

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Anderson County

Honorable R. Scott Sprouse, Circuit Court Judge

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S.C. SUPREME COURT

CLAUDIUS ADRIAN WILLIAMS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2017-001738

APPENDIX

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STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF ANDERSON.	)	
State of South Carolina,	)	
	)	
v.	)	Case No. 13-GS-04-1930 & 1931
	)	
Claudius Adrian Williams,	)	
	)	
Defendant	)	

TRANSCRIPT OF JURY TRIAL

The within jury trial in the above-captioned matter was held on January 27th and 28th, 2014, before The Honorable Frank Addy in the Court of General Sessions for Anderson County, at the Anderson County Courthouse, 100 South Main Street, Anderson, South Carolina; attended by counsel as follows:

APPEARANCES:

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THE HONORABLE CORDELL MADDOX identifies Judge Maddox

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1 JANUARY 27, 2013 12:30 P.M.

2

3

(DEFENDANT PRESENT)

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THE HONORABLE CORDELL MADDOX: Ladies
and gentlemen, I appreciate your patience.
We will get you out of here as quickly as
possible.

I will tell you that you are here on a
day that we have to pick two juries. We have
to pick a jury for a criminal case, which is
a General Sessions case, and for a Commons
Pleas case, which is a civil case.

Judge Frank Addy will be here sometime
in the next hour and he's going to start the
criminal, General Sessions, case this
afternoon. I have going to be trying the
civil case.

What we are going to do is qualify you
this morning and then we will select both
juries. That way the rest of you that are
not selected can go home, and I'll explain
when we're going to need you.

The strange thing is that the selection
of juries for Common Pleas and General
Sessions is very different. It's like night

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1 and day, the way that they are selected. So
2 for those of you who are not selected on the
3 first case, which will be mine, then y'all
4 will be excused. Then the rest of you will
5 have to go through the criminal selection
6 process.

7 This is sort of an unusual week. Judge
8 Addy is from out of town, so I told him that
9 I would pick both juries. That is the reason
10 that I am doing it.

11 Can everybody hear me? I know when the
12 air conditioning is on, or the heat, that it
13 is hard to hear. If you can't hear me in the
14 back row, raise your hand and I will speak a
15 little louder. Okay?

16 What I need to do is qualify you now.
17 That process requires me to ask you a series
18 of questions, actually two series of
19 questions that are statutory in nature.

20 (STATUTORY JURY QUALIFICATION)

21 (SELECTION OF COMMON PLEAS JURY)

22 THE HONORABLE CORDELL MADDOX: Okay, we
23 will take a break and then we will pick the
24 criminal trial jury.

25 (BRIEF RECESS)

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(DEFENDANT PRESENT)

1
2 THE HONORABLE CORDELL MADDOX: Ladies and
3 gentlemen, first let me tell you something
4 that Judge Addy will again explain to you but
5 I want to make sure that you understand. We
6 will be -- Judge Addy will be trying the case
7 of the State versus Claudius Adrian Williams.
8 He is indicted for armed robbery.

9 What I am reading from now is called an
10 indictment. An indictment is literally just
11 a piece of paper by which this process
12 starts.

13 The Defendant has pled not guilty under
14 the Constitution of this state and the
15 federal Constitution. He is not guilty until
16 a jury strips him of that presumption.

17 The presumption of innocence is not just
18 a mere legal phrase. It is not something
19 that means nothing. It means an awful lot.

20 An indictment should never be considered
21 -- the fact that there has been an indictment
22 issued, once you are selected for a jury,
23 once you begin the jury selection process,
24 you should never discuss the fact that there
25 is an indictment. It is literally just a

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1 piece of paper.

2 A lot of people read more into -- they
3 don't understand indictments and they read
4 more into it. It is basically just the way
5 that we start this process. Judge Addy, I'm
6 sure, is going to explain the presumption of
7 innocence in greater detail, but I wanted to
8 tell you that.

9 First, I am going to ask the lawyers to
10 stand up and introduce themselves to you, and
11 their clients. I am going to ask you that if
12 you've ever been represented by these
13 attorneys, or if you are currently
14 represented or if you have any close business
15 or personal relationship with the lawyers or
16 any of the parties in this case.

17 SOLICITOR: My name is Rame Campbell.
18 I am the assistant solicitor that will be
19 trying this case. I work for Solicitor
20 Christie Adams. I will be representing the
21 State.

22 The case officer in this case is
23 Detective Matt Ritter. He works for the
24 Anderson County Sheriff's Office.

25 THE HONORABLE CORDELL MADDOX: Yes,

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1 sir?

2 MR. WELBORN: If it pleases the Court, --

3 -

4 THE HONORABLE CORDELL MADDOX: Yes,
5 sir.

6 MR. WELBORN: --- my name is Hugh
7 Welborn. I represent Claudius Williams, my
8 client here (indicating). I will be
9 defending him today.

10 THE HONORABLE CORDELL MADDOX: Mr.
11 Williams, if you would just stand up and face
12 the jury so that I can ask them the same
13 question of you. You don't have to say
14 anything.

15 DEFENDANT: (Complies).

16 THE HONORABLE CORDELL MADDOX: Ladies
17 and gentlemen, first, have any of you ever
18 been represented or are currently represented
19 by either of the attorneys in this case? If
20 so, please stand. (No response).

21 Do any of you have any close business or
22 personal relationships with the attorneys in
23 this case? (No response).

24 Or are you related by blood or marriage
25 to the attorneys? (No response).

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1 In regard to the Defendant, Mr. Williams,
2 are any of you related by blood or marriage
3 or do you have any close business or personal
4 relationship with the Defendant? (No
5 response).

6 This case allegedly occurred on April
7 24th, 2013, at the -- what is that? Sun City
8 Foods?

9 SOLICITOR: It's the 'Lil General on
10 South Murray Avenue.

11 THE HONORABLE CORDELL MADDOX: At the
12 'Lil General, South Murray Avenue. That is
13 the allegation. Does anyone know anything
14 about this case whatsoever? (No response).

15 Has anyone read anything about this case
16 or heard anything about this case, at all?
17 (No response).

18 All right, I hope that this is the last
19 time that I will repeat this, but do you
20 know anything about this case or this
21 defendant or the facts of this case? (No
22 response).

23 Ladies and gentlemen, I am going to read
24 to you a list of potential witnesses in this
25 case. If you are related by blood or

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1 marriage or any close personal or business
2 relationship with any of these witnesses,
3 please stand:

4 Matthew Ritter with the
5 Anderson County Sheriff's Office.

6 Gene Culbertson with the
7 Anderson County Sheriff's Office.

8 Todd Herron with the Anderson
9 County Sheriff's Office.

10 Meseret Kifle, and

11 Jamie Turner with the Anderson
12 County Sheriff's Office, or

13 Rasheya Payton.

14 Does anyone on the panel have any
15 close business or personal relationship with
16 any of these people? (No response).

17 Or are you related by blood or
18 marriage to any of these potential witness?
19 If so, please stand. (No response).

20 Any further questions from the State?

21 SOLICITOR: No, Your Honor.

22 THE HONORABLE CORDELL MADDOX: From the
23 defense?

24 MR. WELBORN: No, Your Honor.

25 THE HONORABLE CORDELL MADDOX: Ladies

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1 and gentlemen, as I said, this process is
2 very different. You have the unique
3 opportunity of having seen how we select the
4 two different types of juries.

5 In just a minute when your name is
6 called, I will ask that you bring all of your
7 possession and come up through this door,
8 turn around and face the jury panel and the
9 lawyers. They will strike you or seat you.

10 All right, you can select the jury.

11 Strikes are five and ten.

12 While the computer is generating the
13 slips, I will tell you that South Carolina,
14 believe it or not, has a very advanced
15 judicial system in the way that we select
16 judges and in the way that we do things is
17 the envy of many states.

18 Not because of the judges so much but
19 because we've gone to a high-technology
20 paperless type court system in the last four
21 or five years.

22 Up until seven or eight years ago, the
23 statue in South Carolina required that a
24 legally blind person select these numbers
25 from a barrel. So you had some weird, arcane

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1 things that happened in the 1800's while we
2 were selecting. Thank goodness the
3 Legislature changed that so that we now allow
4 a computer to do it.

5 You know you're getting old when you
6 remember a legally blind person selecting --
7 reaching his hand into a barrel and pulling a
8 number out, like Bingo.

9 All right, are y'all prepared?

10 SOLICITOR: Yes, sir.

11 THE HONORABLE CORDELL MADDOX: You
12 ready?

13 MR. WELBORN: Yes, Your Honor.

14 CLERK: As the judge said, when I call
15 your name, please come forward, stand here
16 and turn and face the audience.

17 Juror Number 152, Frances E. Talmier
18 (phonetic).

19 (WHITE FEMALE BEFORE COUNSEL)

20 CLERK: Please, ma'am. What say you
21 for the State?

22 SOLICITOR: Present the juror.

23 CLERK: What say you for the defense?

24 MR. WELBORN: Excuse the juror.

25 CLERK: Please have a seat back in the

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1 audience. You've been excused from the trial
2 of this case.

3 (JUROR NUMBER 152 EXCUSED)

4 CLERK: Juror Number 76, Christopher B.
5 Hughes, Sr.

6 (WHITE MALE BEFORE COUNSEL)

7 CLERK: Right here, please, sir. What
8 says the State?

9 SOLICITOR: Present Mr. Hughes.

10 CLERK: What say you for the defense?

11 MR. WELBORN: Swear the juror.

12 CLERK: That way, Mr. Hughes

13 (JUROR NUMBER 76 SEATED)

14 CLERK: Juror 155, Artis L. Ballentine.

15 (BLACK MALE BEFORE COUNSEL)

16 CLERK: Right here, please, sir. Thank
17 you. What say you for the State?

18 SOLICITOR: Present Mr. Ballentine.

19 CLERK: What say you for the defense?

20 MR. WELBORN: Seat the juror.

21 CLERK: That way, Mr. Ballentine,
22 please, sir.

23 (JUROR NUMBER 155 SEATED)

24 CLERK: Juror Number 64, Jimmy R.
25 Hanley.

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1 (WHITE MALE BEFORE COUNSEL)

2 CLERK: What say you for the State?

3 SOLICITOR: Please excuse Mr. Hanley.

4 CLERK: Have a seat, Mr. Hanley.

5 (JUROR NUMBER 64 EXCUSED)

6 CLERK: Juror Number 6, James M.

7 Baldwin.

8 (WHITE MALE BEFORE COUNSEL)

9 CLERK: What say you for the State?

10 SOLICITOR: Please present Mr. Baldwin.

11 CLERK: What say you for the defense?

12 MR. WELBORN: Excuse Mr. Baldwin, please.

13 CLERK: Have a seat back in the
14 audience.

15 (JUROR NUMBER 6 EXCUSED)

16 CLERK: Juror Number 28, Michael A.

17 Chitwood.

18 (WHITE MALE BEFORE COUNSEL)

19 CLERK: What say you for the State?

20 SOLICITOR: Please seat Mr. Chitwood.

21 CLERK: Have a seat, please, sir.

22 (JUROR NUMBER 28 EXCUSED)

23 CLERK: Juror Number 91, Timothy C.

24 Logan.

25 (WHITE MALE BEFORE COUNSEL)

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1 CLERK: What say you for the State?

2 SOLICITOR: Present Mr. Logan.

3 CLERK: What say you for the defense?

4 MR. WELBORN: Swear the juror, please.

5 (JUROR NUMBER 91 SEATED)

6 CLERK: Juror Number 128, Jamie L.

7 Porter.

8 (WHITE FEMALE BEFORE COUNSEL)

9 CLERK: What say you for the State?

10 SOLICITOR: Present Ms. Porter.

11 CLERK: What say you for the defense?

12 MR. WELBORN: Please excuse Ms. Porter
13 from this case.

14 (JUROR NUMBER 127 EXCUSED)

15 CLERK: Juror Number 147, Stephen A.

16 Smith.

17 (WHITE MALE BEFORE COUNSEL)

18 CLERK: What say you for the State?

19 SOLICITOR: Present Mr. Smith.

20 CLERK: What say you for the defense?

21 MR. WELBORN: Excuse Mr. Smith from this
22 case.

23 (JUROR NUBMER 147 EXCUSED)

24 CLERK: Juror Number 78, Taylor M.

25 James.

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(WHITE FEMALE BEFORE COUNSEL)

CLERK: What say you for the State?

SOLICITOR: Please present Ms. James.

CLERK: What say you for the defense?

MR. WELBORN: Swear the juror.

CLERK: That way, please, ma'am.

(JUROR NUMBER 78 SEATED)

CLERK: Juror Number 7, Jodie J.

Ballard.

(WHITE FEMALE BEFORE COUNSEL)

CLERK: What say you for the State?

SOLICITOR: Present Ms. Ballard.

CLERK: What say you for the defense?

MR. WELBORN: Excuse Ms. Ballard from
this case.

(JUROR NUMBER 7 EXCUSED)

CLERK: Juror Number 47, Elizabeth
Fisher.

(BLACK FEMALE BEFORE COUNSEL)

CLERK: What say you for the State?

SOLICITOR: Please present Ms. Bishop.

CLERK: What say you for the defense?

MR. WELBORN: Excuse Ms. Fisher from this
case.

CLERK: Please take a seat.

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1 (JUROR NUMBER 47 EXCUSED)

2 CLERK: Juror Number 43, Regina T.
3 Durham.

4 (WHITE FEMALE BEFORE COUNSEL)

5 CLERK: What say you for the State?

6 SOLICITOR: Please present Ms. Durham.

7 CLERK: What say you for the defense?

8 MR. WELBORN: Swear the juror, please.

9 (JUROR NUBMER 43 SEATED)

10 CLERK: Juror Number 154, Richard A.
11 Thrasher.

12 (WHITE MALE BEFORE COUNSEL)

13 CLERK: What say you for the State?

14 SOLICITOR: Present Mr. Thrasher.

15 CLERK: What say you for the defense?

16 MR. WELBORN: Excuse Mr. Thrasher from
17 the trial of this case.

18 (JUROR NUMBER 154 EXCUSED)

19 CLERK: Juror Number 95, Douglas M.
20 Martin.

21 (WHITE MALE BEFORE COUNSEL)

22 CLERK: What say you for the State?

23 SOLICITOR: Present Mr. Martin.

24 CLERK: What say you for the defense?

25 MR. WELBORN: Please excuse Mr. Martin

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1 from the trial of this case.

2 CLERK: Have a seat back in the
3 audience, please.

4 (JUROR NUMBER 95 EXCUSED)

5 CLERK: Juror Number 60, Gregory D.
6 Gibbes.

7 (BLACK MALE BEFORE COUNSEL)

8 CLERK: What say you for the State?

9 SOLICITOR: Present Mr. Gibbes?

10 CLERK: What say you for the defense?

11 MR. WELBORN: Swear the juror.

12 CLERK: That way, Mr. Gibbes.

13 (JUROR NUMBER 60 SEATED)

14 CLERK: Juror Number 62, Susan B. Gray.

15 (BLACK FEMALE BEFORE COUNSEL)

16 CLERK: What say you for the State?

17 SOLICITOR: Present Ms. Gray.

18 CLERK: What say you for the defense?

19 MR. WELBORN: Swear the juror.

20 (JUROR NUMBER 62 SEATED)

21 CLERK: Juror Number 13, Ryan C. Boggs.

22 (BLACK MALE BEFORE COUNSEL)

23 CLERK: What say you for the State?

24 SOLICITOR: Present Mr. Boggs.

25 CLERK: What say you for the defense?

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1 MR. WELBORN: Swear the juror.

2 CLERK: That way, Mr. Boggs.

3 (JUROR NUMBER 13 SEATED)

4 CLERK: Juror Number 57, Hazel M.

5 Gantt.

6 (WHITE FEMALE BEFORE COUNSEL)

7 CLERK: What say you for the State?

8 SOLICITOR: Please present Ms. Gantt.

9 CLERK: What say you for the defense?

10 MR. WELBORN: Please swear the juror.

11 CLERK: That way, Ms. Gantt.

12 (JUROR NUMBER 57 SEATED)

13 CLERK: Juror Number 92, Stacey D.

14 Majors.

15 (BLACK FEMALE BEFORE COUNSEL)

16 CLERK: What say you for the State?

17 SOLICITOR: Present Ms. Majors.

18 CLERK: What say you for the defense?

19 MR. WELBORN: Swear the juror.

20 (JUROR NUMBER 92 SEATED)

21 CLERK: Juror Number 15, Rachel J.

22 Grant.

23 (WHITE FEMALE BEFORE COUNSEL)

24 CLERK: What say you for the State?

25 SOLICITOR: Present Mr. Grant.

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1 CLERK: What say you for the defense?

2 MR. WELBORN: Please swear the juror.

3 (JUROR NUMBER 15 SEATED)

4 CLERK: Juror Number 175, Paul E.
5 Wright.

6 (WHITE MALE BEFORE COUNSEL)

7 CLERK: What say you for the State?

8 SOLICITOR: Present Mr. Wright.

9 CLERK: What say you for the defense?

10 MR. WELBORN: Excuse Mr. Wright from
11 the trial of this case.

12 (JUROR NUBMER 175 EXCUSED)

13 CLERK: Mr. Welborn, I have that that
14 is nine strikes.

15 MR. WELBORN: Yes, sir.

16 CLERK: Juror Number 58, Waylon Grier.

17 (WHITE MALE BEFORE COUNSEL)

18 CLERK: What say you for the State?

19 SOLICITOR: Please excuse Mr. Grier.

20 (JUROR NUBMER 58 EXCUSED)

21 CLERK: Juror 17, Carlene F. Brown.

22 (BLACK FEMALE BEFORE COUNSEL)

23 CLERK: What say you for the State?

24 SOLICITOR: Present Ms. Brown.

25 CLERK: What say you for the defense?

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1 MR. WELBORN: Excuse Ms. Brown from the
2 trial of this case.

3 (JUROR NUBMER 17 EXCUSED)

4 CLERK: Juror Number 37, John J. Davis.

5 (BLACK MALE BEFORE COUNSEL)

6 CLERK: What say you for the State?

7 SOLICITOR: Present Mr. Davis.

8 CLERK: Mr. Davis, you are part of
9 the jury.

10 (JUROR NUMBER 37 SEATED)

11 CLERK: All right, we will choose one
12 alternate. I believe that the State has one
13 strike and the defendant has two.

14 THE HONORABLE CORDELL MADDOX: That's
15 correct.

16 CLERK: The first potential alternate
17 is Juror Number 140, Christina M. Scott.

18 (BLACK FEMALE BEFORE COUNSEL)

19 CLERK: What say you for the State?

20 SOLICITOR: Present Ms. Scott.

21 CLERK: What say you for the defense?

22 MR. WELBORN: Excuse Ms. Scott.

23 (JUROR NUMBER 140 EXCUSED)

24 CLERK: Juror Number 55, Randy A.

25 Huger.

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1 (WHITE FEMALE BEFORE COUNSEL)

2 CLERK: What say you for the State?

3 SOLICITOR: Present the juror.

4 CLERK: What say you for the defense?

5 MR. WELBORN: Excuse the juror from the
6 trial of this case.

7 (JUROR NUMBER 55 EXCUSED)

8 CLERK: Juror Number 69, John A Helmut.

9 (WHITE MALE BEFORE COUNSEL)

10 CLERK: What say you for the State?

11 SOLICITOR: Present Mr. Helmut.

12 (JUROR NUBMER 69 SEATED)

13 CLERK: Your Honor, that is twelve
14 jurors and an alternate.

15 THE HONORABLE CORDELL MADDOX: Thank
16 you. Any Motions that we need to take up
17 regarding the selection of the jury? From
18 the State?

19 SOLICITOR: No, Your Honor.

20 THE HONORABLE CORDELL MADDOX: From the
21 defense?

22 MR. WELBORN: No, Your Honor.

23 THE HONORABLE CORDELL MADDOX: Ladies
24 and gentlemen, I need to send you back to the
25 jury room for just a few minutes while I

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1 excuse everybody and then I will bring you
2 back in here very quickly and explain to you
3 when you need to come back and let you go to
4 lunch.

5 Every time that you leave the room, Judge
6 Addy is going to tell you -- and I am going
7 to tell my jury downstairs, -- please don't
8 discuss this case. You should never discuss
9 the case until you've heard all the evidence
10 and you've heard the jury instructions from
11 the judge and the case is presented to you
12 for deliberation.

13 Talk about anything that you want, but
14 please don't talk about the case.

15 Hold on just a minute -- Ms. Durham, I am
16 going to -- you're going to be the forelady
17 of this jury. Don't panic. All you have to
18 do at this point is you'll be sitting --
19 you'll sit right there in the first seat on
20 the front row.

21 The rest of you can sit where you want.

22 You'll have some duties, but don't panic
23 on me. Okay? Nobody is going to jump up and
24 beat you or anything.

25 All right, y'all go back there for a few

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1 minutes. Don't discuss the case. I'll be
2 with you in a few minutes.

3 (JURY OUT @ 1:05 P.M.)

4 THE HONORABLE CORDELL MADDOX: Ladies
5 and gentlemen, the process this morning took
6 about an hour and a half longer than it does.
7 There were -- because we were selecting two,
8 that created a real problem with the number
9 that we had to keep. Also, quite frankly,
10 every time that I left the courtroom I had
11 something that I had to deal with that had
12 nothing to do with this case. That's part of
13 the problem of being a judge. It's sort of
14 like an iceberg. What you see in the
15 courtroom is the very tip of what we have to
16 do. The rest of it way below the surface.
17 Kind of drives you crazy.

18 But I don't know at this point whether we
19 are going to need another jury this week.
20 Rather than let you go -- because I don't
21 know exactly how long these cases are going
22 to take, -- I'm going to ask that you call
23 the jury number that will be given to you, if
24 you don't already have it. You don't need to
25 call it tonight but call it tomorrow night

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1 after 6:00. It will tell you either to come
2 back Wednesday morning or it will tell you to
3 call back Wednesday night, or it will tell
4 you that you are released for the week.

5 We are expecting -- there is a big
6 discussion about whether we're going to get
7 bad weather. Apparently tomorrow is supposed
8 to be very bad. It looks like Columbia is
9 now projected to get up to five inches of
10 snow and we're not to get any -- which is
11 sort of odd. So I don't know how that is
12 going to affect things.

13 On Thursday I have Motion hearing that
14 don't require a jury, so I don't know if I am
15 going to be able to fit another case in.

16 So that's all that to say that I need you
17 to call the jury number tomorrow night after
18 6:00. There will be a recording and -- my
19 guess is that you're not going to have to
20 come back again, but I just can't release you
21 today.

22 I do appreciate all your patience. If I
23 knew that you weren't coming back up here,
24 I'd let you ask me any question that you
25 wanted to ask me about your service or how we

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1 do this, or why we do some of the things that
2 we do. Since I'm not sure that -- since you
3 may not be back up here, I don't want to
4 answer any questions that might taint you.

5 So have a great day today, tomorrow, and
6 call that jury number tomorrow night.

7 (JURY PANEL DISMISSED)

8 THE HONORABLE CORDELL MADDOX: Go ahead
9 and bring the jury back in.

10 (JURY IN @ 1:12 P.M.)

11 THE HONORABLE CORDELL MADDOX: Ladies
12 and gentlemen, this will be the last time
13 that I get to talk to you. You'll have a
14 smarter, much better-looking judge here this
15 afternoon: Judge Addy. He's from Greenwood.

16 When he went on the bench, I had to train
17 him. That's what they do, they send you to
18 sit with a sitting judge for a couple of
19 weeks.

20 The poor guy, we were down in Edgefield.
21 Edgefield has a small courtroom. When you
22 leave the judge's chambers, which is right
23 behind the courtroom, which was filled with
24 people, there are two doors -- two tiny
25 little doors to walk out. One goes to the

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1 bench, the other goes into the courtroom.
2 Well, it was his first day -- he's a very
3 smart guy. He was following me and we both
4 went in the wrong door. We both just walked
5 out like right here into the courtroom. I
6 turned around and I said, 'This is not the
7 door that we go through, Frank, I just wanted
8 to show you that. Let's go back through.'
9 Then we had to go out and come back in. I
10 don't know how well that I trained him, but
11 he's a good judge and he will be trying your
12 case.

13 He has a Motion hearing at 1:30. I am
14 going to ask that you be back in the jury
15 room at 2:30. I will tell you that you may
16 have to sit back there for a little bit,
17 depending on how long the Motion hearing
18 lasts. This has nothing to do -- this was
19 something that was set up for him.

20 Again, he's going to tell you every time
21 but I'll tell you, please don't discuss this
22 case at all.

23 I don't know if he will tell you this,
24 because each judge has sort of their own set
25 of jury charges that they give you, but

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1 please don't do any research or any internet
2 searches or anything about this case. Now
3 that I have told you that, you're under an
4 obligation not to do that. In the event that
5 it is found out that you've done it, and
6 quite frankly it always is, I would have to
7 hold you in contempt and most likely have to
8 put you in jail. You're going to know more
9 about this case than anything that you could
10 read out there. Judges are really starting
11 to get worried about jurors trying to get
12 outside information. Most of it that you get
13 on the internet is wrong. Old newspaper
14 articles always have wrong information. So I
15 am telling you, please don't. Get all your
16 information in the courtroom pursuant to the
17 Rules.

18 As I said, this is a serious case. The
19 defendant has pled not guilty. So just get
20 your information from in here.

21 Keep your badges on. If anybody tries to
22 discuss your jury service at lunch, tries to
23 talk with you about it, let Bubba know. We
24 take that very seriously. I don't think that
25 will happen but if it does then that person

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1 would have to come in front of me, including
2 any lawyers, and tell me why they talked to
3 you.

4 Madame Forelady, Judge Addy will explain
5 what you have to do. Basically you're the
6 person that communicated with the court while
7 you are back there if you have any problems.

8 Y'all go have a great lunch. Be back
9 here at 2:30.

10 JUROR: I have a question, what is the
11 latest that it can go on? I have to make
12 arrangements for my son.

13 THE HONORABLE CORDELL MADDOX: The
14 latest would probably be 5:30.

15 JUROR: Okay, I'll go make
16 arrangements.

17 (JURY OUT @ 1:17 P.M.)

18 THE HONORABLE CORDELL MADDOX: Anything
19 that we need to take up before we leave?

20 You have the shock belt on, right?

21 I'm not telling you how to try your case
22 but it is for your benefit that you use the
23 shock belt.

24 It's also for your benefit because jurors
25 will be watching, behave yourself.

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1 DEFENDANT: Yes, sir.

2 THE HONORABLE CORDELL MADDOX: The
3 worst thing that you can do is not behave
4 yourself, for a whole bunch of reasons.
5 We're doing everything that we can to make
6 sure that this trial is fair, so don't mess
7 it up by getting mad or whatever. Okay?

8 DEFENDANT: Yes, sir.

9 (LUNCH RECESS)

10 (IN CHAMBERS CONFERENCE)

11 (DEFENDANT PRESENT)

12 THE COURT: I understand that the jury
13 has already been selected. Let the record
14 reflect that I met briefly with Mr. Campbell
15 and Mr. Welborn in the back a few moments ago
16 and I understand that there are a few Motions
17 that we need to address before we can go into
18 this trial in earnest.

19 Mr. Welborn, at this time I'll be happy
20 to entertain anything that you want to make
21 by way of Motions or discuss any issues that
22 you've got.

23 MR. WELBORN: Your Honor, I've got a
24 short Motion. First of all, I'd ask the
25 Court to have a Neil v. Biggers hearing on

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1 the identification issue.

2 THE COURT: Everybody does it a little
3 bit differently. Solicitor, if you want to
4 call the witness or -- Mr. Welborn, if you
5 want to call the witness.

6 MR. WELBORN: I will let the solicitor
7 call the witness.

8 THE COURT: All right.

9 SOLICITOR: Your Honor, the Court's
10 indulgence, please.

11 THE COURT: Yes, sir.

12 SOLICITOR: We want to mark an exhibit
13 for this hearing.

14 MR. WELBORN: I have no objection to it.

15 SOLICITOR: Okay. Your Honor, the
16 State calls Detective Matt Ritter to the
17 stand.

18 (WITNESS TAKES STAND)

19 MATTHEW WILLIAM RITTER, having been sworn
20 to tell the truth, and nothing but the truth,
21 testified as follows:

22 DIRECT EXAMINATION

23 BY SOLICITOR:

24 Q. You're a detective with the
25 Anderson County Sheriff's Office?

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1 A. That's correct.

2 Q. And you're the case officer in this
3 case?

4 a. Yes, sir.

5 Q. In fact, you're the affiant, the one
6 that took out the arrest warrant regarding
7 one Claudius Williams; is that correct?

8 A. Yes, sir.

9 Q. Now, I am going to jump right into
10 the question regarding identification. We're
11 dealing only with identification here.

12 In this case, you investigated the armed
13 robbery on or about April 24th, 2013; is that
14 correct?

15 A. That's right.

16 Q. And what was the location of this?

17 A. It was 3401 South Murray Avenue.

18 Q. As the result of that crime, you
19 went down that night and conducted an
20 investigation; is that right?

21 A. That's correct.

22 Q. And was this crime also captured on
23 video?

24 A. It was.

25 Q. Was that video in color or was it

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1 black-and-white?

2 A. It's in color.

3 Q. Does it clearly show the individual
4 that robbed the store?

5 A. It does.

6 Q. As a result of that, were you able
7 to make any type of arrest shortly after this
8 armed robbery occurred on April 24th, 2013?

9 A. Not shortly, no.

10 Q. When did your first break come?

11 A. It was several months, about a month
12 or so later. I spoke with the victim, who
13 informed me that an individual had come in --
14 I'd left flyers at the business. She stayed
15 that an individual walked in, that they
16 wishes to remain anonymous, saw the flyer and
17 stated, "I know who that is, that's Claudius
18 Williams. I grew up with him."

19 She obtained a phone number where I
20 called this individual. On speaking with
21 them, they informed me that in fact they did
22 grow up with Claudius and his brother. He
23 has a twin, however the features were
24 different between Claudius and his brother.
25 I asked her what the differences were and she

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1 informed that Clyde, his brother, is more
2 beefy, a lot thicker ---

3 MR. WELBORN: Objection.

4 THE COURT: Do you have an objection to
5 the hearsay rule?

6 MR. WELBORN: Yes, sir.

7 DIRECT EXAMINATION CONTINUED

8 BY SOLICITOR:

9 Q. Now, based on the information that
10 you received from this tipster, what steps
11 did you take next?

12 A. I looked up the individuals on the
13 South Carolina DMV and it was obvious that
14 they were different -- that the pictures were
15 different.

16 At that time, soon thereafter, I went and
17 obtained a SLED photo lineup.

18 Q. Why did you go through SLED?

19 A. SLED does a closer match for
20 persons. Ours is limited in what we can do.
21 They have a broader database.

22 Q. I want to show you what has been
23 marked as State's Exhibit 29.

24 SOLICITOR: It's my understanding that
25 there is no objection from Mr. Welborn.

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1 MR. WELBORN: No objection. All exhibits
2 are admitted.

3 THE COURT: Very well.

4 DIRECT EXAMINATION CONTINUED

5 BY SOLICITOR:

6 Q. Showing you State's Exhibit 29. Can
7 you please identify what this is, sir?

8 A. This is the SLED photo lineup that I
9 received.

10 Q. How do you know that it is done by
11 SLED?

12 A. The number below -- this number
13 below, and our number.

14 Q. When you received it, did you
15 receive it through the mail or over the
16 internet?

17 A. It was via e-mail.

18 Q. And when you received it, was it in
19 color or did you do -- did you re-do it in
20 black-and-white?

21 A. There was one in color and one in
22 black-and-white. The reason that I use
23 black-and-white photos, we always use black-
24 and-white, is that we want the individual to
25 focus on the features and not the color of

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1 skin or the color of hair.

2 Q. As a result of this lineup, what was
3 the next step in your investigation after you
4 received this lineup?

5 A. At that time I went and spoke with
6 the victim, informed her that I had a photo
7 lineup that I'd like for her to look at to
8 see if she could possibly identify somebody
9 on there that robbed the store.

10 When I showed her -- I asked her if she
11 recognized anybody on there to circle the
12 picture and not just tell me. At that time,
13 the victim, Ms. Kifle, told me number three
14 was the person that robbed her, being
15 Claudius Williams.

16 At that time, she signed the affidavit of
17 photo lineup, printed her name and dated it.

18 Q. And when you showed it to her, did
19 you in any way, shape or form attempt to
20 identify to her the person who committed the
21 robbery?

22 A. I did not.

23 Q. Was she under the influence of any
24 alcohol or drugs when she looked at it?

25 A. No, she was at work.

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1 Q. And how long did it take her to
2 review this lineup before she was able to
3 pick out certain individuals?

4 A. Only seconds.

5 Q. And she didn't hesitate?

6 A. No, no hesitation whatsoever.

7 Q. Did you ask her whether or not she
8 was a hundred percent sure that this was the
9 individual that she claimed robbed her on
10 April 24th, 2013?

11 A. Yes.

12 Q. Was anybody else present with you
13 when this happened?

14 A. (No verbal response).

15 Q. Any other detective?

16 A. I believe Gene Culbertson was -- who
17 is also my partner.

18 Q. And prior to showing her this
19 lineup, did you show her anything else prior
20 to that -- prior to giving her that, to help
21 with the investigation?

22 A. No. Earlier in the investigation --
23 there was an incident two days prior.

24 Q. When you were investigating the
25 crime, approximately how long did this crime

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1 take place, the actual robbery itself?

2 A. Approximately thirty seconds.

3 Q. And during your investigation, did
4 the victim in this case, Ms. Kifle, have an
5 ample opportunity to view the suspect that
6 was robbing her?

7 A. She did. Mr. Williams did not wear
8 anything to cover his face or made any
9 attempts to hide any features whatsoever.
10 His face was exposed in its entirety.

11 SOLICITOR: I don't have any further
12 questions. Please answer any questions that
13 Mr. Welborn has.

14 THE COURT: Cross examine?

15 MR. WELBORN: Thank you, Your Honor.

16 CROSS EXAMINATION

17 BY MR. WELBORN:

18 Q. May I seen that exhibit, please?

19 A. (Tenders).

20 Q. You would agree that everyone in
21 this picture, that their race is African
22 American?

23 A. That's correct.

24 Q. And you'd agree that they all look
25 very, very similar?

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1 A. They have similar features, yes.

2 Q. And you stated that my client has a
3 twin brother?

4 A. Yes, sir.

5 MR. WELBORN: Your Honor, that is
6 all the questions that I have of this
7 witness. I would ask that Your Honor review
8 that. Then I have a Motion that I'd like ---

9 THE COURT: Anything in redirect for
10 this witness?

11 SOLICITOR: Just one.

12 THE COURT: Go ahead.

13 REDIRECT EXAMINATION

14 BY SOLICITOR:

15 Q. Detective, in your investigation,
16 you learned, as Mr. Welborn alluded to, that
17 he has a brother?

18 A. That's correct.

19 Q. Are they identical twins?

20 A. They are not identical twins.

21 SOLICITOR: No further questions.

22 THE COURT: Thank you. You may step
23 down.

24 (WITNESS STEPS DOWN)

25 THE COURT: The record should reflect

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1 that I have reviewed State's Exhibit 29.
2 It indicates, as counsel stated, six African
3 American gentlemen, all with goatee or facial
4 hair. It's a head shot as opposed to
5 anything indicating custody status.

6 Are you done with the witnesses?

7 SOLICITOR: Yes, sir.

8 THE COURT: Yes, sir?

9 MR. WELBORN: Your Honor, I realize that
10 in most of this type hearings that mostly
11 you'll hear situation like, 'well, this
12 person shouldn't even be in the lineup, he's
13 of the wrong race.' Or, 'this is a female.'
14 Something that is outrageous.

15 But what you've got here is something
16 that also outrageous. You've got people that
17 literally look pretty much alike. If you
18 look at number three, look at the bottom of
19 -- the first on the bottom, they look just
20 alike. Our position is that -- in a most
21 unusual fashion, this lineup is far too
22 suggestive because everybody looks exactly
23 alike. It's more of a guessing match than
24 anything else. So we move to suppress that
25 identification.

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1 THE COURT: Solicitor, would you care
2 to speak to that, sir?

3 SOLICITOR: Sir, usually it's overly
4 suggestive. In this case, it's not
5 suggestive. These pictures were done by
6 SLED. They were picked out by SLED. I think
7 the degree of the physical features of the
8 photographs, while very similar, goes to show
9 that the victim picked him out, number three;
10 that -- it goes to show the attention and
11 detail and the time that she had to view him
12 such that she was able to pick the correct
13 guy, that's in the courtroom today.

14 I've never had a reverse counter-argument
15 on this type situation. I think the photo-
16 graphs speak for themselves, they are not
17 unduly suggestive. That is the main gist of
18 identification issues.

19 MR. WELBORN: Your Honor, I am sure that
20 the Court is aware that memory identification
21 of persons is very doubtful. I think that
22 when you have people that are so completely
23 similar, that it certainly clouds the issue
24 of whether or not that is the right person.

25 I think far more at issue is if everybody

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1 looks exactly alike than if we have some
2 slight differences, especially when memory
3 and in-person identification is, in and of
4 itself, doubtful. Our criminal history is
5 filled with situations where a person mis-
6 identified someone when they saw that person.

7 THE COURT: All right. Is this a
8 cross-racial identification issue?

9 MR. WELBORN: Can Your Honor repeat that
10 question?

11 THE COURT: Is this a cross-racial
12 identification issue? Was the alleged victim
13 Caucasian or some other race and you're ---

14 MR. WELBORN: I think the victim was
15 ---

16 SOLICITOR: The victim in this case is
17 actually African American. She is present in
18 the courtroom.

19 THE COURT: Okay. So cross-racial
20 identification is not an issue.

21 SOLICITOR: No, sir.

22 THE COURT: Anything further?

23 MR. WELBORN: No, sir.

24 THE COURT: I've had a chance to review
25 the photos and also reviewed the requirements

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1 of the *Biggers* case, as well as the *Ford*
2 (phonetic) case from the '80s. The
3 photographs are certainly very, very similar
4 but I can't find that they are unduly
5 suggestive. So there is no way possible to
6 -- that the lineup is unduly suggestive in
7 any way that would change a meaningful
8 identification, so that would be my ruling.

9 You have a *Jackson v Denno*, as well?

10 MR. WELBORN: Yes, sir.

11 THE COURT: Do you want to speak to
12 that? Do you want to call your first witness
13 on that?

14 SOLICITOR: Yes, sir. We recall
15 Detective Matt Ritter.

16 (WITNESS TAKES STAND)

17 MATTHEW WILLIAM RITTER, having been sworn
18 to tell the truth, and nothing but the truth,
19 testified as follows:

20 DIRECT EXAMINATION

21 BY SOLICITOR:

22 Q. Detective Ritter, you are still
23 under oath?

24 A. Yes, sir.

25 Q. Were you the officer that also made

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1 the arrest in this case?

2 A. Yes, sir.

3 Q. Do you recall approximately what day
4 that you made that arrest?

5 A. I believe that it was either 6/1 or
6 6/3/13

7 Q. And where did this arrest take
8 place?

9 A. At [REDACTED]

10 Q. And was this done after you had --
11 the victim had identified Mr. Williams in
12 State's Exhibit 29, that photographic lineup?

13 A. Yes.

14 Q. As a result of that, you got an
15 arrest warrant; correct?

16 A. That's right.

17 Q. You went to [REDACTED]

18 A. That's right.

19 Q. Was Mr. Williams present there when
20 you showed up?

21 A. Yes.

22 Q. And where was he?

23 A. When I arrived on the scene, with
24 the other detective, and made our way to the
25 front door, we could see that the door was

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1 open. The front door was open, the screen
2 door was shut. We had visibility into the
3 residence. I walked up to the front door and
4 I saw Mr. Williams sitting on a couch to my
5 right, at the very end of the couch.

6 At that time I called his name out, "Are
7 you Claudius Williams?" He said, "I am."

8 He stood up.

9 I said, "I want to speak to you outside."

10 At that time Mr. Williams came outside.

11 Q. Did you place him under arrest at
12 that point?

13 A. I did.

14 Q. Did you handcuff him?

15 A. Yes.

16 Q. Where did you take him after you
17 handcuffed him?

18 A. We put him in the car. Then he
19 wanted -- prior to putting him in the car,
20 -- he'd come out in a tank top. He asked if
21 we could go back and get him a shirt and also
22 wanted a smoke.

23 We walked inside, I asked for officer
24 safety if there was anybody inside the house.
25 He said that there was not.

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1 The other detective, Gene Culbertson, did
2 a protective sweep as myself and Mr. Williams
3 was standing in the living room. Right where
4 the couch, I didn't see it but Detective
5 Culbertson happened to look down and observed
6 about an inch of the barrel of a gun
7 underneath the couch where Mr. Williams had
8 been sitting.

9 At that time, I said, "Is that your
10 weapon?" And he said "no, that's not my
11 weapon."

12 We backed out and waited on forensics.

13 Q. At any point during this detention
14 at [REDACTED] did you Mirandize him?

15 A. I did not.

16 Q. Why was that?

17 A. I was waiting to do the questioning
18 at the office.

19 Q. After that, did you decide that you
20 were going to search the residence at [REDACTED]

21 [REDACTED]

22 A. Yes.

23 Q. And did you have to get a search
24 warrant?

25 A. No. The owners came home while we

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1 were on scene.

2 Q. Who was that?

3 A. Gill Davis (phonetic) and Rasheya --
4 I forget Rasheya's last time, but she is here
5 today.

6 Q. Payton?

7 A. Payton, (affirmative nod), there you
8 go.

9 Q Did you in fact learn that they in
10 fact lived at [REDACTED]

11 A. Yes.

12 Q. How did you do that?

13 A. By their driver's license.

14 Q. In fact, it shows their address ---

15 A. Yes.

16 Q. --- as that address?

17 A. Yes.

18 Q. What steps did you take next?

19 A. At that time I asked them if we
20 could perform a search while we were there.
21 They said that they didn't have a problem
22 with that. We went in -- we asked them if
23 they owned a handgun and they informed us
24 that no handgun should be in that house.

25 At that time, once I obtained a consent

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1 to search, we went inside and gathered
2 evidence.

3 Q. At any point did you discuss what
4 was inside the house with Mr. Williams?

5 A. No.

6 Q. At any point did he bring up to you
7 anything regarding the evidence that y'all
8 removed from the house?

9 A. He did. I was sitting in my vehicle
10 and Mr. Williams asked about a package of
11 information paperwork.

12 Q. Where was he sitting?

13 A. He was in the back of my patrol car.

14 Q. Okay.

15 A. Asked if we could get the packet of
16 information so that he could take it to jail
17 with him, that it was information that he
18 wanted. I informed him that he could. I
19 didn't know if they would let him get keep it
20 on his person, they might put it in his
21 property.

22 While I was sitting there, Mr. Williams
23 made the excited utterance that that was his
24 gun that was found under the sofa.

25 Q. And when you mentioned the weapon,

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1 was there any response to the direct
2 questions that you asked him regarding
3 evidence that you removed from the house?

4 A. No, sir.

5 Q. At any point did you question him
6 regarding the crime itself?

7 A. No, sir.

8 Q. Did you even bring up or even
9 mention anything about the armed robbery,
10 that he was being arrested?

11 A. At the very beginning before I put
12 the handcuffs on him, I informed him that I
13 had a warrant for his arrest.

14 Q. At that point, what did y'all do
15 with the information that you received -- the
16 paperwork, that he was asking or inquiring
17 about?

18 A. I gave it to him and said, 'I don't
19 know if they will let you keep it on your
20 person but they'll put it in your property.'
21 At that time he informed me that it was
22 probably best if I just gave it to his
23 mother, who was also on the scene.

24 Q. His mother was also present?

25 A. Yes, sir.

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1 Q. And you turned it over to her?

2 A. I did.

3 Q. At that point, did y'all clear the
4 scene and go back to the sheriff's office?

5 A. After all the evidence was
6 collected.

7 Q. Did you actually question him
8 regarding the robbery that took place at the
9 'Lil General on South Murray Avenue April
10 24th, 2013?

11 A. I attempted to. However, he
12 declined to talk.

13 Q. So nothing was said regarding the
14 robbery itself?

15 A. No.

16 SOLICITOR: I have no further ques-
17 tions. Please answer any questions that Mr.
18 Welborn may have.

19 THE COURT: Cross-examine?

20 CROSS EXAMINATION

21 BY MR. WELBORN:

22 Q. Officer, these ladies that said that
23 they owned the residence, they also told you
24 that my client kind of comes and goes there;
25 is that correct?

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1 A. Yeah, they said that he didn't live
2 there.

3 Q. Pardon?

4 A. They said that he didn't live there.

5 Q. But he'd come there basically
6 whenever he wanted to.

7 A. Yeah, he could stay there but they
8 said that he didn't live there.

9 Q. As you stated a little while ago,
10 you didn't read the Miranda to him until some
11 time later, at the sheriff's office; is that
12 correct?

13 A. That's correct.

14 Q. Now, when you say that my client
15 made this spontaneous statement about 'this
16 is my weapon', are you certain that you
17 didn't ask him about that gun first?

18 A. A hundred percent certain.

19 Q. These ladies that owned the house,
20 did they ask him?

21 A. No. He didn't speak to them. He
22 was in the back of my patrol car, so he
23 didn't speak to them.

24 MR. WELBORN: Thank you.

25 THE COURT: Anything on redirect,

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1 Solicitor?

2 SOLICITOR: No, Your Honor.

3 THE COURT: Does that take care of all
4 the issues?

5 MR. WELBORN: I'm not sure.

6 THE COURT: Officer, you can step down.

7 (WITNESS STEPS DOWN)

8 THE COURT: All right, let me hear
9 arguments on the statement as well as the
10 consent to search issues that you've raised,
11 Counselor.

12 MR. WELBORN: Your Honor, if you've got
13 two people that own the home that basically
14 say, 'he can come do whatever he wants to',
15 then he has an ownership or possessory
16 interest in that ---

17 COURT REPORTER: I'm sorry, I can't
18 hear you.

19 THE COURT: Please speak up a little
20 bit. I was having trouble hearing you also.
21 I'm sorry.

22 MR. WELBORN: I'm sorry. Your Honor, if
23 you've got two ladies that have said that it
24 was their home but that my client would come
25 and go as he pleased, then basically he has a

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1 right to consent as well. He was not given
2 that opportunity.

3 As to the statements, Your Honor I fail
4 to see where there was a spontaneous
5 utterance that would rise -- anything that
6 could be a spontaneous or excited utterance.
7 He just simply allegedly made a statement.

8 He should have been under Miranda or
9 certainly should have been placed under
10 Miranda before he was allowed to start making
11 statements. So our position is that the
12 statement needs to be suppressed.

13 THE COURT: What is the State's
14 position, sir?

15 SOLICITOR: Regarding the statement --
16 as you know, Miranda is only required if an
17 officer questions a suspect regarding a crime
18 or about a crime that they are alleging that
19 he committed. In this case, he did Mirandize
20 him. As he stated, he was waiting to talk to
21 him until they got a better spot, gone back
22 to the law enforcement center.

23 The only statement that was made when he
24 was in custody is that he asked him, as they
25 were doing a protective sweep and saw the gun

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1 sitting there when they went inside to help
2 get him a shirt. He told them that he didn't
3 know anything about it.

4 The statement that he made regarding the
5 gun was not a direct response to the officer.
6 He voluntarily stated that to him. It was
7 not a response regarding the crime itself.
8 As such, I think that the officer can testify
9 that this does not violate his Miranda, that
10 he voluntarily stated it. As a result, we
11 ask that it not be suppressed.

12 THE COURT: On the search issue?

13 SOLICITOR: On the search issue, Your
14 Honor, there is no indication or information
15 that this was his legal residence. If it
16 was, then they could have asked him to search
17 it, got his permission.

18 The two ladies, Ms. Eula Cowan and Ms.
19 Rasheya Payton, they indicated that that was
20 their legal residence and, as such, they were
21 the ones that signed the consent to search.

22 While they did give him permission to
23 stay there, he was not a fulltime visitor,
24 guest, resident of that location. As a
25 result, they did the right thing by asking

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1 the ladies who have legal residence there to
2 give the consent to search; which they did.

3 MR. WELBORN: Briefly, Your Honor, the
4 only thing that I can respond is that it is
5 analogous to having a child. That child has
6 permission, that child comes and goes, to
7 come to your home. Or if you have a vacation
8 home, that child can use that home when the
9 child wants. Under those circumstances, that
10 child would have permission to have someone
11 come in and search. He basically is 'the
12 child' here. He comes and goes, they allow
13 him to with no restrictions on that, there
14 was no discussion of restrictions, no
15 discussion about 'he's limited, he can't
16 grant permission for anyone to search.' It
17 was simply a he-lives-here-when-he-wants-to
18 basis. I think that he had the legal right
19 and had to be a part of the consent to this.

20 THE COURT: On the search issue,
21 Solicitor, may I ask, do you intend to call
22 the individuals who had ownership in the
23 home?

24 SOLICITOR: Yes. Well, we're calling
25 one of the two. One of the ladies is sick,

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1 very sick. So we are going to call Rasheya
2 Payton.

3 THE COURT: I think that it might be
4 beneficial for the Court to ascertain exactly
5 the scope of Mr. Williams' interest in this
6 property. Would it be possible for the Court
7 to delay ruling on that or were you planning
8 on calling her this afternoon.

9 SOLICITOR: I can call her right now,
10 if you want.

11 THE COURT: Okay, why don't you go
12 ahead and call her and let's see what she
13 says.

14 SOLICITOR: Your Honor, the State calls
15 Rasheya Payton.

16 (WITNESS TAKES STAND)

17 RASHEYA PAYTON, having been sworn to tell
18 the truth, and nothing but the truth,
19 testified as follows:

20 DIRECT EXAMINATION

21 BY SOLICITOR:

22 Q. Ms. Payton, where did you live back
23 in April of last year?

24 A. [REDACTED].

25 Q. Was that section "■" or section "■"?

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- 1 A. [REDACTED].
- 2 Q. Who did you live there with?
- 3 A. Me and my mother.
- 4 Q. And that is Eula Cowan.
- 5 A. Um-humm.
- 6 Q. How long had you lived there?
- 7 A. Five years.
- 8 Q. And that was your legal residence?
- 9 A. Um-humm.
- 10 Q Did anybody else live there with
- 11 y'all?
- 12 A. Just me and my mother.
- 13 Q. That's what your driver's license
- 14 indicated; right?
- 15 A. Yes, sir.
- 16 Q. Do you live there now?
- 17 A. No, sir.
- 18 Q. And do you know Claudius Williams?
- 19 A. Yes, sir.
- 20 Q. How do you know him?
- 21 A. He is my brother-in-law.
- 22 Q. And was he a legal resident or owner
- 23 of [REDACTED]
- 24 A. He used to just come and go.
- 25 Q. How often did he come and go?

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1 A. Hummm, -- I never really kept count.

2 I mean, he was in and out.

3 Q. Did he keep his stuff there?

4 A. Some stuff, yeah.

5 Q. Did he have his own bedroom at the
6 house?

7 A. No, sir.

8 Q. Where did he keep his stuff, his
9 items?

10 A. They used to be in my mother's room.

11 Q. And was -- the fact that he'd come
12 and go, how often did he do that?

13 A. I can't tell you. I work, and I
14 really can't tell you that.

15 Q. Did you see him a lot at your house?

16 A. Sometimes.

17 Q. Did he have the right to make
18 decisions regarding your house?

19 A. No.

20 Q. Did he pay any of the bills at your
21 house?

22 A. No.

23 Q. Was he a guest at your house?

24 A. I wouldn't necessarily say a guest.

25 He was welcome there anytime. He was like

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1 family, so I wouldn't say that he was a
2 guest.

3 Q. Did he have a key to the place?

4 A. Yes.

5 SOLICITOR: I have no further
6 questions. Please answer any questions that
7 Mr. Welborn has.

8 THE COURT: Cross?

9 CROSS EXAMINATION

10 BY MR. WELBORN:

11 Q. Ms. Payton, I understand that Mr.
12 Williams -- Mr. Williams had been away for a
13 while?

14 A. Yes, sir.

15 Q. Now he's back and he'd been coming
16 around for about four months at that point in
17 time? Four, five, six months? Is that
18 correct?

19 A. Yes, sir.

20 Q. And on a daily basis, to your
21 knowledge how often was he over there during
22 that period of time?

23 A. I really am not sure. I was working
24 a lot, so I wasn't there to keep track and my
25 mama was in and out.

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1 Q. You wouldn't discuss it with your
2 mother?

3 A. I would barely see her.

4 Q. Ma'am?

5 A. I would barely see her.

6 Q. How frequently, in say a week's
7 period, would you find out that Mr. Williams
8 had been there?

9 A. Probably about three, three or four
10 times.

11 Q. Three or four times?

12 A. Um-humm.

13 Q. Did he have permission basically to
14 do what he wanted? To stay at night?

15 A. Um-humm.

16 Q. To eat meals? Things like that?

17 A. Um-humm.

18 THE COURT: If you would, answer "yes"
19 or "no" so that she (court reporter) can take
20 it down.

21 WITNESS: I'm sorry. "Yes, sir."

22 CROSS EXAMINATION CONTINUED

23 BY MR. WELBORN:

24 Q. And if -- by way of example, if
25 someone had come to your home and if you, for

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1 whatever reason, didn't want that person to
2 come in -- maybe they were a salesperson, or
3 just someone that you didn't want in the
4 home, would he have permission to tell them
5 to go away?

6 A. If they was coming there for him or
7 for me?

8 Q. For any reason?

9 A. I honestly can't answer that.

10 Q. You can't answer that?

11 A. (No verbal response).

12 Q. It never became an issue?

13 A. It never become an issue.

14 Q. And he's your brother-in-law, and he
15 never abused his privilege to stay over there
16 by telling them that they could or couldn't
17 come, did he?

18 A. No, sir.

19 Q. And you trusted him completely to
20 make like decisions, didn't you?

21 A. Yes, sir.

22 Q. And so if he felt like someone
23 should or shouldn't come to the home, you
24 wouldn't have felt uncomfortable with that;
25 wouldn't you?

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1 A. Yes, sir.

2 MR. WELBORN: Thank you.

3 THE COURT: Redirect?

4 REDIRECT EXAMINATION

5 BY SOLICITOR:

6 Q. When Mr. Welborn was talking about
7 him being away for a while, he'd just been
8 released from the Department of Corrections;
9 right?

10 A. Yes, sir.

11 Q. When was he released? Do you
12 recall?

13 A. Uh, -- I think it was December.

14 Q. Shortly before this robbery took
15 place?

16 A. December of last year.

17 SOLICITOR: No further questions.

18 THE COURT: All right.

19 MR. WELBORN: I have nothing further.

20 THE COURT: You did give the officers
21 consent to search?

22 WITNESS: Yes, sir.

23 THE COURT: You may step down.

24 (WITNESS STEPS DOWN)

25 THE COURT: Any additional argument on

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1 the search issue?

2 MR. WELBORN: I think that he should have
3 been consulted. He had stuff there, he was
4 staying there, she trusted him to make
5 decisions that needed to be made about who
6 could come and go, he could eat what he
7 wanted, stay where he wanted. I think under
8 those circumstances that basically he could
9 be considered a resident, who should have had
10 the right to consent.

11 THE COURT: Solicitor?

12 SOLICITOR: Your Honor, at most he was
13 a guest. However, he didn't have a permanent
14 residence because he'd just been released
15 from the Department of Corrections. Being
16 that he was kin, he could stay there when he
17 didn't have another room.

18 That being the case, if the officer
19 didn't feel comfortable getting consent, then
20 they would have gotten a search warrant in
21 this case. Both the homeowners, Ms. Cowan and
22 Ms. Payton, showed them identification, their
23 driver's licenses that indicated that was
24 their legal residence. As such, they had the
25 right to make decisions whether or not law

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1 enforcement could in fact go in their house.

2 If they didn't, then they could have got
3 a search warrant. But as such, they did it
4 right. They got permission from her. She is
5 the rightful owner. As a result, the
6 evidence that was removed from the house
7 should come into evidence and should not be
8 suppressed.

9 THE COURT: Based on what has been
10 presented as to the search issue, I would
11 find that the defendant in this case lacks
12 standing to challenge the validity of the
13 search warrant. The two owners of the home,
14 the current residents of the home, for lack
15 of a better phrase, did consent -- apparently
16 they did consent to the search.

17 This case is different from other cases,
18 recent cases, where an individual lived in a
19 separate room that was locked, etc. If I am
20 remembering the facts of that case correctly,
21 it was necessary to obtain the consent of the
22 individual who actually had access to that
23 locked bedroom.

24 Even if Mr. Williams did have standing to
25 challenge the search, I find that the search

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1 was appropriate in that the owners gave
2 consent.

3 On the first issue concerning the *Jackson*
4 *v Denno* hearing -- (music playing outside
5 courtroom), what is that music? Uh, on the
6 *Jackson v Denno* issue, I do find that this
7 was not a situation where Mr. Williams was
8 being interrogated, he was not being asked
9 questions, he simply stated that the gun was
10 his, he merely admitted the gun being his.
11 Therefore, Miranda was not required to be
12 given because the officer intended to
13 question Mr. Williams at the sheriff's
14 department and no questioning took place in
15 the car concerning the gun. It was a
16 statement that Mr. Williams gave, and it is
17 admissible.

18 Anything else that we need to address
19 before we bring in -- before we resume?

20 SOLICITOR: Just some housekeeping
21 matters, Your Honor. I have marked some
22 exhibits, which Mr. Welborn is aware of, I've
23 shown them to him.

24 Mr. Welborn did file a speedy trial
25 Motion on behalf of Mr. Williams. Mr.

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1 Welborn was appointed October of last year by
2 Judge McIntosh. He and I have gone out and
3 reviewed the evidence at the sheriff's
4 office, we have discussed the case with the
5 case officer, we have met several times and
6 gone over stuff regarding that.

7 I made the speedy trial Motion Court's
8 Exhibit 1, -- understand that there is no
9 objection.

10 MR. WELBORN: No objection.

11 (SO ENTERED AS COURT'S EXHIBIT 1)

12 SOLICITOR: I also have filed a life
13 without parole notice on Mr. Williams. It is
14 dated October 29th, 2013. He was served on
15 October 30th, 2013. Mr. Welborn was given the
16 affidavit of service on December 10th, 2013,
17 of the State's intent to seek life without
18 parole. That will be Court's Exhibit 2.

19 (SO ENTERED AS COURT'S EXHIBIT 2)

20 SOLICITOR: Court's Exhibits 3 and 4
21 also shows Indictment 03-GS-04-2841 and 03-
22 GS-04-2842, two counts of armed robbery for
23 which he was convicted.

24 (SO ENTERED AS COURT'S EXHIBIT 3)

25 (SO ENTERED AS COURT'S EXHIBIT 4)

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1 SOLICITOR: Therefore, I just wanted to
2 put those on the record and make them court's
3 exhibits.

4 THE COURT: Mr. Welborn, any issues
5 about the service of the notice of life
6 without the possibility of parole, on your
7 client or on yourself?

8 MR. WELBORN: No, Your Honor.

9 THE COURT: All right. Anything else
10 that we need to address before we proceed?

11 SOLICITOR: Not from the State, Your
12 Honor.

13 THE COURT: We will take a brief five-
14 minute break, then bring the jury out and
15 start the trial at that time.

16 We're off the record -- so if you hear
17 the fire alarm, it's a test. If it goes off,
18 we will just have to deal with that and I
19 will tell the jury that.

20 (BRIEF RECESS 3:26 - 3:32 P.M.)

21 (DEFENDANT PRESENT)

22 (OFF RECORD SIDEBAR)

23 THE COURT: Let the record reflect that
24 we have had a sidebar and is it correct, Mr.
25 Welborn, you consent to the chain?

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1 MR. WELBORN: Yes, sir.

2 THE COURT: Very good.

3 SOLICITOR: Your Honor, the weapon is
4 clear. I'm going to give Deputy Bannister
5 the bullets in this case until -- and I've
6 talked to Mr. Welborn -- we can get something
7 on the gun to make it safe.

8 THE COURT: All right. Make sure that
9 the firearm has been checked and that it is
10 unloaded, rendered incapable of firing.

11 Anything before we bring the jury out?

12 SOLICITOR: Nothing from the State.

13 MR. WELBORN: None from the defense.

14 THE COURT: Very well, bring the jury
15 in, please.

16 (JURY IN @ 3:35 P.M.)

17 THE COURT: Ladies and gentlemen of the
18 jury, I want to begin by introducing myself.
19 I know that you have already met -- I believe
20 that Judge Maddox was the judge who qualified
21 and selected you for this particular jury.

22 My name is Frank Addy. I'm a circuit
23 judge, as well. I was born and raised in
24 Greenwood and that's where I make my home.
25 It's my pleasure to be with you here this

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1 week in Anderson County.

2 The first thing that I want to do is to
3 apologize for keeping y'all waiting back
4 there. The bailiff informed me that you were
5 here on time. I typically like to begin on
6 time but -- we actually started at 1:30 on
7 some other matters that needed my attention
8 and they simply took longer than I
9 anticipated. They move the circuit judges
10 around the state and told me to be here at
11 1:30, and I was here at 12:00 but it just
12 took a while to work through a lot of the
13 issues that we had on some unrelated matters.
14 So I apologize for keeping you waiting. I
15 didn't want you to think that it was anyone's
16 fault or that it involved this case. It was
17 my fault. I apologize for keeping y'all
18 waiting and I will do my best to minimize
19 that in the future.

20 Just a few housekeeping matters. The
21 deputies and courthouse personnel have told
22 me that they are working on the fire alarm
23 system right now and that there's a
24 possibility that the fire alarm might go off
25 while this trial is going on. If it does,

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1 don't panic, it's not a real fire. If
2 that happens, we will take a break until they
3 can turn it off.

4 Additionally, if you have any trouble
5 hearing while this trial is going on, what I
6 want you to do is to raise your hand. With
7 the fan running, it is sometimes difficult to
8 hear what a witness is saying or what the
9 attorneys say. So if you have any problem
10 hearing what is being said, please raise your
11 hand. That will be my cue to ask the
12 attorney or the witness to speak up, because
13 it is important that you hear.

14 Now, Judge Maddox has already appointed a
15 forelady -- are you Ms. Durham?

16 JUROR NUMBER 43: I am.

17 THE COURT: Very good. The alternate,
18 I believe, is Mr. Helmut. Who is Mr. Helmut?

19 JUROR NUMBER 69: (Raises hand).

20 THE COURT: Very good. I assume that
21 you all have the right seats. If the two of
22 you can keep those seats, the rest of you can
23 feel free to move around as you choose to do
24 so.

25 Ladies and gentlemen, we are about to

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1 begin the trial of the case of the State of
2 South Carolina versus Claudius Adrian
3 Williams.

4 Before we begin this trial, I want to
5 tell you that this trial is probably a little
6 bit different from what you've come to
7 expect.

8 You know, most people never have an
9 opportunity to attend and participate in an
10 actual court session as y'all are today. And
11 they think from watching TV and movies and
12 reading in books that trials are always full
13 of high drama and intense action and riveting
14 circumstances. Also, trial are often long
15 and tedious and things are not neatly wrapped
16 up in forty-five minutes to an hour.

17 Now, while all these things might be true
18 at times, I want to remind you that this
19 trial is not for entertainment.

20 This is a real trial, which is a
21 fundamental part of our democracy and it's a
22 search for the truth in an effort to make
23 sure that justice is done. And searching for
24 the truth and assuring that justice is done
25 is often slow, repetitive, and deliberative.

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1 Now, ladies and gentlemen, it's the exact
2 opposite of what you see on TV, movies, and
3 have read in books.

4 With that I am going to ask that you
5 stand and the Clerk will administer an oath
6 to your.

7 (WHEREUPON JURY SWORN)

8 THE COURT: Was there any juror who
9 could not accept that oath? (No response).
10 Thank you, no one raised their hands.

11 Now, ladies and gentlemen, this courtroom
12 and this whole courthouse is a place of honor
13 that is dedicated to the protection and the
14 preservation of citizens rights through what
15 has been called, and what I truly believe in
16 the bottom of my heart, the greatest justice
17 system ever created by man.

18 The attorneys who are appearing before
19 you are advocates for the parties that they
20 represent. But first and foremost, they are
21 officers of this Court who are sworn to
22 uphold the integrity and the fairness of our
23 judicial system and to help you in your
24 search for the truth.

25 Ladies and gentlemen, you should expect

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1 -- I'm sure they won't let you down -- them
2 to be professional, competent, and ethical in
3 the representation of their client's
4 interests.

5 And remember, ladies and gentlemen, that
6 you too just took an oath to listen to the
7 evidence in this case and reach a fair and
8 just verdict. And ladies and gentlemen, you
9 are expected to be professional, reasonable,
10 and ethical as well.

11 And, again, thank you for accepting this
12 very important responsibility of jury service
13 and your contribution to our justice system.

14 Now, ladies and gentlemen, what I'm going
15 to tell you now is just intended to serve as
16 an introduction to the trial of this case.
17 These remarks are not a charge on the law,
18 which I will give you the law that's appli-
19 cable of this case at the end of the trial.
20 This is merely an explanation of the
21 procedures that we will follow throughout
22 this trial so you may better understand what
23 is happening.

24 Ladies and gentlemen, let me say up front
25 -- I know they gave you a pad and paper, but

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1 during this trial it's my policy that jurors
2 do not take notes during trials. Therefore,
3 it's very important that you listen closely
4 throughout this trial.

5 Mr. Williams is charged with the offenses
6 of armed robbery and possession of a weapon
7 during the commission of a violent crime. I
8 will explain to you later the elements of
9 those charges.

10 Ladies and gentlemen, I instruct you that
11 an indictment is simply the charging document
12 by which a case is brought into this court.
13 An indictment is not in any sense evidence of
14 the allegations contained in the indictment.

15 The Defendant, Mr. Williams, has pled not
16 guilty to these indictments and that plea
17 therefore puts the burden of proof on the
18 State to prove each and every element of the
19 indictment beyond a reasonable doubt.

20 It is your duty, ladies and gentlemen, to
21 determine whether the State has met that
22 burden. Your purpose as jurors is to find
23 and determine the facts.

24 You are the sole judges of the facts in
25 this case, so at any time that I should make

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1 any comment concerning the facts, please
2 disregard that comment.

3 You are to determine the facts from the
4 testimony that you hear and the other
5 evidence which is introduced to you in court.
6 It is up to you to determine the inferences
7 which you feel may properly be drawn from the
8 evidence presented.

9 Now, ladies and gentlemen, it is
10 especially important that you perform your
11 duty of determining the facts diligently and
12 conscientiously because ordinarily there is
13 no way to correct an erroneous determination
14 of facts by a trial jury.

15 On the other hand, with equal emphasis,
16 the same law that makes you the judges of the
17 facts in this case makes me the judge of the
18 law.

19 The law as given by the Court is the only
20 law that you may consider. You have to
21 accept it and apply it even though you may
22 disagree with it.

23 I can't tell you what the facts are in
24 this case, that is solely for you to
25 determine. At that same time, you cannot

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1 disagree with me about what the law is or
2 what the law ought to be. Your job is to
3 take the law as I give it to you and apply it
4 to the facts as you find them to be from the
5 testimony and other exhibits and evidence
6 introduced in the trial. After doing that,
7 you will render your verdict, a true and just
8 verdict, under the oath that you just took as
9 jurors.

10 Now, ladies and gentlemen, until I advise
11 you to begin your deliberations, please do
12 not talk to anyone about this case. That
13 includes your fellow jurors, friends, family
14 members, anyone that you might come into
15 contact with. After the case is submitted to
16 you, you may discuss it only in the jury room
17 in the presence of all twelve of your fellow
18 jurors.

19 Now, the parties in this case have
20 advised that they are not to have any contact
21 with you. If you happen to see one of the
22 attorneys or one of the parties coming and
23 going from the courthouse and they don't even
24 say hello to you, please understand that that
25 they being rude. They are simply following

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1 my instructions to have nothing to do with
2 you while the trial is going on.

3 The reason for this is pretty simple,
4 ladies and gentlemen. An innocent hello or
5 an innocent how-you-doing can be
6 misinterpreted by the other side that might
7 have seen that as jury tampering. So the
8 easiest way to prevent that from coming up,
9 from even arising, is just to say that the
10 jurors are off limits during a trial.

11 Now, ladies and gentlemen, I don't know
12 if there is going to be any media coverage
13 during this trial. I don't think that there
14 will be. But certainly don't read or listen
15 or watch any news reports about this case.
16 This includes anything that might be in
17 newspapers or online.

18 I will tell you that it would be a
19 violation of your oath as jurors to conduct
20 any sort of independent investigation like an
21 online Google search, or anything like that.
22 Ladies and gentlemen, the reason for this
23 instruction is pretty simple. The Rules of
24 evidence that have been developed over
25 hundreds, if not thousands, of years in an

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1 effort to give you the best possible
2 information. The same does not apply to what
3 you may see in the media or what you might
4 find online because there is no way to
5 guarantee the accuracy of that type of
6 information.

7 There have been instances where jurors
8 have taken it upon themselves to disregard
9 this admonition of the Court and performed an
10 internet search, Google'ed some of the
11 parties names, and when that information or
12 that -- when that came to the attention of
13 the trial judge, I can tell you that the
14 trial judge was not too happy with the juror.
15 I've never been put in that kind of position,
16 ladies and gentlemen. I ask that you not put
17 me in that kind of position. Okay? Please.

18 Ladies and gentlemen, it is important
19 that you keep your oath in mind and not
20 decide any issues in this case until all the
21 evidence has been presented, you have heard
22 the arguments of counsel and you have
23 received my instruction on the law that
24 applies.

25 It will be your solemn responsibility to

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1 determine the guilt or innocence of the
2 Defendant, and your verdict must be based
3 solely on the evidence as presented.

4 In just a moment, ladies and gentlemen,
5 the Solicitor will make his opening statement
6 in which he will explain to you what the
7 issues are -- or at least what he believes
8 the issues are in this case.

9 The attorney for the defense may also
10 make an opening statement, although he is not
11 required to do so.

12 Ladies and gentlemen, I instruct you that
13 what the lawyers say in their opening
14 statements is of course not evidence. You
15 will judge this case from the evidence that
16 is presented from this witness stand and the
17 other exhibits.

18 From time to time during the trial, you
19 might hear one or the other of the lawyers
20 say, 'Your Honor, we have a matter of law for
21 the court' or 'we need to take up an issue of
22 law.' During those times I will ask that you
23 leave the courtroom so that we can discuss an
24 issue of law on the record, with my court
25 reporter here. The reason that I ask you to

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1 leave the courtroom, ladies and gentlemen, is
2 because when ruling on an issue of law
3 sometimes it is necessary for me to make a
4 comment on what the facts are on as to the
5 evidence that has been presented. I don't
6 want anything that I say about the facts to
7 have any bearing on what you ultimately
8 determine those facts to be. So during those
9 times, I ask that you leave the courtroom so
10 that I may discuss the case on the record
11 with the attorneys and the court reporter.

12 Please don't speculate as to what I may
13 believe the facts are. Again, ladies and
14 gentlemen, that is totally for you to
15 determine. I assure you that I have no
16 opinion concerning the facts in this
17 particular case.

18 Now, ladies and gentlemen, in determining
19 what the true facts are, you must decide
20 whether or not the testimony of a witness is
21 believable or not. It will be my response-
22 bility to rule as a mater of law whether
23 certain testimony is admissible. Once it is
24 admitted, it is solely for you to determine
25 whether or not you believe it.

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1 In determining whether to believe a
2 witness, you have the right to consider the
3 interests of any witness, the bias of any
4 witness, the correctness of any witness. You
5 may consider the opportunity of the witness
6 to have seen the matters and things about
7 which they testify, as well as the way that a
8 witness acts while on the stand.

9 You have the right to consider anything
10 that is in the record in this case that will
11 help you evaluate the testimony of any
12 witness.

13 It is your duty to be pay close attention
14 to the witnesses and observe them, to pay
15 close attention to the attorneys and to the
16 Court. Try to keep your thoughts from
17 wandering and give strict attention to the
18 testimony, so that at the conclusion of the
19 trial you can render a true and just verdict.

20 Now, Madame Forelady, it is your job to
21 preside over the jury deliberations in the
22 jury room. Your role is equal to the other
23 jurors and your vote counts no more, and no
24 less, than any other juror's vote. Your
25 primary responsibility is to make sure that

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1 everyone has a chance to have their say.
2 You also will be the jury's spokesperson here
3 in the courtroom once a verdict is returned.
4 Okay?

5 JUROR NUMBER 43: Yes, sir.

6 THE COURT: Now, in order to preserve
7 everyone's rights, I will now give the
8 attorneys an opportunity to object to
9 anything that I've said, and then we will
10 have opening remarks and proceed with the
11 trial.

12 Any objections from the State?

13 SOLICITOR: No, Your Honor.

14 THE COURT: From the defense?

15 MR. WELBORN: No, sir.

16 THE COURT: Solicitor, you are
17 recognized for your opening.

18 SOLICITOR: May it please the Court?

19 THE COURT: Yes, sir.

20 SOLICITOR: Ladies and gentlemen of the
21 jury, it was about 9:00 o'clock on the night
22 of April 24th, 2013. Meseret Kifle was
23 working alone in the convenience store that
24 she owned and operated on South Murray Avenue
25 here in Anderson.

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1 She was standing behind the cash
2 register, behind the counter, when around
3 that time a man entered the store. This man
4 was not there as a customer. This man was
5 there to take, to take what she had earned
6 that day. He made his intentions quickly
7 known as he took a .45 caliber weapon, a
8 pistol, and pointed it directly at her and
9 demanded the money that was in the cash
10 register.

11 When she didn't move fast enough for his
12 liking, he took his left hand, slid it back,
13 let her know that it was loaded, 'Do what I
14 say.'

15 It was over quickly, thirty seconds in
16 and out of the store. When he walked out, he
17 walked out with three hundred and seventeen
18 (\$317) dollars.

19 Ms. Kifle kept her wits about her. She
20 quickly hit the panic button that is directly
21 linked to law enforcement, and the Anderson
22 County Sheriff's Office was dispatched to her
23 location.

24 This case would have ended right then and
25 there, like so many other armed robberies

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1 that you hear about or read about, except
2 that in this case the robber made a couple of
3 mistakes. One is that he made no attempt to
4 hide his identity. The other is that it was
5 completely captured on video, a video that
6 you will have the opportunity to see.

7 This case lay cold for about five weeks,
8 when Detective Matt Ritter, seated right here
9 with me today, the case officer, was able to
10 get a tip that led to a name, that led to a
11 lineup, which eventually led to [REDACTED]
12 [REDACTED] There, that's where Claudius Williams
13 stayed at that time.

14 Mr. Williams was arrested by Detective
15 Ritter. He was charged with two counts, the
16 counts that you are here to determine guilt
17 on: count one is armed robbery, count two is
18 possession of a weapon during the commission
19 of a violent crime.

20 Armed robbery, which the Judge will
21 charge you later about the elements, is the
22 taking away of the personal property of
23 another person with intent to deprive that
24 person of ownership -- in this case money --
25 by use of force, threats or intimidation

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1 while armed with a deadly weapon.

2 The other charge against him is
3 possession of a weapon during the commission
4 of a violent crime. The violent crime in
5 this case is the armed robbery. If you don't
6 find him guilty of the armed robbery, you
7 can't find him guilty of the other.

8 Now, we -- as you've probably seen on TV
9 and heard, the State has the burden. We have
10 to prove this to you beyond a reasonable
11 doubt. The legal term of reasonable doubt is
12 that doubt which would make a honest,
13 conscientious juror searching for the truth
14 in a case to hesitate to act, that would
15 cause a reasonable person to hesitate to act.

16 Sort of a legal mumbo-jumbo, that a lot
17 of people don't understand what it means.

18 But what I tell you is this, that we have
19 the burden of bringing this case, we have the
20 burden to prove to you that Mr. Williams in
21 fact committed this robbery, that he is
22 guilty of the two crimes which we have
23 charged him with. If we meet that burden, if
24 we prove to you that we've met that
25 reasonable doubt, then we ask that you at the

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1 end of this trial find Claudius Williams
2 guilty.

3 Likewise, if the State does not prove to
4 you that he did do this crime, then find him
5 not guilty.

6 Now, you are the judges of the fact, as
7 the Judge has said. Your sole job is to find
8 guilt or innocence, you're to determine
9 whether he did it or not. That's all -- that
10 is what your job is.

11 To do your job, we are going to bring you
12 several folks. You're going to hear the
13 officer's testimony, you're going to hear the
14 witness' testimony, you'll hear from Ms.
15 Kifle. You'll see photographic evidence,
16 you'll see the video. You'll see clothing
17 items and you'll see the gun.

18 Based on that -- you will take what we
19 present to you -- and as I said, we have the
20 burden. When you go back there to
21 deliberate, you take everything. You get to
22 see the witnesses on the stand, you get to
23 judge their credibility. You get to
24 determine if you like them, you don't like
25 them, if they are telling the truth, not

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1 telling the truth. It's completely your
2 decision.

3 At the end of this case we're going to
4 ask you to bring back a verdict, a verdict
5 that speaks the truth that justice demands.
6 I thank you ahead of time for your attention
7 in this case. At the end of the trial, I'll
8 have and opportunity to speak to you again.
9 Thank you.

10 THE COURT: Mr. Welborn, you're
11 recognized for your opening.

12 MR. WELBORN: May it please the Court?

13 THE COURT: Yes, sir.

14 MR. WELBORN: Ladies and gentlemen of the
15 jury, good afternoon. I'm Hugh Welborn, I
16 practice law here in Anderson and I represent
17 Mr. Williams today.

18 I want to thank you first of all for your
19 attention, and for just being here.

20 Last night -- I like old movies. I was
21 flipping channels and came across a movie
22 entitled *Young Abe Lincoln*. It was filmed
23 in 1939, starring Henry Fonda as the young
24 Abe Lincoln.

25 It was all about a trial of two young men

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1 who'd been charged with a serious crime, and
2 neither one of them did it. The whole trial
3 was the faulty eyewitness testimony. People
4 said that they saw things that looked like
5 that, that it had to be that person. It's
6 fascinating that I found that movie the night
7 before this trial.

8 Young Mr. Lincoln was supposed to be a
9 young criminal lawyer back in his early days.
10 In the movie he was able to discredit -- in
11 the last five minutes literally -- that
12 someone else other than the two young men did
13 the crime.

14 Now, that told me something that I've
15 known for a long time but it just re-
16 emphasized it. That is that a lot of times
17 eyewitness testimony is faulty. That's not
18 me just saying that, there are studies
19 proving it. Eyewitness testimony is the
20 worst testimony. You can pick up the paper
21 anywhere in this country and somebody has
22 misidentified someone and later they're
23 turned out of prison because the DNA proved
24 that they didn't do it. Yet an eyewitness
25 said, "it was that person". "It was that

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1 person." "It was that person!" They were
2 wrong. Every day. It's a rush to judgment.

3 This was an investigation that didn't
4 last very long. You're going to hear all
5 about that the robber looked an awful lot
6 like my client, Claudius Williams. You are
7 going to hear about his twin brother, Claude
8 Williams.

9 You're going to have a lot of reasonable
10 doubt as to who it was because, as I said
11 earlier, eyewitness testimony is the most
12 unreliable testimony you can have.

13 Now, I am sure that they will say that it
14 was Claudia, that the camera shows you
15 everything that you need to know. Well,
16 you're going to have in evidence, later on, a
17 photographic lineup that shows everybody
18 looking exactly alike.

19 It could be his twin brother.

20 Now, the State has the burden of proving
21 this case. You need to understand that my
22 client doesn't have to take the stand, he
23 doesn't have to testify, he doesn't have to
24 prove anything. The State has to prove its
25 case beyond a reasonable doubt.

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Testimony of Jamie Turner - Direct Examination

1 The Judge will tell you that if my client
2 decides that 'I am not going to get up and
3 testify' that you can't hold it against him
4 that you can't even talk about it in the jury
5 room.

6 I want to re-emphasize how unreliable
7 eyewitness testimony can be, and I want you
8 to remember that throughout this trial. The
9 State has to prove everything. They can't
10 just flip a coin and say, 'We think that it
11 looks like him.' You flip the coin and see
12 what you think, which will be reasonable
13 doubt.

14 I ask that you keep an open mind during
15 the entire trial. Thank you.

16 THE COURT: Thank you, Mr. Welborn.

17 Mr. Campbell, call your first witness,
18 please.

19 SOLICITOR: Your Honor the State calls
20 Deputy Jamie Turner to the stand.

21 (WITNESS TAKES STAND)

22 JAMIE TURNER, having been sworn to tell
23 the truth, and nothing but the truth,
24 testified as follows:

25 DIRECT EXAMINATION

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Testimony of Jamie Turner - Direct Examination

1 BY SOLICITOR:

2 Q. Deputy Turner, do you work for the
3 Anderson County Sheriff's Office?

4 A. Yes, sir.

5 Q. Were you employed at the Anderson
6 County Sheriff's Office back on April 24t,
7 2013?

8 A. Yes, sir.

9 Q. And what position or capacity were
10 you employed in?

11 A. Patrol unit.

12 Q. Patrol?

13 A. Yes.

14 Q. Were you working on April 24th,
15 2013?

16 A. Yes, sir.

17 Q. Do you remember that day?

18 A. Yes, sir.

19 Q. On that day, did you have occasion
20 to respond to a call at 3401 South Murray
21 Avenue?

22 A. Yes, sir, I did.

23 Q. Is that here in Anderson County?

24 A. Yes, sir.

25 Q. What type of call were you respond-

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Testimony of Jamie Turner - Direct Examination

1 ing to?

2 A. Dispatch notified me that there was
3 an armed robbery that occurred at 3401 South
4 Murray Avenue.

5 Q. 3401 South Murray?

6 A. Yes.

7 Q. Here in Anderson?

8 A. Yes, sir.

9 Q. How long did it take you to get
10 there?

11 A. Approximately three minutes.

12 Q. Were you one of the first officers
13 on the scene?

14 A. Yes, sir.

15 Q. And when you arrived, what if
16 anything did you do?

17 A. When I arrived on the scene, I
18 canvassed the area to see if I could find a
19 suspect. There were three black males
20 located in the back parking lot. I spoke
21 with them.

22 I secured the area. Myself and Deputy
23 Stewart arrived on the scene at about the
24 same time. We secured the scene with crime
25 scene tape.

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Testimony of Jamie Turner - Direct Examination

1 Q. Were you able to determine whether
2 the three individuals in the back parking lot
3 that you spoke to were involved in this case?

4 A. I was. They were not.

5 Q. At that point, did you speak to the
6 victim?

7 A. I did.

8 Q. What, if anything, did you do with
9 the victim?

10 A. I saw her from a distance and
11 notified her that she could come once --
12 another deputy placed her in a patrol car,
13 so I did not have any conversation with her.

14 Q. And did y'all secure the area of the
15 crime scene?

16 A. We did. Yes, sir.

17 Q. Did you go into the 'Lil General
18 store?

19 A. I did not until after the investi-
20 gators arrived on scene.

21 Q. Did you start a crime scene log?

22 A. Yes, sir.

23 Q. And what is the purpose of a crime
24 scene log?

25 A. To make a detailed list of who

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Testimony of Jamie Turner - Direct Examination

1 arrived, when they arrived, and what they
2 were there for.

3 Q. After the detectives responded,
4 Detective Matt Ritter responded?

5 A. Yes.

6 Q. At that point, did you turn the
7 scene over to him?

8 A. I did.

9 Q. Thank you.

10 SOLICITOR: I don't have any further
11 questions. Please answer any questions that
12 Mr. Welborn may have.

13 THE COURT: Cross examine?

14 MR. WELBORN: No questions.

15 THE COURT: You may step down.

16 (WITNESS STEPS DOWN)

17 THE COURT: Any objection to releasing
18 Deputy Turner?

19 SOLICITOR: No, sir.

20 MR. WELBORN: No objection.

21 THE COURT: You are free to go, ma'am.

22 DEPUTY TURNER: Thank you.

23 THE COURT: Call your next witness.

24 SOLICITOR: The State calls Meseret

25 Kifle.

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Testimony of Meseret Kifla - Direct Examination

1 (WITNESS TAKES STAND)

2 MESERET KIFLE, having been sworn to tell
3 the truth, and nothing but the truth,
4 testified as follows:

5 DIRECT EXAMINATION

6 BY SOLICITOR:

7 Q. Ms. Kifle, you're the victim of an
8 armed robbery that occurred on April 24th,
9 2013; is that right?

10 A. Yes, sir.

11 Q. And before we get into talking about
12 that, I want to talk a little bit about you,
13 yourself. Okay?

14 A. Okay.

15 Q. How old are you?

16 A. (Inaudible).

17 Q. You'll have to speak up. The
18 acoustics in here are ---

19 A. Three nine, seven nine (phonetic).

20 Q. They have to hear what you're
21 saying.

22 A. Okay.

23 Q. Are you married?

24 A. Yes, sir.

25 Q. And where do you live?

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Testimony of Meseret Kifla - Direct Examination

1 A. I am living in Powder Springs,
2 Georgia but work at my store on South Murray
3 Avenue. I own the store, the 'Lil General.

4 Q. I am going to step towards you so
5 that ---

6 THE COURT: You need to get closer to
7 that microphone. We're not able to hear you.
8 Scoot closer to that microphone.

9 WITNESS: Okay.

10 MR. WELBORN: Your Honor, I cannot hear a
11 word she is saying.

12 THE COURT: Right. I figured that is
13 what you were standing up for.

14 Please try to speak directly into that
15 microphone.

16 WITNESS: All right.

17 SOLICITOR: And I will come a little
18 closer.

19 DIRECT EXAMINATION CONTINUED

20 BY SOLICITOR:

21 Q. You just said that you live in
22 Powder Springs, Georgia?

23 A. Powder Springs.

24 Q. And where do you work?

25 A. I work on at the 'Lil General on

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Testimony of Meseret Kifla - Direct Examination

1 South Murray Avenue.

2 Q. Here in Anderson?

3 A. Anderson, South Carolina.

4 Q. Do you also have a place where you
5 stay here in Anderson?

6 A. With my cousin. I don't stay the
7 whole weeks, whole week.

8 Q. Now, let's talk ---

9 THE COURT: We are still having trouble
10 hearing. If you need to move closer, that's
11 fine. You don't need to feel chained to that
12 desk, Mr. Welborn.

13 MR. WELBORN: I can't hear her. Can I
14 sit over there near the bailiffs?

15 THE COURT: That's fine.

16 SOLICITOR: I don't have any objection.

17 THE COURT: Can you (clerk) turn her
18 microphone up.

19 CLERK: Yes, Judge.

20 THE COURT: The clerk is turning the
21 mic up a little bit too.

22 CLERK: It's as loud as it will go.

23 SOLICITOR: Okay.

24 DIRECT EXAMINATION CONTINUED

25 BY SOLICITOR:

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Testimony of Meseret Kifla - Direct Examination

1 Q. Now, listening to you talk, I know
2 that you are not from Anderson; is that
3 right?

4 A. Yes, sir.

5 Q. Where are you from?

6 A. I am from Africa.

7 Q. How long have you been in the United
8 States?

9 A. Almost seventeen years.

10 Q. And when you got here, what did you
11 come for?

12 A. I come here to school.

13 Q. But you're here and you're working
14 here; is that right?

15 A. Yes, sir.

16 Q. Okay. How long have you owned your
17 own business?

18 A. Since 2007.

19 Q. Has that been here in Anderson?

20 A. Yes, sir.

21 Q. And what type of business do you
22 own?

23 A. A convenience store.

24 Q. What type of items do you sell?

25 A. I sell beer, soda, cigarettes,

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Testimony of Meseret Kifla - Direct Examination

1 snacks, food, lottery tickets, ---

2 Q. Lottery tickets?

3 A. (Affirmative nod).

4 Q. How about gasoline?

5 A. (Negative gesture), gasoline.

6 Q. No gasoline?

7 A. (No verbal response).

8 Q. And the store that you have, you're
9 the owner and operator; right?

10 A. Yes, sir.

11 Q. What are your hours?

12 A. We open seven to midnight.

13 Q. Is that seven days a week?

14 A. Seven days a week, except Sunday.

15 Sundays we are closed.

16 Q. Do you work there the whole time by
17 yourself?

18 A. I work more hours than anybody else.
19 Every day I work, yes, sir. I have two
20 employees that watch the store if I am not
21 there, but most of the time I work.

22 Q. How many employees do you have
23 helping you?

24 A. Two.

25 Q. How many hours a week do you reckon

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Testimony of Meseret Kifla - Direct Examination

1 that you work?

2 A. More than seventy hours.

3 Q. Seventy?

4 A. Yes.

5 Q. Now, you've been here, you've
6 stated, since 2007.

7 A. (Affirmative nod).

8 Q. Have you ever been robbed before?

9 A. Yes, sir.

10 Q. When was that?

11 A. 2008, then -- they take all my
12 stuff, (emotional, crying).

13 Q. And -- but in this case, and we're
14 going to talk about it. Okay?

15 A. This guy, he'd never been in jail
16 and he -- (crying while talking).

17 Q. That was the first time?

18 A. Yes, sir.

19 Q. That was the first time, right?

20 A. That was the first time.

21 Q. We're going to get into talking
22 about the second time. Okay?

23 A. (No verbal response).

24 Q. Now, the store that you have, do you
25 have any type of security measures there?

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Testimony of Meseret Kifla - Direct Examination

1 A. I've got a video camera in the store
2 and a -- (emotional).

3 Q. I've got to stop you for a second.
4 Okay?

5 A. (No verbal response).

6 Q. If you need a second to compose
7 yourself, that's okay. They need to be able
8 to hear what you're saying.

9 A. Okay.

10 Q. Now, how many security cameras do
11 you have?

12 A. I've got two security cameras.

13 Q. Are the in color?

14 A. Yes.

15 Q. And what else do you have to help
16 with security?

17 A. I got an alarm in the store.

18 Q. Are you also directed wired to
19 dispatch in the Sheriff's Office?

20 A. I am not sure. I've got a button.
21 I can hold that button. Before I have a
22 robbery button, I can't go to the register
23 because it was next to the register. I be
24 working and I hit it, if my finger hit it,
25 and I had to get a walk-around button that I

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Testimony of Meseret Kifla - Direct Examination

1 take with me. So I have the alarm system.

2 Q. So you have a security button, a
3 panic button?

4 A. Panic. Yes.

5 Q. And you carry that or use that in
6 the store today?

7 A. Yes. I was starting -- it was an
8 extra, just like this.

9 Q. And that was directly linked,
10 through the alarm system, to law enforcement?

11 A. Yes.

12 Q. Now, I want to talk to you about
13 Wednesday, April 24th, 2013. Do you recall
14 that day?

15 A. Yes, sir.

16 Q. Why do you recall that day?

17 A. That day I was -- I'd been working
18 since 2:00 o'clock in the afternoon. Then --
19 and I was so tired. I had this lady who had
20 this scratch-off. Then about 9:00 o'clock, a
21 little after 9:00, it was almost -- it was
22 dark, then this lady was scratching off the
23 lottery. She was standing over there,
24 talking to somebody. I was, like, 'who is
25 she talking to?' I was trying to see who it

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1 was, it was outside. But this guy was in the
2 corner, out of my view. This lady was
3 talking to somebody at the front and I was
4 trying to see this guy and but then she'd
5 already left. So when she had left, he seen
6 her -- her car was gone -- then as soon as
7 she left, she saw him walk in, straight to my
8 register. He got a plastic bag on his hand.
9 He just open the door and then he drop his
10 plastic bag on the floor. So when he come,
11 he got the glasses on his eyes -- maybe he'd
12 just changed, I don't know. But got glasses.
13 No cover, no head cover, nothing on, he just
14 comes straight to the register.

15 I thought that he was joking. I mean,
16 everybody that comes in my store, I --
17 (crying) -- because I'm friendly with my
18 customers. He come straight to my register,
19 "Open that register mutherfucker."

20 I say, "Are you serious?"

21 He got this gun and he was just doing it
22 like this (gesturing), and I was so scared.
23 I just opened the register. I thought that
24 he would take it. He kept saying, "Where is
25 your bag money? You put your bag money in

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Testimony of Meseret Kifla - Direct Examination

1 the safe or somewhere, bring me that bag
2 money."

3 I said, "I'm telling you, I don't have no
4 bag money. I'm telling the honest truth."

5 He told me -- (emotional/crying) -- so he
6 took it. When he take it, he put it in his
7 pocket and he turn around and walk out.

8 I just slide my button, push my button as
9 he walk out. I turned around to see which
10 way that he go -- (emotional). After he got
11 outside, he started running away. I was so
12 scared -- (crying hysterically, talking) --
13 I thought I was going to die, because he had
14 his finger on it (sobbing). I thought I
15 would die -- (crying hysterically) -- that's
16 why I can't work alone. I see this guy -- I
17 see this kid and it's like I'm scared --
18 every time that a customer walks in, I'm
19 scared. When I told the cops, they told me
20 that if I could see his eyes that they could
21 find that person who did this -- (crying) --
22 the last person to see the picture. I am so
23 scared -- every day, every time a customer
24 comes in, I see that face. I'm blessed that
25 I am here today -- (crying uncontrollably).

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Testimony of Meseret Kifla - Direct Examination

1 Q. Ms. Kifle, -- Ms. Kifle, is the man
2 that robbed you at gunpoint in the courtroom
3 today?

4 A. He's here. He's right here. I
5 recognize his face. I won't forget it.

6 SOLICITOR: Let the record reflect that
7 she is pointing to the Defendant, Claudius
8 Welborn (sic) -- Williams.

9 THE COURT: The record shall so
10 reflect.

11 DIRECT EXAMINATION CONTINUED

12 BY SOLICITOR:

13 Q. Now, Ms. Williams (sic) -- Ms.
14 Kefle. Ms. Kefle, when this occurred, do
15 you recall approximately how long he was in
16 the store?

17 A. He was just there about four or five
18 minutes. I don't know. But he'd come in
19 before, two days before. I was at the store
20 and he asked ---

21 Q. We are going to get to that.

22 A. Okay.

23 Q. Right now we're going to deal with
24 just the time that it happened. Okay?

25 A. (No verbal response).

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Testimony of Meseret Kifla - Direct Examination

1 Q. Now, when he came in the store, do
2 you recall how he was dressed?

3 A. Yes.

4 Q. How was that?

5 A. He got like dark gray -- dark like
6 -- dark grey, real dark gray, with a picture
7 on it and then Rhinos.

8 Q. Rhino?

9 A. Rhino, right. And he got a picture
10 on her, kinda.

11 Q. Was this robbery captured on video
12 through your surveillance system?

13 A. Yes, sir.

14 Q. You talked to the police that night.

15 A. (No verbal response).

16 Q. And when you talked to the police
17 that night, after the robbery, did you give
18 them a copy of it?

19 A. Yes, sir. Not the same night.

20 Q. But you gave them a copy of the
21 robbery ---

22 A. Yes.

23 Q. --- you downloaded it and gave it to
24 them?

25 A. Yes.

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Testimony of Meseret Kifla - Direct Examination

1 Q. You cooperated with law enforcement
2 in this case, is that right?

3 A. Yes, sir.

4 Q. And prior to that day, had you ever
5 seen Mr. Williams?

6 A. Say that?

7 Q. Prior to April 24th, before April
8 124th, had you ever seen him before?

9 A. No.

10 Q. Now, Ms. Kifle, you have seen a
11 video in this case, recorded from your
12 security camera; is that right?

13 A. (No verbal response).

14 Q. Let me rephrase my question. You
15 gave law enforcement a video of the robbery,
16 is that right?

17 A. Yes, sir.

18 Q. In fact, you and I have looked at it
19 together?

20 A. Yes, sir.

21 Q. And this is what has been marked as
22 State's Exhibit 30. This video fairly and
23 accurately represents and shows the crime as
24 it took place. Is that right?

25 A. Yes, sir.

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Testimony of Meseret Kifla - Direct Examination

1 SOLICITOR: Your Honor, at this time I
2 would move State's Exhibit 30 into evidence.

3 THE COURT: Any objection?

4 MR. WELBORN: Your Honor, I have an
5 objection to that -- my client -- I have no
6 objection.

7 THE COURT: Without objection, State's
8 Exhibit 30 will be in evidence.

9 (SO ENTERED AS STATE'S EXHIBIT 30)

10 THE COURT: Do you desire to publish it
11 at this point?

12 SOLICITOR: Yes, sir, I'd like to play
13 it.

14 DIRECT EXAMINATION CONTINUED

15 BY SOLICITOR:

16 Q. Ms. Kifle, this video has no sound;
17 is that right?

18 A. (Affirmative nod), no.

19 Q. (Video playing).

20 A. (Emotional/crying).

21 Q. (Video playing) -- okay.

22 SOLICITOR: Your Honor, at this time
23 I'd like to ask Ms. Kifle to step off the
24 stand. I'm going to replay the video and ask
25 her to explain what is going on as it goes

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Testimony of Meseret Kifla - Direct Examination

1 forward.

2 THE COURT: That's fine.

3 DIRECT EXAMINATION CONTINUED

4 BY SOLICITOR:

5 Q. Ms. Kifle, I am going to hand you a
6 pointer. If you could, please, when we start
7 playing (the video) again, explain to the
8 ladies and gentlemen everything that is
9 taking place -- (video playing).

10 A. This is the front door.

11 He comes from this side.

12 When he got to the door, he got
13 plastic bag on his hand. As soon as he open
14 the door, he drop his plastic bag.

15 He just straight come here.

16 This is the door, this is he come
17 down.

18 I am over here.

19 When he come to me, he say "Give me
20 the bag money."

21 I don't have no bag money. The only
22 money I have here, just take it.

23 He dropped some money inside.

24 That's when he tell me to give him
25 the bag money.

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Testimony of Meseret Kifla - Direct Examination

1 Q. Okay.

2 A. (Resumes witness stand).

3 Q. When you spoke to law enforcement,
4 were you able to provide identification of
5 the person that robbed you?

6 A. (No response).

7 Q. Such as what his height was?

8 A. Yes, I told him how high (sic) it
9 was. I mean, I can't judge a body's age,
10 because this day -- we can't judge -- but I
11 give my guess, between twenty-five to thirty-
12 eight. But the height, I can see in my store
13 how high people are, and I say exactly how
14 high he was. He was six-something. That's
15 what I told them.

16 Q. Is it like one of those lines that
17 you see on the side of the door as you walk
18 out?

19 A. Yes.

20 Q. It shows the height.

21 A. Yes, I got height for the kids, for
22 everyone. I got everywhere height.

23 Q. And did you tell them approximately
24 how much he weighed?

25 A. (No verbal response).

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Testimony of Meseret Kifla - Direct Examination

1 Q. How much you guess he weighed?

2 A. I don't know the number.

3 Q. Did you review this video that we
4 just saw, with the detective?

5 A. Yes.

6 Q. Detective Matt Ritter?

7 A. Yes.

8 Q. After that, nobody was arrested or
9 charged that night, were they?

10 A. Nobody was arrested but I -- I ask
11 everybody if they know this guy. 'Did you
12 see him before?' I kept asking everybody. I
13 showed them the picture. One lady told me
14 that 'yes, he was here Monday.'

15 Q. As a result of that, did you look at
16 the video from a couple days prior?

17 A. Yes.

18 Q. And after you reviewed the video
19 from two days prior, did you determine
20 whether or not he came to your store?

21 A. No, he never come back to the store
22 after that.

23 Q. I am talking about -- let me
24 rephrase it. You didn't understand my
25 question.

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Testimony of Meseret Kifla - Direct Examination

1 A. All right.

2 Q. Your employee said that they thought
3 they'd saw him prior to this?

4 A. (Affirmative nod).

5 Q. As a result of her telling you that,
6 you went back and looked at the video
7 footage?

8 A. Yes.

9 Q. The time before this robbery?

10 A. (Affirmative nod).

11 Q. And when you reviewed this video
12 footage, did anybody stand out -- did you
13 come across an individual or a person that
14 came into your store that you thought looked
15 like Mr. Williams?

16 A. I -- since the lady told me that the
17 guy was in the store, I ask everybody if they
18 see his face, to know who this guy is.

19 Q. Did you see him on the video prior
20 to -- before the robbery?

21 A. Yes.

22 Q. He was on the video?

23 A. Yes.

24 Q. Did you make a copy of this video
25 for law enforcement?

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1 A. Yes.

2 Q. And what did you do with it?

3 A. (No verbal response).

4 Q. Did you give the copy to them?

5 A. Yes.

6 Q. To law enforcement?

7 A. Yes.

8 Q. You and I have looked at that video
9 together, have we not?

10 A. Yes.

11 SOLICITOR: Your Honor, at this time we
12 are going to play the second video regarding
13 this. This is also on State's Exhibit 30.

14 THE COURT: Okay.

15 DIRECT EXAMINATION CONTINUED

16 BY SOLICITOR:

17 Q. (Video playing) -- okay. Ms. Kifla,
18 is that video that you just watched of an
19 individual that was in the green jumpsuit,
20 does that fairly and accurately represent what
21 you viewed two days prior to this?

22 A. Two days before, yes.

23 Q. And this is what you turned over to
24 law enforcement?

25 A. Yes.

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1 Q. And the individual that was in the
2 video that you just watched, in the green
3 jumpsuit, was he the one that robbed you on
4 April 24th, 2014 (sic)?

5 A. Yes.

6 Q. Is he the same one ---

7 A. Yes, sir. You said 2013?

8 Q. Last year, (affirmative nod).

9 THE COURT: You said 2014, I think.

10 SOLICITOR: Oh, okay.

11 DIRECT EXAMINATION CONTINUED

12 BY SOLICITOR:

13 Q. Last April 24th?

14 A. Yes.

15 Q. And he's in the courtroom today?

16 A. Yes, sir.

17 Q. My mistake.

18 A. That's okay.

19 SOLICITOR: Your Honor, at this time
20 I'd like to ask the witness, Ms. Kifle, to
21 come off the stand. I'd like to first saw
22 her what has been marked as State's Exhibits
23 1, 2 3 and 4.

24 THE COURT: Ma'am, you may step down.

25 SOLICITOR: I am first going to show

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1 her, ask her what they are, have her identify
2 them and then bring them in. Just get her to
3 explain it.

4 DIRECT EXAMINATION CONTINUED

5 BY SOLICITOR:

6 Q. You have to speak up. Okay?

7 A. (No verbal response).

8 Q. I am going to show you State's
9 Exhibits 2, 3, and 4. Please look at this
10 and tell me what these show? What these are
11 pictures of.

12 A. This shows the big sign, the 'Lil
13 General sign that we have outside.

14 Q. First, do these pictures show your
15 store?

16 A. Yes.

17 Q. Outside and inside?

18 A. Yes. Outside, the front door and
19 this is inside the store -- the height of
20 people that come in the door and this is
21 inside the store.

22 Q. Ms. Kifle, I am going to put these
23 up on this machine, like we did before, and
24 if you'd just tell the ladies and gentlemen
25 -- first of all, this is State's Exhibit 1.

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1 What does this picture indicate or show?

2 A. This is outside, the sign for our
3 store.

4 Q. This is your store, right?

5 A. Yes.

6 Q. 'Lil General?

7 A. Yes.

8 Q. Okay. Number two?

9 A. This is the front of the store, the
10 sign.

11 SOLICITOR: I need to take this
12 (exhibit) sticker off, because it is covering
13 up what I need to show.

14 COURT REPORTER: (Remarks exhibit).

15 DIRECT EXAMINATION CONTINUED

16 BY SOLICITOR:

17 Q. Ms. Kifle, we're -- State's Exhibit
18 3, what is this indicating?

19 A. this is what you see from when you
20 come in from outside. You see the door.
21 When you got inside, you can see the markings
22 for the height. This is the entrance to our
23 store.

24 Q. Which way is the way you are in
25 relation to this picture?

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Testimony of Meseret Kifla - Direct Examination

1 A. I'm inside.

2 Q. To the right or the left?

3 A. This is the door, it's not the
4 register.

5 Q. Right. When you come through this
6 door, which way is the register?

7 A. The register is here.

8 Q. State's Exhibit 4, what does this
9 picture indicate?

10 A. This is the inside of the store, the
11 register, I am down there. This is the
12 register I was sitting down at. All of this
13 is inside.

14 Q. What is this right here, "Please
15 have your ID ready." What is this right
16 here?

17 A. This ID is underage, they have to
18 show their ID before they can make purchases
19 of items. We have that at the register.

20 Q. Is this -- was that -- that sign was
21 up during the robbery?

22 A. Yes, because he came -- it was
23 blocking him prior to -- that sign was there.

24 Q. As a result of that, he had to bend
25 down?

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1 A. Yes.

2 Q. And that video that we saw, does
3 that capture -- does this picture show where
4 the video camera is located that took that
5 video?

6 A. This is a different camera. This is
7 a video but it's a different camera. If I
8 took that video, it would show his back only,
9 you can't see his face. From that camera,
10 you can't see his face. You can only see his
11 back.

12 Q. Now, the camera angle -- the camera
13 that is right up here to the left ---

14 A. The camera right here -- and this
15 camera right here, that camera shows his
16 face.

17 Q. That camera that you are pointing to
18 ---

19 A. That camera is -- on the videos,
20 that is this camera. The day of the robbery,
21 it was this camera. The day before when he
22 come was another camera.

23 Q. It was a different camera?

24 A. Yes.

25 Q. Ms. Kifle, please take the stand.

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1 A. (Complies).

2 Q. And were you able to learn or find
3 out how much money was taken?

4 A. Yeah, three hundred and seventeen
5 (\$317). I shut down the store and I counted
6 my money and it was three hundred seventeen
7 dollars; no change, just three hundred and
8 seventeen dollars. No change.

9 Q. Now, after that, nothing happened
10 for a while; is that right?

11 A. Right.

12 Q. when is the next thing that happened
13 in determining or finding out who robbed you?

14 A. That was when they brought me this
15 flyer and -- I showed that flyer to everyone.
16 I put it up, that picture up front of our
17 register and asked people if they know him.
18 Any customer that come in, I asked, 'Do you
19 know this guy? Does he live around here?'

20 Q. Hold on one second. I am going to
21 get this marked.

22 COURT REPORTER: State's Exhibit 31 for
23 identification.

24 DIRECT EXAMINATION CONTINUED

25 BY SOLICITOR:

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1 Q. Ms. Kifle, I am going to show you
2 what has been marked as State's Exhibit 31,
3 can you please identify this?

4 A Yes, I put this picture -- I put
5 this picture where people can see it. Asked
6 does anybody know him.

7 Q. Is that the flyer that law
8 enforcement put out?

9 A. Yes, sir.

10 Q. And the picture that is in that
11 flyer is not the picture of the actual
12 robbery?

13 A. No.

14 Q. What day was that picture from?

15 A. That was two days before.

16 Q. Now, as a result of people coming in
17 the store, at some point did you receive any
18 type of information that you were able to
19 pass along to law enforcement to help in this
20 case?

21 A. Yes, I did. One person just told
22 me, give me the number. I called the police
23 and give them the number. I didn't know
24 exactly the person's name, but they give it
25 to me and I give it and that's all.

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1 Q. After that, did eventually Detective
2 Ritter come to you with a lineup -- a
3 photographic lineup?

4 A. A picture lineup?

5 Q. Yes, ma'am.

6 A. Yes, he come in with pictures and
7 before -- he tell me, uh, if I -- he
8 explained to me that he was going to show me
9 the pictures and I have to be sure. I have
10 to pick whatever -- that if I pick someone
11 out, that I have to circle it and sign the
12 paper. He told me that. So when he showed
13 me, his face -- I remember his face. I will
14 never forget his face.

15 Q. How long did it take you to pick his
16 picture out?

17 A. Immediately. A minute.

18 Q. Are you a hundred percent sure
19 that's the person who robbed you?

20 A. A hundred percent sure. No
21 question, that's his picture.

22 Q. At any point did Detective Ritter
23 point to or suggest to you which picture to
24 pick out?

25 A. No. No.

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Testimony of Meseret Kifla - Direct Examination

1 Q. I am going to show you what has been
2 marked as State's Exhibit 29, please, ma'am.
3 Can you identify what this is?

4 A. (Upon review), that ---

5 Q. First, do you know what this picture
6 is of? Exhibit 29?

7 A. Yes, for me to pick out the robbery
8 -- who robbed me. I circled it and signed
9 it.

10 Q. Is that the one that you signed?

11 A. Yes.

12 Q. On or about June ---

13 A. (Affirmative nod), June.

14 Q. Last year?

15 A. (Affirmative nod). Sorry, I am a
16 little bit slow.

17 Q. Is your signature on this?

18 A. yes, it is.

19 Q. Where is it located?

20 A. It's right here, (indicating), I put
21 my name and the date on it. That's it, the
22 date.

23 Q. And a lot of these pictures look
24 similar, don't they?

25 A. Maybe it somebody else but I don't

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1 know who is it, and I picked him because I
2 remember that face.

3 SOLICITOR: Your Honor, at this time
4 I'd like to publish State's Exhibit 29 to the
5 jury.

6 MR. WELBORN: No objection.

7 THE COURT: Without objection.

8 (SO ENTERED AS STATE'S EXHIBIT 29)

9 SOLICITOR: Actually I am going to have
10 her step off, it's just easier to have her
11 step off.

12 THE COURT: Okay.

13 DIRECT EXAMINATION CONTINUED

14 BY SOLICITOR:

15 Q. Ms. Kifle, if you could please step
16 off the stand.

17 A. (Complies).

18 Q. This Exhibit 29 is the lineup that
19 Detective Ritter brought to you, is that
20 correct?

21 A. Yes.

22 Q. On June 3rd, 2013?

23 A. Yes.

24 Q. The person that you picked is number
25 three?

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1 A. Yes.

2 Q. And that is the person that you say
3 is the one that robbed you?

4 A. Yes, sir.

5 Q. Now, the person who robbed you, the
6 person that's in the picture there, is the
7 person whose picture is there in the
8 courtroom today?

9 A. Yes, sir.

10 Q. Where is he?

11 A. He's right there.

12 THE COURT: The record shall reflect
13 that the witness has identified the
14 defendant.

15 DIRECT EXAMINATION CONTINUED

16 BY SOLICITOR:

17 Q. Ms. Kifle, if you will, please take
18 the stand.

19 A. (Complies).

20 SOLICITOR: Court's indulgence, please.

21 THE COURT: Yes, sir.

22 DIRECT EXAMINATION CONTINUED

23 BY SOLICITOR:

24 Q. Ms. Kifle, I -- I don't have any
25 further questions for you, but please answer

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Testimony of Meseret Kifla - Cross Examination

1 any questions that Mr. Welborn may have.

2 A. Yes, sir.

3 THE COURT: Cross examine?

4 CROSS EXAMINATION

5 BY MR. WELBORN:

6 Q. Can you hear me okay, ma'am?

7 A. Yes, sir.

8 Q. Just let me know if you can't hear
9 me. Okay?

10 A. Okay.

11 Q. First of all, I listened to what you
12 said in the beginning. I want to tell you
13 that you are a successful here. You need to
14 know that.

15 You also need to know that my wife owned
16 a convenience store for years. I understand
17 all about long hours in convenience stores.
18 I have a lot of respect for you.

19 A. Thank you.

20 Q. Having said those things, let's talk
21 about this case. Now, you -- your training
22 is in operating and owning a convenience
23 store; is that correct?

24 A. Training?

25 Q. You learned how to own a convenience

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Testimony of Meseret Kifla - Cross Examination

1 store, that's what you are trained in. Is
2 that correct?

3 A. Yes, sir

4 Q. And you have no training as to
5 estimating people's weight or height. You've
6 not gone through schools to talk about that,
7 have you?

8 A. I can't estimate the weight, because
9 I don't know. But the height is because I
10 have the lines. I don't have to estimate
11 that because I can see it.

12 Q. Okay. Now, the person that came in
13 the store, that had that gun, that left, you
14 would agree that that person with the Rhino
15 suit as you call it, that was a baggy kind of
16 suit, wasn't it?

17 A. Baggy suit?

18 Q. Right.

19 A. (No verbal response).

20 Q. It wasn't tight?

21 A. (No verbal response).

22 Q. It wasn't a tight-fitting suit?

23 A. No, sir.

24 Q. And when you have on something
25 baggy, you can't really tell what someone

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Testimony of Meseret Kifla - Cross Examination

1 weighs, can you?

2 A. I didn't judge -- I didn't give how
3 much he weighed, because I don't know how
4 much he weighed. I know how much -- how he
5 tall.

6 Q. I understand.

7 A. The only thing that I know is his
8 height. But he -- you can tell whether it is
9 a medium body or a thin body.

10 Q. I understand.

11 A. I am not sure how you wear -- how
12 you dress, but you can see -- you can see
13 some people heavy by -- you can see -- even
14 if he weigh -- if he got big suit, you can
15 tell how much he weighs, but I couldn't guess
16 how much he weighed. I know how he tall.

17 I don't know his age, I can't give them
18 his age. But I can't give estimate. I can't
19 say seventeen years old, the guy that come in
20 and robbed me that night.

21 Q. I understand.

22 A. But I -- I not give an exact.

23 Q. But to be clear about the weight,
24 what you're telling me is that 'I know how
25 tall he was, I saw him walk out.' I got

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Testimony of Meseret Kifla - Cross Examination

1 that.

2 A. Okay.

3 Q. But as to his weight, you really
4 can't say, because he had on baggy clothes.
5 Would that be fair?

6 A. I can guess.

7 Q. You can guess?

8 A. It'd be a guess, yes.

9 Q. But he had on baggy clothes and you
10 could be off by twenty or thirty pounds,
11 couldn't you?

12 A. It can't be twenty or thirty pounds.
13 It can't be like that.

14 Q. Okay.

15 A. Maybe it could be but -- ninety-nine
16 to a hundred twenty. But if it was ninety-
17 nine -- I could only see the face.

18 Q. But for the remainder of the body,
19 you'd agree that he had on the Echo -- the
20 Rhino suit that looked baggy.

21 A. Yes.

22 Q. Okay. Now, I did a little quick
23 check as we were watching that video. He
24 comes in the store and then he leaves, and
25 the whole thing takes place in about six or

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Testimony of Meseret Kifla - Cross Examination

1 seven seconds, somewhere around seven to
2 eight seconds. Would you agree with that?

3 A. When he come robbed me?

4 Q. From the time -- when he came in
5 that second time and alleged robbed you, that
6 whole -- from the time that the door opened
7 until the time that he came over and then
8 walked back out of the store, it's less than
9 ten seconds; isn't it?

10 A. I am not real sure.

11 Q. Well, we watched the whole thing a
12 minute ago.

13 A. Okay.

14 Q. You'd agree that it was a very short
15 period of time?

16 A. Yes.

17 Q. Right?

18 A. Yes.

19 Q. You understand that in that short
20 period of time that you adrenalin was flowing
21 because you saw this gun stuck at you?

22 A. Did you see me -- I was looking at
23 him, because I had already decided to duck.
24 But I wanted somebody to find who killed me,
25 to find -- I didn't even blink my eyes. I

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Testimony of Meseret Kifla - Cross Examination

1 been watching him like a crazy. He said, "I
2 am going to shoot you. Give me the bag
3 money."

4 I said, "Go ahead."

5 I didn't even turn around, I said, "Go
6 ahead, do it." That's what I told him. Go
7 ahead, do it." I just look at him.

8 Q. You stepped back when he pulled that
9 gun ---

10 A. No, he click it at first when I said
11 this because ---

12 Q. You stepped back?

13 A. I said that because he was joking,
14 that's what I was thinking. But when he
15 click it and it was a gun, I am like, 'Okay';
16 and then I open it. As soon as I open it, I
17 don't move. I am just looking at him.

18 Q. I understand.

19 A. To find somebody who killed me.

20 Q. I understand.

21 A. Because I don't look surprised? I
22 get robbed and I cannot head it off. Today
23 -- if I don't have -- my camera, I have a
24 camera in my eyes. That's why I was looking
25 at him. I don't blink my eyes. That's why

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Testimony of Meseret Kifla - Cross Examination

1 I'll never forget him.

2 Q. Now, let's look at ---

3 A. That's why I will never forget his
4 face.

5 Q. Thank you. Now, I'm looking at
6 these pictures out there. They are behind
7 you, on the wall. Can you step down again?

8 A. (No verbal response).

9 Q. Can you do that for me?

10 A. (Complies).

11 Q. Watch your step -- okay, I want you
12 to ask you a couple of questions about these.
13 Okay?

14 A. Okay.

15 Q. Now, let's look at number one over
16 here and let's look at -- see how it is open
17 a little bit there, the mouth?

18 A. (No verbal response).

19 Q. Now, number three, the Defendant,
20 his mouth is open a little bit, too; isn't
21 it?

22 A. Yeah.

23 Q. And over here on number four, his
24 mouth is open a little bit. You see teeth on
25 those three people, don't you

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Testimony of Meseret Kifla - Cross Examination

1 A. Yes.

2 Q. Now, let's go back and look at the
3 hair on number one -- well, on every one of
4 them. The hair on every one of these is
5 very, very closely-cropped hair on every
6 single one of them; isn't it?

7 A. (Inaudible).

8 COURT REPORTER: Your Honor, I can't
9 hear her.

10 THE COURT: If you could, just speak up
11 a little bit so that she can be sure to take
12 down what you say. Okay?

13 WITNESS: Okay.

14 CROSS EXAMINATION CONTINUED

15 BY MR. WELBORN:

16 Q. Now, you see the hair?

17 A. Yes.

18 Q. Okay. Closely-cropped on every one
19 of them?

20 A. (No verbal response).

21 Q. Okay. Now, let's look at the ears
22 on each one of them. All of the ears pretty
23 much are close to the head. Even on number
24 one, his -- his left ear sticks out slightly
25 but so does number three's, my client's;

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Testimony of Meseret Kifla - Cross Examination

1 isn't that correct?

2 A. You want me to tell you the truth?

3 Q. I hope that you're telling the
4 truth. You're under oath.

5 A. I swear to God this guy -- you can
6 give me any kind of picture. That day, he's
7 not like this. He got shaved, he's got
8 everything done. His hair, even done the
9 same day when he come in my store.

10 I pick out this guy here, no matter what
11 kind of hair that he has there, that was him.

12 Q. Okay.

13 A. That's him. You can't give me the
14 face, how small, how big. I know that was
15 him. It was him.

16 Q. I understand.

17 A. I never forget that face.

18 Q. Let me ask you some more questions.
19 Just answer my questions. Let's look at each
20 of the noses. Each of them have noses that
21 are slightly broad; isn't that correct?

22 A. (Affirmative nod).

23 Q. She (court reporter) can't take down
24 the nod of your head.

25 A. Yes, sir.

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Testimony of Meseret Kifla - Cross Examination

1 Q. Thank you. And let's look at what
2 number one -- it may be an earring but it may
3 be the light. But it looks like maybe an
4 earring, doesn't it, over here on number one?

5 A. (No verbal response).

6 Q. Do you see that on his ear?

7 A. Here?

8 Q. Yes, ma'am.

9 A. That face is not the same face.
10 Here, two different faces. That face is a
11 little smaller. This is a wide face. That's
12 the face that he has. A way wide nose, that
13 nose is just a little bit smaller. This
14 nose, right there.

15 Q. Let's go back to the ear. It looks
16 like there is some light on number one's ear
17 or that it may be an earring?

18 A. (No verbal response).

19 Q. That's what it appears to be, one
20 way or the other.

21 A. (No verbal response).

22 Q. Yes?

23 A. (Affirmative nod).

24 Q. Yes?

25 A. Yes, sir.

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Testimony of Meseret Kifla - Cross Examination

1 Q. Over here on my client, it's the
2 same way?

3 A. (No verbal response).

4 Q. It's either an earring or some
5 light, isn't it?

6 A. (Affirmative nod).

7 Q. Yes?

8 A. Yes, sir.

9 Q. And down here on number four, it is
10 either an earring or some light.

11 A. (No verbal response).

12 Q. Then we talked about all the noses
13 are somewhat broad.

14 A. (No verbal response).

15 Q. All the hair is very, very short.
16 If you look at each of them, each of them
17 appear to have a mustache or a shadow. It
18 might be a budding mustache on number six.
19 Number five looks like he could have a
20 budding mustache or a shadow, but all of them
21 appear to have something along those lines, a
22 mustache or a shadow. Would you agree with
23 that?

24 A. Yes, sir.

25 Q. Looking back again at each of this

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Testimony of Meseret Kifla - Cross Examination

1 pictures, you have to agree that even though
2 you picked out my client, number three, you
3 have to believe that all of these are
4 extremely similar; don't you?

5 A. Not to me.

6 Q. Not to you?

7 A. (Negative gesture).

8 Q. Even pointing out all those
9 characteristics that we ---

10 A. Not to me.

11 Q. But, generally speaking, we've
12 pointed out the similarity of the ears, the
13 hair, the broad nose, three of them have
14 earrings, three of them have their mouth
15 slightly parted. Again, they are very
16 similar?

17 A. (No verbal response).

18 Q. I know that this was terrifying for
19 you?

20 A. I been watching my camera. I got
21 the camera -- I can show you -- that camera
22 it's still in my head. That face, it's over
23 here.

24 Q. All right. Thank you, ma'am.

25 THE COURT: Step back on the stand.

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Testimony of Meseret Kifla - Cross Examination

1 WITNESS: (Complies)

2 CROSS EXAMINATION CONTINUED

3 BY MR. WELBORN:

4 Q. In talking with the police officers,
5 how many different times did you talk to
6 police officers, Ms. -- how do you pronounce
7 your last name? I'm sorry.

8 A. Kifla (kif-la).

9 Q. Thank you. How many times did you
10 talk to police officers about this?

11 A. The first time, the first day which
12 was April 24th. The same night.

13 Then two or three days, then he come and
14 talk to me. He get all the information, I
15 give him the video that I have, the video and
16 the picture that I have.

17 Then he come in and talk to me one more
18 time. They still working on it -- the first
19 time they call me, I so scared I don't know
20 what's going on. Okay? They can't -- he was
21 around in the area but they didn't get him
22 yet.

23 Q. Let me interrupt you. You talked to
24 police officers several times about this
25 case, is that correct?

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Testimony of Meseret Kifla - Cross Examination

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1 A. Two or three times. Three or four
2 times. After he got in jail, two times.

3 Q. And let me ask you this, please,
4 ma'am did they tell you that he also has a
5 twin brother?

6 A. Yes. They told me that he got a
7 twin brother but that his twin brother is
8 heavyset.

9 Q. Have you ever met his twin brother?

10 A. No.

11 Q. So you don't even know what he looks
12 like, do you?

13 A. No.

14 Q. And they never put his twin brother
15 in a lineup and told you that that was
16 someone that you could look at, did they?

17 A. No.

18 Q. That would be pretty significant,
19 wouldn't it?

20 A. (No verbal response).

21 MR. WELBORN: Thank you. That's all that
22 I have.

23 THE COURT: Redirect, Solicitor?

24 SOLICITOR: Briefly, Your Honor.

25 REDIRECT EXAMINATION

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Testimony of Meseret Kifla - Redirect Examination

1 BY SOLICITOR:

2 Q. Ms. Kifla, Mr. Welborn was asking
3 you a lot about the weight of the robber that
4 took the money from you on April 24th, 2013.
5 You said that you can estimate the weight.
6 How much would you estimate or guess that
7 that person weighed?

8 A. I'd estimate about a hundred --
9 between a hundred fifty to two hundred, a
10 hundred eighty.

11 Q. Did you tell this to one of the
12 detectives that night?

13 A. Yes.

14 SOLICITOR: No further questions.

15 THE COURT: Thank you, ma'am. You may
16 step down.

17 WITNESS: Thank you.

18 (WITNESS STEPS DOWN)

19 THE COURT: Counsel, approach briefly.

20 (BENCH CONFERENCE)

21 THE COURT: Ladies and gentlemen, we
22 are going to take a brief five-minute break.
23 I've been talking to the lawyers.

24 We may we done today about 5:30 and
25 resume tomorrow morning. Okay? One of the

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1 attorneys has a commitment tomorrow morning
2 that they can't break. So we are going to
3 take a quick five-minute break for you to use
4 the facilities if you need to and get
5 something to drink. Then we'll get you right
6 back in here. Okay?

7 Please don't discuss the case yet. I
8 will let you know when you may. With that,
9 we are at-ease.

10 (JURY OUT @ 5:03 P.M.)

11 THE COURT: The jury is out. Anything
12 from the State or the defense before we
13 break?

14 SOLICITOR: No, sir.

15 THE COURT: From the defense?

16 MR. WELBORN: No, Your Honor.

17 THE COURT: Thank you, we will be at-
18 ease.

19 (BRIEF RECESS 5:03 - 5:10 P.M.)

20 (DEFENDANT PRESENT)

21 THE COURT: State ready, Solicitor?

22 SOLICITOR: Yes, Your Honor.

23 THE COURT: Defense ready?

24 MR. WELBORN: Yes, sir.

25 SOLICITOR: All of the exhibits that we

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Testimony of Meseret Kifla - Redirect Examination

1 have, we've stipulated that they all are
2 coming in, so we don't have to keep repeating
3 that question over and over.

4 THE COURT: Is that correct, Mr.
5 Welborn?

6 MR. WELBORN: Yes, sir.

7 THE COURT: Very good.

8 SOLICITOR: State's Exhibits 1 through
9 38.

10 THE COURT: Okay.

11 MR. WELBORN: That's correct.

12 THE COURT: Very good. I don't see a
13 bailiff. We need to get the jury in here.
14 Discussing the weather, my intention is to be
15 here tomorrow. We may start about 9:15, if
16 that's okay.

17 (JURY IN @ 5:10 P.M.)

18 THE COURT: Let the record reflect that
19 the jury is back and seated. We are still in
20 the State's case in chief at this point.
21 Solicitor, you may call your next witness.

22 BY MR. Your Honor, the State calls
23 Rasheka Payton to the stand.

24 (WITNESS TAKES STAND)

25 RASHEKA PAYTON, having been sworn to tell

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Testimony of Rasheya Payton - Direct Examination

1 the truth, and nothing but the truth,
2 testified as follows:

3 DIRECT EXAMINATION

4 BY SOLICITOR:

5 Q. Ms. Payton, where do you live?

6 A. (No verbal response).

7 Q. Where do you live?

8 A. I live on [REDACTED].

9 Q. Where did you live back then, in
10 April 2013?

11 A. I lived at [REDACTED] in
12 Anderson, South Carolina.

13 Q. How long did you live there?

14 A. Five months.

15 Q. Who did you live there with?

16 A. My mother.

17 Q. What is her name?

18 A. Eula Cowan.

19 Q. During that time in April, did you
20 have anybody that lived with you?

21 A. Claudius Williams.

22 Q. Is he in the courtroom today?

23 A. Yes, sir.

24 Q. Where is he?

25 A. Right there (indicating defendant).

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1 Q. In the blue shirt?

2 A. Yes, sir.

3 SOLICITOR: Your Honor, let the record
4 reflect that she has pointed to the
5 defendant, Claudius Williams.

6 THE COURT: The record shall so
7 reflect.

8 DIRECT EXAMINATION CONTINUED

9 BY SOLICITOR:

10 Q. How long have you known the
11 defendant?

12 A. I met him in high school. I'd met
13 him, but I didn't really know him good. I
14 really got to know him December of last year.

15 Q. How many brothers does he have?

16 A. Two.

17 Q. What are their names?

18 A. Clyde Williams and Junius Williams.

19 Q. How did you know Clyde?

20 A. He is my ex boyfriend.

21 Q. Did he live with you back in April
22 of last year?

23 A. No, sir.

24 Q. Now, were Clyde and Claudius -- are
25 they twins?

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- 1 A. Yes, sir.
- 2 Q. Are they identical twins?
- 3 A. No, sir.
- 4 Q. I'm sorry, I didn't hear you.
- 5 A. No, sir.
- 6 Q. So they are not identical?
- 7 A. No, sir.
- 8 Q. And you saw the videos that were
- 9 played here earlier?
- 10 A. Yes, sir.
- 11 Q. Was Clyde in those videos?
- 12 A. No.
- 13 Q. Now, when did you learn that law
- 14 enforcement was at your house in June of last
- 15 year?
- 16 A. The day that they arrested Claudius.
- 17 Q. Did someone call you or did you just
- 18 happen to show up?
- 19 A. I just happened to show up.
- 20 Q. And you spoke with Detective Ritter
- 21 that day, correct?
- 22 A. Yes, sir.
- 23 Q. And you cooperated with him that
- 24 day, is that correct?
- 25 A. Yes, sir.

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1 Q. I'll show you what has been marked
2 as State's Exhibit 32, which has been
3 admitted without objection by Mr. Welborn.
4 Could you please identify that this is,
5 ma'am?

6 A. Yes, it is the search warrant.
7 Consent to search.

8 Q. And that is the consent to search by
9 [REDACTED]

10 A. Yes, sir.

11 Q. And that's where you were living?

12 A. Yes, sir.

13 Q. Is that your signature at the
14 bottom?

15 A. Yes, sir.

16 Q. Thank you. You did this
17 voluntarily?

18 A. Yes, sir.

19 Q. And every law enforcement -- you did
20 this as a homeowner? Your mother also signed
21 that, is that right?

22 A. Yes, sir.

23 Q. In fact, both of y'all used your
24 driver's license and that address is on your
25 driver's license?

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1 A. Yes, sir.

2 Q. And law enforcement did remove some
3 clothing items and a weapon, a gun, from your
4 house?

5 A. Yes, sir.

6 Q. Did you have a gun in your house at
7 that time?

8 A. Not at the time.

9 Q. So back April 24th, 2013, you didn't
10 own a gun?

11 A. Not at the time.

12 Q. Did you know anything regarding the
13 robbery that took place at the Little
14 General, in April?

15 A. No, sir.

16 SOLICITOR: I have no further ques-
17 tions. Please answer any questions that Mr.
18 Welborn may have.

19 THE COURT: Mr. Welborn?

20 MR. WELBORN: No questions.

21 THE COURT: Thank you. You may step
22 down.

23 (WITNESS STEPS DOWN)

24 THE COURT: Do you have another brief
25 five- or ten-minute witness?

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1 SOLICITOR: No, Your Honor. That's it
2 for today.

3 THE COURT: All right. Ladies and
4 gentlemen of the jury, we're going to break
5 for the evening.

6 You are probably aware of the weather
7 that is supposed to move in sometime tomorrow
8 afternoon, perhaps snow. Perhaps more than a
9 little. Regardless, what we are going to do
10 is reconvene here tomorrow morning at 9:00
11 o'clock. I have to travel from Greenwood,
12 and I've got to get the kids off to school.
13 So if I am a few minutes late, please forgive
14 me. Okay? It's about an hour, solid, from
15 my house to the courthouse here.

16 So we will resume tomorrow morning at
17 9:00 o'clock. If you could, wear the little
18 juror badge and security downstairs will let
19 you back in the courthouse. So wear the
20 badge and it will be a lot easier to get in
21 the courthouse tomorrow morning.

22 I am well aware that your husband, wife,
23 significant other or whoever you share a room
24 with, I'm sure that they knew that you have
25 jury duty this week. You probably told them

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1 last night that you were summoned to be here
2 today and they're probably going to ask you
3 if you're on the jury. Okay? It is
4 perfectly all right to tell them, 'yes, I was
5 selected to serve on a jury.' But don't go
6 any further than that.

7 The reason for this instruction, ladies
8 and gentlemen, is that this -- the whole
9 process is that a jury should not be
10 influenced by anything else that anybody may
11 have to say, no matter how well-intentioned
12 their comments might be. It your decision,
13 not your husband's decision or your wife's
14 decision. It is your decision. So don't
15 talk about the case with anyone this evening.

16 You will be able to talk about it after
17 we conclude the trial.

18 With that, I am not going to keep you
19 any further. Have a pleasant evening. I
20 will see you all back here tomorrow morning
21 at 9:00 o'clock. Y'all take care. Have a
22 good evening.

23 (JURY OUT @ 5:18 P.M.)

24 THE COURT: All right. The jury is
25 out. Anything from the State or the defense

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1 before we break for the evening?

2 SOLICITOR: No, Your Honor.

3 MR. WELBORN: No, sir, Your Honor.

4 THE COURT: .Thank you very much,
5 gentlemen. I will be e-mailing you post-jury
6 instructions in anticipation of this case
7 going to the jury. If you have an
8 opportunity tonight to take a look at these,
9 please feel free to offer comments to me. I
10 will consider those. Okay? See you all in
11 the morning. Thank you.

12 (COURT IN RECESS)

13 (TRANSCRIPT CONTINUED NEXT PAGE)

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JANUARY 28, 2013

9:10 A.M.

(DEFENDANT PRESENT)

MR. WELBORN: Your Honor, if we could approach?

THE COURT: Yes, sir.

(OFF RECORD BENCH CONFERENCE)

THE COURT: Okay, I will remove that part of my charge that deals with multiple charges. That was a mistake on my part and I appreciate Mr. Welborn bringing that to my attention. Anything before we bring the jury in?

SOLICITOR: Nothing from the State?

MR. WELBORN: No, Your Honor. Thank you.

THE COURT: Let us have the jury, please. (Phone ringing in courtroom), anyone who has a cell phone, make sure that it is on vibrate and does not ring.

(JURY IN @ 9:12 A.M.)

THE COURT: Let the record reflect that the jury is present. Madame Forelady, Ladies and Gentlemen of the jury, I trust that you had a pleasant evening last night.

We are still engaged in the trial of the

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Testimony of Matt Ritter - Direct Examination

1 State versus Williams, and we're still in
2 the State's case in chief. At this point,
3 Solicitor, call your next witness.

4 SOLICITOR: The State calls Detective
5 Matt Ritter.

6 (WITNESS TAKES STAND)

7 MATTHEW WILLIAM RITTER, having been sworn
8 to tell the truth, and nothing but the truth,
9 testified as follows:

10 DIRECT EXAMINATION

11 BY SOLICITOR:

12 Q. Detective Ritter, where are you
13 employed?

14 A. Sir?

15 Q. Where are you employed?

16 A. Anderson County Sheriff's Office.

17 Q. And how long have you been employed
18 in law enforcement?

19 A. Going on ten years.

20 Q. Has all of that been with the Ander-
21 son County Sheriff's Office?

22 A. No, I started my career with
23 Williamston City. I worked there for three-
24 and-a-half years. Went to Anderson County,
25 worked traffic and then came to the Sheriff's

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Testimony of Matt Ritter - Direct Examination

1 Office.

2 Q. And what position do you currently
3 hold with the Anderson County Sheriff's
4 Office?

5 A. I am a criminal investigator.

6 Q. And how long have you been with CID?

7 A. Going on a year.

8 Q. What kind of crimes do you investi-
9 gate?

10 A. Typically I do property crimes. I
11 also do armed robberies or whatever comes in.
12 Every six weeks we go on call, rotation call.
13 That consists of -- in that week that we work
14 every six weeks, if something happens out and
15 about, we are called to the scene. So it
16 could be a murder, it could be an armed
17 robbery, or it -- we do a lot, whatever we
18 are on call to answer. This incident fell on
19 a week that I was on call.

20 Q. Do you do anything for the Sheriff's
21 Office besides being an investigator?

22 A. Yes, I'm on the SWAT team. I was
23 previously on the canine Tracking team.

24 Q. In this case you were the lead
25 investigator; is that right?

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Testimony of Matt Ritter - Direct Examination

1 A. That's correct.

2 Q. How did you become involved in this
3 case?

4 A. I was actually called to the scene.
5 I believe that it was a Wednesday. When I
6 arrived, the scene was already contained.
7 When I got there, my partner was there and we
8 began to interview -- we did a run-down of
9 what was going on, the reason why we were on
10 the scene.

11 We interviewed Ms. Kifla. She confirmed
12 to us -- she was probably one of the best
13 eyewitnesses that I have every dealt with.
14 When we were asking about the height, weight,
15 what he was wearing, she was pretty good at
16 giving us those descriptions.

17 She informed us that she was sitting
18 inside the store when Mr. Williams walked in,
19 presented a handgun in front of her and
20 demanded money out of the register. That he
21 then left and she -- she actually had enough
22 wits about her to come around the counter and
23 watch which way that he went.

24 I asked her, I said 'do you guys have
25 some video' and she said, 'we do.' So at

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Testimony of Matt Ritter - Direct Examination

1 that time, we went in and looked at the
2 video.

3 The way that she explained what he was
4 wearing was the stripes, the gray stripes.
5 This was prior to us looking at the video.
6 So when I was looking at the video, I could
7 see that she was watching. She was seeing
8 it.

9 From there, prior to my arrival, the
10 canine tracking team was called out to try to
11 track them. The way that that works, when
12 are excited, in an excited state you release
13 pheromones off your body. That is one of the
14 things that the dog looks for. So the dog
15 had the track. He took it across the street
16 from the store. He turned and then halfway
17 down the dog lost the scent. It was
18 contaminated in some way, maybe somebody
19 walked in front of him. That's just the way
20 that it happens.

21 At that point, once we gathered all our
22 information, we looked to see if we could
23 locate -- I'd never seen the guy before, she
24 told me that she'd never this individual
25 before.

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Testimony of Matt Ritter - Direct Examination

During the process of this, after speaking with her several times, we started knocking on doors, showing pictures. We went to the local barber shop. Everybody told me that they didn't know who this guy was. For a long time, I didn't think that I was going to develop a suspect. She called me up and said, 'there is an individual that has come to the store saying, "I know him. That is Claudius Williams. I grew up with him."

She said, 'I saw him sitting...' ---

MR. WELBORN: Objection, hearsay.

THE COURT: The objection?

SOLICITOR: Let me rephrase.

THE COURT: Okay.

DIRECT EXAMINATION CONTINUED

BY SOLICITOR:

Q. Let me step back and ask you --
about what time did you arrive at the store?

A. Approximately 11:30.

Q. The scene was secured?

A. Yes.

Q. Were you able to determine how much money was taken?

A. Yes.

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Testimony of Matt Ritter - Direct Examination

1 Q. How much was that?

2 A. Three hundred seventeen dollars
3 (\$317).

4 Q. And the store -- what is the name of
5 the store?

6 A. It is Little General, but the
7 flagship company is Sun City Foods.

8 Q. So that's why in the indictment we
9 have Sun City Foods?

10 A. That's right.

11 Q. Now, that night you didn't have a
12 suspect?

13 A. No.

14 Q. Did you review the video that night?

15 A. I did.

16 Q. When did your first break come in
17 this case?

18 A. An individual came in and informed
19 her that they knew him. I made a phone call
20 -- she'd left a phone number, so I made a
21 phone call to this individual.

22 Q. As a result of that phone call, were
23 you able to get a potential name?

24 A. I was.

25 Q. What was the name of that

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1 individual?

2 A. Claudius Williams.

3 Q. Were you able also to get a tip as
4 to the location where Mr. Williams was saying

5 A. Yes.

6 Q. Where was that?

7 A. That was [REDACTED], which is
8 Roosevelt and -- then you go to the corner
9 and go straight.

10 Q. Is that in Anderson County?

11 A. Yes.

12 Q. Approximately how far is [REDACTED]

13 [REDACTED] from the Little General.

14 A. Exactly point five (.5) miles, so a
15 half mile.

16 Q. How long did this robbery take
17 place?

18 A. Thirty seconds.

19 Q. Is that from the time that the
20 suspect entered the door until the time that
21 he exited the door?

22 A. Yes.

23 Q. Now, you had an opportunity to view
24 the video. You were actually on the scene
25 that night?

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Testimony of Matt Ritter - Direct Examination

1 A. Yes.

2 Q. During the time that this took
3 place, direct examination, cross examination,
4 she indicated that there was a plastic bag?
5 What was she referring to? Do you know
6 anything about this.

7 A. When Mr. Williams came to the store,
8 she mentioned that there was a plastic bag --
9 you can't see it in the video, but the bag
10 was actually -- when you come in the front
11 door. When you're coming in, the bag was
12 against this item, this little (indicating).
13 She informed me that night that he had that,
14 so at that time we attempted to get a print
15 off of that.

16 Q. Now, there was also listed three
17 individuals on the incident report that were
18 there when the road deputies arrived. Did
19 you talk to any of those individuals?

20 A. I did not. They were not there at
21 the time that I was there.

22 Q. Was it determined that they had
23 nothing to do with this case?

24 A. That's correct.

25 Q. Now, after April 24th, 2013, did you

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1 have an occasion to go back to the store to
2 review any other type of evidence?

3 A. I did. She informed me that one of
4 the people that she worked with, that the
5 suspect, Mr. Williams had been in the store
6 two days prior.

7 So I come down to -- they have it on
8 video. I came down to the store and saw a
9 video.

10 In the video, -- and this is just to tell
11 y'all, at this time I didn't know that it was
12 Claudius Williams. Just to give you a
13 picture of what was going on. From the
14 video, I could tell that it was the same
15 person, same stature, same facial features,
16 same glasses, that kind of thing, only a
17 different outfit.

18 Q. At this point you still did not have
19 a name for the suspect?

20 A. That's correct.

21 Q. At what point in your investigation
22 -- had it gone cold for awhile?

23 A. Yes, it had.

24 Q. At what point did you get your
25 break?

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1 A. We made up a flyer at the sheriff's
2 office and asked everyone if they have any
3 information on this suspect, if anyone had
4 any information. We put it on through the
5 news media and also posted on FaceBook. We
6 have a lot of FaceBook viewers that can help
7 us out -- anonymously.

8 At that time, MS. Kifle had taken one of
9 our flyers and put it out. That is when the
10 tipster came into the store and said that
11 they thought that they knew who it was.

12 Q. I am going to show you what has been
13 marked as State's Exhibit 31. Can you please
14 identify that, sir?

15 A. This is the picture that I put out.
16 It's a suspect identification picture. This
17 was two days prior.

18 When I looked at this video, I didn't
19 only just look at it like you guys did. I'd
20 take it frame by frame. I took it down to
21 our forensics and looked at it frame by
22 frame, because sometimes different things --
23 when you cut it down frame by frame, I can
24 stop it. I can look, blow it up.

25 On doing that, my personal opinion was

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1 that it was the same person as the robber.
2 Everything matched from the glasses to the
3 facial features to the way that he walked.
4 Not everybody recognizes that but as a police
5 officer, after you do this a while, you
6 notice things that people don't usually
7 notice. We watch things differently.

8 When you guys come into a room, you may
9 see one thing. But I watched things
10 differently. I watch the way that you all
11 step like that. Just little things that
12 people don't pay attention to, we're kind of
13 trained to see that. Those are the little
14 things that can make a difference.

15 So after doing this, Mr. Kifle got this
16 and that's what he was identifying. That's
17 when I had a suspect.

18 Q. Why in this case did you use a
19 picture of two days prior instead of a
20 picture of the actual robbery?

21 A. I didn't want anybody to see the
22 actual robbery. That's not for everybody to
23 see that. He was only -- I wanted the ID.
24 I didn't want the public or the media to see
25 what had taken place. That way minds

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1 couldn't roam or wander and say, 'oh, lord,
2 that might be such and such.' I just wanted
3 to see if anybody would pick him out, not
4 with a gun in his hand.

5 SOLICITOR: Your Honor, we would like
6 to publish this to the jury.

7 THE COURT: Any objection to State's
8 Exhibit 31?

9 MR. WELBORN: No, sir.

10 THE COURT: Are you introducing it --
11 or is it already in evidence.

12 SOLICITOR: It's already in evidence.

13 DIRECT EXAMINATION CONTINUED

14 BY SOLICITOR:

15 Q. This is a standard flyer that y'all
16 put out in different cases?

17 A. Yes. If we have a suspect
18 identification, we have an individual that
19 works with us and all that we do is provide a
20 picture and she can use that picture to make
21 the flyer.

22 Q. This is the photograph, a still from
23 the video that we saw?

24 A. That's correct.

25 Q. Now, at this point after the tipster

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Testimony of Matt Ritter - Direct Examination

1 gave you a name, approximately how far along
2 in your investigation did this come forward,
3 this information?

4 A. I would say a month, a month and a
5 half. Something like that. There was a
6 long, long time there that we didn't have
7 anything.

8 Q. After you got that name, what if
9 anything did you do?

10 A. At that time we do everything that
11 is just typical: we run criminal history,
12 get any information that we can find out
13 about the suspect to find out who this person
14 is.

15 Once I got a name to a face, I attempted
16 to go and locate Mr. Williams at his address
17 on [REDACTED]. When I arrived at [REDACTED]
18 Drive, it's like a duplex. So I wasn't sure
19 which one that it was.

20 So I went to the first one that I came
21 to, knocked on the door. A little Hispanic
22 lady came to the door, I spoke to her, showed
23 her that picture and asked her did she know
24 this person. She pointed next door.

25 At that time I went next door, knocked on

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1 the door. No one came to the door.

2 I then went back to the office, sent this
3 down to SLED for a photo lineup.

4 Q. Who is SLED?

5 A. That's the South Carolina Law
6 Enforcement Division.

7 Q. Where are they located?

8 A. Columbia, South Carolina.

9 Q. Why did you go through them?

10 A. SLED, they have a bigger database
11 than we do to match faces to faces.

12 What we do when we do a photo lineup, we
13 want the people in those pictures to look as
14 closely as possible to the suspect. Because
15 we don't want that suspect just sticking out,
16 say that you've got a white guy here and a
17 black guy here but you already know that it's
18 a black male.

19 We do it with black-and-white photos, and
20 they match it as closely as possible to
21 whoever the suspect is. That way there is no
22 doubt when the victim picks out and circles a
23 picture that that is them.

24 I tell my victims -- when they are
25 looking at this, I tell them don't take --

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Testimony of Matt Ritter - Direct Examination

1 it's black and white, that way you can't tell
2 which is it, and you can actually see the
3 features of their face. 'I want you to
4 focus on the features.'

5 Once I receive that through e-mail, I
6 typed it up and send it to ID and they put it
7 on a little flyer and send it back.

8 These are the six individuals that SLED
9 picked out.

10 Q. I want to show you what's been
11 marked State's Exhibit 29. Is this what you
12 are referring to?

13 A. Yes.

14 Q. Is that the same exhibit that SLED
15 sent you?

16 A. Yes.

17 Q. Did you have any hand or any part in
18 picking out these photographs?

19 A. No.

20 Q. And how long did it take SLED after
21 you sent down the name of a person, Mr.
22 Williams, to generate this lineup?

23 A. It took them about four, five days,
24 a week.

25 Q. So at this point in time, you hadn't

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1 made a rush to judgment, hadn't gone and
2 tried to arrest Mr. Williams?

3 A. No, I actually wanted to go talk to
4 him first, to see -- for me to get a good
5 look at him.

6 Q. Now, after you received this lineup,
7 what was the next step that you took in your
8 investigation?

9 A. At that time, I took it to Ms.
10 Kifle. When I took it to Ms. Kifle, I told
11 her that the suspect may or may not be on
12 here. This is what I do for everybody, 'may
13 or may not be on here.'

14 If you see anybody that you know is the
15 person, I want you to circle it, put your
16 name and date.

17 When I handed her the photo, she looked
18 at it and just immediately went to Mr.
19 Williams, went right to him. She informed me
20 that she'd never forget that face. She kept
21 telling me that over and over again. She
22 circled him right away.

23 So from that point, once she had
24 positively identified him, ---

25 Q. Did you also have her date it and

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1 put her initials on it?

2 A. Yes, she circled it, put her -- I
3 like for them to print their name so that it
4 will be legible and put their initials also.

5 Also they do an affidavit of a photo
6 lineup. An affidavit of a photo lineup boils
7 down to, 'this is who I picked, this is who
8 it is.'

9 Once I was able to obtain that, that was
10 enough probable cause to go talk to a judge..
11 I went and spoke to a judge, told him the
12 case. At that time, I obtained warrants for
13 Claudius Williams.

14 Q. What crimes did you charge? Obtain
15 warrants from?

16 A. Armed robbery and the commission of
17 a crime -- commission (sic) of a weapon
18 during a violent crime.

19 Q. And at this time you charged Mr.
20 Williams?

21 A. That's correct.

22 Q. You could make an arrest after you
23 received the warrants?

24 A. That's correct.

25 Q. What was your next step?

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1 A. At that time, I went back to [REDACTED]
2 [REDACTED] to see if Mr. Williams was home. A lot
3 of times we will get information, the person
4 is not home and we -- me and my partner went
5 over there, knocked. We were just going to
6 knock on the door and make contact.

7 As I approached the front door, the door
8 inside was open but the screen door was
9 closed. You could see inside the house.

10 When I walked up to the steps, I see Mr.
11 Williams sitting -- if I was here, the couch
12 was right here (gesturing). So I walk up and
13 see Mr. Williams at the very end of the
14 couch.

15 I said, 'Are you Claudius Williams?'

16 He said, 'Yes, sir, I am.'

17 I said, 'Could you step out here? I
18 need to talk to you.'

19 Mr. Williams was cooperative. Didn't
20 have any problems with him.

21 I informed him why we were there.

22 At that time he was placed under arrest
23 for the charges that I said.

24 Q. When you say that he was placed
25 under arrest, did you handcuff him?

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1 A. Yes, he was handcuffed and placed in
2 the back of the vehicle.

3 However, Mr. Williams asked -- all that
4 he had was a tank top on. He asked if he
5 could go inside and get a shirt and a
6 cigarette. I asked him was there anybody
7 else in the house and he said no.

8 So we went inside the house. I said,
9 well, -- for our safety, I am not going to
10 believe what you say. A lot of police
11 officers get killed that way. So my partner
12 and I did what we call 'made a sweep.' All
13 that is is just going through the house to
14 make sure that nobody is hiding, that's going
15 to kill us.

16 Me and Claudius was standing right where
17 we was at, getting him a cigarette. My
18 partner, he comes around and he says, 'What's
19 that?' He points under where Claudius was
20 sitting. There was about two inches of a gun
21 sticking out from underneath the sofa.

22 I said, 'Is that gun yours?' He said,
23 'No, it's not mine.'

24 So I told him -- once we figured out that
25 nobody was in the house, we -- I pulled

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1 everybody out, contained the crime scene and
2 called forensics.

3 Once forensics arrived -- we had to wait
4 and actually the homeowner showed up.

5 Q. Now, prior to calling forensics, can
6 y'all -- in order to get into the house after
7 you've done this protective sweep, what steps
8 do you have to take?

9 A. You either have to have consent to
10 search from the property owner(s) or obtain a
11 search warrant.

12 While we were there, Mr. Williams
13 informed me that he didn't live there, that
14 that was not his residence.

15 Then the two homeowners arrived. Well,
16 while we were there, they showed up. It was
17 Rasheya Payton and his partner. They showed
18 up and I obtained the consent to search
19 through that, to enter the house. They also
20 informed me that Mr. Williams didn't live
21 there, that he would come in from time to
22 time but that he didn't live there.

23 Q. Did anybody else show up with them?

24 A. Yes. Claudius' mother.

25 Q. At this point in time, you're still

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1 outside?

2 A. (Affirmative nod).

3 Q. Did you ask the homeowners if the
4 weapons that you weapon that you saw inside
5 the house was in fact theirs?

6 A. Yes. Both of them said that there
7 shouldn't be no weapons inside the house,
8 they didn't allow weapons in the house.

9 Q. After that, did y'all conduct -- did
10 you go in the house and look for evidence
11 that could possibly in any way be related to
12 this crime?

13 A. Yes. We obtained the consent to
14 search and at the time -- a consent to
15 search, I'll just explain it to y'all a
16 little better.

17 A search warrant -- if I show up with a
18 search warrant, I have the right to be there
19 and you can't tell me to stop.

20 With a consent to search, I do into your
21 home and you say 'I don't want you searching
22 no more', then I have to stop. So they were
23 with us inside the house as we were in the
24 house.

25 We went inside the house to locate some

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1 evidence. We located a gun, a Ruger .45 -- I
2 don't know how many of you guys are savvy on
3 weapons. A .45 is a lot of stopping power.
4 On the SWAT Team, I'm issued a .45 Glock
5 rather than a .40 because of the stopping
6 power of a .45 weapon. A .45 is a very, very
7 powerful weapon. So we took that into
8 evidence.

9 Then we went into the back bedroom, where
10 there was a closet. We started looking in
11 the closet, and inside there I discovered the
12 outfit that he was wearing and the green
13 Celtics outfit. Identical to what you saw on
14 the video.

15 After we collected the evidence, I went
16 back out to the car and Mr. Williams asked if
17 I could get him some papers. I said, 'sure.'
18 He wanted some papers to take to jail with
19 him. So I went back in and there was a
20 package -- where I found the clothes, it was
21 a hamper in the closet. So I was able to
22 locate that. Told him, 'I don't know if they
23 will let you keep it on your person but I
24 found it.' When I went back out, he said,
25 'You know what, just give it to my mother.'

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1 That's what I did.

2 On the gun, I don't know what -- I don't
3 know whether he didn't want them to catch the
4 rap for it or what, but he said that it was
5 his gun.

6 Q. Now, at that point did you ask him
7 any other questions about this crime that
8 occurred on April 24th, 2013?

9 A. I did not. We actually had another
10 deputy that we had called to come transport
11 him, because technically -- when we do stuff,
12 I don't like the suspect on the scene. But
13 there was a miscommunication because the
14 deputy was confused and got lost. By the
15 time that he got there, we were wrapped up.

16 Q. Mr. Williams, is he here in the
17 courtroom today?

18 A. Yes, he is. He's sitting right over
19 there.

20 SOLICITOR: Your Honor, if the record
21 could reflect that the officer has identified
22 the Defendant, Mr. Williams.

23 THE COURT: The record shall so
24 reflect.

25 DIRECT EXAMINATION CONTINUED

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1 BY SOLICITOR:

2 Q. Now, as a result of this evidence
3 that you collected that was related to the
4 crime scene of April 24th from the house on
5 [REDACTED], what did you do with that
6 evidence?

7 A. Forensics put it into Evidence.

8 Q. And it's been in their custody and
9 control ever since then?

10 A. That's correct.

11 Q. Did you attempt to fingerprint the
12 firearm?

13 A. We did. We attempted to fingerprint
14 the firearm. We couldn't get any prints off
15 of it. There were seven bullets, full metal-
16 jacket bullets inside the clip -- which is a
17 little bit -- when you think of full metal,
18 you think of a hollow-point as being the most
19 dangerous of bullets. A hollow-point
20 actually flares out as it comes out and that
21 slows it down. When you have full-metal
22 jackets, they will penetrate steel. So the
23 bullets that were in the gun -- just regular
24 ammo that was in there, some of the cheaper,
25 but it's a little bit more dangerous to have.

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1 Q. Now, at this point in time you
2 charged him originally with armed robbery and
3 the possession of a weapon during the
4 commission of a violent crime?

5 A. That's correct.

6 Q. Did you stop your investigation at
7 that point in time?

8 A. No, I did not.

9 Q. Mr. Welborn has alluded to in this
10 case that his brother was involved in this
11 case. Did you look into to see whether or
12 not his brother was involved?

13 A. Yes. Immediately I pulled up --
14 when I was informed by Rasheya that they were
15 twins, I pulled that up to see how close they
16 resemble each other. They look like
17 brothers. There was nothing identical about
18 them. One's head is shaped different, one is
19 taller than the other, one weighs more than
20 the other. So I was able to rule that out in
21 looking at the video, as far as features, as
22 to which one was which.

23 Q. What is the brother's name?

24 A. Clyde. Also Rasheya Payton dated
25 Clyde. When I asked her -- we showed her

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1 photos and she said 'that's not Clyde.' I
2 showed her both sets of photos of the robbery
3 and ---

4 MR. WELBORN: Objection. Hearsay, move
5 to strike.

6 THE COURT: Exception.

7 SOLICITOR: There is no exception?

8 THE COURT: Okay. Very good.

9 DIRECT EXAMINATION CONTINUED

10 BY SOLICITOR:

11 Q. You can't say what she said.

12 A. Okay. She identified the person as
13 not being Clyde, the person in the pictures.

14 Q. Now, do you know what type of
15 relationship that Mr. Williams had with Ms.
16 Payton?

17 A. Which Mr. Williams?

18 Q. Claudius Williams.

19 A. They had met him through Clyde and
20 would let him stay, he was in and out of the
21 house. As I said, he was Clyde's brother and
22 Rasheya had dated Clyde. So that's how he
23 got into the house.

24 Q. Now, Detective Ritter, I am going to
25 go through the evidence that you collected.

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1 SOLICITOR: Your Honor, could I have
2 the witness step off the stand so that I can
3 show him some evidence and have him explain
4 it?

5 THE COURT: Yes, sir.

6 DIRECT EXAMINATION CONTINUED

7 BY SOLICITOR:

8 Q. I am going to start presenting you
9 the evidence and I'd like for you to explain
10 to the ladies and gentlemen of the jury what
11 they're seeing. I'll identify it with the
12 exhibit number so that we can keep a record.

13 First of all, I'm going to show you
14 State's Exhibit 1. Can you please identify
15 this?

16 A. This is sign -- (inaudible).

17 THE COURT: You're going to have to
18 speak up so that we can hear you.

19 WITNESS: This is the sign at the roadway
20 of The 'Lil General, where the robbery took
21 place.

22 DIRECT EXAMINATION CONTINUED

23 BY SOLICITOR:

24 Q. Was this taken on April 24th?

25 A. Yes.

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1 Q. State's Exhibit 2?

2 A. This is the front of the store, The
3 'Lil General.

4 Q. And I think Sun City owns 'Lil
5 General stores?

6 A. Yes.

7 Q. State's Exhibit 3?

8 A. That is the front door going into
9 the store.

10 Q. Where is countertop?

11 A. As you walk in, to the right.

12 Q. State's Exhibit 4?

13 A. This is the counter. This is where
14 Mr. Williams came up. Right here, if you
15 remember in the video, you couldn't see his
16 face at first. That was because of this sign
17 right here. Mr. Williams leaned in to get
18 the money and at that point you could see his
19 face. This camera actually -- (indicating).

20 Q. And State's Exhibit 30, can you
21 explain to the jury what you see -- (video
22 playing).

23 A. Like I said, there is -- sitting on
24 the counter right here, here's the door, and
25 when he comes in you can't see over this.

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1 Actually here's the -- it was actually the
2 side. You'll see him here in just a minute,
3 coming in.

4 (Video playing), right here I
5 automatically see his outfit, I see the gun.
6 I'm looking at this outfit.

7 Q. Okay.

8 A. From what she's telling me, prior to
9 looking at this video, you can see this
10 around here -- and she even mentioned some
11 stuff up here.

12 (Video playing), -- all right, stop it.
13 I also saw the glasses. You can see a good
14 picture of the glasses as he reaches down.
15 Again, the glasses, the outfit, the pants --
16 this is not a good picture of the pants --
17 reverse it. There on the pants is little
18 brown patches, which they -- that stood out.
19 These are the kind of things that stood out.

20 (Video playing), when he's waving that
21 gun he's -- in my mind he was a player. Skip
22 forward a little bit, you can tell that he is
23 a very dangerous person.

24 MR. WELBORN: Objection.

25 THE COURT: Sustained as to characteri-

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1 zation. The jury is instructed to disregard
2 that comment. Do you want to ask another
3 question?

4 DIRECT EXAMINATION CONTINUED

5 BY SOLICITOR:

6 Q. Now, does that give you an idea of
7 the subjects' height and weight, Claudius
8 Williams'?

9 A. Approximately.

10 Q. Now, from this, at this point in
11 time you did not have a suspect?

12 A. I did not.

13 Q. As you testified, it was a couple
14 days later that you were called back to the
15 store to review some more video evidence?

16 A. Right.

17 Q. Can you explain this last one and --
18 what is the date on this one?

19 A. This the 22nd, two days prior.

20 Q. All right.

21 A. (Video playing):

22 Just to go over it quickly, this is where
23 she was sitting. He's coming in. Again,
24 the outfit. It sticks out.

25 His face, the glasses.

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1 This outfit also has a patch right here
2 (indicating). You'll see it coming up right
3 here.

4 The bigger that you get, right here, --
5 well, you can actually see it better over
6 here, on the smaller screen. Then you blow
7 it up.

8 When I looked at that face and saw those
9 glasses, and compared the shape of his face
10 -- everybody has got a certain shape, whether
11 you've got a double chin like me or you've
12 got a clean underneath. You can see the
13 shadow of the beard, the glasses, the way
14 that he is conducting himself.

15 Even in the robbery, he is not -- in my
16 opinion, what he's doing here is casing it
17 for the robbery. That's typical.

18 Okay, he's walking out. You see the
19 sign, you can see a good picture of this.

20 We made some still photos.

21 Q. Showing you what has been marked as
22 State's Exhibits 5, 6, 6A and 7, what does
23 this indicate? First of all, where do these
24 pictures come from?

25 A. The video. These are stills that we

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1 pulled off the video.

2 You can see the facial features, the
3 approximate height, approximate weight.

4 Q. State's Exhibit 6?

5 A. A better view of his face. He's now
6 looking this way, so you get a side view of
7 his face.

8 Q. State's Exhibit 6A?

9 A. Another shot as he gets closer to
10 the counter. Just another picture of his
11 face. It shows more detail.

12 Q. State's Exhibit 7?

13 A. Same thing, this side of his face.
14 In the video, you can see -- it's actually a
15 match.

16 Q. And these are the photographs that
17 you used in making the flyer, State's Exhibit
18 31?

19 A. That's correct. That is one of the
20 ones that we used.

21 Q. Now looking at State's Exhibit 29,
22 this is the photographic lineup that you
23 displayed to Ms. Kifle?

24 A. That's correct. When I say that
25 they look similar, they do. That's for a

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1 purpose. They look similar. They all may
2 have mustaches, and that's for a purpose.
3 They all may have similar mouths, that's for
4 a purpose. If you look at these picture,
5 some of them are close but nobody is
6 identical to him, not even his brother.

7 Even though they look similar, they're
8 supposed to look similar, when I gave her
9 these pictures, she pointed to him and said,
10 "That's him."

11 Q. And that is her signature ---

12 A. Yes.

13 Q. --- and the date?

14 A. Yes.

15 Q. Circled?

16 A. Yes.

17 Q. Also when you were on the scene, you
18 also went inside the store?

19 A. Yes, -- (inaudible).

20 THE COURT: You need to speak up,
21 Detective.

22 SOLICITOR: You're going to have to
23 speak up. Everybody can pretty much guess,
24 but you -- she (court reporter) can't hear
25 you. There's a knack to it, but you have to

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1 speak up so that we can hear you.

2 WITNESS Okay, when I looked at his
3 driver's license, he was ---

4 SOLICITOR: And we'll get to that.

5 WITNESS: Okay. When I looked at the
6 driver's license, he was 185. She was pretty
7 close. When she said that he was over six
8 feet tall. When we looked at the driver's
9 license, he was 6'4". So for her to be able
10 to pick him out like that, I think was pretty
11 good. She has to see a lot of individual.

12 When I show a person a photo lineup, I
13 can tell if they know the person that is on
14 that photo lineup. For her to be able to
15 pick him out, she remembered him.

16 DIRECT EXAMINATION CONTINUED

17 BY SOLICITOR:

18 Q. Now, at this point, after you
19 obtained the arrest warrant, you went down
20 to [REDACTED].

21 A. (Affirmative nod).

22 Q. I'm going to show you what has been
23 marked as State's Exhibit 8.

24 A. Yes, this is the residence, right
25 here. I went to the duplex next door, showed

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1 the Hispanic lady the picture and she pointed
2 to the next door.

3 Q. Is that the screen door that you
4 were talking about earlier?

5 A. Yes, this is the screen door, over
6 here, that I was talking about.

7 Parked here.

8 Walked up, could see inside the
9 house.

10 Couch.

11 Table.

12 I called out and talked to him
13 through the screen.

14 Q. And State's Exhibit 9?

15 A. The same.

16 Q. Showing you -- these are State's
17 Exhibit 10, 11, 12, 13 and 14. Can you
18 please identify these. State's Exhibit 10?

19 A. This is the couch that he was
20 sitting on, right here, on the left side wall
21 -- (indicating).

22 This is the table where his cigarettes
23 were.

24 That's the gun that we ---

25 Q. This is what you could see as you

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1 looked in the door?

2 A. Right.

3 Q. State's Exhibit 11?

4 A. That's the gun we found when we
5 walked around the home on the protective
6 sweep. I didn't see it. I didn't notice it.
7 I didn't see it.

8 When he walked around, there is a doorway
9 over here. When he came through the doorway
10 and we knew that everything was clear.
11 That's when he said, 'What's that?' That's
12 when we saw the gun.

13 Q. State's Exhibit 12?

14 A. That's the Ruger .45

15 Q. And what does State's Exhibit 13
16 show?

17 A. Same gun. It's a .45 caliber.

18 Q. And State's Exhibit 14?

19 A. This the magazine with all the ammo.

20 Q. Now, before we get into that, I've
21 going to show you what is marked as State's
22 Exhibit 32. What is that?

23 A. This is a search warrant?

24 Q. You got of those?

25 A. That's right.

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1 Q. And who signs it?

2 A. A judge.

3 Q. And you had one for this house?

4 A. That's right.

5 Q. Now, State's Exhibit 13, what was
6 the purpose of ---

7 A. This is the consent to search from
8 the homeowner. The homeowner writes in this
9 area, and that gives me and the other
10 officer(s) on the scene to go into this
11 residence.

12 Q. What is the item, it says "Inventory
13 of Property taken pursuant to consent." What
14 is the purpose of listing these items?

15 A. This way we -- "we", the sheriff's
16 office, have a list, but it's also to give to
17 the homeowner so they know what was taken.

18 Like I said, they had no problem with us
19 looking through the house but we list
20 everything that we found of evidentiary
21 value.

22 Q. It lists the items that you took
23 that day?

24 A. That's correct.

25 Q. And you gave the homeowners a copy?

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1 A. I did.

2 Q. This is your signature ---

3 A. Right.

4 Q. --- at the bottom?

5 A. Yes.

6 Q. Now, after you got inside, you went
7 inside the residence and conducted a search?

8 A. Yes, sir.

9 Q. I am going to show you what has been
10 marked as State's Exhibits 15, 16, 17, 18,
11 19, 20, 21, 22, 23 and 24. We will just go
12 through these quickly.

13 This is State's Exhibit 15?

14 A. This is from the back bedroom.
15 This is where she slept, these are her
16 belongings. The room directly across is the
17 room where Mr. Williams kept his items.

18 Q. State's Exhibit 16?

19 A. Right here, when I opened this door,
20 this is what I saw.

21 Q. State's Exhibit 17?

22 A. Just an overall shot, just to give
23 you an idea of the room.

24 Q. State's Exhibit 18?

25 A. You can see the -- (indicating).

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1 Q. State's Exhibit 19?

2 A. This was exactly the same thing we'd
3 seen in the video. It doesn't happen very
4 often.

5 Q. Sweatshirt here?

6 A. You can see that it's got the
7 stripes here. Stripes here. Down here,
8 stripes.

9 Q. State's Exhibit 20?

10 A. Again showing the stripes.

11 Q. State's Exhibit 21?

12 A. All right. When I showed you the
13 pants, if you look at the video they are
14 identical to the same thing in (State's
15 Exhibit) 21.

16 Q. State's Exhibit 22?

17 A. This is the outfit worn prior to the
18 robbery, located in the same closet.

19 Q. State's Exhibit 23?

20 A. Same.

21 Q. State's Exhibit 24?

22 A. And the pants, same thing.

23 Q. Showing you State's Exhibits 25, 26,
24 27 and 28.

25 A. When he asked me to get his belong-

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1 ings from the basket -- that basket that you
2 saw a moment ago, had a packet of Mr.
3 Williams. This shows that basket.

4 Q. State's Exhibit 26?

5 A. Mr. Williams' Social Security card.

6 Q. State's Exhibit 27?

7 A. The packet that he wanted, which I
8 took to him.

9 Q. And then what is State's Exhibit 28?

10 A. These are the two phone numbers that
11 were on the packet.

12 Q. Now, uh, ---

13 SOLICITOR: Beg the Court's indulgence,
14 please.

15 THE COURT: Yes, sir.,

16 DIRECT EXAMINATION CONTINUED

17 BY SOLICITOR:

18 Q. Now, Detective Ritter, we are going
19 to go through this last bit of evidence -- if
20 you want to put on some gloves.

21 A. (Complies)

22 Q. First, I'll hand you what has been
23 marked as State's Exhibit 33. If you will,
24 explain to the ladies and gentlemen of the
25 jury what these are?

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Testimony of Matt Ritter - Direct Examination

1 A. (Facing jury, inaudible).

2 COURT REPORTER: Your Honor, ---

3 WITNESS: You can see the stripes on the
4 shoulder, stripes on the bottom.

5 DIRECT EXAMINATION CONTINUED

6 BY SOLICITOR:

7 Q. The shirt?

8 A. Yeah, it was obviously this was what
9 he was wearing in the video.

10 Q. Showing you State's Exhibit 34.

11 A. (Opening evidence bag), these are
12 the pants that he wore -- (facing jury,
13 inaudible).

14 Q. Now, the sizes on these are?

15 A. XXXL.

16 Q. Three XL?

17 A. (Affirmative nod).

18 Q. Can you -- do you take that into
19 consideration when you're identifying a
20 person?

21 A. We do. Sometimes people layer up
22 the clothes and you can't really tell what
23 size they would wear, so you can't really go
24 by size -- unless they are too small and then
25 that would be -- (pause).

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Testimony of Matt Ritter - Direct Examination

1 Q. State's Exhibit 35?

2 A. The top -- you can see this at the
3 top, (facing jury, inaudible).

4 COURT REPORTER: Your Honor, ---

5 THE COURT: You need to keep your voice
6 up, please.

7 WITNESS: Yes, sir.

8 DIRECT EXAMINATION CONTINUED

9 BY SOLICITOR:

10 Q. State's Exhibit 36?

11 A. Pants that match the -- what we saw
12 on the video.

13 Q. You've got to speak up. She's got
14 to take down what you're saying.

15 A. I'm sorry. The pants with the
16 patches.

17 Q. The patch?

18 A. Yes. Both sides. These are two of
19 them.

20 Q. Showing you what has been marked as
21 State's Exhibit 37.

22 A. The day that I arrested Mr.
23 Williams, he was wearing these glasses. They
24 are not really sunglasses, not prescription.
25 They have a dark tint -- (inaudible).

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1 THE COURT: You need to speak up, sir.

2 The jurors can't hear you and the court
3 reporter can't hear you. I can't hear you.

4 WITNESS: I'm sorry, Your Honor.

5 DIRECT EXAMINATION CONTINUED

6 BY SOLICITOR:

7 Q. The last exhibit that we have,
8 State's Exhibit 38.

9 A. This is the ammunition that was in
10 the magazine -- and the gun, which was a .45
11 is, like I said, a very, very powerful gun.
12 One shot to the chest with one of these -- we
13 carry that much power for a reason. The
14 magazine, the bullets inside, the gun.

15 Q. This is the gun that you recovered
16 from under the couch?

17 A. Yes.

18 Q. Would you please retake the stand?

19 A. (Complies).

20 SOLICITOR: Court's indulgence,
21 please?

22 THE COURT: Yes, sir.

23 SOLICITOR: Your Honor, I have no
24 further questions at this time. Your Honor,
25 I am going to take this evidence and put it

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Testimony of Matt Ritter - Direct Examination

1 in the box so that it won't be up here
2 blocking the view.

3 THE COURT: That's fine. Obviously you
4 need to keep it available to Mr. Welborn in
5 case he needs to use it.

6 SOLICITOR: Yes, sir.

7 THE COURT: Before we proceed with
8 cross, does anyone need a brief restroom
9 break? Is so, raise your hand.

10 Okay, we need some that do need a break,
11 so we'll take five minutes.

12 Ladies and gentlemen, don't talk about
13 the case yet. I'll tell you when you can.
14 Step to the back and help yourself to some
15 coffee or whatever they have back there.
16 We'll have you back in five minutes. Okay?

17 (JURY OUT @ 10:11 A.M.)

18 THE COURT: You may step down, Officer
19 Ritter, but don't talk to anyone about your
20 testimony.

21 WITNESS: Yes, sir.

22 (BRIEF RECESS)

23 (DEFENDANT PRESENT)

24 THE COURT: Mr. Ritter, you may resume
25 the stand and we will resume your examina-

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Testimony of Matt Ritter - Cross Examination

1 tion. Let the record reflect that the
2 Defendant is present. We are ready to
3 resume with the examination of this witness.
4 Are you ready, Mr. Welborn?

5 MR. WELBORN: Yes, Your Honor.

6 THE COURT: Solicitor? Ready?

7 SOLICITOR: Yes, sir, Your Honor.

8 THE COURT: Very good. Bring in the
9 jury.

10 (JURY IN @ 10:23 A.M.)

11 THE COURT: Let the record reflect that
12 the jury is back and seated. We are ready to
13 resume the testimony of Detective Ritter.
14 At this point, we will begin the cross-
15 examination by Mr. Welborn. Mr. Welborn, you
16 may proceed.

17 MR. WELBORN: Thank you, Your Honor.

18 CROSS EXAMINATION

19 BY MR. WELBORN:

20 Q. Detective Ritter, you went to the
21 Academy and studied how to become a police
22 officer; is that correct?

23 A. That's correct.

24 Q. And you studied various modes of
25 learning how to identify people; is that

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Testimony of Matt Ritter - Cross Examination

1 correct

2 A. That's correct.

3 Q And as part of your study, either
4 then or later, you studied things about DNA'
5 is that correct?

6 A. Yes, but ---

7 Q. You're not an expert on DNA?

8 A. No. We went over it.

9 Q. But for the jury's understanding and
10 edification, DNA -- and I can't tell you the
11 big word for it. You probably can. But DNA
12 basically is unique with every individual.
13 When you take someone's DNA, it kinda shows
14 their genetic makeup. Would that be,
15 generally speaking, accurate?

16 A. That's correct.

17 Q. And in numbers of cases today in
18 modern investigations that we have, DNA is
19 often used and collected in order to help
20 prove who the suspect is; is that correct?

21 A. That's correct.

22 Q. Now, in this particular case, there
23 was not DNA collected; is that correct?

24 A. That's correct.

25 Q. Now, you are also familiar with or

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Testimony of Matt Ritter - Cross Examination

1 that you have heard of, something called the
2 Innocence Project?

3 A. No.

4 Q. Are you familiar with the fact that
5 nationwide there have been over the last ten
6 or fifteen years, lawyers who would collect
7 DNA for imprisoned inmates to try to prove
8 their innocence of a crime that happened
9 years ago.

10 A. Okay.

11 Q. Are you somewhat familiar with that?

12 A. Just by what I see on, you know, I
13 haven't studied it. At our seminars, we
14 study touch DNA. SLED actually came up and
15 did -- we had like a four-hour course on
16 touch DNA, so we have studied touch DNA.

17 Q. I understand that. But just so that
18 the jury sort of understands the different
19 way of identifying people, ---

20 A. Certainly, it is.

21 Q. DNA is another way of identifying
22 people besides eyewitness testimony.

23 A. That's correct.

24 Q. As a matter of fact, DNA con-
25 clusively shows who did something if you get

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Testimony of Matt Ritter - Cross Examination

1 that DNA.

2 A. Yes.

3 Q. Or can conclusively show?

4 A. Yes.

5 Q. That's my question a moment ago
6 about the Innocence Project.

7 A. (No verbal response).

8 Q. But you're not familiar with it?

9 A. (No verbal response).

10 Q. But you are familiar with the fact
11 that over the last ten or fifteen years that
12 there have been some inmates identified as
13 being the perpetrator but DNA later proved
14 them innocent?

15 A. There are, yes.

16 Q. Okay. And there are those -- there
17 have been dozens and dozens of those over the
18 last several years. Isn't that correct?

19 A. I will have to take your word for
20 it. I don't really keep up with that.

21 Q. I understand. But knowing that that
22 has taken place in the past, this case is not
23 going to be one of the situations where
24 later, five years from now, ten years from
25 now, twenty years from now, there's any DNA

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Testimony of Matt Ritter - Cross Examination

1 to prove or disprove who may have committed
2 this crime?

3 A. The person that committed this crime
4 is seated right there, (indicating
5 Defendant).

6 Q. I understand that. But there's not
7 going to be any DNA to ---

8 A. No.

9 Q. --- back it up?

10 A. That's correct.

11 Q. All right. Now, in this particular
12 case you said that you had no there was a
13 close resemble in the lineup.

14 A. Yes.

15 Q. And that lineup, again we're talking
16 about six people?

17 A. Yes.

18 Q. That SLED created in a photo lineup
19 and sent to you; is that right?

20 A. That's right.

21 Q. And you talked about how important
22 that it is that these people look extremely
23 similar and not dissimilar; is that correct?

24 A. That's correct.

25 Q. And the reason behind that, as I.

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Testimony of Matt Ritter - Cross Examination

1 understand, is so that there truly is no mis-
2 identification. If you picked someone out,
3 that had to be the correct person, more than
4 likely, because they all looked so similar
5 that you would have had to have chosen the
6 right one. Am I saying that correctly?
7 Does that make sense?

8 A. Yes.

9 Q. But isn't it also a fact that when
10 people look so similar and so precisely the
11 same that there can be a misidentification,
12 possibly?

13 A. (No verbal response).

14 Q. It's possible?

15 A. It's possible.

16 Q. Now, you would agree in that
17 particular incident today, those six people
18 all looks very similar?

19 A. They do.

20 Q. And you also testified that you
21 identified my client as the perpetrator, that
22 you ultimately tried to talk with him and
23 that he didn't make any real statements; is
24 that correct?

25 A. That's correct.

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Testimony of Matt Ritter - Cross Examination

1 Q. Now, who else beside my client did
2 you ever sit down with as a suspect and
3 interview?

4 A. No one.

5 Q. Just my client?

6 A. Yes.

7 Q. Now, you also testified that you
8 looked at his brother's picture, his twin
9 brother; is that right?

10 A. Yes.

11 Q. Now, did you ever sit down and talk
12 with the twin brother?

13 A. No.

14 Q. Did you ever have any kind of
15 contact, direct or indirect, with the twin
16 brother ---

17 A. No.

18 Q. --- about this case?

19 A. I didn't.

20 Q. Are you aware that the twin brother
21 is only one inch shorter?

22 A. No, I'm going by what we learned in
23 the investigation.

24 Q. And are you aware that the twin
25 brother weighs about ten pounds more?

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1 A. No. Again, I was going by the
2 information that I had, that there were
3 differences in their height and weight.

4 Q. Sure. But even hearing that
5 information, you didn't feel compelled to go
6 check it out? 'Maybe his twin brother had
7 something to do with this.'

8 A. The reason I didn't do that is
9 because Rasheya had dated the twin brother,
10 Claude. When I showed her those pictures,
11 she said that was Claudius.

12 So in my mind, after talking with her and
13 Ms. Kifle picking him out of the lineup, and
14 me looking at video, in my mind I -- looking
15 at the video, the -- you take the picture and
16 you look at it beside the video, that's what
17 I am going on.

18 They are not identical twins. DNA -- if
19 you are identical, you will have the same
20 DNA.

21 Q. Now, Rasheya Payton, you have no
22 idea about what kind of bias that she may
23 have had against either one of these guys.

24 A. No.

25 Q. She dated one.

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Testimony of Matt Ritter - Cross Examination

1 A. (No verbal response).

2 Q. She broke up with him, didn't she?

3 A. (No verbal response).

4 Q. And people who are not happy about
5 it, maybe they've got an ax to grind or hold
6 a grudge. Do you agree with that?

7 A. Sure.

8 Q. Even knowing that, you decided not
9 to interview him?

10 A. That's correct.

11 Q. Now, we've talked also a little bit,
12 Detective, about the clothing involved.

13 One comment that I wrote down that you
14 said, and I appreciate it, is -- regarding
15 the clothes, is that they make a lot of
16 these.

17 A. Um-humm.

18 Q. They do make a lot of those, don't
19 they?

20 A. (No verbal response).

21 Q. They're sold all over the nation,
22 even the world, aren't they?

23 A. Certainly.

24 Q. These clothes, these Celtic outfits,
25 some of these outfits, sports outfits, they

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Testimony of Matt Ritter - Cross Examination

1 area sold all over the world, aren't they?

2 A. That's correct.

3 Q. All right. Now, you would agree
4 that a lot of times in certain cultural
5 neighborhood, sports figures, those types of
6 outfits are popular; aren't they?

7 A. They are.

8 Q. As a matter of fact, if you were out
9 and about today, you'd find young men walking
10 around with Nike tennis shoes that cost two
11 or three hundred dollars; wouldn't you?

12 A. Probably so.

13 Q. So it's not uncommon.

14 A. That's correct.

15 Q. For people to wear similar athletic
16 clothes, is it?

17 A. That's correct.

18 Q. Now, did you bother to go and knock
19 on any other doors and ask people, 'Do you
20 have a green Celtics outfit?'

21 A. No.

22 Q. But you agree that it there could be
23 a lot of people -- that they make a lot of
24 these?

25 A. (No verbal response).

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Testimony of Matt Ritter - Cross Examination

1 Q. And you would agree that in your
2 training regarding eyewitness testimony, that
3 you would agree that they teach you at the
4 Academy that eyewitness testimony can be
5 unreliable?

6 A. That's correct.

7 Q. As a matter of fact, it can be
8 extremely unreliable?

9 A. That's correct.

10 Q. And so when someone tells you, as in
11 this case, Ms. Kifle ---

12 A. Kifle.

13 Q. Thank you. When she passionately
14 and excitedly told you "that's him", several
15 times, knowing that eyewitness testimony can
16 be unreliable, you still accepted that as
17 fact; isn't that correct?

18 A. Yes, sir.

19 Q. Now, you testified -- or I suggested
20 rather -- a little while ago that there was
21 no DNA. There's not.

22 And you would agree that there are times
23 when eyewitness testimony is unreliable.

24 Have you had circumstances, Detective,
25 where someone makes a mistaken identify in

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Testimony of Matt Ritter - Redirect Examination

1 your investigations?

2 A. In my investigations?

3 Q. (Affirmative nod).

4 A. No.

5 Q. But you have heard of those things?

6 A. Yes.

7 Q. It does happen, doesn't it?

8 A. It happens?

9 Q. Yes.

10 A. It can.

11 MR. WELBORN: Thank you.

12 THE COURT: Redirect?

13 SOLICITOR: Just a few questions.

14 THE COURT: Yes, sir.

15 REDIRECT EXAMINATION

16 BY SOLICITOR:

17 Q. Detective Ritter, in this case, as
18 Mr. Welborn alluded to, did you feel like you
19 had to have DNA evidence?

20 A. No.

21 Q. What type of case does DNS typically
22 used in?

23 A. Murders.

24 Q. Any other type crimes?

25 A. Touch -- let me touch on touch DNA.

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Testimony of Matt Ritter - Redirect Examination

1 Touch DNA is if I touch something, then I
2 send it to SLED, they can actually test for
3 my DNA. However, it's not very reliable
4 according to what SLED tells us. So -- when
5 we touch stuff, if it only touch DNA stuff,
6 we try to stay away from that; unless it is
7 blood or something.

8 Q. Was there any type of evidence in
9 this case that was left at the scene, that
10 you actually could collect DNA from?

11 A. No.

12 Q. It's typically blood, semen, saliva?

13 A. Yes.

14 Q. In this case, do you feel that Ms.
15 Kifle misidentified Mr. Williams as a
16 suspect?

17 MR. WELBORN: Objection. "Feel."

18 THE COURT: Sustained. That's calling
19 for speculation.

20 REDIRECT EXAMINATION CONTINUED

21 BY SOLICITOR:

22 Q. You looked into the brother as a
23 suspect, did you not?

24 A. That's correct.

25 Q. You eliminated him as a suspect,

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Testimony of Matt Ritter - Redirect Examination

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1 right?

2 A. Yes.

3 Q. Why was that?

4 A. Facial features -- facial recogni-
5 tion. Even when you're brothers or brother
6 and sisters, you may have the same
7 characteristics but you're not identical
8 unless you are an identical twin. Even the
9 identical twins that I've dealt with, I could
10 see small differences.

11 Q. And in this case, Ms. Rasheya Payton
12 -- as you testified, she dated Clyde, the
13 brother?

14 A. That's correct.

15 Q. And when you were at the scene, his
16 mama was also at the scene; correct?

17 A. That's correct.

18 Q. Ms. Williams?

19 A. That's correct.

20 Q. At any point did feel that there was
21 a grudge that Ms. Payton may have had against
22 Clyde?

23 MR. WELBORN: Objection as to what he
24 feels, again. Calls for speculation.

25 THE COURT: All right. I will -- you

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Testimony of Matt Ritter - Redirect Examination

1 can ask him if he got any indication about
2 that, if there was any indication as far as
3 he perceived. But as far as speculating as
4 to whether the other person in fact had a
5 grudge, that's all speculation.

6 REDIRECT EXAMINATION CONTINUED

7 BY SOLICITOR:

8 Q. Detective, did you perceive any type
9 of hard feelings by Ms. Payton towards Clyde
10 Williams?

11 A. No. Nothing.

12 Q. And in your eight years of
13 experience in law enforcement, have you ever
14 come across a case where individual wear
15 exactly the same clothing, such as a Celtics
16 basketball uniform?

17 A. No.

18 SOLICITOR: I have no further
19 questions.

20 THE COURT: Recross?

21 MR. WELBORN: No, sir.

22 THE COURT: Thank you. Solicitor, call
23 your next witness.

24 SOLICITOR: Your Honor, the State
25 rests.

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Motion for Directed Verdict

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1 THE COURT: Ladies and gentlemen, there
2 are a few brief issues of law that I need to
3 take up with the attorneys.

4 So I'd ask if you would to return to your
5 jury room. We will be with you in about five
6 to ten minutes.

7 Don't talk about the case yet. I will
8 let you know when you may. Thank you.

9 (JURY OUT @ 10:38 A.M.)

10 THE COURT: The jury is out. Motions,
11 Mr. Welborn?

12 MR. WELBORN: Your Honor, I would move
13 for a directed verdict that the State has
14 failed to prove beyond a reasonable doubt or
15 proven enough to the jury that my client
16 committed these crimes.

17 I would also renew my Motions, for the
18 record, that I made previously, yesterday, my
19 suppression Motion, each Motion that I made
20 yesterday, without having to tell the Court
21 again, but I'd renew those. I think that I
22 have to protect that for the record, so I'd
23 renew all those Motions, as well as make a
24 Motion for a directed verdict.

25 THE COURT: I will deny your Motion.

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Motion for Directed Verdict

1 For the record, I believe that there is
2 substantial testimony that should the jury
3 believe it, both circumstantial and direct
4 evidence-wise, that the Defendant did commit
5 these particular offenses.

6 Also, the Court stands by the rulings
7 previously given yesterday.

8 Yesterday you indicated that you do not
9 have any witnesses, is that correct?

10 MR. WELBORN: I'm sorry? I didn't hear
11 you.

12 THE COURT: Yesterday you indicated
13 that you did not intend to offer a defense.
14 Is that right?

15 MR. WELBORN: I do not.

16 THE COURT: If I may, I'd like to ask
17 you some questions. You may remain seated.
18 Please raise your right hand.

19 DEFENDANT: (Complies).

20 THE COURT: Do you swear or affirm hat
21 your answers to my questions will be the
22 truth, so help you God?

23 DEFENDANT: I do.

24 COURT REPORTER: I can't hear him.
25 There is no microphone.

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Examination of Defendant

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1 THE COURT: Stand up, if you would, Mr.
2 Williams and speak loudly so that the court
3 reporter can hear you.

4 DEFENDANT: Yes, sir.

5 THE COURT: And so that I can hear you.
6 You are Claudius Williams?

7 DEFENDANT: Yes, sir.

8 THE COURT: Mr. Williams, at this time
9 I would like to explain to you some of your
10 rights. If you don't understand something
11 that I say, stop me and I will let you talk
12 to your attorney, Mr. Welborn, and then he
13 can ask me about anything that you don't
14 understand.

15 DEFENDANT: Okay.

16 THE COURT: Now we've reached a point
17 in the trial where you can present any
18 defense that you may have.

19 Also, you may claim the protections given
20 to you by the Fifth Amendment to the U.S.
21 Constitution and the same amendment to the
22 South Carolina Constitution. That amendment
23 states, in part, that no person can be held
24 in any criminal case to be a witness against
25 himself. Mr. Williams, what that means is

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Examination of Defendant

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1 that you're not required to testify in this
2 case. You have the right to testify on your
3 own behalf, if you want to do so; however,
4 nobody -- I can't make you testify, your
5 attorney cannot make you testify, certainly
6 the State cannot make you testify. Do you
7 understand that?

8 DEFENDANT: No, sir.

9 THE COURT: You don't understand?

10 DEFENDANT: (No verbal response).

11 THE COURT: Mr. Welborn, do you want to
12 speak with him for just a moment?

13 MR. WELBORN: Yes, sir.

14 THE COURT: He can have a seat.

15 MR. WELBORN: (Sidebar with Defendant).

16 Thank you, Your Honor.

17 THE COURT: Yes, sir.

18 MR. WELBORN: May it please the Court.

19 THE COURT: Yes, sir.

20 MR. WELBORN: Your Honor, I have
21 explained to my client in great detail about
22 this proceeding.

23 He indicates to me that he doesn't
24 understand the proceedings. I've explained
25 the elements of the crimes, several times.

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Examination of Defendant

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1 I've explained that he doesn't have to
2 testify. That he could he wants to.

3 That if he does testify, that there are
4 certain things that could be used against him
5 in cross-examination, that I think would not
6 benefit his case.

7 I've asked him specific questions about
8 what he doesn't understand about the
9 proceeding. I'm getting no specific
10 questions (sic).

11 So I think that I have to let the Court
12 know that is the position. However, I have
13 to tell the court that I have met with my
14 client on at least four separate occasions
15 and that that we've gone over all of this in
16 great detail. I'm surprised to hear from my
17 client today that he doesn't understand. I
18 will let the Court address that.

19 THE COURT: Mr. Williams, your attorney
20 is telling me that you don't understand these
21 proceedings. What is that you don't under-
22 stand about what is happening right now?

23 DEFENDANT: I don't understand ---

24 THE COURT: Speak up a little bit.

25 DEFENDANT: I don't understand why I am

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Examination of Defendant

1 charged with the crimes or what I -- the
2 things they say that I did. And if I
3 testify, what I'd have to -- I don't
4 understand the examination, the cross
5 examination, why that'd be ---

6 THE COURT: What was that last part
7 about cross examination?

8 DEFENDANT: I don't understand about
9 the cross examination.

10 THE COURT: Well, Mr. Welborn, you have
11 discussed these charges with your client?

12 MR. WELBORN: In detail.

13 THE COURT: In detail?

14 MR. WELBORN: Right.

15 THE COURT: All right. Well, Mr.
16 Williams, when you say that you don't
17 understand the charge. Are you referring to
18 the armed robbery?

19 DEFENDANT: I don't understand anything
20 about the charges, these charges, why I'm
21 charged.

22 THE COURT: Basically it is alleged,
23 Mr. Williams, by the State that you did in
24 fact rob the store. You've been here all
25 during the trial. You've seen and heard the

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1 testimony and the evidence presented,
2 correct?

3 DEFENDANT: (No verbal response).

4 THE COURT: You've seen the exhibits,
5 the evidence, and heard the testimony;
6 correct?

7 DEFENDANT: I heard what they said.

8 THE COURT: And they're basically
9 alleging that you are the person that
10 committed this robbery; do you understand
11 that?

12 DEFENDANT: They are alleging I was the
13 person that what?

14 THE COURT: That you committed this
15 robbery. You've been here the entire time?

16 DEFENDANT: I've been here, yeah, but I
17 don't know ---

18 COURT REPORTER: I didn't hear him,
19 Your Honor.

20 THE COURT: He said that he's been here
21 and that he doesn't understand. What don't
22 you understand?

23 DEFENDANT: Anything about the
24 proceedings.

25 THE COURT: Okay. Mr. Welborn, has

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Examination of Defendant

1 there ever been any indications in your
2 conversation with your client, that he
3 suffers from any sort of mental issues,
4 mental retardation or anything along those
5 lines?

6 MR. WELBORN: Absolutely not.

7 THE COURT: Mr. Williams, I'm going to
8 explain to you that right now during the
9 course of the next few hours or whatever, the
10 next few moments, that when the jury comes
11 back that basically you're going to have the
12 opportunity to present any defense that you
13 may want to present. Do you understand that?

14 DEFENDANT: I don't understand that.

15 THE COURT: Well, the way that this
16 works, Mr. Williams, is that the defendant
17 has a right to testify but you do not have to
18 testify.

19 What I am trying to explain to you, Mr.
20 Williams, is that if you wish to testify,
21 that's perfectly fine. You are free to take
22 the witness stand and explain, in your own
23 words, explain to the jury what happened or
24 didn't happened. You can present any kind of
25 defense that you want to present.

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1 But you don't have to present a defense.
2 You certainly don't have to take the witness
3 stand. That's what I was explaining to you a
4 moment ago. Because under the laws of our
5 state, you cannot be forced to be a witness
6 against yourself. You're on trial here
7 today, as you know, and you don't have to be
8 a witness against yourself. Do you under-
9 stand that, Mr. Williams?

10 DEFENDANT: Sir, no, sir.

11 THE COURT: Mr. Williams, in all
12 candor, I don't believe you. I really
13 believe, Mr. Williams, that you understand
14 exactly what is going on here.

15 I understand that this is a life without
16 the possibility of parole type case.

17 What is his prior record, Solicitor?

18 SOLICITOR: Two counts of armed
19 robbery.

20 THE COURT: Two counts of armed
21 robbery.

22 SOLICITOR: He did ten years for that.

23 THE COURT: When was that?

24 SOLICITOR: 2003, I believe. I believe
25 that it is a Court exhibit. He was released

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1 in December of '12.

2 THE COURT: If you choose to testify,
3 that certain predates the ten years. Please
4 understand that should you choose to testify
5 that you can cross-examine or examine for
6 any crimes of dishonesty.

7 That if there are any crimes that involve
8 dishonesty or false statement, that the
9 Solicitor can also cross-examine him about
10 those.

11 That if there are any crimes that involve
12 more than a year in prison, that the
13 Solicitor can cross-examine him about those
14 if I determine that the probative value
15 outweigh the prejudicial value.

16 Also, should you decide to testify, your
17 decision has to be freely, voluntarily,
18 knowingly and intelligently under our law.

19 If you decide not to testify, I will
20 instruct the jurors that they cannot give the
21 fact that you did not testify any considera-
22 tion whatsoever, that they may not even
23 discuss it in the jury room.

24 It is entirely up to you whether or not
25 you wish to testify.

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1 Ultimately the decision whether to
2 testify or not to testify is your decision. D
3 You can discuss it with your attorney or
4 other folks but ultimately this decision is
5 your decision, whether to testify or not
6 testify.

7 So in a moment when I bring the jury back
8 out, I need a decision from you as to whether
9 you wish to testify or whether you want to
10 remain silent.

11 If you should decide not to testify, you
12 have the advantage of having the last
13 argument

14 You can discuss it with your attorney,
15 but ultimately the decision whether or not to
16 testify is your decision.

17 The only way that I can leave this is
18 that should your attorney call you as a
19 witness, I assume that you waive your Fifth
20 Amendment rights of incrimination.

21 Based on what I am hearing from you right
22 now, what I am going to do is ask -- having
23 had a chance to talk with Mr. Welborn, I'm
24 asking you directly if you choose to testify
25 or not. I'll give you a chance to speak for

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1 a few more minutes. Once Mr. Welborn tells
2 me that you are ready to proceed, then we
3 will bring in the jury and continue with the
4 trial. I'll give you a few minutes.

5 MR. WELBORN: (Sidebar with Defendant).

6 Your Honor, may it please the Court?

7 THE COURT: Yes, sir.

8 MR. WELBORN: My client continues to
9 assert that he does not understand. I can
10 only represent to the Court that I have
11 repeatedly explained this to him, and every
12 time I ask him if he wants to continue, he
13 gives the response that he does not
14 understand.

15 THE COURT: He represented to me
16 yesterday that he did not intend to offer a
17 defense, so I assume that this has been a
18 topic of discussion?

19 MR. WELBORN: Every time we've met.
20 We've met on the weekend, where I had plenty
21 of time to discuss this with him. Each time
22 that we discussed it and I've asked him, he's
23 asserted that no, he did not want to testify.

24 THE COURT: All right. Mr. Williams,
25 sir, I'd ask you a very simple question. Do

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1 you intend to testify? To take the witness
2 stand like the other witnesses and testify,
3 or not?

4 DEFENDANT: Sir?

5 THE COURT: Do you want to take the
6 stand and testify like the other witnesses
7 have in this trial, or do you want to stay
8 there and not testify.

9 DEFENDANT: I don't understand.

10 THE COURT: Mr. Williams, respectfully,
11 I don't believe you. I've given you
12 additional time to talk with Mr. Welborn.

13 At this point in time, Mr. Williams, you
14 have to make a decision to either take the
15 stand, like any witness in this case, or you
16 can stand on your Fifth Amendment rights not
17 to testify.

18 Which would you chose to do? Do you want
19 to come up here and testify or do you want to
20 stay where you are?

21 DEFENDANT: Sorry, Judge, I don't
22 understand.

23 THE COURT: Mr. Williams, how about
24 showing a little respect for the Court. You
25 can read and write; correct, sir?

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1 DEFENDANT: Yes.

2 THE COURT: You can answer out loud.

3 DEFENDANT: Yes.

4 THE COURT: Have you ever been treated
5 for any mental or emotional problems, or have
6 you ever been hospitalized in a mental
7 institution or State hospital?

8 DEFENDANT: No.

9 THE COURT: You have not?

10 DEFENDANT: (No verbal response).

11 THE COURT: When you were in school,
12 were you in any special needs class or
13 special education class?

14 DEFENDANT: I have that in the second
15 grade.

16 THE COURT: Which grade?

17 DEFENDANT: Second grade.

18 THE COURT: You were never found to be
19 incompetent?

20 DEFENDANT: No.

21 THE COURT: Mr. Williams, based on what
22 I am hearing, you understand what is going on
23 here. I think that you are trying to set the
24 record up for down the road. Based on your
25 prior record and experience, you understand

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1 what is going on here.

2 The prior decision was made that you were
3 not going to testify.

4 I believe that you understand exactly
5 what is going on here.

6 Once again, if you choose to testify, you
7 need to tell me now. Do you want to testify?

8 DEFENDANT: I don't understand.

9 THE COURT: Then we will go with your
10 earlier decision.

11 MR. WELBORN: Your Honor, just for the
12 record, I met with my client on numerous
13 occasions and he's competent. I've given him
14 copies of everything in his file and
15 explained to him what it was.

16 He's sent me letters at time that were
17 very well written.

18 I am saying this for the record, just in
19 case we have a hung jury, that he knows what
20 is going on.

21 THE COURT: If I thought for a minute
22 that Mr. Williams didn't understand what was
23 going on, this Court has the power to order
24 psychological examinations, can stay this
25 hearing. I don't believe that -- I believe

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Examination of Defendant

1 that he understand what is going on and I
2 hesitate to stop this trial to order a
3 psychological exam. I don't see any
4 indication of anything other than the attempt
5 to create a record to challenge the
6 conviction on a PCR. I believe that he
7 understands fully what is going on.

8 Do you have any other witnesses?

9 MR. WELBORN: No, sir, we don't have any
10 other witnesses. On every single occasion
11 that we have spoken, he's indicated to me
12 that he does not wish to testify.

13 THE COURT: I understand.

14 MR. WELBORN: I think that is his
15 position today.

16 THE COURT: Y'all may have a seat.

17 SOLICITOR: Your Honor, just for the
18 record, Mr. Williams in 2013 sent a letter to
19 the Clerk of Court, asking for an Order of
20 Dismissal.

21 He also sent one on June 7th, where he
22 was waiving counsel.

23 He also sent a letter to our Solicitor's
24 Office, to Percy Adams, on September 10th,
25 requesting that the case against him be

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1 dismissed.

2 He also sent a letter to the Supreme
3 Court, which they replied back that they
4 could not consider any *ex parte* communica-
5 tions.

6 THE COURT: All right. I assume that
7 those are part of the Clerk's file?

8 SOLICITOR: They are in our file. I've
9 already provided them to Mr. Welborn. I
10 would like to make them a Court's exhibit.

11 THE COURT: All right, let's mark those
12 as Court's 5.

13 (SO ENTERED AS COURT'S EXHIBIT 5)

14 THE COURT: Gentlemen, I am handing to
15 you a copy of the proposed Verdict form, the
16 final closing instructions. You can review
17 those, and let me know if you have any
18 objections -- (pause).

19 Does anyone have any issue with that?

20 SOLICITOR: None from the State.

21 THE COURT: From the defense?

22 MR. WELBORN: Judge, I have no requests
23 other than what you have.

24 THE COURT: Madame Clerk, would you
25 pull up what I sent you.

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1 CLERK: Yes, sir.

2 THE COURT: As the jury comes out, Mr.
3 Welborn, you can rest and we will go straight
4 into closing arguments. The defendant will
5 be allowed to go -- the State will go first
6 and you will be permitted to close last.

7 MR. WELBORN: Yes, sir.

8 THE COURT: Solicitor, do you agree?

9 SOLICITOR: Yes, Your Honor.

10 THE COURT: Let's bring in the jury.

11 (JURY IN @ 11:04 A.M.)

12 THE COURT: Let the record reflect that
13 the jury is back and seated. Mr. Welborn, do
14 you wish to present any witnesses or
15 testimony?

16 MR. WELBORN: The defense rests.

17 THE COURT: Very good. Ladies and
18 gentlemen of the jury, we have reached that
19 portion in the trial where you have received
20 all the evidence that you are going to hear.

21 What is going to happen now is that you
22 are going to hear the closing summations of
23 the attorneys involved in this case.

24 The attorney for the State will go first,
25 followed by Mr. Welborn.

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Closing Argument by Solicitor

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1 I remind you that it is normal for the
2 attorneys to discuss the facts of the case
3 and to make reference to any testimony or
4 evidence that has been presented. However,
5 if anything that they say differs from your
6 recollection of the facts, you should go with
7 your recollection. As I told you yesterday,
8 you are the finders of the facts, the judge
9 of the facts.

10 So, for example, if they say yesterday
11 that it was eighty degrees and raining but
12 you recall yesterday was thirty degrees and
13 sunny, your recollection should control.

14 With that, I ask that you pay close
15 attention to the attorney's argument, keeping
16 in mind that what the attorneys say are not
17 facts.

18 Solicitor, I recognize you for your
19 closing, sir.

20 SOLICITOR: May it please the Court?

21 THE COURT: Yes, sir.

22 SOLICITOR: Mr. Welborn.

23 MR. WELBORN: Yes, sir.

24 SOLICITOR: Ladies and gentlemen, there
25 are things that happen in people's lives that

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Closing Argument by Solicitor

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1 stand out, things that happen for good and
2 bad, that a person never forgets. Things
3 that a person remembers, that is always in
4 their mind.

5 You know the kind of things that I am
6 talking about. They happen to you. You lay
7 in bed, wake up in the middle of the night,
8 at 2:00 o'clock in the morning and you
9 remember something -- whether it's from your
10 childhood or as an adult. You vividly
11 remember the details.

12 People who face near death experiences
13 vividly recall the events that took place.

14 If you talk to combat Vets that are
15 returning from war overseas, they can recall
16 what took place. Things slowed down.

17 You talk to an elderly person, someone
18 who is afflicted with the condition of
19 Alzheimer. They may not be able to remember
20 yesterday but they can remember fifty years
21 ago with great detail.

22 Things stick in your mind. That's what
23 we have in this case.

24 This case is not about faulty eyewitness
25 identification. It is not about any type of

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Closing Argument by Solicitor

1 mis-identification. This case is not about a
2 rush to judgment by law enforcement.

3 What this case really comes down to is
4 about Ms. Kifle. It's about a hardworking
5 woman, a woman who was a victim. She chose
6 not to be here. But the person who put her
7 here is this man right here (indicating
8 Defendant), Claudius Williams. By his own
9 actions, he chose to make her a victim.

10 She was working. He wanted to take what
11 she made. She told you, 'there's a camera in
12 my eye and I cannot forget that face.'

13 No matter how hard Mr. Welborn tried to
14 get her to change when she put up that photo
15 lineup, she told him, "I don't lie, I
16 remember that face."

17 That face, (indicating Defendant).

18 As she told you on the stand, she was
19 prepared to die. She said, 'Go ahead, do
20 it.' She was ready.

21 He put her here by his actions.

22 This case is not *Abraham Lincoln*, a 1939
23 film starring Henry Fonda. This is real life.
24 This is what goes on every day across
25 America. This is the type of case that is

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Closing Argument by Solicitor

1 buried in your newspaper, that people just
2 simply skim over. But to certain people,
3 such as Ms. Kifle, this is real because they
4 are and she is a victim.

5 It's a traumatic experience, it was
6 traumatic to her. She vividly recalled it on
7 that stand.

8 Now, Mr. Williams has been charged with
9 armed robbery. As I told you, armed robbery
10 is taking the property of another person with
11 the intent to deprive that person through the
12 use of force, threat or intimidation while
13 armed with a deadly weapon.

14 You just watched the video. It's there.
15 Every element has been met. He took three
16 hundred and seventeen dollars (\$317) from Ms.
17 Kifle. He did it while armed with this
18 weapon (displaying gun).

19 Now, this case was not a rush to
20 judgment. Detective Ritter explained to you
21 on the stand that he went through certain
22 steps. He didn't just jump to conclusions.
23 He looked at other people, he looked at the
24 brother that they are trying to conveniently
25 blame it on. He crossed them all off.

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Closing Argument by Solicitor

1 Yes, we have the burden. We have to
2 prove to you that he did it, that it was Mr.
3 Williams did these crimes, beyond a
4 reasonable doubt. I think that the State
5 has met that burden.

6 There are two types of evidence that we
7 have in case, direct and circumstantial.

8 Direct evidence is eyewitness testimony.
9 You see it happen.

10 Circumstantial evidence, basically you
11 see someone walk in from outside wearing a
12 raincoat, with water on it, you can assume
13 that it is raining although you did not see
14 it raining. That is circumstantial. You may
15 not see the evidence but you can put together
16 what has taken place.

17 This case lasted about five to six weeks,
18 from April the 24th to June 4th. It didn't
19 generate many leads. The investigation took
20 place, it evolved and the tip came in two day
21 prior -- you saw the video -- that he was
22 there two days prior. He was there, scoping
23 the place out. Eventually due to the flyer
24 that was circulated, a tipster came forward
25 with the name and address of Claudius

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1 Williams.

2 Still, Detective Ritter did not rush to
3 judgment. He took his time. He sent the
4 information to SLED, requested a photo
5 lineup. It took five or six days.

6 Once he presented that lineup to Ms.
7 Kifle, he got a positive identification. At
8 that point he went and got an arrest warrant.

9 The clothes that he wore were very
10 distinct. As he told you, 'In my years of
11 experience, I'd never seen anybody in the
12 clothes in the video.' What is the
13 coincidence that a person is going to have
14 two sets of clothing that matches what is on
15 the video? Distinct clothing.

16 The thing that it comes down to is that
17 he has a convenient excuse for the whole
18 time. That's what it is. This is a defense
19 of, 'some other dude did it.' In this case,
20 'It's my brother. I was just fortunate
21 enough o be born with an identical twin.'
22 He is a twin, however he is not identical.

23 It was testified to that his brother was
24 a different height, different weight,
25 different builds, has different facial

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1 features.

2 And the most important part about that is
3 that Ms. Rasheya Payton who testified, who'd
4 dated Clyde, said that 'Clyde is not on those
5 videos. That's not him.'

6 In fact, DNA -- I mean, if that is what
7 you are trying to hang your hat on, this
8 isn't a DNA case. As the officer testified,
9 there was nothing left for DNA. No blood,
10 saliva, semen. This is an eyewitness
11 identification case.

12 Now, the .45. As the homeowner stated to
13 you, and they arrived on the scene as they
14 were sitting outside, they cooperated with
15 the police. They signed a consent to search.
16 They told the officers, 'we don't have a
17 weapon.'

18 As Ms. Payton testified on the stand, 'I
19 don't own a gun, I didn't own a gun at the
20 time.' She told that Clyde lived there,
21 that Claudius was coming and going as he
22 pleased, that he used it as a place to crash,
23 that he had some of his clothing, that he had
24 some of his personal belongings, that he had
25 paperwork and personal effects that showed

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Closing Argument by Solicitor

1 his identity. There was his Social Security
2 card, his paperwork, his clothing.

3 Ladies and gentlemen, I want to show you
4 one more time, that this is what took place,
5 in and out, how fast the robbery happened,
6 how fast this man took three hundred and
7 seventeen (\$317) dollars from Ms. Kifle at
8 gunpoint -- (video playing).

9 She did a good job of keeping her wits
10 about her, but it has had an effect on her.

11 (Video playing) -- thirty seconds. In
12 the door, out the door. During that time she
13 stared at his gun. Right there as he is at
14 the counter, bent down at the counter, his
15 face is directly at her's. She looks at him
16 the entire time. She looks at this
17 (displaying gun) as he slides it back
18 (illustrating). He meant business. He was
19 serious, his intentions were well-known. She
20 looked at his the entire time.

21 She was able to identify his clothing.
22 She looked at his bag enough to know that it
23 was a Rhino, that he had stripes on his
24 shirt, that his jacket -- (displaying).

25 The State has the burden in this case.

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1 As he sits here right now -- as he sits
2 at this exact moment, he is innocent. He is
3 innocent until such time as you come back
4 with a verdict that strips him of that.

5 At that end, in a few minutes I am going
6 to sit down. Mr. Welborn has the last
7 opportunity to speak to y'all. But he
8 doesn't have the last word in this case. The
9 last word reposes with y'all.

10 When you got back there, you'll have the
11 evidence. Review it, look at the photo-
12 graphs, consider the testimony that you've
13 heard and at the end come to a decision and
14 return a verdict that speaks the truth that
15 justice demands. That is, he is guilty of
16 armed robbery. He is guilty of the use of a
17 deadly weapon during the commission of a
18 violent crime. Strip him of that robe of
19 innocence that he now sits with. I thank you
20 all.

21 THE COURT: Mr. Welborn, you're
22 recognized for your summation.

23 MR. WELBORN: May it please the Court,
24 ladies and gentlemen of the jury.

25 THE COURT: Yes, sir.

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Closing Argument by Defense Counsel

1 MR. WELBORN: You know, sometimes it's
2 hard to talk to jurors. You want them to
3 really understand what you are saying. That
4 requires great communication skills, and I
5 don't declare that I possess the greatest
6 communication skills. Sometimes I say things
7 that just don't quite come out right. So I
8 am going to ask you to bear with me as I go
9 through some of this. Maybe I can go through
10 it and make some kind of sense about what is
11 really going on here.

12 Let me say this, and this is -- Ms.
13 Kifle, I'm sorry that she got robbed. I
14 truly am. As I said yesterday, I am truly
15 sorry that she had to go through what she
16 went through.

17 But you've got to make sure that you
18 convict the right person.

19 Ms. Kifle -- and if I mispronounce her
20 name, I apologize. She is like all of us.
21 She's a mortal, human being. On the night in
22 question that this happened, I can only
23 imagine the adrenalin that was flowing
24 through her veins. On this night that this
25 happened, you've a very short period of time,

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Closing Argument by Defense Counsel

1 thirty seconds, and I counted about eight or
2 nine seconds during the actual robbery and
3 the rest of it was someone walking in and
4 out, basically.

5 Sadly those types of identification are
6 the most unreliable. You heard the officer
7 say that misidentifications do occur.

8 You all of an age old enough to know that
9 there are circumstances where people are
10 wrongfully incarcerated. You all know that.
11 You may even know somebody.

12 The examples that I'm talking about are
13 examples where usually there's a murder or
14 rape and there was eyewitness testimony, they
15 were emphatic that that person did it. You
16 can watch TV shows over and over, interviews,
17 where they continue to be emphatic, over and
18 over again. But as I said, you're old
19 enough to have been around the block and we
20 know that there are certain cases where they
21 have been able to prove from DNA, that wasn't
22 even known to exist twenty to twenty-five
23 years old. That DNA can be found now and
24 that person that was convicted on eyewitness
25 testimony is substantially released from

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1 prison because the DNA proved that someone
2 else did the crime. You can read in the
3 paper almost every month where that's
4 happened. It's regular now. It's not a rare
5 occurrence where someone who was wrongly
6 incarcerated, sentenced to prison, to be
7 released decades later.

8 Now, I know what you are thinking. You
9 are saying, 'what does DNA have to do with
10 this case, because there was none.'

11 It's because my client's future, his
12 future is in your hands today. You get to
13 decide if he is guilty or innocent. That
14 decision, the facts -- your decision of those
15 facts can never be overturned.

16 If the Court gives the wrong law, that
17 can be addressed. But the higher level
18 courts don't get to come back and say that
19 you all decided wrongfully.

20 So if there is no DNA in this case, and
21 there isn't, and I am not saying that there
22 should be. I am just saying that you better
23 be certain today.

24 I've told you how eyewitness testimony
25 can be so unreliable. That's why I gave the

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1 examples about people being released decades
2 later, though the witness was so emphatic.
3 DNA proved otherwise.

4 That's not going to happen in this case.
5 If you find my client guilty, that decision
6 -- the facts as you decided them can never be
7 overturned. There will be no second chance.

8 That's why the Court is going to discuss
9 with you and charge you about reasonable
10 doubt and what it is. That's a really
11 important concept in this case -- in any case
12 but particularly in this case.

13 Reasonable doubt is that doubt which
14 would make a honest, conscientious juror
15 searching for the truth in a case to hesitate
16 to act. If you have to think about something
17 for a little bit, then you're hesitating.

18 If you've got some concern but you're
19 thinking, 'Well, he probably did that
20 robbery. It looks like him but I'm not
21 really certain.' 'Let's just flip a coin,
22 see if it is heads or tails.' That is not
23 what you do.

24 It's right here in the jury charge, and I
25 circled it, 'If you think that there is a

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1 real possibility that the defendant is not
2 guilty, then you must acquit him."

3 Now, it doesn't say if there is a real
4 probability that the defendant is not guilty.
5 It says if there is a real possibility that
6 he is not guilty, then you must find him not
7 guilty.

8 That's why I am emphasizing to you that
9 if in some case you have any doubt, that is
10 reasonable doubt. Any doubt.

11 Now, if you're comfortable with the
12 eyewitness testimony, -- and I mean that will
13 all due respect to Ms. Kifle. I wouldn't
14 insult the lady for anything in this world.
15 She was put in a terrible situation. But to
16 say it another way, eyewitness testimony can
17 be unreliable.

18 Let's look at the video -- please put up
19 the video. Now, I want you to think about a
20 few things when you look at the video.

21 I want to think of first of all that
22 there were six photographs that SLED put
23 together. Out of everybody in this state and
24 country, it took no time at all to find six
25 that look just like Claudius Williams. If

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1 you look at them, they look almost identical,
2 especially number four -- number one, number
3 three and number four look very similar. And
4 that's just six of them that they found -- I
5 don't know how they found this people. I don't
6 know if these people have served time,
7 whether they are inmates, or -- I don't know,
8 but they picked them. They easily came up
9 with six. Think about the number of people
10 out here walking around the world that look
11 like Claudius Williams.

12 The State over here is -- I don't know if
13 y'all know who Dick Warder is, but the State
14 over here does. Dick Warder is a great
15 defense attorney out of ---

16 SOLICITOR: I am going to object to
17 anything about Dick Warder, Your Honor, in
18 the closing. There's nothing in the evidence
19 regarding Dick Warder.

20 THE COURT: I'm sorry? You're
21 objecting to what?

22 SOLICITOR: Any type of reference to
23 Dick Warder. There's nothing in evidence
24 regarding Dick Warder.

25 THE COURT: I couldn't quite hear you,

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1 in all honesty, Mr. Welborn. I don't know
2 what you're referencing, but I don't know
3 that it is necessary to talk about other
4 attorneys.

5 MR. WELBORN: Yes, sir. We all have
6 people that look like us, folks. We all do.
7 There's people that look like you, like
8 myself. There are a lot of people that look
9 just like Claudius Williams. Six of them are
10 up on the screen.

11 I also want you to think about the fact
12 that the arresting officer never interviewed
13 his twin brother, they never presented you a
14 picture of him. Never did. That's critical.
15 A twin brother and they say, 'Well, he's an
16 inch or two shorter, weight a pound or two
17 less, ten pounds or so.' He's not in here.
18 'We didn't talk to him, and we didn't talk to
19 him because someone else who he used to date
20 said that it wasn't him. Plus, we have the
21 video.'

22 They stopped at that. They didn't go
23 verify anything that his former girlfriend
24 said. Was his former girlfriend protecting
25 his twin brother? That's a possibility.

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1 Let's talk about -- we've talked about
2 the unreliability of eyewitness testimony.
3 We've talked about how they didn't do a
4 thorough investigation in investigating this.
5 They never investigated anybody but Claudius.

6 Let's talk about the clothing. When you
7 go back to the jury room, you can say *'That's*
8 *very distinct clothing, had to be him because*
9 *he had that clothing in his closet.'*

10 I want you to think about this, because
11 even Officer Ritter stated, quote, "they make
12 a lot of these." They do. They make a lot
13 of tennis shoes, Nike. If you go out on
14 [REDACTED] today, I betcha that you find a
15 lot of people walking around with two hundred
16 dollar tennis shoes on. If you go over to
17 [REDACTED], or some other neighborhood,
18 you're going to find people walking around in
19 a Celtics outfit, or a Rhino outfit. Because
20 that's what you do in that neighborhood.

21 Just like if you walk in this courtroom,
22 you're going to find lawyers dressed in
23 suits. That's what we do. And we all look
24 pretty much alike. I've got on this suit
25 that from a distance that sort of looks

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1 bluish-gray. The solicitor has got on a suit
2 that looks very similar to mine, bluish-gray.
3 Had on a gray suit yesterday. There are gray
4 suit all over this courthouse. There are
5 blue suit all over this courthouse. That's
6 what we wear.

7 If you want to walk into my house, you'll
8 find a blue suit. Does that mean that a guy
9 wearing a blue suit who walked in and robbed
10 the store, and I happen to have a blue suit
11 in my closet, does that mean I'm the guy?
12 Does it mean that because I have a gray
13 beard, that I have to be that guy? There are
14 a lot of people out here that have grey
15 beards.

16 I could go on and on about we all similar
17 looks, we all wear similar clothes. So when
18 you look at that, just remember that it is --
19 in that particular neighborhood, that
20 particular culture have those particular
21 clothes.

22 But there was no testimony about any
23 other houses, knocking on doors saying, 'Do
24 you have a green outfit here?'

25 Now, there was a comment a little while

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1 ago about that this isn't a 1939 movie. It
2 is not. This is not a 1913 production. But,
3 you know, I thought about that movie. You're
4 probably wondering, 'Well, how did young Abe
5 Lincoln manage to have his client found not
6 guilty when there was all this eyewitness
7 testimony?' What happened was that the real
8 person who really did the crime came to the
9 courtroom. 'Come on in!' Nobody came in.
10 Everybody looked to see who was coming in.
11 That, ladies and gentlemen, is reasonable
12 doubt.

13 If you, for a split second wonder 'was
14 there somebody else', 'could somebody else
15 have done this', that is reasonable doubt.

16 Go back in your jury room and if you have
17 any reasonable doubt, you have the obligation
18 to find my client not guilty.

19 In closing, ladies and gentlemen, as I
20 said before, I am not the greatest
21 communicator. And I'm passionate about
22 things. Sometimes I say stuff that doesn't
23 come out right. If I've said something this
24 morning that offended you, please don't hold
25 it against my client. Hold it against me.

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1 But think about everything that I said.
2 If you think that there is a possibility that
3 my client is not the person who committed
4 this crime, you have the responsibility to
5 find him not guilty. That's reasonable
6 doubt. Thank you so much.

7 THE COURT: Ladies and gentlemen of the
8 jury, it now becomes my responsibility to
9 instruct you on the law that applies to this
10 particular case.

11 I've been a lawyer and a judge for a few
12 years now. When I first started out in '93,
13 this is the way that it was done. The trial
14 judge would simply sit up here and read to
15 you fifteen or sixteen pages of law -- and
16 you're supposed to take that and go back to
17 the jury room, like a sponge, and simply
18 apply what I said. I always found that a
19 little bit unreasonable, especially since it
20 takes most of us three years to get through
21 law school.

22 So what I'm telling you, ladies and
23 gentlemen of the jury, is that you will have
24 a copy of these instructions in your jury
25 room if you need to refer to them during your

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1 deliberations.

2 Obviously there is no portion of these
3 instructions any more important than any
4 other part of the instructions. You are to
5 consider my instruction as a whole.

6 If at any point in time you have
7 difficult in understanding these instruction
8 or if you have difficulty in understanding
9 what the law is, simply send me a note and I
10 will try to clarify that for you further.

11 At this point in time, though, it's not
12 possible for the Court to answer any sort of
13 factual questions. All of the evidence has
14 been received. So factually if there is
15 anything that you need to know, I can't help
16 you with that. I can help you as far as what
17 the law is.

18 Ladies and gentlemen, I instruct you that
19 the indictments in this case charge Mr.
20 Williams with the offenses of armed robbery
21 and with the possession of a weapon during
22 the commission of a violent crime. I remind
23 you of the fact that Mr. Williams was
24 arrested, charged and indicted in this case
25 is not evidence and cannot be considered by

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1 you as evidence of guilt in this case. It
2 does not create a presumption or inference of
3 guilt. These documents merely are the formal
4 written instructions which contain the
5 charges made against Mr. Williams, by which
6 this case is brought into court.

7 Mr. Williams has pled not guilty to these
8 indictments and that places the burden of
9 proof on the State to prove him guilty.

10 A person charged with a criminal offense
11 in South Carolina is never required to prove
12 himself innocent. I charge you that it is an
13 important rule of law that a defendant in a
14 criminal trial, no matter what the charge may
15 be, will always be presumed to be innocent of
16 the crime for which the indictments were
17 issued unless guilt has been proven by
18 evidence that satisfies you of that guilt
19 beyond a reasonable doubt.

20 This presumption of innocence does not
21 end when you begin your deliberations but
22 accompanies the defendant throughout the
23 trial until you've reached a verdict of guilt
24 based on evidence satisfying you of his guilt
25 beyond a reasonable doubt.

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1 This presumption of innocence, ladies and
2 gentlemen, is like a robe of righteousness
3 placed about the shoulder of the defendant.
4 This robe remains with him until it has been
5 stripped from him by evidence satisfying you
6 of his guilt beyond a reasonable doubt.

7 Now, ladies and gentlemen, a presumption
8 of innocence is not a mere legal theory, it
9 is not just a legal phrase but is a
10 substantial right to which every defendant is
11 entitled until you, the jury, are satisfied
12 from the evidence of the defendant's guilt
13 beyond a reasonable doubt.

14 What is a reasonable doubt in the law?
15 A reasonable doubt is that doubt which would
16 make a honest, conscientious juror searching
17 for the truth in a case to hesitate to act.

18 The State has the burden of proving a
19 defendant guilty beyond a reasonable doubt.

20 Some of you that may have served as
21 jurors in a civil cases where you were told
22 that it was only necessary to prove that a
23 fact was more likely true than not true, such
24 as by the greater weight or the preponderance
25 of the evidence. In criminal cases, the

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1 evidence must be more powerful than that. It
2 must be proof beyond a reasonable doubt.

3 Proof beyond a reasonable doubt is proof
4 that leaves you firmly convinced of a
5 defendant's guilt.

6 Now, there are very few things in this
7 world that we know with absolutely certainty.
8 In criminal cases, the law does not require
9 proof that overcomes every possible doubt.

10 If based on your consideration of the
11 evidence you are firmly convinced that the
12 defendant is guilty of the crime(s) charged,
13 you must find him guilty.

14 If, on the other hand, you think that
15 there is a real possibility that the
16 defendant is not guilty, you must give him
17 the benefit of the doubt and find him not
18 guilty.

19 Ladies and gentlemen, I reminded you that
20 during this trial that you and I have certain
21 duties to perform. As the trial judge, it
22 has been my responsibility to preside over
23 the trial of this case. I also have the
24 responsibility to rule on the admissibility
25 of evidence offered during the trial.

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1 You are to consider only the competent
2 evidence before you, so any testimony that
3 was ordered stricken from the record, you
4 must disregard that testimony. You may
5 consider only the testimony that has been
6 presented from the witness stand, as well as
7 the exhibits that have been made a part of
8 the record in this case.

9 I instruct you that the remarks and
10 questions of counsel are not evidence.
11 Similarly, statements by this Court to the
12 attorneys when ruling on or arguing any
13 evidentiary matter do not constitute evidence
14 in this case and cannot be considered by you
15 in your deliberations.

16 I have the additional duty to charge you
17 with the law applicable in this case. As the
18 presiding judge, I'm the sole judge of the
19 law in this case. It is your duty to accept
20 and apply the law as I now state it to you.
21 If you have any idea as to what the law is or
22 what the law ought to be that doesn't agree
23 with what I now tell you that the law is, you
24 must abandon that idea because you're sworn
25 to accept the law and apply it exactly as I

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1 state it to you now.

2 In every case tried in this courtroom
3 before a jury, the jury becomes the sole and
4 exclusive judge of the facts of the case. A
5 trial judge cannot intimidate, state, comment
6 or make any statement to a trial jury about
7 the facts since you, the jury, are the sole
8 judge of the facts in this case.

9 You are not to infer from anything that
10 I've said during the progress of this trial,
11 in ruling on the admissibility of evidence or
12 otherwise, or anything that I say now during
13 the course of these instructions to you, that
14 I have any opinion about the facts in this
15 case. Ladies and gentlemen, the law does not
16 permit me to have an opinion about the facts
17 of this case, because this is a matter solely
18 for you, as the jury, to determine.

19 As jurors, it is your duty to determine
20 the effect, the value, the weight and truth
21 of the evidence presented during the trial.

22 Ladies and gentlemen, there are two types
23 of evidence which are generally presented
24 during a trial: direct evidence and
25 circumstantial evidence.

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1 Direct evidence is the testimony of a
2 person who claims to have actual knowledge of
3 facts, such as an eyewitness. It is evidence
4 which immediately establishes the main fact
5 to be proven.

6 Circumstantial evidence is proof of a
7 chain of facts and circumstances indicating
8 the existence of a fact. It is evidence
9 which immediately establishes collateral
10 facts from which a main fact can be inferred.
11 Circumstantial evidence is based on inference
12 and not on personal knowledge or observation.

13 Now, the law makes absolutely no
14 distinction between the weight and the value
15 given either direct or circumstantial
16 evidence. Nor is a greater degree of
17 certainty required of circumstantial evidence
18 than direct evidence. You should weigh all
19 the evidence in this case.

20 After weighing all the evidence, if you
21 are not convinced of the guilt of the
22 defendant beyond a reasonable doubt, you must
23 find the defendant not guilty.

24 Necessarily, ladies and gentlemen, you
25 must determine the credibility of witnesses

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1 who have testified. Credibility simply means
2 the believability. It is your duty as jurors
3 to analyze and evaluate the evidence and
4 determine which evidence convinces you of its
5 truth.

6 In determining the believable of
7 witnesses who have testified in this case,
8 you may believe one witness over several
9 witnesses or several witnesses over one
10 witness.

11 You may believe part of a witness'
12 testimony and reject the remaining part of
13 the testimony of that same witness.

14 You may believe the testimony of a
15 witness in its entirety or reject the
16 testimony of a witness in its entirety.

17 You may consider whether the witness has
18 exhibited to you any interest, bias,
19 prejudice or other motive in this case.

20 You may also consider the way that a
21 witness acts on the witness stand.

22 Now, ladies and gentlemen, I instruct you
23 and emphasize the fact that the defendant did
24 not testify is not a fact that is to be
25 considered by you in any way during your

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1 deliberations and in your consideration of
2 the guilt or innocence of the defendant. It
3 must not be considered by you in any manner
4 whatsoever.

5 The defendant has the Constitutional
6 right to remain silent and the assertion of
7 this right must not be considered by you in
8 your jury deliberations. I repeat, under
9 your oath you're to draw no conclusions
10 whatsoever from the fact that the defendant
11 in this case did not testify. The fact that
12 this defendant did not testify should not
13 even be discussed in the jury room.

14 The burden of proof, as I have stated to
15 you, is on the State. The defendant is not
16 required to prove his innocence. The burden
17 remains on the State to prove guilt beyond a
18 reasonable doubt.

19 Ladies and gentlemen, an issues in this
20 case is the identification of the defendant
21 as being the person who committed the crimes
22 charged. The State has the burden of proving
23 identity beyond a reasonable doubt. You must
24 be satisfied beyond a reasonable doubt of the
25 accuracy of the identification of the

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1 defendant before you can convict the
2 defendant.

3 Identification testimony is an expression
4 of a witness and you must determine the
5 accuracy of the identification of the
6 defendant. You must consider the believable
7 of each identification witness in the same
8 way as any other witness. You may consider
9 whether the witness has had an adequate
10 opportunity to observed the offender at the
11 time of the offense. This would be affected
12 by how long or how short a time was available
13 or the witness to observe the incident, how
14 far away or how close the witness was, what
15 were the lighting conditions, whether or not
16 the witness has a chance to speak, or to know
17 the person in the past.

18 Once again, I instruct you that the
19 burden of proof is on the State. The State
20 must prove every element of the crime
21 charged. This specifically includes the
22 burden of proving beyond a reasonable doubt
23 the identification of the defendant as the
24 person who committed the crimes.

25 If after examining the testimony, you

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1 have a reasonable doubt as to the accuracy of
2 the identification, you must find the
3 defendant not guilty.

4 Ladies and gentlemen, Mr. Williams is
5 charged with armed robbery. In order to
6 prove this offense, the State must first
7 prove beyond a reasonable doubt that the
8 defendant took personal property from the
9 person or presence of another.

10 Property is in the presence of another
11 when it is within the person's reach,
12 inspection or observation or control such
13 that the person could, if not overcome with
14 violence or prevented by fear, keep
15 possession of that property.

16 The State must also prove beyond a
17 reasonable doubt that the defendant carried
18 the property away, intending to permanently
19 deprive the owner of the property, to keep
20 the property for the defendant's own use.
21 The slightest removal of the property or the
22 complete possession of the property, even for
23 an instant by the defendant is sufficient to
24 show the taking and carrying away of the
25 property.

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1 The taking and carrying away of the
2 property must be done by putting the owner of
3 the property in fear of violence.

4 Finally, the State must prove beyond a
5 reasonable doubt a reasonable doubt that the
6 defendant was armed with a deadly weapon
7 during the robbery. I instruct you that a
8 deadly weapon is any article, instrument or
9 substance which is likely to cause death or
10 great bodily harm. Whether an instrument has
11 been used as a deadly weapon depends upon the
12 facts and circumstances of each case.

13 The following are examples of instruments
14 which may be deadly weapons: pistol,
15 shotgun, rifle, dirk, dagger, knife, sling-
16 shot, metal knuckles, razor, gasoline,
17 fireball, Molotov cocktail, lighter fluid.

18 Ladies and gentlemen, the defendant is
19 also charged with a weapon in the commission
20 of, or the attempt to commit, a violent
21 crime. The State must prove beyond a
22 reasonable doubt that the defendant was armed
23 or was in possession of a firearm or visibly
24 displayed what appeared to be a firearm
25 during the commission of a violent crime.

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1 A "firearm" means any machine gun,
2 automatic rifle, revolver, pistol or any
3 weapon which is designed to dispel a
4 projectile. In order to find the defendant
5 guilty of possession of a weapon during the
6 commission of a violent crime, you must first
7 find the defendant guilty of either
8 committing a violent crime or attempting to
9 commit a violent crime.

10 I instruct you that under the laws of
11 this State that armed robbery is classified
12 as a violent crime.

13 The State must prove that the defendant
14 further advanced or helped in the commission
15 of a violent crime.

16 Ladies and gentlemen, there are two
17 possible verdicts which you can find in this
18 case:

19 Guilty or not guilty of armed
20 robbery; and

21 Guilty or not guilty of the
22 possession of a weapon during the commission
23 of a violent crime.

24 There is no significance whatsoever in
25 the order in which I state these possible

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1 verdicts. It is simply that one must be
2 stated first.

3 Madame Forelady, ladies and gentlemen of
4 the jury, I have prepared this verdict form
5 to assist you and guide you in your
6 deliberations. It is really self-explanatory
7 but I'll explain it to you briefly right now.

8 The first one here, it's got the number
9 one next to it. It basically makes this
10 statement, "*We, the jury, in the above-*
11 *captioned case on the charge of armed robbery*
12 *unanimously find the Defendant, Claudius*
13 *Adrian Williams,...*" -- then it has two
14 options: Guilty or Not Guilty. Okay?

15 If based on your review of the evidence,
16 you find that the State has failed to meet
17 its burden of proof beyond a reasonable doubt
18 and all twelve of you agree, then you would
19 initial Not Guilty.

20 If, on the other hand, you find that the
21 State has met its burden of proof in proving
22 that the defendant guilty of armed robbery
23 beyond a reasonable doubt, and all twelve of
24 you agree, you would initial here, Guilty.
25 Okay?

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1 The exact same scenario for the second
2 question. However, if you find the defendant
3 not guilty on the first question, the armed
4 robbery question, you wouldn't get to the
5 second question. Okay?

6 And this is all written out and explained
7 to you. If you have any questions about
8 this, just let me know. I am sure that you
9 can understand what I am asking.

10 Ladies and gentlemen, again, your verdict
11 has to be unanimous. All twelve of you have
12 to agree. We do not have majority verdicts
13 in this state. We've never had majority
14 verdicts in this state.

15 Madame Forelady, if the jury agrees on a
16 verdict, please write the verdict on the
17 form; signed your name; knock on the door,
18 let the bailiff know that you all have
19 finished your deliberations; and we will
20 receive you back here in the courtroom.

21 Ladies and gentlemen, I remind you that
22 you have no friends to reward in this case
23 and that you have no enemies to punish.

24 Your verdict must be based on the law as
25 I have instructed you. Your verdict cannot

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1 be the result of passion, caprice, prejudice
2 or based upon any consideration which is not
3 in the record of this case.

4 Ladies and gentlemen, I ask that you now
5 return to your jury room -- but before I do
6 that, let me mention to you that the firearm
7 is in evidence, as is the ammunition. We've
8 had the firearm and each day we've checked to
9 make sure that it is unloaded. You will
10 notice that there are zip-ties that are
11 keeping the firearm from being able to be
12 tied. Leave the zip-tie on the firearm when
13 it goes back there with you to the jury room.
14 The ammunition is going to stay out here.
15 Under the rules that we operate under, the
16 gun and the ammo is never in the same room at
17 the same time. So if you need to look at the
18 ammunition, send out the gun and we will give
19 you the ammunition and then we can switch
20 back out if you need to see the gun.

21 I assure you that the firearm has been
22 rendered safe. It is not capable of being
23 fire. So you do not need to be concerned --
24 do not concern yourself with that. Just
25 leave the zip-tie on there and it will be

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Closing Argument by Defense Counsel

1 fine.

2 Additionally, do they have the ability to
3 watch the video back there?

4 SOLICITOR: We can set it up.

5 THE COURT: If you need to watch the
6 video again, let me know and we can make
7 arrangements for you to view it in the jury
8 room or we will bring you back out here.
9 Okay?

10 Ladies and gentlemen, I ask that you
11 return to your jury room but do not start
12 your deliberations yet. Your cue to begin
13 deliberations will be receipt of the evidence
14 that has been introduced and a copy of these
15 instructions to you.

16 When you receive the evidence back there,
17 Madame Forelady, that is when you can begin
18 instructions (sic). Okay?

19 If you will, adjourn.

20 (JURY OUT @ 11:51 A.M.)

21 THE COURT: Any exceptions or additions
22 from the State?

23 SOLICITOR: None from the State.

24 THE COURT: Any exceptions from the
25 defense?

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Closing Argument by Defense Counsel

1 MR. WELBORN: None, Your Honor, from the
2 defense.

3 THE COURT: If y'all will, make sure
4 about the evidence that is going back. Make
5 sure, Solicitor, that you keep the bullets.

6 SOLICITOR: I am going to give them to
7 the officer.

8 COURT REPORTER: They are in evidence.

9 SOLICITOR: Then I will give it to the
10 clerk -- to the court reporter.

11 THE COURT: Make sure that they stay
12 here.

13 COURT REPORTER: Absolutely.

14 THE COURT: Check the gun again, make
15 sure that it is -- make sure that it is fine.

16 SOLICITOR: There are two items that
17 we did not put in, that we did not need. I
18 am going to give these to the officer.

19 THE COURT: Okay.

20 (COUNSEL APPROVAL OF EXHIBITS)

21 (JURY IN DELIBERATION @ 11:54 A.M.)

22 THE COURT: We will be at-ease until we
23 hear from the jury. Ask the Alternate to
24 stop out.

25 (ALTERNATE JUROR DISMISSED)

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1 (NOTIFIED OF JURY NOTE @ 12:08 P.M.)

2 (SO ENTERED AS COURT'S EXHIBIT 6)

3 THE COURT: All right, we have a
4 question from the jury.

5 (DEFENDANT PRESENT)

6 THE COURT: We have a request by the
7 jury to review the video. Bring in the jury.
8 Let the record reflect that Mr. Williams is
9 present.

10 (JURY IN @ 12:26 P.M.)

11 THE COURT: Madame Forelady, I
12 understand that the jury would like to view
13 the video again.

14 FORELADY: Yes, sir, we felt like it
15 was too big and we wanted to see it on a
16 smaller screen.

17 THE COURT: Okay. Can we find a laptop
18 to send back, perhaps?

19 MR. WELBORN: I have an objection -- I
20 mean, we could send this one back itself.

21 THE COURT: Ladies and gentlemen, what
22 we are going to do is that we will give you a
23 laptop that you can take back there.

24 I am sure that there is some other stuff
25 on the laptop. Just play the DVD, don't be

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Closing Argument by Defense Counsel

1 looking into the other files on the laptop.
2 We will send one of the attorney's laptops
3 back there for you.

4 They tell me that the second disk is the
5 one that we're actually at for trial here
6 today. The first one is the one from two
7 days prior. Okay? So all you have to do is
8 click on it and it should play for you guys.
9 We'll send that back that.

10 I realize that it's also getting to be
11 around lunchtime. I spoke to the clerk. If
12 you want -- if you feel like it is going to
13 be a while longer, we can order lunch for you
14 from Chick-Fil-A. That's where they
15 typically order it from. It usually takes
16 about thirty to forty minutes or so.

17 When you go back with the laptop, y'all
18 can take a quick survey or vote and decide
19 whether you want us to bring some lunch in
20 for you. We'd be happy to do that. That way
21 you can keep deliberating over lunch if you
22 choose to do that, if you think that it is
23 going to take some more time.

24 SOLICITOR: Your Honor, the disk
25 entitled two is the actual crime scene and

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Verdict

1 the one labeled one is the one prior.

2 THE COURT: Okay. Very good. If you
3 have any trouble booting those up, let us
4 know and we will make it happen.

5 (JURY OUT @ 12:29 P.M.)

6 (JURY REQUESTED LUNCH @ 12:32 P.M.)

7 (SO ENTERED AS COURT'S EXHIBIT 7)

8 (LAPTOP DELIVERED TO JURY ROOM)

9 (NOTIFIED OF VERDICT @ 1:43 P.M.)

10 (SO ENTERED AS COURT'S EXHIBIT 8)

11 (DEFENDANT PRESENT)

12 THE COURT: We will go back on the
13 record. The record should reflect that Mr.
14 Williams is present with counsel. I'm been
15 informed that the jury has reached a verdict.
16 They've sent a note out to that effect.

17 Anything before we receive the verdict,
18 from the State?

19 SOLICITOR: No, Your Honor.

20 THE COURT: From the Defense?

21 MR. WELBORN: No, sir, Your Honor.

22 THE COURT: While the bailiff is
23 collecting the jury, I want to compliment
24 counsel and all concerned for the manner in
25 which this trial has been conducted.

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Jury Trial of January 27th & 28th, 2014

Verdict

1 Obviously we need to be respectful of
2 whatever this verdict is. I have no idea
3 what the verdict is.

4 But, as always, if you think that you'll
5 have any problem maintaining your composure,
6 I ask that you leave the courtroom because I
7 don't want this jury to leave like this
8 verdict is being disrespected in any way,
9 shape or form. So if you can't control your
10 emotions, feel free to absent yourself.

11 (JURY IN @ 1:52 P.M.)

12 THE COURT: Madame Forelady, I under-
13 stand that the jury has reached a verdict.

14 FORELADY: Yes, sir.

15 THE COURT: Do all twelve of you agree
16 on the verdict?

17 FORELADY: Yes, sir.

18 THE COURT: If you would, please pass
19 the verdict form to the bailiff.

20 FORELADY: (Complies)

21 BAILIFF: (Tenders verdict form to
22 Judge).

23 THE COURT: (Upon review), Madame
24 Clerk, you may publish the verdict.

25 CLERK: State of South Carolina, County

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Jury Trial of January 27th & 28th, 2014
Verdict

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1 of Anderson, Court of General Session, Case
2 Number 2013-GS-04-01930 and 1931, State of
3 South Carolina versus Claudius Adrian
4 Williams, (reading): "We, the jury in the
5 above-captioned case, by unanimous consent on
6 the charge of armed robbery find the
7 Defendant, Claudius Adrian Williams, Guilty."

8 "We, the jury in the above-captioned
9 case, on the charge of possession of a weapon
10 during the commission of a violent crime,
11 unanimously find the Defendant, Claudius
12 Adrian Williams, Guilty."

13 Signed by the forelady, Regina T. Durham.
14 Signed January 28, 2014, Anderson, South
15 Carolina.

16 THE COURT: Ladies and gentlemen of the
17 jury, if this is your verdict, would you
18 please indicate by raising your right hand.
19 (Unanimous response from Jurors).

20 Let the record reflect that all twelve
21 jurors raised their right hand.

22 Anything before the jury is discharged?

23 SOLICITOR: No, Your Honor.

24 THE COURT: From the defense?

25 MR. WELBORN: After the jury is

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Defense Motion for New Trial

1 discharged, Your Honor.

2 THE COURT: Very good. Ladies and
3 gentlemen, this will conclude your service
4 this week as the trial jury. As jurors, I
5 want to thank you for your efforts and your
6 attention in this particular case.

7 The only thing that remains in this case
8 is the sentencing and I will do that in a few
9 moments. If you want to stick around for
10 sentencing, that's perfectly fine. I am just
11 going to ask that you go back to the jury
12 room, collect any belongings that you have
13 back there and then come around. There will
14 be some rows here where you need to sit, and
15 that's just for security purposes.

16 If you don't want to stay, that's
17 perfectly fine. It is starting to snow
18 outside.

19 I will tell you that you will get a note
20 from me, a brief note thank you for your
21 service these last two days. The purpose of
22 the note is also for the purpose of
23 soliciting your feedback. Anything that you
24 liked or didn't like about jury service, I
25 will be happy to hear from you. We receive

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Defense Motion for New Trial

1 comments from jurors and it helps to improve
2 the administration of justice in this case.
3 So if there is anything that you feel you
4 need to tell me, please feel free to do so.

5 With that, you are discharged. You don't
6 have to worry about calling back this week.
7 We have concluded all jury trials.

8 Again, thank you for your service.

9 If you want to stick around, the bailiffs
10 will show you how to get to the front of the
11 courtroom.

12 (JURY DISMISSED)

13 THE COURT: Mr. Welborn, you had a
14 Motion?

15 MR. WELBORN: Your Honor, we would ask
16 for a new trial. We would allege that there
17 was insufficient evidence to convict my
18 client of this. There was an incomplete
19 investigation in this case, and we move for a
20 new trial.

21 THE COURT: You also renew all previous
22 Motions, correct?

23 MR. WELBORN: I do move to renew all
24 Motions. Thank you, Judge.

25 THE COURT: Very good. Your Motion for

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Jury Trial of January 27th & 28th, 2014
Defense Motion for New Trial

1 a new trial is denied. I believe that there
2 was substantial evidence warranting sending
3 this to the jury. So your Motion for a new
4 trial is denied.

5 My ruling(s) on all previous Motions and
6 objections have been noted, and my ruling on
7 all previous Motions stand as made.

8 Anything further?

9 MR. WELBORN: Not at this time.

10 THE COURT: Solicitor?

11 SOLICITOR: Nothing, Your Honor.

12 THE COURT: Do you have prepared
13 sentencing sheets, Solicitor?

14 SOLICITOR: We do, (tendering).

15 THE COURT: We will be at-ease for five
16 or ten minutes, so that any jurors that wish
17 to come in that they may do so.

18 (BRIEF RECESS)

19 (DEFENDANT PRESENT)

20 THE COURT: All right. Solicitor, I
21 know for the purposes of the proceedings,
22 that the State has noticed life without the
23 possibility of parole against Mr. Williams,
24 pursuant to Section 17-25-45.

25 Just so that the record is clear, please

State of South Carolina v. Claudius A. Williams
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Sentence

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1 refresh the Court as to Mr. Williams'
2 prior convictions.

3 SOLICITOR: Yes, Your Honor. Your
4 Honor, his prior record, including minor
5 offenses is:

6 '03, disturbing schools,
7 '03, receiving stolen goods
8 '04, he was sentenced on 03-GS-04-
9 2841 and 42 to two counts of armed robbery.
10 The sentence was ten (10) years.

11 He got out of prison in 2012 and
12 shortly thereafter committed this crime in
13 April.

14 Furthermore on Saturday he was
15 charged with assaulting two corrections
16 officers at the detention center, hurting one
17 pretty bad.

18 That is current record, Your Honor.

19 Because of the previous robberies, we
20 have sought life without the possibility of
21 parole.

22 THE COURT: Mr. Welborn, certainly I'd
23 be happy to hear anything that you want to
24 present or anything that your client might
25 want to say.

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Jury Trial of January 27th & 28th, 2014

Sentence

1 MR. WELBORN: Very good. Your Honor, my
2 client has nothing to say.

3 The sentence here -- it's a very tragic
4 situation.

5 THE COURT: In light of the conviction
6 on the principal offense, that is the armed
7 robbery, 16-23-490(a), -- that is also a
8 strike, Solicitor? Do you agree with that?

9 SOLICITOR: Yes, sir.

10 THE COURT: Mr. Williams, I agree with
11 Mr. Welborn that this is a tragic situation,
12 certainly for you and for everyone concerned.

13 It is unfortunate that the Court has to
14 impose this kind of sentence at any time.
15 But in all candor, Mr. Williams, sir, you
16 brought it on yourself.

17 Therefore, on the charge of armed
18 robbery, Indictment 13-GS-04-1930, the
19 sentence of this Court is that you shall be
20 committed to the South Carolina Department of
21 Corrections for life under Section 17-25-45
22 without the possibility of parole.

23 I wish you luck, Mr. Williams.

24 That concludes this hearing. We are off
25 the record.

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Sentence

1 MR. WELBORN: Your Honor, I will need a
2 copy of that, as I was appointed.

3 THE COURT: Mr. Williams, you have the
4 right to appeal this sentence within ten days
5 and you have one year in which to file a post
6 conviction relief application, should you so
7 desire.

8 MR. WELBORN: I've advised him of that,
9 Your Honor.

10 THE COURT: Very well, I just wanted to
11 make sure that was on the record. Thank you.

12 (DEFENDANT TAKEN INTO CUSTODY)

13 (TRIAL CONCLUDED)

14

15

16

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22

23

24

State of South Carolina v. Claudius A. Williams
Case No. 13-GS-04-1930 et al
Jury Trial of January 27th & 28th, 2014
Certificate of Court Reporter

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CERTIFICATE OF COURT REPORTER

I, the undersigned Deborah Garrison,
Circuit Court Reporter for the 9th Judicial
Circuit, hereby certify that the foregoing is
a complete and accurate transcript of the h
jury trial held in the within action heard on
January 27th and 28th, 2014, before The
Honorable Cordell Maddox (jury qualification
and selection) and The Honorable Frank Addy,
as prepared from the audio notes of Vivian
Cross, assigned Court Reporter.

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

Charleston, South Carolina

May 10, 2014

 COPY

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Anderson County

Frank R. Addy, Circuit Court Judge

RECEIVED

JAN 07 2015

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

CLAUDIUS ADRIAN WILLIAMS,

APPELLANT

APPELLATE CASE NO. 2014-000227
_____ANDERS BRIEF OF APPELLANT

TIFFANY L. BUTLER
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
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(803) 734-1343

ATTORNEY FOR APPELLANT

JAN -7 2015

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STATEMENT OF ISSUE ON APPEAL

Whether the trial judge erred by failing to exclude Appellant's verbal statement admitting to owning the gun that police found inside the apartment where Appellant was arrested where Appellant made the admission after he was placed under arrest but before he was advised of his rights under Miranda v. Arizona, 384 U.S. 426 (1966)?

STATEMENT OF THE CASE

On September 13, 2013, an Anderson County Grand Jury indicted Appellant for armed robbery and possession of a weapon during a violent crime. (R 282 – R. 285 Indictment). On October 29, 2013, the Tenth Circuit Solicitor's Office served Appellant with a Notice of Intent to Seek a Sentence of Life without Parole. (R. 281 Notice of Intent). The matter proceeded to a jury trial before the Honorable Frank Addy. R. 7, lines 13 – 17.

On January 28, 2014, after a two-day jury trial, Appellant was found guilty of both offenses. R. 273. Judge Addy sentenced Appellant to life imprisonment without the possibility of parole pursuant to S.C. Code Ann. § 17-25-45. R. 276. Hugh Welborn represented Appellant and Rame Campbell represented the State. R. 10, line 17 – R. 11, line 9.

Appellant filed a notice of appeal on February 3, 2014. This brief follows.

ARGUMENT

The trial judge erred by failing to exclude Appellant's verbal statement admitting to owning the gun that police found inside the apartment where Appellant was arrested where Appellant made the admission after he was placed under arrest but before he was advised of his rights under *Miranda v. Arizona*, 384 U.S. 426 (1966).

Relevant Facts at Trial

Meseret Kifla testified that on the night of Wednesday, April 24, 2013, she was working at her store, "Lil General," on South Murray Avenue in Anderson County. R. 99 – 100. About 9:00 pm, a man wearing tinted glasses walked into the store with a plastic bag on his hand. R. 106, lines 1 – 8. After entering the store, he dropped the bag and walked straight to the cash register where Kifla was standing. R. 106, lines 9 – 14.

As he approached the counter, he demanded that she open the cash register. He pointed a gun at Kifla and asked her for the "bag money." R. 106, lines 21 – 25. She told him that she did not have any bag money. R. 107, lines 3 – 4. The man took the cash out of the register, put it in his pocket, and walked out of the store. R. 107, lines 5 – 7.

Kifla pushed her panic button and the police responded to the scene. R. 107. She gave police a copy of the robbery recorded by the store's video surveillance system. R. 109, lines 16 – 25. One of her employees recognized the robber as a customer who was in the store Monday before the robbery. R. 114, lines 10 – 14. Kifla reviewed the store video from that Monday and claimed to recognize the man as the one who was in the store on the night of the robbery. R. 115, lines 16 – 25. At that point in the investigation, the police did not have a name for the suspect. R. 162, lines 18 – 20.

Law enforcement printed a still shot from the Monday store video and created a flyer. R. 122, lines 14 – 15. Kifla “showed that flyer to everyone.” R. 122, line 15. One customer claimed to recognize the man in the picture as “Claudius Williams.” R. 158, lines 7 – 10. After speaking with this customer, Investigator Matthew Ritter ordered a six-person photo line-up and showed it to Kifla. R. 124. Kifla picked Appellant out of the line-up and identified him as the man who robbed her store. R. 124.

On cross-examination, Kifla admitted to talking to the police several times about the case and being told that Appellant had a twin brother. R. 140 – 141. She agreed with defense counsel that she had never seen the twin brother and, therefore, did not know what he looked like. R. 141, lines 9 – 13.

Investigator Ritter, the lead investigator in the case, was the State’s last witness. R. 154. Ritter testified that after getting Appellant’s name from the customer and having Kifla identify him in the photo line-up, he obtained arrest warrants for Appellant. R. 170, lines 2 – 24. Ritter, along with other officers, went to Appellant’s home. R. 171, lines 1 – 2. As they approached the front door, they discovered it was open and Appellant was sitting on a couch inside. R. 171, lines 7 – 14. Appellant walked outside upon request and officers placed him under arrest. R. 171, lines 15 – 23.

While making “a sweep” of the house, officers noticed a gun sticking out from underneath the couch where Appellant had been sitting. R. 172, lines 17 – 21. Ritter asked Appellant whether the gun was his, but Appellant denied owning the gun. R. 172, lines 22 – 23. According to Ritter, while Appellant was sitting in the police car waiting to be taken to the police station, “he said that it was his gun.” R. 176, lines 2 – 5.

Motion to Exclude Appellant's Verbal Statement

Prior to trial and pursuant to Jackson v. Denno, 378 U.S. 368 (1964), defense counsel moved to exclude Appellant's statement to Investigator Ritter admitting to owning the gun. R. 46, lines 9 – 10. Counsel argued that Appellant made no "spontaneous or excited utterance." R. 56, lines 3 – 12. He argued that Appellant should have been advised of his Miranda rights before he was allowed to start making statements. R. 56, lines 3 – 12.

The solicitor argued that the statement Appellant made regarding the gun was not a direct response to Ritter. Rather, Appellant voluntarily made the statement. R. 57, lines 4 – 10.

The trial judge agreed with the solicitor and ruled that Miranda "was not required to be given" because the officer intended to question Appellant at the police department and no questioning took place in the car concerning the gun. R. 68, lines 11 – 14. The judge denied defense counsel's motion to exclude Appellant's admission. R. 68, lines 3 – 17.

Discussion

The trial judge erred by failing to exclude Appellant's statement admitting to owning the gun that police found inside the apartment where Appellant was arrested. Appellant made the admission after he was placed under arrest but before officers advised him of his rights under Miranda v. Arizona, 384 U.S. 426 (1966).

Before a statement or admission can be introduced into evidence, the State must prove by a preponderance of the evidence that the statement was made freely and

voluntarily, and taken in compliance with Miranda v. Arizona, 384 U.S. 426 (1966). State v. Miller, 375 S.C. 370, 379, 652 S.E.2d 444, 449 (Ct. App. 2007).

In Miranda, the United States Supreme Court held that the prosecution may not use statements made by a defendant during a custodial interrogation unless it demonstrates that law enforcement used “procedural safeguards effective to secure privilege against self-incrimination.” Miranda, 384 U.S. at 444; State v. Saltz, 346 S.C. 114, 135-36, 551 S.E.2d 240, 252 (2001); State v. Lynch, 375 S.C. 628, 633, 654 S.E.2d 292, 295 (Ct. App. 2007). A custodial interrogation is “questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way.” Miranda, 384 U.S. at 444. See also Rhode Island v. Innis, 446 U.S. 291, 301(1980) (An interrogation “refers to any words or action on the part of the police, other than those normally attendant on arrest and custody, that the police should know are reasonably likely to elicit an incriminating response from the suspect.”).

Prior to any questioning by law enforcement, a “person must be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney.” Id. Only if a suspect has been advised of and voluntarily waived these rights, will any statements made to law enforcement be admissible. Saltz, 346 S.C. at 135-36, 551 S.E.2d at 252.

In this case, Appellant should have been advised of his rights under Miranda. He had already been arrested and handcuffed when police found the gun underneath the couch. Investigator Ritter admitted on the witness stand that he asked Appellant if it was his gun. Even if Appellant originally denied owning the gun but later admitted to owning

it in the car, he was in police custody and had already been questioned. Ritter testified that he was not going to interrogate Appellant until he took him to the police station, but Appellant was not immediately transported to the police station.

At the time officers discovered the gun and decided to question Appellant about it, they should have advised Appellant of his right to remain silent, that whatever statements he made could be used against him, and that he has the right to have an attorney present before answering any questions by police. Because Appellant was in police custody and the police sought to elicit incriminating information from him about the gun, the trial judge erred in ruling that the procedural safeguards of Miranda did not apply and admitting Appellant's verbal admission into evidence.

CONCLUSION

For the foregoing reasons, Appellant Claudius Williams respectfully requests this Court to reverse his conviction and sentence and remand to the lower court for a new trial.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'T. Butler', written over a horizontal line.

Tiffany L. Butler
Appellate Defender

ATTORNEY FOR APPELLANT

This 7th day of January, 2015.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Anderson County
Frank R. Addy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CLAUDIUS ADRIAN WILLIAMS,

APPELLANT

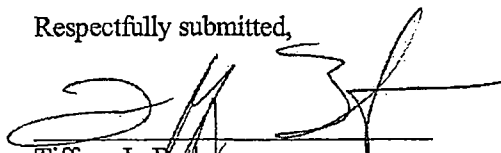
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Claudius Adrian Williams states:

1. She is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge Frank R. Addy, which was held on January 28, 2014, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Claudius Adrian Williams.

Respectfully submitted,


 Tiffany L. Butler
 Appellate Defender

ATTORNEY FOR APPELLANT

This 7th day of January, 2015.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Anderson County

Frank R. Addy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CLAUDIUS ADRIAN WILLIAMS,

APPELLANT

APPELLATE CASE NO. 2014-000227

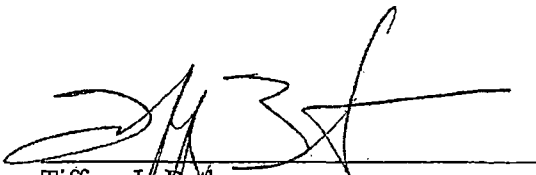
**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) True-billed indictment(s);
- (2) Court's Exhibit #2 - Notice of Intent to Seek Life Without Parole;
- (3) Entire Trial Transcript (January 27 – 28, 2014)

I certify that this designation contains no matter which is irrelevant to this appeal.

January 7th, 2015



Tiffany L. Butler
Appellate Defender

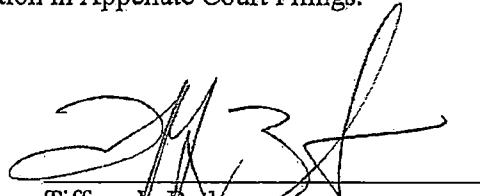
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1343

Attorney for Appellant

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

January 7, 2015



Tiffany L. Butler
Appellate Defender

S.C. Commission on Indigent Defense
Division of Appellate Defense
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, South Carolina 29211-1589

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Anderson County
Frank R. Addy, Circuit Court Judge

THE STATE,

RESPONDENT,

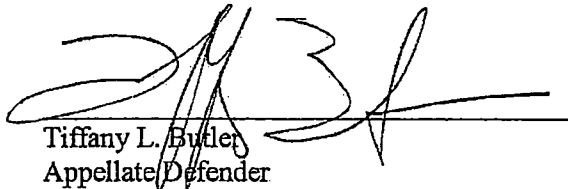
V.

CLAUDIUS ADRIAN WILLIAMS,

APPELLANT

CERTIFICATE OF SERVICE

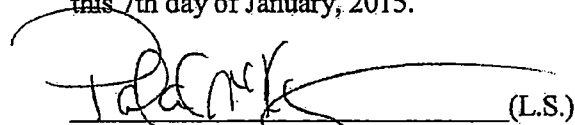
The undersigned attorney hereby certifies that a true copy of the Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon Salley W. Elliott, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Anders Brief of Appellant and Designation of Matter and Record on Appeal have been served on Claudius Adrian Williams, #299040 at McCormick Correctional Institution, 386 Redemption Way, McCormick, SC 29899, this 7th day of January, 2015.



Tiffany L. Butler
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 7th day of January, 2015.



(L.S.)
Notary Public for South Carolina
My Commission Expires: July 24, 2022.

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Claudius Adrian Williams, Appellant.

Appellate Case No. 2014-000227

Appeal From Anderson County
Frank R. Addy, Jr., Circuit Court Judge

Unpublished Opinion No. 2016-UP-064
Submitted December 1, 2015 – Filed February 17, 2016

APPEAL DISMISSED

Appellate Defender Tiffany Lorraine Butler, of
Columbia; and Claudius Adrian Williams, pro se, for
Appellant.

Attorney General Alan McCrory Wilson and Interim
Senior Assistant Deputy Attorney General John
Benjamin Aplin, both of Columbia, for Respondent.

PER CURIAM: Dismissed after consideration of Appellant's pro se brief and review pursuant to *Anders v. California*, 386 U.S. 738 (1967). Counsel's motion to be relieved is granted.

APPEAL DISMISSED.¹

FEW, C.J., and KONDUROS and LOCKEMY, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

FORM FILED-CLERK'S OFFICE
ANDERSON SC

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

Claudio Adrian Williams
Full name and prison number (if any) of Applicant.

v.

State of South Carolina ATTORNEY
GENERAL OFFICE

2016 FEB 25 PM 11:21
IN THE COURT OF COMMON PLEAS

COMMON PLEAS AND
GENERAL SESSIONS

2016-CP-04-00512

APPLICATION FOR

POST-CONVICTION RELIEF ATTACHE

MEMORANDUM OF LAW

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention M^c Cormick Correctional Institution
2. Name and location of Court which imposed sentence
Anderson County Court House 102 S. Main Street Anderson, SC 29624
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) 2013-GS-04-01930 & 2013-GS-04-01931
 - (b) _____
 - (c) _____

A TRUE COPY

Revised 3/2003

FEB 25 2016

Richard M. Kiley
CLERK OF COURT

5. The date upon which sentence was imposed and the terms of the sentence:
- (a) January 28, 2014 Life without parole
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty N/A
- (b) after a plea of not guilty N/A
- (c) after a plea of nolo contendere N/A
7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. The South Carolina Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. APPEAL DISMISSED
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. Filed ~~Feb~~ February 17, 2016
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A
- ii. N/A
- iii. N/A
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) N/A

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Applicant right to effective assistance of counsel and
- (b) Fair trial as guaranteed by the 6th Amendment to the
- (c) U.S. Const. and S.C. law was violated.
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) see attached MEMORANDUM OF LAW
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A
- (c) the disposition thereof:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(d) the date of each such disposition:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

N/A

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. N/A
- ii. N/A
- iii. N/A

(b) the proceedings in which each ground was raised:

- i. N/A
- ii. N/A
- iii. N/A

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented: Failed to File a timely Motion to Suppress Both Arrest Warrant

(a) Counsel Failed to preserve ground For Appellate Review.

- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? N/A
- (b) your trial, if any? yes
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? N/A
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. ~~att~~ Hugh W. Welborn Tiffany Butler
- ii. ~~att~~ P.O. Box 173 P.O. Box 11589
- iii. ~~att~~ Anderson, SC 29622 Columbia, SC 29201
- (b) the proceedings at which each such attorney represented you:
- i. Trial (@ Hugh W. Welborn)
- ii. Direct Appeal (Tiffany Butler)
- iii. _____
19. State clearly the relief you seek in filing this application:
- conviction and sentence be vacated.
20. Are you now under sentence from any other court that you have not challenged?
- NO

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

2016-CP-04-00512

I, Claudius Williams, 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.

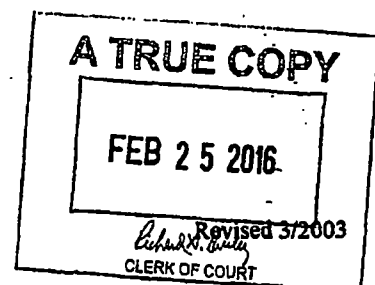
Claudius Williams
Applicant

SWORN or affirmed to and subscribed before me this

23rd day of February, 2016
Michael Canare
Notary Public

My Commission Expires: July 09, 2026

FILED-CLERKS OFFICE
ANDERSON SC
2016 FEB 25 PM 4:21
COMMON PLEAS AND
GENERAL SESSIONS



STATE OF SOUTH CAROLINA

COUNTY OF ANDERSONClaudius A. Williams #299040

Applicant

VS.

STATE OF SOUTH CAROLINA

RESPONDENT

IN THE COURT OF COMMON PLEAS
MEMORANDUM OF LAW/BRIEF

2016-CP-04-00512

FILED-CLERK'S OFFICE
ANDERSON SC
2016 FEB 25 PM 4:21
COMMON PLEAS AND
GENERAL SESSIONSSTATEMENT OF THE CASE

On June 4, 2013 Applicant was arrested for Armed Robbery and Possession of weapon during a violent crime. On September 13, 2013, an Anderson County Grand Jury indicted applicant for Armed Robbery and possession of a weapon during a violent crime (R. 282-R. 285 indictment). On October 29, 2013, the tenth circuit solicitor's office served Applicant with a Notice of Intent to seek a sentence of Life without Parole. (R. 281 Notice of Intent). The matter proceeded to a jury trial before the Honorable Frank Addy, R. 7, lines 13-17. On January 28, 2014, After a two-day jury trial, Applicant was found guilty of both offenses. R. 273. Judge Addy sentenced applicant to life imprisonment without the possibility of Parole pursuant to S.C. Code Ann. § 17-25-45. R. 276. Hugh Welborn represented applicant and Rame Campbell represented the state. R. 10, line 17-R. 11, line 9. Applicant filed a notice of Appeal on February 3, 2014. Applicant appeal was ~~not~~ was denied February 17, 2016. This brief follows.

A TRUE COPY

FEB 25 2016

Richard M. Kiley
CLERK OF COURT

2016-CP-04-00512
Applicant right to effective assistance of Counsel and Fair trial as guaranteed by the 6th Amendment to the U.S. Constitution and S.C. law was Violated by Counsel's Failure to File a timely Pre-trial Motion to suppress Arrest Warrants.

STATEMENT OF FACTS

Investigator Matt Ritter testified at applicant's trial that once he obtain the affidavit of a photo lineup, that was enough Probable Cause to go take to a judge, and that he went and spoke to a judge, at which time he obtained warrants for applicants Arrest. R 17D lines 5-13

STATEMENT OF APPLICABLE LAW

Applicant Arrest Warrants/AFFIDAVIT For Armed Robbery reads as Follows: That on April 24, 2013, in the County of Anderson, one claudius adrian williams did take cash from Little General at 3401 Murray Ave. with intent to deprive while armed with a black semi-automatic handgun, a deadly weapon.

Applicant Warrant For Possession of weapon during violent crime reads as Follows: That on April 24, 2013 in the County of Anderson, one claudius adrian williams did knowingly and willfully possess and display what appeared to be a firearm during the commission of an Armed Robbery, a violent crime, This did occur at 3401 Murray Ave

All Proceedings before magistrates in criminal cases shall be commenced on information under oath, Plainly and Substantially setting forth the offense charged upon which, and only which shall a warrant of Arrest issue. S.C. code Ann § 22-3-710 (1989).

A warrant affidavit that is insufficient in itself to establish Probable cause may be supplemented before a magistrate by sworn oral testimony. St v. Crane 372 SE 2d. 587 (1988)

Investigator Matt Ritter Failed to include in Applicant's Arrest Warrant for Probable Cause the Affidavit of a photo lineup, which he testified at applicant's trial as being his evidence for Probable Cause. There is no mention of any other evidence in applicants Arrest Warrants, Such is a bare-bone Affidavit.

STATEMENT OF APPLICABLE LAW

2015-CP-04-00512

Although sworn oral statements will comply with constitutional requirements that all warrants be supported by oath or affirmation, the defects in Applicant's Arrest Warrant in this case cannot be cured by investigator's Ritter's oral statements to the magistrate. Investigator Ritter testified that he spoke to a judge and told him the case R. 170 lines 11-12. He did not testify that he was ever placed under oath, and there is no evidence in the record that he was under oath when speaking with the magistrate. Because there is no evidence that the info was given under oath, the Arrest Warrants issued in this case offend the constitutional requirement that it be supported by oath or affirmation. STATE vs. Dunbar 603 SE2d 615 (2004) State vs. York 156 SE2d 326 (1967)

Finding a sheriff's testimony that he had a conversation with a magistrate was insufficient to establish that the sheriff furnished info under oath or affirmation. STATE vs. Wimbush 9, S.C. 309, 316 (1977) Find a warrant illegal where the information on which the warrant was founded was not given upon oath. Counsel was constitutionally ineffective for failing to file a timely pre-trial motion to suppress the arrest warrants and that this prejudice applicant because investigator Ritter would have testified at applicant's pre-trial hearing that he was not under oath when warrants were presented to the magistrate and applicant never would have proceeded to trial. Sikes v. State 449 SE2d 560 (1994)

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

IN THE COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT

2016-CP-04-0512

Claudius A. Williams, #299040,
Applicant,

v.

RETURN

State of South Carolina,
Respondent.

Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed February 25, 2016, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Anderson County Clerk of Court. Applicant was indicted at the September 2013 term of the Anderson County Grand Jury for one count of Armed Robbery (2013-GS-04-1930) and one count of Possession of a Weapon during a Violent Crime (2013-GS-04-1931). Applicant was represented by Hugh W. Welborn, Esquire. On January 27-28, 2012, Applicant proceeded to trial before the Honorable Frank Addy and a jury. Applicant was convicted as indicted on all counts. Judge Addy sentenced Applicant to confinement for a period of life without parole for Armed Robbery. In light of that sentence, Judge Addy did not impose a sentence for the weapons charge.

Applicant filed a timely Notice of Appeal, and his appeal was perfected by Tiffany Butler, Esquire, formerly of the Office of Appellate Defense, pursuant to the procedure set forth in Anders v. California, 386 U.S. 738 (1967). Applicant's convictions and sentences were

affirmed by the Court of Appeals. State v. Williams, Op. No. 2016-UP-064 (S.C. Ct. App. filed February 17, 2016). The Remittitur was issued on April 26, 2016.

Attached herewith and incorporated herein are the records of the Anderson County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the trial transcript, and Applicant's appellate records. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his Application, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Applicant right (sic) to effective assistance of counsel and fair trial as guaranteed by the 6th Amendment to the U.S. Constitution and S.C. law was violated by counsel's failure to file a timely pre-trial motion to suppress arrest warrants."

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. SCRP Rule 11. If Applicant has an attorney appointed, the attorney, and not the inmate, is the only person authorized to file amendments. SCRPC Rule 11.

III.

Applicant claims ineffective assistance of trial counsel in his application. Respondent contends Applicant's counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

In a post-conviction relief action, the applicant bears the burden of proving the allegations in his or her application. Id. at 442, 334 S.E.2d at 814. 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 (1984); Butler, 286 S.C. at 443, 334 S.E.2d at 814. 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. at 689. The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove that counsel’s performance was deficient. Id. Under this prong, the court measures an attorney’s performance by its “reasonableness under professional norms.” Id. (quoting Strickland, 466 U.S. at 688). Second, counsel’s deficient performance must have prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Respondent submits that Applicant cannot satisfy either requirement of the Strickland test regarding trial counsel. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

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

V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

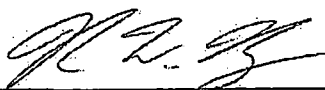
Respectfully submitted,

ALAN WILSON
Attorney General

ROBERT BOLCHOZ
Chief Deputy Attorney General

JOHANNA C. VALENZUELA
Senior Assistant Deputy Attorney General

For: LINDSEY A. MCCALLISTER
Assistant Attorney General

By: 

ATTORNEYS FOR RESPONDENT

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

Jan. 19, 2017

STATE OF SOUTH CAROLINA)

COUNTY OF ANDERSON)

IN THE COURT OF COMMON PLEAS

2016-CP-04-0512

CLAUDIUS A. WILLIAMS, #299040,)

Applicant,)

vs.)

AFFIDAVIT OF SERVICE BY MAIL

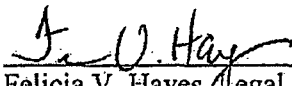
STATE OF SOUTH CAROLINA,)

Respondent,)

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

R. Mills Ariail, Jr., Esquire
 Law Office of R. Mills Ariail, Jr.
 11 North Irvine Street, Suite 11
 Greenville, SC 29601

DATED this the 19th day of January, 2017.


 Felicia V. Hayes, Legal Assistant
 For Respondent

1 State of South Carolina
2 County of Anderson In the Court of Common Pleas

3
4 Claudius Adrian Williams,)
5 Applicant,) 2016-CP-04-0512
6 -vs-) February 27, 2017
7 The State of South Carolina,)
8 Respondent.)
9 Transcript of Record

10

11

B E F O R E:

12

The Honorable R. Scott Sprouse, Judge

13

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

14

15 Lindsey Ann McCallister, Esquire
16 S.C. Attorney General's Office
Attorney for the State

17 Robert Mills Ariail, Jr., Esquire
18 Attorney for Defendant

19

20

21

22

Diane L. Marcengill, RPR, CRR
Circuit Court Reporter

23

24

25

1 Certificate of Reporter

2
3 I, Diane L. Marcengill, Official Court Reporter
4 for the Tenth Judicial Circuit of the State of South
5 Carolina, do hereby certify that the foregoing is a
6 true, accurate, and complete transcript of record of a
7 portion of the proceedings had and evidence introduced
8 in the trial of the captioned case, relative to appeal,
9 in the Circuit Court for Anderson County, South
10 Carolina, on the 27th day of February 2017.

11 This transcript may contain quoted material. Such
12 material is reproduced as read by the speaker.
13 I do further certify that I am neither of kin, counsel,
14 nor interest to any party hereto.

15 November 13, 2017

16
17 
18 Diane L. Marcengill, RPR, CRR
19 Circuit Court Reporter
20
21
22
23
24
25

Claudius Adrian Williams v. The State of SC 2016-CP-04-0512

I N D E X

Witnesses

Page

CLAUDIUS ADRIAN WILLIAMS

Direct Examination By Mr. Ariail

5

Cross-Examination By Ms. McCallister

13

HUGH WELBORN

Direct Examination By Mr. Ariail

18

Cross-Examination By Ms. McCallister

22

Reporter's Certificate

29

E x h i b i t s

For the Applicant:

Marked	Description	I.D.	Admitted
1	Armed robbery arrest warrant	11	12
2	Possession of a weapon during commission of a violent crime arrest warrant	11	12
3	Page 170 of trial transcript	11	12

For the Respondent:

Marked	Description	I.D.	Admitted
	None offered.		

Claudius Adrian Williams v. The State of SC 2016-CP-04-0512

1 (WHEREUPON, court convened with all parties
2 present and the following proceedings were had
3 commencing at 9:49 a.m.)

4 MS. McCALLISTER: Your Honor, this is Claudius
5 Williams versus the State of South Carolina,
6 2016-CP-04-0512. We're here today on an application
7 for postconviction relief which was filed on February
8 25, 2016. Mr. Williams is presently confined in the
9 South Carolina Department of Corrections pursuant to
10 orders of commitment from the Anderson County Clerk of
11 Court. He was indicted at the September 2013 term of
12 the Anderson County Grand Jury for one count each of
13 armed robbery and possession of a weapon during a
14 violent crime. He was represented on those charges by
15 Mr. Hugh Welborn.

16 On January 27th and 28th -- I said something
17 wrong. I either said his indictment date wrong or the
18 date of his trial is wrong. Sorry, Your Honor.

19 On January 27 and 28, 2014, he proceeded to trial
20 before the Honorable Frank Addy. He was convicted as
21 indicted on all counts, and Judge Addy sentenced him to
22 a period of confinement of life without parole for the
23 armed robbery and did not impose a sentence for the
24 weapons charge.

25 He did file a timely notice of appeal, and appeal

1 was perfected through the office of appellate defense.
2 His conviction and sentence was affirmed on February
3 17, 2016. He is present in the courtroom today, and
4 he's represented by Mr. Mills Ariail. He is alleging
5 ineffective assistance of counsel, Your Honor, and I
6 will turn it over to Mr. Ariail.

7 THE COURT: Mr. Ariail.

8 MR. ARIAIL: Yes, your Honor. We're ready to
9 proceed, and I'll just lay out the issue as I
10 understand it at this time is that he believes that the
11 officer was not under oath when he -- when the arrest
12 warrant was sworn out on his behalf, and as a result,
13 it was defective, and Mr. Welborn should have objected
14 to that and sought to have that arrest warrant
15 excluded. And I guess all of the other things would
16 have flowed from that, and he wouldn't be sitting here
17 today.

18 So that is his issue in regards to it, and I'll be
19 glad to call him as a witness to let him testify to
20 that and put his exhibits up.

21 THE COURT: Call your client.

22 MR. ARIAIL: Mr. Williams, you want to step to the
23 stand.

24 CLAUDIUS ADRIAN WILLIAMS,
25 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

1 DIRECT EXAMINATION

2 BY MR. ARIAIL:

3 Q Mr. Williams, how you doing today?

4 A I'm all right.

5 Q Good. Now, I want to go through and kind of try
6 to lay out a little bit of what your case is about.
7 We've gone back and forth and sent letters back and
8 forth and discussed it on the telephone as to what your
9 issues are. You have narrowed it down to one issue,
10 correct?

11 A Correct.

12 Q Did I correctly state what you are trying to show
13 in this case and what your issue is?

14 A Yes.

15 Q Okay. Now, tell me. I want to go through a
16 little bit in regards to it. Now, Hugh, Mr. Welborn,
17 represented you in this case, correct?

18 A Correct.

19 Q Now, when y'all were discussing this, did he
20 provide you discovery in your case and the background
21 about what you had been charged with?

22 A Yes.

23 Q So, y'all discussed it in depth as to what you
24 were looking at, what charges you were facing and all
25 of that?

1 A Right.

2 Q So as I understand it, you don't have any issues
3 with him in regards to him giving you your discovery or
4 any communications you had with him, correct?

5 A Correct.

6 Q The only issue you have is his not making a
7 pretrial motion or some motion to suppress the arrest
8 warrant, which would have, I guess, pretty much, you're
9 saying, stopped the case; is that correct?

10 A Correct.

11 Q Now, tell me, did you have any discussions with
12 Mr. Welborn in regards to that issue prior to trial?

13 A No. Actually, Hugh Welborn told me -- first he
14 told me, he said he's been a lawyer for 30 years, and
15 he's also a magistrate judge. He -- something he told
16 me, I'm trying to think of it. He said that the only
17 way I was getting convicted -- he said the only way out
18 would be a pine box. That's what he told me.

19 Q Did he go into your -- did y'all discuss this
20 issue about whether or not the officer needed to be
21 sworn before the magistrate?

22 A No. He never brought anything up -- he told me
23 that, he said, "I know you're going to file a PCR
24 against me." He said that three times like two days
25 before my trial.

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1 Q Did he raise the issue or did you raise it with
2 him about this potential issue with the arrest warrant
3 being defective?

4 A Nothing came up with the arrest warrants, nothing.

5 Q When did this issue come to your attention, I
6 guess?

7 A About the arrest warrants?

8 Q Yes.

9 A Probably like 2000 and -- like a year or so after
10 I was in prison.

11 Q So you found this issue. And tell me exactly,
12 you've got some exhibits, and I think they're your
13 arrest warrants for these cases; is that correct?

14 A Right. I just want to read them for the record so
15 they can be preserved.

16 Q I know. Here is the way I think we should do
17 this. You have got a packet of information that you
18 have filed as part of your PCR, okay?

19 A Right.

20 Q Now, I know that Judge Sprouse is able to review
21 that. What you want to do is take some of those
22 exhibits, I think those arrest warrants, and make them
23 exhibits for this?

24 A Right.

25 Q So let's go through a little bit, and, first, tell

1 me -- I guess we can take it one step at a time. The
2 arrest warrant that you're saying you have an issue
3 with is the first one, which was the possession --
4 actually, I've got them out of order here. I think it
5 would be the armed robbery charge, correct?

6 A Right. Right.

7 Q Now, tell me -- what we can do is -- I don't want
8 you to have to read it into evidence because it's a
9 lengthy document. What we can do is you can submit it
10 as a court exhibit, and that is the same thing as like
11 reading it in.

12 A Okay. So it will already be submitted as an
13 exhibit, the whole arrest warrant?

14 Q The whole arrest warrant, if you want me to make
15 that an exhibit --

16 A Right.

17 Q -- then that would be the first, Exhibit A. We
18 would do Exhibit 1.

19 A Basically, I just want to show that the probable
20 cause that -- because I want to submit a page from my
21 trial transcript, too --

22 Q We can do that, too.

23 A -- that shows he wasn't sworn. But I want to show
24 that both of my arrest warrants are blank as far as
25 probable cause. He didn't include no facts in the

1 probable cause dealing with my arrest warrants. Like
2 there's no facts in both of my arrest warrants.

3 Q So you're saying there's nothing in your arrest
4 warrants which shows the probable cause which would
5 allow him to get the arrest warrant, correct?

6 A Right. The magistrate judge did not hear none of
7 the facts dealing with any of the evidence presented at
8 my trial. He did not hear none of the facts that was
9 supposed to be included in the arrest warrants.

10 Q Now, was the officer questioned in regards to that
11 at the trial?

12 A He did. And that's part -- the page I have of my
13 trial transcript that I wanted to submit as an exhibit.

14 Q I'm trying to summarize it a little bit, and we'll
15 try to put those in.

16 A Okay.

17 Q So you're saying that there was a question raised
18 about whether or not there was probable cause to
19 execute those warrants?

20 A Right.

21 Q And you say that your trial transcript -- and I
22 think it's page 170 --

23 A Right.

24 Q -- shows -- tell me exactly what you say it shows.

25 A Can I just read it for the record or --

1 Q Well, I mean, just summarize it for me, and then
2 we'll have it as part -- what are you saying was on
3 that?

4 A He just stated that he only talked with the
5 magistrate, and that he said that he spoke with the
6 magistrate or whatnot, but he never stated that he was
7 sworn, either before or after talking with the
8 magistrate.

9 Q So the key issue in this is whether or not he was
10 sworn when he provided the information to the
11 magistrate?

12 A Correct.

13 Q You kind of raise another issue there, too, as to
14 whether or not what information was provided to the
15 magistrate --

16 A Well, when the arrest warrants are defective, they
17 can be supplemented with sworn testimony at the trial.
18 Basically, he has to state at the trial that he was
19 sworn when he presented the facts to the magistrate
20 judge, and he never stated at my trial that he was
21 sworn, so, therefore, the warrants are illegal since
22 they already are blank.

23 Q So you're basically saying that to be able to
24 proceed with this, there had to be some testimony at
25 trial which would have said he was sworn when he

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1 presented the information to the magistrate?

2 A Right.

3 Q Now, I want to make sure I put in -- you've got
4 three exhibits. Aren't they your arrest warrants?

5 A Two is arrest warrants, and the other one is a
6 trial transcript, page 170 from my trial transcript.

7 Q Show me those, and I'm going to see if we can put
8 all of them in as exhibits.

9 MR. ARIAIL: Your Honor, I move these exhibits in,
10 and I think the easiest way to do it would be
11 Exhibit 1, Exhibit 2, and Exhibit 3.

12 THE COURT: Again, I have all this information in
13 my packet, but this would make it easier for me to
14 isolate the documents he's referring to.

15 MR. ARIAIL: Exhibit 1 will be the armed robbery
16 arrest warrant.

17 (WHEREUPON, Applicant's Exhibit Number 1 was
18 marked for identification.)

19 MR. ARIAIL: Exhibit 2 will be the possession of a
20 weapon during violent crime warrant.

21 (WHEREUPON, Applicant's Exhibit Number 2 was
22 marked for identification.)

23 MR. ARIAIL: And then Exhibit 3 will be page 170
24 of Mr. Williams' jury trial transcript.

25 (WHEREUPON, Applicant's Exhibit Number 3 was

1 marked for identification.)

2 MR. ARIAIL: Your Honor, I'd move those into
3 evidence as 1, 2, and 3.

4 THE COURT: Any objection?

5 MS. McCALLISTER: No, Your Honor.

6 THE COURT: So Applicant's Exhibits 1, 2, and 3
7 would be admitted without objection.

8 (WHEREUPON, Applicant's Exhibit Numbers 1, 2 and 3
9 were admitted into evidence.)

10 MR. ARIAIL: Thank you, Your Honor.

11 Q Now, Mr. Williams, we've got these into evidence
12 now, and I want to make sure we have expressed or
13 explained exactly what you believe are the bases for
14 your PCR.

15 Have you got any other things you want to add to
16 it?

17 A Yes. Basically, I just want to say for the
18 record, absent the arrest warrants, the State no longer
19 has probable cause to prosecute this case; therefore,
20 prejudice is incurred from counsel's failure to file a
21 pretrial motion to suppress the illegal arrest
22 warrants.

23 In support of this, I want to cite *State vs. York*
24 and *State vs. Dunbar* as supporting case law. If the
25 judge needs those references, I did provide those to

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1 him.

2 Q I think those were a part of your PCR application,
3 correct?

4 A Right.

5 Q I think you did put those in there. I think you
6 did give those cites to those two cases.

7 Is that all the information you want to present?

8 A That's all.

9 MR. ARIAIL: Your Honor, I have no additional
10 questions at this time.

11 THE COURT: Okay. Ms. McCallister.

12 MS. McCALLISTER: Thank you, Your Honor.

13 May I approach, Your Honor?

14 THE COURT: Yes.

15 CROSS-EXAMINATION

16 BY MS. McCALLISTER:

17 Q So, Mr. Williams, your contention is that the
18 arrest warrants are defective because the officer was
19 not under oath at the time that he swore the warrants
20 out; is that correct?

21 A Correct.

22 Q Okay.

23 MS. McCALLISTER: Can I approach the witness, Your
24 Honor?

25 THE COURT: Yes, ma'am.

1 BY MS. McCALLISTER:

2 Q I'm going to hand -- this is your arrest warrant
3 for the possession. If you will look up there at the
4 very top where it says "affidavit," and then it's got
5 "State of South Carolina, County, Anderson"?

6 A Uh-huh.

7 Q And it says, "Personally appeared before me, the
8 affiant, M. Ritter." That's the officer; is that
9 correct?

10 A Uh-huh.

11 Q "Who, being duly sworn, deposes and says." Do you
12 see where it says that?

13 A Uh-huh.

14 Q And is it -- so it's your contention that even
15 though it says that, that he was not actually sworn?

16 A No, because he didn't include -- he didn't present
17 none of the facts in the probable cause. When it says,
18 "I further state there is probable cause to believe
19 that defendant named above did commit the crime," when
20 it states that -- it states that, "The crime set forth
21 and that the probable cause is based on the following
22 facts," he did not include none of the facts that
23 was -- that he presented at my trial, he did not
24 include it in the arrest warrants because he stated in
25 Exhibit C that -- he stated in Exhibit C that his

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1 probable cause was the photographic lineup. Well, the
2 photographic lineup isn't included in any of the arrest
3 warrants, nor is there any other facts included, so
4 that was my intention.

5 Q So you feel he didn't include -- he testified to
6 more at trial than what was included in your arrest
7 warrants?

8 A He didn't include nothing in my arrest warrants.

9 Q But you do agree with me that it says that he was
10 sworn when he appeared before the magistrate to sign
11 out the warrant?

12 A Say that again.

13 Q You do agree with me that the warrant -- that the
14 warrant says that he was sworn; he was under oath when
15 he appeared before the magistrate?

16 A That he was sworn?

17 Q Yes. Do you agree with me that that's what the
18 warrants say?

19 A The warrant says he was sworn when he appeared
20 before the magistrate, but he didn't present none of
21 the facts to the magistrate.

22 Q Okay. Maybe I misunderstood. I thought that in
23 your testimony earlier you said that he was not sworn
24 when he talked to the magistrate.

25 A What I'm saying is he did not present none of the

1 facts to be sworn. You know what I'm saying? The
2 facts -- the evidence that he used at my trial, you
3 have to be sworn with the magistrate judge. So the
4 facts that he used to convict me of at trial was not
5 presented to the magistrate; therefore, the warrants
6 are illegal.

7 Q But you do agree that he did come and testify, and
8 he testified at your trial to the fact that he had
9 obtained a photographic identification of you from a
10 lineup; is that correct?

11 A Say that one more time.

12 Q He did come to your trial and testify that he had
13 identified photographic identification of you from a
14 lineup; is that correct?

15 A He did say that at my trial.

16 Q So he did come to trial and testify to additional
17 facts other than what's in this warrant; is that
18 correct?

19 A I'm not understanding your question.

20 Q His testimony at trial contained more than what is
21 in this warrant; is that what you're saying?

22 A Right. All the evidence that was presented at my
23 trial was not even included in the arrest warrants.

24 Q Okay. And you -- you were indicted by the grand
25 jury on these charges; is that correct?

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1 A From my understanding, yes.

2 Q Okay. And you are not challenging -- you don't
3 raise any issues with the grand jury indictment; is
4 that correct?

5 A Well, by the arrest warrant being defective, I
6 don't see how they got an indictment.

7 Q But you agree that they did, in fact, meet and
8 indict you on these charges, the grand jury?

9 A I know nothing about the indictments because the
10 arrest warrants is defective, so indictments, I don't
11 know how they got indictments.

12 MS. McCALLISTER: Your Honor, I would move --
13 well, I believe they're a part of the record already,
14 the indictments for possession of a weapon and --

15 THE COURT: They are. They're attached to the
16 packet that's been provided to the court.

17 MS. McCALLISTER: Thank you. I would just call
18 the court's attention to the true bill stamp on this.

19 Okay.

20 Q And I believe you said in your testimony that you
21 never brought this up, the issue with the arrest
22 warrants, you never brought that up with Mr. Welborn;
23 is that correct?

24 A Yes. He never brought it to my attention.
25 Mr. Hugh Welborn is a magistrate judge, so I don't

1 understand how he could not have seen those arrest
2 warrants being defective since he is a magistrate
3 judge.

4 Q But you never specifically asked him about the
5 arrest warrants?

6 A I didn't know the law back then. I didn't know
7 nothing about the law back then.

8 Q And are you -- you're not challenging anything
9 else that happened at the trial or anything else that
10 Mr. Welborn did; you're satisfied with everything
11 except the issue of the arrest warrant?

12 A Correct.

13 MS. McCALLISTER: I have no further questions,
14 Your Honor.

15 THE COURT: Any redirect?

16 MR. ARIAIL: No, Your Honor.

17 THE COURT: Okay. Thank you, Mr. Williams. You
18 can step down.

19 MR. ARIAIL: Thank you, Your Honor.

20 Call Mr. Welborn to the stand.

21 HUGH WELBORN,

22 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

23 DIRECT EXAMINATION

24 BY MR. ARIAIL:

25 Q Mr. Welborn, how you doing today?

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1 A I'm doing pretty good. Thank you.

2 Q Good. Good.

3 A Can you hear me okay?

4 Q I think I'm good. Everybody can.

5 Just want to go through a little bit. You
6 represented Mr. Williams in this, I guess, the armed
7 robbery and the possession of a weapon during a violent
8 crime, correct?

9 A Yes, sir, I did.

10 Q Okay. Now, the one issue we've gone back and
11 forth in regards to is this being under -- I guess the
12 deputy being sworn when he provided testimony to the
13 magistrate. Or what was presented to the magistrate, I
14 think, is kind of a hybrid, what he's presented, and if
15 there was probable cause that was asserted at that
16 time.

17 When you went through this, did you have any
18 discussions with Mr. Williams about that, excuse me,
19 about those items?

20 A No, there was never an issue.

21 Q Now, tell me, I mean, he said -- and I know you
22 are -- you're a magistrate, were a former magistrate
23 judge; is that correct?

24 A That's correct. I was a municipal judge for the
25 City of Anderson, yes.

1 Q Now, as part of this, did you -- I know reviewing
2 this, was that something that caught your attention or
3 created some concern for you when you read about this?

4 A When I read --

5 Q I guess his warrants.

6 A -- postconviction relief or the warrants?

7 Q Well, I guess when you heard at trial, the way I
8 kind of see it is there are arrest warrants that had
9 been issued, and the officer gets to trial, and he
10 testifies, and then the question is whether or not he
11 testified whether he was under oath when he provided
12 the statements to get the arrest warrants.

13 A Let me answer that the best way that I can. In my
14 years of practicing law, I've always had testimony at a
15 trial that would be something like this that's on the
16 transcript, page 170, that they obtained an arrest
17 warrant. And they don't go through any of those
18 details that are procedural in nature such as, "I made
19 sure that I was under oath before I signed the
20 warrant," or any of those types of detail. A warrant
21 itself is designed to put the defendant on notice of
22 the charges, and in these warrants, that's exactly what
23 it did.

24 I have yet to have a case where all of these
25 procedural details are brought out as if there is an

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1 issue, and if you don't bring them out, for some
2 reason, the warrant is invalid.

3 In this particular case, he testified he went to
4 the judge and got a warrant. And that's -- that
5 assumed that all the necessary procedural issues were
6 covered, including being under oath.

7 Q So I guess it kind of relates back, what you saw,
8 the warrant saying that he personally appeared and that
9 he was sworn as part of the warrant; you didn't see
10 anything that was facially invalid with the arrest
11 warrant when you looked at it?

12 A Not at all, no, sir.

13 Q You didn't see anything that the officer was
14 saying or any issues with the arrest warrant when you
15 looked at this case?

16 A None at all.

17 Q And then the testimony at trial. Did you see
18 anything with his testimony, Officer Ritter or Deputy
19 Ritter, when he testified that created any concerns
20 about the validity of this arrest warrant?

21 A None at all.

22 Q Did you see anything that you could do to
23 challenge the arrest warrant prior to the trial of this
24 case?

25 A No, I did not.

1 Q Did you see anything or have you reviewed any of
2 these, *State v. Dunbar* and *State v. York*, to see if
3 they fall within the parameters or can help
4 Mr. Williams in his case?

5 A I did not review those cases. I simply know that
6 the warrants, as I saw them, were factually what
7 occurred, and they were properly signed and notarized,
8 and the warrant was valid, in my opinion. I have not
9 reviewed those cases.

10 Q Do you think there was anything you could do to
11 get these arrest warrants suppressed or dismissed based
12 upon the issues that he raised?

13 A No, sir, I do not.

14 Q Okay.

15 A I think he's assumed facts that are not in issue
16 or in evidence, rather. He's assumed that there was no
17 swearing of the warrant, but there's no testimony about
18 that, and I've yet to encounter, in my years of
19 practicing, where that's ever been an issue. You
20 simply go and obtain a warrant.

21 MR. ARIAIL: I have no further questions, Your
22 Honor.

23 THE COURT: All right. Ms. McCallister.

24 MS. McCALLISTER: Thank you, Your Honor.

25 CROSS-EXAMINATION

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1 BY MS. McCALLISTER:

2 Q Mr. Welborn, let's just back up for just a second
3 and do some preliminary questions.

4 How long have you been practicing law?

5 A I'm retired now, but I practiced for right at 30
6 years.

7 Q And this trial was three years ago approximately,
8 so 20 --

9 A About 27 years.

10 Q 27 years when you handled this trial?

11 A Yes. Yes, ma'am.

12 Q And you met with Mr. Williams how many times
13 before going to trial?

14 A I met with him, that I have a record, four times.
15 I'm certain there was more than four times because
16 there was some things that I just didn't take notes on.
17 I also met with the solicitor probably four or five
18 times, including in his office numerous times, and then
19 on two separate occasions reviewing all of the evidence
20 at the sheriff's office in the evidence room and going
21 through each one individually.

22 Q And in those meetings with Mr. Williams, he never
23 raised the issue, even if not directly, about the
24 arrest warrants, but did he ever raise an issue of
25 probable cause with you or anything along those lines

1 that he's alleging today?

2 A No, ma'am, he did not.

3 Q And if he had alleged that to you at the time,
4 what would you have done?

5 A I would have followed through. I would have done
6 whatever investigation I felt would be appropriate to
7 find out are his allegations, are they meritorious. I
8 certainly would have done that.

9 Q But in your review of the file at the time, you
10 did not see anything that led you to believe you could
11 challenge the probable cause?

12 A None at all. And I reviewed it again last night
13 in detail, and I stand by that. I see nothing at all
14 that was improper.

15 Q Okay. You said you met with the solicitor
16 numerous times?

17 A I did.

18 Q And did you have a chance to look at all of the
19 evidence in this case?

20 A I did. Rame Campbell, who was the solicitor on
21 this case, always provided all the evidence. He's been
22 very professional about that, and we looked at
23 everything and discussed everything.

24 Q Okay. So you feel confident that you knew all of
25 the evidence that the State was going to present and

1 had no basis to believe that they didn't have probable
2 cause for a warrant, correct, at the time?

3 A I agree with that. I have no qualms whatsoever
4 with -- the case was professionally handled. I saw all
5 the evidence and did all that I could for Mr. Williams.
6 It was just a really bad case for him.

7 Q Okay. Did you tell Mr. Williams that? Did you
8 give him your assessment of the case?

9 A I did. And I also told him I understood if he
10 wanted to go to trial; they have offered nothing, so
11 obviously, they're trying to put you away for life
12 without parole. So we can try the case. You have got
13 nothing to lose, but if you want to do a guilty plea, I
14 can do that. That's your choice, but there's nothing
15 on the table. I tried to get an offer that would be
16 less than life without parole, and they were adamant --
17 Mr. Campbell was adamant he would take a plea, but it
18 would be life without parole. And I reviewed that with
19 Mr. Williams, and we tried it because that's what he
20 wanted to do.

21 Q And did he give you any kind of direction about
22 defenses or anything like that?

23 A None at all.

24 Q Okay. And so nothing like this came up either in
25 terms of probable cause or in reviewing the evidence

1 with him or when you talked about potential defenses?

2 A None at all.

3 Q Okay.

4 A He was most cooperative and never complained and
5 just -- we just really didn't have a defense. I
6 couldn't put him up because of his priors, and they
7 would have impeached him on them. And we did the best
8 we could. I got the last argument, and I tried to be
9 as creative as I could with that and did the best I
10 could.

11 Q Okay. And, I'm sorry. The officer who testified
12 at trial, he testified -- I think, Mr. Williams' issue
13 is that he said he talked to the judge and got a
14 warrant. Did you at the time see anything that was
15 unusual about that or the way that he phrased that?

16 A Not at all. When I was a judge, they would come
17 to me and talk about the case, and there would be a
18 written warrant, and I would sign the warrant. But
19 they didn't just hand you a warrant usually and not say
20 a word. There would be a little bit of discussion
21 about the case and what happened, and I'd look and
22 review that it would be accurate and I'd sign the
23 warrant. But, no, there's nothing unusual about that.

24 Q So nothing in the officer's testimony kind of
25 raised a red flag for you at the time?

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1 A Nothing at all.

2 MS. McCALLISTER: I have no further questions.

3 THE COURT: Any redirect?

4 MR. ARIAIL: No, Your Honor.

5 THE COURT: Thank you, Mr. Welborn. You can step
6 down.

7 MR. ARIAIL: Your Honor, that is our case.

8 THE COURT: Anything from the State?

9 MS. McCALLISTER: Your Honor, Mr. Welborn would
10 have been my witness, so we don't have any witnesses to
11 call. I would like to give Your Honor a case cite, if
12 I could.

13 THE COURT: I'll allow each attorney to give me a
14 summation of their position and any case law they would
15 like me to look at.

16 MR. ARIAIL: Your Honor, I think it's been stated
17 by my client, I think he's concerned in regards to
18 whether or not the deputy was sworn at the time he
19 provided the information to the magistrate. I
20 understand there is an arrest warrant that says he is,
21 but he's indicating that at the time of trial, there
22 was no testimony in regards to that.

23 He has the *State v. Dunbar* and *State v. York* cases
24 he would like for Your Honor to review, and I think
25 that is pretty much a summation of exactly his position

1 in this case.

2 THE COURT: Thank you, Mr. Ariail.

3 Ms. McCallister.

4 MS. McCALLISTER: Yes. Thank you, Your Honor.

5 As Mr. Ariail pointed out, the arrest warrants do
6 state that the officer was sworn at the time. And it
7 is Mr. Williams' burden. He does not have anyone here
8 to show that there's any reason to believe that what's
9 written on the arrest warrant is not true.

10 And I would also point out to Your Honor that the
11 indictments were true-billed so the grand jury did
12 review them and find probable cause to indict
13 Mr. Williams.

14 And I would cite *State v. McCoy*, Your Honor, 255
15 S.C. 170, which says even if an arrest warrant for some
16 reason is not properly issued, which the State is not
17 conceding, it's not a bar to prosecution on a
18 subsequent indictment where the court acquires
19 jurisdiction over the person, so we would ask that his
20 application be denied or dismissed.

21 THE COURT: All right. Well, I'd like to look up
22 and read these cases, so I'll take this under
23 advisement, and I'll have my law clerk e-mail you my
24 decision.

25 (WHEREUPON, proceedings concluded at 10:19 a.m.)

Certificate of Reporter

I, Diane L. Marcengill, Official Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of a portion of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Anderson County, South Carolina, on the 27th day of February 2017.

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

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

November 13, 2017


Diane L. Marcengill, RPR, CRR
Circuit Court Reporter

ARREST WARRANT

2013A0410100655

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Anderson

THE STATE

2013-19647

against

Claudius Adrian Williams

Address:

Central, SC 29630-4011

Phone:

SSN:

Sex: M

Race: B

Height: 6

4

Weight: 185

DL State: SC

DL #:

DOB:

Agency ORI #:

SC0040000

Prosecuting Agency:

Anderson County Sheriff

Prosecuting Officer:

M Ritter - 621

Offense: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

Offense Code:

0139

Code/Ordinance Sec:

16-11-0330(A)

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 the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant

Claudius A. Williams

on

6-4-13

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions

100 South Main Street

Po Box 8002

Anderson, SC 29622

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Anderson

Personally appeared before me the affiant M Ritter

being duly sworn deposes and says that defendant Claudius Adrian Williams

did within this county and state on or about 4/24/2013

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

in the following particulars:

DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

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:

That on April 24, 2013, in the county of Anderson, one Claudius Adrian Williams did take cash from Little General at 3401 Murray Ave. with intent to deprive while armed with a black semi-automatic handgun, a deadly weapon.

EXHIBIT

Applicants

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Anderson

Affiant's Address 305 Camson Road

Anderson, SC 29625-

Affiant's Telephone

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 or about 4/24/2013

defendant Claudius Adrian Williams

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Anderson

DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

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 6/4/2013

Signature of Issuing Judge

William Daniel Sharp

Judge Code: 7013

(L.S.)

Judge's Address 2404 N. Main St.

Anderson, SC 29621

Judge's Telephone (864)260-4156

Issuing Court: ☒ Magistrate☐ Municipal☐ Circuit

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Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

AFFIDAVIT

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ANDERSON SC

violate the criminal laws of the

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COMMON PLEAS AND
GENERAL SESSIONS

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BAIL set by

Judge _____

on _____

Type and Amount: _____

Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____

on _____

Defendent Attorney: _____

Decision: _____

DISPOSITION before

Judge _____

on _____

by _____

(Indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

_____	_____
_____	_____
_____	_____

WITNESSES

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

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Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS



GENERAL INVESTIGATIVE
DIVISION - 740 VAP

JUN 12 1968 11 11-33

REC'D - CIVIL
FILED - CIVIL

ARREST WARRANT

2013A0410100656

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Anderson

THE STATE

2013-19647

against

Claudius Adrian Williams

Address:

Central, SC 29630-4011

Phone: SSN: Sex: M Race: B Height: 6 4 Weight: 185

DL State: SC DL #: Agency ORI #: SC0040000

Prosecuting Agency: Anderson County Sheriff

Prosecuting Officer: M Ritter - 621

Offense: Weapons / Possession of weapon during violent

crime, if not also sentenced to life without parole

Offense Code: 0549

Code/Ordinance Sec: 16-23-0490

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 the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Claudius A. Williams on 6-4-13

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
100 South Main Street
Po Box 8002
Anderson, SC 29622

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

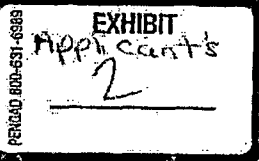
Anderson

Personally appeared before me the affiant M Ritter being duly sworn deposes and says that defendant Claudius Adrian Williams did within this county and state on or about 4/24/2013 violate the criminal laws of the State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Anderson) in the following particulars:

DESCRIPTION OF OFFENSE: Weapons / Possession of weapon during violent crime, if not also sentenced to life without parole or death

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:

That on April 24, 2013 in the county of Anderson, one Claudius Adrian Williams did knowingly and willfully possess and display what appeared to be a firearm during the commission of an armed robbery, a violent crime. This did occur at 3401 Murray Ave.



Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Anderson

Affiant's Address 305 Camson Road
Anderson, SC 29625-

Affiant's Telephone

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 or about 4/24/2013 defendant Claudius Adrian Williams

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Anderson) as set forth below:

DESCRIPTION OF OFFENSE: Weapons / Possession of weapon during violent crime, if not also sentenced to life without parole or death

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 6/4/2013

Signature of Issuing Judge (L.S.)

William Daniel Sharp

Judge Code: 7013

ORIGINAL

ORIGINAL

Judge's Address 2404 N. Main St.
Anderson, SC 29621-Judge's Telephone (864)260-4156Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

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Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 319

AFFIDAVIT

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ANDERSON SC

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FEB 25 2016

Signature of Clerk
CLERK OF COURT

344

State of South Carolina v. Claudius A. Williams

170

Case No. 13-GS-04-1930 et al
Jury Trial of January 27th & 28th, 2014
Testimony of Matt Ritter - Direct Examination

1 put her initials on it?

2 A. Yes, she circled it, put her -- I
3 like for them to print their name so that it
4 will be legible and put their initials also.

5 Also they do an affidavit of a photo
6 lineup. An affidavit of a photo lineup boils
7 down to, 'this is who I picked, this is who
8 it is.'

9 Once I was able to obtain that, that was
10 enough probable cause to go talk to a judge.
11 I went and spoke to a judge, told him the
12 case. At that time, I obtained warrants for
13 Claudius Williams.

14 Q. What crimes did you charge? Obtain
15 warrants from?

16 A. Armed robbery and the commission
17 a crime -- commission (sic) of a weapon
18 during a violent crime.

19 Q. And at this time you charged Mr.
20 Williams?

21 A. That's correct.

22 Q. You could make an arrest after you
23 received the warrants?

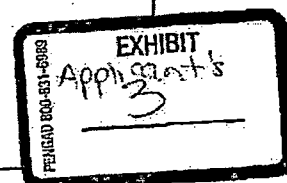
24 A. That's correct.

25 Q. What was your next step?

COMMON PLEAS AND
GENERAL SESSIONS

2017 FEB 27 AM 11:33

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ANDERSON SC



STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

Claudius A. Williams, #299040,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT

Case No. 2016-CP-04-0512

ORDER OF DISMISSAL

FILED-CLERK'S OFFICE
ANDERSON SC
2017 JUL 21 24 PM 56
COMMON PLEAS
CLERK

Presiding Judge:
Applicant's Attorney:
Respondent's Attorney:
Trial Counsel:
Date of Hearing:
Court Reporter:

R. Scott Sprouse
R. Mills Ariail, Esquire
Lindsey A. McCallister, Esquire
Hugh W. Welborn, Esquire
February 27, 2017
Diane L. Marcengill

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed February 25, 2016. Respondent made its return on or about January 19, 2017. An evidentiary hearing on the matter was convened on February 27, 2017 at the Anderson County Courthouse. Applicant was present at the hearing and represented by R. Mills Ariail, Esquire. Lindsey A. McCallister, Esquire, of the South Carolina Office of the Attorney General represented Respondent.

Applicant testified on his own behalf. Also testifying was Hugh W. Welborn, Esquire. The Court had before it the trial transcript, the Anderson County Clerk of Court records, Applicant's records from the South Carolina Department of Corrections, Applicant's application, Respondent's return, and Applicant's appellate records.

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PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Anderson County Clerk of Court. Applicant was indicted at the September 2013 term of the Anderson County Grand Jury for one count of Armed Robbery (2013-GS-04-1930) and one count of Possession of a Weapon during a Violent Crime (2013-GS-04-1931). Applicant was represented by Hugh W. Welborn, Esquire. On January 27-28, 2012, Applicant proceeded to trial before the Honorable Frank Addy and a jury. Applicant was convicted as indicted on all counts. Judge Addy sentenced Applicant to confinement for a period of life without parole for Armed Robbery. In light of that sentence, Judge Addy did not impose a sentence for the weapons charge.

Applicant filed a timely Notice of Appeal, and his appeal was perfected by Tiffany Butler, Esquire, formerly of the Office of Appellate Defense, pursuant to the procedure set forth in Anders v. California, 386 U.S. 738 (1967). Applicant's convictions and sentences were affirmed by the Court of Appeals, State v. Williams, Op. No. 2016-UP-064 (S.C. Ct. App. filed February 17, 2016). The Remittitur was issued on April 26, 2016.

ALLEGATIONS

In his Application, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Applicant right (sic) to effective assistance of counsel and fair trial as guaranteed by the 6th Amendment to the U.S. Constitution and S.C. law was violated by counsel's failure to file a timely pre-trial motion to suppress arrest warrants."

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the

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opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusion of law as required by S.C. Code Ann. Sec. 17-27-80 (2003).

In a post-conviction relief action, the applicant bears the burden of proving the allegations in his or her application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (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 (1984); Butler, 286 S.C. at 443, 334 S.E.2d at 814. 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. at 689. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 625. First, the applicant must prove that counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Id. (quoting Strickland v. Washington, 466 U.S. 668, 688 (1984)). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997).

A. Ineffective Assistance of Counsel

Applicant testified the only issue he is raising in his application is the sufficiency of the arrest warrants. Applicant testified that Counsel provided him with discovery, they discussed the issues in his case in depth, and had good communication. Applicant testified he never asked Counsel to challenge the arrest warrants or probable cause to support his arrest because he didn't know about the issue until after he was convicted and put in jail.

Applicant contends the officer was not under oath when he spoke to the magistrate, and therefore, the arrest warrants are not valid. Applicant testified it is his belief that, because the officer's testimony at trial was only that the officer "spoke" to the magistrate who issued the warrants, the warrants were unsworn and invalid. On cross examination, Applicant acknowledged that his indictments were true billed by the grand jury in September 2013, and he does not allege any deficiencies in the grand jury process. Applicant also acknowledged that the arrest warrants indicate that the officer was sworn when he appeared before the magistrate. Applicant did not have any witnesses present to testify that the officer was not under oath at the time the warrants were obtained. Applicant testified that Counsel should have made a pre-trial motion to suppress the arrest warrants, but Applicant was satisfied with Counsel's performance otherwise.

Counsel testified he has never heard of such an issue with arrest warrants, and the officer's testimony at trial was not unusual. Counsel stated there is always testimony at trial concerning what the officer did to obtain the arrest warrant, but that testimony generally does not get into the procedural details or minutiae of the process for swearing out a warrant. Counsel testified it is standard to assume regular procedures were followed. Counsel further stated nothing about the officer's testimony at trial raised a red flag that the warrants might be

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improper. Counsel testified that he is a magistrate judge himself, and he reviewed the warrants and did not see anything within them to indicate that to indicate they might be invalid. Counsel also testified he met with Applicant at least four times prior to trial, but Applicant never raised any issues to him regarding the warrants, a lack of probable cause, or the sufficiency of the evidence, and if Applicant had, Counsel would have investigated further.

Regarding Applicant's claims of ineffective assistance of counsel, this Court finds Applicant has failed to meet his burden of proof. This Court finds Applicant's testimony regarding Counsel's ineffectiveness is not credible, while also finding Counsel's testimony is credible. Applicant challenges the arrest warrant issued against him, but Applicant has not presented any witness or other evidence to show the warrant was invalid or unsworn. Even if this Court found Applicant credible on this issue, any defects in the arrest warrant were cured by the grand jury's true bill indictment, which Applicant has not challenged. See State v. McCoy, 255 S.C. 170, 172, 177 S.E.2d 601, 602 (1970) ("The mere fact that the arrest of the appellant was unlawful, or upon a warrant not properly issued, is no bar to a prosecution on a subsequent indictment by which the court acquires jurisdiction over the person of the appellant.").

This Court finds Counsel provided effective assistance in this case. Counsel is a trial practitioner who has extensive experience in the trial of criminal offenses. Counsel conferred with Applicant on multiple occasions, during which Counsel discussed the pending charges, Applicant's constitutional rights, the State's evidence, and possible defenses.

Accordingly, this Court finds Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in his representation of Applicant. This Court also finds

Applicant has failed to prove the second prong of Strickland — that he was prejudiced by Counsel's performance. Counsel testified that he reviewed the arrest warrants and found no reason to believe there were any irregularities, and Applicant never raised the issue of the sufficiency of the warrants or a lack of probable cause with Counsel. This Court concludes Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. The allegation is denied and dismissed.

B. All Other Allegations

As to any and all allegations that were raised in the application or at the hearing on this matter and not specifically addressed in this Order, this Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds Applicant waived such allegations and failed to meet his burden of proof regarding them. Therefore, they are hereby denied and dismissed.

CONCLUSION

Based on all the forgoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations before or during his trial and sentencing proceedings. Counsel was not deficient, nor was Applicant prejudiced by counsel's representation. Therefore, this PCR application must be denied and dismissed with prejudice. This Court also finds, as to all other allegations, that Applicant failed to present evidence of such claims and thus, this Court deems them abandoned.

The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial

of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That Applicant be remanded to the custody of Respondent.

AND IT IS SO ORDERED this 17 day of July, 2017.



R. Scott Sprouse
Presiding Judge
Tenth Judicial Circuit

Waltham, South Carolina.

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ANDERSON SC
2017 JUL 21 AM 10:56
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GENERAL FILING

WITNESSES

M Ritter, Anderson Co. Sheriff's Office

DOCKET NO. 2013GS04 01930

The State of South Carolina

County of Anderson

COURT OF GENERAL SESSIONS

SEP 17 2013

Term

ARREST WARRANT NUMBER

2013A0410100655

THE STATE

VS.

Claudius Adrian Williams

ACTION OF GRAND JURY

TRUE BILL

SEP 17 2013

Foreperson of Grand Jury

Date: Foreperson

VERDICT

Guilty

Regina T Durham

Foreperson of Petit Jury

Date:

RLC

Indictment for

Robbery / Armed Robbery, robbery while armed
or allegedly armed with a deadly weaponSC Code: 16-11-0330(A)
CDR Code: 0139

A TRUE COPY

FEB 25 2016

Richard R. King
CLERK OF COURT

STATE OF SOUTH CAROLINA)
)
COUNTY OF Anderson)

INDICTMENT

At a Court of General Sessions, convened on SEP 17 2013 the Grand Jurors of Anderson County present upon their oath:

**Robbery / Armed Robbery, robbery while armed or allegedly armed
with a deadly weapon**

That Claudius Adrian Williams did in Anderson County, on or about April 24, 2013, while armed with a deadly weapon, to wit: a firearm, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, take by means of force or intimidation, goods or monies described as: cash from the person or presence of Meseret Kifle of Sun City Food Store. This is in violation of §16-11-330(A) of the *South Carolina Code of Laws (1976)*, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



ASSISTANT SOLICITOR

WITNESSES

M Ritter, Anderson Co. Sheriff's Office

ARREST WARRANT NUMBER

2013A0410100656

ACTION OF GRAND JURY

TRUE BILL

SEP 17 2013

*Dan Pollock*Foreperson of Grand Jury
Date:

VERDICT

Guilty

Regina T Durham

Foreperson of Petit Jury
Date:

DOCKET NO. 2013GS04 01931

The State of South Carolina

County of Anderson

COURT OF GENERAL SESSIONS

SEP 17 2013

Term

THE STATE

vs.

Claudius Adrian Williams

RLC

Indictment for

Weapons / Poss. weapon during violent crime

SC Code: 16-23-0490
CDR Code: 0549

A TRUE COPY

FEB 25 2016

Robert King
CLERK OF COURT

STATE OF SOUTH CAROLINA)
COUNTY OF Anderson)

INDICTMENT

At a Court of General Sessions, convened on SEP 17 2013 the Grand Jurors of Anderson County present upon their oath:

Weapons / Poss. weapon during violent crime

That Claudius Adrian Williams did in Anderson County, on or about April 24, 2013, while committing the crime of Armed Robbery, a crime of violence, have in his possession a firearm, 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.

Rame L Campbell

ASSISTANT SOLICITOR