

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from York County

Honorable John C. Hayes, Circuit Court Judge  
\_\_\_\_\_

 ORIGINAL  
**RECEIVED**  
JUN 29 2017  
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JAYQUAN DANTE WILMORE,

APPELLANT

APPELLATE CASE NO. 2016-001511  
\_\_\_\_\_

RECORD ON APPEAL  
\_\_\_\_\_

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:  
STATE'S EXHIBIT NO. 2 (DVD / IN CAR CAMERA VIDEO)**

State of South Carolina.,)  
)  
)  
)  
)  
County of York. )

In the General Sessions  
Court of York  
Case No.: 2016-GS-46-01713

State of South Carolina.,)  
)  
Plaintiff., )  
)  
-vs- )  
)  
Jayquan Dante Wilmore., )  
)  
Defendant. )  
\_\_\_\_\_ )

Transcript of Record

July 12-13, 2016

B E F O R E:

The Honorable John C. Hayes, III, Judge, and a jury.

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Official Court Reporter  
To The Honorable John C. Hayes, III

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Court Reporter's Note: All Exhibits were filed with the  
York County Clerk of Court's Office.

1 (COURT IN SESSION AT 10:17 AM.)

2 (AMY BETH PATTY -- PLEA -- PRO SE)

3 (ON THE RECORD IN THE MATTER OF STATE V. JAYQUAN  
4 WILMORE AT 10:22 AM.)

5 (WHEREUPON, STATE'S EXHIBIT NUMBERS ONE AND TWO,  
6 PREMARKED FOR IDENTIFICATION.)

7 (WHEREUPON, COURT'S EXHIBIT NUMBER ONE, PREMARKED FOR  
8 IDENTIFICATION.)

9 THE COURT: All right, is the State ready to proceed  
10 on the case against Mr. Wilmore?

11 SOLICITOR EPTING: The State's ready, your Honor.

12 THE COURT: All right, Mr. Wilmore is present.

13 MR. WILMORE: Yes, sir.

14 THE COURT: And you are Mr. Wilmore?

15 I can't hear you.

16 MR. Wilmore: Yes, sir.

17 THE COURT: Are you represented by Mr. Merritt?

18 MR. Wilmore: Yes, sir.

19 THE COURT: All right.

20 SOLICITOR EPTING: And, your Honor, I believe Ms.  
21 Inzerillo is sitting as Senior Attorney with Mr. Merritt.

22 THE COURT: She has an issue I think with and seeing  
23 Judge Cole on another case and so she will bring herself in  
24 the courtroom when she is available.

25 SOLICITOR EPTING: That is correct, your Honor.

1 Thank you, your Honor.

2 THE COURT: That's my understanding.

3 SOLICITOR EPTING: Call the case, your Honor?

4 THE COURT: Yes, sir.

5 SOLICITOR EPTING: Your Honor, the matter before the  
6 court today is Indictment 2016-GS-46-0-1-7-1-3 which  
7 charges Jayquan Dante Wilmore with unlawful carry of a  
8 pistol. That indictment alleges that he did in York County  
9 on or about December 22nd, 2015 willfully and unlawfully  
10 carried about his person a handgun whether concealed or not  
11 all in violation of 16-23-20.

12 Your Honor, that is a direct indictment. At this time  
13 we would ask the court to put query to the defendant on  
14 whether they wish to waive arraignment or wish to be  
15 arraigned today.

16 THE COURT: Mr. Wilmore, do you wish to go through a  
17 formal arraignment or waive the right to be arraigned  
18 before your trial? You can talk to Mr. Merritt about that.

19 MR. MERRITT: We'll waive arraignment in this case.

20 THE COURT: Is that correct, Mr. Wilmore?

21 Okay.

22 SOLICITOR EPTING: And, thank you, your Honor, and  
23 previous to this hearing we did -- the State did serve a  
24 certified copy of the said indictment on the defense. We  
25 have another copy to give them here in court today. That's

1 Indictment 2016-GS-46-0-1-7-1-3.

2 Your Honor, it's my understanding that the defense has  
3 a number of pretrial motions they wish to put before the  
4 court. The State has some -- I believe most of the State's  
5 dove tail with the defendants and it will not require  
6 testimony and be rather quick to dispose of.

7 If I could, your Honor, the defense request to -- has  
8 requested the State to certify and we have complied with  
9 Rule Five and Brady, your Honor. We have -- We provided  
10 them with everything required under the Rule, and we wish  
11 to inquire of them whether they have complied with  
12 reciprocal discovery.

13 THE COURT: All right.

14 MR. MERRITT: Yes, your Honor, we have complied with  
15 reciprocal discovery.

16 THE COURT: Okay.

17 SOLICITOR EPTING: The defense wishes to have the  
18 State certify what prior record they would use should the  
19 defendant chose to testify. It's my understanding the  
20 defendant's prior record consist of a conviction for  
21 distribution of crack cocaine, first offense. A proximity  
22 charge and a -- Okay, two counts of each, your Honor.

23 I believe under Rule 609 the State would be  
24 constrained to ask the defendant whether or not he had been  
25 convicted of a felony that carries over a year and limit it

1 at that.

2 THE COURT: All right. Any -

3 MR. MERRITT: No objection to that one.

4 THE COURT: Thank you.

5 SOLICITOR EPTING: Your Honor, the request -- the next  
6 motion by the defense request a list of witnesses as well  
7 as the criminal history of the State's non-law enforcement  
8 witnesses and this has already been disclosed by the State.

9 Your Honor, I have provided both the court reporter,  
10 the clerk's as well as the defense a copy of that. The  
11 only witnesses the State anticipates calling are law  
12 enforcement witnesses.

13 Your Honor, at this point they make a motion to  
14 sequester the witnesses for the state. I have elected to  
15 have Officer Little as my case agent.

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

17 SOLICITOR EPTING: And, your Honor, as of right now  
18 there are no Lyle issues that the State intends to bring up  
19 on this case. That's the defense request Number Five. The  
20 remainder of their request would require testimony in  
21 regards to a motion to suppress statements as well as  
22 evidence found during the course of the stop.

23 There is a motion to exclude testimony or evidence  
24 related to a scale that was found on top of the passenger  
25 vehicle under which the gun was found. Your Honor, I think

1 that would be a motion better taken up after testimony is  
2 heard before. We have agreed as to Item Number Nine by the  
3 Defense and instructed our witnesses not to mention that  
4 the gun was in fact stolen. There is -- this case started  
5 as a stolen pistol charge and due to things found during  
6 our investigation and during the course of this trial, your  
7 Honor, we're uncomfortable going forward on that charge and  
8 that charge will be dismissed.

9 THE COURT: Okay.

10 SOLICITOR EPTING: And we've instructed the witnesses  
11 not to mention the fact that the gun was stolen in front of  
12 a jury. During pretrial at some point it may slip out but  
13 I've told them in front of the jury do not mention that the  
14 gun was stolen. And we'd ask counsel to not open the door  
15 to that and bring out that testimony during the cross  
16 examination.

17 THE COURT: All right.

18 MR. MERRITT: That would be our intentions.

19 THE COURT: Okay. And for some reason I don't have a  
20 list of those motions. I've got the proposed voir dire.

21 (DOCUMENTS RECEIVED UP BY THE COURT.)

22 THE COURT: All right. That's fine. So we're down to  
23 Seven, Six and Seven?

24 SOLICITOR EPTING: Six and Seven, your Honor. The  
25 state has a couple of motions and I think just for record

1 keeping matters, if we could put on the record. We have  
2 produced a redacted tape, your Honor. I've gone over that  
3 tape with both Ms. Inzerillo as well as Zach Merritt  
4 showing them what parts were taken out; what parts were  
5 left in and why they were taken out. The unredacted copy  
6 should be played in pretrial here today. Much of those are  
7 references by a non-charged defendant in this case to a  
8 trial that he recently had; he's accusing Rock Hill PD of  
9 committing race crimes of targeting him or harassing him. I  
10 think all of those things run afoul of 403. I believe by  
11 agreement the defense is in agreement that those things do  
12 not need to go in front of a jury.

13 MR. MERRITT: Your Honor, we would just note that  
14 there were ten statements redacted by the State and  
15 predominately all of them we agree with. There are two  
16 that we might take issue with; however, we think that that  
17 would be best for your determination after the Jackson v.  
18 Denno motion when you're probably -

19 THE COURT: The two that you wanted redacted and  
20 weren't or that he redacted and you want in?

21 MR. MERRITT: There are two that he did redact and we  
22 would like in and we think we may have some legal argument  
23 that they could come in. However I do think they would  
24 just go part and parcel with the Jackson v. Denno motion.

25 THE COURT: All right.



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1 SOLICITOR EPTING: Your Honor, the jury laptop is  
2 ready; it is charged. I allowed Defense counsel to review  
3 it last night to make sure there's nothing constringeous on  
4 there; they did review that and I think that both parties  
5 agree that it is good to go to the jury as it is right now.

6 MS. INZERILLO: Your Honor, we would object to the  
7 laptop being sent back to the jury. We would just ask that  
8 the jury be allowed to come in here and watch the videos.

9 THE COURT: Well, I deny that. I -- It's very unfair  
10 to a jury to make them come in here and sit in silence and  
11 watch something when they have -- ought to have the right  
12 to pause, fast forward, discuss; I know in the past we used  
13 to do it that way because for some reason the solicitor's  
14 never give the jury the opportunity to view it in the jury  
15 room.

16 MS. INZERILLO: Your Honor, I respect the Court's  
17 ruling but may I approach and address this court -- with  
18 this Court more privately?

19 THE COURT: All right. We're in camera; I don't know  
20 why you don't want to put it on the record but that's up to  
21 you.

22 (BENCH CONFERENCE HAD OFF THE RECORD AT 10:30 AM.)

23 THE COURT: All right.

24 MS. INZERILLO: Your Honor, --

25 THE COURT: Go ahead.

1 MS. INZERILLO: As an additional explanation for the  
2 defense's objection of the state's laptop has a program on  
3 it that can be used to change the way the video's can be  
4 viewed by whoever is using it. It can change the hue of  
5 the brightness and I think change the way the -- materially  
6 change the way that the evidence can be viewed. Because  
7 it's not a completely clean laptop in terms of being just a  
8 pure DVD player where they can fast forward, rewind, and  
9 not materially change the nature of the -- of the video and  
10 the evidence the defense does object.

11 We would not object to just a DVD video player going  
12 back as a compromise so the jury does not have to come in  
13 and watch it here but we do have concerns that the nature  
14 of the state's laptop is not as clean and it can impact the  
15 jury's view of the evidence.

16 THE COURT: All right. Well, I'm certainly inclined  
17 to agree that they can have something that would not allow  
18 the jury to alter it. The image on these being portrayed,  
19 or shown, that would be ideal so I'm gonna ask the State if  
20 they can locate something on which that can be done; if  
21 not, and we have to use the computer I'll ask Ms. Inzerillo  
22 to fashion the charge to the jury that while viewing the  
23 video they are to alter it in no fashion whatsoever. That  
24 is, they are not to manipulate the image but view it in  
25 it's pure form as shown in court or something to that

1 affect.

2 MS. INZERILLO: Yes, your Honor. Thank you.

3 SOLICITOR EPTING: Thank you, your Honor.

4 THE COURT: Be glad to do it.

5 SOLICITOR EPTING: Your Honor, and offer was extended  
6 in this case; out of an abundance of caution we would like  
7 to put on the record it's my understanding the defendant  
8 has rejected that offer. It's a recommendation of six  
9 months concurrent to any violation of probation he may have  
10 received. It's my understanding he has rejected that  
11 offer. I'd just like an affirmation from the defense that  
12 he has in fact done so, so that offer has been communicated  
13 and he's rejected.

14 THE COURT: Is that correct, Mr. Merritt?

15 MS. INZERILLO: That is correct, your Honor, he's  
16 rejected it.

17 THE COURT: All right.

18 SOLICITOR EPTING: And, your Honor, it's our  
19 understanding this will be -- and this is the final State's  
20 record keeping matter -- it's our understanding this will  
21 be a third-party guilt case that they're likely to go on to  
22 attribute ownership of the gun to another person in the  
23 party. I think under the facts of this case they do have  
24 the ability to do that. I would just ask that the defense  
25 counsel be cautioned that a general character for crime I

1 don't think it's admissible under our rules in any way  
2 shape or form. They can I think fairly argue that he was  
3 in the car, he had control of the car, and therefore could  
4 have had that pistol but putting him up as a bad person and  
5 a criminal basically is not proper under the rules.

6 THE COURT: I agree. I understand. That is you can

7 MR. MERRITT: Yeah, I understand that. I do think  
8 that there may be an issue too if it comes up regarding Mr.  
9 Govan's conduct but a lot of this is gonna be more directly  
10 approbative to our third party guilt issue than it will be  
11 character so I guess as a general warning it's heated but  
12 in regards to the issue that a lot of his conduct is  
13 inevitably gonna portray him as a bad character.

14 THE COURT: Well, I know but I think they're talking  
15 about extraneous material such as -

16 SOLICITOR EPTING: Yes, sir. The fact that he had  
17 been on trial the week before -

18 THE COURT: Yeah.

19 SOLICITOR EPTING: --- and he has a criminal history.

20 THE COURT: Those sort of things that are not relevant  
21 and the matter of proving though would cause some problems  
22 too. Is Mr. Govan gonna testify?

23 SOLICITOR EPTING: We are not calling him as a witness  
24 and it's my understanding -- I don't know if the defense is  
25 --

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1 THE COURT: I haven't been handed any witness list.

2 MR. MERRITT: No, we do not plan on calling Mr. Govan.

3 THE COURT: I don't see how you can get into any of  
4 that anyway but what's viewed -- what's videoed is videoed  
5 and except for what's redacted and we'll talk about those  
6 two. What else?

7 SOLICITOR EPTING: Your Honor, out of an abundance of  
8 caution since his name is going to come up, I did not add  
9 him to my witness list because I do not plan on calling Mr.  
10 Govan as a witness. Apparently he was not on the defenses.  
11 I would ask the court to read his name to the jury to see  
12 if any jury panelist might -

13 THE COURT: What's his first name?

14 SOLICITOR EPTING: Artavious?

15 MR. MERRITT: Artavious Govan.

16 THE COURT: Okay.

17 MR. MERRITT: And we agree, we concur.

18 THE COURT: I will ask that.

19 SOLICITOR EPTING: And I believe at this time we have  
20 the jury coming at eleven o'clock. We can begin if your  
21 Honor desires we can begin the suppression motion and the  
22 Denno motion.

23 THE COURT: Any other motion before we get to that?

24 MR. MERRITT: No. No, there's one other motion in  
25 regards to whether or not we should mention the facts,

1       there was a scale found in the car.

2               THE COURT: Well, I noticed that on Number eight.

3               SOLICITOR EPTING: There once discussion, your Honor,  
4       about the smell of marijuana in the car. I anticipate the  
5       defense may argue at some point that the fact that  
6       marijuana was not found is indicative of the credibility of  
7       the officers and who searched the car. I think the fact  
8       that scale was found could possibly be used in drug  
9       activity is relevant in response to that. If the defense  
10      agrees not to go there then at that point I would agree not  
11      to mention it in any way shape or form. But I think it's  
12      responsive to that.

13              MR. MERRITT: And we don't agree with that particular  
14      position. It would be our position that the scale itself  
15      is under both Rule 401 regarding whether it's approbative  
16      that he either likely or more likely was the person who was  
17      in possession of this gun.

18              THE COURT: Well, I find that the prejudicial value  
19      will out weigh the probative so I'm not gonna allow the  
20      scale.

21              SOLICITOR EPTING: Thank you, your Honor. And is that  
22      mention of the scale or the scale was in one of the  
23      pictures we intend to introduce?

24              MR. MERRITT: And this is the problem that I think we  
25      can fix relatively quickly and do it during the course of

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1 our pretrial motions but there are two pictures, they are  
2 basically the same thing. One of the two pictures has the  
3 scale in the top fourth of the photo. We would like to  
4 take the opportunity to essentially redact that portion.  
5 It would still look like a photograph. It wouldn't be --  
6 The other photo the things right in the middle of the  
7 photograph but it's the same thing. Those two pictures  
8 portray the same thing, the gun underneath the seat of the  
9 car.

10 SOLICITOR EPTING: And, your Honor, I have a copy ---

11 THE COURT: Okay.

12 SOLICITOR EPTING: --- we have it marked for  
13 identification purposes only as State's Exhibit One.

14 This is the zoomed out one.

15 MR. MERRITT: Okay.

16 (STATE'S EXHIBIT ONE (COPY) RECEIVED UP BY THE COURT.)

17 THE COURT: I'm looking at State's Exhibit for  
18 identification One. I don't know how you would crop out  
19 what I believe to be the scale. This looks almost like a  
20 cell phone. Is that --

21 MR. MERRITT: Is that the one with the scale in the  
22 middle of it?

23 THE COURT: Yes.

24 SOLICITOR EPTING: There is one where it was closer,  
25 your Honor. And this has not been marked, your Honor.

1 MR. MERRITT: And this is the one that we believe it  
2 would still look like the photograph that was taken. We  
3 would just essentially crop out the top fourth of it. I  
4 could present one or two options of that photo where it  
5 could look more rectangular like a photo typically looks or  
6 it could just have more of the photo in it.

7 THE COURT: Well, I deny the motion. I'm gonna allow  
8 the State to use -- if it gets properly authenticated - and  
9 a foundation is laid to use Number One, unaltered. Simply  
10 exclude any testimony as to what are those objects on the  
11 seat but you're on the record as opposing that and you make  
12 the proper motion at the right time but I'll allow that  
13 without it being -

14 SOLICITOR EPTING: Yes, sir. And, your Honor, I'll --  
15 over the court's lunch break prior to them getting in front  
16 of the jury I will instruct my officers not to mention the  
17 scale on the seat in anyway shape or form.

18 THE COURT: Well for the defense's possible appellate  
19 issue that they had with it let's get this other one marked  
20 as a Court's Exhibit and take the other one, the one that's  
21 not marked now, the one where the defense is talking about  
22 cropping out the top, make that a Court's Exhibit Number  
23 One.

24 SOLICITOR EPTING: Okay. Your Honor, we have marked

25 --



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1 MADAM COURT REPORTER: Just a minute, Mr. Epting.

2 You said number?

3 THE COURT: What ever number it is. Two.

4 (WHEREUPON, STATE'S EXHIBIT NUMBER ONE PREMARKED FOR  
5 IDENTIFICATION, MARKED COURT'S EXHIBIT NUMBER TWO, RECEIVED  
6 INTO EVIDENCE.)

7 MR. MERRITT: Thank you, your Honor.

8 SOLICITOR EPTING: Thank you, your Honor.

9 THE COURT: Anything else?

10 SOLICITOR EPTING: Nothing from the State, your Honor.

11 THE COURT: All right. Well real quick let's look at  
12 the voir dire cause we got the jury coming up pretty soon.

13 As to the defendant's I think I covered just about  
14 everything. I'll go ahead and tell you the ones I'm not  
15 gonna ask and the ones that I skip over may not be ask  
16 exactly like they are delineated in the request.

17 I'm not gonna ask one or two, but three and four are  
18 pretty much standard in my regular request as is six and  
19 seven, eight, nine and ten. Those I usually cover. Then  
20 going down to -- skipping on down I'll tell you the next  
21 one.

22 I will make one comment just for future reference, Mr.  
23 Merritt.

24 MR. MERRITT: Yes, sir.

25 THE COURT: Number seventeen appears to me to be the

1 court making a comment on the facts of the case which I'm  
2 not supposed to do so I'm not gonna ask it but just for  
3 future reference I don't know if that's even -- Well, I'll  
4 leave that up to you but I think that's getting into a  
5 situation asking a judge to comment on the facts which of  
6 course the court hadn't heard. Then we go down to --  
7 Everything's out to thirty-seven and thirty-eight and  
8 thirty-nine will be included in some fashion.

9 And we'll make this a Court's Exhibit when you get a  
10 chance.

11 (WHEREUPON, COURT'S EXHIBIT NUMBER THREE, IDENTIFIED  
12 AND MARKED, RECEIVED INTO EVIDENCE.)

13 MR. MERRITT: Your Honor, I just have one or two  
14 comments. One and two are really to protect jury honesty.  
15 You know in South Carolina we have a relatively limited  
16 voir dire process and it just - it ensures that, you know,  
17 that there will be some integrity here and that that's  
18 being conveyed to them in a sense where they have to  
19 affirmatively respond to it. And then if they were not to  
20 respond to it I think it would be interesting or curious  
21 why they wouldn't do that; why they would say no to it and  
22 it would be a worth while voir dire.

23 THE COURT: All right. What about two?

24 MR. MERRITT: Both of those are in regards to jury  
25 honesty is what I'm trying to elicit there. It would get

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1 me a lot of information to especially in regards to how  
2 quickly people understand it and affirmatively say they do  
3 believe that particular things would be true. So those are  
4 dealing with those --

5 THE COURT: I'm not gonna ask that. Any others before  
6 we get into the --

7 MR. MERRITT: Eleven through thirty-six the court is  
8 not asking is my understanding?

9 THE COURT: Right.

10 MR. MERRITT: We -- In regards to the gun questions,  
11 you know, this does involved the gun laws of our state.  
12 It's become a very issue that sparks a lot of passion in  
13 people. I am interested in knowing what members of our  
14 jury feel real strong about gun rights. The ones that may  
15 -- there is a lot of rhetoric out there right now about the  
16 bad people shouldn't have guns and the good people should  
17 have guns and I do -- I do want to root out that bias and  
18 those are the purposes of the gun questions.

19 I definitely understand the ones that comment on the  
20 facts and I did take a note of that. In the future I will  
21 make sure that's thoroughly researched before anything like  
22 that's included. But the other ones we do think are  
23 general gun questions that are highly important to this  
24 trial. There is some issues with the marijuana and this  
25 might in regards to Jackson v. Denno may decide it and not

1 mention anything about marijuana but there is some -- Mr.  
2 Wilmore does say at one point in time that he was around  
3 people earlier that were smoking marijuana. Something he  
4 says I would not want any bias in regards to marijuana use  
5 or certainly any religious beliefs against marijuana use to  
6 come into a jury that factually has nothing to do with  
7 marijuana use. Whether he should be convicted of or not be  
8 convicted of doesn't have anything to do with it. I would  
9 hate to get somebody who's so strongly viewing marijuana as  
10 an issue in the case that he would be around marijuana he  
11 would be a bad person. I'm trying to root that out there.  
12 And beyond that my questions in regards -- under  
13 miscellaneous are just trying to reiterate sort of like one  
14 and two the importance of the process and the standard that  
15 they're gonna have to take in and to advise.

16 That's all I have. That's the only comments I have on  
17 this one.

18 THE COURT: Okay. Thank you. All right.

19 SOLICITOR EPTING: Your Honor, I believe that as to  
20 the gun issue that the --

21 THE COURT: Well here's what I'm gonna do on that.

22 I will ask the question do you believe or can any of  
23 you not be fair and impartial in a case in which involves  
24 the alleged illegal possession of a gun.

25 MR. MERRITT: Thank you, your Honor.

OFFICER CHRISTOPHER REVELS: DIRECT BY SOLICITOR EPTING

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1 SOLICITOR EPTING: Thank you, your Honor.

2 THE COURT: All right. You ready on the motion to  
3 exclude the seizure and suppression motion and the  
4 statements?

5 SOLICITOR EPTING: The State is ready, your Honor.

6 THE COURT: Okay. All right.

7 SOLICITOR EPTING: The first witness we're calling for  
8 this matter is Officer Revels.

9 THE COURT: Put your left hand on the Bible and raise  
10 your right please.

11 (WHEREUPON, CHRISTOPHER  
12 REVELS, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS  
13 FOLLOWS:)

14 THE COURT: Have a seat up here.

15 DIRECT EXAMINATION

16 OFFICER CHRISTOPHER REVELS BY SOLICITOR EPTING:

17 Q. Good morning, Officer.

18 A. Good morning.

19 Q. How are you employed?

20 A. I work for the Rock Hill -- Rock Hill City Police  
21 Department.

22 Q. And were you so employed December of 2015?

23 A. Yes, sir.

24 Q. Did you happen to become involved in some way with  
25 the traffic stop involving the defendant Jayquan Wilmore?

OFFICER CHRISTOPHER REVELS: DIRECT BY SOLICITOR EPTING

-24-

1 A. Yes, sir.

2 Q. Could you tell the Court about that stop?

3 A. That night, your Honor, I was in field training -

4 THE COURT: You need to speak up a little bit -

5 MADAM COURT REPORTER: You got your back to me.

6 THE COURT: Yeah. Kind of speak -

7 A. Oh, is that it?

8 MADAM COURT REPORTER: At that mic.

9 SOLICITOR EPTING: There you go.

10 A. That evening I was in a field training phase there  
11 with Officer Bryson as my field training officer. We were  
12 backing up Officer Little on a traffic stop conducted on  
13 Flint Street on December 21st 2015.

14 Q. Okay. So you were in the car with Officer Bryson;  
15 is that correct?

16 A. That's correct.

17 Q. Officer Little in a separate car?

18 A. Yes, sir.

19 Q. I believe you stated you were training?

20 A. Yes, sir.

21 Q. Did you assist Officer Little on a traffic stop?

22 A. Yes, sir.

23 Q. Tell us about that.

24 A. Once Officer Little conducted a stop on a vehicle.  
25 Myself and Officer Bryson, and I was driving the vehicle,

OFFICER CHRISTOPHER REVELS: DIRECT BY SOLICITOR EPTING

-25-

1 pull up behind. I made contact with the passenger side of  
2 the vehicle and spoke with Mr. Wilmore who is in the  
3 passenger seat.

4 Q. You spoke with Mr. Wilmore in the passenger seat?

5 A. Yes.

6 Q. Was there anything unusual that you detected at that  
7 time?

8 A. At that time I smelled a faint odor of marijuana.

9 Q. And was this fresh marijuana; burnt marijuana?

10 A. It smelled like burnt marijuana.

11 Q. Could you tell if it was coming from a person in the  
12 car?

13 A. I wasn't able to tell if it was coming from a person  
14 or just inside the vehicle at the time.

15 Q. Okay. And at that time what did you do?

16 A. At that time I conferred with Officer Little and he  
17 -- we agreed that we smelled the odor of marijuana coming  
18 from the vehicle.

19 Q. At some point after that was the defendant Mr. Wilmore  
20 taken out of the vehicle?

21 A. Yes, sir.

22 Q. And tell the Court about that.

23 A. Once we decided to get them out of the vehicle we got  
24 Mr. Govan and Mr. Wilmore out of the vehicle and conducted  
25 a search of their persons. And Officer Little ran their

1 information through central dispatch while me and Officer  
2 Bryson maintained contact with Mr. Govan and Mr. Wilmore.

3 Q. What was Mr. Wilmore's demeanor getting out of the  
4 vehicle?

5 A. He was very calm and collected.

6 Q. Was he talking to you?

7 A. Just a little bit.

8 Q. What type of things was he saying?

9 A. We were just making small talk at the time.

10 Q. Was Mr. Govan taken out of the vehicle?

11 A. Yes, sir.

12 Q. Was he taken out by you or another officer?

13 A. I don't recall.

14 Q. Okay. And what was Mr. Govan's demeanor?

15 A. He was very -- almost belligerent and excitable.

16 Q. Did anybody pull out guns or threaten either Mr. Govan  
17 or Mr. Wilmore at any time during the course of this  
18 traffic stop?

19 A. No, sir.

20 Q. Where did you have these individuals stand?

21 A. We had them stand in front of Officer Little's patrol  
22 vehicle.

23 Q. Were they in handcuffs?

24 A. Not at that time.

25 Q. Were they free to move around?



OFFICER CHRISTOPHER REVELS: DIRECT BY SOLICITOR EPTING

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1 A. We maintained contact with them but they were not  
2 free to leave at the time.

3 Q. You stated that Officer Little ran the information  
4 given to him regarding the car?

5 A. Yes, sir.

6 Q. Who did the car come back registered to?

7 A. I believe it was - I can't recall exactly.

8 Q. If you can't recall then I don't want you to  
9 speculate. At some point was the decision made to search  
10 the vehicle based upon the odor of marijuana?

11 A. Yes, sir.

12 Q. Who conducted that search?

13 A. Myself and Officer Bryson.

14 Q. What if anything did you find in the vehicle during  
15 the course of that search?

16 A. During the course we located a firearm on the  
17 passenger seat.

18 Q. Okay. And where on -- On the passenger seat?

19 A. Underneath the passenger seat.

20 Q. Okay. At that point what was done?

21 A. At that point we notified Officer Little to take a  
22 picture of the weapon and then I rendered the weapon safe  
23 and then we ran the weapon through Rock Hill Central  
24 Dispatch.

25 Q. And since this is pretrial how - Did the weapon come

1 back as clean?

2 A. It did not.

3 Q. And how did it come back?

4 A. It came back as stolen I believe.

5 Q. Okay. At that point what action did you or Officer  
6 Bryson or Officer Little take?

7 A. At that time we decided to detain Mr. Wilmore and Mr.  
8 Govan.

9 Q. Okay. And tell the Court about that.

10 A. Due to the firearm nobody claimed it yet we decided  
11 to detain both Mr. Govan and Mr. Wilmore. Officer Little  
12 detained Mr. Wilmore in handcuffs and I went to detain Mr.  
13 Govan in handcuffs.

14 Q. How did Mr. Govan respond to that?

15 A. He was very excitable and he made a comment to Mr.  
16 Wilmore.

17 Q. What was that comment?

18 A. He looked at him and he said, Bro. And then at that  
19 point Mr. Wilmore said it's mine.

20 Q. Okay.

21 A. Twice.

22 Q. Was Mr. Wilmore threatened to make that comment?

23 A. No, sir.

24 Q. Was he promised anything?

25 A. No, sir.

OFFICER CHRISTOPHER REVELS: DIRECT BY SOLICITOR EPTING  
CROSS BY MR. MERRITT

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1 Q. Did y'all have your weapons out at any point during  
2 the course of this stop?

3 A. No, sir.

4 Q. After Mr. Wilmore made that comment what happened to  
5 Mr. Wilmore?

6 A. Mr. Wilmore is placed under arrest. Mr. Govan at that  
7 time was not taking his handcuffs. Officer Little  
8 conducted a search of his person and placed him into his  
9 patrol vehicle.

10 Q. Is that the end of your involvement in this case?

11 A. Yes, sir.

12 SOLICITOR EPTING: That's all the questions I have for  
13 you at this time. Please answer any questions the defense  
14 counsel may have for you.

15 CROSS-EXAMINATION

16 OFFICER CHIRSTOPHER REVELS BY MR. MERRITT:

17 Q. Mr. Revels, have you reviewed the video in this case?

18 A. Yes.

19 Q. Okay. And before we get to that, how long have you  
20 been on the force?

21 A. One year.

22 Q. One year? Is that one year today?

23 A. It's one year as of April 27<sup>th</sup> of last year.

24 Q. April 27<sup>th</sup> of last year? And when you were hired  
25 did you get any training?

OFFICER CHRISTOPHER REVELS: CROSS BY MR. MERRITT

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1 A. Police Academy.

2 Q. Okay. And that was after April 27<sup>th</sup>?

3 A. Yes, sir.

4 Q. How long were you at the Police Academy?

5 A. Until August 28<sup>th</sup>.

6 Q. Okay. And was there any more training after that?

7 A. There was twenty-two weeks of field training. At that  
8 time I was undergoing Phase III.

9 Q. Twenty-two weeks. So that's -- Was it approximately  
10 four, four and a half months?

11 A. Yes, around that time.

12 Q. Okay. And at the time of this particular incident  
13 were, you know, now you have -- are you in car by yourself?

14 A. Yes, sir.

15 Q. On the road?

16 A. Yes, sir.

17 Q. And how long have you been in a car by yourself on the  
18 road?

19 A. Since January.

20 Q. Okay. At the time of this incident you were still -  
21 still riding with somebody else?

22 A. Officer Bryson.

23 Q. Okay. And you admit you are relatively an experienced  
24 officer; correct?

25 A. Yes.

OFFICER CHRISTOPHER REVELS: CROSS BY MR. MERRITT

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1 Q. Okay. Now you came on Wilmore's side of the car;  
2 is that right?

3 A. Yes.

4 Q. You approached immediately there?

5 A. Yes.

6 Q. Okay. And its your testimony that he was belligerent?

7 A. Mr. Wilmore was not belligerent. He was calm and  
8 collective.

9 Q. He was calm and collective? Okay.

10 A. Yes.

11 Q. Did you testify he was uncomfortable? Just now I  
12 thought I heard the word uncomfortable but do you remember  
13 anything regarding Mr. Wilmore's demeanor other than polite  
14 and calm?

15 A. I don't recall.

16 Q. Okay. But he was generally polite and calm; correct?

17 A. Yes.

18 Q. The purpose of the traffic stop was for a tag light;  
19 correct?

20 A. Yes, sir.

21 Q. And you didn't see any of the traffic stop; correct?

22 A. I immediately followed Officer Little's vehicle as  
23 soon as he initiated it.

24 Q. Okay. And what was your role that day -- that night?  
25 Was it just to train?

OFFICER CHRISTOPHER REVELS: CROSS BY MR. MERRITT

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1 A. It was -- I was training with Officer Bryson for  
2 the role of the stop I was the cover officer Officer  
3 Little.

4 Q. Okay. And did you -- Are y'all on the same unit?

5 A. Yes, sir.

6 Q. And do y'all typically just that area that y'all  
7 patrol or is it the whole city?

8 A. The whole city is where we patrol.

9 Q. The whole thing? Is it generally at that time of  
10 night or it changes?

11 A. We patrol all scenes all during the times of night and  
12 day.

13 Q. But y'all still all work together; correct?

14 A. Yes, sir.

15 Q. And is any of the officers involved in this case  
16 above you in rank?

17 A. Yes, sir.

18 Q. Okay. And what's your rank?

19 A. Police officer one.

20 Q. Okay. And what are the other officer's ranks?

21 SOLICITOR EPTING: Your Honor, I would object. I  
22 think we're going beyond the purpose of the suppression  
23 hearing.

24 THE COURT: Well, it's cross; I'll allow him.

25 BY MR. MERRITT:

OFFICER CHRISTOPHER REVELS: CROSS BY MR. MERRITT

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1 Q. What were the ranks of the other officers involved?

2 A. Police officer two.

3 Q. Both police officers -- Did both Revels and Officer  
4 Little are police officers too?

5 A. Officer Bryson and officer Little.

6 THE COURT: He's Revels.

7 MR. MERRITT: I apologize, Mr. Revels.

8 Q. You're a police officer one.

9 A. Yes.

10 Q. And Officer Little is a police officer too?

11 A. Yes.

12 Q. How long had you been out of training at this point?

13 A. I was still in training at this point.

14 Q. Okay. Still in training. How many stops do you think  
15 you witnessed at that point in time?

16 A. I don't recall the exact number.

17 Q. Okay. Now you claim you did smell marijuana when  
18 you approached the vehicle.

19 A. Yes, sir.

20 Q. Do you remember after that going into the car to  
21 talk with Officer Little?

22 A. Say that again.

23 Q. Do you remember after y'all go up to the vehicle you  
24 go beside him; Officer Little collects the information that  
25 he needs, y'all go back into Officer Little's car?

OFFICER CHRISTOPHER REVELS: CROSS BY MR. MERRITT

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1 A. I don't recall.

2 Q. You don't recall? Okay. Would it help if I refresh  
3 your memory with the video?

4 A. Sure.

5 Q. Okay.

6 SOLICITOR EPTING: Your Honor, we would stipulate for  
7 intensive purposes this is the unredacted in-car video; we  
8 have no problem with playing this -

9 THE COURT: Okay.

10 SOLICITOR EPTING: --- is part of the trial.

11 MR. MERRITT: Now, I just want to note its my  
12 understanding that the practice would be to handle Denno  
13 and Suppression all together with the testimony so I do  
14 have some questions regarding the Denno issues.

15 THE COURT: Okay.

16 (IN-CAR VIDEO PUBLISHED TO THE COURT AT 10:56 AM.)

17 BY MR. MERRITT:

18 Q. And just for -- This is the point at which y'all are  
19 at the side of the vehicle initially; correct?

20 A. Yes.

21 Q. A minute and a half into the stop.

22 (IN-CAR VIDEO PUBLISHED TO THE COURT AT 10:59 AM.)

23 BY MR. MERRITT:

24 Q. At this point for clarification is - are you observing  
25 Officer Little look up the personal information regarding



OFFICER CHRISTOPHER REVELS: CROSS BY MR. MERRITT

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1 the video?

2 A. At the time I'm still maintaining cover on both  
3 occupants in the vehicle for officer safety reasons.

4 Q. You're saying you're maintaining cover right now of  
5 the people in the car?

6 A. Yeah, I'm keeping my eyes on the vehicle.

7 Q. Okay. And you're observing Officer Little check the  
8 information regarding this traffic stop; correct?

9 A. Yes, sir.

10 (IN-CAR VIDEO CONTINUES TO BE PUBLISHED TO THE COURT.)

11 Q. Okay. Just a couple of questions about this part.

12 Is it your testimony that its eventually you smell  
13 the smell of marijuana or?

14 A. I smell it - If you see me lean into the vehicle  
15 I get a stronger scent of it but we did smell it initially.

16 Q. You smelled it initially in that conversation?

17 A. Yes.

18 Q. Okay. And you're instructed by Officer Little to pull  
19 Mr. Wilmore out of the car; correct?

20 A. Yes.

21 Q. That's because he's more forth coming; correct?

22 A. Yes.

23 Q. Okay. Now eventually he pulls the defendant's -- you  
24 pull Mr. Wilmore out of the car and the other deputy,

25 Deputy Bryson pulls out Mr. Govan; correct?

1 A. I don't recall.

2 Q. Okay. Do you remember pulling of the two defendant's  
3 out of the car and searching them?

4 A. Yes.

5 Q. Okay. Do you remember -- At that point do you  
6 remember standing out there for a while while Officer --  
7 while the officer in the car checked all the information?

8 A. Can you rephrase your question?

9 Q. Do you remember standing out there for a while with  
10 the defendant's after patting them down before the other  
11 officer in the car gets involved?

12 A. Yes.

13 Q. Okay. Do you remember anything in regards to that  
14 conversation at all?

15 A. We were just making small talk.

16 Q. Okay. You don't recollect it at all?

17 A. No, sir.

18 Q. You wouldn't -- It wouldn't be your intentions to  
19 testify as to any statements he made during that portion  
20 cause you don't recollect it; correct?

21 A. Can you rephrase that question?

22 Q. So if you heard something there that my client said  
23 it wouldn't be your intention to testify in regards to what  
24 he said while he was out there?

25 A. I don't recall the small talk we made.

OFFICER CHRISTOPHER REVELS: CROSS BY MR. MERRITT

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1 Q. Okay. You don't recall it. You don't recall any  
2 statements that would be against his interest at all  
3 because you do eventually claim he claimed the gun twice;  
4 right?

5 A. Yes. This was after -- This was after we found --  
6 located the gun. That's when I recall.

7 Q. Do you recollect it taking a while to get the gun?

8 A. Once we took the picture of the vehicle Office Little  
9 made the weapon safe. At that point we stopped initiating  
10 small talk and discussed detaining them and then that's  
11 when the statement was made he claimed the weapon.

12 Q. And in regards to when he claimed it you're saying  
13 that any statement in regards to him claiming it happened  
14 after y'all found the weapon; correct?

15 A. Yes.

16 Q. Okay. And when you say he claimed it, what do you  
17 mean? He said that's my gun?

18 A. He said that's mine.

19 Q. Okay. And he -- You reviewed the video; correct?

20 A. Yes.

21 Q. And have you seen both of those incidents on the  
22 video?

23 A. Yes.

24 Q. Okay. Because he does say something about it might  
25 be my girlfriend's gun; correct?

OFFICER CHRISTOPHER REVELS: CROSS BY MR. MERRITT

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1 A. That was initially.

2 Q. Okay. That was initially. At what point in the  
3 investigation does he say that's my gun?

4 A. At the point where we decided to detain both Mr.  
5 Wilmore and Mr. Govan.

6 Q. Well that would have been before y'all found the gun  
7 cause y'all detained them when you take 'em out of the car;  
8 correct?

9 A. Once we get 'em out of the car we -- We have Officer  
10 Little run their information. I'm making small talk with  
11 Mr. Wilmore and Mr. Govan and once we decide to search the  
12 car Officer Bryson locates the weapon then we ask Mr.  
13 Wilmore about it and he said it might be my girlfriends.

14 Q. Yes. And that's after you find the car; correct?  
15 I mean after you take them out of the car; correct?

16 A. Yes.

17 Q. After you talk to them for a while.

18 A. Yes.

19 Q. Mr. Govan is putting on a show for ten to fifteen  
20 minutes; correct?

21 A. Yes.

22 Q. Y'all are dealing with him; he's difficult to deal  
23 with?

24 A. Correct.

25 Q. By contrast my client's relatively cooperative;

OFFICER CHRISTOPHER REVELS: CROSS BY MR. MERRITT

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1 correct?

2 A. Correct.

3 Q. So Mr. Govan's going on and on and eventually Officer  
4 Little steps out the vehicle; correct?

5 A. Correct.

6 Q. And he helps do what you need to get into the car;  
7 correct?

8 A. Correct.

9 Q. He helps hurry y'all along and explained to Mr. Govan  
10 that you're trying to get into that -- you're going to get  
11 into that car either way whether he consents or not;  
12 correct?

13 A. I don't recall the exact wording.

14 Q. Well Mr. Govan wasn't consenting; that's right? For  
15 a long time he's not consenting; correct?

16 A. Correct.

17 Q. He's explaining about his Constitutional rights;  
18 right? So after all that happens eventually Officer Little  
19 gets out of the car and Officer Little tells y'all to, you  
20 know, explains to Govan he's getting in that car; correct?

21 A. Correct.

22 Q. And it's at that point that y'all eventually find the  
23 car -- find the gun?

24 A. Correct.

25 Q. And did you find the gun?

OFFICER CHRISTOPHER REVELS: CROSS BY MR. MERRITT

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1 A. No.

2 Q. Okay. That was Officer Bryson?

3 A. Correct.

4 Q. Okay. All right. So Mr. - My client's not mirandized  
5 until after you find the gun; correct?

6 A. Correct.

7 Q. And until after he's made both of these statements;  
8 correct?

9 A. Correct.

10 Q. And both of these statements were elicited through  
11 questioning of the defendant; correct?

12 A. Can you rephrase your question?

13 Q. So he is responding to y'all's questions when he  
14 allegedly admits to having the gun, knowing about the gun;  
15 correct?

16 A. No. When we decide to detain Mr. Wilmore we placed  
17 him in handcuffs and Mr. Govan and we went to place him in  
18 handcuffs Mr. Govan made a statement to Mr. Wilmore at that  
19 point and then Mr. Wilmore claimed the gun was his.

20 Q. You mean -- Can you repeat that for me?

21 A. When we decided to detain both Mr. Wilmore and Mr.  
22 Govan Mr. Wilmore is placed in handcuffs and when we to  
23 place Mr. Govan in handcuffs Mr. Govan made a statement to  
24 Mr. Wilmore at that point he claimed the weapon was his.

25 Q. Okay. Once you put them both in handcuffs. So at

OFFICER CHRISTOPHER REVELS: CROSS BY MR. MERRITT

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1 that point they weren't free to leave; correct?

2 A. They were not both in handcuffs. Mr. Wilmore was but  
3 Mr. Govan was in the process of being placed into handcuffs  
4 when he made the statement. And once he made the statement

5 --

6 Q. What did Mr. Govan say?

7 A. He looked at Mr. Wilmore and said, Bro.

8 Q. And what are you inferring from him saying Bro?

9 SOLICITOR EPTING: Your Honor, I object.

10 THE COURT: I sustain the objection. We don't deal  
11 with inferences.

12 BY MR. MERRITT:

13 Q. What does he say to Bro in response to?

14 A. When we go to place Mr. Govan in handcuffs as far as  
15 trying to determine who the weapon belongs to.

16 Q. And Mr. Govan as you're putting my client in handcuffs  
17 says, Bro?

18 A. Actually we put Mr. Wilmore is already in handcuffs by  
19 Officer Little I went to go place handcuffs on Mr. Govan  
20 which at the time I was trying to place handcuffs on him  
21 and he looked at Mr. Wilmore and said, Bro.

22 Q. Okay. And this is after you found the gun?

23 A. Yes.

24 Q. Okay. And this is before you've read Miranda to  
25 either person; correct?

OFFICER CHRISTOPHER REVELS: CROSS BY MR. MERRITT

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1 A. Yes.

2 Q. Neither person has been mirandized?

3 A. Correct.

4 Q. And y'all are asking -- And what is Mr. -- What is  
5 my client's statement again at that point?

6 A. He said it's mine twice.

7 Q. He said it's mine twice. Okay. And that is after  
8 you're confronting him with the gun; correct?

9 A. After we advised them they're being detained until we  
10 can determine who the gun belongs to.

11 Q. And we're over twenty minutes into this stop; correct?

12 A. I don't recall the exact time.

13 Q. Okay. And this is a stop for a tag light infraction?

14 A. Correct.

15 Q. Okay. At this point you're asking him -- You found  
16 the gun. Mr. Bryson has found the gun and he's got it in  
17 his hand or is it left under the seat?

18 A. We took -- Officer -- I don't recall who took the  
19 picture. We took a picture of just like where the gun was  
20 located and then Officer Little maintained control of the  
21 weapon and made it safe.

22 THE COURT: Let me interject. Do we still need this  
23 up on and the lights off?

24 MR. MERRITT: It doesn't have to be at this time.  
25 I'll wait for the next one just to play.



OFFICER CHRISTOPHER REVELS: CROSS BY MR. MERRITT

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1 THE COURT: Okay.

2 BY MR. MERRITT:

3 Q. The -- So the gun is out of the car. Or the guns  
4 still in the car when you put them both in cuffs; correct?

5 A. I don't recall exactly.

6 Q. No one says anything about the gun before y'all find  
7 it; correct?

8 A. Correct.

9 Q. Okay. And once you find the gun is when Wilmore  
10 claims the gun?

11 A. It's after we find the weapon that we detained them  
12 both or attempted to detain Mr. Govan and Mr. Wilmore had  
13 claimed the weapon.

14 Q. Do you recall what was said to him to explain to  
15 y'all to them they found the gun that you did indeed find  
16 the gun, that Bryson found the gun or whomever?

17 A. I don't recall the exact wording we used.

18 Q. Okay. But you at least informed them hey, we found  
19 the gun?

20 A. Yes.

21 Q. Okay. Who's gun is it?

22 A. Correct.

23 Q. Okay. There's an inquiry in regards to the gun;  
24 correct?

25 A. Correct.

OFFICER CHRISTOPHER REVELS: ' CROSS BY MR. MERRITT'

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1 Q. And they're not free to leave at this point; right?

2 A. Correct.

3 Q. They been sitting by the road for over twenty minutes;  
4 correct?

5 A. I don't recall the time.

6 Q. Okay. All right. Once again, any other statements  
7 you recall Mr. Wilmore making other than the ones you said  
8 today that would -- in regards to ownership of the gun?

9 A. Other than those two statements he made claiming its  
10 mine it's mine I don't recall anything else.

11 Q. And both of those occurred before he was mirandize;  
12 correct?

13 A. Correct.

14 MR. MERRITT: Okay. Thank you.

15 SOLICITOR EPTING: No further questions for this  
16 witness.

17 THE COURT: You can step down. Thank you. Remain on  
18 the premises because you're subject to being called again.

19 SOLICITOR EPTING: Thank you, your Honor. Your Honor,  
20 the next witness the State would call would be Officer  
21 Bryson.

22 And, your Honor, while we're waiting on Officer Bryson  
23 in the interest of time we can either play this video in  
24 full during the course of this hearing or give your Honor a  
25 copy to review I guess in camera.

OFFICER MARSHALL BRYSON: DIRECT BY SOLICITOR EPTING

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1 MR. MERRITT: And to save time if you want to just  
2 play it once from where we just left off one time and can  
3 refer to various points of the video if you want to I can  
4 elicit it through the testimony of the officer here or  
5 however y'all want to proceed. I think that would be  
6 helpful.

7 THE COURT: That's fine.

8 SOLICITOR EPTING: Mr. Bryson if you would step  
9 forward and be sworn.

10 (WHEREUPON, MARSHALL BRYSON,  
11 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

12 DIRECT EXAMINATION

13 OFFICER MARSHALL BRYSON BY SOLICITOR EPTING:

14 Q. Officer Bryson, could you state your full name for  
15 the record?

16 A. Marshall Lee Bryson.

17 Q. And how are you employed?

18 A. I'm a police officer with the city of Rock Hill.

19 Q. Were you so employed in December of last year?

20 A. Yes, sir.

21 Q. Were you involved in a traffic stop involving the  
22 defendant Jayquan Wilmore?

23 A. Yes, sir.

24 Q. Could you please tell the court about that stop?

25 A. Yes, sir. On September 21<sup>st</sup> I was with Officer

1 Revels training Officer Revels. He was the driver I was  
2 the passenger observing him. Then we conducted some  
3 training paper work parked next to Officer Little at a  
4 church on Flint Hill Street. We observed a dark sedan go  
5 by without a tag light. Officer Little advised he was  
6 gonna make a traffic stop on the vehicle and as auxiliary  
7 we backed him up on the traffic stop.

8 Q. Okay. Did the car pull over?

9 A. It did on --

10 Q. What was your roll in assisting in that traffic stop?

11 A. I was a little further back from the vehicle observing  
12 Officer Revels while he assisted Officer Little in the  
13 stop.

14 Q. Okay. What if anything did you do initially on the  
15 stop?

16 A. Initially I was at the back of the vehicle. Officer  
17 Revels approached the passenger side; Officer Little made  
18 contact with the driver side.

19 Q. At some point did they indicate that there was  
20 anything unusual about the stop to you but hand motions?

21 A. They did.

22 Q. What was that? Could you explain that for the Court?

23 A. It was like a motion to nose about a smell.

24 Q. What did you understand that to be?

25 A. It's usually for the smell of marijuana or some

OFFICER MARSHALL BRYSON: DIRECT BY SOLICITOR EPTING

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1 substance.

2 Q. At that point did Officer Little get the information  
3 from the driver?

4 A. He did.

5 Q. And you're standing back if I understand you  
6 correctly; is that correct?

7 A. I was.

8 Q. Watch security, watch the car?

9 A. Yes.

10 Q. And did the three of y'all go back to Officer Little's  
11 car?

12 A. Yes, sir.

13 Q. What did Officer Little do with the driver's paper  
14 work at that point?

15 A. He was checking his paperwork through NCIC.

16 Q. Was the decision made to remove either the driver or  
17 the passenger from the car?

18 A. We decided to remove both.

19 Q. Okay. And tell the court how that was conducted.

20 A. They removed - I believe it was the passenger was  
21 removed first, Mr. Wilmore and they also removed Mr.  
22 Govan. They conducted a Terry frisk of their person just  
23 after removing them from the vehicle and checked for  
24 weapons.

25 Q. And what was Mr. Wilmore's demeanor?

1 A. He was very cooperative.

2 Q. And what was Mr. Govan's demeanor?

3 A. He was belligerent and agitated.

4 Q. Where were the individuals instructed to stand?

5 A. Between the front of Officer Little's patrol vehicle  
6 and the rear of that vehicle.

7 Q. At some point during the course of the stop was  
8 somebody called by Mr. Govan?

9 A. Someone called by Mr. Govan?

10 Q. Yes.

11 A. Yeah, he did use his cell phone.

12 Q. Did somebody arrive on scene that was a third party?

13 A. Yes, sir.

14 Q. And what if any interaction did they have with y'all?

15 A. They were over to the side talking. I don't remember  
16 what they were saying.

17 Q. Okay. At some point was the decision made to search  
18 the vehicle?

19 A. It was.

20 Q. Tell the court how that came about?

21 A. Officer Little and Officer Revels discussed the  
22 smell of marijuana; that they both smelled it from their  
23 position closer to the vehicle. Officer Revels began a  
24 search of the driver side of the vehicle. I don't remember  
25 why he was interrupted, he stopped his search. I had

OFFICER MARSHALL BRYSON: DIRECT BY SOLICITOR EPTING

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1 approached the passenger side of the vehicle where the door  
2 was standing open where Mr. Wilmore had exited.

3 Immediately upon walking up to the driver side I shined my  
4 flash light inside the vehicle; the first thing I saw was  
5 the passenger seat there was a pistol. I could see the  
6 handle of the pistol between under the passenger seat  
7 between there and the running board.

8 Q. At that point what did you do?

9 A. I stepped back and notified Officer Little.

10 Q. Okay. And what did y'all do together at that point?

11 A. We -- I advised him that the pistol was there so  
12 we could photograph it and collect it. He - - Officer  
13 Little photographed it, collected it and checked it through  
14 NCIC.

15 Q. Okay. And did NCIC -- and because no jury is here  
16 we can talk about this -- did NCIC reveal anything  
17 significant about the gun?

18 A. Yeah, it came back as a stolen weapon.

19 Q. And what actions did you guys take at that point?

20 A. At that time we were gonna take both Mr. Wilmore and  
21 Mr. Govan into custody in handcuffs.

22 Q. Who was placed in handcuffs first?

23 A. Officer Little placed Mr. Wilmore in handcuffs first.

24 Q. Okay.

25 A. And I advised Officer Revels to handcuff Mr. Govan.

1 Q. Okay. How did Mr. Govan react to that?

2 A. He was asking why he was being arrested; why was he  
3 being handcuffed. I was advising him that until we could  
4 figure out whose weapon it is that they both were gonna be  
5 detained in handcuffs.

6 Q. Okay.

7 A. At which time Mr. Wilmore said it's mine twice.

8 Q. He said it's mine twice?

9 A. Yes.

10 Q. Did he -- And just to clarify, he said it's mine,  
11 it's mine?

12 A. He did yes, sir.

13 Q. Okay. And that was in response. And did Mr. Govan  
14 say anything prior to Mr. Wilmore saying that?

15 A. He said something, Bro, I was about to say, something  
16 along those lines.

17 Q. He said Bro, I was about to say?

18 A. Yeah, I was about to say.

19 Q. Okay.

20 A. Yeah.

21 Q. And that was between Mr. Govan and Mr. Wilmore?

22 A. It was.

23 Q. As Mr. Govan was getting prepared to be placed in  
24 handcuffs?'

25 A. Yes, sir.



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1 Q. At that point what if anything was done with Mr.  
2 Govan? Was he placed in handcuffs?

3 A. No he wasn't.

4 Q. Was Mr. Wilmore continued -- did he continue to  
5 wear handcuffs?

6 A. He did.

7 Q. At any point during this stop were any threats or  
8 promises made?

9 A. No, sir.

10 Q. Did anybody draw guns on these people?

11 A. No, sir.

12 Q. Prior to y'all finding the gun were they free to  
13 move about?

14 A. They were.

15 Q. Did they move about?

16 A. They did.

17 Q. Did you talk with Mr. Wilmore during the course of  
18 this investigatory stop?

19 A. I did.

20 Q. Anything relevant to the case -- Was anything  
21 relevant to the case discussed?

22 A. When we were -- When Officer Little was checking  
23 their -- his information he was basically small talking  
24 just kind of occupying the time to see what was gonna come  
25 back on the paperwork.

1 Q. After the gun was found did Mr. Wilmore say anything  
2 about a girl friend?

3 A. Yeah, he said something like a girlfriend, I think  
4 it was his girlfriend's vehicle and it might be his  
5 girlfriend's weapon possibly but he never did say a hundred  
6 percent immediately after the weapon was found whose it  
7 was.

8 Q. And so after he was placed in handcuffs he has a  
9 conversation with Mr. Govan and he says it's mine, its  
10 mine?

11 A. Uh-huh.

12 Q. And then do you have any further involvement in the  
13 traffic stop?

14 A. No, sir, I went back and I just stood by for Officer  
15 Little's safety while he issued the citation.

16 Q. Was his -- And Mr. Govan was issued a citation; is  
17 that correct?

18 A. That's true.

19 Q. And he drove away?

20 A. Yes, sir.

21 Q. And this occurred in York County?

22 A. It did.

23 SOLICITOR EPTING: I beg the Court's indulgence.

24 Your Honor, we can play the video at this time if  
25 it pleases the Court.

OFFICER MARSHALL BRYSON: CROSS BY MR. MERRITT

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1 THE COURT: Yes, sir.

2 (IN CAR VIDEO PUBLISHED TO THE COURT AT 11:20 AM.)

3 (IN-CAR VIDEO STOPS AT 11:53 PM.)

4 SOLICITOR EPTING: And defense counsel has indicated  
5 they think that this is sufficient given what we intend to  
6 introduce at trial. In candor to the court the redacted  
7 copy we made cuts off substantially sooner than the end of  
8 this tape so in the interest of time we ask to enter -  
9 proffer at this stage on this video.

10 THE COURT: Any objection?

11 MR. MERRITT: No, objection. And we just wanted to  
12 note, it's our understanding that the copy would be going  
13 back to the jury. Citing Ms. Inzerillo's concern earlier  
14 we'd looked at the redacted parts and we looked and looked  
15 and looked to the parts and we didn't hear anything.

16 SOLICITOR EPTING: That's correct, your Honor. The  
17 end point is shortly after Officer Little speaks to the  
18 defendant ask him to describe -- after he says thank you  
19 for being honest with me puts him in the car and ask him,  
20 hey, what's your jacket look like, maybe five seconds after  
21 the tape I intend to introduce to the jury cuts off.

22 MR. MERRITT: Not waiving any objections Ms. Inzerillo  
23 just wanted to make sure that we're on the same page.

24 THE COURT: All right. Well, lets take a short break.  
25 We been at it for a while and I don't think we need

OFFICER MARSHALL BRYSON: CROSS BY MR. MERRITT

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1 the jury until two o'clock. It's almost twelve so we're  
2 let the jury go 'till two. Let's take about a ten minute  
3 refresher break.

4 MR. MERRITT: Thank you, your Honor.

5 (COURT IN RECESS AT 11:54 PM.)

6 (COURT BACK IN SESSION AT 12:06 PM.)

7 THE COURT: Thank you, you may take your seats.

8 You may proceed.

9 SOLICITOR EPTING: The State's ready, your Honor.

10 Your Honor, that's all the questions I have for this  
11 officer.

12 THE COURT: Cross?

13 CROSS-EXAMINATION

14 OFFICER MARSHALL BRYSON BY MR. MERRITT:

15 Q. How you doing today, Officer?

16 A. Wonderful.

17 Q. Thanks for being here to testify. The first thing  
18 I'm gonna do is establish kind of a basic time line of what  
19 we just watched and do that for everybody's sake and get a  
20 couple of things on the record. Is that okay with you?

21 A. Okay.

22 Q. Now you were present and you remember observing the  
23 stop itself?

24 A. I did.

25 Q. And the stop itself would you agree happens in about

OFFICER MARSHALL BRYSON: CROSS BY MR. MERRITT

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1 the first twenty-two seconds of the video?

2 A. I suppose.

3 Q. This is a tedious process, I'm sorry.

4 I'm putting Court's Exhibit One into the computer just  
5 to establish the times for everybody's understanding for  
6 the record.

7 And it's your understanding the stop occurs pretty  
8 much immediately; correct?

9 A. Yes, sir.

10 Q. Within the first twenty-two seconds would you agree  
11 the car is stopped? Within the first minute the car is  
12 stopped?

13 A. Yes, sir, appears so.

14 Q. And y'all go and talk to the passenger in the car;  
15 correct?

16 A. Yes, sir.

17 Q. And that last for approximately how long?

18 (COURT'S EXHIBIT ONE, IN CAR VIDEO, CONTINUES TO BE  
19 PUBLISHED TO THE COURT.)

20 A. . . . the time line . . .

21 Q. I apologize, Officer, I played that while you were  
22 talking.

23 A. That's fine.

24 Q. Approximately how long y'all talked to him.

25 A. I couldn't really say for sure ---

OFFICER MARSHALL BRYSON: CROSS BY MR. MERRITT

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1 Q. Okay.

2 A. --- how long.

3 Q. And -- But you were sitting there; right?

4 A. It ---

5 Q. It wasn't long do you agree?

6 A. It wasn't a very long time.

7 Q. And you did observed it; right?

8 A. Yes, sir.

9 (COURT'S EXHIBIT ONE, IN CAR VIDEO CONTINUES TO  
10 BE PUBLISHED.)

11 Q. And by thirty-three minutes and thirty seconds Officer  
12 Little is in the car checking up on the documentation that  
13 y'all got during this stop; correct?

14 A. Appears so, yes, sir.

15 Q. Okay. And at that point Officer Little and Officer  
16 Revels are having a conversation?

17 A. Yeah.

18 Q. Were you privy to that conversation?

19 A. Yeah, I heard 'em talking about the smell.

20 Q. Okay. You heard 'em talking about a smell. And  
21 you didn't -- Your testimony is you didn't smell it;  
22 correct?

23 A. Yeah, I didn't smell it.

24 Q. Okay. And not at any point did you or are you  
25 testifying that you smelled it; is that accurate?

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1 A. No, sir.

2 Q. Okay.

3 A. Yeah, I didn't smell it.

4 (COURT'S EXHIBIT ONE CONTINUES TO BE PUBLISHED.)

5 Q. Now they talk for a while and then they ask you and  
6 Officer Little instructs y'all to go ahead and go take 'em  
7 out of the car; correct?

8 A. Yes, sir.

9 (COURT EXHIBIT ONE CONTINUES TO BE PUBLISHED.)

10 Q. And that's about six and a half minutes; correct?

11 A. Sounds right.

12 Q. Would you agree with that based off your recollection  
13 within the video there?

14 A. Sounds about right.

15 Q. Six and a half minutes. Now, who do you take out  
16 of the car?

17 A. Sir?

18 Q. Do you remember who you took out of the car whether it  
19 was the driver or the passenger?

20 A. I don't believe I took either one out. I believe it  
21 was Officer Revels that ask 'em to step out of the vehicle.

22 Q. Okay. But you do pat down one of the two; correct?

23 A. I don't believe so.

24 Q. You just stand there and watch 'em?

25 A. Yeah, I was more observing Officer Revels --

1 Q. Okay.

2 (COURT'S EXHIBIT ONE CONTINUES TO BE PUBLISHED.)

3 Q. Now this process happens where they're both being  
4 patted down.

5 (COURT'S EXHIBIT ONE CONTINUES TO BE PUBLISHED.)

6 Q. For about sixteen minutes; correct?

7 A. Correct.

8 Q. Does that sound about right to you?

9 A. I suppose so.

10 Q. Do you remember anything that was said during that  
11 sixteen minute period?

12 A. About what?

13 Q. Anything that like this time its my client and Mr.  
14 Govan are talking to y'all and y'all are just kind of out  
15 there talking; correct?

16 A. Uh-huh.

17 Q. Do you remember anything specific about that time  
18 period?

19 A. I don't remember the exact discussion. It's usually  
20 small talk during that time.

21 Q. And you don't have -- You don't plan on testifying  
22 at all today that anything was said by either client as  
23 evidence in the case do you?

24 A. During this time ---

25 Q. During this time.



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1 A. --- or before finding the weapon? No not before  
2 finding the weapon.

3 Q. Okay.

4 A. I don't remember any discussion with them.

5 Q. Okay. And at this point does Officer Little get out  
6 of the car?

7 A. Yes, sir, he does at some point.

8 Q. Okay. And y'all -- Now you've already observed  
9 Revels pat down both people; correct?

10 A. Yes, sir.

11 Q. Y'all secure the area and no one has got any weapons  
12 on 'em, on their person; correct?

13 A. Yes, sir.

14 Q. Okay. And at this point you've got -- you've --  
15 Little gets out of the car; correct?

16 A. He does.

17 Q. And does Little direct Mr. Govan that he's gonna  
18 search the vehicle?

19 A. Yes, sir, he does.

20 Q. Okay.

21 (COURT'S EXHIBIT ONE CONTINUES TO BE PUBLISHED.)

22 Q. Now do you remember who searched the vehicle?

23 A. Officer Revels I believe started the search.

24 Q. Okay. But you found the gun; correct?

25 A. I did on the passenger side.

OFFICER MARSHALL BRYSON: CROSS BY MR. MERRITT

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1 Q. Okay.

2 (COURT'S EXHIBIT ONE IN CAR VIDEO CONTINUES TO BE  
3 PUBLISHED.)

4 Q. And at this point who's searching the car? Can you  
5 tell?

6 A. No. From the video no, sir.

7 Q. I'll play it for a second and see if you can tell.

8 A. Okay.

9 (COURT'S EXHIBIT ONE, IN CAR VIDEO, CONTINUES TO BE  
10 PUBLISHED.)

11 A. Yes, that is Officer Revels on the driver's seat.

12 Q. Okay. At this point you go to the passenger side;  
13 correct?

14 A. Yes, sir.

15 (COURT'S EXHIBIT ONE, IN CAR VIDEO, CONTINUES TO BE  
16 PUBLISHED.)

17 Q. You approached the vehicle at approximately twenty-  
18 two minutes into the stop; correct?

19 A. Yes, sir, I believe so.

20 Q. And you pretty much immediately find the gun; is that  
21 right?

22 A. Yes, sir.

23 Q. Okay. Any statement that we discuss so far that  
24 you've talked about in reference to the gun happened in  
25 that twenty-two minute point?

OFFICER MARSHALL BRYSON: CROSS BY MR. MERRITT

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1 A. The weapon? Yes, sir.

2 Q. In all the statements that we've discussed so far  
3 in regards to him claiming ownership of that weapon that  
4 don't happen until after that twenty-two minutes; correct?

5 A. That's true.

6 Q. Okay. And at that point y'all don't know whose gun it  
7 is; right? And when you find the gun you don't know which  
8 one. Is it Govan? Is it my client's; is that accurate?

9 A. About a hundred percent on either one of the two.

10 Q. And grant it at this point Mr. Govan is the one who  
11 seems to be most angry about y'all even searching the car;  
12 is that accurate?

13 A. Yeah, he was agitated, yes, sir.

14 Q. And was he agitated the entire time that y'all are  
15 sitting out in the car; that ten minute period before the  
16 Little comes out? Or are y'all a little more relaxed?

17 A. He was agitated the entire time.

18 Q. He was agitated the entire time. Did he get more  
19 agitated when Officer Little approached him or not  
20 necessarily?

21 A. Maybe.

22 Q. Okay.

23 A. I'm not sure.

24 Q. Fair enough. Thanks for kind of establishing some  
25 of the key moments as best you can and try to remember

OFFICER MARSHALL BRYSON: CROSS BY MR. MERRITT

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1       those times, you know, as we talk a little bit about this  
2       here. Real quickly, you're trained - How long have you  
3       been on the force at this point or today?

4       A.    Today about five and a half years.

5       Q.    Five and a half years?

6       A.    Yes.

7       Q.    Okay. And at the point of this stop how long have  
8       you been on it?

9       A.    Just under five years.

10      Q.    Okay. And how much of your first year is in training?

11      A     First year?

12      Q.    Uh-huh.

13      Q.    When I came through the Academy it was nine weeks  
14      and the field training was sixteen weeks.

15      Q.    And that field training is that something Rock Hill  
16      City does?

17      A.    It is.

18      Q.    Okay. And are you, you know, the dynamics of the  
19      relation between all three officers here are do you answer  
20      to Officer Little or do you all or not necessarily?

21      A.    Not necessarily.

22      Q.    Okay.

23      A.    He's the one -- it's his traffic stop so he is  
24      kind of in charge of the stop so I refer to him.

25      Q.    And so, you know, we say early on he's kind of

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1       instructing you on it; correct?

2       A.    Somewhat.

3       Q.    Okay. And that's kind of his role as the person  
4       who stopped the vehicle?

5       A.    He's the contact officer and we cover

6       Q.    Okay. And he does instruct you early on that he does  
7       smell marijuana; correct?

8       A.    Yes, sir.

9       Q.    He instructs you and there was some testimony earlier  
10       that somebody put their hands to their nose to motion ---

11       A.    Uh-huh.

12       Q.    --- the smell of marijuana.

13       A.    Yes, sir.

14       Q.    At the time did you understand that to mean that?

15       A.    Yes, sir.

16       Q.    Okay. How long had you been training at that point;  
17       training people, training other officers?

18       A.    Four or five months maybe.

19       Q.    And how long do you think you been patrolling in a car  
20       by yourself at that point in time by December, mid December  
21       last year?

22       A.    A little over four years.

23       Q.    Okay.

24       A.    I started on my own in September of 2011.

25       Q.    Approximately how many traffic stops do you think

OFFICER MARSHALL BRYSON: CROSS BY MR. MERRITT

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1 you've done?

2 A. I couldn't say.

3 SOLICITOR EPTING: Your Honor, I'm gonna object to the  
4 relevancy of this to a Denno or a suppression hearing.

5 THE COURT: Well, it's cross, I'll allow it.

6 BY MR. MERRITT:

7 Q. You couldn't say?

8 A. I'm really not sure.

9 Q. How about ones involving marijuana approximately?

10 A. It's tough to put a number on it.

11 Q. More than twenty?

12 A. Yes.

13 Q. Okay. Less than a hundred or hard to say?

14 A. Tough to say.

15 Q. Okay. All right. At the time your main goal here is  
16 to observe Officer Revels as he completes his training?

17 A. Yes, sir.

18 Q. Okay. Would it be a slower process because y'all are  
19 doing that? Would you agree with that?

20 A. Say again.

21 Q. Would you agree that it would be a little bit of a  
22 slower process because you're training an officer?

23 A. Yes, sir.

24 Q. Okay.

25 A. It takes a little longer.

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1 Q. Now you testified earlier that Mr. - Now, and just  
2 to clarify, you had been informed when you go back to that  
3 car after the stop is that brief time that y'all go back to  
4 the car; correct? We talked about that.

5 A. I --

6 Q. Probably about three minutes into the stop y'all all  
7 go back to the police car ---

8 A. Oh.

9 Q. --- and Little describes the smell of marijuana  
10 which you already know initially because you got the hand  
11 signal; correct?

12 A. Yes, sir.

13 Q. And at that point in time Officer Little informs you  
14 that you can take him out of the car; correct?

15 A. Yes, sir.

16 Q. He says that the smell is there; right?

17 A. Uh-huh.

18 Q. That's all you need to search the car?

19 A. The smell of marijuana?

20 Q. Right.

21 A. Yes, sir.

22 Q. Okay. And you know that at that point; right?

23 Okay.

24 THE COURT: You've got to give an answer.

25 A. I'm sorry. Yes, sir.

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1 Q. I'm sorry. I'll slow down, its my fault.

2 So at that point you understand that you've got  
3 probable cause to search the vehicle?

4 A. Yes, sir.

5 Q. Okay. And y'all do in fact take them out and search  
6 them; correct?

7 A. Yes, sir.

8 Q. Now it's pretty cold this particular night; that's  
9 correct?

10 A. I don't recall the temperature.

11 Q. Mid December.

12 A. It's fair to say it may have been chilly.

13 Q. Okay. And it is your testimony that my client's  
14 not combative at all; correct?

15 A. That's correct.

16 Q. He's cooperative with the police officers. So you've  
17 been told you can search as we've said; right?

18 A. Yes, sir.

19 Q. You know that you can search based off the  
20 understanding that one officer smelled marijuana in the  
21 car; correct?

22 A. Yes, sir.

23 Q. And in regards to this traffic stop Officer Little its  
24 his stop; correct?

25 A. It is.



OFFICER MARSHALL BRYSON: CROSS BY MR. MERRITT

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1 Q. So even if you didn't necessarily know whether or not  
2 you could search its Officer Little's stop if he says  
3 search it would be your understanding you go ahead and do  
4 that; correct?

5 A. If he developed probable cause, he had probable cause  
6 to search and told me to search based upon his probable  
7 cause that he found yes I would search.

8 Q. Okay. Now, but instead of searching y'all are out  
9 there talking for ten to twelve minutes; correct? And at  
10 this point another person comes on to the scene; is that  
11 accurate?

12 A. Yes.

13 Q. Mr. Govan calls somebody. The scene becomes less  
14 secure because you now have another person in the middle of  
15 the night coming up to the car; correct?

16 A. Yes, sir.

17 Q. Now you did testify earlier that -- that his -- that  
18 my client's claiming of the gun was not elicited; is that  
19 correct?

20 A. Say again. It was wasn't elicited?

21 Q. Did you -- And let me start by saying, did you get  
22 the chance to review the police report in this case?

23 A. I'm sorry, I couldn't hear you.

24 Q. Did you get a chance to review the incident report in  
25 this case?

OFFICER MARSHALL BRYSON: CROSS BY MR. MERRITT

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1 A. I did, yes, sir.

2 Q. Okay. I think you - you portray Jayquan Wilmore's  
3 statement as not being -- it's him just voluntarily saying  
4 it; correct?

5 A. Yes, sir.

6 Q. In the report or the saying as you are -

7 SOLICITOR EPTING: Your Honor, I'm gonna object at  
8 this time. This report was written by Officer Little and  
9 not by Officer Bryson.

10 THE COURT: I don't think you can cross-examine him  
11 on somebody else's statement.

12 MR. MERRITT: Sure. The only extent that if I use it  
13 at all would be to refresh his recollection based on the  
14 fact that somebody else, they were both there and observed  
15 it at the time.

16 SOLICITOR EPTING: I don't think he can refresh his -

17 THE COURT: I -- That's not correct use.

18 MR. MERRITT: Thank you.

19 Q. Now at this time you happen to confront 'em both with  
20 the guns; correct? You confront them both with the fact  
21 you found the gun underneath the seat; correct?

22 A. One more time please.

23 Q. You've confronted those individuals with the fact that  
24 you have found the gun now underneath the seat; correct?

25 A. You mean Mr. Govan and Mr. Wilmore?

OFFICER MARSHALL BRYSON: CROSS BY MR. MERRITT

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1 Q. Yeah, once you take the gun out.

2 Q. Yes, they were aware that they found the gun.

3 Q. At this point they'd been on the road for more  
4 than twenty minutes?

5 A. I suppose so, yes, sir.

6 Q. Do you think there is any -- And they were not free to  
7 leave; correct?

8 A. No, sir. During the traffic stop ---

9 Q. If they had left ---

10 A. --- they would --

11 Q. --- y'all would have arrested 'em; correct?

12 A. Its fair to say, yes, sir.

13 Q. Okay. Are there any other statements after the gun  
14 was found that you heard other than the it's mine, it's  
15 mine, one that you've already testified to that would  
16 indicate that Mr. Go - that my client had -- knew the gun  
17 was in the car?

18 A. No, sir, not that I heard personally.

19 Q. Okay. And even up until the end of the stop you  
20 never smelled the odor of marijuana; correct?

21 A. No, sir.

22 Q. Okay.

23 A. I don't recall smelling it.

24 MR. MERRITT: No further questions, your Honor.

25 SOLICITOR EPTING: Just very quickly, your Honor.

OFFICER MARSHALL BRYSON: REDIRECT BY SOLICITOR EPTING  
RECROSS BY MR. MERRITT

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REDIRECT EXAMINATION

OFFICER MARSHALL BRYSON BY SOLICITOR EPTING:

Q. Officer Bryson, you were ask about other traffic stops and smelling marijuana.

A. Yes, sir.

Q. Do you have any physical disability that might affect your sense of smell?

A. Sometimes I have a lot of allergies, sinus issues.

Q. Okay. And you have those issues today?

A. I do. I'm currently sick.

Q. Is that why you're coughing and ---

A. Yes, sir.

SOLICITOR EPTING: No further questions, your Honor.

THE COURT: Cross on his allergies?

MR. MERRITT: Just briefly.

RECROSS-EXAMINATION

OFFICER MARSHALL BRYSON BY MR. MERRITT:

Q. Allergies and sinus. You mean that you take allergy medicine occasionally?

A. Yes, sir.

Q. At certain times of the year ---

A. Yes, and some congestion.

Q. You don't recollect whether you were having allergy problems on the night in question; correct?

A. I don't recall it specifically that day.

OFFICER MARSHALL BRYSON: RECROSS BY MR. MERRITT  
OFFICER WILLIAM LITTLE: DIRECT BY SOLICITOR EPTING

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1 Q. Thank you.

2 A. It's not uncommon.

3 THE COURT: You can step down and wait outside.

4 (WITNESS LEAVING WITNESS STAND.)

5 SOLICITOR EPTING: Your Honor, the final witness for  
6 the purpose of this hearing Officer Little.

7 THE COURT: Okay.

8 (WHEREUPON, WILLIAM LITTLE,  
9 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

10 DIRECT EXAMINATION

11 OFFICER WILLIAM LITTLE BY SOLICITOR EPTING:

12 Q. Good afternoon, Officer. Could you please state  
13 your name for the record?

14 A. William Eric Little.

15 Q. How are you employed?

16 A. Police officer with the city of Rock Hill.

17 Q. And how were you employed in December of 2015?

18 A. The same, police officer.

19 Q. Were you involved in the traffic stop involving the  
20 defendant Jayquan Wilmore?

21 A. Yes.

22 Q. Was that traffic stop in York County?

23 A. Yes.

24 Q. Tell the court about how that stop began?

25 A. We were sitting on Flint Hill Street at a church near

OFFICER WILLIAM LITTLE: DIRECT BY SOLICITOR EPTING

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1 Frank Street I observed a dark in color sedan drive by no  
2 tag light on the vehicle that was operational and conducted  
3 a traffic stop on that vehicle.

4 Q. Okay. And were there other officers with you?

5 A. Yes.

6 Q. Who were those officers?

7 A. Officer Bryson and Officer Revels.

8 Q. And who approached the car first?

9 A. I did.

10 Q. Was anyone - - Did anyone else approach the car with  
11 you?

12 A. Officer Revels.

13 Q. And who did you speak with at the car?

14 A. Mr. Govan.

15 Q. Okay. Did you collect his information?

16 A. Yes.

17 Q. At that point did you go back to your car to check  
18 on that information?

19 A. Yes.

20 Q. Who did the car come back registered to?

21 A. I believe at the time it was still registered out of  
22 North Carolina but it had a bill of sale for a Britney Guy.

23 Q. Okay. And did you get information from the passenger?

24 A. Yes.

25 Q. Who was that?

OFFICER WILLIAM LITTLE: DIRECT BY SOLICITOR EPTING

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1 A. Mr. Wilmore.

2 Q. And did you check his information ---

3 A. Yes.

4 Q. --- as well? Did he have a valid driver's license?

5 A. No.

6 Q. At that point you're checking the information;  
7 is that correct?

8 A. Correct.

9 Q. When you approach the car was there anything  
10 significant that you detected?

11 A. There was the odor of marijuana coming from the car.

12 Q. Could you tell if it was coming from a person inside  
13 the car?

14 A. Not at the initial approach.

15 Q. Was this raw marijuana or was this another kind?

16 A. More similar to burnt marijuana.

17 Q. Okay. So you checked the information; is that  
18 correct?

19 A. Correct.

20 Q. At some point does somebody get the passenger out of  
21 the vehicle?

22 A. Yes.

23 Q. Who was that?

24 A. Officer Revels.

25 Q. And at that point where did Officer Revels put the

1 passenger?

2 A. Between my patrol car and the black sedan.

3 Q. Was the passenger cooperative?

4 A. Seemed to be.

5 Q. Did -- Was he placed in handcuffs?

6 A. Not at that moment.

7 Q. Was the driver taken out at any point?

8 A. Yes.

9 Q. And by whom was that done?

10 A. Officer Revels.

11 Q. And was the -- Did the driver seem to be cooperative?

12 A. Not at all.

13 Q. Okay. At some point did Officer Bryson approach  
14 Officer Revels to lend a hand?

15 A. Say that again.

16 Q. Did Officer Bryson approach Officer Revels to lend a  
17 hand?

18 A. With the?

19 Q. Now that the two were out of the car.

20 A. He approached him and he kind of stood guard with him.

21 Q. And while you're in the car and while you had an  
22 opportunity to watch the video that's played multiple times  
23 during this hearing; is that correct?

24 A. Yes.

25 Q. While you're inside the car what do you do?



OFFICER WILLIAM LITTLE: DIRECT BY SOLICITOR EPTING

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1 A. I ran the information and write the citation for Mr.  
2 Govan.

3 Q. Okay. And while you're inside the car does something  
4 happen that causes you to get out of the car?

5 A. Yes.

6 Q. What is this?

7 A. Another vehicle pulls up in front of the vehicle that  
8 we had stopped.

9 Q. Okay. And at that point what did you do?

10 A. I got out of the vehicle and walked up and kind of  
11 stood there to find out who this person was.

12 Q. What was Mr. Govan's level of cooperation at that  
13 point?

14 A. He was being belligerent still to officers.

15 Q. And what was the third party, the new person to the  
16 screen, doing?

17 A. He just approached us and handed Mr. Govan a cell  
18 phone.

19 Q. Okay. At some point did you make a determination to  
20 search the vehicle?

21 A. Yes.

22 Q. Okay. And when was that?

23 A. The determination to search the vehicle was when we --  
24 when I was still in the patrol car.

25 Q. Were you concerned about securing Mr. Govan?

OFFICER WILLIAM LITTLE: DIRECT BY SOLICITOR EPTING

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1 A. Yes.

2 Q. Did the presence of a third party on the scene give  
3 you concern ---

4 A. Yes.

5 Q. --- walking up to that car? Did you search the  
6 vehicle or did another officer search the vehicle?

7 A. Another officer searched.

8 Q. Was that Revels?

9 A. Yes.

10 Q. And Bryson, did Bryson help search the vehicle?

11 A. Bryson did assist in the search.

12 Q. What if anything -- Did you speak with either of  
13 those officers during the course of the search?

14 A. I did.

15 Q. What if anything was said to you?

16 A. Officer Bryson alerted me to the presence of a firearm  
17 under the passenger seat.

18 Q. Okay. And what steps did you and Officer Bryson take  
19 at that point?

20 A. We photographed the firearm as it laid and then once  
21 we had it photographed we took the firearm out from under  
22 the seat and made the firearm safe by unloading it.

23 Q. Okay. And during the course of this stop when you're  
24 getting out and checking on the third party who has shown  
25 up, checking on Mr. Govan who is being combative, do you

OFFICER WILLIAM LITTLE: DIRECT BY SOLICITOR EPTING

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1 hear the defendant Jayquan Wilmore say anything to anyone  
2 during that time?

3 A. At some point he made a statement to me that the  
4 firearm may be his girlfriends.

5 Q. Was that while you were speaking to Mr. Govan?

6 A. Yes.

7 Q. Did he say anything else to you at that time?

8 A. I don't recall anything else at that time.

9 Q. Okay. At some point -- What did you do after you  
10 photographed the gun?

11 A. We recovered the firearm and ran it through NCIC and  
12 received a hit back confirmation that the firearm was  
13 stolen.

14 Q. And what did you do at that point?

15 A. We -- I placed Wilmore -- Mr. Wilmore in detention by  
16 placing him in handcuffs.

17 Q. Okay. And at that point is anybody else being  
18 arrested at the same time?

19 A. Officer Revels was attempting to place Mr. Govan in  
20 cuffs.

21 Q. How did Mr. Govan react to that?

22 A. He - He didn't listen to the officers direction and  
23 became belligerent and said no that he shouldn't be  
24 arrested.

25 Q. What is anything -- Did Mr. Govan say anything to Mr.

OFFICER WILLIAM LITTLE: DIRECT BY SOLICITOR EPTING

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1 Wilmore?

2 A. I believe he made a statement like Bro or something  
3 along those lines.

4 Q. And did Mr. Wilmore make a statement after that?

5 A. Mr. Wilmore stated that its - made the statement its  
6 mine.

7 Q. Okay. And he made that statement as - was he in  
8 handcuffs as he made that statement?

9 A. Yes.

10 Q. What if anything -- Did he say that once, twice?

11 A. I believe it was twice.

12 Q. What if anything did you do after he made that  
13 statement?

14 A. I read him his Miranda Rights.

15 Q. And how are those Miranda Rights read? From memory?

16 A. From a card.

17 Q. Okay. Did he appear to understand the Miranda Rights?

18 A. Yes.

19 Q. At any course during this traffic stop basically from  
20 observation did anybody pull a gun on Mr. Wilmore?

21 A. No.

22 Q. Did anybody threaten him or promise him anything that  
23 you heard?

24 A. No.

25 Q. To make any statements whatsoever?

OFFICER WILLIAM LITTLE: DIRECT BY SOLICITOR EPTING

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1 A. No.

2 Q. You read him is Miranda Rights; is that correct?

3 A. Correct.

4 Q. What if anything did Mr. Wilmore ask you for after  
5 that?

6 A. He ask me to grab his hoodie out from the vehicle.

7 Q. Did he appear to understand his rights?

8 A. Yes.

9 Q. And did he make any further - - Did he ask you gather  
10 what?

11 A. His goodie.

12 Q. Okay. And did you?

13 A. Yes.

14 Q. And then what did you do with Mr. Wilmore?

15 A. I went to place him in the patrol car by conducting  
16 a search of his person before placing him in the patrol  
17 car.

18 Q. Did you have concerns about placing him in the patrol  
19 car in particularly?

20 A. Yes.

21 Q. What was those concerns?

22 A. If he had any weapons on him or on his person or any  
23 drugs on his person.

24 Q. Okay. What about drugs or contraband?

25 A. Not on his person.

1 Q. Okay. Did you search him?

2 A. Yes.

3 Q. Is that standard protocol before you put somebody in  
4 the back of your patrol car?

5 A. Yes.

6 Q. And what if any -- And did he -- And what if anything  
7 was said as you were patting him down and searching him to  
8 put in the back of your patrol car?

9 A. He didn't like me searching him. He told me that  
10 another officer had already searched him. I told him I  
11 understood that but before I put him in my car I was gonna  
12 search him. He was like you've already got the pistol.

13 Q. Okay. Did he say anything else at that point?

14 A. Not at that point.

15 Q. Did you -- What did you do after that?

16 A. Placed him in the patrol car.

17 Q. Okay. And did you retrieve his sweat shirt or jacket?

18 A. His goodie.

19 Q. Okay. And at that point is he taken to jail?

20 A. Yes.

21 Q. Was anything further done or said relevant to this  
22 case on the way to jail or at any other time that was not  
23 brought out on direct examination?

24 A. Not that I can recall.

25 Q. All right.

OFFICER WILLIAM LITTLE: CROSS BY MR. MERRITT

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1 SOLICITOR EPTING: That's all the questions I have for  
2 you at this time. Please answer any questions the defense  
3 counsel may have for you.

4 OFFICER LITTLE: Yes, sir.

5 CROSS-EXAMINATION

6 OFFICER WILLIAM LITTLE BY MR. MERRITT:

7 Q. Thanks for being here, Officer.

8 A. Yes, sir, thank you.

9 Q. Just a couple of questions I guess sort of broadly  
10 here. You were -- You have reviewed the video in the case;  
11 correct?

12 A. Yes.

13 Q. And you reviewed the Incident Report?

14 A. Yes.

15 Q. Okay. You're the primary officer in this particular  
16 investigation?

17 A. Correct.

18 Q. Okay. And how long have you been on the force?

19 A. For the city of Rock Hill or total?

20 Q. Total.

21 A. Nine years.

22 Q. Okay. Where did you work before the city of Rock  
23 Hill?

24 A. The city of Sumter.

25 Q. And what did you do there?

OFFICER WILLIAM LITTLE: CROSS BY MR. MERRITT

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1 A. Police officer.

2 Q. Okay. With the city?

3 A. Yes.

4 Q. Okay. And how long had you worked there?

5 A. Four years in the city of Sumter.

6 Q. Okay. And then did you go straight to Rock Hill City?

7 A. Correct.

8 Q. Okay. How long have you been there?

9 A. Five years.

10 Q. Five years? At the time of this stop four years?

11 A. Four and a half.

12 Q. Okay. Did you train for the city of Rock Hill?

13 A. Yes.

14 Q. How long was that training?

15 A. I believe it was seven weeks.

16 Q. And did you have to do the Police Academy again?

17 A. No.

18 Q. Okay. And how long was your training in Sumter?

19 A. The Police Academy was nine weeks and then the  
20 training program for the city of Sumter was sixteen weeks.

21 Q. Sixteen?

22 A. Yes.

23 Q. Okay. How much collective experience do you have  
24 being in a police car by yourself during stops?

25 A. Eight and a half years.



OFFICER WILLIAM LITTLE: CROSS BY MR. MERRITT

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1 Q. Would you consider yourself the most experienced  
2 officer in this group of officers?

3 A. Yes.

4 Q. Okay. And you're older as well; correct?

5 A. Yes.

6 Q. Okay. Did you do anything before you were a police  
7 officer?

8 A. I did three and a half years in state corrections.

9 Q. Okay. Now this was a traffic stop for a tag light;  
10 correct?

11 A. Correct.

12 Q. The car goes right by you.

13 A. Correct.

14 Q. As you see on the video you pull him over immediately;  
15 correct?

16 A. Correct.

17 Q. There's no attempt to get any information or to follow  
18 him for a minute to gain any more evidence in regards to  
19 what suspicious acts that he may be up to. Would you agree  
20 with that?

21 A. Correct.

22 Q. Okay. Is your predominate role when you're patrolling  
23 at night there in Rock Hill to enforce traffic code? What  
24 do you -- Do you have a predominate role there?

25 A. We do calls for service; we do traffic stops; we make

1 sure that we're visible in high crime high traffic areas.

2 Q. Okay. Now it's your testimony that the - you pull  
3 over for a tag light?

4 A. Correct. Improper equipment. The tag light was not  
5 operational at the time.

6 Q. Okay. Now you only write -- You inform them -- What  
7 do you inform them of -- When you pull 'em over what do yo  
8 inform them?

9 A. That the tag lights out.

10 Q. The tag lights out. And you're adding another traffic  
11 infraction here -- was -- At some point somebody says  
12 something about a tail light. I didn't know if you were  
13 just referencing a tail light being --

14 A. Sorry, I meant tag light.

15 Q. It was just a tag light?

16 A. Just a tag light.

17 Q. As far as your concerned. Okay.

18 (COURT'S EXHIBIT ONE IN-CAR VIDEO PUBLISHED TO THE  
19 COURT AT 12:36 PM.)

20 Q When do you first notice the tag lights out?

21 A. When the vehicle drives by me.

22 Q. Okay. And your lights are off; correct?

23 A. Right.

24 Q. Is it your testimony that right there you can't see  
25 the tag because the tag lights out?

OFFICER WILLIAM LITTLE: CROSS BY MR. MERRITT

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1 A. What's that?

2 Q. Is it your testimony that you can't see a tag light  
3 there?

4 A. It was prior to that.

5 Q. It was prior to that?

6 A. It is when the vehicle passed by.

7 Q. Okay. Unfortunately its not as easy to see on -- But  
8 at that point can you see the tag on the car?

9 A. I can see the break lights of the vehicle or the  
10 rear lights of the vehicle.

11 Q. Okay. Could you see the tag in between those two rear  
12 lights at least a square of some sort?

13 A. Not from -- Not from here.

14 Q. Okay. How far away do you think you are there?

15 A. Maybe forty feet.

16 Q. Were you aware the tag light statute references fifty  
17 feet; correct?

18 A. Correct.

19 Q. Your testimony is you're forty feet away there?

20 A. Estimate.

21 Q. All right. Now in a tag light stop typically how long  
22 does that take?

23 A. It just depends on what all is involved in the stop.

24 Q. Well let's assume it's in broad day light and there is  
25 no smell of marijuana. What task do you complete in

OFFICER WILLIAM LITTLE: CROSS BY MR. MERRITT

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1 conducting of the tag lights out?

2 A. I wouldn't be able to enforce the tag light violation  
3 during the day.

4 Q. That's a great point there. Let's assume it's at  
5 night time but there is no smell of marijuana.

6 A. Correct. Typically it's issue a citation it's fifteen  
7 to twenty minutes.

8 Q. What do you do in that fifteen to twenty minutes?

9 A. I -- You identify the driver, check all the  
10 information and then issue the citations.

11 Q. Does the tag light infraction include asking for  
12 registration?

13 A. Correct.

14 Q. Okay. If there were no smell of marijuana would it  
15 include anything else?

16 A. Say that again.

17 Q. Do you think it would include anything else beyond  
18 what you testified to to complete a tag light stop?

19 A. No, not with just the basic.

20 Q. But your testimony is that it would on an average  
21 take fifteen to twenty minutes; correct?

22 A. Approximately.

23 Q. Okay. Is it typical that three officers respond to  
24 a tag light stop?

25 A. Two patrol vehicles.

OFFICER WILLIAM LITTLE: CROSS BY MR. MERRITT

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1 Q. Do you need another officer to conduct the activities  
2 you discussed?

3 A. At night time we do.

4 Q. Okay. For safety reasons?

5 A. Correct.

6 Q. Okay. It helps you conduct the stop?

7 A. Correct.

8 Q. And that officer can do other things while you're  
9 conducting the basic traffic stop; correct?

10 A. Correct.

11 Q. Could search the vehicle and pull the guys out of the  
12 car; correct?

13 A. Correct.

14 Q. Okay. So having more officers would be your testimony  
15 it makes the stop go a lot faster?

16 A. No.

17 Q. Why not?

18 A. Because the contact officer is the officer that  
19 handles the traffic stop.

20 Q. Uh-huh.

21 A. So if it was just a basic traffic stop there would not  
22 be anything else for the other officers to do so it  
23 wouldn't make it go by any faster if there is more officers  
24 there for a basic traffic stop.

25 Q. Well you make a good point and you know early on you

1 say I've got -- As soon as you go to that window and you  
2 see -- you smell marijuana and you know you got probable  
3 cause to get into the vehicle; correct?

4 A. Correct.

5 Q. Now if you didn't have probable cause would it be your  
6 understanding that you could at least take 'em out of the  
7 car and pat 'em down for guns?

8 A. Correct.

9 Q. You could do that in a regular traffic stop; correct?

10 A. Yes.

11 Q. And if you had two officers on the scene at least that  
12 officer can conduct that regular pat down while you do the  
13 other activities regarding the stop; correct?

14 A. Possibly, yes.

15 Q. Okay. And if not -- And I'm not saying its  
16 necessarily inconsistent with what you said but if your  
17 regular traffic stop included a pat down having another  
18 officer would at least therefore in those set of  
19 circumstances make the stop go by faster. Would you agree  
20 with that?

21 A. Probably not.

22 Q. Okay. Now in this case you heard the officer before  
23 you kind of testify as to the basic time line; correct?

24 A. Correct.

25 Q. And you agree with those times?

OFFICER WILLIAM LITTLE: CROSS BY MR. MERRITT

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1 A. Correct.

2 Q. Okay. Now a second ago you pull 'em over immediately  
3 you don't -- you don't witness much driving; correct?

4 A. Correct.

5 Q. On your incident report you put the report in as the  
6 incident occurring at 11:42 at night; correct?

7 A. Okay.

8 Q. And --

9 A. I believe that was -- I believe that's the time.

10 Q. Okay. And you call the tag in on the car as you're  
11 stopping it; correct?

12 A. I believe so.

13 Q. Okay. And so if that's true you at least can see the  
14 tag when you were close enough ---

15 A. Actually --

16 Q. --- with your own lights.

17 A. Actually no. That tag had a paper tag on it.

18 Q. And you don't call in a number for -- related to the  
19 paper tag?

20 A. I don't remember if I did or not.

21 Q. If you don't mind can we check real quick to refresh  
22 your recollection?

23 (COURT'S ONE, IN CAR VIDEO, PUBLISHED TO THE COURT.)

24 Q. And at that point you're at least calling in some  
25 detail regarding the tag; correct?

OFFICER WILLIAM LITTLE: CROSS BY MR. MERRITT

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1 A. Sure.

2 Q. Okay. And you're still driving the car at that point;  
3 right?

4 A. Yes.

5 Q. Now within a minute of this you're at his car window;  
6 correct?

7 A. Correct.

8 Q. And you're able to help him find his insurance; his  
9 registration relatively quickly; right?

10 A. Correct.

11 Q. You at that moment you also smell the smell of  
12 marijuana; correct?

13 A. Correct.

14 Q. And, you know, without the smell of marijuana do you  
15 think there would have ever been okay to search the vehicle  
16 in this set of facts?

17 A. Without the smell --

18 Q. Yeah, if you'd never -- if you didn't have any smell  
19 of marijuana whatsoever. I mean do you in your view would  
20 you have searched the vehicle?

21 A. It's hard to say at that moment but I would - I mean  
22 stipulate or I would think not at that moment with just the  
23 basic facts.

24 Q. Sure. Okay. Good. That makes sense. The - Now  
25 you're back in your car by I guess -- Well to - in order to



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1 check the registration and insurance you're calling it in.

2 Is that accurate or is --

3 A. No.

4 Q. How would you describe you do that process?

5 A. We run that on the computer system.

6 Q. Okay. And you've got plenty -- You've got a big car;  
7 right, Tahoe?

8 A. Uh-huh.

9 Q. And you got room in there for a pure monitor?

10 A. Yes.

11 Q. And that monitor has access to what exactly?

12 A. The program that we use is called Zercher.

13 Q. Uh-huh.

14 A. It's a computer program that runs the NCIC, DMV for  
15 South Carolina.

16 Q. And all of that is on the same program; you just put  
17 the information in. Is that accurate?

18 A. Yes.

19 Q. Okay. And it's at that point that you -- And each  
20 time you run something its called a Query; is that  
21 accurate?

22 A. Yes.

23 Q. Okay. And at 11:42 a documentation is produced for  
24 every Query. Is that accurate too?

25 A. What's that?

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1 Q. Is a sheet of paper or documentation of some sort  
2 produced of every quirey?

3 A. Not necessarily.

4 Q. Okay. And just to establish a time line of when each  
5 Query is ran, does this piece of paper look familiar?

6 A. No.

7 Q. Okay. Does this sheet of paper appear to be produced  
8 by the Rock Hill City Police Department?

9 A. Yes.

10 Q. And this is for the purpose of recollecting memory  
11 that's all.

12 SOLICITOR EPTING: Your Honor, he said he didn't write  
13 that if I recall correctly.

14 MR. MERRITT: And we can clear --

15 THE COURT: You can only -- He can only use something  
16 to refresh his memory if it's something he produced.

17 Other wise you're sort of pitting one witness against  
18 the other. Or one person against a witness.

19 MR. MERRITT: My understanding of the rule, your  
20 Honor, is so long as I can -- I can establish that this  
21 piece of paper is produced at the time that he was  
22 observing; what he was observing; that it can be used  
23 merely for the purposes of refreshing his recollection, not  
24 for the purpose of entering it into evidence so that he can  
25 testify as to one thing occurred and so forth and I was -

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1 THE COURT: Who produced it?

2 MR. MERRITT: This one would be produced -- I have it  
3 in discovery and it appears to be produced by the Zercher  
4 program that the officer just referenced; the program that  
5 he is using to enter the quirey. I guess alternatively my  
6 position is I can use it just to refresh a recollection  
7 that the rule is he has to produce it.

8 THE COURT: Let me see it.

9 (DOCUMENT RECEIVED UP BY THE COURT.)

10 THE COURT: Have you shown it to Mr. Epting?

11 SOLICITOR EPTING: Yes, he has, your Honor.

12 MR. MERRITT: And our position here is that this is -  
13 that the officer is imputing information into the program  
14 Percher and that each time he does that it's called a  
15 Quirey. And in order for him to get the information out of  
16 the computer he has to include either the person's name or  
17 whether their license; depending on what it is he's looking  
18 for. If he's checking NCIC its my understanding that -

19 THE COURT: Well just -- What do you want to refresh  
20 his recollection to?

21 MR. MERRITT: Just the timing of making the Query  
22 that's all; for the purposes of this hearing.

23 THE COURT: I'll let you do that.

24 MR. MERRITT: Thank you, your Honor.

25 Q. Does this document appear to be produced by that

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1 Zuercher you mentioned?

2 A. Zuercher, yes.

3 Q. And does it appear to indicate that a Query was made  
4 on a vehicle registration at 11:42?

5 A. No vehicle tag.

6 Q. Okay. And does that Query appear to be made by you?

7 A. No.

8 Q. Okay. Who made that Query?

9 A. It looks like Ann Nevel.

10 Q. So are you calling Ms. Nevel at this time to do this  
11 or?

12 A. This was probably when I ran the tag at the very  
13 beginning of the stop.

14 Q. And that happened at 11:42?

15 A. 11:42.

16 Q. And that's also the time that the incident report  
17 says that this is logged in for the first time?

18 A. Correct.

19 Q. Okay. Now this particular one, and this is a vehicle  
20 registration Query?

21 A. Same vehicle license plate ---

22 Q. Okay.

23 A. --- Query.

24 Q. This is a vehicle license plate?

25 A. Correct.

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1 Q. Then this one is made by you; is a driver's license  
2 Query; correct?

3 A. Correct.

4 Q. And when you - And back to the vehicle registration.  
5 When you ran the registration you didn't see anything wrong  
6 with the registration of the vehicle; correct?

7 A. No.

8 Q. Everything was clear. And when you ran the driver's  
9 license did you see anything wrong with the driver's  
10 license?

11 A. No.

12 Q. And what time was that made?

13 A. The driver's license was 11:45.

14 Q. Okay. And then you made a Query regarding whether  
15 the person driving the car, Mr. Artavious Govan, was  
16 wanted; is that accurate?

17 A. Yes.

18 Q. And at that time you didn't see any outstanding  
19 warrants or anything for Mr. Govan did you?

20 A. Not at that time.

21 Q. Okay. And then you did another vehicle registration  
22 Query. Let's refresh your memory in regards to that.

23 A. Yes.

24 Q. What time is that one done?

25 A. This is at 11:49.

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1 Q. And how is that distinguished from the first  
2 registration Query?

3 A. This is running the vehicle identification number.

4 Q. The VIN number. Okay. And that would be separate.  
5 What would that - What kind of information could that get  
6 you?

7 A. If it was registered to anybody.

8 Q. Would you tell you if the vehicle was stolen?

9 A. It could.

10 Q. It could? And nothing came back negative in regards  
11 to the vehicle regis - the VIN number; correct?

12 A. I believe I had to run it again on that one.

13 Q. Okay. Now, at another time you run another Query  
14 in regards to the driver's license.

15 A. The VIN.

16 Q. And what time was --

17 A. That's right. I accidentally hit the driver's license  
18 Query for this and ran a VIN.

19 Q. Okay. That was a mistake?

20 A. Yes.

21 Q. What time was that made?

22 A. 23 - 11:50.

23 Q. And whose driver's license are you attempting?

24 A. Nobody's.

25 Q. Nobody's? That was just a mistake?

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1 A. Yes.

2 Q. And then another Query is made at 11:51; correct?

3 A. Correct.

4 Q. Okay. And what's that Query for?

5 A. VIN.

6 Q. The VIN? The same vehicle?

7 A. Yes.

8 Q. Okay. You know just to go ahead and get these  
9 documents out of the way, eventually you do run a Query  
10 regarding Mr. Wilmore's license; correct?

11 A. I believe so.

12 Q. And his driver's license Query what time did that  
13 occur?

14 A. I did not run this actually.

15 Q. Okay.

16 A. This was ran by Ann Nevels.

17 Q. Is that also done through communicating with the  
18 police department or?

19 A. This is probably when we ran -- Once we arrest  
20 somebody ---

21 Q. Uh-huh.

22 A. --- we run a criminal IQW and a criminal history.

23 Q. Okay.

24 A. Through dispatch. And just for procedure.

25 Q. Okay. And that happens at what -- approximate what

1 time?

2 A. 12:26.

3 Q. Okay. And then there was additional driver's license  
4 Query made on Mr. Wilmore after that?

5 A. Correct.

6 Q. And nothing comes back regarding his license does it?

7 A. He does not have a license.

8 Q. Okay. Thank you very much. Now you just testified  
9 that you pulled the car over between 11:40 or 11:42; right?

10 A. Estimate.

11 Q. An estimate. But does the Query show by 11:50 you'd  
12 been able to check all the information that you received  
13 during the course of the traffic stop; correct?

14 A. It was a little later than that.

15 Q. The last Query that I gave you one is at 11:50. So  
16 as you are right by 11:50 you are able to determine whether  
17 the vehicle was stolen and the VIN number was correct.

18 A. I believe there was another Query ran after 11:50.

19 Q. What would that be?

20 A. The vehicle identification out of North Carolina.  
21 I believe I said that was 11:52.

22 Q. And you just referenced that particular one?

23 A. Well that's the one you shared.

24 Q. We just discussed it. Yeah. And that was 11:52;  
25 correct? And that is the last time a Query is run at



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1 that point; correct?

2 A. I mean that's the last one that we have. Just  
3 because we run it doesn't mean that it ends up in the case  
4 file.

5 Q. Okay. That's fine. And do you know a Query that's  
6 not in the case file? It's definitely --

7 A. No.

8 Q. If you do know of one please if you recollect one.

9 A. Yeah.

10 Q. Let me know. Do you know?

11 A. No.

12 Q. Okay. Now at this point we talked about what you  
13 typically do or just a tag light stop not involving the  
14 smell of marijuana; correct?

15 A. Correct.

16 Q. And at that point you have completed the process.

17 Would you agree with that?

18 A. No.

19 Q. Okay. What's missing?

20 A. I haven't written a citation yet.

21 Q. You haven't written the citation yet?

22 A. Correct.

23 Q. Okay. Now long does that take?

24 A. Five to ten.

25 Q. Okay.

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1 A. Just depends on the statutes.

2 Q. Do you recollect when you wrote the citation?

3 A. After I ran all the information.

4 Q. Okay. And during this course you are also talking to  
5 the other officers; correct?

6 A. For a short time.

7 Q. Okay. Shortly you explain to them that you do smell  
8 marijuana; correct?

9 A. Correct.

10 Q. You tell Officer Revels and really you're talking to  
11 Officer Revels; correct?

12 A. Correct.

13 Q. And you tell him that you smell the smell of  
14 marijuana; right?

15 A. Yes.

16 Q. That the smell is faint; correct?

17 A. Yes.

18 Q. And you do explain to Officer Revels who has the least  
19 experience you therefore now have probable cause to search  
20 that vehicle; correct?

21 A. Correct.

22 Q. Now you say you don't need - And you say something  
23 like you don't need it to take them out of the car and  
24 frisk them; correct? Do you remember saying something like  
25 that?

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1 A. I don't recall.

2 Q. You don't recall? Okay. Now you also explained to  
3 take out Mr. Wilmore first; correct?

4 A. Correct.

5 Q. Now you weren't on the side of the car Mr. Wilmore  
6 was on; correct?

7 A. Correct.

8 Q. And the smell of marijuana was very faint; right?

9 A. Yes.

10 Q. So you don't necessarily have or you wouldn't be  
11 certain that the smell would be ----- to Mr. Wilmore would  
12 you?

13 A. No.

14 Q. Okay. But you say he takes Mr. Wilmore out first  
15 because he is more and I believe the word for how should I  
16 say it, forthcoming. Does that sound accurate?

17 A. I believe so.

18 Q. And easier to deal with than Mr. Govan; correct?

19 A. Yes.

20 Q. And Mr. Govan is quick to assert his constitutional  
21 rights and not try to talk to officer at all. Do you agree  
22 with that?

23 A. He spoke with me when I conducted the traffic stop.

24 Q. He did? Okay. Well what is it, do you remember what  
25 you observed that made you think that Mr. Wilmore would be

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1 more forthcoming than the other -- than the other?

2 A. I spoke with both of them during the initial contact.

3 Q. Uh-huh. Yeah. And do you remember seeing something,  
4 observing something there that would say mr. Wilmore was  
5 likely to be more honest with me than Mr. Govan?

6 A. Well he was just talking calmly.

7 Q. Okay. Confidently?

8 A. Calmly.

9 Q. Calmly. He was calm. Okay. Now, and I -- We  
10 established the time line a little bit earlier. You  
11 informed them to go back and try -- and search them; to go  
12 back and take 'em out of the car at the ten minute mark.  
13 Does that sound accurate to you?

14 A. I believe so.

15 Q. And after that at 12:27 there's another conversation  
16 in the vehicle while both officers are out of the car.  
17 Does that sound accurate?

18 A. Yes.

19 Q. And --

20 A. At what time?

21 Q. It's at 12 -- the 12:27 mark on the video. So twelve  
22 minutes, twenty-seven seconds into the actual stop itself.  
23 And I know this is so detailed and monogamous, but  
24 regardless, there is another conversation in the vehicle.

25 A. Yes.

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1 Q. And that's after they left?

2 A. Correct.

3 Q. Are you -- Who were you talking to?

4 A. I believe I was talking to myself.

5 Q. Okay. So there was no chance you were calling  
6 somebody on the radio to talk about -- Do you remember the  
7 context of that conversation?

8 A. Yes.

9 Q. It's rationalizing the reason for the stop; correct?

10 A. For the -

11 Q. For the search. I apologize.

12 A. For the search.

13 Q. Yeah. You don't think there's any chance you were  
14 talking to somebody on the radio?

15 A. There's the possibility I was on the phone with  
16 somebody. I can't recall.

17 Q. You've had a chance to review the video; is that  
18 right?

19 A. Uh-huh.

20 Q. And it sounds I guess is that your view is that you  
21 were talking to yourself?

22 A. It could be.

23 Q. Okay. Okay. And that last - that process and  
24 whatever else goes on in the car last for about five more  
25 minutes. Does that sound about right?

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1 A. I believe so.

2 Q. Okay. And at some point you get out of the car;  
3 correct?

4 A. Correct.

5 Q. And at that point the two individuals have been taken  
6 out of the car and frisked; right?

7 A. I wouldn't say they'd been frisked, no.

8 Q. Okay. Even patted down or?

9 A. I would say Mr. Wilmore was patted down.

10 Q. Uh-huh.

11 A. But I wouldn't say Mr. Govan had been ---

12 Q. Okay.

13 A. --- actually patted down.

14 Q. Okay. So I guess your testimony would be that you  
15 wanted to make sure that Mr. Govan was correctly patted  
16 down and therefore you later do do another pat down of  
17 Govan?

18 A. Correct.

19 Q. A real pat down or a more sufficient pat down?

20 A. Correct.

21 Q. Okay. Now you did testify at this point you weren't  
22 able to see anything in the vehicle; correct?

23 A. Correct.

24 Q. Okay. At this point no one in - And the point you  
25 get out of the car no one searched the car; right?

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1 A. No.

2 Q. No one searched the car. You inform the -----  
3 ----- would you agree with that?

4 A. Correct.

5 Q. Okay. And the other officers have gotten people out  
6 of the car and talked to them like you said. You've also  
7 ask for consent; correct?

8 A. Yes.

9 Q. And when you get out of the car you ask for consent.  
10 It's your understanding at this point you don't need  
11 consent; correct?

12 A. Correct.

13 Q. And you informed that to the other officers they  
14 understand they don't need consent; right?

15 A. Correct.

16 Q. Okay. The driver still says no and you explain to him  
17 about consent; correct? Or at least you get into a  
18 conversation about his constitutional rights and what he's  
19 saying about his constitutional rights.

20 A. I believe I explained probable cause, the probable  
21 cause to him.

22 Q. Okay. Now you never requested a K-9 Unit; correct?

23 A. For?

24 Q. Well you did say that you smelled marijuana, that you  
25 did smell marijuana. That's the main reason the stop has

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1 taken as long as its -- is it the smell of marijuana;  
2 correct?

3 A. Correct.

4 Q. And but at no time did you request a K-9 Unit?

5 A. We don't have K-9s for that.

6 Q. For what?

7 A. For drugs.

8 Q. Okay. Rock Hill City doesn't have K-9's ---

9 A. Right.

10 Q. --- is what you're saying? Okay. But the Sheriff's  
11 Department does have a K-9 Unit; correct?

12 A. Possibly.

13 Q. And the Highway Patrols got a K-9 Unit?

14 A. Possibly. I'm not sure.

15 Q. And it's your understanding that you don't have a --  
16 you're not aware of a way in which a -- to get a K-9 Unit  
17 to the scene?

18 A. Not for drugs.

19 Q. Okay.

20 Q. Okay. Okay. Now all the statements in regards to  
21 Mr. Govan and in regards to him taking ownership and  
22 possession of the gun happened before you read Miranda.  
23 Would you agree with that?

24 A. Yes.

25 THE COURT: Mr. Govan or Mr. Wilmore?



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1 MR. MERRITT: Mr. Wilmore. I apologize.

2 A. Can you ask that again.

3 Q. Yeah. All the statements that you've testified in  
4 regards to Mr. Wilmore taking ownership of the gun, that  
5 all occurred before Miranda is read; correct?

6 A. Taking ownership? Yes.

7 Q. Okay. And that includes that it might be his  
8 girlfriend's gun. He interjects that at some point;  
9 correct?

10 A. Correct.

11 Q. He interjects that during your conversation with Mr.  
12 Govan; correct?

13 A. Correct.

14 Q. And at this point the other officers have at least  
15 already attempted to pat down Mr. Govan having had a  
16 conversation with Mr. Govan at all; correct?

17 A. I believe --

18 Q. When you get out of the car I'd say.

19 A. They patted him down? Is that what you're asking?

20 Q. Yeah, I'm saying after Mr. Govan is sitting out there  
21 for a while he's already been patted down and he's already  
22 been talked to by the officers. At that point you engage  
23 in that conversation we've already talked about Mr. Govan;  
24 correct?

25 A. Which conversation?

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1 Q. The conversation where for about ten minutes Mr.  
2 Govan gets angry and refers to his constitutional rights;  
3 does not consent to the search of the vehicle; correct?

4 A. Yes, I spoke with him about that.

5 Q. And you at this point during that conversation the  
6 second conversation with Mr. Govan, you're first  
7 conversation with Mr. Govan, is when Mr. Wilmore interjects  
8 it might be my girlfriend's gun?

9 A. No.

10 Q. Okay. And it happens -- You're right. I apologize.

11 The search of the vehicle happens which we established  
12 earlier twenty-two minutes and thirty seconds; correct?

13 A. I believe so.

14 Q. Then you have a second conversation with Mr. Govan and  
15 it's about the gun; correct?

16 A. I don't believe I was talking to him about the gun.

17 Q. No, y'all had found the gun at that point; correct?

18 A. Yes.

19 Q. And it's after this point that we established earlier  
20 about twenty-two minutes, twenty-two and a half minutes  
21 into to the stop; correct?

22 A. That the gun was found.

23 Q. Yeah. Cause you wouldn't talk about the gun before  
24 it was found; correct?

25 A. Yes.

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1 Q. And at that point you're confronting Govan and Wilmore  
2 with the gun; correct?

3 A. I'm not no.

4 Q. You're not?

5 A. No.

6 Q. Is it your understanding at this point have you made  
7 a determination as to the gun it likely is?

8 A. At which point?

9 Q. When the gun is initially found.

10 A. No.

11 Q. You haven't?

12 A. We have not.

13 Q. If you had to say would you say who had the gun?

14 SOLICITOR EPTING: Your Honor, he doesn't -

15 THE COURT: I sustain the objection.

16 BY MR. MERRITT:

17 Q. But at that point you have a conversation with Mr.  
18 Govan or somebody's having a conversation with Mr. Govan  
19 that you're observing and that's when Mr. Wilmore  
20 interjects it might be his girlfriends gun.

21 A. Yes, I'm having a conversation with him.

22 Q. Okay.

23 A. With Mr. Govan.

24 Q. And at that point we're well into twenty over twenty  
25 minutes into the stop; correct?

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1 A. I would -- I agree.

2 Q. It's not your testimony that Mr. Wilmore was free to  
3 leave at that moment; correct?

4 A. No.

5 Q. And their responding to the fact that y'all had taken  
6 the gun now and trying to figure out whose gun it is;  
7 right?

8 A. At that point we had -- we hadn't actually touched  
9 the gun or mentioned it.

10 Q. And is that only your input that you've confronted  
11 them with the fact that you had found the gun; right?

12 A. Yes.

13 Q. And during this conversation is where Mr. Wilmore  
14 interjects this. And it's your testimony that you hadn't  
15 made the determination as to who it could have been;  
16 correct?

17 A. No.

18 Q. And you're trying to now figure out who it could have  
19 been; right?

20 A. I don't believe so.

21 Q. You don't think so? You found the gun underneath the  
22 seat; right?

23 A. Correct.

24 Q. And it's your understanding that it must be registered  
25 to somebody. That's illegal probably; right?

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1 A. Correct. Well --

2 Q. Depending on who it is?

3 A. It determines - it depends on if they have a permit or  
4 not.

5 Q. Depends on whether or not they have a permit. Sure.

6 So it would be important to figure out whose gun it is  
7 at this point?

8 A. That is still our main -- our main focus at that  
9 point.

10 Q. What was your main focus at that point?

11 A. To search the - the completed search of the vehicle.

12 Q. The completed search of the vehicle. But in talking  
13 to Mr. Govan and Mr. Wilmore and where Mr. Wilmore  
14 interjects that that might be my girlfriends gun that is --  
15 the purpose of that is to figure out whose gun it is.  
16 Would you agree with that?

17 A. I don't recall what the conversation with Mr. Govan  
18 was at that time.

19 Q. Okay. But you do recollect that Mr. Wilmore just  
20 said at some point it might be my girlfriend's gun?

21 A. Yes.

22 Q. Okay. Do you remember at some point you're directing  
23 questions to Mr. Wilmore what kind of gun it is?

24 A. Yes.

25 Q. And that's you; correct?

1 A. Yes.

2 Q. And it was four questions in concession. What kind of  
3 gun is it? What -- I believe it's the brand that you refer  
4 to is as, what brand is it?

5 A. I was asking what kind his girlfriend's gun was.

6 Q. Uh-huh.

7 A. Not what that gun itself was.

8 Q. At that point you believe it might be the girlfriend's  
9 gun?

10 A. We didn't know.

11 Q. Okay. So you ask four questions. Do you remember the  
12 questions?

13 A. I don't.

14 Q. Okay. That question occurs before Miranda; correct?

15 A. Yes.

16 Q. Mr. Wilmore is not free to leave; right? If he left  
17 at that moment you would arrest Mr. Wilmore when you were  
18 asking him the questions?

19 A. I can't say we would have arrested him but if he had  
20 attempted to leave we probably would have detained him.

21 Q. You would -- There's -- Is there any chance you  
22 would have just let him walk away at that point?

23 A. No.

24 Q. Okay. And you're asking four specific measured  
25 questions about the gun and whose gun it is; correct?



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1 A. Not that gun in particular.

2 Q. His girlfriend's gun?

3 A. Correct.

4 Q. And you -- Are you testifying the four questions are  
5 ask in reference to the gun you just found underneath the  
6 seat?

7 A. Correct.

8 Q. Can you explain your position on that?

9 A. He's made a statement that his girlfriend had a gun  
10 and it may be the gun that's under the seat.

11 Q. Uh-huh.

12 A. So I ask him about what kind of gun his girlfriend  
13 had to see what kind of gun that she had that he was  
14 telling us that may be in the car.

15 Q. So I guess the purpose of that would be to see whether  
16 or not he's lying to you about what kind of gun his  
17 girlfriend has?

18 A. No, we were just trying to find out what kind of gun  
19 his girlfriend has to see if it matches up to what that gun  
20 is.

21 Q. The gun you found in the car?

22 A. Yes.

23 Q. Okay. So would you concede that the questions are  
24 these to determine ultimately whose gun -- the gun in the  
25 car is? Now matter how you get there at some point that's



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1 what you're trying to do.

2 A. Yes.

3 Q. Okay. Thank you, Officer. Now at some point you say  
4 you decide to put cuffs on Mr. - on both people; correct?

5 A. Correct.

6 Q. And when you do that do you know whose gun it is?

7 A. No.

8 Q. That's before you do that question that we just  
9 discussed; right? The cuffs.

10 A. What's that?

11 Q. When we talked about --

12 A. The cuffs are after.

13 Q. The cuffs are after the four questions?

14 A. Correct.

15 Q. Okay. So at that point you still don't really know  
16 -- your putting - you're putting cuffs on both people;  
17 right?

18 A. Correct.

19 Q. Okay. So at that point you still are alleging that  
20 Mr. Govan then says come on Bro? Come on Bro, something  
21 like that.

22 A. I know he makes the statement, Bro.

23 Q. Did you observe that?

24 A. I was standing there yes.

25 Q. Okay. Can you - How did he say that?

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1 A. Bro.

2 Q. Do you remember the context in which he says or  
3 responding to something in particular?

4 A. I don't believe he was responding to anything.

5 Q. Okay. Now eventually you got him into cuffs - Mr.  
6 Wilmore in handcuffs and they ask you - and he says you  
7 have everything, you have the gun there is nothing else;  
8 correct?

9 A. That's before I put him in the patrol car.

10 Q. Yeah. At that point you read Miranda; right?

11 A. Correct.

12 Q. And but then you do say I'm -- I'm not - right after  
13 you read him Miranda you read from your card; correct?

14 Did you hear yourself read Miranda earlier?

15 A. Yes.

16 Q. Okay. Did you agree that it was pretty quick reading  
17 him Miranda?

18 A. Reading it from a card.

19 Q. Okay.

20 A. I would say it was normal.

21 Q. It was normal? Okay. And you immediately after you  
22 read Miranda to say listen you've been honest I don't want  
23 to hit you with another charge whose gun is it; correct?

24 A. No.

25 Q. You don't? I think it's -- If you don't mind I just

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1 want to refresh your recollection of what happened there  
2 and respond to the question correctly in regards to what I  
3 said. Do you mind that?

4 A. No.

5 Q. Okay.

6 (COURT'S EXHIBIT ONE, IN CAR VIDEO, PUBLISHED TO THE  
7 COURT.)

8 Q. And I will withdraw my question about you reading the  
9 Miranda Rights quickly. Its difficult to hear. But beyond  
10 that at that point you do search him after you Miranda;  
11 correct?'

12 A. Yes.

13 Q. And you do ask about whether or not - elicited the  
14 statement about whether or not he had anything else in the  
15 car; whether the gun was his; right?

16 A. No.

17 Q. Okay. Well how do you do it?

18 A. I never ask him if the gun was his.

19 Q. Okay.

20 A. I ask him if he had anything else on him because I  
21 smelled the odor of marijuana coming from his person at  
22 that time.

23 Q. That's right. And after that I believe at some  
24 point you then say that - that I don't want to hit you with  
25 another charge or anything, you been honest, but you ask a

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1 question?

2 A. No. I state you told us the gun is yours.

3 Q. Uh-huh. So you're saying --

4 A. I'm not asking him --

5 Q. So you're saying then after that he's not responding  
6 to any question whatsoever. He's not respond - He doesn't  
7 respond to you in regards to this gun after that?

8 A. Not after no.

9 Q. Play everything we heard, anything after that there's  
10 no admission in regards to what Mr. Wilmore says that you  
11 witnessed. Is that accurate?

12 A. Can you ask that again?

13 Q. Yes. So we've talked about a couple of times Mr.  
14 Wilmore statements may indicate that the gun was in the  
15 car. There has been two now. One where Mr. Govan is being  
16 put in cuffs and Mr. Govan says something about Bra, Bro.  
17 And then Mr. Wilmore says something about it being his gun;  
18 right? Do you remember that one?

19 A. Yeah, he said it's mine.

20 Q. And that's in regards to ownership of the gun. And  
21 then statement two is when you have got him in cuffs and he  
22 says you got everything in the car, that's all. Right?

23 Do you remember hearing that one?

24 A. Yeah, I don't have anything else, you already got the  
25 pistol.

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1 Q. Those are the only two statements cause afterwards  
2 you know this video is not great, you would agree with  
3 that; correct? There is some sort of noise going on and  
4 it's hard to hear everything; right?

5 A. Correct.

6 Q. And there's something indecipherable that occurs after the  
7 point of which you ask him, you say, I don't want -- we  
8 have these other charges -- we don't want to go after any  
9 other charges you been honest. There is some indecipherable  
10 exchange. Did you hear that? Its just words are said  
11 between people.

12 A. No. I said you been honest with us. You told us its  
13 your gun.

14 Q. Exactly. And nothing there -- he doesn't - You're  
15 not saying that he responds in a way there that indicates  
16 ownership of the gun; it's the previous things he said;  
17 correct?

18 A. Correct.

19 Q. Okay. So then what we just heard was not an admission  
20 in regard to having the gun. That last part; not in the  
21 two statements we just talked about --

22 A. No. No its just me talking to him.

23 Q. That's just you talking. Okay. And we got to ask  
24 you this. The purpose of this hearing is to determine what  
25 statements, you know, relate to him admitting perhaps that

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1 he owns that gun; right? And are you aware of anything  
2 else in the course of the investigation that would indicate  
3 other than what we've talked about ownership of the gun by  
4 Mr. Wilmore?

5 A. No.

6 Q. And the purpose as we said the video is not very  
7 clear; right? Or it's hard to hear; is that right?

8 A. Which part?

9 Q. Generally it's hard to hear a lot of it but beyond  
10 what we've heard in the video you don't plan on testifying  
11 that there's anything else Mr. Wilmore said?

12 A. No.

13 Q. In ownership of the gun. Everything is on the video  
14 and we discussed it thoroughly.

15 A. Correct.

16 Q. Would you agree with that?

17 A. Yes.

18 MR. MERRITT: Thank you, Officer.

19 No further questions.

20 SOLICITOR EPTING: Nothing from the State.

21 THE COURT: You can step down and have a seat with  
22 counsel.

23 (WITNESS LEAVING WITNESS STAND.)

24 THE COURT: Anything further from the State?

25 SOLICITOR EPTING: No, Your Honor, that's the state

1 recitation.

2 THE COURT: Any witnesses on behalf of the Defense?

3 MR. MERRITT: Not for the purposes of these motions.

4 We do have some motions.

5 THE COURT: All right. Tell me your motions.

6 MR. MERRITT: We do ask for - Well the first thing I  
7 would be curious -- would ask the court is in regards to  
8 timing, do we still plan on having the jury come back at  
9 two o'clock?

10 THE COURT: Yeah, but we probably won't get started  
11 then because it's already a quarter after one.

12 MR. MERRITT: Yes. And will endeavor to get quicker  
13 at this thing that we're doing here. But would it be  
14 possible -- should we -- when would y'all want to break for  
15 lunch?

16 THE COURT: It suites me to break and then come back  
17 and do the motions.

18 MR. MERRITT: Would that be okay with . . .

19 SOLICITOR EPTING: The only issue we would have is if  
20 redactions are ordered we would need additional time to do  
21 those.

22 THE COURT: All right, we'll do the redaction part.

23 Anything you want redacted from the already redacted  
24 or unredacted or already redacted?

25 MR. MERRITT: Well, yeah, okay, the statements that we

1 would be challenging and I guess we're essentially kind of  
2 covering to some extent this Jackson v. Denno issue now, we  
3 would be requesting that the statements before Miranda is  
4 read after they've been read side for over fifteen minutes  
5 be redacted. We would request that the interjection by Mr.  
6 Wilmore that it might be his girlfriend's gun be redacted  
7 under both the Fifth and the Fourth Amendment.

8 We request that we move to suppress the questioning  
9 which occurs, the four questions that occur before Miranda  
10 when the officer is asking specifically about the gun be  
11 redacted that we discussed and we talked about subsequent  
12 to those statement.

13 We would ask that both when he admits to the having  
14 the gun in the car after Mr. Govan says this Bro comment  
15 we've heard so much enough about also be redacted under the  
16 Fifth Amendment and everyone's under the Fifth and the  
17 Fourth Amendment.

18 For the purposes of redaction the argument in regards  
19 to the phrase Bro has nothing to do with the Fifth or the  
20 Fourth Amendment but that's just simply hearsay - Bro. It  
21 is impossible, it's definitely being and we can talk about  
22 the substance of the hearsay argument in a second. There  
23 is an indecivable comment towards the end when the  
24 officer's already got him in cuffs which the officer has  
25 testified is clearly not an admission, we would ask for



1 that to be redacted. That would be essentially just a 403  
2 argument. And if it is being interpreted as an admission I  
3 guess which is the reason I think the State would use it we  
4 would be making the same argument under the Fifth and the  
5 Fourth Amendment. At that point this is post Miranda so we  
6 recognize our Fifth Amendment arguments not as strong.

7 And I believe those are the statements.

8 THE COURT: All right. Mr. Epting.

9 SOLICITOR EPTING: Your Honor, as to the girlfriend's  
10 statement, it appears that statement was made according to  
11 the testimony that was elicited not in response to  
12 interrogation but to - but by the defendant asserting  
13 himself in a conversation that he's not having. Mr. Govan  
14 and another officer talking and it appears that Mr. Wilmore  
15 walks up and says hey, it might be my girlfriend's gun. So  
16 I don't think that was taken by interrogation and therefore  
17 would not run a fowl of Miranda.

18 As far as him being around people who are smoking I  
19 think that's res geste of the case. We're talking about  
20 the odor of marijuana; marijuana not being found; him  
21 offering that statement, I don't think is particularly  
22 incriminating at that point because he's not admitting to  
23 committing a crime; just admitting to having been around  
24 people wince the odor.

25 As far as the statements post Miranda he was read

1 Miranda properly and appeared to understand his rights and  
2 everything else said after that, your Honor. I believe  
3 it's both voluntary and in compliance with Miranda.

4 Your Honor, I would like to point out, Mr. -- You can  
5 see on the video during the course of the traffic stop the  
6 defendant walks off seen several times to talk to this  
7 third party who's entered. While he was not free to leave  
8 as the course of this traffic stop as they're doing their  
9 investigation I don't believe that arises to the custody  
10 standard but which would even evoke Miranda at that point  
11 in time.

12 MR. MERRITT: In regards to the girlfriend's  
13 statement, all these in our opinion if we went on the fact  
14 that the stop at this point was extended an unreasonable  
15 length -

16 THE COURT: Well let me address that first. I know  
17 what all your issues are. I'll be glad to hear from you  
18 but we discussed these in chambers earlier and I can go  
19 ahead and make a finding that the timing was not -- long  
20 enough or excessive amount of time. I find that the State  
21 -- the police had the right to detain at the time they did  
22 detain based on the smell of marijuana which gave them the  
23 right and the probable cause to execute a search and based  
24 on the legal -- their right to make a legal search and the  
25 time it took to make the search that I find that the time

1 is not excessive.

2 MR. MERRITT: And we would just note, you know we  
3 would want to point out a couple of things under Rodriguez  
4 v. United States that there the stop was seven to eight  
5 minutes. It was for the purpose of conducting a K-9 stop  
6 for the purposes of smelling marijuana, and under those  
7 circumstances the Court did establish ----- rule in  
8 regards to when the purposes of stops are completed. At  
9 that point the authority to seize is subject to this  
10 argument that it was unreasonably long.

11 THE COURT: Yeah, I heard the argument and I said that  
12 I find it is unreasonably long.

13 MR. MERRITT: In regards to the Fifth Amendment, the  
14 four questions in regards to, you know, whose gun is it;  
15 what kind of gun does your girlfriend have and so forth,  
16 are deliberately being elicited by the officers.

17 THE COURT: Those were questions -- they weren't  
18 elected by the officers. They were questions by the  
19 officer that emanated from reportedly allegedly Mr. Wilmore  
20 saying it might be his girlfriend's gun.

21 MR. MERRITT: Yes. So they're asking him questions  
22 when he's not free to leave. They found the gun now  
23 they're gonna charge him -

24 THE COURT: They never ask him. But go ahead, go  
25 ahead.

1 MR. MERRITT: They're gonna charge somebody with the  
2 gun and they're eliciting - What I meant to say was they  
3 were eliciting Mr. Wilmore statements. You know its our  
4 position that they are in custody and they're not free to  
5 leave they've now been roadside for half an hour talking to  
6 the officers and we would ask to at least redact those four  
7 questions pre-Miranda.

8 THE COURT: What do you say about that, Mr. Epting?

9 SOLICITOR EPTING: I still don't believe they were in  
10 custody within the purposes of the Miranda and it's  
11 progeny. At that point they are being ask questions. It  
12 is responsive to something that he told them earlier  
13 regarding the possible ownership of the gun but at that  
14 time I don't believe they were in custody individually  
15 under case law.

16 THE COURT: I agree with Mr. Epting and I will not  
17 suppress those. What next?

18 MR. MERRITT: In regards to the - In regards to the  
19 Bro statement, I mean that one I don't know how it's being  
20 inferred here but the purposes of the Bro statement and the  
21 only reason the State elicited it is that Mr. Wilmore and  
22 Mr. Govan is stating to Mr. Wilmore I guess admit to the  
23 gun being yours. Mr. --

24 THE COURT: That's what -- That's why we have the jury  
25 for the jury to decide what that meant.

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1 MR. MERRITT: And I am, I do, the State is admitting  
2 it for the purpose that that's true, that Mr. Wilmore is in  
3 fact that's what he's saying, but he is in fact telling him  
4 to take ownership of the gun.

5 THE COURT: Well I -

6 MR. MERRITT: You can't cross-examine -

7 THE COURT: I agree with that.

8 MR. MERRITT: Okay. So we would just say under -

9 Okay. So the suppressing mentioning of the word Bro.

10 THE COURT: Well I deny that. He said Bro and then it  
11 was a response of Mr. Wilmore it's mine it's mine, whether  
12 that -- I mean what the intention of Mr. Govan saying Bro  
13 is not really relevant. What's relevant is he's made that  
14 statement and in response for whatever reason was by Mr.  
15 Wilmore was that it's mine it's mine.

16 MR. MERRITT: And we would just note the other  
17 argument there is not being able to cross examine Mr. Govan  
18 as to the purpose of that statement using both the  
19 statement and the response by Mr. Wilmore we're unable to  
20 get to what he meant by that; what the purposes of it were  
21 so we just state that the admission of both of those  
22 statements would violate our right to confront Mr. Govan.

23 THE COURT: I -- And your motion is to redact --

24 MR. MERRITT: To suppress - Just redact the Bro in  
25 Mr. Wilmore's response.

1 THE COURT: That's denied.

2 MR. MERRITT: Had his Miranda and all the statements  
3 really we are making this arguments in regards to  
4 unreasonable extension of the stop. We just want to  
5 understand to, you know, the court making it both under the  
6 state Constitution and the federal Constitution and we do  
7 have case law if the court is interested in seeing it that  
8 says if it is a close call; if it is a difficult decision  
9 the State should be leaning - we should be leaning towards  
10 you know utilizing the Fourth Amendment, the state  
11 Constitution is stronger and provides more constitution and  
12 more protection under the Fourth Amendment because it does  
13 include the phrase protecting people's privacy, the right  
14 to privacy which is in the Fourth Amendment.

15 So there is some case law addressing that  
16 determination so we are making the argument in regards to  
17 the extension of the stop in regards to the stop itself.

18 And I guess we'll get to that point. We're getting a  
19 lot of findings here so we may be able to save a lot of  
20 time when we get back but either way.

21 THE COURT: I've already made a finding on time so I  
22 don't want to cut you short but you continue to argue that  
23 is -

24 MR. MERRITT: Well I'm just trying to preserve the  
25 objection in regards to the state constitution. That's

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1        what it says so we object in regards to the entry of those  
2        statements to the same argument under the state  
3        constitution is all.

4                THE COURT: All right. What else?

5                MR. MERRITT: And I -- that motion is denied on that  
6        one?

7                THE COURT: Oh, yeah. I thought I had already denied  
8        it.

9                MR. MERRITT: I hadn't made one on the state  
10       constitution. I was just trying to make a record on that  
11       one. And finally, you know, we would ask during the break  
12       if you would look at the stop itself. There is testimony  
13       in regards to how far away you can see the actual tag  
14       light. The officer testifies about forty yards away and if  
15       you were to see the video on the laptop the tag light does  
16       appear to be visible from more than fifty miles away.

17                THE COURT: Fifty miles?

18                MR. MERRITT: Fifty miles?

19                MR. MERRITT: Fifty yards away. Fifty yards away.  
20       And the statute does require fifty yards visibility. It  
21       does appear to at least arguably be lit at that point.

22                THE COURT: Well if it requires fifty and you couldn't  
23       see it at forty you're not gonna see it at fifty.

24                MR. MERRITT: Yeah, and our testimony is because the  
25       lights are -- I mean our argument here is that the lights

1 aren't completely dim, on the laptop itself, you can see it  
2 well before we actually stop it for the officer when he  
3 said you could see it about forty feet away.

4 THE COURT: So your motion is it's an illegal stop?

5 MR. MERRITT: That would be an illegal stop as to the  
6 Fourth Amendment.

7 THE COURT: All right. I find that the officer made  
8 a in-the-field determination that the violation and he made  
9 a stop, and I guess it would be a question as to whether or  
10 not your client could raise it anyway, and whether it would  
11 have to be raised on Mr. Govan, but regardless I find the  
12 stop was proper.

13 MR. MERRITT: And in regards to both the stop itself  
14 and in regards to the reasonable extension of the stop  
15 which is more the Terry line of cases do you -- is there a  
16 finding in regards to Mr. Wilmore's standing? Does he at  
17 least have the standing to insist upon the reasonable  
18 extension of the unreasonable extension of the stop or do  
19 you -- do we have a finding in regards to his standing?

20 THE COURT: He -- What do you have to say about that?

21 I don't quite understand.

22 SOLICITOR EPTING: Your Honor, I believe based upon  
23 your ruling prior to the stop and the search was proper we  
24 don't need to reach that issue. I do have case law on that  
25 if your Honor feels that we need to litigate that here



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1 today, but I think you're finding as to the extension of  
2 the stop was dispositive in that

3 THE COURT: Well you raised it so I guess he has  
4 standing to raise it and it's been raised and I ruled.

5 MR. MERRITT: Thank you, your Honor.

6 No further motions.

7 THE COURT: All right. Let's break till two thirty  
8 then and we'll be ready to get the jury up at two thirty.

9 Mr. Wilmore is to remain incarcerated while during the  
10 trial.

11 SOLICITOR EPTING: Thank you, your Honor.

12 (COURT IN LUNCH RECESS AT 01:32 PM.)

13 (COURT BACK IN SESSION AT 02:42 PM.)

14 THE COURT: Good afternoon. Take your seats.

15 The State ready?

16 SOLICITOR EPTING: The State's ready, your Honor.

17 THE COURT: Defense ready?

18 MR. MERRITT: Could we approach briefly?

19 (BENCH CONFERENCE OFF THE RECORD AT 02:42 PM.)

20 THE COURT: Call me when you get the jury up.

21 (COURT AT EASE 02:44 PM.)

22 (COURT BACK IN SESSION AT 03:12 PM.)

23 THE COURT: Is the State ready to proceed?

24 SOLICITOR EPTING: State's ready, your Honor.

25 THE COURT: Defense?

1 MS. INZERILLO: Yes, your Honor.

2 THE COURT: All right. Bring up the jury and be  
3 seated.

4 (JURY ENTERS COURTROOM AT 03:16 PM.)

5 THE COURT: Members of the jury panel, I'm John Hayes  
6 from Rock Hill. I along with Judge Cole are holding court  
7 here this week. I am here, this is my home circuit, along  
8 with Judge Hall who is not here this week. We're starting  
9 the first trial in this courtroom for the week at this time  
10 and that is the case of the State versus Jayquan Dante  
11 Wilmore.

12 Mr. Wilmore, will you please stand and let the jury  
13 see who you are. Mr. Wilmore is represented by Zach  
14 Merritt and Melissa Inzerillo of the Public Defender's  
15 Office.

16 (ATTORNEYS MERRITT AND INZERILLO STAND WITH  
17 DEFENDANT/NOW ARE SEATED)

18 THE COURT: The state is represented by Mr. Chris  
19 Epting and Mr. Ryan Newkirk with the solicitor's office.

20 (SOLICITOR'S STAND.)

21 THE COURT: You may be seated. Mr. Wilmore is charged  
22 with the offense, a statutory offense. That is a law  
23 enacted by our legislature. He's charged with unlawful  
24 carrying a handgun in violation of the laws of this state  
25 on or about December 22<sup>nd</sup>, 2015. This happened in the area

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1 of Flint Hill Street in Rock Hill.

2 First, any of you related by blood or marriage, or, do  
3 any of you know or acquainted with any of the five  
4 individuals we just met, the four attorneys or Mr. Wilmore;  
5 if so, please stand?

6 Okay, yes, ma'am your name and number?

7 A. My juror number is one thirty-eight. My name is  
8 Caitlin McGlothlin and I know one of the prosecutors.

9 THE COURT: Which one?

10 MS. MCGLOTIN: Mr. Newkirk.

11 THE COURT: All right. Would the fact that you are  
12 acquainted with Mr. Newkirk affect your ability to be fair  
13 and impartial in the trial of this case?

14 MS. MCGLOTIN: No.

15 THE COURT: Okay. Thank you. You remain with us. We  
16 appreciate your sharing that.

17 Are any of you or a member of your family associated  
18 with either the York County Solicitor's Office or the  
19 Sixteenth Circuit Solicitor's Office, Mr. Kevin Brackett  
20 and his staff, or, the Public Defender's Office, Mr. Harry  
21 Dest and his staff; if so, please stand?

22 Okay, yes, sir.

23 A. I guess as the county manager I work with both of  
24 these departments.

25 THE COURT: Well I know who you are but we need to get

1 your name and number.

2 A. Oh, I'm sorry. William P. Shanahan, Junior and I'm  
3 a manager but I work with both offices and it wouldn't  
4 affect my decision either way.

5 THE COURT: Okay. You can be fair and impartial?

6 MR. PETERSON: Yes.

7 THE COURT: Okay. Thank you. Do any of you or have  
8 any of you heard anything about this case; know about it  
9 from any source whatsoever? Or have any of you formed or  
10 expressed any opinion about any matter or issue that would  
11 be involved in a case - this case; if so, please stand?

12 No one stands.

13 Were any of you members of the Grand Jury which passed  
14 on this indictment at an earlier time; if so, please stand?

15 No one stands.

16 Are any of you or a member of your immediate family  
17 involved in law enforcement at any level, or in the  
18 prosecution of criminal cases at any level? That is  
19 anything from a air Marshall to an MP to a sheriff's  
20 officer, police officer, federal prosecutor, US Attorney,  
21 Solicitor; anything like that; if so, please stand?

22 And what I'll do is we'll go back and even though  
23 you've just - You have to stand more than once you still  
24 have to put your name and number on the record because we  
25 have to have this in case somebody is later hearing this so

1 we'll start and work our way back.

2 Yes, sir.

3 A. William P. Shanahan, I'm a manager I have a son that's  
4 a sheriff's deputy in Cowetta County, Georgia.

5 THE COURT: Just remain standing right now.

6 And do tell me why you're standing; that is, that  
7 Uncle Joe is a sheriff's officer or something like that.

8 Yes, sir.

9 A. Michael Young, Juror Number Two, four, nine. I'm a  
10 former deputy sheriff police officer and special agent for  
11 the North Carolina Department of Revenue special agent.

12 THE COURT: Thank you. Yes, sir.

13 A. Number Twenty-four, Terrance Buckley. My father is  
14 a retired deputy sheriff and my brother is a ADA in New  
15 York.

16 THE COURT: Yes, ma'am.

17 A. One sixty-seven, Stacy Peterson. I work for  
18 Mecklinburg County Sheriff's Office.

19 THE COURT: Okay. Yes, ma'am.

20 A. (INAUDIBLE.)

21 THE COURT: You'll have to speak up just a little.

22 A. Laura Parsons, Number One sixty-three. My brother is  
23 a lieutenant for the sheriff's office and my cousin is a  
24 deputy.

25 THE COURT: All right. Yes, sir.

1 A. Mark Dorko, Number Fifty-eight. I'm a retired police  
2 officer from Illinois, thirty-five years.

3 THE COURT: All right. Of the six of you -  
4 Yes, sir.

5 A. I put down that I was a policeman for thirteen years.

6 THE COURT: Okay. Now, the six of you that are  
7 standing if any of you would be unable because of this  
8 relationship to be fair and impartial to the state and Mr.  
9 Wilmore, please raise your right hand?

10 No one does. All right. You may remain with us and  
11 be seated.

12 Have any of you or a member of your immediate family  
13 been arrested for a gun related offense; if so, please  
14 stand?

15 No one stands.

16 Do any of you have any - - Would any of you not be  
17 able to be fair and impartial in this case because it  
18 involves the illegal - - alleged illegal possession of a  
19 gun; if so, please stand?

20 No one stands.

21 Are any of you or a member of your immediate family  
22 members of or contributors to organizations such as  
23 Mother's Against Drunk Driver's; Student's Against Drunk  
24 Drivers'; Citizen's Against Violence, Trooper's  
25 Association; Sheriff's Association or Fraternal Order of

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1 Police; if so, please stand?

2 No one stands.

3 Have any of you been the victim of what you would  
4 consider a violent crime? You or a member of your  
5 immediate family been the victim of what you would consider  
6 a violent crime; if so, please stand?

7 All right, your name and number. You don't have to  
8 tell me; I'm not asking personally what it was, your  
9 standing tells me enough. Your name again?

10 A. Tammy Garrett, Seventy-six.

11 THE COURT: All right. In spite of the fact that you  
12 had this as part of your history would you still be able to  
13 be fair and impartial in this case?

14 MS. GARRETT: Yes.

15 THE COURT: All right. Thank you.

16 The following are possible witnesses, or, even if  
17 they're not witnesses who will testify, these people's  
18 names may come up during the trial so if you are related by  
19 blood or marriage, or, if you are a friend of any of these  
20 individuals or an acquaintance, belong to a club or church  
21 or something with them please stand.

22 From the Rock Hill Police Department William E.  
23 Little, Marshall Bryson, Christopher Revels. From the --  
24 Mr. Hamilton's Clerk of Court's Officer Teresa Scoggins.  
25 And not related to law enforcement or Clerk of Court

1 Artavious Govan. If you are related or know these  
2 individuals please stand?

3 No one stands.

4 Anything else from the State?

5 SOLICITOR EPTING: Nothing from the State, your Honor.

6 THE COURT: Anything else from the Defense?

7 MR. MERRITT: We would request the previous questions.

8 THE COURT: Okay. Thank you.

9 Do any of you know of any reason whatsoever --- Well  
10 let me ask this before I ask that. Do any of you have any  
11 religious or other theological religious psychological -  
12 not psychological but sociological - - any reasons why you  
13 could not be fair and impartial in the trial of this case  
14 outside of what I've already ask you; if so, please stand?

15 No one stands.

16 Do any of you know of any reason why you could not or  
17 should not serve as a fair and impartial juror in the trial  
18 of this case; if so, please stand?

19 No one stands.

20 Now the way we draw jurors your names will be drawn at  
21 random. If you hear your name and number called, please  
22 just stand where you are and face the table where the  
23 Solicitor's are seated. One of them will say either  
24 present the juror or excuse the juror. If you hear the  
25 words excuse the juror simply sit down. If you hear the



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1 words present the juror turn to the table where Mr. Wilmore  
2 and his counsel are seated. One of his attorneys will say  
3 either excuse the juror which means you may simply, again,  
4 sit down, or, will say swear the juror. If you hear those  
5 words swear the juror come forward and bring with you any  
6 belongings that you may have and the bailiff's will show  
7 you how and where in the jury box to sit.

8 Each side has the opportunity to strike up to -- and  
9 that means excuse up to five individuals. And then we will  
10 draw one alternate and the State has the right to excuse  
11 one of those and the defense two. So if you hear your name  
12 called please come up, please stand up.

13 MADAM CLERK: Number Two thirty-one, Gregory Walters.

14 (WHITE MALE STANDS.)

15 MADAM CLERK: What say you for the State?

16 SOLICITOR EPTING: Please present the juror.

17 MADAM CLERK: Defense?

18 MS. INZERILLO: Please swear the juror.

19 MADAM CLERK: Please have a seat in the jury box.

20 Number Twenty-four, Terrence Buckley.

21 (WHITE MALE STANDS.)

22 MADAM CLERK: What say you for the State?

23 SOLICITOR EPTING: Please present this juror.

24 MADAM CLERK: Defense?

25 MS. LIPINSKI: Please excuse the juror.

1 MADAM CLERK: You've been excused from this case.

2 Number One forty-nine, Joseph Mullis.

3 (WHITE MALE STANDS.)

4 MADAM CLERK: What say you for the State?

5 SOLICITOR EPTING: Please present this juror.

6 MADAM CLERK: Defense?

7 MS. INZERILLO: Please swear the juror.

8 MADAM CLERK: Please come forward and have a seat in  
9 the jury box.

10 Number Two fifty-two, Zachary Atkinson.

11 (WHITE MALE STANDS.)

12 MADAM CLERK: What say you for the State?

13 SOLICITOR EPTING: Please present the juror.

14 MADAM CLERK: Defense?

15 MS. INZERILLO: Please swear the juror.

16 MADAM CLERK: Please come forward and have a seat in  
17 the jury box.

18 Number One seventy-six, Maxwell Reber.

19 (WHITE MALE STANDS.)

20 MADAM CLERK: What say you for the State?

21 SOLICITOR EPTING: Please present this juror.

22 MADAM CLERK: Defense?

23 MS. INZERILLO: Please swear the juror.

24 MADAM CLERK: Please come forward and have a seat in  
25 the jury box.

1 Number 1-0-2, Demetrius Jackson

2 (BLACK MALE STANDS.)

3 MADAM CLERK: What say you for the State?

4 SOLICITOR EPTING: Please present this juror.

5 MADAM CLERK: Defense?

6 MS. INZERILLO: Please swear the juror.

7 MADAM CLERK: Please come forward and have a seat in  
8 the jury box.

9 Number Seventeen, Roxanna Arwood.

10 (WHITE FEMALE STANDS.)

11 MADAM CLERK: What say you for the State?

12 SOLICITOR EPTING: Please present this juror.

13 MADAM CLERK: Defense?

14 MS. INZERILLO: Please swear the juror.

15 MADAM CLERK: Please come forward and have a seat in  
16 the jury box.

17 Number Two forty-one, Latona Williams.

18 (BLACK FEMALE STANDS.)

19 MADAM CLERK: What say you for the State?

20 SOLICITOR EPTING: Please excuse the juror.

21 MADAM CLERK: You've been excused from this case.

22 Number Sixty-one, Brianna-marie Ealy.

23 (BLACK FEMALE STANDS.)

24 MADAM CLERK: What say you for the State?

25 SOLICITOR EPTING: Please present this juror.

1 MADAM CLERK: Defense?

2 MS. INZERILLO: Please swear the juror.

3 MADAM CLERK: Please come forward and have a seat in  
4 the jury box.

5 Number One sixty-three, Laura Parsons.

6 (WHITE FEMALE STANDS.)

7 MADAM CLERK: What say you for the State?

8 SOLICITOR EPTING: Please present this juror.

9 MADAM CLERK: Defense?

10 MS. INZERILLO: Please excuse the juror.

11 MADAM CLERK: You've been excused from this case.

12 Number One seventy-two, Taylor Pinson.

13 (WHITE FEMALE STANDS.)

14 MADAM CLERK: What say you for the State?

15 SOLICITOR EPTING: Please present this juror.

16 MADAM CLERK: Defense?

17 MS. INZERILLO: Please swear the juror.

18 MADAM CLERK: Please come forward and have a seat in  
19 the jury box.

20 Number Fifty-eight, Mark Dorko.

21 SOLICITOR EPTING: I'm sorry, Madam Clerk?

22 MADAM CLERK: Fifty-eight.

23 SOLICITOR EPTING: Thank you.

24 (WHITE MALE STANDS.)

25 MADAM CLERK: What say you for the State?

1 SOLICITOR EPTING: Please present this juror.

2 MADAM CLERK: Defense?

3 MS. INZERILLO: Please excuse the juror.

4 MADAM CLERK: You've been excused from this case.

5 Number Ninety, Kimberly Hart.

6 (BLACK FEMALE STANDS.)

7 MADAM CLERK: What say you for the State?

8 SOLICITOR EPTING: Please excuse this juror.

9 MADAM CLERK: You've been excused from this case.

10 Number One twenty-eight, Quinteris Long.

11 (BLACK MALE STANDS.)

12 MADAM CLERK: What say you for the State?

13 SOLICITOR EPTING: Please excuse this juror.

14 MADAM CLERK: You've been excused from this case.

15 Number One thirty, Tonda Mack.

16 (WHITE FEMALE STANDS.)

17 MADAM CLERK: What say you for the State?

18 SOLICITOR EPTING: Please present this juror.

19 MADAM CLERK: Defense?

20 MS. INZERILLO: Please excuse the juror.

21 MADAM CLERK: You've been excused from this case.

22 Number Eighty, Neesha Gourley.

23 (WHITE FEMALE STANDS.)

24 MADAM CLERK: What say you for the State?

25 SOLICITOR EPTING: Please present this juror.

1 MADAM CLERK: Defense?

2 MS. INZERILLO: Please swear the juror.

3 MADAM CLERK: Please come forward and have a seat in  
4 the jury box.

5 Number Sixteen, John Bogan.

6 (WHITE MALE STANDS.)

7 MADAM CLERK: What say you for the State?

8 SOLICITOR EPTING: Please present the juror.

9 MADAM CLERK: Defense?

10 MS. INZERILLO: Please swear the juror.

11 MADAM CLERK: Please come forward and have a seat in  
12 the jury box.

13 Number Thirty-five, Samuel Cauthen.

14 (WHITE MALE STANDS.)

15 MADAM CLERK: What say you for the State?

16 SOLICITOR EPTING: Please present this juror.

17 MADAM CLERK: Defense?

18 MS. INZERILLO: Please swear the juror.

19 MADAM CLERK: Please come forward and have a seat in  
20 the jury box.

21 Number Thirty-two, James Carter.

22 (BLACK MALE STANDS.)

23 MADAM CLERK: What say you for the State?

24 SOLICITOR EPTING: Please present this juror.

25 MADAM CLERK: Defense?

1 MS. INZERILLO: Please swear the juror.

2 MADAM CLERK: Please come forward and have a seat in  
3 the jury box.

4 THE COURT: On the alternates the strikes will be one  
5 and two.

6 MADAM CLERK: Number Two, Steven Antonio.

7 (WHITE MALE STANDS.)

8 MADAM CLERK: What say you for the State?

9 SOLICITOR EPTING: Please present this juror.

10 MADAM CLERK: Defense?

11 MS. INZERILLO: Please swear the juror.

12 MADAM CLERK: Please come forward and have a seat in  
13 the jury box.

14 THE COURT: Anything from the State involving the  
15 striking of the panel?

16 SOLICITOR EPTING: Nothing from the State, your Honor.

17 THE COURT: Anything from the Defense?

18 MS. INZERILLO: No, your Honor.

19 THE COURT: Those of you who were not chosen I'm gonna  
20 ask you to leave quietly and start working with this jury.  
21 Call back tonight after seven and follow whatever  
22 instructions you receive. Thank you, and have a good  
23 afternoon and evening.

24 (JURY DISMISSED AT 03:35 PM.)

25 THE COURT: Those of you who were chosen please stand.

But you will be foreman. Please raise your right hand  
and the Clerk will administer the oath.

THE COURT: You may be seated. Members of the jury panel, I'm gonna chat with you for just a minute and then I'm gonna turn the case over to the attorneys. Mr. Wilmore has been charged with violating our gun law in this state and to this charge he has entered a plea of not guilty. His plea of not guilty places on the State the burden of proving his guilt beyond a reasonable doubt before you as a trial jury in this case could convict him.

In just a minute I will allow the attorneys to come before you if they wish and make what are called opening statements. These are not arguments. At a later point in the trial the attorneys have the right to come before you.



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1 and argue why based on the evidence that's presented and  
2 the law which I will charge you why your verdict should be  
3 a certain verdict. At this time they're just giving you an  
4 outline or a blue print of the trial.

5 I have three primary jobs as the trial judge in this  
6 case. One is logistics, makes sure people are sitting in  
7 the right place and that you can see and you can hear; that  
8 we take breaks, that kind of thing. I also rule on  
9 questions of evidence. If one side believes certain  
10 evidence should be admitted into the record for your  
11 consideration and the other based on some legal principle  
12 or rule of evidence believes that evidence is not  
13 admissible I have to rule on it.

14 My third job is that I am the sole judge of the law in  
15 this case. You must take accept and apply the law as I  
16 charge it even if you think I charge the law in error or  
17 even if you think the law should be different. Your oath  
18 requires you to take accept and apply the law as I charge  
19 it.

20 You're not to infer from anything I say or do during  
21 this trial as indicating an opinion of mine on the facts of  
22 the case. Our law does not allow a trial judge to  
23 formulate or express to a jury any opinion on the facts.  
24 That is solely your job. It is solely your job to examine  
25 the evidence, give to the evidence the effect the value the

1 weight and the truth you believe it should have.

2 In doing this you may believe one witness as opposed  
3 to several; several witnesses as opposed to one, you may  
4 believe all part or none of the witnesses testimony. Use  
5 your common sense your sense of logic, use your experiences  
6 in life as you analyze the evidence. As judges of the  
7 facts you necessarily must judge the credibility, that is  
8 the believability, of the witnesses who testify.

9 In accessing believability use those things I just  
10 talked about. Use the things that you find in your day to  
11 day life indicating truthfulness in individuals. And you  
12 can use certain evaluators. How a witness acts on the  
13 stand. Are they hesitant or straight forward. Is their  
14 testimony consistent or inconsistent? Do they have any  
15 reason to help or hurt one side or the other? That is, any  
16 bias or prejudice. And you can consider the opportunity a  
17 witness had to know those things to which the witness  
18 testified. All these things you consider, determine the  
19 true facts, apply the law and your verdict will speak the  
20 truth.

21 Do not try to make up your own mind and do not discuss  
22 the case among yourselves until I instruct you to jointly  
23 deliberate and return a unanimous verdict. I emphasize  
24 that. Don't discuss the case at all until I instruct you  
25 to do so at the end of the trial. Don't try to make up

1 your own mind until we reach that point.

2 Do not let anyone outside the courtroom discuss this  
3 case with you. If anyone tries to discuss this case with  
4 you tell them you cannot as you are serving as a juror and  
5 report that back to me as I will have to take action  
6 against anyone who tries to talk to a seated juror. So  
7 don't try to make up your own mind; discuss the case among  
8 yourselves, or let anyone discuss the case with you outside  
9 the courtroom.

10 Do not let yourself be exposed to any news coverage if  
11 there is any. I don't know that there would be but don't  
12 read, watch, or listen to anything that could remotely deal  
13 with this trial. Do not use any electronic means, Google,  
14 or anything like that to obtain any information that could  
15 relate to this trial. That is, don't look up anything  
16 about Mr. Wilmore, about the laws involving guns, about the  
17 Solicitor, about me, about evidence. You've got to base  
18 your verdict solely on what you hear in the courtroom. So  
19 don't access anything outside the courtroom such as Cloud  
20 or Google or even go to the library and pull out a book.  
21 That would be improper. Any of that is improper.

22 Don't even go on social media such as Face book and  
23 say guess what, I'm serving as a juror this week. While  
24 that sounds innocent enough someone may send you a return -  
25 I know that's not what it's called but whatever -- reply,

1 that might not be healthy or helpful for your serving as a  
2 juror here with us.

3 If you can't see or you can't hear let me know. Cup  
4 your ear, give me a voice raising gesture, a nudging  
5 gesture; I'll correct whatever the problem is. It's not  
6 fair to assign this task to you and then not give you the  
7 full opportunity to see and hear those things you need to  
8 see and hear.

9 We take breaks about every hour and a half. I find  
10 that's a good break time but everyone's different. If  
11 anyone needs a break at any time simply raise your right  
12 hand and with no questions ask we'll take a break. We want  
13 to move the case along but we're not in such a hurry we  
14 won't take if we need one. And I extend that to counsel  
15 and Mr. Wilmore. But at this time I turn the matter over  
16 to the attorneys.

17 SOLICITOR EPTING: Thank you, your Honor, may it  
18 please the Court.

19 THE COURT: Yes, sir.

20 SOLICITOR EPTING: Defense counsel.

21 OPENING STATEMENT BY SOLICITOR EPTING:

22 SOLICITOR EPTING: Good afternoon, ladies and  
23 gentlemen. We are here today because in the late night  
24 hours of December 21<sup>st</sup> and the early morning hours of  
25 December 22<sup>nd</sup> officers from the Rock Hill Police Department

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1 pulled over a vehicle in which the defendant was a  
2 passenger. You will hear from those officers; you will  
3 hear their testimony. They will testify that they pulled  
4 over this vehicle and immediately upon approaching it it  
5 was a normal traffic stop until they got to the driver side  
6 window. They detected the odor of marijuana.

7 At that point they got the information they needed to  
8 start the traffic stop to go back and check on that and  
9 then they start investigating the smell. And doing that  
10 they get out the passenger which evidence will show was Mr.  
11 Jayquan Wilmore; bring him to the patrol car.

12 They get out the driver an individual by the name of  
13 Mr. Govan, began to speak with him. Mr. Wilmore is  
14 somewhat cooperative; Mr. Govan is very loud, boisterous  
15 and not real happy about what's going on. You will hear  
16 from the officers who did that traffic stop and you'll also  
17 see a video from their patrol car showing what went down.

18 The officers begin their search and immediately on the  
19 passenger side right where the defendant was sitting they  
20 find a pistol tilted out towards the outside of the vehicle  
21 loaded, round in the chamber, several rounds in the  
22 magazine attached to it right where the defendant was  
23 sitting. At that point they get it they take the round out  
24 of the chamber they make it safe and they continue their  
25 investigation. They speak with the parties. The defendant

1 says Mr. Wilmore, well maybe that belonged to my sister.  
2 They continue to investigate.

3 At one point when it comes time where it's obvious  
4 that the pistol was not carried in a legal manner, they  
5 place Mr. Wilmore in handcuffs. And in placing him in  
6 handcuffs he says that it's mine. Its my pistol.

7 They're required to search an individual prior to  
8 putting a person in the back of a patrol car. And in  
9 searching him Officer Little who will testify before you  
10 today and you will hear it on the tape, the defendant again  
11 says, no, no marijuana, y'all smell marijuana but y'all got  
12 the pistol, y'all got everything. The officer thanks him  
13 for being honest puts him in the patrol car takes him to  
14 jail.

15 That's the case. I anticipate that it will be a short  
16 case. It will be a relatively simple case. That does not  
17 mean it's not an important case. And that's an important  
18 case to the State and an important case to the defendant  
19 himself. He has requested his right to have this case  
20 tried, that puts on us the burden of proving our case. The  
21 burden is on the State. We'll have the officer who were  
22 present during the stop testify; you'll hear from them.  
23 We'll have the video, you'll hear the video, you'll see the  
24 video. We have the gun that was taken and you'll see that  
25 too. It's been made safe now, unloaded. And at the end of

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1 the day the decision will be yours on whether the defendant  
2 violated the law.

3 Luckily for y'all the law in this case is relatively  
4 simple. It is unlawful in the State of South Carolina to  
5 have the gun on or about your person. There are exceptions  
6 that apply in certain situations. If a person has a  
7 license, a person has the gun in their trunk to lawfully  
8 carry that you won't hear that evidence here today. Its  
9 not part of this case.

10 The question will be for you did the defendant have on  
11 or about his person the pistol. The judge will instruct  
12 you on the law at the appropriate time and he'll define on  
13 or about the person. It has a very specific legal  
14 definition. It doesn't have to touch you, it doesn't have  
15 to be in your pocket. What that means is it close to you  
16 and is it readily available should you need to use it?

17 I submit to you that after all the evidence is shown,  
18 after you see the video, after you hear the officers, after  
19 you hear the defendant's own words, that you will be  
20 convinced beyond a reasonable doubt that he did have the  
21 gun on or about his person on the night in question. And  
22 you will return the only verdict that is allowed under  
23 those circumstances which is a verdict guilty.

24 I look forward to presenting this case on behalf of  
25 the Sixteenth Circuit and I thank you a head of time for

1 your time and attention to this.

2 THE COURT: Mr. Merritt.

3 MR. MERRITT: May it please the Court.

4 THE COURT: Yes, sir.

5 OPENING STATEMENT BY MR. MERRITT:

6 MR. MERRITT: Ladies and gentlemen of the jury, my  
7 name is Zachary Merritt and I along with my co-counsel  
8 Melissa Inzerillo represent Mr. Jayquan Wilmore.

9 Mr. Wilmore has requested a jury trial in this matter  
10 and the case would seem very simple the way the State just  
11 told it to you. The case would seem if you were to read it  
12 on paper just as it was described that two men were driving  
13 in a car late at night. The car was pulled over; the  
14 police took the men out of the car and the police found the  
15 gun in the seat of one of the men that man is therefore  
16 guilty of this crime.

17 Mr. Wilmore contest that and he's ask you today to  
18 look, take a hard look at this case, and determine whether  
19 or not beyond a reasonable doubt the State can prove that  
20 he did in fact know the gun was in the vehicle; and that  
21 that gun was his gun.

22 That's what this case is about. There are many facts,  
23 there's many elements to this crime but the one element -  
24 no one is contesting the gun was found. No one was  
25 contesting the gun was found underneath the seat. The



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1        thing that's being contested is whether or not it was in  
2        fact Mr. Wilmore's gun.

3                Now once again I think Mr. Epting did mention to you  
4        for example the admissions, or even the way he portrayed it  
5        just now would quite simply suggest if it were not 2016,  
6        then Mr. Wilmore has to be guilty of this offense. But  
7        fortunately it is 2016. And you'll have a video of the  
8        stop and you'll be able to look at this thirty minute stop  
9        which I guess was at first a routine traffic stop which  
10       turned into a roadside interrogation which turned into a  
11       full search of the vehicle. And you will be able to  
12       determine whether or not this investigation by it's very  
13       nature leads you to believe that this person would be  
14       guilty beyond a reasonable doubt under this set of  
15       circumstances.

16               You will be able to look and see who else - who were  
17       the other interesting characters in this video. Who are  
18       the other people? Who is the other person in the car? How  
19       does that person react to be searched? How does Mr.  
20       Wilmore react to the existence of this gun? If you are  
21       looking at me skeptically right now please put that aside.  
22       Right now these are the issues that are in contention here.  
23       The issues that are in contention are whether or not he  
24       knew that there was a gun underneath that seat.

25               You are the only person, you're the only people in the

1 world he can come to for a true determination of that one  
2 thing. It's a thirty minute video. We'll get real  
3 acquainted with that video today. Luckily as Chris  
4 explained it shouldn't take incredibly a long amount of  
5 time so please be kind of dedicated in your endeavor to  
6 look at that one issue.

7 We will, the defense doesn't have to put on the case.  
8 The video is predominantly the main piece of evidence. We  
9 can point out the issues in the case and we want to point  
10 out in cross-examination and I don't anticipate we will  
11 have to worry about a second half of the trial and putting  
12 on the case. The issue is the video. The issue is are you  
13 firmly convinced by the end of this that this is Mr.  
14 Wilmore's gun and that he put that gun underneath that sea  
15 and there is no other reasonable conclusion.

16 I don't want you to come to an unreasonable conclusion  
17 to help out Mr. Wilmore. He wants you to look at the facts  
18 of this case and see as it's presented is there likely  
19 another conclusion here. And could there have been a way  
20 to prove it if there were. I submit to you that there is  
21 another reasonable conclusion to draw from the facts of  
22 this case. And that the State could have proven it if they  
23 chose to but they chose not to. They chose to put Mr.  
24 Wilmore on trial and only Mr. Wilmore.

25 No matter what I say no matter what Mr. Epting says,

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1 please keep in mind that what we say is not evidence.  
2 We'll point out things that we think are important. For  
3 example Mr. Epting added a couple of facts you may not see  
4 on the video. Those facts are not in evidence. Those  
5 facts can't be considered and those facts may not be  
6 accurate. The only thing that's accurate in your view is  
7 the evidence that's presented in front of you today. And  
8 that evidence that comes out of the mouths of the people  
9 that testify and what you see on the video.

10 I urge you please look hard at that video and listen  
11 hard to what people say. And sometimes attorneys will try  
12 to force folks to say a certain thing or point something  
13 out. Listen to what people say and how it comes out of  
14 their mouth. Listen to the context in which what they say  
15 and why they say occurs.

16 And this is in regards to the admissions. Mr. Epting  
17 referred to Mr. Wilmore's admission as though they were  
18 some sort of blank confession. Listen hard to exactly what  
19 Mr. Wilmore says. They are just portrayed to you as  
20 confessions. They were just portrayed to you as though he  
21 undoubtedly to having that gun. Look at what he says and  
22 look at the context under which he says it and what has  
23 happened in there thus far when he does say it. He  
24 deserves under our system he deserves that basic respect to  
25 look at this contention and give it -- give it your best

1 shot.

2 I will just ask you to think about the placement of  
3 the pistol. You will see some photos - photographs today  
4 and so forth. And I also ask you to look at the  
5 investigation itself, you know. When you talk about two  
6 individuals riding through Rock Hill at night and one of  
7 them is Mr. Wilmore and you smell marijuana when you hear  
8 that you may have certain preconceived notions. Okay. But  
9 no marijuana was found in the vehicle. This was a stop for  
10 a tag light.

11 So other than that please take a close look at this  
12 case. I think you understand the fundamental issue and  
13 please give it your best shot. Thanks..

14 THE COURT: All right. Call your first witness.

15 SOLICITOR EPTING: Thank you, your Honor. The State  
16 calls Officer Little to the stand.

17 THE COURT: Please come up and be sworn.

18 THE COURT: We do have in our state and in our courts  
19 a protocol involving weapons. They must be safely secured  
20 even before they're brought into the courtroom and  
21 inspected so the fact that there will be a real gun  
22 presented it is I assure you in compliance with our  
23 protocol and is unloaded and should have a lock.

24 OFFICER LITTLE: It has a -- linked though the barrel.

25 THE COURT: A thing down the barrel. I don't know

OFFICER WILLIAM LITTLE: DIRECT BY SOLICITOR EPTING:

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1 what you call it but it's safe. Thank you.

2 SOLICITOR EPTING: Thank you, your Honor.

3 (WHEREUPON, WILLIAM LITTLE.

4 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

5 DIRECT EXAMINATION

6 OFFICER WILLIAM LITTLE BY SOLICITOR EPTING:

7 Q. Good afternoon.

8 A. Good afternoon.

9 Q. Please state your name for the record?

10 A. William Eric Little.

11 Q. How are you employed, Officer Little?

12 A. I'm a police officer with the city of Rock Hill.

13 Q. How long have you been with Rock Hill?

14 A. For five years now.

15 Q. And how long in law enforcement total?

16 A. Total? Thirteen and a half years.

17 Q. And could you tell the jury what your duties are as a  
18 Rock Hill police officer.

19 A. I do normal patrols in the city. We're assigned  
20 zones. We conduct traffic stops or traffic violations. We  
21 answer calls for services and we try to be visible in high  
22 crime high-traffic areas.

23 Q. Were you involved in a traffic stop in December of  
24 last year involving the defendant Jayquan Wilmore?

25 A. Yes.

OFFICER WILLIAM LITTLE: DIRECT BY SOLICITOR EPTING:

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1 Q. Could you tell the jury how that traffic stop began?

2 A. I had -- I was in my patrol vehicle parked at a  
3 church on Flint Hill Street. While sitting there a dark in  
4 color sedan drove past me. I observed that the rear tag  
5 light to the vehicle was not working so I conducted a  
6 traffic stop on the vehicle for faulty equipment in the  
7 area of Flint Hill Street and Frank Street.

8 MR. MERRITT: Your Honor, we'd just like to renew our  
9 previous objection in eliciting his testimony.

10 THE COURT: I over rule the objection.

11 BY SOLICITOR EPTING:

12 Q. I'm sorry, please continue, Officer.

13 A. We conducted a traffic stop on the vehicle and once on  
14 scene I had a back up unit that was sitting with me at the  
15 church. Officer Revels and Officer Bryson were inside that  
16 vehicle. We got -- Once we arrived on scene we - my self  
17 and Officer Revels approached the vehicle. Officer Bryson  
18 was the cover officer for the vehicle. I walked up to the  
19 driver side identified the driver as Mr. Govan and the  
20 passenger as Mr. Wilmore. Upon approaching the vehicle I  
21 smelled the faint hint of marijuana coming from inside the  
22 vehicle. I obtained Mr. Govan's driver's license; the bill  
23 of sale for the vehicle and the insurance information to  
24 verify the vehicle insurance at which time I ask them if  
25 anybody had been smoking marijuana inside the vehicle and

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1 they advised no. I returned back to my vehicle and spoke  
2 with Officer Revels who also confirmed that he had smelled  
3 the odor of marijuana. While I was -

4 MR. MERRITT: Object to hearsay here.

5 THE COURT: All right. Don't tell us what the other  
6 officer told you.

7 Disregard what the other officer said. That officer  
8 will have to testify to that.

9 A. And during the traffic stop --

10 Q. Officer, going back to the odor you detected. Was it  
11 burnt marijuana or raw marijuana?

12 A. Believed to be burnt.

13 Q. Can you tell from where in the car it was coming from?

14 A. No, sir.

15 Q. Okay. So you were describing - You got the driver's  
16 information about the car and the license and information  
17 like that; correct?

18 A. Correct.

19 Q. And you returned to your patrol vehicle to check that  
20 out; is that correct?

21 A. Yes.

22 Q. Okay. Please continue.

23 A. While I was running the information on the vehicle and  
24 the driver I had the other officers approach the vehicle to  
25 get the occupants of the vehicle out before we conducted a

OFFICER WILLIAM LITTLE: DIRECT BY SOLICITOR EPTING:

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1 search of the vehicle.

2 Q. Who was the first occupant that was taken out?

3 A. The first occupant taken out was Mr. Wilmore.

4 Q. And where was Mr. Wilmore directed to stand?

5 A. In the rear of the vehicle that he was in between his  
6 vehicle and my patrol car.

7 Q. And what was his demeanor?

8 A. He seemed calm at the time.

9 Q. Okay. And who took Mr. Wilmore out of the passenger  
10 side?

11 A. Officer Revels.

12 Q. Okay. And was the driver taken out at that same time?

13 A. Yes, shortly after.

14 Q. And that driver is Mr. Govan; is that correct?

15 A. Govan.

16 Q. And did another officer or did Officer Revels take him  
17 out?

18 A. Yes, Officer Revels also removed him from the vehicle.

19 Q. What was Mr. Govan's demeanor?

20 A. He seemed to be kind of amped up from what I could  
21 tell from the patrol car.

22 Q. Okay. So what did you do? Are you still in your  
23 car checking the information?

24 A. At the time I was still in the vehicle running the  
25 information for the driver and the vehicle. And also



OFFICER WILLIAM LITTLE: DIRECT BY SOLICITOR EPTING:

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1 issuing a citation.

2 Q. Okay. And did you at any time exit your vehicle?

3 A. I did.. When I was finished conducting the citation I  
4 got out of the vehicle as another vehicle had pulled up in  
5 front of the dark sedan and a gentleman got out of the  
6 vehicle and started walking back towards us.

7 Q. Okay. And what if any action did you take?

8 A. At the time we just instructed the guy - the gentleman  
9 that pulled up to kind of stay back and conducted a search  
10 of Mr. Govan's person.

11 Q. Okay. And what happened next?

12 A. After that I began speaking to Mr. Govan and Mr.  
13 Wilmore in front of my patrol car while Officer Revels  
14 began a search of the vehicle.

15 Q. And at any time without -- Well, were you alerted of  
16 anything in the car without repeating the words that were  
17 said to you?

18 A. Yes.

19 Q. Okay. And at that point did you go to the car and  
20 check to see if anything was in there?

21 A. Yeah. Yes.

22 Q. What did you see?

23 A. I saw the handle of a - what appeared to be the handle  
24 of a handgun sitting out from underneath the passenger  
25 seat.

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1 Q. Okay. What if anything did you do at that time?

2 A. At that time I retrieved a camera from my patrol  
3 vehicle took a photo of the handgun where it sat and placed  
4 ----- to remove the handgun and made the handgun safe.

5 Q. Okay. And by making it safe, please explain for the  
6 jury what exactly that means.

7 A. To make it safe we make sure that it is no longer any  
8 rounds in the chamber. There is a round in the chamber  
9 that we removed. An officer removed the magazine that had  
10 ammunition inside of it out of the weapon.

11 SOLICITOR EPTING: Beg the Court's indulgence.

12 Your Honor, may I approach the witness?

13 Q. Officer, I'm handing you what's been marked State's  
14 Exhibit One. Do you recognize State's Exhibit One?

15 A. Yes.

16 Q. What is State's Exhibit One?

17 A. This is the photo I took of the handgun.

18 Q. Is it a fair and accurate depiction of the -- of how  
19 the interior of the car looked when you took the picture on  
20 that night in December?

21 A. Yes.

22 SOLICITOR EPTING: Your Honor, at this time the State  
23 would seek to enter State's Exhibit One into evidence.

24 MR. MERRITT: Subject to our previous objection.

25 THE COURT: In over objection.

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1 (WHEREUPON, STATE'S EXHIBIT NUMBER ONE, IDENTIFIED AND  
2 MARKED, RECEIVED INTO THE RECORD.)

3 SOLICITOR EPTING: Thank you, your Honor. Permission  
4 to publish?

5 THE COURT: You may.

6 SOLICITOR EPTING: And, your Honor, we are projecting  
7 State's Exhibit One onto the over head screen.

8 (WHEREUPON, STATE'S EXHIBIT NUMBER ONE PUBLISHED TO  
9 THE JURY AT 04:00 PM.)

10 Q. Officer, is that a fair and accurate depiction of  
11 State's Exhibit One on the over head screen?

12 A. Yes.

13 Q. And can you -- Can you direct the jury's attention to  
14 where the pistol is?

15 A. The right side of the seat just below the handle that  
16 would release the back of the seat.

17 Q. And your testimony is that's as it was when - that  
18 nobody had touched it prior to that; is that correct?

19 A. To my knowledge.

20 SOLICITOR EPTING: Thank you, Madam Clerk.

21 Q. After the -- discovering the firearm and then  
22 photographing the firearm did you record any information  
23 off that firearm?

24 A. We record the serial number off of it.

25 Q. Okay.

OFFICER WILLIAM LITTLE: DIRECT BY SOLICITOR EPTING:

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1 SOLICITOR EPTING: Your Honor, may I approach?

2 THE COURT: You may.

3 SOLICITOR EPTING: I beg the Court's indulgence.

4 (WHEREUPON, STATE'S EXHIBIT NUMBER THREE, PREMARKED  
5 FOR IDENTIFICATION.)

6 SOLICITOR EPTING: May I approach the witness again,  
7 your Honor?

8 THE COURT: Yes, sir.

9 SOLICITOR EPTING: Your Honor, I'm handing the witness  
10 what's been marked as State's Exhibit Three.

11 Q. Officer, you mentioned making safe the gun; unloading  
12 it and emptying it; is that correct?

13 A. Correct.

14 Q. And I believe you mentioned you recorded the serial  
15 numbers; is that correct?

16 A. Correct.

17 Q. What are the serial numbers on State's Exhibit Three?

18 A. The first letter is H. The second letter U. The  
19 third letter U. And then the number is 4-7-9-4.

20 Q. Is that the serial numbers of the weapon that you  
21 recovered on the scene in December from the vehicle in  
22 which Mr. Wilmore was sitting?

23 A. Correct.

24 Q. Is that, State's Exhibit Three, in the same or  
25 substantially the same condition as it was when you first

OFFICER WILLIAM LITTLE: DIRECT BY SOLICITOR EPTING:

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1 recovered it?

2 A. It's -- It appears to be the same.

3 SOLICITOR EPTING: Your Honor, the State would seek to  
4 enter State's Exhibit Three into evidence.

5 MR. MERRITT: Subject to our previous objection.

6 THE COURT: Over objection in.

7 SOLICITOR EPTING: Thank you, your Honor.

8 Permission to publish.

9 THE COURT: You may.

10 (WHEREUPON, STATE'S EXHIBIT NUMBER THREE, IDENTIFIED  
11 AND MARKED, RECEIVED INTO EVIDENCE/PUBLISHED TO THE JURY AT  
12 04:03 PM.)

13 Q. Now, Officer, its your testimony this gun was loaded  
14 when you first recovered it?

15 A. Yes, sir.

16 Q. After finding the gun, recording the serial number,  
17 recording the numbers, and making it safe to take into  
18 custody, what if anything did you do?

19 A. After that after we took it into custody I placed Mr.  
20 Wilmore in handcuffs and had Officer Revels attempt to  
21 place the driver into handcuffs just for detention.

22 Q. Okay. And what if anything happened then?

23 A. At that time Mr. Wilmore made the statement that it's  
24 mine.

25 Q. He stated it was his?

OFFICER WILLIAM LITTLE: DIRECT BY SOLICITOR EPTING:

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1 A. Yes.

2 MR. MERRITT: We object. May we approach briefly?

3 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF  
4 THE JURY AT 04:04 PM.)

5 BY SOLICITOR EPTING:

6 Q. The defendant stated it's mine?

7 A. Yes.

8 Q. As you were placing him into handcuffs?

9 A. After, yes.

10 Q. Okay. Prior to you placing him into handcuffs did you  
11 speak with the defendant in any way shape or form about a  
12 pistol being in the car?

13 A. I didn't. Before he was placed in handcuffs?

14 Q. That's correct.

15 A. I did not speak with him. I didn't ask him any  
16 questions about it.

17 Q. Okay.

18 A. Well I take it back. I did. I did ask him questions  
19 referring to a statement he made earlier.

20 Q. Okay. Let's start with what statement did he make  
21 earlier?

22 MR. MERRITT: We would just ask for a standing  
23 objection in regards to the statements being elicited to  
24 avoid - for the record.

25 THE COURT: Objection over ruled.

OFFICER WILLIAM LITTLE: DIRECT BY SOLICITOR EPTING:

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1 A. While I was speaking with the driver Mr. Govan the  
2 other officers were still with the vehicle. Mr. Wilmore  
3 stated that the firearm may be his girlfriends.

4 Q. Okay. And the questions you ask him were those  
5 follow-ups to that conversation?

6 A. Shortly later I ask him to describe his girlfriend's  
7 firearm to me.

8 Q. Could he describe that firearm?

9 A. No.

10 Q. Okay. And later on when you placed handcuffs on him  
11 he said it's mine?

12 A. It's mine.

13 Q. And at that point he's placed into handcuffs what do  
14 you do with him?

15 A. I read him his Miranda Rights.

16 Q. Okay. And after reading his Miranda Rights what if  
17 anything did he say?

18 A. The only thing he ask was that I got his goodie, that  
19 - ask if I would get his goodie out of the car.

20 Q. Okay. And did you do that?

21 A. I did.

22 Q. Did you place him in the back of your patrol car?

23 A. We did. I walked him around to the passenger side  
24 rear door of my patrol car at which time I conducted a  
25 search of his person before we put him in the patrol car

OFFICER WILLIAM LITTLE: DIRECT BY SOLICITOR EPTING:

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1 which is protocol when we place somebody under arrest and  
2 put 'em in our patrol car.

3 Q. And the course of putting him of checking him before  
4 putting him in the patrol car what -- was anything said?

5 A. While I was conducting a search Mr. Wilmore told me  
6 that we'd already found everything, we already found the  
7 pistol.

8 Q. And at that point had anything further relevant to  
9 this case that you observed that night the jury needs to  
10 know about?

11 A. No.

12 Q. You were in a marked patrol car; is that correct?

13 A. Correct.

14 Q. Was that equipped with a video surveillance equipment?

15 A. Yes.

16 Q. Did it make a tape?

17 A. Yes.

18 Q. And have you reviewed a copy of that tape?

19 A. Yes.

20 Q. Is it high quality audio?

21 A. I would say not.

22 SOLICITOR EPTING: Your Honor, may I approach?

23 THE COURT: You may.

24 SOLICITOR EPTING: I'm handing the officer what's been  
25 marked as State's Exhibit Two.



OFFICER WILLIAM LITTLE: DIRECT BY SOLICITOR EPTING:

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1 Q. Officer, do you recognize State's Exhibit Two?

2 A. Yes.

3 Q. What is State's Exhibit Two?

4 A. It is a DVD of the in-car camera.

5 Q. Have you reviewed a copy of that ---

6 A. Yes.

7 Q. --- particular disc? How do you know that is the  
8 copy that you reviewed?

9 A. I initialed the disc.

10 Q. Okay. Is that a fair and accurate depiction of what  
11 occurred during this stop on December 2015?

12 A. Yes.

13 SOLICITOR EPTING: Your Honor, at this point the State  
14 would seek to enter State's Exhibit Two into evidence and  
15 to publish.

16 MR. MERRITT: No objection.

17 THE COURT: In without objection.

18 MR. MERRITT: Subject to our standing objection.

19 SOLICITOR EPTING: Thank you, your Honor.

20 Q. Officer, I'm gonna play a copy of the tape. At any  
21 time you feel that I need to stop the tape so you can  
22 explain something to the jury please raise your right hand  
23 so I can stop it and make it a direct clean.

24 And, your Honor, as the video plays could your Honor  
25 inquire of the jury if the volume is sufficient.

1 THE COURT: I will.

2 (WHEREUPON, STATE'S EXHIBIT TWO, IDENTIFIED AND  
3 MARKED, RECEIVED INTO EVIDENCE AND PUBLISHED TO THE JURY AT  
4 04:09 PM.)

5 THE BAILIFF: Your Honor, we have a juror -

6 THE COURT: Do we need to stop just a minute?

7 We need a juror to take a break?

8 THE COURT: Yes, sir, your Honor.

9 THE COURT: Okay. All right, we'll take a break.

10 Stop right here. Thank you. We'll send for you in  
11 about ten or so minutes.

12 (JURY EXITS COURTROOM AT 04:30 PM.)

13 THE COURT: We'll be at ease.

14 (COURT AT EASE AT 04:30 PM.)

15 (COURT BACK IN SESSION AT 04:42 PM.)

16 (STATE VERSUS JASON MEEKS PLEA WITH MINDY LIPINSKI.)

17 (COURT BACK IN SESSION IN THE MATTER OF STATE V.

18 JAYQUAN WILMORE AT 04:45 PM.)

19 THE COURT: Do you need anything before we get the  
20 jury back in?

21 MR. MERRITT: Yes, your Honor, we do have a motion.

22 During the break -- we need to wait for Mr. Wilmore.

23 THE COURT: He can stay out tomorrow so you won't  
24 have to put him back in.

25 (DEFENDANT JAYQUAN WILMORE REENTERS COURTROOM.)

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1 THE COURT: All right. Yes, sir.

2 MR. MERRITT: Yes, your Honor. During the break we  
3 checked the bag and the gun just to be sure in regards to  
4 the numbers. The serial number that was read into the  
5 record is the serial number on the gun; however, the serial  
6 number, that number does not match the serial number on the  
7 evidence bag and the serial number in the incident report.

8 The only way I think to handle first would be to make  
9 a motion to strike the evidence being entered at this time  
10 and ask for a finding that our objection to it be  
11 contemporaneous with the introduction of the gun.

12 Or we would move to strike the gun because on it's  
13 face I mean the evidence bag does have the serial number  
14 I'm told by co-counsel that is a very rare occurrence. It  
15 does bring into question obviously issues for a jury but  
16 just in regards to the foundation being laid properly and  
17 other issues we would ask for that motion first.

18 THE COURT: All right. Mr. Epting.

19 SOLICITOR EPTING: Your Honor, I would argue as a  
20 first matter that the objection was not timely made.  
21 Defense counsel was given a chance to review evidence prior  
22 to it being brought to the police officer. They did review  
23 that and they did not raise the objection, that particular  
24 objection at the time it was being introduced. I have  
25 looked at that gun it is hard to tell whether the last

1 digit is a four or a six so I think its not an uncommon  
2 thing to be made. I think that the foundation being laid  
3 that the serial number on the gun was the same that he took  
4 from the car is sufficient to satisfy the requirement under  
5 Rule 09 that there was evidence before him the item is what  
6 the -- what we are claiming it to be which is the gun that  
7 was seized from that vehicle.

8 THE COURT: What's the difference? Is it just one  
9 number?

10 MR. MERRITT: It is the final number on the gun.

11 I do ask your Honor to at least review the gun. We  
12 think again it's very -

13 THE COURT: I'll look at it.

14 (STATE'S EXHIBIT NUMBER THREE, RECEIVED UP BY THE  
15 COURT TO REVIEW.)

16 THE COURT: How do I look at the gun itself?

17 SOLICITOR EPTING: Your Honor, I believe an officer  
18 can demonstrate cause it is partially obscured by a letter  
19 on the pistol.

20 MR. MERRITT: I don't think there's any reason - you  
21 can take it out is my understanding.

22 OFFICER LITTLE: This right here, your Honor.

23 THE COURT: Let me see the Incident Report.

24 (DOCUMENT RECEIVED UP BY THE COURT.)

25 SOLICITOR EPTING: May I approach, your Honor?

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1           THE COURT: Yes, sir. Well I've looked at it and it  
2 looks like a four instead of a six when they have a six as  
3 the last number on both the Incident Report and the cover  
4 on the bag. There is a white sheet on the bag, the chain  
5 of evidence, but the chain of evidence does -- there is  
6 only one digit, the last digit being a four on the gun and  
7 a six on the two written items. But they have the date and  
8 time of recovery at 12:22:15 0-0-1-0 hours, recovered by  
9 Little. And it has it being entered with 0-1-1-5, I'm  
10 sorry. And then it's got the chain of evidence and he's  
11 testified that this was in fact the gun that he obtained  
12 from the seat so I deny -- What's your motion?

13           MR. MERRITT: We would make - Well the first motion  
14 was to make a motion to strike if anything -

15           THE COURT: Strike what?

16           MR. MERRITT: The gun itself and the introduction of  
17 it.

18           THE COURT: I over rule that. I think it's  
19 sufficiently identified. It is one digit off and you can  
20 certainly argue that to the jury that -- and you can cross-  
21 examine him on that. This would not be - - I don't think  
22 this would fall under that category we talked about earlier  
23 to refresh your memory. I think this is a little  
24 different. I think you can cross-examine him. It does say  
25 -- the Incident Report does say Patrol General Sessions

1 Summary Narrative by William Little 12/22/15, 3:58 in the  
2 morning.

3 MR. MERRITT: The only two points I would like to make  
4 is just that the two pieces of evidence that we have in  
5 regards to the number that ends in six are definitely two  
6 numbers that were written on the night in question, the  
7 Incident Report and the number on that evidence bag.

8 That gun is and the other point I would make is that  
9 gun is very common. It's my understanding that gun,  
10 similar guns are used and have been used in a lot of crimes  
11 and there are likely a number of those guns -

12 THE COURT: Well, if there were a half a dozen numbers  
13 off or even maybe three or four or - but the last digit  
14 being a six; there is one place that's actually a four, it  
15 doesn't give me any cause for great concern as to the  
16 officers testimony and the other indicia that it was in  
17 fact or is in fact the weapon found under the seat of Mr.  
18 Govan's car on the night in question. And of course like I  
19 say you're subject to cross-examine him on that. But it's  
20 in evidence and I deny your motion to now remove it from  
21 evidence.

22 SOLICITOR EPTING: Thank you, your Honor.

23 THE COURT: We keep using the word strike. I'm not  
24 sure that's a good word to use. Strike evidence strike  
25 testimony but as to a physical piece of evidence it would

1 be to have it excluded.

2 MR. MERRITT: And I guess that -- with that correction  
3 in mind that would be order the testimony --

4 THE COURT: Why -- I deny the motion.

5 All right, bring in the jury.

6 All right, it's a little before five, we'll take this  
7 witness and finish today.

8 MR. MERRITT: Thank you, your Honor.

9 Was that cross-examination?

10 THE COURT: How long was your cross-examination gonna  
11 take? We'll finish with the direct. It's almost five.

12 MR. MERRITT: Thank you.

13 (JURY REENTERS COURTROOM AT 04:54 PM.)

14 THE COURT: Members of the jury panel, we're - it's  
15 almost five so we're gonna finish up with the direct on  
16 this witness and then break for the evening.

17 Mr. Epting.

18 SOLICITOR EPTING: Madam Clerk, can we dim the lights  
19 please.

20 (WHEREUPON, STATE'S EXHIBIT NUMBER TWO CONTINUES TO BE  
21 PUBLISHED TO THE JURY.)

22 DIRECT EXAMINATION CONTINUES

23 OFFICER ERIC LITTLE BY SOLICITOR EPTING:

24 Q. Officer, a second ago you called out a series of  
25 code and numbers over the radio. What was that?

OFFICER WILLIAM LITTLE: DIRECT BY SOLICITOR EPTING:

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1 A. That was the serial number for the firearm that we  
2 found in the vehicle.

3 Q. Okay. And is that the same serial number that's on  
4 the State's Exhibit Three?

5 A. That is.

6 (STATE'S EXHIBIT TWO, CONTINUES TO BE PUBLISHED/STOPS  
7 AT 05:10 PM.)

8 Q. Officer Little, after this did you take the defendant  
9 to jail?

10 A. Yes.

11 Q. You mentioned earlier that you called out the numbers  
12 to the pistol over the radio to check it; is that correct?

13 A. Correct.

14 Q. Did you place it in the bag that it's currently in?

15 A. Yes.

16 Q. And what was done with that bag?

17 A. The bag was turned into our evidence custodian.

18 Q. Is there a serial number noted on that bag?

19 A. There is.

20 Q. And is it the correct serial number?

21 A. No.

22 Q. How is it incorrect?

23 A. The last digit was written incorrectly.

24 Q. But the number you called out according to your  
25 previous testimony on that video was correct; is that



1 correct?

2 A. It is.

3 Q. And that matches the gun in State's Exhibit Three?

4 A. That's correct.

5 Q. Has that bag appear to be tampered with in any way  
6 since you entered that into evidence?

7 A. No.

8 SOLICITOR EPTING: Beg the Court's indulgence.

9 I've got no further questions for you at this time.

10 THE COURT: All right. We'll stop until nine thirty  
11 in the morning. The bailiff will tell you how to get in  
12 and out while you're serving as a juror. Keep in mind my  
13 admonitions about not accessing any information outside the  
14 courtroom; not discussing the case, not trying to make up  
15 your own mind, and we'll see you here at nine thirty in the  
16 morning. Have a pleasant evening.

17 (JURY EXITS COURTROOM ON EVENING RECESS AT 05:12 PM.)

18 THE COURT: Mr. Wilmore, I'm gonna let you stay out  
19 over the night. I understand your mom is gonna stay on  
20 your bond according to your attorney. I want you to know  
21 that the case is going forward. If you for some reason  
22 decide not to show up tomorrow that won't end this case.  
23 The case will simply go on forward. The case will go to a  
24 jury the jury -- of course the jury will return a verdict.  
25 If that verdict is not guilty of course the case will be

1 over. But if you're not here and the verdict is guilty I  
2 will enter a sentence, seal it, give it to the clerk and  
3 the clerk will hold it, a bench warrant will be issued, you  
4 will sought and arrested and brought back before the court  
5 and myself or another judge will impose the sentence on  
6 you, so, do you understand that?

7 MR. WILMORE: Yes, sir.

8 THE COURT: Its very important that you be here even  
9 though I'm letting you stay out tonight. Do you understand  
10 that?

11 MR. WILMORE: You said nine thirty?

12 THE COURT: Nine thirty. Well your lawyer might want  
13 you here earlier but I want you here at nine thirty.

14 We'll be at ease until nine thirty in the morning.

15 (COURT IN EVENING RECESS AT 05:13 PM.)

16 (COURT BACK IN SESSION WEDNESDAY, JULY 13, 2016 AT  
17 09:46 AM.)

18 THE COURT: You can be seated. Thank you.

19 Counsel, we got two somewhat issues. One I think has  
20 resolved itself. One of the jurors was concerned that Mr.  
21 Wilmore was in the vicinity where they were in the parking  
22 lot and made them a little uneasy but we notified security  
23 and they are aware of that and I can take steps to make  
24 sure that that won't happen again.

25 The other is that apparently Mr. Wilmore ask one of

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1 the jurors to borrow their cell phone and we can take care  
2 of that too, but I'm gonna bring that juror in -- Zachary  
3 Atkinson -- to ask about would that affect their ability to  
4 be fair and impartial.

5 So, bring in -- as to Juror Number two fifty-two,  
6 Zachary Atkinson.

7 (JUROR NUMBER TWO FIFTY-TWO ENTERS COURTROOM.)

8 THE COURT: Hey, Mr. Atkinson. I hate to kind of -

9 MR. ATKINSON: How's it going?

10 THE COURT: I kind of hate to single you out but I  
11 understand that Mr. Wilmore ask to use your phone  
12 yesterday.

13 MR. ATKINSON: Yeah, when we was leaving. That was  
14 it.

15 THE COURT: All right. Well, would that affect your  
16 ability to be fair and impartial in the trial of this case?  
17 You could still give the State a fair trial and Mr. Wilmore  
18 a fair trial?

19 MR. ATKINSON: Yeah. Yeah.

20 THE COURT: Okay. Thank you. And I assure you it  
21 won't happen again.

22 MR. ATKINSON: Naw.

23 THE COURT: Okay. Thank you.

24 (JUROR EXITS COURTROOM.)

25 THE COURT: Any comments?

1 SOLICITOR EPTING: None from the State, your Honor.

2 THE COURT: Defense?

3 MR. MERRITT: The only thing we would inquire into is  
4 the circumstances surrounding the first juror. On it's  
5 face the way it was described we probably would ask for an  
6 alternate on the first juror. And I don't know if I  
7 understand exactly what occurred with the first juror so  
8 maybe I'm wrong.

9 THE COURT: All right. Well let's get the other juror  
10 in too then. I don't -- This is Number eighty, Neesha  
11 Gourley. Ask Neesha Gourley.

12 THE BAILIFF: Eighty?

13 THE COURT: Eighty.

14 (JUROR NUMBER EIGHTY ENTERS COURTROOM.)

15 THE COURT: After we take care of this is the State  
16 ready?

17 SOLICITOR EPTING: Your Honor, we are having  
18 difficultly with the video that was put in and in  
19 anticipation of cross-examination, we've ask IT to come in  
20 and give us a hand with that. I think -- I's not ejecting.  
21 I think if we can get it to play then we should be good.

22 THE COURT: Here comes help.

23 Ms. Gourley, we understand that you were a little  
24 apprehensive about being in the parking lot with - the same  
25 time Mr. Wilmore was since he's on trial -- for what he's

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1 on trial for; is that correct?

2 MS. GOURLEY: I thought it was kind of inappropriate  
3 and awkward for everybody.

4 THE COURT: And you're entirely right. And I can --  
5 You can rest assured it won't happen again, but I need to  
6 ask you since that did happen can -- does that affect your  
7 ability to be fair and impartial?

8 MS. GOURLEY: No, not at all.

9 THE COURT: You could still be fair and impartial?

10 MS. GOURLEY: Absolutely.

11 THE COURT: Okay. Thank you. But I appreciate your  
12 calling that to our attention. That won't happen again.

13 MS. GOURLEY: All right. Thanks.

14 SOLICITOR EPTING: Your Honor, I believe the issue has  
15 been resolved.

16 THE COURT: First, any comments on Ms. Gourley?

17 SOLICITOR EPTING: We don't object to her staying on.

18 MR. MERRITT: Your Honor, I would strongly object. I  
19 think the reason why we have alternates there is no -- What  
20 she alleges is that he simply in the parking lot I guess  
21 exiting the same time, around the same time she may have  
22 exited. I didn't hear any other facts about that  
23 encounter. Just the fact that that circumstance which was  
24 from what I understand natural circumstance of everybody  
25 leaving the courtroom and going to the parking lot that

1 day; that making her uneasy, without knowing more is too  
2 much for me to infer there. I would ask it's the reason  
3 why we have alternates to please allow an alternate and  
4 excuse that juror.

5 THE COURT: I deny that motion. Of course obviously  
6 the defendant and the state is entitled to a fair trial  
7 but we often forget the fact that jurors have a right to  
8 serve also. And unless there's some reason of significance  
9 to convince the judge, me, that that person cannot be fair  
10 and impartial then it's not fair to remove someone. I know  
11 everybody looks at jurors with distaste -- jury duty with  
12 distaste as opposed to relish but I think the law is clear  
13 that this all comes through the Batson line of cases that  
14 the juror has a right to serve. And unless there's some  
15 reason to exclude that juror, which I find there is not  
16 under these circumstances, then that person has a right to  
17 serve, so I'm gonna deny your motion to seat the alternate.

18 MR. MERRITT: We would just object under the Sixth  
19 Amendment to not excluding that juror and his rights to a  
20 fair trial just for the record.

21 THE COURT: Okay. All right. Bring in the jury.

22 And I'm not finding fault, Mr. Merritt, you did get  
23 your instructions from Ms. Inzerillo but, you made a motion  
24 -- objection -- I've ruled, you don't need to get up again  
25 and object to my ruling.

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1 MR. MERRITT: And perhaps I'm overly cautious.

2 THE COURT: I know. Its your first trial I understand  
3 and you are -- but I just wanted to let Ms. Inzerillo --  
4 but once I rule that -- you're protected. You don't have  
5 to get up a second time. I'm not offended.

6 MR. MERRITT: Thank you. Thank you.

7 THE COURT: You're not the only one that does it so.

8 We can have the witness -- Officer Little you can come  
9 on up and take the stand. Of course you're still under  
10 oath.

11 (WITNESS RETURNS TO WITNESS STAND.)

12 (JURY REENTERS COURTROOM AT 09:53 AM.)

13 THE COURT: Good morning. Mr. -- Officer Little is  
14 on the stand, as you recall he was subject to direct  
15 examination yesterday and now the counsel for Mr. Wilmore,  
16 Mr. Merritt, will proceed with cross-examination.

17 MR. MERRITT: Thank you, your Honor.

18 CROSS-EXAMINATION

19 OFFICER WILLIAM LITTLE BY MR. MERRITT:

20 Q. How you doing today, Officer?

21 A. Good.

22 Q. Glad to hear it. Now, Officer, you're the primary  
23 investigating officer in this case; correct?

24 A. Correct.

25 Q. And therefore you're the primary factual witness the

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1 State will bring today ---

2 A. Correct.

3 Q. --- in this matter. It also means you have the  
4 obligation to do the fundamental task in this case; right?

5 A. Correct.

6 Q. That would be writing the report. That would include  
7 writing the report?

8 A. Yes.

9 Q. Collecting all the evidence?

10 A. For the most part, yes.

11 Q. And any aspect of the investigation process  
12 whatsoever. Would you agree with that?

13 A. Can you restate that last one?

14 Q. You would be in control of fundamentally most of the  
15 evidence that would come into this trial today.

16 A. Correct.

17 Q. Okay. Now the other officers at the scene have other  
18 roles; correct?

19 A. Correct.

20 Q. One of the -- We've heard a lot about Officer Revels  
21 today; right? He was there at the scene?

22 A. Yes, he was there.

23 Q. And Officer Revels was in training at the time;  
24 correct?

25 A. Correct.



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1 Q. Okay. And Officer Bryson was also there; right?

2 A. Correct.

3 Q. And Bryson's responsibility was to watch Revels train.

4 Would you agree with that?

5 A. Part of his responsibility.

6 Q. Part of his responsibility. That is one of the  
7 primary things he's doing throughout the course of this  
8 investigation. Would you agree with that?

9 A. Yes.

10 Q. Now as far as what folks do, Revels is the one that  
11 approaches roadside initially with you; correct?

12 A. Correct.

13 Q. So you approach at one window and Revels approaches  
14 the other one; correct?

15 A. That's correct.

16 Q. And he is also the officer that takes both Wilmore  
17 and Govan out of the car and initially frisk them?

18 A. That's correct.

19 Q. Okay. Bryson, just to get everybody's roles down,  
20 Bryson ultimately is the one that discovers the handgun?

21 A. Correct.

22 Q. Okay. And would you agree, Officer, that you're the  
23 most experienced officer on the scene?

24 A. Yes.

25 Q. And you're also the oldest. You have the most life

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1 experience as well; correct?

2 A. Yes.

3 Q. Okay. And over all this is your stop and ultimately  
4 you maintain control of the stop and the entire situation.  
5 Would you agree with that?

6 A. Yes.

7 Q. Now the purpose of this stop was to pull over the  
8 vehicle for a tag light.

9 A. That's correct.

10 Q. Is it your intentions when making that stop to  
11 investigate any other crime?

12 A. No.

13 Q. You did not when you make that stop hope to pull -  
14 to search that vehicle?

15 A. No.

16 Q. Does it cross your mind you might?

17 A. No. Not at the initial stop.

18 Q. Okay. So at that point it's your testimony that the  
19 only reason that you're pulling this car over is because  
20 it's a defective tag light?

21 A. Correct.

22 Q. You're enforcing the traffic laws of this state?

23 A. Correct.

24 Q. Do you typically have three officers at the scene for  
25 a defective tag light?

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1 A. We typically have two vehicles at the scene.

2 Q. You typically have two vehicles at the scene?

3 A. Two vehicles.

4 Q. Okay. Now in regards to doing a traffic stop what  
5 are the basic tasks you do in this case?

6 A. You initiate the emergency equipment on the vehicle,  
7 lights and sirens. You walk up and make contact with the  
8 driver of the vehicle, also any other occupants inside the  
9 vehicle. Ask the driver for the driver's license  
10 registration and insurance of the vehicle. And you process  
11 that information by checking to make sure that the driver's  
12 license are good; the registration comes back active and in  
13 fact and make sure that the insurance card states that the  
14 insurance is up to date when you issue any warning  
15 citations that you find during that stop.

16 Q. And in this case most of those tasks you completed  
17 pretty quickly; correct?

18 A. In the normal fashion.

19 Q. Okay. Well then you said the typical or how long  
20 would a typical tag light stop take?

21 A. Twenty, fifteen to twenty minutes.

22 Q. Okay. And in this case you pulled the car over almost  
23 immediately; correct?

24 A. Whatever immediately.

25 Q. Yeah. As soon as the car -- Your lights are off and

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1 your parked and the car passes you; correct?

2 A. Correct.

3 Q. And as soon as you -- I guess you see the defective  
4 tag light at that point?

5 A. As soon as we saw the tag light was out we initiated  
6 a traffic stop.

7 Q. Okay. And -- But you don't witness much driving.  
8 You just immediately pull over for the tag light; right?

9 A. Correct.

10 Q. And at that point you called the tag in as you're  
11 stopping him; correct?

12 A. Correct.

13 Q. You've within a minute you're at his window of  
14 actually pulling him over; correct?

15 A. After he stopped yes.

16 Q. And within a minute or two you collected all the  
17 information from the vehicle and you initially have an  
18 encounter with the two of 'em, both Wilmore and Mr Govan;  
19 correct?

20 A. That's correct.

21 Q. And this is the first time you get to observe how  
22 they interact with police officers; correct?

23 Q. Correct.

24 A. And you do notice the distinction between Govan and  
25 Wilmore there don't you?

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1 A. Yes.

2 Q. Okay. And we'll talk about that. But you get the  
3 registration, insurance, the license. You do that within  
4 two minutes and you're back in the car; correct?

5 A. Correct.

6 Q. You even help him find his insurance and so forth so  
7 you can to some extent see inside the vehicle; right?

8 A. Correct.

9 Q. Okay. You help him find his paperwork. Now when you  
10 get back to the car you run the insurance and you do that  
11 within -- I think you on your report marked this incident  
12 as occurring around 11:40?

13 A. No. The traffic stop didn't happen until 11:42.

14 Q. 11:42? Okay. But you've also run the registration  
15 and this is maybe just factual situation, I believe you ran  
16 the first registration at 11:42. Is that possible?

17 A. I -- I -- I -- That -- When you said that we  
18 called out a tag ---

19 Q. Yeah.

20 A. --- that's dispatch running the numbers that we  
21 gave them.

22 Q. Okay. Well that makes perfect sense then. So that  
23 11:42 time when you've gotten the registration that's when  
24 you're pulling them over ---

25 A. I --

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1 Q. --- so that's the time frame ---

2 A. That's the time ---

3 Q. --- we was talking about.

4 A. --- when he's being pulled over.

5 Q. And then within 11:45 you check the license?

6 A. I believe that's correct.

7 Q. So it took about three minutes you're back in that  
8 vehicle. After your initial confrontation, talking with  
9 them, you're back in that vehicle within a couple of  
10 minutes. You agree with that; right?

11 A. Yes.

12 Q. And you've checked for warrants on the driver by  
13 11:49?

14 A. I believe that's correct.

15 Q. Okay. Do you check whether the vehicle is shown  
16 up as stolen at 11:50?

17 A. I ran -- I ran the VIN for it through South Carolina  
18 I believe at 11:50.

19 Q. And there was no sign their vehicle was stolen or  
20 anything; right?

21 A. It did not come back on file ---

22 Q. And before that --

23

24

25 --- for South Carolina.

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1 Q. I apologize. Go ahead.

2 A. The VIN for the vehicle did not come back registered  
3 in South Carolina at that time.

4 Q. And there's no warrants out on anybody; right?

5 A. No.

6 Q. Okay. And the license are good. There's no  
7 suspension; correct?

8 A. No not for Mr. Govan.

9 Q. All right. Now, briefly, the stop itself was a little  
10 weird. The stop of their vehicle. Nothing about your  
11 conduct, you know. It took Mr. Govan a while to stop.

12 A. It -- Yes.

13 Q. And it was a little bit of wobbling back and forth.  
14 Do you remember that?

15 A. I don't recall that part.

16 Q. Okay. You know you would characterize that as  
17 suspicious behavior; right?

18 A. The length of the stop, yes.

19 Q. Okay. And that is -- Now so far all of your  
20 suspicions are directed toward Mr. Govan. You agree with  
21 that; correct? Mr. Govan's driving the vehicle that you  
22 pull over for a traffic infraction; right?

23 A. Yes.

24 Q. And Mr. Govan is the one driving the vehicle when its  
25 taking a longer time than a normal stop. Do you agree with

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1 that?

2 A. That's correct.

3 Q. Now roadside is like we said the time you initially  
4 deal with Wilmore and Govan. And what other questions do  
5 you typically ask in a traffic stop?

6 A. I usually ask them how they are; where they're coming  
7 from; where they're heading. And then those are the  
8 typical --

9 Q. Okay. Now where you're going and where you're heading  
10 has nothing to do with the purpose of the stop; correct?

11 A. No.

12 Q. Okay. It doesn't help you get any information to help  
13 write that ticket for the tag?

14 A. Correct.

15 Q. But it does help you collect additional information  
16 about the people you're stopping; right?

17 A. Its more or less just small talk forum.

18 Q. Well what do they tell you when you ask them where  
19 they're going?

20 A. On this particular incident?

21 Q. Uh-huh.

22 A. They tell me that they're just driving around.

23 Q. Just driving around. Now do you find that -- You  
24 find that comment to be suspect; right?

25 A. In this situation.



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1 Q. Now they got no obligation to tell you the truth as  
2 far as where they're going and where they're coming ---

3 A. Correct.

4 Q. --- you agree with that; right?

5 A. Correct.

6 Q. But you do still, you're collecting information that  
7 you do find suspicious -

8 THE COURT: Mr. Merritt, you need to slow down and  
9 make sure he gets his answer out before you ask the next  
10 question.

11 MR. MERRITT: Yes, your Honor, thank you.

12 Q. You have collected information that you do find  
13 suspicious based upon that question; correct?

14 A. Can you reask that?

15 Q. Yes. So he answers you that we're just driving  
16 around?

17 A. Correct.

18 Q. And you find that suspicious; correct?

19 A. I --

20 Q. No one would just drive around -

21 SOLICITOR EPTING: Your Honor, I -

22 THE COURT: Mr. Merritt, you have to pick up on he  
23 thinks before he answers so give him time.

24 A. I wouldn't say at that moment it made it any more  
25 suspicious.

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1 Q. Okay. In a few minutes you do go back to the car with  
2 the other officers; correct?

3 A. That's correct.

4 Q. And you do comment on the things that you find to be  
5 suspicious; correct?

6 A. Correct.

7 Q. One of them is the smell of marijuana; right?

8 A. Yes.

9 Q. The other one is it took 'em a while to stop?

10 A. Yes.

11 Q. And the third thing that you do mention is that no  
12 one just drives around Flint; correct?

13 A. Correct. Flint Street.

14 Q. When you say that are you saying is though you don't  
15 believe anybody would do that?

16 SOLICITOR EPTING: Your Honor, I'm gonna object to him  
17 asking who he believes.

18 THE COURT: Yeah, I -- Just ask him fact questions.

19 MR. MERRITT: Okay.

20 Q. Now this is the point in which you smell marijuana;  
21 right?

22 A. At the initial approach.

23 Q. And it's your understanding that the smell of  
24 marijuana gives you the authority to search the vehicle;  
25 right?

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1 A. That's correct.

2 Q. It gives you the authority to take both the driver  
3 out and the passenger out; correct?

4 A. That's correct.

5 Q. Search them for weapons?

6 A. Yes.

7 Q. And it is your believe that you have this authority  
8 even when the smell of marijuana is faint?

9 A. Yes.

10 Q. Okay.

11 SOLICITOR EPTING: Your Honor, I'm gonna object to him  
12 asking questions that relate to search and seizure other  
13 than fact questions.

14 THE COURT: I over rule you. It's cross-examination,  
15 I over rule your objection.

16 Go ahead, Mr. Merritt.

17 BY MR. MERRITT:

18 Q. Now on the video you do claim that the smell of  
19 marijuana is faint; correct?

20 A. That's correct.

21 Q. Okay. But you did testify today that you -- that you  
22 -- the smell of marijuana was burnt?

23 A. Believed to be burnt.

24 Q. Okay. So even though it was faint you were able to  
25 distinguish it was burnt as opposed to fresh marijuana;

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1 right?

2 A. Correct.

3 Q. Okay. And in fact when you go back to the car you  
4 even say that the smell is barely present, is barely there?

5 A. That -- Yes. Well saying that I can barely smell it.

6 Q. You could barely smell the marijuana. Okay.

7 Now, when you get back to the car the other two  
8 officers come with you to your car; correct?

9 A. That's correct.

10 Q. And at that point you discuss the circumstances of  
11 your suspicion; right?

12 A. Correct.

13 Q. Okay. And we've talked about the things that you've  
14 discussed. At this point you're also running information;  
15 right?

16 A. Correct.

17 Q. And you instruct the other two officers, hey, we got  
18 probable cause here; right?

19 A. That's correct.

20 Q. So all we need is the smell of marijuana; right?

21 A. That's correct.

22 Q. And you can search that vehicle; correct?

23 A. That's correct.

24 Q. And its gonna take me a while to do this, y'all go  
25 ahead and search this vehicle; right?

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1 A. That's correct.

2 Q. Okay. And this is - At this point it doesn't matter  
3 whether they agree with you or not, this is your  
4 investigation; right?

5 THE COURT: They who?

6 Q. The two officers that have been instructed to search  
7 the vehicle.

8 A. I didn't -- I didn't tell them to search the vehicle.

9 Q. Uh-huh.

10 A. I stated that if they wanted to search the vehicle  
11 that they could.

12 Q. Okay. Okay. And as you said a second ago within  
13 eight minutes you do have all the information you need and  
14 you completed all the task except for the actual writing of  
15 the ticket. You agree with that; right?

16 A. No.

17 Q. Okay. What else did you do?

18 A. The VIN for the vehicle. The vehicle wasn't reg --  
19 and didn't have an actual state tag on it. It had a paper  
20 tag on it so we had to run the VIN again through North  
21 Carolina at 11:52 I believe was the marked time to get the  
22 information back for the vehicle.

23 Q. Okay. So you are in your car for a while as the other  
24 two officers are out ---

25 A. That's correct.

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1 Q. --- side? And back to your instructions, you do  
2 tell 'em also hey, take Mr. Wilmore out of the car first;  
3 right?

4 A. I suggested they would take him out first.

5 Q. Okay. And you explain -- Oh, and this is because  
6 he's more cooperative. Would you agree with that?

7 A. I would say yes.

8 Q. Is he more responsive? He's more responsive to your  
9 questions I guess initially?

10 A. He was more I guess calm, forthcoming I believe is  
11 how I explained it.

12 Q. Govan seemed more difficult to deal with?

13 A. Yes.

14 Q. Okay. And you specifically instruct them to remove  
15 Wilmore and you state because quote how should I say this,  
16 he's more forthcoming. Does that sound right to you?

17 A. Correct.

18 Q. Okay. And this is because you thought Mr. Wilmore is  
19 more likely to be honest than Mr. Govan?

20 A. No, its just his demeanor when speaking to us was  
21 more forthcoming.

22 Q. Uh-huh. He wasn't being combative at all; correct?

23 A. Correct.

24 Q. And he was cooperative with the officers?

25 A. Correct.

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1 Q. And he's polite to the officers; correct?

2 A. I mean politeness wasn't -- I -- I mean I don't think  
3 that's something that I picked up on but ---

4 Q. Okay.

5 A. --- it was forthcoming.

6 Q. Okay. And this is -- at this point this is the only  
7 stuff you've gotten in the brief encounter with them  
8 roadside; right?

9 A. Correct.

10 Q. Now the reason you would take him out first is because  
11 you do believe you would at least get more information from  
12 Mr. Wilmore before taking out Mr. Govan; right?

13 A. Not necessarily.

14 Q. Would you say he's more forthcoming?

15 A. He's more forthcoming ---

16 Q. Uh-huh.

17 A. --- and also his demeanor was calm at the time.

18 Q. And over all Govan's kind of a jerk; right?

19 A. I wouldn't say that.

20 Q. You wouldn't say that? All right. That's fair.

21 A. Not -- Not at that moment.

22 Q. Oh, I just mean over all. Over all Govan is a pain  
23 in the neck.

24 A. He became belligerent but I wouldn't --

25 Q. Okay. Now -- Now at this point you do have a little

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1 monologue inside the vehicle; right?

2 A. In -- With who?

3 Q. Well admittedly you start talking to yourself about  
4 the stop; correct, in the car?

5 A. Inside the vehicle yes.

6 Q. Do you remember everything you said at that point?

7 A. I don't remember everything.

8 Q. Would it help to refresh your recollection?

9 A. To everything I said ---

10 Q. Uh-huh.

11 A. --- inside the car?

12 Q. Yeah.

13 A. I don't recall everything I said inside the car, no.

14 (VIDEO/AUDIO PUBLISHED AT 10:11 AM.)

15 Q. I promise I'm not trying to pick on you. I think its  
16 good, it tells us what your thoughts are. You are at this  
17 point trying to give your rational as to the stop and what  
18 you're thinking at this point; right?

19 A. I believe so.

20 Q. And --

21 A. Maybe I was working and just talking to myself.

22 Q. Okay. And its safe to say at this point you're no  
23 longer investigating a traffic infraction; right?

24 A. At that point we're still working on the actual  
25 initial violation.



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1 Q. But you have kind of -- Here you do intend on  
2 searching that vehicle at this point; right?

3 A. Correct.

4 Q. Yeah. And that's the -- Now, and y'all have -- Now  
5 you have the legal authority to do that now; right?

6 A. Correct.

7 Q. But you don't have to do it. You're not required by  
8 law to do it; correct?

9 A. Correct.

10 Q. You could let 'em go on their way if you wanted to;  
11 right?

12 A. That's correct.

13 Q. But you smell the smell of marijuana and you suspected  
14 drug activity; right?

15 A. Correct.

16 Q. Okay. Now the other thing I want to kind of comment  
17 on a couple of things. This is not the absolute best  
18 camera situation that we do have here; right?

19 A. Correct.

20 Q. There's something up with the microphones, you would  
21 agree with that; right?

22 A. Right.

23 Q. And unlike in a lot of circumstances here you can only  
24 hear your microphone; right?

25 A. That's correct.

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1 Q. And other -- If this were - - if it wasn't a problem  
2 we'd be able to hear what's being said outside there;  
3 right?

4 A. No.

5 Q. No?

6 A. No.

7 Q. Okay. Is there another vehicle?

8 A. Yes.

9 Q. Okay. And if that vehicle had a properly working  
10 microphone we'd be able to hear what they're talking about;  
11 right?

12 A. Yes.

13 Q. Okay.

14 A. At least one of the officers.

15 Q. And I think it's important to point out something  
16 right here, that each car is equipped with camera  
17 equipment; right?

18 A. That's correct.

19 Q. And that camera is recording all the time.

20 A. Constantly?

21 Q. Well there's two ways to view it but how would you  
22 explain it when you get a camera - when you get - when  
23 you're able to get a movie and take it so that you have it  
24 as evidence?

25 A. Can you reask that?

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1 Q. Sure. The camera starts saving it's recordings as  
2 you turn on the lights?

3 A. Correct.

4 Q. Okay. So once it saves those recordings those go onto  
5 a server which you can therefore retrack for the purposes  
6 of court; right?

7 A. Correct.

8 Q. Okay. And there's two cars here; right?

9 A. That's correct.

10 Q. And the only one that we have or that we've seen is  
11 your car; correct?

12 A. That's correct.

13 Q. And that's why there's a long encounter here while  
14 you're inside doing the things that you described and  
15 they're outside; right?

16 A. That's correct.

17 Q. And we never hear any of that conversation; right?

18 A. Correct.

19 Q. Okay. But either -- And the other thing, but you  
20 know the camera comes on when the lights come on; right?

21 A. Correct.

22 Q. And you know therefore your microphone is recording  
23 and can be retrieved when the lights come on?

24 A. That's correct.

25 Q. And it's not necessarily true that anybody else knows

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1 that without you telling them; right?

2 A. I'm not sure.

3 Q. Okay. Now, you suspect the drug activity and this is  
4 why you instruct your fellow officers to search the  
5 vehicle; right?

6 A. I didn't instruct them to search it.

7 Q. Okay. Well that's why you instruct them to take out  
8 Wilmore first?

9 A. Suggested.

10 Q. Suggested it because Wilmore would be more  
11 forthcoming; right?

12 A. Correct.

13 Q. And in honesty at this point no matter what they're  
14 doing you intend to search the vehicle; right?

15 A. At this point, yes.

16 Q. Okay. The officers don't search the vehicle; right?

17 A. No, not at this point.

18 Q. And whether there was an instruction to at least they  
19 disregard your suggestion up 'till now; right? The  
20 suggestion to search the vehicle.

21 A. They haven't -- To me it doesn't appear they've got  
22 to that point yet.

23 Q. Well this is a relatively long encounter here; right?

24 I would say it occurs -- It's more than ten minutes.

25 A. I believe so.

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1 Q. Okay. And he does pull out Mr. Wilmore first search  
2 him; correct?

3 A. He patted him down.

4 Q. And Revels is doing both searches; right?

5 A. He's -- Yes.

6 Q. And Revels is in training; right?

7 A. Correct.

8 Q. And the other officer is watching Revels to make sure  
9 he pats these people down correctly; correct?

10 A. He -- He's -- He's not making sure what he does.

11 Q. Okay.

12 A. What an FTO does is they observe and then make  
13 corrections at the end of whatever encounter.

14 Q. Well, so tell me the truth, do you think your  
15 colleagues were -

16 SOLICITOR EPTING: Your Honor, I'm gonna object to  
17 that comment.

18 THE COURT: I -- Don't start a question like that.  
19 I sustain the objection.

20 MR. MERRITT: I didn't mean he wasn't telling the  
21 truth.

22 THE COURT: That's not a proper way to ask a question.

23 MR. MERRITT: Okay.

24 Q. Were your colleagues as diligent in this endeavor as  
25 you wish they would have been?

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1 SOLICITOR EPTING: Your Honor, I'm gonna object to  
2 that as well.

3 THE COURT: Yeah, I sustain the objection. Just ask  
4 the facts, what happened.

5 BY MR. MERRITT:

6 Q. Well that's fine. When you get out of the car  
7 ultimately you have to take control of the crime scene;  
8 right?

9 A. Can you -- Can you ask that again?

10 Q. Sure. Ultimately about ten minutes go by and you have  
11 to essentially take control of this crime scene. Would you  
12 agree with that?

13 A. Once I exit the vehicle I reinitiate the lead into the  
14 investigation.

15 Q. Well like we said this exchange that goes on as  
16 they're taking the people out last about -- it takes about  
17 three minutes to get 'em both out of the car. Would you  
18 agree with that?

19 A. I believe that's about right.

20 Q. And then the predominate time you're just kind of  
21 talking to each other; right?

22 A. I believe so.

23 Q. Now when did you definitively decide that Wilmore was  
24 the guilty party in regards to the gun?

25 A. When he told us that the gun was his.

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1 Q. And which statement are you referring to?

2 A. It's mine.

3 Q. Okay. Its mine?

4 A. Yes.

5 Q. Now and Wilmore -- So this is definitely the  
6 strongest evidence in regards to Wilmore's guilt would be  
7 his admissions. Would you agree with that?

8 A. Correct.

9 Q. And Mr. Wilmore is -- he makes several statements  
10 against his self interest. Would you agree with that?

11 A. Yes.

12 Q. The one that you're talking about is relatively late  
13 in the course of this stop. Would you agree with that?

14 A. Yes.

15 Q. Okay. And the entire stop takes about approximately  
16 forty minutes?

17 A. I believe so.

18 Q. And y'all find the gun maybe twenty seconds, twenty-  
19 three minutes I think was what we established previously.  
20 Would you agree with that?

21 A. Somewhere in that area.

22 Q. Okay. And then it's only after that statements  
23 against his self interest regarding the gun come into play;  
24 right?

25 A. Yes.

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1 Q. Well I'd like to take these statements one at a time  
2 first. The statement -- The first statement Mr. Wilmore  
3 makes against his self interest is in regards to the smell  
4 of marijuana; correct?

5 A. Yes.

6 Q. He does say something when you come out of the car  
7 and start talking to the individuals and we can hear  
8 everything regarding marijuana being on his plate; right?

9 A. Yes.

10 Q. And -

11 MR. MERRITT: And could you play that --

12 (AUDIO VIDEO PUBLISHED TO THE JURY AT 10:20 AM.)

13 Q. That was it; right? And that's a statement against  
14 his self interest because that corroborates the smell that  
15 you were talking about; right?

16 A. It could, yes.

17 Q. It could. At least somebody inside the car is  
18 corroborating the fact you did smell something earlier;  
19 right?

20 A. Correct.

21 Q. And Mr. Go -- That statement, without that statement  
22 you wouldn't have had that corroboration. You agree?

23 A. Say that -- say -

24 Q. That's the first time anybody in that car says  
25 anything about marijuana being in the car.



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1 A. Correct.

2 Q. Okay.

3 MR. MERRITT: Madam Clerk, if you could keep the  
4 lights out -- off for the second so you're not switching  
5 'em on and off. Sorry.

6 Q. The second statement that Mr. Wilmore makes against  
7 his self interest is that his girlfriend might have a gun  
8 in the car; right?

9 A. Yes.

10 Q. I mean that's going towards this theory in the case  
11 that it is Mr. Wilmore's gun; right?

12 A. Yes.

13 Q. And that's --

14 MR. MERRITT: Can you play at number twenty-four?

15 SOLICITOR EPTING: Your Honor, I would object to  
16 continuously playing the tape when the officer's conceding  
17 that the statements were in fact being made. I don't know  
18 if he's trying to impeach him with it or.

19 THE COURT: Well, it's cross-examination. I'll allow  
20 it.

21 MR. MERRITT: Thank you, Madam Clerk.

22 (VIDEO AUDIO PUBLISHED TO THE JURY AT 10:22 AM.)

23 Q. Did you hear the statement there?

24 A. He hasn't made the statement.

25 Q. Okay.

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1 (VIDEO AUDIO CONTINUES TO BE PUBLISHED.)

2 MR. MERRITT: Can you pause it briefly there?

3 Q. Who's talking there?

4 A. I'm not sure.

5 Q. Does that appear to be Mr. Govan talking or you can't  
6 tell?

7 A. I can't tell.

8 Q. Okay.

9 MR. MERRITT: Go ahead. I'm sorry.

10 (VIDEO AUDIO CONTINUES TO BE PUBLISHED.)

11 A. I believe the statement you're referring to it's prior  
12 to --

13 Q. Prior to this?

14 A. Prior, yeah. Yes.

15 (VIDEO AUDIO CONTINUES TO BE PUBLISHED TO THE JURY.)

16 MR. MERRITT: Okay. You can pause it.

17 Q. If that's the case do you remember the statement?

18 A. No. Not verbatim. I do remember him making a  
19 statement.

20 Q. And he says my girlfriend appears to have a gun in the  
21 car; right? May have a gun in the car.

22 A. He said maybe my girl. I believe since he's the only  
23 one that it may be my girlfriends gun in the car.

24 Q. And when that statements made he still doesn't appear  
25 to know about the car at least from the way he's conveying

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1 to you? The gun. I'm sorry. Right?

2 A. No not at that moment.

3 Q. Okay. And then the third statement that you're  
4 relying on is when you come back and you question him;  
5 correct? You ask him a series of four questions about the  
6 gun.

7 A. I don't -- They didn't have any -- any determination  
8 in our case as far as him or as far believing that the gun  
9 was his.

10 Q. Okay. Well do you remember everything he said and  
11 the questions that you ask?

12 A. I remember asking the questions.

13 Q. Okay.

14 A. I don't -- He couldn't explain -- describe the gun  
15 that he was referring to.

16 MR. MERRITT: Could you go to twenty-nine -

17 THE COURT: Before you run another clip can I see  
18 counsel up here just a minute?

19 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING  
20 OF THE JURY AT 10:26 AM.)

21 MR. MERRITT: Blaine, could you go to twenty-nine,  
22 thirty?

23 (VIDEO AUDIO CONTINUES TO BE PUBLISHED TO THE JURY.)

24 MR. MERRITT: Can you stop it.

25 Just keep the lights off.

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1 Q. And not only those are statements against his interest  
2 because it further discusses the fact that the gun might be  
3 his girlfriends; right?

4 A. We were just referring to the statement that he made  
5 to us earlier.

6 Q. Exactly. But you do learn a little bit more about  
7 what he knows about the gun and so forth there; right?

8 A. No.

9 Q. You don't? Okay. Now, so at that point you haven't  
10 made up your determination that Mr. Wilmore is guilty of  
11 this or that he is more likely the guilty party here;  
12 right?

13 A. We're still going through the investigation.

14 Q. Okay. Eventually he says it's mine; right?

15 A. Correct.

16 Q. And -

17 MR. MERRITT: Could you go to thirty-three, fourteen?

18 (VIDEO AUDIO CONTINUES TO BE PUBLISHED.)

19 Q. Now at this point he hasn't made the statement you're  
20 referring to; right?

21 A. He has.

22 Q. He has? Okay. And can you kind of try to identify  
23 where that was there just by letting us know what's occur -  
24 what was occurring?

25 A. He was being placed in handcuffs and I was double

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1 locking the cuffs to make sure that they didn't get too  
2 tight on his wrist.

3 Q. Okay. And you were also putting Mr. - the other  
4 gentleman in handcuffs; right?

5 A. Yes, Officer Revels was attempting to put Mr. Govan  
6 in handcuffs.

7 Q. Mr. Govan says something at that point; correct?

8 A. Something, correct.

9 Q. And then Mr. Wilmore responds with the admission that  
10 you're talking about; right?

11 A. I don't know if it was a response.

12 Q. Okay. Fair enough. And we're gonna be taking all of  
13 these one by one in a second but they're very important in  
14 regards to Mr. Govan -- Mr. Gilmore's case.

15 SOLICITOR EPTING: I'm going to object to that  
16 editorial comment, your Honor.

17 THE COURT: Yeah. Let's take a break if you're gonna  
18 go through all of them like that. Let's take a break now.

19 MR. MERRITT: Okay.

20 THE COURT: We'll take a break; about a ten minute  
21 refresher break.

22 (JURY EXITS COURTROOM ON RECESS AT 10:31 AM.)

23 THE COURT: All right. We'll be at ease for about ten  
24 minutes.

25 (WHEREUPON, COURT'S EXHIBIT NUMBER FOUR, IDENTIFIED

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1 AND MARKED, RECEIVED INTO EVIDENCE.)

2 (COURT AT EASE AT 10:31 PM.)

3 (COURT BACK IN SESSION AT 10:42 AM.)

4 THE COURT: Thank you. You may take your seats.

5 Is the State ready?

6 SOLICITOR EPTING: State's ready, your Honor.

7 THE COURT: The witness is on the stand.

8 Is the Defense ready?

9 MR. MERRITT: Defense is ready.

10 THE COURT: Bring the jury in.

11 (JURY REENTERS COURTROOM AT 10:43 AM.)

12 THE COURT: You may proceed.

13 MR. MERRITT: Thank you, your Honor.

14 CROSS-EXAMINATION CONTINUES

15 OFFICER WILLIAM LITTLE BY MR. MERRITT:

16 Q. Okay. We've gone through most of the statements  
17 that led to your determination to arrest Mr. Willmore;  
18 right?

19 A. Correct.

20 Q. Okay. Now, its after all these statements that you  
21 do read Miranda; right?

22 A. Correct.

23 Q. And what's the purpose of Miranda?

24 A. Once a suspect is in custody we read Miranda to let  
25 them know their rights before we ask them any questions.

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1 Q. It explains to them they got the right to remain  
2 silent; right?

3 A. Correct.

4 Q. And it explains to them that after you read it  
5 anything they say can be used against them in court; right?

6 A. Correct.

7 Q. Does it work generally in your experience?

8 SOLICITOR EPTING: I'm gonna object to that comment.

9 THE COURT: I sustain the objection.

10 BY MR. MERRITT:

11 Q. So after Miranda is read in theory they should know  
12 that anything is being used -- they're saying could be used  
13 against them in court; right?

14 A. As we read them Miranda, yes.

15 Q. Cool. And Miranda they don't read until after all  
16 those statements; right?

17 A. Say -- Ask that again.

18 Q. All the statements that we've discussed so far Miranda  
19 is read after that; right?

20 A. Correct.

21 Q. Okay. So he doesn't necessarily know that at the  
22 time; right? He's not aware that everything he's said will  
23 be used in court against him.

24 SOLICITOR EPTING: I'm gonna object to that, your  
25 Honor..

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1 THE COURT: You don't know what he knows so I sustain  
2 the objection. He won't know what Mr. Wilmore knew.

3 BY MR. MERRITT:

4 Q. There's no evidence in this case that he was informed  
5 that he was being recorded; correct?

6 A. Correct.

7 Q. You know he's being recorded; right?

8 A. Yes.

9 Q. You never informed him that you are being recorded;  
10 right?

11 A. Correct.

12 Q. Okay. Now at the end after Miranda you put him in  
13 cuffs; right?

14 A. No, before Miranda.

15 Q. I'm sorry, you search him to be put into your  
16 vehicle; right? After Miranda.

17 A. Correct.

18 Q. He ask you to get the jacket out of your car; right?

19 A. Correct.

20 Q. And you say something to him basically that says, you  
21 know, I don't want to bring any other charges against you,  
22 you been honest so far and it's not fully decipherable  
23 would you agree with that?

24 A. No.

25 Q. Okay. Well what do you remember saying?



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1 A. I was explaining to him that, you know, the reason I  
2 was patting him down to make sure he didn't have any other  
3 drugs or contraband on his person because if we take  
4 em into our jail it's another charge that they get. I told  
5 him that he's being very cooperative and told us the gun  
6 was his I'm just trying to help him out.

7 Q. And you've heard the video of that incident; right?

8 A. Correct.

9 Q. Okay. And you can't decipher what he says to that;  
10 right?

11 A. No.

12 Q. But you were there; right?

13 A. Correct.

14 Q. And it's your belief or it's your understanding, it's  
15 your testimony that he does not -- that is not a further  
16 admission in regards to the gun; right?

17 A. Correct.

18 Q. Even though you can't hear it on camera you were there  
19 you remember he's not saying anything in regards to the gun  
20 at that point. Would you -- You would agree with that?

21 A. Yes.

22 Q. Okay. Now when he makes the first statement against  
23 his self interest the fact that there's the smell of  
24 marijuana on him you had just gotten out of the car at that  
25 point; right?

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1 A. I'd been out for a while.

2 Q. Maybe a minute or so; right?

3 A. Maybe.

4 Q. Okay. And before that there was all that talk and  
5 we're talking ten minutes of a conversation that we can't  
6 hear; right?

7 A. Correct.

8 Q. Now by the time you get out of the car would you say  
9 that Govan's kind of taken control of the situation?

10 A. No.

11 Q. Okay. Well he's going on and on. He's talking -  
12 As you get out of the car he's going on and on; right?

13 A. I don't know if he was talking when I got out of the  
14 vehicle or not.

15 Q. Okay.

16 MR. MERRITT: Do you mind --

17 This is just to help us to remember.

18 (AUDIO VIDEO PUBLISHED AT 10:48 AM.)

19 MR. MERRITT: Mr. Fleming, can you pause it briefly.

20 Q. This is about right after you get out of the car;  
21 right?

22 A. Shortly after yes.

23 Q. And that is Mr. Govan just going on and on. Would you  
24 agree with that?

25 A. Correct.

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1 Q. Okay. At this point -- and we'll keep the lights  
2 off for just a second just in case -- at this point he's  
3 already had somebody else come to the crime scene and  
4 approaching the crime scene; right?

5 A. Yes. At this time somebody had just pulled up in  
6 front of the -- in front of his vehicle.

7 Q. And it's apparent that Mr. Govan called that person;  
8 right?

9 A. I don't know how he knew.

10 Q. Okay.

11 (AUDIO VIDEO PUBLISHED.)

12 MR. MERRITT: Would you pause it?

13 Q. Would you at least agree that it appears that Mr.  
14 Govan is talking to that individual.

15 A. At that moment, yes.

16 Q. And that individual's just walked up; right?

17 A. Correct.

18 Q. And he is talking to Govan as well.

19 A. Correct.

20 Q. Okay. And Mr. Govan is on the phone; right?

21 A. I believe -- I believe the guy that walked up handed  
22 him the phone.

23 Q. Okay. And so he is on the phone with the guy that  
24 just came up to the scene; right? And I'll rephrase.

25 He's on the phone with a phone provided to him by a

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1 guy who just came up on the scene; right?

2 A. Correct.

3 Q. And he's claiming to be on the phone with a lawyer;  
4 right?

5 A. Yes.

6 Q. He claims that he's also not being completely -- Well,  
7 actually in your recollection has he been completely patted  
8 down at this point?

9 A. No.

10 Q. Okay. Because you'll eventually pat him down again;  
11 right?

12 A. Correct.

13 Q. And in your view the first pat down wasn't sufficient;  
14 right?

15 A. Correct.

16 Q. So you got this guy at the crime scene; correct?

17 A. Yes.

18 Q. And you know you need to pat down Mr. Govan again;  
19 right?

20 A. Yes.

21 Q. And they happen to kind of stand out there talking  
22 for a while; right?

23 A. Yes.

24 Q. And we at least know when you get in there Mr. Govan's  
25 the one that's just running his mouth; right?

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1 A. Yes.

2 Q. Now you confront Mr. Govan. Do you agree with that?

3 A. Correct.

4 Q. You confront Mr. Govan and you tell him that you  
5 essentially intend on searching the vehicle; right?

6 A. Yes.

7 Q. And you intend on patting him down again; right?

8 A. Yes.

9 Q. And after Mr. Govan has explained to you that the  
10 other person has patted him down too much; right? Tried  
11 to go into his pockets.

12 A. Yes.

13 Q. And he explains to you how that's unconstitutional  
14 on Mr. Govan; right?

15 A. Yes.

16 Q. And he starts going on and on about his Fourth note  
17 of protections and the Constitution; right?

18 A. Yes.

19 Q. At that point is it evident to you as an officer that  
20 Mr. Govan doesn't want to be searched?

21 A. He -- He's just protecting his Fourth Amendment  
22 right.

23 Q. Mr. Govan is just a civil individual protecting his  
24 Fourth Amendment rights here -

25 SOLICITOR EPTING: Your Honor, I'm gonna -

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1 THE COURT: You're kind of arguing with him now.

2 Just ask him questions.

3 BY MR. MERRITT:

4 Q. The -- Mr. -- You do attempt to search Mr. Govan  
5 after that; right?

6 A. Correct.

7 Q. And Mr. Govan does not consent to that search; right?

8 A. Correct.

9 Q. And he explains how he was already searched  
10 previously. He also explains how he does not want the car  
11 searched; right?

12 A. He explains that he didn't -- he didn't give consent  
13 to search it.

14 Q. Okay. And he says don't search that car.

15 A. The -- I believe so.

16 Q. And you explain you have probable cause to search  
17 the car and search ---

18 A. Correct.

19 Q. --- him individually. And you definitely take  
20 control of that situation; right?

21 A. Yes.

22 Q. Now at this point Mr. Govan starts getting angry;  
23 right?

24 A. I believe he was angry prior to that.

25 Q. He appears already ---

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1 A. Very belligerent.

2 Q. --- to be angry; right?

3 A. Belligerent.

4 Q. And belligerent; right? And belligerent? I'm sorry.

5 A. Yes.

6 Q. Okay. And he gets even angrier when you attempt to  
7 search the car. Would you agree with that?

8 A. Probably stayed about the same. His emotions probably  
9 stayed about the same.

10 Q. Let's see if this refreshes our memory at all.

11 MR. MERRITT: Will you continue playing?

12 (VIDEO AUDIO PUBLISHED AT 10:54 AM.)

13 Q. And for clarification here you instructed him now that  
14 you're gonna search him then you're gonna search that car;  
15 right?

16 A. Correct.

17 Q. And he does get a lot angrier there; right?

18 A. That's -- I believe he stayed the same.

19 Q. Okay. His voice did appear to get louder. Would you  
20 agree with that or? Okay. Now this is before any word of  
21 the gun comes up; right?

22 A. Correct.

23 Q. And Mr. -- Once they began Mr. Wilmore's demeanor  
24 has not changed throughout the course of this  
25 investigation. Would you agree with that?

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1 A. At this point I haven't had much interaction with him.

2 Q. But you have seen the video and you do see him  
3 standing there; right?

4 A. Correct.

5 Q. And throughout the course of this he has been at  
6 least cooperative with the police; right?

7 A. Cooperative, yes.

8 Q. And you have based off his body language and the  
9 things you've seen he's acted the same so far; right?

10 A. He's become more nervous at this point.

11 Q. You say he's nervous here?

12 A. He -- Throughout the video he becomes more nervous.

13 Q. Okay. But he's the one that tells you at this point  
14 that the marijuana might be on me; right?

15 A. Correct,

16 Q. Mr. Govan distinctly says no one's been smoking  
17 marijuana; right?

18 A. I believe so.

19 Q. He says it two or three times before you get to - -

20 A. Yes.

21 Q. Okay. And over him saying that Mr. Wilmore interjects  
22 well it could be on me; right?

23 A. Correct.

24 Q. Okay. And he says this as Mr. Govan is at least  
25 angry; right?



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1 A. In his words yes.

2 Q. And this is as you're approaching Mr. Govan; right?

3 A. Yes. While I'm speaking with him.

4 Q. Mr. Govan's angry and you're approaching him that's  
5 accurate; right?

6 A. At this point, yes.

7 Q. Is Govan with the way that he's acting in risk of  
8 getting himself detained for security purposes?

9 A. No.

10 Q. No? You don't find nothing threatening about his  
11 conduct at this point?

12 A. No.

13 Q. He's now got another person who's arrived at the  
14 scene and provided him a cell phone; correct? He reports  
15 to be on the phone with an attorney; correct?

16 A. Correct.

17 Q. And that attorney appears to be giving him advice  
18 in regards to whether you can search him or not; right?

19 A. I don't know what -- I don't remember the conversation  
20 on the phone.

21 Q. Okay. Now the second statement in regards to Mr.  
22 Wilmore is that the gun might be from his girlfriend;  
23 right?

24 A. Correct.

25 Q. And at that point way after this particular encounter

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1 seven or eight minutes after Mr. Bryson has found the gun;  
2 right?

3 A. Correct.

4 Q. And y'all are confronting both of them with this gun  
5 that's in the car; correct?

6 A. Not at the time he makes the statement.

7 Q. Well y'all found the gun and you're putting them in  
8 -- What is your recollection of what's going on when he  
9 says that?

10 A. Officer Bryson and Officer Revels were at the vehicle  
11 while I was standing just to the left of where the camera  
12 is now.

13 Q. Uh-huh.

14 A. Mr. Govan and Mr. Wilmore are standing in front of  
15 the patrol vehicle and I believe the other gentleman that  
16 pulled up was standing to my left and that's when Mr.  
17 Wilmore made the statement that the gun might be his, or  
18 might be his girlfriends.

19 Q. Okay. So that you have now they know that y'all have  
20 a gun in the car; correct?

21 A. Correct.

22 Q. And before that search Mr. Wilmore never said don't  
23 search that car; right?

24 A. Not to my knowledge.

25 Q. He never asserted his Constitutional rights; correct?

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1 A. Correct.

2 Q. And his statement there is it might be my girlfriends;  
3 right?

4 A. Correct.

5 Q. Now your understanding of the situation so far is that  
6 Mr. Wilmore is driving in the passenger set of his  
7 girlfriend's car; right?

8 A. I --

9 Q. He's riding in the passenger seat is your  
10 understanding of the situation when you pulled 'em over?

11 A. Correct.

12 Q. And it's his girlfriend's car is your understanding?

13 A. Correct.

14 Q. Okay. And Mr. Govan is driving Mr. Wilmore's  
15 girlfriend's car; right?

16 A. Correct.

17 Q. Okay. And that's because I guess Mr. Wilmore can't  
18 drive; right?

19 A. Correct.

20 Q. Now, at the point in which he says it might be my  
21 girlfriend's do you remember what they're saying, what  
22 Govan -- how Govan responds to the situation?

23 A. No.

24 Q. Okay. Do you recollect whether at this point after  
25 Mr. Wilmore says it Govan calms down partly?

OFFICER WILLIAM LITTLE: CROSS BY MR. MERRITT

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1 A. He was calm before he made the statement.

2 Q. Mr. Govan was calm before Wilmore made the statement?

3 A. Correct.

4 Q. Yeah. He was not calm here; right?

5 A. Not at this point.

6 Q. Okay. But once Wilmore makes the statement Govan is  
7 calm?

8 A. Like I said he calmed down before he made the  
9 statement.

10 Q. Okay. Do you remember why?

11 SOLICITOR EPTING: Your Honor, --

12 THE COURT: I sustain the objection.

13 Go on to your next question.

14 BY MR. MERRITT:

15 Q. Now at the point in which you proceed to question  
16 Mr. Wilmore about the gun a couple of minutes later he has  
17 already indicated to you that it might be his girlfriend's  
18 gun; right?

19 A. That's correct.

20 Q. Now he's not saying it is; right?

21 A. That's correct.

22 Q. And you kind of give him the benefit of the doubt  
23 at this point. Do you agree with that?

24 A. We were -- We was doing that, it was just part of  
25 the investigation.

OFFICER WILLIAM LITTLE: CROSS BY MR. MERRITT

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1 Q. And you're not really done with your investigation  
2 at all either; right?

3 A. Not at that point.

4 Q. Because you're searching the car for more stuff;  
5 right?

6 A. Correct.

7 Q. So you want to know what's up with the gun but you  
8 want to know whatever you can learn; is that right?

9 A. Correct.

10 Q. Okay. So you ask him a series of four questions.

11 You ask him about the gun; right? What kind of gun  
12 does your girlfriend have; right?

13 A. Yes.

14 Q. And Mr. Wilmore guesses wrong twice; right?

15 A. I --

16 Q. He responds incorrectly to your question. I'm sorry.

17 A. I can't say. I don't know what kind of gun his  
18 girlfriend has.

19 Q. That's fine. But it's not the gun that y'all found in  
20 the car that he responds; right?

21 A. Not to my knowledge.

22 Q. Okay. Do you remember how he responded?

23 A. Yes.

24 Q. Okay. What did he say?

25 A. He said it was either a .40 or a .9.

OFFICER WILLIAM LITTLE: CROSS BY MR. MERRITT

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1 Q. And then you ask what brand it was. Is that the way  
2 you phrase it or what make?

3 A. I don't recall exactly how I ask.

4 Q. Okay. And he ask to talk -- to call his girlfriend;  
5 right?

6 A. Correct.

7 Q. Okay. Now eventually when he -- you identify his  
8 statement where he now its mine, it's mine; right?

9 A. Yes.

10 Q. And at that point he is still indicating to y'all that  
11 it might be his girlfriend's gun; right?

12 A. He didn't indicate --

13 Q. And it's early from his point of view we're riding  
14 in his girlfriend's car; right?

15 A. Yes.

16 Q. And Mr. Govan is driving his girlfriend's car; right?

17 A. Yes.

18 Q. Not Mr. Govan's -

19 SOLICITOR EPTING: Your Honor, ask and answered.

20 THE COURT: I sustain the objection. Let's try to  
21 move on as far as repeating -- repeatedly asking the same  
22 question.

23 MR. MERRITT: Sure.

24 THE COURT: Move on.

25 BY MR. MERRITT:

OFFICER WILLIAM LITTLE: CROSS BY MR. MERRITT

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1 Q. So when he says that Officer Bryson is going to put  
2 cuffs on Mr. Govan; right?

3 A. No.

4 Q. Okay. How do you recollect it?

5 A. Officer Revels was placing the cuffs.

6 Q. Okay. So when he says that Officer Revels is putting  
7 cuffs on Govan?

8 A. He was in the process of putting cuffs on him.

9 Q. And Govan says something like come on, Bro to Mr.  
10 Wilmore; right?

11 A. I believe Govan said Bro.

12 Q. Okay.

13 A. I don't -- that it was just a statement.

14 Q. Uh-huh. And in response to that Mr. Wilmore says  
15 to the officer it's mine, it's mine; right?

16 A. I can't say that was in response to that.

17 Q. Was it right afterwards?

18 A. It was shortly after.

19 Q. Was Govan saying Bro to Wilmore?

20 A. I don't recall who he was directing it to.

21 Q. Okay. Who would you say had control of the situation  
22 before you get out of that car? Is it Govan?

23 A. No.

24 Q. Well Govan -- We've already talked about the things  
25 that Govan had done to complicate things. Would you agree

OFFICER WILLIAM LITTLE: CROSS BY MR. MERRITT

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1 with that?

2 A. Yes.

3 Q. How about the vehicle, who has control of the vehicle?

4 SOLICITOR EPTING: Your Honor, I'm gonna object to who  
5 has control of the situation. That's a vague question.

6 THE COURT: I'll allow it. It's on cross-examination.

7 If he knows who has control or if someone does have  
8 control I'll let him answer.

9 BY MR. MERRITT:

10 Q. From your observation who's in control of the  
11 vehicle?

12 A. The -- Officer Revels and Officer Bryson.

13 Q. When it's being driven initially.

14 A. Oh. Mr. Govan.

15 Q. Now Mr. Wilmore admissions only come when Govan's  
16 getting himself into more trouble?

17 A. No.

18 Q. Is Mr. Govan in any way helping you get to the  
19 completion of this traffic stop?

20 A. No.

21 Q. Okay. Is he making it more difficult?

22 A. No.

23 Q. Not making it more difficult. Now a couple of things.

24 You did, you claimed you took the pictures of the gun?

25 A. Correct.



OFFICER WILLIAM LITTLE: CROSS BY MR. MERRITT

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1 Q. Okay. And just briefly we -- I think Mr. Epting  
2 brought up earlier for you the numbers that you read in  
3 regards to the serial number of the gun?

4 A. That's correct.

5 Q. Okay. Now the gun that was recovered is a black  
6 handgun we've seen today; right?

7 A. Correct.

8 Q. And that's a Smith and Wesson .9 millimeter?

9 A. Correct.

10 Q. Okay. And that's a pretty standard gun, would you  
11 agree?

12 A. I can't say.

13 Q. Is it a gun frequently used in criminal activity?

14 SOLICITOR EPTING: Objection, your Honor.

15 THE COURT: I sustain the objection.

16 BY MR. MERRITT:

17 Q. Well this gun in particular is nothing unusual about  
18 that; right?

19 A. Correct.

20 Q. It's a black gun?

21 A. Yes.

22 Q. And the tape holding it together?

23 A. No.

24 Q. Nothing like purple stripes or anything on it; right?

25 A. No.

OFFICER WILLIAM LITTLE: CROSS BY MR. MERRITT

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1 Q. And the way that you that you ID these guns is by  
2 the serial number you agree; right?

3 A. Correct.

4 Q. And this one does it in four; right?

5 A. Yes.

6 Q. And the evidence bag does indicate a different number;  
7 correct?

8 A. Correct.

9 Q. And the only number that's different is number six;  
10 right?

11 A. Correct.

12 Q. If we were to, you know, you put this number into a  
13 report and actually in this case you put the number into a  
14 report for this case incorrectly; right?

15 A. Yes.

16 Q. And you can if you wanted to take the serial number  
17 and get a report about the gun. Would you agree with that?

18 A. Say again. I'm sorry.

19 Q. Are you able to obtain, use that serial number to  
20 obtain information about the gun if you wanted to?

21 A. I'm not sure.

22 Q. You're not sure. Okay. You know if you were to find  
23 a gun in any crime scene do you have the ability to call  
24 dispatch and put the gun and find out information about the  
25 gun?

OFFICER WILLIAM LITTLE: CROSS BY MR. MERRITT

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1 A. What type of information?

2 Q. I'm just curious. Information generally that you  
3 don't have in front of you right there when you get the  
4 gun.

5 A. As far as? I mean they're not registered so we can't  
6 find out owner information.

7 Q. Uh-huh.

8 A. We can't find out at that moment if the gun is stolen.

9 Q. Okay. You took the pictures in this case, what we  
10 talked about?

11 A. Correct.

12 Q. Before you take the pictures Officer Bryson finds the  
13 gun initially; right?

14 A. Correct.

15 Q. And after Mr. Bryson -- Officer Bryson goes to the  
16 side of the car Officer Revels goes to that same side of  
17 the car before you get there; right?

18 A. Correct.

19 Q. And then after that you are made aware that the gun  
20 even exist; right?

21 A. Prior to Officer Revels going to the --

22 Q. Okay. Do you know -- So you don't know if that  
23 gun is in the exact same position it was in before; right?

24 A. No.

25 Q. Okay. But it was in the position when you -- You

OFFICER WILLIAM LITTLE: CROSS BY MR. MERRITT  
REDIRECT BY SOLICITOR EPTING:

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1 didn't move the gun or anything?

2 A. Correct.

3 Q. Right? Okay. And then after you took the pictures  
4 you took the gun and you put it in this bag?

5 A. Yes.

6 Q. And that bag was in the back of your car; right?

7 A. I believe so.

8 Q. Okay. And that was to protect it as evidence  
9 potentially in a trial; right?

10 A. Correct.

11 Q. At that point you could have had it searched for  
12 prints; right?

13 A. Correct.

14 Q. Okay.

15 MR. MERRITT: No further questions. Thank you.

16 THE COURT: Redirect?

17 SOLICITOR EPTING: Very briefly, your Honor.

18 REDIRECT EXAMINATION

19 OFFICER ERIC LITTLE BY SOLICITOR EPTING:

20 Q. For the record, Officer, is the person who you  
21 arrested that night charged with the unlawful carry charge  
22 is he present in the courtroom today?

23 A. Yes.

24 Q. Could you point him out please?

25 (WITNESS INDICATED.)

OFFICER WILLIAM LITTLE: REDIRECT BY SOLICITOR EPTING:

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1 SOLICITOR EPTING: Your Honor, I'd ask that the record  
2 reflect that the Officer pointed to Jayquan Wilmore seated  
3 at defense table in a red colored shirt.

4 (WITNESS INDICATED TOWARD DEFENDANT.)

5 Q. Defense counsel ask you several times about the  
6 factors that went into your decision to arrest Mr. Wilmore;  
7 is that correct?

8 A. Correct.

9 Q. And he ask you about the statements that he made;  
10 is that right?

11 A. Correct.

12 Q. Did the position of the gun as you photographed it  
13 or as it was photographed play into your decision to arrest  
14 Mr. Wilmore?

15 A. Yes.

16 SOLICITOR EPTING: Your Honor, permission to publish  
17 I believe it's State's Exhibit One?

18 THE COURT: You may.

19 SOLICITOR EPTING: Thank you, your Honor.

20 It is State's Exhibit One onto the -

21 Thank you, Madam Clerk.

22 (WHEREUPON, STATE'S EXHIBIT ONE PUBLISHED ON OVER HEAD  
23 PROJECTOR TO THE JURY.)

24 Q. Can you tell the jury using State's Exhibit One how  
25 that played into your decision?

OFFICER WILLIAM LITTLE: REDIRECT BY SOLICITOR EPTING:  
RECROSS BY MR. MERRITT

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1 A. The placement of the handgun is - appeared to us to  
2 be so that it was only placed there by the person sitting  
3 in the passenger seat along side where the door frame would  
4 go.

5 Q. And who was sitting in that passenger seat when the  
6 stop was made?

7 A. Mr. Wilmore.

8 Q. Based upon that position would it have been feasible  
9 for the driver to place that gun underneath that passenger  
10 seat?

11 A. No to our knowledge.

12 MR. MERRITT: Speculation.

13 THE COURT: I sustain the objection.

14 SOLICITOR EPTING: Beg the Court's indulgence.

15 No further questions.

16 THE COURT: Recross?

17 MR. MERRITT: Yeah, briefly.

18 RECROSS-EXAMINATION

19 OFFICER WILLIAM LITTLE BY MR. MERRITT:

20 Q. Your testimony is that that's the position which  
21 only the passenger can put the car -- put the gun there?

22 SOLICITOR EPTING: Objection, your Honor, he just  
23 objected to speculation and it was sustained.

24 THE COURT: No. No, I over rule the objection plus  
25 he's not your witness, he's Mr. --

OFFICER WILLIAM LITTLE: RECROSS BY MR. MERRITT

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1 SOLICITOR EPTING: My apologies, your Honor.

2 THE COURT: Go head.

3 BY MR. MERRITT:

4 Q. You're not aware of where that gun is before you pull  
5 the car over; correct?

6 A. Correct.

7 Q. You have no awareness of where that gun was while  
8 you were running those tickets; right?

9 A. Correct.

10 Q. And you do ask your officer to pull out the passenger  
11 first; right?

12 A. Correct.

13 Q. And as you testified you ask him because he's more  
14 forthcoming and you do it so you can get some more  
15 information out of Mr. Wilmore; right?

16 A. Do it because of his demeanor.

17 Q. And so you frisk him entire -- You frisk Mr. Wilmore  
18 entirely while they're talking to him and his demeanor  
19 before they take out Mr. Govan; correct?

20 A. Yes.

21 Q. Now you testified before Mr. Bryson is watching Mr.  
22 Revels because he's in training pat down Mr. Wilmore;  
23 right?

24 A. No. I'm not sure what Officer Bryson was watching at  
25 that moment.

OFFICER WILLIAM LITTLE: RECROSS BY MR. MERRITT

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1 Q. That's all right. You have no indication where the  
2 gun was during the course of that do you?

3 A. During the course of?

4 Q. Of the pat down of Mr. Wilmore.

5 A. No.

6 Q. When Mr. Govan's in the car by himself; correct?

7 A. I had no knowledge of it.

8 Q. And then Mr. Govan is in the car by himself during  
9 that time; right?

10 A. Correct.

11 Q. And you don't know even where the gun was before  
12 Mr. Bryson touched it or Mr. Revels touched it; correct?

13 A. They didn't. To my knowledge they didn't touch it.

14 Q. Thank you.

15 MR. MERRITT: No further questions.

16 THE COURT: All right. You can step down and have a  
17 seat at counsel's table.

18 SOLICITOR EPTING: Your Honor, we would ask that this  
19 witness be excused.

20 THE COURT: Okay. You can be excused.

21 OFFICER LITTLE: Thank you, your Honor.

22 (WITNESS LEAVES WITNESS STAND.)

23 THE COURT: Call your next witness.

24 SOLICITOR NEWKIRK: Your Honor, the State calls  
25 Officer Revels to the stand.



OFFICER CHRISTOPHER REVELS: DIRECT BY SOLICITOR NEWKIRK

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1 THE COURT: Please come up and put your left hand on  
2 the Bible and raise your right.

3 (WHEREUPON, CHRISTOPHER  
4 REVELS, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS  
5 FOLLOWS:)

6 DIRECT EXAMINATION

7 OFFICER CHRISTOPHER REVELS BY SOLICITOR NEWKIRK:

8 Q. Good morning, Officer Revels.

9 A. Good morning, sir.

10 Q. Would you please state your full name for the jury.

11 A. Christopher Cody Revels.

12 Q. And, Officer Revels, how are you currently employed?

13 A. Rock Hill City Police Department police officer.

14 Q. How long have you been in that position?

15 A. For one year and some months.

16 Q. Were you in that position last December?

17 A. Yes.

18 Q. And on the 21st, 22nd of December, late evening hours  
19 early morning hours did you have an occasion to be involved  
20 in a traffic stop involving the defendant?

21 A. Yes, sir.

22 Q. Would you please describe that experience to the jury?

23 A. During that evening I was in Phase III field training;  
24 I was riding with Officer Bryson, Officer Little conducted  
25 a traffic stop on Flint Street. I followed in Officer

1 Bryson's patrol vehicle and provided contact and security  
2 for Officer Little.

3 Q. When you say you were in training, what do you mean by  
4 that?

5 A. Rock Hill police training is twenty-two weeks of  
6 field training. I was in the Phase III the final phase  
7 before evaluation.

8 Q. Had you already gone to the Academy?

9 A. Yes, sir.

10 Q. And was this the final section of your Rock Hill PD  
11 training?

12 A. It was the final session before evaluations were done.

13 Q. And what did that entail?

14 A. As far as the training or evaluation?

15 A. Yes. Phase III of your training.

16 Q. Phase III is where they put you in a driver's seat  
17 and you conduct all the business, answer calls for service,  
18 while your field training officer evaluates your  
19 performance.

20 Q. And in this case what officer was evaluating you?

21 A. Officer Bryson.

22 Q. And you mentioned that you were doing security for  
23 a traffic stop. Would you tell the jury about that?

24 A. For traffic stops if the officer calls for assistance  
25 for a night time traffic stop the initial officer makes

OFFICER CHRISTOPHER REVELS: DIRECT BY SOLICITOR NEWKIRK

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1 contact. The officer providing backup we approach either  
2 the passenger side and watch the occupants of the vehicle  
3 while Officer Little or the other officers conduct the  
4 business of the stop.

5 Q. And in this case did you approach the vehicle?

6 A. Yes, sir.

7 Q. And can you tell the jury about that?

8 A. I - Officer Little conducted the traffic stop. He  
9 approached the driver's side I approached the passenger  
10 side where Mr. Wilmore was sitting.

11 Q. And did you notice anything about the inside of the  
12 vehicle at that time?

13 A. At the time I approached the vehicle I could smell a  
14 faint odor of marijuana from inside the vehicle.

15 Q. What kind of smell was it?

16 A. It smelled like of like the burnt smell of marijuana.

17 Q. And after smelling that what did you do?

18 A. After that I made contact to Officer Little and we  
19 confirmed together that we both smelled marijuana coming  
20 from inside the vehicle.

21 Q. Okay. So after speaking to Officer Little what did  
22 you do next?

23 A. After speaking with Officer Little he ran their  
24 information which is common. After that we decided to get  
25 both occupants out of the vehicle.

1 Q. And after both occupants were out of the vehicle how  
2 did you proceed in your investigation?

3 A. As far as that we conducted searches of their person  
4 and then we started searching the vehicle.

5 Q. And did you find anything during your search of that  
6 vehicle?

7 A. Yes.

8 Q. And what was that?

9 A. A gun was found.

10 Q. And did you see the gun?

11 A. I did not.

12 Q. But did you see a gun in the vehicle?

13 A. Yes.

14 Q. After you saw the gun in the vehicle what happened?

15 A. After Officer Bryson was alerted to a gun in the  
16 vehicle Officer Little - I'm not really familiar with who  
17 -- I can't recall who took the picture of the weapon.  
18 Officer Little then seized the weapon and rendered it safe  
19 and then ran it through NCIC which is common for all  
20 firearms.

21 Q. And what side of the vehicle was the gun?

22 A. Passenger side.

23 Q. And who was seated on the passenger side of the  
24 vehicle?

25 A. Mr. Wilmore.

OFFICER CHRISTOPHER REVELS: DIRECT BY SOLICITOR NEWKIRK

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1 Q. After the gun was photographed what happened next?

2 A. Officer Little seized the gun and rendered it safe.

3 Q. And after it was rendered safe what did you do?

4 A. I was maintaining contact with Mr. Wilmore and Mr.  
5 Govan. During the time we found the gun I was making small  
6 talk with them but we mentioned the gun was found in the  
7 vehicle.

8 Q. And at some point was anybody placed in handcuffs?

9 A. Not at that time.

10 Q. At some point during your investigation was somebody  
11 placed in handcuffs?

12 A. Yes.

13 Q. Can you tell the jury a little bit about that?

14 A. Once we decided to detain both Mr. Govan and Mr.  
15 Wilmore Officer Little placed Mr. Wilmore under -- in  
16 handcuffs. I also placed Mr. Govan in handcuffs.

17 Q. And at that time did you hear the defendant make any  
18 statements?

19 A. During that time I went to go place Mr. Govan Mr.  
20 Govan made a statement to Mr. Wilmore that at that time Mr.  
21 Wilmore claimed the firearm.

22 Q. And what did he say?

23 A. He said it's mine.

24 Q. Did he say it more than once?

25 A. Yes. He said it twice.

OFFICER CHRISTOPHER REVELS: DIRECT BY SOLICITOR NEWKIRK

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1 Q. Once Mr. Wilmore was placed in handcuffs after these  
2 statements what did you do?

3 A. I made contact with Mr. Govan.

4 Q. Before the defendant was -- Before Mr. Wilmore or  
5 the defendant was placed in handcuffs did he make any other  
6 statements?

7 A. Before he was placed in handcuffs when we mentioned  
8 the gun he did make a statement that the gun might have  
9 belonged to his girlfriend.

10 Q. Outside of that did you hear him say anything else?

11 A. No, sir.

12 Q. Officer Revels, do you have -- is there anything else  
13 about this investigation you feel like you need to tell the  
14 jury?

15 A. During the initial contact Mr. Wilmore was very calm  
16 and collective. Mr. Govan was very excitable but once we  
17 went to go detain Mr. Govan after Mr. Wilmore was already  
18 in handcuffs Mr. Govan looked at Mr. Wilmore and said, Bro.  
19 At that time that's when Mr. Wilmore claimed the gun was  
20 his.

21 SOLICITOR NEWKIRK: Officer Revels, thank you very  
22 much for your time today in answering these questions.  
23 Please answer any questions that Mr. Merritt or Ms.  
24 Inzerillo may have.

25

CROSS-EXAMINATION

OFFICER CHRISTOPHER REVELS: CROSS BY MR. MERRITT

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1 OFFICER CHRISTOPHER REVELS BY MR. MERRITT:

2 Q. And, Mr. Revels, at this point in time or how are  
3 you doing today?

4 A. Pretty good.

5 Q. Thanks for being here. In this process you were  
6 being trained at this time; right?

7 A. Yes, sir.

8 Q. And at this time it's safe to say you were -- didn't  
9 have a lot of experience?

10 A. Yes, sir.

11 Q. And in fact you were being trained by Mr. Bryson;  
12 right?

13 A. Yes.

14 Q. And it was his job to kind of review what you were  
15 doing?

16 A. Yes.

17 Q. But you also as far as your role in this investigation  
18 goes you smell the marijuana; right?

19 A. Yes.

20 Q. You went on Mr. Coleman's side of the vehicle twice;  
21 right?

22 A. Mr. Coleman?

23 Q. I'm sorry, Mr. Wilmore's side of the vehicle twice?

24 A. Yes.

25 Q. And you also are responsible for taking out each

1 defendant one by one and patting them down; right?

2 A. Yes.

3 Q. Now at this point in your career your generally  
4 deferring to the judgment of more experienced officer?

5 A. At Phase III we're expected to maintain -- expected  
6 to make decisions that a training officer will step in for  
7 if he feels like we need help in some area.

8 Q. Well Mr. Little or Officer Little is in charge of this  
9 investigation; right?

10 A. He was the initial contact, yes.

11 Q. And you are -- were generally deferring to his  
12 judgment as the investigating officer; right?

13 A. It's -- As far as deferring to judgment I would say  
14 I'm confirming with him but we also use our own judgment as  
15 individuals.

16 Q. But he would instruct you for example to take then  
17 each out individually and you would do so; correct?

18 A. Yes.

19 Q. Okay. And you took out Mr. Wilmore first; right?

20 A. Yes.

21 Q. And then you took out Mr. Govan. Now when you  
22 approach the vehicle was Mr. Wilmore polite?

23 A. He was very calm and collected.

24 Q. And he was cooperative with you; correct?

25 A. Yes.



OFFICER CHRISTOPHER REVELS: CROSS BY MR. MERRITT

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1 Q. Is this a stark contrast from Mr. Govan?

2 A. Yes.

3 Q. And it was clear Mr. Govan did not want you to search  
4 that vehicle; correct?

5 Q. I don't recall the wording he used.

6 Q. Okay. But he didn't appear to want to be frisked at  
7 all; right?

8 A. Correct.

9 Q. He didn't feel as though you frisked him  
10 appropriately; correct?

11 A. I don't recall.

12 Q. Do you recollect him claiming you went into his  
13 pockets?

14 A. Vaguely.

15 Q. Okay. Do you remember -- But you do remember him  
16 being agitated; right?

17 A. Yes.

18 Q. And belligerent?

19 A. Yes, sir.

20 Q. And he would get more agitated and more belligerent  
21 when y'all ask to search the car; right?

22 A. Yes, sir.

23 Q. And up until this point you would agree that Mr.  
24 Wilmore was -- his demeanor was the same; right?

25 A. Correct.

1 Q. Now there was a point in time before Officer Little  
2 left the car. It was about ten, twelve minutes of  
3 conversation between you, Wilmore, Bryson and Govan?

4 A. I don't remember the exact time but we made small  
5 talk, yes.

6 Q. And you don't recollect anything; right?

7 A. No.

8 Q. Okay. Everything that you testified to we also see  
9 on video; right?

10 A. Yes.

11 Q. Okay. Now when Wilmore -- Wilmore initially tells you  
12 it's his girlfriend's gun; right?

13 A. After we announced that we had found the gun, yes.

14 Q. And then you recollect there was questioning about  
15 who -- what kind of gun it was. Do you remember that?

16 A. I don't recall ---

17 Q. Okay.

18 A. --- that conversation.

19 Q. But you do recollect at some point Mr. Wilmore says  
20 twice it's mine, it's mine; right?

21 A. Yes.

22 Q. And he is - at that point in time you're putting  
23 cuffs on Mr. Govan; right?

24 A. Yes, I'm in the process of putting handcuffs on him.

25 Q. And Mr. Govan as you're doing that turns to Wilmore

OFFICER CHRISTOPHER REVELS: CROSS BY MR. MERRITT  
REDIRECT BY SOLICITOR NEWKIRK

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1 and says the Bro comment you mentioned; right?

2 A. Yes.

3 Q. And Mr. Wilmore's responding to that comment when  
4 he says it's mine?

5 A. Correct.

6 Q. And at that point Mr. Wilmore has just simply said  
7 that it's his girlfriend's; correct?

8 A. At that point he was already in handcuffs and Mr.  
9 Govan says Bro at that point he claims it's his weapon.

10 Q. And Mr. Wilmore has also claimed that that car is his  
11 girlfriend's; right?

12 A. I don't recall him making that statement it's his  
13 girlfriend's car.

14 Q. Okay. And you do remember Mr. Wilmore asking to call  
15 his girlfriend about the gun and find out more information;  
16 right?

17 A. I don't remember.

18 Q. You don't remember?

19 MR. MERRITT: No further questions.

20 THE COURT: Anything further of this witness?

21 SOLICITOR EPTING: Very briefly, your Honor.

22 REDIRECT EXAMINATION

23 OFFICER CHRISTOPHER REVELS BY SOLICITOR NEWKIRK:

24 Q. Officer Revels, when you're providing security whose  
25 the lead officer?

1 A. The lead officer is usually the one that makes  
2 the initial contact on the driver's side.

3 Q. So in this case who would that have been?

4 A. Officer Little.

5 Q. And when you are in training who makes the decisions  
6 about what to do on a stop?

7 A. Whether in training or not we always leave the  
8 decisions to the contact officer. If there's any questions  
9 they usually defer those to ask our opinion but the final  
10 decision we usually leave to the initial contact officer  
11 since they're conducting the investigation.

12 Q. And in this case that was?

13 A. Officer Little.

14 Q. Officer Little. And you said on cross that  
15 occasionally it's your training officer's job to supervise  
16 you. Is that what you said?

17 A. Yes.

18 Q. Can you tell a little bit more about that? What do  
19 you mean by supervise?

20 A. Our supervision during Phase - In Phase I during  
21 training the field training officer makes initial contact  
22 and you're at the process learning how to do the job since  
23 you're out of the Academy. Phase III is when you're like I  
24 said in the driver's seat and you're conducting the  
25 business of calls for service or any traffic stops and

OFFICER CHRISTOPHER REVELS: REDIRECT BY SOLICITOR NEWKIRK  
OFFICER MARSHALL BRYSON: DIRECT BY SOLICITOR EPTING:

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1 they're there to provide assistance or guidance whereas you  
2 need it.

3 Q. And in this case did you need any assistance or  
4 guidance?

5 A. At that point, no.

6 SOLICITOR NEWKIRK: Thank you, Officer Revels, I have  
7 no further questions for you.

8 THE COURT: You can step down and be excused. We  
9 appreciate your time. Thank you.

10 (WITNESS LEAVES WITNESS STAND.)

11 THE COURT: Call your next witness.

12 SOLICITOR NEWKIRK: Thank you, your Honor.

13 SOLICITOR EPTING: Your Honor, the State calls Officer  
14 Bryson to the stand.

15 (WHEREUPON, MARSHALL BRYSON, BEING  
16 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

17 DIRECT EXAMINATION

18 OFFICER MARSHALL BRYSON BY SOLICITOR EPTING:

19 Q. Those chairs weren't made for police officers.

20 A. Not quite.

21 Q. Good afternoon. Would you please state your name  
22 for the record.

23 A. Marshall Bryson.

24 Q. And Officer Bryson, how are you are employed?

25 A. I'm a police officer with the city of Rock Hill.

OFFICER MARSHALL BRYSON: DIRECT BY SOLICITOR EPTING:

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1 Q. How long have you been with Rock Hill?

2 A. Just over five years.

3 Q. And is that your entire law enforcement --

4 A. Yes, sir, it is.

5 Q. Were you -- And what are your duties with Rock Hill?

6 A. I'm a patrol officer.

7 Q. And were those your duties also in December of last  
8 year?

9 A. Yes, sir.

10 Q. Could you describe very briefly for the jury what  
11 the duties of a patrol officer are for Rock Hill?

12 A. I respond to calls for service. I enforce traffic  
13 laws; oversee proactive property checks and enforcement.

14 Q. And were you on patrol in the late night hours of  
15 December 21st or early morning hours of December 22nd?

16 A. Yes I was.

17 Q. Were you involved in a traffic stop involving the  
18 defendant Jayquan Wilmore?

19 A. Yes I was.

20 Q. Please describe that traffic stop for this jury.

21 A. Myself and Officer Revels were in a vehicle together  
22 he was in field training with me. I was in the passenger  
23 seat and he was the driver. We were parked beside Officer  
24 Little on Flint Hill at a church. We saw a dark sedan go  
25 by without a tag light, we couldn't see the tag on the

OFFICER MARSHALL BRYSON: DIRECT BY SOLICITOR EPTING:

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1 back. Officer Little advised he was gonna stop the car for  
2 the tag light violation. We pulled up behind him on the  
3 traffic stop as he stopped the car on Flint Hill Street.  
4 Officer Little approached the driver side and made contact  
5 with Mr. Govan the driver. Officer Revels approached the  
6 passenger side made contact with Mr. Wilmore on the  
7 passenger -- front passenger seat and I stayed back towards  
8 the back of the vehicle to observe Officer Revels while he  
9 conducted his business.

10 Q. Officer, do you need a cup of water?

11 A. If I could. Thank you. Thank you, sir.

12 (PAUSE.)

13 Q. So, Officer Bryson, I believe in your testimony that  
14 the -- you were observing Officer Revels as part of his  
15 training; is that correct?

16 A. Yes, sir.

17 Q. That would be a traffic stop that had been initiated  
18 and Officer Revels had approached the vehicle along with  
19 Officer Little?

20 A. Yes, sir, he approached.

21 Q. And what was your role in that?

22 A. I was trying to stay back and observe Officer Revels  
23 since he was in training with me. I was observing how he  
24 performed on my stop.

25 Q. Okay. And did -- What did Officer Little do?

OFFICER MARSHALL BRYSON: DIRECT BY SOLICITOR EPTING:

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1 A. Officer Revels -- or I'm sorry, Officer Little he  
2 approached the driver side and talked to Mr. Govan. He  
3 collected his information and collected the vehicle  
4 information pertinent to the stop and went back to his  
5 vehicle to run it through NCIC, you know, check license  
6 status, registration status, and insurance, and all that.

7 Q. What did you and Officer Revels do while he was doing  
8 that initially?

9 A. They -- Officer Revels and Little had confirmed about  
10 the odor of marijuana they smelled from the vehicle. They  
11 discussed removing Mr. Govan and Mr. Wilmore from the  
12 vehicle. Officer Revels did the removal from the vehicle  
13 and the initial pat down searches of Mr. Wilmore and Mr.  
14 Govan. We made -- We maintained contact with Mr. Govan and  
15 Mr. Wilmore between the rear of their vehicle and the front  
16 of Officer Little's patrol vehicle.

17 Q. And during this time while you have those individuals  
18 in front of the patrol vehicle where is Officer Little?

19 A. He was in the driver seat of his vehicle running the  
20 information and checking information.

21 Q. And what was the demeanor of Mr. Wilmore?

22 A. He was very cooperative.

23 Q. And Mr. Govan?

24 A. Mr. Govan was agitated and wasn't very happy to talk  
25 to us.



OFFICER MARSHALL BRYSON: DIRECT BY SOLICITOR EPTING:

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1 Q. Okay. Were you speaking -- Were you or Officer  
2 Revels speaking with either of these individuals while  
3 Officer Little was running the information from the driver?

4 A. Yes, sir.

5 Q. What was the nature of that?

6 A. As Officer Revels was speaking mostly to Mr. Govan and  
7 trying to keep him calm I spoke to Mr. Wilmore just about  
8 small talk typically of what I do during that time with a  
9 stop. Just kind of bidding time until Officer Little was  
10 done with his business of the stop.

11 Q. Okay. At some point does somebody else pull up on  
12 the scene?

13 A. Yes, sir. A third party. I'm not sure who they were  
14 pulls up in another vehicle on Flint Street.

15 Q. At that point what does Officer Little do?

16 A. He steps out of his vehicle and approached Mr. Govan.  
17 He conducted a search of Mr. Govan and then we began a  
18 search of or Officer Revels actually was the first one to  
19 begin the search of the driver seat area of the vehicle.

20 Q. Okay. And did you assist in that search?

21 A. Later on I approached the passenger side area of the  
22 vehicle and as soon as I approached it -- I was going to  
23 assist in the search but as soon as I approached it I  
24 observed a handgun under the passenger seat.

25 Q. Okay. And prior to you approaching it and seeing

OFFICER MARSHALL BRYSON: DIRECT BY SOLICITOR EPTING:

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1 that handgun had anybody to your vision been in the area of  
2 that passenger seat?

3 A. No, sir.

4 Q. So as far as you know that's as it was left when Mr.  
5 Wilmore got out?

6 A. Yes, sir.

7 Q. And at some point is that photographed?

8 A. Yes, sir, it was.

9 Q. I'm handing the witness State's Exhibit One.  
10 Officer, do you recognize State's Exhibit One?

11 A. Yes, sir, I do.

12 Q. And is that fairly and accurately depict how it  
13 looked when you photographed it?

14 A. Yes, sir.

15 Q. Is that fairly and accurately depict how it looked  
16 when you first approached it?

17 A. Yes, sir, it does.

18 SOLICITOR EPTING: And again, publishing State's  
19 Exhibit One to the screen, --

20 I'm sorry, Madam Clerk.

21 Q. The position of the pistol, is that the position that  
22 pistol was in?

23 A. That is, yes, sir.

24 Q. And again, who was sitting on that side of the car?

25 A. Mr. Wilmore was in that seat.

OFFICER MARSHALL BRYSON: DIRECT BY SOLICITOR EPTING:

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1 Q. What did you do once you observed the firearm?

2 A. After observing the firearm I stepped away from the  
3 vehicle immediately after observing it and recognizing that  
4 was a pistol. I stepped away walked back toward Officer  
5 Little's vehicle and notified him that there was a weapon  
6 in the car.

7 Q. Okay. And what was the purpose of notifying him?

8 A. He was the initial officer, the contact officer, it  
9 was his stop so he needed to be made aware on his stop that  
10 something was found, something was located.

11 Q. It was his stop because he had pulled the car over?

12 A. Yes, sir.

13 Q. Was he your supervisor?

14 A. No, sir, he's not.

15 Q. Was he Officer Revels' supervisor?

16 A. No, sir, he wasn't.

17 Q. So -- But you let him know that there was a gun in  
18 the car so he would know about it?

19 A. Yes, sir, as a safety issue as well.

20 Q. Okay. At that point does either Mr. Govan or Mr.  
21 Wilmore say anything?

22 A. Mr. Wilmore said he believed it was his girlfriends  
23 gun.

24 Q. And that was after you told there was a gun in the  
25 car?

1 A. Yes, sir.

2 Q. Was the gun taken into police custody?

3 A. It was yes, sir.

4 Q. And tell the jury about that.

5 A. Officer Little collected the weapon. He went and got  
6 some gloves and collected the gun. I believe there was two  
7 rounds in the magazine and one round in the chamber. Made  
8 it safe, we collected it and placed it in his vehicle.

9 Q. Okay. At that point is the search of the car  
10 completed?

11 A. I believe we continued to search to see if we could  
12 locate any further marijuana or drugs or any other weapons  
13 in the vehicle.

14 Q. Okay. At some point was Mr. Wilmore placed under  
15 arrest?

16 A. He was.

17 Q. Prior to him being placed under arrest other than the  
18 girlfriend comment did you hear him make any other comments  
19 about the gun?

20 A. Prior to being taken into handcuffs?

21 Q. Yes.

22 A. No, sir.

23 Q. After he was being put into handcuffs did you hear  
24 him say -- did you hear Mr. Wilmore say anything about the  
25 gun?

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1 A. Yes, sir. When we were -- Officer Little was taking  
2 or placing Mr. Wilmore in handcuffs I instructed Officer  
3 Revels to do the same with Mr. Govan. Mr. Govan ask why he  
4 was being handcuffed, why he was being arrested, and I was  
5 advising him until we could definitively say whose weapon  
6 what it was we were gonna place both of 'em in handcuffs.  
7 At that time is when Mr. Wilmore said it's mine, it's mine.

8 Q. And he said its mine, its mine two times?

9 A. Yeah, he said it twice.

10 Q. Okay. And at what point -- And then what happened  
11 to Mr. Wilmore?

12 A. Mr. Wilmore was finished placed into handcuffs and  
13 Officer Little advised him of his Miranda warning.

14 Q. And as far as Mr. Govan what happened with Mr. Govan?

15 A. We stopped and handcuffed him before Mr. Govan and he  
16 remained on scene until we received his paperwork back from  
17 the stop.

18 Q. Okay. And then what happened, where did Mr. Govan  
19 go? Did he leave?

20 A. Yes, sir, after the stop was completed he left. He  
21 drove his vehicle away.

22 SOLICITOR EPTING: I beg the Court's indulgence.

23 (PAUSE.)

24 SOLICITOR EPTING: That's all the questions I have  
25 for you. Please answer any questions defense counsel may

OFFICER MARSHALL BRYSON: CROSS BY MR. MERRITT

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1 have for you.

2 CROSS-EXAMINATION

3 OFFICER MARSHALL BRYSON BY MR. MERRITT:

4 Q. How you doing today, Mr. Bryson?

5 A. Okay.

6 Q. And you are the same rank as Officer Little; correct?

7 A. Not currently no, sir.

8 Q. Okay. At the time?

9 A. At the time I believe we were the same rank yes, sir.

10 Q. All right. And your primary role here was you  
11 recovered the gun in this case; right?

12 A. I didn't recover it but I observed it first.

13 Q. You were the first person to identify it and notify  
14 Officer Little that it existed; right?

15 A. Yes, sir, that's correct.

16 Q. You were also supervising Officer Revels at the time;  
17 right?

18 A. I was.

19 Q. Now,

20 MR. MERRITT: Can you actually turn that picture --  
21 State's One.

22 Q. You didn't move anything at all there; right?

23 A. No, sir, I didn't touch any of that.

24 Q. And that's exactly as it was as you saw it?

25 A. Yes, sir.

OFFICER MARSHALL BRYSON: CROSS BY MR. MERRITT

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1 Q. Okay. And when you open the car -- when you -  
2 this is a Maxima; is that your recollection?

3 A. I don't recall.

4 Q. Okay.

5 A. I don't recall what type of vehicle it was.

6 Q. You opened the car door when you approached?

7 A. No, sir, it was standing open from when Mr. Wilmore  
8 exited.

9 Q. And were the interior lights on in the car?

10 A. I don't recall if the interior lights were on.

11 Q. Okay.

12 A. I used my flashlight to illuminate it.

13 Q. And you immediately saw the gun?

14 A. Yes, sir.

15 Q. Okay. And that's the first time that you approached  
16 the gun; right?

17 A. Yes, sir.

18 Q. As you did observe Officer Revels; correct?

19 A. Yes, sir.

20 Q. And Officer Revels and I guess you're observing  
21 Officer Revels for training purposes in addition to  
22 everything else; right?

23 Q. That's correct.

24 Q. And at some point Officer Little instructs Officer  
25 Revels to remove each person out of the car; is that right?

OFFICER MARSHALL BRYSON: CROSS BY MR. MERRITT

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1 A. Yes, sir.

2 Q. And so Officer Revels then went to Mr. Wilmore's side  
3 of the car first and opened the door; correct?

4 A. I'm not sure if he opened the door or ask him to open  
5 it. I'm not sure.

6 Q. Okay. But it wasn't closed before he went over there.

7 A. Yes, sir, on the approach it was closed.

8 Q. And he ask -- As he's doing this you don't go and  
9 remove Govan out of the car do you?

10 A. I don't, no, sir.

11 Q. Because you want to watch Revels perform as training;  
12 right? Has he pat down this person correctly is that what  
13 your goal is?

14 A. Yes. Officer safety as well.

15 Q. Okay.

16 A. And two people on one person in numbers.

17 Q. That makes sense. So for two purposes both for  
18 officer safety and you can see how Officer Revels is doing  
19 when he pats down Mr. Wilmore; right?

20 A. Yes, sir.

21 Q. And then as he goes over there and once again this  
22 is the seat that Mr. Wilmore is sitting in; right?

23 A. Yes, sir.

24 Q. And you only see this after Wilmore is out of that  
25 seat; right?



OFFICER MARSHALL BRYSON: CROSS BY MR. MERRITT

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1 A. That's correct.

2 Q. And there's stuff now on the seat where Mr. Wilmore  
3 was sitting?

4 A. Say again.

5 Q. Is there stuff in the seat that Mr. Wilmore was  
6 sitting in?

7 A. It appears there were some items in the seat.

8 Q. Now there was a long period of time while y'all were  
9 out there talking to Mr. Govan and Mr. Wilmore; right?

10 A. We talked to them several minutes.

11 Q. Before Mr. Wilmore gets out there; correct?

12 A. Before who?

13 Q. Before Mr. Little gets out of the car.

14 A. Yes, sir.

15 Q. He's still running the tag and everything like that  
16 on this car; right?

17 A. Yes, sir.

18 Q. And y'all are just talking. You don't remember any  
19 of that; right?

20 A. It was small talk.

21 Q. Small talk. But throughout the course of that Mr.  
22 Wilmore was polite; right?

23 A. He was.

24 Q. He was always cooperative with the police officers?

25 A. Yes, sir, he was.

1 Q. And that was a stark contrast from Mr. Govan; right?

2 A. That's true.

3 Q. And Mr. Govan who is retrieved out of the car after  
4 Revels patted Wilmore down completely; right?

5 A. Yes, sir.

6 Q. Mr. Govan is -- Is it safe to say is he a pain in the  
7 neck?

8 A. Describe his behavior not so much what he was to me.

9 Q. Is he difficult to deal with ---

10 A. He was --

11 Q. --- or?

12 A. He was belligerent.

13 Q. And did he want to be searched at all?

14 A. He did not.

15 Q. He was not consenting to a search of his person;  
16 right?

17 A. No, sir, he didn't want to be searched.

18 Q. He wasn't consenting to the search of the car; right?

19 A. That's correct he didn't want us to search.

20 Q. And he as -- Now do you recollect Officer Little tell  
21 him, hey, I'm gonna search this car and I'm gonna search  
22 you?

23 A. Yes, sir.

24 Q. And then do you remember Mr. Govan getting more  
25 agitated at that?

1 A. He was highly agitated.

2 Q. And Mr. Wilmore's demeanor was the same throughout  
3 the course of all this; right?

4 A. You're saying the same as agitated or same as?

5 Q. The calm collected?

6 A. Yes, sir, he was calm.

7 Q. Polite, ---

8 A. Yes, sir.

9 Q. --- cooperative? Does that appear to be a ketchup  
10 wrapper beside the gun?

11 A. Possibly. I'm not sure.

12 MR. MERRITT: No further questions. Thank you.

13 SOLICITOR EPTING: No further questions from the  
14 State.

15 THE COURT: You can step down. We appreciate your  
16 time.

17 (WITNESS LEAVES WITNESS STAND.)

18 SOLICITOR EPTING: Your Honor, may this witness be  
19 excused?

20 THE COURT: Yes, sir. He's excused.

21 SOLICITOR EPTING: The State rest.

22 THE COURT: All right, members of the jury panel, the  
23 State is resting; that means the State is telling us that  
24 it has presented its evidence. We have to take up some  
25 matters of law at this time and before we proceed and so

1 its probably gonna be a good time to break for lunch. It's  
2 a quarter till twelve so we'll break until let's say one  
3 o'clock. And we'll hopefully be -- We've got some work to  
4 do while -- before we go for lunch but hopefully we will be  
5 able to start very promptly around one o'clock. So please  
6 have a pleasant lunch and we'll see you back at one  
7 o'clock.

8 Now you're not in a position to make up your own mind  
9 or discuss the case or let anyone discuss the case with you  
10 yet. Thank you.

11 (JURY EXITS COURTROOM ON LUNCH RECESS AT 11:48 AM.)

12 THE COURT: Anything from the State?

13 SOLICITOR EPTING: Nothing from the State, your Honor.

14 THE COURT: Defense?

15 MR. MERRITT: At this moment we would like to make a  
16 motion for a directed verdict and we would like to renew  
17 our previous objections under the Fourth Amendment, the  
18 state Constitution and the Fifth Amendment at this time.

19 THE COURT: All right. Well motions are denied. I  
20 think there is direct evidence from which the jury could  
21 reach the conclusion and substantial circumstantial  
22 evidence that being where the pistol was located near where  
23 Mr. Wilmore was seated so I deny the motion for a directed  
24 verdict.

25 MR MERRITT: Thank you, your Honor.

1 THE COURT: Mr. Wilmore.

2 MR. WILMORE: Yes, sir.

3 THE COURT: Can you hear me?

4 MR. WILMORE: Yes, sir.

5 THE COURT: We've reached the point in the trial  
6 where you have a right to present a defense if you wish but  
7 you do not have to present any evidence because you are  
8 presumed innocent of this charge and you need not prove  
9 your innocence; the State must prove your guilt beyond a  
10 reasonable doubt before this jury could convict you.

11 But you have a right to call witnesses if you wish;  
12 any witnesses on your behalf. You have the right to  
13 testify if you wish. If you testify the State would cross  
14 examine you and you would be under oath.

15 Did we determine whether he had any impeach able  
16 offenses?

17 MS. INZERILLO: Yes, your Honor, it was the -

18 THE COURT: He had one; right?

19 SOLICITOR EPTING: Yes, your Honor, it was - actually  
20 four convictions that were plead to at the same time but I  
21 believe would be treated as one - -

22 THE COURT: So in addition to the State being able to  
23 ask you questions about what happened that night they can  
24 ask you whether or not you have a criminal record.

25 One felony?

1 SOLICITOR EPTING: Yes, your Honor.

2 THE COURT: The one felony. The State would be  
3 allowed to ask you that question regarding your  
4 believability; that is, I will tell the jury if you testify  
5 and if you are ask that question that they cannot use  
6 against you the fact that you have a prior criminal record  
7 elements that you committed this offense. They can only  
8 use your prior criminal record in assessing your  
9 credibility; that is, your believability.

10 I will tell them they are restricted from using your  
11 prior criminal record for that purpose and that purpose  
12 only. So you got a right to testify.

13 You also have a right to remain silent. If you  
14 exercise your constitutional right to remain silent I will  
15 tell the jury that you have exercised that right. I will tell  
16 the jury that they cannot use that against you in any way  
17 whatsoever. I will tell the jury that they cannot discuss  
18 in the jury room the fact that you exercised your  
19 constitutional right to remain silent. And I will tell  
20 them that they cannot use that in their own unanimous  
21 deliberations as to what verdict to render.

22 I will remind the jury that you are presumed innocent  
23 of the charge; you need not prove your innocence but the  
24 State must prove your guilt beyond a reasonable doubt.

25 Do you understand all that?

1 MR. WILMORE: Yes, sir.

2 THE COURT: Do you have any questions about any of  
3 that?

4 MR. WILMORE: No, sir.

5 THE COURT: Mr. Merritt, have you explained all of  
6 that to him?

7 MS. INZERILLO: I have, your Honor.

8 THE COURT: Oh, Ms. Inzerillo, you have?

9 MS. INZERILLO: Yes, your Honor.

10 THE COURT: And you believe he understands?

11 MS. INZERILLO: I do, your Honor.

12 THE COURT: The decision of whether to testify is  
13 yours and yours alone. It is not your attorneys, it's not  
14 your friends, it's not the State nor is it mine. You can  
15 obtain what rights you wish regarding whether to testify or  
16 not from whomever is available for you to do so.

17 Do you understand that?

18 MR. WILMORE: Yes, sir.

19 THE COURT: Is it your intention to testify or have  
20 you reached a decision?

21 MR. WILMORE: No, sir.

22 THE COURT: You want to remain silent?

23 MR. WILMORE: Yes, sir.

24 THE COURT: All right. Does the Defense have any  
25 witnesses?

1 MR. MERRITT: No, your Honor.

2 THE COURT: All right. Well when we return from  
3 lunch at one o'clock the State would be required to open  
4 and the Defense has the closing arguments since they  
5 present no evidence. We'll probably just for a few minutes  
6 before we leave for lunch have a charge conference in  
7 chambers. The -- There are no lesser included's.

8 I don't know if we need to have a charge conference.

9 It's pretty much a standard charge. I will depending  
10 on what we find and work out about the DVD I will tell the  
11 jury -- give them instructions the defense has requested.

12 Do you have any other request to charge?

13 MR. MERRITT: Yeah, I think we would request too the  
14 mere presence and third party guilt in the case. But --  
15 And then the only other request that we have -- Does your  
16 general charge include anything about mens rea having -

17 THE COURT: I'll have to look at my charge but I think  
18 he has to -- he has to knowingly have intent, knowing he  
19 possessed the crime but it's -- it's against the law  
20 regardless of the intent. I'll have to look at my charge  
21 but I think it's got to be knowingly.

22 MR. MERRITT: And readily accessible. I'm sorry, I  
23 think regardless of that that's just the last time I saw  
24 it, that language regarding -

25 SOLICITOR EPTING: Your Honor, Lexi provided us I



1 believe a form copy of the standard charge your Honor used  
2 as far as unlawful carry. My understanding is that it does  
3 instruct it is unlawful for any person to carry about the  
4 person of any handgun whether its concealed or not. It's  
5 my belief that no evidence was presented regarding  
6 exceptions so it would likely not be read. And that your  
7 Honor's charge did carry a definition of on or about their  
8 person as being readily accessible and available for use.

9 MR. INZERILLO: That's my recollection as well.

10 THE COURT: We'll charge mere presence at the scene.

11 MR. MERRITT: And I'm sorry, the only other thing I'm  
12 asking is whether or not the charge about the DVD is that  
13 going to be presented as evidence coming from the defense  
14 or would that just be read as a basic -

15 THE COURT: It would be my charge.

16 MR. MERRITT: Okay. Thank you.

17 SOLICITOR EPTING: Your Honor, on an unrelated  
18 measure, you have two matters scheduled to be heard at two  
19 o'clock.

20 THE COURT: All right. Thank you. All right, we'll  
21 be at ease until one o'clock.

22 SOLICITOR NEWKIRK: Thank you, your Honor.

23 THE COURT: Mr. Wilmore is to remain incarcerated now.  
24 I let him stay out over night. We did have two incidences,  
25 I don't think they were maliciously -- I don't believe they

1 occurred with any malice or intent. I think they were kind  
2 of inadvertent but in any event I'm gonna require Mr.  
3 Wilmore to remain incarcerated during this period, over the  
4 lunch period.

5 MS. INZERILLO: Thank you, your Honor.

6 (COURT IN LUNCH RECESS AT 11:52 AM.)

7 (COURT BACK IN SESSION AT 01:03 PM.)

8 (CHRISTOPHER TISON PLEA WITH HARRY DEST.)

9 (BACK ON THE RECORD IN THE MATTER OF STATE VERSUS  
10 JAYQUAN WILMORE AT 01:13 PM.)

11 THE COURT: Get Mr. Wilmore in.

12 (DEFENDANT, JAYQUAN WILMORE, BLACK MALE, REENTERS  
13 COURTROOM.)

14 THE COURT: Is the State ready to proceed?

15 SOLICITOR EPTING: The State's ready, your Honor.

16 MR. MERRITT: Defense is ready.

17 THE COURT: All right. And I'll let you, Mr. Merritt,  
18 I'll let you rest on the record and then we'll go straight  
19 into closing arguments. The State is required to do their  
20 closing arguments first.

21 Bring in the jury.

22 (JURY REENTERS COURTROOM AT 01:15 PM.)

23 THE COURT: Members of the jury, when you left the  
24 State had rested. I told you that meant they have  
25 presented their case. Now the opportunity for the Defense

CLOSING ARGUMENT: BY SOLICITOR EPTING:

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1 to present a case if it intends to.

2 MR. MERRITT: Defense would rest, your Honor.

3 THE COURT: All right. Now the State has rested so at  
4 this point you will hear the closing arguments of the  
5 attorneys. Unlike their opening statements that we did  
6 yesterday the attorneys are not now just outlining the case  
7 for you, they are taking what they determine to be the  
8 facts which have been presented and asking you to apply the  
9 law which I will charge to you in a few minutes and return  
10 a verdict -- a certain verdict.

11 So I turn it over to the attorneys at this time.

12 SOLICITOR EPTING: Thank you, your Honor, may it  
13 please the court.

14 THE COURT: Yes, sir.

15 SOLICITOR EPTING: Defense Counsel. Madam Clerk, can  
16 you get the lights please?

17 CLOSING ARGUMENT BY SOLICITOR EPTING:

18 SOLICITOR EPTING: Ladies and gentlemen, this will be  
19 my last opportunity to address you. I go first and the  
20 defense goes next which means that y'all don't have to  
21 listen to us talk anymore. Soon the case will be in your  
22 hands.

23 This is our chance to get up talk about that evidence  
24 that you've heard over the course of these past two days  
25 and to argue. The judge will instruct you on the law in

CLOSING ARGUMENT: BY SOLICITOR EPTING:

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1 the case. He is the master of law. What he says goes  
2 regardless of what I say or what defense counsel says. You  
3 have certain roles as jurors. I alluded to that when I  
4 talked about who is the master of the law and who is the  
5 master of the facts. And y'all determine what the evidence  
6 showed happened on late night hours of December 21st. It's  
7 up to y'all. And y'all determine that based upon the  
8 testimony that you heard from that witness stand and the  
9 evidence that was entered including the video. That's it.

10 A lot talk on that video was about search and seizure  
11 and search warrants and Miranda and all that stuff. That  
12 is not y'all determination. Whether that car was lawfully  
13 searched is not a jury determination. That's a legal  
14 determination. The only question y'all have to answer,  
15 y'all role, is to figure out whether the defendant violated  
16 the law.

17 We're not here to judge the defendant's soul. Is he a  
18 good or bad person that's way beyond the purview of what we  
19 have here today. The only question did he violate the law  
20 as the law is stated to us by the legislature.

21 We have to prove our case. The burden is on the  
22 State. The defendant has the right to have this trial; to  
23 make us call the evidence and we've done that. The burden  
24 is beyond a reasonable doubt. A lot of y'all heard that on  
25 TV. There are many different legal definitions of beyond a

CLOSING ARGUMENT: BY SOLICITOR EPTING:

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1 reasonable doubt and I believe you will be instructed by  
2 several -- one of them is to hesitate to act. A reasonable  
3 doubt is the type of doubt that causes you to hesitate to  
4 act.

5 Now in the vacuum that seems pretty strange. You're  
6 supposed to hesitate on any important decision. You don't  
7 make a decision about where to move, about how much to take  
8 you know, to take a new job, about how much to take out for  
9 a mortgage; any of those decisions you hesitate. And this  
10 is an important decision and you know it was a short trial.  
11 You're supposed to hesitate. You're supposed to discuss  
12 the case and discuss the evidence and discuss what went on  
13 in court and whether we had our burden. So don't think  
14 that because we got chairs back in that room and you  
15 hesitate to talk about what to do that means you should  
16 find the defendant not guilty.

17 It's not an impossible standard. beyond a reasonable  
18 doubt is the highest standard at law but it's not beyond  
19 any doubt. beyond a reasonable doubt. I submit to you  
20 that every person convicted in the history of our country  
21 has been convicted with some doubt because there are very  
22 few things you could know in life with zero doubt.

23 We're not held to that burden. If that was our burden  
24 we would never win a case. beyond a reasonable doubt.  
25 That doubt must be reasonable.

CLOSING ARGUMENT: BY SOLICITOR EPTING:

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1 Another way to give you is proof beyond a reasonable  
2 doubt that leaves you firmly convinced. After hearing the  
3 evidence, after hearing the officer's testimony, after  
4 seeing the pictures, and after being instructed on the law,  
5 are you firmly convinced. Well of what is the next  
6 question. What is the law in this case?

7 The stature for unlawful carry is 16-23-20. It states  
8 that it is unlawful for a person in the State of South  
9 Carolina to carry on or about their person any handgun  
10 whether concealed or not. And as stated in openings there  
11 can be exceptions to that such as concealed weapons permit;  
12 in the trunk. None of those are here before you today.  
13 None of those are for your consideration.

14 This is the only question that you have. Did this  
15 defendant carry this handgun on or about his person based  
16 upon the testimony and the evidence that you heard?

17 What did the testimony show? We had each of the  
18 officers come and testify. The video was played at nauseam  
19 at multiple different times. What did it show? Some  
20 things are apparent; some things are easy, so let's get  
21 those out of the way.

22 Handgun: Unlawful carry of a handgun. Obviously this  
23 is a handgun. It's in evidence; it was unloaded, it's got  
24 -- had bullets in it when it was recovered; those bullets  
25 have been removed. They've had something pulled through

CLOSING ARGUMENT: BY SOLICITOR EPTING:

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1 the breach to make it safe. Obviously a real handgun.  
2 It's a requirement under the statute. We can check that  
3 off.

4 About the person: Well, that's another legal  
5 definition. You will be instructed that a handgun is about  
6 the person if it is in any position when a handgun is  
7 readily accessible and convenient for immediate use whether  
8 or not it touches the person, the defendant. Remember the  
9 testimony. Where was the defendant seated when it was  
10 taken out of the car? Where was that handgun observed by  
11 officer's when they went to search it? Right there. Was  
12 it readily and accessible for me to use? You bet cha? He  
13 could have reached down and grabbed it at any time.

14 I won't have a chance to respond to any of defense  
15 arguments. He had his chance to cross-examine the  
16 witnesses so I have to anticipate some of what they might  
17 be after and put my defense cap on. A lot of talk in  
18 opening was made about the smell of marijuana but no  
19 marijuana being found. But we have an answer to that now  
20 when we've heard all the testimony and all the videos don't  
21 we.

22 (VIDEO AUDIO PUBLISHED AT 01:22 PM.)

23 SOLICITOR EPTING: What did Officer Revels and Officer  
24 Little say? They're not saying they're smelling large  
25 amounts of fresh marijuana. They say when they approach

CLOSING ARGUMENT: BY SOLICITOR EPTING:

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1 that window smell the odor of burnt marijuana. I can't  
2 tell where it's coming from inside the car. But now we  
3 know. We know what they did know when they started the  
4 stop. The defendant's been around people smoking  
5 marijuana. You see him pick his shirt out. He smells that  
6 marijuana. He is the smell. So obviously they smell it  
7 because it was on him. They're not lying about smelling  
8 marijuana. What are the odds?

9 The serial number that's mentioned. It's a six on the  
10 bag it's a four on the gun. What was called out the night  
11 of?

12 (VIDEO AUDIO PUBLISHED.)

13 SOLICITOR EPTING: That's the serial number on the  
14 gun that is in evidence here today. You can rest assured  
15 at that point the gun that's here is the gun that they  
16 seized from that car that night.

17 Jury trials are a very important part of our system.  
18 We rely on y'all common sense. The defense mentioned in  
19 some of it's cross-examination about fingerprinting the gun  
20 and whether we fingerprinted that. What would fingerprints  
21 tell us? That he touched it? Well what's the answer to  
22 that? Does that prove when he touched it? Does it prove  
23 if he could have touched it the day before, the week  
24 before, the month before? Absolutely.

25 At the end of the day that gun was found within



CLOSING ARGUMENT: BY SOLICITOR EPTING:

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1 grabbing reach of the defendant. And the demeanor of the  
2 driver and the demeanor of the defendant have absolutely  
3 nothing to do with the case. If y'all indulge me with a  
4 story, my children were in summer camp this summer, they  
5 seem focused to keep 'em busy with books that have coloring  
6 pages, they have cross-word puzzles, they have find hidden  
7 objects. My oldest got upset and handed me one of those  
8 pages. He couldn't find the hidden object. I looked at it  
9 for five minutes; looked at it, looked at it, and looked at  
10 it and said gosh it's hard for me. It was a coloring page.  
11 No hidden object. This case is like that.

12 Just because we're here for trial doesn't mean that  
13 there is some hidden initiative or that there's some  
14 special thing inherent in this. I submit to you it is what  
15 it looks like. They pulled this car over, they find a gun  
16 right where the defendant was seated right under his seat  
17 and at some point he admits to it. Look at the position of  
18 that gun. I suppose one could argue that maybe when Mr.  
19 Wilmore was out of the car that the driver reached over and  
20 stuffed that gun under the passenger seat. Well his arm  
21 would have to grow five feet. Look at the position of that  
22 gun. The butt of that gun is facing out. Is it possible  
23 that Govan did that? Possible I guess but its not a  
24 reasonable possibility. The much more reasonable  
25 possibility is they got pulled over Mr. Wilmore smelling

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1 like marijuana recognizes they might search the car at some  
2 point and what does he do? He tucks the gun under his seat  
3 in hopes they don't find it.

4 I would submit to you common sense tells you that's  
5 the exact perfect position for that. It is what it looks  
6 like. Nothing hidden nothing special.

7 Several times on cross-examination Mr. Merritt  
8 mentioned the statements against interest where the  
9 defendant mentioned things about the girlfriend possibly  
10 having a gun. But are they really statements against  
11 interest at least to the defendant's mind? Is that a  
12 confession in his mind when he's telling them that? I  
13 would submit to you they are not.

14 His first statement the gun might be my girlfriends.  
15 What does that tell you? He knows there's a gun in the  
16 car. It's his girlfriend's car. The next one. Maybe a .9  
17 or a .40 caliber pistol. Well this is a .9. He believed  
18 that he's confessing then he does that or is he putting it  
19 on his girlfriend to say oh, honest mistake.

20 Many many questions were brought up about and by the  
21 end the defense counsel about the demeanor of both parties  
22 when they're out that night. Mr. Govan is upset. The  
23 officers were very kind. They did not call him names or  
24 anything like that. They say he's belligerent. Mr. Govans  
25 upset. He's upset about being stopped and he's upset about

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1 being patted down and he's upset when they say they smell  
2 marijuana when he says he hasn't smoked marijuana and yes  
3 he's upset they're gonna search the car. Does that mean  
4 that -- Was that proof positive that gun under the seat was  
5 his? I don't think so. Common sense tells us no.

6 What do they say about the defendant's demeanor?

7 Calm, cool, collective, super polite, small talk. You see  
8 him on the video talking and smiling. They're fine until  
9 Officer Little starts to press about that gun. He ask what  
10 kind of gun did the girlfriend have when he says a .9 or a  
11 .40. Well why would she keep it under the seat? And it  
12 starts to change. I don't know. It's not really my  
13 girlfriend or like that we don't live together any more.  
14 Demeanor changes. His story is reveling apart and he gets  
15 a little bit more upset. Not near to the level of Mr.  
16 Govan but he gets upset about the gun. What does your  
17 common sense tell you at that point?

18 They're connecting him more strongly to that gun and  
19 they're not buying his story that his girlfriend accidentally  
20 left it in that car. Mr. Govan is him being belligerent  
21 with the officers that night mean that he's guilty of the  
22 crime charged here today? Absolutely not. It just means  
23 he had a bad night. He got a ticket he left the scene. He  
24 had a bad night. Doesn't mean he's guilty. Doesn't know  
25 the evidence that you have before you on this case points

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1 to his guilt. All the evidence you have against him points  
2 to the fact that he's upset at police.

3 I have no question undoubtedly a pistol; undoubtedly  
4 on or about the person of the defendant. I submit to you  
5 that pistol under his seat with him in close proximity and  
6 having just been taken out of that car that in and of  
7 itself is beyond a reasonable doubt to find him guilty of  
8 unlawful carry of a pistol. But we have more than that.

9 We have the statements.

10 (AUDIO VIDEO PUBLISHED.)

11 SOLICITOR EPTING: I submit to you that you can hear  
12 audibly him say it's mine. At one point during that and it  
13 doesn't take a master lip reader to see at the second point  
14 he says its mine. I wish the audio - - I wish it wasn't  
15 raining this night, I wish the audio was perfect and we  
16 didn't have that clicking sound the entire time that we're  
17 playing it for you but we have what we have.

18 He said it's mine. At a different point his mouth  
19 seems to indicate it's mine. Both of the officers standing  
20 close to him heard that twice. Any time a witness  
21 testifies you have to judge their credibility. You have to  
22 judge which - whether they're telling the truth or not and  
23 that's when the common sense of the jury comes into play.  
24 You have to ask yourself why a person would come in and  
25 tell a lie or why they might come in and tell the truth.

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1 What would they have to loose with the truth and what they  
2 would have to loose with a lie. Those officers said they  
3 smelled marijuana. They said they heard him say it's mine.  
4 If they wanted to lie and say something else all along  
5 there they could have made that a whole lot worse than it's  
6 mine. What faces those officers if they come in here and  
7 perjure themselves over this case?

8 Common sense. This case ain't worth they're careers.

9 He said it was mine. And then he had an opportunity,  
10 questions were made whether Mr. Govan turned to him and  
11 said Bro. But while he was being placed into handcuffs I  
12 anticipate the defense is going to argue that has some  
13 bearing on whether the defendant claimed it. He had an  
14 opportunity after that to change his mind and say it's not  
15 in fact mine it's really Mr. Govan's but he didn't.

16 And was that word Bro enough to scare Mr. Wilmore into  
17 committing - - into confessing to a crime he didn't commit?  
18 Common sense. What does that tell you? What's going on  
19 there? It's it much more likely Mr. Govan's saying that  
20 was your gun take it. They're not putting me up for it,  
21 Bro. Your gun dude.

22 He has an opportunity after it to change his tone when  
23 he's away from Mr. Govan if that was in fact the case and  
24 he does it. What does he say?

25 (VIDEO AUDIO PUBLISHED TO THE JURY.)

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1 SOLICITOR EPTING: That shows knowledge, that shows  
2 possession. That shows everything that we need to show to  
3 find him guilty in addition to him being found in cross  
4 proximity. In addition to that pistol being found under a  
5 seat that he was just sitting in on the video, a video that  
6 you saw, a video that's in evidence.

7 (CELL PHONE IN COURTROOM RINGS.)

8 SOLICITOR EPTING: Not beyond any doubt, not beyond  
9 all doubt, beyond a reasonable doubt. I submit to you that  
10 after hearing that; after hearing the statements that the  
11 defendant made; after seeing the video, after hearing the  
12 testimony from the officers, by everyone, about what they  
13 heard what was said that there is ample evidence to find  
14 this defendant beyond a reasonable doubt. The gun was a  
15 real firearm on or about the defendant's person absolutely.  
16 The defendant knew that I was there. He claimed it twice.  
17 His mentioning of the caliber at different times although  
18 he's trying to put it off on his girlfriend he knew it was  
19 there and he admitted it multiple multiple times even when  
20 he had the opportunity to take it back.

21 This was a short case; it's an important one for the  
22 State; important for the defendant. We know that you'll  
23 take this case seriously, debate the evidence, consider the  
24 evidence and at the end of the day you'll come to the only  
25 verdict this evidence demands that this evidence requires

CLOSING ARGUMENT: BY MR. MERRITT

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1 and that's a guilty verdict. Thank you.

2 MR. MERRITT: Beg the Court's indulgence.

3 THE COURT: Okay.

4 (PAUSE.)

5 CLOSING ARGUMENT BY MR. MERRITT:

6 MR. MERRITT: Thank y'all for sitting through the  
7 trial today. As Mr. Epting said it was not a very long  
8 trial. At the end of this case I ask y'all to take a close  
9 look at the video. It's the only evidence that we really  
10 have in this case. It takes us back a few months ago to  
11 try to determine what happened roadside that night which  
12 was a forty minute roadside interrogation.

13 The extent with what the State has today are Mr.  
14 Wilmore's statements. There's no doubt that Mr. Wilmore  
15 was sitting in the passenger seat one time during the  
16 course of this investigation, and that the gun was found  
17 underneath the passenger seat. But that in and of itself  
18 would not be enough to convict Mr. Wilmore. Just because  
19 they found a lottery ticket underneath your seat right now  
20 for two hundred and fifty thousand dollars that would not  
21 be enough for you to prove it's yours.

22 The statements are the things that are so damning for  
23 Mr. Wilmore. The statements are the things that make it  
24 seem as though Mr. Wilmore must be guilty of this crime  
25 from the prosecutions point of view. Each one of these

CLOSING ARGUMENT: BY MR. MERRITT

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1 statements is being made in the context of what's occurring  
2 at the time.

3 At the point in time in which the first statement is  
4 made, the marijuana might be from me, this is a statement  
5 against Mr. Wilmore's interest whether he knows it or not.  
6 It's a statement that corroborates the officers belief that  
7 this is a drug stop case and its what extends the  
8 investigation.

9 He talks about, and Mr. Epting says, and maybe it's my  
10 girlfriend's gun, he responds to a roadside cross-  
11 examination by the officer that I suppose because at some  
12 point he talks about the relationship he's having with his  
13 girlfriend and he's not being forthcoming enough with the  
14 officer I guess about that. It makes him seem guilty. Had  
15 nothing to do with the gun itself.

16 And one thing to keep in mind here its not our  
17 position he's actively lying to the officers. It's our  
18 position that you can infer from the facts that he has no  
19 clue what's going on at that point. We talked about  
20 mouthing it's mine; we talked about - Mr. Epting says that  
21 he mouths it twice in response to Mr. Govan saying Bro,  
22 Bro, something like that. And then there's one more  
23 statement about there being nothing else in the car. And  
24 this apparently is intent that he knew everything that's in  
25 the car and he knew the gun was in the car and therefore



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1 this is.

2 The first couple of things I want you to think about  
3 is the investigation itself. Now think about the type of  
4 case this is. We never were trying to say that the  
5 officers were lying about the smell of marijuana. What we  
6 were trying to indicate to you is we had no clue what the  
7 officers were doing or what they were trying to investigate  
8 is the presence of marijuana. But their goal is to get  
9 into the vehicle to search every nook and cranny of the  
10 vehicle to determine whether or not there's marijuana in  
11 the car.

12 I submit to you that it was quite clear that that was  
13 their intention from the very beginning. And if not from  
14 the very beginning within a minute of the stop the officers  
15 taking all the officers to the side and explaining to them,  
16 you know, we can search the car now. And I'm not say --  
17 He's not wrong about that; he's absolutely right. And he's  
18 not not doing his job. Police officers my belief have the  
19 hardest job in the country. It's the most difficult job  
20 there is. And the practices and the ways that they go  
21 about doing their job sometimes it's not nice. And we can  
22 debate about those practices.

23 But the point of the matter is what this is is a forty  
24 minute roadside interrogation to try to find guns. What  
25 this is is trying to elicit all the information that we can

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1 from these individuals during that forty minute roadside  
2 investigation. And ultimately all of those statements are  
3 being used in court today to prove him guilty of what they  
4 did find. Not what they were looking for but what they  
5 happened to find; what they happened to be able to put on  
6 somebody in that car and that's the gun. So please keep in  
7 mind what type of case this is. You consider what other  
8 possible reasonable conclusion you could draw from the  
9 evidence put before you there.

10 Training issue is an interesting one. There's no  
11 problem with this. It's clearly the Rock Hill City has got  
12 somebody training in the car with the other officer. But  
13 it is dynamic and it's an intangible thing going on. One  
14 of the points that we presented that we think matters most  
15 is that when Officer -- the officer that's in training  
16 takes Mr. Wilmore out of the car. The investigating  
17 officers doing all the paperwork in the car; the officer  
18 training, Revels, is watching Revels and nobody is watching  
19 Govan. That's one of the points we were making.

20 I also want to talk about Little's influence in what's  
21 going on. It's very interesting. This is Little's  
22 investigation. Potentially Little had -- Officer Little  
23 who I think is a very good officer, has a drug case here  
24 and he's trying to put all, cross all the -- dot all the  
25 I's and cross all the T's to see if he can get this thing

CLOSING ARGUMENT: BY MR. MERRITT

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1       done. And while he's doing that and he tells both the  
2       officers please pull him out of the car search the car. He  
3       suggest that's a good idea. He's trying to put all this  
4       information and little and behold Govan's somehow  
5       orchestrated some stall tactic and they're out there just  
6       talking and laughing for about ten or twelve minutes. By  
7       the time Little gets out of the car he -- the crime scene  
8       has gone a little crazy. And just think about that as we  
9       go forward.

10           The only thing I'd like to think about is everything  
11       that was produced in court to you today that's evidence  
12       against Mr. Wilmore was created eight months ago. There's  
13       not a single thing that he did in this case to corroborate  
14       their theory of the case which is undoubtedly is Mr.  
15       Wilmore's guilty of possessing this gun. And there's a  
16       variety of things they could have done but the easiest one  
17       is fingerprints.

18       ... Now Mr. Epting pointed out well what could  
19       fingerprints have showed us. Well, if I'm theory --  
20       there's about four or five other ways you could view this  
21       case. And I'm not saying that fingerprints would have been  
22       on that gun at all but they could have and it's one of the  
23       simplest things that could have done. Officer Little did  
24       what he had to do to make sure the gun got into the  
25       evidence bag. The purpose of that procedure is to be able

1 to investigate the gun afterwards to just swipe it for  
2 fingerprints. If we had done that perhaps the girlfriend's  
3 fingerprint would have been on the gun. What if the  
4 girlfriend's fingerprint was on the gun?

5 Okay. I'm not saying it was and we never -- We'll  
6 never know whether it will be. But if it was on the gun,  
7 if the girlfriend's fingerprint was on the gun it  
8 completely corroborates Mr. Wilmore's confusion at the  
9 scene as to what's going on; his attempts to try to help  
10 his friend Mr. Govan. But once again I'm not -- we're not  
11 saying he's actively lying. We're saying he's trying to  
12 help Mr. Govan in the statements he's making when he  
13 responds to police officers. He's certainly not trying to  
14 make statements to be presented to you today to be able to  
15 be used against him in this crime. He's not doing that at  
16 all. He's responding to individuals who are talking to him  
17 at the time and his perception of what's going on.

18 If the girlfriend's print was on that gun it would  
19 have been interesting. Obviously if Govan's print was on  
20 that gun it would have been incredibly interesting. If  
21 Govan's print was on that gun we'd had a very difficult  
22 question ask and there would likely be two people sitting  
23 in this courtroom. There would likely be Mr. Wilmore and  
24 Mr. Govan and you would be able to hear the case of that.

25 Time. Please think about the element of time. I've

CLOSING ARGUMENT: BY MR. MERRITT

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1 mentioned eight months. Eight months is a lot of time to  
2 when to prepare a case if you're going to go to trial. But  
3 what are people's memories today? There's that whole  
4 twelve minute conversation that the microphones were able  
5 to pick up as we didn't have all the video that we wished  
6 we could have had. And during that conversation we could  
7 have picked up some context, clues as to what is Govan  
8 trying to do. And what is it that Mr. Wilmore says during  
9 that point in time and the officer simply forgot it. And  
10 that's not any fault of theirs. They're not expected to  
11 remember every incident but time has had an effect on this  
12 case and time hasn't produced any benefits. Once again  
13 time hasn't produced any evidence from the state to  
14 corroborate what's on that video for you.

15 That video -- We talked about the bad tape. And while  
16 they mention the packaging of the gun and the serial number  
17 on the gun because this is the bag -- this bag probably  
18 wasn't touched since eight months ago when Mr. Little put  
19 it in this bag. Well when Mr. Little put it in this bag he  
20 put a different serial number on this bag, on the evidence  
21 bag. If you were going to go check any information about  
22 this handgun and refer to this serial number you would be  
23 trying to recover information with a serial number of the  
24 wrong gun.

25 Now the problem with admissions, it's a very difficult

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1 issue in general. But one of the biggest issues is like I  
2 said all of the statements that Mr. Wilmore is making to  
3 the people around him as he responds as to what is  
4 occurring, none of that's being made with the understanding  
5 that that's going to be used against him in court. Miranda  
6 is not delivered to Mr. Wilmore. He's not informed that  
7 all these things you're gonna say they're coming into  
8 court; they're gonna come hurt you until after every  
9 statement submitted by the State today. So he's in effect  
10 does not necessarily have an understanding that that can be  
11 done.

12 I also mention the authority problem. People respond  
13 to authority in very different ways. I think Wilmore and  
14 Govan are two great examples. Some people respond to  
15 authority with absolute utter distaste. They're going to  
16 not allow you to search the car, search the vehicle.  
17 They're going to cringe when you tell them to do something  
18 whether its an officer, whether it's a parent. Some people  
19 will respond to authority that way. A lot of people  
20 respond to authority by submitting. By trying to say that  
21 they want to hear. Especially authority that has an  
22 immediate effect on you. Authority that could for example  
23 arrest you that night. They could charge you with a crime.  
24 People respond to authority in different ways. These  
25 admissions are being made by Mr. Wilmore as he is

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1 responding to authority.

2 And I save the Donald Sterling problem last. And what  
3 I mean by that is, there's something wrong about using  
4 against somebody the recorded statements that they say when  
5 you have no clue whatsoever that they're being recorded.  
6 Now there's a good chance you might say something terrible  
7 especially if it's taken in the wrong context. The context  
8 before you today, the context that's before you, every  
9 statement that's been presented to you by Mr. Wilmore, the  
10 context that's being made today is is he guilty or not  
11 guilty. That's not the context under which he said those  
12 statements. So keep in mind the officer knows the entire  
13 time this particular thing is being recorded. And they're  
14 trained to and it's good that things are recorded. It's a  
15 wonder but also keep in mind that if you have no clue a  
16 recording is going on you're once again responding to set  
17 scenarios before you. You're not responding to the problem  
18 that's here today.

19 Over and over and over again the officers and the tape  
20 corroborates Wilmore demeanor. Throughout the process he's  
21 completely cooperative. He gets out of the vehicle  
22 immediately. He's relaxed the entire time. He's joking  
23 with the officers. He does not appear to be nervous. I do  
24 think it's notable that its mid December and he's cold.  
25 Several and not only one of the things that he says to the

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1 officer is can you get my jacket at the end of it. But  
2 he's sitting out there and he's uncomfortable; this thing  
3 has lasted forty minutes. His friend might get himself  
4 into a lot of trouble. Mr. Wilmore might be concerned  
5 about his friend's safety based upon the way he is acting.  
6 Mr. Wilmore - - But regardless it's not a very comfortable  
7 situation to be sitting out there. But one of the most  
8 important things that the officers did not testify that Mr.  
9 Wilmore made any sort of further movements towards the gun.  
10 There was no indication that when the gun was underneath  
11 the seat because I mean the ownness of a gun underneath the  
12 seat right now has very serious implications. It's a very  
13 real problem. The idea that there's a gun underneath the  
14 seat when an officer who I believe has the most difficult  
15 job in the world is approaching the vehicle is a concerning  
16 issue. It's a concerning issue for everybody.

17 But Mr. Wilmore didn't do anything to corroborate the  
18 concerns of that issue. He didn't make any movement  
19 towards the gun which would show intent. That would  
20 absolutely. If that were the case and that case obviously  
21 happens, if it were that case, he wouldn't have a defense  
22 in regards to where the gun was. And to the fact that he  
23 knew the gun was there and he intended on using it.

24 The idea that it was a girlfriend's gun is an  
25 interesting one. It is one that is corroborated by the



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1 officers testimony in regards to I suppose tracing the gun  
2 back to a particular address. And while we heard a little  
3 bit about that on the video we did not have any evidence  
4 produced in regards to who lived where and where that car  
5 was registered to today. All we do know for sure is that  
6 the address does not appear to be registered to the driver  
7 of the vehicle. But it's also corroborated it is the  
8 girlfriend's gun. It is corroborated by the worst things  
9 that Wilmore says.

10 Mr. Wilmore in his worst time says it's mine, it's  
11 mine. Okay. But he says that after he's explained to the  
12 officers that its my girlfriend's gun. He says that after  
13 he explains to the officers perhaps unconvincingly,  
14 probably knows unconvincingly, that I stay there but we're  
15 having problems and so forth. He's responding to Govan.  
16 Govan has made a show of himself the entire time. If it's  
17 actually the girlfriend's gun the reason Wilmore is  
18 claiming it's mine its mine is to make sure that those  
19 cuffs don't go on Govan. The cuffs are going on Govan  
20 right now. The one thing Mr. Wilmore is certainly not  
21 doing is thinking he's looking directly into a camera  
22 saying its mine its mine and it's gonna be produced for you  
23 today. Certainly not what he thinks he's doing. But what  
24 he is doing is trying to do everything he can to make sure  
25 those cuffs don't go on his friend.

1           The other thing is -- the other I guess thing is there  
2           is nothing else in the car. The only thing that  
3           accomplishes for Wilmore -- Well, I guess there's the one  
4           thing it does accomplish for the State is it produces proof  
5           of his guilt I guess. But the reason Wilmore is saying it  
6           is because Govan's not free to leave and the only thing  
7           stopping Govan from leaving is them continuing to search  
8           the car forth minutes after a stop it was initiated so due  
9           to the smell of marijuana and marijuana was never a  
10          problem.

11          The reason he's saying that is because he wants Govan  
12          to be able to leave. Once again this investigation ended  
13          December 21st, 2016. We have a word of follow though in  
14          regards to if there's any connection to what Wilmore was  
15          saying and the gun might be his girlfriends. Once again  
16          the fingerprints would be helpful here. But ultimately and  
17          the most interesting theory is Govan's gun. Obviously  
18          Govan's demeanor is ridiculous. Govan is not happy about  
19          being searched at all. I call him my roadside  
20          constitutional law professor because he's going on and on  
21          about the proper methods that the Fourth Amendment allows  
22          you to search your pockets.

23          Mr. Epting did talk about how this is not a Fourth  
24          Amendment issue. That's not your decision and it is never  
25          our proposition that it was. But it is interesting. The

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1 only reason we ever elicited testimony about that is to  
2 understand that the officer knows the entire time he can  
3 get into that car. He knows that. Govan also understands  
4 that he thinks he can prevent the officer from getting into  
5 that car due to consent. And he's doing it due to his lack  
6 of consent. And he's doing everything he can to prevent  
7 the officer from doing it. And the measures he's taking  
8 are pretty desperate. By the time Little gets out of that  
9 car in twelve minutes somehow Govan already has an  
10 individual who's arrived on scene, who has given him a cell  
11 phone and he is calling an attorney. He has a third person  
12 here now I guess he's asking them to record the entire  
13 proceeding. He has an attorney on the phone and he's  
14 doing everything he can to prevent them from going inside  
15 of that car.

16 That is a lot of desperate efforts. If you were being  
17 stopped and you had - - and your understanding was there's  
18 no possible way I've done anything wrong here, I'm driving  
19 my buddy around, it's not even my car. We produced  
20 everything, everything's legal. You go through all these  
21 measures? You get somebody there they give you a cell  
22 phone? I don't quite even understand that fact. I suppose  
23 that means Govan didn't even have a phone. We know that  
24 Mr. Wilmore did have a cell phone because he ask to talk to  
25 his girlfriend several times. Can I call my girlfriend or

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1 at lease you can imply that he likely does. But Govan  
2 doesn't even have a phone. Somehow I guess somebody nearby  
3 knows that Govan's there and brings him the phone.

4 The other thing that's obvious is when Little steps  
5 out of the car he's a threat to Govan. And the things  
6 that's going on between Little and Govan, Officer Little is  
7 rightfully trying to gain control of this crime scene.  
8 He's rightfully trying to get Mr. Govan to explain - Well  
9 he politely actually explained to Mr. Govan that he can  
10 search the vehicle. I got all the authority in the world  
11 to search that vehicle. I got all the authority in the  
12 world to search you. As soon as he says that, if you watch  
13 the video, it will be in evidence, it's very apparent that  
14 Mr. Govan is even more agitated by that proposition by the  
15 officer.

16 He's already controlled everything. He's got a lawyer  
17 on the phone. The officers are laughing with him and so  
18 forth and the one thing that infuriates Govan is the idea  
19 that they might actually get in that car. They keep  
20 talking about or they discuss Wilmore's demeanor changes.  
21 You watch that video it's very evident that Wilmore's  
22 demeanor changes when Govan starts getting aggravated with  
23 the officer starts getting agitated and starts cussing.  
24 The officer puts his hands on him to detain him. We submit  
25 to you that the reason Wilmore ever changes his demeanor is

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1 cause he's concerned that Govan's about to get himself into  
2 a lot of trouble.

3 Now you are to take that with a grain of salt but I  
4 just ask that that's the only time his demeanor changes and  
5 it doesn't' change that much. Throughout the entire course  
6 of this Mr. Wilmore is very calm. He wants to get along  
7 with the officer, be friendly. And every chance that Mr.  
8 Wilmore can he gives the officers one step further to get  
9 into that vehicle. And this by admitting that the smell of  
10 marijuana is on me he's doing exactly what Govan is trying  
11 not to do. No one was smoking any marijuana, officer, what  
12 are you talking about? Well the reason he's saying that is  
13 cause this faint smell of marijuana you smell is in your  
14 imagination and you're not getting in my car.

15 Wilmore completely is just trying to get Govan out of  
16 trouble and interjects no, no it's me, I was around people  
17 that were smoking marijuana.

18 Once again fingerprints would help us a lot here.  
19 We're here in South Carolina in the highest trial court in  
20 South Carolina deciding an issue at the highest burden of  
21 proof that I'm aware of in our justice system beyond a  
22 reasonable doubt. Fingerprints would help. Once again  
23 where is Govan? Govan has opportunity if you want to one  
24 possible thing that could happen but Govan does have  
25 opportunity to put the gun underneath the seat of that car

1 and the most obvious opportunity to do so is when Mr.  
2 Gilmore's already out of the car. Officer Revels has  
3 extracted him from the car, he's being searched by Officer  
4 Revels. The other officer is watching Officer Revels. As  
5 he testified, Officer Bryson testified very sincerely or  
6 very honestly that Mr. Wilmore was cooperative the entire  
7 time. His demeanor changed slightly. Mr. Govan was an  
8 incredible pain in the butt. And that basically he wasn't  
9 watching Govan at all during that time period.

10 But the big thing is where is Govan now? There the  
11 State could have charged Govan and Wilmore of this crime.  
12 They could have both of them in front of -- in the  
13 courtroom today and you could have a decision to make. We  
14 would be able -- Right now the state has no real incentives  
15 to meet the burden of us saying it's Govan. They don't  
16 have to talk about that. You would have Mr. Govan's  
17 attorney explaining his defense and we don't have that  
18 today.

19 Then there's the placement of the gun. You know there  
20 were a bunch of items on the seat that Mr. Wilmore is  
21 sitting on. I guess presumably that the idea is the gun is  
22 where it should have been the whole time. It is where it  
23 was the whole time and those items in the seat would be  
24 where they were the whole time. It wouldn't make a lot of  
25 sense for Mr. Wilmore to sit on those items. It wouldn't

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1 make a lot of sense to put the gun where it was if you want  
2 to carry it on your person.

3 And that is there was a couple of points that Chris  
4 made regarding -- That Mr. Epting made regarding the law.  
5 And you're gonna hear a charge regarding guns today. And  
6 ultimately is our position it could have been Govan's gun;  
7 it could have been the girlfriend's gun. It really could  
8 have been anybody's gun. It's a new car. Presumably one  
9 of the first times Mr. Wilmore -- Mr. Wilmore -- Wilmore  
10 got in trouble. But readily apparent would be the law that  
11 you hear today. And it's essentially going to elaborate on  
12 what it means to carry on one's person.

13 Well the United States has some of the strongest gun  
14 laws in the country. Mere possession of a gun is not what  
15 this law restricts. For example with marijuana you would  
16 be here deciding possession. With a gun -- With a gun they  
17 have to prove that it was readily accessible and on their  
18 person. There are many incidences where that would be  
19 true. If he had reached for the gun they may be able to  
20 prove that. I think if you look at the picture the gun is  
21 where that ketchup packet is. It's where the same ketchup  
22 packet would be if you had dropped it out of, you know,  
23 some fast food that you got and you wouldn't be able to  
24 reach it.

25 It's very clear that it's right there when you open

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1 the door. That is not -- The only way to put the gun there  
2 would be to have the door open. It's very much reasonable  
3 to think about, you know, you been in four cars to the end  
4 that you would sit down in the seat and this door would be  
5 closed and you cannot reach what's right there. The  
6 chances are you can't reach underneath the front of the  
7 seat. If we're gonna be honest the easiest way you get  
8 that gun is probably if you're in the back seat. But the  
9 gun must be readily accessible.

10 And perhaps like me I struggle with this election  
11 coming up. I don't know who I'm gonna vote for. Trump  
12 Hillary. They both are not very appealing to me at all.  
13 That isn't an easy way to decide this case. And it is what  
14 the law demands in my view there. I would, please take a  
15 close look at the facts of this case. If you're gonna rely  
16 on the statements as being dispositive in this case please  
17 take a close look at the context in which those statements  
18 are being made. Thank you.

19 CHARGE TO THE JURY:

20 THE COURT: Members of the jury panel, I appreciate  
21 your attention you've given me and the attorneys throughout  
22 this trial. It is now my job to charge you the law that  
23 you are to apply to the facts in this case. Now this  
24 indictment that you will have back in the jury room with  
25 you is not evidence. It is simply the paperwork by way of



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1 which this case is processed through our court system. It  
2 contains the charge, the allegation against Mr. Wilmore and  
3 it contains or will contain the unanimous verdict of the  
4 jury and the foreman's signature and I'll talk to you more  
5 about that in just a minute. It is not evidence.

6 The fact that Mr. Wilmore is on trial; the fact that  
7 he was arrested, charged, indicted, and is on trial is no  
8 indication that he is guilty of this offense. That's just  
9 the way our system works. Someone is thought to have  
10 committed an offense that's what happens. They are  
11 arrested, charged, indicted, and brought on to trial. So  
12 that is not any evidence and cannot be considered by you or  
13 given any -- nor give it any presumption or inference of  
14 guilt.

15 Mr. Wilmore has pled not guilty to this charge and  
16 this plea of not guilty places on the State the burden of  
17 proving his guilt beyond a reasonable doubt. Anyone  
18 charged with any offense in our system is presumed innocent  
19 of that charge until such time as the State is able to  
20 prove, if it can, their guilt beyond a reasonable doubt.

21 Now this presumption of innocence is not a mere legal  
22 theory or a mere legal phrase. It is a substantial right.  
23 It is a right that adheres to the benefit of the individual  
24 at the time they are arrested. The presumption of  
25 innocence attached to Mr. Wilmore the night of December

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1 22nd when he was arrested; remains with him through these  
2 past few months as his case is processed, remains with him  
3 at this very moment. In fact remains with him as you  
4 deliberate. The presumption of innocence in his favor is  
5 removed if and when, and only, if and when you determine  
6 the State has proven his guilt beyond a reasonable doubt.

7 It is a substantial right. Again, not a mere legal  
8 theory, mere legal theory or phrase.

9 What is a reasonable doubt? Our courts have defined a  
10 reasonable doubt as the kind of doubt that would cause a  
11 reasonable person to hesitate to act. Proof beyond a  
12 reasonable doubt is proof that leaves you firmly convinced  
13 of someone's guilt. There are very things in our world  
14 that we can know with absolute certainty. An absolute  
15 certainty is not required in a case such as this.

16 If based on your consideration you are firmly  
17 convinced of Mr. Wilmore's guilt beyond a reasonable doubt  
18 you would find him guilty. If on the other hand you think  
19 there is a real possibility that he is not guilty you would  
20 give him the benefit of that reasonable doubt and find him  
21 not guilty. He is entitled to the benefit of any  
22 reasonable doubt you have as to any issue in this case.

23 I remind you that you are the sole judges of the facts  
24 and I am the sole judge of the law. You must take accept  
25 and apply the law as I charge it even if you think I charge

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1 the law in error or even if you think the law should be  
2 different. Your oath requires you to take accept and apply  
3 the law as I charge it. You're not infer from anything I  
4 have said or done or anything I now say or do as being an  
5 indication of an opinion of mine on the facts. Our law  
6 does not allow a trial judge to formulate or express to a  
7 jury any opinion on the facts. That is solely your job.  
8 It is solely your job as the jury in this case to examine  
9 the evidence, give to the evidence the effect, the value,  
10 the weight of the truth you believe it should have.

11 In doing this you may believe one witness as opposed  
12 to several, several witnesses as opposed to one, you may  
13 believe all part or none of a witnesses testimony. Use  
14 your common sense, your sense of logic, your sense of  
15 reason as you analyze the evidence.

16 As judges of the facts you necessarily must judge the  
17 credibility, that is the believability of the witnesses who  
18 have testified in this case. In accessing believability,  
19 credibility, use those things that you find in your day to  
20 day life as being indicative in truthfulness. And you can  
21 use certain evaluators. How a witness acts on the stand.  
22 Are they hesitant or straight forward. Is their testimony  
23 consistent or inconsistent. Consider the opportunity a  
24 witness had to know those things to which the witness  
25 testified. Consider the opportunity a witness had to know

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1 as I said those things to which they testified and you can  
2 look and examine any bias or prejudice a witness may have,  
3 that is, whether a witness would wish to help or hurt one  
4 side or the other. Consider all these things determine the  
5 true facts apply the law and you'll be in a position to  
6 return a verdict that speaks the truth.

7 Mr. Wilmore has exercised his constitutional right to  
8 remain silent. The fact that he has done so cannot be  
9 factored in by you any way whatsoever in deciding the  
10 issues in this case. That is whether the State has carried  
11 it's burden to prove Mr. Wilmore guilty beyond a reasonable  
12 doubt. You cannot discuss among yourselves the fact that  
13 he exercised his right to remain silent and you cannot  
14 factor it into your own mind in your own consideration of  
15 what verdict to return.

16 Mr. Wilmore like anyone as I said earlier is presumed  
17 innocent of the charge and need not prove his innocence.  
18 The State must prove his guilt beyond a reasonable doubt.

19 Now the fact that he has exercised his constitutional  
20 right to remain silent cannot mitigate against him in any  
21 way whatsoever.

22 In trials such as this there are generally two types  
23 of evidence presented. Direct and circumstantial evidence.  
24 Direct evidence is evidence that proves the existence of a  
25 fact and does not require deduction. Circumstantial

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1 evidence is proof of a chain of facts and circumstances  
2 which indicate the existence of a fact. Crimes may be  
3 proven by circumstantial or direct evidence. Our law makes  
4 no distinction between the weight or value to be given  
5 either direct or circumstantial evidence. However to the  
6 extent the State relies on circumstantial evidence all the  
7 circumstances relied upon must be consistent with each  
8 other and when taken together point conclusively to the  
9 guilt of Mr. Wilmore beyond a reasonable doubt. If these  
10 circumstances merely portray his conduct and behavior as  
11 suspicious then the State's proof has failed.

12 The State has the burden of proving Mr. Wilmore guilty  
13 beyond a reasonable doubt and this burden rest upon the  
14 State whether they rely on direct evidence, circumstantial  
15 evidence, or a combination of the two. The charge against  
16 Mr. Wilmore is a charge in our code of laws. The  
17 legislature has passed certain laws and one of them is  
18 Section 16-23-20. You don't need to remember the number so  
19 it's a law enacted by our legislature and it's very simple.

20 It states that one may not carry a pistol except for  
21 under certain circumstances which are not applicable here.  
22 The defendant Mr Wilmore is charged with unlawful carrying  
23 a pistol under this statute. Here the State must prove  
24 beyond a reasonable doubt that Mr. Wilmore carried a pistol  
25 about his person whether concealed or not. A weapon is

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1 about one's person if it is readily accessible and  
2 convenient for immediate use. A pistol need not be  
3 actually touching the person of the person charged, the  
4 defendant. Now mere presence at the scene where a pistol  
5 is found is not sufficient to prove someone guilty of that  
6 charge. The defendant's presence where a crime has been  
7 committed or a mere association with an individual who  
8 commits a crime does not make that defendant an accomplice  
9 or abetter of the person committing the crime.

10 The burden is on the State to prove every element of  
11 the charge of unlawful carrying of a pistol. If you find  
12 after reviewing all of the evidence that the State has  
13 proven Mr. Wilmore was only present at the scene of a  
14 crime, that is the presence of a pistol, and that they had  
15 not proven beyond a reasonable doubt any other  
16 participation in the crime then you must find him not  
17 guilty. The proof of someone at the scene alone is not  
18 sufficient to find someone guilty.

19 Now in this case there has been the video. I am  
20 allowing this to be shown to you by way of sending back a  
21 computer. This computer is for viewing the video in the  
22 form in which it is presented. That is, there are of  
23 course commands, I think we got an IT man on the jury, but  
24 there are commands to use a computer but the only commands  
25 that you should use or can use and may use in viewing this

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1 video are things such as pause, rewind, fast forward,  
2 adjusting volume. Don't change the hue or sharpness or  
3 whatever may be changed other than perhaps the volume  
4 because you've got to view the video exactly like it was  
5 presented because that's the way it's in evidence is what  
6 you've seen in here. So don't use any enhancements if  
7 there is any availability for enhancements. Zooming in and  
8 zooming out that's improper. Just watch it as it is.  
9 Adjust the volume but you can stop it, you can pause it,  
10 you can play it, you can replay it. And of course you can  
11 discuss it.

12 Now I'm warned by our IT people that you have to keep  
13 it plugged in because the battery life of that computer is  
14 not going to make it through your deliberations so keep it  
15 plugged in.

16 Now there are two - - In just a moment you will go to  
17 the jury room but don't start deliberating when you first  
18 go to the jury room everyone but the alternate. I have to  
19 go over my charge with the attorneys. If I have made an  
20 error I'll have to bring you back in and correct it. If  
21 not, I will send in the verdict, the indictment, and the  
22 exhibits and the bailiff will tell you to start  
23 deliberating. Don't start until that time because I may  
24 have to send for you to bring you back in and make any  
25 corrections if I have made a mistake in my charge.

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1           If you want testimony replayed let us know we'll bring  
2           you back and here in opening court replay any testimony you  
3           wish. If you wish me to go over any part of my charge,  
4           just let me know and I'll bring you back and here in open  
5           court I'll go over my charge with you.

6           Your verdict must be unanimous. All twelve jurors  
7           must agree on the verdict before you authorize the Foreman  
8           to write the verdict on your behalf. Your verdict cannot  
9           be based on passion, sympathy, prejudice, or matters  
10          outside the record.

11          Now, Mr. Foreman, on the indictment on the back there  
12          is the word verdict and there are four lines. The bottom  
13          line is for your signature and there is a place for the  
14          date. Today is the thirteenth. On one of the lines above  
15          your signature you will enroll the jury's unanimous  
16          verdict. If the State has failed to prove Mr. Wilmore's  
17          guilt beyond a reasonable doubt you would write the two  
18          words not guilty over your signature.

19          If the State has proven Mr. Wilmore's guilt for  
20          carrying a pistol unlawfully beyond a reasonable doubt you  
21          would write the one word guilty. If you have any questions  
22          write them down on a piece of paper, tell the bailiff,  
23          knock on the door and give it to the bailiff the bailiff  
24          will come and bring it to me. I will confer with the  
25          attorneys as to how to respond. I may be doing some other



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1 work so it might not be instantaneous when I return it.

2 If I can write an answer on the note I will do so. If  
3 I send the note back with an answer keep that note and turn  
4 it in with the exhibits cause it has to be part of the  
5 record. It may be that I'll have to bring you back here in  
6 open court and answer any question and I will certainly be  
7 glad to do that.

8 When you have reached a verdict knock on the door and  
9 tell the bailiff. The bailiff will let us know and we will  
10 send for you as promptly as we can. Again I may be doing  
11 some other work and I will stop that as promptly as I can  
12 and bring you in.

13 Now, again when you go to the jury now do not start  
14 deliberating and don't get too comfortable either because  
15 if I have to send for you it will be in just a few seconds.

16 (JURY EXITS COURTROOM TO DELIBERATE AT 02:12 PM.)

17 THE COURT: Get the alternate.

18 Mr. Lloyd, tell the alternate.

19 MADAM COURT REPORTER; The alternate. The alternate.

20 THE BAILIFF: I think he went to get him.

21 (ALTERNATE JUROR REENTERS COURTROOM.)

22 THE COURT: You can just have a seat and stay with us  
23 at this time. Anything regarding the charge from the  
24 State?

25 SOLICITOR EPTING: Nothing from the State, your Honor.

1 THE COURT: Defense?

2 MR. MERRITT: Nothing, your Honor.

3 THE COURT: All right. Well check the indictment and  
4 the exhibits and we'll send 'em in and get the jury  
5 deliberating.

6 And you're free to go. You can call back tonight  
7 after seven and find out about what next is to be done.

8 Thank you. We'll be at ease.

9 (ALTERNATE JUROR DISMISSED AT 02:13 PM./COURT AT EASE  
10 AT 02:15 PM.)

11 (COURT BACK IN SESSION AT 02:39 PM.)

12 (LATIFA TATE PLEA WITH HARRY DEST; JONI SPROUSE PLEA  
13 WITH PHIL BAITY; RYAN CHILDERS PLEA WITH PHIL BAITY.)

14 (JURY NOTE RECEIVED UP BY THE COURT AT 02:58 PM.)

15 THE COURT: Mr. Epting, would you and Mr. Merritt get  
16 together?

17 SOLICITOR EPTING: I will.

18 THE COURT: Lexi has the note.

19 (WHEREUPON, COURT'S EXHIBIT NUMBER FIVE, IDENTIFIED  
20 AND MARKED, RECEIVED INTO EVIDENCE.)

21 (JERRY BYARS PLEA W. MONIER ABSUSAFT.)

22 THE COURT: We've got a question I think from the  
23 jury. Let me see what's going on with that.

24 Duddy, would you go ask the attorneys to let me know  
25 what's going on?

1 THE BAILIFF: Okay.

2 THE COURT: We've got to get the jury in on --

3 Well let's -- It will be a minute. We can probably  
4 take one quick one while -

5 (DENZEL CASTLES PLEA WITH LEAH MOODY AT 03:16 PM.)

6 THE COURT: We got -- Let's see.

7 All right, we've received a note from the jury that  
8 says, "Will you please provide the legal definition for  
9 willful?" Somewhat interesting because that's not part of  
10 the charge regarding possession of -- unlawful possession  
11 of a weapon but apparently it's set forth on the  
12 indictment. So I'm gonna bring 'em in since that is the  
13 case and charge a definition although there are several,  
14 I'm gonna charge the jury that willfully means voluntarily  
15 and intentionally.

16 SOLICITOR EPTING: Thank you, your Honor.

17 MR. MERRITT: Thank you, your Honor.

18 THE COURT: All right. Bring in the jury.

19 MS. INZERILLO: Your Honor, one moment.

20 THE COURT: Oh, yeah, Mr. Wilmore. Got to get Mr.  
21 Wilmore in. The defendant.

22 (DEFENDANT, JAYQUAN WILMORE REENTERS COURTROOM AT  
23 03:25 PM.)

24 THE COURT: Mr. Wilmore is present. Bring in the  
25 jury.

1 (JURY REENTERS COURTROOM AT 03:26 PM.)

2 (COURT'S CHARGE DEFINING WILLFULLY.)

3 THE COURT: Members of the jury panel, I've received  
4 your note and I thank you for sending it out and I'm going  
5 to give you a definition as you ask for the term willfully  
6 as used in the indictment.

7 The term willfully means voluntarily and  
8 intentionally. Something done willfully is something that  
9 is not done accidentally but done with purpose.

10 So I'm gonna let you go back to the jury and continue  
11 to deliberate.

12 (JURY EXITS COURTROOM TO CONTINUE DELIBERATIONS AT  
13 03:27 PM.)

14 THE COURT: Anything from the State?

15 SOLICITOR EPTING: Nothing from the State, your Honor.

16 THE COURT: Defense?

17 MR. MERRITT: Nothing, your Honor.

18 SOLICITOR EPTING: Your Honor, may we briefly  
19 approach?

20 THE COURT: Yeah.

21 (DEFENDANT JAYQUAN WILMORE EXITS COURTROOM.)

22 (BENCH CONFERENCE OFF THE RECORD AT 03:27 PM.)

23 (TIONNE WARREN ATTORNEY APPOINTMENT; STEVEN DIXON  
24 ATTORNEY APPOINTMENT; ROBERT DORSETT ATTORNEY APPOINTMENT.)

25 THE COURT: All right, we'll be at ease in this case.

VERDICT:

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1 (COURT IN RECESS AT 03:35 PM.)

2 (COURT BACK IN SESSION AT 03:54 PM.)

3 (DEFENDANT JAYQUAN WILMORE REENTERS COURTROOM.)

4 THE COURT: Thank you, you may take your seats.

5 We have a verdict in Mr. Wilmore's case.

6 Is the State ready?

7 SOLICITOR EPTING: The State's ready, your Honor.

8 THE COURT: Defense?

9 MR. MERRITT: The Defense is ready, your Honor.

10 THE COURT: Bring in the jury, Mr. Dunlop.

11 (JURY REENTERS COURTROOM AT 03:55 PM.)

12 (WHEREUPON, COURT'S EXHIBITS SEVEN AND EIGHT,

13 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

14 THE COURT: Mr. Foreman, I understand the jury has  
15 reached a verdict.

16 MR. FOREMAN: Yes, sir, we have.

17 THE COURT: If you'll hand the indictment up to the  
18 bailiff.

19 (VERDICT RECEIVED UP BY THE COURT.)

20 THE COURT: Madam Clerk.

21 MADAM CLERK: Indictment 2016-GS-46-1713 the State of  
22 South Carolina versus Jayquan Dante Wilmore indictment for  
23 unlawful carrying of a pistol, verdict guilty. Signed by  
24 the Foreperson dated today's date.

25 Ladies and gentlemen of the jury, if that be your

VERDICT:

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1 verdict so say you all by raising your right hand.

2 Let the record show all juror's affirmed this verdict.

3 (ALL JURORS RAISED THEIR HANDS.)

4 THE COURT: All right. Did all twelve - - I couldn't  
5 see. That's okay.

6 Anything from the State before the jury is dismissed?

7 SOLICITOR EPTING: Nothing from the State, your Honor.

8 THE COURT: Anything from the Defense?

9 MR. MERRITT: We would just ask to poll the jury.

10 THE COURT: All right. Members of the jury, the  
11 Clerk's gonna ask you a question which is basically to  
12 confirm your verdict.

13 MADAM CLERK: If everyone would please stand.

14 Juror two thirty-one, is this your verdict?

15 JUROR TWO THIRTY-ONE: Yes, ma'am.

16 MADAM CLERK: Is this still your verdict?

17 JUROR TWO THIRTY-ONE: Yes, ma'am.

18 MADAM CLERK: You may be seated.

19 Juror One Forty-one, is this your verdict?

20 JUROR ONE FORTY-NINE: Yes, ma'am.

21 MADAM CLERK: Is this still your verdict?

22 JUROR ONE FORTY-NINE: Yes, ma'am.

23 MADAM CLERK: You may be seated.

24 Number two fifty-two, is this your verdict?

25 JUROR TWO FIFTY-TWO: Yes, ma'am.

VERDICT:

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1 MADAM CLERK: Is this still your verdict?

2 JUROR TWO FIFTY-TWO: Yes, ma'am.

3 MADAM CLERK: You may be seated.

4 Number One seventy-six, is this your verdict?

5 JUROR ONE SEVENTY-SIX: Yes, ma'am.

6 MADAM CLERK: Is this still your verdict?

7 JUROR ONE SEVENTY-SIX: Yes, ma'am.

8 MADAM CLERK: You may be seated.

9 Number 1-0-2, is this your verdict?

10 JUROR 1-0-2: Yes.

11 MADAM CLERK: Is this still your verdict?

12 JUROR 1-02: Yes, ma'am.

13 MADAM CLERK: You may be seated.

14 Number Seventeen.

15 JUROR SEVENTEEN: Yes, ma'am.

16 MADAM CLERK: Is this your verdict?

17 JUROR SEVENTEEN: Yes, ma'am.

18 MADAM CLERK: Thank you. You may be seated.

19 Sixty-one, is this your verdict?

20 JUROR SIXTY-ONE: Yes, ma'am.

21 MADAM CLERK: Is this still your verdict?

22 JUROR SIXTY-ONE: Yes, ma'am.

23 MADAM CLERK: You may be seated.

24 Number one seventy-two, is this your verdict?

25 JUROR ONE SEVENTY-TWO: Yes.

VERDICT:

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1 MADAM CLERK: Is this still your verdict?

2 JUROR ONE SEVENTY-TWO: Yes.

3 MADAM CLERK: You may be seated.

4 Number eighty.

5 JUROR EIGHTY: Yes.

6 MADAM CLERK: Is this your verdict?

7 JUROR EIGHTY: Yes.

8 MADAM CLERK: You may be seated.

9 Number sixteen, is this your verdict?

10 JUROR SIXTEEN: Yes.

11 MADAM CLERK: You may be seated.

12 Number thirty-five.

13 JUROR THIRTY-FIVE: Yes.

14 MADAM CLERK: Is this your verdict?

15 JUROR THIRTY-FIVE: Yes, ma'am.

16 MADAM CLERK: Is this still your verdict?

17 JUROR THIRTY-FIVE: Yes, ma'am.

18 MADAM CLERK: You may be seated.

19 Number thirty-two, is this your verdict?

20 JUROR THIRTY-TWO: Yes.

21 MADAM CLERK: Is it still your verdict?

22 JUROR THIRTY-TWO: Yes, ma'am.

23 MADAM CLERK: You may be seated.

24 THE COURT: Anything else, Mr. Merritt?

25 MR. MERRITT: No, your Honor. Thank you.



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1 THE COURT: All right. I appreciate your help with  
2 ths case. You can leave but please call back tonight after  
3 seven. I think Judge Cole may be starting one more case  
4 this week. I don't know that you'll end up on it. I think  
5 this is the last case I will be involved in this week.  
6 I'll be doing matters that don't require a jury is my  
7 understanding. That may change. But please call back  
8 tonight after seven and you'll receive instructions.

9 (JURY DISMISSED AT 03:49 PM.)

10 THE COURT: The jury's dismissed. Anything from the  
11 State other than sentencing?

12 SOLICITOR EPTING: No, your Honor. We would read his  
13 record in at the appropriate time.

14 THE COURT: Okay. Anything from the Defense?

15 MR. MERRITT: At this time we would like to renew all  
16 our previous objections.

17 THE COURT: All right.

18 MR. MERRITT: And request a new trial.

19 THE COURT: All right. Motions denied.

20 Bring -- Mr. Wilmore can stand up. I understand he's  
21 on probation.

22 AGENT AMBER: Yes, your Honor.

23 THE COURT: All right. You want to serve him with a  
24 citation?

25 AGENT AMBER: I haven't served him with the citation.

SENTENCING:

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1           THE COURT:   Okay.  Mr. Wilmore, the probation is gonna  
2           serve you with a citation based on the verdict in this  
3           case.

4           (PROBATION AGENT AMBER SERVED MR. WILMORE WITH  
5           PROBATION CITATION.)

6           THE COURT:  All right, you want to hand up the  
7           sentencing sheet?

8           SOLICITOR EPTING:  Yes, your Honor.

9           THE COURT:  All right, Mr. Epting, you want to tell me  
10          about Mr. Wilmore's record?  I got in front of me his  
11          violation report from Pardon Probation and Parole.  I see  
12          that on 4/6/2015 he got a Youthful Offender Act from Judge  
13          Benjamin, three drug charges?

14          SOLICITOR EPTING:  Yes, your Honor.  That's two counts  
15          of distribution of crack cocaine first offense and one  
16          count of distribution of crack cocaine within proximity of  
17          public school or park playground.

18          THE COURT:  Mr. Wilmore, I'll hear from your attorney  
19          in just a moment but you've been served with a citation by  
20          Probation that says you violated the sentence that Judge  
21          Benjamin imposed on the 6th day of April, 2015 for three  
22          drug charges.  Judge Benjamin gave you a sentence of  
23          Youthful Offender Act not to exceed six years suspended  
24          with two years probation.  Is that correct?

25          MR. WILMORE:  Yes, sir.

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1           THE COURT: The citation served on you alleges that  
2           you violated that sentence and violated your probation by  
3           committing this crime being found guilty. Do you  
4           understand that?

5           MR. WILMORE: Yes, sir.

6           THE COURT: And of course that is true so I find that  
7           is a substantial violation. Any comments on sentencing?

8           SOLICITOR EPTING: Your Honor, we would just like to  
9           -- No comments, your Honor.

10          THE COURT: All right. Mr. Merritt. I mean, Ms.  
11          Inzerillo. One of you.

12          MS. INZERILLO: I will. Thank you, your Honor, may it  
13          please the Court. Your Honor, we would ask the Court to  
14          sentence this case a little differently. Understanding  
15          that Mr. Wilmore has been through a trial I won't belabor  
16          any of the arguments that Mr. Merritt made and the evidence  
17          that was put before your Honor. But I will point out that  
18          Mr. Wilmore has been on probation since April of 2015. He  
19          has no violations other than this. He has been working and  
20          had signed on the report that he had a job starting in  
21          2013. He's also indicated to me that he has a job working  
22          for a company that tows cars and that kind of thing.

23          In all of my conversations with Mr. Wilmore he has  
24          really put forth an effort to try to fly right. He  
25          realized he got -- drug charges that he's on probation for

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1 but once he got placed on probation by Judge Benjamin he  
2 really took that at heart and was trying to do what he  
3 needed to do. He's got a child that he's trying to get  
4 custody of so he's been working very hard to try not to get  
5 into any more trouble.

6 And, your Honor, for the last probably sixteen months  
7 which is over half of the probationary sentence that Judge  
8 Benjamin put on him he had been doing that. He, your  
9 Honor, has paid some money and I know the Court doesn't  
10 usually take that into consideration but I would ask the  
11 court to consider that he has paid some money. The - - I  
12 think that the issues surrounding this case is he was in  
13 the car with Mr. Govan. He as the court heard he did at  
14 some point at least tell officers that he claimed the gun.  
15 But I know in all of my conversations and since then this  
16 case happened eight months ago he's not run a fowl of the  
17 law any more.

18 His main concern consistently with me has been to try  
19 to remain in a situation where he could continue to work  
20 and continue to get back home. Mr. Wilmore is twenty-two  
21 now and this set of charges that he pled to in front of  
22 Judge Benjamin is the only set of charges that he has as an  
23 adult outside of this conviction that came through today.

24 I think what you saw on the tape of Mr. Wilmore, his  
25 demeanor around the officers, that's pretty much what Mr.

SENTENCING:

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1 Wilmore is. He wants to just kind of be left alone and go  
2 and do his job. He's got as I indicated the -- he's trying  
3 to get custody of his child. Your Honor, as the court is  
4 aware -- Well the court is not aware. One of the factoring  
5 decisions that went into going to trial was that this would  
6 be the only violation of his probation.

7 And in my discussions with Mr. Wilmore we really tried  
8 to fashion a solution that would allow him to continue on  
9 and continue trying to do all the good things that he put  
10 together in his life.

11 Your Honor, I would ask the Court to actually  
12 terminate the probation; terminate the YOA. If he goes  
13 down it's a YOA not to exceed six years which is gonna  
14 extend it past his twenty-sixth birthday at this point  
15 because he pled to it over a year ago. I would ask the  
16 court to consider terminating that giving him county time  
17 on the sentence from which he was convicted today. Under  
18 the structure of an uninterrupted sentence. If the court  
19 were to give for example a ninety day sentence he does not  
20 get good time other than that. That is because he would  
21 interrupt the sentence he would go to leave, go to work,  
22 but sleep here at the jail and because the jail -- the  
23 prison farm is now allowing that they are not getting good  
24 time for it. So that would be the equivalent of a six  
25 month sentence but it will allow him to get out and

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1 continue to work and continue making the good strives that  
2 he has been doing unfortunately up until this situation  
3 with the gun. But actually since this situation with the  
4 gun he's not had any other major issues since then. So I  
5 would ask the court considering this unusual situation I  
6 would ask the court to consider fashioning a sentence like  
7 that and allow him to continue to work game fully.

8 Your Honor, I believe he only did one day in jail  
9 before bonding out.

10 THE COURT: Mr. Wilmore, anything you want to say?

11 MR. WILMORE: The only thing I can say, your Honor,  
12 for the past I want to say fourteen months I been - - I  
13 work everyday. Currently got custody of my baby. And my  
14 kids love me. I take care of my girlfriend's two kids. I  
15 take them everywhere but when I'm working. And like - - I  
16 don't know, your Honor, like I'm really been doing good.  
17 Like this is probably the best I ever been. I been going  
18 to church. I just look at life different and I just hate I  
19 got in this situation. That's all I want to say.

20 THE COURT: All right. Well you -- You were only on  
21 probation for what, eight months before you picked up this  
22 charge so you weren't that good on probation. And anyway I  
23 - I'm gonna sentence you to a year on the pistol charge.  
24 I'll run it concurrent with the probation matter. I'm  
25 gonna revoke your probation and have you serve the Youthful

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1 Offender Act sentence. And hopefully when you get through  
2 with these sentences you will come out and be able to take  
3 care of the people you say you want to take care of.

4 Thank you.

5 SOLICITOR EPTING: Thank you, your Honor.

6 MS. INZERILLO: Thank you, your Honor.

7 AGENT AMBER: Case time served satisfy all monetary  
8 obligations?

9 THE COURT: Yes.

10 AGENT AMBER: Thank you, your Honor.

11 THE COURT: Ten in the morning.

12 (WHEREUPON, COURT'S EXHIBIT NUMBERS SIX, SEVEN, AND  
13 EIGHT RECEIVED INTO EVIDENCE.)

14 (COURT IN RECESS AT 04:10 PM.)  
15  
16  
17  
18  
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22  
23  
24  
25

CERTIFICATE OF REPORTER

State of South Carolina )

)

County of York )

I, Wanda Nelson, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for York County, South Carolina, on the 12th and 13th days of July, 2016.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.



Wanda Nelson, CVR-M  
Certified Verbatim Reporter,  
Official Court Reporter,  
Notary Public, in and for  
The State of South Carolina.

My Commission Expires: 1/21/2021

DATE: October 20 / 2016



County: York  
 Date: July 12-13, 2016

**VOIR DIRE/BATSON SHEET**

Case No.: 2016-GS-46-00838:01713

Judge: Honorable John C. Hayes, III

Pl./State: State of South Carolina

Pl./State Atty's.: Sol. Christopher Epting;  
Sol. Ryan Newkirk

Defendant: Jayquan Dante Wilmore

Defense Atty.: Zachary Merritt;  
Melissa Inzerillo

Court Reporter: Wanda Nelson, CVR-M

| Juror No. | Name                    | Sex | Race | STRIKES |           |         |        |
|-----------|-------------------------|-----|------|---------|-----------|---------|--------|
|           |                         |     |      | *Court  | Plaintiff | Defense | Accept |
| 231 **    | Gregory J. Walters      | M   | W    |         |           |         | x - 1  |
| 24        | Terrence C. Buckley     | M   | W    |         |           | x - 1   |        |
| 149       | Joseph H. Mullis        | M   | W    |         |           |         | x - 2  |
| 252       | Zachary m. Atkinson     | M   | W    |         |           |         | x - 3  |
| 176       | Maxwell J. Reber        | M   | W    |         |           |         | x - 4  |
| 102       | Demetrius Jackson       | M   | B    |         |           |         | x - 5  |
| 17        | Roxana L. Arwood        | F   | W    |         |           |         | x - 6  |
| 241       | Latona D. Williams      | F   | B    |         | x - 1     |         |        |
| 61        | Brianna-marie Ealy      | F   | B    |         |           |         | x - 7  |
| 163       | Laura W. Parsons        | F   | W    |         |           | x - 2   |        |
| 172       | Taylor R. Pinson        | F   | W    |         |           |         | x - 8  |
| 58        | Mark M. Dorko           | M   | W    |         |           | x - 3   |        |
| 90        | Kimberly D. Hart        | F   | B    |         | x - 2     |         |        |
| 128       | Quinteris L. Long       | M   | B    |         | x - 3     |         |        |
| 130       | Tonda P. Mack           | F   | W    |         |           | x - 4   |        |
| 80        | Neesha W. Gourley       | F   | W    |         |           |         | x - 9  |
| 16        | John T. Bogan           | M   | W    |         |           |         | x - 10 |
| 35        | Samuel R. Cauthen       | M   | W    |         |           |         | x - 11 |
| 32        | James R. Carter, Junior | M   | B    |         |           |         | x - 12 |
| 2         | Steven J. Antonio       | M   | W    |         |           |         | x - 13 |
|           |                         |     |      |         |           |         |        |
|           |                         |     |      |         |           |         |        |
|           |                         |     |      |         |           |         |        |

\*For the Court column, indicate who made the motion to strike the jurors for cause.

C-Court, P-Plaintiff, D-Defense

\*\* Foreperson

York Circuit Court  
RANDOM STRIKE SHEET

Thurs.

11:00 Am

JUDGE NAME : Hayes, III, John C.

TRIAL TYPE : Criminal

PANEL ID : 7-12 CRT 1

DESCRIPTION : 7-12 CRT 1

Sorted by: Random Nbr

Trial -331-

COURTROOM CR1

| NAME                    | JUROR NBR | RACE | SEX | ST/PLTFF | DEF   | CRT | REMARKS    |
|-------------------------|-----------|------|-----|----------|-------|-----|------------|
| 1 Walters, Gregory J    | 231       | W    | M   | ( )      | ( )   | ( ) | Seated -1  |
| 2 Buckley, Terrence C   | 24        | W    | M   | ( )      | (X)-1 | ( ) |            |
| 3 Mullis, Joseph H      | 149       | W    | M   | ( )      | ( )   | ( ) | Seated -2  |
| 4 Atkinson, Zachary M   | 252       | W    | M   | ( )      | ( )   | ( ) | Seated -3  |
| 5 Reber, Maxwell J      | 176       | W    | M   | ( )      | ( )   | ( ) | Seated -4  |
| 6 Jackson, Demetrius D  | 102       | B    | M   | ( )      | ( )   | ( ) | Seated -5  |
| 7 Arwood, Roxana L      | 17        | W    | F   | ( )      | ( )   | ( ) | Seated -6  |
| 8 Williams, Latoya D    | 241       | B    | F   | (X)-1    | ( )   | ( ) |            |
| 9 Ealy, Brianna-marie D | 61        | B    | F   | ( )      | ( )   | ( ) | Seated -7  |
| 10 Parsons, Laura W     | 163       | W    | F   | ( )      | (X)-2 | ( ) |            |
| 1 Pinson, Taylor R      | 172       | W    | F   | ( )      | ( )   | ( ) | Seated -8  |
| 12 Dorko, Mark M        | 58        | W    | M   | ( )      | (X)-3 | ( ) |            |
| 13 Hart, Kimberly D     | 90        | B    | F   | (X)-2    | ( )   | ( ) |            |
| 14 Long, Quinteris L    | 128       | B    | M   | (X)-3    | ( )   | ( ) |            |
| 15 Mack, Tonda P        | 130       | W    | F   | ( )      | (X)-4 | ( ) |            |
| 16 Gourley, Neesha W    | 80        | W    | F   | ( )      | ( )   | ( ) | Seated -9  |
| 17 Bogan, John T        | 16        | W    | M   | ( )      | ( )   | ( ) | Seated -10 |
| 18 Cauthen, Samuel R    | 35        | W    | M   | ( )      | ( )   | ( ) | Seated -11 |
| 19 Carter, James R JR   | 32        | B    | M   | ( )      | ( )   | ( ) | Seated -12 |
| 20 Antonio, Steven J    | 2         | W    | M   | ( )      | ( )   | ( ) | Seated -13 |
| 21 Young, Michael B     | 249       | W    | M   | ( )      | ( )   | ( ) |            |
| 22 Strain, Lauren N     | 204       | W    | F   | ( )      | ( )   | ( ) |            |
| 3 Davis, Richard A      | 54        | W    | M   | ( )      | ( )   | ( ) |            |
| 24 Shanahan, William P  | 253       | W    | M   | ( )      | ( )   | ( ) |            |

York Circuit Court  
RANDOM STRIKE SHEET

333

JUDGE NAME : Hayes, III, John C.

TRIAL TYPE : Criminal

PANEL ID : 7-12 CRT 1

COURTROOM CR1

DESCRIPTION : 7-12 CRT 1

Sorted by: Random Nbr

Trial -332-

| NAME                         | JUROR NBR      | RACE         | SEX          | ST/PL          | DEF            | CRT            | REMARKS                     |
|------------------------------|----------------|--------------|--------------|----------------|----------------|----------------|-----------------------------|
| 25 Sutton, Mackenzie S       | 205            | W            | F            | ( )            | ( )            | ( )            |                             |
| 26 Ward, Junius E            | 233            | W            | M            | ( )            | ( )            | ( )            |                             |
| 27 Allison, Angelo           | 1              | B            | M            | ( )            | ( )            | ( )            |                             |
| 28 Petro, Dylan C            | 168            | W            | M            | ( )            | ( )            | ( )            |                             |
| 29 Mcglothin, Caitlin W      | 138            | W            | F            | ( )            | ( )            | ( )            |                             |
| 30 Garrett, Tammy L          | 76             | W            | F            | ( )            | ( )            | ( )            |                             |
| <del>31 Toms, Shelia L</del> | <del>214</del> | <del>B</del> | <del>F</del> | <del>( )</del> | <del>( )</del> | <del>( )</del> | <del>ER - chest pains</del> |
| 32 Hall, Stephen B           | 85             | W            | M            | ( )            | ( )            | ( )            |                             |
| 33 Bass, Tammy B             | 9              | W            | F            | ( )            | ( )            | ( )            |                             |
| 34 Peterson, Stacy R         | 167            | W            | F            | ( )            | ( )            | ( )            |                             |
| 35 Walters, Rebecca O        | 232            | W            | F            | ( )            | ( )            | ( )            |                             |

Total Number of Jurors:

35

\*\* END OF REPORT \*\*

**WITNESSES**

RHPD

Witnessing Officer: *Tripp*

**ARREST WARRANT NUMBER**

2016GS4601713

**ACTION OF GRAND JURY**

*TRUE BILL*

*[Signature]*  
Foreperson of Grand Jury  
Date: *6-16-16*

**VERDICT**

*GUILTY*

*[Signature]*  
**GREGORY J WALTERS**  
Foreperson of Petit Jury  
Date: *7/13/16*

*Direct Indictment*  
**DOCKET NO. 2016-GS46-01713**

**The State of South Carolina**

**County of York**

**COURT OF GENERAL SESSIONS**

**JUNE 16, TERM 2016**

**THE STATE**

**VS.**

**JAYQUAN DANTE WILMORE**

**INDICTMENT FOR**

**UNLAWFUL CARRYING OF A PISTOL**

SC Code: § 16-23-0020  
CDR Code: 0044

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury. 34

**Defendant**

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

**Defendant**

**Witness:**

**C.C.C. PLS. AND G.S.**

L.B.  
STATE OF SOUTH CAROLINA

COUNTY OF YORK 2016 JUL 18 PM 12:06

INDICTMENT

DAVID HAMILTON  
CLERK OF COURT  
YORK COUNTY, SC

At a Court of General Sessions, convened on June 16, 2016, the Grand Jurors of York County present upon their oath:

**UNLAWFUL CARRYING OF A PISTOL**

The defendant, Jayquan Dante Wilmore, did in York County, on or about December 22, 2015, willfully and unlawfully carry about his person a handgun, whether concealed or not, all in violation of Section 16-23-20, *Code of Laws of South Carolina* (1976, as amended).

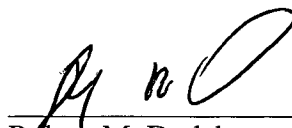
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
CHRISTOPHER W. EPTING  
ASSISTANT SOLICITOR

## CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



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Robert M. Dudek  
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

This 29th day of June, 2017.

**RECEIVED**  
JUN 29 2017  
SC Court of Appeals