

FILED



OCT 27 2015

S.C. Supreme Court

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Greenville County
Letitia H. Verdin, Circuit Court Judge

ANTONIO R. TRIMMIER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-000369

APPENDIX

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STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
COUNTY OF GREENVILLE	)	Case No(s) : 08-GS-23-2523
State of South Carolina,	)	
Plaintiff,	)	
-VS-	)	TRANSCRIPT OF RECORD
Antonio Trimmier,	)	
Defendant.	)	

October 5-6, 2009
Greenville, South Carolina

B E F O R E :

HONORABLE JOHN C. FEW, Judge.

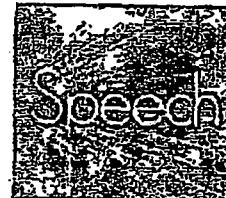
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(No exhibits offered.)

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(No exhibits offered.)

P R O C E E D I N G S

(WHEREUPON, the jury panel enters at approximately 11:56 AM.)

THE COURT: We are now ready for jury selection in the case of the State versus South Carolina versus Antonio Trimmier.

Did I pronounce it correctly?

MRS. LACKLAND: Yes, it is.

THE COURT: Mr. Trimmier has been indicted in Indictment number 2008-GS-23-2523 for two counts. In Count 1 for Armed Robbery, it is alleged Antonio Trimmier did in Greenville County on or about the third day of January 2008, while armed with a deadly weapon or while alleging either by action or words that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, did take by means of force or intimidation goods or monies described as U.S. Currency from the person or presence of Leonard Pugh. This is in violation of Section 16-11-330 of the South Carolina Code of Laws.

In Count 2, he ~~is~~ indicted for Possession of

1 a Weapon during the Commission of a Violent
2 Crime. And in that count, it is alleged that
3 Antonio Trimmier did in Greenville County on or
4 about the third day January 2008 possess or
5 visibly display a handgun during the commission
6 or attempted commission of violent crime, to wit:
7 Armed Robbery. This is in violation of Section
8 16-23-490 of the South Carolina Code of Laws.

9 Ladies and Gentlemen, for those of you who
10 are selected to serve on the jury, after jury
11 selection is complete, I will take time to
12 explain to you some of the concepts and legal
13 principles that will apply to your jury service.
14 I want to take a moment right now and talk to you
15 about the indictment that I just read to you.

16 The indictment is not in any sense evidence
17 of the allegations that are contained within the
18 indictment. The indictment is simply the formal
19 document that contains the allegations that have
20 been made against the Defendant. The indictment
21 serves to process the case and bring it into this
22 court for trial.

23 The Defendant pled not guilty to each of the
24 two counts of the indictment. The plea of not
25 guilty cast the burden on the State to prove the

Jury Qualification

7

1 Defendant guilty beyond a reasonable doubt. For
2 those of you who are selected to serve on the
3 jury in this case, that will be your job to
4 determine whether or not the State has met that
5 burden of proof.

6 We are about to go through another series of
7 questions and answers that are similar in format
8 to those I asked you downstairs just a few
9 minutes ago. Please listen very carefully to
10 these questions. If you have any information
11 that is responsive to a question that I ask, I
12 would like for you to stand, tell me your name
13 and tell me your information.

14 Just as I told you downstairs, if you have
15 any reason why you don't want to stand and give
16 your information out loud in front of other
17 members of the jury, you can just tell me at that
18 time you would like to speak to me privately. I
19 will get you down front to speak with me and with
20 the attorneys. If you know something about this
21 case or if you know some of the people who will
22 be involved in this case and you think that
23 giving your information out loud in front of
24 other members of the jury might expose those
25 other jurors to information that they should not

1 be exposed to, then in that event, you must come
2 down front and talk with me privately.

3 I will remind you that you are still under
4 oath from the oath you took downstairs. We will
5 start by having the Solicitor introduce herself
6 and anyone who is assisting you in the
7 prosecution. I will cover the witnesses in a few
8 minutes.

9 **MRS. SALISBURY:** Thank you, Your Honor. Good
10 morning. My name is Katryna Salisbury. I
11 prosecute cases here in Greenville. My
12 investigator, Lindsey Kicklighter, will be
13 assisting me throughout the trial in this case.
14 The lead investigator on the case is Investigator
15 David Weiner with the Sheriff's office.

16 **THE COURT:** Any member of the jury panel who
17 is related by blood or marriage to Mrs. Salisbury
18 or to Mrs. Kicklighter or do you know either one
19 of these ladies in any fashion? If so, please
20 stand.

21 Mr. Grounsell.

22 **THE JUROR:** I know Mrs. Kicklighter.

23 **THE COURT:** How do you know her?

24 **THE JUROR:** Professional relationship in
25 cases.

Jury Qualification

1 THE COURT: You are formally an officer with
2 the city?

3 THE JUROR: I was an investigator with the
4 Sheriff's Office.

5 THE COURT: Sheriff's Office. All right. Do
6 you still maintain your commission?

7 THE JUROR: It has expired.

8 THE COURT: It has expired?

9 THE JUROR: It has expired.

10 THE COURT: All right. Would the fact that
11 you know Mrs. Kicklighter and have worked with
12 her and also with other members in the
13 Solicitor's Office on cases in the past, would
14 that interfere in any way with either your
15 willingness or your ability to give both the
16 State and the Defendant a fair and impartial
17 trial?

18 THE JUROR: No, sir.

19 THE COURT: All right, sir. Thank you.

20 Mrs. Salisbury works for Solicitor Bob Ariail
21 who is the elected Solicitor of this circuit. Mr.
22 Ariail has the responsibility of prosecuting
23 cases not only here in Greenville County but also
24 in Pickens County. He has a staff of lawyers and
25 non-lawyers to assist him in doing that. Is there

1 any member of the jury panel who is related by
2 blood or marriage to Mr. Ariail or to anyone who
3 works for him or do you know Mr. Ariail or anyone
4 who works for him? If so, please stand.

5 Mr. Morton.

6 THE JUROR: I know Mr. Ariail.

7 THE COURT: Would you briefly describe how
8 you know him?

9 THE JUROR: Socially and our children grew up
10 together.

11 THE COURT: Approximately how often do you
12 see Mr. Ariail?

13 THE JUROR: Probably twice a year.

14 THE COURT: All right. Thank you.

15 Mr. Grounsell.

16 THE JUROR: I know several of the solicitors.

17 THE COURT: You know them from working on
18 cases?

19 THE JUROR: Very professional.

20 THE COURT: You have any personal
21 relationships outside of your work or your former
22 work with anyone who works with the Solicitor's
23 Office?

24 THE JUROR: No, sir.

25 THE COURT: All right. Thank you.

Jury Qualification

11

1 Yes, sir.

2 THE JUROR: I know --

3 THE COURT: Your name please.

4 THE JUROR: Adam Lee.

5 THE COURT: Mr. Lee.

6 THE JUROR: I know Charlie Bondurant with the
7 Solicitor's Office.

8 THE COURT: Tell me how you know Mr.
9 Bondurant.

10 THE JUROR: Law school.

11 THE COURT: Since law school, how often have
12 you seen Mr. Bondurant?

13 THE JUROR: Often.

14 THE COURT: And do you ever talk to him about
15 his cases?

16 THE JUROR: No.

17 THE COURT: Does Mr. Bondurant have any
18 direct involvement in this case?

19 MRS. SALISBURY: No, Your Honor.

20 THE JUROR: No, sir.

21 THE COURT: Thank you, Mr. Lee.

22 Yes, sir.

23 THE JUROR: I know Christy Kednocker with the
24 Solicitor's Office. I grew up her. I seen her a
25 few times socially but I have not seen her

1 probably in a year and a half or two years.

2 THE COURT: All right. Thank you.

3 Yes, ma'am.

4 THE JUROR: I saw a gentleman in the hallway.
5 I'm not sure if he works for the Solicitor's
6 Office. Jeff Weston.

7 THE COURT: He does. He's a prosecutor in
8 the Solicitor's Office. Tell me your name please,
9 ma'am.

10 THE JUROR: Patricia Bynum Fuller.

11 THE COURT: Bynum Fuller?

12 THE JUROR: Yes.

13 THE COURT: How do you know Mr. Weston?

14 THE JUROR: I did some volunteer work with
15 his wife.

16 THE COURT: How long ago was that?

17 THE JUROR: Last year.

18 THE COURT: Through that volunteer work, did
19 you have any actual interaction with Mr. Weston
20 or was it just his wife?

21 THE JUROR: I did have some interaction with
22 Mr. Weston.

23 THE COURT: Thank you, Mrs. Bynum Fuller.
24 Would the fact that you know employees of the
25 Solicitor's Office as you have described that,

1 would that interfere in any way with either your
2 willingness or your ability to give both the
3 State and the Defendant a fair and impartial
4 trial? Mr. Morton?

5 THE JUROR: No.

6 THE COURT: Mr. Grounsell?

7 THE JUROR: No, sir.

8 THE COURT: Mr. Lee?

9 THE JUROR: No, sir.

10 THE COURT: Mr. Wagner?

11 THE JUROR: No, sir.

12 THE COURT: Mrs. Bynum Fuller?

13 THE JUROR: No, sir.

14 THE COURT: Mrs. Lackland, would you please
15 introduce yourself, your co-counsel and your
16 client?

17 MRS. LACKLAND: My name is Amanda Lackland.
18 I'm representing Antonio Trimmier. With me is
19 Brian Johnson, another attorney in our office.

20 THE COURT: Mr. Trimmier, please stand and
21 face the jury. Thank you, sir. You can be
22 seated.

23 Any member of the jury panel related by blood
24 or by marriage to Mrs. Lackland, to Mr. Johnson
25 or to Mr. Trimmier or do you know anyone of them

1 in any way? If so, please stand. (No Response)

2 I am going to read to you a list of potential
3 witnesses. After I have done that, I'm going to
4 ask you whether you know or are related to any of
5 the potential witnesses. If the witness is in
6 the courtroom when I call your name, please
7 stand.

8 Dr. Leonard Pugh. Thank you, sir.

9 Deputy Justin Lanford, Greenville County
10 Sheriff's office. Thank you.

11 Investigator David Weiner, Greenville County
12 Sheriff's office. Weiner. I'm sorry.

13 Investigator Brandon Brown, Greenville County
14 Sheriff's office, Donquavis West.

15 Dashaun James. Thank you, Mr. James.

16 Marteze Hardy. Thank you, Mr. Hardy.

17 Keith Williams. Captain Jimmy or Jinny
18 Moran, Sergeant Dana Lewis. Any additional
19 witnesses?

20 MRS. SALISBURY: None from the State, Your
21 Honor.

22 MRS. LACKLAND: None from the defense.

23 THE COURT: Any member of the jury related by
24 blood or marriage to any of these potential
25 witnesses or do you know any of them in any way?

1 If so, please stand.

2 All right. Mr. Grounsell.

3 THE JUROR: I know Investigator Weiner and
4 Investigator Brandon Brown.

5 THE COURT: This is from working with them at
6 the Sheriff's Office?

7 THE JUROR: Brandon and I went to high school
8 together.

9 THE COURT: All right. How long has it been
10 since you were with the Sheriff's Office?

11 THE JUROR: I left the Sheriff's Office in
12 '05.

13 THE COURT: Okay. Since then, have you had
14 much communication with Investigator Weiner or
15 Investigator Brown?

16 THE JUROR: No.

17 THE COURT: None?

18 THE JUROR: No.

19 THE COURT: Thank you.

20 Yes, sir.

21 THE JUROR: Jeffrey Hanson. Dr. Pugh is my
22 doctor.

23 THE COURT: How long have you been going to
24 Dr. Pugh?

25 THE JUROR: A little over a year.

1 THE COURT: What is your specialty?

2 THE WITNESS: Internal medicine.

3 THE COURT: Internal medicine? Okay.

4 Uh, tell me your name again please.

5 THE JUROR: Jeffrey Henson. H-E-N-S-O-N.

6 THE COURT: All right. Thank you.

7 Yes, ma'am.

8 THE JUROR: Dr. Pugh was in the group of
9 doctors that I saw several years ago. I never
10 saw him again.

11 THE COURT: What is your name?

12 THE JUROR: Mary Lyda.

13 THE COURT: How long have you been going to
14 that group, ma'am?

15 THE JUROR: I went to that group three or
16 four years before it disbanded. I have not been
17 in that group for three years.

18 THE COURT: All right. Thank you, Mrs. Lyda.

19 Would the fact that you folks know with these
20 potential witnesses interfere in any way with
21 either your willingness or your ability to give
22 both the State and the Defendant a fair and
23 impartial trial? Mr. Grounsell?

24 THE JUROR: No, sir.

25 THE COURT: Mr. Henson.

1 THE JUROR: Yes, sir.

2 THE COURT: Come up here to the rail. I will
3 speak to you in just a moment.

4 Mrs. Lyda?

5 THE JUROR: No, sir.

6 THE COURT: Let me see you up here for a
7 minute please.

8 (WHEREUPON, the following bench conference is
9 held with Juror Number 107, David Henson at
10 approximately 12:08 PM.)

11 THE COURT: All right. As a member of the
12 jury and as all jurors are instructed, you will
13 be instructed that it will be your responsibility
14 to set aside any personal relationship you may
15 have or any prior knowledge you may have about
16 the case or about the witness or other parties
17 and to come forward with an open mind and listen
18 carefully to all the testimony and evidence and
19 then to render a verdict that is based solely on
20 that testimony and solely on the evidence
21 presented before you.

22 We realize there are people who have
23 difficulty with this. This is why we go through
24 this process of asking these questions. Do you
25 want -- let me ask you, do you know anything

1 about the case?

2 THE JUROR: No, sir.

3 THE COURT: No one ever told you anything
4 about the case?

5 THE JUROR: No, sir.

6 THE COURT: Do you believe that the fact that
7 you go to this doctor would interfere with your
8 ability to follow the instructions I just
9 outlined for you?

10 THE JUROR: Based on those facts, no, sir.

11 THE COURT: Based on the legal instruction I
12 just gave you?

13 THE JUROR: I can follow the legal
14 instruction.

15 THE COURT: If Dr. Pugh is called as a
16 witness to testify -- I don't know yet whether he
17 will or not but his testimony could end up being
18 important to the outcome of the case. Would you
19 be able to judge his credibility as a witness as
20 to what you see and hear in the courtroom without
21 bringing in some preconceived conception of
22 whether he is a credible witness or not or would
23 you have difficulty?

24 THE JUROR: Based on the fact that I've only
25 seen him probably twice in the year and a half

1 that he has been my doctor, I think I can base my
2 opinion on what I hear in court.

3 THE COURT: All right. Let me ask you, if you
4 don't mind, to step into the rail. Let me speak
5 to the lawyers for a just second and than I will
6 get you back up here. Thank you.

7 (WHEREUPON, the juror exits the bench conference
8 at approximately 12:10 PM.)

9 THE COURT: Okay. Are there any further
10 questions that you would like for me to ask him?

11 MRS. LACKLAND: I don't think so. No, Judge.
12 I can't think of any other questions.

13 THE COURT: Okay. You want him excused for
14 cause?

15 MRS. LACKLAND: I would, yes.

16 THE COURT: Okay. Do you have anything to
17 say?

18 MRS. SALISBURY: I think he suggested he
19 could be sufficient and can consider the
20 evidence. He articulated that very well.

21 THE COURT: I think I'm going to strike him
22 for cause.

23 MRS. LACKLAND: Okay.

24 THE COURT: Come up for just a second, sir.

25 (WHEREUPON, the juror approaches the bench

1 conference at approximately 12:12 PM.)

2 **THE COURT:** Thank you for bringing that to
3 our attention. I'm going to go ahead and take
4 you out of consideration for this case.

5 **THE JUROR:** Okay.

6 (WHEREUPON, the bench conference concludes at
7 approximately 12:12 PM.)

8 **THE COURT:** Did you all hand up any voir
9 dire?

10 **MRS. SALISBURY:** None from the State.

11 **MRS. LACKLAND:** None from the defense.

12 **THE COURT:** Is there any member of the jury
13 panel who has ever heard of anything or otherwise
14 learned anything about the allegations that have
15 been made in this case? If so, please stand.

16 (No response).

17 Is there any member of the jury panel who has
18 any particular interest in the outcome of this
19 case? If so, please stand. (No response).

20 Is there any member of the jury panel who has
21 formed or expressed any opinion as to the guilt
22 or innocence of this Defendant? If so, please
23 stand. (No response).

24 Is there any member of the jury who has any
25 bias or prejudice either towards or against the

1 State or the Defendant in connection with this
2 case? If so, please stand. (No response).

3 Is there any member of the jury panel who,
4 knows of any reason why you could not give both
5 the State and the Defendant a fair and impartial
6 trial? If so, please stand. (No response).

7 Any additional voir dire?

8 MRS. SALISBURY: None from the State, Your
9 Honor.

10 MRS. LACKLAND: None from the defense.

11 THE COURT: Now, Ladies and Gentlemen of the
12 jury, we are going to strike a jury. Your names
13 have been sorted randomly by computer. They will
14 be called one at a time. When your name is
15 called, please come down to the front here to the
16 center of the courtroom and stand in front of the
17 podium. We will first hear from Mrs. Salisbury
18 who will ask either that you be excused or that
19 you be presented to the defense.

20 If you're excuse, you can return to your
21 seat. If you're presented to the defense, then
22 we will hear from Mrs. Lackland who will also ask
23 that you be excused or that you will be seated on
24 the jury. We will continue with that process
25 until we have us a jury and at least one

1 alternate. You might want to go ahead and bring
2 your personal belongings when you come up in case
3 you get seated, you won't have to go back to your
4 chair afterwards.

5 Madam Clerk.

6 **THE CLERK:** Juror number 185, Noreen
7 Pelliccio.

8 What says the State?

9 **MRS. SALISBURY:** Please present
10 Mrs. Pelliccio.

11 **MRS. LACKLAND:** Please seat the juror.

12 **THE CLERK:** Thank you. You can have a seat
13 in the jury box.

14 Juror 222, Roby Stjernvall.

15 What says the State?

16 **MRS. SALISBURY:** Please present
17 Mr. Stjernvall.

18 **MRS. LACKLAND:** Please seat Mr. Stjernvall.

19 **THE CLERK:** Thank you. You may be seated in
20 the jury box.

21 Juror number 238, Sherri Vick.

22 What says the State?

23 **MRS. SALISBURY:** Please present Mrs. Vick.

24 **MRS. LACKLAND:** Please excuse Mrs. Vick.

25 **THE CLERK:** Thank you. You may be seated.

1 You are excused from this trial.
2 Juror 159, Wanda Melton.
3 What says the State?
4 MRS. SALISBURY: Please present Mrs. Melton.
5 MRS. LACKLAND: Please excuse Mrs. Melton.
6 THE CLERK: Thank you. You may be seated.
7 You are excused from this trial.
8 Juror number 117, Casey Hovis.
9 What says the State?
10 MRS. SALISBURY: Please present Mrs. Hovis.
11 MRS. LACKLAND: Please excuse Mrs. Hovis.
12 THE CLERK: Thank you. You may be seated.
13 You are excused from this trial.
14 Juror number 39, Robert Cheatham.
15 What says the State?
16 MRS. SALISBURY: Please excuse Mr. Cheatham.
17 THE CLERK: Thank you. You may be seated.
18 You are excused from this trial.
19 Juror 223, James Stringfield.
20 What says the State?
21 MRS. SALISBURY: Please excuse
22 Mr. Stringfield.
23 THE CLERK: Thank you. You may be seated.
24 You are excused from this trial.
25 Juror 146, Dewanda Martin.

1 What says the State?

2 **MRS. SALISBURY:** Please present Mrs. Martin.

3 **MRS. LACKLAND:** Please excuse Mrs. Martin.

4 **THE CLERK:** Thank you. You may be seated.

5 You are excused from this trial.

6 Juror number 143, Debbie Lyles.

7 What says the State?

8 **MRS. SALISBURY:** Please present Mrs. Lyles.

9 **MRS. LACKLAND:** Please seat Mrs. Lyles.

10 **THE CLERK:** You may be seated.

11 Juror 107, David Henson.

12 What says the State?

13 **MRS. SALISBURY:** Please present Mr. Henson.

14 **THE CLERK:** Thank you.

15 **MRS. LACKLAND:** Please seat Mr. Henson.

16 **THE CLERK:** Thank you. You may be seated in

17 the jury box.

18 Juror 94, Keith Grounsell.

19 What says the State?

20 **MRS. SALISBURY:** Please present

21 Mr. Grounsell.

22 **MRS. LACKLAND:** Please excuse Mr. Grounsell.

23 **THE CLERK:** Thank you. You may be seated.

24 You may be excused from this trial.

25 Juror number 239, Naomi Viola.

1 What says the State?

2 MRS. SALISBURY: Please present Mrs. Viola.

3 THE CLERK: What says the Defendant?

4 MRS. LACKLAND: Please excuse Mrs. Viola.

5 THE CLERK: Thank you. You may be seated.

6 You are excused from this trial.

7 Juror number 27, Patricia Bynum Fuller.

8 What says the State?

9 MRS. SALISBURY: Please present Mrs. Bynum-
10 Fuller.

11 MRS. LACKLAND: Please excuse Mrs. Bynum-
12 Fuller.

13 THE CLERK: Thank you. You may be seated.
14 You're excused from this trial.

15 Juror number 85, Janet Gerstner.

16 What says the State?

17 MRS. SALISBURY: Please present
18 Mrs. Gerstner.

19 MRS. LACKLAND: Please seat Mrs. Gerstner.

20 THE CLERK: Thank you. You may be seated in
21 the jury box.

22 Juror Number 140, John Love.

23 What says the State?

24 MRS. SALISBURY: Please present Mr. Love.

25 MRS. LACKLAND: Please seat Mr. Love.

1 THE CLERK: Thank you. You may be seated in
2 the jury box.

3 Juror 193, Mark Price.

4 MRS. SALISBURY: Please present Mr. Price.

5 MRS. LACKLAND: Please seat Mr. Price.

6 THE CLERK: Thank you. You may be seated in
7 the jury box.

8 Juror number 91, Nannette Greer.

9 MR. TRIMMIER: Please present Mrs. Greer.

10 MRS. LACKLAND: Please seat Mrs. Greer.

11 THE CLERK: Thank you. You may be seated in
12 the jury box.

13 Juror 234, Kevin Torok.

14 What says the State?

15 MRS. SALISBURY: Please present Mr. Torok.

16 MRS. LACKLAND: Please seat Mr. Torok.

17 THE CLERK: Thank you. You may be seated in
18 the jury box.

19 Juror 243, Bruce Ward.

20 What says the State?

21 MRS. SALISBURY: Please excuse Mr. Ward.

22 THE CLERK: Thank you. You may be seated.
23 You are excused from this trial.

24 Juror 192, Martin Powell.

25 What says the State?

1 MRS. SALISBURY: Please present Mr. Powell.

2 MRS. LACKLAND: Please excuse Mr. Powell.

3 THE CLERK: You may be seated. You are
4 excused from this trial.

5 Juror 213, David Smith.

6 What says the State?

7 MRS. SALISBURY: Your Honor, may we briefly
8 approach?

9 THE COURT: You may.

10 (WHEREUPON, the following bench conference is
11 held at approximately 12:23 PM.)

12 THE COURT: Mr. Smith, step back to the rail
13 for just one second please.

14 MRS. SALISBURY: In qualifications, according
15 to my record, this juror has a conviction for
16 Possession of Crack in 2001. The State's motion
17 is that he be struck for cause.

18 THE COURT: Mr. Smith, come up for a second
19 please.

20 (WHEREUPON, Juror Number 213, David E. Smith
21 approaches the bench conference at approximately
22 12:23 PM.)

23 THE COURT: A lot of times we get names mixed
24 up especially with a common name like David
25 Smith. We have got a record that shows you have

1 a conviction for a drug-related crime. It could
2 be mistake..

3 THE JUROR: It is a misdemeanor.

4 THE COURT: It shows that it is Possession of
5 Crack. Is that what it was?

6 THE JUROR: Yes. I did not serve any jail
7 time or nothing. That's why did not say anything
8 cause they said serve a year of jail time. That's
9 why I did not say anything. You asked that
10 question and that's why I did not say anything.

11 THE COURT: All right. I'm going to let you
12 return to your seat.

13 THE JUROR: That's fine.

14 THE COURT: Thank you. You can go back to
15 your seat.

16 (WHEREUPON, the juror exits the bench conference
17 at approximately 12:25 P.M.)

18 THE COURT: All right. That conviction
19 disqualifies him. Of course, jury qualification
20 is over. The important thing is that he
21 misrepresented whether or not he had a
22 conviction. The way I described how a conviction
23 qualifies is very clear. Not easy for someone to
24 misunderstand. I don't think he misunderstood.
25 He, for whatever reason, was trying to get on the

1 jury. Anyway, I am striking him for cause.

2 (WHEREUPON, the bench conference concludes at
3 approximately 12:26 PM.)

4 THE CLERK: Juror number 156, Benny
5 McKittrick.

6 What says the State?

7 MRS. SALISBURY: Please present
8 Mr. McKittrick.

9 MRS. LACKLAND: Please excuse Mr. McKittrick.

10 THE CLERK: Thank you. You may be seated.
11 You are excused from this trial.

12 Juror number 6, Michael Bailey.

13 MRS. SALISBURY: Please present Mr. Bailey.

14 MRS. LACKLAND: Please seat Mr. Bailey.

15 THE CLERK: Thank you. You may be seated in
16 the jury box.

17 Juror number 38, Bobby Center.

18 What says the State?

19 MRS. SALISBURY: Please present Mr. Center.

20 MRS. LACKLAND: Please seat Mr. Center.

21 THE CLERK: Thank you. You may be seated in
22 the jury box.

23 Juror Number 240, Daniel Wagner.

24 What says the State?

25 MRS. SALISBURY: Please present Mr. Wagner.

1 MRS. LACKLAND: Please seat Mr. Wagner.
2 THE CLERK: Thank you. You may be seated.
3 Juror number 155, Kimberly McKinney.
4 What says the State?
5 MRS. SALISBURY: Please present
6 Mrs. McKinney.
7 MRS. LACKLAND: Please seat Mrs. McKinney.
8 THE CLERK: Thank you. Please be seated.
9 THE COURT: We will get one alternate.
10 Strikes are one and two.
11 THE CLERK: Juror number 142, Mary Lyda.
12 What says the State?
13 MRS. SALISBURY: Please present Mrs. Lyda.
14 MRS. LACKLAND: Please excuse Mrs. Lyda.
15 THE CLERK: Thank you. You may be seated.
16 You are excused from this trial.
17 Juror number 12, Judy Bikas.
18 What says the State?
19 MRS. SALISBURY: Please present Mrs. Bikas.
20 THE CLERK: What says the Defendant?
21 MRS. LACKLAND: Please seat the juror.
22 THE CLERK: Thank you. You may be seated in
23 the jury box.
24 THE COURT: Any exception to the composition
25 or manner of selection of the jury?

1 MRS. SALISBURY: None from the State.

2 MRS. LACKLAND: None from the defense.

3 THE COURT: Other than what we already
4 discussed -- other than what we already
5 discussed, are there pretrial issues we need to
6 take up before opening statements?

7 MRS. SALISBURY: Not from the State, Judge.

8 MRS. LACKLAND: I have just a few pretrial
9 issues.

10 THE COURT: All right. Are any of them
11 lengthy?

12 MRS. LACKLAND: No.

13 THE COURT: We are going to go ahead now and
14 break for lunch. I know that there are several
15 things I'm going to have to do in this case and
16 in other cases before we start back that will not
17 require your presence. The lunch will be a
18 little bit longer for you all than a normal lunch
19 would be.

20 I'm going to ask you all to be back in the
21 jury room at 2:15. The bailiff will show you the
22 jury room. Instead of reporting downstairs to
23 the first floor like you did this morning, you
24 will come on up here and report to the jury room
25 on the third floor.

1 When you get back, one of the first things
2 that I will do is spend a few minutes talking to
3 you about some of the principles that will govern
4 your service as jurors. One of the things I will
5 tell you is that you will not be allowed to
6 discuss the case in any manner until I have given
7 you permission to begin with your deliberations.

8 While you are in the jury room, when you are
9 returning from lunch and at any other time during
10 the trial, you all can talk among yourselves but
11 you can not talk about the case. You can't
12 discuss the witnesses. You can't discuss the
13 allegations. You can't discuss anything about the
14 case. Just talk about something else. Talk
15 about the mighty Gamecocks or the struggling
16 Tigers or something like that. So please be in
17 the jury room up here on the third floor at 2:15.
18 I will see you all at that time. Have a nice
19 lunch.

20 (WHEREUPON, the jury exit at approximately
21 12:31 PM.)

22 THE COURT: Does she still need them?

23 THE CLERK: Yes.

24 THE COURT: She wants them back?

25 THE CLERK: Uh --

1 **THE COURT:** We are having trouble
2 interpreting an e-mail that came from the Jury
3 Assembly Room as to whether or not you all are
4 needed this afternoon for the selection of
5 another jury. So, uh, let's just have a moment.

6 Can you check to see -- did you ever hear
7 from Mr. Harbin?

8 **MRS. SALISBURY:** No, sir. My investigator is
9 trying to contact him at this moment.

10 **THE COURT:** He is?

11 I think that you all are needed for the
12 selection of another jury. We got another e-mail
13 that -- actually, that might have been a phone
14 call. She is going to check.

15 **THE CLERK:** Yes.

16 **THE COURT:** So I need you all to go back down
17 to the Jury Assembly Room on the first floor.
18 You will be given further instructions there. I
19 will see you sometime later this week.

20 (WHEREUPON, the jury panel exit at approximately
21 12:33 PM.)

22 **MRS. LACKLAND:** One of the first things that
23 we ask is that we sequester all the witnesses.

24 **THE COURT:** Okay.

25 **MRS. LACKLAND:** We would also ask -- and I

1 spoke to the Solicitor about this. There is, as
2 part of discovery, some references to gang
3 activity. The Solicitor informed me that she
4 does not plan to introduce any of that as part of
5 her case-in-chief. I relied on that in preparing
6 for the trial today. I just ask that she confirm
7 that, Your Honor, and instruct her witnesses not
8 to mention anything gang-related.

9 THE COURT: Is there any particular danger
10 that this might come up? Any particular place
11 where someone might be likely to say something
12 about gang activity?

13 MRS. SALISBURY: Judge, I have instructed my
14 witnesses that they are not discuss any respected
15 gang affiliation unless they are specifically
16 asked. I would just ask that if I am prohibited
17 from inquiring as to the Defendant's affiliation
18 with a gang that the Defendant equally be
19 prohibited from insinuating that my co-
20 defendants, my testifying witnesses are
21 affiliated with gangs themselves.

22 THE COURT: I think you all have reached an
23 agreement that you will not, you will attempt not
24 to mention any gang activity and I will just stay
25 out of that.

1 **MRS. SALISBURY:** Judge, I will just mention
2 and I told Mrs. Lackland this when we spoke last
3 week, though it is not part of the State's case-
4 in-chief, there is some potential for the issue
5 of the Defendant's, all of the Defendant's
6 respective affiliations to become an issue at
7 trial. I don't want to mislead the Court and
8 suggest that under no circumstances would it
9 become relevant or become an issue in the case.
10 It is just at this point not part of the State's
11 case-in-chief.

12 **THE COURT:** Okay.

13 **MRS. LACKLAND:** One of my concerns was just
14 that one of the co-defendants has a written
15 statement. I don't know whether the Solicitor
16 plans to introduce it. It is mentioned in his
17 written statement. I don't know if that is going
18 to be introduced or not but we would ask for a
19 redacted copy for the jury to see.

20 **THE COURT:** What she is telling you is that
21 as long as you don't open the door to it, she is
22 not going to go into it herself. Now, back to
23 the sequestration of witnesses. What arguments
24 do you make in favor of your motion to sequester
25 of witnesses?

1 **MRS. LACKLAND:** There are some discrepancies.
2 I think it would be in the best interest if they
3 didn't hear what each other say based on the
4 statements they have already given. I think that
5 would influence the testimony of each other.

6 **THE COURT:** Okay. I think that our law is
7 fairly clear that in order to sequester
8 witnesses, you have to have more than just the
9 danger that they might compare their stories and
10 conform their testimony to that of each other.
11 Unless there is more that you want to argue, I
12 will rule.

13 **MRS. LACKLAND:** I don't have anything else at
14 this time.

15 **THE COURT:** All right. I deny the motion to
16 sequester the witnesses.

17 **MRS. LACKLAND:** One more thing, Your Honor,
18 to bring up. There is an issue with Deputy
19 Weiner. He spoke to Mr. Trimmier at one point.
20 I believe there is an issue with Mr. Trimmier
21 making statements such as, he said he was called
22 a racist cracker and was belligerent out in the
23 parking lot after his arrest. We would ask that
24 that --

25 **THE COURT:** Who said that?

1 MRS. LACKLAND: Allegedly Mr. Trimmier.

2 THE COURT: Said --

3 MRS. LACKLAND: Called Deputy Weiner a racist
4 cracker and was belligerent after his arrest. I
5 would argue that it is irrelevant, first of all,
6 and also unfairly prejudicial.

7 THE COURT: I think that, uh, -- well, I mean
8 -- I mean, ordinarily, the Defendant's behavior
9 after an arrest is not irrelevant. I am not sure
10 about the comment. Do you have any intention of
11 trying to bring up the comment?

12 MRS. SALISBURY: Quite frankly, Judge, I had
13 not planned to elicit that particular piece of
14 testimony. Again though, if it becomes an issue,
15 the State may see it fit to go down that road.

16 THE COURT: All right. I don't think you're
17 going to have to worry about the comment. Is
18 there something else you would like to say about
19 the Defendant's behavior after the arrest?

20 MRS. LACKLAND: Your Honor, just that it is
21 unfairly prejudicial. It outweighs whatever
22 probative value I believe would be gained from
23 introducing that.

24 THE COURT: What is the unfair prejudice of
25 allowing the testimony that the Defendant was

1 belligerent after the arrest?

2 MRS. LACKLAND: I think more importantly the
3 comment "racist cracker" would be -- I think that
4 that would taint the jury's opinion. I don't
5 know what that would go to prove.

6 THE COURT: She just said she is not
7 intending to offer that. Who supposedly heard
8 that?

9 MRS. LACKLAND: Deputy Weiner.

10 THE COURT: Anybody else?

11 MRS. SALISBURY: As best I can tell, the
12 comment was made between the two of them. That
13 is all.

14 THE COURT: All right. Well, he is sitting
15 there. He understands that comment will not be
16 mentioned unless I am giving notice of it and we
17 have a chance to discuss it.

18 MRS. LACKLAND: Okay. That is it, Judge.

19 THE COURT: We are waiting on Mr. Posey. We
20 have exhausted all the useful activities that we
21 can put ourselves. We might as well find some
22 other way to pass the time. I'm just going to
23 step off the bench for a second. If you come
24 back and let me know when Mr. Posey is ready.
25 They are in courtroom 8? You all stay here

Court Remarks

39

1 unless you just need to run to the restroom.

2 (WHEREUPON, a recess is taken at approximately
3 12:58 PM.)

4 (WHEREUPON, the Court resumes at approximately
5 2:19 PM.)

6 THE COURT: Ready for the jury?

7 MRS. SALISBURY: Yes, Your Honor.

8 THE COURT: Bring them in.

9 (WHEREUPON, the jury enter at approximately
10 2:21 PM.)

11 THE CLERK: Would you please rise to take the
12 oath. Raise your right hand. The response to
13 the oath is "I will". You shall well and truly
14 try case 2008-GS-23-2523, the State versus
15 Antonio Trimmier, indicted for Armed Robbery and
16 Possession of a Weapon during the Commission of a
17 Violent Crime and a true verdict render according
18 to the law and the evidence so help you God?

19 (WHEREUPON, each juror responds.)

20 THE CLERK: Thank you.

21 THE COURT: Ladies and Gentlemen, we are now
22 ready to begin with the trial in the State of
23 South Carolina versus Antonio Trimmier. Mr.
24 Trimmier has been indicted in Indictment 2008-GS-
25 23-2523 in two counts. In Count One for Armed

1 Robbery, it is alleged that Antonio Trimmier did
2 in Greenville County on or about the third day of
3 January 2008, while armed with a deadly weapon or
4 while alleging either by actions or words that he
5 was armed while using a representation of a
6 deadly weapon or any object which a person
7 present during the commission of the robbery
8 would reasonably believe to be a deadly weapon,
9 take by means of force or intimidation goods or
10 monies described as US currency from the person
11 or presence of Leonard Pugh. This in violation
12 of Section 16-11-330 of the South Carolina Code
13 of Laws.

14 In Count Two of the indictment for Possession
15 of a Weapon during the Commission of a Violent
16 Crime, it is alleged that Antonio Trimmier did in
17 Greenville County on or about the third day of
18 January 2008 possess or visibly display a handgun
19 during the commission or attempted commission of
20 a violent crime, to wit: Armed Robbery. This in
21 violation of Section 16-23-490 of the South
22 Carolina Code of Laws.

23 Now, as I mentioned to you at the end or at
24 the beginning of jury selection, the indictment
25 that I just read to you is not in any sense

1 evidence of the allegations that are contained
2 within the indictment. The indictment is simply
3 the formal document that contains the allegations
4 that have been made against the Defendant and it
5 serves to process the case and bring it into this
6 court for trial.

7 The Defendant has pled not guilty to both of
8 the counts of the indictment. And the plea of
9 not guilty casts the burden on the State to prove
10 the Defendant guilty beyond a reasonable doubt.
11 It will be your job to determine whether or not
12 the State has met that burden of proof.

13 It is a very important rule of law in our
14 country that a Defendant in a criminal trial will
15 always be presumed to be innocent of the crimes
16 with which he has been charged unless and until
17 his guilt has been proven by evidence that
18 satisfies you of that guilt beyond a reasonable
19 doubt. This is what we call the presumption of
20 innocence.

21 The presumption of innocence is just not a
22 legal theory. It is not just a legal phrase that
23 we use. It is a substantial constitutional right
24 to which every Defendant is entitled. The
25 presumption of innocence accompanies the

1 Defendant from the time he is charged throughout
2 the trial and into the jury room until you have
3 reached a verdict of guilt based on evidence that
4 has satisfied you of that guilt beyond a
5 reasonable doubt.

6 Ladies and Gentlemen, let me talk to you a
7 little bit about the structure of the trial that
8 we are about to start. This trial like all
9 trials can be divided up into five basic phases.
10 The first of those is the opening statements when
11 the lawyers will stand before you and they will
12 explain to you what this case is about. They
13 will tell you what the issues are and how each
14 side stands on the issues. They will also go
15 over for you some of the evidence you can expect
16 to see that will relate to those issues.

17 After the opening statements, we will begin
18 the second phase which sometimes is referred to
19 as the evidentiary phase when witnesses will come
20 here to this witness stand. You will hear their
21 testimony. There will also be other documents
22 and exhibits and things of that nature that will
23 become part of the basis on which you make your
24 decision on whether or not the State has met its
25 burden of proof.

1 After all the evidence has been submitted,
2 the third phase will begin. That is the closing
3 arguments when the lawyers will stand before you
4 again. This time, they will argue to you as to
5 whether or not the State has met its burden of
6 proof. Then the fourth phase is what we call the
7 jury charge when I will give you the law that is
8 applicable to this case. The final phase, the
9 fifth phase, is when you go back to the jury room
10 and you will deliberate.

11 There are several important rules you must
12 follow during the course of this trial. The
13 first I've already discussed with you. That is
14 that you may not discuss this case in any manner
15 until I have given you permission to begin
16 deliberations during that fifth phase. It is
17 also very important that you not begin to make up
18 your mind about whether or not the State has met
19 its burden of proof until you've been through all
20 five of those phases, at least including the
21 first part of the fifth phase when you have a
22 chance to listen to the other members of the
23 jury, discuss the evidence and discuss whether or
24 not the State has met its burden. Only at that
25 time will you be in the right position to make up

1 your mind about whether or not the State has met
2 its burden of proof.

3 Ladies and Gentlemen, we live in an era where
4 digital technology and the Internet has sort of
5 become a very pervasive part of our lives. This
6 makes it important for me to explain to you that
7 you are not permitted to do any type of
8 investigation regarding this case. The only
9 evidence that you are entitled to hear or see
10 that relates to this case is that which will come
11 before you in this courtroom while you sit in
12 that jury box while I sit here on the bench so
13 that it is under my supervision.

14 As I have told you, do not discuss this case.
15 Do not try to find out anything about this case.
16 Don't go to the scene as it will be described.
17 Don't do anything in regards to this case other
18 than to come in here and listen with an open mind
19 and prepare yourself to make a decision about
20 whether or not the State has met its burden of
21 proof.

22 As members of the jury, you are the exclusive
23 judges of the facts in the case. I am not
24 permitted to indicate to you how I might feel
25 about the facts. If I say anything or if do

1 anything that might lead you to believe I have an
2 opinion about the facts, then you should
3 disregard that.

4 On the other hand, I am the exclusive judge
5 of the law. If you have some idea as to what the
6 law is or what the law should be and that differs
7 from I will tell you the law is, then you are
8 obligated under the oath that you have just taken
9 as jurors to set your notion of the law aside and
10 to accept and apply the law precisely as I will
11 explain it to you.

12 One other role that I play is to decide on
13 admissibility of evidence. From time to time, I
14 expect that you will hear lawyers making
15 objections when one side offers evidence that the
16 other side believes does not comply with our
17 rules of evidence. When that happens, that is
18 not an attempt on the part of the lawyer to hide
19 anything from you. That is the way our system of
20 evidence works. When an objection is made, it
21 then becomes my responsibility to rule on the
22 objection.

23 If I sustain the objection, that means I
24 believe the evidence is not admissible. I will
25 not allow it in for you to consider. If I

1 overrule the objection, that means I believe the
2 evidence is admissible and I will allow it in and
3 you can consider it. Most of the time, I will be
4 able to do that just as I sit here. You will
5 hear the lawyer say objection. They might then
6 state the grounds for their objection. Then you
7 will hear me say either "sustained" or
8 "overruled".

9 Sometimes I might ask the lawyers to step up
10 to the bench so I can briefly discuss the
11 evidence question with them before I rule.
12 Sometimes I might even have to send you folks
13 back into the jury room so I can openly discuss
14 the evidence question with them. Sometimes I
15 might actually have to listen to the testimony
16 before I can decide whether or not you can listen
17 to it.

18 Solicitor.

19 **MRS. SALISBURY:** Thank you, Your Honor. May
20 it please the Court.

21 Good afternoon, Ladies and Gentlemen. As I
22 was introduced to you a few moments ago, a few
23 hours ago now, my name is Katryna Salisbury. I
24 prosecute cases here in Greenville. Before we
25 begin the trial of this case, I want to very

1 briefly tell you three things, what this case is
2 about, what the State is required and intends to
3 prove, and how we intend to prove it.

4 Ladies and Gentlemen, this is a case about
5 life on the streets. For four young men, that
6 life on the streets includes a lifestyle that
7 very few of us understand. For those four young
8 men, life on the streets includes the commission
9 of crimes for activity, a source of
10 entertainment, a source of quick profit.

11 On January 3rd, 2008, these four young men
12 participated in an armed robbery. You see, these
13 four young men rode in the car with this
14 Defendant. As the testimony will come out at
15 trial, you will hear that it was this Defendant
16 that decided it was time to commit a robbery.
17 You will hear that this Defendant selected the
18 victim and instructed the driver of the vehicle
19 to follow the victim to the victim's own home.
20 You will hear that this Defendant got out of the
21 car and approached the victim in his driveway
22 with a handgun and demanded the victim's wallet.
23 Then, this Defendant took the victim's money and
24 returned to the car where the four young man fled
25 the scene.

1 You have heard that this Defendant is charged
2 with Armed Robbery. To prove that, the State has
3 to prove two things. The State has to prove that
4 the Defendant took an item of value from the
5 victim by the use of force or violence or
6 intimidation and that he was armed with a deadly
7 weapon during that taking. The Defendant is also
8 charged with Possession of a Weapon during the
9 Commission of a Violent Crime. To prove that, the
10 State has to prove that the Defendant was armed
11 with a weapon during a violent crime which Armed
12 Robbery, you will learn, is classified as a
13 violent crime.

14 Now, to prove the Defendant's guilt, to prove
15 all of that, you will hear the testimony of
16 several witnesses. First, you will hear
17 testimony from the victim, Dr. Leonard Pugh. Dr.
18 Pugh will testify that late in the evening on
19 January 3rd, 2008, he was returning home from his
20 daughter's house. As he neared his neighborhood,
21 he noticed that he was being followed.

22 Dr. Pugh will testify that he turned into his
23 driveway. And after exiting his car, he heard
24 some rustling in the bushes near his driveway.
25 Dr. Pugh will testify that he was approached by a

1 young black man who was armed with a handgun who
2 demanded Dr. Pugh's wallet. Dr. Pugh will
3 testify that he handed over the cash that he had
4 in his wallet and the young man left.

5 Next, you hear testimony from Deputy Lanford.
6 Deputy Lanford works for the Sheriff's Office. He
7 was dispatched to the scene that night. He will
8 testify about what he did to initiate the
9 investigation and the role that he played in
10 getting this investigation rolling. After that,
11 you will hear testimony from the actual
12 eyewitnesses to this armed robbery. You will
13 hear testimony from the three young men that have
14 personal knowledge about how this robbery was
15 orchestrated and executed.

16 These three young men will testify that this
17 Defendant declared that it was time to commit a
18 robbery. These young men will testify that this
19 Defendant got out of the car while armed with a
20 handgun and ran to the victim's driveway. Then
21 these young men will testify that this Defendant
22 returned to the car where he distributed the
23 proceeds of the robbery and the four left the
24 scene. They hung out later that night and went
25 their separate ways.

1 After that, finally, you will hear testimony
2 from Investigator Weiner. He will testify how he
3 became involved in the investigation and what he
4 did as each of these individuals came to be
5 arrested and charged with the crimes that they
6 committed as part of this armed robbery. Ladies
7 and Gentlemen, the evidence in this case is going
8 to be straightforward. As I said, you will hear
9 evidence from the actual eyewitnesses to the
10 crime, the people with personal knowledge about
11 exactly how this Defendant orchestrated and
12 executed this armed robbery.

13 You won't hear from any fingerprint analyst
14 because there were not any fingerprints to be
15 collected. You won't hear from any DNA
16 scientists because there weren't any fluids left
17 behind. You won't hear about any forensic CSI
18 discoveries because there were simply no clues to
19 be discovered. Crimes like these only get solved
20 from the inside out. Over the course of this
21 trial, you're going to hear testimony from the
22 inside. At the end of this trial, I will ask you
23 to return a verdict with the Defendant as guilty.

24 **THE COURT:** Mrs. Lackland.

25 **MRS. LACKLAND:** May it please the Court.

1 Good afternoon. My name is Amanda Lackland.
2 As I told you during jury selection, I am
3 representing the Defendant, Antonio Trimmier,
4 here today. As Judge Few told you during jury
5 qualifications, we know you probably would not
6 choose to be here. But you have a very important
7 role here today. You are the triers of fact as
8 the jurors.

9 You get to listen to all the information, all
10 the testimony and evaluate it. You going to hear
11 a lot of testimony today. We don't anticipate it
12 to be a super long trial but that just means you
13 are going to have a lot of information in a very
14 short amount of time. You are going to hear from
15 the three co-defendants of Mr. Trimmier.

16 You'll have to pay really close attention,
17 not the big picture, but pay attention to the
18 details. What are similarities, what are
19 discrepancies of what they told police and what
20 they testify here to today. You are going to
21 have to evaluate their credibility. How truthful
22 are they being? What can you believe that they
23 are telling you? What can't you believe that they
24 are telling you? What biases might they have in
25 testifying here today? You are also going to use

1 your common sense. What makes sense here, what
2 doesn't, what fits, what doesn't fit.

3 Judge Few is going to instruct you on the law
4 after we, at the conclusion of the case. And
5 you're going to take back and deliberate all the
6 information you heard here, what makes sense,
7 those similarities, those discrepancies, all of
8 that stuff, what you believe and what you don't
9 believe and you are going to apply it to the law
10 as Judge Few instructs you. It's a difficult task
11 but it's a very important one to sit here and be
12 unbiased and listen to it and evaluate all the
13 evidence. I want to thank you again for being
14 here.

15 **MRS. SALISBURY:** Your Honor, the State calls
16 Dr. Leonard Pugh.

17 Dr. Pugh, if you would, come around and be
18 sworn.

19 **DR. LEONARD PUGH,**
20 is first duly sworn and then testifies as follow:

21 **DIRECT EXAMINATION**

22 **THE CLERK:** Would you please state your
23 full name for the record.

24 **THE WITNESS:** Leonard Pugh.

25 **DIRECT EXAMINATION**

1 BY MRS. SALISBURY:

2 Q Good afternoon, Dr. Pugh. Tell the jury a
3 little bit about yourself. How old are you?

4 A I'm, uh, 57.

5 Q Where do you work?

6 A Work at Carolina Medical Center in Greenville
7 at the corner of Roper Mountain and Roper Mountain
8 Circle.

9 Q How long have you worked there?

10 A At that location, about two and half years
11 now. Been in practice in Greenville since 1982.

12 Q What kind of medicine do you practice?

13 A I'm an internist. Internal medicine.

14 Q Okay. Where do you live?

15 A I live at [REDACTED]

16 Q How long have you lived at that particular
17 neighborhood?

18 A 22 years now.

19 Q What area of Greenville is your house? What
20 neighborhood do you live in?

21 A It is in the Chanticleer neighborhood which
22 is near Greenville Memorial Hospital.

23 Q Do you know whether that is inside Greenville
24 County?

25 A It is just outside.

1 Q Is it outside the county or city?

2 A Excuse me. It is in Greenville County. It is
3 outside of the city.

4 Q Okay. I got you. All right. If I could, I
5 going to have you take a look at what is being marked
6 as State's Exhibit 1.

7 (WHEREUPON, State Exhibit Number 1 was marked for
8 identification.)

9 BY MRS. SALISBURY:

10 Q Do you recognize this image?

11 A Yes, it is a map of the general area of our
12 neighborhood.

13 Q Now, can you say whether it is a fair and
14 accurate depiction of the area in which it depicts?

15 A It appears to be. I recognize most of the
16 streets there, yes.

17 Q If you could, Doctor, I'm going to ask you to
18 step down here with me for a second. Could you show
19 the jury where your house is located on State's
20 Exhibit 1?

21 A Right here on Chapman Road, four houses down
22 from this intersection here.

23 Q Okay. Great. Awesome. If you could, have a
24 seat.

25 MRS. SALISBURY: The State offers Exhibit 1

1 into evidence.

2 MRS. LACKLAND: No objection.

3 THE COURT: It is admitted.

4 (WHEREUPON, State's Exhibit 1 is admitted into
5 the record.)

6 BY MRS. SALISBURY:

7 Q Dr. Pugh, do you remember January 3rd, 2008?

8 A Yes, I do.

9 Q You remember what you were doing that day?

10 A During the day, I would have been at the
11 office.

12 Q What did you do as the evening progressed?
13 What did you do when you left work that evening?

14 A My wife was out of town so I went to my
15 daughter's townhouse in Mauldin to have dinner with
16 her. We had dinner. Stayed an hour or two and left a
17 little bit after 9:00 to go back home.

18 Q Okay. Do you remember what route you took
19 home from your daughter's house?

20 A Yes, I do.

21 Q Could you describe for the jury using State's
22 Exhibit 1 generally the route that you took back from
23 Mauldin that night?

24 A Mauldin Road comes in right here and crosses
25 Augusta. The two routes to get in my neighborhood is

1 the back way, so to speak, or around Augusta Road and
2 come in around the front. My route, came down this
3 road and back down to here and coming around to the
4 house.

5 Q Okay. Just to make sure I understand. You
6 turned from Mauldin Road onto, I suppose, Potomac and
7 then turned onto Pleasant Ridge and followed Pleasant
8 Ridge to Penrose onto Chapman Road into Chanticleer?

9 A That's correct.

10 Q Okay. Perfect. Thank you. As you were
11 driving home, did you notice anything unusual?

12 A As I turned onto Pleasant Ridge, I happen to
13 look in my rear view mirror and I saw two headlights
14 behind me. This was within seconds of turning onto
15 Pleasant Ridge. I basically did not think much about
16 it at the time. As I went on, there are several speed
17 humps on Pleasant Ridge. There are several speed
18 humps on Chapman Road actually in our neighborhood.
19 You have to stop for those or slow down. There are
20 several stops signs also. Each time, I would look
21 back and the headlights would still be there.

22 As I came on around to my actual house, there
23 is a stop sign at that intersection. I noticed the
24 car was still behind. I'm thinking they were coming
25 in the neighborhood. There's a gated community on

1 beyond my house. I thought they were just going back
2 there. I did not think twice about it. As I came on
3 down Chapman, I came turned into my driveway. I saw
4 that car come through the stop sign before I got to my
5 house. I know they were on Chapman Road.

6 Then I turned into my driveway. I have a
7 carport in the back of my house. At that point in
8 time, I was going to go into the house. I noticed as
9 I was coming from my car into my kitchen door, about
10 halfway down, I looked down the street. I noticed a
11 slow-moving car that happened to be under a
12 streetlight. It is one of those orange-type
13 streetlights. Uh, older car but moving slowly. That
14 was peculiar because no one goes slowly on our road in
15 particular.

16 I started to move around, around the side of
17 the house thinking they were lost or whatever it might
18 be. Then a couple of steps, I noticed someone come
19 out of the bushes with a handgun.

20 Q Let me stop you right there. I'm going to
21 show you State's Exhibit 2.

22 (WHEREUPON, State Exhibit Number 2 was marked for
23 identification.)

24 BY MRS. SALISBURY:

25 Q Do you recognize this photograph?

1 A Yes, that's the front of our house.

2 Q Is this an accurate description of what your
3 house looks like and the surroundings, what they
4 looked like in January of 2008?

5 A Yes, it is.

6 MRS. SALISBURY: Your Honor, the State
7 moves Exhibit 2 into evidence.

8 MRS. LACKLAND: No objection, Your Honor.

9 THE COURT: It is admitted.

10 (WHEREUPON, State's Exhibit 2 is admitted into
11 the record.)

12 MRS. SALISBURY: With the Court's permission,
13 I would like to publish it to the jury.

14 THE COURT: You may.

15 BY MRS. SALISBURY:

16 Q Dr. Pugh, if you could, pick up where you
17 left off. You mentioned that you got out of your car
18 from the carport and were about halfway between the
19 carport and your home.

20 A Correct.

21 Q The picture depicts it rather well. How was
22 the driveway situated between Chapman Road and your
23 carport?

24 A My driveway goes up to my carport which is in
25 the back behind the house.

1 Q Your driveway goes straight back?

2 A Straight back.

3 Q You mentioned you heard a sound in the
4 bushes?

5 A Correct.

6 Q Were these the bushes that are in this
7 picture?

8 A They are about level with the back of the
9 house. Those bushes, not the ones in the front in the
10 driveway itself. It is -- about the back edge of the
11 house is where those bushes were.

12 A What happens next? You hear the rustling in
13 the bushes. What happens next?

14 A I see a hooded figure, a man in a sweatsurt
15 or a hooded sweatshirt. My neighbor's motion detector
16 light came on and in a sense backlit him. Thinking I
17 had seen a car and hearing someone approaching me, I
18 wondered if this person was lost. But then I saw he
19 had a gun pointed at me and I knew that wasn't the
20 case.

21 He came up to me and said give me your wallet
22 or I will kill you. At that point in time, I just
23 froze. I said can I give you my money. He said yes.
24 I took my wallet out. I gave him my money, cash. At
25 that point in time as I was doing that, he said I mean

1 it, man, I will kill you. After I had given him the
2 money, he asked if there was anything else in there.
3 I said no. Then, he asked whether there was anything
4 in the house.

5 At that point in time, I simply stayed still. I
6 just in a sense froze when he said that. I was
7 thinking how to do my alarm system if he was going to
8 force me into the house. At that point in time, he
9 turned around and ran.

10 Q Do you remember approximately how much money
11 you had in your wallet that night?

12 A It was around \$80. I don't know exactly. I
13 been to the ATM earlier in the week. Exact amount,
14 no. It was approximately \$80.

15 Q During your interaction with this hooded
16 figure as you described it, did he touch anything? Did
17 he touch anything on you, around you?

18 A No, he was two to three feet from me.
19 Probably three feet or so.

20 Q Now, you mentioned that the motion lights
21 came on. I assume it was very dark.

22 A Yes, it was after nine o'clock, 9:15, 9:20,
23 9:30, something like that.

24 Q Okay. Did you get a good look at your
25 attacker, the person that was pointing the gun in your

1 face?

2 A No. He had a hooded sweatshirt on. I could
3 not see his face. Basically, I did not want to
4 antagonize anything. I was looking at the ground for
5 most of that timeframe and out of the corner of my
6 eye, looking at this gun which he kept pointed at me
7 the whole time.

8 Q Now, about the gun, do you remember if it was
9 a particularly large gun? Do you remember anything
10 specific about the particular gun that you saw that
11 night?

12 A No. Not much. When you are in that
13 situation, you are looking at the barrel. I'm not a
14 firearms person. I really couldn't describe the gun
15 very well. It was not a large handgun. It was small.
16 That's about all I could tell you about it.

17 Q How would you describe your attacker
18 physically? Height, weight, all of those attributes,
19 how would you describe him?

20 A The same way. In the few seconds, you are
21 confronted in that situation, you get that image. He
22 did not appear to be any taller than me or larger than
23 me. Other than that, his voice sounded on the young
24 side as opposed to someone older. That's about all I
25 can tell you, I think.

1 Q So do I understand your testimony correctly
2 that he was shorter than you, your height, taller?

3 A He would be a little bit shorter than me but
4 I would not call him short either.

5 Q How tall are you?

6 A I'm six feet.

7 Q Okay. Did you get an idea about his physical
8 build? Was he heavy, thick? Was he very thin? What
9 was his physical weight dimensions?

10 A With a sweatshirt on, that's a little hard to
11 say. He's average I would say. Once again, I would not
12 call him heavy at all.

13 Q Do you remember whether you can identify
14 whether your attacker was black or white or Hispanic?

15 A He appeared to be black. I could tell by the
16 hand on the gun. And the face even though it was
17 backlit. He wasn't white.

18 Q Okay. Could you identify him if you saw him
19 again?

20 A No, I couldn't.

21 Q Answer any questions Mrs. Lackland may have
22 for you.

23 Q Okay.

24 CROSS-EXAMINATION

25 BY MRS. LACKLAND:

1 Q Good afternoon, Dr. Pugh.

2 A Good afternoon.

3 Q I have just a few questions for you. All
4 right. You initially met with Officer Lanford. Is he
5 the officer who reported out?

6 A That's right.

7 Q Okay. You described the vehicle you had seen
8 following you, correct?

9 A No, I couldn't tell the vehicle following me.
10 I just saw headlights.

11 Q Okay.

12 A The vehicle that I saw was the one that was
13 underneath our light in the front of the house.

14 Q So you can't also describe the occupants that
15 you saw?

16 A No, no. I didn't see any occupants.

17 Q Okay. I understand you testified that it was
18 not well lit. It was like probably about 9:30 or so
19 in the evening. Did you do your best to describe him
20 to Officer Lanford, give him some general information?

21 A Just in terms of the general size I just
22 mentioned is all. No details about what his face was
23 like. I could not see his face.

24 Q Sure. You described him as a black male
25 though?

1 A Correct.

2 Q Early 20s?

3 A Somewhere in there.

4 Q 5'7?

5 A Could be. I'm not sure if I told him the, I
6 didn't know exact height.

7 Q Sure.

8 A I would not have said exactly 5'7.

9 Q Okay. About 165 pounds?

10 A I could not have said 165. I know I did not
11 know that at the time.

12 Q Okay. You told Officer Lanford he had a
13 small black handgun?

14 A If that's what I told him that night, yes.
15 As far as remembering right now, that is as much of a
16 blur as anything.

17 Q You said that he had run off in the same
18 direction that he had come from?

19 A He did not go through the bushes. He ran down
20 my driveway.

21 Q Okay.

22 A He came from the bushes that separate our
23 house and our neighbor's house.

24 Q Okay. You're not sure if he left on foot or
25 in a car at that point?

1 A When I went -- after this event, I went into
2 the house. I went to the front windows to see where
3 he might had gone or if there was someone out there.
4 I did not see anything. Whether he ran or was in a
5 car, I don't know.

6 Q Okay. You were not shown a six-person lineup
7 at any point in this investigation, were you?

8 A No.

9 Q Did you, almost a week later, you confirm
10 with Deputy Weiner what you had told Officer Lanford
11 in the original report?

12 A No, I did not speak with Deputy Weiner.

13 Q Okay. I don't have any further questions.
14 Thank you, Doctor.

15 MRS. SALISBURY: One quick question if I may,
16 Judge.

17 REDIRECT EXAMINATION

18 BY MRS. SALISBURY:

19 Q Do you recall when you heard rustling in the
20 bushes, someone coming from the driveway, whether it
21 was at that point that you observed the vehicle that
22 may have been the vehicle following you, driving back
23 by your house?

24 A Simultaneous. That vehicle was creeping
25 along. It was so slow you wondered what they were

1 doing. It is that instant that said that was peculiar
2 and then here comes the bushes and rustling at that
3 same moment. That was simultaneous. At that point,
4 my focus is on the person coming at me with a gun.

5 MRS. SALISBURY: Okay. Your Honor, I don't
6 have any further questions.

7 THE COURT: You can step down, sir.

8 MRS. SALISBURY: May Dr. Pugh be excused from
9 his subpoena?

10 THE COURT: He may.

11 MRS. SALISBURY: The State calls Deputy
12 Justin Lanford.

13 Deputy, if you could, come around and be
14 sworn please.

15 JUSTIN LANFORD

16 THE CLERK: Please state your full name for
17 the record.

18 THE WITNESS: Justin Lanford.

19 DIRECT EXAMINATION

20 BY MRS. SALISBURY:

21 Q Deputy, where do you work?

22 A Greenville County Sheriff's Office.

23 Q In what capacity?

24 A Deputy Sheriff. Just a road deputy.

25 Q How long have you been with the Sheriff's

1 Office?

2 A Two and a half years.

3 Q What are your duties day-to-day? What is --
4 generally, uniform patrol, on the road, what are your
5 duties?

6 A Go to calls, domestic services, armed
7 robberies, things like that. Just get the initial
8 reports out of the way. That way, we can get them to
9 the investigators so they can go further in depth, I
10 suppose.

11 Q Were you working in that capacity January
12 3rd, 2008?

13 A Yes.

14 Q Do you remember being dispatched to armed
15 robbery that night?

16 A Yes.

17 Q Describe to the jury what you did after you
18 were dispatched to that call and your interaction and
19 your involvement in the investigation from there?

20 A Yes. After receiving the call, we went to
21 Mr. Pugh's residence. I made contact with him. I
22 found there were no injuries from the incident. Once
23 this was confirmed, spoke with Mr. Pugh. Got the
24 details about the car he seen drive past his house
25 under the light. A person had come through his

1 neighbor bushes and, at that time, presented a gun to
2 him and demanded his money. After I learned that he
3 gave him the money, there were no other interaction
4 between him and the suspect who ran off. He never
5 went into the house. He did not touch any items or
6 anything like that. After that was done, basically
7 left the scene and no more interaction with Mr. Pugh.

8 Q Okay. About what time did you respond to this
9 call?

10 A Want to say it was about 9:30 or so. I don't
11 have an exact time. I can't remember offhand.

12 Q In the evening?

13 A Yes, it was dark. It was not the early
14 morning or anything.

15 Q Do you know whether the address to which you
16 were dispatched was actually in Greenville County?

17 A Yes. It is in Chanticleer.

18 Q Once you arrived and once you evaluated the
19 scene, what did you do as a matter of fulfilling your
20 duties?

21 A Once again, I asked Mr. Pugh if anything been
22 touched. He said no. There was no reason to call
23 forensics out to do fingerprints on any of the items.
24 He had not touched the door or the wall or anything.
25 We did not contact any K-9 deputies to come out. We

1 believed the time span had elapsed to where they could
2 possibly track someone down if they had been on foot.
3 We did label everything Mr. Pugh said he had seen such
4 as the car. We did not know if it was relevant or not
5 but we still documented it just a case.

6 Q Did you have any further involvement with the
7 investigation of this case after that night?

8 A No, ma'am.

9 Q Answer any questions Mrs. Lackland may have
10 for you.

11 CROSS-EXAMINATION

12 BY MRS. LACKLAND:

13 Q Good afternoon. You initially reported to
14 the scene. You wrote a report as a result of that?

15 A Yes.

16 Q Okay. And in that report, you described the
17 suspect, right? You describe him as 5'7?

18 A I don't recall.

19 Q Do you want me to show you a copy?

20 A Yes. Yes, ma'am.

21 Q So you describe the suspect is 5'7?

22 A Yes, ma'am.

23 Q 165 pounds?

24 A Yes, ma'am.

25 Q Early 20s?

1 A Yes, ma'am.

2 Q You also wrote that he had a small black
3 handgun?

4 A Yes, ma'am.

5 Q You also noted that the victim may have
6 waited 20 to 30 minutes before calling the police?

7 A As far as I know, that was the time that had
8 elapsed since I responded to the call.

9 Q Okay.

10 A I can't state whether we were busy or not.
11 That was just the timeframe that had spanned to when
12 we got the call and when I got there.

13 Q Okay. Based on that time, you said you could
14 not call out to the K-9?

15 A Yes, ma'am.

16 Q No fingerprints were taken?

17 A No, ma'am.

18 Q Did you not find a gun?

19 A No, ma'am.

20 Q All right. Thank you.

21 Beg the Court's indulgence. One follow-up.

22 You listed the description of the suspect
23 based on what Dr. Pugh told you --

24 A Yes, ma'am.

25 Q -- about him at the time? Okay. Thank you,

1 Deputy. I don't have any further questions.

2 MRS. SALISBURY: Judge, I don't have any
3 further questions.

4 THE COURT: You can step down.

5 MRS. SALISBURY: The State asks that Deputy
6 Lanford be excused. The State calls Dashaun
7 James.

8 Mr. James, come around and be sworn please.

9 DASHAUN JAMES,
10 is first duly sworn and then testifies as follow:

11 THE CLERK: Please state your full name
12 for the record.

13 THE WITNESS: Excuse me.

14 THE CLERK: Please state your full name
15 for the record.

16 THE WITNESS: Dashaun James.

17 DIRECT EXAMINATION

18 BY MRS. SALISBURY:

19 Q Dashaun, how old are you?

20 A 19.

21 Q Where do you live?

22 A [REDACTED]

23 Q Who do you live there with?

24 A My mama and my grandma.

25 Q Do you work?

- 1 A Yes, ma'am.
- 2 Q Where do you work?
- 3 A Henderson's Painting.
- 4 Q You do that full-time?
- 5 A Yes, ma'am. No, ma'am. Part-time.
- 6 Q All right. Where did you go to high school?
- 7 A Southside High.
- 8 Q Did you graduate?
- 9 A No, ma'am.
- 10 Q When did you quit?
- 11 A I'm not really sure.
- 12 Q How far did you go? What grade were you in
- 13 when you quit?
- 14 A 11th.
- 15 Q 11th?
- 16 A Yes, ma'am.
- 17 Q Were you going to school there in January of
- 18 2008?
- 19 A I believe so, ma'am.
- 20 Q Do you know the Defendant? Do you know
- 21 Antonio Trimmier?
- 22 A Yes, ma'am.
- 23 Q How do you know him?
- 24 A Seen him at school.
- 25 Q Does he live near you?

- 1 A No, ma'am.
- 2 Q Did you have the same friends?
- 3 A No, ma'am.
- 4 Q How long had you been in school with him?
- 5 A Not that long.
- 6 Q Just high school? Just Southside?
- 7 A Yeah, just high school.
- 8 Q Do you remember who you were with on the
9 evening of January 3rd, 2008?
- 10 A Yes, ma'am.
- 11 Q Who?
- 12 A Marteze Hardy and Keith Williams.
- 13 Q How do you know Marteze?
- 14 A From school.
- 15 Q How long have you known him?
- 16 A Just one year.
- 17 Q Just a year? Do you mean a year at the time
18 that the crime took place or a year, meaning, today?
- 19 A When the crime took place.
- 20 Q Okay. So you've known him for a couple of
21 years now?
- 22 A Yes, ma'am.
- 23 Q Okay. How do you know Keith Williams?
- 24 A We went to middle school together.
- 25 Q So you've known him for a little while?

1 A Yes, ma'am.

2 Q Little while longer. So at least since middle
3 school. That is at least four or five years?

4 A Yes, ma'am.

5 Q All right. Let's talk specifically about what
6 you did on January 3rd, 2008. Do you remember that
7 day?

8 A Yes, ma'am.

9 Q Do you remember what you did during the day
10 time hours?

11 A No, ma'am.

12 Q What is the first thing you remember about
13 that day?

14 A I just remember getting up later on that day
15 with Keith and Marteze.

16 Q Okay. Do you have a car?

17 A Yes, ma'am.

18 Q Did you have a car at the time?

19 A Yes, ma'am.

20 Q Was it yours?

21 A The car that was in the incident wasn't mine.

22 Q Were you driving your car the night that all
23 this took place?

24 A No, ma'am.

25 Q Whose car was you driving?

1 A My friend's.

2 Q What's his name?

3 A Tavaris.

4 Q Who is Tavaris?

5 A Tavaris Williams. His nickname is T.

6 Q How do you know him?

7 A I been knew him for like a little while.

8 Q Why did you have his car?

9 A He had went to jail and he had asked me to
10 watch his car.

11 Q So you were driving -- were you driving his
12 car all the time? Everywhere you went, you were
13 driving T's car?

14 A No, ma'am.

15 Q But this night you were?

16 A Yes, ma'am.

17 Q What kind of car is it?

18 A I'm not sure. I think it is a Chevrolet, an
19 older Chevrolet or something like that

20 Q What color is it?

21 A It was like a rusty color.

22 Q Does it have four doors?

23 A Yes, ma'am.

24 Q Okay. So you are driving this car. What is
25 the first thing you do to get these events rolling?

1 What happens? You are in the car by yourself. What
2 happens next?

3 A I got a phone call from Tez, Marteze Hardy.
4 We had got up. We got together and we had -- I went to
5 my friend girl house.

6 Q So you picked up Marteze?

7 A Yes, ma'am.

8 Q The two of y'all went to your friend's house?

9 A Yes, ma'am.

10 Q Where is her house?

11 A Candy Park.

12 Q Candy Park. How long did you stay there?

13 A About an hour.

14 Q What did you do next?

15 A We picked up Keith and we just rode around
16 for a little while.

17 Q Did you go to Keith's house?

18 A No, ma'am.

19 Q How did you pick up Keith?

20 A He was walking from basketball practice.

21 Q Okay. So now, it's the three of you in the
22 car?

23 A Yes, ma'am.

24 Q Where is everybody seated? You are driving.

25 Where is Marteze and Keith?

1 A Marteze was in the passenger seat. Keith was
2 in the back.

3 Q Okay. Why are you riding around?

4 A We ain't had nothing else to do.

5 Q What did you do next?

6 A I think we were looking for Quay, Donquavis
7 West. I think that was his name. We couldn't never
8 find him. So we had went to Antonio house.

9 Q Why would you go to Antonio house if you were
10 looking for Quay?

11 A To see if he knew were Quay was.

12 Q When you arrived at the house was Antonio
13 home?

14 A Yes, ma'am.

15 Q Did you talk to him and ask him about where
16 Donquavis West was? What did you do?

17 A I didn't say nothing. I was sitting in the
18 car. He got into the car.

19 Q So he got in the car?

20 A Yes, ma'am.

21 Q What happened next?

22 A We rode around for like an hour or two. That
23 is really about it. That's when we seen the car ride
24 by.

25 Q Where are you physically located when you

1 seen this car ride by that you are talking about?

2 Where in the neighborhood are you, in Greenville are
3 you?

4 A I believe we were in Pleasant Valley.
5 Pleasant Valley Community Center.

6 Q Okay. Do you know whether that Pleasant
7 Valley area is located -- I'm going to let you look at
8 State's Exhibit 1 so you can look at a map of the area
9 and tell me whether you remember or whether you know
10 your location to be in this general area.

11 A I can't tell you.

12 Q You don't know. That is fine. That is okay.
13 So after you been riding around for an hour like you
14 just said, then you see this car. What do you mean by
15 that? I imagine that it was not the only other car on
16 the road. What do you mean that you saw this car?

17 A It was a good-looking car that rode by.

18 Q What does that mean it?

19 A It was, like, a fancy car.

20 Q Okay.

21 A That is when Antonio said follow that car.

22 Q Did he tell you why?

23 A No, ma'am.

24 Q So you just followed it?

25 A Yes, ma'am.

1 Q Where did you follow it?

2 A Into the Chanticleer area.

3 Q Okay. What happened?

4 A We were riding and we had like followed the
5 car for a few minutes up the street. When it got
6 ready to turn in, I turned the lights off on the car.

7 Q Why did you turn the lights off? You said
8 you did not know why Antonio told you to follow the
9 car. Why did you turn the lights off?

10 A Somebody had said turn the lights off.

11 Q Okay. Did you know what was about to happen
12 or what the plans were?

13 A No, ma'am.

14 Q What happened next?

15 A That is when we had pulled in. We were
16 driving kind of slow. He jumped up out the car.

17 Q Do you remember whether the car that you were
18 following turned left or right into his driveway?

19 A I believe it was to the right.

20 Q What did you do? You drove past it? You kept
21 going? What happened?

22 A I drove past the house a little bit. Then I
23 turned around.

24 Q At what point did Antonio jump out of the
25 car?

1 A Before, before I -- like when we got to the
2 driveway.

3 Q Did you see whether he was armed with a
4 weapon?

5 A I think he said he had a gun on him when he
6 was in the car.

7 Q Did you personally see the gun? Did you see
8 it with your own eyes?

9 A No, ma'am.

10 Q He jumped out the car. You turned around. You
11 cut your lights. What happens next?

12 A Well, when I turned the car around, he was
13 already running back. I guess he was running back down
14 to the car. He jumped in the car and we rode off.

15 Q How long was he out of the car?

16 A About five minutes.

17 Q Five minutes?

18 A No, ma'am. I'm wrong. It was probably like
19 a minute or two.

20 Q What were you able to do in the time that he
21 jumped out of the car? Did you sit in the road for a
22 long time? Did you drive around the neighborhood?
23 What were you able to do from the time that he jumped
24 out of the car and then came running back?

25 A I just pulled up and made like a three-point

1 turn and just turned the car around. I started going
2 back the other way. He come back to the car. He got
3 in the car and we left.

4 Q He was gone long enough for you to turn
5 around the car and that is about it?

6 A Yes, ma'am.

7 Q Okay. What happened when he got back in the
8 car?

9 A We drove off. He pulled out some money and he
10 gave everybody a little bit of money.

11 Q He gave everybody some money?

12 A Yes, ma'am.

13 Q And I want to make sure I understand. Who
14 else was in the car with y'all?

15 A Keith and Marteze.

16 Q So there's four people in the car?

17 A Yes, ma'am.

18 Q He gave money to you, Marteze and Keith?

19 A Yes, ma'am.

20 Q Do you remember how much he gave you?

21 A Not exactly.

22 Q Was it a dollar? Was it \$100?

23 A I think it was like 20 something dollars.

24 Q Okay. What did you guys do after that? After
25 he splits up the money with everybody, what did you do

1 next?

2 A We drove to Piedmont Manor.

3 Q Why?

4 A To get some weed.

5 Q Did everybody get out and go buy their own?

6 How did that work?

7 A Everybody put a little bit of money in.

8 Everybody except for Keith put a little bit of money

9 in. We gave the money to Antonio. He went and got

10 the weed.

11 Q How long was he inside?

12 A Only a few minutes.

13 Q What happens when he comes back out?

14 A We rode down, we rode to the gas station and

15 got like cigars for the weed and gas for the car.

16 Q Okay. Then where?

17 A Then we rode to Highlands and we smoked.

18 Q What is Highlands?

19 A It's an apartment complex.

20 Q Okay. An apartment complex. Was it close by?

21 How long did you guys ride to get over there?

22 A Not that long.

23 Q So it's pretty close by to where all of this

24 happened?

25 A Yes, ma'am.

1 Q Were you worried the police was on your
2 trail?

3 A At the time, no.

4 Q Let me take you back to one thing. I want to
5 make sure that I understand what happened. I'm sorry
6 to do this to you. When you picked up Marteze after
7 he called you and you picked up Keith, you said that
8 at some point you are looking for Mr. West. And where
9 were you going to look for him? Why were you looking
10 for him?

11 A We were supposed to be getting up. We was
12 supposed to be getting together that day.

13 Q You what? I'm sorry.

14 A We were just supposed to be getting together
15 that day.

16 Q Okay. So it was after you could not find Mr.
17 West that you went to look for Antonio?

18 A Yes, ma'am.

19 Q Is the person that got out of your car, told
20 you he had a gun, went and committed this robbery,
21 came back and distributed the cash in the courtroom
22 today?

23 A Yes, ma'am.

24 Q Can you identify him?

25 A Yes, ma'am.

1 Q Point him out for the jury..

2 A (Pointing).

3 Q What is he wearing?

4 A White collar shirt.

5 Q Do you have any doubt that is the person who
6 got out of your car that night and went and robbed
7 this man?

8 A No, ma'am.

9 Q You understand by driving this car and
10 leaving the robbery expedition that you are guilty of
11 a crime?

12 A Yes, ma'am.

13 Q Were you charged and arrested as part of your
14 involvement in this crime?

15 A Yes, ma'am.

16 Q What were you charged?

17 A Armed Robbery.

18 Q Have you made any arrangements with the State
19 about your charges in exchange for your testimony here
20 today?

21 A No, ma'am.

22 Q Have you entered a guilty plea in exchange,
23 as part of the arrangement for you to testify here
24 today?

25 A No, ma'am.

1 MRS. SALISBURY: Judge, may we approach real
2 quickly?

3 (WHEREUPON, a bench conference is held off the
4 record at approximately 3:12 PM.)

5 (WHEREUPON, the bench conference is concluded at
6 approximately 3:14 PM.)

7 BY MRS. SALISBURY:

8 Q Dashaun, have you entered a guilty plea to
9 Strong Armed Robbery earlier here today?

10 A Yes, ma'am.

11 Q Okay. And do you know as part of that plea
12 you can receive as little as a probationary sentence
13 or as much as 15 years in prison?

14 A Yes, ma'am.

15 Q And do you understand that arrangement to be
16 that the State would allow you to plea to Strong Armed
17 Robbery in exchange for your testimony here today?

18 A (No response).

19 Q You want me to say that a different way? Do
20 you understand this arrangement to be that you are not
21 pleading guilty to Armed Robbery, you are pleading to
22 a lesser charge because you are testifying here today?

23 A No, ma'am.

24 Q As part of your discussions with the State in
25 getting ready for trial, what do you understand you

1 were supposed to do here today? What were you supposed
2 to testify here today to?

3 A I was just supposed to take tell the truth.

4 Q Okay. Have you had any interaction with
5 Mr. Trimmier since the whole robbery took place?

6 A No, ma'am.

7 Q What kind of interaction have you had with
8 Marteze and Keith, the other two guys that were in the
9 car?

10 A I spoke to them, one person on the phone.

11 Q Did you see them at school? Did you hang out
12 with them socially?

13 A (Shakes head).

14 Q I'm sorry you're going to have to answer out
15 loud.

16 A No, ma'am.

17 Q Okay. Did you guys talk about this robbery
18 afterwards?

19 A No, ma'am.

20 Q One last question. How tall are you?

21 A Six-foot.

22 Q How much do you weigh?

23 A 130, 135.

24 Q Okay. Answer any questions Mrs. Lackland may
25 have for you.

1 CROSS-EXAMINATION

2 BY MRS. LACKLAND:

3 Q Mr. James, good afternoon. I just want to go
4 through some things. I have to apologize in advance.
5 My notes are a little bit out of order based on the
6 testimony. You said you were the driver of the
7 vehicle?

8 A Yes, ma'am.

9 Q And you said that you don't really know
10 Mr. Trimmier?

11 A No, ma'am.

12 Q You don't remember what you were doing the
13 morning of January 3rd of last year?

14 A No, ma'am.

15 Q I want to make sure I got it all right. At
16 some point during this incident on that evening,
17 somebody said follow a car and you did it?

18 A Yes, ma'am.

19 Q You don't know who said it?

20 A No, ma'am.

21 Q Okay. And you also stated that you turned
22 off your lights in the car because somebody told you
23 to?

24 A Yes, ma'am.

25 Q But you don't know who told you to?

1 A No, ma'am.

2 Q Okay. You did not see a handgun at any point
3 during this that Mr. Trimmier had?

4 A No, ma'am.

5 Q Okay. You also stated that Mr. Trimmier
6 pulled out money and gave everybody some?

7 A Yes, ma'am.

8 Q I got a little confused about how much is
9 that it was. You recall how much it was?

10 A I don't know exactly how much it was.

11 Q Okay. All right. You spoke to the
12 Solicitors about this case? Did you?

13 A Yes, ma'am.

14 Q Did you speak to any of the investigators
15 about what happened?

16 A (Shakes head).

17 Q Just to the Solicitors?

18 A Just to the Solicitors.

19 Q Okay. Did they ask you a lot of questions?

20 A Yes, ma'am.

21 Q They kind of lead the discussion about what
22 had happened?

23 A I don't understand what you're saying.

24 Q Did they ask a lot of the questions and seem
25 to know what they were talking about?

1 A Yes, ma'am.

2 Q Where did they question you?

3 A In the Solicitor's Office.

4 Q How many people asked you questions?

5 A Like two or three.

6 Q You did not give a written statement at any
7 time, did you?

8 A No, ma'am.

9 Q You were originally charged with Armed
10 Robbery which you testified to and you know that that
11 carries a minimum of 10 and up to 30 years, is that
12 correct?

13 A Yes, ma'am.

14 Q And it goes towards, two strikes toward South
15 Carolina's Three Strikes law. You know that?

16 A Yes, ma'am.

17 Q You were also charged with Conspiracy,
18 weren't you?

19 A Yes, ma'am.

20 Q Okay. And you got offered a deal by the
21 Solicitor's Office to testify here today, correct?

22 A No, ma'am.

23 Q No?

24 A No, ma'am.

25 Q Did you do not get to enter a plea to Strong

1 Armed Robbery instead of Armed Robbery?

2 A Yes, ma'am.

3 Q You just got to plead guilty to Strong Armed
4 Robbery instead of Armed Robbery?

5 A Yes, ma'am.

6 Q You know that you're not going to be
7 sentenced until after this trial is over, right?

8 A Yes, ma'am.

9 Q After you give your testimony today?

10 A Yes, ma'am.

11 Q Okay. One moment please. (Pause).

12 No further questions. Thank you, Mr. James.

13 MRS. SALISBURY: I'd like to ask a few more
14 questions.

15 **REDIRECT EXAMINATION**

16 **BY MRS. SALISBURY:**

17 Q Dashaun, when you came and met with me in my
18 office about prepping for this trial, was your
19 attorney present?

20 A Yes, ma'am.

21 Q Was he present each time we had a
22 conversation?

23 A Yes, ma'am.

24 Q Okay. Thanks, Dashaun.

25 Your Honor, I don't have any further

1 questions.

2 THE COURT: All right, sir. You can step down.

3 MRS. SALISBURY: The State calls Marteze
4 Hardy.

5 MARTEZE HARDY,
6 is first duly sworn and then testifies as follow:

7 DIRECT EXAMINATION

8 THE CLERK: Please state your full name for
9 the record.

10 THE WITNESS: Marteze Hardy.

11 DIRECT EXAMINATION

12 BY MRS. SALISBURY:

13 Q Marteze, how old are you?

14 A 19.

15 Q Where do you live?

16 A [REDACTED]

17 Q I'm sorry. I can't hear you.

18 A [REDACTED]

19 Q Who do you live there with?

20 A My mom and my sister.

21 Q Do you work?

22 A Yes, ma'am.

23 Q Where do you work?

24 A At Sawyer Dan Foster.

25 Q At where?

1 A Sawyer Dan Foster.
2 Q What do you do there?
3 A I inspect parts.
4 Q Okay. Where did you go to high school?
5 A Southside High School.
6 Q Did you graduate?
7 A Yes, ma'am.
8 Q When did you graduate?
9 A 2008.
10 Q Were you there in your last year in January
11 2008?
12 A Yes, ma'am.
13 Q Okay. Do you know Antonio Trimmier?
14 A I seen him at school.
15 Q Is that the extent of how you know him?
16 A Uh-huh.
17 Q You just seen him around school. Do y'all
18 have the same mutual friends?
19 A Huh-uh.
20 Q No? Tell me, do you remember were who you
21 were with January 3, 2008?
22 A Yes, I was with Keith Williams and Dashaun
23 James.
24 Q Okay. How do you know each of them? Tell me
25 how you know Dashaun.

- 1 A From school.
- 2 Q How long have you known him?
- 3 A For like a year, the year I was there.
- 4 Q Okay. How do you know Keith?
- 5 A From the neighborhood.
- 6 Q From the neighborhood?
- 7 A Like when we was little kids..
- 8 Q Did he go to school with you too?
- 9 A Yes, ma'am.
- 10 Q Did you hang out with him at school?
- 11 A Yes, ma'am.
- 12 Q Okay. How long have you known Keith?
- 13 A Since we was little.
- 14 Q Since you were little. So you known Keith for
- 15 a good while then?
- 16 A Yes.
- 17 Q Okay. Tell me do you remember January 3rd,
- 18 2008?
- 19 A Some of it.
- 20 Q Some of it. Do you remember what you were
- 21 doing that day?
- 22 A School.
- 23 Q You were at school. Okay. What did you do
- 24 after school?
- 25 A I went to work for a couple of hours. Then I

1 got off early.

2 Q Where did you work?

3 A McDonald's.

4 Q Which McDonald's?

5 A The Citgo right there at the corner of
6 Frontage and White Horse.

7 Q Frontage and White Horse. Okay. Is that near
8 85?

9 A Yes, ma'am.

10 Q What time did you have to show up for work
11 that day?

12 A Like 3:00.

13 Q At 3:00?

14 A I got out of school early. I got out and
15 went to work about 3:00.

16 Q Okay. You mentioned that you got off work
17 early that day. Why? Cause it was slow?

18 A The labor was cut.

19 Q The what?

20 A The labor was cut.

21 Q Okay. What happened when they cut you loose,
22 what happened next?

23 A I went home, changed my close and I called
24 Dashaun.

25 Q Okay.

1 A And then we rode around. We went to Kennedy
2 Park.

3 Q Dashaun came and picked you up at your house?

4 A Uh-huh.

5 Q And y'all went to Kennedy Park.

6 A Uh-huh.

7 Q What happened -- how long were you there?

8 A I would say like an hour or so.

9 Q About an hour. What kind of car was Dashaun
10 driving when he picked you up?

11 A It looked like an Oldsmobile.

12 Q Okay. What color was it?

13 A Rusty brown.

14 Q A rusty brown. Do you remember if it had
15 four doors?

16 A It did.

17 Q Okay. After y'all were at Kennedy Park for
18 an hour, what were y'all doing there by the way? What
19 happened when you were at Kennedy Park?

20 A He went to see, I think it was like his
21 friend girl or something. I stayed outside. I went
22 to my house for a little while to get something to eat
23 and came back.

24 Q I'm so sorry, Marteze. I can't hear you very
25 well. If you could, yell into the microphone.

1 A Okay.

2 Q You're just real soft-spoken. Y'all stayed
3 at Kennedy Park for a hour. What happened while -- I'm
4 sorry. I just missed everything that you said.

5 A I went back to my house and got something to
6 eat.

7 Q Oh, Okay. You took the car back to your
8 house --

9 A Yeah.

10 Q -- while Dashaun was at Kennedy Park?

11 A Yeah.

12 Q Okay. So did you go back to Kennedy Park?

13 A Yeah.

14 Q What happened next?

15 A I pick him up and we got Man because he was
16 walking.

17 Q Who is Man?

18 A Keith.

19 Q You know Keith as Man?

20 A Yeah.

21 Q Okay. That's fine. Were you driving or
22 Dashaun?

23 A Dashaun was driving.

24 Q Okay. When you got back to Kennedy Park,
25 Dashaun got back into the driver's seat and y'all

1 left?

2 A Yes, ma'am.

3 Q Okay. How did you run into Keith?

4 A He was walking from basketball practice.

5 Q Okay. What happened?

6 A We picked him up from like when he was
7 walking.

8 Q Okay.

9 A Then we just rode around.

10 Q Just rode around. What happened next?

11 A We were looking for Quay.

12 Q Why?

13 A Just to chill. We had met up at school and
14 talked about meeting up after school.

15 Q Okay.

16 A But he was nowhere to be found.

17 Q You could not find him anywhere?

18 A No.

19 Q Did you ever see him that night?

20 A No, ma'am.

21 Q Where were you looking for him?

22 A In like Piedmont, behind Piedmont Manor and
23 the Valley area.

24 Q Okay. But you never could find him. What you
25 do next?

1 A We asked Antonio did he know where he was at.

2 Q You went to Antonio's house to see if he
3 could tell you where Donquavis was?

4 A Yeah.

5 Q And what happened?

6 A He got in the car. We went looking for him
7 but we could not find him.

8 Q Okay. Couldn't find him. Okay. So what then?
9 Now that there is four of you in the car, what happens
10 now?

11 A We pulled out of Piedmont Manor and we sat
12 like close to Ronnie's Kitchen at the stop sign.

13 Q Okay.

14 A We seen a fancy car.

15 Q What you mean by a fancy car?

16 A High price car.

17 Q Okay.

18 A And then we followed it.

19 Q Whose idea was it to follow it?

20 A It was just, somebody was like follow it.
21 And that's what we did.

22 Q Why? What was your understanding at that
23 point why you were following that car?

24 A Just following it. I did not know what was
25 going on.

1 Q Okay. Where did you follow this car, --

2 A Chanticleer.

3 Q -- this fancy car?

4 A Into Chanticleer.

5 Q Okay. What happened?

6 A He turned into like a long driveway.

7 Q Okay.

8 A We went -- Antonio got out of the car before,
9 like at his driveway. We turned around and came back.
10 He was coming towards the car.

11 Q So let me break that down a little bit. You
12 see the car that you are following turn into his
13 driveway. You know if he turned to the left or the
14 right?

15 A He turned right.

16 Q He turns into his driveway. What did y'all
17 do?

18 A We go down, like make a three-point turn,
19 like go down a little bit cause there was a circle
20 right there. You can not go all the way down there.

21 Q Okay.

22 A We turned around and came back and he was
23 coming back toward the car.

24 Q Okay. When did Antonio jump out of the car?

25 A Before we turned around.

1 Q Before you turned around. Did you see, did
2 you see whether he had a handgun?

3 A I seen it.

4 Q What kind of gun was it?

5 A It was a revolver.

6 Q At what point, what do you think is about to
7 happen when he jumps out of the car, he's got a gun
8 and he takes off running? What do you think at that
9 moment is going on?

10 A A robbery?

11 Q He was about to go rob somebody?

12 A Uh-huh.

13 Q Okay. So Dashaun turns the car around and
14 you start heading back in the direction that you came?

15 A Uh-huh.

16 Q How long was Antonio out of the car?

17 A Like a minute or so.

18 Q Okay.

19 A Like one or two minutes.

20 Q Okay. Okay. What happens when he gets back
21 to the car?

22 A We pulled off.

23 Q Y'all pull off. Where did you go?

24 A Piedmont Manor.

25 Q Why?

1 A To buy some weed.

2 Q Did you ever find out whether Antonio got
3 anything from the robbery?

4 A He pulled out the money. He split it between
5 us.

6 Q He gave everybody in the car some money. Do
7 you remember how much?

8 A 20 or \$21.

9 Q 20 or \$21. Okay. So y'all drive to Piedmont
10 Manor to buy some marijuana. Then where do you go?

11 A Then we went to the gas station to get gas
12 and cigars.

13 Q Did everybody contribute some money for the
14 marijuana?

15 A Yeah, the ones that smoke.

16 Q Okay. Where did you go next?

17 A Highlands.

18 Q Are those apartments?

19 A Yes.

20 Q Highland Square Apartments?

21 A Yes.

22 Q Okay. Then what?

23 A Sat out there and smoke for almost an hour.
24 Then everybody went their separate ways.

25 Q You went your separate ways.

1 A Yes.

2 Q Okay. Marteze, is the person that you saw
3 get out of the car with the revolver and go to the
4 victim's driveway and come back a few seconds later
5 with the money in the courtroom?

6 A Yes, ma'am.

7 Q Could you identify him for the jury?

8 A (Pointing).

9 Q What is he wearing?

10 A White shirt.

11 Q Okay. Do you have any doubt in your mind
12 that that was the person who committed this robbery?

13 A No, ma'am.

14 Q Marteze, do you understand that what you did
15 as part of your participation in this robbery is a
16 crime?

17 A Yes, ma'am.

18 Q Were you charged and arrested as part of your
19 involvement in this crime?

20 A Yes, ma'am.

21 Q What were you charged with?

22 A Armed Robbery.

23 Q Were you charged with Conspiracy as well?

24 A Yes.

25 Q Okay. Has the State made any arrangements

1 with you about how those charges would be deposed in
2 exchange for your testimony here today?

3 A No, ma'am.

4 Q Did you enter a guilty plea to Accessory
5 after the Fact of a Felony?

6 A This morning.

7 Q This morning you did? Okay. Do you
8 understand as part of that the fact that you pled
9 guilty to that crime, you can face as little as a
10 probationary sentence or as much as 10 years in
11 prison?

12 A Yes, ma'am.

13 Q Okay. What do you understand that you have
14 to do as part of your cooperation in exchange for the
15 State allowing you to plea to Accessory after the
16 Fact, what do you understand that you have to do here
17 today?

18 A Tell the truth.

19 Q Have you had any interactions with Antonio
20 since this robbery was committed?

21 A No, ma'am.

22 Q Have you had any interaction with either
23 Dashaun or Keith since this robbery was committed?

24 A No, ma'am.

25 Q Did you see each other in school?

1 A No, ma'am.

2 Q Tell me how tall are you.

3 A Like 6'0, 6'1.

4 Q How much do you weigh?

5 A 140, 145.

6 Q Okay. All right. Marteze, answer any
7 questions Mrs. Lackland may have for you.

8 CROSS-EXAMINATION

9 BY MRS. LACKLAND:

10 Q Hi, Mr. Hardy.

11 A Hello.

12 Q Okay. I just want to clarify a few things.

13 Okay. You testified that you just knew Antonio from
14 school, not real well, correct?

15 A Yes, ma'am.

16 Q You originally spoke to Deputy Weiner about
17 this incident, correct?

18 A Yes, ma'am.

19 Q That was February 12th of last year?

20 A Yes, ma'am.

21 Q Investigator Fortner was also present for
22 that discussion?

23 A Yes, ma'am.

24 Q This is at Southside High School?

25 A Yes, ma'am.

1 Q Where exactly was it?

2 A In the conference room.

3 Q In the conference room. Was anyone else
4 there?

5 A No, ma'am.

6 Q Okay. And you gave a written statement?

7 A Yes, ma'am.

8 Q You remember that?

9 A Yes, ma'am.

10 Q Who led that conversation?

11 A Detective Weiner.

12 Q Detective Weiner did. So he asked you a lot
13 of questions?

14 A (Nods Head).

15 Q Okay. He seemed to know a lot about what was
16 going on, right?

17 A (Nods Head).

18 Q He ask you kind of to fill in the details
19 from him?

20 A Yes, ma'am.

21 Q The investigator wrote the statement for you?

22 A Yes, ma'am.

23 Q Did he ask you specifically about Antonio's
24 involvement?

25 A He just wanted to know what was going on.

1 Q Okay. All right. In that statement, you
2 said you working at McDonald's?
3 A Yes, ma'am.
4 Q You said today you got off of work early?
5 A (Nods Head).
6 Q In your statement, you said that you got off
7 at 11:30 PM. Remember that?
8 A It felt like 11:30 PM when I got off. I did
9 not look at the clock when I got clocked out.
10 Q Okay. You also stated that Antonio had a gun?
11 A Yes, ma'am.
12 Q You described it in your statement as a
13 silver revolver, brown grip. Somebody said to follow
14 the car, just follow it. You did not know what was
15 going on at that point.
16 A Huh-uh.
17 Q You didn't know who said that statement?
18 A Huh-uh.
19 Q Okay. You said Antonio got out and went to,
20 into the driveway and then the car turned around. Is
21 that what you said today?
22 A Yeah.
23 Q You remember in your statement you said you
24 turned around first and then Antonio got out?
25 A I was saying that we turned around. While we

1 was turning around, we were going --

2 Q I'm sorry. I did not hear you.

3 A I was saying that while we were turning
4 around, he was already out the car. Not saying that
5 he was in the car when we turned around.

6 Q Oh, okay. So we drove down the street and
7 turned around. We parked a few houses down.

8 A Like --

9 Q Antonio then got out of the car?

10 A Yeah.

11 Q Okay.

12 A It was like when we was turned around he was
13 running towards the car.

14 Q Okay. You said he walked towards the house
15 in your statement?

16 A Yeah.

17 Q He returned a few minutes later still
18 walking.

19 A He walked into the car. He did not jump into
20 the car.

21 Q Right. You said in your statement he walked
22 to the car?

23 A Walked to the car.

24 Q Just trying to clarify. You said he
25 definitely was not running in your statement?

1 A He stop running. I did not put he stopped
2 running in the statement.

3 Q You didn't say a few minutes later, he came
4 back, he wasn't running and he got into the car?

5 A Yeah.

6 Q You also said in his statement that he came
7 back with \$84?

8 A Yes.

9 Q Who all did he gave it to?

10 A All four of us that were in the car.

11 Q Okay. Do you remember in your statement that
12 you just stated that he gave some to Dashaun James and
13 some to you?

14 A I said that in the statement?

15 Q Uh-huh.

16 A I said he passed it out to all of us.

17 Q So you did not say Antonio gave me and
18 Dashaun \$20 each?

19 A He gave it to all of us.

20 Q Okay. You also spoke to the Solicitors in
21 this case?

22 A Yes.

23 Q And that was after you spoke to Deputy Weiner
24 and Investigator Fortner, correct?

25 A Yes.

1 Q That was after you already gave the written
2 statement. At that time, you told Solicitors that
3 Keith Williams was also in the car?

4 A Yes.

5 Q You had not told that to Deputy Weiner?

6 A It was not really just important. It was
7 important but I did not tell him that.

8 Q You did not tell him that?

9 A Right.

10 Q Okay. I think the Solicitor covered this with
11 you but you were originally charged with Armed Robbery
12 and Conspiracy.

13 A Yes, yes.

14 Q You know that Armed Robbery carries 10 to 30
15 years?

16 A Yes.

17 Q Two strikes.

18 A Uh-huh.

19 Q You got a deal to testify today?

20 A No.

21 Q You did not get to enter a plea to Accessory
22 after the Fact this morning?

23 A Yes.

24 Q That only carries up to 10?

25 A I know.

1 Q No minimum sentence?

2 A No.

3 Q You are going to be sentenced after you give
4 your testimony today?

5 A Yes.

6 Q Okay. I don't have any further questions.
7 Thank you.

8 MRS. SALISBURY: One brief question, Judge.

9 REDIRECT EXAMINATION

10 BY MRS. SALISBURY:

11 Q Marteze, is the way that you described the
12 facts as they happened when you spoke with
13 Investigator Weiner when you give your written
14 statement, is the way that you described those events
15 then generally the same as you are testifying to here
16 today?

17 A Yes.

18 Q Thank you, Marteze.

19 THE COURT: You can step down.

20 MRS. SALISBURY: The State calls Keith
21 Williams.

22 Mr. Williams, come around and be sworn.

23 KEITH WILLIAMS,

24 is first duly sworn and then testifies as follow:

25 DIRECT EXAMINATION

1 THE CLERK: Please State your full name for
2 the record.

3 THE WITNESS: Keith Williams.

4 THE CLERK: Thank you.

5 BY MRS. SALISBURY:

6 Q Keith, how old are you?

7 A 19.

8 Q Where did you live?

9 A [REDACTED]

10 Q Central Court. Where is that?

11 A Donaldson Center area.

12 Q Who do you live there with?

13 A My grandmother and my mom.

14 Q Do you work?

15 A No, ma'am.

16 Q Where did you go to high school?

17 A Southside.

18 Q Are you still there?

19 A Yes, ma'am.

20 Q Where are you at? Are you about to graduate?

21 A Yes, ma'am. I'm about to graduate.

22 Q Okay. Were you going to school there in
23 January of 2008?

24 A Yes, ma'am.

25 Q Keith, tell me, do you know Antonio Trimmier?

1 A Yes, ma'am.

2 Q How do you know him?

3 A Childhood. We grew up together. Around the
4 area.

5 Q So the same neighborhood?

6 A Yes, ma'am.

7 Q You have the same friends?

8 A Some of them, yes, ma'am.

9 Q About how long had you known him?

10 A About 6 to 7 years.

11 Q Okay. Do you remember who you were with
12 January 3, 2008?

13 A Yeah. Dashaun James and Marteze Hardy.

14 Q How did you know Dashaun?

15 A We went to middle school together plus we
16 live in the neighborhood.

17 Q So about how long have you known Dashaun?

18 A About 8 or 9 years now.

19 Q How do you know Marteze?

20 A My best friend his cousin. We grew up
21 together. All us grew up together.

22 Q Okay. You known him the neighborhood, same
23 friends, all that?

24 A Yes, ma'am.

25 Q About how long have you known Marteze?

1 A About five or six years.

2 Q Do you remember January 3rd of 2008?

3 A Yes, ma'am. Some of it.

4 Q Do you remember what you were doing that day?

5 A I was at school.

6 Q At school. What happened after you get
7 finished with school? What happened toward the end of
8 the day?

9 A I went to basketball practice.

10 Q About what time does basketball practice
11 start?

12 A About four o'clock.

13 Q What time is it over?

14 A About 6:45, 7:00.

15 Q What did you do after you finish with
16 basketball practice?

17 A I called Dashaun for a ride home but I didn't
18 get no answer. So I started walking.

19 Q Started walking. Okay. How far is it from
20 Southside to your house, where you living at the time?

21 A Probably a 15 or 20-minute walk.

22 Q Did you make it all the way to your house?

23 A No, ma'am.

24 Q What happened?

25 A By the time I crossed the bridge, I saw

1 Dashaun and Marteze coming around the corner.

2 Q In a car?

3 A Yes, ma'am.

4 Q What kind of car?

5 A An old-looking car.

6 Q Old-looking car. Do you remember what color
7 it was?

8 A It was rusty brown looking.

9 Q Okay. Did it have four doors?

10 A Yes, ma'am.

11 Q So what happened? Did you jump in the car
12 with Dashaun?

13 A Yes, ma'am.

14 Q Who else was in the car when you got in?

15 A Marteze and Dashaun. Just three --

16 Q So just the three of you?

17 A Yes, ma'am.

18 Q Okay. What did you do next?

19 A We rode around for a while.

20 Q All right. How long?

21 A I would say about an hour or so. An hour or
22 two.

23 Q Then what?

24 A Then they asked me if I know where Quay was.

25 Q What did you tell them?

1 A No but I knew somebody who did probably knew
2 where he was.

3 Q Who was that?

4 A Antonio.

5 Q Okay. So what did y'all do?

6 A Went over to Antonio house.

7 Q What happened next?

8 A We asked him if he knew where he was. He
9 told us no. But he had got in the car with us to see
10 can he find him with us, go look for him with us.

11 Q Okay. So he jumped in the car with you. So
12 there were four of you in the car?

13 A Yes, ma'am.

14 Q Where is everybody sitting?

15 A I am behind Tez and he is behind Dashaun.

16 Q Okay. And Dashaun is driving?

17 A Yes, ma'am.

18 Q Okay. So you and Antonio are in the back
19 seat?

20 A Yes, ma'am.

21 Q All right. What did you do from there?
22 Antonio gets in the car. Where did you guys go?

23 A We rode around back to Piedmont Manor and
24 through Pleasant Valley to see could we find him but
25 we couldn't find him.

1 Q Okay. Then what?

2 A After we left out of Piedmont Manor, we came
3 to a stop sign. Antonio said I need some money. I
4 need to hit a lick.

5 Q He said he needed to hit a lick?

6 A Yeah.

7 Q What does that mean?

8 A Get some money, some quick money.

9 Q What did you understand that to mean?

10 A Rob somebody.

11 Q Antonio said some money, he needed to rob
12 somebody?

13 A Yes, ma'am.

14 Q All right. What happened next?

15 A We waited until we seen the car that we had
16 followed rode past.

17 Q What kind of car?

18 A I don't know what model. I know it was a
19 jeep model looking, a jeep.

20 Q Okay. Where did you follow it?

21 A Chanticleer.

22 Q How long, how far into Chanticleer?

23 A Like all the way through. I did not think he
24 was going to proceed through it. I thought he was
25 going to turn off or something, just kidding but he

1 proceeded. He did not say nothing so we kept
2 following it.

3 Q So what happened then?

4 A We get there. The car turned into a yard. We
5 passed the house. Then we made a three-point turn in
6 the middle. About the time we were making the three-
7 point turn, Antonio hopped out the car. After we did
8 the three-point turn, we rode pass back the house and
9 slowed down a little bit and cut the lights off. About
10 like, yeah, a minute or so, he came back to the car
11 and we left.

12 Q Did you ever see whether Antonio had a
13 weapon?

14 A Yeah, when he got back in the car, not when
15 he was inside. I didn't see it when he was inside.

16 Q Okay. So after he came back from --

17 A Yeah.

18 Q -- the driveway, how did you see that? How
19 did that work?

20 A He had it in his hand.

21 Q Oh, he had the gun in his hand. You remember
22 what kind of gun it was?

23 A Yeah, it was like a silver, brown looking.
24 Couldn't really tell. I know it had a brown handle.
25 By the time he got back in the car, he put it back in

1 his coat pocket.

2 Q Was it a big gun?

3 A No, it wasn't a big one.

4 Q Okay. So you said he jumped out of the car
5 while y'all are turning around?

6 A Yes, ma'am.

7 Q Then by the time you turn around, someone
8 says turn off the light?

9 A Yeah.

10 Q How long do you think Antonio was out of the
11 car?

12 A Not long. Maybe a minute or two.

13 Q A minute or two. What happens next? After
14 Antonio jumps back in the car, what happens next?

15 A We leave from Chanticleer. We all head to
16 Piedmont Manor.

17 Q Okay. Why?

18 A So they could go buy them some weed.

19 Q What you mean them? You don't smoke?

20 A No, ma'am.

21 Q Why not?

22 A It's not good. I'm an athlete.

23 Q You're an athlete?

24 A Yes, ma'am.

25 Q You play for Southside?

1 A Yes, ma'am.

2 Q What do you play?

3 A Point guard.

4 Q So you play basketball?

5 A Yes, ma'am.

6 Q Do they drug test you as far as the team?

7 A Yes, ma'am.

8 Q Okay. You went to Piedmont Manor and you
9 bought some -- they bought some marijuana. Did you
10 contribute any money?

11 A No, ma'am.

12 Q Okay. Where did you guys go next?

13 A They went to the store and bought some cigars
14 and got the gas. Then after that, we went to Highland
15 Square and they had smoked it. Then after that, we
16 all had split up. I was the one left with the car.
17 So, me and Antonio was together. I took him to
18 McDonald's and got him something to eat. Took him
19 home and I went home.

20 Q Okay. Why -- do you know who's car this was?

21 A Yeah. It was a friend of ours. His name is
22 Tavaris but we call him T.

23 Q Do you know why y'all had his car?

24 A I don't know why Dashaun had it. I guess
25 because he was in incarcerated. He left it with

1 Dashaun I guess cause he trusted him.

2 Q Why did Dashaun give it to you?

3 A Because it was time for him to go home.

4 Q Okay. All right. Now, Keith, is the person
5 you saw ultimately with the gun, with the gun that you
6 described, that got out car in Chanticleer and ran up
7 the driveway and returned a few minutes later with
8 this money, is he in the courtroom today?

9 A Yes, ma'am.

10 Q Can you identify him for the jury?

11 A (Pointing).

12 Q What is he wearing?

13 A White-collar shirt.

14 Q Did you remember -- I forgot to ask you. Do
15 you remember how much money you got?

16 A Yeah. About 21, \$21. 20 or \$21.

17 Q Was it a bunch of 10s, a bunch of 5s?

18 A A \$20 bill and a dollar bill.

19 Q Okay. Now do you understand that as part of
20 your participation in this crime, this riding up on
21 the victim and then leaving and not telling the police
22 and distributing that money, do you understand that
23 what you did was a crime that night?

24 A Yes, ma'am.

25 Q Were you arrested and charged as part of your

1 involvement in that crime?

2 A Yes, ma'am.

3 Q What were you charged with?

4 A Armed Robbery and Conspiracy.

5 Q Has the State made any arrangements with you
6 about how those charges would be deposed in exchange
7 for your testimony here today?

8 A Yes, ma'am.

9 Q What do you understand that deal to be?

10 A Accessory to a fact. Probably probation or
11 some time. Years or something. I don't know.

12 Q Okay. So you entered a guilty plea to
13 Accessory after the Fact?

14 A Yes, ma'am.

15 Q Do you understand that that charge or that
16 penalty for that charge could be as little as a
17 probationary sentence or as much as 10 years?

18 A Yes, ma'am.

19 Q Has anyone promised you what your sentence is
20 going to be?

21 A No, ma'am.

22 Q What do you have to do -- what do you
23 understand is your responsibility here today? What do
24 you have to do to get the benefit of that arrangement?

25 A Tell the truth.

1 Q All right. Have you told the truth today?

2 A Yes, ma'am.

3 Q Have you had any interaction with Antonio
4 after the robbery took place?

5 A No, ma'am.

6 Q Any interaction with either Dashaun or
7 Marteze since this robbery took place?

8 A No, ma'am.

9 Q Tell me real quick how tall are you?

10 A 5'10, 5'11.

11 Q How much do you weigh?

12 A About 147.

13 Q Okay. All right. Answer any questions Mrs.
14 Lackland may have for you.

15 **CROSS-EXAMINATION**

16 **BY MRS. LACKLAND:**

17 Q Good afternoon. Let me just clarify a few
18 things with you. Okay.

19 A Yes, ma'am.

20 Q You spoke to Deputy Weiner about this
21 incident, didn't you, --

22 A Yes, ma'am.

23 Q -- in February 13th of 2009?

24 A Yes, ma'am.

25 Q That was Southside High School?

1 A Yes, ma'am.

2 Q Were you pulled from class?

3 A No, ma'am.

4 Q No, you weren't? Where did he ask you some

5 questions?

6 A The confrontation room.

7 Q Confrontation room?

8 A I mean in the --

9 Q Conference room?

10 A Yeah.

11 Q Okay. Was anyone else there?

12 A No, ma'am.

13 Q Okay. Were you asked a lot of questions

14 about what had happened?

15 A Yes, ma'am.

16 Q Did you kind of, did they seem to know what

17 they were talking about?

18 A The majority, yes, ma'am.

19 Q Yeah. You also gave a written statement,

20 right?

21 A Yes, ma'am.

22 Q You wrote your own statement actually.

23 A Yes, ma'am.

24 Q Were you mirandized? That means were you

25 advised of your rights?

1 A Yes, ma'am.

2 Q You were? Right. Okay. I just want to make
3 sure I got this right. Okay.

4 A All right.

5 Q In your statement, you said you let Antonio
6 out? Or y'all let him out of the car. He got out.

7 A Yeah.

8 Q The car was turned around?

9 A Yes, ma'am.

10 Q He ran back and he had money?

11 A Yes, ma'am.

12 Q You said today that he had a gun but you did
13 not see very well?

14 A I did not really think too much about it at
15 the point.

16 Q Okay. That was after everything had
17 happened?

18 A Yes.

19 Q You did not mention that in your statement?

20 A Yeah, I just really gave him the basic
21 details of what happened.

22 Q Okay. And that did not include anything about
23 the gun?

24 A No, ma'am.

25 Q Okay. You say some of the money Antonio had

1 was just given to Mr. James, Dashaun James, you did
2 not get any of it, in your statement?

3 A It's a while ago.

4 Q It's a while ago. What are you --

5 A He had split it. I was sitting beside him. He
6 gave it to me first. Then he gave the rest some too.

7 Q So you might have been mistaken in your
8 earlier statement?

9 A Yes, ma'am.

10 Q Okay. So let me make sure I just have this
11 right. Instead of saying he just gave some to Dashaun
12 James in your statement, who did he say he gave it to
13 today?

14 A Marteze and Dashaun James.

15 Q But none to you, right?

16 A Yeah, me too.

17 Q And you. Okay.

18 A Yeah.

19 Q You were originally charged with Conspiracy.
20 You know that carries up to five years.

21 A Yes, ma'am.

22 Q And Armed Robbery is 10 to 30?

23 A Yes, ma'am.

24 Q Two strikes?

25 A Yes, ma'am.

1 Q But you got cut a deal to testify here today?

2 A Yes, ma'am.

3 Q Yeah. You got to plead guilty to Accessory
4 after the Fact.

5 A Yes, ma'am.

6 Q Just up to 10 years?

7 A Yes, ma'am.

8 Q You said you might, were probably going to
9 get a probationary sentence?

10 A Probably.

11 Q Okay. You also had a Disturbing Schools
12 charge dismissed?

13 A Yes, ma'am.

14 Q Okay. And you're going to be sentenced after
15 you testify here today?

16 A Yes, ma'am.

17 Q Thank you very much. No further questions.

18 MRS. SALISBURY: One brief question on
19 redirect, Judge.

20 REDIRECT EXAMINATION

21 BY MRS. SALISBURY:

22 Q Keith, is the story or the facts as you
23 relayed them to Investigator Weiner when he came to
24 talk to you generally the same story that you are
25 telling here today?

1 A Yeah, basically. I just gave him the basic
2 details. Not the exact details of the whole story.

3 Q Okay. All right. Thank you, Keith.

4 No further questions, Judge.

5 THE COURT: You can step down. Let's take a
6 short break before we hear the next witness. I'm
7 going to ask you all to step back in the jury
8 room. I will see you in just a few minutes.

9 (WHEREUPON, the jury exit at approximately
10 3:52 PM.)

11 THE COURT: All right. We'll take about a
12 five-minute break.

13 (WHEREUPON, a recess is taken at approximately
14 3:52 PM.)

15 (WHEREUPON, the Court resumes at approximately
16 4:00 PM.)

17 (WHEREUPON, the jury enter at approximately
18 4:00 PM.)

19 MRS. SALISBURY: Your Honor, the State calls
20 Investigator David Weiner.

21 DAVID WEINER,
22 is first duly sworn and then testifies as follow:

23 THE CLERK: Please state your full name
24 for the record.

25 THE WITNESS: David Weiner.

1 THE CLERK: Thank you.

2 DIRECT EXAMINATION

3 BY MRS. SALISBURY:

4 Q Investigator Weiner, where do you work?

5 A Greenville County Sheriff's Office.

6 Q In what capacity?

7 A Currently, I'm assigned to Criminal
8 Investigations and the Armed Robbery Unit?

9 Q What are your general duties as an
10 investigator with the Armed Robbery Unit?

11 A Armed robberies that get reported to uniform
12 patrol deputies get turned over to Criminal
13 Investigations, specifically to us in Armed Robbery.
14 They are currently four investigators and a
15 supervisor. And the supervisor disseminates the
16 reports to us and we work them.

17 Q Did you become involved in an armed robbery
18 that occurred at [REDACTED] on January 3rd,
19 2008?

20 A Yes, ma'am, I did.

21 Q Could you describe for the jury a little bit
22 about how you became involved and then what you did as
23 part of your investigation?

24 A Sure. Again, uniform patrol writes it up.
25 They turn it in. It gets turned over to Criminal

1 Investigations. My sergeant saw fit to give it to me.
2 Once I get that case, I will take a look at it. I
3 will read it thoroughly. I will look up any names
4 that are associated with it. And then I will start
5 making contact with the victim, in this case,
6 Dr. Pugh.

7 Q After you made contact with the victim, what
8 did you do next?

9 A It was really tough. Dr. Pugh works pretty
10 much the same hours I do, Monday through Friday, 9 to
11 5 kind of thing. We talked about maybe meeting at
12 night one time. I spoke to him relatively briefly on
13 the telephone. I also spoke to his wife, I think,
14 one time. In the meantime, of course, there are other
15 cases coming in that I am also actively working.

16 Q How did the investigation progress from
17 there?

18 A I was interviewing someone on unrelated case.
19 They told me I needed to talk to Marteze Hardy about a
20 robbery that occurred in Chanticleer which I then did.

21 Q Where did you speak with Mr. Hardy?

22 A I spoke to Marteze Hardy at school, at
23 Southside High School during the day.

24 Q After speaking with Mr. Hardy, what did you
25 do next?

1 A After speaking to Mr. Hardy is when I went
2 and got warrants on Antonio Trimmier.

3 Q Okay. Did you learn generally the, sort of
4 the geography of this case?

5 A Yes, ma'am.

6 Q If you could, step down here with me. I'm
7 going to show you State's Exhibit 1. I would like for
8 you to describe as you learned through the course of
9 the investigation where some of these events
10 transpired.

11 A Sure.

12 Q I'm going to give you a marker so you can
13 mark those places. Now, we heard some testimony about
14 Pleasant Valley. Some of the co-defendants have
15 testified, uh, I believe you heard their testimony
16 about riding around generally in the Pleasant Valley
17 area.

18 A Sure.

19 Q Where is that area on this map?

20 A I'm not really going to mark it with this
21 marker because Pleasant Valley encompasses the top
22 right quadrant. Specifically, down in to Shemwood,
23 Old Augusta Road, Monteith Circle, that area.

24 Q The co-defendants mentioned that they were,
25 they spent some time or at least stopped by Piedmont

1 Manor. Do you know where that is?

2 A Yes, ma'am.

3 Q Where is Piedmont Manor on this map?

4 A Piedmont Manor is right here. You can see
5 the buildings. The address is a Shemwood Lane
6 address. That is Piedmont Manor.

7 Q Is it still known as Piedmont Manor?

8 A I don't think so. I think it carries
9 something with that Shemwood Lane name but we still
10 call it a Piedmont Manor.

11 Q The co-defendants also testified that at some
12 point they identified the car which we learned is
13 ultimately the victim's car that they followed in
14 front of the Pleasant Valley Community Center and
15 Ronnie's Kitchen. We heard both of those names. Where
16 are those locations?

17 A That is right here at a very odd
18 intersection. There is like two or three sets of
19 three or four-way stops right here. That would be
20 Ronnie's and Pleasant Valley. It is actually marked
21 with a sign that says Pleasant Valley Community.

22 Q The victim has already identified for us
23 where his house is. We know that it is on Chapman
24 Road. But the co-defendants have also described that
25 after they committed this robbery and went back by

1 Piedmont Manor to purchase marijuana, they went to
2 Mike and Jacks to buy, I believe they describe blunts,
3 to smoke the marijuana. Do you know where Mike and
4 Jacks is?

5 A I do, yes, ma'am. That's down here off of
6 Augusta Road. It's south of 85. It is right here at
7 this corner. This building right here.

8 Q Okay. The co-defendants also described that
9 after making a stop at that establishment that they
10 went to Highlands or Highland Square.

11 A Right.

12 Q Do you know where that is?

13 A I do. They are right here on a Pine Creek
14 Court extension. Right here. That is Highlands,
15 Highland Square.

16 Q We heard each of these Defendants was at
17 least at the time of this crime enrolled at Southside
18 high school. Can you see Southside on this map?

19 A I believe so. There is a new school built.
20 When this aerial picture was taken, it looks like it
21 was under construction. Right here, off of Frontage
22 Road. It should be the high school now. Southside
23 High School.

24 Q Okay. Thanks, Investigator. You can have a
25 seat. Thank you. Now, as part of your investigation,

1 did you ultimately charge each of these Defendants?

2 A I did.

3 Q All right. With what charges did you charge
4 each of them?

5 A Each one of them got an Armed Robbery charge
6 and Conspiracy charge just implicating that they
7 planned it. Mr. Trimmier got Possession of a Weapon
8 during a Violent Crime.

9 Q Okay. All right. Investigator, answer any
10 questions Mrs. Lackland may have for you.

11 A Yes, ma'am.

12 CROSS-EXAMINATION

13 BY MRS. LACKLAND:

14 Q You reviewed the initial report that Officer
15 Lanford made in this case?

16 A I'm sorry. What about the --

17 Q Did you review it?

18 A Yes, ma'am. I did.

19 Q Okay. Excuse me. I apologize. In your
20 report, that is dated January 14th of 2008, you state
21 that on January 9th, 2008 you had spoken with Dr. Pugh
22 over the telephone and he confirmed that?

23 A Correct. Just the basic general report.

24 Q Right, what Officer Lanford had put together.

25 A Yes.

1 Q Correct. And in doing so, you confirmed what
2 he described as the suspect description as noted by
3 Officer Lanford?

4 A I think all I did was talk to him and
5 basically say is it in fact true that you were
6 basically robbed at gunpoint in your driveway. That
7 was about the extent of the conversation.

8 Q You did not actually go through the details
9 of the report?

10 A No, ma'am.

11 Q Okay. There are no fingerprints, correct?

12 A No, ma'am.

13 Q And there is no gun in Property and Evidence?

14 A Correct.

15 Q Okay. You tried to follow up with Dr. Pugh
16 on January 24th of last year but nobody was home, is
17 that correct?

18 A Correct.

19 Q Okay. On February 12th of last year, you
20 spoke to Marteze Hardy?

21 A I believe that is the date, yes, ma'am.

22 Q Okay. Investigator Fortner was present?

23 A Yes, ma'am.

24 Q That was at Southside High School?

25 A Correct.

1 Q He gave you a statement?

2 A Correct.

3 Q He told you that Dashaun James had picked him
4 up?

5 A Yes, ma'am.

6 Q Okay. He had finished up his shift at
7 McDonald's at 11:30 that night?

8 A Yes, ma'am.

9 Q That's what he told you in his statement at
10 that time, correct?

11 A He just told me he got off work. He did say
12 if he finished his shift or not.

13 Q Okay. But it was at 11:30 is what he told
14 you?

15 A That's what time he thought it was. Yes,
16 ma'am.

17 Q Okay. If you need to look at his statement,
18 I got a copy of it.

19 A I think I am okay right now.

20 Q Okay. And he said that Antonio had showed
21 them a gun?

22 A Correct.

23 Q It was a silver revolver is how he described
24 it with a brown handle?

25 A I believe so. Yes, ma'am.

1 Q And Antonio got out, walked to the house, is
2 that correct?

3 A Yes, ma'am.

4 Q And that he returned walking?

5 A Correct.

6 Q At that time, you charged Marteze Hardy with
7 Armed Robbery and Conspiracy?

8 A Not at that time, no, ma'am.

9 Q Okay. When did you charge him?

10 A I'd have to look back at the exact dates. It
11 was after the other co-defendants were interviewed.

12 Q Okay. And on January 9th of 2008, you got
13 warrants for Antonio?

14 A Correct.

15 Q For Armed Robbery and Possession of a Weapon
16 during the Commission of a Violent Crime.

17 A Yes, ma'am.

18 Q You knew at the time that he was booked on
19 these charges he was 5'9, 132 pounds?

20 A I don't know his height or weight.

21 Q Okay. That was booking?

22 A I'm sorry?

23 Q That would be available through booking?

24 A Sure. If it's on the warrant, it's because
25 the computer automatically generates it from a

1 previous.

2 Q That would -- they would never update that?

3 A Sometimes they do, sometimes they don't.

4 Q Okay. You spoke to the Solicitors in this
5 case?

6 A Yes, ma'am.

7 Q They told you Marteze Hardy had told them
8 that Keith Williams was also involved?

9 A Correct.

10 Q He had not mentioned that to you in his
11 initial statement?

12 A He did not.

13 Q You took Keith Williams into custody at
14 Southside High School?

15 A I believe so. Yes, ma'am. That is where I
16 interviewed him.

17 Q He was charged with Armed Robbery and
18 Conspiracy?

19 A Correct.

20 Q That would be February 13th of this year?

21 A I don't know the date.

22 Q Okay. But that sounds about, that sounds
23 right to you?

24 A Yes, ma'am.

25 Q In your report, you said you verbally

1 mirandized Keith Williams?

2 A Correct.

3 Q He did not sign a waiver?

4 A Not at that time. Not when he gave the
5 statement.

6 Q But he did give you a written statement?

7 A Yes, ma'am. Very short.

8 Q Right. And he told you that the occupants of
9 the car had let Antonio out?

10 A Correct.

11 Q They turned the car around?

12 A Correct.

13 Q And he came running back at that time?

14 A I don't recall if he said came running or
15 walking. He just said he came back to the car.

16 Q Okay. And he had money in hand at that time?

17 A Yes, ma'am.

18 Q And just gave some to the driver, Dashaun
19 James?

20 A I don't remember who he said he gave the
21 money to. But money was passed out.

22 Q Would you like to look at his statement?

23 A No.

24 Q Okay. But would you say that it sounds right
25 that he would've said some was just given to the

1 driver.

2 A I know that money was passed out. I don't
3 know who to.

4 Q Okay. Dashaun James ever gave you a written
5 statement?

6 A No.

7 Q Did he speak to you at all about this
8 incident?

9 A No, ma'am.

10 Q Okay. He also was charged with Armed Robbery
11 and Conspiracy, correct?

12 A Correct.

13 Q In your report dated February 23rd of this
14 year, you said at that time Dashaun James had begun to
15 work with the Solicitor's Office, begun cooperating
16 with them?

17 A It is my understanding they had interviewed
18 him.

19 Q Right. So in your report, excuse me, in your
20 report, you said James has since begun to cooperate
21 with the Solicitor's Office and has also implicated
22 Keith Williams?

23 A Correct.

24 Q Okay. Just one moment please.

25 Thank you, Deputy.

1 A Yes, ma'am.

2 MRS. SALISBURY: I don't have any redirect.

3 THE COURT: You can step down.

4 THE WITNESS: Thank you.

5 MRS. SALISBURY: Your Honor, the State rests.

6 THE COURT: Ladies and Gentlemen, I will have
7 to take up some legal matters right now. I'm
8 going to send you back to the jury room for just
9 a few minutes and we will have you back out here
10 shortly.

11 (WHEREUPON, the jury exit at approximately
12 4:13 PM.)

13 THE COURT: Mrs. Lackland.

14 MRS. LACKLAND: Your Honor, the defense would
15 move for a directed verdict at this time based on
16 lack of cause and evidence.

17 THE COURT: Okay. I would deny the motion.
18 Anything further?

19 MRS. LACKLAND: Not from the defense.

20 THE COURT: Are you planning on putting up
21 any evidence other than possibly the testimony of
22 the Defendant?

23 MRS. LACKLAND: I don't believe so. I don't
24 believe that Mr. Trimmier wants to testify. That
25 had been our prior discussion. We had not

1 discussed it since then.

2 THE COURT: As far as other evidence, as far
3 as testimony of other witnesses, you plan to put
4 up the testimony of any other witnesses except
5 possibly the Defendant?

6 MRS. LACKLAND: No, Your Honor.

7 THE COURT: Okay. I'm going to take a break
8 right now, in a few minutes at least, and give
9 you a chance to discuss with him again whether or
10 not he wishes to testify. You had that
11 discussion with him in the past. Is that correct?

12 MRS. LACKLAND: That's correct, Your Honor.

13 THE COURT: When you had that discussion with
14 him in the past, do you believe that he
15 understood his right to testify and also that he
16 understood his right to remain silent?

17 MRS. LACKLAND: I do, Your Honor.

18 THE COURT: Okay. All right. I'll take
19 about a five-minute break. I will check back
20 with you to make sure you had enough time. If
21 you need more time, you just let me know. Then
22 we'll come back and I will talk to him about
23 whether or not he's going to testify.

24 MRS. LACKLAND: Okay. Thank you, Your Honor.

25 (WHEREUPON, a recess is taken at approximately

1 4:15 PM.)

2 (WHEREUPON, the Court resumes at approximately

3 4:32 PM.)

4 THE COURT: Mrs. Lackland, have you had all
5 the time you need to discuss with your client his
6 right to testify and also his right to remain
7 silent?

8 MRS. LACKLAND: Yes, Your Honor.

9 THE COURT: Are you satisfied that he
10 understands both those rights?

11 MRS. LACKLAND: I am.

12 THE COURT: All right. Sir, please stand.
13 Now, Mr. Trimmier, raise your right hand please.
14 (WHEREUPON, the Defendant complies.)

15 THE COURT: You swear the testimony you
16 are about to give will be the truth so help you
17 God?

18 MR. TRIMMIER: Yes, sir.

19 THE COURT: Put your hand down.

20 (WHEREUPON, the Defendant complies.)

21 THE COURT: Is he on bond?

22 MRS. LACKLAND: No, Your Honor.

23 THE COURT: I'm going to talk to you about
24 these topics of your right to testify and also
25 your right to remain silent. I understand you

1 already had several discussions with Mrs.
2 Lackland about it. Is that true?

3 MR. TRIMMIER: Yes, sir.

4 THE COURT: And when she talked to you about
5 your right to testify and also about your right
6 to remain silent, did you believe that she under,
7 that you understood what she was telling you?

8 MR. TRIMMIER: Yes, sir.

9 THE COURT: You have a right to remain silent
10 which comes to you by way of the Fifth Amendment
11 of the United States Constitution which means
12 that no one can make you testify in this trial.
13 No one can compel you to testify in the trial of
14 the case.

15 If you choose to exercise your right to
16 remain silent, in other words, if you choose not
17 to testify, then I will explain to the jury in
18 very clear terms that this is a constitutional
19 right that you have and that they can not hold
20 that right against you. I would not allow the
21 jury to discuss in the jury room the fact that
22 you chose not to testify.

23 On the other hand, you do have the right to
24 testify if you want to. If you testify, then you
25 will be subject to cross-examination on any

1 subject that may be relevant to the case. Does
2 he have a record?

3 MRS. SALISBURY: Juvenile record, Your Honor.
4 I'm not sure that any of these are going to be
5 used to impeach him.

6 THE COURT: You should listen very carefully
7 to the advice Mrs. Lackland and Mr. Johnson have
8 given you. If there are other people who are
9 here that you talked to about it such as your
10 family and they have given you advice on it, then
11 you should listen to that advice and consider it.
12 In the end, you are the one who has to make
13 decision about whether or not you are going to
14 testify. Mrs. Lackland can not make that
15 decision for you. You understand that?

16 MR. TRIMMIER: Yes, sir.

17 THE COURT: Now have you had all the time you
18 need to make up your mind about or not whether
19 you wish to testify?

20 MR. TRIMMIER: Yes, sir.

21 THE COURT: Do you need to talk to Mrs.
22 Lackland anymore about it right now?

23 MR. TRIMMIER: No, sir.

24 THE COURT: What is your decision?

25 MR. TRIMMIER: Plead not guilty.

1 THE COURT: But I -- that's not my question.
2 My question is whether or not you are going to
3 get on the stand and testify. Do you understand
4 my question?

5 MR. TRIMMIER: Yes.

6 THE COURT: You wish to testify or not?

7 MR. TRIMMIER: No, sir.

8 THE COURT: All right. (Pause).

9 I am trying to figure out why it is that you
10 told me you were going to plead not guilty when I
11 asked you whether or not you're going to testify.
12 So I'm going to back up a little bit and I'm
13 going to go over this with you a little bit more.
14 All right.

15 You have been sitting in here in the
16 courtroom for all day today when all these
17 witnesses have gotten up on the stand right here
18 next to me. They been put under oath by Clerk of
19 Court. And then they tell the jury what they have
20 seen. The lawyers asked them questions. And
21 they answered the questions. You've seen that.
22 You understand that, right?

23 MR. TRIMMIER: Yes, sir.

24 THE COURT: You can do that if you want to.
25 You understand that?

1 MR. TRIMMIER: Yes, sir.

2 THE COURT: If you do that, when the jury
3 comes back in, you come here and sit in the
4 witness stand and the clerk will swear you in.
5 Your lawyer, Mrs. Lackland, will ask you
6 questions. You would answer those questions.
7 The Solicitor would ask you questions. You would
8 have to answer those. That is what I mean when I
9 say you have the right to testify. Do you
10 understand that's what I mean?

11 MR. TRIMMIER: Yes, sir.

12 THE COURT: And did you understand that all
13 along?

14 MR. TRIMMIER: Yes, sir.

15 THE COURT: All right. Now, if you don't want
16 to do that, if you don't want to come up here and
17 get on the stand, then you are not going to get
18 the chance to talk to the jury. You understand?

19 MR. TRIMMIER: Yes, sir.

20 THE COURT: That's what we call exercising
21 your right to remain silent. You don't talk in
22 front of the jury. Understand?

23 MR. TRIMMIER: Yes, sir.

24 THE COURT: You understood that all along?

25 MR. TRIMMIER: Yes, sir.

1 THE COURT: You haven't really been confused
2 about this, have you?

3 MR. TRIMMIER: No, sir.

4 THE COURT: Okay. All right. You can be
5 seated. I am satisfied that he understands his
6 right to remain silent and also his right to
7 testify. Do you intend to put on any evidence?

8 MRS. LACKLAND: No, Your Honor.

9 THE COURT: All right. Then, I'm going to
10 bring the jury out and dismiss them for the day.
11 We will do closing arguments at 9:30 in the
12 morning.

13 Bring them in.

14 Do you care to formally rest in front of the
15 jury? You don't have to do that but you can.

16 MRS. LACKLAND: I can, Your Honor.

17 THE COURT: There is no sense in it. It is
18 up to you though. Some people like that.

19 MRS. LACKLAND: No, Your Honor. That is fine.

20 THE COURT: Uh, so you do in fact rest?

21 MRS. LACKLAND: We rest, Your Honor.

22 (WHEREUPON, the jury enter at approximately
23 4:38 PM.)

24 THE COURT: Ladies and Gentlemen, that will
25 be all the testimony and the evidence that you

1 will hear in this case. Because of the late
2 hour, we are going to go ahead and break for the
3 day. We will start tomorrow morning with closing
4 arguments at 9:30. I would like for you all to
5 be in the jury room up here on the third floor by
6 9:30.

7 I know there are some other things I have to
8 do in other cases tomorrow morning. As I sit
9 here right now, I am not positive how long those
10 will take. I am almost positive that I can get
11 it done by 9:30. If you are back there for a few
12 minutes and we haven't brought you out, we will
13 be with you very shortly.

14 Remember my instructions that you may not
15 discuss this case. You may not allow anyone to
16 discuss this case with you. I suspect that if
17 things in your families are like most everyone
18 else, when you go home tonight, you're going to
19 be questioned about this case that you are trying
20 at the courthouse. People will press you and
21 they will say just tell me a little bit about it.
22 No one is going to know you told me about it.
23 You can't do that. You can't discuss the case in
24 any manner with anybody until tomorrow after I
25 have given you permission to begin your

1 deliberations. So you all have a nice night and
2 we will see you tomorrow morning at 9:30.

3 (WHEREUPON, the jury exit at approximately
4 4:40 PM.)

5 THE COURT: All right.

6 MRS. SALISBURY: Judge, would you like to
7 discuss the jury charge now or in the morning?

8 THE COURT: Now.

9 MRS. SALISBURY: All right. My only concern
10 or at least the State's position is that I've
11 gotten a little bit of suggestion perhaps from
12 the way that cross-examination has gone that
13 perhaps the issue of third-party guilt may be an
14 issue. I just wanted to settle that before we
15 close and before you charge.

16 It is the State's position that there is not
17 a sufficient basis at this point to justify
18 either a charge or argument regarding third-party
19 guilt. It seems to me that is the insinuation of
20 some of the cross-examination. I just wanted to
21 address it now.

22 THE COURT: Third-party guilty is an evidence
23 rule. She is going to be arguing that he didn't
24 do it. She is going to be arguing that it just
25 didn't happen that way. If, in the course of

1 that argument, she wants to -- you are not -- I
2 did not hear anything that causes me to think she
3 is going to suggest a specific, that some other
4 specific person did.

5 MRS. SALISBURY: Okay. That is fine. I just
6 wanted to address that issue.

7 THE COURT: I will be listening. Anything
8 else?

9 MRS. SALISBURY: The other issue is, I
10 believe, regarding the physical dynamics or the
11 physical description of the Defendant. Again, the
12 insinuation through cross-examination is that is
13 going to be a primary issue. The victim's
14 description of the attacker's height and weight
15 as opposed to how it was characterized in the
16 report, et cetera.

17 Again, since I don't have the opportunity to
18 respond after Mrs. Lackland's closing, I wanted
19 to address that up front about the extent to
20 which the Defendant's particular physical
21 characteristics are not in evidence and aren't an
22 appropriate subject for closing arguments.

23 MRS. LACKLAND: Your Honor, I recognize it is
24 not in evidence. I did not really intend --

25 THE COURT: Okay. All right. Anything

1 further?

2 MRS. SALISBURY: Nothing else, Judge.

3 MRS. LACKLAND: No, sir.

4 MRS. SALISBURY: Special request for charge.

5 THE COURT: When do you want to take up
6 sentencing of these other folks?

7 MRS. SALISBURY: It suits me quite fine to
8 handle it after the verdict is received. If you
9 rather try to fit it in before we close tomorrow
10 morning, I don't have any objection to that.

11 THE COURT: Okay. I just see Mr. Yarborough
12 sitting out there. Is that why you came back?

13 MR. YARBOROUGH: No, Judge. I was just
14 checking on the progress of the case. I do have a
15 Family Court case in the morning that starts at
16 about 11 o'clock.

17 THE COURT: Go ahead and go to that and check
18 with us afterwards. All right.

19 MR. YARBOROUGH: Yes, sir.

20 THE COURT: Okay then. I will see you all in
21 the morning at, uh, let's say about 9:15.

22 (WHEREUPON, a recess is taken at
23 approximately 4:43 PM.)

24 (WHEREUPON, the Court resumes on October 6, 2009
25 at approximately 9:20 AM.)

1 **THE COURT:** Is there anything that you all
2 need to discuss before we bring the jury in?

3 **MRS. SALISBURY:** No, Your Honor. The State
4 is prepared to proceed.

5 **MRS. LACKLAND:** Not from the Defendant.

6 **THE COURT:** All right. Bring them on.

7 (WHEREUPON, the jury enter at approximately
8 9:23 AM.)

9 **THE COURT:** Good morning.

10 Mrs. Salisbury.

11 **MRS. SALISBURY:** Thank you, Your Honor. May
12 it please the Court.

13 Good morning, Ladies and Gentlemen. As I
14 told you at the very beginning of this trial
15 yesterday afternoon, the way that crimes like
16 this gets solved is from the inside out. There
17 is not forensic evidence. There's not a whole lot
18 of clues behind. The only way law enforcement
19 penetrates and solves these crimes is with
20 assistance from the inside.

21 Now, at the beginning of this trial, I also
22 told you that to prove the Defendant is guilty of
23 armed robbery, the State has to prove two things,
24 that the Defendant took something of value from
25 the victim by the use of force or intimidation

1 and that he did that taking with the use of a
2 deadly weapon.

3 I want to talk a little bit about the
4 evidence that you heard yesterday. First, let's
5 talk about what the victim told you. The victim
6 told you, Dr. Pugh, he said that he was driving
7 home in the late evening from having dinner at
8 his daughter's house in Mauldin. He described
9 for you how he came home from Mauldin.

10 He told you it was late in the evening, a
11 little after nine o'clock, maybe 9:15. He said
12 that he came down Mauldin Road and Augusta Road
13 and he traced it for you. Did not draw it on
14 this map but he traced out and showed you that he
15 came to one of the four-way stop intersections,
16 whichever one connects from Mauldin Road and
17 turned on Pleasant Ridge Avenue. He described
18 for you that he turned onto Penrose, that Penrose
19 becomes Chanticleer neighborhood and Chapman
20 Place, Chapman Road and took Chapman Road all the
21 way to his house. His address is [REDACTED]

[REDACTED]
23 He said when he was on Pleasant Ridge, he
24 noticed that there were headlights behind him.
25 He noticed this car following him. He thought

1 that it was mildly unusual, something that stuck
2 out in his mind but that was about it. Dr. Pugh
3 said that he turned into his driveway. He turned
4 right into the driveway. Then he got out of his
5 car from the carport when he noticed that what he
6 believed to be the same car was driving very
7 slowly back by his house.

8 About that same time, I believe Dr. Pugh used
9 the word "simultaneously", he heard rustling in
10 the bushes from his house. He told you that --
11 and you can look at this picture back in the jury
12 room. He pointed out to you from this picture
13 that these bushes near the rear of his driveway
14 is precisely the location from which the attacker
15 emerged. He told you that as he was watching
16 this car, this car that he thought maybe was lost
17 in the neighborhood, maybe wanted directions but
18 in any respect was curious for driving very
19 slowly back by his house.

20 While he was watching that, someone comes out
21 of the bushes. He tells you that it was someone
22 slightly shorter than him. He's six feet tall.
23 He does not remember how tall the person was but
24 he knows the person was slightly shorter. He
25 knows it was a black young man. He says early

1 20s. Can't really tell much because the
2 neighbor's motion lights had backlit the person.
3 The person has got on a hood.

4 He says -- Dr. Pugh said that he's looking
5 kind of at the ground. He does not want to look
6 at the attacker in the face. He doesn't know
7 what's going to happen. At this point, the person
8 said to him, "Give me your wallet or I will kill
9 you." At that moment, Dr. Pugh surrendered his
10 wallet or surrendered the money that was in his
11 wallet and could think of little else other than
12 the prospect of what was going to happen with
13 this gun in his face.

14 The person took the money that was in the
15 wallet, asked Dr. Pugh is there anything else
16 inside the house. Dr. Pugh says he just sort of
17 stands still. He freezes. He doesn't respond.
18 And with no response, the person flees on foot.
19 That's the way Dr. Pugh remembers it. That's how
20 he described the attacker.

21 So we know from Dr. Pugh's testimony that
22 something of value was taken from him. The case
23 that was in his wallet. He told us it was
24 approximately \$80. We know it was taken with the
25 use and with the assistance of force,

1 intimidation in the form of a handgun, a deadly
2 weapon. Those are the two elements of Armed
3 Robbery. That is what happened to Dr. Pugh.

4 After that, as I'm sure you remember, you
5 heard testimony from the three individuals who
6 say they were in the car with this Defendant when
7 this armed robbery took place. They described
8 for you the things that they did that day. The
9 first witness that you heard from was Dashaun
10 James. Dashaun told you that he was the driver
11 of the vehicle that night. He was driving someone
12 named T's car. He said that the car was an older
13 rusty brown color, that it has four doors and
14 that he picked up the second witness Marteze
15 after Marteze finished working.

16 Marteze, I believe, testified that he got
17 cut from his shift early that night at
18 McDonald's. The two of them were riding around.
19 They say that it was in the Pleasant Valley area.
20 Investigator Weiner told you, described for you
21 that this area of town is known as the Pleasant
22 Valley area of town. Both of those witnesses,
23 both Marteze and Dashaun described that they rode
24 through Piedmont Manor which as Investigator
25 Weiner circled for you this Shemwood Lane area.

1 That is Piedmont Manor.

2 After that, they mentioned they were looking
3 for a friend. They could not find him. But
4 someone got an idea that perhaps this Defendant
5 could help them locate who they were looking for.
6 They picked up Keith Williams, the third
7 Defendant you heard from, and the three went to
8 this Defendant home to see if he could help them
9 find this other person that they were hoping to
10 find. All three Defendants told you that they
11 never found this person they were looking for,
12 that for the remainder of the evening and
13 particularly for the duration of this robbery, it
14 was just the four of them in the car.

15 So when the four, the four occupants of the
16 car, one of whom was this Defendant, rode through
17 this area of town. They said that they rode
18 around for a little while after they left
19 Piedmont Manor. Before they arrived at one of
20 these four-way stops and observed what they
21 described as a fancy car or a high priced car,
22 that was enough for as Keith described to you the
23 Defendant, this Defendant to say, "I need some
24 money. I need to hit a lick." If you remember,
25 I asked Keith what does that mean. What does

1 "hit a lick" mean. He says it means commit a
2 robbery. That is what the Defendant wanted to
3 do.

4 So the Defendant decided it was time to
5 commit a robbery, selected the victim and
6 instructed the driver exactly what he wanted him
7 to do, follow that car. They followed him just
8 as the victim described through Pleasant Ridge
9 and into the Chanticleer neighborhood. They all
10 three described that the victim turned right into
11 the driveway.

12 As Dashaun drove slightly past the victim's
13 house, that is when the Defendant got out of the
14 car. That is when, I believe at least two of
15 them noticed the Defendant was armed with a
16 handgun. When Dashaun described that he was
17 turning around making a three-point turn in the
18 street to come back, just however long it took
19 for him to turn around, that's when the Defendant
20 came back to the car. Whether it was walking or
21 running, it doesn't matter. He returned to the
22 car. The four fled the scene.

23 Then the three described that afterwards,
24 they went back to Piedmont Manor. They bought
25 marijuana. They went to Mike and Jacks which I

1 believe is somewhere down here as Investigator
2 Weiner circled for you. It is a convenience
3 store. They purchased blunts to smoke the
4 marijuana and then went to Highland Square
5 Apartments down here to smoke that marijuana.
6 That is their story. That is the story that all
7 three described for you.

8 Now, I imagine that Mrs. Lackland will tell
9 you that there is some inconsistencies among
10 their stories. One of them says the gun was
11 black. Another says the gun was silver with a
12 brown handle. There are probably some other
13 issues that Mrs. Lackland will try to bring to
14 your attention about the various differences
15 among each of the co-Defendants accounts of what
16 happened.

17 I would like to remind you first this crime
18 happened almost two years ago. We're talking
19 January of 2008. To remember something from two
20 years ago, there are going to be some
21 differences. But what is more important than
22 that and what I want you to really think about is
23 there are really only two ways to evaluate the
24 eyewitness testimony that you heard.

25 Either you believe that each of these three

1 Defendants Dashaun James, Marteze Hardy and Keith
2 Williams are lying about having been at the scene
3 of the crime that night, that they pled guilty to
4 crimes in which they did not participate, just
5 for the sake of securing a conviction against
6 this Defendant or you believe that they are
7 telling generally the truth about what the way
8 they remember the events of that night, that they
9 pled guilty to crimes they participated in
10 because they participated in them.

11 But the Defendant can't have it both ways.
12 They either were there, each of these gentlemen
13 was there or they weren't. If you believe that
14 they pled guilty to Accessory after the Fact and,
15 in Dashaun's case, Strong Armed Robbery because
16 they are guilty because they did participate in
17 this robbery, then those inconsistencies don't
18 matter. It does not matter what color the gun
19 was. It does not matter what time Marteze left
20 McDonald's that night.

21 The part of the story that remains consistent
22 is the actual crime, the selection of the victim,
23 the declaration that it was time to commit a
24 robbery. It was time to hit a lick. The pursuit
25 of the victim and what happen in those minutes in

1 which the armed robbery took place. Those are
2 the significant details. Those are the details
3 that help you be confident in the recollection
4 that these Defendants shared with you about the
5 events of that night.

6 Now, if that is the conclusion at which you
7 arrived, that these Defendants were at the scene,
8 that they did participate, then the only question
9 remaining for you to consider is whether this
10 Defendant is the actual attacker, whether this
11 Defendant actually wielded the gun, approached
12 the victim in his driveway and demanded his
13 money. Now, to answer that question, I want to
14 talk a little bit more about the things that you
15 have heard and maybe why these three Defendants
16 would get up here and tell you a fabricated
17 story, a fabricated version of the events.

18 Now, let's presume that perhaps the three,
19 the three Defendants -- maybe Mrs. Lackland will
20 suggest that it was one of the three of the
21 occupants of the car, one of the three that you
22 heard from. Maybe it was one of them that
23 committed the robbery. Think about whether that
24 makes sense to you.

25 Now I will tell you the victim -- I will

1 remind you that the victim says that he's six
2 foot and his attacker was slightly shorter.
3 Dashaun told you that he is six foot tall.
4 Marteze told you that he was six feet tall. And I
5 think Keith told you he was 5'11. Think about
6 those kind of facts when you are deciding whether
7 one of these three was the actual attacker.

8 What is better than that, think about what
9 you would expect to happen in a situation in
10 which three gentlemen commit a robbery and they
11 all get caught. Wouldn't you expect them to
12 start pointing the finger at each other?
13 Wouldn't you expect Keith to say no, it wasn't
14 me, it was Dashaun and Dashaun to say no, it
15 wasn't me, it was Marteze? Isn't that what you
16 would expect?

17 You heard each of these witnesses testify.
18 Do you believe that they are sufficiently
19 sophisticated to have crafted a story that
20 convinced police and investigators and then held
21 it together to a degree that they could get up on
22 the witness stand and convince the 12 of you?

23 You saw the way that they behaved on the
24 stand. I asked them simple questions about the
25 plea deal that they entered in exchange for their

1 testimony. If I seemed surprised by their
2 response, it is because I was. I did not expect
3 them to not understand that in exchange for
4 pleading to a lesser charge, they were going to
5 testify. Evaluate -- talk about that when you
6 deliberate. Discuss whether you think that three
7 could have crafted a sufficiently sophisticated
8 story and have held it together up through today.

9 The other possibility, if the three of these
10 gentlemen did not commit the crime, is whether
11 this Defendant is the fourth person. Whether he
12 is the actual person that got out of the car.
13 Your questions then are why, why would these
14 three Defendants select him, a random person, to
15 have put in the car. If there was a fourth
16 person that committed the robbery with them, why
17 would these three Defendants feel comfortable
18 pleading guilty to the crime they participated in
19 risking 10 and 15 years of prison time all just
20 to see this Defendant go to jail. All to get
21 this Defendant convicted?

22 It means that all three, not one, not two,
23 but all three co-defendants would have to have
24 such a fierce and intense hatred for this
25 Defendant that they want to see him convicted and

1 they have such fierce and intense loyalty for the
2 person that actually wielded the gun that they
3 are okay risking going to jail and letting that
4 person walk completely free. Does that make
5 sense to you? Is that reasonable? Is that
6 reasonable to believe?

7 What seems much more reasonable is that these
8 three Defendants after being caught described for
9 police exactly what happened, gave statements to
10 police and described the events generally the
11 same way that they testified to yesterday, that
12 this Defendant decided it was time to hit a lick,
13 that he selected the victim, that they pursued
14 him into Chanticleer and that this Defendant
15 robbed him in his driveway. That is what's
16 reasonable.

17 It is understandable and it is expected that
18 each of them attempted to minimize their own
19 involvement. They each attempted to try and
20 limit their own exposure that they did not really
21 know what was going to happen. I don't really
22 know why they told me to cut off my lights. I
23 don't know why they told me to follow the car.
24 Keep in mind each of these Defendants have pled
25 guilty. They understand that they participated

1 in the robbery, that they committed a crime and
2 they will be sentenced for their involvement in
3 the crime.

4 As I mentioned in spite of their confusion
5 about the arrangement, in spite of maybe some
6 inconsistencies that they shared, all three co-
7 defendants are consistent about two things,
8 consistent and firm about two things. One, that
9 this Defendant had a gun and committed the
10 robbery and then split up the proceeds. And two,
11 they were to come here and tell the truth to you
12 yesterday. That was their part of the bargain.
13 They get to pay to a lesser charge if they tell
14 the truth. They were consistent and very certain
15 about both of those two facts. Those are the
16 most critical facts.

17 Now, as I told you at the very beginning of
18 this trial these four men live in a world that
19 very few of us understand. I am sure you can
20 appreciate that this world is a world that they
21 don't understand. That is why the examinations
22 yesterday seemed a little bit painful. It seemed
23 a little bit confusing and perhaps a little bit
24 disjointed for some of these Defendants. I want
25 you to remember the important parts of their

1 testimony is the action. The part that is
2 entirely consistent, their pursuit of the victim
3 and how he was specifically attacked in his own
4 home.

5 Law enforcement did exactly what we would
6 expect them to do in this case. Investigator
7 Weiner got assigned the case. He followed the
8 leads, secured confessions, put together the
9 clues and made an arrest. There is no other
10 evidence to bring you. There are no
11 fingerprints. There is no DNA. There are no
12 other clues that could have been collected. This
13 is everything that you can have that we can give
14 you on which to base your decision, on which to
15 base your verdict.

16 So when you think about the evidence that has
17 been presented to you and the way that you
18 evaluate each of the witnesses that you have
19 heard, keep in mind that as I said from the
20 beginning, the only way we get inside these
21 crimes is to jump inside and to hear from the
22 people that actually participated, the people
23 with personal knowledge.

24 It is time to get the fourth person. Each of
25 these three have pled guilty and admitted their

1 both involvement. Today is the day to get the
2 fourth. I ask you to return a verdict that the
3 Defendant is guilty of both Armed Robbery and
4 Possession of a Weapon during the Commission of
5 a Violent Crime. Thank you.

6 THE COURT: Mrs. Lackland.

7 MRS. LACKLAND: Thank you. May it please the
8 Court.

9 Good morning. Yesterday when I spoke to you
10 in my opening remarks, I asked you to do three
11 things as jurors, as our triers of fact. I asked
12 you to pay close attention to the details,
13 evaluate the credibility of the witnesses that
14 you were going to hear from or who we were going
15 to present testimony and to use your commonsense.

16 Let's focus on the testimony you heard from
17 the three co-defendants. They are really the
18 only evidence linking Antonio to this incident.
19 You heard testimony from Dashaun James, from
20 Marteze Hardy and from Keith Williams. You got
21 to see their demeanor as they answered questions,
22 evaluate their credibility, see what biases they
23 had.

24 You heard first from Dashaun James who told
25 you he doesn't really remember what he was doing

1 on January 3rd of 2008, that morning, most of the
2 day. Antonio was not somebody he knew very well
3 from the school. He just kind of knew of him.

4 As to the incident, he told you someone said
5 to follow that car. He did not know who. He
6 certainly didn't know what was going on. Let's
7 also keep in mind that he had just plead guilty
8 to Strong Armed Robbery which means he did have
9 involvement in that. He knew what was going on.
10 He said someone told him to turn off the lights.
11 He did not know who that was either.

12 He says that he was driving slowly. Antonio
13 jumped out of the car, went up to the driveway.
14 Initially he said it was five minutes later that
15 Antonio came back to the car. Then there was a
16 follow-up response where the Solicitor said five
17 minutes. He said oh, no, no, no. Two minutes,
18 two minutes. He said that Antonio pulled out some
19 money and gave some, dispersed it to everyone.
20 He says that he knew Antonio had a gun. He can't
21 describe it. He did not see it.

22 You next heard from Marteze Hardy. He gave a
23 statement actually pretty close to the time of
24 the incident to the investigators. That would
25 have been on February 12th of 2008. It was in

1 the conference room at his high school. Two
2 investigators are questioning him.

3 He told you Investigator Weiner led the
4 discussion. He was just asked to fill in the
5 details. Actually, the investigator wrote the
6 statement for him. In his statement, he says he
7 was working at McDonald's. He got off 11:30 that
8 night. That is when his normal shift ends.
9 Yesterday, he told you he got off early. It was
10 dark and that's why he said 11:30 in the
11 statement. He thought maybe that was the right
12 time even though he said he got off early.
13 Investigator Weiner told you he wrote that in the
14 statement because that was the time Mr. Hardy
15 said he normally got off from work at 11:30.

16 He also said that when they were in the car,
17 someone just says follow that car. He don't know
18 who the person is but somebody said it. He does
19 not know what is going on. He had no idea at the
20 time even though he had just plead guilty to
21 Accessory after the Fact. He did know what was
22 going on. He said in his statement that Antonio
23 had a gun. He described it as silver with brown
24 grips. That is not what Officer Lanford
25 testified to that the victim had told him. It

1 was a small black handgun.

2 He told you that Antonio walked out of the
3 car, walked to the victim's house and returned
4 walking. That is important. Officer Lanford
5 reported that the victim, the suspect had taken
6 off running, not walking back from the driveway.
7 He later follows up his statement to Solicitors
8 and says Keith Williams was also involved. That
9 is not something he initially mentioned in his
10 statement.

11 Finally, you heard from Keith Williams. He
12 talked to the Solicitors and the investigator
13 later, about a year later actually, February 13th
14 of 2009. He is also questioned at Southside High
15 School, his school, in a conference room with an
16 investigator. He was asked a lot of questions
17 about this incident. You heard him say that.
18 The investigator led the discussion. He knew
19 what he was talking about. He knows the details
20 of January 3rd of 2008.

21 He told you they let Antonio out and he
22 eventually came running back with money in his
23 hand. In the statement that he gave, he said
24 well only some was given to the driver. Nobody
25 else got any. Yesterday, he told you that

1 everybody got a cut of the money. He also told
2 you yesterday that oh, by the way, Antonio had a
3 gun. That is not something he mentioned the
4 statement. He says in my statement, I only
5 mentioned the important details. I think a gun
6 is an important detail to include in a statement.

7 That is basically the testimony you heard.
8 That is the testimony of the three co-defendants.
9 They sat in the courtroom and one by one walked
10 up here to testify. One right after the other.
11 They are the only evidence that is linking
12 Antonio to this crime. There is no other
13 evidence. There is no other evidence because
14 Antonio wasn't there.

15 Officer Lanford wrote in his statement that
16 the victim described the suspect as a black male,
17 early 20s, 5'7, 165 pounds carrying a black
18 handgun. He wrote that in his report because
19 that is what the victim had told him, that's what
20 Dr. Pugh told him had happened and that it took
21 place about 9:30 at night, not 11:30.

22 Dr. Pugh said I can't identify him. The
23 suspect was backlit. The officers don't have any
24 forensics. They don't have any guns. They don't
25 have fingerprints. No forensic evidence. It just

1 boils down to what those three co-defendants
2 stated. I told you at the beginning I wanted you
3 to pay close attention to the details, not just
4 the big picture. It is not just a general basic
5 story.

6 Of course, the general basic story is going
7 to be the same. They have investigators,
8 Solicitors telling them basically what happened
9 and asking them to fill in the details. That is
10 why those details are so important. That is
11 where the discrepancies are. It is not just
12 discrepancies between each other which there are
13 many of them. You heard them. It is discrepancies
14 between what they said in their statements closer
15 to the incident and what they testified to
16 yesterday.

17 They are not sophisticated. They can't make
18 it all click. These details, Ladies and
19 Gentlemen, just don't add up. There are too many
20 discrepancies in those statements. Too many
21 discrepancies between what each of them say.

22 I also ask you to observe whatever biases
23 they have. They are all originally charged with
24 Armed Robbery and Conspiracy. I told you up
25 there and they confirmed that they know Armed

1 Robbery carries 10 to 30 years and it is two
2 strikes. But in exchange for testifying here
3 yesterday, they got cut a deal.

4 Marteze Hardy gets to plea to Accessory after
5 the Fact. Only faces up to 10 years. Keith
6 Williams is also only pleading to Accessory after
7 the Fact, up to 10 years. No minimum. And a
8 Disturbing Schools is going to be dismissed.
9 Dashaun James pled guilty to Strong Armed
10 Robbery. Carries up to 15. There is no minimum
11 sentences on either one of those. Mr. Williams,
12 he thought he might even get probation for this.
13 They're all going to be sentenced after they
14 testify.

15 Ladies and Gentlemen, these details, these
16 discrepancies are important. They do matter. It
17 is not just the big picture. It is these
18 details. The fact that all of these co-
19 defendants, those three co-defendants were
20 offered a deal to testify is important. It
21 matters. It is all important for you to consider
22 because that is the evidence against Antonio.
23 That is all that is linking Antonio to being
24 there.

25 The State says that they have to, you will

1 find out that the State has to prove beyond any
2 reasonable doubt that Antonio was there and he
3 committed these crimes. It is not a hunch he
4 might be guilty. It's not by preponderance of the
5 evidence. It is by clear and convincing
6 evidence. Not even by clear and convincing
7 evidence, it is beyond any reasonable doubt that
8 he is guilty.

9 Ladies and Gentlemen, the State has not
10 proven that. The statements by the co-
11 defendants, their testimony, full of their
12 biases, the discrepancies between each other are
13 simply not enough. Thank you.

14 **THE COURT:** Ladies and Gentlemen, now that you
15 have heard all the evidence and the arguments of
16 the lawyers, it becomes my responsibility to
17 explain to you the law that is applicable to this
18 case.

19 Under our Constitution and Code of Laws here
20 in South Carolina, only the jury can make the
21 finding of fact, in the case. I am not permitted
22 to indicate to you how I might feel about the
23 facts. If I have said anything or if I have done
24 anything during the course of this trial that
25 might lead you to believe I have an opinion about

1 the facts, then you should disregard that.

2 To determine the facts in the case, you will
3 have to evaluate the credibility or believability
4 of the witnesses who have been called on to
5 testify. Some of the things you might wish to
6 consider as you decide whether to believe a
7 particular witness' testimony include the
8 following: the manner and appearance of the
9 witness who testifies; is he or she
10 straightforward or hesitant in answering
11 questions; is the testimony of a witness
12 consistent or inconsistent; how did the witness
13 come to know the facts that he or she is
14 testifying to and what is that witness' ability
15 to know those facts; is there some reason that a
16 witness might want to give testimony that might
17 help or hurt one side or the other; is the
18 testimony of a witness strengthened or weakened
19 by other testimony and evidence.

20 As members of the jury, you can believe as
21 much or as little of each witnesses testimony as
22 you think it is appropriate to do. You can
23 believe the testimony of one witness against all
24 the rest of them or you can do just the opposite
25 and you not required to accept testimony is true

1 even if it is contradicted.

2 You have heard testimony in this case as to
3 the potential penalty for one of the crimes for
4 which the Defendant has been charged. This
5 evidence was admitted for the sole purpose of
6 allowing you to assess the credibility of some of
7 the witnesses who have been called on to testify.
8 It may not be considered but you for any other
9 purpose. The proper punishment for a crime is a
10 matter for the Court to determine. Other than as
11 I have just explained, you may could not consider
12 the penalty that the Defendant faces for the
13 crime which would he is in charge in any way in
14 determining whether or not the State has met its
15 burden of proof.

16 Now, the same Constitution and Code of Laws
17 that makes you the exclusive judge of the facts
18 also makes me the exclusive judge of the law. If
19 you have some idea as to what the law is or what
20 the law should be and if that differs from what I
21 now tell you the law is, you are obligated under
22 the oath that you have taken as jurors to set
23 your notion of a law aside and to accept and
24 apply the law precisely as I now explain it to
25 you.

1 The fact that the Defendant was arrested and
2 charged and indicted in this case is not evidence
3 and can not be considered but you in any way as
4 evidence of the Defendant's guilt, nor does it
5 present any presumption or inference of guilt.
6 The indictment is simply the formal written
7 instrument that contains the allegations that
8 have been made against the Defendant. The
9 indictment serves to process the case and bring
10 it into this court for trial.

11 The Defendant has pled not guilty to both of
12 the counts of the indictment. The plea of not
13 guilty casts the burden on the State to prove the
14 Defendant guilty beyond a reasonable doubt. A
15 person charged with committing a crime in South
16 Carolina is never required to prove themselves
17 innocent.

18 Now, as I told you yesterday, it is a very
19 important rule of law in our country that a
20 Defendant in a criminal trial will always be
21 presumed to be innocent of the crimes with which
22 he has been charged unless and until his guilt
23 has been proven by evidence that satisfies you of
24 that guilt beyond a reasonable doubt.

25 The presumption of innocence is not merely a

1 legal theory. It is not just a legal phrase that
2 we use. It is a substantial constitutional right
3 to which every Defendant is entitled. The
4 presumption of innocence accompanies the
5 Defendant from the time he is charged throughout
6 the trial and into the jury room until you reach
7 a verdict of guilt that is based on evidence that
8 has satisfied you of that guilt beyond a
9 reasonable doubt.

10 Ladies and Gentlemen, I instruct you now and
11 I emphasize to you that the fact that the
12 Defendant did not testify in this trial can not
13 be considered but you in any manner during your
14 deliberations. The Defendant has a
15 constitutional right to remain silent. The
16 exercise of that right can not and must not be
17 used against the Defendant.

18 Do not even discuss this fact in the jury
19 room. You are to draw no inference and no
20 conclusion whatsoever from the fact that the
21 Defendant did not testify. The Defendant is not
22 required to prove anything. The burden of proof
23 remains on the State.

24 A reasonable doubt is a doubt which makes an
25 honest, sincere, conscientious juror in search of

1 the truth in this case to hesitate to act. Proof
2 beyond a reasonable doubt must therefore be proof
3 of such a convincing character that a reasonable
4 person would not hesitate to rely on it and act
5 on it in the most important of his or her own
6 affairs. Proof beyond a reasonable doubt can
7 also be described as proof that leaves you firmly
8 convinced that the Defendant's guilt.

9 There are very few things in this world that
10 we know with absolute certainty. In criminal
11 cases, the law does not require proof that
12 overcomes every possible doubt. If, based on
13 your consideration of the evidence, you are
14 firmly convinced that the Defendant is guilty of
15 the crime charged, you must find him guilty. On
16 the other hand, if you think there is a real
17 possibility that he is not guilty, then you must
18 give him the benefit of the doubt and find him
19 not guilty.

20 The Defendant is charged with Armed Robbery.
21 In order to convict him of this crime, the State
22 must prove five essential elements each beyond a
23 reasonable doubt. First, the State must prove
24 that the Defendant took personal property from
25 the person or presence of another person.

1 Second, the State must prove that the Defendant
2 carried the property away. Third, the State must
3 prove that the Defendant intended to permanently
4 deprive the owner of the property and to keep the
5 property for the Defendant's own use. Fourth,
6 the taking and the carrying away of the property
7 must be done with violence or by putting the
8 owner of the property in fear of violence. And
9 finally, the State must prove beyond a reasonable
10 doubt that the Defendant was armed with a deadly
11 weapon during the robbery.

12 Property is in the presence of a person if it
13 is within the person's reach or inspection or
14 observation or control so that the person could,
15 if not overcome with violence or prevented by
16 fear, keep the possession of the property. The
17 slightest removal of the property or the complete
18 possession of the property even for an instant by
19 the Defendant is sufficient to show a taking and
20 a carrying away of the property.

21 A deadly weapon is any article or instrument
22 which is likely to cause death or great bodily
23 harm. Whether an instrument has been used as a
24 deadly weapon depends on the facts and
25 circumstances of each individual case.

1 In Count Two of the indictment, the Defendant
2 is charged with Possession of a Weapon during the
3 Commission of a Violent Crime. In order to
4 convict the Defendant of this crime, you must
5 first find that he is guilty or that the State
6 has proven beyond a reasonable doubt that he is
7 guilty of Armed Robbery which is classified as a
8 violent crime under South Carolina law. In
9 addition, you must find that the State has proven
10 beyond a reasonable doubt that the Defendant
11 possessed a firearm during the commission of the
12 armed robbery.

13 Ladies and Gentlemen, your verdict must be
14 unanimous. All 12 of you must agree before you
15 can write a verdict. In just a few minutes, I'm
16 going to send you back to the jury room. I'm
17 going to ask you not yet to begin your
18 deliberations. I'm going to have some matters of
19 law that I need to take up with the attorneys.
20 While I do that, I would like you to select a
21 foreperson.

22 The job of the foreperson is to preside over
23 deliberations and then, when it becomes necessary
24 to do so, to communicate with the court. All of
25 those communications will have to be in writing.

1 One of the times when you will need to
2 communicate with the Court is when you have
3 reached a verdict. You will have with you in the
4 jury room the indictment. On the back of the
5 indictment in the lower left hand corner, you
6 will see the word "verdict". Below that word,
7 there are four blank lines.

8 When the jury has unanimously reached a
9 verdict as to one or both counts of the
10 indictment, the foreperson would write that
11 verdict on the verdict form in this fashion.
12 Write Count One, then leave a blank. And then
13 Count Two and leave a blank. The verdict options
14 for both of those counts are either guilty or not
15 guilty. It is very possible that the jury might
16 conclude that the State proven all the elements
17 of one crime but not proven all the elements of
18 the other crime. You must separately deliberate
19 as to each count of the indictment.

20 What goes on in the jury room is private to
21 you and should not be revealed to anyone until
22 you have reached a unanimous verdict. That is
23 particularly true as to any votes that you may
24 take that do not yield a unanimous verdict. If
25 you take a vote and it is not unanimous and it

Verdict

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1 does not result in a verdict, then do not reveal
2 to anyone the result of that vote.

3 I'm going to -- Mrs. Bikas, I'm going to ask
4 you to remain seated.

5 The rest of you can please go back into the
6 jury room. As soon as you have selected a
7 foreperson, please let us know through the
8 bailiff who that is. When we are ready for you
9 to begin your deliberations, we will send back to
10 you the exhibits that have been introduced and
11 the evidence and the indictment. At that time,
12 the bailiff will tell you that you can begin with
13 your deliberations. Thank you.

14 (WHEREUPON, the jury exit at approximately
15 10:00 AM.)

16 THE COURT: Any exceptions to the charge?

17 MRS. SALISBURY: None from the state.

18 MRS. LACKLAND: None from the defense.

19 THE COURT: None?

20 MRS. LACKLAND: None.

21 THE COURT: You have one or perhaps several
22 photographs and then the large board.

23 MRS. SALISBURY: Just one photograph and one
24 board.

25 THE COURT: As soon as the jury tells us who

1 the foreperson is, you can send the indictments
2 back and they can begin.

3 (WHEREUPON, the jury begins deliberation at
4 approximately 10:04 AM.)

5 (WHEREUPON, the Court resumes at approximately
6 10:42 AM.)

7 THE COURT: Bring in the jury.

8 (WHEREUPON, the jury enter at approximately
9 10:43 AM.)

10 THE COURT: Mrs. Lyles, has the jury reached
11 a verdict?

12 THE JUROR: Yes, sir, we have.

13 THE COURT: Pass the verdict to the bailiff.

14 THE CLERK: Your Honor, this is case number
15 2009-GS-23-2523, the State versus Antonio
16 Trimmier indicted for Armed Robbery and
17 Possession of a Weapon during the Commission of a
18 Violent Crime. Count One, the verdict is guilty.
19 Count Two, the verdict is guilty. Signed,
20 foreperson, Debbie Lyles.

21 If this is your verdict, please raise your
22 hand.

23 (WHEREUPON, each juror raises right hand.)

24 THE CLERK: Thank you.

25 THE COURT: Mrs. Lackland, anything you would

1 like to bring up now before we move into
2 sentencing?

3 **MRS. LACKLAND:** Your Honor, we would move for
4 a new trial, renew all prior motions and
5 objections and move for a directed verdict.

6 **THE COURT:** Your motions are denied. Bring
7 him around please.

8 Anything else from the State?

9 **MRS. SALISBURY:** No. I believe you heard the
10 evidence as it developed through the course of
11 the trial. In a case like this when someone is
12 confronted in their very own driveway and their
13 home where they expect to be safe, I think that
14 the crime is of particularly strong gravity. I
15 would just request that you sentence him in a
16 fashion that reflects the gravity of the crime
17 that this Defendant committed, orchestrated
18 himself.

19 **THE COURT:** Do you have a sentencing sheet?

20 **MRS. SALISBURY:** I do.

21 **THE COURT:** You mentioned a juvenile record.
22 Can you tell me about that please?

23 **MRS. SALISBURY:** 2000, conviction for
24 Resisting Arrest, Public Disorderly Conduct,
25 Simple Possession of Marijuana. 2006, Disturbing

1 Schools, Petty Larceny, Assault and Battery and
2 another Assault and Battery.

3 THE COURT: Mrs. Lackland.

4 MRS. LACKLAND: Thank you, Your Honor. Very
5 briefly. I will tell the Court we thought we had
6 some very good issues to bring up at trial. We
7 do understand that the jury has spoken. We ask
8 that the Court be as lenient as possible. His
9 family, I suppose they are not here for the
10 sentencing but they've been here throughout the
11 trial. There are very supportive of him.

12 THE COURT: Who are you?

13 MR. BROWNLEE: I am his father.

14 THE COURT: Would you like to come up?

15 MR. BROWNLEE: Yes, sir.

16 THE COURT: What is your name?

17 MR. BROWNLEE: Tony Brownlee.

18 THE COURT: Anything you would like to say?

19 MR. BROWNLEE: I am sorry I wasn't in his
20 life a lot. I've made mistakes. I'm sorry for
21 everything he has done or whatever. I just wish
22 you would have a little leniency on him. I had a
23 second chance. I got to straighten out. I am
24 hoping he can get a second chance. I did not
25 really get to spend a lot of time with him.

1 I had custody of him at one time. It did not
2 work out. Like I said, I probably spent two or
3 three years with him and just paid my child
4 support. That was about all the time I got to
5 spend with him. I feel that had a lot to do with
6 it. If he would have been with me, I feel he
7 would have been in a better situation. But I
8 just had a bad role.

9 THE COURT: You can sit down.

10 MR. BROWNLEE: Thank you.

11 THE COURT: Tell me about yourself.

12 MR. TRIMMIER: I was a young man. I grew up
13 with just my mama. I did not have my father in
14 my life like that until I turned say 13 years
15 old. He was not really in my life then because
16 they were fighting over custody about me. My mom
17 was going through some things. He was going
18 through some things. I didn't really have him in
19 my life like that.

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

21 MR. TRIMMIER: Ninth grade. I came here. I
22 stayed back. I was in school late. I been in here
23 two years.

24 THE COURT: Where were you?

25 MR. TRIMMIER: Southside High School.

1 THE COURT: You went to Southside in the
2 ninth grade?

3 MRS. LACKLAND: Yes, sir.

4 THE COURT: Where did you go before the ninth
5 grade?

6 MR. TRIMMIER: Beck Academy, Hughes Academy.

7 THE COURT: How old -- you are 18?

8 MR. TRIMMIER: Yes, sir.

9 THE COURT: You been in jail since, uh,
10 when?

11 MRS. LACKLAND: I think February 2nd of 2008.

12 MRS. SALISBURY: That is correct, Judge.

13 THE COURT: Anything else you want to say,
14 Mr. Trimmier?

15 MR. TRIMMIER: Ask for leniency.

16 THE COURT: The sentence on the Armed Robbery
17 is 22 years, sentence on Possession of a Weapon
18 during Commission of an Armed Robbery is five
19 years. They are to run concurrent with credit
20 for time served.

21 Ladies and Gentlemen, I'm going to ask you to
22 step into the jury room for just a minute.

23 Mrs. Bikas, you are welcome to join them back
24 there.

25 I will come speak to you and dismiss you from

1 there.

2 (WHEREUPON, the jury exit at approximately
3 10:53 AM.)

4 (WHEREUPON, the Court adjourns at approximately
5 10:53 AM.)

6

7 (END OF PROCEEDING)

8

9

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County
John C. Few, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANTONIO TRIMMIER,

APPELLANT

FINAL ANDERS BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

The trial judge erred reversibly in denying the defense motion to sequester the witnesses in a case where the State relied exclusively on the testimony of three cooperating witnesses so that the refusal to sequester allowed the prosecuting witnesses to conform their testimony.

STATEMENT OF THE CASE

Anthony Trimmier, appellant, was indicted by the Greenville County Grand Jury for armed robbery and for possession of a weapon during commission of a violent crime. On October 5, 2009, appellant proceeded to trial before the Honorable John C. Few and a jury. Upon the jury's finding him guilty as charged, Judge Few sentenced appellant to 22 years incarceration for armed robbery and to five years for possessing a weapon with the sentences to be served concurrently with credit for time served.

ARGUMENT

The trial judge erred reversibly in denying the defense motion to sequester the witnesses in a case where the State relied exclusively on the testimony of three cooperating witnesses so that the refusal to sequester allowed the prosecuting witnesses to conform their testimony.

Dr. Leonard Pugh is a physician practicing in Greenville. He lives in the Chanticleer neighborhood, near the Greenville Memorial Hospital. (R. p. 53). Dr. Pugh testified that on January 3, 2008, he had gone to his daughter's home in Mauldin for dinner and that he left for home a little bit after 9:00 p.m. (R. p. 55). The doctor testified that as he was driving home, he noticed two headlights behind him. He recalled that at first he did not think much of the headlights. However, he testified that as he drove through the several speed bumps on Pleasant Ridge and Chapman Road in his neighborhood, he had to slow down or stop. The doctor indicated that each time he passed a speed bump, he checked to see that the headlights were still there.

Dr. Pugh testified that as he came to his home, the car was still following him. (R. p. 56). He recalled that the car came through the stop sign on Chapman Road beside his house. The doctor said that after he turned into his driveway, he was going to go into the house; however, he said that as he was coming from his car toward his kitchen door, he looked down the street and noticed a "slow-moving" car under the streetlight. Dr. Pugh testified that he saw that the car was an older car and that he thought it was peculiar because "no one goes slowly on our road in particular." (R. p. 57).

Dr. Pugh recalled, "I started to move around, around the side of the house thinking they were lost or whatever it might be. Then a couple of steps, I noticed someone coming out of the bushes with a handgun." (R. p. 57, lines 16-19). He indicated that he saw a hooded figure and that, at that point, his neighbor's motion detector light came on. Dr. Pugh

testified that he then saw that the person had a gun pointed at him and that the man came up to him and said, "Give me your wallet or I will kill you." (R. p. 59). Dr. Pugh testified that he froze before asking if he could just give the man his money rather than his wallet. He recalled that the man agreed that he could just give him his money. However, as the doctor was giving him his money, the man said, "I mean it, man, I will kill you." Dr. Pugh indicated that after he had given up his money, the man asked if there was anything in the house. Dr. Pugh testified that he tried to remember how to work his alarm; however, at that point, the man ran away. (R. p. 60).

Dr. Pugh testified that it was very dark, that he was trying to keep his eyes on the ground, and that he did not get a good look at the face of the hooded man. (R. p. 61). Dr. Pugh indicated that he did not remember much about the gun and that he could not describe it very well, only that the gun was small. (R. p. 61). The doctor's description of his assailant was similarly limited. The six foot tall doctor testified that the man did not appear to be taller or larger than himself and that his voice sounded on the young side. (R. p. 61). Dr. Pugh testified that the assailant would be a little bit shorter than six feet, but not a short person and that the man was a black man of average build but that he would not call him heavy at all. The doctor maintained that he would not be able to identify the man if he saw him again. (R. p. 62).

Defense counsel moved pre-trial for sequestration of the witnesses. Counsel pointed out that the State was relying on several young males with gang affiliations who had admitted their own participation in this robbery. Counsel indicated that the accounts of these witnesses as set out in their statements were contradictory and, therefore, that sequestration was necessary to prevent the State's witnesses from conforming their

testimony to the testimony of other State's witness's testimony. (R. p. 34; p. 36, lines 1-5). The trial judge responded, "I think that our law is fairly clear that in order to sequester witnesses, you have to have more than just the danger that they might compare their stories and conform their testimony to that of each other. Unless there is more that you want to argue, I will rule." (R. p. 36, lines 1-12). Defense counsel's motion was denied. (R. p. 36, lines 15-16).

The State called Dashaun James. Dashaun testified that he had attended Southside High but that he did not graduate. He said that he knew appellant because he had seen him at school. Dashaun recalled that on the evening of January 3, 2008, he was with Marteze Hardy and Keith Williams. He explained that he knew Marteze from school for a year and that he had known Keith since middle school. (R. p. 73). Dashaun testified that he was driving an older, rusty car which was left in his care by a friend who was incarcerated. He indicated that he was driving the car on January 3, 2008, when got together with Keith and Marteze. (R. pp. 74-75).

Dashaun explained that he received a call from Marteze Hardy and that they got together. He testified that the two of them later picked up Keith as he was walking home from basketball practice. (R. p. 76). Dashaun testified that the three of them had nothing better to do so that they were looking for Donquavis West. Dashaun asserted that when they could not find Donquavis, they went to appellant's house to ask if he knew Donquavis' location.

Dashaun testified that appellant got in the car and they went riding around for an hour or so. He testified that when they were in Pleasant Valley they saw a good-looking, fancy, car drive by. (R. p. 77, lines 19-24). Dashaun testified that at that point Appellant

said for him to follow the car and that he complied. (R. p. 78, lines 21-25). Dashaun recalled that as they were following the car, when it got ready to turn in, he turned off the lights in the car because somebody had said to turn them off. Dashaun indicated that he was driving kind of slow when appellant jumped out of the car. (R. p. 79). Dashaun testified that he drove past the house and then turned around and that, at that point, appellant was already "running back down to the car. He jumped in the car and we rode off." (R. p. 80).

Dashaun testified that he thought that appellant had mentioned that he had a gun while he was in the car. Dashaun first asserted that appellant was out of the car for some five minutes, however, he then corrected that statement and indicated instead that appellant was only gone for a minute or two. (R. p. 80). Dashaun indicated that when appellant was back in the car they drove off and that appellant gave everybody a little bit of money. (R. p. 81). Dashaun stated that the group then drove to Piedmont Manor to purchase marijuana. (R. p. 82, lines 5-10). On cross-examination, Dashaun testified that he did not know who said for him to follow the fancy car and that he did not know who said to cut the lights. (R. p. 87, lines 15-25).

Marteze Hardy testified that he graduated from Southside High School. He testified that he knows appellant only in that he had seen him at school. However, he indicated that he had known Dashaun James for a year and that he had known Keith Williams since they were little kids. Marteze recalled that he was with Dashaun and Keith on January 3, 2008. He testified that he was let go early that day because the labor was cut so that he went home, changed his clothes and called Dashaun. (R. p. 94). Marteze indicated that Dashaun came and picked him up and that they went driving around. He asserted that, later, they picked up

Keith because he was walking home. (R. p. 96). Marteze testified that they rode around looking for Donquavis and that they eventually went to appellant's house. (R. p. 97). He testified that appellant joined the group in the car.

Marteze recalled that as they pulled out of Piedmont Manor, they saw a fancy, high priced, car drive by. Marteze testified, "and then we followed it." However, when asked whose idea it was to follow it, Marteze joined Dashaun in failing to remember whose idea it was to follow the car. (R. p. 98, lines 16-25). Marteze maintained that before the fancy car turned into a driveway, appellant got out of the car. He indicated that they turned the car around and, at that point, appellant was coming back to the car. (R. p. 99). Marteze testified that before appellant got out of the car, he saw that he had a handgun. Marteze claimed that he thought appellant was going to rob someone. Marteze testified that appellant was out of the car for a minute or so. He alleged that when appellant returned he gave everybody in the car \$20 or \$21.

On cross-examination, Marteze agreed that in his written police statement, he had indicated that he got off work at 11:30 p.m. as opposed to his trial testimony that he got off early. (R. p. 106). Marteze disagreed that in his statement, he had indicated that the car turned around before, not after, appellant got out. (R. p. 106, lines 19-p. 107, line 9). Marteze testified, "I was saying that while we were turning around, he was already out the car. Not saying that he was in the car when we turned around. However, he agreed that his statement indicated that they drove down the street and turned around, that they parked a few houses down and that appellant then got out of the car.

Marteze testified that appellant came running back to the car. However, he agreed that in his statement he indicated that appellant had walked towards the house and that he

returned to the car, still walking. (R. p. 107). Marteze agreed that in his police statement, he said that appellant came back with \$84 and that he gave some money to Dashaun and some to Marteze. However, he testified that appellant gave money to everyone in the car. (R. p. 108). Marteze agreed that he did not mention that Keith Williams was with them when he was first interviewed and gave a written statement. He agreed that he first told the interviewing solicitors that Keith Williams was in the car. (R. p. 109).

Keith Williams testified that he had known appellant since childhood because they grew up in the same neighborhood. He indicated that he had known Dashaun since middle school and that he grew up with Marteze. (R. p. 112). Keith Williams recalled that, on January 3, 2008, he was walking home after practice which ended at 7:00 when he was picked up by his friends, Dashaun and Marteze. (R. p. 113). Keith said that they rode around for a while and that the others asked him if he knew where to find Donquavis. Keith indicated that he told them that appellant might know where to find Donquavis. Keith indicated that appellant got into the back seat with him and that they rode around to Piedmont Manor. (R. p. 115). Keith testified that after they left Piedmont Manor, appellant said that he needed to "hit a lick", meaning that he needed to get some quick money by robbing someone. Keith asserted that they waited until the car they followed had gone past. (R. p. 116).

Keith testified that when the car turned into a yard, they passed the house and then made a three point turn. He indicated that it was as the car was making a three point turn that appellant "hopped out of the car." Keith testified that at that point, the lights were cut and that a minute or so later appellant came back to the car. Keith claimed that as appellant was getting back in the car, he saw that he had a gun in his hand.

Keith agreed that he was interviewed by Deputy Weiner and that he gave a written statement. (R. p. 122). Keith agreed that he did not mention that appellant had a gun in his statement. He further indicated that he might have been mistaken in his statement in indicating that the money was given to just Dashaun James. Keith testified that the money was split between everyone in the car. (R. p. 125).

Dashaun James indicated that he is six-foot tall and that he weighs between 130 and 135. (R. p. 86, lines 20-23). Marteze Hardy reported that he is 6'0 or 6'1 tall and that he weighs from 140 to 145 pounds. (R. p. 104). Keith Williams said that he is 5'10 or 5'11 tall and that he weighs about 147 pounds, (R. p. 122). According to detective Weiner, appellant is 5'9 and he weighs 132 pounds. (R. p. 136). Notably, Dashaun, Marteze, and Keith are all close to the physical description provided by the doctor, while appellant, standing some three inches shorter than the doctor does not fit the description.

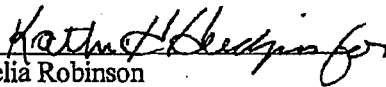
The trial judge erred in denying the defense motion to sequester where the State's entire case against appellant came from the testimony of the three cooperating witnesses. Sequestration was particularly important where the witnesses had given statements which were then contradicted by their very similar, un-sequestered testimony. Rule 615, SCRE, first provides that it is "at the request of a party" that the court may order the sequestration of multiple witnesses to the critical event. The decision to sequester witnesses is left to the sound discretion of the trial judge. State v. Sullivan, 277 S.C. 35, 282 S.E.2d 838 (1981); State v. Fulton, 333 S.C. 359, 375, 509 S.E.2d 819, 827 (Ct.App.1998). However, sequestration of witnesses is "an ancient protection against perjury" which "discourages and exposes inaccuracy, tailoring of testimony and collusion." Warren Moise, Every Trial Lawyer Gets A Fresh Fish!, SOUTH CAROLINA

LAWYER, 14-15 May 2007. Where the State's case relied exclusively on the testimony of three cooperating witnesses, the judge's erroneous refusal to sequester allowed the prosecuting witnesses to tailor their testimony to agree. Appellant was thereby deprived of a fair trial.

CONCLUSION

For all the forgoing reasons, appellant's convictions should be reversed and a new trial ordered.

Respectfully submitted,


M. Celia Robinson
Appellate Defender

ATTORNEY FOR APPELLANT

This 16th day of November, 2010.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County

John C. Few, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANTONIO TRIMMIER,

APPELLANT

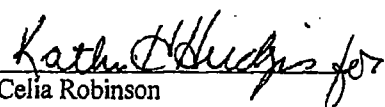
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Antonio Trimmier states:

1. She is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge John C. Few, which was held on October 6, 2009, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Antonio Trimmier.

Respectfully submitted,



M. Celia Robinson
Appellate Defender

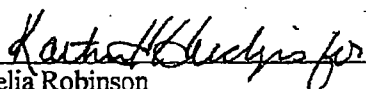
ATTORNEY FOR APPELLANT

This 16th day of November, 2010.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability 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."

November 16, 2010


M. Celia Robinson
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 Greenville County

John C. Few, Circuit Court Judge

THE STATE,

RESPONDENT,

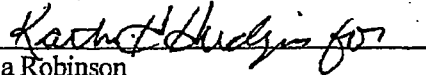
V.

ANTONIO TRIMMIER,

APPELLANT

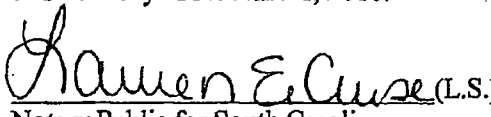
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Anders Brief of Appellant in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, South Carolina 29201; and a copy of the final Anders brief of appellant and record on appeal have been served on Antonio Trimmier, # 337233 at Lee Correctional Institution, this 16th day of November, 2010.


M. Celia Robinson
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 16th day of November, 2010.


Kamen E. Cuse (L.S.)
Notary Public for South Carolina
My Commission Expires: August 23, 2014.

State of South Carolina
IN THE SUPREME COURT

Page 1

Appeal from Greenville County
John C. Lee

Case No. GS 132563

John C. Lee, Petitioner

Petitioner

State of South Carolina

Respondent

Pro Se Response To Petition

SC Court of Appeals

FEB 04 2011

RECEIVED

Index

John C. Lee, Petitioner

Issues Presented

H.C. I / S.M. / P.C.

Interment of Case

990 W. S. Hwy

Issues

Bishopville S.C. 29505

Rule (615) Exclusion of witness In my Trial my Attorney asked the Trial Judge will we be able to sequester the witness And, why was it denied? The Court shall order witnesses excluded so that they cannot hear the testimony of other witnesses, And it may make the order of its own motion.

Why wasn't there ANY objections in my Trial?

Rule (615) Prior statements of witnesses was not excluded I think it would have made a difference in my Trial.

Rule (611) made the order of interrogation And presentation (A) control by court The Court shall exercise reasonable control over the mode and order of interrogation and presentation of evidence for the Ascertainment of the Truth.

Rule (51) Saped A. motion for Judgment

Rule (51)(A) A Party may at the close of the evidence or at an earlier reasonable time that the Court directs file, And furnish to the Court, a written request that the Court instruct the jury on the

Pg 21 (1)

the law as set forth in the request. ^{Rule} 52(A)(1)

Based on the evidence & Definitive ruling on the grounds for staying
the request. Rule 57

Rule 52(A) Attacking and supporting Credibility of declarant

When a hearsay statement or a statement derived in Rule 801 D2C
or E has been admitted in evidence the credibility of the declarant
may be attacked. And if attacked may be supported by
any evidence which would be admissible for those purposes.
Declarant had testified as a witness. Why is the credibility
not attacked?

Rule 57, L 03 Appointment in Criminal matters (In order
to be eligible for appointment to represent criminal defendants in the
District of South Carolina Counsel must be approved by Court after
completion of proper application and review by the Criminal
Justice Act Committee. Application forms may be obtained
from the Clerk of Court or on the District website. My ~~lawyer~~
Attorney that represented me in my trial only was on
my case for 2 weeks. I don't believe that she was
ready to go my case in a Trial. See 19 VS L 3026 &

I NEVER HAD ANY objections! And things went wrong
why is that?

Rule 52(A) ^{52(A)} Signing Error, however, my lawyer never objected, so I couldn't
sign as error.

D.

(3)

(1)

Statement of case

My didn't like that Judge make the witnesses testify really? I feel as though they (witnesses) intend to each in testify, and compare the similarities. But there is still this that was overlooked!

My lawyers didn't object to anything!

(3) Rule of evidence, I feel like that if the statements would have been brought out and read carefully to the jury on examination, and cross examination, then redirect here would have been more to show in evidence. Why not the statements that was very contradictory brought it and read carefully and studied like it was suppose to be. I was two statements written and two that came from the detective interviewing!

1) Rule (1) there wasn't any interrogation! I feel like if there was something totally different would have been the out come!

2) Rule (2) I don't feel as though my trial was fair under the beginning.

3) Rule (3) (A) they didn't do anything under this Rule they did

not make a definitive decision regarding the resection.

4) Rule (4) 57 IUS in order to be my Attorney my lawyer has to be reviewed by the justice committee and

Statement of Case.

Don't believe that my attorney is. My lawyer is very ineffective. I never even thought that it would have ended out like that.

I want to know why I didn't have any objections. I don't know why but my lawyer didn't make any objections that caused me to be able to assign as an endeavor to make proper objection!

My Trial Lawyer never made any objections - forget to put the notes down so it's a number off.

CONCLUSION

For the foregoing I asked that my case be reversed and ~~and~~ A new trial ordered! with the witnesses Excluded.

**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.

Antonio R. Trimmier, Appellant.

Appeal From Greenville County
John C. Few, Circuit Court Judge

Unpublished Opinion No. 2012-UP-070
Submitted January 3, 2012 – Filed February 8, 2012

APPEAL DISMISSED

Appellate Defender M. Celia
Robinson, of Columbia; and
Antonio R. Trimmier, pro se, for
Appellant.

Attorney General Alan Wilson,
Chief Deputy Attorney General
John W. McIntosh, and Assistant
Deputy Attorney General Salley W.
Elliott, all of Columbia; and
Solicitor W. Walter Wilkins, III, of
Greenville, for Respondent.

PER CURIAM: Antonio R. Trimmier appeals his convictions for armed robbery and possession of a weapon during a violent crime. After a thorough review of the record and all briefs pursuant to Anders v. California, 386 U.S. 738 (1967), and State v. Williams, 305 S.C. 116, 406 S.E.2d 357 (1991), we dismiss the appeal and grant counsel's motion to be relieved.^[1]

APPEAL DISMISSED.

HUFF, PIEPER, and LOCKEMY, JJ., concur.

[1] We decide this case without oral argument pursuant to Rule 215, SCACR.

FORM 5

STATE OF SOUTH CAROLINA)

County of Greenville)

IN THE COURT OF COMMON PLEAS

Antonio Rashad Trimmer)

Full name and prison number (if any) of Applicant)

#337233)

v.)

State of South Carolina)

2013-CP-23- 01326

APPLICATION FOR

POST-CONVICTION RELIEF

 2013 MAR -7 AM 11:42
 FILED
 CLERK OF COURT
 GREENVILLE, SC
INSTRUCTIONS B READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention L.E.E. Correctional Institution
990 Widoack Highway Hwy. Bishopville, S.C. 29010
2. Name and location of Court which imposed sentence Greenville County
General Sessions 305 E. North St. Greenville S.C. 29601
3. Name(s) of co-defendant(s) (if any) Keith Williams, Dayshun James,
Markez Hardy
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 2008-GS-23-2523, Armed Robbery, Possession of weapon,

- (b) _____
- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) October 6th 2009 Armed Robbery 22 years
- (b) October 6th 2009 Possession of a Weapon
- (c) During Commission of an Armed Robbery 5 years
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty N/A
- (b) ☒ after a plea of not guilty N/A
- (c) after a plea of nolo contendere N/A
7. Did you appeal from the judgment of conviction or the imposition of sentence?
YES
8. If you answered Ayes@ to (7), list:
- (a) the name of each Court to which you appealed:
- i. Greenville County Court of General Sessions
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. Appealed was dismissed
- iii. _____
- (c) the date of each such result:
- i. MARCH 16th 2012
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Appeal was dismissed
- ii. _____
- iii. _____
9. If you answered Ano@ to (7), state your reasons for not so appealing:
- (a) N/A

- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Assistance of Counsel
- (b) Improper comments from prosecutor / prosecutor was conduct
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Counsel fail to investigate / Violation of confrontation clause
- (b) Counsel fail to produce other evidence and documents before trial.
- (c) Counsel fail to explain the importance of trial rights before going to trial.
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 Ayes@ to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. N/A
- iii. N/A

iv. N/A

(c) the disposition thereof:

i. N/A

ii. N/A

iii. N/A

iv. N/A

(d) the date of each such disposition:

i. N/A

ii. N/A

iii. N/A

iv. N/A

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. N/A

ii. N/A

iii. N/A

iv. N/A

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. N/A

iii. N/A

(b) the proceedings in which each ground was raised:

i. N/A

ii. N/A

iii. N/A

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) _____
- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? N/A
- (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? N/A
18. If you answered Ayes@ to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. AMANDA LACKLAND Greenville County Public Defender
305 E. NORTH ST, suite 123
- ii. M. CELIA ROBINSON, South Carolina Commission of Indigent
Defence, P.O. Box 11589 Columbia, S.C. 29211-1589
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. AMANDA LACKLAND represented me at trial.
M. CELIA Robinson represented me on Appeal.
- ii. Randall Chambers represented me before it went to
Trial (Bond Hearing), (Preliminary Hearing)
- iii. _____

19. State clearly the relief you seek in filing this application:

To reversed and remand for a new trial.

20. Are you now under sentence from any other court that you have not challenged?

No

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of _____)

VERIFICATION

I, _____, 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.

Antonio Jimenez

SWORN to and subscribed before me this _____ day of _____

29
Jan
2013

[Signature]

(L.S.)

Notary Public

My Commission Expires:

11-4-2015

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, Antonio Trimmer, 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.

Antonio Trimmer
Applicant

SWORN or affirmed to and subscribed before me this

29 day of Jan, 2013.
Debra Sims
Notary Public

My Commission Expires: 11-4-2015

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)
Antonio Rashad Trimmier,)
S.C.D.C. No. 337233,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
C.A. No. 2013-CP-23-1326

RETURN

ENTERED COMPUTER

FILED
JUL 17 2013
JW

In response to the post-conviction relief application filed March 7, 2013, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the Applicant at the September 2008 term of General Sessions for armed robbery (2008-GS-23-2523, count 1) and possession of a weapon during commission of a violent crime (2008-GS-23-2523, count 2). Amanda Lackland, Esquire represented the Applicant.

After the State brought the case to trial, the Applicant was found guilty. On October 6, 2009, the Honorable John C. Few levied concurrent sentences of twenty-two years for armed robbery and five years for possession of a weapon during commission of a violent crime.

A notice of appeal was filed at the South Carolina Court of Appeals. M. Celia Robinson, Esquire of the South Carolina Office of Appellate Defense perfected the appeal in the form of an

SCANNED

Copy mailed to
Attorney <u>Applicant</u>
on <u>7/19/13</u>

appt atty 7/19/13

Anders¹ brief. The Court of Appeals dismissed the appeal. State v. Trimmier, Op. No. 2012-UP-070 (S.C. Ct. App. filed February 8, 2012).

Attached herewith and incorporated herein by reference are the records of the Greenville County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, the trial transcript, and the appellate records.

II.

In his application for post-conviction relief, the Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel:
 - a. "[F]ail to investigate./Violation of confrontation clause."
 - b. "[F]ail to produce other evidence and documents before trial [sic]."
 - c. "[F]ail to explain the importance of trial [sic] rights before going to trial [sic]."
2. "Improper comments from prosecutor/prosecutor misconduct."

III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a defense attorney.

Where ineffective assistance of counsel is alleged 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 on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

¹ Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). 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. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV.

The Respondent denies each allegation not expressly admitted, qualified or explained.

V.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held and counsel appointed to represent the Applicant.

Respectfully submitted,

ALAN WILSON
Attorney General

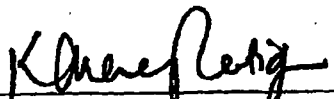
JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

KAREN C. RATIGAN
Assistant Deputy Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By:


Attorneys for Respondent

July 12, 2013

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

2013-CP-23-1326

ANTONIO RASHAD TRIMMIER, 337233)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

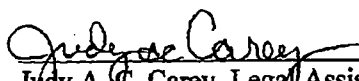
STATE OF SOUTH CAROLINA,)

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:

Antonio Rashad Trimmier, 337233
Lee Correctional Institution
990 Wisacky Highway
Bishopville SC 29010

DATED this 12th day of July, 2013.


 Judy A. C. Carey, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	Case No(s) : 2013CP2301326
	)	
Antonio Trimmier,	)	
	)	
Applicant,	)	
	)	
-VS-	)	TRANSCRIPT OF RECORD
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

October 22, 2014
Greenville, South Carolina

B E F O R E:

HONORABLE LETITIA H. VERDIN, Judge.

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

KAREN RATIGAN, Esquire
Attorney for the State

RICHARD WARDER, Esquire
Attorney for the Applicant

Teresa B. Johnson
Certified Verbatim Reporter
P.O. Box 2812
Greenville, S.C. 29602

Records are
taken and
produced via



I N D E XDIRECT CROSS REDIRECT RECROSS

Amanda Wicker

by Mr. Warder 5

by Ms. Ratigan 12

Antonio Trimmier

by Mr. Warder 14

by Ms. Ratigan 34

Tasha Trimmier

by Mr. Warder 38

by Ms. Ratigan 39

Certificate of Reporter 44

EXHIBITS PAGE

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>

APPLICANT EXHIBITS

A-1	Report	29	29
A-2	Letter	41	41

RESPONDENT EXHIBITS

(No exhibits offered.)

COURT EXHIBITS

(No exhibits offered.)

P R O C E E D I N G S

(WHEREUPON, the proceedings begin on the 22nd day of October, 2014 at approximately 2:39 p.m.)

THE COURT: All right. I'll remind everybody that this is a courtroom. I know you're happy to see your loved one, and I understand that. But I'm going to have to -- once we start the hearing, uh, then I just ask you to be respectful of the fact this is a legal proceeding.

Yes, ma'am.

MS. RATIGAN: Thank you, Your Honor. May it please the Court. This is the case of Antonio Trimmier versus the State of South Carolina. The docket number is 2013-CP-23-1326. Mr. Trimmier was indicted for Armed Robbery and Possession of a Weapon during the Commission of a Violent Crime. He was represented on these charges by Ms. Wicker.

The case was brought to trial in October of 2009 before Judge Few. Mr. Trimmier was found guilty. On October 6th of 2009, Judge Few gave him concurrent sentences of 22 years for armed robbery and five years for the weapons charge. The case was appealed. It was perfected in the

1 nature of an Anders brief at the Court of
2 Appeals. The appeal was dismissed February 2nd,
3 2012. This application was timely filed. And
4 the State is ready to proceed.

5 THE COURT: All right. Yes, sir.

6 MR. WARDER: Thank you, Your Honor. We'd
7 call Amanda Lackland as our first witness.

8 THE CLERK: I'm sorry. I did not catch
9 your name.

10 THE WITNESS: It's Amanda Wicker.

11 THE CLERK: Amanda Wicker. Okay.

12 AMANDA LACKLAND WICKER

13 having first been duly sworn, testifies as follows:

14 THE CLERK: Thank you. You've already
15 stated your name, so please be seated.

16 THE WITNESS: Thank you.

17 DIRECT EXAMINATION

18 BY MR. WARDER:

19 Q Ms. Lackland, you were the attorney that
20 represented Mr. Trimmier at trial?

21 A At trial, yes.

22 Q And how long had you been representing him?

23 A This case was originally assigned to
24 another attorney in our office. I probably had it for
25 about a month before his trial came up, I think.

1 Q Okay. Now, who was his first attorney on
2 it? Do you know?

3 A Randy Chambers.

4 Q And were you at the office when the case
5 started in the Public Defender's office?

6 A I think so. Let me just -- can I check my
7 appointment sheet to see?

8 Q Sure.

9 A Yes. I was working there at the time.

10 Q And when you got the case, did you -- what
11 did you do?

12 A I reviewed the file. I spoke to Mr.
13 Chambers about it and met with Mr. Trimmier to
14 discuss it.

15 Q Was the trial strategy all laid out in that
16 time or did you lay out the trial strategy?

17 A I probably led the way on the trial
18 strategy.

19 Q And you went to visit Mr. Trimmier at the
20 prison?

21 A Yes, I did.

22 Q You made one visit?

23 A No, I think I visited three or four times.

24 Q What was the trial strategy?

25 A Basically, the evidence against him was

1 just co-defendant testimony against him. There wasn't
2 any physical evidence other than that. And his co-
3 defendants were offered a plea bargain in exchange
4 for testimony against him. So that was the strategy
5 to show their bias.

6 Q It was essentially three co-defendants that
7 testified against my client?

8 A Yes.

9 Q As I understand it, there was a lot of gang
10 testimony in the discovery and stuff?

11 A There was mention of gang-related activity
12 in the discovery as I recall.

13 Q And did you talk to Mr. Trimmier about the
14 gangs?

15 A I believe I would have. I don't
16 specifically recall.

17 Q You made a motion pretrial to limit gang
18 testimony?

19 A Yes.

20 Q And you considered that harmful?

21 A I did. Yes.

22 Q One of the questions in this case was why
23 three people would testify, what the motive was to
24 testify against Mr. Trimmier?

25 A Right.

1 Q And did you learn that they were members of
2 an opposing gang? One was a Blood and one was a
3 Crypt. And it was three Bloods testifying against a
4 Crypt or three Crypts testifying against a Blood?

5 A To be honest, I don't specifically recall
6 what their gang affiliation was.

7 Q In your opinion, would that have provided
8 valuable argument for the jury as to motivation?

9 A You know what? It could have. I think I
10 just made the decision that if a jury heard that it
11 was a gang activity, that would be more comparable to
12 his case.

13 Q Okay. Uh, in preparing for trial, was it
14 always the strategy that Mr. Trimmier would not take
15 the stand?

16 A I don't know that we really discussed it
17 until -- until shortly before his trial whether he
18 would or would not testify. I don't specifically
19 recall that.

20 Q Did you go into depth on what he did before
21 that, how his involvement was with the prior record,
22 the trouble he had been in?

23 A I don't specifically recall that
24 conversation, but that's my normal practice to
25 discuss that.

1 Q Did you learn he was on house arrest at the
2 time?

3 A I don't specifically recall. But if we had
4 that conversation and he told me that, then yes.

5 Q Did you investigate whether or not that
6 would have provided an alibi defense?

7 A I don't specifically recall that.

8 Q If he had an alibi because he was on house
9 arrest, that certainly would have been significant?

10 A Absolutely.

11 Q Did you discuss with Mr. Trimmier the
12 decision not to take the stand? I know it's in the
13 transcript where it kind of says do you want to and
14 you said no, but I didn't see that a recess was taken
15 or anything. Was there a time when you went out and
16 said this is all the testimony and we need to now
17 decide what we're going to do? Was that kind of pre-
18 decided at that time?

19 A I think we decided prior to trial that he
20 did not intend to testify. Then it was probably a
21 brief conversation reaffirming that that was his
22 decision.

23 Q What was the reason that you decided not to
24 put him on the stand?

25 A I don't recall that he told me that he

1 wanted to testify. I thought we could poke enough
2 holes in the State's case and just limit it to just
3 cross-examination just as a strategic decision.

4 Q I understand. At the time you made the
5 decision though, you had the benefit of all the holes
6 you could punch in the witnesses. Did you see any
7 holes at that time?

8 A I thought that the bias of being offered
9 the plea offer to testify.

10 Q Okay. All the others pled to some crime
11 other than armed robbery. They had deals that ranged
12 from Accessory before the Fact to Robbery. But no one
13 had to plead to the armed robbery that my client was
14 on trial for?

15 A Right. That's correct.

16 Q Did you develop the maximums for the jury
17 that Armed Robbery carried a minimum and a maximum of
18 25 and exactly what the benefit they would have got
19 in terms of years so the jury would understand how
20 big that was?

21 A Yes, I believe so.

22 Q Now, you'd been admitted to the bar for how
23 long when you tried this case?

24 A This was in 2009. I had been admitted for
25 probably a year and a half or so.

1 Q Okay. And you had been with the Public
2 Defender's Office all that time?

3 A Yes, that's correct.

4 Q You had someone assist you at the trial?

5 A I did have somebody sitting at counsel
6 table with me, yes.

7 Q What was their function?

8 A He wasn't going to do any of the cross or
9 any of the direct, but sometimes it's nice to have
10 another set of eyes and ears there in case I missed
11 something or he thinks I didn't hit something hard
12 enough home.

13 Q He had never seen my client before the
14 courtroom, right?

15 A I don't recall whether he had met with him
16 before or not.

17 Q Why did this case go to trial? Why did you
18 try it instead of pleading?

19 A My involvement was about a month before
20 this case went to trial. I can not tell you what
21 conversations Mr. Trimmier had with Mr. Chambers
22 prior to that. So I don't know what exactly their
23 conversations were, but I don't believe Mr. Trimmier
24 wanted to plead guilty to anything.

25 Q Did you talk to him about a plea?

6 **A** Yes. And the Solicitor would not do so.

10 A If we were talking about the plea offer, I
11 imagine we did talk about you can plead guilty to the
12 charge as is at trial. I don't specifically recall
13 exactly what we said about that.

19 **A** I believe we would have discussed that.
20 That he could plead guilty to the charge as it
21 appeared on the trial docket but negotiating with the
22 Solicitor was off the table.

24 THE COURT: Ms. Ratigan?

25 CROSS-EXAMINATION

1 BY MS. RATIGAN:

2 Q By the time you had the case, discovery had
3 already been filed and received?

4 A Yes.

5 Q Did you review those materials with Mr.
6 Trimmier?

7 A I did.

8 Q Did he tell you his version of what had
9 happened that day?

10 A Yes, he did.

11 Q And you testified your strategy was to
12 basically expose bias and poke holes in the State's
13 testimony, did you inform him that that was going to
14 be the trial strategy used at trial?

15 A I believe we would have discussed it. I
16 don't specifically recall that but we met the weekend
17 before trial. I believe I would have gone over that
18 with him.

19 Q Is it fair to say that since you got it a
20 month beforehand, it was already on the trial docket?

21 A I don't know if the trial docket had been
22 published at that point, but if -- we had noticed
23 that it was going to be placed on the trial docket.

24 Q If Mr. Trimmier had told you that he was on
25 house arrest at the time of the offense, what would

1 you have done at that point?

2 A I believe I would have looked into that.

3 Q And are there any notes in your file either
4 of him telling you that he was on house arrest or any
5 kind of follow up in that way?

6 A I don't believe so.

7 Q In your opinion, did you have enough time
8 to prepare this case for trial?

9 A I believe so.

10 MS. RATIGAN: That's all I have, Your
11 Honor.

12 THE COURT: All right. Anything else from
13 this witness?

14 MR. WARDER: No, not from this witness.

15 THE COURT: Ma'am, you can step down.

16 MR. WARDER: Call Mr. Trimmier.

17 THE CLERK: Mr. Trimmier, please place
18 your left hand on the Bible and raise your
19 right. You can set those down.

20 ANTONIO TRIMMIER

21 having first been duly sworn, testifies as follows:

22 THE CLERK: Thank you. Please state your
23 full name for the record.

24 THE WITNESS: Antonio Trimmier.

25 THE CLERK: Thank you.

DIRECT EXAMINATION

BY MR. WARDER:

Q Mr. Trimmier, when did meet your trial attorney?

A I met her, I believe it was September 24th, 2009.

Q Okay. And how long was that before your trial?

A This was 11 days before my trial.

Q Okay. And where did you meet her at?

A She come to see me -- I was in the Greenville County Detention Center at the time. She came and visited me and spoke with me there.

Q Did you know that Randy Chambers wasn't your attorney before she came down to the jail?

A No.

Q And Randy Chambers had done everything else in your case?

A Yes.

Q Did you sign any consent to change your attorney?

A I don't recall signing anything.

Q Did you know whether there was a court order to change your attorney?

A I don't believe -- I never knew if it was

1 or not.

2 Q Okay. At that time, uh, did you go over --
3 re-go over all the discovery you received?

4 A With Ms. Lackland?

5 Q Yes, sir. Did you go over it with her?

6 A Yeah, we went over the discovery on the
7 visit -- on the two visits that we had.

8 Q Now, you said on two visits. When was the
9 second visit?

10 A The first visit was on 9/24/2009. The
11 second visit 10/2/2009.

12 Q Okay. And that was the only two visits?

13 A Yeah, that was the only two visits.

14 Q Okay. Now, did you develop a trial
15 strategy? Did she tell you what the theory of the
16 defense was going to be?

17 A Yeah, we spoke about what the defense would
18 possibly be and what she would do.

19 Q Did you have input into that?

20 A Yeah.

21 Q Okay. What did you believe the defense was
22 going to be?

23 A The defense was going to be the alibi for
24 me being on house arrest. The probation officer was
25 supposed to, uh, -- we had discussed should I have

1 been also present in the trial to show that I was on
2 house arrest and completed my house arrest.

3 Q Okay. Your defense was that you weren't
4 there. You had an alibi?

5 A Yeah, that it was an alibi and also just to
6 credibility of witnesses.

7 Q Now, here was in the discovery mention of
8 gang activity.

9 A Okay.

10 Q Were you a member of a gang?

11 A Yes, at that time, I was.

12 Q Okay. And were the other three people a
13 member of a gang?

14 A Yes, at that time, they were.

15 Q Were those gangs, uh, were those two gangs
16 gangs that got along or gangs that didn't get along?

17 A Well, I was in a different gang from what
18 they were in. We were actually -- how you call it? At
19 that time, we was beefing. They were actually member
20 of the Bloods. I was a member of the Crypts at that
21 time.

22 Q Okay. And was that fact important in your
23 trial?

24 A Yes, it was very important because this was
25 supposed to be part of the defense to show that they

1 had motive to testify on me. You know, if they
2 testify and lie on me, it will show that -- if they
3 are telling you that they're a Crypt -- I'm a Crypt
4 and they were Bloods, then it is common sense that
5 they would have a nice motive to lie on me.

6 Q Under the defense theory, the three Crypts
7 put a Blood in there as the villain.

8 A Actually, three Bloods had put a Crypt.

9 Q Okay. Okay. But three members of one gang
10 put a member of the other one as the ---

11 A Yeah.

12 Q --- most culpable person.

13 A Yes.

14 Q And did you know that you could do anything
15 -- did you understand the motions when they were
16 saying limit the gang activity to the judge?

17 A I didn't quite understand everything at the
18 moment. I wasn't familiar with the vocabulary.

19 Q Anyway, the judge said that you could still
20 open that door and all of that will come in?

21 A Yeah.

22 Q Now, let me get here on your list. Why did
23 you go to trial? Why didn't this case plead out?

24 A Well, I was informed by Ms. Lackland here,
25 once she came to see me, that I was offered plea

1 agreements earlier that year. But I never knew about
2 the plea agreements. She said the case was on trial
3 now because I didn't accept the plea agreements or
4 whatever. There was a deadline for the plea
5 agreements for 4/18/2009. If I didn't plead guilty by
6 4/18/2009, the case would have been placed on the
7 trial docket.

8 Q You wanted to make some plea bargain if you
9 could?

10 A Yeah, I had intentions to plead guilty in
11 order to avoid trial. My family and everyone else was
12 telling me that if I possibly go to trial and they
13 had three people that's going to testify against me,
14 it may look bad on me. So I had intentions on
15 pleading guilty to avoid trial.

16 Q Your family was concerned that the three
17 against one might convict you regardless of what.

18 A Exactly.

19 Q Okay. So if you could have made a favorable
20 plea bargain, you would have. Did anybody tell your
21 story to the Solicitor? You would have testified for
22 the State?

23 A Yes.

24 Q Did anybody go and make an offer or
25 anything on your behalf?

1 A For the plea agreements?

2 Q Yes.

3 A No. I had spoken to Ms. Lackland. My family
4 -- the first day in court, my mother was telling me
5 to plead guilty. My dad was right beside me. He told
6 me to listen to my mother and go ahead and plead
7 guilty. So I asked her can I plead guilty now. Since
8 I never knew about the plea agreements, can I plead
9 guilty then, right now. She said there was no more
10 negotiations. She said they are not going to let me
11 plead guilty because there were no more negotiations.

12 Q And none of the plea arrangements, whatever
13 the plea agreements were, they mentioned two letters.
14 You never saw those letters?

15 A No, I never seen these letters until I got
16 a second copy of my motion.

17 Q In the PCR you prepared?

18 A Yes.

19 Q Okay. When was the last time you saw Randy
20 Chambers before this case?

21 A I never seen Randy Chambers. My family
22 spoke with him.

23 Q Okay. When you got your trial attorney, the
24 one that took you to trial, Ms. Lackland, you had
25 never seen the prior attorney at all?

1 A No.

2 Q So the only preparation that was done with
3 you where you were involved in was that that started
4 11 days before the trial?

5 A Exactly.

6 Q When there come a time in the trial for you
7 to decide to take the stand or not take the stand,
8 what discussions did you have or what did you talk
9 about or what did your attorney tell you?

10 A Well, I asked her was it in my best
11 interest to testify. She told me it could go either
12 way. She said it could possibly go either way. I
13 asked her would they possibly bring up pending
14 charges or would that hurt me. At the time, I had
15 pending charges. I asked her would that hurt me. She
16 said if I'm worried about that, that would possibly
17 hurt me. If I get on the stand and testify, they
18 could say something about the charges that were
19 pending.

20 Q Okay. She's saying you might say something
21 that would then open the door?

22 A Saying that it might make me look bad about
23 the pending charges. It might make me look bad
24 because some of the things I was going to testify to
25 was the part about the gang-related thing and that

1 these were actually my enemies. The same guys that
2 accused me of being with them committing crimes,
3 these same guys were my enemies in the streets. It
4 might not look bad saying it was all involved in
5 gangs at the time.

6 Q Well, you don't -- in trial, did it look to
7 you like you had any reason that if you didn't
8 testify, the jury would know anything but what the
9 three people that said you were guilty?

10 A The jury never had a chance to hear any of
11 this because none of this was presented.

12 Q Was your mother there or father? Did your
13 family testify about the house arrest and where you
14 were at?

15 A Yeah. My mother could have testified. I
16 believe my brother could have testified. The
17 probation officer, if she was subpoenaed, she would
18 have -- she could have testified, verified that I was
19 on house arrest and that I actually completed my
20 house arrest and never violated this house arrest. I
21 was set to get off house arrest four days after this
22 crime took place. After I got off of house arrest,
23 this is when I started leaving the house. I never
24 left the house until after four days -- four days
25 later after this crime took place.

1 Q Do you feel like you were properly prepared
2 to go to trial?

3 A No.

4 Q Do you feel that the proper strategy was
5 used in your case at all?

6 A No.

7 Q Do you think if the jury had known that
8 these were rival gang members that they had a -- they
9 were not friends, that that would have helped?

10 A I believe it would have helped. I would
11 have testified that the same guys that were
12 testifying against me, we never got along. In fact,
13 one of the guys named Martez, we actually been in two
14 different altercations before -- prior to -- before
15 all this took place. The two guys that testified with
16 him, all these guys were in the same gang. At that
17 time, I was in a different gang from these same guys.
18 They were accusing me of being with them. I believe
19 that it possibly could help. They had a motive to
20 tell lies on me.

21 Q Now, you sent me a long list of complaints
22 you have. But we're here today on the things that you
23 think was ineffective about the trial.

24 A Yeah.

25 Q Tell me what else, if anything, Ms.

1 Lackland did.

2 **A** She was ineffective because she pursued my
3 trial without a strategy. She pursued my trial
4 without any kind of defense. She never had enough
5 time to properly examine the facts of the case. So
6 she never had enough time to investigate the case. If
7 she didn't have enough time to investigate, she could
8 not have had enough time to prepare for an adequate
9 defense for the case. This led me going to trial
10 without allowing a defense and being convicted
11 without any type of defense.

12 **Q** Was there any investigator that ever came
13 and talked to you?

14 **A** No.

15 **Q** Any, uh, Public Defender personnel that
16 came and saw you and got routine information?

17 **A** Not besides Ms. Lackland.

18 **Q** Is there anything else you want to tell the
19 judge about?

20 **A** Yes, like I said, I don't believe she had
21 enough time to prepare for a trial because she only
22 had 11 days to prepare. She came to see me in
23 Greenville County Detention Center twice. One was on
24 9/24/2009. The other one was on 10/2/2009. Both of
25 these were within 11 days before I went to trial.

1 Within those 11 days, I don't believe she had enough
2 time to prepare for an adequate defense, examine the
3 facts and do any type of proper investigation and
4 interview my alibi witnesses, interview Donquavis
5 West, which was a defense, could have been a defense
6 witness but also was a State's witness at that time.
7 He was actually -- it was relevant for her to speak
8 with alibi witnesses who would have testified that I
9 was at home. It was relevant for her to subpoena
10 Donquavis West -- ask for a continuance and subpoena
11 Donquavis West.

12 She told me that she was going to ask for a
13 continuance because she did not have enough time to
14 prepare for the trial. The first day she came to see
15 me was September 24th. She told me then that she was
16 appointed that week, the same week to represent me. I
17 don't know if it was that day before or when it was.
18 But it was the same week. This was the first date.
19 The first visit was 11 days before the trial took
20 place.

21 She said she was going to ask for a
22 continuance to speak with alibi witnesses which was
23 my mother and my brother. She was going to speak with
24 the probation officer. I gave her the name of the
25 probation officer and also gave her my mother's

1 number and told her my mother would possibly give her
2 anything else about the probation officer that I
3 didn't know like the address or another number that
4 she could contact her through.

5 I told her that I completed my house
6 arrest. I never left my home. I told her that me and
7 the State's witnesses were actually beefing at the
8 time. We were not doing any type of crime together.
9 We would not be in the car together. If it was me, I
10 would not have split any type of money with these
11 guys or committed any type of crime with these guys.
12 These are the same guys that hated me and these the
13 same guys that I hated.

14 She was also -- she was ineffective for
15 failing to investigate and discover the backgrounds
16 of some of the witnesses. Martez Hardy and Keith
17 Williamson. They was charges but Keith Williams had
18 an interfering and hindering officers charge. Martez
19 Hardy had a criminal conspiracy charge. I believe
20 that these charges could have been used to contradict
21 the State's witnesses and expose them to criminal
22 liability. I believe that the State capitalized off
23 this error by her not impeaching these witnesses
24 concerning their bias. I should have been afforded
25 the right to confront these guys about these charges.

1 Q You think those convictions would have
2 helped to convince the jury that they shouldn't be
3 believed?

4 A Yes, I believe that would help also with
5 the fact that they were in an opposite gang of me at
6 the time. These charges, actually from her not
7 implementing or speaking about these charges,
8 actually made these guys appear more credible in the
9 eyes of the jury because there's no facts to
10 undermine the credibility of these guys. So it made
11 them appear more credible because she didn't give
12 them any reason to not believe these guys were
13 telling the truth.

14 She was also ineffective for failing to
15 discover evidence in my case which was -- this was a
16 police report from Detective David Weiner. He says
17 that I received a tip from Donquavis West on a
18 several robberies. West said that the suspect told
19 him he had committed this robbery. West added that
20 the suspect listed -- the suspect told him the listed
21 witness was in the vehicle when it occurred. The
22 listed witness was Martez Hardy who was actually
23 eventually charged also in this case.

24 This statement reveals that it was facts
25 that the jury did not hear in the case. This is the

1 police report. This is the statement that I would
2 like to enter our -- enter into our exhibits.

3 THE COURT: Your attorney does that.

4 THE WITNESS: The statement and also the
5 police report contradicts the State's case and
6 also reveals that there was evidence that
7 wasn't --

8 BY MR. WARDER:

9 Q You understand that reports don't come in.
10 There are witnesses that can be subpoenaed but we
11 can't put reports in and your attorney couldn't have
12 put that in at trial.

13 A Yes, but if she had of investigated, then
14 she would have --

15 Q These are statements that would have led to
16 witnesses that would have been helpful is what you're
17 saying?

18 A Yes.

19 THE COURT: He's saying right now he wants
20 to enter them into evidence.

21 MR. WARDER: No, sir.

22 THE COURT: Okay. I told him that was up
23 to you.

24 THE WITNESS: Yeah, uh, --

25 MR. WARDER: Well, go ahead and put them in

1 evidence.

2 **THE COURT:** All right. You want to enter
3 them as --

4 **MS. RATIGAN:** Can I look at them first?

5 **THE COURT:** Yeah.

6 **THE WITNESS:** There was also a letter
7 wrote from Donquavis West detailing facts about
8 this.

9 (WHEREUPON, there is a pause.)

10 **MR. WARDER:** Your Honor, there's one that's
11 redacted. We will withdraw that one because of
12 the redaction.

13 **THE COURT:** All right.

14 **MR. WARDER:** The other one, there's no
15 objection to. We'll offer it.

16 **THE COURT:** All right. That will be
17 Applicant's 1?

18 (WHEREUPON, Applicant's Exhibit 1 is marked for
19 identification and admitted into the record.)

20 **THE WITNESS:** I would like to enter this.

21 **BY MR. WARDER:**

22 Q Let's not confuse the issues too much.
23 We're making a record. I want you to tell the court
24 in short concise language anything that you think was
25 not done that should be done. But it's got to be

1 clear. Somebody else needs to be able to read the
2 record and understand it.

3 **A** Uh, she -- my counsel failed to invest --
4 to object to the hearsay testimony statement. You can
5 see it in my trial transcript on page 129, lines 18
6 through 20 where they testified that he was
7 interviewing someone on an unrelated case. That
8 person told him that he can -- need to speak with
9 Martez Hardy about a robbery that occurred. This was
10 the testimony hearsay.

11 I feel she should have objected to this
12 testimony hearsay because I couldn't confront this
13 witness and did not establish who this person really
14 was or if this person really said that, why this
15 person really said that. If she would have objected,
16 this issue could have been raised on direct appeal. I
17 could have raised this issue on direct review. But
18 since she didn't object, I couldn't raise this issue
19 on direct appeal. So this abandoned my chance to
20 raise this issue on direct appeal and this testimony
21 or statement violated my competition clause. I
22 couldn't confront this person.

23 **THE COURT:** I see where you're going with
24 that. All right.

25 **THE WITNESS:** Uh, she was also ineffective

1 for failing to properly argue and present my
2 identification, my description. At the time when
3 I was arrested, I was actually five foot four.
4 The victim testified in the trial transcript on
5 page 2. He testified that the person that robbed
6 him was slightly shorter than himself. He was
7 six foot at the time. The three witnesses who
8 testified against me all was taller than me. I
9 was actually five foot four at the time.

10 He testified in the trial transcript on
11 page 62 that the person who robbed him was not
12 short at all. He was about average in size. I
13 did not fit this description at all. I was five
14 foot four and 120-something pounds when I was
15 arrested. Ms. Amanda Lackland actually spoke
16 with the detective on the stand and also said
17 that I was five foot nine. I'm only five foot
18 seven now. So I couldn't have been five foot
19 nine then.

20 **BY MR. WARDER:**

21 **Q** You understand your height wasn't in
22 evidence so she couldn't argue?

23 **A** No. I don't understand that.

24 **Q** Okay.

25 **A** But I feel if I was five foot four and this

1 would have been known to the jury, she would have did
2 the height or whatever in front of the jury to show
3 that the man who he described as his attacker is
4 slightly shorter than himself. He was six foot. The
5 three witnesses who testified against me was all more
6 taller and closer to this description than I was. I
7 was five foot four. I'm only five foot seven now at
8 this time. I feel like if this would have been known
9 to the jury, this also could have, you know, helped
10 the outcome of the trial if they see that I'm five
11 foot four and 100-something pounds and they are all
12 closer to the description than myself.

13 Also if she would have admitted into the
14 evidence about the house arrest and probation officer
15 and whatever, I believe this would have helped my
16 defense a lot. I would like really -- if the jury --
17 it was things that the jury didn't know about my
18 case. And these things was available through motion
19 for discovery and also available from what me and Ms.
20 Amanda Lackland had spoke about. She advised me that
21 it may not be in my best interest to testify.
22 Actually, when it was my turn to testify, then I
23 could have helped myself. This was my last source of
24 defense. My own testimony would have been that I was
25 on house arrest. These guys had a motive to lie on me

1 because we was all not getting along.

2 Also, if she would have admitted to the
3 jury any type of defense that I had, which was the
4 house arrest, if the jury would have knew that my
5 mother was my alibi witness, my probation officer
6 would have possibly been another alibi witness if she
7 would have subpoenaed her and used her in court. The
8 juries never knew that I was on house arrest. The
9 juries never knew that my probation officer could
10 confirm that I was on house arrest. The juries never
11 knew that I had not violated my house arrest. The
12 juries never knew that I completed my house arrest.

13 The juries never knew that I was five foot
14 four. The juries never knew that we were actually
15 beefing. These guys were in a different gang from me
16 at the time. The juries never knew they were all
17 Bloods and at that time, I was affiliated with the
18 Crypts. They never knew none of this. They also never
19 knew that Pete Williams wrote a statement that
20 implements me being a Crypt and themselves being
21 Bloods. Dashaun James and Martez Hardy also admitted
22 this to Ms. Katrina Salisbury, I believe was the
23 Solicitor, and Jeff Weston. They also admitted this.
24 I would like to also admit all this into the
25 evidence.

1 **MR. WARDER:** Answer any questions that the
2 State has.

3 **THE COURT:** All right.

4 **CROSS-EXAMINATION**

5 **BY MS. RATIGAN:**

6 **Q** When did you tell your attorney that you
7 were on house arrest?

8 **A** Well, this attorney?

9 **Q** Yes.

10 **A** Or Randy Chambers? The first visit when she
11 came to see me.

12 **Q** So that September 24th visit?

13 **A** Yes.

14 **Q** Did she tell you at that point that she was
15 going to argue that alibi at trial?

16 **A** Yes. She told me that she would look into
17 it.

18 **Q** Oh. So she said she would look into it?

19 **A** She said she was going to look into it. I
20 gave her the name and numbers.

21 **Q** Not that she was going to argue it. Just
22 that she was going to look into?

23 **A** Well, from my understanding, she was going
24 to argue it but first speak with me.

25 **Q** She never actually told you she was going

1 to argue it.

2 A Yeah, this was our defense, the alibi.

3 Q She said I'm going to argue at trial?

4 A She didn't exactly say. She said she was
5 going to look into it. I gave her my probation
6 officer's name. I gave her my mother's name. I told
7 her that my probation officer could confirm that I
8 completed my house arrest and never violated my house
9 arrest.

10 Q Okay. When did you tell Ms. Lackland, now
11 Ms. Wicker, when did you tell her this thing about
12 you being a Crypt and these three co-defendants being
13 Bloods?

14 A That was actually the first visit also.

15 Q Okay. And your testifying today, you think
16 it would have actually helped your case to have the
17 jury hear that you were a Crypt?

18 A I'm testifying today saying that it would
19 have helped my case by showing the jury that these
20 guys who testified against me had motive for
21 testifying, which was to -- in that case, to
22 eliminate their enemy.

23 Q All right. But you think at the end of the
24 day, if the jury had found out that you were in a
25 gang and they were in a rival gang and y'all were

1 beefing, that would have somehow led to motive?

2 A That would have shown the jury that they
3 had motive to testify against me. We didn't get along
4 at all. I was on house arrest. I never left my home.
5 I never violated house arrest. I would have never
6 left my home to violate my house arrest to be with
7 these guys that I never got along with.

8 Q Okay.

9 A If the jury would have heard all this, yes,
10 I believe the outcome would have been different.

11 Q You testified today that you wanted to
12 plead guilty if you could avoid a trial?

13 A Yes, I had plea agreements.

14 Q Wait, wait, wait. Let me -- just answer the
15 question that I'm asking you. You stated today you
16 wanted to plead guilty if you could avoid the trial?

17 A Yes.

18 Q Okay. Why didn't you tell the judge that
19 either before trial or at sentencing that you didn't
20 even want to have a trial, that you wanted to plead
21 guilty and you weren't allowed to plead guilty?

22 A I never was asked directly. I believe
23 that's the reason why I -- I really actually thought
24 that Amanda Lackland, since she was my counsel, it
25 would be her to mention these things. She never

1 mentioned it. I actually thought it was on her to do
2 everything. I never knew the importance of my
3 testimony and the importance of me testifying.

4 Q That's not what I asked you. You -- the
5 court, at the very end, said tell me about yourself.
6 He allowed you an opportunity to kind of speak to
7 him. At that point, you didn't feel it was necessary
8 to say that you wanted to plead guilty and you had
9 been kind of pushed into a trial by an unprepared
10 attorney?

11 A At that time, I felt like it was all the
12 way over. Because once I spoke with Amanda Lackland
13 before trial about me pleading guilty, she had
14 already told me there was no more negotiations. I
15 really already felt defeated, that there was no
16 purpose.

17 MS. RATIGAN: Okay. That's all I have, Your
18 Honor.

19 THE COURT: Anything else for this
20 witness?

21 MR. WARDER: No.

22 THE COURT: Sir, you can step down.

23 TASHA TRIMMIER

24 having first been duly sworn, testifies as follows:

25 THE CLERK: Please state your full name .

1 for the record.

2 **THE WITNESS:** I'm Tasha Trimmier, Antonio
3 Trimmier's mother.

4 **THE CLERK:** Thank you. You may be seated.

5 **DIRECT EXAMINATION**

6 **BY MR. WARDER:**

7 **Q** Ms. Trimmier, I would have told your first
8 name, but I forgot.

9 **A** That's fine.

10 **Q** You're Antonio's mother?

11 **A** Yes.

12 **Q** And Antonio was living with you at the time
13 that this event happened?

14 **A** Yes.

15 **Q** And he was on house arrest?

16 **A** Yes.

17 **Q** And he was home when he wasn't at school
18 and at work?

19 **A** Yes.

20 **Q** The night it happened, did you know that he
21 was at home? I mean, do you have specific
22 recollection that he was there?

23 **A** During that time, I was having a lot of
24 issues like as far as being sick. I had female
25 issues. So I was calling out to him a lot through the

1 night to bring the stuff. He was always there when I
2 needed him.

3 Q Okay. He was there that night?

4 A Yes.

5 Q You would have testified at trial?

6 A Yes. I asked, uh, Ms. Lackland to mention
7 that he was on house arrest. I was real pertinent
8 about it. She said she wasn't going to do that. She
9 said she wasn't going to bring up his house arrest.

10 Q Thank you. Answer any questions.

11 THE COURT: Yes, ma'am.

12 MS. RATIGAN: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. WARDER:

15 Q So you specifically remembered -- on the
16 night of January 3rd, 2008, you specifically
17 remembered that Antonio was home with you?

18 A I remember because those couple of months,
19 I was real sick. I was confined to my bed so I needed
20 help. He was always there every time I called out for
21 him to bring me something. He was always there.

22 Q So you don't remember this particular
23 night. You just remember that when you needed him, he
24 was always there.

25 A I don't remember the particular night. I

1 remember that week because of the fact that I was
2 sick those months like from the first of the year --
3 basically all of the whole year of 2009, I was sick.
4 So when the time came about, like when everything
5 went down, when I would call back, yes, I do recall
6 that he was at home. I needed him every other hour. I
7 was calling. I was like, really sick. I had had
8 several surgeries following that. I would have noted
9 if he wasn't home. His room is right across from my
10 bedroom.

11 Q Okay. Did you tell his lawyer that he was
12 there with you that night?

13 A I told his lawyer that he was there. I
14 asked her to bring up the fact that he was on house
15 arrest and that he wasn't violated.

16 Q Okay. That's all I have.

17 MR. WARDER: Nothing.

18 THE COURT: Okay. Ma'am, you can step
19 down.

20 MR. WARDER: Your Honor, I have one letter
21 I want to introduce into evidence. It's a letter
22 from the Department of Juvenile Justice. It just
23 states that the records had been destroyed
24 pursuant to some act that they have down there
25 that they keep general records for five years.

1 They'd been destroyed.

2 **THE COURT:** All right. Any objection to
3 that?

4 **MS. RATIGAN:** No, Your Honor. I've already
5 looked at it.

6 **THE COURT:** All right. That will be
7 Applicant's what, 3?

8 **COURT REPORTER:** 2.

9 **THE COURT:** 2. I'm sorry.

10 (WHEREUPON, Applicant's Exhibit 2 is marked for
11 identification and admitted into the record.)

12 **MR. WARDER:** Your Honor, if it pleases,
13 that would be the applicant's case.

14 **THE COURT:** Okay. Yes, ma'am.

15 **MS. RATIGAN:** Your Honor, the State would
16 rest on the record and Ms. Wicker's testimony.

17 **THE COURT:** All right. Anything else? Any,
18 uh, closing remarks from either side?

19 **MS. RATIGAN:** I would waive closing, Your
20 Honor.

21 **THE COURT:** All right.

22 **MR. WARDER:** Your Honor, I think the
23 significance of the failure to present some
24 explanation as to why three people would say
25 this against one if it wasn't true is just

1 monumental. This is a case that they argued in
2 closing. The State argued why would three people
3 come in here and plead guilty and say somebody
4 was involved that wasn't involved. They argued
5 because it was an obvious question. And there
6 was an obvious answer in the fact that they were
7 members of rival gangs. The Blood and Crypts
8 part of it wouldn't, in my opinion, have been so
9 prejudicial that it would overcome the benefit
10 of having the jury know that there was a reason
11 that they might want to exclude somebody in
12 their gang and include somebody in the other or
13 blame all the guilty conduct on somebody when
14 they got caught.

15 I think those other things that are wrong
16 -- I certainly think that alibi defense could
17 have been monumental and all the evidence would
18 have been there. Five years ago, those records
19 were still there. I think that combination sets
20 this case apart. It's more one that is actually
21 entitled to relief than just the typical case.

22 **THE COURT:** Thank you, sir. All right.
23 Well, as I'm sure you've explained to him, Mr.
24 Warder, I'm going to need to read the trial
25 transcript and all the things that go with it.

1 I'm going to take this matter under advisement.

2 But I'll be issuing a decision shortly.

3 MR. WARDER: Thank you, Your Honor.

4 MS. RATIGAN: Thank you, Your Honor.

5

6 (WHEREUPON, the proceedings conclude at
7 approximately 3:33 p.m.)

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CERTIFICATE

44

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Greenville, South Carolina, on this 26th day of May, 2015.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

Teresa B. Johnson

Official Court Reporter

WMS 2/16/08



South Carolina
DEPARTMENT OF
JUVENILE JUSTICE
Margaret H. Barber, Director

P.O. Box 21069
Columbia, SC 29221-1069

www.state.sc.us/djj



Nikki R. Haley
Governor
State of South Carolina

September 8, 2014

RECEIVED

SEP - 9 2014

RICHARD WARDER

Richard Warder
Attorney
[REDACTED]
Greenville, South Carolina 29616

Re: Trimmier, Antonio

Dear Mr. Warder:

Enclosed, is a copy of the official records of the South Carolina Department of Juvenile Justice, for the individual Antonio Rashad Trimmier, DOB [REDACTED], and Social Security # ***-**-****. Other files have been destroyed per the Retention Schedule DYS-CPCS-5r, also enclosed.

This information contains Protected Health Information and is confidential and intended only for the purpose requested and authorized. Records should be destroyed when no longer needed. Please do not hesitate to contact me if you have any questions or concerns at the address below, or telephone number [REDACTED].

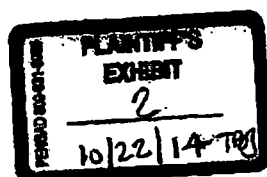
Sincerely,

Martha Hoy

Martha Hoy
Record Custodian

Enclosures

*probation destroy
rel*



Central Records
Post Office Box 21069, 4900 Broad River Road, Columbia, South Carolina 29212
Telephone: 803 896 7537, Facsimile: 803 896 9162

STATE OF SOUTH CAROLINA
 COUNTY OF GREENVILLE
 FILED-CLERK OF COURT
 GREENVILLE CO. S.C.
 IN THE COURT OF COMMON PLEAS
 PAUL B. WICKENS IMR 2013-CP-23-01326

2014 NOV 12 PM 3 53

ANTONIO RASHAD TRIMMIER,
 INMATE NUMBER: 337233

APPLICANT

-VS-

STATE OF SOUTH CAROLINA,

RESPONDENT.

)
)
 :
)
 MOTION TO AMEND THE RECORD AND
 : INCLUDE EXHIBITS WHICH SUPPORTS
 APPLICANT'S TESTIMONY

PLEASE TAKE NOTICE that the Applicant, by and through his undersigned attorney, hereby moves this Honorable Court to have the record of his Post Conviction Relief hearing amended to include documents which support his oral testimony.

Exhibits which Applicant wishes to be included are as follows:

"Exhibit 1" A copy of the official visitation records of the Greenville County Detention Center. This record shows the date, time and the number of visits made by his Court Appointed Attorney, Amanda Lackland. This record supports his testimony that she made only 2 visits to see him and discuss his case, one which was on September 24, 2009, and the second visit took place on October 2, 2009. This record also impeaches his Court Appointed Attorney's testimony during his hearing wherein she testified that she made numerous visits to see Applicant.

"Exhibit 2" Criminal records of a witness, Keith OBrian Williams which show the offenses he was convicted of. This record (RAP SHEET) could have been used to impeach Mr. William's testimony, and should have been included in the discovery material in possession of his counsel, Amanda Lackland. This information is to support his claim that his attorney had insufficient time to properly prepare his case.

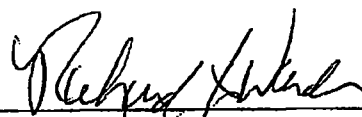
"Exhibit 3" Criminal record of a witness, Marteze Jemel Hardy, which show the offenses he was convicted of. This record (RAP SHEET) could have been used to impeach Mr. Hardy's testimony, and should have been included in the discovery material in possession of his counsel, Amanda Lackland. This information is to support his claim that his attorney had insufficient time to properly prepare his case.

"Exhibit 4" A letter dated October 26, 2014 wherein Applicant, Anthony Trimmier explains the Exhibits 1, 2 and 3.

"Exhibit 5" A letter dated October 26, 2014 from Applicant, Anthony Trimmier, which sets forth Case Law that he feels should be included in the Courts Order which support his position that he had ineffective assistance of counsel.

"Exhibit 6" A letter dated October 29, 2014 from Applicant, Anthony Trimmier, that sets forth the research he has done on the appropriateness of supplementing the record.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Richard H. Warder", written over a horizontal line.

RICHARD H. WARDER
ATTORNEY FOR THE APPLICANT

November 12, 2014

Greenville, South Carolina

EXHIBIT 1



Department of Public Safety
Records Management Services Division

Jinny Moran, Captain
County Records Manager
(864) 467-5211
www.greenvillecounty.org

July 11, 2014

Antonio Trimmier # 337233
PCI / 4 B 115
430 Oaklawn Road
Pelzer, SC 29669

RE: request for visitation Records

Dear Mr. Trimmier:

As the Records Manager for the Greenville County Detention Center, your letter addressed to the Greenville County Sheriff's Office was forwarded to me for handling. You are requesting copies of all visitation records to include PRO-V records.

Visitation records are maintained electronically as part of the Jail Arrest Record. A certified copy of the visitation document is enclosed and it lists both regular and professional visitors.

Sincerely,

Captain Jinny Moran
County Records Manager

PJV004R

Greenville County Detention Center

Page 1 of 1

7/11/2014 1:14:57PM

Inmate Visits

Job Number 867905

Inmate 0622 TRIMMIER, ANTONIO RASHAD

Sex M Race B DOB 12/17/1990

Booked 02/02/2008

Cell

From Date	Time	To Date	Time	Type	Visitor	Status
10/02/2009	12:55	10/02/2009	14:22	Professional	LACKLAND, AMANDA	Visited
09/28/2009	10:11	09/28/2009	10:41	Regular	TRIMMIER, TASHA	Visited
09/24/2009	13:58	09/24/2009	14:44	Professional	LACKLAND, AMANDA	Visited
02/24/2008	08:30	02/24/2008	09:00	Regular	BROWNLEE, TONY	Visited
02/14/2008	08:30	02/14/2008	09:00	Regular	BROWNLEE, TONY	Visited
02/10/2008	08:00	02/10/2008	08:30	Regular	BROWNLEE, TONY	Visited

*****End of Report*****

GREENVILLE COUNTY
DETENTION CENTER - RECORDS
CERTIFIED COPY

7-11-14

Current Date

gm
Exhibit for Amanda Lackland only having 11 days to prepare/investigate
Exhibit for Randy Chambers failed to negotiate, communicate

EXHIBIT 2

276

GVLSSL09.MSG 1FE8033092

TO: GVLSSL109-464806 20090305 05:33:24 003F6ACD8A
 FROM: SCCH-6999434 20090305 05:33:24 1FE8033092

ICHR REQUEST FOR RAP SHEET
 ORI-SC023015A FBI-423743WC9 PUR-C
 ATN-LOWDERMILK, KAREN

AUTHORIZED CRIMINAL JUSTICE AGENCY USE ONLY. CONTACT CONTRIBUTING
 AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS.
 BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY
 SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01 DATE-03/05/2009 TIME-05:32:44
 REQ ORI-SC023015A GREENVILLE SOL
 SID-SC01814692 FBI-423743WC9
 NAME-WILLIAMS, KEITH OBRIAN SEX-M RACE-B
 HEIGHT-510 WEIGHT-159 EYES-BRO HAIR-BLK SKIN- BORN-SC
 FPC- HENRY-

PALM PRINTS AVAILABLE
 1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--04/13/2008 DATE OF LAST UPDATE--02/13/2009

ADDITIONAL IDENTIFIERS
 NAME

BIRTH
 DATES MARKS SOC SEC MISC NUM

CONTRIBUTOR/SUBJECT

DOA/RCVD CHARGE/DISPOSITION/ETC

WILLIAMS, KEITH OBRIAN
 SC0230200 GREENVILLE PD
 CASE-234914
 ATN-231600180280
 WARR-44511EM
 CIT-16-5-50-MISDEMEANOR

04/13/2008

ARREST CHARGE 01-INTERFERENCE
 /HINDERING OFFICERS
 OFFENSE DATE-04/13/2008
 PALM PRINTS AVAILABLE

WILLIAMS, KEITH OBRIAN
 SC0230200 GREENVILLE PD
 CASE-234914
 ATN-231600190904
 WARR-M066825
 CIT-16-17-420-MISDEMEANOR

09/09/2008

ARREST CHARGE 01-DISTURBING
 SCHOOLS
 OFFENSE DATE-09/09/2008
 PALM PRINTS AVAILABLE

WILLIAMS, KEITH OBRIAN
 SC0230000 GREENVILLE CNTY SO
 CASE-234914
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 WARR-I477505

02/13/2009

*failed to investigate
 And Discover sufficient
 evidence
 Amanda backland*

*This could have cast doubt on credibility
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EXHIBIT 3

278
GVLSL109.MSG 1FE8032F10

TO: GVLSL109-463891 20090304 05:02:16 003F6AB075
FROM: SCCH-6991989 20090304 05:02:16 1FE8032F10

ICHR REQUEST FOR RAP SHEET
ORI-SC023015A FBI-126477WC0 PUR-C
ATN-LOWDERMILK, KAREN

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HEIGHT-601 WEIGHT-154 EYES-BRO HAIR-BLK SKIN- BORN-NC
FPC- HENRY-

*Failed to investigate
and discover
evidence
Amanda Lockard*

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ATN-990000374861
WARR-23080217
CIT-16-17-410-FELONY

02/17/2008

Could have cast doubt on credibility

ARREST CHARGE 01-CRIMINAL
CONSPIRACY
OFFENSE DATE-02/17/2008
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HARDY, MARTEZE JEMEL
SC0230000 GREENVILLE CNTY SO
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ATN-231600201640
WARR-I477503
CIT-16-11-330 (A) -FELONY

02/21/2009

ARREST CHARGE 01-ARMED ROBBER
Y ARMED WITH DEADLY WEAPON
OFFENSE DATE-02/21/2009
PALM PRINTS AVAILABLE

WARR-I477504
CIT-16-17-410-FELONY

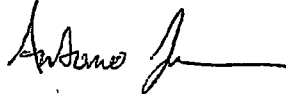
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CONSPIRACY
OFFENSE DATE-02/21/2009

Oct/26/2014

Dear Mr. Warder

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Antonio Trimmier



Oct/26/2014

Oct 29 2014

RECEIVED

OCT 29 2014

P.C.I. MAILROOM

EXHIBIT 5

I would like you to file a proposing order, and use the following cases to support my arguments.

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I want to use US v V. Cronin to support, and establish my claims.

2 did not fulfill the duty to investigate (Strickland v Washington).

3 Failed to object to testimonial hearsay from detective trial transcript Pg 129 line (18-20) use Crawford v Washington 124 sct 1354 (2004).

4 ineffective for advising me not to testify Bobby Horton v. state 306 SC 252, 411 se 2d 223 (1991) SC Lexis 229

5 ineffective for not consulting with me concerning plea negotiations not negotiating with prosecution. Butler v. state 286 SC 441, 442, 339 se 2d 813, 814 (1985) Davie v. state 381 SC 601, 617, 675, se 2d 416, 424 (2009). Griffin v. Maitia 278 SC 620, 300, se 2d 482 (1982).

6 if the judge don't rule on all issues file a rule 59(e).

7 if the judge deny me relief, file a writ of certiorari as quickly as possible I don't have much time, due to filing PCR, so late

Antonio Trimmier



Oct /26/2014.

10-29-14

As of this 29th day of October 2014

Tamara Conwell

My Commission Expires
September 25, 2023

RECEIVED

OCT 29 2014

P.C.I. MAILROOM

EXHIBIT 6

RICHARD WARDER

NOV 10 2014

RECEIVED

Dear
MR Warder.

I am letting you know as my Attorney to, Alter And Amend the Exhibits that you will find enclosed with this letter. I have Read Rules of civil procedure Rule 15(B) it states that I have A Right to Amend Evidence to my Claim, As long As I mentioned the Evidence in my hearing. I understand that you feel As though these things are irrelevant, but I don't ~~feel~~ feel the same under United States v. Cronin where the Applicant Asserted that his Attorney had Not had Enough time to prepare for the case, he got Relief, his lawyer had (25) days to prepare After he had Already been Assigned to the case A Month Earlier, so the Attorney had Roughly 2 months, the Applicant got Relief. Amanda Lackland Reed, Committed perjury on Stand by saying She seen me several times, And she had been Assigned to my case for over A month, there are No Documents to support her Allegations, but there is Evidence that I want, And Need you to submit, (Amend) for my Allegations. I told you, Judge verdin that she was Not on my case that long, And seen me twice that did Not Equal 3 hrs. together. Please Alter And Amend under Rule 15 B (Rules of civil procedure). Also the other Exhibits should be Considered too

Amber J.
Oct 29th 2014

Judge

Letitia H. Verdin

The Circuit Court of the 13th Judicial Circuit

Greenville County Courthouse

305 E. N Street Suite 318

Greenville S.C. 29601-2120

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

Antonio Rashad Trimmier,
S.C.D.C. No. 337233,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS
C.A. No. 2013-CP-23-1326

RETURN TO MOTION TO AMEND THE RECORD

ENTERED COMPUTER

FILED
CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. MICKELTHALER
2014 NOV 21 PM 12:33

Respondent, by and through undersigned counsel, making Return to Applicant's "Motion to Amend the Record and Include Exhibits Which Supports Applicant's Testimony," would respectfully show unto this Court:

1. The matter is before the Court by way of a post-conviction relief (PCR) action filed March 7, 2013.
2. An evidentiary hearing was convened on October 22, 2014 at the Greenville County Courthouse.
3. Applicant was present at the hearing and represented by Richard H. Warder, Esquire. Applicant, Tasha Trimmier, and Applicant's trial counsel, Amanda L. Wicker, Esquire all testified.
4. After taking evidence and testimony at the PCR hearing, the court took the matter under advisement.
5. Applicant – through counsel – filed a "Motion to Amend the Record and Include Exhibits Which Supports Applicant's Testimony" on November 12, 2014 (which was received by Respondent on November 17, 2014). Applicant moves this Court to alter or amend the final

order of dismissal to include 6 new exhibits.

6. Respondent submits the Motion to Amend must be denied because the record in this matter is closed. Amending the record in this manner deprives Respondent of the ability to challenge the authenticity of the six proposed Exhibits and cross-examine witnesses about them.

7. Respondent also submits the proposed Exhibits cannot be added to the record in this case because it is abundantly clear that they have been submitted by Applicant, who is represented by counsel. While the proposed exhibits may have been filed under cover of the "Motion to Amend the Record and Include Exhibits Which Supports Applicant's Testimony," counsel makes no legal argument for the inclusion of such. Rather, it is clear counsel is merely submitting these items at the request of Applicant (this is especially evident in proposed Exhibits 4-6, which are letters from Applicant explaining why these items should be added to the record). This is improper. See Jones v. State, 348 S.C. 13, 14, 558 S.E.2d 517, 517 (2002) (counsel cannot serve as a mere conduit for pro se documents in an effort to avoid the prohibition against hybrid representation and the displeasure of his client).

8. Specifically, Respondent submits Applicant's proposed Exhibits 1-3 cannot be added to the record in this case for the following reasons: (1) no foundation has been established, (2) they have not been authenticated, (3) they are hearsay, and (4) they contain unidentified handwriting (which is further hearsay).

9. Specifically, Respondent submits Applicant's proposed Exhibits 4-6 cannot be added to record in this case. These items are letters from Applicant detailing his rationale and research into why he believes these items should be amended to the record. This is a clear violation of the prohibition against hybrid representation. See Rule 11(a), SCRCP; Jones v. State, 348 S.C. at 14, 558 S.E.2d at 517.

10. Respondent submits the Motion to Amend the Record must be denied.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By:


Attorneys for Respondent

November 19, 2014

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

2013-CP-23-1326

ANTONIO RASHAD TRIMMIER, 337233

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

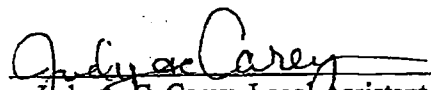
AFFIDAVIT OF SERVICE BY MAIL

FILED IN COURT
GREENVILLE CO. S.C.
PAUL D. WICKENSIMMER
2014 NOV 21 PM 12 33

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 to Motion to Amend the Record** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Richard H. Warder, Esquire
Post Office Box 26133
Greenville SC 29616

DATED this 19th day of November, 2014.


Judy A. Carey, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

)
: IN THE COURT OF COMMON PLEAS
) 2013-CP-23-01326

ANTONIO RASHAD TRIMMIER,
INMATE NUMBER: 337233

APPLICANT

-VS-

STATE OF SOUTH CAROLINA,

RESPONDENT.

)
)
:
) APPLICANT'S AMENDED
MOTION TO AMEND THE RECORD AND
: INCLUDE EXHIBITS WHICH SUPPORTS
APPLICANT'S TESTIMONY

) ENTERED COMPUTER

FILED - CLERK OF COURT
GREENVILLE CO. S.C.
PAUL E. WICKHAM
2014 DEC 9 AM 9 45

PLEASE TAKE NOTICE that the Applicant, by and through his undersigned attorney, hereby moves this Honorable Court to have the record of his Post Conviction Relief hearing amended to include documents which support his oral testimony.

Exhibits which Applicant wishes to be included are as follows:

"Exhibit 1" A copy of the official visitation records of the Greenville County Detention Center. This record shows the date, time and the number of visits made by his Court Appointed Attorney, Amanda Lackland. This record supports his testimony that she made only 2 visits to see him and discuss his case, one which was on September 24, 2009, and the second visit took place on October 2, 2009. This record also impeaches his Court Appointed Attorney's testimony during his hearing wherein she testified that she made numerous visits to see Applicant.

"Exhibit 2" Criminal records of a witness, Keith OBrian Williams which show the offenses he was convicted of. This record (RAP SHEET) could have been used to impeach Mr. William's testimony, and should have been included in the discovery material in possession of his counsel, Amanda Lackland. This information is to support his claim that his attorney had insufficient time to properly prepare his case.

"Exhibit 3" Criminal record of a witness, Marteze Jemel Hardy, which show the offenses he was convicted of. This record (RAP SHEET) could have been used to impeach Mr. Hardy's testimony, and should have been included in the discovery material in possession of his counsel, Amanda Lackland. This information is to support his claim that his attorney had insufficient time to properly prepare his case.

"Exhibit 4" A letter dated October 26, 2014 wherein Applicant, Anthony Trimmier explains the Exhibits 1, 2 and 3.

"Exhibit 5" A letter dated October 26, 2014 from Applicant, Anthony Trimmier, which sets forth Case Law that he feels should be included in the Courts Order which support his position that he had ineffective assistance of counsel.

"Exhibit 6" A letter dated October 29, 2014 from Applicant, Anthony Trimmier, that sets forth the research he has done on the appropriateness of supplementing the record.

"Exhibit 7" A letter from Jinny Morgan dated July 11, 2014 with certified copy of visitation records for Applicant showing no visitation was made Applicant's original attorney, Randy Chambers.

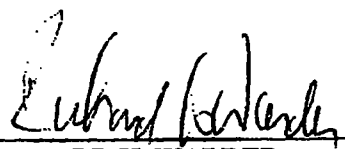
"Exhibit 8" A letter from Jeff Weston to Randy Chambers dated January 27, 2009 with a plea offer which was never discussed or reviewed with Applicant.

"Exhibit 9" Statement of Keith Williams stating that he, Martez Hardy and DaShawn James were in a gang named Bloods and Applicant being associated with the Crips which could have proved reasonable doubt. Keith Williams had not testified about the facts that was the same as in his statement on February 13, 2009. If the statement had been introduced as evidence and the Jury read the statement showing contradicting statements, it would have given reasonable doubt.

"Exhibit 10" Greenville County Sheriff's Office Supplemental Report of D. Weiner dated 2-23-09. Applicant's original attorney, Randy Chambers, was ineffective for not introducing evidence for impeachment purposes and not offering the statement to the Jury to exhibit reasonable doubt.

"Exhibit 11" A copy of the Applicants Legal Summary showing that Applicant successfully completed his house arrest, which he was on when the alleged crime took place. Had this information been submitted to the Jury, it would have proven reasonable doubt as Applicant was being monitored by the Police Department at the time of the crime, had violated his house arrest, the Police Department would have known.

Respectfully submitted,



RICHARD H. WARDER
ATTORNEY FOR THE APPLICANT

December 8, 2014

Greenville, South Carolina

EXHIBIT 1



Department of Public Safety
Records Management Services Division

Jinny Moran, Captain
County Records Manager
(864) 467-5211
www.greenvillecounty.org

July 11, 2014

Antonio Trimmier # 337233
PCI / 4 B 115
430 Oaklawn Road
Pelzer, SC 29669

RE: request for visitation Records

Dear Mr. Trimmier:

As the Records Manager for the Greenville County Detention Center, your letter addressed to the Greenville County Sheriff's Office was forwarded to me for handling. You are requesting copies of all visitation records to include PRO-V records.

Visitation records are maintained electronically as part of the Jail Arrest Record. A certified copy of the visitation document is enclosed and it lists both regular and professional visitors.

Sincerely,

Captain Jinny Moran
County Records Manager

PJV004R

Greenville County Detention Center

Page 1 of 1

7/11/2014 1:14:57PM
Job Number 867905

Inmate Visits

Inmate 0622 TRIMMIE, ANTONIO RASHAD

Sex M Race B DOB 12/17/1990

Booked 02/02/2008

Cell

From Date	Time	To Date	Time	Type	Visitor	Status
10/02/2009	12:55	10/02/2009	14:22	Professional	LACKLAND, AMANDA	Visited
09/28/2009	10:11	09/28/2009	10:41	Regular	TRIMMIE, TASHA	Visited
09/24/2009	13:58	09/24/2009	14:44	Professional	LACKLAND, AMANDA	Visited
02/24/2008	08:30	02/24/2008	09:00	Regular	BROWNLEE, TONY	Visited
02/14/2008	08:30	02/14/2008	09:00	Regular	BROWNLEE, TONY	Visited
02/10/2008	08:00	02/10/2008	08:30	Regular	BROWNLEE, TONY	Visited

*****End of Report*****

GREENVILLE COUNTY
DETENTION CENTER - RECORDS
CERTIFIED COPY

7-11-14

Current Date

Exhibit for Amanda Lackland only having 11 days to prepare/investigate
Exhibit for Randy Chambers failed to negotiate. Communicate

294

EXHIBIT 2

296

GVLSL109.MSG 1FE8033092
 TO: GVLSL109-464806 20090305 05:33:24 003F6AC
 FROM: SCCH-6999434 20090305 05:33:24 1FE8033092

ICHR REQUEST FOR RAP SHEET
 ORI-SC023015A FBI-423743WC9 PUR-C
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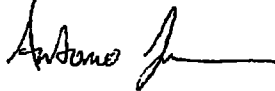
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Oct/26/2014

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RECEIVED

OCT 29 2014

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3 Failed to object to testimonial hearsay from detective trial transcript Pg 129 line (18-20) use Crawford v Washington 124 sct 1354(2004).

4 ineffective for advising me not to testify Bobby Horton v. state 306 SC 252,411 se 2d 223(1991) SC Lexis 229

5 ineffective for not consulting with me concerning plea negotiations not negotiating with prosecution. Butler v. state 286 SC 441,442,339 se 2d 813,814 (1985) Davie v.state 381 SC 601,617,675, se2d 416, 424(2009). Griffin v . Maitia 278 SC 620,300,se2d 482(1982).

6 if the judge dont rule on all issues file a rule 59(e).

7if the judge deny me relief,file a(writ of certio rari)

as quickly as possible I dont have much time , due to filing PCR,so late

Antonio Trimmier



Oct /26/2014.

10-29-14

As of this 29th day of October 2014

Tamara Conwell

My Commission Expires
September 25, 2023

RECEIVED

OCT 29 2014

P.C.I. MAILROOM

EXHIBIT 6

RICHARD WARDER

NOV 10 2014

RECEIVED

Dear
MR. Warder.

I am letting you know as my Attorney to, Alter And Amend the Exhibits that you will find Enclosed with this letter. I have Read Rules of civil procedure Rule 15(B) it states that I have A Right to Amend Evidence to my Claim, as long as I mentioned the Evidence in my hearing. I understand that you feel as though these things are irrelevant, but I don't ~~feel~~ feel the same under United States v. Cronin where the Applicant Asserted that his Attorney had Not had Enough time to prepare for the case, he got Relief. his lawyer had (25) days to prepare After he had Already been assigned to the case A month Earlier, so the Attorney had Roughly 2 months, the Applicant got Relief. Amanda Lackland Lied, Committed perjury on Stand by saying She seen me several times, And she had been assigned to my case for over A month, there are no Documents to support her Allegations, but there is Evidence that I want, And Need you to submit, (Amend) for my Allegations. I told you, Judge verdin that she was not on my case that long, And seen me twice that did not Equal 3 hrs together. Please Alter And Amend under Rule 15 B (Rules of civil procedure). Also the other Exhibits should be considered too

Amanda J. _____
OCT 29th 2014

Judge
Leticia H. Verdin
The Circuit Court of the 15th Judicial Circuit
Greenville County Courthouse
305 E. N Street Suite 318
Greenville S.C. 29601-2120

EXHIBIT 7

Exhibit 7



**Greenville
County**

**Department of Public Safety
Records Management Services Division**

**Jinny Moran, Captain
County Records Manager
(864) 467-5211
www.greenvillemccounty.org**

July 11, 2014

Antonio Trimmier # 337233
PCI / 4 B 115
430 Oaklawn Road
Pelzer, SC 29669

RE: request for visitation Records

Dear Mr. Trimmier:

As the Records Manager for the Greenville County Detention Center, your letter addressed to the Greenville County Sheriff's Office was forwarded to me for handling. You are requesting copies of all visitation records to include PRO-V records.

Visitation records are maintained electronically as part of the Jail Arrest Record. A certified copy of the visitation document is enclosed and it lists both regular and professional visitors.

Sincerely,

Captain Jinny Moran
County Records Manager

EXHIBIT 8

ANN-27-2009(TUE) 10:17 SOLICITOR'S OFFICE

864 467 8370

P.001/002

Exhibit # 8
failing to consult with
me about negotiations
from prosecutor

WJW

1/27/2009

RANDALL CHAMBERS
204 LAVINIA AVENUE
GREENVILLE, SC 29601

RE: Plea Offer for State v. Antonio Trimmier

Dear Randall Chambers :

I am willing to make the following proposal to your above-referenced client in order to dispose of these charges by way of a guilty plea:

The Defendant will plead guilty to the following:

Warrant Number:	Charge:
I474754	Gangs / Soliciting, Recruiting, Coercing or Threatening Person Under 18 Years of Age
I430832	Sex / Indecent exposure
I474848	Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

The State will dismiss the following:

Warrant Number:	Charge:
I4748486	No charge description found for CDR code = .
I474849	Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death
I474850	Weapons / Unlawful carrying of pistol
I474847	Assault / Assault and battery of a high and aggravated nature (ABHAN)
I474846	Weapons / Unlawful carrying of pistol
I474845	Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

I474844 Conspiracy / Criminal Conspiracy, Common Law conspiracy defined
I474843 Robbery / Attempted armed, or allegedly armed, robbery
I474755 Conspiracy / Criminal Conspiracy, Common Law conspiracy defined
I475941 Sex / Indecent exposure

The State will make the following sentence recommendations/negotiation:

NO RECOMMENDATION

Please contact me as soon as possible with your client's response as plea negotiations must be concluded and the guilty plea entered before 4/18/2009 or this and any other offers are automatically withdrawn. If your client does not plead guilty by this date, the case(s) will be placed on the trial calendar for disposition without further negotiation.

Yours very truly,


Jeff Weston
Assistant Solicitor

1.1 bit #8
failing to consult
with re about negotiations
from prosecutor

EXHIBIT 9

Exhibit 9

that could have
been read by jury
to show that he
had not testified about facts
that was the same as his statements

Statements
Contradict
testimony *

Yes I understand my right and I'm giving a statement

We was riding and all of us and then Lil Loc said I need
some money so we was riding and then he said follow this
car so we did and after we let him out and turn around
he was running back to the car so when he got back in he
had ^{some} money in his hand so he ^{kept} the money but gave
D-James some gas money and we all went home but I was
ganging banging at the time all four of us Lil Loc, Trez, and D-James
banging G.E.D. and we was with
Lil Loc cause he was from the same area and we didn't
look at the gangling banging just as homeboys.

I Keith was with D-James, Trez, and Lil Loc and one night we was
all riding around until Lil Loc said I need some money so we was
riding around until Lil Loc said follow this car so we did and
when we let Lil Loc out and turned around he was running
back to the car so when we picked him back up and rode off
he pulled out some money but didn't give nobody none except D-James
for gas but at the time Trez and D-James was banging G.E.D.
and Lil Loc was banging rollin G.E.D. but it was a grey white
or all white car can't remember but D-James was driving Trez was
in the passenger and me and Lil Loc was in the back but after
he did the robbery we all went home.

2-13-09

Keith Williams

23 FEB 2009 16 54

EXHIBIT 10

CASE NUMBER

0800006021

Exhibit
for Counsel not
offering statement
to Supl.

Counsel knew that this was gang related, and chose to not mention we were in separate gangs ineffective for not introducing Evidence for Defense and also for impeachment purposes

22 FEB 2007 16 54

১৯৮৪-০৭৬

EXHIBIT 11

75899

GVLDJJ

09:18:32 a.m.

12-08-2014

2/4

Upload JID: 328312
Photo Name: TRIMMIER,
 ANTONIO RASHAD
 DOB: [REDACTED]
 Age: 23
 Race/Sex: Black/Male
 Alerts: No

DNA: No
 SOR: No
 DJJ Rel
 Auth: No
 Staff:
 ParoleGlines:

JurisCnty: Greenville County
 SuperCty:
 RA: Status: Archived
 Location:

Legal Summary

Version: Standard

Referral Date Description

Source/Action By

12/06/2007	12/06/2007 Probation Order(UCI: 578438) 05/08/2008 - Probation Requirement Ended - Brown, Timothy L	Brown, Timothy L
12/06/2007	12/06/2007 House Arrest Order(UCI: 578437) 02/02/2008 - Orders Suspended/Rescinded - Brown, Timothy L	Brown, Timothy L
11/28/2007	11/27/2007 Drugs: Poss. of 28g (1 oz) or less of marijuana or 10g or less of hash - 1st offense (UCI: 577027) 11/28/2007 - Prosecute - Solicitor 13th Circuit 12/06/2007 - Alcohol And Drug Counseling - Brown, Timothy L 12/06/2007 - House Arrest Order - Brown, Timothy L 12/06/2007 - Probation - Brown, Timothy L 12/06/2007 - Suspended Commitment To DJJ Institution - Brown, Timothy L	Greenville County SD
11/28/2007	11/27/2007 Disorderly: Public disorderly conduct(UCI: 577026) 11/28/2007 - Prosecute - Solicitor 13th Circuit 12/06/2007 - Alcohol And Drug Counseling - Brown, Timothy L 12/06/2007 - House Arrest Order - Brown, Timothy L 12/06/2007 - Probation - Brown, Timothy L 12/06/2007 - Suspended Commitment To	Greenville County SD

575899

GVLDJJ

09:18:43 a.m. 12-08-2014

3/4

12/08/2007 -- Suspended Commitment To
DJJ Institution -- Brown, Timothy L

08/30/2007 08/30/2007 Determinate Sentence followed by Probation Order(UCI: 528328) **Creech, Wayne M**

07/13/2007 07/13/2007 Probation:Violation for C&L V(UCI: 529327) **Greenville Court Office**
07/13/2007 -- Prosecute -- Solicitor 13th
Circuit
08/30/2007 -- Determinate Sentence
followed by Probation -- Creech, Wayne M

06/29/2006 06/29/2006 Determinate Sentence followed by Probation Order(UCI: 347420) **Brown, Timothy L**

05/17/2006 05/17/2006 Pickup Order(UCI: 361614) **Unknown Or Obsolete**
05/24/2006 -- Juvenile Picked Up --
Unknown Or Obsolete

04/06/2006 04/06/2006 House Arrest Order(UCI: 347417) **Brown, Timothy L**

04/03/2006 03/31/2006 Larceny:Petit or Simple Larceny (UCI: 251955) **Greenville PD**
04/06/2006 -- Prosecute -- Solicitor 13th
Circuit
04/06/2006 -- Evaluation (Community) --
Brown, Timothy L
04/06/2006 -- Suspended Commitment To
DJJ Institution -- Brown, Timothy L
04/06/2006 -- House Arrest Order -- Brown,
Timothy L
05/31/2006 -- Evaluation (Secure) --
Johnson Jr, R Kinard
08/29/2006 -- Determinate Sentence
followed by Probation -- Brown, Timothy L

04/03/2006 03/31/2006 School:Disturbing schools(UCI: 251954) **Greenville PD**
04/06/2006 -- Prosecute -- Solicitor 13th
Circuit
04/06/2006 -- Evaluation (Community) --
Brown, Timothy L

318

UPS STORE 3709

7045832124

12/08/2014 10:26

#808 P.005/005

1675899

GVLJ11

09:18:53 a.m.

12-08-2014

4/4

04/06/2008 - Evaluation (Community) -
Brown, Timothy L
04/06/2008 - Suspended Commitment To
D.J.J Institution - Brown, Timothy L
04/06/2008 - House Arrest Order - Brown,
Timothy L
05/31/2008 - Evaluation (Secure) -
Johnson Jr, R Kinard
06/28/2008 - Determinate Sentence
followed by Probation - Brown, Timothy L

03/23/2006 03/23/2006 House Arrest Order(UC: 347421) Bonnoitt, H E
03/16/2006 03/15/2006 Assault: Simple Assault and Battery Greenville County SD

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

Antonio Rashad Trimmier,
S.C.D.C. No. 337233,
Applicant,

C.A. No. 2013-CP-23-1326

v.

ORDER OF DISMISSAL

State of South Carolina,
Respondent.

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2015 FEB 4 07 PM

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed March 7, 2013. The Respondent made its return on July 12, 2013. A hearing into the matter was held on October 23, 2014 before Judge Letitia H. Verdin at the Greenville County Courthouse. The Applicant was present and represented by Richard H. Warder, Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Also testifying was the Applicant's trial counsel, Amanda L. Wicker, Esquire and Tasha Trimmier. The Court had before it the transcript of the trial; the Greenville County Clerk of Court records, including the arrest warrant, indictment and sentencing sheet; the Applicant's South Carolina Department of Corrections Records; the brief from the Applicant's direct appeal, the Court of Appeals' opinion dismissing the Applicant's direct appeal; the Appellant PCR Application, and the Return.

After the hearing, the Applicant moved to amend and supplement his application for PCR. The Court granted this motion, and permitted the State to make a return. Upon receipt of all further documentation, the Court hereby dismisses the PCR application.

RECEIVED
FEB 25 2015
SC Court of Appeals

1

PROCEDURAL HISTORY

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the Applicant at the September 2008 term of General Sessions for armed robbery (2008-GS-23-2523, count 1) and possession of a weapon during the commission of a violent crime (2008-GS-23-2523, count 2). Amanda Lackland, Esquire represented the Applicant.

After the State called the case to trial, the Applicant was found guilty. On October 6, 2009, the Honorable John C. Few levied concurrent sentences of twenty-two years for armed robbery and five years for possession of a weapon during the commission of a violent crime.

A notice of appeal was filed at the South Carolina Court of Appeals. M. Celia Robinson, Esquire of the South Carolina Office of Appellate Defense perfected the appeal in the form of an Anders brief. The Court of Appeals dismissed the Appeal. State v. Trimmier, Op. No. 2012-UP-070 (S.C. Ct. App. Feb. 8, 2012).

ALLEGATIONS

In this application, the Applicant alleges that he received ineffective assistance of counsel and that during the trial the Assistant Solicitor committed prosecutorial misconduct by making improper comments. Regarding the ineffective assistance of counsel claim, the Applicant particularly alleges the following:

- a. Failure to investigate certain claims and defenses, such that the Applicant's rights under the Confrontation Clause were violated;
- b. Failure to produce other evidence and documents prior to trial; and
- c. Failure to explain the importance of trial rights before going to trial.

During his PCR hearing, the Applicant proceeded solely on his ineffective assistance claim.



FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly.

Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2014).

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his attorney failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his attorney's ineffective performance. See Strickland v. Washington, 466 U.S. 668, 686 (1984); Porter v. State, 368 S.C. 378, 629 S.E.2d 353, 356 (2006). Regarding the first prong, the Applicant must in essence show that counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56 (1985). In order to prove prejudice, an applicant must show "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). A reasonable probability is "a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland, 466 U.S. at 686).



Furthermore, the decisions and advice of trial counsel should be assessed for reasonableness under all the circumstances, with heavy deference given to counsel's judgment. Simpson v. Moore, 367 S.C. 587, 597, 627 S.E.2d 701, 706 (2006). A criminal defense attorney has a duty to conduct a reasonable investigation so that he may discover all reasonably available mitigation evidence, as well as any reasonably available evidence tending to rebut evidence produced by the state. McKnight v. State, 378 S.C. 33, 46, 661 S.E.2d 354, 361 (2008). There is a strong presumption that adequate assistance of counsel was rendered, and that reasonable care was exercised—particularly in the arena of professional judgments. Ard v. Catoe, 372 S.C. 318, 331, 642 S.E.2d 590, 597 (2007). Finally, South Carolina courts recognize that one month is sufficient time for an attorney to prepare for a criminal trial. State v. Greuling, 257 S.C. 515, 520, 186 S.E.2d 706, 708 (1972).

a. Failure to investigate certain claims and defenses.

The Applicant claims that trial counsel did not conduct an adequate investigation into his case prior to trial. Particularly, the Applicant argues that trial counsel did not discover geographic monitoring information from the Home Incarceration Program (HIP) which could have provided him with an alibi for the events in question and that trial counsel did not sufficiently investigate the background of the State's witnesses for the purposes of preparing an adequate cross examination. Additionally, the Applicant claims that trial counsel improperly decided not to cross examine three of the State's witnesses relating to their gang membership, though such evidence would have demonstrated a motive for the witnesses to turn on the Applicant and testify against him.

The Applicant further argues that trial counsel was ineffective because she did not discover additional evidence which could have been helpful in his defense. The Applicant points

particularly to evidence of pending charges against the State's witnesses which he believes would have been helpful impeachment evidence. Additionally, the Applicant argues that the police report in his case was heavily redacted, and that trial counsel failed to further investigate or challenge the contents of the report.

Finally, the Applicant claims that trial counsel was ineffective for failing to properly prepare him for trial and explain his trial rights. Initially, the Applicant asserts that he desired to plead guilty to the charges. However, he claims that this option was not presented to him before the start of the trial. Moreover, trial counsel was appointed to represent the Applicant one month before the trial date. The Applicant believes this was an insufficient amount of time to prepare for his trial. The Applicant also argues that trial counsel did not adequately advise him regarding the benefits and drawbacks of testifying in his own defense. During the PCR hearing, the Applicant stated that when he broached the subject with trial counsel, she informed him that "it could go either way."

The Applicant's trial counsel testified that, as a matter of trial strategy, she believed that the evidence of HIP monitoring and gang affiliation would be more prejudicial than helpful. She also feared that the use of HIP's GPS monitoring would open the door to evidence of the Applicant's prior criminal record. Trial counsel's belief in the potential harmful effect of such evidence was so strong that she moved to limit gang-related testimony prior to trial. This Court finds that such determinations of trial counsel are entitled to strong deference in accordance with Simpson v. Moore, 367 S.C. at 597, 627 S.E.2d at 706. The Applicant's trial counsel did not testify at the PCR hearing on the subject of additional undiscovered evidence.

During the PCR hearing, the Applicant's trial counsel also stated that upon her appointment she received little information about plea negotiations conducted by the Applicant's



original trial counsel. Any plea offer which had been previously made expired prior to her appointment in the case. Trial counsel attempted to open new plea negotiations with the Solicitor's Office, but was unable to reach an agreement prior to trial. This Court finds that counsel was not ineffective for failing to reach a plea agreement prior to the Applicant's trial.

Finally, the Applicant's trial counsel testified that it is her common practice to discuss a defendant's right to testify before a trial begins. Any discussion of an alibi defense would likewise occur prior to the start of the trial. Trial counsel particularly stated that the Applicant did not express a desire to testify and that she believed cross examination would be sufficient to bring out the bias of the State's witnesses. Additionally, trial counsel testified that while she was appointed to represent the Applicant one month prior to trial, she felt adequately prepared to proceed. This Court finds that trial counsel was afforded adequate time to prepare for trial in accordance with Greuling, 257 S.C. at 520, 186 S.E.2d at 708. This Court further finds no evidence presented by the Applicant which demonstrates any ineffective assistance of trial counsel. Therefore the Applicant has not met his burden of proving that trial counsel was ineffective for failing to conduct a sufficient investigation, to present a sufficient defense, or adequately prepare him for trial in his case.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test—that trial counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that trial counsel committed wither errors or omissions in her representation of the Applicant. This Court also finds that the Applicant has failed to prove the second prong of Strickland—that he was prejudiced by trial counsel's performance. This Court concludes the Applicant has not

26

met his burden of proving counsel failed to render reasonably effective assistance. See Frasier, 351 S.C. at 389, 570 S.E.2d at 174.

Prosecutorial Misconduct

To prevail on a claim of prosecutorial misconduct, a defendant must show that the prosecutor's remarks or conduct were, in fact, improper, and that such remarks or conduct prejudiced the defendant to such an extent as to deprive the defendant of a fair trial. 21 Am. Jur. 2d Criminal Law § 429 (2014). In South Carolina, prosecutorial misconduct may occur through intentional or unintentional conduct of the State's attorney. State v Inman, 395 S.C. 539, 559, 720 S.E.2d 31, 42 (2011). Where prosecutorial misconduct is identified, a court must take steps to cure the error. The prejudicial effect of prosecutorial misconduct is determined by (1) the cumulative effect of such misconduct; (2) the strength of the properly admitted evidence of the defendant's guilt; and (3) the curative actions taken by the court. Inman, 395 S.C. at 565, 720 S.E.2d at 45.

The Applicant claims that the Assistant Solicitor made improper comments throughout the course of his trial, and that these comments constitute prosecutorial misconduct such that his conviction should be overturned. However, the Applicant has directed the Court's attention to no specific instance of such a comment within the trial transcript, and the Applicant presented no evidence on this subject during the PCR hearing. Furthermore, the Court's independent review of the trial transcript has yielded no comment which could be construed as an improper remark or action. Since there has been no improper conduct or comment, there likewise can be no prejudice resulting from any alleged misconduct. Therefore, this Court finds that the Applicant has not met his burden of proving that prosecutorial conduct occurred, and the Applicant is not entitled to PCR on this ground.



All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds the Applicant has abandoned any such allegations.

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his trial and sentencing proceedings. Counsel was not deficient and the Applicant was not prejudiced by Counsel's representation. Furthermore, this Court finds no evidence of prosecutorial misconduct. Therefore, this PCR application must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 21 day of January, 2015.



Letitia H. Verdin
Circuit Court Judge
Thirteenth Judicial Circuit



002523

WITNESSES

David Weiner

DW

Greenville County Sheriffs Office

2/12/2008

ARREST WARRANT NUMBER

1474848 and 1474849

ACTION OF GRAND JURY

TRUE BILL

[Signature]
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Count 1 - *Guilty*
Count 2 - *Guilty*

Debbie C. Pyle
Foreperson of Petit Jury

10/6/09
Date:

DOCKET NO. 2008-GS-23-

WJW

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

September TERM 2008

THE STATE

vs.

ANTONIO TRIMMIER

Indictment for

0139 / 0549

ARMED ROBBERY AND POSSESSION OF A
WEAPON DURING THE COMMISSION OF A
VIOLENT CRIME

VIOLATION § 16-11-0330 and § 16-23-490

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
ARMED ROBBERY AND POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on **SEP 23 2008** the Grand Jurors of Greenville
County present upon their oath:

COUNT I - ARMED ROBBERY

That ANTONIO TRIMMIER did in Greenville County, on or about the 3rd day of January, 2008, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, take by means of force or intimidation, goods or monies described as: U.S. currency from the person or presence of LEONARD PUGH. This is in violation of §16-11-330 of the South Carolina Code of Laws (1976) as amended.

COUNT II - POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That ANTONIO TRIMMER did in Greenville County on or about the 3rd day of January, 2008, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: Armed Robbery. This is in violation of §16-23-490 of the South Carolina 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.


SOLICITOR

Oct 06 2009 10:58AM JUE COPY CTR 8

86 678707

P.2

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

Greenville

VS.

Antonio Trimmier

INDICTMENT/CASE#: 2008GS2302523

A/W#: 1474848

Date of Offense: 1/3/2008

S.C. Code § : 16-11-0330(A)

CDR Code #: 0139

AKA:

Race: B

Sex: M

Age: 18

DOB: 1990

SS#:

Address:

Greenville, SC 29605

DL#:

SID#:

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was
TO: ARMED ROBBERY☒ CONVICTED OF or ☐ PLEADS

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 Lawd Act)☐ §17-25-45The 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:

Weston, Jeff

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 22 years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation formonths/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:☒ 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) (Cohr. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

§ 47-12 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114 (BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

§ 90.7 (SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (06/2009)

PRESIDING JUDGE

Judge Code:

Sentence Date:

days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, \$47.12
requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.

Antonio Trimmier

AKA:

Race: B Sex: M Age: 18

DOB: 1990 SS#: [REDACTED]

Address:

Greenville, SC 29605

DL#:

SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008GS2302523

A/W#: 1474849

Date of Offense: 1/3/2008

S.C. Code §: 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIMEin 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 w/minor 1st or Lewd Act) ☐ §17-25-45The 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.

ATTORNEY:

Weston, Jeff

K86

SC Bar# 73909

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 years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation formonths/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;☒ 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 16-23-20 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 SCDFPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

§ 47.12 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(D) (Vehicle Assessment)

§ 90.7 (SCCA Surcharge)

3% to County (if paid in installments)

TOTAL

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (06/2009)

PRESIDING JUDGE

Judge Code:

Sentence Date:

days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, \$47.12
requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date: