

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM YORK COUNTY
Court of Common Pleas
Post Conviction Relief

Honorable J. Derham Cole, Circuit Court Judge

RECEIVED

JUL 21 2017

S.C. SUPREME COURT

Appellate Case No.: 2016-001914

CONNIE MURRAY DUMAS,..... Petitioner,

vs.

State of South Carolina, ...Respondent.

APPENDIX

Tommy A. Thomas
SC Bar: 5536
Attorney for Petitioner
P.O. Box 88
Irmo, SC 29063
(803) 732-5507

Justin Hunter, Esq.
Attorney for Respondent
PCR Division
P.O. Box 11549
Columbia, SC 29211-1549

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED MAY 16 – 20, 2011	1
APPLICATION FOR POST-CONVICTION RELIEF FILED APRIL 22, 2014	644
RETURN FILED OCTOBER 2, 2014	653
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED JANUARY 20, 2015	659
POST-CONVICTION RELIEF EXHIBIT NO. 1	736
POST-CONVICTION RELIEF EXHIBIT NO. 2	738
ORDER OF DISMISSAL FILED AUGUST 23, 2016	745
INDICTMENTS AND SENTENCING SHEETS	757

CONNIE DUMAS: CROSS BY MR. SPRINGS

501

1 Q. Your daughter knew nothing of this?

2 A. There was nothing to know.

3 Q. Okay. Then you and your daughter get pulled over by
4 the police?

5 A. Yes.

6 Q. And the police gave you your Miranda Rights, did they
7 not?

8 A. Not directly then.

9 Q. They gave you your Miranda Rights right after you got
10 into the police car, didn't they?

11 A. Later - yes, we didn't get into it immediately. We
12 were sitting on the side of the road first. I was asking
13 what was going on, and I was never told Miranda Rights or
14 anything else.

15 Q. Okay.

16 A. Right then.

17 Q. Okay. Well, you were -- you -- the police set you on
18 the side of the road for a minute after you got out of your
19 car?

20 A. Yes.

21 Q. And then they took you over to an air conditioned
22 police car, did they not?

23 A. Yes.

24 Q. They sat you in the air conditioned police car?

25 A. Yes.

CONNIE DUMAS: CROSS BY MR. SPRINGS

502

1 Q. And Detective Waldrup came over to you in the police
2 car. Are were together so far?

3 A. Yes.

4 Q. And he read you your Miranda Rights -- gave them to
5 you -- spoke them to you. Right?

6 A. Not right then, no.

7 Q. Well when did he --

8 A. He did later. I asked the officer whose car I was in,
9 was I under arrest. I wouldn't have asked him that if I
10 had heard Detective Waldrup say you have the right to
11 remain silent and gone on with the Miranda. I asked him,
12 am I under arrest for something? And he said, no not yet.

13 Q. Okay. Did Detective Waldrop tell your Miranda Rights
14 while you were sitting in the police car there at the same
15 location where the police stopped you and your daughter?

16 A. He gave me my rights in my driveway, in the -- while I
17 was sitting in the police car. The door was open. My feet
18 -- at one time I put them out. They said put 'em back in.
19 And he said just sit here and just hold up a second.
20 That's what Officer Rivera told me. And Detective Waldrop
21 was out -- standing out -- they were talking to officers as
22 they pulled up.

23 Q. Detective Waldrop told you Miranda Rights?

24 A. There. Yes.

25 Q. You told him you understood your Miranda Rights?

CONNIE DUMAS: CROSS BY MR. SPRINGS

503

1 A. Uh, yes I did.

2 Q. And then you told him your sister, Felicia, had gone
3 into the store and had given you the shirt you were
4 wearing?

5 A. No.

6 Q. You didn't -- Did you tell Detective Waldrop anything
7 about Felicia being the robber?

8 A. No.

9 Q. And then you told Detective Waldrop a different story.
10 You said I went in the store and the gun fell out of my
11 purse. Then you put the money on the counter, I thought oh
12 well. I took the money.

13 A. No.

14 Q. You told Detective Waldrup that, did you not?

15 A. No, I didn't.

16 Q. What did you tell him?

17 A. I told him the same thing I just told the jury and to
18 you in this courtroom what happened.

19 Q. Well, then what happened? What happened?

20 A. I told him about going into the store, stopping at the
21 counter first. Am I -- you want me to go back through the
22 whole story? To -- through the whole story again? Okay.
23 About me stopping at the counter to give her -- ask her for
24 change for a Hundred. Her telling me that I couldn't get
25 change without a purchase. Me walking back by the coolers

CONNIE DUMAS: CROSS BY MR. SPRINGS

504

1 - -

2 Q. Okay. Let me stop you there. You 're saying you told
3 that to Detective Waldrop in a police car shortly after the
4 police stopped you and arrested you?

5 A. I didn't say shortly after.

6 Q. Okay. Before they took you to the police station? Is
7 that what you're saying?

8 A. No.

9 Q. When did you tell Detective Waldrop the story about
10 laying a Hundred Dollar bill on the counter and the clerk
11 just put the drawer up. When did you tell him that?

12 A. I didn't say I laid it down and the clerk just put the
13 drawer up. I never said the story like that.

14 Q. Okay.

15 A. I said I had money when I went into the store and then
16 I left the store with some of my money.

17 Q. Okay.

18 A. I didn't take anything from anyone. I did not do
19 this. I told him that repetitively.

20 Q. Okay.

21 A. When I found out what it was that they were arresting
22 me for.

23 Q. I got the picture. All right. So you were taken to
24 the police station, were you not?

25 A. Yes.

CONNIE DUMAS: CROSS BY MR. SPRINGS

505

1 Q. And read your Miranda Rights again, were you not?

2 A. No.

3 Q. You weren't given your Miranda Rights again?

4 A. Detective Waldrop asked me if I understood my rights
5 that were read to me earlier, or if he needed to go over
6 them again.

7 Q. Okay. And he had a form that he went over your
8 Miranda Rights on the form, did he not?

9 A. I didn't see any form until I was told to sign that I
10 can recall seeing.

11 Q. State's Exhibit Nine, this -- this form.

12 A. Uh-huh.

13 Q. These are the Miranda Rights at the top. Remember he
14 went over those with you?

15 A. No. This is the form I signed. This is the typing he
16 was doing and I was asked to sign -- I was shown this one
17 time and asked to sign it.

18 Q. Okay. Okay. And you told Detective Waldrop what had
19 happened, and he typed up what you said had happened.
20 Right?

21 A. No. Detective Waldrop told me what happened, then
22 told me over and over she said, she said. I didn't even
23 know the person's name at that time.

24 Q. Okay.

25 A. And in the interrogation room I was told the same

CONNIE DUMAS: CROSS BY MR. SPRINGS

506

1 thing. And in the police prior, outside my house in the
2 driveway, another detective came up and --

3 Q. Let's -- let's -- all right. I hate to stop you, but
4 let's be responsive to what I'm talking about. We're
5 talking about the form now, okay.

6 A. Yes.

7 Q. So let's stick to the police station and the form.
8 Okay?

9 A. Okay.

10 Q. So you did sign the form?

11 A. Yes.

12 Q. And it has a story of what happened that day.

13 A. Yes.

14 Q. You're saying that you didn't tell Detective Waldrup
15 any of this?

16 A. I didn't say I didn't say any of that. I hadn't had
17 or reviewed the entire document at that time. I was just
18 told to sign or he was going to arrest my daughter. I was
19 just trying to establish when my rights were read to me and
20 when they weren't.

21 Q. Okay. Well let's -- Let's move on past the rights and
22 past your signature underneath the rights. Let's talk
23 about the story of what happened. All right?

24 A. Okay.

25 Q. Okay. You told Detective Waldrup what happened and

CONNIE DUMAS: CROSS BY MR. SPRINGS

507

1 that's what he typed in here. Is that not the truth?

2 A. That's not the truth.

3 Q. Okay. The first sentence let's read it together. The
4 first sentence says I left my house about Twelve something
5 and went to Family Trust. You told him that, didn't you?

6 A. I told him I left my house going to Family Trust.

7 Q. Okay. So you --

8 A. Twelve seems a little early.

9 Q. Okay. Well that first sentence, you told that to
10 Detective Waldrup.

11 A. I at least told him part of it about me going to the
12 Family Trust.

13 Q. Okay. So there are things in here you told him?

14 A. Well, I said -- I'm looking at it right now and I can
15 see that first --

16 Q. We'll take it sentence by sentence. So, the first
17 sentence, I left my house about Twelve something and went
18 to Family Trust. You told him that. He wouldn't have had
19 any idea whether you'd been to the bank before the robbery,
20 would he?

21 A. He wouldn't have had any idea that I had gone to
22 Family Trust. No.

23 Q. You told him that.

24 A. Yes.

25 Q. Okay. All right. Well I want to clear it up, because

CONNIE DUMAS: CROSS BY MR. SPRINGS

508

1 a little while ago with your lawyer you said he made all
2 this up. He put it all in there. And he told you to sign
3 it.

4 A. I didn't think -- recall saying --

5 MR. ATWATER: Objection, Your Honor, to the type of
6 questioning.

7 A. I didn't say that --

8 MR. SPRINGS: Well wait a minute. The Judge has to
9 respond.

10 THE COURT: All right. You need to pose a question
11 on it. I'm not sure where this is gonna go.

12 MR. SPRINGS: All right.

13 Q. When your attorney was talking to you a little while
14 ago, did you not say Detective Waldrop typed all this up
15 and he told you to sign it? This was all created by him.
16 Did you not say that?

17 A. I said he typed it and I signed it.

18 Q. Yes. Did you not say Detective Waldrop, he put all
19 this in here? This was all from Detective Waldrop and not
20 from you. Didn't you say that a little while ago?

21 A. Did I say it was all from him?

22 Q. Yeah.

23 A. I have -- I don't recall saying all of it, but I did
24 say he typed it all.

25 Q. Okay.

CONNIE DUMAS: CROSS BY MR. SPRINGS

509

1 A. I didn't type anything.

2 Q. Okay. Well let's -- let's clear up any confusion.

3 The first sentence, "I left my house about twelve something
4 and went to Family Trust". Did you tell that to Detective
5 Waldrop?

6 A. I don't recall saying Twelve, but I did tell him that
7 I went to Family Trust.

8 Q. Okay. So he wouldn't have known if you hadn't told
9 him; is that right?

10 A. I'm not sure.

11 Q. Okay.

12 A. They may have had cameras showing me drive up to the
13 ATM.

14 Q. Okay. The next sentence. "When I left the house I
15 had a gun on the seat of my car." Did you not tell that to
16 Detective Waldrop?

17 A. No.

18 Q. The next sentence. "When I went to Family Trust I put
19 the gun in the small of my back in the waistband of my
20 pants." Did you not tell him that?

21 A. No.

22 Q. "And then I had the gun in my pants when I went to the
23 One Stop. I went inside and I put the gun on the counter.
24 I told the clerk to give me the money." Did you not tell
25 him that?

CONNIE DUMAS: CROSS BY MR. SPRINGS

510

1 A. No.

2 Q. "She asked me if I was serious and I told her yes."

3 Did you not tell him that?

4 A. I don't recall telling him that.

5 Q. "She took the drawer out and set it down." Did you

6 tell that to Detective Waldrop?

7 A. I may have. I'm not sure.

8 Q. "I took the money from the drawer and I put it in my

9 pants pocket and I picked the gun up and I left the store."

10 Didn't you tell that to Detective Waldrop?

11 A. No I did not.

12 Q. "I told the clerk I was sorry." Did you tell that to

13 Detective Waldrop?

14 A. No.

15 Q. The police brought you from where you were arrested

16 out on the side of the road and brought you to the Rock

17 Hill Police Station. Is that not correct?

18 A. After they took me to my house. When we left the

19 house we went to the police station.

20 Q. Yes.

21 A. Yes.

22 Q. You were brought in to the police station and brought

23 in to an interview room, were you not?

24 A. No.

25 Q. Where were you brought?

CONNIE DUMAS: CROSS BY MR. SPRINGS

511

1 A. I was brought into the police station and told to have
2 a seat and they were asking about -- asking -- the ladies
3 were asking the officer, Rivera I believe it was, that
4 brought me, he's the one that brought me there. And he
5 mentioned Detective Waldrop. And -- but Detective Waldrop
6 wasn't there. And they were talking.

7 Q. So you went to jail before you got interviewed in the
8 interview room. Is that what you're telling us all?

9 A. I went into the holding cell. Yes.

10 Q. You went into a cell.

11 A. Yes.

12 Q. And you were in there for hours?

13 A. Yes.

14 Q. About how many hours were you in the holding cell
15 before you were taken for the interview?

16 A. I would say this was happening -- I would say I got
17 there about 4:20, 4:30 and so I would have been in there
18 until the time they brought me out and took me into the
19 interrogation room, which I believe was about Six, ten
20 after Six.

21 Q. Okay. You think you came into the police station
22 about, what, Four --

23 A. I mean, I would guess that it -- I -- I -- again, I
24 couldn't see the clock from where I first was placed. I
25 didn't -- I wasn't interested -- I wasn't looking at it

CONNIE DUMAS: CROSS BY MR. SPRINGS

512

1 when I first got there. And I couldn't see it from where
2 the bed I was sitting on was. But I would say probably it
3 was maybe forty minutes or so.

4 Q. Okay. Do you remember testifying on an earlier date
5 to all of this before? Do you remember that?

6 A. Yes.

7 Q. Do you remember on that day under oath saying you had
8 been in the holding cell a few hours?

9 A. Well, it's two, two and a half -- well okay.
10 Something like that. Well I thought it was even later
11 than 6:10, but I -- the detective said it was ten after or
12 a quarter after Six, so I may be off an half an hour or so.
13 But again I wasn't watching any clock the whole time.

14 Q. Okay. All right. So you're saying it may have been
15 just two hours?

16 A. A couple. A couple, a few. Yes. Two, two and a
17 half. Which would be...

18 Q. Late in the afternoon.

19 A. Yes, early evening.

20 Q. Okay. And so the detective put you in a holding cell
21 for a couple hours before he interviewed you?

22 A. The detective did not.

23 Q. Okay.

24 A. He wasn't there. The ladies -- one of the ladies in
25 the jail put me in there. She said that when Detective

CONNIE DUMAS: CROSS BY MR. SPRINGS

513

1 Waldrop didn't come in a short time, like about ten,
2 fifteen minutes, she said, well you can't stay out here.
3 Come on and I'm gonna put you in here for -- for a little
4 bit. And then they put me in there. I hadn't been
5 fingerprinted or any of that hadn't happened.

6 Q. Okay. And you're saying you were in there for hours?

7 A. I said about a couple, yeah. A couple hours or so. I
8 had -- it was enough time that I had dozed off and I was
9 not sleepy at first. I was --

10 Q. So you're saying you spent a couple hours in the
11 holding cell.

12 A. Yes.

13 Q. And then they took you to an interview room.

14 A. Yes.

15 Q. And after you signed the sworn statement it was
16 notarized by the detective. You can see the Notary there.
17 And the time was put on it, 6:15 p.m. You see it at the
18 bottom?

19 A. Yes.

20 Q. Does that seem accurate? Does that jive with your
21 memory?

22 A. That may be.

23 Q. Now, you were overdrawn at the Family Trust Bank the
24 9th were you not?

25 A. I didn't go into the bank on August 9th to check a

CONNIE DUMAS: CROSS BY MR. SPRINGS
REDIRECT BY MR. ATWATER

514

1 balance. I didn't check my balance on that day. So, that
2 I'm not aware of being.

3 Q. I understand. You may not have understood. Your
4 account at Family Trust on the day all this happened,
5 August 9th, it was overdrawn. It had a negative One
6 Hundred and Thirty-one Dollar balance. Did it not?

7 A. I understand --

8 MR. ATWATER: Your Honor, she answered that question.

9 THE COURT: No, she didn't.

10 A. No.

11 THE COURT: She's wanting to argue with him saying
12 that she wasn't at the bank. He asked her a direct
13 question, was she overdrawn or in the negative, and she
14 still has not answered the question.

15 Would you please answer the question?

16 A. I'm not sure what my account -- I don't check my
17 account every day what it was on that day.

18 THE COURT: Go ahead.

19 MR. SPRINGS: That's all I have, Your Honor.

20 THE COURT: Anything further?

21 REDIRECT EXAMINATION

22 CONNIE DUMAS BY MR. ATWATER:

23 Q. Connie, once again, the pants you were wearing, they
24 didn't have a waist band to 'em, did they?

25 A. No.

CONNIE DUMAS: REDIRECT BY MR. ATWATER

515

1 Q. Okay. And from the time Officer Rivera left, drove
2 off in his car to take you to the jail, until later on that
3 afternoon or early evening that Officer Waldrop showed up,
4 you don't have any idea where he was in the meantime, do
5 you? Officer Waldrup.

6 A. At the time no, I didn't have any idea where he was.

7 Q. You wouldn't know whether he had gone and talked to
8 Ms. Talford or anybody else?

9 A. I would not have a way of knowing that.

10 Q. Or if he and the other officers had gathered all this
11 information that ended up on that form on his own?

12 A. No.

13 MR. ATWATER: That's all I have.

14 MR. SPRINGS: Nothing further.

15 THE COURT: You may step down.

16 (WITNESS LEAVING WITNESS STAND.)

17 MR. ATWATER: Plaintiff's case, Your Honor. I
18 apologize. That's the Defense's case, Your Honor.

19 MR. SPRINGS: Nothing further.

20 THE COURT: All right. It's a little bit later
21 normally than what we try to stop around Five. I
22 appreciate your patience in allowing us to finish up this
23 testimony. Now all of you have a good night. And we'll be
24 back here at 9:30 in the morning. Remember all my warnings
25 - no contact, avoid the press, local press coverage. And

1 we will be ready to Argue and Charge in the morning, 9:30.
2 Everybody else remain seated while the Jury departs for the
3 afternoon.

4 (JURY EXITS COURTROOM AT 05:35 PM.)

5 MR. SPRINGS: Your Honor, I hate to be a spoiled
6 sport, but we have been through so much and it's gone on
7 for so long, could we take Ms. Dumas into custody and make
8 sure she's here and healthy in the morning? I just think
9 it would be the wisest course to take her into custody at
10 this point.

11 MR. ATWATER: Your Honor, she's still on the bond.
12 That's ridiculous. She's doesn't intend to go anywhere.

13 THE COURT: How much is the bond?

14 MR. SPRINGS: I haven't got any information from the
15 bondsman that's she's going to continue. You know, these
16 things evaporate at the call of the case.

17 MR. ATWATER: I spoke to the Judge at the beginning
18 and I offered to even get it in writing and he said he was
19 good with that one. And I can't go get it right now. She
20 -- Ms.

21 THE COURT: Who is it?

22 MR. ATWATER: It's Ms. Knox.

23 MR. SPRINGS: It's a Thirty-five Thousand Dollar bond.

24 THE COURT: Do you know Ms. Knox?

25 MR. SPRINGS: I know Ms. Knox. And I don't care if

1 Ms. Knox says she will stay on, I just think, Your Honor,
2 I'm just making the motion, we have come so far, to make
3 sure this lady, who takes a lot of medication, needs to be
4 in a secure environment for one night.

5 MR. ATWATER: Your Honor, you're a lawyer that retried
6 this case before and this issue came up in trial. And I
7 called Ms. Knox on the phone and she very readily, right
8 then, faxed over something that Judge Alford on two
9 occasions saying I will stay on her bond all the way
10 through this until such time that she gets a conviction.

11 THE COURT: All right. I'm not gonna take that
12 drastic measure. I'm taking you at your word as a court
13 officer if that's what was relayed to you. But I strongly
14 advise your client to make sure she gets a good night rest
15 and be back here ready to go at 9:30 because we're going to
16 complete the case one way or the other. And if she fails
17 to appear, it can trigger all kinds of problems on top of
18 what's before the Court at this time. I'm putting her
19 under an order to be here promptly at 9:30 or before. It's
20 on the record now. You know what that can trigger. And
21 also, could -- that brings in all kinds of Federal things,
22 too. And you know the US Marshall will be called in and
23 all that so don't be tempted to run at this time. It would
24 be the worst possible thing we can do.

25 MR. ATWATER: She'd been better off doing that before

1 the trial, Your Honor.

2 THE COURT: That's true. If you were to walk out now
3 and that jury come in and see an empty chair in the
4 morning, I can't imagine that that would help you in any
5 way.

6 MR. ATWATER: I bet she'd want to be here for an
7 acquittal, Your Honor.

8 THE COURT: Now, as far as charges, I certainly
9 entertain a general request of what you want me to charge.
10 But don't come up here with a stack of charges in the
11 morning. I generally take the request of specifically what
12 you may want and I will pull it, and if there's any
13 questions about that we will discuss it. But don't worry
14 about going out and doing a bunch of work tonight or
15 burning the midnight oil about pulling charges because
16 they're pretty clear cut from the evidence. If you would
17 just -- if there's any special charges outside of what you
18 know will be a normal change, just jot it down and we will
19 pull it as soon as we can in the morning. Okay?

20 MR. SPRINGS: I just have one I can give it to
21 everybody now. I would just ask that Mr. Atwater, if he
22 has any requests, that he bring the cases and not just the
23 request to save us all a whole lot of time.

24 THE COURT: I don't need any general charges or
25 anything like that.

1 MR. ATWATER: Your Honor, I can speak to this one
2 right now if you want me to. There's absolutely no
3 evidence in this case that a weapon was inoperable. It's
4 just not applicable to the evidence in this case. They say
5 she had a weapon. We say she didn't have one. There is
6 nothing to do with inoperability anywhere in this case.
7 It's just not -- not proper. We know that a pistol is a
8 deadly weapon, plain and simple. There's been no evidence,
9 whatsoever, that -- they -- they haven't said that she
10 offered and inoperable weapon, and she hasn't said that she
11 had any type of weapon whether it was operable or not. I
12 don't see --

13 THE COURT: I think you might be right on that. I'll
14 think about it and give you all the -- think over all we've
15 been through. If you see something that I need to
16 reconsider but right now there's no evidence related to
17 that.

18 MR. SPRINGS: I readily agree. I just want you to
19 consider if you think the facts call for it, great. If it
20 doesn't don't look at them.

21 THE COURT: Y'all think about what all's transpired.
22 Has there been any mention of it, or any indication which
23 you think I need to pull or go back and review any of the
24 evidence on.

25 MR. ATWATER: Your Honor, I can't -- not necessarily

1 the evidence, but do you have any thoughts presently on
2 lesser included charges?

3 THE COURT: No. No not when you compare the Defense's
4 testimony compared against the State, there's no evidence
5 in there to indicate a lesser charge.

6 MR. ATWATER: Well, Your Honor, I -- the State says
7 she had a gun.

8 THE COURT: All right.

9 MR. ATWATER: We say she never had a gun. We say she
10 took some money, but we say she took her own money.

11 THE COURT: All right.

12 MR. ATWATER: If the jury were to say she took money
13 but she did it without a gun, you got robbery but not armed
14 robbery.

15 THE COURT: I'm not gonna stretch it that far.

16 What's the position of the State on that?

17 MR. SPRINGS: I don't think there is any lesser
18 included there. They just flatly said she didn't do
19 anything. She didn't do anything so there's no lesser
20 included.

21 THE COURT: I don't think so. All right. Y'all have
22 had a long day, everybody get some rest.

23 (COURT IN RECESS AT 05:45 PM.)

24 (BACK ON THE RECORD THURSDAY, MAY 19, 2011 AT 09:30
25 AM.)

1 THE COURT: Thank you. You may be seated.

2 Good morning.

3 MR. SPRINGS: Good morning, Your Honor.

4 MR. ATWATER: Good morning, Your Honor.

5 THE COURT: Anything before we bring the jury in?

6 MR. SPRINGS: I have a few things. I want to withdraw
7 that one request to charge. I don't think it's correct in
8 this case so I-withdraw that request. I would ask the
9 Court if you're going to include what I've always heard any
10 other judge in an armed robbery trial say Ladies and
11 gentlemen, I tell you now a firearm is a deadly weapon.
12 Would you include those words? That's all I have on jury
13 charges. I have two other things but Mr. Atwater probably
14 has his charges there.

15 MR. ATWATER: I don't mind if he goes ahead on
16 whatever he has.

17 MR. SPRINGS: Your Honor, given human fatigue factor
18 and the limited attention span of human beings I would ask
19 that closing arguments from both sides in this case be
20 limited to thirty minutes. This is a case that could be
21 easily summarized in thirty minutes and I do make that
22 request. And I have something else unrelated and I'll stop
23 and wait on you on that issue.

24 THE COURT: Well I'd like for you all to reach an
25 agreement as to how long you feel like you should argue..

1 MR. SPRINGS: Well I'll ask Mr. Atwater.

2 Mr. Atwater, would you agree that we both balance at a
3 thirty minute time span for our closing arguments?

4 MR. ATWATER: I may not agree to that, Your Honor. I
5 believe I have a right to about four times that length. I
6 don't know if it's going to take me that long but I cannot
7 restrict myself in regards to covering all the evidence
8 that went over a three day period in presenting this
9 woman's plea to the jury.

10 MR. SPRINGS: I think you have the discretion to limit
11 the closing arguments to thirty minutes, Your Honor.
12 Having said that I'll leave it with you.

13 THE COURT: Surely you all can get everything in in
14 forty-five minutes.

15 MR. ATWATER: I don't know, Your Honor, it took me
16 longer than that the last time.

17 THE COURT: How about an hour?

18 MR. ATWATER: I just -- Your Honor, I prefer not to be
19 watching the clock. I - -

20 THE COURT: Well I tell you what. Under the statute
21 you got two hour; go one second over see what happens.

22 MR. ATWATER: I promise you I will not, Your Honor.

23 MR. SPRINGS: Last of all - -

24 THE COURT: I cannot imagine how this case could take
25 two hours, to reserve two hours to argue this case. But

1 that's okay. We'll live by the statute, I don't even have
2 to use my discretion. Just go one second over and see what
3 happens.

4 MR. ATWATER: Yes, Your Honor.

5 THE COURT: Go ahead, Solicitor.

6 MR. SPRINGS: The armed robbery video was made by a
7 computer has to be played on a computer and what we have
8 done with other judges in other courtrooms in the past is
9 our IT folks they have what I call a dummy laptop; all it
10 can do is play a disc, it doesn't have information on it,
11 no internet. And what we've done, we've done it in two
12 different ways, we have had the IT guy with the Bailiff by
13 his side go back to the jury room when they start
14 deliberations and go this is how you turn it on this is how
15 you play it. He says nothing else and he leaves. The
16 alternative is to have a bailiff, a courtroom officer, who
17 knows how they work to go back there. Officer Neal is very
18 familiar with how it works and take him back there and say
19 folks, this is how you turn it on this is how you play it.
20 So I need the Court's blessing for that to happen, for
21 somebody to go back with the dummy laptop that can only
22 play the disc of the robbery, to instruct the foreman as to
23 how to play it. Does that make sense?

24 THE COURT: That's no problem. I don't care. Both of
25 you all with him can go back there and watch it to his

1 instructions.

2 MR. SPRINGS: I'd like your approval for Security
3 Officer Chuck Neil who is sitting over there who is very
4 familiar with computers and is familiar with this dummy
5 computer and how to turn it on and how to play it to go
6 back when the evidence is taken back; he'll have a bailiff
7 by his side and he will simply instruct the Foreman, the
8 whole jury, this is how you turn it on this is how you play
9 it.

10 THE COURT: All right.

11 MR. SPRINGS: Can you do that, Officer Neil?

12 THE COURT: Defense got any problem with that?

13 MR. ATWATER: I've never seen a computer before, Your
14 Honor, but if Security Officer Neil says that - -

15 You know how to work that?

16 OFFICER NEIL: Yes, sir, I have been briefed on it, I
17 am familiar with it.

18 MR. ATWATER: Do you know how to avoid anything being
19 presented to the jury other than a CD?

20 OFFICER NEIL: There's nothing on there. As long as
21 what's on the CD is what's in evidence then - -

22 MR. ATWATER: I have no problem with it, Your Honor,
23 as long as he's back there and plays it for them. I much
24 rather him do it than them being fumbling with keys on
25 something that they're not familiar with.

1 THE COURT: Officer Neil, if you will come around
2 please.

3 OFFICER NEIL: Yes, sir.

4 THE COURT: Place your left hand on the Bible and
5 raise your right hand. The proposal before the Court is
6 that you will show the Foreman how to operate the DVD
7 player. Is that the correct terminology for what we're
8 doing?

9 OFFICER NEIL: Yes, sir, I've used laptop computers
10 before.

11 MR. ATWATER: Your Honor, my understanding is he was
12 operating it.

13 THE COURT: That you will operate that but you will
14 not discuss with the jury any other aspect of this case or
15 any other thing as far as that goes except how to operate
16 the computer in case the Foreman wants to do it himself
17 otherwise there is no objection to you operating for him.
18 The point is I'm putting you under oath - - -

19 OFFICER NEIL: Yes, Your Honor.

20 THE COURT: - - - there will be no extrinsic
21 discussion of anything.

22 OFFICER NEIL: Now for clarification on my part. How
23 long am I supposed to be back there with them?

24 THE COURT: Just during the operation of the machine.

25 OFFICER NEIL: Just during the operation of the

1 machine.

2 THE COURT: All right.

3 OFFICER NEIL: Okay. And then leave out if they have
4 any questions?

5 THE COURT: They will let us know.

6 OFFICER NEIL: Okay.

7 MR. SPRINGS: You will leave the laptop back there.
8 You will have shown them how it works and you will exit.

9 OFFICER NEIL: That's what you want?

10 MR. ATWATER: Your Honor, - -

11 THE COURT: Well that will work but Mr. Atwater has no
12 problem if the Foreman wants you to stay there and operate
13 it that's - -

14 OFFICER NEIL: Just operate - -

15 MR. ATWATER: I prefer that he operates it, Your
16 Honor, because I don't know what's on that computer, I've
17 never seen it.

18 THE COURT: Okay. No problem.

19 MR. ATWATER: It's an electronic storage device. It's
20 at least got a program on there for operating it.

21 THE COURT: You want him as a safety valve?

22 MR. ATWATER: That's right.

23 THE COURT: No problem. Solicitor, you don't have a
24 problem with that do you?

25 MR. SPRINGS: I don't. So in that scenario if only

1 Officer Neil plays it I'd ask that the jury just be told
2 now if you want to play the robbery video somebody will
3 have to bring a laptop computer back there and play it for
4 you, just let us know.

5 OFFICER NEIL: They may not do it right off the bat so
6 I'll be available if they need me to come in.

7 THE COURT: Okay.

8 MR. ATWATER: No problem, Your Honor.

9 THE COURT: All right.

10 MR. ATWATER: That will be fine.

11 MR. SPRINGS: That's all I have.

12 MR. ATWATER: Your Honor, we would ask the Court
13 instruct the jury under State v. Jackson Brief 15, S.C.
14 219, Court of Appeals 1993, the premise that as a general
15 proposition the defendant cannot be guilty of robbery in
16 forcibly taking his own property from another person.

17 MR. SPRINGS: I assume Mr. Atwater brought copies of
18 the case to all of us. Can I look at it?

19 MR. ATWATER: I only have one but I'll show it to you
20 very quickly and take it up to the Judge. Or you can take
21 it up when you get through with it. Either one.

22 MR. SPRINGS: May we put this, I don't want to have to
23 sit here and glance at it while the Court waits for it.
24 Can we have somebody put this on a Xerox machine? Can we
25 put all of his cases on the Xerox machine right quick? I

1 don't know why he only brought one.

2 THE COURT: Sure. Where is it?

3 (COPIES MADE ON COURTROOM PRINTER.)

4 MR. SPRINGS: Could Mr. Atwater, he told us the
5 proposition for one of the cases and the other two cases?

6 MR. ATWATER: Yes, sir. One of the other cases is for
7 voluntariness of a confession, Your Honor. It's got the --
8 just -- I had two or three cases but it just literally goes
9 down the steps of the things that the jury can consider
10 whether or not the confession was voluntarily given or not.

11 THE COURT: It's probably just like the one I got but
12 I'll use yours.

13 MR. ATWATER: Yes, sir. And the other one relates to
14 a state of fact. And what I would be asking or proposing
15 that for is in regards to Ms. Dumas believing that that was
16 her money there that they had taken because she left a
17 Hundred Dollar bill up there and it wasn't there and taken
18 her own money back. If the State's argument or Ms.
19 Talford's argument is that she didn't leave it up there.

20 MR. SPRINGS: That it's not a mistake she just took
21 her own money so she doesn't get a mistake defense. They
22 want it both ways. I took my own money but if I didn't
23 take my own money it was a mistake. I don't think they're
24 entitled to a mistake charge.

25 THE COURT: Why don't we look at it when they get

1 back.

2 MR. SPRINGS: And we'll all agree there are no lesser
3 included?

4 MR. ATWATER: I am not but I am on the record as not
5 being agreed upon.

6 (PAUSE.)

7 MR. SPRINGS: Your Honor, does that two hour argument
8 statute apply to all cases or just to death penalty cases?

9 THE COURT: No. It's a general statute limits any
10 argument to two hours.

11 MR. SPRINGS: I just remembered Judge Short, bless his
12 heart.

13 THE COURT: It's been a long time since I've looked at
14 it but I don't remember. I don't think - -

15 MR. SPRINGS: I can remember him actually say, Folks,
16 you got twenty minutes, twenty minutes. And he was
17 dangling his watch.

18 THE COURT: I got upset with somebody in Charleston
19 years ago and I told them after the trial to go by the
20 jewelry store and have their watch checked and apparently
21 it was a malfunction. They went about fifteen or twenty
22 minutes over and I didn't have sense enough to put a stop
23 to it. But that was an agreed to. Normally you know you
24 get an agreement how long and try to work it out that way.
25 I'm pretty sure that that statute's still there that

1 there's a maximum of two hours which in this day in time
2 that's way too long in my opinion but that's just my
3 opinion. And I say that based on having talked as long as
4 I did. After fifteen or twenty minutes the average
5 person's memory span starts wondering. I've been told by
6 various ones, various studies, that after fifteen or twenty
7 minutes even students they're not going to follow you,
8 their minds gonna wonder. So whatever point you make you
9 better get it in in the first fifteen minutes is what I was
10 always told by the advisors at the University. And I've
11 been told that the attention span of the average human
12 being is somewhat shortened with the advent of the
13 computer, all the information that's before people, texting
14 and cell phones. The copy machine must be broken down.

15 (PAUSE.)

16 MR. SPRINGS: Well let me see where she is. It
17 doesn't take that long to copy a case.

18 THE COURT: You wouldn't happen to have another copy I
19 can be looking at while we're waiting on them?

20 MR. ATWATER: I apologize, Your Honor, I put it in my
21 -- kind of quickly this morning.

22 (PAUSE.)

23 MR. SPRINGS: I think somebody's kidnaped my
24 paralegal.

25 (COURT READING BRIEF.)

1 THE COURT: I don't see any harm in that statement of
2 fact. That's just sort of a general statement of the
3 principle on the law.

4 MR. SPRINGS: Yes, sir.

5 THE COURT: I don't think there's too many times you
6 get reversed for charging too much on the law but you sure
7 can get reversed for not charging enough.

8 MR. SPRINGS: I agree. I don't want to do this again.

9 THE COURT: Okay. You all come up. I'm gonna try to
10 clean up and maybe add a little bit about - I'll prepare
11 and make sure that all that's covered for you.

12 All right, you all ready?

13 MR. SPRINGS: State's ready.

14 MR. ATWATER: Yes, Your Honor.

15 E.B., you're going last?

16 MR. SPRINGS: Yes, sir.

17 MR. ATWATER: I would ask that the State open on the
18 law.

19 THE COURT: All right. He's going to require you to
20 open on the law and Mr. Atwater will go and then you will
21 come back.

22 MR. SPRINGS: Yes, sir.

23 (JURY REENTERS COURTROOM AT 10:03 AM.)

24 THE COURT: Good morning, ladies and gentlemen.

25 Thank you for your patience this morning. You all

CLOSING ARGUMENT ON THE LAW: BY MR. SPRINGS

532

1 allowed us a little leeway in beginning this morning and we
2 were able to condense some things after we had a
3 preargument conference here and a reduced some of the time
4 but it would have been involved. Sort of a side note, I
5 told you that I was from Pageland, none of you knew who Van
6 Ling Mungo was. Apparently his blood still flows well in
7 the Pageland area because I'm proud to tell you that the
8 girl's softball team in the central of Pageland won the
9 State Championship last night. I didn't know it until this
10 morning. The Clerk said that they woke the whole town up
11 about 12:30 or One o'clock this morning with all the fire
12 trucks and a big to do.

13 Okay we're going to move on to the closing arguments
14 and the State will open and we will hear from the Defense
15 and then the State will close out and then after that I
16 will give you the charge of the law.

17 Solicitor.

18 MR. SPRINGS: Thank you, Judge Burch. May it please
19 the Court.

20 Ladies and gentlemen of the jury, Mr. Foreman. This
21 is going to take about two minutes. I'm just going to
22 remind you what law this lady has broken and what we've
23 proven here. And I'm gonna sit down and Mr. Atwater will
24 talk to you and then I'll talk to you and then hopefully
25 then get some lunch.

CLOSING ARGUMENT ON THE LAW: BY MR. SPRINGS

533

1 She's charged with armed robbery that's a statutory
2 offense. The legislature down in Columbia passed the law
3 against armed robbery. And the indictment alleges that she
4 was armed with a deadly weapon, a pistol, a handgun. Or,
5 or you don't even have to have a gun. The law also says
6 you go in and you pretend, you represent that you have a
7 gun that's armed robbery. If the victim, if the clerk
8 thinks you had a gun then it's armed robbery. And of
9 course you heard the evidence in this case. But you take,
10 you rob the person by putting them in fear by force or
11 intimidation. Fear in this case and you may get killed.
12 The statute 16-11-330 and again the indictment says did
13 commit the armed robbery by means of force or intimidation,
14 putting Marcella Talford in fear and took money belonging
15 to the One Stop Food Store. That's the armed robbery. But
16 short and sweet that's an accompanying charge possession of
17 a firearm during the commission of a violent crime. Armed
18 robbery is one of our most violent crimes. This is why the
19 no seat belt charge that goes with the drunk driving charge
20 is a side charge. This is the armed robbery. This statute
21 and it is statutory passed by the legislature in Columbia
22 says that if you are armed with a deadly weapon and a
23 firearm is a deadly weapon while you are committing a
24 violent crime. And there is a list of violent crimes in
25 the code of laws in the statute books down in Columbia and

CLOSING ARGUMENT ON THE LAW: BY MR. SPRINGS
CLOSING ARGUMENT: BY MR. ATWATER

534

1 armed robbery is one of them. It's right up at the top.
2 If you're armed with a deadly weapon and a pistol is a
3 deadly weapon while you commit a violent crime like armed
4 robbery a lot of people are committing the crime of
5 kidnaping or criminal sexual conduct if you had a gun.
6 That's a side offense so you got that side offense here
7 that she's charged with having a gun, having a deadly
8 weapon while she committed the armed robbery. Those are
9 the laws we're dealing with here.

10 MR. ATWATER: Your Honor, can I ask if the Solicitor
11 would read the statute it gives the elements.

12 MR. SPRINGS: I think I've satisfied my obligation on
13 the law, Your Honor.

14 THE COURT: I'll take care of that in the charge.

15 MR. ATWATER: Thank you.

16 THE COURT: I'm certainly -- you can if you want to
17 but I'll do it in my charge.

18 MR. ATWATER: I understand, Your Honor. Thank you.

19 Ladies and gentlemen of the jury, I appreciate your
20 attention to this case it's a very very very important case
21 obviously and one which only you are going to be able to
22 decide what the facts in this case are. In our system of
23 jurisprudence here in South Carolina we have two judges in
24 a criminal case such as this one. One of the judges is the
25 judge of the facts. And as a jury of twelve people sitting

CLOSING ARGUMENT: BY MR. ATWATER

535

1 here in panel together you are the judges of the facts in
2 this case. It is your duty in this case to look at the
3 evidence that has been presented, the evidence that has
4 been presented will be the documentary evidence and the
5 testimonial evidence that came from the stand. Now
6 anything that Mr. Springs was asking is not evidence and
7 anything that I was asking is not evidence but the
8 responses to that is evidence, okay.

9 This case is one where my client, Connie Dumas, is
10 charged with armed robbery. Armed robbery is a violent
11 crime. It is a very serious offense. She is also charged
12 with having a weapon, a pistol, a firearm with her on the
13 date of this accident. And that carries as an additional
14 charge, it carries additional punishment. It is the duty
15 of the State in this case to prove to each and everyone of
16 you the members of the jury beyond a reasonable doubt that
17 Connie Dumas did in fact commit the crime of armed robbery
18 on August 9th of 2010. As Ms. Dumas sits in this courtroom
19 right now she is presumed innocent, completely innocent.
20 The mere fact that there was a trial does not make her
21 guilty. It is up to you to determine the facts in this
22 case to look at them and to deliberate on them
23 collectively, meaning all of you. Talk about them and come
24 to a decision which must be a unanimous decision. All
25 twelve of you must agree on the decision as to the facts

CLOSING ARGUMENT: BY MR. ATWATER

536

1 that you determine are the actual evidence in this case.

2 Now in doing that you will have an opportunity to look
3 at the evidence that's been presented in this case. And
4 you will also have an opportunity to talk amongst
5 yourselves about the testimony that's been given in this
6 case. But the entire time that you are going through these
7 deliberations it is of paramount importance that you
8 understand this proposition. The State and only the State
9 has a burden of proof in this case. It is up to the State
10 to prove beyond a reasonable doubt by the evidence that has
11 come into this case to the point where you are convicted in
12 your minds unanimously that Connie Dumas on August 9th,
13 2010, went into the One Stop there on the corner of Saluda
14 and Albright with the intent of committing an armed robbery
15 and did in fact commit an armed robbery while armed with a
16 pistol - a gun. Okay.

17 Now we started this case off with the State opening up
18 and I made some notes at the beginning of this case when
19 the State opened and ask that you kind of remembered what
20 they said but I told you I'd come back and talk to you at
21 the end of the case and that's what I'm gonna do now. One
22 of the things that the State told you at the beginning of
23 this case was that Connie went into the Family Trust Bank
24 with a gun tucked into her belt. Well I wrote that down
25 word for word as to what the State told you. That she went

CLOSING ARGUMENT: BY MR. ATWATER

537

1 into the Family Trust Bank with a gun tucked into her belt.
2 And I told you at the beginning of this case I was going to
3 come back and talk about this so let's do that now.

4 Connie testified on the stand to you that she was at
5 home that day with her son and daughter, Kiara and Darius.
6 And that Bursha had already gone to work and he was working
7 for the petroleum company, and that Kayla the other
8 daughter was spending the night with a friend. Okay. And
9 so we've got this mother who is at home, she's a homemaker
10 she's been unemployed since she was involved in a car
11 accident that made her unable to perform the job that she
12 was doing before she was arrested. She was working third
13 shift at the Toy's R Us she told us. And you know picking
14 up big boxes and unloading them and moving them around and
15 doing that kind of stuff and then she was involved in this
16 car accident and it broke her shoulder and because of that
17 during this time when this happened she wasn't working.
18 Okay. But prior to that she had been working at Toy's R
19 Us. You heard Bursha testify he told you that prior to
20 that when they were living up in North Carolina that she
21 had been a kindergarten teacher for a long number of years.
22 So this is the person we're talking about who is sitting at
23 their home at Robertson Road in the afternoon on August
24 the 9th, 2010.

25 And so the State says that she then leaves the Family

CLOSING ARGUMENT: BY MR. ATWATER

538

1 Trust Bank goes over to the BP station and pointed a gun at
2 Marcella Talford. The State said Marcella placed a
3 register drawer up on the counter. But then they want to
4 say - I wrote this down in quotations again - that the
5 clerk pulled money out from under the counter. Okay. This
6 was in the State's opening argument that they said that
7 they were going to prove to you in this trial. That she
8 went into the Family Trust with a gun tucked into her belt,
9 but she left the Family Trust, went over to the One Stop
10 pointed a gun at Marcella Talford and Marcella Talford
11 pulled money out from under the counter.

12 Now talk about the witnesses in this case. The first
13 witness that the State put up was Officer Michael Reid.
14 And if you will remember he was the gentleman that came
15 back yesterday. I called him back to give a little more
16 testimony at the end of the case because I reserve the
17 right to do that in case somebody said something that was
18 different from what he said in the beginning. And Officer
19 Reid initially testified that he heard a call come in and
20 the call came in and said that there had been this incident
21 at the One Stop. And so he got in his car or he's in his
22 car and so he goes over to the One Stop. Now what I want
23 you to remember throughout all of this, throughout
24 everything I say here today and throughout what the State
25 says is that everything that everyone of the law

CLOSING ARGUMENT: BY MR. ATWATER

539

1 enforcement officers who came into this case did was in
2 response to what Marcella Talford said. Okay. The mere
3 fact that police officers go somewhere and investigate
4 something does not conclusively prove that anything ever
5 happened. They get called to scenes lots of times and they
6 don't arrest anybody because they get there and they look
7 at it and say well a crime hasn't occurred. Okay. So the
8 mere fact that the police responded to this call and the
9 actions that they took in response to this call are not
10 evidence that Connie Dumas committed an armed robbery. The
11 only thing that is evidence as to whether or not Connie
12 Dumas committed an armed robbery is what happened in that
13 One Stop store. It either happened or it didn't happen.
14 The fact that the police came does not change what happened
15 in the store. The fact that somebody was out in the
16 parking lot doesn't change what happened in the store. It
17 doesn't have anything to do with what happened in the
18 store. But we'll talk about that in a moment as well. So
19 Officer Reid says I hear this call and I go over to the One
20 Stop. And I'm over there for a while and while I'm over
21 there Investigator Sullivan comes over there and he
22 processes the scene, he takes fingerprints and stuff like
23 that. Takes some other evidence and takes a lot of
24 pictures and he says that he's over there and he talks to
25 Marcella Talford. And he says that he also viewed some

CLOSING ARGUMENT: BY MR. ATWATER

540

1 video. But we know that he wasn't able to view the video
2 until Judy Ashdown got there because Marcella doesn't know
3 how to operate that video and play it back and do it for
4 him. He said Ms. Ashdown did that for him. Okay. So
5 Officer Reid is there and he talks about being there and
6 talking to Mr. Sinclair and being there and talking to Ms.
7 Talford. All right. Now Ms. Talford tells us that she
8 talked to the police officer inside the store. And she
9 testifies that she's never, ever spoken with Stephen
10 Sinclair. But what does Officer Reid and Mr. Sinclair say?
11 Well that's not true. That's absolutely not true. Officer
12 Reid says I spoke to Ms. Talford out in the parking lot. I
13 ask him yesterday when I brought him back to make sure that
14 you all heard that. It wasn't just inside it was also
15 outside because you need to place Ms. Talford outside
16 talking to Mr. Sinclair like he said. Ms. Talford knows
17 that if she tells you she was outside; right, that she was
18 out there when Mr. Sinclair was. So she doesn't want you
19 to ever think she was outside. She tells you she didn't go
20 outside and talk to anybody but Officer Reid said she did.
21 I talked to her outside, she was out there. And Stephen
22 Sinclair tells us that he was outside talking to her as
23 well.

24 Now what else do we know about this case? We know
25 that there are nine video cameras in that store. Okay.

CLOSING ARGUMENT: BY MR. ATWATER

541

1 And we know that law enforcement was there within a very
2 short time after this incident occurred. And we know that
3 Judy Ashdown was there within a very short time after this
4 incident occurred. And Ms. Ashdown testified and Ms.
5 Talford testified that there were nine video cameras in
6 this store. And we actually showed one of the pictures.
7 And that you can have a video that someone at a minimum of
8 when they walked in the door of this store until they leave
9 again the whole time their in there. But guess what? You
10 ain't gonna see it. You're charged with the duty of
11 determining based on the evidence that the State has the
12 absolute duty to prove beyond a reasonable doubt, no one
13 else, the State - my client doesn't have to prove anything
14 - what happened there in the store that day. Now you heard
15 me talk to Ms. Ashdown and you heard me talk to Ms.
16 Talford. And after I became involved in this case the
17 State gave me some pictures and some snippets of video and
18 that type of stuff, then I went over there and tried to
19 talk to those folks and go ha there's got to be more to
20 this story, can we talked about these pictures here for a
21 minute, can we talk about this video stuff here for a
22 minute and everything like that. So I go in and I
23 introduce myself very politely to Ms. Talford and she tells
24 me I can't talk to you unless Mr. Springs says I can. So
25 I'm in the store I pull out my phone I call Mr. Springs on

CLOSING ARGUMENT: BY MR. ATWATER

542

1 the telephone and I hand the phone to her and I say here,
2 here's Mr. Springs. That's all I went over there for and
3 said here's Mr. Springs okay. And she talked to him handed
4 the phone back and said of course good bye and I put the
5 phone back in my pocket and I said now, Ms. Talford, will
6 you talk to me about this? Let's talk about the facts of
7 this very very important case and these very serious
8 allegations that you have made. And her response to me is
9 he said I don't have to talk to you if I don't want to.
10 I'm not going to. I don't want to cooperate with you I
11 don't want to tell you nothing, I don't want to give you
12 anything. And then you heard Ms. Ashdown get on the stand
13 yesterday and not in response to my question but in a
14 response to the State's question say very clearly I don't
15 feel warm and fuzzy about defense attorneys. I don't have
16 any - any desire to ever help those people or give them
17 anything whatsoever. Well she was candid about that; I
18 give her that much. And clearly appeared to be angry at me
19 sometimes, I give her that much. But who is supposed to
20 decide this case Ms. Ashdown or you? The Constitution and
21 the law of South Carolina says you. Ms. Ashdown says in my
22 opinion anything other than a few snippets that I gave them
23 is not relevant. In a case like this even the person who
24 has the authority to determine what is relevant evidence
25 and what is not is sitting up here on the bench. And Ms.

CLOSING ARGUMENT: BY MR. ATWATER

543

1 Ashdown tells us no I'm not giving anybody anything. So
2 what do we know? Nine cameras, nine cameras that can video
3 tape from a portion of the parking lot, nine cameras that's
4 in this store, there is the gas pumps, there is an
5 entrance, both of the entrances are right here. Connie
6 says came up here around the bank went to the ATM came out
7 here went in here. Okay. That's undisputed. Now Connie
8 says she parks over here on the side of the store by the
9 car wash. And from the video camera angles, okay, you can
10 see based on the video cameras that are pointing at the
11 entrance here and pointing at the entrance over from here
12 not only this entire area where you enter into the store
13 but you can also see this portion of the parking lot right
14 here. And a small part, not way back here now, not back
15 here around this blue trash dumpster behind the store, but
16 a small portion of the parking lot right here so you can
17 see people coming up and walking into that door. And even
18 some people where they parked at. And you can see other
19 people going out this door here. All right. Now Mr.
20 Sinclair comes in and tells us -- By the way Mr. Sinclair
21 is a convicted felon, all right. He comes in and tells us
22 that based on his testimony Connie was parked over here by
23 this blue dumpster. Now how ridiculous is that? By all
24 the evidence that you've seen there weren't a lot of people
25 at this store. We don't have any evidence except for a

CLOSING ARGUMENT: BY MR. ATWATER

544

1 snippet that was given to us after the police initially
2 lost the videoed evidence and went back to get more and Ms.
3 Ashdown couldn't find where she had put part of it and
4 didn't give them all of it and then realized later that she
5 had another piece of it out there. And it turns out that
6 that other piece of it out there is the one snippet of
7 video that you see that shows a young black male standing
8 at the counter and then walking out the door. So by all of
9 the evidence that you are able to look at here today we
10 only know beyond a reasonable doubt that Ms. Talford was in
11 that store, Connie was in the store, and then whoever that
12 young black gentleman was that came up to the front door
13 was in that store -- or came up to the counter. That's
14 all, that's all you will be able to see here today. That's
15 it. Could have seen more and we're gonna talk about that
16 in a minute too. But you're not allowed to. You twelve
17 people who have the incredible tough duty of determining
18 whether or not a person is guilty or innocent and whether
19 or not their going home before night aren't being given
20 that, not allowed to see it, had it withheld from them.

21 I ask you what sense does it make that Connie who
22 lives out this way -- and by the way, there are references
23 that at sometimes that this is Albright Road and this is
24 what's called Saluda Street. It just turns out though that
25 this also know as Highway 72 and it goes to Chester so a

CLOSING ARGUMENT: BY MR. ATWATER

545

1 lot of people refer to this as Saluda Highway. Well this
2 part here which is known as Saluda Road is also known as
3 Highway 72 Bypass through town. So some people will refer
4 to both of these things with the term Saluda, one being the
5 Saluda Highway and the other one being Saluda Road, okay.
6 In case you heard some evidence during the trial that you
7 might have made you wonder about which road was where and
8 which. What sense does it make that Connie would come over
9 here and come all the way through here and go out this exit
10 right here because that's an entrance, and then come around
11 here and come in here and literally drive all the way
12 around here and park back here by the dumpster? I submit
13 to you that that don't make any sense even on behalf of the
14 State's case. Now as being a mother of three who's just
15 going there to try to get some change so she can go back
16 and give her children some money so they can go get school
17 clothes and things they need because this is August 9th,
18 okay, school hasn't started yet, beautiful bright hot
19 summer day, all right. Why would she come into that
20 parking lot and drive completely all the way around this
21 store and park in the back and park by a dumpster? All
22 right. Nobody would do that if they were just going in the
23 store. You try to find the nearest parking space, that's
24 what you do. Sometimes you pull in and you'll even wait
25 for somebody to pull out of one closer rather than drive,

CLOSING ARGUMENT: BY MR. ATWATER

546

1 you know, around the island or something like that. But
2 the State contends that she went around there and parked by
3 that blue dumpster. Now how about if we try to look at
4 that in the light of what the State is trying to say that
5 what Ms. Dumas did, okay, which is come in there with the
6 intent to rob the dang store because they say she came
7 there with that intent. You go in this place with the
8 intent to rob a store you want to get out of there fast.
9 You want to get out of there quick and you want to get out
10 of there with the least amount of people being between you
11 and your means of egress from that place. Right? But they
12 contend she was parked next to this blue dumpster back
13 here. Why, so that she would have to come out of that
14 store, run all the way down here around the back past
15 whoever is around here and everything like that? And get
16 in a car back around here and then have to come out on this
17 road when it's this road that she wants to be on? That's
18 -- that's just plain ridiculous. But Mr. Sinclair had to
19 put her by that dumpster in order to be able to say he saw
20 her come past him with cash in one hand, a wad of cash in
21 one hand and a gun in the other hand. Okay. Now we'll get
22 back to that in a minute as well.

23 Let's talk about some of these pictures. You know
24 that the police came and they investigated this scene. And
25 if you look at what the police officers did when they got

CLOSING ARGUMENT: BY MR. ATWATER

547

1 there based upon what they felt was necessary for them to
2 do considering what they had heard from Ms. Talford that
3 day they came out there and put up some crime scene tape.
4 Okay. And you heard from Ray Barnwell who came in here
5 yesterday talking about forensic stuff say that I would get
6 there and he talked about being a crime scene investigator.
7 He said I get there and I secure the scene. I secure the
8 scene and I make sure that I went through that place and
9 look for evidence in every place that that person who is
10 charged with a crime of armed robbery had been. I secure
11 the scene relating to every place that that person who was
12 charged with armed robbery had been. Well what do we see
13 here? Here's an exit and we see crime scene tape coming
14 right here just a little bit past the exit to find
15 something to tie it onto. This little magazine stand.
16 Right? And that is at the exit which comes out down -- I'm
17 sorry -- which comes out down this way, okay, toward Mr.
18 Sinclair the convicted felon tells us she was parked by the
19 dumpster. Okay. So they've run crime scene tape just
20 right past the door that she came out. And she said she
21 came out that door it's the door directly behind the check
22 out stand. So they run crime scene tape right to there and
23 no further. But if you look on the other side of the
24 store, okay, they run crime scene tape all the way down to
25 this end of the building down here all the way down to this

CLOSING ARGUMENT: BY MR. ATWATER

548

1 end of the building down here past all these parking spaces
2 over here where she says she was parked at. Now that makes
3 sense. That's where she was. That's why they ran that
4 stuff that way because that's where they saw, that's where
5 they had found out she had been.

6 Now we also saw when I brought Mr. Sinclair down off
7 the stand -- These pictures were taken by the law
8 enforcement officers that got there right after this.
9 Investigator Sullivan took these pictures so they were
10 right there when the police were there that day. This
11 isn't something that wasn't taken off some distance away.
12 There's a truck parked right here. Do you see it? The
13 same one here. Okay. And I brought Mr. Sinclair down in
14 front of you all because he says that he was parked right
15 in here. That's what he pointed out to us and his vehicle
16 is gone or he had pulled off somewhere but I ask him was
17 that truck there that's in these pictures that was there
18 when Officer Sullivan took this photograph because that
19 truck would be right in between him and back here by this
20 dumpster. If my client did actually park there. And he
21 goes -- he had a long kind of wait on his part and he kept
22 looking at it and kind of scratched his head a little bit
23 and looked at it again and finally said I don't know, I
24 honestly don't remember. He don't know if that truck was
25 parked there blocking his view but it really doesn't matter

CLOSING ARGUMENT: BY MR. ATWATER

549

1 to be quite honest because she didn't walk past him. Well
2 if she didn't walk past him and got all these thoughts
3 running through his head right now what we're trying to
4 figure out is how did he know her information to call the
5 911 tape? I'm going to clear that up for you right now.

6 Ms. Talford says on her 911 call that there is a
7 gentleman out in the parking lot. Now she's making the 911
8 call from inside the store and she says there is a guy out
9 in the parking lot. That was Mr. Sinclair. How do we know
10 that? Because she said right before that she walked from
11 the cash register and went around to the front and locked
12 the front door. Right? That's what she said she did.
13 Well what did Mr. Sinclair testify to? He says I saw the
14 clerk lock the front door and she said there had been a
15 robbery. That's who came to the front door. Not some
16 fictional elderly white gentleman that by the way you got
17 no proof was ever there because Ms. Talford says I see him
18 he comes from time to time and I've seen him since then.
19 Ample opportunity to get that guy and say ha come in here
20 and tell these people on the jury that you were there that
21 day. We ain't got him. And we ain't also got the video to
22 show that it was actually Mr. Sinclair who walked up to
23 that door trying to walk in to make a purchase at the time
24 Ms. Talford's shutting the door on him. So what does he
25 hear? She tell him I was just robbed. Right? So he just

CLOSING ARGUMENT: BY MR. ATWATER

550

1 steps around that corner there and reads the license plate
2 of my client, Ms. Dumas, who's leaving and calls in and
3 says I just witnessed a robbery. That's what he says on
4 the 911 tape. And when I ask him in here after he had
5 taken an oath and sat down there and the truth is you
6 didn't witness no robbery did you? No, sir. No, sir, no,
7 sir, I didn't. But he had written a statement in his own
8 handwriting saying that he did and given it to the law
9 enforcement officers but he didn't. He told you the truth
10 in here, he didn't see it happen. And he had also told it
11 to the people who were there that day but it wasn't true.

12 Now Mr. Sinclair as I've told you all is a convicted
13 felon. Okay? He's going to come in here and testify to
14 try to corroborate make more believable Ms. Talford's
15 testimony. So how are you going to handle that? You got
16 to present this testimony of this guy who if you put him on
17 the stand you know Mr. Atwater's gonna be able to tell the
18 jury that guys a convicted felon. So how do we brush this
19 up, let me make this look better on the questioning. We
20 say I was there with my two little boys and I was just
21 there waiting for their mother to come. And just happen
22 to be sitting out in the parking lot after I had already
23 gone in and made all my purchases and I saw her come out
24 the door and go past my vehicle all the way down by the
25 dumpster. Told my boys, get down on the floor, get down,

CLOSING ARGUMENT: BY MR. ATWATER

551

1 get down. Did you ever see any pictures or any video of
2 any little boys? No you didn't. Did Ms. Talford when I
3 ask her yesterday who knew Mr. Sinclair was there, I said,
4 Ms. Talford - when I called her back up on the stand after
5 Mr. Sinclair had testified -- Ms. Talford, you ever see Mr.
6 -- you ever see Mr. Sinclair's little boys? No. You ever
7 see him there with any little boys? No. Did you ever see
8 any woman come there pick up some little boys? No didn't
9 see any of that. She was there the whole time, she never
10 left, she didn't see any of that. You don't have any
11 pictures of that. You don't have any video of that. Well
12 why wouldn't she have seen Mr. Talford [sic] with two
13 little boys if he had actually been inside that store
14 shopping at the exact same time that Ms. Dumas was in that
15 store shopping? Because in order to try to bolster Ms.
16 Talford's case about this robbery Mr. Sinclair also said
17 that he's standing at the check out stand pulling out his
18 money and some woman was leering over his shoulder looking
19 at his money. Leering over his shoulder looking at his
20 money. What was the purpose for that testimony? Now you
21 think she's hunger for money, she's looking for money,
22 she's looking for some way to get some. Right. Not from
23 the store but from him too. There's a purpose for that.
24 Well all we have to have is the video from the store that
25 day to see whether that's true or not. The video from that

CLOSING ARGUMENT: BY MR. ATWATER

552

1 store would resolve that question in favor of Mr. Sinclair
2 who was the State's witness which would resolve it in favor
3 of the State. It would matter okay. That means there is a
4 reasonable doubt that he was telling the truth. We don't
5 have any of the video showing Ms. Dumas walking in the
6 front door although we clearly know they had it and Ms.
7 Ashdown told us she had it, she saw it, she could have
8 given it to the police. She didn't think it was relevant.
9 Reasonable doubt. We don't have any of the video of all
10 the places Ms. Dumas went inside that store because the
11 State's contention was she came in the store and lurked
12 about waiting for her opportunity to pounce in front of Ms.
13 Talford and rob the store. Okay. Don't you think as a
14 jury charged with the duty of convicting Ms. Dumas of armed
15 robbery and possession of a deadly weapon during the
16 commission of a violent felony that it would be helpful to
17 you to be able to see what they saw and what they could
18 have brought to you to see? Would have resolved all of
19 these questions I'm posing to you right now. If you had
20 all that video and everything looked exactly that they said
21 it did that day you wouldn't have any doubt in your mind.
22 You could be looking at it, you could see it. They control
23 that, they didn't let you have it, didn't let us have it so
24 that we can show it to you. Because I promise you we would
25 have loved to show it to you from the beginning to the end.

CLOSING ARGUMENT: BY MR. ATWATER

553

1 Why, why, why would they not want us to show that to you?
2 Reasonable doubt. That would have cleared up anything
3 whatsoever but you don't get that. And you don't get it
4 because the State couldn't give it to you and they didn't
5 give it to us either. Ms. Ashdown decided on her own you
6 don't get to see that. And we certainly ain't gonna let
7 Mr. Atwater have it. Why not? You say you work for this
8 place that you handle all of these robberies. You're
9 pretty well, pretty well experienced in coming to court.
10 She says she's come into court before and testified about
11 armed robberies before and she's a pretty well experienced
12 witness in these types of things. She knows what she wants
13 to put in. She knows what will prove what did and didn't
14 happen but she's there with a key to Ms. Dumas' freedom or
15 prison.

16 MR. SPRINGS: I'm going to object to this constant
17 referring to punishment. That has nothing to do with
18 whether she --

19 THE COURT: Don't say anything else about punishment.
20 The jury will disregard that. It's my providence.

21 MR. ATWATER: Yes, Your Honor.

22 She is there with this key to your ability to reach a
23 verdict that either says Ms. Dumas is not guilty or to
24 convict Ms. Dumas of armed robbery and to convict her of
25 possession of a deadly weapon during the commitment of a

CLOSING ARGUMENT: BY MR. ATWATER

554

1 violent offense. She's got the key to it, locks it up,
2 throws it away and you don't get it, I don't get it because
3 I would have given anything to have that key.

4 Now we had Ms. Ashdown come in here and testify and
5 she tells you that she works for the store she runs these
6 stores down here in South Carolina and southern North
7 Carolina and she is totally, she is the corporate security
8 person. She's totally in charge of this stuff. She's also
9 the corporate IT person because she's the one that puts all
10 the software on these computers. Right? And I ask her I
11 said listen, Ms. Ashdown, isn't it true that not only are
12 these videos available there at the store but they can be
13 accessed by corporate when I ask her initially. And she
14 goes oh no they can't be accessed by corporate. Well it
15 turns out yes you can because she's corporate and you heard
16 her tell you I can get in my computer with some key strokes
17 I can be looking at what's going on in that store twenty
18 four seven any day of the week. So she can sit there and
19 watch it from her own computer over there. And there's
20 another source where we can find this information and we
21 don't have that. What did she do on the day, what did she
22 tell us she did on the day this happened? She says I go
23 down there about an hour or so after I get this phone call
24 and when I get down there Ms. Talford's not there any more.
25 That's something else we'll talk about in a minute. And

CLOSING ARGUMENT: BY MR. ATWATER

555

1 she says I see Officer Reid there and I kind of go through
2 the video a little bit and I download onto -- She said she
3 didn't remember whether she did it to a CD or whether she
4 did it to a flash drive. But she downloaded something from
5 that store system right there and she says I didn't give it
6 to him that day, took it back home with me. Okay.

7 Now what is important about that? I want to talk to
8 you again about nine cameras because out of nine cameras in
9 that store that she testified run twenty-four seven she
10 looked at everything there and saved information from only
11 three of those cameras. Only three. She didn't want you
12 all to see the other six. And how we know she saw the
13 other six? Because she said I determine what's relevant.
14 How do you determine what's relevant unless you look at all
15 of it and decide what you want us to have or not have? So
16 she admits there is something on all six of those cameras
17 or at least on other cameras that would have shown you what
18 happened that day. And she admits you don't get to see it.
19 So those six cameras are completely out. Right? Now we
20 got three left. Does she take the video from those three
21 cameras from sometime before Ms. Dumas arrived until
22 sometime after Ms. Dumas arrived and say here police
23 officers, here is this blip that shows the whole time this
24 incident occurred. Because we know that at least on two of
25 the cameras that she did take a view off of we would have

CLOSING ARGUMENT: BY MR. ATWATER

556

1 been able to see a lot more activity had we have had the
2 before and the after. Because Ms. Dumas walks into that
3 store on August 9th of 2010 she goes up to the register and
4 she ask Ms. Talford she says, can I have change for a One
5 Hundred Dollar bill? And Ms. Talford says , you got to go
6 buy something. I can't open the door for no reason I can't
7 without a purchase. Connie goes fine and she walks off to
8 go get something. All they had to do was show you the
9 video of Connie walking into that store and never walking
10 up to that cash register. Right? If you had a seen that
11 video and it showed Connie coming in the door and just
12 walking right past that cash register and never having
13 anything to say whatsoever to Ms. Talford we would be in
14 trouble today because that would be pretty conclusive
15 evidence of what happened. You know it would. But Ms.
16 Ashdown don't want you to see that. The state don't want
17 to bring that as evidence, they don't give it to you. It's
18 reasonable doubt.

19 After Ms. Ash - After Ms. Talford testifies she says
20 on the day of the incident she's working there as a cashier
21 and a female robber comes in with a handgun and points it
22 at her body. She doesn't tell you that a woman was
23 shopping in the store. She does tell you she never saw Ms.
24 Dumas before she walked up to the cash register. But we do
25 know at least by the little bit of video that we got to see

CLOSING ARGUMENT: BY MR. ATWATER

557

1 that Ms. Dumas was at the back of the back of the store by
2 the drink machine and she said just because I have a bottle
3 of water in my hand I had gone back there to get it and
4 tried to find something to purchase something. And we see
5 her walking down the aisle, okay, on one of the videos and
6 she stops at the ice cream box for a minute. It's August
7 the 9th, ladies and gentlemen, and brutal hot outside. She
8 stops at the ice cream box for a minute and then after that
9 she goes to the cash register.

10 What else did Ms. Talford say? When the woman robber
11 came into the store she ask for the money. And she says
12 she took the money, the drawer out of the register. Well
13 when she was being questioned by the State, by Mr. Springs,
14 he ask her how can you do that? Didn't you reach under the
15 counter and get some more money? Because that's what he
16 said in his opening argument to you that she reached under
17 the counter and got more money. Right? Where did she get
18 more money from? We know that it's her duty not to keep
19 money under that counter. There is no reason she's
20 supposed to keep money under the counter. It's either
21 supposed to be in the cash drawer or locked in the safe one
22 of the two. Either in the cash drawer or dropped in the
23 safe. And you look at that video you ain't gonna see her
24 reach under that counter for any money because she didn't
25 do no such thing.

CLOSING ARGUMENT: BY MR. ATWATER

558

1 Now the reason they said that was because they had to
2 find out or to explain to you why Ms. Dumas said where's
3 the rest of it as she ask for her money. She said where's
4 the rest of it because she didn't get a Hundred Dollars
5 which she had left up there. Now I talked to Ms. Talford a
6 little bit about this procedure for coming in the store and
7 leaving money with the cashier because she really wanted to
8 kind of hold back on it. She didn't want you to hear but I
9 finally coached it out of her that if I were to go in that
10 store and want to buy some gas for my car with cash that I
11 could walk in and give her a Hundred Dollar bill and she
12 would take it and she would keep it and I left the store.
13 So this thing about it being far fetched that somebody left
14 money there or that that can't happen that it don't happen,
15 it happens all the time. It happens all the time. She's
16 not going to let me come in there and take a Hundred Dollar
17 bill and say Ms. Talford, look I've got the money to pay
18 can you please authorize that pump out there and then I'm
19 gonna go out there and get my gas I'm gonna hold on to my
20 own money now. I'm gonna go out there and get my gas and
21 then I'm gonna come back in and pay for it. Okay? No,
22 sir, that ain't happening. That ain't happening. She's
23 going to hold to my Hundred Dollar bill. She told you
24 that. So I said all right, what if I went out there and I
25 decided I didn't want to get my gas after all and I come

CLOSING ARGUMENT: BY MR. ATWATER

559

1 back in can I have my Hundred Dollar bill back? Oh no.
2 It's gone. So what do we have there? A scenario where
3 someone walks up leaves her with a Hundred Dollar bill and
4 when they come back it ain't there any more. Well that's
5 what Ms. Dumas said happened. That's exactly what she said
6 happened and that's exactly what Ms. Talford said would
7 happen if I tried to make that gas transaction and decided
8 I didn't want to but I wanted my Hundred Dollars back. She
9 said, well what do you mean it wouldn't there any more?
10 She goes I would have already dropped it in the safe I
11 wouldn't have held on to that. I wouldn't have it anymore.
12 In fact what is the significance, ladies and gentlemen, of
13 this envelop right here?

14 MR. SPRINGS: Your Honor, I'm going to object. That's
15 not in evidence. It was never put into evidence.

16 MR. ATWATER: It is in evidence, Your Honor.

17 THE COURT: Hold up I'll have to defer to my - -

18 MADAME COURT REPORTER: No, sir, it's not. I've
19 checked three times.

20 THE COURT: Put it back down.

21 MR. ATWATER: Your Honor, - -

22 THE COURT: Well I remember exactly what happened on
23 that. It is not in evidence. Lay it back down.

24 MR. ATWATER: May I approach, Your Honor?

25 THE COURT: No, sir, you cannot. I said, it is not in

CLOSING ARGUMENT: BY MR. ATWATER

560

1 evidence. It's not in evidence.

2 MR. ATWATER: Ladies and gentlemen of the jury, I'm
3 going to show you what has been marked as State's Exhibit
4 Sixteen that is in evidence in this case. And what has
5 been marked as State's Exhibit Twenty and is in evidence in
6 this case. And what has been marked as State's Exhibit
7 Seventeen that is in evidence in this case and talk about
8 those things for a little bit.

9 Okay, State's Exhibit Seventeen. You will have it
10 with you when you go back in your jury room. Look at it,
11 don't take my word for it. Got it right here on the back
12 State's Exhibit Seventeen. Means the State offered this
13 into evidence I said no objection and it went into evidence
14 in the case. State's Exhibit Seventeen is nothing more
15 that the counter top of a One Stop store with an envelop on
16 it and that envelop is marked 112. Now this is in evidence
17 and there ain't nothing in this picture with that envelop.
18 So for some reason the State says that that envelop or at
19 least the picture of the envelop has some type of
20 importance in this case. All right. But let's talk about
21 that for a moment.

22 THE COURT: Well let's clear the picture up now.
23 We're right back to where we started from. I know the
24 photograph is in evidence but I clearly remember now you
25 objected to the actual envelop coming into evidence.

CLOSING ARGUMENT: BY MR. ATWATER

561

1 Am I correct?

2 MADAME COURT REPORTER: Yes, sir.

3 THE COURT: Okay. So be reminded.

4 MR. ATWATER: Your Honor, but this photograph is in
5 evidence. Correct?

6 THE COURT: Yeah it is.

7 MR. ATWATER: Okay.

8 This is a drop envelop and it is used at the store by
9 Ms. Talford and the people who work there for the purpose
10 of putting money into and dropping into the safe. This
11 would be the envelop that Ms. Talford would use if I walk
12 in and said I want to buy gas with a Hundred Dollar bill by
13 her testimony she would have picked up one of these
14 envelops put that Hundred Dollar bill in it and immediately
15 dropped it into the safe she would have done it so fast
16 that if I walked back in the store it wouldn't have been
17 there I couldn't have got it. Okay. But her testimony was
18 there was one of these sitting off to the side on the
19 counter with money in it. And that Ms. Dumas took this
20 from her, took money out of it and laid it back down on the
21 counter. Her testimony is she handed this to Ms. Dumas
22 with money in it and Ms. Dumas took it from her with the
23 money in it removed the money from this and then laid this
24 back down on the counter. Okay.

25 Now yesterday the State called Ray Barnwell. And let

CLOSING ARGUMENT: BY MR. ATWATER

562

1 me remind you that Ray Barnwell was not there on August 9th
2 of 2010. All right. The person's who were there that
3 actually processed the scene according to Ray Barnwell's
4 testimony and people on this witness list were Officer
5 Kevin Sullivan who took the pictures, lift prints,
6 processed the scene, and Director George Weeks, both
7 forensic officers with the York County Multi-Jurisdictional
8 Forensic Services Unit. That's the acronym that Ray had on
9 his shirt when he was in here yesterday. Both of those
10 people were there the day that this happened. Both of
11 those people gathered evidence the day that this happened.
12 Both of those people were glaringly absent in this trial.
13 Had they been here I would have talked to them in length
14 about what they did and what they gathered and what they
15 looked for and what they didn't look for and what they
16 found and didn't find. But we got Ray who is just here to
17 talk about how fingerprints are made or not. I did get to
18 talk to Ray about whether or not you can take fingerprints
19 off of an item like this and how to properly handle it.
20 And one of the things he told us about his crime scene
21 investigation is I get in there and I go everywhere that
22 she had been. So we knew that she had been to the cooler
23 and we knew that she had handled a bottle of water. And we
24 knew that by her testimony she had come in this door over
25 here. And aside from the video testimony or the video

CLOSING ARGUMENT: BY MR. ATWATER

563

1 evidence that was available to them it could have showed
2 you whether or not she parked where she said she did and
3 whether or not she walked in the door she said she did.
4 They could have also processed that door for prints to say
5 whether or not she came in that door or not. You didn't
6 get any of that.

7 After Ms. Talford testified we heard from Mr. Sinclair
8 and we've talked about what Mr. Sinclair said. And he did
9 say very clearly that he stood out in the parking lot
10 talking to Ms. Talford and he was talking to her dad as
11 well. We'll talk about that in a minute too. But that's
12 why I called Ms. Talford back up on the stand yesterday
13 because she had said she had never ever spoken to him. The
14 truth is he's the guy that walked up to the door when she
15 was locking the store door and she told him there had been
16 a robbery and that's where he got that information from
17 when he said like he candidly told you I didn't see what
18 happened. So why did he have the information to make a 911
19 call? Because of what she told him. He said he had his
20 children there with him that day. No evidence of it.

21 We heard from a Ms. Shirley Rosborough-Taylor and she
22 was the teller from the Family Trust branch over there by
23 the BP Station. And her testimony was just pretty curious
24 to me, extremely curious. Because until I walked in here
25 Monday and saw her name right here I had never heard of

CLOSING ARGUMENT: BY MR. ATWATER

564

1 that lady in my life. As long as I've been working on
2 this case never heard of it. Didn't even know who she was
3 or what it was she was coming in here to testify to -
4 nothing. So I had to actually had to ask the Solicitor who
5 she was or who she worked for and he told me she worked for
6 a bank. But you know I didn't learn until she actually got
7 on the stand what she had to say I had no idea. But I did
8 ask her while she was on the stand and you heard what she
9 had to say the same time I did. In this case I never heard
10 anything she had to say until you all heard it at the same
11 time. So I ask her I said, Ms. Rosborough, had you ever
12 seen Ms. Dumas before August 9th, 2010? And she said well
13 I hadn't had her at my teller stand or anything like that
14 before. And I said well how was it that you know that the
15 incidents that you're saying when she came in requiring
16 about being able to access some money? How is it that you
17 know that that particular incident that she came into your
18 store was the day that she was over at the BP Station? How
19 is it that you can say she was inside the bank instead of
20 not at the ATM like she said? And she goes oh I heard
21 about that incident at the BP store somewhere and then I
22 remembered she had been in the bank before. And wow when
23 did that happen? Oh I think it was the next day. Really?
24 Did you tell the people at the One Stop? Oh no no. Did
25 you tell the police? Oh no no no. Well what got you here

CLOSING ARGUMENT: BY MR. ATWATER.

565

1 today? How is it that you end up being here today? Oh
2 about a month ago the solicitor's office contacted the bank
3 for some information that I let them know I had waited on
4 her that day. So her testimony is that she had that in her
5 memory for seven or eight months and it just stayed there.
6 And we're not saying Ms. Dumas hasn't gone in that bank and
7 done what she said and ask about being able to access funds
8 that she had in the bank. We're not saying that never
9 happened. We're saying it didn't happen that date. And so
10 like I told you I just learned of it the same time you did
11 that that's what this lady was going to say. So I said
12 that's troublesome for me, that's real troublesome for me.
13 How about this? If you accessed her account that day can
14 you just show us a record that you accessed her account
15 that day? Oh I didn't bring that with me. Well does the
16 bank have such records? No they don't keep those kind of
17 records. We got no records like that. So you're gonna
18 tell me that you can set there at your teller station and
19 look up anybody's account all day long and just access
20 anybody's account you want to, sit there at your teller
21 station and banking no record that you're doing that
22 whatsoever? That's right. That's what she said. Well I
23 was drawn back by that. Personally troubled by the way.

24 So when Mr. Mark Harris got up on the stand and he
25 testified he's a compliance officer from somewhere off Dave

CLOSING ARGUMENT: BY MR. ATWATER

566

1 Lyle Boulevard. He doesn't work in that branch, doesn't
2 have anything to do with Ms. Dumas never met her before.
3 Doesn't know anything about any of this kind of stuff
4 whatsoever. He was just ask by the State to come in here.
5 And once again that's the first time I had ever seen him,
6 never heard his name. When he started talking you were
7 hearing for the first time anything he had to say at the
8 same time I did. All right. Totally, totally the first
9 time I had ever knew anything about that. And he gets up
10 there and starts talking about what you can find if you do
11 what the State ask him to do is to look at somebody's
12 account for a four day period. And so I ask him Mr.
13 Harris, isn't it true that someone can go to your ATM
14 machine out there who ain't a member of your bank. Yeah.
15 Well how about someone who is a member of your bank but
16 they are also a member of another bank? Yeah. Well and
17 they go out there and get money out of your ATM machine
18 with their bank card from another bank? Yeah you can do
19 that. Okay. So if they do that do you have a record of
20 it? His response was, I can find that type of information
21 if I'm given certain information and ask to do so. So I
22 ask him, when you were ask to come here and look up
23 information were you ask to look for that? No I wasn't ask
24 to look for anything like that.

25 Now we had testimony from Officer Matt Hall from the

CLOSING ARGUMENT: BY MR. ATWATER

567

1 Rock Hill Detention Center. Once again here's another
2 person in this case the first time he ever opened his mouth
3 to testify or say anything in this case whatsoever was in
4 this courtroom and you heard it the same time I heard it.
5 And the first time that I ever even learned that he was a
6 witness in this case whatsoever was when we were all here
7 Monday. Okay. Never heard it.

8 Now his testimony was supposedly meant to impeach or
9 prove untruthful Ms. Dumas' testimony about being taken to
10 the Rock Hill Police Department and being put in a holding
11 cell. Okay. So I ask him because I seem to be seeing a
12 huge pattern of people testifying in this case up here that
13 weren't there on August the 9th. So I said on August the
14 9th we know Ms. Dumas was there. There's not doubt about
15 that whatsoever she was there. At the jail it is
16 uncontroverted that she was taken down there. The State
17 will admit that. It's uncontroverted that she was taken
18 down there by Officer Rivera not Detective Waldrop. Clear
19 testimony Uncontroverted whatsoever. The State wants you -
20 - wants to disprove what my client said happened when she
21 went into the police station that day. Why don't they
22 bring the lady jailer's who were there when she was there?
23 They bring in somebody named Matt Hall who wasn't even
24 there. Come on, bring in the lady who was there when my
25 client was there please.

CLOSING ARGUMENT: BY MR. ATWATER

568

1 How about Officer Rivera? First on the scene of the
2 stop. Until she was placed in that jail holding cell
3 that's who's car she was in the whole time. So he can tell
4 you when I got here I had her all the way until I took her
5 there. And when I was there I went there instead and
6 waited on Waldrop. At least that's what Ms. Dumas
7 testified. Ms. Dumas testified I was sitting there Rivera
8 brought me in, there's two women sitting here and Rivera
9 was telling them we're waiting on Waldrop to show up.
10 Waldrop's not there, we don't know where he is, we just
11 know he's not there. Rivera has taken her down there as he
12 was instructed to do and told to wait for him. Well they
13 got her sitting out front there, Ms. Dumas, in handcuffs
14 behind her back with that shoulder injury she's got and
15 just sitting there. So they're kind of there for ten or
16 fifteen minutes or so and one of the ladies up here says
17 well -- One of them gets up and walks away and the other
18 says we can't just let you sit here all this time. So she
19 gets her, according to Ms. Dumas' testimony, and takes her
20 and puts her in this little holding cell right there. Ms.
21 Dumas described in great detail what that holding cell
22 looked like, where she was put at first, who was in there
23 when she went in there, what she did when that person left
24 the cell, will go to the other bed so she can watch the
25 clock out in the hall -- out on the wall in the hallway

CLOSING ARGUMENT: BY MR. ATWATER

569

1 because she couldn't see one from inside and the time was
2 passing and nothing was happening. She's being held in
3 limbo. So at least she's going to be able to look, look at
4 the clock and see what time's passing and what's going on.
5 And describes in great detail what happened. But we don't
6 get to hear from the jailers who were there. We don't get
7 to hear from Officer Rivera who was there. And Detective
8 Waldrop can't say it because he wasn't there. The only
9 person who can testify to that who was there is Ms. Dumas.
10 Right? But for whatever reason they brought Matt Hall who
11 we have never seen before in our life, never knew about him
12 until Monday, to come in here to testify that according to
13 some piece of paper that he didn't even bring with him she
14 wasn't in the holding cell before she went into the
15 detention room.

16 Now what's the significance of that? Nothing other
17 than to say Ms. Dumas is a liar. Well if you're going to
18 do that how about showing us; give us some proof of it?
19 Okay. Because Mr. Hall, you weren't there. She was there.
20 She's the only person who's testified in this case
21 whatsoever who was there and knows what happened to her
22 physically as she was moving through this process. The
23 State wants to bring in somebody who wasn't even there to
24 testify to a piece of paper he didn't even bring oh no she
25 wasn't there that didn't happen to her.

CLOSING ARGUMENT: BY MR. ATWATER

570

1 There's some other relevance to her being in that cell
2 by the way. Because at the end of this case Judge Burch is
3 going to give you some instructions on the law. And one of
4 those instructions on the law he's going to tell you about
5 what you want to look at and consider as to whether or not
6 a person has given a voluntary statement or not. Right.
7 Because it's Detective Waldrop's contention that Connie
8 Dumas voluntarily confessed to this robbery. Voluntarily
9 -- Voluntarily said she left her house with a gun on the
10 seat of her car. What gun? Oh the one she magically
11 disposed of out there that summer. Okay. The contention
12 in this case is that she robbed the One Stop Store because
13 she was in desperate need of money. She got Ninety some
14 bucks. She walked into the bank with a gun in the back of
15 her waste tucked in her belt.

16 She didn't have a belt, ladies and gentlemen. She had
17 on a pair of sweat pants or loose sports pants with no belt
18 to tuck a gun into. Went into the Family Trust. I had
19 put the gun in the small of my back in the waste band of my
20 pants. Okay. They got videos of the Family Trust, ladies
21 and gentlemen, they've got videos to show that she was
22 inside there if she went in there. Why didn't they get
23 them and bring them? That would have resolved all of this.
24 We wouldn't be here rambling on about she wasn't there.
25 I'd look stupid doing that if they had brought you videos

CLOSING ARGUMENT: BY MR. ATWATER

571

1 to show that she was there. I mean that would be pretty
2 conclusive, that would be pretty strong evidence for people
3 who have got such a incredible duty to decide whether to
4 convict or acquit. That would make it easier for you. You
5 could look at it and say there is no doubt about this,
6 there it is right there she was in there. But instead in
7 order to convince you of that beyond a reasonable doubt,
8 ladies and gentlemen, they bring in some lady who says I
9 remember it because I heard about this incident sometime
10 later and she happen to be standing in my teller station
11 that very day. And I ask her for access to this
12 information and oh by the way I didn't bring anything
13 showing that because she lied and said they don't keep
14 records of it. But Mr. Mark Harris said yes we do keep
15 records of that. You better believe we know if one of our
16 tellers is accessing somebody's account. We got those
17 accessing records and we can look at them. They stay in
18 our system I believe probably up to a year. Said they
19 might possibly even still be there now. But they most
20 certainly were there back when this happened. They most
21 certainly would have been there when Shirley goes oh that
22 lady was in here yesterday. Right? All they had to do was
23 just go bloop, print, give it to the solicitor, bring it
24 here. Not only, ladies and gentlemen of the jury, do we
25 have a video of her standing in front of that which shows

CLOSING ARGUMENT: BY MR. ATWATER

572

1 she was here that day, we've got this access information
2 showing you she was here that day, where we've got video
3 showing you she came up to me and then she went over here
4 and sat down in customer service area for a while that day.
5 And you might possibly have been able to see some evidence
6 of a gun in her pants. Don't have it, nothing, absolutely
7 nothing. Reasonable doubt.

8 He says, "I had the gun in my pants when I went to the
9 One Stop. I went inside and I put the gun on the counter."
10 Well we got some video of her walking up to the counter the
11 second time, not the first time. We do got some video of
12 her walking up to the counter the second time. So look at
13 it see if you see her lay a gun on the counter. "I told
14 the clerk to give me the money. She ask me if I was
15 serious and I told her yes." Well that kind of strikes me
16 too, ladies and gentlemen. We're being told that according
17 to Ms. Talford -- By the way that's not the way it
18 happened. According to Detective Waldrop this is what Ms.
19 Dumas told him. He's saying she told him I laid the gun on
20 the counter. Ms. Talford is saying she came up and pointed
21 the gun at me. Okay. Look at the video, look for her
22 pointing the gun at Ms. Talford, look for her laying a gun
23 on the counter. Look for a gun.

24 Someone walks up to you and points a gun at you and
25 the State's going to make a big deal. You're just shaking

CLOSING ARGUMENT: BY MR. ATWATER

573

1 in your boots and everything else in the world. Listen to
2 Ms. Talford on that tape see whether or not that's what she
3 sounded like. She goes are you serious? She's saying are
4 you serious because my client said I had a Hundred Dollar
5 bill there where is it? Now that's a good response to that
6 type of a question if you're trying to get away with taking
7 it. But it's not a good response to somebody pointing a
8 gun at you, threatening your life, putting you in fear of
9 imminent death to go are you serious? Look at it.

10 I needed the money because they were foreclosing on
11 our house. There is no evidence of that in this case. We
12 were broke and my daughter needed to go school shopping and
13 I did not have any money, we were broke. Bursha was
14 working for the petroleum company. Connie was getting
15 unemployment benefits. A month prior to this they had
16 received about Eight Thousand Dollars for some insurance
17 benefits. They're living in a house that has all the
18 modern things that you would want in it. Televisions is in
19 most of the rooms and video games for the children to play.
20 Bursha talks about this Thirty some thousand dollar tractor
21 he's got sitting out there. And his Thirty Five Hundred
22 Dollar lawn mower he's got out there, and this Six Thousand
23 Dollar, or Thirty-five Thousand Dollar bull dozer and this
24 Six Thousand Dollar other little tractor he's got out
25 there, both of them got cars that are paid for. Bursha

CLOSING ARGUMENT: BY MR. ATWATER

574

1 says she's got a jewelry box in her room full of jewelry in
2 it, some of it's worth this much cause I bought it for her
3 myself. We been married fourteen years. But she tells
4 Detective Waldrop we were broke. She says I'm not sure how
5 much -- He says she says I'm not sure how much money I got
6 but I gave the money to my daughter and she put it in her
7 purse when I got home.

8 Let's talk about her daughter's purse and the money.
9 There is a picture in evidence, ladies and gentlemen, here
10 of a purse and some money setting in front of it but if you
11 look at the picture it's not her daughter's calico purse.
12 And you will see Ms. Dumas' purse -- Here we go. State's
13 Exhibit Thirty-four, there is no calico purse which they
14 ostensibly took evidence out of, Kiara, seventeen year old
15 Kiara's purse that they took her money away from her and
16 brought down here. And there's her mama's purse sitting
17 right in front of it that hasn't been touched and there's
18 money all sitting in it. Her mom's supposedly done an
19 armed robbery not Kiara. But they got to come up with a
20 reason -- Remember this was typed and printed, the author
21 of this document at least in regards to putting all the
22 information on this piece of paper and printing it out was
23 Detective Waldrop. Okay. So he says they took Kiara's
24 money and got to justify taking Kiara's money so you got
25 this story on here that we never heard anything else except

CLOSING ARGUMENT: BY MR. ATWATER

575

1 here in this piece of paper right here that she went home
2 and gave stolen money from this convenient store to her
3 daughter. Okay. And then look at this State's Exhibit
4 Thirty-four that shows Connie's purse sitting there with
5 money right there in the pocket of it. And this money's
6 that sitting in front of it that wasn't money they took
7 from Connie but was money they took from her daughter. And
8 when you do that do your best because I didn't take this
9 picture, it was taken by law enforcement and given to the
10 solicitor to put into evidence in this case. And you will
11 see it's marked as a State's Exhibit, their exhibit, for
12 you to prove something about this case. And what you will
13 see is money Kiara had, money Connie had, no Two Dollar
14 bate money. No Two Dollar bate. Why? You're going to
15 have it back there look at it, look real close, there ain't
16 no Two Dollar bate money in this.

17 But where did this story about Two Dollar bate money
18 come from? Well how do you prove that Connie stole money
19 from the store? Well they try to say she took the bate
20 money. This is an evidence envelop. I talked to Ray
21 Barnwell about this envelop and the proper procedures for
22 processing evidence and the proper procedures for storing
23 and maintaining evidence and everything like that. And
24 Detective Waldrop testified that this Two Dollar bill in
25 this plastic envelop, that for some reason had Seven

CLOSING ARGUMENT: BY MR. ATWATER

576

1 Dollars written on top of it, has been in evidence since
2 the day of this robbery. Where's the evidence envelop?
3 Where is the evidence inventory that shows this? Because
4 here's an inventory that was made up by Detective Waldrop
5 showing money that they recovered in this case and quite
6 interestingly although you see that they had possession of
7 Connie's purse that it's got money just sitting in the
8 pocket of it just where not only in there but just where
9 you can look at it and see it there. Right? The official
10 inventory sheet for the evidence in this case as it's
11 called Rock Hill Police Department Property Evidence
12 Inventory Sheet list Eighty-seven Dollars cash that were
13 taken out of the daughter's pocketbook and Seven Dollars
14 cash that they claim came out of the door of the vehicle.
15 The door of the Toyota. Okay. And then those that are
16 marked as Items One and Two if that Two Dollars that we're
17 talking about was supposedly part of this money here then
18 you will see right here that on August the 10th the very
19 next morning at 10:40 in the morning Detective Waldrop took
20 everything on here and gave it back to the store. I ask
21 you how could this be in evidence since the day of this
22 incident because there's nothing else that shows that? We
23 do have a picture of somebody handling that Two Dollar
24 bill. And from the State's testimony that's being held on
25 a police car by a police officer. And you won't see any

CLOSING ARGUMENT: BY MR. ATWATER

577

1 evidence that Ms. Dumas never ever ever had that Two Dollar
2 bill in her possession. And Ray told us yesterday that's
3 also something you can get fingerprints off of to prove the
4 opposite, to prove that she did handle it. But he said it
5 was never processed. On the day of this accident Detective
6 Michael Chavis was there. He wasn't here. We all couldn't
7 hear anything he had to say. Detective Cedric Stokes was
8 there. You didn't hear from him. Officer William Rivera
9 was there. You didn't hear from him. Detective Mark Motts
10 was there. You didn't hear from him. But who you did hear
11 from was Ms. Ashdown who wasn't there. Ms. Rosborough-
12 Taylor who wasn't there. Mr. Matt Hall who wasn't there.
13 Mr. Raymond Barnwell who learned at Ten o'clock yesterday
14 morning for the first time in his life that he was going to
15 be giving testimony in this case for you all to consider
16 about my client who wasn't there. And Mr. Mark Harris who
17 wasn't there. George Weeks was there and Ray told us that
18 he's around somewhere but I don't know where he is he was
19 working another scene this morning yesterday. We know he
20 was somewhere around but he's actually somebody who was at
21 the scene and handled and processed evidence. You never
22 heard from him.

23 The statement reports that Connie told Detective
24 Waldrop that she left her house about Twelve something.
25 But we know from everything we've heard in this case that

CLOSING ARGUMENT: BY MR. ATWATER

578

1 she was at the One Stop sometime between 3:30 and Four
2 o'clock. And by the way I told you I was going to talk to
3 you about Ms. Talford's dad being there that day. Ms.
4 Talford's shift didn't end until Four o'clock that day, the
5 rational explanation for him being there to pick her up.

6 Now the State has the last word in this case and you
7 will not hear from them until I finish talking to you about
8 this evidence. But I do want you to remember what we've
9 talked about here today and what this evidence reports to
10 do and what it doesn't do and what evidence is here and
11 what evidence isn't here. The evidence, remember there was
12 supposedly an elderly gentleman there. He ain't here.
13 Remember all these police officers and other people who
14 were supposedly there or where there. They ain't here.
15 Try to figure out in your minds why people who were never
16 even there came here to try to get you to believe something
17 that they had no knowledge of whatsoever. The State put
18 into evidence a photograph called State's Exhibit Number
19 Twelve which means it is something the State has put into
20 evidence for you to consider in this case. And that
21 picture shows the ATM machine at the Family Trust Bank.
22 Why would the State take a photo of the ATM machine at the
23 Family Trust Bank if Ms. Dumas didn't go to the ATM machine
24 at the Family Trust Bank? Why do they take that photo and
25 put it into evidence for you to see? Because they claim

CLOSING ARGUMENT: BY MR. ATWATER

579

1 she was inside the Family Trust Bank then you will see
2 based on the evidence that they've presented today you
3 don't have any photos of the inside of the Family Trust
4 Bank saying this is where she stood and this is where she
5 went over and sat down and this is where she did anything.
6 The only evidence you have from the State is where she
7 drove up to the ATM. Remember you were charged with the
8 duty to determine based on the evidence in this case
9 whether or not the State has proved that Connie Dumas on
10 August 9th of 2010 went to the One Stop store and went
11 there with the intent ahead of time to go in there and
12 commit an armed robbery and did in fact actually went in
13 there and did commit an armed robbery with a deadly weapon
14 - a pistol. In order to come to that decision you have to
15 review all of the evidence in this case, deliberate amongst
16 all of you and find beyond a reasonable doubt that she's
17 guilty of having done, having committed those two crimes.
18 If after you listen to the State's argument and the Judge
19 charges you on the law in this case and you go back there
20 and you look at all the evidence if the State gets up here
21 and starts talking to you about some of these things that
22 I've submitted to you and you've heard me use the term
23 reasonable doubt here, reasonable doubt there, reasonable
24 doubt here, reasonable doubt there many many times and I
25 could have said it even more. But if the State gets up

CLOSING ARGUMENT: BY MR. ATWATER

580

1 here and says well here's a reasonable doubt Mr. Atwater
2 talked about, here we're clear it up for you. Here's
3 another one over here we'll clear that one up for you.
4 They do that to all of them but one and you're left with
5 one reasonable doubt of evidence that convicts you in your
6 mind of conclusive proof that Ms. Dumas committed this
7 crime then it is your duty to return a verdict of acquittal
8 and acquit her of the charges the State has brought against
9 her. You must do it, it's what you're here for.

10 One last thing. Judge Burch is going to charge you on
11 the law in this case. And when he charges you on the law
12 in this case he's going to tell you what the elements of
13 the crime are and one of the elements of the crimes that
14 she's charged with is intent. You must find as a jury that
15 she went to this place with the intent of committing an
16 armed robbery. Okay. And he's going to talk to you about
17 some -- some things to consider when you're looking at
18 intent and one of the things that he's going to talk to you
19 about is an element of the crime of armed robbery is taking
20 of property that belongs to somebody else. And in armed
21 robbery you have to take it by force with use of a weapon
22 or threatening that you have a weapon and making somebody
23 think that you have one. Okay.

24 If you find in your deliberations as we have told you
25 that when Connie Dumas went up to that -- went up to that

CLOSING ARGUMENT: BY MR. ATWATER

581

1 counter for the second time, not the first time, because
2 she had already been up there. If you find when she went
3 up there for the second time that she believed she was
4 taking her own money back, listen to the charges that Judge
5 Burch gives you, he'll tell you that if she believed she
6 was taking her own property, she did not commit a robbery.
7 That's the law in the State of South Carolina. One more
8 thing he's going to talk to you about when he charges you
9 the law he's going to charge you with voluntariness of a
10 statement. And this is why the State brought Mr. Matt Hall
11 who was not there the day that Connie Dumas went to jail
12 and Officer Rivera took her there who is also not here and
13 she was put into that jail cell. One of the things that
14 Judge Burch is going to tell you is to determine whether or
15 not a person voluntarily gave a statement because we do
16 not, we do not deny that Connie Dumas signed this statement
17 that Detective Waldrop prepared in his own words, on his
18 own computer, printed out himself, stuck in front of her,
19 and told her she better sign this. You will sign this or I
20 will put your daughter in jail. And the evidence in this
21 case Kiara was brought down to the police station not after
22 she had been let go but at her house. Connie setting there
23 believing that her daughter was going to get thrown into
24 the jail cell where she's at and God only knows how long
25 this is all going to go on unless she puts her name on this

CLOSING ARGUMENT: BY MR. ATWATER

582

1 piece of paper because if she does that Detective Waldrop
2 tells her you do that it will only be you not both of you.
3 Listen to what Judge Burch charges you with on the law of
4 voluntariness. And you will hear things like whether or
5 not the person believed that they were free to speak, free
6 to give their own testimony. Whether or not the person
7 believed that they were not over born by lack of sleep, not
8 having her medicine, being in police custody, being in pain
9 because of the handcuffs, being scared because this was
10 going on, being thrown in jail before she was ever even put
11 in this interview. All of these things had happened to
12 her. You are going to hear the charge about whether or not
13 a person's statement is voluntary if all that kind of stuff
14 is going on. Listen very carefully to it, apply to it
15 whether or not you believe Connie Dumas sat in front of
16 Detective Waldrop dictating a statement to her and then of
17 her own words and then she signed it purely and clearly and
18 voluntarily. I will tell you Sinclair stood up here and
19 told us that when he was ask when he gave a statement a
20 written statement in this case he was given a piece of
21 paper and he was given a pencil or a pen and he was allowed
22 to put his own name on it and his own social security
23 number and his own date of birth and check whether or not
24 he had an education or not and writing his own handwriting,
25 write in his own handwriting what he said happened. Okay.

CLOSING ARGUMENT: BY MR. ATWATER

583

1 He's the State's witness they let him put down whatever he
2 wanted to and sign his own name to it. But Connie was
3 concerned you won't see those being her own words on that
4 statement. You will see those being the words typed into a
5 computer by Detective Waldrop printed out and stuck in
6 front of her and threatened to sign. And as Judge Burch
7 told you at the beginning of this case you are going to be
8 asked to return a verdict. The word verdict comes from a
9 Latin term veri dicto. Veri meaning truth and dicto
10 meaning to dictate or something like that, to speak. Your
11 verdict is to return a statement fairly and based upon the
12 evidence in this case and in light thereof speaks the
13 truth. It is our belief that once you do that when you
14 deliberate the twelve of you are going to come to one
15 unanimous conclusion and that is the State has not
16 convinced you beyond a reasonable doubt, any reasonable
17 doubt whatsoever that Ms. Dumas entered the One Stop store
18 much less enter the bank with the money or anything like
19 that because for whatever reason they say she did it she
20 wasn't charged with that that would be a crime within
21 itself but enter the One Stop store with a gun with the
22 intent of committing an armed robbery, if you don't find
23 that beyond a reasonable doubt then you must return a
24 verdict of acquittal.

25 I had a professor one time who talked to me about

CLOSING ARGUMENT: BY MR. ATWATER

584

1 truth. He said something that stuck with me all along. It
2 was in a course in which we were talking about trials and
3 those types of things and it was a clinical course in the
4 last year of my law school. And he was a practicing
5 attorney who was also a professor at the University; he was
6 from Porto Rico originally, and he said to me, he said,
7 Michael, - -

8 (ATTORNEY ATWATER SPOKE IN SPANISH.)

9 MR. ATWATER: What that meant was write a truth so
10 powerful and so bright that nothing exist that can
11 distinguish it. Ladies and gentlemen, I believe that proof
12 will shine through everything you look at today and leave
13 you with nothing left but a verdict of acquittal. Thank
14 you.

15 THE COURT: Anybody need a brief recess?

16 MADAME COURT REPORTER: I do.

17 THE COURT: All right. We will take a brief recess.
18 I remind you, you do not discuss this case until you are
19 ask by me to begin your deliberations. When you come back
20 we will hold it to a minimum here and try to be back here
21 in ten minutes. All right the jury is out.

22 (JURY EXITS COURTROOM AT 11:50 AM.)

23 THE COURT: All right run to the restroom.

24 (COURT IN RECESS AT 11:50 AM.)

25 (BACK ON THE RECORD AT 12:12:05 PM.)

1 THE COURT: You may be seated.

2 MR. SPRINGS: Judge Burch, at the close of all the
3 evidence there were no motions made. It wouldn't hurt my
4 feelings if anyone wanted to make a motion. I don't
5 remember any motions for a directed verdict at the close of
6 all the evidence.

7 MR. ATWATER: I thought I had - -

8 THE COURT: You did at the close of - -

9 MR. SPRINGS: Just my case.

10 THE COURT: - - - his case. You may want to renew it.
11 If you want to just renew it just for safety sake.

12 MR. ATWATER: Thank you, Your Honor. For the record,
13 Your Honor, I would move that based upon all of the
14 evidence as the State's case and in the Plaintiff's case,
15 viewed in the light most favorable to the State fails to
16 -- fails to meet their burden to prove the charges that
17 they have against Ms. Dumas and we would ask that based
18 upon the evidence that the Court direct a verdict in favor
19 of the verdict of acquittal in favor of the defendant.

20 THE COURT: Motion is made and I don't see any reason
21 for me to step in. I think it's something for the jury to
22 decide.

23 Bring them in.

24 (JURY REENTERS COURTROOM AT 12:07 PM.)

25 THE COURT: Solicitor.

CLOSING ARGUMENT: BY MR. SPRINGS

586

1 MR. SPRINGS: May it please the Court.

2 Ladies and gentlemen of the jury, Mr. Foreman, this
3 isn't taking two hours. What's a defense attorney do when
4 his client robs a store and there is a movie made of it and
5 the clerk's alive and the clerk comes in and says that's
6 the woman that pointed a gun at me and robbed the store,
7 and a totally unrelated bystander in the parking lot sees
8 her run out with her gun and with a wad of cash in her
9 hand? And then she confesses with a cock eyed story to try
10 to minimize it on the side of the road. Well the gun fell
11 out of my purse. And the clerk threw the drawer up so I
12 thought oh well take the money. But then gets taken down
13 to the police station and gives a formal written signed
14 sworn to God confession. What do you do? Well you just
15 found out. They didn't prove it. They didn't prove it.
16 You don't just roll over you got to do something. So you
17 say the clerk's alive, and the guy in the parking lots a
18 liar, the lady who saw her in the bank earlier is a liar,
19 and the old detective not too long from retirement he's a
20 real big liar. And I guess, no, didn't talk about the gun
21 in her hand in the movie. You know when I was a kid I had
22 a little sister and we all played hide and seek and my
23 little sister would say you can't see me. And that's the
24 gun in her hand in the movie. It's pretty hard to wish
25 that away isn't it? Oh that's right, turned in the car

CLOSING ARGUMENT: BY MR. SPRINGS

587.

1 keys.

2 You can actually find this lady guilty four different
3 ways - four different ways. This is a lot more evidence
4 than most of these cases have. You can find her guilty
5 beyond a reasonable doubt if the clerk was dead, if there
6 hadn't been anybody in the parking lot see her leave with
7 the gun and the cash, and if she hadn't confessed. You can
8 find her guilty on the movie. But you do have the movie.
9 If you didn't have the movie, the system had been
10 malfunctioning, and Mr. Sinclair had not been in the
11 parking; and if she hadn't confessed you could find her
12 guilty beyond a reasonable doubt because the clerk is alive
13 and able to come in here and very credibly and honestly
14 tell you that's the woman who pointed the gun at me and
15 robbed the store. You can find her guilty beyond a
16 reasonable doubt on that basis. But she do have the clerk
17 and you do have the movie. Or let's say that movie system
18 malfunctioned. You didn't have a movie. The clerk was
19 dead. But Mr. Sinclair was out in the parking lot and saw
20 the woman run out with the gun and the cash and called the
21 police and the police caught her and in the store they find
22 the dead clerk. You can find her guilty beyond a
23 reasonable doubt just on Mr. Sinclair. But you do have the
24 movie and you do have the clerk who lived and you do have
25 Mr. Sinclair.

CLOSING ARGUMENT: BY MR. SPRINGS

588

1 But if you didn't have the movie, and the movie had
2 malfunctioned, and if the clerk was dead; and if Mr.
3 Sinclair hadn't been out there you could find her guilty
4 beyond a reasonable doubt on her own confession. But you
5 do have the movie, and you do have the clerk, and you do
6 have Mr. Sinclair, and you do have her confession that can
7 find her guilty beyond a reasonable doubt four different
8 ways.

9 So what are the chances of the movie lying? Who are
10 you going to believe the defense or your lying eyes? What
11 are the chances Marcella Talford is just a big liar and
12 made all this up. And what are the chances of Mr. Sinclair
13 who works two jobs bless his heart and he don't get paid to
14 come in here and testify? He doesn't know these people,
15 doesn't have a dog in the fight, just comes in and tells it
16 like it is very honestly and credibly. And then the
17 Detective, no offense, he's almost to retirement. Thirty
18 something years. He's gonna jeopardize his retirement so
19 he can cook something up against this woman? This
20 detective, thirty something years experience, he doesn't
21 get paid on commission, didn't even have to get in his car
22 and go out he's gonna make all that stuff up. No, that is
23 ridiculous. This whole defense is ridiculous. It's like
24 the twilight zone. When I was little kid there was a show
25 called "The Twilight Zone" its an alternative universe that

CLOSING ARGUMENT: BY MR. SPRINGS

589

1 things are not real are real and things that are real
2 aren't real. This is the Twilight Zone defense. What are
3 the chances of all these people lying because they all have
4 to be lying including the movie camera.

5 Witness credibility. The judge is going to talk to
6 you I think most of them do about the witness credibility.
7 And he will say use your common sense to judge whether
8 somebody up here's telling you the truth or not just like
9 you would in your every day affairs out on the street when
10 you judge somebody's conning you or not. Who got up here
11 and very forthrightly and very directly answered the
12 defense attorneys questions? Ms. Talford did. Who else
13 got up here and very forthrightly directly answered all his
14 questions? Mr. Sinclair did. Who else got up there and
15 very forthrightly and directly answered all of his
16 questions? The Detective did. The teller Shirley
17 Rosborough-Taylor did. The guy that keeps the jail records
18 did. But who got up there and didn't want to answer
19 anything when I kept asking her and asking her and asking
20 her? And I thought I was pretty polite. I don't think I
21 was abrasive and abusive. Who didn't want to answer
22 anything, didn't want to give a direct answer to anything?
23 Who was evasive? She was. She said she had direct
24 deposit. I'm going back to what she said, the defendant
25 Connie Dumas, when she was up on the witness stand. Said

CLOSING ARGUMENT: BY MR. SPRINGS

590

1 she had direct deposits coming into Family Trust. Her
2 accounts over drawn a Hundred and Thirty-one Dollars. Said
3 she did not see Shirley-Rosborough Taylor and didn't go in
4 the bank on August 9th. What difference does it make?
5 Went in the bank didn't go in the bank. But for some
6 reason she isn't going to admit that. Shirley Rosborough-
7 Taylor is a liar. Shirley Rosborough-Taylor who heard the
8 convenient store right next door got robbed and the next
9 day heard the name Connie Dumas and went she was at my
10 teller station yesterday in the bank. Why is it hard to
11 admit she went into the bank? She didn't rob the bank she
12 robbed the One Stop. It's like the forensics and the Two
13 Dollar bill. She said she took the money. Why is it so
14 hard to admit I took all the money so I took the Two Dollar
15 bill? But no they want to act like that's some big
16 conspiracy. The forensics. She admits she was in the
17 store. She admits she's on the movie. But they want to
18 talk about the forensics like there's some big conspiracy.
19 What difference does it make whether she left fingerprints
20 or not? She says she was there, she's in the movie. You
21 can see that with your own eyes and she admits it. No got
22 to make a big conspiracy out of this. So she said she left
23 home that day looked in her safe and got a Hundred Dollar
24 bill and went out to get change. Went out to get change
25 for a Hundred Dollar bill so she goes to a bank and doesn't

CLOSING ARGUMENT: BY MR. SPRINGS

591

1 get the Hundred Dollar bill changed. No she goes to a
2 convenient store. She leaves a bank goes away from a bank
3 to a convenient store to change a Hundred Dollar bill. And
4 then she comes into the store, comes into the One Stop -
5 here's where it gets real good - and lays a Hundred Dollar
6 bill upon the counter - a Hundred Dollar bill. Just walks
7 away from a Hundred Dollar bill, and everybody does that.
8 And the Defense keeps going, the clerk would have dropped
9 that Hundred Dollar bill before I pumped my gas, before I
10 pump my gas. But she didn't go in there to get any gas.
11 We all know why she went in there. But her story is she
12 laid a Hundred Dollar bill up there and I need to get this
13 changed or I got to buy something I'll just leave that
14 Hundred Dollar bill laying up there, or I'll go get my
15 drink - get my water. And then she comes back, where's my
16 money? This is what she says, the conversation was back
17 and forth and with the clerk which is on the movie, "Where
18 is my money?" The clerk says, "What money?" That's what
19 Ms. Dumas said. She said I gave you a Hundred Dollar bill.
20 She says the clerk goes you did not give me a hundred
21 Dollar bill. She goes, "I gave it to you." And the clerk
22 goes, "Are you serious?" And takes the drawer out. Takes
23 the whole drawer out and puts it up on the counter and she
24 just walked up there with her water. Says she takes the
25 money from the drawer. This is her from the witness stand.

CLOSING ARGUMENT: BY MR. SPRINGS

592

1 She takes the money from the drawer. She doesn't think
2 she's gotten enough for her Hundred Dollar bill. "Where is
3 the rest of it?" The clerk says that's it. Then she says
4 the clerk doesn't reach under the counter and pull anything
5 out. But there is more interaction.

6 Now was the conversation up here, the consecration is
7 fuzzy, you'll catch a lot of it but not all of it. I'm
8 gonna play it one more time for you. I want you to judge
9 was she up there when she's face to face with the clerk; as
10 she gets up to the counter the clerk sees the gun, the
11 clerk goes, "Are you serious?" She goes, "Yeah, give me
12 the money." The clerk throws the drawer up the money gets
13 taken. "Where's the rest of it?" "That's it." "No, I saw
14 you drop something." She gets up and she leaves. Was
15 there a time, is there a time, is there a conversation,
16 where's my money, what money, I gave you a hundred Dollar
17 bill. You didn't give me a hundred dollar bill. I gave it
18 to you. Let's play it one more time and look at that and
19 one more time to look at the video that shows her come
20 around the counter and pull out the gun and then the shot I
21 want to show you shows her back and then she turns with the
22 gun and she's got the cash and the gun and she goes out the
23 door. I forgot to show you as the customer, the black guy
24 at the check out, is checking out she's what you see her
25 behind the counter. She comes up and she stops. She waits

CLOSING ARGUMENT: BY MR. SPRINGS

593

1 until he walks away and leaves the store. And the she
2 comes around with the gun.

3 Let's play that please. Is the volume up? Let's
4 start not with the black and white but play the other two..

5 Dim the lights.

6 (COURTROOM LIGHTS DIMMED.)

7 (VIDEO PUBLISHED TO THE JURY AT 12:20 PM.)

8 MR. SPRINGS: Back here and then she comes around and
9 pulls out the gun.

10 (VIDEO PLAYING.)

11 MR. SPRINGS: The drawer goes down, she's racking the
12 money out. The right hand has the gun.

13 (VIDEO PLAYING.)

14 MR. SPRINGS: And then she turns around the gun in the
15 right hand money in the left hand and walks out. Okay.

16 You can play the black and white now..

17 (VIDEO PUBLISHED TO THE JURY.)

18 MR. SPRINGS: Who you gonna believe her, Mr. Atwater
19 or your lying eyes? So she gets caught, she's Mirandized
20 on the side of the road, and she's already trying to get
21 out of this. She's already trying to avoid responsibility.
22 My sister, my sister Felicia Dumas which I assume would be
23 her husband's sister, I'm telling you my sister was there,
24 my sister gave me the shirt, to wear a sweat shirt. Now
25 she's gonna throw her sister under the bus. A little while

CLOSING ARGUMENT: BY MR. SPRINGS

594

1 later okay okay okay I tell you the gun just fell out of my
2 purse at the store and the clerk threw the cash up there
3 and I said well okay. And she gets down to the police
4 station and they bring her right into the interview room.
5 She didn't go to any jail cell for two or three hours. She
6 went to the jail cell later after she was interviewed; it
7 was late in the day. You think the old detective is going
8 to sit around and won't let her sit in a jail cell for two
9 or three hours? He wanted to go home too. She's taken
10 right into the interview room, she gets her rights, and she
11 confesses. And she starts out by saying I left my house I
12 went to Family Trust. He would have had no idea she went
13 to Family Trust. They made a big deal about the Family
14 Trust people not coming to us until about a month ago. See
15 a common thread through here? The stuff they admit to the
16 things that's not a big deal well those are lies. So
17 everything is a lie. So she starts out with something that
18 proves she's given the information to the detective because
19 he didn't have no idea she went to Family Trust. And she
20 says I left the house I had a gun on the seat when I got to
21 Family Trust I put the gun in the small of my back in the
22 waste band of my pants. In the waste band. I almost died
23 laughing yesterday when I found out pants don't have waste
24 bands. Connie, did your pants have a waste band? No. I
25 want to see the pair of pants that don't have a waster

CLOSING ARGUMENT: BY MR. SPRINGS

595

1 band.

2 Why would you if you're gonna go in the bank take the
3 gun and stick it in the waste band of your pants? Why
4 would you take the gun in the bank? Why would you do that?
5 You get to use your common sense and you get to infer
6 things. That means figure out things. And you can
7 conclude she might have been pondering robbing the bank and
8 got cold feet for whatever reason then she switches to the
9 convenient store. Went inside put the gun on the counter
10 and told the clerk to give me the money. She ask if I was
11 serious I told her yeah. She took the drawer out set it
12 down. I took the money from the drawer put it in my pants
13 pocket which isn't true we know she carried it in her hand.
14 Picked the gun up and left. Told the clerk I was sorry.
15 Then she comes up with the cock and bull story he who's let
16 her daughter go who's been kind to her daughter let her go.
17 Oh you gonna have to, you gonna have to sign what I've made
18 up and put down here or I'm gonna go back to your house
19 where I let your daughter go because I believe she had
20 nothing to do with this. I'm gonna go back and I'm gonna
21 get her and I'm gonna put her in jail. Well bull. What
22 bull. She decided to give a confession that day freely and
23 voluntarily but now she doesn't want to take any
24 responsibility, none. You saw her on the witness stand.
25 It's not just that it's all about her and it's gonna be her

CLOSING ARGUMENT: BY MR. SPRINGS

596

1 way but there's -- Did you catch the coldness in her voice?
2 Said she never ever ever had a gun. Never had a gun.

3 Let's go over just a few things, I'm hungry too, that
4 the defense brought up in the two hours they spoke to you.
5 Ms. Talford inside or outside, talking to the police inside
6 or outside, opening the doors stepping out to talk to them,
7 talking to them inside. Officer Reid I think she was
8 inside maybe outside. What difference does it make? She
9 talked to the police again. She's a liar we're gonna come
10 up with a conspiracy theory. She's conspiring with this
11 totally strange guy out in the parking lot, Stephen
12 Sinclair. And then we got this big conspiracy they got
13 together. Stephen Sinclair found out about what had
14 happened from her. Well listen to the 911 call. He lays
15 it all out in detail while she's inside there locked inside
16 the store. Yeah a guy came up. While she was waiting on
17 the police a man came up an elderly man comes up. People
18 do that at convenient stores sometimes. They like to come
19 up and open the door and buy something. She tells him to
20 go away. The doors locked. Sinclair is out in the parking
21 lot. The police arrive he gets interviewed, at some point
22 his exwife presumably picked up the boys. Oh but Ms.
23 Talford didn't see the boys. It's all a big conspiracy.
24 So she's just decided this convenient store clerk and her
25 manager let's cook all this stuff up. Let's just cook it

CLOSING ARGUMENT: BY MR. SPRINGS.

597

1 all up. Ninety-four dollars was involved here let's all
2 come to court and spend a week in court just to make
3 something up about a total stranger. Shame on them calling
4 all these people liars.

5 The store people didn't want to talk to Mr. Atwater.
6 What a shock. The defense attorney for the alleged armed
7 robber wants to talk to the store people and they're not
8 warm and fuzzy about it. What a shock. They did interact
9 with him; they may have found him the most unpleasant man.
10 Who blames them for not talking to him. So the defendant
11 Ms. Dumas she parked somewhere else. She wouldn't have
12 park around by the dumpset. No she parked over here so she
13 didn't go by Sinclair. Sinclair is just a bald face liar,
14 he just for the fun of it made all this up when he called
15 911 and came to court, took time off from work, just made
16 all that up to get a total stranger in trouble. Made it
17 all up. We're back to the twilight zone aren't we?

18 A Hundred Dollars, the Hundred Dollars. Oh the clerk
19 finally admitted if I'd put a hundred dollars up there to
20 get my gas she would have dropped it right away. But she
21 didn't come in there for gas. That's what's called a red
22 heron. A Hundred Dollars for gas, a Hundred Dollars for
23 gas she would have dropped it. She would have taken it. I
24 would have left it there. Yeah but Connie Dumas didn't
25 come in there to get change. She didn't lay a Hundred

CLOSING ARGUMENT: BY MR. SPRINGS

598

1 Dollars up there. She came in there to rob the store and
2 she robbed the store.

3 And then he goes into those fingerprints. What's that
4 all about? She's admitted she's in there. She says that's
5 me on the video. Admits she's in the store. But there are
6 no fingerprints. Why? Just to be argumentative? And then
7 Shirley Rosborough-Taylor is a liar, she's just a liar -
8 the teller. She's just a liar, she came over here to liar
9 about the woman coming in the bank. And again what
10 difference does it make if she came into a bank? She
11 didn't rob the bank. The bank didn't call the police and
12 say a woman that robbed some other place was in the bank.

13 Then goes on and on about the Two Dollar bill. The
14 Two Dollar bill. No evidence that she ever touched it.
15 Although she got on the witness stand and said she took all
16 her cash out of the drawer where the Two Dollar bill was.
17 I don't get it. Why? And then the forensic's guy who
18 processed the scene he's not here. Is that a conspiracy?
19 George Weeks who didn't lift any fingerprints, who was out
20 on a another crime scene yesterday, that's a big conspiracy
21 too.

22 You folks represent York County. For some of you this
23 is the most important thing you've ever done so far;
24 judging this case, judging the facts. You are the judge of
25 the facts. You judge her conduct. This is the judge of

CLOSING ARGUMENT: BY MR. SPRINGS

599

1 the law.

2 (INDICATING TO THE BENCH.)

3 MR. SPRINGS: You're like an umpire, you don't choose
4 sides, you don't feel sorry for one side or the other.

5 When an umpire for the Braves says they've had some bad
6 years I'm gonna go ahead and I'm gonna call those -- I'm
7 gonna call those as fair, fair balls. I'm gonna help them
8 out a little. It would horrible. We'd all be offended.

9 We'd be just as offended if you came in here and said I
10 feel sorry for one side or the other I'm going to ignore
11 what the reality is. Be a good umpire. You're not judging
12 her sole or whether she's a nice person or a bad person.
13 You're judging her conduct, you're judging those facts.
14 Just be a umpire and call it as you see it.

15 The standard is beyond a reasonable doubt. That's not
16 beyond all doubt. Although when you've got this lady
17 saying the defendant robbed me at gun point and you got Mr.
18 Sinclair in the parking lot saying she's running out with
19 the money and the gun and she's confessed twice to the
20 police and she's on video I'd say that's pretty much beyond
21 all doubt. But the standards are reasonable doubt. And
22 there's been all kinds of definitions of reasonable doubt
23 that Judges have given jurors over the years. The one that
24 is fashionable now it says a reasonable doubt is the kind
25 of doubt that causes you to hesitate to act. It doesn't

CLOSING ARGUMENT: BY MR. SPRINGS

600

1 mean we don't want you to go back there and sit down, maybe
2 order lunch -- I'll give you an inside tip, it takes almost
3 an hour to get lunch here -- sit it down and deliberate.
4 We want you to do that hesitation. Sit down and talk about
5 it, sit down and talk about what are the chances she didn't
6 rob the One Stop when the movie said she robbed the One
7 Stop, the clerk says she robbed the One Stop, Mr. Sinclair
8 says she robbed the One Stop and she herself on that day
9 confessed she robbed the One Stop. Ask yourself what are
10 the chances that she didn't rob the One Stop with a gun.
11 If you do that, evaluate that, evaluate that behavior,
12 those facts, you will do your job as a juror and follow
13 your oath and you can do it. You were all ask repeatedly
14 can you do this, can you judge this case? And you all told
15 Judge Burch you could. At one point the defense attorney
16 made fun of Ms. Talford. She wasn't scared. She wasn't
17 scared.

18 (911 AUDIO PUBLISHED TO THE JURY.)

19 MR. SPRINGS: She was scared. She had a total
20 stranger point a gun at her and she looked down a barrel of
21 a gun and didn't know if a bullet was going to crash into
22 her body and kill her. She didn't know if she would ever
23 see her family again. Yeah she was scared. This is
24 serious stuff. There is a difference between armed robbery
25 like this and murder. It's three eights of an inch. It's

CLOSING ARGUMENT: BY MR. SPRINGS
CHARGE OF THE COURT

601

1 the pull of a trigger. You go back there and you tell this
2 woman you're not going to tolerate this. That's all I
3 have.

4 THE COURT: Mr. Foreman, ladies and gentlemen of the
5 jury, I need your attention at this time. What I have to
6 say because this is the charge of the law my duty under the
7 Constitution of this state charges I instruct you the law
8 applicable to this case. It is your duty as jurors to
9 accept apply the law as I state it to you. It is your
10 exclusive duty to decide all the issues of fact in this
11 case and for that purpose to determine the effect, the
12 value, the weight, and the truth of the evidence. Both the
13 State and the Defendant have a right to expect that you
14 will consciously consider and evaluate the evidence and
15 apply the law in the case thereto to the end that both the
16 State of South Carolina and the Defendant will receive a
17 fair and impartial trial in this case.

18 As you are already aware the State of South Carolina
19 by the bills of indictment charge the defendant, Connie
20 Murray Dumas, the offenses of armed robbery and the
21 possession of a firearm during the commission of a violent
22 crime. To the charges the defendant has entered a plea of
23 not guilty. The plea of not guilty by the defendant places
24 the burden of proof on the State to prove by evidence the
25 guilt of the defendant beyond a reasonable doubt before you

CHARGE OF THE COURT

602

1 the jury can find the defendant guilty.

2 The defendant is presumed in law innocent of the
3 charges contained in the indictments. It is the cardinal
4 and fundamental rule of the law of evidence that a
5 defendant irrespective of the enormity of the charge
6 against him or her will always be presumed innocent of the
7 crime for which he or she is indicted unless and until the
8 guilt of the defendant has been proved by evidence that
9 satisfies you the jury of her guilt beyond a reasonable
10 doubt. The presumption of innocence is not a mere legal
11 theory, it is not just a legal phrase. The presumption of
12 innocence is the substantial right which every accused is
13 entitled and our Appellate Court's have declared the
14 presumption of innocence is like a robe of righteousness
15 placed about the shoulders of the defendant and it remains
16 with him or her and assigns him or her to that class the
17 innocent until that presumptive robe of righteousness has
18 been stripped from the person by evidence satisfying you
19 the jury of the guilt of the defendant beyond a reasonable
20 doubt. The presumption of innocence accompanies a
21 defendant from the time of her arraignment and appearance
22 in court and continues with the defendant throughout every
23 stage of the trial and continues with the defendant after
24 you retire to the jury room to deliberate your verdict.
25 The presumption of innocence continues in existence to the

CHARGE OF THE COURT

603

1 benefit of the defendant until you the jury reach the
2 conclusion that the State has proved the guilt of the
3 defendant beyond a reasonable doubt.

4 Ladies and gentlemen, the State is not to require to
5 prove the guilt of the defendant beyond all doubt or beyond
6 every doubt but beyond a reasonable doubt. Proof beyond a
7 reasonable doubt is proof that leaves you firmly convinced
8 of the defendant's guilt. There are very few things in
9 this world that we know with absolute certainty and in
10 criminal cases the law does not require proof that over
11 comes every possible doubt. If based on your consideration
12 of the evidence you are firmly convinced that the defendant
13 is guilty of the crime charged you must find her guilty.
14 If on the other hand you think there is a possibility that
15 she is not guilty you must give her the benefit of the
16 doubt and find her not guilty.

17 If upon any issue of facts essential to conviction of
18 a verdict of guilty you have a reasonable doubt as to how
19 that issue should be resolved it would be your duty to
20 resolve that reasonable doubt in favor of the defendant.
21 Once again the defendant is not required to prove her
22 innocence but the State is required in law to prove every
23 essential element of the offense charged against the
24 defendant by evidence which satisfies you the jury of the
25 guilt of the defendant beyond a reasonable doubt before you

CHARGE OF THE COURT

604

1 can convict the defendant and find her guilty.

2 Now these two documents I have up here are what we
3 call Indictments. You will have them later on. I tell you
4 and charge you that they are not evidence and cannot be
5 considered by the jury as evidence in the case. An
6 indictment is the formal written instrument which contains
7 the charges against the defendant and serves as the formal
8 document by which the case is processed into the court.
9 Now during this trial each of you, and I, have certain
10 duties to perform. As the trial judge it is my
11 responsibility to preside over the trial of the case and I
12 have the duty to rule upon or pass upon admissibility of
13 evidence offered during the progress of this trial. You
14 are to consider only the competent evidence before you and
15 you are to disregard and disabuse from your mind any
16 testimony ordered stricken from the record of this case
17 during the progress of the trial, if there be any, and you
18 are to consider only the testimony which has been presented
19 from the witness stand together with any exhibits admitted
20 into the record of this case and any stipulation of counsel
21 made into the record if there be any. I have the
22 additional duty to charge you the applicable law of the
23 case. As the presiding judge I am the sole judge of the
24 law of the case and it is your duty to accept and apply the
25 law as I state it to you. If you have a preconceived idea

CHARGE OF THE COURT

605

1 as to what the law is or what the law ought to be in the
2 case and it should not agree with what I tell you the law
3 is you are obligated under your oath to abandon this
4 preconception on your part because you are sworn to accept
5 the law precisely as I state it to you.

6 In every case tried in this court before a jury the
7 jury becomes the sole and exclusive judge of the facts in
8 the case. You the jury are the judge of the facts in the
9 case and the court is the judge of the law. The
10 Constitution of the state has declared that the trial judge
11 shall not intimate, state, comment upon, or make any
12 statement to a trial jury about the facts in a case. Since
13 you are the sole judge of the facts you are not to infer
14 from anything that I said during the progress of this trial
15 in ruling upon admissibility of evidence or otherwise or
16 anything that I say during the course of this charge to you
17 that I have an opinion about the facts in the case. I'm
18 not allowed to have an opinion about the facts in the case
19 under our law and it is a matter solely for you the jury to
20 determine. As jurors then it is your duty, your exclusive
21 duty, to determine as I have stated to you the effect, the
22 value, the weight and the truth of the evidence presented
23 during the course of this trial.

24 Necessarily then you must assess the credibility of
25 the witnesses who have testified in the case. Credibility

CHARGE OF THE COURT

606

1 is simply a legalistic term which means the same thing as
2 believability. It becomes your duty then to analyze and
3 evaluate that evidence and determine that evidence which
4 convinces you of it's truth. I charge you that in
5 determining the question of the credibility or the
6 believability of the witnesses you may believe one witness
7 as against several witnesses or several witnesses as
8 against one witness. You may believe a part of the
9 testimony of a witness and reject the remaining part of the
10 testimony of that same witness. You may believe the
11 testimony of a witness in it's entirety or reject the
12 testimony of a witness in its entirety. You may consider
13 whether any witness has exhibited any interest, any bias,
14 or any prejudice in the case. You also may consider the
15 demeanor of a witness and the appearance of a witness from
16 the witness stand. Often I tell jurors in regards to
17 credibility and believability you can do an analysis. Who
18 has the most reason to tell you the truth? Who has the
19 most reason to tell you a lie? That you the jury have to
20 determine from the facts and the testimony presented to you
21 in this case.

22 Now, in doing so the law simply requires that you
23 exercise your good judgment, your common sense, your sense
24 of logic and reason, and your experiences in life. I
25 always tell my jurors you do not leave your common sense at

CHARGE OF THE COURT

607

1 the courthouse door. You apply all those attributes and
2 your abilities to determine the truth of the evidence and
3 the true state of facts all to be determined by you and you
4 take the law as I apply it to you and thus arrive at true
5 verdicts in the case.

6 Now I'm gonna give you some more specific charges.
7 Now as I told you the indictments are for armed robbery and
8 possession of a firearm during the commission of a violent
9 crime. I charge you Section 16-11-330 of the Code of Laws
10 of the State of South Carolina 1976 as amended. It's
11 entitled robbery while armed with a deadly weapon. It
12 comes from SubSection A. A person who commits robbery
13 while armed with a pistol, dirk, sling shot, metal
14 knuckles, razor or other deadly weapon or while alleging
15 either by action or words he or she was armed while using a
16 representation of a deadly weapon or any object which a
17 person present during the commission of the robbery
18 reasonably believed to be a deadly weapon is guilty of
19 armed robbery. I charge you that a firearm is a deadly
20 weapon.

21 Let me speak with you about criminal intent. Criminal
22 intent is a state of mind that operates jointly with an act
23 or omission of commission of a crime. Criminal intent is a
24 mental state of conscious wrong doing. Intent includes
25 those consequences which, A: Represent the very purpose for

CHARGE OF THE COURT

608

1 which an act is done or, B: Or known to be substantially
2 certain to result regardless of desire.

3 Other charge: Possession of a firearm during the
4 commission of a violent crime. Section 16-23-490 of the
5 Code of Laws of the State of South Carolina as amended,
6 let's see, was amended from 1976. In other words the same
7 -- it's the same statute of our Code of Laws. 16-23-490
8 makes it illegal to possess a firearm or visibly display
9 what appeared to be a firearm during the commission of a
10 violent crime. Section 16-160 provides that a violent
11 crime includes the offense of armed robbery. For you to
12 find the defendant guilty of this separate statutory
13 offense of possessing a firearm during a violent crime you
14 must first find the defendant guilty of the violent crime.
15 In this case it would be the armed robbery. If you find
16 the defendant guilty of the armed robbery or you must
17 determine whether the State has proved beyond a reasonable
18 doubt that the defendant was in possession of a firearm or
19 visibly displayed what appeared to be a firearm during the
20 commission of a armed robbery. As used in Section 16-23-
21 490 in the South Carolina Code a firearm is defined as a
22 machine gun, automatic rifle, or revolver, pistol, or any
23 weapon which will or is designed to or may be readily
24 converted to ex-sell a projectile.

25 Now as to the defenses that have been raised in the

CHARGE OF THE COURT

609

1 case I need to charge you some law. A defendant cannot be
2 guilty of robbery in forcibly taking his or her own
3 property from another person. This means that the
4 defendant cannot rob another person by taking property that
5 belongs to the defendant because the taking by the
6 defendant of his or her own property would not be larceny.

7 I charge you a mistake of the fact which negates the
8 existence of a mental element of the offense or offenses
9 will preclude a conviction. If the particular offense is a
10 general intent crime the mistake of fact must be
11 reasonable.

12 Now let me talk a little bit about statements. I
13 think in listening to this particular one there's been two
14 statements mentioned. While the Court determines the
15 admissibility of evidence you the jury must determine the
16 existence of voluntariness and weight of any alleged
17 statement made by the defendant. You must make the
18 ultimate determination of whether or not the defendant did
19 in fact make the alleged statement. If you determine that
20 the defendant made the statement you must then determine
21 whether the statement was made voluntarily. Finally you
22 will decide what weight if any should be given to any
23 alleged statement. You must determine whether the alleged
24 statement was a product of an essentially free and
25 unconstrained choice by its maker. The State must prove

CHARGE OF THE COURT

610

1 the voluntariness of a statement beyond a reasonable doubt.
2 If you determine beyond a reasonable doubt that the
3 statement was given freely and voluntarily then you may
4 give the statement such further consideration as you deem
5 proper. If you determine that the alleged statement was
6 not the freely and voluntarily willed expression of the
7 defendant then you should not consider the statement as
8 evidence. In determining whether a defendant's will was
9 over come in obtaining a statement the law requires you to
10 consider what is known as the totality of the
11 circumstances. You should consider both the
12 characteristics of the defendant and the circumstances
13 surrounding any questioning or interrogation. Some of the
14 factors in the law says you may consider are the age of the
15 defendant, the defendant's educational background, the
16 defendant's mental ability or capacity, and the defendant's
17 background along with all the other facts and circumstances
18 surrounding the making of the alleged statement. You may
19 take into consideration the conduct of the accused, age,
20 maturity, physical conditions, length of any custody or
21 detention, police misrepresentation; you may take also into
22 consideration the repeated and prolonged nature of the
23 questioning, exertion of improper influence and the use of
24 physical punishment such as the deprivation of food or
25 sleep.

CHARGE OF THE COURT

611

1 In determining the voluntariness of any alleged
2 statement you should consider whether the defendant was
3 advised of and understood his or her constitutional rights.
4 The law requires that before any interrogation or
5 questioning of a person in custody may begin law
6 enforcement must advise the accused of the Miranda Rights.
7 This means that the authorities advised the accused, that
8 the accused has a right to remain silent, that any
9 statement could be used against the accused in a court of
10 law, that the accused has the right to have a lawyer
11 present, that if the accused cannot afford a lawyer then a
12 lawyer would be appointed to represent him or her without
13 any cost. And that the accused could stop making a
14 statement at any time. Other factors to consider are the
15 place and length of any detention and the nature of the
16 questioning. You must carefully scrutinize all of the
17 surrounding circumstances before you give any weight to an
18 alleged statement. You must be satisfied beyond a
19 reasonable doubt that the statement was made by the
20 defendant uninfluenced by promise or reward or threat or
21 harm. If you find beyond a reasonable doubt that any
22 alleged statement was given voluntarily then you must
23 decide what weight if any should be given to the statement.
24 If you find the statement was not voluntary then in that
25 event you must not consider the statement as evidence for

1 any purpose.

2 Now, back to intent. There was a misstatement made
3 somewhere in the closing arguments about intent. I need to
4 make sure we're clear on that. Intent in committing a
5 crime can happen instantaneously. It doesn't have to be
6 performed in any particular amount of time and I didn't
7 want you to be misinformed about that. In other words
8 intent in a particular crime can occur seconds before it
9 happens to occur. Or it can occur hours but you have to
10 determine that from the evidence. I did want to clarify
11 that statement.

12 All right, let me double check to make sure I've
13 gotten everything up to this point I wanted. I had to go
14 to several different sources here.

15 Ladies and gentlemen, you are not partisans or
16 advocates for the State of South Carolina or this
17 Defendant. You do not serve as jurors to reward friends or
18 punish enemies obviously such a perverted system of justice
19 would be intolerable in our society. You were selected by
20 both the State and the Defendant as fair and impartial
21 jurors; it is your duty then by your joint deliberations to
22 determine the truth in this case given to the defendant the
23 benefit of every reasonable doubt on each and every issue.
24 Then to the facts which you determine to be true then take
25 and apply the law which is has been given to you by the

CHARGE OF THE COURT

613

1 court and thus arrive at a verdict which does speak the
2 truth of the case. The word verdict which is a Latin
3 derivative means a true saying. When you have accomplished
4 these responsibilities you will have satirized your oath as
5 jurors and you will have discharged your duty to the court.

6 Let me speak to you at this time about the forms of
7 the verdict in this case. As you heard there are two
8 charges here; the last charge I went over with you about
9 the possession of a firearm. You cannot get into that
10 unless you have found the defendant guilty of the violent
11 crime that is contained therein that I explained to you of
12 that of armed robbery. So naturally that applies that you
13 would need to take the armed robbery deliberation first so
14 you can determine whether you need to go on to the
15 possession of a firearm charge. If the State has failed to
16 prove the guilt of the defendant beyond a reasonable doubt
17 your verdict would be two words - not guilty. If the State
18 has proved the guilt of the defendant beyond a reasonable
19 doubt your verdict will be one word - guilty. You will
20 have to enter verdicts on both of the indictments according
21 to the instructions I have given them to you and especially
22 considering the possession of a firearm.

23 I tell you that your verdicts will have to be
24 unanimous, that is each and every juror will have to agree,
25 unanimously agree on the verdicts that you authorize, Mr.

CHARGE OF THE COURT

614

1 Foreman, to write for the jury.

2 Mr. Foreman, the indictments have on the outside of it
3 down in the lower left corner is an area there entitled
4 Verdict. It will be your duty according to my
5 instructions, to enter the appropriate verdict once the
6 jury has reached a verdict, sign your name and date each
7 one of these indictments. Knock on the door and let the
8 bailiffs know that you have reached a verdict. While you
9 are deliberating should a juror need to step out of the
10 room for any reason, in other words, if you don't have all
11 twelve jurors present cease your deliberations until all
12 twelve are present. Somebody might need a bathroom break
13 or smoke break or whatever. Should you have a juror or
14 jurors that refuse to deliberate this case you immediately
15 notify me of such fact and I will step in and take
16 directive action. With that said I'm going to need the two
17 alternates to stay in a separate room from the twelve
18 regular jurors and we will keep you there pending the
19 deliberations in the case. I don't know exactly how long
20 but that has to be determined as things happen but we will
21 have to ask you to stay with us and we will also arrange
22 lunch for the two of you.

23 Should you have any problems, Mr. Bailiff, just knock
24 on the door, I mean, Mr. Foreman, there will be a bailiff
25 close by and,

CHARGE OF THE COURT

615

1 Mr. Bailiff, if you will stay close by in case the
2 jury has any problems; that they can knock on the door and
3 let the Court know of anything we may assist you with. I
4 ~~am going to ask you to step back here in just a second.~~

5 Please do not begin your deliberations until I send the
6 indictments along with the exhibits that are in evidence
7 back to you. Once the Clerk's staff and the Bailiff's
8 staff deliver those documents to you, you may begin your
9 deliberations. But do not deliberate this case until I do
10 that with the instructions for you to begin. I think I've
11 covered everything that I wanted to cover with you. I got
12 to check in with the attorneys one last time. As soon as
13 we've done and we've checked off the exhibits we'll get
14 them back to you.

15 Solicitor, we slipped one by you, we went ahead and
16 ordered lunch so it may be a few minutes or it may be an
17 hour but we've already ordered lunch so they'll be
18 delivering that to you hopefully in a few minutes.

19 All right, if you will follow the security bailiff
20 staff we need to put the two alternates in another room and
21 the other twelve in the regular jury room and hopefully
22 we'll have this back to you and you can begin your work
23 here in just a few minutes. You all follow the bailiff's
24 out.

25 (JURY LEAVING COURTROOM FOR DELIBERATIONS AT 01:05

1 PM.)

2 THE COURT: Gentlemen, anything for the record at this
3 time?

4 MR. ATWATER: Your Honor, only if you wish to step
5 back there and tell the jury that if they need to see the
6 video those are the things that you will make available.

7 THE COURT: Okay.

8 MR. ATWATER: I think it would probably be easier for
9 you to just walk back there and tell them versus bringing
10 them back in.

11 THE COURT: Any problem if we just have the Foreman
12 step back. I apologize.

13 MR. SPRINGS: Or we have the clerk write a note that
14 says if you want to see the video movie send us a note and
15 we'll send in a player or something like that.

16 THE COURT: Certainly.

17 MADAME COURT REPORTER: Judge, excuse me. I ask that
18 both attorneys check all these exhibits and make sure that
19 what they want to go back there goes back there.

20 THE COURT: If you all will do that then we'll get
21 that note back there.

22 (ATTORNEYS REVIEWING EXHIBITS.)

23 THE COURT: I don't see anything extraneous on the
24 indictments but you all probably want to take a look.

25 (ATTORNEYS REVIEWING INDICTMENTS.)

1 THE COURT: All right. You've got the indictments,
2 we've already got a note back from them. We'll need,
3 Sheriff, go back with the video they're already
4 wanting it.

5 THE BAILIFF: I'm fixing to take about seven of them
6 out to smoke so it'll be a few minutes before they...

7 THE COURT: Okay. Well I instructed them not to
8 deliberate unless their all twelve there. But you can go
9 ahead and get set up. This will be a Court Exhibit.

10 MADAME COURT REPORTER: Yes, sir.

11 THE COURT: All right, we'll stand at ease. Everybody
12 grab a bite right quick and we'll come back and do some
13 more work.

14 (COURT IN RECESS AT 01:15 PM.)

15 (COURT BACK IN SESSION AT 02:03 PM.)

16 THE COURT: I need Mr. Atwater and one of the
17 Solicitor's to step forward.

18 Mr. Springs, just a minute.

19 (BENCH CONFERENCE OFF THE RECORD AT 02:05 PM.)

20 THE COURT: You got that?

21 MADAME COURT REPORTER: No, sir.

22 THE COURT: Both sides of our case both consent to
23 send the aerial photograph back even though it wasn't in
24 evidence but everybody is in agreement. I certainly have
25 no problem with it.

1 Thank you, sir.

2 MS. THORNWELL: Thank you.

3 (COURT AT EASE AT 02:08 PM.)

4 ~~(BACK ON THE RECORD AT 02:51)~~

5 THE COURT: I need to talk to my trial attorneys.

6 We're fast getting into a critical time --

7 No more pleas.

8 I need Mr. Atwater if anybody knows where he is.

9 (COURT LEAVES THE BENCH.)

10 (PAUSE, THE COURT AND ATTORNEYS MEET IN HALLWAY WITH
11 THE JURY FOREMAN, OFF THE RECORD.)

12 (COURT RETURNS TO THE BENCH.)

13 THE COURT: All right, this is what we've agreed to
14 do. The jury has requested to see the video and we've
15 already arranged that and everybody's in agreement on that.
16 As soon as they watch the video they're going home for the
17 night, they will cease deliberations, going home tonight,
18 they need to be back here at 9:30 in the morning and they
19 will continue their deliberations at that time. Anybody
20 got any questions?

21 MR. SPRINGS: I would just add, that's pursuant to a
22 conversation we all, the Court and everybody --

23 MR. ATWATER: Everybody agreed to, Your Honor.

24 MR. SPRINGS: -- had with the Foreman out in the
25 hall and so there is no note or anything.

1 THE COURT: Okay.

2 MR. ATWATER: And, Your Honor, also Connie understands
3 the same thing you told her yesterday afternoon before she
4 left then all that applies to her even back here in the
5 morning.

6 THE COURT: That's right. Federal rules, marshals and
7 everything.

8 THE COURT: They busy enough.

9 MR. SPRINGS: The evidence, the Clerk will take it
10 tonight and gather all of it up and keep the custody of all
11 of the evidence from the jury deliberations? I guess we'll
12 get the wrong person.

13 MADAME CLERK: We'll keep it.

14 MR. SPRINGS: Okay.

15 THE COURT: Can you secure it for us?

16 MADAME CLERK: And bring it back.

17 THE COURT: All right. 9:30, see you all back then.

18 (COURT IN RECESS AT 03:30 PM.)

19 (COURT IS BACK IN SESSION ON FRIDAY, MAY 20TH, 2011 AT
20 09:30 AM.)

21 (JURY STARTS DELIBERATING AT 09:30 AM.)

22 (NOTE FROM JURY AT 10:20 AM.)

23 THE COURT: It won't take me but a minute or two, I
24 have a request from the jury.

25 Is Mr. Springs in here?

RECHARGE OF THE COURT

620

1 THE BAILIFF: He's just down the hall.

2 THE COURT: I need Mr. Springs and Mr. Atwater back
3 please. If I can just have you all have a seat on the
4 first row.

5 (PAUSE.)

6 THE BAILIFF: They're looking for him. Judge.

7 (PAUSE.)

8 (BENCH CONFERENCE OFF THE RECORD AT 10:23 AM.)

9 THE COURT: Madame Court Reporter.

10 MADAME COURT REPORTER: Yes, sir.

11 THE COURT: That will be a Court Exhibit. If I can
12 get the press just to move the leg back a little bit where
13 we can let this jury back in. You will be fine there if we
14 just let them have access to that row.

15 You all just move back one row.

16 (WHEREUPON: COURT'S EXHIBIT FOUR IDENTIFIED AND
17 MARKED, ENTERED INTO EVIDENCE.)

18 (JURY REENTERS COURTROOM AT 10:25 AM.)

19 THE COURT: Good morning. I am in receipt of your
20 note, Mr. Foreman.

21 MR. FOREMAN: Yes, sir.

22 THE COURT: Under our procedure when you send a note
23 in such as that I have to recharge you. We're not allowed
24 to send you written charges or statements back to you.

25 Section 16-23-490 of our Code of Laws makes it illegal

RECHARGE OF THE COURT

621

1 to possess a firearm or visibly display what appears to be
2 a firearm during the commission of a violent crime.

3 Section 16-1-60 provides that a violent crime includes the
4 offense of armed robbery. For you to find the defendant
5 guilty of this separate statutory offense of possessing a
6 firearm during a violent crime you must first find the
7 defendant guilty of the violent crime. If you find the
8 defendant guilty of the violent crime then you must
9 determine whether the State has proved beyond a reasonable
10 doubt that the defendant was in possession of a firearm or
11 visibly displayed what appeared to be a firearm during the
12 commission of the violent crime.

13 As used in Section 16-23-490 of the South Carolina
14 code a firearm is defined as any machine gun, automatic
15 rifle, revolver, pistol or any weapon which will or is
16 designed to or may be readily converted to expel a
17 projectile. Thank you very much, you may return to your
18 jury room.

19 (JURY EXITS COURTROOM AT 10:28 AM.)

20 THE COURT: Anything for the record from the State or
21 the Defense?

22 MR. SPRINGS: Nothing from the State.

23 MR. ATWATER: Nothing from the Defense, Your Honor.

24 THE COURT: Thank you. If you all will stand at ease
25 on that case we'll go back to the Sweat matter.

VERDICT OF THE JURY

622

1 (COURT AT EASE AT 10:29 AM.)

2 (NOTE FROM THE JURY AT 10:50 AM.)

3 (COURT BACK ON THE RECORD AT 10:50 AM.)

4 THE COURT: They did reach a verdict.

5 Step back please.

6 All right, I need the trial crew back.

7 (ATTORNEYS ENTERING COURTROOM.)

8 THE COURT: We got everybody?

9 MR. SPRINGS: I believe so.

10 (JURY ENTERING COURTROOM AT 10:52 AM.)

11 THE COURT: Madame Clerk.

12 (VERDICT/INDICTMENTS HANDED UP TO THE COURT.)

13 THE COURT: Madame Clerk, if you will publish the
14 verdicts.

15 MADAME CLERK: Indictment 2010-GS-46-3853 the State
16 versus Connie Murray Dumas Indictment for Armed Robbery,
17 verdict guilty, signed by the Foreperson dated today's
18 date.

19 Indictment 2010-GS-46-3854 the State versus Connie
20 Murray Dumas Indictment for Possession of a Firearm during
21 the Commission of a Violent Crime, verdict guilty, signed
22 by the Foreperson dated today's date.

23 Ladies and gentlemen of the jury, if that be your
24 verdict so say you all by raising your right hand.

25 Let the record show all jurors affirmed this verdict.

1 THE COURT: Anything further of the jury from the
2 State or Defense?

3 MR. SPRINGS: Nothing from the State.

4 MR. ATWATER: Nothing from the Defendant.

5 THE COURT: Mr. Foreman, ladies and gentlemen of the
6 jury, I thank you so much for your patience and the time
7 that you took to listen to this case and to deliberate.
8 It's been a long week for you and I really appreciate you
9 working with the Court's staff in completing this case.
10 Good news. It does complete the week; we won't be trying
11 any other jury trials this week because this is Friday. We
12 will stay here and work on some non-jury matters for the
13 rest of the day. The Clerk I understand has prepared the
14 expense checks for the week, she will distribute those to
15 you. I have started a guilty plea on another matter that
16 will complete before what I do what we call mitigation and
17 sentencing in this particular case. I welcome you to stay
18 if you so desire and watch the completion of the case that
19 you worked. It's going to take a few minutes for me to
20 complete that plea. I'm going to give the State and the
21 Defense that time to prepare for mitigation in the plea.
22 If you would like to leave that is fine. If you would like
23 to stay you are more than welcome to do so. You can remain
24 in the jury box, or you can sit back in the courtroom,
25 there are a few seats left but not too many, but I'll leave

1 that up to you. We will take just a brief stand at ease
2 and let the Madame Clerk take care of that where you can
3 secure the expense check and then if you would like to come
4 back in and be seated you are more than welcome to. Okay.

5 Anybody got any questions?

6 (NO RESPONSE.)

7 THE COURT: Thank you very much. If you would like to
8 stay please do so.

9 Madame Clerk will meet you out the door and if you
10 want to stay just let Mr. Bailiff know and he will get you
11 back in here.

12 (JURY EXITS COURTROOM AT 10:55 AM.)

13 THE COURT: Gentlemen, I'll get back to you as quick
14 as we can.

15 MR. SPRINGS: Yes, sir.

16 (COURT AT EASE AT 10:55 AM.)

17 (COURT BACK ON THE RECORD AT 12:16 PM.)

18 THE COURT: How about our trial? We got everybody
19 here that we need?

20 THE BAILIFF: Order in the courtroom.

21 THE COURT: We got some folks that want to be here
22 that are still five minutes out. I will go ahead and we'll
23 hear from the State's side and we'll hold up if they're
24 not here.

25 MR. SPRINGS: Let me see if I can get Mr. Atwater.

SENTENCE OF THE COURT

625

1 (PAUSE.)

2 THE COURT: Mr. Atwater, we got several people who
3 want to be heard. If they are not here by the time they're
4 through we'll hold up again.

5 MR. ATWATER: Thank you, Your Honor.

6 THE COURT: We need the defendant.

7 MADAME CLERK: She's supposed to sign the sentencing
8 sheet.

9 THE COURT: I think she needs to -- you need to talk
10 to her about signing that sheet. I don't know what you all
11 normally do about that.

12 (DEFENDANT ENTERING COURTROOM.)

13 (PAUSE.)

14 MR. SPRINGS: May it please the Court.

15 THE COURT: Yes, sir, Solicitor.

16 MR. SPRINGS: Your Honor, from the States side before
17 we got into the trial the Court ask the defense attorney
18 and myself to step back into chambers. The Court was
19 interested in what the plea bargain negotiations had been
20 before we got to trial and we relayed that to the court and
21 Mr. Atwater relayed that he had relayed those to Ms. Dumas
22 and that didn't happen. And I told the Court that I was
23 considering making a recommendation if we got to this
24 point. I'll say now after hearing all the testimony in the
25 trial I have no recommendation to make. I'll leave it in

SENTENCE OF THE COURT

626

1 the Court's good judgment. And we have to folks that want
2 to speak. The victim Clerk says she's too nervous to come
3 up and she wants her mother Teresa Talford to speak on her
4 behalf. And then the store management person, Judy
5 Ashdown, would want to speak, so this is Teresa Talford the
6 mother of the store clerk.

7 TERESA TALFORD: Thank you, Your Honor. I just wanted
8 to speak to the Court and I also wanted to let Ms. Dumas
9 know, you know, my daughter's young, at that time she was
10 twenty, very young, you know, one year in college, working
11 trying to make a living. And when you get a call from your
12 husband saying that, you know, your child's at work and
13 she's just been robbed by a person with a gun the first
14 thing you ask is she okay. Thank God that she's okay. I
15 just want to let her know that it's not okay. You just
16 can't go in and threaten somebody's life. She has
17 children, I have children, in an instant my child's life
18 could have been taken from her and we wouldn't be standing
19 here. She wouldn't be here, you know, to say I'm scared I
20 can't speak for myself, you know. And I understand that
21 she has children but I do too. That's my child and it's
22 wrong. She did something very wrong and she tried to come
23 in here and make it seem like my child stole something from
24 her. That's not right. That's not right. And I
25 understand she was in -- she to me would have been coming

SENTENCE OF THE COURT

627

1 in and saying, you know, I'm stressed I have these problems
2 and, you know, I'm sorry, you know, just take that into
3 consideration. But to turn it around and make my child the
4 victim? No. I'm not okay with that. And I just want to
5 let her know that I'm standing here today and I'm standing
6 here for my child, that she can't stand here and face this
7 woman that threatened her life. And, you know, that's just
8 basically all I have to say.

9 THE COURT: Thank you for being here.

10 MR. SPRINGS: Ms. Ashdown.

11 MS. ASHDOWN: Your Honor, I handle seventeen different
12 convenient stores, I've been in this business all together
13 for twenty-eight years. I have buried two people because
14 of people like Ms. Dumas where they did go further than she
15 did. And I would like you set the example with her to show
16 other people that if they come in and they rob our stores,
17 you know, they're gonna get a long sentence if they're
18 convicted. And use her as an example. Thank you.

19 MR. SPRINGS: That's all we have.

20 MR. ATWATER: Your Honor, can I check outside and see
21 ...

22 THE COURT: If not we can go ahead with your statement
23 and we'll hold up whenever we need to.

24 (PAUSE - ATTORNEY ATWATER LEFT COURTROOM BRIEFLY.)

25 THE COURT: Is she here?

SENTENCE OF THE COURT

628

1 MR. ATWATER: I believe they're coming, Your Honor.

2 Your Honor, May it please the court, as you are aware
3 I represent Ms. Dumas and have done so since these charges
4 were given. I met Connie Dumas prior to that because I
5 represented her for another matter and I know her and her
6 family very well. I know her history and I can tell you,
7 Your Honor, that I have never ever ever prior to this or
8 since then seen anything like this in Connie's history
9 whatsoever. I do know that Connie has had some troubles
10 with her nerves and those types of things and that's why
11 she's been on some of the medications that she's been on
12 for a pretty long time. But she -- She is a good mother
13 and dedicated mother; she was a full time employee mother
14 and a student at the time before she was involved in the
15 accident that happened not too long before this incident.
16 She has been a long time -- not only a full time mother but
17 a long time care giver, Your Honor. And this incident that
18 the jury has found her guilty of is so far out of character
19 of the person that I know that I think it's very important
20 that the Court know a lot more about her than what they
21 heard in this trial.

22 Your Honor, she has a daughter, Kiara, who will be
23 graduating from high school next month that she has helped
24 get to this point. Kiara was in the international
25 Baccalaureate program and it has been as you know, Your

SENTENCE OF THE COURT

629

1 Honor, taking her exams this past week. And I hope that
2 this hasn't but we believe that it's had an effect on her
3 during that time. She's supposed to be in concert this
4 evening, Your Honor. Connie has helped Kiara all through
5 elementary, junior high and high school with her studies
6 and to be able to get to the point that she's at now, so
7 anytime whatsoever that she's going to be absent from the
8 life of not only Kiara but Darius and Kayla as well as
9 going to be just a devastation to that family. Anything I
10 say, Your Honor, I'm not saying in apposite to the comments
11 that have been made from the Solicitor's witnesses.

12 Your Honor, obviously the choice to -- of what is done
13 during a trial itself and there are people who have taken
14 exception, great exception, Ms. Ashdown for example told me
15 yesterday that she doesn't know how I even sleep at night.
16 The people who take great exception to a lot of the things
17 that they're talking about in here today a lot of that
18 animosity is coming from me doing my duty of very very
19 intelligently representing Connie based upon the evidence
20 as I found it in this case. Your Honor, we were -- as
21 you're aware we spoke before this case as E.B. pointed out
22 and there was an offer a while back for an attempted
23 robbery and that went off the table after we had our first
24 trial, there was never anything after that. And the first
25 trial in itself shows that twelve good people can sit

SENTENCE OF THE COURT

630

1 around and find a lot to doubt about this case. It went
2 through the same process that it did this time, so this is
3 not just a situation where although this jury has come to a
4 different decision it's that clear cut to people who are
5 looking at it from the outside. And especially someone
6 like myself who's meant to be an advocate and has a duty to
7 do what it is they do in order to be able to make sure you
8 and the jury actually or are able to test and weigh the
9 evidence the way it's supposed to be. A person should
10 never be punished, Your Honor, simply because they exercise
11 their constitutional rights. Especially in a case where,
12 you know, as in this one we've had a trial before and it
13 wasn't able to be decided by a jury of twelve.

14 Your Honor, we apologize to Ms. Talford and to Ms.
15 Ashdown and to anyone else in this process who has taken
16 offense to my defense of Connie. My job as you are aware
17 and imminently aware and so is E.B. is to seek the truth in
18 these trials and when evidence has been given to me in the
19 manner in which it appears that there should have been a
20 lot more I have an absolute duty to point out the fact that
21 we're missing something and to make that known to the
22 court. So I'm gonna leave that alone, Your Honor, but
23 there's a lot of reason why this case went to a trial. And
24 the fact that it went through one already and came to now I
25 think supports that.

SENTENCE OF THE COURT

631

1 In regards to Ms. Talford, I understand as a father
2 and Connie understands as a mother the care we have for our
3 children. I've been a single father for twelve years and
4 Connie's been with her family. If Ms. Talford took it
5 personal that I said that I didn't believe Connie took this
6 money and that it came up missing I would like to point out
7 that we tried this case before with less video than we had
8 this time. And as in this case we actually saw a person
9 who came there in between which could have pointed out to
10 the jury that maybe somebody slipped this off the counter.
11 We don't know whatsoever. But the long and the short of it
12 is she shouldn't be found -- she shouldn't be punished as
13 they are asking for her to do simply because of what I did.

14 Now, Your Honor, she's here today with her husband,
15 Bursha, as you've heard they've been married for over
16 fourteen years. Bursha was a sheriff's deputy up in
17 Cleveland, Ohio. He's a hard working and dedicated father
18 who is now left with three children to figure out how he's
19 going to take care of with the absence of the mother and
20 that's going to be pretty tough. He's been here in support
21 of her, Your Honor, from the very outset of these charges
22 and sat through the first trial and this one and I'd like
23 to give him an opportunity to speak for a moment, Your
24 Honor.

25 THE COURT: Sure.

SENTENCE OF THE COURT

632

1 A. Bursha Dumas.

2 THE COURT: Yes, sir.

3 MR. DUMAS: Good morning, Your Honor. As he said I'm
4 an ex-deputy sheriff from Ohio. Also, you know, we've been
5 married fourteen years and as a deputy sheriff I know she
6 knows better, knew what the charges are. Didn't have no
7 reason to do what they say she did because we wasn't having
8 no problems. The ninety-four dollars she needed, ninety-
9 four dollars or anything so I just can't believe that this
10 would happen. I wish you could be lenient because like you
11 said I'm left with three kids. We're from Ohio I'm kind of
12 stuck right now.

13 THE COURT: I understand.

14 MR. DUMAS: Yeah. And I just don't believe that it
15 happened like that.

16 THE COURT: Thank you for coming back.

17 MR. DUMAS: Thank you.

18 MR. ATWATER: Bursha, is Kiara and your grandmother
19 here yet?

20 MR. DUMAS: They said they was almost here. They was
21 on 901, York Highway or whatever, which ever highway that
22 is, about ten minutes.

23 THE COURT: Anything she would like to say?

24 MR. ATWATER: Yes, Your Honor.

25 THE COURT: Be glad to hear from you. But before you

SENTENCE OF THE COURT

633

1 speak you may want to confer with counsel because you have
2 various rights that I'll speak with you a little later, one
3 of those is the Appellate rights and I want to discuss that
4 with you.

5 Counsel, anything you need to discuss with her before
6 she - -

7 MR. ATWATER: I did talk with her in the back, Your
8 Honor, but if I could just have one moment.

9 (PAUSE AT 12:35 PM.)

10 THE COURT: Anything you would like to say?

11 MS. DUMAS: Well, Your Honor, I would like to just say
12 that if anybody was emotionally hurt, anything during this
13 I apologize to them, to the court for their time. I also
14 don't quite understand the charges that they brought to me
15 but, uh, but I don't know how my husband is going to
16 survive because I'm the one that's done most of the child
17 rearing as he works a lot. And even with their homework
18 and different things. I was one semester away from
19 graduating from Winthrop. I have no reason to throw away
20 my life. My daughter is scheduled to go to orientation May
21 30th at USC. She didn't know how to get there I usually
22 take her. I just ask for the court's mercy.

23 THE COURT: And I think I understood from the
24 testimony one time you were a school teacher?

25 MS. DUMAS: Yes I was. I went to college first for

1 earlier childhood education but it was pre-kindergarten.

2 THE COURT: And then you worked for UPS?

3 MS. DUMAS: I worked for UPS when we first moved down
4 to Charlotte. That was the jobs they had in the paper and
5 it was pretty easy, something that you could get. And then
6 I worked for Cabarrus County schools in Concord and never
7 had any problems. When we moved to Rock Hill that distance
8 being so far, they had other certifications you would have
9 to go through to be -- for this state to be a teacher so
10 what I did is I started substitute teaching for the county
11 and educational staffing for Rock Hill District Three and I
12 did that for the first year South Pointe opened up, working
13 there and some of the other high schools. There was a lot
14 of people who didn't want to deal with the middle and high
15 school students. I actually found it enjoyable because I'm
16 close with my teenagers. I have always stressed to them
17 the importance of never lying, stealing, cheating in any
18 way because that's how I was brought up. I would have
19 gotten in big trouble so I didn't -- which is why to my
20 defense me and my attorney is that I thought the money I
21 had was mine. I didn't try to take anything from anyone.

22 MR. ATWATER: Sylvia, can you come up here please.

23 Sylvia Murray, Your Honor, this is her mother.

24 THE COURT: Her mother?

25 MR. ATWATER: Yes, Your Honor.

SENTENCE OF THE COURT

635

1 THE COURT: Ms. Murray, would you like to come around?

2 A. Sylvia Murray. I'm Connie Dumas' mother. And I would
3 just like to ask the court I don't know what she's facing

4 or whatever; take into consideration she's been an
5 upstanding person throughout most of her life. Her
6 birthday is next Friday. Excuse me. She's been an
7 outstanding person most of her life. She's a senior at
8 Winthrop University and if she hadn't gotten into that real
9 bad car accident she would have graduated college by now.
10 She's a psychology major. I would just like to ask the
11 court if you could take into consideration her outstanding
12 life that she's lived these last forty-one years.

13 THE COURT: Thank you for being here.

14 SYLVIA DUMAS: She's my only child.

15 THE COURT: Thank you.

16 MR. ATWATER: Jessica Dumas, do you want to speak?

17 Your Honor, this is Jessica Dumas, she's Connie's
18 first cousin. Connie actually helped raise her.

19 THE COURT: Ms. Dumas.

20 JESSICA DUMAS: How are you doing? I'm Jessica Dumas,
21 Connie is my first cousin. She's been a mother for me for
22 my entire life. She took me at six months old and raised
23 me. Everything good about me; I been on my own since I was
24 eighteen, I been at the same job since I was eighteen never
25 been in any trouble I don't have a record I graduated from

SENTENCE OF THE COURT

636

1 high school I played sports because she pushed me. I mean
2 to take on someone else's responsibility to raise a child
3 as their own is remarkable in itself. She didn't have to
4 do that. I'm twenty-three, I'm twenty-three tomorrow and
5 she's been there everyday of my life. When I had surgery
6 she was there; when I woke up from surgery she was the
7 first person. I just ask that you take that into
8 consideration as a person she is. I don't know, I don't
9 know anybody better than that who would raise someone as
10 their own. Do you understand?

11 THE COURT: Thank you for coming forward.

12 JESSICA DUMAS: Thank you.

13 MR. ATWATER: Thank you, Jessica.

14 Your Honor, Connie raised Jessica since the death of
15 their grandmother.

16 Kiara Dumas.

17 Your Honor, this is Connie's daughter that has been
18 taking exams this week and is going to be graduating next
19 month and going down to the University of South Carolina.

20 THE COURT: Thank you for coming. I know you've had a
21 difficult week, hopefully it wasn't difficult with all - I
22 hope all these exams were successful but thank you for
23 coming back up here. Anything you would like to tell me?

24 KIARA DUMAS: My name is Kiara. I'm her oldest
25 daughter. She's all I have right now. I'm gonna start

SENTENCE OF THE COURT

637

1 school in fall and my father -- I don't know what I'm
2 supposed to do. I just need her around to help me out for
3 the orientation next week or anything. She's all I have
4 left and there is nobody else. She's never done anything.
5 Never done anything but try to go to school and try to
6 provide better for me and my brother and my sister.

7 MR. ATWATER: Thank you, Kiara.

8 THE COURT: Okay.

9 MR. ATWATER: Your Honor, Connie doesn't have any
10 prior record of having done anything like this whatsoever.
11 Obviously a jury of twelve have found her guilty and she
12 has to face the consequences of it and she's aware of that.
13 Your Honor, as you will remember prior to the trial we had
14 a meeting in your office where we talked about a few things
15 about going forward and E.B. pointed out back there or my
16 recollection of it was he would be -- he couldn't go with
17 what we were talking about but he would be recommending the
18 minimal sentence. I actually came out and talked to her
19 about that afterwards we had several conversations about
20 that throughout the whole trial. I personally made the
21 decisions during the trial where I relied upon that
22 representation although I know, Your Honor, that it's
23 always within your purview to do what you think in light of
24 all the evidence and in the light of all the mitigating
25 circumstances and everything else we would deem appropriate

SENTENCE OF THE COURT

638

1 we would ask, Your Honor, that you look at the fact that
2 Connie has no history of every doing anything like this
3 whatsoever and take that into consideration in your
4 leniency. Thank you, Your Honor.

5 THE COURT: All right before I complete this, Ms.
6 Dumas, I need to inform you on the record that you will
7 have ten days from sentencing which will be today to file a
8 notice of appeal if you desire an appeal in this matter.
9 That's something you will need to discuss with counsel.

10 Now let me say this, I've been in the criminal justice
11 system a total of forty-one years. Been on the bench
12 twenty. Believe it or not as young as a I look I'm a
13 senior circuit judge. Forty-one years now and let me say I
14 have seen a lot of cases from the different points of view.
15 From law enforcement, from the prosecution's side to the
16 defense side and from the bench side, and I have to say
17 this is one of the strongest cases I have ever seen
18 presented that actually went to trial. I've watched
19 history develop; I watched one side of the criminal justice
20 system start saying, you know, we ought not to convict
21 anybody unless we have them on video tape. Then everybody
22 starts putting in the video taping systems and they video
23 tape something. Then all of a sudden that's not enough.
24 We want more, we want more. Now we're seeing the DNA
25 because of all the TV shows. You got people on a certain

SENTENCE OF THE COURT

639

1 side of the criminal justice system saying oh we want DNA.
2 This touch DNA that's gonna solve all our problems. Well
3 in some cases DNA helps and in some cases it doesn't.
4 That's all according to the scenario you have. But you
5 know what? All of a sudden you got certain people in the
6 criminal justice system oh that's not enough. But I'm
7 gonna tell you what, as I said after forty-one years this
8 is the strongest case I've ever seen to the State's side
9 the evidence they have. I don't know what was going on.
10 I'm gonna tell you what I think happened here. I think
11 you've had a very, or had a very successful family.
12 Between you and your husband you were making good money
13 then this horrible recession set in. Like a lot of other
14 folks you might have been looking at losing things or
15 having to sell off things and you were living a pretty good
16 life. Then all of a sudden this recession set in that all
17 of us have suffered from and you couldn't take it. And you
18 panicked and you went out and you made that decision well
19 I'm not gonna let it slow us down and you made a horrible
20 horrible decision. And to your benefit I want to say I
21 want to believe that you went into that bank and maybe the
22 results that you were told by the teller triggered what
23 happened thereafter. I hope to my soul that you did not
24 initially go in there to rob that bank. But that doesn't
25 minimize things. You still committed an armed robbery

SENTENCE OF THE COURT

640

1 practically next door. But I think maybe putting common
2 sense together that that bank account negative amount may
3 have been the final straw that sent you over the edge.

4 Not only to the fact that we have a serious crime
5 committed here, but God only knows what would have happened
6 if Ms. Talford had not set that tray up on the counter.
7 How many times have we seen the tragedy that has happened
8 when there has been some resistance. And then you do have
9 the worst crime that can be committed to happen. Only the
10 Lord and you know what would have happened if she resisted
11 you. It is not a pleasurable experience to look down the
12 barrel of any firearm. I cannot pat you on the back and
13 say you deserve a minimal sentence because of your
14 background; in fact you have not record. But on the other
15 hand I can't say you deserve the maximum sentence either.
16 I don't think anybody in this courtroom thinks you deserve
17 the maximum sentence. But I do have to impose a sentence
18 on you. And I'm gonna tell you after all this I have to
19 say this morning what really bothers me the most about this
20 case and I've seen this develop since the O.J. Simpson
21 trial is the shifting of trials to where you try everybody
22 else and pass the blame to everybody else and it's caused
23 turmoil within the judicial system and there's not a whole
24 lot the trial bench can do to correct that. It's just a
25 way of life now. But the bottom line I'm getting to is the

SENTENCE OF THE COURT

641

1 worst thing that I heard by all this other than the
2 pointing of the pistol is an innocent person, probably not
3 making a whole lot of money, working in a convenient store,
4 and gosh all of you think about the number of convenient
5 stores you've seen close down in the last twenty years and
6 we all know why they closing down. Not gas problems.
7 People are petrified to go to work at a convenient store
8 any more and they're closing left and right. But anyway,
9 to turn and accuse Ms. Talford of in effect taking your One
10 Hundred Dollar bill was ludicrous. What made no sense to
11 me is if you needed change you had already according to
12 your own testimony gotten change over at the ATM. You had
13 all these Twenty Dollar bills, what was the purpose of
14 throwing a Hundred Dollar bill on the counter? The jury
15 probably saw that too. I don't know if it was mentioned
16 after that.

17 One other thing before I finalize this. Every case
18 that comes in this court is different. Apples and oranges.
19 We had one horrible case this morning that didn't involve
20 any intent. This particular case involves intent to the
21 deepest degree, so you can't compare sentences on one
22 person as against another when it comes to the crimes
23 because it is apples and oranges. Your family is gonna
24 need you.

25 And I'm not gonna throw the key away on you but the

SENTENCE OF THE COURT

642

1 sentence is gonna be severe because it is already geared to
2 be that way from the wisdom of General Assembly. I'm gonna
3 sentence you to eighteen years on the armed robbery. Five
4 years concurrent on the possession of a firearm. It's a
5 bad situation and I certainly hope everybody will make the
6 best of it. Thank you very much.

7 (DEFENDANT ESCORTED FROM COURTROOM.)

8 MR. SPRINGS: Could we have some court personnel to
9 escort our jurors out?

10 THE COURT: You all have a good weekend. Hope to see
11 you soon. You won't have to serve again this year but you
12 might have to serve next year.

13 (JURORS ESCORTED FROM THE COURTROOM.)

14 THE COURT: The sheriff's department bailiff, I know
15 Mr. Atwater probably wants to speak to his client a while
16 but do not let him leave this courthouse because he's got a
17 little explaining to do too.

18 (WHEREUPON: COURT'S EXHIBIT ONE ALSO STATE'S EXHIBIT
19 NINE, IDENTIFIED AND MARKED, ENTERED INTO EVIDENCE.)

20 (WHEREUPON: COURT'S EXHIBITS FOUR, FIVE AND SIX,
21 ENTERED INTO EVIDENCE.)

22 -- END OF TRANSCRIPT IN THE MATTER OF STATE VERSUS
23 CONNIE MURRAY DUMAS --
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 16th, 17th, 18th, 19th, 20th days of May 2011.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Wanda Nelson

Wanda Nelson, CVR
Certified Verbatim Reporter,
Official Court Reporter,
Notary Public in and for the
State of South Carolina
My Commission Expires:
01/21/2021

DATE: September 21, 2011

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF YORKConnie Dumas #346178
Full name and prison number (if any) of Applicant.

v.

State of South Carolina

2014CP46 - 1832
IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legally handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Leath Correctional Institution
2. Name and location of Court which imposed sentence York County, York, SC 29745
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2010 GS 4603853
 - (b) 2010 GS 4603854
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 5-20-2011 18 years
 - (b) 5-20-2011 5 years

Revised 10/03

FILED-RECEIVED

APR 25 PM 2:06

DAVID HAMILTON
C.C.P. & G.S. SEC.
YORK COUNTY, SC

CERTIFIED TRUE COPY

2014 APR 25 PM 3:49

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ✓ _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes _____
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. State of South Carolina Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Conviction Affirmed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. 4-10-2013
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) I was not in possession of a weapon
 (b) My attorney was ineffective in securing witnesses
 (c) The State lost the original video surveillance
necessary to corroborate my testimony
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) A search was performed though without a warrant
 (b) My daughter, who was also (initially) State vs. Doctor
Testified by the detective in court was never a
witness for defense cont. on
attached
paper.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? yes
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? no
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? Writ of certiorari
 (d) any other petitions, motions or applications in this or any other Court? _____
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
 i. Writ of Certiorari
 ii. _____
 iii. _____
 iv. _____
- (b) the name and location of the Court in which each was filed:
 i. The Supreme Court of South Carolina
 ii. _____
 iii. _____
 iv. _____
- (c) the disposition thereof:
 i. Petition denied
 ii. _____
 iii. _____

- iv. _____
- (d) the date of each such disposition:
- i. January 23, 2014
- ii. _____
- iii. _____
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____
14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
- not presented in same
15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
- i. _____
- ii. _____
- iii. _____
- (b) the proceedings in which each ground was raised:
- i. _____
- ii. _____
- iii. _____
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) my attorney, Ms. Hackett, felt she used the
- (b) strongest issues
- (c) on appeal.
17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? no
- (b) your trial, if any? yes
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? yes

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

- i. Michael Atwater, 1470 Ebenezer R. Rock Hill, SC 29732
- ii. Susan B. Hackett, 555 B Lady Str Suite 401, 29201
- iii. _____

(b) the proceedings at which each such attorney represented you:

- i. trial and sentencing
- ii. appeal and writ of certiorari
- iii. _____

19. State clearly the relief you seek in filing this application:

For this court to set aside my conviction and if

20. Are you now under sentence from any other court that you have not challenged?

no

cont. →
on
attached
paper

STATE OF SOUTH CAROLINA)

County of)

VERIFICATION

I, , being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Connie Dumas

SWORN to and subscribed before me this 22nd
day of April, 2014.

Sandra G. Hall (L.S.)
Notary Public

My Commission Expires: Jan. 8, 2023

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, , hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Connie Dumas
Applicant

SWORN or affirmed to and subscribed before me this
22nd day of April, 2014.

Sandra D. Hill
Notary Public

My Commission Expires: Jan. 8, 2023

Continued from page 3

- 10.(d) Grounds for being held unlawfully:
my attorney did not investigate the lost of evidence favorable to the defendant and state withheld audio from police cruiser Lounds vs. State 2008.
- (e) My attorney Michael Attwater was in possession of my primary bank account information and check stubs, along with receipts which contradict the state argument that I need money for school clothes for my children. He never supplied the court with them.
- (f) My attorney did not make me aware of the fact that probation or time less than offered by the plea was not an option for the level of my charges.
- (g) Arguments between my attorney and the judge created a negative atmosphere in the courtroom.

- 11.(d) Facts which support each ground set:
Detective Waldrup said in court, that the video tape was "lost" from evidence and the state said police cruiser tape

was inaudible.

(e) My attorney never presented the evidence in court

(f) He told me that he didn't agree with the plea deal offered. Lesser included charges could get me probation he said, but they were not offered when jury asked for them. State v. Campbell

(g) Proof lies in my transcript, State v. Brinkley
My former attorney Michael Atwater has since been suspended from the practice of law. Told to me in a letter from his former partner Eric Davis, P.A. of 528 12th Street, W. Columbia, SC 29169 (803) 939-1340

19. Relief you are seeking in filing this application;

necessary award me a new trial.

If a new trial is not granted I am asking the court for a reconsideration on my sentence.

STATE OF SOUTH CAROLINA
COUNTY OF YORK

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

Connie Dumas, #346178,

2014-CP-46-1332

Applicant,

v.

RETURN

State of South Carolina,

Respondent.

In response to the post-conviction relief application filed on April 25, 2014, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the York County Clerk of Court's orders of commitment. The Applicant was indicted by the November 2010 term of the York County Grand Jury for Armed Robbery (2010-GS-46-3853) and Possession of a Weapon during the Commission of a Violent Crime (2010-GS-46-3854). Michael Atwater, Esquire, represented her. On May 20, 2011, the Applicant proceeded to a jury trial pursuant to which she was found guilty as indicted. The Honorable Paul M. Burch sentenced the Applicant to confinement for eighteen (18) years for Armed Robbery and five (5) years, concurrent, for the possession charge.

A notice of appeal was filed on Applicant's behalf and an appeal was perfected. The South Carolina Court of Appeals affirmed the Applicant's conviction and sentence. State v. Dumas, 2013-UP-150 (filed April 10, 2013). The Applicant then filed a Petition for Writ of Certiorari in the South Carolina Supreme Court on January 23, 2014. The Remittitur was issued on February 25, 2014.

II.

In her application for post-conviction relief the Applicant alleges that she is being held in custody unlawfully for the following reasons:

1. "I was not in possession of a weapon."
 - a. "A search was performed though without a warrant"
2. "My attorney was ineffective in securing witnesses"
 - a. "My daughter who was also arrested was never a witness for defense"
3. "The State lost the original video surveillance necessary to corroborate my testimony."
 - a. "Testified by the detective in court"
4. "My attorney did not investigate the lost(sic) of evidence favorable to the defendant and state withheld(sic) audio from police cruiser"
 - a. "Detective Waldrup said in court, that the video tape was lost from evidence and the State said police cruiser tape was inaudible"
5. "My attorney Michael Atwater was in possession of my primary bank account information and check stubs along with receipts which contradict the State argument that I need money for school clothes for my children. He never supplied the court with them."
 - a. "My attorney never presented the evidence in court"
6. "My attorney did not make me aware of the fact that probation or timelessness offered by the plea was not an option for the level of my charges."
 - a. "He told me he didn't agree with the plea deal offered. Lesser included charges could get me probation he said, but they were not offered when jury asked for them."
7. "Arguments between my attorney and the judge created a negative atmosphere in the courtroom."
 - a. "Proof lies in my transcript. My former attorney has since been suspended from the practice of law. Told me in a letter from his form law partner Eric Davis."

For the purpose of this Return, the Respondent incorporates the Clerk of Court records, and the South Carolina Department of Corrections' records, the appellate records and the trial transcripts. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

The Respondent asserts that the Applicant's allegation of ineffective assistance of trial counsel is without merit. The Respondent also asserts that the Applicant's attorney rendered

effective assistance well within the standard of reasonableness within professional norms for a criminal defense attorney.

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its reasonableness under professional norms. Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625, (citing Strickland v. Washington). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland v. Washington. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Second, counsel's deficient performance must have prejudiced the Applicant such that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. Id. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). In other words, where ineffective assistance of counsel is alleged as a ground for relief, the Petitioner must prove that counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result. Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests

an evidentiary hearing to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

The Applicant also alleges she was not in possession of a weapon. This allegation raises a direct appeal issue that is procedurally barred by S.C. Code Ann. §17-27-20(b) (2003). Post-conviction relief is not a substitute for a direct appeal. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on direct appeal. Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). The Applicant could have raised this issue at trial or on appeal. Her failure to do so has waived this allegation as a ground for relief. Therefore, the Court should summarily dismiss this allegation.

V.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

VI.

WHEREFORE, the Respondent requests an evidentiary hearing solely for the purpose of determining whether the Applicant's trial counsel was ineffective and whether the Applicant's appellate counsel was ineffective.

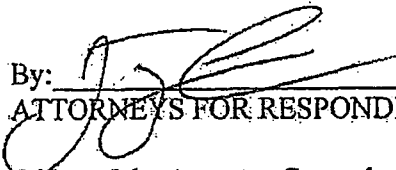
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

J. RUTLEDGE JOHNSON
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

October 2, 2014.

STATE OF SOUTH CAROLINA

COUNTY OF YORK

IN THE COURT OF COMMON PLEAS

2014-CP-46-1332

CONNIE DUMAS, #346178

Applicant,

vs

AFFIDAVIT OF SERVICE BY MAIL

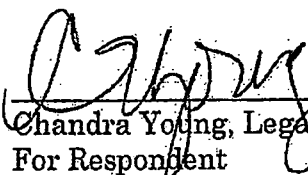
STATE OF SOUTH CAROLINA,

Respondent.

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

Leah B. Moody, Esquire
 235 East Main Street; Suite 115
 Rock Hill, SC 29730

DATED this 2nd day of October, 2014.


 Chandra Young, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	
County of York	)	2014-CP-46-1332
	)	
CONNIE DUMAS,	)	
	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
STATE OF SOUTH CAROLINA.	)	
	)	
	)	
	)	

January 20th, 2015
York, South Carolina

BEFORE:

THE HONORABLE J. DERHAM COLE , JUDGE.

APPEARANCES:

LEAH B. MOODY, ESQ.
Attorney for the Applicant

J. RUTLEDGE JOHNSON, ASSISTANT ATTORNEY GENERAL
Attorney for the State

AMINAH R. HARDY
Official Court Reporter

INDEX

<u>WITNESS</u>	Direct	Cross	Redirect
Connie Dumas	3	21	30
Busha Dumas	32	37	
Khiara Boston	37	49	
Michael Atwater	50	61	74

CERTIFICATE

EXHIBITS

No.	Description	Marked	Admitted
1	Legal bill	41	45
2	Store receipts	45	49

CONNIE DUMAS - DIRECT EXAMINATION BY MS. MOODYP R O C E E D I N G S

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

THE COURT: This is Connie Dumas vs. The State. This is application for postconviction relief from 2014-1332.

Ms. Moody, you represent (indicating)?

MS. MOODY: Yes, sir.

THE COURT: You may proceed.

MS. MOODY: Your Honor, at this time, I'd call Connie Dumas to the stand.

CONNIE DUMAS, after having first being duly sworn, testified under oath as follows:

DIRECT EXAMINATION

BY MS. MOODY:

Q Ms. Dumas, could you please state your full name for the record?

A Connie Dumas.

Q And where are you currently incarcerated?

A At Lee Correctional Institution.

Q And what are you incarcerated there for?

A Armed robbery.

Q Okay. And did you have a plea or a trial in this case?

A A trial.

Q Who was your attorney at the time for this trial?

A Michael Atwater.

Q Now, did you have one or -- how many trials did you

CONNIE DUMAS - DIRECT EXAMINATION BY MS. MOODY

1 have on this matter?

2 A Two.

3 Q And the first trial, what happened in that case?

4 A The first trial resulted in a mistrial.

5 Q Okay. And you came back before the Court on the
6 second trial?

7 A Yes.

8 Q And what was your sentence from the Court?

9 A Eighteen years for armed robbery and -- well, I had
10 two, the commission -- a weapon during the commission of a
11 violent crime was five years to run concurrent.

12 Q So possession of a weapon during the commission of a
13 violent crime?

14 A Yes.

15 Q And that was what you were tried on the first time as
16 well?

17 A Yes.

18 Q Okay. And, again, that was a mistrial?

19 A Yes.

20 Q The first and second trial, you had the same
21 attorney?

22 A Yes.

23 Q And it was Mr. Atwater?

24 A Yes.

25 Q Now, you filed your postconviction relief action

CONNIE DUMAS - DIRECT EXAMINATION BY MS. MOODY

1 against Mr. Atwater?

2 A Yes.

3 Q Can you tell the Court why you filed your
4 application?

5 A I filed my application because I felt as if -- for
6 one, I didn't have all of my witnesses. My daughter, I
7 wanted to use as a witness. He did not --

8 Q Well, just tell me the grounds and we'll come back to
9 each one of them.

10 A The ground for failing to secure witness, for failing
11 to properly investigate. There was lost evidence and
12 other evidence I felt we could have used to prove -- or
13 that the argument about the money.

14 Q All right. So we'll come back to that. So there was
15 evidence you felt he should have used in your trial?

16 A That was left out, yes.

17 Q You said your first ground was that your attorney
18 failed to call witnesses. Which witness -- or you had a
19 witness that was called and this your husband, correct?

20 A Yes.

21 Q What other witnesses did you think would help your
22 case?

23 A My daughter, Khiara Boston.

24 Q And was there a reason why he did not call that
25 witness?

CONNIE DUMAS - DIRECT EXAMINATION BY MS. MOODY

1 A I'm not sure. He just said he didn't think we needed
2 her.

3 Q And, obviously, you felt you did need her?

4 A Yes.

5 Q Can you please tell the Court why you thought you
6 needed her?

7 A I felt that we needed my daughter because she was
8 there with me. During the arrest, during the stop, during
9 the search of the vehicle when they took the purses and
10 they took her purse and my purse and they had taken money
11 from her purse. And she could testify to that, that I --
12 they took money -- they never asked permission, they just
13 took money from a purse that wasn't even mine and they
14 assumed or something, I guess, that it was stolen. But
15 she could have testified to that, that it wasn't, it was
16 her money.

17 Q Let's kind of explain to the Court what you're
18 talking about. You got stopped in a traffic stop,
19 correct?

20 A Yes.

21 Q And it's related to the armed robbery?

22 A Yes.

23 Q And during that stop, they went through your purses,
24 yours and your daughter's?

25 A Yes.

CONNIE DUMAS - DIRECT EXAMINATION BY MS. MOODY

1 Q And was that money later used in your case against
2 you?

3 A Yes.

4 Q And how was that money used against you?

5 A They said that was money supposedly stolen from the
6 One Stop.

7 Q So the State's position in their case was the money
8 that was in your daughter's purse was the money that
9 actually came from the cash register at the One Stop?

10 A Yes.

11 Q Did you discuss that issue with your attorney? Did
12 you discuss where the money came from with your attorney?

13 A That it was hers --

14 Q Yes.

15 A -- her money, yes.

16 Q Tell the Court how was the money your daughter's?

17 A The money I had receipts and she had a check stub
18 from the car accident that we had where she had received
19 her settlement already. And so, that's where some of that
20 money had come from.

21 Q In fact, let's back up just a little bit. Was this
22 trial, or this case the only case that Mr. Atwater ever
23 represented you on?

24 A No.

25 Q Can you please tell the Court what -- how else Mr.

CONNIE DUMAS - DIRECT EXAMINATION BY MS. MOODY

1 Atwater represented you?

2 MR. JOHNSON: Objection to relevance, Your Honor.

3 We're only here on the ineffective assistance of counsel
4 for this trial, not for any collateral case that he may
5 have represented Ms. Dumas.

6 MS. MOODY: We're not attacking his representation on
7 any collateral representation.

8 THE COURT: How is prior representation relevant?

9 MS. MOODY: Because he knew about this money, that's
10 where I was going.

11 THE COURT: Okay.

12 BY MS. MOODY:

13 Q Can you please explain how Mr. Atwater represented
14 you?

15 A Yes, he represented me on the accident claim, the car
16 accident. And the settlement from my portion -- my
17 portion of the accident was what he was using to be paid
18 for the trial.

19 Q So your daughter -- who else was involved in the car
20 accident?

21 A All three of my children.

22 Q Okay. So you and your children were in a car
23 accident?

24 A Yes.

25 Q And the money that you're speaking of the State used

CONNIE DUMAS - DIRECT EXAMINATION BY MS. MOODY

1 or said was the money stolen from the store, was actually
2 the money of your daughter?

3 A Yes.

4 Q Okay. And that was your daughter Khiara?

5 A Yes.

6 Q And your daughter had that money in her purse?

7 A Yes.

8 Q And Ms. Atwater had actually issued a payment of
9 settlement on behalf your daughter?

10 A Yes. Well, the original -- those settlements came
11 from the lawyers that I had at first. Mr. Atwater took
12 that over. So then they got their checks and then he was
13 getting -- in the process of getting my money, wherever he
14 had to do to get my settlement complete.

15 Q When you say he, you're say Mr. Atwater?

16 A Mr. Atwater, yes.

17 Q And so, can you tell the Court what was the theory of
18 the State's case in terms of you stealing this money
19 versus what you had told your attorney?

20 A I think that the State assumed or said that that was
21 the money -- I guess, they thought, for whatever reason,
22 it was hers, that I had gave it to her. But I had money
23 of my own and she had money. And I don't know why they
24 decided to take hers. But Mr. Atwater knew that.

25 Q And so how did Mr. Atwater use that information in

CONNIE DUMAS - DIRECT EXAMINATION BY MS. MOODY

1 your trial?

2 A I don't.

3 Q Did he -- he did not use it?

4 A He didn't.

5 Q Did he present any proof of your daughter receiving
6 that amount of money?

7 A No.

8 Q Now, was there any other evidence that would have
9 negated the State's theory as to you needing money? Was
10 there anything else that your attorney could have
11 introduced on your behalf?

12 A Other than the receipts?

13 Q So through your witnesses, he would have given a --
14 obtained testimony from your witness that there was money
15 received from a settlement?

16 A Uh-huh, yes.

17 Q And the State said you stole this money. Did you
18 have a need to steal any money?

19 A No, I didn't. And they said that I needed it to buy
20 school clothes or something for my children. And I had a
21 bunch of receipts where we had already gone shopping for
22 school clothes. I think maybe they were going back that
23 day to get something small like a belt or something, but,
24 I mean, I had spent quite a bit of money on their school
25 clothes for all three of them. So I receipts for that.

CONNIE DUMAS - DIRECT EXAMINATION BY MS. MOODY

1 Q And of this information, did you give those receipts
2 to your attorney?

3 A Yes.

4 Q Did he use that information at your trial?

5 A No.

6 Q Did you all discuss use of that information?

7 A We did.

8 Q And at the trial, was there -- do you know why he did
9 not use that information?

10 A I don't know.

11 MR. JOHNSON: Objection to speculation, Your Honor.

12 THE COURT: Overruled.

13 BY MS. MOODY:

14 Q Did you and your attorney have a conversation about
15 use of any information regarding receipts?

16 A He had everything and he said he would use it if he
17 needed to. I guess he thought, for whatever reason, he
18 didn't.

19 Q So at the trial, you had -- where were the receipts?

20 A In an envelope and I had given it to -- I gave it to
21 my attorney, Mr. Atwater.

22 Q Did he have anything else with regard to, you know,
23 how you spent money or whether you needed any money?

24 A My primary bank account, which is a different bank
25 mentioned in the trial, and my bank card.

CONNIE DUMAS - DIRECT EXAMINATION BY MS. MOODY

1 Q Now, at the time of this armed robbery, were you
2 employed?

3 A Not right at that time, no.

4 Q Had you been employed?

5 A I had.

6 Q And how had you been employed?

7 A I had been employed with Toys-R-Us and I was also a
8 student at Winthrop university.

9 Q And what, if anything, did you provide to your
10 attorney documenting any of that?

11 A He knew all of that, but, again, he told me that he
12 didn't need any of that.

13 Q So when you were -- you went to trial, you testified
14 as well, right?

15 A Yes.

16 Q Anybody else testify?

17 A My husband.

18 Q Okay. And y'all -- you and your husband were the
19 only two that testified?

20 A Yes.

21 Q Going into trial, what was the theory or how were
22 y'all going to approach this trial? Did you have an
23 opportunity to discuss that with your attorney?

24 A No, he, basically, handled it. He didn't ask me
25 about my approach or anything. I just -- he handled it.

CONNIE DUMAS - DIRECT EXAMINATION BY MS. MOODY

1 Q Well, did he tell you how he was going to approach
2 it?

3 A Well, he just told my husband that he was going to
4 call him and he was -- you know, to testify that he was
5 working and we didn't need any money and -- as far as
6 anything that bad or that desperately. It was brief. I
7 mostly talked to him over the phone. I don't think he
8 really spoke in depth to my husband about anything. And
9 prior just to the trial, we met at the courthouse. We
10 didn't discuss it before going in.

11 Q So before -- so we're not here on the first trial?

12 A Uh-huh.

13 Q But before the first trial, did y'all have an
14 opportunity to talk about your case?

15 A We talked about it a little bit.

16 Q And so, basically, when you provided the information
17 in terms of the receipts and explanation of why you didn't
18 need money, you were able to convey that to your attorney
19 prior to the second trial as well?

20 A Yes.

21 Q And he had all that information going into the trial.

22 A Yes.

23 Q And he did not use that information to your benefit?

24 A No, he didn't. And I don't -- he didn't ask me for
25 receipts for check stubs or anything for my husband

CONNIE DUMAS - DIRECT EXAMINATION BY MS. MOODY

1 either. He didn't ask me for any of that. He had access
2 to all of it, but he didn't -- never used it.

3 Q Okay. So you said he didn't call the witnesses
4 that -- some witnesses that would have been helpful to
5 you. In fact, you all put up evidence through witnesses,
6 but there were additional witnesses?

7 A Right. Correct.

8 Q Were there any other witnesses outside of Khiara?

9 A No.

10 Q And then your attorney had your receipts and your
11 bank account information that showed you didn't need
12 money?

13 A Yes.

14 Q Now, did you all have an opportunity to discuss the
15 evidence that the State would be presenting in this second
16 trial versus the first trial?

17 A Yes, we did a little bit.

18 Q So what did y'all discuss?

19 A From what I remember, he told me that the video that
20 was in the first trial was lost and, basically, that
21 everything else was the same as far as the evidence. I
22 think he said that it had to be the same as far as when
23 you go into another trial unless they presented something
24 different. But he did tell me there was a video that we
25 saw during the first trial that was used that he said was

CONNIE DUMAS - DIRECT EXAMINATION BY MS. MOODY

1 lost. He said the State said they lost it.

2 Q And so you saw that video at the trial or did you see
3 the video prior to the trial?

4 A The first trial?

5 Q Uh-huh.

6 A We saw it at the trial.

7 Q Okay. Did your attorney have a copy of that video?

8 A Not to my knowledge, no.

9 Q And when you had an opportunity to see the video,
10 what was on the video? What did it depict?

11 MR. JOHNSON: Objection. That's hearsay, Your Honor.

12 THE COURT: Overruled.

13 MS. MOODY: Your Honor, if I may?

14 THE COURT: I overruled it.

15 MS. MOODY: Oh.

16 BY MS. MOODY:

17 Q What did you see from the video? What --

18 A The video shows me walking up to the counter. And
19 you can just see me and the cashier talk and me -- looks
20 like I hand her something, she hands me something back and
21 I walk out.

22 Q Okay. And that was the first video?

23 A Yes.

24 Q Was that a clear video?

25 A It was pretty clear. In the video, you can see me

CONNIE DUMAS - DIRECT EXAMINATION BY MS. MOODY

1 clearly just walking out of the store.

2 Q But on that video, you know that that's you?

3 A Oh, yes. In the first video, yes.

4 Q Now, in your second trial, you had a -- there was a
5 video introduced in that trial?

6 A Yes.

7 Q And you just testified that the video from the first
8 trial was lost?

9 A Yes.

10 Q Did you have an opportunity to review the second
11 video?

12 A Not prior to trial, I didn't.

13 Q Did your attorney have an opportunity to look at it
14 prior to trial?

15 A I believe he did.

16 Q And in that video, could you tell whether or not it
17 would you?

18 A Unh-unh.

19 Q Let me ask you this, was that video similar to the
20 first video?

21 A It looked like a different view and it was a little
22 fuzzy, so it wasn't the same, no.

23 Q And so what were your issues with that video?

24 A I wasn't sure for one that it was even me on the
25 video and -- because it was unclear, you just couldn't see

CONNIE DUMAS - DIRECT EXAMINATION BY MS. MOODY

1 it to be able to tell. When they show you walking out,
2 what's in your hand, it just looks fuzzy, like, you can't
3 tell. I believe it was in black and white, if I can
4 recall.

5 Q So does it show -- does that video depict you handing
6 the cashier something and the cashier handing you
7 something back?

8 A I don't think it shows clearly. I think you can just
9 see like the top of our heads or the top of our bodies. I
10 don't think it shows all of that.

11 Q Okay. And so when the State stated that they did not
12 have the first video, what, if anything, do you know your
13 attorney did with regard to trying to get behind why it
14 was lost?

15 A Nothing.

16 Q And so when you were in the trial, did you all
17 discuss trying to suppress that video that was coming in
18 for the second trial?

19 A He didn't discuss it with me, no.

20 Q All right. So, basically, there's a video that shows
21 someone on there, you're not quite sure whether it was you
22 or not?

23 A Yes.

24 Q And you can't see what's happening at the cash
25 register with the cashier?

CONNIE DUMAS - DIRECT EXAMINATION BY MS. MOODY

1 A Right.

2 Q And can you see you walking outside?

3 A It doesn't go on for that long. You just see -- I
4 think it was about 20 seconds. You can just see me or
5 whatever was on the video turn to walk out. You can't --
6 I don't think there was an outside view.

7 Q So your issue with that is your attorney didn't
8 investigate that particular video being lost?

9 A Exactly. Yes.

10 Q Now, you also stated on your application that you had
11 a problem with your attorney arguing with the judge?

12 A Yes.

13 Q Can you explain to the Court what you mean?

14 A There was a few times that the jury was asked to step
15 out. There were a few times where it seemed like the
16 whole environment was just negative. They said a few
17 things back and forth.

18 Q When you say they, you're saying --

19 A I'm sorry, the judge and my attorney. It felt
20 just -- and afterwards, I remember him saying he was
21 charging him with contempt of court. Now, Michael Atwater
22 told me that. I don't remember why, but I do know that it
23 just seemed to be -- even in my -- during the closing or
24 the sentencing phase, the judge mentioned that the defense
25 seemed to blame the victims or the witness and he was

CONNIE DUMAS - DIRECT EXAMINATION BY MS. MOODY

1 upset by that. He said he thought --

2 Q Your attorney was upset --

3 A No, the judge said that was ridiculous that the
4 defense, so I felt like that was -- I don't know if that
5 played a part in me getting such a harsh sentence, I'm not
6 sure, but it was a very negative atmosphere.

7 Q Now, as far as you decided to go the trial versus
8 accepting a plea offer from the State, what, if anything,
9 did you discuss with your attorney about a plea?

10 A Over the phone, he just said that they offered a
11 plea, but I don't think you want to take it. And he said
12 it was -- I remember something about 10 years, but he said
13 well, why would you take that when you can leave with no
14 time. So it was my understanding that the option was,
15 like, zero to something -- if found guilty, there was a
16 possibility there would be no prison time. At the worst
17 case scenario, if I were to be found guilty. I didn't
18 know the charges -- the level and severity of the charges,
19 that wasn't even possible.

20 Q So your -- when you got the offer, you didn't fully
21 go through -- or as far as you know, you don't know
22 whether or not you fully exhausted your understanding of
23 what the plea offer meant?

24 A Correct. I didn't understand.

25 Q Okay. Now, you indicated also on your application,

CONNIE DUMAS - DIRECT EXAMINATION BY MS. MOODY

1 you referred to the transcript that you talk about --
2 well, I withdraw that question, Your Honor.

3 Now, you're seeking relief from the Court for your
4 postconviction relief. And, obviously, that's based on
5 you feel like you were prejudiced by your attorney. Can
6 you say what the -- how you feel you were prejudiced by
7 your attorney?

8 A As far as not the evidence, just the court?

9 Q Well, in terms of the evidence, the outcome of your
10 case, you felt your attorney's performance prejudiced the
11 outcome of your case?

12 A Yes. I don't feel like it was properly investigated.
13 To tell me that they lost the video, but not to try to
14 find out what happened to it or let's review what they
15 have together or I didn't -- until I came to court that
16 day, that's when I saw the video, that second video. I
17 made offers like using my daughter as a witness or if
18 there's anybody else I needed -- I even asked him if I
19 needed any character witnesses if I had teachers or
20 anybody, and he said no.

21 I felt as if he thought maybe that -- I don't know --
22 I just don't think it was taken very seriously. I come to
23 find out it was really serious and I didn't realize it at
24 the time. And I felt as an attorney, I should have been
25 made known that even with the -- just the severity of the

CONNIE DUMAS - DIRECT EXAMINATION BY MS. MOODY

1 charges, even with the plea deal, I felt like even as --
2 it was handled even during the trial like an arrogant way
3 that probably displeased the judge and the jury. And I
4 just felt there could have been more that could have been
5 done.

6 Q Now, what relief are you seeking from the Judge here
7 today? You realize he can't overturn your sentence and
8 resentence you or anything like that. What specific
9 relief are you seeking from the Court?

10 A I would like a new trial.

11 Q Is there anything else?

12 A Is -- if there's no -- you said he can't do anything
13 about my sentencing?

14 Q Well, the only thing the Court -- you're aware the
15 Court can only remand your case for a new trial if your
16 lawyer is found to be ineffective assistance of counsel?

17 A Yes.

18 Q And that's the relief you're seeking?

19 A Yes.

20 MS. MOODY: No further questions for this witness,
21 Your Honor.

22 CROSS-EXAMINATION

23 BY MR. JOHNSON:

24 Q Ms. Dumas, you realize that if you are granted a new
25 trial and go back to trial, you face 35 years in prison?

CONNIE DUMAS - CROSS-EXAMINATION BY MR. JOHNSON

1 A Yes.

2 Q And you're also aware that at your trial, there's
3 testimony by officers from Rock Hill Police Department
4 that you gave a statement in this case, correct?

5 A Yes.

6 Q And that statement was used against you at your
7 trial, right?

8 A Yes.

9 Q And that statement says that first you tried to blame
10 this on your sister, correct?

11 A That's what they said.

12 Q That's the evidence that came out at trial, right?

13 A That's what was said.

14 Q And then they state that your sister gave you her
15 shirt to wear, correct?

16 A That's what they said.

17 Q And they also state that in your statement you said
18 that you actually went to a bank before you went to the
19 One Stop and that you had a gun on you when you went to
20 the bank, right?

21 A That was their statement.

22 Q Okay. But that's the statement they said you made,
23 correct?

24 A That's what they said.

25 Q Okay. And you admit you went to One Stop, right?

CONNIE DUMAS - CROSS-EXAMINATION BY MR. JOHNSON

1 A I admitted to going to the One Stop.

2 Q Yeah, you testified to that at the trial, right?

3 A Yes.

4 Q But your thing is that you put a hundred dollar bill
5 up on the counter, went to get a water, came back, and you
6 thought that you were owed change for the hundred dollar
7 bill, correct?

8 A Yes.

9 Q And then the State's position is that you went there
10 and you robbed the clerk, correct?

11 A That's what they said.

12 Q Okay. And the clerk testified that you were the one
13 who goes in and robs the One Stop, right?

14 A Yes.

15 Q That she saw you with a gun, and that she asked, Are
16 you serious? And then you said, Yes. And she proceeded
17 to hand you the cash drawer, correct? That's what she
18 testified to at trial?

19 A Okay.

20 Q Would you agree with me?

21 A I don't remember every word she said about handing me
22 a whole cash drawer. I don't remember.

23 Q Would you agree with me that she testified that you
24 walked in the convenience store?

25 A Yes.

CONNIE DUMAS - CROSS-EXAMINATION BY MR. JOHNSON

1 Q And that you present a gun to her and tell her to
2 give you the money?

3 A That's what she testified.

4 Q But that's her testimony at trial, correct?

5 A Hers, yes.

6 Q And she stated that she asked, Are you serious,
7 correct?

8 A I'm not sure.

9 Q Starts at 177. Do you have a copy of your
10 transcript?

11 A I don't.

12 MR. JOHNSON: Got an extra copy?

13 Court's indulgence, Your Honor.

14 May I approach the witness?

15 THE COURT: Sure.

16 BY MR. JOHNSON:

17 Q Referring to Page 177 of the transcript. Ms. Dumas,
18 do you recognize this? Would that be a transcript of your
19 trial?

20 A Yes.

21 Q If you could turn to Page 177 for me, and through
22 Page 180.

23 THE COURT: Did you want to ask her something about
24 it?

25 MR. JOHNSON: Yes, sir.

CONNIE DUMAS - CROSS-EXAMINATION BY MR. JOHNSON

1 BY MR. JOHNSON:

2 Q Are you finished reviewing that?

3 A Yes.

4 Q Would you then agree with me that her testimony is
5 that you walk into One Stop with a gun, say, Give me the
6 money. And she asked, Are you serious, to which you
7 reply, Yes, and then she hands you the cash drawer. Is
8 that not the testimony presented to the jury at the trial?

9 A That's what she said.

10 Q Okay.

11 MR. JOHNSON: May I approach the witness again, Your
12 Honor?

13 THE COURT: Sure.

14 BY MR. JOHNSON:

15 Q But you testified that -- your version of it was that
16 you went in, you put the hundred dollar bill on the
17 counter, you went to get the water and you came back and
18 wanted the change, demanded the change and took what you
19 thought was yours, which you thought was the change of the
20 hundred dollar bill, correct?

21 A Yes.

22 Q So you have two conflicting versions of what
23 happened, but the jury got to see both of those versions,
24 correct?

25 A The jury got to see?

CONNIE DUMAS - CROSS-EXAMINATION BY MR. JOHNSON

1 Q They got to see both sides of the story, your side
2 and the clerk's side?

3 A Yes.

4 Q And your attorney argues on your behalf saying that
5 you thought you were taking what you thought you were
6 owed, right?

7 A Yes.

8 Q Okay. You also said he's ineffective for not viewing
9 with you the video in between the first and second trial,
10 correct?

11 A Correct.

12 Q Do you have those videos here today to present to the
13 Court?

14 A No. I don't have anything.

15 Q All right. You also state that Mr. Atwater created a
16 negative atmosphere when he argued with the judge during
17 the trial, correct?

18 A Correct.

19 Q Would you agree with me that the judge asked the jury
20 to step out before they would address each other?

21 A I'm not sure that was all the time, no. They were
22 asked at some point to step out, but not during the whole
23 time.

24 Q Okay. Can you point somewhere in the record where
25 the judge does not ask the jury to step out before he

CONNIE DUMAS - CROSS-EXAMINATION BY MR. JOHNSON

1 engages counsel? If you'd like to use this for reference,
2 I can hand this to you.

3 A I mean --

4 MS. MOODY: Objection, Your Honor. I believe she
5 answered his question. He asked her -- well, may I speak?
6 He asked her if -- he asked her about her negative
7 atmosphere that she felt was coming from her attorney with
8 the judge. And he's asking her to point out where the
9 judge didn't ask them to step out. She said she believed
10 that some of it was in front of the jury, but that would
11 be consistently in the record if there was an issue.

12 THE COURT: Well, I understood that. And he,
13 apparently, takes the position that the jury was taken out
14 of the courtroom when any exchange took place between the
15 trial counsel and the judge. She said she didn't think
16 that's true. She felt sometimes the jury was in the
17 courtroom. So he was giving her the transcript to point
18 out where the jury was in the courtroom when those
19 exchanges took place. Have you been over that transcript
20 with this witness?

21 MS. MOODY: She has a copy, but she doesn't have her
22 copy here today.

23 THE COURT: I understand that, but have you and she
24 discussed it?

25 MS. MOODY: I never had -- I didn't ask her whether

CONNIE DUMAS - CROSS-EXAMINATION BY MR. JOHNSON

1 it was done before the jury or whether it wasn't done
2 specifically. I didn't ask that specific question.

3 THE COURT: All right. You've reviewed the
4 transcript, do you know of any occasion where you can ask
5 her if the judge and trial counsel had some exchange that
6 you or she thinks prejudiced her case or took place in
7 front of the jury?

8 MS. MOODY: No.

9 THE COURT: Okay.

10 MR. JOHNSON: I'll move on, Your Honor.

11 BY MR. JOHNSON:

12 Q So you admit that you took money from the One Stop?
13 Like you said, you thought it was yours, that was your
14 testimony at trial, but you took money off the premises of
15 the One Stop, correct?

16 A Yes.

17 Q Okay. And another claim that you have is that trial
18 counsel failed to show that you did not need this money by
19 way of receipts or other testimony, correct?

20 A Correct.

21 Q But your husband actually testified that you owned a
22 mini bulldozer, I believe, and a lawn mower and owned flat
23 screen TVs to show that you didn't need the money, right?

24 A My husband did testify.

25 Q And counsel actually called your husband to testify

CONNIE DUMAS - CROSS-EXAMINATION BY MR. JOHNSON

1 to show you did not need that money?

2 A Yes.

3 Q Okay. So the jury got to hear that you didn't need
4 the money?

5 A Well, the jury didn't get to see the receipts and
6 things from shopping. They said that I needed school
7 clothes for my kids. And I had a stack of receipts and
8 bank -- my primary bank account information that they
9 didn't get to see from my -- from me.

10 Q But you would agree with me that evidence was
11 presented that you did not need the money?

12 A Some, not all of it.

13 Q Okay. You said you were employed at Toys-R-Us prior
14 to this accident and you had stopped working. What's the
15 reason you stopped working?

16 A I had a broken collarbone.

17 Q Is that from the accident, the car accident?

18 A Yes.

19 Q So if you admit to being in the One Stop, what is so
20 important about the fact that you don't think you were on
21 that second video if you admit to being there? Do you
22 have to be on video? Because you're claiming he's
23 ineffective for not getting that second video?

24 A Because the first video I felt showed a clearer view,
25 showed proof that I had no weapon, for one, in that store.

CONNIE DUMAS - REDIRECT EXAMINATION BY MS. MOODY

1 And I think that was really important.

2 Q Okay. But like you said, you don't have that video
3 here today to show the Court, do you?

4 A No. The rock Hill police said it was lost during the
5 trial.

6 MR. JOHNSON: That's all I have at this time, Your
7 Honor. Thank you.

8 REDIRECT EXAMINATION

9 BY MS. MOODY:

10 Q The State asked you specifically do you have the
11 video, the first video from the trial, correct?

12 A Correct.

13 Q And at the beginning of bringing your case before the
14 Court, do you recall if anything, any kind of writings
15 that were sent to Mr. Atwater regarding any materials that
16 he had in his possession?

17 A No, I don't recall.

18 Q Do you recall my asking Mr. Atwater for a copy of his
19 file?

20 A Yes, you told me, yeah. You have it.

21 Q To date, have I sent you a copy of that file?

22 A No.

23 MR. JOHNSON: Objection, that's outside the scope of
24 cross-examination, Your Honor.

25 MS. MOODY: I believe it goes to the fact that he

CONNIE DUMAS - REDIRECT EXAMINATION BY MS. MOODY

1 asked her did she have video.

2 THE COURT: Overruled. Go ahead.

3 BY MS. MOODY:

4

5 Q Like I said, I didn't send you a copy of the file?

6 A Right. Correct, you didn't.

7 Q Is that part of the reason why you wouldn't have a
8 copy of the first video?

9 A Yes.

10 Q As well as that the video was lost is what they told
11 you at the trial?

12 A Yes.

13 Q And the second video that was presented at the trial,
14 do you ever recall your attorney having a copy of that
15 video in his possession to give you?

16 A I don't recall. I never received it.

17 Q And before the trial, had you seen that video?

18 A No, I hadn't.

19 Q But you did get to see it in the trial?

20 A During the trial, yes.

21 Q Now, I think that counsel questioned you about the
22 school clothing. Did the State ever present anything
23 specifically about you purchasing a bulldozer?

24 A No.

25 Q But they did present something specifically about you

CONNIE DUMAS - REDIRECT EXAMINATION BY MS. MOODY

1 needing to get school clothing?

2 A Yes.

3 Q And you, in fact, gave those receipts to your
4 attorney?

5 A Yes.

6 Q And your attorney didn't present that?

7 A No, he didn't.

8 MS. MOODY: No further questions for this witness.

9 Thank you.

10 THE COURT: You may step down.

11 THE APPLICANT: Thank you.

12 THE COURT: We'll recess for lunch. We'll resume at
13 2:15, 2:15 this afternoon.

14 (A recess was taken from 1:05 p.m. to 2:29 p.m.)

15 MS. MOODY: At this time, we would call Mr. Dumas to
16 the stand.

17 BUSHA DUMAS, after having first being duly sworn,
18 testified under oath as follows:

19 DIRECT EXAMINATION

20 BY MS. MOODY:

21 Q Could you please state your full name for the record?

22 A Busha Dumas (phonetic).

23 Q How are you related to Connie Dumas?

24 A Her husband.

25 Q And how long have you been married?

BUSHA DUMAS - DIRECT EXAMINATION BY MS. MOODY

1 A Eighteen years.

2 Q Now, you're aware of her case that went before the
3 court wherein she was sentenced to 18 years?

4 A Yes.

5 Q And were you present at the trial?

6 A Yes.

7 Q Were you present at the first trial?

8 A Yes.

9 Q Okay. And did you have an opportunity to meet with
10 your wife and Mr. Atwater at any point in time in
11 preparation of the case?

12 A In preparation of it?

13 Q To go to trial, did you meet with Mr. Atwater and
14 your wife to get prepared for the trial?

15 A Well, we met out in the hall, yes, if that's what you
16 mean. Before we came into the room?

17 Q No. When you were going to -- when your wife was
18 going to trial on the armed robbery, did you ever
19 accompany her to meet with Mr. Atwater?

20 A I don't think so.

21 Q But you testified in the trial?

22 A Yes.

23 Q You didn't prepare for that trial?

24 A No.

25 Q Okay. In the first trial, you testified and you

BUSHA DUMAS - DIRECT EXAMINATION BY MS. MOODY

1 talked about your knowledge of the case?

2 A Yes.

3 Q And what specifically was your knowledge of the case?

4 A I'm not getting the question.

5 Q Your wife had a defense for trial?

6 A Uh-huh.

7 Q Do you know what that defense was?

8 A Mr. Atwater. I don't -- I'm not understanding the
9 question.

10 Q What did you testify at the trial?

11 A Well, they asked me about the -- did we need money
12 and I told them no, and did she have any reason to steal
13 anything, and I said no. Basically that.

14 Q And what do you base your knowledge on?

15 A That I paid everything. I paid for everything.

16 Q Okay. And were you aware of any receipts that your
17 wife provided to Mr. Atwater?

18 A Yes.

19 Q And what kind of receipts did your wife provide to
20 him?

21 A Shopping receipts and check stubs from the accident.

22 Q Were you aware that Mr. Atwater was representing your
23 wife in a car accident?

24 A Yes.

25 Q Okay. And do you recall anything that your wife

BUSHA DUMAS - DIRECT EXAMINATION BY MS. MOODY

1 received from Mr. Atwater by way of a settlement?

2 A No.

3 Q Did your children receive anything?

4 A Yes.

5 Q And do you know about how much that was?

6 A I know between all of them, it was probably about
7 six, \$7,000 I guess. And I don't know hers.

8 Q Okay. And so when your children received their
9 settlements, do you know at what point -- or whether or
10 not that they used any of that money?

11 A Yes.

12 Q Okay. Were you part of the settlement agreement?
13 Did you have to sign off on anything for the settlement
14 for your kids?

15 A No.

16 Q And earlier, you testified you paid for everything at
17 your house?

18 A Yes.

19 Q And at the trial, the second trial, what, if
20 anything, came out about your ability to be able to pay
21 your household bills?

22 A They asked me was I working and I told them I was
23 working, I could pay the bills. Yes.

24 Q Was there any need for your wife to -- well, I guess
25 the State's position was she robbed the store because you

BUSHA DUMAS - DIRECT EXAMINATION BY MS. MOODY

1 all needed money?

2 A No. They asked me that and that's not true.

3 Q Okay. And do you own a gun?

4 A No.

5 Q Did your wife at the time own a gun?

6 A No.

7 Q Had you ever seen a gun?

8 A Not at the house, no.

9 Q And when your wife provided the receipts to
10 Mr. Atwater, did you know of any reason why the receipts
11 were not submitted or brought forth before the jury?

12 A All I heard was they said they didn't need them. He
13 didn't think he would need them.

14 Q So at the trial, did you meet with Mr. Atwater? Did
15 you have a chance to talk to him when your wife was on
16 trial?

17 A For a couple minutes, yes.

18 Q Okay. And I'm not talking about whether you were on
19 the stand or not, I'm saying in private?

20 A Not in private, I don't think. But we talked in the
21 hall, all of us.

22 Q And what, if anything, did you all talk about?

23 A That he didn't think she would need the receipts.
24 And he -- and he thought it was going pretty good, thought
25 the case was going pretty good.

BUSHA DUMAS - CROSS-EXAMINATION BY MR. JOHNSON

1 MS. MOODY: Beg the Court's indulgence. No further
2 questions for this witness, Your Honor.

3 MR. JOHNSON: Just one, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. JOHNSON:

6 Q Mr. Dumas, were you present during the incident at
7 the One Stop?

8 A No.

9 MR. JOHNSON: No further questions, Your Honor.

10 THE COURT: You may step down.

11 MS. MOODY: Your Honor, at this time, we'd like to
12 call Khiara M. Boston.

13 KHIARA M. BOSTON, after having first being duly
14 sworn, testified under oath as follows:

15 DIRECT EXAMINATION:

16 BY MS. MOODY:

17 Q Ms. Boston, could you please state your full name for
18 the record?

19 A Khiara M. Boston.

20 Q And how are you related to Connie Dumas?

21 A Her daughter.

22 Q And how old are you?

23 A Twenty-two.

24 Q At the time that your mother was arrested for armed
25 robbery, how old were you then?

KHIARA M. BOSTON -- DIRECT EXAMINATION BY MS. MOODY

1 A Seventeen.

2 Q And were you with your mother on the day that she was
3 arrested?

4 A Yes.

5 Q And can you tell the Court exactly where you were
6 when you were with your mother?

7 A I was with her when they made the arrest in the car
8 during the traffic stop.

9 Q And did you have an opportunity to observe everything
10 that took place as it relates to your mother being taken
11 out of the car?

12 A Yes.

13 Q And do you -- did you testify in the first trial?

14 A No.

15 Q And you didn't testify in the second trial either?

16 A No.

17 Q Do you know why you didn't testify?

18 A In the second trial?

19 Q Yes.

20 A No, ma'am.

21 Q Okay. Did you have information that you think would
22 have been helpful to the Court or to the jury?

23 A Yes.

24 Q Can you please tell the Court what that information
25 was?

KHIARA M. BOSTON - DIRECT EXAMINATION BY MS. MOODY

1 A I had information pertaining to the traffic stop that
2 they asked about because I was the only person that was
3 there with her. And I had information also about the
4 receipts that you've mentioned because I saw those before
5 they were given to Mr. Atwater.

6 Q Okay. And, specifically, those receipts dealt with
7 one of the State's positions. Do you recall the State's
8 theory of the case?

9 A Yes.

10 Q Okay. And that theory being that your mom needed
11 money to buy you all clothing?

12 A Yes.

13 Q Okay. And what is your knowledge about your school
14 clothing?

15 A My knowledge was that I already had my school
16 clothing. School had began at the second-to-last week in
17 August and this event took place about a week before. I
18 already had everything I needed.

19 Q And can you tell the Court -- you know, you went
20 shopping with your mother?

21 A Yes.

22 Q And when you went shopping with your mother, do you
23 recall some of stores that you went to?

24 A Stores at an outlet. I recall, like, TJ Maxx, JC
25 Penney, stores like those where you retain a lot of

KHIARA M. BOSTON - DIRECT EXAMINATION BY MS. MOODY

1 clothes, like, at once, like, for different -- for me and
2 my sister and also for my brother.

3 Q And you were in a car accident as well with your mom
4 and your siblings?

5 A Yes.

6 Q What, if anything, did you receive from that car
7 accident?

8 A We each three received a settlement for our injuries
9 and my mom received a settlement for hers.

10 Q Do you recall what your settlement was in your
11 particular situation?

12 A I don't recall mine separately. I know together, I
13 believe, it was close to, if not above, 6,000. But we all
14 had different injuries.

15 Q Now, what happened with that money? Did you -- were
16 you able to spend your money or what happened with that
17 money?

18 A Yes. The accident occurred the previous December, so
19 by the time the summer came around and definitely by the
20 time school came, we had already received the money and
21 spent some of it.

22 Q Did you spend any of your money or your clothing?

23 A Yes.

24 Q And --

25 MS. MOODY: Your Honor, may I approach the witness?

KHIARA M. BOSTON - DIRECT EXAMINATION BY MS. MOODY

1 (WHEREUPON, Petitioner Exhibit Number 1 was marked
2 for identification.)

3 BY MS. MOODY:

4 Q Ms. Boston, I'm going to hand what's been marked as
5 Petitioner Exhibit 1. Can you please identify those
6 items?

7 A This has my sister's name on it and it says from
8 Schiller Law Firm, Caleb Austin.

9 Q What's the amount of it?

10 A \$2,104.69.

11 Q Does it have any other notation on the bottom of that
12 particular?

13 A Client trust account, final settlement proceeds.

14 Q Okay. There's one behind, just identify each one of
15 them, please.

16 A This has Schiller Law Firm, Khiara Boston, \$2,089.49,
17 final settlement proceeds.

18 Q And the next one?

19 A Darrius , Schiller Law Firm, \$1,266.46, final
20 settlement proceed.

21 Q Is there another one behind that?

22 A Yes. Also, for Darrius , Schiller Law Firm,
23 \$17.62, final settlement proceeds from trust.

24 Q So when you're talking about money that you all
25 received from a car accident, is that the car accident

KHIARA M. BOSTON - DIRECT EXAMINATION BY MS. MOODY

1 you're speaking of?

2 A Yes.

3 Q And is that the amount that is -- on your stub, is
4 that about the amount you had with you on the day of the
5 arrest?

6 A Yes.

7 Q Okay. And in the trial, they talked about your mom
8 taking a certain amount of money from the One Stop,
9 correct?

10 A Yes.

11 Q Can you please tell the Court what, if anything, you
12 had in your purse?

13 A In my purse, I know for sure that I had -- my own
14 money would have been in my bag. Me and her each had our
15 purses in the car, but when they took the money, they took
16 it from my purse.

17 Q And so when you say they took money, you're saying
18 that the police officers took money from your purse?

19 A Yes.

20 Q And are you aware where they said that money came
21 from?

22 A They said it came from the One Stop.

23 Q They said it came from the One Stop?

24 A Yes.

25 Q But, in fact, is that the money that you had from

KHIARA M. BOSTON - DIRECT EXAMINATION BY MS. MOODY

1 your settlement?

2 A Yes.

3 Q Okay. And can you tell the Court why did you have
4 that amount of money in your purse at that time?

5 A We had been shopping that weekend preparing for
6 school. I had it with me to continue shopping, where we
7 were headed.

8 Q And so when you were in the car with your mother,
9 where were y'all headed?

10 A We were headed to first go pick up my boyfriend, then
11 to continue the shopping.

12 Q And this was for school or this was just shopping?

13 A For school, finishing up school clothes that maybe I
14 felt like I needed more and also just for fun.

15 Q Okay. Now, were you ever asked to testify on behalf
16 of your mother?

17 A No.

18 Q Are you aware whether your mother -- well, did your
19 mother and you discuss or did you meet with Mr. Atwater
20 about your testifying?

21 A I met with Mr. Atwater once when he -- this was the
22 very first meeting when he was deciding to take the case.
23 After that, I don't recall meeting with him, but me and my
24 mother privately had discussed me speaking at the trial.

25 Q But you, ultimately, didn't get to testify?

KHIARA M. BOSTON -- DIRECT EXAMINATION BY MS. MOODY

1 A No.

2 Q Now, you said that you all went to the -- y'all went
3 to an outlet to discuss -- to find clothing for school?

4 A Yes.

5 Q Okay. Are you aware of any kind of receipt that your
6 mom gave to Mr. Atwater confirming that had taken place?

7 A Yes.

8 Q And what, if anything, occurred with those receipts
9 in the trial?

10 A As far as my knowledge, those receipts did not get
11 presented as evidence in the trial.

12 Q But you all -- that went to the fact that your mother
13 was not in need of money to purchase you all clothes?

14 A Yes.

15 MS. MOODY: Your Honor, may I approach the witness?

16 THE COURT: You may.

17 MS. MOODY: Also, Your Honor, I'd like to move
18 Exhibit 1 into evidence.

19 THE COURT: Does Exhibit 1 contain more than one
20 document?

21 MS. MOODY: Yes, sir.

22 THE COURT: We need to staple those together so they
23 don't get lost.

24 MR. JOHNSON: No objection, Your Honor, to those
25 being introduced.

KHIARA M. BOSTON - DIRECT EXAMINATION BY MS. MOODY

1 (WHEREUPON, Plaintiff's Exhibit No. 1 was admitted
2 into evidence.)

3 (WHEREUPON, Plaintiff's Exhibit No. 2 was marked for
4 identification.)

5 BY MS. MOODY:

6 Q Ms. Boston, I'll hand you now what's been marked as
7 Exhibit 2. Can you identify what those items are?

8 A They appear to be store receipts.

9 Q And can you see at the top where those store receipts
10 came from?

11 A Yes.

12 Q Could you please tell us where they come from?

13 A This one says Prime Outlets at Gaffney, Gaffney,
14 South Carolina. This one is from Factory Brand shoes.
15 This one is from Nike. This is also from Nike. This is
16 from Polo Factory store.

17 Q And are all these from Gaffney?

18 A Yes, these all say Gaffney, South Carolina.

19 Q Look on through to make sure.

20 A This is a credit card receipt with my mom's
21 signature. This is for Hamrick's store, Gaffney. Game
22 Stop, this is in Manchester Village, Rock Hill, South
23 Carolina. This is for Gap Outlet in Gaffney. This is
24 from Nine West in Gaffney. This is for Wilson's Leather
25 Factory in Gaffney. And this one is for Ann's Linens in

KHIARA M. BOSTON - DIRECT EXAMINATION BY MS. MOODY

1 Rock Hill.

2 Q When you said that you and your mom, you all went
3 shopping for school clothing?

4 A Yes.

5 Q When you talked about the outlet, is that where you
6 all went to -- for your school clothing?

7 A Yes.

8 Q Okay. And do you see any dates on any of those
9 receipts?

10 A Yes.

11 Q Can you give us the date?

12 A 7/24. You want the year, also?

13 Q Okay.

14 A 7/24/2010.

15 Q Okay.

16 A This is also 7/24. This is for 7/30. This is also
17 7/30. This is 7/24. 7/24. 7/24. 7/24. And 7/30.

18 Q So those dates represent the dates that you all had
19 gone shopping for school clothing?

20 A Yes.

21 Q And again, you were at the trial with your mother?

22 A Yes.

23 Q And so none of -- did any of this information come
24 out in the trial?

25 A No.

KHIARA M. BOSTON - DIRECT EXAMINATION BY MS. MOODY

1 Q What, if anything -- in terms of when you all went
2 shopping and bought these items, did you spend any money
3 towards your own clothing?

4 A Yes.

5 Q Okay. And again, you had received your settlement
6 check from the case?

7 A Yes.

8 Q So now, do you recall whether or not there was any
9 discussion -- well, first of all, were you present when
10 your mother spoke with her attorney?

11 A No.

12 Q So you don't know whether there was a discussion as
13 to -- at the second trial to present this information?

14 A Not at the second trial, no.

15 Q But were you aware that the State had -- this was
16 their -- the motive for your mother committing the robbery
17 was she needed to buy school clothing?

18 A Yes.

19 MS. MOODY: Beg Court's indulgence.

20 BY MS. MOODY:

21 Q Now, when your mother and you all were pulled and
22 they -- you were in the car and they stopped you all and
23 your mother, did you answer any questions for law
24 enforcement?

25 A I only answered questions about where were we headed,

KHIARA M. BOSTON - DIRECT EXAMINATION BY MS. MOODY

1 where we were coming from, and what I had been doing.

2 Q Were you asked about the money that was in your
3 purse?

4 A Yes.

5 Q Can you tell the Court kind of what happened
6 surrounding the money out of the purse?

7 A They asked me if where I had gotten the money from,
8 if my mother had just given me that money or if I had had
9 it. And I told them that was my money -- in my purse,
10 that was my money that belonged to me. That's money I had
11 had for months, just left over money, but they still took
12 it from my purse. When they returned the purse to me, it
13 was empty?

14 Q So you never received that money back?

15 A No.

16 Q And they asked you about the gun. And what, if
17 anything, did you tell them about the gun?

18 A I told them I had never seen a gun in our house
19 before and, to my knowledge, we didn't own one.

20 Q And did they find a gun that night?

21 A No.

22 MS. MOODY: Beg the Court's indulgence. No further
23 questions for this witness. I would ask to move those
24 receipts into evidence.

25 MR. JOHNSON: May I see them first?

1 No objection, Your Honor.

2 (WHEREUPON, Plaintiff's Exhibit Number 2 was admitted
3 into evidence.)

4 MR. JOHNSON: May it please the Court, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. JOHNSON:

7 Q Ms. Boston, your testimony is that police took this
8 money that was in your purse, but you never got it back,
9 correct?

10 A Yes.

11 Q Okay. And your testimony to them was that your
12 mother never gave you any money from that One Stop,
13 correct?

14 A Yes.

15 MR. JOHNSON: No further questions, Your Honor.

16 THE COURT: You may step down.

17 MS. MOODY: No further witnesses, Your Honor.

18 MR. JOHNSON: The State calls Michael Atwater to the
19 stand.

20 MICHAEL ATWATER, after having been duly sworn,
21 testified as follows:

22 MR. JOHNSON: May it please the Court, Your Honor.

23 DIRECT EXAMINATION:

24 BY MR. JOHNSON:

25 Q Mr. Atwater, how long have you been practicing law?

MICHAEL ATWATER - DIRECT EXAMINATION BY MR. JOHNSON

1 A Since 1995.

2 Q Do you remember becoming involved in this case?

3 A Yes.

4 Q Please tell the Court -- explain to the Court how you
5 became involved?

6 A It was around October or November of the year, I
7 think it was 2010, the year of this incident. And I got a
8 phone call from Bennett Schiller, who was an attorney
9 practicing with Schiller and Hamilton at the time.
10 Bennett and I had practiced before as Atwater, Schiller
11 and Reeves and he had a practice where he did strictly
12 personal injury. He knew that I did a fair amount of
13 criminal defense and he said that he had a client who had
14 been arrested for a robbery and asked me if I would be
15 willing to meet with her family and represent her.

16 Q And did you meet with Ms. Dumas?

17 A Yes.

18 Q And about how many times did you meet with her?

19 A Over what course of time?

20 Q Over the representation of this criminal case?

21 A Dozens and dozens.

22 Q And did you file and receive discovery from the
23 State?

24 A Yes.

25 Q Did you review all those documents with Ms. Dumas?

MICHAEL ATWATER - DIRECT EXAMINATION BY MR. JOHNSON

1 A Yes.

2 Q And did she seem to all that you were explaining to
3 her?

4 A Yes, Connie is very bright.

5 Q Did you explain the nature of the charges and any
6 defenses available?

7 A Yes.

8 Q Did you explain the minimum and maximum penalties
9 that she would be facing?

10 A Yes. Basically, we read the statutes and the charges
11 that she had when she brought the documentation to me.

12 Q Was this in preparation for the first trial?

13 A It was actually in preparation for me to go meet with
14 the solicitor well before the first trial.

15 Q What, if any, defense theories did you explain to her
16 or did she explain to you?

17 A Connie told me the facts about what happened that day
18 and that was the defense I presented at trial.

19 Q And what did she tell you?

20 A She told me that she had left her house on that day,
21 sometime around -- I think it was sometime around noon,
22 something like that. She had been at her house. She had
23 taken some money out of a safe that they have at the
24 house, which I know is there because I've seen it. And
25 said that she was going to be going shopping with her

MICHAEL ATWATER - DIRECT EXAMINATION BY MR. JOHNSON

1 daughter and that she wanted to go get a little bit more
2 money from the bank. So she had gone down to the bank
3 over there on Albright right behind the One Stop and gone
4 to the ATM and taken some money out. And that the money
5 that she had taken out of her safe that morning was a
6 hundred dollar bill. And that was from part of the
7 settlement that she had received for her children. So she
8 wanted to go get it broken up. She didn't want to give
9 her daughter a hundred dollar bill. She wanted to go get
10 it broken up. And went to the One Stop, walked in and
11 asked the young lady at the counter if they would do that
12 for her. And the lady said she couldn't open the register
13 without a purchase.

14 So Connie says she went back to the coolers, got
15 something and brought it back up. And when she came back
16 to cash register, her money was missing. She inquired
17 about it and the girl who was at the register had done
18 something with a -- an envelope that was there at the time
19 and had laid it under the counter, and so Connie was
20 inquiring about where her money was. And the lady laid
21 the inside of the cash drawer up on the counter and said,
22 Here's all the money I have in here, there's not a hundred
23 dollar bill in here. Connie said, I want my money. And
24 so Connie said she got her money back.

25 Q And you presented that at the second trial subject to

MICHAEL ATWATER - DIRECT EXAMINATION BY MR. JOHNSON

1 this PCR?

2 A Both trials.

3 Q And the State presented -- what kind of case did the
4 State present at the second trial? What was their theory?

5 A According to Detective Wardrop, he claims that Connie
6 told him they needed money. Their house was in
7 foreclosure, that -- that she went to the bank and had
8 initially intended to rob the bank and got scared and
9 decided to go over and rob the One Stop.

10 Q And the clerk of the One Stop, what did she testify
11 to?

12 A She, basically, testified that Connie came into the
13 store and cased the store. Waited for some witnesses --
14 or for some shoppers who were in the store to all leave
15 and then came up to her and pulled a gun and stuck --
16 pointed it at her midsection and said, Give me all your
17 money. And that she did that. The clerk saying she
18 complied.

19 Q So Ms. Dumas testified at this trial, correct?

20 A She testified at both trials.

21 Q Okay. And the jury was able to hear her side of the
22 story?

23 A Yes.

24 Q And the jury also heard the State's side of the
25 story?

MICHAEL ATWATER - DIRECT EXAMINATION BY MR. JOHNSON

1 A Yes.

2 Q And found her guilty in this trial?

3 A In the second --

4 Q In the second trial?

5 A Yes.

6 Q And the State also -- would you agree with me that
7 the State also produced a witness out in the parking lot
8 that said that he had seen Ms. Dumas come out with a gun
9 into the parking lot?

10 A Yeah, they presented a felon, Mr. Sinclair, who said
11 that he saw that. He said a lot of other things that
12 didn't stand up on cross-examination.

13 Q But you, in fact, cross-examined him on his side of
14 the story?

15 A Both trials, yeah.

16 Q And one of the claims here is that you did not use
17 receipts that they went shopping. Were you ever presented
18 with those receipts?

19 A Do you have them -- are you asking me was I presented
20 with the receipts that have been handed around here today?

21 Q Yes, sir.

22 A If I could see them, I could give you an answer to
23 that. You've got Plaintiff's Exhibit 2, which is the
24 store receipts, and I have never seen them before. And
25 Plaintiff's Exhibit 1, which are some -- they look like

MICHAEL ATWATER - DIRECT EXAMINATION BY MR. JOHNSON

1 the tear-off part of a check from a minor settlement. And
2 I haven't seen these particular ones, but I'm well aware
3 of them. I had a portion of the file that these came
4 from.

5 Q Okay. So neither Ms. Dumas nor Ms. Boston had
6 presented you before the trial?

7 A These?

8 Q Yes, sir.

9 A No, sir. However, Connie did talk about the fact
10 they had gone clothes shopping before.

11 Q And, in fact, you put up Mr. Dumas to show that
12 Connie did not need any money, that she -- they owned all
13 the property they bought, and there was no motive for her
14 to rob the One Stop; am I correct?

15 A We went into great detail about their financial
16 situation. And Busha testified to his employment, his
17 prior employment -- or his employment history, just as a
18 form of taking history that he used to be a deputy sheriff
19 and then he talked about him being employed with the
20 petroleum company. And I actually had a large amount of
21 photos that the State had taken when they had gone into
22 her house prior to getting a search warrant. And I took a
23 lot of those photos and showed them to the jury,
24 basically, to show how much stuff they had in their house
25 and what their assets were. And I also asked Busha some

MICHAEL ATWATER - DIRECT EXAMINATION BY MR. JOHNSON

1 questions about some things he had aside from that, cars,
2 bulldozers, stuff like one of these zero turn big
3 lawnmowers and things like that that I think he said in
4 the trial cost about \$6,000. Because, you know, I went
5 over there and looked at that stuff when I was at their
6 house.

7 Q But you used that information on your client's behalf
8 at trial?

9 A Both trials.

10 Q And argued that to the jury?

11 A Yes, sir. I got it from Busha on direct and argued
12 it in closing.

13 Q Another point is that Ms. Dumas says that the State
14 offered a plea, but that you advised not to take -- to
15 accept the plea. Do you remember getting a plea offer
16 from the State?

17 A I remember getting several of them.

18 Q And what was your advice concerning those pleas?

19 A She said she wasn't guilty, didn't have any desire to
20 take any plea whatsoever that said she was going to go to
21 prison. And the very least offer she got was six years
22 prison time.

23 Q So Ms. Dumas was the one that rejected all those
24 guilty pleas?

25 A Yes. I would have done the same, but she maintained

MICHAEL ATWATER - DIRECT EXAMINATION BY MR. JOHNSON

1 her innocence throughout the entire process.

2 Q Another allegation is that you failed to properly
3 investigate the lost video evidence of the store from the
4 first trial and the second trial. Did you not argue that,
5 to have those excluded pretrial in this case in the second
6 trial?

7 A To have what excluded?

8 Q The videos from the store, the ones --

9 A Yeah, but it didn't have anything to do with the lost
10 video. That actually came out in trial. I mean, it
11 depends on what aspect of lost video you're talking about.
12 I'm not sure if someone's talking about what the IT lady
13 for the -- or security lady for the One Stop stores did,
14 which I went into a great deal of cross-examination on and
15 took a spanking from Judge Burch for doing that, and -- or
16 if you're talking about one point in time the police
17 department lost some videos that had been given to them.
18 But either one of those things were -- yeah, they were
19 covered greatly in trial on cross-examination or direct or
20 in closing.

21 Q And that was an attempt to discredit the State's
22 case, right?

23 A I tried every way I could to discredit the State's
24 case with every witness. Even the witnesses I didn't know
25 anything about that were a surprise to me on the second

MICHAEL ATWATER - DIRECT EXAMINATION BY MR. JOHNSON

1 trial.

2 Q Did you meet with Ms. Boston and/or Mr. Dumas in
3 preparation for these trials, specifically, the second
4 trial?

5 A I think that the only time I actually saw Khiara
6 prior to the second trial would have been actually at the
7 second trial. Prior to the first trial, yes, but prior to
8 the second trial, I mean, I already knew everything I
9 needed to know from the first trial, except for the stuff
10 they tried to blindside me with, the surprise witnesses on
11 the first day of the second trial.

12 Q That would be the teller from the bank?

13 A Among others, yeah.

14 Q Did Ms. Boston ever explain to you about the money
15 that the police took from her was that from the settlement
16 and in her own purse?

17 A I think Connie told me that. I mean, I never had
18 any -- I had Detective Wardrop testify on the stand in the
19 second trial, it's right here in the transcript, that he
20 took the money out of Khiara's purse, not Connie's purse,
21 even though Connie had money in her purse as well.

22 Q So you had that information and you did use it in
23 defense of your client?

24 A It's in the transcript here, yes, sir. I mean, I
25 knew about the minor settlements as well because, I mean,

MICHAEL ATWATER - DIRECT EXAMINATION BY MR. JOHNSON

1 that was all in the history of me -- Bennett Schiller
2 settled the minor cases and that was all done before I had
3 represented Connie. He had the accident case that Connie
4 and the girls were in. And he settled the minor cases and
5 disbursed funds to them. These things here say Ben
6 Schiller's name on them. And it was subsequent to that
7 that -- but not too long after that, I think it was like
8 four and a half weeks after that that this alleged robbery
9 occurred. And Connie's case still had not been settled
10 yet, so Ben asked me if I'd take it. I met with Connie
11 and we went forward from there. I was representing her
12 for the accident and the for the defense of the alleged
13 armed robbery.

14 Q Is there a reason you didn't call Ms. Boston to
15 testify at the second trial?

16 A Yes.

17 Q Why is that?

18 A I was specifically told not to.

19 Q By whom?

20 A Connie.

21 Q And did she give you a reason why?

22 A Yes.

23 Q Please explain.

24 A Khiara was going through exams. She was finishing up
25 IB. She was graduating from high school. She actually

MICHAEL ATWATER - DIRECT EXAMINATION BY MR. JOHNSON

1 had exams the week this trial was going on. The very
2 first morning -- and it's all in the transcript here, she
3 had an exam the first morning and an exam that afternoon
4 and she was under a bunch of stress. But Connie also told
5 me at the first trial she didn't want her daughter being
6 strung through this process. She didn't want her getting
7 up on the stand. Anything that could have been elicited
8 from Khiara was covered by plenty of other witnesses.

9 Q So she would have been a duplicative witness in this
10 case?

11 A Absolutely. I mean, Khiara's involvement in it --
12 now, there was a lot of testimony about Khiara that I
13 thought was very relevant and I went through it with
14 Detective Wardrop. That was based upon Connie's
15 representation to me that Detective Wardrop threatened her
16 to arrest her daughter and throw her in jail if she didn't
17 sign a confession that Connie says he authored.

18 But apart from that, the way this allegedly happened
19 was that Connie had been at the One Stop, she went back
20 home. Khiara didn't know anything about anything that had
21 happened prior to that time, had no knowledge of any of
22 the facts. And that's also in this transcript. And --
23 but she was go to go -- they were going to go shopping and
24 she was going to pick up her boyfriend. Khiara was
25 driving the car and her mom was in the car. And they left

MICHAEL ATWATER - DIRECT EXAMINATION BY MR. JOHNSON

1 the house and were pulled very close to the house, I mean,
2 like within a block or so. So, literally, Khiara's
3 involvement in any of this whatsoever, except for the
4 things they were trying to say about whether they needed
5 money and all that. But as to the facts of the case,
6 Khiara's involvement was Connie coming home, Khiara
7 getting in the car, them driving off, that's it. And then
8 later on that evening, they took her back to the police
9 station.

10 MR. JOHNSON: Court's indulgence, Your Honor.

11 No further questions. Please answer any questions
12 Ms. Moody may have.

13 THE WITNESS: Yes, sir.

14 CROSS-EXAMINATION

15 BY MS. MOODY:

16 Q Good afternoon, Mr. Atwater.

17 A Hi, Leah.

18 Q You testified earlier that you met with Ms. Dumas
19 numerous, numerous -- or dozens and dozens of time?

20 A Connie?

21 Q With Connie.

22 A With Connie, yes.

23 Q Do you recall June 2nd, 2014, where I sent your
24 office a letter requesting for a copy of your file?

25 A June 2nd, 2014?

MICHAEL ATWATER - CROSS-EXAMINATION BY MS. MOODY

1 Q Yes.

2 A I didn't have an office.

3 Q Do you recall receiving any kind of letter where we
4 made a request for a copy of the file?

5 A No, I didn't have an office. I don't know where you
6 would have sent it to.

7 Q At 1470 Ebenezer Road?

8 A In 2014?

9 Q Yes.

10 A We weren't at that office since 2012.

11 Q Do you have a file in this case?

12 A I gave to it the office of appellate defense back in
13 2000 -- whenever the case was over.

14 Q What all did you give to appellate defense. Did you
15 give them the original file?

16 A Everything.

17 Q Okay. And in that original file, was there a copy of
18 the video that was used in this case?

19 A The DVD?

20 Q The video, whatever it came on. I don't know what it
21 came on.

22 A Are you asking me about the ones that the State put
23 in evidence that were court evidence?

24 Q Okay. Let's back it up. You received discovery in
25 this case, correct?

MICHAEL ATWATER - CROSS-EXAMINATION BY MS. MOODY

1 A Yes.

2 Q And in that discovery, did you receive any kind of
3 videos, copies of videos?

4 A Ultimately, yes.

5 Q Okay. So with that, did you give that to the
6 appellate defense?

7 A Yes.

8 Q Okay. So you had the video of the armed robbery, the
9 first video?

10 A I'm not sure what you're calling the first video.

11 Q Okay. How many videos were you given from the State?

12 A One DVD.

13 Q Okay. Did you have a copy of that DVD wherein you
14 could review that with Ms. Dumas?

15 A Yes.

16 Q Okay. Did you, in fact, review that video before
17 trial?

18 A Both trials, yes.

19 Q So the video that apparently -- I think you testified
20 a few minutes ago that the video that they used at the
21 first trial, it was ultimately lost?

22 A No, the police lost it before the first trial.

23 Q Okay. So then --

24 A The reason I went into that was just to show the
25 plethora of errors that were involved in not preserving

MICHAEL ATWATER - CROSS-EXAMINATION BY MS. MOODY

1 evidence that I needed.

2 Q Okay.

3 A I can explain to you about that lost video if you'd
4 like me to explain it a little bit more clearly. They had
5 nine video cameras in that One Stop store. And I think
6 the day after Connie hired me, I went to that One Stop
7 store and I took photos of all those video cameras and
8 spoke to the people there and went back and looked at the
9 machine that they all record to. So I had a pretty good
10 idea what you could see inside that store.

11 By the time I finally got any discovery from the
12 State, it was a little snippet of Connie kind of walking
13 in the door and then it was like two seconds of that and
14 nothing else. And then there was a little part of her
15 walking back next to an ice cream machine, which was next
16 to the counter, and then nothing else. And then there was
17 a part with her standing in front of the register. So you
18 had kind of like these three little snippets that were --
19 they weren't continuous, there was no continuity to them,
20 but that's what was on them. And so knowing that there
21 were nine cameras in that store and around that store and
22 she should have been able to have been under video
23 surveillance from the second she walked in. Everywhere
24 she walked around, there was a camera angle that could
25 have seen her whole body, whether she had a gun or not or

MICHAEL ATWATER - CROSS-EXAMINATION BY MS. MOODY

1 anything like that. I looked at all of that and went into
2 great detail about that to Judge Burch's chagrin at the
3 trial to determine why they cut all that evidence out and
4 didn't provide it to us. So that was part of it. There
5 were nine cameras. The lady testified at trial she only
6 took a short amount of information off of three of the
7 nine cameras.

8 Q This is the first trial?

9 A Both trials, she testified to that.

10 Q So --

11 A But as to the missing video.

12 Q Yes.

13 A The missing video from the six other cameras, that
14 was her fault. She didn't take it off the machine and she
15 left -- the machine goes through a 30-day rotation. By
16 the time I ever learned of this case, that was lost
17 because they didn't preserve it.

18 Q Right. So you investigated that or did you take that
19 up -- you made that argument to the judge?

20 A All of the above.

21 Q Okay. So in your file that you gave the appellate
22 defense, the snippet that you do have, that's what is in
23 that file?

24 A Yes, and they had been very much edited.

25 Q I understand that. I'm just asking those videos are

MICHAEL ATWATER - CROSS-EXAMINATION BY MS. MOODY

1 in that file that you gave to the appellate defense?

2 A Yeah.

3 Q Okay.

4 A And the other part about lost video was the lady who
5 actually maintains that video system at the One Stop
6 testified that she had given either -- she couldn't
7 remember whether it was a DVD or one of the sticks you
8 stick inside of the computer. She couldn't remember
9 whether she had given one of those two things to a Rock
10 Hill City police officer, who at some point later on down
11 the line, they couldn't find it and they went back to the
12 store and said we've lost it. That was before discovery
13 was even provided to me.

14 Q So you didn't get that stick is what you're saying,
15 that thumb drive is what you're saying?

16 A No, I didn't have that.

17 Q Now, in the trial, was it not the State's or
18 prosecutor's theme that Ms. Dumas robbed the store for the
19 sake of needing to get clothing for her kids?

20 A Detective Wardrop in the statement that he -- he
21 testified that he typed and Connie testified he authored,
22 he said she told him and he was writing it. She says I
23 never told him anything. He just typed it up and handed
24 it to me. In that statement, it made reference to them
25 being in foreclosure or something. So yeah, they said she

MICHAEL ATWATER - CROSS-EXAMINATION BY MS. MOODY

1 needed money.

2 Q But also in that statement, didn't it make reference
3 to she was broke and her daughter needed to go to
4 school -- go school shopping and she did not have any
5 money? That's the statement you're talking about where --

6 A Yeah, I think it said something like that. It
7 said -- he claims she told him that she needed money for
8 school shopping and that their house was in foreclosure.

9 Q And so when you testified earlier that you never saw
10 those receipts, did it dawn on you that you needed to --
11 when Ms. Dumas talked about that to you, did it dawn on
12 you to ask her for any receipts?

13 A Receipts for what?

14 Q Clothing, school clothing, shopping for school
15 clothing?

16 A No.

17 Q So you're saying that even though -- I understand
18 what your earlier testimony was, that Ms. Dumas didn't
19 want her daughter to testify. The second trial, she
20 didn't want her to testify because she had exams or what
21 have you, and you explored the whole thing of the fact
22 that they didn't need any money, but you didn't explore
23 with your client that she had receipts confirming that she
24 received the money from Schiller Law Firm and that she had
25 gone off and went shopping with her children?

MICHAEL ATWATER - CROSS-EXAMINATION BY MS. MOODY

1 A Let's see if I can answer all your questions.

2 Q Let me put it in one.

3 A No, that's fine. I think I got it. I didn't need to
4 investigate anything about the Schiller Law Firm because I
5 had Bennett's file.

6 Q Okay.

7 A So I knew she had gotten a minor settlement and we
8 talked about that in the courtroom. Busha testified to it
9 and Connie testified to it.

10 As far as the shopping, Connie testified -- I mean,
11 not only did Busha testify to his job and all of their
12 assets and everything like that, I also had Connie testify
13 to the fact that she was drawing unemployment benefits at
14 the time, that she had got some money from her grandmother
15 up north that she would get on a monthly basis, that's all
16 in the transcript. She also testified to the fact that
17 they had gotten this settlement. And she testified to the
18 fact that she had an account with a bank in North
19 Carolina, which Busha corroborated because they lived in
20 Charlotte before they ever came down to Rock Hill. And
21 her testimony was the whole reason for going to that bank
22 over there was to access it's outside ATM to get money
23 from actually her account that was up in North Carolina.

24 Q Right. But what I'm saying is, the State is harping
25 on the fact they needed money, one of those issues was

MICHAEL ATWATER - CROSS-EXAMINATION BY MS. MOODY

1 that she needed to buy school clothing for her children.
2 And she had those receipts, you could have presented those
3 receipts from her, even if you didn't call her daughter,
4 but you had those receipts that you could have presented
5 them to the jury.

6 A I didn't have them if that's what you're asking me.

7 Q Okay.

8 A However, if we're talking about the school clothing,
9 once again, that was Detective Waldron's contention and
10 Connie's was, Absolutely not, I never said that. So that
11 was the first part. The second part was all those photos
12 that I showed the jury from their house showed tons of
13 clothes, along with everything else they had. We clearly
14 showed she did not need any money.

15 Q Okay.

16 A Even when the lady from the bank testified something
17 about the negative balance in her account, I
18 cross-examined that lady to say that one, that wasn't the
19 account she was going to the bank for that day; and two,
20 even the bank account the lady claimed she had a negative
21 balance in, that was a surprise witness we got that day,
22 by the way, that she has a one of those \$600 overdraft
23 protections. So even with a negative balance, she could
24 have gone and gotten money out of it if she wanted to. So
25 we explored it all.

MICHAEL ATWATER - CROSS-EXAMINATION BY MS. MOODY

1 Q Now, you mentioned that you had -- I may have written
2 this down, but you had several State plea offers where she
3 was given an offer to either plea to the charges as
4 opposed to going to trial. Now, did these come in between
5 the first two trials or this came before the first trial,
6 the offers?

7 A All of the above. She got a plea offer before the
8 first trial. She got a plea offer after the first trial.

9 Q What was the plea offer before the first trial?

10 A I think the initial one was 10 years.

11 Q And then between the first and second trial?

12 A It never got under six years.

13 Q So the offer was six years. So what would she have
14 been pleading to?

15 A Armed robbery, six years.

16 Q For six years?

17 A Yes.

18 Q There's not a minimum mandatory for armed robbery?

19 A Oh, no, it might have been the possession of the gun.
20 It was -- it might have been a lesser-included offense,
21 but it was something -- E.B. was offering her six years.
22 Take a plea, six years. Prior to trial, Judge Burch
23 called us back into chambers back here and asked us about
24 plea negotiations and that type of stuff and we talked
25 about them. And at the time, E.B. said he would make a

MICHAEL ATWATER - CROSS-EXAMINATION BY MS. MOODY

1 recommendation at the end of the trial for that six years.

2 At the end of the trial, he didn't keep his word.

3 Q But at the end of trial for armed robbery, which
4 carries a minimum mandatory of 10 years, how was he going
5 to make a recommendation of six years?

6 A I don't know. That's just what he said.

7 Q Okay. And so before going into the first trial, his
8 own offer was 10 years?

9 A Yes.

10 Q And then between was six and then if you got a guilty
11 verdict, he was still going to recommend six years?

12 A Yes.

13 Q Now, what, if any, discussions did you have with Ms.
14 Dumas about -- you said she wanted to go to trial, she
15 didn't want to accept a plea offer, but what specifically
16 did you all discuss about the ramifications of accepting a
17 plea?

18 A That she would go to jail.

19 Q Right, but did you discuss -- I mean, like, was it
20 serious nonviolent, is it a strike, what the mandatory
21 minimum was, what the maximum was, what did you discuss
22 with her?

23 A We discussed all of the possibilities of pleading,
24 being found guilty, not being found guilty, the
25 possibility of an acquittal and everything in between and

MICHAEL ATWATER - CROSS-EXAMINATION BY MS. MOODY

1 what each one of those charges carried. And I think -- I
2 can't remember right off the bat what the lesser charge
3 was he was offering. But we discussed all of them.

4 Q So did he ever offer her strong-armed robbery?

5 A I don't recall.

6 Q So he was offering her a lesser charge?

7 A He was offering her six years.

8 Q Yeah, but I'm saying -- you just testified he offered
9 her a lesser charge. Do you recall whether it was
10 something like along the lines of strong-armed robbery or
11 was it, you know, just the gun charge? I mean, did he
12 have questions about the actual video identifying her as
13 the person?

14 A It was a larceny charge, that's what he was going
15 to -- he was going to let her plead to it if she pled to
16 the six years.

17 Q What was the amount of money that was stolen or
18 taken?

19 A From where?

20 Q From the One Stop. Do you recall?

21 A They alleged that it was -- well, they never could
22 actually make up their mind about how much money it was,
23 but from what was seen in evidence and what was put into
24 evidence, the math was right about \$97.

25 Q So the amount of money that was taken from the One

MICHAEL ATWATER - CROSS-EXAMINATION BY MS. MOODY

1 Stop was about \$97 after they calculated it?

2 A That's the amount -- that's the total amount of money
3 that was in her possession, Connie's possession and her
4 daughter's possession at the time this happened. That's
5 how much money they came up with between the two of them.

6 Q So the money that was taken out of her daughter's
7 pocketbook and Connie's pocketbook, if I understand this
8 correctly --

9 A They didn't take money out of Connie's pocketbook,
10 but you could see it sticking out the top of it. And by
11 adding the numbers together out of all the money that the
12 police were able to come up with, it was about \$97.

13 Q Okay. Okay. And so when the prosecutor offered a
14 plea as to larceny, what, if anything, did you -- I mean,
15 I understand it's not your responsibility to accept the
16 plea offer, I think you testified to that, that it was
17 totally up to her. What, if anything, did you explain to
18 your client with regard to the likelihood of her being
19 convicted based off all the evidence you had, based on
20 there was a mistrial in the first trial? What, if
21 anything, did you explain to her about needing to take a
22 plea offer?

23 A Okay. I never predict outcomes ever. We discussed
24 the first trial and the fact that it did end up in a
25 mistrial, which means that some people thought you're

MICHAEL ATWATER - CROSS-EXAMINATION BY MS. MOODY

1 guilty and some didn't. So we discussed, once again, the
2 possibility of a guilty verdict, a not guilty verdict --

3 Q So --

4 A Or accepting the plea or not accepting the plea.

5 Q I'm sorry?

6 A Or accepting the plea and not accepting the plea and
7 going to trial.

8 Q And so that -- so that meant some people found you
9 were not guilty and some people found you could be guilty
10 is what you're saying?

11 A Yeah, we discussed what a mistrial meant.

12 Q And then you discussed the options with the plea
13 offer as to the larceny?

14 A As to six years. I believe it was a larceny he was
15 offering.

16 MS. MOODY: Beg the Court's indulgence. No further
17 questions for this witness, Your Honor.

18 MR. JOHNSON: Brief redirect.

19 REDIRECT EXAMINATION

20 BY MR. JOHNSON:

21 Q Mr. Atwater, opposing counseling is harping on this
22 larceny -- possible larceny guilty plea. Could it have
23 been strong-armed robbery that Solicitor, Mr. Spring, was
24 offering Ms. Dumas?

25 A Could be. I don't have it in front of me right now.

MICHAEL ATWATER - REDIRECT EXAMINATION BY MR. JOHNSON

1 Q So you're not set on the fact it was larceny?

2 A No, I remember it was a six-year offer. I remember
3 that very clearly.

4 Q Okay.

5 A And I think the rest of the stuff that I saw -- yeah,
6 I remember it was an offer for six years.

7 MR. JOHNSON: That's all I have, Your Honor.

8 MS. MOODY: No further questions, Your Honor, for
9 this witness, but we would ask the Court allow us to
10 supplement the record with appellate counsel's file that
11 he says he sent to appellate counsel.

12 THE COURT: Okay.

13 MR. JOHNSON: It is Ms. Dumas's file, but it's not
14 here today. I don't see the relevance of it.

15 THE COURT: I don't know what's in it.

16 MR. JOHNSON: I have no idea what's in it either.

17 MS. MOODY: That's why we would ask --

18 THE COURT: What do you think is in there you want to
19 introduce at trial?

20 MS. MOODY: As to the plea offer. I mean, I have no
21 way of -- I didn't receive a copy of the file.

22 THE COURT: I tell you what, you look at the file,
23 you make arrangements to look at the file and if you find
24 something you think is relevant, you can discuss it with
25 Mr. Johnson and we'll see about supplementing the record.

MICHAEL ATWATER - REDIRECT EXAMINATION BY MR. JOHNSON

1 MS. MOODY: Thank you, Your Honor.

2 MR. ATWATER: Anything I had would have come from

3 E.B.

4 THE COURT: Anything else?

5 MS. MOODY: No, Your Honor.

6 THE COURT: I'll hold mine in abeyance pending Ms.

7 Moody getting in touch with appellate defense to have a

8 look at the file.

9 (Whereupon, the proceedings were concluded.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

COUNTY OF YORK)

I, Aminah R. Hardy, CM, Official Court Reporter
for the 16th Judicial Circuit of 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 hearing of
the captioned case, relative to appeal, in the Court of
Common Pleas for York County, South Carolina, on the 20th
day of January, 2015.

November 20th, 2016

Aminah R. Hardy

Aminah R. Hardy

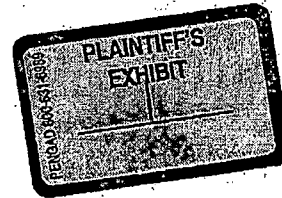
SCHILLER LAW FIRM

Connie Dumas GAL of Kayla

6/25/2010

9570

2,104.69



Client Trust Account Final Settlement Proceeds

2,104.69

SCHILLER LAW FIRM

Connie Dumas GAL of Khara Boston

6/25/2010

9575

2,089.49

Client Trust Account Final Settlement Proceeds

2,089.49

737

SCHILLER LAW FIRM

9579

Connie Dumas GAL of Darrius

6/25/2010

1,266.46

Client Trust Account Final Settlement Proceeds

1,266.46

SCHILLER LAW FIRM

Connie Dumas GAL of Darrius Dumas

9/24/2010

10012

17.62

Client Trust Account Final Settlement Proceeds from Trust

17.62

- merchandise purchased with a check.
- Without a receipt, we will issue a merchandise credit or exchange at the lowest sale price within the last thirty (30) days. (Valid picture ID is required)
- Prior purchase sale adjustments can be made within 14 days of original purchase date with receipt.
- All returns are subject to review and approval by management.

We care. If for any reason you are not satisfied with your experience today, please talk to the Store Manager or contact us at 866-266-2728, service@annaslinens.com or visit us online at www.annaslinens.com.

PLAINTIFF'S
EXHIBIT

OCT 23

Return/Exchange Policy

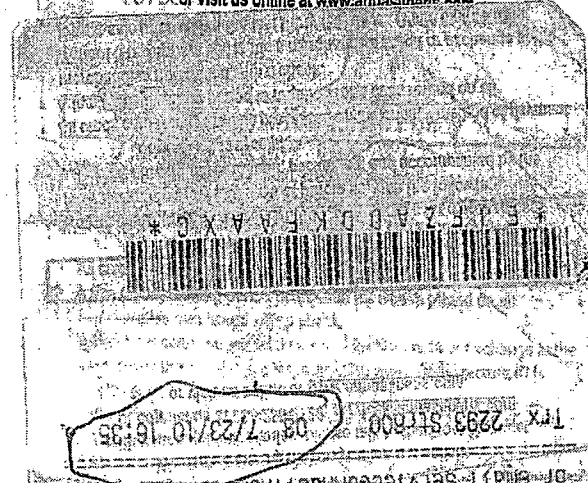
- We will gladly provide a refund, credit, or exchange for merchandise returned within thirty (30) days of purchase, with the following:
 - In original condition, packaging, and accompanied by the original sales receipt.
- All credit card refunds will be processed on the original method of payment.
- A five (5) day waiting period is required for a cash refund on all merchandise purchased with a check.
- Without a receipt, we will issue a merchandise credit or exchange at the lowest sale price within the last thirty (30) days. (Valid picture ID is required)
- Prior purchase sale adjustments can be made within 14 days of original purchase date with receipt.
- All returns are subject to review and approval by management.

We care. If for any reason you are not satisfied with your experience today, please talk to the Store Manager or contact us at 866-266-2728, service@annaslinens.com or visit us online at www.annaslinens.com.

Return/Exchange Policy

- We will gladly provide a refund, credit, or exchange for merchandise returned within thirty (30) days of purchase, with the following:
 - In original condition, packaging, and accompanied by the original sales receipt.
- All credit card refunds will be processed on the original method of payment.
- A five (5) day waiting period is required for a cash refund on all merchandise purchased with a check.
- Without a receipt, we will issue a merchandise credit or exchange at the lowest sale price within the last thirty (30) days. (Valid picture ID is required)
- Prior purchase sale adjustments can be made within 14 days of original purchase date with receipt.
- All returns are subject to review and approval by management.

We care. If for any reason you are not satisfied with your experience today, please talk to the Store Manager or contact us at 866-266-2728, service@annaslinens.com or visit us online at www.annaslinens.com.



739

Anna's Linens #0000
2345
Rock Hill SC 29730
(803) 980-3350
www.annaslinens.com

QTY	ITEM	PRICE	TOTAL
1	561 SGL 28-48 CURT ROD	\$1.99	\$1.99
1	562 SINGLE 48-86 ROD	\$3.99	\$3.99
1	HUNTINGTON 84" BLACKOUT NAVY	\$14.99	\$14.99
1	HUNTINGTON 84" BLACKOUT NAVY	\$14.99	\$14.99
1	HUNTINGTON 84" BLACKOUT NAVY	\$14.99	\$14.99

1	870/11 SUPPDRI-41KX-2" CURT	\$1.99	\$1.99
1	FISH POND MULTI 52X70 IT	\$2.99	\$2.99
1	FISH POND BLUE PRINTED KT	\$1.49	\$1.49
1	FISH POND BLUE PRINTED KT	\$1.49	\$1.49

Original Price: \$1.99
Sub Total: \$68.91
Tax @ 7.00% \$4.12
Total \$63.03

Visa
Credit Card # 1001 \$63.03
Acct# *****4854
Auth# 872747
Sales Associate: Leslie

Thank You for shopping at Anna's
Receipt required for refunds
within 30 Days of purchase

To contact the Anna's Linens Customer
Service Department, call 866-256-7788
or email service@annaslinens.com

Trx 2293-11-000 08/17/2016 16:35

factory
brand
shoes

FACTORY BRAND SHOES
PRIME OUTLETS AT GAITHERY
630 Factory Shops Blvd
GAITHERY, SC 29341
864-487-4256

Date: 07/24/2010 5:26:41 PM
Store#: 1434 Trans#: 1021 Cash:
Associate: 664050 V7.11

664050
1209400/10077 MKF0000
NEW BALANCE 7 0 24
PLU Price 49.99
Item Price 19.99

29.97

29.95

664050
886736228303. 7PK NO SHAW B
NIKE 0 0 0
PLU Price 11
Item Price 11.99

4.80

4.80

2
10

664050
884498930731 7PK NO SHAW B
NIKE 0 0 0
PLU Price 7.00
Markdown 1.50
Promotional Marked
Item Price

664050
885176473. 7PK NO SHAW B
NIKE 0 0 0
PLU Price 1.99
Item Price 1.99

ITEM COUNT: 4
Differential: 190.42
TOTAL: 190.42
Credit: 108.51
Visa: 108.51
Acct#: XXXX XXX XXXX-4354
Exp. Date: XXXX Approval Code: 350001

#: 3969574862

***** REWARDS *****

Your Total Points Earned: 100

Your Previous Points Balance: 0

We require a valid, government issued photo ID for all Returns and Exchanges. All Returns must be made within 30 days of Purchase and Return information will be maintained in a company database. We reserve the right to limit or deny returns or exchanges regardless of receipt. We require the presence of the card used for the original purchase to complete credit and debit returns and exchanges.

Kayla
 Polo Factory Store
 450 Factory Shop Boulevard
 Gaffney, SC 29341
 864-902-0640

Store 78 Date: 07/30/2010 14:39
 Reg # 1 Trn #: 222915 #116814

Sale

Customer #0007301067164/1
 KAYLA BOSTON

885400458008 SS LENA 69.99
 1 @ 69.99

886248125602 CLASSIC 39.99
 1 @ 39.99

Original Price 54.99

Subtotal 109.98
 Tax @ 8.0% 8.80

Total 118.78

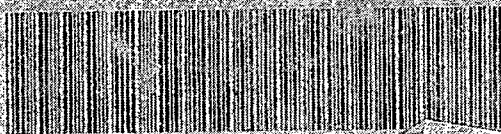
Total Items: 2
 Debit Card 118.78

XXXXXXXXXX4854 XX/XX
 Date/Time: 7/30/10 02:41:02 PM
 Reference #: 3148
 Author #: 131737

Enjoy exclusive savings offers
 and learn about upcoming
 Polo Ralph Lauren Factory Store events

Join Our Customer Registry Today!

Visit RALPHLAUREN.COM
 click on "Find a Store"



0007301222915116814

on Lauren
chirne
Went

EGGS/SHOES/SWIMWEAR/STREETWEAR
 24 HRS ONLINE AT
 WWW.RALPHLAURENFACTORYSTORE.COM
 FOR CUSTOMER SERVICE
 STORE LOCATION INFORMATION
 CALL 1-800-831-7489

CASH 4290.00

DISCOUNT 25.00 5.71

2 DBL SUP- 1-19.81

DISCOUNT 50.00 10.00

41111 INVS 10.22

DISCOUNT 25.00

042714 ACTIVE LIFES

08544715680

766369054

76636

766369054

DISCOUNT 40.00 2.00

SUBTOTAL 19.78

87 SC Sales Tax

TOTAL 86.31

REMOVAL

22850\$

Transaction

Card d. Swiped

0.31

Valid only on check purchases

within 15 days period

business days

THANK YOU, PLEASE COME AGAIN

*** CUSTOMER COPY ***

7/30/10 15:15

Hamrick's

Main Store 1031 Hyatt Street
Gaffney, SC 29341
864-489-6601 864-489-6793

OUR GOAL IS CUSTOMER SATISFACTION
THANK YOU FOR CHOOSING HAMRICK'S...

UNDERWEAR BOY'S	40000259565	7.98
Price	7.98	Saved
UNDERWEAR BOY'S	40000283268	7.98
Price	7.98	Saved
UNDERWEAR BOY'S	400002541	5.99
Price	5.99	Saved
UNDERWEAR BOY'S	400002644565	5.99
Price	5.99	Saved
UNDERWEAR BOY'S	72430326603	7.98
Price	7.98	Saved
UNDERWEAR BOY'S	72430321407	7.98
Price	7.98	Saved
SHORTS	40000296246	6.99
Price	9.98	Saved (\$2.99)

MEMORIAL DAY 2010 (90% Discount)
1750 U-50 30% off (\$2.99)

Sub-total	50.87
Sales tax	4.07
Total	54.94
Save	(\$2.99)
*****4854	

Savings \$2.99

Analyst

Tax Code	Trans Amount	Tax
1 8%	50.87	4.07



RETURN POLICY

Returns and exchanges within 60 days
with receipt. Purchases made by check
will have a 5 business day wait period
for a refund; less than 5 days a
store credit will be issued.

EVERY TUESDAY IS SENIOR CITIZEN DAY!

Hamrick's

Hamrick's KTOs
1031 Hyatt Street
864-489-6601
Gaffney
South Carolina
29341

CREDIT CARD SALES

Customer ID

*****4854

Auth	3
MID	201601
VID	1/3
Item Total	\$54.94
Tender	\$54.94

Please Debit my Account as shown

(Handwritten signature)

Please retain for 30 days

7/24/10 6:55 PM 000025 4.07 2512
Katie

[illegible]

You Saved 5 10

Total Tender	12.84
Change Due	0.80

Returns with an Original Receipt.
A full refund for the price paid
in the original form of payment
within 90 days. Mail checks or money
for purchases made by check, cash
without an Original Receipt, Cash
or Merchandise Certificate for the
current selling price. Value is not to
be presented. We offer a full cash price
adjustment when you present your
original sales receipt within 90 days
to our store for full refund with no restock

Various other sales included:
Household orders sold separately.

Manchester, Village
526 JOHN ROSS PARKWAY
ROCK HILL, SC 29730
(803)327-2190

NO. 100-2005

[REDACTED]

TELEPHONE NUMBER DID NOT
ENTER FOR A MONTHLY CHANCE TO
WIN ONE OF TWO \$500
GAMESPOT GIFT CARDS.

Entrants must be at least 18 years old.
Official Rules:

* * * * *

Pre-order Madden NFL 14 and get 100,000 in-game coins to play smarter, play stronger, and play to win. Visit gamestop.com/

Wilson's Leather

Wilson's Leather

Wilson's Leather

Wilson's Leather

Wilson's Leather

Nine West #2652

435 Factory Shops Blvd

Gaffney, SC 29341

(864) 488-1378

Date 07/24/2010

Don Kimbly

3128

SALE

Sales Associate

UPC

900633899109

Discount

Subtotal

Subtotal

Subtotal

Sales tax

Total

VISA

Auth. #

STYLE WHIPSO BLACK SYN 075H

730224114022

24 99 T

MARKED DOWN FROM 49.99

SUBTOTAL

\$24.99

TAX

\$2.00

TOTAL

\$26.99

VISA

\$26.99

*****4854

EXPIRY: **/** SWIPE

AUTH# 802143

We will gladly accept returns/exchanges of unworn or defective merchandise within 30 days of purchase date. Refunds will be made in the form of original payment for returns with original receipt. Refunds will be made in the form of an even exchange or a merchandise credit will be issued for the current selling price for returns without original receipt. Merchandise purchased at Nine West Outlet stores cannot be returned/exchanged at a Nine West Specialty Retail store. See complete details in any Nine West Outlet store.

ITEMS

07/24/10 06:04:00PM 2652 02 043035 1973

Thank you for shopping with us

Tarjeta de Regalo de \$500

de Wilson's Leather

Ingreso

wilson'sleather.com

en los siguientes 7 días.

para responder a la encuesta.

participar en la promoción, o para poder el

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)
Connie Dumas,)
S.C.D.C. No. 346178,)

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
OF THE SIXTEENTH JUDICIAL CIRCUIT

2014-CP-46-1332

ORDER OF DISMISSAL

FILED-RECEIVED
2016 AUG 24 PM 4:06
DAVID HAMILTON
C.C.P. & GS
YORK COUNTY, SC

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed April 25, 2014. Respondent made its Return on or about October 2, 2014. An evidentiary hearing into the matter was convened on January 20, 2015, at the Moss Justice Center in York, South Carolina. Applicant was present at the hearing and represented by Leah Mooly, Esquire. Rutledge Johnson, Esquire, of the South Carolina Attorney General's Office represented Respondent. At the hearing, Applicant testified on her own behalf. Applicant's husband and daughter also testified. Applicant's trial counsel, Michael Atwater, Esquire, (hereinafter "Counsel") also testified. This Court had before it a copy of Applicant's records from the York County Clerk of Court, Applicant's records from the South Carolina Department of Corrections, the trial transcript, Applicant's PCR Application, and Respondent's Return.

I. PROCEDURAL HISTORY

Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the York County Clerk of Court's orders of commitment. Applicant was indicted by the November 2010 term of the York County Grand Jury for Armed Robbery (2010-GS-46-3853) and Possession of a Weapon during the Commission of a Violent Crime (2010-GS-46-3854).

Michael Atwater, Esquire, represented her. On May 20, 2011, Applicant proceeded to a jury trial pursuant to which she was found guilty as indicted. The Honorable Paul M. Burch sentenced Applicant to confinement for eighteen (18) years for Armed Robbery and five (5) years, concurrent, for the possession charge.

A notice of appeal was filed on Applicant's behalf and an appeal was perfected. The South Carolina Court of Appeals affirmed Applicant's convictions and sentences. State v. Dumas, 2013-UP-150 (filed April 10, 2013). Applicant then filed a Petition for Writ of Certiorari in the South Carolina Supreme Court on January 23, 2014. The Remittitur was issued on February 25, 2014.

Allegations

In this PCR action, Applicant alleged she was being held unlawfully for the following reasons:

1. "I was not in possession of a weapon."
 - a. "A search was performed though without a warrant"
2. "My attorney was ineffective in securing witnesses"
 - a. "My daughter who was also arrested was never a witness for defense"
3. "The State lost the original video surveillance necessary to corroborate my testimony."
 - a. "Testified by the detective in court"
4. "My attorney did not investigate the lost(sic) of evidence favorable to the defendant and state withheld audio from police cruiser"
 - a. "Detective Waldrup said in court, that the video tape was lost from evidence and the State said police cruiser tape was inaudible"
5. "My attorney Michael Atwater was in possession of my primary bank account information and check stubs along with receipts which contradict the State argument that I need money for school clothes for my children. He never supplied the court with them."
 - a. "My attorney never presented the evidence in court"
6. "My attorney did not make me aware of the fact that probation or timeless offered by the plea was not an option for the level of my charges."
 - a. "He told me he didn't agree with the plea deal offered. Lesser included charges could get me probation he said, but they were not offered when jury asked for them."

7. "Arguments between my attorney and the judge created a negative atmosphere in the courtroom."

a. "Proof lies in my transcript. My former attorney has since been suspended from the practice of law. Told me in a letter from his form law partner Eric Davis."

II. SUMMARY OF THE TESTIMONY

Applicant's Testimony

Applicant testified that Counsel represented her at the first trial, which resulted in a mistrial, and at the second trial where she received eighteen years for armed robbery. She testified that Counsel was ineffective for failing to call her daughter as a witness and for failing to investigate a videotape that she claims was lost evidence. She testified that she needed her daughter to testify at trial because her daughter was present during the arrest and during the search of the vehicle, which resulted in police taking money from her daughter's purse. Applicant testified that during the traffic stop the police went through her purse and her daughter's purse and took what the police called stolen money. Applicant testified that she discussed this with Counsel.

Applicant testified that the State presented evidence at trial that she stole money. She testified that Counsel did not provide proof of her daughter's money that was found at the time of the arrest. She testified that she does not need to steal money and that she had receipts for her daughter's school clothes. Applicant testified that she provided these receipts to Counsel before trial but he did not use them and said he would only use them if needed.

Applicant testified that she did testify at trial but did not discuss a defense theory with Counsel. She testified that she did discuss the case before her first trial, telling Counsel that she did not need to steal money but Counsel did not use this information. Applicant testified that her husband testified at trial that she did not need money.

Applicant testified that a video from the convenience store was used in the first trial but was lost before the second trial. She testified that Counsel did not have a copy of the video, which depicts her walking up to the counter, buying items, and walking out. She testified that she did not review a second video but believed that Counsel was able to view one. Applicant testified that Counsel did not do anything about this second video nor discuss it with Applicant. Applicant also admitted to being in the One Stop convenience store at the time of the incident.

Applicant testified that Counsel argued with the trial judge and created a negative atmosphere in the courtroom. Applicant testified that she could not point to specific instances in the transcript where the trial judge argued with Counsel. She testified that the jury was out of the room when the judge yelled at Counsel.

Applicant testified that the State offered a plea of a ten year sentence but Counsel told her not to take it. She further testified that she did not know that armed robbery carries a minimum of a ten year sentence.

Applicant testified that she seeks a new trial.

Bursha Dumas' Testimony

Applicant's husband, Bursha Dumas, testified that he was present for both trials and did not meet with Applicant and Counsel at the same time. He testified that he did not prepare for the second trial. Mr. Dumas testified that his testimony at the second trial was that Applicant did not have a reason to steal and that everything was paid for, despite the State alleging that Applicant needed money. He testified that he provided receipts and pay stubs from the convenience store at the time of the incident. He testified that his children received money through a settlement and used this money. Mr. Dumas further testified that he could pay household bills.

Mr. Dumas testified that he did not see a gun at their house and that neither he nor Applicant own a gun. He testified that he spoke with Counsel during the trial. He also testified that he was not at the convenience store during the incident.

Kiara Boston's Testimony

Applicant's daughter, Kiara Boston, testified that she was seventeen years old at the time of the incident. She testified that she was with Applicant at the time of the arrest. She testified that she had information about the traffic stop and store receipts. She testified that the State's main theory was that Applicant needed money for school clothing, but testified that she already had clothes for school and had the receipts for these clothes. Ms. Boston testified that she received \$6,000 in a settlement and used some of that money to buy clothing.

Ms. Boston testified that she met Counsel one time and was not present when Applicant spoke with Counsel. She further testified that she asked to testify on Applicant's behalf. She testified that she had receipts from her settlement but these were not presented at trial. She testified that she had receipts from buying her own clothing at outlet stores. She testified that the receipts were all from credit card transactions.

Ms. Boston testified that she answered basic questions from the police during the traffic stop. She testified that they asked about the money in her purse. She testified that she told police it was her own money but the police still confiscated it from her. She testified that she has never seen a gun in her house.

Counsel Michael Atwater's Testimony

Counsel testified that he has been practicing law since 1995. He testified that he became involved in this case around October and November 2010 when he was referred by another attorney. He testified that he met with Applicant dozens of times. Counsel testified that he filed

for and received Rule 5 material and explained this to Applicant. He testified that he explained to Applicant all of the charges and defenses and the minimum and maximum sentences she was facing. He further testified that he explained the ramifications of pleading guilty, that Applicant would likely go to prison, and discussed the possible outcomes of going to trial including the sentencing ranges. Counsel testified that he discussed all of this with Applicant and told her that he cannot predict the outcomes.

Counsel testified that he was prepared well before the start of the first trial. He testified that the defense's theory was that Applicant took a \$100 bill from her safe, left her house, and was going shopping. The theory continued that Applicant went to the bank by the One Stop convenience store, withdrew money out of the ATM, and had the One Stop clerk break up the large bills for her. Counsel testified that the State's theory was that Applicant needed money and intended to rob a bank but robbed the One Stop instead. The State's theory continued that Applicant cased the store and then robbed the store, receiving money from the clerk. Counsel testified that he believed the jury clearly heard both sides.

Concerning the shopping receipts, Counsel testified that he has never seen them before, they were never given to him pre-trial, nor presented to him at any time. He testified that he did not think he needed the receipts and did not need to investigate the settlement receipt because Applicant testified to it at trial. Counsel also testified that Mr. Dumas testified at trial to the possession of shopping receipts. Counsel testified that showed the jury photos of clothes and was able to cross examine the bank teller about Applicant's overdraft.

Counsel testified that he only saw Applicant's daughter at the second trial. He testified that he did not call Ms. Boston because Applicant told him she was taking exams and should not

make her testify. Counsel testified that Ms. Boston was minimally involved in the incident and he believed her testimony would have been duplicative to other witnesses' testimony.

Counsel testified that at trial he called witnesses at trial to show that Applicant had no motive to commit the robbery. He testified that he received video evidence before trial but the police lost one video. He testified that he argued to the jury about the lack of video evidence from the One Stop and about the lost videos to show the jury about the errors police made.

Counsel testified that the State presented several plea offers. He testified that Applicant rejected all plea offers because she said she wasn't guilty. Counsel testified that the first plea offer came before the first trial and another offer was presented after the first trial. He testified that Applicant rejected an offer to plea to one to ten years imprisonment. Counsel testified that the solicitor offered a six year plea to larceny. On re-direct, Counsel testified that he was not sure if the plea offer was to larceny but he was sure that it was for six years. He testified that the trial judge asked about plea negotiations and the solicitor was initially going to recommend six years but made no recommendation before sentencing.

III. APPLICABLE LAW

In a post-conviction relief action, the applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel

rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the trial transcript, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

As a matter of general impression, this Court finds Applicant's testimony and assertions to be not credible. In contrast, this Court finds Counsel's testimony to be credible and persuasive on all matters. These credibility findings have been applied to the Court's findings and conclusions set forth below.

Ineffective Assistance of Counsel

This Court finds that Applicant failed to meet his burden of proving that his trial counsel was ineffective. First, this Court finds that Applicant has failed to prove that Counsel was deficient for failing to call Applicant's daughter, Klara Boston, as a witness. This Court finds Counsel's testimony persuasive that Applicant's daughter was minimally involved in the incident and would only have provided duplicative testimony at trial.

This Court finds that Applicant's allegations concerning the lost videotape fails to allege any ineffective assistance by Counsel. Counsel testified that a surveillance video from the convenience store was lost sometime after the first trial. He testified, and the record reflects, that he brought this to the jury's attention during argument and specifically pointed out the lack of video evidence to highlight the police officers' errors. This Court finds that none of Counsel's actions concerning the videotape evidence rose to the level of deficient performance and Applicant has failed to prove that he was ineffective in this regard.

This Court finds that Applicant's allegation that Counsel failed to investigate the withheld audio from the police cruiser is without merit. This Court finds that Applicant has failed to present any evidence of what further investigation would have revealed. See Skeen v. State, 325 S.C. 210, 481 S.E.2d 129 (1997) (holding applicant not entitled to relief where no evidence presented at PCR hearing to show how additional preparation would have had any possible effect on the result at trial). As a result, this Court finds that this allegation must be denied and dismissed with prejudice.

This Court finds that Applicant's allegation that Counsel was in possession of her bank account information, check stubs, and receipts but did not present them to the trial court is

without merit. This Court finds Counsel's testimony to be credible and persuasive that he did not receive any receipts before or during trial.

This Court finds that Applicant has failed to show that Counsel was ineffective regarding the plea negotiations. This Court finds Counsel's testimony credible that Applicant rejected all plea offers because she asserted her innocence. This Court further finds that Applicant has failed to show that she was prejudiced in any way by Counsel's actions regarding plea negotiations because she has failed to show that she would have taken the plea but for Counsel's actions. This Court also finds that Applicant has failed to show that Counsel was deficient regarding lesser included offenses. The record reflects that Counsel asked the trial judge for an instruction on the lesser included offense of robbery but the trial judge denied the request finding that there was no evidence to indicate a lesser charge. This Court finds that Counsel's actions in this regard were not deficient and the decision to instruct on lesser included offenses ultimately rested with the trial judge. This Court further finds that Applicant has failed to show that she was prejudiced in any way by Counsel's actions regarding lesser included offenses.

This Court finds that Applicant's allegation that Counsel created a negative atmosphere with the judge to be without merit. By Applicant's own admission, she could not point to specific instances in the transcript and has failed to show that the result of her trial was in any way affected by Counsel's actions. Applicant even admitted that any arguments were out of the presence of the jury.

This Court concludes that Applicant has failed to show that Counsel's performance was deficient in any way. Furthermore she has failed to show that she was prejudiced by his actions and that the outcome of her trial would have been different. Accordingly Applicant's allegations must be dismissed.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds Applicant failed to present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds Applicant has abandoned any such allegations.

V. CONCLUSION

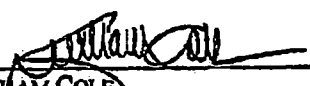
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this court to grant her application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that Applicant must file and serve a notice of appeal within thirty days from the receipt of this Order by counsel of record to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRPC, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That this application for post-conviction relief must be denied and dismissed with prejudice; and
2. That Applicant shall remain in the custody of the State.

AND IT IS SO ORDERED this 23 day of August, 2016.



J. DERHAM COLE
Presiding Judge
Sixteenth Judicial Circuit

York, South Carolina

WITNESSES

RHPD / Tripp

adm

ARREST WARRANT NUMBER

K-641967

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 11-11-10

VERDICT

Guilty

Foreperson of Petit Jury
Date: MAY 1, 20 2011

DOCKET NO. 2010-GS-46-

03853

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

November 11, Term 2010

THE STATE

vs.

CONNIE MURRAY DUMAS

Indictment for

ARMED ROBBERY

SC Code: 16-11-330
CDR Code: 0139

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF YORK)

At a Court of General Sessions, convened on November 11, 2010, the Grand Jurors of York County present upon their oath:

ARMED ROBBERY

The Defendant, Connie Murray Dumas, did in York County, South Carolina, on or about August 9, 2010, while armed with a deadly weapon, to wit: a hand gun, or while alleging, either by action or words, that she was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, feloniously take and carry away personal property belonging to One Stop Food Store, taken from the person of or in the presence of Marcella Talford, employee of One Stop Food Store. The Defendant by means of force or intimidation put Marcella Talford in fear and took from Ms. Talford cash money belonging to One Stop Food Store, located at 1500 Albright Road, Rock Hill, South Carolina. All in violation of §16-11-330, 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.

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

2014 APR 29 AM 9:16

CERTIFIED TRUE COPY

J B Springer

ASSISTANT SOLICITOR

ARREST WARRANT

K-641967

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
 Rock Hill Municipal Court

 THE STATE
 against

Connie Murray Dumas

Address: _

Rock Hill, SC 29731-1706

Phone: _ SSN: _

Sex: F Race: B Height: 5'05" Weight: 130DL State: SC DL#: _DOB: _ Agency ORI#: SC0460300Prosecuting Agency: Rock Hill Police DepartmentProsecuting Officer: Tripp-P.Offense: Armed Robbery 16-11-330

Offense Code: _

Code/Ordinance Sec: 16-11-330

This Warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

 The accused
 is to be arrested and brought before me to be
 dealt with according to law.

Signature of Judge

(L.S.)

Date: _

RETURN

 A copy of this arrest warrant was delivered to
 defendant Connie Murray Dumas
 on 08-09-2010

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

 JANE NODLA, MUNICIPAL JUDGE
 420 E. Black Street
 Rock Hill, SC 29731-1706
 8-329-5695

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
 Rock Hill Municipal Court

 Personally appeared before me the affiant Phil Dawsey Tripp
 being duly sworn deposes and says that defendant Connie Murray Dumas
 did within this county and state on August 9, 2010

 State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Rock Hill Municipal Court)
 in the following particulars:
DESCRIPTION OF OFFENSE: Armed Robbery 16-11-330
 I further state that there is probable cause to believe that the defendant named above did commit
 the crime set forth and that probable cause is based on the following facts:

 Defendant Dumas on 08-09-2010 did willfully and unlawfully violate S.C. code of laws 16-11-330 Armed
 Robbery by robbing the One Stop Convenience Store of an undetermined amount of U.S. currency while armed
 with a small handgun. Incident occurred at Albright Road which is within the city limits of Rock
 Hill.

Police Investigation

Recovery of Evidence

Statement by Defendant

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
 Rock Hill Municipal Court
Affiant's Address 120 E. Black StreetRock Hill, SC 29731-1706Affiant's Telephone 803-329-1205

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

 It appearing from the above affidavit that there are reasonable grounds to believe that
 on August 9, 2010 defendant Connie Murray Dumas
 did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of Rock Hill Municipal Court) as set forth below:
DESCRIPTION OF OFFENSE: Armed Robbery 16-11-330
 Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
 defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
 the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 08/09/2010Signature of Issuing Judge T. Murrell (L.S.)

Signature of Issuing Judge

Judge Code: 0703Judge's Address 120 E. Black StreetRock Hill, SC 29731-1706Judge's Telephone 803-329-5695Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

K-641967

Ref #: 100003041

 Form Approved by
 S.C. Attorney General
 April 21, 2003
 SCCA 618

AFFIDAVIT

ENTERED

who

 violate the criminal laws of the
 Rock Hill Municipal Court

0139

 CERTIFIED TRUE COPY
 2014 AUG 29 AM 9:45
 CLERK OF COURT
 YORK COUNTY, SC

759

DOCKET NO. 2010-GS-46-03854

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

WITNESSES

RHPD / Tripp

The State of South Carolina

County of York

Defendant

COURT OF GENERAL SESSIONS

November 11, Term 2010

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

adm

ARREST WARRANT NUMBER

K-641968

Defendant

THE STATE

vs.

Witness:

C.C.C. PLS. AND G.S.

ACTION OF GRAND JURY

CONNIE MURRAY DUMAS

TRUE BILL

Foreperson of Grand Jury

Date:

11-11-10

VERDICT

Guilty

Indictment for

POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME

SC Code: 16-23-490
CDR Code: 549

Foreperson of Petit Jury

Date: May 20 2011

Wesley A. Jume

STATE OF SOUTH CAROLINA)
)
 COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on November 11, 2010, the Grand Jurors of York County present upon their oath:

POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME

The Defendant, Connie Murray Dumas, did in York County on or about August 9, 2010, while committing the crime of Armed Robbery, a violent crime as defined in South Carolina Code of Laws Section 16-1-60, have in her possession a handgun. This happened at the One Stop Food Store on Albright Road. All in violation of Section 16-23-490, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.
 DAVID HAMILTON
 CLERK OF COURT
 YORK COUNTY, SC

E B Springer

ASSISTANT SOLICITOR

2011 APR 29 AM 9:46

CERTIFIED TRUE COPY

ARREST WARRANT

K-641968

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
 Rock Hill Municipal Court

 THE STATE
 against

Connie Murray Dumas

 Address: Rock Hill, SC 29731-1706

 Date: 08-09-2010 SSN:
 Race: B Height: 5'05" Weight: 130
 State: SC DL#:

 B: Agency ORI#: SC0460300

 Executing Agency: Rock Hill Police Department

 Executing Officer: Tripp-P.

 Cause: Possession of Firearm During Commission of V
iolent Crime 16-23-490 Offense Code:

 Ordinance Sec: 16-23-490

 This Warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of

 The accused
 to be arrested and brought before me to be
 alt with according to law.

Signature of Judge (L.S.)

 te:

RETURN

 copy of this arrest warrant was delivered to
 defendant Connie Murray Dumas
08-09-2010

Signature of Constable/Law Enforcement Officer

 RETURN WARRANT TO:
 MR. WODLA, MUNICIPAL JUDGE
120 E. Black Street
Rock Hill, SC 29731-1706
803-329-5695

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
 Rock Hill Municipal Court

 Personally appeared before me the affiant Phil Dewey Tripp who
 being duly sworn deposes and says that defendant Connie Murray Dumas
 did within this county and state on August 9, 2010

 State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Rock Hill Municipal Court)
 in the following particulars:

 DESCRIPTION OF OFFENSE: Possession of Firearm During Commission of Violent Crime 16-23-490

 I further state that there is probable cause to believe that the defendant named above did commit
 the crime set forth and that probable cause is based on the following facts:

 Defendant Dumas on 08-09-2010 did willfully and unlawfully violate S.C. code of laws 16-23-490 Possession
 Firearm During Comm. Violent Crime by being in possession of a handgun during the commission of an armed
 robbery while at the One Stop Convenience Store, currency while armed with a small handgun. Incident
 occurred at 1500 Albright Road which is within the city limits of Rock Hill.

Police Investigation

Recovery of Evidence

Statement by Defendant

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
 Rock Hill Municipal Court

 Affiant's Address 120 E. Black Street
Rock Hill, SC 29731-1706
 Affiant's Telephone 803-329-7205

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

 It appearing from the above affidavit that there are reasonable grounds to believe that
 on August 9, 2010 defendant Connie Murray Dumas
 did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of Rock Hill Municipal Court) as set forth below:

 DESCRIPTION OF OFFENSE: Possession of Firearm During Commission of Violent Crime 16-23-490

 Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
 defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
 the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me)

 on 08/09/2010)

 Signature of Issuing Judge D Mundy (L.S.))

Signature of Issuing Judge

 Judge's Code: 6003

 Judge's Address 120 E. Black Street
Rock Hill, SC 29731-1706

 Judge's Telephone 803-329-5695

 Issuing Court: ☐ Magistrate ☒ Municipal

ORIGINAL

K-641968

Zraf #: 10088906421

 Form Approved by
 S.C. Attorney General
 April 24, 2003
 SCCA 618

AFFIDAVIT

ENTERED

2010 AUG 24 AM 9:46

 FILED TRUE COPY
 08 APR 29 AM 9:46
 CLERK OF COURT
 ROCK HILL, SC

SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

763

COUNTY OF
STATE

York

VS.

Connie Murray Dumas

INDICTMENT/CASE#: 2010GS4603853

A/W#: K641967

Date of Offense: 8/9/2010

S.C. Code § : 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

AKA:

Race: B Sex: F Age: 40

DOB: SS#

Address:

City, State, Zip: ROCKHILL, SC 29732

DL#: SID#: SC01541429

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO:

Armed Robbery

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-11-330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Springs, E.B. 13568 - Connie Murray Dumas Phil B. Dumas 8537
 SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 18 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine: \$

§ 14-1-206 (Assessments 107.5 %) \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-11 (DUI Breath Test) \$50 \$

§ 56-5-2942(1) (Vehicle Assessment) \$40/ea \$

Proviso 80.5 (SCGA Surcharge) \$5 \$ 5

§ 44-53-450(C) (Conditional Discharge) \$350 \$

3% to County (if paid in installments) \$

TOTAL \$ 130

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Conditional Discharge, § 44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

David Hamilton

Court Reporter:

Wanda Nelson

SCCA/217 (06/2010)

Presiding Judge

Judge Code: 2049

Sentence Date: 5-20-11

764

CITY OF
STATE

York

VS.

Connie Murray Dumas

AKA:

Race: B Sex: F Age: 40

DOB: SS#:

Address:

City, State, Zip: ROCKHILL, SC 29732

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: POSSESSION OF FIREARM DURING COMMISSION OF VIOLENT CRIME

INDICTMENT/CASE#: 2010GS4603854

A/W#: K641968

Date of Offense: 8/9/2010

S.C. Code §: 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTORNEYS: BSA Remy II 13568 Connie Dumas Min D. Dumas 8537
Springs, E.B. SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (DUI Breath Test Fee)	\$50	\$
§ 56-5-2942 (DUI Assessment)	\$40/ea	\$
Proviso 90.4 (SC Bar# Surcharge)	\$5	\$ 5
§ 44-53-450 (Conditional Discharge)	\$350	\$
3% to County (If paid in installments)		\$
TOTAL		\$ 130

Clerk of Court: David HamiltonCourt Reporter: Wanda Nelson

SCCA/217 (06/2010)

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Conditional Discharge, § 44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: 2048Sentence Date: 5-20-11