

19890

ANDERS
VOLUME 2 OF 2
NO DEFENDANT'S BRIEF
ORIGINAL
No Respondent's Brief Filed

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

R. Markley Dennis, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MARVIN BOWENS GREEN,

APPELLANT

RECEIVED
JUN 05 2012
SC Court of Appeals

RECORD ON APPEAL

BREEN RICHARD STEVENS
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

Attorney for Appellant

VOLUME 2 OF 2
Pages 501-532

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211
(803) 734-3727

SCARLETT ANNE WILSON
Solicitor, Ninth Judicial Circuit
101 Meeting St., Ste. 400
Charleston, SC 29401-2214
fax (843) 740-5858
(843) 958-1900

Attorneys for Respondent

INDEX

INDEX..... i

TRIAL TRANSCRIPT..... 1

INDICTMENT 520

SENTENCING SHEET 522

STATE’S EXHIBIT #2 (STATEMENT OF DEFENDANT)..... 523

COURT’S EXHIBIT #1 (STATE’S OFFER FOR PLEA)..... 527

CERTIFICATE OF COUNSEL 532

1 yesterday, and I understand we're all human, but
2 I will not tolerate any outbursts, any response
3 to the jury's -- reading of the jury's verdict.
4 So I expect everyone in here will refrain from
5 any type of human response. So thank you all
6 for that. Let's bring in our jury.

7 (JURY IN AT 2:55 P.M.)

8 THE COURT: Thank you very much,
9 ladies and gentlemen. Ms. Rico-Flores, as I
10 understand, the jury has reached a verdict?

11 MS. RICO-FLORES: Yes, Your Honor.

12 THE COURT: If you would pass the
13 verdict form, please, to Mr. Callahan.

14 JUROR NUMBER 227: (Complies)

15 BAILIFF: (Tenders verdict form to
16 the Court).

17 THE COURT: (Upon review), the
18 verdict form has been properly completed. If
19 you would please assist the Court and publish
20 the verdict. I ask the defendant to please
21 rise.

22 MR. CALLAHAN: The verdict form in
23 the matter of State of South Carolina versus
24 Marvin Bowens, defendant. As to indictment
25 number 2009-GS-10-5376, "We, the jury, by

1 unanimous consent, find the defendant guilty of
2 armed robbery." Signed by the foreperson of the
3 jury on June 24, 2011.

4 Ladies and gentlemen of the jury, if
5 this was your verdict, please raise your right
6 hand.

7 (JURORS UNANIMOUSLY RESPOND AFFIRMATIVELY)

8 MR. CALLAHAN: Thank you. Please
9 let the record reflect that all twelve jurors
10 raised their right hand.

11 THE COURT: Thank you very much. You
12 may be seated, Mr. Bowens. Anything further for
13 the jury from the State, Mr. Sahn?

14 SOLICITOR SAHN: No, Your Honor.

15 THE COURT: Anything further of the
16 jury panel?

17 MR. DAVIS: We would ask them to be
18 polled individually, Your Honor.

19 THE COURT: Very well. Ladies and
20 gentlemen, what will happen now, while you have
21 raised your right hand and affirmed that that
22 was your verdict, Mr. Callahan is going to call
23 your name. And when he -- he'll ask you two
24 questions, was that your verdict and is it still
25 your verdict? And you'll just simply respond to

1 his questions, please. Thank you, sir. If
2 you'll assist.

3 MR. CALLAHAN: Juror number 227,
4 Phyllis Rico-Flores. Was that your verdict?

5 JUROR NUMBER 227: Yes.

6 MR. CALLAHAN: Is that still your
7 verdict?

8 JUROR NUMBER 227: Yes.

9 MR. CALLAHAN: Thank you. Juror
10 number 85, Mary Glover.

11 JUROR NUMBER 85: Yes.

12 MR. CALLAHAN: Was that your
13 verdict?

14 JUROR NUMBER 85: Yes.

15 MR. CALLAHAN: Is that still your
16 verdict?

17 JUROR NUMBER 85: Yes.

18 MR. CALLAHAN: Thank you. Juror
19 Number 8, Richard Austin.

20 JUROR NUMBER 8: Yes.

21 MR. CALLAHAN: Was that your
22 verdict?

23 JUROR NUMBER 8: Yes.

24 MR. CALLAHAN: Is that still your
25 verdict?

1 JUROR NUMBER 8: Yes.

2 MR. CALLAHAN: Thank you. Juror
3 Number 102, Donna Hartin.

4 JUROR NUMBER 102: Yes.

5 MR. CALLAHAN: Was that your
6 verdict?

7 JUROR NUMBER 102: Yes.

8 MR. CALLAHAN: Is that still your
9 verdict?

10 JUROR NUMBER 102: Yes.

11 MR. CALLAHAN: Thank you.

12 Juror Number two, Kelly Albers. Was that your
13 verdict?

14 JUROR NUMBER 2: Yes.

15 MR. CALLAHAN: Is that still your
16 verdict?

17 JUROR NUMBER 2: Yes.

18 MR. CALLAHAN: Juror number 233,
19 John Roper. Was that your verdict?

20 JUROR NUMBER 233: Yes.

21 MR. CALLAHAN: Is that still your
22 verdict?

23 JUROR NUMBER 233: Yes.

24 MR. CALLAHAN: Thank you. Juror
25 167, Larry McCorkle.

State of South Carolina v Marvin Lamar Bowens
Case Number 10-GS-10-5376
Jury Trial of June 22-24, 2011
Before The Honorable R. Markley Dennis, Jr.

506

1 JUROR NUMBER 167: Yes.

2 MR. CALLAHAN: Was that your
3 verdict?

4 JUROR NUMBER 167: Yes.

5 MR. CALLAHAN: Is that still your
6 verdict?

7 JUROR NUMBER 167: Yes.

8 MR. CALLAHAN: Thank you. Juror
9 114, Kimberly Hoch.

10 JUROR NUMBER 114: Yes.

11 MR. CALLAHAN: Was that your
12 verdict?

13 JUROR NUMBER 114: Yes.

14 MR. CALLAHAN: Is that still your
15 verdict?

16 JUROR NUMBER 114: Yes.

17 MR. CALLAHAN: Thank you. Juror
18 118, Suzanne Huguley. Is that your verdict?

19 JUROR NUMBER 118: Yes.

20 MR. CALLAHAN: Is that still your
21 verdict?

22 JUROR NUMBER 118: Yes.

23 MR. CALLAHAN: Thank you. Juror
24 Number 147, Taylor Liles.

25 JUROR NUMBER 147: Yes.

1 MR. CALLAHAN: Is that your
2 verdict?

3 JUROR NUMBER 147: Yes, sir.

4 MR. CALLAHAN: Is that still your
5 verdict?

6 JUROR NUMBER 147: Yes.

7 MR. CALLAHAN: Thank you. Juror
8 284, Sabrina Ward.

9 JUROR NUMBER 284: Yes.

10 MR. CALLAHAN: Is that your
11 verdict?

12 JUROR NUMBER 284: Yes.

13 MR. CALLAHAN: Is that still your
14 verdict?

15 JUROR NUMBER 284: Yes.

16 MR. CALLAHAN: Thank you. Juror
17 291, Susannah Wiksell.

18 JUROR NUMBER 291: Yes.

19 MR. CALLAHAN: Is that your
20 verdict?

21 JUROR NUMBER 291: Yes.

22 MR. CALLAHAN: Is that still your
23 verdict?

24 JUROR NUMBER 291: Yes.

25 MR. CALLAHAN: Is there any juror

1 whose name I did not call? Please raise your
2 hand if I did not call your name. (No
3 response). Thank you. Your Honor, the jury's
4 been polled and the verdict stands.

5 THE COURT: Thank you very much. The
6 jury has been polled and each has affirmed their
7 verdict. Thank you. The verdict does stand.

8 Anything further from the jury panel,
9 Mr. Davis or Mr. Bowens?

10 MR. DAVIS: Nothing further.

11 THE COURT: Ladies and gentlemen,
12 thank you very much for assisting us this week.
13 It's truly been an honor and privilege to serve
14 with each of you as a judge in this case. I
15 thank you for the manner in which you've
16 conducted yourselves as jurors throughout this
17 trial. It's one of the reasons that I respect
18 this system so much, is because of the
19 opportunities and experiences to work with
20 people like you, that make the sacrifice to help
21 the system work. Thank you for that.

22 I wish there was some way that you --
23 to show you that. Certainly, we're not paid
24 jurors in this country. And to some extent I'm
25 glad. I think it's a better system. When you

1 get your check you'll understand what I mean by
2 that. But there really is no way in the world
3 to really equate the value you are to this
4 system. And I'm not talking about this case.
5 I'm talking about your involvement specifically
6 but in subjecting yourselves to the process.
7 And thank you for that.

8 If any of you have any questions, if
9 you want to let the bailiff know they can let me
10 know, and I'll try to answer them. If not, you
11 are free to leave. Have a great weekend. You
12 are also free to talk about this case now, if
13 you wish. But if you don't want to talk about
14 it, that's your right as well. And if someone
15 should persist in asking you questions about it,
16 just let Ms. Armstrong know about that and we'll
17 see what we can do to assist you.

18 Thank you. Take care and good luck.

19 (JURY DISMISSED AT 3:00 P.M.)

20 THE COURT: Anything from the State
21 at this point?

22 SOLICITOR SAHN: No, Your Honor.

23 THE COURT: Mr. Davis, any Motions?

24 MR. DAVIS: Your Honor, in an
25 abundance of caution, I'll make a motion for a

1 verdict notwithstanding the verdict for a new
2 trial.

3 THE COURT: Thank you very much. As
4 I stated on the record it was the jury's
5 decision. I think the jury -- there was an
6 abundance of evidence to support the jury's
7 decision, so I will deny it.

8 We'll take a moment, and then -- are we
9 ready for sentencing?

10 SOLICITOR SAHN: I believe so, Your
11 Honor.

12 THE COURT: Okay, take a moment.

13 (BRIEF RECESS)

14 (DEFENDANT PRESENT)

15 MR. DAVIS: I believe I've only been
16 in the position once before with this
17 Solicitor's Office when I represented a
18 gentleman who was convicted of armed robbery and
19 another one in the wings. I don't recall the
20 sentence, Judge. I asked at that time with my
21 client's permission for a sentence backing off
22 from them seeking life in the future.

23 I asked my client whether he wanted to
24 ask for a deferred sentence, and he does not.
25 He wants to go forward today with the

1 sentencing. But I'm following his instructions,
2 and I'm going to do my best in this case.

3 In this case, Your Honor, you've heard
4 his age at the time of the incident. You know
5 he's only nineteen now. You have seen some of
6 his family. You have heard some of the things
7 that have happened to him in the past at the
8 hand, unfortunately, of his father. That in no
9 way condones what the jury has now found him
10 guilty of being a part of. But certainly those
11 are factors that I'm sure, along with many
12 others, you will consider, Judge.

13 You've heard about his educational
14 background. He only participated in school up
15 to the seventh grade. He had sporadic work
16 through his early teenage years.

17 Judge, he was in jail on this charge --
18 forgive me, Judge. I know there's a box marked
19 for them to check with the jail. I would ask
20 leave of the Court to bring that ---

21 THE COURT: When was he incarcerated?

22 MR. DAVIS: He was arrested on
23 December 20, 2008. He did bond out. And,
24 Judge, forgive me, I do not have that exact
25 date.

1 MR. BOWENS: March.

2 THE COURT: March what?

3 MR. BOWENS: Second.

4 THE COURT: 2009?

5 MR. BOWENS: Yes, sir.

6 THE COURT: Well, how long were you
7 in jail? I'm going to have to let them probably
8 compute it, because there's a gap in there.

9 MR. BOWENS: The whole months of
10 January and February.

11 THE COURT: You were out?

12 MR. BOWENS: No, I was in jail January
13 and February.

14 THE COURT: And then you bonded out
15 in March?

16 MR. BOWENS: Yes, sir.

17 THE COURT: How long -- were you out
18 until now?

19 MR. DAVIS: No, sir. The subsequent
20 arrest last year.

21 THE COURT: Okay.

22 MR. DAVIS: The State then moved to
23 revoke that bond.

24 THE COURT: So we don't know how many
25 days?

1 MR. DAVIS: It was on the subsequent
2 arrest.

3 THE COURT: I'm talking about ---

4 MR. DAVIS: I can get you ---

5 THE COURT: I'm sorry. They're going
6 to make a copy of it, and I'm going to check
7 what they make. Thank you very much. He should
8 get credit, and I think there's no question they
9 will do that. If I could write it in, I'd be
10 happy to but in this one it doesn't appear that
11 I'm going to be able to.

12 MR. DAVIS: I understand. I
13 apologize. Certainly, he spent at least a
14 couple of months in jail before bond on this.

15 Judge, on behalf of the client, we
16 certainly disputed the facts but we understand
17 that it was the jury's verdict. Based on the
18 verdict, I remind the Court that there was no
19 evidence that he exited the van or entered the
20 store. He certainly is as culpable as the
21 person who did it, as the jury finds that he was
22 involved; which they did.

23 However, as you mete out justice,
24 certainly the amount of involvement is certainly
25 another thing. I'd respectfully ask, Judge,

1 with no record, not a juvenile record, I don't
2 believe.

3 SOLICITOR SAHN: That's correct.

4 MR. DAVIS: He has no record prior to
5 this. This is his first conviction. And it's
6 big but we respectfully ask under all the
7 circumstances, given his difficult upbringing,
8 given the amount of time he has spent already,
9 given his -- the finding of the jury of his
10 involvement in this case, and given the fact
11 that that is a mandatory minimum ten years and
12 he must serve eighty-five percent, who knows
13 what down the line that exposes him to but we
14 respectfully, today, ask you to sentence him on
15 the low end of the mandatory minimum ten years.

16 THE COURT: Thank you. Mr. Bowens,
17 anything you wish to add, sir?

18 MR. BOWENS: Your Honor, could I have
19 a minute?

20 THE COURT: Certainly.

21 MR. BOWENS: Your Honor, I just want
22 to thank you for giving me a fair opportunity
23 to go to trial here, and thank you most for
24 respecting me. I'll go by your decision. Thank
25 you.

1 THE COURT: Thank you, sir. Some of
2 the things that I heard in this trial, to say
3 they're disturbing is a mild understatement. I
4 had disagreements with my parents, but I never
5 had to encounter what's been testified to today
6 and what's been admitted to today by a person
7 who purports to be a father. That's not my
8 understanding of the role of a father. There's
9 no excuse for treating someone like that. No
10 excuse for treating an animal like that, let
11 alone a child. Children certainly are not to
12 provoke their parents, but the parents have no
13 right to respond in that fashion.

14 But you are a bright young man. And
15 that's the other tragedy in this situation.
16 Somebody that has the ability to speak and think
17 as you've demonstrated throughout this process,
18 what a tragic waste of the early years of your
19 life. It just -- it's just really, truly
20 tragic.

21 While I certainly understand why you
22 may have some strong psychological issues
23 concerning authority and authority figures,
24 there's no way in the world that I can excuse
25 what was done, nor can I excuse what was done

1 pretty harsh. I hope you'll choose to use it to
2 better yourself, Mr. Bowens.

3 MR. BOWENS: Yes, sir.

4 THE COURT: I have no question that
5 you can give to society, sir. The sentence of
6 the Court is twenty (20) years. We'll give you
7 credit for time served.

8 MR. BOWENS: Thank you.

9 THE COURT: Good luck to you, sir.

10 MR. DAVIS: Thank you, Your Honor.

11 SOLICITOR SAHN: Thank you, Your
12 Honor.

13 THE COURT: The gun -- we would like,
14 because of the policy, the Clerk's Office does
15 not like to retain firearms. We'd like -- since
16 I don't think there was ever a challenge that
17 this was a deadly weapon, can we agreed to
18 substitute a photograph of the firearm for the
19 firearm, so the Clerk doesn't have to hold it.

20 SOLICITOR SAHN: That would be fine
21 with us.

22 THE COURT: Is that agreeable?

23 MR. DAVIS: Yes, the defense is fine
24 with that.

25 THE COURT: Thank you so much. The

1 Clerk's Office appreciates that.

2 (EXHIBIT 21 RETURNED TO SOLICITOR SAHN)

3 (END OF PROCEEDINGS)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

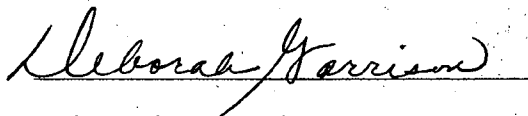
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

CERTIFICATE OF REPORTER

I, the undersigned, Deborah Garrison, official court reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of the jury trial held before The Honorable R. Markley Dennis, Jr., on June 22-23, 2011;

I further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.



Deborah Garrison
Circuit Court Reporter
9th Judicial Circuit

Charleston, South Carolina

September 25, 2011

**THIS PAGE INADVERTENTLY
LEFT BLANK**

WITNESSES

ROBERT O. COLSON
Charleston County Sheriff

AGENCY CASE NUMBER

2008026334

ARREST WARRANT NUMBER

K352691

DATE OF ARREST

December 20, 2008

ACTION OF GRAND JURY

[Signature]
Foreperson of Grand Jury
Date: JUL 07 2009

VERDICT

Guilty

Phillip Rice Flores 6/24/11
Foreperson of Petit Jury
Date:

INDICT.DOT

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

July Term 2009

THE STATE

vs.

MARVIN BOWENS GREEN
DOB: 1991-06-29
B/M

Indictment for
Armed Robbery

FILED

2009 JUL 22 PM 12: 32

JULIE J. ARMSTRONG
CLERK OF COURT

BY

09 07 2009

COUNTY OF Charleston
STATE VS.
MARVIN BOWENS GREEN
AKA: Marvin Bowens
Race: BLACK Sex: M Age: 19
DOB: 06-29-1991 SS#
Address:
City, State, Zip: ADAMS RUN, SC 294260000
DL#: SID#: SC01842509

INDICTMENT/CASE#: 2009GS1005376
A/W#: K352691
Date of Offense: 12/20/2008
S.C. Code § : 16-11-0330(A)
CDR Code #: 0139

SENTENCE SHEET

*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 § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Michael E. Sahn 74929 Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 20 days/months/years or under the Youthful Offender Act not to exceed 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

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:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$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, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$, TOTAL \$133.90

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk
Court Reporter: Deb Garrison
SCCA/217 (03/2011)

Presiding Judge
Judge Code: 2098
Sentence Date: 6/24/11

PAGE 1 OF 4

CHARLESTON COUNTY SHERIFF'S OFFICE
ADVISEMENT OF RIGHTS

OCA# 2008-026334-B

DATE: 12/20/08

NAME: Marvin Bowens RACE: B SEX: M DOB: 6/29/91

ADDRESS: 2 Jacksonboro SC PHONE#

EMPLOYMENT: N/A PHONE#

SOCIAL SECURITY# DRIVERS LIC# SC

STATE:

Det. Lawrence has advised me that he is a member of the
CHARLESTON COUNTY SHERIFF'S OFFICE AND HAS FURTHER ADVISED ME -----

- 1 1. That I have the absolute right to remain silent and do not have to answer any questions or give a statement and this fact cannot be used against me.
- 2 2. That if I do answer questions or give a statement, anything I say can and will be used against me in a Court of Law.
- 3 3. That I have the right to consult with a lawyer of my choice before I answer questions or give a statement and also to have him present while I am being questioned.
- 4 4. That if I wish to talk to a lawyer or have him present, but am unable to afford to hire a lawyer, one will be appointed to represent me free of charge.
- 5 5. That if I decide to answer questions or give a statement without having a lawyer present representing me, I have the absolute right during this interview to stop answering questions and to remain silent.

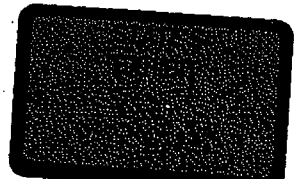
I FULLY UNDERSTAND EACH OF THESE RIGHTS WHICH HAVE BEEN EXPLAINED TO ME.

WITNESSES: [Signature] [Signature]

WAIVER OF RIGHTS

I fully understand each of these rights which have been explained to me, and having these in mind, I wish to waive these rights and answer questions concerning the charge of which I have been accused of committing. No threats, force or promises of any kind have been made to me by anyone to induce or cause me to waive these rights and answer questions.

WITNESSES: [Signature] [Signature]



CHARLESTON COUNTY SHERIFF'S OFFICE STATEMENT

CA # 2008-026334-B

DATE 12/20/08

STATEMENT OF Marvin Lamar Bowen
ADDRESS 11700 Hill SC 29452 PHONE #
EMPLOYER: N/A PHONE #
RACE: B SEX: M DATE OF BIRTH: 6/29/91

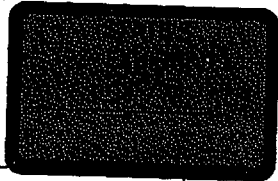
my friend Charles Green from Adams Run South Carolina for about two weeks came to my room window the morning of Dec 20 around 6:30 am ask me to help him do something. I told him I would be ask me to take him to the Road Runner store in Hollywood so he could rob it. I agreed because he told me they made lots of money and he would give me around five hundred dollars just to drop him off and pick him back up. We got up there and I drop him off by the car wash. When he got out he went to rob it, and I waited he rob ran back to the van and we left. it wasn't as much as he thought so he just gave me about a hundred dollars. When we made it back to Adams Run I drop him off on Jupiter Hill road. I went home put my money up. And told Marvin I need him to go to Jacksonville with me so he could go get me a phone card. But when we got there the police came

Q. Where do you live at?
A. My father's house in Adams Run near Jupiter Hill
Q. How do you know Charles Green?
A. From being outside with all the other children and smoking and drinking

I HAVE READ (HAD READ TO ME) THE FOREGOING STATEMENT WHICH HAS BEEN FREELY AND VOLUNTARILY MADE BY ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

WITNESSES: [Signature] x [Signature]

I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT x [Signature]



CHARLESTON COUNTY SHERIFF'S OFFICE STATEMENT

OCA# 2008-026334-B

DATE 12/26/08

STATEMENT OF SUC #9.1

ADDRESS _____ PHONE # _____

EMPLOYER: _____ PHONE # _____

RACE: _____ SEX: _____ DATE OF BIRTH: _____

Q Describe Charles Laven?

A. Bout 5.9, 140 brown skin slim dreadlocks med. range long

Q Describe the gun that Charles had?

A. rusty shotgun but I didn't really see it all the way

Q What was Charles driving wearing?

A. Black ~~hood~~ ^{hood} long shirt, black long pants, white in shoe color shoes
Black gloves, black bag on his face

Q What did you drive to the Road Runner?

A. Family van, tan colored

Q Where did you drop Charles off?

A. In a tunnel under the car wash behind road runner

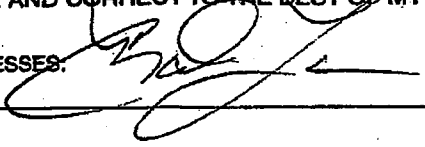
Q Where did you pick him up at?

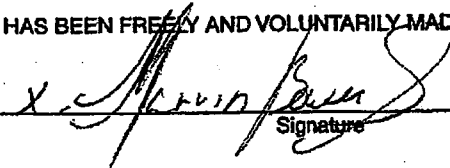
A. In a tunnel under the car wash behind road runner

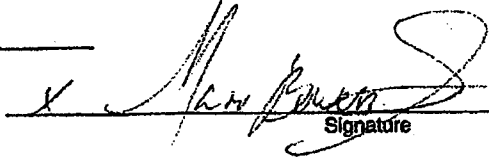
Q What happened when you hit the Road Runner?

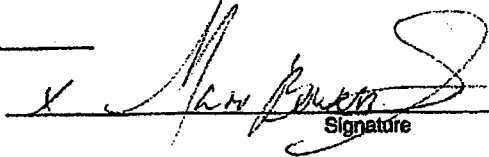
A. Charles jump ~~back~~ ^{back in his} that way nobody would see him
we road off back towards Adams Runis, then I drop him off by
the Jupiter Hill road I went home and ask my brother to come
to Jacksonboro with me that way ~~we~~ would be able to get a
phone card. but the police came

I HAVE READ (HAD READ TO ME) THE FOREGOING STATEMENT WHICH HAS BEEN FREELY AND VOLUNTARILY MADE BY ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

WITNESSES: 


Signature

I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT 


Signature

CHARLESTON COUNTY SHERIFF'S OFFICE
STATEMENT

OCA # 2008-026334-B

DATE 12/20/08

STATEMENT OF Sgt PG, 1

ADDRESS _____ PHONE # _____

EMPLOYER: _____ PHONE # _____

RACE: _____ SEX: _____ DATE OF BIRTH: _____

Q Who was home with you when Charles' came by?

A My mother and my father, sister and three brothers

Q Who was home when you returned?

A mother, father, sister, three brothers

Q Did you agree to drive Charles to the Road Runner so that he could rob it?

A Yes

Q How much money did Charles give you for helping?

A \$95

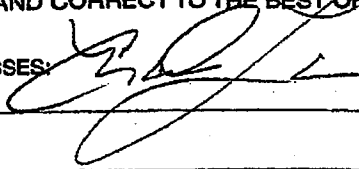
Q Where is the money?

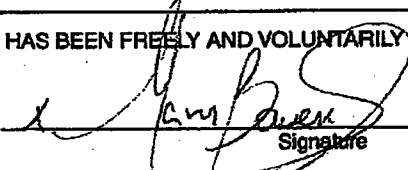
A Red monkey deans in my room

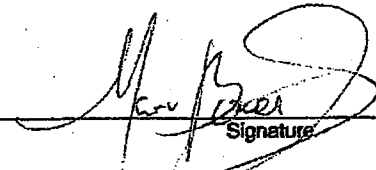
Q Where did the money in the van come from?

A ~~to the~~ ^{MS} ~~to the~~ ^{MS} It was for gas and a ten dollar phone card

I HAVE READ (HAD READ TO ME) THE FOREGOING STATEMENT WHICH HAS BEEN FREELY AND VOLUNTARILY MADE BY ME AND IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

WITNESSES: 


Signature

I HAVE RECEIVED A COPY OF THE ABOVE STATEMENT 
Signature

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF GENERAL SESSIONS

Warrant Numbers:
K352691, K352704, K684608,

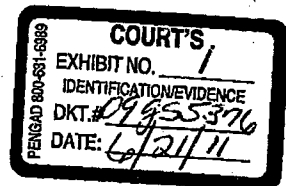
STATE OF SOUTH CAROLINA)
)
v.)
)
Marvin Lamar Bowens,)
)
Defendant.)
_____)

Indictment Numbers:
2009-GS-10-05376
2009-GS-10-05377
2011-GS-10-02338

AGREEMENT made this _____ day of _____, 2011, between
and among the State of South Carolina, as represented by Michael C. Sahn; the Defendant,
Marvin Lamar Bowens, and Defendant's Attorney, Rodney Davis.

IN CONSIDERATION of the mutual promises made herein, the parties hereto
agree as follows:

1. The Defendant, MARVIN LAMAR BOWENS, agrees to plead guilty to four (4) counts of Armed Robbery.
2. In exchange for the Attorneys for the State allowing the Defendant, MARVIN LAMAR BOWENS, to plead guilty to these offenses and to defer sentencing until a later date, the Defendant, agrees to be fully truthful and forthright with the Attorneys for the State and law enforcement agents in their investigation of the murder of Kavares Brown and other unlawful activities, to include, but not limited to, truthful and complete debriefings of the Defendant's



knowledge concerning any unlawful activities. Also, the Defendant understands that he must fully disclose and provide truthful information to the Attorneys for the State including any books, papers, or documents or any other items of evidentiary value to the investigation. The Defendant must also testify fully and truthfully at any trials or other proceedings if called upon to do so by the Attorneys for the State, subject to prosecution for perjury for not testifying truthfully. The failure of the Defendant to be fully truthful and forthright at any stage will, at the sole election of the Attorneys for the State, cause the obligations of the Attorneys for the State within this Agreement to become null and void. The failure of the Defendant to provide information and cooperation that is deemed by the Attorneys for the State as substantial assistance in the investigation or prosecution of another person who has committed an offense will, at the sole election of the Attorneys for the State, cause the obligations of the Attorneys for the State within this Agreement to become null and void. Further, it is expressly agreed that if the obligations of the Attorneys for the State within this Agreement become null and void due to the lack of truthfulness or a failure to provide substantial assistance on the part of the Defendant, the Defendant understands that: (1) the Defendant will not be permitted to withdraw his plea of guilty to the offenses described above without consent of the Attorneys for the State; (2) the Attorneys for the State *may argue for a maximum sentence* for the offenses to which the Defendant has pleaded guilty; (3) any and all additional charges known to the Attorneys for the State may be filed in the appropriate jurisdiction; (4) at the sole election of the Attorneys for the State, the Defendant's guilty plea will be rescinded if *the Defendant has not been sentenced*, and the State may resume its prosecution of the Defendant on all charges, to include seeking a sentence of Life Without Parole (LWOP); and (5) the Attorneys for the State may use any and all

information and testimony provided by the Defendant in the prosecution of the Defendant of all charges.

3. The Defendant, MARVIN LAMAR BOWENS, agrees to submit to such polygraph examinations as may be requested by the Attorneys for the State and agrees that any such examinations shall be performed by a polygraph examiner selected by the Attorneys for the State. Defendant, MARVIN LAMAR BOWENS, further agrees that his failure to pass any such polygraph examination to the State's satisfaction will result, at State's sole discretion, in the obligations of the Attorneys for the State within the Agreement becoming null and void.

4. The Attorneys for the State agree that any self-incriminating information provided by the Defendant, MARVIN LAMAR BOWENS, as a result of the cooperation required by the terms of this Agreement, although available to the Court, will not be used against the Defendant, MARVIN LAMAR BOWENS. The provisions of this paragraph shall not be applied to restrict any such information:

- (A) known to the Attorneys for the State prior to the date of this Agreement;
- (B) in a prosecution for perjury or giving a false statement; or
- (C) in the event there is a breach of the cooperation provisions of this Plea Agreement.

5. Provided the Defendant, MARVIN LAMAR BOWENS, cooperates pursuant to the provisions of this Plea Agreement, and that cooperation is deemed by Attorneys for the State as providing substantial assistance in the investigation or prosecution of another person who has committed an offense, the Attorneys for the State agree to advise the sentencing Court of the extent and value of the Defendant's cooperation and to move the Court for a reduction of

sentence pursuant to S.C. Code Ann. §17-25-65. The Defendant, MARVIN LAMAR BOWENS, further understands that any such motions by the Attorneys for the State are not binding upon the Court and should the Court refuse to reduce the sentence imposed, the Defendant will have no right to withdraw her plea.

6. The Defendant, MARVIN LAMAR BOWENS, understands that the matter of sentencing is within the sole discretion of the Court, and that the sentence imposed upon the Defendant will be imposed in conformity with the laws of the State of South Carolina.

The Defendant further understands that the Attorneys for the State retain the right to inform the Court of any relevant facts, to address the Court with respect to the nature of the offense, to respond to questions raised by the Court, to respond to any statements made to the Court by or on behalf of the Defendant, and to summarize all evidence which would have been presented at trial to establish a factual basis for the plea.

7. The Defendant, MARVIN LAMAR BOWENS, understands that the obligations of the Attorneys for the State within the Plea Agreement are expressly contingent upon the Defendant's abiding by federal and state laws, complying with the terms and conditions of any bond executed in this case and complying with the provisions of this Plea Agreement.

8. The parties hereby agree that this Plea Agreement contains the entire agreement of the parties; that this Agreement supersedes all prior promises, representations and statements of the parties; that this Agreement may be modified only in writing signed by all parties; and that any and all other promises, representations and statements, whether made prior to, contemporaneous with or after this Agreement, are null and void.

DATE

MARVIN LAMAR BOWENS, Defendant

DATE

Rodney Davis
Attorney for the Defendant

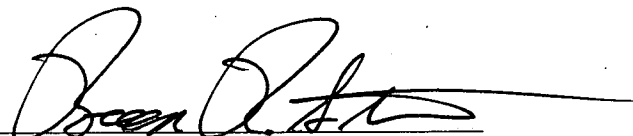
DATE

BY: _____
Michael C. Sahn
Asst. Solicitor, Ninth Judicial Circuit

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

June 5, 2012

A handwritten signature in black ink, appearing to read "Breen R. Stevens", written over a horizontal line.

Breen Richard Stevens
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT