possession of a weapon during a violent crime, and by State
24 statute, armed robbery is classified as a violent crime. Now,
25 I told you that we have to - we as the State have to prove all

1 elements beyond a reasonable doubt. Reasonable doubt is the
2 burden that the State must meet in every criminal prosecution.
3 It's doubt that leaves you firmly convinced of the Defendant's
4 guilt. It's not proof beyond any or all doubt, it's just
5 proof that leaves you firmly convinced. It's just proof
6 beyond a reasonable doubt.

7 Now, Judge Culbertson already told you he is the judge of
8 the law in this case, and if anything that I say or Mr. Goude
9 says contradicts with what Judge Culbertson says about the
10 law, absolutely follow what he says as he is the ultimate
11 judge of the law in this case. You as the jury are the triers
12 of fact. I ask each of you to imagine that you're also
13 wearing black robes today. You - it's your job here to decide
14 if the Defendant committed the crimes that we as the State
15 allege that he did. You will decide that guilt based on the
16 evidence that we as the State produce to you during the trial.
17 The majority of that evidence will come from up here on the
18 witness stand through the witness testimony that you'll hear.
19 You'll hear from a number of witnesses. The first one you'll
20 hear from is Lee Michau. He was the desk clerk on that night.
21 He'll be able to tell you what he saw, what he observed, all
22 of the actions that night and how he saw the knives and how
23 money was taken not only from the drawer but also from his own
24 wallet.

25 Next you'll hear from Investigator Ricky Floyd, who was

Opening Statement by State

67

1 the lead investigator in this case. He'll be able to tell you
2 a little bit about the background of his investigation, what
3 he saw when he arrived at the scene, who he spoke to and just
4 some further information into his investigation, how he, how
5 he found - how information that he - led him to find the
6 Defendant. Genene Alston is the next witness to testify. She
7 was the girlfriend of the Defendant who told him that,
8 "Someone needs to rob her," and she'll be able to tell you
9 what she told him, how she gave him the lobby's layout and
10 gave him information about who would be working and what he
11 would look like.

12 Next, you'll hear from the Defendant's Co-Defendant,
13 Shane Pringle. He was the other man that was with him when
14 they entered the Carolinian Inn. He'll be able to tell you
15 about their plan, what they did, that they were armed with
16 knives and that they took money that night.

17 Now, as you're listening to all these witnesses, as the
18 triers of fact, I ask you to look at some factors as you're
19 listening to these witnesses, and it's your job to judge their
20 credibility. A few factors that you can use: look at the
21 demeanor of the witness on the stand, ask yourself if the
22 witness was forthright or hesitant while testifying, was the
23 testimony of the witness consistent, was their testimony
24 corroborated and ask yourself if they had any reason to be
25 biased or prejudice. After weighing all of the evidence and

1 listening to all of the testimony, I ask that you come back
2 with a verdict of guilty against Donovan Pringle.

3 THE COURT: All right, Mr. Goude, does the Defense
4 wish to make an opening statement?

5 MR. GOUDE: My name is Reuben Goude. I'm a lawyer
6 here in Georgetown. I represent Mr. Pringle who is seated
7 over there. What I ask you to do is listen to the evidence
8 that's going to be presented on the witness stand today and
9 tomorrow and I'll come back tomorrow and I'll discuss the
10 verdict with you at that time. Thank you very much.

11 THE COURT: All right, ladies and gentlemen, we can
12 start with the testimony in this case. The State can call
13 your first witness.

14 MS. COTÉ: The State calls Herman Lee Michau.

15 THE COURT: All right.

16 Whereupon, Herman Lee Michau, Jr., was called to the
17 stand, duly sworn by the Clerk and testified as follows:

18 THE CLERK: Thank you. Please be seated. State your
19 last name with the spelling.

20 MR. MICHAU: My name is Herman Michau. The last name
21 is spelled M-I-C-H-A-U.

22 THE COURT: All right, Ms. Coté.

23 DIRECT EXAMINATION

24 BY MS. COTÉ:

25 Q Good afternoon, Mr. Michau.

- 1 A Good afternoon.
- 2 Q Do you sometimes go by Lee?
- 3 A Yes.
- 4 Q All right, will you tell the jury a little bit about
5 yourself, where are you from, how old are you, things like
6 that?
- 7 A I was born in the upper part of South Carolina. I grew
8 up in Georgetown. I'm 52 years old.
- 9 Q Were you employed by the Carolinian Inn at some point?
- 10 A Yes, from November 2008 until January of this year.
- 11 Q What was your job there?
- 12 A I was a hotel desk clerk.
- 13 Q What hours did you typically work?
- 14 A I was on a split shift. I worked - the lady that worked
15 third shift from 11 p.m. to 7 a.m., I worked her two off
16 nights and then I worked three days in the - on the afternoon
17 shift.
- 18 Q Were you working the night of December 23rd, 2008?
- 19 A Yes, I was.
- 20 Q Will you please the jury a little bit about what happened
21 that night?
- 22 A Well, in the early morning hours, I think it was
23 somewhere between 4 and 5 a.m., a black male came around the
24 desk, he came in from a side door. I couldn't see him enter
25 the hotel. He came around the desk and I remember we had a

1 warm Christmas but we had one cold night right between, I
2 guess, you know, the 23rd, it would have been between the 22nd
3 and the 24th of course, and that was a cold night. So, when he
4 came around the corner, he had a bandana across his face and
5 he was dressed for cold weather like with a, I think, a blue
6 jacket and gloves and so forth. So, at first, I guess I was a
7 little naïve because I didn't really think that it was a
8 robbery. I just thought that he was cold because I've seen
9 some people, you know, they'll put a bandana across their face
10 like to keep cold air out or keep germs, from breathing in
11 germs or whatever.

12 Q Did he say anything to you at that point?

13 A He mentioned something about, I believe it was room 222,
14 I think that's correct, and on this particular night, the
15 hotel doesn't have high occupancy on any given night, but on
16 this particular night, I think there were about maybe a half
17 dozen rooms rented, six or seven rooms, and 222 happened to be
18 one of the rooms that was rented. So, when he mentioned
19 something about 222, I didn't really think it that odd because
20 I said, "Okay, well, I guess this guy's in that room," but
21 then he, then he asked for some tissues, if I had some
22 tissues. I suppose, you know, that he was indicating he had a
23 cold or whatever, and about that time, his accomplice came
24 around the same way he did and he also had a bandana on his
25 face.

Herman Michau - Direct by State

71

1 Q Were they wearing the same color bandana?

2 A No, that was, I guess, a little odd, too. One had a blue
3 bandana and one had a red, and I don't know why it came to
4 mind but later on like those are gang colors like, like there
5 are two predominant gangs called the Bloods and the Crypts and
6 one wear, one gang wears red and the other wears blue, and I
7 was thinking, "Well, obviously these guys aren't gang members
8 because they wouldn't be wearing two different colored
9 bandanas," or whatever.

10 Q So, what happened when the, when the second man
11 approached you?

12 A When he came up to the desk, that's when I knew beyond
13 any doubt that I was, you know, it was a robbery.

14 Q What did you say to them at this point?

15 A Pardon me?

16 Q Did you say anything to them at this point?

17 A Yes, I said something to the effect of, "Well, I know
18 what's going on now," or something along those lines.

19 Q Well, then what happened?

20 A One of the guys vaulted across the counter, and the
21 second walked around and came through a door that it was off
22 the lobby that entered into a little kitchen area, and from
23 there behind the desk and into an office that was located
24 behind the desk.

25 Q Did you see anything in their hands?

1 A Yeah, two knives about this long, about eight to ten
2 inches long. They looked like kitchen cutlery pieces, they
3 weren't like hunting knives or so forth. They were like,
4 looked like the knives came out of a kitchen set.

5 Q Were they both displaying knives?

6 A Yes.

7 Q They both had them out?

8 A Yes.

9 Q Then what happened? Did they both come behind the desk?

10 A Yes, the guy that vaulted, he vaulted across the desk and
11 then his accomplice came around through the door I was just
12 telling you about, and that point, we were all three right
13 there behind the desk.

14 Q What did they say to you at this point?

15 A "Give me the money" or, you know, or something to,
16 something along those lines.

17 Q So, did you give them money at that point?

18 A Yes.

19 Q And did you, did you just give them money out of the cash
20 register behind the desk or did you go somewhere else with
21 them?

22 A There was a safe located in the office behind the desk
23 and they told me to open the safe but I was unable to do that
24 because I didn't have the combination. The lady that owns the
25 hotel, her husband had died I think not too, you know, too.

Herman Michau - Direct by State

73

- 1 long before this happened and I'm not even sure if she had the
2 combination to the safe. I'd, I'd never seen anyone go in it.
- 3 Q So, did you take them back to that safe?
- 4 A I took them wherever they wanted to go.
- 5 Q And they asked you to go to the safe?
- 6 A Pardon me?
- 7 Q They asked you to go to the safe?
- 8 A Yes.
- 9 Q Did you have any other access to any money back in that
10 back room?
- 11 A Yes, there were deposits that were in the drawer in ---
- 12 Q Did you give them those deposits?
- 13 A Yes, and then they asked for my money and my cell phone
14 and I think I had around like \$60 in my wallet. I gave them
15 that and I pleaded with the guys to please not take my cell
16 phone because the cell phone had my family's numbers and
17 addresses in it and I didn't really want them to have that.
- 18 Q And so, you just gave them the money out of your wallet?
- 19 A Yes.
- 20 Q Do you know how much total money they were given, not
21 just your wallet but out of the cash register as well?
- 22 A I'm not real sure, but it wouldn't have been a high
23 dollar amount because as I stated earlier, the hotel didn't
24 have a high occupancy rate. I think the rooms rented for
25 around in the \$50 range. So, I would think that they got

1 probably somewhere between, I may be, I may not be correct on
2 this, but I'm thinking somewhere between maybe 5 and \$700.

3 Q After you gave them the money from your wallet, then what
4 happened?

5 A They exited the hotel out of a back door that was off of
6 a parking lot on the side of the hotel where the rooms were
7 closed down because of low occupancy. No one really parked in
8 this area except employees and the owner of the hotel who
9 lived upstairs, and it was a little odd that one of the guys
10 on the way out, after I pleaded with them not to take my cell
11 phone, he actually shook my hand on the way out, and he said,
12 he made sort of an apology in that he stated, "I'm sorry I'm
13 having to do this but I have to buy Christmas presents for my
14 little girl," and then they fled and I told him when they
15 asked for my cell phone, I pleaded with them not to take it
16 and I said, "Listen, I'll go outside with you, you know, and
17 I'll wait until you, I'll give you ten minutes, you know, to
18 get away before I call the police and I won't tell them what
19 you were wearing," and so forth. I was trying to say anything
20 I could to keep these guys from harming me because they had
21 knives.

22 MS. COTÉ: Beg the Court's indulgence.

23 THE COURT: All right.

24 BY MS. COTÉ:

25 Q Mr. Michau, I'm going to show you what's been marked for

Herman Michau - Direct by State

75

1 identification purposes only as State's Exhibits One through
2 Nine. Let me get them back in order for you. I'm going to
3 ask you if you recognize the images in these pictures without
4 saying what they are.

5 A Yes, I recognize all the images.

6 Q Are those images how the hotel appeared on the night of
7 December 23rd, 2008?

8 A Yes.

9 Q Have those images been altered in any way in the way that
10 you remember the hotel looking?

11 A No, they look the same as the hotel looked.

12 MS. COTÉ: Your Honor, we would seek to introduce the
13 State's Exhibits One through Nine into evidence at this time.

14 THE COURT: Any objection?

15 MR. GOUDE: No, Your Honor.

16 THE COURT: All right, State's Exhibits One through
17 Nine admitted into evidence without objection.

18 (Whereupon, State's Exhibits One through Nine
19 (Photographs) admitted into evidence and appropriately
20 marked.)

21 MS. COTÉ: Your Honor, may I publish these to the
22 jury at this time?

23 THE COURT: Yes.

24 BY MS. COTÉ:

25 Q Mr. Michau, I'm going to go through these pictures one by

1 one with you just so we have an idea of where everything was,
2 just to have a better visual idea of what happened that night.
3 It should be coming up on your screen right now. We're trying
4 out this fancy new technology we have. Can you tell the jury
5 as soon as it clears up a little bit what that's a picture of?

6 A It's an exterior, a picture of the exterior of the hotel
7 after the police arrived after I called, made the 911 call.

8 Q And I'm going to show you, that was, for the record that
9 was State's Exhibit One. Now, I'm going to show you what's
10 been marked as State's Exhibit Two. What is that a picture
11 of?

12 A That's a picture of the desk area. That's the desk that
13 one of the guys vaulted over. If the jury can see all the way
14 to the left of that picture, that's a little hall.

15 Q That point right there where my finger is at?

16 A Yes, where your fingertip's located. There's a hall
17 there that I think will be shown, a better view of it in
18 another picture, but if you can picture the robbers coming in
19 down that little hall and then they turn, made a turn and they
20 were right in front of the desk before I could see them coming
21 in. There's a door right across from the front desk that
22 whoever comes in that door they're visible to the clerk behind
23 the desk as they enter; however, with the door that they
24 came into the hotel, I couldn't see them until they were
25 around, till they had made the turn and were standing right in

Herman Michau - Direct by State

77

1 front of me.

2 Q Okay, thank you. Now, I'm going to show you what's been
3 marked as State's Exhibit Three. Can you tell the jury what
4 that's a picture of?

5 A Yes, that's a picture of the hallway although you can't
6 see all the way down to the end of the hallway. The door that
7 we're looking at here with the exit sign above it is yet
8 another door. It's the front door to the hotel. The hotel
9 had, the hotel lobby had a total of three doors: this door
10 with the exit sign, the door on down that hallway that the
11 robbers came in and then a third door that I was describing a
12 minute ago that's right across from the desk. So, there's a
13 total of three doors.

14 Q State's Exhibit three, on the right, is that the door
15 that you were speaking of earlier, the one the robbers
16 entered?

17 A Yes, the one guy vaulted over the counter, the second
18 robber came past the large cabinet that you're looking at and
19 then the white door that's swung open there if you'll notice
20 looking through that doorway, there's a refrigerator there,
21 and if you go in through that doorway and make a left, there's
22 a second doorway that takes you behind the front desk area
23 where I was working when I was robbed.

24 Q What does this picture show? This is State's Exhibit
25 Five.

1 A That would be as I was just describing, if you would
2 have, if you would enter through that doorway and look to your
3 left, the refrigerator we were looking at is to the right of
4 the counter in the lower right-hand corner of the picture and
5 then if you make that, you know, a left turn, that takes you
6 back, what you're looking at back there where you see the cord
7 hanging off the phone, that's an office area that's located
8 back behind the front desk.

9 Q Okay, this is State's Exhibit Six, is that the safe that
10 you were speaking of in that picture in the, sort of in the
11 middle, sort of a teal color?

12 A Yes, that's correct, and that's located in the office
13 back behind the front desk.

14 Q And that's where the robbers took you after you were done
15 behind the front desk?

16 A Yes.

17 Q This is State's Exhibit Seven, what does this picture
18 show?

19 A Okay, if we were looking at the far left of that picture,
20 the safe is out of the picture now and we're going to the
21 right and it was in this area where the guys asked for my
22 money. We were standing right here when they asked for my
23 money and my cell phone and the white door that's in view now
24 is the back door that we all three went out because I told
25 them I would go outside with them and not call the police

1 until they had, you know, gotten away, and right in the middle
2 of the hallway where you're looking at the blue carpet there,
3 that's where the one guy shook my hand and told me that, you
4 know, he made sort of an apology I suppose and told me, you
5 know, he was sorry about robbing me, but he had to buy
6 Christmas presents for his little girl.

7 Q Now, this picture may be out of order, I'm not sure, but
8 will you tell the jury what this is a picture of?

9 A Yes, if, first of all, that's the owner's vehicle, the
10 white SUV belongs to the lady that owns the hotel. She lived
11 upstairs. The door that they came in would be to the right if
12 I'm looking at it right of where you see the yellow police
13 tape there with the potted plant.

14 Q Like right here where I'm pointing?

15 A Yes. Exactly, the door is around the - to the left of
16 the police tape.

17 Q And that's the door they entered through?

18 A Yes, and that door is not, whoever comes in that door,
19 they're not visible until they walk down the hallway I
20 described earlier and make a left turn and then they're
21 standing right in front of the desk.

22 Q Okay, and this is the last picture, State's Exhibit Nine.
23 Is that sort of the path that the robbers took when they left?

24 A Yes, if we could see further to the right of that, the
25 right side of that picture, we would be looking at the - that

1 exterior door that I was just describing that they ran out of,
2 and when they ran out, as I stated, I went outside with them
3 and they ran, if you could, this building that we're, there's
4 a brick wall.

5 Q Right here?

6 A Yes, all along that area and there's, right in the middle
7 of that picture there's an entryway that takes you back to
8 some, to, it was a restaurant or a lounge that was being
9 leased out by the owner of the hotel and once you go into that
10 area it's sort of like a maze, there's no way out of it.
11 You've got to come out the same way you went in, and when they
12 ran through the back door, they ran into this walled area and
13 couldn't get out. So, I'm still standing there sort of in
14 shock, you know, or waiting to and I thought they were gone
15 but all of a sudden they're bolting right back towards me out
16 of that entryway that's in the center of the picture and at
17 that point, from the direction they were running, they would
18 have made a right and they both ran across Church Street into
19 the parking lot of the VFW, which is across Church Street from
20 the motel.

21 Q Okay, will you describe for the jury how the Defendants
22 appeared? Were they approximately the same height? What was
23 their skin color?

24 A The taller of the guys had a more of a medium dark
25 complexion and the shorter guy had a lighter complexion.

Herman Michau - Direct by State

81

1 Q Were either one of them wearing gloves?

2 A The taller guy was wearing gloves because as I stated
3 earlier, I believe I noticed that when he first walked up to
4 the counter because he asked for tissues, but I definitely
5 noticed it when he shook my hand on the way out and told me
6 that he apologized for robbing me.

7 Q Was this incident captured on videotape?

8 A No, the owner had a security camera but she didn't have
9 tape in the camera.

10 Q Mr. Michau, I need to address a little bit for the jury
11 about your prior criminal history. You've been in trouble in
12 the past; haven't you?

13 A Yes, earlier in my life I had a problem with drugs and
14 the addiction caused me a lot of problems. I graduated from
15 college. I was working for a utility company up in North
16 Carolina which would be like Santee Cooper's counterpart. I
17 worked in nuclear piping design, and I became addicted to
18 cocaine, and my life went downhill, and I pretty much lost my
19 family, my job, my assets, and so forth, and eventually I lost
20 my freedom because of crimes I committed to buy drugs. So,
21 it's ---

22 Q Will you address, can you recall the criminal convictions
23 that are on your record?

24 A Yes, I have convictions for robbery. I have federal
25 convictions for bank robbery and those would be the major one,

1 I mean.

2 Q You were initially a suspect for this crime; weren't you?

3 A I was. I think that in a, when any - based on newspaper
4 accounts I've read over the years, I think when anytime when
5 something like this happens when a business gets robbed that
6 takes in money from the public or so forth or any business
7 that handles money, I think that the person that's working
8 there is usually the first person that's looked at because
9 it's so easy for the person to just stick the money in their
10 pocket and say, "Well, someone came in and robbed me," but the
11 investigators, I made a claim to them as soon as this
12 happened. I told them about my record as I just described it
13 to you and I was asked to go to Charleston.

14 MR. GOUDE: Objection to ---

15 Q Were you eventually cleared of this?

16 A Yes, after taking a polygraph. Oh, oh, sorry.

17 Q Let's see.

18 MS. COTÉ: Your Honor, do you need to rule on the
19 objection?

20 THE COURT: I sustain the objection, I thought you
21 agreed to it.

22 MS. COTÉ: Okay, I apologize. I didn't hear you.

23 BY MS. COTÉ:

24 Q Do you have pending charges against you now currently?

25 A Yes, I have a pending charge of failure to stop for a

Herman Michau - Direct by State

83

1 blue light in Horry County.

2 Q Have I offered you anything in exchange for your
3 testifying, for your testimony today?

4 A No, you haven't.

5 Q Did you call 911 on the night of December 23rd, 2008?

6 A Yes, after, after the two guys had run across the street
7 and they disappeared somewhere back behind the VFW club.
8 That's when I went back inside the hotel and called 911 and I
9 also called the owner who lived upstairs.

10 Q Is the Inn located in the City of Georgetown?

11 A Yes, it is, on Church Street.

12 Q In Georgetown County?

13 A Yes.

14 Q I'm going to show you now what's marked as State's
15 Exhibit Ten for identification purposes. Do you recognize
16 this?

17 A Yes, it's stating this 911 recording.

18 Q Have you listened to this recording prior to testifying
19 here today?

20 A Yes, your, one of your investigators played it for me.

21 Q Who's voice was on that recording?

22 A It was my voice.

23 Q Was the recording as you remembered it?

24 A Yes.

25 Q Had it been altered in any way?

1 A No.

2 MS. COTÉ: Your Honor, the State would seek to
3 introduce State's Exhibit Ten into evidence at this time.

4 THE COURT: Any objection?

5 MR. GOUDE: Yes, Judge, I don't have a copy of that
6 and never heard it and don't know what's on it. So, I would
7 object for those reasons.

8 THE COURT: All right, ladies and gentlemen of the
9 jury, I'm going to have to excuse you back to the jury room
10 while we take up this matter of law. As I told you, it's my
11 responsibility to rule on the admissibility of evidence and
12 then it's up to you to decide what facts to draw from that
13 evidence if it is admissible; and so, I excuse you back to the
14 jury room while we make this decision. Now, I don't want you
15 to think that we're hiding anything from you. The reason we
16 excuse you back to the jury room is that often when we decide
17 these motions or these objections it requires the attorneys or
18 me as the Judge to discuss matters of fact and we don't want
19 anything that we say to influence you in your factual
20 determination as to what the facts are based upon the
21 testimony and evidence presented; and so, that's why we excuse
22 you to the jury room while we rule on these evidentiary
23 matters. It's not to hide anything from you, it's just that
24 we don't want you influenced by anything that we say during
25 the course of these arguments to influence you. So, we'll

Herman Michau - Direct by State

85

1 excuse you back to the jury room and we'll bring you back out
2 in just a moment.

3 (Whereupon, the following takes place outside the
4 presence of the jury.)

5 THE COURT: All right, Ms. Coté, Mr. Goude objects
6 because he says it was not produced to the Defendant.

7 MS. COTÉ: Your Honor, I believe, I believe the rule
8 is that it doesn't have to be turned over until the witness
9 testifies, the witness, the witness whose voice is on the
10 recording and is testifying at this time. So, it would be the
11 State's position that it does not have to be turned over until
12 that point in time.

13 THE COURT: I mean, was it disclosed to him that you
14 would be playing a recording of the 911 call?

15 MS. COTÉ: I'm not sure, Your Honor.

16 MR. GOUDE: Judge, may I just hear it before the jury
17 hears it?

18 MS. COTÉ: Yeah, we're happy to.

19 MR. GOUDE: I can - I may not object at all, I just
20 don't know what it says.

21 THE COURT: All right, let's go ahead.

22 MR. HIXSON: Your Honor, it's four minutes.

23 THE COURT: Okay, well, let's go ahead and as
24 proffered testimony play it and then we'll see whether or not
25 Mr. Goude objects to it.

1 MS. COTÉ: Your Honor, I think it's fairly loud if we
2 play it through the system.

3 THE COURT: As in you're saying they'll hear it in the
4 jury room if we play it?

5 MS. COTÉ: I'm not sure, but they may be able to. We
6 could turn the volume down as far as it will go.

7 THE COURT: All right, turn it, really all we need to
8 do is play it loud enough for Mr. Goude to hear it.

9 (911 tape played.)

10 MR. BROWN: That's where the 911 tape stops. The
11 rest of this tape is like radio log traffic between the police
12 officers ---

13 THE COURT: But that's what you're seeking to
14 introduce is that portion?

15 MS. COTÉ: Yeah, just that portion, Your Honor.

16 THE COURT: All right.

17 MR. GOUDE: I have no objection, Your Honor.

18 THE COURT: All right, we'll go ahead and play it up
19 to that portion.

20 MS. COTÉ: May we approach briefly, Your Honor?

21 THE COURT: Yes.

22 (Bench conference was held.)

23 THE COURT: All right, anything from the State before
24 we bring the jury back in?

25 MS. COTÉ: No, Your Honor.

Herman Michau - Direct by State

87

1 THE COURT: Anything from the Defense?

2 MR. GOUDE: No, sir.

3 THE COURT: All right, let's bring the jury in.

4 (Whereupon, the following takes place in the presence of
5 the jury.)

6 THE COURT: Ladies and gentlemen, welcome back.

7 Ms. Coté, you can continue.

8 MS. COTÉ: Thank you, Your Honor.

9 After having been authenticated by the witness, the State
10 would seek to introduce State's Exhibit Ten into evidence at
11 this time.

12 THE COURT: Mr. Goude?

13 MR. GOUDE: No objection, Your Honor.

14 THE COURT: All right, State's Exhibit Number Ten
15 admitted into evidence without objection.

16 (Whereupon, State's Exhibit Number Ten [911 Call]
17 admitted into evidence and appropriately marked.)

18 MS. COTÉ: Your Honor, may I publish that to the jury
19 at this time?

20 THE COURT: Yes, you may.

21 MS. COTÉ: Thank you.

22 (Whereupon, State's Exhibit Ten, 911 tape, played in open
23 court.)

24 BY MS. COTÉ:

25 Q Mr. Michau, as part of your job as being a desk clerk at

1 the Carolinian Inn, were you entrusted with money belonging to
2 the owner?

3 A Yes, the money that was in the drawer.

4 Q Thank you, I have ---

5 A What's commonly referred to as the bank.

6 Q I have no further questions for you, Mr. Michau. Please
7 answer any questions Mr. Goude has for you.

8 A Okay.

9 MR. GOUDE: Just a few, Your Honor, just a
10 few.

11 CROSS EXAMINATION

12 BY MR. GOUDE:

13 Q As I understand it, sir, you were, you have a prior
14 criminal record of bank robbery that's in the federal
15 jurisdiction?

16 A Yes, sir, that's correct.

17 Q Are you on probation or parole for that federal bank
18 robbery charge now?

19 A I'm on federal supervised release.

20 Q You have a pending charge against you now in criminal
21 court?

22 A Yes, sir, a misdemeanor charge.

23 Q What is that charge, please?

24 A Failure to stop for a blue light.

25 Q If you were convicted of that, would that violate any of

1 that federal probation or supervised release or parole?

2 A Yes sir, I have a federal hold on me now. That's why I
3 can't bond out of jail. If it was just the charge, the state
4 charge, I wouldn't be in jail right now.

5 Q Was your bank robbery conviction in the federal court was
6 that in 1999?

7 A I believe it was 1998.

8 Q And do you have a cocaine conviction, too?

9 A No, I committed the crimes in order to buy cocaine. I
10 may have, I may have a cocaine conviction of a small amount of
11 cocaine prior to, prior to that. It's been so long ago, I
12 believe I do.

13 Q That was one in - all right, sir, 1995, is that the one
14 you're talking about?

15 A That could be, yes.

16 Q Did you say you had other robbery convictions other than
17 the bank robbery in federal court?

18 A Yes.

19 Q How many other robberies or ---

20 A I think it was like, this happened in, this prior to
21 robbing the bank after I got back on cocaine, I, I think that
22 I had about a half dozen that are mostly attempted robberies
23 and I, they got consolidated, and it's part of a plea bargain
24 process.

25 Q That was all in about the year 2000?

1 A I don't remember, sir, if what you're looking at is my
2 record, I'm sure that's probably right.

3 Q No other questions, thank you.

4 THE COURT: All right, redirect?

5 REDIRECT EXAMINATION

6 BY MS. COTÉ:

7 Q Did you have any pending charges against you at the time
8 of this incident when you made the 911 call?

9 A No, I didn't. I was released from prison.

10 Q And before this current incident, this failure to stop
11 for a blue light, your last previous conviction was back in
12 2000 or so; is that right?

13 A Yes, that's correct. I had did approximately an eight
14 year prison term and then I had been out of prison for almost
15 two years with no problems with law enforcement and I was
16 under no, I had no pending charges when the robbery occurred.

17 Q Thank you. Your Honor, I have no further questions.

18 THE COURT: All right, you may step down.

19 MS. COTÉ: May this witness be excused?

20 THE COURT: Any objection to excusing the witness?

21 MR. GOUDE: No, sir.

22 THE COURT: All right, sir, you're free to go. Thank
23 you very much.

24 MR. MICHAU: All right, thank you.

25 THE COURT: Let me see the attorneys for a second.

1 (Whereupon, a bench conference was held in the presence
2 but out of the hearing of the jury.)

3 THE COURT: All right, ladies and gentlemen, it's
4 4:30. I think we're going to go ahead and break for today.
5 We'll resume the trial of this case tomorrow. Please be back
6 in the jury room at 9:30 tomorrow morning and we'll try to get
7 started as soon as we can, hopefully right at 9:30. So, if
8 you'd please be back at 9:30. Please do not discuss this
9 case. Don't even discuss it among yourselves at this point in
10 time. You haven't received all of the evidence and it's too
11 early to begin deliberations. Plus, you haven't received a
12 charge on the law. So, do not discuss the case even among
13 yourselves. Please do not try to conduct any independent
14 investigation. Don't go on the internet. Don't go looking
15 through any newspaper clippings or listen to any radio or TV
16 accounts about it because you're to base your decision
17 exclusively on the testimony and evidence presented at trial.
18 I hope everyone has a good evening and we'll see you back at
19 9:30 tomorrow morning. Everybody else please remain seated
20 while the jury's excused.

21 (Whereupon, the following takes place outside the
22 presence of the jury.)

23 THE COURT: All right, anything from the State before
24 we break for the evening?

25 MS. COTÉ: Yes, Your Honor, out of an abundance of

1 caution, the State is going to withdraw its motion or withdraw
2 its objection to the Defense presenting its alibi defense in
3 order to allow Mr. Goude to present a full defense for his
4 client. I would ask that Mr. Goude provide the State with
5 Social Security numbers and date of births for those alibi
6 witnesses so we can properly prepare to cross examine them.

7 THE COURT: All right, Mr. Goude, any objection to
8 providing the Social Security and other identification
9 information requested by the State for your alibi witnesses?

10 MR. GOUDE: No, Your Honor.

11 THE COURT: All right, so, if you can go ahead and get
12 that together and present it to the State so the State can do
13 their background investigations on those witnesses and then
14 the State will withdraw its objection to the Defendant
15 presenting an alibi defense and will allow the Defense to
16 present that. Is that correct?

17 MS. COTÉ: That's correct, Your Honor.

18 THE COURT: All right, anything else?

19 MS. COTÉ: Also, Your Honor, the State would just
20 like to place on the record that we have a juror sitting in
21 the back right corner of the jury box. I was trying to look
22 up which juror number she was but she seems to have fallen
23 asleep a number of times during testimony today and we would
24 just like to place that on the record.

25 THE COURT: All right, but you don't know which one it

State v. Pringle

93

1 is?

2 MS. COTÉ: I do not know, Your Honor. I'm looking at
3 my notes.

4 THE COURT: All right, the Clerk says it's juror
5 number ---

6 MS. COTÉ: I believe that was Juror Number Two, Shana
7 Aklin.

8 THE COURT: Oh, okay, well, I mean, do you think she,
9 I was kind of keeping an eye after you brought it to the
10 Court's attention and I noticed during the playing of the 911
11 and I think it was Ms. Aklin had her eyes closed but it was
12 like she was listening to the testimony.

13 MS. COTÉ: That could be the case, Your Honor, but I
14 would just ask that the Court keep an eye on her in case it
15 becomes a further problem.

16 THE COURT: We'll do that. I didn't know if we wanted
17 to go ahead and excuse her. Mr. Goude, any concerns on that
18 issue?

19 MR. GOUDE: No, Your Honor.

20 THE COURT: All right, all right, we'll go ahead with,
21 since there's no objection we'll leave her seated at this
22 point in time and we'll keep an eye on it throughout for the
23 remainder of the trial.

24 All right, anything else before we break for the evening?

25 MS. COTÉ: Nothing further from the State, Your

1 Honor.

2 MR. GOUDE: No, sir.

3 (Call in message for remaining jury venire discussed.)

4 THE COURT: All right, anything before we break for
5 the day?

6 MS. COTÉ: No, Your Honor.

7 THE COURT: All right, we'll be in recess until 9:30
8 tomorrow morning. I'll be here certainly before 9:30 if we
9 have anything but let's try to be ready so we can start in
10 with the witnesses at 9:30. Okay?

11 MR. GOUDE: Thank you, Your Honor.

12 MS. COTÉ: Thank you, Your Honor.

13 THE COURT: All right, thank you very much. Is the
14 Defendant, is he in, is he held now or is he out on bond?

15 OFFICER: He's in custody.

16 THE COURT: Okay, he's in custody. Okay, thank you
17 very much.

18 OFF THE RECORD

19 (On the record, Tuesday, December 15, 2009, outside the
20 presence of the jury.)

21 THE COURT: All right, anything before we bring the
22 jury in?

23 MS. COTÉ: Nothing from the State, Your Honor.

24 THE COURT: Anything from the Defense?

25 MR. GOUDE: No, Your Honor.

1 THE COURT: All right, I think when we bring them in,
2 there are two things I probably need to discuss with them. I
3 noticed one of the jurors yesterday was taking notes. So, I
4 need to advise them on note-taking and we need to make sure
5 we've got ---

6 (Bailiff and court converse.)

7 THE COURT: Good, good and I think we need to get some
8 pads and pencils. I'm going to allow them to take notes but I
9 need to give them some instructions on that. Likewise, I need
10 to instruct, one of them was asking about using a phone when
11 they took a break and I'm going to let them know that they can
12 use the phone but they can't discuss the case. They can
13 return phone calls, check messages or whatever. So, those two
14 instructions, unless there's any objection, I'm going to do
15 that first and then we'll go straight back into the trial of
16 the case. Okay? All right, let's bring the jury in.

17 (Whereupon, the following takes place in the presence of
18 the jury.)

19 THE COURT: Ladies and gentlemen, welcome back. I
20 hope everybody had a nice, restful evening. We're ready to
21 resume the trial of this case, but before we get started I
22 needed to go over some things with you. I don't know that I
23 adequately explained it yesterday or led to any confusion or
24 anything, but number one, when we take some breaks and you go
25 back into the jury room, if you need to check phone messages,

1 return some calls and things like that you can do that. The
2 only restriction is that you cannot discuss anything about
3 this case. You can't tell anybody what's going on, who's
4 testifying, what questions are being asked or advise them as
5 to what the case is even about, but if there are any phone
6 calls that you need to return that are not related to this
7 case or any arrangements you need to make that are not related
8 to this case, you are permitted to do that when the jury takes
9 a break and you're back in your room, number one. Number two,
10 I noticed that there was some people taking notes yesterday.
11 Now, if you would like to take notes, you are permitted to
12 take notes during the trial of this case; however, there are
13 certain restrictions. Number one, you need to know the
14 purpose of taking notes. The purpose of taking notes is
15 simply to refresh your memory individually. You cannot share
16 your notes with anyone. The purpose is to jot down things
17 that you think are important in this case and that you want to
18 remember during your deliberations. Now, some people take
19 notes better than others. Some people listen better than
20 others. So, just because somebody takes a note does not mean
21 that the notes they have taken down are any more accurate than
22 another person's memory because some people can recall and
23 interpret testimony better than others can write it down. So,
24 you are permitted to take notes; however, those notes are
25 personal to you. They are used to remind you of things that

1 you wish to remember during your deliberations.

2 Number two, you cannot share your notes with anyone, and
3 number three, you will not be allowed to take your notes
4 outside of the courtroom or the jury room if we break for the
5 evening or when you leave for lunch or things of that nature.
6 So, is there anybody who would like to take notes? We will
7 provide you with the pads and the pencils or whatever you need
8 if you wish to take notes. If I can see a show of hands of
9 anybody that if you want to take notes you are permitted to.
10 All right, we have one. All right, let's go ahead, can we get
11 a pad, and if anyone, let's go ahead and how long would it
12 take to get pads for everybody? Okay, well go ahead, just go
13 ahead get that one, that one note pad and let's give it to the
14 foreperson so he can take notes. If anybody else decides that
15 you do want to take notes, just let your foreperson know and
16 we'll get you a pad and a pencil, but as I said, this is just
17 personal to you to refresh your individual memory during times
18 of deliberation. All right, hopefully she'll be back in just
19 a second and we can go ahead and resume with the trial of the
20 case. Are you all ready to call your next witness?

21 MS. COTÉ: Yes, Your Honor.

22 THE COURT: All right, let's give Ms. Knox just a few
23 a seconds to get back with that note pad. Nobody else has
24 indicated that they want to take notes, but let's make sure
25 that we've got them available just in case somebody decides

1 they want to take notes, then they're going to let the
2 foreperson know and we'll get them, get them a pad and a
3 pencil at that time.

4 All right, Ms. Côté, you can call your next witness.

5 MS. COTÉ: State calls Investigator Ricky Floyd.

6 THE COURT: All right.

7 Whereupon, Richard William Floyd was called to the stand,
8 duly sworn by the clerk and testified as follows:

9 THE CLERK: Please be seated, state your full name for
10 the record.

11 MR. FLOYD: Good morning, I'm Richard William Floyd.
12 I'm employed with the Georgetown City Police Department.

13 DIRECT EXAMINATION

14 BY MS. COTÉ:

15 Q Investigator Floyd, how long have you worked with the
16 Georgetown Police Department?

17 A I've got 15 years in completely, I think 12 of those
18 years have been with the City of Georgetown.

19 Q What's your job title at the Georgetown Police
20 Department?

21 A I'm an investigator.

22 Q Will you tell the jury a little about the
23 responsibilities in your job title?

24 A Yes, we - originally the patrol officers that you see out
25 in the street, they take the initial reports and as a result

Richard William Floyd - Direct by State

99

1 of those reports being taken, they are then transferred to the
2 investigation division. We do all the follow-ups on those
3 incident reports that are filed, whether they are petty
4 larcenies to murders, with those reports. We have a total of
5 five investigators in our division. We are assigned those
6 cases. With those cases, we take it upon ourself to
7 investigate those incidents. During the course of
8 investigations, it includes anything from, you know, the use
9 of a computer, photographs, interviews, meetings with Judges,
10 victims and suspects and testimonies in court.

11 Q Will you please tell the jury a little about your
12 background and training in law enforcement?

13 A I attended the academy in Columbia, the South Carolina
14 Criminal Justice Academy in 1994. That's when I was employed
15 with the Georgetown County Sheriff's Office. I was an
16 employee there for approximately two and a half years. I
17 then transferred to the City of Georgetown as a patrol
18 officer, basic training for a patrol officer, I attended
19 several seminars, whether in Columbia or other jurisdictions,
20 through my career as a patrol officer. From patrol officer I
21 then went to the Community Service Division. I was actually
22 the corporal of that division and held the responsibility for
23 maintaining major events in Georgetown, manpower, officer per
24 individual ratios as far as the amount of individuals present
25 at an event and how many officers would be present to work the

1 event, the planning for any event on Front Street. As you all
2 know, Front Street in Georgetown is the main strip in town and
3 every event happens there, whether it's Christmas parades,
4 Harbor Walk. So, if those, if you felt like those plans
5 didn't go well, I'm the one you need to point the finger to
6 because I'm the one that was responsible for the police
7 department when it comes to those events. I worked in
8 community service for about nine years. With that job came
9 the task of handling the two-hour parking on Front Street and
10 trying to keep everyone happy down in that area of the city.
11 In the last two years, promotion came about where there was a
12 slot available for investigations. I applied for the slot and
13 I've been here ever since for the last two years in
14 investigations.

15 Q Were you employed as an investigator back on December
16 23rd, 2008?

17 A Yes, I was.

18 Q Did you have reason to be dispatched to the Carolinian
19 Inn on Church Street on that day?

20 A Yes, each investigator in our division, we take a
21 rotation of what we call being on call and what that endures
22 is our average daily activity is from 8:30 to 5 and whatever
23 investigator is on call a week at a time, that call starts
24 from 5 p.m. until the following morning. So, anything that
25 occurs during the evening, night hours that they are

Richard William Floyd - Direct by State

101

1 requesting an investigator, whoever is on call has to respond
2 to that scene and I was on call that week.

3 Q And is the Carolinian Inn in Georgetown County?

4 A Yes.

5 Q Within the city limits of Georgetown?

6 A Yes.

7 Q Did you have information when you received a call why you
8 were being called to that location?

9 A Excuse me?

10 Q Did you have a reason, excuse me, did you have
11 information as to why you were responding to that location?

12 A Yes, if I remember correctly, Sergeant Vaughn was the
13 patrol sergeant working that evening and he had made contact
14 through my telephone at my residence. I want to say it was
15 approximately around 4:30, 5 o'clock in the morning hours that
16 he needed me to respond due to an armed robbery that had taken
17 place at the Carolinian Inn.

18 Q Who did you encounter upon your arrival there?

19 A Sergeant Vaughn.

20 Q Who else was at the scene?

21 A His patrol team, Lieutenant Altman, which is the
22 lieutenant over patrol. He was present and myself.

23 Q Was the desk clerk, Mr. Michau, present at the scene?

24 A Yes.

25 Q Were there any other pedestrians, non-law enforcement

1 there?

2 A Not to my knowledge. The owner of the hotel may have
3 come out later, much later, but she was not present when I
4 first arrived, Mrs. Sepal.

5 Q Did you speak with the desk clerk at that time?

6 A Yes, I did. I spoke with Mr. Michau when I first arrived
7 out there speaking with Sergeant Vaughn and began gathering
8 information from him.

9 Q What else did you do at the scene?

10 A Well, as the investigator on call, I began processing the
11 scene which consisted of taking exterior, interior
12 photographs, began dusting. When I say dusting for latent
13 prints, any type of fingerprints, and after being on the scene
14 for some time and Mr. Michau was still present, we learned
15 that the individual or the subjects that were involved had
16 gloves on. So, at that time, Mr. Michau was physically shaken
17 from the whole ordeal. So, after being there for awhile, we
18 had him come to the police department to kind of collect
19 himself a little bit so I could conduct an interview with him
20 to get all the facts.

21 Q You said that you didn't see any fingerprints, did you
22 look for any other type of forensic, any sort of blood or
23 other DNA?

24 A Yes, when we arrive on a crime scene, first and foremost
25 we get the information from the sergeant that's on the scene,

Richard William Floyd - Direct by State

103

1 what they had when they first arrived. We usually take a
2 overall look at the area, the crime scene. I usually prefer,
3 begin taking photographs. No one is allowed in the crime
4 scene other than the officers that responded to the scene or
5 the victim that is present. That way there's no
6 contamination. After the photographs are taken, we usually
7 begin with the dusting of fingerprints. If there's, if the
8 terrain is not, well in this case it was pavement, sidewalk,
9 but you know, footprints, any type of blood, anything where
10 the subject may have touched or had come in contact with
11 anything at the scene.

12 Q What's the next step in your investigation after
13 speaking with Mr. Michau or after interviewing him?

14 A Try to get as much information as I could from him. He
15 was obviously physically shaken, which I would have been also.
16 After speaking with him, I want to think it was probably about
17 a hour and a half, he was allowed to go home and from that
18 point on just, you know, trying to gather more information,
19 meeting with Ms. Sepal, the owner of the hotel, try to gather
20 any information we could because at that point all we knew
21 were two subjects with bandanas on.

22 Q Through your investigation did a woman by the name of
23 Genene Alston come into play?

24 A Yes, I received word that a Ms. Genene Alston may have
25 some information in regards to this incident that took place

1 in December.

2 Q Did you conduct an interview with her?

3 A I did. I found her, located her residence in the City of
4 Georgetown, went by more than once and even left a business
5 card and was informed that the second visit that she was
6 residing in Andrews, which is approximately 15 to 18 miles
7 from Georgetown. Another date, myself and Investigator
8 Sparkman returned to the residence in the City of Georgetown
9 and Ms. Alston was present. Upon making contact with her, I
10 asked about our previous visits to that residence. She said
11 that she was aware that I had been there in the past but she
12 thought that I was from the bank and due to her financial
13 situation she was not returning phone calls or did not, was
14 not interested in seeing exactly who I was coming to meet with
15 her.

16 Q Based on what she told you when you interviewed her, did
17 you issue warrants for Shane Pringle and the Defendant Donovan
18 Pringle at that time?

19 A Yes, I did.

20 Q Did you conduct an interview with Shane Pringle?

21 A Yes, I did.

22 Q Do you know the date that you interviewed him?

23 A I can refer back to my notes but to sit here and give you
24 a specific date, I cannot.

25 Q You can, you can glance at your notes. Are they ---

Richard William Floyd - Direct by State

105

1 A They're right behind you there. I'm sorry.

2 Thank you. This states that on January the 16th I
3 interviewed Ms. Alston and from her interview warrants were
4 issued and I made contact with the Georgetown County Sheriff's
5 Office and Mr. Pringle was entered into NCIC as wanted for
6 armed robbery and possession of a knife in the commission of a
7 crime.

8 Q Did you enter Donovan Pringle into NCIC at that time?
9 First, will you explain to the jury what NCIC stands for and
10 what it is briefly?

11 A You kind of put me on the spot with what the letters
12 stand for; however, I will summarize it briefly that NCIC is a
13 national database that goes to all the jurisdictions and law
14 enforcement throughout the country, name, date of birth, all
15 the information pertaining to individuals that are wanted by
16 law enforcement.

17 Q Was Donovan Pringle entered in that database at that
18 time?

19 A Donovan Pringle was, yes.

20 Q Did you receive information that Donovan Pringle was no
21 longer in South Carolina?

22 A Yes.

23 MS. COTÉ: Beg the Court's indulgence. I have no
24 further questions for you. Please answer any questions that
25 Mr. Goude may have.

Genene Alston - Direct by State

106

1 MR. GOUDE: No questions, Your Honor.

2 THE COURT: All right, you may step down.

3 A Thank you.

4 THE COURT: All right, you may call your next witness.

5 MS. COTÉ: The State calls Genene Alston. I believe
6 she's outside if you'll give us one moment.

7 THE COURT: All right.

8 Whereupon, Genene Alston was called to the stand, duly
9 sworn by the clerk and testified as follows:

10 THE CLERK: Please be seated and state your full name
11 for the record.

12 THE COURT: State your full name.

13 MS. ALSTON: Genene Tyrese [spelled phonetically]
14 Alston.

15 THE COURT: All right, Ms. Alston, I'm going to need
16 you to speak up loud and clearly into the microphone, okay?

17 MS. ALSTON: Genene Tyrese Alston.

18 THE COURT: All right.

19 DIRECT EXAMINATION

20 BY MS. COTÉ:

21 Q Good morning, Ms. Alston.

22 A Good morning.

23 Q Will you start by telling the jury a little about

24 yourself? Where are you from? How old you are, how far you

25 went in school, things like that?

Genene Alston - Direct by State

107

1 A I'm from Georgetown. I graduated from Georgetown High
2 School, class of '07. Went to Francis Marion University for a
3 year.

4 Q Is it hard for you to testify here today?

5 A Yes, ma'am; yes, ma'am.

6 Q How do you know, how do you know the Defendant in this
7 case?

8 A We met a while ago and we started dating shortly after
9 that?

10 Q How long were you together?

11 A Almost a year.

12 Q From what time to what time?

13 A March 1st of '08 until, I guess, December of '08.

14 Q Did you used to be an employee at the Carolinian Inn?

15 A Yes, ma'am.

16 Q How long did you work there?

17 A I actually started working there in August but I only
18 worked for that one day and then she called me back in ---

19 Q Who's she?

20 A Ms. Sepal, and she called me back at the end of
21 September, the beginning of October.

22 Q Did she ask you to work again?

23 A Yes, ma'am.

24 Q And so, then how long did you work from that point?

25 A From that point until December.

1 Q What made you stop working there?

2 A She had said my drawer had come up short, and at that
3 point it was just too much because she was not a compatible
4 person to work with. So, I quit.

5 Q Would you like some water?

6 A No, ma'am.

7 Q So, she, basically, did she accuse you of taking money
8 out of your cash register?

9 A Yes, ma'am, but other people are allowed to go in the
10 drawer. So, at that point it was just like ---

11 Q So, then did you tell her you weren't going to work there
12 anymore?

13 A Actually I didn't tell her, I just walked off the job.

14 Q And you never, you never went back to work?

15 A No, ma'am.

16 Q Did she ever deduct money out of your paycheck?

17 A Yes, ma'am, she overdrew the check.

18 Q And how did that make you feel?

19 A It was Christmas time and I couldn't get everybody what
20 they wanted before I finished Christmas shopping. So, it made
21 me feel bad.

22 Q And did you talk to your boyfriend, the Defendant, Mr.
23 Pringle, about what happened?

24 A Yes, ma'am.

25 Q Did he - did you tell him how upset you were?

Genene Alston - Direct by State

109

1 A Yes, ma'am.

2 Q And what else did you tell him?

3 A Multiple times I told him and I can remember in the car
4 ride telling him about how short my check was and couldn't get
5 the things I wanted for Christmas, well I couldn't get to buy
6 people what they wanted for Christmas or whatever, and I was
7 like the way she treated me while I was working and others
8 like karma need to come back on her and saying that somebody
9 needed to rob her and I also said that somebody need to egg
10 her car in the process of us talking.

11 Q Did you give him information about how the lobby was laid
12 out?

13 A Yes, ma'am.

14 Q Did you talk to him about where the doors were?

15 A Yes, ma'am.

16 Q And how they were unlocked at night?

17 A Yes, ma'am.

18 Q Did you tell him where the desk was?

19 A Yes, ma'am.

20 Q Did you tell him how high?

21 MR. GOUDE: Objection to the leading questions, Judge.

22 THE COURT: All right, I sustain. Also, before we get
23 into that I think there's another matter we need to take up.

24 Ladies and gentlemen of the jury, I'm going to excuse you
25 back to jury room for just a minute while I take up this one

1 matter with the attorneys and I'll bring you back out in just
2 a second. Everybody else please remain seated while the
3 jury's excused.

4 (Whereupon, the following takes place outside the
5 presence of the jury.)

6 THE COURT: All right, I'm wondering if we need to
7 question the witness on voluntariness, right against self-
8 incrimination and things of that nature because as I
9 understand, are there charges pending against her?

10 MS. COTÉ: There are, Your Honor.

11 THE COURT: Okay.

12 MR. HIXSON: Can we approach, Your Honor?

13 THE COURT: Yeah, come on up.

14 (Whereupon, a bench conference is held.)

15 THE COURT: Ms. Alston, I need - you are under oath to
16 respond to this questioning honestly and truthfully, just like
17 you are on the witness stand, but I needed to go over some
18 things with you. Number one, you've been called to testify
19 and you are in the process of your testimony in this case.
20 Now, I am required to advise you that as a witness you have
21 the right to invoke the protections given to you by the Fifth
22 Amendment to the Constitution of the United States. This
23 amendment provides in part that no person shall be compelled
24 in any criminal case to be a witness against himself. Now,
25 this provision means that you cannot be required to be a

Genene Alston - Direct by State

111

1 witness against yourself. It's a personal right which you -
2 can be claimed by you and you have the right to refuse to
3 answer any questions if you think that these questions might
4 incriminate you in any form or fashion, and the reason I am
5 telling you this is if during the - your testimony anything
6 that you say, even though it is in the form of testimony, it
7 can be used against you. Do you understand that?

8 MS. ALSTON: Yes, sir.

9 THE COURT: And do you understand that you cannot be
10 compelled to answer questions that may incriminate you? Do
11 you understand that?

12 MS. ALSTON: Yes, sir.

13 THE COURT: And do you know what incriminate means?

14 MS. ALSTON: Get in trouble.

15 THE COURT: It means, yes, it means you giving a
16 statement that will implicate you or indicate that you have
17 committed a crime. As I understand it, there are charges
18 pending against you; is that correct?

19 MS. ALSTON: Yes, sir.

20 THE COURT: All right, so, anything that you say
21 during the course of this testimony can be used against you in
22 the trial of your case; do you understand that?

23 MS. ALSTON: Yes, sir.

24 THE COURT: All right, knowing that, do you still wish
25 to testify in this case?

1 Excuse me?

2 MR. HIXSON: Your Honor, one thing we can address also
3 is she is entering her testimony under a consent agreement of
4 proffer. It provides qualified immunity for her and her
5 testimony used. That's I think maybe some of her confusion.
6 Ms. Cote is making a copy of that for the Court.

7 THE COURT: Oh, so, any testimony she gives here today
8 cannot be used against her in a trial?

9 MR. HIXSON: Qualified as it relates to this and she's
10 going to make a Court's exhibit of that.

11 THE COURT: All right, now, explain to me what you
12 mean by qualified as it relates to this.

13 MR. HIXSON: We won't use any testimony given during
14 the course of her debrief and her testimony in court assuming
15 she testifies truthfully from what she already gave her
16 statement and we'll put that in the Court record. The
17 specific language of it, Your Honor, I'll read into the record
18 for the Court and I apologize for not bringing that to the
19 Court's attention off the record. I misunderstood.

20 Specifically, Your Honor, we will make a, she shall
21 truthfully and completely answer all questions posed or any
22 and all information provided by Genene Renee Tyrese Alston
23 under the terms of this proffer may be recorded in any
24 fashion. She will not be, excuse me, let me, if she violates
25 the proffer, the statements may be used against her by the

Genene Alston - Direct by State

113

1 State for any purposes, but part of the proffer is her
2 truthful testimony in court and there are six paragraphs to
3 this. Your Honor, I'll hand this up to the Court.

4 THE COURT: Yeah, okay, because I still don't
5 understand what the agreement is. Can you use her testimony
6 against her? If you charge her with a crime and you put her
7 on trial ---

8 MR. HIXSON: Yes.

9 THE COURT: --- let's say she's facing trial ---

10 MR. HIXSON: Yes.

11 THE COURT: --- anything she says during the course of
12 this trial, can it be used against her at her trial?

13 MR. HIXSON: Not if she testifies truthfully according
14 to statements she already gave. If she says, if - she already
15 gave two statements and subjected herself to a polygraph
16 examination and so we know what she's going to say. If - and
17 she knows and she says, "I didn't do it."

18 THE COURT: So, if she, if she, so, if she testifies
19 in line with the statement that she's already given, then
20 whatever she uses in court today or testifies to in court
21 today cannot be used against her at trial?

22 MR. HIXSON: That's, that's exactly correct, Your
23 Honor.

24 THE COURT: Okay, all right.

25 MR. HIXSON: That's correct. So, it's qualified in

1 that sense and any statement she made prior to law
2 enforcement, prior to the proffer can be used. That's why
3 it's not absolute immunity. She's not protected from all
4 prosecution, just her cooperation.

5 THE COURT: All right, all right, do you understand
6 that, Ms. Alston?

7 MS. ALSTON: Yes, sir.

8 THE COURT: All right, do you have any questions that
9 you want to ask me about that?

10 MS. ALSTON: No, sir.

11 THE COURT: All right, is there, do you want to speak
12 with your attorney before you proceed?

13 MS. ALSTON: Yeah.

14 THE COURT: Excuse me?

15 MS. ALSTON: Yes, yes, ma'am.

16 THE COURT: I can't hear you, you're going to have to
17 speak up into the microphone where I can hear you because I
18 can't hear you.

19 MS. ALSTON: No, sir.

20 THE COURT: Do you want to speak to an attorney?

21 MS. ALSTON: No, sir.

22 THE COURT: Okay, all right, let's mark this agreement
23 between Ms. Alston, Mr. Fox and Ms. Coté, we'll put this as
24 Court's Exhibit Three. All right, all right, we can go ahead
25 and proceed with her testimony then.

Genene Alston - Direct by State

115

1 MR. HIXSON: And I apologize, Your Honor.

2 THE COURT: That's fine.

3 MR. HIXSON: I misunderstood related to the
4 voluntariness and I thought that was still appropriate to ask
5 her about that. I apologize, Your Honor.

6 THE COURT: That's fine. Anything else before we
7 bring in the jury?

8 MR. GOUDE: Judge, can I have a minute to read this
9 before we bring the jury in and she starts testifying?

10 THE COURT: Yeah, that'll be fine.

11 MR. HIXSON: And Your Honor, what I couldn't answer for
12 Your Honor at the time is my paragraph three, that's the,
13 that's the section I was trying to find and I couldn't find at
14 the time.

15 THE COURT: All right.

16 MR. GOUDE: Judge, I guess to make it easy for the
17 Court and the two lawyers in the case outside the presence of
18 the jury, does the Prosecution intend to ask the witness
19 anything about this agreement, and the reason I say that
20 because it's got in there about you will do truthfully,
21 truthfully, truthfully, which I don't think it should be asked
22 of the witness and also it's got something in the agreement
23 about taking a polygraph exam, which is inadmissible.

24 THE COURT: All right, well, now, the agreement is
25 not, is not part of the record. I just wanted to make it a

1 Court's Exhibit but it doesn't go to the jury.

2 MR. HIXSON: That's correct, Your Honor, only unless we
3 get beaten up about, you know, what inducements or anything
4 like that we have given her and that kind of open the door and
5 we have to defend ourselves but we have no intention of
6 putting the proffer agreement into evidence at all and unless
7 Mr. Goude tries to impeach her on, you know, us improperly
8 influencing her or something.

9 THE COURT: Well, and I think, you know, and we'll
10 have to deal with that issue when and if it comes up, but now,
11 I understand where you are classifying it as truthfully under
12 the agreement with this witness, by truthfully, you basically
13 mean that she has to testify in line with her prior statement.

14 MR. HIXSON: That's correct, Your Honor.

15 THE COURT: And if it's not in line with her prior
16 statement then you're deeming this testimony be untruthful.

17 MR. HIXSON: Yeah, she would not perjure and she wasn't
18 under oath the first time, but she's giving inconsistent
19 statements and we're not trying to give an inconsistent
20 statement to the Court, you know, that's.

21 THE COURT: Yeah, but by the same token you don't know
22 which statement is true and which one's not. So, when you say
23 truthful, you're talking about testimony now that basically
24 complies with her prior statement given to law enforcement?

25 MR. HIXSON: That's correct.

Genene Alston - Direct by State

117

1 THE COURT: All right.

2 MR. HIXSON: And Your Honor, how we do it is the
3 initial statement, come to law enforcement, we talk to the
4 investigator, he says, "This is what she said." We'll proffer
5 her, debrief her again and then our selection polygraph her
6 against that second statement. We didn't polygraph her this
7 time because it was consistent, independently corroborated
8 with Shane Pringle's statement, other statements. So, it's
9 internally consistent.

10 THE COURT: All right, well, I'm trying to figure out
11 what is it you're asking, Mr. Goude, now?

12 MR. GOUDE: Well, I'm wondering if I were to ask the
13 witness that, "You have an agreement with the Prosecutor that
14 you are to testify here today or to say here today what you
15 said before," I guess that's pretty much what I would ask, do
16 you have an agreement with the Prosecution that you're going
17 to say the same thing here today that you said before and then
18 I'll ask her if she's charged with crimes and is the charges
19 pending against her and stuff like that. I don't need to,
20 know that I need to mention the written agreement, I can just
21 ask her, "Do you have an agreement with the Prosecution that
22 you're going to say the same thing today that you said
23 before," and I won't have to refer to this written paper
24 because it's got in there about the truthful and the polygraph
25 and all that other stuff.

1 THE COURT: Yeah, I'm not going to let anything in
2 about polygraph and where it says truthful. I'll probably
3 sustain any objection where you refer to it as truthful
4 because basically what you're meaning is that it's consistent
5 with her prior statement.

6 All right, all right, anything else before we bring the
7 jury back?

8 MR. GOUDE: No, sir.

9 MS. COTÉ: No, Your Honor.

10 THE COURT: All right, let's bring the jury back in.

11 (Whereupon, the following takes place in the presence of
12 the jury.)

13 THE COURT: All right, ladies and gentlemen, welcome
14 back.

15 Ms. Coté, you can resume your questioning.

16 BY MS. COTÉ:

17 Q All right, Ms. Alston, did you give the Defendant
18 information about who would be working that night?

19 A Yes, ma'am, I did.

20 Q And who did you tell him would be working?

21 A I actually said Mr. Mingo [spelled phonetically] would be
22 working, but Mr. Lee was working.

23 Q And did you give him a description of Mr. Lee?

24 A Yes, I did.

25 Q And what did you tell him about him?

Genene Alston - Direct by State

119

1 A Short, funny looking white man.

2 Q Did you have any contact with him, with the Defendant on
3 December 23rd, 2008?

4 A Yes, I did.

5 Q What kind of contact did you have with him?

6 A We went bowling that night and then later you would say
7 early morning around - I can't give the specific time but
8 between 3 and 5.

9 Q What did - what contact did you get from him between 3
10 and 5?

11 A Write text messages.

12 Q What did the text messages say?

13 A That I lied about who would be working and I wanted - I
14 asked him what did he do and why was he out so late.

15 Q Did he respond to you?

16 A Yes, he did.

17 Q What did he say?

18 A He told me that he was out riding around and he was just
19 out riding around him and Shane.

20 Q He said Shane was with him?

21 A Yes.

22 Q Did you ask Donovan about the robbery after that time?

23 A After?

24 Q After the 23rd.

25 A Yes.

1 Q What did he say to you?

2 A No, he didn't do it. I asked him, I kept asking him and
3 asking him because I had read it in the newspaper of the
4 description of the people of what had happened and it
5 described him and his cousin and I had asked him did he do it
6 and he kept telling me no.

7 Q Did you talk to Investigator Floyd about this case?

8 A Yes, ma'am, I did.

9 Q Did you give him a statement?

10 A Yes, ma'am.

11 Q You've actually been charged in this case; haven't you?

12 A Yes, ma'am.

13 Q Is your case still pending? Have you pled guilty or gone
14 to trial yet?

15 A It's still pending.

16 Q Have I, as your Prosecutor, promised you anything in
17 exchange for testifying here?

18 A No, ma'am.

19 Q Have you written Donovan any letters since he's been in
20 jail?

21 A Yes, ma'am, I have.

22 Q What have you told him in those letters?

23 A Basically I was being on his good side because I didn't
24 want him to know what was going on on my side of the case. I
25 told him that I still love him and basically how could you do

Genene Alston - Cross by Defense

121

1 this to me, you were supposed to be my best friend. Like you
2 lost contact with me and wasn't there for me when I was trying
3 to talk with you, right, and ---

4 Q Did you tell him that you didn't say anything to the
5 police about him?

6 A Yes, I did.

7 Q And why'd you do that?

8 A Because I didn't want him to know what was going on in my
9 side of the case. Like, I was just fed up with it.

10 Q Ms. Alston, I don't have any other questions for you, but
11 answer any questions Mr. Goude has for you.

12 A Yes, ma'am.

13 THE COURT: Mr. Goude, any questions?

14 MR. GOUDE: Yes.

15 CROSS EXAMINATION

16 BY MR. GOUDE:

17 Q When you were talking with Mr. Pringle, ma'am, before all
18 this happened, was Mr. Pringle's cousin Shane with you all
19 during part of that time?

20 A Could you repeat the question, please?

21 Q Like when you were talking with Mr. Pringle with Donovan
22 about being unhappy with your prior boss and stuff, that some
23 of that time was Shane Pringle present with you and Donovan
24 when you all were talking?

25 A Yes, sir.

1 Q That's all I have.

2 THE COURT: Anything on redirect?

3 MS. COTÉ: No, Your Honor.

4 THE COURT: All right, you may step down.

5 MS. COTÉ: May this witness be excused?

6 THE COURT: Any objection, Mr. Goude?

7 MR. GOUDE: No, sir.

8 THE COURT: All right, you're free to go.

9 Call your next witness.

10 MS. COTÉ: Your Honor, the State calls Shane Pringle-

11 Tillman.

12 THE COURT: All right, do we need to address the same

13 issue?

14 MR. HIXSON: No, Your Honor, I perhaps need to approach

15 you on that.

16 THE COURT: All right.

17 MR. HIXSON: We'll stay in front of the jury.

18 THE COURT: Let me see the attorneys.

19 (Whereupon, a bench conference was held in the presence

20 but out of the hearing of the jury.)

21 Whereupon, Shane Pringle was called to the stand, duly

22 sworn by the clerk and testified as follows:

23 THE CLERK: Please be seated and state your name for

24 the record.

25 THE COURT: Please give us your name.

Shane Pringle - Direct by State

123

1 MR. PRINGLE: Shane Pringle.

2 THE COURT: All right, Ms. Coté?

3 DIRECT EXAMINATION

4 BY MS. COTÉ:

5 Q Mr. Pringle, how are you today?

6 A Fine.

7 Q It's tough for you to come in here and testify today;
8 isn't it?

9 A Yes, ma'am.

10 Q How are you related to Donovan Pringle?

11 A By mother.

12 Q What's his, what's his relation to you?

13 A First cousin.

14 Q Where are you from, Mr. Pringle?

15 A Georgetown, South Carolina.

16 Q How old are you?

17 A Twenty years old.

18 Q How far did you go in school?

19 A To 10th grade.

20 Q I'm going to - are you okay? Do you want any water or
21 anything?

22 A No, ma'am.

23 Q Okay, I'm going to bring your attention to the day that
24 we're here for today, December 23rd, 2008, almost a year ago.

25 Did you and Donovan go to ---

1 MR. GOUDE: Objection to the leading question, Your
2 Honor.
3 THE COURT: All right, let's don't lead.
4 MS. COTÉ: Yes, Your Honor.
5 BY MS. COTÉ:
6 Q Did you and the Defendant ---
7 MR. GOUDE: Objection to the leading question.
8 MS. COTÉ: Your Honor, may we approach?
9 THE COURT: Well, I don't know what she's going to
10 ask. Let's let her ask the question and then you can raise
11 your objection as soon as she asks it if it's a leading
12 question.
13 MS. COTÉ: If he can answer yes or no it's not a
14 leading question.
15 THE COURT: Well, let's ask your question and then
16 I'll decide.
17 BY MS. COTÉ:
18 Q Did you and the Defendant go to the Carolinian Inn on
19 that date?
20 MR. GOUDE: Objection to the leading question.
21 THE COURT: Overruled.
22 MS. COTÉ: Thank you.
23 A No, ma'am.
24 Q You did not go on that date?
25 A No, ma'am.

Shane Pringle - Direct by State

125

1 Q Did you go by yourself?

2 A No, ma'am, me and another Defendant but he's not the one.

3 Q Do you remember giving a statement to Investigator Ricky
4 Floyd?

5 A Yes, ma'am.

6 Q Do you remember when you gave him that statement?

7 A No, ma'am.

8 Q If I told you it was back in January would that sound
9 right?

10 A Probably would.

11 Q Also, do you remember speaking with Investigator Brown
12 from the Solicitor's Office?

13 A Yes, ma'am.

14 MS. COTÉ: Your Honor, beg the Court's indulgence.

15 THE COURT: All right.

16 BY MS. COTÉ:

17 Q Do you remember around Christmastime last year? It was a
18 while ago, I know. Do you remember?

19 A Yes, ma'am.

20 Q Do you remember you spent time with Donovan and his
21 family?

22 A I did for a couple of days because I ain't saw him in a
23 long time but that was it.

24 Q Were you over at his house a good bit?

25 A Like two days, like two or three days, that's it.

- 1 Q What kind of stuff did you do over at his house?
- 2 A Just played games and that's ---
- 3 Q Like video games?
- 4 A Yes, ma'am, and just talked.
- 5 Q Did you all, did you all grow up together?
- 6 A Yes, ma'am.
- 7 Q Did you, did you go to the same elementary and middle and
- 8 high school?
- 9 A Well, probably like first and kindergarten but he moved
- 10 to Andrews.
- 11 Q Okay, did you all still see each other when you were -
- 12 when he was living in Andrews?
- 13 A Yes, ma'am.
- 14 Q Did you, did you grow up playing sports and stuff?
- 15 A Yes, ma'am.
- 16 Q Did you play with Donovan?
- 17 A No, ma'am.
- 18 Q But you all still saw each other a good bit growing up?
- 19 A A little bit.
- 20 Q Yeah.
- 21 A Mostly in the summertime.
- 22 Q Okay, I'm going to go back to that statement that you -
- 23 what you told Ricky Floyd, the investigator on this case
- 24 that's sitting here behind me. Do you remember telling him
- 25 that - well, he asked - do you remember telling him that you

Shane Pringle - Direct by State

127

1 and Donovan did it together?

2 MR. GOUDE: Objection to the leading questions, Judge.

3 THE COURT: Overruled, go ahead.

4 MS. COTÉ: Thank you.

5 BY MS. COTÉ:

6 Q Do you remember telling him that?

7 A I told him if he think we done it we done it.

8 Q All right, after he, after he asked you, "You and Donovan
9 went inside the Carolinian Inn; didn't you," and you said,
10 "Yes, sir, we jumped across the counter." Do you remember
11 that?

12 A I said, "Yes, sir, if you think we did it."

13 Q Let's see, did you - did he ask you to tell about Genene
14 and you said she was upset because the owner fired her for no
15 reason at all?

16 A That what she told me when she told me about the
17 circumstances of the hotel.

18 Q Do you remember telling him about the knife, that the
19 knife was a normal house knife?

20 A Yes, sir - yes, ma'am.

21 Q You remember telling him that?

22 A Yes, ma'am.

23 Q Do you remember telling him that you - you and Donovan
24 borrowed a car and Donovan drove you to the Carolinian Inn
25 that night?

1 A No, ma'am, I don't remember that.

2 Q Do you remember telling Investigator Steve Brown that
3 last week?

4 A No, ma'am.

5 Q Do you remember - back to the car, you remember telling
6 him that you asked someone to borrow the car?

7 A No, ma'am.

8 Q And Investigator Brown asked you if you and Donovan were
9 by yourself and nobody else was with you and you said yes?

10 A I don't recall that.

11 Q Do you recall that?

12 A No, ma'am.

13 Q You don't recall that. If I played a tape of your
14 statement that day would that refresh your memory a little
15 bit?

16 A Probably, but you know, it's been a long time.

17 Q Okay.

18 MS. COTÉ: Beg the Court's indulgence, sorry.

19 BY MS. COTÉ:

20 Q Do you remember - this is going back not to Investigator
21 Floyd's statement, when you talked to Investigator Brown in
22 the Solicitor's Office just last week, do you remember telling
23 him that you and Donovan both left out from his mom's house on
24 December 23rd?

25 A No, ma'am.

Shane Pringle - Direct by State

129

1 Q Isn't it true that Donovan came to you and asked you
2 about the robbery and you told him that you wanted to think
3 about it?

4 A I did, ma'am, but that's the only thing he had part with
5 the armed robbery.

6 Q So, he brought the idea to you?

7 A He brought the idea to me but, you know, he did not
8 participate in it.

9 Q Did he tell you why he wanted to do this armed robbery?

10 A No, ma'am. He just give me a idea because I say I ain't
11 had no money.

12 Q Do you remember or isn't it true that you told Steve
13 Brown that the knives you and Donovan took came from Donovan's
14 mom's house?

15 A The knives that we took, I took.

16 Q Isn't it true that you did make the statement though?

17 A No, ma'am.

18 Q You didn't talk to Steve Brown at the jail last week?

19 A We talked, but we did not - we talked about the robbery
20 but I did not remember making that statement.

21 Q Let's see. Didn't you tell Steve Brown about the car
22 that you borrowed again with Donovan and Donovan driving?

23 A No, ma'am.

24 MS. COTÉ: Beg the Court's indulgence, Your Honor.

25 THE COURT: All right..

1 BY MS. COTÉ:

2 Q Isn't it true that you already pled guilty to this
3 charge?

4 A Yes, ma'am.

5 Q And isn't it true under oath after hearing the facts of
6 this case that the Solicitor's Office recited saying that you
7 and Donovan were both involved, that ---

8 MR. GOUDE: Objection to what the Solicitor has said.
9 He's said he pled guilty. What the Solicitor is saying is not
10 a question. I object to that.

11 THE COURT: Well, I think she's asking for his
12 response.

13 Ladies and gentlemen, ordinarily hearsay is not
14 admissible. In other words, you can't testify as to what
15 somebody else said. So, the purpose of this questioning is
16 not the truth of what the Solicitor said. It's just to
17 explain the witness's response to that question. So, the fact
18 that the Solicitor says it does not necessarily mean that the
19 statement is true. It's just that the Solicitor is asking a
20 question and this -- the reason I'm allowing it is so that the
21 witness can explain to you why he responded as he did.

22 All right, go ahead.

23 MS. COTÉ: Thank you, Your Honor.

24 BY MS. COTÉ:

25 Q Isn't it true that under oath you stated that or you said

Shane Pringle - Direct by State

131

1 that what happened was that you and Donovan both robbed the
2 inn?

3 A No, ma'am.

4 Q That's not true?

5 A No, ma'am.

6 MS. COTÉ: Your Honor, may we approach?

7 (Whereupon, a bench conference was held in the presence
8 but out of the hearing of the jury.)

9 THE COURT: All right, ladies and gentlemen, we're
10 going to need to take a break. The attorneys have to get some
11 things together before they can proceed with their
12 questioning. So, I'm going to excuse you back to the jury
13 room for just a minute. Please do not discuss the case.
14 Don't conduct any independent investigations, but it'll give
15 you a nice opportunity to stretch your legs, get something to
16 drink and we'll bring you back out in just a minute. All
17 right? Everybody please remain seated while the jury's
18 excused.

19 (Whereupon, the following takes place outside the
20 presence of the jury.)

21 THE COURT: All right, I think what we're going to
22 have - the way I understand is you're going to be playing a
23 recording of the witness's statement; correct?

24 MS. COTÉ: That's correct, Your Honor.

25 THE COURT: All right, the only way, as I view it, the

1 only way it comes in is one of two situations: number one,
2 you have the interviewer authenticate it; or number two, the
3 witness - present it to the witness, have the witness review
4 it, then if the witness denies making it, it comes in to
5 impeach the witness's testimony, the witness admits making it,
6 then you can go back and question him on his prior
7 inconsistent testimony that he just gave, but I think we have
8 to - either you have to have it authenticated to come in or
9 you can present it to the witness and have the witness review
10 it and then decide whether or not he actually made that
11 statement or didn't make that statement. All right?

12 MR. HIXSON: Beg the Court's indulgence briefly, Your
13 Honor.

14 THE COURT: All right.

15 MR. HIXSON: Your Honor, the only question we have is
16 based on this development if we could recall Ricky Floyd as a
17 rebuttal witness. He is the one that can authenticate that
18 videotape. We could not pursue Mr. Pringle anymore and as far
19 as cross examination is concerned ---

20 THE COURT: Well ---

21 MR. HIXSON: --- and have him authenticate and play
22 that statement. Perhaps that would be more efficient for the
23 Court's time with setting up.

24 THE COURT: Well, I mean, you can try your case any
25 way you want to. I mean that's, that's - I do know though

Shane Pringle - Direct by State

133

1 that before you can get it in through this witness you have to
2 present the statement to this witness, and like I say, if he
3 admits it then there's no prior inconsistent statement. If he
4 denies it, then it can come in through this witness. Well,
5 no, I think you're still going to have to get it
6 authenticated. The more I think about it, I think you're
7 still going have to have the interviewer authenticate it and
8 get it in that that was the statement given when it was given
9 and things of that nature.

10 MR. HIXSON: I guess based on this, then we have, we
11 have solid grounds to have Mr. Floyd, who has been excused
12 from the subpoena, come back as a rebuttal witness if
13 necessary based on that, and if Your Honor could take a break,
14 I suppose, perhaps, we can get this and play this statement
15 for Mr. Pringle, however Your Honor would like to handle it.

16 THE COURT: Okay, I'll let, you can try your case
17 however you want to do. If you want to take a break and get
18 it up here, we can do that.

19 MR. HIXSON: He's bringing it up right now and perhaps
20 we'll just play that one segment of his statement, we'll go
21 from there.

22 THE COURT: All right.

23 MR. HIXSON: And protect the record both ways.

24 THE COURT: All right, let's take about a ten-minute
25 break or however long and then just let me know when you're

1 ready to proceed, okay?

2 MR. HIXSON: Thank you, Your Honor.

3 THE COURT: All right, Mr. Pringle, you're in the
4 course of your testimony, so you cannot discuss your testimony
5 with anyone at this point in time, okay? All right, I think
6 you need to go back to holding and then we'll bring you back
7 out in just a minute or have you got it here available or ---
8 I mean, do we want to go ahead put him back in holdup or how
9 long is it going to take?

10 MR. BROWN: Take me five minutes to get set up, Judge.

11 THE COURT: All right, well, let's let him go ahead
12 and just, just have a seat right there.

13 All right, let's go ahead and take about a ten minute
14 break. However you all need to deal with it, you all are more
15 educated with security than I am.

16 (Court and Officer confer.)

17 THE COURT: I'm going take about a 10-minute break;
18 okay?

19 MR. HIXSON: Your Honor, may - one question, Mr. Colvin
20 is Mr. Pringle's attorney. Is it appropriate that Mr. Colvin
21 talks to his client?

22 THE COURT: Not regarding his testimony. I don't
23 think he can, I don't think he can discuss during the course
24 of his testimony at all.

25 MR. HIXSON: Thank you, Your Honor.

Shane Pringle - Direct by State

135

1 THE COURT: All right.

2 All right, let's take a 10-minute break.

3 OFF THE RECORD

4 (On the record.)

5 (The following takes place outside the presence of the
6 jury.)

7 THE COURT: All right, I understand that you want to
8 listen, Mr. Goude, to the redacted statement, that that's
9 going to be about 42 minutes.

10 MR. GOUDE: That's what the Solicitors tell me, yes,
11 sir.

12 THE COURT: All right, well, we're going to need to do
13 something because I'm not going to let the jury sit back there
14 for over an hour. So, let's go ahead, I'm going to bring the
15 jury out, we're going to break for lunch and then we'll come
16 back. You all get everything squared away and ready to go and
17 we'll resume at 1:15, 1:00.

18 MR. HIXSON: 1:00 sounds great, Judge.

19 THE COURT: Okay, all right, let's bring the jury back
20 out.

21 (Whereupon, the following takes place in the presence of
22 the jury.)

23 THE COURT: All right, ladies and gentlemen, I
24 apologize for keeping you out so long, but it's taking a
25 little bit longer than we anticipated to get some of these

1 automated technology set up, and it's going to take us a
2 little bit longer. So, rather than keeping you in the jury
3 room, I think we're going to take an early lunch. It's a
4 little bit after eleven, but rather than having you sit back
5 in the jury room for so long and then bring you out and then
6 break for lunch, I think we're going to go ahead and take an
7 early lunch. I'm going to let you go now. Please be back in
8 the jury room at 1:00. That'll give you about an hour and 50
9 minutes to eat lunch and get back. Do not discuss the case.
10 Do not conduct any independent investigations. If you have a
11 pad with any notes, make sure you leave it, if you want to
12 just leave it up there in the jury box and the clerk will
13 collect it and then redistribute it. Just put your name on it
14 so the bailiff will know who to give it to. Hope you have a
15 good lunch. We'll see you back at 1:00. Thank you very much.

16 (Whereupon, the following takes place outside the
17 presence of the jury.)

18 THE COURT: Yeah, take them out through the back,
19 let's take them that way; all right?

20 JUROR: Could I ask a question, sir?

21 THE COURT: You need to write it on a sheet of paper
22 and submit it to the Court, so, okay?

23 JUROR: That'll be fine.

24 THE COURT: All right, sir, thank you very much.

25 JUROR: Yes, Your Honor.

Shane Pringle - Direct by State

137

1 (All jurors exit courtroom.)

2 THE COURT: Oh, okay, he had submitted the question,
3 says, "Can the monitor be moved on the witness stand so the
4 jury could see this witness?" Evidently that monitor is
5 blocking some of them. Let's go ahead and mark this as a
6 Court's Exhibit. What is this number? Four.

7 (Court's Exhibit Number Four [Question from Juror]
8 appropriately marked.)

9 THE COURT: Can that monitor be, I think you can put
10 it, I think it'll turn, no, it won't turn flat that way?
11 Well, maybe not. There you go. Well, we need to make sure we
12 get this hooked back, but that'll do it. They can see from
13 there. That'll be good.

14 All right, anything before we break for lunch?

15 MS. COTÉ: Nothing from the State, Your Honor.

16 MR. GOUDE: No, sir.

17 THE COURT: All right, rather than break for lunch,
18 let's sit here, you all go ahead and get everything ready so
19 we'll be ready to go at 1:00; okay?

20 MS. COTÉ: Yes, Your Honor.

21 THE COURT: All right, thank you very much. We'll
22 stand in recess till 1:00.

23 OFF THE RECORD

24 (On the record.)

25 (Whereupon, the following takes place outside the

1 presence of the jury.)

2 THE COURT: All right, we ready to go forward?

3 MS. COTÉ: Yes, Your Honor, the State's ready. I
4 would like to place on the record that we did allow Shane
5 Pringle, the witness, the last witness that was testifying to
6 view his statement, his audio-video statement during the
7 break.

8 THE COURT: All right, anything before we bring in the
9 jury?

10 MS. COTÉ: No, Your Honor.

11 THE COURT: Anything, Mr. Goude, from the Defense?

12 MR. GOUDE: Only there is a typed transcript here the
13 Prosecutor gave me of Shane's testimony. Can, is this just to
14 help me know what is being said or did you all intend to give
15 this to the jury or what's the deal?

16 MS. COTÉ: No, that was just for you. That was just
17 for your use. We're - we typed up a transcript of the portion
18 of the audio-video statement that we're going to play and it's
19 purely for my use in questioning the witness, making sure I'm
20 using the correct language when I'm questioning him.

21 MR. GOUDE: Thank you.

22 THE COURT: All right.

23 MR. GOUDE: Thank you. Nothing, Judge, no, sir.

24 THE COURT: All right, we need to bring Mr. Pringle
25 back out and put him on the stand?

Shane Pringle - Direct by State

139

1 (Mr. Pringle enters courtroom.)

2 THE COURT: All right, now, Mr. Pringle, you're still
3 under oath to tell the truth; okay? You're in your testimony.

4 Are we going to be using this online thing because they
5 said, some of the jurors said, all right, if Mr. Pringle could
6 just slide up closer to the microphone, speak into the
7 microphone and make sure that the jury can see you. Okay? In
8 other words, one of the jurors said that monitor was blocking
9 you, can you see all the jury chairs from there?

10 MR. PRINGLE: Yes, sir.

11 THE COURT: Okay, I think particularly these first
12 two, alternate B and the first chair. Okay, all right, what
13 about alternate B chair?

14 OFFICER: I can see most of his face, can he maybe -
15 can he come up a little bit further?

16 THE COURT: Okay, well, I mean, will that screen turn
17 any - no, it won't turn any flatter? That's good, that's
18 good, they can make do. It might come - just leave it, that's
19 fine.

20 All right, let's go ahead and bring the jury in.

21 (Whereupon, the following takes place in the presence of
22 the jury.)

23 THE COURT: All right, ladies and gentlemen, welcome
24 back. I hope everybody had a good lunch. We're ready to
25 resume the trial of this case. Before we broke we were during

1 the - in the direct examination of this witness, Mr. Pringle,
2 and when we took a break I understand that some of you might
3 have had trouble seeing the witness due to the monitor. Now,
4 we've got the monitor as far out of the way as we can. So,
5 it might require some of you, if you cannot view the witness,
6 to lean forward in your chair or something of that nature, but
7 I hope everyone - we've got the security personnel to kind of
8 go down every seat and they said with the exception of maybe
9 this alternate B seat, that it was partially blocked by the
10 monitor, otherwise everybody else can see pretty well. If you
11 have any further trouble, please just let me know, okay?

12 All right, Ms. Coté, you can continue with your
13 questioning.

14 MS. COTÉ: Thank you, Your Honor.

15 BY MS. COTÉ:

16 Q Mr. Pringle, were you arrested on January 28th on these
17 charges?

18 A I can't remember, probably was.

19 Q Does that sound about the right time?

20 A Yes, ma'am.

21 Q When you were arrested did you go to the Georgetown
22 Police Department?

23 A Yes, ma'am.

24 Q Did you speak to Investigator Floyd at that time?

25 A Yes, ma'am.

Shane Pringle - Direct by State

141

1 Q Did he question you regarding the armed robbery at the
2 Carolinian Inn?

3 A Yes, ma'am.

4 Q Did you give him an audio and video statement on that
5 day?

6 A Yes, ma'am.

7 Q Isn't it true that you were given your Miranda warnings
8 before you made that voluntary statement?

9 A Yes, ma'am.

10 Q On that day isn't it true that you told him that you and
11 Donovan went inside the Carolinian Inn?

12 A Yes, ma'am.

13 Q Isn't it true that you told him that you jumped across
14 the counter and the man cooperated with you?

15 A Yes, ma'am.

16 Q Isn't it true that you said you had your mask on and he
17 had his mask on; is that true?

18 A That I remember, yes, ma'am.

19 Q Isn't it true that you said, "We jumped across the
20 counter and the man opened the drawer," and gave you money out
21 of the drawer?

22 A Yes, ma'am.

23 Q I have no further questions for this witness, Your Honor.

24 THE COURT: All right, Mr. Goude, cross examination.

25 CROSS EXAMINATION

1 BY MR. GOUDE:

2 Q Mr. Pringle, in that statement the Solicitor asked you
3 about at some point in the statement that you say that - to
4 the investigator that Donovan was not involved in the robbery?

5 A Yes, sir.

6 MR. GOUDE: That's all I have, Your Honor.

7 THE COURT: Anything on redirect?

8 REDIRECT EXAMINATION

9 BY MS. COTÉ:

10 Q Mr. Pringle, isn't it true that at the beginning of the
11 statement you didn't want to talk about Donovan at all?

12 A Yes, ma'am.

13 Q But then over time you began to talk about his
14 involvement?

15 A Yes, ma'am.

16 MS. COTÉ: Thank you. No further questions.

17 THE COURT: All right, you may step down.

18 All right, Ms. Coté, you can call your next witness.

19 MS. COTÉ: Beg the Court's indulgence.

20 THE COURT: All right.

21 MS. COTÉ: Your Honor, we would like to take judicial
22 notice that armed robbery is a violent crime for the record.
23 Under the laws of South Carolina it is classified as a violent
24 crime.

25 THE COURT: It's classified as one.

Shane Pringle - Cross by Defense

143

1 MS. COTÉ: Yes.

2 THE COURT: Yeah, but I don't know that we need to do
3 that at this time, but I mean, that will be instruction, yeah.

4 MS. COTÉ: Thank you.

5 THE COURT: All right.

6 MS. COTÉ: Your Honor, at this the time the State of
7 South Carolina rests its case.

8 THE COURT: All right, all right, ladies and gentlemen
9 of the jury, the State has closed their case at this point in
10 time; and so, now before we proceed in the trial there are
11 matters of law that I need to take up with the attorneys. I
12 know you feel like you're running back to the jury room and
13 coming back out, but it is necessary and particularly when you
14 have witnesses that don't testify as long as we do in these.
15 It seems like you're going back and forth a little bit more
16 quicker, and you are, but there are matters of law that I need
17 to take up with the attorneys just simply because it is that
18 point in time in the trial when the State has closed its case
19 that I need to address these issues. So, I'm going to excuse
20 you back to the jury room. Please do not discuss the case in
21 any way, shape or form. You'll be given - you can stretch
22 your legs, use the restroom, return phone calls but do not
23 discuss the case with anyone at this point in time. Thank you
24 very much.

25 (Whereupon, the following takes place outside the

1 presence of the jury.)

2 THE COURT: All right, Mr. Goude, any motions or
3 anything at this time?

4 MR. GOUDE: We make a motion, Judge, for a directed
5 verdict of not guilty on the two charges, the armed robbery
6 and the weapon, Your Honor, on the grounds of the
7 insufficiency of the evidence.

8 THE COURT: All right, motion for directed verdict is
9 noted but I'm going to deny it. Anything else?

10 MR. GOUDE: I'm speaking to Mr. Pringle right this
11 second, Judge, to figure out if we're going to testify or not
12 testify.

13 THE COURT: All right, well, before you discuss with
14 him, let's go ahead and go over the questioning. I've got to
15 go ahead and qualify him and then I'll give you an opportunity
16 to speak with him. Okay?

17 MR. GOUDE: Yes, sir.

18 THE COURT: All right, sir. All right, Mr. Pringle,
19 if you'd please stand.

20 (Defendant sworn by Clerk.)

21 THE COURT: All right, all right, sir, you are Donovan
22 Raheam Pringle?

23 MR. PRINGLE: Yes, Your Honor.

24 THE COURT: All right, Mr. Pringle, at this time I'm
25 going to explain to you certain rights that you have, and if

Questioning Re: Rights

145

1 you do not understand anything I say, please let me know. If
2 you want me to explain anything in more detail, please let me
3 know. Do you understand that thus far?

4 MR. PRINGLE: Yes, Your Honor.

5 THE COURT: All right, we've now reached the stage of
6 the trial where you may present your defense. You have
7 the right to claim the protections given to you by the Fifth
8 Amendment of the United States Constitution. This amendment
9 states in part as follows: "No person shall be compelled in
10 any criminal case to be a witness against himself." This
11 means that you cannot be required to testify in this case.
12 You have the right to testify on your own behalf; however, no
13 one can make you testify. This is a personal right and no one
14 can waive this right except for you. If you decide to testify
15 you will be subject to the same rules that govern other
16 witnesses and you may be examined and cross examined on any
17 relevant issue in this case. In addition, if you have any
18 convictions involving dishonesty or false statement or for
19 crimes punishable by imprisonment for more than one year and
20 this Court determines that the probative value of admitting
21 this evidence outweighs its prejudicial effect to you, the
22 Solicitor will be able to introduce your record to attack your
23 credibility. If you decide to testify this decision on your
24 part must be freely, voluntarily and intelligently made with
25 knowledge of the protections given to you by the Fifth

1 Amendment of the United States Constitution and the
2 consequences of your decision to testify. If you decide not
3 to testify I will instruct the jurors that they cannot give
4 the fact that you did not testify any consideration whatsoever
5 and that there is to be absolutely no prejudice to you because
6 you did not testify. It is left entirely up to you whether or
7 not to testify. You may talk with your attorney, your family
8 and friends or anyone else, but the final decision will be
9 left entirely up to you. Do you understand what I've
10 explained to you thus far?

11 MR. PRINGLE: Yes, Your Honor.

12 THE COURT: Do you have any questions that you want to
13 ask me about this issue?

14 MR. PRINGLE: No, Your Honor.

15 THE COURT: All right, I'm going to - let's take about
16 a five, about five, ten minutes and let you talk with your
17 attorney, and then when you finish talking with your attorney
18 or whoever else you want to speak with, then we're going to
19 have you stand back up and I'm going to ask you whether or not
20 you wish to testify; okay?

21 MR. PRINGLE: Yes, Your Honor.

22 THE COURT: All right, let's go ahead, I don't know
23 that we really need to break at this time but I'm going to go
24 ahead and you can take your seat and discuss this with your
25 attorney.

Questioning Re: Rights

147

1 MR. HIXSON: May I have a moment, Judge?

2 (Mr. Goude and Mr. Pringle confer.)

3 THE COURT: Mr. Goude, has your client made a
4 decision?

5 MR. GOUDE: I believe we will not testify, Your Honor.

6 THE COURT: All right, sir, Mr. Pringle, if you'd
7 please stand.

8 (Complies with request.)

9 THE COURT: All right, do you have any questions about
10 your right to testify that you want to ask me?

11 MR. PRINGLE: No, Your Honor.

12 THE COURT: All right, have you had an adequate
13 opportunity to discuss this matter with your attorney or with
14 anyone else you want to discuss the matter with?

15 MR. PRINGLE: Yes, Your Honor.

16 THE COURT: All right, and do you, and as I told you
17 earlier, you can get advice, you can get recommendations, the
18 final decision is left entirely up to you. Do you wish to
19 testify in this case?

20 MR. PRINGLE: No, Your Honor.

21 THE COURT: All right, thank you very much. You may
22 be seated.

23 MR. PRINGLE: Thank you.

24 THE COURT: All right, anything else that we need to
25 address before we bring the jury in?

1 MR. GOUDE: Your Honor, the Defense rests.

2 THE COURT: Okay, all right, so, we will just go ahead
3 and - let me, we've been working on some charges. So, I think
4 now we can just - ready to go into closing arguments; is that
5 correct?

6 MR. GOUDE: And we would renew our motion for a
7 directed verdict after our case, Judge, too, on the same
8 grounds of the insufficiency of the evidence.

9 THE COURT: Motion is noted; however, your motion is
10 denied.

11 Now since the Defendant, there was no defense presented
12 in this case then the State, the Defense has the right to
13 waive or close their arguments last, okay?

14 MR. GOUDE: Thank you, sir.

15 THE COURT: So, I'm assuming, Mr. Goude, well, you let
16 me know, do you want to waive your right to open and close or
17 just close, or how do you want to do closing arguments?

18 MR. GOUDE: I'll just close, Your Honor.

19 THE COURT: Just close after the State does their
20 closing arguments?

21 MR. GOUDE: Yes, sir.

22 THE COURT: Okay, all right, so, the State will, we'll
23 bring the jury back in, I'll tell them that now's the time
24 when we'll do closing arguments. The Defense has rested, the
25 State has rested and then we'll go forward. Let's take about

Motions

149

1 a ten-minute break since I understand we need to kind of
2 formulate our closing arguments or whatever and I'll get some
3 charges together, okay?

4 MS. COTE: Thank you, Your Honor.

5 THE COURT: All right, thank you very much.

6 OFF THE RECORD

7 (On the record.)

8 (Whereupon, the following takes place outside the
9 presence of the jury.)

10 THE COURT: Thank you very much, please be seated.

11 All right, anything from the State before we bring the
12 jury in and begin closing arguments?

13 MS. COTE: Nothing from the State, Your Honor.

14 THE COURT: Anything from the Defendant?

15 MR. GOUDE: No, sir.

16 THE COURT: All right, let's go ahead and bring the
17 jury in.

18 (Whereupon, the following takes place in the presence of
19 the jury.)

20 THE COURT: All right, ladies and gentlemen, welcome
21 back. We have now or the attorneys have now presented all of
22 the evidence and testimony that's going to be given to you in
23 this case and now is the time for the attorneys to make their
24 closing arguments and then I will charge you on the law in
25 this case that will be applied when you deliberate. Like

1 their opening statements, these closing arguments are not
2 evidence. They are simply the attorney's account as to what
3 they think the evidence in this case has shown. If at any
4 time the attorneys make a statement about a factual issue that
5 is contrary to what you find the facts to be, then you're to
6 disregard the attorney's statement. If the attorneys make a
7 comment about the law and it is contrary to the law as I
8 charge you what the law will be at the conclusion of their
9 closing arguments, then you're to disregard their statement as
10 to the law because I will charge you on the law and you are to
11 find the facts based upon the testimony and evidence presented
12 during the trial. So, just like the opening statements, these
13 closing arguments is not evidence but it is simply the
14 attorney's account as to what they think the evidence in this
15 case has shown.

16 All right, Ms. Coté?

17 MS. COTÉ: Thank you, Your Honor. May it please the
18 Court?

19 THE COURT: Yes, ma'am.

20 MS. COTÉ: I'd like to start off by thanking you all
21 for your attention and for your jury service. This hasn't
22 been the longest trial but I know it's been a little tedious
23 having to get up and get down all the time, so, and I also
24 appreciate you all's attention during the course of this
25 trial. If it weren't for jurors like you, we wouldn't be able

Closing Argument by State

151

1 to do our jobs and I thank you for that. I'd like to start
2 off by going over a little bit about the testimony that you
3 heard over the past couple of days from the witness stand.
4 You heard from a total of four witnesses. The first one you
5 heard was Lee Michau who was the desk clerk. He told you that
6 two men came in, both with bandanas on their face. He told
7 you that one came in first and he didn't think much of it at
8 the time. It was a cold night and he thought that he was just
9 covering his face to keep away the cold. Then he told you the
10 other man came up, and at that time he told you he told them,
11 "I know what this is." He said at that point in time one of
12 them sprang over the counter, the other one went around, both
13 having knives. You heard on his 911 tape, which corroborated
14 his statement, all the things he told you, for the most part
15 anyways, were on that 911 tape. You heard him on that 911
16 tape saying, "They both had knives and they were poking them
17 into my side." He went on to talk about how he took them to
18 the back of the room, or the back room, and he showed you that
19 in all those pictures. We submitted those into evidence to
20 give you, the jury, a better picture of what doors they came
21 in, the desk that they jumped over and where the safe was,
22 just to give you a better visual image of that.

23 He talked about the safe and how he couldn't get into it
24 but they did take more money both from the cash register and
25 from that back cash drawer with the deposits. He then told

1 you that they took money out of his wallet. They asked for
2 his cell phone, but he begged them not to take it. So, they
3 left him there with his cell phone and then he walked them out
4 the door. He told you that he was trying to be cooperative,
5 trying not to stir them up, which is understandable. He was
6 trying to be as amenable to their requests as he could be. He
7 told you, he described the two men for you. One was lighter
8 skinned, he said almost Hispanic, and the other one was a
9 darker skin, both African-American males.

10 The next witness you heard from was Investigator Ricky
11 Floyd and he told you a little bit about his investigation,
12 what he did at the scene. He told you about what he always
13 does and this was what he did this time as well. He looked,
14 dusted for latent fingerprints, looked for some DNA, looked
15 for any sort of other forensic evidence but there wasn't any
16 in this case. Unfortunately, not all cases wrap up as tidally
17 as they do on CSI or Law and Order, where there is a critical
18 piece of, piece of hair found on the, found on the counter.
19 There wasn't any of that in this case. What we have is the
20 witnesses who testified for you this week.

21 Investigator Floyd, well again, he told, when he
22 mentioned there weren't any fingerprints, excuse me, you
23 heard from Mr. Michau that at least one of those men, they
24 were wearing gloves so that would explain that. I submit to
25 you that they probably were both wearing gloves since they

Closing Argument by State

153

1 seem to have the same outfit on, they were both wearing
2 bandanas. So, that would explain that.

3 Investigator Floyd told you about how he, his
4 investigation led him to Genene Alston, how he talked to her
5 and that gave him enough information to issue warrants for the
6 Defendant's arrest. He told you that he wasn't able to find
7 the Defendant for awhile, that he had information that he was
8 in North Carolina. Flight can be inferred as evidence of
9 guilt. He took off and an innocent man isn't likely to stick
10 around town - an innocent man is more likely to stick around
11 town.

12 MR. GOUDE: Objection to saying he fled. There was no
13 testimony where Mr. Pringle lived, whether he lived in North
14 Carolina or not. So, I would object to the Prosecutor saying
15 that because he was in North Carolina that means he fled
16 there. He may have been living in North Carolina.

17 THE COURT: All right, well these are just closing
18 arguments. This is not evidence. So, you can address that
19 during your closing arguments as well. All right? Go ahead.

20 MS. COTÉ: Thank you, Your Honor.

21 The next witness you heard from was Genene Alston. She
22 was visibly upset. It's understandable, I would submit to
23 you, for her to be upset today. She, Donovan, the Defendant,
24 was her ex-boyfriend. She didn't really want to come in here
25 and testify against him and testify in front of his whole

1 family. It was tough for her to come in today, but she told
2 you, she answered all of the questions I asked her. She told
3 you that she was upset when she was accused of taking the
4 money. She told you that she was so upset that she told her
5 boyfriend, the Defendant, about that. She told you that she
6 gave him some information about the lobby. She told him about
7 the doors on the side and that hallway in the picture you saw.
8 She told you that she gave him information about where the
9 desk was located and she gave him information about who would
10 be working and she said that she received a text from him that
11 night that said, "You lied about who would be working." I
12 submit to you ---

13 MR. GOUDE: Objection to misstatement of the evidence.

14 THE COURT: Overruled. Go ahead.

15 MS. COTÉ: Thank you, Your Honor.

16 I submit to you that the only way that he would know who
17 was working that night between four and five in the morning on
18 December 23rd, 2009, if he was there in the early morning hours
19 of that date.

20 The next witness you heard from was the last witness,
21 Shane Pringle. He's the Defendant's cousin. He told you that
22 he did not want to testify against his cousin and it was hard
23 for him I'm sure, his whole family out here in the audience,
24 for him to come in and essentially rat out his cousin. It's
25 understandable that he was a little forthcoming at the

Closing Argument by State

155

1 beginning, but in the end, he got, he told you that he and
2 Donovan went into the Carolinian Inn, they jumped across the
3 counter and the man working behind the counter was
4 cooperative. He also told you that they both had their masks
5 on.

6 At the beginning in my opening statement I talked to you
7 about the credibility of witnesses and the things that you
8 should look for when listening to these witnesses, hearing
9 these witnesses's testimony. They included the demeanor of
10 the witness on the stand. Was the witness forthright or
11 hesitant while testifying? Was the testimony of the witnesses
12 corroborated? Was the testimony consistent, and finally, did
13 the witness have any reason to be biased or prejudiced?
14 First, in submitting to you that the witnesses that you heard
15 were credible, I'd like to point out that all of the
16 witnesses, except for Investigator Floyd, were sequestered
17 during the course of the trial. They could not hear what the
18 other witnesses were saying and what they were testifying to.
19 You heard Mr. Michau say they had masks on and then Shane
20 corroborated that fact by saying, "Yes, we both had on masks".
21 Those facts matched up and they were corroborated.

22 You heard, well, Investigator Floyd, he had nothing to
23 gain by testifying falsely. He was simply testifying to you
24 what he learned through his investigation and how the facts
25 led to these particular individuals. Mr. Michau was

1 forthcoming. The statements that he made on the stand were
2 corroborated by the 911 call and he was consistent in his
3 statements both times. Mr. Michau does have a little bit, he
4 does have a criminal record, but he, but that doesn't stop him
5 from being honest in his testimony here, and I ask you to give
6 his credit, give his testimony the credit that it's due.

7 Ms. Alston, as I mentioned, she was crying when she came
8 in but she was forthright. She answered every question that I
9 gave her, and she even, in asking whether a witness has reason
10 to be biased, she has reason to be biased against or towards,
11 biased in favor of Donovan. He was her ex-boyfriend; and so,
12 I would give her testimony even more credit by being - her
13 being honest and testifying against him. That's not what she
14 wanted to do.

15 I'd like to go back over a little bit of the law involved
16 in this case again. Judge Culbertson is the judge of the law
17 in this case. So, if anything I say contradicts what he says,
18 follow what Judge Culbertson tells you when he goes over his
19 charges on the law for you in just a little while. The first
20 charge that we're here today on is armed robbery, and I
21 believe Investigator Brown has those elements up for you. I
22 know some people do better seeing it. So, that's why I'd like
23 to put those up for you. Armed robbery, the elements are the
24 taking and carrying away of the personal property of another
25 with intent to deprive him of possession by use of force,

Closing Argument by State

157

1 threats or intimidations while armed with a deadly weapon.
2 The second portion isn't really pertinent to us today. It's
3 while having in possession an object with which the victim
4 reasonably believed to be a deadly weapon and alleging by
5 words and actions that he is armed. That's, like I told you
6 all in opening, that would be if somebody put a gun or their
7 finger inside a pocket and represented that to be a gun but it
8 wasn't actually a gun. Here we have a witness who said, "Yes
9 they had knives. Yes, they were waving them at me," and on
10 the 911 he said that he - they were being - he - they were
11 poking him in the side with it. That would be the use of
12 force, threats or intimidation. He did, the Defendant did
13 take and carry away the personal property of another. Not
14 only did he take away Mr. Michau's personal property, the
15 money out of his wallet, you heard him say that one of his
16 duties as a desk clerk is for him to take care of the personal
17 property, the money, which she deemed - what she said they
18 called the bank, the money of the owner of that inn. So, he
19 was, he was - that was his personal property. So, that would
20 satisfy that element, and again, you did hear that they were
21 armed with deadly weapons.

22 The second charge is possession of a weapon during a
23 violent crime and there aren't many elements to it. It's
24 unlawful to be in possession of a knife or it could be another
25 weapon or visibly - I didn't do a good job of writing this up

1 for you. I'm sorry. Or visibly display a knife during the
2 commission of a violent crime. If you find that the Defendant
3 displayed a knife during this crime, then he - that would
4 satisfy the elements of this. You heard the Judge. We gave
5 judicial notice of the fact that an armed robbery is
6 classified as a violent crime.

7 Again, the State, we have the burden of proof in this
8 case. We have to prove all of the elements of all of these,
9 both of these crimes beyond a reasonable doubt, and beyond a
10 reasonable doubt is proof that leaves you firmly convinced of
11 the Defendant's guilt. It's not proof beyond any or all
12 doubt. It's just proof that leaves you firmly convinced of
13 the Defendant's guilt. So, if you are firmly convinced that
14 the Defendant committed armed robbery and possession of a
15 weapon during a violent crime then you must find him guilty,
16 and I ask that when you go back to that jury room you consider
17 all of the evidence, you consider all of the witness testimony
18 that you heard and you come back with a verdict of guilty on
19 both charges. Thank you.

20 THE COURT: Mr. Goude?

21 MR. GOUDE: Thank you, Your Honor.

22 Ladies and gentlemen, the Judge will read the indictment
23 to you on armed robbery, which is one of the charges that my
24 client, Donovan Raheam Pringle, faces, and the second charge,
25 second indictment, the Judge will read to you, possession of a

Closing Argument by Defense

159

1 weapon during the crime. I think we can believe that,
2 according to Mr. Michau, the clerk at the Carolinian and the
3 911 tape that the Carolinian Inn was robbed before five
4 o'clock in the morning December the 23rd, 2008, a year ago. So
5 that point, part of the charge is taken care of.

6 I think the policeman testified that he went to the motel
7 and took some photographs and those were put into evidence.
8 So, that's that piece of evidence, that there is a Carolinian
9 Motel in Georgetown, South Carolina. I think the desk clerk
10 from the Carolinian testified that he called 911 and you heard
11 the tape of the 911. So, I believe that takes care of that
12 piece of evidence in the case. There were four witnesses, and
13 is this the witness, the evidence list? Ten exhibits, the
14 nine photographs and the - which are Exhibits One through
15 Nine, and Exhibit Ten which is the 911 call. So, we have
16 discussed all of the exhibits, four witnesses, the desk clerk,
17 we've taken care of him, the investigating police officer,
18 we've taken care of him, two other witnesses, the lady and the
19 gentleman. The lady, Genene, what she said on the witness
20 stand was and I think the Solicitor had said something about
21 my client having texted her about - something about a clerk.
22 That lady never said that on the witness stand. If you have a
23 doubt about it, you can ask to play that testimony back when
24 you're in the jury room. What the lady actually said since I
25 was writing down while the Solicitor was standing up talking

1 with her, asking questions, I was sitting down writing down
2 what she said. She did say that at some point during a night,
3 what she said was the night of December the 23rd, 2008, she had
4 went to the bowling alley with the gentleman who testified,
5 Mr. Shane Pringle, and my client who was her boyfriend and
6 these two guys were cousins as Shane Pringle testified to on
7 the stand and she told them, she said she told them both that,
8 "Somebody needs to rob the Carolinian Inn Motel because they
9 fired me for being short on money or I quit because they
10 accused me of being short on money," and she said at some
11 point during the night of December the 23rd, and she thought it
12 may be three to five A.M. or something like that, that she got
13 a text from Donovan that he was out or on Donovan's cell
14 phone, of course, as you know, a text, there's no voice and
15 there's no video. So, if I text you on your cell phone, you
16 don't see me or you don't hear me, but it does come in on the
17 phone and has a number to it. He was riding around with
18 Shane. She says what she specifically asked about the robbery
19 or testified to on the stand was, "I asked Donovan after the
20 robbery," it was something about, "he said, no, he did not do
21 it." So, that's her testimony. He said, "No, he did not do
22 it," and that's three of the witnesses.

23 Then there was a statement about a Prosecutor that the
24 officer said Mr. Donovan Pringle was in North Carolina and the
25 Prosecutor said that means he fled. Well, there's no

Closing Argument by Defense

161

1 testimony by anybody that he did not live in North Carolina
2 and December the 23rd is the Christmas holidays like we're
3 getting into now and it seems like Mr. Shane Pringle said, "I
4 stayed a little bit with Shane or his family in Andrews during
5 Christmas", that was the witness that testified. So,
6 apparently people move around during the Christmas holidays,
7 and if some live in North Carolina or wherever, they come
8 visit their families in Andrews or Choppee or wherever they're
9 living. There was no fleeing.

10 The Judge is going to tell you that gets us down to the
11 one piece of evidence left. So far, the photographs don't
12 say, this is the evidence, the witnesses and the exhibits.
13 The photographs don't say my client, Donovan Pringle, went
14 into the Carolinian Motel. The 911 tape does not say my
15 client Donovan Pringle went into the 911 - into the Carolinian
16 Motel. The police officer, Mr. Floyd, he does not say my
17 client went into the Carolinian Motel. The desk clerk, the
18 911 tapes and the clerk verifying that he did call the 911
19 tape, they don't say that my client Donovan Pringle went into
20 the Carolinian Motel. Genene Alston, the lady, she does not
21 say my client went into the Carolinian Motel. She said she
22 asked him specifically afterwards about it since she told
23 Shane and him about it and it was robbed after she talked with
24 Shane and my client, and he said, "No, I did not do it". So,
25 she does not say he was in the Carolinian Motel. So, the only

1 evidence left in the case is Shane, Shane Pringle. What Shane
2 Pringle said on the stand when the Prosecutor asked him, he
3 says, "Donovan and I did not go. Donovan did not go to the
4 Carolinian Motel." The Prosecutor asked him a lot of
5 questions, "Did you tell these police officers this," or
6 whatever, and he was basically saying, "No, Donovan Pringle
7 didn't do anything," and then the police, the Solicitor asked
8 him, "Did you previously make a statement in January of 2008,
9 right after it happened and you was arrested and the police
10 questioned you? At point in that interview did you say
11 Donovan was with you," and he said, "Yes, I did say that."
12 Now, I asked him the question, "At some point in the interview
13 did you say Donovan was not the person with you," and he said,
14 "Yes, I said that, too."

15 The Judge is going to tell you that this is a very
16 serious charge, and even if it wasn't, if it was the most
17 minor charge, if it was a traffic ticket, the Judge is going
18 to tell you that the law in South Carolina is the Prosecutors
19 have to prove to each of you, each and every one of you, not
20 seven out of the 12 or two out of the 12 or not let's toss a
21 coin or not it's getting close to three o'clock or four
22 o'clock or five o'clock or six o'clock or nine o'clock or ten
23 o'clock or whatever, so, let's make a decision. The Judge is
24 going to tell you each one of you is to have a decision that
25 comes truthful from your own conscience and that's why we use

Closing Argument by Defense

163

1 a lot of jurors. That's why we don't use one or two. If you
2 had one or two jurors, you may want to get a job with the
3 police or you may want to get a job with the Prosecutor's
4 Office, you may want to get a job in the courthouse, you may
5 want to get a job with the government, you may want to get a
6 job with the Clerk of Court, you may want to go work for the
7 mayor's office or the city hall or the town clerk's or
8 whatever and you could be swayed by people in power, by
9 influence. So, that's why you get a lot of jurors because
10 together you represent the whole community and nobody can't
11 sway you. You do what you think is right. So the Judge will
12 tell you each of you make your own decision and then together
13 you all try to come together and discuss it, and if there is a
14 doubt, when I say a doubt I mean a common sense, reasonable
15 doubt, and the Judge is going to tell you, when I say doubt I
16 mean reasonable doubt. I might not say reasonable doubt every
17 time but I'm not talking about an ignorant doubt that I doubt
18 that that is blue carpet would be an ignorant doubt because
19 even though it looks blue, may be the devil has touched my
20 brain and really it's a red carpet but he's just telling me
21 it's blue. Now, that would be a stupid, ignorant doubt. So,
22 we're not talking about those kind, that's unreasonable.
23 We're talking about common sense doubt. So, what I ask you to
24 think on is the common sense doubts in the case are Genene
25 said, "Donovan told me afterwards he did not do it." Shane

1 said on the - and the Solicitor said that Shane told you here
2 that he jumped over the counter and he told you here in court
3 that Donovan was involved but Shane didn't tell you any of
4 that. Shane, what Shane said was, "Donovan was not involved,
5 but I did make a statement a year ago to the police in the
6 police station when they questioned me for however long they
7 questioned me for," whatever time of day or night it was that
8 they questioned him, "I did make a statement then after I told
9 them he was not involved, didn't have nothing to do it, at
10 some point in it I did tell them he was involved." So, that's
11 what he said. I did - he did not come out here in the
12 courtroom and say he was involved. He said to start with when
13 he was asked was Donovan involved, "Did he go with you to the
14 Carolinian Motel," he said no. So, these are the reasonable
15 doubts, Genene saying that Donovan said that he did not do it,
16 Shane in court saying Donovan did not do it, Shane in the
17 prior statement he made to the police said Donovan did not do
18 it, the clerk not knowing who did it except just two black
19 men, the photos and the 911 tape not saying who did it. So,
20 we ask you to consider that information, and I think that the
21 only person that said that my client was present was Shane
22 Pringle in three statements, two statements he gave to the
23 police in January of this year, one saying my client didn't do
24 it, one saying my client did, and in court saying my client
25 did not do it, no other testimony that says my client did it.

Charge

165

1 So, I say that two statements out of three, two is more than
2 one to me, Shane in January saying my client didn't do it,
3 Shane in court saying my client did not do it and then Shane
4 in January to the police saying he did it. One statement he
5 said my client did do it, two he said he did not. So, I say
6 to you that that's a reasonable doubt, that you don't know if
7 Shane's telling the truth when or where; and therefore, I ask
8 you to vote not guilty on both charges. Thank you very
9 much.

10 THE COURT: All right, ladies and gentlemen of the
11 jury, all the testimony and evidence in this case has been
12 presented. Now is the time for me to charge you on the law to
13 be applied in this case. Now, the indictments in this case
14 charge the Defendant, Donovan Raheam Pringle, with armed
15 robbery and possession of a weapon during the commission of a
16 violent crime. I remind you that the fact that the Defendant
17 was arrested, charged and indicted in this case is not
18 evidence in this case and cannot be considered by you as
19 evidence of guilt in this case, nor does it create any
20 presumption or inference of guilt. This document or these
21 documents are simply the formal written instruments which
22 contain the charges made against the Defendant. They're the
23 formal documents by which this case is brought into this
24 court. Now, the Defendant pleads not guilty to these
25 indictments. That plea puts the burden on the State to prove

1 the Defendant guilty. A person charged with committing a
2 criminal offense in South Carolina is never required to prove
3 his innocence. I charge you that it is an important rule of
4 the law that the Defendant in a criminal trial no matter what
5 the seriousness of the charge may be will always be presumed
6 to be innocent of the crime for which the indictments were
7 issued unless guilt has been proven by evidence satisfying you
8 of that guilt beyond reasonable doubt. This presumption of
9 innocence does not end when you begin your deliberations but
10 it accompanies the Defendant throughout the trial unless and
11 until you reach a verdict of guilt based upon evidence
12 satisfying you of that guilt beyond a reasonable doubt. The
13 presumption of innocence is like a robe of righteousness
14 placed about the shoulders of the Defendant which remains with
15 the Defendant unless and until it has been stripped from the
16 Defendant by evidence satisfying you of the Defendant's guilt
17 beyond a reasonable doubt. The presumption of innocence is
18 not a mere legal theory; it is not just a legal phrase.
19 It is a substantial right to which every Defendant is
20 entitled unless you the jury are satisfied from the evidence
21 of the Defendant's guilt beyond a reasonable doubt. Now,
22 as I said, the State has the burden of proving the Defendant
23 guilty beyond a reasonable doubt. Well, what is reasonable
24 doubt in the law? A reasonable doubt is the doubt, is a
25 kind of doubt that would cause a reasonable person

Charge

167

1 to hesitate to act. Proof beyond a reasonable doubt is proof
2 that leaves you firmly convinced of the Defendant's guilt.
3 There are very few things in the world that we know with
4 absolute certainty, and in criminal cases the law does not
5 require proof that overcomes every possible doubt. If
6 based on your consideration of the evidence you are firmly
7 convinced that the Defendant is guilty of the crime with
8 which he has been charged you must find the Defendant
9 guilty. If on the other hand you think there is a real
10 possibility that the Defendant is not guilty you must give
11 the Defendant the benefit of that doubt and find him not
12 guilty.

13 Now, I remind you that during this trial you and I
14 have certain duties to perform. As the trial judge it is
15 my responsibility to preside over the trial of this case.
16 I also have the duty to rule on the admissibility of the
17 evidence offered during this trial. You are to consider
18 only the competent evidence before you. You are to
19 consider only the testimony which has been presented from
20 the witness stand and any exhibits which have been made a
21 part of the record in this case. I have the additional
22 duty to charge you the law applicable to this case. As
23 the presiding judge I am the sole judge of the law in
24 this case and it is your duty as jurors to accept and to
25 apply the law as I now state to you. If you already

1 have any idea as to what the law is or what the law
2 ought to be and it does not agree with what I now tell
3 you the law is you must abandon your idea of what the
4 law is or ought to be because you are sworn to accept
5 the law and apply the law exactly as I state it to you.
6 In every criminal case tried in this court before a jury
7 the jury becomes the sole and exclusive judge of the facts
8 in the case. A trial judge cannot intimate, state, comment
9 on or make any statement to a trial jury about the facts
10 in a case. Since you the jury are the sole judge of the
11 facts in this case you are not to infer from what I have
12 said during the process of this trial in ruling upon the
13 admissibility of evidence or otherwise or anything that I
14 say now during the course of these instructions to you that
15 I have an opinion about the facts in this case. The law
16 does not allow me to have an opinion about the facts in this
17 case. This is a matter solely for you the jury to determine.
18 As jurors it is your duty to determine the effect, the value,
19 the weight and the truth of the evidence presented during this
20 trial.

21 Now, necessarily you must determine the credibility of
22 witnesses who have testified in this case. Credibility
23 simply means believability. It becomes your duty as jurors
24 to analyze and to evaluate the evidence and determine which
25 evidence convinces you it's true. In determining the

Charge

169

1 believability of witnesses who have testified in this case
2 you may believe one witness over several witnesses or
3 several witnesses over one witness. You may believe a
4 part of the testimony of a witness and reject the remaining
5 part of the testimony of the same witness. You may believe the
6 testimony of a witness in its entirety or reject the testimony
7 of a witness in its entirety. You may consider whether any
8 witness has exhibited to you any interest, bias, prejudice or
9 other motive in this case. You may also consider the
10 appearance and manner of a witness while on the witness
11 stand.

12 Now, the fact that the Defendant did not testify
13 in this case is not a factor to be considered by
14 you in any way in your deliberation and in your
15 consideration on the question of guilt or innocence of
16 the Defendant. You must not consider the Defendant's
17 failure to testify in any manner whatsoever. The Defendant
18 has the constitutional right to remain silent and the
19 assertion of this right must not be considered by you in
20 your deliberations. I repeat, under your oath you are to
21 draw no conclusion whatsoever from the fact that the
22 Defendant in this case did not testify. The fact that
23 this Defendant did not testify should not even be discussed
24 in the jury room. The burden of proof as I have stated to
25 you is on the State. The Defendant is not required

1 to prove his innocence. Throughout the trial the burden of
2 proof remains on the State to prove guilt beyond a reasonable
3 doubt.

4 Now, there has been evidence presented that a witness may
5 have made a prior inconsistent statement which is not
6 consistent with the testimony given during the trial of this
7 case. You may use this evidence to decide whether to believe
8 the witness. You may also use evidence of the earlier
9 contradictory statement to determine the truth of that
10 statement. It is up to you to decide whether to believe the
11 earlier statement or the testimony given at trial. If a
12 witness has shown to have knowingly testified untruthfully
13 concerning any material matter you may consider this in
14 determining whether to trust a witness's testimony as to the
15 other matters. You may reject all testimony of that witness
16 or give all or part of the testimony the weight you think it
17 deserves.

18 Now, if a crime is committed by two or more people who
19 are acting together in committing a crime the act of one is
20 the act of all. A person who joins with another to commit an
21 unlawful act is criminally responsible for everything done by
22 the other person which happens as a probable or natural
23 consequence of the acts done in carrying out the common plan
24 and purpose. For example, two people can be guilty of killing
25 another person when only one has - of the two had a gun,

Charge

171

1 there's only one bullet and only one of the two fired the shot
2 that caused the death. If two or more people are together
3 acting together, assisting each other in committing the
4 offense the act of one is the act of all or as it is sometime
5 said the hand of one is the hand of all. Prior knowledge of a
6 crime, prior knowledge that a crime is going to be committed
7 without more is not sufficient to make a person guilty of that
8 crime. Mere knowledge that another person is going to commit
9 a crime, even if the Defendant is present when the crime is
10 committed is not sufficient to convict the Defendant as a
11 principal. Guilt as a principal is shown by actual or
12 constructive presence at the scene as a result of a prior
13 arrangement. Therefore, a finding of a prior arranged
14 plan or common scheme is necessary for a finding of
15 guilt as a principal. The State must prove beyond a
16 reasonable doubt by competent evidence the theory of the
17 hand of one is the hand of all. A principal in a
18 crime is one who either actually commits the crime
19 or was present aiding, abetting or assisting in the
20 committing of the crime. When a person does an act in the
21 presence of and with the assistance of another the act is
22 done by both. Where two or more acting with a common
23 plan or intent are present at the commission of a crime
24 it does not matter who actually commits the crime, all are
25 guilty. The hand of one is the hand of all. Present

Charge

172

1 at the commission of a crime means to be sufficiently
2 near to aid and abet and assist in the commission of the
3 crime.

4 Intent is also a necessary element, for there must
5 be -- excuse me, intent is also a necessary element for
6 there must have been a common design or intent to commit
7 the crime and the crime must have been committed pursuant
8 thereto with the person aiding and abetting by some overt
9 act. Intent means intending the result which actually
10 occurs, not accidentally or involuntarily. Intent may be
11 shown by acts and conduct of the Defendant and other
12 circumstances from which you may naturally and reasonably
13 infer intent. The State must prove these elements beyond a
14 reasonable doubt.

15 Now, the Defendant is charged with armed robbery. In
16 order to prove this offense the State must prove beyond a
17 reasonable doubt that the Defendant took personal property
18 from the person or presence of another person. Property is in
19 the presence of a person if it is within the person's reach,
20 inspection, observation or control so that the person could,
21 if not overcome with violence or prevented by fear, keep
22 possession of the property.

23 The State must also prove beyond a reasonable doubt that
24 the Defendant carried the property away, intending to
25 permanently deprive the owner of the property and to keep the

Charge

173

1 property for the Defendant's own use. The slightest removal
2 of the property or the complete possession of the property
3 even for an instant by the Defendant is sufficient to show a
4 taking and carrying away of the property. The taking and
5 carrying away of the property must have been done with
6 violence or by putting the owner of the property in fear of
7 violence.

8 Finally, the State must prove beyond a reasonable
9 doubt that the Defendant was armed with a deadly weapon
10 during the robbery. A deadly weapon is any article,
11 instrument or substance which is likely to cause death or
12 great bodily harm. Whether an instrument has been used as a
13 deadly weapon depends on the facts and circumstances of each
14 case.

15 The Defendant is also charged with possession of a weapon
16 during the commission of a violent crime. The State must
17 prove beyond reasonable doubt that the Defendant visibly
18 displayed, in this case a knife, during the commission of a
19 violent crime. A knife means an instrument or tool with a
20 sharp cutting blade, whether or not it's fastened to a handle,
21 which can be used to inflict a cut, a slash or a wound. In
22 order to find the Defendant guilty of possession of a weapon
23 during the commission of a violent crime you must first find
24 the Defendant guilty of either committing a violent crime or
25 attempting to commit a violent crime. Armed robbery is a

Charge

174

1 violent crime.

2 Now, there are two possible verdicts which you may
3 find for each indictment. There is no significance
4 whatsoever in the order in which I state these possible
5 verdicts to you. I simply must state one first and one
6 second. On the charge of armed robbery you may find the
7 Defendant guilty of armed robbery or you may find the
8 Defendant not guilty of armed robbery. On the charge of
9 possession during the commission of a violent crime you may
10 find the Defendant guilty of that crime or find the Defendant
11 not guilty of that crime.

12 Now, ladies and gentlemen, your verdict must be
13 unanimous. Mr. Poteet, as foreperson, when the jury
14 agrees on a verdict you will write that verdict below the
15 verdict section on the indictment on each indictment,
16 then you will sign your name where it says foreperson,
17 put in the date and then knock on the door and tell the
18 bailiff that the jury has reached a verdict. Now, at
19 this time I'm going to excuse you back to the jury room,
20 but please do not begin your deliberations at this point
21 in time. I have to check with the attorneys to see if
22 they have any additional charges or if they need me to
23 further explain any of the charges to you. If they do
24 I will bring you back out and I will correct or make
25 whatever additions or supplements they deem necessary. If

Charge

175

1 | there is none or if I view that there is no more to be made
2 | then we will send the exhibits back to you with the
3 | indictments and with the instructions from the bailiffs that
4 | you can begin your deliberations.

5 | All right, I'll excuse you back to the jury room at
6 | this point in time but please do not begin your
7 | deliberations.

8 | (Whereupon, the following takes place outside the
9 | presence of the jury.)

10 | THE COURT: All right, any exceptions to the jury
11 | charge or additions to be made by the State?

12 | MS. COTÉ: None, Your Honor.

13 | THE COURT: Any from the Defense?

14 | MR. GOUDE: No, sir.

15 | THE COURT: Let's go ahead and get the exhibits
16 | together.

17 | (Exhibits reviewed and approved by counsel for the State
18 | and counsel for the Defense.)

19 | THE COURT: All right, when you take the exhibits and
20 | the indictments back I'll need Ms. Russ and Ms. Swanson, need
21 | to bring them out.

22 | All right, if you'd please bring the alternates out, Ms.
23 | Russ and Ms. Swanson.

24 | (Alternates enter courtroom and are discharged by
25 | Court.)

Question from Jury

176

1 THE COURT: All right, we'll stand in recess until the
2 jury has reached a verdict.

3 MS. COTÉ: Thank you, Judge.

4 THE COURT: Thank you.

5 (Deliberations begin at 2:32 p.m.)

6 OFF THE RECORD

7 (On the record.)

8 (Question from jury at 3:05 p.m.)

9 (Whereupon, the following takes place outside the
10 presence of the jury.)

11 THE COURT: Thank you very much. Please be seated.

12 All right, the bailiff came out with a note from the
13 jury. It says transcripts of - it says Jeanne, J-E-A-N-N-E,
14 and Shane. I'm assuming they want written transcripts, which
15 there are none, but want to hear the testimony of Genene
16 Alston and Shane Pringle again. All I know to do is to
17 bring them back out and tell them that we don't have
18 written transcripts but if they want to hear the recorded
19 testimony we can play that back for them or as a matter
20 of a fact I might just write a note on here that states, "We
21 do not have written transcripts but if you want to hear the
22 recorded testimony we can play the recorded testimony for
23 you," and to let us know. Does that sound sufficient to the
24 State?

25 MS. COTÉ: Yes, Your Honor, the State's agreeable to

Question from Jury

177

1 that.

2 THE COURT: All right, does that sound agreeable to
3 the Defense?

4 MR. GOUDE: Yes, Your Honor, that's fine.

5 THE COURT: All right.

6 All right, what I've written on this, my response, I've
7 just written, "I assume you are referring to the testimonies
8 of Genene Alston and Shane Pringle. We do not have written
9 transcripts. However, we can play an audio recording of their
10 testimonies. Is this what you want," signed it my name,
11 Judge.

12 All right, let's mark this as Court's Exhibit Five. All
13 right, we'll mark that as Court's Exhibit Five and if you
14 could take that back to them and then just find out if that's
15 what they want, come back in and let us know.

16 (Court's Exhibit Five [Note from Jury] appropriately
17 marked.)

18 (Reply back from Jury at 3:15 p.m.)

19 THE COURT: They said, yes, okay.

20 OFF THE RECORD

21 (On the record.)

22 (Whereupon, the following takes place outside the
23 presence of the jury.)

24 THE COURT: All right, anything from the State before
25 we bring the jury in?

Question from Jury

178

1 MS. COTÉ: Nothing, Your Honor.

2 THE COURT: Anything from the Defense?

3 MR. GOUDE: No, Your Honor.

4 THE COURT: All right, let's go ahead and bring the
5 jury in.

6 (Whereupon, the following takes place in the presence of
7 the jury.)

8 THE COURT: All right, ladies and gentlemen, I
9 understand you want to hear the testimony of Genene Alston and
10 Shane Pringle again; is that correct?

11 FOREPERSON: Correct.

12 THE COURT: All right, all right, I'll ask the court
13 reporter to please play back, I think first we have, taking
14 them in order, the first is the testimony of Genene Alston.

15 All right.

16 (Whereupon, testimony of Genene Alston played in open
17 court.)

18 THE COURT: That was the testimony of Genene Alston.
19 Next we'll play the testimony of Shane Pringle.

20 (Whereupon, testimony of Shane Pringle played in open
21 court.)

22 THE COURT: All right, ladies and gentlemen, that is
23 the testimony of the two witnesses that you requested to re-
24 listen or to hear their testimony again. So, I'll excuse you
25 back to the jury room so you can resume your deliberations.

Question from Jury

179

1 (Whereupon, the following takes place outside the
2 presence of the jury.)

3 THE COURT: All right, anything further from the
4 State?

5 MS. COTÉ: Nothing, Your Honor.

6 THE COURT: Anything from the Defense?

7 MR. GOUDE: No, Your Honor.

8 THE COURT: All right, we'll stand in recess until we
9 hear something from the jury.

10 OFF THE RECORD

11 (On the record.)

12 (Whereupon, the following takes place outside the
13 presence of the jury.)

14 (Verdict reached at 3:57 p.m.)

15 THE COURT: Thank you very much. Please be seated.

16 All right, I understand the jury has reached a verdict.

17 All right, anything from the State before we bring the
18 jury in to render a verdict?

19 MS. COTÉ: No, Your Honor.

20 THE COURT: Anything ---

21 MR. GOUDE: No, Your Honor.

22 THE COURT: --- anything from the Defendant?

23 All right, let's bring the jury in.

24 (Whereupon, the following takes place in the presence of
25 the jury.)

Verdict

180

1 THE COURT: All right, Mr. Foreman, I understand the
2 jury has reached a verdict; is that correct?

3 FOREPERSON: That's correct, Your Honor.

4 THE COURT: All right, if you'd please hand the
5 verdicts to the bailiff.

6 (Complies with request.)

7 THE COURT: Thank you.

8 (Court reviews verdict.)

9 THE COURT: All right, I'll ask the clerk if she'd
10 please publish the verdicts.

11 CLERK: State of South Carolina versus Donovan
12 Raheam Pringle, as to Indictment Number 2009-GS-22-836
13 for armed robbery, we, the jury, find the Defendant
14 guilty.

15 As to Indictment 2009-GS-22-837 for possession of a
16 weapon during the commission of a violent crime, we, the jury,
17 find the Defendant guilty.

18 THE COURT: All right, ladies and gentlemen, if
19 this is your verdict please signify by raising your right
20 hand.

21 (All jurors raise right hand.)

22 THE COURT: All right, let the record show that
23 all jurors raised their hand. You may put your hands down
24 now.

25 Any polling of the jury by the State?

Verdict

181

1 MS. COTÉ: No, Your Honor.

2 THE COURT: Any polling of the jury by the
3 Defendant?

4 MR. GOUDE: No, Your Honor.

5 THE COURT: All right, ladies and gentlemen, I thank
6 you for your service in this case. That will conclude your
7 service in this case and it'll also conclude your services for
8 this week. We do not need a jury anymore this week; and so,
9 that will conclude your services in full. I thank you for
10 your service. We can't function without you.

11 I'm going to excuse you back to the jury room. I'm going
12 to come back and speak with you in just a minute and see if
13 you have any questions and to thank you personally for your
14 service. So, I'm going to excuse you back to the jury room at
15 this time and I'll be back there in just a second to speak
16 with you. Thank you very much.

17 (Whereupon, the following takes place outside the
18 presence of the jury.)

19 THE COURT: All right, any reason as to why we cannot
20 go forward with sentencing at this time? Anything from the
21 State?

22 MS. COTÉ: No, Your Honor. I'm preparing the
23 sentencing sheets right now.

24 THE COURT: All right, anything from the
25 Defendant?

Sentencing

182

1 MR. GOUDE: No, Your Honor. We're ready to be
2 sentenced.

3 THE COURT: All right.

4 All right, Mr. Goude, the jury has found your client
5 guilty of armed robbery, as well as possession of a deadly
6 weapon during the commission of a violent crime. Anything in
7 mitigation?

8 MR. GOUDE: Judge, I would make the, the motion
9 before.

10 THE COURT: All right, any post-trial motions?

11 MR. GOUDE: Motion for a new trial, Your Honor, on the
12 grounds of insufficiency of the evidence.

13 THE COURT: All right, your motion is noted. However,
14 I deny that.

15 MR. GOUDE: Judge, on the mitigation, Mr. Pringle is
16 20 years of age. I think he has some like a minor magistrate
17 court record for one or two things. He's been in jail since
18 February the 19th, 2009. I calculate that as 300 days, and he
19 lives with his - he was living in North Carolina and visiting
20 with his parents here in Andrews. He's not married. He has
21 no children, has a high school diploma, and he says he has a
22 seven month old daughter and previously he was serving in the
23 National Guard.

24 He knows the range of the sentence on this thing, Your
25 Honor, the 10 years to 30 years on the armed robbery and he

Sentencing

183

1 would ask you to show him the mercy that you can show him.
2 Based on the jury's verdict, we would ask you to show him
3 whatever mercy you can show him in the sentencing with the
4 charges, Your Honor.

5 His family is here with him. I have not talked to them
6 about making any statements. I know his mother is here and
7 several other of his family members. They may or they may not
8 wish to address the Court.

9 THE COURT: All right, all right, Mr. Pringle,
10 I'll hear from you or anybody that wants to speak on your
11 behalf.

12 MR. PRINGLE: Well, I'll speak for myself, Your
13 Honor.

14 THE COURT: All right, sir.

15 MR. PRINGLE: I just want to thank you for your time and
16 let you know that, I guess you can say justice has been done
17 because you had other people pleading; and so, I can't really
18 argue with the evidence, but I know I'm innocent, you know, I
19 just leave it in the Lord's hand. I just thank you for your
20 time.

21 THE COURT: All right, sir, thank you very much.
22 Does anybody else want to say anything?

23 MR. GOUDE: Judge, this is the mother of - Carla

24 ---

25 MS. THOMPSON: Thompson.

Sentencing

184

1 MR. GOUDE: --- Thompson.

2 THE COURT: All right, Ms. Thompson, I'll hear from
3 you.

4 MS. THOMPSON: I'm just here to support both Donovan and
5 my nephew Shane and I mean, I know, well, I, for one thing, I
6 thank God nobody didn't get hurt in the incident here. What
7 I'm asking you and everybody else to please have mercy on him.
8 He was trying to, you know, have go back and finish doing his
9 military career and we just found out that he has a little
10 girl that he only saw once once he was in Georgetown, and I'm
11 just asking for the Court and for you to please have mercy on
12 him when you're doing the sentencing

13 THE COURT: Thank you, ma'am. Does anybody else want
14 to say anything?

15 MR. PRINGLE: Your Honor, is there any way I could give
16 my mama and my grandma a hug?

17 THE COURT: I'm sorry. Say that again.

18 MR. PRINGLE: Is there any way I can give my mama and my
19 grandma a hug?

20 THE COURT: I, I can't understand what you're
21 saying.

22 MR. PRINGLE: Is there, is there any way I give them a
23 hug?

24 THE COURT: Okay, no, this is up to security right
25 now.

Sentencing

185

1 Yes, ma'am, your name?

2 MS. PRINGLE: I wanted to say something.

3 THE COURT: I need your name first.

4 MS. PRINGLE: Marie Pringle.

5 THE COURT: All right, Ms. Pringle.

6 MS. PRINGLE: I'm their grandmother, and they ain't bad

7 boys, but sometimes things happen, I reckon. I want you to

8 have mercy on them and, you know, it's in your hands, whatever

9 come they just, you know, I don't know what'll happen.

10 THE COURT: All right, thank you, ma'am.

11 Anything else?

12 MS. PRINGLE: No, just have mercy on him, I reckon. I

13 ain't never been in no situation like this right here.

14 THE COURT: All right.

15 MS. POWELL: Your Honor, my name is Elizabeth

16 Powell.

17 THE COURT: I'm sorry. You'll need to speak up.

18 MS. POWELL: My name is Elizabeth Powell.

19 THE COURT: All right, Ms. Powell.

20 MS. POWELL: I might as well be this, this gentleman

21 standing here you all got in handcuffs might as well be my

22 adopted son. I'm asking you all and begging you all to please

23 have mercy on him. He has a child. He's not a bad boy and we

24 love him and we want him home, but he's got a child, sir, that

25 he needs to be with and I am asking and begging for you all to

1 have mercy on him, please.

2 THE COURT: All right.

3 MS. POWELL: Thank you.

4 THE COURT: Thank you, ma'am.

5 Anyone else?

6 MS. STEVENS: My name is Christopher Stevens. I grew up
7 with him. I'm asking that you have mercy on him, please. I
8 never thought that I would be sitting here 21 years old and
9 looking at somebody who I grew up with ever since we were a
10 child. It hurts me, but I ask that you please have mercy on
11 him, please, and I just want to say, Donovan, I love you so
12 much. Please be good.

13 THE COURT: All right.

14 Ma'am, your name?

15 MS. THOMPSON: My name is Carlette Thompson and that's
16 my brother and it kills me to see him going to jail like
17 that.

18 THE COURT: All right, thank you, ma'am.

19 All right, does the victim wish to say anything?

20 MS. COTÉ: No, Your Honor, the victim is not
21 present.

22 THE COURT: All right, any prior records?

23 MS. COTÉ: Your Honor, he has just traffic offenses
24 in South Carolina, speeding and driving under suspension in
25 2008. In North Carolina in 2009 he has a possession of

Sentencing

187

1 marijuana over half an ounce to one and a half ounce and
2 possession of drug paraphernalia. He does also have another
3 pending armed robbery and possession of a weapon during the
4 commission of a violent crime with our office. It was at the
5 same incident location within approximately a week. His Co-
6 Defendant, we redacted that statement for this trial, but his
7 Co-Defendant did admit they were both involved in both of
8 those cases.

9 THE COURT: All right.

10 MS. COTÉ: Your Honor, we would seek a 25-year
11 sentence on the armed robbery with a consecutive five year
12 sentence on the possession of a weapon charge. We feel it's
13 justified under these circumstances.

14 Your Honor, and also, I did - his plea offer was a 10 to
15 12 range, but he did reject that offer.

16 THE COURT: All right, all right, Mr. Pringle, on the
17 charge of armed robbery the sentence of the Court is that you
18 be confined to the State Department of Corrections for 20
19 years.

20 On the charge of possession of a firearm during the
21 commission of a violent crime the sentence of the Court is
22 that you be confined to the State Department of Corrections
23 for five years, those sentences will run concurrently, you'll
24 be given credit for any time served thus far.

25 MR. PRINGLE: Thank you, Your Honor.

Sentencing

188

1 THE COURT: Thank you.

2 MS. COTÉ: Thank you, Your Honor.

3 MR. GOUDE: Thank you, sir.

4 THE COURT: Yes, sir.

5 (Adjourned.)

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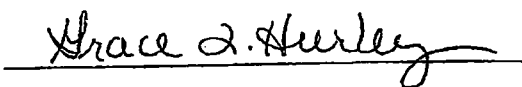
Sentencing

189

C E R T I F I C A T E

I, the undersigned, Grace L. Hurley, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the Guilty Plea held in the case of The State versus Donovan Reheam Pringle, held in the Court of General Sessions for Georgetown County, Georgetown County Courthouse, Georgetown, South Carolina, on December 14-15, 2009.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.


Grace L. Hurley, CVR-CM
Official Reporter

May 5, 2010.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Georgetown County

Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DONOVAN RAHEEN PRINGLE,

APPELLANT

FINAL BRIEF OF APPELLANT

ELIZABETH A. FRANKLIN-BEST
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT.

TABLE OF CONTENTS

TABLE OF CONTENTS.....	1
TABLE OF AUTHORITIES	2
STATEMENT OF ISSUES ON APPEAL.....	3
STATEMENT OF THE CASE	4
ARGUMENT	5
CONCLUSION	7

TABLE OF AUTHORITIES

Cases

<u>State v. Cherry</u> , 361 S.C. 588, 606 S.E.2d 475 (2004)	6
State v. Lollis, 343 S.C. 580, 541 S.E.2d 254 (2001)	6
State v. McKnight, 352 S.C. 635, 576 S.E.2d 168, <i>cert. denied</i> , 540 U.S. 819, 124 S.Ct. 101, 157 L.Ed.2d 36 (2003)	6
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State v. Rothschild, 351 S.C. 238, 569 S.E.2d 346 (2002)	6

STATEMENT OF ISSUES ON APPEAL

Did the trial court judge err by not granting appellant's motion for a directed verdict when the evidence presented did not prove more than a "mere suspicion" that appellant was involved in the crime of armed robbery?

STATEMENT OF THE CASE

Donovan Raheam Pringle was indicted by the Georgetown County grand jury for armed robbery and possession of the weapon during the commission of violent crime. He was tried on December 14 and 15th, 2009 before the Hon. Benjamin H. Culbertson and a jury. He was represented by Reuben Goude, Esquire. He was convicted and sentenced to 20 years and 5 years, respectively. The sentences were ordered concurrent.

This appeal timely follows.

ARGUMENT

The trial court judge erred by not granting appellant's motion for a directed verdict when the evidence presented did not prove more than a "mere suspicion" that appellant was involved in the crime.

Appellant was convicted of crimes alleged to have occurred on December 23, 2008. On that date, two men, wearing bandanas, robbed the Carolinian Inn in Georgetown, South Carolina. The victim, a night clerk, testified that between 4:00 and 5:00 AM two men approached him. According to his testimony, one suspect vaulted across the counter, while the second suspect walked around and entered the area behind the desk. The night clerk testified that he observed two knives. Once the robbery was complete, one of the suspects shook his hand and apologized for having to commit the robbery. Initially, the night clerk was a suspect in this case, and he has a significant criminal record involving federal bank robbery charges, and assorted state-level burglaries. R. 68-91.

The lead investigator on this case was Ricky Floyd. During his investigation, Genene Alston's name was mentioned. Ms. Alston was a former employee of the Carolinian Inn who was fired after monies were found to be missing on her watch. Based on the investigator's later interview with Ms. Alston, the investigator issued arrest warrants for appellant and his cousin. At the time of trial, Ms. Alston had outstanding charges in connection with these events. A review of the South Carolina Department of Corrections database shows that Ms. Alston is not now currently incarcerated (last visited September 15, 2010). R. 98-121.

Appellant's co-defendant and cousin, Shane Pringle, testified at trial. He testified that appellant was **not** with him at the time of the armed robbery, but that he was with

somebody else when he committed this armed robbery. Pringle's account at trial differed from the statement that he made to law enforcement, and he was subsequently impeached with his prior inconsistent statement at trial. The state did not offer any forensic evidence to connect appellant to this crime, and the only testimony connecting him to this crime were two people who were also charged in connection with these events. Under these unique circumstances, it was an abuse of the judge's discretion not to grant appellant's motion for a directed verdict at the close of the State's case. R. 122-142.

At the close of the State's case, appellant made a motion for a directed verdict for both charges on the basis that the evidence was insufficient for the jury to convict. R. 144. The judge denied the motion. R. 144. Trial counsel renewed that motion prior to closing arguments. Again, it was denied. R. 148. The trial court judge's ruling was error, and appellant should have his convictions reversed.

A defendant is entitled to a directed verdict when the state fails to produce evidence of the offense charged. State v. McKnight, 352 S.C. 635, 642, 576 S.E.2d 168, 171, *cert. denied*, 540 U.S. 819, 124 S.Ct. 101, 157 L.Ed.2d 36 (2003); State v. Rothschild, 351 S.C. 238, 243, 569 S.E.2d 346, 348 (2002). The circuit court should not refuse to grant the directed verdict motion when the evidence merely raises a suspicion that the accused is guilty. State v. Mitchell, 341 S.C. 404, 409, 535 S.E.2d 126, 127. "Suspicion" implies a belief or opinion as to guilt based upon facts or circumstances which do not amount to proof. State v. Lollis, 343 S.C. 580, 541 S.E.2d 254 (2001). *See also* State v. Cherry, 361 S.C. 588, 606 S.E.2d 475 (2004). In this case, the evidence presented by the State did not rise above the level of mere suspicion. Appellant respectfully asks this Court to reverse his convictions.

CONCLUSION

For the preceding reason, appellant respectfully ask this court to reverse his convictions.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'E. Franklin-Best', written over a horizontal line.

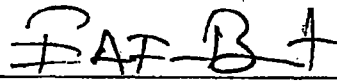
Elizabeth A. Franklin-Best
Appellate Defender

ATTORNEY FOR APPELLANT.

This 12th day of January, 2011.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."



ELIZABETH A. FRANKLIN-BEST
Appellate Defender

S.C. Commission on Indigent Defense
Division of Appellate Defense
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, South Carolina 29211-1589

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Georgetown County

Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

RESPONDENT,

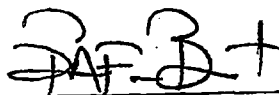
V.

DONOVAN RAHEEN PRINGLE,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant and Designation of Matter in the above referenced case has been served upon Christina J. Catoe, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 12th day of January, 2011.



Elizabeth A. Franklin-Best
Appellate Defender

ATTORNEY FOR APPELLANT.

SUBSCRIBED AND SWORN TO before me
this 12th day of January, 2011.

(L.S.)

Notary Public for South Carolina
My Commission Expires: August 23, 2014.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Georgetown County
The Honorable Benjamin H. Culbertson, Circuit Court Judge

THE STATE OF SOUTH CAROLINA,

RESPONDENT,

v.

DONOVAN RAHEEN PRINGLE,

APPELLANT.

FINAL BRIEF OF RESPONDENT

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

CHRISTINA J. CATOE
Assistant Attorney General

Post Office Box 11549
Columbia, SC 29211
803-734-3737

J. GREGORY HEMBREE
Solicitor, Fifteenth Judicial Circuit

Post Office Box 1276
Conway, SC 29528
843-915-5460

ATTORNEYS FOR RESPONDENT

TABLE OF CONTENTS

TABLE OF CONTENTS	1
TABLE OF AUTHORITIES	2
STATEMENT OF ISSUE ON APPEAL.....	3
STATEMENT OF THE CASE	4
ARGUMENT	5
CONCLUSION	9

AUTHORITIES CITED

Cases:

<u>State v. Adams</u> , 332 S.C. 139, 504 S.E.2d 124 (Ct. App. 1998)	5
<u>State v. Caldwell</u> , 378 S.C. 268, 662 S.E.2d 474 (Ct. App. 2008)	5
<u>State v. Frazier</u> , 375 S.C. 575, 654 S.E.2d 280 (2007)	7
<u>State v. Gaster</u> , 349 S.C. 545, 564 S.E.2d 87 (2002)	7
<u>State v. Lollis</u> , 343 S.C. 580, 541 S.E.2d 254 (2001)	7
<u>State v. Russell</u> , 345 S.C. 128, 546 S.E.2d 202 (Ct. App. 2001)	5
<u>State v. Smith</u> , 304 S.C. 129, 403 S.E.2d 162 (Ct. App. 1991)	8
<u>State v. Weston</u> , 367 S.C. 279, 625 S.E.2d 641 (2006)	8

STATEMENT OF ISSUE ON APPEAL

The trial court properly denied a directed verdict where the State presented sufficient evidence proving Appellant's participation in the crime.

STATEMENT OF THE CASE

Appellant was indicted in July 2009 in Georgetown County for armed robbery and possession of a weapon during commission of a violent crime. (R. p. 76-82). Appellant was tried on December 14-15, 2009, before the Honorable Benjamin H. Culbertson. (R. p. 1). The jury found Appellant guilty of both offenses, and Judge Culbertson sentenced him to twenty (20) years for armed robbery and five (5) years, concurrent, for the weapon charge. (R. p. 74, lines 11-17; p. 75, lines 16-24). A notice of appeal was timely served and filed.

ARGUMENT

Issue Preservation

At the close of the State's case, Appellant made general motion for directed verdict on the grounds of "insufficiency of the evidence." (R. p. 72, lines 4-7). No further argument was made, and Appellant did not assert that the evidence created only a "mere suspicion" of Appellant's involvement in the crime. (See R. p. 72, lines 4-9; see also p. 73, lines 6-10). Therefore, arguably, the issue he now raises on appeal regarding "mere suspicion" is not preserved for review. See e.g., State v. Russell, 345 S.C. 128, 132, 546 S.E.2d 202, 204 (Ct. App. 2001) (issues not raised to the trial court in support of directed verdict are not preserved for appellate review) (citation omitted); State v. Adams, 332 S.C. 139, 144-145, 504 S.E.2d 124, 126-27 (Ct. App. 1998) (argument not preserved for appeal where precise issue not presented to the trial court) (citations omitted); State v. Caldwell, 378 S.C. 268, 283, 662 S.E.2d 474, 482 (Ct. App. 2008) (a party may not argue one ground at trial and another on appeal).

The trial court properly denied a directed verdict where the State presented sufficient evidence proving Appellant's participation in the crime.

Trial Testimony

The night-shift desk clerk from the Carolinian Inn in Georgetown County testified that on December 23, 2008, two black males with bandanas covering their faces came into the motel around 4:00 or 5:00 am. (R. p. 3-5; see p. 14-15). One of them was taller than the other; the taller one had on gloves and had a medium-dark complexion, while the shorter of the two had a lighter complexion. (R. p. 14-15). One of the men vaulted over the counter, and the other came around behind the desk using the door. (R. p. 5; lines 20-24). They both brandished long kitchen knives. (R. p. 6, lines 1-8). They demanded money, so the clerk cooperated and gave them money from the deposits in the cash

drawer and money from his own wallet. (R. p. 6-7). One of the robbers apologized and said he had to do it so he could buy Christmas presents. (R. p. 8, lines 9-14). After getting the money, the pair left using the back door. (R. p. 8, lines 3-7). The clerk called 911 as soon as he saw the two men run across the street. (R. p. 17, lines 5-9; see also p. 21, lines 22-23).

The police investigated and ultimately received information from Genene Alston, Appellant's girlfriend at the time, which led to the arrests of both Appellant and his first-cousin, Shane Pringle. (See R. p. 32; p. 35, lines 6-13; see also p. 51, lines 10-13). Ms. Alston was a former employee of the motel that was robbed. (R. p. 35, lines 14-25). She left on bad terms just before Christmas in 2008 after being accused of taking money from the register. (R. p. 36, lines 1-15). Ms. Alston told Appellant and Shane Pringle about how angry she was that the owner of the motel deducted money out of her last paycheck. (R. p. 36, line 16 – p. 37, line 10; see also p. 49, lines 21-25). She was particularly upset because she was not able to complete her Christmas shopping. (R. p. 36, lines 19-21). The day before the robbery occurred, she told Appellant and Shane Pringle that someone needed to rob the motel. (R. p. 37, lines 8-9). She described the layout of the motel and told them that the doors were unlocked at night. (R. p. 37, lines 11-19). Ms. Alston also provided information about who would be working that particular night. (R. p. 46, line 17 – p. 47, line 1).

Early the next morning between 3:00 and 5:00 am, Ms. Alston sent Appellant text messages asking him "what did he do" and asking why he was out so late. (R. p. 47, lines 2-14). He responded by stating that he was out "riding around" with Shane Pringle. (R. p. 47, lines 15-21). Subsequently, Ms. Alston asked Appellant if he committed the robbery, since the descriptions of the robbers that she read in the newspaper matched

Appellant and Shane Pringle. (R. p. 47, line 22 – p. 48, line 6). Appellant denied that he committed the robbery. (R. p. 48, lines 1-6).

Shane Pringle gave an audiotaped and videotaped statement to police in January 2009. (See R. p. 53-69). In this statement, he confessed that he and Appellant committed the robbery. (R. p. 55; p. 69). He also described the knives they used and indicated that they both wore masks, stated that he jumped over the counter, and said that the desk clerk cooperated with them. (R. p. 55; p. 69). At Appellant's trial, he denied that Appellant participated in the robbery and stated that it was someone else who was with him that night. (R. p. 51-53). He did not identify this other person. (See R. p. 53, line 2). At the time of his testimony, he had already pled guilty to this crime and received his sentence. (See R. p. 58-59).

Directed Verdict was Properly Denied

In ruling on a motion for directed verdict, the trial judge must view the evidence, and all of its reasonable inferences, in the light most favorable to the State. See State v. Frazier, 375 S.C. 575, 581, 654 S.E.2d 280, 283 (2007). If the State presents direct or substantial circumstantial evidence reasonably tending to prove the guilt of the defendant, including evidence from which his guilt can be logically deduced, the defendant's directed verdict motion is properly denied. State v. Lollis, 343 S.C. 580, 584, 541 S.E.2d 254, 256 (2001). On appeal from the denial of a motion for a directed verdict, the appellate court may only reverse the trial court only if there is no evidence to support the trial court's ruling. See, e.g., State v. Gaster, 349 S.C. 545, 555, 564 S.E.2d 87, 92 (2002).

Here, as Appellant points out in his brief, there was no forensic evidence presented. However, obviously, forensic evidence is not a requirement; if it were, the

smartest (or luckiest) criminals who did not leave physical evidence behind could never be convicted. Here, the testimonial evidence was sufficient to convict Appellant. Since Shane Pringle already pled guilty at the time of Appellant's trial, he had no motivation to implicate his first-cousin in this crime and every reason to deny the truth of his initial statement. Importantly, his initial statement contained details about the crime that were corroborated by testimony of the desk clerk and of Appellant's former girlfriend, Ms. Alston. (See R. p. 5-6; p. 8, lines 12-13; p. 37, lines 3-10; p. 47; p. 49, lines 21-25; p. 55, line 13 – p. 57, line 23; p. 69, lines 10-18).

Under these circumstances, a reasonable jury could elect not to believe Shane Pringle's in-court testimony, and instead believe the initial statement he gave to police implicating himself and Appellant. See State v. Smith, 304 S.C. 129, 131, 403 S.E.2d 162, 163 (Ct. App. 1991) (pointing out that it is the jury's province to decide which portions of a witness's testimony to believe or not believe). Therefore, the evidence presented was sufficient to surpass directed verdict and to convict Appellant of this crime. See, e.g., State v. Weston, 367 S.C. 279, 292-93, 625 S.E.2d 641, 648 (2006) (at the directed verdict stage, a trial judge is not required to evaluate the evidence or determine which version is more likely; instead, a judge's sole concern is with the existence of evidence). Accordingly, where the State presented sufficient evidence proving Appellant's participation in this crime, the trial court properly submitted the case to the jury.

CONCLUSION

For the reasons discussed above, Respondent requests that this Court affirm Appellant's convictions and sentences.

Respectfully submitted,

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

CHRISTINA J. CATOE
Assistant Attorney General

J. GREGORY HEMBREE
Solicitor, Fifteenth Judicial Circuit

CHRISTINA J. CATOE

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
803-734-3737

ATTORNEYS FOR RESPONDENT

December ____, 2010

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State,

Respondent,

v.

Donovan Raheam Pringle,

Appellant.

Appeal From Georgetown County
Benjamin H. Culbertson, Circuit Court Judge

Unpublished Opinion No. 2012-UP-303
Submitted April 2, 2012 – Filed May 16, 2012

AFFIRMED

Appellate Defender Elizabeth A. Franklin-Best, of
Columbia, for Appellant.

Attorney General Alan Wilson, Chief Deputy
Attorney General John W. McIntosh, Assistant
Deputy Attorney General Salley W. Elliott, and
Assistant Attorney General Christina J. Catoe, all of

Columbia; and Solicitor J. Gregory Hembree, of
Conway, for Respondent.

PER CURIAM: Donovan Raheam Pringle appeals his convictions of armed robbery and possession of a weapon during the commission of a violent crime. He argues the trial court erred in denying his motion for a directed verdict because the State's evidence amounted only to a mere suspicion he was involved in the armed robbery. Because Pringle's cousin stated to the police he committed the robbery with Pringle and his statement was corroborated by circumstantial evidence, we affirm¹ pursuant to Rule 220(b)(1), SCACR, and the following authorities: State v. Weston, 367 S.C. 279, 292, 625 S.E.2d 641, 648 (2006) ("When ruling on a motion for a directed verdict, the trial court is concerned with the existence or nonexistence of evidence, not its weight."); *id.* at 292-93, 625 S.E.2d at 648 (stating an appellate court views the evidence and all reasonable inferences in the light most favorable to the State when reviewing a denial of a directed verdict and must find the case was properly submitted to the jury if any direct evidence or any substantial circumstantial evidence reasonably tends to prove the guilt of the accused); State v. Crawford, 362 S.C. 627, 634, 608 S.E.2d 886, 889-90 (Ct. App. 2005) ("[T]estimony of prior inconsistent statements may be used as substantive evidence when the declarant testifies at trial and is subject to cross examination." (internal quotation marks and citation omitted)); State v. Needs, 333 S.C. 134, 144, 508 S.E.2d 857, 862 (1998) ("[T]he jury is the judge of which contradictory statement of the witness is the truth." (quotation marks and citation omitted)); State v. Pitts, 256 S.C. 420, 426, 182 S.E.2d 738, 741 (1971) ("The weight to be attached to the testimony of an accomplice is for the jury alone who must consider it in view of the other evidence and reach their conclusion on the view of the whole case.").

AFFIRMED.

FEW, C.J., HUFF and SHORT, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

FORM 5

STATE OF SOUTH CAROLINA

County of GEORGETOWNDonovan R. Pringle, #338600
Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2012 CP 2200726

APPLICATION FOR

POST-CONVICTION RELIEF

JAMES Y. WHITE
CLERK OF COURT

2012 JUL 10 PM 4:14

FILED
GEORGETOWN COUNTY, S.C.INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lieber Correctional Institution P.O. Box 205 Ridgville, S.C. 29472
2. Name and location of Court which imposed sentence Georgetown County Court; Georgetown, S.C. 29440
3. Name(s) of co-defendant(s) (if any) Shane Pringle; Genene Alston
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2009 - GS - 22 - 00836 Armed Robbery
 - (b) 2009 - GS - 22 - 00837 Poss. of Weapon during Commof.v.c.

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) 20 years , Dec. 15, 2009 Concurrent sentences
- (b) 5 years , Dec. 15, 2009
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ☒ _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?

8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. S.C. Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Affirmed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. May 16, 2012
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Unpublished opinion No. 2012-UP-303 / Rule 220(b)(1)
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Assistance of Trial Counsel *See: Attached Memorandum of Law*
- (b) Fail to perform any Pretrial Investigation
- (c) Failure to properly give Notice of Alibi and a Complete Defense
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Reverse and Remand for a New Trial
- (b) see: Attached Memorandum of Law
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. N/A
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. N/A
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. N/A
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) N/A
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? No
 (b) your trial, if any? yes
 (c) your sentencing? yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
No

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:
 i. Reuben Goude P.O. Box 706 Georgetown, S.C. 29442
 ii. Elizabeth A. Franklin Best Appellate Defense P.O. Box 11589 Columbia, S.C. 29211-1589
 iii. _____
 (b) the proceedings at which each such attorney represented you:
 i. 17 (b); (c)
 ii. 17 (d)
 iii. _____

2012CP2200726

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, Donovan R. Pringle, # 338600, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

/s/ Donovan R. Pringle
Applicant

SWORN or affirmed to and subscribed before me this

20th day of June, 2012.

Sylvia Jones
Notary Public

My Commission Expires: 1/24/2018

ALMA Y. WHITE
CLERK OF COURT

2012 JUL 10 PM 4:14

FILED
SECRETOWN CCJUN 11 2012

19. State clearly the relief you seek in filing this application:

Reverse and Remand for New Trial
see: Attached Memorandum of Law

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA)

County of GEORGETOWN)

VERIFICATION

I, Donovan R. Pringle, # 338600, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

/s/ Donovan R. Pringle

SWORN to and subscribed before me this 26th
 day of June, 2012

Julia Jones (L.S.)
 Notary Public

My Commission Expires: 1/24/2018

FILED
 GEORGETOWN COURT
 2012 JUL 10 PM 4:14
 ALMA Y. WHITE
 CLERK OF COURT

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF GEORGETOWN) C/A No. 2012CP2208726
)
Donovan R. Pringle, #338600) MEMORANDUM OF LAW
Applicant,) IN SUPPORT OF APPLICANTS
v.) POST-CONVICTION RELIEF
State of South Carolina) APPLICATION
Respondent,)

FILED
GEORGETOWN COUNTY
2012 JUL 10 PM 4:14
ALMA Y. WHITE
CLERK OF COURT

STATEMENT OF THE CASE

The Applicant Donovan R. Pringle, #338600 was indicted by the Georgetown County grand jury for armed Robbery and Possession of the weapon during the Commission of Violent Crime. He was tried on December 14th and 15th, 2009 before the Hon. Benjamin H. Culbertson and a jury. He was represented by Renben Goude, Esquire, who Applicant contends was Ineffective Assistance of Counsel in a violation of Applicants 6th Amendment Right under the United States Constitution and under the 14th Amendment of S.C. Constitution. He was convicted and sentenced to 20 years and 5 years, respectively. The sentences were ordered concurrent. Applicants Direct Appeal was affirmed on May 16, 2012. Applicant herein files for Post-Conviction Relief.

QUESTION - 1

1.) Was Trial Counsel ineffective for failing to perform any Pretrial investigation, both factual and legal? And as a result Applicants right to effective Assistance of Counsel as guaranteed by the Sixth & Fourteenth Amendment to the United States Constitution and Article 1 & 14 of South Carolina Constitution to Due Process of law, was violated

FACTS

On or about December 14-15, 2009 Applicants trial was convened, a jury was selected and opening arguments was presented and a Trial. Counsel was solely relying on Guilty Plea.

Counsel was ineffective for failing to perform any PreTrial investigation, both factual and Legal and at the evidentiary hearing through testimony and witnesses and probative evidence/ exhibits Applicant will show the Court that Counsel was ineffective and as a result Applicant was prejudice and his right to effective Assistance of Counsel as guaranteed by the Sixth and Fourteenth Amendment to the United States Constitutions and Article 1 & 14 of the South Carolina Constitution to Due Process was violated; this argument will encompass the Question-2 that will be on a Complete Defense / Alibi Defense that Counsel failed to investigate herein complained of.

DISCUSSION

The Sixth Amendment to the United States Constitution provides that "in all criminal prosecutions, the accused shall enjoy the right... to have the assistance of Counsel for his defense." U.S. Const. amend. VI. The right to the effective assistance of Counsel means the right to "effective assistance of Counsel." see Cuyler v. Sullivan, 446 U.S. 335, 344, 352 (1980); also see: United States v. Morrison, 449 U.S. 361, 366 (1981); Tollett v. Henderson, 411 U.S. 258, 266-68.

At the heart of effective representation is the independent duty to investigate and prepare. Goodwin v. Balkcom, 684 F.2d 794, 805 (11th Cir.), cert. denied — U.S. —, 103 S.Ct. 1798. Therefore, permissible trial strategy can never include the "failure" to conduct reasonably substantial investigation of the case.

The test formulated in Strickland v. Washington, 466 U.S. 668 (1984), for determining whether counsel has rendered Constitutionally ineffective assistance reflects this concern. In Strickland, the Court identified two components to any ineffective assistance of Counsel claim. (1) deficient performance; and (2) prejudice. Under that decision, a criminal defendant alleging prejudice must show that counsel's errors were serious enough to deprive the defendant of a fair trial. Strickland v. Washington, 466 U.S. at 687, see also Kimmelman v. Morrison, 477 U.S. 365, 374 (the essence of an ineffective assistance of counsel claim is that counsel's Unprofessional

errors so upset the adversarial balance between the defense and prosecution that the proceeding was rendered unfair and the conviction suspect).

Preparation and investigation "must be more than perfunctory". Counsel has an affirmative duty to conduct appropriate investigation, both factual and legal. Coles v. Peyton, 389 F.2d 224, 226 (4th Cir.), cert. denied 393 U.S. 849 (1968). The failure to ascertain and investigate possible defenses has often resulted in finding that the defendant was denied adequate representation. see: Goodwin v. Swenson, 287 F. Supp. 166, 176-86 (W.D. Mo. 1968).

The primary input of the attorney to his client's case is that of professional expertise. Even in a simple criminal case, as this meticulous investigation and thoughtful legal analysis will often reveal a panolpy of issues -- to which the defendant, a layman, will be oblivious. Garland v. Cox, 472 F.2d 875, 879 (4th Cir.).

The notion that defense Counsel must obtain information that the state has and will use against the defendant is not simply a matter of common sense. The American Bar Association Standards for Criminal Justice, Prosecution and Defense Function describes the obligation in terms no one could misunderstand in circumstances of a case like this one: "it is the duty of the lawyer to conduct prompt investigation of the circumstances of the case and to explore all avenues leading to facts relevant to the merits of the case and the penalty in the event of conviction. The investigation

should always include efforts to secure information in the possession of the prosecution and law enforcement authorities. See: ABA for Criminal Justice 4-4.1 (2nd ed. 1982 Supp.). The failure to investigate, research and prepare is equivalent to not representation at all. Brubaker v. Dickerson, 310 F.2d 30, accord Williams v. Beto, 354 F.2d 698, and Brooks v. Texas, 381 F.2d 619.

Based on Trial Counsel's actions and inactions, Applicant should be granted a New Trial.

QUESTION - 2

2.) Was Trial Counsel ineffective for failing to properly serve "Notice of Alibi" Pursuant to S.C.R. Crim. P. Rule 5(e);(1)? And was Trial Counsel ineffective for failing to give Applicant a Complete Defense of "Alibi Defense" after the Solicitor stated that they will allow an "Alibi Defense" even though the Judge ruled against it because Trial Counsel failed to serve a known "Alibi" before the 10 days and Counsel still failed to call 3 Alibi witnesses that placed the Applicant home asleep at the time of the alleged crime this being said denied Applicant right to effective Assistance of Counsel as guaranteed by the Sixth and Fourteenth Amendment to the United States Constitution and Article 1 § 14 of South Carolina Constitution to Due Process of law, was violated?

FACTS

See: S.C.R. Crim. P. Rule 5. Disclosure in Criminal Cases

(e) Notice of Alibi

(1) Notice of Alibi by Defendant. Upon written request of the prosecution stating the time, date and place at which the alleged offense occurred, the defendant shall serve within ten days, or at such time as the court may direct, upon the prosecution a written notice of his intention to offer an Alibi Defense. The notice shall state the specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom he intends to rely to establish such Alibi.

See: Trial Transcript page 5 lines 20-4 pg 10

20. MS. COTE: Thank you, Your Honor. We were notified
 21. this past Wednesday of the Defendant's notice of alibi. We
 22. were served with his notice of alibi on that date. According
 23. to the South Carolina Criminal Rules of Procedure, Rule 5-E-1,
 24. it states upon written request of the Prosecution stating the
 25. time, date and place at which the alleged offense occurred,
 1. the Defendant shall serve within ten days or at such time as
 2. the Court may direct upon the Prosecution a written notice of
 3. its intention to offer an alibi defense. Your Honor, our
 4. position is that we were - we are prejudiced by the lack of
 6.

5. notice of the alibi, This case was on the trial roster last
6. term and we were prepared to go forward at that time but with
7. the scheduling conflict with Your Honor being torn between
8. here and Horry, we were unable to proceed at that time. The
9. Defendant has had plenty of time to get us that notice. We
10. the State served him our written notice requesting notice of
11. his intention to offer an alibi defense on May 21st, 2009, and
12. we would just ask that you exclude any evidence of his alibi
13. or any witnesses testifying to his alibi.

14. THE COURT: All right, Mr. Goude, let me hear from
15. you.

16. MR. GOUDE: If the Solicitor wants to continue the
17. trial and not have it this week because of they had three days
18. notice, I think we sent it to them Tuesday or Wednesday of
19. last week, telling them that his household relatives were
20. going to say that my client is in the house with them at the
21. time of the robbery, and if they don't have time to check with
22. those three household members, if they would have even checked
23. with them at all if we would have given them a year's notice
24. when they've got a full-time investigator, about 50 deputies,
25. about 50 Georgetown City policemen and about 15 people working
1. in the Solicitor's office, if they don't have time to check
2. with his household members, if the household members would
3. even talk with the Prosecutors, to say that my client was in

4. the house asleep at night instead of being in the motel
 5. robbing them, I have no objection to continuing the case.
 6. Secondly, we've been negotiating on the case for, well, since
 7. I've been appointed, trying to work out a deal. His Co-
 8. Defendant has pled guilty to the charge of armed robbery that
 9. we're facing. These are very serious charges. The girlfriend
 10. has pled guilty and I think we just found out in the last week
 11. or so that they're both definitely pleading guilty, the Co-
 12. Defendant and the girlfriend. So, it's hard to know exactly
 13. what to do up until then, up until the present, but anyway,
 14. that's our position on that.

15. THE COURT: All right, so the alibi witnesses, they're
 16. household members that he lives with?

17. MR. GOUDE: Relatives are going to say that we were in
 18. the house asleep at night at five o'clock in the morning
 19. instead of robbing the Carolinian Motel in Georgetown.

20. THE COURT: All right.

21. MS. COTE: Your Honor.

22. THE COURT: All right, that's fine. I understand he
 23. was arrested on December the 23rd 2008, for an event, alleged
 24. crime that occurred December 23rd, 2008. He waited until last
 25. Wednesday to provide the alibi defense. With these being
 1. household members, he's known since December. So I'm going
 2. to exclude any evidence of an alibi defense. The rules are

3. pretty clear where you've got to give the notice and he's
4. waited from December 23rd, 2008, until the Wednesday before
5. trial. I'm not going to allow it.

6. MS. COTE: Thank you, Your Honor.

7. THE COURT: All right.

8. MS. COTE: Those are all the pretrial issues on
9. behalf of the State, Your Honor, but I believe Mr. Goude has a
10. few issues that we would like to take up with the Court.

11. THE COURT: All right, Mr. Goude.

12. MR. GOUDE: Yes, Judge, I may as well do the offer of
13. proof as far as giving the Court the names of the household
14. members so that if Mr. Pringle loses this case and he gets
15. sentenced for 10 to 30 years and it's reversed on appeal, the
16. Court will know, the Appeals Court will know who the witnesses
17. were, and if it's not reversed and he gets convicted of this
18. and does a PCR a year or two years from now, and it's reversed
19. then and the Prosecution has to try the case all over again,
20. it will be on the record who the witnesses were that Mr.
21. Pringle wanted me to call for him to court. So, would the
22. Court please as I will read those names right now.

23. THE COURT: All right.

24. MR. GOUDE: Judge, Mr. Pringle had asked me to bring
25. in as alibi witnesses for him, which we had provided to the

1. Solicitor's Office dated December the 9th and Judge, I will
 2. give a copy of this letter to the court reporter so the Court
 3. reporter can put this in, if it please the Court, as an
 4. appellant exhibit.
 5. Judge, we would offer this - present this to the Court as
 6. an appellant exhibit.
 7. THE COURT: Any objection?
 8. MS. COTE: No objections, Your Honor, but I would
 9. like to clarify for the record Mr. Goude is terming these
 10. people household members and I believe that only three of
 11. these people are household members. Two of them, Antoine
 12. Simmons and Hakeem Johnson do not live with the Defendant and
 13. were not members of his household. So, I would object to them
 14. being deemed members of his household.
 15. THE COURT: Okay, but as I understand the witnesses
 16. are Collete Thompson, Carla Thompson, Shavan Thompson, S-A-V-
 17. -S-H-A-V-A-N, Paul.
 18. MR. GOUDE: Yes, Your Honor, and these ---
 19. THE COURT: Antoine Simmons and Hakeem Johnson?
 20. MR. GOUDE: The last two witnesses, Judge, my
 21. secretary wrote this up while I was over here in juvenile
 22. court or something else, anyway, the first three witness:
 23. Carletta Thompson, Carla Thompson and Shavan Paul are family
 24. members or friends that were going to say that my client was
- 10.

25. in his - in the house asleep at night during the robbery. The
 1. other two witnesses should not be on there, which is Antoine
 2. Simmons and Hakeem Johnson. What they were was, my client
 3. told me that Hakeem Johnson, an inmate in jail, told him that
 4. Antoine Simmons, another inmate in jail, said that he, Antoine
 5. Simmons, committed the robbery, told that to this Hakeem
 6. Johnson. So, they're not really alibi but my secretary she
 7. made an error and wrote their names on there.
 8. THE COURT: Okay, so your alibi witnesses were
 9. Carlette Thompson; Carla Thompson and Shavan Paul,
 10. MR. GOUDE: Yes, Your Honor.
 11. THE COURT: Okay, all right, let's put this Court's
 12. Exhibit One and admit it.
 13. (Court's Exhibit Number One [12-9-09 Letter from Goude to
 14. Cote] appropriately marked.)

Now about half way threw Trial on Trial Transcript pg. 91
lines 25 through pg. 92 lines 17

25. MS. COTE: Yes, Your Honor, out of an abundance of
 1. caution, the State is going to withdraw its motion or withdraw
 2. its objection to the Defense presenting its alibi defense in
 3. order to allow Mr. Goude to present a full defense for his
 4. client. I would ask that Mr. Goude provide the State with
 5. Social Security numbers and date of births for those alibi

6. witnesses so we can properly prepare to cross examine them.

7. THE COURT: All right, Mr. Goude, any objection to

8. providing the Social Security and other identification

9. information requested by the State for your alibi witnesses?

10. MR. GOUDE: No, Your Honor.

11. THE COURT: All right, so if you can go ahead and get

12. that together and present it to the state so the state can do

13. their background investigations on those witnesses and then

14. the state will withdraw its objection to the Defendant

15. presenting an alibi defense and will allow the Defense to

16. present that. Is that correct?

17. MS. COTE: That's correct, Your Honor.

Now on the advise of Trial Counsel Applicant did not

testify. see: Trial Transcript pg. 147 lines 5

5. MR. GOUDE: I believe we will not testify, Your Honor.

Now Trial Counsel is ineffective for failing to give the

Applicant a Complete Defense / Alibi Defense even after

the Solicitor told him that the state will withdraw its

objection to the Defendant presenting an Alibi Defense

when that was the only Complete Defense Applicant had.

see: Trial Transcript pg. 148 line 1

1. MR. GOUDE: Your Honor, the Defense rests.

DISCUSSION

A common claim within the allegations of failure to call a witness, is that Counsel failed to call Applicants Alibi witnesses. However, in order to show Prejudice from the alleged failure to call a witness, Applicant must provide competent evidence of the testimony the alleged alibi witness would provide. see: Bannister v. State, 509 S.E. 2d 807 (S.C. 1998)

Glover v. State, 318 S.C. 496, 458 S.E. 2d 538 (1995);

Underwood v. State, 309 S.C. 560, 425 S.E. 2d 20 (1992)

Therefore at this time whoever my P.C.R. attorney is that is Appointed by the Attorney Generals office I'm requesting my same 3 Alibi witnesses to be called at the evidentiary hearing to testify in my behalf along with the Affidavits / statements that was made to My Trial Attorney Mr. Goude prior to Trial as discussed in my facts of this argument, herein. The South Carolina Supreme Court has Ruled that it is a reversible error to fail to give an alibi defense / charge where the defendant claims to have been elsewhere at the time the offense was committed. see: Riddle v. State, 308 S.C. 361, 418 S.E. 2d 308 (1992) Trial Counsel found ineffective for failing to request an alibi instruction when the sole theory of defense was alibi. Facts/Trial Transcript proves Trial Counsel was aware that I had 3 Alibi witnesses who placed me home asleep. see: Strickland v. Washington, 466 U.S. 668 (1984)

see: hereto attached whats marked as Fortior Exhibit A, is a letter from Trial Counsel pertaining to a Schedule for Trial on Nov. 13th, 2009, through Nov. 20th 2009 which got postponed to Dec. 11th 2009 through Dec. 18th 2009. And Trial Counsel still failed to timely file Notice of Alibi Defense until 3 days - 5 days before Trial which is in violation of S.C.R. Crim. P. Rule 5(E);(1) 10 day notice and Trial Counsel argued hard and failed after the state objected at that time that was his sole theory of Defense and half way through Trial the Solicitor said that they were going to allow me a Complete Defense of Alibi and withdraw there objection and Trial Counsel still failed to give me my Alibi witness, see: hereto attached whats marked as Fortior Exhibit B Affidavits / statements that was given to Trial Counsel Prior to Trial that he failed to call as witness that will be Testifying at my P.C.R. hearing.

Based on Trial Counsels lack of Alibi Defense / giving Applicant a Complete Defense Applicant should be granted a New Trial, Applicant's counsel so utterly failed to defend against the charges that the trial was the functional equivalent of a guilty plea, rendering Counsel's representation presumptively inadequate. U.S. v. Cronin, 466 U.S. 648 (1984)

2012CP2200726

FORTIOR EXHIBIT A

These 2 exhibits proves Trial Counsel knew that
the Applicant was Scheduled for Trial.

REUBEN GOUDE
-LAWYER-
119 2 SCREVEN ST.
PO BOX 706
GEORGETOWN, SC 29442
PH: (843) 527-2505
FAX: (843) 546-4134
Email: reubengoude@earthlink.net

COP

11-11, 2009

Dear Client:

Your criminal case is scheduled on the trial roster for Friday, Nov 13th, 2009 through Friday, Nov 20th, 2009.

If you want to have a trial in your case and plead not guilty and want any witnesses subpoenaed, you must tell me now the names, home street addresses, home phone numbers, work addresses, and work numbers of each witness. We need this information to be able to subpoena the witnesses to court so that the deputy can find them to serve them the subpoena.

Also, you should ask each witness to call me to discuss their testimony with them before the week of court. You should try to bring the witnesses to court or provide transportation for them to court.

If you do not give us the names, addresses, etc., I will not be able to subpoena the witnesses and you will go to trial without the witnesses. If you wait until the day of trial and then ask the Judge to postpone your case because you do not have your witnesses present, the Judge will not postpone the case because it's your job and my job to get the witnesses to court.

This is your case. I am here to help you. You also need to help your self.

Thank you very much.

Very truly yours,

Reuben Goude

RG/tww

Criminal/hearing.ltr

COPY

REUBEN GOUDE
 -LAWYER-
 119 2 SCREVEN ST.
 PO BOX 706
 GEORGETOWN, SC 29442
 PH: (843) 527-2505
 FAX: (843) 546-4134
Email: reubengoude@earthlink.net

12/7/2009

Dear Client:

Your criminal case is scheduled on the trial roster for Friday, Dec 11th, 2009 through Friday, Dec 18th, 2009.

If you want to have a trial in your case and plead not guilty and want any witnesses subpoenaed, you must tell me now the names, home street addresses, home phone numbers, work addresses, and work numbers of each witness. We need this information to be able to subpoena the witnesses to court so that the deputy can find them to serve them the subpoena.

Also, you should ask each witness to call me to discuss their testimony with them before the week of court. You should try to bring the witnesses to court or provide transportation for them to court.

If you do not give us the names, addresses, etc., I will not be able to subpoena the witnesses and you will go to trial without the witnesses. If you wait until the day of trial and then ask the Judge to postpone your case because you do not have your witnesses present, the Judge will not postpone the case because it's your job and my job to get the witnesses to court.

This is your case. I am here to help you. You also need to help your self.

Thank you very much.

Very truly yours,

Reuben Goude

RG/tww

Criminal/hearing.1tr

2012 CP 2286226

FORTIOR EXHIBIT B

Affidavits / Statements that was given to
Trial Counsel Prior to Trial of Alibi witnesses.

12-15-09 Δ - ds not use
 STATE VS. Shavone - she does not use
 Know who Δ was
 4-5th Dec 23, 08 / SHAVONE

EQVANDRA
PAUL

Telephone No. [REDACTED]
 NAME OF WITNESS: Shavone Paul Age: 22
 ADDRESS: (Street) [REDACTED]
 (Mailing) Georgetown, SC 29440
 OCCUPATION: N/A
 RELATIONSHIP TO DEFENDANT: Cousin
 PRIOR CRIMINAL RECORD: N/A

COPY

EYEWITNESS ☒ ALIBI WITNESS ☐ CHARACTER WITNESS ☐

Briefly state in your own words everything you know about the above-named
 defendant, the victim and the events occurring on _____ for which the

defendant is charged with _____ (use back page if needed)

On Tuesday, Dec. 23, 2008, Donovan Pinard,
 Shavone Pinard-Tilman, and Genene
 Alford came to my house like around
 9-9:30p.m. They was just coming
 back from the mall on their way
 back to Andrews to his mother's
 house. On Wed. Dec. 24, 2008, around
 10:00p.m. I seen Donovan and my
 other cousin Harold Williams at
 the sumo on Highmarket St. together

Date: 6-18-09

Shavone Paul
 Signature

on their way back to Andrews. Shane ~~Shane~~
 Tilman was NOT with them. I asked
 he said he was on Chopper and he didn't
 see or talk to him all day.

State vs: Donovan Pringle

12-15-09

+ 1st - 2nd

Δ + Δ mom - confusion dots time + see Negroes + talk

WITNESS STATEMENT

Telephone #

NAME OF WITNESS

Carlytte Thompson

Age

14-14

ADDRESS (Street)

162 Bucksport Road

(Mailing)

OCCUPATION:

RELATIONSHIP TO DEFENDANT

Brother Sis of def

PRIOR CRIMINAL RECORD:

NO

EYEWITNESS

ALIBI WITNESS

CHARACTER

WITNESS

Briefly state in your own words everything you know about the above named defendant, the victim and the events occurring on _____ for which the defendant is charged with _____: (use back page if needed)

Well, Donovan Pringle is my oldest brother. My mama left to go to work on the 27th & Donovan was there all day to watch us. On Christmas day, Donovan was there for a little while & me IPT to go ~~some~~ bowling with his girlfriend. He came back that night & called my cellphone & told me to unlock the door. Donovan didn't leave when he entered the ~~door~~ house.

Date: 01-24-09
Carlytte Thompson
Signature

STATE VS. Donovan Pringle

WITNESS STATEMENT

Telephone No. [REDACTED]

NAME OF WITNESS Carla Thompson Age: 40ADDRESS: (Street) [REDACTED]
(Mailing) Andrews, SC 29510OCCUPATION: NMC AgentRELATIONSHIP TO DEFENDANT: motherPRIOR CRIMINAL RECORD: Yes. on probEYEWITNESS ☒ ALIBI WITNESS ☒ CHARACTER WITNESS ☒

Briefly state in your own words everything you know about the above-named defendant, the victim and the events occurring on _____ for which the defendant is charged with _____ (use back page if needed)

On December 18th Kristy Mann, bring Donovan Pringle home from NC. In which he stayed until Jan 7th. On December 19, Shane Pringle came to play with us through the holidays, on the 20th they both came to Calvary Baptist Church to see the Xmas play, they well yell went back to the house (my) That Monday 20th I left to go to work around 11 and ask that they both stayed with the girls they did, then my cousin Curtis came over after I got home with another guy don't know his name (white male) they left then came back, then the next day Donovan ^{CLT} left to go shopping with Elizabeth + Bruce McElveen, the 24th Donovan + Shane left to go to Chopper. I'm thinking Genee pick them up, later on that evening around 11:30-12:00 am Donovan + my cousin Renee came home, on the 23rd Donovan + Renee came home

*Carla
2 girls
in pgs*

Date: 6/18/09

Carla Thompson
Signature

STATE VS. Donovan Pringle

WITNESS STATEMENT

Telephone No. _____

NAME OF WITNESS _____ Age: _____

ADDRESS: (Street) _____

(Mailing) _____

OCCUPATION: _____

RELATIONSHIP TO DEFENDANT: _____

PRIOR CRIMINAL RECORD: _____

EYEWITNESS ____ ALIBI WITNESS ____ CHARACTER WITNESS ____

Briefly state in your own words everything you know about the above-named defendant, the victim and the events occurring on _____ for which the defendant is charged with _____ (use back page if needed)

home around 1:00 am - 1:30 am. I went into Donovan's room and ask where was Shane. Ronnie apply we been drop him off since early that day and on the 24th Donovan + Ronnie was in Donovan's room again and as I was putting the present under the tree I went and gave Donovan his present. I stayed in the room for about 15 minutes then left. On the 25th Shane, Genee, Savannah, and another girl came to pick Donovan up around 10:30 - 11 pm saying they was going bowling. Oh yeah on the 23rd Donovan told me that he was getting a tattoo on his neck and Genee was picking him up. The 24th 28. Donovan to share clean up the shed at the house and was playing video games and smoking weed. I walked up on them. Donovan laughed. I reply you bet not leave anything burning and I said that you grown. ~~Shane + Genee + Savannah + Ronnie + Donovan~~ then Donovan

Date: _____

girlfriend Savannah came down from Asheville for a day on the 24th 31st. We set around and got to know each other. Oh yeah Shane stayed home on chopper from the 23-25 then he came back to stayed with us. ~~On the 23rd Donovan~~ On the 23rd Donovan said that they were going to the mall they meaning him, Shane + Genee, and around 5:30 to 6:15 Genee came home house on 25th to bring and spend a little time with Donovan.

Signature _____

She couldn't stay long because she was driving her mom's car and had to be back around 7:00 pm.

QUESTION-3

3.) Was Trial Counsel Ineffective for failing to Object to the Solicitor's closing Argument that Bolstered and vouched for the credibility of all of the Government witnesses which placed their personal opinions before the jury was pervasive and not limited to one occurrence or anyone witness demonstrates that prejudice resulted because it made the Jury think that there was more evidence that they did not see and as a result Applicants right to effective Assistance of Counsel as guaranteed by the Sixth & Fourteenth Amendment to the United States Constitution and Article I § 14 of the South Carolina Constitution to Due Process of law, was violated.

FACTS

see: Trial Transcript pg. 155 lines 14-15

14. First, in submitting to you that the witnesses that you heard
15. were credible, ...

see: Trial Transcript pg. 155 lines 22-23

22. You heard, well, Investigator Floyd, he had nothing to
23. gain by testifying falsely...

see: Trial Transcript pg. 156 lines 3-6

3. ... Mr. Michau does have a little bit, he

4. does have a criminal record, but he, but that doesn't stop him
5. from being honest in his testimony here, and I ask you to give
6. his credit, give his testimony the credit that it's due.

see: Trial Transcript pg. 156 lines 12-13

12. I would give her testimony even more credit by being her
13. being honest and testifying against him...

DISCUSSION

In the instant matter the solicitor improperly vouching for all the states witnesses improperly bolstered the states case that was used to gain a tactical advantage over Applicant.

The Solicitor repeated assurances the State's witnesses were telling the truth abridged the trial with unfairness that the resulting conviction is a miscarriage of justice, especially in light of the case being nothing more than circumstantial.

Counsel was ineffective for failing to object to these statements because they improperly bolstered the credibility of the governments' witnesses. see: Gilchrist v. State, 350 S.C. 221 (2002) (petitioner was prejudiced by counsel's failure to object to state's vouching for witness's credibility); Matthews v. State, 350 S.C. 272 (2002) (Counsel rendered ineffective assistance by failing to object to solicitor's comments vouching for the credibility of state's witness).

The fact that the bolstering by the prosecution of the government's witnesses was pervasive and not limited to one occurrence or anyone witness demonstrates that prejudice resulted, and that there is a reasonable probability that the outcome at trial would have been different. Id.

see: Strickland v. Washington, 466 U.S. at 689-690 104 S.Ct. 2052

see: U.S. v. Kerr, 981 F.2d 1050, 1053-54 (9th Cir.)
(Improper vouching for 4 witnesses reversible error.)

See: U.S. v. Young, 470 U.S. 1, 18-19 (1985)

U.S. v. Loayza, 107 F.3d 257, 261 (4th Cir. 1997)

(Prosecutor's comment during closing argument that he believed Government's witness was telling the truth was improper.)

Hodge v. Hurley, 426 F.3d 368, 378 (6th Cir. 2005)

U.S. v. Cornett, 232 F.3d 570, 575 (7th Cir. 2000)

U.S. v. Weatherspoon, 410 F.3d 1142, 1146 (9th Cir. 2005)

U.S. v. Roberts, 618 F.2d 530, 533 (9th Cir. 1998)

Not only has the United States and South Carolina Supreme Court in the 4th Cir. stated it's improper to vouch for government witnesses but also other circuits also.

Based on Trial Counsel's lack of objection, Applicant should be granted a New Trial.

QUESTION - 4

4.) Applicant herein maintains that he is Actual Innocent
of Committing the alleged charge of armed robbery; and/or
Possession of a weapon during Commission of violent crime

FACTS

see: Trial Transcript pages 69 lines 1 through lines 19 of pg. 90
 witness for state - Herman Michau - never said he identified me
 because I wasnt there.

see: Trial Transcript page 98 lines 5 through 105
 witness for state - Investigator Richard William Floyd - he never
 had a 100% identification that I committed no crime

see: Trial Transcript page 119 lines 22 through Pg. 120 lines 6
 witness for state - Genene Alston - Because I did not do it.

22. Q Did you ask Donovan about the robbery after that time?

23. A After?

24. Q After the 23rd

25. A. Yes

1. Q. What did he say to you?

2. A. No, he didn't do it. I asked him, I kept asking him and

3. asking him because I had read it in the newspaper of the

4. description of the people of what had happened and it

5. described him and his cousin and I had asked him did he do it
6. and he kept telling me no.

See: Trial Transcript page 124 line 18 through pg. 125 line 2.

18. Q. Did you and the Defendant go to the Carolinian Inn on
19. that date?

20. MR. GOUDE: objection to the leading question.

21. THE COURT: overruled.

22. MS. COTE: Thank you.

23. A. No, ma'am.

24. Q. You did not go on that date?

25. A. No, ma'am

1. Q. Did you go by yourself?

2. A. No, ma'am, me and another Defendant but he's not the one.

See: Trial Transcript page 16 lines 3 through 8.

3. THE COURT: All right, so, it's a motion to produce

4. any admissions, ok, by the Defendant?

5. MR. GOUDE: Yes, Your Honor.

6. THE COURT: Okay, any admissions?

7. MS. COTE: No, Your Honor, the Defendant did not

8. speak to police.

DISCUSSION

Applicant maintains that he is actually innocent of committing the charged crime; hence, his procedural default cannot be used to deny him the right to have his habeas claim heard on the merits; if by chance he is denied relief on P.C.R. stage. see: Schlup v. Delo, 513 U.S. 298 (1995)

see also: Herrera v. Collins, 506 U.S. 390 (1993)

see also: In re Davis, U.S. 129 S.Ct. 2009 WL 2486475 (2009)

See: Trial Transcript pg. 183 lines 15-20

15. MR. PRINGLE: I just want to thank you for your time and
 16. let you know that, I guess you can say justice has been done
 17. because you had other people pleading; and so, I can't really
 18. argue with the evidence, but I know I'm Innocent, you know, I
 19. just leave it in the Lord's hand. I just thank you for your
 20. time.

Based on the issue herein the Applicant should be released
 as a matter of Justice.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GEORGETOWN	)	C/A No. <u>2012CP2268726</u>
Donovan R. Pringle, # 338600	)	MOTION TO ADDRESS ALL
Applicant	)	ISSUES PRESENTED
v.	)	Pursuant to S.C. Code Ann
State of South Carolina	)	§ 17-27-80
Defendants	)	

FILED
JUL 10 PM 4:11
CLERK OF COURT
ALMA Y. WHITE
HONORABLE

Applicant hereby moves respectfully asks this Court to direct the Attorney General's Office to Address [all] issues presented, Pursuant to S.C. Code Ann § 17-27-80 as decided by the South Carolina Supreme Court in Pruitt v. State, 423 S.E. 2d 127.

That each and every issue presented be Addressed at any P.C.R. hearing that is held according to Bryson v. State, 493 S.E. 2d 500 (1997). Applicant further asks that each and every issue raised herein be Addressed by the Court, at P.C.R. hearing that is held and that this Court direct that all issues be Addressed in Order issued by this Court.

For the requested, Applicant respectfully prays,

Respectfully Submitted,
/s/ Donovan R. Pringle
Donovan R. Pringle

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

IN THE COURT OF COMMON PLEAS

2012-CP-22-726

Donovan R. Pringle, 338600

Applicant,

v.

State of South Carolina,

Respondent.

RETURN

Respondent, making its Return to the Application for post conviction relief (PCR) filed July 10, 2012, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court. Applicant was indicted by the Grand Jury for armed robbery (2009-GS-22-836) and possession of a weapon during a violent crime (2010-GS-22-837).

Reuben Goude, Esquire, represented Applicant.

On December 15, 2009, the Applicant was tried and convicted before the Honorable Benjamin Culbertson who sentenced Applicant to twenty years imprisonment on the burglary charge, and ten years imprisonment on the weapon charge, with both to run concurrently. Applicant appealed his conviction. The South Carolina Court of Appeals affirmed the decision on May 16, 2012.

Attached herewith and incorporated herein are the records of the Clerk of Court regarding the subject conviction, Applicant's SCDC records, and the transcript. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Ineffective assistance of trial counsel"
2. "fail to perform any pretrial investigation"
3. Failure to properly give Notice of Alibi and Complete Defense"

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 80 L.Ed.2d 674. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient.

Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

Respondent submits that Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

The State therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the State moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

V.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

VI.

WHEREFORE, having made its Return, the State requests that the Application be denied and the matter dismissed with prejudice.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

TYSON ANDREW JOHNSON, SR.
Assistant Attorney General

By:
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

10/5, 2012.

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

IN THE COURT OF COMMON PLEAS

2012-CP-22-726

DONOVAN R. PRINGLE, #338600

Applicant,

vs

AFFIDAVIT OF SERVICE BY MAIL

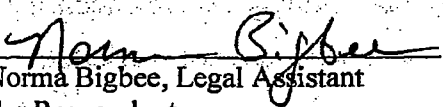
STATE OF SOUTH CAROLINA,

Respondent.

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Paul Archer, Esquire
 233 Muirfield Dr.
 Pawleys Island, SC 29585

DATED this 5TH day of October, 2012.


 Norma Bigbee, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
) FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF GEORGETOWN) CASE NO.: 2012-CP-22-0726

DONOVAN R. PRINGLE,)
)
APPLICANT,)
)
VS.)
)
STATE OF SOUTH CAROLINA)
)
RESPONDENT.)
_____)

POST CONVICTION RELIEF HEARING

held before the Honorable Kristi L. Harrington
Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
in the Georgetown County Courthouse
Georgetown, South Carolina
on Thursday, August 28, 2014, Commencing at 2:29 p.m.

SUSAN "MIA" PERRON, CVR-CM-M
Circuit Court Reporter - 9th Judicial Circuit
Post Office Box 31865
Charleston, South Carolina 29417-1865
1-706-231-6028

APPEARANCES OF COUNSEL

FOR THE APPLICANT:

Tristin Shaffer, Esquire
Axelrod & Associates
4701 Oleander Drive
Myrtle Beach, South Carolina 29577

FOR THE RESPONDENT:

Joshua Thomas, Esquire
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211

INDEX TO PROCEEDINGS

	PAGE
PROCEEDINGS	4
REUBEN GOUDE	
Direct Examination by Mr. Shaffer	10
Cross-Examination by Mr. Thomas	32
Redirect Examination by Mr. Shaffer	38
DONOVAN PRINGLE	
Direct Examination by Mr. Shaffer	46
CARLA THOMPSON	
Direct Examination by Mr. Shaffer	62
Cross-Examination by Mr. Thomas	73
Redirect Examination by Mr. Shaffer	78
Recross-Examination by Mr. Thomas	79
CARLETTE THOMPSON	
Direct Examination by Mr. Shaffer	80
Cross-Examination by Mr. Thomas	84
ARGUMENT BY MR. SHAFFER	86
ARGUMENT BY MR. THOMAS	88
REBUTTAL ARGUMENT BY MR. SHAFFER	89
CERTIFICATE OF COURT REPORTER	90

- - - - -

EXHIBITS

[None]

MIA PERRON, CVR-CM-M

Pringle v. State
Post Conviction Relief Hearing
August 28, 2014

PROCEEDINGS

THE COURT: Mr. Shaffer, are you prepared to go forward?

MR. SHAFFER: Yes, Your Honor.

THE COURT: Are you Donovan Pringle?

MR. PRINGLE: [No response]

THE COURT: Are you Donovan Pringle?

MR. PRINGLE: Yes, ma'am.

THE COURT: All right. Thank you.

Sir, do you know what we are doing here today?

MR. PRINGLE: Yes, ma'am.

THE COURT: What are we doing here today?

MR. PRINGLE: A PCR hearing.

THE COURT: And Mr. Shaffer is your attorney?

MR. PRINGLE: Yes, ma'am.

THE COURT: Do you need any additional time to meet with him?

MR. PRINGLE: Yes, ma'am.

THE COURT: You do need additional time?

MR. PRINGLE: Yes, ma'am.

THE COURT: So you need to take --

MR. PRINGLE: I --

THE COURT: Hold on. You need to take a break and meet with him?

MR. PRINGLE: Yes, ma'am.

Pringle v. State
Post Conviction Relief Hearing
August 28, 2014

1 THE COURT: All right. Mr. Shaffer?

2 MR. SHAFFER: Your Honor, we might be able to do
3 that in here.

4 THE COURT: Okay.

5 [Whereupon, Mr. Shaffer and Mr. Pringle confer]

6 MR. SHAFFER: Your Honor, I believe we're
7 finally ready to go forward.

8 He had filed some pro se paperwork in Conway and
9 I got -- he filed a pro se motion for a default. I
10 warned him that there's no default in a PCR. If
11 that's incorrect -- I'm 99.99 percent certain that
12 that's correct -- and I can't adopt that motion that
13 he filed. That's what he wanted to address.

14 THE COURT: Mr. Thomas, any -- does the State
15 take any position as to the default?

16 MR. THOMAS: Number one, it would be -- it would
17 be improperly filed under the rules and the case law
18 because a pro se applicant is not allowed to -- a
19 represented party is not allowed to file things pro
20 se. And, secondly, there is no -- the rules and
21 statutes in case law say no default in a PCR.

22 THE COURT: So I am going to treat it as if it
23 was not filed, Mr. Thomas? That would be your
24 request?

25 MR. THOMAS: That would be, Your Honor.

Pringle v. State
Post Conviction Relief Hearing
August 28, 2014

1 THE COURT: Correct.

2 Mr. Shaffer, you explained to -- that there is
3 no hybrid representation? And that's what I typically
4 call pro ses that either have an attorney -- clients
5 either have an attorney or they don't. And so I am
6 not going to accept, under the rules, that that was
7 filed.

8 Even if you had filed it, Mr. Shaffer, I do not
9 believe that the rules do allow for a PCR to be in
10 default.

11 THE COURT: So with that, Mr. Pringle, you are
12 prepared to go forward?

13 MR. PRINGLE: Yes, ma'am.

14 THE COURT: You understand that should I grant
15 your application for post conviction relief, it
16 doesn't mean that the case ends. It doesn't mean that
17 you get to walk out today. Do you understand that?

18 MR. PRINGLE: Yes, ma'am.

19 THE COURT: It simply means that you're going to
20 go back and this case will start over at the very
21 beginning. I notice that you were sentenced for an
22 armed robbery, which was punishable by ten years up to
23 thirty years, and Judge Culbertson sentenced you to
24 twenty years. You understand that you would go back
25 and you would be facing that potential of thirty years

Pringle v. State
Post Conviction Relief Hearing
August 28, 2014

1 again?

2 MR. PRINGLE: Yes, ma'am.

3 THE COURT: And you understand, also, that you
4 were sentenced to five years on the possession of a
5 weapon during a violent crime and Judge Culbertson
6 sentenced you to five years but he ran that concurrent
7 so you are, on these two, facing up to thirty-five
8 years in the department of corrections. Do you
9 understand that, sir?

10 MR. PRINGLE: Yes, ma'am.

11 THE COURT: And so should I grant your
12 application for post-conviction relief, then you would
13 be facing a potential of thirty-five years, which,
14 again, is more than your twenty that you were
15 sentenced. Do you understand?

16 MR. PRINGLE: Yes, ma'am.

17 THE COURT: Do you still wish to go forward here
18 today?

19 MR. PRINGLE: Yes, ma'am.

20 THE COURT: Sometimes what -- and the reason why
21 I spend so much time going over this is sometimes
22 people think, okay, if I win my PCR, then I get to go
23 home today. And that is not going to be what happens.
24 Do you understand?

25 MR. PRINGLE: I do.

MIA PERRON, CVR-CM-M

Pringle v. State
Post Conviction Relief Hearing
August 28, 2014

1 THE COURT: So there is some benefit for you
2 going forward, but there is also some consequence that
3 could occur. So I just want to make sure you
4 understand. Do you still wish to go forward here
5 today?

6 MR. PRINGLE: Yes, ma'am.

7 THE COURT: Do you need to talk to Mr. Shaffer
8 about what I just explained to you before we go
9 forward?

10 MR. PRINGLE: Not at all.

11 THE COURT: You're ready to go forward?

12 MR. PRINGLE: Yes, ma'am.

13 THE COURT: And what grounds are we going
14 forward on, Mr. Shaffer?

15 MR. SHAFFER: Your Honor, the grounds listed in
16 his application primarily, though, the alibi, the
17 failure to raise the alibi defense.

18 THE COURT: One more time. Mr. Shaffer, we are
19 in a large courtroom. I need you to speak loudly.

20 MR. SHAFFER: Yes, Your Honor.

21 THE COURT: Thank you.

22 MR. SHAFFER: We're going forward with all the
23 grounds listed in his application, but primarily the
24 ground of -- or the majority of the testimony you'll
25 hear is about failure to raise the alibi defense.

Pringle v. State
Post Conviction Relief Hearing
August 28, 2014

1 THE COURT: And you are prepared to go forward
2 on all the allegations contained in the application,
3 Mr. Thomas?

4 MR. THOMAS: Yes, Your Honor.

5 THE COURT: As well as focusing primarily on the
6 alibi defense?

7 MR. THOMAS: That's correct, Your Honor.

8 THE COURT: Call your first witness.

9 MR. SHAFFER: The applicant calls Reuben Goude.

10 THE COURT: Mr. Pringle, you may have a seat.
11 Thank you.

12 [Whereupon, Mr. Goude comes forward]

13 [Whereupon, Mr. Goude is duly sworn by the clerk
14 of court as follows: do you solemnly swear or affirm
15 that the testimony you're about to give will be the
16 truth, the whole truth, and nothing but the truth, so
17 help you God]

18 THE WITNESS: I do.

19 [Whereupon, Mr. Goude takes the witness stand]

20 THE CLERK OF COURT: State your name, please.

21 THE WITNESS: Reuben Goude.

22 MR. SHAFFER: Good morning, Mr. Goude. How are
23 you doing today?

24 THE WITNESS: Fine, sir. Thank you for asking.

25 - - -

Reuben Goude
Direct Examination by Mr. Shaffer
August 28, 2014

1 REUBEN GOUDE,

2 Having Been First Duly Sworn,
3 was Examined and Testified as Follows:

4 DIRECT EXAMINATION

5 BY MR. SHAFFER:

6 Q. You represented Donovan Pringle; is that
7 correct?

8 A. Yes, sir.

9 Q. And if you could -- you were appointed?

10 A. Yes, sir.

11 Q. When were you appointed?

12 A. Our files -- we were part -- I was a part-time
13 public defender so for many years we kept, in Georgetown
14 County, our own files. We had our own independent office.
15 We got paid a little contract from the County and we kept
16 our files and were in charge of it.

17 The last two or three years I did it, including
18 this case, the Horry County Public Defender had taken over
19 our county and so when we would finish a file, we would
20 turn it into the public defender's office here in
21 Georgetown and they would store it in Conway. So the
22 public defender's office has not been able to locate my
23 file on this case. And that's happened on some other
24 cases, too, as I understand.

25 But, anyway, so I don't have my file. Normally

Reuben Goude
Direct Examination by Mr. Shaffer
August 28, 2014

1 I have everything I do in a case. From the time we get
2 appointed, I make a lot of legal notes and I stick them in
3 the file and then before coming to PCR hearings I go back
4 through all my legal notes. And every time the client
5 called on the phone, we write it down on a yellow legal
6 page and every time we talk with him on the phone from the
7 jail we write it down, and every time we call the
8 solicitor or sent a letter to the solicitor or talked
9 about a deal, all that's written down on yellow legal
10 pages or on our time sheets. And then before I come to a
11 PCR hearing, I record all that stuff chronologically on my
12 time sheet so I can just see the first thing I did in the
13 case up to the day we filed the appeal.

14 But I don't have that file. What I have is the
15 transcript of the trial, which I read. I have the
16 application and the return. And I was able to go back
17 through my computer from five years ago and find a little
18 letter I had sent to the solicitor where I had sent them
19 the alibi notice that was late, but that we sent it the
20 week before trial.

21 And I remember the essential nutshell version of
22 this because it was an unusual case because my client was
23 charged with robbing the little motel in Georgetown on
24 back-to-back nights, the same clerk, roughly the same
25 time.

Reuben Goude
Direct Examination by Mr. Shaffer
August 28, 2014

1 But other than that, what I know or remember is
2 what I've seen in the application and the transcript.

3 Q. Now, if you could -- so the allegation was he
4 had robbed a hotel; correct?

5 A. Robbed a motel, the Carolinian Inn here in
6 Georgetown, on back-to-back nights. He and his
7 codefendant, his cousin -- I think his name was Shane
8 Pringle that I got from reading the transcript again --
9 that my client had a girlfriend that had worked at the
10 Carolinian Inn and the Carolinian had either charged her
11 with stealing money out of the drawer, or she thought they
12 were charging her. So she quit. She testified in the
13 trial. She was Janine Austin. I remember -- got her name
14 out of the transcript. And she told her boyfriend
15 Donovan, my client, and his cousin Shane Pringle, that
16 somebody ought to rob them.

17 And then the evidence against us was that the
18 girl testified that we texted her the night of the
19 robbery, like 4:00 or five o'clock in the morning, that
20 she had told us the wrong person was going to be working
21 at the motel. So I guess the jury would figure the only
22 way in the world he would know that is if he had just got
23 through robbing the motel.

24 The clerk at the motel said two guys went in and
25 robbed him. He couldn't identify them. They wore

Reuben Goude
Direct Examination by Mr. Shaffer
August 28, 2014

1 bandannas on their faces. And my client and Shane were
2 the two that was charged. And then Shane, the
3 codefendant, the cousin, he had made statements to the
4 police and pled guilty to the armed robbery charge. The
5 codefendant, Shane, our cousin, had told the police that
6 Shane and my client Donovan had been the ones that robbed
7 the motel. So that was the evidence against us.

8 Q. Now, what was the offer on the case?

9 A. That I don't remember because I don't have -- I
10 don't have the file.

11 Q. Okay. Was there an offer in the case, though?

12 A. I don't remember.

13 Q. How many times do you think you spoke with
14 Mr. Pringle?

15 A. I wouldn't remember exactly.

16 My usual procedure, which I've done five or
17 6,000 of these cases -- and I try to do a good job on all
18 of them and I try to keep good records on all of them
19 because I always know if you lose at trial, you're going
20 to have a PCR hearing. I've done a hundred of these or
21 so.

22 But anyway, what we normally do, we would get
23 appointed and then we would send out the discovery. And
24 at some point in there, the public defender's office, once
25 they took over from Conway, they started sending the

Reuben Goude
Direct Examination by Mr. Shaffer
August 28, 2014

1 discovery requests to the solicitor even before we got the
2 file. So I don't remember if this was one of the old ones
3 the way I did it, or the new ones the way the public
4 defender's office did it.

5 And then we would go see the client. I would
6 always -- I've got a sheet in my office I've used for
7 twenty years for these things where I write down the
8 charges, the exact charges, the penalty, whether it's a
9 violent crime, whether it's an eighty-five-percent crime,
10 the range of the ten to thirty and no parole before seven
11 or eight and eighty-five percent of the sentence, and all
12 this other stuff. Give one to the client.

13 It has on there you've got a right to a trial,
14 and all kind of stuff. We've been doing that ever since
15 I've been doing this job. And we tell the client the
16 penalties and we get the police report. Usually -- I
17 don't swear that I did it, but usually we would make a
18 photocopy of the police report and mail it to the client
19 in jail if he was still in jail. If he was out of jail,
20 mail it to him at his home.

21 So in this case it was a bad case because it's a
22 bad potential penalty, armed robbery, and it was a bad
23 case because the girlfriend was essentially saying we did
24 it and the cousin, the codefendant, was essentially saying
25 we did it.

Reuben Goude
Direct Examination by Mr. Shaffer
August 28, 2014

1 And my client -- I know y'all had raised in the
2 initial thing here, and in the PCR, no alibi. Well, the
3 client had told me his mama and his sister and a cousin
4 would be an alibi. And so months before the trial, I
5 would send them out. And his little form attached to his
6 PCR application is my form that I use, my witness
7 statement form out of my office.

8 And we had had the two -- the three people I
9 think, Shavon Paul was the cousin, Carlette Thompson was
10 the sister, and Carla Thompson was the mama -- and gave
11 them the forms. So we would add their names, addresses,
12 phone numbers, and all that kind of stuff. And I've got
13 copies here that's attached to y'all's application from
14 June. The trial was in December. And they wrote down --
15 of course, and then on --

16 Thankfully, attached to Donovan's PCR
17 application is the statements where during the week of
18 trial I wrote down at the top on Shavon, the cousin, where
19 I've got December the 15th, 2009. That little triangle
20 there means the defendant. The defendant is telling me,
21 my client, Donovan, do not use Shavon, she does not know
22 where I was 4:00 to 5:00 a.m. on December the 23rd, the
23 time of the robbery, 2008.

24 So as far as the alibi, it is correct that I did
25 not send the alibi letter to the solicitor more than ten

Reuben Goude
Direct Examination by Mr. Shaffer
August 28, 2014

1 days before the trial. That's the point. And it's true,
2 also, that the solicitor withdrew any objection to that
3 during the trial and the judge let us use any defense we
4 wanted to. So it's got nothing to do with the case
5 because we could have put in the alibi witnesses if we
6 wanted to. Because I told the solicitor, you've got the
7 evidence, may as well be straight.

8 I tell my client straight, and the prosecutor,
9 too, if you don't -- if you have ruled that we can't put
10 in the alibi witnesses, Donovan is going to have a good
11 ground to appeal and just got to try the whole thing over
12 again.

13 So that's why they withdrew their objection to
14 us putting in -- the alibi being late, because I told the
15 solicitor just what I'm telling y'all.

16 Q. And you said that on the record, too, that if
17 you didn't allow the alibi, that there would be a good
18 grounds for appeal?

19 A. It was an ignorant thing because the alibis were
20 just the mama and the cousin and it -- anyway. So the
21 alibi supposedly --

22 Q. Tell me this. What was your defense strategy in
23 this case?

24 A. We didn't have a good defense strategy in this
25 case.

Reuben Goude
Direct Examination by Mr. Shaffer
August 28, 2014

1 Q. Okay. But what was it?

2 A. We didn't have a good defense strategy in this
3 case.

4 Q. So basically you were just saying he didn't do
5 it; is that --

6 A. I don't remember if -- because I don't have the
7 file -- if the solicitors had given us a good offer and I
8 had recommended that Donovan take it and he didn't, or
9 whether because the girlfriend was saying that we did it
10 and Shane was pleading guilty, whether they didn't give us
11 an offer. I don't remember.

12 But as far as a defense strategy, from looking
13 over the file and seeing the evidence against us, I don't
14 see a strategy that I could come up with that would say we
15 did not do it when the codefendant was saying -- that's
16 our cousin -- that we were involved, and the girlfriend
17 was saying she told us at the lobby of the motel -- told
18 us that somebody ought to rob them because they had done
19 her bad and that her boyfriend, my client, texted her at
20 4:00 or five o'clock in the morning, exactly of the time
21 of the robbery and says that the person you told me was
22 working as the desk clerk was not there. How in the world
23 would we know that other than having robbed the place?

24 So I had no brains enough to have a valid
25 defense that would let us get a not-guilty verdict. If I

Reuben Goude
Direct Examination by Mr. Shaffer
August 28, 2014

1 had of, then I would have used that brilliant defense and
2 tried to get a not guilty verdict like I've done in
3 hundreds of other cases.

4 Q. So the three witness statements that were
5 attached -- you've seen the PCR application; correct?

6 A. Yes, sir.

7 Q. The three witness statements that are attached
8 to that as exhibits, those are from your file; is that
9 correct?

10 A. That's ones that's my form, my blank form,
11 that's written it looks like by these individual three
12 people. And then up at the top on Shavon's is my
13 handwriting where it's got December the 15th, '09,
14 defendant says, do not use Shavon, she does not know where
15 defendant was 4:00 to 5:00 a.m. December the 23rd, 2008.
16 That's on Shavon.

17 And on the next one that's attached to this
18 thing, Carlette Thompson -- those are my handwritten notes
19 up at the top: 12/14/09, defendant and defendant's
20 mother, they do not want Carlette to testify. She is the
21 fourteen-year-old sister of my client. They do not want
22 Carlette to testify. She is confused on the dates and
23 times, and she is nervous, and little sister.

24 So my client told her -- me not to use her
25 because they didn't -- the statements -- and if you read

Reuben Goude
Direct Examination by Mr. Shaffer
August 28, 2014

1 the statements, the robbery happened in a few minutes on
2 Tuesday morning. I went back and copied the calendar a
3 while ago when I was reviewing this thing at the office
4 and this was a Tuesday, December the 23rd, 2008, at about
5 4:00 or 5 o'clock in the morning at the Carolinian motel
6 here in Georgetown.

7 And these witness statements, none of them --
8 they're all saying stuff like, I saw him Monday night or I
9 saw him Wednesday night. None of them had anything to do
10 with 4:00 to five o'clock in the morning on Tuesday
11 morning, the day of the robbery, the day and time. So
12 even if they had called them, none of them knew anything
13 on that time.

14 And like I got through telling you, my client
15 and the mama told me not to use Shavon and the sister,
16 Carlette, too.

17 And then my notes on here say that the client
18 had told me that his mama had a criminal record. Let me
19 see what the note says. It says -- on the mama, who is
20 Carla, my notes say that the mama was on probation. Her
21 statement was December the 22nd, which was Monday night.
22 The robbery was Tuesday morning at four o'clock in the
23 morning. Her statement says our client, Donovan, left and
24 came back on the 23rd at 1:30. It doesn't say where he
25 was at at 4:00 or five o'clock. And said that when she

Reuben Goude
Direct Examination by Mr. Shaffer
August 28, 2014

1 last saw Donovan, he was with Janine and Shane. Shane is
2 the exact same guy we're charged with being with to rob
3 the motel. So saying that she last saw us with him did
4 not help our case, it hurt our case. And being that the
5 girlfriend, Janine, is the one that supposedly told us
6 where the hotel was and described it to us and says we
7 texted her that morning, last being with her Monday night,
8 did not help the case. That hurt the case. And, also,
9 Janine's statement said: yes, Donovan and Shane and
10 myself Monday night, we all three got together.

11 So if you bring in the mama, she's just saying
12 -- she's tying in Janine with Donovan and with Shane
13 bolstering, in my opinion, the prosecutor's statement that
14 these three are the masterminds of this brilliant theft of
15 this \$700. And it got us twenty years in the
16 penitentiary.

17 Q. Did you talk to any of these witnesses yourself,
18 or did you just send the witness statement out?

19 A. That I don't remember.

20 Q. Do you know if you hired an investigator to talk
21 to any of these witnesses?

22 A. No, I did not hire an investigator.

23 Q. Why did you -- why did you send out the alibi --
24 well, let me ask this. If you had these three statements
25 beforehand, based off of your interpretation of whether

Reuben Goude
Direct Examination by Mr. Shaffer
August 28, 2014

1 they would help or hurt, based off of that -- you had
2 these beforehand; right?

3 A. Yes. They're dated June of '09.

4 Q. Okay. And you had them before you actually sent
5 out the alibi notice; right?

6 A. Yes. I had them June '09, it looks like.

7 Q. Would you have reviewed them before you sent out
8 the alibi notice?

9 A. Yes.

10 Q. And why did you send out the alibi notice if you
11 weren't planning on using it?

12 A. I sent that out because we didn't want to go to
13 trial. You don't want to go to trial when you're going to
14 get twenty years, which I would have had sense enough to
15 figure that out based on the evidence against us. I know
16 we was going to lose the case. I would know we're going
17 to get at least ten years to thirty because that's what
18 armed robbery carries.

19 So we were then trying to work out something
20 with the solicitors and the client trying to get a deal to
21 keep him from getting twenty years in the penitentiary.
22 So we would not be planning on going to trial but you
23 would be doing what you had to do, too, by getting these
24 statements back in June and the trial is in December, so
25 that's six months ahead of the ball game -- to try to find

Reuben Goude
Direct Examination by Mr. Shaffer
August 28, 2014

1 out what these people are going to say.

2 It was my error that we did not mail the stuff,
3 the three statements, to the solicitor in June or in July
4 or August or September, October or November, or earlier in
5 December, to the solicitor so they could have seen that
6 this fourteen-year-old sister in the house we lived in,
7 and the mama, and the cousin, was going to say -- which
8 has happened in hundreds of cases I've had -- that the
9 client is in the house sleeping at four o'clock in the
10 morning and not committing the crime.

11 So in my opinion, it would have made no
12 difference to the solicitors. They would not have done
13 anything. Probably never have talked with the mama. They
14 would have just said, this is the mama and the sister and
15 the cousin, in their closing argument, and they're lying
16 for their brother and son and cousin.

17 But, anyway, the solicitor was correct. I did
18 not mail the alibi notices until the week before trial,
19 when I found out we were definitely going to go to trial,
20 and that was less than ten days like the rule calls for.
21 And the solicitor made the correct motion and then the
22 solicitor withdrew the motion and it had no adverse effect
23 on the trial, none, zero, nada.

24 Q. I'm not asking about the timeliness of the
25 motion. I'm asking why you actually sent it if you

Reuben Goude
Direct Examination by Mr. Shaffer
August 28, 2014

1 weren't planning on presenting an alibi defense.

2 A. Because the three people that made the
3 statements -- and the rule is that we have to send an
4 alibi notice to the solicitor before the trial. And I'm
5 doing what the rules calls for, even though sometimes it's
6 stupid, because that's what the rules calls for.

7 Q. The rules require you to do it if you're
8 presenting an alibi defense; right?

9 A. Right.

10 Q. Okay. But you weren't planning on presenting an
11 alibi defense; correct?

12 A. Well, we weren't sure exactly how the evidence
13 would come out in court. You never can be exactly sure
14 what's going to happen.

15 Q. So in that alibi notice, you said that you
16 intended on presenting an alibi defense; right?

17 A. Yes.

18 Q. And you argued to the judge at the beginning of
19 the trial that you intended on presenting an alibi
20 defense; right?

21 A. Well, I argued in response to the solicitor's
22 motion where she said that we not be allowed to use that
23 if we wanted to. Because once the prosecution rests and
24 you've heard what the evidence is and you know what the
25 jury has heard, then you decide how you want to do it,

Reuben Goude
Direct Examination by Mr. Shaffer
August 28, 2014

1 whether you want your client to testify or not testify.

2 And I see in the transcript at this time we decided not to
3 or whether we would have used one of those witnesses, the
4 mama or the cousin or the sister or none of them. But
5 that's the answer -- I know the answer to that question.

6 Q. Do you have a copy of the transcript over
7 there --

8 A. Yes, sir.

9 Q. -- correct?

10 A. Yes, sir.

11 Q. If you could, sir, look through page 5.

12 A. Okay.

13 Q. And I want you to sort of look through 5 all the
14 way through -- just to refresh your recollection, all the
15 way through 10. Don't worry about reading out loud. Just
16 sort of look over the comments that you made to the Court.

17 A. Okay. I looked over it this morning.

18 Q. Did you or did you not represent to the Court
19 that you planned on presenting an alibi defense at that
20 time?

21 A. Let me see exactly what I said here.

22 [Whereupon, the witness reviews documents]

23 Q. [Mr. Shaffer] And I guess I can sort of narrow
24 you -- or zoom in a little bit where it's -- if you look
25 at page 9, I want you to look at the top of that, page --

Reuben Goude
Direct Examination by Mr. Shaffer
August 28, 2014

1 line 20.

2 A. Okay.

3 Q. And I want you to look through page 10. And
4 look at page -- through line 7 on page 10.

5 [Whereupon, the witness reviews documents]

6 A. Okay. I've done that.

7 Q. [Mr. Shaffer] You were talking about the
8 witnesses you were planning on calling; is that correct?

9 A. That's correct.

10 Q. And you were planning on calling Carlette
11 Thompson, Carla Thompson, and Shavon Paul; is that right?

12 A. At that time that's what I was saying to the
13 Court, yes.

14 Q. So you were representing to the Court at that
15 time that you were planning on presenting an alibi
16 defense; is that right?

17 A. That was in the defense potential strategy.
18 Now, that does not mean that I was saying to the Court I
19 swear on my life, Your Majesty, Your Honor, that I'm going
20 to call these three people as alibi witnesses. What I was
21 saying is -- and not in words -- is in my potential
22 defense strategy, that I may wish to do if it seems wise
23 at the time, is call these three people. But I would have
24 had to argue then, because the prosecutor had made the
25 motion to disallow that potential defense strategy. So

Reuben Goude
Direct Examination by Mr. Shaffer
August 28, 2014

1 that's what I'm arguing, that I may want to call these
2 alibi witnesses and if I don't, I won't call them. Nobody
3 can't [phonetic] make me.

4 Q. I understand that. I --

5 A. Okay.

6 Q. And I understand that no one can make you call a
7 witness.

8 A. That's right.

9 Q. But what I was wondering is that -- well, answer
10 this. Is it a fair statement to say that it's possible
11 the Court might have interpreted that, or a reasonable
12 reader would have interpreted that, as you saying that you
13 were going to present an alibi defense?

14 A. Yes.

15 Q. But did you have any intention, at that point,
16 of presenting an alibi defense?

17 A. I don't remember.

18 Q. But you already had the statements that you're
19 making -- you already had the witness statements before
20 that point, right?

21 A. Already had the witness statements.

22 And the witness statements, remember, they did
23 not -- and, again, I don't have my notes to see if I
24 called each of these people on the phone and talked with
25 them and got more nitty-gritty notes that would have been

Reuben Goude
Direct Examination by Mr. Shaffer
August 28, 2014

1 written on my yellow legal files on the telephone by me
2 because I don't have my file, or if I had never talked
3 with them in my life. I just don't know and I don't
4 remember.

5 Q. But you know you had the statements?

6 A. I knew I had those three statements.

7 Q. And you had reviewed those statements before
8 then?

9 A. So my point I was getting to is on those three
10 -- to answer your question is those three statements don't
11 say that the witnesses, particularly Shavon and Carlette,
12 the sister -- the cousin and sister, neither of their
13 statements specifically covers the time of the robbery so
14 neither of their statements -- at least the way I read
15 them -- and I can always be wrong. But neither of their
16 statements is an alibi for the time of the robbery. It
17 says something like we saw him the night before or night
18 after or later that day, that evening at 6:00 or seven
19 o'clock. So they were no help on whether we robbed the
20 Carolinian store or not. So --

21 Q. And you said to the Court that they were in
22 their house -- he was in his house asleep that night of
23 the robbery; right?

24 A. That's what the client was saying, and he was
25 saying his -- or that the -- we were hoping, or he was

Reuben Goude
Direct Examination by Mr. Shaffer
August 28, 2014

1 hoping, or we were dreaming, or whatever we were doing,
2 that the alibi witnesses would say; if they were going to
3 say that.

4 Q. Do you have any inclination that they wouldn't
5 have said that, that he was sleeping that night?

6 A. I have an inclination that they did not say that
7 or I would have probably called them as a witness.
8 Because if I had said that -- and all I see is what little
9 notes I made at the top -- that the one of them didn't
10 know where he was at, she had just seen him the evening
11 before and the evening after and not 4:00 or 5:00. And
12 then on the sister where the client specifically told me
13 not to call his fourteen-year-old sister because she
14 didn't know where he was at, and the mother because she
15 had a criminal record and she tied in the girlfriend and
16 the codefendant being with Donovan Monday night when she
17 saw him.

18 So for those reasons we didn't call them. If I
19 had -- because I talked with them, or would have, looks
20 like I made those notes, and if they had said we saw him
21 at 4:00 or five o'clock in the morning on Tuesday morning,
22 December the 23rd, we walked by his room or he was using
23 the bathroom or he went to bed at two o'clock Monday night
24 in that bedroom and he came out of it at 6:00 a.m. Tuesday
25 morning and we didn't hear him walking down the hall

Reuben Goude
Direct Examination by Mr. Shaffer
August 28, 2014

1 during the evening -- if they had said something like
2 that, probably I would have used them.

3 Q. Have you ever been to their house?

4 A. No.

5 Q. Do you know where they lived? The general area.

6 A. If I look at the address, I can tell you if I
7 know where that general area is.

8 [Whereupon, the witness reviews documents]

9 A. Oh, yeah. Well, one of them -- at least the
10 address on the -- well, it's Buckshot Road at Andrews is
11 the mother.

12 Q. [Mr. Shaffer] Do you know where Buckshot Road
13 is?

14 A. Not specifically. No, I don't.

15 Q. So you wouldn't be able to say whether it was in
16 town, out of town, where it was at, would you?

17 A. No.

18 Q. And you said you were never out there. So you
19 don't know anything about the conditions that night or on
20 an evening on Buckshot Lane whether -- or Buckshot Road,
21 how far away it is, right --

22 A. No.

23 Q. -- from other stuff?

24 You wouldn't know if it was five miles from
25 anywhere or if it was right in the middle of Andrews,

Reuben Goude
Direct Examination by Mr. Shaffer
August 28, 2014

1 would you?

2 A. I would know roughly that it's twenty miles,
3 give or take, from the Carolinian Inn in Georgetown.
4 That's the way I would have been thinking.

5 Q. Now, the codefendant, you said he made a
6 statement to police; correct?

7 A. That's what the transcript says.

8 Q. He actually made two statements to the police;
9 right?

10 A. I read in there where he made some statements to
11 the police, to the -- I remember the solicitor's
12 investigator, Brown, Steve Brown, as the solicitor's
13 investigator. I remember seeing that when I looked over
14 the transcript before I came in here.

15 [Off the record momentarily]

16 THE COURT: Would you ask your question again,
17 Mr. Shaffer.

18 Q. [Mr. Shaffer] Do you recall him making two
19 statements initially denying the involvement? The
20 codefendant.

21 A. I don't remember exactly what order or how many
22 statements that Shane Pringle is supposed to have made.

23 Q. Okay. But you don't remember any specifics
24 about the statement that Shane Pringle made?

25 A. Well, I remember what I saw in the transcript a

Reuben Goude
Direct Examination by Mr. Shaffer
August 28, 2014

1 few minutes ago when I looked over the transcript.

2 Q. But outside of that, you wouldn't -- you don't
3 recall anything? Is that safe to say?

4 A. My general memory, out of the 6,000 cases and
5 not having my file in front of me, was that Shane had said
6 at some point that my client, Donovan Pringle, robbed the
7 motel along with himself, Shane Pringle, the cousin making
8 the statement.

9 Q. And at some point he said that he -- you know,
10 that he wasn't involved. Do you recall that?

11 A. I think he testified to that at trial. In the
12 transcript -- I saw that a while ago.

13 Q. Yes.

14 MR. SHAFFER: No further questions at this time.

15 MR. THOMAS: I believe you covered everything in
16 your direct, but I just wanted to get a couple of
17 things on the record, Mr. Goude.

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Reuben Goude
Cross-Examination by Mr. Thomas
August 28, 2014

1 CROSS-EXAMINATION

2 BY MR. THOMAS:

3 Q. How much experience have you had practicing
4 criminal law?

5 A. Thirty years, I reckon, of doing part-time
6 contract public defender work and private criminal
7 defense, too. Probably 6,000 cases, I reckon.

8 Q. And I know you don't recall how many meetings
9 you had with Mr. Pringle, but do you feel like you had
10 enough to be prepared?

11 A. I generally try to do a good job for the client.
12 I try to do the best I can. And I would have talked with
13 him, knew his side of the story. We would have went over
14 the police report. I would have told him what I thought
15 was going to happen and what could we do.

16 I see there the six months before, and I guess
17 six months after the incident, we're getting statements
18 from his family members. The only way we would have known
19 to do that is for Donovan, my client, to have told me to
20 get statements from his family members.

21 And we would usually go over the testimony
22 before trial and the trial procedures and tell him how a
23 trial works and how we're going to pick the jury, and we
24 go in there and I'm going to give you a legal pad and I'm
25 going to write on it keep or excuse; and then all the

Reuben Goude
Cross-Examination by Mr. Thomas
August 28, 2014

1 jurors, if you know one of them and you want to keep them
2 because you think they'll vote for you, you point to keep
3 and if you don't know them or you think they're going to
4 vote against you, you point to excuse; if you don't know
5 them, don't do anything and I'll pick them; and the
6 attitude to have; and have the demeanor of I did nothing
7 and y'all are the smartest jury in the world, I'm so glad
8 we picked y'all, and look at me and you can open my eyes
9 and look into every filing cabinet in my brain and in my
10 body and in my fingernails and my toenails and you will
11 see that everything in me is the truth, I am hiding
12 nothing; don't cross your arms, don't cross your legs,
13 don't have no body language that would make the jury think
14 you're hiding from them; sit up, be open and honest; look
15 at the jury but don't try to look and intimidate them and
16 scare them and don't be afraid to look at them. Go
17 through all that stuff.

18 Q. And you had copies of all -- or let me do it
19 this way. You had copies of the cousin's statements
20 before trial?

21 A. They're dated six months before. And they're on
22 my blank witness statement form that I give people. So we
23 had had them for that six months.

24 Q. Well, I meant the codefendant. You had a
25 copy --

Reuben Goude

Cross-Examination by Mr. Thomas

August 28, 2014

1 A. Excuse me. I misunderstood you.

2 Yeah, we would have had whatever the police
3 reports were.

4 Q. And when this issue about the -- well, let's do
5 this.

6 The reason you argued so strenuously for that
7 alibi at the front end of the trial was just to leave open
8 the possibility; right?

9 A. That's exactly right.

10 Q. Because you don't want to foreclose the chance
11 that you might come up with something?

12 A. Don't want to foreclose anything.

13 Q. And when it came time to actually put up a case,
14 you had a discussion with Mr. Pringle about whether or not
15 you were going to call those witnesses?

16 A. Yes. That's exactly right.

17 Q. And it was a joint decision between the two of
18 you?

19 A. That's correct.

20 Q. And so did you put up any sort of defense at all
21 or did you --

22 A. No. We had no defense at all -- I saw that in
23 the transcript -- so we got to make our argument last.

24 You try to do the best job you can do. You've
25 done this for years. You've got a routine down so you

Reuben Goude
Cross-Examination by Mr. Thomas
August 28, 2014

1 know what to do. It's not like you just graduated law
2 school yesterday where you've got to take forty-seven
3 hours to know where the courthouse is. We've done this
4 many times. And everybody in my office is experienced and
5 I am, too. And we try and do a good job, and we do a good
6 job.

7 At the same time, you cannot change the
8 evidence. So if the evidence is there against you of -- I
9 don't know what kind of deal offer we would have made. I
10 don't know whether the client wouldn't take the deal. I
11 don't know if the solicitor didn't want to give us a good
12 deal because Shane was pleading guilty and was going to
13 testify against us, the solicitor's thought, or whether
14 the girlfriend had made a deal on the accessory and she
15 was going to testify against us as she did. Though not
16 too strenuously, but she did anyway.

17 And it looked to me like we were going to get
18 convicted. Not that I'm going to sell out my client or
19 won't try because I'm paid by the State or because I'm
20 stupid or dumb or lazy. It's because I've got sense
21 enough to know what the evidence looks like that's going
22 to come out and what the jury is going to do. And I
23 thought we were going to lose before we went into the
24 trial, because I would have voted guilty if I had been on
25 the jury and heard the same evidence that came out in

Reuben Goude
Cross-Examination by Mr. Thomas
August 28, 2014

1 court that I knew was going to come out in court.

2 And we had no valid defense to do about it. If
3 you brought in your Ma and Daddy and they say that you're
4 asleep at three o'clock in the morning instead of killing
5 the old lady or selling the drugs or breaking into
6 Walmart, the solicitors are always going to say that your
7 daddy and mama or your wife or your cousin or your
8 fourteen-year-old daughter or sister are going to lie for
9 you to keep you out of the penitentiary.

10 So even if that is true, and even if the
11 witnesses testify to that, the jury does not have to
12 believe that if you've got a girlfriend saying, he texted
13 me after I told him that he needed to rob the motel, and I
14 laid out the motel lobby and the counter and where the
15 person was going to be in the motel, and he texted me at
16 four o'clock in the morning and said, the guy you told me
17 was clerking in the motel was not the one there in the
18 motel. Now, most jurors are going to vote automatically
19 on that.

20 And then you've got your own cousin -- your own
21 cousin, now, not the policeman, not the prosecutor, not
22 Genghis Khan that going to come in that hates you, but
23 your own cousin gets on the stand and says, yes, I told
24 the police when they asked me that you and I robbed the
25 motel and Janine told us where to go and we got the two

Reuben Goude
Cross-Examination by Mr. Thomas
August 28, 2014

1 knives that we threatened the desk clerk with out of your
2 house, my beloved client, Donovan.

3 So you don't have to be a crooked juror to vote
4 guilty in that charge and you don't have to be a
5 clairvoyant or a stupid or a sellout lawyer to know that
6 when that evidence comes in, any decent juror is going to
7 vote guilty. And so that's what happened.

8 MR. THOMAS: Thank you, sir.

9 THE COURT: Mr. Shaffer.

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Reuben Gouda
Redirect Examination by Mr. Shaffer
August 28, 2014

1 CROSS-EXAMINATION

2 BY MR. SHAFFER:

3 Q. So you had no good strategy; is that correct?

4 A. That's correct.

5 Q. So based off of that, you decided you weren't
6 going to put up the mom; correct?

7 A. The things I've already told you about are the
8 reasons that those three people were not good witnesses to
9 call.

10 Q. They weren't good witnesses; correct?

11 A. They were not good witnesses to call --

12 Q. What other --

13 A. Sir?

14 Q. What other defense did you have?

15 A. We had no defense.

16 Q. So you didn't have another defense, other than
17 an alibi defense?

18 A. Other than a stupid no-alibi defense, I had no
19 other witness -- defense that --

20 Q. Other than the --

21 A. -- was any good.

22 Q. -- alibi defense that in your mind it wasn't a
23 very good alibi defense; correct?

24 A. It was no alibi defense. It was no good.

25 Q. Okay.

Reuben Gouda
Redirect Examination by Mr. Shaffer
August 28, 2014

1 A. It was not valid. It was not like I had a good
2 alibi defense and I just chose not to call it because I
3 was needing to go to the golf course or I was trying to
4 sell out my client. We had no valid alibi defense.
5 That's why I called no alibi witnesses, because my client
6 said don't call my sister -- it's the client's case -- for
7 the reasons I've already told you. And I agreed with
8 that. And don't call the cousin, Shavon, because she
9 doesn't know where I was because her statement says where
10 I was the day before and the day after. So we didn't call
11 her. And we didn't call the mother for the reasons I've
12 already said, too. So that was the reason we did not put
13 up an alibi defense and did not call those three
14 witnesses.

15 Q. And have you ever heard the term -- you haven't
16 heard the term sell out your client come out of my mouth;
17 right?

18 A. I've heard that term millions of times.

19 Q. But I haven't actually said it to you?

20 MR. THOMAS: Objection, Your Honor.

21 A. No, you have not said it.

22 MR. THOMAS: That's argumentative.

23 THE COURT: All right. Do not talk over each
24 other.

25 Just move on, Mr. Shaffer. Thank you.

Reuben Gouda
Redirect Examination by Mr. Shaffer
August 28, 2014

1 MR. SHAFFER: Thank you.

2 Q. [Mr. Shaffer] Whose decision is it to you what
3 witnesses should be called?

4 A. The client's and mine, working together.

5 Q. You don't have the ability to override your
6 client?

7 A. No.

8 It wouldn't work that way. If I said -- if
9 Donovan said call my sister and I said, no, I'm not going
10 to call her and Donovan says, you're selling me out or you
11 are dumb or you're going to call her and I say, no, I
12 order you to not call her because I am the brilliant
13 lawyer in the case and you're just a dumb client that has
14 no say-so in your own case, and I, Reuben Gouda, His
15 Majesty, am saying I am not calling her, then most likely
16 what Donovan would have done is stand up and say, Judge, I
17 want to relieve Reuben Gouda, or I want you to let me call
18 my witness, my sister, because I've asked Reuben Gouda and
19 I face thirty years in the penitentiary for armed robbery
20 and Reuben Gouda, my dumb lawyer that's selling me out or
21 that's crooked or ignorant, or whatever he was going to
22 say, won't call her, that was what would have probably
23 happened.

24 And I would never do that because I like my
25 client and I tried to do the best job for him. I am a

Reuben Gouda
Redirect Examination by Mr. Shaffer
August 28, 2014

1 good lawyer and an honest lawyer and I would never try to
2 mess up a client.

3 Q. And I'm not trying to say that. What I'm trying
4 to -- did he ever say any of that stuff to you, not to
5 call --

6 A. He just said what I had -- what was written on
7 those notes that y'all gave me, which is that the client
8 told me not to call Shavon because she doesn't know where
9 I'm at, and don't call my sister because she doesn't --
10 she's confused and nervous and doesn't know where I am --
11 was, and we won't call the mama because she ties me in
12 with Janine and Shane, my co-defendants, hours before the
13 robbery Monday night and my mama's got a record. So
14 that's what my records show.

15 Q. So your testimony: he told you that about his
16 mom?

17 A. Well, that's the only way I would have known.

18 Q. So he -- your testimony is he told you not to
19 call his mom?

20 A. That's what my -- that's what my notes indicate,
21 the --

22 Q. Which notes --

23 A. -- little bit of notes I have.

24 Q. -- are we discussing --

25 A. Say that --

Reuben Gouda
Redirect Examination by Mr. Shaffer
August 28, 2014

1 Q. -- that indicate that?

2 A. Say that again.

3 Q. Concerning the mom, specifically, what notes
4 indicate that?

5 A. The notes I have is from taking the mama's
6 statement that y'all gave me and Janine's testimony and
7 Shane's testimony in the transcript and tying those things
8 together. It showed that the mama was going to -- because
9 I didn't see anywhere in her statement that said that
10 Shawn was in my house 4:00 to 5:00 a.m. on Tuesday
11 morning, December the 23rd. If it's there, I didn't see
12 it.

13 And so what I did was take her statement that
14 y'all gave me in the application and compare it with what
15 Janine and Shane was saying in the transcript. And what I
16 got out of it was that the mama saw Janine and Shane and
17 Donovan Monday night together, whether they were going to
18 the mall or bowling or whatever they're going to do. They
19 were doing something on one night and something on
20 another.

21 Q. So are those notes that you prepared in
22 preparation for the PCR, or are those notes that you
23 prepared in preparation for the trial?

24 A. They would have been the same thing I would have
25 known then, because I'm seeing it now. I would have been

Reuben Gouda
Redirect Examination by Mr. Shaffer
August 28, 2014

1 comparing --

2 Q. I guess what I'm asking you is just yes or no.
3 When did you prepare those notes?

4 A. I prepared these notes for the PCR hearing.

5 Q. So those are the notes you're referring to
6 whenever you refer to notes here today; right? You said
7 that you didn't have your file with you --

8 A. That's right.

9 Q. -- correct?

10 A. That's right.

11 Q. So the notes -- any notes that you're referring
12 to today are notes that you prepared in preparation for
13 your testimony here today, not for the trial?

14 A. And all of the notes that I've prepared for here
15 today came out of those PCR application documents that
16 y'all got me that I had at the time of the trial, and also
17 they came out of the testimony from Janine which, before
18 we had the trial, we would have had her -- the police
19 reports where whatever she had told them then, and we
20 would have had whatever the police reports statements
21 would have been that Shane would have told then, that we
22 would have known -- that we would have had all that stuff
23 before trial. So that's how that came out.

24 Q. So are there any notes that you've referred to
25 today that were notes that you had in existence when you

Reuben Gouda
Redirect Examination by Mr. Shaffer
August 28, 2014

1 tried the case?

2 A. No. I don't have that file.

3 Q. Did you tell Donovan that you didn't have a good
4 defense?

5 A. I would have told him that. We had a terrible
6 case. It was a bad case, a bad case.

7 Q. Did you recommend that he pled -- plead guilty
8 at any point?

9 A. I can't --

10 Q. You can't recall?

11 A. I can't recall.

12 MR. SHAFFER: No further questions.

13 THE COURT: Mr. Thomas?

14 MR. THOMAS: Nothing from the State, Your Honor.

15 THE COURT: You may step down. Thank you.

16 THE WITNESS: Thank you, ma'am.

17 [Whereupon, Mr. Gouda is excused and exits the
18 witness stand]

19 THE COURT: Call your next witness.

20 MR. SHAFFER: The applicant calls Donovan
21 Pringle.

22 [Whereupon, Mr. Pringle comes forward]

23 [Whereupon, Mr. Pringle is duly sworn by the
24 clerk of court as follows: do you solemnly swear or
25 affirm the testimony you're about to give will be the

Reuben Gouda
Redirect Examination by Mr. Shaffer
August 28, 2014

1 truth, the whole truth, and nothing but the truth, so
2 help you God]

3 THE WITNESS: I do.

4 [Whereupon, Mr. Pringle takes the witness stand]

5 THE CLERK OF COURT: State your name, please.

6 THE WITNESS: Donovan Pringle.

7 THE COURT: All right. Mr. Shaffer?

8 MR. SHAFFER: Yes, Your Honor.
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Donovan Pringle
Direct Examination by Mr. Shaffer
August 28, 2014

DONOVAN PRINGLE,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. SHAFFER:

Q. Mr. Pringle, where do you currently live at?

A. Lieber Correctional Institution.

Q. How long have you been there?

A. A little over four years.

Q. How long a sentence are you currently serving?

A. Twenty. Twenty years.

Q. When is your projected release date?

A. 2026.

Q. How old are you?

A. Twenty-five.

Q. At the time this crime was committed, how old
were you?

A. Twenty.

Q. And you were represented by Reuben Goude,
obviously?

A. Yes, sir.

Q. When was the first time you met Mr. Goude?

A. I can't recall exactly, but I was in the
Georgetown County Jail at the time so --

Q. Did you make bond prior to trial?

Donovan Pringle
Direct Examination by Mr. Shaffer
August 28, 2014

1 A. No, sir.

2 Q. How many times did you speak with him,
3 approximately?

4 A. About four times.

5 Q. Do you remember talking about -- well, did you
6 have a plea offer?

7 A. Yes, sir.

8 Q. What was your plea offer?

9 A. If I remember correctly, it was ten to twelve
10 years.

11 Q. Did you want to plead guilty?

12 A. No, sir.

13 Q. Why didn't you not want to plead guilty?

14 A. Because I didn't commit the crime.

15 Q. Did you talk to -- did Mr. Goude go over the
16 evidence against you?

17 A. Not -- it was vague. It was more like, all
18 right, you know you and your cousin in this together, you
19 know he going to tell. That's basically what it was.

20 Q. Did he show you any discovery at any point?

21 A. No, sir.

22 Q. You've since viewed your discovery; right?

23 A. Yes, sir.

24 Q. Where did you get that discovery from?

25 A. Out of my motion.

Donovan Pringle
Direct Examination by Mr. Shaffer
August 28, 2014

1 Q. What do you mean out of your motion?

2 A. My motion discovery.

3 Q. Okay. But where did you get the motion of
4 discovery from?

5 A. It was sent to me from his office.

6 Q. From Mr. Goude's office?

7 A. Yes, sir.

8 Q. Before trial, did he talk to you anything about
9 a trial strategy?

10 A. Not really. Not as I remember.

11 Q. What was the strategy in your case; do you
12 recall?

13 A. To use my alibi witnesses.

14 Q. Is that what you wanted to do or what he wanted
15 to do or what?

16 A. Both of us, because we actually spoke about it
17 and he was like, okay, I received the paperwork, your
18 family came in, they did an alibi -- I think it's an alibi
19 statement or an alibi sheet or something.

20 Q. And did you want all of them to testify?

21 A. Yes, sir.

22 Q. Did you not want some of them to testify?

23 A. No, sir.

24 Q. You never told him you didn't want some of them
25 to testify?

Donovan Pringle
Direct Examination by Mr. Shaffer
August 28, 2014

1 A. No, sir.

2 Q. When you were about to go to trial, did you --
3 did you think that they were going to testify?

4 A. Yes, sir.

5 Q. Were they present --

6 A. Yes, sir.

7 Q. -- there at the trial?

8 A. Yes, sir.

9 Q. Were they willing to testify, to your knowledge?

10 A. Yes, sir.

11 Q. Did Mr. Goude ever explain to you why he was not
12 going to call them as witnesses?

13 A. At first he was saying that they would probably
14 harm the case and then he wasn't sure exactly what they
15 would say when they get on the stand because he didn't
16 really have a chance to talk to them face-to-face.

17 Q. When was that that he said that he hadn't had a
18 chance to talk to them face-to-face?

19 A. Right when the judge asked him if he had any
20 defense.

21 Q. If he was planning on putting up a defense, you
22 mean?

23 A. [No response]

24 Q. Was it in the middle of the trial or the
25 beginning of the trial? That's what I'm asking.

Donovan Pringle
Direct Examination by Mr. Shaffer
August 28, 2014

1 A. Oh. This was around the middle of the trial.

2 Yes, sir.

3 Q. And he told you he's not exactly sure what they
4 would say?

5 A. Yeah. Because then he asked me. I was like,
6 they actually volunteered their statement. I never talked
7 to them. I never knew they did a statement until he sent
8 me the paperwork in my motion discovery.

9 Q. Did you tell him that you did not -- during the
10 middle of the trial, did you tell him that you did not
11 want them to testify?

12 A. No, sir.

13 Q. What did you tell him whenever he told you he
14 hadn't talked to them face-to-face and that you wanted --
15 or that he wasn't going to call them?

16 A. It was somewhere around -- I was like, well, you
17 got the statement so you basically know what they going to
18 say when they get up there, so I don't see how you not
19 talking to them face-to-face is even relevant.

20 Q. What was his reply to that; do you recall?

21 A. I don't remember him giving one.

22 Q. But he didn't call them?

23 A. No, sir.

24 Q. Did you decide to testify?

25 A. No, sir.

Donovan Pringle
Direct Examination by Mr. Shaffer
August 28, 2014

1 Q. Why didn't you testify?

2 A. Because he told me we didn't go over that part
3 so he didn't want to put me up on the stand and say
4 anything not knowing exactly what I would say. And along
5 with not knowing what I would say, he didn't know how the
6 prosecutor would start questioning me so he didn't want me
7 to get up there and get tripped up because basically no
8 one placed me on the scene during the charge. So he's
9 saying if I testify, not knowing what I'm going to say, he
10 don't -- he don't want me basically to trip myself up.
11 He's saying the case basically ain't strong because no
12 one's put me on the scene.

13 Q. He said the case isn't all that -- isn't strong?

14 A. He said the State case isn't strong because
15 Janine Austin got on the stand and said that when she
16 asked me about the robbery, I told her on numerous
17 occasions that I did not commit the crime. And when Shane
18 Pringle got on the stand, he stated that it was not me.
19 So he's saying that both my codefendants saying basically
20 the same thing: all right, you ain't did it. So he's
21 like, you getting up there will muddy the water,
22 basically.

23 Q. And Shane Pringle said that you didn't do it,
24 correct, but he also said that you did do it?

25 A. Yeah.

Donovan Pringle
Direct Examination by Mr. Shaffer
August 28, 2014

1 They had a statement saying that I did do it and
2 they had a -- well, his first statement said I wasn't with
3 them, the second statement said yeah, and when we got to
4 trial he said it wasn't me.

5 Q. So at trial he said it wasn't you and they
6 impeached him with his statement that it was you; right?

7 A. Yes, sir.

8 Q. But he had previously made a statement that it
9 wasn't you; right?

10 A. Actually, I have that statement with me.

11 Q. Did they have any physical evidence linking you
12 to the scene?

13 A. None.

14 Q. Did they have any victim or any witness at the
15 scene, outside of Shane Pringle's previous testimony, that
16 would say that was you?

17 A. No, sir.

18 Q. Did they have any property that was from the
19 scene at the hotel that they found on you later?

20 A. No, sir.

21 Q. Where were you the night that that hotel got
22 robbed?

23 A. If I remember correctly, I was at my mom house.

24 Q. Tell us about your mom's house. Where is that?

25 A. It's in Buckshot Road. That's actually a house

Donovan Pringle
Direct Examination by Mr. Shaffer
August 28, 2014

1 in like the middle of nowhere. You know --

2 Q. What do you mean in the middle of nowhere?

3 A. It's on the outskirts of Andrews. It's closer
4 to Kingstree. When I say out in the middle of nowhere,
5 it's like --

6 Q. How far --

7 A. -- all right, I'm talking about five acres and
8 your closest neighbor, you can only tell they're there by
9 a light pole. So, yeah.

10 Q. How far away is the town of Andrews?

11 A. From my mom house, roughly four- to five-minute
12 drive.

13 Q. Four- to five-minute drive. Have you ever
14 walked it?

15 A. No, sir.

16 Q. How far away is the nearest neighbor from your
17 mom's house?

18 A. I ain't never walked that on foot because that's
19 a pretty -- that's a decent walk, but I'll say about --
20 I'll give it about 300 yards.

21 Q. 300 yards?

22 A. Yeah.

23 Q. Okay. Lot of traffic come down Buckshot Road,
24 Buckshot Lane?

25 A. Zero to none, besides us that live there.

Donovan Pringle
Direct Examination by Mr. Shaffer
August 28, 2014

1 Q. At night is it noisy? Do you hear a lot of road
2 traffic?

3 A. No, sir.

4 Like I say, it's in the country so it's back
5 road.

6 Q. Tell us about the actual house. How big is it?

7 A. It's a double-wide trailer, four-bedroom double-
8 wide trailer, so --

9 Q. How many people live there?

10 A. At that time it was just my mom, my dad, my two
11 sisters at the time, because I came home to visit.

12 Q. Okay. And how long had you -- how long had you
13 lived there? I know you came down to visit, but how long
14 in the past have you ever -- have you ever lived at that
15 location?

16 A. Yes, sir.

17 Q. Okay. How long did you live there?

18 A. Not very long. I'd say about eight months. Six
19 to eight months.

20 Q. When you lived there -- have you ever heard the
21 term thin walls?

22 A. Yeah.

23 Q. What does that mean?

24 A. It's like you can hear everything. If you -- if
25 anybody on the other side of the wall, they can hear it.

Donovan Pringle
Direct Examination by Mr. Shaffer
August 28, 2014

1 Q. Do you think that that trailer had thin walls as
2 you just described that term?

3 A. Being that it was a trailer, yes, sir.

4 Q. Could you hear people driving up to that house,
5 that trailer?

6 A. Yes, sir.

7 Q. Could you hear people leaving from that trailer?

8 A. Yes, sir.

9 Q. You said you were there that night. Had you
10 seen Shane that night?

11 A. No, sir.

12 Q. And we're talking about the night of I guess
13 Monday.

14 A. It's Monday night, Tuesday morning.

15 Q. What did you do Monday night through Tuesday
16 morning? Walk us through that.

17 A. Monday night I actually went bowling. Went
18 bowling. Got home I'd say it been about 11:30, twelve
19 o'clock. And then another one of my cousins, he's from
20 Charlotte, Ronald, he came home so me and him actually
21 left and went to Georgetown and got something to eat and
22 then we came back to the house. So it like 1:30.

23 And then my sister, she was asleep so I had to
24 call her phone to wake her up because I didn't have a key
25 to the house because I wasn't living -- so I had to call

Donovan Pringle
Direct Examination by Mr. Shaffer
August 28, 2014

1 her for her to get up to come unlock the door. She came
2 and unlocked the door and we went in the room, played
3 Madden. I can remember I was up playing Madden, the
4 season's Madden.

5 Q. And about what time do you go to bed on Tuesday
6 morning?

7 A. I can't really say because I think I passed out
8 with the game still on.

9 Q. How long do you think you played it, if you had
10 to guess? An hour? Five hours?

11 A. A little bit more than that. Probably about
12 two-and-a-half hours.

13 Q. Now, you previously said that you had received a
14 copy of discovery from Mr. Goude; right?

15 A. Yes, sir.

16 Q. And you said that he told you that it wasn't all
17 that strong of a case in the middle of the trial; is that
18 right?

19 A. Yes, sir.

20 Q. Now, your cousin gave a statement to the police;
21 right?

22 A. Yes, sir.

23 Q. And did you have that at the time of the trial?

24 A. Yes. Yes, sir.

25 Q. So you had that while the trial was going on?

Donovan Pringle
Direct Examination by Mr. Shaffer
August 28, 2014

1 A. Yes, sir.

2 Q. Was there any -- there was a gap -- it was
3 actually an audio recording; is that right?

4 A. Yes, sir.

5 Q. And there was a gap in that; is that right?

6 A. Yes, sir.

7 Q. How big of a gap was it?

8 A. From -- it actually came from the audio-video
9 and it's missing the first seventeen minutes. It starts
10 at seventeen minutes and three seconds stating, you and
11 Donovan went into -- you and Donovan did it, didn't you.
12 And Shane replied, I went by myself. And the investigator
13 told him no. And he was just like me and Donovan. And it
14 goes on. And then later it comes out that he said me and
15 Danny.

16 And then I remember showing it to Mr. Goude
17 because I was like, this doesn't make sense because once
18 you get to the second sheet -- once you get close to the
19 second sheet you have Investigator Floyd, Ricky Floyd,
20 asking him and he was like, so that Danny person, you made
21 him up.

22 But from this -- all that came in the motion for
23 discovery and it says nothing about a Danny. It just
24 starts with, I went by myself. So I asked Mr. Goude,
25 like, how come I ain't seen this before and is there any

Donovan Pringle
Direct Examination by Mr. Shaffer
August 28, 2014

1 way I can see the first seventeen minutes of the tape.

2 Q. What did he reply to that? What did he -- or
3 how did he reply to your question?

4 A. He said it wasn't relevant because Shane had
5 already took the stand and said that I wasn't with him, so
6 he didn't mention it.

7 Q. Have you ever heard the first seventeen minutes
8 of that tape?

9 A. No, sir.

10 Q. Now, you had wanted me to raise several other
11 issues; is that correct?

12 A. Yes, sir. Two.

13 Q. And what issues did you want me to raise?

14 A. One of the issues was Mr. Goude being
15 ineffective for failing to object to the solicitor of
16 she's vouching, bolstering the credibility of her State
17 witnesses. They had four witnesses. The four witnesses
18 was Shane Pringle, Janine Austin, Mr. Mischow, which was
19 the clerk on both occasions, and the investigator.

20 The solicitor made -- she made bolstering
21 statements during her closing argument, which Mr. Goude
22 failed to object to those bolster [phonetic] statements.
23 And I feel it was ineffective because -- I feel it was
24 ineffective because by the solicitor -- by the solicitor
25 lending credibility to the State witnesses, I feel that

Donovan Pringle
Direct Examination by Mr. Shaffer
August 28, 2014

1 she placed the prestige of the State behind those
2 witnesses, so it would make the jurors believe in more
3 what they said because she lend credibility to it. And I
4 feel that had he -- had he object --

5 Q. So, basically, she was vouching for the witness;
6 right?

7 A. Yeah.

8 And had he object, I feel that there's a
9 reasonable probability that the outcome of the trial would
10 have been different.

11 Q. What other issue had you wanted me to raise?

12 A. That he didn't -- he never performed any
13 pretrial investigation being I say that --

14 Q. How do you know what kind of pretrial
15 investigation he conducted?

16 A. You say what type -- he did, or did not?

17 Q. Did not.

18 Did he tell you about any investigation he
19 conducted?

20 A. None. None.

21 Q. Did you ever ask him if he talked to your mom?

22 A. I did.

23 Q. What did he say whenever you asked him if he
24 talked to your mom?

25 A. It was actually at -- we was already at trial by

Donovan Pringle
Direct Examination by Mr. Shaffer
August 28, 2014

1 this time, because he just sent the statements. So I
2 asked him if he ever talked to them face-to-face and he
3 was like, no, because they actually volunteered their
4 statement. They went down to his office and did a
5 statement with his secretary and he wasn't in. So he
6 never seen any of them face-to-face until that day of
7 trial.

8 Q. Did he ever ask you about the house that you
9 lived in?

10 A. No, sir.

11 Q. Or the house that your mother lived in?

12 A. No, sir.

13 MR. SHAFFER: No further questions.

14 THE COURT: Mr. Thomas?

15 MR. THOMAS: No questions, Your Honor.

16 THE COURT: You may step down. Thank you.

17 [Whereupon, Mr. Pringle is excused and exits the
18 witness stand]

19 THE COURT: Call your next witness. Mr.
20 Shaffer, call your next witness.

21 MR. SHAFFER: The applicant would call Carla
22 Thompson.

23 [Whereupon, Ms. Carla Thompson comes forward]

24 [Whereupon, Ms. Carla Thompson is duly sworn by
25 the clerk of court as follows: do you solemnly swear

Donovan Pringle
Direct Examination by Mr. Shaffer
August 28, 2014

1 or affirm the testimony you're about to give will be
2 the truth, the whole truth, and nothing but the truth,
3 so help you God]

4 THE WITNESS: Yes, I do.

5 [Whereupon, Ms. Carla Thompson takes the witness
6 stand]

7 THE CLERK OF COURT: State your name, please.

8 THE WITNESS: My name is Carla Lanette Pringle
9 Thompson.

10 THE CLERK OF COURT: You may have a seat.

11 [Whereupon, Ms. Carla Thompson takes the witness
12 stand]

13 MR. SHAFFER: Hi, Ms. Thompson. How are you
14 doing today?

15 THE WITNESS: I'm good. How are you?

16 MR. SHAFFER: I'm doing well.

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Carla Thompson
Direct Examination by Mr. Shaffer
August 28, 2014

CARLA THOMPSON,

Having Been First Duly Sworn,

was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. SHAFFER:

Q. Now, if you could, are you Donovan Pringle's mother?

A. Yes, sir. For twenty-five years.

Q. And tell us a little bit -- well, you had contact with him during the time that he was arrested for this and in County; right?

A. Yes.

Q. At any point, did you speak with Reuben Goude?

A. Not to my knowledge.

To take it back a little bit, none of us knew anything about the robbery. Janine was in school in Florence, so Janine and her mother was have a little conflict. So we went to pick them up from Florence. And how this come about, Janine asked -- and Donovan both asked me and my husband, Jeffery, if Janine could stay with us for a little while until her and her mom hashed things out. Well, they know I didn't. That was not okay with me. So Donovan stayed at our neighbor's house, which is Bruce and Liz McAlby. He stayed there while she stayed with me. So, anyway, during the time --

Carla Thompson
Direct Examination by Mr. Shaffer
August 28, 2014

1 I'm trying to fast forward. I'm putting it in
2 my head and trying to remember everything.

3 So during that time, Janine stay with us during
4 December -- no, no, no, no. School was out in whatever
5 time school was out. She was in college. And she came --
6 like I said, she came and lived with us for a little bit,
7 for a little time. And she stayed with us for a little
8 while, through Father's Day.

9 She went home to Georgetown. And, you know,
10 talked with her and her mom. Met her mom and we talked
11 about, you know, what was going on, for her to try to --
12 you know, at least try to work things out with her mother
13 so she can be in the house with her mother and not with me
14 because her and Donovan at that time, they was boyfriend
15 and girlfriend but they was not on, you know, good terms.

16 Now, fast forwarding up to what you asking me
17 now.

18 Q. Did you ever -- did you ever speak to Mr. Goude
19 personally?

20 A. No, I have not.

21 Q. Have you ever -- did you ever speak to any of
22 his staff members?

23 A. I spoke with his paralegal. Did she say Tressa?
24 One of --

25 Q. His paralegal?

Carla Thompson
Direct Examination by Mr. Shaffer
August 28, 2014

1 A. His paralegal.

2 Q. Okay. Did you ever give a statement regarding
3 his case?

4 A. Yes, I did.

5 Q. What was that statement?

6 A. Well, I wrote -- that's five years ago. Let's
7 see if I -- well, I know I had to work. And at the time
8 when Donovan came home was December the 18th. That's when
9 school was out. A friend of his, Christy Mann, brung him
10 home because she was up in North Carolina at that time.
11 Now, as I said, we didn't know anything about what was
12 going on. So when he called --

13 Q. And this was right -- the robbery happened right
14 before Christmas?

15 A. Exactly.

16 Q. Right?

17 A. Exactly.

18 Q. Okay.

19 A. Exactly.

20 Q. So he was home at that time; right?

21 A. He was home, yes.

22 Q. The night that the robbery occurred, do you
23 remember seeing your son?

24 A. Yes.

25 Q. And by night, I'm talking about Monday. Did you

Carla Thompson
Direct Examination by Mr. Shaffer
August 28, 2014

1 see him on Monday night or did you see him real early on
2 Tuesday morning?

3 A. Oh, I seen him -- matter of fact, I was in my
4 room and I was wrapping gifts. And probably around about
5 2:30, three o'clock, 3:30 in the morning, I'm still
6 wrapping gifts.

7 And, well, we have a bunch of dogs and every
8 time the dogs bark crazy, I mean, it is haywire, you know
9 somebody's in the yard. And him and Ronnie didn't come
10 into the front door. He used the slide door, which was in
11 the back.

12 So I went in and I was talking to them for a
13 little bit. And Donovan said, Ma, I just saw Aunt Joyce
14 and Shavon. I said, where you see them at. At the store,
15 and I was at her house for a little while.

16 Q. And did you -- but you saw him that night?

17 A. Yes, I did, because my mama always told me if
18 you go someplace and when you come back, I can put my hand
19 on you, I can go to sleep.

20 Q. Well, tell me this. Describe the property you
21 live at.

22 A. I live at [REDACTED] in a double-wide
23 Strom [phonetic] trailer, white with black shutters, four
24 bedroom, three bath.

25 Q. Now, when you're at your house, can you hear

Carla Thompson
Direct Examination by Mr. Shaffer
August 28, 2014

1 cars pulling up if you're inside?

2 A. Oh, yes.

3 Q. What if you're sleeping?

4 A. If who's sleeping?

5 Q. If you're asleep and a car pulls up --

6 A. I'm not a hard sleeper.

7 Q. Huh?

8 A. I'm not a hard sleeper, so I hears everything.

9 Q. And you have dogs; right?

10 A. Oh, yes, sir.

11 Q. What kind of dogs you got?

12 A. [No response]

13 Q. Or what kind of dogs did you have?

14 A. Don't make me lie, now, because I don't know --

15 I don't know what they are. The only thing I know,

16 they're dogs.

17 Q. Okay. And how big are the dogs?

18 A. Let me see. If I stand up, one of them is

19 taller than I am.

20 Q. Like on his hind legs?

21 A. Yeah. But if he's on his back legs, he's taller

22 than I am. So don't ask me what kind of dogs.

23 Q. Were they loud dogs?

24 A. Oh, yeah.

25 Q. Do they bark?

Carla Thompson
Direct Examination by Mr. Shaffer
August 28, 2014

1 A. Do they? Yes.

2 Q. Do they bark whenever cars come up?

3 A. Yes, sir.

4 Q. Have they ever woken you up?

5 A. All the time.

6 Q. Is there a lot of traffic where you live?

7 A. No. We live in the country.

8 Q. And if you're sleeping and a car was to pull up,
9 do you think you would hear it?

10 A. I think -- you said I think I would have heard
11 it?

12 Q. Yes.

13 A. Oh, I would have heard it because I'm not a hard
14 sleeper.

15 Q. When you went to sleep that night, was Donovan
16 at home?

17 A. Yes, sir.

18 Q. Did anything wake you up that night?

19 A. No, because I was still wrapping gifts.

20 Q. When you woke up the next morning, was Donovan
21 at your house?

22 A. Yes, sir.

23 And when I went in the room I said, why aren't
24 you asleep? Because he's never a night sleeper. He
25 sleeps early in the morning and sleep all day. And my

Carla Thompson
Direct Examination by Mr. Shaffer
August 28, 2014

1 cousin was there. And I said, go lay in the bed, go into
2 the other room and go asleep. And he said, no, I'm ready
3 to go home because I'm going to mama house. Which is my
4 grandmother who passed. And that's where he was going at.

5 And Donovan was still in the house. He was
6 playing that same old game.

7 Q. And by the same old game, what do you mean?

8 A. This was at the -- football game.

9 Q. A video game?

10 A. Yeah, the video game.

11 Q. Are you sure Donovan was home that night?

12 A. Yes, sir.

13 Q. Why are you sure?

14 A. Because I talked to him. And for one thing, he
15 don't have a car to drive.

16 Q. So he doesn't have a car to drive --

17 A. No.

18 Q. -- or he didn't have it that night?

19 A. No, he didn't -- he don't -- he don't have a car
20 registered nowhere in his name. He never had a car.

21 Q. Do you think that he stayed that entire night?

22 A. Do I think? I know.

23 Q. You know? How do you know?

24 A. Because he was there -- when I got up, he was
25 still in the house. He'll go to my neighbor's house, go

Carla Thompson
Direct Examination by Mr. Shaffer
August 28, 2014

1 to his house and see what they're up to, and he'll come
2 back home.

3 Q. Now, if you were called to testify at the trial,
4 would you have said that?

5 A. Oh, yes. Yes, sir.

6 But, see, you know, the thing about that was I
7 never was called. I was told to stay into the booth area.
8 I wasn't even allowed to come into the courtroom to
9 witness what was going on. I had to stay in the whole --
10 the booth right there the whole entire time.

11 Q. Why did he say you -- or who told you you had to
12 stay in there?

13 A. The people that stay right there. The bailiff?
14 That's who they are?

15 Q. Yeah.

16 A. Yeah.

17 So I came in and I said, well, I -- he said,
18 well, you don't have -- you can't come in here because
19 you an alibi -- a witness. And I said, well, why couldn't
20 I -- you know, I wanted to come in and see what was going
21 on because I've never been inside of a courtroom actually
22 in a case, you know. So -- and it was me, Shavon, and my
23 daughter Carlette. But then they say, well, Shavon and
24 Carlette could have come inside but I had to stay on the
25 outside into the waiting area right there. That's where I

Carla Thompson
Direct Examination by Mr. Shaffer
August 28, 2014

1 stayed the whole entire time. And when I did come -- when
2 I did come inside, it was when they was going to do his
3 sentencing.

4 Q. So Shavon and Carlette could have come inside,
5 you said?

6 A. Yeah. They told us that it's okay for them to
7 come inside but I couldn't.

8 Q. But not for you?

9 A. Not for me.

10 Q. Any idea why they could have come inside but not
11 you?

12 A. I don't know. Nobody's never said anything to
13 me about -- you know, nobody never came out there and said
14 that.

15 Q. Now, do you have a criminal record?

16 A. I was -- at that time, no, I did not. I was a
17 habitual offender.

18 Q. Habitual traffic offender?

19 A. Yes. That's it. And that got cleared up. I've
20 been cleared up --

21 Q. What other kind -- you said -- now, currently do
22 you have --

23 A. Yeah, I'm straight.

24 Q. Well, do you have -- have you ever been
25 convicted of a crime?

Carla Thompson
Direct Examination by Mr. Shaffer
August 28, 2014

1 A. No, never.

2 Q. Well, habitual traffic offender is a crime;
3 right?

4 A. Yeah. Well, I didn't know that, you know.

5 Q. Have you ever been convicted of stealing
6 anything?

7 A. No.

8 Q. Have you ever been convicted of fraud?

9 A. No.

10 Q. Have you ever been convicted of robbery?

11 A. No.

12 Q. Have you ever had -- other than the habitual
13 traffic offender, have you ever had to come to this court?

14 A. Never.

15 Q. Have you ever had to go to any other, you know,
16 court of record? By that I mean general sessions.

17 A. No, sir.

18 Q. For the habitual traffic offender -- well, in
19 magistrate court have you ever had a conviction for
20 writing bad checks?

21 A. No. No, sir.

22 Q. Have you ever had a conviction for anything --

23 MR. THOMAS: Your Honor, I'll stipulate that the
24 only thing on her record is an habitual offender, if
25 that will speed this up.

Carla Thompson
Direct Examination by Mr. Shaffer
August 28, 2014

1 MR. SHAFFER: Yeah. Okay.

2 THE COURT: Thank you.

3 MR. SHAFFER: I don't have a rap sheet, Your
4 Honor. I apologize.

5 No further questions.

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Carla Thompson
Cross-Examination by Mr. Thomas
August 28, 2014

CROSS-EXAMINATION

1
2 BY MR. THOMAS:

3 Q. Ms. Thompson, you did fill out some paperwork
4 for Mr. Goude basically outlining what you're saying it
5 was for this?

6 A. Yes, I went down there.

7 Q. And going through this paperwork -- and have you
8 seen a copy of this?

9 A. Yes.

10 MR. THOMAS: May I approach, Your Honor?

11 THE COURT: You may.

12 Q. [Mr. Thomas] Does that look familiar to you?

13 A. Yeah. That's my handwriting right here.

14 Q. Now, on this paperwork here it says that -- it's
15 very detailed about what happened between December 18th
16 and January 7th. Do you remember -- do you remember
17 writing all this?

18 A. Yes.

19 Q. So why in this entire statement do I not see
20 anything about you were up until 3:30 wrapping presents
21 the night of the 22nd?

22 A. Well, at that time I was writing what I -- you
23 know, some people go through the motion and you just
24 writing.

25 Q. And do you remember writing on here that you --

Carla Thompson
Cross-Examination by Mr. Thomas
August 28, 2014

1 that Donovan came home around one o'clock, 1:30?

2 A. Uh-huh.

3 Q. And that he had been with --

4 A. Yes, sir.

5 Q. -- his codefendant beforehand?

6 A. Yeah.

7 Q. So you said that you were up -- what time did
8 you -- what time did you go to bed?

9 A. Oh, I was up -- oh, I was up all day wrapping
10 presents 2:00 or three o'clock -- until a little after
11 4:00. I went and took me a shower. I was up. But the
12 time --

13 Q. You had a busy --

14 A. I fell asleep, I can tell you that.

15 Q. So you had a busy day that day?

16 A. Always.

17 Q. What time did you get up the next day?

18 A. The next day?

19 Q. Uh-huh.

20 A. I went to work. I have to be at work at eight
21 o'clock. We work a half a day. I'm thinking that this
22 was Christmas Eve, I'm thinking. I'm not sure.

23 Q. So you would have gotten up sometime --

24 A. Oh, yeah. I never --

25 Q. -- 6:00, seven o'clock?

Carla Thompson
Cross-Examination by Mr. Thomas
August 28, 2014

1 A. -- sleep all day. Yeah.

2 Q. And you said that you didn't wake up at any time
3 that night after you went to bed?

4 A. Six o'clock in the morning. No.

5 Q. So at no point between the hours of four o'clock
6 and five o'clock did you actually lay eyes on Donovan?

7 A. Well, I gets up in the night when I have to use
8 the bathroom and I walk through my house. It's a habit
9 that I have. I do it today. I go and check in all the
10 rooms.

11 Q. So you opened up the door and looked in and he
12 was laying there?

13 A. He was playing a game.

14 Q. Between 4:00 and five o'clock in the morning?

15 A. I can't tell you about five o'clock, but I know
16 when four o'clock hit there, he was in there.

17 Q. And you didn't think that was important to write
18 in this statement where you wanted to be an alibi witness?
19 You didn't think that was important at the time to write
20 in here?

21 A. Well, if his lawyer, you know, thought that was
22 irrelevant for me to talk to -- I went to him. He didn't
23 contact me. So I was just writing down.

24 Q. But you didn't put -- in this statement --

25 A. No.

Carla Thompson
Cross-Examination by Mr. Thomas
August 28, 2014

1 Q. -- that you gave Mr. Goude, you didn't put that
2 in there?

3 A. No. Is it in there?

4 Q. Would you like to review it --

5 A. Yeah.

6 Q. -- to help you remember what you wrote?

7 MR. THOMAS: May I approach?

8 THE COURT: You may.

9 [Whereupon, the witness reviews documents]

10 Q. [Mr. Thomas] And you'll agree with me that
11 there's nothing in there --

12 A. I'll agree with you.

13 Q. -- nothing about him playing video games all
14 night long and you saw that? That's not in there?

15 A. No, it's not in there.

16 Q. You say he was up -- he was awake when you got
17 up that morning?

18 A. He was there.

19 Q. But you said he was awake when you woke up?

20 A. Yeah. I answered that. Yes.

21 Q. So that's a yes.

22 Okay. And that's out of character for him?

23 A. Oh, for Donovan, how would I put it like that?

24 No.

25 MR. THOMAS: That's all I have. Thank you.

Carla Thompson
Cross-Examination by Mr. Thomas
August 28, 2014

1 A. No, that's not out of character for him because
2 he's --

3 THE WITNESS: All right if I finish?

4 THE COURT: You can finish.

5 A. Oh. Yeah, that's -- he always been that way.
6 His night and days always been mixed up, you know. So --

7 MR. THOMAS: I understand. Thank you, Ms.
8 Thompson.

9 THE WITNESS: You're welcome.

10 THE COURT: Mr. Shaffer?
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Carla Thompson
Redirect Examination by Mr. Shaffer
August 28, 2014

1 REDIRECT EXAMINATION

2 BY MR. SHAFFER:

3 Q. One of my first questions to you a while ago was
4 what did you write in the statement and you responded that
5 it's been five years, I'm not sure. Is that right?

6 A. Okay. Yes.

7 Q. Now, this case was originally supposed to go
8 forward last year at this time; right?

9 A. I think, yes, sir.

10 Q. I didn't give you a copy of the statement that
11 day, did I?

12 A. No.

13 Q. I told you I would call you as a witness; right?

14 A. Yes.

15 Q. And when's the last time you looked at that
16 statement right there?

17 A. This is the first I looked at it since I wrote
18 it. I don't have no copies of it.

19 Q. When you wrote it, did you expect that you would
20 get a call from Mr. Goude about testifying?

21 A. Yes.

22 MR. SHAFFER: No further questions.

23 MR. THOMAS: One question, if I may, Your Honor.

24 - - -

25 - - -

Carla Thompson
Recross-Examination by Mr. Thomas
August 28, 2014

RECROSS-EXAMINATION

BY MR. THOMAS:

Q. So you have a hard time remembering what you wrote in that statement five years ago?

A. If I can sit right here and just read all the whole page, I can tell you everything I wrote.

MR. THOMAS: That's all. Thank you.

THE COURT: You may step down. Thank you.

[Whereupon, Ms. Carla Thompson is excused and exits the witness stand]

THE COURT: Call your next witness.

MR. SHAFFER: The applicant would call Carlette Thompson.

[Whereupon, Ms. Carlette Thompson comes forward]

[Whereupon, Ms. Carlette Thompson is duly sworn by the clerk of court as follows: do you solemnly swear or affirm the testimony you're about to give will be the truth, the whole truth, and nothing but the truth, so help you God]

THE WITNESS: Yes, ma'am.

THE CLERK OF COURT: State your name, please.

THE WITNESS: Carlette Thompson.

THE CLERK OF COURT: You may have a seat.

[Whereupon, Ms. Carlette Thompson takes the witness stand]

MIA PERRON, CVR-CM-M

Carlette Thompson
Direct Examination by Mr. Shaffer
August 28, 2014

1 CARLETTE THOMPSON;
2 Having Been First Duly Sworn,
3 was Examined and Testified as Follows:

4 DIRECT EXAMINATION

5 BY MR. SHAFFER:

6 Q. Ms. Thompson, you're Donovan Pringle's sister;
7 right?

8 A. Right.

9 Q. How old were you around the time that this
10 incident occurred?

11 A. Around fourteen.

12 Q. And do you recall speaking, ever, face-to-face
13 with Reuben Goude, his attorney?

14 A. Writing the statement?

15 Q. No. Did you ever speak to him face-to-face
16 about the substance of the statement?

17 A. The only time I ever spoke with him was about
18 when I wrote the whatchamacallit, the -- what I'm trying
19 to say --

20 Q. The statement?

21 A. Yes. Correct.

22 Q. So you wrote a statement and gave it to his
23 office; right?

24 A. I really don't recall, to be honest. But I
25 think I did. I don't really recall.

Carlette Thompson
Direct Examination by Mr. Shaffer
August 28, 2014

1 Q. The night that this robbery occurred, did you
2 see Donovan?

3 A. Did I see Donovan the night of?

4 Q. Yeah.

5 A. I saw Donovan, which was Monday night, Tuesday
6 morning, maybe, I think, if I'm saying that correctly,
7 around one o'clock, 1:30.

8 Q. So you saw him around 1:00 or 1:30?

9 A. Correct. Because he called me so I can open up
10 the door for him.

11 Q. Were you sleeping that night?

12 A. I'm pretty sure I was.

13 Q. When he called you to open up the door for
14 you -- for him, did you just wake up and open up the door
15 and then go back to sleep, or did you stay awake, or do
16 you recall?

17 A. Well, I instantly woke up when I -- my phone
18 ring. But after I open up the door, if I recall I think
19 we like went in the room and like chatted, if I recall.

20 Q. Did you go to bed that night sometime after
21 that?

22 A. Uh-huh. I did.

23 Q. Do you recall how long you were awake?

24 A. I honestly don't -- I honestly don't recall how
25 long, but I know it was long enough to know that he was

Carlette Thompson
Direct Examination by Mr. Shaffer
August 28, 2014

1 still in bed.

2 Q. Did you -- do you recall what time you woke up
3 the next morning?

4 A. No, I don't recall.

5 Q. Do you know if Donovan was there when you woke
6 up the next morning?

7 A. Yeah, he was. He was definitely there.

8 Q. Do you have any knowledge of him leaving at any
9 point during that night?

10 A. No. He wasn't -- he was still there. He never
11 left. I know that for a fact.

12 Q. Now, but the bailiffs -- where did you -- where
13 were you during the trial?

14 A. Where was I during the trial?

15 Q. Yeah.

16 A. Here in court.

17 Q. Were you in the courtroom?

18 A. Uh-huh.

19 Q. And how much of the time were you in the
20 courtroom? The whole time or part of the time?

21 A. Yeah, the entire time.

22 Q. So they let you come inside; right?

23 A. Correct.

24 MR. SHAFFER: No further questions. Well, Your
25 Honor, may I ask one more?

Carlette Thompson
Direct Examination by Mr. Shaffer
August 28, 2014

1 THE COURT: One more.

2 Q. [Mr. Shaffer] If you were called to testify at
3 the trial, if you were, would you have said the same thing
4 that was in your statement?

5 A. Most definitely.

6 MR. SHAFFER: No further questions.

7 THE COURT: Mr. Thomas?

8 MR. THOMAS: Thank you, Your Honor.

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Carlette Thompson
Cross-Examination by Mr. Thomas
August 28, 2014

CROSS-EXAMINATION

BY MR. THOMAS:

Q. Ms. Thompson, that was a long time ago, wasn't it?

A. Oh, yeah.

Q. It's understandable if you don't remember everything. But you do remember him coming home that night because you had to let him in the house; right?

A. Right.

Q. And then y'all chatted for a little while and he went to play video games?

A. Right.

Q. And you went to bed at some point after that?

A. Yeah.

Q. And that was around 1:00, 1:30?

A. Correct.

Q. You weren't awake at 4:00 a.m., were you?

A. I honestly don't recall the time. But I know he was in there probably still until that time because I heard the video games.

Q. Right.

But were you actually yourself -- were you awake at 4:00 a.m.?

A. I don't recall.

Q. So do you remember if you were awake at 5:00?

Carlette Thompson
Cross-Examination by Mr. Thomas
August 28, 2014

1 A. At 5:00?

2 Q. Uh-huh.

3 A. No. I know he was in there. But, no.

4 Q. Okay. But you were in your room asleep --

5 A. Correct. Uh-huh.

6 Q. -- during that whole time?

7 A. Right.

8 Q. So you didn't actually go into his room and take
9 a peek at him and say, hey, turn that video game down,
10 nothing like that?

11 A. No. I don't pay that no mind.

12 MR. THOMAS: Thank you, Ms. Thompson.

13 THE COURT: You may step down. Thank you.

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

16 THE COURT: Call your next witness.

17 MR. SHAFFER: No further witnesses, Your Honor.

18 THE COURT: Any witnesses?

19 MR. THOMAS: No witnesses from the State, Your
20 Honor.

21 THE COURT: All right. Let me hear from you
22 regarding argument.

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Donovan Pringle vs. the State

Argument by Mr. Shaffer

August 28, 2014

ARGUMENT

MR. SHAFFER: Your Honor, Mr. Goude clearly stated that he had no defense or no -- no defense strategy, to speak of, that he proceeded forward on. He had an alibi defense that he said wasn't a good alibi in his opinion. And this is summing up what his testimony was, is that the alibi wasn't a good alibi but he had no defense otherwise, no good defense.

There is some inconsistency between his testimony and Mr. Pringle's testimony on that. I will point out a couple of things for the Court. One is that what is consistent is the fact that he planned on presenting an alibi defense, is first his statement to the trial Court that he planned on presenting an alibi defense, the fact that he filed an alibi notice, and the fact that he had an alibi witness sequestered in the back during the time period, his mother. You know, he had said she had a criminal history. Well, her criminal history, the extent of that was a habitual traffic offender, Your Honor. That's not exactly the kind of criminal history that I believe a reasonable trial attorney would say we can't call an habitual traffic offender, if that's the extent of her criminal history, Your Honor.

I do not have a rap sheet, so I do not know if

1 it would have been admissible, the habitual traffic
2 offender or not. It might have been. But even if it
3 was, I imagine that the reasonable trial attorney
4 probably would have called her to testify versus
5 presenting in what his mind was no defense whatsoever.
6 You know, it might not have been the perfect alibi
7 but, you know, I think basically he thought that he --
8 you know, based off of his testimony, it sounded like
9 he thought that he was going to lose the trial and
10 therefore he didn't even bother putting up what little
11 defense that he believed he might have had, which
12 would have been the alibi defense, which in his mind
13 wasn't very credible.

14 I believe that had he put up some defense it
15 would have been a credibility argument, which is what
16 it was. It was the word of the guy who backed out of
17 his statement -- well, first denied Mr. Pringle had
18 any involvement in it, then said yes he did, and then
19 backed out of it during the trial testimony.

20 Nobody put him there. There's no evidence,
21 other than the impeachment evidence, that really puts
22 him at the scene. I think that an alibi that might
23 not be the greatest alibi ever, because it's from a
24 family member, is better than no alibi at all and no
25 defense at all.

Donovan Pringle vs. the State
Argument by Mr. Thomas
August 28, 2014

ARGUMENT

MR. THOMAS: Your Honor, I think the case law is clear it's either an alibi or it's not an alibi. There's no it's kind of a good alibi or it's an okay alibi. It either is or it isn't. Trial counsel articulated his reasons why he did not think it was a good alibi or why it was any sort of alibi.

I think the testimony here today has kind of strengthened that. There was no real direct distinct recollection of where he was at the time, just some, well, we saw him come in the door and he was there the next day when we woke up and we would have heard him if he had left. The State would just -- that doesn't actually create an alibi.

And, regardless, trial counsel said that he discussed all this with the defendant, discussed it during trial, and they came to the conclusion together not to call these witnesses for the various reasons that have been outlined already.

The State would just submit the burden hasn't been met and we would ask that you deny the petition.

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Donovan Pringle vs. the State
Rebuttal Argument by Mr. Shaffer
August 28, 2014

REBUTTAL ARGUMENT

1
2 MR. SHAFFER: My brief rebuttal to that would be
3 that, Your Honor, had he actually talked to the mother
4 he might have figured out that there actually was an
5 alibi because the mother would have known if he had
6 left. You know, if he's at the house and the mom
7 says, I would have known if he left because it's five
8 miles, or however long, just to get to Andrews, and he
9 didn't have a car, and if a car had pulled up I would
10 have heard it, I think that based off of that, had he
11 known those facts, had he took the time to actually
12 speak with his potential alibi witness, maybe it would
13 have changed his perspective on what the alibi was.

14 THE COURT: I'll accept proposed orders by
15 September 15th at 9:00 a.m. Take the matter under
16 advisement.

17 Good luck to you, sir. Thank you.

18 MR. PRINGLE: Thank you, ma'am.

19 [HEARING CONCLUDES AT 4:05 P.M.]
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Donovan Pringle vs. the State
Rebuttal Argument by Mr. Shaffer
August 28, 2014

C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the PCR hearing held before the Honorable Kristi L. Harrington, on Thursday, August 28, 2014.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 6th day of March, 2015.

Mia Perron

Mia Perron, CVR-CM-M
Circuit Court Reporter
9th Judicial Circuit

MIA PERRON, CVR-CM-M

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JAN - 9 2015

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT

Donovan R. Pringle, #338600,)

Case No. 2012-CP-22-0726

Applicant,)

v.)

State of South Carolina,)

Respondent.)

ORDER OF DISMISSAL

FILED
GEORGETOWN COUNTY, S.C.
2014 OCT 20 AM 10:36
ALMA Y. WHITE
CLERK OF COURT

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed July 10, 2012. Respondent made a timely Return on or about October 5, 2012. The Court convened an evidentiary hearing into the matter on August 28, 2014, at the Georgetown County Courthouse. Applicant was present at the hearing and represented by Tristan M. Shaffer, Esquire. Joshua L. Thomas, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

Applicant, Applicant's trial counsel, Attorney C. Reuben Goude, Applicant's mother, Carla Thompson, and Applicant's sister, Carlette Thompson, all testified at the evidentiary hearing. The Court had before it a copy of the trial transcript, the records of the Georgetown County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, and the return.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Georgetown County Clerk of Court. In July 2009, the



Georgetown County Grand Jury indicted Applicant for Armed Robbery (2009-GS-22-836) and Possession of a Weapon During the Commission of a Violent Crime (2009-GS-22-837). C. Reuben Goude, Esquire ("trial counsel"), represented Applicant. On December 14, 2009, Applicant proceeded to a jury trial before the Honorable Benjamin H. Culbertson. On December 15, 2009, the jury found Applicant guilty as indicted on both charges. Judge Culbertson sentenced Applicant to concurrent terms of twenty (20) years for Armed Robbery and five (5) years for Possession of a Weapon During the Commission of a Violent Crime.

Applicant filed a timely notice of appeal, and Elizabeth A. Franklin-Best, Esquire, of the Office of Appellate Defense, perfected the appeal. The South Carolina Court of Appeals affirmed Applicant's conviction on May 16, 2012. *State v. Pringle*, Op. No. 2012-UP-303 (S.C. Ct. App. filed May 16, 2012). The remittitur was returned to the circuit court on June 5, 2012.

ALLEGATIONS

In his application, Applicant alleged he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Trial Counsel"
2. "Fail to perform any Pretrial Investigation"
3. "Failure to properly give Notice of Alibi and a Complete Defense"
4. "Failure to object to closing argument of State"

At the evidentiary hearing, Applicant proceeded on only the allegations of ineffective assistance of trial counsel for failing to prepare and present an alibi defense.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court has reviewed the record in its entirety and has heard the testimony and arguments presented at the evidentiary hearing. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Trial counsel testified he was a part-time public defender appointed to Applicant's case. He testified he normally meets with clients immediately after receiving discovery, but could not recall how many meetings he had with Applicant because the public defender's office misplaced his file. Trial counsel recalled the State's only evidence were statements from Applicant's two co-defendants. The first co-defendant, Applicant's cousin, confessed to committing the robbery with Applicant during a taped interview with police. The second, Applicant's girlfriend, confessed she gave Applicant details of the location to be robbed and received a text message from Applicant after the robbery was complete. Trial counsel also recalled discussing the evidence, as well as reviewing the police reports, with Applicant.

Trial counsel recalled Applicant providing names of potential alibi witnesses who could testify Applicant was at home during the time that the robbery allegedly occurred. Trial counsel had each of the witnesses prepare statements detailing their knowledge of the case. He identified each of their statements as the items attached to Applicant's application. Trial counsel testified he had extensive discussions with Applicant about the witnesses that could be called to establish an alibi defense. Trial counsel testified Applicant did not wish to call his mother as a witness because she had a prior criminal record. Additionally, Applicant did not want to call his sister to testify on his behalf because she was nervous and confused. Trial counsel did not call either of these witnesses because neither could positively establish an alibi. Neither Applicant's mother nor sister could testify that they recalled Applicant's exact whereabouts at the time of the robbery. Trial counsel testified Applicant's mother could not account for Applicant after 1:30 AM the night of the robbery. Trial counsel also testified Applicant's mother's testimony may have been detrimental to Applicant's case as it would place Applicant and his cousin together the

day of the robbery. Trial counsel maintained that the decision to not call Applicant's mother or Applicant's sister was made jointly with Applicant, but trial counsel testified he would have called them if he believed they could have helped.

Applicant testified he only spoke to trial counsel four (4) times. He testified trial counsel did not review discovery with him, but they did have vague discussions about the State's evidence. Applicant averred trial counsel advised that Applicant's cousin would testify against him. Applicant recalled discussing calling his family as alibi witnesses, but claimed that he and trial counsel never discussed not calling his family as witnesses at trial. Applicant alleged he was under the impression his mother and sister would testify in his case. Despite Applicant's contention that he and trial counsel did not discuss his family's testimony, he alleged trial counsel refused to call them as witnesses because trial counsel had not spoken to them prior to trial.

Applicant testified he was sleeping at his mother's trailer the night of the robbery, which he stated was four to five minutes outside of Andrews, South Carolina. Applicant testified his mother, father, and two sisters were sleeping in the trailer with him. Applicant alleged the trailer had thin walls. Applicant further alleged he had not seen his cousin the night of the robbery. He testified he came home at 1:30 AM, played video games for two and a half hours, and went to bed.

Applicant's mother testified she never spoke with trial counsel personally, but that she did speak to his paralegal and prepared a statement. She testified she was present at Applicant's trial, but that she was kept out of the courtroom by the bailiffs. She testified her house has thin walls, which enables her to hear when cars pull into her driveway. She further stated she is a

light sleeper. Applicant's mother stated she was wrapping Christmas gifts all afternoon the day before the robbery. She testified Applicant returned home that evening and she did not hear him leave. She stated Applicant was at home when she awoke the next morning. Applicant's mother initially alleged she went to bed around 4:00 AM, but later claimed she was up between 4:00 AM and 5:00 AM and saw Applicant playing video games.

Applicant's sister testified she spoke to Applicant at 1:30 AM the night of the robbery when he returned home. She stated that she did see Applicant the next morning, but did not know if he left the house before then.

In a post-conviction relief action, the applicant bears the burden of proving the allegations in his application. *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing *Griffin v. Martin*, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." *Id.* at 442, 334 S.E.2d at 814 (citing *Strickland v. Washington*, 466 U.S. 668 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Id.* (citing *Strickland*, 466 U.S. at 687; *Turner v. Bass*, 753 F.2d 342 (4th Cir. 1985); *Marzullo v. Maryland*, 561 F.2d 540 (4th Cir. 1977)). Courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. *Id.* (citing *Strickland*, 466 U.S. at 690). The applicant must overcome this presumption in order to receive relief. *Cherry v. State*, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. *Id.* at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was deficient. *Id.* Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." *Id.* (citing *Strickland*, 466 U.S. at 688). Second, any deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* at 117-18, 386 S.E.2d at 625.

The Court finds Applicant failed to meet his burden of proving trial counsel ineffective for failing to present an alibi defense. Trial counsel had Applicant's witnesses prepare statements. Trial counsel reviewed these statements prior to trial, had the witnesses present in court, and was prepared to present their testimony. Trial counsel's investigation and preparation of Applicant's witnesses was reasonable under the circumstances.

Trial counsel articulated valid strategic reasons for not calling either of these witnesses at trial. *See Stokes v. State*, 308 S.C. 546, 548, 419 S.E.2d 778, 779 (1992) ("Where, as here, counsel articulates a valid reason for employing certain strategy, such conduct will not be deemed ineffective assistance of counsel." (citing *Whitehead v. State*, 308 S.C. 119, 417 S.E.2d 529 (1992))). Applicant and trial counsel discussed the witness's testimony during trial and Applicant instructed trial counsel to not call the witnesses. Although tactical decisions at trial are left to counsel, consultation with a defendant about trial strategy is always a prudent measure. *See Abney v. State*, 408 S.C. 41, 52, 757 S.E.2d 544, 550 (Cl.App. 2014) (Pieper, J., concurring), *reh'g denied* (Apr. 24, 2014). Applicant told trial counsel not to call these witnesses and cannot now complain that trial counsel did not utilize them. Furthermore, trial counsel indicated these

witnesses would not be able to provide helpful information. Applicant's sister was nervous and confused about dates. Applicant's mother's statement to some extent bolstered the State's case by corroborating the stories of Applicant's cousin and girlfriend. The Court finds that trial counsel offered a valid strategic reason to not present these witnesses.

The Court additionally finds Applicant was not prejudiced by the failure to call these witnesses because their testimony at the evidentiary hearing does not establish an alibi. For a witness to provide an alibi, his testimony must "prove that [the defendant] was at a place so distant that his participation in the crime was impossible." *State v. Robbins*, 275 S.C. 373, 375, 271 S.E.2d 319, 320 (1980) (quoting 21 Am. Jur. 2d *Criminal Law* § 136). The alibi testimony must "cover sufficient of the time at or before the crime to render the presence of accused impossible or highly improbable." *Id.* at 377, 271 S.E.2d at 321 (Ness, J., Dissenting). A purported alibi that leaves open the possibility the defendant is guilty "is no alibi at all." *Id.* at 375, 271 S.E.2d at 320 (quoting 21 Am. Jur. 2d *Criminal Law* § 136).

Applicant's sister's testimony did not establish an alibi defense for Applicant. She testified she saw Applicant at 1:30 AM, and again the next morning, but could not account for his whereabouts in the interim. Because she could not testify to Applicant's whereabouts immediately prior to 4:50 AM, Applicant's sister's testimony would not have provided an alibi for Applicant. See *Glover v. State*, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995) (witness' testimony regarding applicant's whereabouts hours before crime does not create an alibi).

Applicant's mother's testimony also failed to meet the standard for establishing an alibi defense. Her testimony changed between direct and cross-examination regarding key details, including what times she was asleep and what times she actually saw Applicant in her house.

Further, her testimony did not account for his whereabouts leading up to the time of the robbery. She initially testified she went to sleep at 4:00 AM, which would have left time for Applicant to have traveled the roughly twenty (20) miles to the crime scene. *See id.* Applicant's mother later testified she recalled being awake between 4:00 AM and 5:00 AM and she saw Applicant awake and playing video games during that hour. Applicant's own testimony placed him asleep at approximately 3:00 AM. The Court finds that Applicant's mother's testimony would have directly contradicted Applicant's own testimony and would have failed in establishing an alibi at trial. The Court finds Applicant has not demonstrated a reasonable probability his mother's testimony would have changed the result of his trial.

CONCLUSION

Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, Applicant's petition for post-conviction relief is denied and dismissed with prejudice.

IT IS THEREFORE ORDERED THAT the Application for Post-Conviction Relief is denied and dismissed with prejudice; and

IT IS FURTHER ORDERED THAT Applicant be remanded to the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 8th day of October, 2014.

Charles, South Carolina

THE HONORABLE KRISTI LEA HARRINGTON
Presiding Judge

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

DONOVAN R. PRINGLE, #338600

vs

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

2012-CP-22-0726

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a filed copy of the Order of Dismissal in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Tristan Michael Shaffer, Esquire
4701 Oleander Drive
Myrtle Beach, SC 29

DATED this 22ND day of October, 2014.


Norma Bigbee, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

DONOVAN R. PRINGLE # 338600,

Applicant,

vs.

THE STATE OF SOUTH CAROLINA,

Respondent.

) IN THE COURT OF COMMON PLEAS
) THE 15th JUDICIAL CIRCUIT

) Case No.: 2012-CP-22-0726

) MOTION TO ALTER OR AMEND AND
) MOTION TO RECONSIDER

FILED
GEORGETOWN COUNTY, S.C.
2014 OCT 31 PM 3:23
ALMA Y WHITE
CLERK OF COURT

On October 23, 2014, Applicant received the Order of Dismissal in the above referenced case. Pursuant to Rule 59(e), SCRCP, Applicant respectfully requests that the Court reconsider its order in this case. In addition the arguments raised at the hearing, Applicant would ask that the Court consider the following in support of this motion:

The Alibi Testimony

In its Order of Dismissal, the Court made various findings about the extent to which the alibi witnesses could establish an complete alibi. Applicant respectfully contends that the court erred in its recitation of the testimony. As a result, Applicant submits that the Court's ultimate conclusion, that the testimony failed to establish an alibi, is without factual support.

Applicant would respectfully requests that the Court reconsider the testimony at the evidentiary hearing. Applicant's witnesses provided an alibi for Applicant during the time of the incident. At the hearing the witnesses testified that he was at home and that they would have heard him if he left. The alibi witnesses testified that they lived in a remote location, and could not sneak out. Therefore, the alibi witness testimony does establish an alibi for Applicant. See *Walker v. State*, 407 S.C. 400, 406-07 756 S.E.2d 144 (2014) ("[U]nlike *Glover* where the

testimony of the alibi witnesses could have been true and the petitioner still could have committed the crime, it is not possible for Reed's testimony to be true and for Walker to have committed the crime."'). Therefore, Applicant respectfully requests that the Court reconsider its ruling on this issue.

Trial Strategy

The Court found that Trial Counsel had "valid strategic reasons" for not calling the witnesses. Applicant respectfully requests that this Court reconsider this ruling.

At the hearing, Trial Counsel testified that he did not have any strategy or defense in this case. Trial Counsel claimed that he did not present the witnesses because the jury would not have believed them. *Cf. Rosboro v. State*, 317 S.C. 292, 454 S.E.2d 312 (1995) (Holding that trial counsel's decision not to request an alibi charge because "[trial counsel] felt the alibi testimony 'did not come off too well in front of the jury'" was not a valid trial strategy."). Applicant would submit that it is unreasonable to choose "no defense" over an alibi defense. Therefore this is not a valid trial strategy.

Failure to Investigate

In the Order of Dismissal the Court found that "At the evidentiary hearing, Applicant proceeded on only the allegation of ineffective assistance of counsel for failing to prepare and present an alibi defense." Applicant would respectfully contend that much of the testimony dealt with the failure of Trial Counsel to conduct a pretrial investigation.

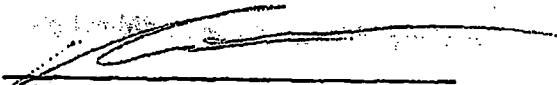
Trial Counsel did not speak with the alibi witnesses prior to trial. He had them fill out questionnaires. Had trial counsel spoken with these witnesses he would have learned that his mother's home had "thin walls" and that it was in a remote location. These facts would have been of assistance in determining whether to implement the alibi.

Applicant respectfully requests that this Court make a ruling based on the allegation of failure to investigate that was included in the PCR Application.

CONCLUSION

Based upon the foregoing arguments as well as the arguments set forth by Applicant at the hearing, Applicant respectfully requests that this Court grant him post-conviction relief.

RESPECTFULLY SUBMITTED,



Tristan Michael Shaffer
4701 Oleander Drive
Myrtle Beach, SC 29577
Phone: 843-916-9300
Tristan@gotaxelrod.com
SC Bar # 77565

Attorney for Applicant

18,
October 23, 2014

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
CASE NO.: 2012-CP-22-0726

Donovan R. Pringle, # 338600

Applicant,

v.

State of South Carolina,

Respondent

CERTIFICATE OF SERVICE

I, Christie Chestnut, paralegal for Axelrod & Associates, P.A., do hereby certify that I have this day properly served the foregoing Motion to Alter or Amend and Motion to Reconsider upon the State via U.S. Mail with sufficient postage affixed thereto and addressed as follows:

Joshua L. Thomas, Esquire
South Carolina Office of Attorney General
P.O. Box 11549
Columbia, South Carolina 29211

Christie Chestnut

Christie Chestnut, Paralegal
AXELROD & ASSOCIATES, P.A.
4701 Oleander Drive
Myrtle Beach, S.C. 29577
Office: (843) 848-6720
Fax: (843) 848-6721
Email: Christie@gotaxelrod.com

ALMA Y. WHITE
CLERK OF COURT

2014 OCT 31 PM 3:23

FILED
GEORGETOWN COUNTY, S.C.

Myrtle Beach, South Carolina
October 28, 2014

STATE OF SOUTH CAROLINA
COUNTY OF Georgetown
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2012- CP-22-726

Donovan R. Pringle, #338600

State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (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. ☐ See Page 2 for additional information.
- ☐ **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
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: The above matter came before the Court on Applicant's Motion to Alter or Amend and Motion to Reconsider. Upon review of the record, together with Applicant's Motions and the State's Return, the Court hereby DENIES Applicant's Motion to Alter or Amend and DENIES Applicant's Motion to Reconsider.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk:

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

2151
Judge Code

Date

This judgment was entered on the 13th day of NOV, 2014 and a copy mailed first class or placed in the appropriate attorney's box on this 14th day of NOV, 2014 to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE DEFENDANT(S)
Suma of Kane, Deps
 CLERK OF COURT

Court Reporter:

**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON
PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

WITNESSES

Georgetown Police Department

DOCKET NO. 2009-GS-22-00836

The State of South Carolina

County of Georgetown

Nancy K. Gunter

09G00449

COURT OF GENERAL SESSIONS

JULY, 2009 TERM

REST WARRANT NUMBER

J536806

CDR: 0139 §16-11-0330(A)

DOI: December 23, 2008

THE STATE

vs.

DONOVAN RAHEAM PRINGLE

Andrews, SC 29510

DOB: [REDACTED]

SSN: [REDACTED]

B/M

ACTION OF GRAND JURY

TRUE BILL

ATTORNEY: Goude, C. Reuben

Indictment for

VERDICT

Guilty

ARMED ROBBERY

Foreperson of Petit Jury

Date: *12/15/09*

J. Gregory Hembree, Solicitor

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

INDICTMENT

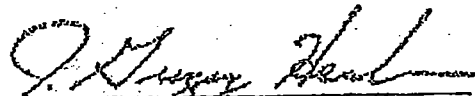
At a Court of General Sessions, convened on July 8, 2009, the Grand Jurors of Georgetown County present upon their oath:

ARMED ROBBERY

CDR: 0139 §16-11-0330(A)

That Donovan Raheam Pringle did in Georgetown County on or about December 23, 2008, while armed with a deadly weapon, to wit: a knife, take and carry away property of the Carolinian Inn from or in the immediate presence of Herman Michau, Jr. with intent to deprive the Carolinian Inn of possession by use of force, threats or intimidation, in violation of Section 16-11-0330(A), S. C. Code of Laws, 1976, as amended.

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


J. GREGORY HEMBREE NKG
FIFTEENTH CIRCUIT SOLICITOR

SCANNED

COUNTY OF Georgetown
 STATE VS.
Donovan Raheam Pringle
 AKA: _____
 Race: B Sex: M Age: 20
 DOB: [REDACTED] SS#: [REDACTED]
 Address: [REDACTED]
Andrews, SC 29510
 DL#: [REDACTED] SID#: _____

INDICTMENT/CASE#: 2009-GS-22-00836
 A/W#: J536806
 Date of Offense: 12/23/2008
 S.C. Code §: 16-11-0330(A)
 CDR Code #: 0139

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

In disposition of the said indictment comes now the Defendant who was
 TO: Armed Robbery

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Nancy G. Cole 76347
Cole, Nancy G. SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed X years
 and/or to pay a fine of \$ X; provided that upon the service of X days/months/years and/or payment
 of \$ X; plus costs and assessments as applicable*; the balance is suspended with probation for X

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 12/15/2009
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
☐ set by SCDPPPS _____

Recipient: _____
 *Fine: \$ _____
 § 14-1-206 (Assessments 107.5 %) \$ _____
 § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
 § 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____
 § 56-5-2995 (DUI Assessment) \$12 \$ _____
 § 56-1-286 (DUI Breath Test) \$25 \$ _____
 § 47.12 (Public Def/Prob) \$500 \$ _____
 § 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00
 § 14-1-213 (Drug Court Surcharge) \$100 \$ _____
 § 50-21-114 (BUI Breath Test Fee) \$50 \$ _____
 § 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
 § 90.7 (SCCJA Surcharge) \$5 \$ 5.00
 3% to County (if paid in installments) \$ 3.90
 TOTAL \$ 133.90

_____ days/hours Public Service Employment
 Obtain GED _____
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/B beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol testing _____
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ 25.00 beginning 1 mo after release
 \$ _____ paid to Public Defender Fund
 Other: _____

☐ Appointed PD or appointed other counsel, §47.12
 requires \$500 be paid to Clerk during probation.

Clerk of Court Deputy Clerk
 Court Reporter:
 SCCA/217 (06/2009)

PRESIDING JUDGE Margaret Culberson
 Judge Code: 21-1-1-18
 Sentence Date: Dec. 15, 2009 **CAWED**

WITNESSES

Georgetown Police Department

DOCKET NO. 2009-GS-22-00837 *YV*

The State of South Carolina

County of Georgetown

Nancy K. Gunter

09G00449

COURT OF GENERAL SESSIONS

JULY, 2009 TERM

REST WARRANT NUMBER

J536850

CDR: 0549 §16-23-0490

DOI: December 23, 2008

ACTION OF GRAND JURY

TRUE BILL

reperson of Grand Jury

Date: *7-7-09*

VERDICT

GUILTY

Foreperson of Petit Jury

Date: *12/15/2009*

THE STATE

vs.

DONOVAN RAHEAM PRINGLE

Andrews, SC 29510

DOB: [REDACTED]

SSN: [REDACTED]

B/M

ATTORNEY: Goude, C. Reuben

Indictment for

POSSESSION OF A WEAPON
DURING THE COMMISSION OF A
VIOLENT CRIME

J. Gregory Hembree, Solicitor

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

INDICTMENT

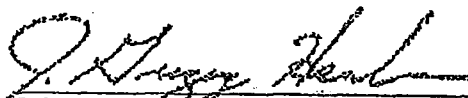
At a Court of General Sessions, convened on July 8, 2009, the Grand Jurors of Georgetown County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION
OF A VIOLENT CRIME

CDR: 0549 §16-23-0490

That Donovan Raheam Pringle did in Georgetown County, on or about December 23, 2008, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

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


J. GREGORY HEMBREE NKG
FIFTEENTH CIRCUIT SOLICITOR

SCANNED

STATE OF SOUTH CAROLINA

COUNTY OF Georgetown
 STATE VS.
Donovan Raheam Pringle
 AKA: _____
 Race: B Sex: M Age: 20
 DOB: [REDACTED] SS#: [REDACTED]
 Address: Andrews, SC 29510
 DL#: [REDACTED] SID#: _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009-GS-22-00837
 A/W#: J536850
 Date of Offense: 12/23/2008
 S.C. Code § : 16-23-0490
 CDR Code #: 0549

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was
 TO: Possession of a Firearm During Commission of a Violent Crime

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Nancy D. Cote 76347
Cote, Nancy G. SC Bar# _____ Defendant Attorney for Defendant SC Bar# _____

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed X years
 and/or to pay a fine of \$ X; provided that upon the service of X days/months/years and/or payment
 of \$ X; plus costs and assessments as applicable*; the balance is suspended with probation for X

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 12/15/2009
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
☐ set by SCDPPPS _____

Recipient: _____	\$
*Fine: _____	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100 \$
§ 56-5-2995 (DUI Assessment)	\$12 \$
§ 56-1-286 (DUI Breath Test)	\$25 \$
§ 47.12 (Public Def/Prob)	\$500 \$
§ 14-1-212 (Law Enforce. Funding)	\$25 \$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$100 \$
§ 50-21-114(BUI Breath Test Fee)	\$50 \$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
§ 90.7 (SCCJA Surcharge)	\$5 \$ <u>5.00</u>
3% to County (if paid in installments)	\$ <u>3.90</u>
TOTAL	\$ <u>133.90</u>

_____ days/hours Public Service Employment
 Obtain GED _____
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/B beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol testing _____
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ 20.00 beginning 1mo after release
 \$ _____ paid to Public Defender Fund
 Other: _____
☐ Appointed PD or appointed other counsel, §47.12
 requires \$500 be paid to Clerk during probation.

Clerk of Court/Deputy Clerk _____
 Court Reporter: Grace Hurley
 SCCA/217 (06/2009)

PRESIDING JUDGE Brianne M. Cullison
 Judge Code: 2111418
 Sentence Date: Dec. 15, 2009

SCANNED